



# Electoral systems and affirmative action 2



On the 11th October 2020 the women activists of Mali took to the streets to protest against the non-respect of the legislated quota in the government of transition.

*Credit: Abdoul Momini Boukoum (Mali)*

## KEY POINTS

- Of the 54 African countries 23 have the FPTP system; 18, the PR and ten African countries have a combination of the two systems. The remaining three countries are in transition. Forty African countries have constitutional, legislated or voluntary party quotas.
- Six out of the top ten countries in the African ranking of women in parliament, including the top three (Rwanda, South Africa and Namibia) follow the Proportional Representation (PR) electoral system. Two countries in the top ten, Senegal and Tanzania, have a mixed system. The other two countries in the top ten (Ethiopia and Uganda) have the First Past the Post (FPTP) system. All have quotas.
- Women constitute 34% of parliamentarians and 30% of councillors in African countries with the PR system. The lowest representation of women (16% at national and 12% at local level) is in FPTP countries with no quotas.
- Constitutional or legislated quotas in the PR system are the most water tight way of achieving gender parity. However voluntary party quotas can be equally powerful and effective.
- Reserved seats whether in the FPTP or PR system are best avoided. Candidate quotas that oblige parties to field certain proportions of male and or female candidates are more fair and better regarded by political parties.
- In mixed systems with candidate quotas, the tendency has been for these to cover only the PR seats (for example in Lesotho's national assembly). Senegal has charted a new trend setting course, with candidate quotas for both the FPTP and PR seats.

Electoral systems and affirmative action for women's political participation, often referred to as *Temporary Special Measures (TSM)*, have a key bearing on the extent of women's political participation (WPP). Across the globe, women are better represented in countries with the Proportional Representation (PR) than the First Past the Post (FPTP) system, or a mixture of the two systems.

The same is true in Africa, where a variety of electoral systems and TSM show how rapid increases in WPP can be achieved with certain combinations of electoral systems and quotas. Many countries adopted quotas following their transition to democracy in the early 1990s. In addition, 16 countries on the continent have emerged from major civil conflict since the mid-1980s, creating openings for them to rewrite their constitutions and legal systems more in line with normative frameworks emphasising gender equality.<sup>1</sup>

## Electoral systems

There are three main types of electoral system:

- In the **Proportional Representation (PR)** or “list system” citizens vote for parties which are allocated seats in parliament according to the percentage of vote they receive. Individual candidates get in according to where they sit on the list. In an “open” list system, voters determine where candidates appear on the list. In a “closed” list system, the party determines where candidates appear on the list. This is usually based on democratic nomination processes within the party.
- In the **Constituency or “First Past the Post” (FPTP)** system, citizens vote not just for the

The increasing number of countries undertaking Constitutional reviews, including electoral reform, remains the single most promising avenue for increasing WPP in the short to medium term. Several studies show how TSM can enhance WPP but also caution against their limitations. Scholars are in agreement that the effectiveness of quotas largely depends on their design. International Ideas seminal work on *Designing for Equality*<sup>2</sup> rings true and informs the pages that follow.

The chapter sets out the different electoral systems and TSM in Africa. The data is derived from the detailed country tables for parliament (Annex 10) and local government (Annex 11). The evidence shows that while some combinations are more successful than others, a rapid increase in WPP is possible in any system, provided these measures are accompanied by the requisite political will. Furthermore, while legislated and or Constitutional quotas are generally the most secure way of ensuring these changes, voluntary party quotas can be equally powerful. Any measures supported by political parties have the added advantage of enhanced sustainability.

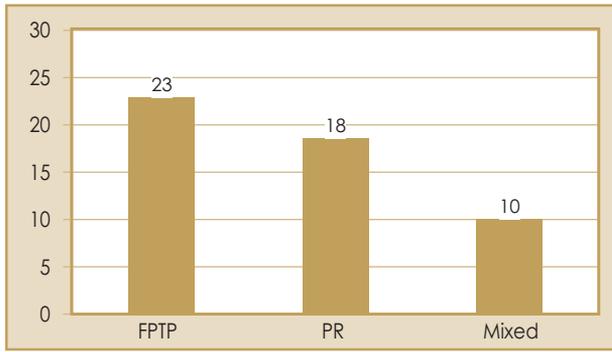
party, but also for the candidate who represents the party in a geographically defined constituency. Thus a party can garner a significant percentage of the votes, but still have no representative in parliament, because in this system “the winner takes all”.

- In an attempt to maximise the benefits of the two systems, the **mixed system** combines both PR and FPTP. Where this happens, there is typically a higher proportion of women in the PR seats than in the FPTP. Quotas are more usually used in conjunction with the PR than with the FPTP system.

<sup>1</sup> Berry, M., Bouka, Y., & Kamuru, M. *Implementing Inclusion: Gender Quotas, Inequality, and Backlash in Kenya*. *Politics & Gender*, 1-25. (2020) <<https://www.cambridge.org/core/journals/politics-and-gender/article/implementing-inclusion-gender-quotas-inequality-and-backlash-in-kenya/BF23DC943E80D5D3F3534DA2EDDB23E7>> accessed 11 march 2021

<sup>2</sup> Larserud, S and Taphorn, R., *Designing for Equality: Best-fit, medium-fit and non-favourable combinations of electoral systems and gender quotas* (International IDEA, 2007)

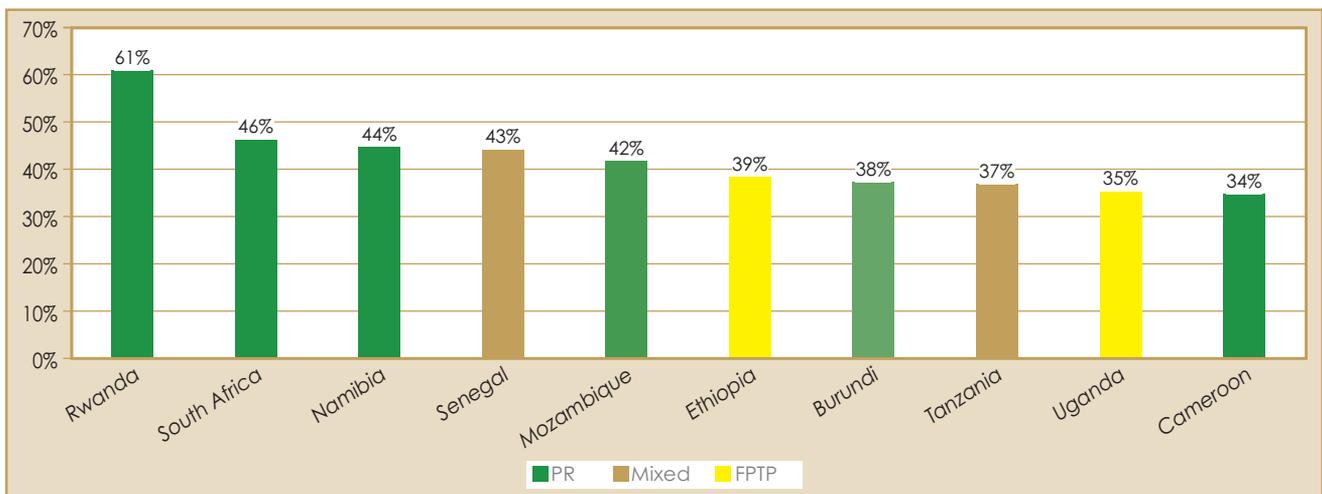
Figure 2.1: Countries and electoral systems in Africa



Source: GL with data from the WPP Africa Barometer.

Figure 2.1 shows that the majority of the 51 African countries for which data could be accessed, 23 (45%) follow the FPTP system. However, an increasing number of countries (18, or one third) now use the PR electoral system. This is emerging as the system of choice especially in post-conflict countries. As each system has pros and cons, another emerging trend is the growing number of countries adopting mixed systems, a combination of FPTP and PR. Ten African countries (20%) have a combination of the two systems.

Figure 2.2: WPP and electoral systems for parliament in top ten African countries

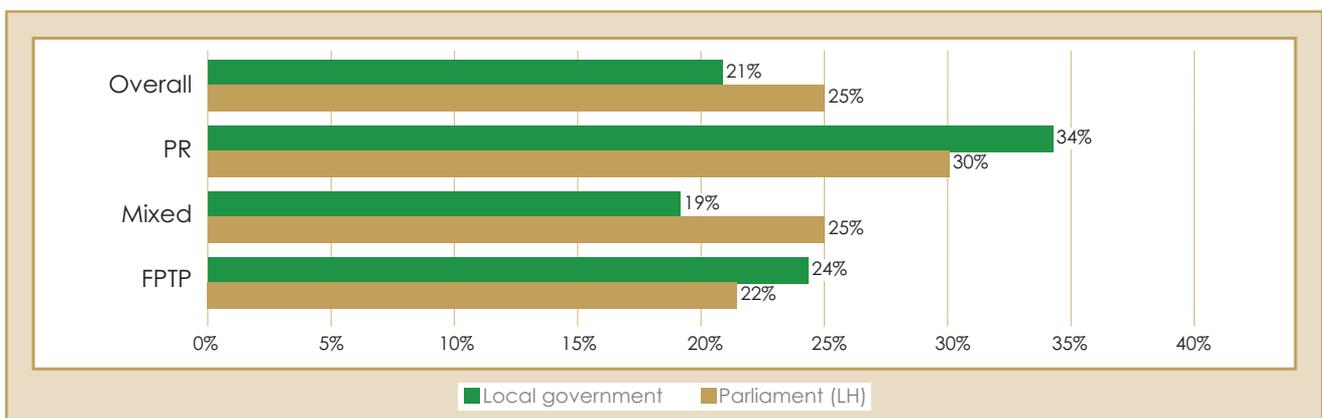


Source: GL with data from the IPU and Quota project websites.

Figure 2.2 illustrates the correlation between electoral systems and WPP by colour coding the electoral systems in the top ten African countries in the IPU ranking of women in the lower houses of parliament in Africa. This shows that six out of

the top ten countries, including the top three (Rwanda, South Africa and Namibia) follow the PR electoral system. Two countries, Senegal and Tanzania, have a mixed system. Two (Ethiopia and Uganda) have the FPTP system.

Figure 2.3: WPP and electoral systems in Africa



Source: GL with data from the WPP Africa Barometer.

Figure 2.3 is derived from country data on parliament and local government found in Annex 10 and 11 respectively. The graph shows that overall women constitute 34% of parliamentarians and 30% of councillors in African countries with the PR system. This drops to 19% for local

government and 25% for parliament in mixed systems. Local government has a higher proportion of women in the FPTP than in the mixed system (24%) while for parliament the proportion of women in the FPTP countries is lower (22%) than in countries with a mixed system.

Table 2.1: Pros and cons of electoral systems

System	Pros	Cons	Gender considerations
FPTP	Good for accountability	"Winner takes all" is not good for inclusion	Women especially excluded - lack funds and networks
PR	Good for inclusion	Weak on accountability - vote for a party, not a candidate	When combined with voluntary or legislated quota results in rapid increase in women's participation
Mixed	Includes the best of both worlds	PR candidates are regarded as token	If the PR candidates happen to be women (e.g. national level in Zimbabwe) this adds to the notion of tokenism

Source: Gender Links 2021.

