

**PERSPECTIVES OF KEY STAKEHOLDERS ON IMPLEMENTATION OF THE  
GENDER QUOTA THRESHOLD IN DEVOLVED GOVERNANCE OF  
SELECTED COUNTIES IN KENYA**

**BY**

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE AWARD OF THE DEGREE OF DOCTOR OF  
PHILOSOPHY IN DEVELOPMENT STUDIES IN THE DEPARTMENT OF  
SOCIOLOGY, PSYCHOLOGY AND ANTHROPOLOGY, SCHOOL OF ARTS  
AND SOCIAL SCIENCES, MOI UNIVERSITY**

**2021**

## DECLARATION

### DECLARATION BY CANDIDATE

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## **DEDICATION**

This thesis is dedicated to my husband Steve together with James and Margaret for their encouragement and support.

## ABSTRACT

The Kenya Constitution 2010 states that membership at the County Assembly and the County Executive should have at least one-third of either gender. The basis for this constitutional provision is that equitable gender representation within the county governance is perceived to contribute to a balanced socio-cultural and economic development of the devolved units. This stems from the consideration that adherence to this threshold enables both men and women to participate in decision-making, policy formulation and allocation of resources that is equitable within the counties. The problem is that several counties in Kenya have failed to meet the constitutional requirements for gender equality; potentially due to varied perspectives on the matter. A literature review by the researcher revealed that very little previous research exists in Kenya on this issue that could provide in-depth insights of the stakeholders on the implementation of the gender quota threshold in county governance. Therefore, the purpose of this study was to investigate the perspectives of key stakeholders on implementation of the gender quota threshold in devolved governance in Kenya. The specific objectives of this research were to: find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance, to establish how the gender quota threshold provisions are being implemented in devolved governance and to examine the barriers to successful implementation of the gender quota threshold provisions. The Theory of Political Representation and the Empowerment Approach were drawn upon to interpret the findings. This study adopted a qualitative approach and a comparative research design. Data were generated using interviews, focused group discussions and document analysis. Purposive sampling was adopted to select two counties based on the number of women elected and appointed in the County Assembly and County Executive; respectively. The total sample size was 53 participants. The data were analysed thematically and presented in the form of narration. The key findings were: Various stakeholders view the constitutional provisions on gender quota threshold as being fair and well-intended but leaving a lot of loopholes for diverse interpretations; that the implementation of this legislation is inconsistent in the counties studied and is dependent largely on the goodwill of the governors and other key decision makers; and that barriers to successful implementation of the gender quota threshold include male patronage, gender-bias, social-cultural perceptions among others. It was concluded that implementation of the gender quota threshold are dependent on the key players' perspectives based on personal experiences and level of education whereas implementation at the County Executive level is dependent on individual Governor's attributes and perceived accountability to their electorates. Recommendations are: the need to align perspectives of the key stakeholders on interpretation and implementation of the gender quota threshold through enhanced civic education if this law has to achieve its purpose of equitable development; a need for strengthening the legislation to seal the existing loopholes for implementation; and it is necessary to have broader conceptualization of the role of gender equity in development in devolved units that goes beyond the numerical representation in the County Assembly and Executive.

## ACKNOWLEDGMENTS

Firstly, I would like to acknowledge my supervisors Dr. Alice Kurgat and Prof. Charles Ong'ondo for the painstaking care with which they read and helped to shape this thesis. The two supervisors were also very supportive and kept encouraging me throughout this work.

I would also like to appreciate the County Secretaries of both Makueni and Elgeyo-Marakwet for allowing me to carry out research in the respective Counties. My appreciation also goes to Mr Vincent Barto and Mr Timothy Chemututu in Elgeyo Marakwet as well as Mr Joseph Maingi and Engineer Joyce Musyoki of Makueni County for linking me to the participants. Am also grateful to all the participants who sacrificed their time to give their perspectives.

Am also grateful to my parents James and Joyce Kerina, my brother John and sister Susan for their unwavering faith in me and to my loving husband Steve together with our children who were very understanding throughout this period and gave me all the support that I needed.

To Pastors James and Margaret Njuguna, am grateful for your prayers and counsel throughout this period. My gratitude also goes to my friends Monica Jebiwott, Mercy Mong'are, Esther Karegi and Ruth Murumba.

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### OPERATIONAL DEFINITION OF KEY TERMS

**Affirmative Action:** An equal opportunity policy that aims at increasing the number of women in decision making due to the fact that they have been underrepresented.

**Gender:** In this study, gender refers to the socially constructed roles of men and women that are determined within a defined place and time and are dynamic. This means that they can be changed or modified over time.

**Perspectives:** Refers to one's interpretation or viewpoint concerning the gender quota threshold.

**County Government:** The constitutionally created administrative units in Kenya based on 47 geographical areas that were previously recognized as Districts. Each County Government has a Legislative and Executive arm. The executive arm has County Executive Committee members working under the Governor and they are equivalents of Cabinet Secretaries in the National Government whereas the Legislature consists of Members of County Assembly elected and some nominated depending on the party strength in the Assembly and their core function is legislative and also having an oversight role. (Wanyande as in Steytler and Ghai, 2015).

**Quota threshold:** This is the legislation in the constitution that puts an upper limit on the number of either gender that can be in either the elected or appointed positions. For example in the case of Kenya, not more than two-thirds of the same gender should be in either appointive or elective positions. However, in the case of elective posts, the Gender Top up lists are used to ensure that there are at least a third of the gender that was not elected.

**Representation:** This refers to participation in political office whether by virtue of being elected or nominated.

**Empowerment:** The process of changing gender power associations through groups or individuals by developing awareness on women's subordination and enhancing their capacity to contest it. (Reeves and Baden, 2000).

## LIST OF ACRONYMS AND ABBREVIATIONS

<b>AA</b>	-	Affirmative Action
<b>BBI</b>	-	Building Bridges Initiative
<b>CAQDAS</b>	-	Computer – Assisted Qualitative Data Analysis Software
<b>CEC</b>	-	County Executive Committee Member
<b>CEDAW</b>	-	Convention on all forms of Discrimination against Women
<b>CREAW</b>	-	Centre for Rights Education and Awareness
<b>CRAWN TRUST</b>	-	Community Advocacy and Awareness Trust
<b>FGD</b>	-	Focus Group Discussion
<b>FIDA</b>	-	Federation of Women Lawyers
<b>GAD</b>	-	Gender and Development
<b>GDI</b>	-	Gender Development Index
<b>GEM</b>	-	Gender Empowerment Measure
<b>GII</b>	-	Gender Inequality Index
<b>GJLOS</b>	-	Governance, Justice, Law and Order Sector
<b>KEWOPA</b>	-	Kenya Women Parliamentary Association
<b>LSK</b>	-	Law Society of Kenya
<b>MCA</b>	-	Member of County Assembly
<b>NGEC</b>	-	National Gender and Equality Commission
<b>NGO</b>	-	Non-Governmental Organization

<b>MP</b>	-	Member of Parliament
<b>SADC</b>	-	Southern African Development Community
<b>WID</b>	-	Women in Development
<b>WAD</b>	-	Women and Development
<b>UN</b>	-	United Nations
<b>UNDP</b>	-	United Nations Development Programme
<b>UNSR 1325</b>	-	United Nations Security Council Resolution 1325
<b>WID</b>	-	Women in Development

## **CHAPTER ONE**

### **BACKGROUND TO THE STUDY**

#### **1.1 Introduction**

The aim of this research was to investigate the perspectives of key stakeholders on the implementation of the gender quota threshold in selected Counties in Kenya. The gender quota threshold refers to a strategy aimed at ensuring that both men and women are represented in political office and more specifically in reference to this study, in County Governance. The definition of the gender quota threshold adopted in this study is the one found both in the Kenyan Constitution and the County Government Act.

The Kenyan Constitution states that membership at the County Assembly and the County Executive should have at least one-third of either gender – male or female. The basis for this constitutional provision is that equitable gender representation within the county governance is perceived to contribute to a balanced socio-cultural and economic development of the devolved units. This stems from the consideration that adherence to the gender quota threshold enables both men and women to participate in decision-making, policy formulation and allocation of resources that is equitable in terms of gender needs within the counties. The problem is that several counties in Kenya have failed to meet the constitutional requirements for gender equality; potentially due to varied perspectives on the matter. This study therefore sought to unearth perspectives of



key stakeholders on the implementation of the gender quota threshold in devolved governance in selected Counties in Kenya.

In this Chapter, the academic and socio-economic context of the study both at the National and County Government level, the statement of the problem, research objectives and questions, the scope and limitations of the study, justification and significance of the study and finally a brief summary of the chapter is presented.

## **1.2 Context of the Study**

This section gives an overview of gender quotas and also presents an academic and socio-economic context with reference to Kenya. A summary of the selected Counties is also provided.

### **1.2.1 Academic Context**

This study is about gender quotas. According to Galitos (2018), generally, “quotas are a form of positive discrimination empowering groups historically marginalized from decision making” (p.19). In this context, quotas are viewed as a form of affirmative action aimed at helping the women to overcome the obstacles that deter them from entering into politics in the same manner as their male counterparts (Chen, 2010). According to Paxton and Hughes (2015),

*A gender quota is a party or legislative rule requiring that women make up certain percentage of a candidate list, a parliamentary assembly, a committee or a government (p.333).*

For a long time, the problem has been that in most countries, women constitute over 50 percent of the population and yet are underrepresented as on average they hold 24.3 percent of parliamentary seats (Inter-parliamentary Union, 2019). The challenge therefore has been the underrepresentation of women in politics that demands the use of gender quotas. Although most governments and political parties strive to have at least 30 percent of women in Parliament, the representation levels differ in different countries. Some countries have higher thresholds than others for example France and Senagal have a 50/50 gender threshold as compared to Albania that has a 30 percent threshold for Members of Parliament and 50 percent threshold for municipal council candidates (Toraasen, 2016).

Gender quotas represent fast track measures towards women's advancement as opposed to the incremental track model that stipulates that countries will achieve gender equality with time as they develop (Mejere, 2012). Besides, Nzomo (2012) contends that: "There is a positive correlation between socio-economic development and political representation" (p.13).

Initially, it was generally agreed that women should at least constitute a third of those in decision-making positions in order to propel policies that are women friendly. However, in the year 2000, the Women's Environment and Development Organization (WEDO) advocated for a 50/50 campaign to achieve gender balance. This is to date being supported by the United Nations (United Nations, 2016). In 2018, the UN advocated for

gender-progressive legislation that would help to promote gender equality (United Nations, 2018).

Many countries adopted gender quotas mainly as a result of the influence of the Beijing UN Fourth World Conference in 1995 as a way of addressing the inequalities in women's involvement in politics (Chen, 2010). As a matter of fact, Dahlerup (1998) stated that there was a "quota fever" that was spreading round the world after this Conference. The Beijing conference imbued the need to examine women in relation to poverty, education and training, health, armed conflict and power and decision-making amongst others. These critical issues took the centre stage.

Under women in power and decision-making, it was stated that women are still under represented in most levels of government and that although the target was to have 30 percent in positions of decision making, globally only 10 percent had made it to the legislature and a few ministerial positions. Countries committed themselves to ensure gender balance in the government bodies, public administration and the judiciary (Dahlerup, 1998).

Sustainable Development Goal number 5 aims at empowering women to participate in politics and public life amongst other goals. (The Sustainable Development Goals Report, 2019). In this report, women representation in Parliament stands at an average of 24.3 per cent. In addition,

When legislated gender quotas are adopted, significantly higher proportions of women are elected at both National and Local levels. Countries with higher representation of women in local government tend to have higher representation in Parliament (The Sustainable Development Goals Report, 2019: p.33).

Worldwide, women's involvement in local governance with specific reference to decision-making groups is low (Banerjee-Hamadeh, 2000; Shamim and Kumari, 2002). And yet gender parity at all levels of government is important (Thomas, 2016). However, there are exceptions to this. For example in Tunisia, in the local elections in 2018, women garnered 47 per cent of seats, the highest among Arab Countries (UN Women Annual Report 2018-2019). The participation of both men and women at the local level is important as it ensures that there is equity in the sharing of resources in as far as the budget is concerned and in the provision of all other services (UN Women, 2013). Braga and Scervini (2015) state that: "Equal participation of women in politics at all levels of government is essential not only to build and sustain democracy but also to enhance equality in other social dimensions" (p.2).

Therefore, in order to influence policy and key decisions, there is need to have women on board in the decision-making process (Braga and Scervini, 2015). This includes the lobbying for gender sensitive policies. Participation of women in local governance also serves as a springboard to participation in national governance (National Democratic Institute, 2010; White and Mariani, 2015; Yoon and Shin, 2017).

There are several debates that are associated with gender quotas. Firstly, gender quota thresholds have succeeded in increasing women's participation in politics substantially for example in Rwanda, Bolivia, South Africa, Senegal and Sweden amongst others (Brody et. al, 2016). However, increasing the representation of women in governance does not necessarily mean that women's interests have been fully integrated as more often than not they bring up the agendas of their ethnic groups and political parties to parliament (United Nations, 2006). This could be as a result of their lack of awareness on the important issues that they should present, lack of alliances and other critical networks that would support them and lack of resources amongst others (United Nations, 2006). Besides, other women are reluctant to concentrate on women's issues because they risk not being considered serious politicians (Brody, 2009).

Secondly, some studies have shown that quotas act as a ceiling in the sense that people are not able to elect more women than what has been stipulated by the quota e.g in Bangladesh and Jordan. However, Rwanda had surpassed its quota threshold of 30 percent with a women's representation of 63.8 percent which is the highest in the world but this dropped to 61.3 percent in 2018 (Inter-parliamentary Union, 2019). This is a clear indication that the success of quotas is dependent on the country and the conditions under which the quota is implemented.

Thirdly, others have argued that gender quotas are discriminatory in nature because they prioritize on sex other than one's political beliefs and other 'serious issues' (Brody et al,

2016). However, other scholars view quotas as an affirmative action that is meant to increase women's representation because for a long time they have been left out yet sustainable development requires their participation in political and public office (United Nations, 2016).

In a nutshell, sustainable development can only be achieved when both men and women are integrated in the political and socio-economic development. This study on gender quota thresholds was done in the field of Development Studies and in the discipline of Gender and Development and more specifically under Gender and Governance as a subject. This thesis examined perspectives on the implementation of the gender quota threshold from a development perspective.

### **1.2.2 Social - Economic Context**

In this section, a discussion on gender quotas in Kenya both at the national and county level are presented.

In the Kenyan Constitution, article 197 (1) states that: "Not more than two thirds of the members of any County Assembly or County Executive Committee shall be of the same gender" (p.121).

Article 175 (c) also states that: "No more than two thirds of the members of representative bodies in each County Government shall be of the same gender" (p.108).

Article 81(b) also reiterates that: “Not more than two-thirds of the members of elective public bodies shall be of the same gender” (p.90).

Under the bill of rights, we have article 27(8) which states that:

*In addition to the measures contemplated in clause (6), 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 (p.41).*

The County Government Act 2012 clearly states in article 35 (2) that

*The County Assembly shall not approve nominations for appointment to the executive committee that do not take into account not more than two thirds of either gender (p.41).*

As earlier stated, gender quota threshold in this study refers to a constitutional reform policy aimed at ensuring that not more than two thirds of either gender should be elected or appointed into office. Equitable representation in governance is important as it leads to enhanced policy making and good governance (Pande and Ford, 2011). Above all,

*women in politics and decision making positions in Governments and legislative bodies contribute to redefining political priorities, placing new items on the political agenda that reflect and address women’s gender-specific concerns, values and experiences, and providing new perspectives on mainstream political issues (United Nations, 1995, p.120).*

Although the Kenyan Constitution has a provision on the gender quota threshold, the framework for implementation is not clear and therefore it was envisaged that different Counties were likely to do it in different ways. This study therefore sought to draw perspectives on gender quota thresholds and examine how these thresholds are being implemented.

### ***1.2.2.1 Gender Quotas in Kenya***

Kenya is ranked 18<sup>th</sup> in Africa and 145<sup>th</sup> globally in the United Nations Development Programme report on Africa Human Development Index (UNDP, 2016). Kenya's history on gender quotas began with a thrust towards Affirmative Action in the early 90s. Women NGOs together with women MPs began agitating for Affirmative Action (AA). In 1996, Hon Charity Ngilu moved a motion in Parliament for the implementation of the Beijing Platform for Action which provided for Affirmative Action but it flopped (Nzomo, 2012). In 1997, Hon Phoebe Asiyo tabled a motion geared toward increasing women's involvement in leadership and decision making both in Parliament and at the Local Authorities to at least 33 percent but this bill also flopped because of the male dominated Legislature (Amnany, 2013). In 2000, Hon Beth Mugo tabled the same motion i.e (The Constitution of Kenya Amendment Draft Bill 2000) and because it coincided with constitution review, it was forwarded to the Constitution Review Commission Kenya (CRCK). This was later incorporated in the Bomas Draft, later Wako Draft which was defeated in the 2005 referendum (Nzomo, 2012; Amnany, 2013). Later however Hon Martha Karua tabled the Constitution of Kenya (Amendment) Bill 2007 which was rejected but later incorporated in the 2010 Constitution of Kenya.

The promulgation of the 2010 Kenyan Constitution ushered in a new political dispensation in Kenya with several gains more so in relation to gender. More opportunities were opened up for women both in political and public life thereby promoting gender equality (Domingo et. al, 2016). More specifically, Articles 10 and 27



promote equality, equity and non-discrimination amongst others as national values. Article 27 (3) states: “Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres” (p.40).

Kenya has a bicameral Parliament that consists of the National Assembly and the Senate. The National Assembly consists of 290 Members of Parliament who are elected by registered voters of their member Constituencies and 12 members who are nominated using a zebra list i.e (alternating female and male candidates) by the Political Parties to represent special interest groups such as the youth, workers and people with disabilities and the 47 Women Representatives (The Constitution of Kenya, 2010). A party is not entitled to public funding if more than two thirds of the elected members are of one gender (Article 25 (2) (b) The Political Parties Act, 2011).

In the year 2013, the National Assembly had a total of 349 members of which women were 65 but 47 were those elected in each of the 47 Counties as Women Representatives which is a form of reserved seats. This represented 20 percent of the total seats. In the year 2017, 23 women were elected to the National Assembly compared to 16 in 2013, together with the 47 women only seats and an additional 6 who were nominated giving a total of 76 which is short of the a third threshold by 41 seats (Oluoch, 2017). In the County Assemblies, 96 women MCAs were elected in 2017 as compared to 82 in the year 2013. (A Gender Analysis of the 2017 Kenya General Elections). Other than the 47 Women Representative slots and the 12 nominated slots, there is no other provision available to ensure that the remaining 290 constituency seats as well as the 47 senate

seats adhere to the gender quota threshold (A Gender Analysis of the 2017 Kenya General Elections). It only gives provision to Parliament in Article 100 of the Constitution of Kenya to enact legislation that would increase the representation of women, persons with disabilities, the marginalized, youth and ethnic minorities.

On the other hand, the Senate consists of 47 members elected by each County, 16 women nominated by Political Parties according to the proportion of members elected to Senate, two members (one man and one woman) to represent the youth, two members (one man and one woman) to represent People with Disabilities (PWDs) plus the Speaker (Article 98 (1) The Constitution of Kenya, 2010). In the 2013 elections, no single woman was elected to the Senate but in 2017, 3 women were elected to Senate. Therefore, according to Berry et al, 2020:

*Kenya's quota design is a hybrid, composed of reserved "women's representative" seats in the national legislature and a "top-up" mandate after the competitive election cycle at the county and national levels (p.4).*

Although the Constitution of Kenya is clear when it comes to the gender quota threshold in terms of not more than two thirds of those elected and appointed should be of the same gender, In the year 2012 prior to the 2013 elections, the Attorney General took this issue to the Supreme Court to seek guidance on whether Article 81(b) would be implemented in the general election the following year or it would be implemented and the court ruled that it would be implemented gradually (Supreme Court Advisory Opinion No. 2 of 2012).

Kenya is a signatory of several international instruments such as the Beijing Declaration and Platform for Action, Convention on All forms of Discrimination Against Women (CEDAW), the UN Security Council Resolution 1325 (UNSR 1325) and the Sustainable Development Goals amongst others. Despite being a signatory to these conventions that champion for women's participation in decision making, Kenya continues to perform dismally in female representation in elections (Kaimenyi et al, 2013). According to the Society for International Development (2012),

*The reality and implications of at least one- third women representation in political parties, devolved government structures and other leadership echelons has not yet sunk to the public and especially to the female members of the Kenyan society (p. 25).*

It is against this backdrop therefore that this study sought to draw perspectives on the implementation of the gender quota threshold in selected Counties in Kenya. Indeed, the gains made through the promulgation of the current Constitution need to be consolidated.

### ***1.2.2.2 Gender Quotas in the Devolved Government***

Kenya promulgated a new constitution in the year 2010 that has embraced a devolved government. Initially, the 1963 constitution was anchored on *majimboism* which was founded on ethnicity. These regions were later re-named to provinces however regionalism did not last for long after independence as Kenyatta dismantled them and retained the Provincial Administration together with the administration police and this remained the most powerful component of the government (Ghai as in Steytler and Ghai, 2015).

Ghai as in Steytler and Ghai, (2015) further expound that;

It is worth making a few points about the short-lived period of regionalism. Its short life, and the fact that the Central Government was constantly obstructing Regional Governments, means that we cannot draw any lessons on how to implement and promote devolution-but plenty of ideas on how to obstruct implementation. If that is the only lesson, the geography and the politics of *majimbo* continue to have a profound effect. The adoption more or less, of the 41 districts of *majimbo* privileged ethnicity, and the strengthening of the link between an ethnic community and its 'leader', led to a style and values of the political system which profoundly retard politics of integrity, national unity and policies (p.74).

After regionalism was repealed, democratic principles of government were dismantled and Kenya ended up becoming a one party state. It is at this point that debates on decentralization and Multiparty Democracy began. The process of reviewing the constitution also began with the Constitution of Kenya Review Commission producing a draft later referred to as the Bomas Draft, which was amended by the then Attorney General Amos Wako (Wako Draft) but ended up flopping in the referendum because the key articles on Devolution and Parliamentary system had been deleted (Ghai as in Steytler and Ghai, 2015). However, after the 2007 rigging of elections, the Committee of Experts (CoE) reviewed the Bomas Draft and it was overwhelmingly voted for in the next referendum that was conducted in the year 2010, more specifically in August (Ghai as in Steytler and Ghai, 2015).

Devolution is a form of decentralization that involves ceding power to sub-national authorities which will be involved in revenue generation, policy formulation and execution (Society for International Development, 2012). The main purpose of

devolution is to bring government and service delivery closer to the people while also fostering accountability (Domingo et al, 2016). Other forms of decentralization include de-concentration and delegation. Kenya has a two-tier government that consists of the National Government and the County Governments. Both the National and County governments are supposed to ensure that gender representation is promoted and enhanced. The Constitution of Kenya is founded on a devolved system which is based on the principles articulated in articles 174 and 175 of the Constitution. Article 174 spells out the objects of devolution as to:

- Promote democratic and accountable exercise of power;
  - Foster national unity by recognizing diversity;
  - Give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the state and in making decisions affecting them;
  - Recognize the rights of communities to manage their own affairs and to further their development;
  - Protect and promote the interests and rights of minorities and marginalized communities;
  - Promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
  - Ensure equitable sharing of national and local resources throughout Kenya;
  - Facilitate the decentralization of State organs, their functions and services, from the capital of Kenya; and
  - Enhance checks and balances and the separation of powers
- (Constitution of Kenya, p.193-194)

County Governments have the jurisdiction of providing the following services: county health services, agricultural services, control of all forms of pollution, cultural and public entertainment amenities, county transport, animal welfare and control, trade development and regulation, county planning and development, pre-primary education, child care facilities and village polytechnics, county public works and services, disaster

management and firefighting services, control of drugs and pornography, coordinating the participation of communities in governance and the implementation of national government policies (Fourth Schedule, Constitution of Kenya, 2010). Revenues are shared out equitably between the national and county governments although both the national and county government can impose charges for services rendered (Articles 202 and 209(4), Constitution of Kenya, 2010).

There are 47 Counties in Kenya. Each County has a Governor and Deputy Governor who are in charge of the Counties. Every County has a County Assembly and a County Executive. The County Assembly constitutes of members elected by each ward, special seat members who are nominated by political parties in relation to the seats garnered in the County and the speaker (Article 175(c), 177(b) and 197(1)). All the above are elected every five years. On the other hand, the County Executive committee comprises men and women appointed by the Governor to carry out administrative roles and they are appointed every five years subject to the approval of the County Assembly. As earlier mentioned, article 197(1) of the Kenyan Constitution states that not more than two-thirds of the County Executive Committee should be of the same gender. However, just like in Senate and the National Assembly, there are no legal sanctions for none compliance of this article.

This study concentrated on Counties because the Constitution of Kenya 2010 has clear provisions on the two-thirds gender principle in relation to County governments as

opposed to the National Assembly and Senate. Indeed, as stated in “A Gender Analysis of the 2017 Kenya General Elections”: “County Assemblies constitute a particular bright spot, the only place where laws have been enacted which ensure that women comprise at least one third of their members” (p.15).

In addition, it is at the county level that voters have a better opportunity to closely monitor the performance of their leaders and call them to accountability as compared to the national government. Therefore, this research endeavored to unearth the perspectives of both men and women on the gender quota system in Kenya with specific reference to Makueni and Elgeyo-Marakwet Counties. It was premised on the fact that women may be more interested in local political affairs more than the national politics (The Electoral Commission, 2004).

### ***1.2.2.3 Profile of Makueni County***

Makueni County covers an area of 8,034.7 km<sup>2</sup>. It borders Machakos County to the North, Kajiado County to the West, Kitui County to the East and Taita Taveta County to the South. The County lies on the Eastern Region and is largely arid and semi-arid. The major physical features in the County are volcanic Chyulu hills in Kibwezi West Constituency, Kilungu Hills in Kaiti Constituency and Mbooni Hills in Mbooni Constituency. In addition, there is the Tsavo National Park which also lies in Kibwezi West Constituency (County Government of Makueni, 2018).

The sub-counties in Makueni are: Makueni, Mukaa, Kilungu, Kibwezi, Makindu, Kathonzweni, Mbooni East, Mbooni West and Nzau where the constituencies are:

Makueni, Mbooni, Kibwezi East, Kaiti, Kibwezi West and Kilome with a total of thirty County Assembly Wards (County Government of Makueni, 2018). In the 2019 population census, the population was 987,653 (Kenya National Bureau of Statistics, 2019). The main crops grown are green grams, maize, sorghum and pigeon peas. Fruits such as oranges, mangoes and pawpaws are also produced.

#### ***1.2.2.4 Profile of Elgeyo Marakwet County***

Elgeyo Marakwet County covers an area of 3029.9 km<sup>2</sup>. It borders Baringo County to the East, West Pokot County to the North, Uasin Gishu County to the West and Transzoia County to the Northwest. The County has three topographic zones i.e. The Highlands, The Escarpment and the Kerio Valley all of them separated by the Elgeyo Escarpment. The Highlands occupies 49 percent of the County's area and is heavily populated due to the availability of reliable rainfall and fertile soils. The Kerio Valley and the Escarpment make up 40 percent and 11 percent respectively (County Government of Elgeyo Marakwet, 2018).

The County is divided into four sub-counties namely: Keiyo North, Keiyo South, Marakwet East and Marakwet West. Politically, the County is divided into four constituencies: Keiyo South, Keiyo North, Marakwet East and Marakwet West. There are twenty wards in total, six in both Keiyo South and Marakwet West and four in Keiyo North and Marakwet East (County Government of Elgeyo Marakwet, 2018). The current population based on the 2019 census is 454, 480 (Kenya National Bureau of Statistics, 2019).



Both Makueni and Elgeyo Marakwet Counties were selected for the following reasons:

The first criterion used was to choose two Counties that have Governors who were re-elected and are serving their second terms. The assumption was that other than the County Executive Committee Members, there would not be any major changes on other County staff and more so the Chief Officers who are also appointed by the Governor.

Secondly, the two Counties were selected on the basis of the number of women elected and appointed out of the list of Counties that have a re-elected Governor. In Elgeyo-Marakwet, no woman was elected to the County Assembly whereas in Makueni County, only one woman was elected. In terms of appointment to the County Executive Committee, both Counties have three women appointed which is the trend for appointments in most Counties.

Thirdly, in both Counties the researcher had access to gate keepers. Gatekeepers are the people who assist one to gain entry into an organization. Lastly, it was expected that the two Counties would have differing cultural perspectives on gender quota thresholds. More on how purposive sampling was carried out is discussed in chapter three.

### **1.3 Statement of the Problem**

The problem that prompted this study was that many counties in Kenya are yet to adhere to the gender quota threshold requirements. In addition, although gender quotas have been adopted by many countries as a means to increase women's participation in decision-making in the political arena, the effect of quotas is largely mixed across

different countries thereby provoking more studies to be done. In this section, the problem is stated at three levels: i.e. Academic, Social and Contextual.

### **1.3.1 Academic Problem**

The County Governments have been in existence since March 2013 when they first came into being. However, very few studies (Berry et al, 2020; Bouka et al, 2019; Domingo et al, 2016) have been done on gender quotas in Kenya especially with specific reference to perspectives on the implementation of the gender quota legislation with specific reference to the County Executive and Assembly in the County Governments. Globally, studies have mainly concentrated on women's and men's participation at the national government level as opposed to local government level (World Economic Forum, 2013). Comparative studies have been done at the national level (Kang and Kim, 2020; Santos, 2018; Krook, 2013; Johnson, 2010; Chen, 2010). Besides, although gender quotas have become popular in many countries that have carried out electoral reforms, there are lots of debates on whether gender quotas are effective or not in increasing women's participation in governance.

The quotas effectiveness is influenced by different factors. Johnson (2010) highlights that:

Quotas do not yield equal results wherever applied. Interactions of context-specific dynamics affect the effectiveness of quotas. In most cases, the type of electoral system is one of the most important factors quota proposals must take into consideration. Political commitment, whether voluntary or mandated, can turn quotas into empty promises or real progressive change (p.81)

Since the gender quota threshold was implemented for the first time in 2013 in Kenya, there was need to carry out research in order to find out the perspectives of different stakeholders. This study was unique in the sense that it was a comparative research that sought to tease out the views of both men and women working in the County Assembly and County Executive and other stakeholders.

### **1.3.2 Social Problem**

Socially, close to 200 countries in the year 2015 committed themselves to Sustainable Development Goals more specifically goal 5.5 which is aimed at ensuring women's full and effective involvement in leadership and decision-making at all levels i.e the economic, political and public life (The Sustainable Development Goals Report, 2016). This is because, women still remain underrepresented in governance (Smulders et. al, 2019) and this has necessitated countries to adopt gender quotas which represent a fast track policy to equitable representation in politics. There is need to bring more women on board in the County administrations so as to enhance sustainable governance through sustainable representation as democracy is shaped and sustained through equitable representation. Indeed:

*Underrepresentation of women in positions of power is untenable; a country simply cannot progress economically, politically or socially without half its citizens participating meaningfully in political spheres and critical decision-making processes (Institute of Economic Affairs, 2015).*

In addition, allowing both men and women to participate in decision-making ensures that gender sensitive policies are brought on board and that there is equity in allocation of

resources. This has a ripple effect of ensuring that there is social equality. In a nutshell, good governance acknowledges that men and women have different needs, priorities, interests and responsibilities and therefore they both need to be included in shaping decisions such as those based on legislation, policies and public spending and coming up with the appropriate structures (Brody, 2009).

In the Millenium Development Report of 2015, it was acknowledged that women's participation in decision making had improved in over 120 countries.

*However, a significant slowdown in progress since 2014 could be an indicator that the 'fast-track' impact of gender quotas has reached its peak. This calls for additional measures to advance women's political empowerment (p.31).*

This thesis endeavored to study the Kenyan scenario by looking at perspectives of stakeholders on the gender quota legislation that was first implemented in the year 2013 as very little has been done in as far as perspectives from the Kenyan context is concerned.

### **1.3.3 Contextual Problem**

Contextually, this study limited itself to selected Counties in Kenya. These are Makueni and Elgeyo-Marakwet Counties. The problem is that Kenya is grappling with the implementation of quotas ten years after the promulgation of its 2010 constitution (Berry et al, 2020). The County Government Act 2012 clearly states in article 35 (2) that "The County Assembly shall not approve nominations for appointment to the executive

committee that do not take into account not more than two thirds of either gender”.

Besides, this study concentrated on counties as Johnson (2010) underscores that:

Current research has shifted focus from the national to the local political arena. Women’s political activism in local governments and grassroots organizations is another arena where women can begin their formal political training. In close-knit community settings, women are more likely to become politicized and organized. For this reason, local-level politics serves as a stepping- stone or training ground for future national representatives (p.82).

Therefore, this study was conducted in Makueni and Elgeyo-Marakwet counties. During the August 2017 elections, several counties did not elect a woman to the County Assembly and therefore they have had to nominate a minimum of 10 women MCAs in order to attain the threshold. Elgeyo-Marakwet is one of them. The other Counties are Garissa, Isiolo, Embu, Kirinyaga, Kajiado, Mandera, Samburu, Narok, Taita Taveta, Wajir and West Pokot (A Gender Analysis of the 2017 Kenya General Elections). It is argued that this will cost the taxpayer an extra 2.19 billion annually to cater for the allowances and salaries of nominated MCAs and yet this money would have been used for other needs (ibid). Makueni County was also purposively selected because there is only one elected woman MCA. However, both Makueni and Elgeyo-Marakwet Counties have 3 women County Executive Committee Members.

#### **1.4 Research Objectives**

The purpose of this study was to investigate the perspectives of key stakeholders on implementation of the gender quota threshold in devolved governance in Kenya. The specific objectives of this research were to:

1. Find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance
2. To establish how the gender quota threshold provisions are being implemented in devolved governance.
3. To examine the barriers to successful implementation of the gender quota threshold provisions.

### **1.5 Research Questions**

The research questions for this study were as follows:

1. What are the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance?
2. How are the gender quota threshold provisions being implemented in the devolved governance?
3. What are the barriers to successful implementation of the gender quota threshold provisions in devolved governance?

### **1.6 Scope of the Study**

The scope or delimitation of a study refers to the boundaries set by the researcher for the study (Serem et al 2013). This is usually done for the purpose of ensuring that the appropriate population is identified, the research is carried out within the resources and time available, foundations for drawing conclusions are established and criticisms can be averted (Serem et al 2013). The scope was presented at various levels i.e.. the content,

contextual and the methodological scope. The limitations faced at these levels are also discussed.

### **1.6.1. Content Scope**

The content scope conceptualizes what each research objective covered. As earlier discussed, this study sought to examine the Perspectives of Key Stakeholders on Implementation of the Gender Quota threshold in Devolved Governance. Although, there are other affirmative action programmes being implemented such as the ones for marginalized and minority groups, youth and people with disabilities, this was not included as it is beyond the scope of this study.

It was a comparative study that sought to answer the following research objectives. The first objective was to find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance.

Under this question, participants were interviewed on their awareness of the gender quota legislation, on their perspectives on the meaning of this legislation and whether in their view it is fair or not. Consequently, they were also interviewed on how the legislation relates to the cultural set-up of the County and whether in their opinion the legislation is effective.

The second objective sought to establish how the gender quota threshold provisions are being implemented in devolved governance. Subsequently, participants were probed on how the legislation was being implemented in both the County Assembly and County Executive and whether there were any formal or informal rules associated with it. Lastly was the issue of accountability and enforcement mechanisms.

The final objective was to examine the barriers to successful implementation of the gender quota threshold provisions in Devolved Governance. The crux of the matter was on whether there are any hurdles in the implementation of the gender quota legislation and how they can be averted.

### **1.6.2. Contextual Scope**

The contextual scope explains how far the study extends geographically and politically. This study covered Makueni and Elgeyo-Marakwet Counties with specific reference to the County Executive and the County Assemblies of these two Counties out of the 47 Counties in Kenya including other key stakeholders. The limitation of two counties was dealt with by having in-depth and follow-up interviews with the relevant County Officers in the two Counties and these included, the Chief Officer for Gender, Youth and Social Services, Director of Gender and the secretaries of the Public Service Board amongst others. It was difficult to get an interview with the CEC members in-charge of the Ministry of Gender, Youth and Social Services in both Counties who were not available. However, the Chief Officer of Gender gave all the necessary information because he/she



can be likened to a permanent secretary. In addition, the Gender Officers attached at the Sub-Counties who are employed on contract when need arises were also not interviewed due to unavailability. The implementation at the national level was therefore not the focus of this study. Diversities in contextual factors were discussed as well as cross cutting themes and patterns. Patton (2015) states that: “sensitivity to context is central in qualitative inquiry and analysis” (p.9)

### **1.6.3. Methodological Scope**

In terms of the methodological scope, this study employed a qualitative research approach as the researcher was keen on teasing out the current perspectives on the gender quota policy. This was a comparative study of two Counties. This study was more concerned with the depth of information derived therefore, a wide range of stakeholders was selected and two data generation techniques were used i.e. In-depth Interviews and Focus Group Discussions in order to promote triangulation. Therefore, the data generated promotes external generalisability of the findings. This means that these findings are applicable and relevant to other Counties.

Purposive sampling more specifically criterion sampling was used to select Counties that had their Governor re-elected. In total, they were 21. They include: Mombasa, Embu, Uasin-Gishu, Murang’a, Kericho, Homabay, Nyamira, Turkana, Machakos, Makueni, Kilifi, Narok, Kisii, Migori, Busia, Kakamega, Elgeyo-Marakwet, Siaya, Tranzoia, Mandera and Kwale. Out of these Counties, Elgeyo-Marakwet was purposively sampled

using the Extreme or Deviant Case Sampling by virtue of the fact that no single woman was elected to the County Assembly and this was also used to select both men and women working in the County Assemblies, County Executive and County Public Officers who took part in in-depth interviews. Makueni County was sampled on the basis of accessibility to gate keepers.

Indeed, criterion sampling was used to pick the Chief Officer in charge of Gender, Youth, Sports and Social Services. In addition, the Director of Gender was also sampled. These two were sampled because they are the ones that deal with gender issues in the County and therefore were informative participants who were able to address the research questions. In addition, the secretaries of the Public Service Board were interviewed by virtue of the fact that they are knowledgeable on how the board applies the gender quota threshold during the process of hiring.

In the County Assembly, criterion sampling was used to select MCAs who are in the Gender Committee in the Assembly. Thereafter, an FGD with both Gender Committees in both Counties was carried out. Each of the committees had six MCAs. Over and above these, one former Women's Representative, one officer from the Gender and Equality Commission, one interviewee from the Federation of Women Lawyers (FIDA), one participant from the Kenya Women Parliamentary Association (KEWOPA) amongst other stakeholders were interviewed. Overall, twenty three (23) participants were interviewed using in-depth Interviews whereas another thirty participants (30)

participated in five FGDs. The total sample size was 53. More information on the methodological scope is discussed in chapter three under Methodology.

### **1.7 Justification**

The gender quota threshold is not a new phenomenon in Kenya as the country has had two cycles of elections since the promulgation of the Constitution. The literature available on gender quotas worldwide mainly focuses on gender and governance at the national level. This study on perspectives on the implementation of the gender quota threshold is important for the following reasons:

Firstly, this study helped to unravel men and women's perspectives on the gender quota thresholds that may differ depending on differing cultural contexts, international and domestic norms at a particular period, individual and environmental factors among other factors. This study therefore provides empirical literature that establishes a foundation for other scholars to carry out similar studies in other devolved units in other parts of the world especially those dealing with affirmative action and equality policies. Many studies that have been carried out in this area are mainly comparative and time series studies (Kang and Kim, 2020; Beall and Barnes, 2020; Rabinovici and Sommer, 2019), comparative and qualitative study (Taflaga and Beauregard, 2020) and National Governance (Beauregard, 2017) as opposed to local governance (Sumbas, 2020; Turnbull, 2019).

