



**AFFIRMATIVE ACTION AS A STRATEGY FOR INCREASED WOMEN'S  
POLITICAL LEADERSHIP: A CASE OF THE NATIONAL ASSEMBLY OF  
KENYA'S 11<sup>th</sup> PARLIAMENT, 2013-2017**

**BY**

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**REG. NO.: M10/84906/2017**

**A Research Project Submitted in Partial Fulfillment of the Requirement for the  
Award of the Degree of Master of Arts in African Women in Leadership and  
Governance in Africa at African Women's Studies Centre, University of Nairobi**

**December, 2017**

## DECLARATION

This MA project is my original work and has not been submitted either in any form to this University or any other for a degree.

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The MA project has been developed under our guidance and has been submitted for examination with our approval as the University supervisors.

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## **DEDICATION**

I dedicate this study to my father, Naftali Mbugua Githae, who provided my first encounter with feminism - without calling it so. I also dedicate it to my son, Gabriel Marekia Mbugua, who is a constant reminder for me that, God is love.

## ACKNOWLEDGMENTS

I acknowledge the African Women's Studies Centre for providing a ground-breaking platform and space that focuses solely on African women studies in Africa.

My gratitude to my Supervisors, Prof. Wanjiku Mukabi-Kabira and Dr. Solomon Owuoche, for sharing their knowledge and for their valuable guidance, input and mentorship during the entire study. I am indebted to Dr. Nkatha Kabira for her practical lessons and input during the formative phase of this study.

I would like to acknowledge my parents for their love and support. My sister, Annie Njoki Mbugua and my niece Angel Nasha, for their encouragement and love.

To my son Gabriel Mbugua for the many insights, discussions and arguments that we had over the course of this study.

I thank my friends for sharing their light with me. My sincere gratitude to all my classmates for their contributions and illuminating insights during discussions and presentations throughout the course.

Finally I am grateful to God for life and love and for reminding to be silent so that I can hear myself.

## **ABSTRACT**

Affirmative Action is entrenched in the Constitution of Kenya 2010 and was first implemented in the 11th Parliament. Despite its entrenchment in the Constitution, it continues to face resistance and its full implementation has so far not been realized. The main aim of this study was to investigate Affirmative Action as a strategy for increasing women's political leadership using the case study of the National Assembly of Kenya's 11th parliament. The objectives of this study were: to locate the struggle for Affirmative Action within Kenya's social political and historical context, to analyze women's legislators' contributions in the National Assembly of the 11th Parliament and to examine the challenges the women legislators face in fulfilling their mandate. This study is descriptive and grounded in feminist research methodology. It employed qualitative and quantitative research methods. The study established that Affirmative Action has to a large extent been successful in the National Assembly despite the challenges women legislators face. The study also identified some of the challenges as entrenched male dominance; resistance due to entrenched patriarchal ideological orientation and continuation of colonial thinking, traditions and practices. As such, the study established that there is a relationship between Affirmative Action and women's political leadership. The threshold for the attainment of the "not more than two thirds" gender rule for increasing the numbers of women in the National Assembly has not been met and therefore remains work in progress. The constitutional gender provisions are only a starting point and more effort and political will is needed to ensure that the spirit and intent of the Affirmative Action is realized in the day-to-day lives of the Kenyan women.

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## LIST OF ABBREVIATIONS

AA	Affirmative Action
ACHPR	African Charter on Human and Peoples' right
CCGD	Collaborative Centre for Gender and Development
CEDAW	Convention on Elimination on All Forms of Discrimination against Women
CKRC	Constitution of Kenya Review Commission
COVAW	Coalition on Violence against Women
CoK	Constitution of Kenya
FIDA-K	International Federation of Women Lawyers - Kenya
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICCPR	International Covenant on Civil and Political Rights
KANU	Kenya African National Union
LKWV	League of Kenya Women Lawyers
LEGCO	Legislative Council
MYWO	Maendeleo Ya Wanawake Organization
NCSW	National Council on the Status of Women
NCWK	National Council of Women of Kenya
NGEC	National Gender and Equality Commission
UDHR	Universal Declaration on Human Rights
WPA-K	Women political Alliance, Kenya

## **DEFINITION OF TERMS**

### **Affirmative Action**

Affirmative Action is defined as any measure beyond simple termination of a discrimination practice adopted to correct or compensate for past or present discrimination; or, according to the U.S. Commission on Civil Rights to prevent discrimination from occurring in the future. It is a temporary measure which is applied structurally, bears a timeline and a review period.

### **Politics**

Politics is defined as all the activities that are associated with the governance of a country at various levels. It is the activities, actions, and policies that are used to gain and hold power in a government or to influence a government.

### **Leadership**

Leadership is the Practical skills of an individual to lead or give guidance to other individuals, teams or institutions.

### **Discrimination**

Discrimination is treating a person unfairly because of who they are or because they possess certain characteristics.

## **Gender equality**

This is the state of accorded equal and/or equitable opportunities in all spheres of development/leadership for both males and females.

## **Participation**

This refers to the practice that engages multiple voices in information-sharing and decision-making.

## **Representation**

Representation is the action of speaking or acting on behalf of someone or the state of being so represented. It is also a situation of one or a few individuals being chosen to speak, acts, deliberate and make decisions on behalf of others. This is mandate is given through elections, nominations or appointment to a position of authority.

## **Hansard**

Hansard is the verbatim record/transcripts of Parliamentary Debates in many Commonwealth countries including Kenya.

## **Perspective**

Perspective is a way of thinking about something.

## **11<sup>th</sup> Parliament**

Kenya's 11<sup>th</sup> Parliament comprises the National Assembly and the Senate. It is the 11<sup>th</sup> since the first one was constituted in 1963 after Kenya gained independence.

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Background and Context**

On 27<sup>th</sup> August, 2010, Kenya passed a new Constitution which entrenched Affirmative Action as a strategy for women's political leadership in Articles 27 and 81(b). The entire Article 27 guarantees "equality and freedom from discrimination" while Article 81(b) stipulates that "not more than two thirds of the members of elective public bodies shall be of the same gender." The implementation of this constitutional requirement in the 11th Parliament since independence, and the first after the promulgation of the Constitution of Kenya (CoK, 2010), facilitated a total of 86 women to sit in Parliament. They comprised 18 nominated to the Senate, 47 elected Women Representatives (one from each county), 16 elected from the single member constituencies and five nominated to represent special needs through proportional representation (party lists). This was the highest number to ever sit in Parliament since independence. The numbers however, fell short of the Constitutional threshold of 117 women out of a total of 349 members due to lack of an implementation mechanism.

Signs that there would be difficulties in putting in place an implementation mechanism proved to be difficult in Parliament. Women legislators were hit with the hard truth that Articles 27 and 81(b) would face challenges from Parliament as Bills brought before the house to facilitate its implementation hit a dead end.

The poor performance of women in Kenya's political arena can be attributed to two major factors: the Kenya's patriarchal culture and electoral system. Kenyan politics requires an enormous outlay of social capital, yet the processes of economic, cultural and political capital accumulation still favor men more than women, irrespective of men's ethnic, religious and class divides.

This study therefore, traces the historical journey of the struggle that women have travelled in their quest for a place at the table of political leadership within Kenya's social, political and historical context. It analyzes women's contributions and perspectives in the National Assembly as reflected in selected Bills introduced in the House. Finally, it examines the challenges women face in their primary roles of representation, legislation and oversight in the National Assembly.

## **1.2 Problem Statement**

Although the Constitution of Kenya 2010 has entrenched Affirmative Action for women in political leadership, a study conducted by Kaimenyi shows that there has not been commitment to its full implementation (Kaimenyi, 2013). Despite the increased numbers recorded after the 2013 General Elections, the question as to what value increased numbers of women bring to Parliament continues to be raised (Kabira, 2012). The study was therefore interested in looking at women's contribution and perspectives to the legislative agenda, the National Assembly, people they represent and by extension, the society. This aspect has so far not been studied. This research addresses these issues.

### **1.3. Objectives of the Study**

#### **1.3.1 Overall Objective**

The overall objective of this study was to examine women's contributions and perspectives to the legislative agenda in the National Assembly, using the 11th Parliament which was the first to implement Affirmative Action for women's political leadership as entrenched in the Constitution of Kenya 2010.

#### **1.3.2 Specific Objectives**

The following are the specific objectives of the study:

- i. To trace the history of the struggles for women's representation in Parliament within Kenya's social, political and historical context.
- ii. To examine women's contributions in the National Assembly as reflected in selected Bills introduced in the House
- iii. To examine the challenges women face in the National Assembly

### **1.4 Research Questions**

The research questions that this study aimed to answer were:

- i. What are the struggles for women's representation in Parliament within Kenya's social political and historical context?
- ii. What is the contributions of women legislators in the National Assembly of the 11th Parliament?

- i. What are the perspectives that women brought to legislation in the 11th Parliament?
- ii. What are the challenges that women legislators faced in the National Assembly?

### **1.5 Justification of the Study**

Since the 11<sup>th</sup> Parliament came into existence, after the promulgation of the CoK 2010, there has been no study so far done to examine women's representation and contributions to the legislative agenda of the National Assembly, the people they represent and the society. This study is interested in bringing out women's struggles for political leadership in Kenya as well as analyzes Affirmative Action a strategy that provides training ground for women in political leadership (Kabira, 2012). It will also analyze their contributions to the legislative agenda and examine their perspectives in the National Assembly as reflected in selected Bills introduced in the House.

This is important because while the Constitution has created space for women to participate in political leadership without discrimination, they continue to face hurdles as demonstrated by the resistance they faced in their efforts to put in place a mechanism for implementing the Two Thirds Gender principle in Parliament. They faced stiff resistance from the male dominated Parliament and to date, this has not been achieved. The study will also seek to understand the environment within which the women legislators work and the challenges they face.

## **1.6 Scope and Limitations of the study**

This study focuses on women legislators in the National Assembly of the 11th Parliament which ran from March, 2013 to June, 2017. Comparisons of women legislators' contributions across different Parliamentary phases since the first Parliament in 1963 was beyond the scope of this study. The study relied mostly on the Parliamentary Hansard, being verbatim record of House proceedings and debate, to capture women's contributions in the House.

## **1.8 Methodology**

The study focuses on women legislators in the National Assembly of the 11th Parliament. The National Assembly is part of the Bicameral Parliament which is established by Article 97 of the CoK, 2010. The study has analyzed literature to generate data on Affirmative Action as a strategy for women's political leadership. It involved the identification of pieces of legislation that women introduced and analyzed their contributions and perspectives in the National Assembly. Further, it has selected two Bills and one Act of Parliament out of a total of the 18 pieces of legislation tabled by women for deeper analysis based on the uniqueness of the Bills' content, impact and the perspectives that women legislators brought to the subject at hand and consequent debate.

In addition, the challenges that women face in their primary roles of representation, legislation and oversight were examined to establish whether the environment within which they worked was conducive to fulfilling their mandate.



The study population included Bills tabled by the women legislators in the National Assembly. A total of 18 Bills were identified.

The researcher conducted a content analysis of the identified pieces of legislation which involved the scrutiny of the Hansard reports to establish the number of legislation introduced by women and contributions in consequent debates. Only legislations that had contributions that had gender dimensions and initiated by women were considered.

The study utilized primary data in the form of the Hansard. It also used secondary data from Parliamentary research publications and magazines, books, newspaper articles and journals. Online resources were also used to access information on the subject at hand.

### **1.9 Theoretical Framework**

This study relied on three theories; The Subjection of women, Critical Mass theory and the Feminist Political theory. These theories were selected primarily because they illuminate the problem and enable the study to critically interrogate and understand women's struggles for political leadership in society and the political structures and environment within which they work. The study also analyzed the contributions of women in Parliament and Affirmative Action and analyzes the benefits and challenges of Affirmative Action as a strategy for women's political leadership.

### **1.9.1 John Stuart Mill Theory on the Subjection of women**

Stuart (1869), in *The Subjection of Women* argued for the full participation of women in politics and society. He captures his position when he states:

"That the principle which regulates the existing social relations between the two sexes - the legal subordination of one sex to another - is wrong in itself, and now one of the chief hindrances to human improvement; and that it ought to be replaced by a principle of perfect equality, admitting no power or privilege on the one side, nor disability on the other." (Mill, Chapter 1)"

Mill argues that both males and females have equal abilities to perform and discrimination on account of one's sex is a violation of one's rights. The ability for women to enter into political leadership and be good at it is at the centre of his argument. He argues that those who doubt women's ability and capacity to be as good leaders as men bear the burden of proof and that until they are able to prove what they contend, women should be left alone to carry on with their business. He posits that those denying women freedom or privilege that is rightly allowed to men are opposing freedom and recommending partiality and that they should be held to the "strictest standards of proof, with the judgment going against them" unless they are able to argue convincingly enough to remove all doubt (Mill 1869). Mill lived in Victorian times when women were viewed as inferior beings and were subjected to the authority of men in all ways.

