Gender Equality Legislation and Institutions at the Local Level in Kenya

Experiences of the Maasai

By

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Dissertation submitted to the Bayreuth International Graduate School of African Studies (BIGSAS) - University of Bayreuth, in partial fulfilment of the requirements for the Doctor of Philosophy (Dr. Phil) Degree in Development Sociology

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January 2020

ACKNOWLEDGEMENTS

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LIST OF ABBREVIATIONS AND ACRONYMS

AASDF - Affirmative Action Social Development Fund

CDF - Constituency Development Fund

CEDAW - Convention on the Elimination of all forms of Discrimination against Women

CGA – County Government Act

CIDP - County Integrated Development Plan

CKRC - Constitution of Kenya Review Commission

CPP – County Public Participation

FGD – Focus Group Discussion

FGM – Female Genital Mutilation

FIDA - Federation for Women Lawyers in Kenya

GAD – Gender and Development

IEBC – Independent Election and Boundaries Commission

KANU – Kenya African National Union

KCPE – Kenya Certificate of Primary Education

KCSE – Kenya Certificate of Secondary Education

KEWOPA - Kenya Women Parliamentary Association

KHRC – Kenya Human Rights Commission

KNHCR – Kenya National Commission on Human Rights

KWPC - Kenya Women's Political Caucus

MCA – Member of County Assembly

MDG – Millennium Development Goal

MP – Member of Parliament

MYWO – Maendeleo ya Wanawake Organisation

NCWK - National Council of Women of Kenya

NG-CDF - National Government Constituency Development Fund

NGEC – National Gender and Equality Commission

SDG – Sustainable Development Goal

SIG – Special Interest Group

TISA - The Institute for Social Accountability

UDHR – Universal Declaration of Human Rights

WEF – Women Enterprise Fund

YEDF – Youth Enterprise Development Fund

CHAPTER ONE

GENDER EQUALITY AND WOMEN'S POLITICAL AGENCY

1.1 Introduction

This thesis analyses the effects of gender equality legislation on the political agency of women in Kenya. Specifically, it investigates the transformative nature of legislation on power relations between men and women in public participation exercises. This is done to highlight the disparity between the rhetoric of politico-institutional reform and empirical reality on the ground, in light of the global trend towards constitutional and legislative amendments to increase the percentage of women in the political sphere. Dahlerup (2005) reports that in 2015 alone, more than 40 countries introduced electoral quotas by amending constitutions or introducing different types of legislation. Data from the Institute for Democracy and Electoral Assistance (IDEA) shows that currently, gender quotas have been adopted by more than 100 countries worldwide,[1] through either reserved seats, political party quotas, legislated candidate quotas, or a combination of these.

These efforts reflect the global debate on the political representation of women, which falls within the human rights framework and is guided by multiple legal instruments covering various aspects of women's rights. Derived in law, these laws are grounded in the 1948 Universal Declaration of Human Rights (UDHR), which provides international legal recognition for g equality through Article seven: *''all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.''* The 1976 International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights are also key legal instruments in the debate on women's rights and together with many others across countries and regions, culminated in the 1981 Convention on the Elimination of all forms of Discrimination against Women (CEDAW). Ratifying these rights instruments, which chapter six outlines in the case of Kenya, conveys agreement with the outlined concept, thus conferring legitimacy upon them (Renteln, 1985).

In the pursuit of women's rights, equity and equality have been adopted as core strategies to promote fairness, with the former focusing on equality of outcomes, and the latter on equality

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[1] Gender Quotas Around the World https://www.idea.int/data-tools/data/gender-quotas

of opportunities. Gender equality and women empowerment was thus the third of eight United Nations' Millennium Development Goals (MDGs), with increasing the proportion of seats held by women in national parliaments as one of its targets. Post-2015, women empowerment is now fifth of seventeen Sustainable Development Goals (SDGs), with two of its targets relating to the involvement of women in politics and public affairs. Target 5.5 is to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life, and target 5.C is to adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels. These provisions undoubtedly point to the policy relevance of women's political empowerment.

Women's empowerment thus involves bestowing previously unavailable bargaining power upon them and increasing their ability to make choices (Kabeer, 2005). Policy debates have therefore sought to establish mechanisms that would ensure that women are substantially represented in the political realm. Why is this necessary?

1.2 Gender Equality Legislation and the Political Representation of Women

The increased representation of women is an important quest, as representation is founded on the need to make the invisible visible in public, in order to elevate their existence (Habermas, 1989: 7). The elimination of women's historical exclusion from the political sphere therefore addresses the gender imbalance that has masculinised politics, while at the same time creating opportunities for increased benefits from the input by women. Beyond policy making, the increased presence of women in the political arena increases the symbolic effect of their leadership. In Rwanda for example, evidence shows that the increased presence of women in political positions is influencing public perceptions on women's leadership, prompting debate on what these changes in the historically male-dominated arena mean for gender relations (Burnet, 2008; Kagaba, 2015).

The promotion of gender equality is thus touted for its cross-cutting benefits. For instance, it has been argued to have economic benefits, since investing in the education of women and tapping into their talents boosts a country's competitiveness (Kabira, 2016). In addition to the benefits to economic growth and genuine democracy, Goetz (1998) points out that gender equity in politics and policy making is crucial in redressing gender inequality, as it paves the way for women's increased involvement in public affairs.

Krook (2008) therefore explicates that the global trend in legislative and constitutional amendments can be attributed to the realisation by states that incorporating women in public

life through political institutions is strategic for improving their socio-economic well-being. In effect, these efforts are aimed at improving the percentage of women in the public sphere, classically understood as the coming together of private individuals to openly discuss matters of public concern (Habermas, 1989: 27).

The uptake of constitutional and legislative amendments therefore points to a consensus that the increased representation of women bears a lot of potential for positive change, an argument promoted by Krook (2008), Lovenduski and Norris (2003) Kaimenyi, et al. (2013) and Kabira (2016) among others. For instance, Goetz (1998) points out that having more women in politics is a good indicator of a society's democratic freedoms. Further, increased political agency by women is argued to directly increase focus on issues affecting women (Devlin and Elgie, 2008). Goetz (1998) however cautions that this argument should not be regarded as a translation into improved well-being for women and gender sensitive policy making. Nonetheless, from the perspective of feminist standpoint theorists, acknowledging and redressing gender inequality is the most expected change from the increased political representation of women (Lovedunski and Norris, 2003). This is because their presence legitimises their concerns and widens focus on their interests. Beyond legitimisation, it also improves their political efficacy (Hayes and Hibbing, 2017) due to increased civic engagement.

In exploring the political representation of women, and as subsequent chapters will demonstrate, it is important to note the different forms that this can take, and the differential effects of each. Hanna Pitkin's *The Concept of Representation* identifies four strands of representation: formalistic, symbolic, descriptive, and substantive (Pitkin, 1967 in Kurebwa, 2015 and Hayes and Hibbing, 2017).

Formalistic representation focuses on the rules and regulations that precede and initiate representation and constitutes two variants: authorisation and accountability (Kurebwa, 2015). This form of representation is therefore institutionalised, with representatives gaining power mostly through the formal process of elections and direct appointments. On the other hand, symbolic representation looks at the influence of representation on the behaviour and attitude of constituents. Concern is therefore not on who representatives are, what they do, and policy congruence, but rather, what constituents perceive of them (Hayes and Hibbing, 2017). The symbolic representation of women is therefore twofold: response to the increased presence of women in public decision-making bodies, and the perception of women as players in a male dominated political environment (Kurebwa, 2015).

Under descriptive representation, representatives gain their mandate based on similar characteristics ''such as race, sex, age, class, occupation, gender, ethnicity or geographical area'' (Kurebwa, 2015: 52), and substantive representation goes beyond the numbers, to evaluate policy contributions by women in political positions. Lovedunski and Norris (2003) reiterate suggestions by feminist theorists that the political presence of women denotes that they are not just there as women, but that they also work for other women. Substantive representation is therefore concerned with whether women make a difference in political leadership.

However, all forms of representation are equally important, as the discussion in chapter six will show. Kurebwa (2015) highlights that a causal connection exists between these components of representation, and they can therefore not be treated separately. Taking this integration into account makes representation a process that is both formal and informal, as its design relies on formally set procedures, while informal socio-cultural factors influence the success of its operationalisation. Undeniable however, is the ripple effect of what representation as a mark of dedication to equity and equality might have on society. Goetz (1998: 243) highlights that:

> ''It is a matter of concern for economic development policy because unequal gender relations create market distortions by raising transaction and information costs. Gender equity is also a welfare issue; it is about enhancing the quality of human and social reproduction through women's improved education or health. But more than that, it is a matter of social justice and social transformation aimed at redistributing resources and social value more equally between women and men, a process which includes undermining the gendered public/private segregations which marginalise women in the worlds of politics and economic production.''

Several studies have thus demonstrated the varied effects of the different forms of representation on the status of women. *The Impact of Gender Quotas* by Franceschet et al. (2012) highlights that different strategies adopted to promote descriptive representation influence the kind of women elected, and consequently, substantive and symbolic representation. In their examination of politics of presence in the UK parliament, Lovenduski and Norris (2003) note that the increased number of women has raised expectations on their political role, with concerns being on how this would affect the political culture and policy agendas especially regarding the interests of women. In India, Kabeer (2005) finds that there has been a positive effect on the increased role of women in local government through reserved seats. She reports that this approach has not only encouraged political participation, but also influenced the allocation of 10% of development funds for women's development needs. Across Latin

America, Sacchet (2008) reports that quotas have influenced the political culture, by incentivising collective action and the politicisation of gender issues through critical alliances.

In Uganda and South Africa, Goetz (1998: 257-258) finds that the explicit efforts to support women's participation have yielded high numbers in the political representation of women, but the process is being ''slowed by the masculinity of party politics, elite bargaining, and the functioning of state bureaucracies.'' This echoes observations on Kenya, where Wambui (2016) reports that women representatives for each of the counties have been accused of serving their interests and those of their parties, and not necessarily championing the interests of women.

These studies have one thing in common: a general focus on actors and institutions, be it at the national level, or the local government level in cases of decentralisation such as India. Much attention has therefore been paid to the role of women as individual actors. What has not been sufficiently investigated however, is women as both individuals and a collective group. Specifically, there is limited research into experiences of equality legislation among women in non-representative positions, and in environments where formal institutions are distant and power relations are strongly mediated by informal institutions. While acknowledging the growing interest in informal institutions within comparative politics and institutional analysis, Waylen (2014) nonetheless notes the need for further research and analysis on the role of informal institutions in institutional transformation. This study therefore seeks to highlight the reality of gender equality legislation among women outside the borders of formalistic representation, by demonstrating the influence of informal institutional norms and practices on the outcomes of formal institutional policy goals.

This study acknowledges that the ability to have influence is mediated by power relations, with influence and power being directly proportional. Celis and Lovenduski (2018) note that empirical studies on gender equality and representation have yielded two kinds of power: positional and active. They describe positional power as relating to the holding of positions in political institutions that grant access to resources that could either be symbolic, material or even strategic. With relational power, they describe it as the ability to act, making it both individual and relational. The two forms of power also have a strong correlation, as the ''meaning or value of positional power is dependent on the extent to which it enables active power'' (Celis and Lovenduski, 2018: 154). This strengthens the relationship between power and agency, making it a crucial factor for consideration on actors' actions as well as their ability to act. In the context of political participation, the acknowledgement of power relations is

instrumental in understanding the choice of action by both men and women in their dual capacities as individuals and members of specific social groups.

Kagaba (2015) provides insight on the outcomes of this duality, in her study on the experiences of gender equality legislation in rural Rwanda. Her study draws attention to the role of culture in shaping responses, which has resulted in gender dilemmas characterised by different expectations on principles and practices of equality at home and in public. She therefore highlights the key role played by the norms and practices of informal institutions in shaping the reality of gender equality legislation as a formal state agenda.

This relationship between formal and informal institutions is well captured by feminist institutionalists, as chapter two will demonstrate. They argue that the gendered nature of institutions is the result of the connectedness of formal and informal norm functions, an assertion that the empirical chapters of this study will reveal. Norm functions are also mediated by the differentiating categories of class and socio-economic influence, factors that are highlighted in the empirical chapters, but one whose in-depth analysis is beyond the scope of this study.

The central aim of this study is thus to understand how gender norms and gender relations influence equality, since the underrepresentation of women is rooted in norms and practices that make it difficult for women to expel the political dominance of men. Focus will therefore be on the interconnectedness of formal and informal institutions, and how they work to either promote or curtail women's political agency and shape outcomes on gender equality. This study is therefore timely as it not only contributes to the ongoing debate on gender and politics, but also fills the gap on effects of the changing nature of political processes at the local level.

1.3 Study Propositions and Research Questions

As the discussion so far demonstrates, this thesis builds on arguments and findings from a variety of scholarly fields and discussions, while also seeking to make contributions to these fields. The main contribution however, is in the field of gender and politics, with a focus on the role of institutions in influencing equality in the public sphere. While I acknowledge the benefits of reaching into the theoretical depth of one field, I also believe in the value of combining views from different fields, especially in discussing the complex and interconnected nature of gender and institutions.

The absence of a single viewpoint from which to explore this relationship and its effects is therefore substituted by a diversity of discussions in other fields that are of great relevance to

this study. I therefore aim to demonstrate that complex phenomena are best explored through a combination of relevant theoretical and thematic approaches. However, the conceptual argument is underpinned by a feminist institutionalist framing, which acknowledges that institutions are inherently gendered (Lovenduski, 2011; Findlay, 2012 and Kenny, 2014 among others). This framework is therefore important in investigating how norms and processes within institutions produce and reproduce gender power dynamics to influence the political position of women.

The study is therefore guided by the assumptions that:

i. Men and women do not act in isolation, and their attitudes are shaped by their socialisation (Goslin, 1969: 2; Banaszak and Plutzer, 1993: 147; Kivoi, 2014: 175).

ii. Informal norms influence conduct in the political sphere (Kabeer, 2005: 14; Celis and Lovenduski, 2018: 157).

iii. The gendered nature of institutions has contributed to the marginalisation of women in politics (Mackay, 2008: 132; Mackay et al., 2010: 580; Chappell and Waylen, 2013: 602)

iv. Legislative amendments alone are insufficient at guaranteeing outcomes such as gender equality (Fraser, 1990: 74; Sunstein, 1995: 2050; Soss and Schramm, 2007: 122; Kameri-Mbote, 2016: 64).

v. The achievement of gender equality relies on the modelling of approaches that pay respect to contextual realities (Fraser, 1990: 76; McNulty, 2015: 1140).

Bearing this in mind, and noting the objective of the study, I seek to answer the following questions:

1. How do institutional norms and practices influence the agency of women in public/political spaces?

2. What is the effect of gender equality legislation on women's decision-making authority, and how does this influence perceptions on their political agency?

3. How do institutional frameworks influence the successful realisation of gender parity in public participation?

1.4 Situating the study: The Context and the Problem

The questions raised above will be answered through a focus on experiences of gender equality legislation by citizens at the local level in Kenya. In August 2010, Kenyans voted for a new Constitution. One of the key aspects of this legal instrument is the protection and promotion of women's rights with clear provisions for gender equality in the sphere of politics and public decision making. The state is therefore bound to exercise authority in the promotion of women's political welfare. Article 81 (b) of the 2010 Constitution specifies that *not more than two-thirds of the members of elective public bodies shall be of the same gender*. As a party to the legislative amendments, Kenya provides a vantage point on investigating the transformative nature of gender equality legislation.

