

“You Made a Mistake—You Selected a Woman!”*: The Implementation of Political Gender Quotas in Postconflict African Nations

Bethany Conner†

I.	INTRODUCTION	203
II.	CRITICAL MASS AND THE ELECTABILITY OF WOMEN IN AFRICA.....	205
III.	GENDER QUOTAS AND SUBSTANTIVE REPRESENTATION OF AFRICAN WOMEN IN POST-ARMED CONFLICT COUNTRIES.....	207
	A. <i>The Results of Gender Quotas in Rwanda</i>	210
	B. <i>The Results of Gender Quotas in South Africa</i>	213
	C. <i>The Results of Gender Quotas in Uganda</i>	219
IV.	THE POTENTIAL FOR A MORE EFFECTIVE USE OF GENDER QUOTAS IN SUDAN	222
V.	CONCLUSION	223

I. INTRODUCTION

Women look out for their interests and those of their children; they have a vested interest in peace. . . . We want our voices to be heard. When can we be the ones to sit at the head of the table? As women gain ground in local leadership positions, we will gradually begin to get more national opportunities. And if we're there, it will make a difference—a big difference.¹

Many African nations concerned by the lack of female representation in prominent political positions have responded by implementing gender quotas. The majority of African countries that have reached high levels of female participation in political office have done

* Gumisai Mutume, *African Women Are Ready To Lead but Social Beliefs and Attitudes Hinder Their Quest*, AFR. RENEWAL, June 2006, at 3, available at <http://www.un.org/ecosocdev/geninfo/afrec/vol20no2/AR-20no2-english.pdf>.

† © 2008 Bethany Conner. J.D. candidate 2009, Tulane University School of Law; B.A. English, *magna cum laude*, University of Mississippi. The author would like to thank her mother, Joyce Conner, her grandmother, Rosalie Conner, her brother and sister, Evan and Lynden Conner, and her extended family and friends for their love and support.

1. Timothy Longman, *Rwanda: Achieving Equality or Serving an Authoritarian State?*, in *WOMEN IN AFRICAN PARLIAMENTS* 133, 145-46 (Gretchen Bauer & Hannah E. Britton eds., 2006) (quoting Lieutenant Colonel Rose Kabuye).

so by using various forms of gender quotas, including constitutional quotas, election law quotas, and political party quotas.²

Many people credit the use of quotas not only as a remedy for gender imbalance in African politics but also as a means of showing the world that in spite of its problems, Africa can achieve a “modern” sensibility in gender dynamics.³ Gumisai Mutume, a contributor to *African Renewal*, notes, “Despite being one of the poorest regions in the world, the level of women’s representation in parliament in sub-Saharan Africa is higher than in many wealthier countries In the US, France and Japan for instance, women hold slightly more than 10 per cent of parliamentary seats.”⁴

Still, the implementation of gender quotas is not without its critics. Many have described quotas as an effort to “encourage tokenism and preserve essentialist understandings of identity.”⁵ These critics claim that in addition to encouraging tokenism, quotas also perpetuate the notion of “descriptive representation,” which can lead to the presumption that “only a woman can represent women.”⁶ Many members of the electorate in African nations maintain this underlying assumption that only women can represent women.⁷ They believe that female politicians are unable to serve their entire constituency as women who were elected with the aid of gender quotas; these women must strive to transcend their womanhood in order to serve both women and men.⁸

Nations recovering from internal armed conflicts further skew the traditional African gender identity, thus exacerbating the problem of descriptive representation. South Africa, Uganda, and Rwanda have all substantially benefitted from the introduction of gender quotas, and all three countries now have high rates of women holding political office. Notably, the introduction of the quotas took place in these countries after decades of intense civil unrest resulting from inhuman discriminatory practices, a decades-long, lingering civil war, or 100 days of horrific genocide.⁹

2. Gumisai Mutume, *Women Break into African Politics: Quota Systems Allow More Women To Gain Elected Office*, AFR. RENEWAL, Apr. 2004, at 4, available at <http://www.un.org/ecosocdev/geninfo/afrec/vol18no1/181women.htm>.

3. *Id.*

4. *Id.*

5. Darren Rosenblum, *Parity/Disparity: Electoral Gender Inequality on the Tightrope of Liberal Constitutional Traditions*, 39 U.C. DAVIS L. REV. 1119, 1134-35 (2006).

6. *Id.* at 1135-36.

7. Mutume, *supra* note *, at 3.

8. *Id.*

9. Kathleen A. King, Comment, *Representation of Women: Constitutional Legislative Quotas in Rwanda and Uganda*, 1 CHARLESTON L. REV. 217, 218-29 (2007); Anne Marie Goetz,

Despite their efforts, there is a large possibility that the gains that women have made during postconflict settlements to secure political positions will be lost.¹⁰ It must be determined how to prevent such losses. Inonge Mbikusita-Lewanika, a politician and ambassador from Zambia, provides the basis for a solution.¹¹ She states that leadership positions must be filled with “both men and women who are gender sensitive. We are striving for a positive partnership between men and women.”¹² In order to secure the gains made by African women in government, there must be a legal foundation to protect these advances. This legal foundation must be rooted within a framework that respects female empowerment while simultaneously addressing a positive partnership between men and women.

This Comment examines several issues surrounding the formation of this necessary legal foundation. It will explore the following questions: Are gender quotas a viable means for promoting gender equality? Are gender quotas successful in certain countries? If so, what are the most successful methods of implementing gender quotas? Is there a need for more effective laws such as sanctions to protect and promote this commitment to gender equality in politics? Gender quotas are currently in use in Sudan; will their use prove to be more effective after the end of armed conflict in the country (most notably in the Darfur region)?

