
Felogene Gor Anumo¹, Dr. Pacificah Florence Okemwa²

¹Correspondent Author, Public Policy and Administration at Kenyatta University, Kenya
²Lecturer, Department of Gender and Development Studies, Kenyatta University, Kenya

ABSTRACT

This study sought to explore whether indeed the increase in number of women occasioned by Affirmative Action principles in the 2010 Constitution of Kenya has enhanced women’s political participation in the National Assembly. The specific objectives were: to analyze the levels of women parliamentarians’ participation on agenda setting and policy output in the National Assembly; to assess the effectiveness of gender quotas as a political tool for ensuring pursuance of the gender agenda in the National Assembly and to discuss constraints faced by women parliamentarians as they seek to influence policy output and enact laws. The March 4, 2013 General Elections which ushered in the 11th Parliament were considered landmark owing to the fact this it was the first General Election to incorporate affirmative action seats. As the term of the 11th Parliament came to a close, it was highly important to find out how effective gender quotas have been in achieving meaningful change for women representatives. The study was guided by Hanna Pitkin’s (1967) framework that she employed in her work “Conception of Women’s Political Representation”. The study was additionally informed by Dahlerup (1988) “Critical Mass theory”. The study made use of cross-sectional descriptive study design. The study was done with members of KEWOPA from the National Assembly of the Parliament of Kenya. The membership of the association consists of all the women Members of Parliament from all the political parties both elected and nominated. The target population of the study were the 68 KEWOPA members from the National Assembly with a sample size of 40 respondents calculated using the Yamane model. Questionnaires were used as the main data collection tool alongside key informant interviews and in-depth interviews. Validity and reliability of the instruments were measured to ensure accuracy and consistency. The study data was analysed thematically. A descriptive approach was involved where direct quotes and selected comments from informants have been used to explain the trends. Triangulation of data was done by looking into complementary and divergent opinions across the key informant interviews and in-depth interviews. The findings of the study suggest that there is still need to create and expand opportunities for women parliamentarians to enable them become more active and effective participants in the legislative processes of the National Assembly. The findings raises the question on what current efforts are being put in place by political parties and the Registrar of Political parties to ensure that the Affirmative Action. The findings are useful to assess the gains of women political representation and inform the lessons; experiences and can be harnessed to strengthen effective women’s political participation in legislature and policy making. They will contribute to informed public debate and critique on the effectiveness of women’s affirmative action for increased participation and visibility on political platforms. Finally, legislators in parliament and policy makers in government will benefit from insights into what it takes to
effectively support women’s participation in legislative processes and how to leverage their numbers in parliament to the country’s advantage. Women aspirants need to be made aware of the challenges they expect to face at the National Assembly. It is also critical to raise awareness among women aspiring politicians and other members of the community to create awareness and address the stereotypes that have continued to ensure only a handful of women succeed in the legislative space. As women and women’s organisations continue to agitate for an increase in number of women legislators, they should equally work to transform the ideology of patriarchy and retrogressive institutional culture in Parliament.

Key Words: Gender Quotas, Women’s Participation, Women and Legislative Processes, National Assembly, Kenya

DOI: 10.7176/ijcab.v3iII.22, URN urn:nbn:de:0000ijcab.v3iII.224

Cite this Article:

1. INTRODUCTION

Transitions from one system of governance to another can be driven by the political calculations of existing regimes, political and governance reforms as part of peace-building and reconstruction processes, or transitions in the wake of democratic uprisings. According to Gizelis and Pierre (2013) all these drivers represent critical junctures at which fundamental issues of gender-based justice and equality in representation need to be considered and addressed. The Constitution of Kenya (1963) provided no legal framework concerning gender balance in political representation. The only provision that came close was Section 33 Subsection 3 “The person to be appointed shall be nominated by the parliamentary parties according to the proportion of every parliamentary party in the National Assembly, taking into account the principle of gender equality.” Under this provision; political parties made nominations according to their numerical strength in parliament. Ponge (2013) advances that political parties were urged, not compelled, to bear in mind the principle of gender equality, but there was no mechanism for verifying that their nomination reflected this at all. Furthermore, no entity was charged with the responsibility of ensuring that the parties observed the provision.

According to Kamau (2008), only 30.9 % of those employed in Kenya’s public service are women. 72 % of who are in the lower cadres. This inequity existed also in the judiciary and in the leadership of political parties. Women held only about 10 % of the seats in the 10th Parliament (2007 and 2013). The Institute of Economic Affairs (IEA) (2008) further supports this stating that despite the fact that women constitute over 50 % of the population, they constituted 8 % of MPs in the 9th Parliament; 6 % of Ministers; 13 % of Assistant Ministers; 3 % of District Commissioners; 20 % of District Officers; 13 % of Councilors and 21 % of Deputy Secretaries. Of great concern, however, is with their gross under representation in the political decision making. Even with the introduction of multiparty democracy in 1992, Kenyan women’s participation in the political sphere remains limited. During the 2002 general elections, there were 64 (6.1%) women contestants out of 1,055 parliamentary candidates. However, only 10 (4.8%) women out of 210 MPs were elected. In an attempt to raise the number of women in
parliament, political parties used their nomination slots to get more women into parliament, bringing the total number to 18. According to UNIFEM (2002), this made Kenya one of the countries with the lowest level of achievement in gender equality and women’s empowerment in terms of parliamentary seats. Kenya’s general elections held in December 2007 saw 15 women elected to parliament. This was a marked improvement from the previous parliament which only had ten elected female members of parliament out of a total of 210. These figures represented relative progress over previous elections. Nonetheless, Kathambi (2009) notes that Kenya continues to lag behind its neighbours in Eastern, Central and Southern Africa. According to the findings of the 2012 Inter Parliamentary Union, Kenya was ranked position 113 globally with about 9.8% women representation in the National Assembly whereas Rwanda leads in the rankings with 56.3%.