To achieve this, I check on how women exercise their political rights, considering the perceptions of women's agency in a predominantly male political environment. While the other forms of representation play an important role especially in their interconnectedness, I hypothesise that true transformation is a product of the normative environments that influence symbolic representation. This is because symbolic representation focuses on responses invoked by representatives and actors in their communities, as determined by the degree of acceptance and value judgements on their agency. Arguably, this makes symbolic representation the most decisive factor in the quest for equality especially from a sustainability perspective since it is perceptions on the political role of women that ultimately influence the acceptance and support for equality in politics.

As will be demonstrated in chapters four to seven, the successful realisation of gender equality relies heavily on the public's acceptance of women's political agency. Public legitimacy is gained where agency is accepted, appreciated, and promoted. The question therefore becomes: how does gender equality legislation operate in environments where the political agency of women is not necessarily accepted, appreciated or promoted? This study focuses on the interaction between formal and informal institutions, and how this influences the political agency of women. Formality here is hinged on the codification of norms and practices that characterise institutions (Waylen, 2017), with an understanding that there is room for interaction and power play between the formal and the informal.

This study therefore departs from this position, by investigating this relationship in the context of gender equality legislation in Kenya. It probes the argument that legislation is key in transforming the male-dominated sphere of politics and decision-making within it, creating room for the increased representation of women and closing the gender gap. Informed by norms

and practices in the public sphere, it highlights the disconnect between policy and practice in Kenya's gender equality legislation. As chapter four will highlight, gender equality legislation in Kenya is expected to apply in a universalistic manner, with disregard for the heterogeneity of the over 40 ethnic communities across the country. Taking the patriarchal nature of the Kenyan political sphere into consideration, one can envisage challenges in the acceptance of, and adherence to norms that are in opposition to the life of institutions that govern power relations and decision-making protocol.

Considering arguments on the role of legislative amendments in promoting the equality status of women, for example, one would expect that the representation of women in the political realm would improve, to at least meet the statutory minimum. This is however not the case. The underrepresentation of women in Kenyan politics prevails, as chapter four will demonstrate. The incongruity between legislative requirements and actual representation is however not unique to Kenya. Despite an increase in the percentage of seats won by women, there has been no significant change as ''women occupy less than a quarter of all legislative seats around the world'' (Celis and Lovenduski, 2018: 150). It is therefore clear that legislative amendments alone cannot guarantee gender equality in the political arena, an inconsistency I explore in chapter seven.

What makes this more difficult in the case of Kenya is that the Constitution does not provide a formula on how the two-thirds gender rule is to be realised. As a result, both the 11th and the current 12th assemblies have failed to agree on exactly how this is to be achieved, meaning that the national assembly is in violation of the Constitution. Chapter four expounds on some of the reasons for this failure, which include the disregard for women as a special interest group, cultural politics of public decision making, and a clear lack of political will as demonstrated by boycotts when it comes to voting for bills proposing formulas to achieve the two thirds gender rule set.

As earlier mentioned however, this study is not concerned with representation and participation at the level of formalistic representation, even though it refers to this in discussing the debate on the political position of women in Kenya. Rather, it focuses on the politics of women's political participation in non-representative, general democratic processes. This is done with due recognition of the fact that a formula for ensuring gender equality is not only lacking for the national assembly, but understandably also for open public forums. One could argue that this oversight points to weak formal institutions, but I shall let the empirical evidence shape the conclusion.

Explored within the context of devolution, also introduced by the new Constitution, the study analyses the institutional environments that influence the effectiveness of legislative amendments on gender equality. As chapter six points out, a key argument for devolution is that it facilitates citizen-led development by providing platforms where citizens can directly influence policy decisions. This aligns itself with the goal of political empowerment, which allows women to influence decisions in the male dominated sphere of politics.

In the interest of time and resource constraints, plus the existence of a normative environment whose organisation does not support women's political agency, I situate this analysis in the Maasai community. Generally, the community plays a big role in the embodiment of traditions in a largely modernised country and inhabits areas around national parks. These two characteristics make them important actors in the critical tourism sector of the country's economy. The conscious engagement of community members in the design and implementation of public policy processes is therefore vital.

Known for its patriarchal social organisation (Llewely-Davies, 1981; Spencer, 1993; Coast, 2001; Hodgson, 2001 and Kibutu, 2006 among others), the Maasai community provides an informative lens on the reception and effect of formal state norms in environments where informal norms dictate the logic of appropriateness on gender roles in public affairs. Gender relations are interactive, defined along socio-economic factors such as age, wealth and leadership skills (Spencer, 1993; Coast, 2001, Hodgson, 2001). Social organisation is therefore hinged on age and gender, as these define the rules of engagement and logic of appropriate conduct. A key aspect of this organisation is age-sets and age grades. Initiation through circumcision ascribes men to an age-set, but the same is not available for women who are instead promoted to a higher grade upon marriage. Whereas an age-set includes a group of peers from a broad range of ages, age grades are used to formally categorise men according to their status. The acquisition of wealth in the form of livestock, women and children therefore translates to an improved status for a man. This marks the difference between men and women, since generally, the position of a woman remains dependant on the male figure in her life, in a system that embodies the strong influence of informal norms and practices.

Maasai men have maintained formal authority in the political realm, a reality detailed in chapter four. Strengthened by the colonial and immediate post-colonial processes, this dominance demonstrates that formal and informal institutions can coexist, working to complement each other. This has informed observations on the patriarchal oppression of Maasai women (Llewelyn-Davies 1978; Spencer 1988), especially in so far as they lack influence in decision

making (Taeko, 2014). This can be inferred from the position of women always depending on that of male figures in their lives, as well as men being the ultimate decision makers, as chapters five to seven will demonstrate.

In discussing cultural wealth, Bourdieu (1973: 488) argues that its inheritance from past generations ensures that it really belongs only to those who can appropriate it for themselves. This logic can be extended to our understanding of political power among the Maasai. In the case of political participation therefore, even though it is, by principle, a right to be enjoyed by everyone, Maasai men have the historically advantaged position of having been the key political actors in the community. This position is cemented with age, and especially enjoyed by those who are wealthy within the community. As chapter four will demonstrate, the consolidation of political power among men was reinforced through commodification and the codification of customary norms during the colonial era, which effectively established men as decision makers. Maasai men are therefore better positioned to navigate formal processes to their own benefit, unlike women who have to play catch-up due to their limited political efficacy.

This situation is however not unique to the Maasai. Kimani (2014) points out that the poor performance of Kenyan women in the political arena can be attributed to the country's patriarchal culture and the electoral system. He explains that the country's politics rely heavily on social capital, yet the processes of accumulating economic, cultural, and political capital continue to be more favourable to men than women irrespective of men's demographic characteristics. In the Kenyan clientelist political environment, the employment of social connections is necessary for resource mobilisation, a prerequisite for accessing political power. This has been made possible by a socialisation process that has allowed for the reproduction of power in favour of men. I adopt the concept of socialisation here, understanding it as both the process of role development, as well as enculturation, characterised by the intergenerational transmission of (political) culture (Goslin, 1969: 488).

Among the Maasai, the community has managed to maintain a social structure where rights and privileges are contingent on the fulfilment of certain social roles, a practice that places the community's priorities over those of an individual (Howard and Donnelly, 1986). This socialisation process has propagated the absence of women from decision making, as men play a 'gatekeeping' role that perpetuates the exclusion of women. A look at the political history in chapter four shows that it was not until 2013 that a Maasai woman was elected into parliament. As will be established, this was not an easy feat, as many in the community regarded this a violation of the social order and role definition that characterises Maasai identity. This makes

clear the connection between socialisation as a process within informal institutions, and attitudes towards women as actors in the space of politics and formal institutions.

Social structures and their normative environments can therefore be seen to play a big role in influencing positions of power and political behaviour. In their assigning of roles, defining logics of acceptable conduct and determining consequences, these environments distribute power in ways that promote either equality or subordination. My research therefore delves into power relations and socio-normative structures as key factors in the determination of women's political agency. As a unit of analysis, the Maasai community provides an informative lens into the relationship between Kenya's patriarchal culture (Nzomo, 1997; Kimani, 2014) and policies on politico-institutional transformations intended to promote gender parity.

Studies on women in the Maasai community have tended to take on a socio-cultural dimension into position, power, and gender relations in the private and public spaces (Spencer, 1993; Hodgson, 2001; Kibutu, 2006). It is important to note however, that the Maasai public space that has been widely researched is one which Ekeh (1975: 92) characterises as primordial. This is because it is a public sphere constituted by private persons, in this case, members of the Maasai community, driven by interests of the community as an entity governed by socially shared but unwritten rules. Chapter two will expound on the nature of this public sphere.

The traditional[2] public sphere thus differs from the civic public sphere, where persons come together not necessarily as members of a specific community, but as citizens under a certain level of state administration with codified rules and procedures. By investigating the agency of Maasai women in the civic realm therefore, this study highlights the normative relationship between members of the Maasai community and rules of the state. Most importantly, it sheds light on whether and how norms and practices in the traditional public sphere as an informal institution, influence attitudes and practices in the formal civic space (and specifically, the realisation of gender equality as a formal institutional goal).

While the study takes on a civic-politico perspective, the scholarly body of socio-cultural perspectives plays an important role in our understanding of power relations and attitude

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[2] The term 'traditional' is used here and throughout the thesis, with due acknowledgement of the debate on the legitimacy of what can be regarded as truly traditional due to colonial and post-colonial reconfigurations. Owing to this, political science and sociology discourses employ the term 'neo-traditional', as it encapsulates the deliberate revival of old norms, practices, and institutions in contemporary political contexts. In this study however, 'traditional' refers to that which respondents regard and present as such. It is therefore applied without engaging the contestation over culture and memory, but as an operating reality and reference point. However, these contestations are reflected in the questioning of the status quo, but its underlying mechanisms remain beyond the scope of analysis in this study.

transfer that ultimately determine Maasai women's political agency. These studies have demonstrated the differentiated positions occupied by Maasai men and women, as well as the gendered role definition that shapes the community's organisation structure. I therefore approach the analysis into Maasai women's political agency with the understanding that norms and power relations are gendered, a perspective that guides studies on institutions from a feminist perspective (Goetz, 1998; Ostrom, 1999; Ridgeway and Correll, 2004; Mackay et al., 2010; Krook, 2010 and Lovenduski, 2011 among others).

1.5 Rationale for the Study

In *Gender, Justice, and the Problem of Culture* among the Maasai of Tanzania, Hodgson (2017) notes that contemporary expressions and experiences of justice are informed by legacies of certain colonial policies, as well as national and international initiatives. Within the scope of this study, legislative and constitutional amendments on gender equality constitute these initiatives. For the Maasai, the 2010 Constitution of Kenya is yet another opportunity to redefine power relations and influence perceptions towards the political agency of women. The reality of this is explored in the context of public participation under devolution, as provided in Chapter 11 of the Constitution.

Citizen participation under devolution is operationalised in the framework of the 2016 County Public Participation (CPP) Guidelines. These guidelines focus on four areas of public participation: legislative process/policy and law making; planning and budgeting for county public services; implementation/delivery of county public services and performance management and oversight through monitoring, evaluation, reporting and learning.

In this study, the analysis of public participation is limited to participation in planning and budgeting for county public services. This focus aligns itself with the objective of the study, by allowing for an investigation into whether the budgeting process is gender responsive. The Kenyan National Gender and Equality Commission (NGEC) notes that budgets ''have the potential to either increase or reduce the burdens and/or vulnerabilities of different social groups, or to improve their capacities and capabilities'' (NGEC, 2014: 1). This is because, participation in public service deliberations provides a platform where citizens can be initiators of discourse on their development needs, as opposed to the other three areas of participation which take place post-initiation by agencies of the county governments. Gender responsive budgeting therefore involves enhanced accountability and responsiveness to commitments on reducing gender inequalities (NGEC, 2014), which are key contributors to achieving gender parity.

For the Maasai therefore, participating in planning and budgeting provides a platform for political interaction among men and women. By design, this process opposes the gendered role definition that characterises the Maasai social order, through its equal distribution of power over decision making to both men and women, as opposed to just men. While this contributes to the achievement of equality as envisioned, it also becomes subject to resistance, as the empirical evidence will later demonstrate. I am therefore keen to investigate how, and to what extent, contextual realities contribute to gendered political inequality among the Maasai, and how these determine participation in the political sphere in view of gender equality legislation.

In answering the research questions, this study contributes to the field of legal sociology. This is realised through the provision of empirical evidence on the influence of legal norms on social change, and how agents, their interests and culture converge to either promote or derail institutional transformation. By using the case of Maasai women in Kenya, I am guided by the understanding that their documented historical marginalisation from political affairs, which will be explored in-depth in subsequent chapters, makes them resourceful subjects in checking on the power of law to influence social norms. In presenting a single story on the matter, I am guided by the assumption that clarity of a subject matter is sometimes best observed from a least-varied locus. Even though the study focuses on one community therefore, it sheds light on the patriarchal political scene in Kenya (Kimani, 2014) as well as other similar communities across Africa with similarly gendered socio-political structures.

1.6 Thesis Structure

The different arguments in this study are interconnected in their focus on understanding how the current constitutional provisions on equality influence the political agency of Maasai women. However, they each interrogate different concepts, to make clear the connection between formal and informal norm structures and how they influence the political agency of women. This will be made clear from chapters five to seven, where the empirical evidence from focus group discussions and interviews are presented.

Overall, the study is presented in eight chapters. In the next chapter, I discuss the processes and mechanisms of influencing social norms in institutional set-ups. This discussion is grounded on feminist institutionalism, with its focus on formal and informal institutions and how their respective normative environments influence gender relations. The chapter therefore sets the pace for understanding how societies operate in determining attitudes and behaviour towards gender equality. Chapter three follows this discussion, by providing a detailed description of the methodology employed in carrying out this research. The chapter explains the rationale

behind the recruitment of respondents, the different methodologies employed for the different groups of respondents, and the data analysis process.

In chapter four, I adopt a historical perspective to explore the debate on gender equality in Kenya. I outline the journey towards the institutionalisation of gender equality in the country, as influenced by pre-colonial set-ups, and the subsequent colonial and post-colonial state policies on the political representation of women. Included in this narrative is how the different policies have influenced the position of Maasai women against that of their men as political actors in Kenya.

From the outcome of this historical probe, I proceed to chapter five where I explore the challenges and barriers that Maasai women face in political participation. The chapter therefore demonstrates how their exclusion in political affairs is located within the global debate on socio-cultural as well as institutional realities that shape gender norms and politics of presence in the civic public sphere. The chapter presents the political agency of Maasai women as the outcome of a normative environment whose dictates on appropriateness and the ensuing consequences in case of violation make it increasingly difficult for the women to find a voice in the political realm. Further, challenges within formal institutions make it difficult for women to claim or exercise their political rights in a manner that would offset unfair socio-cultural norms.

