

Introducing Gender Quotas in Sierra Leone: How to Make Electoral Gender Quotas Work

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1. Introduction.

It is an honour for me to be asked to give my opinion on how to increase women's political representation substantively in Sierra Leone through the introduction of electoral gender quotas.

From separate meetings on December 14-15, 2009 with parliamentarians, political party leaders, the Law Reform commission, PPRC and the National Human Rights Commission and from listening to and discussing with other experts as well as with representatives from various women's organizations at the national conference "30 % Quota Representation for Women in Political Decision-Making Positions in Sierra Leone", Hotel Kimbima, December 16-17, I have received the impression that the demand for special measures such as quotas is now well founded among politicians and women's organizations, having been discussed ever since 2000.

The demand for gender quotas in Sierra Leone derives its legitimacy from the provisions of the Truth and Reconciliation Commission, TRC, which recommend 30 percent representation for women in elected assemblies, cabinets and other political posts, to increase to 50/50 gender parity within the next 10 years. Further, international declarations also state the obligation of the state to take action:

The *CEDAW* Convention from 1979, which was signed by Sierra Leone, states that "State Parties shall take all appropriate measures to eliminate discrimination against women in political and public life of the country" (Art. 7).

The *UN Beijing Platform for Action* from 1995, signed by the governments of the world, states that governments should commit themselves to "Take measures, including, where appropriate, in electoral systems that encourage political parties to integrate women in elective and non-elective public positions in the same proportion and at the same levels as men" (FWCW 1995: Art.190b).

The protocol to the African Charter on Human and Peoples' rights on *the rights of Women in Africa* from July 2003 states that "States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action" (Art.9).

Thus, international commitments obligate the state to be pro-active in ensuring the equal inclusion of women in political life. It is no longer appropriate to expect equality to come about “by itself”. It is no longer appropriate to wait for a development towards gender balance that may never occur.

Today, 50 countries in the world have adopted legislated gender quotas in politics, and in an additional 50 countries at least one political party represented in parliament has introduced voluntary party quotas for its own electoral lists. Sierra Leone could position itself as one of the African countries that, by adopting special measures, demonstrates its commitment to changing women’s historical under-representation in politics through pro-active measures.

Thus, given that the demand for gender quotas is well established in Sierra Leone, this paper discusses *how* a quota system could be implemented in the electoral and political system of Sierra Leone. On the question of the constitutionality of quotas, see the paper by Jamesina King (2009).

2. Quotas already in use in Sierra Leone.

National parliament:

- 12 seats, one per district, are reserved for Paramount chiefs according to the constitution of 1991 (Art.74). These reserved seats are indirectly elected by the Paramount Chiefs Council.
- Geographical quotas, in the constitution called “population quotas” (Art. 38 (6)), are embedded in the construction of constituencies – in Sierra Leone as in all countries.

Local Government

- The Ward Committees shall consist of 5 women and 5 men (50-50%), according to the Local Government Act of 2004.

3. The important choice of quota types

There are several types of quotas, see my conference paper. It is very important to be familiar with the differences and to make the right choices. Firstly, quotas differ as to their mandate: legislated quotas are regulated by constitution, electoral law or party law

and are binding on all political parties, whereas voluntary party quotas are merely adopted by individual political parties for their own lists at election. Secondly, quota regulations may target different stages in the electoral process: aspirant quotas (for primaries), candidate quotas (for candidate lists) or quotas as reserved seats (for those elected). Which quota types are preferable in Sierra Leone?

3.1. Legal quotas or voluntary party quotas?

Voluntary party quotas may commence immediately. Nothing prevents the political parties from making up their own gender quota rules, and no doubt the political parties in Sierra Leone, with or without a quota law, need to develop their recruitment strategies in order to become more inclusive for women candidates and perhaps even for younger candidates. But without a law, there are no binding rules, no obligations for the political parties to act. Following the recommendations of the TRC commission and international recommendations, and in line with the general quota debate in Sierra Leone, binding measures, e.g. quota legislation, are required. Legislated quotas also provide for legal sanctions for non-compliance, which voluntary party quotas do not.

