

# Affirmative Action

and  
The Prospects for  
Gender Equality in  
Ghanaian Politics

Dr. Dzodzi Tsikata

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Affirmative Action and the  
Prospects for Gender Equality  
in Ghanaian Politics

**By Dzodzi Tsikata**

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## Foreword

**G**ender inequality worldwide leads to discrimination, social injustice, sub-optimal economic progress due to a serious neglect of a large part of society's human resources and to deficient democracies. Gender inequality manifests itself in all aspects of human life: economy, security, education, health, politics etc. The fewer women in a society participate in formal decision-making, the less likely it is that the decisions made are working in favour of more gender equality. The representation of women in formal decision-making positions is, therefore, an important factor to improve gender equality.

There are only very few countries that actually have equitable representation of women and men in decision-making and improvements are necessary in most countries. The situation in Ghana is particularly worrisome. For example, the number of women in parliament even decreased after the last elections from an already low 11% to less than 9%. Representation of women in government does also not reach the declared goal of 40%. These numbers demand that action needs to be taken. Examples around the world show, that in all countries in which the female-male ratio in political representation has improved, explicit measures of affirmative action have been employed.

This knowledge and the realisation that power is never shared if it is not demanded, has lead ABANTU for Development and the Friedrich-Ebert-Stiftung to embark on the development of an Affirmative Action Strategy to address past injustices in the representation of women in Ghanaian politics. A first step in this endeavour is this publication at hand which analyses past attempts at affirmative action in Ghana, justifies the need for explicit measures and suggests an agenda for action. The excellent study by Dr. Dzodzi Tsikata was put to discussion at a workshop of gender activists to incorporate broad views of relevant stakeholders and will serve as the basis for the further development and implementation of the Affirmative Action Strategy for Ghana.

As I am about to leave Ghana after three years of very intensive and encouraging work, I am very hopeful that this publication will be widely used to put in place measures that enable women to take up the positions in Ghanaian politics and public life that they are entitled to.

I would like to thank all of those who have contributed to this publication in various ways. A special thank you goes to the author, Dr. Dzodzi Tsikata, who, besides her very busy schedule, put a lot of effort and dedication into this work. I would also like to thank Dr. Rose Mensah-Kutin from ABANTU for Development who advanced the project considerably and with whom it has always been both productive and enjoyable to work with.

**Kathrin Meissner, September 2009**

## Abstract

Dzodzi Tsikata<sup>1</sup>

**A**ffirmative action has been used in Ghana since independence to address gender and regional imbalances in access to education, health, work and politics. While it has had some successes, particularly in improving the male female ratios in primary education, it has been less effective for improving women's representation in political and public life. A reason for this is that the measures for improving the political representation of women in particular have not been commensurate with the serious nature of the inequalities being addressed. Moreover, the basis for affirmative action is not shared and its intended beneficiaries are often not seen as citizens with entitlements. In spite of these problems, this paper argues that affirmative action can work and improve gender equity in political representation and ultimately improve development outcomes if there is full commitment to its goals and measures. The paper makes the case for affirmative action on grounds of necessity, legal justification and its value for the attainment of broad developmental goals. An examination of the experience of affirmative action in Ghana, traces its history, achievements, limitations and continuing challenges. The paper provides lessons from more successful cases of affirmative action in countries such as South Africa, Rwanda and Uganda and makes proposals and recommendations for a programme of affirmative action in political representation in Ghana.

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## **1.0 Introduction**

This paper provides background material and analysis for setting an agenda for Affirmative Action in Ghana. The paper's premise is that the persistence of gender inequalities in representation in politics and public life, the legal obligations of the government and the proven value of affirmative action for gender equity in policies and programmes provide justification for affirmative action. Although affirmative action has been used in Ghana since independence to address gender and regional imbalances in access to education, health, work and political representation, its successes have been variable. In particular, affirmative action measures to improve political representation have not been effective. This is because they have not been commensurate with the serious nature of the inequalities being addressed. Commitment to affirmative action in politics has been at best half-hearted, a situation exacerbated by the fact that the basis for affirmative action is not shared or properly understood. This creates fatigue and resistance among the political and bureaucratic classes and the general population towards affirmative action programmes. In spite of these problems, affirmative action can work and improve gender equity in political representation and ultimately improve development outcomes if there is commitment to its goals and measures.

The outcome of parliamentary elections in December 2008 and certain developments afterwards provide a favourable conjuncture for reviving a discussion and making the case for a robust agenda for affirmative action for gender equity in political representation in Ghana. In the 2008 elections, while one hundred and three (103) women stood for parliamentary elections, only 20, representing a 20% reduction in the representation of women in the 230 member parliament<sup>2</sup>, were elected. When parliament convened on 7th January 2009, Justice Joyce Bamford-Addo was elected as the first female speaker in the history of the parliaments of the four republics and sworn in by the first female chief justice who had been appointed in 2008. This led to extravagant claims that there was gender parity in government in the sense that two of the

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2. In 2004, there were one hundred and four (104) female candidates and 25 had been elected.

four persons leading the three arms of government were female. In response to the poor showing of women in the elections, a group of women issued a statement and visited the new President to demand affirmative action measures. They presented him with a list of names of qualified women the new government could appoint if it was minded to promote women's participation in public life. The government went ahead and appointed five women ministers, with some heading strategic ministries such as Justice, Trade and Industries, and Information. After these dramatic appointments, the government settled into more traditional patterns of appointments with the women constituting only eight (8) out of thirty-five (35) Ministerial (23%) and 6 out of 39 Deputy Ministerial (16%) appointments.

These events draw attention to a number of issues. Firstly, without affirmative action, the parliamentary representation of women will not see steady improvements in Ghana. Indeed, studies have suggested that at the rate of progress of women's representation in legislatures across the world, gender parity will be reached only in 2047 (UNIFEM, 2008). Given that in Ghana, a constitutional provision requires that the majority of ministers must be members of Parliament (Article 78 of the 1992 Constitution), this also has implications for women's representation in the executive branch of government. Secondly, the goal of gender equity in representation in government is understood quite superficially and thirdly, the nature of affirmative action and how it can be implemented to the benefit of marginalised social groups is not well understood in Ghana.

While there appears to be consensus that Affirmative Action (AA) is useful for redressing intractable political and socio-economic inequalities arising from systemic discrimination, affirmative action programmes have often been fraught. Often, there are disagreements within governments and the society at large about their necessity, the particular provisions, implementation and their successes. Often, public officials tasked with their conception and implementation make pronouncements which can undermine the aims and objectives of particular programmes. While controversies rage, the beneficiaries of affirmative action programmes are often not in a position to make the case for sustaining interest in the programmes.

Affirmative action is a topical issue around the world because of concerns about the distribution of the gains of development and in response to demands by activists for measures to deal with persistent inequalities. Central to the agenda of the World conferences of the 90s- the Vienna Conference on Human Rights, the International Conference on Population and Development, the Social Summit and the 4th World Conference on Women- were questions of equity and justice for all. These conferences culminated in the adoption of the Millennium Declaration and Millennium Development Goals (MDGs) in 2000. The MDGs, although extensively critiqued for their failure to address fundamental development problems, have provided a benchmark for equitable development which many governments including the Ghana government have signed on to and will be judged by. Specifically, MDG Goal 3 which is to promote gender equality and empower women demands an increase in their representation in parliaments. The international advocacy engendered by these world conferences as well as regional processes around various human rights instruments have provided a basis and impetus for national campaigns for affirmative action.

The paper is structured as follows. This introduction is followed by a brief background discussion of affirmative action, tracing its history in the USA and more recently in South Africa. This is followed by a section which makes the case for affirmative on grounds of necessity, legal justification and benefits. Section four discusses Affirmative Action in Ghana while section five discusses its successes, limitations and challenges. This is followed by a discussion of successes of affirmative action in other jurisdictions and the lessons learned. The penultimate section of the paper focuses on prospects for affirmative action in Ghana today and possible entry points, followed by a summary and conclusions. An appendix presents the outlines of a programme of action for putting affirmative action on the public agenda.

While there is a clear need for a comprehensive plan of affirmative action for different aspects of women's lives- education, politics and public life, employment and control of resources, this paper has largely focused on

politics and public life. It has also not addressed the need for affirmative action for other social groups such as people living with disability, people living in the three Northern Regions, various rural areas and urban poor areas.

## **2.0 Background to Affirmative Action**

Affirmative action is a set of measures adopted by governments and public and private institutions such as political parties, educational establishments, corporations and companies to address a history of systemic discrimination and exclusion of particular social groups or to encourage the efforts of particular social groups in the interests of certain development goals. Affirmative action is expected to improve development indicators by reducing inequalities and facilitating the contribution of particular social groups to development. Affirmative action therefore relates to both the productive and distributive aspects of development. While affirmative action may or may not arise from the agitation of disadvantaged social groups and advocates, the state and its institutions are central to its design and implementation. Without public policy in support of affirmative action, it cannot be adopted and implemented.

The United States of America (USA) is home to affirmative action which was used primarily to address racial discrimination. It began with an executive order issued by President Kennedy in 1961. The Civil Rights Act of 1964 had provisions which made discrimination illegal and established equal employment opportunities for all Americans irrespective of race, cultural background, colour or religion. Other executive orders, in particular, the EO 11246 issued by President Johnson in September 1965 and amended by Executive Order 11373 put in place affirmative action goals and identified the Labour Department as the monitor and enforcer of affirmative action programmes. The Order required that "all companies, universities and other institutions which do business with the government or receive federal funding, shall not only refrain from racial, sexual or religious discrimination in hiring, promotion and admissions, but also take affirmative action to ensure that applicants are employed, and that

employees are treated during their employment without regard to their race, colour, religion, sex or national origin.” While the programmes designed under these laws sought to address systemic economic and political discrimination and potential beneficiaries included white men and women, people with disabilities, poor and working class people, the main thrust of the programmes was racial discrimination aimed to address the systematic racism of US society. The term affirmative action now refers to “any institutional policy designed to open up white male dominated fields to larger number of women, blacks and other minority persons” (Feminist Dictionary, 1985). Affirmative action has also been defined as “concrete steps that are taken not only to eliminate discrimination—whether in employment, education, or contracting—but also to attempt to redress the effects of past discrimination. The underlying motive for affirmative action is the Constitutional principle of equal opportunity, which holds that all persons have the right to equal access to self-development” (Encyclopedia of Small Business, 2002; Americans for a Fair Chance, 2003).

South Africa is the most recent laboratory for thoroughgoing affirmative action in education, politics and in the workplace. The legacy of apartheid has been the basis for demands for affirmative action to level the playing field for black people. As the ruling African National Congress (ANC), the prime mover of affirmative action policies in South Africa has argued, “the objectives of affirmative action is to eliminate the harmful effects of apartheid based on race and gender by creating equal employment opportunities to redress inequality, rooted in principles of justice and equity (African National Congress, 1991). The ANC has been guided by its party constitution and the experience of Affirmative Action in countries such as the USA in its decision to institute affirmative action measures in South Africa. As in the USA, affirmative action is hotly contested. While in the USA, the most hotly debated aspects of affirmative action have been in area of education, in South Africa, it has been about employment. The Employment Equity Act places an obligation on certain categories of employers (those employing 50 or more, in a particular economic bracket, municipalities and organs of state) to implement affirmative action measures for people from designated groups (black people, women and

persons with disability) to achieve employment equity. Under this law, Affirmative Action is defined as “measures designed to ensure that suitably qualified people from designated groups have equal opportunities and are equitably represented in all occupational categories and levels in the work force of a designated employer. Whether in work or in education, the arguments for and against affirmative action have centred on the basis and language of affirmative action. Some of these issues have also surfaced in discussions of affirmative action here Ghana.

