

REPRESENTATIONAL POLITICS IN KENYA:

THE GENDER QUOTA AND BEYOND

Paper presented and published by African Research & Resource Forum, December 2012

By: Prof. Maria Nzomo, Institute of Diplomacy & International Studies, University of Nairobi

Introduction

“Progress in the area of political participation for women remains slow¹ In almost, all countries, women have the right to vote on paper, to be eligible for election, appointment to public office, and to exercise public functions on equal terms with men at local national and international levels. In most countries, women participate only marginally at the highest levels of decision making.” (Steady, 1985).

“The higher one goes in either party or the state hierarchy, the fewer women there are, and when women are found in policy making and administrative positions, they typically hold ‘soft’ positions”(Charton, 1984).

“A government has yet to stand or fall on its policies towards women.”(Papanek, 1977)

“ the one-third gender rule was the only major constitutional crisis that must be addressed before the March 4, 2013 General Election----in the event that the gender rule is not attained come March 5 after the polls, then the new Parliament would not be able to sit, as it will be unconstitutional. ----- the issue will see the country experience a constitutional crisis of unparalleled proportions and hence the need to address the rule now,-----there will be no Parliament that will be able to undo the mess and the only thing that would happen would be a “coup” on the

¹ The struggle for women’s rights to vote and to be elected in to political office began in the 18th Century. New Zealand was the first to acknowledge women's right to vote in 1893. Until 1940, there was no female Head of State or President. It took another 34 years before the first executive female President was elected in 1974. Since then, the World has only had a total of 35 female presidents, two are from Africa. There has been 44 Women Prime Ministers, 6 (six) from Africa. Clearly, the numbers remain small and progress has been slow in many Countries.

Constitution(AG Prof. Githu Muigai, in an interview with the *Sunday Standard*, **September 30 2012**).

There is nothing particularly novel or earthshaking about the above four quotes- the first three 'borrowed' from a 1992 study². What is significant about them is that despite more than three decades that separate the first three quotes from the last one, they are describing a reality on the status and challenges of women participation and representation in politics that has not fundamentally altered in the intervening period between 1977 and 2012. This then speaks to the gendered and patriarchal nature of power relations between men and women³, best manifested in the persisting marginality of women in formal politics and key power centers in many countries around the world, including Kenya, and the continuing and fierce political resistance to democratizing political rules of engagement to facilitate the equitable and fair participation and representation of both genders and special interest groups. Under such circumstances, it is hardly surprising, that no government has ever fallen because of its policies towards women; but Kenya could become the first, unless the gender rule is complied with before the next elections. In the meantime, as the *Women Shadow Parliament WSP(K) 2008 Rapid Assessment and Gender Audit* report has noted, the gendered nature of power relations has for decades ensured that women's numerical strength do not translate into political capital and influence, and hence most women remain largely as voting tools for men, to whom political parties turn to as an electoral force and are enthusiastic for their participation only for the purpose of mustering votes for the party's presidential, parliamentary and local government candidates. Most women thus continue occupying limited roles at the lower and intermediate levels of the organization, where they serve as organs

² Nzomo, M., "Women in Politics and Public Decision-making", AAWORD Working Paper No.2, August 31st 1991,

³ The gendered nature of the concept of power refers to the assumption of 'power over'.- which is masculinist because it presupposes the stereotype of masculine nature and behavior- competition, aggression and coercion, often backed by military force

for mobilizing women for elective purposes.⁴ The 2010 Kenya Constitution (hereby 'the Constitution'), was in part responding to this gendered power relations, by providing for Affirmative Action⁵ (hereby, 'AA'), through measures that would ensure greater participation, representation and influence of women in all governance institutions, including political parties.

In this latter connection, it is the contention of this paper that the current fierce contestations in respect to the implementation of the "no more than two thirds" gender rule as contained at article 27(8) and 81(b) of the Constitution, are politically inspired and mirror the wider political representational power struggles, whose gender dimension has always taken the form of consolidation and institutionalization of patriarchal norms and preserving legal frameworks and policies that constrain and/ or exclude women from political governance. The representational provisions as provided in various parts of the Constitution and especially Articles 27(6 & 8), 81(b) and 100, have fundamentally altered the existing political rules of engagement and threaten to disrupt the gendered power distribution in a manner that may negatively impact on the vested political interests of some of the current male power holders. Indeed, the final phase of the constitutional making process that led to the omission of a constitutional mechanism to give effect to the 'two thirds' gender principle in respect to representation in Parliament, was not, in my view, an accident but a result of the compromises that had to be made to retain Articles 27(6 & 8), and 81(b). Those legislators currently opposed to this Gender rule and calling for its repeal instead of developing a mechanism for its implementation, had at the time, wrongly assumed that the application of these provisions would be *progressive* rather than *immediate and mandatory*. The current resistance by some male legislators

⁴ Women's Shadow Parliament – Kenya (2008). *The Elusive Quest for Women's Empowerment in Electoral Politics: A Synopsis of the 2007 Electoral Year, 2nd Rapid Assessment and Gender Audit of Electoral Processes in Kenya (RAGA II)*

⁵ Affirmative Action (AA) describes laws, policies and programs that provide and take into account historic wrongs and seek to remedy practices that even if they do not intentionally discriminate, have a disparate or adverse impact on certain groups such as women and minorities. In politics, AA seeks to enhance the representation of disadvantaged groups and special interests. For detailed examination of AA, see, Mills, ed. *Debate on affirmative Action*, Delta, New York, 1994

to the passing of the *2011 Constitutional Amendment Bill* (that provides a mechanism for implementing this Gender rule, is a logical next step, in the struggle by the dissenting patriarchs, to retain the political status quo and to undermine the creation, through AA, of a level political playing field for all Kenyans, ahead of the 2013 general elections. Despite the obvious legal and political reality that failure to implement the gender rule is not an option (as it would nullify in totality the outcome of the impending 2013 elections), the gatekeepers against gender equity and equality in political representation, have shifted their struggle towards proposing untenable formulae as alternatives to the passing of the 2011 Constitutional Amendment bill. The introduction of new formulae and alternatives appears to me, to be a delaying tactic to prolong the legislators' stay in power, as they wait for the inevitable to happen- namely, the creation of a mechanism to give effect to the two thirds gender rule. When the inevitable does happen, it would hopefully ensure that the post 2013 election Parliament and all other elective and appointive public governance institutions would have no less than one third women representation. On this, Kenya would merely be following a trail already beaten by over 26 countries around the world, including most of its Eastern African neighbors led by Rwanda-that also leads in the world with 56.3 % parliamentary representation of women; South Africa with 42.3% standing at position 8 globally; Tanzania at position 18 with 36.0 %; Uganda in position 19 with 35.0 %, and Burundi at position 29 with 30.5 %, while Kenya trails at position 113, with 9.8%⁶. In my view, the key issue is no longer whether legislators will eventually comply with this constitutional requirement, but rather when and how. This is the point of departure for this paper.

