MAKING WOMEN'S REPRESENTATION IN PARLIAMENT COUNT

The case of violence against women

By Lisa Vetten, Lindiwe Makhunga and Alexandra Leisegang
Edited by Shireen Hassim

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① INTRODUCTION

This policy brief sets out a framework in which to address the objective outlined in Millenium Development Goal (MDG) 3, which aims to promote gender equality and empower women. Of the three targets set for this goal, one relates to political empowerment of women as measured by the proportion of seats held by women in national parliaments[1]. This target is a global recognition that there is a close relationship between women's political voice and policy-making capacities and gender equality outcomes. Women's under-representation remains a persistent feature of politics; with only three years to go before the MDG target year of 2015 for significant progress towards the realisation of goals, women constitute only 18% of parliamentarians worldwide.

Global ranking and percentage of women parliamentarians in national parliaments

GLOBAL RANKING	COUNTRY	PERCENTAGE
1	Rwanda	56.3%
2	Andorra	53.6%
3	Sweden	45.0%
4	**South Africa**	**44.5%**
5	Cuba	43.2%
48	United Kingdom	22.0%
60	France	18.9%
70	United States	16.7%
132	Iran	2.8%
133	Bahrain	2.5%
134	Papa New Guinea	0.9%
135	Yemen	0.3%
136	Saudi Arabia	0.0%

Source: International Parliamentary Union, www.ipu.org

In this paper we set out the key arguments for the importance of women's representation in democracies. We then assess strategies for increasing numerical representation through mechanisms such as quotas. Finally, we consider these arguments as they have been presented in the South African context and offer a close reading of the impact of women's increased representation on their political voice and policy effectiveness.

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1   The other two relate to parity in enrollments in schooling

② GENDER REPRESENTATION & DEMOCRACY: KEY ARGUMENTS

Democracy is defined at its core by the ability of citizens to choose their representatives freely, and to participate in decision-making relating to public resources and to policies that impact on their lives. Women's political participation in formal government is widely recognised as a pre-existing condition for the realisation of full democracy (Hassim and Goetz, 2003). In an ideal situation, where all citizens are completely free to express their preferences, the gender (or race, or class) distribution of votes would be of little concern. However, it is indisputable that women's chronic under-representation in political decision-making structures is rooted in traditional archetypes of political power, in naturalised distinctions between male authority and female incapacities, and in the material realities of the gendered distribution of labour in society. What is striking is the trans-historical and transnational persistence of women's marginalisation from institutions of representation. Women's under-representation is the proverbial canary in the mine: it signals considerable deficits in political systems with regard to the possibilities of subordinate groups having a say over their lives. Where women are excluded from or marginal to decision-making, it is likely that other groups are also lacking in political voice and representation. Thus, while arguments can be made about the importance of women's political participation for gender equality, they can also be extended to arguments for the deeper democratisation of societies as a whole (Hassim, 2009).

Women are constituted as the objects of political power, rather than as holders of authority and their disempowerment must be understood as a consequence of both their marginalisation from full access to the resources of the state, as well as their lack of authority in the private sphere.

A central consideration that arises from the assessment of democratic deficits is the extent to which designing democracies creates the full range of enabling conditions for active participation in decision-making structures. As feminist theorists have pointed out, no Chinese wall exists between the public and private spheres (Pateman, 1989). Rather, the absence of women in decision-making structures both reflects and reinforces the uneven power relations between men and women in both spheres. Women are constituted as the objects of political power, rather than as holders of authority and their disempowerment must be understood as a consequence of both their marginalisation from full access to the resources of the state, as well as their lack of authority in the private sphere.

The presence and effectiveness of women has far-reaching implications for the notion of democratic citizenship (Hassim 1999: 6). The gap between the presence of women in formal political structures and their actual participation in formal political structures can be equated with the difference between women having formal citizenship (that is, a formal status of equality) and women exercising substantive citizenship (that is, the ability to participate in and shape all aspects of their lives). Formal status is important of course. It symbolically asserts equality and provides a legal framework within which women can make citizenship claims. However, concentrating only on formal status neglects how women are progressively disempowered through their lower levels of participation and therefore, non-inclusion in key decisions about the distribution of resources through fiscal and social policy and legislation.

It is of course by no means agreed in political theory nor in the practice of politics that women have common interests that over-ride their other identities and interests. In feminist histories of colonialism, for example, it has been pointed out that the deeply embedded nature of racism, in which black colonised men are positioned as inferior and 'demasculinised' in relation to white men AND white women, creates commonalities of experience between black women and men that are distinct from those of gender. However the extent to which patriarchy is deeply embedded in all societies has become increasingly evident in postcolonial societies. Gender is a surprisingly robust marker of difference across all kinds of societies. As Anne Phillips points out, 'different experiences do create different values, priorities, interests; [and] while we may all be capable of that imaginative leap that takes us beyond our own situation, history indicates that we do this very partially, if at all' (Phillips 1991: 65). Although classical liberal theory disavows the notion of group interests, preferring to focus on individual interests and preferences, there is now a considerable body of literature (especially in relation to racial and minority interests) that shows that individuals do congregate around common experiences – and none so clearly as where those experiences are of marginalisation and subordination. Group representation relies on the assertion that political processes and decisions that determine social policy within political institutions are powerfully motivated by the identity and self-interests of those that participate in them (Phillips, 1991; Williams, 1998).

Women's views and opinions about what constitutes the ideals and ends of democracy can only be fairly articulated by them and formal political representation is central to facilitating inclusiveness in modern representative democracy: '[A]ny system of representation which consistently excludes the voices of women is just not unfair; it does not begin to count as representation' (Phillips 1991: 63). While initially envisaged by liberal feminism as a means to promote the participation of women in the public sphere, women's participation in formal decision-making is currently recognised, within a development agenda that emphasises economic growth and poverty alleviation, as a means towards promoting development. Gender equality, especially the inclusion of women in political representation where they can make decisions that impact women's lives, is essentially used as a development strategy in 'that societies that discriminate on the basis of gender pay a price in more poverty, slower growth and a lower quality of life, while gender equality enhances development' (Momsen 2010: 9). From this perspective, gender equality is a social good.