Affirmative Action is sometimes defined in relation to a particular group. For example, as a result of the struggles of women's rights activists since the 1960s, affirmative action for women has been enshrined in various documents of the United Nations, key among them are the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) which was adopted by the General Assembly in 1979 and ratified by Ghana in 1986 and Beijing Declaration and Platform for Action (BFA) which was accepted by the Ghana government in 1995. Article 4 of the CEDAW obliges member states of the United Nations to “adopt temporary special measures aimed at accelerating de facto equality between men and women”. The National Council on Women and Development (NCWD), Ghana's then national machinery for women, defined Affirmative Action as “special measures which are taken to correct systematically and institutionally the structural discrimination and collective disadvantages which women suffer as a group (NCWD Affirmative Action Proposals, undated).

There are different kinds of affirmative action. Some are direct e.g. provisions demanding that certain quantitative or qualitative targets be reached through admission to schools, employment and political appointments. Quantitative targets are also known as quotas and they could be designed to have immediate or medium/ long term effect (Tinker, 2004; Mensah-Kutin, undated). Affirmative Action could also be indirect, consisting of programmes which support certain categories to strengthen their performance or improve their access e.g. the science clinics for girls and school lunches for poor children (Wikipedia, 2005). While some argue

that affirmative action measures have, or should have a short life span, in practice, some affirmative action programmes have been of long duration, going through expansions and modifications over time. Indeed, proponents argue that Affirmative Action measures should continue until they reach their goals or until it is proven that they have negative outcomes for other groups.

Because affirmative action is often directed at disadvantaged groups, its most trenchant critics are often those who enjoy privileges or preferences not open to the beneficiaries of affirmative action. It has been pointed out that in the US, recruiting preferences for veterans and the children of alumni of universities are examples of such privileges (Kivel, 1997). Kivel argues that it is these practices which have led to the over-representation of white people, men and people of middle and upper class backgrounds in the universities, well paid jobs and in the professions (Kivel, 1997). These preferences are never considered by those who criticise affirmative action and therefore they tend to be forgotten in debates.

A key argument has been whether affirmative action is to address discrimination or the lack of diversity. What this means is that while there is agreement that particular social groups- black people and women are systematically absent from tertiary education and managerial jobs, there is disagreement about whether they need to be brought into these spaces to right past discrimination or to create diversity which is a matter of public interest. In the USA, the groups which support affirmative action argue that centuries of slavery, racial segregation laws and gender discrimination make the case for affirmative action. Those against affirmative action argue that it discriminates against individual white men who cannot be said to have benefited from the system of privilege. These matters have been litigated and the legal position as enunciated by the Supreme Court of the USA is that affirmative action is necessary because a University campus or workplace which reflects the diversity of the American population is the best learning environment and workplace as the case might be. Therefore, race and gender are factors which should be taken into account in the recruitment of students and workers, but to use them

as the sole basis for recruitment discriminates against other social groups. This preserves the possibility of affirmative action while weakening its basis.

Related to this is the question of whether a beneficiary of affirmative action should have suffered personal disadvantages or whether it is enough for such an individual to belong to a disadvantaged social group. This is a question most often raised in relation to middle class women and black people. In South Africa for example, there are persistent charges that affirmative action is benefiting a small black political elite while the majority of the population continue to live in disadvantage and abject poverty. In the USA, it has been argued that affirmative action benefits black people who are already well off or have middle class advantages (Kivel, 1997). In the same vein, it has been argued that middle class girls are the beneficiaries of affirmative action policies in tertiary education when they have enjoyed the class privileges of private school education and parental support. Education statistics in Ghana definitely show that in certain cases, regional and rural urban disparities are greater than gender disparities.

However, affirmative action policies have benefited middle class people but also substantial numbers of poor and working class black persons who have accessed job training programmes, vocational schools and semi skilled and skilled jobs. In relation to middle class people, the argument has been that all black people and women experience the effects of discrimination. Having more money may protect people from some of the more destructive elements of discrimination. However, the middle classes of groups suffering discrimination tend to be small and fragile. They have less wealth and financial security than their white and male counterparts as the case may be, and experience cultural aspects of discrimination.

### **3.0 The Case for Affirmative Action: Necessity, Obligation, Benefits**

The case for Affirmative Action in Ghana at this time can be made on three broad grounds- necessity, legal obligation and value.



### **3.1. Necessity: The Persistence of Gender Inequalities in Representation in Government in Ghana**

The necessity argument is essentially that the persistence of gender inequalities in the political arena and the prediction that gender parity in legislatures can only be achieved by 2047 require that special measures be put in place to achieve gender parity. This prediction of 2047 is for all countries and might therefore be optimistic for a country such as Ghana given the recent reduction in women's representation in parliament. As many have argued, discrimination of any form does not self correct. Instead, it perpetuates itself. This requires certain measures to eliminate the institutional effects of discrimination. The need argument is borne out by the fact that except for two, all the countries with more than 30% female representation in the legislature achieved this through affirmative action programmes (UNIFEM, 2008).

Thus gender activism in the area of politics the world over has been preoccupied with improving the low levels of women's representation in the legislature and executive branches of government, and the situation in Ghana has not been different. Since the return to multi-party constitutional rule in the 1990s women's groups have supported the candidature of women seeking political office and encouraged political parties to select women as candidates, particularly in their strongholds and institute measures to ensure equal representation of women in their leadership structures. They have largely deployed two strategies- training of women candidates and capacity building for elected and appointed members of both parliament and the District assemblies. They have also engaged in extensive public education and media campaigns, the most extensive being what occurred in the run up to the 2006 District Assembly elections. These strategies have had some success mainly at the level of local government. It had been expected that with the democratic opening represented by multi-party constitutional rule of the 1990s, gender equity policies would also be accorded more favourable treatment and women's representation in government and parliament would see significant improvements. District Assembly election outcomes demonstrate some

progress in the effort to promote women's decision-making in the public arena. However, this progress has been slow and arduous. This segment about necessity discusses the numerical situation of women's representation in national and local government and this is followed by a discussion of the factors which account for women's low representation.

**Table 1: Trends in Local Government Elections (1994, 1998, 2002, 2006)-elected males and females as a percentage of elected persons.**

Year	CONTESTANTS			ELECTED		
	Female	Male	Total	Female %	Male %	Total
2006	1772	13,084	14,856	478 (10.1)	4254 (89.9)	4732 (100)
2002	965	12,625	13,590	341 (7.4)	4241 (92.6)	4,582 (100)
1998	547	14,696	15,243	196 (4.1)	4,624 (959)	4,820 (100)
1994	NA	NA	NA	122 (2.9)	4,082 (97.1)	4,204 (100)

Source: Electoral Commission.

### a) The Numbers

In 2006, women constituted 12.3% - 1741 of candidates, an increase from the elections of 1998 (547 women, 3.5% of candidates) and 2002 (965-6.8%). As well, women's share of successful candidates went up from 4% in 1998 to 7.4% in 2002 to 9.6% in 2006 (See table 1 above). However, there was deterioration in the percentage of women who won in relation to women who stood- from 35.8% in 1998 to 35.3% in 2002 to 26.7% in 2006. This was particularly disappointing because men overtook women in this regard. From 31% in both 1998 and 2002, 35.2% of male candidates won as opposed to 26.7% of female candidates. This reversed the longstanding position that while women candidates were much fewer than men, their success rates were better (See table 2 above). A possible explanation for this reversal is that once the numbers of women contestants crosses a certain threshold, the pattern of small numbers registering large percentages is reversed. It also suggests that simply increasing the numbers of women who contest in elections alone will not necessarily result in an increase in the numbers of women elected (Cusack et al, 2005).

**Table 2: Success Rates in Local Government Elections (1994, 1998, 2002, 2006) numbers of candidates compared with percentage elected by sex**

Year	CONTESTANTS			ELECTED		
	Female	Male	Total	Female %	Male %	Total
2006	1772	13,084	14,856	478(26.98)	4254(32.5)	4732
2002	965	12,625	13,590	341 (35.3)	4241 (33.6)	4,582
1998	547	14,696	15,243	196 (35.8)	4,624 (31.5)	4,820
1994	NA	NA	NA	122	4,082	4,204

**Source: Electoral Commission, 1998, 2002.**

The situation with appointees was slightly better, and this can be attributed to the existence of an affirmative action policy at this level. While only six (6) Districts out of ninety-seven (97) surveyed had made the 50% of women as appointees target, twenty-seven (27) had 40%. However, few women had ever been appointed as District Chief Executives (DCEs), District Coordinating Officers, presiding members and budget officers since the most recent local government dispensation was established in 1992. In 2001, there were seven (7) female DCEs, the figure improving to twelve (12), 8% in 2006, including one for a metro assembly. Women presiding members as at 2006 were not even 10%. Beyond appointments, there are other problem areas. As Ofei-Aboagye has pointed out, women's relationship with the Assembly has several facets- as providers of local services, employees and service providers of the District Assembly; as citizens with rights to the services and resources of the District; as members of the Assembly and as voters and as aspirants; and women's groups as vehicles for demanding accountability (Ofei-Aboagye, 2006). Therefore, gender equity is also needed in the areas of service delivery, economic support and opportunity and participation in public decisions of the District and that work is yet to begin.

With regard to the national legislature, there were 25 women out of 230 (11% women, 80% of these from the then ruling New Patriotic Party (NPP) and 20% from the NDC) between 2005 and 2008. In 2000, there had been 19 (9.5%, ten from the NDC and nine from the NPP). Here again, while the number of women candidates was increasing, the percentage of those elected was going up very slowly. This had implications for women's participation in the life of Parliament e.g. in standing and select committees and in debates on the floor of parliament as well as for their representation in the executive branch of government. The recent parliamentary elections of 2008 have resulted in a decline in the numbers of women in the Parliament, which is now 20, representing 8.7% of MPs and a reduction of 20% from the last parliament (see table 3 below). This is below world averages. A recent UNIFEM report notes that women have on average of 18.4% of seats in national assemblies, and in 22 countries, their numbers exceed 30% (UNIFEM, 2008, p. 19). It is significant that the only time women's representation approximated the world average of 18.4% was in 1965 when there were 19 women representing 18.2% of members of Parliament (Table 3), and it was the result of affirmative action under the Representation of the People (Women Members) Act of 1959 (Manuh, 1991). This effort to increase the representation of women is discussed in more detail in section 4 of the paper on affirmative action in Ghana.

It is important to underline the fact that numerical representation does not constitute substantive or strategic representation, although it is an important step in achieving strategic representation. What has been achieved in Ghana is some level of a female presence in politics which is yet to translate into the substantive and strategic representation of women in politics.