Bearing in mind the reality presented in chapter five, chapter six investigates how the constitutionally mandated public budget participatory process influences the representation, inclusion, and political participation of women. It demonstrates how formal and informal institutional norms merge to influence the agency of women in the realm of politics, defying Habermas' (1989) claim on the neutrality of the public sphere. The chapter achieves this by evaluating how the public participation exercises are actualised, and whether these mechanisms contribute to the political empowerment of Maasai women.

Chapter seven explains the discrepancies between policy and practice on gender equality in Kenya. Through the lens afforded by the experiences of the Maasai, it sheds light on why and how policies interact with actors and interests to influence the operationalisation and outcome of policy actions. In so doing, it investigates the effectiveness of social engineering, understood as the promotion of desirable norms by legal structures, as a pathway to achieving gender equality.

In chapter eight, I summarise by presenting major findings of the study, and how these highlight inadequacies in Habermas' (1989) assumptions on the nature of the public sphere. The chapter

shows how these inadequacies link women's political agency to the debate on universalism versus cultural relativism, as influenced by the interconnectedness of norms and practices in formal and informal institutions. In the end, I draw key conclusions on how the reproduction of gender inequality through cultural reproduction necessitates engagement by institutionalists with behavioural change scholarship, to enrich our understanding of formal and informal norm functions, and their role in institutional transformation. I also highlight the need for further research on why and how male dominance persists, despite various legislation and the global trend towards equality.

CHAPTER TWO

INSTITUTIONS, NORMS AND GENDER

In this chapter, I focus on how gender norms configure and are configured within institutions. Norms are hereby understood as rules with ''some degree of binding authority over actors'' (Meyer, 2008: 791). The discussion therefore explores how different norm environments interact: how actors and their actions influence individual decisions on public participation. Situated in the Kenyan political context, the terms 'public' and 'public participation' take on the definitions provided in the 2016 County Public Participation guidelines. Public therefore refers to ''residents of a particular county; professional associations; community based organisations; and rate payers of a particular city or municipality'' and public participation is the interactive process ''where individuals, governmental and non-governmental groups influence decision making in policy, legislation, service delivery, oversight and development matters'' (CPP, 2016: vi). The premise of this purpose-driven action is to promote increased public engagement in decision-making processes under a devolved governance structure.

The adoption of a decentralised form of governance in Kenya provides a platform for representation and inclusion of different social groups in decision making processes. Decentralisation, as a governance tool, is driven by the assigning of functions previously conducted from a central point, to lower level sub centres, with the underlying logic that ''it enlarges subnational participation in decision making over interventions, and consequently enhances their local relevance and citizen participation in implementation'' (Nyanjom, 2011: 2). Chapter six delves deeper into the decentralisation discourse, while looking at the realities of this in Kenya, where devolution, as a form of decentralisation, is operationalised.

Of great importance to the debate on the promotion of equality, is the argument by Johnson (2001) that, as both a goal and outcome of decentralisation, public participation at the local level can lead to improvements in self-identity and worth, helping to break down customs of inequality and discrimination. This is for example captured in Nanivadekar's (2006) report on changes in self-esteem among Indian women from seeing one of them serving in local government. Mackay (2008: 133) however warns that the inclusion of the marginalised might just be a spin on ''politics of recognition'' that ignore ''politics of redistribution'' as far as power and resources are concerned. Successful inclusion is therefore dependent on a tight coupling between the formal adoption of new rules and ''institutional practices, norms, and outcomes'' (Mackay et al., 2009: 254). The setting of new rules is, by itself, decidedly

insufficient to ensure inclusion and meaningful engagement of targeted social groups. Normative structures that condone or even propagate their exclusion need to be reconfigured as well.

Section one of this chapter thus begins by exploring the debate on the gendered nature of institutions, and how this perpetuates power inequalities between men and women. I then unpack the discourse on the setting of formal rules geared towards reconfiguring gender norms. The discussion continues in section two by highlighting the importance of incorporating gender as a category of institutional analysis. In section three, I focus on the interconnectedness between formal and informal institutions and their rule sets, and how these shape attitudes and behaviour towards equality. Ekeh (1975) notes that this interconnectedness is embedded in the strategic positioning of individuals as public actors in ways that perpetuate the concentration of power in a particular group of agents. As I will show in chapters six and seven, this perspective is crucial in understanding power relations among the Maasai, which helps make sense of the attitudes and reception patterns towards constitutional norms on gender equality within the community. This discussion is followed by the development of a conceptual framework for analysing the interconnectedness between formal and informal institutions in section four, to explain the point of departure in exploring the political participation of women under study. Section five concludes by explaining why I choose to adopt a micro level perspective to understanding the dynamics of gender and politics.

2.1 Gender in Institutions

As alluded in chapter one, the social construction of gender signifies differences and power relations between men and women. Mackay et al. (2010) expound that gender operates at the interpersonal level, as well as being a feature of institutions and social structures in which individuals find themselves. This is especially evident when we consider institutions as ''rules, norms and strategies adopted by individuals operating within and across organisations'' (Ostrom, 1999: 23). Understood this way, institutions span formal and informal parameters, as determined by the rules in use in a particular context.

Terming institutions as gendered in the political realm therefore means that notions of masculinity and femininity are intertwined in political institutions (Ostrom, 1999). Consequently, efforts at reforming institutions require an understanding of how these notions of masculinity and femininity influence gender relations, to (re)produce inequalities that necessitate change. Dominant discourse on these transformation efforts revolves around the deliberate creation of spaces where women can exercise their agency in environments that

promote equality. The adoption of legislative amendments to promote the political agency of women has thus become the most common form of institutionalising gender equality. The operationalisation of this in Kenya will be explored in chapter seven.

According to Platteau et al. (2017), the use of legislative amendments to reconfigure gender equality can be understood as a process of social engineering. They describe this to be the deliberate use of legislation to promote a change in social norms and customs that work against the interests of a certain group of people. Legal parameters introduce incentives for compliance, in what Benabou and Tirole (2011: 1) refer to as the practice of 'norms based interventions' that signal a change in societal values. In the context of gender equality therefore, social engineering efforts are geared towards the promotion of the equality status of women, in a bid to address the negative consequences of their historical marginalisation. Chapter seven evaluates the outcome of this approach in Kenya and specifically among the Maasai.

Setting quotas has become the most common approach towards promoting women's equality by increasing their representation in political spaces. So critical is their role in promoting gender equality, that Mansbridge (2005:622) consents that ''significant representation by gender cannot be achieved in any existing polity without some form of quota.'' Numbers provide a pathway to first of all achieving descriptive representation, while at the same time setting the pace for substantive and symbolic representation as described in chapter one. There is evidence that the creation of quotas and special seats for women shifts attitudes towards the acceptability of women as political agents (for example by Tamale, 2001 and Tripp, 2001 on Uganda). This symbolic representation is especially important in societies that grapple with patriarchy and its effects on the perceptions and position of women in leadership. Beyond politics, visible female leadership also improves the status of women at the household and immediate community level, as evidenced by a study on Rwanda by Burnet (2011).

The formation of critical alliances for the politicisation of gender issues (Sacchet, 2008) is at the heart of the 'critical mass theory' which is grounded on the belief that ''greater numbers of women in politics are required before individual female legislators can begin to 'make a difference' in gendered policy debates'' (Childs and Krook, 2008: 734). Gender quotas are therefore increasingly seen as an important instrument to achieve balanced gender representation in politics. Quotas have become instruments of fast-tracking the inclusion of special interest groups such women into the political sphere, by acting as exogenous shocks (Baldez, 2006) that loosen entrenched norms that associate men with politics.

Their application has however not escaped criticism, with debates focusing on whether it matters more to have additional women in parliament than having greater participation by women within local government structures where they can interact more directly on matters directly affect their lives (Kabeer, 2005). An insistent focus on numbers also means that quota systems are subject to manipulation in order to sustain the status quo. As Baldez (2006) notes, party leaders might find quotas preferable, as they would be able to handpick candidates. Citing the case of India, Nanivadekar (2006) details how the introduction of gender quotas at the local level has given space to many political activists, but also allowed male politicians to step aside for their close relatives. As a consequence, the quotas have created a conducive environment for state-driven feminism characterised by proxy women representatives at local government bodies.

These experiences reify concerns that women elected through quotas may not pursue women-friendly agenda (Krook, 2006). Additionally, they confirm concerns by Baldez (2006) that gender quotas can work to strengthen undemocratic candidate selection processes within political parties. By so doing, the new women entrants are forced to play by the old rules, frustrating reforms within political parties, and strengthening the status quo. The wider effect of this on the political agency of women is that quotas contribute to the delegitimization of female politicians as political actors (Krook, 2006), even in cases where they get into political office through traditional candidate recruitment processes.

The alluded interconnectedness between political agency and power relations points to the social and relational nature of agency. As Emirbayer and Mische (1998: 973) point out, agency is centred on ''the engagement (and disengagement) by actors of the different contextual environments that constitute their own structured yet flexible social universes.'' Chapter five delves deeper into the conversation on gendered norms and political agency. The successful implementation of a social engineering process geared towards the promotion of agency therefore requires an understanding of individuals' experiences within the different contexts at play. Merry (2003a: 381) emphasizes that legislative amendments require institutional environments "in which those endeavoring to exercise rights, and thus redefining their previous relationships, find positive reinforcement for this change." The affordance of platforms where women could challenge power relations therefore offers an informative starting point into an understanding of the relationship between agency and institutions, in both their formal and informal guise. An understanding of this interaction is key

in shedding light on the mechanisms of reproducing gender inequality in the Kenyan political environment.

The debate on principles of equality and representation reveals the deep normative institutional barriers to gendering institutions (Krook, 2006). This means that equality cannot be approached without due consideration for rules, practices and norms that characterise and govern formal and informal institutions. Promoting the political agency of women thus necessitates reforms and cooperation between these institutions, to ensure that there is positive reception and support for the increased representation of women. For this reason, Krook (2006) opines that the continued focus on resources and motivations versus abilities and qualifications to explain the underrepresentation of women is insufficient. She explains that this perspective fails to consider the influence of institutional norms and practices that impede women's political agency, even where they have the necessary qualifications and additional motivation to serve. As Platteau et al. (2017: 19) expound, ''the process through which victims of unfair customs can change the perception they have of themselves'' is crucial in social engineering. Change can therefore not be achieved only from 'external' efforts. Equality debates can therefore not be comprehensively tackled without interrogating the influence of both formal and non formal normative environments.

This realization has allowed for the proliferation of institutionalist perspectives, to incorporate the important role that institutions play in influencing the political agency of women. With the understanding of institutions as rules and norms that individuals abide by (Ostrom, 1999), this study conceives institutionalism as ''a set of theoretical ideas and hypotheses concerning the relations between institutional characteristics and political agency, performance and change'' (March and Olsen, 2005: 4). In this regard, institutions generate notions of order, which then influence the actions of political agents, thereby defining their roles. Depending on the point of focus, institutionalism can take on different forms, as will be discussed shortly.

2.2 Institutionalist Perspectives on the Political Agency of Women

> *Arguably any good institutionalist should realise the importance of gender relations to the configuration of institutions. (Lovenduski, 2011: vii)*

By allowing for a greater understanding of the co-constitutive nature of politics, new institutionalism allows for the incorporation of the crucial value of gender relations (Mackay et al., 2010), especially how actors influence change in institutions, and how the institutions then use rules, norms and policies to influence actors' behaviour. Following March and Olsen,

Lovenduski explains that new institutionalism allows for the consideration of actors' roles and interests in specific institutional contexts, thus offering ''a conceptual toolkit that includes formal and informal institutions, critical junctures, path dependence, feedback mechanisms, logics of appropriateness, and, more recently, institutional convergence and layering'' (Lovenduski, 2011: ix).

Meyer (2010) further explains that institutionalism can either take a realist or phenomenological form: in the realist form, the assumption is that actors are autonomous from the limitation of institutional rules that could be the source of either empowerment or constraint. On the other hand, phenomenological institutionalism acknowledges that actors and their activities can be constructed by institutionalised systems (Meyer, 2010). This study takes on the phenomenological form of institutionalism, as it is shaped by the reality of institutional norms and their influence on individual attitudes and behaviour, which in this case relate to gender equality.

Other than being either realist or phenomenological, institutionalism can be categorised as either old or new, with new institutionalism expanding the definition of institutions beyond organisations, structures and formal rules, as is characteristic of old institutionalism. New Institutionalism falls into three broad categories of historical, sociological and rational choice (Hall and Taylor, 1996), with differences in perspective stemming from the subjects ''whose behaviour is being structured'' (Steinmo, 2008: 126 in Lovenduski, 2011: x).

Historical institutionalism defines institutions as ''the formal or informal procedures, routines, norms and conventions embedded in the organisational structure of the polity or political economy'' (Hall and Taylor, 1996: 6). For historical institutionalists, interest lies in the structure of institutions and their outcomes, focusing on the macro level. Most scholars of gender and politics align themselves with this approach, for reasons that will be explained in the next subsection. Conversely, rational choice institutionalism argues for the centrality of individuals and their strategic calculations (Koelble, 1995). Rational choice institutionalists thus view actors as calculative, seeking to maximise their individual preferences. As chapters five, six and seven will demonstrate, political agency as exercised by Maasai women is guided by a logic of appropriateness that defies a rational choice perspective. Accordingly, Mackay et al. (2009: 255) emphasise that institutional forms must be analysed in terms of the ''culturally specific ways that they take on particular forms,'' and not in terms of their rationality and efficiency.

Sociological institutionalism focuses on political interactions that link the micro with the macro-level (DiMaggio and Powell, 1991). The definition of institutions under this approach goes beyond formal rules, to include norms and procedures, as well as cultural scripts to guide appropriate behaviour (March and Olsen, 1989). Sociological institutionalists thus recognise the interactive character between individuals and institutions. This approach captures the essence of this study where, even though I am interested in the experiences of equality by Maasai women as a collective group, I seek to achieve this by understanding individual experiences juxtaposed against social norms in the Maasai community and legal norms of the Kenyan state.

In this analysis, I follow Lovenduski to conceptualise institutions as the configurations of ideas and interests which are expressed as the ''formal rules, compliance procedures and standard operating practices that structure relationships between individuals in various units of the polity and the economy'' (Lovenduski 2011: viii). This view on institutions allows for the consideration of both formal and informal practices, and their influence on individual behaviour and responses towards their environment. An analysis of women's political agency is therefore enriched by recognising that institutional rules, norms and practices play a role in shaping gendered institutional configurations.

The adoption of institutionalist research strategies by feminist scholars therefore adds gender as a concept of institutionalism, thereby gendering institutionalism by enabling the understanding of the embeddedness of gender in the formation and sustenance of political institutions (Lovenduski, 2011). This is especially important when one considers that in itself, ''gender is an institutionalized system of social practices for constituting people as two significantly different categories, men and women, and organising social relations of inequality on the basis of that difference'' (Ridgeway and Correll, 2004: 510). Recognising the gendered nature of institutions thus allows for an understanding of power relations, a dimension that is not made explicit in other institutionalist approaches. Chappell and Waylen (2013) explain that gender operates within institutions nominally and substantively: Nominal operations are characterised by men's historical and continued power dominance in politics, while substantive operations are linked to gender biases, informed by social norms on acceptable notions of femininity and masculinity. This makes gender a crucial aspect in the study of institutions, necessitating an approach that incorporates both.

