



Constitution Brief

Constitution Assessment for Women's Equality Series No. 2 February 2022

About the author

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About the series

These briefs are associated with the International Institute for Democracy and Electoral Assistance (International IDEA), Gender Equality Network (GEN) and Triangle Women initiative to contextualize the 2016 Constitution Assessment for Women's Equality (CAWE) tool, which provides comparative examples from around the world for inspiration and information on good practice for anyone who is determined to contribute to gender-inclusive policy and legislative developments in Myanmar.

These briefs were written before the military coup on 1 February 2021.

About International IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with a mission to support sustainable democracy worldwide.

Substantive Equality and Women's Representation in Public Institutions

Martine van Mil

Summary

This brief explores how constitutional advocates for women's equality in Myanmar can advance women's representation and meaningful participation in public decision-making and institutions. It looks at how different countries have aimed to do this through their constitutions, and what lessons can be learned for your own advocacy strategies. It is part of a three-part series, which also includes Brief No. 1, *A Guide to Being an Effective Advocate for Gender Equality*, and Brief No. 3, *Preventing Gender-Based Violence in Myanmar*. These briefs are associated with the International IDEA, Gender Equality Network (GEN) and Triangle Women initiative to contextualize the 2016 Constitution Assessment for Women's Equality (CAWE) tool, which provides comparative examples from around the world for inspiration and information on good practice for anyone who is determined to contribute to gender-inclusive policy and legislative developments in Myanmar.

1. Why does women's representation in public institutions and decision-making matter?

Women's full participation and representation in public institutions is often blocked by conscious and unconscious biases, stereotyping, formal and informal discrimination and restrictive conservative views about the role and capabilities of women. All over the world women's representation in public institutions such as parliaments, cabinets, courts, the civil service and security services (e.g. police, military, intelligence) among others, at different levels of government, is far from equal.

One of the challenges women face is that women are often grouped together with 'minority groups' (Htun 2004). But women make up about half of the world's population. They should not be considered a 'minority' to be accommodated. In Myanmar, women make up 52 per cent of the population (NIMD et al. 2019). Women's meaningful participation and representation in public institutions and decision-making is therefore not only a demographic necessity but a democratic imperative.

The inclusion of women’s unique experiences and diverse perspectives is also an asset for political and decision-making processes as due consideration of diverse and potentially overlooked needs is essential for effective public policymaking. Indeed, the substantive involvement of women in political and decision-making processes has proven to result in more comprehensive laws and policies that are more responsive to diverse societal needs (Ng and Muntaner 2018; Wangnerud 2009; Eagly and Johnson 1990). Women in decision-making roles are more likely than men to prioritize issues such as food security, education, health care, water and sanitation, childcare, gender-based violence, and equitable divorce and inheritance rights for women. Women also tend to promote policies that reflect the needs and priorities of diverse groups such as families, youth, displaced peoples, and minority groups (NIMD et al. 2019).

Women’s right to political participation is recognized as a fundamental human right in international laws and treaties as well as in global policy initiatives such as the United Nations Sustainable Development Goals. For example, the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW; see UN Women n.d.a)—which the government of Myanmar signed and ratified in 1997—states: ‘State Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right...to participate in the formulation of government policy...to hold public office and perform all public functions at all levels of government’ (CEDAW: article 7).

Importantly, when we think about representation this should not be limited to having quotas in parliament. Representation in public institutions and decision-making is wide-ranging and includes both elected and appointed positions at all levels of public life, including in political parties, parliaments, cabinets, the judiciary, civil service, security sector and independent commissions. Women’s representation in foundational processes, such as constitution-building or peace negotiations, is also critical. These processes can have significant influence over other democratic or decision-making processes and have the potential to redefine perceptions of, and opportunities and responsibilities for, women’s rights and gender equality.

To address women’s historical exclusion from public institutions, CEDAW provides for Temporary Special Measures (TSMs) such as quotas to increase women’s representation in public bodies, recruitment ‘pipelines’ for women in police, military and civil service roles, and programmes to increase female enrolment to universities. Quotas in particular have proven to be a highly effective tool for fast-tracking women’s representation (Dahlerup et al. 2014). In Box 1, there is more information on these and other key concepts, which we will come back to throughout this Brief.