Year	CONTESTANTS			ELECTED		
	Female	Male	Total	Female	Male	Total
2008	103 (10.7%)	856 (89.3%)	959(100)	20 (8.7%)	210 (91.3%)	230(100)
2004	104 (10.9%)	849 (89.1%)	953(100)	25 (10.9%)	205 (89.1)	230(100)
2000	102 (9.3%)	986 (90.7%)	1,088(100)	18 (9%)	182 (91%)	200(100)
1996	59 (7.6%)	721 (92.4%)	780(100)	19 (9%)	181 (91)	200(100)
1992	23 (5.2%)	418 (94.8%)	441(100)	10 (5%)	190 (95%)	200(100)
1979	23 (2.9%)	781 (97.1)	804(100)	6 (4.3)	134 (95.7)	140(100)
1969	7 (1.5%)	472 (98.5)	479(100)	1 (0.7)	139 (99.3)	140(100)
1965	Figure not known	N/A	N/A	19 (18.3)	85 (81.7)	104(100)
1960	52	N/A	N/A	10 (10)	94 (90)	104(100)

**Source: Electoral Commission**

More recently, some women's groups have on the basis of this realisation begun to highlight the ways in which the nature of political institutions, the political culture and the electoral system have obstructed women's representation. The Women's Manifesto's language on women in politics represents an example of this shift in focus (Tsikata, 2009). This is in keeping with analysis which has suggested that unresponsive electoral systems and the male biased character of political institutions have been largely responsible for the consistently poor showing of women in politics (Goetz and Hassim, 2005; Waylen, 1994). Others have argued in relation

to the 1990s return to constitutional rule in several African countries that factors such as the completeness of the political transition, the cohesiveness of the women's movement, the alignment between the transitional ideology with feminist politics and the strength of the legacy and legitimizing force of women's activism, are key to whether the transition results in progress on women's representation and gender equitable policies (Viterna and Fallon, 2008).

***b) Factors Accounting for Women's Poor Representation: Behind the numbers***

Ghanaian women have been active in politics since the struggles for independence and have contributed to the social, economic and political life of Ghana since then. They have also participated in policy making towards women's issues and gender equity and within the international arena. In spite of this long history of engagement, women are largely absent from mainstream political decision-making processes (Tsikata, 1997).

The arena of politics and decision making is one area where gender disparities are most visible, persistent and have proved hard to tackle. Women's poor showing in political and public life are at once a reflection of the pervasiveness of gender inequalities and a barrier to tackling this problem. Various reasons have been offered for the low levels of women's participation in public life, politics and decision making which are systemic and structural. Three often cited ones are a) the impact of women's position in other spheres of life as a result of the inequalities in the sexual division of labour, women's disadvantages in the control of resources and gender ideologies which naturalise and reinforce inequalities; b) the problems of the political system and c) the failure of public policy.

***Women's position in the larger society***

At the level of the household where decisions regarding fertility and the production, exchange and consumption of resources are made, at the level of the community, within institutions and in society at large, women consistently have a weaker voice than men. Within the household, the

customary social demarcation of expenditure generally gives the responsibility for visible, formal and predictable expenditures such as rent, electricity and school fees to men. This promotes their status as main providers leaving women with the unpredictable, everyday and invisible responsibilities such as clothes, school uniforms and food. It also leaves women disadvantaged in terms of their ability to control resources and to negotiate matters of vital concern to their well being such as the number of children they might have and how to space them, the frequency and manner of sex, the use of contraception and the status of the marriages they enter into (UNFPA, 2004).

Within the division of labour within households, Ghanaian women continue to shoulder the burden of reproductive activities, commonly known as household chores, within the household. Although more men are increasingly involved in some of these activities, successive Ghana Living Standards Surveys point to the fact that women do the bulk of domestic work in addition to their income earning activities. These multiple tasks result in women's workload being far heavier than men's. Also, lack of time is a serious constraint for all women, but with varying degrees of severity depending on class, urban or rural residence and the quality of facilities such as water. This compromises their ability to accumulate resources from productive activities and participate in public life.

Both women and men are active in community affairs. However, their involvement is gendered, with men dominating community governance institutions such as chieftaincy and the unit committees of the District Assemblies and women participating more in community level activities related to the reproduction of their households. In some rural communities, structures such as the Unit Committees are regarded as male associations. This works through to the national level and translates into male numerical and political dominance of the District Assemblies, the Legislature, Executive and Judiciary.

As a result of longstanding disadvantages and discriminatory practices, women often lack experience and practice with public life and have skill

deficits in formal education, public speaking and the craft of politics. This reinforces the pervasive notion that politics and political positions are not for women, and that they are better suited for support and service functions. Many proverbs about the role of women convey this, whether it is in the view that women should sell garden-eggs rather than gunpowder or that even if they should own a gun, it would be lodged in a man's room or that if they should rear livestock, it would be a man's responsibility to sell it (Amoah, 1997).

### ***The challenges of the political system***

The political system has several interrelated segments. Therefore, problems in one area can have ramifications in others. In the same vein, changes in one area can be experienced downstream. Within national political processes, the culture of power disadvantages women. In a system of multiparty politics such as Ghana, political parties bear some responsibility for the low numbers of women who contest elections.

While Ghana has had political parties since independence, the long years of political instability and coup d'état regimes has meant that political parties have been in continuous existence only since 1992. There have been several mergers and fissures on the party front since then. Even the larger and more stable political parties such as the National Democratic Congress and the New Patriotic Party are quite weak internally and do not function fully in between elections. Women in political parties are largely organized through women's wings which tend to be marginal except in periods of mobilization for elections (Allah-Mensah, 2008). Party electoral processes discriminate directly and indirectly against women candidates in various ways. Apart from their steep financial conditionalities, which few women can meet, patronage structures are dominated by men and favour male candidates. None of the political parties in Ghana have systematic plans to remedy their failure to select women candidates in their primary elections. While they have been prepared to select candidates based on ethnic, regional and religious considerations, gender has seldom been a basis for action, particularly for the large parties, where the jockeying for positions is much more intense. This is because both politicians and their



constituencies strongly believe that regional and ethnic considerations hold the key to political power. Therefore these are taken much more seriously than issues of gender equality and equity (ISSER, 1998; Tsikata, 2009). Party structures continue to be male dominated, with men occupying the majority of seats in National Executives, Standing Committees and as regional chairpersons (Abantu for Development, 2004).

That gender issues are not electoral rallying points is partly a function the weaknesses of the Ghanaian women's movement. Women have not been successfully mobilized to make demands that cannot be ignored or to vote on the basis of the attitudes of political parties towards women. Parties are not penalized in any way for not including women and not implementing their manifesto promises. Thus election and appointments of women to political offices continue to be on the basis of patronage or good conscience, rather than political pressure.

Double standards of morality also disadvantage women who do not conform to stereotypes of ideal female behaviour. The strong socialisation of men and women to see men as natural leaders and women as followers, as well as the low gender consciousness of the electorate disadvantage women candidates for office. The failure of women candidates to win elections then discourages other women from vying for political office, thereby creating a cycle of disadvantage. Increasingly, violence during elections constitutes an additional threat to women's participation as it is a tool largely controlled by male politicians and perpetrated mainly by younger male party activists on opponents in political contests, male and female. Acts of violence create a pervasive environment of insecurity, which builds resistance to women's participation from their family members and well wishers. This problem was demonstrated in the last local government elections in 2006. There were several media reports of intimidation and misinformation against women. The most disturbing was the case of a husband assaulting his wife for collecting nomination forms to contest the September 2006 elections in the Garu Tempene District. This discouraged other women from returning their nomination forms. Out of

16 women who collected forms, only eight returned them. As a result, out of 73 persons contesting in the District, only 8 were women. The then Upper West Regional Minister also expressed concern about various acts of frustrations being meted out to female candidates by their male counterparts to prevent them from winning. He mentioned acts such as defacing campaign posters, putting pressure on them to step down in favour of male candidates or face the wrath of family members (GNA, August 8th 2006).

Both Parliament and the District Assemblies in the last two decades have operated in ways which confirm the view of the post-colonial state and its institutions as patriarchal. Ways have not been found to accommodate women's numerical weakness and lack of influence in state institutions. The strategy of high profile appointments will certainly not fill the void in parliament or the District Assemblies. Thus in Ghana, the electoral system which operates a constituency based first past the post electoral process, the state of political parties and state institutions and the weaknesses of the women's movement have all played a part in the poor state of women's representation and the gender sensitivity of policies.

In relation to local government in particular, this and several other issues arising from the 2006 elections have raised fundamental questions about its democratic promise and the principle of subsidiarity it is intended to embody. Two of these, the issue of partisanship and the role of chiefs are particularly challenging for efforts to improve women's representation. On partisanship, the GNA also reported that the campaign in the Upper West Region had in some cases become heavily partisan. Cate Bob Millar, Regional Director for the Department of Women who raised this concern argued that it did not favour women. The GNA also reported some candidates in Accra complaining that their MP was supporting a particular candidate in a partisan effort. The G-CDD, a civil society organisation called on the Electoral Commission to adopt clear guidelines on what constitutes partisanship in the District Level Elections in order to reduce its incidence. This was in line with the position of women's organizations such as Abantu for Development that the non partisan character of the District Assembly

ought to be maintained and strengthened to promote the participation of disadvantaged social groups such as women. This position of support for the maintenance of the non-partisanship principle in local government has to be understood in the context of the electoral system currently in operation in Ghana. It is arguable that if the electoral system were to change to proportional representation or a mixed system, and political parties supported and implemented affirmative action for women and included them in their party lists, partisanship at the local level would not so damaging for women's chances. However, it would still exclude citizens not involved in partisan politics.

Over the last two decades, chiefs have become increasingly vocal in demanding a stronger voice in local government and organising their subjects to make demands in relation to the naming of districts, the location of District Capitals and the distribution of key offices in the District Assembly and Administration. In 2007, the government set up a committee to review the Local Government Act, Act 462 in 2007. The over ten-member committee had two females- one representing the Institute of Local Government Studies and the other, the Attorney Generals Department. The Chairman of the National House of Chiefs was represented on this Committee which was mostly made up of representatives of institutions with direct functions under decentralization. The announcement of the committee was accompanied by a report that the Minister of Local Government had said that chieftaincy was an integral part of decentralization and that this was not negotiable. This statement, even before the committee had begun its work, as well as their representation on the committee gave chiefs an unfair advantage in a discussion of interest to many other interest groups such as women and migrants. It has been argued in some quarters that chiefs ought to have a stronger voice in local government because of their historical links with the local government system, their control of natural resources and their role in the mobilization of communities for development (Yankson, 2000). Others have advanced equally strong reasons for not increasing the influence of chieftaincy in local government. One of these is that the basis of chieftaincy, blood and ethnicity, is not compatible with republican

democratic citizenship, which is at the basis of local government. As well, the subsidiarity principle at the heart of local government implies the privileging of ordinary citizens, particularly groups which are traditionally excluded from representation in decision-making at higher levels of the political system. Thus while chieftaincy may serve many functions, importing these into the local government structure could distort the principles and operation of the system. In any case, given that chiefs have been at the centre of many of the conflicts within the local government system, strengthening their hand might have the effect of entrenching the kinds of conflicts they have engendered (Tsikata and Seini, 2004). Depending on what new powers are granted to chiefs, the affirmative action provisions for women's participation in local government could be compromised.

Even when women are given political office, the failure to democratize political institutions results in tokenism, which is manifested by putting a few women in office without support or the removal of impediments to their effective participation. Often, the roles and responsibilities they are assigned reinforce the notion that women should focus on survivalist questions rather than exercise power for socio-economic development (Cusack et al, 2005).

The failure of successive governments to make good their international commitments, manifesto promises and policy commitments is an important element of the failure to achieve full and equal participation of women in decision making and power. Although there have been administrative instructions regarding affirmative action in local government and in appointments to boards of public corporations and other areas of public life since 1998, these have still not been properly implemented. Some of these public policy failures are discussed more fully later in this paper in relation to the challenges of implementing affirmative action.

A result of women's poor representation is that their voices are excluded or under-represented when priorities and agendas, policies, strategic plans,

budgets and action plans are being formulated at all levels of government. Given the poor knowledge and appreciation of gender issues in government and the general lack of capacity to ensure gender equity, government policies and processes have failed to reflect the needs and interests of women generally, and poor women and men specifically (Cusack et al, 2005). From the foregoing, it is clear that the poor showing of women in political representation and in public life has many elements which need attention. Affirmative Action would address the problem of numbers and through that begin a process of addressing some of the systemic structural problems identified, some of which need more general policies to tackle. Without tackling these, affirmative action policies would not result in sustainable improvements in the representation of women.

