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METHODS USED BY WOMEN PARLIAMENTARIANS TO INFLUENCE LEGISLATIVE PROCESSES AND OUTCOMES IN KENYA'S NATIONAL ASSEMBLY OF THE 11TH PARLIAMENT (2013 -2017)

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**METHODS USED BY WOMEN PARLIAMENTARIANS TO INFLUENCE
LEGISLATIVE PROCESSES AND OUTCOMES IN KENYA'S NATIONAL
ASSEMBLY OF THE 11TH PARLIAMENT (2013 -2017)**

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Abstract

Purpose: The study examined the legislative influence of women in the context of gender quotas in Kenya's National Assembly of the 11th parliament (2013-2017). This article focuses on the methods women parliamentarians used to assert legislative influence.

Methodology: This was a descriptive case study which focused on all 68 women in the National Assembly. Respondents were identified through stratified sampling based on: pathway to parliament; membership and leadership of parliamentary structures; contribution to debate; and sponsorship of Bills enacted. A total of 11 women were interviewed, derived from four of the seven parliamentary political parties, specifically the two largest political coalitions which contributed 94% of the legislature. The study also interviewed four purposively sampled key informants (KIs) - three male and one female. The data was processed manually, analysed and presented under each study objective. Sources of primary data were coded as follows: WL (Woman Legislator), ML (Male Legislator) and KI (Key Informant). All respondents were allocated specific numbers for identification and acknowledgement.

Findings: The study established that women legislators used the following methods to influence legislation: mobilisation of male colleagues; solidarity across political parties; activism; leveraging committee positions; reliance on the National Assembly leadership; and compromise and conciliation. It notes that the methods were effective in some circumstances but failed in others.

Unique contribution to theory, practice and policy: The study outlines how various methods were applied by women legislators in Kenya's National Assembly 2013-2017, the first time quotas were applied in Kenyan elections. It fills the gap in earlier studies that did not document these methods. The study notes that the methods were not intrinsically weak but their effectiveness was limited by circumstances, especially the attitude of male legislators. It illustrates the importance of diversifying approaches to influence legislation. The study recommends that women legislators should: work with supportive male legislators and other pressure groups in the legislature; introduce Bills early in the legislative calendar to improve chances of success; receive training on parliamentary work; and occupy influential parliamentary leadership positions.

Key words: *activism, conciliation, compromise, leveraging, solidarity.*

1.0 INTRODUCTION

In Kenya, women were less than 10% of National Assembly membership until 2013 when gender quotas were applied reserving 47 seats contested for by only women from each of the counties. The beneficiaries are referred to as county women representatives (CWRs). 16 other women were elected on the 290 non-reserved seats while five were directly appointed by political parties as part of 12 slots based on relative numerical parliamentary strength. This resulted in 68 women out of 349 members in the 2013 -2017 National Assembly, an increase from 7.62% in 2007 to 19.5% in 2013, constituting the largest number since independence. It is in this regard that the study investigated the influence of women in the National Assembly based on global evidence that they pay greater attention than men to gender equality and social welfare issues and that such increases favour them (Karam & Lovenduski, 2005; Brechnemacher, 2018; Mügge et al, 2019). One of the study objectives was to evaluate the methods women parliamentarians used to influence legislation.

2.0 LITERATURE REVIEW

To influence legislation, women rely on a variety of methods bolstered by an increase in numbers from gender quotas (Institute for Democracy and Electoral Assistance, IDEA, 2005). Grey (2001) established that women became more assertive in New Zealand's legislature as their numbers increased. Based on experiences from the United Kingdom, Norris (2000) concludes that a surge in numbers gives women a stronger bargaining power. In these cases, the key factor is optimisation of increased numbers through solidarity. Tripp (2000) cautions, however, that merely expanding physical presence is inadequate if legislatures continue to be configured in ways that suppress women's interests, an observation similar to that in Mendelberg et al., (2013).

According to the Inter-parliamentary Union, IPU and United Nations Development Programme, UNDP (2017), women have significantly relied on their parliamentary caucuses to influence legislative agenda. Evidence from 87 countries worldwide shows the use of such caucuses to monitor legislation and policies for responsiveness to women's interests, mentor new colleagues and counter male domination (Commonwealth Parliamentary Association, CPA, 2017). Further, Volden et al., (2013) show that women legislators work through coalitions to increase their bargaining power with male counterparts.

Sanbonmatsu (2015) notes, however, that caucuses do not always promote cross-party collaboration. For example, it points out that unity in the Congressional Caucus for Women's Issues in the United States of America (USA) was compromised by partisan alignment on reproductive health rights. In this case, democrats supported liberal rights while republicans opposed them. Latt et al., (2017) also note that collaboration among women legislators in Myanmar occurred most frequently within rather than across parties. These experiences indicate that although inter-party collaboration enhances women legislators' influence, it is not always guaranteed. The key research question arising from the above is about what happens when numbers are deficient to determine decisions.

According to Froimovich et al. , (2013), women legislators in Mexico influenced legislation by mobilising the Gender Equality Committee in parliament, advocacy by a female presidential candidate and reliance on a judicial decree obliging political parties to respect the 40% quota set out in the amended Election Code 2011. Based on the cases of Mexico, Vietnam and Uganda, it identifies the following as other strategies for success: reliance on the political party to sponsor Bills; liberal proposals to counter men's conservative ones; support from actors outside parliament; anchoring of proposed law on international

conventions; and alliance with male colleagues. The above point to support inside and outside parliament. A relevant research inquiry would be to compare the effectiveness of the different methods and their complementarity.

Parliamentary space for women to air their views is also cited as instrumental in asserting influence. Based on a study in the USA, Karpowitz, Mendelberg and Mattioli (2015) demonstrate that women's influence flourishes when they are many under majority rule but diminishes when they are a minority. This suggests that numbers and space to speak are critical for women's legislative influence. The question this raises concerns how women overcome attempts to restrict their space.

