



Beyond Quotas and Mainstreaming: Political Accommodation and Gender in South Sudan Workshop Report



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I. BACKGROUND

Conflict Dynamics International's (CDI) initiative – Beyond Quotas and Mainstreaming: Political Accommodation and Gender in South Sudan – aims to generate options to enhance gender equity in governance arrangements in South Sudan by increasing the involvement of women policy makers (from the South Sudan National Legislative Assembly (SSNLA), Council of States, executive branch, members of independent commissions, women from state governments) and women's representatives (political party representatives, leaders of civil society groups and women lawyers, among others). The program supports South Sudanese partners in exploring different components of governance arrangements in South Sudan; in understanding how their interests are currently addressed and represented; and in identifying ways to enhance the accommodation of women's interests. The idea underpinning the initiative is political accommodation¹ – an approach which, if implemented effectively across different areas of governance, can build stable, inclusive and peaceful governance through the conciliation of diverse interests.

The first workshop was held on December 13, 2012. It introduced participants to the key concept of political accommodation. Participants then discussed the relationship between political accommodation and gender issues. At the workshop participants agreed that governance and peace processes need to be “engendered” and women need to work together more effectively or this to be achieved. Attendees stressed the need for greater understanding of issues across the board, and that women, in general, and women in politics, in particular, should be involved.

The second workshop occurred on February 6, 2013, and focused on the national constitutional review process. It examined how gender equity can be promoted in both the constitutional review process and in the new constitution itself. The workshop was accompanied by a briefing note, *Women's Inclusion and Equity under the Transitional Constitution of South Sudan, 2011*, that set out the most important provisions for women in the constitution. Participants recognized the importance of women's inclusion in the process itself as well as the need to understand what institutions and practices should be established by the constitution so it serves as a framework for inclusive and equitable governance.

¹ Political accommodation refers to the objectives, processes or outcome of mutual conciliation around competing political interests and perspectives. It is more inclusive than power sharing in that it does not limit itself to mutual conciliation only of the political elites.

II. WORKSHOP SUMMARY

Funded by the United States Agency for International Development (USAID), the third workshop in the series, Women and Electoral Systems in South Sudan, was a joint event between the International Foundation for Electoral Systems (IFES) and CDI.

The purpose of the workshop was to assist participants in identifying practical steps to ensure that the electoral system leads to genuine accommodation of women's interests in South Sudan's governance arrangements.

The specific objectives of the workshop were to:

- Examine how electoral systems can impact women's representation.
- Identify points of influence and substantive inputs pertaining to the electoral system in the context of the national constitutional review process.
- Develop options and strategies for future reform of legislation and policies, including the National Elections Act.

The workshop was inaugurated by Pui Man Wong, Democracy and Governance Officer of USAID; Parvinder Singh, IFES Chief of Party for South Sudan; Gerard McHugh, CDI President; and Liz Gaere, CDI Country Director for South Sudan. Over the course of the two days, presentations were made by Gaere; Hon. Jersa Kide Barsaba, Deputy Chairperson of the National Elections Commission; Eliane Torres, IFES Electoral Management Adviser; and Elizabeth Wright, CDI Research Assistant.

III. PROGRAM OVERVIEW

A. Introduction

Liz Gaere, CDI Country Director for South Sudan, introduced the key concepts of political accommodation as they relate to the South Sudanese context in the first session. She explained that the political accommodation methodology uses six focal areas (called “strands”) to explore and evaluate options for political accommodation. The six strands are: 1) political structure and decentralization, 2) the electoral system, 3) the executive branch, 4) the legislative branch, 5) public participation and 6) traditional and customary arrangements.² This workshop was the first in the series to explore one of the strands in depth.

Strand: Women and Political Accommodation	Constitutional Provisions	Legislation	Policies
(1) Political structure and decentralization	✓	Local Government Act (LGA)	National Elections Commission (NEC) regulations, political party constitutions, etc.
(2) Electoral system	✓	Electoral Act, LGA, Political Parties Act, Council of Traditional Authority Leaders (CoTALs) Act	
(3) Executive branch	✓		
(4) Legislative branch	✓		
(5) Public participation	✓		
(6) Traditional and customary arrangements	✓	CoTALs Act	

She also presented the above matrix as a tool to help analyze whether provisions promoting gender equity exist in the constitution, legislation and policies and procedures across the six strands. She emphasized the usefulness in organizing options according to these three different entry points since changes to the constitution, legislation or policies and procedures all require different types of planning, processes and timing.

