

Chapter 3

The Legislature, Electoral
Systems and Temporary
Special Measures

Chapter 3

The Legislature, Electoral Systems and Temporary Special Measures

Key points

- Legislators are in a powerful and important position regarding key electoral and legislative measures that can enhance or hinder women's political participation.
- Legal frameworks have been instrumental in propelling women into leadership positions. Proportional representation (PR) systems have broad dividends for the political system, as they have high potential to cater for diversity and minimise conflict.
- This is partly the reason why some of the countries emerging out of conflict (e.g. Rwanda and South Africa) adopted PR as the suitable electoral system. As a long-term strategy, national legislatures should aim at reforming the electoral laws towards PR systems.
- Commonwealth African countries are at different levels in terms of compliance with international norms and national constitutions.
- As the context changes, it is necessary to regularly review and refine provisions on women's representation so as to achieve the best possible outcomes. In countries outside of the SADC region where gender parity (50:50) has not been articulated as a principle, this should be given priority.



Constitutions are not set in stone, but they are often more permanent than laws. Post-conflict countries often craft new constitutions, and these provide the opportunity to embed provisions on gender. Examples from Commonwealth Africa include Rwanda, Uganda, South Africa and Namibia. Constitutions may be reviewed or amended, as has happened recently in several Commonwealth African countries (such as Tanzania, Kenya, Malawi and Zambia). Normally, an independent commission is set up to oversee the review of a constitution. The legislature can make amendments, usually subject to a two-thirds majority agreeing to the amendment.

The electoral system may be set out in the constitution, or in the electoral law, or both. Electoral systems may be changed or adapted, to suit particular needs and circumstances, although dramatic changes are not likely (except in post-conflict countries). Electoral systems and affirmative action measures for women's political participation have a key bearing on the extent of women's political participation in every country in the world.

All this places legislature in a powerful and important position with regard to key electoral and legislative measures that can enhance or hinder women's political participation. This chapter of the handbook concerns the all-important interplay between electoral systems and TSMs (constitutional, legislated and voluntary) for increasing women's participation in decision-making. The chapter demonstrates that there is every conceivable example in Commonwealth Africa of electoral systems and 'special measures' for advancing gender equality in decision-making. This goes to show that, in countries that have taken no measures at all, there is no excuse for failing to find creative solutions.

3.1 Electoral systems

There are two main types of electoral systems:

- In the **proportional representation (PR)** or 'list system', citizens vote for parties that are allocated seats in parliament according to the percentage of the vote they receive. Individual candidates get in according to where they sit on the list. In an open list system, voters determine where candidates sit on the list. In a closed list system, the party determines where candidates sit on the list, although this is usually based on democratic nomination processes within the party.
- In the **constituency or 'first-past-the-post' (FPTP)** system, citizens vote not just for the party, but also for the candidate who represents the party in a geographically defined constituency. Thus, a party can garner a significant percentage of the votes, but still have no representative in parliament, because in this system 'the winner takes all'.

The most popular electoral model widely practised across the Commonwealth is the FPTP/simple majority electoral model, which is considered to support the incumbent and is not favourable to women's political candidacy. Electoral reform and the introduction of TSMs into political party structures has enabled the rise of women's representation in many Commonwealth countries.

There is overwhelming evidence internationally to suggest that women stand a better chance of getting elected under the PR system (and especially the closed list PR system) as opposed to the constituency electoral system (for more information on the comparative global data on TSMs for women in politics, see: www.idea.int/quota). The reason for this is that, in the latter case, candidates focus on the party and its policies, rather than on a

particular individual. This works in favour of women – at least in terms of ‘getting their foot in the door’ – because of the in-built prejudices against women in politics (Morna 1996). The chance of women getting elected is even higher when the PR system works in concert with a quota.

3.2 Temporary special measures

TSMs are a form of affirmative action or equal opportunity measure targeted at addressing the slow pace of change in the participation of women and minority groups in areas of society where they are historically under-represented (McCann 2013). In Commonwealth Africa, women’s quotas are slowly taking root. This measure is now understood to be the fast track to women’s representation – to produce equality of results, not merely equality of opportunity (Ballington 2004). In addition to the two types of electoral system (PR and constituency) there are two main types of quota (voluntary as well as constitutional and/or legislated).

