

The Influence and Role of Female Parliament Member in the Passing of Gender-Sensitive Policies: Therapeutic Termination of Pregnancy (TTOP) Draft Bill in Madagascar

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Abstract- Therapeutic Termination of Pregnancy (TToP) is limited by strict laws in many countries. It can only be executed to save the mother's life when the pregnancy threatens her physical and mental health. This issue of women's reproductive rights highlights the inequalities resulting from the private-public dichotomy at the root of gender inequalities, whether in the political, social, or economic domains. This qualitative literature research study focuses on the case of the therapeutic abortion draft bill initiated by a female member of Parliament and countered by another female member of Parliament in Madagascar, a country with one of the most restrictive laws on abortion, which also lacks a concrete policy to achieve gender equality goals. The qualitative method used in this study is secondary data and documentation derived from previous research, and the results indicate that the role of female parliament members in passing gender-sensitive bills as studied by previous research (1) only considered women as a monolithic group and (2) the theory of gender representation (politics of presence) is hindered by patriarchal social-cultural norms in terms of the gender-sensitive bill.

Keywords: Democracy, Gender equality, Malagasy society, women's participation, women's rights

I. Introduction

The United Nations, in the Millennium Development Goals (MDGs) in 2000 and the Sustainable Development Goals (SDGs) in 2015, does not explicitly mention the issue of abortion. However, both initiatives set targets for a significant reduction in maternal mortality (Basu, 2005). One of the SDGs Goals (3rd Goal) on health, Target 3.7, mentions, for example, "access to sexual and reproductive health care services for all, including family planning, information, and education," but does not mention abortion. SDG's fifth Goal on Gender Equality, which calls for "access to sexual and reproductive health care for all to ensure that everyone can exercise their reproductive rights," is also in line with the International Conference on Population and Development (ICPD) 1994 and the World Conference on Women in Beijing 1995, where abortion has been addressed as a public health issue. Hence, the elaboration of a theoretical perspective of women's political representation and recruitment, which in that case, aims to eliminate the imbalance between men's and women's participation in political life. Indeed, parity appears to be the main element in promoting equality of opportunity for women and granting them access to decision-making. Women's political representation and recruitment is then a matter of equal democracy.

However, in practice, representation does not necessarily meet the objectives since other factors determine the role and influence of elected women, as will be demonstrated by the issue of the law proposal on TTOP in Madagascar. Therefore, the research question is formulated as follows;

(1) How does the issue of therapeutic abortion highlight the role and influence of women's representation in implementing gender-sensitive policies?

(2) Is the representation theory, which is usually descriptive, effective in implementing gender-sensitive policies?

This paper aims to analyze the implementation of gender-sensitive policies in a case where the draft bill was initiated by a female member of Parliament and countered by another female member of Parliament to point out the lack of substantial female representation at the levels of governmental bodies such as the Parliament.

II. Literature review

Previous studies on the role and influence of women's representation on passing gender-sensitive policies support that the theoretical perspective of women's political representation is a concrete measure to promote equal opportunities for women and men to access decision-making positions and also a higher share of women parliamentarians is more likely to pass comprehensive laws regarding women conditions. Asiedu, Elizabeth, et al. (2018) based their analysis on data from 159 developing countries, including 48 African countries (43 countries in sub-Saharan Africa) and 111 developing countries outside sub-Saharan Africa; they examined whether countries with a higher proportion of women in Parliament are more likely to adopt gender-sensitive policies. For that, the researchers analyze the rise of women in politics over the past decade by highlighting trends in women's political representation in African countries and then comparing the situation of countries that have made progress in increasing the representation of women in politics with countries that have not succeeded and linking women's representation in the national Parliament to gender-sensitive policies. The researchers also focus on Rwanda and Botswana to analyze elected women's symbolic and substantive representations. Therefore, the results of this study indicate that other developing countries with a higher proportion of women parliamentarians are more likely to adopt comprehensive laws on sexual harassment, rape, divorce, and domestic violence, which are gender-sensitive policies. This situation connotes that elected women MPs have been impacted by passing laws to eliminate gender bias and empower women in both the private and public spheres. Finally, this study also suggests that the representation of women has grown in these countries thanks to the introduction of gender quotas which, however, cannot be effective in the long term because it is a positive action. Caiazza A. (2004) starts from the observation that elected women would better represent women than men in so far as men cannot take into account the unique experiences of women and the problems shared adequately in the policy development process. Thus, the inclusion of women could change the debate and include issues traditionally ignored by male officials/legislators. For that, the author observes the actual situation when women participate in policy-making by examining, on the one hand, the relationship between the political power of elected women and the effect on the existence of a policy favorable to women. The author also examines the trend in States where the representation of women is high in order to observe the variation in representation levels and the trend of gender-sensitive policies. This study suggests that the fact that women hold elected positions makes an important difference in the promotion of women's policies in a state because women influence policy outcomes and the policy-making process within a state's municipal councils, state and national legislatures, and other government agencies. At the same time, women have an impact on a more global level in all states of the United States, and their presence in elections encourages states to adopt relevant and beneficial policies for women's lives. However, the author goes on to say that the importance of women's representation in policy-making is at least partly contextual and largely dependent on a good political culture, including party and attitudes towards women in power, which plays an important role both in the advancement of policies when women are in power and the empowerment of women. Finally, the results presented in this research align with existing research to emphasize that to improve the status of women at the local, State, and national levels, it is necessary to increase the representation of women. Having women elected cannot guarantee a better policy for women; however, it helps.