I therefore argue that whereas Kenya is lagging way behind regional and global averages in respect to women's political representation, which currently stand at 20.3% and 20.2% women respectively⁷, it has now an opportunity to seize this

⁶ *International Parliamentary Union(IPU), Situation as of 30 September 2012* <http://www.ipu.org/wmn-e/classif.htm>

⁷ *International Parliamentary Union(IPU), Situation as of 30 September 2012* <http://www.ipu.org/wmn-e/world.htm>

political moment ahead of the 2013 elections, to redeem itself, by legislating the implementation mechanism for the two thirds gender rule; and in so doing, learn from and adopt the best practices from the African countries that have already attained the minimum female gender representation threshold. This would ensure that gender equitable representation goes beyond *formal / descriptive to substantive representation*. Thus, rather than expending time debating the inevitable, this transitional period prior to the 2013 Elections is an important opportunity for working out strategies and setting out rules and standards on how to hold accountable all future political representatives (both elected and nominated), to all Kenyan citizens. In this connection, part of this paper examines whether, beyond the current preoccupation with attaining the requisite numbers of women in the post 2012 governing institutions, the attainment of gender equitable representation could galvanize the process of engendering and democratizing governance, in a manner that results in making representation meaningful in the lived realities of the represented groups and individuals. The next part of this paper examines the conceptual issues around women's participation and political representation in general and its gender dimension in particular. This is followed by an examination of global and regional experiences with AA quotas and some of the implications of these for the Kenyan case. Thereafter, this paper examines Kenya's women's past experiences and challenges with political representation and what signals these provide, as we look ahead beyond the adoption of the two third gender rule and the outcome of the 2013 elections. The final part of the paper seeks to provide some policy and action oriented recommendations.

Conceptual Issues/ Framework

Some of the feminist scholars, including this writer, that have analyzed women's representation and participation in governance, largely concur that women's status and capacity for meaningful political representation largely depend on i) the kind of access women have to formal political structures-parliaments, political

parties, etc. ii) the specific socio-cultural contexts that mitigate women leader's capacity to influence policy and in turn fulfill a transformative gender agenda and remain accountable to the constituent group(s) they represent ; iii) the size of the numerical presence/physical numbers of women in political office and iv) the nature of the institutional norms and practices pertaining in governance institutions(*Phillips, A.:1995; Freeman,1975;Hassim, S.; Tripp; Gouws; Peterson and Runyan; Bystydienski; Shanley & Pateman; Peterson & Runyan;; Stanley;Harding; Nzomo; Nyokabi*). As there are many forms of feminism, the feminist perspective employed in this paper is the eclectic one that coalesces around the common denominator among feminisms; namely the perspective that recognizes and values women's multiple identities and their diverse and unique experiences and hence takes seriously their interests in and their capacities for bringing about social and political change. In this paper, I argue that women like men have unique experiences and capacities that they can and do bring into politics as people's representatives; which when joined together with male inputs, can contribute to improving the quality and outcomes of governance. But the extent, to which women can convert *formal* representation into *substantive* representation, depends only partially on their capacity and determination to succeed.

In respect to the concept of *governance*, *UNDP(1997)* defines Governance as "*the political, economic and administrative management of public affairs, that encompasses the mechanisms, processes, and institutions through which citizens and groups articulate their interests, mediate their differences and exercise their legal rights and obligations*". *Hyden (1997)* on the other hand, defines governance as "*the conscious stewardship of regime structures (rules) with a view of regulating the public realm—in which state and society actors operate and interact to make authoritative decisions—the way a political system is constituted and the way fundamental values and norms and values are understood and acted upon at different levels of society*"(cf.*Odhiambo- Mbai, 2005:106*). From a feminist standpoint, democratic governance must also be gender responsive and inclusive, by actively seeking to promote equitable

representation of both genders, by correcting social, economic and cultural gender imbalances; as well as promoting justice and well being of all.

Representation then should be the instrument through which the majority of both men and women who do not participate directly in the day to day management of public affairs and attendant governance activities, find voice and effective vehicle for addressing their welfare; channeling their grievances and other matters of concern to them. In this connection, various political theorists and contemporary scholars, who have analyzed the meaning and characteristics of 'representation' (*John Stuart Mill, 1861; John Locke (1690); James Madison, and Robert Dahl; Pitkin, Hanna Fenichel 1967; Reid, John Phillip, 1989; Pennock and Chapman 1968; Pitkin, 1967 and Schwartz, 1988 and Manin, Bernard, 1997;*) are generally agreed that a 'Representative Government' is one in which people elect their lawmakers (representatives), who should then be held accountable to the electors for their activities within government. A representative government is thus one that allows a country with many citizens, to be represented by a smaller group of their choice, who become their governmental representatives.⁸

Increasingly however in this era of globalization, it has been recognized that in addition to the State, other international, transnational and non-governmental actors also play an important role in advancing public policies on behalf of citizens and in so doing, "stand for" and even "act" as representatives for those citizens. Such non- states actors "speak for" individuals and groups, within a nation-state. As globalization along with international and transnational and national non-state actors continue to expand and to chip at the traditional powers of the nation-state, elected representatives can only partially claim to decide or implement public policies that directly impact on the citizens who elected/mandated them to govern. This view is also shared by Odida (2009) who identifies four key components of political representation by a variety of state and non-state actors The complexity of contemporary governance structures and

⁸ http://www.constitution.org/jsm/rep_gov.htm <http://plato.stanford.edu/entries/political-representation/>

processes and the multiple locations of political power, have thus led to a broadening of the notions of representation (*Grant and Keohane; 2005; Michael Saward (2009); John Dryzek and Simon Niemayer(2008)*) to reflect contemporary realities. The Kenyan constitution also recognizes and provides for various interest groups representation (Articles 97, 98, 100 and 177). In specific reference to electoral processes, EISA (2002) notes that “*representation is shaped by choice of electoral system and, in turn, the choice shapes the form democracy takes both in terms of who is represented and how the interests of women and men in society are reflected in the governance of the country. This requires a focus on the gendered way in which political parties, which are the heart of political process and determine who becomes a representative, constitute the political domain*”⁹ This view is also shared by *Oloo(2011)* who argues that elections are an important aspect of democratic development and provide an opportunity to choose, renew and hold the political representatives to account.

Perhaps the most quoted concept of *political* representation still remains that provided by Hanna Pitkin (1967), who defined political representation as “the activity of making citizens' voices, opinions, and perspectives “present” in the public policy making processes. Thus, political representation occurs when political actors speak, advocate, symbolize, and act on the behalf of others in the political arena. In short, political representation is a kind of political assistance. Pitkin identifies at least four different types of representation: i) *formalistic* representation, which consists of formal *authorization* to represent, obtained for example, through elections and expectations of Accountability but with no defined standards of evaluating performance or mechanism for constituents to *punish* their representative for failing to act in accordance with their wishes ii) *Descriptive* representation whereby a representative resembles those being represented and is assumed to have common interests with, or share certain

⁹ Fick G., Meintjes S. & Simons M. (Eds)(2002) *One Woman, One Vote. The Politics of South African Elections* EISA, Johannesburg; South Africa.

experiences with the represented iii) *Symbolic Representation* which she defines as the ways that a representative “stands for” the represented and the meaning (symbolic) that a representative has for those being represented, regardless of what he/she has done or not done for them and iv) *Substantive Representation*, which entails the actions taken on behalf of and in the interests of, and as a substitute for the represented. Building on Pitkin’s *representation theory*, Andrew Rehfeld (2005) has aptly suggested that political representation should not only be constructed based on territorial, geographical constituencies, electoral districts, etc based on where citizens live, but should also take into account non-spatial representation. This latter perspective is especially relevant for nominated/appointed representatives.

