

**THE RELATIONSHIP BETWEEN INCREASED NUMBER OF WOMEN IN
PARLIAMENT AND ENACTMENT OF GENDER SENSITIVE LEGISLATION IN THE
10TH PARLIAMENT, KENYA**

BY

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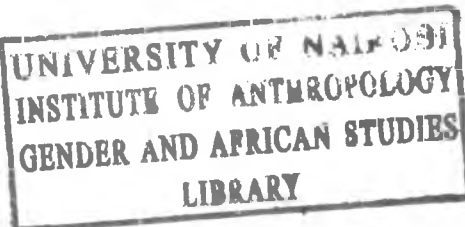
**A PROJECT PAPER SUBMITTED TO THE INSTITUTE OF ANTHROPOLOGY,
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DECLARATION

I declare that this project report is my original work and has not been presented for a degree in any other university.

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This project report has been submitted with my approval as the university supervisor.

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DEDICATION

This work is dedicated to my mother Catherine Nduku Ngesu.

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ABSTRACT

This was an unobtrusive study designed to analyze the legislative inputs by women parliamentarians in gender related legislation and in establishing whether the Standing Orders are an impediment to women parliamentarians in influencing the enactment of gender sensitive legislation. Specifically it sought to establish the relationship between increased numbers of women and enactment of gender-sensitive legislation in the 10th Parliament. The study population included all the gender-related bills tabled by women and men parliamentarians in the 10th Parliament. Further, an analysis of the Standing Orders was conducted and the views of three key informants were sought on whether the Orders impede women parliamentarians' contribution to gender-sensitive legislation.

A combination of purposive and systematic sampling was used to sample bills to be analyzed. The legislations selected were clustered into three main categories: political, socio-cultural and economic and listed alphabetically. The number of gender-related bills identified was thirty-three thus the first three in each category were selected and analyzed for the study. Purposive sampling was used to select three key informants that are senior parliamentary staff based on the fact that they sit in all parliamentary proceedings in the Chambers to give their views on the Standing Orders and women parliamentarians' legislative inputs. In addition to this, secondary data sources such as publications by the research department in Parliament were used. Data were analyzed thematically. A descriptive approach was used to articulate the legislative inputs by women that have gender connotations and the views of the three key informants.

The study findings indicate that an increased number of women in parliament has contributed to the enactment of gender-sensitive legislation. However, the Standing Orders are an impediment to women parliamentarians' effective participation in influencing the enactment of gender sensitive legislation.

In conclusion, there is need to increase the number of women parliamentarians in parliament and to continuously build their capacities on social, political and economic issues so that they are able to address them succinctly in legislative processes and to contribute to the enactment of gender sensitive legislation. Further, they need to understand the Standing Orders so that they

can use them strategically to move the gender agenda in parliament and identify gender sensitive male parliamentarians to support them.

This study recommends that male involvement is key to influencing enactment of gender sensitive legislation. Thus, civil society organizations including the Women's Parliamentary Caucus and the Kenya Women Parliamentary Association (KEWOPA) need to identify male parliamentarians that support the gender agenda so that their capacities can be further enhanced to influence the enactment of gender sensitive legislation. Parliament and other parliamentary strengthening programmes should strive to build the capacities of women parliamentarians on the Standing Orders to enable them to move the gender agenda in parliament strategically. Finally, there is need to conduct further research to establish the legislative input by male parliamentarians in mainstreaming gender in legislation.

ABBREVIATIONS AND ACRONYMS

AIDS- Acquired Immunodeficiency Syndrome

GOK- Government of Kenya

HIV- Human Immunodeficiency Virus

KEWOPA- Kenya Women Parliamentary Association

KNA – Kenya National Assembly

MDGs- Millennium Development Goals

MP- Member of Parliament

OECD- Organization for Economic Co-operative and Development

UN- United Nations

UNIFEM- United Nations Women’s Development Fund

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 Introduction

Women form more than half of the population, but constitute only 18 per cent of all members of parliament worldwide (Inter-Parliamentary Union, 2009a). Yet this global average masks substantial cross-national variations: Rwanda and Sweden have roughly equal numbers of women and men in their national assemblies, while Belize and Saudi Arabia have no female members at all (Inter-Parliamentary Union, 2009b). Research has in the past largely converged on explanations for these patterns, employing both quantitative and qualitative methods to test and explore relations between women's representation and various political, social, economic and cultural factors. Over the last several years, however, this implicit consensus has been challenged by new data, stemming from dramatic shifts in patterns of female representation around the globe. More specifically, the nine countries with the highest proportions of women in 1987 came from two recognizable groups, the Nordic region and the Communist Bloc (United Nations Office at Vienna, 1992: 12). By 2009, however, this group had grown much more diverse to include two African countries, three Nordic countries, two Latin American countries, one continental European country and one Communist country (Inter-Parliamentary Union, 2009b).

A political foundation is crucial for the creation of the necessary social conditions to secure maximum use of men's and women's abilities in all fields as well as to implement a policy that promotes women's and men's balanced participation in socio-political life. This presupposes that the state development strategy should be focused primarily on ensuring equal rights, freedoms and equal opportunities to men and women, thus requiring the mainstreaming of a gender component into all spheres of legislation and state policies.

Gender mainstreaming encompasses several aspects. The first one is the assessment of consequences that any planned action (including legislation, policies or programmes in all spheres and at all levels) may have for men and women (UN, 1997). Thus, gender mainstreaming incorporates (as its components) gender analysis, including gender-based analysis and

monitoring. It also includes initiatives to enable women as well as men to formulate and express their views and participate in decision-making across all development issues (OECD, 1998: 12). In other words, gender mainstreaming is also a policy. It is important, first of all, because it complements the philosophy of equal rights and opportunities with the principle of *equal* (but not necessarily identical) results. The attainment of gender equality is predicated on the extent to which a gender component will be integrated into economic, political and social spheres and into a system that ensures a country's security.

The gender system makes a significant impact on people. It is noteworthy that inequality of women's and men's rights and opportunities in public life and in economy is an outcome not only of cultural traditions and socioeconomic situations but also of a disregard of the impact of a gender component. The consideration of that component is a new approach and a new paradigm that determines the roles to be played by both sexes, that is, by men and women, in the processes of societal development (Hasratia, 2004).

For instance, women are not adequately involved and their interests are not sufficiently represented and taken into consideration in the areas where vital decisions are made, in the legislature and at a level of political appointment in the executive branch of government. One of the central points of interest in recent feminist theory on representation concerns the relationship between descriptive and substantive representation. To put it in short, it amounts to saying that gender has an influence on the potential to represent women (Mansbridge, 1999; Phillips, 1995, 1998; Tamerius, 1995; Williams, 1998; Young, 1997, 2000). This stems from women's different life experiences and their structural position in society. Tamerius (1995) states that this life experience comprises both concrete life experience and its gendered perception, on the one hand, and access to information about female life experience via contacts and socialization, on the other. Given that women Members of Parliament (MPs), descriptive representatives, share their experiences with female citizens, their presence (according to these writers) means a higher chance for the representation of women, their needs and interests, for presenting of a female perspective, or for the voice of women to be heard, substantive representation. In instances where women personalize agendas and separate them from party politics, this tends to play a role

in the representation of women. Life experience provides the necessary 'resources', namely, conscience and expertise, to define and describe women's interests. It can also lead to higher priority given to subjects of specific importance to women. As a result, women MPs could be women's most fervent representatives (Phillips, 1998; Tamerius, 1995).

