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Research Title:

THE REPRESENTATION OF WOMEN IN MUNICIPAL COUNCILS AND EXECUTIVE
STRUCTURES – ANALYSING THE TRENDS IN THE IMPLEMENTATION OF THE
MUNICIPAL STRUCTURES ACT FROM THE RESULTS OF THE 2006 & 2011 SOUTH
AFRICAN LOCAL GOVERNMENT ELECTIONS

KEY WORDS

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Electoral system

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Gender equality

Local government elections

Mayoral committees

Political parties

Proportional Representation

Structures Act

The representation of women

Wards



LIST OF ABBREVIATIONS

ANC	African National Congress
DA	Democratic Alliance
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COPE	Congress of the People
DAWN	The Democratic Alliance Womens Network
ExCos	Executive Committee members
IDPs	Integrated Development Plans
IEC	Independent Electoral Commission
IFP	Inkatha Freedom Party
MIGs	Millennium Development Goals
MMCs	Mayoral Committee members
PR	Proportional Representation
SADC	Southern African Development Community
SALGA	South African Local Government Association
UN	United Nations

DECLARATION

I, Thulaganyo Goitseone Selokela, declare that ‘The Representation of Women in Municipal Councils and Executive Structures – Analysing the trends in the implementation of the Municipal Structures Act from the results of the 2006 and 2011 South African Local Government Elections’ is my own work and that it has not been submitted before for any degree or examination in any other University, and that all sources I have used or quoted have been indicated and acknowledged as complete references.

Signed:

Thulaganyo Goitseone Selokela

December 2012

Signed:

Mr Derek Powell (Supervisor)

December 2012



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DEDICATION

I dedicate this dissertation to all the women.

I would like to dedicate this dissertation to my family: my parents, Mr David and Mrs Irene Selokela. Also to my siblings; Raymond Selokela, Itumeleng Selokela, Aubrey Makgamatha, Masaka Makgamatha, Tumelo Phokanoka and my niece - Onthatile Selokela. The love and support that you all have shown me is greatly appreciated. I have achieved a lot during my academic endeavors, for you all were my pillar of strength and everything else. Thank you all.

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CHAPTER ONE

INTRODUCTION

1. A Background

The Municipal Structures Act (hereafter referred to as Structures Act)¹ requires a 50 per cent representation of female candidates on the political parties' lists for local government elections.² The Structures Act aims to implement the South African Constitution,³ which endorses gender equality and requires government policy and legislation to promote gender equality in the country.⁴ Historically women have been marginalised owing to the apartheid laws and the patriarchy system.⁵ Presently women account for 52 per cent of the overall South African population.⁶ For these reasons the national government has introduced policy and a Bill to promote the representation of women in public office and local government in particular.

The Local Government Gender Policy Framework⁷ and the National Gender Policy⁸ provide the policy framework for national, provincial and local government. The recently introduced Women Empowerment and Gender Equality Draft Bill⁹ seeks to set national standards for the inclusion of women in political office and their meaningful participation in decision-making roles both in the private and public spheres. These legislative and policy frameworks aim to

¹ Local Government: Municipal Structures Act 117 of 1998.

² Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act.

³ Constitution of the Republic of South Africa, 1996 (hereafter referred to as Constitution).

⁴ S 1(a)-(b), S 7 (1) and S 9 (2) - (3) Constitution.

⁵ South African History Online 'Women's struggles, 1900-1994' available on <http://www.sahistory.org.za/topic/womens-struggle-1900-1994> (accessed 30 July 2012).

⁶ Statistics South Africa 'Mid-year population estimates 2011' in Statistics South Africa's Statistical Release Report 2011 2 available at <http://www.statssa.gov.za/publications/P0302/P03022011.pdf> (accessed on 30 July 2012).

⁷ Ministry for Provincial and Local Government, Republic of South Africa *Gender Policy Framework for Local Government* (2007) (hereafter referred to as Local Government Gender Policy).

⁸ Office of The Status of Women *South Africa's National Policy Framework for Women's Empowerment and Gender Equality* (2000) (hereafter referred to as National Gender Policy).

⁹ The Women Empowerment and Gender Equality Draft Bill GN 701 GG 35637 of 29 August 2012 available at http://d2zmx6mlqh7g3a.cloudfront.net/cdn/farfuture/vXCGOMrLw1t_H7TOD75PXgI3rfaC2C0jB3VsW_465s/mtime:1346761774/files/bills/120829women.pdf (accessed 29 October 2012). The Bill was open for public comment 30 days from publication date in the Government Gazette. Upon the submission of this paper the Bill had not been promulgated.

change social practices by implementing gender equality and women's empowerment.¹⁰ The goal of eradicating gender discrimination and promoting the representation of women in political office in local government is only achievable if the legislation and policy are implemented in practice.¹¹

This research examines the representation of women in South African municipal councils. It focuses on the implementation of the Structures Act through a systematic analysis of the number of women represented in councils in the aftermath of the 2006 and the 2011 municipal elections. The paper focuses on three indicators of the implementation of the Structures Act: how the major political parties have responded to the requirement of gender equality; the actual number of women in council compared with the number of women candidates; and the representation of women in key executive positions. This data, which is drawn from various sources, will provide an indication of the adequacy of this legislative framework and the extent to which it is being implemented.

2. Problem statement

The Structures Act requires an equal distribution of male and female candidates on political party-lists.¹² Notwithstanding the progressive nature of the provision, evidence suggests that women remain under-represented in local municipal councils, and thus that there is a disjuncture between the legal framework and its implementation. The first problem addressed in this paper is that while many aspects of women's representation are monitored there has been no systematic assessment of the implementation of the provisions in the Structures Act requiring gender equality. In the absence of systematic research it is unclear whether the Act is effective and achieving its goals. Adequate implementation of legislation would mean that at least there is an equal representation of women in local government municipal councils and in the municipal executive structures.

The second problem relates to the Act itself. The wording used in the Structures Act creates uncertainty in that the provision leaves it to the discretion of political parties whether or not

¹⁰ Local Government Policy Framework (2007) 2 and National Policy Framework (2000) iii.

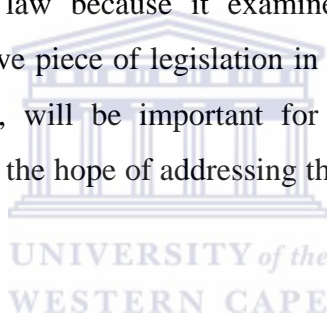
¹¹ See also Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

¹² Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act.

to include women candidates on political party-lists.¹³ The lack of peremptory language may be having a negative effect on the implementation of the Act. If parties are not forced to put up women candidates for municipal elections it is improbable that the 50 per cent target for women councillors in municipal councils will be achieved.

3. Significance of the issue

This study is important for the following reasons: first the research will contribute to the debate on gender representation in political office, specifically the representation of women in local government and its executive structures, an under-researched area. Secondly it will provide a systematic assessment of the implementation of the Structures Act, by generating statistical data relating to the implementation of the Act.¹⁴ Thirdly, this research will indirectly promote the rule of law because it examines empirical evidence about the implementation of a transformative piece of legislation in practice. Finally, the evidence the paper will provide, it is hoped, will be important for future researchers who want to investigate the problem further in the hope of addressing the problem of under-representation of women.



4. Research hypothesis / Argument

The working hypothesis is that the Structures Act is not being implemented in light of women being under-represented in council and municipal executive positions compared to men, and part of the problem is that there may be need to re-examine the legal framework within which the political parties and the electoral system¹⁵ play a significant role. The re-examination of the legal framework could aid in addressing under-representation of women councillors and increasing the chances of more women representatives in the municipal executive structures.

¹³ Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act. The wording used in the provisions creates uncertainty as to whether the requirement is mandatory or not. The mandatory effect has been minimised by the insertion of the word 'seek'.

¹⁴ Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act.

¹⁵ Local Government Municipal Electoral Act 27 of 2000. See also Electoral Act 73 of 1998.

5. Limitation on the scope of the study

This study specifically examines the implementation of the Structures Act, focusing on the representation of women councillors and women councillors in the municipal executive structures. There are several limitations to the study; first it is limited to the aggregate number of female councillors in municipal councils generally and secondly whether such representation correlates with the representation of women councillors in the executive and mayoral committees as well as mayoral positions. The study will not deal with the representation of women in administration.

The study analyses the formal policies on gender of the major political parties only: namely the African National Congress, Democratic Alliance, Congress of the People and Inkatha Freedom Party, in relation to the implementation of the Structures Act.¹⁶

The scope of the study is limited to the data on the aggregate representation of women obtained from the Electoral Commission (hereafter referred to as IEC)¹⁷ after the 2006 and 2011 municipal elections. The data is based on the representation of women across all 278 South African municipalities. In addition the data in chapter 4, which examines the municipal executive structures, is limited to a sample of 191 municipalities. The smaller sample of 191 municipalities, instead of all 278 South African municipalities, is a result of the difficulties the author encountered in the collating of data regarding the representation of women in executive and mayoral committees.

6. Literature survey

There is considerable literature on gender representation, much of it written by academics, non-governmental organisations and public institutions. There is however little research on the systematic implementation of the Structures Act specifically. The literature is also silent

¹⁶ The sample of these four parties is informed by their dominance as represented in the National Assembly. See South African Parliamentary Monitoring Group 'Political Party Representation in National Assembly' 2009 available at <http://www.pmg.org.za/node/30331> (accessed 8 September 2012). See also Commission for Gender Equality *Gender and The Elections: Local Government Elections Report 2011* (2011) 5.

¹⁷ The Electoral Commission was formerly referred to as the Electoral Commission.

on whether the overall representation of women in municipal councils translates into actual positions of authority in executive decision-making positions. Do women who make it onto council get appointed to genuine leadership positions in the executive? The most recent and relevant data is the election report compiled by the Gender Links, which provides a comprehensive overview of the representation of women in municipal council after both the 2006 and 2011 municipal elections.¹⁸ However, the report does not address the representation of women in the executive and mayoral committees. Likewise, the Commission for Gender Equality (hereafter referred to as Gender Commission) post-election report explains the various issues affecting women at the local government level, such as gender representation in relation to the Integrated Development Plans (IDPs).¹⁹ Although the report mentions elections statistics and results from the local government elections for the periods 2006 and 2011, it does not provide a detailed analysis of the composition of the municipal executive structures for those periods.

The Gender Policy Framework that was developed by the former Department of Provincial and Local Government serves as a working manual for local government in complying with its constitutional developmental mandate.²⁰

Cathi Albertyn concentrates on gender representation in the context of equality and socio-economic rights of women. She justifies her push for the empowerment of women on the grounds that they are marginalised in substantive decision-making roles in their communities.²¹ She does not, however, elaborate clearly on the impact of legislation on gender inequality specifically in local government.

Whilst Beth Goldblatt and Cathi Albertyn speak of women being excluded as decision-makers, participants and citizens in the public sphere pre-1994, they fall short of explaining the precise nature of the representation of women in the political structures at local government level.²² They explain women's influence in the various political processes, which

¹⁸ Gender Links *Gender in the 2011 South African Local Elections* (2011) available at www.genderlinks.org.za/attachment.php?aa_id=13710 (accessed 9 September 2012).

¹⁹ Commission for Gender Equality *Gender and The Elections: Local Government Elections Report 2011* (2011).

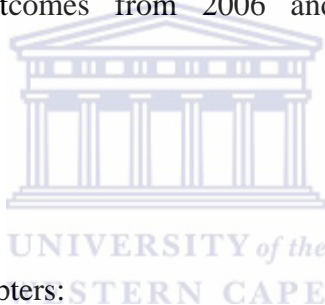
²⁰ Local government Gender Policy (2007) 2.

²¹ Albertyn C 'Equality' in Elsje & Albertyn (eds) *Gender, law and Justice* (2007) 82-3.

²² Albertyn C & Goldblatt B 'Women and the state' in Elsje & Albertyn (eds) *Gender, law and Justice* (2007) 382.

the South African government has undergone, but their study focus mainly on the participation of women at national government level and non-governmental organisations.²³ Whereas Goldblatt and Albertyn acknowledge that the representation of women in local government is inadequate, they do not elaborate on what constitutes the inadequacy.

Susan Tolmay and Colleen Morna's²⁴ work focus on gender equality and the electoral processes in the context of the 2008 Southern African Development Community (hereafter referred to as SADC) Protocol on Gender and Development, which requires member states to pursue a target of 50 per cent women in decision-making positions by 2015. Tolmay and Morna state that women are more likely to attain adequate representation under the closed-list proportional representation (hereafter referred to as PR).²⁵ This may be true, however, the authors do not specifically discuss the implementation of the Structures Act. The authors also do not offer a critical analysis of the trends in the representation of women in South African local government elections outcomes from 2006 and 2011 within the context of implementing the Structures Act.



7. Structure of the study

The paper is divided into five chapters:

Chapter one provides an introduction to the study, outlines the problem statement and the main arguments that will be examined in the subsequent chapters, and explains the methodology that was used, as well as the limitations of the research.

Chapter two examines the legislation and policy that is applicable to the representation of women in local councils. The key domestic legislation includes the Structures Act, the Electoral and Municipal Electoral Act and the Constitution.

²³ Albertyn C & Goldblatt B (2007) 390.

²⁴ Tolmay S & Morna CL 'Consolidating Democratic Governance in the SADC Region' in Gender Links (ed) *This seat is taken: Elections and the under-representation of women in seven Southern African Countries* (2010) 12, 24.

²⁵ Tolmay S & Morna CL (2010) 12-15.

The chapter examines national and local government gender policies²⁶ and the recent Women Empowerment and Gender Equality Draft Bill by the Ministry for women, children and people with disabilities. Finally, the chapter examines national legislation and policy in relation to South Africa's international obligations to address gender equality and empower women through appointment to political office.

Chapter three examines the implementation of the Structures Act, focusing on how the major political parties have responded to and implemented the Act. The chapter also shows trends in statistical data on the actual representation of women across all 278 municipal councils in the 2006 and 2011 municipal elections.

Chapter four focuses on the representation of women in the municipal executive structures in a sample of 191 municipalities, with a view of assessing whether there is correspondence between aggregate representation in council and actual empowerment in positions of authority. The data also indicate the representation of female mayors and executive mayors as well as the female deputy mayors and executive mayors in municipal council.

The legislative framework governing the executive structures at local government is briefly explained and data on the representation of women in the executive and mayoral committees is also examined.

Chapter five then draws together the main trends and findings from the research and makes specific recommendations to improve the implementation of the Structures Act, including the possible amendment of the electoral system and more stringent measures to ensure compliance with legislation by political parties.

8. Methodology

The methodology that is used involves both qualitative and secondary quantitative assessments of the implementation of the Structures Act. Empirical data on the 2006 and 2011 municipal elections, which are drawn from sources such as municipalities' websites and

²⁶ Cabinet approved the National Gender Policy in 2002. See South African Government Online '16 Days of Activism Campaign Concept Document' available http://www.info.gov.za/events/2006/16days/Campaign_Concept_2006.pdf (accessed 13 November 2012). It is uncertain if and when the Local government Gender Framework was adopted.

the IEC, will be examined.²⁷ Furthermore, legislation and government publications, which refer to gender representation, the electoral systems and the Constitution, will be reviewed. Apart from the above primary sources, this paper also involved reviewing and studying gender provisions in the different political parties' constitutions and policies. Other materials reviewed include reports by the Commission for Gender Equality. Secondary sources include writings from other scholars including newspaper articles.



