Enhancing the substantive representation of women: lessons from transitions to democracy

Georgina Waylen, University of Sheffield, U.K., g.waylen@sheffield.ac.uk


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Introduction
This paper will seek to answer two questions: first how far have the recent 3rd wave transitions to democracy enhanced women’s substantive representation in the post transition period? And second are there any comparative lessons that can be drawn from analysing these experiences? I use a relatively broad definition of the substantive representation of women (SRW) that encompasses not just the extent to which women legislative representatives ‘act for’ women but also includes the involvement of women and women’s concerns in policymaking (Mackay 2004). Obviously this raises contentious issues. The wider debate about whether there is such as thing as women’s interests that all women share has been a longstanding one. Rather than enter this difficult terrain, I will use the extent to which actors and outcomes are attempting to improve levels of gender equality as my marker.

The empirical material is drawn from a larger study of eight transitions to democracy that took place just prior to the peak of the ‘3rd wave’ in the mid 1990s (Waylen 2007). All are recognised to have made a transition to some form of democracy, however imperfect. The study looks at a relatively long period of between twenty to thirty years for each case. This timespan encompasses the non democratic regime and its breakdown, the transition and the first decade or so after the founding election. This extensive time period allows us to make some judgements not only about outcomes but also about the processes from which these outcomes emerged. The case studies include transitions from authoritarianism (Brazil, Chile, Argentina, El Salvador and South Africa) and state socialism (Hungary, Poland and the Czech Republic). The transitions took different forms – some were relatively quick (Argentina and Czechoslovakia) and others were relatively drawn out and negotiated (Brazil, South Africa, El Salvador and Chile) with different legacies.

The case studies also display a range of different gender outcomes. Women’s descriptive representation varies considerably. Although initially low in all cases except South Africa, in 2005 it ranged from less than 10% in Brazil and Hungary, to over 30% in South Africa and Argentina with all the other cases somewhere in between. The SRW of women within legislatures has also varies considerably between the cases. As we will see the extent to which women legislators acted for women - whether in terms of cross party organizing or their interaction with organized women outside the legislature –
demonstrates huge variety. Turning to examine SRW in policymaking processes we will again see big differences. Although women’s policy agencies (WPAs) have been established in all the countries, the policy access and effectiveness of these institutions is not uniform and indeed has varied over time within cases. Policy outcomes too are not uniform. In a couple of cases, namely Brazil and South Africa, pioneering gender sensitive constitutions were enacted as part of the transition. Policy change has also been easier to achieve in some contexts and some gender issue areas, such as divorce and property rights, than in others such as reproductive rights. An extension of reproductive rights was only achieved in one case (South Africa) and retrenchment has been more frequent (Poland and El Salvador).

How can we explain these different outcomes? Why is that the SRW appears to have been enhanced in the aftermath of some transitions but this has not happened across the board. These outcomes are not arbitrary and some causal patterns can be discerned. But any analysis that seeks to understand the circumstances under which the SRW can be enhanced in a transition to democracy has to look at a number of factors. First it has to consider the nature of women’s organizing at different stages of the transition. This can play an essential role, but on its own women’s mobilization is no guarantee of success. Other factors – a favourable political opportunity structure and strategic organizing by key actors – are also crucial. To examine the political opportunity structure in the context of transitions we need to look at the institutional legacy of the non democratic regime, the gendered nature of institutions including political parties and party and electoral systems as well as the international context at different stages in processes of transition. Finally I would argue that analysing the activities of a range of key actors – whether they are feminists or allies within legislatures, governments, parties or within women’s organizations – and the extent to which they form alliances, and strategically frame issues - is essential. It is then possible to understand why, in some contexts, it was possible not only to articulate certain gender issues, but also place them on the political agenda and achieve some degree of policy change.

Our final task is to consider the wider implications of this analysis of transitions to democracy. In the conclusion we will not only reflect on the key conditions for enhancing the SRW in transitions to democracy but also consider how far these findings are generalizable. Are transitions very particular times of political change that offer
unique opportunities - for example framing the arguments for quotas in terms of enhancing or consolidating the transition - or can similar conditions and findings relevant to the establishment of new institutions occur in other contexts?