In cases where local governance has been included, it's important to note that the effects of gender quotas vary and are dependent on cultural, religious and socio-economic settings amongst others. Indeed, governance that is not gender-sensitive is not effective (Brody, 2009). Key studies that have taken cognizance of both National and Local governance include: Oni (2014), Sharan and Wimpelmann (2014), Kang (2013) and local governance alone (Braga and Scervini, 2015; Yoon and Shin, 2017). This study therefore concentrated on perspectives based on the diffusion of gender quotas at the County Government level.

Secondly, research on gender quotas generally gives a mixed picture across different countries. Although the debate on quotas has taken the centre-stage in many nations all over the world, empirical findings cannot be generalized beyond one specific setting because of the contextual diversity in place. Bartels (2016) raises the question of whether quota women would be more active or passive as compared to women elected through the traditional channels. She further posits that it is possible to bring the women on board through quotas but it is another thing to have these women achieve the goal of representing women's interests. Because the findings are equivocal, this creates room for this study.

Thirdly, most of the studies on gender quotas have concentrated on the numerical impact, the design and adoption of these quotas (Krook and Zetterberg, 2014). Very few studies have been done in Kenya on the implementation of the gender quota policy but none at

the County level that would guide Counties on how best to implement this policy and this serves as the justification for this study.

In addition, previous empirical studies have also concentrated on the pioneer countries in the West, and even in the case of Africa the concentration has been on Eastern Africa (with the exception of Kenya) and Southern Africa (Toraasen, 2016). This thesis therefore sought to add to the existing literature on gender quotas by examining perspectives of the gender quota threshold in Kenya. It also adds to the comparative literature on gender quotas looking at a different geographical setting.

The fact that many studies indicate that perspectives on gender quotas differ depending on the context (Toraasen, 2016; Sharan and Wimpelmann, 2014; Kang, 2013) and political will (Krook 2016) provides a clear justification for this study as there was need to see how perspectives on gender quotas in Kenya compare to those of other countries. This study will be important in holding certain institutions accountable for their commitments towards the gender quota threshold. This includes the National and County Governments amongst others. More on justification will be raised in the literature review section in chapter two.

### **1.8 Significance of the study**

This study is significant to the following groups: Firstly, this study may assist the devolution and gender planners in government to know the challenges being experienced

and the loopholes that need to be filled to better implement the quota policy in County Governments and the National Government.

In addition, through the recommendations given the planners can come up with new policies that can be adopted in our country and borrowed by other countries in different parts of the world which have a devolved system of governance. This will in turn ensure that the quota thresholds have the intended consequence of increasing women's participation in decision making in governance. The findings will also be relevant during this time when there is a discussion on the possibility of having a referendum.

Lastly, since few studies on gender quota thresholds have been done in Kenya and in Africa generally, this study adds to the body of knowledge in the field of Development Studies, more specifically under the subject of Gender and Governance and is useful to other scholars, policy makers and researchers in as far as the methodology and content is concerned. More implications are raised in the final chapter of this thesis.

## **1.9 Summary**

This thesis is therefore divided into seven chapters. In chapter one, the academic and social context of the study has been presented followed by the statement of the problem and the research questions. The statement of the problem examined the academic, social and the contextual problem that necessitated the study being done. Scope of the study is subdivided into the content, contextual and the methodological scope. Finally, the

justification and significance of the study in terms of policy and practice have also been discussed.

In chapter two, gender quota thresholds was situated in Development Studies; thereafter the theories that act as a lens to this study were examined and subsequently the review of literature on gender quota thresholds. In chapter three, the philosophical paradigm adopted, the research approach, sampling technique used, the data generation techniques, data analysis and ethical issues have also been presented.

Chapter four to six is data analyzed thematically based on the three research objectives guiding this study. Finally, chapter seven, consists of a summary of key findings, discussion, conclusions, my thesis, contributions of this study, implications for policy and practice, suggestions for further studies and my reflections as a Doctor of Philosophy scholar.

Attached below is a table giving a summary of the main issues that have come up in this chapter and how they relate to the study.

**Table 1.1 Summary of the main issues discussed in Chapter One.**

<b>Heading</b>	<b>Main Issue</b>	<b>How it relates to the Study</b>
<b>Academic Context</b>	<ul style="list-style-type: none"> <li>▪ Gender quotas represent an affirmative action strategy.</li> </ul> <p>Underrepresentation of women has necessitated gender quotas.</p> <p>Quotas represent a fast track measure to participation in governance.</p>	This study looked at how Kenya adopted gender quotas in 2013.
<b>Social – Economic Context</b>	<ul style="list-style-type: none"> <li>▪ Kenya promulgated a new constitution in 2010 that is gender progressive in nature.</li> </ul>	This study examined how Kenya has been implementing the gender quota legislations in both the 2013 and 2017 elections.
<b>Research Objectives</b>	<ul style="list-style-type: none"> <li>▪ To find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance.</li> <li>▪ To establish how the gender quota threshold provisions are being implemented in the devolved governance.</li> <li>▪ To examine the barriers to successful implementation of the gender quota threshold provisions.</li> </ul>	This was a comparative study that involved In-depth interviews that helped in answering the research questions coupled by Focus Group Discussions.
<b>Justification</b>	<ul style="list-style-type: none"> <li>▪ Perspectives on quotas differ depending on political will, cultural, international and domestic norms and the gender regime present at a particular time.</li> <li>▪ Many countries have concentrated on National governance as opposed to devolved governance.</li> <li>▪ Researches carried out give a mixed picture on whether gender quotas work or not.</li> </ul>	There is no single study that has been done in Kenya on perspectives on the gender quota threshold at the County level to the best of my knowledge. However, there are a few exceptions at the National level.
<b>Significance</b>	<ul style="list-style-type: none"> <li>▪ This study is important for both the National and County governments in terms of policy and practice.</li> </ul>	This study has unravelled important perspectives that will help shape policy and practice.
<b>Conclusion</b>	<ul style="list-style-type: none"> <li>▪ Gender quotas are important but their impact depends on the context.</li> </ul>	This study sought to understand gender quotas using two Counties in Kenya.

Source: Author, 2020



The next chapter examines the literature available on this study and situates the research within Development Studies. Over and above that, the gaps that necessitated this study have been identified.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

In this chapter, a review of literature on gender quota threshold with a view of giving adequate breadth and depth as well as identifying the gaps in previous studies has been done. In particular it focuses on situating gender quota thresholds in the field of Development Studies, examining Gender and Development as a discipline and Gender and Governance as a subject. Thereafter, literature is presented from different parts of the world on views of various stakeholders on gender quota thresholds, how the gender quota threshold provisions are being implemented and the blockades to successful implementation of these provisions. Finally, the gaps and the rationale for this study founded on reviewed literature that is drawn from different disciplines is also discussed.

#### **2.2 Situating Gender Quota Thresholds in the Discipline of Development Studies**

This study on perspectives in implementation of the gender quota threshold in Devolved Governance is situated in the field of Development Studies. Development studies came into being in the late 1960s and early 1970s and it inherited features of the post-second world war developments (Schuurman, 2014). Early views of development emphasized imitating the ‘West’. Initially competing theoretical schools in Development Studies were: Modernization, Dependency, Structuralism and ‘Another Development’ (Hettne,

2014). The main agenda was to deal with the 'Third World'. In the 1970s Dependency Theory denounced Modernization Theory and the Modernization theorists hit back at the Dependency authors thereby creating a fertile ground for Development Studies to grow as a new discipline in the social sciences (Schuurman, 2014).

However the lack of development in the Third World countries coupled with globalization and postmodernity led to a development impasse (Desai and Potter, 2014). In the early 1990s western development imperatives were criticized leading to the emergence of stances such as post-development, anti-development and beyond development (Desai and Potter, 2014).

Another challenge was the fact that the gap between the North and South continued to increase and the theories could not explain this as countries had different developmental experiences. This created a theoretical impasse in Development Studies (Schuurman, 2014). Despite the impasse, consensus has been established around the fact that economic growth is necessary but not sufficient for development. There must be redistribution of income and wealth for meaningful development to have occurred. Desai and Potter (2014) further contend that: "development must be regarded as synonymous with enhancing human rights and welfare, so that self-esteem, self-respect and improving entitlements becomes central concerns" (p.2).

Therefore, Development Studies as a multidisciplinary branch of social sciences, tries to connect to the political, economic and cultural aspects of inequality in development. The

aim of this study was to examine perspectives concerning the gender quota threshold in two selected Counties. The gender quota threshold is a development policy geared toward reducing inequalities in governance.

### **2.2.1 Gender and Development as a Sub – Discipline**

As earlier stated, this study on perspectives in implementation of gender quota threshold in governance is situated in the field of Development Studies and in the sub-discipline of Gender and Development. The debates on women and development have evolved over time. Gender and Development (GAD) emerged in the 1980s out of a critique of the Women in Development (WID) approach. Initially, WID appeared in the 1970s as a result of Esther Boserup's work entitled *Women's Role in Economic Development*. She argued that modernization had not benefited women but as a matter of fact had denied them training, education and technology and access to land amongst others. In addition, it was prejudiced because it confined women to the household and assumed that resources channeled to the household would automatically reach the women (Boserup, 1970).

During this time many development organizations responded by beginning programmes tailored for women specifically those that were going to make their household chores easier. WID proponents argued that “malestream” planning largely ignored women (Young, 2013). Resources were channeled to women's projects but the proponents ignored women's productive and reproductive roles thereby intensifying their burden. It is during this time that the GAD approach emerged focusing on social relations between women and men (gender) as opposed to women only. It focused on gender relations in

political and the socio-economic structures. This was to be achieved through gender mainstreaming (Tasli, 2007).

Young (1997) examined other key features of the GAD approach. She stated that this approach focused on women as active and not passive beneficiaries of development. In addition, GAD is hinged on the whole social organization in terms of the political and economic life as opposed to looking at the reproductive aspects of motherhood and child caring. Over and above that, development in this approach is perceived as being a complex process that involves the economic, social, and political advancement of individuals and societies (Young, 1997). This aspect is important for this study because gender quotas are aimed at increasing the proportion of women in decision making positions. Another important factor about GAD is that it concentrates more on women gaining political power in the economic system because it assumes that economic and political power are entangled as opposed to the WID approach which emphasizes women's collective bargaining power in the economy. Gender and Development has grown to be an important sub-discipline that is studied under Development Studies.

### **2.2.2 Gender and Governance as a subject**

Gender and Governance is a subject under the sub-discipline of Gender and Development. Gender and Governance as a subject looks into how governance can promote gender equality by coming up with gender sensitive policies and ensuring that there is participation from both men and women and holding the governance institutions

accountable for this (Brody, 2009). It actually looks at the nexus between Gender and Development and where they transect. Whereas gender refers to socially constructed roles for both men and women that are subject to change with time, governance is a knotty concept that has multiple definitions and depends on the context and the agency using the term. International and national institutions frame governance differently. For World Bank, governance should promote efficient financial management whereas UNDP's definition of governance is hinged on rights and social justice whereby the governance institutions are considered as promoters of accountability and equitable decision-making as opposed to being receptacles of power (Brody, 2009).

In addition, Brody (2009) states that:

*Governance refers to decision-making by a range of interested people, or stakeholders including those in formal positions of power and ordinary citizens. These decisions have a huge impact on the ways in which women and men lead their lives, on the rules they are expected to abide by, and on the structures that determine where and how they work and live (p.9).*

Governance can also be referred to as the processes of management and decision-making whereas good governance denotes the eminence of the processes measured against a cluster of governance values (Brody, 2009). These principles of good governance include accountability, transparency, upholding the rule of law, inclusiveness, equity, responsiveness and the respect for human rights amongst others. In reality, governance does not always include all the stakeholders in decision-making. In some cases, voices of women and the marginalized groups amongst others may be left out. Therefore, the issue of inclusivity and equity is important.

Gender quotas represent an Affirmative Action strategy which has contributed to the inclusiveness of women in governance. Affirmative action refers to:

*a body of policies and procedures designed to eliminate employment discrimination against women, ethnic and other minority groups with the objective of redressing the effects of past discrimination. In practice, it is effected when a deliberate action is taken that gives such groups priority in the appointment and or nomination to positions of responsibility (Wanyande, 2003: p 51)*

Depending on the setting, affirmative action can include race and other marginalized groups. It is normally considered as positive discrimination and therefore very controversial. Affirmative action can be applied in politics, education, and employment opportunities amongst others. Quotas represent a policy that is geared towards addressing gender imbalance in governing institutions and they serve as a motorway to women's access to governance. Gender quotas are therefore important because they are a form of affirmative action meant to rectify past injustices in women's absence in governance and this represented the heart of this study.

### **2.3 Review of relevant Theory on the Gender Quotas**

A theory is very important both in a quantitative as well as a qualitative study. Cresswell (2009) states that qualitative researchers use theories in several ways and one way is as a theoretical lens or perspective for the study of questions. The Theory of Political Representation and the Empowerment Approach were drawn upon to conceptualize and interpret the findings. The Theory of Political Representation is important as it brings out the different forms of representation but was not adequate in itself and therefore the need

to include the Empowerment Approach to complement the theory by bringing out different forms and processes of empowerment. These two were therefore important as they helped to explain factors that influence people's perspectives on implementation of gender quotas. However, as Galito (2018) states:

*Theory and practice are two different things. Not all women like to be chosen over men or for gender reasons, but rather for being the best person for the job. Others believe quotas and targets are necessary to overcome a situation that, otherwise will never change in their favour (p.38)*

### **2.3.1 The Theory of Political Representation**

Hanna Pitkin, in her work *The Concept of Representation* sets the foundation for the theory of representation. Pitkin (1967) distinguishes between four main forms of representation namely: formalistic representation, symbolic representation, descriptive representation and substantive representation. Although these different dimensions are perceived by the author as essential parts of a whole, many scholars ignore certain forms and only use one or two based on those that they feel are important or on those that data is readily available (Kurebwa, 2015). Besides, this theory was later developed by Schwindt-Bayer and Mishler (2005) who brings out linkages between the four forms of representation but they don't deviate from the main theory. In this study the emphasis was on descriptive, symbolic and substantive representation. This is because the study looked beyond the numbers of women elected or appointed in a bid to interrogate the perspectives of the various stakeholders on the constitutional provision on gender quotas and how this provision is being implemented in the County governments. These three



facets of political representation examine the impact of gender quotas thereby moving the debate beyond the issue of numbers (Dahlerup, 2010).

### ***2.3.1.1 Formalistic Representation***

This represents institutional engagements that precede representation. Formalistic representation comprises two variants that is, authorization and accountability (Pitkin, 1967). Authorization involves the process through which a representative is brought to power for example through elections whereas accountability is the process of either punishing the representative by voting him or her out or voting him/her in depending on how responsive he/she is to the needs of those who are being represented (Pitkin, 1967).

### ***2.3.1.2 Descriptive Representation***

Descriptive representation encompasses questions to do with the effect of quotas on the women elected and their social background in terms of ethnicity, sex, age and other demographic characteristics (Dahlerup and Freidenvall, 2010; Johnson, 2010). This implies that one would have to count the number of women in office and in the same vein scrutinize these women in terms of their education, occupation, age, political experience and family connections compared to those not elected through quotas without looking at what they are saying or doing. According to Pitkin (1967), both descriptive and symbolic representation can also be viewed as “standing for” representation.

The relevance of descriptive representation to this study is the fact that first and foremost, gender quotas are meant to increase descriptive representation as women in Kenya have

been underrepresented for many years. However, it is plausible to go beyond numerical representation and flesh out the symbolic and substantive depiction of women in the County governments. This is because if one was to stop at descriptive representation, the change may be construed to be cosmetic.

### ***2.3.1.3 Symbolic Representation***

Symbolic representation is concerned about the conceptions or perceptions of the voters' on the people they have elected (Johnson, 2010; Dahlerup, 2010). Pitkin (1967) compares women to flags that represent a nation and underscores that what counts is not the flag but the power it has to evoke attitudes or feelings. In that sense then, symbolic representation is not about who these women are or what they do but rather how they are perceived by the people they represent (Kurebwa, 2015). In other words, this has to do with the public attitudes over these female constituents and how these quotas help to break traditional barriers between men and women. As earlier mentioned, symbolic and descriptive representation are also referred to as "standing for" representation as opposed to "acting for" representation that characterizes substantive representation.

### ***2.3.1.4 Substantive Representation***

Pitkin (1967) defines substantive representation as: "Acting in the interests of the represented in a manner responsive to them" (p.209).

Substantive representation is premised on the ability of the elected to perform effectively and represent the interests of the electorate in terms of policy outcomes and agenda

building (Pitkin, 1967). In other words it involves an examination of how quotas influence the kinds of policies proposed and passed and generally the priorities of women elected through quotas. Pitkin considers this to be the most important dimension of representation and describes it as the “acting for” representation.

Substantive representation is particularly important for this study as the second research question aims at finding out how the gender quota threshold provisions are being implemented in the County governments.

### **2.3.2. The Empowerment Approach**

Women’s empowerment has been defined differently by different scholars. According to Reeves and Baden (2000), women’s empowerment can be described as:

*A ‘bottom-up’ process of transforming gender power relations through individuals or groups developing awareness of women’s subordination and building their capacity to challenge it (p.3).*

Empowerment can also be examined along three lines i.e. economic, social and political empowerment (Chopra and Muller, 2016). Economic empowerment is associated with access to and the ability to control material resources for the advancement of both the private and public spheres (Moser, 2012). Social empowerment is based on changing gender values and norms such as patriarchy whereas political empowerment entails increasing opportunities for decision-making for women so that they can influence the agenda and actively participate in carrying it out (Moser, 2012). According to Tasli

(2007), empowerment is hinged on increasing women's power in the political, socio-economic, cultural and all spheres of life.

This approach was developed in the late 1980s in the discourses revolving around women and development. Rowlands (1995 and 1997) did a gender examination of power and came up with four forms of power namely; power over, power with, power to and power from within.

Power over implies a relationship of subordination and domination whereby an increase in one group's power leads to loss of power for the other group and this is likely to lead to conflict between the two groups (Oxaal and Baden, 1997). Power to has nothing to do with domination instead it implies the ability for one to make their own decisions and pursue their goals. This is the power associated with empowerment and it involves challenging and resisting power over. This is a useful approach as it does not necessitate one group losing as another gains power.

Power with is power exercised with others and is linked with collective empowerment whereas power within or power from within is associated with spiritual and mental strength that leads to increased self-esteem and this power can only be self-generated (Oxaal and Baden, 1997).

Power is a concept that can be observed in different ways depending on the context and this has an impact on the definition of empowerment. Empowerment in relation to power

over implies bringing people who have long been left out to a place where they can participate in the political and economic circles (Rowlands, 1995). However, empowerment in relation to power to, power within and power with goes beyond participation in the political and economic spheres to undoing structures that have prevented people from seeing that they have the capacity to act and influence others (Rowlands, 1995).

Rowlands also differentiates between three processes of empowerment i.e. personal empowerment which relates to an individual gaining confidence and the necessary capacity, collective empowerment geared towards achieving collective goals and lastly empowerment in close relationships referring to women's interaction and experiences with their close relatives. These three dimensions are linked to one another. Women's political empowerment is hinged on their participation both within and outside formal politics (Tasli, 2007) so that they can take up key positions at the local, national and international spheres.

Instruments that can be used to increase women's participation in formal politics include quotas, reforms in the political parties, various programmes of affirmative action and training women in political skills amongst others (Oxaal and Baden, 1997). However it is important to note that women cannot be treated as a homogenous group as there are differences in terms of ethnic differences and social class amongst others.

Empowerment can be measured both at the national and local level. In 1995, the United Nations Development Programme came up with two indices i.e. the Gender Development

Index (GDI) and the Gender Empowerment Index (GEM). The Gender Development Index borrows from the Human Development Index's three key elements that are one's health, knowledge and the standard of living measured and compared between men and women. On the other hand, GEM measures gender inequality in relation to political participation and decision-making, participation and decision-making in the economic sphere and control of economic resources (UNDP, 1995). In 2010, the United Nations introduced the Gender Inequality Index (GII) which is measured using three indicators i.e. health, empowerment and labour market participation. This thesis examined gender quotas as a policy that seeks to empower women in Kenya both at the National and County government level.

## **2.4 Review of Relevant Previous Research**

This section contains a review of literature on gender quotas globally and in Africa followed by views of various stakeholders on gender quota thresholds, how the quota thresholds are being implemented and the barriers to successful implementation in different countries. A literature review by the researcher revealed that no known previous research exists in Kenya on this issue that could provide in-depth insights of the stakeholders on the implementation of the gender quota threshold in county governance.

### **2.4.1 Gender Quotas Globally**

Globally, about 130 countries to date have adopted gender quotas. Generally, women occupy 23 percent of seats in both the upper and lower houses. Across the regions, there

are variations in as far as women representation in parliament is concerned. In both the upper and lower house combined, the Nordic countries have 41.6 percent; Americas 30.7 percent; Europe 28.5 percent; Sub-Saharan Africa 23.7 percent; Asia 19.6 percent; Arab States 18.1 percent and the Pacific 18.4 percent (Inter-Parliamentary Union, 2019).

Although the Nordic countries topped the list in women's representation, other countries have also succeeded in making it to the top. These countries include: Belgium, Costa Rica, Rwanda, Argentina, South Africa and Spain amongst others. Rwanda has the female majority in parliament of 61.3 percent in comparison with Sweden's 43.5 percent thereby becoming the leading country in the world to have a female majority (Inter-Parliamentary Union, 2019). Generally quotas vary between 30 and 50 percent.

In Latin America, Argentina was the vanguard to adopt gender quotas in 1991 and other countries followed suit with differing percentages i.e Bolivia (50 percent), Ecuador (50 percent), Panama (50 percent), Costa Rica (40 percent), Mexico (40 percent), Honduras (40 percent), Argentina (30 percent), Brazil (30 percent), Dominican Republic (33 percent) Haiti (30 percent), Peru (30 percent) and Paraguay (20 percent) (Htun and Piscopo, 2014). Out of 33 countries, 9 have had either a female president or prime minister serving a full term (Htun and Piscopo, 2014). This certainly does not compare to any other developing countries. The authors further posit that in 2014, women occupied an average of 26 percent of cabinet posts and an average of 20 percent in the lower chambers and 23 percent in the upper chambers in the legislature.

What is amazing is the fact that in some incidences at the sub-national level, few have been elected as governors and only 9 percent as mayors because these posts are referred to as “high pork” offices as a result of the budgets that are controlled at this level and this may explain why women’s performance at this level is abysmal. The County Governments are important study areas because of the devolved funds made available from the National Government.

#### **2.4.2 Gender Quotas in Africa**

In Africa, the return of Multipartyism in the 1990s led to increased political space for women (Nzomo, 2012). Post-conflict countries were also the first to adopt quotas as compared to those that had not recently had major wars (Nzomo, 2012). Rwanda tops the list of gender quotas in Africa and worldwide with a women representation of 63.7 percent, followed at a distance by Seychelles 44 percent, Senegal 43 percent, South Africa 42 percent, Namibia 41 percent and Mozambique 40 percent (UNDP, 2016).

Burnet, (2012) however states that

Rwanda ranks very low on most democracy measures because the RPF orchestrates elections, suppresses the independent media and retains control over most civil society organizations. While the parliament is majority female, most of these women are card- carrying members of the RPF or its coalition partners. In addition, women elected to reserved seats are nominated, or at least vetted, by the RPF via the Forum of Political Organizations. Thus, most of these women owe allegiance to the RPF rather than to the constituencies who elected them (p.193).

Besides, although the elite women in urban areas have reaped the most benefits by getting salaried jobs in ministries and the national legislature, women in the rural areas elected in the local government have had their workload increase and their economic safety



undermined (Burnet, 2012). The political context in Rwanda is different because after the 1994 genocide, there was a shift in gender roles with women taking up opportunities in government as most of those who had died were men and the women were the ones mostly involved in peace building. The Rwandan setting is therefore very different from Kenya's and this rise in representation was not instantaneous. Other countries that have surpassed the 30 percent critical mass include Angola, Ethiopia, Burundi, Uganda, Tanzania, Algeria, Zimbabwe, Tunisia, Cameroon and Sudan (Burnet, 2012). Most countries in Africa have adopted constitutional or legal quotas as opposed to voluntary quotas.

The Declaration on Gender and Development, signed by Southern African Development Community (SADC) heads of state and government in 1997, committed member states to use 'whatever methods available to increase the participation of women at all levels of decision making to 30 per cent by 2005'. In this regard, the SADC Declaration on Gender and Development was in effect a response to critical area of concern number seven of the Africa and Beijing Platforms for Action of 1995, which called on all concerned parties to: 'take strategic action to address inequality between men and women in sharing power and decision making at all levels'. Since the signing of the SADC Declaration on Gender and Development there have increasingly been calls to adopt special measures to facilitate the meeting of this commitment. Political quotas for women have been presented as one solution. In East Africa, according to the Institute of Economic Affairs (2015),

Despite having the greatest capacity to afford an affirmative action programme to increase the participation of women in parliament, Kenya is the only country in East Africa that has yet to achieve a one –third gender equity minimum. The parliaments of Tanzania, Uganda, Rwanda and Burundi are all comprised of at least one-third women. Their successes in this area are direct results of quota systems to ensure a minimum threshold of gender equity using reserved seats for women, and have shown to increase the participation of women outside of reserved seats as well (p.v).

In addition, the Maputo Protocol entitled “Protocol to the African Charter on Human And People’s Rights on the Rights of Women in Africa” brings out the fundamental political, social, economic and cultural rights of women, taking into consideration different categories of women such as the distressed, widowed and disabled amongst others. Of relevance to this study was Article 9 which relates to participation in Political and Administrative processes. It states that states should take action to ensure that there is participative governance by coming up with affirmative action and other measures that will ensure that:

- a) Women participate without any discrimination in all elections.
- b) Women are represented equally at all levels with men in all electoral processes. (Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, 2003:10-11).

#### **2.4.3 Review of research on views associated with gender quota thresholds**

The first research question sought to find out the views of the various stakeholders on the gender quota thresholds. Presented below are several themes arising from research carried out in different parts of the world.

#### ***2.4.3.1 Gender quota implementation is dependent on political parties' ideologies.***

Political parties can either create a conducive environment or deter women's participation in politics. Several studies have been done to establish the above assertion.

Taflaga and Beauregard (2020) did a study on the role of internal and external institutional factors in relation to descriptive representation in two conservative parties i.e. British Conservative Party and the Liberal party of Australia (LPA) using triangulated results from histories, party documents, secondary literature and elite interviews. The analysis shows that capacity-building is important in enabling parties meet their gender thresholds however, In Australia, LPA initially made progress but later stagnated at 20 percent. In the UK, it may be too early to assess the role of critical actors. This article demonstrates that critical actors in both settings under certain circumstances (subsequent election losses and decentralization of the selection process of the candidates) can push for increased women's participation thereby solving the pressures of conservative ideology. Successful training requires firstly, the availability of critical actors and the need for women's representation more so whenever there have been several election losses.

In a separate article entitled "Mapping Right-Wing Women's Policy Priorities in Latin America", Beall and Barnes (2020) wanted to find out the percentage of rightist women in the electorate, to establish whether rightist women have different priorities from leftist

women and rightist men and lastly whether rightist women representatives push for policy priorities that are unique or similar to rightist women voters. Survey data from Latin American Public Opinion Project for citizen data and Parliamentary Elites of Latin America for elite data was used for 13 Latin American countries. Although there were more right wing women in the electorate, they were fewer in the legislature despite the presence of legislative gender quotas. The findings also point to the fact that right wing women have different priorities from right wing men and left wing women in that they prioritized social problems and the economy as opposed to corruption, domestic politics and infrastructure which were prioritized by right wing men. However, there is an ideological gap between the elites in that leftist elites underscore economy issues as compared to their rightist elite counterparts.

#### ***2.4.3.2 Gender Quota thresholds are not considered seriously***

Gender quota thresholds have in some instances not been given the weight they deserve. This is with specific reference to the gender quota candidates. Several scholars have alluded to the same as presented below:

Sharan and Wimpelmann (2014) argue that gender quota thresholds are considered an important entry point for women who wish to join politics. In their study in Afghanistan, they found that 27 percent of seats in Parliament, 50 percent of presidential appointments and 20 percent of Provincial Councils are all reserved for women. They also discovered that although the percentage of women has continued to increase over the years, there

have been several drawbacks for example women constantly grumble for being relegated to “women issues” whereas the men are left to handle more serious issues such as defense, security and economy which are considered male domains (Sharan and Wimpelmann, 2014). Sometimes women also serve as protégées for the male leaders. This finding agrees with Kerevel and Atkeson (2015) study on stereotypes and how they affect female political leaders in Mexico. Besides, they are regarded as quota candidates and therefore not taken seriously. Gender quotas have the ability of influencing more women to participate in politics with time.

White and Mariani (2015) in their study of quotas in Ireland found that there are mixed signals on how gender quotas are perceived. On one hand, the quotas encourage more women to join politics after observing those that have served before in different capacities. On the other hand, political parties implement the legislation with an aim of not missing out on state funding. The political parties may give women more opportunities in local offices although the quota law does not apply to the local elections. They further posit that men sometimes use the women as “sacrificial lambs” by positioning them for posts that they are not likely to win because they are inexperienced or underfunded. In a nutshell, as to whether quota laws lead to an increased number of women is dependent on whether the political elites recruit highly qualified women or inexperienced women who stand little chance of winning.

Indeed, women who get opportunities through quota thresholds are sometimes viewed as tokens and are thereby not taken seriously (Gilardi, 2015; Clayton et al, 2014; Dahlerup and Freidenvall, 2010). However, in Ireland the legislation only applies to the national government as opposed to the local government. Therefore this study offers a great opportunity to cross-examine the implementation of quotas at the County level.

Toraasen (2016) did a study on gender parity and the symbolic representation of women in Senegal. The aim was to answer the questions why and how the parity legislation was adopted and how the parity law affects women's symbolic representation in Senegal before and after the law came into effect. The author uses the case-study method to collect data from Parliamentarians and survey for other political elites outside Parliament. Toraasen found that the use of the word 'parity' as opposed to 'quotas' was helpful in passing the legislation as the use of the word quotas is considered controversial.

Secondly, the international community considers countries that have quotas to be 'modern' and this determines whether a country qualifies for donor funding. This too contributed to the passing of this legislation, together with presidential support for the same and lobbying from a women's movement. Among the ordinary citizens, men supported male candidates while women supported female candidates. This means that the symbolic representation of women had polarizing views depending on the gender. This is because for men, more women in leadership meant fewer opportunities for them

while for women parity meant more political space for them (Toraasen, 2016). Although this study was limited to the National Assembly, the author acknowledges:

Moreover, it is not unlikely that women's presence on different political levels matters for symbolic outcomes. For instance, women in local legislature bodies are perhaps closer to the people, which may influence perceptions in the local community. On the other side, women in government positions are more frequently portrayed in the media, which may contribute in changing people's perceptions of the political sphere (p.101).

This study therefore concentrated on women and men in the County Government where leaders are closer to the people and the populace is in a better position of calling them to accountability. However, perspectives were also drawn from other stakeholders.

#### ***2.4.3.2 Gender Quota thresholds have a role model effect***

Liu (2018) did a study entitled "Are Female Political Leaders Role Models? Lessons from Asia". In this study, she tested whether an increase in the number of women in the national legislature correlated to an increase in political activity among women in East and South East Asia. Data was drawn from the Asian Barometer Survey of 2010 which specifically focused on the following countries: China, Cambodia, Indonesia, Hong Kong, Republic of Korea, Japan, Mongolia, Malaysia, Singapore, Phillipines, Thailand, Vietnam and Taiwan. The finding was that there was no correlation between women's increased presence and their political engagement. This was associated with gender norms which affect their symbolic representation. The author argues that women's political participation as reflected through their representation may not be generalized across contexts.

Gilardi (2015) studied the temporal importance of role models in political representation in 1500 municipalities in Switzerland in the canton of Zurich between 1970 and 2010 in a bid to see how gender quotas diffuse overtime. The author acknowledges that there are two sides to women's representation such as the supply side of women and the demand side of political gate keepers but chooses to concentrate on the supply side. The author finds that more women run for elections in the municipalities if the previous electoral period there were more women elected. However, overtime the influence of role models decreases as people feel that it is no longer necessary to have more women on board.

In a nutshell, descriptive representation leads to other spillover effects such as the role model effect thus pushing political parties to include more women in their lists. Seemingly, the extent to which role models help to push women's representation is dependent on the perceptions of the public and other political actors. This study is important as it brings out perspectives of the public and besides it is also based on local governance as it looks at municipalities. Gilardi's work concurs with White and Mariani (2015) research on the role model effect in Ireland however perceptions or perspectives differ in different cultural and political contexts.

Beauregard (2017) did a study on the role model effect of gender quotas based on citizen opinions in Australia during the 2016 elections. She found that men as compared to women were not likely to support gender quotas because they felt that Australia had already achieved the equality goals and therefore it was not necessary to support policies that would push for more women representation. Women had the opposite views.



Besides, soft and voluntary quotas are preferred as opposed to party quotas and legislative quotas between both men and women. Australia has about 28.7 percent women in the legislature (Beauregard, 2017).

Using the elite cue theory, Beauregard explains that, political parties send important cues to the public on whether gender quotas are necessary or not. These cues affect men's perception of gender equality more than the women because the women already have established views about gender equality. Although this is a very recent study that reflects on Australia's 2016 elections, it only looks at women's representation at the national level. This is a quantitative study with results that are largely mixed when comparing the findings between men and women. This is a clear indication that there are contextual factors at work and therefore empirical findings depict contextual differences.

#### ***2.4.3.3 Gender Quota thresholds do not necessarily mean favourable policy outcomes***

Bouka et al (2019) did a study designed to establish the enablers and barriers to women's inclusion at different levels of government. The study was conducted in Nairobi, Nyandarua, Kilifi and Kisumu Counties between the year 2016 and 2017. A total of 24 focus groups and 86 interviews were done with men and women in politics and those working for NGOs involved in gender empowerment. This research found that there are mainly four issues that affect women's inclusion in governance. These are: patriarchy in political parties, the cost implications for political campaigns, gender and social norms that portray women as inferior to men and gender violence during the campaign period.

Berry et al (2020) elaborates further that women face physical, verbal and psychological violence which also includes “semiotic violence”.

The above study is relevant to this study as it looks at women’s political inclusion at the County level however, this study is unique in the sense that the people interviewed include those working in the County Government and County Assembly who are the implementers; besides men and women in the grassroots who constitute the voters and other stakeholders in NGOs and Civil Society Organizations involved in women’s progression. This provided a good platform to gather views from different stakeholders.

Dena (2012) looked at gender quota legislation in Kenya but largely using multiple secondary data. She made use of the theory of representative bureaucracy to show how marginalized groups can be integrated in the political and administrative structures. In addition, she also used the concept of agenda setting in examining the policy-making process prior to the enactment of the gender quota legislation. Dena argued that Kenya has a weak accountability and democratic structure. Therefore, even with the gender quota legislation in place, Kenya will continue to face deep cultural, political and ideological barriers in the implementation of this legislation. However she also cautions that achieving a critical mass does not guarantee favourable policy outcomes for women which agrees with what other scholars have found out (White and Mariana, 2015; Mejere, 2012).

Braga and Scervini (2015) carried out a study in municipal Italy to establish whether there is a causal relationship between women in public office and the policy outcomes. Three major outcomes were examined i.e. fertility rate, internal migration rate and the size of the Municipal Executive to check for efficiency in the public administration. Using an econometric model, the results showed that women have a leaner executive as they are keen on cutting costs associated with allowances and Municipalities headed by women have a higher fertility rate as compared to those that are not because they are likely to implement policies that favor reproductive choices of fellow women only if they are in large numbers. However, gender does not affect the internal migration rate. This means that policies on the attractiveness of a local area are not hinged on gender. Since Italy is divided into Regions, Provinces and Municipalities in that order, this paper was relevant to this study because it looked at the effect of quotas at the local level.

Braga and Scervini's study largely agrees with other research which found that gender quotas are likely to promote women friendly policies (Piscopo, 2015; Dena, 2012; Pande and Ford, 2011). However, other studies have shown that women are left to handle women's issues only while other serious dockets are given to men (Sharan and Wimpelmann, 2014; Kerevel and Atkeson, 2015). Nonetheless, my study was qualitative in nature and helped to elucidate on perspectives on the gender quota legislation in Kenya.

#### ***2.4.3.4 The effectiveness of gender quotas changes over time.***

Folke et al (2016) makes use of panel data from twelve countries to show that women who have come from a dynasty are more likely to be elected as compared to their male counterparts especially in cases where the electorate may not have so much information concerning those who are vying. This implies that reputations are handed down through various generations. Secondly they developed a model to test this bias in Sweden which is party-centered and Ireland which is candidate centered thereby representing two different institutional backgrounds. The results similarly show that both senior and junior women who are “dynastic” stand a better chance of being elected as compared to men who are “dynastic”.

The prediction that the dynastic women are likely to be more educated than the men is proved right in both cases while the prediction that dynastic men and women have lower qualifications than their non-dynastic counterparts is proved wrong. The study also shows that quotas increase women’s representation for a short while i.e for two terms thereafter the people get back to the status quo. This agrees with Beauregard (2017) study on Australia. This research is relevant as it looks at different countries over a number of years in relation to dynasties and gender quotas. Never the less there still lacks qualitative studies on this topic and this is the gap that the researcher sought to fill.

Paxton and Hughes (2015) examined quota effects in 145 countries between 1990 and 2010 for every five years that elections are held using the Latent Growth Curve Models. This was a longitudinal study that showed that the effectiveness of quotas increases over

time as a result of increasing quota thresholds, the use of placement mandates and the use of sanctions for parties that do not comply. Party elites are also increasingly accepting that gender equity is the norm. The authors also find that between candidate quotas and reserved seat quotas, the latter does well in any period of time as compared to candidate quotas that were ineffective in the earlier years and only did better when compared to countries without quotas and that reserved seats produce twice as much candidates as the candidate quotas. All in all, placement mandates make quotas more effective as compared to having sanctions on their own. This research looked at effectiveness of quotas based on the quota threshold and the percentage of women elected over time i.e descriptive representation as opposed to substantive representation.

In addition, it only looked at the national legislatures. This study agrees with other studies that show that quotas lead to an increase in descriptive representation (Maciej and Pierzgalski, 2021; Pande and Ford, 2011; Krook, 2013; Dahlerup and Freidenvall, 2010). However, there are other studies that show that achieving descriptive representation does not necessarily lead to substantive representation (Dena, 2012; White and Mariana, 2015). Despite the useful insights on gender quota implementation, this research lacks the element of substantive representation and therefore the need to look at perspectives on implementation based on County Governments.

#### ***2.4.3.5 Gender Quota thresholds are associated with stereotypes***

Murray (2014) begins by stating that gender quota legislations are in most cases stated in a gender neutral way but targets women's underrepresentation thereby implying that men are the 'norm' and framing women as the 'other'. He argues that the focus should shift from the underrepresentation of women to overrepresentation of men so that men can justify their overrepresentation while women can also explain their underrepresentation based on their qualifications and skills and therefore notions of meritocracy are challenged. He further argues that gender quotas need to be reconceptualized in order to deal with the issue of reducing the overrepresentation of men by putting a ceiling as opposed to changing the underrepresentation of women.

A quota for men would ensure that the men selected are the most qualified even though in some incidences men are voted in on the basis of patronage. Therefore, shifting the quotas from women to men offers three major benefits namely: firstly, the burden of proving competence is shifted from the women to the men; secondly there is need to rethink the criteria for identifying a good representative which should be based on being able to connect with the needs of the people and lastly the need to examine the symbolic and substantive needs of men which has not been considered in previous researches carried out as men's needs are not homogenous.

This study is valuable as it shifts its focus from women to men and argues that the gender quota thresholds should focus on men and not women. The Kenyan quota legislation is

gender-neutral and in the constitution Article 197 (1) states that not more than two-thirds of the County Executive and County Assembly shall be from the same gender. This legislation puts a ceiling on how far both groups can go but currently as earlier stated, the representation of women in Kenya is still low. Nevertheless, the Kenyan scenario was worth studying especially as it relates to people's views.