Voluntary party TSMs have the advantage of party buy-in, but they can only deliver large numerical increases in closed list PR systems, where the party has a significant say on who gets onto the list. In constituency systems, voluntary party TSMs can only succeed in delivering the numbers if women candidates are fielded in safe seats, which is often not the case.

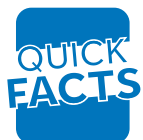
Constitutional or legislated TSMs have the advantage that they guarantee the numbers. However, in the case of the constituency system, where seats have to be ‘reserved’ for women, this may have the disadvantage that such seats are regarded as second class or token. The combination of the PR system and legislated TSMs has the advantage that it delivers the numbers and gives the parties leeway to choose which women to go on the list as long as the quota is met. But some parties argue that *any* quota infringes freedom of choice.

Table 3.1 Possible combinations of TSMs and electoral systems

Type of quota	PR system	Constituency-based system	Mixed PR and constituency-based system
Voluntary party TSMs	E.g. African National Congress in South Africa; FRELIMO in Mozambique	E.g. Opposition parties in Botswana	E.g. South African local government – ANC voluntary quota for list seats
Constitutional or legislated TSMs	E.g. Local government elections in Namibia	E.g. The Tanzanian constitution reserves 20% of seats for women (distributed on a PR basis)	E.g. South Africa’s Municipal Structures Act 1998, as amended, stipulates that parties should strive to ensure parity

TSMs have been a subject of debate. On the one hand, they have been seen as necessary to correct historical imbalances, while on the other they may be viewed as an obstruction to justice, discrimination against men and therefore a distortion of democratic processes. The current consensus is that TSMs are necessary, albeit as ‘short-term’ measures.

Table 3.2 arranges Commonwealth African countries in descending order according to representation in parliament (2016). The 2006 data is provided for comparative purposes. The countries are ranked globally and within the Commonwealth for 2006 and 2016. The table includes data on local government for 2016; the electoral system and type of quota. The table shows that:



- Six out of the top-ten Commonwealth performers in 2016 came from Africa.
- The top-six performers (Rwanda, South Africa, Namibia, Mozambique, Tanzania and Uganda) all have either a PR or mixed system; and legislated, constitutional or voluntary TSMs.
- Namibia has shown that a combination of the PR system and a voluntary quota by the ruling party can result in a remarkable increase in the proportion of women. However, when accompanied by a legislated quota, as happened at the local level, the result is even better (44 per cent).
- PR on its own provides no guarantee that women will be included, as demonstrated by performance of countries such as Sierra Leone. This shows the importance of TSMs for ensuring inclusive electoral systems.
- The highest proportion of women in any Commonwealth African local government is Lesotho (49 per cent at the local level). This is thanks to women performing well in the openly contested FPTP seats and because of the 30 per cent seats reserved for women on a PR basis, giving Lesotho a mixed system at the local level.
- The bottom four performers (Ghana, Botswana, Swaziland and Nigeria) all have the FPTP system. Apart from Swaziland (which has a constitutional quota that has not been implemented) and Botswana (with voluntary party TSMs), these countries do not have TSMs.
- Neither constitutional (Kenya) nor voluntary (Patriotic Front in Zambia) TSMs in the FPTP system produce the desired results. This is because stipulating that parties should field women candidates is no guarantee of success in the FPTP system.

Table 3.2 Comparative analysis of the highest and lowest performers, 2006 and 2016, in Commonwealth Africa

Country	Women in parliament	% representation	World		Ranking	Common-wealth ranking	Local government		Electoral system	Type of TSM		
	2006		2016	2006			2016	2016		2016	Legislated	Constitutional
Rwanda	48.8%	63.8%	1	1	1	1	33.3%	Mixed	National, local			
South Africa	32.2%	42.2%	13	8	2	2	42%	PR			ANC: 50:50	
Namibia	26.9%	41.8%	26	11	3	3	44%	PR	Local		SWAPO: 50:50	
Mozambique	34.7%	39.6%	10	14	4	4	36%	PR			FRELIMO: 40%	
Tanzania	30.4%	36.6%	17	25	5	5	34%	Mixed	National, local			
Uganda	29.8%	35.5%	18	31	6	6	48%	FPTP	National and local			
Cameroon	8.9%	31.1%	102	41	9	9	2%	FPTP	National, local		RDPC: 20–30% SDF: 25%	
Lesotho	11.7%	25.0%	88	69	15	15	49%	Mixed	National, local		LCD: 30%	
Seychelles	29.4%	21.21%	19	84	18	18	N/A	FPTP				
Kenya	27.3%	19.7%	112	95	21	21	6%	FPTP		National		
Malawi	13.6%	16.7%	78	112	25	25	8.3%	FPTP			UDF: 25% MCP: 30–35%	
Zambia	14.6%	12.7%	73	138	32	32	7%	FPTP			PF: 40%	
Ghana	10.9%	12.7%	92	140	37	37	11%	FPTP				
Sierra Leone	14.5%	12.5%	74	142	33	33	12%	PR	Local			