Box 1. Key concepts and terms

Formal equality refers to the equal treatment of women and men before the law. This is addressed in constitutions with provisions that (a) prohibit discrimination because of sex and gender (non-discrimination provisions); and (b) state that women and men are equal (equality provisions). Formal equality is important in the context of exercising many rights, such as the right to free speech and to due process (fair and equal legal procedure). Yet, if the status quo prevails, it could take decades before women can realize gains from formal equality in a given society due to historical disadvantage and the many ways in which discrimination and bias are embedded—both consciously and unconsciously—in our societies, political and social systems, economies, families and communities. Recognizing formal equality forms the basis, but substantive equality goes a step further.

Substantive equality recognizes that laws and policies should acknowledge women’s historical disadvantage and seek to ‘remedy’ past discrimination and the political, economic and social barriers women and girls face. By considering women’s lived realities, substantive equality not only aims at equal treatment but places primary emphasis on eliminating or at the very least lowering the barriers to accessing opportunities and equality of outcomes. This requires **positive actions**, such as constitutional, legislative, executive, administrative,

budgetary and regulatory instruments, as well as action plans, policies and programmes to remedy women's unequal position in society.

Gender parity is the equal representation of men and women in processes and institutions, e.g. the agreement to, and implementation of, 50 per cent women and 50 per cent men in a parliamentary committee.

Temporary Special Measures (TSMs) are actions taken by the government (and other actors) that target women and/or girls to accelerate gender equality and women's empowerment. For example, article 4 of the CEDAW allows for TSMs such as quotas to increase the numbers of women in a decision-making process (e.g. through reserved seats, legislated candidate quotas, voluntary candidate quotas). TSMs are affirmed in CEDAW General Recommendation No. 25 (UN Women n.d.b).¹ TSMs are not regarded as discriminatory. Instead they are understood as positive actions intended to create opportunities for women that would otherwise not be possible. While these measures are regarded as 'temporary' they may be required for an extended or undetermined period of time.

Special Measures are related to formal equality and linked to the recognition of certain differences between women and men that can result in discrimination. For example, maternity leave should be established and not subject to redefinition or change given the fact that women bear children and require a range of protections related to this (e.g. employment security).

Critical mass refers to the minimum or 'critical' proportion of women in male-dominated spaces that is necessary for women to be heard, exert their influence and participate effectively. Generally, a *minimum* of 30 per cent is regarded as the critical mass level for women to participate effectively.

Gender-sensitive refers to the deliberate inclusion of the perspectives, needs and rights of women, men, boys and girls in a process, policy, law, programme or statement. This is also known as gender mainstreaming.

Gender-responsive means bringing gender-sensitive policies or processes to life through action. Values, principles and concepts are operationalized through gender-responsive actions—namely, the practical capacity to address gender inequalities through implementation efforts that are feasible, monitored and evaluated.

Gender-inclusive refers to the combination and result of 'gender-sensitive' (in theory/design) and 'gender-responsive' (in operation) approaches that enable and enhance women's equal representation and meaningful participation in decision-making processes.

2. The status of women in public life in Myanmar

The state of Myanmar has committed to advance women's rights and gender equality through signing and ratifying CEDAW, endorsing the 1995 Beijing Platform for Action (BPFA), and committing to the UN Sustainable Development Goals. Myanmar has also developed the National Strategic Plan for the Advancement of Women (NSPAW) 2013–2022, which aligns with the 12 priority issues of the BPFA and includes women in decision-making as a key priority area.² Yet the implementation of NSPAW has been limited and Myanmar remains one of the few countries in the world without legislation to prevent, address and respond to violence against women. In addition, despite a marginal increase in the number of women in Myanmar's parliaments, women's representation in political parties, parliaments, ministerial posts and local governance, as well as

1. General Recommendations are interpretations of international conventions to assist with their implementation. They are developed by expert committees.

2. The one exception relates to the BPFA emphasis on women and armed conflict. The NSPAW does not use this terminology and instead focuses on women and emergencies. The priority areas are: Livelihoods, Education and Training, Health, Violence against Women, Emergencies, Economy, Decision Making, Institutional Mechanisms for the Advancement of Women, Human Rights, Media, Environment, and Youth.

in the judiciary, the military and peace process mechanisms, remains low (see, for example, UN CEDAW 2016; Minoletti 2014; Action Aid, CARE, Oxfam and Trocaire 2014; WLB 2005). Box 2 provides a data snapshot of women's representation in public institutions.