### **3.2. The Legal Justification for Affirmative Action**

The legal basis for in Ghana is to be found in international and regional commitments and national law. The most comprehensive of these is the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which Ghana signed in 1980 and ratified in 1986 without reservations. On the basis of these commitments, Ghana recently sent a combined third, fourth and fifth periodic report to the CEDAW Committee. The report was considered at the 741st and 742nd meetings of the Committee on 9th August 2006. Article 7 of the Convention provides that state parties (i.e. governments) take all appropriate measures to eliminate discrimination against women in the political and public life of their countries in particular, to ensure to women, on equal terms with men, the right to vote, to be elected, and to participate in the formulation and implementation of government policy, to hold public office and perform all public functions at all levels of government and to participate in non-governmental organizations and associations concerned with the public and political life of their countries. Article 8 provides for equal rights of women to represent their countries at the international level (Article 8).

CEDAW also has specific provisions justifying affirmative Action. In Article 4 paragraph 1, the Convention provides that, "adoption by state parties of temporary special measures aimed at accelerating de facto equality

between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved". This provision has been strengthened and clarified in General Recommendations 23 and 25 of the CEDAW Committee. In Recommendation 23, paragraph 15, the CEDAW Committee provides a powerful justification for temporary special measures or affirmative action, when it writes as follows:

"While removal of de jure barriers is necessary, it is not sufficient. Failure to achieve full and equal participation of women can be unintentional and the result of outmoded practices and procedures which inadvertently promote men. Under article 4, the Convention encourages the use of temporary special measures in order to give full effect to articles 7 and 8. Where countries have developed effective temporary strategies in an attempt to achieve equality of participation, a wide range of measures has been implemented, including recruiting, financially assisting and training women candidates, amending electoral procedures, developing campaigns directed at equal participation, setting numerical goals and quotas and targeting women for appointment to public positions such as the judiciary or other professional groups that play an essential part in the everyday life of all societies. The formal removal of barriers and the introduction of temporary special measures to encourage the equal participation of both men and women in the public life of their societies are essential prerequisites to true equality in political life. In order, however, to overcome centuries of male domination of the public sphere, women also require the encouragement and support of all sectors of society to achieve full and effective participation, encouragement which must be led by States parties to the Convention, as well as by political parties and public officials. States parties have an obligation to ensure that temporary special measures are clearly designed to support the principle of equality and therefore comply with constitutional principles which guarantee equality to all citizens" (General Recommendation 23, para 15, 1997).

In 2004, the CEDAW General Committee devoted the whole of Recommendation 25 to elaborate Article 4 paragraph 1 on Temporary Special Measures. In this recommendation, it is noted that the Convention goes beyond the concept of discrimination used in many national and international legal standards and norms in its focus on women and also in its focus on both direct and indirect discrimination. Indirect discrimination is particularly relevant for our discussion. It is defined as follows:

“Indirect discrimination against women may occur when laws, policies and programmes are based on seemingly gender neutral criteria which in their actual effect have a detrimental impact on women. Gender-neutral laws, policies and programmes unintentionally may perpetuate the consequences of past discrimination. They may be inadvertently modelled on male lifestyles and thus fail to take into account aspects of women's life experiences which may differ from those of men. These differences may exist because of stereotypical expectations, attitudes and behaviour directed towards women which are based on the biological differences between women and men. They may also exist because of the generally existing subordination of women by men” (General Recommendation 25, Para 7, 2004).

The recommendation also notes that governments have the duty to ensure that there is no discrimination, direct or indirect against women in laws, and that women are protected from discrimination by public authorities, the judiciary, organisations, enterprises or private individuals- in public as well as in private, by competent tribunals and sanctions and other remedies. Beyond prevention and regulation, governments are also obliged to improve the situation of women through programmes and policies and also to address gender relations and stereotypes which affect women through individual acts as well as in law, and legal and societal structures and institutions (General Recommendation 25, Para 7, 2004).

In the elaboration, the recommendation expresses a preference for the term temporary special measures, while noting that different countries adopt different terminology including affirmative action, positive action,

positive measures and positive discrimination. It also recommends that governments distinguish clearly between temporary special measures to accelerate the achievement of a concrete goal from other general social policies to improve the situation of women. This is important because special measures are only a small part of the range of conditions needed to ensure the civil, political, economic, social and cultural rights of women and girls (General recommendations 25, para 19, 2004). The terms temporary<sup>3</sup>, special<sup>4</sup> and measures<sup>5</sup> are also fully explained in paragraphs 20, 21 and 22 respectively (General Recommendation 25, 2004). The recommendation also gives some general guidelines to states about how to report on temporary special measures and institute and implement them. These include the need to distinguish these measures from other social policies, prior analysis of contexts to which measures are to be applied, justification for which measures are being adopted, constitutional review and reform to include provisions that allow the adoption of temporary special measures and the preparation of action plans for implementation (General Recommendation 25, Section IV, paras 25-39, 2004).

In its comments on Ghana's third, fourth and fifth periodic report to CEDAW, the Committee strengthens the case for Affirmative Action in Ghana by expressing appreciation to Ghana for the adoption of an affirmative action policy setting up a 40% quota for women's representation on all government and public boards, commissions, councils, committees and official bodies, including Cabinet and Council of State (Paragraph 8, CEDAW Concluding Observations: Ghana, 2006). However, the Committee expresses concern about the poor implementation of the policy and the continued underrepresentation of women in decision making in political and public life. It also recommends

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3. Temporary is explained as not meant to last forever, although it may be needed for a long time. The duration of special measures should be determined by its results and not by the passage of time (paragraph 20).

4. Special is defined as measures designed to serve a specific goal. It is noted that its use is not meant to cast women as weak, vulnerable and in need of extra measures (paragraph 21).

5. Measures are defined as covering "a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programmes; allocation and /or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems" (paragraph 22).



the review of the Affirmative Action Policy to bring it in line with Article 4 paragraph 1 of the Convention and the Committee's General Recommendation 25. It also calls on the government to include in the gender equality law it was drafting a provision on temporary special measures which could include incentives and other compliance mechanisms in order to improve women's participation in politics and public life (Paragraphs 20-21, CEDAW Concluding Observations: Ghana, 2006). A related recommendation to the Ghana government is to include in its Constitution or gender equality law a definition of discrimination which covers both direct and indirect discrimination and also adopt legislation for the implementation of each of the provisions of the CEDAW, i.e. to domesticate the CEDAW (Paragraph 14, CEDAW Concluding Observations: Ghana, 2006)<sup>6</sup>. Ghana's sixth report is due in February 2007. To give the country time to implement the recommendations of the Committee, the country has been asked to present a combined sixth and seventh report in February 2011.

In relation to regional obligations, Ghana is a signatory to the African Charter on Human and Peoples Rights which entered into force on 21st October 1986, and which Ghana ratified on 24th January 1989. While all the articles of the Charter refer to the rights of all African citizens, Article 18 (3) specifically provides for states working to ensure the elimination of all forms of discrimination against women as stipulated in international declarations and conventions ([http://www.africa-union.org/official\\_documents/Treaties\\_Conventions\\_Protocols/BanjulCharter.pdf](http://www.africa-union.org/official_documents/Treaties_Conventions_Protocols/BanjulCharter.pdf), downloaded 21/8/09). Even more pertinent in this regard is the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, known as the Women's Protocol. The Women's Protocol is constructed on the back of several important documents and this is acknowledged in its preamble. These include The African Charter on Human and Peoples Rights itself which has provided for protocols or agreements such as the Women's Protocol. The Women's protocol

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6. This recommendation arises from the Committee's concern that the definition of discrimination in Article 17 (2) of the 1992 Constitution did not include indirect discrimination and also that there was not an adequate legislative framework to ensure the application of CEDAW (Paragraph 13, CEDAW Concluding Observations: Ghana, 2006).

provides for women's right to participate in political and decision making processes in Article 9. The article makes provision for the use of affirmative action and enabling legislation and other measures to ensure women's rights. The protocol, which was adopted in Maputo on the 11th July 2003, came into force in November 2008. Ghana signed this protocol on 31st October 2003 and ratified it on 13th June 2007 ([http://www.africa-union.org/root/AU/Documents/Treaties/Text/Protocol on the Rights of Women.pdf](http://www.africa-union.org/root/AU/Documents/Treaties/Text/Protocol%20on%20the%20Rights%20of%20Women.pdf), downloaded 21/8/09).

In spite of the limitation of the 1992 Constitution observed by the CEDAW Committee, the guarantees of equality and freedom from discrimination expressed in Article 17 are an important legal basis for affirmative action. Furthermore, Article 17 (4) justifies affirmative action for addressing imbalances in Ghanaian society, making the point that the guarantees of equality should not be taken to mean that parliament cannot pass laws for the implementation of policies and programmes aimed at redressing social, economic or educational imbalances in the Ghanaian society. On the question of appointments, the 1992 Constitution states in the directive principles of state policy (Article 35 (6)) that the State shall take appropriate measures to achieve reasonable regional and gender balance in the recruitment and appointment to public offices<sup>7</sup>. It is pertinent to note that the 1992 Constitution obliges Ghana to promote respect for international law, treaty obligations and the settlement of international disputes as well as adhere to principles, aims and ideals of international organisations of which Ghana is a member (Article 40)<sup>8</sup>.

In 1995, the Government of Ghana together with 188 other countries, adopted the Beijing Declaration and Platform for Action (PfA), which identified inequality between women and men in the sharing of power and decision making at all levels as one of the twelve critical areas of concern<sup>9</sup>.

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7. Constitution of the Republic of Ghana, 1992  
It has been argued that the provisions of the key international and regional human rights instruments such as the Universal

8. Declaration and the African Charter are entrenched in the Constitution and this implies that they are enforceable under the laws of Ghana (Kludze, 2008).

9. United Nations, (1995), Platform for Action and the Beijing Declaration. In five year intervals since Beijing, the UN has reviewed the implementation of the PfA and recommended further measures to speed up its implementation in 2000 and 2005. There are plans for a Beijing plus 15 review in 2010.

The Platform recognises that the equal participation of women and men in public life and decision making provides a more balanced reflection of the composition of society, while strengthening democracy and ensuring that women's interests and perspectives are incorporated into government policies. The PfA calls for an increase to 50% of women in national legislatures<sup>10</sup>. Three years later, in 1998, the Ghana government introduced affirmative action guidelines. These guidelines, which the CEDAW Committee refers to as an Affirmative Action Policy also provide a legal basis for demanding their implementation. The Affirmative Action promises contained in the manifesto of the ruling National Democratic Congress, while not legally binding, does create a political basis for affirmative action.

### **3.3. The Benefits of Affirmative Action**

Affirmative action has been justified on the ground that improved representation of social groups such as women has a beneficial impact on policies. Thus political participation is seen as a means to an end, i.e. to enable women protect the enlargement of their rights through participation in legislative processes. There is a consensus within the UN System that a target of 30% in all decision making bodies is necessary to ensure a critical mass which can make a difference. The UN ECOSOC has agreed to this target which has also become part of the Beijing Platform for Action (Tinker, 2004).

