"Whose Affirmative Action is Affirmative?" Lessons from Tanzania

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Abstract

Elections in Tanzania have resulted into the underrepresentation of women in the formal decision making organs particularly the parliament. To address this problem the government introduced women special seats as one of the ways to empower women to participate in making decisions that affect their concerns. The threshold level for such special seats was set at 15 percent in the 1995 elections, 20 percent in the 2000 elections and it was increased to 30 percent of all the parliamentary seats in the 2005 elections. This article argues that while there is a positive trend in terms of the numerical representation via an affirmative action system, the same is yet to be owned by women themselves. The affirmative action in Tanzania is strategically used to divide women and to further the interests of political parties, particularly the ruling party. Thus, women struggles for their inclusion in the formal decision making organs should simultaneously demand for the need to owning the affirmative action itself.

1. Introduction

The invisibility of women in politics is a worldwide historical phenomenon. Such exclusion traces back to the first democracy of the Athenian society in Greece. Lakof[1] observes that not only women but also slaves and metics were barred from participating in the Greek democracy. Indeed, Athenian democracy was by and large a democracy for slave-owners. As such Nzomo[2] contends that "…democracy in a class society

1 Sanford Lakof, Democracy: History, Theory, Practice (United States: Westview Press 1996), 1

2 Maria Nzomo, "Women, Democracy and Development in Africa" in Oyugi, O.W. (ed) et.al. Democratic Theory-Practice in Africa, (Portsmouth: Heinemann 1988), 139

is an ideological weapon that serves the interests of the dominant class, that the dominated class have, through history, been subjected to varying degrees of exploitation and oppression, depending on such intervening factors as the historical period, sex and cultural identity. It is argued that women, as an intra-class sexual category, have historically suffered and continue to experience the worst forms of oppression and exploitation, despite the central position they occupy in the production process of current and future wealth and labour." It should be noted that the invisibility of women in politics is also a common phenomenon in classless societies since patriarchal culture predated classes. Yet Ferree[3] sees the invisibility of women in politics to be neither natural nor inevitable. To address the invisibility problem, most governments adopted affirmative action. The centrality of that action is to affect inclusion of the marginalised groups into the major decision making organs, employment, and education to mention a few.

Thus, Brest and Oshige[4] define an affirmative action as a program initiated to seek remedy of the significant underrepresentation of members of certain racial, ethnic or other groups through measures that take group membership or identity into account. This definition emphasizes on descriptive representation where inclusion of the under-represented group is assumed to cure exclusion. It does not focus on substantive representation of the agenda and interests of the members to be represented. However, critics of affirmative action pose one fundamental question: Is affirmative action inherently preferential, discriminatory, and thus inconsistent with the constitution's guarantee of equal protection?[5]. Collier responds to this question in the

3 Myra Ferree, "Beyond Separate Spheres: Feminism and Family Research, Journal of Marriage and Family", 52 (1990): 866-884

4 Paul Brest and Miranda Oshige, "Affirmative Action for Whom?" Stanford Law Review, 47(1995) : 855-900

5 Charles W. Collier, "The New Logic of Affirmative Action", Duke Law Journal, 45(1995): 559-578

affirmative. Similarly, Farber[6] sees affirmative action as the reverse discrimination. To them if the constitution stipulates the equality of opportunity and avoids in any way mentioning any sort of discrimination, that alone is sufficient to protect every individual. The underlying emphasis of this view is "equality of opportunity" and not "equality of outcome". Writing on the American political system, Jeffrey[7] puts that "No matter how hard politicians run from it, this issue is not going away. The Declaration of Independence, for example, does not say that because of past discrimination some are more equal than others. It does not say that for some pursuit of happiness needs to be constrained because of past privileges; no, it insists, boldly, that here in America, we are all equal under the law". While this argument is convincing, it is narrow and too legalistic. For one thing, it fails to point out important issues like who enacted that Declaration and for whose interests. It is ridiculous to argue that all people are equal before the law without looking deeper into those laws themselves. One may raise questions, for example, were women in the process of enacting that Declaration? How are their concerns taken care into account? The fact that women in America won the voting franchise around 1920 raises doubt on the fairness of the laws themselves.

In Tanzania women constitute the majority of the population[8] and the most voters[9] countrywide. They also provide 80 percent of labour force in rural areas and 60 percent of food production[10]. However, they are often not motivated to invest on land protection or management because they are

6 Daniel A. Farber, "The Outmoded Debate over Affirmative Action" California Law Review, 82(1994): 893-934

7 Christina F. Jeffrey, "Rethinking Affirmative Action", Public Productivity & Management Review, 20(1997): 228-236

8 According to the last National Census of 2002 women constituted 17,658,911 and male 16,910,321 out of the total population of 34,569,232 (Tanzania mainland and Zanzibar). See the United Republic of Tanzania, 2002 National Census, Government Printer.

9 Women registered voters in the 1995 elections were 48 percent, in 2000 were 49 percent and in 2005 were 51percent (National Election Commission Reports 1996, 2001, 2006)

10 Gender in Tanzania, www.tanzania.go.tz/gender.html 11 Nov. 2009

prevented from receiving bank credits or support.[11] The land tenure system prevents women from owning land and making decisions over its use. Indeed, the overall economic situation of women worsens even in other sectors as indicated by the African Gender and Development Index (AGDI) that the equality in economic power "opportunities" between women and men decreased by 10 percent between 1995 and 2000 while equality in access to resources deteriorated by 50 percent[12]. This has led to women having lower incomes than men, though it is not possible to assess differences in consumption between individuals[13]. Yet, women experience sexual assault and rape with the number increasing every year. The actual situation is more alarming because many rape cases are never reported due to social stigma, biased laws and complicated legal procedures.[14] It was believed that if women were to sit in the decision making organs they would change the situation by influencing decisions that address their problems. And therefore at the eve of multiparty system in 1992, the Nyalali[15] proposed 15 percent of women's representation in the parliament through the affirmative action. This numerical representation of women was increased to 20 percent in 2000 and 30 percent in 2005[16]. But one strict condition associated with the affirmative action in Tanzania is that it should be effected through political parties. And as a general rule, parties endorse individuals who are more likely to defend their ideological interests, even if those interests

11 Fennela Mukangara and Betha Koda, Beyond Inequalities, Women in Tanzania, (WIDSAA/SARDC, 1997),23

12 Report on African Gender and Development Index (AGDI)-the Tanzania Report, Prepared by Tanzania Gender Networking Programme (TGNP), February, 2005, 4

13 See the report highlights of the 2000/01 Tanzanian Household Budget Survey (HBS), conducted by the National Bureau of Statistics (NBS). It was the largest-ever household survey in Tanzania, covering more than 22,000 households – and an important achievement for the NBS.