Pitkin’s theory of representation has largely informed feminist scholars who have advanced similar arguments, in seeking to explain the different modes of political representation by women political leaders who are often assumed to represent other women and to carry and promote a gender agenda. In this connection, in advancing the ‘critical mass theory’, Krook, et.al makes a clear distinction between “*critical feminist actors*” (representatives) who “*act for*” and *substantively* advance a gender and democratic agenda and those representatives who only ‘*stand for*’ this agenda in a *formal, symbolic, and or descriptive* way, and in some cases, undermine it(Hassim). *This paper is informed by the feminist discourse in analyzing the gender dimension of political representation in Kenya’s electoral politics.*

Finally, the *concept of gender* as employed in this paper means the socio-culturally constructed definition of what it means to be male or female, beyond the physical and biologically determined sex attributes(cf. *Kamau, N, 2012*). Underlying this socio-cultural categorization which prevails in most societies, are patriarchal norms/ ideology that sets standards and code of conduct; assigns differential and hierarchical status, roles and power relations that each gender is expected to conform to. Gender inequality in the division of labor and power within families/households, cultural attitudes about gender roles have the effect

of subjugating women and serve to limit their participation and representation in public life. It is this situation that is the root cause of the gendered and unequal power relations, that find expression in the problem of gender imbalance in political representational structures and processes. It is this problem which global, regional and national legal frameworks have been seeking to redress. As noted by the 1995 Beijing Platform of Action: *“the power relations that impede women's attainment of fulfilling lives operate at many levels of society, from the most personal to the highly public. Achieving the goal of equal participation of women and men in decision-making will provide a balance that more accurately reflects the composition of society and is needed in order to strengthen democracy and promote its proper functioning”* (BPA, 1995)¹⁰. IDEA (2005) also notes that *“men across virtually all cultures are socialized to see politics as a legitimate sphere for them to act in. This leads to men having a greater knowledge of and interest in politics, and greater political ambition.”*¹¹ Gender is therefore not a synonym for women and women's issues; but rather a concept that draws attention to those issues that manifest themselves in inequalities in the distribution of power, resources and roles in society that generally tend to privilege men over women. *The current gender rule debate for example, is misplaced by those who are treating it as a women's issue rather than as a national and governance issue- which is what it is.*

Gender Quotas & Political Representation: Global and Regional Experience

Global research on women's political representation has noted the significant increase in women's political representation over the last two decades and have attributed it to gender quotas, electoral systems, and democratic status (e.g., Paxton 1997; Paxton, Hughes, and Painter 2010; Tripp and Kang 2008; Goetz and Hassim 2003, Tamale 1999, Tripp 2000). The positive impact of gender

¹⁰

¹¹ Ballington J. and Karam A. (eds)(2005). Women in Parliament: Beyond Numbers. International Institute for Democracy and Electoral Assistance (IDEA), Stockholm, Sweden.

quotas on women's representation is now widely accepted (Dahlerup 2006; Krook 2009; Tripp and Kang 2008). Legislative quotas — either in the form of reserved seats, voluntary party quotas, or compulsory quotas through legislation have impacted on the gender *composition* of national legislatures world wide (Bauer 2004, Britton 2005, Geisler 2004, Goetz and Hassim 2003, Tamale 1999, Tripp 2000). The 26 countries with at least 30 per cent representation of women have implemented some type of gender quota for national parliaments and by 2009, women comprised 21% of MPs in countries that used gender quotas, compared to an average of 13 per cent in countries that did not have such measures. Furthermore, in certain contexts quotas can have transformative effects on women's political representation. It has also been established that quotas work and produce best women's legislative representation results under Proportional Representation (PR) electoral systems than under majoritarian/ First Past the Post (FPTP) electoral systems (Ballington, 2009)¹²..

According to *Tripp (2012)*, research conducted in Latin America, Eastern Europe and elsewhere on women's political representation, indicates that democratization outcomes have not benefited women in any particular way and may even be negatively correlated with women's political representation. Elsewhere studies have found that democracy does not influence *levels* of women's political representation but it does influence the *growth* of women's representation over time (Paxton, Hughes, and Painter 2010). Expanding civil liberties, in particular, fuels growth of women's legislative representation, suggesting that the increased political space allows for women's mobilization for representation. This has certainly been the case in most African countries since the return to multipartyism in the 1990s. But, whereas quotas may be the mechanism through which many African countries increase women's numbers in national legislatures, quotas may not in all cases be the root cause of *growth* in

¹² Ballington, J. (2009) Expert Opinion: Implementing Quotas in Africa. iKNOW politics 2009. Accessed online on 30/09/2012. Available at [www.iknowpolitics.org/en/node/8821] . Average representation of women in 22 countries using majority/plurality electoral systems stands at 15.5% compared to 27.4% in the 12 countries using proportional representation. Countries with mixed electoral systems have the lowest representation of women, at 13%.

women's political representation in Africa but rather the *strengthening* of democratization¹³. It is also notable that post-conflict countries in Africa adopted gender quotas sooner and were ultimately more likely to adopt quotas than their counterparts that did not recently have major wars. Finally, out of the 26 countries that have achieved the 30% minimum through quotas, eleven (11) of them have successfully used *voluntary party* quotas(including South Africa and Mozambique), without being compelled to do so through legislation and/ or constitutional provision- a clear indication that political will is crucial to implementation of quotas.

Impacts of Quotas

In an article, titled: 'Who Cares How Many Women Are in Parliament?' Joshua Foust and Melinda Haring,¹⁴ argue that there is no evidence to support the view that democracy cannot truly deliver for all of its citizens if half of the population remains underrepresented in the political arena. They argue for example, that "in Cuba, women MPs comprise 45 percent of the parliament. Yet,----democracy is not "truly delivering for all of its citizens". Thus, "countries may have plenty of women in power but lag far behind on every meaningful index of democracy".

Those in the Feminist movement who mobilize to promote quotas would disagree with Foust and Haring and argue that, at the very minimum, quotas serve as mechanisms for democratizing both political parties (by giving women guaranteed access to candidate selection processes) and legislatures (by forcing open space for the inclusion of new legislative and policy agendas)(Hassim). Quotas thus democratize access. Furthermore, the mere presence of women in parliaments would shift the patriarchal culture of political institutions and force institutions to recognize women. Women representatives would utilize the

¹³ Hosni Mubarak's undemocratic Egypt introduction of a gender quota facilitated the increase of women in Parliament to 12%. The 2012 repeal of the quota resulted in a sudden decline of women MPs to 2%.

