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## Executive Summary

The history of women's exclusion owes itself to the patriarchal nature of our society. Since time immemorial, women have faced a myriad of challenges occasioned by historical, systemic and cultural injustices. Discriminatory social norms and gender stereotypes have remained pervasive across formal and informal institutions and continue to hold back progress towards gender equality. For instance, discriminatory social norms and stereotypes that underlie women's unequal participation in political processes manifested by lack of political will and inadequate legislative frameworks limit women's enjoyment of political rights. The unequal distribution of resources, including unequal access to factors of production, such as land and access to financial capital that limit women's enjoyment of economic rights. Social norms and practices that used to underlie women's unequal access to education and limit women's enjoyment of the right to employment and an adequate standard of living has had a positive shift. The problem arises when these girls become women, this is the point where they are blocked from obtaining leadership positions despite the fact that they have been to school and are qualified for those positions. Structural and budgetary constraints which limit women's right to sexual and reproductive health rights. Social norms that condone violence against women and girls prevent them from full and equal participation and enjoyment in every sphere of life. These entrenched social norms and structural challenges, at all levels have created an environment of gender inequality that prevents the transformation of gender power relations that is necessary to realize the empowerment and advancement of women and girls.

In a bid to address the aforementioned and other challenges, the women's movement and other stakeholders in Kenya came together and participated effectively in the search of a new constitutional order that sought to establish a legal framework to address the many challenges.

The promulgation of the Constitution on August 27th 2010 ushered in a new beginning for Kenya as it addressed several issues that afflicted Kenyans but above all it secured the right of the participation of women in democratic governance. The constitution further accorded women equal opportunity and equal status as their male counterparts and has addressed discrimination against women in the social, economic and political spheres of life and its implementation in letter is geared towards ensuring that women enjoy the full rights accorded to them therein.

However, there have been significant challenges facing the implementation process that threatens the enjoyment of these rights as guaranteed in the constitution. 5 years and 8 months into the constitution of Kenya 2010, it is important that we take stock of the achievements and look at the challenges women have faced, even as we prepare for the next general elections in August 2017.

It is in this context that the National Women's Steering Committee-NWSC has produced this report so as to take stock of the status of women since the promulgation of the constitution of Kenya 2010 to date.

This report will briefly look at and discuss the implementation and status of women in relation to the constitution, the Jubilee manifesto being the current administration and other international

and regional treaties and protocols that Kenya is a signatory to. Specifically, the report focuses on the status of women in the political, economic and the social spheres.

### **1.1 Statement of Need**

Kenyan women and girls have been subjected to structural discrimination<sup>1</sup> by practice, customs and laws. In examining the Kenyan society terrain, we observe how unequal representation of women in decision making restricts the development of support and responsive policy and legal infrastructure to advance overall women's development. They face discrimination in almost all spheres of their lives, in economic, social and political arena.

The Constitution of Kenya 2010 brought with it much excitement and expectation of the much awaited change for the women and other disadvantaged groups of people in Kenya. The right to equality for all human beings is a right that is recognised in the Constitution of Kenya 2010 and in international laws as a fundamental and inalienable human right

It is with all this in mind that the review seeks to establish the gains made in the political, economic and social status of women and will further look at the challenges faced to date in the implementation of the Constitutional requirements.

### **1.2 Objectives**

The objectives of the review are as follows:

- Document the status of women in Kenya since 2010 with specific emphasis on their Political, Economic and Social Status at both the National and County levels
- Detail the opportunities, challenges and lessons learnt in women's engagements in each respective sector
- Cognizant of the 2017 women's/gender agenda, make recommendations on what it will take to secure the constitutional guarantees and bridge the inequality gap.

### **1.3 Methodology**

The Status of Women Report utilized a number of methodologies to collect information that was used to develop this report which includes:

- Review of documents including the Constitution of Kenya 2010, Jubilee Manifesto, various publications, International, regional and domestic legal instruments in relation to women issues.
- Key informant interviews with political and relevant institutional leaders or bodies.
- Forums with MCAs and women in political parties.

The reviews, interviews and forums were guided by the following questions:

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<sup>1</sup> Structural Discrimination refers to the rules, norms, patterns of attitudes and behavior in institutions and other social structures that present obstacles to women or other marginalised or vulnerable groups in achieving the same rights and opportunities that are available.

1. What are the gains that women have made in the realization of the constitutional provisions in the political, economic and social spheres from August 2010 to date?
2. What are the relevant legal framework in the national, regional and international that advocate for women's empowerment that can be utilized to assess the achievements and challenges faced by women in the political, economic and social sectors?
3. What initiatives/strategies have been employed by the national and county governments to empower women in the political, economic and social environments?
4. What practical actions/ strategies can both national and county Governments employ to ensure the gains provided in the constitution to women are realized?
5. What Action plans are in place to strategize for women's gainful involvement and participation in political, economic and social sectors?
6. What is the level of political will and commitment?
7. What can be done to ensure that the 2017 election adheres to the Constitutional requirements with regard to the gender principle?
8. How can the people of Kenya hold the Duty Bearers accountable in actualizing the gender gains enshrined in the Constitution?

## Chapter 1

### 1.0 Status of women in leadership and decision making.

#### 1.1 The Social status of women in political and leadership participation in Kenya 2010-2016

##### 1.1.1 Introduction

Kenya women constitute over half of the population of Kenya. As citizens they are entitled to the right to equality and freedom from discrimination as a fundamental and inalienable human right that is recognized in our current Constitution<sup>2</sup> and in international laws. The right to equality is an essential condition for social justice and vital for development and peace.

In examining the Kenyan society terrain, we observe how unequal representation of women in politics and decision making position restricts gender responsive policy, legal infrastructure and resource allocation to advance overall women's development.

Although Kenya can be considered a democracy that holds periodic elections, the country's performance on women's representation has been dismal compared with her East African neighbours. In the 10th Parliament (2008-2013), women comprised only 9.8 percent and in the 11th parliament 19.7%, compared with Rwanda's 64 percent, Tanzania's 36 percent, Uganda's 35 percent, and Burundi's 30 percent. Overall, Kenya is 10 percent below the EAC's regional average of 20 percent representation of women in parliament. Since Kenya attained her independence in 1963, women have not fared well in elective politics.

An analysis of previous regimes of women's inclusion in the cabinet after being elected or nominated to parliament reveals that women have been the minority in Kenya's cabinets. Since Kenya's independence, there was no female in the cabinet until 1974 when Dr. Julia Ojiambo was appointed an Assistant Minister for Housing and Social Services; and in 1995, the first woman, Hon. Nyiva Mwendwa was appointed to the cabinet and served until 1998. However, the trend improved in the 9<sup>th</sup> Parliament when the NARC government came to power in 2002 and appointed seven women to cabinet positions, including three cabinet ministers and four assistant ministers.

Notably, women like men have contributed to the development of the country by effectively participating in all sectors of the economy. However, women as a gender category have shared a history of oppression under patriarchy, retrogressive customs, traditions, undocumented historical contribution including at critical times and gender based violence that have denied women opportunities to occupy key decision making positions.

The Kenya constitution 2010 also provides for international treaties ratified by the Kenyan government to be part of the Kenyan law. Notable among them is the Nairobi Forward Looking Strategies (1985), the Beijing Platform for Action (1995), the African Charter on Human and People's Rights and the Rights of Women in Africa (Maputo Protocol, 2003), CEDAW commonly referred to as the Bill of Rights for women, the Solemn Declaration on Gender Equality in Africa

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<sup>2</sup> Article 27 of the Constitution 2010, guarantees women right to equality and freedom from discrimination.

(2004), the African Union Gender Policy, which provides for 50:50 representation of men and women in all elective public positions and the East African and the Comesa Gender Policies, which require a minimum of at least one-third representation of either gender. These instruments enshrine the principle of non-discrimination on the ground of sex specifically.

In this chapter, the study will give both quantitative and qualitative analysis on the composition of the Senate, National Assembly, County assembly membership and the Cabinet in adherence to the Constitutional not more than two third gender principle. The study also highlights the impact, success stories and challenges experienced by women currently in political and leadership position.

Further the study will give recommendations on how to advance the overall women participation in key political and leadership positions to effectively advance the women development agenda.

### **1.1.2 Quantitative and Qualitative analysis of women in politics and leadership**

#### **i. The Cabinet and parastatal appointments**

The Jubilee Coalition which won elections in 2013 and subsequently formed government had a very clear vision and commitment in their manifesto to actualize the implementation of the Constitutional principle on the two thirds Gender principle. On April 25th, 2013, Kenya's fourth President, Uhuru Kenyatta, made history when he nominated six women to the cabinet—the highest number the country has had since independence and a number representing one-third of the total cabinet seats. The appointments were even more remarkable considering that the women were appointed to dockets that were previously considered the preserve of men.