At the Africa regional level, Hassan (2018) shows that an increase in numbers gave women legislators impetus to initiate a Bill against female genital mutilation (FGM) in Egypt. Tanzanian women legislators capitalised on the female speaker of parliament to push laws addressing women's interests (CPA, 2017). Women in South Africa exploited the context of post-apartheid activism (1994-99), high ranking colleagues and a strong civil society movement to get legislation on domestic violence, reproductive rights, spousal maintenance and customary marriages passed (Goetz & Hassim, 2002; Vetten et al., 2012).

Experiences from Uganda reveal that women successfully influenced passage of the Domestic Violence Act (2010) through: intense lobbying by civil society and the women's caucus; alliance with key male parliamentarians; issue-specificity; and depiction of domestic violence as a vice that affects even men (Froimovich et al., 2013). Saturation of the legislative agenda with their Bills also ensured attention to women's concerns (Tamale, 2000; Okello-Orlale & Ugangu, 2010). On Rwanda, Powley (2005) indicates that women used their parliamentary caucus to get a discriminatory law on inheriting land revoked.

While the above demonstrate success, it would also be interesting to examine the challenges faced by women in applying the various methods and establish whether they are related to intrinsic weaknesses or contexts of work. Notably, the studies cited above have highlighted various methods used by women legislators in different parts of the world. None of them focuses on Kenya. Different studies on Kenya's legislature do not detail the methods and focus mainly on number. Chege (2016) focuses on the contributions of women in the National Assembly of the 11th parliament, but does not examine the methods used to achieve success. Furthermore, the focus is limited to legislative debates while our study explores extra methods used. Musyoka (2011) looks at the relationship between increased numbers and enactment of legislation. While this resonates with solidarity, as highlighted in the article, it does not capture how the numbers were reinforced by other methods. Moreover, the study focused on the 10th parliament, a pre-quotas legislature. Mbugua (2017) also focuses on how women used numbers to pursue three Bills in the same legislature this article examines. Like Musyoka (2011), however, it looks only at solidarity while this article highlights other methods. The article, therefore, fills a gap in terms of detailed analysis of a wide variety of methods applied by women legislators, which creates a platform for comparison with regional and global trends.

3.0 THEORETICAL FRAMEWORKS

The study used the Critical Mass Theory (Kanter, 1977) which arose from studying Industrial Supply Corporation in the USA in the 1970s. In this entity, women were a minority in salaried jobs and executive positions. Derived from Nuclear Physics, "critical mass" refers to the chain reaction caused by addition of uranium to an assemblage leading to fission between neutrons hence increasing the likelihood of an atomic explosion. Beyond a certain point, addition of extra uranium causes a result bigger than the quantity of the original. Applied to

the study of human beings, the concept means that when a minority attains a certain numerical strength, it exerts substantial influence on the culture of an institution.

The theory has three tenets namely: group types; patterns of behaviour by dominant male groups; and implications of numbers. Tenet One identifies four group types. In uniform groups, there are no minorities. Skewed groups have one type constituting a dominant majority while has limited influence. Tilted groups have a numerically significant minority that can form coalitions and influence the group culture. Balanced groups consist of two types each of which can influence the institutional culture. The 2013 general elections in Kenya resulted in a National Assembly with a male to female ratio of 81:19, a result which did not generate enough numbers to qualify the institution as ‘tilted’. The Assembly was therefore “skewed”, hence women in it were tokens subject to the dominant behaviours of the majority male colleagues. In such circumstances, the theory argues, women seek solace in numbers and loyalist tactics to survive male dominance.

Tenet Two postulates that when women are a minority, they are subjected by male colleagues to three tendencies of visibility, contrast and assimilation. “Visibility” means that women are conspicuous, alienated and subjected to generalisations. They are under constant scrutiny, have restricted freedom and are judged by “a different set of rules” from that applied to men (Kanter, 1977, p. 385). Their technical abilities are subordinated to physical appearance and they are inhibited from outperforming men in order to avoid hostility. They are also expected to automatically represent all womenfolk. “Contrast” refers to creation of boundaries by men in order to isolate women, who can choose to remain excluded or become “insiders”. For survival, they tend to choose the latter. This makes them loyal and compromised. Under “assimilation”, women are pushed to perform traditional gender roles and become “submissive, frivolous and self-limiting” (Kanter: 390).

Tenet Three states that the treatment of women “depends on their numbers ... (and)... in how many people, like that person in significant ways, are present” (Kanter, 1977, p. 395). It postulates that a shift in women’s absolute numbers re-defines their social experiences as they resort to the power of likeness to counter-balance male domination and manipulation. The study applied this theory to examine how women legislators navigated through a minority status (Tenet One) to optimise numbers (Tenet Three) for legislative influence in Kenya’s National Assembly 2013-2017.

Scholars that have used this theory with reference to African legislatures have mainly focused on gender quotas as a means of increasing women’s numbers and bargaining power. This is evident in Kadaga (2013), which highlights how Ugandan women legislators maximized on numbers to lobby for anti-discrimination laws. It is also clear in Powley (2005) on how women legislators in Rwanda resorted to numbers to challenge a law that restricted land ownership to men. Hassan (2018) also shows that Egyptian women legislators became increasingly assertive following an increase in their numbers resulting from quotas in 2015.

Despite these positive elements, scholars also highlight that quotas are problematic as they lead to treatment of the beneficiaries as illegitimate politicians as evident with regard to Tanzania, Burundi and Rwanda (Asiedu et al., n.d.; Powley, 2005; Falch, 2010). They also show that quotas are routinely manipulated by male political patrons to consolidate own power (Asiedu, n.d, p.10).