Part II of this Comment will analyze the impetus surrounding the use of gender quotas by discussing the significance of “critical mass” and the electability of women in Africa in regards to social mores. Part III will discuss the implementation of gender quotas, the results of that implementation, and potential solutions to remedy any disappointing results in Rwanda, South Africa, and Uganda. Finally, Part IV will examine the potential for amending gender quotas already in use in Sudan, a country currently experiencing internal armed conflict. Part IV will also consider the possibility that gender quotas will become more successful in Sudan during peace talks and postconflict policy making.

II. CRITICAL MASS AND THE ELECTABILITY OF WOMEN IN AFRICA

In 2005, Ellen Johnson-Sirleaf, also known as the “Iron Lady,” became the first female, democratically elected President of Liberia and

Women in Politics & Gender Equity in Policy: South Africa & Uganda, 76 REVIEW AFR. POL. ECON. 241, 245 (1998).

10. Mutume, *supra* note *, at 9.

11. *Id.*

12. *Id.*

the first woman elected to such a position in modern African history.¹³ Before Johnson-Sirleaf claimed victory in the fiercely contested election, her supporters took to the streets chanting, "Ellen—she's our man."¹⁴ The mantra of her supporters should not be considered shocking when one considers that neither the Liberian electorate nor the whole of Africa had ever before experienced an election of a woman to an African nation's highest office.¹⁵

The lack of significant numbers of women in political office around the world is a testament to the overwhelming odds that women of all nationalities must confront. In the Fourth World Conference on Women held in 1994, governments committed themselves to remedying this persistent inequality by adopting an international agreement to enact courses of action to ensure that women would rise to positions of power.¹⁶ During the conference, an international benchmark was set: thirty percent of posts in political decision-making positions were to be filled by women.¹⁷ If this goal was met, then that nation would have reached "critical mass," or the "minimum level of representation required for women to make a difference in policy-making."¹⁸ Participants in the conference also arranged to review "the impact of electoral systems on the political representation of women" and to propose reforms to improve representation.¹⁹

Though the nations participating in the Conference on Women made many pledges to give women the opportunity to hold political office, few actually adhered to those promises.²⁰ This result has largely stemmed from issues of poverty, not social mores. The United Nations Economic Commission for Africa (ECA) states that African women are not participating in political office because "campaigning requires money."²¹ Many women in African countries live in extreme poverty, and there are simply no funds available to run a successful campaign for office.²²

13. *Id.* at 8; Lydia Polgreen, *In First for Africa, Woman Wins Election as President of Liberia*, N.Y. TIMES, Nov. 12, 2005, available at <http://www.nytimes.com/2005/11/12/international/africa/12liberia.html>.

14. Polgreen, *supra* note 13.

15. *Id.*

16. Mutume, *supra* note *, at 7.

17. *Id.*

18. *Id.*

19. *Id.* at 5.

20. *Id.* at 4-6, 10.

21. *Id.* at 7.

22. *Id.*

Nevertheless, there are still success stories of women attaining political office in African countries. In sub-Saharan Africa, the average number of women in parliament is 17.9%, higher than the world average of 15.6%.²³ Though Liberia's Johnson-Sirleaf is the only female head of state in all of Africa, Mozambique, Zimbabwe, and South Africa have all made large progressions toward electing more women into positions of high-ranking leadership.²⁴ Mozambique has appointed a female prime minister, and both Zimbabwe and South Africa have elected female deputy presidents.²⁵

In order to fully appreciate the successful gains for women involved in political office, one must consider the impact of social mores upon the elections of female candidates for powerful positions. The Liberian electorate accepted and promoted the image of candidate Johnson-Sirleaf as a formidable woman with leadership traits similar to that of men, so much that they proclaimed her to be "our man."²⁶ The implications of this occurrence are not restricted only to Liberia, but rather affect the perception of the electability of women in all African nations and worldwide. If President Johnson-Sirleaf could only be elected on the basis of her supposed male characteristics, it is conceivable that an equally capable African woman who is not recognized as having those same characteristics might experience severe difficulties or an outright denial of election to an executive office.

III. GENDER QUOTAS AND SUBSTANTIVE REPRESENTATION OF AFRICAN WOMEN IN POST-ARMED CONFLICT COUNTRIES

Fortunately, in Rwanda, Uganda, and South Africa, it appears that African women can be elected without projecting male characteristics in order to secure their positions. Women's participation in political office has reached record highs in these countries.²⁷ Though twenty-nine African nations use some form of gender quotas, only a small number of them use quota laws that are implemented through their constitutions.²⁸

23. *Id.* at 8.

24. *Id.*

25. *Id.*

26. Polgreen, *supra* note 13.

27. See Mutume, *supra* note 2; Abraham McLaughlin & Lane Hartill, *The Rise of Africa's Women Politicians*, CHRISTIAN SCI. MONITOR, Oct. 12, 2005, available at <http://csmonitor.com/2005/1012/p06s01-woaf.html>.

28. Int'l Inst. for Democracy & Electoral Assistance & Stockholm Univ., *Africa, in GLOBAL DATABASE OF QUOTAS FOR WOMEN*, http://www.quotaproject.org/country_by_region.cfm#Africa (last visited Sept. 30, 2008); *Women To Rule Rwanda Parliament*, BBC NEWS, Sept. 17, 2008, <http://news.bbc.co.uk/2/hi/africa/7620816.stm>.