Table 2.1 summarises the prevailing electoral systems, their pros and cons, and the gendered dimensions of these systems. The most popular FPTP or simple majority electoral model is seen as strong on accountability, but weak on inclusion, including inclusion of women. The system, sometimes referred to as "winner takes all" has a heavy emphasis on individual candidates. Finance, visibility and networks play a key role in success. These systems and practices are often heavily weighted against women.

The PR system, sometimes referred to as the "list" system, is seen as strong on inclusion, but weak on accountability. There is overwhelming evidence internationally to suggest that women stand a

better chance of getting elected under the PR (and especially the closed list PR system) as opposed to the constituency electoral system.<sup>3</sup> The reason for this is that in the latter case, candidates focus on the party and its policies, rather than on a particular individual. This works in favour of women - at least in getting their foot in the door - because of the in-built prejudices against women in politics. The chance of women getting elected is even higher when the PR system works in concert with a quota. Across Africa, the debate on electoral systems and their gender dimensions is gaining ground, as illustrated in these reflections by prominent women politicians in Botswana.

## Women parliamentarians debate electoral systems in Botswana



Margret N. Nasha, first woman Speaker of Botswana National Assembly.

With 11% women in parliament, Botswana ranks 163 in the IPU global rankings of Women in Parliament and 46 out of 54 in Africa (see Annex 7). The country has a FPTP electoral system.

According to Dr Margret Nasha, the first woman Speaker of the National Assembly (2009 - 2014), FPTP is "a very expensive electoral system. That expense is what causes women to be kept out. Democracy is not cheap."

<sup>3</sup> For more information on the comparative global data on TSM for women in politics see <<https://www.idea.int/data-tools/data/gender-quotas/quotas>> accessed 11 March 2021



Tshimologo Dingake, Botswana Congress Party (BCP) - President women's league.

Tshimologo Dingake, president of the opposition Botswana Congress Party (BCP) women's wing added: "The FPTP system not only denies women, but all

interest groups representation within the system that finally makes laws in the country. In countries where there is PR, we even have Green parties and other special interest parties able to participate."

According to former Minister of Health Joy Phumaphi, "we cannot talk about democracy when large chunks of the community are left out. Women comprise 50% of the population but less than 10% of our legislature. We also need to make adequate provision for minority groups such as people living with disability and indigenous groups such as the original inhabitants of this country that is the San people. We must not delude ourselves into believing that we have democracy. We have a

system of governance that we have adopted which is actually oppressing. If your interests are not represented, then you are being oppressed because you are not being given a voice, you are being suffocated. I think we must call for Proportional Representation or a combination of the two systems, FPTP and PR, mix them into one thing and turn it into a brand."



Joy Phumaphi - Former Minister of Health, Co-Chair of the UN Secretary General's Independent Accountability Panel for Women, Children and Adolescent health.



Prof Sheila Dinotshe Tlou - Former Minister of Health, Former UNADIS Regional Director, Co-Chair - Global HIV Prevention Coalition.

"The FPTP electoral system has never worked for any country. Countries that have more women in both parliament and council have the PR electoral systems. In Africa we have Rwanda as an example," noted former Minister of Health, Professor Sheila Tlou.

reserved for women. There is an urgent need to re- write the entire Constitution; not amend it. This will then be followed by the legal framework that will include all electoral changes to enforce and implement the requirements of the Constitution. The Constitution should defend and protect gender equality. Unless there is a review of the Constitution and an amendment of the electoral law such that they are inclusive, women will remain excluded."

"With the upcoming Constitutional review, women in Botswana must take advantage of that to lobby for a quota in the Constitution

*(Interviews by Chigedze Chinyepi; Photos by Mboy Maswabi)*

## Temporary Special Measures (TSM)

TSM are a form of affirmative action or equal opportunity measure targeted at addressing the slow pace of change in the participation of women and minority groups in areas of society where

they are historically underrepresented.<sup>4</sup> In addition to the two types of electoral system (PR and FPTP) there are two main types of quota (voluntary as well as constitutional and/or legislated quotas).

<sup>4</sup> McCann J., *Electoral Quotas for Women: an International overview* [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1314/ElectoralQuotas](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/ElectoralQuotas) accessed 11 March 2021

Table 2.2: Constitutional and legislative provisions for affirmative action for WPP in Africa

	Central	East	Horn	North	South	West	Total	Notes
Constitutional and legislative provisions	1	4	1	1	1		8	
Constitutional provisions only	0	1	0	1	1	0	3	
Legislative provisions only	1	0	1	4	5	9	20	
Neither	2	0	1	0	8	6	17	
Countries in transition		1	2				3	
<b>Total</b>	<b>4</b>	<b>6</b>	<b>5</b>	<b>6</b>	<b>15</b>	<b>15</b>	<b>51</b>	<b>1</b>

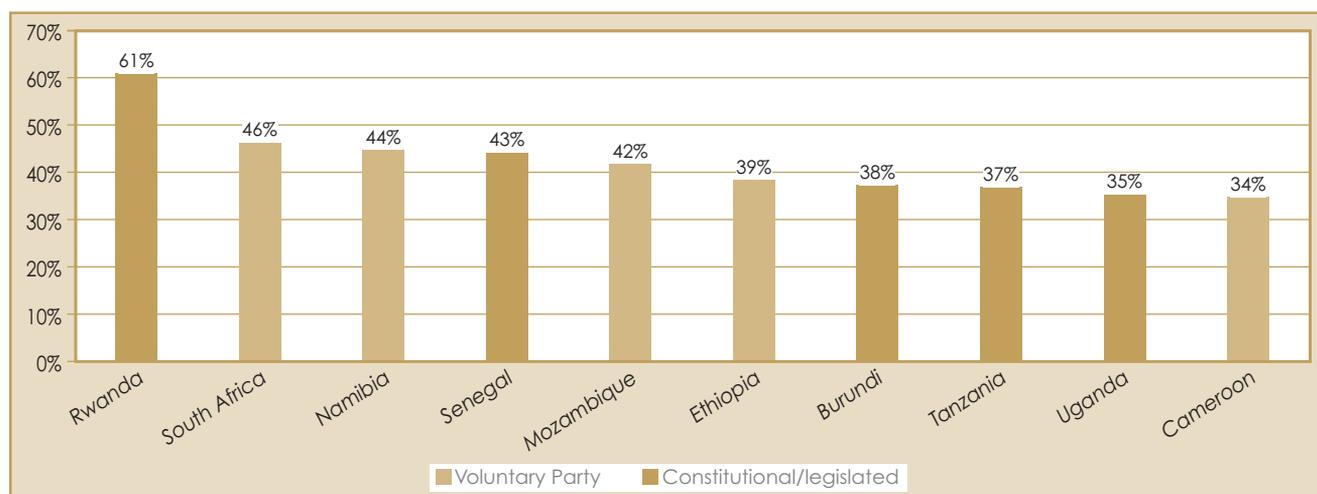
1. Information unavailable for three Central African countries: Gabon, Chad and Central African Republic.

Source: International IDEA Quotas Project website accessed February 2021.

Table 2.2 shows that in the 51 countries for which data could be accessed, 31 (or 60%) have Constitutional, legislated or Constitutional and legislated provisions for affirmative action. These provisions are found in countries in all six regions of Africa. This is a high proportion indeed, given the arguments often levelled against affirmative action (or positive discrimination) as being unfair to men.

It is clear that in Africa the arguments for affirmative action to level the playing field are gaining ground. A growing trend in Africa is for the provisions to be embedded in the Constitution especially in countries undergoing constitutional reviews. Three countries have Constitutional provisions only; eight have constitutional and legislated provisions; 20 have legislated provisions only.

Figure 2.4: WPP and quotas in top ten African countries

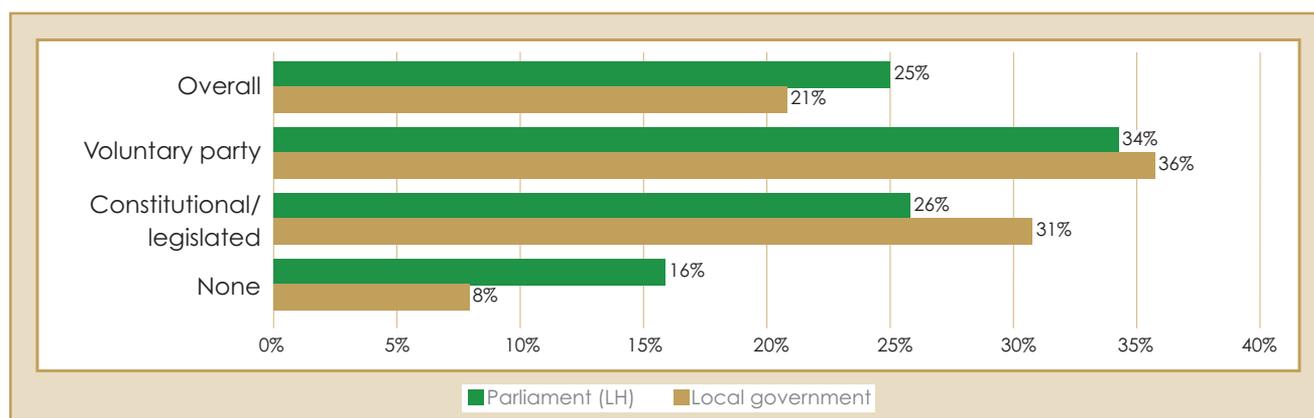


Source: GL with data from the IPU and Quota project websites.

Figure 2.4 shows the top ten countries for women in parliament in Africa colour coded according to quotas. The graph shows that all the top ten countries for women in parliament have quotas.

These are evenly split (five each) between constitutional and legislated quotas versus voluntary party quotas.

Figure 2.5: WPP and quotas in Africa



Source: GL with data from the WPP Africa Barometer.

Figure 2.5 shows that across Africa, women constitute 34% of parliamentarians and 36% of councillors in countries with voluntary party quotas. Women constitute 26% of parliamentarians and 31% of councillors in countries with

legislated or constitutional quotas. In contrast, women constitute a mere 16% of parliamentarians and 8% of councillors in countries with no quotas. This shows the critical role of affirmative action in promoting WPP.

Table 2.3: Possible combinations of TSM and electoral systems

Type of quota	FPTP	PR system	Mixed PR and FPTP
Voluntary party TSM	E.g. Ruling party in Ethiopia.	E.g. Frelimo in Mozambique.	E.g. SA local government - ANC voluntary quota.
Constitutional or legislated TSM-reserved seats	E.g. The Uganda Constitution creates an additional tier of constituencies contested by women only.	In the senate in Zimbabwe, 60 of the 80 senate seats are distributed on a PR basis.	E.g. The Tanzanian constitution reserves 30 % of seats for women (distributed on a PR basis).
Constitutional or legislated TSM-reserved candidature	In the local elections in Mauritius, one third of the candidates have to be a different sex.	E.g. Local government elections in Namibia, one third of the candidates have to be women.	In the national elections in Lesotho, women must comprise at least 50% of the PR candidates (who constitute 40% of the total).