Tinker has argued that the impacts of the proliferation of quotas for women in elective bodies<sup>11</sup> have not been properly investigated and support for it is based on two potentially conflicting justifications- the concept of equality and the concept of difference. Equality is on the basis that women deserve a role in decision making on grounds of equity while the difference concept is based on the idea that women have particular viewpoints arising from the experiences in society and these have to

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10. Beijing Platform for Action, 1995.

11. According to Tinker, quotas for women in elective office have been instituted at national or local levels in at least 45 countries through legislation, executive orders and party directives. Their effectiveness in reaching their goals has depended on the type of electoral system. All ten countries with over 30% of women in their legislatures are using a system of proportional representation (Tinker, 2004, p. 534).

become part of the decision making process. The concept of equality is justified if women achieve equality in numbers while that of difference is satisfied only if women make a difference to legislative outcomes by their presence (Tinker, 2004). While the effectiveness of affirmative action in achieving gender equitable policies is contested and in some cases measures cannot be assessed because they are too new, it has been argued affirmative action has symbolic value and is necessary to speed up the achievement of equality. However, such measures are temporary and cannot replace other policies and strategies for advancing women's interests. Indeed, quotas are only effective when policies such as electoral reform, political education, the mobilisation of citizens and the removal of obstacles to women's ability to utilise the quotas are removed (Tinker, 2004, p. 541).

More recently, though, a survey by the inter-parliamentary union (IPU) found that over 90% of respondents were of the opinion that women gave priority to issues believed to be women's issues such as violence against women and children and women's property rights and their participation in decision making (Ballington, 2008). A 2008 study of politics in the UK cited by UNIFEM (2008) found that since 1997 when women's representation in parliament doubled to 18.2%, issues of concern to women were being taken up in mainstream policy and political debates more often. Other studies found that women were having a positive impact on accountability in politics by encouraging ordinary women to engage with politics and to vote in elections. The 2001 elections in the UK revealed a higher turnout of women voters compared to male voters for seats being contested by women (UNIFEM, 2008, p. 27). A few studies of local government have also suggested that women have a positive impact on the delivery of services to women and children.

A study in Norway found a direct connection between the percentage of women represented in the City Council and child care programmes. Another study of West Bengal and Rajasthan where one third of all council seats were reserved for women only competition in local government, found that there were systematic differences between complaints made by men and women. Women, more than men, were likely to make requests

and complaints about water resources. As well, while there were no differences in the patterns of demands made of male and female led councils, there were striking differences in responses in that drinking water projects were 60% higher in female led councils than male led councils (UNIFEM, 2008).

Therefore affirmative action is an opportunity to be proactive about women's gender interests. The growing numbers of women candidates suggests that there are women interested in political office that could make valuable contributions through their participation in governance. Affirmative Action provides more female role models and improves awareness of the issues. It is also a guarantee for gender balanced policy making at all levels of government. It can also allow considerable skills to be brought into decision making structures. Because of their experiences in life, women are good managers, experienced at multi-tasking and getting things done.

Some have tried to argue that the increased representation of women also results in cleaner politics. However, this anti-corruption claim of women's representation has been challenged comprehensively both by statistical analysis of perception studies and by political scandals involving female politicians (Batliwala and Dhanraj, 2007; UNIFEM, 2008). In any case, the anti-corruption argument essentialises women and creates controversies which might divert attention and therefore should not be used as a justification for affirmative action in Ghana.

#### **4.0 Affirmative Action in Ghana**

There are two generations of affirmative action in Ghana. First generation affirmative action policies in Ghana are those implemented in the first republic up until the end of the 70s, while second generation affirmative action was implemented from the 80s. The first generation efforts mostly focused on regional differences and rural urban differences, although there were some policies addressing gender inequalities in politics, education and work under the Nkrumah Regime. Second generation Affirmative Action has mostly focused on gender and rural and urban differentials.

**Box 1: Some Affirmative Action Measures in Ghana**

**First Generation**

1. Reservations of seats for women (10 women in parliament)
2. Measures to promote participation of women in certain professions
3. Scholarship schemes (Northern Ghana scholarships; cocoa marketing board scholarships)
4. Fee free education; Free textbooks and uniforms
5. Targeted investments in infrastructure, education and health in some Regions

**Second Generation**

6. Girl Child Education Policies
7. Lower cut - off point for girls in tertiary education
8. Reserved places for students from deprived districts
9. Science clinics for girls
10. School meals in certain districts
11. 50% of appointed district assembly members are women

***First Generation Affirmative Action***

The main purpose of the anti-colonial struggle was the attainment of full citizenship rights. The Nkrumah government made some noteworthy efforts to improve the situation of women. In relation to work, the first republic saw the abolition of pay discrimination against women, the granting of maternity leave with full pay and the opening up of new avenues of employment for women, sometimes in male dominated professions. It was in the Nkrumah period that Ghana had its first female pilot, soldier, police woman, tractor driver and judge. However, many of these professions remain bastions of male dominance. In the first parliament of the first republic, ten (10) women were elected to special women's seats. They were Susanna Alhassan, Ayanori Bukari and Victoria Nyarku, who represented the Northern Region, Sophia Doku and Mary Koranteng from the Eastern Region, Lucy Anin - Brong Ahafo, Regina Asamany - Volta Region, Comfort Asamoah- Ashanti Region, Grace Ayensu - Western Region and Christiana Wilmot- Western Region.

**Box 2: Media Reports on Affirmative Action in 1960**

- Women MPs: Government plans new election procedure (Daily Graphic, May 30th 1960)

The election of women MPs may be conducted in the national assembly instead of by countrywide election as previously planned. A new bill, the Representation of the People (Women Members) Bill- published at the weekend as a supplement to the Ghana Gazette outlines the new election procedure. It provides the assembly should be an electoral college for the purposes of electing women MPs. This cancels the previous procedure under which registered women voters would have elected their MPs through regional electoral college. A memorandum to the Bill signed by Finance Minister Komla Gbedemah, explained that the previous policy of “one woman two votes” would conflict with the principle of one vote as provided by the republican constitution which comes into operation on July 1. The new one provides that all MPs in a Region would now have to vote for the required number of women at a meeting of the Assembly (The House resumes sitting on June 7). Women candidates who wish to contest such elections could be nominated by two or more MPs at any time within ten days after the coming into operation of the Bill.

- Women MPs- Election postponed. It now takes place on Monday (Daily Graphic, June 23, 1960).

The election of ten special women members of Parliament scheduled for tomorrow has been postponed until Monday. Yesterday, Local Government Minister A.E.A. Ofori Atta told MPs that no election could take place until ten days after the coming into operation of the Women Members Act which received assent last Saturday. The minister's announcement was greeted with loud cheers from government back benchers most of who shouted “more time! more time!”. Meanwhile the competing claims of 52 women candidates who are striving for ten seats have created deadlocks at meetings held in Accra by MPs of West, East and Ashanti. Some of the 52 women were expected to face the CPP Parliamentary Selection Committee yesterday. It was expected that they would be tested in their ability in spoken English, current internal and international affairs.

- Ten Women MPs to be Named (Daily Graphic, 18 July 1960)

The National Assembly will on Friday elect the ten women members of Parliament as provided for under the Representation of the People (Women Members) Act. This was announced yesterday by Mr. Kojo Botsio, Leader of the House in a business statement in the National Assembly. This is the second time that Ghana is to have women parliamentarians. The first woman legislator was Miss Mabel Dove who was a member of the Legislative Assembly during the pre-independence era. Friday's election procedure will be based on the provisions of an amendment act passed by the National Assembly last week. The Act turned the National Assembly into an electoral college in which MPs will vote on a regional basis to elect women. The Speaker will be the returning officer for the purposes of the Election. The distribution of the ten special seats for women is as follows: Northern Region-3, Brong Ahafo-1, Ashanti Region-1 Volta Region-1, Eastern Region-2 and Western Region-2. Mr. K.B. Ayensu, Clerk of the National Assembly has said that the nominations will close next Thursday. MPs were meeting last night to discuss possible candidates.

Box 2 presents three reports which appeared in the Daily Graphic in 1960 which give an account of the law on women's representation and its implementation. Rather than have women voters elect the ten representatives, it was decided that members of parliament from their Regions would elect them. The accounts suggest that the ten seats were highly contested, and this disputes the impression that the low representation of women could be on account of their lack of interest in electoral politics. That the candidates were to be vetted for their proficiency in English and current affairs was also significant given that this was not a requirement for the men in parliament.

The ten women duly took their seats in Parliament in 1960. As Manuh has observed, the affirmative action measures did not have the unanimous support of parliament. She reports that:

"The Honourable Mr. Victor Owusu, opposition member of parliament, in his comments on the President's Sessional Address referred to the women



parliamentarians as a sprinkling of lip-sticked and pan-caked faces of doubtful utility to the deliberations of the house. This was met with a swift rebuttal from Sophia Doku, woman member for the Eastern Region, and he had to apologise hurriedly" (Manuh, 1991, p. 115).

In 1965, the number of women elected increased to 19, representing 18.2% of members of parliament. Progress since then has been slow and painful<sup>12</sup>. Women's participation in the second and third republican parliaments did not attain the figure of ten, largely because there were no affirmative action measures. The fourth republican parliament instituted in 1992 was the first time the figures began to go beyond the achievements of the Parliament of the First Republic.

### ***Second Generation Affirmative Action***

Those second generation Affirmative Action measures targeted at women derive their legitimacy from the administrative directive issued by Ghana's cabinet in 1998. Based on the recommendations for Affirmative Action in Ghana submitted by the National Council on Women and Development (NCWD), the then national machinery for women<sup>13</sup>, the administrative directive was "to provide a set of guidelines for systematic and sustained implementation of the various aspects of Affirmative Action towards equality of rights and opportunities for women in Ghana" (p. 1). The directive noted that Ghana was an active member of the General Assembly of the UN which adopted the CEDAW which the government had duly ratified without reservations and the government had also participated fully in the deliberation of the 4th World Conference on Women in Beijing in 1995 and these two facts were the basis of its affirmative action policies. Some of the provisions of the administrative directive are discussed below.

#### ***a) Establishment of an administrative framework***

The first was to establish a clearer administrative framework for handling women's affairs. This involved the designation of an officer within the

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12. An account of the experiences of the women in the parliaments of the 1st Republic has not yet been written. Large elements of the oral history have been lost on account of the fact that very few of these women and other protagonists of this period are still alive.

13. The NCWD is now the Department of Women, one of two departments of the Ministry of Women and Children's Affairs (MOWAC). The other is the Department of Children, which was formerly the National Commission on Children.

executive arm of government for taking charge of women's affairs. This officer was to liaise with a permanent desk at the NCWD to implement the policy. All Ministries, Departments and Agencies were also to have women's desks or focal points and the government was to appoint a committee on affirmative action to monitor the implementation of the policy, collate information on current and potential women public officials and to identify areas where affirmative action was needed.

**b) Representation of Women on Boards**

The second part of the policy was to ensure the representation of women on all advisory bodies such as Government and Public Boards, Commissions, Councils, Committees and Official Bodies including Cabinet and the Council of State. While it was the government's wish to achieve at least 40% of representation on these organs, this target was for the medium and long term. The Committee on Affirmative Action<sup>14</sup> was tasked to evaluate all vacant positions in the public sector and insist as far as practicable on the 40% quota for women.

**c) Resourcing the NCWD.**

The third section of the directive was the mainstreaming of women's issues through resourcing the NCWD to improve its effectiveness.

**d) Representation of Women in Parliament**

The fourth segment of the administrative directive was to task the National Electoral Commission (NEC) to encourage all political parties to present more women as candidates to help achieve a target of at least 40% of representation in Parliament.