The above patterns point to one key shortcoming of the theory, which is its assumption that numbers alone determine women’s influence. The study therefore additionally used liberal feminism to contextualise the experiences of women legislators in patriarchal ideology and demonstrate their intent to transform gender relations both in the Assembly and the larger

Kenyan society. The theory is rooted in liberalism, which informed the French Revolution of the 18th century to challenge entitlement of monarchs and aristocrats to political power (Duman, 2012). One of its proponents, Mary Wollstonecraft (1792), opposed the treatment of women in Britain as incapable of abstract and logical thinking hence undeserving of education. She argued that women were autonomous, deserved rights similar to those enjoyed by men and should not be treated as mere appendages of the latter. The other proponent, John Stuart Mill (1869), argued that consignment of women to the domestic sphere was morally unacceptable and retrogressive. Of importance is his criticism of marital laws that treated women as items for trade and denied them property ownership, opportunities to work outside home and financial independence. The key elements of liberal feminism are: recognition of women as a historically disadvantaged group; fairness and equal opportunities for all; policy and legal action to correct historical imbalances; and eradication of discrimination against women (Davies, 2011).

The theory has been criticised for: lack of focus on private gender relations, class and race; over-emphasis of State action to realise women's rights; and assumption of natural (biological) similarity between men and women and use of men as the standard against which women are judged (Lewis, 2019). In the context of Africa, critics point out the theory's focus on bourgeois not ordinary women, prioritisation of rights within the formal public sphere and deficient recognition of the ability of women from all socio-economic classes to confront oppression without men's support (Mannathoko. 1992). These shortcomings do not, however, negate the significance of the theory by emphasising legal changes as primary to realising gender equality hence the role of the State to ensure that women are not discriminated against. It is in this context that the theory was applied in the study.

4.0 METHODOLOGY

4.1 Study Area

The study site was Kenya's 349-member National Assembly located in Nairobi. It constitutes one House of parliament, the other being the Senate. The Assembly is responsible for national legislation, allocation of revenue to the government, oversight on public funds and representation through elected members. The Senate, which has 67 members, specifically deals with issues concerning the 47 counties through which the country is administered (Republic of Kenya, 2010).

4.2 Study Design

The research was a descriptive case study of the experiences of women legislators in Kenya's National Assembly of the 11th parliament (2013 -2017). The design was appropriate for three reasons: intensive focus on study themes and subjects leading to generation of detailed information; flexibility in data collection as questions could be reorganised according to the flow of responses; and suitability in studying specific subjects in the real context of their experiences.

4.3 Target Population

The study focused on the 68 women in the legislature distributed as follows: 47 affirmatively elected CWRs; 16 legislators elected on non-reserved seats; and five political party appointees.

4.4 Sampling Procedure

Respondents were identified through stratified sampling based on: pathway to parliament; membership and leadership of parliamentary structures; contribution to debates; and sponsorship of Bills that were eventually enacted. A total of 11 women legislators (16% of 68) were interviewed. They were members of four of the seven parliamentary political parties, specifically the two largest political coalitions which contributed 94% of the legislature. These were the Coalition for Reforms and Democracy, which consisted of Orange Democratic Movement and Wiper Democratic Movement-Kenya parties, and Jubilee, which was formed by The National Alliance and United Republican Party. Four purposively sampled key informants (KIs) - three male and one female – were also interviewed.

4.4 Data Collection, Processing and Analysis

Field data collection was conducted between October 2015 and November 2018 using semi-structured interview schedules. Responses were recorded simultaneously in writing and audio-tape. The data was transcribed, organised according to study objectives and manually processed. Content analysis of the National Assembly Hansard, the verbatim record of all parliamentary proceedings, was also conducted from electronic copies available in the National Assembly website (www.parliament.go.ke). Relevant quotes and experiences were extracted to illustrate the findings. Quantitative data is presented in tables with descriptions while qualitative data is narrated with inferences. The primary sources of data were anonymised by coding as follows: WL (Woman Legislator), ML (Male Legislator) and KI (Key Informant). All respondents were also allocated specific numbers for identification.

5.0 FINDINGS AND DISCUSSION

The methods used by women parliamentarians were determined from interviews and triangulated with content analysis of the Hansard. The table below shows the frequency of respondents mentioning specific methods.

Methods Used by Women Parliamentarians to Influence Legislation

This table highlights the six methods identified by respondents as having been used by women legislators to influence legislation.

Rank	Method	Frequency (N=11)
1	Mobilisation of male colleagues.	10
2	Solidarity across political parties.	9
3	Activism and personal capacity.	8
4	Leveraging committee positions.	7
5	Reliance on the National Assembly leadership.	3
6	Compromise and conciliation.	2

Each of the top methods in the table above were cited by more than half of respondents hence confirming their significance. The last two generated low frequencies but since they reinforced the leading methods, they were included in the analysis. The findings on each method are discussed below.

5.1 Mobilisation of Male Colleagues

Women held only 20% of the seats in the National Assembly. They sought a further increase in numbers in the institution and its committees by anchoring their quest on Article 27 of the Constitution of Kenya 2010 which directs that “not more than two-thirds of the members of elective or appointive bodies shall be of the same gender” (Republic of Kenya, RoK, 2010, p.

24). Various constitutional amendment Bills were tabled in the National Assembly to give effect to this provision, popularly referred to as the two-thirds gender rule. In order to galvanise support for the pursuits, women mobilised male colleagues as explained below.

We assigned ourselves a male colleague each to lobby for passage of the two-thirds gender rule Bill (WL-5, OI, 18. 1. 2017).

Often, we gave the issue to a male colleague when we felt that presenting it ourselves would be resisted (WL-2, OI, 24.7.2016).

