

THE WALLS WE CAN'T SEE

Public Policy Lethargy on Women's Political Participation in Kenya

A publication in partnership between the Heinrich Böll Stiftung, East and Horn of Africa and the African Women's Studies Center at the University of Nairobi

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OF AFRICA

POLICY BRIEF | MARCH 2016

Devolution And Womens' Decision Making In Leadership In Kenya

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Key Points

- Literature supports that underrepresentation of women in key decision-making areas especially those pertaining to legislature, leadership and policy making to mention a few prevents them from achieving significant impact on many national and individual outcomes
- The new Constitution of Kenya (2010) has made a major step towards ensuring gender equity in major decision making organs.

Abstract

The purpose of this study was to explore whether devolution have benefited women in key leadership decision making in Kenya. Women form majority of the Kenyan population (52 percent) and it is estimated that 80 percent of them live in rural areas playing invisible national economic development roles. Despite this, men dominate leadership and key decision-making positions across board. The Kenyan Constitution, 2010 has generated great hope for women in the region, through clauses in Article 10 of Chapter 2 regarding the participation of both women and men in governance including the chapter on the Bill of Rights. This paper sought to establish the key leadership decision making opportunities that women may gain in the new dispensation of devolved government that few would not have realized in their lifetime given the status quo. The key question of the study was whether women will position themselves to change the historical marginalization given the opportunities through devolution and governance in national and local governments.

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Comprising over 50 percent of the world's population, women continue to be under-represented as voters, political leaders and as elected officials despite extensive work in trying to close the gap. The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides the basis for realizing equality between women and men. Article 7 of the document ensures women's equal access to, equal opportunities in, political and public life, including the right to vote and to stand for election, as well as to hold public office at all levels of government (**United Nations, 1979**). Further in Articles 4 and 8 of the same document, the States Parties agree to take all appropriate measures to overcome historical discrimination against women and obstacles to women's participation in decision-making processes including legislation and temporary special measures. Moreover, Article 21 of the Universal Declaration of Human Rights recognizes the right of every person to take part in the government of his or her country directly or through freely chosen representatives (**United Nations, 1948**). A study done on Gender Mainstreaming and Women Empowerment in Political Party Processes in Kenya showed that 78 percent of women decide on daily purchase of household needs but they have been excluded in the public arena.

Extensive scholarly work support the equal access of men and women to power, decision-making and leadership at all levels as a necessary precondition for the proper functioning of democracy (Lahja, 2013, Yearb, 2014).

Moreover, the Fourth World Conference on Women, held in Beijing in 1995, brought attention to the persisting inequality between men and women in decision-making (**United Nation, 1995**). The Beijing Declaration and Platform for Action 1995 recognizes women's unequal share of power and decision-making as one of the twelve critical areas of concern and its Action Plan outlines concrete actions to ensure women's equal access to, and full participation in, power structures (Strategic Objective G.1), as well as increased capacity to participate in decision-making and leadership (Strategic Objective G.2).

The Centre for American Progress (2014) argues that despite increased efforts in the number of countries adopting positive discrimination policies, establishing quota systems during elections, setting of gender equity measurable goals, as well as developing leadership training for women over time, the process of change has been slow. Further, there have been significant obstacles to reaching gender balance in decision-making and other areas of marginalization (Centre for American Progress, 2014). As stated "women continue to be under-represented in the legislative, ministerial and sub-ministerial levels, as well as at the highest levels of the corporate sector and other economic and social institutions".

Women continue to struggle to break patriarchal systems and mechanisms of oppression and expand their space in all spheres of life. Socialization and negative stereotyping of women reinforce the tendency for key decision-making whether in

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production and reproduction to remain in the domain their counterpart men (**Friedrich Ebert Foundation, 1993**). But literature supports that underrepresentation of women in key decision-making areas especially those pertaining to legislature, leadership and policy making to mention a few prevents them from achieving significant impact on many national and individual outcomes (Faith 2014).

Kenya is a signatory to various international discrimination and gender equality conventions. However, despite efforts, its socio-economic and political context demonstrates some of the factors that constrain women's abilities to claim and exercise their rights and/or entitlement in leadership and decision making positions. For instance, a recent Kenyan newspaper report showed that although women make up 52% of the Kenyan population, only 63 out of 349 Members of Parliament are elected and, no women were elected as governors or senators in the 2013 elections and only 88 out of 1,450 seats in county governments are held by women. This is a reflection of a serious under-representation of women in governance and decision making structures.