¹⁴ Joshua Foust, Melinda Haring, *Democracy Lab*, June 25, 2012

political platform created by quotas for representation and advancing women's group interests (based on shared experiences of patriarchal discrimination), that transcend race, class, ethnic and other differences. This *descriptive* representation would provide greater advantages in communicating the constituents' interests with other representatives –as women representing women; they could speak with authenticity and be believed. This feminist thinking also sees a positive correlation between socio-economic development and political representation.

But emerging research has in recent years, been challenging some aspects of this perspective. *Krook* for example notes that sex quotas, are not *feminist* quotas. In other words, being a woman does not necessarily qualify an individual as a feminist- with a commitment and a gender and transformative agenda. She concludes that gender/ female quotas *may fast-track women's (formal) representation* but they *do not fast-track equality or democracy*. *Hassim* who has undertaken comparative analysis on the impacts and experiences with quotas in several African countries that have attained the 30% women representation threshold, asserts that democratizing access is not good enough for those seeking to advance democracy. Short-circuiting the political process of creating strong constituencies and defining policy agendas has negative consequences for the extent to which democratic culture takes root in new democracies. She also points out that women representatives' capacity to mobilize within their parties is limited, as individual women MPs often find it difficult to develop the confidence and political base from which to push for gender equality platforms in their respective political parties. She also points out that certain types of quotas may reinforce existing patriarchal biases. For example, women occupying "special" seats may be bypassed by citizens who go to "real" representatives with their problems.¹⁵

¹⁵ Hassim, S.

Tamale writing on women 's political representation in Uganda (1999) observes that; *each woman "on the inside" holds personal values and parochial interests that do not necessarily represent the views of their constituents let alone feminist views. Not all female MPs can represent or are willing to represent the interests and concerns of women in the legislature*¹⁶.

Nzomo (2003) observes in the case of Kenya, that *the quality of people brought in through affirmative action should be an important consideration if the aim is to influence public policies and decisions in favour of women. Thus, unless affirmative action is carefully thought out, it may serve to entrench class privileges without impacting on gender power relations. AA can only succeed if implemented within a framework of supportive policies, practices, legal and political environment. Political will is therefore crucial in realizing the benefits of affirmative action* ¹⁷

African experiences with Representation through Quotas: Lessons for Kenya

Powley (2005) and Wilber: (2010) highlight the factors that contributed to *Rwanda's success story*- especially the fantastic increase in women's representation in politics and other public decision making positions. Rwanda's 56.3% women in the national assembly is a product of the *specific socio-economic and political circumstances of the genocide*, the quota system, and a sustained campaign by the women's movement in collaboration with women in government and with the explicit support of the ruling party-Rwandan Patriotic Front (RPF) - that made a policy decision to prioritize women's political presence in government structures. Accordingly, RPF introduced structures and mechanisms for reaching gender parity including: i) a *mandatory Constitutional quota of 30 percent women* in the National Assembly(Chamber of Deputies)

¹⁶ Tamale S. (1999). *When Hens Begin to Crow: Gender and Parliamentary Politics in Uganda*. Fountain publishers, Kampala, Uganda.

¹⁷ Nzomo M. (ed)(2003). *Perspective on Gender discourse, Women In Politics: Challenges of democratic Transition in Kenya*, Heinrich Böll Foundation, Nairobi; Kenya

and other government decision-making bodies, ii) a *constitutionally mandated triple ballot* electoral system introduced in 2003, comprising of a *women-only* ballot; *the general* ballot, and the *youth only* ballot; iii) *Ministry of Gender and Family Promotion (MIGEPROF)*; iv) *Women's Councils* elected at the grassroots and represented at the national level; v) RPF and president's support for women for competitive electoral seats and vi) the *gender demographic* (with women comprising about 70% of the country's population following the 1994 genocide), thus making it politically expedient to deploy a high percentage of females in leadership to advance *President Kagame's* regime interests McCrummen(2008) *that the majority of women in the reserved seats are members of RPF that controls about 70% of the parliamentary seats, thus raising the question of whether such women politicians are accountable to RPF or to a women's constituency on behalf of whom they advance a gender agenda.* In addition, the government's democratic credentials are increasingly being questioned with continuing RPF political party dominance and a political landscape that is increasingly becoming intolerant to opposition politics and/or voices of dissent. In particular, Freedom House's reports continue to classify Rwanda as 'not free', in respect to the state of political rights and civil liberties in the country¹⁸ Furthermore studies have shown that patriarchy has not been eroded or significantly reduced, and that the great majority of Rwandan women remain disadvantaged vis-à-vis men with regard to education, legal rights, health, etc. In this connection, Longman (2006); argues that the increase in women's representation in parliament has served more as an instrument of legitimizing and preserving the incumbent RPF regime in power. And under such circumstances, women who go against the president may see the end of their political careers (Hassim, 2010:20).

On the positive side, of the 24 women who gained reserved seats after the quota implementation in 2003, many joined political parties and chose to run again on open competitive seats and most of them won. According to (Longman, *op.cit*),

¹⁸Freedom House 2012 ,<http://www.freedomhouse.org/report/freedom-world/2012/rwanda>.

Rwandan voters are now electing women in great numbers, well beyond the mandates dictated by the constitution. The quota seems to have served as an “incubator” for giving women confidence, experience, and driving women’s participation in leadership. Furthermore, the Women’s Parliamentary Caucus- the Forum of Rwandan Women Parliamentarians (Forum des Femmes Rwandaises Parlementaires (FFRP) that was established in 1996, has significantly advanced the role of women in the legislature. e.g. the successful passing of the legislation on gender-based violence.; discrimination against women in nationality and citizenship laws; Women’s rights to inheritance and land ownership have also been secured. In this connection, the Rwandese example illustrates how Women’s caucuses are useful for strengthening the voice of and increasing the confidence of female legislators, who often have less political experience than male colleagues, by providing a vehicle for mentoring new policymakers.

The experiences and impacts of women with governance in other African Countries that have attained a critical mass of women in political governance institutions; notably South Africa, Senegal, Mozambique, Angola, Burundi, Tanzania and Uganda, reveal similar experience to that of Rwanda, in respect to women’s participation As Political Representatives.

South Africa and Mozambique, like Rwanda, adopted a PR electoral system but unlike Rwanda, they did not constitutionalize and/or legislate quotas. Instead the ANC and FRELIMO adopted an *internal voluntary party quota* of 30% representation of women in parliament. This quota was in South Africa, spearheaded by the ANC Women’s League through a series of campaigns and inside lobbying for a party policy to increase female representation (Tripp 2003). Application of this quota system through party policy has had a significant impact on numbers of women in parliament. However, as Hassim (*ibid*) notes for South Africa, women political representatives have had limited space for dissent within the ruling ANC party, which, like Rwanda’s RPF, is the party to which most women MPs owe their presence in parliament.

