

REPORT

“Structures for Women in Political Decision-making”

GENDER PROJECT



COMMUNITY LAW CENTRE
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"STRUCTURES FOR WOMEN IN POLITICAL DECISION-MAKING:
A COMPARATIVE STUDY"

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INTRODUCTION

During the past decade, the need to promote women in the decision-making structures of government has been increasingly recognized. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) states in Article 7:

States Parties shall take all appropriate measure to eliminate discrimination against women in the political and public life of the country, and in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for all elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions and at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.¹

As a result of efforts by the United Nations and other international bodies to address the universally poor levels of women participating in public life, many countries have adopted programs of action and established structures and mechanisms to encourage women's participation in government decision-making.

South Africans are currently negotiating the terms for the abolition of apartheid and the establishment of a non-racial, non-sexist, accountable, democratic government. South African women face an unique historical opportunity to contribute to this process, and to debate in advance of their implementation, the types of decision-making structures that will ensure women's equality and respond effectively to their needs. In addition to the contribution of women in political organizations, NGO's and civil society, a Women's National Coalition, representing over sixty different organizations, has formed to launch a year-long campaign for a women's charter or similar document. This document, articulating women's demands, is expected to be used in the constitution-making process.

In order to facilitate these efforts, several forums focusing on gender and issues of women's participation in government have been convened by a variety of organizations. One recent forum, "Empowering Women in a Democratic Government," sponsored by IDASA

¹ United Nations Convention on the Elimination of All Forms of Discrimination of Women. Article 7, (GA Res. 34/180; 1979).

in Durban, 4-6 December 1992, brought women from organizations across the political spectrum together to discuss structures for women in government. At the workshop, a consensus emerged that South African women should utilize a "package approach" of structures and mechanisms, including: different levels of government (national, regional, local); the judiciary; and outside of government bureaucracy (i.e., research institutes, grassroots organizations, etc.). Such a package could provide a comprehensive and flexible approach to integrating women into a new democratic government and encouraging women's participation in public life. However, South African women agree that the package must be carefully linked to the constituencies of grassroots and rural women.

While the IDASA workshop helped launch the debate, a need was expressed for more research on the decision-making structures of different countries in order to help determine the best options for South African women. In addition to research on structures, there emerged a need to further examine options for the legal enforcement of a women's charter/document. This preliminary study examines the comparative experiences of several countries in designing and implementing structures and structures for women in political decision-making. It has been conceived as a follow-up to research initiated by Cathi Albertyn at the Centre for Applied Legal Studies (CALS) at the University of the Witwatersrand.² The Community Law Centre Gender Programme plans to continue research in this area, focusing on the experiences of transitional African countries and successful Western models such as Canada and Australia.

FRAMEWORK FOR DIFFERENT OPTIONS

For the purpose of comparative analysis, the following categories of structures will be examined: 1) legal and constitutional mechanisms; 2) executive and administrative structures; 3) legislative mechanisms; 4) political party structures; 5) state and local government structures; 6) independent advisory structures; and 7) transitional structures.³ A brief description of each category follows.

² See Albertyn, Cathi. "Women and Politics - Choices in Structural Mechanisms to Empower Women in a Democratic Government," (Unpublished paper: December 1992: Centre for Applied Legal Studies, University of the Witwatersrand).

³ This framework differs slightly from that presented by Cathi Albertyn in "Women and Politics - Choices in Structural Mechanisms to Empower Women in a Democratic Government." It is a list of common structures, not an exhaustive inventory. The category of transitional structures has also been added, as it is particularly relevant to South Africa.