The first section of the paper will examine the electoral arena and the activities of women legislators. When assessing the extent to which women legislators ‘act for’ other women, I will follow Franceschet’s (2006) arguments and broaden out from narrow concerns, such as the extent that women legislators sponsor certain types of bills, to consider cross party organizing by women and their wider links with women outside the legislature. I am mindful of Susan Franceschet’s (2006) arguments, following Schwindt-Bayer (2006), that the greater propensity of women legislators to introduce and support bills with a gender content may in fact indicate that women legislators are still marginalized in legislatures and get pushed into traditional female concerns. And that identifying legislation with a gender content does not give any indication as to whether it would lead to positive gender outcomes, for example around reproductive rights. ‘Acting for’ women therefore uses a concept of representation that sees it as an interaction between representatives and the represented. The second and third sections examine SRW in the bureaucratic and policymaking arenas. This will involve more than looking just at the WPAs that have so often been the focus of attention but also at the extent to which a range of women are incorporated into policymaking processes. I will do this by examining one gender issue area. I do not consider the implementation of policy outcomes, but I do realise that so often implementation falls short of expectations. However I would argue that putting legal rights and policies in place can subsequently enable women to contest their lack of implementation and provide the opportunity to try to translate paper rights into lived rights.

How far do women legislative representatives ‘act for’ women in post transition polities?

We have already noted the big variation in levels of women legislators elected in the case studies in the post transition period. But there are no discernible differences in levels that result from transitions from authoritarianism or state socialism (except those that result from a greater propensity to adopt quotas). Some ex state socialist countries have relatively high levels of women’s representation (eg Poland, the Czech Republic) while others have very low levels (eg Hungary). The same range is evident in ex authoritarian
polities. Brazil has had consistently low levels while others (Argentina and South Africa) have had high levels.

While there is no direct evidence that higher numbers of women representatives (a ‘critical mass’) will necessarily enhance the SRW in post transition politics, it is useful to reflect on some of the explanations for these variations as their causes also have some impact on the actions of women legislators. The high levels of women’s representation in Argentina and South Africa are due largely to the imposition of effective quotas, whether on a constitutional/legal basis as in Argentina or on a party basis as in South Africa where the ANC has maintained quotas since the founding election. But there are other cases where electoral quotas have been largely ineffective as in Brazil. Or as in many ex state socialist countries, quotas were for the first decade after the transition associated with the non democratic regime. As a result only a few party based quotas have been implemented in ex state socialist polities and then by a very limited number of parties, often communist successor parties that are still on the left of the political spectrum. There is also no evidence that levels of development/GDP per capita have a significant relationship with levels of female representation in our case studies countries as has sometimes been postulated (eg Matland 1998).

However there is some evidence to support the contention that a number of patterns in these post transition polities do replicate trends seen in longer-standing democracies. Electoral systems do seem to make a difference. PR systems tend to have higher levels of women’s representation than first past the post systems but the data are not conclusive. Different kinds of parties also display differences in the number of women legislators. On the whole parties on the left have higher proportions of women legislators whether they are communist successor parties (as in ex state socialist polities), ex revolutionary parties (in South Africa or El Salvador) or more typical left wing parties (Chile). But some left-wing parties, such as the PT in Brazil, have at times had surprisingly low levels (which could perhaps be the demonstration effect in reverse in a context where other parties also have low levels). However some right-wing and populist parties also display quite high levels of female representation.

There are, however, some trends that do seem to result from the prevalence of less institutionalized parties and party systems that are more common in post transition
polities. The relatively high levels of electoral volatility in cases, such as in Poland, can help to account for the relatively big swings in levels of female representation seen from election to election (including the electoral emergence and demise of a women’s party, WOR in Russia, from one election to the next). Less institutionalised parties also demonstrate a bigger range of outcomes in terms of levels of female representatives. Some have relatively high levels of female representation as mechanisms around candidate selection can be very variable and party elites often exercise great influence. Indeed it has been suggested that, to maintain their control over selection procedures, party elites in some post transition polities have been prepared to accept party quotas as a way of fending off demands for greater party democracy in the form of primaries. There is some evidence from Russia that in an inchoate party system that has high levels of independent candidates winning elections, women find it more difficult to get elected as they often lack funds and connections.

How do these patterns of women’s descriptive representation impact on the actions of women legislators? Putting aside the arguments about ‘critical mass’ and the extent to which the presence of more women legislators change the culture of legislatures and can encourage other women to vote and stand for office, we will focus on the extent to which women legislators ‘act for’ women and organize around gender issues in legislatures. We can do this by first focusing quite narrowly on women legislators’ organizing across party lines and within parties inside legislatures before broadening out to examine the links with organized women outside legislatures around gender issues.