The introduction of gender laws in constitutions appears to be the most successful method of securing more positions in government for women.

The African nations with the highest female political representation include Burundi, Lesotho, Mozambique, Namibia, Rwanda, Senegal, South Africa, Tanzania, Tunisia, and Uganda.²⁹ These countries differ in the number of women participating in political office, ranging from 22.8% in Tunisia to 56.3% in Rwanda's lower house of parliament.³⁰ Seven of the ten countries listed have constitutional quotas for national parliaments or constitutional or legislative quotas for the subnational level of government.³¹

Though these countries have large numbers of women in political office, are these women really making an impact in their positions? More to the point, is the usage of gender quotas, particularly through constitutions, an effective means of promoting gender equality in political representations? Perhaps women would be better served not only by implementing gender quotas in constitutions, but also by combining their effects with quotas in election laws, political party rules, and even sanctions for noncompliance. Of the African nations previously listed with the highest number of women participating in political office, those with the highest numbers of women in such positions (reaching the critical mass target of thirty percent) use a combination of two or more of the areas previously listed in which to employ gender quotas.³²

While some critics of gender quotas have argued that the use of these quotas tends to reinforce negative social mores involving women in leadership positions,³³ other critics have called into question the efficacy of the quotas in terms of the lack of power that women should rightfully wield in political office.³⁴ These critics claim that women who have benefitted from gender quotas are denied the same resources that men in equal positions of power already exercise.³⁵ They state that the quotas "constitute a 'glass ceiling' beyond which women cannot go unless they engage in additional struggle" and also that "women who come into power under such a system may be undervalued or viewed as not politically deserving."³⁶ The United Nations Development Fund for Women (UNIFEM) argues that "simply increasing women's share of

29. Int'l Inst. for Democracy & Electoral Assistance & Stockholm Univ., *supra* note 28.

30. *Id.*

31. *Id.*

32. *Id.*

33. Rosenblum, *supra* note 5, at 1135-36.

34. Mutume, *supra* note 2, at 4.

35. *Id.*

36. *Id.*

seats in parliament alone is not a solution. . . . It does not guarantee that they will make decisions that benefit the majority of women.”³⁷

It is fitting that UNIFEM would state that female politicians who are unable to share power with their male colleagues are prevented from making decisions beneficial for women because such a statement further indicates the pervasiveness of the notion that women who are elected with the help of gender quotas are elected to represent only other women and not the entire electorate. Is this viewpoint detrimental to the cause of African women being elected to office? If so, what can be done to change it? Nevertheless, should African female politicians be compelled to ignore women’s rights in order to dispel this stereotype?

One means of answering these questions is to look at how this prevailing notion plays out in African laws involving gender quotas. Once again, the most intriguing source for such information concerns countries that have recently shifted their notions of gender, and, in particular, those who have experienced social upheaval as a result of social unrest and armed conflict. In Rwanda, for example, the 1994 genocide created an opportunity for women to enter politics due to severe demographic shifts (after the genocide there were three women for every two men).³⁸ In South Africa, women fought with men in an effort to rid their country of apartheid.³⁹ In doing so, they asserted their equality with men and were empowered to claim positions in political office during postconflict settlements.⁴⁰

In South Africa, Rwanda, and Uganda, a period of extreme social and political change resulted after their respective dark moments in history. In Rwanda and Uganda, the gender dynamic was altered because the number of men killed during the armed conflicts resulted in a lower number of men holding political office and an opportunity for women to take an active role in government.⁴¹ In South Africa, the intertwining of differences in ethnicity and gender made the introduction of a new government that accurately reflected the country’s diversity, particularly in regard to sex, a necessity; such commitment was seen as a “moral touchstone.”⁴² Though these countries share a common characteristic in that gender quotas were introduced after the calming of internal strife, the manner in which gender quotas were implemented in

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. Ruth B. Cowan, *Women’s Representation on the Courts in the Republic of South Africa*, 6 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 291, 291 (2006).

these individual nations differs and is a reflection of the unique advantages and disadvantages inherent in their respective societal structures.

A. *The Results of Gender Quotas in Rwanda*

It is difficult to present a model for a more effective use of gender quotas than that of Rwanda. Although it would be overly simplistic to rely on the sheer number of Rwandan women elected to government, it is difficult to ignore the presence of so many women involved in politics. In 2003, following the first parliamentary elections after the signing of the new Constitution of the Republic of Rwanda, the Rwandan legislature had the highest portion of female parliamentarians in the world.⁴³ In September 2008, Rwandan women furthered their political presence by becoming the only nation in the world to hold a female majority in parliament.⁴⁴ In the bicameral parliament, women now hold 56.25% of seats, with forty-five of eighty parliamentary seats being held by women.⁴⁵

These results are astounding considering that 10% of the Rwandan population was brutally murdered during the 1994 genocide.⁴⁶ As a result of the decimation of the population and the nation's infrastructure, women not only became the heads of households, but also were seen as moderate, unifying figures because of their smaller role during the violence.⁴⁷ Women were also seen as being owed the opportunity to participate in government to subvert the traditional perception of women in the patriarchal Rwandan society.⁴⁸

Intriguingly, the new status of women as promoters of reconciliation and rebuilding led to the inclusion of three important articles in the constitution affirming the Government's interest in supporting gender equality.⁴⁹ Article 9 asserts, as one of the constitution's "fundamental principles," that the nation is committed to rebuilding Rwanda into a state governed equally by men and women.⁵⁰ Article 54 prohibits political organizations from engaging in practices that may foster

43. King, *supra* note 9, at 222-23.

44. United Nations Dev. Fund for Women, Rwandan Women Secure 56% of Parliamentary Seats in Historic Election Result (Sept. 22, 2008), http://www.unifem.org/news_events/story_detail.php?StoryID=736.