14 Beyond Inequalities, 58

15 The Presidential Commission on Single Party or Multiparty System in Tanzania 1992 (Volume 1), Dar es Salaam University Press. The Chairman of this Commission was the late Chief Justice, Francis L. Nyalali, and hence the commission is popularly known as "Nyalali Commission". The report was submitted on 17 February 1992.

16 The 30 percent was also a target set by the Beijing Platform for Action and the Southern African Development Community (SADC) for the national parliament.

contradict with the interests of promoting women's and gender equality issues. In the context of Tanzania's male dominated political parties, the parties will only support some quotas or affirmative action which favour their position, rather than those which will substantially transform party politics and finally have a larger impact on the political playing field[17]. Brown[18] argues thus, "In terms of the reform process's effects on women, the most apparent change has been an increase in women's representation within the state itself. However, while changes in legislation leading to greater recognition and support of women's rights and concerns have occurred, they are limited and somewhat disappointing".

Against the above backdrop, the intention of this paper is threefold: firstly, to address the question as to why women's representation in Tanzania is so strictly tied to political parties; secondly, to investigate whose interest does the current arrangement of the affirmative action in Tanzania serve; and thirdly, to question whether political parties are viable instruments for women's interests representation. These questions are relevant as far as representative democracy is concerned. As Tripp[19] correctly posits, "one of the most complex and critical issues facing organized societal actors in Africa today is the need for political space to mobilize autonomously from the state and the ruling party in power. Those organizations that have asserted the greatest autonomy have generally been able to select their own leaders, push for far-reaching agendas, and involve themselves in politics to a greater extent than organizations that have been tied to the regime and or dominant party, either formally or through informal patronage networks". To accomplish the aforesaid objectives, this study uses election data, laws, surveys and documents which relate to representation of women in the

17 Ruth Meena, "Women Participation in Positions of Power and Influence in Tanzania" www.redet.udsm.ac.tz/documents_storage/ 11 November, 2009

18 Andrea M. Brown, "Democratization and the Tanzanian State: Emerging Opportunities for Achieving Women's Empowerment", Canadian Journal of African Studies, 35(2001): 67-98

19 Aili M. Tripp, "The Politics of Autonomy and Cooptation in Africa: The Case of the Ugandan Women's Movement", The Journal of Modern African Studies, 39(2001): 101-128

parliament. This type of data is the only data available in relation to party politics and women representation in Tanzania. The study focuses on the ruling party for three reasons: One, the ruling party, the Tanganyika African National Union (TANU) and later the *Chama Cha Mapinduzi* (CCM) is the only dominant single political force in the history of Tanzania since independence in 1961. As such, all laws in the country, including but not limited to the affirmative action, were designed by the ruling party through its majority members of parliament and hence it benefits enormously from such laws. Two, affirmative action is tied to the parties' electoral performance in which CCM has always won landslide victories[20]. Three, the ruling party whose candidates are more likely to be elected as members of parliament is still reluctant to nominate as many women as possible to contest in an election. For example, in 1995 it nominated 7 females against 232 males, in 2000 the party nominated 13 females against 218 males, and in 2005 it nominated 19 females against 213 males. But through affirmative action the party benefited 28 women seats out of 37 in 1995; it also had 41 women seats out of 48 in 2000 and the party had 58 seats out of 75 in 2005 (National Election Commission 1996, 2001, 2006). Thus, Meena argues that the special seats arrangement seems to be more beneficial to the ruling party than to any other party in terms of increasing numbers[21].

This study has dual significance. Practically, it questions the architectural design of the affirmative action via political parties and interrogate the role of feminist organisations in the struggles to liberate women. For one thing, some feminist organisations consider the mere increase of women in the parliament via special seats as significant achievement. Tanzania Media Women's Association (TAMWA), for example,

20 In 1995 Chama Cha Mapinduzi (CCM) won 61.8 percent of the total valid votes for the presidential election, in 2000 it won 71.7 percent and in 2005 it won 80.2 percent (NEC 1996, 2001, 2006).

21 Ruth, Meena. "The Politics of Quotas in Tanzania" A paper presented at:the International Institute for Democracy and Electoral Assistance (IDEA)/Electoral Institute of Southern Africa (EISA)/Southern African Development Community (SADC) Parliamentary Forum Conference; The Implementation of Quotas: African Experiences, Pretoria, South Africa, 11–12 November 2003

takes this as a breakthrough[22].While this 'achievement' seems to add value on the numerical representation of women, it does not seek to address both gender practical and strategic needs[23]. At the time when the ruling party is working towards the 50-50 percent of female-male representation in the house by 2010 to meet the claimed 2004 African Union Parity Declaration, a critical examination of the current special seats arrangement in terms of its impact on women is needed. Tamale[24] cautions us, "[T]hus the affirmative action policy did not evolve directly from the struggle and demands of women's grassroots organizations. Rather, it was imposed from above for reasons having more to do with political manoeuvring than a genuine commitment to women's rights." At a theoretical level, this work challenges the descriptive representation that emphasizes on identity and physical presence of the underrepresented in the decision-making organs.

