



Actions Towards Addressing Legal and Institutional Challenges Facing Women Access to Political and Electoral Positions in Tanzania



Deliberations from Women in Politics in Tanzania Conference

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1.0 Background and Justification

In Tanzania Mainland, Women account for 36 per cent of members of parliament (About 144 women in a 393-people parliament). This means 64% of the members of parliament are men. Most of the women parliamentarians are from the special seats system (113) and only 9.8% are elected from the constituencies (a total of 26 women). Women also account for 6.5% of the elected councilors; there are 3,953 directly elected councilors. Special seat councilors are 1,374, making 24.5% of all councilors. Countrywide, there are 1,634 (29.24%) female councilors among 5,587 councilors.

In general, in the 2020 general elections, women made less than 10% of the candidates across the contested positions. Differently put, 90+ of the candidates in the 2020 general elections were men.

There are 1,1915 village chairpersons, only 246 are female, equal to 2.1%. Also, there are 4,171 street Chairpersons, among them women are 528, about 12.6%. Furthermore, there are 62,612 vitongoji, where women make 4,171 about 6.7%.

The number of elected and appointed women in the leadership remains low, mainly because of the following challenges: -

- Gaps in the electoral laws and laws governing political parties and the mismatches with the international and regional standards.
- Challenges in the implementation of the gender commitments as enshrined in the national laws, regional and international treaties.
- Slow mindset shift from patriarchal underpinnings among the electoral actors and stakeholders including political parties, electoral management bodies, voters, media etc. on the role of women in politics and elections.

Understanding that the 2024 local government and 2025 general elections are around the corner, the Women in Politics Conference was prepared through the collaboration of NDI, FES and WILDAT-Tanzania. The conference was held from 12 to 13 April 2022 in the nation's capital city, Dodoma, to discuss the Legal and Institutional Challenges facing effective participation of women in politics/elections in Tanzania.

The meeting deliberated on the alternatives/suggestions on how the challenges can be addressed to provide for wider opportunities for women participation in political and elective positions. With the Speaker of the National Assembly, Hon. Dr Tulia Ackson as the Guest of Honor, the Conference brought representatives from political parties, non-governmental organizations, development partners, academia, National Elections Commission, Zanzibar Election Commission, President's Office Regional Administration and Local Government (PO RALG), religious institutions and the media.

The conference appreciated that while some of the recommendations can be addressed by a particular office, most recommendations require concerted efforts among different electoral and political stakeholders. Therefore, in addressing the specific recommendations, the participants to the Women and Politics Conference agreed that the recommendations should be directed to the lead actor/office and also contain supportive actors/offices in order to make change happen. Therefore, the recommendations are directed to: -

1. The Office of the Registrar of Political Parties
2. The National Electoral Commission
3. Ministry of Legal and Constitutional Affairs
4. Prime Minister's Office - Policy and Parliamentary Affairs
5. President's Office - Regional Administration and Local Government
6. The National Assembly

The Conference participants registered a great wish to see these recommendations addressed before the 2024 and the 2025 local and general elections respectively. However, they also appreciated that while some recommendations are capable of being implemented by the respective offices, some particularly those related to change of the electoral system need wider discussion and debate to arrive at consensus. Thus, while some challenges can attract quick fixes such as those related to improving the management of the special seats system, and the inclusion of gender thresholds in the Political Parties Amendment Act, 2019, some of the recommendations may need more time to address.

2.0 Recommendations to the Office of the Registrar of Political Parties (supporting offices-NEC, MOCLA, PMO, Parliament)

The Office of the Registrar of Political Parties needs to lead the review of the Political Parties Amendment Act, 2019 (PPAA) and the respective Regulations to provide for meaningful opportunities for women to effectively take part in the internal and external politics.

A. Proposed Changes to the Political Parties Amendment Act, 2019

1. Powers of the ORPP: Section 3 of PPAA should extend the powers and functions of the Registrar to include among other things, promotion and observance of compliance to gender and social inclusion provisions by political parties.