Within our case study countries we see a range of different types of cross party organizing among female legislators. A number of factors seem to affect its incidence and form, namely whether it is organizing on an issue-by-issue basis or into a more formal women legislators’ block or grouping. First the character of the party system and the strength of party discipline are key factors. Women’s cross party organizing can be easier in contexts where parties systems are fractured and party discipline is weak – characteristics commonly associated with post transition polities. A bancada feminina has therefore been possible in Brazil, facilitated by low party discipline and a multiplicity of parties, in ways that proved problematic in cases characterised by higher levels of party discipline such as is found in both South Africa and Poland. A Women’s Parliamentary Group (WPG) was founded in 1991 in Poland. Women of the Democratic Left Alliance
(SLD) which included reformed communists and the more right-wing Democratic Union
were the most active within it. The WPG campaigned around issues of family welfare,
divorce and abortion law reform within parliament as well as trying to set up links with
wider networks of women outside of parliament. However Siemienska (1998: 142)
reports that when the WPG developed a joint position on an issue, problems with
agreeing strategy and tactics often followed. Over time the WPG became increasingly
dominated by women from the SLD as disputes between different parties increased. The
impact of relatively strong party discipline can also be discerned in South Africa.
Attempts to set up a multi-party women’s caucus, the WPG, early on in the South
African parliament were not very successful. The WPG did not have the support of the
minority parties – the leadership of the National Party was opposed to it and it was seen
as an ANC front (Geisler 2000: 622). Racial, class and ideological divisions have been
seen as more salient for women legislators than any unity gained through shared interests
in South Africa.

But there is evidence that organizing among women legislators has often been more
successful on a case-by-case basis and around certain issues areas. One area where cross
party organizing has often proved problematic is reproductive rights particularly
abortion. Despite their ideological differences, women from left wing and right wing
parties have been able to form alliances, around less contentious issues such as child
maintenance, quotas and even domestic violence. In Chile and El Salvador, women
legislators who disagree fundamentally on reproductive rights could find common
ground on child maintenance. In Chile women legislators of the centre-left alliance the
Concertacion had some limited contact with some sympathetic women politicians in
Renovacion Nacional a right-wing party on issues relating to the welfare of women,
children and families. Although the impetus for the 1994 Abandonment and Family
Support Bill (which stipulated the level of support for a deserted partner and children)
came from women representatives from both the Concertacion and RN, the potential for
further cross party alliances was limited by the extreme politicisation of gender issues
such as divorce and reproductive rights (Franceschet 2005). But the total numbers of
women legislators in Chile have been relatively low with few feminists among them. The
feminists were also concentrated in the left wing parties of the Concertacion alliance not
the Christian Democrats who dominated the alliance in the 1990s. As a result discussion
of anything that threatened the gender status quo was extremely limited during this
period. At the other end of the spectrum in a number of cases women legislators have formed alliances around the introduction of quotas. But cynics might claim that female representatives, whatever their ideological persuasion, have some interest in ensuring that more women get elected hence the cross party organizing visible around quotas in a range of cases including Argentina and El Salvador.

If party and ideological differences are important factors that affect the effective of cross party organizing by women legislators, are single party women’s caucuses more effective within legislatures? Few political parties have had them in post transition polities. In South Africa only the ANC had a women’s caucus founded after only two women were appointed as ministers in 1994. While some are sceptical about its impact, Goetz and Hassim (2002: 318) argue that the caucus ‘acted as a key pressure point within parliament, along with the Joint Standing Committee on the Improvement of the Quality of Life and Status of Women (JSCIQLSW)’ which began as an ad hoc committee to oversee the implementation of CEDAW but after skilful lobbying by ANC feminists was upgraded to a proper standing committee. The actions of a number of overtly feminist MPs played a key role in ensuring the Joint Standing Committee and the ANC women’s caucus could identify legislative priorities and lobby for policy changes particularly in the first non racial parliament. The success of a party women’s caucus therefore depends on a number of factors including the nature of the party and its women members.

