

# **The PR-STV Electoral System and the Participation of Women in National Legislatures: Ireland, Malta, and Australia.**

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LLM Final Thesis

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## Abstract

Electoral systems have the capacity to shape the composition of national legislatures. The Proportional Representation Single Transferable Vote (PR-STV) electoral system has been purported to be one of the most proportional electoral systems available. However, two of the three countries that utilise this electoral system for national elections, Ireland and Malta, have failed to achieve anything close to gender parity in their national legislatures. Australia, the third country to utilise PR-STV, has successfully achieved gender parity. This thesis aims to investigate the reasoning behind this by looking at the electoral design factors and non-electoral design factors that influence the application of this electoral system in Ireland, Malta, and Australia. Design factors include gender quotas, district magnitude, and candidate selection, whilst non-design factors include court decision-making, the role of women in society, local government, and incumbency.

The key finding of this thesis is that a combination of electoral design and non-electoral design factors contribute to the failure in achieving gender parity. The introduction of gender quotas in Ireland and Malta has begun to amend this, however, these quotas are also under threat in the courts. Ultimately, no singular answer can be provided for the success of women in politics in Australia and the lack of success seen in Ireland and Malta. It is a combination of factors that, depending on the context, play varying roles.

# Introduction

## *Description of Issues*

Whilst it has been noted that the numerical inclusion of women in institutions is considered to be an insufficient strategy for demolishing the patriarchy, Edwards convincingly argues that it remains an important target.<sup>1</sup> In the cases of Ireland and Malta, this target has not yet been achieved. Given that both of these countries comprise the majority of Proportional Representation – Single Transferrable Vote (PR-STV) users, I am interested in understanding whether this is a causal or incidental factor, particularly in comparison to the Australian Senate which has already successfully achieved gender parity. I wish to determine whether the issues of gender representation are structural, societal, or a combination of both. Only three countries globally utilise PR-STV to elect the entire or part of their national legislatures; Ireland, Malta, and Australia, hence the use of these comparators.

The core aim of my research is to understand why the reported potential of PR-STV to increase the participation of women in national legislatures has, to date, only been realised in the Australian context. Comparatively, both Ireland and Malta have struggled to achieve anything close to gender parity, with both countries consistently being ranked poorly in comparison to their European counterparts. Of particular interest is the impact of the introduction of gender quotas in Ireland and Malta, in 2012 and 2021, respectively. The use of quotas has been used globally to improve the representation of numerous underrepresented groups and so this advancement indicates a real acknowledgement of the issues faced by women in Ireland and Malta.

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<sup>1</sup> Alice Edwards, *Violence Against Women under International Human Rights Law* (Cambridge University Press 2011).

## *Justification of Research*

Ireland, Malta, and Australia are currently experiencing three differing trajectories with regards to the participation of women in national legislatures. Australia has already exceeded gender parity in the Senate using the PR-STV system, whilst Ireland has seen a slow but marked increase of female MP's in the Lower House. Malta, by comparison, has consistently struggled with one of the lowest rates of female participation at the national level across the European Union. However, since the introduction of gender quotas in Malta, the number of women MPs has nearly doubled, outpacing the progress in Ireland.

Whilst there has been research conducted into the influence of PR-STV on women's participation in national legislatures, there has been a lacuna of research on the impact of the introduction of gender quotas in Ireland and Malta. Therefore, this thesis attempts to fill this gap in the research whilst also addressing the multitude of other factors that have influenced the requirement for gender quotas in the first place.

## *Why is Gender Parity an Important Goal?*

The primary argument for the inclusion of women in national legislatures is simply that the lack of adequate representation for women amounts to a democratic deficit. When more than half of a country's population is not adequately represented at the national government level, can it be said the democratic mandate has been fulfilled? Using gender as a lens to address this deficit allows us to understand the impact that women can and do have in national legislatures across the globe.

Representative democracy requires that the interests of the people be represented, at some level, in the political sphere. Whilst research has concluded that women alone are not the only group to advocate for so-called 'women's issues,' men too advocate for these issues, an Irish example

highlights the importance of having women in positions of power. In 2021 Helen McEntee, the Minister for Justice, became pregnant with her first child. Never before had a government Minister been pregnant whilst serving in office and so no maternity leave legislation existed for the position. The Government at that time was forced to decide whether or not to permit Minister McEntee to avail of maternity leave or be forced to resign from her cabinet position. The Prime Minister at the time, Micheál Martin, stated in an address to the legislature, that Minister McEntee would be entitled to six-months maternity leave<sup>2</sup>. He also declared that ‘like any other woman, she should be afforded every opportunity to continue in her role and to pursue her career, in accordance with her own wishes’.<sup>3</sup> Given that this issue never arose whilst a man held the ministerial office, it is reasonable to assume that without a woman being in that position, whilst pregnant, it would have taken even longer to address this legislative lacuna. Without women in these spaces, it is harder to recognise and adequately address the multitude of ways in which women need to be accounted for.

The theory of ‘critical mass,’ aiming to increase the number of women elected to the legislature, has permeated discussions on the influence of women in government since the 1980s.<sup>4</sup> This theory posits that an increase of women representatives will concurrently increase the quantity of positive legislation targeting women and women’s issues. Whilst the numerical inclusion of women in the legislature remains an important goal, the theory of critical mass has been criticised for failing to account for the other complex power relations that exist in politics and, in particular, for women in politics. Furthermore, ‘critical mass’ theory also been criticised as it involves numerous assumptions about what ‘women’ as a group want, threatening to

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<sup>2</sup> Department of An Taoiseach, ‘Statement by Taoiseach Micheál Martin on Maternity Leave Arrangements for Minister Helen McEntee, Dáil Eireann’ (*gov.ie*, 11 March 2021) <<https://www.gov.ie/en/publication/ef405-statement-by-an-taoiseach-micheal-martin-td-on-maternity-leave-arrangements-for-minister-helen-mcentee-td-dail-eireann/>> accessed 21 March 2024.

<sup>3</sup> Ibid.

<sup>4</sup> ‘Do Women Represent Women? Rethinking the “Critical Mass” Debate’ (2006) 2 *Politics & Gender* 491 <[http://www.journals.cambridge.org/abstract\\_S1743923X06211140](http://www.journals.cambridge.org/abstract_S1743923X06211140)> accessed 22 January 2024.

essentialise women and their interests as a whole. Grey rebuts this notion, observing that ‘critical mass’ theory and its benefit to women is ‘not based on an essential link between sex and representation but on the way in which women experience the world’.<sup>5</sup> However, according to a recent study by Tusalem, evidence has been found that ‘increased legislative representation by women is positively associated with the implementation of policies that promote higher levels of gender equality, social inclusion, and human development’.<sup>6</sup> Therefore, whilst the theory of critical mass has some arguable faults, it remains an important goal and one that is failing to be achieved in the Irish and Maltese contexts.

## *Definitions and Methodology*

### Definitions

My thesis focuses on the multitude of factors that influence the participation of women in countries which utilise PR-STV to elect all or part of their national legislatures. The European Institute for Gender Equality (EIGE) provides a useful definition of gender quotas that will be applied throughout the course of my research. The EIGE defines gender quotas as a ‘positive measurement instrument aimed at accelerating the achievement of gender-balanced participation and representation by established a defined proportion (percentage) or number of places or seats to be filled by, or allocated to, women and/or men, generally under certain rules or criteria’.<sup>7</sup> The use of gender quotas in Ireland and Malta will be expanded upon, with the aid of this definition, in Chapter Three.

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<sup>5</sup> Ibid.

<sup>6</sup> Rollin F. Tusalem, ‘Does gendered representation in national legislatures promote substantive representation and human development? Evidence from the developing world’ (2022) 50 Politics & Policy, 1096.

<sup>7</sup> ‘Gender Quotas’ (European Institute for Gender Equality 2023) <[https://eige.europa.eu/publications-resources/thesaurus/terms/1304?language\\_content\\_entity=en](https://eige.europa.eu/publications-resources/thesaurus/terms/1304?language_content_entity=en)> accessed 22 January 2024.



## Methodology

My thesis utilises Jackson's fourth methodological classification titled 'Functionalism and Consequentialism; Positive and Normative'.<sup>8</sup> This branch of comparative constitutional scholarship includes the sub-category of conceptual functionalism which is a form of analysis that overlaps with the classificatory category and looks at how and why constitutional institutions, such as electoral systems, operate as they do. This methodological approach is most appropriate for my thesis as it allows me to analyse how and why the PR-STV electoral system operates differently across my three comparators. It allows me to delve into the structural design factors, such as the role of district magnitude and gender quotas. Furthermore, this approach will allow me to identify the non-electoral design impacts of PR-STV on the participation of women in national legislatures, primarily through the societal influences upon the electoral system.