B. The South Sudan Electoral System and Electoral System Families

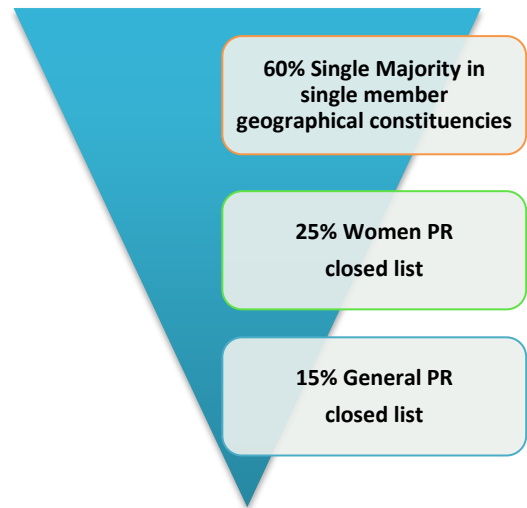
The South Sudan Electoral System

The next session examined the specifics of the current electoral system in South Sudan. The Honorable Jersa Kide Barsaba, Deputy Chairperson of the National Elections Commission, described the system as follows:

² For further information about CDI’s methodology and approach to political accommodation please see “Building the House of Governance: Political Accommodation in South Sudan” (May 2012). <<http://bit.ly/1228Cbs>>

Section 45 of the South Sudan National Elections Act 2012 (NEA) instituted a mixed electoral system. Representatives will be elected either through a majority system or a proportional (PR) system for the forthcoming elections:

- For the election of *President*, the absolute **majority** system with a two-round process requires the winner to achieve 50 percent plus 1 of the votes or face a runoff election.
- For the election of *Governors*, the absolute **majority** system with a two-round process requires the winner to achieve 50 percent plus 1 of the votes or face a runoff election.
- The *Southern Sudan Legislative and State Assemblies* use a segmented parallel system where:
 - 60 percent of respective seats are allocated through single-member geographical districts (constituencies) in simple **majority** races.
 - The remaining 40 percent of seats are allocated by **proportional** list at the national and state levels with a 4 percent threshold. The closed political party lists reserve:
 - 25 percent of seats for women’s candidate party list
 - 15 percent for a general party list



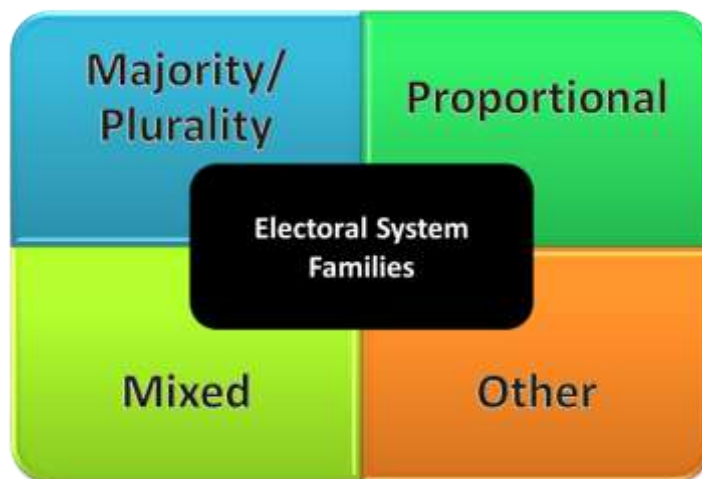
Hon. Barsaba also explained the difference between open and closed party lists. Open lists allow voters to mark their preferences for individual candidates on the list, resulting in a ranking of candidates according to voter preference/votes obtained. In closed lists, political parties determine the order of candidates and voters merely select the political party list.

The Council of States will be comprised of 40 representatives, with four seats allocated to each of the 10 states. Members are indirectly elected by the State Legislative Assembly. Representatives for Abyei will be appointed by the President based on population figures.

Hon. Barsaba concluded with an overview of the NEC – the independent commission formed in August 2012 as the exclusive electoral authority in the Republic of South Sudan. The National Elections Act 2012 further describes the NEC as independent, autonomous and neutral with the authority to regulate, conduct and supervise electoral events; to establish boundary delimitation; to organize voter registration; and to deliver civic education, among other duties.