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③ INCREASING WOMEN'S REPRESENTATION IN PARLIAMENT:
QUOTAS & REPRESENTATION

In the African context, research has identified some key pre-conditions for quotas to be adopted: transition from a struggle or conflict situation; a strong women's movement; and exposure to a global women's movement...

Given the new global consensus about the importance of increasing women's representation in national parliaments, what kinds of strategies can be adopted towards this end?

Drude Dahlerup has outlined two pathways to increasing women's political representation. The first is the *slow track* option which was followed by the Nordic countries. According to Dahlerup, this was characterised by "incremental changes, coinciding with greater participation in the labour force and educational opportunities" (2004: 14). The second option which has been favoured in recent years is the *fast track* option of electoral gender quotas. This has occurred predominantly in newer democracies where women have chosen quotas as a mechanism to increase their political representation (Dahlerup, 2004; Bauer, 2010).

In the African context, research has identified some key pre-conditions for quotas to be adopted: transition from a struggle or conflict situation; a strong women's movement; and exposure to a global women's movement (Bauer, 2010; Hassim, 2003; Ballington, 2004). More recently, Hassim (2009) has drawn attention to the nature of the political system as a whole: the extent to which there is openness to political contestation, the organisation of political parties and their relationships between parties and their members and supporters.

Firstly, many countries that have adopted special mechanisms for increasing women's political presence did so in the context of a political transition from significant conflict. Women mobilised during these conflicts and 'the roles played by women ... at home and abroad often contributed to an available cadre of capable women candidates to stand for public office' (Bauer, 2010). Transition periods also created a window of opportunity for women to make a mark on the new regime through the drafting of new constitutions and legislation (Hassim, 1999; Ballington, 2004; Bauer, 2010). Secondly, a strong women's movement has helped advocate for women's increased political representation. This has been strongly buttressed by the third condition, which is the impact of the global women's movement, as well as international protocols on women's representation such as the Convention on the Elimination of Discrimination Against Women (CEDAW) and the Beijing Platform for Action.

The arguments for quotas are many and most often rely on the assumption that women's increased representation will result in an improvement in the conditions for women, what Shireen Hassim has referred to as a 'virtuous circle of representation'. Louise Vincent categorises three arguments for quotas: normative, consequentialist and symbolic. The normative argument states that 'fairness and equality require that women be present in decision-making structures' (Vincent 2004: 72). The consequentialist argument takes

various forms but is ultimately based on the idea that more women in political structures will result in different policy outcomes to reflect women's concerns better (Vincent 2004: 73). As Hassim (2009) points out, arguments for quotas that assume a consequentialist relationship tend to ignore the extent to which the nature and scope of the political system as a whole shape the manner in which quotas work in particular contexts. Indeed, quotas can often lead to the co-option of women into existing systems of governance and a reinforcement of the power of women elites in women's movements.

The symbolic argument posits that:

> ...quotas are a public demonstration of a society's commit-ment to equality, they place women in positions of power and this makes other women feel that they have role models, that they are not excluded, that the political process is legitimate. (Vincent 2004: 74)

This is perhaps the most practical of the arguments. But as Vincent highlights, this argument is also flawed in that women are not necessarily convinced that their interests are represented because women are in positions of power.

Despite the flaws in these arguments for quotas, they have been shown to be an effective tool in increasing the number of women in parliament in many sub-Saharan African countries. The two most common forms of quota systems are voluntary political party-based quotas and 'reserved' or 'special' seats for women (Tripp 2004: 73; Bauer 2010). In the case of South Africa, the former strategy has worked particularly well with the country's closed list proportional representation (PR) electoral system. Ballington argues that PR systems 'corre-late strongly with greater women's representation' as they 'lead to women being better represented among the party's candidates on party lists' (1998: 78) and this is especially effective in situations where there is a dominant party that chooses to adopt a gender quota.

3.1. Women representing women?

Although quota systems have proven to increase the number of women in elected positions, this has not always translated into better policies for women. One critique is that descriptive representation does not always translate into substantive representation (Ballington, 2004; Vincent, 2004). Hassim raises an important point:

> The relative success of women in increasing their numeri-cal representation begs the question of how they have used their electoral leverage to address the substantive issue of women's inequalities. (Hassim 2003: 100)

If quotas only lead to descriptive representation as opposed to substantive representation, then one can argue that they are nothing but a "blunt instru-ment" (Vincent 2004:71). As Vincent states, the key problem with quotas is that "they are a strategy to change the way things look without changing the way things are" (2004: 81).

The participation and representation of women in formal governance means very little if women are present but have no ability to influence policy-making on behalf of other women. Political representatives, argues Pitkin (1967: 209, cited in Philips 1995: 3), are politically redundant if they are not accountable for delivering policy outcomes. In this crucial sense, gender essentialism, its reliance on the premise that women act as *women* and in solidarity with other

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women in all situations is simplistic, reductionist and potentially counter-productive to a multifaceted and accurate conceptualisation of gender politics and its implications for women. This defies the traditional feminist ideal of 'sisterhood' and the sense of solidarity and belonging that women are automatically said to have in an 'imagined community'[2] of shared and universal patriarchal oppression.

It is also important to acknowledge that the presence of women in political institutions does not necessarily ensure that the diverse interests of women will be addressed. Commenting on post-conflict societies, Meintjes, Pillay and Turshen argue that 'Africa's male-dominated systems and structures compels one to be vigilant about the levels of participation of women as one indicator of the progress towards gender equality...Participation alone will not ensure gender equality but it is a first step towards bringing women's experiences and contributions into the mainstream' (2001: 2). Women will not necessarily represent the interests of women and while they have 'objectively different interests from men, the entry of women as individual actors on the political scene does not mean that these interests are accurately pursued' (Phillips 1991: 70).