45. King, *supra* note 9, at 222-23.

46. *Id.* at 219.

47. *Id.*

48. *Id.*

49. *Id.* at 221.

50. CONST. OF THE REP. OF RWANDA art. 9 (2003).

discrimination, including along gender lines.⁵¹ Article 185 establishes the Gender Monitoring Office, which monitors compliance with gender quotas in other centralized and decentralized nongovernmental institutions.⁵²

These constitutional mandates along with the implementation of gender quotas in four areas (constitutional quotas for national parliaments, election law quotas, constitutional or legislative quotas for the subnational level, and legal sanctions for noncompliance)⁵³ will lead to greater numbers of women holding political office and wielding power traditionally held only by their male counterparts.

However, critics astutely point to the very disappointing fact that women are not engaging in substantive representation and are unlikely to affect positive change within Rwanda using their influence as political leaders.⁵⁴ Critics even argue that “women politicians in Rwanda are in fact participating in the adoption and implementation of policies that are compromising individual liberties and increasing national and international insecurity.”⁵⁵

After the 1994 genocide, the Rwandan Patriotic Front (RPF) took power with Paul Kagame, the current president, at the helm.⁵⁶ Kagame consolidated political power between himself and a small group of associates.⁵⁷ Kagame cemented his power by threatening and intimidating those who sought political office in competing political parties, virtually prohibiting these political parties from existing in Rwanda and challenging his authority.⁵⁸ His regime is intolerant of “independent expression and political dissent.”⁵⁹

Thus any women who choose to disagree with Kagame will be silenced, and those who choose to follow his lead will lose the opportunity to serve the interests of the electorate, including those of Rwandan women.⁶⁰ However, the introduction of women into political office has resulted in female legislators creating a unique means of improving the status of women: the Forum of Women Parliamentarians. The Forum is a legislative caucus that attempts to address the everyday

51. *Id.* art. 54.

52. *Id.* art. 185.

53. Int'l Inst. for Democracy & Electoral Assistance & Stockholm Univ., *supra* note 28.

54. King, *supra* note 9, at 225-28.

55. Longman, *supra* note 1, at 133.

56. *Id.* at 142, 146.

57. *Id.* at 146.

58. *Id.* at 146-47.

59. *Id.* at 146.

60. *See id.* at 149.

concerns of women through such legislation as a bill that relaxed restrictions on inheritance for women.⁶¹

Still, critics are quick to point to the failure of Rwandan female legislators to remedy the fact that the average Rwandan woman has seen little improvement in her day-to-day life.⁶² In every area from literacy to employment to obtaining justice as victims of sexual assault during the genocide, Rwandan women continue as second class citizens within their own country, even though they remain the majority.⁶³ In order to resolve this problem and prevent a similar occurrence in another country, one must look to the manner in which Rwandan law, which seems to cover every possible base for protecting the inclusion of female legislators, has become less effective than anticipated.

One obvious source of the problem lies with the fact that the RPF has monopolized control of the Rwandan Government. However, it is surprising that Rwanda has enacted a series of checks and balances which would seem to limit the power of the Executive to control the Legislative and Judicial Branches of the Rwandan Government. These checks and balances occur in the form both of institutions⁶⁴ and of a process of decentralization rooted in the constitution.⁶⁵

The institutional form of checks and balances consists of the National Human Rights Commission, the Unity and Reconciliation Commission, and the office of the Auditor-General.⁶⁶ Institutional checks and balances were introduced in order to alleviate problems stemming from the 1994 genocide and also the lack of constructive criticism regarding the use of the military, which is central to the Executive Branch's hold on power.⁶⁷ The process of decentralization involves a further review of the 2003 constitution, ensuring inter alia that the Legislative Branch "mak[es] a 'tab' (checks and balances) on the Executive arm of the Government."⁶⁸

Even with the execution of checks and balances upon the Executive Branch of Government, the power of Kagame and his colleagues is

61. *Id.* at 145.

62. King, *supra* note 9, at 225.

63. *See id.*

64. Elizabeth Sidiropoulos, *Democratisation and Militarisation in Rwanda: Eight Years After the Genocide*, 11 AFR. SECURITY REV. (2002), available at <http://www.iss.co.za/ASR/11No3/Sidiropoulos.html>.

65. Charles Gasana, *The Decentralisation Process in Rwanda: Ensuring Improved Accountability on All Levels*, http://info.worldbank.org/etools/library/latestversion_p.asp?objectID=3457&lprogram=1 (last visited Sept. 30, 2008).

66. Sidiropoulos, *supra* note 64.

67. *Id.*

68. Gasana, *supra* note 65.

unrestrained without laws passed to curb the spread of corruption and intimidation in the Government. In order to give female legislators the power they should rightfully wield, several steps should be taken. In addition to there being sanctions for noncompliance with gender equality goals in government, there should be sanctions that specifically prohibit the tactics currently employed by Kagame's regime. Moreover, instead of relegating female legislators to monitoring only issues that affect women, constitutional amendments should ensure that women in Parliament are required to participate and lead committees in charge of finance and trade.