In their analysis of the impact of quotas in Uganda, South Africa and Rwanda respectively, Tripp, (2000) Tamale, (1999 & 2003) Hassim (2010; cf. 2003) have concluded that women MPs often find it difficult to mobilize within their parties and advance gender equality platforms and / or are unwilling to challenge their respective political parties that brought them to power and to whom they owe greater allegiance than a women's constituency. The studies have demonstrated that women's greater representation in these three countries was used to disguise and legitimize various shades of authoritarianism and undemocratic governance as well as enhance the political survival of the ruling regimes. And in this, some women MPs are said to have colluded in the politics of silencing opponents outside the ruling parties, both men and women, in a political context of authoritarian tendencies, powerful presidencies and single party dominance. Tamale and Tripp (*ibid*) have noted in the case of Uganda, that allegiance to the ruling National Resistance Movement (NRM), has at times hampered the ability of women MPs to support legislation favoured by the women's movement, if such legislation contradicts or challenges the NRM political party position. (Hassim, 2010:14) Hon. Miria Matembe expressed similar a concern (Matembe, M., August 2012), noting that, despite the AA and a good constitution and women significant presence in key decision-making through reserved seats, these female representatives were still being patronized by President's Museveni's NRM government and had yet to attain substantive gains, for example in respect to laws on domestic violence and sexual offences.

The experiences of women in Rwanda, South Africa and Uganda seem to suggest that the dominant presence of patriarchy in key governance State institutions and political parties, easily subdues the assumed power that derive from women's numerical strength and presence in these institutions. This perspective also dispels the assumption that quotas automatically lead to increased engendering and democratization of the institutions of political representation; especially political parties and legislatures. Hassim (*ibid*) asserts that there is no empirical/real evidence to conclude that in Africa women's greater representation advances feminism's democratic aims of transforming and

democratizing governance institutions so that political cultures become more gender responsive and accountable. Thus, although quotas may fast-track women's representation, they may not fast-track equality or democracy or create an automatic link between socio-economic development and political representation. Furthermore, quotas can have negative impacts when adopted in contexts where the key institutions of democracy and human rights are weak or absent. In such undemocratic systems, women can get co-opted and become collaborators in restricting political rights of feminist and other dissenting voices (Krook 2006; cf. Hassim, *Ibid*:8)

Women's Political Representation through Quotas: What Lessons for Kenya?

Several key lessons for Kenya that emerge from the above analysis of global and regional experiences with quotas are that: i) quotas are a necessary AA measure for fast tracking gender equitable *formal/descriptive* political representation ii) quotas are neither a consequence nor a cause of democracy. iii) Quotas have been implemented in both democratic and undemocratic political systems: in some contexts, they may serve as a catalyst for democratic development and positive transformation of governance institutions and in other cases, they could be used by undemocratic regimes to legitimize authoritarian rule iv) Countries with one party dominance coupled with a "strongman" type president, limit women beneficiaries of party quotas from setting and implementing a gender or any other autonomous agenda v) the PR electoral system is the most effective instrument for the attainment and implementation of quotas and vi) a progressive and democratic Constitution is not enough to secure gender equality and democratic governance. What best practices can Kenya take from these global and regional experiences that can help Kenyans avoid the pitfalls of other African countries? To respond to this question, there is need to first examine the political situation of Kenya in respect to some key aspects of women's political

representation and particularly within the context of three key institutions/ arenas: the women's organizations and movement; the political parties and KEWOPA..

As I pointed out at the beginning of this paper, the ongoing politically inspired contestations with the implementation of the "no more than two thirds gender rule" is unfortunate given that the real work of transforming and democratizing Kenya's political systems and culture, has yet to be done. Even with the utmost commitment from gender and democracy champions, effective political representation through gender quotas and the advancement of a gender and democratic agenda may be limited without structural reforms and support of some key political institutions, including political parties and the State organs at all levels of the now devolved government. In addition, women political representatives would still continue to require gender specific support structures from within the State and outside the State, such as the women's movement and KEWOPA. What is the current status of women political representation with these institutions and what does this signal for the future beyond quotas in post 2013 elections?

Political Parties and Women's Political Representation

Political Parties in Kenya as elsewhere are the gatekeepers to women's advancement to power and access to political leadership. Thus, with the exception of the few women who may choose to run as independents, women politicians must work through Parties to access political office. Unfortunately, Parties in Kenya have historically been highly gendered institutions that incorporate women into party structures on a different basis from men and in ways that impede their access to leadership positions. Women play important roles in campaigning and mobilizing support for their Parties but rarely occupy decision-making positions in these structures. Furthermore, although political parties may possess resources for conducting election campaigns, women rarely benefit from these resources. The selection and nomination processes within

political parties also tend to be biased against women, as 'male traits' are emphasized and often become the criteria in selecting candidates.

In studies *that audited political parties and conducted by the Women's Shadow Parliament – Kenya (WSP-K) in 2003 and 2007, it was found that all the largest fourteen (14) Political Parties had lofty ideals and visions on the women's agenda in their party manifestos, but their constitutions revealed that a number of them, did not have any women specific programs or policy position and the internal Party governance structures and practices revealed marginality of women in key decision-making party posts.*

Out of the over 160 registered Political Parties as of November 2007; only three were led and managed by women. Of the remaining 150 plus, only one party had attained one-third women presence in its party membership and one token woman in its National Executive Council (one of two vice presidents). This female presence did not significantly influence the decisions of the Party. Of the three women-led political parties, only one had a viable program for capacity building of women candidates, and only those Parties whose key founders were women, was there gender balanced representation in leadership posts-with two of the Women-Led Parties recording 50 per cent women in the party's key leadership and administrative positions occupied by women. Although the number of political has reduced to 51 by 2012, the gender power ratio has not significantly changed.

It was further noted that due to inadequate internal regulations or requirements to practice internal democracy, manifested in undemocratic membership recruitment, nomination rules and processes, there remains limited recruitment and ascendancy of women to top positions in Party hierarchies. This in turn limits women's political exposure and visibility, thus denying them strategic political leverage for party nominations during national elections.

According to the 2008 WSP(K) report, 1992, 1997, 2002 and 2007 parliamentary elections reveal a similar pattern: that increasing numbers of women presented themselves for elections but many failed to get nominated from their respective

political parties. In 2007 elections, the number of women nominated to contest parliamentary and civic elections in comparison to their male counterparts did not meet the 30 per cent threshold. In the parliamentary contest only 10.6 per cent (269 out of 2,548) of the contestants were women while in the civic contest it was 9.6 per cent (1,475 out of 15,332). Indeed, none of the three main political parties was able to meet the 30 per cent threshold in terms of the number of women who sought nominations as well as those who won and became parliamentary candidates of their respective parties. The electoral outcome then resulted in a paltry 22 Women MPs, including the 6 nominated. From the analysis of political party nominations for parliamentary and presidential candidates, WSP(K) report concluded that most parties have an instrumentalist outlook towards women's political participation. They turn to women simply as an electoral force and are enthusiastic for their participation only for the purpose of mustering votes for the party's presidential and parliamentary candidates, while the women continue occupying limited roles of the lower and intermediate levels of the organization.