Before we assess the relative impact of: parties and party systems; the levels of women’s representation; and presence of feminists within legislatures on the extent that women legislators can ‘act for’ women in post transition polities, we must look at the relationships between women in legislatures and organised women outside of the institutions. In some of our case studies there are examples of joint organizing by different groups of women including legislators. Conjunctural alliances have been relatively common around certain issues. Efforts to get substantial numbers of women elected is one of these. In some cases, such as Argentina, efforts focused around the campaign to get quota legislation enacted. Although proposed by a female legislator in the opposition UCR party it was supported by an alliance of women from both the main political parties and a range of NGOs. The government’s WPA also participated in the campaign. The feminists involved argued that a deliberate part of the strategy was to stress that quotas would help make Argentina a modern and fully democratic society and
as such they were attempting to use the opportunities afforded by the post-transition context (interview with Gloria Bonder). Replicating our findings about cross party organizing, we also see a number of effective conjunctural alliances that incorporate range of women’s organizations, NGOs and academics operating around successful campaigns to get policy change in particular issue areas, such as reproductive rights in South Africa.

There are other examples of conjunctural organizing in and around elected bodies to try to ensure that women would be descriptively and substantively represented in the new institutions ushered in by the transition processes. In some cases, organised women, often comprising alliances of non aligned feminists, academics and women politicians came together during the transition phase. In South Africa, an alliance of women organized to influence the outcome of the constitutional negotiations ensuring that gender rights would be enshrined in the new constitution. In Chile a women’s concertacion organized to influence the centre-left Concertacion alliance to try to position gender issues as part of its campaign platform and in El Salvador an alliance of women, Mujeres 94, came together to try to ensure that all the political parties took gender issues in board for the founding elections (Waylen 2000, Luciak 2001). In Brazil and Argentina alliances of women both inside and outside the elected constituent assemblies together with the WPAs organised to try to ensure that the new constitutions included measures such as CEDAW and to prevent the insertion of clauses incorporating the right to life.

As part of this pattern, some female legislators have more extensive contacts with organized women outside assemblies than others. Those legislators who are avowedly feminist are more likely to have come from and have links with feminist organizations outside the legislature. For example in South Africa and Chile a number of prominent female legislators elected at the first democratic elections had backgrounds as activists and feminists. They tended to belong to the parties on the left of the political spectrum. But this situation may be temporary as the post transition decline in women’s movements may reduce the pool of potential women candidates with this background. There is a suggestion in the South African case that the second intake of women MPs were more professional in background with fewer links to grassroots movements than many of the previous intake. Therefore a range of factors, both within and outside the
electoral arena, help to determine how far women legislators will ‘act for’ women. But in any study of SRW the electoral arena cannot be examined in isolation from the bureaucratic, constitutional and legal arenas as equally important areas where the SRW can be enhanced.

**Women’s Policy Agencies in post transition polities**

WPAs have been one key area where attempts have been made to enhance the SRW in policymaking. The creation of WPAs often coincided with a move from a non-democratic regime to a more competitive electoral system. It was facilitated by the increasingly favourable international context in the 1990s manifested in the preparations for the Beijing conference and its aftermath, and for countries in East Central Europe, by EU accession. But despite these overall trends, WPAs were often set up for very different reasons, with different structures, powers and resources and therefore with different capacities to represent ‘women’s interests’ in the policymaking process. Some therefore had ‘insider’ and others ‘symbolic’ roles (Lovenduski 2005). In order to understand the extent that WPAs have enhanced the SRW in transitions to democracy, it is useful to assess their utility and effectiveness as well as their ability to give different groups of women ‘policy influence and access’. To do this we need to examine how and why they were set up; the resources they were allocated; their accountability and the participation of groups outside the state; as well as the impact of the wider political context within which WPAs have been operating.

The WPAs in our case study countries vary hugely. In three countries, they were set up directly as a result of the efforts of organized women during the process of transition. Sympathetic elected governments in Brazil, Chile and South Africa established a women’s policy machinery relatively early on, largely as a consequence of campaigning by women activists within political parties, legislative bodies and women’s organizations. They had placed the establishment of a state women’s machinery on the agenda of these transitions and forced its acceptance by influential political parties. In South Africa a ‘package’ of institutions in the form of the ‘strategic nodes’ envisaged by feminists were set up within the government, legislature and civil society together with an independent statutory body in an attempt to avoid the problems frequently seen elsewhere (Albertyn 1995). In contrast, in the aftermath of the transitions from state socialism in East Central
Europe, WPAs were established much later and not as a consequence of the actions of organized women (Jezerska 2002). They were often a result of international pressure to fulfil Beijing commitments after 1995 and, in some countries, part of the efforts to implement European Union equality legislation in preparation to join the EU, therefore often playing primarily symbolic roles (Galligan 2003). Most of these WPAs were set up by order of a government or ministers or presidential decree rather than legislation and were low level and based within other ministries. In 1998 for example the conservative FIDESZ government in Hungary established the Secretariat for the Representation of Women within the Ministry of Social Welfare (Eberhardt 2005).