3.2. Quotas for the primaries, the candidate lists or for those elected?

Having opted for binding quotas by law, the next choice involves the point in the electoral process at which such quotas should be introduced. Should the quota requirements target the primaries, the candidate lists or the number of those elected? Do we need different quota systems for elections to the national parliament and for local elections? Perhaps these three options are not as mutually exclusive as quota research maintains but could be combined in new ways.

Aspirant quotas and candidate quotas both set a minimum, e.g. 30 or 40 percent of women or of each gender for the parties' lists in primaries (aspirant quotas) or for the electoral lists in elections (candidate quotas). Candidate quotas only regulate the number of women nominated as candidates for an election. Candidate quotas do not guarantee that a certain number of women will be elected. Additional rules about the rank order, for instance requiring gender balance among the top candidates or among candidates for 'winnable' seats, may improve women's chances of actually being elected. Candidate quotas force the political parties to more seriously try to recruit women candidates for their lists. Legislated candidate quotas guarantee that women have a fair

chance of becoming candidates. It improves equality of opportunity. But it does not guarantee the election of a certain number of women.

With *reserved seats quota systems*, certain seats in a political assembly are reserved in advance for women (or for other groups, like young people, ethnic minorities and chiefs). When reserved seats are adopted, it will lead to an immediate change in women's political representation at the following election. Reserved seats are embedded in the electoral proceedings and aim at equality of result. This does not imply that individual women obtain seats without competition but that only women are entitled to compete for those seats. Increasingly throughout the world, reserved seats for women are filled through elections, not appointments.

To look up for: Under reserved seat systems, it is important that many women also stand as candidates for the general seats. Do not let the political parties conclude that with reserved seats “now women have got their share” and, consequently, parties only nominate men for the general district seats. The general seats are for both genders, while the reserved seats are a supplement for women candidates because of women's historical under-representation. Some women may start off as candidates for the reserved seats and later move to the general seats.

4. Quotas and the electoral system

It is important to choose a type of quota system that is compatible with the electoral system in the country. The premise for the following discussion is the existing single-member constituency system operating in Sierra Leone today. However, proportional representation electoral systems (PR) do provide women with better possibilities for representation and, furthermore, it is easier to implement quotas in a PR system.

Candidate quotas are most frequently, though not exclusively¹, used in PR electoral systems, where each party nominates a number of candidates in each constituency. Re-

¹ France is an example of candidate quotas, adopted in a two round, single-member district system for elections to the Chamber of Deputies. All parties are to have 50% women and 50% men among all of their candidates in the entire country.

served seat quota systems are most often, though not exclusively², used in single-member district systems. Combinations are of course possible, even if different quota systems in one and the same country are usually adopted for elections at different levels³.

- 1. It is important to choose quota types that are compatible with the electoral system in the individual country. Otherwise, gender quotas remain purely symbolic.
- 2. A quota system should be well-defined and clear and not open up for interpretations and endless discussions.

5. A mixed “Sierra Leone model”?

In the discussions, the idea of a special “Sierra Leone model” - a model that combines different types of quotas in a new way - came up. The TRC Commission recommends a 30 percent requirement for all political decision-making to elected as well as to appointed bodies on all levels. Firstly, different types of quotas may be adopted for different organisations and assemblies, but, secondly, the new Sierra Leone model may even combine different quota types for a single assembly, the national parliament, in order to reach 30 percent women among those elected. At any rate, what is desired is a so-called fast track model, a model that can quickly lead to substantial changes away from women’s under-representation.

The National Parliament.