Box 2. Snapshot: Women in public life in Myanmar

- Approximately 13 per cent of legislators are women, which is far below the 30 per cent that is regarded as the minimum or critical mass level for women to participate effectively.
- In 2020, Myanmar was ranked 160 out of 191 countries globally for women's representation in parliament. In comparison, Timor-Leste ranked 30, Afghanistan ranked 67, Vietnam ranked 68, and Bangladesh ranked 98.
- Most political parties in Myanmar do not have concrete policies that promote women's participation or reserve positions for female candidates.
- Approximately 90 per cent of Central Executive Committee members of political parties are male and only 6 per cent of decision-making positions in state/region and district-level party structures are held by women.
- One out of 24 Union-level ministers is female and there is one female Chief Minister out of a total of 14 Chief Ministers for regions and states.
- 10 out of 133 state and region ministers are female.
- One out of 330 township administrators is female.
- There are no female Union Election Commissioners.
- There are no female Supreme Court judges, and only two out of nine Constitutional Tribunal judges are female.

Source: International Foundation for Electoral Systems (IFES) and Yaung Chi Thit (YCT), *She Leads in Myanmar: Inspiring Women Leaders* (Arlington, VA and Chiang Mai: IFES and YCT, 2019); International Parliamentary Union (IPU) and UN Women, 'Women in Politics: 2020' [map], <<https://www.ipu.org/resources/publications/infographics/2020-03/women-in-politics-2020>>, accessed 1 February 2020; Latt, S. S. S., Ninh, K. N. B., Myint, M. K. K. and Lee, S., *Women's Political Participation in Myanmar: Experiences of Women Parliamentarians 2011–2016* (Myanmar: The Asia Foundation, 2017); Myanmar government websites.

Women's networks in Myanmar have therefore advocated for the development of laws and policies that ensure women's full participation in public decision-making. As part of these efforts, many women also call for constitutional change, as they feel excluded and discriminated against in the current version. The remainder of this brief explores how women's representation can be legally and constitutionally promoted.

3. The Constitution Assessment for Women's Equality—A resource for inclusive and evidence-based policymaking

As highlighted in Brief No. 1, *A Guide to Being an Effective Advocate for Gender Equality*, a key step in your advocacy process is to develop a detailed advocacy strategy with clear goals and objectives. What is it that you want to change? Who is your target audience? What timeframe are you working towards? Are there feasible micro-changes to target along the way or is this a large singular reform? Has this been done before in Myanmar, or anywhere else in the world?

The Constitution Assessment for Women's Equality (CAWE) is a powerful resource that can support you in answering some of these questions and in developing a strategy to achieve specific advocacy goals (Allen 2016). The CAWE illustrates how you can:

- think holistically about representation;
- engage political parties as 'gatekeepers' to elected office;
- overcome barriers to representation and meaningful participation; and
- explore measures that guarantee representation and promote meaningful participation.

3.1. Thinking holistically about representation

As mentioned above, when we think about women's representation we should consider to what extent women are included and able to meaningfully participate in public institutions and mechanisms at all levels, and in both elected and appointed positions. The CAWE urges you to take a holistic approach when thinking about women's representation and to explore how this can be promoted at these different levels and positions (see CAWE questions 36, 39, 40, 42, 43 and 44; Allen 2016). Consulting or conducting gender inclusion and women's representation audits or reviews can help you to understand the forms and degrees of exclusion across such institutions and to develop a targeted approach for change (see Brief No. 1).

3.2. Engaging political parties as 'gatekeepers' to elected office

Women's representation often starts with political parties (see CAWE question 34; Allen 2016). The way political parties function internally directly effects women's access to decision-making and influential positions. This includes whether women have equal opportunities to gain leadership positions within parties and are able contribute to party policies, programmes and election manifestos. Some countries guarantee women's representation in political parties, including in leadership bodies, through the constitution, legislation or the electoral management body (see, for example, article 210 of the Constitution of Bolivia or article 142 of the Constitution of Nepal). In Myanmar, such guarantees are currently not in place. Although Myanmar's Constitution states that 'the Pyidaungsu Hluttaw shall enact necessary laws concerning political parties' (article 409) it does not require a guarantee of equal representation and participation of women and men. The CAWE (Allen 2016) provides examples of contexts where candidate lists and party quotas have made a powerful difference for more women getting into parliament (see Section 3.3).

