

From Formal to Substantive Equality: Constitutional Foundations of Women's Political Rights in Uzbekistan

Rakhmonova Sabrina

Doctoral student (PhD), National Center for Human Rights of the Republic of Uzbekistan

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Abstract

This article examines the constitutional framework governing women's political rights in Uzbekistan following the constitutional reform adopted by national referendum on 30 April 2023. Drawing on formal-legal and comparative-legal methods, the study identifies three levels of constitutional regulation — a general anti-discrimination standard (Article 19), a special provision on the equality of women and men (Article 58), and functional norms on political rights (Articles 36–40) — and argues that the reform secured a qualitative shift from formal to substantive equality. The analysis demonstrates that the 2019 Law on Guarantees of Equal Rights and Opportunities for Women and Men, read together with the revised Article 58, constitutionalises the state's positive obligation to ensure real equality, thereby strengthening the stability of the electoral quota system. Comparative data confirm the effectiveness of this construction: the forty-percent nomination standard and the thirty-eight-percent representation outcome place Uzbekistan among the leaders of the Central Asian region. At the same time, quantitative gains must be interpreted with caution in light of the distinction between descriptive and substantive representation, and the sustainability of this progress depends on further institutional, procedural, and constitutional development.

Keywords: Women's political rights; Constitution of Uzbekistan; gender equality; substantive equality; electoral quota; temporary special measures; constitutional review; descriptive and substantive representation.

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Introduction

The constitutional dimension of women's political rights occupies a central place in the study of the legal mechanism of gender equality, since it is ultimately at the constitutional level that the stability of the guarantees protecting these rights is determined. The relevance of this study is driven by the constitutional reform adopted at the national referendum of 30 April 2023, which renewed the constitutional foundations of women's political rights in Uzbekistan and thereby raised the question of the extent to which the proclaimed principle

of equality has acquired constitutionally guaranteed content.

The degree to which the problem has been studied remains uneven. General constitutional guarantees of equality have been addressed in national doctrine, while foreign scholarship offers a substantive analysis of quota mechanisms and of the informal institutions that shape their effectiveness. Comparative political science has produced differing explanations of what determines the effectiveness of gender quotas: M. Jones links it primarily to the institutional design of the electoral

system — the type of party lists and the rules for ranking candidates — holding that these parameters determine whether a nomination quota converts into actual representation [1], whereas E. Bjarnegård shifts the emphasis to the informal institutions of intra-party recruitment, showing that even where a quota is formally observed, closed party selection mechanisms can reproduce gender inequality [2]. The present study draws on both approaches, considering formal-legal and institutional factors in their interrelation. At the same time, a comprehensive constitutional-legal analysis of women's political rights in Uzbekistan in light of the 2023 reform remains comparatively underdeveloped, which defines the focus of this article.

The aim of the article is to analyse the constitutional foundations of women's political rights in Uzbekistan and to assess the stability of the guarantees established by the 2023 reform. Achieving this aim requires addressing the following tasks: (1) to reveal the multi-level structure of constitutional regulation; (2) to demonstrate the shift from formal to substantive equality; (3) to characterise the mechanisms of constitutional protection; (4) to determine the place of the national model in comparative perspective; (5) to outline the prospects for the further development of constitutional guarantees.

The methodological basis of the study comprises the formal-legal method (analysis of constitutional and statutory provisions), the comparative-legal method (comparison with other post-Soviet and international constitutional models), and the systemic method (interpretation of constitutional norms together with the implementing legislation). The scholarly novelty lies in a comprehensive constitutional-legal analysis of women's political rights in Uzbekistan after the 2023 reform, which establishes that the reform constitutionalised the state's positive obligation to ensure substantive (real) equality, and identifies prospective directions for further strengthening the progress achieved.

1. The Multi-Level Structure of Constitutional Regulation

The Constitution of the Republic of Uzbekistan of 1992 and its revised 2023 version form the fundamental normative basis of women's political rights. A systemic constitutional analysis allows several levels of regulation to be distinguished. At the general level, Article 19 establishes the equality of citizens before the law

irrespective of sex and other characteristics; this is a basic anti-discrimination standard prohibiting both direct discrimination — differentiated treatment on the basis of sex without lawful justification — and, when interpreted in light of international standards, indirect discrimination, whereby a formally neutral norm produces a substantially different adverse effect on one of the sexes [3].

At the special level, Article 58 in the 2023 version contains a norm directly devoted to the equality of women and men: it provides that women and men have equal rights and that the state ensures equality of rights and opportunities for women and men in the administration of the affairs of society and the state, as well as in other spheres of public and state life. This wording appears fundamentally significant: the formula “the state ensures equality of rights and opportunities” marks, in essence, a constitutional recognition of the insufficiency of formal equality and of the need for a substantive approach.