They did not have the right to vote and possessed no legal capacity to own or inherit property. This state of affairs corresponds with most African traditions where the male has been the custodian of property despite existing laws to the contrary. The absence of

economic power, as noted by Parpart (1986) in her discussion of women and state in the colonial period, reduced women's ability to participate in any form of leadership. Mill emphasizes that although the subjection of women seems obviously unjust, patriarchy has devised ways of normalizing and legitimizing it in law arguing that "laws and political systems always begin by recognizing the relations they find already existing.....and converting a mere physical fact into a legal right, giving it the sanction of society". (Mill, 1869). In other words what one was compelled to obey by society, the law now makes one legally bound to do so. History is replete with legal frameworks that have made it impossible for women to own property as individuals and denies them inheritance, unsanctioned movement, citizenship, custody of children and more seriously the right to choose either a husband or their leaders. While these had roots in traditional thinking, laws were used to legitimize them.

Women have been excluded from government from the time of Aristotle, who is credited with being one of the architects of democracy. Mill argues that a government which obstructs one sex from participating in their governance as equal stakeholders is as bad as other unjust and oppressive forms of government, for example, dictatorships and autocracies. He calls this form of government the "government of the male sex" which is perceived to be the "natural" form of government. He wonders, "Was there ever any domination that didn't appear natural to those who possessed it?" (Mill, 1869) So that the justification of the absence of women from political leadership, normalized through socialization looks "natural" and that when strategies such as Affirmative Action are taken to remedy the situation, it is met with resistance by those who dominate and exercise authority in relevant institutions such as Parliament.

Arguments have been put forward by chauvinists that women are happy with the way society is currently constructed and run. Mill argues that nothing could be further from the truth that women do not consent to the status quo, that ever since women have been able to make their sentiments known, they have protested the oppressive status quo. They have sought visibility, participation and opportunities to serve their societies on equal footing with men, but have been denied it by male conspiracy. Mill criticizes the exclusion of women from public and civil life, from politics and decision making and emphasizes that this social injustice is one of the main barriers to human progress and the moral improvement of mankind. His view is that society suffers when women are absent from leadership and that their non-participation in development activities is harmful to society. His recommendation is that women should not only be integrated into the social, political and economic fabric, but that they should be present in significant numbers to be able to make a difference (Szapouva). Mill suggestion resonates with the proponents of the Critical Mass Theory (Childs and Krook, 2008), who argue that the presence of a significant number of women in an institution or structure is critical for them to make an impact. Mill not only argues for women's recognition as equal human beings but that they must not be held as suspects of non-capacity or performance by the same people who have for centuries prevented them from demonstrating or displaying their capacities.

One of the criticism against Mill is that he perceives the world he wants women to enter as it was constructed in his time - which was rigidly male, Victorian and patriarchal. The space he proposes that women enter, for example, Parliament, is one that is male-dominated, defined and structured. His liberal feminist approach dominates current thinking around leadership where, despite the existence of a friendly constitutional order,

there lacks a culture that promotes constitutionalism. His liberal feminist outlook does not, therefore, find anything disturbing in the architecture of society, the way institutions are structured and the way working environments are organized. He seems to think that if women could get entry into Parliament, for example, it is enough and their challenge would be fitting into the way things are done there - never challenging them.

Mill helps us appreciate that the existence of gender stereotypes against women and their leadership has led to the general perception that women are not able to hold and deliver on certain leadership positions, for example Member of Parliament. Affirmative Action for women, when applied (as in the Kenyan case), is, therefore, more often than not seen as a weapon to challenge and destroy the already rooted male prominence in public life and decision making positions. Their efforts to access these positions are frustrated and when they arrive, say in Parliament, they find an environment that did not anticipate them - and this has some impact on their performance and their outputs (Kaimenyi, 2016).

Stuart Mill's *The Subjection of Women* is significant in this study because a century after he wrote it, his work and thoughts remain relevant to the situation of women and leadership in Kenya. Affirmative Action as contemplated in the Constitution of Kenya 2010 is one way that the Constitution addresses the issues of women's discrimination and exclusion Mill raised in 1869.

### **1.9.2 Critical Mass Theory**

Critical Mass Theory as espoused by Childs and Krook has been used by advocates seeking to enhance women's political representation by promoting the use of gender quotas (Childs and Krook, 2008). The theory recognizes that there are fewer women than

men in critical positions in society and that they are not likely to have a major impact unless they grow from a few token individuals into a considerable minority. Only as their numbers increase will women be able to work more effectively together to promote women friendly policies and work environments (Childs and Krook, 2008). The theory however also notes that when tokens enter an environment that had no or fewer women before, they tend to become symbolic representatives and embody the stereotypes of their group. (Kanter, 1977a). This causes the dominant group (male) to emphasize inter-group differences and tokens to conform in an attempt to fit in (assimilate). Kanter (1993) notes three challenges that face the "token" individuals in her study namely; "performance pressure which requires them to overachieve or limit their visibility; token isolation which forces them to remain an outsider or become an insider by being a "woman-prejudiced-against women" and role entrapment which obliges them to choose between alternative female stereotypes like, mother, the seductress, the pet or the iron maiden (Kanter, 1993).

Dahlerup (2005) extends Kanter's theory to the experience of female politicians using the label "critical mass" from physics and identifying 30% as the relevant point at which it is said that a large minority can make a difference, even if still a minority. She identified potential changes in political culture, discourse and policy decisions stemming from a critical mass of female politicians.

Critics of the theory have, however, raised issues that have brought to the fore what could be its inadequacy in some instances. Some of the contentions have been that women make a difference and, indeed, perhaps a greater difference when they form a very small

minority, while others posits that an increase in the proportion of women elected actually decreases the likelihood that individual female legislators will act on behalf of women as a group. The two examples as noted earlier have brought about a crisis of confidence in the theory.

These theories helped in the analysis of Affirmative Action in Parliament as well as in the understanding of why some women respond to their positions and parliamentary environment the way they do. It also helped in finding out what impact the women's response has on the expectation of the society.

### **1.9.3 Feminist Political Theory**

Feminist Political theory is a philosophical discourse that aims at understanding gender inequality in politics and leadership. It examines political structures such as the nation state to further understand power and gender relations. It looks at the political world as it is understood (male domain) and uncovers way in which women and their concerns are historically depicted, represented and addressed. As a political philosophy, it serves as a platform for providing new ideals and justifications for how politics and its structures should be organized and reconstructed. Marx states that Feminist Political theory should not only seek to understand the world, but also to change it. Some of its proponents include John Stuart Mill, Susan Okin and Judith Butler. Mill, labeled a feminist, advocated for women's rights to vote and to participate in politics.

This study will therefore use it to analyze women's participation in leadership and the challenges that they face. The theory will also help in critically looking at and highlighting women's struggles to secure their space at the high table and how they fare after at the table.

### **1.10 Literature Review**

This section reviews literature pertaining to the subject at hand based on the objectives of the study and provides a compass with which to navigate the study.

#### **1.10.1 Women's struggle for inclusion in leadership**

Jane Parpart (1991) in her paper *Women and the State in Africa*, contends that the struggle for women to shed the image of a lower or incomplete human being has been long and consistent. That the status of women during pre-colonial, colonial and post-colonial Africa; always occupied lower status than men. Women belonged to men in most traditions due to the practice of dowry payment which denoted "buying" and therefore, possession. However, certain societies gave women some power although this seemed to be informal rather than authoritative. (Parpart, 1986). This brought to the fore the fact that this was derivative or associative power, wielded at the behest of men. Parpart discusses at length the treatment of women during pre-colonial, colonial and post-colonial Africa and concludes that the lot of women especially in relation to the state has always been unequal, discriminatory and oppressive. The fact that it is men who "gave" power, seems to suggest that, men were the owners and were therefore, in the elevated position to give it to whomsoever they wished. Parpart (1991), in her examples from various African countries, notes that it seemed society never accepted that woman had



power emanating from her agency - her innate ability to possess it and apply it. She notes, for example, that societies that "allowed" women to have some wealth also had institutions which protected them, establishing a linkage between wealth and ability to sit in privileged power structures. The groups provided women with a sense of solidarity, self-worth, locus and capacity to protect female interests in the community (Okonjo, 1976). She continues to state that some societies developed dual-sex systems which gave women a formal role in the political process. She gives the example of Yorubaland where the Iyalode had jurisdiction over all women and represented women's concerns on the king's council - an institution otherwise dominated by men. (Awe, 1977). She presents an early example of Affirmative Action as an inclusivity strategy for women in this community. This example will help in the discussion of Affirmative Action as a strategy that has a long history within the African context.

In Kenya, for example, women participated in active resistance against colonialism. Mekatilili wa Menza is recorded as having mobilized her community to resist British rule, while in the 1920s, Nyanjiru mounted resistance to protest the arrest of Harry Thuku by colonialists outside Norfolk Hotel in Nairobi. Different times produced women who broke traditions and stereotypes and joined in national struggles, proving they were indeed capable of active participation and not just bystanders. Their active struggle, therefore, legitimized their agitation to sit at the high table after independence.

Most scholars, Kabira, (1993); Presley (2013) and Owuor (2016) agree that the establishment of the British rule had a diminishing effect on women as they were uprooted from what they knew and got introduced to foreign concepts especially

Christianity and a new lifestyle through education and socialization to British culture as a way of life. These new ways were aimed at civilizing the "native" who was seen as being backward. Women witnessed the emasculation of the male who had hitherto, traditionally occupied an elevated position in the community. Women had a host of problems during colonialism, but the main one was the forced imposition of a new gender order rooted specifically in Victorian understanding of women private and domestic beings. The colonial policy pushed men to urban areas leaving women stranded in rural areas with new responsibilities and an increased workload. The new responsibilities and the increased workload, did not however, enhance their status. The Victorian concept of women held by the colonialist and embraced by the African male leadership, excluded them from the new political and administration order during and after colonialism.(Gosh, 2004). This continued dalliance with colonial practices and ideologies became a hangover that consecutive independence governments have been unable to cure themselves of. (Owuor, 2016).

During the struggle for independence, women played a critical role of supporting the Mau Mau liberation movement through various ways which included provision of information, food delivery, running errands and spying, (Parpart, 1991). They indeed fought alongside their male counterparts as evidenced by the decorated Field Marshall Muthoni, who spent time in the forest in actual combat. The women who had been left in homes were overly exposed to white man's brutality and oppression and had their freedom curtailed (through erection of barbed wire fences and digging wide trenches around the villages) to discourage them from linking up with the Mau fighters in any way. Women absorbed the full brutality of the British when, during their attempts to quash Mau Mau,

entire communities were moved into barricaded villages and shattered by rape, sexual violence, forced labor, and deprivation. During the negotiations for independence, few of these facts appeared to make their way onto the negotiations table; talks proceeded without women or their contribution. There was no political room for women in the new Kenya. This trend absence will be part of this study.

At the time of transition from colonialism to independence, women became invisible (Owuor, 2016). The new African leadership continued the white man's legacy of excluding and belittling women's contributions and abilities to occupy political and other public offices. Indeed the African-led government ignored women altogether leading to an independent Parliament and Cabinet that had no women. They were also not represented in the Kenya African National Union (KANU), the independence political party structures and could, therefore, not participate in structured national political discourse. They were eclipsed from this time onwards and for them; it seemed the sun never set on the colony. Governance structures and systems ignored and ostracized them - it was as if they did not exist. Indeed, Owuor (2016), records a significant incident which provides evidence that Kenyan women started agitating for inclusion into government and other structures soon after independence. She writes that women had registered and participated in the 1963 elections and that at the conclusion of that same, they asked the new Government to set aside some seats for them in the Legislature. (Daily Nation, 27th April, 1963). This was one of the resolutions passed at the closing of the second Kenya African Women's Seminar which had been held in Limuru. They also asked for woman representation in regional and international bodies such as the UN. The requests fell on deaf ears and they got no responses at all.

The struggle for inclusion in government and other governance structures never fizzled. It moved in at slow pace. Women's organizations such as Maendeleo ya Wanawake Organization (MYWO), which had been established in the early 1950s had no political inclinations or clout. It was engaged mainly in British housewife-like activities set around the home such as, crocheting, embroidery and baking, among others, and therefore, lacked the ability to represent women's concerns on the political front.