3.3. Overcoming barriers to representation and meaningful participation

Women's representation is deeply connected with the concepts of formal and substantive equality, TSMs and Special Measures. These can be difficult concepts to secure in laws and policies, and even harder to operationalize in everyday life. But if you explicitly articulate women's right to equitable representation and gender parity in a constitution (e.g. article 14 of the Constitution of Congo) it paves the way for TSMs to be put in place. The CAWE (Allen 2016) highlights different barriers that need to be eliminated or lowered for women. Questions 34, 36, 39 and 42, for example, highlight that the qualifications required to become elected or appointed to public office may lead to discriminatory practices as they may be difficult for women to meet due to historical disadvantage.

In addition, the inclusion of women alone does not guarantee that women can effectively participate and have influence over all areas of decision-making (see CAWE question 37; Allen 2016). This is why the concept of critical mass is so vital to understand and work towards. Without a critical mass of women in male-dominated spaces (e.g. parliaments, police services, judiciary) it is challenging for a small number of women or a solo woman to perform effectively, let alone secure outcomes around common interests (if there are any).

In parliaments formal rules and procedures, as well as customs and informal norms, also affect women's ability to participate fully. In Myanmar, there are significant social norms that inhibit women's participation in public institutions (GEN 2013, 2015; Löfving 2011). Additionally, the gender-biased division of labour sees women underrepresented in committees addressing security, finance and foreign policy and overrepresented in committees that address social issues

(e.g. education and childcare). However, women clearly also have important things to say about issues that are not traditionally considered ‘women’s issues’. To overcome these entrenched biases and systematic discrimination, you could consider interventions that can disrupt these limiting norms, such as women’s caucuses in parliaments (Gonzalez and Sample 2010); exchange programmes between female parliamentarians or ex-politicians from other countries; or a mentorship/coaching programme for female judges, parliamentarians, police officers, etc.

3.4. Exploring measures that guarantee representation and promote meaningful participation

The CAWE (Allen 2016) is illustrated with examples of practices to guarantee representation, including quotas and candidate lists, which will be discussed in more detail below.

When advocating for quotas, it is important to understand the different types of quotas that exist. Quotas take many forms, for example for electoral candidates, reserved seats for women, gender-neutral quotas and voluntary political party quotas (see CAWE question 36; Allen 2016) (Dahlerup 2006; Krook 2009). Such quotas may be enshrined either in the constitution or in electoral law. In Burundi’s Constitution, for example, article 164 provides that the National Assembly shall include a minimum of 30 per cent women. Kenya’s Constitution uses a gender-neutral quota, which provides that no more than two-thirds of the members of elected or appointed bodies shall be of the same gender (article 27). Constitutions or electoral laws can also make a more general commitment to women’s representation, as does Tunisia’s Constitution, in article 24: ‘The state seeks to guarantee women’s representation in elected bodies.’

Representation in parliament

As mentioned above, different types of quotas can be used to strengthen women’s representation in parliament. In Myanmar, however, there are currently no requirements for the inclusion of women in its legislatures. The constitutional provisions on the formation of Myanmar’s legislatures (e.g. articles 109, 141 and 161) could be strengthened with specific reference to reserved seats for women or gender-neutral quotas in the legislature. Importantly, all references to gender quotas should be expressed as a minimum and not interpreted as the end point. Simply put, a minimum of 30 per cent women in a male-dominated space is the starting point, not the end goal.

