

Gender Equality in Ghana: The Case for Women Quotas in the 1992 Constitution

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1.0 Introduction

A typical constitution is more than a collection of laws aimed at establishing and regulating political institutions and organs of state. It also often sums up the beliefs, ideals as well as the aspirations of the entire body politic of a country. Constitutions therefore do not only create and constrain government and its constituent parts, they are also declarations of the moral and political aspirations for promoting inclusive democratic governance crafted to benefit society as a whole. The preamble of the 1992 Constitution of Ghana, as well as several other provisions in the Constitution (see for example articles 17, 27, 35, 36, etc.) attest to this. Constitutions present potential opportunities for and threats to the advancement of gender equality primarily because they are the most authoritative expressions of the state's systems of governance and accountability (U.N. Women, 2017). How a review of the 1992 Constitution can enhance key ideals and aspirations in respect of gender equality in Ghana is thus crucial because the Constitution has major implications for the debate on gender equality and bridging the current yawning gender gap in the country.

2.0 The Problem

In 1995, following the Fourth World Conference on Women, the Beijing Declaration and Platform for Action (BDPFA) was adopted as a framework to promote gender equality across the globe. The BDPFA symbolised the commitment of the international community to eradicate economic, social, cultural, and political issues which engender asymmetrical conditions between men and women. According to one [United Nations \(UN\) report](#) on the Beijing conference, this gap "between de jure and de facto equality among men and women" is most prevalent in the field of decision making and politics. Many years later, through the Sustainable Development Goals, the same objective of closing the gender gap is being pursued. Sustainable Development Goal ([SDG 5.5](#)) particularly advocates for a gender balance in politics by championing the full participation of women in leadership and decision-making roles.

Female representation in Ghana's Fourth Republic poses a rather interesting quandary. The first parliament of the Fourth Republic had 16 women out of the 200-member parliament. This figure increased to 18 women in the second parliament and to 19 women in the third parliament. In 2004 and 2008, out of the 230 members of parliament, only 25 and 20, respectively, were women. In

2012, 133 women took part in Ghana's parliamentary elections. Of this number, 30 women (10.9 percent of the 275 MPs) were voted into power. This percentage slightly increased (to 13.1 percent) in the 2016 parliamentary elections. In the current Ghanaian parliament, only 40 (14.55 percent) of the 275 members are women – 20 each from the two major political parties. Even though this is the highest number of women parliamentarians since Ghana attained independence in 1957, it still falls short of the UN recommended minimum of 30 percent that was stipulated at the 1995 Beijing Women's Conference.

It is evident that since the inception of the Fourth Republic, there has been a gradual increase of female parliamentarians in every new parliament. This poses an interesting conundrum. On the one hand, it is obvious that some progress has been made in closing the gender gap. On the other hand, the gender asymmetry evident in parliament is so wide that it nullifies the small progress that has been made over the years. Even though Ghana was the first country to gain independence in Africa, it is still many scores behind other African countries in the area of gender and politics. As a signatory to the international frameworks on women, Ghana has expressed its firm willingness to promote gender equality and women's empowerment on all fronts. There has been a particular focus on the political sphere, since political participation is usually used as a yardstick to measure the scale of gender equality in a country.

Ghana, unlike other African countries, has not created outright legislation or policies to close the gender gap. The limited female appointments and the slow but steady increase in the number of women in parliament should not necessarily be considered as a special victory. In order to conquer the inequalities that plague the Ghanaian political arena, there is a need to employ tools that are commensurate with the degree of inequalities that persist. More specifically, Ghana ought to take a cue from other African countries that have successfully implemented gender quotas through their constitutions, increased women's representation, and brought gender issues into the mainstream of their political space.

3.0 The Case for Gender Equality

Gender Equality itself can be defined as giving men and women the same status, opportunities, rights and responsibilities to enable them participate and benefit in development and empowerment programmes. It is about giving all genders equal treatment when it comes to rights, responsibilities

and opportunities. Gender equality means that the rights, responsibilities, and opportunities of individuals will not depend on whether they are born male or female (UNESCO Definitions of Gender Concepts 2010).

The rationale for promoting gender equality is two-fold:

- ❖ That equality between women and men, that is equal rights, opportunities, and responsibilities, is a matter of human rights and social justice; and
- ❖ That greater equality between women and men is also a precondition for sustainable people-centered development (Goldman Sachs has, for example, estimated that if the employment rate and working hours of women, including those with advanced education, improved to the same level as men's, Japan's GDP would increase by 15% (A similar case can be made for Ghana). In other words, the perceptions, interests, needs and priorities of both women and men must be taken into consideration not only as a matter of social justice but because they are necessary to enrich the development process.