In 1969, however, the first woman was elected to Parliament. Grace Akech Onyango was elected Member of Parliament for Kisumu Town (Owuor, 2016) where she served for fifteen years. During the years she served, there were few women organizations advocating for women's inclusion in political leadership. The pace therefore, slowed down after her entry until the 1980s and 1990s when women's Non-Governmental Organizations (NGO) were established. Their establishment had been given momentum by the holding in Nairobi, the Third World Conference on Women in 1985 to review and appraise the achievements of the United Nation's Decade for women. This conference exposed Kenyan women to women activists and lobbyists from around the world. The Kenyan women rights groups started advocating for women's rights in the family, marriage, leadership, environment and economic empowerment, among other areas.

Kabira and Kimani (2012) capture the women's journey for women's agitation for inclusion at the high table in detail from the early 1990s through the Constitution making process and its conclusion. They list some of the key achievements of the struggle as; the establishment of the National Gender Commission, a Ministry in charge of women Affairs, Children and Social Services, the enactment of the Sexual Offences Act (2007),

an inclusive Constitution making process and the provision of not more than one third of either gender in appointments and elective posts, among many other gains in the CoK 2010. They observe that despite the fact that the journey has been rough and challenging, the gains made in the Constitution say it all: ‘the end justifies the means’ (Kabira et al., 2012).

### **1.10.2 Women and Legislative leadership in Kenya**

This section paints a picture of women and leadership drawing from women in Kenya's Parliament. Wanjiku Kabira, a long standing advocate for women's increased participation in politics and decision making, traces the struggle for Affirmative Action in her book *A Time for Harvest: Women and Constitution making in Kenya*. She captures the long and tedious journey that women have travelled in their quest for a place at the high table and celebrates the fruits borne by their struggle in the Constitution making process. She notes that when is dealing with centuries of oppression, exclusion, and marginalization, what now appears in the CoK, 2010, is no mean achievement (Kabira, 2012). She notes that the quest for an inclusive Constitution captured the historical injustices suffered by women in their diversity and galvanized them into a unified force with a singular agenda - to take their rightful place in the development of their country (Kabira, 2012).

Kabira notes that women's quest for leadership was not alien as it had happened already happened in Rwanda, Uganda, Tanzania, Mozambique, and Ghana and in faraway places like Britain, Norway, Finland, Denmark, Sri Lanka and Sweden, among others. These countries had already put in place mechanisms to propel women to decision making

positions, some having as many as half of their Parliamentary seats occupied by women. She however, notes that Kenya was leading from behind on this aspect as gains in the negotiated Constitution were proving difficult to implement - a case in point being the attainment of the "not more than two thirds" principle in elective positions in Parliament.

Owuor (2013) agrees with her, noting that the journey continues but with many hurdles. She says that even after the law provided a favorable framework for realizing equal representation of women in the political processes, there are still many political, cultural and socio-economic factors that impede the translation of legal provisions into tangible gains for women. This means that efforts to ensure equal representation of women in political processes must go beyond the law. The underlying impeding factors must be tackled (Owuor, 2012).

History is replete with feminist struggles which all agree on the humanness of women and the injustice of their exclusion from leadership. Kabira acknowledges that the struggle for freedom and recognition of women as equal partners in society does not come easily. In the section titled "A basket of fruits" from Bomas negotiation, she notes that women are great negotiators and that the "basket full of fruits" in the 2010 Constitution is a testimony to their capacity to negotiate. But then a poor culture of constitutionalism continues to impede the full enjoyment of the gains and threatens to poison the fruits in the basket. Indeed a male dominated Parliament, Executive and Judiciary have conspired to stall the enjoyment of the gains in the Constitution.

Kabira posits that the only way to the number of women can be increased significantly in Parliament is through the use of positive action measures and points out that to achieve Affirmative Action, countries have to adopt electoral systems that can allow its implementation. She contends that countries with majoritarian electoral systems, for example, Kenya have proved to be hostile to women's increased participation in politics. The countries which have embraced women in political positions have proportional representation systems. The CoK, 2010 recognizes a mix of the first-past-the post and proportional representation (National Assembly special interest seats) through the party lists system where women have an opportunity to be nominated using the zebra formula (a formula where party lists have male, female, male pattern).

She points out the various provisions which have been put in place in the CoK, 2010 to provide for women's inclusion and quality participation in the country's governance and development. They include provisions in the Membership of the National Assembly where for the first time 47 women are elected on women only seats through the County mechanism and the Senate where 16 seats are reserved for women towards the fulfillment of the "not more than two thirds" gender requirement. At the Devolved Government level, the County Assemblies are required to full the gender principle through Article 177. (CoK, 2010).

Maria Nzomo argues in her paper, Impact of quotas: Accountability of female 'Quota' MPs in Kenya pushes the Affirmative Action discourse a step further. She argues that the inclusion of and participation of women and their perspectives in politics on an equitable basis with men are prerequisites for democratic development and that they contribute to

good governance (Nzomo, 2011). She laments that the main problem with women's under-representation in politics lies fundamentally with the inadequacy in the functioning of democracy and that quotas (Affirmative Action) are therefore one of the key mechanisms of redressing injustice and democratic deficiencies. She cites the case of India where she argues that higher representation of women has corresponded with equitable distribution of community resources, for example, more gender-sensitive spending on programs related to nutrition, education and health. (Nzomo, 2012)

On women's presence in public institutions and in substantial position, she argues that it enhances the role model effect where girls and other women learn that they can also be like those in powerful positions, adding that the presence of women in critical numbers enhances the credibility of governance institutions. The call for Affirmative Action is therefore, not only important to women, but to the entire society. Here she agrees with Mill who argues that the adoption of systems that promote inequality was never a result of deliberations or consultations and that from the dawn of human society, every woman was in a "state of bondage." (Mill, 1869). Nzomo pushes her arguments further by stating that the presence of women in Parliament improves and adds value to the general culture and behavior of the institution. She notes that this introduces politics that encourage consensus seeking, reduces aggression and shifts Parliamentary debates from shouting match to consensual style of debate and bargaining. It also increases the level of empathy with issues of daily life.



On the question of accountability of women who benefit from Affirmative Action, she states that women do not necessarily have to have a geographical constituency to be accountable. As women MPs, society automatically expects them to represent other women, the children, and all marginalized groups; and they are likely to want to advance/ stay accountable to these social categories. She is emphatic that women should have a clear agenda and a road map adding that this should be one of the criteria political parties should use in selecting whom to nominate for the quota beneficiaries. So far there seems not be a criteria that political parties use to nominate women. Presence, participation, patronage and contribution to party affairs seem to play a big role in identifying nominees.

Parliament, on the other hand has continued the British and colonial culture in the way they conduct business. Until recently, the entry into the Chamber of Parliament bore a sign that said "For the Just Government of Men" A testimony to the un-expectedness of women in that space. Andrew Teyie and Francis Openda in their article titled Colonial relics still adorn Parliament , in The Standard newspaper of 17th March, 2007, write that such relics touch on the country's independence and sovereignty and leaves a first time visitor confused as to who is really in charge. The structure of Parliament is itself adorned with a large English style clock tower and is modeled on the Westminster system. According to the Parliamentary Index Summary Country Report, (2012), the origins of the 11th Parliament trace its existence as Legislative Council (LegCo) back in 1906. The LegCo made no pretence of being a representative institution of the majority African people. Indeed, it should be recalled that the British had no place for women in political leadership, save for the Queen who occupied her throne due to hereditary arrangements.

After independence, most of the aspects of Parliament were carry-over of the colonial Legislative Council. This status became an immediate concern for the African members and the urge to reform Parliament became one of the nationalists' agenda in a bid to rid themselves of the colonialist. Most of other aspects remained the same, for example, the Speaker of the first Parliament, Sir Humphrey Slade, remained in office until his retirement in 1970, representing a continuation of the status quo. There was therefore no opportunity to bring about radical changes in the administration, procedures of the House and the Standing Orders. Gradual change was however evidenced as multi-partyism was established and later the establishment of the Parliamentary Service Commission in 1999-2000, headed by the Speaker (male) and therefore no deliberate efforts to address women issues. Of significance is that this action ensured the delinking of Parliament from the control of the President and the Parliamentary service from the public service. The above history gives a picture of a Parliament that in reality has not shed off its colonial hangovers. The British Broadcasting Corporation (BBC) reported on 17th March, 2003, an incident where friction occurred between the Speaker and three Members of the Kenyan Parliament who had entered the chamber wearing African attire in total disregard of House rules which outlawed wearing of such attire in the House. A committee was indeed put in place to deliberate on whether these colonial rules should be reviewed to allow African attire in the chamber. On the other hand, women were only allowed to enter the Chamber with their handbags after they complained and raised a public storm through the media. These two incidences demonstrate the hold colonial practices still have on Parliament.

A survey conducted in Parliament in 2016 on the level of gender sensitivity in Parliament of Kenya, acknowledges the progress made in the area of inclusivity in the 11th Parliament. In the Senate, the Majority Whip, the Deputy Minority Whip and one member of the Speaker's Panel are women while in the National Assembly, the Deputy Speaker, the Deputy Majority Leader and two members of the Speaker's Panel are women.

However, the survey finds that women are acutely underrepresented in Committees and in Committee leadership in particular. In the National Assembly, women chair eight Committees (which amounts to 30% of the total committees) while in the Senate; women chair only one ad hoc Committee and occupy vice-chair positions in half of the total committees.

The study notes that women are underrepresented in critical committees such as those dealing with budget, planning, finance, infrastructure, economy and trade, where they comprise 10% or less of the membership. The study attributes this to the fact that majority of women are first-time legislators and did not receive a timely and targeted induction on how appointments to Committees work within respective political parties.

The survey notes that the work environment in Parliament needs to be gender responsive if women legislators are to be able to fulfill their mandate. Before the refurbishment of the Chambers, there were no designated toilets for women in both Houses. Those in the Chamber area were designed for use by men. The absence of this basic requirement shows the general unexpectedness of women and is an indication of other fundamental systemic hostilities that welcome women to this space.

The study notes the absence of gender equality, anti-discrimination or anti-harassment policies in Parliament, despite the fact that the Constitution outlaws discrimination. Currently, the Privileges Committee deals with cases relating to MPs and those concerning members of staff, by the Staff Disciplinary Committee. The survey recommends that various measures including applying Affirmative Action should be enforced so that committees and other structures in Parliament are not only women friendly, but also conform to the Constitution. The environment for women in Parliament therefore remains far from being facilitative for the successful execution of their mandate.

This study, in analyzing the challenges that women legislators have faced in the fulfillment of their mandate in the National Assembly, investigates the possible link between public perception of women's non-performance with the continuity of inherited colonial relics in terms of tradition, culture and practices which seem to work against women in the National Assembly.

### **1.11 Chapter Conclusion**

From the literature, it can therefore be concluded that; one, women legislators have the capacity to be effective leaders who bring transformative change in society. Two, in order for society to make progress, women's contributions, perspectives and experiences enrich society. Three, in order to truly appreciate Kenya's quest for democracy, Constitutionalism must be embraced. Lastly, a woman-friendly Parliament is an important space for women's growth in political leadership. The next chapter will focus on the history of women's struggle for political leadership in Kenya.

## **CHAPTER TWO**

### **A HISTORY OF WOMEN'S STRUGGLE FOR POLITICAL LEADERSHIP IN KENYA**

#### **2.1 Introduction**

This chapter locates the struggle for women within Kenya's social political and historical context. It also situates the historical and contemporary foundations of Kenya's Parliament. It examines the struggle during pre-colonial, colonial and post-colonial periods and flags out some of the landmarks of this struggle. It aims at providing a historical background to the struggle and the eventual gains in the Kenya Constitution promulgated in 2010. The chapter is divided into three parts. The first part describes the social cultural context for women in leadership in Africa. In addition, this section outlines women's leadership status during colonial period and examines women's critical role in the struggle for liberation which was ignored and unrecognized as the colonialist left and the black man took charge of the county.

The second part examines the post-colonial period. It highlights the place for women political leadership in the Parliament s prior to the enactment of the Constitution of Kenya 2010. The third part traces the struggle of women's political leadership in the new Constitution and finally reflections on the place of women in Kenya's Parliament.

## **2.2 The Social Cultural Context for Women's Leadership in Africa**

Women have had a long struggle to break the shackles of discrimination, oppression and exclusion by society especially in Africa. Friedrich Engels (1884), posits that the transition from matrilineal to patrilineal descent led to the first oppression, man's domination of women. Before then men respected and feared women and the strange powers they seemed to possess due to their physical appearance. They were awed by the fact that women could "bleed" and not die. They produced children which men had no idea where they came from. The tables however, were turned when men became aware that they had a role in the making of children. This brought about a power shift which made men be protective of their children and lineage and consequently territorial and domineering.