(Continued)

Table 3.2 Comparative analysis of the highest and lowest performers, 2006 and 2016, in Commonwealth Africa (Continued)

Country	Women in parliament		% representation		World		Ranking		Common-wealth ranking		Local government		Electoral system		Type of TSM		
	2006	2016	2006	2016	2006	2016	2006	2016	2006	2016	2016	2016	Electoral system	Legislated	Constitutional	Voluntary party	
Mauritius	17.1%	11.6%	63	146	35	30%	FPTP	Local									
Botswana	11.1%	9.5%	91	157	40	19%	FPTP										BNF; BCP; 30%
Swaziland	10.8%	6.6%	93	173	44	13%	FPTP								National		
Nigeria	6.1%	5.9%	120	178	47	10%	FPTP										

Source: 2006 figures: IPU 31 December 2006; Morna et al. (2013); 2016 figures: IPU 31 December 2016

Notes: ANC – African National Congress
 BCP – Botswana Congress Party
 BNF – Botswana National Front
 FRELIMO – Frente de Libertacao de Mozambique; Liberation Front of Mozambique
 LCD – Lesotho Congress for Democracy
 MCP – Malawi Congress Party: <http://www.quotaproject.org/country/malawi>
 PF – Patriotic Front
 RDPC – Cameroon People's Democratic Movement: <http://www.quotaproject.org/country/cameroon>
 SDF – Social Democratic Front: <http://www.quotaproject.org/country/cameroon>
 SWAPO – South West African People's Organisation
 UDF – United Democratic Front: <http://www.quotaproject.org/country/malawi>

- Mauritius, which has a gender-neutral quota at the local level, has been able to overcome this through public education, awareness and support for aspiring women candidates.
- The only FPTP country that has performed relatively well without a quota is Seychelles. However, as the handbook will demonstrate, this has left Seychelles vulnerable to fluctuating fortunes.

3.3 Rwanda: Constitutional quota – predominantly PR

Post-conflict peace processes have provided a number of countries in Commonwealth Africa with the opportunity to reform their constitutions to reflect the positive roles women have played in peace-building and reconciliation. Rwanda adopted its new constitution after the genocide in the 1990s. The constitution (Article 9(4)) provides for a minimum 30 per cent women in decision-making posts. The law requires that each political organisation shall ensure that at least 30 per cent of the posts that are subject to election are occupied by women.

The implementation of this provision is directly linked to the increased number of female parliamentarians in Rwanda. Rwanda has become the first country in the world with a female-dominated parliament (63.8 per cent).

3.4 South Africa: Pros and cons of voluntary TSMs in a PR system

National elections are conducted on a simple PR basis, while local elections involve a mixed system with both PR and FPTP systems. The Local Government Act says that parties must ‘seek to ensure’ that 50 per cent of the candidates on party lists are women, but this is not mandatory, and it does not apply to the FPTP seats. The ruling African National Congress (ANC) adopted a voluntary quota in 2002, further raising it to 50 per cent in 2007. The effect of the voluntary quota of the ANC as a dominant party has created a ‘snowball or contagion effect’ in the overall election, bringing South Africa as a new nation to number eight on the global ranking.

The advantage of voluntary TSMs is that these are owned and driven by political parties. The downside is that, if the dominant party leading on the voluntary quota loses support (as happened in the 2016 local elections, when the ANC majority declined), the proportion of women also drops (from 40 per cent to 38 per cent).

This has led to an increasing call for a legislated quota, since the current success is predicated on the performance of the ANC as a mass/dominant party. It must be noted that, in the run up to the first democratic elections

in 1994, women within the ANC articulated the need for a quota but also actively argued against reserved seats for women and rejected the Uganda model of a women-only contest, which they observed created a ghetto for women.

