

Regional Trends for Women's Electoral Success in the East African Legislatures



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ABSTRACT

Without formally enacted methodologies, it is increasingly clear that meeting Millennium Development Goals (MDGs) that stipulate gender equality and promote women's empowerment would be extremely very difficult. Specifically, MDG 3 underlines the fact that women need to be politically empowered by far greater participation if greater equality has to be achieved. Under this goal, countries are expected to formulate deliberate policies that ensure equal representation between men and women in all decision-making levels including politics. It is on this note therefore, that countries in the East African region have enacted constitutional, legislative and electoral requirements providing for the principle of gender quotas as a policy measure for boosting women's access to their legislatures. Based on a critical analysis of official reports, related literature and data provided by national parliaments, this investigation examines the gender composition of five legislatures in the East African region namely, Rwanda, Tanzania, Uganda, Burundi, and Kenya. The study underlines the power of gender quotas in expediting and equalizing significant gender imbalances, and also captures the types and nature of quotas used by individual countries. While appreciating the challenges involved in underwriting the affirmative action mechanisms, the analyses notes that affirmative action is not a slogan for politics but a strategy for development; it is a gigantic plan of action for achieving the desired social change.

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Introduction

Throughout much of Sub-Saharan Africa, as in other nations of the world, women have had difficulty breaking into the legislative arena. However, the East African countries of Rwanda, Tanzania, Uganda, Burundi and Kenya have registered substantial numbers of women in their legislatures over the last two decades. The increase in women's legislative participation in the East African region has been monumentally greater than that experienced at any other time and anywhere else in the world. Data provided by the Inter-parliamentary Union's (IPU) classification of women in world parliaments, indicates that by mid-2007, 48.8 percent of Rwanda's parliamentarians were female, compared to Uganda's 30.7 percent, Burundi's 30.5 percent, and Tanzania's 30.4 percent, placing them above the 30 percent threshold and over position 20 globally. In its parliamentary elections in September 2008, Rwanda increased its percentage to 56.3 percent with the election of 45 women into a legislature of 80 seats. Despite being the economic and infrastructural giant of the region, Kenya has continuously maintained its historical underdog position with a recorded dismal 7.3 percent women representation in the legislature in its December 2002 elections. This was to marginally improve to a paltry 9.8 percent in the December 2007 elections.

Rwanda's supremacy has continued to reign, both regionally and globally, with an impressive 63.8 percent, after its September 2013 parliamentary elections. The United Republic of Tanzania at number 23 worldwide is second in the region with 36.0 percent women representation in the legislature after its elections of October 2010. Uganda follows at number 24 globally with 35.0 percent women parliamentarians, subsequent to its successful elections in February 2011. Burundi is next at number 36 worldwide with 30.5 percent women parliamentary representation, following its parliamentary elections of July 2010. Despite enacting what was billed as the most comprehensive and progressive constitution in 2010, which stipulates among others, electoral gender quotas, Kenya has however, continued to perform poorly and lags behind its neighbours at a dismal 19.1 percent women representation after its March 2013 elections. Kenya is positioned number 78 on the global ranking of women in parliaments (IPU, 2014).

It is increasingly clear that, "with only a handful of women in the legislature", meeting MDG3–Millennium Development Goal which stipulate gender equality in the political stratum, is extremely very difficult. MDG-3 is one of the eight United Nations (UN) goals that seek to promote gender equality and empower women. Under this goal, countries are expected to formulate policies and legislation that ensure equal representation between men and women in all decision-making levels including politics.

Despite the possibility that women's inclusion in legislatures may have risen for different reasons, a similar set of factors have been identified as accounting for the swelling numbers in women's legislative presence in the East African parliaments. Bauer and Britton (2006) and Matland (2006), find that women's successful occupation of legislatures in some Sub-Saharan Africa countries share common characteristics: Together with matching with the electoral system in practice and level of democracy existing at a given country, all these nations have recently experienced a transition of some kind. They have faced periods of enormous political conflict, turmoil, violence and even genocide. Notably, new constitutions were drawn up at the conclusion of decades of either civil strife, institutional and/or constitutional transitions. Burundi, Rwanda, and Uganda have survived prolonged civil wars, while Kenya and Tanzania have experienced long periods of resistance for constitutional liberation and the widening of the democratic pace and space. While the societal costs have been great and cannot be underestimated, the post-conflict setting created unique opportunities to draft new constitutions, establish new electoral rules, and foster new norms of engagement on political leadership. Ballington (2004) identifies the use of specific electoral systems and quotas, the strength and cohesion of national women's movements, pressure exerted by international women's organizations, and the strategic use of windows of post-conflict transition opportunity as the factors giving rise to women's increased political representation.