In pre-colonial Africa, male dominance was entrenched through social and governance structures which were male-dominated and controlled. Women were confined to mainly reproductive roles within the family and engaged in community support activities. They however, had access to land which they tilled to provide food for the immediate and larger family. They were dependent on male patronage and protection and lived in fear of abandonment if they went contrary to male authority (Parpart, 1986). They were protected as long as they obeyed and conformed to patriarchal power.

In certain societies however, women enjoyed some level of influence and authority. For example, in some matrilineal societies, such as the Tonga of Southern Zambia, women possessed their own granaries, control over grain production and security of land tenure. This gave them a certain level of control and confidence. Parpart notes that societies

which allowed women to accumulate wealth possessed had political institutions which provided protection for women and made it possible for them to act as political pressure groups. Belonging to these groups gave women strength, a sense of solidarity, self-worth and some measure of power to protect female interests in the community. This shows a direct relationship between wealth, freedom and power. In other societies, women held positions of power as demonstrated in the case of the Zulu, Baganda and the Asante, where the position of Queen Mother commanded respect and authority. They had important roles in rituals pertaining to social survival and fertility. In Sierra Leone, among the Serbro and the Mende, for example, women held chieftain positions on the same basis as men. Dual-sex systems found in some societies, assigned women formal roles in the political process (Okonjo, 1976). In Yorubaland, for example, the Iyalode had authority and influence over all women and represented women's concerns on the King's council, which was solely a male dominated institution. (Awe, 1977). This representation of women by the Iyalode comes close to an Affirmative Action as it made it possible for women to sit in a structure they may never have accessed.

From these early times, women struggled for political leadership and continue to do so with little success. Until the 1990s, no woman had run for president in Africa. A few women had however, been rulers in the 20th Century, but none had been elected. (Tripp, 2001) Empress Zauditu, for example, ruled Ethiopia from 1917 to 1930 while Queen-regents Dzeliwe Shongwe (1982-1983) and Ntombi Thwala (1983-1986) had respectively ruled over Swaziland.

Several women broke tradition and occupied top leadership positions in their countries. The "firsts" (Childs and Krook, 2008) concept gained traction in Africa as Elizabeth Domtien was appointed as Africa's first Prime Minister in the Central African Republic and served from 1975-1976. Ruth Perry of Liberia, became the first woman head of state in a non-monarchical regime in Africa in mid-1990s, (Tripp, 2001) paving the way for Ellen Sirleaf-Johnson to become Africa's first woman president in a country emerging from a prolonged period of conflict. In Uganda, Specioza Kazibwe became Africa's first Vice-President in 1994, while female Prime Ministers were elected in Rwanda and Burundi in the mid-1990s. Senegal elected its first woman Prime Minister in 2001 (Tripp, 2001). Opening up of the democratic space, due to the emergence of second generation Constitutions in Africa which entrenched women friendly legislations the 1990s, saw two women run for the presidency in Liberia and Kenya. Others sought party nomination for the same seat in Burkina Faso, the Central African Republic, Nigeria, Guinea Bissau, Tanzania, Sao Tome and Principe as well as Angola, without success. (Kabira, 2012)

Their efforts, though unsuccessful, served as an important precedent in their respective countries. The interactive platform provided by the Third World Conference on Women held in Nairobi in 1985, saw the emergence of political leadership gain momentum. As the decade closed, women gained more ground as Parliaments in Uganda, Rwanda, Lesotho, Ethiopia, Zimbabwe and South Africa had women as House Speakers and deputies. The tide for women's political leadership went a notch higher as new Constitutional dispensations started taking shape in Africa (Kabira, 2012).



Meanwhile in Kenya, women occupied lower status than men and wielded little authority in the public sphere. They were economically subservient as they had no means for economic empowerment, property or reproductive rights. (Parpart, 1986). They had, however access to land where they grew food for the family.

The authority, rights and privileges enjoyed by women in pre-colonial Africa were eroded when the white man colonized Africa. (Parpart, 1986) The colonialists brought with them a new way of life through the introduction of their religion, education and culture. The African was viewed as primitive, uncivilized and uncultured. They did not only re-define the place and status of the black man, but also that of the woman. They introduced their biases and stereotypes which associated women with powerlessness, domestication and subjugation. The political and economic affairs were therefore male-centred and this probably explained why women were ignored in significant positions such as chiefs. Most governments in Africa recognized only men as farmers and producers, and gave them the elevated position of head of household. This allowed them the opportunity to own titled deeds, a new concept which, by its very nature, disenfranchised women and relegated them to poverty. The women's diminished status led to the intensification of domestic patriarchy, reinforced by colonial social institutions, such as religion and education which reinforced gender roles and complicated others.

## **2.2 Participation of Women in the Liberation Struggle in Kenya**

The oppression by the colonial new order created resistance. Women and men had had enough and started agitating for freedom from oppression and the return of their lands and autonomy. Women joined the Mau Mau liberation movement first as couriers, food

providers and information gatherers, supporting the struggle in the best way they could. With time, they joined the men in real combat as evidenced by the existence of a female Field Marshall, Muthoni. Other women were detained and served time in prison and detention camps as evidenced in the existence of Gitamayu Detention Camp in Kiambu where "hardcore" Mau Mau women were detained for long periods for their participation in the struggle and for refusing to divulge information to the colonial administration concerning the Mau Mau operations. (Bruce-Lockhart, 2014) Women liberation fighters confounded the colonial administrators who could not believe that the women were singularly committed to the struggle in their own right. They believed they were being influenced by men and when this proved otherwise, they were labeled of "unsound mind" showing the clear "un-believability" of women's capacities and abilities to perform "unexpected and difficult" duties. (Mill, 1869)

On the political front, colonialism had no place for Africans, making it nearly impossible for them to participate meaningfully. The British rule was racial with the dominant white male at the top. The Governor, appointed directly by the Colonial Office in London, sat at the very top of the leadership hierarchy. District Commissioners and various other administrators followed. (Bates, 2015) In 1920, an election was held where a small number of representatives were admitted to the Legislative Council (LegCo). While a few Arabs and Indians were allocated some seats, Africans got none and it is not until 1944 when the first African, Eliud Mathu, was appointed to the LegCo. There were no women elected or appointed. In 1957, Daniel Arap Moi, Masinde Muliro, Tom Mboya, Ronald Ngala, and Jaramogi Oginga Odinga were elected. No women presented themselves for this election. A Register of voters from Machokos district (Osborne, 2014) showed that

9,000 voters registered and only 12 of them were women - an indication of the dismal participation of women in the process.

Women continued to perform dismally in consequent elections, but the coming into force of the CoK 2010, provided hope as it entrenched Affirmative Action as a strategy for women's participation in political leadership in Kenya. This law ensured that more women participated and ascended to political leadership.

### **2.3 Women's Participation in Politics in Kenya (1963 – 2013)**

This section analyses the participation of women in politics in post-colonial period Kenya and captures the progress women have made up to the 11th Parliament. As the British Colony's twilight approached, male participation in politics increased while women continued to be absent. The first woman to sit in the LegCo was Prisca Abwao who became the only woman out of a 70-strong delegation to go the Lancaster House in 1962 to negotiate independence. (Kamau-Ruttenberg, 2008) Records from the proceedings of the deliberations show she did not speak as she was not allowed to. (Ndeda, 2015) and her contribution was in the form of written memoranda on behalf of all Kenyan African women. Lancaster House was a barren affair for women and as independence became a reality, Kenya recorded not even one woman in the political transition team in spite of their active role in the struggle for liberation.

Women participated in the first post-independence elections in 1963, but none was elected. They however did not take this lying down as shown by their requests during the close of the Second African Women's Seminar held in Limuru, where they asked for a woman representative to sit in the East African Common Services Commission and on

international bodies such as the United Nations. The Daily Nation of 27th April, 1963 reported that the women also asked the government for a minimum of 10% female representation in the Independence Celebrations planning Committee for Kenya's independence celebrations. Their invisibility to the powers that be was demonstrated by the lack of attention their request met - it fell on deaf ears. Neither the Colonial administration nor the incoming black government responded to their request and this set the stage for a major blackout and disregard of their presence and participation in nation building. Their absence from the political and governance structures, however, shaped their struggle for inclusion for the next five decades.

The Kenya African National Union (KANU), the political party of independence, had, like the government, no women in its structures. They were invisible in the party as evidenced by their absence in the race for political office during the first elections in 1963. No woman was cleared to run for any political seat. (Migiro, 2013) From this time onwards, women remained in the background in party affairs and only came to the fore as dancers and servers of tea during party events. It was not until the mid-1990s that the women's situation started to improve. Table 1 show the number of women in Parliament from 1963 to 2013.

**Table 1: Women Members of Parliament in Kenya (1963-2013)**

<b>Parliament</b>	<b>Period</b>	<b>No. of Constituencies</b>	<b>Women Elected</b>	<b>Nominated women</b>	<b>Total Nominated members</b>
1st	1963-1969	158	0	0	12
2nd	1969-1974	158	1	1	12
3rd	1974-1979	158	4	2	12
4th	1979-1983	158	5	1	12
5th	1983-1988	158	2	4	12
6th	1988-1992	188	2	0	12
7th	1992-1997	188	6	1	12
8th	1997-2002	210	4	5	12
9th	2002-2007	210	10	8	12
10th	2007-2013	210	16	6	12

Source: FIDA-Kenya Report: Key Gains & Challenge: A Gender Audit of Kenya's 2013 Election Process, 2013

The first Parliament (1963-1969) had a membership of 158 and no women, despite them having fought alongside men during the liberation struggle. The second Parliament (1969-1974) with the same membership as above, had one elected woman member and one nominated. The third Parliament (1974-179) had four elected women legislators and two nominated (six in total). This was an improvement from the first one. The Fourth Parliament (1979-1983), again with a membership of 158 maintained the total number of six but this time there were five elected women and one nominated. The Fifth Parliament (1983-1988), had a total of three women in Parliament, a decline from the previous one. Two were elected and one was nominated. The sixth Parliament (1988-1992) had recorded a further decline with only two elected women in the House. None was

nominated. The 1988 election was conducted through the queue voting system which denied voters the secrecy of their choice. Queuing behind a woman may have presented some challenges.

The seventh Parliament (1992-1997) was the first after Kenya becoming a multi-party state. There was a choice of party and the secret ballot system of voting was used. Six women were elected on different parties and one was nominated. A record seven women sat in that House. In the Eighth Parliament (1997-2002), the numbers increased to nine with four elected and five nominated. This trend continued and in the ninth Parliament ten women elected and eight nominated. This was after the 1997 Inter-Parties' Parliamentary Group negotiations. The tenth Parliament recorded the highest number under the independence Constitution. Sixteen women were elected and six were nominated, bringing the total number to twenty-two, Kenya's highest number until then.

#### **2.4 Women Political Leadership under the New Constitution**

The mid-1980s through the 1990s saw a protracted struggle for what came to be known as the Second Liberation in Kenya. During this period, different civil and political groups demanded for political, social and economic reforms through a new Constitution. The struggle saw long and protracted negotiations for a new Constitution which was finally promulgated on 27th August, 2010. Kenyans of all shades participated and women were not left behind. They engaged through women's Non-Governmental Organizations (NGO), majority of which had come into being after the Nairobi Women's Conference in 1985. They focused on diverse areas which included; women's rights, communication, environment, research, democratization and politics, among others.