These insights bring us to the following assumption concerning the potential contribution of women MPs to representing women: Given the specific life experience and social position of women and the potential sensitivity, knowledge, expertise and willingness that they generate for the representation of women, we would assume that the growing presence of women MPs results in: 1) a quantitative increase in substantive representation of women, and 2) a qualitative improvement in substantive representation of women. Furthermore, it is expected that the presence of a large female electorate results in an increase in number of women MPs. In this case, different mechanisms are used to convince them to vote for female candidates. From then on, of course, they also depend on the women voters for their re-election.

Statistical researchers have been slow to theorize these changes (Tripp and Kang, 2008), while case experts have responded by observing more and more 'exceptions' to the conventional wisdom (Bruhn, 2003; Russell *et al.*, 2002).

1.2 Problem Statement

The concept of gender is a complex system based on individual and societal, cultural, physical and spiritual as well as political experience. In other words, it is a life's reflection wherein any difference or division is located in a system of hierarchical relations (Hasratia, 2004).

Despite gender issues impacting on both men and women, legislations have continuously promoted discriminatory aspects that continue to fuel patriarchy. In the supreme legislation making organ in Kenya, Parliament, gender differentials are outstanding right from the composition of its members at 22 women compared to 200 men, albeit being the highest number of women MPs since independence. This collectiveness falls short of the threshold requisite to represent a sizeable mass in making and influencing critical decisions. The current standing orders set the quorum for legislation enactment at thirty MPs (Kenya National Assembly, 2008:

22) and requires 1/3 representation for constitutional amendments (Government of Kenya, 2010: 165). Despite women constituting a very large constituency of voters, their representation in parliament and other public decision-making spaces flies in the face of their numerical strength and resilience.

This study, therefore, sought to determine whether the increase in the number of women in parliament has contributed to the enactment of gender-sensitive legislation. It was guided by the following research questions to achieve its objectives:

- What have been the legislative inputs by women parliamentarians to influence enactment of gender-sensitive legislation in the 10th Parliament?
- What are the impediments that women parliamentarians face in impacting on enactment of gender-sensitive legislation in the 10th Parliament?

1.3 Research objectives

1.3.1 Overall objective

To explore the relationship between the increased number of women in parliament and the enactment of gender-sensitive legislation.

1.3.2 Specific objectives

- To describe the legislative inputs by women in parliament in influencing enactment of gender-sensitive legislation in the 10th Parliament.
- To examine the impediments that women in parliament face in influencing enactment of gender-sensitive legislation in the 10th Parliament.

1.4 Justification of the study

This study has contributed to enhancement of knowledge on women parliamentarians' contribution to gender-related legislation, and whether the Standing Orders are an impediment to

their contribution to enactment of gender-sensitive legislation. It will also enrich the report of the task force on the Standing Orders to develop gender-sensitive Standing Orders.

1.5 Scope and limitations of the study

This study was carried out in the Kenya National Assembly and focused on the relationship between increased numbers of women in parliament and their impact on the enactment of gender-sensitive legislation in the 10th parliament. Specifically, the study sought to explore the legislative inputs by women parliamentarians in influencing enactment of gender-sensitive legislation and the impediments they face in achieving this. The study did not yield any quantitative data for comparisons across regions or nations. Furthermore, it was possible to interview women Members of Parliament, to establish the impediments that they face in influencing enactment of gender-sensitive legislation.

1.6 Definition of Key Terms

- **10th Parliament:** The current parliament, supposed to run from 2008 - 2012.
- **Bill:** A first draft and proposed law or statute which has been formally tabled before a legislative assembly for consideration.
- **Gender:** A social construct that is deeply rooted in every culture and determines the roles, responsibilities, opportunities, privileges, expectations, and limitations for males and for females in any culture.
- **Gender-based analysis:** A process of assessment of various impacts on women and men by the proposed or existing legislation, by the existing programmes and by the lines of policy implemented in individual spheres of life of a society and state (Shvedova, 2002).
- **Gender-sensitive legislation:** Legislation with indicators that promote gender equality and equity.
- **Hansard:** Verbatim records of parliamentary proceedings.
- **Qualitative representation:** The degree and ability of one to articulate and influence the governance process, especially on issues affecting the population being represented.
- **Quantitative representation:** The number of persons representing a certain population.
- **Representation:** An image, model or other depiction of something.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

In this section, literature pertaining to the study topic was reviewed based on the objective of the study. The review was done using the following sub-headings: increased number of women in parliament, impact of the quota system on increased women's representation in parliament, legislative inputs by women parliamentarians and gender-sensitive legislation. The chapter also discusses the theoretical framework that guided the study.

2.2 Literature Review

2.2.1 Increased number of women in parliament

Around the world over the last half-century, women's representation has slowly and steadily increased in the lower single house legislatures, with the greatest overall gains in the Scandinavian countries. In Sub-Saharan Africa the average percentage of female legislators has increased from almost none in 1960 to 17.2 per cent in mid-2008, with several nations far exceeding the average. The rate of growth in the number of female legislators in Sub-Saharan Africa has been among the fastest in the world. Significant gains have also been recorded for the Americas, Asia, and Western Europe (Tripp and Kang, 2008: 342). Indeed, a cross-national study in Africa shows that in six African countries with 30 to 50 per cent women in their lower or single houses of parliament, some form of electoral gender quota is used such as: reserved seats in Tanzania (30.4 %) and Uganda (30.7%); voluntary party quotas in Mozambique (34.8 %) and South Africa (33 %); and a combination of the two in Burundi (30.5 %) and Rwanda (48.8 %) (Bauer and Britton, 2006).

Tripp and Kang (2008) argue that since the mid-1990s, much of the women's gains in legislative representation can be attributed to the adoption and use of electoral gender quotas. The introduction of electoral gender quotas has helped to overcome constraints on women's representation posed by economic underdevelopment, cultural influences and even electoral systems. Dahlerup and Friedenvall (2005) have noted that women are increasingly opting to get

into parliament using quotas rather than the ‘incremental approach’ that entails waiting for socio-economic developments over time. According to the Inter-Parliamentary Union (2005: 3) the ‘incremental approach’ to increasing women’s representation is very slow indeed: if current incremental rates continue, it will not be until 2025 that parity will be achieved. While past researches have concentrated on the women representatives in parliament and other decision making bodies, little attention has been given to their qualitative input in these legislative set-ups.

In Kenya the number of female legislators has increased significantly. In the 1963 general election that ushered Kenya into independence, no female was elected to parliament. It was not until 1969 that the first female, Hon. Grace Onyango, was elected to parliament. In the general election that followed in 1974, there was an increase in the number of women in parliament and in subsequent elections, there was minimal improvement in the representation of women in parliament, with the numbers increasing in the 8th, 9th and 10th parliaments at 7, 18 and 22, respectively (Orlale and Ugandu, 2010), as shown in Table 2.1 below.