2. Representation Revisited

Political scientists have developed an impressive body of work arguing that in order for historically marginalized groups to be effectively represented in democratic institutions, members of those groups must be present in deliberative bodies[25]. It is often argued that a parliament that closely reflects the demographic distribution of the electorate is important to

22 Ananilea, Nkya. "Advocacy and Participatory Governance: Improvement of Women Condition in Tanzania, example of TAMWA". For a Lecture Series planned in conjunction with the International Advisory Council Meeting 2008 held in Oslo on Friday 5th of September2008. In this lecture, the executive of TAMWA, Ms. Ananilea, Nkya claimed that TAMWA decided to do an advocacy campaign to increase the number of women in the Parliament and Council from 20 percent in 2000 to more than 30 percent in 2005.

23 Practical gender needs are concerned with biologically determined roles such as maternal health care service, child care centre, provision of water and energy consumption. In contrast, the strategic needs are the ones that seek fundamental changes of the oppressive and exploitative system. It is about issues like education, access to political power, ownership of economy and above all addressing the concern to overthrow the entire patriarchal system.

24 Sylvia Tamale, When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda, (Kampala: Fountain Publishers Ltd 1999), 26-30.

25 S. Laurel Weldon, "Beyond Bodies: Institutional Sources of Representation for Women in Democratic Policymaking" The Journal of Politics, 64 (2002):1153-1174.

democracy[26]. This is because demographic representation is seen as a full embodiment of citizenship of the hitherto excluded group. Besides, it is considered as a means of bringing together diversity and experiences of multiple groups to the deliberations of the house. In his seminal model, Pitkin identifies four distinct, but interconnected meanings or dimensions of representation including: *formal representation*, referring to the institutional rules and procedures through which representatives are chosen; *descriptive representation*, referring to the compositional similarity between representatives and the represented; *substantive representation or responsiveness*, referring to the congruence between representatives' actions and the interests of the represented; and *symbolic representation*, referring to the represented feelings of being fairly and effectively represented[27]. Although Pitkin's integrated model provides a comprehensive framework to analyze representation, the bottom line remains interest representation. Rehfeld argues that the concept representation is critical because contemporary accounts of political representation explain why one *is* or why one *fails to be* a representative *at all* by reference to democratic norms: a representative is purportedly someone who looks out for the substantive interests of those who elected them through free and fair elections[28].

As we argued at the beginning of this paper, one of the historically marginalized groups is women. Writing on the parliaments of the advanced industrial democracies, Caul[29] argues that women participate little in the national decision-making process and this severe underrepresentation of a

26 Gideon Rahat, Reuven Y. Hazan and Richard S. Katz. "Democracy and Political Parties : On the Uneasy Relationships between Participation, Competition and Representation" Party Politics 14 (2008): 663-683

27 Hanna Pitkin, The Concept of Representation. (Berkeley: University of California Press 1967).

28 Andrew Rehfeld, "Towards a General Theory of Political Representation" The Journal of Politics, 68 (2006): 1-21.

29 Miki Caul, "Women's Representation in Parliament: The Role of Political Parties", Party Politics, 5(1999): 79-98.

significant number of the population not only limits diversity but also contradicts one of the central tenets of representative democracy. It is along this line of reasoning that Brown[30] submits that "No process could adequately address gender interests without taking into account female representation within formal political institutions. Higher levels of women's representation can empower women as a result of both the creation of more equitable opportunities for women to participate in politics and the greater concern with gender interests that female policy-makers are supposed to have". The above quotations shortly mean that women's interests should be represented by women themselves. The Tanzania Election Monitoring Committee (TEMCO)[31] specifically points out that "Women are best placed to articulate their own needs and concerns. Women's exclusion from power in public arena therefore is in sharp contrast to their ability to make crucial decisions related to survival of families, the community and the nation. Excluding women from decision making deprives us of their talents and wisdom as well as a different style of decision making". Although this view seems to be favourable to women in terms of their visibility in politics, it is silent on who should ultimately determine their fate in their political life. Meena posits that political parties are 'gate keepers' deciding on who is in and who is out, who gets what resources and at what time[32].

It should be noted that many women in Tanzania enter the parliament through the quota system. There are three main categories of gender quotas. First, 14 countries have adopted 'constitutional quotas' in which the country's constitution mandates a particular kind of gender representation. For example, Uganda's requires one female representative from every district of the country. Second, 31 countries now have 'election law quotas' which utilize rules governing elections to ensure some representation for women. Third, 130 parties in

30 Brown, "Democratization and the Tanzanian State," 69.

31 Tanzania Monitoring Election Committee (TEMCO): Report of the 2000 General Elections in Tanzania, (University of Dar es Salaam 2001), 133.

32 Ruth Meena, "Women Participation in Positions of Power and Influence in Tanzania", 14.

61 countries have adopted 'political party quotas' in which parties set out rules or targets for the gender balance of the individuals they place in office[33]. In Tanzania, the quota system is essentially constitutional as per Article 66(1),(b) of the Constitution of the United Republic 1977. Despite some numerical gains in terms of descriptive representation following this constitutional requirement, women's agenda and interests are still not represented. Meena argues that special seats have indeed helped the ruling party to continue to enjoy an overwhelming majority in the multi-party parliament. It is a special arrangement to engage women without necessarily threatening the chances of their male competitors in regard to accessing parliament. Also, it is a safe way of involving women without transforming the male-dominated culture of parliamentary politics[34]. In the same vein, Koda[35] emphasizes that while numerical representation is important, that should be reflected in the substantive representation. In this work, representation is taken to mean substantive representation. Toward that end, the question of whose interests are being served by the affirmative action is central to this paper.