They included the Federation of Kenya Women Lawyers, Kenya (FIDA-K) whose focus was on women's legal rights. The Coalition on Violence against Women (COVAW) followed and focused on women's rights and Gender Based Violence. Other organizations followed and included the National Council on the Status of Women (NCSW) whose focus was women and democratization and was responsible for kicking off the debate on the need for a critical mass of women's representation in leadership. (Nzomo, 1991) The League of Kenya Women's Voters (LKWV), the Collaborative Centre for Gender, Development (CCGD) and the Education Centre for Women and Democracy (ECWD) focused on women and their political participation. The Women's Political Alliance and the Women's Political Caucus focused on women's political representation at both national and local government levels and were at the forefront in advocating for Affirmative Action for women's political leadership. Their work included training women aspirants for political positions as well as developing programmes for women's participation in political parties and the public service. The Association of African Women in Research and Development (AAWORD) generated knowledge through research and provided critical linkages between NGO programmes and research (Kabira, 2012). Their role was invaluable as their strategic thinking and production of research papers helped in exposing NGOs and their work to wide audiences through presentations in diverse fora. The Association of Media Women of Kenya (AMWIK), a network of women in the media focused on communication and media and supported women's efforts through the media. The organization's membership played a critical role in producing women-friendly articles, programmes (TV and Radio) as well as messages for the various publics. They also developed communication strategies for women to

boost women's struggle for political participation and Constitution making. The Greenbelt Movement, a grassroots women's organization focused on environmental protection and conservation as well as women and leadership. Its founder and leader, the Nobel Peace Laureate, Prof. Wangari Maathai played a key role in exposing the poor leadership of the KANU government as well as raising awareness on gender discrimination through protests. The organization also successfully mobilized women for the release of political prisoners, a struggle etched in the history of Kenya through the establishment of the Freedom Corner in Nairobi's Uhuru Park

All of the above organizations played a critical role in advocating for the rights of women in their areas of focus and committed material and financial resources throughout the Constitution making process. Their predecessors and who continued to walk side by side with the new formations were the Maendeleo ya Wanawake Organization (MYWO) and its sister organization, the National Council of Women of Kenya (NCWK). The MYWO was a colonial contraption formed in 1952 by the colonial government as a strategy for reaching out to African women and for purpose of information gathering on the Mau Mau at the height of colonialism and the Mau Mau uprising. (Mbugua, 2017) It occupied its members' time with British women-oriented activities such as baking, crocheting, and embroidery. Its major goal though was to collect information from the African women on Mau Mau. The organization metamorphosed into the biggest women's organization in Kenya with presence and leadership at the lowest levels of governance in the country. It however, lacked its own agenda and resources and has largely been used by different groups as a vehicle for mobilizing women for different initiatives and campaigns, some of which include; family planning, tree planting, nutrition, Female Genital Mutilation



(FGM), peace and Constitution making. Its co-option (Wipper, 1975) by the ruling party KANU reinforced its original mandate as a government machine for women's engagement, a status it has not been able to shed to date. This previously vibrant organization was subsumed into KANU's problematic (and even undemocratic) governance. The NCWK had a countrywide network but not as pervasive as MYWO and was formed to serve as an umbrella organization for the overall co-ordination of women's groups in Kenya. It provided an additional national platform for women's engagement in and with leadership.

The women's struggle was a response to not only obvious discrimination perpetuated by the state but also a protest to the legal framework presented by the Independence Constitution which had had no input from women. It reflected a warped, narrow and anti-women outlook of both the colonial government and the leadership that emerged after independence. The men who had fought so passionately alongside women during the struggle for independence sang a different tune as soon as they got into power - they were conservative and shared an oppressive ideology in as far as women were concerned. The Constitution was not homegrown and despite its many amendments, never deviated from its goal - to centralize power and continue its anti-women character. (Owuor, 2016)

## **2.5 Women in Kenya's 11<sup>th</sup> Parliament**

The Constitution that transitioned Kenya from a colony established a Parliamentary system. It also established the Executive with its powers vested in a Cabinet headed by a Prime Minister who was directly appointed by the Queen of England. As head of government, the Queen was also the Commander in Chief. A two-chamber Parliament

known as the National Assembly consisted of the Senate which represented the regional interests and a House of Representatives representing national interests. There was no woman in the first Cabinet and in the first Parliament. Through a Parliamentary amendment in 1964, Kenya became a Republic with the Executive headed by a President. The senate and the regions were abolished.

By the beginning of the 80s, Kenya had officially become a de facto one party state under the ruling party, KANU. A repressive leadership ensued and people's rights were trampled upon with impunity. The women's movement led by MYWO was in distress as MYWO had been co-opted by KANU and changed its name to KANU Maendeleo Ya Wanawake. Its transformation was complete and was by all intent and purpose KANU's mouthpiece and women mobilization and outreach tool. It was KANU's continued rule and its totalitarianism that gave impetus to the agitation for multi-partyism and in 1991, the government gave in. Section 2A of the Constitution was scrapped, effectively making Kenya a multi-party state.

Women's organizations were few and not very active due to the intolerance of the government. In 1992, however, NCWK and (African Women Development and Communication Network (FEMNET) organized the first ever National Women's Convention in Kenya with the aim of strategizing for women's participation the general Elections scheduled later that year. (Nzomo, 1997) Women gathered from across the country and Maria Nzomo, a women's activist and the key speaker of the day, made a powerful presentation on women and democratization. She declared that Kenyan women had found a common link as women in their oppression. (Kamau-Ruttenberg, 2008)This

convention and its message reverberated across the country, drawing the attention of the government which responded with disdain, branding women activists as "divorcees" to demean and erode their legitimacy. This reaction resonated with the colonial government's reaction to the Gitamayu women detainees whose effective participation in the liberation struggle (in their own right) surprised the colonial administration. (Bruce-Lockhart, 2014) Women's efforts to claim their space in leadership and the threat of their unity displayed at the convention, therefore, disturbed the male dominated leadership and the status quo. A divide and rule strategy ensued where government officials, including the President urged "decent women" to dissociate themselves from the "loose, unmarried and divorced women". It was at this convention that women demanded a 30% representation in Parliament and the enactment of a Sexual Offenses law, among other demands. (Owuor, 2016)

The women's movement gained momentum and renewed energy in the movement as evidenced by the formation of the Mothers in Action Group which boldly supported and campaigned for women in the run up to the 1992 (multi-party) General elections. Six women were elected and one nominated and for the first time in Kenya's history, seven women sat in Parliament. Another important milestone was that every political party included a provision on gender and women in their manifesto - a result of a Political Parties' Gender Mainstreaming Programme run by the Collaborative Centre for Gender and Development (CCGD).

In 1997, women's collaborative efforts continued and through the then Member of Parliament (MP) for Karachuonyo, Phoebe Asiyo, an Affirmative Motion was introduced in Parliament asking for a one third representation of women in Parliament and Local Authorities, Constitutional Amendment providing for two female MPs Province (16 in total from the eight provinces) and a law to peg government funding of political parties to the number of women candidates the fronted during elections. (Hansard, 1997) Women filled the Speaker's Gallery on the day it was tabled to show support for the motion. They ululated and clapped to remind the MPs of their presence. The Motion was defeated. The consequence was that in the 1997 General Elections only four women were elected and five nominated as a result of the Inter-Parties Parliamentary Group (IPPG) negotiations. The IPPG was a temporary grouping of MPs who had come together (after consistent protests and demand for Constitutional review) to push for minimum institutional reforms to facilitate the 1997 General Elections.

Together with political parties and other Civil Society Organizations (CSO), women continued the momentum for a new Constitution and in 2002; the Constitution of Kenya Review Amendment Act was passed, effectively kicking of a comprehensive Constitution review process.

The quest for the review of the Constitution provided a window for democratizing the male-centred independence Constitution. Buoyed by existing regional and international legal frameworks such as the Universal Declaration on Human Rights (UDHR), the Convention on the Elimination of Discrimination Against Women (CEDAW), the Nairobi Forward Looking Strategies, the pre-Beijing Conference position taken by

African women in Dakar and the Beijing Platform for Action, among others, women agitated for inclusion, equality and equity before the law and in practice.

The National Constitutional Conference (NCC) or Bomas as it came to be known, comprised all MPs, 42 representatives from political parties, three delegates from each District, 125 representatives of religious groups, youth comprised of all members of Parliament, 42 representatives from political parties, three delegates from each district, 125 representatives of religious groups, women's groups, youth groups people with disabilities, trade unions and NGOs. Women took a strategic step and lobbied to ensure that one in every three delegates from the Districts was a woman. Women tracked the process but four women NGOs ensured this was done systematically especially for the draft document. They included FIDA Kenya, League of Women Voters, and the Institute for Education and Democracy (IED) and the Kenya Human Rights Commission (KHRC). (Kabira, 2012)

Women participated in the negotiations and were negotiators themselves, they set the agenda, engaged in dialogue at all levels, presented views and carried out research (Kabira, 2012). They were the main drivers when it came to negotiating for women's participation and they organized themselves to collectively or individually present their views at both national and constituency levels through their grassroots networks. Though protracted, the negotiated demands for women came to be in the CoK 2010.

Women made gains in the Constitution and some of the fruits of the harvest contained in the big "Basket of fruits" (Kabira, 2012) are captured in the following areas. In Article 27(3) women are assured of full participation in the political, social and economic life of

the country while Article 27(8) stipulates that the state shall take legislative and other measures to implement the principle that not more than two thirds of the members of elective and appointive bodies shall be of the same gender. Article 81(b) clearly states that "not more than two-thirds of the members of elective public bodies shall be of the same gender", a reinforcement of the importance the Constitution has placed on women's participation in public offices. The effect of these provisions was evident in the 2013 General Elections, the first after the promulgation of the CoK 2010 as reflected in the table below.

**Table 2: Women Legislators in the 11th Parliament**

Parliament	Period	Women Reps	National Assembly Elected		National Assembly Nominated		Senate Elected		Senate Nominated	
			Women	Men	Women	Men	Women	Men	Women	Men
11 <sup>th</sup>	2013-2017	47	16	233			0	47	18	0
12 <sup>th</sup>	2017-2022	47	23	226						

The women of Kenya had worked to achieve Affirmative Action from the 1960s onwards in the knowledge and belief that they had an important role to play in governance and politics. Article 14(1) gives women power to confer citizenship on their children which was previously not possible. Discrimination on account of sex is expressly outlawed in Article 27(4) and in Article 27(6) Affirmative Action is guaranteed "the state shall take legislative and other measures including but not limited to Affirmative Action

programmes and policies, designed to benefit individuals or groups who are disadvantaged, whether as a result of past discrimination. (CoK, 2010)

On gender, the Constitution addresses the issue of exclusion in politics and states in Article 27(3) the women have right to equal opportunities in political, economic, cultural and social activities. The right to inherit, have access and manage property is captured in Article 37(2), ensuring that women will no longer be discriminated in inheritance matters. Article 60 stipulates that "Land in Kenya shall be held, used and managed in manner that is equitable, efficient, productive and sustainable, and in accordance with several principles which include in Article 60(f) elimination of gender discrimination in law, customs and practices related to land and property. Article 45(3) states that "parties to a marriage are entitled to equal rights at the time, during the marriage and at the time of the dissolution of the marriage.

For the first time, economic and social rights are entrenched in the Constitution in Article 43 of the Bill of Rights. They include the right to health, housing, and freedom from hunger, clean and safe water, social security and education. These are basic rights that more often than not have militated against women's progress.

On representation, the Constitution stipulates in Article 97(b) that the National Assembly shall be composed of "forty-seven women, each elected by the registered voters of the counties, each county constituting a single member constituency. On the Senate composition, Article 98(1)(b) stipulates that Sixteen women members who shall be nominated by political parties according to their proportion of members of the Senate. The Constitution ensures that women are squarely placed in political leadership and

especially Parliament where they had hitherto been deliberately excluded. Affirmative Action takes centre stage as a strategy to ensure that women, who have been missing in leadership due to historical injustices are henceforth recognized and included by law. This corrects the independence Constitution which was discriminated against women and also gender blind.

The women's gains in the Constitution were hailed and celebrated in equal measure. But the optimism and euphoria displayed in the wake of the 2005 referendum vote and the subsequent promulgation soon died. Certain challenges emerged in as far as implementation was concerned. The struggle, for example of the implementation of the "not more than two-thirds" gender principle hit a wall in the 2013 Elections, as no mechanism had been put in place to ensure that the required numbers in the National Assembly was met. In 2016, Kenyan women were faced with the cold and hard truth that Articles 27 and 81(b), guaranteeing them one-third representation, was far from being achieved. In the 11th Parliament, women's political representation stood at 19% ( a total of 86 elected and nominated female members in the National Assembly and the Senate). This percentage needed to rise by 14 points to reach the required 33%. This was however not to be as the Attorney General (who is tasked with developing a mechanism for the implementation of the "not more than two thirds" gender principle) and the male-dominated Parliament seemed not to know how to make operational this requirement.

Women's pleas in court have not yielded much to date. The Supreme Court Advisory Opinion on the Principle of Gender Representation gave an August 2015 deadline to the Executive and Parliament to have come up with an implementation mechanism. This



deadline was not met and the status quo prevails to date. Instead, the women of Kenya have been treated to a retrogressive rhetoric that reveals continuing male anxieties about women's representation. (Owuor, 2016) One particularly notorious and much reviled effort was the Constitution of Kenya (Amendment Bill 2015), also known as the Chepkonga Bill of 30 April 2015 which sought to undermine Article 81(b) of the 2010 Constitution by describing the one-third gender process as an open-ended one subject to 'progressive implementation'. The 11<sup>th</sup> Parliament did not meet the one-third gender representation requirement, and did not put in place an implementation mechanism, thereby failing to put in place a legislative foundation for the 12<sup>th</sup> Parliament.

