



# feminist dialogue series

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## Political Representation makes Women's Voices heard? Lessons from South Africa

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*Women comprise half the population and so ought to make up half of all structures responsible for taking decisions on behalf of societies. That sounds like a logical principle of justice. When women (or any other social group) are left out, this not only suggests discrimination, but also potentially delegitimises decisions because the particular preferences and circumstances of those excluded have not been considered. Ergo, a greater number of women in decision-making processes should result in better policy outcomes more reflective of women's concerns. But is it as easy as this?*

The plea for political representation of women has exercised increasing influence over the global gender equality and women's empowerment agenda. One of the 13 strategic objectives identified by the 1995 Beijing Platform of Action was the development of measures to ensure women's equal access to, and full participation in, power structures and decision-making. The Millennium Development Goals (MDG) adopted in 2000 elevated an increase in the proportion of seats held by women in national parliaments to one of only three targets of "Goal 3 - promote gender equality and empower women". When the MDGs were replaced in 2015, goal 5 of the Sustainable Development Goals continued this emphasis: "Ensure women's full and

effective participation and equal opportunities for leadership at all levels of decision-making in political, economic, and public life (5.5)."

### Increasing number of women in parliaments

States have been responsive to these calls and between 1995 and 2015 women's average membership of national parliaments nearly doubled, from 11.3%, to 22.1% (Inter-Parliamentary Union, 2015). Progress in sub-Saharan Africa has been even more dramatic, with women's representation growing from 9.8% to 22.3% in the same period. By 2015, 12 countries in the region had elected 30% or more women to their single or lower houses of parliament. At 63.8%, Rwanda led not only



the continent but the world with its proportion of women parliamentarians. The Seychelles followed at 43.8%, Senegal with 42.7% women parliamentarians and South Africa with 41.8% (Inter-Parliamentary Union, 2015). While a number of these gains have come about as a result of post-conflict settlements, others were accomplished through changes to electoral law that mandated gender parity in party lists. Given this global consensus about the importance of increasing women's representation in national parliaments, and the strides made in achieving this, what observations can be made of its workings in practice? Let's look at South Africa for instance.

### **South Africa and the adoption of gender quotas**

Attempts to ensure that women are represented in South Africa's parliamentary structures have taken three forms: women's parties, draft legislation mandating gender parity in political parties, and the voluntary adoption of quotas by the African National Congress (ANC). The last has been the most successful in increasing women's political representation due, in no small part, to the ANC's electoral dominance. Originally set at 30% of all seats for South Africa's first democratic elections (Seidman 1999), the quota resulted in the percentage of women in parliament increasing from a mere 2.8% to 27.7% following the country's first democratic elections. The face of the state was also visibly changed. Where the last white, National Party Cabinet had included just one female minister (of Health) and one deputy minister (of Justice), the post-1994 Cabinet included two female ministers and three deputy ministers.

The presence of this group of women contributed to the establishment of the National Gender Machinery (NGM), an innovative set of state institutions distributed across the executive and legislature, as well as constitutional safe guards such as the Commission for Gender Equality. These were intended to promote women's policy interests, including by providing entry points to women's organisations to the state. A range of important laws were also promulgated during this period which introduced greater equality and rights within the private sphere of the family, recognised women's bodily autonomy and provided for positive measures to support women's employment. Such significant political gains were remarkable even by international comparison.

These gains would appear to support the assumption that women's increased representation will result in an improvement in the conditions for women. However, it is not as easy as this, as the following two examples of gender relevant law reform processes will show.

### **Reforming the domestic violence legislation**

The legislation addressing domestic violence (Domestic Violence Act, 1998) was discussed during a unique time of political transition in South Africa, when many female MPs have been elected to parliament. Having politically grown in the liberation struggle and in activism around women's rights, they kept their ties to the women's sector. After years of being dismissed as a white, middle-class and Western concept, feminism had almost become respectable in the political arena.