Case study 3.1 Impact of Special Measures in Namibia



There has been significant progress in the participation of women in attaining political positions in Namibia. This progress has been noted in the following areas: executive, parliament and in the local authorities. The regional level of the political sphere has unfortunately not noted any significant progress, as reflected in the limited representation of women at the lower legislative arm known as the National Council.

An important measure that is largely responsible for the significant increase in women's representation in parliament in Namibia is the introduction of the so called 'zebra' system. The system provides that every second candidate on a party list for the members of the National Assembly should be a woman, hence the high representation of 41.8 per cent women in parliament due to the fact that the ruling party introduced this system for their party list during the 2014 national assembly elections.

The local authority elections held in 2015 also recorded a high level of women's representation at 44 per cent, and this can be attributed to the Local Authorities Act which provides:

'The members of a local authority council shall be elected on party lists at a general election and each party list shall contain as candidates for such election,

- (a) in the case of a municipal or town council consisting of 10 or fewer members or a village council, the names of at least three female persons;
- (b) in the case of a municipal council or town council consisting of 11 or more members, the names of at least five female persons.

This requirement in the law is strictly enforced by the Electoral Commission of Namibia (ECN), whereby party lists are not accepted during the nomination period unless they comply with these legal provisions.'

Representation of women at the executive level after the 2014 National Assembly Elections, is reflected by the appointment of a woman as prime minister for the first time in Namibian history and also a woman as deputy prime minister for the second time. The cabinet has seven women appointed as ministers out of 26 ministers, while there are 13 women appointed out of 29 deputy ministers and five women governors appointed in the 14 regions.

The National Council has a fairly low representation of women at 23.8 per cent. This is indicative of there being no strategic or legal provision in force to increase the representation of women on this legislative platform.

It is clear that the legislative measures at the local authority level and strategic measure of the 'zebra' system at the parliamentary level have proved to be effective in the Namibian democratic electoral system. However, the 'zebra' system has only been implemented as a strategic measure by one major political party, and therefore needs to be internalised as a strategic measure by other political parties or introduced as a legislative measure. Further strategic measures need to be considered by political parties on how best to increase the participation of women in the legislative arm of the National Council. The legislative measures at the local authority level are effective and therefore need only to be maintained and strengthened by ensuring that nominated women candidates are sufficiently empowered by means of capacity building.

Notemba Tjipueja, Chairperson of the Electoral Commission of Namibia (ECN)

3.5 Namibia: Impact of a mix of special measures

Advocate Notemba Tjipueja is the Chairperson of the Electoral Commission of Namibia (ECN). In her interview with the Commonwealth, she reflected on the impact of voluntary (political party) measures and other legislated measures on women's political participation in her country, Namibia, and why this has been so.

3.6 Botswana: The pitfalls of voluntary party TSMs

The 2014 COG report notes that the opposition Botswana National Front (BNF) and Botswana Congress Party (BCP) have changed their constitutions to include a 30 per cent representation for women on electoral lists. However, the parties have not always met this target. Furthermore, the outcome of elections in Botswana reflects the reality that voluntary party TSMs in the FPTP system seldom yield the desired results, as women candidates only succeed if they are fielded in 'safe' seats, which is often not the case.

3.7 Uganda: Reserved seats – legislated quota in FPTP

The only way to guarantee the desired outcome of TSMs in the FPTP system is through 'reserved' seats. Uganda was a trail blazer in the 1990s and a pioneer in the East African region, when it introduced reserved seats at the national level and a 30 per cent quota in local government. Women only contest for the reserved seats, and they can also still contest open seats. To guard against women who are elected on the 'special seats' being regarded as token, women from different political parties came together to form a multiparty women's caucus:

Box 3.1 Role of The Uganda Women's Parliamentary Association (UWOPA)

'The Uganda Women's Parliamentary Association (UWOPA), which comprises all women Members of Parliament, was established during the National Resistance Council (NRC) in the 5th Parliament of Uganda (1989–94) with the aim of engendering the legislative process, creating awareness campaigns and encouraging lobbying, as well as advocacy, networking, resource mobilisation and information dissemination. UWOPA provides a forum for women MPs to discuss, share experiences and support activities that would enhance women's participation and effective leadership in all dimensions of politics including socioeconomics, science and technology. UWOPA is a major contributor to a just and gender-sensitive constitution, legislation and national policies that enable political, social and economic empowerment of the women and men in Uganda.'