**e) District Assemblies**

The policies on District Assemblies which are the fifth segment of the directive are particularly pertinent for this paper. The document noted that 30% of the membership of District Assemblies were government

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14. It is not clear if the committee was ever established and what it achieved before the change of government in 2001. What is known is that the government assigned one of the Ministers based at the Office of the President responsibility for the implementation of the administrative directive.

appointees. Of this figure, 30% had been given to traditional rulers. The policy therefore proposed to allot another 30% to women and the remaining 40% to other interest groups. To ensure a fairer representation for women, the National Commission on Civic Education (NCCE) and the NCWD were to embark on education of both women and the electorate as a whole about the importance of more women becoming candidates and being elected to Parliament, District Assemblies and Unit Committees.

#### **f) *Girls Education***

Section six of the directive tackles girls' education. Specific measures were that the universities would be encouraged to intensify their efforts to introduce gender courses to sensitise students on the need for affirmative action, female halls and hostels were to be increased to ensure the increased intake of female students. The Ministry of Education was to designate more schools in rural areas as science centres to enable more students, especially girls to benefit from science education. The coverage of the Science Clinics for girls was to be increased and the campaign on the need to educate girls and retain them in school to enable them acquire the skills to compete on an equal footing with men in the labour market was also to be intensified. A special fund was to be set up for girls' education to address the needs of girls from poor families.

#### **g) *Public Education***

The last section covered public education on affirmative action to be implemented by NCWD, NCCE and NEC. It also provided a justification of the directives as necessary to accord women their rights and the opportunity to contribute fully to national development and avoid their marginalisation which was undemocratic. It also defended the affirmative action policies as non-discriminatory on grounds that they were temporary and would be discontinued once their goals of achieving equality of opportunity and treatment for women and gender equity. As the directive noted, the programmes and activities outlined would not by themselves achieve gender equality for women without the full support and cooperation of government agencies and non governmental and private organisations (NCWD Proposals to Government of Ghana, undated).

## **5.0 Critical Issues, Challenges and Lessons from Ghana's Affirmative Action Programmes**

### **5.1. Successes of Affirmative Action programmes**

Affirmative action has chalked successes in Ghana and elsewhere. The first success is visibility and the establishment of public concern for the issues and the demands. In Ghana, the infancy of several affirmative action policies in health, education and politics means that it has not been possible to attribute properly to affirmative action some of the improvements in the situation of women in these areas. For example, the ministry of Health has since 2003 instituted a maternal exemptions policy and supervised delivery programme in four deprived regions- the three Northern Regions and the Central Region. These allowed women to have supervised deliveries for free. The regions were selected because they have the highest levels of maternal mortality. This was extended to the whole country in 2004. While it is believed that it has raised substantially the number of women enjoying supervised deliveries, whether it has had a positive impact on maternal mortality figures is yet to be ascertained. Only when the planned maternal health survey is conducted will it be possible to determine if there are improvements. Another affirmative action measure which is yet to be assessed in the health sector is the incentive scheme for doctors working in deprived districts.

Before this, the Ministry had exemptions for antenatal care fees, for children under five and for certain categories of diseases in primary health centres instituted in 1997. These initially had difficulties because of lack of clarity about reimbursements. Education figures are showing clear improvements for girls, but mainly in the southern parts of Ghana. Again, it is not completely clear how much of it is attributable to affirmative action policies. They certainly have made a difference, although the degree of difference needs to be settled. Even more importantly, there is something of a backlash in policy circles. Several policy makers and implementers have argued that the extra attention and resources being devoted to girls is

endangering boys who are suffering neglect. While this view is not reflected in the statistics, it is fast acquiring the status of truth and therefore deserves discussion. The girl child programme raises the dilemma of instituting affirmative action for one social group when there are others also in need of such support. There are also class and regional inequalities in access to education and in the quality of education received by students from primary to the tertiary levels. These inequalities intersect with gender inequalities in the sense that girls from particular regions and neighbourhoods in Ghana are the most disadvantaged. Typically, affirmative action directed at all girls could benefit girls from otherwise privileged backgrounds. It is important to design affirmative action programmes to take account of all forms of disadvantage and not just one. Having said this, the statistics suggest that girls from rural areas, poor urban neighbourhoods and the three Northern Regions deserve special attention.

## **5.2. Resistance and Contestations over Affirmative Action**

Women's advocacy groups in Ghana held a consultation in 1998 in response to negative comments in the public media about affirmative action. They identified fears militating against affirmative action, which from the foregoing discussion are commonly held in many countries. These include:

- The charge of reverse discrimination against men
- Unqualified women in responsible positions
- An off-shoot of post Beijing Conference militancy and a bid by women to change power relations.
- Elitist agenda to benefit middle class women while not catering for the welfare of rural women.
- Quotas are abhorrent. Special measures may be acceptable, but not quotas.
- A tool for cronyism and favouritism by government in power and could be used for political ends.
- Unnecessary because there is no discrimination against women in Ghana. It is women themselves who lack the confidence to take public office and jobs.

- Language of affirmative action is off-putting and militant.
- Fear of unknown- what would a gender equitable society look like?
- Businesses might lose productivity if they employ women
- Not enough women with the necessary qualifications and knowledge to fill the positions created by affirmative action.
- Women are lacking in ambition and or unwilling to commit the time to these posts because they often conflict with their domestic matters.
- When women get posts, they are not able to make a difference.

The meeting also found that there was a general lack of understanding of affirmative action, among government officials at all levels, as well as women and other minority groups (Consultation Report, 1998). The consultation discussed these views and factors in detail, providing responses for the purpose of challenging some of the views, educating the general public and winning over public officials. Key among their responses was the position that affirmative action could not be reverse discrimination as it was seeking to balance an uneven playing field and was legal under the Constitution and Ghana's international obligations. Also, that Ghana had long practised affirmative action, not just in favour of women. The group argued that education and employment statistics suggests that there are many qualified women. If there was difficulty identifying them, a directory or data bank could be produced. In relation to the charge of cronyism, they recommended an independent body to oversee the implementation of affirmative action policies<sup>15</sup>.

What is interesting about these contestations is how they mirror the debates in the US, South Africa and in many other countries. The intractable nature of those debates provides an indication of what to expect when certain affirmative action proposals get debated.

Resistance to affirmative action can come from a range of quarters and it is important to identify all the sources of resistance and their particular motivations. In a study of the trade union COSATU's rejection of a quota system for women in its leadership, the authors identify different players

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<sup>15</sup> The arguments presented in section three of this paper on the case for affirmative action also respond to some of the fears listed above.

and their motivations. These included women leaders who felt that their achievements would be threatened by affirmative action and the male rank and file who felt affirmative action would be unfair to them. The motivations of certain women leaders who had not spoken about the proposals in public were also analysed. These included those who did not want to support their union's obstruction of the proposals and others who wanted men within their unions to be the ones speaking for the proposals in order to show that men were also in support (Orr, Daphne and Horton, 1997).

### **5.3. Challenges of Implementation**

Affirmative action policies to improve women's political representation in Ghana have been limited (only to local government and executive appointments), weakly backed and heavily contested. Many people have never seen the administrative measures which instituted affirmative action at the District Assembly level. In the meantime, even within governments trying to implement affirmative action policies there are serious disagreements. Affirmative action legislation backed by a robust regime of implementation, monitoring and evaluation is needed to surmount some of the challenges identified.

Another challenge is how to establish in the public mind that while affirmative action is necessary, it is not sufficient to achieve gender equity in political representation. It would ensure vigilance on the part of activists and society at large to ensure that affirmative action is not abused or implemented in a tokenistic fashion. Tokenism delegitimises affirmative action by conveying the idea that this is not serious business. Also, activists need to spread the message that systemic change is needed to secure and sustain gender equity in political representation. The political system has to be reformed to improve the access of marginalized groups. It may mean choosing paths which do not reinforce discrimination and exclusion of the less powerful and disadvantaged. In the case of the District Assembly, plans to strengthen the position of chiefs have to be re-examined in this light. In

addition to appointed members, a focus on improving women's involvement in assembly elections is critical for ensuring gender equity. Affirmative action is only one of several strategies for redressing imbalances. Being high profile and time consuming, it can eclipse all other work in this area. At the same time, there are things which cannot be achieved by affirmative action. Also, it does not fully reflect where a country is at in relation to equity where the problems are multi-dimensional. Thus while South Africa might have favourable gender equity statistics in education and politics, it also shows shocking statistics for violence against women.

While the setting of targets and indicators allows progress in affirmative action to be measured, it can invisibilise those indicators not selected for affirmative action. Another limitation is that the success in reaching selected targets, if accompanied by falling standards in the wider environment of national indicators is counter-productive, and this is the fate of many developing countries. Achieving some indicators might breed complacency and lead to the ignoring of critical issues not subject to affirmative action targets. The sole reliance on targets and indicators promotes technicism and the depoliticisation of gender equality in reducing its goals and achievement to fulfilling a series of targets and indicators. Finally, the use of common indicators and targets around the world conveys the idea that countries manifest gender inequalities in similar ways. This ignores the specificities country experiences.

The lack of availability of data and other problems of variability in data collection are obstacles to measuring the achievements of affirmative action. The biggest limitation of affirmative action is in some cases the enormity of the problems it has to address and the interconnectedness of the problems. In the case of Northern education for example, the attempts to expand education were frustrated by the lack of trained teachers in the Region and the fact that the developmental problems of the areas were making it unattractive to teachers from other parts of Ghana. It became a chicken and egg situation in the sense that teachers were needed to expand education and without the expansion of education, teachers could



not be found. Addressing education could not be done without attention to the economic deprivation and poverty of many households and the lack of infrastructure. As affirmative action targeted only education, it was bound to be limited in its successes. In the same vein, gender inequalities are multi-faceted and intertwined. Affirmative action policies are needed to improve women's participation in governance structures. At the same time, their absence from these structures to promote their interests leaves affirmative action policies in the hands of the uncertain benevolence of men. Without education, many women cannot access jobs even if they are on offer and without affirmative action in areas of work, politics and health, affirmative action in education is of only limited impact on the fortunes of women.

Institutional weaknesses are a challenge to the successful implementation of affirmative action. In the case of political parties, the executive branch of government, and the universities, the lack of effective internal processes and mechanisms for implementation, monitoring and evaluation and adjudicating complaints and disputes has been damaging for affirmative action programmes. The failure to keep records of the beneficiaries of affirmative action is a weakness as is the lack of a consensus among members of the various organisations. In the case of political parties, while members are apprised of party positions about education, health and other matters, there is often no clear party position on women's rights in general and affirmative action in particular. This has made it difficult to build consensus among party members.

#### **5.4. Public Policy and Affirmative Action**

Public policy is clearly a key aspect of affirmative action programmes. Many practitioners of affirmative action programmes whether within the state or civil society recognise this and often push for an enabling environment, the force of law, budgetary allocations and monitoring and evaluation from the state. The lack of public policy commitment is likely to undermine affirmative action measures even before they have had the chance to achieve their goals.

Public policy is influenced by outside currents such as the experiences of other countries, the state of affirmative action worldwide, government commitments to UN processes, national policy goals and imperatives, the economic and social policy framework, donor conditionalities and the strength of an internal constituency behind a set of demands. These conditions have different strengths at particular times and therefore the outcomes for affirmative action programmes are not a foregone conclusion. Local demands for affirmative action policies to improve gender equity are stronger and more consistent than demands for affirmative action for people with disability and the rural poor. The strength of local demands is backed by global experiences of affirmative action and UN processes. However, demands for gender equity are often not high on the agenda of donors. This is a problem because of the disproportionate influence of donors on public policy choices.