Present situation: The FPTP electoral system was introduced for the 2007 election. It involves 112 directly elected members in 112 constituencies and 12 seats reserved for Paramount Chiefs, one per provincial district, elected indirectly by Chief Council. The total number of seats is not regulated in the constitution; there is only a stipulation of a minimum of 60 MPs.

² Rwanda is an example of reserved seat quotas added to a PR electoral system. In each district, 2 women are to be elected by a special electoral college.

³ Candidate quotas may set a minimum of women, e.g. a minimum of 30 or 40 percent women among the candidates of each party. However, a quota system may also be formulated in a gender neutral way, e.g. no less than 40 and no more than 60 percent for each gender. In the case of gender neutral provisions, a maximum is set for both genders. As long as women only consist of a small minority, it does not make any difference which of the two approaches is chosen.

- Women's representation in the 2002 election (PR, the district seats): 14.3% (16 out of 112)⁴. 13.4 % of the candidates were women candidates (159/1346)⁵. These figures imply a higher success rate for female than for male candidates.

- Women's representation in the 2007 election (FPTP, the district seats): 14.3 % (16 out of 112). Women's share of the candidates is not known.⁶

A mixed model for parliament:

Proposal discussed at the conference:

1. 14 seats reserved for women, 1 per district.
2. Candidate quotas, for instance 20 % women candidates in the 'winnable seats'
3. Half of chief seats (6 of 12) reserved for women chiefs.

*Ad 1. Choice to be made: How to elect the reserved seats.*⁷

Several possibilities:

- * Indirectly elected by a special electoral college (as in Rwanda, Uganda previously)
- * Directly elected by all voters. The voters get an additional ballot for the seat reserved for women in their district (Uganda since 2006, Morocco).
- * Appointed by the president (Kenya)
- * Distributed among the political parties in proportion to the number of seats awarded in Parliament (Tanzania: 75 special seats for women out of 319).
- * The 14 women who came closest to election (best losers), for instance in percentage of votes received (Jordan: 6 women elected this way).

Ad 2. Choice to be made: How to construct the candidate quota?

One could combine a general requirement of at least 30 % women among each party's candidates nation-wide with the additional requirement that at least 20 % of the 'winnable' seats have women candidates (party strongholds), defined as those seats that the party won in the district in the previous election, thereby increasing their chances of

⁴ If one adds the 2 women Paramount Chief members, the percentage of women for the entire parliament (124 seats) was 14.5.

⁵ Calculated on the basis of CEDAW/C/SLE/5, s.43. Probably only candidates for the constituency seats.

⁶ No women Paramount Chief members were elected in 2007 and, consequently, the overall percentage of women is 12.9 (16/124).

⁷ This proposal increases the number of seats in parliament to 138 (112 district seats +12 chief seats +14 woman seats).

election considerably, even if the seat may be lost to another party at the subsequent election.

Adding aspirant quotas?

These candidate quotas could be supplemented with a ‘vacant seat policy’ (aspirant quotas), according to which only women can compete in the primaries for the vacant seat when an MP steps down and chooses not to stand for re-election. Such vacant seats are per definition ‘winnable’ or ‘safe’ seats. The effect of a vacant-seat policy, which is similar to the British Labour party’s contested all-women short lists, depends on how big the turn over of incumbents is, that is, how many MPs will step down voluntarily and choose not to stand for re-election.

Such aspirant quotas may be written into a quota law or, alternatively, be considered as one of the methods that the political parties may use in order to fulfil the requirement of the law to have 20 percent women candidates in winnable seats.

To look out for: Angry potential male candidates may choose to stand as independents against the party’s female candidate.

Ad 3. The Paramount Chiefs

The proposal includes a requirement that half of the 12 seats reserved for chiefs should go to women chiefs. In the present parliament, only men have been elected to the chief seats, in 2002 two women. The new provision would, consequently, force the Paramount councils to choose more women if they wanted to be represented in parliament and would probably remove the ban on female candidates in the North, as in the Elizabeth Simbiwa Kaimondo Torto case, since those districts would otherwise lose representation.