Electoral System Families

In the third session, Eliane Torres, IFES Electoral Management Adviser, proceeded with the presentation on electoral systems introducing the key variables common to every electoral system: the electoral formula, ballot structure and district magnitude (how many representatives to the legislature that district elects). She then explained the four electoral system families:



- **Majority/plurality systems** generally operate on a winner-take-all basis, with a single seat in each constituency awarded to the candidate securing the most votes.
 - For a **plurality**, the candidate who gets the *most votes wins*, regardless of the percentage of votes secured. This is also known as “first-past-the-post.”
 - For a **majority** system, the winner *must receive the majority of the votes* (50 percent + 1 vote). This often involves two rounds of elections, where the second election is a runoff between the two candidates who received the highest percentage of votes in the first election.
- **Proportional systems (PR)** allocate seats to political parties *based on the share of votes* each party receives. Political parties present lists of candidates, voters choose between competing party lists, and the members at the top of a party’s list become representatives. PR is the most commonly used system in post-conflict countries.
 - PR is where *open lists* (voters rank candidates on list) or *closed lists* (parties rank candidates and voters vote for the party) are used. Closed lists usually improve women’s chances of being elected, provided the women candidates are placed high enough on the lists.
- **Mixed systems** combine the best of both majoritarian and PR. Almost half of the systems in Africa are mixed as in South Sudan.

- **Other systems** are rare – about three percent of countries in the world use them. They tend to translate votes cast into seats in a way that includes the proportionality of PR systems and the outcomes of plurality/majority systems.

Torres then presented the pros and cons of each electoral family system and the impact on women's representation:

- Majority/plurality systems tend to be simpler, but PR and mixed systems tend to be more fair in their representation.
- Different electoral systems have different effects on women's representation, but the most substantial increase in women's representation usually occurs when some form of quota mechanism is applied to a system involving proportional representation.

Additionally, IFES emphasized that the existence of the women's list does not exclude women from running for geographical constituency seats or the general PR list.

C. Quotas and International Experience

Torres opened the fourth session by noting that transition periods offer opportunities to address imbalances through the adoption and implementation of strategies and/or quotas conducive to a greater role for women in politics. She then proceeded to explain quotas and various international experiences.

Quotas

Positive action measures (quotas) are effective mechanisms for increasing the number of women elected to public office. They usually set a target or minimum threshold for women. There are three main types of positive action measures:

- **Reserved seats** are seats in the legislature saved for women.

South Sudan uses *reserved seats*, guaranteeing 25 percent of the assembly for women legislators. These quotas are usually mandated by the constitution and/or law.

- **Legislated candidate quotas** require a certain number of places on electoral lists to be reserved for women candidates.

The crucial issue is whether there are any rules concerning the rank or merit order on the party list. A requirement of 30 percent women on the list may not result in any elected women, if all women candidates are placed at the bottom of the list.

- **Voluntary political party quotas** allow a party to decide to support a certain percentage of women candidates to contest an election.

More than 30 countries have introduced gender quotas for elections to national parliament by constitutional amendment or by electoral law.

Quotas may be controversial, but the use of quotas often facilitates historical leaps in women's political representation. Many see electoral quotas as compensation for social and structural discrimination and barriers against women in politics. They can be temporary or permanent.

International Comparative Experience

Thanks to the 25 percent of reserved seats, South Sudan is above the average for Sub-Saharan Africa for women's representation in parliament.

- **Rwanda** is the first country in which women have achieved over 50 percent representation in the lower house of parliament through a triple ballot system that ensures women are represented at all levels of government. This has correlated with a more diverse policy agenda and promotion of equity and justice. Rwanda has passed bills aimed at ending domestic violence and child abuse as well as banishing archaic patriarchal laws (still enforced in many African societies), such as those that prevent women from inheriting land.
- **Palestine** uses legislated candidate quotas that prescribe not only the minimum number of women on party lists but also the order in which they must be listed.
- In **South Africa**, women chose not to pursue a national quota in the constitution, fearing that a women's list would marginalize women representatives. Instead they have succeeded in getting the ANC, the main political party, to implement a voluntary political party quota of 50 percent for women candidates, and other parties have followed with similar quotas.