Hon. Rebecca Kadoga, first woman Speaker, Uganda

3.8 Tanzania's quota system

Tanzania was the first country in Commonwealth Africa to adopt a 20 per cent constitutional quota to increase women's political participation in 1998 (Ogunsanya 2012). The current Union Constitution provides that not less than 30 per cent of the members of the National Assembly (Tanzania) and the House of Representatives (Zanzibar) shall be women. Efforts to raise this to 50 per cent had not yet materialised at the time of writing.

Women and men are free to contest all constituency seats. An additional 30 per cent of the seats are distributed among women only on the PR basis (i.e. based on the proportions of votes per party). In 2015, 136 women (36.6 per cent) were elected to the National Assembly in Tanzania: 6.6 per cent through the FPTP system and 30 per cent through the reserved PR seats.

The quota system has taken Tanzania to number 25 on the global ranking. Critics maintain that there is a danger of party patronage on the part of the women. However, in her interview for this handbook, the vice-president of Tanzania points out how she has used the opportunity of coming into politics through 'special seats', to rise to higher leadership and greater possibilities for driving the gender agenda:

Box 3.2 Special seats offer a foot in the door

'You will remember that I came into politics through the special window seats, which were not much of a hassle to contest. The 30 per cent requirement triggered my burning desire to represent the local people to seek their rightful share of socioeconomic development. This marked the onset of my political journey. In 2000, I garnered the consent of the people and I was elected member of the House of Representatives in Zanzibar through special seats for women.

I served as a Member of Parliament special seats for ten years. Thereafter, I ran for the Makunduchi constituency race and I was elected its Member of Parliament in the United Republic of Tanzania for five years (2010–15).

In 2014, I served as a deputy speaker to the National Constituent Assembly, which led the formulation and drafting exercise of the new constitution of the United Republic of Tanzania. The assembly proposed that there should be a 50:50 split of men and women in the House of Representatives and local authorities in the new constitution (not yet adopted).

Now that I have risen to the second highest political office in the country, the task that lies ahead of me as the country's first-ever woman vice-president since the country gained independence is to ensure more women get into decision-making positions, both in political offices and in boardrooms. I will work hand in hand with my government and the ruling political party (CCM) to ensure equal allocation of the TSMs in order to achieve gender parity in the country politics.'

HE Samia Suluhu Hassan, Vice-President of the United Republic of Tanzania

3.9 Lesotho: Tanzania model at local – but not at national – level

In 2005, Lesotho adopted a quota similar to that of Uganda, in which 30 per cent of all constituencies were reserved for women and with a provision for rotation of the reserved constituencies at each election. Women and men still contested the remaining 70 per cent of seats on a FPTP basis. Women won 28 per cent of the FPTP seats, which in addition to the 30 per cent reserved seats gave an overall total of 58 per cent women in local government. However, political actors challenged the fairness of this system.

This system was later amended in line with the Tanzania model (30 per cent reserved seats to be distributed between parties on a PR basis). In the 2011 local elections, women won 19 per cent of the FPTP seats. Together with the 30 per cent PR seats, this gave women 49 per cent of the seats in local government. This still puts Lesotho in top position regarding women in local government in the Commonwealth.

Lesotho has not been as bold at the national level, where the country already had a mixed system. Members are elected to the 120 National Assembly seats using the mixed member proportional system (MMP), which combines FPTP and PR. This system was introduced in 2002 to increase the opportunities for other parties to be represented in the legislature (Ntho 2010). Eighty are filled on a FPTP basis, while the remaining seats are distributed among parties according to the system. Instead of the PR seats being reserved for women (as happened at the local level), the National Assembly Electoral Act 2011 stipulates that, for the 40 PR seats, each party candidate list must have an equal number of women and men (Part 5, Section 47 [2a and b]). In the 2016 elections, women won 19 of the 40 seats (48 per cent) allocated under the PR system. Women only won eight of the 69 seats under the FPTP system (12 per cent). As a result, Lesotho experienced a 2 percentage point drop in women's representation in parliament, from 25 per cent in 2015 to 23 per cent in 2016.

3.10 Mauritius: Gender-neutral quota at the local level

Following civil society activism challenging the low representation of women in politics, the legislature circumvented the clause in the constitution that cites affirmative action as discriminatory by introducing a gender-neutral quota at the local level. The Local Government Act has a provision that requires that at least one-third of all candidates standing for a political party in any electoral ward must be of a different sex.