3. Women's Representation in the Tanzanian Parliament: A Historical Perspective

Tanzania (then Tanganyika) got its independence from the British colonial power on 9 December 1961 based on a multiparty system. However, the 1961 elections did not see any women in the parliament. On 26 April 1964 Tanganyika and Zanzibar united to form a United Republic of Tanzania (URT). It was on 10 July 1965, the URT officially became a One–Party State. The interim Constitution of 1965, Article 3(2&3) recognized the Tanganyika African National Union (TANU) in Tanzania mainland and the Afro-Shiraz Party (ASP)

33 Louise K. Davidson-Schmich. "Implementation of Political Party gender Quotas: Evidence from the German Länder 1990–2000" Party Politics 12 (2006): 211-232.

34 Ruth, Meena. "The Politics of Quotas in Tanzania", 5-6

35 Bertha, Koda."Women Participartion in Politics and Public Life in Tanzania" in Njau A. Mruma (ed) Gender and development in Tanzania: Past, Present and Future. Dar es Salaam: (Dar es Salaam University Press 2004), Chapter 8.

in Zanzibar. The rest of parties were banned. It should be noted, however, that the moves to establish a one party state in Tanzania had already started back in 1962 when Tanganyika became a republic with an imperial president. Nyerere[36] argued that that political development was necessary for unity and development. But a single party system does not necessarily amount to unity. Unity can still be possible when discussion and consensus are allowed[37].

Similarly, under the one party system all autonomous organizations were either banned or co-opted and made appendages of the ruling parties. To be sure, at that material time trade unions, youths and women's associations were made the ruling party's structures. In 1955, TANU formed officially a Women's Section through its constitution. The main objectives of this section were to mobilize women and men to join the party, to mobilize them for liberation struggles for independence, to ensure the security of the leaders of TANU and to raise funds through various cultural activities such as dances. The Women's Section was headed by Bibi Titi Mohamed. Seen from these initial objectives, two things stand out. One is that women actively participated in the political struggles for independence and second is that the Women's Section of TANU was not in any way intended to address women's issues but rather stood to promote and defend the interests of the party. In 1962 TANU's annual conference resolved to take efforts to mobilize and integrate women in a single organization nationwide. The outcome of that conference therefore was the formation of *Umoja wa Wanawake wa Tanganyika (UWT)* – the Union of Women in Tanganyika. Again Bibi Titi Mohamed became its first chairperson. The main objectives of UWT included, among other things:

> To unite all women of Tanganyika under one organization; to maintain unity and respect of the

36 See TANU Annual Report 1965

37 Issa G. Shivji, "Towards a New Democratic Politics" UDASA Bulletin, 12 (1991): 1-20; See also Arthur M. Schreiner, (1994) The Disuniting of America, (New York: W.W. Norton Company, 1994), 309

> nation; to foster the development of women in respect of economic, political, cultural, educational, and health matters; to work jointly with the ruling party and government for all; to fight for and maintain respect, justice for the women of Tanganyika, Africa, and the world at large; to collaborate with all women organizations in the world whose policies were not in contradiction with national policies and objectives; and to maintain mutual relationships with all friendly parties with TANU in accordance with the policy of socialism and self-reliance for the benefit of the country regardless of skin colour, tribe, religion, material well-being or nationality[38].

A close analysis of these objectives reveals that UWT was an instrument of the party to further its interests and the policy of socialism and self-reliance. However, one major development unlike the Women's Section of TANU, was at least to mention the well being of women albeit under the auspice of the party. After the Union of 1964, the women's wing of the party changed its name to reflect the Union but retained its abbreviation i.e. it was called the *Jumuiya ya Wanawake wa Tanzania (UWT).* The objectives did not change much but rather were reviewed to bring women closer to the party. The objectives included:

> To unite all Tanzanian women through which the national policy of socialism and self-reliance and party policies regarding women's liberation could be spread and interpreted to the Tanzanian women; to co-operate and lead all women in various activities concerning family welfare, development, defence, culture and many others; to unite all women mentally and practically under the leadership of the party, to maintain the policy of Ujamaa and self-reliance; to defend and promote equality and dignity of the whole nation; to liberate all women of Tanzania from oppression and from all traditional beliefs and values which deny their development and of the nation as a whole; to co-ordinate UWT with other national organisations under the party to foster national

38 Constitution of the Umoja wa Wanawake wa Tanganyika, 1962.

> development; and to maintain mutual relationship with UWT and other African women and the rest of the world for the common struggle of their liberation, and the struggle against imperialism and all kinds of exploitation[39].

From the development of UWT, it is evident that the organization did not emerge from women themselves for the purposes of liberating them from all forms of exploitation and discrimination in political, economic and social cultural spheres. UWT was an imposed tool to strategically galvanize women into forming autonomous organizations that would be concerned with women specific issues and interests. Reaffirming this position, Nyerere[40] submits that under the one party system elections are to be conducted on a party basis. There was no way UWT could push its own agenda without the endorsement of the party as a whole. It is of interest to note, however, that almost all leadership positions in the party were dominated by men. UWT remained a recruitment mechanism of female members and a tool to propagate party policies for implementation. On 5 February 1977, ASP and TANU were finally merged to form the *Chama Cha Mapinduzi (CCM)*. The UWT continued to be an organization of the party. Thus, it should be noted at this juncture that the invisibility of women in politics was not an overnight process.