During political transitions in the post-conflict period, women activists and their solidarity organizations inserted themselves into the processes of crafting new constitutions and drafting new laws that provided the legal foundations and political frameworks for the institutions and mechanisms to bring more women into legislative office. Women's movements and organizations exerted pressure on the (usually male dominated and dominant) political institutions to adopt strategies and

mechanisms that led to women's increased representation. Tripp (2001) argues that as African nations have moved in recent years towards multiparty systems, women began to form political parties of their own, partly because the existing parties were viewed as having inadequately addressed their concerns.

A global women's movement and the adoption of international protocols also played a significant role. International instruments like the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the United Nations International Women's Conferences in Nairobi, Kenya, in 1985 and the 1995 Beijing Platform for Action provided mobilizing opportunities for women (U.N., 2006). The recommendations of these women only solidarity gatherings laid out guidelines for increased representation and called on governments to take meaningful steps to ensure women's equal access to, and full participation in power structures and decision-making forums.

Perhaps, the most widespread impetus propelling women into political representation in all legislatures of the East African region is the implementation of electoral gender quotas. As of August 2011, all countries in the East African region had adopted some form of quota structure to guarantee women seats in parliament (QuotasProject, 2010). Kenya, the only country in the region that had adopted but yet to implement the gender quota system, was due to experiment with its electoral gender magic in the March 2013 elections. With re-enacted constitutions and new electoral systems in place, the East African countries adopted electoral gender quotas as the minimum measure of equalizing gender imbalance in their legislatures. Quotas are usually easier to implement when the entire electoral system is 'up for grabs.' As Tripp (2004) contends, it is much harder to implement quotas in an established system, when in fact a quota would be displacing a male office-holder. Since these countries were starting from scratch, there were no male-incumbents to displace.

The increased use of electoral gender quotas across East Africa reflects renewed interest in formal politics and political institutions among women at a time when democratic transitions have provided the political opening for such an activity. Hassim and Meintjes (2005: 4) argue that the efforts to break down the barriers to women's equal political participation "signal that there is room for women's agency to shape politics, and that formal political rights are an important precondition for advancing equitable

social policies” for women. Bringing women into national legislatures in significant numbers is one part of this effort.

It is important to observe that countries in the East African region have undertaken gender quotas, within a broader dynamic of growing international consensus on the need for the adoption of mechanisms that promote women’ participation. This development is part of a global trend whereby women are using electoral gender quotas to take a ‘fast track’ to equal legislative representation (Dahlerup&Freidenvall, 2005). Rather than wait for decades to bring about the desired changes in cultural attitudes and socio-economic and developments, a law of affirmative action is a good mechanism that has proved itself in other countries as a swift and effective remedy to engender legislatures, sometimes ‘overnight.’

This ‘fast-track’ has spread throughout the African continent, and increasingly African countries are adopting either mandatory or voluntary electoral quotas of some form. Several Asian, European and Latin American countries have also utilized electoral gender quotas with success, though nowhere in the world has the rate of increase in women’s representation been as fast as in Africa (Dahlerup&Freidenvall, 2005; Tripp, 2004; Dahlerup&Freidenvall, 2005) take a comparative look at the trend to adopt gender quotas worldwide and found that utilizing gender quotas alone is not always an effective means of allowing women’s voices to be heard. Without matching appropriate quota configurations with the country’s electoral system and creating rules to enforce adherence to quotas, gender quota provisions may service as merely symbolic. Nevertheless, the uneven political playing field on which women and men compete has led to a number of reforms to safeguard the presence of women in parliaments, primarily gender quotas or other positive action strategies.