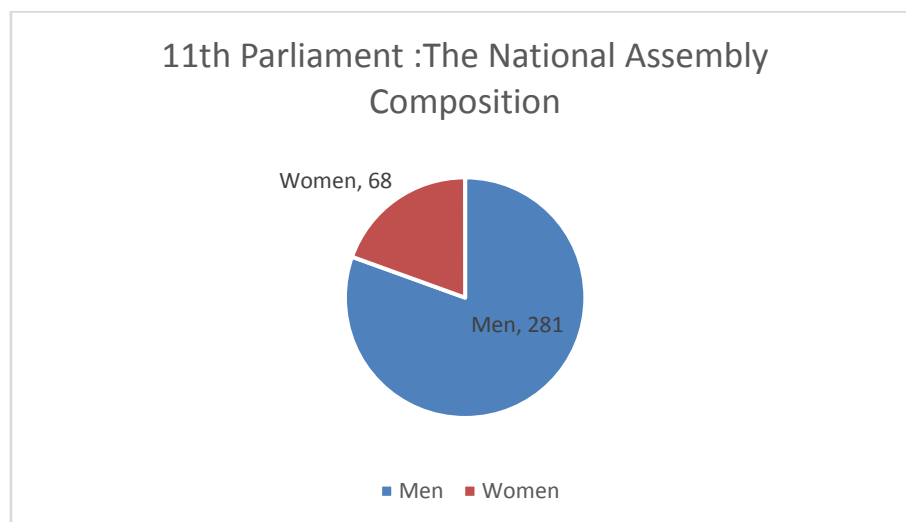
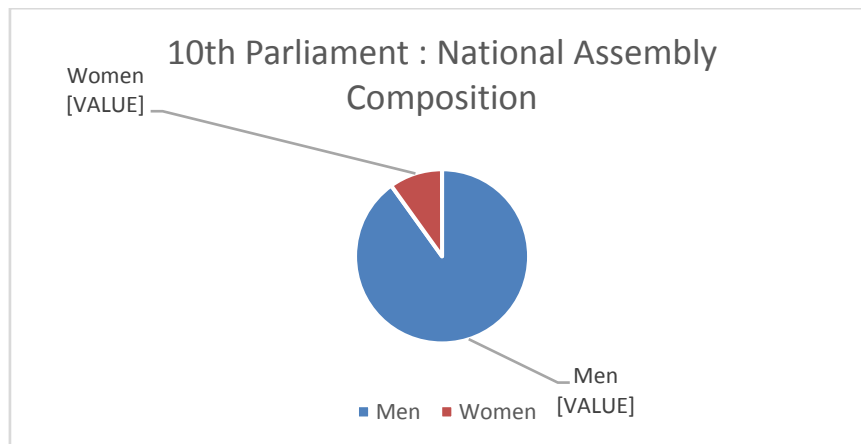
However, subsequent appointments to cabinet and parastatal heads by the Executive in February 2016 did not comply with the Constitution provision of two thirds gender rule. As currently constituted, cabinet according to Article 152 of the Constitution has only 22% women with only 5 women in a cabinet of 23 making it unconstitutional in its composition. This calls to question the ability of the women to substantively influence decision making at the highest level as evidenced by the parastatal and public service appointments.

#### **ii. The National Assembly**

At the promulgation of the Constitution in 2010, the 10<sup>th</sup> Parliament which was in place had 210 Members of Parliament elected from constituency seats, out of which only 16 were women elected while the rest were men. The 10<sup>th</sup> parliament also had 6 women nominated from political parties' seats which gave a total of 9.8 % of women representation in the National Assembly.

The first elections under the Constitution 2010 were held on fourth 4<sup>th</sup> March 2013. In total, the 11<sup>th</sup> Parliament has 16 women elected from the constituencies out of 290 elective seats (5.5%) and 47 women elected from the counties on affirmative action. The national assembly nominated 5 bringing it to a total of 19.7 % women representation in the National Assembly.

Diagram: The Pie Chart



In examining the role of Members of National Assembly, some of their key primary responsibilities among others are; to represent the people of the constituencies and special interests in the National Assembly especially with regard to enacting legislation and providing oversight of state organs.

However, due to their low numbers the women in the current National Assembly have faced challenges in seeking to enact legislation that favour women and where they have succeed in enacting legislation, they have faced resource allocation constraints. Examples of this being:

- The enactment of the anti-FGM Act which established the Anti-FGM board which is poorly resourced.
- The challenge in getting the requisite numbers to pass a constitutional amendment for the operationalisation of the two thirds gender principle

### iii. The Senate

In the 2013 general election, **no woman** was elected in the 47 counties to the Senate. However, through the affirmative action seats, 16 women were nominated through political parties according to their proportion of members of the Senate, and 2 other women were nominated to represent the youth and persons with disability respectively. These figures constitute 26.5% of women in the Senate which is below the constitutional provision of the two thirds gender principle which recommends the percentage of representation of either gender not to be less than 33.3% in elective bodies.

It is important to note that in terms of participation in the Senate, under Art. 123 of the Constitution, members elected from the counties to the Senate, form the head of delegation of their respective counties. This means that elected Senators are the only ones entitled to vote on matters affecting counties while the nominated Senators vote counts only on matters that do not affect the counties unless otherwise delegated by the head of delegation. While this provision is designed to promote the principle of fair representation among counties in the Senate, it minimizes the influence and effectiveness of the nominated Senators and their impact which under Article 96 spells out the roles of Senators as being: to represent counties, and serves to protect the interests of the counties and their governments; to participate in the law-making function of Parliament by considering, debating and approving Bills concerning Counties; to determine the allocation of national revenue among counties and to exercise oversight over national revenue allocated to the county governments.

Bearing in mind that no woman was elected to the Senate from the Counties, this means there is no woman head of delegation or participating in the major primary roles of the Senate unless so designated by the head of delegation. The question therefore begs, are the affirmative action seats in the Senate delivering on the gender/women's agenda? It is important as women to assess our role in the Senate and the structure of engagement so as not to relegate women to the periphery of decision making at the national level with regards to County affairs.

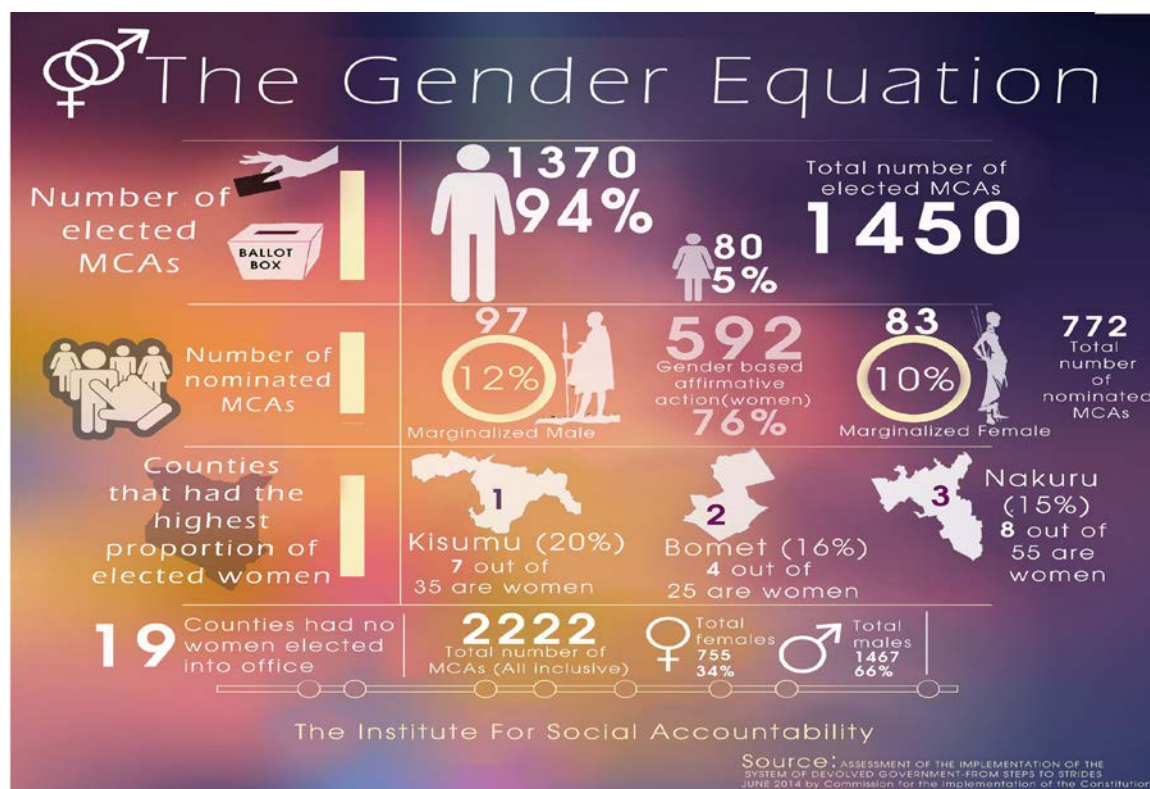
### iv. County Assembly

The Constitution of Kenya 2010, under article 176, establishes a County government for each county which consists of a county assembly and a county executive. Art.177 outlines the Membership of the County Assembly which consist of: members elected by registered voters of wards, each ward constituting a single member constituency; 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 marginalised groups, including persons with disabilities and the youth and finally the Speaker who is an ex-officio member.