Ogada(2010) in her study, concurs with the WSP-K study and notes that in the run up to the 2007 general election in Kenya, the main political parties "failed to demonstrate internal democracy, transparency and accountability to women electorate". The lack of internal democracy in political parties signals the inherent weakness and fragility of these parties, which still pertain as the country approaches the March 2013 elections. The constant fluidity of the shaky and uncertain coalition formations and the recent MP'S amendment of the electoral Act to allow them more time for party hopping, are all indications that nothing in terms of greater gender responsiveness in the candidate's nomination process can be expected. The emerging political scenario as the country approaches the 2013 elections, is one where the key political players have no demonstrated interest in democratizing parties but rather *their major purpose is to maximize votes, win elections and govern. It is a replay of the typical 'Animal Farm'- of the survival of the fittest. Political parties are still viewed as mere political vehicles to*

win the elections and exercise power. Under the circumstances, women political aspirants are not likely to perform any better competitively, at the 2013 elections than in 2007. This is all the more reason that the implementation of the two thirds gender law is urgent and necessary.

This notwithstanding, I take note of the fact that the 2010 constitution followed by the 2011 *Elections Act* and the *Political Parties Act*, have substantially changed the rules of the political game. Political parties are now legally compelled to comply with gender equity and equality constitutional provisions as well as regional balancing in their nomination of *aspirants* for various elective and appointive posts. In response to this, all the 51 political parties have registered an improved representation of women within their ranks. But despite that, there still exists huge gender disparities in the composition of National Executive Committee (NEC) members among the outfits. Furthermore, we have yet to see whether parties will observe gender balancing in their nominations of *candidates* for various posts¹⁹. Furthermore, internal governance systems in political parties have not changed significantly. It is however hoped some of the new regulation for political parties would eliminate the overt gender biases and minimize patronage and cronyism- and if that happens, feminism might gradually benefit from a broader articulation of ideological issues among political parties in 2013 general elections.

The Role of the Women's Movement in Political Representation

As Goetz (2010) has noted, strong women's movements around the world, play a critical role in creating political space for female participation in politics and in supporting social change. In this regard, women's collective action has been the key to most gains made in women's rights in the past century and remains the

¹⁹ Lillian Aluanga-Delvaux, Kenya Parties Edge Closer To Bridging Gender Gap <http://chamachamwananchi.wordpress.com/2012/06/11/kenya-parties-edge-closer-to-bridging-gender-gap/> June 11, 2012 ·

best means of amplifying women's voice. Furthermore, women political aspirants cannot rely entirely on political parties as their only vehicles for representation. They need representative organizations in the women's movement that may have relationships with political parties but also have an independent existence. This ensures that women are not only mobilized for their votes but as electoral constituencies – that is, constituencies with clearly articulated policy interests.

In Kenya, the women's movement though fractured, has often demonstrated unity of purpose and in so doing, facilitated the attainment of the progressive and women friendly 2010 Constitution. Nzomo analyzing political leadership in Kenya²⁰, underscores the role of women's NGOs as a crucial mechanism for political mobilization, advocacy; a political bridge, a vehicle and midwife for championing women's rights. The Kenya women's movement has played a key role as a change agent in respect to engendering governance in general. In particular, women's organizations have served as a crucial support structure for women politicians and have been the key "incubator" for 'breeding' /training women political representatives within and outside Parliament, by building their capacity for political office. Indeed, almost all women political representatives in the current and previous Parliaments are products of women's civil society activism and capacity building training programs. Women's NGOs also serve as a crucial mechanism and political agents for civic empowerment of citizens and political mobilization of women and advocating for accountability from the State and society. Ossome(2011) has also underscored the importance the Kenya women's movement, as a support structure for women MPs within Parliament and within political parties, noting that women's presence in the state is insufficient to redirect public resources to policies that change the condition of

²⁰See for example, Nzomo, M. "Numbers and Beyond: Women and Political Leadership In Kenya"
Paper

presented at the HBF Gender Forum, Nairobi Safari Club, 31st May 2012

women's lives, without the mobilization of support from outside the state: the women's movement is the decisive factor.

In respect to this catalytic role of the women's movement/ organizations in political representation, some of the activities undertaken by these organizations in advancing the gender and democratic agenda include: i) development of feminist research and analysis to guide policy and action (e.g. AAWORD) ii) facilitating women's access to political power through voter education (e.g. LWVK) iii) Capacity building training of women candidates and Election Monitoring iv) Civic Education, Lobbying & Advocacy v) Legal Rights Education for women and engaging in Public Interest Litigation to challenge discrimination and legal bias against women (e.g. FIDA) vi) coalition building, Collaboration, mobilization and Women's Collective action (e.g. *the Kenya Women's Political Caucus & Political Alliance*; *Mwamko Mpya* & the G10). vii) Engendering Political Parties (e.g. *CMD's Women's Program*); viii) Engendering the National Budgets and Parliamentary Governance, and Legislative work (e.g. KEWOPA; *the Women's Shadow Parliament – Kenya (WSP-K)* & *the CCGD*) ix) engendering the media & gender based violence (COVAW); xi) the 2012 National Women's Charter- (*Mwamko Mpya Coalition*); xii) lobbying through informal strategies (e.g. the 1992 case of *Mothers of Political Prisoners* and *the April 2009 one-week Sex Boycott* led by "the G10"). The role of women's organizations in engendering the constitution making process and currently, the lobbying watchdog role in protecting the "gender gains" and in engendering the implementation process, is perhaps their most significant achievements over the past two decades. The struggle for the implementation of the "no more than two thirds of either gender rule" largely derives its momentum from gender champions in the women's rights movement, but with support from women MPs under the auspices of KEWOPA and some male gender champions.

The women's movement therefore remains the one critical non- State actor that will continue to serve as a strategic political bridge; as well as a vehicle and midwife for lobbying and advocacy during this transitional period and in post 2013 elections. This then amplifies the concern and need to strengthen the

fractured Kenya women's movement, which at times "shoots itself on the foot", due to its member's multiple identities and loyalties, that undermines the development of a consistent and commonly shared gender agenda. The opportunity provided by the ongoing legal reforms and the fluidity of political systems and processes, provides an opportunity and allows for the possibility to strengthen the women's movement and to push for the democratization of governance structures and norms, in a direction that can facilitate the setting and realizing of a transformative gender and democratic agenda, thus facilitating women's representation through quotas substantive and meaningful.