2. Formation and Management of Political Parties

- S. 6A (2) (5) of PPAA should be amended and regulations be put in place thresholds/percentages and to measure compliance and accountability of political parties in implementing gender and social inclusion provisions in a) formulation and implementation of its policies; b) nomination of candidates for elections; and c) election of its leaders.
- Item d) should be added to section 6A (2) (5) to require the utilization of party resources to be used in among other issues in the promotion of effective and meaningful participation of neglected groups in the internal and external politics.
- The amendment and subsequent regulations should contain rewards/incentives, penalties and carry effective monitoring mechanisms to effect compliance of gender and social inclusion provisions by political parties and enforcement by the Registrar of Political Parties.

3. Violence Against Women in Politics: Violence is common in Politics, making it even harder for Women aspirants to prosper. A perpetrator of violence should not be allowed to form a political party until the court decides otherwise. The section should add that, even after a political party is formed, offences on violence including gender-based violence should be part of the reasons for a member or a leader of a political party to be stripped membership or leadership position to control violence against women in politics and elections including online violence.

4. Political Party Registers: Under section 9, there should be a requirement for the political party registers at all levels to have data that is disaggregated by sex, age and disability status. This will make it easy to determine compliance to gender, youth and disability inclusion by political parties.

5. Political parties' financial accountability: Section 22 and 23 should provide guidelines on how political parties should utilise the finances/subsidies to advance the participation of women, youth and PWDs in the political parties. In other jurisdictions, the more a political party is embracing and promoting participation of men and women, the more subvention it receives. In Kenya, for instance, political parties are not entitled to receive funding from the Political Parties Fund if they have more than two-thirds of their registered office bearers from the same sex.

6. Content of the Political Party Constitution: Schedule One of the PPAA provides for a guiding checklist on key provisions to be included in a political parties' constitution. The guiding checklist does not and should include a requirement for political parties to have a provision on gender, youth and disability inclusion in their constitutions in line with section 6A which requires political parties to observe gender and disability inclusion principles.

7. Women and Youth Wings: The Act should cover basic information about youth and women wings of political parties and how they should be supported technically and financially to promote youth and women substantive participation inside and outside the political parties.

The Political Parties Amendment Act, has number of regulations which as well need to be reviewed to allow for effective and meaningful participation of women in the political parties and beyond. These regulations are:

1. Political Parties (Registration and Monitoring) Regulation 2019
2. The Political Parties Council Regulations, 2019
3. The Political Parties (Code of Conduct) Regulations, 2019
4. The Political Parties (Financial Accounting) Regulations 2019
5. The Election Expenses Act CAP 278
6. Election Expenses Regulations, 2010
7. The Election Expenses (Maximum Amount of Funds) order 2015

The Registrar of Political Parties also manages the Elections Expenses Act of 2010, which is also discussed in this part.

A. Proposed Changes in the Political Parties Council Regulations, 2019

I. Function of the Council- R.6. (1)

Recommendation: Advising the Registrar, political parties and the government on ways to promote effective and meaningful participation of women, youth and people with disability should be among the functions of the Council.

II. Council Leaders. R.12

Rule.12(3) states that where the Chairperson of the Council or Committee or a Committee is a resident of Zanzibar, the Vice- Chairperson of the Council or a Committee shall be a resident of Tanzania Mainland and vice versa.

Recommendations

- Rule 12 should include observance of gender, youth and PWDs inclusion when selecting the Chairperson/Vice Chairperson of the Council and the Committees not only the need to balance the representation of Tanzania Mainland and Zanzibar.
- Rule 23 should provide that a replacement of a vacant position in the Council by a national leader should maintain or lead to further equality of men, women, young people and PWDs in the leadership of the Council.

III. Council Committees, R.29

R.29 States the number of Council Committees to be formed including a) Leadership Committee; (b) Ethics and Public Relations Committee; (c) Legal and Good Governance Committee; (d) Finance Committee; and (e) Parliamentary and Politics Committee. There is no Gender and Social Inclusion Committee and none of the established committees is vested with powers to oversee and provide guidance on issues of gender and social inclusion in the political parties.