In the outcome of the 2013 general election, out of the 1,450 County Assembly elective seats available across the country, only **80 women** were elected this being 5.5% of the total elective seats. This falls short of the constitutional requirement of the two thirds gender principle that requires at least 33.3% representation of either gender in elective positions. The counties that had the highest proportion of elected women were Kisumu (20%), Bomet (16%), Nakuru (15%), Kitui



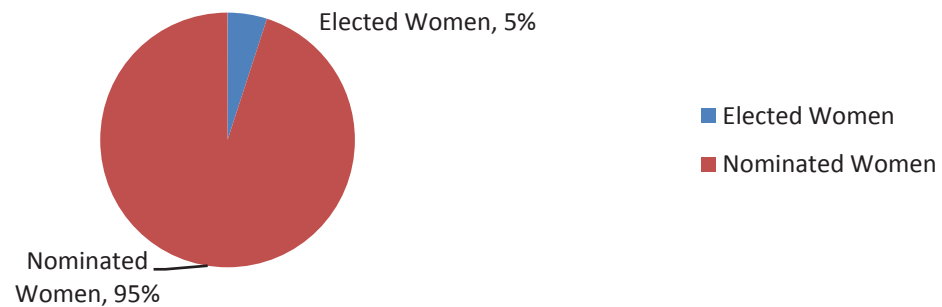
(15%), Bungoma (13%), and Meru (11%); a total of nineteen counties had no women elected into their County Assembly.



However, despite the fact that all the County Assemblies did not attain the constitutional threshold of two thirds gender representation through the elective seats, the Constitution 2010, under Article.177. (b) Provided a framework that ensured that two thirds gender representation is realized. A total of 755 women were nominated to bridge the gender gap. After nominations, the total elected and nominated members of the county assemblies are 2,222, with 34% being women. The female members of county assemblies range between 33% and 39%, with the highest being Kisumu (39%), then Kitui (37%) and Kericho, Meru and Wajir, each having 36% women<sup>3</sup>. In terms of totals, out of the elected members, only 5% were women. This resulted in a high number of women being nominated to county assemblies to attain the constitutional gender threshold.

<sup>3</sup>Statistics from the Commission for the Implementation of the Constitution, The Assessment report on the system of devolved government.

## Percentage of Elected and nominated women at county level



Whereas in the immediate term realization of the gender balance thresholds was attained through nominations, in the long term, as international best practice shows, it is desirable that this requirement is met through universal suffrage elections. This would require a fundamental shift in the electoral frameworks and practices so as to reduce the barriers to female candidates vying for and their election as Members of County Assembly. It will also require increased voter education to change attitudes of both men and women.

Despite having realized the two thirds gender principle in all the 47 County Assemblies through art.177 (b), there are various challenges facing women nominated in those seats. First and foremost, the nominations are made by political parties in proportion to the seats won in that election in that county by each political party. This criteria puts the nominees at the mercy of the political parties as such they lack the necessary political agency to make independent decisions or represent special interests such as the gender agenda. Instead we have seen undue influence, unfair manipulation, intimidation and interference of parties on women nominated through their parties, a good example is when the URP decided to denominate all women in the County Assembly of Bomet who did not tow to the party line. This has greatly affected the independence of women participation in decision making on critical matters in the assembly. We have lost the noble idea on the objectives of these affirmative action seats and women have been reduced to pushing for political party agenda rather than push for development agenda from women's perspective.

### 1.2 Legal Framework for participation of women in politics and leadership positions.

#### 1.2.1 Background

The promulgation of the Constitution of Kenya on August 27th 2010 ushered in a new beginning for Kenya as it addressed several issues that afflicted Kenyans but above all it secured the right of the participation of women in democratic governance. The constitution further accords women equal opportunity and equal status as her male counterparts and has addressed discrimination against women in the social, economic and political spheres of life and its implementation in letter will ensure that women enjoy the full rights accorded to them therein.

A significant provision of the Constitution within the Bill of Rights is Article 27 which guarantees all Kenyans equality and freedom from discrimination in all spheres of life; specifically and in safeguarding space for women's participation in political and leadership positions, Article 27(8) expressly states that:

***"The State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender."***

This provision is meant to guarantee women's participation in key decision making positions and reinforces efforts to reduce gender imbalances in government through affirmative action. Further, under the general principles of electoral systems in Article 81 (b) the Constitution reaffirms that the electoral system **"Shall"** ensure that no more than two-thirds of the members of elective public bodies are of the same gender.

While the constitution provides a mechanism for the actualization of this principle in the County Assemblies in Article 177 (b), none is provided for the actualization of these laid down principles in the National Assembly and the Senate within the existing constitutional framework. Although, the constitution has provided for some affirmative action seats in the membership of National Assembly through the 47 women only elective seats from Counties and the Senate through the 16 nominations for women in the Senate and the additional seats for youth and the disabled (one woman for each), the reality is that the constitutional principle of two thirds gender principle has not been realized in both houses.

This constitutional quagmire was the subject matter of the Supreme Court advisory opinion of 11<sup>th</sup> December, 2012 in which the court gave a specific timeline of August 27<sup>th</sup> 2015 for a mechanism to be in place to actualize the not more than two thirds same gender principle.

In the run up to the general election in 2013, the Jubilee coalition which subsequently won the election to form the current government, in their manifesto page 30, acknowledged the discrimination and hardship that women have undergone and often denied to meet their full potential as Kenyan citizens. The manifesto further acknowledged (sic) ***"The hard-won protections of the new constitution are yet to be implemented, including the 'one third' rule on public appointments."*** The Jubilee coalition pledged that (sic):

***"The Jubilee Government is committed to promoting and protecting the role of women in society and we will fully implement the one-third rule. The women of Kenya are rightly tired of empty promises of equal treatment. We will take concrete, practical measures to empower women and deliver full equality in both law and practice."*** Further, to affirm their averment, the Jubilee Coalition in their manifesto committed to (sic) ***"Fully implement the 'one-third rule' to ensure at least 33% of all Government and parastatal appointments are women."***

### **1.2.2 Initiatives to realise the not more than two thirds same gender principle**

In early 2014, the Attorney General constituted a working group which was convened by National Gender and Equality Commission-NGEC to consult all stakeholders and come up with a mechanism to implement the two thirds gender principle. Several efforts coalescing around this

process were put in place by several civil society actors seeking to mobilize support within and without parliament to ensure that a mechanism was put in place.

As August 27<sup>th</sup> 2015 approached parliament had simply taken the matter round in circles without a bill proposing a mechanism and with only Hon. Chepkonga tabling a bill seeking a progressive realization of the two thirds gender principle. CREAM went to court and got orders on the 26<sup>th</sup> of June 2015 instructing the Attorney General to table a bill to implement the 2 two thirds gender principle within 40 days of the ruling. In her ruling, Justice Mumbi accused the Attorney General and the Commission on the Implementation of the Constitution-CIC of violating their obligation to prepare the legislation for tabling in parliament.

This ruling prompted the AG to table a bill (The Duale Bill) containing the proposed mechanism from the NGECC convened working group that had the mechanism to actualize the not more than two thirds gender principle.

The Bill went through its first reading and as the August 27<sup>th</sup> 2015 deadline approached, parliament moved to extend the timeline by a year, thereby further delaying the implementation of an operationalizing mechanism for the two thirds principle.

The Duale Bill came for a second reading on the 27<sup>th</sup> April, 2016, but only 195 Members of Parliament voted for it denying it the requisite number of 233 Members needed to pass the bill. However, the National Assembly Speaker through the Standing order of the House has given Members more time to avail themselves on the 5<sup>th</sup> May, 2016 to see if they can get the required number to pass the bill.