²⁷ Electoral Commission (IEC) municipal elections results and reports 2006 and 2011 available on <http://www.iec.org.za> (accessed 25 June 2012). The author has gone to great lengths to confirm and verify the data. To this extent, the study in part is classified as a secondary qualitative study.

CHAPTER TWO

LEGISLATIVE AND POLICY FRAMEWORK

1. Introduction

This chapter examines the legislative and policy framework governing women's empowerment and gender equality in municipal councils. First, the chapter briefly examines South Africa's international obligations to adopt and implement progressive legislation and other measures to include women in the political sphere. Secondly, the chapter examines the domestic legislation and policy that promotes gender equality in South Africa, focusing in particular on the Structures Act¹, which seeks to improve the number of women councillors by requiring 50 per cent of candidates on party-lists to be women. The purpose of this examination is to assess whether the current legislation and policy is adequate to promote the representation of women in local government.



WESTERN CAPE

2. South Africa's international obligations concerning gender equality and women empowerment

South Africa has ratified a number of international instruments governing women's rights, gender equality and the participation of women in public life.² Five instruments will be discussed in this section: The first is the Protocol to the African Charter on Human and People's Rights on the Rights of Women In Africa (hereafter referred to as African Protocol On Women's Rights).³

¹ Local Government: Municipal Structures Act 117 of 1998 (hereafter referred to as Structures Act).

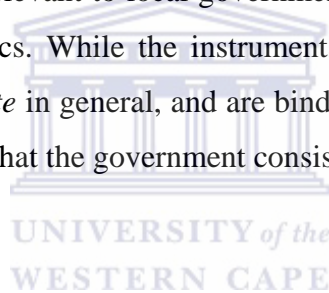
² Trust Law- A Thomas Reuters Foundation Service 'Trust Law Women: Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa' available at <http://www.trust.org/trustlaw/womens-rights/international-conventions/index.dot?id=b505e9f6-517d-4f6d-9187-633de1ef7e59> (accessed 9 September 2012).

³ African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 11 July 2003, AHG/Res.240 (XXXI) available at <http://www.unhcr.org/refworld/docid/3f4b139d4.html> (accessed 9 September 2012).

Secondly, the Southern African Development Community 2008 Protocol on Gender and Development (hereafter referred to as Protocol on Gender and Development).⁴ Thirdly, the United Nations' (UN) Convention on the Elimination of All Forms of Discrimination Against Women (hereafter referred to as CEDAW).⁵ Fourthly, the Beijing Declaration and Platform for Action (hereafter referred to as the Beijing Declaration and Platform).⁶ Finally, the Millennium Development Goals.⁷

The South African government has committed to uphold the objectives and standards as stated in the above instruments. Ratification and commitment place South Africa under an obligation to observe and implement measures, which would encompass the realisation of the objectives.

The aim of this section is to examine the international obligations that are binding on the South African government and relevant to local government, specifically with regards to the participation of women in politics. While the instruments do not expressly mention *local government*, they refer to the *State* in general, and are binding on local government by virtue of the Constitution, which states that the government consists of national, provincial and local spheres of government.⁸



⁴ Southern African Development Community 'SADC Protocol On Gender and Development' available at <http://www.sadc.int/index/browse/page/465> (accessed 9 September 2012).

⁵ Convention on the Elimination of All Forms of Discrimination Against Women, 1979 Res U.N.T.S. 13 United Nations General Assembly Resolution 1249 (1979).

⁶ Beijing Declaration and Platform of Action, 1995 United Nations General Assembly Resolution 50/203 (1995).

⁷ United Nations 'Millennium Development Goals' available at <http://www.un.org/millenniumgoals/gender.shtml> (accessed 6 September 2012).

⁸ S 40 (1) the Constitution of the Republic of South Africa, 1996 (hereafter referred to as Constitution).

2.1 Protocol to the African Charter on Human and People's Rights on the Rights of Women In Africa

The African Protocol On Women's Rights was adopted in 2003 by the African Union, specifically to address women's rights in Africa⁹ and give effect to the African Charter on Human and People's Rights.¹⁰

A key objective of the African Protocol On Women's Rights is to align African development aspirations on matters relating to gender equality and women's empowerment with other international instruments.¹¹ Member States are under an obligation to ensure the full participation of African women as equal partners in Africa's development.¹²

Article 9 states that member states are required to put positive measures in place, to ensure the participation of women in the government structures.¹³ Members are required to develop and implement affirmative action measures that will enhance and advance women participation in political decision-making processes.¹⁴

Member States must ensure through legislation that women are equally represented at all levels of government throughout all electoral processes,¹⁵ and that the representation of women also translates into positions of decision-making.¹⁶ The participation of women in South African municipal executive is examined in detail under chapter 4.

⁹ African Union, OAU/AU Treaties, Conventions, Protocols, Charters available at <http://www.africa-union.org/root/au/Documents/Treaties/treaties.htm> (accessed 21 November 2012).

¹⁰ Organization of African Unity, 'African Charter on Human and Peoples' Rights ("Banjul Charter")' 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at <http://www.unhcr.org/refworld/docid/3ae6b3630.html> (accessed 9 September 2012). See also

Preamble African Protocol On Women's Rights.

¹¹ Preamble African Protocol On Women's Rights.

¹² Preamble African Protocol On Women's Rights.

¹³ African Protocol On Women's Rights.

¹⁴ Article 9 (1) Protocol On Women's Rights.

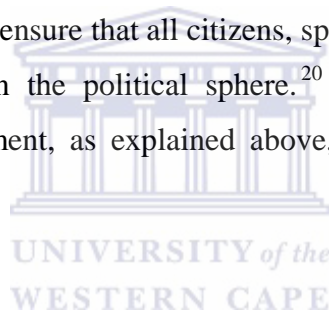
¹⁵ Article 9 (1)(b) Protocol On Women's Rights.

¹⁶ Article 9 (2) Protocol On Women's Rights.

2.2 Southern African Development Community 2008 Protocol on Gender and Development

The Protocol on Gender and Development was adopted in 2008 after the adoption of both the African Charter on Human and People's Rights and the African Protocol On Women's Rights. The Protocol on Gender and Development is a policy document that commits the member states to achieving gender equality through the implementation of set targets.¹⁷ The Southern African Development Community (hereafter referred to as SADC) member states, South African being one, are to ensure that 50 per cent representation of women is attained through political processes and that the proportion of women in decision-making positions is 50 per cent by 2015.¹⁸

Article 12 (2) states that the representation of women and their participation in the public sphere should go beyond mere numeric representation.¹⁹ Every member state is required to establish democratic measures to ensure that all citizens, specifically women, have access and the opportunity to participate in the political sphere.²⁰ Although the Protocol does not explicitly refer to local government, as explained above, that reference is implied in the expression 'public sphere'.



2.3 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women is an international human rights' treaty that aims to establish equality between men and women in all areas of life. CEDWA was adopted by the UN General Assembly in 1979, and is described as an international Bill of Rights for women. CEDAW requires member states to implement legislation and other measures to eradicate all forms of discrimination against women.²¹ Article 1 of CEDAW defines gender discrimination as -

¹⁷ Preamble Protocol on Gender and Development.

¹⁸ Article 12 (1) Protocol on Gender and Development.

¹⁹ Protocol on Gender and Development.

²⁰ Article 12 (2) Protocol on Gender and Development.

²¹ United Nations 'An overview The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)' available at <http://www.un.org/womenwatch/daw/cedaw/> (accessed 21 November 2012).

‘any distinction, exclusion or restriction ... which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of ... fundamental freedoms in the [political], economic, social, cultural, civil or any other field’.²²

The adoption of CEDAW was an acknowledgement by member states that discrimination in whatever form is a violation of the rights to equality and human dignity of women.²³ Further, that discrimination creates obstacles for the full participation of women, on the same equal basis as men, in the political life of a state.²⁴ Political discrimination preventing women from fully participating in the political arena inhibits the full development of women in governance.²⁵ Governance in South Africa vests in the national, provincial and local spheres of government, making CEDWA applicable to local government.

2.4 Beijing Declaration and Platform for Action

The Beijing Declaration and Platform for Action is commonly referred to as a single document but it has two components. First the Beijing Declaration is the actual commitment by member states to adopt measures, which will give effect to women’s empowerment and achieve gender equality. The Platform for Action is the plan on how the member states intend to meet their commitments and achieve the objectives set out in the declaration.²⁶ The commitment by member states to devise this action plan was based on the realisation that some women face particular barriers to their empowerment.²⁷ To this end government and civil society are called upon to take strategic actions in addressing the inequality between men and women in the sharing of power and decision-making at all levels.²⁸

The Platform for Action required governments and civil society to take concrete action over a period of five years from 1995, to incorporate the objectives and principles that were contained in the Declaration as being the foundation for women’s empowerment, into

²² Article 1 Part I CEDWA.

²³ Annex 194 CEDWA.

²⁴ Annex 194 CEDWA.

²⁵ Annex 194 CEDWA.

²⁶ Annex I (24) Beijing Declaration and Platform

²⁷ Annex II (3) Beijing Declaration and Platform.

²⁸ Annex II (44) Beijing Declaration and Platform. See also United Nations *The United Nations and The Advancement of Women 1945-19* in The United Nations Blue Books Series Vol IV (1996) 64.

domestic legislation.²⁹ The Platform for action proposed strategic objectives and concrete actions which government should adopt in achieving stated objectives. Although there are many strategic objectives mentioned, the focus here is on the representation of women in decision-making structures. Governments and political parties are required to ensure that women have equal access to power structures and to be able to fully participate in decision-making within those structures.

The Platform for action provides the following actions to be taken by governments:

‘Take measures, including, where appropriate, in electoral systems that encourage political parties to integrate women in elective and non-elective public positions in the same proportion and at the same levels as men;’³⁰

‘Review the differential impact of electoral system on the political representation of women in elected bodies and consider, where appropriate, the adjustment or reform of those systems;’³¹ and

‘Monitor and evaluate progress in the representation of women through regular collection, analysis and dissemination of quantitative and qualitative data on women and men at all levels in Government on a yearly basis; ensure that women and men have equal access to the full range of public appointments and set up mechanisms within governmental structures for monitoring progress in this field’.³²

The Platform for action provides the following actions to be taken by political parties:

‘Consider examining party structures and procedures to remove all barriers that directly or indirectly discriminate against the participation of women;’³³

²⁹ United Nations (1996) 64.

³⁰ Annex II (190)(b) Beijing Declaration and Platform.

³¹ Annex II (190)(d) Beijing Declaration and Platform.

³² Annex II (190)(e) Beijing Declaration and Platform.

³³ Annex II (191)(a) Beijing Declaration and Platform.

‘Consider developing initiatives that allow women to participate fully in all internal policy-making structures and appointive and electoral nominating processes;’³⁴ and

‘Consider incorporating gender issues in their political agenda, taking measures to ensure that women can participate in the leadership of political parties on equal basis with men.’³⁵

The Declaration sought to provide specific plans of action to aid member states and political parties to adopt and develop measures that advance and address the representation of women in power and decision-making structures whether in government or within political parties. The Beijing Declaration and Platform for Action is applicable to local government sphere because of the reference to the word ‘government’, it is also applicable to local government elections because political parties are requested to allow women full participation in electoral nominating procedures.



2.5 Millennium Development Goals (MDGs)

The United Nations Millennium Declaration³⁶ represented, among other things, a collective agreement by member states to uphold the principles of human dignity and equality at a global level.³⁷ The Declaration led to the adoption of eight critical economic and social development priorities, commonly referred to as the millennium development goals (hereafter referred to as MDGs), which must be achieved by 2015.

Article 20 of the Millennium Declaration states that promoting gender equality and advancing women are essential to eradicate poverty and stimulate development.³⁸ The Article has three components: First, the Article has been commonly referred to as the third

³⁴ Annex II (191)(b) Beijing Declaration and Platform.

³⁵ Annex II (191)(c) Beijing Declaration and Platform.

³⁶ Millennium Declaration, 2000 United Nations General Assembly Resolution 55/22 (2000) (hereafter referred to as Millennium Declaration).

³⁷ Preamble Millennium Declaration.

³⁸ United Nations ‘Millennium Development Goals’ available at <http://www.un.org/millenniumgoals/gender.shtml> (accessed 6 September 2012).

millennium goal.³⁹ Secondly, the third millennium goal is specifically aimed at addressing the insufficient participation of women in the political sphere. Finally, the third goal requires other measures, other than quotas, to advance the participation of women in politics.⁴⁰ Chapter 3 further examined the issue of using a quota policy to improve the representation of women in local government.

As South Africa is a signatory to the Millennium Declaration, government is required to devise an implementation plan and other mechanisms, which will monitor and indicate the progressive realisation of the third millennium goal.⁴¹ The 2010 Millennium Development Goals Country Report compiled by Statistics South Africa revealed that the South African government has adopted policies and mechanisms to advance the participation of women in the political platform.⁴² The examples of these mechanisms that are cited in the report included: a National Gender Policy Framework and the creation of the Ministry for Women, Children and People with Disabilities.⁴³ The Ministry is mandated to coordinate and monitor compliance with the domestic and global obligations to address the challenges in the achievement of equality and women's empowerment, as well as other challenges facing children and people with disabilities.⁴⁴

This section discussed a number of international instruments that South Africa has ratified, to whose standards and objectives the country is therefore bound. The obligations apply to 'government' at all levels, and hence to local government in particular by virtue of it being a sphere of government under the Constitution. The next section will examine the domestic legislation regulating the representation of women.

³⁹ United Nations 'Goal 3: Promote Gender Equality and Empower Women' available at <http://www.un.org/millenniumgoals/gender.shtml> (accessed 6 September 2012) (hereafter referred to as third millennium goal).

⁴⁰ Third millennium goal available at <http://www.un.org/millenniumgoals/gender.shtml> (accessed 6 September 2012).

⁴¹ United Nations Development Programme South Africa available at <http://www.undp.org.za/millennium-development-goals> (accessed 6 September 2012).

⁴² Statistics South Africa *Millennium Development Goals Country Report 2010* 13 available at http://www.statssa.gov.za/news_archive/Docs/MDGR_2010.pdf (accessed 6 September 2012) (hereafter referred to as Stats SA MDG report (2010)).

⁴³ Stats SA MDG report (2010) 51.

⁴⁴ See Department of Women, Children and People with disabilities available at <http://www.dwcpd.gov.za/about/background/> (accessed 14 November 2012).

3. South African National Legislation and gender equality

3.1 The Constitution

The Constitution promotes equality among all South Africans, the values of non-racialism and non-sexism, and encourages the realisation of gender equality.⁴⁵ The Constitution requires national, provincial and local governments to adopt legislation and other measures to advance and promote gender equality.⁴⁶

Women in society have suffered discrimination on the basis of their gender. In the apartheid era, working class black women experienced both racial and gender oppression.⁴⁷ In general women were denied equal access to social, political and economic benefits that were available to men.⁴⁸ The political system of discrimination specifically excluded women from participation in decision-making roles.⁴⁹ This is the context that informs the obligation in section 9 (2) of the Constitution that all spheres of government, including local government, should put in place redistributive measures to ensure that women are equally represented in the public sphere.⁵⁰

The establishment of constitutional structures that promote gender equality reinforces the constitutional commitment to gender equality. Two institutions in particular have mandates in respect of gender equality. The South African Human Rights Commission is responsible for the protection of all human rights in the Bill of Rights, including the right to equality.⁵¹ The Commission for Gender Equality (hereafter referred to as the Gender Commission) has the mandate to monitor, investigate and report on issues concerning gender equality.⁵²

⁴⁵ Albertyn C 'Constitutional Equality in South Africa' in Dupper O & Garbers C (eds) *Equality In The Workplace Reflections from South Africa and Beyond* (2009) 75. See also S 1(b) Constitution.