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<sup>8</sup> Vicki C. Jackson, 'Comparative Constitutional Law: Methodologies' in Michael Rosenfeld and András Sajó (eds), *The Oxford Handbook of Comparative Constitutional Law* (Oxford University Press 2012).

## Chapter One: History of the PR-STV Electoral System

This first chapter covers the history of PR-STV and is divided into two-subsections: the origins of PR-STV and how PR-STV operates in practice across my three comparators. The aim of this first chapter is to establish the historical background behind this electoral system and to understand the reasoning behind its implementation in Ireland, Malta, and Australia. This is important to ensure that there is a clear understanding of the history behind this comparatively rare electoral system. Furthermore, this chapter attempts to outline the variances in the application of PR-STV across my comparators given that no singular application of PR-STV is applied universally. Another goal of this chapter is to provide some historical background for the forthcoming chapters, which will help to inform the contextual variances across my three comparators.

### *Origins of PR-STV*

Proportional Representation Single Transferable Vote (PR-STV) is an electoral system that operates based on the rank ordering of candidates by voters.<sup>9</sup> Thomas Wright Hill has been credited as the first person to record the proposal for a rank ordered system of voting, however, Thomas Hare is associated with the popularisation of the system, particularly in England.<sup>10</sup> This popularity was bolstered when John Stuart Mill advocated for the introduction of PR-STV in his book ‘Considerations on Representative Government’.<sup>11</sup> Mill once stated, when detailing

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<sup>9</sup> Nicolaus Tideman, ‘The Single Transferable Vote’ (1995) 9 Journal of Economic Perspectives 27.

<sup>10</sup> Richard Nunan, ‘Proportional Representation, the Single Transferable Vote, and Electoral Pragmatism’ in Ann E. Cudd and Sally J. Scholz (eds), *Philosophical Perspectives on Democracy in the 21st Century* (Springer International Publishing 2014).

<sup>11</sup> James W. Endersby and Michael J. Towle, ‘Making Wasted Votes Count: Turnout, Transfers, and Preferential Voting in Practice’ (2014) 33 Electoral Studies 144.

his ideal electoral system, that PR-STV would be ‘among the very greatest improvements yet made in the theory and practice of government’.<sup>12</sup>

The Proportional Representation Society (PRS) was founded in England, in 1884, by Sir John Lubbock. The leaders of the PRS believed that a proportional system of voting, rather than a winner-takes-all system, would ‘help unify the nation and the empire by preventing Westminster from being dominated by organised parties’.<sup>13</sup> Furthermore, the PRS looked to the events in the United States of America at that time, namely civil war, corruption, and protectionism, as the result of such unrestricted majority rule.<sup>14</sup> The Proportional Representation Society’s work was the primary reason for the introduction of the system for national elections in Malta in 1921<sup>15</sup> and Ireland in 1922.<sup>16</sup> The purpose of the PR-STV system is to reflect voter’s wishes more accurately on policy issues whilst also providing for a proportionally representative legislator.<sup>17</sup>

Upon the creation of the Irish Free State in 1922, after the Irish War of Independence, PR-STV was chosen as the new national electoral system.<sup>18</sup> This was not entirely unexpected as PR-STV had been utilised for local elections since 1919. The historical reasoning behind the introduction of PR-STV in Ireland had been to ‘protect minority Protestant and Unionist concerns in the South and, initially at least, minority Catholic and Nationalist interests in Northern Ireland’.<sup>19</sup>

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<sup>12</sup> Matthew K. Duncan, 'Democracy down under: A Comparative Look at Australian and American Electoral Systems' (2017) 27 Ind Int'l & Comp L Rev 117, 117.

<sup>13</sup> Ted R. Bromund, 'Uniting the Whole People: Proportional Representation in Great Britain, 1884–5, Reconsidered' (2001) 74 Historical Research 77, 81.

<sup>14</sup> Ibid, 82.

<sup>15</sup> 'Malta: STV With Some Twists' (ACE Project 2024) <[https://aceproject.org/main/english/es/esy\\_ie.htm](https://aceproject.org/main/english/es/esy_ie.htm)> accessed 15 January 2024.

<sup>16</sup> Peter Smart, 'How did the Republic of Ireland get Proportional Representation?' (*Electoral Reform Society*, 10 August 2022) <<https://www.electoral-reform.org.uk/how-did-ireland-get-proportional-representation/>> accessed 15 January 2024.

<sup>17</sup> N (10).

<sup>18</sup> David M. Farrell and others, 'Through a Glass Darkly: Understanding the World of STV' in *Elections in Australia, Ireland, and Malta under the Single Transferable Vote* (University of Michigan Press 2000).

<sup>19</sup> N (10).

The protestant minority was considered more economically dominant and so their political inclusion in was considered vital to rebuilding the new Irish Free State<sup>20</sup>.

According to Nunan, the introduction of PR-STV in Malta was more of an accident of historical parallels than a well-considered plan.<sup>21</sup> Unlike in Ireland, where minority interests were of particular importance, no such issues existed in Malta. However, as a British colony, Malta had too been fighting for home-rule. Internal self-rule was achieved in 1921 and PR-STV was imposed by the British who concluded that ‘an electoral system good enough for the Irish Free State (being established simultaneously) was good enough for Malta (another Catholic country historically subject to Protestant Rule from Westminster)’.<sup>22</sup> When the system was introduced under the 1921 Constitution, only limited self-government was obtained with the remaining powers retained by the British Government. The system was an unpopular one with discussions of replacement continuing into the first decade of post-independence. However, during the overhaul of the Constitution in 1974 it was decided that the system should be retained.<sup>23</sup>

Australia, on the other hand, only introduced PR-STV for Senate elections in 1948.<sup>24</sup> Neither minority interests nor independence pushed the Labour Government at the time to pursue this electoral system. Instead, according to Duncan, the switch was made due to ‘their single-member districts producing lopsided result, such as one political party obtaining a 19-0 majority in the Senate in 1943’.<sup>25</sup>

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<sup>20</sup> Peter Mair and Michael Laver, ‘Proportionality, PR and STV in Ireland’ (1975) 23 *Political Studies* 491, 491.

<sup>21</sup> N (10).

<sup>22</sup> N (10).

<sup>23</sup> J.H Proctor, ‘The Acceptance of Proportional Representation in Malta’ (1980) 33 *Parliamentary Affairs* 308, 308.

<sup>24</sup> N (18).

<sup>25</sup> N (12).

## *How does PR-STV Operate in Practice?*

According to Farrell et al, ‘there is no single form of STV; rather, the systems that are, and have been, used differ widely on five major characteristics, ranging from constituency size to ballot paper design, and the methods that are used to fill casual vacancies’.<sup>26</sup> In spite of these variances, the core aspect of PR-STV remains the same: A number of candidates are nominated by their respective parties to stand for election in a multi-member district or constituency. Candidates are then chosen in order of preference by voters with the ballot marked ‘1’ for the voter’s first choice, ‘2’ for the second, and so on. Once the voting is complete, election administrators establish an electoral quota, based on the total number of votes cast, and then formulate a minimum threshold required for a candidate to win a seat.<sup>27</sup> When a voter’s first choice is elected or eliminated, their surplus votes are assigned to their second-choice candidate and so on until all seats have been allocated. This electoral system ensures that a minimum amount of votes are wasted due to vote transfer. In the Irish context, for example, political parties tend to spread voter preferences across as wide a range of candidates as possible in order to maximise their chances.<sup>28</sup>

In Ireland, PR-STV is the constitutionally enshrined form of voting and is utilised for the election of the President<sup>29</sup>, the House of Representatives<sup>30</sup> (Dáil Éireann), the Senate<sup>31</sup> (Seanad), local elections and European Parliamentary Elections. For the purpose of this thesis, I will only be analysing the impact of PR-STV on women’s participation in House of Representative elections rather than Senate elections. This is due to the fact that Senate elections are indirect in nature and the requirements for candidates and voters differs significantly to the more traditional House of Representative elections.

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<sup>26</sup> N (18).

<sup>27</sup> N (12).

<sup>28</sup> N (18).

<sup>29</sup> The Constitution of Ireland (Bunreacht na hÉireann) Article 12.2.3.

<sup>30</sup> The Constitution of Ireland (Bunreacht na hÉireann) Article 16.2.5.

<sup>31</sup> The Constitution of Ireland (Bunreacht na hÉireann) Article 18.5.