### **1.2.3 Challenges in establishing a legal framework for the operationalisation of the constitutional not more than two third same gender principle.**

The Supreme Court advisory opinion of 11th December, 2012 gave a specific timeline of August 27th 2015 for a mechanism to be in place to actualise the not more than two third same gender principle. Furthermore, the 5th Schedule of the Constitution 2010 requires that legislation to provide for the participation of women, youth and persons with disabilities, in parliament be in place by 27th August 2015 for the actualisation of article 100. However, to date, there is no legal mechanism put in place to address the issue. We are now in 2016 and it is shaping up to be a campaign year. It has become increasingly clear that the required political will is lacking to put in place the necessary mechanism for the implementation of the two third gender principle.

### **Various Initiatives by legislators to remove the Constitutional Provision on the not more than two thirds same Gender Rule**

There are several efforts that have been put in place by members of parliament to remove the affirmative action principle from the constitution and specifically to remove the requirement of the not more than two third same gender principle in elective and appointive positions.

**The Joe Mutambu Bill** this was the first initiative proposing to remove the two thirds same gender principle citing a bloated wage bill exacerbated by among other things “over representation” caused by the not more than two thirds same gender principle

**The Chepkonga Bill** which is seeking a progressive realization of the two third principle in Article 81 (b);

**Punguza Mzigo** a popular initiative proposed amendment Bill by Hon. Moses Kuria which among other things aims to scrap the 47 women seats, remove all and remove the requirement of two third gender rule because in his opinion it is exacerbating the wage bill and that men represent women.

**Boresha Katiba** is a referendum Bill by Hon. Asman Kamama that seeks the removal of the two third gender principle in elective offices and the scrapping of the 47 women seats as well as all nominations among other proposals.

These initiatives coupled with the recent passage of the Statute Law Miscellaneous Amendment Bill 2015 that was passed in December 2015 which among other things removed the required two third gender principle in section 14(b) of the National Police Service Act 2011 with regard to the appointment of the Inspector General of the Police and the two Deputies and the cabinet and parastatal appointments made by the president which did not meet the two thirds gender principle, are a clear indicator that there is a lack of political will to ensure that the not more than two thirds same gender principle is adhered to or that a mechanism is in place to secure ahead of the next general elections scheduled for August 2017. It is clear that the not more than not more than two third same gender principle as provided for in Articles 27 (8) and 81 (b) are under threat. The Executive working in concert with the 11<sup>th</sup> Parliament by their inaction are conspiring to deny the women of Kenya their constitutional entitlement to equality in political representation and decision making positions.

#### **1.2.4 Conclusion**

Despite the fact that the constitution is very clear in its direction, we see very clearly the manifestation of this continued marginalization of women form the obdurate attitude towards women's inclusion particularly in the political sphere in parliament's clear refusal to abide by the two thirds gender principle and the Supreme Court timeline.

This country is in a position whereby unless the duty bearers move fast to implement a mechanism to actualize the two thirds gender principle, we are on course towards a constitutional crisis post elections of August 2017.

What is more is that the hard won gains of women are under severe threat should we lose out on our right to political participation for it is in addressing the unequal power structures at the leadership and decision making level that all other rights guaranteed by the constitution such as women's socio-economic rights, marriage rights, land rights, inheritance rights among others will be secured. In order to safeguard the women's gains, we must do everything within our power to protect them by securing the not more than two thirds same gender principle in elective and appointive positions.

### **1.3 Achievements, Challenges and recommendations for women in leadership and politics**

#### **1.3.1 Achievements for women in Leadership and politics thus far.**

The women of Kenya have managed to secure provisions anchored in the Constitution that outlaws all forms of discrimination and promotes gender equity and equality in appointive and elective positions. This is a great starting point in addressing the gender imbalance in decision making positions. For the full enjoyment of these constitutional gains, it is important for women to safeguard and ensure development of a legal framework to actualize the implementation.

In adhering to the provision of the Constitution on the requirement of the two thirds gender rule, Women have benefitted from key appointments in Government. On the 25<sup>th</sup> April, 2013, the President of Kenya in observing the two thirds Constitutional gender rule, he appointed 6 women out of the 18 cabinet appointments. The appointments were even more remarkable considering that the women were appointed to dockets that were previously considered the preserve of men. In the establishment of the Supreme Court, 2 women and 5 men were appointed to the Supreme Court. Further in the police service, women were appointed at the helm of the office. Further, this provision has seen the appointment of women in County Government Executive committees, Boards, and many other decision making positions across the country.

With the provision in the Constitution under Art. 177(b), all County Assemblies in the country realized the two thirds gender rule in the composition of its members. This was quite favorable especially bearing in mind that no county had achieved the threshold through the elections.

In the Senate, despite the fact that no woman was elected in the 47 counties to be a Senator, the affirmative action seats under art. 98(1) (b), (c) and (d) women were nominated and formed part of the Senate. This is an achievement as the Constitution has guaranteed women participation in the Senate.

#### **1.3.2 Challenges facing women aspiring to political leadership**

The gender disparities in political leadership that exist in Kenya are due to deep-rooted patriarchal sociocultural, economic and political structures and ideologies. Under these conditions, Kenyan women have been excluded from participation in key governance capacities and have been deprived of their basic human rights.

Despite the constitutional provisions, the challenges posed by traditional socialisation where boys are prepared for leadership and girls for domestic roles still works against women's ascendancy to leadership. The mindset that women should concentrate on their domestic roles in some areas makes politics a 'no go zone' for them. Most of the women who enter into active politics have been subjected to derogatory terms and attacks on their personality with their morality being called into question. This name-calling discourages many women from getting into politics. Such perceptions may also influence the way women view themselves as leaders and, indeed the way the public views their leadership abilities.



Lack of resources works against the aspirations of many women to run for political office. For women to participate effectively in the political process, substantial amounts of resources are required. These include finances, time, infrastructure and people. Of the resources required, finances are the most difficult to access.

Another factor that discourages women from running for political office or works against those who attempt is the threat of electoral violence<sup>4</sup>. On politically instigated violence Omtatah stated that in Kenya, at present, 'democratic elections are rather like submitting to the insolence and dictation of a mob<sup>5</sup>.'

Women's lack of political agency and weak negotiation and bargaining skills works against them in seeking political office. Further, many women come into politics without the advantage of having had quality mentoring and hands-on-training, which may explain this lack of leadership skills. Even for those who have had some mentoring, this will rarely have come from other women politicians, because few women have succeeded in electoral politics in the past and thus have the requisite experience. This clearly works to women's disadvantage as they must learn on the job.

Lack of media visibility also works against women. It has been noted that the power of the media in building credibility and influence in politics is formidable and yet women struggle to receive media coverage and legitimacy in the eyes of the public.<sup>6</sup> This may have to do with the fact that the media may not regard women issues as newsworthy. The media works against the interests of women when it fails to give importance to matters that concern them and their achievements, and also when it focuses only on their weaknesses as leaders. On this, the media becomes biased against women when it fails to embrace gender-neutral language that does not promote barriers against women, such as glorification of conflict, intimidation, negative attitudes, and stereotypes by society and lack of support from the electorate.

Despite having very capable and hardworking women in positions of leadership in Kenya, we have seen biased and negative publicity aimed at marring women's reputation in leadership positions. This has negatively impacted on the image of women leaders and discredited their efficiency in service delivery. There is also unfair public prosecution towards women unlike men. For instance, the former Cabinet Secretary for Devolution and Planning, was hounded out of office when cases of corruption in her docket emerged. The media, political players and the public denigrated her person and put up a spirited campaign for her to resign and pave way for investigations. While the same spirited campaign was not mounted for the resignation of the Cabinet Secretary in the Ministry of Finance was facing serious allegations of a lack of accountability for monies received from the Eurobond.

In summary, women in politics face a culture of violence that tends to be harsher towards females as opposed to their male counterparts. The feminization of poverty renders women more financially constrained to maneuver the political terrain. Inadequate political socialization for

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<sup>4</sup> Mitullah 2003

<sup>5</sup> Omtatah 2008:59

<sup>6</sup> Women Direct Services Centre 2006:10

leadership, which manifests itself in women's exclusion from access to strategic political information and general inability in the art of public oratory and populist campaigning; and Women's marginality in mainstream political party hierarchy; they are, therefore unable to change rules of engagement, which are defined and organized around male norms and values.