Many analysts have agreed that the majority of WPAs - even those established as a consequence of women’s activism – have not had sufficient resources to fulfil their briefs. Even WPAs, such as SERNAM in Chile, set up under relatively favourable conditions after pressure from women’s movements, were not as generously resourced as activists had been hoped. And on occasion, the resources provided for WPAs were less than resources allocated to related bodies. Only in Brazil did the WPA begin with an initial ring-fenced allocation bigger than many of the smaller ministries (Alvarez 1990: 221, Macaulay 2003: 18). As well as lacking finance, often personnel have not had the necessary technical training to carry out oversight and mainstreaming functions in areas such as trade, economics and finance. This is particularly true of bodies established primarily to comply with international commitments. For all WPAs it has also made a vital difference who the personnel are. In addition to their experience in areas such as finance, whether or not they have any knowledge or sympathy for gender issues or would identify themselves as feminists, has also been crucial. These leanings help to determine how far they further gender equality within the state or can have good relationships with women’s organizations outside the state. But at the same time prominent and outspoken women within WPAs can also garner opposition. On her appointment as Head of the Polish WPA after the election of the more left-leaning SLD, Izabela Jaruga-Nowacka announced that her office would fight to liberalize the abortion laws and was vehemently criticized by the Catholic Church (Matynia 2003).

The relationship of WPAs with women’s organizations outside the state has also varied enormously in the post transition context. The role that NGOs and women’s groups played in the establishment of the WPA accounts for some of that variation. If it was
established from the top-down, as in parts of post socialist East Central Europe, its relationship with women’s NGOs is likely to be poor or non-existent. But because these WPAs were often set up for pragmatic and instrumental reasons in the absence of pressure from domestic women’s movements, they have been the subject of fewer expectations about their roles, even though they may have done little to improve gender equality or women’s policy access. However if the WPA was established in part as a result of campaigning from below, as in Brazil, Chile and South Africa, a closer relationship can ensue but expectations of its future role will be high. As a result relationships between WPAs and women’s organizations have sometimes been fraught, as well as mutually beneficial. Some WPAs, such as in Chile and South Africa, have been accused of not consulting or representing the full spectrum of women’s organizations and even of weakening women’s movements outside the state (Schild 1998). At the same time, the post transition demobilization of many women’s movements has also undermined the legitimacy of WPAs within the state, as the strength of the outside constituencies that WPAs could claim to represent bolstered their power.

The responsibility that the WPA has for distributing funds for research and projects to NGOs and women’s organizations that might previously have gone to them directly under the non democratic regime, can often result in a clientelistic relationships with women’s organizations with some groups more likely to benefit than others (Waylen 2000). Indeed it is often claimed that it is the most professionalized organizations which get the funding as they can fill out the forms and know their way around the system more effectively. As a result grassroots and popular organizations lose out to the more middle class, often feminist, NGOized ones that provide the ‘gender-policy assessment, project execution and social services delivery’ that the state and within that WPAs want (Alvarez 1999: 182). As Franceschet (2005) has argued, WPAs therefore can have the potential to shape the development of women’s movements. But the question of the relationship between women’s movements and WPAs remains unresolved in post transition polities like Chile and South Africa. How far can an WPA play an ‘insider’ role incorporating the goals of feminists outside the state? Does a WPA represent civil society within the state, is it simply another state institution or can it play both roles at once?
The foregoing discussion has made it clear that the political context/opportunity structure is a significant factor in determining the activities and effectiveness of any WPA created in the aftermath of a transition to democracy. In addition to the roles played by women’s movements, uninstitutionalized political systems, frequent changes of government and the ideological complexion of the government in power affect the WPA in post transition polities. Some WPAs, such as the CNM in Argentina, were set up to serve a president’s immediate interests (often by presidential decree) rather than with a firm institutional basis in response to the demands of women’s movements. The fate of these WPAs can then be determined by presidential whim, particularly if policy is determined more by personalism and populism in particularist and presidentialist democracies than by an ideologically-based programme (Waylen 2000). The frequent changes of government often associated with less institutionalized systems can also increase the vulnerability of WPAs. New governments of a rather different political complexion are likely to change the policies and institutions of a previous government. They have often downgraded or marginalized already existing WPAs. The ideological position of the government/party in power therefore also plays a key role. WPAs are more likely to be effective if they are part of governments that have some commitment to gender equality, often because they are on the left and more open to the activities of women’s organizations. But as we have seen in South Africa and in Chile even these WPAs have faced difficulties.