Other options

There are, of course, other options for national parliament than this package. Another option is to simply reserve a certain number of seats for women. Either by reserving 30 percentages of the existing 124 seats in parliament for women (37/124 seats equals 30 %) or by adding the reserved seats (e.g. 50/174 seats equals 29%). Yet another choice could be to change the chief seats into seats for women. This would not yield 30 percent, so additional measures would at any rate be necessary.

30 or 50 %?

Together these proposals will result in a women's representation of about 30 percent. However, the TRC recommends that gender balance, a proportion of 50/50 be achieved within 'the next 10 years'. Consequently, the law could be constructed as a two step quota regulation, as we have seen it in the case of Belgium, setting up one set of rules for the next election when quota regulations will start and adding other, more ambitious rules for subsequent elections - either by inscribing the principle of 50-50 or an exact quota regulation in numbers and percentages for subsequent elections.

The local councils

Present situation: 13,7 % women councillors in the restored Local Councils in the election of 2004, rising to 18.9 % in the election of 2008. There have been some female mayors, for instance in Freetown and Bo, but no female mayor was appointed after the 2008 local elections (Dumbuay 2009). The local Councils are elected by FPTP.

Choices to be made. Which quota system to apply for local councils under FPTP?

- *Rotation system.* In India, local level, 33% of seats are reserved for women in a FPTP election. The seats reserved for women rotate between the wards from one election to the next. In case of reserved seats, only women can compete for those seats. Problem to look up for: Many women councillors do not stand for re-election once their seat is no longer reserved for women.
- *Adding system.* In Bangladesh, local level, FPTP, one woman seat has been added for every three wards. Problem to look up for: The 'added' women do not have natural constituencies of their own.

The Ward Development Committees

Since the 2004 Local Government Act the Committees shall consist of 10 members elected in a town meeting, 5 members of each sex.

There are no statistics available for the gender composition of the Ward Committees. General procedures for these elections could be developed.

Proposal: Two lists should be constructed, one with women candidates and one with male candidates, and – in case of more than 5+5 candidates - the town meeting should

then select 5 from the list of women candidates and subsequently 5 from the list of male candidates.

Cabinets and public commissions and boards

Present situation: The last three governments have had only three women cabinet ministers and 20 male ministers (13 %). The number of women in the cabinet should be increased to 11-12 ministers in order to fulfil the 30 percent requirement. In addition, in many countries the law regulates the gender balance of public commissions and board. Following the TRC commission's recommendation, the quota law should include a provision of 30 percent women in all decision-making, to increase later to 50 percent.

6. Sanctions for non-compliance

Sanctions for non-compliance are important for the implementation of a quota system. Here are some examples of such legal sanctions.

Types of sanctions for non-compliance.

- **1. Rejection of the list by the Electoral Commission (Costa Rica, Spain, Slovenia, France at the local level)**
- **2. Places shall remain empty (Belgium)**
- **3. Financial penalty (France at the national level, Portugal)**

7. A need for other changes in the nomination system

The reason for women's under-representation is not primarily a lack of qualified women in the country – for the national parliament only 62 women are needed to make it 50 %! Research has shown that the main problem rests with the selections in the nomination process, which are often controlled by male networks that de facto exclude women. Often the selection process is informal and non-transparent. Women as well as democracy in general would benefit from far more formalized and transparent procedures. A quota system can thus be a part of a process of democratizing the selection procedure.

In general, it is important to question clientelism and to contest a system in which candidates have to make considerable monetary contributions to political parties and to their own electoral campaigns. If the candidates have to make large individual financial contributions, this in itself constitutes a problem for women candidates. In general, any system of 'buying' party symbols and 'buying' votes is problematic in relation to the very idea of democracy.

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Web sites:

www.quotaproject.org – a global web site showing all quota systems, country by country

www.ipu.org – shows the world rank order of women in parliaments