Table 2.1: Members of National Assembly (both elected and nominated) by Sex, 1969 – 2008

Year	Women	Men	Total	% Women
1969	2	165	167	1.2
1974	7	162	169	1.4
1979	4	166	170	2.4
1983	3	167	170	1.8
1988	3	197	200	1.5
1992	7	193	200	3.5
1997	8	214	222	3.6
1998	9	213	222	4.1
2002	18	204	222	8.1
2008	22	200	222	9.9

Source: Electoral Commission of Kenya, 2008.

To cure the time old exclusion of women which has contributed significantly to the entrenchment of oppressive patriarchy and misogyny in society, the current constitution advocates affirmative action to elevate women’s representation in the National Assembly and County Assemblies.

Additionally, the constitution guarantees the recruitment and appointment of women to the highest echelons of public service by outlawing the occupancy of office in any public organization by more than two-thirds of either gender (Government of Kenya, 2010). Further, the constitution promotes non-discrimination on the basis of gender, eliminating gender prejudice and male hegemony. The implementation of these sacrosanct constitutional guarantees has already commenced as evidenced in the intensity of the vehemence with which feminists and human rights defenders resisted and contested the attempted constitutional appointments by the President to the offices of the Chief Justice, the Attorney-General and the Director of Public Prosecutions. Notably, no woman had been appointed to any of those offices prompting the institution of court cases from which an invalidating court declaration emanated.

2.2.2 Impact of the quota system on increased women' representation in parliament

2.2.2.1 The quota system debate

The under-representation of women is crucial in thinking about democracy and gender (Philips, 1991) and, as already stated, there are reasonably sound arguments to increase women's participation in politics. Among other means (such as pool-enlarging strategies, or gender preferences) a strategy that has gained increasing currency within the movement, and relates primarily to the issue of women's political representation with liberal democracies, is that of introducing gender quotas, whether in political parties or in local or national legislatures (Randall, 1998). The evident success of such policies in the Nordic countries has inspired imitation elsewhere and has been the most widely used affirmative action policy in Latin America (Htun, 1998).

Sun-uk (1995) argues that the need for a quota system arises from the lack of opportunities for women to perform their potential capabilities. If women do have the capabilities and the power to choose, a quota system is not needed. In favour of a quota scheme implementation are arguments such as the belief that it is the most effective way of translating legal equality between men and women into *de facto* equality by guaranteeing women's presence in leadership in the immediate term (Htun, 1998). It has also been considered as a starting point that could balance

women's participation in various fields because women leaders also function as role models for other women, and serve as evidence that society is inclusive and egalitarian (Sun-uk, 1995).

Opponents of quotas, who include both men and women, argue that they are discriminatory and that they will elevate under-qualified women to power, stigmatize beneficiaries and that, above all, they are unnecessary. There are also fears that the introduction of a women's quota will prompt other groups, ethnic minorities, homosexuals, farmers, etc., to demand their own quota (Htun, 1998).

Despite these criticisms, improved women's structural position will help to erode discriminatory barriers and will bring about cultural changes in the very long term (Htun, 1998). In order to reform inherent structures created during the era when discrimination existed, temporary measures such as the quota system are required (Sun-uk, 1995). Therefore, in order to change the attitude towards women and for women to participate in high level decision-making positions in various disciplines, including politics and economics, a new environment has to be formulated so as to allow adequate numbers of women to attain desirable goals.

From the above, it can be said that countries which are implementing quotas, are looking for two main objectives. On the one hand, to influence policy towards women interests, and on the other, to gain a greater level of women's participation in other spheres of society. It seems that this idea may work properly in developed democracies where parliaments play a key role in the political game and in the decision-making process. However, this might not be the case in weak or thin democracies where parliaments are frequently bypassed by strong presidents, such as some Latin American countries where the democratization process after military governments has advanced slowly and the institutions are still weak (Munck, 1997; O'Donnell, 1994; Tedesco, 1999). Under these circumstances, increasing the percentage of women in parliament does not necessarily lead to a change.

2.2.2.2 Quotas and institutional constraints on female representatives

There are two quite distinct arguments about the legislative behaviour of women entering parliament via gender quotas. On the one hand, advocates of quotas have argued that women elected through quotas should substantively represent women, that is, work for the passage of legislation beneficial to women as a group (Childs and Krook, 2006). This argument assumes not only commitment to women's interests (regardless of how these are defined), but also the liberty needed to exercise independent power and responsibility in the legislature. On the other hand, some scholars have suggested that such liberty is lacking among women elected through quotas. The argument goes beyond the phenomenon of party discipline that affects all legislators' independence. Rather, it focuses on the social structures and (male) practices that have been claimed to inhibit women legislators from performing their tasks the way they prefer (Dahlerup, 2006; Goetz, 2003; Lovenduski, 2005).

Quotas (at least when specified by law) constitute a legal attempt to break male-dominant structures of politics and increase women's numerical representation, thereby constituting an 'external shock' to the predominantly male political system. Thus, quotas pose a threat to male politicians (Baldez, 2006; Dahlerup 2006b). In order to maintain political power, male party leaderships and parliamentarians are likely to respond to this challenge in at least two ways: First, male leaders will select rather politically inexperienced and powerless women to maintain control of the political agenda. In contrast to other women legislators, who are expected to have won their seats thanks to having a strong position in the political party and/or in society, women elected on quotas may be in a less favourable situation from the outset (Baldez, 2006; Dahlerup, 2006b). Second, male leaders and legislators will try to prevent these women from exercising political power by putting them in less prestigious positions and by neglecting their proposals (Dahlerup and Freidenvall, 2005).

Some empirical evidence supports the argument that representatives nominated or selected through quotas run a relatively high risk of suffering from institutional constraints. For instance, analyses of women in local bodies of India have shown that women selected via quotas commonly have entered the legislature because of the influence or pressure of (male) family

members, in order to represent their interests (Ghosh, 2003; Kudva, 2003). They have thereby had few possibilities to exercise independent power and responsibility in the legislature. Similar experiences are reported from Uganda, where the semi-authoritarian Museveni government adopted reserved seats for women simply to ensure a block of female supporters in parliament (Tripp, 2001). In Argentina, some observers have characterized women entering parliament through quotas as obedient loyalists; men have sought women that they can give orders to (Franceschet and Piscopo, 2008).

This evidence, however, does not necessarily prove that the male response to the quota law, and the selection of obedient and powerless women, is similar across quota systems. To put it differently, it does not show that a “label effect” is equally large on all women elected via quotas. The argument implicitly assumes that quota adoption puts the power over candidate selection in the hands of strong (male) party leaders (Baldez, 2006). Quotas are, however, implemented by substantially different political parties – perhaps increasingly so when quotas are enforced by law. As a consequence, the mechanisms through which political parties choose their candidates differ widely, not only across countries and political parties, but sometimes also within parties (Siavelis and Field, forthcoming). It has, therefore, been argued that quotas in general – at least candidate list quotas – do not alter the entire process; rather, lists are usually adjusted at the end of a nomination process, thereby upholding competition between potential female and male candidates (see, e.g., Dahlerup, 2007; Holli et al., 2006).