Source: Gender Links 2021.

Table 2.3 shows that it is possible for any type of quota to be combined with any type of electoral system to increase women's political representation. Voluntary party quotas have been applied in the PR system (e.g. Mozambique); FPTP (e.g. in Ethiopia) and the mixed system (e.g. SA local government).

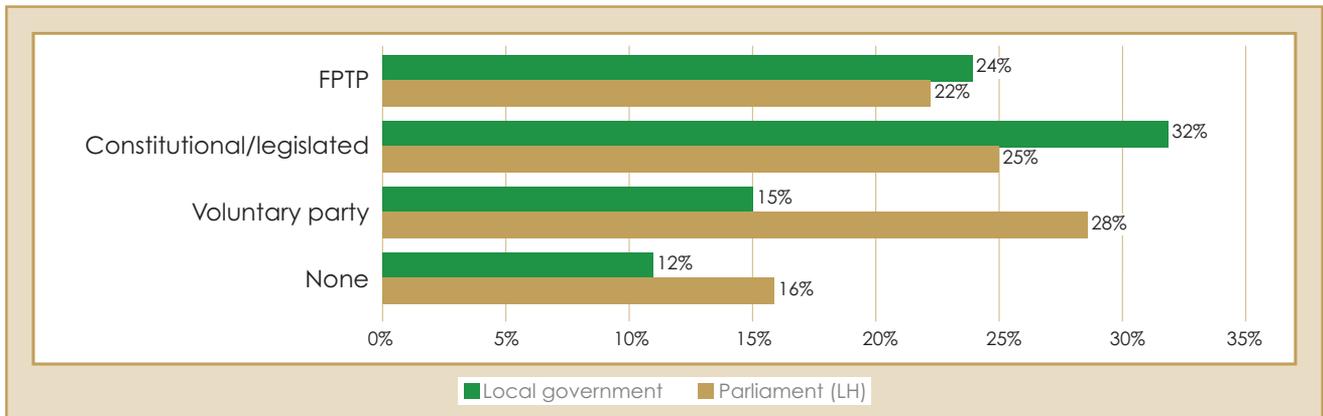
Constitutional and legislated quotas take two main forms: reserved seats (in which a certain proportion of seats are reserved for women) or reserved candidature (in which a party must field a certain proportion of women candidates). Seat reservation can be applied in the FPTP system

(for example in Uganda); in the PR system (for example in the Zimbabwe senate) or in a mixed system (for example the parallel systems in the Zimbabwean and Tanzanian parliaments).

Candidate reservation can also be applied in the FPTP system (for example local elections in Mauritius); the PR system (for example local elections in Namibia) or the mixed system (for example the national assembly in Lesotho). The sections that follow will dissect each of the prevailing electoral systems, and the TSM used with these systems - from none at all to the combinations that have the greatest impact.

# Gender and the First Past the Post Electoral System

Figure 2.6: WPP in Africa - FPTP and quotas



Source: GL with data from the WPP Africa Barometer.

As discussed earlier in this chapter, overall, women are least represented in the FPTP system in parliament (22%) and second least in local government (24%). Figure 2.6 shows that the lowest representation of women overall and in the FPTP system is where there is no quota at all (16% in parliament and 12% in local government).

For parliament, voluntary party quotas are more effective (28%) than constitutional or legislated quotas (25%) when used with this system. The opposite is true for local government. Constitutional or legislated quotas push women's representation to 32% at the local level, compared to 15% with voluntary party quotas.

Table 2.4: TSM in FPTP systems

TSM	EXAMPLE	PROS	CONS
No quota	Malawi	No accusations of tokenism	Progress is gradual
Constitutional Quota	Kenya Eswatini	Fixed, hard to change	Not observed
Reserved seats	Uganda Lesotho local (2005)	Guarantees the quota; women can compete in general	May be seen as discriminatory against men
Reserved candidates	Mauritius (Gender neutral)	Wide acceptance	Only delivers results if there is corresponding advocacy
Voluntary Party	Ethiopia	Accountability, party ownership	Heavily dependent on one party; what happens if that party loses ground?

Source: Gender Links 2021.

Table 2.4 summarises the pros and cons of TSM used in FPTP systems. The sections that follow use examples from different African countries to explain the interplay between TSM (or lack of them) and the FPTP system in promoting women's representation.

## FPTP with no quota - the case of Malawi



**Malawi** made headlines in 2020 as the second sub-Saharan African country (other than Kenya) in which the Supreme Court nullified presidential elections and ordered a rerun. Unlike Kenya, in Malawi this resulted in a new president being elected. While this landmark achievement was hailed globally as a milestone for democracy, it made no difference to women's representation, which stands at 22% in parliament and 15% in local government. The rerun in 2020 had very little effect on women representation because it focused only on presidential elections.

In early 2021, the number of women in parliament dropped by two after a court nullification of a 2019 parliamentary election result and the death of a woman MP due to COVID-19. The final tally for women is thus an increase from 32 in 2014 to 43 out of 193 seats at present the unicameral House of Assembly. Thus in the last elections women's representation has increased from 16% to 22%. This six percentage point increase is tribute to the ongoing advocacy on women's political participation and is typical of FPTP countries with no TSM. Women's representation increases gradually (and sometimes declines) with each election. But dramatic change is not likely in this system.

### The three female faces of the famous Malawi court case



Concours Panel of Judges, Justice Ivy Kamanga second from the left. Justice Kamanga is now a Supreme Court Judge.



Counsel Innocentia Ottober, the only woman in a team of lawyers for petitioners.



Mirriam Gwalidi, the only female witness celebrating the victory at the court

Men dominated the hearing of the May 21 Tripartite Election Presidential Poll results dispute case. However, three women made history in the high profile election case that took 59 days of evidence hearing and two days of oral submissions, 62 days in total. Justice Ivy Kamanga served as the only female judge on the panel of Concours judges. Innocentia Ottober, well known

for her professionalism, served as the only woman lawyer on the petitioners side. Mirriam Gwalidi, a roving monitor for the UTM party made headlines for taking on the Attorney General in his attempt to intimidate her in the witness box. The AG said that Gwalidi would forever be remembered for her courage.<sup>5</sup>

### How quotas work in the FPTP system

Making quotas work in the FPTP system is fraught with many challenges. This is because in the winner-takes-all system no matter what the

stipulated number of women candidates, there is no guarantee that they will win, unless they are fielded in constituencies where they are likely to

<sup>5</sup> Wongani, C, "Female faces" of the Malawi Election case: Kamanga, Gwalidi and Nkhoma, Nyasa Times 7 December 2019 <<https://allafrica.com/stories/201912070042.html>> accessed 11 March 2021

win, which could be misconstrued as interference with the democratic process. Similarly, if constituencies are reserved for women only, this can be deemed as unfair.

These complexities manifest themselves in a variety of ways. In some cases, constitutional and or legislative provisions for women's representation in FPTP countries are simply not implemented. **Lesotho** (local elections) discontinued **seat reservation** in 2011 following a court challenge that the state won, but that political parties agreed to disband in favour of a parallel system (see mixed systems). **Uganda** has a two tier variant of seat reservation with constituencies for women only overlaying traditional constituencies in which women and men compete.

**Reserved candidacy** means requiring that every party field a certain percentage of candidates. There is no certainty that these candidates will win. As demonstrated at the local level in Mauritius, with political purpose and good will on the part of parties, increases in women's participation can be achieved, but can also be reversed. **Voluntary party quotas** in the FPTP system often have little impact, as parties pay lip service to these provisions and then field candidates in seats where they believe they will win in the heat of the elections, as illustrated in the case of Botswana. On the other hand, Ethiopia has achieved a high level of women's representation with the voluntary quota of its dominant ruling party. These examples are explored in greater detail in the sections that follow.

## Constitutional and legislated quotas in FPTP that are not enforced



Despite the Constitutional and legislative provisions for at least 30% women in parliament this figure has dropped from 22% in 2010 to 18% in 2018 in **Eswatini**. Women's representation in local government has also dropped from 18% to 14%. The 2018 *Election of Women Members to the House of Assembly Act* aimed to give muscle to the provisions in the Constitution. The Act prescribes that half of the women appointed by the King must be women; this is nine women in total and only guarantees 12% women in the lower chamber. The law also

provides that if the women in the House of Assembly fail to reach the 30% mark, the House will form itself into an electoral college and appoint no more than four women from the four regional administrative districts (Hhohho, Manzini, Shiselweni and Lubombo).

In the 2018 national elections only two women were voted in to the 59 Tinkhundla (or electoral districts). In line with the law the House of Assembly appointed four women. The king only appointed one woman. This resulted in just seven women obtaining seats.



The senate provisions for women's representation are more watertight. Half of the ten senators elected by the House of Assembly must be women and eight of the twenty appointed senators have to be women (a requirement altogether of 43% women). However, this provision was also not honoured. Altogether women comprise 40% of senators. Overall (house and senate together) women constitute 18% of the total, which is below the 30% quota and well below the 50% target.



Article 27(8) of Kenya's 2010 Constitution states that: “not more than two thirds of members of the elected house can be of the same gender”. The Supreme Court advised the Attorney General that the one-third gender requirement in the National Assembly and Senate should be implemented “progressively” in successive elections.

Advocates of the quota have opposed making the one third provision an aspirational target. In June 2017, Kenya's Supreme Court gave the country's parliament 60 days to pass a law guaranteeing at least one-third of the country's elected representatives are female or face dissolution. High Court Judge John Mativo noted that parliament was in "gross violation" of the Constitution.

The 2017 general election took place without a law to facilitate the implementation of the two-thirds gender rule. As a result, the composition of parliament after the 2017 general election (as before) was noncompliant with the constitution.<sup>6</sup>

Despite six court orders directing it to do so, parliament has yet to enact the law. Article 261 (7) of the 2010 constitution provides for dissolution of parliament, as many times as it takes, until the house fully complies with the requirement. In September 2020 Chief Justice David Maraga advised President Uhuru Kenyatta to dissolve the house. The focus is now on the 2022 elections, with pressure mounting for legislation to implement the two-thirds gender rule.



The Central African Republic also has a constitutional quota in a FPTP system that has not been respected. In the 27 December 2020 polls 245 women (18.5%) competed against 1327 men. Women comprise 9% of MPs. Only one

woman out of 22 registered candidates, i.e. 5% contested the presidential polls. CAR is one of the few African countries to have had a woman Prime Minister - Elisabeth Domitien- from 1975-1976.



On 18 December 2015 Mali<sup>7</sup> adopted a 30% quota for women in elective office. Political parties are called upon to respect this quota when putting forward their candidate lists for the local and national elections, otherwise, their list of candidates might be rejected by the Constitutional Court. In 2016, the proportion of women in local government increased from 9% to 23%; still short of the 30% target. Women comprised 29% of MPs - close to the target.