The East African Case Countries: Rwanda, Tanzania, Uganda, Burundi and Kenya

The East African countries of Rwanda, Tanzania, Uganda, Burundi and Kenya have all experienced transitions within the last two decades. Uganda was first when the National Resistance Movement (NRM) wrestled power from the last in a series of dictatorial and military regimes in 1986. Tanzania followed a more peaceful path to political transition with amendments to its constitution in 1992 that proscribed a one-party political system and commenced the transition to a multiparty political system. After

a lot of struggle from civil democratic activists (both men and women) but with much procrastination from the political establishment, Kenya was to finally follow Tanzania's path two decades later by making a complete overhaul on and rewriting its constitution in 2010. Burundi and Rwanda's transitions came on the heels of aborted democratic openings, conflict, war, genocide, drawing up of new constitutions, and the installation of new governments. In these cases too, women's enhanced participation in the political process in the post-conflict and post-transition period stems in part from their participation in the conflicts/transition and their active mobilization in the pre-conflict/transition period.

Rwanda

In Rwanda, women were prominent among the civil society activists who pressured the government for reform beginning in 1989. Indeed, they were specifically targeted during the 1994 genocide. Women's groups took a leading role in the post-genocide period helping Rwandans to reconstruct their lives. Over time, they experienced growing public influence which they were able to translate into political power (Longman, 2006). The critical moment for increasing women's national legislative representation came with the drawing up of a new constitution, adopted in a public referendum in June 2003.

Rwanda's constitution provides for two systems for selecting members into the lower house or Chamber of Deputies. The bulk of members, 53 out of 80, are directly elected to the Chamber of Deputies using a closed list proportional representation (PR) electoral system. Independent candidates are also allowed to compete. Seats are allocated according to the system of the largest remainder to parties and independent candidates who obtain at least 5 percent of the total votes cast. In cases where there is only one seat to fill and the lists obtain the same number of votes, using the largest remainder formula, the seat is awarded to the list that receives the largest number of actual votes. Vacancies for members elected under the proportional representation system are filled by the "next-in-line" candidate of the same party in cases where the remainder of their term exceeds one year. By-elections are held if seats occupied by independent candidates become vacant. While there are no mandatory party quotas, the constitution requires that party lists take gender equity into consideration. The remaining 27 seats are reserved seats: two seats reserved for the youth and one for the handicapped and 24 for women members (a 30 percent

quota) elected from the provinces and the city of Kigali, by an electoral college (www.rwandaparliament.gov.rw/; IPU,2014).

In the 2003 election, the first under Rwanda's new constitution, local and regional women representatives and officials gathered in each province and the city of Kigali two days after the general election to select the women members of the lower house. In addition to the twenty four (24) women elected into reserved seats, fifteen (15) women members were directly elected to occupy a total of thirty nine (39) of the eighty (80) seats in the Chamber of Deputies, translating to 48.8 percent female legislative representation globally, the highest percentage among parliaments comprising directly elected members (Longman, 2008).

In the September 2008 elections, the second to be held after the 1994 genocide, in which over 800,000 people were killed, the Rwandan Patriotic Front (FPR) formed a coalition with six small parties. The Rwandan Patriotic Front (FPR) list comprised eighty (80) candidates (including fourteen (14) from its coalition partners), of whom thirty five (35) were women. The Social Democratic Party (PSD) backed thirty two (32) women among its sixty four (64) candidates. In all, 356 candidates, including 196 women, were vying for the fifty three (53) directly elected seats. In addition, 113 women candidates ran for the twenty four (24) reserved seats for women, while eighty three (83) ran for the seats reserved for the youth and the disabled. In all, women won twenty (20) of the fifty three (53) directly elected seats. In addition to the twenty four (24) women elected by virtue of the reserved seats, a woman won one of the seats reserved for the youth. Rwanda thus broke its own record of the world's highest percentage of women parliamentarians, by returning 45 women to 35 men to the Chamber of Deputies, or 56.3 per cent women's legislative representation, The new chamber elected an independently elected female member for the Speakership, becoming the first woman ever to assume the post (IPU,2014).

Rwandans went to the polls on the 5th of October 2013 in which a record 51 women were elected to its 80 strong membership chamber of deputies. In addition to occupying the twenty four (24) reserved seats, women also managed twenty six (26) of the fifty three (53) openly contested seats and one (1) of the two representative seats reserved for the youth. Rwanda, thus, renewed its own record for the highest number of women parliamentarians rising to 64 percent, (a 7.5-point increase from 56.3 percent in 2008), (www.rwandaparliament.gov.rw/). The world and the East African region were led once again by Rwanda's Chamber of Deputies.