There also tends to be a trend towards tokenism in the active promotion of gender parity. Interrogating women's political effectiveness in parliament as *agents of gender equality,* therefore, is important in recognising the particular constraints that prevent the entrenchment of the pursuit of gender equality at the political level. It will also provide new ways of thinking about the effectiveness of women in government and what political institutions and structures need to be developed in order for favourable policy outcomes around women's issues to be achieved. Fair representation, therefore, is not just contingent on the presence of marginalized groups within political bodies, but must occur within an enabling context that confronts the 'institutional dynamics and mechanisms that translate presence into policy influence' (Williams 1998: 7).

Dahlerup (2004) has argued that in new democracies women have been right not to wait for incremental changes but rather to advocate for a *fast track* approach. However, this is not necessarily the solution to the problem of limited policy influence. If parties and party policy are still dominated by men and society is still hostile towards powerful women, then increasing their numbers will not necessarily have the desired effect of improving women's interests. In some respects this is a catch-22: women are needed in power to implement change, but change in society needs to happen in order for women in power to be effective. Gretchen Bauer (2010) raises the question of whether gender will ever transcend party. The answer to this lies in whether electoral systems enable women to congregate as an interest group and the extent to which women are able to gain power *within* political parties.

Returning to Pitkin's argument that there must be a relationship between representation and accountability leads us to think about quotas in a deeper political sense. Kardam (1997: 44) defines gender accountability 'as responsiveness to women's interests and the incorporation of gender-sensitive policies, programmes and projects both in state institutions and in donor agencies'. When applied to the mandate that feminism envisages for women in formal decision-making positions, this concept involves women *governing* on *behalf of women* and women being *accountable to women's interests* for their politi-

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2   A reference to the concept coined by Benedict Anderson's (1983) seminal book, *Imagined Communities.* Anderson theorises that the notion of belonging and identfication with a social group or 'community' and its identity is socially constructed and 'imagined'.

cal behaviour within the parliamentary institution. Within a state feminist framework, therefore, women parliamentarians have a mandate to not only govern on behalf of women and advance women's interests within the state, *but* are also accountable to women as a primary constituency.

The ability of women in parliament to influence the policy agenda is contingent on many factors, some of which are influenced by the culture of state governance and government institutions, and others to do with state and political party capacity. These factors can enhance or mitigate the ability for female parliamentarians to be 'effective advocates' of women's interests. Enhancing conditions include the strength of the gender equality advocacy movements and women's groups based in civil society and their ability to mobilise support and effectively engage with the state around women's interests; the type of political system and depth of democracy; the character and strength of political competition; the internal politics and strength of political parties; the state, its institutions and its capacity: and the ability to mobilise resources and accomplish development objectives (Hassim and Goetz, 2003; Goetz, 2009). Amanda Gouws (1996:34) recognises the existence of feminist consciousness among female political representatives in formal politics as 'a critical precondition for political action.' Anne Marie Goetz (2009: 7) argues for a

> *'shift in focus from the challenge of populating public space with more women, to the challenge of ensuring that female and male decision makers who represent women's needs are held to account for their performance in advancing women's rights'.*

Interrogating women's political effectiveness in parliament as *agents of gender equality* is important in recognising the particular constraints that prevent the entrenchment of the pursuit of gender equality at the political and institutional level (Goetz and Hassim, 2003).

In countries where quotas and seat reservations have been in place for several elections, a 'second generation' of scholarship on gender-based affirmative action has asked how quotas might be made more effective. Moving away from discussions of whether or not quotas can be democratically justified, this literature pays attention to a range of other factors. These include:

• **What are the processes by which by which women become 'present' in politics?**

• **Which women are present?**

• **What do these women do once they are present?**

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4 A CASE STUDY OF REPRESENTATIONAL POLITICS: A CRITICAL READING OF SOUTH AFRICA

We argue that whilst having more women in political office changes the face of politics, it does not necessarily advance women's issues. We expand on our argument that quotas have important symbolic effects but that effect is mitigated over time if there is no substantive representation and societal attitudes towards women have not changed.

South Africa presents an excellent case study for addressing these questions being one of the top five countries worldwide in terms of the number of women in parliament. The high representation of women has been sustained over a number of elections due, in large part, to quotas instituted within the African National Congress (ANC) as early as 1993, when it adopted a quota of 30% women for the party list. This helped to ensure that 35.7% of seats went to women after the 1994 elections. The continuation of this quota has seen the number of women now increase to 44.5% after the 2009 national elections.

The sustained commitment to representation is noteworthy in itself and has had substantial symbolic effects. Women politicians are an everyday feature of South African politics, with the 2011 local government elections for example being characterised by parties led by women. Even the main opposition party, the Democratic Alliance (DA), which has consistently refused to support the notion of a party list quota, has a female head of the party and a female leader in parliament.

In this section we pay closer attention to the effects of electoral gender quotas as they have manifested in South Africa. We argue that whilst having more women in political office changes the face of politics, it does not necessarily advance women's issues. We expand on our argument that quotas have important symbolic effects but that effect is mitigated over time if there is no substantive representation and societal attitudes towards women have not changed.

The ANC and women's representation

Because the representational gains in South Africa can be almost exclusively attributed to the role played by the ruling party, the ANC, the discussion in this section pays close attention to the party's framing of gender representation. The party's gender representation policy, adopted at the 2007 Polokwane Conference, specifically reiterated the importance of 'gender equality and parity' in the party's leadership structure (ANC, 2007). The ANC is proud of the dramatic gains that it has achieved and consistently highlights this as a global achievement which 'has placed South Africa in the fourth position in the lists of countries with the highest representation of women in parliament in the world' (Zuma, 2011). The party's emphasis on formal representation and quotas, however, has meant that it has paid more attention to the *number* of women in parliament, rather than the *effect* of their presence as strategic agents advancing gender equality.