D. Legal Reform

Gaere presented on opportunities to build women's inclusion and equity across many types of legal and policy reform, and noted the differences between them. These include: the provisions of the *constitution* itself; supportive *legislation*; supportive government and political party *policies*, and *advocacy* and *capacity-building*. She then highlighted the key provisions in the Transitional Constitution 2011, National Elections Act 2012, Political Parties Act 2012, Local Government Act 2009 and the Council of Traditional Authority Leaders Acts.

Torres facilitated a discussion with the participants on various constitutional or legal possibilities and options to increase women's representation in South Sudan.

A number of possible policy options relating to the constitution, legislation and regulations and procedures were identified that could be pursued in order to improve gender equity in the electoral system are provided in the next section.

IV. POSSIBLE POLICY OPTIONS

Constitution
<ul style="list-style-type: none"> • Keep the 25 percent reserved seats for women, and augment women’s representation through legislation. • Ensure that language is clear that the constitution is the <i>supreme law</i>, above customary laws.
Legislation
<ul style="list-style-type: none"> • National Elections Act/Political Parties Act: <ul style="list-style-type: none"> ○ Percentage of seats allocated for women in the proportional party list would be 15 percent. Include provisions ensuring that women are likely to be elected from the list and stipulating that placement must be done in consultation with women’s groups. ○ Reserve seats for women in the 60 percent majority single-seat constituency seats, with rotation of constituencies in each election. • Local Government Act: Implement a 25 percent quota for county commissioners. Maintain the 25 percent quota for county councilors. • Council of Traditional Authority Leaders Acts: Local government bodies should monitor women’s participation in councils. Require that at least two of nine members of the traditional council be women. • Consider whether to codify customary law or not.
Regulations and Procedures
<ul style="list-style-type: none"> • Lobby political parties to implement voluntary quotas for women into their manifesto/constitution. • Create regulations for implementing legal reforms. • NEC to consult with local government boards. • Consider holding elections over multiple days to encourage/increase voter turnout (though this will cost more money.) • Create operating procedures for traditional councils.

The discussion was followed by the description of the legal reform process. The process is long and strategies for legal reform need to be planned with this long timeline in mind.

IFES emphasized that the 2015 national elections will be governed by the Transitional Constitution, so if a new electoral system were adopted, it would only affect the 2020 elections. Additionally, a joint strategy should be considered of how to best reform the constitution and electoral laws for 2020, and how to best implement current laws for 2015.

V. VIEWS OF PARTICIPANTS

Participants were highly engaged throughout the workshop, raising questions and furthering the discussion. Below is a summary of the challenges and responses identified and discussed.

A. Challenges Identified

- **Complicated system:** South Sudan's mixed system, while generally thought to be the most representative, is also very complicated. This can make it difficult for political parties and candidates as well as the average citizen to vote for representatives.
- **Power to political parties:** The current system grants great power to political parties' leadership (no women) to choose candidates without consultation with women's groups.
- **Inconsistent implementation:** The 25 percent quota (established in the Transitional Constitution) has been implemented inconsistently across government. While women have succeeded in getting good numbers into the national legislature and the Executive branch, there are few women in the judiciary, local governments or traditional leaders. Representation is particularly poor at the local levels, where many aspects of the Local Government Act 2009 have yet to be implemented. Participants argued that this is critical since county and other local governments often have the most direct interactions with the people.
- **Council of States (CoS):** The Council of States is indirectly elected, but changing the method of election was discussed. This raised the question of if the CoS were to be directly elected, what would be the best way to promote women's representation in it?
- **Additionally, there were many challenges identified that do not pertain only to the electoral system but that affect women's political representation, participation and decision-making influence more broadly. These include access to money (for campaign and once elected in the women's list, no development constituency fund is provided); harassment and intimidation (while running for office outside the women's list and once in office); few women in government and political party leadership positions; women have more responsibilities than men to juggle; a lack of coordination between women in government and civil society; how to balance quality of women with quantity of women; divisions within women's groups and the lack of a coherent strategy; and a very male-dominated media.**