Further, the call for gender equality is not merely for formal equality but also for substantive equality. Formal equality believes that equality in and of itself, involves treating men and women as equals and offering men and women the same opportunities, rights and responsibilities. Substantive equality requires that equality is interpreted according to the broad context or realities of women's disadvantages and the impact of these circumstances in terms of eliminating disadvantage in outcome or result.

The classic liberal notion of equality as 'equal opportunity' or competitive equality considered that simply removing the formal barriers, for example, giving women voting rights, was sufficient. The notion of equality of results has, however, gained relevance and support following the realization that just removing formal barriers does not produce real equal opportunity because direct discrimination, as well as a complex pattern of hidden barriers, often prevent women from getting their share of political influence (Dahlerup, 2005). It is in this vein that some have argued for quotas and other forms of active equality measures as a means towards equality of results.

4.0 The Global Push

The push for gender equality and women empowerment has been a rather global one. Among others, several International Conventions have made provisions that put signatories under an obligation to put in place measures to promote gender equality. Some of these international instruments are:

- ❖ Article 2 of the 1948 Universal Declaration of Human Rights provides for non-discrimination, and Article 21 grants the right to everyone to take part in the government of their country, directly or through freely chosen representatives.
- ❖ The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)¹ calls for the ‘adoption of temporary special measures aimed at accelerating de facto equality between men and women’ (affirmative action) in Article 4(1); and for state parties to ensure women’s eligibility for election to public bodies on the same terms as men in Article 7 (Appiah, 2015).
- ❖ Further, the Beijing Declaration (ratified by Ghana in 1995) re-echoed the provisions of the 1948 Universal Declaration of Human Rights and outlined measures to be taken to increase women’s capacity to participate in decision-making and leadership and to ensure women’s equal access to and full participation in power structures (Appiah, 2015).
- ❖ Millennium Development Goal 3, and now Sustainable Development Goal 5 have both sought to promote gender equality and the empowerment of women as a means to ensuring a prosperous, inclusive and sustainable future for all.
- ❖ In line with MDG 3 and SDG 5, the Commonwealth Plan of Action for Gender Equality, 2005 notes that women’s full participation in democracy and peace processes is crucial for the achievement of sustainable development (Appiah, 2015).
- ❖ Article 9 (1) of the Optional Protocol to the African Charter on the Human and People’s Rights of Women in Africa (ratified by Ghana in 2007), enjoins states to take specific positive action to promote participative governance and their equal participation in political life through affirmative action.

¹ Adopted by Ghana in 1979 and ratified in 1986.

- ❖ In specific reference to the drivers of gender-responsive constitutional reforms, a 2017 UN Women Policy Brief, made the following observation:

A constellation of factors may be identified as having served to accelerate gender-responsive constitutional reforms across post-independence constitutions in particular. They include the wide and rapid ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) from the early 1980s onwards; the proclamation of International Women’s Year in 1975 and the subsequent world conferences on women of 1975, 1980, 1985 and 1995; growing and relentless civil society activism since the 1970s; and women’s mobilization in the context of democratic transitions and post-conflict settlements. Article 2(a) of the Convention places an obligation on States parties to “embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle”.

In spite of these global efforts, however, available data shows that the world is still lagging behind in achieving gender parity. The Global Gender Gap Index which benchmarks the current state and evolution of gender parity across four key dimensions--Economic Participation and Opportunity, Educational Attainment, Health and Survival, and Political Empowerment--- has noted in its 2022 report that it will take 132 years to reach full gender parity if the world continues to move at the current rate of progress (World Economic Forum – Global Gender Gap Report, 2022). The report noted that although no country has yet achieved full gender parity, the top 10 economies of the world have closed at least 80% of their gender gaps with Iceland (90.8%) leading the global ranking. Notably, Rwanda (81.1%) and Namibia (80.7%) are numbers 6 and 8 in the global ranking, and the only countries from Sub-Saharan Africa to feature in the top 10.

Sub-Saharan Africa (SSA) has the sixth-highest regional score out of the eight regions reported (ranking ahead of the Middle East, North Africa and South Asia, but below North America, Europe, Latin America and the Caribbean, Central Asia, and East Asia and the Pacific) and has bridged 68.7% of

its gender gap. The region registers its highest gender gap score in 16 years and at the present rate it would take 98 years to close the gender gap in the region (World Economic Forum – Global Gender Gap Report 2022, p. 6).

Ghana ranked 21 out of 36 overall in the global gender gap index rankings by region (SSA), and 108th globally, with a score of 0.672 or 67.2%. Although it ranked higher than Sierra Leone, Senegal and Nigeria, for example, there is much more room for improvement for Ghana, as countries like Ethiopia, Liberia, Lesotho, Togo and Cameroon, all ranked above it (World Economic Forum – Global Gender Gap Report 2022).