Thus, over time, the ANC's efforts to promote women's political participation within party structures seem to have become an end in itself. As the ANC itself acknowledges, 'the adoption of a 50/50 gender equity position at the 52nd

National Conference in Polokwane should enable us to *visibly see* an improvement in the participation of women in our movement' (Zuma, 2008; own emphasis). In another article written by the Minister for Social Development Bathabile Dlamini, the attainment of representative political parity is linked directly to the pursuance of women's policy outcomes: '[h]aving achieved the 50/50 quota for gender parity in government, it is now time to pursue policies and actions that will contribute to the full emancipation of women' (Dlamini, 2010).

The ANC however, frames its discourse on women's needs around South Africa's larger development problems. Its rhetoric suggests that these needs can be dealt with under the broader banner of addressing poverty, unemployment and reducing the spread of HIV. To quote one example: the ANC believes that 'young women, development and emancipation depend on the change in the economic outlook of South Africa' (ANC, 2011). In the 2011 State of the Nation address President Jacob Zuma states that '[agricultural] projects will enhance food security and create work opportunities for many, especially women in rural areas' (Zuma, 2011). In a press statement released on the occasion of 2011 Women's Day, the ANC emphasised that 'young women in South Africa are still in the periphery of development and empowerment in South Africa...[and] are still faced with many challenges, such as poverty, lack of skills, gender-based violence, HIV/AIDS, teenage pregnancy and unemployment' (ANC, 2011). While this is certainly true, the ANC's policies tend to emphasise women's practical needs as opposed to their strategic needs (or addressing women's daily responsibilities as opposed to changing society's unequal gender roles). The result is a focus on the symptoms and effects of gender inequality (the feminization of poverty, unemployment and HIV/AIDS). It does not attempt to tackle the underlying and unequal patriarchal power structures in South African society that result in poor societal outcomes for women. In certain new legislation, such as the proposed Traditional Courts Bill, there is even a bolstering of patriarchal systems of power such as traditional leaders.

The substance and form that women's leadership should take within the ANC or the state, however, has not been comprehensively articulated. It has also only been addressed inconsistently and indirectly in official party statements, declarations and other pronouncements.[3] The feminist discourse of women in parliament as *political agents* of change for women in society is absent from the ANC's manifestos, resolutions and speeches.

The ANC acknowledges the importance of the institution of Parliament and its responsibility in addressing women's policy issues. In its *2010 Women Day Statement,* the ANC states that '[w]omen's issues are societal issues...and [a]s such, the plight and hardships of women in rural and urban centres should be a permanent discourse for those elected to Parliament and provincial legislatures' (Mthembu, 2010). The ruling party, however, does not specifically entrust women parliamentarians with the task of promoting gender equality and expects this agenda to be pursued by *all* parliamentarians at *all* levels of government.

While admirable in its insistence that the gender equality mandate should be borne by all public representatives in South Africa, the party fails to acknowledge the reality that without entrusting specific agents with responsibilities for which they are accountable, a generalised rhetoric of equality has little impact.

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3   Even those official ANC pronouncements issued in the commemoration of gender-specific events such as the 9th August Women's Day and Women's Month.

Similarly, the specific ways and political agents needed to address and pursue this outcome are not explicitly recognised or monitored.

The ANC has not imposed any specific obligations on women in government to act as political agents *on behalf of women.* Its promotion of women's participation in parliament, therefore, falls under the broader rubric of attaining a formal gender-representative leadership structure and *equal numbers* of women and men in parliament. It has not promoted women's participation in order to address women's broader strategic issues.

We turn now to a detailed discussion of various aspects of the South African parliament to elaborate on these arguments. In order to grasp the nuances of representation and the relationship between descriptive and substantive representation, we use the lens of policy and legislative responses to violence against women. We select this example because it is a clear instance of a policy issue that cuts across race and class and presents a real physical threat to women on a daily basis, as well as violating their rights. Violence against women is therefore a useful litmus test of a state's *substantive* commitment to women's rights and to ensuring their protection and bodily autonomy within the private sphere. We are, of course, specifically concerned with the commitment of female parliamentarians on an issue which universally affects women.

4.1. Presence and Power in the Parliamentary Arena

South Africa experienced its first non-racial democratic election in 1994, which signalled the end of the deeply oppressive apartheid system. Women were highly visible in the public spaces that defined the new political institutions post-1994. Women's organisations, led by the Women's National Coalition, were instrumental in mobilising and advocating for the inclusion of women's rights and concerns in the drafting of the new constitution and legislation related to formal gender equality. This was to have a defining impact on the post-transitional institutionalisation of women's state politics and the degree to which women's concerns were mainstreamed into routine state practices such as budgeting and the passage of legislation. In the South African political context, it was especially important because for the duration of the liberation struggle, women's demands for equality had been subordinated to the demands of the non-racial struggle against apartheid and although women were active participants in the liberation movement in various roles, 'formal membership of political parties and liberation movements had not increased women's political power to any significant degree' (Hassim, 2003: 82).

The 1994 post-democratic election exodus of women from civil society-based women's organisations into the formal arena of parliament raised hopes within the South African women's movement that the site of struggle for women's gains and gender equality had shifted to the state and that the institutionalisation of gender could be accomplished at the policy-making level. Women's representation in parliament, therefore, was envisaged as a continuation and institutionalisation of the struggle for gender equality as it had been pursued in civil society – but shifted to another domain (Hassim, 1999). This perception was further entrenched by the high numbers of women who had been members of women's organisations and had spearheaded the women's movement moving into parliament. The shift from mass movement politics to institutional politics 'implies that women will use institutions of the state to improve conditions of gender inequality' (Gouws 2008: 538).