Impact of Parliamentary Gender Mechanism : KEWOPA

The Kenya Women Parliamentarian Association (KEWOPA), a cross party Parliamentary Caucus to which all women MPS are automatically members,ⁱ was founded in 2001 (Gough: 2011) in the run up to the 2002 elections, with the aim of increasing the number of women MPs (then standing at 4.2%), with a view of enhancing their contribution and influence on Parliamentary business and to ensure increased attention to issues affecting women. It is instructive to note that for the four decades prior to the formation of KEWOPA; no legislation in support of women's rights was enacted in the Kenyan Parliament. In some cases, laws supporting women's rights were repealed.ⁱⁱ

KEWOPA has since initiated and successfully lobbied for the following: i) the *Children's Act of 2002*; ii) the *Sexual Offences Act of 2006*ⁱⁱⁱ; iii) the *Counter Trafficking in Persons Act of 2010* iv) the review of the *Employment Act, No. 11 of 2007*^v, which led to the increase of maternity leave to three months and paid two weeks paternity leave and v) the *2011 anti-FGM Act*^v. KEWOPA also played a strategic role in engendering the 2010 constitution making and implementation processes. In September 2012, Minister OF Public Health Beth Mugo introduced the *Breast Milk Substitutes (Regulation and Control) Bill*, in an effort to popularize natural mothers and the health dangers of milk substitutes. Other women friendly policy changes successfully lobbied for by women MPs included i) the tax waivers for sanitary wear and diapers ii) engendering

mainstreaming in the 2008 revised version of the Standing Orders of the National Assembly which was until then, gender-blind. The women MPs also successfully lobbied and secured paid maternity leave for women MPs and female designated washrooms. KEWOPA was also instrumental in the appointment of women MPs as Chairs or Co- Chairs of five (5) out of *the 16 standing Parliamentary Committees which were previously all chaired by men*. It also successfully lobbied for the establishment of the *Equal Opportunities Committee (EOC)* in 2008, whose mandate includes monitoring and promoting equal opportunities for all marginalized groups, including women. KEWOPA supports this Committee in strategic planning and capacity building.

Women MPs, in collaboration with women NGOs, are also credited with the concerted lobbying and pressuring the State to enact Affirmative Action (AA) legislation (Nzomo: 2011). This engagement can be traced to the early 1990s, but became politically visible in 1996, when it was formally taken up by women MPs; beginning in 1996, when Hon. Charity Ngilu moved the motion for implementation by Parliament of the Beijing Platform for Action that provided for AA, but the motion did not pass. In 1997, Hon. Phoebe Asiyo tabled the first Kenya specific AA bill in parliament but it also flopped due again, to lack of support from a male dominated parliament. Three years later, in 2000, MP Beth Mugo sponsored another AA draft Bill, but it was shelved due to lack of support by the President and a male dominated legislature. Three years later, through concerted lobbying by both women MPs and NGO leaders, AA measures were included in *the 2005 Draft Constitution* that was subjected to a National Referendum held in November 2005. The draft Constitution was rejected, thus again, putting AA on the backburner. The final Parliamentary attempt at securing an AA law was through *the Constitution of Kenya (Amendment) Bill 2007 on AA*, tabled by the then Justice and Constitutional Affairs Minister, Hon. Martha Karua, which was also rejected. The many failed attempts at enacting an AA law were finally rewarded through the 2010, Constitution

Clearly, Kenya women MPs under the framework of KEWOPA have played a significant role in seeking to engender legislations, policies in parliament. Despite their being a numerical minority and the resistance to gender equality encountered from most male MPs, they have succeeded in facilitating the enactment of some key women friendly bills. And in collaboration with women organizations, women MPs have contributed to the engendering of the constitution making and implementation processes. In so doing they have demonstrated their capacity to set a gender agenda in Parliament through enacting gender responsive laws.

This legislative performance with only a meagre women's presence in parliament of 8-10%, has led some to conclude that KEWOPA has the capacity to set a gender agenda in Parliament and to demand and secure accountability from the State. Thus it is argued that, if a "critical mass" of women in Parliament was attained, KEWOPA could secure more transformative changes, including changing the patriarchal and undemocratic institutional culture of this and other state organs. It is further argued that, there also seems to be a positive correlation between the gradual increase of women in Kenya's parliament over the last decade (especially during the 9th and 10th parliament), and the increase in their capacity to push for gender responsive legislations and policies (*FIDA-K: 2011*).

But it is important to keep in mind the experiences of African countries that have attained the 30% threshold, where it has been demonstrated that i) increased numerical women presence alone cannot transform the culture of political institutions and ii) legislations alone without attendant resources (funded programs) cannot impact positively in people's lives. In Kenya, this reality has already come through especially in respect to the current political stalemate occasioned by resistance of male political elites to the implementation of the 'not more than two thirds of either gender' Bill of Rights provision. This reminds us that the Kenyan *State and other institutions of governance remain gendered and greater physical presence of women will neither automatically alter the dominant*

male culture embedded in those institutions nor fundamentally alter the distribution of political power and other resources between men and women.

Furthermore, it is not necessarily the case that legislative and policy actions attributed to women MPs as members of KEWOPA amount to a gender equality agenda shared by all women MPs. Indeed, can all women MPs be viewed as “Gender Champions” or “Critical Actors”? KEWOPA has in fact acknowledged lack of gender-sensitivity or unwillingness to promote gender issues by some female MPs, thus reminding us that not every woman is a feminist or shares a feminist commitment. Furthermore, even those committed to gender equality they may be constrained by their conflicting loyalties to other constituencies, such as political party and ethnic community.

We therefore need to critically examine whether the legislations realized through women MPs have resulted in improving the lives of ordinary women and girls and Kenyans in general. In this connection, it can be argued that, for example, the *2006 Sexual offences Act* has not in any substantive way resulted in a decrease in the incidents of rape, incest, sexual harassment etc. Similarly, the *2011 Anti-Female Genital Mutilation Act* has not managed to curb this retrogressive cultural practice. What seems to be happening among the communities that believe in FGM is that the practice is continuing clandestinely, thus enhancing the risks health and other risks to the affected girl children. The point therefore is that women’s leadership agenda need to intensify and improve the quality of targeted civic education aimed changing the deep rooted retrogressive socio-cultural and patriarchal values that normalize inequalities and undermine and render ineffective any legislative successes.

What needs to be done to facilitate women’s political representative’s capacity to deliver and be accountable?

There is need for: i) Concerted and sustained engagement in combating the cultural values and norms that undermine women seeking and in leadership and

subverts democratic development; ii) Democratizing and humanizing the electoral environment and change cultural mindsets that are biased against women politicians running for competitive politics, particularly the gendered and inequitable *division of labor*, power and *gender roles* within households; iii) Reforming formal political institutions, including *masculine Culture* of parliamentary institutions *and make it more sensitive to gender concerns*; iv) *Creating an enabling environment for Women MPs to effectively respond to the multiple burden of Parliamentary representation, whereby women MPs are expected to represent all women, children and the diversities of 'women's voices'*; their respective political parties, their geographical constituency and other 'special interest representation; and v) defeminizing the responsibility for representing gender interests and family welfare issues in parliament and make them a shared responsibility between male and female MPs; for which all legislators would be held accountable for their contribution to improving gender equity and equality as well as 'family welfare' issues.