In the first republic, affirmative action demands were couched more in relation to equity and justice, based as they were on the recognition of past injustices and a concern with national integration. The period's coincidence with a high point in the civil rights movement in the USA also boosted the legitimacy of affirmative action on grounds of justice. Policy makers and implementers who may not have agreed with this analysis had to fall in line. In the second republic, arguments about equity did not get a positive hearing. Instead, arguments about the discriminatory nature of affirmative action programmes became dominant. Currently, with the sway of market reforms, the arguments for affirmative action programmes are being couched in terms of poverty reduction and addressing the vulnerabilities of groups such as girls and women and the disabled. At a meeting of vice-chancellors and university leaders to discuss affirmative action for women in 2005, there was consensus on the need for measures to promote gender balance in women's representation within the student body and faculty. However, several participants in this meeting rejected the argument that gender inequalities were a result of past and current practices of institutional discrimination. These positions, which are widespread have implications for the legitimacy of affirmative action measures. They can open the door for questions which can lead to the abolition of affirmative action programmes. It is important, therefore, to demonstrate the

existence of discriminatory policies and cultures to strengthen the position of beneficiaries of affirmative action programmes.

In this connection, it is worth noting that certain demands for affirmative action have been more successful than others. For example, Affirmative Action for Northern education in the first republic was successfully challenged after the overthrow of the Nkrumah regime and the establishment of a second republic. Those who had been in opposition when the measures were instituted spearheaded their abolition when they became the majority in parliament. Also, affirmative action to promote girl child education has had more success than demands about gender equity in executive appointments and in government. This could be because the latter issue is more clearly about unequal power relations, and therefore, the self interest of the predominantly male, southern, able bodied, resourceful and well-off governments and policy makers and implementers kicks in.

Policy makers sometimes institute affirmative action policies but are unable to get them implemented because of resistance from bureaucracies. When the University of Ghana instituted its aggregate concession for girls, the Science Faculty did not implement the measures for years and did not attract any queries. At the level of government, District level resistance can also obstruct affirmative action policies. Part of the problem is that often, the political will and commitment are not clear and the resources are not clearly devoted to the issue. As well, different arms of government can restrict the remit and scope of affirmative action under pressure from opponents of affirmative action. The judiciary in both the US and South Africa have worked to delegitimize past discrimination as a basis for affirmative action, instead, couching the issue in terms of the public interest in diversity which calls for workplaces, schools and government to reflect the general diversity of the population.

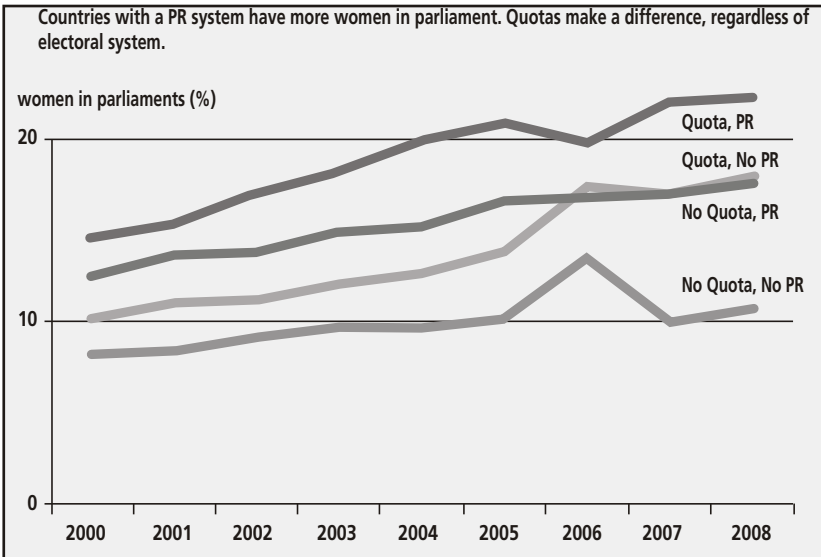
## **6.0 International Best Practices and Lessons Learned**

There are several success stories of affirmative action in political representation around the world. In countries such as Rwanda, South Africa, Mozambique, Sweden, Denmark and the United Kingdom, this has translated into action which has resulted in very favourable percentages of

women in the legislature. The successes of the 22 countries which have achieved 30% representation of women in national legislatures suggest that the nature of the electoral system and existence of a regime of quotas are key to their successes. Regarding electoral systems, there is now incontrovertible evidence that electoral systems are an important factor in the representation of women. Systems using proportional representation allow more women to compete and win because they often have multi-member constituencies and seats are assigned to parties in legislatures in proportion to the percentage of votes they win in elections (Tinker, 2004; Goetz and Hassim, 2003; UNIFEM, 2008). It has been argued that this promotes the participation of a more diverse range of social groups, platforms and interests. Of 176 countries surveyed, those with proportional representation had a global average of 20.7% of their parliamentary seats occupied by women, while those with first past the post or simple majority systems had 13.3% (UNIFEM, 2008, p. 21).

Proportional representation when combined with quotas has been most effective for women's representation as Figure 1 below demonstrates. However, quotas are still useful in the absence of proportional representation. Among the different kinds of quotas, constitutional or electoral law quotas are the most successful means of increasing women's representation in parliament. They are being used in 46 countries. In 2008, the representation of women was 21.9% in countries with such quota and 15.3% in countries without the quotas. Another 49 countries use quotas at the sub national level or political party quotas, some voluntary, some mandatory. Of the 22 countries with 30% representation of women in their national legislatures, only 4 (18%), namely Cuba, Finland, Denmark and New Zealand, did not have quotas in place. Denmark used to have a quota system, but abolished it in the 1990s (UNIFEM, 2008; See Box 2 below).

Fig. 1



Source: UNIFEM, 2008

With or without constitutional and electoral quotas, political parties have a decisive role in determining the level of women's representation in legislatures. Political parties which voluntarily institute quotas for women's representation in their lists of candidates and their leading structures and support women to fulfil these quotas also send a clear message to the electorate. This can be win-win strategy in that it can have a profound effect on women's commitment to the political party. However, supporting women means that political parties need to reform their internal processes which often hamper the participation of women. This includes reversing conservative gender role expectations which consign women to the women's wings of political parties and to the reproductive tasks within the parties.

**Box 3: Quotas for Women**

Country	Quotas for women	% women in lower or single house
Rwanda	<b>YES</b> <b>Type 1:</b> Constitution establishes women should be granted at least 30% of posts in decision making bodies and the Senate. <b>Type 2:</b> 24 seats out of 80 (30%) are reserved for women in the National Assembly. <b>Type 3:</b> 20% district councilor seats are reserved for women. <i>There are legal sanctions for non-compliance</i>	48.8 (34.6)
Sweden	<b>YES</b> <b>Type 4:</b> 50% quota for women in the Swedish Social Democratic Labour Party, the Left Party and the Green Party of Sweden	47.0
Cuba	NO N/A	43.2
Finland	NO N/A	41.5
Argentina	<b>YES</b> <b>Type 1:</b> Constitution establishes quota for women <b>Type 2:</b> 30% of party lists must include women in electable positions. <b>Type 3:</b> The capital city and provincial laws include quotas <b>Type 4:</b> Most parties have a 30% quota for women <i>There are legal sanctions for non-compliance</i>	40.0 (38.9)
Netherlands	<b>YES</b> <b>Type 4:</b> Labour Party has 50% quota for women, Green Left has a quota for women also (% not confirmed).	39.3 (34.7)
Denmark	NO Used to have Type 4. Quotas were abandoned in the mid-1990s.	38.0
Costa Rica	<b>YES</b> <b>Type 2:</b> 40% quota for women in all public elections, national and local <b>Type 3:</b> see Type 2 <b>Type 4:</b> 40% quota for women in the National Liberation Party and the Christian-Social Unity Party; 50% in the Citizen Action Party. <i>There are legal sanctions for non-compliance</i>	36.8
Spain	<b>YES</b> <b>Type 2:</b> Following the principle of balanced presence, party electoral lists are required to have a minimum of 40% and a maximum of 60% of either sex among their candidates in all elections (general, regional, local). <b>Type 3:</b> see Type 2. In addition, several Autonomous Communities have adopted quotas in regional elections. <b>Type 4:</b> Most parties have a 40% quota for either sex. <i>There are legal sanctions for non-compliance.</i>	36.3 (30.0)
Norway	<b>YES</b> <b>Type 4:</b> Most parties have a 40% quota for either sex	36.1
Belgium	<b>YES</b> <b>Type 2:</b> One-third minimum quota for either sex; two consecutive position on party list cannot be held by members of the same sex. <b>Type 4:</b> Various types of quotas, the most frequent are : 1 candidate of each sex in 3 top positions; zipper principle for each sex for local and provincial lists; equal number of each sex for provincial lists for first positions on provincial lists) <i>There are legal sanctions for non-compliance</i>	35.3 (38.0)
Mozambique	<b>YES</b> <b>Type 4:</b> The front for the Liberation of Mozambique has a 30% quota for women	34.8
Nepal	<b>Type 1:</b> Constitution establishes that at least 5% of the total candidates contesting in the Lower House election must be women and 3 out of 60 seats are reserved for women in the Upper House <b>Type 2:</b> See type 1. <b>Type 3:</b> 20% of all village and municipal council seats are reserved for women <i>There are legal sanctions for non-compliance.</i>	33.6
Iceland	<b>YES</b> <b>Type 4:</b> Some parties have a 40% quota for women.	33.3
New Zealand	NO N/A	33.1
South Africa	<b>YES</b> <b>Type 3:</b> The Municipal Structures Act specifies that parties should seek to ensure that 50% of candidates at local level are women, but no penalties are imposed <b>Type 4:</b> The African National Congress has a 30% quota for women and a 50% quota for women on party lists at local level.	33.0 (40.7)
Austria	<b>YES</b> <b>Type 4:</b> The Green Alternative Party has 50% quota for women; the Austrian People's Party has 33.3% quota and the Social Democratic Party of Austria has 40% quota for women.	32.8 (24.6)
Germany	<b>YES</b> <b>Type 4:</b> The left Party and the Greens have 50% quotas for women; the Christian Democratic Union has a 33.3% quota and the Social Democratic Party of Germany has a 40% quota.	31.6 (21.7)
Uganda	<b>YES</b> <b>Type 1:</b> Constitution determines that the parliament shall consist of one woman representative for every district <b>Type 2:</b> In addition to 214 constituency representatives, there are 61 women representatives 56 for each district and the rest as part of quotas for other groups such as defence forces representatives, persons with disabilities, workers and youth <b>Type 3:</b> One third of local government council seats are reserved for women.	30.7
Burundi	<b>YES</b> <b>Type 1:</b> Constitution stipulates a 30% quota for woman in parliament. <b>Type 2:</b> The Electoral Code establishes that lists must take account of gender balance and one in four candidates must be a woman.	30.5 (34.7)
United Republic of Tanzania	<b>YES</b> <b>Type 1:</b> Constitution establishes at least 20% but no more than 30% of special seats for women in parliament. <b>Type 2:</b> 75 out of 319 seats in parliament were special seats for women. <b>Type 3:</b> 25% of seats must be held by women at local level.	30.4
Macedonia (TFYR)	<b>YES</b> <b>Type 2:</b> A minimum of 30% of each sex should be represented on party candidate lists <b>Type 3:</b> 30% of each sex on lists of candidates for the county council and city of Skopje: half of these among the first half of the list. <b>Type 4:</b> The Social Democratic Union of Macedonia has a 30% quota for both sexes. <i>There are legal sanctions for non-compliance.</i>	30.0

Notes: The numbers in parenthesis refer to the percentage of women in the Upper House of legislatures, when applicable. Available data as of 31 May 2008. Refer to Figure 2.5 for description of quota types.