Representation in political parties

To advance inclusive democracy, candidate quotas are used in many countries. In these countries either the constitution or legislation requires political parties to submit candidate lists that include equal numbers of female and male candidates alternating across the list (so-called ‘zipper’ or ‘zebra’ lists). This requirement sets *gender parity* as a core principle of inclusive democracy. Candidate quotas set a high quantitative benchmark to ensure that women gain access to ‘winnable’ positions on the list. The Constitution of Burundi, for instance, requires party lists to adjust for women’s exclusion from public life, stating that at least one in three candidates must be a woman (article 173). The Constitution of Zimbabwe alternatively provides that an electoral law must ensure that legislators are elected under a party list system in which male and female candidates are listed alternately, each list being headed by a female candidate (article 120). Sometimes candidate quotas are also associated with sanctions. For example, a political party may be denied registration if its candidate list does not meet the quota requirements. Myanmar’s Constitution provides that the Pyidaungsu Hluttaw may enact electoral laws (article 397) but does not set out quotas or requirements for the placement of women on the party candidate lists.

Representation in the executive

To ensure that women can and do rise to the executive level, a general provision that expresses the principle and value of gender equality in the appointment of executive officers and cabinet ministers can help overcome discrimination and bias in the selection process (see CAWE question 42; Allen 2016). In contrast to, for example, the Constitutions of Bolivia (article 172) or Zimbabwe (article 104), Myanmar’s Constitution currently makes no commitment to gender equality in the composition of its executive bodies. In Zimbabwe, the president must consider the country’s regional and gender balance in appointing ministers and deputy ministers. In Rwanda, the Constitution states that women should hold at least 30 per cent of the posts in decision-making bodies as a fundamental principle (article 9).

Representation in the judiciary

In order to achieve formal equality, women must also be represented at all levels of the judiciary, i.e. township courts, district courts and courts of self-administered zones, state/region high courts, the supreme court and the constitutional tribunal (see CAWE question 43; Allen 2016). This is important because the interpretation of law is rarely a gender-neutral practice. For women to have equitable access to justice, with their rights fully protected and enforced, the justice system needs to be more representative with more female judges. The mechanisms for judicial appointments directly impact the diversity of nominees and appointees. To ensure that women have equal opportunities to be nominated and appointed, several constitutions require that a country's gender composition must be reflected in judicial appointments (e.g. Zimbabwe, article 185). In South Africa, the Constitution specifies in article 174 that 'any appropriately qualified woman or man... may be appointed as a judicial officer' and requires due consideration for South Africa's racial and gender composition when appointing judicial officers. Such provisions are currently absent from Myanmar's Constitution.

Representation in the civil service and independent bodies

Provisions regarding the selection of members of the civil service and of independent bodies (such as ombudsman,³ commissions for electoral affairs, public service integrity, security services, human rights commissions) that only focus on merit or competency may appear gender-neutral. In practice, they may advantage men and disadvantage women due to inequalities in the existing ratios of women and men in the civil service and in education, and due to social and/or cultural biases (see CAWE questions 39 and 46; Allen 2016). Yet women's representation in such bodies is key to safeguarding women's rights and access to justice. A clause that recognizes gender parity or equal opportunities for women as an obligation or objective may facilitate specialized recruitment measures and the appointment of women in the civil service and independent bodies. The Kenyan Constitution, for example—in addition to providing for gender-neutral quotas for appointed positions (article 27)—includes that parity or equal opportunities for men and women is a key objective: 'The values and principles of public service include... affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service, of...men and women' (article 232). Myanmar's Constitution provides that there shall be no discrimination based on sex in the appointing and assigning of duties to civil service personnel, but, by contrast, also provides that certain positions are 'suitable for men only' (article 352), preventing the appointment of women to such positions. It does not define which positions are included under this provision.

Representation in security services

Gender diversity in the security sector (e.g. police and military) is equally important to ensure these bodies are responsive to the specific security concerns and needs of women (see CAWE question 44; Allen 2016). Additionally, more inclusive oversight bodies such as legislative committees or police committees can promote women's participation in the security sector as well as a non-discriminatory and non-sexist culture within the security sector (see for instance article 247 of Burundi's Constitution).

Representation through women's rights machinery

National women's rights machinery can be composed of several bodies across government, such as the legislature (e.g. a specialized committee), executive bodies (e.g. a ministry that has responsibility for women's affairs) and independent bodies (e.g. Rwanda's Constitution mandates a Gender Monitoring Office and the National Council of Women in articles 185 and 187) (see CAWE question 47; Allen 2016). The role of the women's rights machinery is to (a) support the design, implementation, monitoring and evaluation of policies that promote the advancement of women; (b) advocate and mobilize support for such policies; and (c) oversee the implementation of international obligations and coordinate national reporting on international law, including but not limited to CEDAW.