## CHAPTER THREE

### CONTRIBUTIONS OF WOMEN LEGISLATORS IN THE NATIONAL ASSEMBLY

#### 3.1 Introduction

This chapter focuses on the contributions of women legislators in the National Assembly. It uses the example of women's contributions in the National Assembly to critically interrogate Affirmative Action as a strategy for women's political leadership. It analyzes women legislators' contributions in the National Assembly and highlights the key contributions they have made in the areas of public and reproductive health, legal, education, information, disability rights, environment and natural resources, wildlife, citizenship and immigration, among others.

The chapter collates a total of 18 pieces of legislation and analyzes the contributions made by women legislators in the law making process. The chapter makes three arguments. The first argument is that despite the fact that the number of women was much lower in proportion to men, (but a critical minority) women managed to make significant contributions in critical areas. The second argument is that the presence of women in the National Assembly brought to focus, areas which would never have been brought forward if they were not there in critical numbers. The third argument is that the presence of women ensured that issues of concern to women were integrated in Bills that, at a first glance, seemed to have no women or gender dimensions. The presence of women therefore; introduced women's perspectives and experiences; influenced the content of House discourse; raised awareness of both the MPs and Kenyans on the need

to incorporate women's issues in the law making process; corrected past discrimination by according an equal platform for women to articulate national concerns. Their presence also provided women with training ground for political leadership as well as role modeling for young girls and women in political leadership. (Kabira, 2012)

The chapter samples three pieces of legislation namely; the Basic Education (Amendment) Bill, 2016, The Breastfeeding Mothers Bill, and the Magistrates' Courts Act. The researcher selected these pieces of legislation primarily because they illustrate the importance of women's presence and inputs where issues that impact on their well-being is discussed. They also demonstrate that women's presence in critical numbers make a difference in the National Assembly as demonstrated by the amendment introduced by a woman legislator to the Basic Education (Amendment Bill) which introduced provision by government, of sanitary towels in schools. The Bill became law through the support and lobbying by women legislators. The selected Bills also highlight the fact that women introduce laws that focus on issues of practical importance to women and which would never have appeared for legislation if women were not in the House. The Magistrates' Courts Act's debate provided a platform for women to introduce their perspectives in a Bill that would have been casted as gender neutral.

The chapter is divided into six main parts. The first part presents an overview of the legislation in the National Assembly and highlights women's contributions. The second part addresses the importance of women's presence and perspectives in House debates; the third focuses on the Basic Education (Amendment) Bill of 2016 while the fourth part focuses on the Breastfeeding Mothers Bill, 2017. The fifth part addresses itself to the

Magistrates' Courts Act. The final part provides an analysis of these three pieces of legislation and concludes.

### 3.2 Overview of legislation by women in the National Assembly

The National Assembly of the 11th Parliament had 250 members including the Speaker. It ran from 2013 to June, 2017 when it closed to pave way for the 2017 General Elections. A hundred and eighty Bills were passed, with 2016 witnessing the passing of 54 Bills, the highest in that House's term. Thirty-seven Bills were passed in 2015, twenty-nine in 2017, twenty-five in 2014 and 13 in 2013. By the close of its term on 15th June, 2017, twenty-two Bills had been passed in the National Assembly and awaiting consideration by the Senate while forty-nine others were undergoing debate. Table 3 reflects a summary of the performance of the National Assembly in terms of the pieces of legislation worked on.

**Table 3: Summary of the performance of the National Assembly of the Eleventh Parliament on Bills**

Bills Passed by the National Assembly in 2013	13
Bills Passed by the National Assembly in 2014	25
Bills Passed by the National Assembly in 2015	37
Bills Passed by the National Assembly in 2016	54
Bills Passed by the National Assembly in 2017	29
Bills Passed by the National Assembly and awaiting consideration by the Senate as at 15-June-2017	22
<b>Total No. of Bills Passed by the National Assembly, 2013-2017</b>	<b>180</b>
Bills Undergoing Debate by the National Assembly as at 15-June-2017	49

Source: Bill Tracker, National Assembly Website

The 11<sup>th</sup> Parliament had 86 women legislators, the highest number in the history of Kenya. They comprised 16 elected members from the single member constituencies, 47 Women Representatives (one each from the 47 Counties) five Nominated members representing special interests (nominated through political party lists) and 18 Nominated Senators including one each, representing Youth and People with Disabilities respectively. The total number of 86 out of 349 members shows that the constitutional threshold of the "not more than two thirds" gender principle was not met due to various factors some of which include resistance by male-dominant legislators who shot down legislation (they had the numbers) brought to the House to facilitate implementation due to rigidly held beliefs that women were being "given seats for free"; unclear understanding of Affirmative Action and how it works as well as procrastination by the Attorney General who is responsible for putting into operation what the Constitution stipulates. He has, to date, not presented a workable implementation mechanism.

Despite their low numbers in the National Assembly, women introduced a total of 18 out of a total of 180 pieces of legislation. These reflected issues that were of concern to them and the constituencies that they represented. Some became law while others were at different stages of the legislative process by the time the term of the 11th Parliament ended in June, 2017. They included five Acts and 13 Bills. The Acts included; Access to Information act, 2016 (Priscilla Nyokabi), the Public Benefits Organizations Act, 2013 (January) (Sophia Noor Abdi), the Social Assistance Act, 2013 (Dr. Joyce Laboso), Engineering Technology Act, 2016 (Cecilia Ng'etich and the Victims Protection Act, 2014 (Millie Odhiambo-Mabona).

The Bills included; The Persons with Disabilities (Amendment) Act, 2013 (Wanjiku Muhia), The Diabetes Management Bill, 2014 (Rachel Nyamai), the Kenya AIDs Control Authority Bill, 2014 (Rachel Nyamai), the Traditional Health Practitioners Bill, 2014 (Rachel Nyamai), the Pharmacy Practitioners Bill, 2014 (Rachel Nyamai) and the In-Vitro Fertilization Bill, 2014(changed title to Assisted Reproductive Technolog by Millie Odhiambo-Mabona. Other were the, the Basic Education (Amendment) Bill, 2016, (Grace Kiptui), the Cancer Prevention and Control (Amendment) Bill, 2016 (Gladys Wanga), the Breastfeeding Mothers Bill (2017), the Nutritionists and Dieticians (Amendment) Bill, 2017 (Mary Emase), the Wildlife Conservation and Management (Amendment) Bill, 2017 (Amina Abdalla), the Kenya Citizenship and Immigration (Amendment) Bill, 2017 and the Universities (Amendment) Bill, 2017 (Hansard, 2017).

A close perusal of the Hansard and Parliamentary Order Papers show that women also actively contributed to Bills introduced by their male counterparts and were able to integrate their perspectives, interests and concerns from their constituents. Some of these include: the Magistrates' Courts Act , the Firearms Tracking and Registration System Bill, the Fisheries Management and Development Bill, the Petroleum (Exploration, Development and Production) Bill, as well as the High Court Organization and Administration Bill, among others.

During debate of the Bills they introduced (see Table 2 below), women from across parties supported each other Bills with researched contributions in a show of solidarity. An example in point is the support Hon. Grace Kiptui (United Republican Party (URP), received during the debate of her Basic Education (Amendment) Bill. Contributions came

from Hon. Nyokabi Kanyua, (Jubilee Alliance Party), Hon. Christine Ombaka (Orange Democratic Movement (ODM)), Hon Annah Nyokabi Gathecha (Jubilee Alliance Party) Hon. Joyce Emanikor (Jubilee Alliance Party), Mishi Juma Khamisi (ODM) and Hon. Regina Muia of Wiper Democratic Party.

At committees' level, women hold seven out of the 28 chairperson's positions available. This represents 25% of the total positions. They hold three Vice Chairperson's positions which translate to 10.7% of the total seats available.

**Table 4: Bills introduced by Women in the National Assembly**

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

NB: Lapsed Bills are Bills that were at different stages of the law making process as at the time the term of Parliament ends. These Bills are considered "dead" and have to be re-introduced in the consequent Parliament.



### **3.3 Analysis of Women’s contributions and perspectives of Selected Bills**

A look at the pieces of legislation that women introduced in the National Assembly demonstrated that the presence of a critical number of women in the National Assembly re-casted debate introduced new perspectives and brought to the fore women's concerns in Bills that were introduced by male MPs and which were not on women's issues women specifically. This section looked at women's contributions and perspectives during the debate on the Basic Education (Amendment), Bill, 2016, the Breastfeeding Mothers Bill, 2017 and the Magistrates' Courts Bill. These have been selected to demonstrate that women, even in small numbers can introduce new perspectives in the making of laws as well as mainstream women's concerns. They are also used to show that some Bill made it to the floor of the House because of the presence of women. Their experiences and needs drove the laws that they brought on behalf of the constituents they represent.

#### **3.3.1 The Basic Education (Amendment) Act, 2017 No. 17 of 2017**

This law was introduced by Hon. Grace Kiptui, the Women Representative for Baringo County. A lawyer by profession, she was one of the more active members of the last National Assembly and is reported to have spoken on the floor of the House 208 times. She is from the minority Endorois community which has rigid traditional practices that inhibit girls from going to school. One of the issues she campaigned on was education and especially that of the girl child who, in her community, was more likely to be married off early after going through Female Genital Mutilation. She introduced an Amendment of section 39 of No. 14 of 2013, which sought to have the government “provide free, sufficient and quality sanitary towels to every girl child registered and enrolled in a

public basic educational institution who has reached puberty and to provide a safe and environmentally sound mechanism for disposal of the sanitary towels" An Amendment of section 88 of No. 14 of 2013 was also sought to have funds set aside to facilitate the provision of the sanitary towels. By taking up this responsibility, she argued, the government would be fulfilling its obligation of ensuring access to education for all as well as guarantee every girls right to quality healthcare.

While moving the Amendments, Hon. Kiptui invoked Articles 43 and 53 of the Constitution of Kenya. Article 43(1) provides for the highest attainable standards of health, including reproductive healthcare while Article 53(1)(b), provides for the rights of every child to free and compulsory education. Further, 53(1) provides for the right of every child to basic nutrition and health. It was evident that her concern for the health and comfort of the girl child was borne by her own experiences as a woman who understood how unhygienic health practices would impact on a girl's health. She therefore, empathized with the situation. The enabling provisions in the Constitution made it easier for her to claim the right to health for the girl child.

The support she got from other women legislators had a positive impact for the debate. First it was important that women supported her to show solidarity and to put the message that menstruation, important as it was, was militating against girls' performance and retention in schools due to lack of sanitary towels. It was noted that in most parts of the arid and semi-arid areas, water was scarce, and therefore, menstruation for girls was a real deterrent to their education. Women legislators leveraged their numbers and added weight to the arguments Hon. Kiptui put across. Their voice was loud enough for other

members to hear, even though their numbers were much less than their male counterparts. The display of unity in purpose in debating the Bill provided a commonality in their commitment to the issue at hand and gave it the push it needed. The placement of sanitary towels right at the centre of girls' performance and retention in school directly addressed the violation of their right to health and a good and happy life in future, which education lays the foundation for. It highlighted the sanitary towels as a strategic need that if denied, would have had a negative lifetime impact on the girl child. Their resolve and the presence of lawyers and known women rights advocates lent credence to their arguments, leaving those opposed with no credible reason to oppose. Arguments put forward, such as the example given by one of the legislators to the effect that a male MP with a wife and five daughters would have more money in their pockets saved from the monthly shopping of sanitary towels, was compelling enough to catch the attention of men who shop for their families.

The women legislators' solidarity gave their voice strength and was able to put their arguments forward. Kanter (1977) argues that even when the number of women is low, the presence of feminists or "women-identified-women" can reduce performance pressure, token isolation and role entrapment if the particular women involved form coalitions. The cross party coalition forged (however temporary) helped to push the Bill to its successful conclusion and was strong enough to deter their efforts from being frustrated and scattered. Their ability and capacity to articulate stand their ground and push their arguments competently proved those who doubted women's capacities as leaders, wrong. Child and Krook's (2008) argument on the importance of critical numbers

in decision making spaces, not only proved that numbers mattered but also that women's presence, albeit in the minority made a difference

The Basic Education (Amendment) Act came into force in 2016 and its impact is now being felt across the country as the government already set aside a budgetary allocation and distribution and disposal mechanisms in place through the relevant ministries. The presence of women in the National Assembly enabled such a law to get to the House and to be debated and passed. It is doubtful whether a man would have introduced such a law, stood firm by it, articulated its importance and defend it. Traditions and culture classify this as strictly a women's affair. The Bill therefore fore-grounded the importance of the presence of women in platforms that can make a difference to their lives and improve the community.