Further, an amendment to the constitutionally prescribed selection of female legislators to the Chamber of Deputies is necessary.⁶⁹ The gender quotas in Rwanda mandate that female legislators be elected indirectly by "joint assemblies of local executive government and the members of women's organizations."⁷⁰ Such election methods are dangerous for female legislators in that elections for the Chamber are vulnerable to manipulation by local government councils who may support less activist women.⁷¹ In amending this directive, Rwandan women may be more likely to empower themselves to maintain an impartial and balanced legislature. Such empowerment is necessary to prevail over Kagame's regime which threatens to negate the advances of not only women, but the whole of Rwanda.

Finally, the way in which these problems will be resolved is most likely with the passage of time.⁷² The new Constitution of the Republic of Rwanda was enacted only five years ago. It will take more time to determine if the use of gender quotas is truly effective and for female legislators to gain the empowerment needed to pursue the interests of their constituents.⁷³

B. The Results of Gender Quotas in South Africa

Rwanda appears to be the epitome of success in terms of the usage of gender quotas due to the sheer number of Rwandan women involved in politics. Although the number of South African women involved in politics is smaller, they do present a thriving model for substantive representation and maintenance of power. Penelope Andrews, an Associate Professor of Law at City University of New York School of

69. See King, *supra* note 9, at 226-27.

70. *Id.* at 226.

71. *Id.*

72. See *id.* at 228.

73. *Id.*

Law, provides a formula for why South African women's participation in political office has been such a success. Andrews states, "Whatever the shape of the rights embodied in the Constitution, and however strong the promise of equality, enforcement will ultimately depend on a combination of factors. . . ." ⁷⁴ Those factors include a commitment of the government to the rights found within the constitution, the interpretation of these rights by those who refuse to ignore the "historical legacy and social, economic, and cultural realities of South Africa," and a constant vigilance by *all* South Africans who "yearn for a society free from oppression of and discrimination against women." ⁷⁵

The first factor that Andrews mentions is the commitment of the South African Government to the rights found within the constitution, and, by all accounts, the Government has fulfilled this requirement. The South African Constitution is filled with principles of nonsexism. ⁷⁶ In the Founding Provisions, nonracialism and nonsexism are the values supporting the democratic state. ⁷⁷ In the South African Bill of Rights, a section espousing the nation's commitment to equality before the law provides that the "state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, [and] sex." ⁷⁸ Another pertinent constitutional passage in regard to gender quotas is the protective measures or affirmative action clause which affirms that in the interests of the promotion of equality, "legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken." ⁷⁹

The South African Government's dedication to the eradication of sexism based on constitutional mandates is evidenced by the establishment of the Commission for Gender Equality and the Human Rights Commission. ⁸⁰ Both institutions seek to promote and protect the ideals of equality upon which the constitution is based. ⁸¹ Intriguingly, not all South Africans were pleased with the introduction of the Human Rights Commission. ⁸²

74. Penelope E. Andrews, *Striking the Rock: Confronting Gender Equality in South Africa*, 3 MICH. J. RACE & L. 307, 339 (1998).

75. *Id.*

76. *Id.* at 327.

77. *Id.* at 327-28.

78. *Id.* at 328.

79. *Id.* at 329.

80. *Id.* at 330.

81. *See id.* at 327.

82. *Id.* at 330.

The dispute centering on the acceptance of the Human Rights Commission illustrated the differences between women's substantive representation in South Africa and in Rwanda, where it is severely limited. In South Africa, women argued that the Human Rights Commission was not an effective body to deal with women's issues and that only the Commission for Gender Equality could handle those issues while avoiding a potential pitfall to which the Human Rights Commission would be vulnerable: generalizing and marginalizing women's issues under the general rubric of human rights.⁸³ In Rwanda, such outright rejection of a government's directives would be grounds for political isolation and probable dismissal, but in South Africa, such debate is the foundation of the principle embedded in the constitution—unqualified commitment to equality. It also illustrates one of the ways in which *all* South Africans have an interest and take part in eradicating sexism.

Another means by which South Africans take part in dismantling sexism is through supporting an electoral system that allows voters to elect a large number of women.⁸⁴ This system is the proportional representation system.⁸⁵ The proportional representation (PR) system, which offers a way to delocalize the vote, promotes the “representation of marginalized social groups in ethnically fractured societies.”⁸⁶ It operates by electing legislators in large districts where each party displays a list of candidates equal to the number of seats in the district.⁸⁷ Voters indicate which candidate they prefer and those candidates receive seats in proportion to the percentage of votes that they win.⁸⁸ The party list version of the PR system in place in South Africa, where “parties have adopted quotas for women candidates, combined with well-institutionalised party systems which have formal, centralised rules for candidate selection,” is the most successful means of attaining a critical mass of female representation in government.⁸⁹

The delocalizing effect of the PR system refers to the ability of female candidates to bring controversial issues to the forefront, such as

83. *Id.*

84. Goetz, *supra* note 9, at 250.

85. *Id.*

86. *Id.*

87. Douglas J. Amy, How Proportional Representation Elections Work, <http://www.mtholyoke.edu/acad/polit/damy/BeginningReading/howprwor.htm> (last visited Sept. 10, 2008).