However, over time major areas of weakness in terms of support for the needs and interests of poor women have emerged. In fact, women in parliament have been silent on some of the major issues affecting ordinary women such as HIV and AIDS[4] and gender-based violence. This reinforces critiques of the PR electoral systems because elected representatives are not held accountable to constituencies who voted them in as individuals but to their political party (Hassim, 1998; Ballington, 1998; Bauer, 2008). The party also chooses which women to nominate and in general this is done by a male-dominated party hierarchy and so 'women gain power only through access to men' (Vincent 2004: 78) and if they are compliant. Troublesome women who take independent positions, such as Pregs Govender, find themselves either attacked or isolated from party power. In some ways this makes the purpose of quotas redundant as women are still reliant on men to gain access to power.

Initially the key structures responsible for pursuing the promotion of gender equity in parliament comprised the Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (JMC), the Women's Empowerment Unit (WEU) and the Women's Caucus. In 2005 the Women's Parliament was introduced. Later, following the 2009 elections. the JMC was disbanded and replaced with the Portfolio Committee (PC) on Women, Children and People with Disabilities (WCPD) in the National Assembly and the WCPD Select Committee in the National Council of Provinces (NCOP).

Women's Empowerment Unit and Women's Caucus

Under the leadership of the first Speaker in the democratic parliament, Frene Ginwala, the Speaker's Forum[5] established the WEU to define and address obstacles to women's ability to participate in the lawmaking process. For a short period of time the WEU was also involved in the training of MPs. The Parliamentary Women's Group (PWG) was set up in 1994 to work with the WEU in building the capacity of women MPs to craft gender-equitable legislation and to drive the kind of institutional transformation required to make Parliament a gender-sensitive environment. In 1997 it was decided that the PWG would focus only on issues of internal transformation while the JMC would take responsibility for legislative reform and the monitoring of government. It was envisaged that the PWG would both create a platform for women to engage across party political lines, as well as support the work of the JMC. These developments were significant in a number of respects. Firstly, they were the consequence of having a Speaker with a long-standing commitment to gender equality in a position of authority. Frene Ginwala had led the highly visible Women's National Coalition during the transition period, working closely with its Secretary-General Pregs Govender. Secondly, they reflected an acknowledgement that invisible and subtle barriers to women's voice and agency in parliament had to be addressed through education of and networking among women, transcending party divisions.

However, the work of the PWG never really got off the ground due to the lack of clarity around its role and the fact that it had virtually no resources at its disposal. Some MPs also commented that the idea of a caucus that was not subject to the authority of party whips was increasingly seen as problematic to party hierarchies.

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4   A prime example was former Health Minister Manto Tshabalala-Msimang's inability to take a stand for women in the case of the Nevirapine programme – instead she toed and advanced President Mbeki's denialist line.

5   This forum is comprised of Speakers from the national and provincial legislatures

Both the WEU and the PWG soon ceased to have a presence and gradually disappeared at a time when legislation was turned into policies and projects, and when accountability to the ideals of gender equality needed to be enforced.

In 2007, as part of attempts to rejuvenate the PWG, a proposal was made that the Multi-party Women's Caucus be constituted as a fully-fledged parliamentary committee with a budget and human resources to support its work. The Caucus was launched as a parliamentary committee on 18 March 2008 with the following functions:

- **Promoting the discussion of women's issues in Parliament;**

- **Introducing a women's perspective and focus in parliamentary activities, including the programming of debates**

- **Engaging in developmental and empowerment issues with women in political structures outside Parliament and women MPs internationally; and**

- **Considering any other matter within its mandate referred to it by either House of Parliament.**

The Women's Parliament

The Women's Parliament is one of a number of sectoral parliaments (including the Youth Parliament and People's Assembly) created to provide opportunities for public participation in legislative processes. These have become annual events since 2005. Potentially a powerful tool for parliamentary oversight, the sectoral parliaments have been hamstrung by a number of problems, not least of which being that they are not institutionalised into the work of Parliament. Treated as annual, unconnected parliamentary 'events', no linkage is made to the previous year's event and no report provided on progress made during the year.

A number of other critical challenges in relation to the Women's Parliament also need to be resolved as a matter of priority. Currently, the process of developing thematic areas of focus takes place on a year-to-year basis with no medium to long-term planning process in place. Whilst the advantage of this process is that the themes are informed by what is currently topical and relevant, the disadvantage is that there is no long-term vision for the project, no continuity between areas of focus from year to year and each Women's Parliament exists as a completely separate event. As mentioned previously, no provision has been made for reporting back on progress made in addressing issues raised at the previous year's Parliament and there is no synergy and logical flow from one event to the next. Reports emanating from the Women's Parliament are often not tabled at all, or tabled almost a year after the event (Vetten and Watson, 2009).

The Joint Monitoring Committee on the Improvement of the Quality of Life and Status of Women (JMC)

The JMC was established in terms of the Joint Rules 128 - 32 of the South African Parliament. Its mandate was to monitor and evaluate progress towards improving the quality of life and status of women in South Africa, specifically in relation to Government's commitments to the Beijing Platform for Action, CEDAW and any other international instruments. The mandate of the JMC was multi-sectoral, covering all national departments and organs of State. The JMC was also expected to monitor legislation for its potential impact on

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women's lives. Because the Committee did not have a direct role to play in the passage of bills, it was meant to engage with portfolio and select committees on any issues of concern in a bill. As part of its monitoring role, it could also engage with government departments on service delivery issues from a gendered perspective and had the authority to peruse departmental reports in terms of their impact on gender relations in society.

Under the leadership of its first chairperson, Pregs Govender, the JMC initially enjoyed some considerable success, with the role they played in the finalisation of the Domestic Violence Act of 1998 providing but one example of their effectiveness.