At the functional level, the norms of Chapter VIII of the Constitution, “Political Rights” (Articles 36–40), establish the political rights of citizens — the right to participate in the administration of the affairs of society and the state, the right to elect and to be elected to representative bodies of state power, and the right to petition state bodies. From the totality of these norms follows a constitutional prohibition on establishing unequal conditions of political participation on the basis of sex, as well as a constitutional obligation of the state to take active measures to equalise real opportunities.

2. From Formal to Substantive Equality: The Constitutionalisation of Positive Obligations

The Law on Guarantees of Equal Rights and Opportunities for Women and Men, adopted in 2019, constitutes the most important legislative concretisation of constitutional principles as applied to the political sphere. The Law establishes a detailed legal mechanism for ensuring gender equality in public administration and political activity: it obliges state bodies to take the principle of equality of opportunity into account when adopting normative acts; it prohibits restrictions on the basis of sex in access to public service; and — most significantly for the present analysis — it expressly permits the application of quotas and other temporary special measures in the sphere of political participation, establishing their legal legitimacy at the level of statute.

A systemic interpretation of the 2019 Law together with the revised Article 58 of the Constitution allows the conclusion that the state's obligation to apply a substantive approach to women's political equality has been constitutionalised — that is, the state is obliged not merely to proclaim equal rights but to ensure the real conditions for their realisation. This significantly increases the normative stability of the quota system: weakening it would require special constitutional justification. The 2023 reform thus did not create the quota but provided it with a firm constitutional foundation and raised the threshold of political effort required for its revision.

3. Substantive Norms and Procedural Guarantees: The Protection Mechanism

The constitutional mechanism for protecting women's political rights comprises both substantive norms — those establishing the right and formulating the obligations of the state — and procedural guarantees, that is, the institutional instruments ensuring the application of constitutional principles in the practice of public administration. The key procedural instrument is constitutional review: the power of the Constitutional Court to verify the conformity of normative acts with Articles 19 and 58 of the Constitution creates a mechanism for suppressing discriminatory norms in electoral and other legislation regulating political participation.

It should be noted that Article 58 of the Constitution is not confined to proclaiming equality: its second part directly imposes on the state the obligation to ensure equality of rights and opportunities for women and men in the administration of the affairs of society and the state, as well as in other spheres of public and state life. Thus the text of the article itself contains not only a prohibition of discrimination but also an obligation of the state to take active measures to ensure real, and not merely formal, equality of the sexes. Such an interpretation accords with the position of the Committee on the Elimination of Discrimination against Women, which in General Recommendation No. 25 emphasises that *de facto* equality cannot be achieved solely through formally neutral legislation, and that States parties are therefore required to apply temporary special measures [4], and is consistent with the interpretation of the principle of equality in General Comment No. 18 of the Human Rights Committee [5]. Accordingly, the constitutional principle of the equality of the sexes should be regarded as obliging the state to take positive

action, which extends its normative significance beyond a mere prohibition of differentiated treatment.

Alongside constitutional review, an important role is played by the Authorised Person of the Oliy Majlis for Human Rights (Ombudsman), whose competence includes the examination of citizens' complaints of violations of their constitutional rights, including political rights and the right to non-discrimination; the State Committee on Family and Women of the Republic of Uzbekistan, which forms a system of specialised monitoring and coordination of gender policy; and the Central Election Commission, which exercises operational oversight of compliance with quota requirements in the electoral process. At the same time, the system of coordination among these institutions requires strengthening: their functions frequently overlap in the absence of a clear delimitation of competence.

A separate and significant limitation concerns access to justice. Women who encounter violations of their political rights — unlawful refusal of registration, pressure during nomination, discrimination in appointment to public office — are currently obliged to use the general mechanisms of the courts of general and administrative jurisdiction; special procedures for electoral disputes involving discrimination on the basis of sex are not expressly established in current legislation. Comparative legal experience shows that one effective solution is the creation of specialised electoral tribunals with expedited procedures: in Mexico, for example, the Electoral Tribunal of the Federal Judiciary (Tribunal Electoral del Poder Judicial de la Federación, TEPJF) is empowered to resolve electoral disputes with a gender perspective and in 2021 annulled election results for the first time on grounds of gender-based political violence [6]. Drawing on this experience, an optimal option for Uzbekistan may be to vest the Central Election Commission with enhanced quasi-judicial powers to examine complaints of violations of the rights of women candidates, with the possibility of subsequent judicial review.