The massive gains registered by Rwanda have been partially credited to the electoral framework adopted after the 1994 genocide which sought to firmly plant women's political representation as one of the pillars of post-conflict reconstruction and reconciliation. The reconstructed processes, originally engineered to ensure robust and diverse representation, have led in practice to a remarkable sharing of leadership between men and women. And owing perhaps, to the socioeconomic and political benefits accrued, women's leadership have not only been maintained but also exponentially expanded.

Tanzania

In Tanzania, not marked by the kind of conflict experienced in Uganda, Burundi or Rwanda, a few special seats for women existed in the pre-transition period, only to be greatly increased in number in the post-transition period, as most recently as the 2005 election. Quotas, or 'special' parliamentary seats, were introduced in 1985 for women, youth, members of the army and workers. Women were to constitute 15 percent of representatives. The small number of 'special' seats for women that existed during the single party era were created not for the purpose of compensating and redressing historical imbalances, rather with the goal of enhancing the representation of varied interests in a one-party regime (Meena 2004). The underlying principle was to ensure that the voices of special categories of citizens were heard in parliament those that were placed at a disadvantage in the normal electoral process.

Since the political transition in the early 1990s Tanzania has continued to set aside reserved seats for women. 15 percent of parliamentary seats were reserved for women in 1995, increased to 20 percent for the 2000 election and women were supposed to be not less than 30 percent of all members of parliament for the 2005 election. The move to increase the number of reserved seats for women in 2005 was intended to ensure that Tanzania met the Southern African Development Community's target of 30 percent women in national legislatures target by 2005. For the legislature's 232 directly elected seats, a First-Past-The-Post electoral system was utilized. Seventy-five (75) additional seats are reserved for women who are elected by their political parties on the basis of the parties' proportional representation in the National Assembly. [In addition, five (5) seats are indirectly elected from Zanzibar, of which two (2) must be women and ten (10) appointed by the president of which five (5) must be women, making

for an increased quota for women.] Tanzania's 2005 election brought ninth seven (97) women into parliament in a membership total of 319. Out of these women, seventy five (75) were elected into the women only reserved seats, seventeen (17) to the directly-elected seats, two (2) to reserved seats for Zanzibar and three (3) appointed by the president. Women activists in Tanzania have sought to monitor closely the reserved seat system put in place following the 1992 transition for its impact on women legislators and women's representation (IPU2014; Lowe-Morna, 2004).

The October 2010 polls were the fourth to be held since Tanzania introduced multi-party politics in 1992. The legislature has a total of 350 legislators of whom 126 are women. Of the women legislators, 102 were elected by political parties in proportion to their share of the electoral vote under the special seats for women, twenty one (21) were elected from constituencies, two (2) were elected from Zanzibar and the president appointed one (1) to sum the total women legislators into 126. On 12th November 2010, the newly elected parliament held its first session and for the first time ever elected a woman as its new Speaker, becoming the first woman to assume the post, (www.parliament.go.tz/). In the 2010 poll, with 36.6 percent women in her National Assembly, Tanzania had achieved the highest percentage of women in parliament ever under a majoritarian electoral system. Globally Tanzania is ranked number 23 on account of the number of women in its parliament and number two (2) in the East African region (IPU, 2014).

Uganda

In Uganda, with already existing contacts in the ruling National Resistance Movement, women activists in the late 1980s were invited by the new president (Yoweri Museveni) to identify women leaders for leadership positions in government. Sylvia Tamale (1999) argues that President Yoweri Museveni was receptive to women's increased participation in politics, in part, because of their participation in the armed struggle that brought him and his movement to power. Ottemoeller (1999) and Tripp (2000) focus on the pressure exerted by the Ugandan women's organizations and the influence of the worldwide feminist movement. The movement's important role in the process of revising the 1995 constitution contributed to the rise in female participation in political life in Uganda. Ottemoeller (1999) argues however, that the change to a multi-party system in Uganda placed women as a valuable voting bloc that was often

brought into politics symbolically in order to assure politically ambitious men the much needed female vote.