Constitutional and Legal Mechanisms

Administrative, legislative and other decision-making structures for women are often supported by constitutional and legal mechanisms that enshrine women's equality. Many bills of rights have equality clauses that guarantee basic human rights for all. Some clauses specifically mention equality for men and women, as well as other criteria upon which discrimination will be prohibited.⁴ Feminist critiques of constitutions and bills of rights have argued that the establishment of formal equality must be supported by constitutional provisions that address the substantive issues of women's equality. The concept of substantive equality involves creating access to legal and constitutional remedies for inequalities that stem from particular disadvantages. According to this argument, parental leave and ramps for disabled people could be claimed in terms of substantive equality.⁵ Special charters, addenda, and directives of state policy can also be included in the category of constitutional mechanisms.⁶

For the purpose of this study, the constitutional and legal category also includes the judiciary. Constitutions are interpreted by courts and therefore, the method of constitutional/judicial review that is established has serious consequences for women. The conservative Supreme Court in the United States and its debate over constitutional interpretation of issues, such as the right to an abortion, is just one example of the impact of the judiciary on women. Canadian jurisprudence also

⁴ For a comparison of approaches in the South African context, see Ready to Govern: ANC Policy Guidelines for a Democratic South Africa (1992: Policy Unit of the African National Congress; Johannesburg), ANC Draft Bill of Rights: Preliminary Revised Version 1.1 (May 1992: ANC Constitutional Committee and the Centre for Development Studies), Corder et. al. A Charter for Social Justice: A contribution to the South African Bill of Rights Debate (1992: Department of Public Law University of Cape Town), and Government's Proposals on a Charter of Fundamental Rights (February 1993: Republic of South Africa).

⁵ Corder et. al. A Charter for Social Justice: A contribution to the South African Bill of Rights Debate. (1992: Department of Public Law University of Cape Town), p. 31 and Bazilli, Susan. Putting Women on the Agenda (1991: Ravan Press, Johannesburg).

⁶ For a discussion of charters and directives of state policy in the South African context, see Corder et. al., pp.18-20 and "What Could a Women's Charter Be and What Could it be Used to Achieve," (Caucus on Law and Gender, Cape Town).

reveals the difficulties experienced by women in litigating and defending gender equality cases. In addition to the role of the high courts in judicial review, systems of legal administration also have important implications for women in terms of access to legal recourse and redress against administrative actions that perpetuate sexual discrimination. The experience of post-independence Zimbabwe has demonstrated the difficulties of reforming a dual legal system of customary law and general law in a manner that strives to eliminate race and gender discrimination.⁷

Electoral laws, which spell out the system for electing a country's government, are another constitutional mechanism that have an impact on women (although often adversely).⁸ It is commonly argued that proportional representation (PR) is the most effective system for electing women to parliaments. However, there are many variations of PR and factors affecting the system which influence its effectiveness for women.⁹ In addition to the type of electoral system used, electoral laws can also take measures such as reserving a certain number of seats in parliament for women.¹⁰ Some countries, such as France, have passed legislation limiting the percentage of candidates contesting elections that can be of one sex.¹¹

Executive and Administrative Structures

Much of the debate over structures for women has focused on structures at the executive decision-making level. A women's

⁷ See Maboreke, Mary, "Women and Law in Post-Independence Zimbabwe," in Bazilli, Susan. Putting Women on the Agenda.

⁸ According to Anne Phillips, "Differences in electoral systems emerged as by far the most significant in relation to the election of women, followed at some distance by positions on the index of political egalitarianism. The dominant religion proved insignificant, as did socio-economic conditions. See Phillips, Anne. Engendering Democracy. (1991: Polity Press; Oxford), pp.20-23.

⁹ See Women in Politics and Decision-Making in the Late Twentieth Century: A United Nations Study (1991: New York; United Nations Office at Vienna - Centre for the Development of Humanitarian Affairs), pp.43-45 for some examples of factors affecting women in PR systems.

¹⁰ Women in Politics and Decision-Making in the Late Twentieth Century: A United Nations Study, p.46.

¹¹ Ibid., p.47.

ministry is one of the most common forms of executive decision-making bodies for women. In 1976, the United Nations launched the Decade for Women, recommending that member states ratify CEDAW and implement 'national machineries' for the improvement of the status of women.¹² As a result of this campaign, many countries established special women's ministries, responsible for oversight and administration of policies and programs to promote the advancement of women. While the 'women's ministry' has been a common manifestation of attempts implement CEDAW stipulations, executive structures for women have actually taken a variety of forms.