This under-representation has major implications on the articulation and implementation of women’s agenda in Parliament. Consequently, women remain largely absent at the levels of policy formulation and decision making and are therefore under-represented in policy decision making positions. Even where present, they are usually not equal participants due to such barriers as cultural practices and masculinity. Therefore, there is an urgent need to address this gender disparity by formulation of appropriate policies Kathambi (2009). The Women Shadow Parliament WSP(K) (2008) Rapid Assessment and Gender Audit report conducted in 2008 noted that the gendered nature of power relations has for decades ensured that women’s numerical strength do not translate into political capital and influence, and hence most women remain largely as voting tools for men, to whom political parties turn to as an electoral force and are enthusiastic for their participation only for the purpose of mustering votes for the party’s presidential, parliamentary and local government candidates. Most women, thus, continue occupying limited roles at the lower and intermediate levels of the organization, where they serve as organs for mobilizing women to support men in elections.

The promulgation of the Constitution of Kenya in August 2010 has brought about reforms that will ensure more women are elected and appointed in public office. The Constitution of Kenya, 2010 was responding partially to the gender bias that existed for long time, by providing for Affirmative Action. This was done by putting in place measures and laws that would guarantee larger participation, representation, and influence of women in all institutions of public sector and governance, including political parties. Studies on women’s political representation have mainly focused on western democracies, and especially the US. Wide (2002) notes that there is relatively weak statistics and data on women’s participation in politics from Global South countries. Pogionne (2006) for example is one of the many studies made in this field that observe women legislatures impact on policy. Much focus is aimed at examining the differences between men and women in legislation and their different impact on policies. Pogionne (2006) highlights that results from previous research mainly suggest that women politicians are more committed to welfare policies concerning children, women and family. I consider that this aspect of women’s representation has already been fairly well explored, although not to imply that no more research needs to be done in that field in the foreseeable future. It is however worth noting that less focus has been given to the work done by the increased number of women parliamentarians, facilitated through affirmative action, once they come into office. This study therefore, focussed on examining the influence of gender quotas as a strategy for achieving greater understanding that facilitate better possibilities of effective women political participation including through sound policy mechanisms.
2. STATEMENT OF THE PROBLEM

Though more than 100 countries have adopted gender quotas, the effects of these reforms on women's political leadership are largely unknown. We exploit a natural experiment—a 50–50 quota imposed by the national board of the Swedish Social Democratic Party on 290 municipal branches—to examine quotas’ influence on women's selection to, and survival in, top political posts. We find that those municipalities where the quota had a larger impact became more likely to select (but not reappoint) female leaders. Extending this analysis, we show that the quota increased the number of women perceived as qualified for these positions. Our findings support the notion that quotas can have an acceleration effect on women's representation in leadership positions, particularly when they augment the pool of female candidates for these posts. These results help dispel the myth that quotas trade short-term gains in women's descriptive representation for long-term exclusion from political power.

In Kenya, women constitute slightly over half of the total population and form a critical portion of enhancing democratization of political system in the country. However, it is clear that they are inadequately represented in political positions. The possible explanation for this scenario could be that gender issues in electoral politics have not received due attention and redress. Political leadership in Kenya in particular has been dominated by men. They are the one who hold the resources, have ample time to be in politics throughout, and been mobilized to acquire and retain political power. Very few women are able to get into elected offices due to resources constraints, cultural obstacles and general belief that women cannot become leaders. For instance, out of the current 224 MPs in the Kenya’s 10th Parliament, 22 (10%) MPs are women, an improvement from the previous 9th Parliament which had only 187.

According to FIDA-Kenya (2013), it is essential to contextualize the uniquely pivotal nature of the March 4, 2013 General Elections, which were considered landmark owing to a number of novel factors, among others; first General Election to incorporate affirmative action seats. Through the adoption of various global and regional instruments, conventions, resolutions and declarations that Kenya is signatory to and using the supreme law of the land, the Constitution of Kenya (2010), the Kenyan Government has shown commitment towards promotion of gender equality and women's empowerment. Celis (2008) indicates that the perceived changes in women’s legislative representation have contributed in moving the idea of women’s participation in politics and in the policy process from being a marginal issue to one of predominance and continues to address the under-representation of women and gender-related interests in politics and public policy. Available statistics indicate that less than 16% of the world’s parliamentarians are women. In Kenya, one indicator of gender inequality is the small number of women in decision making positions and other national governance structures. In the 11th Parliament, Kenya’s women representation in Parliament – National Assembly and Senate – stands at 21 per cent and remains below the Constitutional bare minimum of 33% provided by the Constitution of Kenya. Of the 86 women parliamentarians, 16 were elected as Members of Parliament (MPs), 5 nominated as MPs, 18 nominated as Senators and 47 women representatives selected under the affirmative action. However, although these numbers represent an achievement, the number of women in Parliament remains inconsequential in comparison to 81% of men at the National Assembly and 73% at Senate. More importantly, as the term of the 11th Parliament comes to a close, it is highly important to find out how effective gender quotas have been in achieving meaningful change for women parliamentarians. It is in view of this that the study sought to explore whether indeed the increase in number of women occasioned by...
Affirmative Action has enhanced women’s political participation in the National Assembly.