### **3.3.2 The Breastfeeding Mothers Bill, 2017**

The Breastfeeding Mothers' Bill was introduced to the National Assembly, as indicated in its memorandum of objects, to make provision for breastfeeding mothers to have a designated lactation place, to be allocated breastfeeding time, to ask employers to provide flexible working arrangements for breastfeeding mothers, and to provide a public baby changing facility, among others. The Bill, which was introduced by Hon. Sabina Chege, Women Representative Murang'a County, stated its main objective as being to provide a legal framework for mothers who wished to breastfeed their children at work.

To support this Bill, Hon. Chege argued that Kenya was a signatory to treaties that provided for the right of an infant to exclusive breastfeeding for six months and that breastfeeding was the first preventive health measure that could be given to a child at

birth. She stated that breastfeeding enhanced mother-infant bonding. She emphasized that breastfeeding was nature's first immunization dosage which protected infants from infections and had qualities that enhanced a child's growth. She asked the government to promote breastfeeding to curb infant infections and mortality. She also argued that breastfeeding would save the country foreign exchange which was otherwise being used to import baby formulas and attendant products to sustain infants.

Like any good law, the Bill provided a mechanism for compliance and sanctions for those who would fail to adhere to it. It stated that anyone who would be convicted of an offence under the Act would be liable to a fine not exceeding five hundred thousand shillings or to an imprisonment for a term not exceeding one year, or to both.

First, the introduction of the Bill was made possible because the Constitution guaranteed rights to women and children under Article 43 which provides for social and economic rights for every Kenyan. These Constitutional provisions gave Hon. Sabina the courage to fathom the idea and the confidence that it was possible to legislate because the Constitution said so, an endorsement and celebration of the achievements women had made from their long struggles for recognition and inclusion in political leadership. Indeed this notion of celebration is aptly captured by Kabira (2012) where she enumerates the gains women made in the CoK 2010.

There is a saying in Kiswahili which says "asiyepo na Lake Halipo" meaning that if one is not present when issues concerning them are being discussed or goodies being shared, then they cannot be considered. The Bill was informed by Hon. Chege's experiences as a mother who felt the need for lactating women to perform well in her legislator's job and

to also provide quality care and nurturing to their babies. She understood the importance and benefits of breastfeeding as well as the right of the lactating mother to work. As a lactating mother at the time, her need to bond with her child and to ensure that her baby grew in a healthy manner, compelled her to seek measures to accommodate the rights of a woman to happiness, (Mill, 1869) family, work, association and freedom to perform her national duty of children bearing and to ensure a healthy human resource for the nation. Her experience and proximity to the issue had a big influence in her introducing the Bill to the House.

The idea of a Bill on breastfeeding as a subject is in itself is interesting. To think of legislating breastfeeding could only have been given voice by an intelligent, gender responsive and aware woman who appreciated that to shift the breastfeeding space from the private to the public<sup>1</sup> required a law - especially when it had budgetary implications. It also brought to the fore the discrimination lactating mothers had faced in their work places and the general societal blindness and insensitivity to this life-giving activity.

Majority of public spaces do not provide a conducive environment for lactating mothers. More often than not, a lactating mother experiences challenges because there is no space provided where she can freshen up her baby. Most spaces are small and/or unhygienic. There is also no space for one to change the baby. Moving the private, "mundane" duties related to domestic, maternal and reproductive health to the public and asking for a budget for it, showed the high value the legislator attached to her obligations as a mother.

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<sup>1</sup> Private spaces

The budgetary requirement for baby to grow in a healthy manner, to Hon. Chege, was of great importance and deserved Kenyans' attention.

Hon. Chege reinforced the contention by Childs and Krook (2008) that when a minority in a legislative body has the numbers, they can achieve their agenda. The debate around the Bill was supported by women legislators across party affiliations, giving it more weight and drawing the attention of the nation through the live television coverage provided by the Parliamentary Broadcasting Service. The National Assembly in the 11th Parliament had 66 women, more than any other time in its history. Although these numbers were still low in proportion to those of men, Hon. Chege counted on the support of her fellow women legislators to support her Bill. Their commonality as women and mothers who understood the problem first hand, gave them the patience and empathy for the problem Hon. Chege was curing. This agreement on the importance of the matter at hand, gave her the assurance and confidence that she would get their support, their party and other affiliations, notwithstanding.

Hon. Mary Wambui Munene, Women's Representative of Nyeri County in supporting the Bill began by saying: " I know breastfeeding the baby is very important for the mothers" (Hansard, 2017) and went on to highlight the value of healthy babies in society and how they would make healthy and balanced leaders. She agreed with the suggested fine of five hundred thousand in the Bill saying, it would deter violation of the law. Hon. Amolo in her contribution said that a breastfeeding centre should be treated just like other measures put in place in working places to improve the working environment. She said that just like occupational hazard issues were addressed at the work place by placing, say,

fire extinguishers at strategic places, breastfeeding centres must also be established in every organization. She informed the House that some universities and private organizations in the country had already established breastfeeding centres and this was therefore not a foreign concept. She pointed out that breastfeeding facilities could also be found in some airports in different parts of the world. She closed her contribution by saying; "we thank God for Kenyan women who are very fertile. We should be proud of that. We also thank our men because without them, we would not be able to breastfeed." (Hansard, 2017) Hon. Sunjeev Birdi (Nominated MP) told the House that the subject of breastfeeding was very close to her heart and that although she did not have a child, she believed that carrying and nurturing a child was nurturing a nation. Attempts to trivialize the matter by male legislators was scoffed at by women who informed them that although procreation was a collaborative effort of both men and women, it was only women who were in a position to understand and value breastfeeding and the value of the relationship it created between mother and baby.

The debate on the Bill gave women an opportunity to argue their case by linking the issues raised to fundamental human rights concerns such as; the right to life, to work and to be safe in one's working environment. The legislators were able to articulate the benefits of breastfeeding, the value of a healthy nation, the inevitable role that women play in perpetuating society and the importance of ensuring that the country had a healthy human resource for its development. It also helped in emphasizing the fact that child bearing was indeed a national duty. The debate also demonstrated the importance of women being in the National Assembly. Through their closeness and experience with the subject of the Bill, they were able to convince the House that the Breastfeeding Mothers



Bill was indeed important for the nation. The Bill was at its second reading as of the time of the closing of the last Parliament.

The contention that as women numbers increase, the women legislators would be able to work more effectively together to promote women-friendly policy change and to influence their male colleagues to accept and approve legislation promoting women's concerns rang right for this Bill. Despite their low numbers and the prevailing male-dominance in the House, the women legislators were able to marshal enough support among themselves to support the Bill. Their solidarity and the formation of a common coalition around the issue at hand ensured that the Bill got a hearing and issues of importance to women articulated to the public through the live TV broadcast by Parliament. The debate on the Breastfeeding Mothers Bill was evidently one of those that facilitated a coalition of the willing in support of a common effort. It strengthened their working relationships and provided the link between the presence of women in political institutions and the presence of 'women-friendly' policy outcomes reinforced.

### **3.3.3 Magistrates' Courts Bill**

A Magistrates' Court is defined by the Magistrates Court Act, 2015 (the Bill did become law) as "a subordinate court established by Article 169 (1) (a) of the Constitution". The other subordinate courts listed in the Article are the Kadhis Courts, the Court Martial and "any others court or local tribunal as may be established by an Act of Parliament; other than the courts established as required by Article 162(2). (CoK, 2010) The Act states that a Magistrate's Court "shall have jurisdiction in proceedings of a civil nature concerning any of the following matters under African customary law: a) land held under customary

tenure; b) marriage, divorce, maintenance or dowry; c) seduction or pregnancy of an unmarried woman or girl; d) enticement of, or adultery with married person; e) matters affecting status, and in particular the status of widows and children including guardianship, custody, adoption and legitimacy, and f)intestate succession and administration of intestate estates, so far as they are not governed by any written law.

The issues covered by the Bill were important to women as they touched on their families, marriage, children and property, among others. Hon. Alice Wahome for example, raised key issues concerning women and the law when she addressed the issues covered the Bill including, adultery, pregnancies and rape. She pointed out that when a man was caught committing adultery with a married woman, it was the man in the act who, the law punished and let the woman go scot free. The issue being raised here is the blindness of the law and how it, from the onset, refuses to recognize woman as an equal human being in her own right endowed with competence and abilities to act independently. (Mill, 1869), the law in the above case presupposes that the woman is being acted upon and therefore, the actor is the one to be punished. Hon. Wahome states "it is the husband who benefits from adultery committed by the wife with another man but the wife does not benefit from that offence. Mill (1869) views the subjection of women in marriage as bondage and equates with slavery. He states that women in marriage are worse than slaves because, as he puts it, slaves get to leave the master's domain, go to their homes and experience a life away from the oppressor. Woman on the other hand is subjected to a husband all the time without breaks. This situation is further compounded by the fact that the husband requires not only an obedient slave, but also their affection. The law, as explained by Hon. Wahome proves Mill right - it first

objectifies the woman and refuses to "see" the woman as an independent being. The woman is, more often than not, viewed as her husband's property and therefore the man gets compensated for her "waywardness". This resonates with African traditional justice system where, in a case where a girl is made pregnant out of wedlock, it is elders and the father who gets compensation. She lacks her own identity and is usually viewed as an extension of a male figure. The girl therefore, tends to disappear from the pregnancy discourse despite the fact that she is the affected one. The mother also remains in the shadows as traditionally, children belong to the father.

Hon. Millie Odhiambo-Mabona in supporting the Bill, raised issues related to access to justice for women in rural areas, saying women in the rural areas failed to seek justice because they faced many challenges. She gave an example of a woman who may want to go to Court to seek custody of her children after divorce. She enumerated the challenges that she may face, which included; inadequacy in understanding the law around the issue, intimidation by relatives, rebuke from the community and the long distance she may have to travel to reach the Court. These challenges, she said discouraged women from seeking justice in Courts and sometimes ended up losing their children to the husband or relatives. She therefore asked that the courts be placed in accessible locations so that women could access them without too much trouble and cost. She agreed with Hon. Wahome on the issue of misplaced compensation and asked that the Chief justice consider equal opportunity in appointing magistrates for these courts to ensure gender balance. She also sought training on gender issues to ensure responsiveness and sensitivity to the emotive issues the Courts were going to deal with. Her background as a

human rights lawyer and a women's rights' advocate, she said, put her in good stead to contribute to the debate from both experience and practical knowledge.

Hon. Annah Nyokabi Gathecha told the House that in cases where a husband died without a will, the wife often gets mistreated and disinherited by the husband's family rendering her and her children destitute. She supported the establishment of the Magistrates' Courts saying it would not only bring justice closer to the people but also encourage women to seek justice. The injustice, intimidation and mistreatment of having to go through a partisan Chief would be brought to an end.

The above contributions, in the glare of the media did indeed introduce women's perspectives in the debate and showed that it was possible to challenge long held traditions and practices. The fact that women were working together in a common coalition irrespective of parties demonstrated that their party differences were underplayed and their commitment to the issue at hand took precedence. They indeed proved that numbers matter and that women coming together can add value to debates in a way only those who understand it can.

### **3.4 Women Legislators' in the House committees**

This section helps in analyzing the influence women wield in the House through looking at their place in committees and the roles they play within them. The committee system in Parliament allows for more in-depth deliberations on legislation, oversight and other issues introduced on the floor of the House. Members of the committees are selected and allocated to various committees by their parties, depending on their capabilities, loyalty to party and ability to articulate the issues covered by a certain committees. The Public

Accounts Committee (PAC), the Public Investments Committee (PIC), House Business Committee and the Budget Committee are some of the committees considered to be powerful and influential in Parliament. These have traditionally been chaired by party stalwarts with influence and recognition in the House. No woman has so far chaired any of the three. Table 5 shows the committees in Parliament that are chaired by women.

**Table 5: Women Committee Chairpersons and Vice-Chairpersons in the National Assembly**

No	Committee	Name	Position
1	Liaison Committee	Dr. Joyce Laboso	Chairperson
2.	Committee on Implementation	Rosalind Soipan	Chairperson
3.	Departmental Committee of Education, Research and Technology	Sabina Chege	Chairperson
4.	Departmental Committee on Environment and Natural Resources	Amina Abdalla	Chairperson
5.	Departmental Committee on Health	Rachel Nyamai	Chairperson
6.	Catering and Health Club	Janet Wanyama	Chairperson
7.	Committee on Constituency Development Fund	Esther Gathogo	Vice-Chairperson
8.	Departmental Committee on Legal Affairs	Priscilla Nyokabi	Vice Chairperson
9.	Departmental Committee on Labour and Social Welfare	Tiyah Galgalo	Vice Chairperson

Source: Mzalendo, (2016). Debunking the Myths: Women Contributions in Kenya's 11<sup>th</sup> Parliament.