Drawing on the 1994 Women's Charter for Effective Equality developed by the Women's National Coalition, as well as hearings conducted with women's organisations in 1996, the JMC had identified key legislative and policy priorities for women (Govender, 2007). These included legislation on domestic violence and sexual offences. By May of 1998 the South African Law Commission (SALC) had only just finalised a draft Bill on domestic violence and was still planning consultative workshops, the standard next step in law reform process. But if this process was to be followed, it ruled out the possibility of the Bill being tabled in parliament that year. To prevent this, the chair proposed that the Bill be tabled as a matter of urgency and the parliamentary public hearings around the Bill be treated as the opportunity for consultation (Parliamentary Monitoring Group (PMG) minutes, 13 May 1998).

However, persuading both the ANC and parliament to also prioritise these issues was more difficult. Govender describes an interaction with the chair of the Justice PC as follows: '...[he] shouted, "To hell with this! We've got other priorities! Since when are women's laws the priority!"' (Govender 2007: 158). Govender and eight women from the ANC women's caucus subsequently met with then-Deputy President Thabo Mbeki to put women's legislative priorities onto the agenda. According to Govender, Mbeki responded by instructing them, as ANC women, 'to get their act together.' At this point Govender handed over the list of legislative priorities to Mbeki to illustrate 'how ANC women often got their act together but lack[ed] the power and access to crucial structures such as cabinet to ensure things are taken further' (*ibid*: 159). A week later Govender was informed that Mbeki had called a meeting of senior staff in his office and instructed them to act on the JMC's priorities. The SALC felt the effect of this intervention almost immediately, an acquaintance of Govender's in the Commission asking what had been done to prompt the "strong" political will now being asserted (*ibid*: 160). The JMC intervened again later in the parliamentary law reform process when an attempt was made to propose a far weaker alternative to the Bill, as well as remove key clauses from its provisions (Meintjes, 2003).

The Domestic Violence Act (133 of 1998) (DVA) was promulgated at the end of 1998 and is widely regarded as one of the more progressive examples of such legislation internationally.[6]

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6   The JMC's influence was not confined to the DVA alone. It also shaped the Maintenance Act (99 of 1998), the Skills Development Act (97 of 1998), the Employment Equity Act (55 of 1998) and was integral in ensuring that a sexual harassment code was incorporated into the Labour Relations Act (97 of 1998). The JMC also ensured that the Job Summit targeted employment creation for women and regularly engaged with the Finance Ministry on the need to engender the country's macro-economic policy and national budget. The Women's Budget initiative was also the brainchild of Govender who worked closely with IDASA and CASE to produce the first Women's Budget publications.

However, in 2002, Govender resigned as chair of the JMC, as well as a Member of Parliament (MP) following clashes with President Mbeki over his AIDS policy and the arms deal. For a brief period the JMC was chaired by MP Lulu Xingwana, followed by MP Storey Morutoa after Xingwana was appointed to Cabinet. By 2004 the JMC was described as 'practically dysfunctional' and 'to have lost momentum' (Gouws 2006: 158).

Even in those instances where it did embark on worthy initiatives, the lack of follow-up on these matters resulted in very little impact. In 2006, for example, the JMC visited KwaZulu-Natal, the Eastern Cape and Gauteng to ask women about their experiences of the implementation of the Domestic Violence and Maintenance Acts. It also participated in Parliament's review of the Prevention of Unfair Discrimination and Promotion of Equality Act (4 of 2000). Whilst these initiatives produced important information in terms of South African women's lived realities, the information was not used to design an effective intervention strategy that was acted upon. In May 2009, the JMC was accused of having accomplished very little, of having no strategic vision regarding what it had wanted to achieve and of having contributed little to the transformation of women's lives (*Mail and Guardian,* 15 May 2009).

Administrative factors also served to impede the smooth running of the Committee. Because the JMC was a joint committee, with Members from both the National Assembly and the NCOP, it experienced great difficulty in scheduling meetings that accommodated the activities and programmes of both Houses. A report aimed at identifying some of the factors hampering the work of the JMC noted that the National Assembly was finding it difficult to schedule JMC meetings because "the JMC overlaps with all Portfolio Committees and cannot easily be accommodated in any of the groups of Committees as identified for scheduling purposes" (Hahndiek, 2004). This wording is indicative of the inferior status of the JMC and the priority accorded to gender issues. Because the JMC "overlapped" with other committees, as opposed to other committees overlapping with the JMC, other committees were accorded first preference in terms of scheduling priorities.

Within the NCOP context, the parliamentary programme was structured in such a way that the NCOP members of the JMC were often required to be in the provinces on Fridays, the day allocated to JMC meetings. This served as a further administrative impediment in the scheduling of JMC meetings. There have also been instances where one or both Houses convened on Friday mornings. For example, in 2003 a total of 18 meetings scheduled for Fridays could not take place for this reason. Furthermore, the JMC should have been able to meet at fairly short notice if, in the process of monitoring bills, they identified issues of concern. This was not possible in practice.

The following table reflects the total number of meetings held by the JMC between 2000 – 2006.

YEAR	NUMBER OF MEETINGS HELD
2000	16
2001	27
2002	10
2003	12
2004	1
2005	18
2006	12

As the table illustrates, the JMC met once in 2004, which clearly indicates that no work was done in that year. In 2006 the JMC met 12 times, amounting to an average of about 3 meetings a term. Considering the scope of the mandate of the JMC, this was clearly insufficient for its purposes. A JMC report produced in 2004 noted that in addition to the difficulty in finding days to conduct meetings, the Committee had experienced problems with poor attendance at meetings and often had insufficient representation to achieve a quorum (Vetten and Watson, 2009).

Govender's departure not only marked the decline of the JMC, but also coincided with Parliament's increasing loss of credibility in the public's eyes. Issues such as the arms deal, 'Travelgate' and the dissolution of the Directorate of Special Operations (or the Scorpions), all contributed to Parliament increasingly being depicted as a rubber stamp of the Executive and/or the ruling party (Parliament of the Republic of South Africa, 2009)

Over and above the questions of ethical conduct raised by these issues, Parliament also faced significant challenges in linking with the electorate, according to the Independent Panel appointed to assess parliament. The Panel, which carried out its mandate between 2006 and 2008, concluded that South Africa's party-list electoral system tended to promote MPs' loyalties to their political parties, rather than their constituencies. This diminished MPs' accountability and responsiveness to the electorate and weakened public participation. The Panel highlighted too that the power of political parties to remove MPs discouraged the expression of individual views in favour of party political views (*ibid:* 8).