B. Possible Responses

- **Integrated positive measures:** Participants highlighted the importance of improving positive measures across the legal frameworks of different levels government, including specifying implementation and oversight. They agreed that it is ideal to use a combination of reserved seats, legislated candidate quotas and voluntary political party quotas in order to most effectively achieve high levels of women's representation and participation.
- **Strategy:** Participants identified the important strategy of encouraging strong women candidates to run for geographic constituency and party list seats, so that others may be included on the women's list. They suggested the women's list can provide an opportunity for less experienced women to get elected.
- **Conditional funding:** It was also suggested that government funding for political parties could be made conditional upon parties' implementation of positive measures for women, including measures regarding women's participation in party leadership.
- **Additionally, there were responses identified that could apply to improving women's representation more broadly.** These included: maintaining a database of qualified women candidates in case a position needs to be filled on short notice; strengthening regulatory bodies; implementing gender budgeting; clarifying women's various interests and forming a joint strategy; creating a more formal network of support for women leaders; improving civic education on the electoral system; creating a voluntary mentorship program between women politicians and young girls.

VI. CONCLUSION AND NEXT STEPS

After a very engaging discussion on ways forward, Torres and Gaere closed the workshop by thanking the participants for their lively and thoughtful contributions, and requested them to complete an evaluation sheet.

Based on the suggestions from the women, additional sessions on different topics will be organized in the coming months. Despite it being late on a Friday afternoon, many participants remained after the conclusion of the workshop to continue discussing issues and to exchange contact information. One participant was overheard commenting that she attends many workshops, and this was the most interactive and useful workshop she had participated in in a long time.

There is much to be done, and this workshop hopes to serve as a launching point for many more coordinated activities. Multiple women commented that they would like to see a similar workshop done for more women across varying levels of government and civil society.

Highlights from Participants' Evaluations:

The participants concluded almost unanimously that the workshop had been very relevant and the presentations useful for understanding content. Additional, related workshops should be organized on a larger scale. Specifically, they noted:

- The workshop was useful in identifying women's interests and potential policy options and connecting women in different leadership positions; however, more events that focus on developing a coherent strategy and detailed action plan are needed.
- The workshop was very informative and interesting, with many rich discussions, and helped to clarify issues on a topic that is very complex.
- More workshops, both on the electoral system and discussing the other strands, should be conducted.
- Women at all levels of leadership, especially at the grassroots, would benefit from more of these discussions.

VII. PARTICIPANTS LIST

Name	Organization
1. Hon. Jersa Kide Barsaba	Member, National Elections Commission
2. Mac Maika	Member, National Elections Commission
3. Paul Marial Dot	Member, National Elections Commission
4. Hon. Janet Aya	Member, National Legislative Assembly
5. Hon. Mary Puru	Member, National Legislative Assembly
6. Hon. Margaret Samuel	Member, National Legislative Assembly and National Constitutional Review Commission
7. Hon. Anisia Achieng	Member, Council of States
8. Lorna Merekaje	Member, National Constitutional Review Commission and South Sudan Democratic Engagement Monitoring and Observation Program
9. Dudu Sebit	Member, National Constitutional Review Commission
10. Hellen Oler	Member, National Constitutional Review Commission
11. Margret Peter Abudi	Member, Central Equatoria State Legislative Assembly
12. Mary Jervase Yak	Deputy Minister, Ministry of Finance and Economic Planning
13. Martha Joshua	Coordinator, Ministry of Education
14. Nouna Elsa	South Sudan Women General Association
15. Linda John Tyego	Private Advocate
16. Emmily Koni	South Sudan Democratic Engagement Monitoring and Observation Program
Observers, IFES Staff and CDI staff	
17. Eliane Torres	International Foundation for Electoral Systems
18. Parvinder Singh	International Foundation for Electoral Systems
19. Clay McGuffey	International Foundation for Electoral Systems
20. Anne Marlborough	International Foundation for Electoral Systems
21. Ben Goldsmith	International Foundation for Electoral Systems
22. Liz Gaere	Conflict Dynamics International
23. Gerry McHugh	Conflict Dynamics International
24. Elizabeth Wright	Conflict Dynamics International
25. Joyce Sebit	Conflict Dynamics International
26. Pui Man Wong	United States Agency for International Development
27. Jelena Savic	International Republican Institute
28. Mathew Dominic	United Nations Mission in South Sudan
29. Michele Crimella	European Union Commission
30. Megan Costa	International Development Law Organization



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