Kerevel and Atkenson (2015) examined whether the presence of a female mayor alters gender stereotypes using data from Mexico based on Americas Barometer Survey. It was found that men support having a male mayor and only support a female mayor when the current mayor is a woman. Once her tenure is over, there is no support for a woman. On the other hand, the women support women candidates whether there is a woman mayor or not. The authors also found that nonpartisanship and increased religiosity were associated with reduced gender stereotypes associated with female candidates. The authors suggest that future studies should focus on how gender quotas can be implemented at the local level specifically mayoral contests. This thesis sought to fill this gap by looking at perspectives of the gender quota threshold at the County Government level. Previous studies have concentrated on women's symbolic representation and the results have been mixed (Toraasen, 2016). This research was important to this study because people's perspectives may be influenced by gender stereotypes.

My study sought to unearth views from staff in the gender docket in the County and all other officers who are involved with the implementation of the gender quotas because they had first-hand information on the adoption and implementation of the gender quota

threshold in Kenya. Thereafter, Focus Group Discussions were done with the MCAs in the Gender Committee and other relevant stakeholders from both Counties.

#### ***2.4.3.6 Implementation of Quotas may be tied to Foreign Aid***

Edgell (2017) did an analysis of 173 non-OECD countries from 1974 to 2012 to explore on whether there is a relationship between gender quota adoption more so legislative quotas and foreign aid. The author uses historical logistic event models to test policy adoption. Attention was given to two causal mechanisms: Firstly, countries could adopt gender quotas in order to signal the international community that they are compliant thereby reaping foreign aid. Secondly, countries could implement quotas as a result of foreign aid given for purposes of women empowerment. The results show that indeed, countries that were dependent on foreign aid from the US were more likely to adopt gender quotas to signal compliance and improve their reputation. In addition, the study also shows that the Organization for Economic Co-operation and Development (OECD) and Development Assistance Committee (DAC) interventions for women empowerment were useful in encouraging countries to adopt gender quotas.

However, this does not portray a genuine advancement towards democratization. Kenya's reform of the constitution is mainly described as being homegrown with external support from the international donors, mainly coming in the form of funding for training for the women's movement (Domingo et al, 2016).



#### ***2.4.3.7 Arguments for and Against Gender Quota Reforms***

Debates on gender quotas have attracted both opponents and proponents. This is because the effect of quotas depends on the context. In this section, the researcher looks at pro and anti-quota debates. Supporters of this legislation argue that:-

Firstly quotas lead to more equitable representation of women in leadership positions (Pande and Ford, 2011; Krook, 2013; Krook et al, 2006; Dahlerup and Freidenvall, 2010). Besides, women have a right to equal representation as citizens and their experiences are essential in political circles (Mejere, 2012).

Secondly, research also shows that quotas improve women's substantive representation by improving women's policy interests as implemented policies reflect the policy makers' interests (Piscopo,2015; Clayton et al, 2014; Dena, 2012; Pande and Ford, 2011) and encourage their male counterparts to support and approve legislations that are of significance to women (Childs and Krook, 2008).

Thirdly, quotas increase efficiency through overcoming discrimination in the short term and changing attitudes and social norms in the long term ( Pande and Ford, 2011).

In addition, quotas produce positive externalities. Firstly, female leaders will serve as role models to the other aspiring women and secondly women will be able to overcome self-imposed stereotypes (Pande and Ford, 2011; White and Mariana, 2015; Gilardi, 2015).

Research has also shown that increasing the number of women in Parliament leads to decreasing levels of corruption as the women are viewed as outsiders and therefore may not have the necessary connections for getting involved in corruption and crime (Kerevel and Atkeson, 2015; Morgan and Buice,, 2013). However, others argue that women are not the panacea for corruption in politics. The issue is that they have been previously excluded from these deals and with time as their numbers increase they will equally engage in corruption (Cornwall et al, 2008).

Gender quotas can also contribute to reducing the number of mediocre men and increasing competence by electing the right women. This was evident in a research done in Sweden (Besley et al, 2013). On the other hand, opponents of the gender quotas argue that:

Firstly, being elected on the basis of quotas could be counterproductive for women empowerment as it could lead to tokenism thereby enhancing patronage politics (Dahlerup and Freidenvall, 2010; White and Mariana, 2015). Besides, quotas may not instantly change the patriarchal attitudes that are deeply entrenched and enhance gender inequality (Piscopo, 2015). This is because these attitudes that are based on culture may take time before they can change.

Secondly, quotas are an ‘artificial’ mechanism of dealing with women’s underrepresentation in governance and violates the right of voters to elect their preferred candidate (Dahlerup and Freidenvall, 2010). This is a negative externality that causes

attitudes to worsen when voters are being forced to select a female candidate and they feel that their choices are being restricted. This may lead to a backlash as a result of the perception that quotas are enhancing discrimination and going against social norms (Mejere, 2012).

Thirdly, quota provisions produce a glass ceiling which prevents women from being elected and nominated beyond the quota threshold (Dahlerup and Freidenvall, 2010; Krook, 2013). For example in Niger, the gender quota legislation is divided into two whereby, one part states that the minimum requirement for appointment of women is 25 percent but for election of women the minimum requirement is 10 percent. Nonetheless, political parties interpret this as a threshold to be fulfilled and not a level to be exceeded and this constitutes one of the major defects of this legislation that was enacted in the year 2000 (Kang, 2013).

Quota provisions also crowd out other marginalized ethnic or socioeconomic groups. This is because by reserving certain seats for women, there will be fewer positions for candidates for other groups that are underrepresented (Pande and Ford, 2011).

It may also infringe on the principle of merit by bringing on board women who are inexperienced thereby impacting on their performance (Besley et al, 2013; Pande and Ford, 2011; Dahlerup and Freidenvall, 2010; Krook, 2013). It is argued that these women are elected to office on the basis of their sex rather than other tangible qualities and therefore they don't have to battle so hard like their male counterparts (Murray, 2014).

In conclusion, gender quota thresholds are perceived differently in different contexts. In Latin America, women are perceived as being politically pure, immune to corruption and unpolluted by partisan infighting (Baldez, 2006).

The literature reviewed shows that there are multiple meanings in as far as perspectives on gender quota thresholds are concerned. There are no uniform answers but the discussions point to the different dynamics at work. This study did not capture all the dynamics but looked at a “slice” of the dynamics based on key stakeholders.

#### **2.4.4 Previous research on implementation of gender quota thresholds**

Literature on gender quota thresholds shows implementation of quotas is based on minimum thresholds, placement mandates, enforcement mechanisms and actual adherence (Edgell, 2017). However, there are mainly three types of gender quotas used across different countries. They include: the voluntary party quotas and legislative quotas which set a minimum share of women that need to be included in the candidate lists as legislation or imbibed in the political party statutes; and reserved seats which control the women elected in terms of their numbers.

##### ***2.4.4.1 Voluntary party Quota***

These were adopted in the early 1970s by a few social democratic and socialist parties in Western Europe. In Africa, South Africa and Mozambique have adopted voluntary gender quotas (Nzomo, 2012). In other parts of the world, Finland, Denmark, Iceland,

Germany, Norway and Spain have voluntary quotas at the level of the parties. Other countries include Slovakia, Netherlands, Austria, Czech Republic and Sweden which do not have legislative quotas ([www.idea.int/data-tools/data/gender-quotas](http://www.idea.int/data-tools/data/gender-quotas))

#### ***2.4.4.2 Legislative Quotas***

These are quotas that require political parties to prescribe a minimum proportion of each gender number of women as their candidates through electoral law or through the constitution (Maciej and Pierzgalski, 2021; Chen, 2010). Examples of countries that have adopted legislative quotas include Uganda, Kenya, Angola, Nepal, Bangladesh, Iraq, Bosnia and Argentina amongst others. Kenya, as earlier discussed in chapter one, has several provisions in the constitution that are meant to ensure that there is representation by both genders in both appointive and elective posts. These include articles 81(b), 175 (c) and 197 (1) amongst others all presented in the Constitution of Kenya. In the County Government Act we have Article 35 (2) amongst others. Quotas are enhanced by placement mandates such as the “zipper method” which demands that the candidate list alternates between males and females. Empirical evidence shows that left-wing parties are more women friendly as compared to right-wing parties that are mainly dominated by males (Heyndels & Kuehnhanss, 2020).

#### ***2.4.4.3 Reserved seats***

These are provisions in the constitution that set aside a number of positions for women among the elected representatives and are used as a direct way of regulating the number

of women in elected positions. This means that men cannot contest for these seats. They are usually established through constitutional amendments or presidential decrees (Chen, 2010; Pande et. al, 2011). They are normally adopted for several reasons such as post conflict reconstruction (Powley, 2003), build alliances with coalition partners (Chowdhury, 2002), gaining national or international legitimacy for an existing regime or a new one (Goetz, 2007; Meena, 2003) amongst others. For example in Kenya, 47 seats each representing a County have been set aside for Women Representatives. Rwanda has pursued legislative quotas, party quotas and reserved seats simultaneously (Burnet, 2012). Although reserved seats are often fully implemented, they create a ceiling for women whereby seats not reserved for women are assumed to be reserved for men thereby making it difficult for women to penetrate other electoral posts (Dahlerup and Freidenvall, 2010; Kang, 2013; Krook, 2013; Tamale, 2003).

Previous research on adoption and implementation of quota thresholds gives mixed findings depending on the context, timing, actors and the strategies.

#### **2.4.5 Review of research on the barriers to successful implementation of gender quota thresholds.**

Different scholars have examined the challenges of gender quota thresholds implementation in different countries. In this part, the researcher looked at challenges experienced.

The effect of gender quota thresholds is dependent on various factors which may result to gaps between the percentage specified in the quota and the women actually elected (Hughes et.al, 2019). Firstly, the electoral system in place may promote or hinder gender quota implementation (Htun and Jones, 2002; Schmidt and Saunders, 2004). Secondly, the wording is also very important in as far as whether it is gender neutral or not (Baldez, 2004; Htun, 2002). For example, the Kenyan legislation on gender quotas is gender neutral as it states that:

*The County Assembly shall not approve nominations for appointment to the Executive Committee that do not take into account not more than two thirds of either gender (County Government Act 2012, 35 (2))*

The requirements to be met are also important together with the sanctions in place to ensure those who do not implement are dealt with accordingly (Jones, 2008; Murray, 2004). Another important factor is whether people perceive the gender quota to be legitimate or not. This will affect the adoption, implementation and the impact it will have on the populace (Russell, 2000; Lepnard, 2006).

Consequently, some quotas have led to a dramatic increase in the number of women elected (Dahlerup and Freidenvall, 2005; Krook, 2005; Jones, 2004), others register little change (Murray, 2004; Htun and Jones, 2002) or others lead to decreases (Schmidt, 2003; Araujo, 2003).

## 2.5 Rationale for the Study based on Literature Review

As it can be observed, there are consistencies as well as contradictions in the literature reviewed. This literature helped to shape this study in a number of ways:

Firstly, the effectiveness of gender quotas is dependent on a country's political, cultural and institutional context (Franceschet et. al, 2012) as seen in the foregoing discussion.

Secondly, studies that have concentrated on the impact and the effects of gender quotas give mixed conclusions as to whether the quota adoption has the ability to transform women (Dahlerup, 2003; Krook, 2007). This is because quotas work in a different way under dissimilar political cultures, electoral systems and different gender regimes (Dahlerup, 2003). Chen (2010) underscores that:

Fast track to gender equality by mandated legal gender quotas among developing countries has a sound effect on the representation of women in politics, but the increasing level of female legislators in developing countries may not yield an impact on policy outcomes. Therefore, continuous tracking of the data would facilitate investigation of the effect on women in politics on policy outcomes (p.27)

Due to the inconsistency of previous researches carried out, this undoubtedly called for further research in this area.

Thirdly, different authors use different approaches in collecting data. Some used primary data whereas others used secondary data. Others used qualitative while others used the quantitative approach. This has implications on the data collected. For example, Braga and Scervini (2015) did a quantitative study that sought to find the causal relationship between women in public office and the policies implemented. The causal assessments



are important however, there are in-depth responses that one cannot get in a survey as it would require a qualitative approach. Gilardi (2015), Dena (2012) and Krook (2016) relied on secondary data which helps to distill trends over time.

This study sought to examine perspectives on implementation of the gender quota threshold that was first implemented in Kenya in the year 2013 when the first County Governments came into existence. Issues such as perspectives are best assessed in a qualitative study where one is able to scrutinize other issues that may not be captured in a quantitative study. This presents an area that has been under analyzed in research carried out. Using a qualitative approach, this study filled this lacuna by examining quota trajectories in a country that adopted the gender quota threshold legislation in the year 2010. It's important to note that people's attitudes and perceptions keep changing overtime as indicated by the literature reviewed.

The literature reviewed helped to illustrate that there are multiple gaps to be filled. Consequently, literature acknowledges that gender quotas are a means to gender equality and not an end in itself. This study set out to extract the perspectives on the gender quota threshold in the proposed Counties. The literature also assisted in preparing the research instruments that were used to collect data.

## **2.6 Summary**

In this chapter, the literature review was presented and discussed at length. The next chapter looks into the research methodology.

**Table 2.1 Summary of Main Issues discussed in Chapter Two**

- This study is situated in the field of Development Studies, discipline of Gender and Development Studies and in the subject of Gender and governance.
- The Theory of Political Representation and the Empowerment Approach have been used in this study as an orienting lense to the questions.
- There are different forms of Quotas and these include: voluntary party quotas, legislative quotas and reserved seats.
- The effectiveness of gender quotas is dependent on the political regime, cultural and institutional context together with time as perspectives change overtime.
-

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### 3.1 Introduction

In this chapter, the philosophical paradigm on which the study is anchored, the research approach and methods used, the sampling techniques, data generation techniques, trustworthiness, ethical considerations and finally the conclusion are presented. This study adopted a relativist-constructivist research paradigm, qualitative approach and a comparative research design as described below in details.

#### 3.2 Philosophical Paradigm

According to Mugenda and Mugenda (2012), a paradigm represents a system through which realities are viewed based on established beliefs, values, assumptions and ideas.

Patton (2015) states that:

*A paradigm is a worldview- a way of thinking about and making sense of the complexities of the real world....Paradigms tell us what is important, legitimate and reasonable (p.89).*

Ontology refers to the nature of knowledge or reality whereas epistemology refers to the way that knowledge or reality will be studied (Jwan and Ong'ondo, 2011). O'Leary (2011) reiterates that ontology is the understanding or conceptualization of what exists whereas epistemology refers to the guidelines for knowing or having legitimate information concerning the world.

The interpretivist-constructivist epistemology was adopted as the philosophical foundation for the study. This epistemology acknowledges that both the researcher and participants co-construct and interpret reality in their own way. This is therefore hinged on subjectivism (Jwan and Ong'ondo, 2011). This is the philosophical underpinning that was used as it was the most appropriate for this study which aimed at looking at perspectives on the gender quota threshold from different stakeholders who presented multiple realities. In addition, it was necessary to make use of Interpretivism-constructivism epistemological paradigm because the study sought to engage in a dialectical process that would create a better understanding of views related to the gender quota threshold. The data was created as the investigation progressed. Two different Counties were being studied and the contexts were different. The two generated both similar and different insights in some instances as the participants were studied in light of their contextual milieu.

### **3.3 Research Approach**

The research approach to the inquiry that was adopted in this study was the qualitative approach. This approach is keen on understanding and exploring meanings that respondents attach to a human or social problem (Cresswell, 2014). As Patton (2015) puts it, qualitative approach helps to show how people construct and find meaning or attach meaning to a certain phenomenon. Patton (2015) further elaborates that: “ The first contribution of qualitative inquiry, then, is illuminating meanings and how humans engage in meaning making-in essence, making sense of the world” (p.6).

Walliman (2011) also asserts that the qualitative approach takes into cognizance the subjective emotions and human feelings that are difficult to quantify. Lichtman (2014) amplifies that:

*The main purpose of qualitative research is to provide an in-depth description and understanding of the human experience. It is about humans. The purpose of qualitative research is to describe, understand and interpret human phenomena, human interaction or human discourse (p.38).*

The qualitative approach was the most appropriate for this study because one is able to get emic perspectives on the gender quota threshold legislation and get to understand how people make sense of this legislation, in terms of how it is being implemented and the barriers to successful implementation in a subjective environment (Savin-Baden and Major, 2013). This involved capturing people's stories and experiences in an in-depth but contextually sensitive way in as far as gender quota thresholds are concerned.

The main reasons for adopting a qualitative approach was the fact that firstly, qualitative analysis helps in finding unanticipated consequences in a change process (Patton, 2015). This was important for this study because from the perspectives elucidated, the researcher was able to extract unintentional costs of the gender quota threshold. Secondly, the interviewing process is also dynamic whereby the questions are unstructured and one can explore fresh areas and the protocol and process of identifying participants can always be amended and the plan may also be modified (Lichtman, 2014). Thirdly, qualitative research occurs in a natural setting for example in this case this was done at the County Governments where the policy was being implemented. In addition, it involved an in-depth study of a phenomenon meaning that the number of participants was not precarious

but rather the nature and degree to which the issue, such as gender quota thresholds was explored.

In a nutshell, a qualitative approach was adopted because of the need to bring out the underlying outlooks on the gender quota policy that have not been captured in previous related studies. The use of a few participants allowed for in-depth information as perceived from their worldviews. This study was more concerned with depth of information collected and sought to capture life experiences from the men and women working in the County Assembly, County Government and other key stakeholders.

### **3.4 Research Design**

This study adopted a comparative research design. A comparative study entails “studying two contrasting cases using more or less identical methods” (Bryman, 2012:72). The essence is to compare a phenomena in two or more cases and these can either be organizations, communities or nations. A comparative study can be done in both quantitative and qualitative studies. As Bryman (2012) further explains:

The key to comparative design is its ability to allow the distinguishing characteristics of two or more cases to act as a springboard for theoretical reflections about contrasting findings. It is something of a hybrid, in that in quantitative research it is frequently an extension of a cross-sectional design and in qualitative research it is frequently an extension of a case study design (p.75).

The comparative research design was more appropriate for this study as the researcher was looking at gender quotas in relation to two differing counties that is, Makueni and

Elgeyo-Marakwet. This design is important for examining causal mechanisms in contrasting contexts (Bryman, 2012).

### **3.5 Sampling**

Qualitative research is mainly associated with purposive sampling which represents a non-probability sampling whereby the researcher selects participants based on their relevance in regard to the research questions being asked (Bryman, 2012).

There are different types of purposive sampling strategies that were used in this study. For example, the Counties were sampled based on criterion sampling. The criterion was the Counties that had re-elected their Governors and out of those that had re-elected, Makueni and Elgeyo-Marakwet were sampled. In addition, sequential and emergence driven sampling strategy was used whereby new directions emerge as one collects data (Patton, 2015). For example, the clerk assistant who was not initially sampled was interviewed. Therefore there was need for flexibility. Opportunity sampling was also used when for example the researcher got an opportunity to interview the former Women's Representative of one of these Counties. Specific details on how each participant was sampled are given under the section on selection of participants.

### 3.5.1 Research Site

The research site represents the place or space where the study took place (Savin-Baden and Major, 2013). One can either have a single or multiple sites. Kenya has 47 Counties in total. This study was conducted in two Counties in Kenya i.e. Elgeyo- Marakwet and Makueni Counties which were purposively selected using criterion sampling. Criterion sampling refers to a form of purposive sampling whereby selection of cases is hinged on using a certain criterion (Given, 2008).

For this study, the criterion was Counties that had the Governor re-elected because this meant that they may not have had major changes in the officers that were previously appointed to work in the County such as the chief officers because they are employed on contract and based on their performance in the previous government, their contracts may or may not be renewed. These two Counties were selected based on their differences in the number of women elected and appointed as MCAs and those appointed as CECs. The two Counties were also easily accessible to the researcher who had access to gatekeepers. There were two main gatekeepers i.e one female for one county and male for the other county. However, the female gatekeeper eventually led the researcher to a male one. In addition, the two Counties have different cultural perspectives when it comes to gender issues in governance. The advantage of having multiple sites is that one can make comparisons and that the researcher has a wider exposure to the topic (Savin-Baden and Major, 2013).



More specifically, In Makueni County, the offices and the County Assembly are situated adjacent to each other on Unoa Road, off Wote-Makindu Road, opposite Wote Technical Training College. The distance from Nairobi to Wote is 133.5 Kilometres going through Machakos-Wote road. Through Mombasa road the distance is slightly longer and is about 141.4 Kilometres.

On the other hand, In Elgeyo-Marakwet County, Iten is the County headquarters. It is located 335 kilometers from the capital City of Nairobi. The offices are situated in the former Sandrep Building in Iten town. The County Assembly is opposite the County offices and some participants being interviewed were situated in the above two stations while other key stakeholders were within the County.

The Focus Group Discussion (FGD) for the Gender committee in Makueni was carried out in their meeting chambers where they have a meeting every Wednesday morning. On one Wednesday morning they invited me to the room which was silent and conducive for the interview. The other two FGDs, i.e. one women's group and one men's group, these were carried out at a common venue where they were holding their weekly meeting at the sub-county level. The timing for carrying out the FGD is very important as both men and women have different gender roles and therefore the timing had to be convenient for both groups. The group leader had requested the researcher to attend one of their meetings and then interview them once the meeting was over. In Elgeyo Marakwet, the Gender Committee was interviewed in a Hotel where they were having a meeting but they spared

some time for the FGD once their meeting was over. The Council of Elders were interviewed in a hall adjacent to the County offices that was the most convenient to use. The other interviewees' such as the former Women Representative and all other stakeholders were all interviewed from their respective offices.

### **3.5.2 Target Population**

This represents the group from which the sample was drawn. The target population in this study consisted of all the men and women working at the County Government and Members of County Assembly of the two selected Counties. The Chief Executive Committee members (CEC) and the Chief Officers are appointees of the Governor. However, they apply for these positions then they are interviewed by the County Public Service Board and their names are forwarded to the Governor, based on merit, for the Governor to appoint based on the gender quota thresholds found in the Constitution and the County Government Act, 2012. The secretary of the County Public Service Board is also appointed by the Governor but vetted by the County Assembly before assuming office (County Government Act, 2012).

On the other hand, the MCAs are nominated through their political parties, and then they later vie for this post during the elections. Before the elections, political parties are given an opportunity to nominate either men or women just in case the gender principle is not met during the elections. Therefore these groups were specifically selected because they are the people who witness how the legislation is being implemented at the County

Government level and some of them have been beneficiaries of this legislation by virtue of being appointed. This is because “only the wearer knows where the shoe pinches”.

The target population in Makueni County consisted of 48 MCAs, and 9 CEC members and about 1400 County Public Officers who are spread out to the ward level giving a total of 1,457. In Elgeyo Marakwet County, there were 33 MCAs and 10 CEC members and the total number of employees was 2,400. The total research population was therefore 3,857 for both Counties. There are mainly three reasons that the researcher was given as to why the numbers are large: Firstly, several Local Authorities were merged together and this resulted to a huge number of employees. Secondly, there are staff who came to work in the County Government after being seconded by the National Government. Lastly, there were people who were hired as provided by the Constitution. These include County Executive Committee Member, Chief Officers, ward and village administrators and ECD teachers amongst others. For example in one of the Counties visited, there were on average about 800 ECD teachers.

The CEC Members and the MCAs were useful in giving their perspectives from an elites point of view based on their experience having worked in the County Governments. The other County Public Officers also gave valuable acumens based on their roles and responsibilities in the County. To get perspectives from other stakeholders, there were 2 Focus Group Discussions in Elgeyo Marakwet and 3 in Makueni County giving a total of 5 groups. These men and women were drawn from the different sub-counties. One Focus Group Discussion from each County consisted of the MCAs who are in the Gender

Committee in the County Assembly. The process used to select the participants is discussed below.

### **3.5.3 Selection of Participants**

In this study, purposive sampling was used. This can also be described as having the researcher selecting participants based on his/her own judgment with a specific goal in mind (Neuman, 2007). Out of a target population of 3857, criterion sampling was used to purposively select the Chief Officer in the Gender, Youth, Sports and Social Services Ministry who is an equivalent of the principal secretary and is the accounting officer in that docket and the Director of Gender who heads the gender docket (County Government Act, 2012) although there are other Directors who head the Sports, Youth and Social Services. Although the CEC for Gender, Youth, Sports and Social Services had been sampled, both were not available for interviews and frequent follow-ups thereafter did not bear fruit. The criterion used was the fact that the people selected deal with gender issues at the County.

In addition, the secretaries to the County Public Service Boards for both Counties were also interviewed. The County Public Service Board is in charge of hiring people to the County and therefore is charged with the responsibility of ensuring that the gender quota legislation is implemented. The criterion used to sample the secretary was the fact that he/she is the one who works closely with the Chairman and is conversant with how gender quotas are executed and therefore was best suited to address the research

questions. The secretaries were also the ones available for the interview. In both counties, using criterion sampling, the Gender Committees were purposively selected because they have more expertise in the area of gender quotas and they have more influence in that field.

As earlier stated, the total sample size was 53 participants as explained below. In Elgeyo Marakwet, there were 3 officers from the County Government, 1 Clerk Assistant, 6 MCAs in the Gender Committee in the County Assembly, 1 former Women's Representative, 1 FGD with Council of Elders consisting of 4 men and interviews done with 6 stakeholders. In Makueni County, there were 3 officers from the County Government, 6 MCAs from the Gender Committee, 2 FGDS (one women's and men's group) consisting of 6 members and 8 members respectively. In addition, 9 key informant interviews with people in different capacities in Nairobi were done giving a total sample size of 53 participants. There was need to capture views from other stakeholders in order to get a balanced view.

The question of 'how many' in qualitative research is dependent on several factors. According to Ritchie (2014), if data is properly analyzed, it will come to a point where increasing additional units will no longer add new evidence. Secondly, the concern of qualitative research is not coming up with estimates or statistically significant variables therefore a small sample size is adequate. Thirdly, a sample size in qualitative data needs to be kept small because data generated is rich in detail and therefore a big sample may

not allow for a proper analysis. Lastly, qualitative research can be highly intensive therefore it would take years to analyze a huge sample.

The total sample size was 53 participants who were adequate in enabling the researcher get to a point of data saturation. Patton (2015) highlights that:

There are no rules for sample size in qualitative inquiry. Sample size depends on what you want to know, the purpose of the inquiry, what's at stake, what will be useful, what will have credibility and what can be done with the available time and resources. (p.311).

In addition, there is no agreement between scholars on what an appropriate sample size should be in qualitative research. However, I concur with Bryman (2012) when he states that:

*If saturation is the criterion for sample size, specifying minima or maxima for sample sizes is pointless. Essentially, the criterion for sample size is whatever it takes to achieve saturation (p.426).*

All in all, there is no one –size-fits-all way of reaching data saturation. Other than looking at the sample size, one should ensure that the data is rich in terms of quality and thick in terms of quantity (Fusch and Ness, 2015). This means striking a balance between the depth and breadth of the data.

Below is a table that gives a summary of how the participants were selected and the information that was captured from them

**Table 3.1: Summary of the participants Interviewed**

<b>Participant</b>	<b>Location of Participant</b>	<b>Total Number of Participants</b>	<b>Information Derived</b>
MCAS (FGD)	Makueni County Assembly i.e the Gender Committee	6	1. Views on gender quota threshold 2. Implementation 3. Barriers to successful implementation.
MCAS (FGD)	Elgeyo- Marakwet County Assembly i.e the Gender Committee	6	
Chief officer	Makueni and Elgeyo-Marakwet Counties (Chief officer for gender, youth, sports and social services)	2	
Director of Gender	Makueni and Elgeyo-Marakwet Counties (one per County)	2	
Secretary, County Public Service Board	Makueni and Elgeyo-Marakwet Counties (one per County)	2	
Clerk Assistant	Elgeyo-Marakwet	1	
2 FGDs(1 men group, 1women group) from Makueni County	(Groups were sourced from the Ministry of Gender, Youth, Sports and Social Services	Men's -8 Women's -6 Total-14	
1 FGDs(Council of Elders) in Elgeyo-Marakwet County	(Groups were sourced from the Ministry of Gender, Youth, Sports and Social Services	Men's -4 Total-4	
Former Women Representative	Elgeyo-Marakwet County	1	
Other Stakeholders	Elgeyo-Marakwet County	6	
National Gender and Equality Commission	1 officer	1	
CREAW (NGO)	1 official	1	
CRAWN TRUST	1 official	1	
FIDA	1 lawyer	1	
Katiba Institute	1 officer	1	
IEBC	1 officer	1	
KEWOPA	One member	1	
Wiper Party	1 official	1	
Priest	1	1	
<b>TOTAL</b>		<b>53</b>	

**Source: Author, 2020**

### **3.6 Data Generation Techniques**

Data were generated using interviews, focus group discussions and document analysis. The interviews were conducted with County Public Officers, MCAs and other stakeholders purposively selected in both Elgeyo-Marakwet and Makueni Counties and key stakeholders in Nairobi. These interviews were structured in line with the research questions. In addition, five FGDs in both Counties with differing number of participants were done giving a total of 30 participants and a Focus Group Discussion protocol was used. More information on each of these techniques is provided below. For purposes of triangulating the findings, different data generating tools were used as discussed In the next section below.

#### **3.6.1 Interviews**

Interviews constitute one of the main sources of evidence for a comparative design.

Savin-Baden and Major (2013) define an interview as:

a conversation between two individuals in which the interviewer asks questions and the interviewee responds. The basic subject matter of the research interview is the meaningful perspectives conveyed by the participant. The participant's responsibility is to share something from his or her perspective or experience. The interviewer guides the conversation and strives to understand the participant's views as well as the meaning of what they say (p. 357-358).

Interviews were the most appropriate for this study as they helped to generate in-depth information on the quota threshold in Kenya. Interviews are good because one can probe and get clarifications and be able to balance between the breadth and depth of the



information collected (Marshall and Rossman, 2016). Besides, research questions in qualitative research are flexible and fluid and can evolve, while the focus of research can contract, expand or change as the study develops (Braun et. al, 2015).

In this study, political elites were interviewed these are: the Chief Officer in the Ministry of Gender, Youth, Sports and Social Services, the Director of gender, the Secretary of the County Public Service Board together with the MCAs in the Gender Committees in the County Assemblies and one former Women Representative. The challenge of interviewing elites is usually accessibility since in most cases they have busy schedules and also the issue of creating a rapport. To overcome this challenge, the researcher relied on gatekeepers in the Counties to introduce her to the participants. Elites require thoughtful questioning and the researcher requires a wide knowledge of the topic in order to portray competence and credibility (Marshall and Rossman, 2016; Litchman, 2014). This issue was not a challenge as the researcher had spent considerable time understanding gender quota thresholds and the work environment under which both the MCAs and County Executives and public officers operate so that she could effectively interview them.

The interviews were conducted in the offices of the participants and interruptions were minimized as the researcher had booked an appointment. The setting had to be quiet and peaceful so that the recording could be clear. The participant's individual offices were important because the researcher was able to see how the individual relates to the general setting and the physical surrounding which is important as Lichtman (2014) puts it.

One FGD with MCAs was carried out in the County Assembly Offices whereas the other one was done in a hotel. An interview protocol was used. An interview protocol is simply a guide that one uses during the process of interviewing. It consists of a header, the script, the set of questions and closing (Savin-Baden and Major, 2013). The header gives basic information on the interview location, date and interviewee for purposes of managing data during analysis. The script consisted of basic information on how the interview would be carried out for example informing the participant about the interviewer's intention to use a recorder, seeking their consent and assuring him/her of confidentiality. This was then followed by the set of questions and finally closing remarks which include final comments and appreciation of the participant. A copy of the protocol is attached on the appendix.

The questions in the interview protocol were semi-structured in nature implying that although there were some preset questions, additional questions, reactions and comments would be included in the interview. This is also important as one can follow up some leads and clear up some inconsistencies that may have come up during the interview (Bryman, 2012). As Patton (2015) echoes:

*Questions are beginning points. Don't treat them as written in cement. All aspects of the qualitative inquiry can be emergent, including inquiry questions. Part of the inquiry journey can be discovering new questions (p.254).*

These kind of questions are useful especially when one has limited time as you learn to focus but this must be balanced with being flexible (Patton, 2015). The interviews took on average one hour. Jwan and Ong'ondo, (2011) state that:

Practically, a researcher needs about five to ten minutes to create a rapport with the interviewee, another thirty to forty minutes to go over the main issue(s) and perhaps about ten minutes or so to clarify some matters. In qualitative research, the taste of the interview is in probing. We therefore recommend an interview lasting about one hour would be a reasonable timing (p.71)

The face to face interviews were one off in that the participants were interviewed once however, follow-up interviews were done on phone. The timing for the research was perfect because the contract for the Chief Officers had not expired and therefore they were still in office by the time I got there because they were hired on a 5 year contract from the year 2013. The MCAs had already settled in office together with the CECs and secretary to the County Public Service Board whose contract ends after five years.

The researcher used a digital recorder to record the interviews so that she does not lose out on important information while taking notes and this concurs with Yin (2014) who states that audiotapes provide a more accurate interpretation as compared to note taking. As mentioned earlier, consent of the participant was however sought and he/she was assured of confidentiality.

### **3.6.2 Focus Group Discussions**

A Focus Group comprises of a set of people usually between 5 and 12 who discuss a certain topic while being guided by the researcher or facilitator (Litchman, 2014; Savin-Baden and Major, 2013). An FGD is more advantageous than carrying out a single interview as the participants can stimulate others to react in a way that does not happen when carrying out individual interviews however the main objective is to obtain

participants attitudes or perspectives concerning a certain topic (Litchman, 2014). In addition, interviewees are able to challenge one another should one say something that is inconsistent, the facilitator allows the interviewees to bring out the issues at the fore without too much control and therefore one is able to understand how meanings are constructed within a group (Bryman, 2012). This means that FGDs offer benefits that go beyond carrying out an individual interview because one is able to collect large amounts of material from several people within a short time and even those that would not have been comfortable to take part in an individual interview can do so (Jwan and Ong'ondo, 2011).

A Focus Group Discussion guide was used in two FGDs from each County i.e. 2 men's groups and 1 women's group and 2 FGDs in the County Assemblies. Bryman (2012) argues that: "Obviously, time and resources will be a factor, but there are strong arguments for saying that too many groups will be a waste of time" (p.505). Indeed more groups means that data analysis becomes more complex (Bryman, 2012).

An FGD was the most appropriate for this study because of the need to get perspectives on the gender quota legislation from different people. The main attribute considered when selecting those who would participate in the Focus Group Discussion was having expertise, interest or a background in the area of gender. This is because the topic required that one needed to have had prior knowledge of the legislation and interest in pursuing gender matters generally. Pre-existing groups drawn from the Ministry of

Gender, Youth, Sports and Social Services were interviewed. Bryman (2012) reiterates that:

*Some researchers prefer to exclude people who know each other on the grounds that pre-existing styles of interaction or status differences may contaminate the session. Not all writers accept this rule of thumb. Some prefer to select natural groups whenever possible (p.510).*

The problem of over familiarity between group members was tackled by addressing these assumptions before the discussion began and the researcher also ensured that she looked out for such tendencies while facilitating. In relation to the composition of a focus group, Litchman (2014) states that:

*The key consideration is that participants have experience or expertise in regard to the topic. Again, because you are not trying to generalize in a traditional sense, it is not necessary to make sure that the group represents the population in terms of gender, race, ethnicity, educational level, or other demographic characteristics (p.296).*

For the FGDs, In Makueni County, the pre-existing groups were used and the list of groups was sourced from the Ministry of Gender, Youth, Sports and Social Services. However, only two groups were sampled 1men and 1 women group based on their activities (i.e. in terms of whether they are gender sensitive in their activities) and their availability. The FGDs were carried out after one of the group members' meeting and the environment was conducive and there were no interruptions whatsoever.

However, in Elgeyo-Marakwet County, 1 groups of the Council of Elders was interviewed. These elders are drawn from the sub-counties. These were elders who are former professionals. One was a retired banker, retired air controller, one retired police

officer and a farmer. The elders had been involved in peace-keeping initiatives in the County and had also been closely following up political issues in the County. These four were readily available for the interview and thus when contacted they came. This FGD was carried out in a hall adjacent to the County Government offices which was appropriate and quiet for the same.

Just like in the case of the interviews, the FGD sessions were recorded and transcribed. This is because, in an FGD setting, it is difficult to keep track who says what and how it is said keeping into consideration that there are group dynamics involved (Bryman, 2012). However, the goals, ground rules and reasons for recording were outlined to the participants long before the interview began. The participants were then assured of confidentiality and anonymity. The FGD guide is attached at the end as appendix 5.

### **3.6.3 Document Analysis**

Creswell (2014) states that during the course of a research, the researcher may pick qualitative documents such as minutes of meetings, newspapers, official reports or other personal documents such as emails, personal diaries and journals amongst others. In this study, documents such as minutes of meetings from the County Assembly and County Executive, published books and strategic plans and any other documents that were relevant to the study were picked from the stakeholders and this information was studied and analyzed thematically.

### 3.6.4 Pilot Study

A pilot study was carried out in this research. The pilot was done on four stakeholders within Elgeyo- Marakwet which was purposively sampled based on access and availability of the participants. The main objective was to refine the instruments and to also see which areas the researcher may have left out. According to Yin (2014),

*In general, convenience, access and geographic proximity can be the main criteria for selecting a pilot case or cases. This will allow for a less structured and more prolonged relationship between yourself and the participants that might occur in the “real” cases (p 96-97).*

### 3.7 Data Analysis

Data analysis involves finding patterns in data and giving meaning to those patterns by explaining why they exist (Bernard and Ryan, 2010). Creswell (2013) further states that:

*data analysis in qualitative research consists of preparing and organizing the data (i.e., text data as transcripts, or image data as in photographs) for analysis, then reducing the data into themes through a process of coding and condensing the codes, and finally representing the data in figures, tables, or a discussion (p.180).*

The data were analysed thematically and presented according to research objectives. Analysis of interviews began with transcription. This is the process of changing the recorded information into text (King and Horrocks, 2010). Transcription of the interviews and the tape recorded information both from the participants in the County Governments and the Focus Group Discussions were carried out and common themes were drawn. This

is referred to as thematic analysis. Thematic analysis is the process that involves finding, analyzing and presenting themes found in data (Braun and Clarke, 2006). This was done inductively and it was both at the semantic and latent level. Thematic analysis (TA) was best suited for this study because according to Clarke and Braun (2017):

*TA can be used to identify patterns within and across data in relation to participants' lived experience, views and perspectives, and behavior and practices; 'experiential' research which seeks to understand what participants' think, feel and do (p.297).*

### **3.7.1 Transcribing Data**

Data from each participant was labeled and filed separately. A distinction was made between the data from the interviews and data from the Focus Group Discussions to avoid any form of confusion. This was then followed by the process of transcribing data. This is usually the first step in analyzing qualitative data. It involves transforming verbal and non-verbal data to a written form (Jwan and Ong'ondo, 2011). All the audio-recorded interviews from participants and Focus Group Discussions were meticulously transcribed as other data in form of documents from the field were already in transcript form. After transcription, the transcript was checked against the recording to confirm that everything had been captured and for the sake of anonymization of data. Anonymization in this case refers to ensuring that pseudonyms have been used for the participants and their locations and this is in line with the ethical consideration of anonymity.



### **3.7.2 Re-familiarizing with the data/Pre-coding stage**

In this stage, each transcript was read through for purposes of familiarizing oneself with the data. Initial interpretations or the emerging issues regarding the data collected on the printed transcript were then jotted down. After the first reading, the data was copied to separate files for purposes of editing it and removing any words that do not add anything new to the study. This was done in line with the research objectives to avoid losing important data. This is also referred to as the pre-coding stage (Juan and Ong'ondo, 2011). This process set the stage for the coding of data.

### **3.7.3 Coding the data**

In this study, the word coding was used as defined by Creswell (2013) who says that:

*coding involves aggregating the text or visual data into small categories of information, seeking evidence for the code from different databases being used in a study and then assigning a label to the code (p. 184).*

A category in this case refers to several codes grouped together whereas a theme refers to several categories grouped together (Juan and Ong'ondo, 2011). The coding was carried out systematically whereby data from interviews was coded first followed by data from Focus Group Discussions, then document sources respectively. The coding was carried out in three stages i.e. first stage, second stage and third stage coding (Juan and Ong'ondo, 2011). In the first stage coding, the researcher examined the cleaned transcripts and highlighted information that is distinct based on the research questions.