3. OBJECTIVES OF THE STUDY

1. To analyze the levels of women parliamentarians’ participation on agenda setting and policy output in the National Assembly

2. To assess the effectiveness of gender quotas as a political tool for ensuring pursuance of the gender agenda in the National Assembly

3. To discuss constraints faced by women parliamentarians as they seek to influence policy output and enact laws

4. CONCEPTUAL FRAMEWORK

As there are many forms of feminisms, the feminist perspective employed in this study is one that is informed by Watson (2013) “Feminist Political Theory” which recognizes and values women’s multiple identities and their diverse and unique experiences and hence takes seriously their interests in and their capacities for bringing about social and political change. The study was also guided by Hanna Pitkin’s (1967) framework that she employed in her work “Conception of Women’s Political Representation” within which she defines political representation as “the activity of making citizens voices, opinions, and perspectives “present” in the public policy making processes”. Therefore, political representation happens when political players advocate, speak, symbolize, and act on the behalf of those they represent in the political arena. The final concept that informed this study was the “Critical Mass theory” a concept that is associated with Drude Dahlerup. The idea of a “critical mass,” according to Dahlerup (1988), connotes the state of having at least 30 percent representation of women in national legislatures in order to be able to have significant impact on policies. Dahlerup, in a 1988 study “From a Small to a Large Minority: Women in Scandinavian Politics,” became the first researcher to introduce the “critical mass” concept into political science and into political thinking. Findings from Dahlerup’s study of women in Scandinavian legislatures affirmed that 30 percent women representation in legislatures is the “critical mass” point and that whenever women make up less than 30 percent of the total legislature, they face difficulties in being accepted as legitimate participants in the respective political environment (Broughton and Zetlin 1996; Dahlerup 1988). Similarly, when women constitute less than 30 percent of the total representation, Dahlerup contends, it becomes difficult for them to significantly influence policies, and much more so, are unable to represent women and “women’s issues” (Dahlerup 1988).

The three frameworks were applied in the study to analyse the gender dimension of political representation in Kenya’s electoral politics; to assess women’s representation of gender issues once they are elected or nominated representatives in the National Assembly and finally, whether the increase in quotas as mandated by the Constitution of Kenya (CoK) has had any significant impact on women’s political advancement in the National Assembly. By applying the Feminist Political Theory lens, the findings indicate that women legislators have been able to use their numbers to improve the richness and quality of legislation by bringing to bear their professional backgrounds, lived experiences and visions for Kenyan women. As per the Hannah Pitkin’s framework “Conception of Women’s Political Representation” the study finds that the women representatives have not only advanced specific gender equality issues but they have also contributed to socio-economic debates for the benefit of the society at large. Finally, the study findings also support the “Critical Mass Theory” concept by appreciating the role of formal
groupings such as KEWOPA that are a pillar in consolidating women’s legislators voices and forging a common agenda for its women members. The caucus is viewed as an agent empowering women through gender-nuanced capacity-building initiatives which work to enrich women’s agenda as political leaders.

### Figure 1: Conceptual Framework

#### 5. RESEARCH METHODOLOGY

The study used a cross-sectional descriptive research design. According to Owens (2002), this design is useful in collecting data at one point in time from a sample selected to represent a larger population. The researcher preferred this design because she sought information from a large population over a short period of time. Secondly, the resources at the researcher’s disposal were limited, dictating that the time, materials and research assistants were quite minimal. The unit of the study were women parliamentarian members of the Kenya National Assembly. The study was done with members of KEWOPA from the National Assembly of the Parliament of Kenya. The membership of the association consists of all the women Members of Parliament from all the political parties both elected and nominated. After the March 2013 elections, the membership was expanded to include women in the Senate (www.kewopa.org). The formation of the association arose out of the need to raise the number of women parliamentarians, increase their contribution, influence Parliamentary business, and ensure increased attention to issues affecting women. KEWOPA envisions women and men who are equitably represented in Parliament and decision-making in public and private spheres. Thus, it has a mandate to promote
the advancement of parliamentary democracy by enhancing knowledge and understanding of
democratic governance and facilitate the networking of women parliamentarians for the socio-
economic development of Kenya. In the current parliament, KEWOPA has a total membership
of 86 women and a coordinating secretariat situated in Nairobi (www.kewopa.org).

The study population included all women parliamentarians in the National Assembly. In the
eleventh (previous) parliament, their number stood at 68. Thus the study population will include
purposively sampled members of the National Assembly whose positions have allowed them to
be privy to specific information. The unit of analysis will be the KEWOPA members. The study
employed questionnaires, key informant interviews and in-depth interviews methods as the tools
for data collection. These instruments aided in the collection of qualitative data. Qualitative data
was obtained through open-ended questions contained in the instruments. This provided the
researcher with necessary background and in-depth information about the participation of
women parliamentarians in the National assembly. Both qualitative and quantitative data was
collected. Data processing involved all forms of manipulations necessary for preparing data for
further processing for example coding, categorizing answers to open-ended questions, editing
and checking as well as preparation of tables. The qualitative data was analysed thematically
using content analysis. For each data set, separate code sheets were created in an attempt to
establish and interpret patterns and relationships. A descriptive approach was involved where
direct quotations and selected comments from informants were used to explain the trends.
Triangulation of data was done by looking into complementary and divergent opinions across the
key informant interviews and in-depth interviews. Qualitative data was analyzed using
descriptive statistics and presented in tables and figures.

6. RESEARCH FINDINGS

6.1 Levels of women parliamentarians’ participation on agenda setting and policy output in
the National Assembly

The first objective of the study was to analyse the levels of women parliamentarians’
participation on agenda setting and policy output in the National Assembly. The inclusion of the
perspectives of women and their participation in politics are prerequisites for their democratic
development and contribution to law making. To this end, the study sought to document various
variables to unpack the levels of women parliamentarians’ participation. These were categorized as:
representation in Parliamentary Committees; Formulation of Bills and Contribution to debate
on the floor of the House. For this particular objective, the study primarily focused on
contributions made by women legislators as recorded in The Hansard, which is the official
verbatim record of debates in the Kenyan Parliament, analysis from responses to the
questionnaires and various secondary sources. The study reviewed the period between March
2013 when the 11th Parliament had its first sitting and 30th June 2015.

According to Shaw (1998), parliamentary committees are very powerful institutions in decision
making and shaping public policy. The committee system enables a more robust deliberation on
legislation and oversight of issues introduced on the floor of the House. The committees have the
task of research and making recommendations on matters of national interest brought to the
house by the legislators. It is important to note that the process of nominating members to
committees depends largely on party loyalty and competencies on the issues covered by the
committees. The study established that although the number of women parliamentarians has
greatly increased in the 11th parliament, the representation of women in house business
committees is far less than their male counterparts and only seven house committees out of the possible 28 committees were chaired by women as shown below. This represents 25% of the total positions. They also held 3 vice chair positions which translate to 10.7%.