The PR-STV system is also enshrined in the Maltese Constitution.<sup>32</sup> In comparison to Ireland and Australia, Malta employs a unicameral system of government meaning the PR-STV system is used to elect only the Parliament. Likewise, the President of Malta is elected as head of state by the Parliament, not through direct election. Therefore, PR-STV is only utilised for the election of the national Parliament.

In comparison to Ireland and Malta, PR-STV is only used nationally for Senate elections in Australia. Preferential voting is used for House of Representative elections and the Head of State, the Monarch of the United Kingdom, nominates the Governor General.

There are stark differences in the voting format for the Australian Senate in comparison to the Irish and Maltese approaches. Australian voters have the option to vote ‘above the line’ for parties or ‘below the line’ for individual candidates.<sup>33</sup> Voting ‘above the line’ has the same effect as a bloc vote for the party’s candidates. The ‘above the line’ option is popular with citizens, for example, in the 2004 Australian Senate election, 95.9% of voters utilised this option.<sup>34</sup> Therefore, unlike Irish political parties, Australian parties tend to concentrate votes on a single candidate, rather than across the party, and redistribute preferences after the election.<sup>35</sup>

## *Conclusion*

PR-STV is not a popular style of electoral system. This unpopularity may be connected to its colonial legacy; however, it is more likely due to its complexity and the difficulty it poses to the centralisation of power in legislative assemblies. For example, the Indian Constituent Assembly, when drafting India’s post-independence constitution, sent constitutional advisors to Ireland to enquire about the PR-STV electoral system. When meeting with Taoiseach (Prime

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<sup>32</sup> The Constitution of Malta Article 56.1.

<sup>33</sup> ‘How Do Elections Work in Australia?’ (Electoral Reform Commission 2022) <<https://www.electoral-reform.org.uk/how-do-elections-work-in-australia/>> accessed 2 March 2024.

<sup>34</sup> Martynas Patašius, ‘Suitability of the Single Transferable Vote as a Replacement for Largest Remainder Proportional Representation’ (2022) 14 *Symmetry* 1648.

<sup>35</sup> N (18)

Minister) Éamon de Valera, who also played a substantive role in the drafting of the Irish Constitution, the Indian delegation were told that ‘he wished the Irish had adopted the British ‘first-past-the-post’ system of elections and the British cabinet system. This, he felt, made for a strong government’.<sup>36</sup> This sentiment resulted in two referendums in Ireland aimed at abolishing the system in 1958 and 1968, both of which were defeated.

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<sup>36</sup> Ramachandra Guha, *India after Gandhi: The History of the World's Largest Democracy* (1<sup>st</sup> edition, Macmillan 2007) 108.

## Chapter Two: Women in National Legislatures - Ireland, Malta, and Australia

This second chapter is separated into two sub-sections with the first looking at the history of women's suffrage and the second describing the changes in the gender composition of the national legislatures since the introduction of PR-STV in Ireland, Malta, and Australia. The purpose of this chapter is to provide an understanding of the history behind women in national legislatures in each of my comparators from when women were granted the right to vote to the present day. The aim behind tracing this history is to demonstrate the comparatively slow development of women's participation in Ireland and Malta, when compared to Australia.

### *The History of Women's Suffrage in Ireland, Malta, and Australia*

Similar to the rest of Europe and the United States, the Irish women's suffrage movement began a few decades prior to the First World War. In comparison to much of Europe and the United States, however, there was no Parliament in Ireland to directly petition to, and so the suffragists were forced to petition the British Parliament for the right to vote. Socially this created numerous issues. In particular, accusations were levelled by Irish Nationalists that the suffragists were in support and recognised the British campaign against Home Rule, which sought to create a self-governing Parliament in Ireland.<sup>37</sup> Furthermore, Irish Nationalists, who were predominantly Catholic, followed the teachings of the Church who directly contributed to gender inequality through its teachings. The movement for suffrage in Ireland was therefore directly caught between the campaign for independence and the Catholic understanding of the woman's place within society. The right for a limited cohort of women to vote and stand in

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<sup>37</sup> Cliona Murphy, 'The Religious Context of the Women's Suffrage Campaign in Ireland' (1997) 6 Women's History Review 549.



elections was granted in 1918 and full suffrage was granted in 1922 upon the establishment of the Irish Free State.<sup>38</sup>

Women in Malta struggled to obtain the right to vote and stand for elections and it was only in 1947 that these rights were granted. Efforts to achieve universal suffrage had been ongoing since the right had been granted to female British citizens in 1918. The National Union of Societies for Equal Citizenship, a British suffragist organisation, appealed for Maltese women to be granted full suffrage in 1921 upon the introduction of a new Constitution, writing that ‘in the view of the fact that women’s suffrage has now been granted in all Dominions and that the Legislative Council in India have the right to grant the franchise to Indian women...It appeared...to be a most retrograde step that the women of Malta should not be enfranchised’.<sup>39</sup> In Malta, the introduction of a Labour Party in 1921 further spurred women to mobilise to achieve the right to vote. However, according to Sammut, ‘the struggle for universal suffrage in Malta, and specifically for the vote for women, cannot be understood separately from the country’s social, cultural, economic, and political development’.<sup>40</sup> Like in the case of Ireland, the Roman Catholic Church played a strong role in opposing women’s suffrage. The Church viewed women’s right to vote as ‘part of a strategy to secularise the islands and linked it with the erosion of traditional family values’.<sup>41</sup>

The impact of World War Two has been credited with helping women to finally achieve suffrage. Over the course of the war, women were encouraged to join and support the war effort from home, including maintaining food supplies and running the country’s civil and military administrative services. As a result, women began to challenge their lack of franchise and

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<sup>38</sup> Catriona Crowe, ‘How Irish Women Won the Right to Vote in 1918’ *The Irish Times* (Dublin, 10 December 2018) <<https://www.irishtimes.com/culture/heritage/how-irish-women-won-the-right-to-vote-in-1918-1.3697389>> accessed 3 January 2024.

<sup>39</sup> Carmen Sammut, ‘The Road to Women’s Suffrage and beyond: Women’s Enfranchisement and the Nation-Building Project in Malta’ (Central Bank of Malta 2017) <<https://www.um.edu.mt/library/oar/bitstream/123456789/25687/1/The%20Road%20to%20Women%27s%20Suffrage.pdf>> accessed 12 February 2024.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

established the Women of Malta Association, which became politically active in 1944, and was a major force behind the eventual achievement of universal suffrage in 1947.

Australia achieved women's suffrage far earlier than either Ireland or Malta. Women in South Australia, one of the six British Australian colonies, were granted the right vote in local elections in 1861. In 1894, women were permitted to vote and stand for election in the South Australian Parliament.<sup>42</sup> On a national level, most women were granted the right to vote and to stand for in national parliamentary elections in 1902, with Australia becoming the first country in the world to grant both of these rights.<sup>43</sup> Only women over the age of twenty-one and who were British subjects were given the right to vote. Four women stood for election at the first national election, held in 1903, but none succeeded. All women, bar Aboriginal women in some jurisdictions, were permitted to vote and stand for election by 1908 and the first woman was elected to state government in 1921. However, women were not elected to either the upper or lower houses of the national government until 1943, making Australia the country with the longest gap between granting women the right to stand for election and the election of a woman in the world.<sup>44</sup>

These varying histories help to provide some context to the historical positioning of women within the political life of each society.

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<sup>42</sup> Susan Franceschet, Mona Lena Krook and Netina Tan, *The Palgrave Handbook of Women's Political Rights* (Palgrave MacMillan 2019).

<sup>43</sup> Marian Sawer, 'Women and Government in Australia', in Dennis Trewin (ed.), *2001 Year Book Australia, Australian Bureau of Statistics* (ABS 2001).

<sup>44</sup> Marian Sawer, 'Misogyny and misrepresentation: Women in Australian parliaments' (2013) 65 Political Science 105, 106.

*Changes in the Gender Composition of the National Legislatures of Ireland, Malta, and Australia*

Research has indicated that PR-STV has at the very least, the potential to increase the representation of women in comparison to single-member district systems and Proportional Representation Non-Transferable systems.<sup>45</sup> However, the history of women in national legislatures, both in Ireland and Malta, illustrates that PR-STV does not independently create a gender parity. This is evident when looking at the electoral results since the introduction of PR-STV in each country.

i. *Ireland*<sup>46</sup>

As of the 2020 election, 23.13% of the lower house MP’s are women.<sup>47</sup> Looking at the table below it is clear to see that the increase in the number of women elected has been decidedly gradual. The introduction of gender quotas for the 2016 election saw the largest percentage increase of women since the founding of the Irish Free State.