“The law no 052 has been instrumental in this result. This is encouraging but there is room for improvement”, said Habibatou Nagnouman Traoré, president of the network of women leaders of political parties and civil society. “There is progress but we must do sensitisation and information campaigns so that political parties make space for women. The law in itself is positive and we hope that for the next legislative elections due in 2022, there will be more women elected”, added Marc Amougou, main councilor in the Projet d'Appui au Processus Electoral du Mali.

In August 2020 President Ibrahim Boubacar Keita was forced to resign after a coup. Women comprise four members of the transitional government of 25 members (16%). These are: Bintou Founé Samaké who heads the Ministry of the Promotion of Women and family, Dramé Kadiatou Konaré, heading the Arts and culture and tourism Ministry, Bernadette Keita, Minister of Environment and Sustainable Development and Dr Fanta Siby at the head of the Ministry of Health and Social development. On 11 October 2020 women organized a peaceful protest against the non-recognition of the legislated quota.

<sup>6</sup> Thiankolu, M., 'How Kenya courted a constitutional crisis over parliament's failure to meet gender quotas', The Conversation, 1 October 2020 <<https://theconversation.com/how-kenya-court-a-constitutional-crisis-over-parliaments-failure-to-meet-gender-quotas-147145>> accessed 11 March 2021

<sup>7</sup> Case study by Bokoum Abdoul Momini

## Seat reservation in the FPTP system

When seats are reserved in the FPTP system, only women can contest these seats. This opens such a system to the criticism that it is discriminatory against men. In Lesotho this attempt back-fired. Uganda, on the other hand, has found a way of ensuring that reserved seats work.



**Lesotho** introduced local elections in 2005 at a time of heightened 50/50 activism. Initially, the country adopted a system of reserved seats for women on a trial basis, and on the assumption that this would face less resistance at local than national level.



Public gathering at Siloe Council in 2018.

Photo: Ntolo Lekau

In this system only women could contest in the 30% constituencies reserved for women (to be rotated for three elections). In the 2006 elections, a record 58% women won the elections - 28% elected in the open FPTP race; and 30% through the reserved seats. But political parties and men who had been prevented from standing for local elections cried foul. Men said that the quota discriminated against them.

A chief who had been prevented from standing challenged the case in the High Court. The Court deemed the electoral law to be “justifiable discrimination”. But political parties lobbied the Independent Electoral Commission (IEC) to devise a solution they would all deem to be more fair. The IEC embarked on a study trip to Tanzania that included members of political parties and the Ministry of Local Government and Chieftaincy. Lesotho opted for the “Tanzania model” (later adopted also in Zimbabwe at the national level). In this mixed system, 30% of council seats are allocated for women only to parties in proportion to their percentage of the vote in the elections, i.e. on a PR basis. In 2011, in addition to these PR seats women won 19% of the FPTP seats; a lower percentage than before, possibly because the first system had been so unpopular. The proportion of women councillors in Lesotho decreased by a further nine percentage points to 40% in September 2017. This shows with the current system, Lesotho will stay above the minimum 30% mark in local government, but there is no guarantee of achieving 50%. Public education, awareness and mobilisation are required.



Among FPTP countries in Africa, **Uganda** has the oldest established system of seat reservation for women to ensure that legislated quotas are given effect. Eight elections since the introduction of reserved FPTP seats for women in Uganda, there is a debate as to whether this is the most effective way to increase women's representation.

Table 2.5: Composition of the Uganda parliament

Category	Seats	Women	
Directly elected	353		Open to women and men. Contested on a FPTP basis
Seats for women only	146	146	One seat per district, overlaying the FPTP seats
Army	10	2	Minimum number of women who must be elected in these categories (could be higher)
Youth	5	1	
Elders	5	1	
Unions	5	1	
People with disability	5	1	
<b>Total</b>	<b>529</b>	<b>152</b>	
<b>%</b>	<b>100%</b>	<b>29%</b>	

Source: Gender Links with information from Wikipedia.<sup>8</sup>

As illustrated in Table 2.5, women are free to contest the 353 constituency seats in Uganda. In addition, each one of 146 districts elects one woman candidate in seats open to women only that overlay these constituencies. Special interest groups also have to elect at least one woman candidate (two in the case of the armed forces). The theory behind reserved seats is that women will gain the confidence to contest in the openly contested seats. As 30% seats for women are guaranteed by the Constitution and election laws, the main point of interest in Uganda is the extent to which eight elections since the introduction of the quota (1989 to 2020) women are progressing in the openly contested FPTP seats.

In the 2016<sup>9</sup> elections women constituted a mere 83 or (6%) of the 1306 candidates for the openly contested elections. The National Resistance Movement (NRM) nominated 23 women compared to 267 men (12%); the Forum for Democratic Change (FDC) nominated four women compared with 197 men (2%).<sup>10</sup> This is a far cry from the 40% quotas for women espoused by the two political parties. The ratio of women candidates to women winning (18 out of the 83 women or one in five) is also lower than that for men (1223 men for 292 seats or one in four) showing that women still face a tougher struggle than men in the FPTP seats.

Women's representation in parliament in Uganda has increased from 30% in 2006 to 35% in 2016. Women's representation in Uganda's highly decentralised local government is more promising than national politics. However, the representation of women has decreased slightly from 48% in 2011 to 46% in 2016. This could be due to the violence that characterised the 2016 elections as well as resource constraints to campaign for women at the local level. The excerpt below captures some of the challenges of the reserved quota seats:

“First, the (women quota MPs) object to the perception that they are second-class MPs. A former Ugandan quota MP who successfully switched to an open seat stated, 'Everywhere I would go, constituents would ask me “where is our MP?”' Furthermore, in both countries, reserved-seat MPs are expected to inform constituency MPs in their regions or districts whenever they visit their constituencies. When both the quota MP and the constituency MP are present at official or social functions, the constituency MP speaks first. Second, the wider aerial coverage of quota MPs - coupled with their lack of resources - makes them feel overwhelmed and overstretched.”<sup>11</sup>

<sup>8</sup> Wikipedia, Uganda General elections <[https://en.wikipedia.org/wiki/2021\\_Ugandan\\_general\\_election](https://en.wikipedia.org/wiki/2021_Ugandan_general_election)>

<sup>9</sup> Uganda held elections in January 2020 in which the main opposition party alleged irregularities. Results were still being computed at the time of writing.

<sup>10</sup> EASSI, *EAC Gender and Development Pilot Barometer* (EASSI, 2017)

<sup>11</sup> Wang, Vi. and, Mi, Y., *Switches from quota- to non-quota seats: A comparative study of Tanzania and Uganda* (CMI, 2018)

In their gender audit Ugandan WRO are equally critical of the “politics of the open seat.”

“The open seat-the directly elected political position- has now been named in no uncertain terms-“*ekifo kyabasajja*” (men's seat). Though this reality has been so, since the introduction of the women's reserved seat, it has now acquired a status of a semi-official position because the EC is silent on the issue and has not attempted to come out explicitly to sensitise voters and outlaw ghettoization as electoral discrimination. Women who stand on the open seat are seen as intruders and are often asked to justify the 'intrusion'. Women contestants stated that even their fellow women were questioning why they had to vie for men's seats. ...women are making inroads but at the same time drifting from real power as a collective force: Where are all the women who have made a mark in the past? This is a fundamental question that was posed.”<sup>12</sup>

## FPTP and candidate quotas - Mauritius local elections



The challenge with candidate quotas - requiring every party to field a certain number of women candidates - in FPTP elections is that there is no guarantee that these candidates will win. Local elections in Mauritius have shown that candidate quotas can be successfully applied in the FPTP system, as long as they are accompanied by advocacy and public awareness campaigns. The most recent elections have also shown that these gains can be fragile and need to be constantly protected.

In December 2011, following a spirited civil society campaign, Mauritius amended the Local Government Act to oblige political parties to field a minimum of one third of candidates of either sex for the municipal and village council elections. This also entailed an amendment to Sections 16 and 111 of the Mauritian Constitution to allow for affirmative action. Civil society organisations led by Gender Links swung into action, training women candidates from village to municipal level, with the support of the Ministry of Local Government.

Increasing women's representation at the local level in Mauritius from 9% to 26% in one election in December 2012 marked the first time in the SADC region that a quota has been applied in the FPTP system *without seats being reserved for women*. Village elections took place again in Mauritius in 2020. Municipal elections will take place again in 2021. As things stand, the proportion of women in local government in Mauritius has dropped to 22%. This is a reminder of how fragile these gains are. The results also show that fielding 30% women candidates is no guarantee that they will all win. Other than support by civil society for women candidates, support by political parties is critical.



Voting in the 2012 Mauritius elections.

Photo: Gender Links

<sup>12</sup> Uganda Women's Network, *Mapping Positive Trends and Persistent Deficits in 2016 General Elections* (UWONET, 2016)

## FPTP and voluntary party quotas - the case of Ethiopia



There are many examples in Africa of FPTP countries with ruling and opposition parties that have voluntary quotas for women's representation. However, these seldom result in a substantial increase in women's representation. The tendency in FPTP countries is for parties to field candidates in constituencies in which they think they are most likely to win. In the rough and tumble of "winner takes all" politics women candidates are often not regarded as a safe bet. Ethiopia is unique in that it has achieved a significant increase in women's representation

in parliament in a FPTP system largely driven by the voluntary quota of its dominant ruling party.

There is no requirement in the Electoral Law for political parties to have gender quotas or any other gender provisions. However in 2004, the Ethiopian People's Revolutionary Democratic Front (EPRDF) introduced voluntary party quotas to improve the political participation of women and their representation. The quota system reserves 30% of the candidacy in the party list for women. The EPRDF is the only political party with voluntary quotas for women.

Table 2.6: Women in parliament Ethiopia<sup>13</sup>

No	Election year	Total # seats in parliament	Seats held by women	% women
1	1995	547	11	2
2	2000	547	42	8
3	2005	547	116	21
4	2010	547	152	27
5	2015	547	212	39

Source: Compiled by GL with data from WPP Africa Barometer.

Table 2.6 tracks women's representation in the Ethiopian House of Representatives over the last five elections (the government postponed 2020 elections due to the COVID-19 pandemic). There is a clear correlation between the adoption of a 30% quota by the ruling party in 2004, and the increase in women's representation. Women's representation almost tripled in the 2005 elections from 8% to 21%. This figure has since increased steadily from 27% in 2010 to 39% in 2015.