Women MPs, who still harboured some sense that women in parliament were accountable to the women who had elected them, attempted to minimise the potential for distance between civil society and themselves by maintaining a number of state-civil society linkages. To ensure that women's rights remained on the political agenda, various approaches were taken to maintain regular communication between MPs and civil society organisations. In 1996 the ANC Parliamentary Women's Caucus initiated the joint Campaign to End Violence Against Women and Children in collaboration with women and children's organisations in the Western Cape. Campaign partners met weekly and undertook a range of activities, some of which included collaborating with organisations to draft a submission to the South African Law Commission on domestic violence; intervening in rape cases involving schoolgirls in the Western Cape and Northern province; drafting questions for MPs to raise during parliamentary meetings; and supporting ANC MPs to take up violence against women in the ANC Parliamentary Caucus, as well as within their constituencies.

In 1998, after being made aware that new legislation was being drafted to address domestic violence, the Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (JMC)





proposed that the Domestic Violence Bill be tabled as a matter of urgency. However, persuading both the ANC and parliament to also prioritise these issues was more difficult. The chair of the JMC described an interaction with the chair of the Justice portfolio committee as follows: “[he] shouted, ‘To hell with this! We’ve got other priorities! Since when are women’s laws the priority!’” (Govender 2007: 158). Members of the ANC women’s caucus subsequently met with the then-Deputy President to put women’s legislative priorities onto the agenda. The JMC succeeded not only in prioritising the legislation, but was also able to head off an attempt to replace the more feminist-influenced draft law with a far more conservative version of the Bill. The result of these and others’ efforts was the promulgation of the Domestic Violence Act in 1998 – a law widely regarded as one of the more progressive examples of such legislation internationally.

### **The disappointing experience of the Sexual Offences Act**

By the second set of elections in 1999 this political context had begun changing. Even if the total number of women in parliament was augmented after elections, a number of the female MPs of the first legislative period chose not to stand for office again. South Africa’s party-list electoral system tended to promote MPs’ loyalties to their political parties, rather than their constituencies. This diminished MPs’ accountability and responsiveness to the electorate and weakened public participation. The power of political parties to remove MPs furthermore discouraged the expression of individual views in favour of party political views. In consequence, parliament experienced significant challenges in linking with the electorate. Also the functioning of the JMC was heavily affected.

It was against this backdrop that the Sexual Offences Bill arrived in parliament in 2003. Little opportunity was created for public participation in the reform process, with just one day’s notice provided of the only public hearings around the Bill. Despite changes to the Bill so significant that it had to be referred back to Cabinet for reconsideration, there



was no willingness on the part of parliament to hold further public hearings around this very altered Bill.

Correspondence with the Justice portfolio committee requesting further oral hearings around the Bill were unsuccessful. Organisations belonging to the National Working Group on Sexual Offences also issued press releases, organised conferences and ran campaigns in an effort to encourage parliament to support greater public engagement around the Bill, as well as speed up its finalisation. In 2006 a national ‘Get on the Bus and Stop Violence Against Women and Children’ Campaign was launched which included petitioning parliament and the Department of Justice and Constitutional Development to consult with civil society around the finalisation and enactment of the Sexual Offences Bill. But Parliament proved impervious to this approach too. Not only was the JMC ineffective in opening up parliamentary space for women’s organisations but it also provided negligible input on the substance of the Bill. Review of parliamentary records suggests that their most significant concern was determining the legal age of consent.

Four years after it made its appearance in parliament the Criminal Law (Sexual Offences and Related Matters) Amendment Act came into effect on 16 December 2007. A disappointment to organisations addressing sexual offences, it contained provisions in conflict with the 2007 Children’s Amendment Act, as well as a register for sex offenders duplicating the child protection register also contained in the Children’s Act; and provided no additional measures to protect rape survivors from the adversarial court process – a key demand of women and children’s organisations.