Election Year	Number of Women Elected	Total Percentage of Women
1922	2	1.6%
1923	5	3.3%
1927 (June)	4	2.6%
1927 (September)	1	0.7%
1932	2	1.3%

<sup>45</sup> Timothy J. White, ‘Why so Few Women in Dáil Éireann? The Effects of the Single Transferable Vote Election System’ (2006) 10 New Hibernia Review / Iris Éireannach Nua 71.  
<sup>46</sup> ‘Women in Irish Politics 2023’ (Women for Election 2023) <<https://datahub.womenforelection.ie/>> accessed 2 June 2024.  
<sup>47</sup> ‘Ireland’ (Inter-Parliamentary Union 2024) <<https://www.ipu.org/parliament/IE>> accessed 29 March 2024.

1933	3	2%
1937	2	1.4%
1938	3	2.2%
1943	3	2.2%
1944	4	2.9%
1948	5	3.4%
1951	5	3.4%
1954	5	3.4%
1957	5	3.4%
1961	3	2.1%
1965	5	3.5%
1969	3	2.1%
1973	4	2.8%
1977	6	4.1%
1981	11	6.6%
1982 (February)	8	4.8%
1982 (November)	14	8.4%
1987	14	8.4%
1989	13	7.8%
1992	20	12%
1997	20	12%
2002	22	13.3%
2007	22	13.3%
2011	25	15.1%

2016 (Gender Quotas Applied)	35	22.2%
2020 (Gender Quotas Applied)	36	22.5%

*ii. Malta* <sup>48</sup>

As of the 2022 election, 27.85% of the Maltese Parliament are women. This is a sharp increase from the 2019 Parliament which constituted of only 13.43% women.<sup>49</sup> Similarly to the Irish data, the greatest percentage increase in seat's won by women can be found after the introduction of the gender quota mechanism in Malta.

<b>Election Year</b>	<b>Number of Women Elected</b>	<b>Total Percentage of Women</b>
1947 (Women's Suffrage Granted)	1	2.5%
1950	3	7.5%
1951	4	10%
1953	1	2.5%
1955	1	2.5%
1962	2	4%
1966	2	4%
1971	2	3.64%

<sup>48</sup> JosAnn Cutajar, 'Women and political participation in Malta' (2014) Office for Democratic Institutions and Human Rights <<https://www.osce.org/files/f/documents/7/d/126803.pdf>> accessed 2 June 2024.

<sup>49</sup> 'Malta: House of Representatives' (Inter-Parliamentary Union 2024) <<https://data.ipu.org/parliament/MT/MT-LC01/>> accessed 8 May 2024.

1976	2	3.08%
1981	2	3.08%
1987	2	3.08%
1992	1	1.54%
1996	4	6.15%
1998	6	9.23%
2003	6	9.23%
2008	5	7.69%
2013	5	7.7%
2017	10	14.7%
2022 (Gender Quotas Applied)	22	27.8%

### iii. *Australia* <sup>50</sup>

As of the 2022 election, 56.6% of the members of the Australian Senate are women.<sup>51</sup> Once again, the introduction of voluntary gender quotas by the Australian Labour Party in 1996 resulted in a substantial increase in the number of women elected to the National Senate. Furthermore, it is clear to see that the increases at a greater pace between elections when compared to the Irish and Maltese data.

<sup>50</sup> 'Australia: Senate' (Inter-Parliamentary Union 2024) <<https://data.ipu.org/parliament/AU/AU-UC01/data-on-women>> accessed 2 June 2024.

<sup>51</sup> 'Women in the Senate' (Parliament of Australia 2023) <[https://www.aph.gov.au/-/media/05\\_About\\_Parliament/52\\_Sen/523\\_PPP/Senate\\_Briefs/PDFs/brief03\\_new.pdf?la=en&hash=D1C259F224D79EBB23C0CA2F367C07ABAAE68CC4](https://www.aph.gov.au/-/media/05_About_Parliament/52_Sen/523_PPP/Senate_Briefs/PDFs/brief03_new.pdf?la=en&hash=D1C259F224D79EBB23C0CA2F367C07ABAAE68CC4)> accessed 29 March 2024.

<b>Election Year</b>	<b>Number of Women Elected</b>	<b>Total Percentage of Women</b>
1949 (PR-STV Introduced)	4	6.7%
1955	5	8.3%
1964	4	6.7%
1967	3	5%
1970	2	3.3%
1974	4	6.7%
1975	6	9.4%
1980	9	14.1%
1983	13	20.3%
1984	14	18.4%
1987	17	22.4%
1990	18	23.7%
1993	16	21.1%
1996 (Voluntary Gender Quotas Applied)	23	30.3%
1998 (Voluntary Gender Quotas Applied)	22	28.9%
2001 (Voluntary Gender Quotas Applied)	23	30.3%
2004 (Voluntary Gender Quotas Applied)	27	35.5%
2010 (Voluntary Gender Quotas Applied)	29	38.2%

2013 (Voluntary Gender Quotas Applied)	29	38.3%
2016 (Voluntary Gender Quotas Applied)	31	36.8%
2019 (Voluntary Gender Quotas Applied)	37	48.7%
2022 (Voluntary Gender Quotas Applied)	43	56.6%

## *Conclusion*

By tracing the history of women's fight for suffrage in Ireland, Malta, and Australia, we can identify, not only the societal position of women within each country, but also the different factors which influenced the success of or hindrance to achieving universal suffrage. These factors were indicative of the overall positioning and understanding of women within each society, with some factors remaining influential, such as the impact of religion which will be expanded upon in the fourth chapter.

The changes in gender composition reflect upon the comparatively slow developments in Ireland and Malta than in Australia which, from the 1980s, experienced a quicker and more comprehensive growth in women's participation. The next two chapters look at the electoral design factors and non-electoral design factors which help to explain the differences in the above electoral results.



## Chapter Three: Electoral Design Factors Impacting Women's Political Participation in Ireland, Malta, and Australia

This chapter is sub-divided into three sections with the first focussing on each of my comparator countries experience with gender quotas. The second section looks at the impact of district magnitude on improving or disimproving women's chances at successfully being elected for political office. The third section looks at the role of candidate selection by political parties for elections and the role that this plays in women's participation. These aspects impact upon the design of the PR-STV electoral system and its effectiveness in supporting women's participation in politics.

### *Gender Quotas*

Gender quotas have been utilised internationally as a mechanism to increase the representation of women in national legislatures. Lépinard and Rubio-Marín have described the emergence of a 'gender quota revolution' on a global level after the signing of the Beijing Declaration and Platform for Action in 1995.<sup>52</sup> The purpose and focus of such gender quotas is to address the growing awareness of the need to improve women's political participation, of which legislative gender quotas have played a significant role. Not all gender quotas are created equally or are singularly responsible for women in national legislatures. For example, Sweden, a global front-runner in gender representation at the parliamentary level, has no legislated gender quotas.<sup>53</sup> In comparison, Cyprus, which implements a voluntary gender quota for

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<sup>52</sup> Éléonore Lépinard and Ruth Rubio-Marín, 'Completing the Unfinished Task? Gender Quotas and the Ongoing Struggle for Women's Empowerment in Europe' in Éléonore Lépinard and Ruth Rubio-Marín (eds), *Transforming Gender Citizenship: The Irresistible Rise of Gender Quotas in Europe* (Cambridge University Press 2018).

<sup>53</sup> Lenita Freidenvall, 'Gender Equality without Legislated Quotas in Sweden' in Éléonore Lépinard and Ruth Rubio-Marín (eds), *Transforming Gender Citizenship: The Irresistible Rise of Gender Quotas in Europe* (Cambridge University Press 2018).

political parties, has only eight women currently sitting in Parliament, out of a total of fifty-six (14.3%).<sup>54</sup>

Since the first national election in Ireland in 1918, only 130 of the 1341 people elected have been women (9.7%).<sup>55</sup> In order to address this gender imbalance, legislative gender quotas were introduced in 2012, after the 2011 general election saw only 16% of elected MP's being women.<sup>56</sup> In 2016, the quota was applied for the first time which required that each party's candidate list included at least 30% men or women. If parties fail to meet this threshold they will lose half of their State funding. The introduction of gender quotas for the 2016 election resulted in a 90% increase in women's candidacy and a 40% increase in the number of women elected, when compared to the 2011 general election. In 2023, the threshold was increased further to require at least 40% of candidates be women. Currently, these gender quotas only apply to lower house elections and not local, Senate, or European elections. This gap was highlighted in the final report of the Citizen's Assembly on Gender Equality, who recommended the extending the gender quotas to these other elections.<sup>57</sup> Gender quotas for local elections would be particularly important given the importance of localism in Irish political culture. Many parties acknowledge the importance of local elections in national politics and so in the 2019 local elections, all political parties aside from Fianna Fáil and Fine Gael, two major political parties, nominated at least 30% women for party candidacy.<sup>58</sup>

Malta introduced legislated gender quotas via a constitutional amendment in 2021. The amendment stipulates that the 'number of MPs must increase by up to twelve if less than 40 per cent of the MPs that are returned at a given general election and subsequent casual elections

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<sup>54</sup> 'Cyprus: House of Representatives' (Inter-Parliamentary Union 2024) <<https://data.ipu.org/parliament/CY/CY-LC01/>> accessed 8 May 2024.