In the 2015 Ethiopian elections, women comprised 16.6% of the candidates, yet 39% of those who won. Although training and support for women

candidates played a role, the combination of the ruling party's quota and its dominance of the elections played a critical role in delivering nearly 40% women. The EPRDF won 500 out of the 547 seats in parliament (91%) of the total.<sup>14</sup>

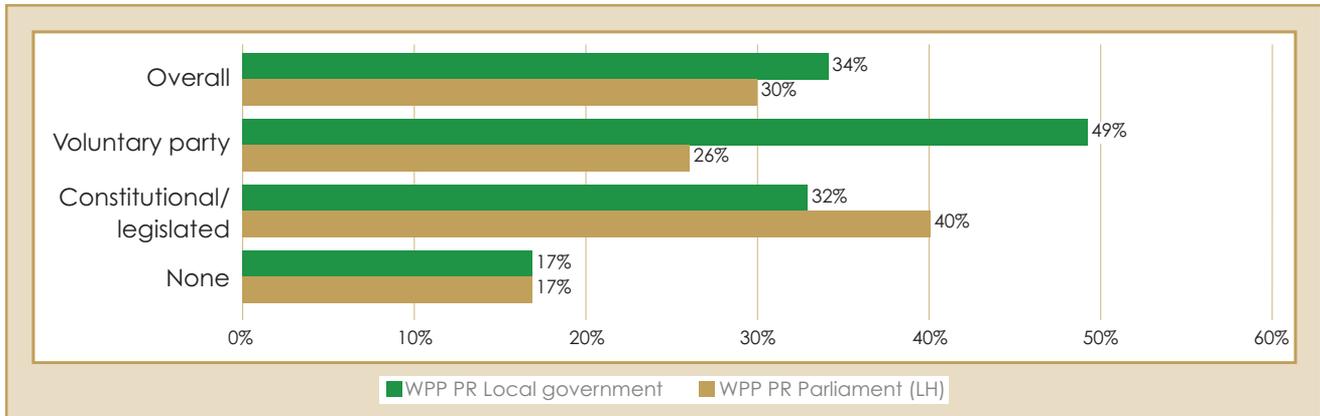
The Ethiopian case study shows that candidacy reservation for women in the FPTP system, accompanied by political parties and other support for women candidates, can be effective in increasing women's representation. This should be strengthened by measures to safeguard these gains.

<sup>13</sup> Inter-Parliamentary Union, Ethiopia Yehizb Tewokayoch Mekir Bete (House of Peoples' Representatives) < <https://www.ipu.org/parliament/ET> accessed 11 March 2021

<sup>14</sup> In November 2019, the EPRDF dissolved, and Prime Minister and EPDRF chairman Abiy Ahmed merged most of the constituent parties of the coalition into a new party called the Prosperity Party. The party was officially founded on 1 December.

# Gender and the Proportional Representation (PR) System

Figure 2.7: WPP in Africa - PR and quotas



Source: GL with data from the WPP Africa Barometer.

As discussed earlier in this chapter, overall, women are best represented in the PR system in parliament (30%) and local government (34%). Figure 2.7 shows that the lowest representation of women overall in the PR system is where there is no quota at all (17% in parliament and in local government). For local government, constitutional and legislated quotas are more effective (49%) than voluntary quotas (25%) when used with this

system. The opposite is true for parliament. Constitutional or legislated quotas push women's representation to 26% at the national level, compared to 40% with voluntary party quotas. The sections that follow use examples from different African countries to explain the nexus between TSM (or lack of them) and the PR system in promoting women's representation.

Table 2.7: TSM in the PR system

TSM	EXAMPLE	PROS	CONS
None	Benin	No allegations of tokenism	The system alone does not guarantee increases in WPP.
Constitutional/ Legislated	Namibia local government	Delivers excellent results	It is important to specify where women are located on the lists.
Voluntary party quotas	Mozambique	Party ownership of the zebra system	Women's representation is at the whim of parties; ideally TSM should be legislated

Source: Gender Links 2021.

Table 2.7 summarises the pros and cons of TSM used in the PR system. Having a PR system with no quotas (e.g. in Benin does not guarantee women's representation, since they may be put far down on the list. A constitutional/ legislated quota obliges parties to intersperse women candidates on the list in a closed list system.

Provided this is reinforced, it is a winning formula. Voluntary party quotas carry no guarantees. Women's representation may decline if the popularity of the party declines. But legislated and voluntary quotas working together in a PR system (e.g. in local elections in Namibia) result in a high proportion of women being elected.

## PR with no quota



Of the 18 countries with the PR electoral system in Africa, only one has no affirmative action provisions for women - the West African state of **Benin**. There are six women out of 83 (8%) in the 2019-2023 National assembly of the eighth legislature. One of these is the first vice-president and the other first parliamentary secretary. There are five women ministers in a cabinet of 24 (20%)

in the government of President Patrice Talon. Following the municipal elections of May 2020, women comprise 70 of the 1815 elected councilors (4%). Women comprise three of the 77 mayors (4%).<sup>15</sup> The low representation of women in Benin shows that it is not the system that delivers women's representation, but rather the *system working in concert with affirmative action measures* that makes the difference.

## How quotas work in a PR system

In the PR system parties are allocated seats based on the percentage of their vote. In an open list system voters choose the people on the list as well as determine through the percentage of the vote whether or not those selected make the cut. In the closed list system, parties put up lists of candidates in rank order. This order is normally established through a voting process within the party. Parties are allocated seats based on the percentage of the vote they garner. The chances of being elected are directly correlated to where the candidate is found on the party list.

Often the top positions in the list are dominated by men. Use of the “zebra” or “Zipper system” to distribute women evenly across the list is a fool

proof way of ensuring that women candidates are included. This can be achieved through parties doing this voluntarily, or through constitutional or legislative means (that need to be enforced in order for them to work). Candidate reservation (i.e. obliging parties to field a certain percentage of women candidates) works well in the PR system, as long as women are interspersed throughout the lists. It is also possible to have seats reserved for women only and distributed to parties according to the proportion of the vote they achieve. This is often used in parallel with the FPTP system to circumvent the pitfalls of reserved seats in that system (see mixed systems). The sections that follow concern the use of TSM alongside the PR system.

## Constitutional and legislated quotas in the PR system that are partially enforced

When a country has a PR system, constitutional and or legislated quotas but fails to achieve a higher representation of women, this is a warning sign that the provisions are not water tight, or are not being enforced, as illustrated in the examples that follow.



**Somalia** is in transition, on the road to achieving one-person, one-vote universal elections in 2021. Article 22 (5) of the National Elections Bill stipulates a 30% quota for women's representation. However, the PR and quota system do not stipulate how the list will be constituted. The 2016/17 transitional election in Somalia provided

<sup>15</sup> Research by Isabelle Otchoumaré for the WPP Barometer

for a 30% quota for women's representation in all levels of government. The proportion of women increased from 14% in 2012 to 24% in 2016/17 - a significant improvement, but short of the 30% mark. The 2021 elections will be the first not based on voting by representatives from clans in Somalia. The election provides an important opportunity to increase women's representation as almost all of the clans' leadership is male.



In 2012 **Algeria** adopted the “organic law fixing the modality to enhance women's chances to access representation in the elected

*assemblies*”, which establishes quotas for women. The law obliges Algerian political parties to ensure that women constitute 30% of their electoral list and that 30% of their parliamentary seats must go to women. Following the Arab Spring, Algeria adopted a new Constitution in 2016. Article 35 states that: “*the State will work for the promotion of the political rights of women by enhancing women's chances of accessing representation in the elected assemblies*”. However, following the 2018 elections, women constituted 26% of the lower house in Algeria, below the 30% target.

## Constitutional and legislated quotas in the PR system that are fully enforced

Where constitutional and or legislated quotas are fully enforced in a PR system, this results in a rapid increase in women's representation, as illustrated in the examples that follow:



**Rwanda** (see case study in Chapter 7) adopted its new Constitution after the 1994 genocide. The Constitution Article 9 (4) provides for a minimum 30% of women in decision-making. The implementation of this provision is directly linked to the increased proportion of women parliamentarians in Rwanda - the first country in the world with a female dominated parliament (61%).



The Arusha Peace and Reconciliation Agreement (the Arusha Accords) signed in August 2000 ended 12 years of civil war and cycles of massacres, including genocide, dating back to **Burundi's** independence in 1960. This

followed protracted negotiations facilitated by former Presidents Julius Nyerere of Tanzania and Nelson Mandela of South Africa.<sup>16</sup> The Arusha Peace and Reconciliation agreement of Arusha in Burundi signed in August 2000 recommends the full integration of women in the process of decision-making and rehabilitation programmes. The Constitution of the Republic of Burundi of the 7 June 2018 stipulates a minimum quota of 30% women in the National Assembly, which is based on a PR system.

Following the 2020 elections, women constitute 37% of the total, up from 36% in 2015. Women constitute one third of the cabinet, up from 29% in 2015. Women's representation in local government increased from 33% in 2015 to 35% in 2020. The ruling National Council for the Defence of Democracy-Forces of Defence of Democracy (CNDD-FDD) has a women's league that gives training to women to empower them to get into politics.

<sup>16</sup> Centre for Humanitarian Dialogue, *The AU and the search for Peace and Reconciliation in Burundi and Comoros*, (CHD, 2011)

Compared to 2015, the 2020 electoral campaign took place in a relatively calm environment. However the main opposition National Liberation Congress (CNL) experienced many challenges. Kathy Kezimana, a woman activist in CNL

campaigning for the opposition candidate Agathon Rwasa, was arrested and imprisoned following charges of inducement to insurrection. She stood as candidate after being cleared by the Constitutional Court and is now a parliamentarian.<sup>17</sup>

## Legislated and voluntary party quotas in a PR system



**Cameroon** has a bicameral parliament with the use of voluntary party quotas and legislated quotas for the upper house. Municipal, senate and legislative elections in Cameroon are now governed by Law No. 2012/001 of 19 April 2002 Election Code. Political parties were expected to demonstrate “evidence of gender considerations” in drawing up their candidate lists. The Code effectively makes gender a prerequisite for selection and nomination processes in Cameroon. Rassemblement démocratique du Peuple Camerounais [RDPC], the Cameroon People's Democratic Movement has had a 25-30% quota for women on electoral lists since 1996. The Social Democratic Front Social Démocrate (SDF) has adopted a 25 percent quota. Empowered by this provision, the election management body, Elections Cameroon (ELECAM), rejected a number of political parties' candidate list submissions on the basis of noncompliance with the “gender considerations” provision outlined in the Electoral Code. As a result, the proportion of women parliamentarians increased from 14% in 2007 to 31% in the 2013 Parliamentary Elections. Women now constitute 34% of the 180-seat National Assembly. But women constitute only 16% of cabinet ministers and 7.5% of councillors<sup>18</sup>.



**Namibia** has a PR system both at national and local level. At national level, Namibia has voluntary party quotas. These are largely driven by

the ruling South West Africa People's Organisation (SWAPO) gender parity principle. Women constitute 46% of the House of Assembly, and 14% of the National Council or upper chamber. Overall, women constitute 36% of MPs. At a local level where there is a 30% legislated quota reinforced by SWAPO's voluntary party quota, women comprise 45% of the total - close to gender parity, showing that the combination of voluntary party and legislated quotas is a winning formula.

The main governing legislation at local level is the Local Authorities Act 1992 which states that:

“The members of a local authority council shall be elected on party lists at a general election and each party list shall contain as candidates for such election: a) In the case of a municipal or town council consisting of 10 or fewer members or a village council the names of at least three female persons; b) In the case of a municipal council or town council consisting of 11 or more members the names of at least five female persons.”

This requirement in the law is strictly enforced by the Electoral Commission of Namibia (ECN). Party lists are not accepted during the nomination period unless they comply with these legal provisions. SWAPO currently has 60% women in top party leadership positions and fielded 51% women candidates for the 2019 national elections. SWAPO's five year development strategy focussed amongst others on measures to tackle corruption and **gender-based violence**, and programmes to empower young people<sup>19</sup>.