3. An ombudsman is not a sexist term. It is a term for a government official or office to investigate complaints against government officials and build confidence of the public in government accountability.

Importantly, as Brief No. 1 in this series also emphasizes, guaranteeing representation through constitutional or ordinary legal provisions are the floor (the starting point), but not the ceiling (the end point). These provisions and laws need to be implemented, i.e. turned from words into deeds. Constitutional advocates for gender equality can be a driving force in ensuring implementation, for instance by directly supporting the implementation through your own organization, monitoring how these provisions are implemented, advocating creative ways for more effective implementation and holding representatives to account.

4. An inspirational case study: Achieving women's representation in Tunisia

Following the democratic uprising in 2011, women's rights and civil society organizations (CSOs) mobilized quickly to target the National Constituent Assembly (NCA), Tunisia's constitution-making body, to push the agenda of women's representation and participation in public institutions. There are three critical lessons that you can take from this example:

1. Mobilize early and form targeted coalitions that engage male allies.
2. Ensure transparency and accountability throughout the process.
3. Constitutions are the floor, not the ceiling, for women's rights.

4.1. Mobilize early and form targeted coalitions that engage male allies

Women's rights organizations and CSOs mobilized, built coalitions, and set shared goals for women's inclusion in the constitution-building process long before members of the NCA were elected. The Association of Democratic Women (ATFD) created a coalition of 16 like-minded CSOs and developed a five-point declaration covering key women's rights issues, including gender parity in politics. Prior to the NCA elections, the coalition launched 'get out and vote' campaigns to raise awareness and encourage women to vote. They targeted communities in the suburbs of Tunis and in rural areas that were likely to have a low female voter turnout. They explained the electoral process and the impact of the elections, and held election simulations. This resulted in high female turnout—45 per cent of registered voters were women.

CSOs simultaneously focused their efforts on the 'Higher Authority'—the body responsible for setting up the constitution-drafting process. Together with women in the Higher Authority, they identified male allies and advocated for gender parity in political parties' candidate lists for the NCA elections. To achieve this goal, they also had to win the support of Tunisia's Islamist majority party, Ennahda, as well as other smaller political parties. Using the public perception that Ennahda was against women's rights, they framed the issue to suggest that being against parity was being against women, and that there could be no democracy without parity. This made it difficult for parties to say no to parity. As a result, Decree-law no. 2011-35 introduced the principle of vertical parity, requiring each party list to alternate between male and female candidates. This led to most lists showing 50 per cent women, which enabled women to secure 31 per cent of the seats in the NCA.

4.2. Ensure transparency and accountability throughout the process

Throughout the drafting process, CSOs used civic mobilization for protests and demonstrations to hold the government, political parties and assembly members accountable and to voice their dissatisfaction with certain outcomes. The most well-known examples are the demonstrations around the controversial 'complementarity' provision. Women's rights organizations started to mobilize after the NCA released a draft constitution that included a provision that many interpreted to mean that women were complementary, rather than equal, to men. CSOs, activists, and political parties led by the ATFD strategically planned a women's march to coincide with Tunisia's National Women's Day to denounce the clause. They also engaged the Tunisian General Trade Union to gain extra leverage. A week before the march, ATFD together with other CSOs and the Tunisian General Trade Union released a joint statement to condemn the provision, which was widely circulated on social media. Three days before the march, ATFD organized a press conference with the Association of Tunisian Women for Research on Development and the

Tunisian Human Rights League to maximize coverage by traditional media. They were able to mobilize thousands of protestors in the capital and across Tunisia and had the support of opposition parties such as Nidaa Tounes. The routes were carefully planned to minimize any chance of confrontation with the authorities, and protestors held banners stating ‘Rise up, women, for your rights’ and chanted the slogan ‘Equality all the way—no complementarity in the constitution’.

As a result of these and other advocacy strategies, the concept of complementarity did not appear in the final draft. Instead, the principle of gender equality (article 21) and parity in elected assemblies (article 46) were enshrined in the 2014 Constitution, among other gender-related provisions. These constitutional provisions provide an important foundation for future policy and legislative developments, as well as for advocating for greater women’s equality and representation in public institutions in Tunisia moving forward.