88. *Id.*

89. Anne Marie Goetz & Shireen Hassim, *Introduction: Women in Power in Uganda and South Africa*, in *NO SHORTCUTS TO POWER: AFRICAN WOMEN IN POLITICS AND POLICY MAKING* 1, 9 (Anne Marie Goetz & Shireen Hassim eds., 2003).

female gender issues, which normally would not be discussed before conservative voters in smaller, more rural districts.⁹⁰ These candidates are still elected in large numbers because the focus is on the party that the candidate represents and not on the individual candidate and her personal platform.⁹¹

Still, the PR system has its drawbacks. While South African gender quotas located on party lists in the PR system result in a large female legislator presence, these women are beholden to the party hierarchy and not the particular constituency that elected them because the power to be elected comes from the hands of the central or provincial party that compiles the lists.⁹² However, the PR system still has the advantage of legitimizing a newly elected female legislator because she won her position through a popular election.⁹³ Nevertheless, these women have little to no leverage against their political party in asserting issues of importance to them because they essentially have no constituency that will elect them if they move to another party in the next election; therefore, they cannot threaten their party with losing a seat in the legislature.⁹⁴

If South African women legislators could form a successful, unified women's movement that would support female legislators, these legislators could highlight issues of importance to them without fear of reprisal from their political parties.⁹⁵ The formation of the Women's National Coalition (WNC) in South Africa was an attempt to do just that. Founded in 1992, the WNC represented over ninety national organizations and thirteen regional coalitions.⁹⁶ From the African National Congress (ANC) to the National Party to the Congress of South African Trade Unions, women from varying political, racial, and class groups came together in an effort to support their interests.⁹⁷ Ironically, the wide breadth of interests of women from such vastly different backgrounds proved to be the cause of the organization's inability to sustain its membership and influence.⁹⁸

The WNC is an example of how women can engineer ways to resist the negative effects of gender quotas. Though the organization folded

90. Goetz, *supra* note 9, at 251.

91. *Id.* at 250-51.

92. *Id.* at 251.

93. *Id.*

94. *Id.*

95. *See id.*

96. *Id.* at 246.

97. *Id.*

98. *Id.*

because of the great ideological differences among its members, the form of the coalition itself—bringing women together to assist in the strengthening of women’s issues by endorsing female candidates—is ideal. It is this kind of movement that is needed in Rwanda in order to bolster the substantive representation of female legislators. Rwandan women can also take note of the formation of the WNC as a means of resistance against those who traditionally have not supported women’s issues and have also directly opposed the inclusion of women’s issues in South African politics.⁹⁹ The introduction of the WNC resulted in the strengthening of the stance on gender issues taken by South Africa’s ruling political party, the ANC.¹⁰⁰

Andrews’ last factor dealing with the proper enforcement of the country’s commitment to gender equality is that such enforcement depends on the interpretation of rights by those who refuse to ignore the “historical legacy and the social, economic, and cultural realities of South Africa.”¹⁰¹ The ANC has not ignored the relationship between these realities and women’s issues; in fact, it has acknowledged the historical significance of women’s contributions to the party.

Women’s contributions to the ANC and to the whole of South Africa ranged from joining the party’s military wing, *Umkhonto we Sizwe* (the Spear of the Nation),¹⁰² to organizing the historic mass antipass campaign.¹⁰³ The ANC responded to women’s involvement by honoring them in a variety of ways. However, it is important to note that the influential leaders of the ANC did not give or even immediately accept the most beneficial advancement to South African women: a gender quota guaranteeing female representation in political office.¹⁰⁴

The ANC’s Women’s League pushed for the ANC to institute a requirement of a constitutional recognition of thirty percent female representation within the ANC decision-making structures.¹⁰⁵ A strong debate surrounded the introduction of a gender quota within the ANC,

99. See Mavivi Myakayaka-Manzini, Political Party Quotas in South Africa, Paper Presented at the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference: The Implementation of Quotas: African Experiences, Pretoria, South Africa (Nov. 11-12, 2003), http://www.quotaproject.org/CS/CS_South_Africa_Manzini-final2-6-2004.pdf.

100. *Id.*

101. See Andrews, *supra* note 74, at 339.

102. Microsoft Encarta, South Africa 12, http://encarta.msn.com/encyclopedia_761557321_12/south_africa.html (last visited Mar. 5, 2008).

103. See Myakayaka-Manzini, *supra* note 99, at 2.

104. See *id.* at 2-3.

105. *Id.*

with both male and female delegates from the rural provinces within the party arguing against gender quotas. The most consistent argument was that women should be elected to political office solely on the basis of merit.¹⁰⁶

The proposed quota system was eventually accepted, and in the 1994 elections 33% of ANC members elected to the national and provincial legislatures were women.¹⁰⁷ Subsequently, 25% of the National Assembly members were female.¹⁰⁸ The advances promulgated by the 1994 elections resulted in the ANC not being required to adjust the national parliament list in order to obtain a 33% representation for the 1999 elections because women were placed in every third position on the list.¹⁰⁹ As a result, 33% of the representatives elected to office in 1999 were female.¹¹⁰

South African women have also made considerable advances by occupying 33% of the positions in the cabinet and accounting for more than half of the deputy ministers.¹¹¹ While in these positions, South African women have not encountered the problem of being relegated to administering only women's issues as Rwandan female politicians have experienced.¹¹² Instead, South African women handle a broad range of government affairs, from communications to science and technology to defense and intelligence.¹¹³

By all accounts, it appears that South African women have successfully gained substantive representation due to the introduction of gender quotas in the ruling political party. However, one cannot help but wonder if this success will last. While Rwandan female politicians can take comfort in knowing that their lack of substantive representation will most likely resolve itself in time, South African women could actually lose their substantive representation.

Though South African women have sown the seeds for female empowerment through political action within the ANC, as evidenced by the heated debates surrounding the initial gender quota requirement in the political party, many individuals (including female politicians) still

106. *Id.* at 3.