The policymaking process in post transition polities: Domestic Violence

To bring together the analysis of the bureaucratic and electoral arenas, the final part of this paper will consider the policymaking process in one area of gender rights. Gender rights are not one homogenous category but vary considerably. Policy change has been easier to achieve in some areas of gender rights than others and different issues engender different levels of opposition from counter-movements - particularly from the Catholic Church which itself had varying levels of influence and legitimacy in different post transition polities (Htun 2003). Abortion reform has therefore proved very divisive in many post transition polities whereas changes to property and marital law, was, with the exception of Chile, much less so. I have chosen to focus on one area, domestic violence, which while it has been very important for feminists, has also not been as controversial as reproductive rights particularly abortion.
In post transition polities, efforts to change laws and policies around domestic violence have varied considerably in both their extent and effectiveness. Although reliable figures about the incidence of domestic violence are notoriously difficult to collect, it is recognized that levels are high in all the countries in this study. Under state socialism, domestic violence was not recognized as a problem, but came into the open after its collapse, making it hard to assess how far the incidence has increased or whether there is just more acknowledgement of pre-existing levels. The incidence of domestic violence is also very high in South Africa and our Latin American case studies.

Primarily as a result of women’s organizing at the national, regional and global level, the international climate towards domestic violence, and violence against women more generally has altered considerably since the 1970s. Women’s movements’ campaigns to get gender based violence on the international agenda began in the 1970s, and as a result of patient lobbying of national governments and strategizing at international conferences, an opening was created in the 1980s. Women’s rights were explicitly recognized as human rights at the Vienna Conference in 1993 and the use of a human rights framework to create a new international consensus expanded the possibilities for debates about domestic violence and the responsibility of the state to try to eliminate it in the 1990s (Friedman 2006). In Latin America this organizing also took on a regional dimension with the formation of networks such as CLADEM and, as a result, the OAS adopted a convention that surpassed the UN one in 1994. Most national legislation on domestic violence was also passed around the time of the Vienna Conference and the Beijing women’s conference when the international climate was at its most favourable (Macaulay 2000).

However there are marked differences in the extent to which post transition governments adopted anti-domestic violence legislation and implemented policies to prevent and ameliorate the effects of domestic violence. By 2003 five of our case study countries: Argentina, Chile, El Salvador, Peru and South Africa had adopted specific legislation on domestic violence and Brazil had legislation in the pipeline. But none of our case study countries from East Central Europe had done so. How can we explain this marked difference between East Central Europe and other transition countries? If we look first at our Latin American examples and then consider the South African case, we can see that the context was very different to East Central Europe. Women
organizing during the Latin American and South African transitions had formed part of a democratic opposition that campaigned for transitions to democracy that would put an end to state violence and human rights abuses and substitute meaningful citizenship with full civil and political rights for everyone. These actions facilitated making the connection between women’s rights and human rights. Using a human rights framework was therefore a powerful tactic allowing feminists to argue that domestic violence could not be separated from human rights abuses and the violence of the military (Friedman 2006).

Outcomes in individual countries have therefore to be seen in this broader context. In Brazil, feminists had been campaigning about domestic violence since 1975 and had played a key role in the international networks that were active around gender rights (Pitanguy 2003: 817). The 1988 Brazilian constitution incorporated many women’s demands, including, almost uniquely in Latin America, a provision on domestic violence. According to Pitanguy (2003: 818) this made family violence a state responsibility and potentially it could be held accountable for failing to do anything to prevent domestic violence. Around that time a number of other initiatives such as women’s police stations took place at both the federal and state levels. But the picture is also mixed. Developments at the federal level - such as the weakening of the WPA in the early 1990s, the lack of dedicated resources or the necessary complementary legal changes to make domestic violence a crime in its own right - reduced the capacity for significant change. Implementation therefore largely depended on individual states and could vary with changing circumstance. Gains were achieved, building on the long-standing activities of women’s organizations and the WPA, but they were still vulnerable to budget cuts and changes in the political climate.