The 'traditional' women's ministry usually has the following characteristics: 1) it is a department of state whose head sits on the cabinet; 2) it is part of the administrative bureaucracy of the state; and 3) it receives its own budget.¹³ It may perform some or all of the following functions: formulating policy on women's issues; drafting legislation to present parliament; representing the interests of women to the head of state; and conducting development programs for women. Some ministries may even veto legislation, as in the case of France. Many are supported by professional staff. However, not all enjoy independent status on the cabinet. Many fall under another office, often the Prime Minister or the President, thus having less autonomy and control over policy. Some have a highly visible profile. Others merely form the function of implementing small-scale development programs and make little or no input in the political decision-making process.¹⁴

A common criticism of 'traditional' women's ministries is that they become 'ghettoized' within the administration and are allocated smaller budgets as a result of the low priority assigned to them. Frequently ministries outside of the women's ministry fail to address women's issues within their jurisdiction, leaving the responsibility, and expense, to the women's ministry. Finally, women's ministries have often been linked with the portfolios of children, disabled people, and other groups perceived to be in the 'social service' sphere, dividing resources and attention among what should be independent interests.

¹² Women in Politics and Decision-Making in the Late Twentieth Century: A United Nations Study, p.9.

¹³ Albertyn, Cathi. "Women and Politics - Choices in Structural Mechanisms to Empower Women in a Democratic Government," p.5.

¹⁴ This small-scale development scenario has been the case for Bangladesh, as described by Shireen Huq at the conference, "Empowering Women in a Democratic Government," (4-6 December 1992: Urban; sponsored by IDASA).

Departments of Women's Affairs are often attached to an existing department, as in Namibia where the Department for Women's Affairs is linked the Office of the President. In Zimbabwe, the Department of Women's Affairs and Community Development was recently moved under the Office of the Prime Minister.¹⁵ Other departments which frequently incorporate women's departments include social welfare departments and education departments. While these departments have sometimes succeeded in addressing women's needs within the particular department under which they are organized, they are often unable to influence decisions and policy because such decisions are taken by the department minister at cabinet level. Furthermore, departments attached to other ministries often lack an independent budget and must compete within the department for resources. However, these departments are frequently the best or only option available to women, and, when combined with supporting structures, may have an impact.¹⁶

An interesting alternative to women's ministries and departments has been the establishment of women's desks, or gender focal points, in all or selected ministries.¹⁷ Women's desks monitor gender and put forth policy proposals within each department. The advantages of such desks are that they become integrated into 'mainstream' government departments. They address women's issues within each department, and subsequently have access to different departmental budgets as opposed to the single budget of a women's ministry. The disadvantage of women's desks are that desk officers may not enjoy cabinet status and, consequently, they are not directly involved in cabinet-level decision-making. Departments themselves determine the level of priority assigned to the women's desk. The desks may not always enjoy support staff. The most successful efforts in establishing a system of women's desks involve a coordinating body, such as the Women's Units in Australia, which are coordinated by the Office on the Status of

¹⁵ Judith Chikore of Zimbabwe's Department of Women's Affairs and Community Development at the conference, "Empowering Women in a Democratic Government," (4-6 December 1992: Durban; sponsored by IDASA).

¹⁶ Ibid. This belief was expressed by Chikore and other women who had been involved in the Department of Women's Affairs in Zimbabwe.

¹⁷ Ibid. There was a great deal of interest in this type of structure at the conference, "Empowering Women in a Democratic Government." The Democratic Party has proposed women's desks in government departments in its "Democratic Party Discussion Document on Women's Status."

Women.¹⁸

The office of the ombud is increasing in popularity, and has been viewed as one mechanism for addressing 'gender equality in administrative decisions. The most effective ombuds have senior level status and broad investigative powers to investigate complaints against maladministration in the executive and the civil service, and as a result of their own will. Specialized ombuds have evolved to address local government, policing and other issues. It is possible to have a special ombud for women's issues or equal opportunities. Ombuds often play an important role as monitors of the executive. They can suggest remedies for grievances. They often serve as liaisons between citizens and government structures.¹⁹