2.2.1 Feminist Institutionalism

Feminist Institutionalism is a neo-institutionalist approach that focuses on "how gender norms operate within institutions and how institutional processes construct and maintain gender power dynamics'' (Lowndes, 2010: 65). It conceptualises gender as deeply embedded in the formation and sustenance of political institutions. I therefore adopt this approach in order to incorporate both perspectives of gender and institutions in achieving the objective of this study. Mackay (2008) highlights that feminist institutionalism is an especially useful perspective in the study of institutions, because male dominance has resulted in the reinforcement of masculinist ideologies as conventional gender-neutral norms and practices. As a result, the masculine nature of institutions is blanketed, making it difficult to realise existing gender gaps. A focus on norm functions within institutions is therefore important, since the unequal power relations in society are reflected, reinforced and structured within institutions to inform gender regimes (Krook and Mackay, 2011). To adequately understand and explain institutional power relations therefore, it is imperative to incorporate a gendered lens.

Feminist Institutionalism allows scholars to contribute to political studies in two broad ways: explaining gendered outcomes including the current state of affairs and predicting future developments on identified gender regimes (Lovenduski, 2011). Lovenduski highlights that both contributions require the acknowledgement of context specifity, evidence collection and analysis, and a theorisation of political relationships which are, according to feminists, gendered in a way. Using evidence on the gendered nature of politics among the Maasai, I highlight my contribution to this body of political studies in chapter eight.

As part of new institutionalism, feminist institutionalism is also subjected to the theoretical and methodological divisions in the field (Findlay, 2012). While feminists disagree on whether the sociological, historical and rational choice approaches of new institutionalism are equally promising, many show preference for historical institutionalism (Lovenduski, 2011), because of its adaptability in explaining gendered outcomes in different contexts as sought by feminist scholars. The crucial matter however remains that not realising the value of gender relations in the configuration of institutions ''risks ignoring crucial elements of ideas, interests, rules and processes, portents and causes of change and instances of agency, and hence impairs the institutionalist project'' (Lovenduski, 2011: ix). How then can the impairment of institutionalist projects be avoided? I argue that the answer to this is to be found in the sociological view of new institutionalism.

By showing how repeated acts in interaction over time characterises institutions, sociological institutionalism effectively incorporates a historical underpinning. Mackay et al. (2009) note that sociological institutionalism concepts and ideas cross over to the other strands of institutionalism, helping to widen their scope of definition to incorporate norms, culture and informal practices. By incorporating the shared interaction between formal and informal institutions, sociological institutionalism allows for the conferment of ''the same theoretical, empirical, and methodological status to both kinds of institutions'' (Krook and Mackay, 2011: 11). Considering Maasai men and women as actors in contemporary political institutions, sociological institutionalism, in its phenomenological form, allows for the acknowledgement of the fact that there is a prior exogenous historical origin to their institutional context, as posited by Meyer (2008). To understand these institutional contexts requires an exploration of isomorphism and decoupling processes within them.

In analysing the formal structure of institutionalised organisations, Myers and Rowan (1977: 346) point out ''technical and exchange interdependencies'' structure organisations to match their environments. Within the framework of feminist institutionalism therefore, isomorphism ''describes the process through which an organisation adopts features from other organisations in its institutional environment, often in an attempt to counter uncertainty and gain institutional legitimacy'' (Mackay et al., 2009: 257-8). In the context of this study, this refers to the constitutional provision for gender equality in Kenya, as part of the global institutional legitimisation trend mentioned in chapter one. The institutionalisation of this trend in Kenya incorporates all three forms of isomorphic processes (Powell and DiMaggio, 1991): mimetic by copying other countries and being on the right side of the global agenda; coercive by obliging all public institutions to adopt gender equality principles; and normative by setting out minimum requirements such as the two thirds gender rule, as the minimum requirement for adherence to gender equality. As chapter six will demonstrate, policies and practice are not directly proportional, underscoring that institutions might be formally reflective of their environments, but differ in actual practice.

The lack of coupling between policy and practice thus ''enables organizations to maintain standardized, legitimating, formal structures while their activities vary in response to practical considerations'' (Myers and Rowan (1977: 357). In the context of gender equality legislation therefore, decoupling explains ''how local authorities can adopt far-reaching equality policies that appear to have little impact in practice, namely that the relationship between policy and implementation is weak'' (Mackay et al., 2009: 258). This will be discussed in detail in chapter

six, where I analyse the implementation of gender equality in participatory budgeting processes, as operationalised under devolution in Kenya. According to Meyer and Rowan (1991), a weak relationship between policy and implementation is the result of conflicts and loss of legitimacy from attempts to control and coordinate activities within institutions. Gender equality provisions might therefore remain largely symbolic and loosely coupled to other institutional goals, or even face resistance in implementation.

The combination of isomorphism and decoupling as sociological institutionalism concepts therefore enriches the evaluation of gender policy against daily practice, which improves our understanding of the opportunities and challenges that Kenyan women face in their exercise of political agency. Incorporating sociological institutionalism into feminist institutionalism makes up for the shortcomings of the other institutionalist strands that narrowly conceptualise rational actors and formal institutions and practices. It is however important to note that on its own, sociological institutionalism is insufficient at tackling core issues of gender, power and change. Nevertheless, its adoption allows for the systemic identification and tracking of norms and cultural factors that are key in gendering institutions and practices within them (Mackay et al., 2009: 254). This makes sociological institutionalism a functional fit in this study, the core of which is to investigate the influence of culturally mediated gender norms on legal norms of equality in political engagement processes.

2.2.2 Navigating the Inadequacies of Feminist Institutionalism

While feminist institutionalism has clearly made significant contributions to gender and new institutionalism research, it still remains incapable of comprehensively tackling the constellation of matters related to inequality, power and change in socio-political environments. This is especially evident in an analysis such as the one in this study, where actions by and among individual actors are evaluated to make sense of institutional realities. Findlay (2012: 3) points out that feminist institutionalism exhibits three weaknesses: ''its analysis of power, its conceptualization of change and agency, and its insular point of reference.'' This criticism is also levelled at sociological institutionalism, as it also does not account for clashes and contestations of power among actors that have competing interests. Mackay et al. (2009: 260) argue that sociological institutionalism can be criticized for ''tending toward a functionalism, which assumes a cohesive set of group norms, erasing or subsuming tensions, conflicts, and inequalities concerning gender.'' This functionalism is evaluated in this study, through the focus on the reproduction of norms, and how they shape the composition of the public space, as well as notions of acceptable conduct therein.

Findlay expounds that while a focus on the micro and meso levels of institutions are a strength of the feminist institutionalist approach, it also is a source of weakness. This is because feminist institutionalism fails to engage with wider power structures, problematizing the understanding of marginalised social relations that include gender. This is a step away from early feminist work which factored in the macro level, through the lens of patriarchy and institutionalised male power, to consider gender equality as systemic and structural (Findlay, 2012).

By aligning with new institutionalism and simplifying this structural analysis, feminist institutionalism departs from the crux of feminist political science, which is a comprehension of how power functions. The consequence of this, Findlay notes, is that feminist institutionalism finds itself focusing mostly on description over analysis, without answering the 'why' question. To avoid this simplification, I incorporate an analysis of norm formation and propagation, which reintroduces the patriarchal lens, to provide empirical evidence on how the political dominance of men is institutionalised. After all, Kenny and Mackay (2009) argue for the modification of institutionalism, if scholars are to understand the institutional gendering process more deeply.

On conceptualising the relationship between state institutions in terms of change and agency, Findlay (2012) notes that feminist institutionalism regards institutions as significantly autonomous. This contrasts society-centred perspectives such as pluralism and neo-Marxism which assume that actions of the state are driven by social forces, state decisions reflect the power of dominant forces in society, and that political institutions are almost never independent in shaping policy and political outcomes (Smith, 2008 in Finlay, 2012). Viewing institutions as independent drivers of change thus separates the state from the society in which it operates. As chapter seven however demonstrates, there is not much autonomy between state and society. Instead, constructions of gender are intertwined in the daily life of institutions, which makes it difficult to separate state agency from the influence of society. This phenomenon will be expounded on in the following sub-section.

Further, in uncovering how institutions are gendered, feminist institutionalism regards the institutions as tools and mechanisms at women's disposal (Findlay, 2012). The assumption here is that women have options and can engage in forum shopping to find an institutional environment that suits them. Forum shopping is the ''practice of choosing the most favourable jurisdiction... in which a claim might be heard'' considering such factors as ''the convenience or expense of litigating in the forum…the probable or expected sympathies of a potential jury'' and rules in use (Maloy, 2005: 27).

Chapters six and seven however counter the notion of institutions as tools and mechanisms available to women. Evidence shows that the logic of appropriateness remains subject to the much stronger consequences of non-compliance, as exhibited in the social costs of disregarding power structures in an individual's immediate (informal) institutional environment. In the conclusion of this study, I explore perspectives that could be incorporated into feminist institutionalism, to promote its engagement with feminist political science, a strategy Findlay (2012) argues is necessary for remedying feminist institutionalism's lack of diversification of influences.

Despite its weaknesses, feminist institutionalism is undoubtedly critical in understanding women's political agency, due to the combined benefits of institutionalism and feminism. Institutionalism enables us to capture continuity and change dynamics, which then allows feminist findings to better highlight contributions to political science. On the other hand, by introducing gender as a category of analysis, feminism enriches institutionalist analysis by allowing for a better theorisation of the gendered nature of formal institutions, the importance of informal institutions, and the power relations within and across both formal and informal institutions (Krook, 2010).

As this study focuses on women's participation at the local level, employment of feminist institutionalism offers an effective approach to understanding how formal and informal institutions interact to influence attitudes and behaviour towards women's equality, and how this interaction then shapes the relational space in which women exercise their political agency. However, like Kenny and Mackay (2009) I am also convinced that institutional approaches need modification in order to highlight the process of gendering and re-gendering institutions. This is especially important in this study, where institutionalism alone does not sufficiently highlight the role of individuals and their varied interests within institutions, and how these shape their attitude and behaviour as part of both formal and informal institutions.

Since the discussion has so far hinted at the important role that norms play in institutional settings, I take this as an invitation for the incorporation of an analysis of norm functions. Waylen (2018) notes that feminist institutionalism is increasingly interested in the operation of gendered norms as key components of informal institutions, as they influence political behaviour. This can be seen in the works of Chappell and Waylen (2013) who recognise the pervasive importance of informal rules and norms around gender, in debates on the promotion of gender equality. We can therefore not explain the effect of formal rules, as chapter seven seeks to do, without a better understanding of informal norms and practices. As both formal

and informal institutions are governed by different norm sets, I probe how norms operate in either sphere, how they shape attitudes and behaviour, as well as the subsequent power relations that determine the position of women.

2.3 Formal and Informal Norm Functions

As suggested in the discussion on institutions, norms can be classified as either formal (stemming from state laws), or informal (as dictated by customary norms). In practice, formal norms govern both formal and informal institutions, a function that informal norms do not carry out. A norm originating from the state is thus described as ''a social norm interfacing the formal institutions of society with the informal ones'' (Licht, 2008: 716). Generally therefore, promotion and adherence to what is legal, i.e. from formal institutions, is considered to be right and therefore desirable for individuals under the jurisdiction of these institutions. As for informal norms, they also signal what is desirable and right, but the effect of their application ultimately remains subject to the provisions of formal norms. Decoupling however points to the disparity between policy and practice (Mackay et al., 2009), and as chapter seven will highlight, the presence of formal norms does not always overrule informally mediated practices.

Individuals develop attitudes and behaviour per norms promoted by both formal and informal institutions in their societies. This shapes a way of life, largely determined by an individual's demonstration of belongingness to a community and respect for its institutional environment. Roland (2004) however points to a major difference between the two types of institutions: formal institutions are fast-moving, as legal rules could even change overnight, while informal institutions - norms, beliefs and culture - are relatively slow to change. Even though both institutions play a big role in shaping societal norms therefore, their flexibility in response to change influences the pace of attitude and behavioural change among individuals.

Licht (2008) further elaborates that informal institutions are characterised by self-enforcing and repetitive rules whose content is considered common knowledge, and where social actors share similar values. These shared values are what then constitute social norms, which combine with shared beliefs and symbols to develop a culture. In the informal setting, private citizens observe each other's behaviours, inviting sanctions and rewards which are however not verifiable by the government (Benabou and Tirole, 2011). These values and norms therefore act as a source of motivation and justification for action, with behaviour consistent with the norms signalling acceptability and vice versa.

Notions of acceptability influence not only agency in the realm of informal institutions, but also attitudes in approaching formal set-ups. This makes political socialisation a product of

transmitted preferences and beliefs which are shaped by culture, hereby understood as ''customary beliefs and values that ethnic, religious and social groups transmit fairly unchanged from generation to generation'' (Giavazzi et al., 2013: 1257). However, additional personal experiences through different forms of exposure sometimes differ from behaviour learnt at home (Fernández and Fogli, 2005), and it is the synthesis of the enculturated and personal experiences that shapes individual belief systems.

The slow pace at which culture changes however means that in the face of globalisation and modernity, culture continues to have a great influence on the attitudes and behaviour of individuals. In their assessment of cultural barriers to women's leadership, Norris and Inglehart (2000) find that even after controlling for social, structural and political institutions, culture continues to maintain a significant influence on the proportion of women parliamentarians. This is echoed by Fox and Lawless (2011), who emphasise that traditional gender socialisation patterns remain one of the fundamental barriers to women's representation. Attitudes and behaviour towards political affairs are therefore formed early in life, due to the internalisation of socialisation patterns as true and inherent in society (Kivoi, 2014). Women's political exclusion is thus rooted in these social processes like gender socialisation, which influence political attitudes (Coffé and Bolzendahl, 2010).

The political agency of women however transcends challenges of the private realm, as it is also determined by the culture of the civic space. In the formal realm, the enactment of laws is adopted by policy makers to signal good values, and their promotion, an advancement of the common good. An individual's behaviour is therefore observed and verified by the government, through the enforcement of laws. However, the law ''is not merely a price system for bad and good behaviour, it also plays an important role in expressing and shaping the values of societies'' (Benabou and Tirole, 2011: 1). Through mimetic and normative isomorphic processes, it acts as a reflection of wider societal preferences, thereby shaping and reshaping norms and moral sentiments. In their expressive nature and through proper enforcement therefore, state laws carry the potential to influence what is considered socially acceptable (Kenny and Patel, 2017).

The value of this potential is especially important in the discouragement of norms considered harmful to special interest groups. Often within the framework of human rights, such deliberate attempts are considered a form of ''social engineering'' (Platteau et al., 2017: 1) as will be explored in chapter seven. Legislative amendments to promote the political rights of women in Kenya can therefore be regarded as an attempt at re-engineering societal attitudes toward the

political agency of women, by deconstructing the social meaning of political action as inherently masculine.

However, demographic and attitudinal factors have differing effects among men and women (Coffé and Bolzendahl, 2010). Studies on the impact of pro-women legislation have additionally established that laws generate ''complex and indirect effects'' especially when they touch on factors not targeted for change (Platteau et al., 2017: 16). The introduction of gender equality as a desirable norm is therefore bound to elicit heterogeneous reactions, considering the different power positions occupied by men and women as chapters six and seven will demonstrate. In such environments, attitude change could come about from either respect for the law, or the overall desire for behavioural change (Kenny and Patel, 2017) depending on individual traits and institutional mechanisms in place.