Chile is less well known than Brazil for its efforts in the area of domestic violence. However the passage of the bill on Intra Family Violence that became law in 1994 was significant for a number of reasons. Even though it was not framed in those terms, it was the first successful piece of women’s rights legislation and the organizing around it was one of the most significant post transition mobilizations undertaken by women’s organizations. It passed as a result of the activities of a sometimes troubled alliance between feminist legislators, women’s organizations and SERNAM. The eventual bill was co-sponsored by SERNAM amid feelings that the WPA had unduly and negatively
influenced its final shape. The original bill had been reframed as a measure that was protective of the family (Blofield and Haas 2005). Feminist Groups and other NGOs that had lobbied and campaigned for the bill, felt they had been marginalized from the processes that decided the final form of the legislation (Haas 2004). Haas (2004) has even claimed that the passage of the bill marked a low point in the relationship between feminist legislators and SERNAM that subsequently improved. Feminist legislators and women's organizations were therefore disappointed by the final outcome as it differed from the initial proposal introduced by two feminist deputies from the Socialist party. Its implementation was also severely hampered by a lack of resources. But in an institutional context where the executive dominance over the legislative process and the right wing dominance over the senate were both very strong, successful legislation needed the support of the executive (Baldez 2001). In this case it meant that the support of SERNAM was crucial but because of Christian Democrat domination, the WPA was relatively moderate in its outlook.

Some similar traits can be discerned in the South African case. A number of factors contributed to the passing of new relatively far-reaching legislation on domestic violence in 1998. It contains a broad definition of domestic violence – in contrast to the Chilean case it was framed as an obstacle to gender equality - and allows for the arrest of suspected perpetrators without a warrant (Albertyn et al 1999). Women’s groups within South Africa, including some not necessarily opposed to the Apartheid regime, had been campaigning around issues of violence against women since the 1970s. During the transition, new political actors on the domestic scene, such as the umbrella women’s alliance the WNC, and key feminists within the ANC and newly reformed ANCWL, also took up the issue. In the period after the first non racial election in 1994, pressure grew from NGOs, lawyer, and political parties for a new and more effective law.

The new ANC government had committed itself to action against domestic violence as part of its activities around the Beijing conference. Two ministers in the Welfare and Justice departments provided significant support for the domestic violence lobby and in 1995 the government entered into a partnership with civil society organizations in the form of the National Network on Violence against Women. At the same time the South African Law Commission was reviewing the existing legislation and drafting a new version aided by submissions from NGOs and the Justice Ministry (Albertyn et al 1999).
The whole process was speeded up by the intervention of the JCISQLW, the Parliamentary Committee on Women, that argued that the legislation should go through parliament as a matter of urgency before the end of the government’s first term. The ANC women’s caucus in parliament supported it and the Justice Minister expedited the progress of the draft bill so that its progress was uncontroversial. However there were later problems with implementation due to inadequate resources and inadequately thought-out regulations (Meintjes 2003).

The successful passage of domestic violence legislation in El Salvador also demonstrates the role that can be played by coalitions of actors. Regardless of the historical association of feminism with the Left, Left wing and Right wing women in El Salvador came together in Congress to support the ratification of international conventions and pass quite far-reaching legislation to prevent domestic violence and punish offenders (Hipsher 2001: 154).

In contrast most countries in Eastern Europe have relied upon non specific legislation such as that dealing with assault and efforts to change the legal status quo have had little success (UNIFEM 2004). In Russia for example a number of women’s NGOs were active around domestic violence in the 1990s, often aided by external funding. The NGOs, using a perspective that sees domestic violence as an issue of bodily harm rather than part of a larger problem of women’s inequality, had some success in both changing the perceptions of the public and even some prosecutors as well as establishing refuges and training programmes (Sundstrom 2005: 437). But any attempts by women’s NGOs to get the criminal code altered failed. This pattern has been replicated in some other countries in East Central Europe. Indeed in the Czech Republic, changes to the criminal codes introduced in the early 1990s to increase the privacy of the family in the post socialist era actually reduced the opportunity for police and doctors to intervene in cases of domestic violence. Legislators also opposed the recodification of the criminal codes to include domestic violence as a specific crime, despite a discussion of the issue by lawyers (WIDE 2003). But there are some signs of change. In 2004 an amendment to the civil code was introduced in the Czech Republic making domestic violence a crime. And in Poland the Government Plenipotentiary for the Equal Status of Men and Women ran a campaign to raise awareness of domestic violence in 2005. (www.stopvaw.org)
Domestic violence legislation has therefore been enacted in a number of post transition polities. In these cases the policy environment has been sufficiently open to allow relatively cohesive alliances of actors, both insiders and outsiders, using international and regional norms and frameworks and sometimes framing legislation in terms of strengthening the family, to achieve reforms.