**Key Recommendations:**

- A push for a constitutional framework as a critical starting point for women's effective representation.
- Cross party platforms as powerful avenues for uniting women beyond party lines and rallying them around a common agenda
- Women to register as members of political parties and seek leadership positions within parties
- Women to engage the public by participating in public life
- Civic education directly targeting the larger public especially women.
- Integrate the struggle for gender equity with the struggle for democracy
- A strong women's movement and political will as crucial to women's effective engagement in the political processes
- Develop Strategies to ensure implementation of the Quota



## Chapter 2

### 2.0 Economic Status of Women in Kenya

#### 2.1 Introduction

Economic empowerment is about making markets work for women (at the policy level) and empowering women to compete (at the agency level). According to ICRW (2011), a woman is economically empowered when she has both the ability to succeed and advance economically and the power to make and act on economic decisions. UNDP (2008) argues that women's economic empowerment can be achieved by targeting initiatives to expanding women's economic opportunity; strengthen their legal status and rights, and ensure their voice, inclusion and participation in economic decision-making. Women's economic empowerment can be achieved through equal access to and control over critical economic resources and opportunities, and the elimination of structural gender inequalities. A key factor in all the definitions however is that women empowerment relates to the ability of women to manage their lives. This is obtained through increased access to key resources and activities (Duflo, 2005). Empowering women enhances the development goals of the country. Recognition of roles of women in an economy establishes an opportunity for development in various dimensions.

In Kenya, the role of women and girls in economic development has been met with challenges that restrict them from full participation. They are majorly underrepresented in decision-making positions. Besides that, they have unequal access to education, land ownership and employment compared to men. From history, their rights have been overlooked. They are fully participating in the Agriculture, a main economic activities in the country that creates over 80% jobs; but has have not benefited from economic development emanating from this. Besides full participation in Agricultural activities, women engage themselves in informal sector that enable them to be responsible for their households in terms of caring of the family in terms education and healthcare. About 40% of the households in Kenya are run by women who do not have sustainable income and thus creating vicious cycle of poverty. Credit and business support opportunities that would have been aiding the women to enter the entrepreneurship programmes are also faced with challenges. Financial services such as savings, access to credit, insurance services and remittances are important and linked to economic growth and development. Women who lack access to financial activities due to various challenges are therefore excluded from participating in economic activities and this has immense consequences on development.

With recognition of the contribution of women to the economic growth despite these challenges, it is important to fully integrate them in the economic activities of the country. This addresses the role of every individual in the contribution of the country's growth and development hence calling for more efforts to ensure gender equality and equity. It is in this view that the Government recognized and documented the frameworks guided by the Constitution of Kenya 2010.

In the Constitution of Kenya 2010, women are classified as vulnerable and all state organs and public officers are directed to address their needs Article 21(3). There have been efforts to empower women using several schemes guided by the Constitution where they are to receive the

right to equal opportunities in economic and social spheres Article 27(3). Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Further under Article 27(6) states that, to give full effect to the realization of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

In the Jubilee Manifesto under the second pillar of the coalition “Uchumi (Economy)” expressly states that:

***“We believe that all Kenyans have natural potential- flair as well as propensity- for entrepreneurship and that it is the Government’s duty to help them unleash it. Our policies are therefore designed to allow Kenyans of all ages, economic backgrounds and communities to enjoy the full benefits of our national successes. We want all Kenyans to be able to stand tall on their own feet and reclaim their dignity. The Coalition Government’s role will be that of an enabler, regulator, guarantor and funder.”***

In relation to women, the Jubilee Manifesto committed in ***“Making the Public Procurement regime open, transparent and corruption-free in order to ensure that all deserving young entrepreneurs have the opportunity to secure Government tenders. Developing special Industrial Parks and clusters in the counties that will target young people and women who start small businesses and providing access to electricity, water, capital equipment and clean sanitary environments and improved access roads.”***

Further the Jubilee Coalition in their Manifesto committed ***“With immediate effect, activating the 30% procurement rule in Government procurement policy. In specific projects like water harvesting and renewable energy, women entrepreneurs will be given priority. We will also review the Women’s Enterprise Fund to assist women entrepreneurs seeking large contracts and business.”***

In conclusion, we can attest that there are very clear provisions in both the Constitution of Kenya 2010 and the Jubilee Coalition Manifesto that acknowledges the need to have targeted initiatives and programmes to uplift women economically. It is through these provisions that this report will analyze the various initiatives and programmes that the government have established targeting women, the Challenges and recommendations thereto.

## **2.2 Government Initiatives and Programmes established for Economic Empowerment of Women.**

In Kenya there are many initiatives that have been set up to help empower women. Some of these are supported by the government, while others by private investors aimed at boosting women activities and their proficiency, as well as eradicating extreme poverty and hunger. President Kenyatta, through his ruling party promised to give women and youth in Kenya grants that would help them to set up businesses. The promised money is what would have been used in the case of a run-off after the Presidential elections in 2013.

### **2.2.1 Women Enterprise Fund (WEF).**

Women enterprise fund was started as a flagship projects in Vision 2030 under ministry of Gender, Children & Social Development in 2007. This was to address the inequalities that were destabilizing the national development through marginalization and exclusion of women from mainstream economy. Through the fund, women would get provision of subsidized credit and business support services. Majorly the problems of women that denied them access similar chances with men in the economic activities includes, availability of higher interest rates on loans, lack of collaterals for the loans, poor quality of products and poor international and local marketing, high loan transactions and distanced access to financial institutions, cultural factors on economic activities in regard to gender issues and low financial literacy.

WEF has given out Kes. 6.089 Billion to 51,352 self-help women groups since inception, benefitting 1,046,012 individual women across the country. The fund is meant to provide accessible and affordable credit to support women start or expand business for wealth and employment creation; and also capacity building, linkages and infrastructure support, marketing and promotion of their products. The fund promotes goods and services from women to local and international markets. Last year, 20 women entrepreneurs in partnership with the Export Promotion Council (EPC) were sponsored to attend Dar es Salaam International Trade Fair (DITF) and were able to make commercial sales of Kes 3.9 million and orders of about Kes 7 million.

### **2.2.2 Uwezo Fund.**

The Uwezo Fund is an outcome of Kenya's transformation, following the March 4th 2013 general election. As the Jubilee Coalition they executive had outlined the intention to utilize the planned Kshs. 6 billion presidential election re-run budget to bolster support for the women and youth upon securing a first round win. This is a flagship programme for vision 2030 focusing on enhancing financial access for promoting businesses and enterprises at the county level. Uwezo Fund aimed at expanding access to finances, generate gainful self-employment in promotion for youth and women and model an alternative framework in funding community driven development towards the realization of the goals of Vision 2030.

Analyzing Uwezo Fund, a lot of financial ability has been seen aiding women in their businesses. By midyear 2015, 32,405 groups of 19,690 women had accessed the Uwezo funds in their constituencies. Since inception, Kes 5,354,400,000<sup>7</sup> has been allocated to constituencies countrywide. Besides financial provisions for the women, Uwezo Fund offers mentoring opportunities where the experienced entrepreneurs nurture the beginners. They are also trained in business skills that are usually complex and require legal persons such as registering business names and companies. Women are assisted and networked to promote goods and services produced through business partnerships with retailers, distributors and other stakeholders.

### **2.2.3 30% Procurement/Tender Rule**

In 2013, His Excellency the President Uhuru Kenyatta directed that the procurement rules be amended to allow 30 per cent of contracts to be given to the youth, women and persons with

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<sup>7</sup> According to data posted on the Uwezo Fund website.

disability without competition from established firms. The Public Procurement Directorate under the Ministry of Finance is in charge of the Access to Government Procurement Opportunities (AGPO) initiative which was launched at KICC on June 29th 2012. The aim of the AGPO Program is to facilitate the youth, women and persons with disability-owned enterprises to be able to participate in government procurement. It is affirmative action aimed at empowering youth, women and persons with disability-owned enterprises by giving them more opportunities to do business with Government.<sup>8</sup> The former Devolution CS Anne Waiguru during a side event hosted by the Ministry of Devolution and Planning on the sidelines of the 59<sup>th</sup> session of the Commission on the Status of Women at the UN Headquarters, Wednesday March 18, 2015 made a presentation in which she revealed that the government has committed kshs 2.1 billion every year for the 30 per cent procurement reservation from a total of kshs 6.3 billion public procurement annually.<sup>9</sup>

#### **2.2.4 Youth Enterprise Development Fund (YEDF)**

Youth Enterprise Development Fund was established in December 2006 by the government as an initiative that is hoped to address the unemployment rate among the youth. The twin strategic pillars of this initiative are enterprise development and externally focused employment creation through Youth Employment Scheme Abroad (YESA). The government's resolve in ensuring sustainability and professional management was evident on 11th May 2007 when the Fund was transformed into a State Corporation so as to respond to the changing needs of the youth. The Fund was established in order to:

- Provide loans for on-lending to youth enterprises
- Attract and facilitate investment in micro, small and medium enterprises
- oriented commercial infrastructure that will be beneficial to youth enterprises
- Support youth oriented micro, small and medium enterprises to develop linkages with large enterprises
- Facilitate marketing of products and services of youth enterprises both in the domestic and the international markets
- Provide business development services to youth enterprises
- Facilitate employment of youth in the international labour market

#### **2.2.5 Affirmative Action Social Development Fund**

The Public Finance Management (Affirmative Action Social Development Fund) Regulations, 2015, came into effect on 11<sup>th</sup> March 2015 through gazettelement by the Cabinet Secretary for National Treasury. The fund is to be managed by the elected County Women Representatives at the county level. The objectives of the funds as stipulated by the law is to:

- Enhance access to financial facilities for women through the revolving fund for furtherance of economic empowerment initiatives;
- Support of value addition initiatives by affirmative action groups;
- Socio cultural development and nurturing of talent for youth;

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<sup>8</sup>source: <http://www.agpo.go.ke>

<sup>9</sup> Dailly Nation 19/3/2015

- Enhancement of services to services for survivors of Gender based violence through provision of rescue centres, shelters and legal aid centres;
- Carrying out civic education and community sensitization on government programmes and policies on socio economic opportunities for women, youth and person's with disabilities.