Recommendation: Rule 29 should include a gender and social inclusion committee. Its terms of reference should include advising the Registrar, the government, other committees on strategies to enhance the participation of men, women, youth and persons with disabilities in politics and elections. It should further require other committees to work closely with the Gender and Social Inclusion Committee so as to mainstream the gender and social inclusion issues when delivering their mandate.

B. Proposed Change to the Political Parties (Code of Conduct) Regulations, 2019

I. Objectives of the Code of Conduct, R 4

Under Rule 4, the Code requires the political parties and members to behave well, so as to practice mature politics and maintain peace and harmony in political activities.

Recommendation: R. 4 should read as follows “Political parties and its members should behave well, so as to practice mature politics, maintain peace, harmony, inclusiveness and respect for diversity in political activities.”

II. Responsibility of Political Parties, R.5(c)

R. 5(c) states that a political party has to respect people’s personal life, a person’s position in the society, his humanity and integrity of his economic, social and Political activities.

Recommendation: It should read that, “a political party has to respect each people’s gender, ability or disability, personal life, a person’s position in the society, his/her humanity and integrity of his/her economic, social and Political activities.”

III. Political Party to avoid discriminatory acts. R.5 (h)

Recommendations

- It should read that political parties have to avoid discriminatory acts including towards women, youth and persons with disabilities.
- Regulation 6 should include the need to protect women, youth and people with disability against political and electoral violence including sexual and online violence.

IV. Responsibility of a political party in political activities

R.8 captures responsibility of a political party in political activities, whereas R.8 (c) states that a political party has to avoid a conduct, speech or any other act or statement which may lead to hatred, discrimination on the basis of religion, tribe, gender, color, ethnicity or any other form of discrimination.

Recommendation: the following additions should be made: -

- Discrimination on the basis of disability.
- Need to protect women, youth and people with disability against political and electoral violence including sexual and online violence.
- Political parties not to use children to advance political agendas during campaigns and any other political activities.
- Rule 9 should ensure political parties avoid all acts of violence and discrimination against women, youth and PWD and embrace principles of inclusivity and diversity.

V. Political Parties ethics committee

R.10 (1) states the composition of the Political Parties Ethics Committee. This rule does not state the composition of the Committee.

Recommendations

- The committee should comprise of both men, women, youth and persons with disabilities. They can be taken from NGO's with a mandate to work on the rights of women, youth and persons with disabilities.
- There should be a provision to require members of the ethics committee to undergo training pertaining to Dispute Resolution Mechanism including handling disputes pertaining to issues of women, youth and people with disabilities in their participation in political processes.
- R.12 provides for a national level committee. The rule should say how disputes emerging from regional, constituency, district, and ward levels should be treated and what would be the appeal levels.
- Cost of running the case and issues pertaining assistance to complainants and or respondents with varied needs such as disabilities (personal assistants; braille; sign language; magnified document) should be stated.
- The rule should provide ways of assisting women, youth and complainants and respondents with disabilities to enable them to effectively make their case and or defence.
- Penalties under rule 13 must be re-looked, they are not strong enough to deter commission and/or repetition of offenses.

Note:

- There are Presidential, Parliamentary and Councilors Code of Ethics, what is the relationship with these Rules and which one prevails?

C. Proposed Recommendations to the Political Parties (Financial Accounting) Regulations 2019

I. Financial Accounting

Contains information on how the accounting processes within a party should be done.

Recommendation:

This Regulation should set a threshold and require political parties to demonstrate how resources are utilized to advance women, youth and PWD participation in internal and external political activities.

D. Proposed Recommendations to the Political Parties (Registration and Monitoring) Regulation 2019

I. Application for provisional Registration, R. 3 (3)

Recommendations

- R. 3 (3) should include sex, age and disability status as part of the details to be included on the party membership card.

II. Scrutiny of political parties' applications - R.4

- The Registrar has a duty to scrutinize political parties' applications before registering it.
- Recommendation: R.4 should require the Registrar to scrutinize political party applications through a gender, youth and PWDs lens to ensure political parties are aware and embrace the gender, youth and disability diversity and inclusion principles from the formation stage.

III. Application for full registration of a party

- R.6(2) (c) and (d) requires that form PP5A is accompanied by a list of such members by regions and political parties' national leaders, indicating the name, sex and party card number of each member. The particulars do not include age and disability.