2.2.2.3 Quotas, candidate selection, and women’s descriptive representation

The relationship between candidate selection – the process by which candidates are chosen from among the pool of aspirants (Rahat and Hazan, 2001; Siavelis and Morgenstern, 2008) – and women’s political presence has received fairly limited attention by scholars on gender and politics. Whereas a number of analyses have highlighted the importance of the electoral system (proportional representation, high district magnitude, closed lists, etc.) for the election of women, rules for candidate selection have often been left out of the analysis. Part of the reason is that the process of nominating candidates largely takes place within particular parties; strong freedom is given to the parties to adopt formal procedures (Hazan, 2002). Because of the difficulties to gain

information not only about formal selection procedures, but also the informal processes, the issue of candidate selection has been called the secret garden of politics (Gallagher and Marsh, 1988). For the same reason, analyses of candidate selection from a gender perspective have commonly been theoretical (Norris, 1996) and rarely comparative (Kittilson, 2006; Lovenduski and Norris, 1993).

The adoption of gender quotas in approximately 100 countries worldwide (Dahlerup, 2007) places new focus on candidate selection. On the one hand, the very essence of quota legislation is to change the rules of the game in candidate selection processes. The political parties are forced to put a certain number of women on the candidate lists and must actively look for women in order to comply with the quota provisions. On the other hand, the quota rules do not in general specify *how* these women should be selected. At least for candidate list quotas, the parties themselves are usually free to choose their own selection rules. At the same time, it has been argued that quotas are likely to be more efficient, in terms of numbers, in some candidate selection systems than in others.

First, one of the few empirical analyses on the effects of the interaction between quotas and selection procedures on women's descriptive representation shows that quota laws mainly have a numerical impact whenever a small elite selects candidates (Escobar-Lemmon and Taylor-Robinson, 2008). This factor emphasizes the number of actors ('how many') that make decisions over candidate selection, in other words the size of the 'electorate' (Rahat and Hazan, 2001; Siavelis and Field, forthcoming). The electorate can range from one single person (e.g., the party leader) to the entire electorate of the country (in some open primary elections).

Second, the importance of the level of decision-making ('where') for women's descriptive representation has been debated among scholars. Norris (1996) argues that quotas are most efficiently implemented when local party organizations have power over candidate selection; however, she does not give any further motivations. Some empirical support is generated by Kittilson (2006) in her analysis of Western Europe. Although her focus is not mainly on quotas, she finds that decentralized selection procedures "loosely shape women's parliamentary

representation” (Kittilson, 2006: 127). Escobar-Lemmon and Taylor-Robinson (2008), on the other hand, empirically show that quota adoption in Latin American countries has had a positive, numerical effect mostly whenever there is a relatively large degree of centralization in candidate selection processes. Thus, there are mixed findings as to whether women prove better off when candidates are selected by a national party electorate or by the local party organization (territorial decentralization) or, alternatively, by social or sectarian groups such as trade unions, women, minorities, etc. (functional decentralization) (Hazan, 2002).

Finally, quotas have been held to be more efficiently implemented whenever the candidate selection process is relatively bureaucratized (‘how’ candidates are selected). This means that the selection of candidates is characterized by a rule-bound process which is fairly transparent to outside observers. The process follows internal party rules that are “detailed, explicit, standardized, implemented by party officials, and authorized in party documents” (Norris, 1996: 202). In contrast to a bureaucratized process, patronage-based systems are characterized by internal party rules that tend to have *de jure* rather than *de facto* power. In other words, formal rules are rarely implemented, or it is possible to break with party statutes without any considerable cost, and “procedures may vary from one selection to another” (Norris, 1996: 203). The process is less bureaucratic and more open to personal patronage by power brokers. The strong competition in such systems discourages the entrance of less advantaged groups, such as women, because of their relatively low “personal political capital” (Guadagnini, 1993: 199). Norris argues that quota implementation in a patronage-based system will unlikely prove efficient, “Because the process is not rule governed, changing the rules will not alter the outcome (Norris, 1996: 213). Norris’s theoretical claims have gained some empirical support; in Latin America, quotas have mainly generated an increase in the number of women legislators whenever women have been nominated in institutionalized selection processes (Escobar-Lemmon and Taylor-Robinson 2008).

2.2.3 Legislative inputs by women parliamentarians

Comparative studies of democratization in Africa are generally rare, with Bratton and Van de Walle (1997) being the main contributors. Despite the lack of literature on the subject, women’s

low economic and social status and unequal access to education do appear to constrain their entry into African politics (Foster, 1993). During democratization, the new political dispensation opens new opportunities for women to express and pursue their interests (Rai, 1994). Empirical evidence from established democracies suggests that women legislators are more likely to further both the strategic and practical needs of women in terms of legislative action (Saint-Germain 1989; Sinkkonen and Haavio-Mannila, 1981; Thomas 1994). Addressing women's needs is always, in part, a legislative struggle, for much of the underlying economic, social and cultural conditions that tend to exclude women from politics in Africa (Geisler, 1995) are the results of legislative and national policy actions within parliamentary jurisdiction. Thus, improving women's legislative representation is crucial to addressing women's strategic political needs. This is particularly true in Africa, where customary, statutory, and religious laws continue to discriminate against women (House-Midamba, 1996; Yoon, 2001). Neopatrimonialism is generally viewed as an important factor preventing women from entering politics. Conversely, authors such as Tripp (2001) have made the case that an increased political empowerment of women is antithetical to patrimonialism. Increased legislative representation by women can raise the level of legitimacy of the political system (Darcy et al., 1994). Increased legitimacy is certainly something that many political systems in Africa could use.

Studies show higher numbers of women in parliament generally contribute to stronger attention to women's issues. Women's political participation is a fundamental prerequisite for gender equality and genuine democracy. It facilitates women's direct engagement in public decision-making and is a means of ensuring better accountability to women (UNIFEM, 2009). Political accountability to women begins with increasing the number of women in decision-making positions, but it cannot stop there. What is required are gender-sensitive governance reforms that will make all elected officials more effective at promoting gender equality in public policy and ensuring their implementation.

Furthermore, there has been visible women's influence in national processes in Kenya. For instance, after the disputed 2008 election, women played a key role in the process that led to the establishment of the National Accord. Hon. Martha Karua and Hon. Dr. Sally Kosgei (GOK,

2008) were part of the team that spearheaded this process. However, this was not the first time that women had made themselves visible in political discourses. For instance, women MPs in previous parliaments in Kenya had played an instrumental role in advocating for and proposing gender-related legislations to be enacted and policies to be addressed in parliament. Such bills include: the Equality Bill 2000 by Hon. Martha Karua and the Affirmative Action Bill 1996 and 2000 by Hon. Charity Ngilu and Hon. Beth Mugo, respectively. In addition, Hon. Njoki Ndungu tabled the Sexual Offences Bill 2006 and pushed for the inclusion of sexual harassment under the Public Officers Ethics Act 2003 (Tinker, 2004).

Representation of women within parliamentary committees has increased significantly with 6 women MPs heading parliamentary committees, 3 as chairpersons and 3 as vice chairpersons of key parliamentary committees such as select delegated legislation, budget and implementation. Further, the Kenya National Assembly has a woman MP as a member of the speaker's panel who, by virtue of her position, is entitled to exercise all powers vested in the chairperson of committees including the powers of deputy speaker. The current constitutional dispensation has made it possible for women to have 30% representation in the Parliamentary Select Committee on the Constitution (GOK, 2010).