⁴⁶ S 9 (2) read together with S 7 (2) Constitution.

⁴⁷ Bonthuys E & Domingo W 'Constitutional and international law context' in Bonthuys E & Albertyn C (eds) *Gender, law and Justice* (2007) 74.

⁴⁸ Bonthuys E & Albertyn C 'Introduction' in Bonthuys E & Albertyn C (eds) *Gender, law and Justice* (2007) 7. See also Gender Advocacy Programme 'Gender and Policy Making for Local Government: Drakenstein and Beyond' (2005) 7.

⁴⁹ Gender Advocacy Programme (2005) 7.

⁵⁰ S 7 (2) Constitution. S 9 (2) states that Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.

⁵¹ S 184 Constitution.

⁵² S 187 (2) read together with S 187 (1) Constitution.

In a recent report, the Gender Commission has acknowledged the importance of women's political representation and municipal gender mainstreaming.⁵³ Based on its assessment of the 2011 local government elections outcome, the Gender Commission has developed a programme of action to address the problem of inadequate representation of women at local government.⁵⁴ Among the activities that the Gender Commission plans to undertake is securing the commitment from political parties to promote gender equality. Cooperation by the political parties, in the view of the Gender Commission, is essential to ensuring that women are equally represented in local government, as required by the Structures Act.⁵⁵ The extent to which the major political parties are committed to promoting gender equality is explored further in the next chapter, which examines the policy positions adopted by the major parties in regard to gender equality.

3.2 The Promotion of Equality and Prevention of Unfair Discrimination Act

The Promotion of Equality and Prevention of Unfair Discrimination Act⁵⁶ (hereafter referred to as Equality Act) prohibits unfair discrimination.⁵⁷ The Equality Act seeks to eliminate unfair discrimination and promote equality, and contains measures that are designed to advance previously disadvantaged individuals such as women.⁵⁸ The application of the Equality Act extends to all persons including the State.⁵⁹ According to the Constitution, government [the State] includes local spheres of government; therefore the provisions of the Equality Act are directly applicable to local government.⁶⁰

Chapter 2 of the Equality Act deals with the prevention, prohibition and elimination of unfair discrimination. Section 8 prohibits unfair discrimination based on gender. The section provides that:

⁵³ Commission for Gender Equality *Gender and The Elections: Local Government Elections Report 2011* (2011) 2.

⁵⁴ Commission for Gender Equality (2011) 2.

⁵⁵ Commission for Gender Equality (2011) 2.

⁵⁶ 4 of 2000.

⁵⁷ S 2(c) read together with s 3(c) and (i) Equality Act.

⁵⁸ Preamble Equality Act.

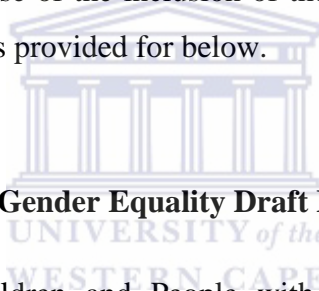
⁵⁹ S 5 (1) Equality Act.

⁶⁰ S 40 (1) Constitution.

‘No person may unfairly discriminate against any person on the ground of gender, including the denial of access to opportunities ... or failing to take steps to reasonably accommodate the needs of such persons’.⁶¹

The section has three components; first unfair discrimination on the basis of gender is prohibited. Secondly, denying any person, including women, access to opportunities constitutes unfair discrimination. Finally, the failure by any person to take steps to allow access to such opportunities is an act of unfair discrimination.

The Structures Act and the Equality Act must be read in conjunction with one another in giving effect to the constitutional mandate for the achievement of gender equality, because the Equality Act, unlike the Structures Act, imposes a duty on the State and all persons to develop measures, which will promote equality.⁶² The obligation extends not only to the State but also to political parties because of the inclusion of the phrase ‘all persons’.⁶³ A detailed discussion on the Structures Act is provided for below.



3.3 Women Empowerment and Gender Equality Draft Bill

The Ministry For Women, Children and People with Disabilities drafted the Women Empowerment and Gender Equality Draft Bill, which has been recently approved by Cabinet.⁶⁴ The Gender Equality Bill seeks to give effect to the constitutional mandate for the achievement of gender equality and also South Africa’s international obligations to adopt and implement gender-mainstreaming mechanisms.⁶⁵

⁶¹ S 8(h) Equality Act.

⁶² S 25 (1)(b) Equality Act.

⁶³ The Equality Act defines ‘persons’ as both natural and juristic persons. A political party is a juristic person because it’s an association of natural persons able to act, sue and be sued in its own name. See Heaton J *The South African Law of Persons* 3 ed (2012) 5.

⁶⁴ The Women Empowerment and Gender Equality Draft Bill GN 701 GG 35637 of 29 August 2012 available at

http://d2zmx6mlqh7g3a.cloudfront.net/cdn/farfuture/vXCGQMrLw1t_H7TOD75PXgI3rfaC2C0jB3VsW_465s/mtime:1346761774/files/bills/120829women.pdf (accessed 29 October 2012) (hereafter referred to as the Gender Equality Bill).

⁶⁵ Preamble Gender Equality Bill.

The Gender Equality Bill promotes women's empowerment and gender equality, prohibits unfair discrimination against women, and provides sanctions for non-compliance.⁶⁶ The insertion of sanctions seeks to enforce the achievement of women empowerment and substantive gender equality. Defaulting parties will be liable to a fine and imprisonment for a period not exceeding five-years.⁶⁷ The sanction is complemented by a provision that allows the Minister for women, children and people with disabilities to establish mechanisms to promote substantive gender equality.⁶⁸

In addition to the sanction, the Gender Equality Bill imposes the obligation on all spheres of government, including local government, to eliminate discrimination against women in the political sphere.⁶⁹ In so doing, government must take special measures to afford women equal representation and participation in all sectors.⁷⁰ Specifically, section 11 of the Gender Equality Bill requires that all entities, including spheres of government, develop measures to achieve at least 50 per cent representation and meaningful participation of women in decision-making structures. To achieve this target, the section requires government to set targets which will ensure that the representation of women is equal to that of men. The targets relate to, among other things, building the capacity of women to participate in decision-making, and enhancing the understanding of men to accept the capabilities and participation of women as their equals.⁷¹

The Gender Equality Bill provides:

‘All entities must, within their ambit of responsibilities develop measures to achieve at least [fifty percent] representation and meaningful participation of women in decision-making structures.’⁷²

In addition, the Gender Equality Bill also provides:

‘The Minister, acting in the interests of women as a group or class of persons , may use any and all dispute resolutions mechanisms, including parliamentary procedures and

⁶⁶ Chapter 4 Gender Equality Bill.

⁶⁷ S 6 Gender Equality Bill.

⁶⁸ S 5 (1) - (2) Gender Equality Bill.

⁶⁹ S 8 (1) Gender Equality Bill.

⁷⁰ S 8 (3)(c) Gender Equality Bill.

⁷¹ S 11(a) – (c) Gender Equality Bill.

⁷² S 11 Gender Equality Bill.

court process to address - ... non compliance, contravention , or breach of any provision of this Act'.⁷³

The Gender Equality Bill is thus relevant to addressing gender equality in local government in the following ways: first, it is applicable to all entities, including the local government executive.⁷⁴ Secondly, the local executive must adopt progressive measures that will ensure equal representation of women and men. Thirdly, the measures must further ensure that women occupy meaningful positions. Finally, the Minister for women children and people with disabilities is permitted to use parliamentary procedures and court processes to address non-compliance. A question that will be considered is whether the Structures Act in its present form goes far enough in meeting these obligations in the Bill.

3.4 The Electoral System

There are two electoral Acts that govern elections and the electoral systems in South Africa. The Electoral Act⁷⁵ is applicable to both the provincial and the national elections, which run concurrently. The Local Government Municipal Electoral Act⁷⁶ regulates local elections. The electoral system is important because it sets the normative framework for the election of public representatives.⁷⁷ The electoral system legitimatises the outcome of elections by providing systematic framework connecting the electoral results and the allocation of seats in council.⁷⁸ The electoral system directly affects the representation of women because the political parties must select election candidates within the parameters of the system. The candidate lists that are drawn up by the parties must be submitted to the Electoral Commission to enable the party candidates to partake in the elections.⁷⁹ The Electoral Commission is a constitutional body that manages and oversees elections for national, provincial and local governments.⁸⁰

⁷³ S 12(b) Gender Equality Bill.

⁷⁴ S 4(b) Gender Equality Bill provide that the definition of 'entity' include the executive in the local sphere of government.

⁷⁵ 73 of 1998 (hereafter referred to as Electoral Act).

⁷⁶ 27 of 2000 (hereafter referred to as Municipal Electoral Act).

⁷⁷ Knirsch TS 'Preface' in Konrad-Adenauer-Stiftung (ed) *Electoral Models for South Africa* 2 ed 2007) xiii.

⁷⁸ Knirsch TS 'Preface' in Konrad-Adenauer-Stiftung (ed) *Electoral Models for South Africa* 2 ed 2007) xiii.

⁷⁹ S 26 – 27 Electoral Act and S 13 – 15 Municipal Electoral Act.

⁸⁰ S 190 (1)(a) Constitution.

The difference between the two electoral Acts relates to the type of electoral system. The electoral system for local government elections combines the proportional representation (hereafter referred to as PR) and ward system,⁸¹ whereas the electoral system for national and provincial elections is based solely on the PR system.⁸² In the PR system, the political party determines the order in which the candidates are ranked on the party lists that are submitted for elections.⁸³ An important issue that arises for later consideration that should be noted here is whether the type of electoral system in local government advances or impedes the representation of women.

4. South African Local Government Policy and Legislation Framework

4.1 The significance of gender policy

The South African government has introduced two key gender policies since 1994.⁸⁴ The National Policy Framework for Women's Empowerment and Gender Equality⁸⁵ and the Local Government Gender Policy Framework⁸⁶ seek to provide a general policy framework for gender mainstreaming and the advancement of women at all levels of government. The policy frameworks have been developed to guide and support all sectors to adopt measures and implementation plans to ensure that women and men have equal access to social, economic and political opportunities.

4.2 National Policy Framework for Women's Empowerment and Gender Equality

The National Policy Framework for Women's Empowerment and Gender Equality (hereafter referred to as the National Gender Policy) seeks to give effect to the Constitution and undo

⁸¹ S 157 (2)(a) read together with S 157 (2)(b) Constitution.

⁸² Gender Links *At the Coalface Gender and Local Government in Southern Africa* (2007) 89.

⁸³ 26(b) Electoral Act. See also Gender Links *Gender in the 2011 South African Local Elections* (2011) 6 available at www.genderlinks.org.za/attachment.php?aa_id=13710 (accessed 9 September 2012).

⁸⁴ The Constitution has facilitated and instructed the establishment of national legislation, policy-making and other measures to advance gender equality in all spheres of government. See S 9 (2) read together with S 9 (3) Constitution.

⁸⁵ Office of The Status of Women *South Africa's National Policy Framework for Women's Empowerment and Gender Equality* (2000) 2 (hereafter referred to as National Gender Policy).

⁸⁶ Ministry of Provincial and Local Government, Republic of South Africa *Gender Policy Framework for Local Government* (2007) (hereafter referred to as Local Government Gender Policy).

the injustices of the past. The policy seeks to advance the status of women as well as the achievement of gender equality.⁸⁷ The policy does this by establishing a general policy framework to guide the process of developing laws, policies, procedures and practices to ensure that women and men have equal opportunities in all spheres and structures of government.⁸⁸

The National Gender Policy provides indicators for monitoring and evaluating progress in implementation.⁸⁹ The key responsibility for monitoring and evaluation resides with the Ministry for women, children and people with disabilities (formerly it was the Office of the Status of Women).⁹⁰

Three key long-term indicators relate directly to local government.⁹¹ The indicators are meant to show whether there has been an improvement to the status of women in political structures and the status of women in public and private office generally. Key indicators relate to improving the participation of women in political decision-making, men accepting women as their equals in decision-making at all levels of public and private spheres, and enhancing the recognition of the value and contribution women add to society.

The two indicators used in this study are broadly consistent with the general indicators used in the National Gender Policy. The extent to which there is representation of women in the executive structures of local government is an indicator of whether the National Gender Policy is adequately implemented. The measure of adequate implementation is equal representation of men and women in political decision-making. Although, the National Gender Policy does not explicitly emphasise on local government, it does provide a generic framework, which should guide the development of gender sensitive policies by all entities including civil society and local government. A detailed discussion of women in decision-making positions at local government is examined under chapter 4.

⁸⁷ National Gender Policy (2000) 5.

⁸⁸ National Gender Policy (2000) 4.

⁸⁹ National Gender Policy (2000) 47.

⁹⁰ National Gender Policy (2000) 47.

⁹¹ National Gender Policy (2000) 48 - 52.

4.3 The Local Government Gender Policy Framework

The Local Government Gender Policy Framework has as its pillar the National Gender Policy. The Local Government Gender Policy impacts on gender representation in local government because the policy framework provides general guidelines for local government on gender and development and also gives effect to the National Gender Policy.⁹²

The Local Government Gender Policy and development initiatives were informed by the international instruments that South Africa is signatory to and the domestic legislative framework. Specially, the Structures Act, which requires local government to incorporate equality and equality principles in local government structures. The guidelines provided for by the policy framework gives effect to and encourages the Structures Act's call for equal distribution of female and male election candidates.⁹³

The drafting of the Framework by the former Department of Provincial and Local Government⁹⁴ acknowledged the different characteristics inherent in all municipalities, therefore, and provided broad guidelines.⁹⁵ From these guidelines each municipality in whatever category and size should establish and implement gender policies within the necessary gender infrastructure.⁹⁶

The Local Government Gender Policy states that gender mainstreaming in local government should encourage municipal transformation and organisational development.⁹⁷ The Framework highlights that policy-making and employment practices in local government should ensure equal participation of women at all levels of decision-making.⁹⁸ And that all municipalities must implement policy for the advancement of women as guided by the

⁹² Local government Gender Policy (2007) 3.

⁹³ Local Government Gender Policy (2007) 2-3.

⁹⁴ Local Government Gender Policy (2007) 3. The Department of Provincial and Local Government is the predecessor to the current Department of Cooperative Governance and Traditional Affairs. See Mataboge M 'Cooperative Governance director-general quits' *City Press* 2012 available at <http://www.citypress.co.za/Politics/News/Cooperative-Governance-director-general-quits-20120112> (accessed 8 September 2012).

⁹⁵ Local Government Gender Policy (2007) 3.

⁹⁶ Local Government Gender Policy (2007) 3.

⁹⁷ Local Government Gender Policy (2007) 12.