### 2.3 Non-Governmental Initiatives on Economic Empowerment of Women in Kenya

The government is not the only one working to empower women economically; there are other non-governmental initiatives aimed at empowering women. One notable NGO is the Joyful Women Organization-JOYWO, which is led by the Deputy President's wife, Rachael Ruto. It aims to empower women economically as well as to enhance general household food security by supporting their involvement in livelihood projects through the table banking scheme. This scheme gives women access to financial resources while supporting investment growth.

There are other International NGOs that work with women especially in the grassroots areas where the government may not have the capacity or resources to reach. These NGOs teach agricultural skills that help women and young people have a sustainable livelihood by planting and selling produce.

### 2.4 Challenges facing Government Initiatives on Economic Empowerment for Women

Despite all the above, there have been several debates on how the women are benefiting from the various economic empowerment programmes set up by government and other stakeholders. This is because Kenyan women still remain disadvantaged economically and wear the face of poverty. Women in Kenya are still faced with a lot of economic challenges which government has tried to develop various policies and strategies to stem them. The policies have been able to identify these problems and also indicate their solution. In summary, some of the identified problems that hinder women from realizing their full economic potential include: Inability to securing finances for establishing and running SMEs; lack of entrepreneurial and management competence and exposure; problems in finding the markets and distribution networks; limited opportunities for promotion and participation; limited amount of government and institutional support; absence of technological know-how and integration mechanism and rampant corruption in undisguised or disguised form as major bottlenecks

The following are deeper analysis of some of the challenges in the women economic programmes:

**The UWEZO fund:** The number of persons required to access Uwezo funds is about 15-25. This number is good for risk minimization but it is a hindrance that getting many people with the same business agenda and ideas is cumbersome. Again, most of the successful companies have less number of co-founders. Therefore, those with unique business ideas that are not aligned with multiple possible partners are then denied the access to this fund. Moreover, women are given the funds amount as a group, later they split the amount to do different businesses. Some of the women are the sole bread winner to their family, therefore financially constrained to other expenditure such as medical care, education and food. This lures them to first attend the basic needs before they invest in the businesses which they were supposed to do.

**The Women Enterprise fund:** Some of the challenges identified through research conducted by various stakeholders include: low loan amounts, the beneficiaries indicated that the amounts allocated were very little relative to the actual credit demand levels of the SMEs; Delays in disbursements of loans from the WEF to lending institutions; low level of awareness of the funds by women; Bureaucratic processes that takes borrowers long durations in processing the loans; limited business monitoring, in absence of consistence monitoring, some beneficiary entrepreneurs with inadequate training and business skills fail and face repayments problems; high default rates among the micro finance lenders; low literacy level among women.<sup>10</sup>

### **The Affirmative Action Social Development Fund (AASDF)**

The recently launched Affirmative Action Social Development Fund (AASDF) is against the spirit of the Constitution. Women County Representatives (WCR) lobbied for the fund arguing that without it, their presence at the grassroots level is not being felt. Apparently, the WCRs will spend the Ksh 2 billion kitty to support women, youth and marginalized groups.

The fund which will be disbursed for the first time, comes at a time when a court ruling on the Constituency Development Fund (CDF) found it unconstitutional and ordered that it be restructured within a year.

The most fundamental question in the ruling was on the principle of separation of powers. Parliament is supposed to undertake representation, legislation and oversight including controlling the budget. Having elected MPs in charge of the AASDF makes them part of the executive as they get involved in projects implementation.

### **The 30 per cent procurement rule on AGPO**

In evaluating the impact of the 30% procurement rule on AGPO, a research done by Kenya Association of Women Business Owners highlights some of the challenges to be 1) Lack of information on the transformative provisions for women 2) the weak capacity in delivering a competitive bid.

Some of the recommendations made by KAWBO to help women benefit from AGPO are:

- Create awareness and mobilization of target group to take full advantage of the preference and reservation scheme
- Build the capacity of the target groups to competitively bid for government contracts through training
- Work with target groups to formalize their business and acquire AGPO certificates

**Other challenges hindering women from achieving their full potential include:**

### **Financial Constraints**

Women lack financial capacity to access the huge procurement opportunities. Currently, with the financial capacity of women, they are only able to access the small tenders and lose out on the

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<sup>10</sup>[http://nairobi.ksg.ac.ke/downloads/MSME\\_Study\\_Women\\_Enterprise\\_Fund\\_in\\_Kenya.pdf](http://nairobi.ksg.ac.ke/downloads/MSME_Study_Women_Enterprise_Fund_in_Kenya.pdf)

huge tenders. With the opportunities availed to them, it has seen men take advantage of them as they disguise under their companies to access such huge procurement contracts leaving women with little to benefit from AGPO. However, the government has tried to put up measures to cushion women who need financial support by negotiating with financial institutions to allow women to access credit facilities with the support of the Local Purchase Order (LPO) from Government.

Despite government supporting women access to finances through the issuance of LPOs, the emerging challenges is that women use the LPOs to access credit facilities from financial institutions and sometimes government take long durations before honouring the payments hence making women accrue so much interest from the credit facilities given leaving them worse off than they were before.

### **Corruption**

The events of the corruption allegations that came out of the National Youth Service-NYS and the Youth Fund also calls to question how women are benefitting from access to the economic and procurement opportunities or if they are simply being used as conduits for politically connected elites

### **ICT**

Kenya is considered a leader in ICT sector in African countries. This is driven by ICT policy in 2006 that has led to improved living standards of the citizens. Mobile phones are the most used technology in Kenya for day to day life with almost a 60% of population connected. It is used to for communications, money transfer, and internet among others. However, women still lag behind in understandings and use of these gadgets. ICT sector tend to be used more by men than women. About 40% of men are aware about internet as compared to 28% of women; while only 11% women use internet as compared to 21% of men. According to Kenya national ICT survey, only 7.3% of women can use a computer (KNBS, 2010). Despite this state of affairs, Kenya Government introduced opportunities for women through government procurement through E-Platform which is a barrier to many women



## Chapter 3

### 3.0 Social Status of Women in Kenya

This section focuses on reviewing the social status of women from the promulgation of the constitution of Kenya 2010. It addresses the social status of women in Kenya, specifically, looking at Land and maternal health Rights

#### 3.1 Land Rights

Despite the fact that estimated ratio of women to men is 1:1 in Kenya, women's participation in land use and ownership are worrying. Only five percent of women in Kenya own land, majority of who have the title deeds held jointly with men. Only 1 percent of land titles in Kenya are held by women alone (FIDA, 2014). This is in spite of the various gains concerning ownership of land brought by the Kenya Constitution. Section 40 of the Kenyan constitution provides the right to own property to every person, while section 60 ensures equitable access to land and security of land rights. Observably, these sections didn't mention women or acknowledging their historical landlessness. Customs and cultural practices still hold women back. Many women lose their rights to property after divorce or the death of a spouse. Additionally, Girls never get an equal share of their parents' property. Whenever a case arises, a council of men will sit to settle it and in the end rule in men's favour.

The need to improve access to land and strengthen women's land rights in Kenya has provoked much discussion with the women's movement advocating for increased access to, ownership and control over land as a productive resource. Kenya's land laws were developed against a customary law system in which women had no rights to inherit or own land and only limited rights to access or use land.

The Constitution of Kenya 2010 underscores the need for women to have access to and ownership of land as it is a powerful tool leading to economic freedom and independence of women. Land is considered a valuable possession in any African context and Kenya is not spared in this belief. Due to the fact that the Constitutional process recognized the gaping anomaly that historically and culturally had manifested, it sought to address this issue. Land is among others a clan/ancestral related issue and historically and culturally this has been the accepted status quo. It is a sign of wealth and women were not expected to have wealth as there were also considered to be part of the family/husband's wealth. To get to a point of acceptance for women to also own land was a big score for women in the Constitution of Kenya 2010. It was a historical event worth documenting as a great achievement and it gave women hope that their lives would change. This was also going to be a tool to use for economic participation as loans could now be accessed through using land as collateral thus enabling women to get loans for meaningful participation.