Each transcript was coded separately. This first stage coding is also referred to as open coding (Strauss and Corbin, 1990).

The second stage coding is also referred to as axial coding (Strauss and Corbin, 1990). In this case, the list of codes produced in the first stage were grouped together to avoid unnecessary repetitions. Some codes were merged together whereas others were promoted into categories while some were demoted i.e. putting aside codes that may not seem relevant at this stage. This stage of coding was relevant as the codes were reduced, hierarchies of codes were created and all other redundancies were dealt with.

The third phase coding involved combining categories into themes. These themes corresponded to the research objectives however other themes emerging from the study were also included. This involved revisiting the literature and consulting supervisors to ensure that the right codes, categories and themes had been identified as discussed by Jwan and Ong'ondo (2011). As Braun and Clarke (2006) state:

*Furthermore, the 'keyness' of a theme is not necessarily dependent on quantifiable measures-but in terms of whether it captures something important in relation to the overall research question (p.83).*

Although this process has been presented in a linear sequence, it is important to note that there is a lot of back-and-forth when carrying out the analysis and therefore the process is recursive as elaborated by Braun et al, (2015).

### **3.7.4 Reporting of Findings**

Ritchie et al (2014) states that there is no single structure for presenting a qualitative report. One will have to determine the appropriate structure to adopt based on the research objectives, the audience and the data. She suggests structuring a report based on the typology, different populations and around different time periods. Structuring was done among different populations therefore comparisons and similarities between the two counties have been presented.

### **3.8 Trustworthiness of the Study**

In qualitative research the term trustworthiness entails ensuring that the research is carried out in a truthful manner so that it can justify the claims it makes. In quantitative research, the words internal validity, external validity, reliability and objectivity are used and these terms have their equivalents in qualitative research which are credibility, transferability, dependability and confirmability respectively (Lichtman, 2014; Jwan and Ong'ondo, 2011). In this context, credibility, transferability, dependability and confirmability was ensured in very specific ways that are explained subsequently.

#### **3.8.1. Credibility**

Credibility means giving an authentic and truthful report from an insider's view (Neuman, 2007). Jwan and Ong'ondo (2011) state that:

*Researchers need to address the questions of credibility by reviewing the key concepts in their study, exercising triangulation, providing a chain of evidence and member checking (p. 132).*

The key concepts of this study were clearly operationalized just before chapter one. To ensure credibility, my supervisors kept reviewing these terms and this was an ongoing process throughout the study. Triangulation was also carried out. Yin (2011) says as follows concerning triangulation:

*In research, the principle pertains to the goal of seeking at least three ways of verifying or corroborating a particular event, description, or fact being reported by a study. Such corroboration serves as another way of strengthening the validity of a study (p. 81).*

There are different types of triangulation namely: investigator triangulation, methodological triangulation, theoretical and data triangulation (Yin, 2014). Source triangulation is also another form that involves integrating different participants to bring out different viewpoints (Creswell and Miller, 2000). The different forms of triangulation apply in different studies. In this study, the methodological (data) triangulation was used whereby different data collection techniques were used that is: document analysis, interview guides and FGD protocol with the aim of getting detailed data on the implementation of the gender quota threshold. Different data forms reduce the limitations associated with depending on only one data source and themes emerging from the different data sources were verified. Secondly, source triangulation was also used whereby different participants were interviewed that is; the men and women working in the County Assembly, County Executive and County Public Service with the aim of

getting different views on the gender quota threshold and other stakeholders who participated in the Focus Group Discussion together with other key stakeholders.

Another important aspect of credibility in a qualitative study is ensuring that there is a chain of evidence from the interviews that one can use to build a strong case in as far as credibility is concerned (Jwan and Ong'ondo, 2011). In this study all the data collected through FGDs and in-depth interviews were kept and stored systematically for purposes of seeking clarifications or making changes later.

After the research report was drafted, the participants were given a chance to read through and confirm that what they said has been reported accurately in both Counties and other stakeholders based on availability. This is referred to as member checking and is also one way of enhancing credibility (Ritchie et al, 2014, Jwan and Ong'ondo, 2011).

### **3.8.2 Transferability**

This is a key component of trustworthiness in qualitative research. It refers to the extent to which the study can be generalized to other places or people who were not included in the study. To ensure transferability, the researcher did a comparative study of two Counties. Therefore, analytical generalizations can be made i.e. generalization of theories (Jwan and Ong'ondo, 2011). This is because in qualitative research the issue of transferability is debatable and one may not be able to generalize but experiences can be transferred from one context to another. Since this is a comparative study, it is believed that it adequately answered the questions on transferability.

### 3.8.3 Dependability

Dependability which refers to reliability in quantitative research refers to the degree to which the investigator provides adequate detail and precision of research in a way that the study can be replicated if necessary (Ritchie et al, 2014, Jwan and Ong'ondo, 2011). A thick description would therefore be necessary to allow someone else to repeat the study and obtain the same results. In this case, a detailed report of every step taken while carrying out the study such that the transcriptions of the interviews and FGDs and other field notes have been given so that someone wanting to carry out a similar study can easily do so. The use of different data generation techniques such as in-depth interviews and FGDs also helped to ensure dependability by being well conceptualized. Jwan and Ong'ondo (2011) conclude:

*That notwithstanding, as we argued in relation to transferability, it is usually very rare that one would arrive at exactly the same findings even if a study was reported in exactly the same way, considering the nuances and varied contextual issues involved in qualitative research or social science research (p 143-144).*

### 3.8.4 Confirmability

Also referred to as objectivity in quantitative research, confirmability denotes the extent to which the study findings are free from both external and internal influences from the researcher, the participants or the institution where the research is being carried out (Jwan and Ong'ondo, 2011). However, the two authors that is, Jwan and Ong'ondo (2011) reiterate that:

*Objectivity and neutrality are not traits we can absolutely guarantee in a study, particularly in social science research. In one way or the other, the researcher will inevitably exercise some influence on one or more aspects of the study (p. 145-146).*

Therefore, the researcher engaged in the process of reflexivity throughout the study to minimize on internal and external influences.

### **3.9 Ethical Considerations**

Ethical considerations are important in any form of research. Litchman (2014) states that: “Ethical behavior represents a set of moral principles, rules, or standards governing a person or a profession (p.56)”. The researcher must consider beforehand any ethical issues that may arise and how they will be addressed (Cresswell, 2013, Ritchie, et al, 2014). The ethical concerns in qualitative research occur before conducting the study, during data collection and analysis and in reporting the findings and publishing the research. The ethical concerns that were observed included: access and informed consent, confidentiality, anonymity, privacy, deception and protection from harm. These are discussed below in detail.

#### **3.9.1 Access and Informed Consent**

To gain access to the participants, informed consent was sought. According to Ritchie et al (2014), informed consent is a continuous process throughout the study. Consent was sought at every stage of the study. To be able to access the research site and the participants, a research permit from the National Council for Science and Technology (NCST) was sought and this is attached as appendix 2. Thereafter, consent to carry out

the research was also sought from the County Governments through the County Secretaries of the two Counties i.e. Makueni and Elgeyo-Marakwet and the Clerks to the County Assemblies. A letter was written to the County Secretaries with the interview schedule attached as this is a requirement in the Counties. Once approved, consent was sought from each participant sampled and this consent was sought throughout the study. For the FGDs, consent was sought from the Ministry of Gender, Youth, Sports and Social Services and then from each participant.

### **3.9.2 Confidentiality**

Confidentiality implies that the information given by the interviewee is secret or private. The participant may give information which he or she does not want shared out. As such the researcher should not divulge. However, it is impossible for the whole interview to be confidential therefore the participants had to be informed that the research will be published. Confidentiality and anonymity in this study were achieved by using codes for the participants so that one would not be able to recognize the person. The FGD participants were also assured of confidentiality.

### **3.9.3 Anonymity**

Anonymity means that a researcher must ensure that they neither disclose the participants nor what they have said in a manner that could be associated with them or the specific site where the research took place. There are two main forms of disclosure namely accidental and deliberate (Ritchie, et al, 2014). Accidental disclosure can occur where



there seems to be connections between the interviewer and the interviewee. This would have been a major ethical issue in this study as the population is small and it is easy for the participants to easily identify each other. However, the identification of the participants was disguised. Besides the anonymity of the individual, there was also the anonymity of the Counties. This was done by removing any information that may help to identify the Counties in such a way that one will not be able to tell what information came from which County.

#### **3.9.4 Privacy**

This means that the participant has a right not to be interviewed or even take part in the research (Jwan and Ong'ondo, 2011). Depending on the topic at hand, it means that the interviewee has a right to withdraw from the study (King and Horrocks, 2010). Participants in the study were allowed to withdraw from the study should they choose to. However, their privacy was assured and maintained and none withdrew from the interview.

#### **3.9.5 Deception**

Deception in research should be avoided by all means unless there is no other way of answering the research questions and the benefits outweigh the risks involved (Jwan and Ong'ondo, 2011, King and Horrocks, 2010). In this case the researcher informed the participants about the research in an open manner and they were aware that the research would be published and besides their signed consent was sought.

### **3.9.6 Protection from harm**

Yin (2011) states that the researcher should assess whether there will be any harm or risks to the participant be it psychological, emotional, physical, legal, social and dignitary harm. A strategy should thereafter be developed on how the risks will be averted. Psychological harm has two dimensions i.e. firstly, the stress associated with embarrassment, guilt or fear rising from the information divulged. Secondly, the feelings arising from the invasion of one's privacy (Wysocki, 2008). The participants in this study were not deceived about any aspects of the study that may prove to be harmful. Because this study was dealing with Members of County Assembly, County Executive and County Public Service, the researcher ensured that data obtained was not presented in a way that it could cause disrepute to the participants by first seeking informed consent from the participants' and also by assuring them of confidentiality and anonymity. Another ethical issue that was addressed is plagiarism. The researcher ensured that all sources quoted in this work were cited accordingly.

### **3.10. Summary**

In this chapter, the data collection process has been clearly outlined beginning with the research paradigm that guides this study which is the interpretivism-constructivism epistemological paradigm. The research approach, method, data collection techniques and instruments together with how the data was analysed have also been detailed. Issues of trustworthiness and research ethics have also been discussed. In conclusion, it can be

observed that this study on implementation of the gender threshold in selected Counties adhered to the necessary requirements in research methodology.

**Table 3.2 Summary of Key Issues in Chapter Three**

- This study was anchored on interpretivism-constructivism epistemological paradigm which seeks for multiple meanings and realities to a study.
- This was a qualitative study that made use of a comparative research design of two Counties. A total of 22 interviews were done together with 5 focus groups consisting of 31 participants.
- The following data generation techniques were used: Interviews, focus groups and document analysis and data was analyzed thematically.
- Trustworthiness of the study was ensured through triangulation, ensuring the study is free from external and internal influences of the researcher and having a thick description
- Ethical consideration include: access and informed consent, confidentiality, anonymity, privacy and protection from harm

## **CHAPTER FOUR**

### **PERSPECTIVES ON GENDER QUOTA THRESHOLD**

#### **4.1 Introduction**

In this chapter and the next two chapters respectively, the findings of the study are presented based on the research objectives which are re-stated as follows: find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance, to establish how the gender quota threshold provisions are being implemented in devolved governance and to examine the barriers to successful implementation of the gender quota threshold provisions. Below is Table 4.1 showing the symbols that were used for the different participants whose views have been quoted.

**Table 4.1: Symbols used for identification of participants**


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BKEM- Interview with cleric County A
WEM- Interview with journalist County A
DCEM- Interview with female politician County A
CEM- Interview with officer #1 County Assembly A
KEA- Interview with officer #2 County Assembly A
COEM- Interview with officer #3, County A.
KEM- Interview with business woman, County A
SEM- Interview with Women’s leader, County A
RCM- Interview with Civil Society leader, County A
REM- Interview with Muslim cleric, County A
BOM- Interview with officer # 4, County Public Service Board, County A
BAE- Focus Group Discussion with MCA #1, County A
JAE- Focus Group Discussion with MCA #2, County A
WAM- Focus Group Discussion with MCA #3 County A
KAM- Focus Group Discussion with MCA #4 County A
KAE- Focus Group Discussion with MCA #5, County A
KEEM- Focus Group Discussion with elder, County A
JDM- Interview with officer #1 County B
JOM- Interview with officer #2, County B
ROM- Interview with officer #3, County B.
NAM- Focus Group Discussion with MCA #1 County B
GAM- Focus Group Discussion with MCA #2 County B
OAM- Focus Group Discussion, MCA #3, County B
NAM- Focus Group Discussion with MCA #4, County B
NUM- Focus Group Discussion. Women’s group member #1, County B
FUM- Focus Group Discussion, Women’s group member #2, County B
VUM- Focus Group Discussion with women’s group member #3, County B
KKM- Focus Group Discussion with men’s group member #1, County B
FMN- Interview with priest, Nairobi
DSN- Interview with representative from an NGO, Nairobi
DSSN- Interview with representative from political party, Nairobi
MLN- Interview with representative from a commission, Nairobi
WLN- Interview with representative from civil society organization, Nairobi
TLF- Interview with representative from an NGO, Nairobi.

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**Source:** Author, 2020.

#### **4.2 Views on the gender quota threshold in devolved governance**

The first question that was asked in the interview was whether the participant was familiar with article 175 (c) which states that: “No more than two thirds of the members

of representative bodies in each County government shall be of the same gender (p.108)” and article 197 (1) which says: “Not more than two thirds of the members of any County assembly or County executive committee shall be of the same gender (p. 121).”

In both Counties, participants, both from the County Assembly and County Executive were aware about these legislations. They were conversant about the existence of this legislation in the Constitution. The women and men in the grassroots were also conversant with these laws. The following excerpts capture what they said.

This is a very important legislation. Long time ago women were not recognized and considered but now it has given us an opportunity as women. At least for now you can see women in nation building. Being in the female gender does not mean that one cannot deliver. A woman understands other women better and others well. Women are the ones who make a home to stand therefore they are important. Women have been given an opportunity in the nation to lead. Earlier on the chiefs were only men but now we have women. And when they are there, it's easy for information to reach those on the ground. Women are very concerned about issues to do with the community therefore this legislation has really assisted the women. At least we have made some steps ahead as women. In every department women must be selected and given an opportunity. Therefore this legislation has really helped the women as you can see now we have women governors and senators amongst others (KEM).

Yes I am, that in every employment issues, tendering process, 30 percent for gender and either gender should not be more than two-thirds. It's a good law since it gives an opportunity to either gender to get a greater gain out of whatever is at hand (CEM).

The next part examines the historical perspectives on how the gender rule was developed. This information sets the foundation on how this legislation was established. It brings out the processes that it had to go through.

#### **4.2.1 Viewpoints on historical overview of the legislation**

From the stakeholders' interviews, some background information on how this legislation came about was derived from the interviews. Some of the participants had participated in the constitution review process and were therefore knowledgeable on what transpired. They narrated how the debate began, the formulas that had been proposed by different stakeholders on how to ensure that there is gender balance in governance and how we ended up with the two-thirds gender principle.

The agitation for a new Constitution began in the early 90s where concerns based on one-party rule, removal of security of tenure for judges, Auditor-General and Attorney-General; detention without trial and the weakening of the separation of powers between the three arms of government amongst others were brought to the KANU Review Committee which was then headed by Prof George Saitoti (Constitution of Kenya Review Commission, 2005). The Committee concluded that this was beyond their mandate. Pressure for Multi-party politics led to the formation of Citizen's Coalition for Constitutional Change (4Cs) which consisted of religious and secular groups such as the National Council of Christian Churches (NCCCK), Law Society of Kenya (LSK), Episcopal Conference of Catholic Bishops, Kenya Human Rights Commission and women organizations agitating for affirmative action.

Repeal of the one-party rule just before the 1992 General elections did not help much therefore there was further lobbying for constitutional change after the 1992 General elections by different groups. The Kenya Human Rights Commission, International

Commission of Jurists Kenya Chapter and the Law Society of Kenya came up with *A Proposal for a Model Constitution* which was being deliberated in various workshops by different religious, civic and political organizations in 1994. By 1995, the government promised to invite experts who would come and draft the constitution, however, when this did not happen, there was mass action which led to deaths (Constitution of Kenya Review Commission, 2005).

In 1997, the Inter-Parties Parliamentary Group (IPPG) was formed by different political parties in parliament. The IPPG came up with various reforms key being the Constitution of Kenya Review Act of 1997 which was to meet the goals of post-election review process. However, because this was a government led initiative that did not take into consideration the views of other stakeholders, that is; the opposition and the civil society groups amongst others, Kenyans rejected this document. Consequently, other negotiations with different stakeholders began in Safari Park Hotel and Bomas of Kenya from June through October 1998. An amendment was done based on consensus reached and one of the salient features agreed upon was implementation of a third policy to promote women's representation in governance (Constitution of Kenya Review Commission, 2005).

Unfortunately, due to disagreements on the nomination of commissioners, different groups went separate ways. One group that stands out is the Ufungamano Initiative which was backed by civil society groups and religious organizations and came up with a Peoples Commission of Kenya (PCK) that went around collecting views from the public



on constitutional matters. The other, was a Parliamentary Select Committee that was backed by KANU and other political parties. Amendments were introduced to the Review Act stating out the composition and nomination process of the commissioners and finally the Constitution of Kenya Review Commission was established in November 2000 with 15 commissioners. However, to avoid having a divided process, there was need for a merger between the Parliamentary Select Committee and the Ufungamano Initiative which led to a further review of the Act to incorporate the terms of merger in May 2001. The Commission embarked on gathering views from the public between 2001 and 2002 and came up with a draft Constitution in 2002 which began being discussed by the National Constitutional Conference at Bomas in 2003 and hence it was referred to as the Bomas Draft (Ghai, 2020).

The Bomas Draft led to the Wako Draft which was in essence the Bomas Draft with several alterations from parliament and the government. The Wako Draft was rejected in the 2005 Referendum. Notable, is the fact that both documents had a provision for the two thirds gender principle. Thereafter, there was the committee of experts chaired by Nzamba Kitonga and included Ekuru Aukot and Otiende Amollo amongst others who helped to harmonize the drafts that were there earlier. The harmonized draft was then taken to Parliament and Parliament reviewed the document and produced the Naivasha Draft which changed the provisions of the two-thirds principle for Parliament and Senate only. The provisions for the Counties remained intact.

The Naivasha Draft increased the constituencies from 210 to 290 and added 47 women representatives who are elected from each County. In addition, 12 members were to be nominated by the political parties in proportion to the numbers elected from the different Political parties in Parliament. These were to represent the people with disabilities, youth and workers amongst others.

After the Constitution was passed, there were debates on whether the next Parliament would be constitutional if there is no law effecting the two-thirds gender principle under Parliament and Senate. However, the Attorney General went to court and the court ruled that this legislation is progressive and that Parliament should enact a legislation within five years. The National Gender and Equality Commission thereafter proposed to the Attorney General that it was necessary to amend articles 97 and 98 but the numbers that would allow for a constitutional amendment were not there and once again the Attorney General was taken to court under petition 182 and the judgement was that the Attorney General was to prepare a bill in 40 days and present to Parliament.

Due to lobbying, other bills were also published including the Sijeny Bill and the Chepkonga Bill. The Chepkonga Bill was published on 30<sup>th</sup> of April 2015. It is also referred to as The Constitution of Kenya Amendment Bill, 2015. This bill proposed an insertion on article 81(b) which would be as follows: “progressive implementation of legislation to ensure that” (p.793).

Therefore, article 81 (b) would read as follows: progressive implementation of legislation to ensure that not more than two-thirds of the members of elective public bodies shall be of the same gender. Chepkonga Bill that had been published 3 months earlier and proposed the progressive implementation of the two-thirds gender principle was opposed by lobby groups and there was a campaign to have it withdrawn because it went against Articles 10 and 27 of the Constitution on equality and discrimination and was going to dilute the gains made so far (CMD-Kenya, 2018). It also did not give a specific timeframe within which it would be implemented (CMD-Kenya, 2018). After, the deadline set by the court, both CRAWN Trust and Centre for Rights Education and Awareness (CREAW) filed petition 371 of 2016 quoting Article 261 of the Constitution which states that the Chief Justice can advise the President to dissolve Parliament if Parliament does not come up with a legislation within the stipulated time which was envisaged to be 5 years as indicated in the Fifth Schedule of the Constitution of Kenya.

The judgement was passed on 29<sup>th</sup> March 2017 and the judge ordered that a law should be passed within 60 days but nothing had been done after 60 days and already campaigns were going on in preparation for election in August. Therefore, National Gender and Equality Commission (NGEC) felt it was not necessary to petition the Chief Justice to dissolve Parliament but rather opted to go to court after the elections because Parliament had not met the threshold.

Because petition 371 was appealed by Parliament, there is appeal No 148 by CREAW and CRAWN Trust and NGEC enjoined that is ongoing to date. This led to a similar bill

being published by Duale which is popularly known as the Duale Bill i.e. the Constitution Amendment Bill no 4 of 2015 which was published on 24<sup>th</sup> July 2015. This bill sought to include two clauses under the membership of Parliament and Senate to ensure that they adhere to the gender quota threshold. This would be through amending article 97 and 98 of the constitution by having the following additional clauses after paragraphs c and d respectively. Paragraph (ca) would be stating as follows:

“(ca) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the National Assembly is of the same gender; (p 2254)”

Whereas paragraph (da) coming in after paragraph d would be as follows:

“(da) the number of special seat members necessary to ensure that no more than two-thirds of the membership of the Senate is of the same gender; (p 2254)”

This bill sought to also amend articles 81 and 177 to ensure that the two-thirds gender principle would lapse 20 years after the next election which is the one that took place in 2017 because it was expected that the women would have got a level playing field (The Constitution of Kenya (Amendment) (No.4) Bill, 2015). Unfortunately, the bill never went through as 195 voted yes, 28 no and 20 abstained whereas to pass, 233 votes were required (CMD-Kenya, 2018).

A revised edition of the Duale bill which is also referred to as the Constitution of Kenya (Amendment) (No.6) Bill, 2015 was published on 2<sup>nd</sup> December 2015. This bill proposed to amend Articles 90, 97 and 98 of the Constitution with an aim of ensuring that special seats are set aside in proportion to those won by a political party and this is determined after the elections. This was allocated twenty years with a possibility of extension by ten

years of which by this time there would be gains in as far as gender parity is concerned (The Constitution of Kenya (Amendment) (No.6) Bill, 2015).

The Sijeny bill referred to as The Constitution of Kenya (Amendment) Bill, 2015 was published on 21<sup>st</sup> August, 2015. This bill proposed amendments on Articles 97 and 98 where there would be additional clauses i.e. (ca) and (da) respectively that are similar to the Duale Bill insertions. Secondly, the bill proposed additional clauses i.e. 97 (1A) and (1B) which necessitate that elections for special seats should be done according to Article 90, thirdly, an addition of clauses 97 (1C) and 98 (1B) with a sunset clause of twenty years after the subsequent general elections and lastly a proposal to amend Article 81 that necessitates the state to come up with policy, legislative and other measures that will address gender representation issues in the long term (The Constitution of Kenya (Amendment) Bill, 2015).

The Duale Bill and the Sijeny Bill were published too close to the deadline but were debated in Parliament and dismissed for lack of quorum. It is indeed clear from this historical overview that both Parliament and the Judiciary have not been keen on resolving the issue of the two thirds gender principle. Parliament has not passed any legislation that would aid in the implementation of the two-thirds principle mainly as a result of lack of quorum. Box 1 below gives a summary of the bills.

**Box 1: Summary of Key Bills related to Gender Quotas**

In a nutshell, the following Bills have been presented so far since the promulgation of the Constitution 2010.

- The Chepkonga Bill/The Constitution of Kenya Amendment Bill, 2015. It proposed the progressive implementation of the two-thirds gender principle.
- The Duale Bill/ The Constitution Amendment Bill no 4, 2015. This had additional clauses for Articles 97 and 98 by including the two thirds gender principle and amending Articles 81 and 177 to limit the principle to 20 years after the 2017 General Elections.
- Revised Duale Bill referred to as Constitution of Kenya (Amendment) (No.6) Bill, 2015 that sought to amend Articles 90,97 and 98 to ensure special seats are proportional to the number of seats won by a political party with implementation limited to 20 years but could have an extension of 10 years.
- Sijeny Bill/The Constitution of Kenya (Amendment) Bill, 2015.This bill was similar to Duale bill in the insertions of clauses (ca) and (da) on articles 97 and 98 respectively but with additional clauses (1C) and (1B) on Articles 97 and 98 capping implementation to 20 years.

#### 4.2.2 The view that there are Constitutional convolutions

The first major concern that was raised by the participants was the fact that this legislation is clearly stated out for the County Assemblies but not for the National Assembly and Senate. This therefore creates a complex situation because both Parliament and Senate are not bound to a specific legislation perhaps explaining the reason why both Senate and Parliament have not met the threshold and therefore are unconstitutional. The amendment bills discussed sought to fill this gap by introducing additional clauses that would ensure that the two-thirds gender principle would apply to both the national Assembly and Senate. These views have been captured in the following excerpt:

It's clear but contradictory. Not really contradictory. If you look at Article 27(8), it is very clear. It affects Parliament and Parliament must comply with that provision. However, when you go to the provisions of the composition of Parliament i.e. 97 and 98, the composition of Parliament is stated in the Constitution, and the numbers are there. So the mechanism of implementing the two thirds is not there in the National Assembly and Senate. It is clear for Counties but not clear for the National Assembly. But our own constitutional interpretation is that you cannot read a document in bits. And if there is a provision that is lacking, the other provision fills in the gap. That is our interpretation of the Constitution. You cannot read and say this provision cannot be implemented because this provision says otherwise. The interpretation is that you read the Constitution as a whole and you give effect to the provisions. (MLN).

This is corroborated by the following document that was obtained during the interviews and the report is entitled: "A Gender Analysis of the 2017 Kenya General Elections"

The Parliament has yet to pass legislation that would bring its own two houses- the National Assembly and the Senate- in line with the Constitution's "two-thirds rule." Amendments to the Elections Act and the Political Parties Act (PPA) has improved the regulatory environment but remain inadequate, lacking meaningful incentives and enforcement mechanisms (p.5).

Other participants were of the view that this is another affirmative action just like the others that have been there but have not been implemented before. Over and above that, some interviewees stated that indeed it is challenging trying to get people to vote for a certain gender. This is as captured below:

First, you know that looks like an affirmative action and we have so many affirmative actions in the country which have never been adhered to. So to me that was over-ambitious. And I also think it was pushed. And you know looking at the wage bill in the country, you know it is too difficult to force people to elect a certain gender. But for the appointing positions, it can be achieved. But for the elective positions, it will take a while because it needs a lot of education, consultations and a lot of understanding (JDM).

#### **4.2.3 The view that gender quotas have improved women's participation in governance**

Some interviewees felt that this legislation is important as it has helped to bring the women on board after being left out for a long time and this has enhanced the quality of decision making as the different genders bring different perspectives on board and this is important for development as indicated by the following responses:

Well, it meant well because of course it was something which was a product of the constitutional making process. The constitution which gave us a new Constitution of 2010 and the point of concern by Kenyans at that point and now, is how then we need to involve women more not only in other spheres but also politically. The import being that, if you put them in decision-making centres then the women agenda might find place in policy. So personally I think it was a well-meant legislation of course we have had challenges with implementation but it's a good step forward this far, otherwise if it was implemented to the letter then we shouldn't even have the current Parliament being constitutional because it does not have gender as stipulated in the Constitution. (DSSN).



While political opportunities are important, giving political opportunities will not translate immediately to economic opportunities. Because even though the numbers are there, the environment is more favourable to men than women. And that's what they forget that It won't just take the numbers shifting, it will take a long time for women to use those numbers and to use those opportunities, to be able to create an environment which favours them in terms of opportunities, economic and such. It's good to have the numbers. It's a starting point. But it's not the solution. One other thing we never ask is what is the society doing to create a conducive environment for women who get into those positions of leadership to feel secure that they can promote the gender agenda, right? A lot of these women to survive in those positions, they have to exhibit masculine traits or they have to be masculine. (WLN).

This legislation is good as long as the girls are not coming back home after being married to ask for a share of the land as this is a curse even to the grandchildren. We support girls fully to vie (KEEM).

Although some interviewees from the Counties stated that this legislation has ensured that as a country we have made milestones in as far as bringing women on board Is concerned, some felt that it had also on the other hand made women to become slack because they know that even if they don't vie they will be nominated to fulfill the two-thirds gender principle as captured below.

Yes. So it's not motivating them to go for elective positions, because they say that after all if they don't vote us we still have slots reserved. So that's a demotivating factor as it brings laxity and at the end of the day even people with potential just surrender. So we might not get the right leaders not because of gender rule but because of the law that is making them lax. For example, if you look at the position of the County MP, it was the Woman Representative but now they are calling it the County MP, you know that when a member wants to represent a Constituency like an MP, the people will say no leave this one to men after all you have your own sit there reserved for you. They will not fight because after all they will say there is one sit for us so even if they fight amongst it several of them it will just narrow down to a lady (CEM).

Others felt that even though women were being brought on board, the quality of the women being brought on board and the positions that they were being given raised a lot

of questions. It was clear that in the Counties, the women got appointed to the Ministry of Gender, Youth and Sports, Tourism and Agriculture amongst others. However, the Ministries of Finance and Roads were given to men as presented in the excerpt below:

And we've wondered what can be done in respect to the quality of the position. Coz what came out in Isiolo, the discussions in Isiolo were two things one, for like CECs where the numbers are met, you find women still get peripheral ministries. So it's very very rare you will find a woman getting the ministry of finance for example. So there are critical ministries across the country that if you do a scan it's almost impossible you will find a woman. Two, you find that even in other areas in terms of , where you have Speaker and Deputy Speaker, It's almost always given that it will be the Deputy Speaker who will be a woman not the speaker. Now it is even worse because the courts have said there is no position for Deputy Speaker. So it means, more likely its women who are losing positions. (WLN).

Although when we started the County government of Makueni, the person who was in charge of roads and infrastructure was a woman. But she could not deliver. She resigned before her term. So sometime we also feel as women you have failed us. She was one among many (JDM).

On the contrary, one of the County's sampled had a woman Deputy Governor and a woman for CEC member for Finance. People's insights were also such that women seem to be favored in this legislation and therefore were not taken seriously. The participants also emphasized that there was need to have a more elaborate programme on empowerment of women so that the girls are prepared to an early age to take up leadership positions. This would be a long term strategy that would go beyond concentrating on the numbers. Secondly, the women also need to believe in themselves so that they can vote for fellow women. As long as they feel that getting into leadership is a preserve of the men, then they will not support those women interested in politics. This

points to the fact that low self-esteem hinders some women from taking advantage of the gender quotas as expressed in the excerpt below.

I think as long as the legislation is read as trying to favour women, whether it's like they say, the purpose or the effect, then that's a significant loophole. Women being perceived as flower girls. So, as long as the law allows that perception to persist, I think it's a loophole. I think also if you are just having a legislation, which only addresses the issue of numbers without having a much more elaborate strategy on affirmative action, which goes beyond how to play around with numbers so that you meet the quotas, but more that speaks to empowering women, then we need to reconsider (WLN).

The participants' also gave their perspectives on whether this legislation was fair or unfair. In both counties, more women participants felt it was unfair because people have perceived it to mean that the a third should always be the women as reflected by the cabinet and County Government appointments amongst others whereas more men than women thought it was fair because it gave room to more women to participate in governance more than ever before. This means that the legislation has put a ceiling for women aspirants. The following passage reiterates these views.

As long as the 2/3rds is men, then the legislation is fair because Islam does not allow women to dominate men. The man is the head while the woman is the neck (REM).

But according to me, I think it is unfair. Yes although we treat it as fairness but I still feel there is unfairness because of the perspective that we have as Kenyans that the a third is meant for women. Why can't we say that the a third is meant for men and in any case if we cannot be able to treat this fairness well why then can't we say 50/50. Can we apportion it half way? Let the 50 be for women and the 50 be for men so we can say we are being equal. Why can't we be given that 50 percent as women, maybe this country could be rated higher than what it is. (COEM).

First I want to tell both the men and women who find the law unfair, in whatever situation in whatever opportunity; if the level field is not equal then you can't compete. So don't try to compete in an unequal playing field. We have to start from somewhere. Secondly, those who are saying ooh, coz this is affirmative action, its not working it's not fair, the challenge we have is that even those who have succeeded have succeeded because of the affirmative action. A long time, the universities used to have equal entry and the number of girls entering the university was very low. But currently, after the points were reduced to accommodate women...like how it is fair that today there is a girl doing her exams while pregnant or she has just delivered and she is competing with the boys. How is that fair? (TLF).

In addition, the gender quota legislation in some instances has had a negative effect such that men are reluctant to have women vie for the geographical seats because they will be considered for the gender top up positions (Sing'oei as quoted in Steytler and Ghai, 2015). Therefore, if the process of nominations as carried out by Political parties is not fair, then a lot of women with potential are locked out and women who may not deliver are brought on board. These women later receive a lot of backlash when they are not able to perform.

For me the political parties are the main culprits because they are the main gateway into elective offices and public offices because you find that while we do have some independent candidates, majority of the candidates are nominated. Katiba Institute actually instituted a case in court last year where they required the court to compel IEBC to enact the two-thirds gender rule by having them have powers to reject any list for election that did not meet the two-thirds gender principle. The judge agreed they have not put in place the legislation policy to date but it would give them powers to be able to reject any party lists that would come up for elections that does not meet the two-thirds gender rule. This is because how else are people supposed to get into those positions? It's through political parties that one also gets into government. You form the Executive whether it is at the County level or at the National level. So the political parties are instrumental (DSN).

Therefore, in as far as effectiveness is concerned, the participants were asked whether it was moderately effective, highly effective or not effective at all. Indeed, it was clear that the legislation is moderately effective because women are still underrepresented and still considered as a token. In addition, the political landscape is highly politicized and the process of nomination is not fair. However, more women have been brought on board more than ever before. The following extracts captures the interviewee's views:

I think it's actually easier for me to want to criticize it and say it has not been effective. But I think, it goes back to something I said, even numbers are an achievement. Because even numbers are sought of demystified. There are places that they didn't have a woman elected, not even elected, in leadership. Even people thinking that a woman can occupy such a position, and be ok and things run, you see that in itself is a huge achievement. People are starting to get the idea that actually being in political leadership as a woman, just based on your own interests, and not necessarily because you are advancing a man agenda because you deserve that position and just that change of mindset I think is important. The flip side to me is women are so important that if you are not willing to elect them you have to be ready to pay for them to be on the table (WLN).

I think it is moderately effective because for any legislation to be highly effective, it requires goodwill and also change of mindsets so that everyone who is coming to a table has something of value to add. But you realize that irrespective of what the law says, you find women are still fighting for their voice to be heard. If you look at the appointments that have been done at the national level, whereas the law is clear on how we need to do it, you will realize that it's the women who are underrepresented. They are considered as a token and not as an entitlement or as a right. So there are perception issues which need to be addressed and we have to send the correct messages as early as possible. (BOM).

The next section examines the views on culture in relation to the gender quota threshold legislation. These views are in relation to the fact that culture is not a hindrance to this legislation although some participants felt that it is a deterrent. These outlooks are presented below.

#### **4.2.4 The perception that culture is not a hindrance to this legislation**

There was a myriad of arguments as to whether culture affects the implementation and effectiveness of this legislation. Some felt that culture is a big hindrance while others felt that culture is not the problem because the legislation is enshrined in the Constitution and this Constitution has destroyed the patriarchal delineations that were there therefore we only need to implement the Constitution to reverse the trend. If anything, the fact that we have this legislation in the Constitution should delimit cultural obligations. Therefore, culture should not be considered as the main challenge to the implementation of the gender quota threshold. Those who felt that culture is not the main problem had the following to say as captured in the excerpts below:

You know for me, electing women at the grassroots is not an issue. I will tell you why. Transformation happens by the way leadership drives it. So yes we have culture as a problem. But look at the 47 seats. The law requires that every County will elect a Women Representative. Even in those cultures where women are not considered leaders we have Women Representatives because of the law. And they can't put a man to vie. So while the men sit in their negotiated democracy, the elders when they sit and they say this clan will take this seat, this clan will take this seat they have to assign a clan for the women's seat. The clan may go away unhappy but still the County will have a Woman Representative. So the law matters in that it has demolished those contours upon which our society is founded. The patriarchal contours, it has demolished them in the law. If you implement it, you will demolish them physically (DSN).

You know today if you did a general pool on which communities still subscribe to traditional cultures, I think Kalenjin would still come quite at the top. But you know Kalenjins have consistently produced the largest number of elected Parliamentarian women? How then do you explain culture? So I don't think it's an accident that one of the first governors is Kalenjin. A woman Governor. I think culture is just used as an excuse to some extent. Obviously there are aspects of culture that makes it more difficult, like what we were just talking about, the fact that because of the cultural roles and cultural expectations of women, women are less likely to be out at night, which means they are less likely to have the

opportunity to negotiate for this position. I think there is a significant element of sabotage (WLN).

Others stated that different communities' cultures have been changing and therefore we cannot really say that culture is a major problem. This is mainly due to modernization.

The excerpt below captures this view:

*I think when it comes to culture, we have shed a lot of our culture and it's hard to pinpoint real culture within us. We are neither purely traditional and neither purely modern. So I can't really tell. It's hard to say this is where we are standing. On women and leadership we have made progress (RCM).*

In a nutshell, the following issues can be observed in as far as perspectives are concerned.

Firstly, in both counties both men and women were knowledgeable about the two-thirds gender rule and were able to deliberate on the issue with ease. Secondly, on the issue of whether the legislation was fair or not, the men stated that it was fair for it paved a way for women to participate in governance whereas the women participants stated that it was unfair because it had created a ceiling in the sense that in the case of appointments and elective positions, the electorate and those in leadership had perceived the two-thirds gender rule to imply that the a third is for women. Thirdly, in both counties, both the men and women said that the legislation was moderately effective.

### **4.3 Summary**

In a nutshell, data on research objective one has been presented. Table 4.1 below gives a summary of the key findings. This is followed by chapter five which looks into the second research objective.

**Table 4.2: Summary of Key Findings on Views of Stakeholders on Gender Quota Thresholds in Devolved Governance.**

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Perspectives on the gender quota threshold are as follows:

- The view that there are constitutional convolutions because the legislation is clear for County Governments but not so for the National Government.
  - Gender quotas have improved women's inclusion and participation in governance. On fairness of the legislation, the men felt it was fair because it created more room for women to participate in governance whereas the women felt it was unfair because people have perceived it to mean that the a third should always be women. Concerning efficacy, participants in both counties were of the view that the legislation is moderately effective because women are still considered as a token.
  - The view that culture is not a hindrance to this legislation.
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## **CHAPTER FIVE**

### **IMPLEMENTATION OF GENDER QUOTA THRESHOLD PROVISIONS**

#### **5.1 Introduction**

In this chapter, findings are presented for research objective two which was: to establish how the gender quota threshold provisions are being implemented in devolved governance. This objective consists of the following: How the legislation is implemented in the County Executive, County Assembly, County Public Service Board and Political Parties; Accountability and enforcement mechanisms at the County Government; Rules associated with gender quotas and viability of gender quotas based on cost implications.

#### **5.2 Implementation of the legislation**

Implementation of gender quotas at the Counties is done at different levels. Below is a discussion on implementation based on the different organs beginning with the County Executive.

##### **5.2.1 Implementation in the County Executive**

Interviewees from the Counties concurred that gender quotas are being implemented despite the fact that people's perception is such that the a third is for the women while the two-thirds is for the men. This means that the Public Service Board, every committee and different forums must ensure that there is representation by both genders. In addition,

because there are gender audits that are done periodically, the Counties must comply lest they are accused of non-conformity to the constitutional provisions.