Uganda the first country to use reserved seats for women in Africa, utilizes a first-past-the-post electoral system (FPTP) for directly elected 'constituency' legislators. In addition, reserved 'district' seats for women were introduced during the country's first post-transition election in 1986, by expanding the Ugandan parliament to include extra seats for women only (one from each district in the country). In 1995, a revised constitution institutionalized the gender quota system by providing for a number of reserved seats in the national parliament equal to the number of districts in the country. The women legislators from the district seats are elected from all-female lists of candidates by male-dominated electoral colleges whose members are drawn from local councils and women's councils. By contrast, the 'constituency' legislators are elected directly by universal adult suffrage (Tamale, 2004). The constitution also provides for reserved seats for workers, the youth, the disabled and the army, of which five (5) out of 25 must be women. In addition, the President of the Republic is constitutionally mandated to appoint as many ex-officio members as he/she wishes, who may be either women or men. The number of ex-officio members (ministers who do not have voting rights), and thus the statutory number of members, may vary during the course of any legislature.

By the time of the 2006 election, there were seventy four (74) reserved seats for women out of a total 322 seats, which indicated a 22.9 percent quota on IPU's global rankings. Of these seventy four (74) reserved seats, sixty nine (69) were district based, and five (5) were from among the twenty five (25) reserved for workers, the youth, the disabled and the army. In addition to those seventy four (74) seats, women were directly elected to 14 constituency seats in the national legislature, and one (1) more woman was elected to an additional seat for the army into a total of eighty nine (89) parliamentary seats for women. This translated to 27.6 percent of the proportion of women in the Uganda legislature. Subsequent to the February 2006 parliamentary election, 11 more district seats for women were added, though one (1) remained vacant in early 2007, bringing the total number of women in Uganda's parliament to ninety nine (99) or 29.8 percent of the total members (Bauer, 2008).

In the 2011 parliamentary and presidential elections, 1,270 candidates were vying for the directly elected seats, while 443 were running for the special seats reserved for women. At stake were 386 seats in parliament (up

from 332), which comprise 238 directly elected (up from 215), 137 indirectly elected and eleven (11) seats which serve special interests. 112 seats are reserved for women (up from 79). As in the 2006 elections, there were five (5) additional representatives each for the youth, the disabled and the workers as well as ten (10) representatives for the army. On 19th May 2011, the newly elected parliament held its first session and elected a female candidate as its new Speaker, with men occupying 251 and women 135 seats in parliament, turning a 35.0 percent women proportion of the total 386 legislators. The 135 legislative seats won by women are distributed into eleven (11) for constituency representatives, 112 for women only district representatives, two (2) for youth representatives, two (2) for representatives of disabled persons, two (2) for workers' representatives, and two (2) for representatives of the army. The constitution stipulates that at least one (1) person from each of the categories and two (2) from the army must be women (www.parliament.go.ug/). Globally, Uganda is ranked number 24th and regionally, it is number three (3) on account of its positioning on the number of women parliamentarians (IPU, 2014).

Burundi

In the case of Burundi, the 'fast-track' of quotas was remarkable. Burundi emerged from a conflict situation, approving a new constitution by referendum in February 2005 and electing just over 30 percent women to its parliament in July the same year. Twenty-four (24) women were directly elected and twelve (12) more co-opted such that 30.51 percent of legislators were women. Following the adoption of gender quotas, Burundi moved from below 7 percent to the 30 percent club globally. This was a dramatic jump from 1999, when Burundi had only 6 percent women in its national assembly and ranked 79th in the world. Before the July 2005 elections, Burundi had 18.4 percent women in the national assembly, and ranked 50th worldwide (IPU, 2014).

Burundian elections are based on a blocked-list proportional representation system. The seats are distributed in proportion to the number of votes obtained by each list after removing the lists that receive less than 2.00 percent of the votes nationwide. In the lower house or National Assembly, members are elected directly using a proportional representation (PR) electoral system. Each party's candidate list must have at least 20 percent women with one (1) woman's name included in every five (5) names on the list. The remaining members are 'co-opted' to ensure that the

30 percent quota for women has been met. Under the 2005 Constitution, 60 percent of the seats in the National Assembly are reserved for members of the Hutu ethnic group and 40 per cent for the Tutsis. A further three seats are reserved for the Twa ethnic group. Senate seats are shared equally between Hutus and Tutsis. Quotas of 30 percent of seats are reserved for women in both chambers. In addition, Burundian women have the direct election to the 100 seats in the national assembly (www.assemblee.bi/).