Legislative/Parliamentary Mechanisms

Electing women to parliament is clearly one of the best legislative mechanisms for addressing women's interests. Women in Norway have experienced the greatest success in national elections, occupying 35 percent of the parliamentary seats and 40 percent of the cabinet seats in two successive cabinets.²⁰ UN statistics indicate that the number of women in parliament usually has a positive correlation with the number of women in the cabinet, although the percentages generally decline from parliament to the cabinet.²¹ It has also been established that women tend to enjoy greater representation in 'left-wing,' socialist or social democratic parties. Subsequently the stronger these parties are a within a given multi-party system, the more women tend to be

¹⁸ UN CEDAW Consideration of Reports Submitted by States Parties Under Article 18 of the Convention: Second Periodic Reports of States Parties: Australia (CEDAW/C/CCAN/3: 25 September 1992), p.6.

¹⁹ See Corder et. al. Empowerment and Accountability: Justice in a Future South Africa (1991: SA Constitution Studies Centre; London/Cape Town) for a discussion of the ombud and other elements of administrative law systems.

²⁰ "Women in Public Life," Women 2000. (1992; No.2; United Nations), p.6.

²¹ See Women in Politics and Decision-Making in the Late Twentieth Century: A United Nations Study.

represented in parliament.²²

In addition to election to parliament, there are other methods of providing mechanisms for women in parliamentary bodies, such as parliamentary committees, special inquiries and women's caucuses. Parliamentary committees can be special 'gender committees,' which examine all legislation as it relates to gender. Standing and select committees can also establish gender focal points on each or some committees to examine issues of gender within the legislation under their jurisdiction. Women's caucuses of parliamentarians can meet, set an agenda and lobby for that agenda within parliaments, such as the bi-partisan Congressional Women's Caucus in the United States.

Another possibility is that a certain number of women legislators be present before a bill can be passed.²³ Independent advisory structures and women's organizations can also be solicited to comment on proposed legislation. An important consideration is the drafting of legislation. Although commenting on, or "vetting" legislation for a gender component is important, structures which empower women to draft and introduce legislation as a response to women's needs can have a stronger impact.

Many of the abovementioned structures can also be applied at the state and local government levels.

Political Party Structures

Political party structures are frequently the enabling link for electing women to decision-making positions. Furthermore, women who achieve positions of power within parties can have an important impact on decision-making and policy. In many PR systems, the selection process for a party's electoral list has a critical impact on women's participation. The number of women on the list and their positions on that list (e.g., in the top positions, or the last few positions) in effect determines the number of women who can be elected to parliament. A decentralized selection process, where local branches have a strong role in selecting lists, is often disadvantageous to women, while a centralized selection process, where the party is sensitive that the list represent its full party membership, is generally more

²² Bystydzienski, Jill M. (ed.). Women Transforming Politics: Worldwide Strategies for Empowerment. (1992: Indiana University Press; Bloomington), p.204.

²³ Albertyn, Cathi, p.7. Of course, this method requires a significant number of women legislators in parliament.

advantageous.²⁴ Party lists are seldom elected by the party membership, but rather chosen by the leadership of a party.

Many parties have used quotas or the principle of affirmative action in order to ensure that women are included in larger numbers on party lists. The Social Democratic Parties of Spain and Germany among others have initiated quotas for women on their party lists.²⁵ However, if women only occupy the bottom positions on the list, it is unlikely that they will be elected to office. Thus, many parties have employed a system of alternating women candidates throughout their lists.

Within political party structures, women may also influence policy by lobbying to get women's issues visibly into party platforms. The ANC's policy of non-sexism is an important example.²⁶ Women's auxiliaries are found in many parties. The debate over 'mainstreaming' versus 'ghettoization' applies to these groups in the same way as it does to traditional women's ministries. However, women's auxiliaries have often been effective mechanisms for caucusing around issues and policies within parties.

The ideology of political parties often has an impact on decision-making structures for women, both at the party level and the national level. Parties on the left of the political spectrum often adopt more formal structures to increase women's participation, pressuring parties on the right to respond by with similar, although often less extreme, measures. Spain is one example of this occurrence. In countries, such as Zimbabwe and El Salvador, women fought along with men in liberation movements. Because of the strong roles played by women in these movements, and their socialist or Marxist ideologies, ensuing governments have been pressured to create access for women's participation. However, women within different liberation movements have experienced very different levels of success in gaining real access

²⁴ Women in Politics and Decision-Making in the Late Twentieth Century: A United Nations Study, p.45.