Table 1: Women Chairpersons and Vice-Chairpersons in the National Assembly in the 11th Parliament of Kenya

<table>
<thead>
<tr>
<th>COMMITTEE</th>
<th>NAME</th>
<th>POSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Liaison Committee</td>
<td>Dr. Joyce Laboso</td>
<td>Chair</td>
</tr>
<tr>
<td>2 Committee on Implementation</td>
<td>Rosalinda Soipan</td>
<td>Chair</td>
</tr>
<tr>
<td>3 Committee on Regional Integration</td>
<td>Florence Kajuju</td>
<td>Chair</td>
</tr>
<tr>
<td>4 Departmental Committee on Education, Research and Technology</td>
<td>Sabina Chege</td>
<td>Chair</td>
</tr>
<tr>
<td>5 Departmental Committee on Environment and Natural Resources</td>
<td>Amina Abdalla</td>
<td>Chair</td>
</tr>
<tr>
<td>6 Departmental Committee on Health</td>
<td>Rachael Nyamai</td>
<td>Chair</td>
</tr>
<tr>
<td>7 Catering and Health Club</td>
<td>Janet Wanyama</td>
<td>Chair</td>
</tr>
<tr>
<td>8 Committee on Constituency Development Fund</td>
<td>Esther Gathogo</td>
<td>Vice-Chair</td>
</tr>
<tr>
<td>9 Departmental Committee on Legal Affairs</td>
<td>Priscilla Nyokabi</td>
<td>Vice-Chair</td>
</tr>
<tr>
<td>10 Departmental Committee on Labour and Social Welfare</td>
<td>Tiyah Galgalo</td>
<td>Vice-Chair</td>
</tr>
</tbody>
</table>

Source: The Hansard, National Assembly

When it comes to participation in house business, the study findings found out that while there has been an increase in the number of women chairing Parliamentary committees, they are still instances where they relegated to the ‘soft areas’ such as Catering and Health Club and not in the powerful committees such as Defence for example. It is also important to note that no woman has chaired four of the most powerful Committees in the history of the National Assembly. These are: The Public Accounts Committee (PAC), the Public Investments Committee (PIC), House Business Committee and the Budget Committee. Nevertheless, women legislators in these positions have demonstrated efficiency by making sure that they follow up on requested statements and present relevant feedback to the various issues raised in the house. Some of those who were very effective Chairpersons included Hon Sabina Chege (Chairperson, Education, Research and Technologies) and Hon. Rosalind Soipan (Constitution Implementation Committee) making ‘significant contributions to their dockets.’ (Mzalendo, 2016) Chairing committees has also enabled them to steer their committees into sponsoring related Bills. Research specifically looking at gender dynamics in legislative committees shows that women’s leadership and conflict resolution styles embody democratic ideals and that women tend to work in a less hierarchical, more participatory, and more collaborative way than male colleagues (Rosenthal, 2001).

The study sought to find out the correlation between the increase in number of women legislators and the number of formulated bills in the National Assembly. The Table below provides a summary of legislation passed at the National Assembly.

Table 2: Summary of legislation passed at the National Assembly of the 11th Parliament of Kenya

| Bills Passed by the National Assembly in 2013 | 13 |

267 www.ijcab.org
The findings established that the increased number of women legislators in the 11th National Assembly in the Parliament in Kenya has been instrumental in moving bills within parliament as well as initiating amendments to Acts of Parliament as shown below. The National Assembly of the 11th Parliament ran from 2013 to June 2017 with 250 members including the Speaker. According to Kenny (2019), in this, 86 legislators were women, the highest in number witnessed in Kenya. During this period, one hundred and eighty Bills were passed.

Table 3: Bills introduced by Women in the National Assembly

<table>
<thead>
<tr>
<th>No.</th>
<th>Member of Parliament</th>
<th>Bill/Act</th>
<th>By June, 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>ACTS</td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>Cecilia Ng’etich</td>
<td>The Engineering Technologists Bill, 2015</td>
<td>Passed</td>
</tr>
<tr>
<td>2.</td>
<td>Priscilla Nyokabi</td>
<td>The Access to Information Bill, 2015</td>
<td>Passed</td>
</tr>
<tr>
<td>3.</td>
<td>Millie Odhiambo</td>
<td>Victims Protection Act (No.17 of 2014)</td>
<td>Passed</td>
</tr>
<tr>
<td>4.</td>
<td>Dr. Joyce Laboso</td>
<td>Social Assistance (AMEND) Act (No.24 of 2013)</td>
<td>Passed</td>
</tr>
<tr>
<td>5.</td>
<td>Sophia Noor Abdi</td>
<td>Public Benefits Organizations Act (No. 18 of 2013)</td>
<td>Passed</td>
</tr>
<tr>
<td></td>
<td></td>
<td>BILLS</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Grace Kiptui</td>
<td>The Basic Education (Amendment) Bill, 2016</td>
<td>Passed</td>
</tr>
<tr>
<td>7.</td>
<td>Wanjiku Muhia</td>
<td>The Persons with Disabilities (Amendment) Bill, 2013</td>
<td>Passed and Forwarded to Senate for consideration</td>
</tr>
<tr>
<td>8.</td>
<td>Rachel Nyamai</td>
<td>The Diabetes Management Bill, 2014</td>
<td>Lapsed</td>
</tr>
<tr>
<td>9.</td>
<td>Rachel Nyamai</td>
<td>The Kenya AIDS Control Authority Bill, 2014</td>
<td>Withdrawn by Committee Chair because it had already been introduced in the Senate</td>
</tr>
<tr>
<td>10.</td>
<td>Rachel Nyamai</td>
<td>The Traditional Health Practitioners Bill, 2014</td>
<td>Lapsed</td>
</tr>
<tr>
<td>11.</td>
<td>Rachel Nyamai</td>
<td>The Pharmacy Practitioners Bill, 2014</td>
<td>Lapsed</td>
</tr>
<tr>
<td>12.</td>
<td>Millie Odhiambo</td>
<td>Assisted Reproductive Technology, 204</td>
<td>Referred back</td>
</tr>
<tr>
<td>No.</td>
<td>Name</td>
<td>Bill Description</td>
<td>Stage/Outcome</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
<td>-------------------------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>13</td>
<td>Florence Mutua</td>
<td>Sexual Offences (Amendment) Bill, 2016</td>
<td>Lost at 2nd Reading</td>
</tr>
<tr>
<td>14</td>
<td>Gladys Wanga</td>
<td>The Cancer Prevention and Control (Amendment) Bill, 2016</td>
<td>1st Reading/Lapsed</td>
</tr>
<tr>
<td>15</td>
<td>Sabina Chege</td>
<td>The Breastfeeding Mothers Bill, 2017</td>
<td>2nd Reading (committee stage)/Lapsed</td>
</tr>
<tr>
<td>16</td>
<td>Mary Emase</td>
<td>The Nutritionists and Dieticians (Amendment) Bill, 2017</td>
<td>1st Reading/Lapsed</td>
</tr>
<tr>
<td>17</td>
<td>Amina Abdalla</td>
<td>The Wildlife Conservation and Management (Amendment) Bill, 2017</td>
<td>1st Reading/Lapsed</td>
</tr>
<tr>
<td>18</td>
<td>Sunjeev Birdi</td>
<td>The Kenya Citizenship and Immigration (Amendment) Bill, 2017</td>
<td>Introduced on 11/7/2014/Lapsed</td>
</tr>
</tbody>
</table>