<sup>55</sup> Fiona Buckley and Yvonne Galligan, 'The 2020 General Election: A Gender Analysis' (2020) 35 Irish Political Studies 602.

<sup>56</sup> Electoral (Amendment) (Political Funding) Act 2012.

<sup>57</sup> The Citizens' Assembly, 'Report of the Citizens' Assembly on Gender Equality' (2021) <<https://citizensassembly.ie/wp-content/uploads/2023/02/report-of-the-citizens-assembly-on-gender-equality.pdf>> accessed 29 March 2024.

<sup>58</sup> N (53), 611.

belong to “the underrepresented sex”.<sup>59</sup> Notably, this mechanism covers situations where no more than two parties have been elected to the Parliament.

The introduction of this gender quota has seen a sharp increase in the number of women elected to the Maltese Parliament since its implementation. The 2022 parliamentary elections were the first elections held after the introduction of this constitutional amendment. Ten seats, out of a possible sixty-seven, were won by women in the direct election meaning that only 14.9% of the Parliament would be formed by women. This was clearly below the 40% requirement introduced by the quota and so twelve more seats were added for women. Upon the application of the gender quota, there were now seventy-nine seats in Parliament with twenty-two being held by women (27.8%).<sup>60</sup>

However, whilst this quota has been successful, there is a sunset clause included. The quota will remain in force for twenty-years unless it is revoked or re-enacted by an Act of Parliament.<sup>61</sup> Whilst such expiration dates are unusual, they are not unheard of.<sup>62</sup> One Maltese MP, Eve Borg Bonello, has stated that she, ‘wouldn’t be surprised if the gender quota mechanism is removed before its 20-year sunset clause’.<sup>63</sup> Her critique of the quota is that voters opted to vote for men knowing that women would be elected anyway. The Office for Democratic Institutions and Human Rights (ODIHR) has also criticised the mechanism in its report on the 2022 election. The ODIHR noted that ‘the measures serve to reinforce the two-

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<sup>59</sup> N (47).

<sup>60</sup> ‘Malta: House of Representatives Election Results 2022’ (Inter-Parliamentary Union 2022) <<https://data.ipu.org/parliament/MT/MT-LC01/election/MT-LC01-E20220326>> accessed 8 May 2024.

<sup>61</sup> The Constitution of Malta Article 52A (4)

<sup>62</sup> Gretchen Bauer, “‘A Lot of Head Wraps’: African Contributions to the Third Wave of Electoral Gender Quotas” (2016) 4 Politics, Groups, and Identities 196, 208.

<sup>63</sup> Sabrina Zammit, ‘I wouldn’t be surprised if gender quota mechanism is removed before its 20-year sunset clause’ *The Malta Independent* (Valletta, 21 January 2024) <<https://www.independent.com.mt/articles/2024-01-21/local-news/I-wouldn-t-be-surprised-if-gender-quota-mechanism-is-removed-before-its-20-year-sunset-clause-6736257944>> accessed 14 May 2024.

party dominance in the legislature while failing to address structural barriers to the representation of women in parliament and their participation in political life'.<sup>64</sup>

Unlike Ireland or Malta, the Australian Senate does not employ legislative gender quotas. Instead, like the Cypriot example, voluntary political party quotas are utilised. The Australian Labour Party (ALP), in 1994, introduced a mandatory pre-selection quota of 35% for women in winnable seats at all elections by 2002. In 2002, this quota was adapted requiring that neither sex shall be represented by less than 40% on party electoral lists.<sup>65</sup> However, the ALP is the only political party that implements voluntary gender quotas. In spite of this, the Australian Senate remains superior in gender representation when compared to Ireland and Malta, who both have legislative gender electoral quotas.

### *District Magnitude*

District magnitude refers to the number of legislative seats assigned to a district.<sup>66</sup> In general, countries employ either single-member districts, in which one person is elected from each district, or multi-member districts, in which multiple people are elected from each district. The number of people elected in multi-member districts varies from country to county. In assessing the proportionality of PR-STV, Farrell et al identified that five seats is the minimum magnitude needed for a district to provide proportional results.<sup>67</sup> A similar study also found that

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<sup>64</sup> Office for Democratic Institutions and Human Rights, 'Republic of Malta: Early Parliamentary Elections 26 March 2022' (2022) ODIHR Election Expert Team <<https://www.osce.org/files/f/documents/8/7/522712.pdf>> accessed 8 May 2024.

<sup>65</sup> Anna Hough, 'Quotas for women in parliament' (2021) Parliament of Australia <[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2021/April/Quotas\\_for\\_women\\_in\\_parliament#:~:text=In%202015%20the%20party%20adopted,its%20current%2047.9%20per%20cent.>](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2021/April/Quotas_for_women_in_parliament#:~:text=In%202015%20the%20party%20adopted,its%20current%2047.9%20per%20cent.>) accessed 8 May 2024.

<sup>66</sup> 'District Magnitude' (ACE Project) <<https://aceproject.org/main/english/bd/bda02a.htm>> accessed 17 May 2024.

<sup>67</sup> David M. Farrell, Malcolm Mackerras, and Ian McAllister, 'Designing Electoral Institutions: STV Systems and their Consequences' (1996) 44 Political Studies 24, 24.

disproportionality decreases in proportional representation as district magnitude increases.<sup>68</sup> In Ireland, district magnitude varies from three to five candidates per district. In Malta, five members are elected from each of the thirteen multi-member districts.<sup>69</sup> Whereas, for Australian Senate elections, the average magnitude range is between 4.25 to ten senators elected per district.<sup>70</sup>

Lucardi and Micozzi, analysing district magnitude and female representation in Latin America, found that larger district magnitude complement the effect of well-designed quotas to improve gender representation.<sup>71</sup> Likewise, Crisp and Silva have identified that, as the number of candidates elected in a district increase, elected women become more likely to pursue women's issues, further supporting Tusalem's argument in support of critical mass.<sup>72</sup> They found that multi-member districts make it possible for candidates to win with support from a lower portion of the district's voters. This is due, in part, to a reduction in strategic voting by voters as a greater number of candidates are to be selected in each district.

### *Candidate Selection*

The selection of candidates, by political parties, to run in an election has a substantial effect on the number of women elected. As argued by Cross, candidate selection is important because 'it influences the personnel to be included among the decision-making elite and indirectly influences the types of policy decisions to be enacted'.<sup>73</sup> If a small number of women

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<sup>68</sup> Kenneth Benoit, 'District magnitude, electoral formula, and the number of parties' (2001) 39 *European Journal of Political Research* 203.

<sup>69</sup> Serhat Hasancebi, 'The Maltese single transferable vote experience: a case study of gerrymandering?' (2023) 34 *Constitutional Political Economy* 572, 577.

<sup>70</sup> Arend Lijphart, 'Australian Democracy: Modifying Majoritarianism?' (1999) 34 *Australian Journal of Political Science* 313.

<sup>71</sup> Adrián Lucardi and Juan Pablo Micozzi, 'District Magnitude and Female Representation: Evidence from Argentina and Latin America' (2022) 66 *American Journal of Political Science* 318, 334.

<sup>72</sup> Brian F. Crisp and Patrick Cunha Silva, 'The Role of District Magnitude in When Women Represent Women' (2023) 53 *British Journal of Political Science* 1061.

<sup>73</sup> William Cross, 'Democratic Norms and Party Candidate Selection: Taking Contextual Factors into Account' (2008) 14 *Party Politics* 596, 600.

are chosen to run on the ballot, only a small number of women have the chance to be elected. Both the legislative gender quota utilised in Ireland and the voluntary quota used in Australia by the ALP address this aspect of women's representation by focussing on the candidate selection process. In comparison, the Maltese system focusses on the post-electoral top-up system which fails to recognise the importance of candidate selection.