The July 2010 elections were the second to be held since the official cessation to the ethnic strife triggered by the assassination of Burundi's first Hutu President Melchior Ndadaye in October 1993. In the final results, in addition to the seats won in the main election, other members were co-opted, including women. With the adoption of gender quotas, Burundi now has thirty four (34) women in its lower house and forty one (41) women in the upper house, making the total number of women legislators to be seventy five (75), both houses combined. This translates to 30.5 percent of female representation in the Burundian National Assembly. Burundi is listed number 36th in the global rankings of women in parliament and number four (4) in the East African region (IPU & Ballington, 2008).

Kenya

Though relatively peaceful than her neighbours, save for Tanzania, the road for the clamour for democratic constitutional changes in Kenya has been tumultuous, agonizing and painful, especially for the pro-reform advocates who came out to register opposition to the successful post-independence oppressive regimes. It is on the strength of international pressure, and on account of the foundation of the lessons of success learned from her East African neighbours, that Kenya was given the impetus to finally introduce and enact legislation on electoral gender quotas, as the only sure instrument of increasing the legislative participation of women. Until the constitutional revision of 2010, the nomination, appointment and election of women to the legislature depended on the goodwill of those in power, who more often than not lacked the commitment to enforce any gains for women. For example, an Affirmative Action Bill introduced towards the end of the 9th Parliament (2002-2007) was thrown out through a technicality of lack of quorum, all designed by the male legislators who perceived such laws to have a negative effect on them.

Women's legislative presence in Kenya has historically been the East African region's lowest despite their active participation for many years at

the political party and voting levels. For example, though an impressive 269 women stood for parliamentary elections, in the 2007 elections, Kenya only voted twenty two (22) women into the legislature, which translated to 9.82 percent of women legislative representation and number 105 in IPU's global rankings.

It is on the promulgation of a new constitution that women expecting to join legislative leadership positions in Kenya have reason to smile. In August 2010, in a national referendum, Kenya created a new constitution, which has been described as a giant leap forward for Kenya's womankind. The new Constitution provides for a bicameral parliament. Articles 81, 97, and 98 of the constitution (2010) institutionalize the gender quota system by providing for a number of reserved seats for women. The provisions pertaining to gender-based quotas and other measures enshrined in the new Constitution provides that the electoral system shall comply with the principle that "no more than two-thirds of the members of elective public bodies shall be of the same gender" (Article 81b). Also, candidate lists for certain segments of the lower chambers, senate and county assemblies must alternate male and female candidates in the priority in which they are listed.

For the lower house, the constitution reserves forty seven (47) seats for women deputies, each elected from forty seven (47) counties—each county constituting a single-mandate constituency. These seats are contested only by women candidates in each county. In addition, the National Assembly has 290 elected members, each elected by voters of single-mandate constituencies, and women are allowed to compete with men in these constituencies. Twelve (12) members are nominated by political parties to represent special interests including the youth, persons with disabilities and the workers, whose list must be composed of alternating male and female candidates (Article 97).

The Senate or upper house consists of, a) forty seven (47) members each elected from single-mandate constituencies (counties), and women are allowed to contest together with men in these seats, b) sixteen (16) seats allocated to women members only, as nominated by political parties according party proportional representation in the Senate, c) two (2) members representing the youth (one woman and one man), d) two (2) members representing persons with disabilities (one woman and one man) (Article 98).

Subnational assemblies at the county level, consist of members elected by voters in each ward (each constituting a single member constituency) and

a number of 'special seat members,' meant to ensure that no more than two-thirds of the memberships of the county assembly are of the same gender. The holders of these special seats are nominated by political parties in proportion to their share of seats in that county (Article 177).

In addition, thanks to the new constitutional reform, changes to the Kenyan electoral system include a financial incentive to political parties that may encourage and commit them to nominate more female candidates to legislative leadership positions. Also, the Political Parties Act of 2011 extends the two-thirds rule to parties' membership lists and governing bodies. However, the constitution is silent on the legal sanctions to be applied in event of non-compliance.