2.2.4 Gender-sensitive legislation

For gender-sensitive legislation to be realized, a gender analysis of the proposed legislation must be done so that gender can be mainstreamed therein. The implementation of a gender-based analysis requires the use of the concept of gender as a complex socio-cultural process created by society as a result of differences between men and women. The implementation of a gender-based analysis makes it possible to conclude that the two sexes' rights and opportunities are not always balanced at the existing level of standards. There is a gender asymmetry in legislation and the discrimination issue that is accompanied by the traditions existing in the society and is felt particularly at a legislation implementation stage (Geneva, 2007).

Gender-based analysis is a tool that helps to understand social processes, to see and compare how and why political, economic, social and cultural factors affect women and men. In other

words, a gender-based analysis is the collection of quality information, the detection of gender tendencies in economy and in public life, the identification (by way of application of that knowledge in daily life) of the emergence of possible problems and the search for necessary solutions (Hasratia, 2004).

It provides an opportunity to study the equality of women's and men's rights and opportunities through the protection of human rights in political, civic, economic, social and cultural spheres. These rights are enshrined in the Constitution and in international legal instruments and are subject to mandatory execution to protect women's human rights. The recognition of those rights is related to the ideology of equality and to violation of implementation of equality in real life. It should be stressed that discrimination is a source of infringement on equality. Discrimination contravenes the law and eliminates the ideas of justice and democracy and brings about violation of women's rights that are provided for under constitutional rights and freedoms and duties and responsibilities (UN, 2007). The compliance with those parameters is important, since they operate as criteria for evaluation of equality.

Gender-based analysis is instrumental in ascertaining the impact made on legislation, state policies and programmes by stereotypes and social expectations grounded in gender roles. The better one is informed about a gender impact of one's activities, the more effectively one can help men and women who can then make a real contribution to improving their own lives, families and the entire society. At the same time, gender is a critical angle in all fields of the operation of the state since there is not a single law, state strategy or programme that would have the same impact on women and men (Hasratia, 2004).

Women and men have different roles in society, different responsibilities and different levels of access to resources and goods. Besides, women do not constitute a homogeneous group as they can be young or old, disabled, single mothers, married or unmarried, etc. It is not surprising then that legislation and state policies should have a different impact on each sub-group. In that context, gender-based analysis needs to be made at each stage in drafting legislation, formulating policies or drawing programmes so as to ensure equal outcome of that impact for men and

women. It should be stressed that equal outcome cannot be obtained only through equal treatment. Pro-active measures are required to overcome systemic distortions. In other words, for everyone to reach the finishing post with equal opportunities it is necessary that the same rules of the game be set for all (Hasratia, 2004).

It is obvious that the primary obstacle to the application of the approaches towards integration of a gender component into the country's legislation and policies does not boil down merely to difficulties and complexities of collection of necessary information. Even a more formidable obstacle is posed by insufficient readiness on the part of the legislators to accept the significance of gender issues. It should be noted that legislation or policies that are gender-neutral or that rule out gender approaches are typical of the present-day reality. In fact, it is necessary to formulate (taking into account a gender component) such legislation, that will incorporate the needs of each sex and will ensure a gender balance of the legislation as well as of the policies and socioeconomic programmes that are being implemented (Hasratia, 2004).

2.3 Theoretical Framework

2.3.1 Empowerment theory

Empowerment is the process by which individuals and groups gain power, access to resources and control over their own lives. In doing so, they gain the ability to achieve their highest personal and collective aspirations and goals (Robbins et al., 1998: 91). Furthermore, it is a construct that links individual strengths and competencies, natural helping systems and proactive behaviours to social policy and social change (Rappaport, 1981, 1984). Empowerment theory, research and intervention link an individual's wellbeing with the larger social and political environment.

2.3.2 Relevance of the empowerment theory to the study

The relevance of this theory is that it sought to highlight whether by giving women power in terms of numbers will strengthen and validate them to influence the enactment of gender-related legislations. In a country where 52 per cent of the population is women and only ten per cent sit in parliament, there is urgent need to increase their numbers. Men and women are equal but

different. It is therefore not uncommon for men not to culturally articulate issues that directly affect women. An increase in the number of women in parliament would thus translate into increased legislative input by women but for this to be effected there is need for a conducive legislative environment and their capacities need to be built on strategies to contribute to the enactment of gender-sensitive legislation.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter situates the context within which the study will be conducted. It gives a description of the research site, research design, study population, sample population, sampling procedure, data collection, data processing and analysis, and ethical considerations.

3.2 Research Site

The research site was the Kenya National Assembly, in Nairobi. The Kenya National Assembly is the supreme decision-making body in Kenya. It is composed of 222 Members, elected and nominated, and 2 ex-officio members, the Attorney-General and the Speaker. It is governed by rules of procedure and debate that are referred to as Standing Orders.

3.3 Research Design

This study was an unobtrusive study designed to analyze literature to generate data on the relationship between increased numbers of women and gender-related legislation. It entailed establishing the number of gender-related bills that had been fronted by women and men legislators and monitoring their progress in the legislative processes.

In addition to this, I analyzed the Standing Orders, specifically on the section on rule of debate, to ascertain whether they create a conducive environment for women in parliament to influence enactment of gender-sensitive legislation. Views of three key informants who were senior parliamentary staff that sit during parliamentary debate were sought on whether they impede women parliamentarians' contribution to gender sensitive legislation.

3.4 Study Population

The study population consisted of bills tabled in the 10th Parliament that demonstrate the contribution by women legislators in enactment of gender-sensitive legislation.

3.5 Sample population and sample size

The sample population consisted of 30% of gender-related bills tabled by both men and women legislators in the 10th Parliament.

3.6 Sampling procedure

Purposive and systematic sampling was used to select the bills used for study. The legislations selected were clustered into three main categories: political, socio-cultural and economic and listed alphabetically. The number of gender-related bills identified was thirty-three and so the first three per category were selected and analyzed.

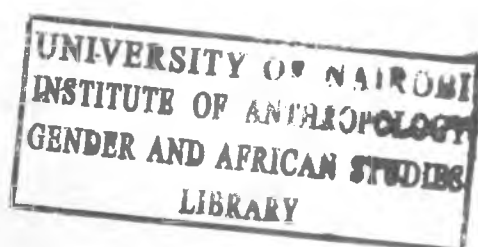
3.7 Methods of data collection

3.7.1 Content analysis

Content analysis refers to the quantitative study of written and oral documents. This requires sampling of the units of analysis in a source, codification of the units and, finally, classification of the units to reveal their manifest and latent content.

It entailed a scrutiny of the Hansard report to determine the number of legislations fronted by women and men legislators and their influence on enactment of gender-sensitive legislation. The bills selected were those which contained gender indicators. I only considered the legislative input of women parliamentarians and only more on gender specific contributions.

Furthermore, I conducted an analysis of the Standing Orders, with specific focus on the rule of debate, to ascertain whether they create a conducive environment for women legislators to influence enactment of gender-sensitive legislation. This was done by analyzing each section on the rule of debate such as whether the language used is simple and easy to interpret, and if the quorum needed to pass a law was favourable to the number of women in parliament.



3.7.2 Key informant interviews

Purposive sampling was used to select and identify three key informants that are senior parliamentary staff based on the fact that they sit in all parliamentary proceedings in the Chambers. A key informant interview guide (Appendix 1) was used to collect the data.