There are two primary areas to look at with regards to candidate selection for women: (1) supply of eligible women candidates and (2) which of these women candidates are desired by political elites.<sup>74</sup> From a supply perspective, the number of women candidates is heavily influenced by the available resources, such as time or money, as well as experience and motivation. The gendered aspects of politics and the perceived role of women within society means that a lesser number of women are likely to put themselves forward as candidates. Until it becomes more advantageous for women to run for their party's nomination, such as through financial and other supports, the number of women running as candidates is going to remain low. With regards to the party desire or demand aspect of candidate selection, it remains the case that a majority of party elites are male and, as argued by the critical mass theory, fail to promote the candidacy of women.

It is important to note, in the context of this thesis, that PR-STV electoral systems are not alone in failing to adequately provide space for women candidates. This is an issue that permeates nearly all electoral systems where women are underrepresented. However, for the purposes of this thesis, I see this design factor as one which directly contributes towards the poor political representation of women in Ireland and Malta where less women are selected for candidacy.

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<sup>74</sup> Mona Lena Krook, 'Why are Fewer Women than Men Elected? Gender and the Dynamics of Candidate Selection' (2010) 8 Political Studies Review 155, 157.

## *Conclusion*

Gender quotas are a powerful design feature that works to improve the representation of women in national legislatures, as seen in Ireland, Malta, and Australia. Each comparator has chosen a different gender quota mechanism with Ireland leveraging public funds to ensure that quotas are met, Malta utilising a top-up mechanism to increase the representation of women if election results are unsatisfactory, and Australia employing a voluntary quota system. The introduction of a gender quota system, and the subsequent rise in the participation of women in national legislatures in each country, indicates that gender quotas play an instrumental role in women's participation. If a country decided to introduce the PR-STV electoral system, I would strongly recommend including a gender quota mechanism. Whilst a quota system alone would not be sufficient to ensure gender parity, it is a contributing factor. This is the same situation for district magnitude. Whilst a minimum of five-seats per district is required to achieve a proportional electoral result, this alone does not create the circumstances for gender parity. With regard to candidate selection, I believe more needs to be done both on the supply-side and demand-side to address the low number of women candidates running in each election. From a supply perspective, greater support ought to be given to women candidates through financial means, such as subsidised childcare, and other non-financial means, such as educational training. From a demand perspective, party's need to be incentivised, such as through the gender quota mechanism implemented in Ireland, to include more women on the ballot.

## Chapter Four: Non-Electoral Design Factors Impacting Women's Political Participation in Ireland, Malta, and Australia

This final substantive chapter breaks down some of the non-design factors which influence women's participation in politics, such as the influence of doctrine v court decisions, the role of women within each society, the importance of local government, and the role of incumbency. These factors help to highlight the cultural factors which often inhibit women's political participation beyond the institutional design of an electoral system.

### *Doctrine v Court Decision-Making*

Whilst the introduction of gender quotas through legislative means does indicate a positive shift towards a more gender-inclusive parliament, it is not a guaranteed that politicians or potential political candidates will accept these changes.

The case of *Mohan v Ireland*<sup>75</sup> exemplifies this point. The case centres on Brian Mohan who sought to secure a Fianna Fáil party nomination in his constituency for the 2016 general election. However, he was informed by the party that the candidate chosen must be a woman in order to ensure that the party received its public funding in line with the electoral quota in place. Therefore, he was excluded from consideration and a female candidate was nominated. Mr Mohan brought a case to challenge the constitutionality of the electoral quota, but both the High Court and the Court of Appeal rejected his challenge on the grounds that he lacked legal standing. He appealed further to the Supreme Court who held that, 'both in the broad sense of his personal interest in being selected as a candidate and his interest in participating in the nomination process as a member of the party, and the more specific sense of the rights (of equality) and freedoms (of association) he asserts under the Constitution would appear, at least

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<sup>75</sup> *Mohan v Ireland* [2019] IESC 18.



prima facie, to be affected'.<sup>76</sup> Whilst the case was remitted to the High Court for a full hearing, O'Donnell J emphasised that the legislation 'pursues an evidently important social goal. However, it seeks to achieve that object by a form of positive discrimination on gender grounds, and through a mechanism of controlling public funding for political parties, both of which are areas of constitutional sensitivity. It might be preferable, therefore, that the case be addressed on the merits rather than disposed of on the basis of standing'.<sup>77</sup> The Court, to its credit, does recognise the important goal of gender equality, however, it has left open the possibility for the legislation to be deemed unconstitutional. The case is still pending before the High Court.

A similar legal battle is being fought in Malta, with Independent candidate Arnold Cassola, bringing a case against Malta's gender quota legislation.<sup>78</sup> Cassola took a constitutional case against the gender corrective mechanism in 2021, arguing that it was a discriminatory system which the Prime Minister and Opposition Leader created in order to be able to add their own Members of Parliament.<sup>79</sup> This, according to Cassola, reinforces the two-party dominance in Malta and essentially requires women to run for either the Labour or Nationalist parties if they wish to benefit from the balancing mechanism. Initially, his challenge was denied on standing grounds but, as in the *Mohan v Ireland* case, the Constitutional Court overturned this verdict.<sup>80</sup> The Constitutional Court held that there was sufficient juridical interest to challenge the mechanism as the mechanism does not trigger if a third political party was to be elected to Parliament.<sup>81</sup>

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<sup>76</sup> Ibid [18] (O'Donnell J)

<sup>77</sup> Ibid [41] (O'Donnell J).

<sup>78</sup> *Arnold Cassola vs State Advocate, Civil Court 329/2021* (First Hall) 11 January 2022.

<sup>79</sup> Karl Azzopardi, 'Cassola Files Constitutional Case Challenging Election Gender Quotas' *Malta Today* (Valletta, 14 May 2021)

<[https://www.maltatoday.com.mt/news/national/109618/cassola\\_files\\_constitutional\\_case\\_challenging\\_election\\_gender\\_quotas](https://www.maltatoday.com.mt/news/national/109618/cassola_files_constitutional_case_challenging_election_gender_quotas)> accessed 15 May 2024.

<sup>80</sup> *Arnold Cassola vs State Advocate, Constitutional Court 329/2021* 17 March 2022.

<sup>81</sup> Edwina Brincat, 'Cassola Wins Right to Challenge Parliament's Gender Balancing Mechanism' *Times of Malta* (Valletta, 7 March 2022) <<https://timesofmalta.com/article/cassola-right-to-challenge-parliament-gender-balancing.939471>> accessed 15 May 2024.

In the new trial, Cassola argued that the gender balancing mechanism was discriminatory due to the fact that it guarantees the pervasive two-party dominance and that it goes against free and fair elections. The Court held that Cassola did not adequately prove how the balancing mechanism prevented free and fair elections for candidates, and that the PR-STV electoral system ensures that ‘each vote is valued since candidates can inherit votes from candidates that are eliminated, irrespective of which party they contested with’.<sup>82</sup>

In comparison to both Ireland and Malta, Australia’s quotas are voluntary and have not elicited a similar legal response.

### *Role of Women in Society*

Historically, the role of women in Irish society was informed by the traditions of the Roman Catholic Church. These Catholic understandings of the role of women were enshrined in the Constitution, written in 1937 with in-depth contributions by Priest, and later Archbishop of Dublin, John Charles McQuaid. These contributions include Article 41 of the Constitution, titled ‘The Family’. which recognises a mothers obligations to her duties within the home. During the constitutional drafting process, McQuaid wrote to then Prime Minister Éamon de Valera, in response to critiques of his proposals, that ‘the feminists are getting angry and are moving into action. They seem stung by the suggestion that the normal place for a woman is the home. I shall shortly have another note to meet these persons: their thoughts are very confused’.<sup>83</sup>

This constitutional understanding of a woman’s place within the home informed much of the resulting legislation including the so-called marriage bar which stipulated that women in civil

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<sup>82</sup> Miguel Azzopardi, ‘Gender Quota Mechanism Does Not Breach Human Rights – Court’ *Newsbook* (24 October 2023) <<https://newsbook.com.mt/en/gender-quota-mechanism-does-not-breach-human-rights-court/>> accessed 15 May 2024.

<sup>83</sup> Finola Kennedy, ‘Two Priests, the Family and the Irish Constitution’ (1998) 87 *Studies: An Irish Quarterly Review* 353, 359.

servant positions were required to resign once they were married. This bar persisted until its removal in 1973. A further example that emphasised women's lower position within society was the introduction of children's allowance payments in 1944, that were specifically required to be paid out to the father. This continued until 1974.