⁹⁸ Local Government Gender Policy (2007) 16.

framework especially when the Constitution has specifically instructed municipalities on its developmental roles.⁹⁹

The policy framework also provides an implementation plan that outlines 3 key priority areas.¹⁰⁰ The first, to promote the role of local government as a developmental sphere of government by ensuring that gender equality is achieved at that level.¹⁰¹ Second, to create the organisational support needed for gender mainstreaming at the local government.¹⁰² Third, increase representation and participation of women in leadership and in municipal councils.¹⁰³ These priority areas are important because they indicate that the Local Government Policy Framework is not only aimed at achieving gender equality generally but that the framework should be used to increase the representation of women in municipal councils.

The Framework also attaches indicators and sets targets along with the implementation plan that would show whether the priority areas are being addressed. According to the framework gender equality would be achieved if: first, when the national gender framework has been adopted and implemented.¹⁰⁴ Second, by the establishment of national capacity building and support ground including comprehensive gender awareness campaign.¹⁰⁵ Finally, when there is 50 per cent representation of women by 2010, including an increased representation of women in ward and PR seats and also in leadership positions.¹⁰⁶

The policy framework is relevant in examining the representation of women in local government because the representation of women in councils as a key priority area is mentioned. Also the policy created the framework, which should guide stakeholders in local government, such as political parties, to increase the representation of women in ward seats, PR seat and in leadership positions. When the policy framework was drafted it had been hoped that the representation of women would have increased to 50 per cent by 2010.

⁹⁹ S 152 (1) and S 153 Constitution.

¹⁰⁰ Local Government Gender Policy (2007) 54.

¹⁰¹ Local Government Gender Policy (2007) 54.

¹⁰² Local Government Gender Policy (2007) 54.

¹⁰³ Local Government Gender Policy (2007) 54.

¹⁰⁴ Local Government Gender Policy (2007) 54.

¹⁰⁵ Local Government Gender Policy (2007) 54.

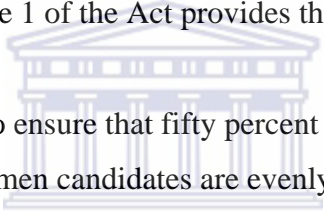
¹⁰⁶ Local Government Gender Policy (2007) 54.

Chapter 3 will indicate that women are still under-represented in municipal councils indicating that the policy target was not met.

4.4 The Local Government: Municipal Structures Act

The most important Act for the purposes of this research is the Structures Act, which regulates, among other things, the internal systems and election of office bearers in municipalities.¹⁰⁷ The Act determines who takes office and how. Related to the above objectives, the Structures Act also provides for the representation of women in local government.

The Structures Act expressly requires political parties to take practical steps to promote the representation of women. Schedule 1 of the Act provides that:


 'Every party must [*seek*] to ensure that fifty percent of the candidates on the party lists are [*women*] and that women and men candidates are evenly distributed through the list.'¹⁰⁸

The section has three key components - first; it governs the election as PR candidates only.¹⁰⁹ Although the section makes provision for a gender distribution for PR candidates, it refers explicitly to party-lists but not the selection of ward candidates. The provision in the Act simply states that the ward candidate, in each ward, with the most votes is the elected councillor.¹¹⁰ As the section only provides for the representation of female candidates in PR seats, and not for ward seats, equal representation of women in the selection of PR candidates is possible, without achieving genuine equality in the representation of women in councils.

¹⁰⁷ The long title to the Structures Act provides the broad objectives of the Act. The Act provides for the establishment of municipalities in accordance with the requirements relating to categories and types of municipality; to establish criteria for determining the category of municipality to be established in an area; to define the types of municipality that may be established within each category; to provide for an appropriate division of functions and powers between categories of municipality; to regulate the, structures of municipalities; to provide for appropriate electoral systems; and to provide for matters in connections.

¹⁰⁸ Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act.

¹⁰⁹ The subsections relate to the compilation of PR list for metropolitan and local councils.

Item 5 (2) - (3) of Schedule 2 Structures Act repeats the same provision in relation to the PR elections in District Municipalities.

¹¹⁰ Item 8 (2) of Schedule 1 read together with Item 8 (1) Structures Act.

This is because 50 per cent of seats are ward based. The disparity is seen when PR candidates are added to ward candidates to indicate an overall representation of female candidates. Detailed discussions of the representation of women in PR and wards seats are examined further in chapter 3 supported by data to indicate the disproportions.

Secondly, PR candidates are elected according to their ranking on party-lists. The party concerned decides the order in which the candidates appear on the lists. The Structures Act requires the order in which the candidates are listed to demonstrate that women and men are evenly distributed throughout the list. The order in which the names appear may as well favour male candidates by placing male candidates first before females. The Act does not require political parties to publish the lists before the lists are submitted for elections. There is no regulatory body to check whether the lists meet the requirements of the Act or how this must be done. There is nothing to prohibit the party from submitting a list that does not conform to the provisions of the Act. There are also no regulatory mechanisms to check whether there are indeed equal male and female candidates on submitted lists. The Act also does not mention how the names of female and male candidates must be distributed to give effect to the intended purpose. Overall the Act lacks regulatory mechanisms to ensure compliance.

Finally, the selection of the candidates, regardless of gender, is in accordance with the preference of the particular party, the internal party processes would then play a role in this regard. Indicating the amount of discretion which the political parties have on whether to comply with the Structures Act or not.

The conclusion is that the provision is not mandatory. Political parties are given discretion whether to adhere or not.¹¹¹ The provision serves no purpose if its enforceability is dependent on the will of the parties alone.

The insertion of the above provisions was supported by submissions made by the Gender Advocacy Project¹¹² and the Commission for Gender Equality to the Minister of local

¹¹¹ The use of the word 'seek' renders the provision not mandatory. The ordinary meaning of the word is to: make an attempt or an act of searching as defined in the Oxford Online Dictionary available at <http://oxforddictionaries.com/definition/english/seek?q=seek> (accessed 21 November 2012).

¹¹² Gender Advocacy Project is an independent organisation based in Cape Town. The project's goal is to contribute to a society where women are equally represented in all structures of governance.

government as an attempt to address under-representation of women in local government.¹¹³ Although the Structures Act provides that men and women should be equally represented on party-lists, the provision is only applicable to PR candidates and not ward candidates. The lack of regulating gender distribution in ward elections renders the Structures Act provision an incomplete measure in addressing the representation of women in local government.

5. Conclusion

There is a wealth of legislation and policies in South Africa governing gender equality and women's empowerment. There are three findings observed from the legislative framework: first, there are many international instruments which require the achievement of gender equality and women's empowerment at all levels of government, most of which South Africa has ratified and begun to implement. The Beijing Declaration and Platform for Action state specific actions to be taken by governments and political parties to ensure that women and women are equally represented in decision-making structures. Political Parties are requested to consider developing initiatives that allow women to fully participate in all internal electoral nominating processes. The Beijing Declaration and Platform also requires governments to consider reviewing the differential impact of the electoral system on the political representation of women in elected bodies and where appropriate adjust accordingly.

SADC Protocol on Gender and Development requires local government to ensure that 50 per cent representation of women is attained through political processes and that the proportion of women in decision-making positions is 50 per cent by 2015. Similarly, Article 9 of The African Protocol On Women's Rights stipulate that member States must put positive measures in place to advance the participation of women in the government structures. There is thus broad consistency between the policy and legislation that seek to achieve gender equity in local government with the goals and objectives of international instruments.

Secondly, there is a national policy and draft Bill on gender that impacts on local government. The Gender Equality Bill and the Equality Act seek to give effect to the constitutional provision on the achievement of gender equality and women's empowerment.

¹¹³ Gender Links At (2007) 90.

Specifically, the Equality Act imposes a duty on local government, including political parties to take measures that will allow both men and women equal opportunities and access to participation in politics. The National Gender Policy sets out national guidelines to inform gender mainstreaming and the development of gender sensitive policies which will see to it that women are adequately represented at all levels of public and private sectors. There is thus a significant body of policy that aims to achieve gender equality in local government as a matter of national priority.

Thirdly, there is specific legislation and policy directly applicable to local government, namely the Structures Act and the Local Government Gender Framework. The Structures Act requires political parties to ensure that 50 per cent of party election candidates are women. The problem is that the Act is not mandatory and that it does not apply to ward candidates, who represent 50 per cent of seats in municipal councils. The language of the Act is not peremptory, allowing parties the discretion to implement the Act. The Act itself creates problems of implementation. The Local Government gender policy provides a guideline that stakeholders in local government should follow when developing and implementing policies and mechanisms aimed at gender mainstreaming and women empowerment. But the status of the policy is unclear and it is not clear whether or how it is being enforced.

The next two chapters, chapter 3 and 4, examine the empirical evidence relating to the implementation of the Act. Two main issues are in question: First whether legislation is being implemented and to what extent and secondly whether the shortcomings found in legislation has an impact on the outcome of the representation of women in local government.

CHAPTER THREE

THE REPRESENTATION OF WOMEN IN MUNICIPAL COUNCILS: AGGREGATE TRENDS IN THE 2006 AND 2011 LOCAL GOVERNMENT ELECTION OUTCOMES

1. Introduction

This chapter focuses on the implementation of the Structures Act in the 2006 and 2011 municipal elections.¹ The implementation of the Act will be examined according to the following indicators. The first indicator is how the major political parties have responded to the Act in their party policies and constitutions. The formal policies of the African National Congress (ANC), Democratic Alliance (DA), Congress of the People (COPE) and Inkatha Freedom Party (IFP) will be examined to establish the extent to which there was a commitment to implementing the Act as a formal policy. Second, trends in the data relating to the number of women candidates who were actually submitted as candidates for elections and the number who actually became councillors will be analysed. Third, the extent of correlation between the Act, party policies and outcomes in practice, in respect of the representation of women, will be analysed to provide an indication of the extent to which the Structures Act is being implemented. The analysis in this section draws on data provided by the Electoral Commission (herein referred to as IEC) and covers all 278 municipalities.

2. Women's representation - The political response

Co-operation and will from political parties is paramount in the implementation of the Structures Act's call for equal representation of women on political parties' lists to stand for elections.²

This section examines the constitutions and policies of the African National Congress (ANC), Democratic Alliance (DA), Congress of the People (COPE) and Inkatha Freedom Party (IFP)

¹ Local Government: Municipal Structures Act 117 of 1998 (hereafter referred to as Structures Act).

² Item 11 (3) of Schedule 1 and Item 5 (3) of Schedule 2 Structures Act.

as to determine to what extent the major political parties have taken steps to implement the Structures Act as a matter of formal party policy.

2.1 The African National Congress

The Preamble to the ANC's Constitution provides for the party's commitment to building a united South Africa based on the values of non-sexism and non-racism and the constitutional values.³ The party aims to support and advance the emancipation of women, and is committed to ensuring that women within the organisation are properly represented at all levels.⁴ Three Rules in the party's Constitution address the representation of women in the internal structures of the ANC.

Rule 2.7 outlines the party's aims and objectives:

'To support and advance the cause of women's emancipation.'

Rule 7 makes provision for the organisational structures within the party and provides under Rule 7.3 for the formation of a women's league and the objectives, which the league seeks to achieve:

'To defend and advance the rights of women, both inside and outside the ANC, against all forms of national, social and gender oppression and to ensure that women play a full role in the life of the organisation'.

The commitment by the party to ensure that women participate fully in the internal affairs of the organisation is highlighted in Rule 6, which makes provision for gender and affirmative action measures. In order to give practical effects to the ANC's commitment to advance women, it is provided:

' In the endeavor to reach the objective of full representation of women in all decision-making structures, the ANC shall implement a programme of affirmative action,

³ African National Congress Constitution as amended in 2007 available at <http://www.anc.org.za/show.php?id=207> (accessed 9 September 2012) (hereafter referred to as ANC Constitution).

⁴ Rule 2.7 ANC Constitution.

including the provision of a quota of not less than fifty percent of women in all elected structures of the ANC to enable such effective participation.’⁵

In addition; ‘ the method of such implementation will be addressed in all ANC structures immediately and on a continuing basis.’⁶

Three aspects of the Constitution relate directly to the representation of women. First, the ANC has a women’s wing incorporated into the party’s structures. The ANC Women’s League is an autonomous body and has been established to ensure the participation of women within the organisation.⁷ Secondly, the ANC has made a commitment to observe and enforce a gender quota policy to ensure that women constitute 50 per cent on all elected ANC structures. Finally, the party assures the continual implementation of the quota policy. The party also, after the 2006 municipal elections, extended the quota policy beyond the internal structures and committed to ensure that 50 per cent of the party’s election candidates are women.⁸

The ANC policy to advance women within party structures and also the commitment to ensure that women and men are represented at all levels of party structures is consistent with the Structures Act. A detailed analysis of whether the ANC has observed its quota policy in practice appears later in this chapter and in the next chapter.

2.2 Democratic Alliance

The DA does not have a specific policy on gender representation. The party has an internal women’s structure, referred to as The Democratic Alliance Womens Network (DAWN), which aims to promote women’s empowerment and the participation of women in every sector of public life.⁹ However, the DAWN structure does not assume any important political or policy role within the party nor does this structure address gender equality explicitly. The

⁵ Rule 6.1 ANC Constitution.

⁶ Rule 6.2 ANC Constitution.

⁷ Rule 7.3 ANC Constitution.

⁸ Gender Links *At the Coalface Gender and Local Government in Southern Africa* (2007) 91.

⁹ Democratic Alliance ‘The Democratic Alliance Womens Network (DAWN)’ available on http://www.da.org.za/additional_pages.htm?page-id=6323 (accessed 31 January 2013).

only equality related provision in the DA Constitution is that the party upholds the principles of *equality before the law*.¹⁰ The DA's candidate nomination regulations,¹¹ which govern candidate nomination within the party's internal structures, do not spell out a detailed plan on how the equal representation of women will be achieved within the organisation's structures or on the local election candidate lists.

The regulations are not gender specific with regards to candidate selections:

'Prior to deliberating on the merits of the candidates and to the provisional ranking in terms of section 8.7, the selection panel or panels may be addressed by the national leader, the provincial leader and/or the mayoral candidate. Such leader(s) and/or candidate may, on this occasion, specify his, her or their perspectives on the requirements of the relevant caucus as far as racial and gender diversification, expertise and geographic spread is concerned.'¹²

The DA does not provide for an enforceable strategy to ensure that women are equally represented within the party structures, nor does the party provide for the even distribution of men and women on its party-list for local government elections.

The DA, being the main opposition party in South Africa, is of the view that quotas are undemocratic. The Structures Act requires that 50 per cent of PR elections candidates are women. The DA party has also argued against the adoption of a 50/50 quota policy, stating that quotas are not necessary to alleviate or include women in politics.¹³ This indicates that the party does not agree with the provision or the method the Act proposes to achieve gender equality. The party prefers that candidates' nomination should be based on merit and not gender.¹⁴

¹⁰ Democratic Alliance Constitution as amended July 2010 available at <http://www.da.org.za/about.htm?action=view-page&category=470> (accessed 9 September 2012).

¹¹ Democratic Alliance 'Regulations For The nomination of Candidates' as amended in July 2010 available at <http://www.da.org.za/about.htm?action=view-page&category=469> (accessed 9 September 2012) (referred to as DA Nomination regulations).

¹² S 8.6 DA Nomination regulations.

¹³ Gender Links *Gender in the 2011 South African Local Elections* (2011) 93- 4 available at www.genderlinks.org.za/attachment.php?aa_id=13710 (accessed 9 September 2012).