When amendments are targeted at slow-to-change informal norms, compliance with the attitudes and behaviour being promoted ultimately depends on sanctions and incentives (Bilz and Nadler, 2014). This shows the interconnectedness of formal and informal normative environments, which, as this study will demonstrate, influences responses and ultimately the coupling of policies with actual practice.

For a deeper understanding of the co-existence between formal and informal institutions and how norms function therein, I employ Ekeh's (1975) inquiry on the relationship between the private and civic spheres in the context of post-colonial African countries. With this, I hope to make clear how individual attitudes and behaviours are influenced by their dual reality as members of a single community[3] as well as citizens of a country.

The case of two publics and the institutional reproduction of norms

Ekeh (1975) highlights that over the years, the private and public realms have been characterised as sharing a common moral foundation. This generalised western notion, he notes, cannot be applied in the African context where there are in fact, two public realms that have different moral linkages with the private realm. These are, ''the public realm in which primordial groupings, ties, and sentiments determine and influence an individual's public behaviour….and a public realm which is historically associated with colonial administration and which has been identified by popular politics in post-colonial Africa'' (Ekeh, 1975: 92). Ekeh elaborates that the primordial shares the same moral imperatives with the private realm,

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[3] In the context of African countries such as Kenya, this belonging is mainly defined along an ethnic identity.

while the civic public, is amoral in that it lacks the moral imperatives that operate in the private and primordial public realms.

Individuals in the primordial public thus make contributions which are considered moral obligations to benefit the individual as a member of a particular public. Of particular interest in this scenario, is that the individual may give materially, but benefits are intangible and immaterial, in the form of ''identity and psychological security'' (Ekeh, 1975: 171). This description of the primordial public reflects Meyer's explanation of the phenomenological nature of an institution, as one whose environment ''operates more as a cultural or meaning system, penetrating actors far beyond their boundaries and constructing agency, identity, and activity (Meyer, 2010: 3).

From this phenomenological nature, one can deduce a pattern of enculturation in the way that the primordial public is able to maintain governance of appropriate and expected conduct. This is structurally different from the civic public, which places great emphasis on economic value, chiefly because of its amoral nature. Also, characteristically different in the civic public is the fact that individuals seek to gain from it, without the moral urge to give back, as is the case in the primordial public. Ekeh explains that this is informed by the myth of abundance in the civic public, in contrast to a need for care and protection of the primordial public. Considering the value derivation from either public therefore, it is to be expected that individuals evaluate their actions against the expected outcomes and consequences thereof.

This existence of separate sources of norms points to the reality of separate codes of conduct, or what could be considered as legal structures. The two publics are governed by different legal norms, introducing a plurality that could either promote or undermine the goals of either realm. In the context of this study, a key outcome of the interaction of these publics is socio-economic, cultural and institutional challenges to the political participation of Maasai women. As the forthcoming discussions will demonstrate, the Maasai social organisation and power structures perpetuate the exclusion of women from political processes, fuelling inequality. This is in line with the observation by Sage and Woolcock (2012: 3), that ''the norms and procedures of many customary or traditional justice systems raise real concerns about gender equity, human rights, due process, and capture by the traditional elite.'' One can therefore foresee a challenge in the alignment of the state-sponsored gender equality goals among the Maasai.

However, hybridity in the source of governing norms does not always signify conflict. As Adler and So (2012) highlight, there is little conflict when the social, administrative and statutory sets of norms align; conflicts arise when there is competition between the sets of norms, and parties

base their claims on different normative orders. Even though the functional reality of this plurality and its effect on gender equality will be explored in chapter seven, I would like to point out here that it is not unthinkable that decision makers in the non-state realm maintain influence in the state realm, due to the masculine nature of both publics. The masculinisation of the Kenyan state will be discussed in the next chapter.

This background is very important to the understanding of attitudes and behaviour towards gender equality that will be explored later. The possible absence of a tight coupling between formal and informal institutional norms means that government intervention, through social engineering, does not always translate to a positive outcome in changing attitudes of the public. In Rwanda for example, despite the country's high score in achieving political gender parity, there is a crisis in the lived reality of gender equality legislation. Rwandan men complain that the political empowerment of their women is a threat to their masculinity (Kagaba, 2015), while women in high political positions contend with being powerless at home where they have to abide by expectations of their occupation and adoption of subordinate behaviour (Warner, 2016). This draws attention once again to the variety of experiences due to the heterogeneity of agents in their value systems and interests, as will be explored in chapters six and seven.

Considering the relationship between norms, expectations and interventions described so far, I now focus on positioning the political agency of women in this dynamic system of formal and informal institutions, with their differing viewpoints on the equality principle.

2.4 Women's Political Agency in the Kenyan Institutional Landscape

As highlighted in chapter one, Kenya's new constitutional provision on gender equality is grounded in the protection and promotion of women's socio-political rights. Austen and Mavisakalyan (2016) argue that constitutional protection from gender-based discrimination formalises the individual and collective rights of women. This bolsters their exercise of agency, especially when there is a provision of platforms to exercise their voice. In Kenya, these platforms are in the form of public participation forums where citizens engage in decision-making processes that articulate their socio-economic development needs. For women therefore, the benefits of a Constitution include equal opportunities for participation and access to political and public service positions.

Being citizen-centred, the framework adopted in this study incorporates policy feedback as the consequence of actions by both state and individuals. As Bratton (1999) highlights, institutions are aggregates of individual preferences based on certain values and attitudes, which then impart on institutional culture. As part of institutions, individuals are socialised into collective

norms which they adopt as their own, through institutional rules and incentives for conformity. Analysing political participation therefore calls for understanding the complementary nature of attitudes and institutions (Bratton, 1999).

According to Lovenduski, the first step in constructing institutional analysis is ''mapping the formal architecture and informal networks, connections, conventions, rules, and norms of institutions'' (2011b: x). The framework outlined in Figure 2.1 below, therefore incorporates attitudes and preferences as mediated by socio-economic conditions, as well as political interests, which happen to be gendered. These conditions and interests act as inter-dependent variables that influence the effect of public participation processes. Kenny (2014) emphasises that research must go beyond acknowledging the existence of gender bias in institutions, to identify gendered institutional processes and mechanisms, and what their gendered effects are. I outline these processes in Figure 2.1, factoring in agents, institutions and processes of political agency in the Kenyan context.

I argue that public policies establish a political environment that shapes attitudes on the suitability of women as political agents. These government policies are informed by public demands for change as mediated by social movements, interest groups, and political parties. Once in place, public policies have a direct effect on the very attitude environments that were responsible for their adoption in the first place, denoting what I term as a primary feedback process. These have to operate alongside socio-economic realities particular to individuals involved.

The opportunity for individuals to participate in political processes can therefore have effects on their socio-economic status, through the benefits of exposure and networking afforded by political participation processes. At the same time, outputs from participation processes can influence the political environment, by prompting revisions on policies relating to recruitment and styles of engagement. I consider these two to be secondary effects, and even though necessary to note, they are beyond the scope of analysis in this study.

Figure 2.1 Model of women's political participation

| Policy Agenda |

| Political Participation Process |
| e.g. - Voting |
| - Attending public deliberations and debates |
| - Involvement in political parties |

| Outcome of political participation process |

| Effect on Women's Political Participation |
| - Attitudes towards women as political agents |
| - Political participation by women |
| - Support and election of women candidates |

| Contextual Realities |
| - Economic status |
| - Educational attainments |
| - Political socialisation |
| - Gender socialisation patterns |
| - Personal traits e.g. cognitive ability |

| Political Environment |
| - Participation frameworks e.g. Constitution |
| - Political parties |
| - Interest groups |

———→ Primary feedback process

- - - - - - → Secondary feedback process

This framework fits into feminist institutionalism by providing a lens into gendered power relations and the processes that influence them. In this regard, it fulfils the feminist institutionalist goal of identifying institutional change as shaped by changing gender relations, enabling a modelling of causality (Lovenduski, 2011). By placing 'effect on women's political participation' at the centre, this model incorporates the outcome of the interaction between the law and social and institutional hierarchies. This process, which I later discuss as social engineering in chapter seven, determines the impact of legal policies on gender equality, thereby influencing the success of feminist institutionalism.

This model guides the approach I adopt in engaging with the study and the presentation of empirical findings.

2.5 A 'Microscopic' Point of View

> *...focusing on women parliamentarians, as individuals or groups, or even on parliament as a whole, does not enable a full appraisal of the complex policy process and multiple actors involved in contesting, negotiating and delivering substantive gains for women. (Mackay, 2008: 128)*

Unlike most works on feminist institutionalism, this study uses this institutionalist lens on individuals at the local level. This is a unique perspective from other studies that employ feminist institutionalism, which focus of candidate selection, party politics and representation in national parliaments (Lovenduski and Norris 1993; Norris and Lovenduski 1995: Matland 1995; Kenworthy and Malami 1999; Krook, 2010 among others). The study therefore provides a distinct perspective into the interaction of formal and informal institutions, at the level which informs socio-cultural norms and attitudes that are transferred to parties (where norms are shaped and mediated), and ultimately, representation in legislature.

By focusing on the context of individual and group norm formation, this study aligns with sociological institutionalism by revisiting the idea of context-bound rationality as presented by Mackay et al. (2009). It also links itself to scholarship on behavioural change, which acknowledges the role played by norms and systemic biases (Waylen, 2018), offering new insights into gender and politics.

Instead of researching how the top is formed, this research contributes to the knowledge of what informs the formation at the top. Since political institutions are constituted by daily social practices of gender norms, the recognition of the reciprocal relationship between formal and informal institutions opens up possibilities for agency and change (Krook and Mackay, 2011). These possibilities then influence attitudes and behaviour towards the political participation of women, as well as experiences of individual women in political participation.

While the research is fuelled by the desire to check what effect the Constitution as an institution has on citizens, I position this in the context of a primordial space with a strong structural background. I am interested in checking whether and how a change in rules influences normative systems and beliefs to (re)shape political environments. In the following chapter therefore, I describe the approach adopted in collecting this evidence from the Kenyan Maasai.

CHAPTER THREE

METHODOLIGAL APPROACHES, APPLICATIONS AND CHALLENGES

This chapter outlines the approach adopted in conducting this study. As characterised by its aim, design and methods, the study is qualitative in nature. The qualitative aspect is defined along the differentiation offered by Creswell (2009), between quantitative and qualitative research. Instead of using numbers derived from close-ended questions as would be the case in a quantitative study, I use words to present data collected from open-ended questions. These questions then invite answers to meet the objectives outlined in the first chapter. As Van Teijlingen (2014) points out, in addressing the 'why' question, we explore the purpose, context and meaning of phenomena. The exploration of human interactions in decision making processes is therefore bound to produce a narrative, ruling out the value of statistical data collection methods. Though mainly qualitative, the study however accommodates quantitative data whenever necessary, especially in the examination of quantifiable measures of compliance with constitutional mandates on equal representation.

A qualitative approach allows for exploration in a manner that affords a deeper understanding of phenomena through the detailed description of findings. This affordance is useful in answering the first question of this study; how institutional norms and practices influence the agency of women in public/political spaces. This is because qualitative research is an inquiry process into social or human interactions through the construction of a holistic picture as informed by natural settings. Denzin and Lincoln (2005) note that the outcome of this inquiry process enables researchers to make sense of phenomena from the meanings they attach to them. Additionally, an in-depth qualitative approach allows for the uncovering of the informal dimension of political institutions (Kenny, 2014). This allowance enriches the engagement with question number two; how perceptions of women's political agency are influenced by gender equality legislation on women's decision-making authority. Explored through public participation, this question interacts with both formal and informal institutional norms, and how they influence the political agency of Maasai women.

In the following section, I explain the rationale behind the choice of study subjects and research design. This is followed in section two by details on the approaches adopted in data collection. I then justify the sampling techniques applied, especially in phase one of the field work exercise. The outcome of this is shared in section four, with section five detailing the process of data

analysis. In section six I conclude the chapter with reflections on my experiences in the field work exercises and analysis process.

3.1 Rationale for Selected Approach

> *Certainly, there are limits to which findings from single case studies can be related to other settings. Yet while feminist institutionalists are sceptical about the prospects for generating a sort of "general theory of politics," they remain interested in identifying common causal mechanisms (of power, of continuity, of change), which we can then explore in other contexts…These causal processes are often most visible at the level of single case studies, where we can see the ways in which the gendered rules of the game (both formal and informal) play out on the ground. (Kenny, 2014: 682)*

Focusing on Maasai women as subjects in one community among the more than 40 found in Kenya qualifies it as a case study. Adoption of the case study approach is informed by the added value of the design in developing new hypotheses and addressing causal complexity (George & Bennet 2005). Creswell (2014) further notes that a case study allows for the exploration of processes, activities and events. Studying the political participation of Maasai women interacts with all these aspects of a case study, especially in the examination of mechanisms and platforms of political engagement as outlined in questions two and three.

By its very nature, a case study comprises more ''details, richness, completeness, and variance – that is, depth – for the unit of study than does cross-unit analysis'' (Flyvbjerg, 2011: 301). The ability to elicit in-depth knowledge is crucial especially when seeking to understand actors and their actions within institutions. In the study of gendered political institutions, Kenny (2014) emphasises that a case study enables the understanding of the complex ways in which gender plays out in different political institutions. To be able to do this within the specificity of an ethnic community further deepens our understanding of gendered political relationships (Lovenduski, 2011), refining the outcome of this study as grounded in feminist institutionalism. Adopting this approach therefore enriches my study on the political agency of Maasai women as a process that takes place within gendered institutions, both formal and informal. Being among the pioneering in-depth works on the political agency of Maasai women,[4] a case study

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[4] Most studies on the Maasai are limited to the role of gender in matters relating to socio-economic and cultural rights, focusing on pastoralism, land use, and rites of passage.

approach gives room for the elaboration of causal mechanisms that influence the political agency of the women.

It is important to point out that the use of a qualitative case study is adopted with due respect for the criticism that case study findings are not generalisable, which arguably limits their contribution to scientific development. The generalisability of findings, according to Myers (2000), is the degree to which they can be indiscriminately extrapolated from a study's sample to an entire population. However, using the example of *Wissenschaft*, German for Science, the literal translation of which is 'to gain knowledge', Flyvbjerg (2011) deconstructs this non-generalisability stance. He argues that generalisation is just one way of knowledge gain and accumulation, and the un-generalisability of knowledge does not bar its entrance into the collective process of knowledge accumulation in a given field or society. The legitimisation of scientific inquiry through formal generalisation, he reiterates, is limiting. He therefore points out that a purely descriptive study can be of great value since even though the knowledge may not be formally generalisable, it is transferable.

Transferability here describes the extent to which findings can be applied beyond the context in which the study was done (Malterud, 2001), affording them external validation. This is especially true in this case whereby, even though the Maasai community is widely regarded as deeply patriarchal, its socio-cultural set up is very similar to that of the Samburu and other communities in Kenya and Africa at large. As chapter four will elaborate, patriarchy has played a key role in the political marginalisation of women in Kenya. Findings from this study can therefore inform the study of women's agency in patriarchal communities, and even allow for partial generalisations which Myers (2000) argues may be possible for populations that are similar. Additionally, feminist institutionalists also contend that single case studies present the most visible forms of the causal mechanisms of power, continuity and change, within which formal and informal gendered rules play out (Kenny, 2014). Focusing on the Maasai therefore allows for an in-depth analysis of gendered dynamics of the transformation of political institutions, the outcome of which can be useful in the dynamic research on gender and politics.