Of course in the appointment, in the executive, the employment by the Public Service Board, in the different committees that we have in the County, like we have what we call, the Project Management Committees which are supposed to be gender balanced and all other forums. When we are doing any other forums, there must be representation of both genders. And this gender also looks at the issue of disabilities. We look at both gender and disability mainstreaming. (JDM)

To be more precise, In Makueni County, the County Executive Committee consists of 3 women and 6 men who have been appointed by the Governor ([www.makueni.go.ke](http://www.makueni.go.ke)) whereas in Elgeyo-Marakwet, the County Executive Committee has 10 members out of which 3 are women ([www.elgeyomarakwet.go.ke](http://www.elgeyomarakwet.go.ke)). Some participants wondered why a majority of the Governors who are male did not appoint women for their Deputy Governors and why we don't have legislation on the same to ensure gender balance. From document analysis, in the 2013 elections, we had 9 female Deputy Governors in the following Counties: Narok, Kwale, Kericho, Makueni, Taita-taveta Nyandarua, Nandi, Kisumu, Embu, Mombasa and Kitui.

In 2017, we had 7 in: Narok, Kwale, Kericho, Makueni, Taita Taveta, Nyandarua and Nandi (A Gender Analysis of the 2017 Kenya General Elections). For Makueni, Kwale, Kericho and Narok the Deputy Governors are serving their second terms perhaps because the Governors in these counties were re-elected and opted to retain their deputies. However, some participants were skeptical about women who had been appointed as Deputy Governors. Some said that these women must have financed the Governor's

campaigns or had a relationship with him. The following excerpt captures the aforementioned views.

Our men have not accepted us anyway. Because you will even realize that besides that post or slot that was given specifically for women, even the seat of MCA, like me who vied, I was told, what are you doing in the MCAs seat, wasn't the other one set for the women? Let the women go to their seat that was set apart for them. Let them go and struggle for the women's post. This one is for the men. So, am beginning to ask myself several questions. Governors were elected. Most Counties elected male Governors. And you know the Governor has power to nominate or appoint whoever he wants to be the Deputy Governor. How comes that even the areas they elected male Governors, they didn't decide to appoint females to be their deputies? Very few. Out of 47 counties, how many are there as Deputy Governors? (WAM).

Indeed, the Kenya 2010 Constitution has provision for reserved seats for 47 Women Representatives each representing a County. But this has come with its own set of challenges whereby women are now being asked to concentrate on their seat and leave the other seats for men to vie for. This issue is discussed further in chapter seven. All in all, the County Executives have been implementing this legislation only that the a third has been left for the women whereas the two-thirds is given to men more so when it comes to appointments by the Governor.

### **5.2.2 Implementation in the County Assembly**

The County Assemblies received the lists of nominated MCAs from IEBC at least one month after the elections. The Speaker and the Clerk oversee the running of the County Assembly Board. The County Assembly Board hires the staff based at the Assembly guided by the gender quota threshold. These views are as presented in the excerpt below:

On party matters, no one is responsible. The issues of the party, for example nominations, those ones are done by the parties and IEBC. For the Assembly they just receive names. The assembly will only be accountable, that is from the County Assembly Board which is chaired by the Speaker and the secretary who is the Clerk to the County Assembly. Those are the people who ensure that what is done in the Assembly is properly done as per the law. And in the recruitments, this rule must also apply to all the workers of the Assembly. If it's not done, the people to be taxed are the County Assembly Service Board (KEA).

The Independent Electoral and Boundaries Commission requires that each Political Party that is participating in the Elections submits the following Party Lists:

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**Box 2: Summary of Party Lists submitted to IEBC before Elections**

- The National Assembly Party List that constitutes of twelve (12) nominees.
- The Senate Party List for Women which consists of sixteen (16) women nominees.
- The Senate Party List for Youth which is composed of two (2) youth nominees.
- The Senate Party List for Persons with Disability which consists of two (2) nominees with disability.
- The County Assembly Party List for the Marginalized Group which consists of eight (8) nominees from the Marginalized groups for each County. This list should contain at least two PWDs, two youth and two people from Marginalized Communities.
- The County Assembly Party List for Gender which constitutes nominees equivalent to the total number of wards in each County.

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Source: IEBC, 2017.

Other than the Senate Party list for Women, all the other lists are expected to alternate between women and men in order of priority. Of relevance to this study was the County Assembly Party List for Gender and the one for Marginalized Groups. One of the

Counties had twenty (20) wards whereas the other one had thirty (30). Therefore, for the Gender Party List or what is commonly referred to as the Gender Top Up List, each party participating in the elections at the County Level had to produce a list of 20 and 30 nominees respectively. This list is supposed to have a qualified nominee from each ward and the list should alternate between men and women candidates as indicated earlier (ibid). For example Nairobi has the largest number of wards and therefore the nomination list is supposed to have 85 names while Lamu with the least wards will have 10. A month after the elections, the seats are awarded depending on proportional representation using the formula below:

***The number of seats won by a political party divided by total number of seats in the House and multiplied by seats available for allocation in the House***

Source: IEBC, 2017

Makueni County Assembly has a total of 48 MCAs out of which 30 were elected and 18 were nominated through the gender-top up lists. Only 1 woman was elected as Member of County Assembly (MCA) while another 15 were nominated together with 3 men ([www.makueniassembly.go.ke](http://www.makueniassembly.go.ke)). In Elgeyo Marakwet County, there are 33 members of County Assembly of which 11 are female and 22 are male. All the 11 women were nominated i.e 9 women for the gender slot, 1 woman representing people with disabilities and 1 for youth ([www.emcassembly.go.ke](http://www.emcassembly.go.ke)).

The County Assembly had several sectoral and select committees. Sectoral committees are line committees representing the different line departments. For example, if there is a

Department of roads, then there will be a Committee of Transport, Roads and Public Works. For the Department of Sports, Youth Affairs, Gender and Social Services, there is a corresponding committee in the County Assembly. The same applies for Department of Education and Vocational Training, Trade, Tourism and Industry, Public Service and Administration amongst others. In one of the Counties there were 9 Departments therefore 9 Sectoral Committees.

There are also other committees referred to as Select committees. These are committees that do not have direct mandate on a specific department but instead oversee overarching issues. These include: the House Business Committee, Selection Committee, Appointments Committee, Budget and Appropriation Committee, Delegated Legislation Committee and the Implementation Committee. The MCAs had to apply based on their interest and expertise then the Selection Committee would ensure that there is both gender and regional balance in each committee. However, one is given an opportunity to choose a maximum of two sectoral committees and two select committees. If the first choice is full then one gets the second choice. This is as captured in the quotations below.

Which one did you prioritize? If you prioritized roads, then that should be your number one. Then there is this regional thing or issue, where you are coming from because our County is made up of 4 regions. Marakwet East and West and Keiyo North and South. So these are some of the factors they consider (JAE).

Also important to note is that the Honorable Members are also encouraged to give a proposal based on your area of specialization before you are there. There could be teacher, who is now an Honorable Member; there could be a doctor who is now an Honorable Member. So when you are a teacher, you are more likely to be in the Education Committee. And whoever was maybe practicing medicine, will

lead or will be a member of a committee being a doctor. Or such kinds of skills will also be preferred (KAE).

The MCAs from the two Counties also discussed the bills and motions that they were able to pass since they came to office. In one of the Counties, there was a bill on a revolving fund for women, youth and people with disabilities and a motion on motivating the boy child. In the other County, there was a motion on tools that would be used in Monitoring and Evaluation during public participation, a motion on gender based violence, a motion on the increment of ECDE schools and teachers, a motion urging the County Governor to contract pro bono lawyers to deal with cases of abuse and injustice in the County, a motion on the need to make Makueni Level 5 hospital a one stop shop for victims of gender violence where one can get medical services, counseling, getting a P3 and justice in the court amongst others. It was noted that MCAs that were serving their second term were more confident and were the ones in most cases coming up with motions and bills. This can be observed in the excerpt below:

I was in the first assembly, this is my second term. I have passed a motion in the first assembly, urging this County Government to contract pro bono lawyers in conjunction with FIDA so that they can hold legal clinics for the people of Makueni who have been abused or discriminated in any way. There are people who are in this County, who are squatters in their own land. So I was urging this County Government to collaborate with FIDA so that they can have periodic legal clinics in this County. So I brought that motion to the floor and it was supported it passed. I also brought another motion urging this County Government to establish a gender based violence recovery Centre in this Makueni Level 5 Hospital, which was meant to be a one stop shop, for all cases of gender based and sexual violence cases and it also passed. I had to do a lot of lobbying among the male counterparts and it passed (NAM).

Based on the discussion above, it can be observed that the women who have benefited from the gender quota threshold have been able to concentrate on gender related issues. However, because nominated members may have multiple loyalties in terms of the fact that they owe their allegiance to the political party that nominated them, this may not always be the case across all the Counties. This is an important factor that should be considered.

As earlier discussed, In Makueni County, only one woman had been elected to the County Assembly whereas in Elgeyo-Marakwet there was none. This can be verified by the fact that in the 2017 elections, 96 women were elected to serve as MCAs whereas 650 were nominated countrywide. This represents thirteen and eighty-seven percent of the female MCAs respectively. (A Gender Analysis of the 2017 Kenya General Elections). In the year 2013, 84 women MCAs were elected and this shows that in 2017 there was an increase by 14.29 percent (CMD-Kenya 2018).

There were 12 Counties in the 2017 elections that did not elect female MCAs. They include: Elgeyo-Marakwet, Kwale, Kajiado, Garissa, Wajir, Embu, Isiolo, Mandera, West Pokot, Kirinyaga, Samburu and Narok (A Gender Analysis of the 2017 Kenya General Elections). However, there are three Counties that did not meet the gender quota threshold of having at least 33 percent of women in the Assembly and these are Narok (which has 32 percent), Transoia with 31 percent and Taita Taveta with 32 percent implying that the top-up procedures could have been mishandled (A Gender Analysis of the 2017 Kenya General Elections). Sing'oei quoted in Steytler and Ghai (2015) alludes



to the fact that because of having to use the gender top-up mechanism to fill up for the differences, the numbers of the MCAs have often become large. For example, Nairobi which has the most number of wards that is, 85 has 38 nominated MCAs giving a total of 123.

### **5.2.3 Implementation by the County Public Service Board**

On interviewing the secretaries to the County Public Service Boards of both Counties, they said that the people prefer men for certain posts as opposed to women e.g in posts such as Director of Health Services. In addition, In the case of Ward Administrators, the applicants apply then they are hired based on merit. In cases where women Ward Administrators had qualified, the people complained and said that they prefer a man in both Counties. For those that felt culture is still a major hindrance, they stated that for positions like Ward Administrator, people prefer a man to a woman because they felt that a woman did not have the ability to effectively serve as a Ward Administrator. The following passage captures responses given:

I can say the quality of the candidates for certain fields, sometimes the female candidates come out as being weak in terms of exhibiting leadership qualities. And then there is also a tendency for the system to prefer let's say if it is male candidates for certain positions because some jobs are kind of rough. I have seen like in the Department of Health Services, for higher level positions like director they prefer men (BOM).

I can say depending on some of the areas, you find that due to the nature of the occupation, people qualified for some areas are skewed to one gender. For example in health, initially although it's now changing most of the officers there were ladies. So you find that a big number of those who are qualified, because that is the minimum entry level, are of one gender. So you find that because of the nature of that occupation, meeting the two thirds is a challenge. We also

experience that during the Early Childhood Development and Education (ECDE) teachers recruitment. You find that out of almost 900 we could only get less than 7 men. So sometimes due to the nature of the occupation, it's a challenge meeting the threshold. I can say it has been moderately achieved (JOM).

In a nutshell, it can be observed that although the Public Service Board tries to meet the two thirds gender principle, this is coupled with challenges for example when hiring administrators and ECD teachers. In such cases, the numbers lean towards one gender. However, they try as much as possible to ensure that the principle is observed.

#### **5.2.4 Implementation by Political Parties**

Political parties are major implementers of the gender quota threshold through the process of nominations. The Political Parties Act empowers political parties to nominate members both at the County and National level in order to meet the gender quota threshold. However, this has created a whole set of challenges with women being asked to wait for nominations as opposed to vying for mainstream seats such as M.P, MCA and Senator amongst others. This had a direct implication on whether women were able to vie for these positions.

However, the participants described political parties in the following way. Firstly, political parties were termed as personality cults. The interviewees blamed political parties for not having a competitive nomination process. Although Party Lists are supposed to comply to the Constitution, 2010, The Political Parties Act 2011, The Elections Act 2011, The Elections Amendment Act 2012, The Election Laws

(Amendment) Act, 2017 and The Elections (Party Primaries and Party Lists) Regulations 2017 amongst others, this had not been the case. This is because the parties ended up nominating people working in their secretariats, their friends and relatives as a way of rewarding them and for some; it was in exchange for money. In most cases, it was the women who were nominated for the gender balance slots because during elections, it was the men who were mainly elected.

The participants concurred that the Political Parties were not following the Constitution and the other instruments outlined above. These views were shared by the MCAs across the two Counties and the other stakeholders who are experts in this area. This is as discussed in the following views below:

There is no single political party that follows the constitution i.e. article 91 of the constitution. Their national character is only in tokenism whereby the requirements for implementation or rather the registration of a political party requires that you have a thousand members in at least half of the Counties. They do that at a technical level. So it's not about selling your ideology to the members or to the people so that they can say yes I want to be part of this. And the mobilization is done on the basis of ethnic balkanization. Now, if you are doing ethnic balkanization, you must understand that tribes are by nature patriarchal. So they don't lean towards women. So women are automatically excluded from that equation. Because patriarchy favors men. Our political parties are in the forefront of causing division and sowing hatred among our people. And when they are putting the lists they are supposed to give the criteria and the formula they have used. This was picky picky poncky! So it's that level of impunity. State capture of institutions (DSN).

Yes nominations have not been fair. We told them to look into the issue of women who have served in the County for long. We thought that those who have served in the sub-counties and County level for long would be nominated and yet they were not. People like me who are now old would be celebrating and saying at least the government has recognized me. But there was nothing like that (SEM).

Indeed, although the Registrar of Political Parties was supposed to hold the parties accountable, the office bearer was described as being toothless and therefore the political parties did not follow the rules. The views above were substantiated by the following finding from a document entitled “A Gender Analysis of the 2017 Kenya General Elections:

Despite understanding the importance of primaries, most political parties did not take the necessary steps to ensure that their processes were undertaken in a free, fair and transparent manner. Consequently, both male and female candidates complained about voter bribery and intimidation, rigging, interference from incumbents and party officials seeking political office, multiple voting and importation of voters. Outbreaks of violence and unrest were also reported during the primaries, with little reaction from relevant government agencies. Some parties were reported to have nominated non-members in the primaries over female members. Among the women who won during the primaries, some had their nomination certificates issued to other aspirants, leading to expensive court battles (p.37).

Secondly, many of the participants alluded to the fact that nominated MCAs are not respected because they don't have a ward and therefore no people to represent. This remark was made especially by the nominated MCAs and other participants interviewed. In addition, because the criterion used to nominate these women was not clear, this could perhaps also explain why people had little respect for them.

Even in the national assembly nominated women are not taken seriously. The same with other nominated men. The other issue is that the criteria of nomination is also an issue. Some of the women who were nominated are people who are not known in the society. Even as much as we nominate people, it's like we are only filling spaces because we have to. Let's have those who were nominated vying in the next elections unlike the previous where those who were nominated last time never vied. Therefore it is clear that the nomination process was not for public domain. But if the people nominated are also going through some process then they can be elected in the next elections. So you find that those who are

nominated are those who supported the Governor. For them to be there, there must be a criteria (BKEM).

Thirdly, the other issue that was raised by the MCAs is the fact that, due to the difficulties that women experience in the political terrain, they prefer working for the political parties to secure a nomination than going for the elections. This means that even those that have potential tend to shy away from vying and prefer being active in the party politics so that hopefully they can be considered during nominations. The following excerpt captures this view.

In this County Assembly we only have one woman who is elected as an MCA. The rest, have come through this a third gender rule and I thank the people who worked for this Constitution because if it were not for this constitution, this would be a house of men. Even if we vie for positions, we start being punched, this woman is not married, this woman does not take care for her husband this woman is a prostitute. We are blamed from all corners. Which clan does she come from, unlike the men. When a man vies for a position, everybody will support him, nobody bothers whether he has a family or not. But with us women we are facing it rough and no wonder you see most of us we work for our parties to get nominations but not to go for elections. It is quite challenging. That is my experience (NAM).

In addition, what comes out strongly is that in as far as implementation is concerned, it is men who are the implementers of this legislation both at the National and County governments, the Judiciary and the Political Parties and therefore once they feel that their positions are being challenged, they will find an excuse to defer the process. This means that appointments and nominations are done by men.

The challenge is that the implementers are actually men and men are now in positions of authority and their positions are actually being challenged. If they'll find an excuse or two to delay or frustrate the implementation of that legislation, the better for them. Because their interests are actually frustrated (DSN).

In a nutshell, there are differences and similarities that can be observed based on implementation in both Makueni and Elgeyo-Marakwet counties. Firstly, in both counties men are the main implementers of this legislation. Secondly, in both County Assemblies, gender sensitive policies were passed and these were mainly social policies related to children, gender violence and healthcare amongst others. Thirdly, in both Public Service Boards, the communities wanted specific posts to be a reserve of the men for example Ward Administrators and Directors. In addition, the women representation was limited to a third of the total representation. On the other hand, although literature review (Sharan and Wimpelmann, 2014) indicated that in most cases women are given ‘soft’ posts as opposed to men who are appointed to certain dockets framed as male spheres, the findings were different in one county. In this particular county, the women were appointed to the male domains as earlier indicated.

### **5.3 Accountability and enforcement mechanisms at the County Government Level**

There are different persons who are accountable for the enforcement of the gender quota legislation in the County. The Governor comes first because he/she appoints the County Executive Members and these appointments should be in tandem with Article 197(1) which states that no more than two-thirds of the County Executive and County Assembly shall be of the same gender. The County Secretary and the CEC members also come in during the formulation of different committees. They are responsible for making appointments for different committees. The next organ that is answerable in the County is the County Public Service Board that recruits all the other employees of the County in a

competitive manner but is guided by the two-thirds gender principle. However, the County Public Service board is directly accountable to the County Assembly. At the end of every year, the Board prepares an annual report and presents to the County Assembly.

The County Assembly Board is responsible for recruitment of staff in the County Assembly and should also apply the gender quota threshold. At the National level, the President is accountable because he appoints Cabinet Secretaries, Principal Secretaries, Parastatal Heads and Ambassadors amongst others. The participants also said that the Attorney General should also be held accountable because he is the President's adviser. In addition, Parliament should also be held accountable because it is the parliamentarians who come up with the necessary legislation. For example Articles 196(3) and 197 (2a) state as follows respectively:

Parliament shall enact legislation providing for powers, privileges and immunities of county assemblies, their committees and members (p217).

Parliament shall enact legislation to-

Ensure that the community and cultural diversity of a county is reflected in its county assembly and county executive committee (p217).

Therefore, Parliament plays a pivotal role in ensuring that the right legislation is in place in accordance to the Constitution, for effective operation of the County Assemblies and County Executives. Other related Articles in relation to the role of Parliament in coming up with legislation related to County Governments include: Articles 178(3), 181(2), 190 (1), (3), 194(2) and 200(1).

Lastly, the Judiciary is also a very important organ when it comes to accountability because it receives cases brought forth on the gender quota threshold and gives judgement on the same. As earlier discussed, there are several cases that have been taken to court relating to the two third gender principle as discussed earlier in this chapter and in Chapter four. Others have been concluded whereas others are still in court. However, the participants stated that there is no significant judgement that has been made so far in relation to this legislation apart from Judge Mativo's ruling. The quotes are as captured below:

Firstly, the Governor should be held accountable because he appoints the ten County Executive Committee Members. And two, the County Public Service Board because they are the employer. And then three, the County Secretary and the County Executive Committee Members. For instance if a County Executive Committee Member Is tasked with the responsibility of appointing members to a board or a committee, it's up to them to ensure that the two thirds is observed. Where the County Secretary is making appointments to a committee or the Chief Officer, then they have leeway to ensure that the 30 percent is upheld. Yes, but of course to them it's not really, it's a rare occurrence. May be for the County Secretary, he does a few committees (ROM).

I would hold the presidency to account because he holds the biggest responsibility. Next is Parliament and the Speaker of Parliament because they are supposed to enact the necessary legislation. Then the Attorney General. The Attorney General is supposed to advice the president. How does he advise these people? The Judiciary has been perhaps one institution that has really tried to push us to the level of constitutionalism, but on this issue of the two-thirds, apart from Justice Mativo who gave us the judgement that would allow for the dissolution of Parliament, there is nobody who has been willing to say, dissolve Parliament ( DSN).

There is oversight by the County Assembly. They exercise oversight over our work of course with respect to the provisions of the law. If there is anything that we are doing that is not in line, it is not consistent with legislation, they will take us to task on that. At the end of each financial year, we submit a report of our activities to the County Assembly. And in line with that also, article 232 of the constitution, one of the functions of the board is to moot the principles and



values of Public Service and one of them is gender representation. So it is required that we also report on that, whether we are compliant. In the event that we are not compliant, someone will take us to task because this is a report that we publish and is gazetted at the end of each financial year. We submit a report every December and that is a public document so if any other person even civil society, if they want to take us to task on certain issues they would do it (BOM).

Prior to the ruling by Judge John Mativo, the Kenya National Commission on Human Rights (KNCHR) had presented a petition to court to have Parliament declared unconstitutional for not implementing the gender quota by 2016 which was the deadline earlier extended from 2015. Justice Mativo thereby ruled that “if Parliament fails to enact the two-thirds gender rule, any Kenyan shall be at liberty to petition Chief Justice David Maraga to advise the President to dissolve it” <http://kenyalaw.org/caselaw/cases/view/133439/>).

In a nutshell, at the different levels of government, different people can be called to accountability. From the stakeholder interviews, it was evident that there is a culture of impunity whereby in cases where women are supposed to ascend to power and they are not given an opportunity, no action is taken to ensure that those responsible are called to accountability concerning the same.

It’s just as I have told you. A culture of impunity. Why do women want to come into this space? It’s actually about power. It’s about the unequal power dynamics. You see power, is a proxy to many other things. And power is manifested in two ways. You can have power through money and power through legislative power. Power through leadership. And those are the spaces where women are excluded. So it’s about power. It’s about power dynamics (DSN).

Indeed as a nation, in the past we have come up with so many policies but more often than not, the implementation part becomes difficult. This has been egged by the fact that the gender quota legislation seeks to aid women to access decision-making opportunities. Although the legislation is gender neutral, the reality on the ground is such that women have been disadvantaged.

What I have observed is that Kenya is a country that is steeped in impunity, that we have a political class that has refused to be feted within the law and this has been a problem of many years whereby Kenyans enact laws, policies and all these things but we never implement them. And the Constitution is now falling foul of that. So we have a culture of impunity in this country. And it stems from the highest level where despite the fact that the presidency is anchored in the Constitution, and the powers exercised by the person holding that office are derived from the Constitution, they consider the Constitution a buffet where you pick and choose what you are going to work with and where it interferes with your political ambition or your political leanings or the way you want to do things you simply just don't bother! (DSN).

#### **5.4. Rules Associated with implementation**

The participants were also asked whether there were any informal or formal rules that had to be followed in implementing this legislation. It was evident that there were no other formal or informal rules to adhere to except the fact that the other constitutional element of considering the marginalized and people living with disabilities should be considered. All they needed to do was to follow the constitution as it is as discussed below.

There is also the issue of regional balance and also the issue of 5 percent disability also according to the constitution. There is also 30 percent of the non-dominant community. Non dominant the way it is defined for example here majority are the Kamba so there is that consideration that at least 30 percent is given to the non-dominant group. Now apart from the other general considerations like merit and qualifications, we also balance the religion,

although Makueni the way it is in terms of the majority are Christians although we have a few Muslims along Kibwezi-Makindu so we also consider that (JOM).

On the enforcement mechanisms, the study found that audits are carried out every year by both the Kenya National Audit office (KENAO) and the National Gender and Equality Commission. The Kenya National Audit Office carries out audits on all aspects such as finances in terms of the development vis a vis recurrent expenditures, recruitment based on whether it meets the two-thirds gender principle, ethnic balance, inclusion of the disabled and marginalized groups and procurement amongst others. On this issue, the participants were in agreement as presented in the excerpts below:

Yes we have audits done by KENAO i.e. the Kenya National Audit Office. You see they audit based on the provisions of the law. Whether it is financial, if you are doing recruitments, if its procurement, it is against the backdrop of a legislation. One is Kenya National Audit Office which is the statutory, the audit which is required by law and then we have the National Gender and Equality Commission. They do carry out surveys from time to time (BOM).

Yes, we have from the national level, the Public Service Commission. I have seen a few letters from them. They do compliance checks for the recruitment of course on the side of the public service. We have also seen the Commission on Administrative Justice. It's also doing their mandate to ensure that those things are done. Before the Commission on Implementation of the Constitution's term came to an end, there is a time they also came round doing a survey and I think, that's what I've seen, because the County itself has not been given power to enforce. Because gender is not a fully devolved function yet it's still under the National Government. And as we know, most but of course the County has an option of the community members. Anyone that feels aggrieved has the right to go to court. So those mechanisms are still available for the people themselves. And for the Assembly, we have the IEBC. Before they publish, they have to ensure. So that's already a check for them (ROM).

### **5.5 Viability of Gender Quotas based on cost implications**

The subject of the feasibility of sustaining gender quotas due to its cost implications came up during the interviews. This was in consideration of the fact that Kenya, being a Developing Country may not be able to sustain the cost of having Gender Top-Ups in future. Due to debates on the cost of implementing the two-thirds gender principle should women fall short of the principle in both Parliament and Senate, the Institute of Economic Affairs came up with a report on the cost of having an additional seat in Senate and Parliament. This is one of the documents that the researcher received from the field while collecting data. The conclusion was that the cost of additional seats isn't prohibitively expensive as argued by some politicians, as implementing reserved additional seats for women would cost each taxpayer Kshs. 58 annually which is less than ten percent rise in Parliament expenditures (Institute of Economic Affairs, 2015).

### **5.6 Summary**

In this chapter, findings on how gender quota threshold provisions are being implemented in the devolved governance have been presented. The question encapsulated the following: How the legislation is being implemented in the County Assembly, County Executive, County Public Service Board and political parties; accountability and enforcement mechanisms in the County government and rules associated with gender quotas. In the next chapter findings on the third research objective have been presented.

**Table 5:1 Summary of Key Findings on Implementation of Gender Quota****Threshold in Devolved Governance**

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- In both counties, the main implementers of the two-thirds legislation were the men and the two-thirds representation was also considered a reserve of the men while a third was reserved for women.
  - Implementation in the County Executive is carried out by the Governor, County secretary and the County Public Service Board when hiring new employees and the County Assembly Service Board that hires employees for the County Assembly.
  - In the County Assembly, Political Parties send their list of nominated members to IEBC in line with the IEBC regulations and the lists of the nominees are sent back to the County Assembly after elections based on the number of people elected from different parties. Both County Assemblies passed gender sensitive bills.
  - In as far as accountability is concerned in the County Government; the Governor comes first, followed by the County Secretary who is responsible in cases where he/she makes appointments for different committees. Then the County Public Service Board and The County Assembly Service Board that recruits all the other employees of the County.
  - There are no rules associated with implementation of this legislation only that other groups such as the people living with disabilities and the marginalized should also be considered. Audits are carried out by the Kenya National Audit Organization (KENAO) and the National Gender and Equality Commission.
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## **CHAPTER SIX**

### **BARRIERS TO SUCCESSFUL IMPLEMENTATION OF GENDER QUOTA**

#### **THRESHOLD**

##### **6.1 Introduction**

This chapter looks into the third research objective which was to examine the barriers to successful implementation of the gender quota threshold provisions. This objective consists of the following parts: a) Barriers to successful implementation of gender quota threshold provisions in the County Government; b) How the barriers can be averted

##### **6.2 Barriers to successful Implementation of the gender quota provisions in the County Government**

Despite having a constitution that promotes gender equality and seeks to compensate for discrimination and historical inequalities that have been there in the past, there were several gendered barriers that were raised as being obstacles to the implementation of the gender quota provisions. The issues discussed below limit the impact of gender quota thresholds indirectly or directly.

### **6.2.1 View that Institutional weaknesses diminish gender quota thresholds**

There are several institutions that promote male standards and diminish the implementation of gender quotas. These institutions include; the Executive, Legislature and the Judiciary amongst others. For example, there is no clear legislation on gender quotas with reference to the Legislature and when this issue was presented to the Supreme Court, the court indicated that this issue can only be dealt with progressively thereby postponing the problem. Parliament has also not been able to pass the gender quota bill that would affect its composition. In addition, the Executive, through the presidential appointments has not met the gender quota threshold.

I really cannot blame the judges. I only blame the Supreme Court because it postponed the problem. But beyond that, there has been no firm position taken by the courts. Now when you go to the public perception, during the debate on the two thirds, when we put up on Twitter, Facebook, there is a lot of backlash from the people, from the public. Saying ooh they cannot give out seats on a silver platter let women compete with men why are you favoring them. In fact we should scrap this thing, you know. We are increasing the number of MPS. We should reduce they are so many. This comes up whenever we say we want to implement. Why that? I mean and the point is, there has not been public pressure per se so in any event the pressure from public is to scrap it. But we have the civil society that is pushing the agenda. That is capable of mobilizing against. So we are there (MLN).

Recently the president appointed his Cabinet and the Principal Secretaries and when you look at the appointments it does not reflect and does not meet the required number of women in the appointments. So this is the question that remains. Who is going to implement this legislation, this is the question that still remains. I can't tell you who is going to implement but when you look at the country as such its more patriarchal and so that means that probably it will take long. Of course if you look at the president himself who took an oath to defend the constitution and to keep the constitution, right from the word go he already went against it, against that article (FMN).

Despite the presence of gender-progressive legislation in the Kenyan Constitution, patriarchy was one of the key pronounced issues that were raised as being a major barrier

to implementation of the gender quota threshold. Patriarchy is manifested both at the institutional level and at the individual level. Kenya just like many other countries is patriarchal in nature. Patriarchy is oppressive and considers women as being subordinate to men. According to Parpart (2000), patriarchy can be defined as:

A system of male domination that is widespread but historically specific and can vary over time and context. Originally, this term was used to describe societies characterized by “the rule of the father”, that is, the power of the husband or father over his wives, children and property. This term has now come to refer to the overall systemic character of oppressive and exploitive relations affecting women (p207).

Patriarchy influences people’s perceptions concerning the roles that women should do. For example, political parties are mainly led by men. Therefore, in cases of nominations, it is the men who decide the kind of women that will be nominated. This is expressed in the excerpt below:

For me, it is double victimization when you think about it because the men know that they have to nominate women because the law requires that they nominate women. And because they are the ones with the powers to nominate, they nominate women who are either weak politically or who have some baggage of some sought, so they won’t be expressive enough and then that is used against them to show why there is no justification for more women. At least it was good to see that we got three women governors, but then one other critical question that came up in one of the discussions we were having, is whether the women who have been elected Governors, are women who sought of exhibit masculine features. And so people didn’t vote for them because they believed in gender, they voted for them because they fit within the political profile of who is a leader and that political profile is a male sought of political profile (WLN).

Indeed some participants felt that men would like to retain the status quo therefore despite having the legislation in the constitution, they will subvert it. This is an issue that



was raised across the board by stakeholders from the different counties. The following views capture what was said.

The problem we have is in the implementation. And this is caused by the mindset of our people. So you can imagine the way the men think. They think that when women are more they are likely to cause an imbalance and yet they do not see an imbalance they are causing themselves. The men feel like areas of leadership are male domain forgetting that even women can do better even than some men. They feel that the earlier they lock out the women the better for them so that they can continue in their status quo. So, You know they shoot down giving these examples and the wananchi quickly pick up and say yes we don't want this wage bill and what are these women bringing on board which we don't have from the men? (DCEM).

The second challenge, has been none of the institutions, none has shown any goodwill of implementing this either because it's a constitutional requirement or just out of the understanding it's the right thing to do. And the reason I say that is even the Judiciary. And If you don't have it in the Judiciary then why go and complain. So I think the challenge has been the institutional pushback. The patriarchal attitude within institutions that really has been pushing back on implementation or just frustrating implementation and that's why the two thirds reference in the supreme court went the way it went in my view, because I think we don't appreciate how steeped this patriarchal attitudes are within the society. This is the reason why, even the thought of such an easy thing for the president to have a two-thirds gender cabinet, he just can't still do it (WLN).

Indeed, there are stereotypical cultural, religious and gender roles entrenched in the communities that hinder women from rising to political leadership (A Gender Analysis of the 2017 Kenya General Elections). In addition, as CMD-Kenya (2018) found:

The core barrier to women's ascent to political leadership is the patriarchal nature of our society; this social practice has consciously and unconsciously relegated women to positions of followers with little or no input in decision-making. Despite global advancements in bridging the gender gap, Kenya society is yet to fully appreciate the rights and abilities of women as leaders. Political contests in Kenya require enormous amounts of social capital; however the processes of economic, cultural and political accumulation are still tilted in favour of men more than women (p.9).

Undeniably, the religious structures in place are also patriarchal in nature. People interpret things mainly through the lenses of religion or culture. There seemed to be a clash between culture and religion when one is faced with two contrary views. Those that are not rooted in religion make decisions based on culture. Those that come from different cultural backgrounds but have been established in a religion of their choice tend to make decisions based on their religion. Indeed, there are doctrinal issues that prevent women from ascending to higher echelons both among the Christians and the Muslim as stated below.

There are many other factors. Religion. Go to Catholic Church. We don't have female priests. In the Muslim communities it is worse. Religion is there and it is shaping our morals and values. So the values we learn in church is that women must submit, men must be the head, women must be the neck, in fact, this proposal of equality can be regarded, anti-Christ or anti-religion. And then there can be strong arguments against it. They say the biggest influence is coming from religion. Number 2 is culture. So where does the religion place this issue? Where it is placed, that is where you will find it even in practice. So as you discuss, development, put a lot of emphasis on culture and religion. In my view, the biggest is religion and culture. This other one, the law, when we study law we say, law is influenced by societal abuse. Something that is illegal, tomorrow may not be illegal (MLN).

According to Islam women should not be given an opportunity to lead. But right now things have started changing however they normally say that a woman should not talk in front of men according to the Koran. Then it gets to a point where now according to the Kalenjin, if a woman is to address men, she should sit down. Generally, it is considered that the man is the head and the woman is the neck (REM).

We also need to push for more women pastors. There are more believers who are women than men but we have more men ministers than women. And I think because of doctrinal issues this is a challenge, just the way cultural issues are challenging to women, in terms of positions in leadership. Even though things are changing now. However, we look forward to having more champions (BKEM).

Below is a discussion on contextual conditions that affect women who desire to take advantage of the gender quota threshold and pursue opportunities in governance.

### **6.2.2 View that contextual cleavages influence women's ascension to power**

Contextual cleavages in this case refer to issues that act as determinants to women's participation in governance based on social and cultural milieu. These factors limit women's ability to vie for the geographical seats where there is a lot of hostility. Although, quota seats are supposed to encourage women to switch to none-quota seats, this has not always been the case due to some of this contextual conditions which include: a woman's age, marital status and one's circumcision status amongst others. Among some Kalenjin communities, women who want to vie will be looked upon based on whether they are circumcised or not. Because circumcision is a communal ceremony, people tend to know whether one is circumcised or not and they can trace that to the woman's family.

Therefore, women tend to get circumcised in order to conform to culture and find acceptance in the community. Men whose wives have not been circumcised and are planning to vie will be teased by other men and told that they have a child in the house. The men will thereafter state that they cannot be led by a child and this will ruin the woman's opportunity for leadership. This is mainly a factor in the rural areas but due to modernization, perceptions are changing. The following extract captures what was said:

You know our society is patrilineal. And we inherit things from the men. Control of property is still with the men. So it's mostly those who are (educated) who can acquire wealth through their own means maybe through loans or other things. And by so, the men feel threatened because they feel that the women are taking care of themselves. Then secondly is control. When somebody is empowered, how do you control them? Then there is the element of conformity. How to appear to be part of the community. So if you are not circumcised, then you don't belong to this community and that's why people are saying you go get circumcised then you get back. On the implementation of the constitution, you find that if people were to understand the cost element, of nominating people every now and then instead of electing them, it would have been very good such that women and men will be elected on equal chance as at the end of the day we will be avoiding the cost element. Because when we nominate, that's an extra cost to us. I think we still have a long way to go (BAE).

Women who would love to take advantage of the gender quota threshold also face other challenges based on their marital status. For example, if a woman is vying and she is single she will be victimized based on the fact that she has no ability to relate with a man and that could be the reason why she is not married. Besides, people will keep wondering what happens if she gets married to a man from a different community. If she is married, it may be alleged that once she gets into politics she will leave her husband for another man. If she is widowed, she may be accused of killing her husband and may not be considered suitable.

If you ask for permission to go for campaigns your husband will not accept. If you ask him to accompany you he will not accept. If I want to go alone he will begin abusing me and stating that I have become a prostitute and from there on if I separate with my husband I will not get elected because I will be told you separated from your husband so we can't vote you in. So a woman prefers to stay away from politics and do her work. The husbands have a way of pulling us behind. But even for those who don't have husbands, people may be told that if you vote so and so just know that she is the one who killed her husband. Even if her husband died long time ago she will still be told that she is the one who killed him (VUM).

We are saying for example that if we elect a lady today, to a position of MCA, who is not married, after being elected, she is married off to a different community, in a different County, the community will say they have lost. That problem is there (KAM).

There was a woman in this recent past election who wanted to be an MCA. She was not married and she was an orphan. When she stood to speak, people said she was old, secondly she was asked why she does not have a husband if she is a good person, thirdly she was very educated however she was told that she abandoned her mother when she had an accident and left her to die at home without taking her to the hospital. So these issues ruined things for her (KKM).

Even though the Kenyan Constitution creates space for women, there are certain obstacles to overcome. This study was done in two Counties that had different cultures. With specific reference to women, It came out clearly in both counties that the expectations for women who want to get into politics is much higher than for men.

If she is married, they bring in the issue of first of all, how you got married. Is it officially, or you just came? They must ensure that you got married even through the church or traditional wedding or if they have paid your dowry or not paid your dowry. Those are the cultural issues. Because when maybe you go to a baraza, they will ask, has her dowry been paid? Is she married? Then it will poison the minds of those who wanted to vote for a woman. Yeah, and immediately the woman will lose it. There is also another issue which makes most women not to vie. It's the women who have been in important positions in society. So if they fail in a way, then that one example of failure of a single woman will be used in the whole community. They will say we took so and so and what did she do? You see! So, as leaders, female leaders, we need also to be a good example so that those who are behind us can be trusted and given a chance to lead (WAM).

We are doing a lot of awareness creation as already said. But at the same time we are telling people, don't have double standards. Just the fact that she is in leadership and she sleeps in Parliament does not mean that it's a bigger sin than a man sleeping in parliament. Because the double standards that are being used are so unfair. I have done this exercise and you can try it for the next person that you will interview. I ask, who is your Women Representative? Over half of the people do not know. But they are out there saying I have not seen what the Women's Rep has done for me. How will you see what she has done for you

when you don't even know them? Some of them say I don't know because I don't see. And I say, how will you see? (TLF).

Age is a key factor for women who desire to get into politics. It was evident that in one County, mature women stand a better chance when vying because they will not be tied down by having a young family. Besides, the people in the grassroots stated that they would not want to see their Member of Parliament, Senator or MCA expectant and having to go on a maternity leave. This is the reason why they prefer mature women who are past the child bearing age. Besides, in both settings, if a woman was voted earlier and she failed, this example will be used to disqualify other women in future. However, things are changing as more communities are becoming modernized and therefore looking at women in leadership differently as presented below:

It's a bit difficult. Because, according to the Kalenjin culture, a woman is not supposed to address men while standing, if she does so she must be seated. However, like I said things are changing. As long as the woman can balance her responsibilities as a wife and mother then leader, then it is ok for her to vie. However, a Muslim woman must receive consent from her husband before she can vie. Husbands who are educated and enlightened allow their wives to vie however; those that strictly adhere to Koran do not allow them. This is because, even in the mosque, women are not supposed to lead. For example, there is a Muslim association in a certain County that elected a woman as a secretary and this was approved by the young men. However, the old men rejected it because if a visitor comes and finds a woman in the committee the funding that he had brought will be denied because this goes against the Koran (REM).