These examples highlight the traditional experience of women within Irish society and support the argument that women's political opportunities were stunted by their lesser standing within society. However, since joining the European Union in 1973 (then the EEC) and the election of Ireland's first female Head of State, President Mary Robinson in 1990, the country has slowly but surely expanded the role of women within society. This includes the expansion of women's rights via referendums on divorce and abortion. This expansion of rights, and resulting increase in social standing, correlates with the growing number of women within the national legislature. The role of women within Maltese society has similarly developed under a strong Catholic influence. Lane writes that 'most Maltese have long considered the role of women to be primarily and properly confined to that of wife, mother, and housekeeper'.<sup>84</sup> Likewise, similar restrictions to those in Ireland regarding the obligation to cease employment upon marriage existed in Malta until the late 1970s.<sup>85</sup> However, since acceding to European Union Membership in 2004, Malta has seen an exponential rise in women participating in the labour force. For example, between 2008 and 2015, employment in Malta increased by 24,500 people with women accounting for 80% of the increase in full-time employment and 70% of part-time employment.<sup>86</sup> This increase in the labour force can be attributed to a number of government policies that were introduced to encourage more women into the job market. These incentives include the increased affordability of childcare, increases in maternity and adoption leave, and

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<sup>84</sup> John C Lane, 'The Election of Women under Proportional Representation: The Case of Malta' (1995) 2 *Democratization* 140, 153.

<sup>85</sup> Brian Micallef, 'Estimating the Impact of Structural Reforms to Increase the Female Participation Rate in Malta' (2018) 6 *International Journal Social Science Studies* 73, 75.

<sup>86</sup> *Ibid.*

financial benefits. As described by Lane, ‘the increased female participation rate is also related to the transformation in the role of women in society, with rising education levels combined with social norms’.<sup>87</sup>

Whilst Australia has been comparatively strong in terms of women’s representation, gender-based issues still persist for women in politics with the issue re-emerging as an overt political issue in Australia.<sup>88</sup> However, unlike in Ireland and Malta, there is no strong Catholic heritage. Comparatively, legislation to promote the equality of women was introduced at an earlier stage in Australia than in Ireland or Malta as a result of the lesser influence of the Catholic Church. For example, the Federal Family Law Act, introduced in 1975, legalised no-fault divorce and recognised the economic value of women’s work in the home when dividing assets during divorce proceedings.<sup>89</sup> Comparatively, Ireland only legalised divorce in 1995 and Malta in 2011. The introduction of the contraceptive pill in 1961 was another pivotal moment in bolstering women’s equality, with this contraceptive pill being illegal in Ireland until 1985. Whilst issues still remain in Australian politics for women, the advancement of women societally, when compared to Ireland and Malta, has allowed for women to access the political sphere at a higher rate and earlier in time. Arguably, the introduction of gender quotas has narrowed this gap, however, the role of women within each society has evidently affected the creation of the gap in the first place.

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<sup>87</sup> Ibid, 76.

<sup>88</sup> N (42), 117.

<sup>89</sup> National Centre for Social and Economic Modelling, ‘She works hard for the money: Australian women and the gender divide’ (AMP NATSEM Income and Wealth Report 2009)  
<<https://apo.org.au/sites/default/files/resource-files/2009-04/apo-nid3880.pdf>> accessed 7 June 2024.

## *Importance of Local Government and Incumbency*

### Importance of Local Government

Local government oftentimes serves as a pathway towards higher levels of office for women. It is the level of government where, internationally, women have made the greatest inroads into politics. According to McGing, when women are underrepresented at the local level it can translate to women's continued lack of parity in national politics.<sup>90</sup> However, this same research has found that, in Ireland, the dynamics of candidacy for local election remain heavily gendered. Gender stereotypes, a disproportionate responsibility for care work, and low pay impedes upon women's ability to participate effectively at the local level. These traditional cultural attitudes continue to act as a barrier for women in politics.<sup>91</sup> Whilst gender quotas were introduced in Ireland for national elections, local elections remain without such quotas. Given the importance of local government for the participation of women at the national level, the introduction of gender quotas would encourage more women to utilise this pathway. The latest local elections, held in 2019, saw 24% of councillors elected being women, the highest number in the history of the State.<sup>92</sup> In practice, PR-STV reduces the incentive for strategic voting due to the transfer process of votes.<sup>93</sup> This reduced incentive can result in a greater affiliation by voters to individual candidates rather than to specific parties. However, this is not the case in Ireland as research has shown that Irish voters have a tendency to affiliate strongly with particular parties. According to Farrell et al, PR-STV as a means of government formation 'depends far more on the local political culture than it does on the electoral system'.<sup>94</sup> This local

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<sup>90</sup> Pauline Cullen and Claire McGing, 'Women beyond the Dáil: More Women in Local Government' (2019) National Women's Council of Ireland <<file:///C:/Users/35386/Downloads/McGing%20C-2019-Women%20beyond%20the%20Dail.pdf>> accessed 22 May 2024.

<sup>91</sup> Kathleen Knight, Yvonne Galligan, and Una Nic Giolla Choille, 'Equalising Opportunities for Women in Electoral Politics in Ireland' (2004) 26 *Women and Politics* 1, 15.

<sup>92</sup> Aodh Quinlivan, 'The 2019 local elections in the Republic of Ireland' (2020) 35 *Irish Political Studies* 1, 13.

<sup>93</sup> N (43).

<sup>94</sup> N (18).

political culture is a particularly strong factor in the election of women in Ireland. Similar to the incumbency argument outlined below, voters tend to favour candidates who have previously held and elected post.<sup>95</sup> Holding a prior position in local government provides non-incumbent politicians with a comprehensive track record for voters to align with. Furthermore, politicians with greater experience are more likely to be selected by a Party to run as a candidate on the national level.<sup>96</sup> According to McGing, the advantage provided to electoral candidates as a result of local government experience is statistically more significant for women.

Malta's experience with local government has been comparatively short, with modern local government only having been formally established in 1993 as part of their plan to join the European Union.<sup>97</sup> Prior to this the Catholic Church effectively dealt with local affairs, with the effects of this remaining; namely the boundaries of local government mirroring the parish ones. The dominance of the two-party system in Malta has trickled down to local level governance, with Baldacchino arguing that, 'local councils have ended up consolidating the iron grip of local politics by the two main political parties, rather than offering a level of governance that could escape or avoid their ubiquity'.<sup>98</sup> This has essentially made the local political level a mirror of the national level. As a result, local government has only recently begun to develop a culture of promoting women in politics. The National Strategic Vision for Local Government 2023-2030 aims to transform Malta's local government through a series of measured changes.<sup>99</sup> As part of

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<sup>95</sup> Leah Culhane, 'Local heroes and 'cute hoors': Informal institutions, male over-representation and candidate selection in the Republic of Ireland' in Georgina Waylen (ed), *Gender and Informal Institutions* (Rowan and Little 2017).

<sup>96</sup> Claire McGing, 'Why so few women in the Dáil? Gendered pathways to parliament and how to advance the selection and election of women TDs' (Women for Election, 2024) <<https://www.womenforelection.ie/wp-content/uploads/2024/05/wfe-why-so-few-women-in-the-dail-claire-mcing-april-2024.pdf>> accessed 22 May 2024.

<sup>97</sup> Barbara Weglarz, 'Local Self-Government in Malta – Basic Issues' (2022) 75 *Revue des Sciences Politiques* 145, 146.

<sup>98</sup> Godfrey Baldacchino, 'Malta Transformed by Multi-level Governance: More than Just an Outcome of Europeanisation' (2014) 3 *The Institute for European Studies* 5, 7.

<sup>99</sup> Government of Malta Parliamentary Secretariat for Local Government, 'National Strategic Vision for Local Government 2023-2030' (Local Government of Malta, 2023) <<https://localgovernment.gov.mt/wp-content/uploads/2023/09/National-Strategic-Vision-for-Local-Government-2023-2030.pdf>> accessed 7 June 2024.

this plan, a study is to be conducted, before the end of 2024, which looks at ways to widen representation within the Local Councils and includes the potential for a similar gender top-up mechanism as in the Parliament to be applied at the local level.