4.3. Constitutions are the floor, not the ceiling, for women’s rights

Women’s advocacy did not stop once the Constitution was adopted. Supported by civil society actors, women parliamentarians continued to advocate to amend the electoral law to include both vertical and horizontal parity, meaning that election lists should include equal numbers of men and women as well as alternating between them. Their persistence paid off and the law was amended in 2016.

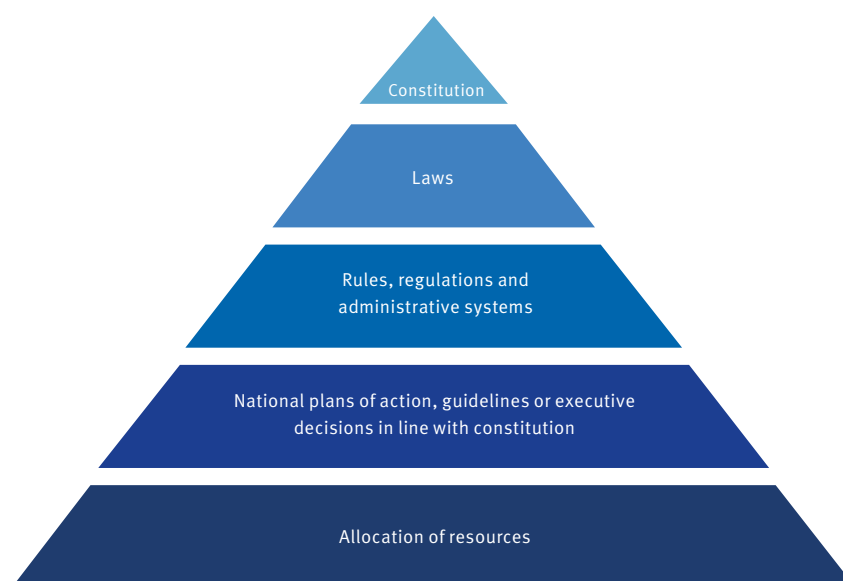
In anticipation of the 2018 municipal elections, CSOs such as Aswat Nissa and the Tunisian League of Women Voters (LET) organized campaigns that informed Tunisian women of their right to stand for election and started training candidates on campaigning, local governance and the inner workings of municipal councils. In the end, almost 50 per cent of the candidates were women. The next step was to train both men and women to hold civic education workshops in their communities. LET organized door-to-door awareness-raising campaigns to explain the importance of women’s representation in local and regional councils, with the aim of increasing voter turnout as well as support for female candidates. Women won 47 per cent of the seats during the 2018 municipal elections, and the first female mayor was elected in Tunis. However, while vertical parity has been implemented successfully, horizontal parity lags behind. In the parliamentary elections that took place in 2019—where women won 36 per cent of the seats—only 184 out of 1,341 candidate lists were headed by women (Tamaru, Holt-Ivry and O’Reilly, 2019).

Yet, the evolving case of Tunisia shows that women can secure significant gains throughout the constitution-building process by focusing on multiple advocacy strategies over time and by carefully sizing up entry points and opportunities.

5. Becoming an advocate for women’s representation in public institutions in Myanmar

There are various entry points for advocacy that can be considered to get more women in public institutions in Myanmar. This ranges from constitutional reform and subsequent legislation to policies, guidelines and budget allocation. When you look at Figure 1, you see that constitutions are at the top of the hierarchy. This is because constitutions generally have a high threshold for change and reform is difficult to achieve. However, when constitutional reform is on the agenda, advocates can make significant gains in promoting women’s representation in public institutions, as is illustrated by the case of Tunisia. In Kenya, Nepal, Rwanda and South Africa, constitutional advocates have also catalysed and advanced women’s representation in public institutions by promoting the inclusion of relevant constitutional provisions and the implementation of these provisions (see, for example, Tamaru and O’Reilly 2018).