III. Analytical Framework

This paper will analyze the issue of the role and influence of female MPs regarding the passing of gender-sensitive policies through the theoretical framework of the theory of the Politics of Presence of Anne Phillips, whose aim is to combine the positive discrimination policy (which promotes gender equality through specific measures that do not consider equal treatment against systemic discrimination, leading to female under-representation), the politics of ideas; (which argues that representation concerns the representatives' ability to bring the representatives' interests and perspectives based on public communication and deliberation and not on the social characteristics of the representatives), and the politics of presence (which insists that the interests of the represented derive from shared experiences as a group and cannot be carried by interchangeable representatives). In this case study, this theoretical framework puts in perspective the under-representation of women to identify the different perspectives of

female representation (lack of gender-sensitive bills) and to determine the appropriate measures to undertake initiative in terms of representation. (Female Parliament submitting the draft bill).

IV. Methods

This part explains the methodology adopted to collect and analyze the data used in this study. The researcher adopts a qualitative approach based on a literature search. Following the recommendations of Creswell (2013), the researcher assumes the role of the key instrument and collect data by examining public documents like newspapers, minutes of meeting, and report, and collecting secondary data from previous research to argue the objectives cited in the previous section which address the challenges and importance of women's representation in politics and the State's role in policies of women's reproductive rights.

On one hand, the data gathered is used to contextualize the discussion by developing the issue of women's reproductive rights and the TToP draft bill. On other hand, the information collected has been used to structure arguments related to the influence of women's representation in women's politics and the role of elected women in the implementation of TToP. Previous studies have been able to infer arguments about their strengths and weaknesses regarding the present case study.

V. Discussion

1. The legal framework of women's reproductive rights and the TToP draft bill in Madagascar

1.1. The legal framework of women's reproductive rights in Madagascar

The question of reproductive rights and the roles of sex are perceived differently by the customs and norms of each society or each States. Regarding the international context, in September 2014, International Conference on Population and Development (ICPD) was signed by 179 countries, including Madagascar, thus recognizing the following reproductive rights. These rights are based on the recognition of the fundamental right of all couples and individuals to decide freely and wisely the number of their children and the gap between their births and to have the necessary information to do so, and the right to access all the best health services in terms of sexuality and reproduction. It is also based on the right of all reproductive decisions without discrimination, coercion or violence, as expressed in human rights texts." Considering this, the ICPD provides an international legal framework for reproductive rights. Regarding the implementation of the gender theories, Madagascar has adhered to several international legal frameworks which aim to reduce the gender gap; the African Charter on Human and Peoples' Rights, the Beijing Declaration and its Action Plan, the United Nations (UN) Security Council Resolution 1325 on women, peace, and security, SADC Protocol on Gender and Development, the global agendas on gender equality and women's empowerment, the African Union Agenda 2063, the Indian Ocean Commission's Gender Policy and Strategy, etc. In 2000, Madagascar officially established a gender policy framework based on the National Policy on the Advancement of Women (PNPF) implemented for 15 years, and after that, other national politics was established to this aim.

Despite these tools, especially the ICPD, women's reproductive rights are still contested mostly by religious groups. These rights include abortion, which is one of the most controversial health interventions in the world. Indeed, this issue divides pro-lives and pro-choice. In the Global South, the opinion trend joins the pro-life movement since these societies are often characterized by mechanical solidarity (E. Durkheim), which advocates social cohesion, in other words, traditions.