Conclusions
This paper has explored the extent to which recent ‘third wave’ transitions to democracy have enhanced the SRW in the post transition period. A number of factors explain the variations that we encountered. In the electoral arena, sheer numbers does not seem to be sufficient for female legislators to ‘act for’ women. The presence of: feminists; parties that are open to gender issues; links to women’s organizations outside the legislature, are all crucial. These factors have not come together in all our case studies. Where the SRW has been weak in the electoral arena, for example in Hungary, there have been few women MPs, of whom even fewer are feminists, with few women’s organizations, particularly feminist ones, active outside the legislature. The political opportunity structure has to form an important part of any analysis.

The extent to which women representatives can contribute to positive gender outcomes also depends on the extent to which women’s interests are embodied in other parts of the policymaking processes. In the bureaucratic arena we saw that there are big variations in the WPAs that emerged from transitions to democracy. A number of factors affect their ability to facilitate women’s policy access and influence. Within the state, WPAs need adequate resources, to be staffed by feminists or those sympathetic to feminism, and to enjoy a favourable location that is central to government not in an outlying ministry. A favourable national political context is crucial. Governments and political parties that are sympathetic to gender equality are important, otherwise tokenism is a danger – and as a result any body will be under-funded and understaffed – a criticism which has been levelled even at relatively sympathetic governments such as South Africa (Goetz 1997). WPAs also need an institutionalized position that is safe from changes of government or presidential whim. But this vulnerability is more probable in the post transition context with its greater likelihood of presidentialism and/or delegative democracy. The WPA’s inclusiveness and its relationship with women’s organizations
outside the state is also significant. WPAs have varied in the extent to which they have facilitated women’s engagement with policy-making mechanisms. But support from women’s movements outside the state can be crucial to the effectiveness of any WPA and its ability to increase women’s substantive representation within the state. The extent to which different WPAs have been able to enhance the SRW has therefore varied considerably in the post transition context.

To bring our previous discussions of the electoral and bureaucratic arenas together, we also considered policy processes in one important area of gender rights. This allowed us to examine the broader conditions that are necessary to achieve gender policy change, showing how women can influence policymaking in practice. Change was more likely where there was: a history of women’s activism; alliances between activists both outside and inside the government and state that used the opportunities of the transition; and a favourable national and international environment. These could all combine to achieve policy change that was not possible under the previous non democratic regime. In some cases the policy environment was relatively open, facilitated by an enabling framework such as a constitution as well as institutions such as WPAs and some significant policy changes did ensue.

What general lessons can we draw? Our discussions of the conditions that facilitate any enhancement of the SRW in transitions to democracy highlighted the importance of a number of factors: the broader political context, the role of key actors, particularly feminists, in a range of locations; as well as the potential importance of alliances of different groups of women including women’s organizations. It is clear from our analysis of the electoral, bureaucratic and legal arenas that alliances between different women, both insiders and outsiders, have been easier to forge in some areas and issues – political rights, divorce and even domestic violence – than on others such as abortion. The cohesiveness of women’s movements as well as the priority that they gave also varied considerably between issues. Some issues can also be framed in ways that do not conflict too much with dominant discourses – indeed in ways that resonate with the political context of transition and with some key actors in powerful positions. Some characteristics of the broader political context, such as electoral volatility and party instability and indiscipline, that impacted on the SRW were more typical of post transition polities. Whereas others, such as government and party openness to gender
issues, have more general applicability. Parallels can perhaps be drawn with periods of political change in longstanding polities such as devolution or other forms of constitutional change. It may also be the case that the potential impact of the international context – for example in the form of transnational organizing, UN conventions and the strength of religious/right-wing opposition to gender rights - is more significant for new democracies undergoing an important period of political change than long-standing ones. But although some of our findings are more relevant to the analysis of post transition polities, our conclusions also give us a number of more general insights about the key traits needed to achieve an enhancement in the SRW. As such I am confident that they resonate with the key factors that are being explored by scholars looking at established liberal democracies.

References


Franceschet 2006