### **Descriptive vs. substantive representation**

Thus, while there may have been a greater number of women in parliament in the second legislative period, and while the Justice portfolio committee may also have been chaired by a woman during this period, women MPs were both less responsive to the concerns of women’s organisations, as well as less effective as agents of gender equality than those female MPs appointed to parliament immediately after the 1994 elections. A number of factors contributed to this.



To begin with, the ANC has not imposed any specific obligations on women in government to act as political agents on behalf of women. Rather, its promotion of women's participation in parliament has emphasised attaining a formal gender-representative leadership structure and equal numbers of women and men in parliament. This approach reached its apogee in the Women's Empowerment and Gender Equality Bill – later dropped from the parliamentary agenda – which sought to legislate 50% women in political parties, senior management positions in government and the private sector, as well as on Boards. The ANC's emphasis is thus on women's descriptive representation, rather than their substantive representation. Where the first is content to make its focus the number of women parliamentarians alone, the second is focused on the substance of what women parliamentarians do to address women's inequalities.

Of course, it can be persuasively argued that male members of parliament (MP) have as much of a duty to promote gender equality as their female counterparts do. On this basis, women's representation is no more than symbolic and descriptive and the political party made the custodian of gender equality initiatives. There are however, two weaknesses to this approach. One is its potential, in the pursuit of gender parity, to reduce women to mere tokens; and the second is its assumption that all male politicians will always be willing to forgo masculine entitlements and privileges in favour of promoting women's interests. This seems unlikely where parties and party policy have been shaped by histories of masculinist domination; the arrival of a quota of women, in of itself, does not automatically alter this culture, nor introduce the necessary critical thinking about gender. Indeed, it has been argued that the existence of feminist consciousness among female political representatives in formal politics is "a critical precondition for political action" (Gouws 1996:34).

### **Women's parties as a solution?**

Political parties are also driven by multiple competing agendas and there is no guarantee that gender equality will always be of primary consideration in internal policy contests. Similarly, because women (and

men) represent their parties, there is no guarantee that women's particular interests will be promoted either. Further consolidating career politicians' loyalty to the party is South Africa's system of proportional representation. This makes political survival dependent upon pleasing party structures, rather than satisfying constituencies' needs. If gender is to transcend party interests then more substantive notions and practices of gender accountability will need to be developed.

Women's parties represent one form such gender accountability could take because they both represent women as a constituency and have been elected on a policy platform reflective of women's interests. Should they fail to govern effectively on behalf of women, they can then be held to account by their primary constituency. Women's parties have not been successful in South Africa however, with neither the Women's Rights Peace Party, which contested the 1994 elections, nor Women Forward, which took part in the 2009 elections, able to secure more than 0.03% of the vote.

### **Conditions for substantive representation**

Gender quotas are an effective way to change the way things look without necessarily changing the way things are. To accomplish the latter, debates must shift away from being exclusively focused on numerical parity with men alone, to examining the sorts of conditions and accountability mechanisms needed to support the substantive representation of women. These certainly include the internal politics and strength of political parties, along with the type of political system in place and the depth of democracy. The nature and extent of linkages with a wide range of women's structures is also important, as is the creation of spaces and opportunities where women can not only account for their leadership, but also voice their demands. And finally, if the purpose of increasing women's representation is to ensure better policy outcomes for women, then women with a clear and stated commitment to gender equality are a pre-requisite for office. Any woman will not do. ◉



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## About the Author

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## The Feminist Dialogue Series

The Idea of the Feminist Dialogue Series was born during an International Workshop on Political Feminism in Africa organized by the Mozambican Feminist Platform Forum Mulher and the Friedrich-Ebert-Stiftung (FES) in October 2016 in Maputo. The gathering brought together over 50 feminist activists and scholars from all over the continent. Inspired by the stimulating discussions and interventions at the workshop, this series is intended as a platform to share important feminist reflections. In this way the series wants to contribute to the development and spreading of African feminist knowledge to transform political and economic conditions on the continent towards social and gender justice.

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