¹⁴ Gender Links (2011) 94.

2.3 Congress of the People

COPE acknowledges the need to eradicate all forms of discrimination against women. The party also emphasises the need to protect women.¹⁵ The organisation aims to unite the Republic around the values of a non-racial and non-sexist society.¹⁶ Furthermore COPE believes the achievement of good governance should be based on the inclusion of all citizens, including women, in all spheres of public endeavors.¹⁷ Article 6 of the party's Constitution provides the commitment from the organisation to apply a quota of not less than 50 per cent women representation throughout all the organisation's decision-making structures.¹⁸

COPE is a relatively new political party.¹⁹ Although it is mentioned in the party's Constitution that the party is committed to applying a quota policy that will ensure that men and women are equally represented at all levels of decision-making structures, that data suggests that the party has not taken measures towards implementing its policy and the Structures Act.



2.4 Inkatha Freedom Party

Chapter five of the IFP's Constitution makes provision for the advancement and empowerment of women within the party structures.²⁰ The chapter provides for the establishment of a women brigade to advocate women related issues.²¹ However the party does not specifically mention equal representation of female candidates on its election lists.

¹⁵ Preamble Congress of the People Constitution available at <http://congressofthepeople.files.wordpress.com/2009/07/cope-constitution.pdf> (accessed 9 September 2012) (hereafter referred to as COPE Constitution).

¹⁶ Preamble COPE Constitution.

¹⁷ Article 2 COPE Constitution.

¹⁸ COPE Constitution.

¹⁹ BBC News 'New SA party promises reform' 2009 available at <http://news.bbc.co.uk/2/hi/africa/7849134.stm> (accessed 8 November 2012) (hereafter referred to as BBC News 2009).

²⁰ Inkatha Freedom Party Constitution available at <http://www.ifp.org.za/index.htm> (accessed 9 September 2012) (hereafter referred to as IFP Constitution).

²¹ S 5.2 IFP Constitution.

The party's Women Issues Policy, a policy that appears to address women issues, states that the participation of women is vital in advancing democracy.²² Further, through the policy, the party acknowledges that transformation could only take place within the country when women are represented as decision-making actors. The policy mentions that the South African government system does not adequately provide for the full participation of women in governance but the policy does not outline a clear strategy to ensure the equal representation of women in party structures and as party election candidates.²³ The omission by the IFP to provide explicit rules and direction on gender equality within the party's internal processes and for elections suggests that the party has not taken measures to practically implement the Structures Act.

The parties as presented in this section are the four most influential parties in South Africa, as indicated by their representation in the National Assembly. Only the ANC has a gender equality policy and plan of action that directly reflects the provisions of the Structures Act. The DA has no such policy and does not believe one is necessary. The IFP has a vague commitment to gender equality but no clear plan. COPE mentions a commitment to ensure that women are equally represented at all levels of decision-making within the party, but practice indicates non-compliance. Most of the parties, in other words, do not have a formal policy to give effect to the Act that is binding on their structures and organisation. They are formally non-compliant with the Act. It is possible that the cause of their lack of formal policy is due to the problems with the wording of the Act that were identified earlier, in particular the discretion which the Act gives to parties.

3. Local Government Municipal Election Candidates

The Structures Act encourages that party-lists submitted for election should reflect a 50 per cent representation of women. This section focuses on whether the actual candidates lists that were submitted for both the 2006 and 2011 municipal elections were in compliance with the Act. The extent of compliance will be determined on the basis of the following indicators: comparative data reflecting the representation of women candidates in local elections

²² IFP 'Women Issues Policy' available at <http://www.ifp.org.za/index.htm> (accessed 9 September 2012) (hereafter referred to as Women Issues Policy).

²³ Women Issues Policy.

between 2006 and 2011, women candidates on party-lists and the political parties' candidates by province, women candidates by province.

3.1 Women Participation

3.1.1 Comparative data reflecting the representation of women candidates in local elections for 2006 and 2011

Table 1 provides comparative data for the 2006 and 2011 municipal elections. The data used in the table specifically highlights the number of women candidates for the 2006 and 2011 elections in relation to the number of the parties that participated. The data is relevant because it provides an indication of possible correlation between various systemic factors: one is the relationship between growth in the number of political parties that participated in the election and increases in the representation of women. The second is the gender distribution between elections as an indication of compliance with the Structures Act.

Comparison	2006	2011
Parties contesting	97	121
Party lists candidates (PR)	21 498	23 303
Ward candidates	23 028	29 700
Independents	663	754
Total candidates	45 189	53 757
Gender breakdown	Male 29 471 Female 15 718	Male 33 909 Female 19 848
Gender percentage	Male 65.22% Female 34.78%	Male 63.08% Female 36.92%

Source: IEC, 2011

The table shows that an equal representation of male and female candidates was not achieved. In both elections there were more male candidates than female candidates. In 2006 there were 29 471 male candidates, and 15 718 female candidates, or 65.22% male and 34.78% female.

In 2011 there were 33 909 male candidates and 19 848 female candidates, or 63.08% male and 36.92% female.

In that period, however, the number of political parties contesting the elections increased from 97 to 121. The increase of 24 parties was unprecedented for local government elections.²⁴ The increase in the number of political parties did not translate into a substantial increase in the number of female candidates. The number of women candidates increased by only 2.14% over the period. In both elections the representation of women candidates fell short of the 50% target. The shortfall in 2006 was 30.44% and in 2011 it was 26.16%. The inference that can be drawn from this data is that the Structures Act has not been fully implemented, although there has been marginal improvement.

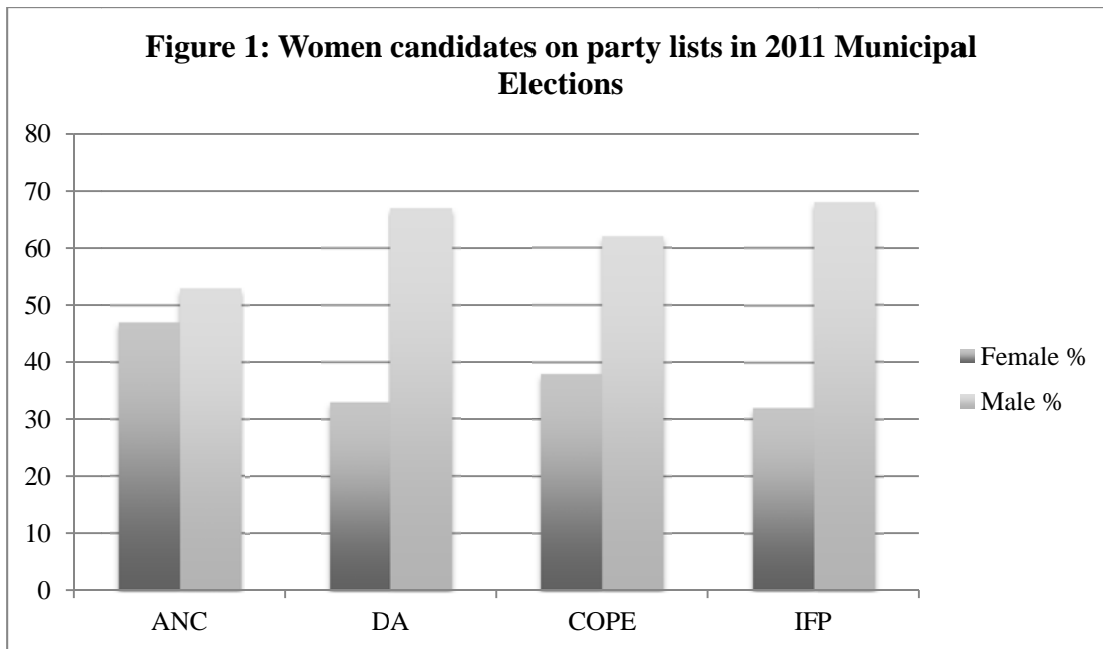
3.1.2 Women candidates and political party lists

Table 2 reflects the implementation of the Structures Act by the major political parties. The table shows the overall number and percentage of candidates submitted by the ANC, DA, COPE and IFP for the 2011 elections and provides a gender breakdown of candidates among the four parties. The data is converted into a graphical representation in Figure 1.

Table 2: Women candidates on political party lists for 2011 Municipal Elections			
Party	No. Candidates	Female %	Male %
ANC	9 409	47	53
DA	7 121	33	67
COPE	5 885	38	62
IFP	2 710	32	68

Source: IEC, 2011

²⁴ Gender Links *Gender in the 2011 South African Local Elections* (2011) 13 available at www.genderlinks.org.za/attachment.php?aa_id=13710 (accessed 9 September 2012).



Source IEC, 2011

The data shows that none of the political parties complied with the Structures Act.²⁵ Male and female candidates were not equally distributed on party-lists. The percentage of male candidates exceeded that of women. The ANC female candidates were 47%, the DA 33%, COPE 38% and IFP 32%. The ANC was the only party that came close to equal representation with 47% of election candidates being women. The ANC is the majority party in South Africa²⁶; in addition it is the only party that has expressed a commitment to observe a 50/50 quota policy for candidates' selection.²⁷ Did the adoption of a quota policy have an impact in practice?

Some writers are of the view that the adoption of a quota policy by political parties can improve the representation of women in local government.²⁸ An example in a 2007 publication by Gender Links provided that the ANC quota policy in 2006 improved the

²⁵ See chapter 2 § 4.4 for a detailed discussion. See also Item 11(3) of Schedule 1 and Item 5(3) of Schedule 2 Structures Act.

²⁶ South African Parliamentary Monitoring Group 'Political Party Representation in National Assembly' 2009 available at <http://www.pmg.org.za/node/30331> (accessed 8 September 2012).

²⁷ Gender Links (2007) 91-3. See also § 2.1.1 above for a detailed discussion.

²⁸ Meintjes S & Simons M 'Why Electoral Systems Matter To Women' in Fick G, Meintjes S & Simons M (eds) *One Women, One Vote* (2002) 163. See also Tolmay S & Morna CL 'Consolidating Democratic Governance in the SADC Region' in Gender Links(ed) *This seat is taken: Elections and the under-representation of women in seven Southern African Countries* (2010) 14-18.

representation of women in local government for that period.²⁹ Gender Links said that the ANC fielded a substantial number of female candidates in both ward and proportional representation (hereafter referred to as PR) seats. The representation of women candidates was 28.5% in 2000 municipal elections and improved to 34.8% in 2006.³⁰

Three inferences can be drawn from the data. First, in the absence of clear directions from the Structures Act, the parties need practical policies to indicate compliance. Secondly, party quotas that are consistent with the Structures Act can be used as a measure to achieve compliance with the Act. Thirdly, the effectiveness of the gender quotas can only be assessed if all parties have adopted such policies. Therefore, whether the ANC gender policy is effective cannot be said with absolute certainty in light of the above observations. The data also indicates that the ANC did not fully implement its own policy.



²⁹ Gender Links (2007) 91-3.

³⁰ Independent Electoral Commission *2006 Municipal Elections Report* 2006 41 available at <http://www.elections.org.za/content/Dynamic.aspx?id=1346&name=Elections&LeftMenuId=100&BreadcrumbId=220> (accessed 16 August 2012) (hereafter referred to as IEC Municipal Report 2006).

3.1.3 Political party candidates by province

Table 3 shows the total number of candidates submitted by each party in each province for the 2011 municipal elections.

Province	ANC	DA	COPE	IFP
Eastern Cape	1 771	955	1 017	5
Free State	693	586	455	25
Gauteng	1 052	970	776	387
KwaZulu-Natal	1 774	1 050	571	2 106
Limpopo	1 186	880	1 007	-
Mpumalanga	881	863	496	76
North West	856	595	565	-
Northern Cape	426	425	423	-
Western Cape	770	797	575	111
Total	9 409	7 121	5 885	2 710

Source: IEC, 2011

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The table shows that the four parties contributed a combined total of 25 125 candidates. The ANC submitted a total number of 9 409 candidates for elections. There were 53 757 candidates for the 2011 elections, this figure includes ward, PR and independent candidates. The data for ANC, DA, COPE and IFP show that the parties contributed 47%, or almost half of the total number of candidates submitted for the elections. The inference that arises from the data is that if these four parties all had quota policies to improve the representation of women in local government and those policies were strictly observed, the implementation and impact of these policies could be significantly improved.

3.1.4 Women candidates by province

Table 4 and the accompanying (figure 2) graph show the number and percentage of female and male candidates that were submitted for the 2011 municipal elections, to show the gender distribution across the provinces. The table thus provides a national overview of the provinces in which female candidates were most and least represented. This information is later used to indicate whether the representation of female candidates in the provinces affects the representation of the actual female councillors after elections.

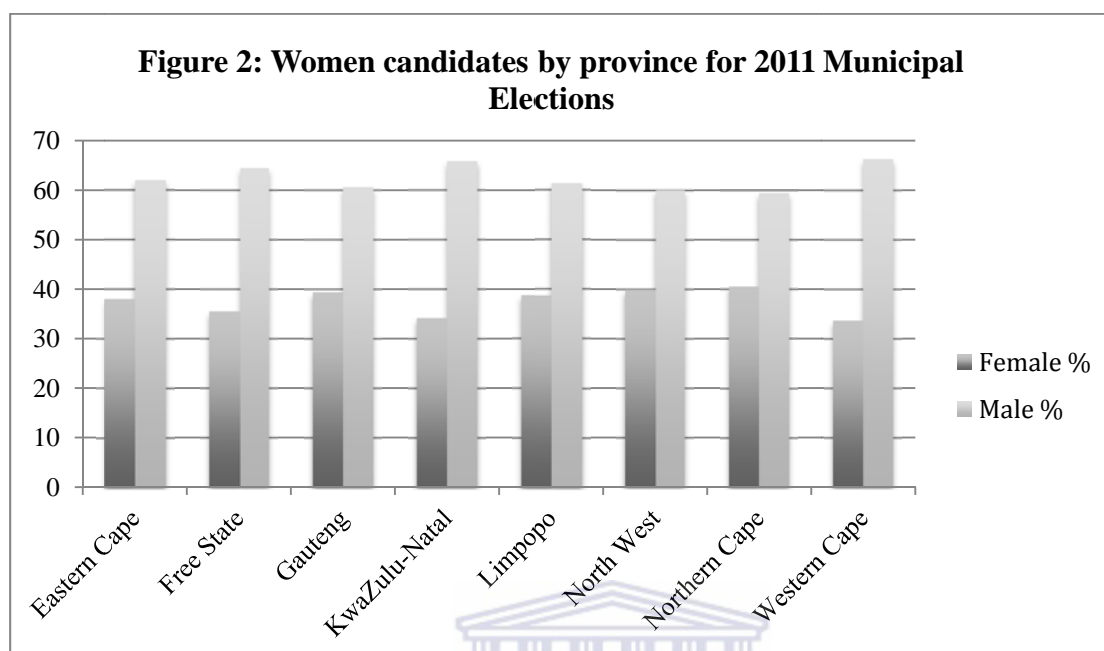
Table 4: Candidates in provinces by gender for the 2011 Municipal Elections					
Province	Female	Male	Total	%	
				Female	Male
Eastern Cape	2753	4486	7239	38.03	61.97
Free State	1167	2117	3284	35.53	64.46
Gauteng	3558	5476	9034	39.38	60.61
KwaZulu-Natal	3559	6853	10412	34.18	65.82
Limpopo	2576	4084	6660	38.68	61.32
Mpumalanga	1576	2802	4378	36.00	64.00
North West	1616	2429	4045	39.95	60.05
Northern Cape	649	951	1600	40.56	59.44
Western Cape	2394	4711	7105	33.69	66.31

Source: IEC, 2011

The data shows that gender parity was not achieved in any of the provinces and there were great variations among provinces in the number of female candidates submitted. In all nine provinces there were more male than female candidates. In eight of the provinces male candidates represented more than 60% of overall candidates. The highest proportion of women candidates was in three provinces: Gauteng (39.38%), Northern Cape (40.56%) and North West (39.95%).