Under the one party system, Tanzania held general elections after every five years i.e. in 1965, 1970, 1975, 1980, 1985, 1990. With the exceptions of the 1985 and 1990 elections, where only one woman was elected in 1985 and two in 1990, the rest of the elections did not see any woman elected through the constituency. However, the party initiated proportional representation seats to take care of different groups in parliament. Thus, the national member of parliament (NMP) system was introduced. The groups that

39 Constitution of the Jumuiya ya Wanawake wa Tanzania, 1978

40Julius K. Nyerere, "One – Party System", Spearhead, 2(1963):13

were to be elected through this arrangement included women, trade union, youths, cooperatives, and the army, to mention some. It must be made clear here that these were not intended for affirmative action. For one thing, the initial objective of these seats was not to redress a historical imbalance, which had excluded them from parliament, but to add more voices, to enhance the representation of varied interests under a one-party regime. It may safely be concluded that during the single party era there was no such arrangement as women special seats but rather women got into the parliament through the national members of parliament (NMPs) who represented national interests and not necessarily those of the marginalized groups. Table 1 below presents the visibility of women in parliament during the single party system:

Table 1. Members of Parliament by Gender 1961-1990

Year	*Male*	*Female (Elected from Constituency)*	*Female Special Seats*	*Total MPs*	*% of Females*
1961	73	Nil	6	79	7.5
1965	176	Nil	6	183	3.3
1970	185	Nil	9	194	4.6
1975	194	Nil	13	207	6.7
1980	161	Nil	6	167	3.6
1985	216	1	22	239	9.6
1990	216	2	19	242	8.7

Source: Meena 1997; Koda 1995

However, in 1992 Tanzania became a multiparty state following the pressures from both domestic and external actors. But the whole process of transition from a one party system to a multiparty one was dominated by the ruling party CCM alone. CCM and its government have managed to design a multiparty system in a way that the party benefits enormously from the rules of the game and hence wins

landslide victories. During this time, association life resurfaced although not to its fullest level. Opposition parties were registered and civil societies came to life again. But CCM did not free its women wing organization as well as the youths. Although in principle the trade unions were freed as well as the security officers, the old ties with the party are still forged practically[41].

4. The Owner of Affirmative Action in Tanzania

Affirmative action in Tanzania is a constitutional issue. Article 66(1) (b) of the URT Constitution 1977 stipulates the proportion of women in parliament through women special seats to be not less than 30 percent of all members[42] in the House. As a general requirement, one of the qualifications for any person to become a member of parliament (MP) in Tanzania is that he or she must be a member of, and a candidate proposed by a political party (Article 67(1)(b) of the URT Constitution 1977). But specifically to women special seats there is one more requirement of party victory above the set threshold level. Article 78(1) states "For the purpose of election of women Members of Parliament mentioned in Article 66(1) (b), political parties which took part in the election and which won at least 5 percent of the total valid votes for members of parliament, shall in accordance with the procedures laid down propose to the Electoral Commission the names of women on the basis of the proportional representation among the parties which won elections in constituencies and secured seats in the National Assembly". An interesting question should be therefore why are women special seats tide so strictly to political parties?

41 Alexander B. Makulilo, Tanzania: A De Facto One Party State? M.A Dissertation, University of Dar es Salaam 2007

42 Members elected from the constituencies, five members from the Zanzibar House of Representatives and at least two of them must be women, ten members appointed by the president and at least five of them must be women, the attorney general and the speaker if is elected from amongst the members of the parliament.

There are two main explanations in relation to the above posed question. One is historical. Tripp[43] aptly argues that one of the reasons that women's groups have the potential to bridge sectarian affiliations has to do with women's common fight for inclusion in the political process and within public life. From the early 1960s up to the mid-1980s, Tanzania's ruling party, known as TANU and after 1977 as CCM, increasingly curtailed opportunities for independent organizations, especially economic ones, and attempted to bring all formal associational activity under state control while discouraging the formation of new organizations. Local women's activities were to come under the direction of the party's mass organization, the UWT. Other scholars[44] maintain that the ruling party and its government suffocated the political space by eliminating all forms of associations including political parties and civil societies. The process was both in *de jure* and *de facto* forms. In some instances the autonomous organizations such as trade unions, women and youths were subsumed and made appendages of the ruling party.

Under the multiparty system, CCM has retained its UWT while the new parties have introduced women wing organizations. By comparison, UWT is much well organized and established as opposed to other women organizations in the new parties. The UWT just like other women organizations in the new political parties is not in any way an independent organization of women, for and by women. It is for all intents and purposes a branch of the ruling party through which it sends its policies to women and through them to the rest of the population, particularly in the rural areas. Anything intended by women has to get the approval of the CCM, even alterations in the

43 Aili M. Tripp, "Gender, Political Participation and the Transformation of Associational Life in Uganda and Tanzania", African Studies Review, 37(1994): 107-131.

44 Mwesiga L. Baregu, "The Dynamics of Political Change and the Restructuring of Governance in Tanzania" Reflections on the Transition to Democracy in Tanzania, REDET Publication No. 1, (Dar es Salaam University Press 1995); Pal Ahluwalia, and Abebe Zegeye, "Multiparty Democracy in Tanzania, Crises in the Union" the African Security Review, 10(2001); Rwekaza S. Mukandala, "The State of African Democracy: Status, Prospects, Challenges" Occasional Paper, (Centre of African Studies University of Copenhagen 2002)

objectives of the UWT, while those seeking to become elected to any post have to be scrutinized and approved by the ruling party which eventually, in its own discretion, nominates the final candidates[45]. Since the introduction of a multiparty system CCM has been winning landslide victories meaning that it enjoys a lion's share of the special seats. Table 2 below shows the distribution of special seats in the previous multiparty elections:

Table 2. Multiparty Election Results by Party 1995 – 2005

Election Year	*Party*	*Number of Constituency Seats*	*Number of Special Seats*
1995	CCM	186	28
	CUF	24	4
	CHADEMA	3	1
	NCCR-Mageuzi	16	3
	UDP	3	1
	Total	232	37
2000	CCM	202	41
	CUF	17	4
	CHADEMA	4	1
	TLP	4	1
	UDP	3	1
	NCCR-Mageuzi	1	0
	Total	231	48
2005	CCM	206	58
	CUF	19	11
	CHADEMA	5	6
	TLP	1	0
	UDP	1	0
	Total	232	75

Key: CCM=Chama Cha Mapinduzi; CUF=Civic United Front; CHADEMA=Chama Cha Demokrasia na Maendeleo; NCCR-Mageuzi=National Convention for Reconstruction and Reform; TLP= Tanzania Labour Party and UDP= United Democratic Party (Sources: National electoral Commission 1996, 2001, 2006)