For women the expectations are very high. Therefore when one woman spoils things she spoils for the others. But in Rift valley things have changed because there was a time we had the highest number of women in Parliament. That is why when you get to parliament people start looking at you like she is having a relationship with the driver, she has neglected her family and these are the issues that make women to keep off. I was talking to Honorable Kilimo. There was a time I had gone to do a story on how she managed to maintain peace along the valley because during her ten years there was peace. And she was telling me she

had to conform to the cultural traditions. You can't address men when you are standing. You address men while seated. And because she wanted peace, she told me I had to sit and address them while seated. But now we find that the Marakwet and the Pokot are more traditional than the Keiyos on this side (WEM).

If you want to address people here you stand up. If you sit down this is interpreted as being disrespectful. Every community has its own culture. Right now things are not as they used to be long time ago (NUM).

However, another challenge that women face is that if a mature woman is competing against a young man, the young man in most cases will be elected. Whereas in Elgeyo Marakwet women are expected to sit down when addressing the men as a sign of respect, in Makueni, a woman should stand up when addressing the men as sitting down would be interpreted as being disrespectful. However, due to modernization, this is changing. These views depend on the context and keep varying as reflected below:

When you look at the County Assembly, the majority are young people even the Speaker. The politics on the ground is what determines. You see, men are more dynamic and they know further. It was all about the campaigns. The campaigns were very vigorous. So if you give a woman a chance to compete with a young man, the young man is likely to go through. This time round it was very competitive (BKEM).

Besides, the political terrain is also rough for women because some meetings are done at night and because they are not socialized to be out at night, they may not participate and if they do they risk being branded. It would amount to going against the grain. Unlike men, they also lack networks and mentors who can take them through this path.

Of course that is expected, politics is a game of musical chairs like you've seen. What I would say is that in the build up to elections of 2017, NDI (National Democratic Institute) had convened a forum for women aspirants in Makueni County. And the women were saying that yes there was a lot of violence, a lot of

insults, there was a lot of intimidation, You cannot stay out late. You can be attacked, you can be waylaid, you cannot take food, you are like one woman going against many male contestants. So it's easy for them to gang up, and you know you'd have many enemies at a go than a male contestant who really would have one serious one. But you know by being one woman against 7 men you automatically attract enmity. You know for women we are yet to learn that politics has its face, then there is the social face, the church face and we don't know how to deal with those compartments. We don't really know how to forge many identities and men are gifted with that (ROM).

The other one is you know women are also vulnerable. Because you find the political terrain in our country is not very smooth for a woman. You find meetings are held at night, this woman is also married and also the issue of being branded. In politics you have to be hard-headed, so women fear and that's why you find those who go into leadership, somebody must have said, I don't care what they say. If you care, you will not survive in the terrain. Because they abuse you, they call you names, they think you are loose when you go to politics. So I think that branding of women, whereby women have been branded loose, when they go to politics, I think is also affecting. In my opinion, culture is not the main issue. That issue of looking at women, that stereotyping, that is what makes women fear to even engage in politics (JDM).

### **6.2.3 View that social perceptions hinder the two-thirds gender principle**

There were many social perceptions associated with the two-thirds gender principle. One of the major one's was associated with the Women's Representative seat. It was evident that some men took advantage of the Women's Representative slot to discourage women from vying for other slots e.g the MCA slots. This is a complaint that was raised by the incumbent women MCAs who were mostly nominated. Some had tried to vie and they were not successful. They were asked to live the other seats for men and concentrate on their seat. This can be validated by the fact that some people went round telling the electorate that the Women's Representative seat was the only seat that the women were



entitled to and in addition, some political parties asked the women to step aside for the man and wait for nominations through gender top up (CMD-Kenya, 2018).

In fact in Kisii County, a man attempted to vie for the Women's Representative seat (ibid). The research also found that as the level of responsibility increases, more men are unwilling to elect a woman. The men on the other hand stated that women do not support fellow women and yet they have the numbers and the women participants refuted this and said that this is one of the propagandas that the men use against the women. This shows that there are several misconceptions associated with the role of the Women's Representative as captured in the following excerpt.

But you see people don't understand the role of the Women's Rep. The role of the Women's Rep is not to represent women. The role of the Women Representative is to give opportunity to women to get into leadership and decision-making table. There are women's issues but women's issues are everybody's issues. Yes they are development issues. Maybe things like menstruation and other issues but they are still development issues. Right? Because if we don't address that issue women lag behind in development and they are not able to make their contribution. It is about bringing women's voice into the leadership and decision-making table. People need to understand that the role of Parliament is representation, legislation and oversight. They decide on budgetary allocations, they make budgets, national budgets. They oversee national expenditures, development expenditure, development projects. Now, if women are not on that table where decisions are made about how funds are allocated, how funds are spent then their issues will not be addressed. So it is about bringing women's perspectives on to the table. It's not about women's issues per se (DSN).

There are two communities in one county, Elgeyo and Marakwet for my County. Our people feel nothing wrong in having all men in leadership. In fact they look at us Women Representatives like when they are counting leadership positions they count this one of women as "saucer" It is not a proper leadership position. And taking my County for example we had, am sure you know Linnah Jebii Kilimo. She is the first woman to fight for a position in leadership in Elgeyo- Marakwet. She was a Member of Parliament for Marakwet East and she did two terms. And

people see it as an exceptional participation. She was elected because she went out and fought one of the things that was a big problem to the community i.e. cattle rustling. It is an opportunity they were rewarding but they were not rewarding her as a woman. They elected her because of the effort she put in containing cattle rustling menace in Kerio Valley (DCEM).

This information can be corroborated by a study that was conducted by CMD-Kenya (2018) that states that in many communities, women are not considered to have learned or latent capabilities in as far as leadership is concerned and therefore those who vied had to disregard a lot of prejudices including the one that women should only vie for the Women's Representative seat.

#### **6.2.4 View that inadequate funding affects the Gender agenda**

Some stakeholders stated that the campaigners for this legislation who are mostly women, lack resources to sensitize people on the importance and role of the gender quota threshold. At the County level, in both counties, the Gender Departments were not well funded together with the Gender Committees in the County Assemblies because people felt that there were more urgent issues to address such as roads, schools and hospitals amongst others. Gender issues were viewed as being synonymous with women issues.

Yes am actually an officer of gender with zero gender budget I think it's still the same stereotyping, thinking that this department is established to handle women issues. But then again you ask yourself you know because when the budgeting process starts, there is usually money. But when it's getting fine-tuned and getting to the assembly, you know, the funds now disappear. So I think we still have a lot of ground to cover (ROM).

It's not only in our County, it reflects all other Counties. I think it's just because, they see this gender thing as minor, minor. And other sectors like roads, are used by everyone. When you say hospitals, they take it as if it is very big. But we forget about the human resource. We are talking about a woman here, we are talking about a man here, we are talking about people with disabilities, children and the elderly. So it's because they have started with gender. And you know in our society when you talk about gender, most people think it's a woman. They don't see it's a male and female inside. Since they now believe, the men have already said that this is less a committee, even when they are allocating funds they just give out small small things. Small cash. I also believe that they see as if it's not busy, it's not all that busy but it depends on who started first. So they see as if it's a waste of resources to allocate money to this sector (WAM).

Gender issues were therefore not a priority and the officers working in these departments were frustrated. At the individual level, the women themselves lack adequate resources to compete against men. The following excerpts were captured from the stakeholders, FGDs with the MCAs and the County Officers amongst others:

Another challenge for women is monetary. When we go for campaigns and harambees you know us women once you are in those positions, the only thing you rely on is your salary. Men go out. First of all they use the CDF they give out contracts and you know in Kenya we have kickbacks. One gives you 10%, another 20%. So the man always has enough money. The Woman Rep has her salary and that is all. So you are invited to a harambee. Your male colleague gives 100,000. You as women rep you give 10,000. And people ask: what is this? No wonder we say these ones are useless! So we have that challenge (DCEM).

In fact, if you check on our department, it is the least funded sectoral committee. When it comes to implementing some projects, which are related to gender, it becomes a problem (KAM).

In a nutshell, there are similarities and differences in as far as barriers are concerned in the two counties. Firstly, in both counties, it was clear that the electorate had higher expectations for women contenders than for men. Secondly, unfortunately, in the County

Executive and County Assemblies of both counties studied, there was insufficient funding and this affected gender related activities. On the other hand, there were also variances based on cultural differences. For example, In Elgeyo-Marakwet, a woman who was vying was expected to address men while seated as a sign of respect whereas in Makueni, a woman was expected to stand when addressing the men. Secondly, in Elgeyo-Marakwet, the people preferred voting for a mature woman who was past the child bearing age whereas in Makueni her marital status was considered much weightier than her age. Discussed below is how these barriers can be tackled.

### **6.3 How Barriers to successful implementation of gender quotas can be averted**

As discussed in this chapter, the implementation of gender quotas has been faced by several challenges right from the National level to the County level. The interviewees gave their views on how these hurdles can be surmounted. These are presented below:

#### **6.3.1 Strengthening legislation**

It was reiterated that as a nation, we have made progress in as far as bringing women on board is concerned even though it is the men who decide the kind of women we will end up with through the nominations and eventually these women end up dancing to their tune but with time this will change as people become empowered and call their leaders to accountability. The participants were in agreement that we need to respect the law and implement the bare minimum before we can progress to 50/50 as currently advocated by

the United Nations and some lobby groups in Kenya. The Constitution should be implemented as it is. In addition, we need to have another legislation that clearly states that whenever we have posts that require an assistant, then the assistant should be from the opposite gender. In both the 2013 and 2017 elections, some governors opted to have female running mates to perhaps appease women voters (CMD-Kenya, 2018). This is already being implemented but only with reference to boards within the County Government for example the Public Service Board.

From a legal point of view, we are a rule of law country that must comply with the law. And so long as there is a provision of law that says something, we implement it (MLN).

We have to fight to hold the line. And that is where I see that if, you know there are many things we say that these guys can't do but they always do. And I think we must be vigilant to keep the legislation. Because you see, it will have a positive impact even on other issues because people see this as only putting women on leadership but remember that we have other gains that are anchored in this two thirds. Because social economic rights, land rights, marriage rights, So for us to be able to enjoy all those other gains, we need to have women on the leadership and decision-making table. While it is true that we may not have the kind of quality of women that we want because men continue to choose for us the kind of women that we should have on that table, and they come and they rise to those male political interests with time we will be able to build enough of a base to build the kind of women who can actually transform the country (DSN).

And also if they can change this issue of two-thirds so that it applies also for any position, if there is an assistant, for any position, it should not go to same gender. The deputy or the first should go to either gender. So that it will not only be an issue of two-thirds (KAM).

### **6.3.2 Enhanced capacity building for visibility**

Secondly, we also need capacity building and civic education beginning from the National Government then County Governments and also ensuring that there are budgetary allocations for the same. Civil Society Organizations, the church and the media should also be in the forefront of empowering people with the necessary information on the gender quota thresholds. The media is very important for creating awareness because it has the ability to reach the highest number of people within the shortest time.

The people need to be enlightened on the gains. Let's also have success stories. So success stories are very important where we have women in leadership who have delivered. So that we don't go back to the negatives. For example we have Dr Joyce Laboso who was the Deputy Speaker in the last Parliament and is now the Governor Bomet County. So when we have those success stories that women can make it, then we encourage others. You know most of them are actually worsening the situation. They are spoiling for those who would want to come in. Because it is already set in the mind of the people (BKEM).

It was noted that earlier on there used to be programs organized by the Ministry of Justice especially on radio but they are no longer there. It was also observed that there is need to reach out to the youth on the importance of this legislation so that in the subsequent elections we do not lose out on the gains made so far. These views are as presented in the excerpts below:

I think it's also about communication and the government has the responsibility to do that. When you look at the national values and principles of governance that bind us all, they include patriotism, unity, sharing of power, participation of the people, equity, social justice, inclusiveness, equality, human rights, non-discrimination, protection of the marginalized...so they have a responsibility to educate the people on this but they don't. The Government has been in the

forefront or agents of government, Members of Parliament allied to government have been in the forefront of actually diminishing the role of women and demonizing that space for women. They say the donkey is tired, reduce the burden (DSN).

We do, we try to create awareness on the constitution. There used to be a program called Kentice, after the promulgation of the new Constitution. It was being run by Ministry of Justice and Constitutional Affairs. It used to be a radio program. Many people were explaining the provisions of the constitution in radios and all over and it was doing well. I don't know why it ended. But we need to educate the public about the constitution. Number 2, if you know the law, and that this one we cannot pass, we need to find a way of changing the culture, the thinking, how do we change the thinking to accept these values that are against your culture? It's like the gay agenda. It has come it has failed. But in those developed countries it has stuck. To them they embrace it, you know, there was a Supreme Court judgement of US that allowed same sex marriage (MLN).

### **6.3.3: Need for Iconic Models**

There is also need for the women who have been elected and nominated to be role models. They should set a good example and exhibit their leadership qualities so that they do not spoil for the others. This is referred to as symbolic representation (Galito, 2018). This is because, when they don't perform as required, they are judged harshly. The excerpts are as below:

One, to me the fastest essential is when women are given positions even if it is to be in charge of a group, to show leadership, don't show the woman in you but the leader in you. For the woman to first prove, they can be leaders. This is because where women have proved they have been elected and re-elected. But where they have failed, people say "we will give so and so then she will behave like the other one" So women have a lot of work to do. And also should support each other (JDM).

I think there is much of civic education, secondly as women, who are in positions, we need to pull up our socks. And set up a nice base for other women back in the village by initiating various projects. And ensuring that it is actually done.

Whatever we say, we fulfill it and we source funds which can help us even sponsoring women (WAM).

In the same grain, women in leadership can also mentor others who are keen on pursuing leadership opportunities.

#### **6.3.4. Mobilization by different Actors.**

Based on the participants' views, there are different organizations that have been involved in sensitization and Civic Education in as far as this legislation is concerned. For example, some stakeholders mentioned the Governance, Justice, Law and Order Sector (GJLOS) programme that used to present programmes on radio during the time when Martha Karua was the Minister for Justice and Constitutional Affairs. GJLOS was a programme by the government of Kenya that was embedded on Vision 2030's goals of legal, justice and governance reforms. Others include NGOS and civil societies even though people's perception of NGOs is that they seek their own interests more so donor funding but the civil societies are more effective in raising awareness.

Yes we had the Governance, Justice, Law and Order Sector (GJLOS) programme. With Uraia Trust we have had several programmes on radio and it really had a lot of mileage. But remember one of the things that Uhuru Kenyatta did in 2016 is that he burned civic education. Remember that he has also fought civil society and a lot of the work has been done by Civil Society. The National Civil Society Programme has been run jointly through Civil Society. Even IEBC has relied on Civil Society to jointly work with them to do Civic Education. So the minute they burn it, it becomes a problem (DSN).



The Public Service Board as discussed by the board secretaries also educates the public on the principles of the public service as enshrined in Article 232 and the National Values and Principles of Governance in Article 10 of the Constitution that includes equity and equality at least once a year because it is costly. The church as stated by the clergy also encourages women to identify their gifts and be faithful first to their families and then to the community. The media is also important for publicity purposes.

Our role is to sensitize people. The more I cover you the more people get to know you. But the media cannot put words in your mouth. You have to say something that is worth us talking about and present to the public. So we also give them publicity depending on what they are saying and what they are doing. They should address issues affecting the community. They should present bills in Parliament especially focusing on children, there are so many issues concerning children like here there are so many issues on defilement. Nobody is talking about it (WEM).

Yes we had KEWOPA. The only problem with KEWOPA was that they only came in when there was a crisis. Two, when we were receiving visitors from far. Three, whenever we discussed about funding. Then during elections. There is nothing else. It's as good as not being there. So for me KEWOPA did not help me in any way. I went out of my way and started an anti-FGM caucus and I put together Members of Parliament from communities where girls and women are affected. So that we did a lot. We went there and sensitized the community and the different representatives gave sermons. We lack networks because we rarely come together. For women in the community level to come together other than in the church, they don't want to waste time doing nothing. They could go for their merry-go rounds but they may not attend other meetings (DCEM).

However, for the gender quota threshold legislation to be effective there is need to have different actors coalesce behind this legislation. These actors include; the National and County Governments, the National Gender and Equality Commission, IEBC , Registrar for Political Parties, religious organizations and the media . The National Government should set budgetary allocations towards capacity building and enlightening the

population on the importance of having both men and women in leadership. The County Governments should also follow suit. There is also need to strengthen institutions like NGEC and IEBC by providing them with funding so that they can be more efficient in overseeing the implementation of this legislation. Other groups like civil society organizations and NGOs should also be involved in promoting the implementation of this legislation.

If I was ranking key players from number one, number one must be the Government. Right from the President. The others could be our leaders' right from the National Assembly, the County Assemblies. Our leaders need to appreciate that women's participation in politics is critical. The religious leaders are drowned. They should sound because some of these religions are also patriarchal. They are part of the problem because they have teachings which say women should not be on the pulpit. It is about time that we embrace the women voice in leadership. But also I think in Kenya we have had enough youths who are fairly educated. It's for their own interest to embrace matters related to gender parity of whatever nature. But it appears like education is not helping them. Culture has overwhelmed them. (DSSN).

IEBC is just an agent just like political parties. There's much it can do. It can provide guidelines which are in conformity with the Constitution, which they have done already especially with regard to the County Assembly. IEBC is an agent that should be seen to clamor for the implementation of the said legislation. The chairman should be able to say that the current parliament is illegal. Should use state resources to seek advisory from the Supreme Court. But because it is an appendage of the Executive and the Executive doesn't have time for that, then IEBC is quiet. Conveniently quiet. (DSSN).

#### **6.4 Summary**

In this chapter, findings on the third research objective which was: To examine the barriers to successful implementation of the gender quota threshold provisions were presented. Presented below in Table 6.1 is a summary of the key findings.

**Table 6.1: Summary of Barriers to Successful Implementation of Gender Quota Provisions**

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**There are several gendered barriers to successful implementation of the gender quota provisions as presented in the following views :**

- The view that there are Institutional weaknesses
- The view that there are contextual conditions that hinder the Implementation of this legislation. In both counties, there were cultural expectations that women needed to meet.
- The view that there are social perceptions associated with the two-thirds gender principle.
- The perception that there is inadequate funding for Gender Departments and Committees in both Counties.

**How Barriers can be averted:**

- The view that we should implement the constitution and strengthen this legislation.
  - The view that there is need for Education and Awareness for visibility
  - The perception that there is need to have iconic role models
  - The view that there is need for mobilization and engagement by different actors.
-

## **CHAPTER SEVEN**

### **DISCUSSION AND CONCLUSIONS**

#### **7.1 Introduction**

In this chapter, the following issues have been discussed: a summary of key findings, the discussion based on the findings and literature review, conclusions, my thesis and contributions to this study, implications for policy and practice and finally, my reflections as a Doctor of Philosophy scholar.

#### **7.2 Summary of key findings**

This study was based on three research objectives as follows: find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance, to establish how the gender quota threshold provisions are being implemented in devolved governance and to examine the barriers to successful implementation of the gender quota threshold provisions. The findings on these three objectives are presented in the foregoing chapters i.e. chapter four, five and six. In-depth Interviews, Focus Group Discussions and Document Reviews were used to collect data. The key findings for each research objective are as presented in the table presented in the next page.

**Table 7.1: Summary of Similarities and Differences in key findings for Elgeyo-Marakwet and Makueni Counties**

<p><b>O1. To find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance</b></p> <ul style="list-style-type: none"> <li>▪ The men were of the view that the legislation was fair whereas the women were of the view that it was not fair because it capped women’s representation to a third. These views were expressed in both counties.</li> <li>▪ Men and women in both counties concurred that the gender quota legislation has been moderately effective because women still remain underrepresented.</li> </ul>
<p><b>O2. To establish how the gender quota threshold provisions are being implemented in devolved governance.</b></p> <ul style="list-style-type: none"> <li>▪ In both counties, implementation of the gender quota legislation was mainly carried out by men.</li> <li>▪ County Assemblies in both Makueni and Elgeyo-Marakwet came up with gender sensitive policies.</li> <li>▪ Both Public Service Boards in the studied counties preferred a male as opposed to a female for posts such as Ward Administrators and Directors.</li> <li>▪ In addition, women representation in both counties was limited to a third of the total representation.</li> </ul> <p><b>O.3 To examine the barriers to successful implementation of the gender quota threshold provisions.</b></p> <ul style="list-style-type: none"> <li>▪ There are several gendered issues that hinder the successful implementation of this legislation and they include: <ul style="list-style-type: none"> <li>▪ <b>Institutional weaknesses:</b> These are manifested in the Executive, Legislature and Judiciary amongst others and these weaknesses are entrenched in patriarchy;</li> <li>▪ <b>Contextual conditions</b> such as one’s age, marital status, FGM status and other cultural obligations were prevalent in both counties albeit in different dimensions.</li> <li>▪ <b>Social perceptions</b> associated with the two-thirds gender principle e.g the fact that women should only concentrate on the Women’s Representative seat and leave all the other seats for the men was a perception in both counties.</li> <li>▪ <b>Limited funding was a challenge in both counties</b> for the Gender Departments and Gender Committees because of the perception that other sectoral issues are weightier than gender.</li> </ul> </li> <li>▪ These barriers can be averted by: <ul style="list-style-type: none"> <li>▪ <b>Implementing and strengthening this legislation</b></li> <li>▪ <b>Creating awareness and educating the populace on the benefits of this legislation</b> for purposes of visibility.</li> <li>▪ <b>Having iconic models</b> who set a good example for the others.</li> <li>▪ <b>The need for mobilization and engagement by different actors</b> besides the National and County governments.</li> </ul> </li> </ul>

### **7.3 Discussion**

This study set out to investigate perspectives of key stakeholders on implementation of gender quota threshold in selected Counties in Kenya. The key findings were: various stakeholders view the constitutional provisions on gender quota threshold in devolved governance as being fair and well-intended but leaving a lot of loopholes for diverse interpretations; that the implementation of this legislation is in-consistent in the counties studied and is dependent largely on the goodwill of the governors and other key decision makers; and that barriers to successful implementation of the gender quota threshold include male patronage, gender-bias, social-cultural perceptions on role of women, among others.

One other unique finding in this study was that: There is limited funding for Gender Departments and Gender Committees in the Counties. Indeed, there are patriarchal contours that affect the perspectives and implementation of the gender quota legislation. In this discussion, the researcher explores how contextual factors presented in chapter one seem to have influenced the core findings; how these findings relate to theories reviewed in chapter two; how these findings compare with the previous studies as also presented in chapter two and unique findings of this study. These are discussed in sections 7.3.1 to 7.3.5 below.

### **7.3.1 Constitutional provisions are fair but leave loopholes for diverse interpretations**

In the first research objective, the aim was to find out the perspectives of various stakeholders on the constitutional provisions of gender quota thresholds in two research sites. Therefore, contextually, this study was limited to Makueni and Elgeyo Marakwet Counties. Specifically, Elgeyo Marakwet County did not have a single woman elected as MCA even though in the 2012 elections, there was one woman who had been elected. On the other hand Makueni had one woman elected out of a total of 30 elected MCAs. It is against this backdrop that this study sought to examine how the gender quota threshold is perceived, interpreted and thereby effected. One thing that come out clearly is the fact that in both Counties, perspectives were based on how the gender quota legislation is being implemented at the National Government. Therefore, although both Counties have unique contextual differences in terms of representation, the interviewees gave their views in relation to perspectives on the National Government.

For example, there were mixed views from the participants concerning their assessment on whether the gender quota legislation also encapsulates the National Assembly and Senate in the Constitution. Some participants stipulated that “the mechanism of implementing the two thirds is not there for the National Assembly and Senate i.e “It is clear for Counties but not clear for the National Assembly”. Others stated that the legislation is clear for both and that there is no problem whatsoever. According to

Domingo et al (2016), “There is concrete wording to ensure increased representation for women in Parliament and County Assemblies” (p.21). The Constitution outlines 47 reserved seats for Women Representatives, which consists of a quota of 13% for the National Assembly, 16 seats stipulated for Senate which represents a quota of 33%- and 30% for County Assemblies (Domingo et al, 2016).

Although the state committed itself to take legislative and other measures to ensure that the two-thirds gender principle is applied in appointive and elective bodies, to date the relevant legislation has not been passed in Parliament more so for lack of quorum. As Kenny (2019) put it, on paper, the gender quota threshold is a radical strategy to promote democracy. However, in reality, there was no implementation strategy in place and this legislation got into an impasse.

The Building Bridges Initiative Report proposed that Article 97 be changed so that instead of having 290 Members of Parliament, 47 Women Representatives and 12 nominated members for special interest groups that instead we would have 94 senators i.e each County elects a male and female senator whereas the MPs would be increased by 70 members who would be drawn from party lists depending on the party’s performance in the elections and nomination lists would be abolished. This therefore would introduce multiple member constituencies from initial single member constituencies as stated in the constitution (Revised Article 97 (a), Building Bridges Initiative Report). This is yet to be debated upon.



Beyond the national context, some interviewees pointed to the global context under which gender quotas are being implemented. It was brought out clearly that the challenge of implementing gender quota provisions is not only a reserve of developing countries but that in some developed countries women have not been fully brought on board in as far as leadership is concerned. Therefore this is a global problem that has necessitated the use of voluntary party quotas, legislative quotas and reserved seats amongst other measures as earlier discussed in chapter two.

Of relevance to this study was the fact that the legislation is clear for the County Assemblies and this study concentrated on this. However, Bouka et al (2019) in a study done in four Counties namely: Kilifi, Kisumu, Nairobi and Nyandarua states that the County Assemblies were only able to comply with the quota threshold through the gender top-up process. Therefore, even though the County Governments seem to have complied to this legislation, a majority of these women have been appointed or are in reserved seats (Bouka et.al, 2019).

In this study, participants brought out the fact that this legislation had both positive and negative effects that had an impact on its efficacy. To begin with, the two-thirds gender principle had created more space for women to participate in governance more than ever before in Kenya but as indicated above, more of them benefited from the gender top-up mechanism. However, some participants felt that after the women had really worked to have these legislations included in the Constitution, they relaxed knowing that there are

opportunities for nominations that will be filled by women in the event that they don't get to the threshold. This was mainly an issue that was raised by male participants. As one interviewee put it "its not motivating them to go for elective positions because they say that after all if they don't vote us, we still have slots reserved." This finding corroborates the Theory of Political Representation finding of symbolic representation whereby men and women perceive the presence of women in governance differently as compared to men in authority.

On fairness of the legislation, it can be observed that there were gendered differences in opinion with most of the women interviewees in both counties stating that the legislation was not fair as it had put a ceiling on the number of women to be brought on board as the a third was interpreted to mean the women whereas the two-thirds was in reference to the men. The men on the other hand felt it was fair enough. This confirms what other scholars have stated such as Krook (2013) as well as Dahlerup and Freidenvall (2010). Domingo et al (2016) in a study done in Nairobi found that, ' the 'success' of a constitutional text depends in large measure on levels of elite consent to be bound by its rules in practice, on the one hand, as well as on broader societal acceptance of the fairness of these rules, on the other'(p.15).

### **7.3.2 Implementation of this legislation is dependent on goodwill of the governors and other key decision makers**

The two Counties sampled in this study were different in terms of regional and political diversity and were therefore able to bring out different and similar views in some cases. Elgeyo Marakwet had legislators who were predominantly from the Jubilee Party in that, out of 33 MCAs, only two were from independent parties whereas all the rest were from Jubilee Party which is the ruling party in Kenya and was founded in 2016 just before the 2017 General elections.

In Makueni county, Wiper Democratic Movement was the dominant party. This party was in a coalition with Orange Democratic Movement (ODM), Amani National Congress (ANC Kenya) and Forum for the Restoration of Democracy (Ford Kenya) forming National Super Alliance (NASA). This County was therefore predominantly in the opposition. Therefore, political party diversities have been succinctly captured.

In the two research sites studied, In as far as appointments in the County Executive are concerned, both male and female participants stated that in most cases women were given 'soft' ministries such as Ministry of Gender, Youth and Sports, Agriculture and Tourism amongst others. According to Dolan (2014), political gender stereotypes are dependent on the context but generally women are perceived as being in a better position to handle healthcare and education whereas men are better placed to handle terrorism. However,

this study is unique in the sense that the findings are mixed in as far as the two contexts are concerned in that only one study area concurs with Dolan's findings in the sense that in one of the counties studied, the women appointed were given 'soft ministries'.

In one of the Counties visited, the CEC Member for Gender was a man whereas, the CEC Member for Finance was a woman. In this same County, the Deputy Governor was a woman. In the other County, the CEC Member for Gender, Culture and Sports was a woman whereas the other two women were in the Ministries of Tourism and Administration and Public Service respectively. Participants interviewed proposed that there was need to have all governors having running mates from the opposite gender. There is a proposal to amend Article 180 in the Constitution and have an additional clause 5A which states that "In making the nomination under clause (5), a candidate for election as a county governor shall consider a person of the opposite gender.", (Building Bridges to a United Kenya: from a nation of blood ties to a nation of ideals Report, 2020). The two cases studied therefore bring out clear differences in their women's inclusion strategies in a bid to implement the two-thirds gender legislation.

Devroe and Wauters (2018) in their study in Belgium found that there are mainly two types of political gender stereotypes and these are: perceived issue competence and ideological positions. In as far as perceived issue competence is concerned, women were perceived not to be competent in security and defence. Ironically, health issues were not

supposedly associated with women. On ideological positions, women were perceived as being leftist.

This study brings in a novel finding whereby in the case of County Governments, appointments of CEC Members in a bid to fulfill the Two-thirds gender principle is based on individual Governors and this could be determined by their perceptions on gender matters or as one said, this can be done to appease the women voters. Therefore individual characteristics count when it comes to the implementation of gender quotas in County Governments. This is an unintended consequence of the gender quota legislation in the sense that although the Governors are guided by the Constitution of Kenya, the actual implementation is dependent on individual Governors. Ironically, despite the differences in appointments by the different Governors, both Gender Departments had no access to adequate funds to run their projects. This could be as a result of the fact that budgets prepared by the Executive have to be passed at the County Assembly where they are either approved or denied.

In addition, there was also the view that the two-thirds is for men whereas the third is for women. In both Counties, appointments were based on this view. This could be as a result of the fact that no one would really want to change the status quo. O'Brien (2017) warns that political parties are unlikely to choose leaders, male or female who are likely to move them far beyond the status quo and therefore even female leaders are unlikely to go against the grain. This finding contradicts descriptive representation as brought out in

the Theory of political Representation because the expectation would have been that because there were more opportunities in terms of seats to contend for in the elections after the promulgation of the 2010 Constitution, political parties would have given more women an opportunity to vie but that was not the case in the Kenyan context. This could mainly be as a result of the patriarchal culture that is embedded in our system.

Political Parties prepared the nomination lists which were forwarded to IEBC. After the elections, IEBC uses this Top-up list to select the nominated MCAs based on party strength in the County Assembly (Berry et al, 2020). The Speaker and the Clerk then ensure that everything is carried out according to the law. The County Assembly Board deals with all other recruitments associated with the Assembly. In as far as committees are concerned, MCAs had the opportunity to choose two sectoral committees and one select committee. The researcher had an opportunity to carry out an FGD with the Gender Committees in both Counties. One was headed by a man while the other one was headed by a woman after they were both voted in. In the Committee that was headed by a male MCA, one female MCA vented her frustrations as she really wanted to be the Chair but she missed narrowly after even the female MCAs voted for the man. The issue of women not rallying behind their fellow women is a pernicious issue that has been discussed by other scholars. Kenny (2019) also got a similar finding whereby Kenyan women desiring to vie had to navigate through conflicting perceptions on their fitness and capability to lead even from their own.

In both Committees, there was evidence of gender sensitive bills and motions that had been passed especially by those who were serving their second term in the County Assembly. Studies done in Latin America show that women irrespective of whether they are from the right wing or left wing prioritize bills that have to do with children, workplace equality, women's rights and mainly family affairs (Piscopo and Franceshet, 2008; Rodriguez, 2003).

This finding is consistent with the ideals of substantive representation, whereby when there is an increase in the number of women for example in the County Assembly, then there is an increase in gender sensitive policies. These policies were presented by the women who had been elected and those who had benefitted from the Gender-top-up process, thereby attaining a critical threshold of 30 per cent. Although this may not always be the case, in the context of the two cases studied, the gender committees were able to take action towards the gender agenda.

Political parties were the main culprits in the nomination process. As a matter of fact, they are considered as gatekeepers in the election and nomination process (Heyndels & Kuehnhanss, 2020). To begin with, the recruitment of people to a political party as some said is based on "ethnic balkanization and because tribes are by nature patriarchal, women are excluded from that equation". This means that most Political Parties are mainly composed of a few dominant ethnic groups thereby reducing them to ethnic enclaves. Besides, for the two-thirds gender principle to be effective, women need to

participate and win in democratic contests however the responsibility of selecting the right women to contest is with the same political parties that have previously engineered their marginalization (Kenny, 2019).

Heyndels & Kuehnhanss, 2020 state that: “There is by now convincing evidence that party leadership uses the nomination of candidates and the composition of party lists as an instrument to consolidate power-party list formation does not take place in a vacuum” (p.180). In addition, Turnbull (2019) found that in the local elections in India, political parties were less likely to nominate women in open-gender wards in 2017 unless the ward had a woman elected in 2012. However, community reservations, institutional disincentives and disadvantages associated with incumbents aided in displacing incumbent women.

This finding also relates to formalistic representation in the Theory of Political Representation which shows that electoral procedures and rules have an effect on the number of women who are elected or nominated. As stated by the participants, there was a lot of meddling in the political parties affairs. The Gender Top- Up lists were used for tokenism whereby friends, relatives and girlfriends amongst others were rewarded through being included in these lists. As one interviewee said, these nominations are based on “a romantic relationship”. Others felt that in some instances, men “nominate women who are either weak politically or who have some baggage of some sought, so



they won't be expressive enough and then it is used against them to show why there is no justification for more women".

Previous research also shows that the women who were nominated had to be loyal to the bigwigs in the party (Bouka et al, 2019). Therefore, the women had to be loyal to the party than to the people they sought to represent. Karpowitz et al (2017) argue that party leaders have the mechanisms for increasing women in governance if they chose to more specifically through recruitment of female contenders thereby increasing their supply and ingraining a demand for them by emphasizing equality thereby influencing the voters to vote for women. However, American context is different therefore, the findings may not be generalized to other settings. In addition, the study also finds that there are ideological and practical barriers to gender quota implementation in the United States and therefore quotas are not the only means of increasing women's participation in governance. Besides, there are other factors that deter women from taking advantage of gender quotas as discussed based on the two counties studied.

The Building Bridges Initiative Report, 2020 also proposes that Article 90 (c) is amended to read as follows: "each party list includes women, persons with disabilities, youth, ethnic and other minorities, and marginalised communities".

### **7.3.3 Barriers to successful implementation of the gender quota threshold**

In this study, the barriers to successful implementation of the gender quota threshold include male patronage, gender-bias and social-cultural perceptions on the role of women amongst others. Male patronage was mainly depicted through patriarchal norms that portray gender bias as reflected both at the institutional level and at the contextual level. In the two Counties selected, there were differences in cultural orientation. Both Counties had patriarchal tendencies however, what was interesting is the fact that the finding may point to one thing but in reality what is experienced on the ground is different.

For example, it was ironical that although the participants from both Counties outlined various socio-cultural conditions that hinder women e.g one's age, female circumcision status and marital status amongst others, the reality was that historically and against all odds, as stated, 'Kalenjin have consistently produced the largest number of elected parliamentarian women' and therefore this creates an ambivalence. This constitutes an interesting finding because it points to the fact that perspectives on gender quotas may or may not be reflected in the voting patterns or behavior. Conventional wisdom would have it that the expectation would be that a County that has more contextual barriers would have less women elected. All in all, Patriarchy is one of the major factors that determine whether women are able to take advantage of quota provisions (Nazneen, 2018).

The nature of patriarchal norms differs in different provinces and regions even within the same country and therefore, in regions where patriarchy is less restrictive in as far as women's engagement in the "masculine" arena is concerned, then more women will benefit from the quota provision (Nazneen, 2018). However, using this kind of criteria to judge women is exclusionary in nature and does not promote the spirit behind gender quota thresholds.

In order to sustain these positions, there was a major concern brought out by the participants concerning women who desire to vie for leadership positions. As a matter of fact, one participant stated that "they have to exhibit masculine traits or they have to be masculine". On the contrary, Nazneen (2018) found that women depict a 'feminine altruism' and avoid confrontation or opposition to male authorities in South Asia. Based on the findings from this study, the underlying factor is that women's pursuit for political representation is judged based on family and more specifically relationship with a husband and children. Whether one is married or not has far reaching effects. Bouka et al (2019: 324) found that "women must prove that they are good wives and homemakers before they are elected; these qualities are often considered a prerequisite to being a trustworthy political leader, even by female voters. This shows that there is a two-sided view to how women should portray themselves as contenders during elections and brings out an antithesis.

Sumbas (2020) also found that cultural barriers are the most pronounced challenges among female mayors in local politics in Turkey and this patriarchal mindset affected how they carried out their duties. For example, people scrutinized how they managed their domestic work and local politics simultaneously. It is expected that they do not share family responsibilities so that people can perceive them as the “the mother of the Municipal” (Sumbas, 2020).

#### **7.3.4 There is limited funding for Gender Departments and Gender Committees in the Counties**

This was a nascent concern that came up in both Counties studied. This constitutes a unique finding in this study that is not reflected in other similar studies. From the interviews carried out among County Executive and County Assembly officers, it was clear that there was scarce funding for the Gender Department and for the Gender Committee. One interviewee remarked that “Am actually an officer of gender with zero gender budget. When the budgeting process starts, there is usually money but when it’s getting fine-tuned and getting to the Assembly, the funds now disappear”. The perception that people have is that Gender handles women issues and there are other more pressing issues to be addressed. As a matter of fact, another participant said “There are women’s issues but women’s issues are everybody’s issues. Yes they are development issues.”

The Gender Officers who are based at the Sub-County level were not available for interviews as the counties only engaged them on part-time basis subject to availability of

funding. Due to inadequate funding, sensitization programmes on gender awareness were also not carried out as they should, for example by the County Assembly Board. NGEC also lacked the resources to carry out gender audits and civic education in all the Counties.

At the individual level, the women compared to men lacked finances to carry out campaigns and give in fundraisings amongst others. Campaigns require that one is able to hire transport, pay the campaigning team, give hand-outs and entertainment amongst others (Wang and Yoon, 2018). The situation of financing is more complex for women because they may not sell family assets unless with the approval of their husbands. This study is similar to Bouka et al (2019) which indicates that despite the fact that women had inadequate finances, they had to spend much more than the men to ensure their security and that of their supporters and prove their electability. Besides, Mufti and Jalalzai (2021) found that political parties nominate women who mostly come from political families and possess financial resources that would enable them to win. Whereas others have concentrated on campaign financing for women and funding for capacity building targeting women contenders by the international community (Domingo et al, 2016; Bouka et al, 2019), this study examined financing for gender matters both at the County Executive and County Assembly and therefore is unique in this aspect.

This finding shows that it is possible to empower women with one hand and disempower them with the other. This is because when finances are not provided, then the Gender Department cannot be effective. Although bringing more women on board was dependent

on individual characteristics of governors, financing had more to do with approval by the County Assembly when the budget is presented. It is at this point that, priority is given to other sectors.

This finding contradicts Dolan and Hansen's (2018) study on public perceptions of women's underrepresentation in elected office using the blame attribution theory. In their study, there are individual and systemic blame categories that can explain women underrepresentation in politics in America. Based on their study, women may not necessarily have a difficult time raising finances to get into politics. However, in the case of this study, the issue of finances is pronounced. Differences in this study and the above study could be as a result of differences in developmental contexts of Kenya and the USA and cultural attributes. Therefore, this study is unique because it brings out the challenges of implementing gender quotas in a developing country's context more specifically at the County Government level.