Recommendation: R.6(2) (c) and (d) should include age and disability among the particulars that leaders and members must include as part of the application process.

IV. Description of Party head and sub-head office

- R.7. describes how the Head and sub-Head office of a political party should be. This rule does not guide political parties to have offices that are accessible for people with disability, R.7 (g) refers to location only.

Recommendation: R.7 (g) should make it mandatory for political party offices to be physically and technically accessible by people with disabilities.

V. Physical Verification of requirements and conditions for registration

- R.8. requires the Registrar or an authorized officer to conduct a physical verification of party members and their particulars before full registration is provided.

Recommendations

- R.8 should direct the Registrar among other things, to verify how the political parties adhere to gender, youth and disability inclusion affairs.
- R.10 should allow the Registrar to refuse to register a political party that has not complied with gender, youth and disability inclusion principles.

VI. Membership and Management of the Party

- R.14 Requires every Political Party at the beginning of every financial year, to submit to the Registrar the names of all its employees and positions held by them.
- Recommendation: R.14 should guide the Registrar to encourage political parties to adhere to gender, youth and disability inclusion when employing their staff. A specific threshold should be provided.

VII. Register of Party members, leaders and members of the party

- R.15. Gap: There is no requirement for members' registers to be desegregated by disability.

Recommendation: R.15 should include disability status as part of the needed particulars.

VIII. Political parties' general election

- R.16 requires the party general election to be done at least after every five years to allow political parties to elect its leaders. This rule does not guide political parties to ensure observance of gender, youth and disability inclusion in the election of its leaders. No threshold is provided on how political parties leaders should include women, youth and disability in the meetings.

Recommendation: R. 16 must include the actual number/percentage of women, youth and persons with disabilities that should be elected among the positions of the political parties' leaders.

IX. Funding and Accounting

This part guides political parties on how to operate their financial accounts and sources of funding for political activities. The rule does not direct political parties to use a portion of its funding to advance women, youth and PWD participation in political parties, internally and externally.

Recommendation: Rule 32-37 should require political parties to use a portion of its funding to advance women, youth and PWD participation in political parties, internally and externally.

X. Registers of Political Parties by the Registrar

Rule 39 must require that the registers of political parties' leaders kept by the Registrar to also contain name, age, sex, location and disability status.

E. The Proposed Recommendations to the Political Parties (Financial Accounting) Regulations 2019

I. Financial Accounting

Contains information on how the accounting processes within a party should be done.

Recommendation: This Regulation should require political parties to show how resources have been used to advance women, youth and PWD participation in internal and external political activities.

F. Proposed Recommendations in the Election Expenses Act CAP 278 (EEA)

1. Gaps on Ceiling of Campaign Expenditures

The Election Expenses Act (EEA) obliges political parties and candidates to observe maximum spending and fundraising limits as prescribed and published in each election by the responsible Minister published in the government Gazette.

Gap: Section 10 (2) of the Election Expenses Act: Despite these restrictions, the EEA provides an opportunity for Political Parties to exceed the campaign ceilings up to 15% of the limit just by providing a justification report for exceeding.

Recommendation: Although the exception could work for women who sometimes have to spend more money to persuade voters that they are the best candidates and help overcome societal prejudice, clear situations on circumstances where campaign expenditure limits can be exceeded should be provided.

2. Gaps on Transparency Requirements

Candidates and political parties are to ensure all election expenses are receipted and are subjected to auditing by the Controller and Auditor-General.

Any candidate who receives funds as election expenses is required to prepare and submit a verified and audited report to the political party from which he/she received sponsorship within sixty days from the polling day irrespective of whether he/she has won or lost in the election.

Subsequently, the Act requires the political party to transmit such a report to the Registrar of political parties within one hundred and eighty days (180) after the submission of the report by the candidate.

Gaps and recommendation: Despite these penalties, the EEA does not require financial reports from the political parties to be made public.

Good practice from other countries: In Angola, Morocco, Kenya, Uganda and Ghana political parties have a formal reporting obligation and their financial reports are supposed to be made public for anyone to inspect.