4. The National Model in Comparative Perspective

A constitutional-legal comparison of Uzbekistan with other post-Soviet states and international constitutional models makes it possible to assess the place of the national system within a broader normative space. Among the CIS states, Uzbekistan stands out in that its Constitution contains a special article devoted to the equality of women and men (Article 58), and not merely

the general anti-discrimination principle enshrined in Article 19.

In a number of CIS states, the constitutional text is confined to a general prohibition of discrimination on the basis of sex, leaving special regulation to the discretion of the legislature. Thus, Article 14 of the Constitution of the Republic of Kazakhstan establishes the equality of all before the law and the courts and a prohibition of discrimination on the basis of sex, without providing for a constitutional obligation of the state to take positive measures. Similarly, Article 22 of the Constitution of the Republic of Belarus establishes general equality before the law, and Article 16 of the Constitution of the Republic of Moldova establishes the equality of all citizens before the law irrespective of sex; special regulation in these states is delegated to the level of separate statutes. A different model is exhibited by Georgia: following the constitutional reform of 2017, Article 11 of its Constitution contains a direct obligation of the state to take special measures to ensure substantive equality of women and men and to eliminate inequality, which is structurally similar to the Uzbek model after the 2023 reform [7].

In global comparison, the revised Article 58 of the Constitution of the Republic of Uzbekistan corresponds to contemporary trends in the constitutionalisation of gender equality: according to comparative constitutional research, the vast majority of constitutions adopted after the ratification of the Convention on the Elimination of All Forms of Discrimination against Women contain an explicit prohibition of discrimination on the basis of sex (by available estimates, about 93 percent), whereas positive measures in favour of equality are permitted by about 28 percent of constitutions [8]. A distinctive feature of the Uzbek model is that the constitutional principle of equality acquires practical effect through the mechanism of temporary special measures — an instrument expressly provided for by Article 4 of the said Convention and enshrined in the national Law on Guarantees of Equal Rights and Opportunities for Women and Men of 2019. A concrete expression of such a measure is the electoral quota established by Article 70 of the Electoral Code (as amended by the Constitutional Law of 18 December 2023, No. ZRU-883): women must constitute no less than forty percent of the candidates nominated by each political party in single-mandate districts and on the party list, and at least two of every five candidates in the sequential order of the party list must be women [9]. The “two of five” rule applies to the

entire list, not only to its “electable” part, which prevents the concentration of women in deliberately unelectable positions — a common flaw of quota systems that permit formal compliance alongside effective exclusion.

The comparative dynamics of three successive electoral cycles allow the effectiveness of this construction to be assessed. In the 2014 elections, held before the introduction of a nomination quota, only 24 women were elected out of 150 deputies of the Legislative Chamber (16 percent). The 2019 elections, held under a newly introduced 30-percent nomination quota, doubled this figure — 48 women out of 150 deputies (32 percent) [10], [11]. The 2024 elections — the first with a 40-percent quota and the “two of five” rule — raised the number of women among elected deputies to 57 of 150 (38 percent), the highest figure in the country's history [12]. This consistent upward trend (16 → 32 → 38 percent), coinciding with the stages of tightening quota regulation, serves as empirical confirmation of a causal link between the norm and the outcome.

The representation of women is not confined to the lower chamber. In the Senate of the Oliy Majlis, formed in November 2024, women constitute 26.4 percent of senators, and the second most senior state office — that of Chairperson of the Senate — is held by a woman, which has considerable symbolic and institutional significance [13].

At the same time, quantitative indicators require cautious interpretation in light of the distinction between descriptive and substantive representation. Descriptive representation — the share of women among deputies — has in Uzbekistan reached the level recommended by the UN; substantive representation, however, that is, the real influence of women on the content of the decisions taken, is measured by other indicators: the holding of leadership positions in the chambers and the chairing of committees, commissions and factions. Corresponding positive signs are present in the current convocation of the Legislative Chamber: women hold the office of Deputy Speaker, chair two specialised committees and three commissions of the chamber, and lead one of the parliamentary factions [14]. Nevertheless, a systematic assessment of the substantive dimension — the extent to which this presence is converted into real influence on the legislative process — lies beyond the scope of a formal-statistical analysis and requires a separate study.

These reservations are reinforced by external assessments as well. The final report of the

OSCE/ODIHR observation mission on the 2024 elections noted that all registered political parties supported the policy of the authorities and offered voters no genuine choice, which was reflected in the absence of political competition during the campaign [15]. Under conditions of limited political competition, high representation figures achieved predominantly through a nomination quota should not be automatically equated with the full political agency of women; a quota secures entry into a representative body but does not guarantee independent political weight. This distinction constitutes one of the key theoretical limitations of quota systems noted in the literature: a quota effectively resolves the task of presence but only indirectly affects the task of influence.