The various Bills tabled to give effect to the rule required 233 votes to be passed by virtue of Article 256 of the Constitution that constitutional amendments must be supported by two-thirds of all members of the National Assembly (Hansard, 27 April 2016PM, p. 13). This justifies the lobbying of male colleagues by women legislators. The remark by WL-5 implies that if each woman legislator succeeded, they would get 68 additional supporters. However strategic this was, it would generate only 136 votes, including the 68 women, 97 short of the threshold required. This strategy was therefore defective from the beginning. The women, therefore, needed to convince a minimum of three male colleagues each in order to get the necessary number of votes. In the view of WL-5, the strategy failed because “*some male colleagues who had promised support did not actually vote for the Bill*” (WL-5, OI, 18. 1. 2017). This could be interpreted to mean that they were not convinced about the value of the Bill or were simply being diplomatic when promising support yet clear about their contrary standpoint. Whatever the case, failure to fulfil their promises, as alleged by women legislators, amounted to hypocrisy.

The women also “*invited male colleagues to a dinner dance on the eve of voting on one of the two-thirds gender rule Bills so as to lobby them*” (WL-2, OI, 24.7.2016). Like the previous strategy, this one also failed as there were only 195 total affirmative votes on the first attempt and 159 during the second with 60 and 63 women in the chambers respectively (Hansard, 27 April 2016PM, p. 13; 5 May 2016PM, p. 10). From the above statistics, it is clear that not all the 68 women were available to vote for the Bill on both occasions although the majority were. Given the threshold required, even if all the 68 voted in the first round, there would still have been a shortfall of 22 votes. This means that the support of an overwhelming number of male colleagues was critical; unfortunately, the lobbying failed to generate it.

KI-1 was of the view that the dinner dance lobbying failed because “*the presentation was not compelling enough to transform patriarchal mindsets*” (KI-1, OI, 15.2.2017). The view suggests that men who attended the event had already decided not to support the Bill and treated the dinner as mere entertainment. This again points at a hypocritical and exploitative trend. Given that the Bill was based on a constitutional provision, its failure meant that the National Assembly was technically unconstitutional with regard to articles 27 and 81 of the Constitution.

The fact that a substantial number of men (135) voted for the Bill on the first attempt, however, indicates that not all were opposed to it and that the advocacy by women was partially effective. The Bill’s failure cannot therefore be entirely blamed on a blanket male hostility but the threshold required for a constitutional amendment. That fewer men (96) voted for it on the second round, however, suggests loss of interest or a feeling that the Bill was doomed after failing to be passed the first time when momentum was high. It could also mean that women slackened on their lobbying. In other words, it is inferable that the Bill was frustrated by a combination of low numbers, backlash, lip-service and counterproductive lobbying. It is inadequate to conclude that only one factor contributed to the defeat.

The above findings suggest that without adequate numbers on their own, women cannot be certain of success on matters decided by voting unless they successfully rally male support. To get such numbers, enough men would need to be convinced about the women's pursuits in order to tilt voting.

This confirms Karpowitz, Mendelberg and Mattioli (2015) that when women are outnumbered by men, their legislative influence wanes. As also pointed out in IDEA, Community of Democracies, CoD and UNDP (2017), cooperation of male colleagues is essential to women's legislative success. The case of Uganda illustrates how alliance with male colleagues led to passage of the Domestic Violence Act 2010 (Okello-Orlale & Ugangu, 2010). These findings show that such cooperation must not only be pledged, it should also be actualised in voting.

Mobilisation of male colleagues coheres with the concept of loyalty in the Critical Mass Theory where women align themselves with men in order to succeed (Kanter, 1977). There is no guarantee, however, that such loyalty always works. This therefore calls for additional or fallback alternatives.

5.2 Inter-party Solidarity

Women legislators reported that they exercised inter-party solidarity through the Kenya Women's Parliamentary Association (KEWOPA), formed in May 2001 to increase women's numbers in parliament and its committees and ensure adequate attention to their needs and interests. How women legislators relied on KEWOPA is reflected in the voices below.

Most of the legislative work is done under KEWOPA to ensure a collective approach to issues. We have used KEWOPA to oppose laws we feel are unfair or retrogressive (WL-4, OI, 6.8.2016).

KEWOPA has been instrumental in organising seminars to enable women study the Bills before-hand and decide on what elements they should support (WL-2, OI, 24.7.2016).

KEWOPA played a big role in inducting new legislators on how to go about sponsoring Bills (WL-6, OI, 15.2.2017).

KEWOPA facilitated women's access to experts on legal drafting and relevant themes to prepare them with adequate points of argument (KI-4, OI, 7.3.2017).

The above statements suggest that KEWOPA enabled women legislators to: work as a team on issues; adequately prepare for debate; familiarise new members with parliamentary work; and acquire technical capacity. Specifically, respondents reported that this enabled them to collectively support the Matrimonial Property Bill 2013, Marriage Bill 2013, Protection Against Domestic Violence Bill 2013 and two-thirds gender rule Bill as well as oppose proposed amendments to the Sexual Offences Act, which would have lowered the age of consent for intercourse and exposed girls to child marriages (Hansard, 9 February 2017PM).

This means that KEWOPA played a facilitative role in enhancing women's legislative capacity and influence. It does not mean, however, that solidarity always led to success as evident from the fact that the two-thirds gender rule Bills failed despite being unanimously supported by women in the chambers. The findings show, however, that merely working as a caucus does not guarantee success.

The findings cohere with CPA (2017) that women legislators use parliamentary caucuses to try and overcome numerical inferiority. Evidence from Mexico, Vietnam, Uganda and South

Africa indicates that women used such caucuses to successfully lobby for passage of laws on quotas and domestic violence (Vetten et al., 2012; Froimovich, 2013). In Egypt, they rallied together to initiate a Bill against FGM, identified as a common assault on the rights of women and girls (Hassan, 2018).