3.7.3 Secondary sources

The study also utilized secondary data sources such as publications by the research department in Parliament. In addition, journals, books, articles and the internet was explored for information related to women in parliament in Kenya, their objectives and provisions for women participation with particular focus on their influence in enacting gender-sensitive legislation.

3.8 Data Processing and Analysis

Content analysis of the data was conducted according to trends emanating from the research objectives. The findings were presented using descriptions and direct quotations. Triangulation of data has been done by looking into complementarities and divergent opinions across the key informant interviews.

3.9 Ethical Considerations

The research adhered to the ethical rules and regulations governing social science research. I acquired a research permit from the National Council on Science and Technology and informed the National Assembly of the final research outcome and shared a final report with them.

CHAPTER FOUR

WOMEN PARLIAMENTARIANS AND ENACTMENT OF GENDER SENSITIVE LEGISLATION IN THE TENTH PARLIAMENT

4.1 Introduction

This chapter discusses the findings of the study on the legislative input by women parliamentarians and the impediments that face them in influencing enactment of gender sensitive legislation.

4.2 Legislative inputs by women parliamentarians

The study focused on all the gender-related legislations that have been fronted by both male and female parliamentarians by monitoring the inputs by women parliamentarians throughout the legislative processes.

First, it is important to understand the legislative process that entails the introduction of bills in parliament as either public bills or private members' bills, as outlined below:

Public bills are those, whether introduced by a Minister or other Member, which are intended to affect the public generally, or a section of the public. The procedure for moving a legislative proposal for debate in parliament is that the member in charge submits it together with a memorandum that states the objective and reasons behind the bill and if expenditure of public moneys will be involved upon its enactment to the Speaker of the National Assembly. The Speaker then refers it to the Clerk who upon being satisfied that it is in order as to the format and style, submits it to the Speaker with recommendations. The Speaker thereafter certifies that the bill is accepted, recommends its publication and that it may be read for the first time. The minister or the member introducing the bill, upon-publication of the Bill in the Kenya Gazette, is supposed to deliver to the Clerk a sufficient number of copies of the Bill for distribution to Members. Upon receipt of such copies, the Clerk is supposed to circulate a copy to every Member. However, where a Bill seeks to amend any provision of an existing Act, the text of the relevant part of such provision is either printed or else copied and is dispatched to all Members

unless, in the opinion of the Speaker, the amendment is formal, minor or self- explanatory (Kenya National Assembly, 2008: 63).

The bill is introduced into parliament through a procedural motion as the First Reading whereby the member or minister simply states that she/he is moving the bill and the objective and reasons behind moving it. At this stage no motion or questions are put to the member/ minister or the chair of the session. Once the bill is read it is committed to a relevant departmental committee. The Chairperson of the Departmental Committee, or a Member designated by the Committee to which a Bill is committed, is required to present the Committee's report to the House within ten calendar days of such committal. During this 10-day period, the public should submit their recommendations to the committee by way of a memorandum. In the event that the Committee's report is not presented when it is due, the Bill is ordered to be read a Second Time on such day as the designated Minister or Member who introduced the Bill. If, for any reason, at the commencement of the Second Reading the report of the Committee is not presented, the Committee is supposed to report progress and the failure to present the report shall be reported to the Liaison Committee for necessary action (Kenya National Assembly, 2008: 64 - 69).

Once the bill is read a second time, it is committed to the Committee of the Whole House, where members give their input. This is the critical point at which the bill can either proceed to the Third Reading or be turned down by Members of Parliament. After this stage the select committee that the bill was committed to tables its report on its findings and recommendations by way of amendment. On the adoption of the report, the Bill proceeds to the Third Reading. At this stage amendments are moved and adopted by members by way of voting. In the event that a bill is rejected, it may be reintroduced after six months or in the next Session but subject to fresh publication as provided by Standing Order 104. Once it has been passed, it remains in the custody of the Clerk who then presents it to the Attorney-General within fourteen days of its passage by the House. The Attorney General is in turn supposed to present the bill to the president for assent within fourteen days from the time of receipt from the Clerk (Kenya National Assembly, 2008: 70)

Private Bills are those that are not introduced by a Minister and which are intended to affect or benefit some particular person, association or corporate body. The procedure for introducing Private Members Bills is more or less the same as that of public bills. However, private members bill must not commit the implementation costs of the bill to the Exchequer by way of a saving clause (Kenya National Assembly, 2008: 71).

It is important to point out that for a legislation to be passed in parliament, it must be supported by at least a quorum of thirty members and that there is time limit for the debate of every legislation, question or motion moved before the House.

This study focused on gender-related legislation fronted by men and women parliamentarians and specifically on the legislative input by women. A gender-related legislation is a law that contains gender indicators. This research found that only 30% of the pieces of legislation moved in the current parliament were gender-related. In addition, an increased number of women in parliament has contributed to the enactment of gender-sensitive legislation, as described below.

The key informants felt that women's legislative inputs into gender related legislation has increased. Women parliamentarians have demonstrated leadership in articulating and advocating for gender equality and affirmative action to be integrated in legislations passed in parliament.

4.2.1 Political related legislation

These are legislations relating to, or dealing with the structure or affairs of government, politics, the state public administration or policy-making. The study found that both men and women parliamentarians understand the issues pertaining to the various issues that are being legislated. Further, they have an in depth understanding of the specific issues that affect the various groups of persons such as the youth, persons with disabilities, women and children, including both girls and boys. However, women parliamentarians seem more inclined to articulate the issues affecting women, the youth, and children whereas the male parliamentarians are especially interested in issues pertaining to the youth. The political related bills selected for the purposes of this study were:

- **Commission for the Implementation of the Constitution Bill, 2010:** The Commission for the Implementation of the Constitution Act 2010 provides for the functions, powers, qualifications, procedure and appointment of members of the Commission for the Implementation of the Constitution (CIC).
- **Commission on Administrative Justice Bill, 2011:** This bill sought to establish the Commission on Administrative Justice as a successor to the Kenya National Human Rights and Equality Commission pursuant to Article 59(4) of the Constitution; to provide for the membership, powers and functions of the Commission, and for connected purposes.
- **Constitution of Kenya (Amendment) Bill, 2008:** This bill sought to amend the constitution, to facilitate the realization of the coalition government. In this light the bill sought to amend the Constitution to provide for the establishment of the offices of a Prime Minister and Deputy Prime Ministers, to provide for the enactment of an act providing for the appointment and termination of offices of the Prime Minister, Deputy Prime Ministers and various Ministers of the Government of Kenya, as well as the functions and powers of the Prime Minister and Deputy Prime Ministers.

Women parliamentarians contributed to these bills through either highlighting the gender issues in the bills or fronting the bill in their capacity as Ministers as described below:

In the membership of the committee the element of integrating the zebra approach was re-emphasized. "...under clause 7 (2), we need to also restate the zebra approach, which is that if the chairperson is a man, the vice-chairperson should be a woman and vice versa... It is however worth noting that there was richness and value added to the Committee of Experts because we had a representation of young persons, persons with special interests in children issues, women, persons with disabilities and persons with HIV/AIDS." (Hon. Millie Odhiambo, MP)

The new constitution addresses the issue of non-discrimination across all spheres including appointment to public bodies. Women parliamentarians did not therefore fail to reiterate this in debate of the political related legislations:

...that all the clause is saying is at least five years. It's not a must that everybody selected must have five years' experience. They can even have fifty years experience but when you put ten years we are permanently barring the youth! (Hon. Martha Karua, MP).