The Constitution of Kenya 2010 Chapter 5, (60)(1) states that Land in Kenya shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable. It goes further in the principles to recognize (a) equitable access to land, (b) security of lands rights, (d) transparent and cost effective administration of land (f) elimination of gender discrimination in



law, customs and practices related to land and property in land. Furthermore Chapter 5 Article 61 (1) states that All land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals; and women form over 50% of the population of Kenya.

This therefore implies that the women of Kenya are constitutionally entitled to be considered wherever and whenever there is a plan around land in Kenya. What this also translates to is that the parliament of Kenya is obligated to legislate and see to it that women are not left out in the ownership, management and distribution of land in Kenya.

The National Land Commission Act, the Land Act and the Land Registration Act adapted in 2012 and marriage act 2013 address gender issues related to land and property right inheritance. Under these provisions women have rights to land and they are able to own and inherit land. Women are also guaranteed equal treatment to men under the law. The Kenyan Constitution and the Land Policies allow women to own and inherit land, to participate in family and community decisions and to exercise joint control of family resources (Republic of Kenya, 2012).

The Jubilee Manifesto did not consider all that the Constitution of Kenya 2010 states with regards to land adjudication, consolidation and registration as they were more keen on committing to the commercialization of land in Kenya as opposed to land reform and, its emphasis was on making the land more productive thus concentrating on Chapter 5 60(1) (c) which emphasizes on the production issue only and ignored the rest of that chapter.

The Jubilee manifesto commits itself (sic):

**“As it is now community land has little or no commercial benefit for the individuals and communities that live on it. This has been made worse by poor basic infrastructure and unclear land rights which have fueled inter-community conflict. By adjudicating and issuing titles for community land, we will unlock its potential as a commercial asset in addition to providing communities a secure place to live. This will result in increase in food production, improved security for individuals and communities, enhanced investment in and development of land and importantly minimize conflicts that arise from ownership dispute”<sup>11</sup>.**

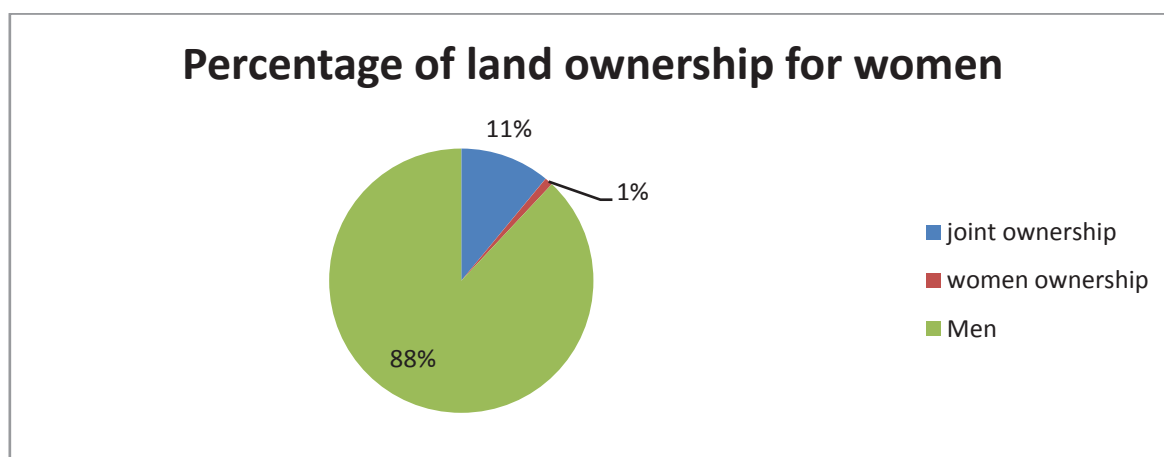
What the Jubilee Manifesto was simply trying to do was pave way for the large scale investments and clear land for private investors. This ignores the constitutional requirements and parliament has been a let down by not enacting proper legislation providing for the revision, consolidation and rationalization of existing land laws and the whole legislation on land as per Article 68 requirements. This has allowed the Jubilee Manifesto to contradict the constitution and get away with it.

The Jubilee administration inherited a land policy and in Chapter 5 of the Constitution it is explicitly elucidated how women must be considered in order to access land and these are very progressive provisions aimed at addressing the anomalies inherited historically and culturally from a patriarchal set up.

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<sup>11</sup> Jubilee Manifesto-Second pillar of the coalition Economy (Uchumi); Land reform: A property owning democracy pg 44

The estimated ratio of women to men in Kenya is approximately 1:1 with only 5% of land title deeds held by women jointly with men and only 1 percent of land titles held by women alone<sup>12</sup>. Much as the Constitution of Kenya 2010 envisions the redressing of historical marginalization in the distribution of land and to women in particular, the Government has been slow to address the marginalization 5 years and 8 months after the promulgation of the Constitution yet women make up more than half of the population of Kenya and qualify as bona fide citizens as dictated by the Constitution of Kenya 2010.



A notice was gazetted by the President on a million land titles issued and in this there was no gender disaggregated data or mention of the quotas that would be allocated to women, or the categorization of women. The government did not give strategies of how the land would be accessed by women but simply said women will benefit from the land distribution processes and did not take into consideration that women are not a homogenous group but that under the term women there are different categories of women. There has been no awareness raising by the Government to sensitize women on what its intentions are concerning land and women.

### Challenges in Land Rights

Despite strategies put in place, still few women own land and have titles in Kenya (FIDA, 2014). Culture and tradition practices discriminate women against owning land. The customs and practices of many Kenyan communities promote discrimination of women in several areas, including land and property rights. Most women lack finances and interest to invest and purchase land

Again the subsequent legislations have remained gender neutral in their language making it difficult to deal with discrimination in situations where the law fails to categorize discrimination as an offence.

Women do not understand their legal right to inherit land and only comply with what the elders have decided, which is largely in men's favour. However with the changing social and economic environment women now have resources of their own to purchase and develop land, much as this might be little it is still significant to note.

<sup>12</sup> Women's Land And Property Rights In Kenya-FIDA-K brochure

## Chapter 4

### 4.0 Maternal and Child Health

According to World Health Organization (WHO), health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. WHO is concerned with the gross health inequities especially in the plight of achieving the recent Sustainable Development Goals advocating for universal health coverage (WHO, 2015). Countries that are members of WHO are mandated to ensure the same is implemented in their policies.

The *Commission on Information and Accountability for Women and Children's Health 2013 Update Report*, states that in 2012 alone, more than 100 000 children died before their fifth birthday largely due to preventable causes. In the same year, 13 000 new HIV infections occurred among children and 62% of children living with HIV did not access life-saving antiretroviral drugs. Additionally, fifteen women die every day due to pregnancy related complications and 20% of all deaths among mothers in the country are AIDS-related.

#### 4.1. Introduction

Health is a basic need for human existence and survival and as such, it is a right that must be respected, promoted and protected by government and society. Kenya Constitution 2010, Article 43 provides the right for both men and women to access basic needs such as highest attainable standard of health. Article 43 (1) (a) provides for right to health including reproductive health to women. Article 43(2) further provides that “A person shall not be denied emergency medical treatment.” Article 27 (3) also provides that women and men have equal opportunity without discrimination.

The Kenya government through the Vision 2030 aims to provide an efficient and high quality health care system with the best standards. It aims to put in place specific strategies that involve: provision of a robust health infrastructure network; improving the quality of health service delivery to the highest standards and promotion of partnerships with the private sector. In addition the Government is committed to provide access to those excluded from health care by financial reasons. In 2012, The Health sector had flagship projects that aim to meet aims in vision 2030 which included:

- Revitalise Community Health Centres to promote preventive health care (as opposed to curative intervention) and by promoting health of individual lifestyles;
- Delink the Ministry of Health from service delivery in order to improve management of the country's health institutions (primarily by encouraging independent operations at district, provincial and national hospitals);
- Create a National Health Insurance Scheme in order to promote equity in
- Kenya's health care financing;
- Channel funds directly to hospitals and Community Health Centres (as opposed to district headquarters), and;

- Scale up the output-based approach system to enable disadvantaged
- Groups (e.g. the poor, orphans) to access health care from preferred

Government of Kenya adopted the free maternity services policy by allocating Kshs. 4 billion towards maternal health in the 2014/15 budget.