A number of studies have examined whether women’s issue bills sponsored by women are more successful than those sponsored by men with mixed results. According to Saint Germain’s and Thomas’s (1994), the passage of such bills is more likely when they are sponsored by women. However, in their studies of women’s issue legislation in multiple state legislatures, Schneider and Bratton (1999) found that the sex of the sponsor(s) has no significant effect on the likelihood of passage. In Kenya Mzalendo, an online platform which documents and tracks how parliamentarians perform notes that women legislators made several important contributions in the National Assembly. It also disapproves the notion that women legislators only cover gender-related issues as they moved several important motions and amendments on various issues including education, campaign financing, education, campaign financing, adoption of reports on nomination of members to the JSC, legislation on disability, translation of laws, mining, setting up of local fertilizers boards and so on (Mzalendo, 2017). Further interrogation of the Hansard and Parliamentary Order papers further indicates that the women legislators also actively contributed to various Bills brought to the floor of the House by their male counterparts. These included the Magistrates Court Act, the Firearms Tracking and Registration Bill for example.

Upon review of the Hansard, as of June 2017, women legislators introduced 18 out of a total of 180 pieces of legislation which included five Acts and 13 Bills (Bills Tracker, 2017). Table 4.3 indicates that between March 2013 to June 2015, women sponsored 9 out of 110 Bills in the National Assembly. This represents approximately 8% of the total bills. The findings of the study affirms that enhanced women’s participation at the legislative level in the National Assembly is a direct function of their numerical numbers and the extent to which women’s organizations promote women candidates. These findings were similar to the research by NDI (2008) which shows that the number of women in parliament does matter; at the very least, the more women there are in parliament, the more likely the parliament is to address women’s issues and to change the gender dynamics in the chamber. The proportion of women members of parliament has a great influence on the nature of the debate in politics, something that is echoed by the KEWOPA Treasurer:
In the 11th parliament we have used our numbers as women to move several bills that we believe will advance the gender agenda and to a large extent improve the welfare of men, women and children in this country especially around issues of health and the welfare of the girl-child in the country (Women Representative & KEWOPA Treasurer).

Women legislators not only represented issues in their counties and constituency, but they also contributed to various issues of national interest including regional integration bodies like The East African Community. According to Mzalendo (2017), their focus did not lie solely on the Family Bills (The Marriage Bill, The Children’s Bill, The Protection against Domestic Violence Bill and The Matrimonial Property Bill) but they went ahead to contribute to other areas including; security, finances, water, health, devolution, infrastructure, waste management, environmental issues, mining and so forth.

It is also important to note that the women legislator’s contributions are greatly influenced by their level of education, professional background, work and life experience. Those with higher levels of education had more insightful contributions for example Hon (Dr.) Rachel Nyamai (Chairperson, Departmental Committee on Health) who was able to sponsor four health related Bills – The Diabetes Management (Amendment) Bill, 2013, The Kenya AIDS Control Authority Bill, 2014, The Traditional Health Practitioners Bill, 2014 and the Pharmacy Practitioners Bill, 2014 – in the life of the 11th Parliament of Kenya. Some were also to build on their previous experience to provide insightful contributions through a good understanding of issues in their counties and constituencies. For example, in the substantive debate on the Magistrates Court Bill, Hon. Millie Odhiambo-Mabona was able to raise critical issues on access to justice by highlighting barriers that women face including lack of capacity for women to understand the law because of language, intimidation, rebuke from the community and long distances from courts. Her legal expertise and background as human rights lawyer and experience as a women’s rights champion, she said, leveraged her contributions to both substance and technicalities of the debate. The women legislators brought to the fore their knowledge, experiences and understanding of issues to enrich the various debates. In my view therefore, the levels of women’s participation have markedly increased based on the quality of their contributions on debates and the increased number of formulated bills and legislation introduced in the National Assembly.