In Australia, local government represents the third tier of Australia's federal democracy.<sup>100</sup> Like in Ireland, the local government system was imposed by the British and, unlike in Malta, a strong tradition of local government was created. However, this strong tradition did not include women at the local level until substantially later than at the national level, with women's representation at the local level reaching only 1% in 1960.<sup>101</sup> The reverse order of eligibility to be political candidates, beginning at the national rather than local level, delayed the participation of women at the local level. Sawyer notes that 'local government is the easiest to combine with family responsibilities as well as providing a pathway to a parliamentary career,' therefore this delay adversely affected women's participation across all levels of government.<sup>102</sup> Increased funds became available in the 1970s to facilitate childcare, social planning, unemployment programmes etc., and alongside the burgeoning women's movement and the work of the Australian Local Women's Association, greater numbers of women were elected at the local level.<sup>103</sup> However, this increase has been explained as a 'function of the relatively powerless nature of local government vis-à-vis the other arms of government'.<sup>104</sup>

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<sup>100</sup> Blight Grant and Joseph Drew, *Local Government in Australia: History, Theory, and Public Policy* (1<sup>st</sup> edn, Springer 2017).

<sup>101</sup> N (41).

<sup>102</sup> N (41).

<sup>103</sup> Rosemary Whip and Don Fletcher, 'Changing Characteristics of Women on Local Government Councils in Australia: 1982-1993' (1999) 34 *Australian Journal of Social Issues* 59, 60.

<sup>104</sup> Alison Sheridan, Fiona Haslam McKenzie, and Leonie Still 'Making visible the "space of betweenness": understanding women's limited access to leadership in regional Australia' (2011) 18 *Gender, Place, and Culture* 732, 742.

## Incumbency

Incumbency has consistently been identified as a key barrier to women's participation in politics.<sup>105</sup> In general, when women run against a large number of incumbent candidates, their chances of success are reduced significantly.<sup>106</sup> Research has shown that Parliaments with greater legislative turnover have a tendency to result in more women representatives.<sup>107</sup> This is primarily due to a reduction in incumbency which prevents women from being elected. In general, proportional representation systems have less incumbency than single-member districts due to the greater emphasis on party politics. In Ireland, at each general election, aside from in 1992, a higher number of men than women have retained their seats which, according to McGing, suggests that the advantage provided by incumbency is gendered and operates more conditionally for women.<sup>108</sup> Furthermore, the PR-STV system of vote transfers is unpredictable at the constituency level, making women more vulnerable to large scale losses. In Ireland, Jankowski and Miller argue that given the strong constituency ties for candidates and incumbents, the resulting system is more similar to single-member district systems than other proportional representation systems.<sup>109</sup> The situation is similar in Malta, where Lane has written that, alongside incumbency, the 'slow pace of elite circulation in Malta' adds to the delayed success of women candidates.<sup>110</sup> Cutajar suggests that the introduction of legislation to limit an incumbents term or to provide greater funding for female non-incumbents would be useful to

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<sup>105</sup> Leslie A. Schwindt-Bayer, 'The incumbency disadvantage and women's election to legislative office' (2005) 24 *Electoral Studies* 227, 228.

<sup>106</sup> Leslie A. Schwindt-Bayer, Michael Malecki, and Brian F. Crisp, 'Candidate Gender and Electoral Success in Single Transferrable Vote Systems' (2010) 40 *British Journal of Political Science* 693.

<sup>107</sup> N (43).

<sup>108</sup> N (92).

<sup>109</sup> Michael Jankowski and Stefan Müller, 'The Incumbency Advantage in Second-Order PR Elections: Evidence from the Irish Context, 1942–2019' (2021) 71 *Electoral Studies* 1, 3.

<sup>110</sup> N (80), 149.



counteract this imbalance.<sup>111</sup> Similarly, in Australia, research has found that when women run against a large number of incumbents, their chances for election reduce significantly.<sup>112</sup>

## *Conclusion*

What ought the role of courts be in promoting gender parity in legislative assemblies? In Ireland and Malta, the courts have recognised that gender equality in legislative assemblies represents an important goal, however, they are also attempting to balance this against other constitutional principles. Whilst the courts have yet to decisively find either Ireland or Malta's gender quota systems to be contrary to their constitutions, it would be a considerable blow to the government's aims at rectifying decades of gender inequality. Unlike the success of Australia's gender quotas, I believe that voluntary gender quotas would be comparatively less successful in Ireland and Malta. This is primarily due to the different histories of the role of women in society, namely as a result of religious influences.

Local government is generally the gateway for many women into politics and the failure to implement gender quotas at this level fails to recognise this. In order to seriously promote the participation of women at the national level, this must be addressed as, according to Berevoescu and Ballington, electoral systems based on proportional representation lose their impact at promoting women at the local level in the absence of gender quotas.<sup>113</sup> However, it appears that local government is primarily a factor influencing the participation of women in the Irish context, and to a lesser extent in Australia, than in Malta. This is due to the long history of local government in Ireland, which could be further expanded upon with the introduction of gender quotas. In Australia, less work has been conducted on the influence of local government on

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<sup>111</sup> N (46).

<sup>112</sup> N (102).

<sup>113</sup> Ionica Berevoescu and Julia Ballington, 'Women's Representation in Local Government: A Global Analysis' (Governance and Participation Section UN Women, 2021) <<https://www.unwomen.org/sites/default/files/2022-01/Womens-representation-in-local-government-en.pdf>> accessed 7 June 2024.

women's participation and in Malta the recency of the local system alongside the two-party dominant structure makes it difficult for women to breakthrough at this level.

## Concluding Remarks

According to Nunan, evidence suggests that the formation of government depends less on the particular electoral system and more on the local political culture.<sup>114</sup> This is evidently the case in Ireland, Malta, and Australia. Whilst electoral design plays a substantial role in the ability of women to get elected, clearly so too does the culture of the day. Gallagher supports this assertion, writing that ‘too often, there is a temptation to push the button marked ‘Change the electoral system’ rather than think more systematically about what needs fixing and how to fix it’.<sup>115</sup>

Both the electoral and non-electoral factors discussed in this thesis emphasise the influence of a multitude of factors that contribute to the capacity of PR-STV to promote the participation of women in national legislature’s. For example, Ireland and Malta’s Catholic heritage has decidedly influenced the role of women in a manner not replicated in Australian society.

The electoral design factors, namely gender quotas, candidate selection, and district magnitude, influence the ways in which PR-STV can be utilised to improve women’s political participation from a structural perspective. The non-electoral design factors emphasise the societal and cultural differences present across the three comparators which influence the participation of women. The intersection of the different electoral factors, combined with the non-electoral factors, has created three different systems where the steps required to improve gender representation differ significantly. The below table highlights the factors which negatively influence the participation of women in each country. By understanding where the issues are in each system that applies PR-STV, it will be easier to address and rectify their negative impacts.

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<sup>114</sup> N (10)

<sup>115</sup> Michael Gallagher and Paul Mitchell, *The Politics of Electoral Systems* (1<sup>st</sup> edn, Oxford University Press 2005).

## Factors that Negatively Influence Women's Participation in National Legislatures

	<i>Ireland</i>	<i>Malta</i>	<i>Australia</i>
<i>District Magnitude</i>	<b>X</b>		
<i>Candidate Selection</i>	<b>X</b>	<b>X</b>	
<i>Doctrine v Court Decision-Making</i>	<b>X</b>	<b>X</b>	
<i>Role of Women in Society</i>	<b>X</b>	<b>X</b>	<b>X</b>
<i>Local Government</i>	<b>X</b>		<b>X</b>
<i>Incumbency</i>	<b>X</b>	<b>X</b>	<b>X</b>

### *Limitations of Research and Future Directions*

As previously mentioned, there are only three countries globally that utilise PR-STV to elect their all or part of their national legislatures. This means that the breadth of comparative material is limited. In particular, it is challenging to arrive at explicit conclusions given that PR-STV is applied variably. As described above, PR-STV is utilised by different houses of government across my three comparators. Therefore, these variations in application must be accounted for including, for example, the fact that the whilst the Senate in Australia has achieved gender parity, the House of Representatives has not. Likewise, whilst the House of Representatives in Ireland has not achieved gender parity, the Senate is much closer to achieving this as it is currently composed of 40% women.<sup>116</sup> These variations highlight the difficulties of comparative work in general, however, I believe that there are a number of directions upon which this thesis can be built upon. Primarily, I believe that more intersectional

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<sup>116</sup> 'Ireland: Senate' (Inter-Parliamentary Union 2024) <<https://data.ipu.org/parliament/IE/IE-UC01/>> accessed 18 May 2024.

data is required in order to understand the implications of, for example, race, class, age, amongst other factors, which influence the participation of women in national legislators. Furthermore, I can see future research which offers comprehensive solutions to the issues posed by each of the factors outlined in this thesis.

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