Source: UNIFEM, 2008

Often women have found themselves occupied with practical tasks while men make the rules and decisions. They are also poorly represented in decision making structures in keeping with their membership strength. These conditions perpetuate the generally low participation of women in political parties. The situation in Ghana, as elaborated in the discussion on factors accounting for women's poor representation, shows some of the particularities which complicate this general picture.

Beyond the state, gender equity activists and women's groups have made efforts to tackle the problem of political representation by establishing political parties and or parties with a specific gender equality agenda. There are women's parties in countries such as Iceland, Sweden, India, the Philippines and Afghanistan. Kenya has a League of Women Voters which educates women about election matters. This strategy of women's parties is most successful in electoral systems which have been reformed to allow the representation of interest groups which are under-represented in national politics. In the Philippines, Gabriela, a women's group converted itself into a political party and now has two of the seats in parliament reserved for special interest groups. Through this, it has spearheaded and succeeded in pushing for legislation on Anti Trafficking in Persons and Domestic Violence against women and children (UNIFEM, 2008).

Gender activists have also tackled questions of campaign financing deficits, violence and biased media coverage, which have militated against women's representation in national legislatures. They have advocated for the regulation of campaign financing as women are disadvantaged in situations where the rules of campaign financing are lax. As well, they have campaigned for gender quotas as a condition to be fulfilled by political parties receiving public finances. This strategy has not been very effective in situations where parties can opt out of public financing. Women have also set up mechanisms to mobilise resources for women candidates on both partisan and non partisan bases. A good example is Emily's list in the USA, an independent fund which supports Democratic women candidates who support a gender equality agenda<sup>16</sup>. These examples of affirmative action

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16. EMILY is an acronym for "early money is like yeast".

programmes by non-state actors either complement state actions or fill the void in the absence of affirmative action policies initiated by governments.

### **7.0 Prospects and Possible Entry Points for a Programme of Affirmative Action**

It is noteworthy that the African countries with the most success in affirmative action around women's representation have also been countries which have experienced major civil conflicts and political upheavals. This supports the thesis that where transitions are most complete, the prospects for the achievement of gender equity in political representation are most high. While Ghana has not had that kind of transition and runs a first past the post system and has a vocal lobby against quotas in politics, there are some prospects for tackling the issue of affirmative action in a direct and robust manner.

In discussions in Ghana before and after the 2008 elections, there has been talk about constitutional reforms. It may be that soon there will be proposals about reforming certain parts of the constitution particularly as they relate to the electoral process. An even more likely scenario would be that some proposals for electoral reforms will be tabled by political parties. Women through their coalitions such as the Women's Manifesto Coalition can present an agenda for constitutional and electoral reforms which involve changing the political system to one of proportional representation. South Africa on the one hand and Philippines and Belgium on the other hand provide two kinds of proportional representation which should be debated in Ghana in order that one is advocated. In South Africa, party lists are used. In both Belgium and the Philippines, in addition to party lists, special groups are also represented in parliament. This is how the women's party Gabriela gained two seats in parliament. As a drastic change in the electoral system could be difficult, this agenda needs serious alliance building involving smaller political parties, influential civil society organisations, the Electoral Commission and the National Commission on Civic Education. It is important that the smaller political parties and civil society groups recognise their self interest in the proposed reforms. Another matter on the agenda of constitutional and electoral reforms is the establishment of a quota system. In Ghana, this is probably a demand



to make of political parties because of their centrality in the political dispensation. If this is instituted in constitutional/ electoral reforms as a mandatory provision for political parties, this would be more effective than a voluntary quota. In South Africa, the ANC's voluntary quota has been quite successful but has now been given teeth as ANC policy. Local government is a different business in Ghana because of the absence of parties. Here the administrative directive providing that 50% of government appointed assembly members be women should become part of the local government law in order to strengthen its implementation.

The discussion of political party financing is a useful entry-point for the discussion of political party quotas. Parties which expect to enjoy public financing should adhere to a mandatory quota system. Public financing for parties should be designed in ways which allow the flourishing of parties for women and other disadvantaged groups. A law on financing political parties should set out the conditions for public financing as well as the modalities for the establishment of public, private, partisan and non-partisan independent funds to support women candidates who have a platform which pursues a gender equity agenda.

Women's groups should consider setting up funds as well as the establishment of a League of Women Voters to promote gender conscious among women voters as a strategy for making women's votes count. As well they should utilise entry points such as the MDGs, the AU's solemn declaration on gender equity and anticipated constitutional and electoral reforms and the reform of local government as opportunities to push their agendas.

In addition to the above, there are a number of useful entry-points and pegs for a campaign on Affirmative Action. In 2009, the Institute of Economic Affairs (IEA) convened a meeting of political parties to discuss their manifesto promises and commitments to promote women's political representation. The outcome of this was a document of commitments which activists now have to ensure that they implement. Another useful

entry point is the ongoing review of the Local Government Act, Act 462. One of the weaknesses of the Administrative orders on affirmative action in local government is that they are not covered by the Local Government Act. There should be concerted action to ensure that a reformed Local Government Act includes provisions for Affirmative Action and clear sanctions for failure to implement them.

The Kwame Nkrumah Centenary celebrations provide the occasion to mount educational programmes celebrating forty years of Affirmative Action in Ghana, and drawing attention to the achievements of the Nkrumah period Affirmative Action.

Last but not least, Ghana is due to report to the CEDAW Committee in February 2011. In 2010, the Beijing plus fifteen review, which looks at progress in the implementation of the Platform for Action will take place. These dates provide a time table for progress on the obligations set out in the CEDAW Committee's recommendations to Ghana and can form the basis of the Affirmative Action Campaign. The CEDAW and Beijing plus 15 processes are only two of several opportunities which illustrate the importance of the links and synergies between international, regional and national processes in a campaign for affirmative action. Commonwealth meetings and processes also provide opportunities. At the level of the Africa Region, preparatory processes for Beijing plus 15 are a useful occasion as are processes related to the AU's ECOSOC, NEPAD and the sub-regional bodies such as ECOWAS. What is needed is a mapping which identifies these synergies and utilizes them in the campaign for affirmative action in Ghana. The outlines of such a campaign to put Affirmative Action on the public agenda are presented in Appendix 1.

## **8.0 Summary and Conclusions**

This paper has been concerned with making a case for affirmative action to achieve gender equity in the political representation of women in Ghana. This has been done by reviewing the Ghanaian experience of affirmative action, highlighting successes, limitation and challenges. The paper also discusses successful experiences of affirmative action and their particulars in

order to identify the entry points, elements and prospects of an affirmative action programme tailored for the Ghanaian context. The paper argued that the role of public policy is critical to the success or otherwise of affirmative action. Public policy can mediate the debates on affirmative action and lay down the line a country will follow. This also influences strategic plans and budget allocations and is important in making it clear that this is the goal. Public institutions can also take up some monitoring and evaluation and policy reviews and provide statistics to monitor affirmative action.

The paper concludes that affirmative action, if well designed with measures which can achieve their goals, can deliver some of the indicators of progress for the world's women. However, for it to be successful, it must reverse decades of an ahistorical approach to affirmative action which fails to accord affirmative action its basis in the reversal of discrimination and inequality. Ignoring how centuries of discrimination have created the need for affirmative Action results in unfair criticisms of its beneficiaries. The charity approach to affirmative action is more likely to perpetuate inequalities than address them.

An ambitious but realisable programme of constitutional and electoral law reforms accompanied by proposals for affirmative action is proposed. This is anchored in activities which include an inquiry into the different positions and motivations of those opposing and supporting affirmative action, generating public discussion and educating the public about the value of affirmative action policies and engaging with political parties and other institutions of governance such as the Electoral Commission. Other elements of the programme include consultations to draw up a programme of affirmative action and a campaign to realise its adoption and implementation.

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## **Appendix 1: A Programme of Action for Affirmative Action in Political Representation for Women**

This programme is aimed at putting affirmative action on the public agenda. It has seven main elements:

- Analysing the support and opposition to affirmative action in order to identify different forces and their concerns. Often such opposition includes male politicians and policy makers who feel they might lose their positions to women; women in senior positions in public life who feel their hard-won achievements might be attributed to affirmative action. It is important to differentiate the opposition because it would require different strategies to shift different kinds of opposition. Beyond the vocal opposition are a large range of persons who have not expressed views either way. Their positions and concerns have to be researched and understood to determine how to gain their support. In this process of inquiry, friends and constituencies of affirmative action should be identified and also targeted for engagement.
- Drawing up a Communication Strategy and implementing it. A key element of this would be engaging with the media to generate public dialogue. This involves beginning with friendly media and working up to more mainstream media houses with clear messages articulating the issues and inviting debate and joining such debate.
- Engaging with political parties, the NCCE, the Electoral Commission and CHRAJ. Political parties are particularly critical to this exercise and therefore the programme should identify the benefits for political parties of adapting voluntary codes in the first instance and mandatory codes if they want to benefit from public funds.
- Building a strong constituency for affirmative action centred on women, but also recruiting new constituencies.

- Public consultations and hearing. Once the media takes up and disseminates the debates about affirmative action, a public consultation process is important to gain consensus on the particular proposals for affirmative action in order to build a strong public constituency.
- Drawing up of a programme with clear realisable demands and a strategy for implementation.
- Strengthening the capacities of civil society groups to wage a successful campaign for affirmative action, and monitor the implementation of affirmative action provisions.

A possible time table for possible activities under the programme are as follows:

- 2009- Drawing up Strategic Plan and Programme of Work with roles and responsibilities of all agreed
- 2009-Inquiry into the positions of people against affirmative and clarifying the different components of the opposition and strategising about how to approach them. Also identify friends of affirmative action.
- 2009-2011- Activities to build a constituency for AA
- 2009-2010-Strengthening of the women's manifesto coalition and other women's organisations to improve their understanding of affirmative action and strengthening their mobilisation for affirmative action. This involves:
  - Educational and discussion programmes
  - Capacity building in mobilisation and advocacy
  - Devising a collective strategy for a campaign on affirmative action.
- 2009- Start implementing communication strategy and engaging with media campaign to make the case for affirmative action, generate public dialogue and arrive at a consensus on the necessity, value and nature of affirmative action to promote the political representation of women.

- 2010- Engaging with different players-political parties, Electoral Commission etc.
- 2009-2011- Working to build a strong constituency for affirmative action centred on women. Also identify new constituencies such as young people, media managers, local party constituency leaders.
- 2010- A consultation process to firm the main elements of affirmative action policies and programme to be put before government and non-state actors.
- 2010- The drawing up of a programme of affirmative action and a campaign for affirmative action. Some of its key demands should be:
  - Constitutional amendments which reform the political system to one of proportional representation in which special groups also have representation.
    - ii. A mandatory quota system for political parties to achieve 30% female representation by 2012 and gender parity by 2016.
    - iii. Reform of party selection processes (voluntary)
    - iv. Institutional reform for the monitoring and implementation of Affirmative Action
    - v. Programme to support women aspirants
- Non partisan funds and party funds to support women's candidature  
Also, the recommendations of the CEDAW Committee should be considered for adoption.
- 2010- A consultation process to firm the main elements of affirmative action policies and programme to be put before government and non-state actors.
- 2010- The drawing up of a programme of affirmative action and a campaign for affirmative action.

- 2011-2012- Campaign for the adoption of affirmative action by government and political parties. Monitoring the implementation of proposals if accepted.