45 Nakazael Tenga, and Chris M. Peter, "The Right to Organise as Mother of All Rights: The Experience of Women in Tanzania", The Journal of Modern African Studies, 34(1996): 143-162

In 1995 and 2000 special seats were allocated according to the seats won by a political party. However, in 2005 that requirement was changed to the 5 percent of the total valid votes won in parliamentary election. CUF has been the second party to benefit increasingly from the special seats arrangement due to the fact that the party enjoys overwhelmingly support from Pemba in Zanzibar. It should be noted that in the 2005 elections, for example, CUF did not win even a single seat in Tanzania mainland and therefore all of its members of parliament are from Pemba.[46]

In an attempt to continue enjoying the women seats, albeit under the justification of promoting women as per international[47] requirements, CCM stipulated in its 2005 election manifesto to increase the women representation in political leadership to 50 percent by 2010 (CCM Manifesto 2005). This means that it is likely that the 2010 elections will see more women in the House. In implementing its commitment, CCM has already started to initiate the move towards the 50 percent agenda. In its meeting of November 2008, the National Executive Committee (NEC) of CCM passed a resolution to review the present constituency system to ensure that all the administrative districts are made constituency districts. The aim is to get 137 members of parliament (MPs) from the 137 districts of Tanzania mainland and 20 Representatives from 10 administrative districts of Zanzibar (i.e. 2 representatives from each district of Unguja and Pemba). To do this soon, CCM nominated a committee of

46 Pemba has 19 constituencies for members of the Union parliament. In all the previous general elections, CUF had been able to win all these seats. It is around that background that the party has also increased its ability to win a significant number of seats on special seats basis.

47 The Southern African Development Community (SADC) requires its members to provide space to women representation of at least 30 percent while the African Union demands for 50 percent. Tanzania being a member of these organizations feels obliged to implement the same. However, the requirements provided by these organizations do not specify the arrangements to be used by a specific country. Thus while some countries are seen as reaching the set targets however it is questionable whether such moves are really owned by women as opposed to the political parties themselves.

nine (9) people[48] to work on how this arrangement can be put in operation. Similarly, the committee was assigned to work on the possibility of reviewing and reducing the present constituencies so that each constituency to have two members of parliament or representatives, one to be a female and the other a male as much as that number does not exceed 360 members of parliaments. In this new arrangement, the party and not a candidate, will be voted for. The party then will determine who should be its MPs depending on its proportion votes won in a given election. This process is problematic in two ways. One, it interferes with the mandate of the National Election Commission (NEC) which is responsible for any changes of the electoral formula. With its majority members of parliament, there is no doubt, this proposal will be passed in January 2010. Second, it is non-participatory implying the hegemony of CCM in designing the rules of the game for its benefits[49].

While this will numerically increase the number of women and possibly end the special seats phenomenon, it is still questionable whether women will be the intended beneficiaries. Arguably, the special seats system and even the new formula expected to come are tailored around the divide and rule system. Women are made unable to mobilize themselves together outside the party system and contest for seats in the parliament. In 1993 Rev. Christopher Mtikila filed a case to challenge the article which compels candidate to contest in an election via a political party. In that case of *Rev. Christopher Mtikila* vs. the Attorney General[50] (the 'first independent candidate' case) the court ruled that it shall be lawful for independent candidates, along with candidates

48 The committee members included Hon. Dr. Mohamed Gharib Bilal – Chairperson, Hon. Anne S. Makinda – Deputy Chairperson, and other members were Hon. Dr. Maua Daftari, Hon. William Lukuvi, Hon. Jenista Mhagama, Hon. Machano Othman, Hon. Andrew Chenge, Hon. Mtumwa Kassim Idd, and Hon. Makongoro Mahanga. The committee was given one month to complete its assignment. Source: Daily News, Monday, 10 November 2008

49 Alexander B. Makulilo, "Independent Electoral Commission in Tanzania: A False Debate?" Representation 45 (2009): 435-453.

50 Civil Case No. 5 of 1993, High Court of Tanzania

sponsored by political parties, to contest presidential, parliamentary and local council elections. After this decision the Attorney General filed an appeal[51]. While this appeal was still pending in court the government processed a bill to amend the constitution in such a way it had the effect of rendering the ruling of the court ineffective or a nullity. In this incidence the Government was pursuing two parallel causes of action to reach the same destination. The first cause of action was to deal with the matter through the legislature while the other was through the court of law. This amendment led to a new petition by *Rev. Christopher Mtikila*[52] (the 'second independent candidate' case) in 2005. Despite the fact that the High Court of Tanzania ruled in favour of an independent candidate, the government seems to be reluctant to accept it. It has lodged an appeal which is yet to be determined. If an independent candidate would be allowed in the Tanzanian electoral system, women will be able to organize themselves outside the party structure[53]. To force an individual to be a member of a political party is against the Bill of Rights which guarantees individuals to seek leadership without necessarily being members of a political party.

The second explanation is that CCM and its government have already proven that women are very strong and if left to mobilize freely it is likely that they will be a formidable force to the status quo. In an attempt to found an autonomous women based organization countrywide, the University of Dar es Salaam organized a four-day national conference in July 1994 on the position of women in a multiparty system. The

51 Civil Appeal No. 3 of 1995, The Court of Appeal of Tanzania

52 Rev. Christopher Mtikila V. Attorney General, High Court of Tanzania at Dar es Salaam, misc. Cause No. 10 of 2005. Judgment read on 5 May, 2006.