Women parliamentarians also re-emphasized the use of gender neutral language in the legislation unlike in previous cases whereby the language used has been gender biased with, for instance, the chairperson of a committee being addressed as the chairman.

4.2.2 Socio-cultural related legislation

This refers to legislations related to the relations between persons, its effect on their common welfare and how influences that customs and practices have on them. The legislations identified under this category were:

- **Counter-Trafficking in Persons Act, 2010:** An Act of parliament that facilitates the implementation of Kenya's obligations under the United Nations Convention against Transnational Organized Crime particularly its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children; to provide for the offences relating to trafficking in persons and for connected purposes.
- **Kenya Citizenship and Immigration Act, 2011:** An Act of Parliament to make provision for the acquisition, loss and regaining of citizenship, duties and rights of citizens; issuance of travel documents; entry, residence and exit out of Kenya; and for connected purposes.
- **Kenya National Human Rights Commission Act, 2011:** Its purpose is to establish the Kenya National Human Rights Commission as a successor to the Kenya National Human Rights and Equality Commission pursuant to Article 59(4) of the Constitution; to provide for the membership, powers and functions of the Commission, and for connected purposes

This research found that women parliamentarians have a great strength in articulating socio-cultural related issues in legislation. They alluded to the fact that women have been disadvantaged overtime whereby double standards have been applied thus further strengthening the patriarchal structure. Some of their contributions towards these legislations were as outlined below:

Poverty has contributed immensely to the victims that are vulnerable to child trafficking. Many children and women are vulnerable. The existing laws that we have in the country are not punitive enough. They are a bit lenient. For instance, for sexual exploitation, a fine of KShs. 50,000 would not deter somebody who wanted to exploit children or women sexually (Hon. Dr Joyce Laboso, MP).

It will help us to take care of children, especially young girls and also Kenyan women. Currently there is no law or policy addressing the issues of human trafficking (Hon. Esther Mathenge, Minister for Gender Children and Social Development).

...as a ministry we are even a signatory to the UN Convention Against Child Sexual Exploitation, especially in the area of tourism and that the UN World Trade Organization. In major hotels today, if you go to any reception you will find that they have put a very big notice that anybody who comes with a child shall not be admitted to the hotel, especially if it is a young girl or boy. But that exploitation is still happening in many lodges within the coastal part of this country, and even in other major towns. I hope that this bill will specifically look into tourism and what it does to young children. Further she said that, "...Any cultural practice that abuses the right of individuals will not be tolerated. This section on forced marriage will be looked into and stiffer penalties granted so that we can protect the young girls especially in communities that continue to practise forced marriage (Hon. Cecily Mbarire, Assistant Minister for Tourism).

Women have no boundaries. Most women get married across the seas. Many of our Kenyan girls who are married to foreigners have greatly suffered because of the issue of citizenship. I remember one day a Kenyan, who is also a Member of this House, depending on the mood of the immigration officer at the port of entry, the husband was denied a visa, and yet he was coming to visit the children. So, this comes as a great relief for the women and more so, students who go outside the country and sometimes they get married there. It has been painful for people returning home only to reach the airport and

be told that they can access Kenya but their children will have to wait and look for visas (Hon. Linah Jebii Kilimo, MP).

4.2.3 Economic related legislation

These are legislations that directly or indirectly impact on the production, distribution, and consumption of goods and services. Legislations that were identified for purposes of study under this category were:

- **Commission on Revenue Allocation Act, 2011:** An Act of Parliament to make further provision as to the functions and powers of the Commission on Revenue Allocation, the procedure for appointments to the Commission and for connected purposes.
- **Price Control (Essential Goods) Act, 2009:** An Act of Parliament to provide for the mandatory control of the price of essential goods and for connected purposes.
- **Salaries and Remuneration Commission Act, 2011:** An Act of Parliament to make further provision as to the functions and powers of the Salaries and Remuneration Commission, the qualifications and procedures for the appointment of the chairperson and members of the Commission, and for connected purposes.

This study found that women parliamentarians have a significant weakness in articulating gender issues on economic related issues, a critical component to women's empowerment and gender equality. However, some of the contributions that they made were:

Poverty has also got the face of a woman. We know research has clearly shown that the world's poorest are women. So putting price controls on these commodities will touch especially on women given their responsibility of care giving which includes provision of food (Hon. Dr. Joyce Laboso, MP).

It is increasingly becoming a man eat woman society and a man eat children society. I am saying that because poverty has been feminized. The face of poverty as has been said by Dr. Laboso is that of a woman and increasingly that of a child. If we are able to deal with pricing in a way that protects our women and children, then that should be the reason it

would actually help the country to deal with and realize the Millennium Development Goals (MDGs) Nos. 1, 4 and 5 on poverty eradication, child mortality and maternal mortality (Hon. Millie Odhiambo, MP).

... I want to say that I am happy that, as a country, we are looking at issues of inequality because if we do not equalize opportunities for all, then we will get the scenario that we had in 2007. We are witnessing many cases of violence as we speak now. Many of them are as a consequence of frustrations because we are in a country where inequalities are glaring. We have extremely rich and extremely poor people. I think we must find a balance as a country. We cannot have a society where all are equal, but if we have a society where there are persons who are completely without, then we are setting up ourselves for trouble. (Hon. Millie Odhiambo, MP)

4.3 Impediments faced by women parliamentarians in influencing enactment of gender sensitive legislation

The study found that the Standing Orders create a conducive environment for women parliamentarians to contribute to gender sensitive legislation. The three key informants that I consulted reiterated this. However key informant X stated that the language used in the Standing Orders is technical thus women parliamentarians would need to understand the Standing Orders in order to use them strategically to move the gender equality agenda in parliament. Key informant Y felt that a number of women parliamentarians understand the Standing Orders and have applied them accordingly in legislative processes, although understanding them is not sufficient to enact gender related and gender sensitive legislation. In addition to understanding them, they would also need to have the numbers in parliament. This is because numbers present power to facilitate the enactment of gender related and gender sensitive bills. Key informant Z felt that in as much as women parliamentarians' capacities are built on the Standing Orders, understanding the Standing Orders and using them depends on an individual's capabilities.

The Standing Orders influence women parliamentarians' contributions to the enactment of gender sensitive legislation. For instance, Part xv of the Standing Orders addresses the issue of rules of debate. The Part designates English and Kiswahili as the official languages of communication and addresses the content and manner of debating. It also provides for rising on a

point of order and the making of personal statements. Debate on Bills published in the Kenya Gazette must not be anticipated and matters before select committees cannot be referred to. The *sub judice* Rule is also elaborate and the content of speeches is regulated. Finally, the part also provides for the closure of debate.

▪ **Speeches may not be read (Standing Order 72)**

Reading of speeches is not allowed, although short extracts from written and printed papers in support of an argument may be used to refresh memory by reference to the notes. Further, when the Speaker deems it necessary, a member may read out for precision in statements of fact.