Accountability Mechanisms for Political Representatives in Kenya: some Proposals

There are no globally set standards for holding political leaders accountable. Though a very crucial area of democratic governance the 'hows', 'who' 'what' etc. of Accountability remains elusive; defying a consensus on some basic benchmarks. Despite this, I take the view that in Kenya, we already have constitutional & other accountability mechanisms, which, if well used, can address some of the concerns associated with the nominated/quota MPs who have *no formal job description*. First, chapter 6 of *the Constitution on Leadership and Integrity* sets out strict integrity and accountability requirements for all those seeking public leadership and prescribes responsibilities of leadership, Conduct of state officers, financial probity etc. Second, the *Right of Recall*, provided for in both the Constitution and the Elections Act for elected MPs, largely echoes the provisions of Chapter 6 of the Constitution on Leadership and Integrity. Third, the *Ethics and Anti-Corruption Commission and other Independent Commissions*

serve as additional Accountability mechanisms. *Fourth, the Public Officer Ethics Act Cap 183 of 2003* seeks to enhance the ethics of public officers by providing for a Code of Conduct and Ethics for all public officers and requiring financial declaration for public officers. *Fifth Political Parties through the Political Parties Act*, should in my view, become a *key accountability tool*, as they are the gatekeeper's of the recruitment structures and processes of almost all political office aspirants. They should therefore ensure, through a transparent process, that both women and men who are placed on the political party lists are selected in order of merit, proven commitment to serve the nation; leadership ability and integrity. *Sixth*, the *Kenya Women's movement* is also an important mechanism, and can *employ the 2011 National Women's Charter* as an accountability tool to hold both female and male political leaders accountable. *Seventh*, the *media* is always a powerful and important mechanism of holding leaders accountable e.g. through Opinion Polls, as well as '*naming and shaming*'. *Finally*, a Coalition of NGOs could develop the '*Best MP of the Year Annual Awards*' mechanism for rewarding/ celebrating i)The best performing *elected* male and female MP, and the best performing *nominated* male and female MP. Criteria of parliamentary performance would be developed.

Conclusions

Women in Kenya have demonstrated their agency and capability as actors to assert rights and create non-state alternative political platforms, for voicing their perspectives and visions and for acting decisively in engaging formal governance processes. The current democratic political transition underway in Kenya offers a unique opportunity for women, both ideological and practical, to inject feminist perspectives in the restructuring of governance institutions and implementing laws and policies that can facilitate the engendering of political institutions, in ways that realize gender equality and justice. .

The democratic transition underway , affords a rare opportunity to apply lessons learnt from the experiences of Rwanda, South Africa, Uganda and other African countries that have attained the minimum 30% gender threshold. For example,

the process already started by women's organizations by creating a governance accountability instrument (the *National Women's Charter*) should be taken a notch higher to transform the Charter into an influential force, as was the case with the South African National Women's Charter, which the ANC Women's League skillfully used to negotiate one of the best engendered Constitutions in the world, from which we heavily borrowed while drafting the Kenya Constitution. The ANC Women's League seized on a fluid political moment when the rules of political engagement were in flux in South Africa, to demand greater and meaningful political representation. The Charter only served as the platform to negotiate with male political party gatekeepers, until they agreed to develop internal accountability rules within the ANC to ensure the *ANC party voluntarily agreed to comply with the minimum 30% women's quota*. Similar strategies can also be developed here at this political moment when the political environment is currently fluid and in a chaotic/ uncertain state.

In so doing, there is also need to ensure that attention is paid to develop viable criteria and process of attaining quality political leadership. There is need to set criteria and mechanisms for enforcing accountability among political office seekers, bearing in mind that once in government, some female and male politicians may only symbolically "stand for" women and other citizens, rather than genuinely and substantively represent or "act for" for them.

There is also need to build and strengthen alliances with gender male champions, within and outside the formal political system, as it is these kinds of strategic alliances that enhance the capacity of any interest group to become influential in asserting and advancing a desired agenda in different contexts.

Like many other African countries, Kenya is a society dominated by conservative ideologies that assert, normalize and legitimate widespread gender inequalities best manifested by the under-representation of women in political institutions. Elections, under the FPTP electoral have proven to be an unsuccessful avenue for women to access political office. Despite concerted efforts by women activists to build female political leader's political capacity and that of voters since

the first 1963 parliament, only a total fifty (2.71 percent) of 1,846 elected members of parliament have to-date been women. At the same time, the implementation of Gender Quotas has become a hostage of the institutional weakness of Kenya's electoral system and the unyielding political culture of *winner-take-all* electoral system and the deeply embedded patriarchal power structures. As noted earlier, the FPTP electoral system is not conducive to promoting gender equality in political representation. The time to start the process of lobbying for the *amendment of the Elections Act so that it yields a pure PR electoral system is now*. There is also need to guard against falling victim to the growing politicized ethnic identities, which may further constrain the development and support of a common feminist strategy on key gender and justice issues. It also serves to remember that as we approach 2013 elections, feminist ideals do not matter, as these upcoming elections are clearly not about issues or ideologies but only about securing the best and most expedient political strategies to maximize on the votes. It is a numbers game under our FPTP electoral system.

It therefore needs to be underscored that women political representation does not take place in a vacuum but largely depends on both the manner in which women were elected to positions of power, as well as the structural nature and culture of existing political institutions (political parties, the State etc). The latter determine whether women can gain access to and capacitate transformation/democratization of governance and also mainstream a gender responsive culture. Furthermore, women politicians cannot set this agenda on their own and effectively/decisively transform governance without the backing of women's organizations and the citizenry as a whole. Women's equitable and effective political representation should not be treated as a women's issue but a national governance issue, to which all Kenyans have a responsibility to contribute.

ⁱ KEWOPA also endeavors in strategically political ways, to make purposeful outreach to male MPs to support and work with women MPs gender agenda as part and parcel overall democratic and sustainable development Agenda.

ⁱⁱ Such was the case in respect to: i) the abolition in 1969 of the *Affiliation Act* that required fathers of children born out of wedlock to provide financial support to their off springs ii) the introduction in 1986 of a government directive that required *women teacher trainees who got pregnant to refund government* money spent on their education and iii) The retention of the law that denied *housing allowance to married women* in public service and paid maternity leave. All these areas of gender discrimination have been overridden by subsequent gender friendly legislations and provisions of in the Bill of Rights in the 2010 Constitution.

ⁱⁱⁱ The *Sexual Offences Act* initially received a lot of opposition from male members of parliament. It was only after much lobbying by women legislators and women civil society organizations that the Act was enacted. However, due to the opposition it received from men, some important clauses were removed, for example marital rape and criminalization of female genital mutilation, which has since been enacted as a separate law. On this, see *Daily Nation*, Nairobi, and September 2011.

^{iv} *The Employment Act, No. 11 of 2007* expressly prohibited discrimination and harassment of actual and prospective employees on the basis of sex by specifically outlawing discrimination against women on pertinent employment matters, based on sex and pregnancy.

^v A protracted campaign by women activists and female politicians finally resulted, on 7th September 2011, in the enactment of the *Prohibition of Female Genital Mutilation (FGM) Law*. This Law prohibits the practice, procurement and facilitation of services and practice of FGM; as well as making derogatory remarks to women that have not succumbed to FGM.