53 In a survey conducted by the Tanzania Media Women's Association, (TAMWA), between April and June 2003, the Executive Director of the Tanzania Gender Networking Programme (TGNP), Mary Rusimbi, said the government needed to remove a clause in Article 39 and 67 of the Constitution which prevents independent candidates. She remarked "Independent candidates should be institutionalized to allow women who do not want to associate themselves with party politics to be able to contest privately". See Ananilea Nkya, Politics-Tanzania: Women still Face Political Marginalization ipsnews.net/ 11 November, 2009

conference was attended by representatives from all over Tanzania, as well as top government officials and leaders of political parties. One of the outcome of this conference was the formation of Women's Council of Tanzania *(Baraza la Wanawake Tanzania – BAWATA)* to address women specific issues. This was because the meeting resolved that in addressing women problems there is no need of any ideology and hence women were ready to bury their differences. Thus on 16 May 1995 BAWATA was registered in accordance with Cap 337 of the 1954 Societies Ordinances. Article 4 of its constitution outlined the following objectives: to liberate women from all forms of gender exploitation, oppression, discrimination and degradation and to condemn the same; to work as an institution or a forum on behalf of women and through which they would be able to initiate and further their targets and interests in all aspects of social life; to unite all women without regard to their religious, colour, age, creed, status, levels of education or authority, political parties, ideology or any other thing so as to strengthen their efforts in the struggle for protecting their rights and equality; to mobilize all women for purposes of giving them leadership whereby they would effectively be participating in the bringing about economic and social development; to educate women on their basic rights and duties in the society; to maintain women's respect; to foster women's participation and implementing of various national projects; to make a follow-up on law reforms, particularly in the area affecting women activities[54].

Seen from its objectives, BAWATA could be a stepping stone for women to liberate themselves and address their issues as opposed to those by parties. In July 1995, BAWATA designed a comprehensive manual to educate women voters for the October 1995 general elections and identify their agenda for the benefit of potential candidates. Similarly, the document aimed at supporting those candidates who would address issues affecting women such as land ownership, health care, water, education, inheritance to mention some. BAWATA

54 BAWATA Constitution 1995

therefore presented its views on the qualities needed by any presidential candidate.[55] Tenga and Peter[56] argue that "Given that the ruling party had been used for so long years to having all women in Tanzania under its control, the emergence of a strong and independent organization was not universally welcomed. Indeed, its leaders felt obliged to reduce their level of political engagement in the run-up to the elections, following threats from the CCM, and several 'warnings' by the President[57] of the United Republic." After its mobilization activities of the 1995 elections, the government flung a barrage of accusations at BAWATA, among others, that it was run more-less like a political party, and that it did not submit its annual accounts to the relevant authorities. The government finally de-registered it on 30 June 1997[58]. On behalf of BAWATA, Prof. Shivji(an advocate) filed a case against government's action for deregistering BAWATA, arguing that it was unconstitutional and violated Articles 13(6)(a), 18, and 20 of the URT Constitution providing for the right of fair hearing, expression, and association and assembly, respectively. The petition also alleged that the government of Tanzania is in violation of international human rights instruments, including the International Convention on Civil and Political Rights (ICCPR), the African Charter on Human Rights, and the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)[59]. In April, 2009, the High Court of Tanzania ruled in favour of BAWATA and also challenged sections in the Societies Act which go against the Constitution by giving too wide discretionary powers to the

55 Elimu ya Uraia Kwa Wanawake Wapiga Kura na Agenda ya Wanawake Katika Uchaguzi Mkuu wa 1995, Dar es Salaam, July 1995.

56 Tenga and Peter, "The Right to Organise as Mother of All Rights" 162

57 The President is also a chairperson of CCM. The line of his powers is therefore fused and sometimes used to favour his or her party.

58 Ernest Mallya, "Women NGOs and the Policy Process in Tanzania: The Case of the Land Act of 1999", African Study Monographs, 26(2005): 183-200

59 Rugemeleza Nshala, The freedom of association in Tanzania: Implications for Civil Society and Sustainable Development, (November 1997), www.leat.or.tz/publications/ 11 November, 2009

President to abolish any civil society organisation, and called upon legal amendments within one year of the ruling[60].

If women organize well outside the party structure they would be able to make a difference. By now, Tanzania has strong, institutionalised feminist organisations such as Tanzania Media Women's Association (TAMWA), Tanzania Gender Networking Programme (TGNP), Tanzania Women Lawyers Association (TAWLA) which are able to provide sufficient force to mobilise women to vote for the candidates that will articulate their agenda. Experience has shown that it is difficult for women to

Table 3. Candidates Nominated by Parties in the 1995 and 2000 Parliamentary Elections

		Election Year 1995			***Election Year 2000***		
S/N	Political Party	Male	Female	% of Female	Male	Female	% of Female
1	CCM	232	7	2.92	218	13	5.62
2	CHADEMA	157	5	3.08	61	5	7.57
3	CUF	177	3	1.66	132	6	4.34
4	NCCR	196	9	4.39	88	5	5.37
5	NLD	44	1	2.22	2	4	66.66
6	NRA	78	4	4.87	2	0	0.00
7	PONA	34	4	10.52	31	6	16.21
8	TADEA	118	8	6.34	40	2	2.76
9	TLP	55	5	8.33	103	9	8.03
10	TPP	39	2	4.87	10	3	30
11	UDP	125	11	8.08	57	9	13.63
12	UMD	47	2	4.08	22	2	8.33
13	UPDP	34	1	2.85	26	6	18.75
	Total	**1336**	**62**	**4.43**	**792**	**70**	**8.12**

Key: NLD=National League for Democracy; NRA=National Reconstruction Alliance; PONA=Popular National Party; TADEA=Tanzania Democratic Alliance Party; TPP=Tanzania Peoples Party; UMD=Union for Multi-Party Democracy; and UPDP=United People's Democratic Party (Source: National Electoral Commission Statistical Reports 1996 and 2001)

60 See the Tanzania Gender Networking Program's Press Release on BAWATA Ruling, Thursday, 9 April, 2009

reform the parties to serve their interests. It is for this reason political parties have limited women through the nomination processes to contest for constituency seats. The Tanzania Monitoring Election Committee (TEMCO)[61] reaffirms that "given the community view of women as hopeless leaders, and women not being in positions of power within their political parties, the internal elections conducted within the parties are mostly in favour of men. For instance, in Songea urban constituency women aspirants wishing to be nominated were harassed and abusive language was used against them". There is not even a single party which has deliberately initiated efforts to set the affirmative action by adopting quotas to promote women. This is evidenced by the nomination of candidates in the previous elections as shown in Table 3.