Nevertheless, working through caucuses has its own limitations. Amundsen and Kayuni (2016) demonstrate that caucuses can be derailed by internal politics and personal interests, as happened in Malawi. Krause and Kanthak (2011) also show that women legislators often find it difficult to coordinate through caucuses due to busy personal schedules.

Solidarity was also exercised by experienced women legislators in mentoring new colleagues across party affiliations. One respondent exemplified as follows: *“Personally, I prioritise helping women legislators with Motions, Bills and maiden speeches”* (WL-1, OI, 16.12.2016). As well, *“seasoned women legislators were useful in helping new ones to handle the male-dominated space”* (WL-8, OI, 16.12.2016).

These remarks point to the fact that mentoring familiarised new women legislators with parliamentary work, helped them to counter inexperience and prepared them on what to expect and how to manage male domination. The importance of mentoring can be appreciated in the context that majority (60%) of the women legislators were first-time parliamentarians. This resonates with Kamau (2010, p. 77) that mentorship is useful to counter minority in “a situation that can be intimidating even to the most courageous”, underlining that numerical inferiority can compromise women’s influence hence the need for solidarity.

The solidarity also manifested when women contested removal of their colleagues from committees. For instance, when WL-6 from Wiper Democratic Movement-Kenya was transferred from the House Business Committee, WL-5 from The National Alliance complained as follows: *“Why is she being removed ...yet ...no accusation ...has been levelled against her? Is it just because she is a woman?”* (Hansard 4 December 2014PM, pp. 19-20). This statement illustrates sensitivity to a decision unfavourable to women as well as to a possible deliberate gender bias. The clear attempt to defend a colleague therefore demonstrates obligation to one another as a group experiencing similar problems.

The findings echo Kanthak and Krause (2011, p. 251) that women resort to numbers to shield colleagues as they “no longer face men’s backlash without a weapon”. In other words, when women speak as a unit, they stand a higher chance of neutralising male domination even if they are a minority. In fact, women legislators also stated that the surge in numbers by virtue of gender quotas provided them with leverage to be heard. *“The higher the numbers, the better your chance of getting an audience”* (WL-4, OI, 6.8.2016). The essence here is that increased numbers and solidarity improved the visibility of the legislative pursuits of women in the National Assembly. According to one respondent, solidarity *“made this particular parliament more sympathetic to women’s causes”* (KI-2, OI, 7.3.2017).

The findings contradict a prognosis in Nzomo (2011) that even if the number of women in the legislature increased, party and ethnic parochialism would limit their ability to work together. Instead, they show that women were united across party divides from an understanding that this would minimise the disadvantage of numerical inferiority. From the perspective of the Critical Mass Theory, they exercised the power of likeness to neutralise male dominance. Such solidarity counter-balances the established patriarchal order and facilitates pursuit of common interests (Sultana, 2012; Lewis, 2019).

5.3 Activism and Personal Capacity

Women legislators also applied pressure over and above routine procedures to influence legislation. Biegon (2016) shows that activism thrives on numbers, unity and alliance with forces inside and outside parliament.

The quest by CWRs for the National Government Affirmative Action Fund (NGAAF) illustrates how women used activism successfully. The background is that “*the 47 women representatives did not have a fund for constituency level work*” (WL-4, OI, 6.8.2016). They were therefore disadvantaged in comparison to counterparts elected on unreserved seats who had the Constituency Development Fund for constituency-level work (Auya & Oino, 2013). This left out the CWRs, whose posts had not been created when the fund was established. The following remarks demonstrate women’s sentiments on the NGAAF.

...we went to court and got a judicial declaration to have the National Government Affirmative Action Fund established... 16 of us also made it a habit to randomly appear in the offices of the President, Deputy President and Cabinet Secretary in charge of the Treasury to make our demands known. After endless meetings, the Executive eventually accepted the idea. This led to drafting of regulations that were taken to the Committee on Delegated Legislation which initially rejected but later allowed them to be tabled in the House (WL-4, OI, 6.8.2016).

The above remarks identify two tracks of activism, namely: legal suit and picketing. They show that women legislators’ demand for the fund were vindicated by a court of law. Furthermore, picketing pressured members of the Executive to accept the demands. In addition, the women “*confronted male colleagues opposed to the affirmative fund by collectively bombarding and making them uncomfortable*” (WL-2, OI, 24.7.2016). The women also relied on external allies as explained below.

We had a strong association with the media through which we issued ultimatums...and demanded removal of the people creating obstacles to establishment of the kitty (WL-9, OI, 16. 1. 2017).

While ultimatums belong to the same category as picketing in creating pressure, media support illustrates mobilisation of external supporters. Use of the various activist tactics illustrates the importance of diversifying approaches to influence legislative decisions.

A respondent noted that the successful legal suit enabled CWRs to access Sh2 billion from the Treasury for NGAAF (WL-4, OI, 6.8.2016). The fund was eventually established through Legal Notice No.24 of the Public Finance Management Act and published on 13th February 2015. In the view of one respondent, establishment of the fund was “*the greatest victory for county women representatives*” as it affirmed their right to resources and reduced marginalisation (WL-5, OI, 18. 1. 2017).

The quest for the fund was legitimate but largely a self-serving agenda to make the 47 women relevant to the electorate by enabling them exercise financial clout at county level. The fund’s clear added value is debatable considering that it serves the same purpose as the Women’s Enterprise Fund, Youth Enterprise Development Fund and Uwezo Fund which target the same beneficiaries, namely women, youth, persons living with disabilities, needy children and elderly persons (<http://www.ngaaf.go.ke/index.php/about>). In fact, the duplicative nature of these funds has led to initiatives to merge them into one facility called the Biashara Kenya Fund through the Public Finance Management (Biashara Kenya Fund) Regulations (<https://treasury.go.ke/the-public-finance-management-biashara-kenya-fund-regulations-2018.htm>).