5.0 Gender and the Constitution: Ghana in Context

As has been noted above, Ghana is a signatory to several international legal instruments that have a bearing on the legal status of women. Consequently, Ghana made efforts to internalize these international conventions into its domestic laws. One may argue that the key principles on gender equality captured in the Universal Declaration of Human Rights, the CEDAW, and other similar international instruments served as the basis for different provisions in chapters 5 and 6 of the 1992 Constitution. Some key provisions under the 1992 Constitution provide the context for gender equality and women empowerment in Ghana:

- ❖ Article 12(1) demands respect for the fundamental human rights and freedoms of all persons by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana
- ❖ Article 12(2) guarantees that every person in Ghana, irrespective of race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in Chapter 5 of the Constitution.
- ❖ Article 15(1) states that the dignity of all persons shall be inviolable.

- ❖ Article 17(1) guarantees the equality of all persons before the law, and Article 17(2) provides that no person shall be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.
- ❖ Article 17(3) defines discriminations to mean giving different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are

subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description.

- ❖ Article 26(2) prohibits all customary practices which dehumanize or are injurious to the physical and mental well-being of a person.
- ❖ Article 27(1) provides that special care is to be accorded to mothers during a reasonable period before and after childbirth; and during those periods, working mothers shall be accorded paid leave.
- ❖ The strongest mandate for Affirmative Action under the 1992 Constitution is probably the provision found in Article 17 (4) (a) stating that nothing in the article shall prevent Parliament from enacting laws that are reasonably necessary to provide for the implementation of policies and programmes aimed at redressing social, economic or educational imbalance in the Ghanaian society.
- ❖ Further, Articles 35 (5) and 35 (6) (b) also provide that: (5) The State shall actively promote the integration of the peoples of Ghana and prohibit discrimination and prejudice on the grounds of place of origin, circumstances of birth, ethnic origin, gender or religion, creed or other beliefs; and (6) Towards the achievement of the objectives stated in clause (5) of this article, the State shall take appropriate measures to achieve reasonable regional and gender balance in recruitment and appointment to public office. This is an affirmation that appropriate measures should be taken to achieve integration and reasonable regional and gender balance.
- ❖ Article 36 (6) states that the State shall afford equality of economic opportunity to all citizens and in particular, the State shall take all necessary steps so as to ensure the full integration of women into the mainstream of economic development in Ghana.

In spite of the finding of the 2011 Constitutional Review Commission that the 1992 Constitution adequately provides for a broad framework within which to achieve gender equality and more specifically gender balance in recruitment and appointment in public office, both the Constitutional Review Commission and the 2012 White Paper on the Constitution Review Commission's Report, acknowledge the need for an Affirmative Action Bill to provide the necessary detail for effective actions to achieve gender equality (Appiah, 2015). This bill unfortunately has still not been passed.

According to the Memorandum of the 2016 version of the Affirmative Action (Gender Equality) Bill, “the purpose of the Bill is to effectively redress social, economic and educational gender imbalance in Ghana, based on historical discrimination against women which impedes sustainable national development. The Bill also seeks to promote the full and active participation of women in public life by providing for a more equitable system of representation in electoral politics and governance that is in accordance with the laws of the Republic” (Affirmative Action (Gender Equality) Bill, 2016, p. i).

As noted earlier, Ghana ranked 21 out of 36 overall in the global gender gap index rankings by region (SSA), and 108th globally, with a score of 0.672 or 67.2% with countries like Ethiopia, Liberia, Lesotho, Togo and Cameroon all ranked above it (World Economic Forum, 2022). According to the 2022 edition of the Global Gender Gap Index, Ghana ranked 108th in terms of Economic Participation and Opportunity, 104th in terms of Educational Attainment, 40th in terms of Health and Survival and 105th in terms of Political Empowerment (World Economic Forum, 2022). Notably, the country, however, places first in ensuring parity in primary and secondary school enrolment, and has also done creditably in terms of Health and Survival, but it continues to lag behind in several other aspects of gender equality.

With specific reference to the subject of the representation of women in Ghana’s legislature, the memo attached to the Affirmative Action Bill dated August 6, 2020 and signed by the Minister responsible for Gender and Social Protection at the time, Hon. Cynthia Morrison, pointed out that the percentage of women in Parliament fluctuated greatly, falling from 18.2% in 1965 to as low as 3.5% in 1979 and rising to 8% in 1992, 10.9% in 2004, 11.3% in 2012 and 12.7% in 2016, placing Ghana at the 139th position of the Inter-Parliamentary Union World Classification. In 2020, with 13.1% of women in Parliament, though an improvement compared to 2016, Ghana’s position fell to 145th out of 193 countries. In 2022, there were 40 women MPs out of 275, representing 14.5% of the total number of MPs. The problem of low representation of women is reflected in other areas of government, in the corporate sector, and many decision-making spaces. Meanwhile, the global average share of women in parliament rose from 14.9% to 22.9%, with Mexico (50%), Nicaragua (50.6%), and Rwanda (61.3%) having the highest percentage of women in parliament. The percentage of women elected to MMDAs has also remained below 10% across the regions

in Ghana even though women constitute over 51% of the country's population.