3.2 Data Collection Tools

To achieve the objective set out in chapter one, I relied on multiple sources of data, both primary and secondary. Chappell and Waylen (2013) point out that in-depth interviews and participant observation are key methodological approaches to understanding how formal and informal rules support and contradict each other. For this study, I adopted interviews and observations to

collect primary data, while secondary data was collected from published files, documents and online reports.

- **Documents**

Public policy planning and implementation involve the creation of a variety of documents which can be used for programme evaluation. While the documents themselves are not the object of analytical interest, they serve as a source of information (Stockman, 2008). As written evidence, their use saves on time as no transcribing is required (Creswell, 2014). This approach was used to gather data on legal frameworks, policy plans and reports on gender equality. These included the guidelines on public participation, frameworks for gender equality in citizen engagement and legal rights and responsibilities of both citizens and government agents in public participation. Publications by scholars in the fields of development studies, governance and gender studies were included to position and either validate or negate presented findings.

- **Online reports**

These were mainly used to collect background and general information whenever it was necessary to supplement observations on ongoing debates. This was especially useful in getting up to date information on the ongoing debate on the yet-to-be-realised two thirds gender rule in Kenya. Applying receiver-based judgement on the accuracy, objectivity and trustworthiness of the sources (Metzger, 2007: 2078), I relied on online newspaper reports as well as policy briefs and responses from institutions focused on the gender equality debate. This ensured credibility while easing data collection on the status of the socio-political dynamics of this debate in Kenya. Their reliability is therefore comparable to print media which is subjected to professional review. Still, I used online sources, not as bases for my arguments or perspectives for analysis, but rather as supplementary sources of information to situate my arguments.

- **Interviews**

Focus group discussions (FGDs) as well as narrative and biographical interviews were applied in the study. I used narrative interviews to gather information from county government officials and local politicians in both Kajiado and Narok counties, while engagement with citizens was through nine focus group discussions (see list of respondents in Appendix V). These two approaches, Harrell and Bradley (2009) point out, provide in-depth information and are best placed to resolve any conflicting information, as they allow the researcher the opportunity to address them as and when noted. Being present allowed me to seek clarifications as well as probe for detailed information whenever necessary.

Through their pedagogic function, focus groups enable collective engagement which promotes dialogue. This leads to the achievement of a higher understanding of ''issues critical to the development of a group's interests and/or the transformation of its existence'' (Kamberelis & Dimitriadis, 2011: 546). Use of focus groups in engaging citizens was therefore the best approach to gaining insight into the socio-cultural dictates of Maasai women's public participation. I made sure that individuals compared and contrasted their experiences, to promote individual reflection and minimise 'group think.' This shed light into marginalisation as a collective experience, but one that was actually shaped by different individual and relational realities. As summarised by Kamberelis and Dimitriadis (2011: 547) therefore, focus groups offer ''unique insights into the possibilities of critical inquiry as deliberative, dialogic, democratic practice that is always already engaged in the distribution of economic, cultural and social capital.

Particularly important for this study, is the fact that, by giving space to individual voices, focus groups allowed Maasai women, as traditionally marginalised political agents, to share their experiences in a space that promoted free dialogue. This was also facilitated by the use of both Swahili and Maa in the discussions, easing articulation and allowing for clarification. Details on how this worked out will be discussed in section 3.6. I acknowledge that my presence in a designated space instead of the natural public setting might have elicited biased responses, but I consider these biases as true representations because designated spaces provide freedom which is absent from natural settings where certain logics may be applied to comply with societal codes of conducts. Chapter six provides more detail on this.

When interviewing county government employees and ward representatives, I used narrative interviews. Through their unstructured characterisation, narrative interviews emerge from a respondent's situational context through cross examination (Muylaert et. al. 2014). By their nature therefore, they encourage informants to discuss something in a way that does not separate, but rather implicates them in the events under study. This technique, Bauer (1996) points out, gives a more valid perspective of the informer as there is minimal influence by the interviewer. This approach was useful in distinguishing policies on citizen participation against practice as administered by the government officials. I was able to get information on daily operations, including the challenges experienced and navigation strategies employed, which in most cases differed with reports from FGDs. More details on these issues will be discussed in the upcoming empirical chapters.

With the aim of capturing their personal experiences, I used biographical interviews in my conversation with women in political positions, both aspiring and elected. This was aimed at understanding their gendered experiences from engaging in a male dominated environment. As Roberts (2002) notes, remaining close to the experiences and views of the researched is a key feature of qualitative research. By including individual experiences and interpretations, biographical interviews aid in the understanding of major social shifts. This is because, Robert highlights, by giving insight into the cultural and structural setting, individual accounts introduce specificity to societal changes. Women politicians embody the challenges that women face in their quest for political inclusion since, unlike the rest of the women, they have chosen not to limit their political activity to sporadic public participation forums. Their narratives therefore provide a much deeper and clearer insight into the realities of women's political engagement.

Like in any method of inquiry, the cultural contexts within which questions and answers are understood can introduce challenges to a study. A researcher therefore needs to be able to understand the contexts from which respondents understand questions and answer them, which I was able to achieve in my position as both a Kenyan and member of the Maasai community.

- **Observations**

I employed observation as an instrument to capture and document participation exercises. As Creswell (2014) points out, observations give first-hand experience with the participants, allowing for the exploration of topics that may have been difficult for participants to discuss. Observations were therefore used as an insight into the engagement of women in public affairs through the participatory budgeting processes. My objective was to cross check with reports on the conduct of public participation forums from the focus group discussions and interviews with government officials. I therefore keenly observed the 'air time' women get, how many are actually selected to speak against the demonstrated wilfulness to participate, how they participated in the discussions, how men responded to their participation and the incorporation of their ideas in the outcome of the forum.

This approach presents a limitation however, in relation to the significance respondents place on their actions, as this can differ from the researcher's, raising questions on the validity of the observations made. Another challenge, Stockman (2008) points out, is that the object of observation continually alters during observation and since there could be multiple activities at a time, an unobserved incident becomes missed information. This was the case in my observation of women's participation in group discussions, where I could not monitor all four

'break-away' groups[5] in the Loitokitok County Integrated Development Plan forum. I had to move from one group to another, which presented the risk of missing certain participation behaviour and/or responses. Nevertheless, I believe the fifteen minutes spent at each break-away group provided sufficient information to validate my observations.

3.3. Location and Sampling

In their formation of attitudes and behaviour, socialisation processes influence individuals' responses to questioning. This is common in surveys, where respondents are likely to answer according to what they perceive to be the expected response, and not really what they really think or feel. Stockman (2008) therefore warns that answers to questions asked may not always reveal the true value of the feature of interest. This is true for Maasai women, whose different geographical locations and socio-economic realities afford varied forms of exposure, which plays a big role in differentiating meanings and value assigned to political participation. Hence, I mitigated this challenge by collecting data from multiple sites across the two counties under study. Hine (2007) points out that a multi-sited approach allows for the pursuit of alternative ways of formulating the objects of study. I therefore collected data from Kajiado South and Kajiado West Constituencies in Kajiado County and Narok East Constituency in Narok County (see Appendix II on the administrative units in the research areas).

To allow for in-depth discussions, I focused on specific areas that were more accessible in terms of geographical location and recruiting of respondents. Data was collected in three phases. In the first phase, from March to May 2016, I focused on getting answers on barriers to the political participation of Maasai women, and the mechanisms of their engagement in public participation forums. These discussions informed the evaluation of the effectiveness of public participation in promoting engagement and breaking barriers to the political inclusion of women.

I collected data from three locations: Loitokitok Sub-County in Kajiado South, Ewuaso Kedong Ward in Kajiado West, and Keekonyokie Ward in Narok East. The reason why I focused on one higher level administrative level in Kajiado, Loitokitok Sub-County, as opposed to a Ward, is because my respondents were individuals that are politically active, and therefore easier to mobilise to discuss public affairs. Additionally, Loitokitok is my home area, making it easier to identify respondents that would be readily receptive and available for the focus group discussions.

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[5] In order to discuss all the questions in Appendix III, participants were split into four smaller groups. More details on this forum are discussed in chapter six.

Convenience and judgement sampling were therefore adopted in Kajiado South. Respondents recruited under this approach are deemed knowledgeable on the topic (Harrell and Bradley, 2009), and their selection is informed by the researcher's knowledge of the individuals. Respondents were therefore selected from Rombo, Kuku and Entonet Wards which are close to the sub-county administrative town of Loitokitok. All the discussions took place at the African Medical Research Foundation (AMREF) office in Loitokitok town.

Cluster sampling which focuses on one geographic area (Harrell and Bradley, 2009) was adopted in Kajiado West, where respondents were exclusively from Ewuaso Kedong Ward. The choice on this ward was informed by its proximity to Ngong town in Kajiado North Constituency. Ngong town is culturally diverse, being home to different social and ethnic groups. It is also just outside the Nairobi metropolitan zone,[6] and the key trade centre for residents of Ewuaso Kedong. I therefore chose the location in order to check whether the diversity of the ward's geographic and trading neighbour has any influence on the attitudes and approaches to the engagement of Maasai women in public affairs. I met all three groups of respondents in Kimuka, Ewuaso Kedong Ward, at the home of a distant relative who, together with the wife, assisted in mobilising respondents from the area.

The same sampling technique was adopted in Narok East, where respondents were drawn solely from Keekonyokie Ward. In addition to being close to Narok town where the headquarters of the Narok County Government is located, the area is one of the largest wheat farming zones in Kenya. It therefore provides a good case for studying whether engagement in large-scale economic activities and proximity to administrative headquarters have any effect on attitude towards power sharing between men and women, as well as information flow and service delivery from the county government. All discussions with the respondents took place at a small restaurant at the Nairagie-Enkare shopping centre.

Even though the study places a lot of significance on women, I gave considerable focus on men because I believe that the pursuit of institutional transformation can only be effectively approached through collective engagement with all stakeholders. In addition, I share Hodgson's (2001) view that to fully understand women's actions and ideas, the same must be examined in relation to those of the men in that society. Oyewumi (1997) further points out that while it is important to discuss impacts on specific groups of people, gender relations are not

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[6] Some argue that it is part of the Nairobi metropolitan zone, due to the connectivity in trade and transport.

sum-zero. Effects on women can therefore not be separated from those on men as the two are intimately bound. This is especially true in gendered political environments, as is the case in Kenya and the Maasai community.

Except for the first group of 12 female respondents in Loitokitok, all groups had eight respondents. Eight in the women only groups, eight in the men only groups, and a ratio of 1:1 was applied in the eight-member mixed groups. The aim of this approach was twofold; to check on the degree of openness to discussion by women under different lenses (whether they responded differently in women only and mixed groups), and how the political agency of women was described by men and women in the singular and mixed group settings.

A noteworthy outcome of this approach was how women reported on their political participation in the different focus groups; in the women-only groups, the discussions tended to be more critical of the government and the men, giving the impression that operations were far from being acceptable. In contrast, women in the mixed focus groups reported a neutrality[7]that pointed to there being an operational balance in how women were included in political affairs. Responses from men also tended to be non-critical, except for the few who either openly opposed the inclusion of women in political affairs on either religious or customary grounds or expressed dissatisfaction with women's inclusion in political processes.

The second phase spanned from January to March 2017, where I captured experiences of ward administrators and officials from departments tasked with issues of citizen participation, gender and culture in both counties. Narrative interviews were employed in the understanding of the dynamics and experiences of citizen engagement and gender relations from an organisational and policy perspective. Specifically, I investigated the mechanisms in place to ensure gender equality, how the public responded to these, and what efforts the governments were making to ensure equality and citizen-led development as envisioned by the Constitution.

I also interacted with women representatives and one female political aspirant. The plan was to interview more aspirants, but it was difficult to secure appointments as they were preparing for the August 2017 general elections. The political campaign period also made it impossible to get an appointment with a key informant, Ms. Peris Tobiko, the first elected Maasai woman parliamentarian. Nevertheless, I managed to interview the Women Representatives from both counties, whose biographical narratives shed light on their political experiences. These

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[7] With the exception of the mixed focus group in Loitokitok, which involved women that are actively involved in public affairs in different capacities.

experiences captured their journey towards political office, political campaigning, and the challenges in performance and delivery as women occupying reserved seats in the national assembly.

The final phase effectively utilised the observation method, when I attended the 2017-2022 Kajiado County Integrated Development Plan (CIDP) forum. The organisation was such that the forums took place in one location at each of the five constituencies. I therefore attended the forum in my constituency, Kajiado South, which took place on 4th December 2017 at the Loitokitok Social Hall. A key area of interest was the composition and operation of the citizen forums, which allowed me to cross-check information provided by both citizens and government officials in the previous data collection phases. I therefore checked on the timeliness of notifications, breadth of notification outreach, location and capacity of the event venue, how individuals contributed to the process, and most importantly, respect for gender equality in the public participation process.

Members of the public at the 2017-2022 Kajiado County Integrated Development Plan forum at the Loitokitok Social Hall. Photo taken on 04.12.2017. © Author.

It was not possible to attend any CIDP forum in Narok County, as the timeline between public announcement and the main event made it impossible to travel from my university in Bayreuth, Germany. The announcement was made in The Standard newspaper and the county website on Monday 12th February 2018, with the forums scheduled for Wednesday 14th to Friday 16th. In Keekonyokie Ward, my study area in Narok East, the forum took place on Thursday 15th

February at the Nairagie Enkare Catholic Church. Despite my absence, I had a phone interview with a gentleman who attended the meeting in his capacity as a neighbourhood security chairman.

3.4 Data Generated and Analysis

The application of the qualitative methods above yielded nine focus group discussions, three from each location. Twenty-six women and twenty-four men participated in these discussions. The plan was to have an equal number of men and women, but as earlier mentioned, the first group discussion with women from different parts of Loitokitok Sub County had 10 participants instead of the eight throughout the rest of the discussions. A total of fourteen narrative interviews and three biographical interviews were also recorded. An unforeseen telephone interview to replace a planned observation brought the total number of respondents I interacted with to 93 as outlined in Appendix V.

For ease of analysis, I transcribed all the information in English. Despite the unavailability of a transcription notation system capable of accurately and comprehensively providing a narrative of the original performance (Kowal and O'Connell, 2014), *f4transkript* was used for the English interviews. This way, the study limited itself to transcribing only the spoken words in the data collection exercise, leaving out how those words were spoken and any non-verbal aspects, as the other mostly relied upon components of qualitative analysis (Kowal and O'Connell, 2014). This bias is appropriate for the purposes of this study whose focus is on the communicated perceptions, opinions and experiences of respondents. I wrote memos after each interview to capture emerging patterns and inform points of discussion for subsequent interviews, in order to get more information on a subject matter.

Even though the use of computer software to assist with qualitative data analysis is argued to undermine ''the essentially humanistic approach of qualitative research'' (Gibbs 2014: 279), I primarily used MAXQDA in organising the data analysis. The software program supports the coding of data into themes and allows for comparison in different scenarios. This was especially important in this multi-sited study, as it facilitated cross-examination of recurring themes and/or any discrepancies thereof, from transcriptions of interviews and focus groups. The ease in organising, searching and retrieving data made the analysis process faster. Thematic data analysis allowed me to identify themes that were relevant to the research objectives, resulting in empirical chapters five, six and seven.