Additional to the above examples, women legislators repeatedly agitated against skewed allocation of speaking opportunities in favour of men (Hansard 27 October 2015PM, p. 14; 17 January 2017PM, p. 21). The resulting chances enabled them to contribute their views (Hansard 26 March 2014AM, p. 45; 1 April 2014PM, p. 39; 5 March 2015PM, p. 50; 27 October 2015PM, p. 14). That they had to resort to this tactic suggests that the National Assembly lacked a system obligating and automating gender-based diversity in speaking opportunities. This brings into question the responsiveness of the Standing Orders to such diversity.

Women legislators also used individual expertise and experience. Kamau (2010) lists the ingredients of these as: strong academic grounding; solid civil society experience; drafting skills; alliance with colleagues; passion for women's rights; and pursuit of niche subjects to pursue. Lawyers among the women legislators reported applying their training and civil society experience in legislative work (WL-1, OI, 16.12.2016; WL-4, OI, 6.8.2016). For instance, one respondent stated that being a lawyer helped her "*to counter use of legal jargon by men to oppose women's agenda*" (WL-4, OI, 6.8.2016).

The findings are in consonance with women legislators' experiences globally. In Argentina, for example, Law No. 24,012 was initiated by the woman leader of the Radical Civic Union in 1989 and adopted by an inter-party caucus which introduced and lobbied for its passage with support from the women's movement (Carrio, 2005). South African women conducted their activism at two levels. They engaged the Women's National Council in developing the Charter for Women's Effective Equality followed by lobbying legislators to have its contents reflected in the new Constitution to remove women's minority status in customary law (Meintjes, 2005). They also relied on influential colleagues to get laws on domestic violence (Goetze & Hassim, 2002).

From the perspective of the Critical Mass Theory, the findings cohere with use of pressure by institutional minorities to realise their objectives (Kanter, 1977). They also illustrate that routine parliamentary processes may not always be reliable avenues for women legislators to achieve desired results hence the need for additional measures.

5.4 Leveraging Parliamentary Committee Positions

According to National Assembly of Kenya, NAK, (2017), legislative work is done mainly through the committee system. The National Assembly had 30 committees as at October 25, 2016 categorised as follows: audit/oversight (2), departmental work (12), select duties (8), housekeeping (6) and joint functions with the Senate (2). Departmental committees generate, review and approve Bills for debate hence are the most crucial in legislation.

Respondents reported that membership in these committees enabled them to influence legislative outcomes. For example, one indicated that women in the Labour and Social Welfare Committee capitalised on their membership "*to generate support for establishment of NGAAF*" (WL-10, OI, 28.7.2016). Of significance was the pioneering membership of two women in the Parliamentary Service Commission (PSC), responsible for formulating the policies of parliament. This was the first time women were sitting in this entity (KEWOPA, 2014). A respondent revealed that women members successfully lobbied the PSC for a policy on maternity leave, increased medical insurance and support systems for lactating legislators (WL-10, OI, 28.7.2016). The insurance was provided through a Salaries and Remuneration Commission circular dated May 27, 2013 which entitled each Member of Parliament to the following annual covers: inpatient (Kshs 10 million), outpatient (Kshs 300, 000), maternity

(Sh150,000), dental (Sh75,000) and optical (Sh75,000). Support for lactating mothers was done through Circular PSC/RES/2013/413 which states as follows:

1. That with effect from 1st July, 2013, lactating mothers who serve as members or staff of parliament be facilitated by the Parliamentary Service Commission to carry with them their infants who are one year old or less and a care-giver for the infant whenever they travel on parliamentary business within the country as follows: a) travel expenses for the infant and the care-giver; and b) accommodation, meals and related costs for the infant and the care-giver.
2. That a designated room be provided within the precincts of parliament for the exclusive use of lactating members and staff of parliament whose infants are one year old or less. The room should be equipped with comfortable seats, baby cots, a refrigerator and any other equipment that may promote the hygiene and comfort of the mothers and the infant.

In essence, the circular recognised that parliament had a responsibility to enable women combine motherhood with legislative work. Funding travel and work-related child care expenses means that women legislators were relieved of that financial burden while on duty. Their legislative work would also not be constrained by child care responsibilities. This would give them more time to contribute to, hence influence, legislation.

A lactation room would ensure that women legislators could easily access and breastfeed their infants, a benefit not only to themselves but the infants as well. This is because exclusive breastfeeding for the first six months is fundamental to “optimal growth, development and health” of the child, accelerates “maternal weight loss after birth” and delays resumption of menses hence contributes to lower fertility (World Health Organisation, WHO, 2011).

The existence of such work place policies is rare in Kenya. A study by the National Gender Equality Commission, NGEC (2016) notes that only 10.1% of public institutions provided child care facilities for workers. Another study, of 61 companies listed in the Nairobi Securities Exchange, established that: only five (8.2%) had progressive maternity leave policies; and no law compelled them to ensure that work places were mother-friendly (Equileap, 2019).

The step taken by the PSC is in consonance with international best practice on home-work balance as stipulated in ILO (2002). That the policy was only developed when women started sitting in the PSC constitutes an achievement of KEWOPA’s objective related to establishing facilities responsive to women’s unique needs (KEWOPA, 2014).

Women legislators confirmed that leading parliamentary committees was also crucial as it enabled them to decide the final contents of Bills tabled, as explained below.

As chairperson, you are very influential in determining the committee decisions, including making sure that statutes are gender-sensitive, because you are the last person to read the Bills (WL-2, OI, 24.7.2016).