1. Role of Public Subsidies to Political Parties

Direct public funding of political parties is used in two-thirds of the countries around the world to increase resources for organizational capacity and structure of a party; improve policy formation; protect the independence of political parties and candidates from undue economic interests; and to facilitate greater equity so that candidates with limited resources can participate successfully.

Recommendation: The EEA should require the monies allocated to a registered political party to be used for, among other things, promotion of the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities, marginalized communities, and promotion of active participation by individual citizens in political life. Under the Kenyan Political Parties Act, a Political Parties Fund is established under Section 23.[1] Political parties qualify to receive funds if their membership and governing body comprises the two-thirds principle of representation. Secondly, disbursement can be based on the number of women that are successful in the respective election, thus providing an incentive for political parties to prioritize female candidates.

Section 26 of the Kenyan Political Parties Act requires the monies allocated to a registered political party to be used for, among other things, promotion of the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities, marginalized communities, and promotion of active participation by individual citizens in political life.

4. Unregulated exceptions

Section 21 of the Elections Expenses Act: Under the EEA, the candidate carries the primary responsibility to ensure non-commission of any prohibited practices, however, they are not liable when they can prove such acts were committed by their agents or any third party without their knowledge, consent and approval.

Recommendations: This provision allows candidates to easily get away with their wrong doings, hence should be reviewed. Candidates should be responsible for any misconduct or offence committed by his/her campaign team.

G. Proposed Recommendations in the Election Expenses Regulations 2010 (GN.No.246 of 2010)

1.R.4. Application for nomination to be Candidate

1. party member seeking nomination by his political party to be a candidate for the office of President, Member of Parliament or Councilor shall make an application to the party and such an application must contain the following particulars:
2. Name and Physical Address
3. Age
4. Sex
5. Occupation
6. Qualification if any

Recommendation: R.4. should provide that the particulars submitted by the applicants also show disability status. The rule should also direct political parties to assist women, youth and PWDs in making such applications.

2. R.5. Procedure for nomination of candidates

R.5 (1) States that every political party intending to participate in an election shall nominate a suitable candidate from the list of applicants.

Recommendation: R. 5 (1) should contain a specific number/percentage/threshold for political parties to nominate women, youth and PWDs.

3. R.6. Women Special Seats

R.6 provides for procedure for application and nomination of women for special seats

Recommendations

Uniform criteria for selection of women special seats by political parties should be provided to guide the political parties in the selection of women for special seats. The Guideline should cover the following aspects: -

- Geographical locations women special seats will represent
- Citizen's involvement in voting for the women special seats
- Diversity of women selected for special seats.
- Guidance on term-limits for serving under special seats
- The country's long-term plans to level the political playfield for both men and women to equally participate and win elections. The long-term measures should include reviewing the new constitution, the electoral laws and those governing the operation of political parties to adopt an equality-based First-Past-the-Post (FPTP) or Proportional Representation (PR) electoral system.

H. Proposed Recommendations to the Election Expenses (Maximum Amount of Funds) order 2015

1. Election Expenses

The Election Expenses (Maximum Amount of Funds) order 2015 sets out tables that contain the maximum amount of money party candidates of each political position are allowed to use for campaign purposes.

Recommendation: Additional costs that may come if a candidate is breastfeeding or have other care needs; need for personal assistants and services such as sign language interpretation; braille documents; large print documents and private transport for candidates with disabilities should be considered as factors for setting electoral campaign funding limits and for determining excess in use of funds.