It is evident that in order to achieve transparent and accountable governance, getting women empowered in social, economic and political status is key. Without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace cannot be achieved (para 181, p. 79, BPFA).

It is estimated that 80 percent of the women in Kenya live in rural areas playing invisible national economic and social roles. Despite all these, men dominate leadership decision-making positions across the board. But the Kenyan Constitution, 2010 has generated great hope for women in this region, through clauses in Article 10 of Chapter 2 regarding the participation of both women and men in governance including the Chapter on the Bill of Rights. In the Chapter of the Bill of Rights especially Chapter 43, the Constitution has provided for equal opportunities in the economic and social rights such as the economy, education, health, and decentralized government structures (Republic of Kenya, 2010).

DEVOLUTION OPPORTUNITIES FOR WOMEN IN KENYA

The devolved government in Kenya constitutes of two governments; the National government and the County government. The National Governments constitutes the National Assembly, the Senate and the Executive as provided under Article 93 (1) while the County Government constitutes the County Assembly and the County Executive as provided under Article 176(1). The two governments have created opportunities for women as follows:

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Article 97 (1) (b) states that *the National Assembly shall consist of 47 women each elected by registered voters of single member constituency* currently referred as County Member of Parliament. Article 98 (1) (a),(b),(c) and (d) provide that *the Senate consists of 47 members each elected by the registered voters of the counties each county constituting a single member constituency; six women members who shall be nominated by political parties according to their proportion of members of the Senate elected under the clause (a) in accordance to Article 90, two members being one man and one woman representing the youth, two members being one man and one woman representing persons with disabilities* (Republic of Kenya , 2014).

Article 100 under promotion of representation of marginalized groups states that parliament *shall enact legislation to promote the representation in parliament of women, person with disabilities, youth, ethnic and other minorities and marginalized communities.*

On the other hand, provision of principles of devolved government under Article 175 (c) states *that no more than two-thirds of the members of representative bodies in each county government shall be of the same gender.*

Article 177 (1)(b)(c) states that a County Assembly *shall consist of the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender; the number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament.* Furthermore, Article 197 (1) states that *not more than two thirds of the members of any county assembly or county executive committees shall be of the same gender.*

To ensure that women are accorded the opportunities as men in leadership, Article 81 (b) provides for a one third requirement for either gender in the elective bodies. This was an unprecedented move which has given either gender in the country at least 1/3 minimum in elective public bodies. Also, under Article 27(3), the Constitution ensures that women and men have the right to equal treatment and opportunities in political, economic, cultural and social spheres without discrimination (The Republic of Kenya 2013). Moreover, Article (97) provides that the National Assembly is made up of 200 elected members at a general election of single mandate constituencies. In addition, the Constitution provides for 12 members (men and women) nominated by parliamentary political parties according to their proportion of members of the National Assembly to represent special interests including the youth, persons with disabilities and workers.

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Furthermore, Article 36(2) of the Election Act 2010 provides that except in the cases of the seats reserved for women, each party list should represent special interest (i.e. youth persons with disability and workers); comprise the appropriate number of qualified candidates and alternate between male and female in the priority in which they are listed.

Moreover, the Kenyan Political Parties Act 2011 provides a legal framework for participation of men and women in the formation and management of political parties and in participation in all voting conducted at party levels regardless of sex. It also provides that every political party shall among other requirements “*respect and promote human rights and fundamental freedoms, and gender equality and equity*” (**The Constitution of Kenya 2010 Article 91(1) (f); Political Parties Act**).

There is evidence that increasing representation of women in decision making improves outcomes in health, education and other local services (Faith, 2014). The new Constitution of Kenya (2010) has made a major step towards ensuring gender equity in major decision making organs. This is an important step because historically in Kenya, women have always been under-represented in key areas of policy and legislation processes at major levels of governance as noted in Beijing Platform for Action, Chap. IV, Para 181 (United Nations, 1995). They have also been subjected to structural discrimination by practice, customs and laws. Historically, it's documented that less women are involved in key political positions or key decision making opportunities (Kasomo 2012).

Devolution is known to increase participation for women especially as political power is taken to the grassroots closer to the women's sphere of operations (Philips 1996; Mauclay 1998; Pringle & Watson 1998; Beal 1997)

The number of women participating in elective politics has increased in every election but, this has not significantly increased the number of women getting appointed to decision-making positions (**Republic of Kenya**). For example in 1997, out of 222 members of Parliament, only 4 women were elected while 5 were nominated. In the 2002 elections, 12 women were elected to Parliament while 6 were nominated in 2007, 18 women were elected to Parliament while 4 were nominated. Following the 2013 elections the number of women MPs increased to 86 of which 16 were elected from single member constituencies, 47 were elected as County Representatives, 5 were nominated members and 18 were nominated senators and in the County Assemblies, 87 women were elected ((Independent Electoral & Boundaries Commission (IEBC), 2013)).