<sup>17</sup> Gender Links Burundi Fifty Fifty Country profile 2020 unpublished.

<sup>18</sup> Reporting by Florette Manedong

<sup>19</sup> Southern African Research and Documentation Centre (SARD) Bulletin SANF19 No 52

An analysis of the top five political party lists in the 2019 Namibia elections indicates that they each fielded at least 35% women candidates as follows: SWAPO (51%), Popular Democratic Movement (PDM)- 41%, National Unity Democratic Organisation (NUDO) - 43%, Rally for Democracy and Progress (RDP) - 39%, All People's Party (APP) - 46%. Three of the top five political parties have 20% women in top party leadership positions (PDM, NUDO, APP) while SWAPO has the highest at 60% and RDP at 40%.

The challenge with voluntary party quotas is that these are subject to the whims of parties. At the **local level**, although the PR system is generally not popular, as constituents prefer to elect individuals whom they can hold to account, this system seems to have worked for Namibia. The combination of a legislated minimum quota of 30% and SWAPO's voluntary 50% quota at this level has resulted in a high proportion of women at the local level.

Eunice Ipinge, a former SWAPO parliamentarian and Chair of the Pan African Women's Organisation (PAWO) introduced a motion in the Namibia parliament in June 2019 for voluntary quotas for be legislated at national and local level.



Eunice Ipinge.

Photo: Colleen Lowe Morna

Citing the Article 9 of the Maputo Protocol she proposed that the Electoral Act, 2014 and the Local Authorities Act, 1992 be amended to include a provision *that all political parties* should implement the 50:50 gender policy.

The leader of the official opposition Popular Democratic Movement, McHenry Venaani, responded: “I support the thinking, but not the way SWAPO is imposing how other political parties should run their internal affairs.” Leader of the Rally for Democracy and Progress, Mike Kavekatora, added: “We must first understand the context of the Maputo Protocol before jumping to conclusions.”<sup>20</sup>

## Voluntary party quotas in a PR System



Woman voting.

Photo: Gender Links

Mozambique is one of the top three performers in SADC in terms of women's representation in parliament. The country has a PR system and a voluntary party quota championed by the ruling party, with opposition parties now also joining in. Women's representation in Mozambique has increased by eight percentage points from 34% to 42% over the last decade, 2009-2020. At the local level representation of women has decreased by two percentage points, from 36% to 34%. The ruling Frente de Libertação de Moçambique (FRELIMO) has a voluntary 40% quota for women

<sup>20</sup> The Namibian, Maputo Protocol discussed in NA, 6 July 2019 <<https://www.namibian.com.na/189276/archive-read/Maputo-Protocol-discussed-in-NA>> accessed 11 March 2011

in decision-making. The two main opposition parties Resistência Nacional Moçambicana (RENAMO) and O Movimento Democrático de Moçambique (MDM) have a 30% quota for women.

At its 11th Party Congress in September 2018 President Filipe Nyusi committed his Government to strategies and priorities towards efforts for gender parity including:

- Ensuring that political female knowledge and skills are cascaded down to rural and communities to enable female representation at grassroots level which are the pillars of a great and successful nation.
- Increasing women leadership in local government (presently only six out of 53 councils are led by women). The Ministry of Local Government was tasked with investing in capacity building and searching for potential female candidates for the 2018 Local Government elections.
- Working with other political parties to ensure women representation in political decision making in increased.

Table 2.8: Representation of women in the Mozambique parliament by party

Party	Total seats	Total women	% women
FRELIMO Bench	184	42.9%	79
RENAMO Bench	60	25%	15
(MDM)	6	0%	0
<b>Total</b>	<b>250</b>	<b>38%</b>	<b>94</b>

Source: GL Mozambique 50/50 Policy Brief 2020.

Table 2.8 disaggregates women's current representation in the assembly by political party. This shows that with 43% women in the national assembly FRELIMO has exceeded its 40% target. At 25% and 0% respectively, RENAMO and the MDM did not honour their own commitments to women's representation. The results support the need for a legislated quota for all parties.

Given the similarities in electoral systems, Mozambique could learn from Namibia's experience, where the legislated quota at the local government level has resulted in 45% women at this level, exceeding the 30% quota and coming close to parity. FRELIMO could follow the example of the SWAPO motion in parliament for a 50% legislated “zebra” (one women, one man) quota in the national assembly.

## Constitutional review could change South Africa's PR system<sup>21</sup>

Like Mozambique, South Africa's national elections are held on a simple PR basis. Local elections are based on a mixed PR and FPTP system. The ruling African National Congress (ANC) adopted a voluntary quota in 2002, raising this to 50% in 2007. The voluntary quota of the ruling party has created a “snowball” or “contagion” effect. With 46% women in the national assembly South Africa ranks second in Africa and 12th in the IPU global ranking of women in parliament.

The advantage of voluntary TSM is that these are owned and driven by political parties. The downside is that if the dominant party leading on the voluntary quota loses support the proportion of women also drops. This has led to calls for a legislated quota in South Africa since the current success is predicated on the performance of the ANC as a mass/dominant party. In the run up to the first democratic elections in 1994, ANC women argued for a quota but also argued against reserved seats for women and rejected the Uganda model of reserved seats for women.

<sup>21</sup> Information from the Gender Links 2020 #VoiceandChoice Barometer, Gender and Governance chapter.

Gender activists face a new curve ball following a 2020 Constitutional Court ruling requiring that the electoral system be reviewed over the next two years. This is likely to lead to a change in the PR electoral system that has been key to the meteoric increase in women's representation in the South African parliament from less than three percent before the advent of democracy in 1994 to close to gender parity at present.

The ruling follows a case brought before the court by the New Nation Movement arguing that the Electoral Act limits the constitutional right to “stand for public office and, if elected, to hold office”. Princess Chantal Revell who is of Khoi and San royal descent, was the second applicant in the case, because she wants to stand for election so that she can prioritise First Nation People's issues, which she argues have been sidelined by political parties.



Princess Chantal Revell.

Photo: Biz News

To align with the Constitution the new electoral system will need to respect the rights of individuals to stand for public office, while also ensuring that at least part of the electoral system be proportional or represent the national will of the people, which points to the likelihood that a

mixed electoral system will be proposed. The system should ensure that independents and women, especially young women, candidates have a fair chance of being elected. There is a chance of a Constitutional amendment, which would allow for a plurality/majority system.

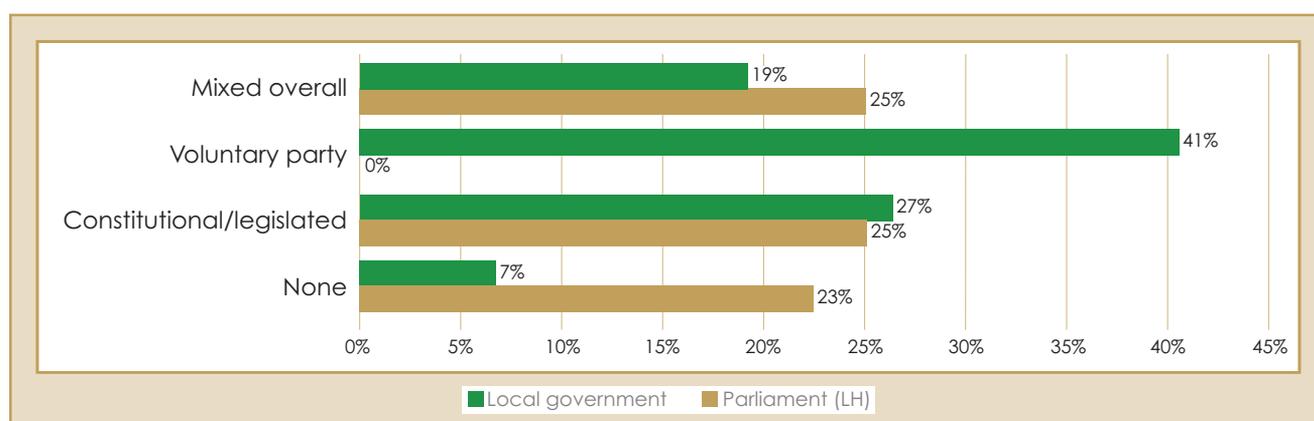
An Electoral Task Team (ETT) appointed in 2002 recommended changing the system to a mixed one. But parliament chose to adopt the minority proposal to retain the PR system because it met all four principles that the constitution envisaged for an electoral system: fairness, inclusiveness, simplicity and accountability.

In light of the key role that the PR system has played in facilitating WPP, an *Action Coalition of Women's Rights Organisations on the Electoral Laws Amendment Bill* are calling on legislators to ensure that whatever replaces the current Electoral Law does not unfairly discriminate against women and addresses the weaknesses of the current system without creating future impediments to women's full and equal participation in elections. The Action Coalition has agreed to canvas women in politics, academia, government, local government, civil society and special focus groups like the LGBTIQ plus community, and Women with Disabilities, to come forward with suggestions on strengthening the proposed Electoral Laws Amendment Bill to ensure women's equal access and representation.

The best outcome would be a mixed system with a legislated 50% candidate quota for both PR and FPTP seats. Other barriers that women face for example access to finance and networks should be addressed at the same time. For example, the costs of registering for elections should also not be prohibitive to minority groups and women participating effectively.

## Gender and mixed electoral systems

Figure 2.8: WPP in Africa - Mixed systems and quotas



Source: GL with data from the WPP Africa Barometer.

As discussed earlier in this chapter, overall, women are second best represented in the mixed system in parliament (25%) and third best in local government (19%). Figure 2.8 shows that the lowest representation of women overall in the mixed system is where there is no quota at all (7% in local government and 23% in parliament).

For local government, voluntary party quotas (41%) work better than constitutional or legislated quotas (27%) when used with this system. Constitutional or legislated quotas push women's representation to 25% at the national level, compared to 23% where there are no quotas.

Table 2.9: TSM in mixed systems

TSM	EXAMPLE	PROS	CONS
No quota	Seychelles	Avoids the criticism of tokenism.	Results in constant fluctuation in WPP.
Reserved seats for women (PR only)	Zimbabwe national, Tanzania, Lesotho local	Guarantees the quota; does not infringe the rights of male candidates.	Women who come in on PR may be seen as "token".
Reserved candidates for women (PR only)	Lesotho national	Ensures maximum advantage for women in PR seats.	Does not deliver good overall results, if FPTP is 50% or more .
Voluntary	South Africa local	Party ownership and buy-in.	Women do better in PR than FPTP seats although this is improving.

Source: Gender Links 2021.

Table 2.9 summarises the pros and cons of TSM (or lack of them) used together with the mixed system. The sections that follow analyse examples

from different African countries to explain the interplay between TSM (or lack of them) and the PR system in promoting women's representation.

## No quotas in a mixed system



The National Assembly/Assemblée Nationale of **Seychelles** has 34 members elected for five year terms, 25 members elected in single-seat constituencies and nine members elected by proportional representation. Until its 2016 parliamentary elections, the island had the distinction of being one of the strongest performers with regard to women's representation, despite having a predominantly FPTP system and no quota, with women constituting 48% of the National Assembly.