²⁵ Ibid., p.47.

²⁶ Bience Gawanas warns that in Namibia, because of the large number of women voters, parties were eager to place the abstract notion of women's rights on their platforms, but never publicly debated women's issues or held any forums to discuss how women's rights could best be achieved by the parties' policies. See Gawanas, Bience. "Namibian Independence," in Bazilli, p. 249.

to political decision-making structures following liberation.²⁷

Several countries have experimented with all women's political parties. Iceland has been one of the most innovative countries in this area.²⁸ However, the general experience of women's parties has been characterized by a lack of success.²⁹ The type of electoral system, the number of parties in that system and other structural and cultural issues are important factors influencing the development of women's parties.

State and Local Government Structures

The levels of state and local government are important for women in decision-making, both in terms of accessibility to women who want to hold office and the jurisdiction of state and local bodies over women's issues, such as education, housing, health care. The most successful state and local structures for women appear to be modelled after, and work in coordination with the mechanisms of the central government. Australia and Canada are good examples of this interaction. In federal states, women's structures and equality legislation at the state level are particularly important, as the federal government relegates certain powers to the states. These powers, such as control over state education and health policies, often have a profound effect on women.

Structures at state and local government levels are often similar to those at national level, such as departments for women's affairs, women's desks within departments, ombuds, etc. However, other structures, such as Brazil's State Councils for the Condition

²⁷ The experiences of women within liberation movements deserves extensive study and is highly relevant to the situation in South Africa. However, it is beyond the scope of this paper. For further work in this area, see, Bazilli, Susan (ed.). Putting Women on the Agenda, Bystydzienski, Jill M. (ed.). Women Transforming Politics: Worldwide Strategies for Empowerment, and Phillips, Anne. Engendering Democracy.

²⁸ See Kelly, Mary-Kathryn. "Women's Organizations and their Effect on Women's Political Participation" (Unpublished paper: 1992: Centre For Applied Legal Studies, University of the Witwatersrand).

²⁹ Many feminist critiques of democratic theory, particularly liberal democracy, argue that the patriarchal nature of the political arena and the difficulties of constituency representation for women (i.e., do women represent a sufficient 'interest group' to successfully form parties?) will ultimately cause women's parties to fail. See Phillips, Anne. Engendering Democracy (1991: Polity Press; Oxford).

of Women, have succeeded in involving women and representing their interests at the state level, but do not exist on the national level.³⁰ Again, the most successful state and local structures appear to have strong links with national women's structures. As on the national level, budget is an important issue.

Local government structures have important interaction with civil society. Women frequently make up the majority of the membership of various civic organizations, but as at higher levels of government, they are absent from the leadership of these organizations. Thus, within the category of local government, women's participation within existing organs of civil society must also be considered.

Independent Advisory Structures

There are many different variations of independent advisory structures that have been designed to promote the interests of women.³¹ The most successful of these organization are federally funded, although independent from government bureaucracy, and report to the highest levels of decision-making (i.e., cabinet ministers or presidents). These organizations often conduct important research on women's issues; launch awareness campaigns about sexism in the workplace or gender-sensitive language, etc.; review and recommend on women's policy issues and legislation affecting and benefitting women; and monitor women's issues. The Canadian Advisory Council on the Status of Women is an important example of this type of structure. Independent advisory bodies often liaise with women's NGOs, as does the National Women's Consultative Council of Australia, and with the courts.

Women's advocacy groups, organized around a single issue, such as abortion or violence against women, or around women's issues in general, also fall within this category. Such organizations are playing an increasingly important role in advancing the status of women and publicizing issues affecting women. However, without links to effective women's structures inside government, these organizations can have only a limited impact. The link established between the Canadian Advisory Council on the Status of Women and the National Action Committee on the Status of Women in order to lobby for a gender equality clause in the Canadian Charter for Rights and Freedoms provides an important example of interaction

³⁰ See Kelly, "Women's Organizations and their Effect on Women's Political Participation," pp.16-19 for a good description of these councils.

