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CONSTITUTION REVIEW CONFERENCE

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CAPITAL HOTEL, LILONGWE

*CONSTITUTIONAL EQUITABLE REPRESENTATION
OF WOMEN IN POLITICS:*

A Proposal

BY

*Honourable Lilian Patel, MP
Chairperson
Parliamentary Women Caucus*

**FIRST NATIONAL CONFERENCE ON THE
REVIEW OF THE CONSTITUTION**

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A PROPOSAL

By
The Parliamentary Women's Caucus

Presented By
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Chairperson of The Women's Caucus

1.0 Introduction

- 1.1 The political disadvantage experienced by women has been the subject of much research and discussion particularly since the 1980s¹.
- 1.2 Voices of women have also been heard in Africa, calling upon “the men folk to seize the opportunity and embrace true democracy and good governance by opening up political systems to women and all marginalized groups – youth, people with disabilities and minorities²”. Graca Machel has recently questioned the credibility of African democracies if it continues to deliberately exclude what constitutes 52 per cent of its population from decision-making process.
- 1.3 The SADC Heads of State meeting held in Botswana in August 2005 responded to the women’s call by agreeing to review the quota for women representation with a view to increasing it from 30 per cent to 50 percent, in view of the guarantees to women made by the African Union in its Charter under the Optional Protocol on Human and Peoples Rights. This clearly shows that Malawi as member of both SADC and Africa Union is committed to guarantee the 50 percent women representation in all decision-making processes including the political ones.
- 1.4 This paper focuses on women representation in the legislature and reflects the strong recommendation of the women’s caucus that the increased women representation should be provided in the Constitution.

2.0 The Present Constitution

- 2.1 The Constitution now in force provides that the state shall achieve and promote gender equality and equity by, among other things, passing policies and legislation to ensure the full participation of women in all spheres of life of Malawian society on the basis of equality with men. The question that has persistently been asked since 1994 has been: where are the women?
- 2.2 There is no disputing the fact that the present Constitution does not include mechanisms that expressly guarantee women equal participation in areas of decision-making particularly in politics. Consequently, while patriarchy values continue to limit the participation

¹ J. Lovenduski, *Women and European Politics: Contemporary Feminism and Public Policy*, Wheatsheaf, Brighton, 1986,

² “Sex, gender and British politics”, *Parliamentary Affairs*, vol 49, no 1, 1996;

of women, there is no Constitutional provision that guarantees women equal participation.

- 3.0 What is the problem for women?
- 3.1 Women's participation in power sharing and decision-making at all levels is limited in Malawi. Although women make up 52 per cent of the population they are still denied an opportunity to participate in all levels of decision-making structures.
- 3.2 The reality for women in Malawi is that those who seek an elective office face greater challenges compared to their male counterparts.
- 3.3. At primary and general elections women are subjected to foul language and abuses of all kinds including violence, all of which make it difficult for women to participate effectively.
- 3.4 Most women also lack the financial muscle the men possess to enable them contest effectively.
- 3.5 Although the constitutions of most, if not all, political parties in Malawi provide for 30 per cent women representation, this is not adhered to.
- 3.6 Although there has been an increase in the representation of women in Parliament from 10 per cent in 1999 to 14.5 per cent in 2004, the figure falls way behind the 30 per cent SADC minimum benchmark and the 50 per cent minimum benchmark set by African Union and subsequently endorsed by SADC Heads of State.
- 3.7 The disproportionate representation of female MPs affects their representation in parliamentary committees as they are thinly spread. This in turn affects the gender responsiveness of decisions taken by key strategic committees. In turn, the lack of gender responsive decisions affects the general women's status in the country. Further, the absence of women in most decision-making structures means that women do not participate in making the decisions that affect them.

4.0 Experience Gained Elsewhere

- 4.1 The SADC experience referred to above shows that the countries that have made the most significant advances are those where the electoral system is not based on first past the post but proportional representation. If the elections in the Netherlands, for example, which are of strict proportionality, are compared with those in the UK, which are of a purely majoritarian system, one finds that in the former, voters choose between lists of party candidates within a single national constituency. Under such a system, where parties have to put forward list of nominees, women's representation has increased. Central party organizations have greater influence over nominations and so, if they are committed to including more women, can do so.
- 4.2 Another distinctive feature of Scandinavian systems has been the introduction of quotas. Their advocates³ claim they are necessary to enable a critical mass of women to be elected. Only when women comprise at least 30 per cent of representatives can they be influential in the realm of policy-making. Party reform, based on quotas, has been widely adopted in Norway, where the Socialist Left, Labour and Liberal parties each require at least 40 per cent representation of each sex at all levels of party activity; in order to reach quota requirements, parties are forced to recruit more women.
- 4.3 It is observed that the actual gains for women in Scandinavian parliaments have also stemmed from structural factors – such as electoral systems and methods of selection – and initiatives like quota-based reforms.
- 4.4 In many countries, however, the impact of quotas has been more marked nationally than at local organizations have often been indifferent to actively recruiting more women, citing what they call 'practical' reasons – such as perceived low interest among women – for their failure to meet targets. In Malawi an effort shall be made to ensure that this will not be the case.
- 4.5 The SADC countries such as South Africa, Mozambique, Namibia and Tanzania that have achieved the 30 per cent women representation have affirmative action as well as using the proportionate Representation Electoral System.

³ P. Norris, @ Women's legislative participation in Western Europe, in S. Bashevkin ed, Women and Politics in Western Europe, Frank Cass, London, 1985.

5.0 Proposals for Improvement

The following proposals are therefore being recommended:-

- 5.1 The Constitution should recognize the principle of affirmative action to address past gender imbalances and then spell this out in specific provisions of the Constitution.
- 5.2 Section 24 should safeguard the interests of women by providing for a 50 per cent as endorsed by the SADC Heads of State and the AU.
- 5.3 Proportional representation (PR) should be adopted and provided in the Constitution as our electoral system. It is strongly believed that more women can be assured of being elected to legislatures only through the party list system, with parties distributing the seats through proportional representation.
- 5.4 Under the basic PR method, as it is commonly known, contending parties draw up a list of candidates for the electoral district. Each district is allocated a set number of seats for the legislature. After voting, the total ballot count is divided by the available seats and parties are allocated by their vote count. We would like to argue that this would be the better way forward for women for women in Malawi.
- 5.5 It is also proposed that the Constitution should bind all political parties that representation shall be listed as one man for every woman or one woman for every man depending on how it is looked at. This will ensure that equitable number of women are also elected once the percentage of votes of the winning party are tallied.
- 5.6 It is also proposed that constituencies should be created in which only women should compete among themselves. e.g. Uganda.
- 5.7 It is further proposed that the President should be empowered to nominate MPs in consultation with Political Party Presidents.