## 4.2 Challenges

The implementation of the new constitution ensured that Health services were devolved to the county governments. Each county provides the health services in county clinics, dispensaries and hospitals within the region. The counties are also responsible for employing and remunerating health service providers. Although there are many gains made toward the provision of health services, women have been dying for lack of emergency care treatment.

### Other challenges include:

- Poor infrastructures in the rural areas that make it difficult for women especially pregnant women to access health facilities with ease. These women requiring emergency treatment end up dying along before they arrive at the health center.
- Lack of clear policy guideline relating to devolution of health services
- Poor attendance of patients needing Emergency treatment for abortion cases
- Low ratio of doctor and nurse to patients
- Low morale for health workers because of being overworked, yet, poorly remunerated and working in deplorable conditions.
- Lack of individualized attention by health providers in government hospitals such that pregnant mothers prefer seeking assistance from traditional birth attendants who are friendlier.
- Inadequate modern diagnostic equipment and technology- the few available are found in isolated hospitals and are barely affordable or do not have qualified personnel to operate the equipment
- Inadequate budgetary allocations to healthcare and maternal health as prescribe by regional protocols such as the Maputo Protocol which commits signatory states to allocate 14% of their national budgets to health
- Over emphasis on non-governmental initiatives such as Beyond Zero that are not anchored in policy yet cited as government achievements when they remain a backstop to the issues related to maternal health

## Conclusion

Despite having very clear provisions in the Constitution that outlaws all forms of discrimination and promote gender equality, in analyzing the status of women in Kenya, we note that women still lag behind in terms of political participation and decision making arena. This is mainly because the Duty Bearers lack political will to enact legislation that will increase the number of women participating in politics and leadership position. It is therefore important for all stakeholders to consolidate their efforts to realise and safeguard constitutional gains accorded to women and

other special interest groups with regard to increasing their participation in leadership and decision making positions. Citizens and especially women should demand and hold their leaders accountable especially the President and their respective Member of Parliament, for not delivering a non-negotiable constitutional provision on the two third gender principle.

We acknowledge the government's initiatives and efforts to empower women economically through the various programmes. However, it's important for the government to address the identified challenges in the status report to enable women to effectively realise their full economic potential. Stakeholders should also complement government efforts by building the capacity of women in economic empowerment process such as developing entrepreneurial skills, marketing and trading skills, business environmental scans and income diversification.

In improving maternal health in Kenya, we recognize the efforts and milestones made by the government such as free maternal services and provision of state of the art equipment given to county hospitals. However, it is important for the government to adhere to its commitment to their manifesto of increasing health financing to the pledged 15%. This will go a long way in improving the overall health sector which is currently ailing. There is need for the two levels of governments to address the conflict in relation to operational modalities and resource allocation.

## 5.0 Proposed Action Plan

### 5.1 Political and Leadership Roadmaps to 2017 elections

Thematic Area	Outcomes	Commitments
<b>Grassroots mobilization for ownership of the gender agenda</b>	<ul style="list-style-type: none"> <li>✓ Enhanced Funding to revive and re-energise women movement</li> <li>✓ Grassroots activation of women networks</li> <li>✓ Increased involvement in political parties</li> </ul>	Coordinate the women movement to convene a Consortium on forth coming elections on: <ul style="list-style-type: none"> <li>✓ How to fund women movement</li> <li>✓ How to hold women leaders accountable</li> <li>✓ How to support women political participation</li> </ul>
<b>Women's ownership of the 2/3rds gender principle</b>	<ul style="list-style-type: none"> <li>✓ Enhanced Access to information on Constitutional Amendments Bill on 2/3 gender rule/ principle</li> </ul>	Informing & educating women across 47 counties on Constitutional Amendment #4 (Duale1) & Green Amendment Bill
	Enhanced impetus for conclusion and adoption of a mechanism on 2/3 <sup>rd</sup> principle	To rally support from male parliamentarians for 2/3 rule Constitutional Amendment #4 (Duale1)/ Green Amendment Campaign
	<ul style="list-style-type: none"> <li>✓ Enhanced capacity to for women to engage in policy &amp; decision making at county level</li> </ul>	Capacity Building of Women MCAs, Grassroots women
<b>Encourage women to take up leadership positions</b>	<ul style="list-style-type: none"> <li>✓ Increased women political participation at grassroots</li> </ul>	To strengthen, coordinate grassroots Women's political participation at county level

## 5.2 Commitments for Advancing Women's Economic Empowerment-WEE

Thematic Area	Outcomes	Commitments
Women Economic Empowerment	Increased involvement of Private Sector and other Actors in WEE	✓ Extending the 30% procurement opportunities to women, youth and PWD'S in private sector as well as a measurement framework
		✓ Awards for government ministry/department/county/that award tenders to women entrepreneurs
		✓ Awards for progressive organization in terms of women participation at the decision making level
		✓ Increase women participation in the top management of organizations including boards
		✓ Actively address the corruption challenge
	Enhanced women's access to and control over productive resources and economic opportunities	✓ Targeting counties to capacity build and empower the women agriculturally
		✓ Capacity building on value addition and access to markets
		✓ Actively promoting social equity while using a human rights based approach
		✓ Civic education on women's socio-economic rights
	Increased women's participation in government procurement	✓ Target women at the grassroots and peri-urban areas for ICT literacy
		✓ Identifying, mobilizing, training women at the grassroots to ensure they are shortlisted for the awards ceremony.
		✓ Capacity building women in areas of gender responsive budgeting.

## 6.0 References

Advance Gender Parity in Politics in the run-up to the March 2013 General Elections in Kenya

Africa Union, OAU/AU Treaties, Conventions, Protocols, Charters, <http://www.africa-union.org/root/au/documents/treaties/treaties.htm>

Definition of international human rights law, [http://www.wordiq.com/definition/International human\\_rights\\_law](http://www.wordiq.com/definition/International_human_rights_law) 20of%20Kenya.pdf

Federation of Women Lawyers-FIDA Kenya (2013). Key Gains and Challenges: A Gender Audit of Kenya's 2013 Elections process; USAID and Henrich Boll Stiftung, Nairobi. Foundation, Nairobi.

Gender Discourse no. 6: enhancing Women's Political Participation. Heinrich Boll Government of Kenya printers, Nairobi.

Henrich Boll Stiftung. (2011). Perspectives; The power to Participate: Building Feminist Political Influence in Africa; Henrich Boll Stiftung, Nairobi.

Main Book, [http://www.amnesty.nl/documenten/spa/Main%20Book%20part%](http://www.amnesty.nl/documenten/spa/Main%20Book%20part%201)

Kamau N. (2008). 'The value proposition to Women's Leadership: Perspectives of

Kenya National Bureau of Statistics & CAK (2010). National ICT Survey Kenya, Nairobi,

Okoth, O. S., Okelo, S., Aila, F., Awiti, A. O., Onyango, M., & Oguty, M. (2013). Effect of the Youth Enterprise Development Fund on Youth Enterprises in Kenya. *International Journal of Advances in Management and Economics*, 2(1), 111-116.

Okumu, O. et al (2008). Perspectives on Gender Discourse; Enhancing Women's Political Participation; Heinrich Boll Stiftung, Nairobi

Ruth, A. (2013). Inclusiveness in women's political leadership in the post 2015

The Kenya Government, 2010. The Constitution of Kenya, Law of Kenya 2010, Kenya Government Printers, Nairobi.

The National Women's Steering Committee and Institute of Economic Affairs. (2015). Implementing the constitutional two-thirds gender principle **the cost of representation**, Nairobi.

TISDA Kenya (December 2011). Water governance. Launch of the National Water Integrity Study (NWIS). Retrieved on July 2012 from <http://tisdakenya.wordpress.com/>

UN Women. (2015). Progress Report on two thirds gender rule 32, Nairobi,

Waring, M. (2011). Women in politics and aid effectiveness: An aid to evaluation of MDG3. AusAID Office of Development Effectiveness.

## Roadmap to Social Cultural Issues

Thematic Area	Outcomes	Commitments	Actors	Action Dates
<b>Strengthen healthcare and secure sexual and reproductive health rights</b>	<ul style="list-style-type: none"> <li>✓ Increased budgetary allocation to healthcare</li> <li>✓ Increased number of doctors and healthcare workers deployed to healthcare institutions</li> </ul>	<ul style="list-style-type: none"> <li>✓ Adhering to international and regional instruments</li> <li>✓ Proper framework for the full devolution of healthcare services including financing and human resource</li> <li>✓ Abandonment of harmful retrogressive cultural practices that impact negatively on women's sexual and reproductive health</li> <li>✓ Financial and technical support for the FGM board</li> </ul>		
<b>Resocialization of communities for greater women's inclusion and recognition of their value addition in development</b>		✓		
		✓		