The finding also departs from Beauregard (2017) study which was a cross-sectional longitudinal one and was conducted in 18 European democracies. The findings were that gender quotas in some cases are associated with reduced gender gaps for certain political activities such as signing petitions and campaigning for gender quotas which do not have a heavy financial implication. However, the context and region is very important when examining where gender quotas are being implemented and besides, since this was a longitudinal study, it shows that the effect of quotas can change overtime.

The empowerment approach more precisely economic empowerment highlights the need for women to have access to productive resources that may be used in the different spheres of life beginning with the individual and moving on to the community (Kiriti-Nganga and Kiiru, 2018). In this case, releasing the necessary funds needed to support the Gender department and the Gender committee would go a long way in ensuring that the enabling environment for empowerment has been set. Unfortunately, this has not been the case. Therefore, it can be observed that for effective implementation of gender quotas, there is need to allocate and provide resources and finances to implement the gender programmes.

### **7.3.5 There are social perceptions that hinder the effectiveness of the gender quota threshold**

Gender quotas, focus on reversing the trends in as far as participation in governance is concerned. Throughout this study, several social perceptions have been presented. However, there are others that are associated with being in certain positions. Firstly, there are misconceptions associated with being a Women's Representative and a stigma related to Nominated MCAs. The men used the Women's Rep seat to dissuade the electorate against voting for women in other designated seats claiming that they have their own seat. This concern was raised in both Counties. This was an unintended consequence of the gender quota legislation in Kenya. It implies that irrespective of the cultural differences and different political inclinations in both Counties, it can be observed that reserved seats seem to elicit negative perceptions even in the case of a Woman's Representative who

was elected. The impression that people seem to have is that the women never really worked to get these positions. Indeed as one participant stated “When they are counting leadership positions they count this one of women as “saucer”. This implies that it comes as an afterthought.

Nominated MCAs were also not respected and given the same honor as their elected counterparts. Most of the nominated MCAs were women who were told that they did not represent anyone in the Assembly. Berry et al (2020) states that “ This lack of geographic constituency leads nominated MCAs to feel voiceless and powerless; moreover, without representing a specific constituency, they are perceived not to be accountable to anyone other than the powerful political elites who put them there” (p12). This accusation was also leveled on Women Representatives too of whom people referred to as “County MP”, a term that was considered friendlier and more inclusive. This finding is consistent with Domingo et al (2016) who found that, female MCAs who had been nominated through the gender to-up structure were termed as ‘Bonga points’ which refers to points that one earns through using a certain mobile network over time.

Based on this prejudice more so levelled on the nominated legislators, the Building Bridges Initiative Report, 2020 proposes eliminating nominated seats both at the national and county level and instead have multi-member constituencies where each legislator can be attached to a geographical area.



From the literature reviewed, Wang and Yoon (2018) also found that in both Uganda and Tanzania, quota MPs did not receive the equal respect to that of elected MPs. In addition, in Uganda, controlling data for other factors, women in reserved seats were less acknowledged over time in plenary debates in comparison to their female and male counterparts who were in open seats (Clayton et. al, 2014). Therefore, quotas have brought about inequalities among legislators because those who are elected are more powerful since, they have a geographical region that they represent, a ward budget to control, an office, staff and allowances that the nominated MCAs do not enjoy (Berry et al, 2020).

Secondly there was the perception that women should not vie for geographical seats because they will be nominated for gender top up positions. The County Public Service Board also experienced challenges in that the citizenry preferred men to women for certain positions such as Ward Representative and Directors. This finding was unique in the sense that in both contexts, the citizens would adamantly request for male figures for specific positions. This clearly points to the fact that the gender quota threshold has not been understood and accepted among the people in the grassroots in as far as the two Counties are concerned.

It is also clear that the gender quota legislation draws different perspectives but the implementation is being done begrudgingly because it challenges the norm in as far as the power structures are concerned and it involves the restructuring of power. This finding is

corroborated by Turnbull's 2019 study on quotas in India where he finds that there are two main challenges to increasing women's participation in governance i.e. failure by political parties to nominate women outside of the quota requirements and secondly, an overlap between gender and community quotas (quotas for marginalized groups) which prevents women incumbents from vying because of the shifting community expectations. The author further states that "If women are not able to compete outside the gender quota, if parties continue to view women as a nomination "risk" or are otherwise uninterested in nominating women to compete outside the quota, and if a candidate is unlucky in the quota-assignment lottery, then the quota can become both a floor and ceiling that caps participation" (Turnbull, 2019: p3).

From the findings, at the institutional level, it is clear that institutions that should enforce the gender quota legislation are toothless. These include the IEBC and the Registrar of Political parties. Besides, at the time of carrying out this research, the Registrar of Political Parties did not enjoy security of tenure. Nzomo (2018) also found that, "though provided with tools for enforcement and sanctions, the Office of the Registrar of Political Parties performance in utilizing its enforcement powers to advance meaningful gender equity and equality in the governance structures and processes within political parties has been negligible"(p. 59). This points to institutional weaknesses.

The National Gender and Equality Commission did not receive adequate funding to ensure enforcement and reach out to all the counties. As revealed in the literature, Domingo et al (2016) notes that for a constitutional legislation to shape the political, economic and social engagement, there needs to be an adequate organizational, institutional and bureaucratic capability for enforcement and implementation.

#### **7.4 Conclusions**

This study sought to unpack the perspectives of key stakeholders on implementation of gender quota threshold in devolved governance. A comparative design of two Counties in Kenya was adopted. The study was geared towards the following objectives: finding out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance, to establish how the gender quota threshold provisions are being implemented in devolved governance and to examine the barriers to successful implementation of the gender quota threshold provisions.

Domingo et al (2016) points out that legal change over time is interpreted as a technical change other than a political instrument. Therefore, to protect legal gains like the gender quota threshold one, there is need to have strategic and political action that complements the technical bit. In addition, there is need to engage and network with different actors in order to protect the constitutional gains made so far (Domingo et.al, 2016).

In conclusion, it can be observed that, firstly, there are no pronounced differences in perspectives on gender quota legislation in the Constitution across the two Counties despite differing cultures and political inclinations as discussed earlier in chapter four. The main argument is that globally and at the National level, quotas have not really been implemented as they should. This therefore affects how they are implemented at the County level.

Based on the second objective on establishing how gender quota threshold provisions are being implemented, it can be observed that in circumstances where perspectives on gender quotas are positive from both men and women, implementation seems to go either way. This means that it may or may not be reflected on the actual execution as it depends on who is in leadership at that particular time. Therefore, it can be concluded that implementation of the gender quota threshold are dependent on the key players' perspectives based on personal experiences and level of education whereas implementation at the County Executive level is dependent on individual Governor's attributes and perceived accountability to their electorates.

On the barriers to successful implementation, there seems to be a divergence of views on whether culture is a hindrance to the effective implementation of gender quotas. Whereas the men and women in the Counties strongly argue that culture is still a hindrance despite the introduction of gender quotas, other stakeholders working in different organizations seem to differ and insist that the law has demolished patriarchal silhouettes. Based on this

findings, it can be concluded that; Firstly, the stakeholders hold an elitist view on the issue of culture because of the assumption that the law should be able to deal with cultural challenges which may not necessarily be the case. Secondly, it can also be concluded that, perspectives on gender quotas are dependent on a participant's personal experiences and their educational level.

### **My Thesis**

Given the conclusions above, my thesis is that perspectives on gender quotas are determined by perspectives of key players, the level of education of the participants, individual attributes of the Governors, personal experiences of the interviewees and other cosmetic or aesthetic values such as accountability to the electorate.

#### **7.4.1 Contributions of this study**

This study contributes to the body of knowledge on gender quota thresholds based on the following four ways: contextual mapping, literature review, findings and methodology. Firstly, it examines perspectives on gender quotas based on the implementation at the County level where two Counties i.e. Makueni and Elgeyo Marakwet were selected based on differences in female representation at the County Executive and County Assembly level, based on Counties that had the governor re-elected and cultural diversities. Political diversities were also considered whereby Elgeyo Marakwet is mainly a Jubilee

stronghold whereas Makueni is mainly in the opposition with Wiper Democratic Movement which is under NASA being the dominant party. More specifically, the people interviewed in these Counties were men and women in the County Executive, County Assembly, County Public Service Board, male and female politicians and citizens in the grassroots. Other stakeholders were also interviewed in Nairobi from different NGOs and CSOs which focus on women empowerment. Therefore, based on the contextual differences, this study is unique.

Secondly, this study contributes to the body of knowledge through the literature reviewed. The literature presented in this study examines gender quotas across different countries at different stages of development, across differing political regimes and dispensations but mainly based on peer reviewed literature. This research made use of The Theory of Political Representation and the Empowerment approach and it adds to the knowledge on the same by bringing out the views that people have on the gender quotas and the challenges being faced in the process of creating an environment conducive for empowering women who are disadvantaged and underrepresented. This study has clearly revealed that coming up with a legislation aimed at increasing women's representation in governance is not adequate. There is need to have other mechanisms in place that will ensure that legal gains are enhanced and protected.

The findings to this study are also unique because perspectives were drawn from different participants across different genders, age groups, religions and different educational

backgrounds. Besides, they reflect implementation at the County level where women who have been underrepresented use these opportunities as a stepping stone to greater leadership opportunities at the National level. In addition, the qualitative approach was used as other studies with an exception of a few concentrated on Quantitative or Mixed Methods approach. The intention was to get in-depth perspectives on the gender quota thresholds in a natural setting and indeed get the underlying issues in relation to gender quotas in Kenya as has been analyzed and presented based on themes.

Finally, this study has created awareness on several implications for policy and practice that relate on how to make the implementation of gender quotas more effective. Indeed different studies have been done in different countries but the reality is that the success of quotas is dependent on political and institutional frameworks in place, socio-cultural background, political dispensation and time amongst others. The implications for policy and practice are as discussed below:

#### **7.4.2 Implications for policy and practice**

As seen in this study, gender quotas represent an equality policy and more specifically, an affirmative action policy which aims at reversing the discriminatory trends when it comes to women's participation in governance. Based on this discussion, it can be observed that quotas are indeed controversial. They are interpreted differently in different contexts. The

following recommendations need to be considered for policy and practice as discussed below.

#### **7.4.2.1 Need to align Perspectives of Key Stakeholders**

From the data presented, it is evident that constitutional change is good in as far as transforming practice is concerned however there is a need to align perspectives of the key stakeholders - leaders and the electorate on interpretation and implementation of the gender quota threshold through enhanced civic education, if this law has to achieve its intended purpose of equitable development. This is especially in relation to political parties which determine the kind of women nominated. Despite the presence of the Political Parties Act, the process that the parties pursue to arrive at the list of their nominees is nebulous. From the interviews carried out, it was clear that none of the institutions answerable wanted to take responsibility for this gap. These include: IEBC and the Registrar of Political Parties. As one participant said, “we do not meddle in Party activities”.

It was suggested that there is need to have a structure in place whereby those who were nominated previously are able to vie in the next elections. This is appropriate as it would create room for novices. However, the problem is that the nomination process is fuzzy so much so that those nominated in some instances may not have the stamina required to vie in the next elections.



#### **7.4.2.2 Need for Strengthening the Legislation**

There is a need for strengthening the legislation to seal the existing loopholes for implementation. For example, the fact that funding for the Gender Departments and Gender Committees in the County Governments is limited means that peoples' mindsets towards gender issues are wanting. As mentioned earlier, there was very little set aside for these Departments therefore the way forward would be to have a sectoral approach to gender in the Counties. This means that gender aspects are mainstreamed in all the sectors as opposed to concentrating on a Gender Department that seeks to address gender issues. This means consciously incorporating gender in all sectors and this theoretically means that we are moving beyond reversing gender trends to displacement and transformation in each sector (Verloo and Lombardo, 2007). Secondly, there is need to have gender responsive budgeting at the County level to ensure that the gender issues in the different sectors are addressed.

#### **7.4.2.3 Beyond Numerical Representation**

It is necessary to have broader conceptualization of the role of gender equity in development in devolved units that goes beyond the numerical representation in the County Assembly and Executive. This implies having an affirmative action strategy that goes beyond the numbers to empowering both men and women wholesomely, i.e. maintaining a balance between quantity and quality as numbers alone point to descriptive representation. However, there is need to move towards substantive representation

whereby women in governance defend other women's issues collectively (Galito, 2018). Although the numbers are good and they have been interpreted, it's important to have other incentives to propel this legislation as we also look into how to ensure that the numbers are not vacillating. Numbers are important especially when voting in the Assemblies. Besides, there are other legal gains that are hinged on the gender quota threshold such as land rights. Therefore the need to guard and protect this legislation.

#### **7.4.3 Suggestions for further studies.**

Based on the findings, the following suggestions can be made: Firstly, there is need to do a longitudinal study and examine whether perspectives change over time in relation to this legislation. This is because, in relation to quotas, the findings may be temporal in the sense that perspectives are changing overtime. It would also be interesting to know whether a change in perspectives would influence the voting patterns. This could be done across several Counties perhaps using Mixed methods comparing counties that have had more women elected and those that have had none in order to tease out different perceptions.

In addition, there is need to look at how gender quota implementation compares to implementation of other quotas such as that of the minority groups, youth and the disabled including whether this has an effect on gender quotas. This is clearly stated in the County Government Act, 2012, article 59 (3) which states that "The reports under

subsection (1) (d) shall contain the details of persons appointed including gender, persons with disabilities, persons from the minority and marginalized communities”.

Finally, to date there is no clear legislation for implementation of the gender quota threshold at the Parliament and Senate. With the Building Bridges Initiative Report, 2020 proposing an expanded Parliament and Senate that will include both genders, thereby replacing nominated seats, it will be interesting to see how this debate unfolds and if indeed we could have a constitutional change that will have an impact on gender quota implementation in Kenya. In future, implementation of gender quotas at the National level is an area that can be explored since my study largely concentrated on the County Governments. Besides, the findings in this study point to the fact that perspectives on gender quotas at the county level were based on implementation at the national and global level.

### **7.5 My reflections as a Doctor of Philosophy scholar**

This study based on perspectives of key stakeholders on implementation of the gender quota threshold in devolved governance has really opened me up to new knowledge frontiers and the reality on the ground in as far as this legislation is concerned. This has been my topic of interest for years and after the promulgation of the Kenya Constitution 2010, I became interested to know how the gender progressive legislations would be implemented in Kenya. I had read about other Countries and now it was time to see history being rewritten in Kenya.

Although my PhD journey began in 2013, data was collected in 2018, two electoral cycles after the promulgation of the Constitution. This would have been done earlier but the campaign mode necessitated that the data is collected when elections are over and people are settled in their offices. Because I chose Counties that had governors re-elected, it gave me an opportunity to interview Chief Officers and other officers before their terms come to an end since they are employed on a contract of five years. This therefore worked to my advantage. As I carried out this research, there are several things that were brought to fore:

To begin with, I had the opportunity to interview political and social elites in the County Government and in Nairobi. These are people with a high visibility by virtue of the post they hold based on their careers. This was a humbling process for me even though it had its own challenges especially in terms of access for interviewees.

The fieldwork opened me up to the complexity of carrying out a qualitative study. Qualitative research is very involving and requires a high level of discipline and commitment especially during data collection, analysis and report writing. Indeed, a number of people on the ground do not understand qualitative research and therefore they found it very strange and kept asking me to leave the interview guides behind so that they can fill them up. Methodologically, the researcher understood better how the use of interpretivism-constructivism epistemological paradigm helps one to elucidate multiple realities on gender quota thresholds.

This study also helped the researcher to appreciate critical thinking and to see the connection between policy and practice. In addition, the researcher also learnt how to interrogate issues and see where there are complications and contradictions in as far as theory and practice are concerned. In conclusion, this study helped me to see the issues and challenges revolving around the implementation of gender quota thresholds. This is an issue that I will continue to engage in as a researcher even as the debate continues on whether the constitution should be amended or not.

## REFERENCES

- A Gender Analysis of the 2017 Kenya General Elections Report. February 2018.
- Amnany, D. (2013). Proposal to Secure Affirmative Action As Provided For in the Constitution of Kenya.  
<http://www.ke.boell.org/downloads>.
- Araujo, C. (2003). *Quotas for Women in the Brazilian Legislative System*. Paper presented at the International IDEA Workshop “The Implementation of Quotas: Latin American Experiences”, Lima, Peru, February 23-24.  
[https://aceproject.org/ero-en/topics/parties-and-candidates/CS\\_Araujo\\_Brazil\\_25-11-2003.pdf](https://aceproject.org/ero-en/topics/parties-and-candidates/CS_Araujo_Brazil_25-11-2003.pdf)
- Baldez, L. (2004). Elected Bodies: The Gender Quota Law for Legislative Candidates in Mexico. *Legislative Studies Quarterly*, 24 (2), 231-258  
<https://www.jstor.org/stable/3598632>
- Baldez, L. (2006). Critical Perspectives on Gender and Politics: The Pros and Cons of Gender Quota Laws: What happens When You Kick Men Out and Let Women In? *Politics & Gender*, 2 (1), 102-109.<https://doi.org/10.1017/S1743923X06221019>
- Banerjee-Hamadeh, L. (2000). *Think globally, Elect Locally? In Women’s Political Participation and Good Governance: 21<sup>st</sup> Century Challenges*. United Nations Development Programme.  
[documents.usaid.gov/womenas-political-participation-and-good-governance-21st-2020-01-17-womenas\(2\).pdf](http://documents.usaid.gov/development-programme/womenas-political-participation-and-good-governance-21st-2020-01-17-womenas(2).pdf)
- Bartels, A. (2016). Variance in Quotas and Women in Legislatures: The Impact of Factors affecting Quota Implementation on Quota Success. In P. Freeman, (Ed) *Through Gendered Lenses*. (pp 61-92), An Undergraduate Academic Journal of Gender Research and Scholarship, University of Notre Dame.  
[https://genderstudies.nd.edu/assets/336550/tgl\\_2016.pdf](https://genderstudies.nd.edu/assets/336550/tgl_2016.pdf)
- Beall, V. D. & Barnes, T. D. (2020). Mapping Right-wing Women’s Policy Priorities in Latin America. *Journal of Women, Politics and Policy*, 41(1), 36-65.  
<https://doi.org/10.1080/1554477X.2020.1701929>
- Beauregard, K. (2017). Gender Quotas in the 2016 Election. Paper prepared for the Joint Quantitative Political Science Conference for Asia and Australasia, University of Sydney, 9-11 January 2017.
- Bernard, H. R., & Ryan, G.W. (2010). *Analyzing Qualitative Data: Systematic Approaches*. Sage.

- Berry, M., Bouka, Y & Kamuru, M. M. (2020). Implementing Inclusion: Gender Quotas, Inequality, and Backlash in Kenya. *Politics and Gender*, 1-25. <https://doi.org/10.1017/S1743923X19000886>
- Besley, T., Folke, O., Persson, T., & Rickne, J. (2013). Gender Quotas and the Crisis of the Mediocre Man: Theory and Evidence from Sweden. *American Economic Review*, 107 (8), 2204-2242. DOI: 10.1257/aer.20160080
- Boserup, E. (1970). *Women's Role in Economic Development*. Allen and Unwin.
- Bouka, Y, Berry, M.E & Kamuru, M. M.(2019). Women's Political Inclusion in Kenya's Devolved Political System. *Journal of Eastern African Studies* 2019,13 (2), 313-333. <https://doi.org/10.1080/17531055.2019.1592294>
- Braga, M. & Scervini, F. (2017). The Performance of Politicians. The Effect of Gender Quotas. *European Journal of Political Economy*. 46, 1-14. <https://doi.org/10.1016/j.ejpoleco.2016.10.007>
- Braun, V. & Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology* 2006, 3 (2), 77-101. <http://dx.doi.org/10.1191/1478088706qp063oa>
- Braun, V., Clarke, V. & Rance, N. (2015). How to use Thematic Analysis with Interview Data in Vossler, A., & Moller, N. (Eds), *The Counselling and Psychotherapy Research Handbook*, ( 183-197). Sage Publications Ltd.
- Brody, A., Burnley, J., & Phyu, P. (2016) Political Gender Quotas. Key Debates and Values for Myanmar. Discussion Paper. <http://hdl.handle.net/10546/608330>
- Brody, A. (2009). Gender and Governance. Overview Report. BRIDGE, Institute of Development Studies. <https://core.ac.uk/download/pdf/43666804.pdf>
- Bryman, A. (2012). *Social Research Methods*. (4<sup>th</sup> ed). Oxford University Press.
- Burnet, J. (2012). Women's Empowerment and Cultural Change in Rwanda in S. Franceschet, M. Krook & J. Piscopo (Eds.), *The Impact of Gender Quotas* (pp.190-207). Oxford University Press.
- Chen, L. (2010). Do Gender Quotas Influence Women's Representation and Policies? *The European Journal of Comparative Economics*, 7 (1), 13-60. <http://eaces.liuc.it>

- Childs, S. & Krook, M. L. (2008). Critical Mass Theory and Women's Political Representation. *Political Studies*, 56 (3), 725-736.  
[https://www.academia.edu/10696939/Should Feminists Give Up on Critical Mass A Contingent Yes?auto=citations&from=cover\\_page](https://www.academia.edu/10696939/Should_Feminists_Give_Up_on_Critical_Mass_A_Contingent_Yes?auto=citations&from=cover_page)
- Chopra, D., & Muller, C. (2016). Introduction: Connecting Perspectives on Women's Empowerment. *Connecting Perspectives on Women's Empowerment*, IDS Bulletin, 47(1A), 1-10. <https://doi.org/10.19088/1968-2016.114>
- Clarke, V. & Braun, V. (2017). Thematic Analysis. *The Journal of Positive Psychology*, 12 (3), 297-298  
 DOI: 10.1080/17439760.2016.1262613
- Clayton, A., Josefsson, C., & Wang, V. (2014). Present without presence? Gender Quotas and Debate Recognition in the Ugandan Parliament. *Representation*, 50(3), 379-392.  
<https://doi.org/10.1080/00344893.2014.951232>
- CMD-Kenya (2018). Gender Audit of Kenya's 2017 General Elections: Performance, Gains and Challenges.
- Cornwall, A., Harrison, E., & Whitehead, A. (eds) (2008). *Gender Myths and Feminist Fables. The Struggle for Interpretive Power in Gender and Development*. Blackwell Publishing Limited.  
<https://doi.org/10.1111/j.1467-7660.2007.00400.x>
- Constitution of Kenya Review Commission (2005). The Final Report of the Constitution of Kenya Review Commission.  
<http://kenyalaw.org/kl/fileadmin/CommissionReports/Report-of-the-constitution-of-Kenya-review-commission.pdf>
- County Government of Makueni (2013). *County Integrated Development Plan (2018-2022)*. <https://makueni.go.ke/download/makueni-county-integrated-development-plan-2018-22/>
- County Government of Elgeyo Marakwet (2013). *County Integrated Development Plan (2018-2022)*.  
[file:///C:/Users/USER%20PC/Downloads/Elgeyo%20Marakwet%20County%20Integrated%20Development%20plan%202018-2022%20\(2\).pdf](file:///C:/Users/USER%20PC/Downloads/Elgeyo%20Marakwet%20County%20Integrated%20Development%20plan%202018-2022%20(2).pdf)
- Creswell, J. W. (2013). *Qualitative Inquiry and Research Design: Choosing Among Five Approaches*. (3ed). Sage Publications.



- Creswell, J.W. (2014). *Research Design: Qualitative, Quantitative and Mixed Methods Approaches* (4ed.) International Student Edition. Sage Publications.
- Cresswell, J. W., & Miller, D. L. (2000). Determining Validity in Qualitative Inquiry. *Theory into Practice*, 39 (3), 124-130.  
[https://doi.org/10.1207/s15430421tip3903\\_2](https://doi.org/10.1207/s15430421tip3903_2)
- Creswell, J. W. (2009). *Research Design: Qualitative, Quantitative and Mixed Methods Approaches*. (3ed). Sage Publications
- Dahlerup, D. (2003). Quotas are Changing the History of Women. A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA) Electoral Institute of Southern Africa (EISA)/ Southern African Development Community (SADC) Parliamentary Forum Conference. Pretoria, South Africa, 11-12 November 2003  
  
<https://www.idea.int/sites/default/files/publications/implementation-of-quotas-african-experiences.pdf>
- Dahlerup, D. (1988). From a Small to a Large Minority: Women in Scandinavian Politics. *Scandinavian Political Studies*, 11(4), 275-297.  
<https://doi.org/10.1111/j.1467-9477.1988.tb00372.x>
- Dahlerup, D., & Freidenvall, L. (2005). Quotas as a ‘Fast Track’ to Equal Representation for Women: Why Scandinavia is No Longer the Model. *International Feminist Journal of Politics*, 7(1) 26-48.<https://doi.org/10.1080/1461674042000324673>
- Dahlerup, D. & Freidenvall, L. (2006). Quotas as a ‘Fast Track’ to Equal Representation for Women: Why Scandinavia is No Longer the Model. *International Feminist Journal of Politics*, 7(1), 26-48. <https://doi.org/10.1080/1461674042000324673>
- Dahlerup, D. & Freidenvall, L. (2010). Judging Gender Quotas: Predictions and Results. *Policy and Politics*, 38 (3), 407-425.  
DOI:[10.1332/030557310X521080](https://doi.org/10.1332/030557310X521080)
- Dena, M. K. (2012). “Lethargic Policymaking: The Case of Gender Quota Legislation in Kenya”. *African Social Science Review*: 5(1), Article 6.  
<https://digitalcommons.kennesaw.edu/assr/vol5/iss1/6>
- Desai, V., & Potter, R. B. (Eds). (2014). *The Companion to Development Studies* (2<sup>nd</sup> ed.). Routledge.
- Denzin, N. K., & Lincoln, Y.S. (2005). *The Sage Handbook of Qualitative Research* (3<sup>rd</sup> Ed.). Sage Publications Limited.

- Devroe, R. & Wauters, B. (2018). Political Gender Stereotypes in a List- PR System with a High Share of Women MPS: Competent Men versus Leftist Women? *Political Research Quarterly*, 71(4), 788-800.
- Dolan, K. & Hansen, M. (2018). Blaming Women or Blaming the System? Public Perceptions of Women's Underrepresentation in Elected Office. *Political Research Quarterly*, 71(3), 668-680. <https://doi.org/10.1177/1065912918755972>
- Dolan, K. (2014). Gender Stereotypes, Candidate Evaluations, and Voting for Women Candidates: What Really Matters? *Political Research Quarterly*, 67 (1), 96-107. <https://doi.org/10.1177/1065912913487949>
- Domingo, P., McCullough, A., Simbiri, F., & Wanjala, B. (2016). *Women and Power: Shaping the development of Kenya's 2010 Constitution*. Overseas Development Institute Report. <https://cdn.odi.org/media/documents/10338.pdf>
- Edgell, A. B. (2017). Foreign Aid, Democracy and Gender Quota Laws. *Democratization* 24(6), 1103-1141. <https://doi.org/10.1080/13510347.2016.1278209>
- Folke, O., Rickne, J., & Smith, D.M. (2016). Gender and Dynastic Political Recruitment. Theory and Evidence. <https://projects.iq.harvard.edu/files/pegroup/files/folkeetal2016.pdf>
- Franceschet, S & Piscopo, J.M. (2008). Gender Quotas and Women's Substantive Representation: Lessons from Argentina. *Politics and Gender*, 4(03) 393-425 [https://www.researchgate.net/publication/231907562\\_Gender\\_Quotas\\_and\\_Women's\\_Substantive\\_Representation\\_Lessons\\_from\\_Argentina](https://www.researchgate.net/publication/231907562_Gender_Quotas_and_Women's_Substantive_Representation_Lessons_from_Argentina)
- Franceschet, S., Krook, M. L., & Piscopo, J. M. (eds) (2012). *The Impact of Gender Quotas*. Oxford University Press.
- Fusch, P. I., & Ness, L. R. (2015). Are We There Yet? Data Saturation in Qualitative Research. *The Qualitative Report* 2015, 20(9), 1408-1416. <http://www.nova.edu/ssss/QR/QR20/9/fusch1.pdf>
- Galito, M. S. (2018). Women in Politics- Portugal as a Case Study. *Working Paper CEsa* 173/2018. <https://cesa.rc.iseg.ulisboa.pt/RePEc/cav/cavwpp/wp173.pdf>
- Ghai, Y. P. (2020). "Why the Bomas Draft is the best Constitution that we never had". <https://nation.africa/kenya/news/politics/why-the-bomas-draft-is-the-best-constitution-we-never-had-1923846>

- Ghai, Y.P. 'Devolution in Kenya: Background and Objectives' in Steytler, N., and Ghai, Y.P. (eds) *Kenyan-South African Dialogue on Devolution* (2015) 56-80. Juta and Company (Pty) Ltd.
- Gilardi, F. (2015). The Temporary Importance of Role Models for Women's Political Representation. *American Journal of Political Science*, 59(4), 957-970.
- Given, L. M. (2008). Pilot Study. *The Sage Encyclopaedia of Qualitative Research Methods*. <http://dx.doi.org/10.4135/9781412963909>
- Goertz, A. M. (2007). Women in Politics and Gender Equality in Politics: South Africa and Uganda. *Review of African Political Economy*, 76, 241-62. <https://doi.org/10.1080/03056249808704312>
- Government of Kenya (2010) *The Constitution of Kenya*. Government Printers. <http://extwprlegs1.fao.org/docs/pdf/ken127322.pdf>
- Hamadeh-Banerjee, L. (2000) 'Think Globally, Elect Locally', Women's Political Participation and Good Governance: 21st Century Challenges. New York: United Nations Development Programme, pp. 75-78. <https://www.iknowpolitics.org/sites/default/files/women20political20participation20-202120century20challenges.pdf>
- Hettne, B. (2014). Current Trends and Future Options in Development Studies. In Desai, V., & Potter, R. (eds) *The Companion to Development Studies*. Routledge.7-11.
- Heyndels, B., & Kuehnhanss, C. R. (2020). Gender Quotas as (Non-) Binding Constraints: The case of Semi-Open List Formation in Flemish Municipalities. *Feminist Economics*, 26(2), 160-186. <https://doi.org/10.1080/13545701.2019.1685675>
- Hinojosa, M., & Piscopo, J. (2013). Promoting Women's Right to be Elected: Twenty-Five Years of Quotas in Latin America. Paper prepared for the Electoral Tribunal of the Federal Judicial Branch of Mexico. <https://jenniferpiscopo.files.wordpress.com/2013/09/hinojosa-piscopo-final-english.pdf>
- Htun, M. & Piscopo, J. (2014). Women in Politics and Policy in Latin America and the Caribbean. Conflict Prevention and Peace Forum. CPPF Working Papers on Women in Politics, No 2. [https://webarchive.ssrc.org/working-papers/CPPF\\_WomenInPolitics\\_02\\_Htun\\_Piscopo.pdf](https://webarchive.ssrc.org/working-papers/CPPF_WomenInPolitics_02_Htun_Piscopo.pdf)

- Htun, M. (2002). Puzzles of Women's Rights in Brazil. *Social Research*, 69 (3) 733-51.  
<http://www.jstor.org/stable/40971571>
- Htun, M., & Jones, M. P. (2002). Engendering the Right to Participate in Decision – Making: Electoral Quotas and Women's Leadership in Latin America. In Craske, N. Molyneux M. (eds) *Gender and the Politics of Rights and Democracy in Latin America*. Women's Studies at York Series. Palgrave Macmillan.  
[https://doi.org/10.1057/9781403914118\\_2](https://doi.org/10.1057/9781403914118_2)
- Hughes, M.M,Paxton, P.,Clayton, A.B.,Zetterberg, P. (2019). Global Gender Quota Adoption, Implementation and Reform. *Comparative Politics*, 51(2), 219-238.  
<https://doi.org/10.5129/001041519X15647434969795>
- IEBC (2017). Submission of Party Lists.  
<http://197.156.129.137/uploads/resources/3gB8V86hIn.pdf>
- Institute of Economic Affairs (2015). Implementing the Constitutional Two-Thirds Gender Principle: The Cost of Representation. The National Women Steering Committee in partnership with Institute of Economic Affairs.  
<http://www.ieakenya.or.ke/downloads.php?page=The-Cost-of-Implementing-the-Two-Thirds-Gender-Principle.pdf>
- Inter-Parliamentary Union. "Women in National Parliaments as at 1<sup>st</sup> December 2019".  
<http://archive.ipu.org/wmn-e/classif.htm>
- Johnson, V.A.M. (2010). *Engaging in the Quota Debate: From Equal Opportunity to Equality of Presence*. Thesis submitted in partial fulfillment of the requirements for the degree of Master of Arts in Latin American Studies in the Graduate College of the University of Illinois at Urbana-Champaign, 2010.  
<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.224.1581&rep=rep1&type=pdf>
- Jones, M.P. (2004). Quota Legislation and the Election of Women: Learning from the Costa Rican Experience. *Journal of Politics*, 66 (4), 1203-1223.<https://doi.org/10.1111/j.0022-3816.2004.00296.x>
- Jones, M. P. (2008). Increasing Women's Representation Via Gender Quotas: The Argentine Le de Cupos. *Women and Politics* 16 (4) 75-98.  
[https://doi.org/10.1300/J014v16n04\\_04](https://doi.org/10.1300/J014v16n04_04)
- Jwan, J. O., & Ong'ondo, C. O. (2011). *Qualitative Research: An Introduction to Principles and Techniques*. Moi University Press.

- Kaimenyi, C., Kinya, E., & Chege, M. S. (2013). An Analysis of Affirmative Action: The Two-Thirds Gender Rule in Kenya. *International Journal of Business, Humanities and Technology*, 3 (6), 1-7.  
[http://ijbhtnet.com/journals/Vol\\_3\\_No\\_6\\_June\\_2013/11.pdf](http://ijbhtnet.com/journals/Vol_3_No_6_June_2013/11.pdf)
- Kang, A. J. & Kim, N. K. (2020). Territorial threat and Women's Legislative Representation. *Democratization*, 27 (2): 340-358  
<https://doi.org/10.1080/13510347.2019.1700953>
- Kang, A. (2013). The Effect of Gender Quota Laws on the Election of Women: Lessons from Niger. *Faculty Publications: Political Science*, Paper 56.  
<https://doi.org/10.1016/j.wsif.2013.03.005>
- Karpowitz, C.F, Monson, Q & Preece, J.R. (2017). How to Elect More Women: Gender and Candidate Success in a Field Experiment. *American Journal of Political Science*, 61(4), 927-943. <https://doi.org/10.1111/ajps.12300>
- Kenny, C. (2019). "Women are not ready to vote for their own: Remaking Democracy, Making Citizens after the 2007 post-election violence in Kenya" in Shackel, Fiske, L. 2019 *Rethinking Transitional Gender Justice: Transformative Approaches in Post –Conflict Settings*. <https://www.palgrave.com/de/book/9783319778891>
- Kenya Law Reports (2017). Petition 371 of 2016.  
<http://kenyalaw.org/caselaw/cases/view/133439/>
- Kenya National Bureau of Statistics (2019). 2019 Kenya Population and Housing Census. Vol1: Population by County and Sub-County.  
<http://housingfinanceafrica.org/app/uploads/VOLUME-I-KPHC-2019.pdf>
- Kerevel, Y. P. & Atkeson, L.R. (2015). Reducing Stereotypes of Female Political Leaders in Mexico. *Political Research Quarterly*, 68(4), 732-744.  
<http://www.jstor.com/stable/24637812>
- King, N., & Horrocks, C. (2010). *Interviews in Qualitative Research*. Los Angeles: Sage.
- Kiriti-Nganga & Kiiru (2018). Post-Independence Grassroots Women's Movements and Economic Empowerment 1960s to Date in *Changing the Mainstream: Celebrating Women's Resilience* eds Kabira, W. M., Mbote, P.K., Kabira, N., & Meroka, A, 45-71. African Women Studies Centre.
- Krook, M.L. (2016) Contesting Gender Quotas. *Dynamics of Resistance , Politics, Groups and Identities*, 4(2), 268-283.  
<https://doi.org/10.1080/21565503.2016.1151797>

- Krook, M.L., & Zetterberg, P. (2014). Electoral Quotas and Political Representation: Comparative Perspectives. *International Political Science Review*, 35(1), 3-11.  
<https://doi.org/10.1177/0192512113508422>
- Krook, M.L. (2013). Gender Quotas and Democracy: Insights from Africa and Beyond. *Women's Studies International Forum* 41, 160-163.  
<https://doi.org/10.1016/j.wsif.2013.05.017>
- Krook, M. L. (2007). Candidate Gender Quotas: A Framework for Analysis. *European Journal of Political Research*, 46, 367-394. [http://mlkrook.org/pdf/ejpr\\_07.pdf](http://mlkrook.org/pdf/ejpr_07.pdf)
- Krook, M. L., Lovenduski, J., & Squires, J. (2006). Western Europe, North America, Australia and New Zealand: Gender Quotas in the Context of Citizenship Models. In *Women, Quotas and Politics*, ed, Dahlerup, D. Routledge, 194-221.
- Krook, M. L. (2005). *Politicizing Representation: Campaigns for Candidate Gender Quotas Worldwide*. PhD dissertation, Columbia University.  
<https://www.proquest.com/openview/eab474de44ac458ad8e47924024faeeb/1?pq-origsite=gscholar&cbl=18750&diss=y>
- Kurebwa, J. (2015). A Review of Hanna Pitkin's (1967) Conception of Women's Political Representation. *International Journal of Scientific and Research Publications*, 5 (2), 50-60.
- Lepinard, E. (2006). Identity without Politics: Framing the Parity Laws and their Implementation in French Local Politics. *Social Politics*, 13(1), 30-58.  
<https://doi.org/10.1093/sp/jxj002>
- Liu, S.J.S.(2018). Are Female Political Leaders Role Models? Lessons from Asia, *Political Research Quarterly*, 71(2), 255-269.  
<https://doi.org/10.1177/1065912917745162>
- Litchman, M. (2014). *Qualitative Research for the Social Sciences*. Sage.
- Maciej, A. Goeckel & Pierzgalski, M. (2021) Legislated Candidate Quotas and Women's Descriptive Representation in Preferential Voting Systems. *European Journal of Political Research*.
- Marshall, C. & Rossman, G. (2016). *Designing Qualitative Research* (6<sup>th</sup> Ed). Sage Publications.