These electoral constitutional requirements were expected to come into force with the election of a new legislature in 2013. However, the Supreme Court in a landmark ruling which is considered a major setback to the empowerment of women declared that the constitutional provision calling for a mandatory one-third gender representation would not be implemented in the upcoming 2013 elections but would be achieved progressively. The court argued that the historical marginalisation of women in elective politics would not be resolved by the principle of gender quotas but would only be realised over time and in stages. Fearing a constitutional crisis that if the number of elected legislators of either gender hits above the two-thirds majority mark, then the legislature so formed would be "unlawful", the Attorney-General of Kenya had appealed for a constitutional determination to the Supreme Court in the lead to 2013 elections. The ruling left critics pointing an accusing finger at the government's underhand interference in the conduct of independent institutions including the courts. For this, critics have denounced the intransigence of a patriarchal government fearful of women's legislative empowerment.

The ruling effectively denied women their constitutional right to fair representation. The ruling was an affront to the sovereign will of the people of Kenya who voted overwhelmingly for the constitutional change in which the principle of gender parity was firmly enshrined. If the controversial ruling is left uncorrected, it would widen the inequality gap between men and women in leadership positions. Indeed, by maintaining the status quo the ruling was the ultimate regression on the path to Kenya's growing all-inclusive participatory democracy.

Many had hoped that the parliament to be formed after the 2013 elections would be more broadly representative of the gender and ethnic

composition of the country. However, the election managed to post only 19.1 percent women legislators in the lower house, and Kenya is ranked number seventy eight (78) globally (IPU 2014). In the elections, a total of 2,392 candidates competed for parliamentary seats in both houses, out of which 445 were women. Of the 2,089 candidates who competed for the 290 constituency seats, 152 were women. And finally, 303 women candidates competed against each other for the forty seven (47) women only representative seats (www.parliament.go.ke).

When fully enforced, these constitutional and electoral laws have the potential to finally put the representation of women in legislative leadership positions in Kenya on the right pedestal of take-off to equity. And this will have significant ramifications not just for women but the Kenyan society as a whole. Gender quotas that produce higher numbers of women in parliament will result in greater diversity in the type and quality of women elected, as well as their commitment to policy changes on behalf of women as a group and society as a whole. By adopting a quarter or one third of either gender as the lower limit for representation at all elective public positions in Kenya, the quota system as constructed by the constitution is gender-neutral, meaning it aims to correct the under-participation of both women and men.

Choice of Quota Type

Electoral gender quotas may take different forms including legal candidate quotas (which ensure that a certain proportion of candidates for election must be women), voluntary gender quotas (where parties voluntarily aim to have a certain proportion of women candidates), and reserved or appointed seats (where at least a minimum threshold of seats are set aside in the legislature for women only) (Tripp, 2004).

Gender quotas in the form of reserved seats are the most common quota type used in East Africa. They are the only ‘best fit’ for a First-Past-The-Post (FPTP) electoral system, as used in the East African region. Reserved seats (a tier for women candidates only) are ‘guaranteed to work’ and a ‘best fit’ for use with any type of electoral system (Laserud & Taphorn, 2007, p. 28).

Constitutional gender quotas are enshrined in a country’s constitution, while legislative quotas are enshrined in the electoral law, political party law or other comparable law of a country. By definition, both forms are based on

legal provisions, obliging all political entities participating in elections to apply them equally. Non-compliance with legislative or constitutional quotas can result in penalties for political entities who do not apply them. Examples of sanctions issued by the legal authorities of a country can range from disqualifying candidates, to the imposition of fines, up to disqualification of the entire party.

Voluntary gender quotas are adopted voluntarily by political parties. They are set by the parties themselves to guarantee the nomination of a certain number or proportion of women. In voluntary quotas, most often, political parties choose to reserve seats for women in parliament or on their pre-election party lists. As the name reveals, voluntary quotas are not legally binding and there are therefore no sanctions to enforce them. For example, in their yet unmet campaign to have 50 percent women on the lists, women in South Africa use the phrase “zebra list” to indicate that women should be placed in every other seat on the list. When the opportunity for a mandatory quota seems unlikely, individual political parties can still move ahead with their voluntary gender quotas agenda for increasing women’s representation.

Challenges

Evidence from these case studies reveals that, while important, gender quotas in themselves are insufficient (Tamale, 2004; Kanakuze, 2004; Longman, 2008). Secondly, their enforcement can prove extremely difficult, as identified in the Kenyan case, and the consequences of implementation can be quite devastating. Specific historical circumstances and the electoral system in practice, contribute immeasurably to the success of electoral gender quotas, even though they could be constitutionally mandated. Also, ambitious measures to achieve them must be accompanied by sanctions for non-compliance.