Seychelles achieved this because of its unique national characteristics including a high literacy rate for older women in comparison with their male counterparts and high percentage of women headed households<sup>22</sup>. However, the level of women's representation in the National Assembly dropped from 48% to 21% in the 2016 elections. Presently women's representation stands at 23%. This fluctuation reflects the weakness of having no system at all to guarantee women's equal representation.

## Reserved seats for women in a mixed (parallel) system - PR only

Several FPTP countries have turned to reserving seats for women on a PR basis as a way of circumventing the challenges of reserved seats in FPTP systems. In doing so they create a mixed or parallel system. Examples include Lesotho (local), Tanzania and Zimbabwe (national). This has the advantage of guaranteeing the 30%.

However, as with any kind of “reserved” seats, this system creates two tiers of women MPS; the few who win constituency seats, and those who are put forward by their parties on PR seats. The latter are invariably viewed as inferior.



**Tanzania** belongs to both the East African Community (EAC) and SADC. The country was the first in both East and Southern Africa to adopt a 20% Constitutional quota to increase women's political participation in 1998.<sup>23</sup> The current Union Constitution provides that not less than 30% of the members of the National Assembly (Tanzania) and the House of Representatives (Zanzibar) shall be women. Efforts to get this raised to 50% have stalled with a Constitutional Review that has been put indefinitely on hold. Women and men are free to contest all constituency seats. An additional 30% of the seats are distributed among women only on the PR basis (i.e. on the basis of the proportions of votes per party).

Tanzania is number 34 in the IPU Women in National Parliaments World Classification.<sup>24</sup> At the local level, women candidates won in 204 out of 3,946 wards (5.2%) in 2015. The NEC appointed 1,404 women councillors according to the Local Authorities (Election) Act<sup>25</sup>, which provides that there shall be at least one third Women Special Seats of Elected Councillors in respective Councils. Women's representation at the local level has remained at 34% over the last three elections. Both at the national and local level, Tanzania is struggling to break past the one third mark.

<sup>22</sup> Lowe Morna, C., Makaya, M. and Rama K., *An Illustrative Trends Analysis on Women's Political Development in the Commonwealth 204-2013* (Commonwealth Secretariat, 2013).

<sup>23</sup> Ogunsanya, K., *A Women's Agenda in Parliament? If Not Why Not? If So What Should it Be?* Paper presented at the ESAR Parliamentary Conference, Colombo Sri Lanka (2012)

<sup>24</sup> Inter Parliamentary Union, Women in Politics rankings 2019, <<http://archive.ipu.org/wmn-e/world.htm>> accessed 11 March 2011

<sup>25</sup> Republic of Tanzania, Local Government (District Authorities) Act, Cap. 287 Section 35 (1)(d), Local Government (Urban Authorities) Act, Cap. 288 Section 24 (1)(c), and Local Authorities (Election) Act, Cap. 292, Section 86A

Table 2.10: Breakdown of women's seats in the 2015 Tanzania elections

	Women	Total	%
Number of women MPs who won the election in constituencies	25	264	10%
Number of women special seats	113	113	40%
Number of women MP's appointed by President	5	10	50%
Number of women MP's from House of Representatives in Zanzibar	2	5	40%
<b>TOTAL</b>	<b>145</b>	<b>393</b>	<b>37%</b>

Source: Gender Links Tanzania 50/50 Policy brief 2020.

Table 2.10 shows that in 2015<sup>26</sup>, women comprised 136 (37%) of those elected to the National Assembly in Tanzania: 7% through the FPTP system and 30% through the reserved PR seats. In 2015, women candidates for the FPTP seats comprised just 10% of the overall

candidates.<sup>27</sup> Two examples of women politicians in the 2020 elections illustrate the dilemmas and challenges that women candidates face in the mixed system - standing as candidates or coming in through the PR seats.



**Bonna Kamoli** is one of the few women constituency MPs in Tanzania. She won her Segerea Constituency as a candidate for the ruling Chama cha Mapinduzi party (CCM). A business woman, she says she “found many challenges that communities are facing, women were the most vulnerable group. That was my entry point into politics.” She received support from Umoja wa Wanawake Tanzania-UWT, the women's wing of CCM, which she joined in 2013. When she stood as a candidate in 2015, her family supported the move. But

during the campaign, to protect her family, Kamoli had to change her surname: “I am now using my father's name. It was very challenging but I managed to be chosen by my Political Party to contest at the Segerea Constituency at Ilala Municipal - Dar es Salaam Region,” she recalled. “Communities at Segerea attended at the campaign, they tasked me like any MPs without any discrimination as a woman. I also worked hard to make sure that I fulfill all that my voters requested me to do so. As I found Segerea communities lack safe water, I started to solve that problem, and for the five years every citizen at Segerea benefitted.”



**Sophia Mwakagenda** represents the opposition *Chama cha Demokrasia na Maendeleo* (Party for Democracy and Progress) commonly known as Chadema, the second-largest political party in Tanzania. She started as a constituency candidate and did well in the preliminary stages, but she did not get enough votes to win at the constituency level. She alleged many bad practices such as cheating at the counting of

votes. Her hard work earned her one of the special PR seats following the 2020 elections.

Mwakagenda experience shows how PR seats can be used to affirm women candidates and give them a second chance where the playing field is far from even. However, critics argue that the downfall of the mixed system is that this creates two classes of women MPs. In all such scenarios, women constituency candidates are bound to be regarded as superior to their FPTP counterparts<sup>28</sup>.

<sup>26</sup> Results for the October 2020 elections were still being verified at the time of going to print.

<sup>27</sup> EASSI, *EAC Gender and Development Pilot Barometer* (EASSI, 2017)

<sup>28</sup> Interviewed by Gladness Munuo

An interesting comparative case study concerns Tanzania and its neighbour Uganda, where 30% seats are also reserved for women, but on a FPTP basis. A higher proportion of women in Tanzania have progressed from the affirmative action seats to compete in the open FPTP elections than in Uganda, despite the fact that in Uganda the reserved seats are contested among women candidates only in open elections. According to the analysis, the women's district seats are so devalued that they are not as effective in boosting women's confidence.

The difference between the two countries mainly stems from their different reserved-seat mechanisms and executive and ruling parties' efforts to encourage the switch to open seats. Unlike voters in Tanzania, who indirectly elect quota MPs, voters in Uganda directly elect both constituency and quota MPs. Uganda's reserved-seat design, therefore, has shaped the popular belief that district (quota) seats are for women and constituency seats are for men, creating two largely separate electoral spheres for female and male candidates and setting the standard for how many female representatives are elected to parliament. Constituents commonly view district MPs aspiring for constituency seats as intruders into someone else's territory. A district seat MP explained how a woman standing for an open seat faced hostile comments from constituents who insisted, 'If a hen crows, just get a knife and slaughter the hen. [The] hen cannot crow' - implying that only men should contest for open seats and speak up in public.<sup>29</sup>

The question for both Uganda and Tanzania is whether reserved seats of any kind are the best way to go. In both countries, there is a push to review the electoral system towards either PR or a mixed system. Quotas applied across the board in such systems have the advantage of not associating any particular set of seats with women only. A PR system with a one woman, one man or

“zebra” quota is very effective in delivering equitable outcomes.

Reserved candidacy (as opposed to reserved seats) in the FPTP system does not necessarily produce the same result as this depends on parties fielding women candidates in “safe” seats. However, when accompanied by strong political ownership and support, this is a preferable option to reservation. At a minimum, existing quotas should be revised upwards from 30% to 50%, in keeping with Uganda and Tanzania's global and national commitments to gender parity.



With a system very similar at the national level to the Tanzania model, but due to expire in 2023, **Zimbabwe** faces a dilemma: to extend the quota as it is, or to use the upcoming window to innovate. The 2013 Constitution effectively creates three types of electoral systems and TSM in the country making this country a particularly interesting case study of the different possible combinations of electoral systems and TSM.

The Constitution (Section 17) aspires to: “*full gender balance in Zimbabwean society particularly with regard to promoting the full participation of women in all spheres of Zimbabwean society on the basis of equality with men and to take legislative and other measures to ensure that both women and men are equally represented in all institutions and agencies of government at every level.*” Section 124 provides that “*for the next two lives of the National Assembly (commencing in 2013), an additional sixty women shall be elected under a party-list system of proportional representation based on votes cast for political party candidates.*” In essence this meant that from 2013 to 2023, Zimbabwe would have a mixed system in the national assembly: 210 seats voted for on a constituency (FPTP) basis and 60 seats distributed among parties on a PR basis but reserved for women only. This provision is not extended to local government, where the system is purely a FPTP system.

<sup>29</sup> Ibid

Section 120 of the Constitution provides that 60 out of 80 seats (or 75% of the seats) are distributed among parties based on the percentage vote that they garner in the elections (i.e. on a PR basis). This is subject to a “zebra style” quota of one woman, one vote, with women

always topping the list. The remaining 25% of seats in the senate are distributed to chiefs; president and deputy president of the National Council of Chiefs, as well as persons with disability. This gives women a guaranteed 30 out of 80 seats (or 37%).

Table 2.11: Electoral systems, quotas and outcomes in Zimbabwe

	Last election/announcement	Next elections	Electoral system	Quota	No of seats/candidates/appointments	No of women	% women
Local government	2018	2023	FPTP	None	1959	274	14%
House of Assembly	2018	2023	MIXED <sup>30</sup>	30%	270	85	31%
Senate	2018	2023	PR	37%	80	35	44%
Both houses					350	120	34%

Source: Gender Links 50/50 policy brief 2020.

Table 2.11 illustrates the interplay between electoral systems and TSM in Zimbabwe, reflecting all the regional and global trends discussed in this chapter. In the 2018 elections, almost all the women in the House of Assembly (31%) came in through the PR seats in the parallel or mixed system that pertains at this level. Women comprise 44% of the senate which is based on a

PR and zebra list system. Women constitute just 14% of councillors. Local elections are based on a FPTP system with no quotas.

The expiry of the PR quota for women at national level in 2023 raises concerns that even the limited gains made at the national level will be lost. Furthermore, there is no quota for women at the local level. The proportion of women at this level has receded with each election - from 18% in 2008; to 16% in 2013 to 14% in 2018.

The system of reserving seats for women on a PR basis in the national assembly has guaranteed the minimum 30% women but has not always favoured women's effective participation, as these seats are often regarded as the “token” women's seats. A better system is the zebra (one woman, one man) system in the senate: delivering gender parity without distinction in the way that women and men are elected.

At the *local level*, where elections are run solely on a FPTP basis with no quota, the PR system is generally not viewed



President Mnangagwa giving the keynote address at the Women Councillors Indaba. Photo: Tapiwa Zvaraya

<sup>30</sup> 210 seats are elected via the constituency or FPTP system. 60 seats reserved for women are distributed among parties on a PR basis.

favourably as constituents prefer to be able to access individual councillors as opposed to a political party. In 2016, representatives of the Ministry of Local Government, Justice and Parliamentary and Legal Affairs and the Zimbabwe Electoral Commission, went on a study visit to Mauritius to learn how the government there increased women's participation at the local level fourfold (from 6% to 28%) thanks to a gender neutral quota.