It was within this context that the Sexual Offences Bill was introduced into the National Assembly in 2003.

4.2. The Sexual Offences Bill

Exactly four public records are available of the JMC's meetings around the Sexual Offences Bill, with two taking place during MP Govender's tenure.

The first occurred in 1998 when the Committee identified sexual assault legislation as one of four bills it considered to be of critical importance (PMG Minutes, 3 June 1998). In 2001 the JMC engaged with the SALC around the law reform process and asked whether or not the draft Bill would be finished by the end of that year. On hearing that it would only be completed in the second half of the following year, Govender commented on the length of time elapsing between an issue being prioritised and it being implemented (PMG minutes, 29 August 2001). It is indicative of how much the political atmosphere had changed that Govender was no longer able to ask for high-level political intervention in the passage of the Sexual Offences Bill.

In 2003 the JMC, now chaired by MP Xingwana, once again picked up on the Sexual Offences Bill, with the Chair concluding that the JMC needed to formulate a submission around the Bill for discussion with the Speaker and the DoJ&CD (PMG minutes, 14 November 2003). Whether or not such a submission was ever made is unknown. The final discussion of the Bill took place in May 2005 when the SALC again appeared before the JMC to discuss the Sexual Offences Bill.

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Much of this meeting focused on the usefulness of a Sexual Offender's Register (this had not been included in the SALC's draft Bill), as well as aspects of the law relating to children (PMG, 27 May 2005).[7]

Thus in stark contrast to their role in the passage of the DVA, the JMC's input into the Bill was negligible, judging from records in the public domain. When they were galvanised into action, it was motivated by the concern to determine the legal age at which children may have sex.

Despite the Sexual Offences Bill spending four years in parliament between 2003 – 2007, little opportunity was created for public participation in this time and only one day's notice provided of public hearings. Correspondence with the Justice PC requesting further oral hearings around the Bill were unsuccessful. During this period organisations belonging to the National Working Group on Sexual Offences also issued press releases, organised conferences and ran campaigns in an effort to encourage parliament to support greater public engagement around the Bill, as well as speed up its finalisation. In 2006 a national 'Get on the Bus and Stop Violence Against Women and Children' Campaign was launched which included petitioning parliament and the Department of Justice and Constitutional Development (DoJ&CD) to consult with civil society around the finalisation and enactment of the Sexual Offences Bill. The petition, along with a memorandum, were handed over to the JMC on 10 April 2006. Parliament proved impervious to this approach too (Vetten and Watson, 2009).

The Criminal Law (Sexual Offences and Related Matters) Amendment Act (32 of 2007) (SOA or 'the Act') came into effect on 16 December 2007. A disappointment to organisations addressing sexual offences, the Act was poorly drafted (29 of its sections recently being suspended in the Western Cape following the decision in *Director of Public Prosecutions, Western Cape v Arnold Prins, Case number A143/08*); contained provisions in conflict with the 2007 Children's Amendment Act[8], as well as a register for sex offenders duplicating the child protection register also contained in the Children's Act (38 of 2005); and provided no additional measures to protect rape survivors from the adversarial court process (a key demand of women and children's organisations). Aspects of its implementation have also been significantly delayed (such as the National Policy Framework) (Vetten et al, 2010).

A Glimmer of Hope? 2009 onwards -

The national elections of 2009 resulted in a reconfigured parliamentary structure: a PC for Women, Children and People with Disabilities (WCPD) and a Select Committee. The Committees got to work straight away, requesting briefings from different government departments and NGOs around various aspects of violence against women and children. On 9 September 2009 the Tshwaranang Legal Advocacy Centre (TLAC) and the Gender Advocacy Programme (GAP) presented a ten-year overview of the implementation of the DVA concluding the presentation with a call to the Committee to hold public hearings around the DVA (PMG, 9 September 2009).

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7   Minutes of the PC on Justice allude to the JMC's presence in at least two other meetings dealing with the Bill. PMG Minutes show the JMC to have been present during a PC on Justice meeting of 19 June 2006. The minutes do not record the JMC as having made any intervention at all into the discussion. In a subsequent meeting it is noted that the JMC had been invited to meetings around the Bill (PMG minutes, 21 June 2006).

8   These are the provisions on mandatory reporting of sexual offences committed against children.

The Committee responded almost immediately, conducting public hearings on 28 and 29 October 2009 and tabling its report on 25 October 2010.

All in all, the PC had held 10 different meetings around domestic violence (including the public hearings) by the close of 2010 (Vetten et al, 2010). They continued following up on their report too, being briefed by the Independent Complaints Directorate (PMG, 17 November 2010), the Department of Social Development (PMG, 31 August 2011), the DoJ&CD (PMG, 15 February 2012) and the Department of Health (DoH) (PMG, 25 January 2012). The DoH's response was considered so inadequate by the WCPD PC that the briefing was cut short and the Department ordered to return at a later date.

The WCPD PC has thus shown itself to be responsive to women's organisations and to have made important efforts to hold government departments to account for their administration of the DVA. But only time will tell how effective their interventions may ultimately be.

5 CONCLUSIONS

Ultimately, if women's presence in parliament is to be more than descriptive, then the debate must shift away from being exclusively focused on numerical parity with men alone. The role and functioning of parliament as either enabling or constraining processes promoting gender equality needs attention, as does consideration of how all women's engagement with parliament can be expanded and deepened.

This contrast, at three different points in South Africa's political time, of how parliamentary structures intended to promote gender equality have engaged with legislation addressing violence against women illustrates the shallowness of those debates around quotas that address themselves to numbers alone.