3.0 Recommendations to National Electoral Commission (supporting offices-ORPP)

A. Low hanging fruits

1. Adopt concrete **gender and social inclusion policies, strategies**, implementation plan and put in resources for execution.
2. **Costs for election deposits**: Reduce election deposits for women, youth and aspirants and candidates with disabilities.
3. **Data disaggregation**: Consistently disaggregate all information pertaining aspirants, candidates, voters, electoral staff, voter educators and election observers based on age, sex, disability status, physical location, etc.
4. **Committee on gender and social inclusion in NEC**: The 8 committees were formed for the 2020 general elections including the Election Management and Procedures Committee; Voter Education and Civil Society Organizations Committee; Supplies and Logistics Committee; Government and Political Parties Relations Committee; Information and Communication Committee; Election Observers and International Organizations' Committee; Election Campaigns Coordination Committee; and Presidential, Parliamentary and Councilors' Code of Ethics, 2020 Committee. It is recommended that the NEC also forms a Gender and Social Inclusion Committee in the forthcoming elections to oversee the engagement of women, youth, PWDs and other marginalized groups in the elections.
5. **Ensure effective and timely consultation of electoral stakeholders** and co-creation of the electoral guidelines such as those relating to media, political parties, voter educators, election observers, etc.
6. **Gender responsive election management**: All elections staff should consistently be trained on gender and social inclusion covering specific issues affecting women, youth and people with disabilities. This will allow them to better respond to their issues in the administration of elections. NEC should ensure gender inclusion in their recruitment of both long- and short-term staff.
7. **Gender responsive civic and voter education**: Comprehensive civic and voter education should be provided throughout the years between elections. Capable and experienced organizations should be permitted in a timely manner to provide gender responsive civic and voter education, and they should be encouraged to target groups that are often overlooked such as those in rural areas, people with different disabilities, young women, etc. NEC should guide civic and voter educators to recognize persons with disability as a distinct target audience. All materials should be accompanied with braille, audio-visual alternatives, large prints and or with sign and tactile language interpreters to cater for the needs of people with different types of disabilities.

7. Gender responsive election observation: The NEC should put into place clear and supportive processes to allow timely, efficient, comprehensive and gender inclusive election observation. This should include early provision of accreditation to capable and experienced organizations and ensuring as many organizations as possible are accredited to conduct election observation including those that are specifically working on women, youth, and people with disabilities issues. Election observation checklists should also be gender mainstreamed.

8. Gender based violence in elections: Address electoral gender-based violence including sexual and online violence by strengthening the provisions of the Electoral Code of Ethics and the Ethics Committees to ensure women are members of the committees and ensure that all Ethics committee members are trained on handling electoral complaints pertaining women, youth and persons with disabilities.



4.0 Recommendations to the Government (supporting actors are NEC, ORPP, MOCLA, PMO, PO RALG, Parliament)

Contentious legal issues subject to debate (root causes for slow progression of women access to electoral and political positions)

- The conduct of EMBs and Political Parties including how they deal with women are guided by:
 1. The applicable Electoral Systems
 2. The applicable Temporary Special Measure in the country and
 3. The power of the executive
- Tanzania uses First Past the Post Electoral (FPTP) System as established by the Constitution and the National Elections Act, 2010. The FPTP electoral system is supplemented by Proportional Representation (PR) Electoral System through Women Special Seats System. The President also has massive appointing powers to key positions, which can be used as training and promotion ground for women, youth and PWDs.

First Past the Post Electoral Systems, Women Special Seats System and Presidential appointing powers have had a number of benefits in terms of facilitating women access to political positions. However, the three systems are faced with a number of challenges hindering effective participation of women to vie for political and electoral seats. Addressing these challenges requires familiarization and a debate on the possible alternatives and the advantages likely to be gained.

This section offers advantages, challenges and possible alternatives to FPTP Electoral Systems, Women Special Seats System and Presidential appointing powers to spark discussion and consensus building.

1. First Past the Post Electoral System

Advantages: The system allows both men and women to vie for seats.

a. Challenges First Past the Post Electoral System

- Under FPTP one candidate must win. Therefore, women are perceived as riskier choices as political parties are pushed to field the most safe and mainstream candidate who will appeal to the mindsets of the voters on who they think a leader is.
- In the FPTP system, both men and women are viewed as enjoying the same political parties' and voters' privileges and acceptance. The system takes no efforts to address historical injustices and other disadvantages that naturally accrue to special interest groups, including women.