In 2020 Gender Links in partnerships with the Women in Local Government Forum (WiLGF), made a submission to parliament recommending that the Zimbabwe Constitution Amendment No 2 Bill (31 December 2019) extend the TSM at the national level to the local level to give effect to Article 17 of the Constitution.

On 10 December 2020 some 400 members of the Women in Local Government Forum (WiLGF) made a submission to Zimbabwe President Emmerson Mnangagwa. The women demanded that TSM be extended to local government elections. They also argued that the Constitution be amended to provide that all political parties field equal numbers of male and female candidates whether in PR or FPTP seats at national or local level (see Senegal example).

The President supported a 30% quota for women in local government and requested that the Minister of Local Government begin the process. Cabinet has approved principles for the amending the Constitution to extend the current provisions at the national level to the local level. The Cabinet also approved the 30% quota for women in local authorities.

## Candidate reservation in the mixed system

As in other electoral systems, candidate reservation is preferable to seat reservation in the mixed system. In some cases this applies only to the PR system (for example in Lesotho's national assembly). Senegal has broken new ground by requiring that candidate quotas be applied to both the PR and FPTP seats in its parallel or mixed system.



In **Lesotho**, national elections are based on a Mixed Member Proportional (MMP) system adopted in 2002. This dual ballot system allows a voter to cast two ballots - a constituency vote and a party vote. The party vote is used to select candidates from a party list to make up for seats a party would have been entitled to had constituency seats been allocated on a proportional basis<sup>31</sup>.

The Lesotho parliament comprises 120 seats. Eighty are filled on a FPTP basis while the remaining seats are distributed among parties on

a PR basis. All political parties in the country that contest for elections are required under the National Assembly Electoral Act 2011 to submit “zebra” party lists to the IEC for the PR seats: Section 47 (2) (b) states that political parties are supposed to ensure that they arrange candidates in terms of sex so that after every male or female is the opposite sex in the party list and (c) include equal numbers of women and men. Section 30 of the National Assembly Act of 2011 mandates political parties registered with the IEC to facilitate the full participation of women in all political activities on the basis of equality. *What is lacking at national level is a quota for women in the two thirds FPTP seats.*

In 2017 women's representation in parliament dropped from 25% to 23%. In the 2017 elections, women won 19 out of the 40 PR seats (48%). Women only won 8 out of the 69 seats under the FPTP system (12%). Women thus won a total of 27 out of 120 seats, compared to 30 out of 120 seats in 2012. As a result, Lesotho experienced

<sup>31</sup> Matlosa, K., *Lesotho* in Cawthra, G., du Pisani, A and Omari, A (eds) *Security and Democracy in Southern Africa*. (Wits University Press, 2007)

a two percentage point drop in women's representation. The stark contrast between women's performance in the PR seats with the zebra quota (in which women came close to achieving parity) and the FPTP seats is a reminder of the critical role that electoral systems and TSM play in determining women's representation.



In contrast to Lesotho, **Senegal** has a quota system for *both* FPTP and PR seats. The West African country has a unicameral parliament, a mixed electoral system, and legislated quotas for the single/lower house and at the sub-national level. The "First Past the Post" system operates in single-member districts (in total 105 seats, 15 of which are for Diaspora) and "List PR" using largest remainder method in national list (60 seats).<sup>32</sup>

Electoral Law 92-16 of 1992, as amended by law 2012-01 of 2012, Article L.145, mandates parity in all candidate lists for the general elections.

## Voluntary quotas in a mixed system



The South African local government elections offer a rare longitudinal insight into voluntary quotas in a mixed system. The Municipal Structures Act 1998 requires that parties “seek to ensure that 50 percent of the candidates on the party list are women, and that women and men candidates are evenly distributed though (sic) the list.”<sup>35</sup>

The weakness of this wording is that it encourages, but does not oblige parties to adopt a zebra system for the PR seats, and places no obligation

Candidate lists must be composed of alternating male and female candidates. This applies to both the FPTP and the PR seats. If the number of seats contested in a constituency is odd, the parity rule applies to the immediately lower odd number (e.g. in a multi-member constituency with five seats, a party must have at least three women in its list of five candidates). Candidate lists which do not comply with the provisions of Article L.145 (parity and gender alternation) will not be admitted.

The 2012 amendment to the electoral law provides for alternation between female and male candidates on the electoral lists<sup>33</sup>. As a result of this law, the proportion of seats held by women in national parliament has increased significantly from 19% in 2001 to 43% in the 2017 elections. This marks a major step forward in the struggle for gender equality and the promotion of women's rights and makes Senegal a leader in women's political participation in Africa. Women represent 21% of ministers in the National Government (eight women out of 39 members)<sup>34</sup>.

on them to field women candidates in the FPTP or ward seats. The influence has been especially felt within the ANC.

While the party has shied away from legislated quotas, it has been at the forefront of promoting women's participation where it has the influence to do so. In the 2006 local elections the ANC adopted a 50% quota for women. The ANC fielded 53% women candidate of whom 46% won. The party also substantially increased the proportion of women ward councilors to 40% of the ANC ward councillors.

<sup>32</sup> International IDEA, Electoral system for national legislature - Senegal <<https://www.idea.int/answer/ans130355735697995>> accessed 11 March 2021

<sup>33</sup> International IDEA, Gender quotas database <<https://www.idea.int/data-tools/data/gender-quotas/country-view/269/35>> accessed 11 March 2021

<sup>34</sup> UN Women, Senegal <<https://africa.unwomen.org/en/where-we-are/west-and-central-africa/senegal>> accessed 11 March 2021

<sup>35</sup> Republic of South Africa, Municipal Structures Act 1998, Schedule 2, Part 1, section 5(3).

Table 2.12: Women's representation at local level in South Africa

Year	% Women Ward	% Women PR	% Women overall
1995	11%	28%	19%
2000	17%	38%	29%
2006	37%	42%	40%
2011	33%	43%	38%
2016	33%	48%	41%

Source: Gender Links Audit of the 2016 Local Government Elections.

Table 2.12 shows the breakdown in the proportion of women by ward and PR seats. As might be expected from all the evidence in this chapter, women started from a higher base (28%) in the PR seats compared to 11% in the ward seats in the first post democracy local elections in 1995. They have progressed in the PR seats (thanks in large measure to the ANC quota) to 48% - almost achieving parity with men. In the ward seats, the progress has been slower, from 11% in 1995 to 33% in 2016.

However, this figure has tripled in the space of twenty years. What this shows is that WPP can also increase in FPTP seats with no legislated quotas as women's presence and participation is normalised. South Africa will have elections again in 2021. It is important to continue to cast a gender lens on the ward and PR seats to see if the gender gap between them narrows even further in this election.

## Conclusions and recommendations

Key conclusions emerging from this discussion are that:

- Constitutions and electoral systems in Africa are dynamic. There is an active debate around what system works best in just about every African country. This offers a tremendous opportunity for integrating gender into mainstream debates on electoral systems.
- While the FPTP system used to dominate, this is no longer the case. Most post conflict countries have opted for the PR system. There is an increasing shift and openness to mixed electoral systems. Since there are pros and cons to both the FPTP and PR system, this “middle ground” may be where countries should indeed aim to be. Examples include the Constitutional Court ruling to review the PR system in South Africa, and the call in Zimbabwe for a parallel system at the local level.
- Constitutional or legislated quotas in the PR system are the most water tight way of achieving gender parity. However voluntary party quotas



can be equally powerful and effective. Ideally the two should work together. Indeed, constitutional and legislated quotas are only as good as parties internalise and “domesticate” these.

- Reserved seats whether in the FPTP or PR system are best avoided. These are exclusionary by nature and therefore open to objection in any democratic system, even if they can be argued to be temporary, and designed to “balance the scales”. Reserved seats that run parallel to the mainstream (e.g. Tanzania) or overlay existing constituencies (for example in Uganda) remain outside the mainstream and have done little to break beyond the mandatory 30%.
- Systems that reserve candidature are more acceptable. It is fair to insist that parties field equal numbers (or at least certain proportions) of women and men. In the FPTP system, there is no guarantee that women candidates in whatever number or proportion will win (see for example the Mauritius local government case study). Candidate quotas work best in PR systems (see for example the Namibia case study).
- In mixed systems with candidate quotas, the tendency has been for these to cover only the PR seats (for example in Lesotho's national assembly). Senegal has charted a new course, with candidate quotas for both the FPTP and PR seats.

## General recommendations

- Accelerate education and awareness on the gender dimensions electoral systems and TSM and their link to women's representation especially among legislators; policy makers and civil society advocates.
- TSM should be reflected in Constitutions and laws.
- For the TSM and electoral system to be effective there is need for political will and support from political parties.
- TSM should be accompanied by enforcement mechanism e.g. in political parties
- There is a need to ensure that TSM applies at national and local level.

- Ensure that political parties motivate/own/champion/comply with TSM by legislating and enforcing with sanctions.

## FPTP and TSM

- If at all possible seat reservation should be avoided as it may be perceived as undemocratic.
- Candidacy reservation is preferable and does not guarantee that candidates will be elected: if candidates are not supported, they cannot win. Candidacy reservation must be accompanied by a high level of buy-in by political parties and creation of an enabling environment for women candidates.

## PR and TSM

- For those with this form of electoral system open lists might be a disadvantage as women might drop to the bottom of the list. We recommend a closed list system with a requirement for alternate names of women and men (referred to in Namibia as the zebra system).
- Legislation and sensitisation should be accompanied by strong mechanisms for compliance for political parties - with sanctions.

## Mixed and TSM

The main challenge is structural and legitimacy challenge- those under PR seen as weak and undeserving without legitimacy while those under FPTP as more legitimate. This is particularly true where PR seats are reserved for women, e.g. in Tanzania and Zimbabwe. There is need to:

- Consider changing the system of all PR seats being reserved for women, and replacing this with a closed list “zebra” quota for women and men, resulting in 50/50 for women and men in the PR seats.
- The FPTP seats should have a 50% reserved candidacy for women for all political parties. Although this is not as watertight as the zebra PR seats, since women candidates will not necessarily win, if this is accompanied by political commitment, women's representation in the FPTP seats will increase.

## Independent candidates

- Electoral laws should make provision for independent candidates who have a right to political participation. This is especially important for women, who often feel excluded from mainstream politics.
- As independent candidates face greater challenges raising funds since they operate outside the mainstream framework efforts should be made to support worthy candidates appropriately, including through funding wherever possible.

## Appointed seats

In the case of seats allocated at the discretion of the head of state:

- Women should constitute at least 50/50 principle in all appointments.
- Gender balance should apply to all other factors of inclusion such as youth, disability, urban/rural.
- Gender should be a cross cutting as well as stand-alone consideration.
- If only one seat - there should be alternation of women and men candidates.



On 11 October 2020, women activists of Mali took to the streets to protest against the non-respect of the legislated quota in the government of transition.

*Photo: Abdoul Momini Boukoum (Mali)*