The government’s political commitment is of particular significance to the realization of electoral gender quotas. This is because political goodwill most likely reflects a political calculus where reserved seats are ‘dished-out’ in exchange for loyalty to the nominating authority or ruling party (Tripp et al., 2006; Longman, 2008). Indeed, as Matland (2006: 287) suggests, reserved seats are used to substantially increase the ruling parties’ voting strength in parliament. In her study of Uganda, Goetz (2003) argues that legislative members’ ability to successfully advocate for reform of issues important to women is hindered by powerful incumbents, whose patronage is needed to obtain and keep quota seats in parliament. When elected or

appointed quota members owe their place and allegiances in parliament to personal networks and patronage, they may not, like their male counterparts, be able or willing to challenge the status quo.

Further, the male-dominated legislative institutions may seek to boost their international image by enhancing the descriptive representation of women, even while their commitment to substantive women's issues may be limited (Dahlerup & Drude, 2008). The male gatekeepers can use gender quotas to show that women are a subject that is en vogue, and that they are a modern party and country. At times, therefore, while gender quotas may be intended to promote women's empowerment, they may instead serve to strengthen the authoritarian status quo and be used to reinforce the clientelistic political structure of a country (Bauer & Britton, eds., 2006).

Finally, as with any affirmative action policy, the fairness, impartiality, appropriateness, and consistency of quotas with democratic principles has been questioned. Some argue that giving opportunities to women at the expense of men violates the principle of equal opportunity for all and is undemocratic (Dahlerup & Drude, 2006). The others believe that it is unfair and demeaning to choose candidates because of their gender, even if, in practice, women candidates are often more highly qualified than their male colleagues. However, it should be noted that gender quotas are about compensating a group that has faced an historical injustice over time. They are meant to right an historical wrong.

Lessons

It is clear from these case analyses that, despite the significant increase in the number of women legislators, a more targeted approach needs to be taken to change the status quo on women's legislative participation. In terms of electoral systems, proportional representation with its use of party lists remains the best system for enforcing quotas. Although, the East African countries do provide a sample upon which to base strong conclusions about regional Sub-Saharan Africa trends on the choice, type and application of electoral gender quotas, many questions remain unanswered. What benchmarks can be identified to measure the gender sensitivity of these parliaments? How far has gender affirmative action mechanisms been used as a slogan for politics and/or as a strategy for development? After all is said and done, gender quota mechanisms are a deliberate and calculated course of action for achieving the desired social change.

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Regionalni trendovi izbornih uspeha žena u istočno afričkom zakonodavstvu

A P S T R A K T

Bez formalno usvojenih metodologija, sve je jasnije da bi na sastanaku Milenijumski razvojni ciljevi (MRC) utvrđivanje rodne ravnopravnost i promovisanje osnaženja žena, bilo jako teško. MRS 3 ističe činjenicu da žene moraju biti osnažene politički većim učešćem ako želimo da postignemo veći kvalitet. Sa ovim ciljem, od zemalja se očekuje da formulišu zakone koji omogućavaju jednaku zastupljenost žena i muškaraca u svim procesima donošenja odluka na svim nivoima uključujući u politiku. Iz ovog razloga zemlje regiona istočne Afrike su donele ustavne, zakonske i izborne zahteve obezbeđujući time princip rodni kvota, mere za povećanje prisutnosti žena u zakonodavnim telima. Na osnovu kritičke analize zvaničnih izveštaja, i relevantne literature i podataka datih od strane nacionalnih parlamenata, ovaj rad ispituje rodni sastav pet zakonodavnih tela u regionu istočne Afrike to jest u Keniji, Tanzaniji, Ugandi, Ruandi i Burundiju. Studija naglašava moć rodni kvota u ujednačavanju važnih rodni disbalansa i takođe ukazuje na tipove i prirodu kvota koje koristi određena zemlja. Ova studija shvata izazove afirmativne akcije mehanizama i ističe da afirmativna akcija nije politički slogan već strategija razvoja; ona je gigantski plan za postizanje željene društvene promene.

KLJUČNE REČI: *izborne rodne kvote, žene u istočno afričkom zakonodavstvu*

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