The above remarks raise key points on the importance of committee leadership. First, the leaders have leeway in shaping legislative decisions. Second, they can determine whether or not Bills are gender-sensitive. Third, advance knowledge of the contents of Bills enables them to anticipate and prepare for debate. This suggests that occupation of such positions would enable women to directly and subtly influence legislation. This advantage was

exercised with regard to family Bills which emanated from the Justice and Legal Affairs Committee, in which the deputy chair was a woman (WL-1, OI, 16.12.2016).

The significance of such positions was further evident in instances where women chairing committees used their positions to include in debates issues they had a vested interest in. For example, the chairperson of the Departmental Committee on Education, Research and Technology used her position to support inclusion of CWRs in distribution of sanitary pads to school girls in order to strengthen implementation of the scheme (Hansard, 23 July 2014AM). The chairperson of the Departmental Committee on Environment and Natural Resources moved the Water Bill (No. 8 of 2014) which, among things, proposed investment in innovative rain harvesting technologies to reduce distances travelled by women to fetch water (Hansard, 23 October 2014PM).

These findings show that even though only a few women held committee leadership positions, the status enabled them to influence legislative outcomes particularly with regard to the content of Bills. They echo Joshi and Goehring (2018, p. 357) that “committee leaders (have) greater power over legislation compared to ordinary members of parliament”, which explains why it is strategic for women to occupy the positions. In South Africa, for example, the woman-led Joint Monitoring Committee on the Quality of Life and Status of Women was instrumental in checking that laws addressing women’s rights were implemented (Meintjes, 2005).

As the above findings show, women leveraged membership and leadership of parliamentary structures to ensure attention to their agenda. This article posits that women legislators’ occupation of committee leadership positions enabled them to create pressure on their agenda and diversify spaces and decisions. The findings cohere with the Critical Mass Theory on the power of numbers to tilt the experiences of women (Kanter, 1977). They further lend credence to the liberal feminist position by Mill (1869) that providing space for women enables the society to benefit from a wider range of talents.

5.5 Reliance on the National Assembly Leadership

The topmost leader of the National Assembly is the Speaker, who: presides over debates; chairs all the legislature’s policy-making organs; and applies the Standing Orders. Women legislators reported that the Speaker was supportive of their quests and protected them from adverse treatment by male colleagues. For example, when male legislators stereotypically referred to CWRs as “Mama County” (Mother of the County) and treated them with contempt because of having been elected on quotas, *“the Speaker declared that all members were of equal status regardless of how they were elected”* (WL-4, OI, 6.8.2016).

Support from the Speaker was further illustrated when he invoked a special provision allowing a vote to be re-taken on the two-thirds gender rule Bill. He quoted Standing Order No. 62(2) that:

...whenever a Bill or a special Motion the passage of which requires a special majority ...fails to obtain ...(it)... and the vote results in a majority of the “Ayes” but the “Noes” have not numbered at least one third of all the members of the Assembly, the Speaker may direct that a further vote be taken on the particular question (Hansard, 27 April 2016PM, p. 10).

The first vote attracted 195 supporters out of 349. All the 28 members who voted against the Bill and two abstentions were men (Hansard 27 April 2016PM, p. 14). Since the dissenting voters constituted only 8% of all members, a re-vote was allowable. It is this lever that the

Speaker relied on. He also allowed members who had forgotten their electronic log-in cards to vote “due to the importance of the business to be transacted” (Hansard, 27 April 2016PM, p. 10).

The above indicates the Speaker’s determination to protect the Bill from being knocked out on technicalities and manoeuvres such as male members deliberately leaving their cards behind so as to be precluded from voting. The initiative shows that parliamentary procedures can be interpreted progressively in favour of women’s pursuits. In this case, the Speaker used his discretion to create a favourable environment for the two-thirds gender rule Bill. Unfortunately, the Bill failed to muster the minimum votes required. While this suggests that altruism of the leadership alone was not adequate to guarantee success, repeated failure of the Bill regardless of the method used to promote it points to a sustained scheme by male legislators to kill it.

The fact that this was the first National Assembly in the country to have a woman Deputy Speaker was considered by women legislators as a morale booster and opportunity to ensure inclusion in debates and attention to their agenda (WL-4, OI, 6.8.2016). The following is an instance when the Deputy Speaker made a pronouncement on an issue of interest to women.

Honourable members. As you may have noticed, there is a team from the State Department of Gender Affairs ...at the main reception of parliament. The team is raising awareness about the ongoing HeForShe Campaign ...to engage men in the elimination of all forms of discrimination and violence against women and girls. To this end, I call upon all male members to visit the desk and sign up for the... initiative in solidarity with women (Hansard 22 November 2016PM, p. 2).

This pronouncement directly appeals to men to support a campaign on eradication of discrimination and violence against women. By asking them to do this “in solidarity with women”, the Deputy Speaker was hinting at two things. First, that these problems particularly affected women. Two, that women legislators were already in support of the campaign. Although the Hansard does not record how male legislators responded, the remarks depict the Deputy Speaker’s alignment with matters of interest to women. This is consistent with the Critical Mass Theory on the power of likeness to tackle women’s agenda. According to the theory, similarity of factors affecting women makes what happens to one have consequences for all thus justifying unity (Kanter, 1977).

After the Speaker are leaders of the majority and minority parties, who are given precedence in debates, according to the Constitution. By virtue of being the official spokespersons of their political coalitions, aligning with them was strategic since they were “*influential men who could use their positions to mobilise party members to vote collectively in support of Bills*” (WL-4, OI, 6.8.2016). The following remark elaborates: “*If the majority leader had ‘your ear’, you were better off than if you only had the support of an ordinary Member of Parliament*” (WL-4, OI, 6.8.2016).

Reliance on these leaders rested on the fact that they were Furthermore, using male proxies was meant to deflect pressure from women to defend the Bills and subtly coerce antagonistic men to support them as a face-saving measure. This strategy failed with the two-thirds gender rule Bill but succeeded with family Bills that were passed by acclamation.