107. *Id.*

108. *Id.*

109. *Id.*

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

believe that gender quotas promote tokenism.¹¹⁴ Without the continued support of the ANC, or if the ANC were to lose its influential hold on South Africa, South African women could be left without the means to obtain political office in the large numbers to which they have become accustomed.

While South Africa's Municipal Structures Act of 1998 states that "every party must seek to ensure that 50 per cent of the candidates on the party list are women" and that male and female candidates are evenly distributed on the list,¹¹⁵ there is no penalty in place to ensure that every political party in South Africa will comply with this law. South African women need a constitutional provision that will ensure that gender quota laws are obeyed and maintained throughout the country indefinitely. Sanctions are also needed that will compel all political parties to comply with the law. South African women have accomplished much in terms of women's empowerment; however, a cementing of that empowerment is necessary to guarantee that it persists.

C. *The Results of Gender Quotas in Uganda*

While South African women face the distant possibility that their large numbers in political office will slowly diminish, this threat is very real for women in Uganda. By all appearances, the law's emphasis on women's rights and the multipronged approach to gender quotas in Uganda should result in women's continued representation in political office as high as that of Rwanda. Indeed, since the last national elections in 2006, Uganda has elected women to 23.9% of the seats in its legislature.¹¹⁶

Uganda has several laws in place to make certain that large numbers of women are elected to political office.¹¹⁷ First, the Constitution of Uganda states that its Parliament shall consist of one woman representative for each of Uganda's fifty-six districts.¹¹⁸ Second, there are quota regulations for the National Parliament: two of the ten Uganda People's Defence Forces Representatives, one of the five Youth Representatives, one of the five Representatives of Persons with Disabilities, and one of the five Representatives of Workers must be

114. GISELA GEISLER, WOMEN AND THE REMAKING OF POLITICS IN SOUTHERN AFRICA: NEGOTIATING AUTONOMY, INCORPORATION AND REPRESENTATION 212 (2004).

115. Kikhapha Mbatha, *Democratising Local Government: Problems and Opportunities in the Advancement of Gender Equality in South Africa*, in NO SHORTCUTS TO POWER: AFRICAN WOMEN IN POLITICS AND POLICY MAKING, *supra* note 89, at 194.

116. Int'l Inst. for Democracy & Electoral Assistance & Stockholm Univ., *supra* note 28.

117. *See id.*

118. *Id.*

women.¹¹⁹ Third, the 1995 constitution requires that one-third of local government council representative positions be filled by women.¹²⁰

Nevertheless, after considering all the constitutional and legislative protections of women's representation, Ugandan women still lag behind other countries in terms of percentages of women elected to office. While South African and Rwandan legislatures have more than thirty percent of female representation, Uganda does not meet the critical mass requirement. Uganda is similar to South Africa and Rwanda in that the inclusion of women in government through specific reservations occurred after an armed conflict, the civil war which occurred between 1979 and 1986.¹²¹ Why are Ugandan women not elected to office in the high percentages seen in South Africa and Rwanda? It appears that Ugandan women are being withheld from securing higher numbers of female representatives due to factors external to the law.

Current President Yoweri Museveni has personally supported women's equality since assuming office in 1986.¹²² When he came to power, Museveni "temporarily" suspended multiparty politics in an effort "to build a national government of democratic reconciliation" apart from the sectarian multiparty system of the past which—largely constituted along religious and ethnic lines—led to deep divisions within the country.¹²³ The removal of the multiparty system initially had a positive effect on the ability of women to secure political office in that it released Ugandan women from the necessity of getting party support for female candidates.¹²⁴

In the "no party" system, enacted after the National Resistance Army claimed victory at the end of the Ugandan Civil War, the National Resistance Movement (Movement) was given a privileged constitutional status in which it was directly funded by the Ugandan taxpayers, not by its own members' contributions.¹²⁵

Though the Movement continues to deny that it is a political party, critics are quick to point to the many ways in which the Movement

119. *Id.*

120. *Id.*

121. Sheila Kawamara-Mishambi & Irene Ovonji-Odida, *The 'Lost Clause': The Campaign To Advance Women's Property Rights in the Uganda 1998 Land Act*, in NO SHORTCUTS TO POWER: AFRICAN WOMEN IN POLITICS AND POLICY MAKING, *supra* note 89, at 160, 163.

122. Goetz, *supra* note 9, at 244.

123. *Id.*

124. Anne Marie Goetz, *The Problem with Patronage: Constraints on Women's Political Effectiveness in Uganda*, in NO SHORTCUTS TO POWER: AFRICAN WOMEN IN POLITICS AND POLICY MAKING, *supra* note 89, at 110, 111.

125. *Id.* at 114.

operates like one, such as actively campaigning for its candidates during elections.¹²⁶ Though the Movement was originally conceived to avoid the divisions traditionally caused by a multiparty system, the Movement's approach to further avoiding this problem, such as assigning "political and administrative positions to people across the spectrum of sectarian and other affiliations," has resulted in the promulgation of patronage.¹²⁷

Patronage within the Movement revolves around the competition among people for access to power and economic resources under the guise of reconciling historic inequities involving sectarian favoritism by establishing a fair representation of social differences.¹²⁸ This practice and party interests that are hostile to a gender equality agenda have hurt Ugandan female politicians because without the approval of the top leadership of the Movement, it is impossible for women to pass new legislation.¹²⁹ Moreover, there are no opportunities for women to debate new legislation within the Movement as there is a palpable lack of internal democracy.¹³⁰

Evidence of the effects of an inability to pass vital legislation can be seen in the President's "personal deletion" of the 1998 Land Bill, a bill that would grant women equal rights with men over joint property.¹³¹ President Museveni stated that he deleted the bill because he was opposed to women having rights in their husbands' property which could lead to fraud through a capital accumulation strategy of serial marriage and divorce.¹³² He suggested that the bill could be coupled within another piece of legislation, but the President was aware that such legislation would in all probability not be passed.¹³³

Ugandan women in the legislature are also hindered from challenging abuses of power by the Movement because of the threat of losing their positions.¹³⁴ In 1998, Winnie Byanyima, a prominent female politician, was removed from her position as Director of Information in the Movement for protesting official corruption within the organization.¹³⁵ These few examples demonstrate only a small number of ways in which women are silenced and denied substantive representation because

126. *Id.* at 115.