In Madagascar, where the abortion law is one of the most restrictive in the world, this medical intervention is a crime punished by the Penal Code, inherited from the Napoleonic Code of 1810. According to article 317, any one practicing abortion faces up to ten years in prison and women who use it up to two years in prison. The voluntary termination of pregnancy remains punishable by law, even in case of rape, incest, or when the woman's life is in danger. The maternal mortality rate in Madagascar is one of the highest in the world. According to the Madagascar Millennium Development Goals National Monitoring Survey (ENSOMD), the country has 478 deaths per 100,000 live births. These numbers have been constant since 1992 despite the fact that the family planning program is free. This survey also reports that more than 43% of these deaths are recorded among those under 24 years old, and 1/3 are adolescents between the age range of 15 and 19 years old. The main causes are the delay of the first consultation period and the low delivery rate at the level of health training (only 32% of births took place in basic health units). The Nifin'Akanga, a Malagasy feminist movement fighting for the decriminalization of abortion in Madagascar, adds that induced abortion represents 30% of the causes of maternal mortality. This high maternal mortality rate attests to gaps in advocacy for women's causes which can be linked to women's

underrepresentation in politics. The proposal law on TToP was designed in that aims; to reduce the maternal mortality rate.

1.2. The TToP draft bill in Madagascar

The bill for the authorization of therapeutic abortion was submitted to Parliament in 2017 by the executive branch and was included within the family planning program. However, the National Assembly and the Senate have decided to withdraw the section on therapeutic abortion after the Church entered the debate.

In October 2021, the draft bill on therapeutic abortion was again proposed by MasyGoulamaly Marie Jeanne d'Arc, a female MP and the Chairperson of the National Assembly's Gender Committee. The text stipulates that the authorization of therapeutic abortion is based on a medical opinion proving a pregnancy threatening the mother's life. Moreover, the law also wants to include; (1) termination of pregnancy as an option in cases where congenital abnormalities or severe incurable diseases are diagnosed in the fetus. (2) therapeutic abortion for victims of rape or incest. Since its formal tabling in the National Assembly, the bill on therapeutic abortion has been the subject of heated debate.

The ratification of the law proposal on therapeutic abortion has faced many obstacles. The Nifin'akanga movement criticized the law proposal's disappearance on social media after the government issued opinions and observations in November 2021. The Government Council's press release failed to mention the law proposal, and supporters of the TToP call for the process to be respected. Campaigns including #Bringbackourlaw and #Notoundemocraticpressure have appeared on Malagasy social media. After a few days, the text reappeared on the website of the National Assembly, and the Order of Doctors in Madagascar publicly announced its support for legalizing therapeutic abortion.

On May 17, 2022, the law proposal on therapeutic law was removed again from the National Assembly's agenda by the executive branch for further observation. Then on June 2, 2022, both Houses of Parliament rejected the bill on the pretext of deficiencies observed during the executive's observation of the text. The supporters of the draft bill on therapeutic abortion have mobilized through various interpellation activities to ensure respect for democracy and women's rights.

Furthermore, the main opposition to this bill is AinaRafenomanantsoa, commonly known as Anyah, a member of the parliamentary group IsikaRehetraMiarakaAmin'i Andry Rajoelina (IRD), which is the majority party in Parliament. This confrontation between two elected women parliaments on the implementation of gender-based politics allows observing the relevance of the role and the influence of representation in women's struggles.

1.2. The influence of female representation in passing gender-sensitive policies

This part of the paper sought to understand the influence of female MPs in implementing the TToP draft bill in Madagascar. Previous studies show that developing countries with a higher percentage of female MPs are more likely to pass gender-sensitive policies, suggesting that female MPs influence the gender gap and bias. It also states that the implementation of gender quotas has increased the rate of female representation in these countries.

Regarding the case of Madagascar, these results are not relevant to the extent that Madagascar presents all the aspects discussed in that study, yet the implementation of TToP faces many obstacles. According to Toulou (2014), the representation of women in Madagascar has increased considerably by taking 2002 as a benchmark. In 2002, the percentage of female MPs was 4%, it increased to 7% in 2007, then 9% in 2009. After the Malagasy political crisis of 2009, the legislative body was dissolved and replaced by the Superior Council of Transition (CST) with 20 women (12.3%) against 162 men. The Congress of the Transition (TC) members, the other institution which replaced the Senate, counted 17.5% of women. In 2013, the legislative election was marked by an increase in women's representation in the lower house of Parliament, with 30 MPs out of a total of 147 women, or 20% of the seats. In the last legislative elections in 2019, 126 women ran as candidates out of the 855 candidates, and only 27 women were elected out of 151 Member of Parliaments (MPs), a rate of 17.8%, down from 32 women in the 2013 elections. These data attest that the number of female MPs is not the problem nor the lack of legal framework on gender perspective since Madagascar has a plethora of conventions, charters, and legislation regulating gender equality and inclusion.