- FPTP promotes violent and antagonistic politics and hence leads to violence against women in politics and in elections including online and sexual violence.
- The FPTP routinely denied representation to large numbers of voters, and produced a legislature that failed to accurately reflect the wishes of the public. For example, in the FPTP, it is only the average of 50- 60 per cent of voters that elects a winner, more than 40 per cent of the votes and wishes of the voters are disregarded, the public have the right to vote, but they do not have the equally important right to be represented, thus encourage voter apathy leading to lower voter turn-out.
- Under the FPTP it is easy to gauge and decide who is going to win, depending on the nature of the constituency hence swaying the voters.

B. Possible Alternatives

- Move to equality based FPTP. This is not new, as Tanzania included this in its Proposed Constitution of 2014, under Article 124. However, the similar provision in the Second Draft Constitution is more elaborate.
- Move to Equality Based Proportional Representation accompanied by Zebra System

Advantages

- Tanzania will move from 9.8% and 7% elected women MPs and Councilors respectively, to equal number of men and women.
- Challenges posed by the Special Seats System will be addressed.
- Positively impact the behavior of Political Parties, Election Monitoring Bodies, Media, CSO, and voters towards women.

2. Special Seats System

The system is provided under Articles 66(b), 67, 78 and 81 of the 1977 Constitution of the United Republic of Tanzania and Section 86A of the National Election Act: -

The special seats system has brought about a number of benefits as follows: -

- Increase in the number of women in the decision-making process to now 36.8% of women in the parliament.
- Changed mindset on women leadership. Presently, 26 women are from constituencies (including Mara, Simiyu, Geita) and has enabled women to be appointed to key government ministries.
- Led to gender responsive laws and policies especially those related to land, inheritance, rape, violence, labor matters, education, decision-making etc.
- Encouraging the girl child to dream to have a career in politics.

a. Challenges Facing Women Special Seats

Challenges of Women Special Seats System in Tanzania lies on its incompatibility with Article 4 of CEDAW, General Recommendation No. 25 on Article 4 (thirtieth session, 2004), Article 9 of Maputo Protocol and Article 86 of the CURT:

1. It does not have a common procedure for selection/election of women for special seats hence opening room for manipulation, corruption, nepotism thus affecting quality and acceptance of women special seats.
2. Causes marginalization of women special seats e.g. Prime Minister cannot be from Special Seats and special seats women do not get Constituency Fund. By practice, at the LGA level, women special seats cannot be members to and or leaders of ethics and financial Committees, cannot be heads of other committees, cannot be chair of WDC, cannot be mayors, municipal chairpersons.
3. Special seats MPs and councilors need to ask permission from the elected MPs and or councilors to undertake any activity in the wards and or constituencies.
4. The system benefits few women due to absence of term limits.
5. The system does not have an implementation, monitoring and evaluation framework hence it has gained permanency contrary to its establishment objective which requires TSM to be temporary in nature.
6. Is 40 percent equality? Does the percentage apply at LGA level and in appointed positions too? How diverse women access these seats?
7. vii. The word special seats connote vulnerable, weak, and leads to name calling. Why not just call it Temporary Special Measure?
8. The system is used to discourage women to vie for competitive seats and discourage voters to vote for women. The system is considered to be expensive, because it involves putting in additional seats on top of the 264 constituencies, instead of introducing a threshold with the real number of MPs.
9. Who do they represent, whose interest do they serve, why are the people not involved in electing them? Why do they report to the women wing and to the party and not the people, party positions?
10. Making women's special seats representatives responsible for large areas such as a region or a nation makes it difficult for these representatives to engage in any meaningful way, demonstrate tangible results, and build the electorate support required to run for a constituency

b. Improving Special Seats System, Realign special seats system with international standards: -

1. It has been 37 years of existence of special seats system in Tanzania. There is a need to undertake a comprehensive evaluation study to understand the progress and remaining challenges.
2. Use the evaluation findings, to create a Framework for implementation of seats in line with art. 4 of CEDAW and General Recommendation No. 25 on Article 4 (thirtieth session, 2004).
3. The Framework should contain common guidelines for selection of women for special seats. The guidelines should cover: -
 - Geographical locations women special seats will represent
 - Citizen's involvement in voting for the women special seats
 - Diversity of women selected for special seats.
 - Guidance on term-limits for serving under special seats
 - The country's long-term plans to level the political playfield for both men and women to equally participate and win elections. The long-term measures should include reviewing the new constitution, the electoral laws and those governing the operation of political parties to adopt an equality-based First-Past-the-Post (FPTP) or Proportional Representation (PR) electoral system.