6.2 Effectiveness of gender quotas as a political tool for ensuring pursuance of the gender agenda in the National Assembly

Piscopo et al. (2009) notes that governments all over the world have increasingly adapted the use of gender quotas to fast-track gender equality in legislative assemblies. By electoral law, about a dozen countries worldwide have reserved a certain number of parliamentary seats for women in the lower house of the national parliament. According to Little & Ogle (20060, the single most important role of the National Assembly is the power to propose and enact legislation. For a law to be enacted to legislation, it must be approved by a majority of the members. The study sought to find out the effectiveness of the gender quotas in enhancing women legislators’ participation in the National Assembly to advance the gender agenda. To this end, two variables were explored: gender analysis of bills passed and the role of KEWOPA. An analysis of the Bills introduced by women’s legislators allows us to appreciate the gender perspectives infused in the life of the 11th Parliament of Kenya. The findings affirm Hanna Pitkin’s (1967) framework in her work “Conception of Women’s Political Representation” within which she defines political
representation as “the activity of making citizens voices, opinions, and perspectives “present” in the public policy making processes”. In this Parliament, the women legislators championed a number of crucial Bills and motions that would have a significant impact on women and Kenyans more generally.

Some notable examples were highlighted in the findings. For a country faced with constant drought and severe food shortages, it was critical that we have such a Bill in place. Women and children bear the heavier brunt caused by famine and this Bill was championed by a woman reflecting the same. In a similar vein, the perennial water shortages and drought in Kenya are issues that needed to be addressed. Women spend so much time looking for water especially in the ASAL areas. Many women parliamentarians called for the setting up of multiple water harvesting dams in all counties to address the issue of drought during dry seasons. Furthermore, the Water Bill and Food Security Bill were sponsored by women parliamentarians to this end. Women parliamentarians also sponsored the Mining Bill and the Natural Resources (Benefits and Sharing) Amendment Bill that would regulate how mining benefits would be shared and in particular highlighting the welfare of women mine workers and in this calling for improved working conditions particularly as women are often low paid and in the most precarious working conditions. Furthermore, women legislators were able to contribute gender perspectives in various Bills. For example in the Older Person Cash Transfer System as women are often doing majority of the care work in the society and are forced to take care of the old and aged in society which is a huge financial burden. In this women legislators called for the creation of nursing homes for older people, strengthening of the National Security Social Fund to cover old people and increase of funds given through this program. In the Devolution on Marriage Services, women legislators called for provision of marriage services to all constituency because of the costs people had to incur to access these services in the big towns and cities. Moreover, the Basic Education (Amendment) Bill, 2016, benefited from the critical gender perspective of women parliamentarians who shared experience of girls in their constituency missing school and policy incoherence in the approach of menstruation.

Legislations such as those highlighted above would never been brought to the floor of the House as they are usually stereotyped as women’s business.

The Kenya Women Parliamentary Association (KEWOPA) is a membership association of all women parliamentarians drawn from across all political parties both elected and nominated in the Senate and National Assembly. KEWOPA’s vision is for a world where women and men are equitably represented in parliament and decision making in public and private spheres to promote sustainable development. To this end, KEWOPA’s mission is to promote the advancement of parliamentary democracy by enhancing knowledge & understanding of democratic governance and facilitate the networking of women parliamentarians for the socio-economic and political development of Kenya (www.kewopa.org). KEWOPA has been instrumental in shaping the capabilities and assertion of women parliamentarians in influencing legislative processes in the National assembly as elaborated by Gender Advisor to KEWOPA below:

All female Members of Parliament automatically become members of KEWOPA irrespective of their political party affiliation or whether nominated or elected. By mobilizing women as a group, KEWOPA has been instrumental in empowering women parliamentarians to contribute effectively to legislation and enactment of policies.
KEWOPA members have been very particular on Affirmative Action realization, they lobbied on the floor of the House, with male colleagues and committee of experts on significant gender items in the 2010 constitution making process. More pronounced was the realization of affirmative seats across national assembly, senate and the county assembly significance (KEWOPA Gender Advisor).

There is however still need to enhance the participation of more women in the National Assembly, which would then act as the ladder to legislative participation and policy-making roles. With this in mind, the study sought to find out the role KEWOPA has played in increasing the participation of women in parliament. Overall, the findings indicate that much of these contributions were largely premised on the enactment and formulation of gender sensitive laws and policies. Key informants in the study were of the opinion that through KEWOPA women parliamentarians have been able to raise critical issues and influence the progressive legislation in the National Assembly as elaborate by key informant response:

Critical to the influence of women parliamentarians in parliament is their number and need to level playground including operational norms in the houses of representatives. I think as KEWOPA we have done a great deal to promote gender equality advanced by democracy as a key tenet and we have been able to push through fundamental changes in parliament that remains beneficial to date (Female Nominated Member of Parliament & former Deputy Chair, KEWOPA).

According to Rosenthal (2001), women are more likely to work across party lines and strive for consensus, even in partisan and polarized environments. Moreover, women lawmakers say in studies that they see issues like health care, the environment and combating violence more broadly as social issues and that women more than men see government as a tool to help serve underrepresented or minority groups. Women lawmakers are often perceived as being more sensitive to community concerns.

The findings showcase the caucus as an entry point where women structure strategies to assume leadership positions within the legislature and generate crucial bills to advance the gender equality agenda. The study is therefore in agreement with Drude Dahlerup (1988) who notes that having a minimum representation (at least 30%) of women in national legislatures is needed in order to have significant impact on policies. In this way, the caucus builds the support base and agenda for women’s leadership in parliament while at the same time offering a point of reference for transformative and distinctive leadership from that of male politicians.

6.3 Constraints faced by women parliamentarians to influence policy output and enact laws

The institutional context in parliament presents a critical dynamic in the ways in which female parliamentarians participate in legislative processes. As Franceschet and Krock (2008) explained,

Substantive representation occurs at multiple stages of the legislative process: Women’s interests are promoted when legislators introduce women’s rights bills; when they seek to mobilize support for these bills...when legislators vote for and pass laws that promote women’s rights... outcomes are influenced not merely by the sex of the representative but by the gendered power relations that are reflected in the institutional rules, operating procedures, and informal norms of legislative bodies, (2008: 16).
In other words, an analysis of substantive representation that disconnects the legislator from her legislative context is not adequate enough to make us understand the critical links between women’s descriptive representation and legislative outcome. It is with this, the researcher sought to find out how women legislators participate in the debate process in the National Assembly by inquiring about their perception of the legislative environment and processes inside the House. To this end, the study posed open-ended questions that generated the following responses which are discussed under the following sub-sections: patriarchal norms and attitudes, division caused by political parties and complex legislative language.