Parties had to field one-third either men or women, but with no guarantee or reserved seats. With a high degree of mobilisation, women won 30 per cent

Box 3.3 Calls for an affirmative action law in Ghana

The Speaker of the Ghana Parliament, Professor Aaron Mike Oquaye, bemoaned the low representation of women in parliament, calling for an affirmative action law to ensure gender equality.

'A very disturbing aspect of Ghana's parliamentary democracy is the abysmal low representation of women in parliament', he said.

'There is a compelling need for a comprehensive study of the factors which militate against the effective representation of women in parliament. An Affirmative Action law could be the only way of using the law as an instrument of social engineering and mischief correction to ensure equality', he added.

pulse.com.gh (2017)

of the seats. This arrangement does not apply at the national level, where the presence of women still depends on the will of the political parties.

3.11 Malawi moves to introduce legislated quota in FPTP system

Malawi's 2014 *Country Report* on the implementation of the Beijing Declaration and Platform for Action highlights the low level of women's political representation across all four major political parties (Ministry of Gender, Children, Disability and Social Welfare 2014). It attributes this performance, especially in the area of representation in parliament and local councils, to the impact of the FPTP system, underscoring that women are less likely to be selected 'as candidates by male-dominated party structures'.

In 2011, the Malawi Law Commission proposed the following amendments to the Parliamentary and Presidential Elections Act, as well as the proposed Local Government Elections Act: setting TSMs for political party executive positions, as well as their candidate lists (a minimum of 40 per cent and a maximum of 60 per cent for either sex). However, this has not yet come to fruition. Malawi enacted a Gender Equality Act in 2013, which provides for TSMs for women in public, but not political, positions.

3.12 Ghana: The need for TSMs

Ghana,¹ which had elections in late 2016, exemplifies the four Commonwealth African countries (together with Zambia, Botswana and Nigeria) that have a FPTP system and have not tried legislated TSMs of any kind. Pressure is mounting for change.

Ghana's parliament gained six more female Members of Parliament following the 2016 general elections, increasing female representation from 35 in the previous parliament to 41 in the current one, out of 275 MPs (11 per cent). In total, 137 out of the 1,158 parliamentary candidates who contested the elections were women. One gender activist believes, 'if we are doing six in four years, how long will it take us to get to 50 per cent of the 275? That will be a long time. We have done okay, but it is not enough' (as quoted in pulse.com.gh 2016).

The 2016 COG report recommended that:

the government should consider further action to fulfil its commitments as a signatory to the Convention for the Elimination of all forms of Discrimination against Women (CEDAW). It could consider taking specific measures to achieve the goal of increased representation of women in political and public life (Article 7 of CEDAW) by using temporary measures (affirmative action) as set out in Article 4. In particular, the government should consider enacting affirmative action legislation to provide for a mandatory affirmative action quota of a minimum of 30 per cent women candidates, to be enacted by all political parties before the 2020 election.

3.13 Kenya: State taken to task for not abiding by constitutional quota

In wake of the post-election violence after the 2007 general election, a new constitution that had been debated for more than a 20-year period was enacted in 2010 following a referendum. Article 27(8) states that not more than two-thirds of members of the elected house can be of the same gender. The Attorney General requested advice from the Supreme Court and it advised that the one-third gender requirement in the National Assembly and Senate should not be implemented for 2013, but 'progressively' introduced in successive elections.

Advocates of the quota have opposed making the one-third provision an aspirational target instead of a specific mechanism. In June 2017, months ahead of the next elections (scheduled for August), Kenya's Supreme Court gave the country's parliament 60 days to pass a law guaranteeing at least one-third of the country's elected representatives be female or face dissolution. When making the ruling, High Court Judge John Mativo, noted that parliament was in 'gross violation' of the constitution.

The case was brought by a coalition of civil society and human rights organisations, led by the Centre for Rights Education and Awareness. Critics were of the view that the 60-day timeline was too short given that presidential elections were scheduled for August. Advocates of the quota, however, argued that parliament had already had seven years to pass that law and that the only

thing lacking was goodwill. At the time of writing, Kenyans were set to go to the polls in August 2017 without a mechanism in place.

3.14 Cameroon: FPTP and 'evidence of gender considerations'

As reflected in the Commonwealth Observers 2013 report, Cameroon's significant increase in women's political representation in the National Assembly was a result of legislative reform. Municipal, senate and legislative elections in Cameroon are now governed by Law No. 2012/001 of the 19 April 2002 Election Code. The code lays down the provisions for the governance of elections for members of the National Assembly and municipal councillors. Political parties were expected to demonstrate 'evidence of gender considerations' in drawing up their respective candidate lists.