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As cited, the Constitution 2010 under Article 98 provides that the Senate consists of 47 members each elected by the registered voters of the counties; 16 women members nominated by political parties according to their proportion of members of the Senate; 2 members of the youth, 1 man and 1 woman as well as 2 persons with disabilities, 1 man and 1 woman. These provisions of the Constitution have been implemented and have shown an increase in the number of Women in the Parliamentary Assemblies. The key question that persists however, is whether this change in women representation is being felt and whether the landscape of legislature is changing? Given, for instance, the heated debate of “my dress, my choice,” where women were demonstrating on the bases of discrimination because of being perceived to dress inappropriately, the public would expect some legislation to safeguard the Constitutional rights of freedom.

At the national level, the Constitution has taken into account the gender concerns by creating the National Commission on Gender and Development which is mandated to put in place suitable legal and policy frameworks to address gender-based violation of human rights. Also, there is the Gender Department within the Ministry of Gender, Sports and Culture (2002) and gender mainstreaming is a key component in all the ministries. In the past, in accordance with gender mainstreaming, gender desks to address women issues have been operational at the police stations (The Republic of Kenya, 2013).

But, although political parties are required to respect and promote gender equality and equity, there is no penalty for non-compliance with this provision of the law. Moreover, while the Elections Act 2010 went through several amendments just before the March 2013 elections, none of the amendments sought to deal with the potential crisis of failing to meet the Constitutional gender threshold. Similarly, at the County-level, where the devolved government was established only in 2013, there is still inadequate capacity to integrate gender perspectives in legislation, policies, planning and budgeting.

In other countries where devolution has been exercised, women participation has been evident. For instance, in efforts to make women more competitive in politics, the National Women's Lobby Group (NWLG) in collaboration with other NGOs in Zambia has been working to train women in campaigning skills, public speaking and communication skills, and a fund for women candidates regardless of political affiliation was set up for the 1996 elections, contributing significantly to increasing the number of women parliamentarians to 14, the highest so far (Geisler 1995).

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RECOMMENDATIONS

Strategically, affirmative laws cannot act on their own. For instance, in the well-intended Political Parties Act of 2011 the fact that it lacks any type of penalty in case of violation opens it to non-adherence. It is important to ensure that a penalty system is introduced in the Act for the purpose of those parties that fail to comply with the provision of the law promoting gender equality and equity in their elections. Also, it will be important that the law ensures that a critical mass of the disadvantaged gender get key leadership positions as observed in the countries that are taking intention decisions to effect change.

On the other hand, the Election Act, 2010 needs to be amended to safeguard on the potential crisis of failing to meet the Constitutional gender threshold. This was already observed in the last elections when 2/3rds majority may not have been adhered to. But most important will be capacity building programmes for the specific gender that is deemed disadvantaged on the provisions of the Constitution and other laws that are aimed for equality and equity. For instance, the women need to be empowered in demanding for the 2/3 gender rule since they are the ones who are most affected. This will help in building a critical mass for their role in decision making and participating in other significant positions of leadership.

Finally, for the women in positions whether elected or nominated, the course for gender equality and equity should not be forgotten. Of particular concern will be making sure that relevant laws are passed and that there is conducive environment for realizing all the positions provided in the Constitution 2010. Most important will be leaving a significant positive mark so that others will have space for replication. For instance, the 47 County Members of Parliament are positioned to be heard in the National Assembly especially for legislation of laws meant to lower the gender gap in various aspects in the society. Where necessary, they should lobby their male counterpart legislatures and work in power blocks to achieve intended goals. Overall, women should make sure that in the next general elections, they will competitively gain elective positions. The time is now to start strategizing for the future.

And in policy making, it will be important to make sure that policies are put in place and that they are effectively implemented in order to change the discourse of development in Kenya. Women contribute significantly in national development and as in the case of Australia and India, to mention just a few, it will be important to enforce the laws that are meant for gender equality and equity in the Constitution. Research will need to be enforced by adequately setting resources to determine the differences that gender equality and equity efforts are making toward national, local, societal and family development.

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Nevertheless, without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace will take longer to being achieved. Additionally, women will have to work in blocks of stronghold to realize their goals.

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