The most significant challenge mentioned was patriarchal norms and attitudes (50%). The issue of the role of political parties (30%) in enhancing women legislators’ participation and complexity of legislative language (15%) also featured significantly. Other challenges (5%) brought up by the women parliamentarians include long and irregular working hours, balancing demands at the constituency level and parliamentary work, care work at home just to name a few home leave them feeling exhausted and tired.

The face of Parliament for a very long time has been ‘male’. This is because of a trend where positions such as Speaker, Whip, Clerk, Majority and Minority Leader are disproportionately distributed among the two genders. The fact that women have not been elected to these powerful positions is a barrier to their influence and power to direct House business. Unfortunately, in the National Assembly of the 11th Parliament, all these positions were occupied by men. In fact, Hon. Joyce Laboso was elected the Deputy Speaker of the National Assembly by members and Hon. Beatrice Elachi as Majority Chief Whip for the very first time in the history of the House (Mzalendo, 2017). The role of Majority and Minority leaders includes determining which matters

![Figure 1: Constraints to Women's Participation in the National Assembly](image-url)
including Bills and Motions get debated on the floor of the House. The Whip rallies political party members to support identified matters in line with the political party agenda.

From the findings, patriarchy is deeply entrenched in the National Assembly as represented by the negative attitude towards women’s involvement in politics and legislative processes (50%). This finding is similar to those of Heilman (2001) and Carli and Eagly (2007), who suggested that the masculine construct of leadership and its antithetical relationship with women was a major barrier to women’s leadership ambitions. The respondents echoed what Tamale (2000:12) found in her study of Ugandan parliament, that parliamentary institutional frameworks can perpetuate gender inequality and affect the way female parliamentarians participate in debates and motions during parliamentary sessions.

Parliament is an important institution that enables women make the most impact to advance women’s welfare because this is where all laws are made. However, in my view as currently constituted the 11th Parliament does not have the institutional capacity to give women space to participate effectively because the structures in place were inherited from the colonial government, most which are anchored on draconian laws that governed the way business was conducted in the house. They are discriminating on the basis of gender; they gag media coverage of parliamentary proceedings so that the public cannot audit what is going on inside parliament etc. There is a need to open up parliament and engender its structures including standing orders, house business committees and laws to ensure everyone participates equally without fear or favour (Women Representative – National Assembly).

The study found that women’s presence is not welcome in Parliament as witnessed when an initiative dubbed “Punda Amechoka, Punguza Mzigo” loosely translated to mean the donkey is tired, reduce the load to scrap off the County National Assembly positions occupied by 47 women was led by Hon. Moses Kuria (Member of Parliament for Gatundu South). The initiative was couched under the intention of reducing the bloated Parliamentary budget. More than 300,000 people endorsed the initiative by signing the petition.

Moreover, respondents also mentioned instances where they felt that their contributions were not always taken seriously. This can be seen from a cursory look of the Magistrates’ Courts Act which does not reflect the gender related contributions that were brought to the floor of the House during the debate as captured by the Hansard records. The challenge of not being recognised and respected in the National Assembly is faced mostly by the nominated members where names such as “top-Up” or “Flower Girls” have been concocted to ridicule their presence. Additionally, they constantly are challenged to state which constituency they are representing when they contribute to substantial debate on the floor. Often they have to push back on such narratives as highlighted by a key informant below:

Bringing in women to parliamentary leadership is not only important in amplifying the participation of women in the legislative agenda of parliament but it is also crucial in creating a balance between men and women legislators in spearheading parliamentary platforms such as committees where issues pertinent to the quota of women and their influence in parliament are debated and raised for discussion in the house business (Nominated Female Member of Parliament).

It is critical that key stakeholders such as political parties, the Registrar of Political Parties, Civil Society Organizations and the media work together to advance the political agenda of the
affirmative action principles and foster political will to support women legislators in Parliament. Political parties are the most crucial institutions that affect the political participation of women. Research shows that, in most countries, political parties are responsible for candidate nomination and selection, and decide on which issues are placed on the policy agenda (Oloo, 2007). How women participate in political parties or how political parties facilitate and nurture women’s involvement is a key determinant of their prospects for political empowerment. The study found out that while women parliamentarians would rally support for a bill touching on an important gender issue they would sometimes be sharply divided (30%) along party lines.

An example of this was witnessed during the crucial gender rule debate in the National Assembly. Upon the Attorney General of Kenya seeking an advisory opinion on the minimum one-third gender rule requirement in both houses of the Senate and the National Assembly from the Supreme Court of Kenya, the court held on 11th December 2012 that despite affirmative action being progressive for gender equity in Kenya it was not feasible for immediate implementation. Parliament was given a grace period until 27th of August 2015, by the court to put its house in order so as to enable the enactment of the one-third gender rule in the 2017 general elections. (Opuko, Anyango & Alupo (2018). According to Kameri-Mbote (2018), the court's findings averted a constitutional crisis but only served to divert the focus of the political parties from identifying, nurturing and nominating women candidates for political leadership. Implementation of the gender rule in essence suffered a major setback after the Supreme Court decision for postponement and failure of the 11th Parliament of Kenya to pass appropriate legislation for enactment of the gender rule prior to the 2017 elections. However, the National Assembly women’s organization, Kenya Women Parliamentarians Association (KEWOPA) has also served to strengthen the voices of women legislators. By coming together to form a caucus, women legislators have been able to shape the parliamentary agenda. In sharing resources such as staff time, research materials, and budgets, women caucus members can more efficiently and strategically advance their agendas. Such caucuses not only advance women’s policy priorities, they provide an important platform of amplifying women’s participation in legislative process and collaborative policymaking, particularly in post-conflict or highly polarized environments. The findings on the contribution of KEWOPA have been discussed across legislation activities that largely defines the major domain of the organization’s objective.