The table shows that women are under-represented in comparison to male candidates. More than half on the total candidates are male. Northern Cape has the highest percentage of women candidates (40.56%), while the Western Cape has the least (33.69%).

Figure 2 provides a graphic presentation of the data as it appears in Table 2, showing the percentage of women and male candidates from each province.



Source: IEC, 2011

The Figure shows that the highest percentage of male candidates was in the Western Cape (66.31%) and KwaZulu-Natal (65.31%). The figures indicate that the proportions of women candidates in the provinces were the lowest. The KwaZulu-Natal (hereafter referred to as KZN) had the most number of candidates submitted for the 2011 municipal elections. Although the province submitted most candidates, the majority were male candidates.

Table 3 above indicated the aggregate number of candidates submitted by each of the four parties across the provinces. The data in that table showed that the IFP and ANC submitted the highest number of candidates in KZN for the 2011 municipal elections. The IFP candidates were 2 106 and that of ANC 1 774. However, Figure 2 indicates that the proportion of male candidates exceeded that of women in the KZN. The figures question the effectiveness of the ANC quota policy and whether the party implements the policy adequately in the KZN province.

The general trend observed from the data indicates that there has been an improvement in the number of female candidates. In 2006, 34.78% of candidates were women. In 2011, 36.92%

of candidates were women. The increase indicates an improvement but also highlights the partial implementation of the Structures Act. Although the number of political parties also increased between 2006 and 2011, from 91 to 12, the increase didn't indicate a substantial effect in terms of compliance with the Act. The ANC is the only party that has adopted a gender policy consistent with the provisions of the Structures Act. The gender disparities showed by the tables above suggest that the ANC has failed to implement, not only the Structures Act, but also its own policy, which purports to give effect to the legislation.

The tables also indicated that besides the IFP, the DA had the lowest number of female candidates submitted for 2011. The DA is the opposition party and does not have a gender policy. The party also does not mention gender equality in its candidate nomination regulations. The data suggests that party partially implemented the Structures Act and was able to elect 33% female candidates without a gender policy. Leaving the question whether the proportion of female candidates from the DA would improve should the party adopt a gender policy?



4. Local Government Municipal Election Results

This section analyses the actual representation of women in councils after the 2006 and 2011 municipal elections. The section examines the correlation between the partial implementation of the Structures and election outcomes. Four sets of indicators will be used in examining the representation of women in councils. First, a comparison analysis of the representation of women in wards and PR seats for the past two elections. Secondly, a comparative analysis to indicate the representation of women as compared to men in ward and PR seats. Thirdly, what the aggregate representation of women councillors in provinces from 2006 and 2011 municipal elections were. Finally, an analysis based on the trends in the representation of female councillors as ANC, DA, IFP and COPE representatives.

4.1 Women in Local Government

4.1.1 Comparative data reflecting the representation of women councillors after local elections for 2006 and 2011

Table 5 shows comparative data on the trends in the representation of women after the 2006 and 2011 municipal elections. The data indicates the changes in the proportion of women councillors in ward and PR seats. This will provide an indication of the impact of the electoral system in local government on the representation of women. The electoral system provides that the council seats are equally divided between PR and ward seats. The Structures Act only requires gender equality for the selection of PR candidates. The inadequacy of the Act in this regard creates an imbalance between the representation of women in PR seats and their representation in ward seats. The political parties are not required to select the same number of males and female candidates competing for ward seats. Even if the parties complied with the Act, in terms of PR seats, the representation of women would only improve on one side.

Comparison	2006	2011
PR %	42	43
Ward %	38	33
Total %	40	38

Source: IEC, 2006, 2011

There has been a decline in the representation of women between 2006 and 2011. In 2006, 40% of councillors were women. In 2011, 38% of councillors were women. The data in Table 5 indicates that there were more women PR councillors than women ward councillors in the past two elections. In 2006, 42% of women were PR councillors as compared to 38% who were ward councillors. In 2011, 43% of women were PR councillors as compared to 33% who were ward councillors. The figures indicate that in fact the representation of female ward councillors declined between 2006 and 2011.

The data in Table 1 above indicated that there was an increase in the number of female candidates between 2006 and 2011 municipal elections. An increase from 34.78% to 36.92%

for 2006 and 2011 respectively. The table also indicated that women candidates in wards increased. The figure was 23 028 candidates in 2006 and 29 700 in 2011.

A comparison of tables 1 and 5 shows that despite the increase of female candidates, only 33% of ward councillors were women after the 2011 municipal elections. The figures suggest that women perform better in PR seats than in ward seats. The figures also suggest, as discussed earlier, that the electoral system has an effect on the representation of women at local government.

Ballot type	2006				2011			
	Female	Male	Total	% Female	Female	Male	Total	% Female
PR	1 889	2 566	4 455	42	2 086	2 727	4 813	43
Ward	1 425	2 470	3 895	38	1 408	2 869	4 277	33
Total	3 314	5 036	8 350	40*	3 494	5 596	9 090	38

* Excluding District councils

Source: IEC 2006 & Gender Links, 2011,18

Table 6 shows the numbers and percentages of male and female councillors elected under PR and ward seats between 2006 and 2011.

The table shows that women are under-represented under both PR and ward seats. In comparison, male councillors are the majority under both PR and ward seats. In 2006, there were 1889 female and 2 566 male councillors for PR seats. In the same period there were 1 425 female and 2 470 male councillors for ward seats. In 2011, there were 2 086 female and 2 727 male councillors for PR seats. In the same period there were 1 408 female and 2 869 male councillors for ward seats.

The table indicates that although the representation of women under PR seats increased, that for wards decreased between 2006 and 2011. The drop in ward women representatives, from 1 425 in 2006 to 1 408 in 2011, affected the overall representation of women in municipal councils. This is because the combined figure for PR and ward illustrates the aggregate representation of women in local government. The decrease in the representation of women is due to worse representation in ward seats.

4.1.2 Women councillors by province

The data in Table 7 and the accompanying graph (figure 3) compares the representation of women in councils in each province after the 2006 and 2011 elections. The data shows the distribution of women councillors in PR and ward seats. This indicator shows in which provinces the representation of women is better than others and whether there have been any significant changes between the 2006 and 2011 municipal elections. The information is also relevant to compare the representation of women in provinces in relation to the political party power in each province.

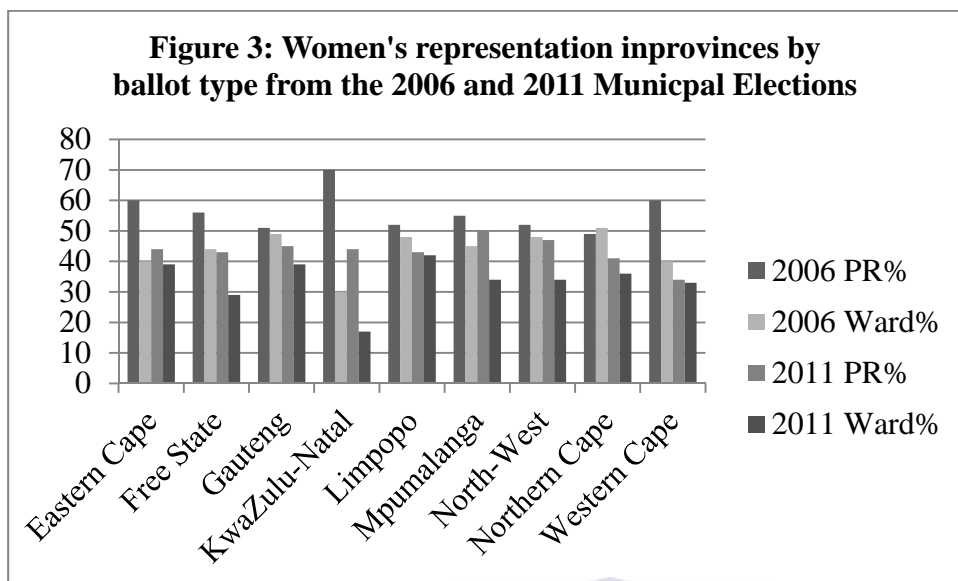
Province	2006*		2011	
	PR%	Ward%	PR%	Ward%
Eastern Cape	60	40	44	39
Free State	56	44	43	29
Gauteng	51	49	45	39
KwaZulu-Natal	70	30	44	17
Limpopo	52	48	43	42
Mpumalanga	55	45	50	34
North West	52	48	47	34
Northern Cape	49	51	41	36
Western Cape	60	40	34	33

* Excluding District councils

Source: IEC 2006 & Gender Links 2011, 20-1

The proportion of women councillors is higher in PR seats than in ward seats overall and in the provinces. In 2006 the proportion (over 50%) of women in PR seats exceeded that of men in eight of the provinces. In the same period, the proportion of women in ward seats was lower than that of male councillors in eight of the provinces, with the exception of Northern Cape. The proportion of women councillors in the Northern Cape was 51% for ward seats. In 2011, the proportion of women councillors in PR seats decreased substantially (under 50%) in eight of the provinces, an exception being Mpumalanga, where the proportion of women councillors was 50%. In the same period the proportion of women in ward seats was even lower than in 2006 in

all of the provinces, the lowest figure was in KZN. The KZN, a largely rural and traditional province, proportion of women in ward seats was 17%.³¹



Source: IEC 2006 & Gender Links 2011, 20-1

The data presented in Figure 3 indicate the representation of women in PR and ward council seats between the 2006 and 2011 municipal elections. The general trend depicted by the graph is that there was a decline from 2006 through to 2011. In 2006, the proportion (over 50%) of women in PR seats exceeded that of men in eight of the provinces and in 2011 the figure went down (under 50%). In 2006 the representation of women in ward seats was below 50% in all the provinces except for Northern Cape. The representation of women in wards seats in 2011 is the lowest across all provinces (under 40%), except in Limpopo. The proportion of women in wards seat from Limpopo is 42%.

4.1.3 Comparative data reflecting the representation of women by political party in local elections for 2006 and 2011

Table 8 indicates the trends observed throughout the election periods with regards to the representation of women in municipal councils, as representatives from each political party. The table compares the gender distribution of councillors who are members of the ANC, DA, IFP and

³¹ Gender Links (2011) 21. See also IEC 'Address by the Chairperson of the Electoral Commission, at the release of the final results of the 2011 Municipal Elections' 2011 5 available at <http://www.elections.org.za/content/DynamicDocs.aspx?id=447&BreadCrumbId=447&name=home> (accessed 18 September 2012) (hereafter referred to as the IEC 2011 Election Address).

COPE. There are no figures for COPE for the 2006 elections because it was formed in the 2008.³²

Table 8: Trends in women's representation by political parties from 2006 and 2011 Municipal Elections

Political party	2006				2011			
	Women	Men	Total	% Women	Women	Men	Total	% Women
ANC	2 400	2 852	5 252	46	2 665	3 429	6 094	44
DA	299	700	999	30	503	1 158	1 661	30
IFP	199	480	676	29	95	285	380	25
COPE*	-	-	-	-	74	187	261	28

* New Party

Source: IEC 2006 & Gender Links 2011, 23

The data in Table 8 indicates that none of the political parties managed to ensure 50% representation of women as councillors for both the 2006 and 2011 elections.³³ The representation of women from each party, except by the DA, decreased between the past two municipal elections. The proportion of female councillors from DA was 30% in 2006. In 2011, the proportion of DA female councillors was also 30%.

As discussed earlier none of the parties nominated equal male and female candidates. Table 8 also indicates that none of the parties were able to ensure that the representation of male and female councillors representing the parties was equal. The only party that came close to the 50% mark was the ANC. The proportion of female councillors by the ANC was 46% in the 2006 municipal elections and 44% in 2011. The outcome from the both elections shows that if the parties do not ensure gender parity in the selection of candidates, this impacts the probability of achieving gender parity after the elections.

³² BBC News 2009.

³³ Times Live '2011 Local Government elections results LIVE' 2011 1 available on <http://www.timeslive.co.za/specialreports/elections2011/2011/05/19/2011-local-government-election-results-live> (accessed 18 September 2012) (hereafter referred to as Times Live Elections 2011).

4.1.4 Political party representation by province

Table 9 indicates party support in each of the nine provinces after the 2011 elections and links back to the representation of female councillors in each province. Indicating whether the provinces in which ANC received the highest number of votes also has the highest proportion of female councillors. This information is relevant for assessing whether the ANC, being the only party with a gender policy, actually implements its own policy.

Province	ANC %	DA %	COPE %	IFP %
Eastern Cape	73.45	14.26	4.17	0.00
Free State	71.74	19.34	3.62	0.04
Gauteng	60.21	33.04	1.08	0.95
KwaZulu-Natal	56.57	10.75	0.34	17.33
Limpopo	81.63	6.65	3.88	-
Mpumalanga	78.90	13.81	1.15	0.17
North West	74.99	16.14	2.87	-
Northern Cape	63.57	22.27	11.91	-
Western Cape	34.07	57.08	1.94	0.07

Source: IEC, 2011

The table shows that the ANC won the majority of seats in eight of the provinces losing support to DA in the Western Cape. However, nationally the party's (ANC) support declined. Election reports indicated that the party support from the local elections declined from 64.8% in 2006 to 62% in 2011.³⁴

The data in Table 7 illustrated that the representation of women in the Western Cape was the lowest for both PR and ward representation. In 2011 the PR and ward representation in the

³⁴ Herzenberg CS 'A two-horse race for the Mother City' in SABC News 2011 Election Results Live available at <http://www.sabc.co.za/wps/portal/news/pages/details?id=c31d828046e0b61a9349bf220ca29f67&page=Analysis.Group1> (accessed on 25 September 2012) (hereafter referred to as SABC 2011 Elections).

Western Cape was 34% and 33% respectively. In, 2006 the representation of women in PR and ward was 60% and 40% in 2006.³⁵

After the 2006 elections the DA attained 43% of PR votes and the ANC 37%.³⁶ The inference is that the changing political support within the Western Cape could be affecting the composition of council members in the municipalities and ultimately the representation of women in those councils. Because the two parties have opposing views regarding gender policies.

5. Conclusion

The chapter examined whether the Structures Act has been implemented and to what extent this has been done. The implementation of the Act was examined through an analysis of whether the formal policies of the major political parties (ANC, DA, COPE, IFP) gave effect to the Act and an analysis of the aggregate data on the representation of women in local government between the 2006 and 2011 municipal elections. Four broad trends emerged from the data: First, only the ANC has adopted a gender policy to give effect to the Structures Act. The representation of female candidates and councillors from the ANC was better than other parties but the party did not implement its own policies and did not meet the 50% target.