To aid in the contextual interpretation of data from the focus group discussions, I additionally employed in-vivo coding, to ensure that meaning was drawn from participants' voices. In-vivo

coding helps highlight the use of specific words and phrases in the interactions of participants from a particular culture or microculture, providing information that might otherwise be missed with the use of other coding methods (Manning, 2017). Quotes from respondents used throughout the thesis were therefore chosen for their relevance to the identified themes, either as confirmations, deviations or contradictions. This approach gains more relevance in the forthcoming chapters.

For data from the second and third phase however, I did not use MAXQDA. Instead, I analysed the data manually, which I found much easier especially because the guiding questionnaires employed in the narrative and biographical interviews (Appendix 1) already guided the identification of themes and sub-themes. In analysing these interviews and secondary data therefore, I adopted a qualitative content analysis approach, in order to contextualise feedback from the focus group discussions. A deductive approach to content analysis in the study was helpful in linking empirical findings to the feminist institutionalism framework. Mayring (2014) notes that the 'content-analytical particularity' aspect of qualitative analysis is a huge advantage, which is often overlooked in many quantitative contexts. It was therefore useful in this study where, even though the study focused on one community, contextual realities differentiated reception, perception and practice on Maasai women's agency. The process then highlighted how gender rules play out at both formal and informal institutional levels.

Throughout the analysis, my interpretations were directed towards understanding what factors influence policy decisions, why actors behave the way they do, and how decisions are made.

3.5 Verification

Researcher biases and the reactivity of respondents are relevant threats to the validity of this study. Their relevance is occasioned by my inclination to select data that suits my position on the debate. Citizens and public officials could also provide information that could point to a direction they judge as positive either as a reflection of themselves or as a contribution to my research, even where the information might not necessarily be true.

It was therefore important that I adopt strategies to ensure the validity of my findings. In certain instances, questions asked earlier would be reframed and asked later for clarity, and if need be, informants – especially public officials – would be asked to provide evidence of claims made, such as registers to verify women's participation. In addition, during the interviews, a strategy of contrasting responses was employed, to verify the evidence provided and avoid misinterpretations or wrong assumptions. This was especially useful when dealing with

colleagues working together on matters of citizen engagement. The availability of transcripts of interview recordings helps to prevent misrepresentation of responses from my end.

3.6 Reflections

Due to the nature of the study as pertains respondent profiles, data was collected in three main languages: Maa, Swahili and English, depending on the convenience of respondents. Considering my basic command of the Maa language, I requested respondents to translate information provided in Maa to Kiswahili, to ensure that I did not misinterpret or lose out on any implied meanings. This was especially useful where words such as *Elkirikoi* were used. Generally, the word itself translates to *wanderer*, but in the context of women's involvement in political affairs, it is used to mean *prostitute*. This tactic was however not well received by all respondents. In Ewuaso Kedong for example, the fifth FGD started off with an argument as to whose fault it was that my proficiency in the language was so basic that it necessitated translations. The men lamented that I am part of a generation that is abandoning their culture in pursuit of educational achievements. We discussed at length whose fault this was the parents, the education system or the increasing cultural diversity in previously predominantly Maasai regions like Ngong town. In the end, we agreed that even though it was an important matter for consideration, it was a discussion for another forum. They gladly obliged my request, and the interview went on smoothly.

Cognizant of this and other issues that would come up, a few strategies were put in place to ensure that the discussions happened in an open and friendly atmosphere. In preparing for the fieldwork therefore, attempts were made to establish a good relationship with key informants and 'gatekeepers'. These included leaders of local women groups, County Government officials and local politicians. An introduction letter from The National Commission for Science, Technology and Innovation was given to relevant stakeholders, specifically government officials, to provide disclosure on the purpose of the study, as well as establish legitimacy and foster cooperation. Consent forms were not necessary, but verbal consent was recorded, with the respondents' identities being kept anonymous. We also agreed that the results of the study would be shared with the respondents.

Particularly important to point out here is that my parents assisted in approaching informants outside of government, simplifying the recruitment process. As this exercise involved calling together older men, my father's assistance provided an authority that made the exercise much simpler. Among the Maasai, it is not common that a child gets to speak to her parents' age mates and their seniors on issues that question traditional authority and norms. Additionally,

the discussions touched on domestic affairs which are not only private, but also constitute 'inappropriate' dialogue between myself and the age groups of most of my respondents.

My father's mediation, in his capacity as both an older Maasai man and a community mobiliser (through his professional activities in public health and in cooperation with non-governmental organisations), therefore ensured that men and women alike participated, regardless of age, education or occupation. With the women, mobilisation was additionally made easier by my mother's position as a primary school head teacher and therefore known to many parents, as well as other women through networks from church and women groups' activities. As a community insider, I was also better positioned to set up meetings at venues and on dates that would be less disruptive to everyday activities, and in an environment which supported the use of languages that informants (and myself) were comfortable with. This knowledge of local realities was useful in the setting up of interviews with the citizens. Knowing critical actors and gate keepers and how to approach them went a long way in not only securing quorum, but consent to provide (mostly) unfiltered information.

My acknowledgement and respect for the social structure mean that I was not exempt from the normative structure of the Maasai community. By recognising what would be considered inappropriate, and therefore a possible cause of strain or even failure to my data collection exercise, I had to abide by the institutional culture on inter-generational communication. My knowledge on how to navigate the Maasai primordial public ultimately aided my understanding of how the civic public operates as it does, and what role the primordial public plays in this - a key element of this study. Ultimately, this helped me articulate the particularities of the ongoing institutional transformation of the political space in Kenya. Before outlining these findings, I provide a background to this transformation process in the next chapter, where I detail how Kenya arrived at a constitutional provision for gender equality.

CHAPTER FOUR

INSTITUTIONALISING GENDER EQUALITY NORMS IN KENYA

This chapter contextualises the institutionalisation of gender equality in Kenya. A historical outlook on gender politics is important since placing politics in time helps to understand the emergence of a particular outcome (Kenny, 2014). In this study, the outcome that provides a point of departure is the 2010 Constitution and its focus on gender equality as a human right. Kenny emphasises that a historical perspective helps us understand how contemporary outcomes are shaped by the past, and how this process creates new opportunities, or closes off others, through continuous political contestations.

Outlined in four sections, it begins by tracing the quest for gender equality from the struggle for independence to post-independence Kenya, the introduction of multi-party democracy in the early 1990s, and onto the present-day governance structure under a new Constitution. It therefore traces the configuration of women's political agency, highlighting tactics ranging from deliberate exclusion and window dressing, to the inevitable adoption of gender quotas in a bid to reconfigure the gendered nature of public institutions in Kenya. Interwoven in the discussion are international agenda and movements in which Kenyan women were involved, and which then shaped their approaches to the fight for equality. Section two outlines the legal and institutional framework that governs gender equality rights, as informed by international agreements and treaties that Kenya is a signatory to, as well as the national constitutional framework. This is followed by a brief discussion on the current status of inclusion and equality in section three. Section four then summarises the interconnectedness between history, opportunities, challenges and responses to the institutionalisation of gender equality, and how these have influenced the equality status of women in Kenya. The effect of different national policies on gender relations among the Maasai is incorporated in these sections, to highlight changing dynamics on the equality status of Maasai women.

Summarily, the discussion highlights the effects of patriarchal norms, weak institutional mechanisms as well as shortcomings of the affirmative action agenda in Kenya. In fighting for equal rights for women, policy drivers have failed to engage women at all levels, the result of which is a gap in the position of women across the country. For Maasai women, this means that their engagement in political processes remains subject to customary norms on gender roles and power relations, due to the limited influence of formal institutional rules.

4.1 Historical Perspective

According to the United Nations Department of Economic and Social Affairs, women make up 50.1% of Kenya's population.[8] However, political, economic and social considerations have limited their political influence in the country. Most women, especially in rural areas, play socio-economic roles that are mostly invisible (Gichuhi and Njeri, 2016) as men dominate decision making positions. This reality is shaped by patriarchal structures that concentrate authority on the men, with women expected to be submissive to this authority. Nzomo (1997) notes that with perpetuation over time, the constellation of gender stereotypes, male resistance to the political participation of women, limited resources and political structures and processes has significantly contributed to the under-representation of women in decision making processes and political positions.

It follows therefore that Kenyan women still struggle to assert their agency in socio-economic and political environments. Theirs is a journey that has experienced many challenges, but one that has also introduced significant changes in the space occupied and role played by women in public affairs. According to Wambui (2016: 2) therefore, a look into Kenyan women's political participation involves the unravelling of a complexity rooted in state structures, both historical and contemporary, ''informed as much by colonialism, autocratic rule and recent democratic politics, as by social and cultural values steeped in patriarchy.''

In the following section, I analyse this complexity, by tracing the historical journey by Kenyan women for an increased role in the civic public sphere.

4.1.1 Pre-Independence (up to 1962)

In most African societies, history was, and in most cases continues to be, relayed orally instead of the more verifiable written context. Documentation on the status of women in pre-colonial Kenya thus began in the colonial era, through ethnographic studies on African communities. Incidentally, some argue that there was no place for women, with male councils of elders dominating, while others argue that some women had power, even over men (Owuor, 2016).

Among the Kikuyu for example, Clark (1980: 358) reports that both ''men and women, in their separate and overlapping, symmetrical and complementary tasks and activities, contributed to the political economy.'' This came as a critique of observations that long distance trade and diplomatic missions required great mobility and were too risky for women. In countering this,

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[8] United Nations Department of Economic and Social Affairs: Population Division http://countrymeters.info/en/Kenya Accessed: 03 01 2019

Clark (1980: 368) points out that Kikuyu women's engagement in food processing and distribution made them ''actors with control over resources vital in a system in which relations of production enter into political strategies and are built into the social relations of power.'' On the other hand, literature on the Maasai community places high significance on male dominance and the inferior position of women (Llewely-Davies, 1981; Spencer, 1993; Coast, 2001 among others). A critical look into the community's organisation however suggests that the complex social reality of the Maasai was not dominated by either sex, instead relying on a complementarity of roles (Hodgson, 2001; Spencer, 2003). Viewpoints on pre-colonial power relation can therefore be argued to be determined by informants and the interpretations of ethnographers in their relevant research communities.

Among the Maasai, just like superiority and roles were defined along age and gender, so was political power. In the case of men, the trajectory was marked by their transition through age sets. Hodgson (1999) notes that women followed a similar path, gaining more power and respect through events in their lives. Being mothers to warriors (*morans*) therefore earned them more respect as did their status as mothers-in-law, as this marked their increased contribution to the continuity of the society. Hodgson (1999) reports that women could initiate, attend and testify in legal proceedings, with their exercise of power being mainly indirect, through their sons and husbands. They could however openly share their opinions in gatherings that took place in their homes. Even though men took on more roles in public administration, women, especially the elders and senior wives, retained direct authority over younger women and children. This was mainly through dispute resolution and maintaining peace at home and with other communities (Hodgson, 2001), in addition to negotiating their children's marriage arrangements.

Men and women therefore played key complementary roles, with each party having the autonomy to act based on mutual respect. Therefore, even though men were more present in the political sphere, women were central in rituals that marked life transitions, including birth and naming ceremonies, circumcision, age-set transitions for men, and peace ceremonies (Hodgson, 2001). How then, did the influence of women become diminished?

Colonialism and the Reconfiguration of Power

The change in the status of women suggests an interference that reshaped power relations to magnify gender inequalities. Evidence of this is found in the effects of colonisation in Kenya. The indirect rule applied by the British colonial government allowed local African male leaders to redefine relationships and roles at the domestic level, especially in relation to the role and place of women in society. Wambui (2016) points out that in their position as local leaders,

men facilitated the passing of discriminative laws which not only excluded women from the political space, but also subordinated them in the domestic realm. With power over the adjudication of customary laws, local chiefs and elders redefined customs to their advantage, especially in matters of gender roles, sexuality, marriage, divorce, adultery and property rights among others.

Gender relations among the Maasai were not exempt from colonial reconfigurations. Customary rules of civic engagement and separation of powers among the Maasai can be traced to the incorporation of subjects into the state system under colonial administration. The pre-existing complementary, interconnected responsibilities of men and women were divided into "spatially separated, hierarchically gendered domains of 'domestic' and 'public/political' and the consolidation of male control over cattle through the commodification of livestock, monetization of the Maasai economy and targeting of men for development interventions" (Hodgson 1999: 43). This replaced communal land tenure by providing title deeds to male household heads, reflecting effects of policies such as the 1954 Swynnerton Plan aimed at intensifying the development of cash crop agriculture.

Male political authority and economic control were reinforced through the expansion of bases of power and introduction of new forms of property relations. Hodgson (1999) reiterates that this led to the curtailment of access and participation in political decision-making processes for women, relegating them to the domestic concerns of home and homestead.

Men's political authority intersected with the advantaged economic position and patriarchal influences to perpetuate the disadvantaged status of Maasai women. A lack of direct access to resources has thus affected the freedoms of expression and socio-economic development of Maasai women, limiting their capacity for action as chapter five will demonstrate. Colonialism therefore replaced the multifaceted property systems with a homogenous system of private property among the Maasai (Hodgson, 2001). Oyewumi (1997) reports on a similar outcome among the Yoruba of Nigeria, where the colonial system undermined the property rights of women and ignored their pre-existing role in public political decisions, as ownership rights shifted from being communal to private, and under male authority. In addition to not earning wages, women lost an avenue for wealth accumulation, spearheading present-day gendered wealth gaps.

Further, the codification of customary law perpetuated and protected by the Native Authorities and Native Authority Courts in Kenya emphasised the authority of men and powerlessness of women (Wambui, 2016). This process disregarded pre-existing socio-political structures and

women's positions in them, while at the same time ignoring challenges introduced by the colonial state structures. In reference to the case of the Yoruba, Oyewumi (1997) once again explains that there was nothing customary in the creation of customary law, since the British colonial government was ultimately the source of the codified customary law. Colonial administrators sought to develop a rational legal model guided by neutrality and consistency, by searching for ''rules in each "culture" which they could learn, record, and then apply to the specifics of the various cases'' (Hodgson, 1996: 109). They would therefore ''at different times, for different purposes, acknowledge or deny the existence of contending non-state legal orders'' (Porter, 2012: 166) by relying on elder men as figures of authority on culture and tradition.

The exclusion of women in these processes allowed for the reinvention of laws to serve the interests of men, successfully masculinising the civic public sphere. It is in these codification processes that hybrid legal systems came to existence, characterised by the acknowledgment of governance under both state (new) and non-state (pre-existing) laws (Porter, 2012; Merry, 2012). The influence of this plurality on gender equality legislation is explored in chapter seven.

All these notwithstanding, cases of the active political role of women in societies across Africa is documented. With reference to the women in the Kingdom of Dahomey in present-day Benin, for example, Segueda (2015) explains that despite many hindrances and instances of discrimination in the pre-colonial era, women were complementary and not subordinate to men. The subordination of women came about from the organisation of colonial states. The imposition of taxes, for instance, forced men to seek jobs in settlers' farms and urban areas, and women had to remain at home and take care of domestic needs by concentrating on human reproduction and subsistence farming to feed their families. While this made them de facto household heads, it further relegated them to the domestic space. This subjected them to the challenge of time constraints on political participation as will be further discussed in the next chapter. On the other hand, men got exposure to urban environments, and with it, increased socio-political awareness that facilitated their dominance in decision making.