127. *Id.*

128. *Id.*

129. *Id.* at 126.

130. *Id.* at 126, 129.

131. *Id.* at 126.

132. *Id.* at 127.

133. *Id.*

134. *Id.* at 135.

135. *Id.*

of the Movement's monopoly on state power, which essentially reduces Uganda to "a one party state without the party."¹³⁶

The best solution to this problem is for female Ugandan legislators to combine their power and influence in an attempt to slowly affect change through empowerment. However, such an endeavor is difficult when one considers that while many women's organizations are effectively isolated from national and local politics, there is the larger problem of a division between rural and urban women's organizations.¹³⁷ Rural women's organizations choose to avoid registering themselves to preserve autonomy from local and national authorities while urban women's organizations engage the state to promote women's issues.¹³⁸

A united front is needed by women activists and legislators in order to obtain substantive representation and attention for women's issues. Uganda is unlike Rwanda and South Africa in that the latter two countries may find it necessary to implement constitutional provisions to enhance the gender quota laws already in place, essentially reinforcing the advances they have already made in terms of substantive representation. Uganda, on the other hand, must implement constitutional changes in order to obtain substantive representation without the intimidating and monopolistic influence of the Movement. The Movement's power must be curbed through Uganda's constitution so that gender quotas can be used effectively.

IV. THE POTENTIAL FOR A MORE EFFECTIVE USE OF GENDER QUOTAS IN SUDAN

The Darfur region of Sudan is currently reeling from genocidal armed conflict which threatens to rival the death toll of Rwanda's genocide of 800,000, with at least 200,000 people already murdered in Darfur.¹³⁹ While violence in the Darfur region is the primary focus of most of the international media; since 1956, the entire country has been embroiled in armed conflict rooted in ethnic, religious, and political differences and frustrations over the lack of development and natural resources.¹⁴⁰ Though the international community should focus all its efforts on stopping this horrendous mass murder and bringing stability to

136. *Id.*

137. Goetz, *supra* note 9, at 244.

138. *Id.* at 244-45.

139. See Sudan 'Still Bombing in Darfur,' BBC NEWS, Mar. 6, 2008, <http://news.bbc.co.uk/2/hi/africa/7281844.stm>.

140. Christina Murray & Catherine Maywald, *Subnational Constitution-Making in Southern Sudan*, 37 RUTGERS L.J. 1203, 1203 (2006).

the country as a whole, in order to stop such human rights abuses from occurring again there must be a government in place that not only respects and protects human life, but also gives citizens the opportunity to represent themselves and address their grievances before the lack of these vital rights results in a conflict of horrific proportions.

In the future, there will be a time for reconciliation and reconstruction in Sudan. During this time there will be a desire for change in the status quo and there will be a need for increased stability that can be found through new constitutional and legislative structures. It is imperative that all citizens of Sudan participate in this restructuring of the Sudanese Government. In particular, Sudanese women have the opportunity to make huge advances. It is imperative that they take advantage of this opportunity as soon as it presents itself, and as the Executive Director of UNIFEM argues, be “present at the peace table and in post-war policy-making.”¹⁴¹

Currently, Sudan does have gender quotas in place. Article 67 of the Sudanese Constitution states that 75% of the members of the National Assembly are to be elected directly through proportional representation and the remaining 25% of the positions are to be filled through special or indirect elections from “women and the scientific and professional communities.”¹⁴²

The 2005 elections resulted in women claiming 14.7% of the positions in the lower house of Parliament and 4% of positions in the upper house.¹⁴³ These percentages can become significantly higher and Sudanese women can gain a much needed voice in matters concerning their welfare if they adhere to the successful methods involved in obtaining political office and avoid the pitfalls in losing substantive representation that their counterparts in Rwanda, South Africa, and Uganda have experienced.

V. CONCLUSION

Women throughout the world should occupy the same proportion of democratically elected seats in legislatures as the percentage in which they comprise their respective populations. Unfortunately, they do not, and innumerable obstacles often stand in the way of their rightful progression to equitable representation. While gender quotas are

141. Mutume, *supra* note 2.

142. CONST. OF THE REP. OF SUDAN art. 67.

143. Int'l Inst. for Democracy & Electoral Assistance & Stockholm Univ., *supra* note 28.

controversial, they are necessary in order to remedy the gender inequality that occurs in virtually all democratic countries in the world.

However, large numbers of women elected to office should not be the goal. Instead, female legislators should strive to attain substantive representation that results in positive change for both men and women in their constituencies. Moreover, these women should be able to focus on women's issues without that focus becoming a political liability. Women in postconflict nations have the unenviable burden of coming to terms with grave losses, but from those losses come the opportunity to truly claim not only seats in a parliament, but also empowerment.