Therefore, it is appropriate to observe and consider the socio-cultural norms, which are the main obstacles, by observing the Church's power and the implementation of gender theories. As discussed in the previous section, cultural norms hinder the implementation of policies on women's reproductive rights. Madagascar is no exception, which also leads to a paradoxical situation since Madagascar is a secular country despite the predominance of religion in society. Indeed, the preamble of the current Constitution of the Republic

affirms the belief of the Malagasy people in God. However, article 2 of the same constitution proclaims the «neutrality» of the State on religious issues by evoking the principle of secularism. The Church plays a primordial role in the development of the country but also in its democratization process. Following the events of 2009, the Church took on the part of mediator and contributed to establishing democracy in Madagascar. A Liberty 32 (2013) survey on political participation and citizen perceptions report that religious entities are the only category of institutions that hold the trust of the majority of those who participated in the survey. "32.2% of respondents say they trust religious entities sufficiently, and 25.5% would trust them fully," the survey report says.

As a key institution in the Malagasy society, the opponents of the TToP rely on the Church (religion) to counter abortion and denounce any attempt to popularize this practice as it is against the religious norms. Anyah argues that mothers-to-be's health conditions represent only 5% of cases. Therefore, these "exceptions" are insufficient to make it the law. The IRD representative also maintains that the therapeutic termination of pregnancy violates human rights since this law does not respect the fetus's right to live. As a "pro-life," the group opposed to TToP considers the fetus a separate being, implying that the future mother has no rights over the fetus's life. This law proposal is also being challenged since its ambiguous limits, and its opponents claim that it would violate the Malagasy Penal Code.

These socio-cultural norms are also found in the conception of the gender perspective in Madagascar. Indeed, the matriarchal character of Malagasy society is often mentioned to neglect the different claims about gender equality. According to Ramanantsoa (2015), the matriarchal aspect of Malagasy society, which means that the power is in the hands of women, is always used to argue that Malagasy women do not face any male domination; however, in reality, the situation is different. Indeed, Malagasy women obtained the right to vote at the same time as men right after the declaration of independence in 1960. Then, in 1989, Madagascar ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This Convention advocates equality between the two sexes and defines the main discriminations against women to establish an action plan to promote a national initiative in all fields; social, economic, cultural, political, and civil. In addition, the Malagasy State has been studying gender theories since the 2000s. However, in the Review of Women's Participation in Government and Parliament from 2002 to 2013 (EISA), it turns out that Madagascar does not have a proper law on parity or quota systems within state institutions. Recently, in May 2022, the President of the National Assembly submitted a bill on parity in elective office to improve the participation of women in decision-making positions.

Regarding the general condition of Malagasy women, the African Bank of Development (AFDB) states in its Madagascar gender profile (2018) that the main challenge of Malagasy revolves around (1) social norms, (2) the significant gap between laws and their application, (3) the high prevalence of early marriages and pregnancies of girls (4) the disproportionate accumulation of reproductive and productive tasks by women, (5) the persistence of the scourge of gender-based violence, (6) the limited access to economic opportunities for women, and (7) the lack of clear gender-sensitive policies. Introducing the quota system in Malagasy politics will not help with some situations, as shown by the opposition between these two women MPs. The case of the TToP draft bill points out a confrontation of viewpoints within a group that is seen by the different legal and political frameworks as a single group driven by the same aspirations and visions. It put into perspective that in the case of Madagascar, the number of female MPs and their initiatives is ineffective since gender-sensitive policies do not unite them. Therefore, several factors and elements are to be considered; this will be elaborated on in the next part of this paper.

1.3. The role of elected women in the implementation of the TToP

The Malagasy case of the law proposal on TToP puts into perspective the politics of presence advocated by Anne Phillips as a tool of inclusive democracy. Theoretically, political ideas are often associated with program-based political parties. In this model, variables such as gender and race are unnecessary since voters rely on party ideology to make their choice, not on the individual. Here, the choice of representatives is a matter of judgment and debate. In this sense, the politics of presence is not opposed to the politics of ideas. In the case of the Malagasy TToP draft bill, it was a woman who proposed the law. It is then interesting to note that the members of the Church who opposed it in 2017 were almost all men. This phenomenon supports the observation of Anne Phillips, who explains how the politics of presence allows achieving political equality and equal representation by stressing the importance of symbolic representation and the inclusion of marginalized populations, including women. In this case, women are more sensitive to pro-gender policies.