Empowered by this provision, the election management body, Elections Cameroon (ELECAM), rejected several political parties' candidate list submissions on the basis of non-compliance with the 'gender considerations' provision outlined in the Electoral Code. The impact of this legislative reform was instant. The proportion of women parliamentarians increased from 13.9 per cent in 2007 to 31.1 per cent after the 2013 parliamentary elections. The Cameroon example highlights the important role of the legislature in generating the legal framework, which, in turn, empowers other stakeholders such as ELECAM. It is important to note, however, that only a legislative quota would sustain and guarantee women's participation in parliament. In Cameroon's case, the then EMB chair felt empowered to interpret the law and the clause 'evidence of gender considerations' progressively. Arguably, this clause is vague enough to be vulnerable to other less progressive interpretations and could be further strengthened.

3.15 Seychelles: Why TSMs matter

Until its 2016 parliamentary elections, Seychelles had the distinction of being one of Commonwealth Africa's strongest performers, despite having a FPTP system and *no* quota, with women constituting 43.8 per cent of the National Assembly. According to 'An Illustrative Trends Analysis on Women's Political Development in the Commonwealth (2004–2016)' (Morna et al. 2013), Seychelles had been able to achieve this because of its unique national characteristics, including a high literacy rate for older women in comparison with their male counterparts. However, the level of women's representation in the National Assembly dropped from 43.8 per cent to 21 per cent in the 2016 elections. This fall in women parliamentarians reflects the weakness of increasing women's participation without any special mechanism to sustain the gains they have achieved.

3.16 Checklist



Electoral systems, laws and TSMs

- ✓ Does the electoral law/code provide men and women with equal rights to participate in the electoral process?
- ✓ Does the electoral system in the country help enhance women's representation in political decision-making?²
- ✓ Are there special measures to enhance women's political participation? For example, constitutional or legislated TSMs; safe constituencies; reducing and/or waiving nomination fees; voluntary party list TSMs; mandated party list TSMs and double-member constituencies; and TSMs for executive appointees (where these exist)?

Notes

- 1 Ghana's party of independence, Convention People's Party had a quota in 1960 and 1965; see: <http://www.quotaproject.org/country/ghana>. In Zambia, the ruling party, the Patriotic Front, has a voluntary quota of 40 per cent, and in Botswana, two of the opposition political parties, the BCP and BNF, have 30 per cent voluntary quotas.
- 2 Research shows that there is a much higher representation of women in PR electoral systems than in FPTP systems. Mixed electoral systems are also more favourable for women than the FPTP system.

References

- Ballington, J (ed.) (2004), *The Implementation of TSM: Africa Experience*, International IDEA and EISA, Stockholm and Johannesburg.
- McCann, J (2013), *Electoral Quotas for Women: An International Overview*, available at: https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/ElectoralQuotas
- Ministry of Gender, Children, Disability and Social Welfare (2014), *Malawi Country Report*, available at: https://www.uneca.org/sites/default/files/uploaded-documents/Beijing20/NationalReviews/malawi_beijing_review.pdf (accessed 9 December 2017).
- Morna, CL (1996), 'Strategies for Increasing Women's Participation in Politics', paper prepared for the 5th Women's Affairs Ministerial Meeting, Trinidad Tobago (unpublished).
- Morna, CL et al. (2013), (edited 2016 by the Commonwealth Secretariat) 'An Illustrative Trends Analysis on Women's Political Development in the Commonwealth 2004–2016', paper prepared for the 10th Women's Affairs Ministerial Meeting, 17–19 June, Dhaka.
- Ntho, M (2010), 'Gender and Elections in Lesotho', in Gender Links (ed.), *This Seat is Taken: Gender and Electoral Processes in Seven SADC Countries*, Gender Links, Johannesburg.
- Ogunsanya, K (2012), 'A Women's Agenda in Parliament? If Not, Why Not? If So, What Should It Be?', paper presented at the Commonwealth Parliamentary Conference, 7–15 September.
- Pulse.com.gh (2017), 'Low Representation of Women in Parliament Disturbing – Speaker', available at: <http://www.pulse.com.gh/politics/seventh-parliament-low-representation-of-women-in-parliament-disturbing-speaker-id6009379.html> (accessed 9 December 2017).