³¹ See Albertyn, "Women and Politics - Choices in Structural Mechanisms to Empower Women in a Democratic Government," for examples.

between organizations inside and outside of government.³²

Transitional Structures³³

Although not part of a permanent 'women's package', structures for women in transitional bodies play an important role in establishing permanent decision-making structures for women. Women in countries such as Namibia have learned the necessity of women's full participation in these forums. Clearly, the direct participation of as many women as possible in various transitional forums is the most desirable approach.³⁴ In the event that direct participation is impossible, or that women's participation in these forums is extremely low, advisory and monitoring structures have been used to give women's input on transitional issues. South African women have already gained important experience in this area with the Gender Advisory Committee at CODESA.³⁵

Women's NGOs have often performed this monitoring function. For example, the Women's Lobby in Zambia played an important role in monitoring Zambia's transition to multi-party democracy which culminated in the election monitoring efforts of the Zambian Election Monitoring Coordinating Committee (ZEMCC).³⁶ In addition

³² See Haussman, Melissa, "The Personal is Constitutional: Feminist Struggles for Equality Rights in the United States and Canada," in Bystydzienski, Women Transforming Politics: Worldwide Strategies for Empowerment.

³³ This category has been added in light of its particular relevance to the current situation in South Africa. There is a need for more research on the experiences of other countries in transitional situation.

³⁴ In Namibia, Dr. Libertine Amathila, one of a handful of women elected to the Constituent Assembly, participated on the Select Committee on the Constitution. A more subtle example can be seen in the United States, where women have participated in large numbers during the transition from the Bush administration to the Clinton Administration. Subsequently, more women have been appointed to cabinet positions.

³⁵ Proposals have been made to revive the Gender Advisory Committee at the re-constituted World Trade Centre talks. The ANC and the IFP have each proposed more direct methods of increasing women's participation at this forum in addition to this advisory function.

³⁶ The Women's Lobby was one of the convening organizations of this joint monitoring team, and, along with Zambia's churches, provided the bulk of the actual monitors through its membership. Although a crucial factor in ensuring a fair election, the Women's

to the highly visible political, economic and conflict resolution forums that frequently accompany transitions, media committees, election commissions, and other election and transition-related bodies are extremely important structures through which women can shape the course of the transition.

COMPARATIVE EXPERIENCES

Within the abovementioned framework, the experiences of several different countries have been analyzed. Canada and Australia offer the most comprehensive examples of women's packages, and are therefore analyzed more fully. Other examples are examined in light of their particular strengths and weaknesses, or their relevance to South Africa. For instance, Spain has experimented with quotas in political parties, and many of the countries studied have experienced difficult transition processes. In these cases, the structures discussed are those which are most relevant to the argument, and not the entire set of structures for that country.³⁷ Additional examples of countries such as Bangladesh, Brazil and Zambia have been included to illustrate specific points.³⁸

It is important to note that the primary sources used are from country reports to the United Nations and other UN CEDAW documents. Because few evaluations exist outside of the UN, and many of the structures described are relatively new, there is little in the way of impartial evaluation of their success. Furthermore, most countries will emphasize their strengths when reporting to the UN. Nevertheless, this paper will seek to evaluate the extent to which the following comparative examples have succeeded in implementing a package of decision-making structures for women. Based on the material available, success will be judged by the impact of these structures on legal, national, regional and local political issues

Lobby has also been criticized for focusing on general issues of transparency and voter education, as opposed to specifically addressing women's issues or supporting women candidates.

³⁷ While the experiences of the Nordic countries have been the most successful at increasing the participation of women in decision-making structures, examples of these countries are not discussed as part of the comparative analysis for two reasons: 1) there is an abundance of existing material on these countries; and 2) this paper focuses on issues such as plural societies, federal systems, societies in conflict, transitional societies, etc., in order to draw lessons for South Africa.

³⁸ This is a preliminary study. Some countries have been covered in more detail than others. Further research will focus on those countries identified as most relevant to the South African scenario.