▪ **Speaking twice to a question (Standing Order 74)**

No member is allowed to speak more than once to a question except in the Committee of the Whole House or except in certain circumstances. This places women and men parliamentarians in a tricky position since they have to strategize in advance on who will speak about what during parliamentary proceedings/debate, to avoid the aspect of being deemed out of order.

▪ **Point of order (Standing Order 75)**

This provision refers to the aspect when a member can stand on a point of order. It details that a member must state the basis upon which he has stood on a point of order and it is only the Speaker that can address the point of order. A member can stand on a point of order based on, for example, Standing Order 97 that stipulates the aspects of disorderly conduct or Standing Order 77 on anticipating debate.

▪ **Contents of speeches (Standing Order 79)**

Despite the existence of Order 79 (3) which proscribes the use of offensive or insulting language whether in respect of Members of the House or other persons, malignant utterances by some Honourable Members have still been devoid of lingual hygiene. Utterances that function to subjugate women and promote the fallacy of men's superiority have been made on the floor of the House and in front of cameras and voice recorders. When such diatribes emanate from the

supreme law making organ of the State, very worrying signals are relayed to highly impressionable and susceptible masses.

Hence, the current process of reviewing the Standing Orders should include discriminatory epithets and stereotypes in the anatomy of offensive or insulting language. Additionally, contravention of this Standing Order should amount to gross disorderly conduct that attracts suspension from the House precincts.

CHAPTER FIVE

DISCUSSION AND CONCLUSION

5.1 Introduction

This chapter discusses the findings of the study. On the basis of the findings conclusions, are drawn and recommendations made.

5.2 Discussion

Previous efforts to reduce gender inequality have largely targeted women; something analysts say has left gaps in the fight for gender equality. Changing societal attitudes that have brought about discrimination against women cannot be brought by one group alone, especially when it involves a change in all people and societies. Men have a role to play when it comes to ensuring gender equity. It is not just a women's affair. Gender equality does not mean women are ruling over men. It only ensures a level playing field for both men and women, removing all forms of discrimination that prevail against women (Mulama, 2009).

The number of women in parliament in Kenya is small though it has increased overtime. This figure is very low and makes it hard for the women legislators to form the necessary quorum to pass gender-friendly legislation on their own. Therefore it is critical to find other measures to facilitate this. For instance, in Zambia efforts are underway to establish a Male Parliamentary Network, which will provide support to women legislators when discussing gender equality issues in the House (Mulama, 2009). However, political will is necessary for gender equality laws to be implemented lest they become just writings on paper.

On the other hand increasing the numbers of women in parliament is paramount. The new constitutional dispensation presents Kenyan women with an opportunity to get their numbers increased. Uganda has done it and Rwanda too, through quota systems which have seen an increase of women in parliament. This shows that political will can enhance gender equality. While targeting attitude change may be critical, working with legislators to urge them to pass

legislation supporting gender equality is equally important. Working with members of parliament is critical because they have the power to reject or pass laws (Mulama, 2009).

The coalition government has not made emphasis on getting women involved in decision making processes. However, it has excluded women in decision making processes yet they are a key group for any sustainable development to be achieved. Out of the 69 ministers and deputy ministers, only 10 are women, translating to 14 per cent, which is even below the 30 per cent Southern African Development Community quota on gender equality.

One of the key obstacles to effective performance of women and men in parliament is the lack of understanding of the Standing Orders. Yet, Standing Orders are central to any parliamentary proceedings and debate as they regulate and guide the aforementioned and further the conduct of Members in the chambers. Noting the technical language used in the Standing Orders, it thus becomes very difficult for a Member of Parliament to contribute effectively if he/she does not have a good grasp of them. In as much as parliament conducts an induction workshop for all new members on the standing orders, much more needs to be done to ensure that they understand them well to facilitate their effective participation in parliament.

In addition, the Standing Orders at times they are deemed to be harsh to women. However, the 2008 Standing Orders of 2008 have deviated from the use of archaic language and legalese by adopting simple English and direct, ordinary phraseology. Of note is that great lengths have been canvassed to mainstream gender perspectives into the Standing Orders by stigmatizing the chauvinistic use of masculine pronouns and terminology when referring to persons. This travesty was the hallmark of the 2002 Standing Orders where the pronoun 'he' and title 'chairman' were employed unilaterally to refer to persons mentioned in the Standing Orders. The argument that the pronoun 'he' is used interchangeably to denote both the male and female genders notwithstanding, its elevation has entrenched the warped misconception that leadership the world all over is a prerogative of men. The undertone of this misogynist lingua franca relegates women to the bottom of a sharply stratified society as mere subjects who may benefit from the membership of decision making institutions as a matter of patriarchal charity (Kamau, 2011).

It is important that women and men understand the rules of debate and sections that need to be understood in context, so that they are able to use them strategically to put across their message in a comprehensive and systematic way without risking being deemed out of order.

5.3 Conclusion

Women parliamentarians contribute to the enactment of gender sensitive legislation. However, their numbers limit their effectiveness towards fully ensuring that laws enacted in parliament are gender sensitive. To realize this, there is need to increase their political representation. The benefits reaped from increasing the political representation of women are widespread. In Scandinavia, for example, increases in the number of women legislators has been found to be associated with positive changes to the political agenda, particularly with regard to enactment of gender sensitive legislation, integrating gender in parliamentary mechanisms, political discourse and in the behavior of male legislators. Issues of women's concern, which traditionally were low on the political agenda, began to be addressed more suitably by female representatives.

In addition, the capacities of women parliamentarians should continually be built on the Standing Orders to enable them to strategically move the gender equality agenda in parliament. This should also be reinforced with identifying male parliamentarians that are gender sensitive and work towards mobilizing more to support the gender agenda at parliament level.

5.5 Recommendations

- Male involvement is key to influencing enactment of gender sensitive legislation. Thus, civil society organizations, including the women's parliamentary caucus Kenya Women Parliamentary Association (KEWOPA), need to identify male parliamentarians that support the gender agenda so that their capacities can be further enhanced to influence the enactment of gender sensitive legislation.
- Parliament and other parliamentary strengthening programmes should strive to build the capacities of women parliamentarians on the Standing Orders to enable them to move the gender agenda in parliament strategically.

- Further research should be conducted to establish the legislative input by male parliamentarians' in mainstreaming gender in legislation.

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Appendix 1: Key Informant Guide

Hello, my name is Kavata Musyoka, a Masters degree student in Gender and Development, University of Nairobi. I am conducting a research on increased number of women in Parliament and enactment of gender sensitive legislation in the 10th Parliament, Kenya. You have been chosen by chance to participate in the study. I want to assure you that all of your answers will be kept strictly in secret. I will not keep a record of your name or address. You have the right to stop the interview at any time, or to skip any questions that you don't want to answer. There is no right or wrong answers in this research. Your participation is completely voluntary but your experiences could be very helpful to enhancing women's influence in enactment of gender sensitive legislation. The interview takes approximately 10 minutes to complete. Do you agree to be interviewed? Thank you for your cooperation.

Legislative input of women parliamentarians (**increased numbers and gender related bills**)

Impediments to women parliamentarians' contribution to the enactment of gender sensitive legislation (**Standing Orders**)