6.0 Proposals and Recommendations

To address the problem of low representation of women in Parliament, in particular, and the public sector, in general, the following recommendations are being proposed: :

- ❖ Immediate passage of the Affirmative Action Bill into law: There have been several drafts of the Bill – the first prepared in 2013 following extensive consultations in all the regions. Other drafts were prepared and laid in Parliament in October 2016. It, however, lapsed after the 2016 elections. The 2020 version of the Bill is still before Cabinet. There is the need to hasten the passage of the Bill into Law.
- ❖ Bold Constitutional provisions that introduce quotas and non-quota measures to ensure gender equality: Article 80 of the Rwandan Constitution, for example, provides that "... at least thirty percent (30%) of elected and appointed Senators must be women." The Constitution is categorical in noting that there is the need to build a Rwandan state that is governed by the rule of law, a pluralistic democratic government, equality of all Rwandans between men and women, which is affirmed by women occupying at least thirty percent (30%) of positions in decision-making organs (Constitution of the Republic of Rwanda 2003, rev. 2015). Ghana must emulate the Rwandan example. To that end,
- ❖ The call is made for amendment of the 1992 Constitution to mandate that at least 30% of elected seats in Parliament must go to women. In other words, 30% of the total number of Parliamentary seats after every election must be reserved for women, who must themselves be elected. While reserved seats are by their nature enforceable, candidate quotas are often not, hence, the call for 30% reserved seats for women. This will ensure that a critical mass or 'critical minority' of women begin to make a difference for women's interests, needs, and priorities, as demanded in various international treaties and conventions. It is noteworthy though that gender quotas alone do not remove all barriers to women in politics as "one cannot deal with the problem of female representation by a quota system alone. Political parties, the educational system, NGOs, trade unions, churches and mosques must all take responsibility within their own spheres to systematically promote women's participation, from the bottom up" (Dahlerup, 2005 p.143).
- ❖ Research has shown that successful quota systems lead to the active recruitment of women by political parties in order to have a sufficient number of qualified candidates to fulfill the quota

as well as bring on board women's voices (Dahlerup, 2005). Dahlerup (2005) points out that, it is not enough to make rules that create a gender quota; systems must be put in place to ensure the quota is actually implemented. In this vein, there is the need to create a separate independent implementing entity or agency such as a Gender Equality Authority or Commission to plan, monitor and implement all the policies and activities related to the provisions of the Affirmative Action Bill when passed, and to ensure compliance in achieving the quotas mandated by the Constitution in practice. The rules must thus be clear, and there must be sanctions for non-compliance.

- ❖ Ensuring the full participation of women in any new constitutional review and reform processes to ensure the interests of women are properly catered for should be a must. Men cannot purport to know how to address the issues confronting women better than women. Accordingly, women must lead the process (as indeed women's networks did in Ghana to get the Women's Manifesto crafted and released in 2004, the Human Trafficking Act passed in 2005 and the Domestic Violence Act passed in 2007) to organize and mobilize their networks, learn to communicate their interests with their male counterparts and different organizations, and push for mechanisms to enhance their representation (Shvedova, 2005).
- ❖ There is also the need to provide sufficient resources for post-constitutional policy and legislative processes to leverage the enforcement and implementation of constitutional and legislative provisions seeking to promote gender equality and women's empowerment. The proposed Gender Equality Authority or Commission and any other institutions that will be established to ensure the implementation of the proposals above must thus be given the needed budgetary allocations.
- ❖ The need for cross-country learning platforms and opportunities, particularly in relation to the positive experiences of other countries like Rwanda, Kenya or Namibia, in creating and implementing the legal and policy framework for gender equality and women's empowerment must be strongly emphasized and promoted.

7.0 Conclusion

Ghana was the first African country south of the Sahara to gain independence from colonial rule. It was also the first African country to mandate reserved seats in Parliament for women in 1960, an affirmative action undertaken by President Nkrumah to ensure that at least ten women participated in the decision making processes of the 1st Parliament of the 1st Republic. Over the years, however, Ghana seems to have lagged behind some of its peers in this regard. Ghana is urged to once again show the way, particularly in West Africa, by amending its Constitution to include constitutional quotas to considerably increase the political representation of women in the legislature and in all decision making bodies in the land. This will ensure that symbolically and substantively, Ghanaian women, who constitute more than 51% of the population, enjoy their rights of full participation as citizens, and contribute effectively to development and democratic processes. This will go a long way in helping to achieve the much sought-after and all-important gender equality.

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