Support of parliamentary leaders has been used by women legislators in different countries to increase presence in legislative committees and get targeted Bills passed (Vetten et al. 2012; Froimovich, 2013). For example, the woman Speaker in Uganda intervened to ensure that a

minimum number of committee slots was reserved for women when men were allocating themselves all the positions (CPA, 2017). In Sweden, a woman Speaker initiated the establishment of a parliamentary child care centre which benefited not only female members but also male counterparts who found it convenient to bring their infants to Stockholm when attending sessions (Wängnerud, 2005). The case of Sweden demonstrates that issues perceived as gender-specific are actually societal matters beneficial to all and should therefore not be feminised.

The section above has shown that women benefited from the leadership of the National Assembly to create additional impetus for their pursuit on the gender rule Bill. This did not, however, generate success due to opposition to affirmative action by male colleagues. Nevertheless, the method ensured visibility for women's pursuits and protection from adverse treatment.

5.6 Compromise and Conciliation

“Compromise and conciliation” are used in this study to refer to women legislators' concession of ground on controversial matters so as to forestall rejection by male colleagues of entire Bills. The following remarks explain.

...with the Marriage Bill, we let go the proposal to have men intending to marry a subsequent wife get the earlier wives' consent as long as the age of marriage was fixed at 18 years... We took solace in the fact that the Constitution provides for equality in marriage ... and that we could use this handle to push for an amendment later (WL-4, OI, 6.8.2016).

The above remarks show that women legislators avoided counter-productive rigidity on pursuits that were unpopular with men but did so strategically so as not to lose on key elements. This strategy was successfully used in the 9th parliament when women legislators relented on a clause criminalising marital rape in the Sexual Offences Bill. Opposed by men, the clause was threatening to have the whole Bill rejected, and with it all provisions women considered important, such as enhanced jail terms for perpetrators. Once the clause was excluded, male legislators supported the Bill and it was passed (FIDA-K, n.d.).

In the 2013-17 National Assembly, conciliation was applied on the two-thirds gender rule Bill when a number of male legislators were antagonised by a message from the Federation of Women Lawyers – Kenya (FIDA-K) indicating that it would be monitoring how parliamentarians voted (Hansard, 27 April 2016AM, p. 2). Women legislators became conciliatory to manage the reaction as evident in the statement below.

I want our male colleagues to know the kind of pressure we are under, as female members of parliament, especially from the civil society, who feel we are not doing enough. We normally work together harmoniously in this House on different issues. Today, as we vote, we will depend on the rapport and consultations that we have had ... At no time did we want our male colleagues to feel intimidated... On behalf of KEWOPA, I apologise (by WL-18, Hansard, 27 April 2016AM, p. 6).

In these remarks is a categorical attempt to appease male colleagues infuriated by the FIDA-K message. It hints at the fact that civil society expected women to lead in pursuing legislation beneficial to their lot. It is inferable that women resorted to conciliation given their lower numbers hence need for male support to get the Bill passed. While this underlines the importance of a non-adversarial approach, it also implies that male legislators could always wield their numerical superiority and threat of retribution to defeat women's pursuits. This

shows that numerical minority placed women in a precarious position, tactical as they were by being conciliatory.

Failure of the Bill despite the conciliatory appeal resonates with Elgin (1993) that “placating” communication is a desperate act of subordination which does not always yield intended results. The method is consonant with “loyalty tests” in the Critical Mass Theory which states that in certain situations, women acquiesce to men’s dominance in “fear of retaliation” (Kanter, 1977, p. 390). As the findings show, such loyalty can either work or fail even though it may be a realistic strategy to manage resistance.

6.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS

Summary

This article has explained how the methods were applied to influence legislative processes and outcomes in favour of women. Success was registered with regard to passage of Bills responsive to women’s interests, establishment of NGAAF and attention to diversity. Specifically, solidarity enabled women legislators to optimise on their increased numbers from quota. Activism and personal capacity created additional pressure on NGAAF. Mobilisation of male colleagues was unsuccessful with regard to the two-thirds gender rule Bills while the Speaker’s altruism had limited effect due to male resistance to affirmative action. Compromise and conciliation were pragmatic but perpetuated captivity to men’s numerical superiority.

Conclusion

The study concludes that the variety of methods applied by women legislators illustrates the importance of diversifying approaches to influence legislative decisions. In general, it is not the methods applied that were intrinsically weak but circumstances in the National Assembly, especially the attitude of male legislators to the Bills, which limited success. It is this attitude that needs to be transformed to create a women-friendly legislative atmosphere. Given their strengths and weaknesses, the methods should be selected carefully in consideration of the issue at hand and gender dynamics in the legislature.

Recommendations

The article recommends that KEWOPA should build alliances with other pressure groups in the National Assembly to generate a broad support base for women’s legislative agenda. It should also train new women legislators on: parliamentary work; drafting of Bills; caucusing; informal mechanisms for legislative work; capturing and leveraging committees; neutralising male domination; and home-work balance.

Negotiation with political parties to appoint women to parliamentary leadership positions and influential committees would also give them additional authority and leverage to influence legislation. For example, being in the House Business Committee, which determines the legislative calendar, would aid in ensuring that Bills of interest to women are tabled early for debate. Belonging to the Budgets and Appropriations Committee is strategic for ensuring allocation of government resources to programmes that address women’s interests. Significant membership in the Justice and Legal Affairs Committee would give women advantage in influencing legal agenda.

Women legislators should themselves individually work with supportive male legislators in drafting and presenting Bills in a way that they are not perceived as parochial pursuits adversarial to men but beneficial to the whole society. They should also peg legislative pursuits on government priorities to ensure support by the ruling coalition.

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