Women chairing committees comprised seven out of the twenty-eight Chairpersons' positions available in the National Assembly, representing 25% of the total positions. They chaired the Liaison, Committee on Implementation as well departmental committees which included; Education, research and Technology, Environment and Natural Resources, health as well as the Catering and Health Club. They were vice Chairpersons in three committees which translated to 10.7% of the total positions. These committees included: The Constituency Development Fund, Departmental Committee on Legal Affairs as well as Committee on Labour and Social Relations. (Mzalendo, 2016)

Those holding the above positions demonstrated their capabilities and efficiency in running the committees by ensuring that they kept abreast of relevant information and developments on their committees through follow ups on requested Statements and provision of feedback on various issues raised in the House. Some of those who served as effective Chairpersons included Hon. Sabina Chege (Chairperson, Education, Research and Technologies) and Hon. Rosalind Soipan (Constitution Implementation Committee). The two were reported as having made "significant contributions in their dockets. (Mzalendo, 2016)

Other examples of women's effective stewardship were shown by Hon. Rachel Nyamai (Chairperson, Departmental Committee on Health) who sponsored 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). Hon. Amina Abdalla (Chairperson Departmental Committee on Environment and Natural Resources Committee) sponsored the Wildlife Conservation and Management (Amendment) Bill, 2017 while Hon. Dr. Joyce Laboso's (Chairperson,

Liaison Committee), sponsored the Social Assistance Bill which is now an Act of Parliament (No. 24 of 2013).

These committees gave women legislators an opportunity to show leadership and to steer deliberations with good results. They also demonstrated their ability to steer deliberations in a firm and effective manner. The women were active members of their respective committees and their contributions indicated agency and capabilities to be effective leaders as demonstrated by their understanding of committee proceedings and implementation of committee resolutions (Mzalendo, 2016).

The low numbers in the National Assembly was a challenge as there seemed to be few women which militated against meeting the Constitutional requirement of the "not more than two thirds" gender rule in committees.

### **3.5 Chapter Conclusion**

The Basic Education (Amendment) Bill, 2016, the Breastfeeding Mothers Bill, 2017 and the Magistrates' Court Bill, discussed above demonstrate that when women legislators get together in a coalition of similar minds and commitment, they are able to set a common agenda and achieve it. The different perspectives brought in debates on diverse issues show that when there is a significant minority in the National Assembly a lot can be achieved. Numbers do matter and women have the capacity to perform in their given mandates when they get an opportunity to do so. Women supported each other during the debate on the floor of the House irrespective of their parties. They each brought different angles and added to what the sponsor of the Bill had contributed as evidenced in the Magistrates' Court Bill debate. Hon. Millie Odhiambo brought in her legal background

and experience in women's rights work to highlight issues of access to justice and give concrete examples (Njuuri Ncheke) why it was important for women to sit in these courts. Hon. Amunga weighed in on purely administrative issues and human resource required to make the courts effective and efficient.

The Constitution has provided women with opportunities to access Parliament and the National Assembly in particular through the Affirmative Action laws and other legislation such as the Elections Act and laws relating to Political parties and their management and funding, among others. The women's legislators' presence, participation and contributions through introduction of laws were a demonstration that given an opportunity, they could effectively deliver on their mandate. A look at the pieces of legislation introduced by women and discussed above, demonstrated that a critical number of women in the National Assembly re-casted debate and gave it a women's perspective, something that would never have happened without them in the House. Legislations such as the Breastfeeding Mothers Bill, the Assisted Reproductive Technologies Bill and the Nutritionists and Dieticians (Amendment) Bill would never have been brought as they are usually stereotyped as women's business. The angle of sanitary towels introduced in the Basic Education (Amendment) Bill, 2016, was brought by Hon. Kiptui who witnessed girls in her constituency missing school and sometimes using unhygienic measures to deal with their menstruation. Traditionally, menstruation issues are women's affairs.



From their performance during the debates on the laws discussed above, it can be said that the presence of women, even in their low numbers in the National Assembly, injected women's perspectives and understanding of issues in the debate. The burden of proof that women have no capacity to be efficient MPs and leaders rests with those who project women as inferior and without agency to be leaders. Women's individual and cumulative knowledge, experiences and capacities added value to the success and quality of laws emanating from the House. Their engagement was as important as every other legislators.

It was however, observed that a follow up of the women's inputs was important. At times their inputs were ignored and not reflected in the final law. A close scrutiny of the Magistrates' Court Act, 2016 shows that the women's inputs were not reflected in the consequent Act. The Act is a neutral piece of legislation which requires no compliance, for example with the "not more than two thirds" gender rule in the Constitution.

## **CHAPTER FOUR**

### **SUMMARY AND CONCLUSIONS**

#### **4.1 Introduction**

This chapter summarizes the key findings and discussions of the study. It also outlines the conclusions that can be made from the discussions. The chapter connects the theoretical framework identified in chapter one with the challenges facing implementation of the Affirmative Action. It has also looked at the factors that hinder full and effective participation of women legislators in Parliament and examines the challenges women face in fulfilling their mandate.

#### **4.2 Women legislators' perspectives in the National Assembly**

The presence of women, despite their low numbers, has given them a platform to articulate women's issues and situate them within the law. The study shows that women have made significant contributions to the law making process and that without them, some of those debated like, the Breastfeeding Mothers Bill, would never have seen the light of the day.

While being in the House is a step forward, it has been found that while the numbers had improved from previous years, the National Assembly is yet to embrace women as equals. Patriarchy and its manifestations continue to hinder their effective participation. The absence of clear policies in the area of gender equality provides a basis for developing a policy to address existing gender gaps. If addressed this would promote women's confidence and encourage them to speak up. The contention however, that

women cannot be political leaders is debunked by the contributions they made and the success, albeit small, in pushing through their legislation. There is however more work that needs to be done to ensure the "the not more than two thirds" gender rule becomes operational so that numbers can increase and provide the much needed support in the House.

#### **4.3 Male resistance to women's leadership in the National Assembly**

Parliament has been associated with the male gender. Positions, such as the Speaker, Whip, Clerk, Minority and Majority Leader have gender connotations. In the National Assembly under discussion, the Speaker, Clerk, Majority and Minority Leaders as well as Whips were all male. Apart from the Clerk, holders of the other positions are allocated by the respective parties. As long as this trend continues, women legislators will continue to experience roadblocks in their work because they do not hold positions that wield power in the National Assembly.

In Kenya, political party leadership is associated with a powerful dominant male who directs all matters party matters. The Majority and Minority leaders play a big part in determining which part Bill and Motions get to the floor of the House for debate. Women's absence from such important positions denies them influence and authority to direct House business.

Women chair only six committees in the National Assembly. Their low numbers and participations in influential committees such as the House Business Committee, the Budget Committee and the Public Accounts Committee, and the Public Accounts Committee, among others (Mzalendo, 2016) denies them visibility and creates the

impression that they do not participate in the business of the House. The initiative to scrap Women Representatives' seats led by Hon. Moses Kuria, (MP for Gatundu South) in the guise of reducing the high Parliamentary budget was one of the consequences of this impression. Dubbed Punda Amechoka, Punguza Mzigo (the donkey is tired, reduce the load) it argued that Kenyan's were over-represented and proposed the reduction of the number of governors from 47 to 16 and MPs from 349 to 200. Hon. Kuria called for the scrapping (not reduction) of the Women Representatives' seats, as reported in the Daily Nation newspaper of December 5th, 2015. More than 300,000 people appended their signatures to endorse the initiative.

The study observed that women's contributions were sometimes not taken seriously. A case in point is their contributions during debate in the Magistrates' Courts Bill. About five women gave gender related contributions in support of the Bill but a close look at the consequent Act showed these contributions were not included. One of the issues which had been raised, for example, was the adherence to the "not more than two thirds" gender rule in the appointment of magistrates to the Court but which did not see the light of day as the Act is silent on it.

The debate on the "not more than two thirds", Constitutional requirements demonstrated the resistance women issues faced in the House. Efforts to put in place a mechanism for the realization of Article 81 (b) of Constitution were resisted and consequently sabotaged. Several Amendment Bills were introduced but none passed. The net effect has been the slowing down of the momentum to achieve a critical mass in the House and thus a

continuation male dominance in the House as well as co-option of the minority onto supporting the dominants.

#### **4.4 Patriarchy and Colonial influence on women's legislators' participation the National Assembly**

The colonial traditions and practices were carried over to the independence governance. These relics are still to be witnessed in Parliament today and as indicated in the Gender Sensitivity survey. The absence of gender equality policies makes Parliament unfriendly to women. The study agrees with Mill (1869) that society did not expect women to occupy seats in Parliament. Parliament was therefore caught unawares by the “unexpectedness” of women’s arrival. This captures Mill's contention that the subjection of women justifies male exclusion of women from Parliament with the belief that they have no capacity or presence to perform. This locking out of women from contributing to society's development leaves society the worse for it. He also asserts that women are the best placed to articulate their issues in Parliament - and should therefore get the opportunity to sit in it. This study notes the slow progress being made in increasing women numbers and contends that it will take many years before women live the benefits of Affirmative Action in political leadership as is clearly demonstrated by the fact that the issues that disturbed Mill in his *The Subjection of Women*, are as relevant as they were more than a century ago.

The colonial thinking, situated in the Victorian socialization of woman as a domesticated being militates against women's political progression. The Victorian concept of women embraced by both the colonialist and the new African leadership excluded them from the

new political and administration order during and after colonialism. (Gosh, 2004) It can therefore be said that male bias normalizes discrimination and waters down the law (which prides itself in being universal) even when faced by far reaching consequences as seen in the resistance of the implementation of the gender rule. Mill argues that "laws and political systems always begin by recognizing the relations they find already existing." (Mill, 1869, Ch. 1). In other words what drives Parliament and how it conducts business is premised on male dominance and colonialism - that women do not belong to powerful spaces where decisions are made. Andre Lorde was right when she said that "The master's tool will never dismantle the master's house." Parliament is basically a male affair and the arrival of women in small numbers is unlikely to influence its culture, traditions and operations.

#### **4.5 Conclusion**

This study has investigated Affirmative Action as a strategy for women political leadership in Kenya's National Assembly of the 11th Parliament. It had three objectives which are to locate the struggle for Affirmative within Kenya's social political context; to analyze women legislators' contribution in the National Assembly of the 11th Parliament and to examine the challenges women face in the National Assembly.

The study finds that Affirmative Action has worked as strategy for women's political leadership but that there are many challenges facing it. It has established a relationship between Affirmative Action and women's political leadership. It notes the challenge that the threshold for the attainment of the "not more than two thirds" gender rule for increasing the numbers of women in the National Assembly has not been met and

therefore remains work in progress. The Constitutional gender provisions are only a starting point and more effort and political will is needed to ensure that the spirit and intent of the Affirmative Action are realized in the Kenyan women political leadership. The main drivers including political parties, the Registrar of Political Parties, Parliament, Civil Society Organizations and the media are crucial partners in working together and contributing towards the realization of a truly democratic society.

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**APPENDIX I: LETTER OF INTRODUCTION**



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**Date:** September 4, 2017

**Ref:** UON/CHSS/AWSC/8/6

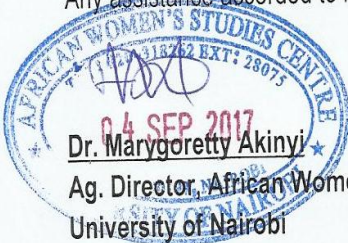
**From:** Ag. Director,  
African Women Studies Centre  
University of Nairobi

**TO WHOM IT MAY CONCERN**

**SUBJECT: INTRODUCTION LETTER FOR MS. MBUGUA ROSEMARY WANJIKU**

This is to confirm that Ms. Mbugua Rosemary Wanjiku (M10/84906/2016) is a registered Master of Arts student at the African Women Studies Centre, University of Nairobi. She is currently working on her research proposal entitled, "*Affirmative Action as a Strategy for Political Leadership: A case of Kenya's 11th Parliament*".

Any assistance accorded to her during her research period is highly appreciated.



**Dr. Marygoretty Akinyi**  
Ag. Director, African Women Studies Centre  
University of Nairobi