Within the Central Asian region, Uzbekistan, according to available data, retains its position of leadership: its forty-percent nomination standard and thirty-eight-percent representation outcome in the lower chamber exceed the corresponding figures of Kazakhstan, Kyrgyzstan and Tajikistan [16]. The progress achieved is also reflected in the country's position in international rankings of political representation: in the Inter-Parliamentary Union ranking "Women in National Parliaments," Uzbekistan, which as of 1 January 2023 occupied 45th place among 190 parliaments, advanced in this ranking following the subsequent increase in the share of women [17]. The country also entered the top twenty states with the highest indicators of gender-data openness (69.7 points) and improved its position in the overall sustainable-development ranking, rising by 8 places; in interpreting the latter indicators it should be borne in mind that they measure, respectively, the openness of gender statistics and overall progress on the Sustainable Development Goals, rather than the level of political equality as such.

Thus, the national model combines the constitutional entrenchment of equality (Article 58), the statutory mechanism of temporary special measures, and a procedural guarantee in the form of an electoral quota, forming a multi-level construction that in its formal parameters corresponds to advanced international standards; the question of its substantive effectiveness, however — the transition from the presence of women to their real political influence — remains the subject of a separate empirical study and defines a prospective direction for further scholarly research.

5. Prospects for the Further Development of Constitutional Guarantees

The revised Constitution has become a significant step forward in the constitutionalisation of women's political rights, laying a firm foundation for the progress achieved. At the same time, the consistent development of this foundation opens a number of directions for the further improvement of constitutional-legal regulation.

First of all, the current model establishes the state's positive obligation to ensure equal rights and opportunities for women and men, whereas the specific numerical standard of representation is established at the level of electoral legislation. Such a distribution of regulation provides the necessary flexibility; however, enshrining guarantees of representation at a higher normative level could, in prospect, lend the results achieved additional stability.

Furthermore, the further strengthening of the constitutional foundations of the mechanism of temporary special measures, which has proven its effectiveness, would contribute to legal certainty and to the stability of quota regulation in the long term.

A promising direction is also the consistent introduction of the principle of the gender approach (gender mainstreaming) into the activity of state authorities, which would make it possible to take the gender dimension into account systematically, in keeping with the policy already pursued by the state.

Finally, an important addition to the results achieved may be the further improvement of intra-party procedures for nominating candidates. The electoral quota effectively affects the final composition of party lists; the procedure for forming these lists within the parties, however, is regulated to a lesser extent. Comparative political-science literature shows that this aspect deserves attention: as M. Jones notes, the effectiveness of gender quotas is largely determined by the structure of electoral legislation — the type of party lists and the rules for ranking candidates [1], while E. Bjarnegård draws attention to the role of intra-party recruitment institutions, which, where transparency is insufficient, can affect women's real access to political activity [2]. Building on these observations, it may be concluded that the development of transparent and democratic intra-party nomination procedures can strengthen the qualitative dimension of women's representation. The improvement of legislation on political parties with respect to the transparency and gender balance of the bodies that form the lists thus constitutes a natural continuation of the quota guarantees already established

in electoral legislation. It should be emphasised that the realisation of the positive content embedded in legislation requires a complex of measures extending beyond legal regulation as such — institutional, organisational, and educational. This applies fully to women's political rights as well: formal quota guarantees, for all their significance, require institutional and procedural accompaniment ensuring the transition from the presence of women in representative bodies to their real participation in decision-making [19].

Conclusion

The constitutional-legal basis of women's political rights in Uzbekistan has undergone a fundamental transformation as a result of the 2023 reform. The analysis conducted has shown that the reform did not merely alter the wording of individual provisions but constitutionalised the state's positive obligation to ensure real equality: the revised Article 58 of the Constitution, together with the Law on Guarantees of Equal Rights and Opportunities for Women and Men of 2019, transformed the declarative principle of equality into a constitutional standard backed by state guarantees and created a firm foundation for the electoral quota as a temporary special measure. Comparative data confirm the effectiveness of this construction: the forty-percent nomination standard and the thirty-eight-percent representation outcome place Uzbekistan among the leaders of the Central Asian region.

At the same time, the progress achieved opens up possibilities for its further consolidation and development. The most promising directions appear to be: enshrining guarantees of representation and the mechanism of temporary special measures at a higher normative level, which would enhance the stability of the results achieved; the consistent introduction of the principle of the gender approach (gender mainstreaming) into the activity of state authorities; and the improvement of intra-party procedures for nominating candidates, complementing the quota requirements of electoral legislation. In the long term, in keeping with the subsequent development of constitutional legislation, the principle of parity democracy may serve as a reference point, capable of lending the progress achieved additional stability. These conclusions constitute the principal practical recommendations of the present study.

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