Second women are under-represented in local government even though the total number of candidates increased between 2006 and 2011. The figure for female candidates was less than that of male candidates between the two election periods. In 2006 34.78% of candidates were women and 65.22% were men. In 2011 36.92% of candidates were women and 63.08% were men. None of the parties actually distributed men and women equally on party-lists. The representation of male candidates on party list exceeded that of women. There was at best a partial implementation of the Structures Act.

³⁵ The relevance of reference made to the Western Cape is because it is the province where the DA has the majority of seats in most of the municipalities. The DA also disapproves the use of gender policies, which has the effect of using quotas to ensure women are better represented in councils. The aim of the analysis was to indicate whether having a gender policy or not, impacts on the representation of women in the province where the party concerned has the majority of seats.

³⁶ SABC 2011 Elections.

Thirdly, women are better represented in PR seats than they are in ward seats. The election results showed that in 2006 the proportion of women PR councillors was 42% and the proportion of women ward councillors was 38%. In 2011 the proportion of women PR councillors increased to 43% while the proportion of women in wards declined to 33%. The data is evidence that women were better represented in PR seats than there were in ward seats.

Finally, the data indicates that the electoral system formula affects the representation of women. The system requires that council seats be equally divided between ward and PR seats. The data showed that women are under-represented in ward seats. The representation of women in wards declined between 2006 and 2011 municipal elections. When the figure for the representation of women in ward seats is combined with that of PR seats the overall representation indicates a decline. This effect is also attributed to the fact that the Structures Act does not require political parties to achieve gender equality in the election of ward candidates.



CHAPTER FOUR

WOMEN IN LOCAL MUNICIPAL EXECUTIVE STRUCTURES - AN ANALYSIS AFTER THE 2011 MUNICIPAL ELECTIONS

1. Introduction

This chapter focuses on the actual representation of women in executive structures as an indication of the empowerment of women. The chapter reviews data regarding the representation of women mayors and executive mayors at local government, as well as their representation in the executive and mayoral committees. There are four sections; the first section briefly explains the structure of the municipal executive. The second section examines the actual representation of women as members of the executive committees, including mayors and deputy mayors. The third section provides an analysis of the representation of women in the position of executive and deputy executive mayor, and in mayoral committees. Finally the chapter concludes that there is an overrepresentation of women in executive structures, because the representation of women in the structures exceeds that of their representation in councils.

The data examined in this chapter is based on the representation of women in the executive structures as from after the 2011 municipal elections.¹

¹ The data on women as members of the executive structures presented in this section is limited to only the data available as after the 2011 elections. This is because there lacks an updated and comprehensive publication addressing the representation of women in the executive. Attempts by the author to get comprehensive data in this regard were futile. The author thus relies on the information as provided by the municipalities on their respective websites and the IEC election reports. Moreover, it must be also noted that the information contained in this section changes rapidly, it is inevitable that some information will be or become outdated during the writing of this dissertation.

A web-directory of the municipalities can be found in the bibliography section. The South African Local Government Association office in Cape Town provided the information regarding mayors, deputy mayors and executive mayors and deputy executive mayors. The data in this section is based on a sample size of 191 municipalities is as follows:

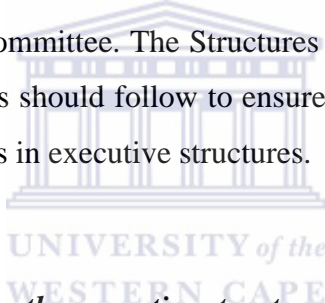
Mayoral Committees: 18 Municipalities in Eastern Cape; 6 Municipalities in Free State; 12 Municipalities in Gauteng; 5 Municipalities in Limpopo; 19 Municipalities in Mpumalanga; 7 Municipalities in North West; 2 Municipalities in Northern Cape; and 15 Municipalities in Western Cape.

Executive Committees: 10 Municipalities in Eastern Cape; 7 Municipalities in Free State; 38 Municipalities in Kwa-Zulu Natal; 21 Municipalities in Limpopo; 8 Municipalities in North West; 14 Municipalities in Northern Cape; and 7 Municipalities in Western Cape.

2. The Municipal executive structures - Legislative framework

The Constitution vests the executive and legislative authority in the municipal council.² However, the Constitution provides that a council can elect an executive committee.³

The Structures Act provides for either a mayoral or an executive committee depending on the typology of a municipality.⁴ On a comparison of the two committees it may be that better representation of women would be achieved under an executive committee provided that the composition of the council itself represents women councillors equally to men. Under the executive committee system it is the full council that elects the executive committee members and the mayor.⁵ However, in the mayoral committee system representation of women councillors on the committee may be compromised because it is an individual, the executive mayor, who elects the members thereof.⁶ There is no duty on the executive mayor to include women councillors on the mayoral committee as the composition of the committee is subject to his or her discretion.⁷ The council members themselves conduct the election of members of either the mayoral or executive committee. The Structures Act does not provide for a gender criterion that the council members should follow to ensure that women councillors are equal in numbers to the male councillors in executive structures.



3. The representation of women in the executive structures of local government

This section focuses on the actual representation of women in the executive structures. The section is divided into four subsections. The first subsection deals with the representation of women in the executive committees. An example of a typical structure of an executive committee is provided. Secondly, data on the representation of women as mayors and deputy mayors in each province will be examined. The third indicator relates to the representation of women executive and deputy executive mayors in each province. Finally, the representation of women as mayoral committee members. An example of a typical structure of a mayoral

² S 151 (2) Constitution of the Republic of South Africa, 1996 (hereafter referred to as Constitution).

³ S 160 (1)(c) Constitution.

⁴ S 7 Local Government: Municipal Structures Act 117 of 1998 (hereafter referred to as Structures Act).

⁵ S 45 & S 48 Structures Act. See also S 7(a) Structures Act.

⁶ S 55 & S 60 (1) Structures Act. See also S 7(b) Structures Act.

⁷ See *Democratic Alliance v Masondo* 2003 (2) BCLR 128 (CC), where the executive mayor of Johannesburg Metropolitan Municipality being a member of the majority party (ANC) elected a mayoral committee consisting only of members of the ANC.

committee is also provided. The representation of women in these executive structures is analysed in comparison to that of aggregate representation in PR and ward seats, in order to determine the extent to which there is a correlation between the actual representation of women generally and the representation of women in the executive structures.

3.1 Women councillors on executive committees

This section examines the representation of women as members of the executive committee, as well the representation of women as mayors and deputy mayors. The figure below shows a graphic illustration of the typical composition of an executive committee of a municipal council, as explained in the legislation framework section above. The headings ExCo member 1, ExCo member 2, ExCo member 3 and ExCo member 4 refer to the members of the executive committee.

The ExCo members, in practice, in accordance with provisions of S 80 of the Structure Act are then appointed as chairpersons of specific portfolio committees.⁸

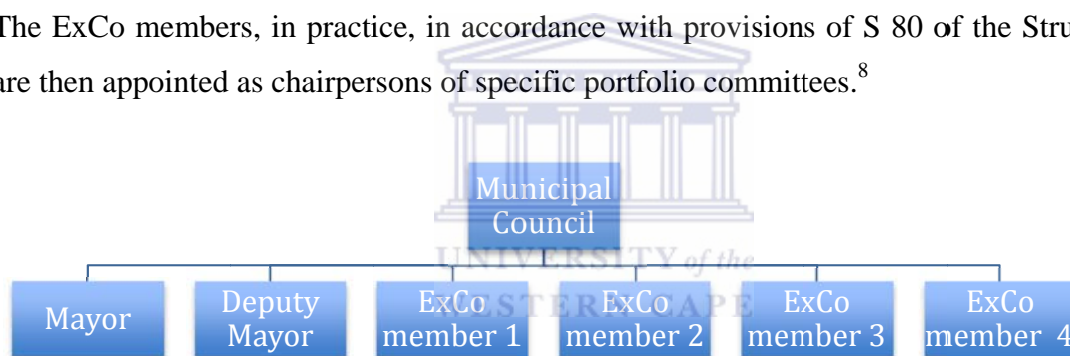


Figure 1: An example of the basic structure of a municipal executive committee

3.1.1 Women's representation on executive committees - Provincial overview

(i) Women councillors as members of the executive committees by province

Table 1 indicates the aggregate representation of women councillors elected into municipal executive committees as from the 2011 municipal elections. The data under heading 'ExCo women members' indicates a headcount of women in executive committees from the municipalities in each province. The table also shows the total women members in each committee from each province, in comparison to general representation of women in council.

⁸ S 80 (1) read together with S 80 (3) Structures Act. For the sake of clarity, S 80 authorises the establishment of other council committees to assist executive committee and the executive mayor. An example of such a committee would be a corporate services committee. See also Steytler N & De Visser J *Local Government Law of South Africa* (Service 5) 3-42.

Provinces	ExCo women members	Total Committee members	% Women ExCo members	Women councillors	
				PR%	Ward%
Eastern Cape	21	48	43.8	44	39
Free State	5	13	38.5	43	29
Gauteng	-	-	-	-	-
Kwa-Zulu Natal	24	93	25.8	44	17
Limpopo	49	107	45.8	43	42
Mpumalanga	-	-	-	-	-
North West	6	14	42.9	47	34
Northern Cape	2	4	50.0	41	36
Western Cape	10	29	34.5	34	33

The table shows that female councillors are represented in the executive committees in seven of the provinces, excluding Gauteng and Mpumalanga.⁹ The data reflects the representation of women in executive committees relating to a limited number of municipalities in each province.¹⁰ The highest number of female councillors in executive committees is in the Limpopo province. The data indicated a total of 107 executive committee members in the province. The proportion of the number of female members in Limpopo is 49 or 45.8%.

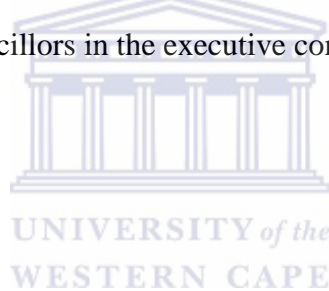
The data in Table 1 also compares the representation of female executive committee members to the overall representation of women councillors in each province.

⁹ The data from Gauteng and Mpumalanga is excluded here because the municipalities that were analysed adopted the mayoral committee system and no information was available for the executive committees in the provinces.

¹⁰ As noted above under § 1 of chapter 4, the data in the table is based on the information obtained from a limited number of municipalities as follows: 10 Municipalities in Eastern Cape; 7 Municipalities in Free State; 38 Municipalities in Kwa-Zulu Natal; 21 Municipalities in Limpopo; 8 Municipalities in North West; 14 Municipalities in Northern Cape; and 7 Municipalities in Western Cape.

The representation of women in municipal councils was examined in detail under chapter 3. In 2011, the overall representation of women in council was 38%.¹¹ Table 1 show that the proportion of women in proportional representation (hereafter referred to as PR) seats from each province was higher than in ward seats. The proportion of women in PR seats from six of the provinces varied between 34% and 47%. The province with the lowest proportion of women in PR seats was the Western Cape with 34% of women. The proportion of women in ward seats from six of the provinces varied between 17% and 42%. The province with the lowest proportion of women in ward seats was the Kwa-Zulu Natal (hereafter referred to as KZN) with 17%. The proportion of women in the executive committees varies between 25.8% and 45.8%.

The data indicates that women are generally better represented in PR seats than in wards seats. The representation of women in executive committee exceeds that of women in wards. The inference is that female councillors in the executive committees are PR councillors.



¹¹ See detailed discussion under chapter 3 § 4.1.1.

(ii) Women councillors as Mayors and Deputy mayors by province

Table 2 indicates women elected mayors and deputy mayors in municipalities across the provinces after the 2011 municipal elections. The figures for the women mayors and deputy are then aggregated to indicate a percentage of women in those positions, and are compared to the representation of women elected as PR and ward councillors

Province	Mayor	Deputy	Total	Mayor & Deputy Mayor%	Women councillors	
					PR%	Ward%
Eastern Cape	5	0	5	5.7	44	39
Free State	5	0	5	5.7	43	29
Gauteng	-	-	-	-	-	-
Kwa-Zulu Natal	21	15	36	40.9	44	17
Limpopo	15	0	15	17.0	43	42
Mpumalanga	-	-	-	-	-	-
North West	7	0	7	8.0	47	34
Northern Cape	14	0	14	15.9	41	36
Western Cape	4	2	6	6.8	34	33
Total	72	17	88	100		

Source: South African Local Government Association (SALGA) 2012 and IEC, 2011

The table shows that there are female councillors in mayoral positions in each of the six provinces, excluding Mpumalanga and Gauteng.¹² There are more female mayors than deputy

¹² The data for Mpumalanga and Gauteng provinces are excluded from the table because the municipalities (from the two provinces) that were analysed adopted the mayoral committee system and no information was available for the executive committees in the provinces.

female mayors. There are 72 mayors and 17 deputy mayors. The KZN province records the highest percentage for mayors and deputy mayors at 40.9%. The proportion of PR female councillors in KZN is 44% and for wards seats is 17%. A comparison of the figure to the representation of women in provinces, suggests that the women mayoral councillors may be elected from the PR seats.

This inference is relevant because PR councillors are selected according to party-lists. The Structures Act provides that the compilation of party-lists is the responsibility of the political party concerned.¹³ The party also decides the order in which party candidates appear on the lists according to its preference. The same list is used after the election in allocating seats to those candidates.¹⁴ The higher up women PR candidates are on these lists the better are the chances that the women will occupy PR seats in a municipal council and that the PR female councillors will also become members of the executive as the data above suggested. PR seats are awarded according to the number of votes the political party concerned would have won at the elections.

The 2011 municipal election campaigns for the City of Cape Metropolitan Municipality support the inference stated above. When the DA campaigned for the 2011 municipal elections, Patricia de Lille was announced as the mayoral candidate for the City. The ANC also announced Tony Ehrenreich as their mayoral candidate.¹⁵ The DA won the majority of seats in the Western Cape, which led to Patricia de Lille becoming the Mayor of City of Cape Town.¹⁶ This example indicates that the political parties before the elections decide who the members of the executive committee will be. The parties' decisions are effected once the particular party has won a certain amount of votes after the elections. The seats won are allocated in accordance with the party-lists.

¹³ Item 11 (3) of Schedule 1 Structures Act.

¹⁴ Item 13 of Schedule 1 and Item 7 of Schedule 2 Structures Act provides for the formula used to calculate seats according to the number of votes received by each participating party who submitted PR lists.

¹⁵ The Mail & Guardian 'ANC reveal mayoral candidates after elections' 2011 available at <http://www.mg.co.za/article/2011-04-12-anc-to-reveal-mayoral-candidates-after-elections> (accessed 21 November 2012). See also Polityorg.za 'DA: Statement by Patricia De Lille, Democratic Alliance Cape Town mayoral candidate, on her nomination' 2011 available at <http://www.polity.org.za/article/da-statement-by=patricia-de-lille-democratic-alliance-cape-town-mayoral-candidate-on-her-nomination-14032011-2011-03-14> (accessed 21 November 2012).

¹⁶ News24 'DA wins Cape Town: IEC' 2011 available <http://www.news24.com/SouthAfrica/Local-Elections-2011/DA-wins-Cape-Town-IEC-20110521> (accessed 21 November 2012).