When the legislation addressing domestic violence was being discussed, it was at a unique time of political transition when many female MPs came to parliament fresh from the liberation struggle and activism around women's rights – and with their ties to the women's sector still strong. The innovative DVA was one outcome of the presence of this group of women in parliament. By the second set of elections this political context had changed. Those women who remained in parliament were arguably becoming career politicians whose political survival depended more on the party than their constituency. Parliament, as an institution of democracy, was also subdued to the Executive and less responsive to civil society. The result of the law reform process this time around was an indifferent piece of sexual offences legislation stripped of the more progressive content proposed in the SALC's original Bill. Thus, while there may have been a greater number of women in parliament between 1999 – 2009 than between 1994 – 1999, they were less effective as agents of gender equality than those female MPs appointed to parliament immediately after the 1994 elections. And post the 2009 elections the picture has changed yet again.

Ultimately, if women's presence in parliament is to be more than descriptive, then the debate must shift away from being exclusively focused on numerical parity with men alone. The role and functioning of parliament as either enabling or constraining processes promoting gender equality needs attention, as does consideration of how all women's engagement with parliament can be expanded and deepened. Measures need to be introduced holding both female and male parliamentarians to account for their (non)contribution to gender equality, which may include reforming the electoral system. Paradoxically, while the PR system is better able to increase women's political presence, it also appears to simultaneously weaken their effectiveness in advancing gender equality due to the loyalty the system fosters to the party, rather than women voters. And finally, if the purpose of increasing women's representation is also to ensure better policy outcomes for women, then women with a clear and stated commitment to gender equality are a pre-requisite for office. Any woman will not do.

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TSHWARANANG
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To End Violence Against Women

MAKING WOMEN'S REPRESENTATION IN PARLIAMENT COUNT

The case of violence against women

The Tshwaranang Legal Advocacy Centre to End Violence Against Women is a non-profit organisation that promotes and defends the rights of women to be free from violence and to have access to appropriate and adequate services. It achieves its aims through research and policy, litigation and advocacy, training, and public awareness.
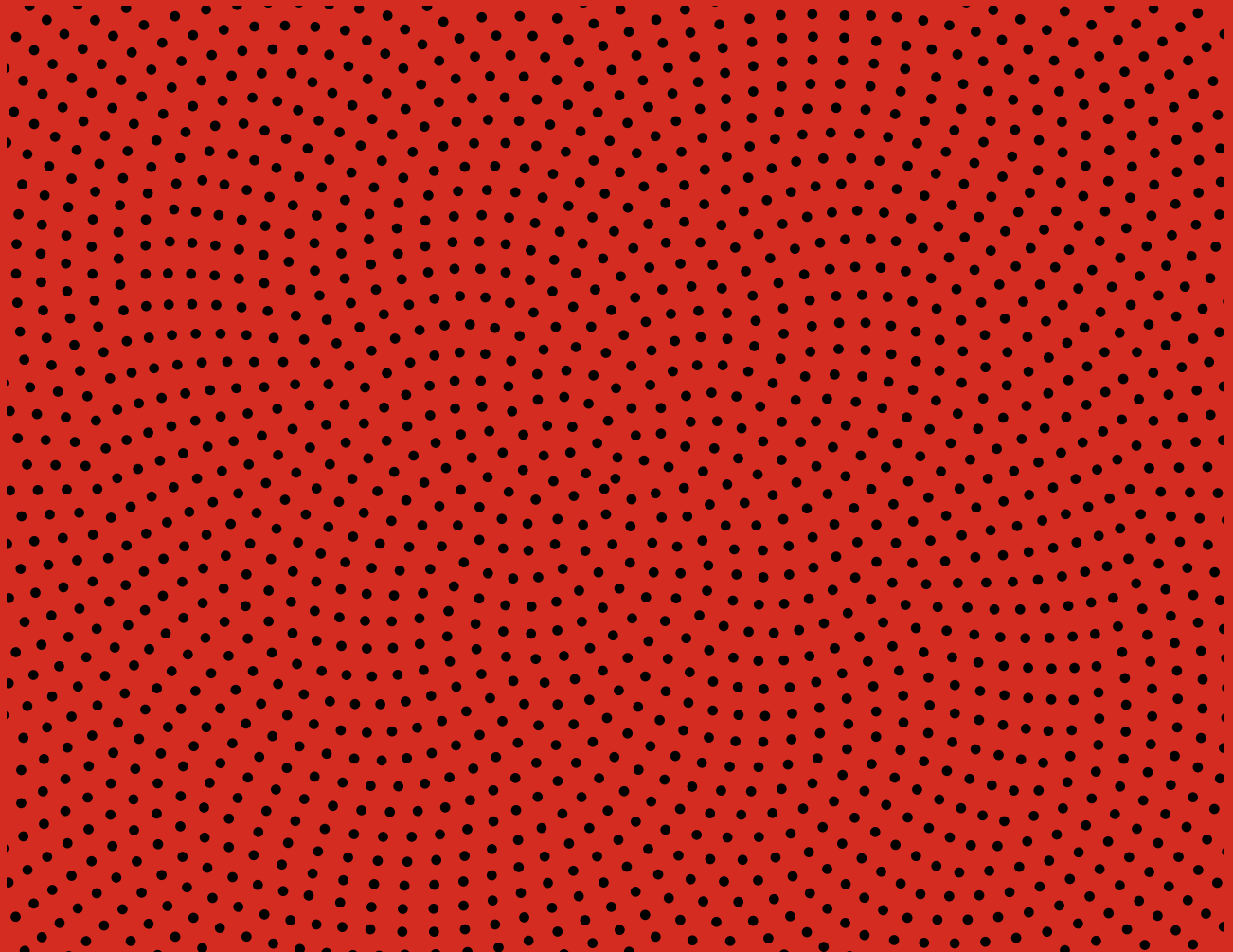
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