There is a pronounced programme for political leadership mentorship run by KEWOPA in order to build the capacity of female aspirants across constituencies and political parties as in the response below:

*Mentorship to young aspirants is a noble cause pursued by the caucus. It is something that women need to strengthen their capacity to campaign, gain visible leadership positions within the political parties and influence their way as candidates because men dominate political parties. The results are evident with our previous experiment; there are up to three female parliamentarians in the 11th parliament that sailed as a result of the capacity building approach (Elected Member of Parliament – National Assembly).*

Given the low levels of women’s presence in parliaments and other decision-making bodies, parties need to be proactive in ensuring that gender equality is addressed in governance. Parties are influential in determining which issues inform the political debate: they formulate policy, set governance priorities and are therefore strategically placed to address the concerns of women. Kenya's electoral system and patriarchal culture has served to bring about the dismal
performance of women who seek leadership in the political arena. The nature of Kenya's politics demands a lot in terms of finances and social capital, yet the means and ways of acquiring social, financial and political capital remain heavily skewed to the advantage men more than women regardless of a woman's religious, ethnic or social class background. For the gender rule to be implemented as stipulated in the Constitution of Kenya, 2010, it is necessary for political parties and the legislature to put in extra effort for its realization...

Increased women participation in parliament requires a shift from patriarchal practices including the parliamentary language and standing orders that over the years has not been gender neutral. The study findings found that the colonial traditions and practices that influence (15%) their legislative participation is a big hindrance. According to the Gender Advisor at KEWOPA, highlights on efforts being made by women legislators to overcome this challenge:

KEWOPA members felt there is need to nurture the legislative and political skills of young, first time parliamentarians, and to facilitate this agenda, we attached three mentees to each of the members in the 10th parliament and for 11th parliament, we sought partnership of NDI on collaboration of the mentorship programme that will then be cascaded down to young women leaders in university (Gender advisor to KEWOPA).

The study established that due to KEWOPA’s efforts towards bringing about change in the National Assembly Standing Orders of 2011 the use of archaic language and legalese has been done away with and replaced with simple and direct English, ordinary phraseology. This is because KEWOPA members undertook to mainstream gender perspectives into the Standing Orders by stigmatizing the chauvinistic use of masculine pronouns and terminology when referring to persons.

7. CONCLUSION

The study sought to find the effect of legislative quotas the influence of gender quotas on women’s participation in legislative processes in the National Assembly. The study notes slow but steady progress being made to increase the number of women legislators in Parliament. This has consequently led to women legislators gaining confidence to articulate and advance critical issues bedevilling the society. The findings of the study suggest that there is still need to create and expand opportunities for women parliamentarians to enable them become more active and effective participants in the legislative processes of the National Assembly. The most urgent measure may be to proactively address the barriers that deter and frustrate them from benefitting from the expanded political space and legislative safeguards related to gender equity. The historical records of women’s representation in Kenya have indicated a disparity lower than the world and regional average, despite the country having led efforts to legislate on gender equality. The findings of this study advance that more effort and political will is required to ensure the spirit and the letter of the Constitution of Kenya which calls for Affirmative Action is realized for the benefit of Kenyan women. With this insight, the study therefore made recommendations that are covered in the next section.

8. RECOMMENDATIONS

On the basis of the conclusions of this study, the following recommendations are made for the effectiveness of gender quotas in legislation making and participation at the National Assembly. KEWOPA needs to embrace a robust research-oriented secretariat that can internally inform its activities and operations of the women legislators including their capacity is strengthened on
Standing Orders and language used during Debate. Additionally, KEWOPA needs to continue supporting women legislators in political networking with the speakers and clerks’ offices, political parties, media and the parliamentary legal team in drafting the Bills, making amends to the laws and initiating advocacy for increased visibility of women legislators’ performance at the National Assembly. Women’s rights organisations need to develop targeted programs for training women to advance their political capital and increase their political capacities to advance legislation in the National Assembly. Political parties remain a critical vehicle to the success of gender quotas. Most political parties consider women to be central in mobilising voters for various party candidates during election campaigns; party culture and custom do not value women equally to enable them hold strategic positions within the party. The Office of the Registrar of Political Parties needs to put in place a monitoring and enforcement mechanism that will ensure they can hold parties to account for example in party leadership positions. Gender quotas need to complement other efforts to transform political norms and values.

While policy and legislative frameworks to promote gender equality are guaranteed through the Constitution of Kenya (2010), women aspirants need to be made aware of the challenges they expect to face at the National Assembly so that they are adequately prepared to overcome them. It is also critical to raise awareness among women aspiring politicians and other members of the community to create awareness and address the stereotypes that have continued to ensure only a handful of women succeed in the legislative space. As women and women’s organisations continue to agitate for an increase in number of women legislators, they should equally work to transform the ideology of patriarchy and retrogressive institutional culture in Parliament. Women’s rights organisations should organise induction and regular sensitization sessions with women parliamentarians. KEWOPA should facilitate continuous mentorship and capacity strengthening sessions among and between women parliamentarians to build expertise and share experiences which can assure effective women participation in the National Assembly.

REFERENCES


Economic Affairs.
Leiter and Leiter; Affirmative Action in Antidiscrimination Law and Policy: an overview and synthesis (2ed State University of New York, Albany 2011) ch1
Sayer L. (2005). Gender, time, and inequality: Trend in women’s and men’s, paid work, unpaid work, and free time.


United Nations, the UN Charter July 2013


This is an open-access article published and distributed under the terms and conditions of the *Creative Commons Attribution 4.0 International License* of United States unless otherwise stated. Access, citation and distribution of this article is allowed with full recognition of the authors and the source.

Authors seeking to publish with an International Peer Reviewed Journal should consider [www.ijcab.org](http://www.ijcab.org) by writing to the Editor at [editor@ijcab.org](mailto:editor@ijcab.org). List of our Journals are Available at [www.ijcab.org/journals](http://www.ijcab.org/journals)