In the 2005 elections, the number of political parties increased to 18. Similarly the number of female candidates rose from 8.12 percent of 2000 to 13.01 percent (Table 4). However, it is surprising for the strong and largest party like CCM to have only nominated 7 candidates in 1995, 13 in 2000 and 19 in 2005. If CCM strongly believes in supporting women rather than using them to further its power interests, one would have expected to see more women nominated. It is interesting to note that in Tanzania only women nominated by strong parties are likely to be elected through the constituencies. Thus, Yoon[62] observes that women through constituency seats nominated by CCM which has resources and a well-established electoral support base from the national to the village level have a higher probability of winning than female candidates of other parties. Of eight women elected in constituencies in 1995, seven were CCM candidates, and all twelve women elected in 2000 were CCM candidates and the seventeen women elected in 2005 belonged to CCM. It was only CUF

61 Tanzania Monitoring Election Committee (TEMCO 2001), 145

62 Mi Yung Yoon, "Special Seats for Women in the National Legislature: The Case of Tanzania", Africa Today, 55(2008): 60-86

Table 4. Candidates Nominated by Parties in the 2005 Parliamentary Elections

S/N	Political Party	Male	Female	% of Female
1	CCM	213	19	8.18
2	CHADEMA	133	11	7.63
3	CUF	200	13	6.10
4	NCCR	63	8	11.26
5	NLD	14	15	51.72
6	NRA	21	6	22.22
7	CHAUSTA	49	12	19.67
8	TADEA	32	2	5.88
9	TLP	104	11	9.56
10	FORD	8	3	27.27
11	UDP	28	10	26.31
12	UMD	15	6	28.57
13	UPDP	29	13	30.95
14	Jahazi Asilia	46	9	16.36
15	PPT-Maendeleo	16	0	0.00
16	Democratic Party	34	11	24.44
17	Sauti ya Umma	42	10	19.23
18	D'krasia Makini	16	0	0.00
	Total	**1063**	**159**	**13.01**

Key: FORD=Forum for Restoration of Democracy (Source: National Electoral Commission 2006)

which managed to have a female elected through a constituency seat in 1995. Against that backdrop, one would argue that the new system of representation of women to 50 percent is likely to further the interests of the parties rather than those of women.

The so called affirmative action is typically a "divide – and – rule" tactic that is used by the CCM and its government to make sure that the voice of women is not collectively mobilized to contest for political leadership. In line with this view, Meena[63] would argue that in the male dominated multiparty system, membership in political parties is

63 Ruth Meena, "Gender Differences in Political Orientation" in Mushi Samuel S, Mukandala Rwekaza S. and Baregu Mwesiga L (eds) Tanzania's Political Culture : A Baseline Survey, (Department of Political Science, University of Dar es Salaam 2001)

insufficient in the process of redefining political culture to empower women. Women should organize themselves for action and challenge the primacy of male power and corresponding biases in political processes. The fact that CCM and its government did not welcome BAWATA as well as the court ruling in favour of an independent candidate suggests strongly that it is not in the interest of CCM to see women organize autonomously outside the party structure. Independent candidate would be one of the entry point through which women could organize outside the party structure and therefore to push and control their agenda in formal decision making bodies.

Related to the whole question of ownership of the affirmative action is the issue of accountability. Since women are required, just like any member of parliament, to be a member of the party prior to their nomination by the parties, it follows that they will be accountable to those parties and not women. Meena[64] argues that the procedures to elect women for the special seats have to be revisited so as to make the MPs who go to parliament through the women's ticket more accountable to women whom they are supposed to represent. The current arrangement forces women to be loyal and accountable to their parties. In other words, the constituencies for such women become parties and not women. In this way women's interests are surpassed by those of the parties.

5. Conclusion

This study made three major observations. One is that the affirmative action in Tanzania is by and large a property of political parties and particularly CCM. Women are strategically used to further the interests of CCM at the expense of their gender practical and strategic needs. And therefore, the current women special seats system may not effectively bring

64 Ruth Meena, "Gender Issues in the 1995 General Elections in Tanzania" in Mushi Samuel S. and Mukandala Rwekaza S. (eds) Multiparty Democracy in Transition: Tanzania's 1995 General Elections, (Department of Political Science, University of Dar es Salaam 1997)

the intended impact on women as a whole. Second is that the organisation of women outside political parties may bring impact in terms of advancing their interests. The example of BAWATA testifies to this fact. But this will need significant reforms of the Societies Act, Cap. 337 R.E 2002 and the Non-Government Organisation Act, No. 24 of 2002 which suffocate political space for autonomous association life from the interests of the ruling party and its government. The recent High Court ruling in favour of BAWATA is evident to this democratic reform. It should be noted that, by now feminist activity in Tanzania is well institutionalised and can be exemplified by organisations like TGNP, TAMWA and TAWLA to mention a few. Third is that CCM's behaviour of monopolising the rules of the game undermines the whole notion of representative government. The current move towards 50-50 percent proportional representation on men and women in the House by 2010 is an obvious example. The party has initiated the move without involving other stakeholders particularly women themselves leave alone other political parties and civil societies organisations. The new system of 50 percent women representation advocated by CCM should clearly be examined in terms of its agenda and particularly who will own it and for whose interests. The general implication of the results of this study is that women's invisibility in politics is a systemic problem. The legal framework which purports to empower women through the affirmative action on the one hand deprives them of their struggles to participate fully in public political arena on the other hand. The study therefore challenges the descriptive representation which seems to favour the interests of the ruling party at the expense of women's substantive representation. It will be of interest to political parties, women based organisations and students of political movements. This study focused much on political life of women in Tanzania. It is useful for future research to investigate other aspects of women's marginalisation like social and economic life.

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