3.2 Women councillors on mayoral committees

This section examines the representation of women executive and deputy executive mayors, as well as women councillors as members of the mayoral committee. The figure below shows a graphic illustration of the composition of a mayoral committee in a municipal council, as explained in the legislation framework section above. The executive mayor elects a mayoral committee from council members (hereafter referred to as MMCs) to assist the executive mayor. The mayoral committee consists of a deputy executive mayor and as many councillors necessary for an effective and efficient government.¹⁷ The headings MMC 1, MMC 2, MMC 3 and MMC 4 refer to the members of the mayoral committee in addition to the deputy executive mayor.

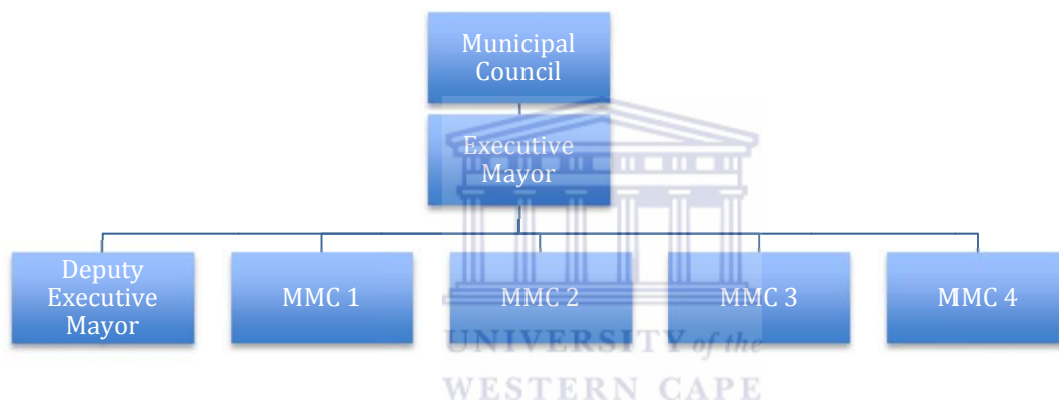


Figure 2: An example of the basic structure of a municipal mayoral committee

¹⁷ S 60 (1) - (2) Structures Act.

3.2.1 Women's representation in mayoral committees by province

(i) Women councillors as executive and deputy executive mayors by province

Table 3 indicates the representation of women in the executive and deputy executive mayor positions, in comparison to aggregate numbers of women in PR and wards seats in each province.

Province	Executive Mayor	Deputy Executive Mayor	Total	Executive Mayor & Executive Deputy Mayor%	Women councillors	
					PR%	Ward%
Eastern Cape	12	1	13	27.7	44	39
Free State	2	0	2	4.3	43	29
Gauteng	5	0	5	10.6	45	39
Kwa-Zulu Natal ¹⁸	2	0	2	4.3	44	17
Limpopo	1	0	1	2.1	43	42
Mpumalanga	10	0	10	21.3	50	34
North West	4	0	4	8.5	47	34
Northern Cape	1	0	1	2.1	41	36
Western Cape	5	4	9	19.1	34	33
Total	42	5	47	100		

South African Local Government Association (SALGA) 2012 and IEC, 2011

¹⁸ The data presented for Kwa-Zulu Natal was obtained from two municipalities in the province, Greater Kokstad municipality and Ugu district municipality. However, information on mayoral committees members was not available.

Based on the figures presented in the table, there are 42 women executive mayors across all provinces.

Table 3 also indicates that there are far fewer female deputy executive mayors. It is not certain whether female executive mayors presented here are elected from the ward or PR councillors. However, the overall percentage of women executive mayors and deputy executive mayors is below that of women representation in ward and PR seats. The percentage for the representation of women executive mayors and deputy executive mayors varies between 2.1% and 27.7%. The figures indicate that there is a great variation and no consistency in the representation of women executive mayors and deputy executive mayors. The proportion of women in PR seats from all eight of the provinces varied between 34% and 47%. The proportion of women in ward seats from all eight of the provinces varied between 17% and 42%.



(ii) *Women councillors as members of the mayoral committees by province*

The data in Table 4 shows a headcount of women as mayoral committee members of the municipalities in each province after the 2011 municipal elections. The data is based on the information obtained from a limited number of municipalities in each province.¹⁹ The table also shows the representation of women in mayoral committees in comparison to the overall women councillors in PR and ward seats from each province.

Provinces	MMC women members	Total Committee members	% Women MMC members	Women councillors	
				PR%	Ward%
Eastern Cape	38	82	46.3	44	39
Free State	22	50	44	43	29
Gauteng	47	97	48.5	45	39
Kwa-Zulu Natal ²⁰	-	-	-	-	-
Limpopo	21	42	50	43	42
Mpumalanga	35	79	44.30	50	34
North West	25	55	45.5	47	34
Northern Cape	4	10	40	41	36
Western Cape	20	77	26	34	33

The table shows the proportion of women in the mayoral committees in eight of the provinces, excluding the KZN. The data for Gauteng and the Eastern Cape indicate the proportion of women in mayoral committees is almost equal to that of male members. The

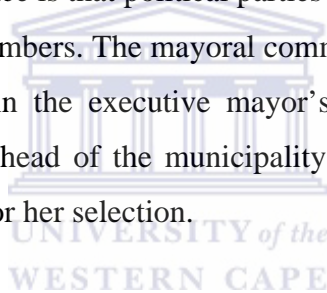
¹⁹ As noted above under § 1 of chapter 4, the data in the table is based on the information obtained from a limited number of municipalities as follows: 18 Municipalities in Eastern Cape; 6 Municipalities in Free State; 12 Municipalities in Gauteng; 5 Municipalities in Limpopo; 19 Municipalities in Mpumalanga; 7 Municipalities in North West; 2 Municipalities in Northern Cape; and 15 Municipalities in Western Cape.

²⁰ The data from the KZN is excluded here because the municipalities that were analysed adopted the executive committee system and no information was available for the mayoral committees' members in the province.

percentage of women MMCs in Gauteng is 48.5% and in Eastern Cape 46.3%. While in Limpopo the proportion of women in mayoral committees equal that of men.

The aggregate representation of women in PR seats varied between 34% and 44% across the provinces, indicating higher figures than the representation of women in ward seats. The proportion of women councillors in ward seat varied between 33% and 42% across the provinces. The proportion of women as MMCs in eight of the provinces varied between 26% and 50%. The province with the lower proportion of female MMC's is the Western Cape. The figure in Western Cape is 26%.

Women are generally better represented in PR seats than in wards seats. The representation of women in the mayoral committees exceeds that of women in wards. The inference is that female councillors in the mayoral committees might be elected from PR councillors than ward councillors. Another inference is that political parties' own internal processes can easily influence the formation of the members. The mayoral committee in essence is a committee of the executive mayor; it is within the executive mayor's discretion to elect MMCs. The executive mayor is the political head of the municipality; it is inevitable that the political preference will play a role in his or her selection.



4. Conclusion

The aim of this chapter was to examine the representation of women in the executive structures. The data indicated the representation of women in the executive and mayoral committees. The enquiry was also aimed at examining the representation of mayors, deputy mayors, executive and deputy executive mayors after the 2011 municipal elections. The data was analysed according to the nine provinces to illustrate a provincial overview of the representation of women in the executive.

Five broad general trends were observed in this chapter: first, women are represented in the executive structures. The representation of women in the executive committee indicated great variation in terms of figures. The proportion of women in the executive committees varied between 25.8% and 45.8%. The highest representation of women in the executive was in the Limpopo province. Women councillors in the executive committees from Limpopo were

45.8%. The figure indicated that women in the executive committee from that province are almost equal to that of men. The data for the representation of women in mayoral committees varied varies between 26% and 50%. The data for Gauteng and the Eastern Cape indicate the proportion of women in mayoral committees is almost equal to that of male members. The percentage of women MMCs in Gauteng is 48.5% and in Eastern Cape 46.3%. While in Limpopo the proportion of women in mayoral committees equals that of men. The broad conclusion from the figures is that women councillors are actually better represented in the mayoral committees than they are in executive committees in light of the limited data provided.

Secondly, although the data for the representation of women in the executive indicated great variation and fluctuations, the data suggested that female councillors in the executive are PR councillors. The highest proportion of female PR councillors after the 2011 municipal elections was 44% and the lowest proportion was 33%. While the highest proportion of female ward councillors was 42%, the lowest proportion was 17% after the same elections. The proportion of women councillors in both the mayoral and executive committees exceeds that of the proportion of women in the ward seats. The data suggests that the majority of women councilors in the executive structures could be PR coucillors. The inference to be drawn is that ward councillors are not represented in the executive structures or not adequately represented.

Thirdly, the legislative framework showed that the Structures Act makes provision for the election of an executive and mayoral committee by municipalities but does not regulate the gender distribution in these committees. The inference is that the lack of a clear guide as to how gender equality should be achieved on these committees, allows the council members the discretion in determining who the members of the executive committees will be.

Fourthly, the data on the representation of mayors, deputy mayors, executive and deputy executive mayors after the 2011 municipal elections indicate that there is also a great variation and no consistency in the figures. The data suggests that the mayoral positions are affected by the political representation in councils. The example of the 2011 elections campaigns for the City of Cape Town indicated that the political parties nominate the preferred mayoral candidate ahead of elections. If the party wins the majority of seats on a

particular council then that candidate will be mayor. The probability of women being elected as mayoral candidates is dependent on what was decided politically.

Finally, the representation of women in the executive structures is also affected by the composition of the municipal councils, because under either the executive mayoral or the collective system the municipal council plays a role in the selection of members of the committees. The composition of the municipal council is made of the different parties, indicating that the representation of women in the executive structures is ultimately affected by the political representation. The members of the mayoral or executive committees are elected from the council. The councillors on the council would be the representatives of the different parties depending on the amount of votes that those parties won at the elections.



CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

Introduction

This study focused on the implementation of the Structures Act, which urges political parties to ensure that 50 per cent of PR election candidates are women. The indicators of implementation were: first, the adequacy of legislation on gender equality. Secondly, how the political parties' policies responded to legislation. Thirdly, the aggregate representation of women in municipal councils. Finally, the representation of women councillors in the executive positions. This chapter provides a summary of the key trends observed through this study.

1. Women are under-represented

The data indicated that female councillors are under-represented in local government. Even though the number of female candidates increased from 2006 to 2011, there was a decline in representation of women between the two election periods. In 2006 40% of councillors were women. In 2011 the figure dropped to 38% of the total councillors being women. The analysis showed that women are better represented on PR seats than on wards. In 2006 the proportion of women in PR seats was 42% and the proportion of women in wards was 38%. In 2011 the proportion of women in PR seats was 43% and the proportion of women in ward seat was 33%. The data suggests that the disproportion in figures impacts on the overall representation of women. This suggests that the electoral system formula used for the composition of council, which divides the council seats into ward and PR, is a contributing factor on the representation of women.

One inference drawn from the data is that if the electoral system allowed municipal councils to consist only of PR councillors then the overall representation of women will equate to the representation of women in the PR seats. The decline in the representation of women in wards affected the overall representation of women because the representation in wards is added to that for PR seats. The second inference is that none of the political parties had fully

implemented the Structures Act. Only the ANC has a gender policy but even the ANC did not ensure 50 per cent of its election candidates were women. The failure to fully implement the Structures Act affected the probability of achieving 50 per cent representation of women in local government.

2. Better representation in executive structures

The data appears to suggest that the representation of women in the executive structures exceeds that of their representation on municipal council in general. A comparison of the representation in council to that of the proportion of women in the executive indicated that female representation in ward seats is below that of their representation in the executive. The highest proportion of female PR councillors after the 2011 municipal elections was 44% and the lowest proportion was 33%. While the highest proportion of female ward councillors was 42% the lowest proportion was 17% after the same elections. The proportion of women councillors in both the mayoral and executive committees exceeds that of the proportion of women in the ward seats. The highest proportion of women in the mayoral committee was 50% and the lowest was 26%. The highest proportion of women in executive committees was 50% and the lowest 25.8%. This then suggests that better representation in the executive is as a result of better representation of women in PR seats.

3. The representation of the political parties in council impacts on the representation of women in the executive structures

The election of women as members of the mayoral and executive committees is dependent on the composition of the council because the members are elected from members of the council by the council itself. If the council's composition does not accommodate adequate representation of female councillors this has an effect on the number of women who would be available to take up these positions, which includes mayoral positions. And because the council is made up of party candidates who acquired seats after elections, it is ultimately the political representation of the council that affects the composition of the mayoral and executive committees.

4. Inadequate regulation and uncertainty in the Structures Act are obstacles for implementation

The Structures Act's provision on gender equality is not mandatory. There is thus no obligation or incentive for parties to obey. A detailed discussion on the inadequacy of the Act was provided in chapter 2 above. The inference drawn from the lack of compliance is that when female candidates are not adequately represented this affects the chances of achieving gender parity between of male and female councillors. The Structures Act also provides for the procedures and election of members on mayoral and executive committees, however, it fails to provide criteria to mandate the gender distribution in those positions.

The lack of criteria compelling the council members to elect equal female and male councillors in the executive and mayoral committees leaves the discretion to do so in the hands of political parties. The shortfalls presented by the Act relating to the election of mayoral and executive committee members were discussed in length under chapter 4 above. The arrangement of council members consists of parties' representatives. The inconsistencies evident from the data on the representation of women in executive support this inference. The proportion of women councillors in both the mayoral and executive committees exceeds that of the proportion of women in the ward seats. The data suggested that there is better representation in the executive because of women councillors in the executive are PR councillors. PR councillors are elected from party-lists, which were compiled by the parties in accordance with party preference. The Structures Act allows parties to elect candidates according to preference. The Act creates a loophole for party internal processes to dictate which women, if any, must be elected into executive structures.

5. Overall finding

The aim of this study was to indicate whether the Structures Act was being implemented or not. The four findings stated above show that the Act is being partially implemented. The political parties have elected women candidates on their party-lists. But none of the parties have ensured that 50 per cent of the total candidates submitted for elections were women.

This conclusion is supported by the fact that the comparative data after the 2006 and 2011 municipal election indicated that women are still under-represented.

Recommendations

Certain recommendations can be made to improve the operation of the Act. The intention is not to change the entire policy on gender representation at local government. The recommendations seek to ensure that more stringent and compelling measures are adopted. The measures must ensure that political parties include more female candidates on their party-lists. First, compliance with the Act should be mandatory. In two elections, no party has met the target. The implementation of the Act thus relies on the discretion of the parties, and there is no evidence of an absolute commitment to comply. Secondly, the Act should set criteria to regulate the election of councillors in the executive structures in order to accommodate the gender distribution within councils. Such provisions should also be stated in a clear and mandatory language to ensure compliance.

Thirdly, the electoral system, which divides the municipal council seats equally between PR and wards councillors, may need revision. The evidence presented in chapter 3, which indicates that there were far fewer women councillors in ward seats as compared those in the PR seats, supports this recommendation. This recommendation is made in acknowledgment of the advantages, which the ward system currently provides. One such advantage would be the democratic element of the ward system, where the community directly elects the successful ward candidate into council. However, the poor representation of women in ward seats suggests that a balance be struck between advantages and disadvantages of the system.

Lastly, addressing the under-representation of women in local government can only be possible if there is a systematic monitoring of trends. The monitoring should include that data on the matter should be easily accessible to all members of society. It should then be encouraged and regulations be put in place to oversee that relevant and updated data on the status of the representation of women, including their representation in the executive, is published. This recommendation is made in light of the difficulties experienced by the author in collecting data needed to analyse whether the Structures Act is being implemented.

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