- Meena, R. (2003). *The Politics of Quotas in Tanzania*. Paper presented at the International IDEA/Electoral Institute of South Africa/ South African Development Community Parliamentary Forum Conference on The Implementation of Quotas: African Experiences, Pretoria, South Africa, November 11-12
- <https://www.idea.int/sites/default/files/publications/implementation-of-quotas-african-experiences.pdf>
- Mejere, O. (2012). Does gender Matter in Governance? Gender Quotas as a Good Policy Tool: Practice and Failures in Lithuania. *Social Research*, 2(27), 46-61.  
[https://www.researchgate.net/publication/303689395\\_Does\\_Gender\\_Matter\\_in\\_Governance\\_Gender\\_Quotas\\_as\\_a\\_Good\\_Policy\\_Tool\\_Practice\\_and\\_Failures\\_in\\_Lithuania](https://www.researchgate.net/publication/303689395_Does_Gender_Matter_in_Governance_Gender_Quotas_as_a_Good_Policy_Tool_Practice_and_Failures_in_Lithuania)
- Morgan, J., & Buice, M. (2013). "Latin American Attitudes toward Women in Politics. The Influence of Elite Cues, Female Advancement and Individual Characteristics." *American Political Science Review*, 107(4), 644-62.  
<https://doi.org/10.1017/S0003055413000385>
- Moser, C. (2012). *Gender Planning and Development: Theory, Practice and Training*. Routledge.
- Mufti, M. & Jalalzai, F. (2021). The Importance of Gender Quotas in Patriarchal and Clientelistic Polities: The Case of Pakistan. *Journal of Women, Politics and Policy*, 42(2), 107-123.<https://doi.org/10.1080/15544477X.2021.1882826>
- Mugenda, A. G., & Mugenda, O. M. (2012). *Research Methods Dictionary*. Applied Research and Training Services.
- Murray, R. (2014). Quotas for Men: Reframing Gender Quotas as a Means of Improving Representation for All. *American Political Science Review*, 108(3).  
<https://doi.org/10.1017/S0003055414000239>
- Murray, R. (2004). Why Didn't Parity Work? A Closer Examination of the 2002 Election Results. *French Politics* 2, 347-362 <https://doi.org/10.1057/palgrave.fp.8200063>
- National Council for Law Reporting (2012). *County Governments Act. No 17 of 2012*. [www.kenyalaw.org](http://www.kenyalaw.org)
- National Council for Law Reporting (2011). The Political Parties Act, 2011 No 11 of 2011. <http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PoliticalPartiesAct.pdf>

- National Democratic Institute (2010). Democracy and the Challenge of Change. A Guide to Increasing Women's Political Participation.  
[https://www.ndi.org/sites/default/files/Democracy and the Challenge of Change .pdf](https://www.ndi.org/sites/default/files/Democracy_and_the_Challenge_of_Change.pdf)
- Nazneen, S. (2018). Gender and Intersecting Inequalities in Local Government in South Asia. *IDS Working Paper, 2018* (507).  
<https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/13504>
- Neuman, W. L. (2007). *Basics of Social Research: Qualitative and Quantitative Approaches*. Pearson Education.
- Nzomo, M. (2012). *Representational Politics in Kenya: The Gender Quota and Beyond*. Paper presented and published by Africa Research and Resource Forum, December 2012.  
<http://erepository.uonbi.ac.ke/bitstream/handle/11295/15229/Maria%20Nzomo%20-%20Representational%20politics%20in%20Kenya.pdf?sequence=1&isAllowed=y>
- Nzomo, M. (2018). Gender and Governance in Kenya: Women's Journey Beyond Numbers in *Changing the Mainstream: Celebrating Women's Resilience* eds Kabira, W. M., Mbote, P.K., Kabira, N., & Meroka, A. 45-71. African Women Studies Centre.
- O'Brien, D. Z. (2018). 'Righting' Conventional Wisdom: Women and Right Parties in Established Democracies. *Politics and Gender, 14*(1), 27-55. <https://doi.org/10.1017/S1743923X17000514>.
- O'Leary, Z. (2011). *The Essential Guide to Doing Your Research Project*. Sage.
- Oluoch, F. (2017). More Women Elected in Kenya but the numbers still fall short. *The East African, Saturday, August 12, 2017*.  
<https://www.theeastafrican.co.ke/tea/news/east-africa/more-women-elected-in-kenya-but-the-numbers-still-fall-short--1371468>
- Oni, E. O. (2014). The Dynamics of Women Political Emancipation and Political Participation in Nigeria. *Journal of Sustainable Development in Africa, 16* (3), 99-112. <https://jsd-africa.com/Jsda/Vol16No3-Sum14A/PDF/TheDynamicsWomenPoliticalEmancipationNigeria.pdf>
- Oxaal, Z. & Baden, S. (1997). *Gender and Empowerment: Definitions, Approaches and Implications for Policy*. BRIDGE Briefings on Development and Gender, Report No. 40. BRIDGE, Institute of Development Studies.



- Pande, R., & Ford, D. (2011). *Gender Quotas and Female Leadership*. World Development Report 2012. Gender Equality and Development. Background Paper. <https://openknowledge.worldbank.org/bitstream/handle/10986/9120/WDR2012-0008.pdf?sequence=1>
- Parpart, J. L., Connelly, P.M. & Barriteau, E.V. (eds). (2003). *Theoretical Perspectives on Gender and Development*. International Development Research Centre.
- Patton, M. Q. (2015). *Qualitative Research and Evaluation Methods: Integrating Theory and Practice*. (4th Ed.). Sage Publications.
- Paxton, P., & Hughes, M. M. (2015). The Increasing Effectiveness of National Gender Quotas 1990-2010. *Legislative Studies Quarterly*, 40(3), 331-362. <https://doi.org/10.1111/lsq.12079>
- Piscopo, J.M. (2015). States as Gender Equality Activists: The Evolution of Quota Laws in Latin America. *Latin American Politics and Society*, 57 (3), 27-49. <https://doi.org/10.1111/j.1548-2456.2015.00278.x>
- Pitkin, H. F. (1967). *The Concept of Representation*. Berkeley: University of California Press.
- Powley, E. (2003). *Strengthening Governance: The Role of Women in Rwanda's Transition*. Hunt Alternative Funds. [https://www.inclusivesecurity.org/wp-content/uploads/2012/08/10\\_strengthening\\_governance\\_the\\_role\\_of\\_women\\_in\\_rwanda\\_s\\_transition.pdf](https://www.inclusivesecurity.org/wp-content/uploads/2012/08/10_strengthening_governance_the_role_of_women_in_rwanda_s_transition.pdf)
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa. Adopted by the 2<sup>nd</sup> Ordinary Session of the Assembly of the Union. Maputo, 11<sup>th</sup> July 2003. [https://www.un.org/en/africa/osaa/pdf/au/protocol\\_rights\\_women\\_africa\\_2](https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2)
- Rabinovici, A. F., & Sommer, U. (2019). Can the Descriptive-Substantive link survive beyond democracy? The Policy Impact of women representatives. *Democratization*, 26(8), 1513-1533. <https://doi.org/10.1080/13510347.2019.1661993>
- Reeves, H. & Baden, S. (2000). *Gender and Development: Concepts and Definitions*. BRIDGE, Institute of Development Studies. Report No. 55.
- Republic of Kenya (2020). Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report. Building Bridges to a United Kenya: from a nation of blood ties to a nation of ideals. <http://kenyalaw.org/kenyalawblog/building-bridges-initiative-kenya/>

- Republic of Kenya (2015). The Constitution of Kenya (Amendment) (No.4) Bill, 2015. Kenya Gazette Supplement No. 112 (National Assembly Bills No.38).  
[http://kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution/HistoryoftheConstitutionofKenya/Bills\(2013-2019\)/2015/TheConstitutionofKenya\(Amendment\)\(No.4\)Bill,2015.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution/HistoryoftheConstitutionofKenya/Bills(2013-2019)/2015/TheConstitutionofKenya(Amendment)(No.4)Bill,2015.pdf)
- Republic of Kenya (2015). The Constitution of Kenya (Amendment) Bill, 2015. Kenya Gazette Supplement No. 50 (National Assembly Bills No. 18).  
[http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya\\_Amendment\\_BillNo50of2015.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya_Amendment_BillNo50of2015.pdf)
- Republic of Kenya (2015). The Constitution of Kenya (Amendment) (No.6) Bill, 2015. Kenya Gazette Supplement No.190A (National Assembly Bills No.64A).  
[http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya\\_Amendment\\_No.6\\_Bill\\_2015.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya_Amendment_No.6_Bill_2015.pdf)
- Republic of Kenya (2015). The Constitution of Kenya (Amendment) Bill, 2015. Kenya Gazette Supplement No.143 (Senate Bills No.16).  
[http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya\\_Amendment\\_BillNo143of2015.pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2015/ConstitutionofKenya_Amendment_BillNo143of2015.pdf)
- Ritchie, J., Lewis, J., Nicholls, C., & Ormston, R. (2004). *Qualitative Research Practice: A Guide for Social Science Students and Researchers* (2<sup>nd</sup> Ed). Sage Publications Limited.
- Rossmann, G.B., & Marshall, C. (2016). *Designing Qualitative Research* (6<sup>th</sup> Ed). Sage Publications Limited.
- Rowlands, J. (1995). Empowerment Examined. *Development in Practice*, 5(2), 101-107.  
<http://www.jstor.org/stable/4028929>
- Rowlands, J. (1997). *Questioning Empowerment: Working with Women in Honduras*. Oxfam.  
[oxfam.bk-questioning-empowerment-honduras-010197-en\(1\).pdf](http://www.oxfam.org.uk/oxfam/questioning-empowerment-honduras-010197-en(1).pdf)
- Russell, M. (2000). *Women Representation in UK Politics: What can be done with the Law?* The Constitution Unit.  
<https://www.ucl.ac.uk/constitution-unit/sites/constitution-unit/files/60.pdf>
- Santos, P.A.G. (2018). Gender Quotas in South America's Big Three: National and Subnational Impacts. *Journal of Women, Politics and Policy*, 39(4), 523-525  
<https://doi.org/10.1080/1554477X.2018.1511128>

- Schmidt, G. D. (2003). *The Implementation of Gender Quotas in Peru: Legal Reforms, Discourses and Impacts*. Paper presented at the International IDEA Workshop. The Implementation of Quotas: Latin American Experiences, Lima, Peru, February 23-24.  
<https://www.idea.int/sites/default/files/publications/implementation-of-quotas-latin-american-experiences.pdf>
- Savin-Baden, M., & Major, C.H. (2013). *Qualitative Research. The Essential Guide to Theory and Practice*. Routledge.
- Schmidt, G. D. & Saunders, K. L. (2004). Effective Quotas, Relative Party Magnitude, and the Success of Female Candidates. *Comparative Political Studies* 37 (6), 704-734.[10.1177/0010414004265884](https://doi.org/10.1177/0010414004265884)
- Schwindt-Bayer, L. A. & Mishler, W. (2005). An Intergrated Model of Women's Representation. *The Journal of Politics*, 67 (2), 407-428.  
<https://www.jstor.org/stable/10.1111/j.1468-2508.2005.00323.x>
- Serem, D.K.,Boit, J. M.,& Wanyama, M.N. (2013). *Understanding Research: A Simplified Form*. Utafiti Foundation.
- Shamim, I., & Kumari, R. (2002). *Gender and Local Governance: A New Discourse in Development*. A paper submitted to South Asia Network of Economic Research Institutes.
- Shuurman, F. J. (2014). The Impasse in Development Studies. In Desai, V and Potter, R. (eds) *The Companion to Development Studies*. New York: Routledge.
- Sharan, T. & Wimpelmann, T. (2014). Women's Rights and Political Representation: Past Achievements and Future Challenges. Background Brief for the Symposium on Women's Rights and Empowerment in Afghanistan. Oslo, 23 November 2014.  
<https://www.cmi.no/publications/file/5301-womens-rights-and-political-representation.pdf>
- Sing'oei, K. 'Real or Mirage? Devolution as Empowerment for Marginalised Groups in Kenya' in Steytler, N., & Ghai, Y.P. (eds) *Kenyan-South African Dialogue on Devolution* (2015), 365-392, Juta and Company (Pty) Ltd.
- Smulders, J.,Put, G.J., & Maddens, B. (2019). How Legislative Gender Quotas affect the Gender Gap in campaign Spending: An Analysis of the Federal and Regional Elections in Belgium. *Journal Of Elections, Public Opinion and Parties*, 29 (1), 41-60.<https://doi.org/10.1080/17457289.2018.1446143>

- Society for International Development (2012). The Status of Governance in Kenya: A Baseline Survey Report 2012.  
<https://www.sidint.net/content/new-sid-report-status-governance-kenya-2012>
- Society for International Development (2012). Equity and Gender Concerns in Managing Devolved Funds in Kenya.  
[http://sidint.net/docs/EquityGenderConcerns\\_book.pdf](http://sidint.net/docs/EquityGenderConcerns_book.pdf)
- Strauss, A. L., & Corbin, J. (1990). *Basics of Qualitative Research*. Sage.
- Sumbas, A. (2020). Gendered local politics: the barriers to women's representation in Turkey. *Democratization*, 27(4), 570-587.  
<https://doi.org/10.1080/13510347.2019.1706166>
- Taflaga, M. & Beauregard, K. (2020). The Merit of Party Institutions: Women's Descriptive Representation and Conservative Parties in Australia and the United Kingdom. *Journal of Women, Politics and Policy*, 41 (1), 66-90  
<https://doi.org/10.1080/1554477X.2020.1701934>
- Tamale, S. (2003). *Introducing Quotas in Africa: Discourse and Legal Reform in Uganda*. A paper presented at the International Institute for Democracy and Electoral Assistance (IDEA)/ Electoral Institute of Southern Africa (EISA)/ Southern African Development Community (SADC) Parliamentary Forum Conference. Pretoria, South Africa, 11-12 November 2003.  
<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.460.5666&rep=rep1&type=pdf>
- Tasli, K. (2007). *A Conceptual Framework for Gender and Development Studies: From Welfare to Empowerment*. OFSE
- The Electoral Commission (2004). Gender and Political Participation. Research Report, April 2004.  
<https://www.focusintl.com/GD005-A%20Conceptual%20Framework%20for%20Gender%20and%20Development%20Studies.pdf>
- Thomas, T.A. (2016). Remedying Systematic Sex Discrimination with Gender Quotas: 'Just Because'. *Harvard Journal of Law and Gender* (forthcoming).  
<https://core.ac.uk/download/pdf/232679217.pdf>
- Toraasen, M. (2016). Gender Parity and the Symbolic Representation of Women in Senegal. *The Journal of Modern African Studies*, 57(3), 1-23.

[https://www.researchgate.net/publication/337010931\\_Gender\\_parity\\_and\\_the\\_symbolic\\_representation\\_of\\_women\\_in\\_Senegal](https://www.researchgate.net/publication/337010931_Gender_parity_and_the_symbolic_representation_of_women_in_Senegal)

Turnbull, B. (2019). Quotas as Opportunities and Obstacles: Revisiting Gender Quotas in India. *Politics and Gender*, First Review, 1-25.

<https://doi.org/10.1017/S1743923X19000722>

United Nations (2015). The Millenium Development Goals Report.

[https://www.un.org/millenniumgoals/2015\\_MDG\\_Report/pdf/MDG%202015%20rev%20\(July%201\).pdf](https://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf)

United Nations (1995). Beijing Declaration and Platform for Action. Beijing + 5 Political Declaration and Outcome.

[https://www.un.org/en/events/pastevents/pdfs/Beijing\\_Declaration\\_and\\_Platform\\_for\\_Action.pdf](https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf)

United Nations Development Programme (2016). Africa Human Development Report 2016. Accelerating Gender Equality and Women's Empowerment in Africa.

[http://hdr.undp.org/sites/default/files/afhdr\\_2016\\_lowres\\_en.pdf](http://hdr.undp.org/sites/default/files/afhdr_2016_lowres_en.pdf)

United Nations (2016). The Sustainable Development Goals Report.

<https://unstats.un.org/sdgs/report/2016/The%20Sustainable%20Development%20Goals%20Report%202016.pdf>

United Nations (2016). International Women's day: "Planet 50-50 by 2030: Step it Up for Gender Equality". GENERAL ASSEMBLY OF THE UNITED NATIONS (March 8, 2016).

<http://www.un.org/pga/70/2016/03/08>

UN WOMEN (2013). *Gender Checklist Handbook for County Governments in Kenya*.

UN WOMEN Annual Report 2018-2019.

<https://www.unwomen.org/-/media/annual%20report/attachments/sections/library/2019/un-women-annual-report-2018-2019-en.pdf?la=en&vs=4621>

United Nations (2018). *The Sustainable Development Goals Report 2018*.

<https://unstats.un.org/sdgs/files/report/2018/TheSustainableDevelopmentGoalsReport2018-EN.pdf>

United Nations (2019). *The Sustainable Development Goals Report 2019*.

<https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>

- United Nations (2006). *Breaking Barriers: Gender Perspectives and Empowerment of Women in Least Developed Countries*.  
<http://unohrrls.org/UserFiles/File/Publications/Genderperspectives.pdf>
- United Nations Development Programme (2016). Africa Human Development Report 2016. Accelerating Gender Equality and Women's Empowerment in Africa.  
[http://hdr.undp.org/sites/default/files/afhdr\\_2016\\_lowres\\_en.pdf](http://hdr.undp.org/sites/default/files/afhdr_2016_lowres_en.pdf)
- United Nations Development Programme (1995). Human Development Report 1995.  
[http://hdr.undp.org/sites/default/files/reports/256/hdr\\_1995\\_en\\_complete\\_nostats.pdf](http://hdr.undp.org/sites/default/files/reports/256/hdr_1995_en_complete_nostats.pdf)
- Verloo, M., & Lombardo, E. (2007). *Contested Gender Equality and policy Variety in Europe: Introducing a Critical Frame Analysis Approach*. Central European University Press.
- Walliman, N. (2011). *Your Research Project: Designing and Planning Your Work*. Sage.
- Wang, V. & Yoon, M. Y. (2018). Switches from quota-to non-quota seats: A Comparative Study of Tanzania and Uganda. (CMI Brief No. 2).  
<https://www.cmi.no/publications/6512-switches-from-quota-to-non-quota-seats>
- Wanyande, P. (2003). Affirmative Action for Kenyan Women: An Analysis of the relevant provision of the Draft Constitution. Department of Political Science, University of Nairobi.  
<http://erepository.uonbi.ac.ke:8080/xmlui/handle/123456789/18248>
- White, T.J., & Mariani, M. (2015). Gendered Interest and Ambition: Quotas and Challenges to Achieving Greater Female Representation in Ireland. *The Canadian Journal of Irish Studies*, 39 (1), 206-223.  
<https://www.jstor.org/stable/24635407>
- World Economic Forum (2013). *The Global Gender Gap Report 2013*.  
[http://www3.weforum.org/docs/WEF\\_GenderGap\\_Report\\_2013.pdf](http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf)
- Wysocki, D. K. (2008). *Readings in Social Research Methods (3<sup>rd</sup> Ed)*. CA: Thomson Wadsworth.
- [www.elgeyomarakwet.go.ke](http://www.elgeyomarakwet.go.ke)
- [www.emcassembly.go.ke](http://www.emcassembly.go.ke)
- [www.makueni.go.ke](http://www.makueni.go.ke)

[www.makueniassembly.go.ke](http://www.makueniassembly.go.ke)

[www.idea.int/data-tools/data/gender-quotas](http://www.idea.int/data-tools/data/gender-quotas)

<http://kenyalaw.org/caselaw/cases/view/133439>

Yin, R.K. (2014). *Case Study Research. Design and Methods*. (5<sup>th</sup> Ed). Sage Publications.

Yoon, J., & Shin, K. Y. (2017). Opportunities and Challenges to Gender Quotas in Local Politics: The Case of Municipal Council Elections in South Korea. *Asia Journal of Women Studies*, 23(3), 363-384.


<https://doi.org/10.1080/12259276.2017.1352131>

Young, K. (2013). WID,GAD and WAD. In Desai, V., and Potter, R. (eds) *The Companion to Development Studies*. Routledge.

Young, K. (1997). Gender and Development in Nalini Visvanathan et al. (eds), *The Women, Gender and Development Reader*, Zed Books.

## APPENDICES

## APPENDIX 1: Research Authorization Letter



**NATIONAL COMMISSION FOR SCIENCE,  
TECHNOLOGY AND INNOVATION**

Telephone: +254-20-2213471,  
2241349,3310571,2219420  
Fax: +254-20-318245,318249  
Email: dg@nacosti.go.ke  
Website: www.nacosti.go.ke  
When replying please quote

NACOSTI, Upper Kabete  
Off Waiyaki Way  
P.O.Box 30623-00100  
NAIROBI-KENYA

Ref.No: **NACOSTI/P/18/53969/21258** Date: **14<sup>th</sup> February, 2018**


Hellen Kwamboka Kilelo  
Moi University  
P.O. BOX 3900  
**ELDORET.**

**RE: RESEARCH AUTHORIZATION**

Following your application for authority to carry out research on *“Perspectives of key stakeholders in implementation of the gender quota threshold in devolved governance: A multiple case study of selected Counties in Kenya”* I am pleased to inform you that you have been authorized to undertake research in **Elgeyo Marakwet and Makueni Counties** for the period ending **14<sup>th</sup> February, 2019.**

You are advised to report to **the County Commissioners and the County Directors of Education, Elgeyo Marakwet and Makueni Counties** before embarking on the research project.

Kindly note that, as an applicant who has been licensed under the Science, Technology and Innovation Act, 2013 to conduct research in Kenya, you shall deposit **a copy** of the final research report to the Commission within **one year** of completion. The soft copy of the same should be submitted through the Online Research Information System.

  
**GODFREY P. KALERWA MSc., MBA, MKIM**  
**FOR: DIRECTOR-GENERAL/CEO**

Copy to:

The County Commissioner  
Elgeyo Marakwet County.

The County Director of Education  
Elgeyo Marakwet County.



**APPENDIX 2: Copy of Research Permit**

**THIS IS TO CERTIFY THAT:**  
**MS. HELLEN KWAMBOKA KILELO**  
of **MOI UNIVERSITY, 0-200 NAIROBI**, has  
been permitted to conduct research in  
**Elgeyo-Marakwet , Makueni Counties**

on the topic: **PERSPECTIVES OF KEY  
STAKEHOLDERS IN IMPLEMENTATION OF  
THE GENDER QUOTA THRESHOLD IN  
DEVOLVED GOVERNANCE: A MULTIPLE  
CASE STUDY OF SELECTED COUNTIES IN  
KENYA**

for the period ending:  
**14th February, 2019**

  
.....  
**Applicant's  
Signature**

**Permit No : NACOSTI/P/18/53969/21258**  
**Date Of Issue : 14th February, 2018**  
**Fee Recieved :Ksh 2000**



  
.....  
**Director General  
National Commission for Science,  
Technology & Innovation**

**APPENDIX 3: Letter to Counties**

Department of Development Studies  
Moi University –Nairobi Campus  
P.O BOX 63056-00200  
**NAIROBI.**  
**Email: hellenkileloh@gmail.com**

13<sup>th</sup> February 2018.  
The County Secretary  
Makueni County  
P.O. BOX 78 -90300  
Wote, Makueni.

Dear Sir/Madam,

**RE: REQUEST TO CARRY OUT RESEARCH**

I am a postgraduate student of Moi University, School of Business and Economics, Department of Development Studies. I am currently pursuing a Doctor of Philosophy in Development Studies. I successfully defended my proposal and am now ready for data collection.

My research Title is-“**Perspectives of Key Stakeholders on Implementation of the Gender Quota Threshold in Devolved Governance in Selected Counties in Kenya.**”

Makueni is one of the counties that I have sampled. I therefore wish to request for permission to come and carry out interviews in the County beginning on 26<sup>th</sup> of February 2018. The findings of this study will be used for academic purposes only and will be published. Your prompt response will be highly appreciated.

Thanks in advance.

Yours faithfully,

**Hellen Kilelo.**

**TEL. NO: 0722767257**

## APPENDIX IV: Focused Group Discussion Guide for Men and Women Groups

<b>Logistics</b>	Date of Interview:.....	
	Location of interview.....	
	Participants .....	
	.....	
<b>Research goals</b>	To find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance.	
	To establish how the gender quota thresholds are being implemented in devolved governance.	
	To examine the barriers to successful implementation of gender quota thresholds provisions.	
<b>Timing Guide</b>	Introduction	5minutes
	Views	15minutes
	Implementation	15minutes
	Barriers	15minute
	Closing	10 minutes
<b>Purpose of the Session</b>	Thank you for joining our focus group discussion. My name is Hellen Kilelo and I will be facilitating our discussion today. I would like to hear from you on the topic of gender quota thresholds. Our session will last for about one hour. I would like to let you know a few things that I will be doing.	
<b>Disclosure</b>	Recording	
	Signing of Consent forms	
	Plans for reporting	

- Procedures**                    There are no right or wrong answers; I would like to hear your personal views.
- Be honest; I would really like to know what you think about gender quota thresholds;
- I would like to hear from everyone –so don’t be shy; on the other hand be considerate of others if you notice that you are talking too much and others are contributing less;
- One person should talk at a time, but there is no need to raise your hand to contribute; try to let the conversation flow naturally;
- Participant**                    First Name;
- Introductions**                Profession and Age;

**QUESTION GUIDE**

**Research Question 1: What are the views of various stakeholders on the constitutional provisions on the gender quota threshold in devolved governance?**

- a) Are you aware about the gender quota threshold that is enshrined in the constitution?(Probe on awareness on the legislation that not more than two thirds should be from the same gender both in the County Assembly and the County Executive).....  
.....  
.....
- b) What are your perspectives in terms of the meaning of this legislation? ( Probe for the participants’ understanding of this legislation).....  
.....  
.....  
.....
- c) In your opinion, is this legislation fair? (Probe on who it is fair or unfair to).....  
.....  
.....

d) How effective is the legislation?

.....  
.....  
.....  
How does this legislation relate to the cultural set-up of the county? (Probe on the cultural perspectives on men and women in relation to leadership).....  
.....  
.....

**Research Question 2: How are the gender quota threshold provisions being implemented in the devolved governance? (Probe on the views of participants in relation to the County Assembly, County Executive and County Public Service Board and the County Assembly Board amongst others.)**

**Research Question 3: What are the barriers to successful implementation of the gender quota threshold provisions in devolved governance?**

e) Do you know of any barriers to the successful implementation of the gender quota threshold provisions in the county government?  
.....  
.....  
.....

f) In your opinion, how can these barriers be averted?

**Conclusion** Does anyone have anything else they want to add to our discussion today?

Thank you for your help today. This session was informative. If you have any questions after this session, you may reach me by phone at 0722767257.

**(Format adopted from: Savin-Baden and Major, 2013).**

## APPENDIXV: Focused Group Discussion Guide for MCAs

<b>Logistics</b>	Date of Interview:.....	
	Location of interview.....	
	Participants .....	
	.....	
<b>Research goals</b>	To find out the views of various stakeholders on the constitutional provisions on gender quota threshold in devolved governance	
	To establish how the gender quota thresholds are being implemented in devolved governance.	
	To examine the barriers to successful implementation of gender quota thresholds	
<b>Timing Guide</b>	Introduction	5minutes
	Views	15minutes
	Implementation	15minutes
	Barriers	15minute
	Closing	10 minutes
<b>Purpose of the Session</b>	Thank you for joining our focus group discussion. My name is Hellen Kilelo and I will be facilitating our discussion today. I would like to hear from you on the topic of gender quota thresholds. Our session will last for about one hour. I would like to let you know a few things that I will be doing.	
<b>Disclosure</b>	Recording	
	Signing of Consent forms	
	Plans for reporting	
<b>Procedures</b>	There are no right or wrong answers; I would like to hear your personal views.	

Be honest; I would really like to know what you think about gender quota thresholds;

I would like to hear from everyone –so don’t be shy; on the other hand be considerate of others if you notice that you are talking too much and others are contributing less;

One person should talk at a time, but there is no need to raise your hand to contribute; try to let the conversation flow naturally;

Participant First Name;

Introductions Profession and Age;

**Questions**

**Research Question 1: What are the views of various stakeholders on the constitutional provisions on the gender quota threshold in devolved governance?**

a) Are you aware about the gender quota threshold that is enshrined in the constitution?(Probe on awareness on the legislation that not more than two thirds should be from the same gender both in the County Assembly and the County Executive).....  
.....  
.....

b) What are your perspectives in terms of the meaning of this legislation? ( Probe for the participants’ understanding of this legislation)  
.....  
.....  
.....

c) In your opinion, is this legislation fair? (Probe on who it is fair or unfair to).....  
.....  
.....

d) How effective is the legislation?  
.....  
.....  
.....

e) How does this legislation relate to the cultural set-up of the county? (Probe on the cultural perspectives of men and women in relation to leadership)

.....  
.....  
.....  
.....

f) What are your perspectives on the post of the Women’s Representative and does this post relate in any way to other elective posts?

.....  
.....  
.....

**Research Question 2: How are the gender quota threshold provisions being implemented in the devolved governance?**

g) How was the actual nomination process carried out in the County Assembly after the 2017 elections?( Probe for how the process was carried out)

.....  
.....  
.....  
.....

h) What is the criteria used to determine which women and or men end up being nominated?

.....  
.....  
.....

i) In your opinion is this process fair or unfair and to whom is it fair or unfair?.....

.....  
.....

j) Who is accountable for the implementation of this legislation at the County Assembly and County Executive?



.....  
.....  
.....

k) Is there an oversight body that checks to ensure that the gender quota threshold is attained? If yes which one and how often is this done?.....

.....  
.....  
.....

l) What is the process used to select those in the gender committee?(Probe on the criteria used to determine who ends up in the gender committee)

.....  
.....  
.....  
.....

m) What bills and or motions on gender have you as a committee been able to pass that are related to gender?

.....  
.....  
.....  
.....

**Research Question 3: What are the barriers to successful implementation of the gender quota threshold provisions in devolved governance?**

n) Do you know of any barriers to the successful implementation of the gender quota threshold provisions in the county assembly?

.....  
.....  
.....

o) In your opinion, how can these barriers be averted?

.....  
.....  
.....

**Conclusion:** Does anyone have anything else they want to add to our discussion today?

Thank you for your help today. This session was informative. If you have any questions after this session, you may reach me by phone at 0722767257.

**(Format adopted from: Savin-Baden and Major, 2013).**

## APPENDIX VI: Sample of Interviews

**(Interview with DCEM on 23/02/2018)**

**Are you aware about the gender quota threshold that is enshrined in the constitution? The one based on Article 175 and 197 that says that not more than two thirds should be from the same gender both in the County Assembly and County Executive?**

Yes I am aware.

**What are your perspectives in terms of the meaning of this legislation?**

The problem we have is in the implementation. And this is caused by the mindset of our people. I remember when we were in Parliament we had three key motions for it in different spans of time but every time it was brought up there was no quorum and the ones who attended shot down always giving reasons that we don't want many women in this thing. So you can imagine the way the men think. They think that when women are more they are likely to cause an imbalance and yet they do not see the imbalance they are causing themselves. The men feel like areas of leadership are male domain forgetting that even women can do better than some men. They forget that and they feel that the earlier they lock out the women the better for them so that they can continue in their status quo. So the motion was shot down right from Parliament and you know when it happens like that, the people outside, apart from the civil society organizations which have been sensitized all of them follow what the members of Parliament have said. They say women are all over the place. They are telling us to nominate women, the wage bill, look at the wage bill in the County Assembly, look at the wage bill in the National Assembly, look at the affirmative action positions like the Women Representative, look at the nominations in Senate, look at the nominations of MCAs. So, You know they shoot down giving these examples and the wananchi quickly pick up and say yes we don't want this wage bill and what are these women bringing on board which we don't have from the men? So, those are some of the things, those are some of the reasons they gave and yet the constitution was very clear. It is not about women only even men. It is the men who are saying that once we get to 50% plus it will be the men who will be given affirmative action. But they would hear none of that. They say which year is that. When is it going to happen? So the constitution is good but our perception as the men and women of Kenya is the one which killed it.

**So in your opinion is the legislation fair?**

For me the legislation is fair it's only that the implementation is a problem.

**How effective would you say this legislation is?**

Look at the devolution it has been effected very well apart from the teething problems it had. If you look at the nominations that are made by the president you see that it is skewed towards the men. And it is still the same mentality that the women are not bringing much to the leadership. That is why am saying it has not been effective.

**How does this legislation relate to the cultural set-up of the county?**

There are two communities in one county, Elgeyo and Marakwet. For my County and other counties with similar cultural practices, our people feel nothing wrong in having all men in leadership. In fact they look at us Women Representatives like when they are counting leadership positions they count this one of women as "saucer" It is not a proper leadership position. They even forget when they are in functions they know all the other positions but this one on women they don't care. It is of no consequence to them. They think they have never seen a reason why a women's position should be created. They do not see a reason why a woman should fight alongside with men for positions. And taking my County for example we had, am sure you know Linnah Jebii Kilimo. She is the first woman to fight for a position in leadership in Elgeyo- Marakwet. She was a Member of Parliament for Marakwet East and she did two terms. And people see it as an exceptional participation. She was elected because she went out and fought one of the things that was a big problem to the community i.e. cattle rustling. Immediately she was out of Parliament cattle rustling came back in full force and the men who were there have not been able to contain it. So sometimes, it takes somebody like her to take an opportunity. It is an opportunity they were rewarding but they were not rewarding her as a woman. They elected her because of the effort she put in containing cattle rustling menace in Kerio valley. Even now she went to court, actually she didn't go to court as Linah but the community went to court to contest the results of the last general election in her favour. So we want to see what will happen. So you can see the way some communities can go for a woman, how some communities will look at the role of the woman as a traditional role where it really will not make any difference

**In your opinion, is this legislation neutral? What are your views on this?**

Sometimes I ask the men when they ask that question and say the boy child is neglected, I tell the men stop and listen to me, the boy child does not get pregnant and drop out of school, although he is the cause of the pregnancy. The boy child doesn't have periods to stay at home when there are no sanitary towels. What do you want me to tell the boy child. I have always told the boy child to work hard so that they can acquire positions just as the girls. Other than that what else do you want me to tell the boy child? You know they keep quiet because they also don't know. I tell them it is you people when the boy child is about 12years they go through circumcision either the traditional one or the other one. Once they are there you don't provide counseling, you don't provide sensitization on some of the things for somebody growing up. You don't even empower them through education. The people initiating them, when they are going through the healing process they are the villagers. parents are busy chasing money, therefore professionals have no time to talk to these children. If you leave them to the villagers what do you want them to know? They will know what the villagers have. And that is what they will they do when they graduate out of there. They will drop out of school. Right now they are dropping out of school and they are demanding to be bought motorbikes. All these motorbikes are driven by drop outs. When I tell my girls make sure that you don't get pregnant, make sure that you learn and go to school up to the highest level. That is the only thing you take from your family. You will not take land, you will not take a shop, those ones are for the boys. We are leaving these things to the villagers and apart from what they do every day that is all they know. So it's not that the boy child has been neglected. The concerns of the girl child are very unique and they are very specific to girls. They have nothing to do with boys.

**In your opinion, what are some of the gaps that can be associated with this legislation?**

You know what stems out very clearly comes out through the roles, the empowerment, the way people should be empowered to have information on this legislation. You know this legislation came in a hurry. So people were not sensitized. Even if you tell people to comment on this legislation they have very little information so people need to be empowered with information so that they know what they are asking for, so that they know what they are refusing, so that they know what they are supporting, so that they know what they are not supporting. Sensitization and information is very important.

**During your term in office, what observations did you make concerning implementation of this legislation in both the County Executive and the County Assembly?**

As Kenyans, people of Elgeyo- Marakwet, we are looking at timetables. Anything that is not timetabled is a waste of time. It's not recognized. When they go out for public participation the wananchi say tell us how much money came to our ward whether that money is going to bursaries, so they are concentrating on timetables other than information. And you know information is power. You don't have information then you actually have nothing. You don't know whether to support a motion or a bill because we are not equipped with information. So as we concentrate on timetables, we leave behind something else which is very important than the timetables. Many times people will say: we want the money! We want to know what you did with the money?

**Could you kindly comment on the role and visibility of the Women's Representative?**

I have been with them in the county. I have been there for them but they will never say the truth. They will say we have never seen the women's rep even when you are standing there. It is a woman's representative to the National Assembly and not women's representative. One woman to represent all the women, to fill in the gap, the wide gap that is left between women and men. Because it is still coming to the two thirds because it is a form of reserved seats, so it's a woman representative, one woman to seat in parliament and represent the County. I used to tell them I represent your cows, your sheep and each and everything else. It's not the women only. Number 2 is legislation in Parliament. Number 3 is oversight. So we do the things especially, the only difference is that we wear a dress. We are just like the M.P.s The difference is that we cover the County and they cover a Constituency. The difference is that they have CDF and for us in 2015 we got money for affirmative action fund to look at the empowerment activities of women, youth and people with disabilities. This is a kitty that we control. We have a board at the County and a board at the national level. The details of how we use that money, we get information from public participation. So we go out to sensitize the people. The women say we want this, women groups, youth groups, then you get the money through application. I have gone throughout the county. And yet you still hear them say I have never seen the women's representative. We don't even know what she does. That's a lie. Our people are lazy. They don't want to write a proposal even if we have simplified it to a one page document, they don't want. And then they don't want group money. Each individual wants their own money. So we tell them it's not possible. Come through a group and you will have your money.

**Are there any informal rules associated with the gender legislation?**

No No No.

**Who can be called to accountability when that does not happen?**

One is the governor. Two are the MCAs in the County Assembly. MCAs are the ones passing the bills there. Political parties do not care much.

**In conclusion, any barriers to the implementation of the gender quota threshold?**

The barriers are the ones we discussed before in terms of culture, perception, leadership, I think that's all.

**So what should be done to make people more aware?**

We need to do a lot of civic education which we should have done before implementing the constitution but this was not done. But you know our constitution was implemented in a hurry. Because we came out of fighting and somebody was saying oh we do it another day.

**In your view, who should be in the forefront of carrying out this education?**

After all, the civil society organizations should be empowered. Number 2 is the leadership. The leadership should show support i.e. National and County government because they are the ones providing the money for civic education. Also, they provide the money and where they don't provide the money they should allow other organizations to come and do the job. You remember sometimes the society is locked out. Media should also come in because they reach almost everywhere both the general and the vernacular radio stations. However, very few women can come out and speak in front of people. They are not equipped, they are not exposed. I think it's all about exposure. So doing public speaking is like you are doing it in the media. So we need a lot of exposure, we need a lot of encouragement and incentives for women to participate in media debates.

**In your opinion, where should this support come from?**

The support may not be monetary because sometimes we think when we hear about support we think about monetary support. Just an encouragement alone by telling somebody you are capable of going to talk. You can talk about one, two three the things that you have always done, the things that you know around you. You don't have to refer

to something. You already have that information. And we need to demystify media. Demystification is the main thing because they say the people who go to media are the likes of Martha Karua. We need to encourage people to use the local media to air their views. We have a lot of information and this information needs to get out. Use the local vernacular radio stations.

**Did you have any networks for the women at the national level?**

Yes we had KEWOPA. The only problem with KEWOPA was that we only came in when there was a crisis. Two, when we are receiving visitors from far. Three, when we talk about funding maybe we have something to talk about it. Then during elections. There is nothing else. It's as good as not there. So for me KEWOPA did not help me in any way. I went out of my way and started an anti-FGM caucus and I put together members of parliament from communities affected on their girls and women. So that one we did a lot. We went there and sensitized the community and the different representatives gave sermons

We lack networks because we rarely come together. For women in the community level to come together other than in the church, they don't want to waste time doing nothing. They can go to their merry go round and come out. So if you are coming to tell them stories and all these things, maybe it's very hard. You will not get the very common woman coming. You will get the elites of the community and when you have them, you sensitize them, they will go back and tell the other women that for example Mary is just roaming around and now she has come here to waste our time! So those are the challenges.

**What other challenges have you encountered?**

The post of the Women's Representative also became a challenge. Before we would challenge the men and perhaps you could be elected at the end. But now when there is women's rep position, they go and talk in the public barazas and everything and say that, don't you know about the Women's Rep seat that is for women only. So here this is for men, the women, please listen to us. This is ours and that is yours. So you lose the opportunity at that point. Another challenge for women is monetary. When we go for campaigns and harambees you know us women once you are in those positions, the only thing you rely on is your salary. Men go out. First of all they use the CDF they give out contracts and you know in Kenya we have kickbacks. One gives you 10%, another 20%. So the man always has enough money. The woman rep has her salary and that is all. So you are invited to a harambee. Your male colleague gives 100,000. You as women rep 10,000. And the people ask. What is this? No wonder we say these ones are useless! So



we have this challenge. The issue of land is also contentious. Men can say you are bringing women here to come and share property even if he himself wants to share his property with his daughter but he wants to spoil it for you. For men you can sell your land, cows but for the woman, what do you sell, you have nothing to sell. Besides, only women competing against men got funding for carrying out campaigns.. For Women's rep, the reasoning is that we will end up with a woman anyway.

### **APPENDIX VII: Consent Form**

This research is being conducted in partial fulfillment of the degree of Doctor of Philosophy in Development Studies, in the Department of Development Studies at the School of Business and Economics. It is entitled “**Perspectives of Key Stakeholders in Implementation of the Gender Quota Threshold in Devolved Governance in Selected Counties in Kenya**”.

I would like to assure you that in line with research ethics, I will maintain anonymity in as far as your identity is concerned but should you feel like withdrawing at any time you are allowed to do so. However, your participation in this study will help shape gender quotas at both the National and County Governments with regards to policy and practice because as it is now, very little is known on the perspectives of the gender quota thresholds in Kenya.

In case you experience any problem while I am conducting this study, kindly contact the National Council for Science and Technology, P.O. Box 30623-00100 Nairobi, Kenya or email [secretary@ncst.go.ke](mailto:secretary@ncst.go.ke).

If you are agreeable and willing to take part in this research kindly sign below.

Participant’s Signature.....

Date: .....

APPENDIX VIII: Map of County Governments of Kenya