5.0 Recommendations to improve Presidential appointments

The President appoints many positions, such as the Prime Minister, Chief Secretary, Ministers, Deputy Ministers, Permanent Secretaries, Deputy Permanent Secretaries, Judges, Justices of Appeal, Regional Commissioners, Regional Administrative Secretaries, District Commissioners, District Administrative Secretary, District Executive Directors, commissioners, heads and board members of parastatals.

Some of the appointments have gender thresholds such as the 10 presidential appointed MPs. However, the President uses her/his discretion in appointment of other positions. In those positions, emphasis is given on balancing the representation of two parts of the Union. Attention is not paid to balancing the genders, age and disability status of those appointed.

Alternatives

- Reduce the presidential appointive positions
- Include a gender and social inclusion threshold in the remainder of presidential appointments
- Include a gender threshold to those appointed, nominated and employed within the EMBs, ORPP
- The 10 presidential-appointed MPs seats under Article 66 of the Constitution should take into account appointment of young people and persons with disabilities.

6.0 Recommendations to the Parliament

- Make the Parliamentary Standing Orders gender responsive and introduce a permanent committee on gender and social inclusion, to ensure parliamentary business such as those related to law-making, representation and oversight can be gender responsive. At the moment the gender and social inclusion issues are deemed to be handled by the Social Service Committee. A specific cross-cutting committee on gender is important because the existing social service committee is overwhelmed with responsibilities to oversee key sectors such as health, education, information etc. Rule 212C of the Kenyan Parliamentary Standing Orders, establishes a Committee on National Cohesion and Equal Opportunity.
- Pass specific law to address gender-based violence and child marriages.
- Review the electoral laws and those governing the management of political parties as stated in these recommendations. Include in the laws strong democratic principles and values, to bring about effective and meaningful inclusion of all groups in the political process. An independent Election Management Commission should be at the center of it.
- Take measures to address the marginalization and discrimination faced by women serving under special seats system.
- Honor the 2013 decision of the African Court on Human and Peoples' Rights to accommodate the right to private/independent candidacy.
- Allow contestation of presidential election results. In July 2020, the African Rights Court ordered Tanzania to amend a section of its constitution, which bars any court from probing the election of a president after a winner is officially announced. In comparison, in the Kenyan Constitution, presidential election petitions are to be filed within 7 days after declaration of the results by the Independent Electoral Boundaries Commission. The petitions are supposed to be heard and determined by the Supreme Court within 14 days.
- Set up a legal mechanism to offer eligible voters who could not present themselves into the polling stations to have the right to vote. This includes, amongst others, prisoners, citizens in the Diaspora, sick persons in hospitals, and students of higher learning institutions.
- Regulate unopposed candidates and make it in the law that unopposed candidates should be subjected to popular vote.
- Need to upgrade criteria to stand as a candidate for an election. Currently, the ability to read and write in Swahili or English is the main educational criteria. This level of education is inadequate - candidates should have a higher level of education beyond the ability to read and to write to be able to effectively supervise the government, represent their constituencies and influence the law-making process.

7.0 Conclusions and Way forward

Tanzania has by far made progress in terms of promoting Women's participation in Politics in the last 61 years of her independence. With no women members of the cabinet and very few members of parliament, the margins are promising today. However, international commitments are geared towards achieving gender parity in all positions of power. This cannot be achieved in the manner the politics of elections are organized right now, legally and in practice.

The above recommendations serve as a wakeup call for Political stakeholders to act on the legal, policy and regulatory frameworks, to allow for meaningful and inclusive political and electoral processes for women and men; old and young; abled or those living with disability to compete and win the elections.

Going forward, NDI, FES and WILDAF are keen to consult with individual actors through technical working sessions to discuss the recommendations in depth, the possibility of the recommendations being implemented, the current efforts, foreseeable challenges and what NDI, FES and WILDAF can do to assist the actors in the effective and timely implementation of the respective recommendations.