As mentioned above, the IPU (2020) reports that over the past 25 years, the overall percentage of women in parliaments has doubled, reaching 24.9% in 2020, from 11.3% in 1995. In the lower houses of Parliament, the rate of seats occupied by women rose from 11.6% to 24.9%. In the upper houses, the percentage of women rose from 9.4% to 24.6%. Madagascar follows the same trend: in 1996, women accounted for 3.6% of the Parliament (including lower and upper houses) compared to 15.9% in 2020.

These data show an increase of 12.3%. Gichuki (2014) notes that the numbers do not reflect the reality of the gender political gap and that the focus should be on "quantitative victories." Indeed, controversies over the legalization of abortion show that men still control women's bodies despite increasing female political representation. This situation leads to question whether it is logical and even fair that the men, since they sit in the majority in the Parliament, can decide and pass laws that concern situations they will not experience in their lives? Indeed, the new kind of ethic advocate's male feminism has limits to the extent that men will never be women and vice versa. Caiazza, A. (2004), started with a similar observation; elected women would better represent women than men insofar as the latter cannot fully take into consideration the particular experiences and the challenges women shared. Thus, the involvement of women would allow discussion of problems that male MPs have neglected. This study aligns its finding with other research to emphasize that the improvement of female status depends on the increase of female representation; however, it would not be enough, and other actions such as women's political education must be done simultaneously to induce a good political culture.

In the case of the TToP draft bill, this perspective of political culture is lacking. To be more effective, there is a need to strengthen and socialize feminist perspectives through political education in parties that insist on the political recruitment of women and constitutional rights.

This lack of substantial understanding of female needs hinders progress. Here, representation aims to change the general attitude and perception since the Malagasy political scene remains fundamentally male-dominated. Thus, the separation of private and public spheres and women's constitutional rights need to be strengthened to improve women's representation which will impact the implementation of concrete and long-term policies regarding gender equality.

Therefore, the difference between ibi's research and other studies is the confrontation of two female members of parliaments on the implementation of a gender-sensitive policy. This study shows that the number of women in Parliament does not necessarily act in favor of the passing of a gender-sensitive bill since women are not a monolithic group; they are heterogeneous groups with different experiences and policies that should be taken into account in the elaboration of politics. Also, social and cultural norms have more weight than representation in the case of Madagascar, which confirms, therefore, Anne Phillips' theory that the politics of presence must be combined with the politics of idea to reduce the gender gap.

Conclusions

The gender perspective must include women in the political sphere as women's representation is necessary to implement gender policies. Although the study confirms some improvement in that matter, the significant impact on women's policies is not enough. The unique identity advocated by descriptive representations is irrelevant since it can divide due to several factors (race, sex, ethnicity, religion, etc.). As a result, the representation induced by gender quota policies leads to a descriptive theory of representation, which may explain the weak influence of elected women. As mentioned above, such theory implies understanding a unique and universal female identity, which is problematic since not all women might be aware of gender equality. A more logical step has to identify the special interests of women without this concept of unique identity. The arguments in favor of women's political representation must then be based on a substantial representation theory, which relies on empirical observations. In other words, rather than numbers, the question should identify women's particular interests and highlight whether they are or are not represented in the political process.

Regarding the implementation of the TToP, its adoption by the Parliament remains uncertain since women in the National Assembly are a minority, and the political attitude is still toward patriarchy. In that case, a substantial representation approach is more suitable for implementing gender-sensitive policies and should be backed by quotas.

The author would like to suggest some recommendations regarding the perspective of gender and democracy in Madagascar

- (1) To consolidate democracy, Madagascar must effectively strengthen gender plans and policies.
- (2) Political parties should focus on internal education and awareness related to the gender perspective and political equality since they are responsible for elaborating strategies to implement and support female nominations, which can help reduce the gender gap.
- (3) To pass gender-sensitive policies, the politics of presence must be supported by the politics of the ideas.

Data (and Software) Availability

"All data underlying the results are available as part of the article, and no additional source data are required."

Author contributions

Glwadie N., as the first author, presented the topic and the writing proposal to the co-author, her lecturer, as she is a student at the University of Indonesia. After getting approval from the co-author, she collected the data necessary to write this paper.

Dr. Nur Iman S., as the co-author, examined the topic and the writing proposal; then, he gave his approval which is mandatory since he is affiliated with the University of Indonesia. During the writing process, the co-author gave feedback and revisions on the paper.

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