Figure 1. Hierarchy of entry points for advocacy



In some cases, advocates have pushed for the inclusion of the general principles of equality and non-discrimination—the basis for formal equality. In other cases, advocates have gone a step further and urged more specific interventions to address substantive equality, for example the inclusion of gender quotas in the legislature, as in Burundi (article 164) and Kenya (article 27). This requires significant coordination with CSOs, substantial lobbying of decision-makers and awareness-raising among the general public to generate sufficient support for such provisions. Yet, constitutional reform is not the only way to promote women’s representation in public institutions. There are also other, more accessible entry points for political change that can be considered.

As mentioned above, articles 397 and 409 of the Myanmar Constitution provide that the Union parliament can enact laws regarding political parties and elections. One entry point to be explored here is engagement in advocacy with the Union parliament to amend these laws to, for instance, include quotas on political party lists, stipulating either vertical and/or horizontal parity. As the Women’s League of Burma suggests: ‘The state could promulgate an electoral law that political parties are only eligible to contest elections if they submit at least 30 per cent of women candidates. Such a proposal does not mean women can take up positions without being elected, but rather, enables them to get a foot on the first rung of the ladder’ (NIMD et al. 2019: 6).

These measures require a broad range of engagement (e.g. through policy briefs, external communications, deployment of ‘champions’ or allies to promote additional messages or change options, traditional lobbying, workshops and seminars) with different members of parliament and possibly with the Union Election Commission, which would be key in enforcing such changes. However, legislative change is more easily achievable than constitutional reform.

Alternatively, advocates can also engage directly with political parties themselves. Advocates could for instance push for voluntary party quotas, advocate for and support gender-mainstreaming of party policies and election manifestos, and monitor the implementation of gender-inclusive policies. To support this, advocates could conduct analysis on (NIMD et al. 2019):

- whether the party manifesto mentions the needs of women and girls;
- whether actual party policies have been gender-mainstreamed and how proposed policies are set to be mainstreamed;
- whether the party ever had a female chairperson or secretary-general and women in other senior decision-making roles;
- how many male and female candidates from the party have served as parliamentarians over the past five years;

- ways in which the party specifically engages women as half of the population (e.g. dedicated events for women at times accessible for women, targeted outreach to women's organizations); and
- whether the party has an active women's wing.

Advocates could raise awareness on the importance of these issues, as well as on which parties are implementing quotas and placement requirements for women on party candidate lists. Leadership bodies of political parties might be more accessible than members of parliament, and policy or manifesto change more easily achievable than changing a law or the constitution. Moreover, these types of advocacy strategies could more easily target political parties at the state/region level to set a precedent for Union-level parties—a 'bottom-up' approach.

Another key issue is improving female candidates' access to funding. Advocates could examine the amount of party funds allocated to male and female candidates and propose fundraising networks or a party fund specifically to support women's campaigns. Such efforts may lower the barriers for women who do not enjoy similar levels of funding as men running for office (UNDP and UN Women 2015).

Simultaneously, as we saw in the case of Tunisia, gender advocates together with CSOs could raise awareness about the importance of women's participation in politics at the community level and encourage women to become members of political parties. Practical ways to reduce the hurdles for women and strengthen female candidates' positions include organizing capacity-building or skills training for potential candidates to develop confidence and techniques in campaign fundraising, leadership, communications, and inclusive policymaking, or to learn from the experiences of other female politicians. During the election period, advocates could also consider organizing advocacy campaigns to activate women to register as voters and vote, as well as campaigns to generate more support for women candidates.

Of course these interventions focus primarily on getting more women into parliament. But you can also focus your advocacy strategies on any of the areas discussed in Section 3.4, such as the representation of women in the judiciary, in executive bodies, in the civil service or in security services (e.g. police). Again, you can look for different entry points in developing your strategy and assess at which level these changes might be feasible.

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Further reading

There are numerous excellent knowledge resources available on this issue. In addition to the references listed above and below, many more are available on the websites of International IDEA, GEN and Triangle Women.

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Colophon

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ISBN: 978-91-7671-522-2 (PDF)

DOI:

<<https://doi.org/10.31752/dea.2022.34>>

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Acknowledgements

This publication has been supported by:

Gender Equality Network (GEN)



GEN is a diverse and inclusive network of more than 130 civil society organizations, national and international NGOs, and technical resource persons working to bring about gender equality and the fulfilment of women's rights in Myanmar.



Ministry for Foreign Affairs of Finland

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