Additionally, steady income from wage employment made men sole providers, while the unpaid domestic contributions of women became undervalued. Oyewumi (1997) points out that this contributed to the valuing of men's labour while the contribution of women became underrated. This was so, she explains, even though the wage earned by men was insufficient to meet all needs, and women were therefore responsible for ensuring the stability and continuity of their communities. Oyewumi employs a quote from Walter Rodney's *How Europe Underdeveloped*

Africa, to show just how significant this value system was (and continues to be in contemporary debates on the value of care and household work carried out by women).

> Since men entered the money sector more easily and in greater numbers than women, women's work became greatly inferior to that of men within the new value system of colonialism: men's work was ''modern'' and women's work was ''traditional'' and ''backward.'' Therefore, the deterioration in the status of African women was bound up with the consequent loss of the right to set indigenous standards of what work has merit and what did not. (Rodney, 1972: 227)

This laid the groundwork for the change in the socio-economic and cultural position of women in society, not only marginalising them, but leaving them subject to state and patrilineal interests. The result of this reorganisation of gender roles was that patriarchy within traditional cultures reinforced the negative influence of colonialism.

Another contributor to the restructuring of African societies was Christian teachings as introduced by missionaries during the colonial era. This happened through the push to abandon traditional practices that were deemed primitive and pagan. The complementarity of gender roles constituted these traditional practices and was therefore eroded in the quest for modernisation. In his discussion on imported religions, colonialism and the status of women in Africa, Segueda (2015) points out that the combination of Christian teachings on women's submission to their men merged with the colonialists' propagation of norms of female domesticity dominant in Europe at the time. Pointing to Germany for example, he notes that discourse on the role of a woman in society ''was summed up and circumscribed by the three "K" words: Kinder (children), Kirche (church), and Küche (kitchen)'' (Segueda, 2015: 11). This was the approach that was transferred to their African colonies, including Kenya's neighbour, Tanganyika.

A similar attitude is also found in the missionary and colonial approach by the British. Oyewumi (1997) notes that Christianisation was as an integral part of colonialism, and one where gender bias was also applied. She narrates that among the Yoruba of Nigeria, missionaries applied different forms of education for men and women. She points out that men ''were seen as potential clerks, catechists, pastors, and missionaries in the service of the church. There was no place for women in these professions except as wives, as helpmates to their husbands'' (Oyewumi, 1997: 129). This reflected the attitudes among the colonialists themselves, as demonstrated by the positions held by their wives as companions and housekeepers in their colonies, including Nigeria and Kenya.

The transfer and adoption of such viewpoints on the position of women completely reorganised the socio-cultural space in colonial states (Anunobi, 2002), a process made even easier by the fact that all colonial masters, military and political leaders were men. Oyewumi (1997) explains that during the colonial era, access to power in Britain was gender based, and politics was men's domain. As a political institution therefore, colonialism was not exempted from this bias. To further elaborate on this, she refers to the description of colonial rule by Albert Memmi, as ''a manly or husbandly or lordly prerogative'' (Oyewumi, 1997: 121). Being a British colony therefore, the Kenyan political scene adopted the exclusion of women.

By the time Africans got involved in political representation in 1944, the slots were unsurprisingly given to men. When there was an emergence of Kenyan leaders in the 1950s, there was no women representation. There were no women in the elections of 1957, where the number of women voters was also significantly low. Citing the example of Machakos district, Owuor (2016) refers to a newspaper report that only 12 of the registered 9,000 voters were women, and even then, not all turned out to vote.

All these disruptions notwithstanding, there is documented evidence of Kenyan women's engagement in political resistance, from providing logistical support to the Mau freedom fighters and even getting directly involved in the fighting. Women spearheaded the 1920 Harry Thuku uprising, where they marched to demand that the colonial government release Harry Thuku, then a political prisoner (Kabira and Kimani, 2012). The case of Mekatilili wa Menza[9]from the Giriama community in coastal Kenya is one of the most celebrated cases of female political resistance in Kenyan history. She was a woman in a patrilineal society that did not allow women to speak in public, much like the Maasai. Mekatilili however took advantage of the special rights accorded to widows such as herself, allowing them to speak in public and contribute to decision making. She therefore adopted traditional performance and the aid of a traditional medicine man, Wanje wa Mwadori Kola, to legitimise her actions and gain support from the people, enabling her organisation of a rebellion against British colonialists.

These cases demonstrate that despite male dominance, the intersectionality of socio-cultural markers such as old age and widowhood in the case of Mekatilili, created spaces of exception which allowed women to find avenues of influence. Additionally, their authority over

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[9] Badass women of history: Mekatilili wa Menza http://tuftsobserver.org/badass-women-of-history-mekatilili-wa-menza/ Accessed: 12.02.2018

reproduction and agriculture gave them bargaining power which meant that they were not entirely passive bystanders to male authority.

Towards independence, the British colonial government nominated Ms. Priscilla Ingasiani Abwao, the first and only woman to the 1961 legislative council (Kanyi, 2016). As the only woman in a team of 70, it is noted that she did not get to speak and was reportedly only successful at submitting a written memorandum on behalf of Kenyan African women. This signalled the disinterest to acknowledge the input by women during the struggle for independence, blocking any headway in discussing gender equality and representation in the post-colonial state. In 1962, she initiated the first women's caucus and was involved in organising the Kenya African Women's Seminar to discuss how women would benefit from the colonial government's initiative to transfer government jobs to Kenyans (Ibid, 2016). At this point however, the colonial and religious influence on gender roles had already shaped the inequalities that largely prevail.

4.1.2 Post Independence: The one-party state (1963 – 1992)

Six months before the formal declaration of Kenya's independence, the first general election was held. As registered voters, women put in the request to nominate women representatives to the East African Common Services Commission and external bodies such as the United Nations, as well as a 10% representation in the committee planning the independence celebrations (Owuor, 2016). These requests were disregarded by both the outgoing and incoming governments, once again signalling a non-commitment to the inclusion of women. Women were neither party officials nor contenders in the election, creating a blockade to their access to political party operations and structures. Their participation was limited to voting, an approach that has shaped the nature of women's political agency throughout the years.

Wambui (2016) highlights that the colonial indirect rule had groomed a generation of very powerful individuals who sought to centralise state power in the post-colonial African states. She explains that the rationale behind this was to homogenise the ethnically and religiously plural societies that characterised the demographics, to fit into the European idea of nation states. Kenya was therefore administratively subdivided into provinces, under which came districts, divisions, sub-divisions, locations and sub-locations in descending order.

In 1983, the government begun a decentralisation initiative, dubbed District Focus for Rural Development, whose aim was to ''change from top-down, sector based to integrated, participatory, bottom-up development planning'' (Ndii, 2010: 4). Development planning and coordination were delegated to district development committees which were tasked with

mobilizing civil servants, elected representatives and community leaders in the implementation of district development plans. This initiative was however regarded unsuccessful due to, among others: ''its reliance on an institutional framework that did not facilitate meaningful local decision making and mobilization of resources…lack of adequate capacity in participatory planning among civil servants…and lack of people's awareness of and participation in planning and implementation of the strategy (Ndii, 2010: 4). These failures prevail under the devolution structure whose operation begun in 2013, as chapter six will later demonstrate.

These post-independence political structures continued the entrenchment and legitimisation of patriarchal norms in a manner that curtailed the political leadership of women. This was made possible by the male dominance of the political space and one whose quest for hegemony informed the propagation of women's subordination as a unifying factor. This was reinforced by the adoption of patrimonial politics, reflecting what Oyewumi (1997) describes as the hallmark of the colonial era; a public sphere where only men could participate. The male political class joined in the reconstruction of the image of an African woman that was happening across Sub-Saharan Africa (Wambui, 2016), where the 'real African woman' was domesticated and an embodiment of tradition, as opposed to her liberated and emancipated western counterpart. This discourse reinforced wifehood and motherhood at the expense of other socio-cultural and economic roles of women. In the process, promises made to address equality concerns for women during the fight for liberation were ignored.

The Post-Colonial Reinforcement of Patriarchy among the Maasai

Development policies adopted after independence did little to improve the status of Maasai women. For example, Kibutu (2006) reports that the Kenyan government embarked on efforts to modernise the Maasai community, with the assistance of donors such as the World Bank. This modernisation rhetoric is reminiscent of colonialism's belief in ''the modern or progressive over the traditional or the savage'' (Oyewumi, 1997: 121). The Maasai land tenure system was for example regarded as outdated and requiring an update to reflect the politico-economic environment. The government received a lot of funding to develop pastoral areas, and as a prerequisite, the World Bank demanded that communal land tenure be replaced by a system that was responsive to market forces. This requirement that fit well with the colonial private property system.

In 1968, the Land (Group Representatives) Act was introduced, marking the registration of a block of land by a group of pastoralists. This was aimed at promoting commercial ranching and discouraging nomadic pastoralism, thus integrating the Maasai into capitalism (Galaty, 1992;

Rutten 1992). A group ranch was to be an arrangement whereby ''a group of people jointly have a freehold title to land and aim collectively to maintain agreed stock levels, to herd collectively, but to maintain individual stock ownership'' (Kibutu, 2006: 137). This, of course, ruined the Maasai social structure and gendered organisation, as the management of the ranches was initially managed by influential individuals with political connections, and therefore driven by private interests. Even after this was revised, it had already set the pace for the concentration of power in a small group of individuals (Kibutu, 2006) a status that prevails today.

In response to changing politico-economic realities in Kenya, the Maasai have significantly reduced sole-reliance on pastoralism. The group ranch system today is thus dominated by mixed-scale agriculture as well as tourism related ventures. Some areas are also set aside or sold off to industrial investors such as the Simba Cement plant in Kajiado South. However, even after the revision in the management appointees, group ranches continue to be run by individuals who seemingly do not care for the common good in their respective communities. This has caused disenfranchisement, as investment decisions are neither consultative nor transparent, and mostly benefit a few individuals. Complaints are widespread, as incidents of corruption become rampant in the face of socio-economic challenges faced by the community.[10]Group ranches are therefore at the heart of socio-economic and political dynamics of the Maasai community, a scope too wide for purposes of this study. However, the relevance of the effects of group ranches' operations on the status of women will be highlighted in subsequent chapters.

Setting the Pace for the Institutionalisation of Equality in Kenya

Upon his election, Kenya's first President, Jomo Kenyatta, embarked on a political philosophy that focused on community spirit called *Harambee*. It was driven by a vision of working together for the collective good, but the political struggles of women were still not on the agenda. A reflection of this is to be found in the Constitutions of 1963 and 1969, which presented a flawed Bill of Rights, an oversight that could be linked to the exclusion of women in the drafting processes. Looking at Section 70 of the repealed Constitution,[11]one is presented with a very logically spelt out provision for equality. It reads:

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[10] Two dead in Kajiado as protesters, police clash over land https://www.the-star.co.ke/news/2016/03/19/two-dead-in-kajiado-as-protesters-police-clash-over-land_c1316301 Accessed: 15.10.2018

[11] 2008 Revised Edition
http://kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution%20of%20Kenya%20(Repealed).pdf

> Every person in Kenya is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin, or residence, or other local connection, political opinions, colour, creed or sex but subject to respect to the rights and freedoms of others and for the public interest.

This is followed by circumstances under which discrimination would not be tolerated in Section 82 (1):

> No persons shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or public authority.

It is upon scrutiny of this section that one notices the deliberate exclusion of one obvious ground for discrimination. In Section 82 (3), the repealed Constitution defines avenues for discrimination thus:

> In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connection, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

Conspicuously absent is gender as a basis for discrimination. Austen and Mavisakalyan's (2016) cross-country study on Constitutions and the political agency of women highlights that the constitutional building process offers opportunities for the protection of women. One could argue therefore, that the omission on gender discrimination noted above would not have been made if women were part of the constitutional drafting process.

All these notwithstanding, women were mobilising themselves, and the National Council of Women of Kenya (NCWK) was gazetted in 1965 as the umbrella body for all women organisations in the country. NCWK is also the national chapter of the International Council of Women. Despite a lack of support, Kenyan women continued to be active in political engagement. They were represented in the First World Conference on Women in 1975, held in Mexico. The head of the Kenyan delegation, educationist Eddah Gachukia, was however of the opinion that the conference, by focusing on equality, did not really cater to the needs of the Kenyan women, who were mainly concerned with issues such as access to water (Owuor, 2016).

In effect, this signalled the gap between the struggles of the ordinary Kenyan woman and that of her global counterparts.

Kenyan women continued with their global engagements and were also present at the Second World Conference on Women in 1980 in Copenhagen. The conference came a year after the adoption of CEDAW by the United Nations General Assembly. Owuor (2016) further details that as chair of Maendeleo ya Wanawake Organisation (MYWO),[12] Ms. Jane Kiano led a team that helped bring the matter of Female Genital Mutilation to the global scene. Having carved a space in the global arena, Kenya hosted the Third World Conference on Women in Nairobi in 1985, where reflection was on the fact that regardless of the declarations from previous global conferences, the equality status of women was still problematic. By hosting this conference, Kenyan women were able to demonstrate that their goals were part of the global equality agenda. It is also at this time that the Federation of Women Lawyers in Kenya (FIDA) was formed. FIDA went ahead to be a key player in the constitutional review process (Domingo et al., 2016) and continues to be a key player in the equality and women rights landscape in Kenya today.

However, success at home was made difficult by the inability to unify all women's organisation and have one voice. By 1987 for example, MYWO had been annexed by the ruling party, Kenya African National Union (KANU), a process through which the organisation lost its independence. The co-optation of MYWO into the ruling party made it difficult for women to be critical of the government, in addition to their lack of independence in agenda setting. Focus was then on issues such as nutrition, childcare, health and women's morality. Individuals and organisations that disagreed with this approach were punished, as was the late Nobel Peace Laureate, Professor Wangari Maathai.[13]

Prof. Wangari Maathai contested to be chair of the NCWK in 1979, a time when President Moi was trying to curb the political influence of the Kikuyu, an ethnic community that the professor belonged to. Even though she narrowly lost the bid to be chair, Prof. Wangari Maathai was chosen to be the vice chair of the NCWK and was later elected as chair in 1987. This prompted

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[12] A development initiative by the colonial government, it was established in 1952 as a grassroots welfare organisation which mobilised women and created avenues for them to deliberate on how they could improve their livelihoods. It was guided by a conservative image of gender roles, with a goal to introduce women to modern techniques of home management. It however informed the beginning of women's socio-political organisation, especially after leadership was transferred to an African woman in 1961 during the Africanisation process (when colonialists transferred power to Africans before independence).

[13] The Ecology of Public Space: from Uhuru to Taksim http://www.greenbeltmovement.org/node/456 Accessed: 12.02.2018

MYWO to separate itself from the NCWK umbrella and become the government's funding channel for women's affairs, causing NCWK to experience financial constraints. Under NCWK, Prof. Wangari Maathai started the Green Belt Movement, to respond to the sustainability concerns of rural women, arising from environmental degradation. Their activities received global attention, earning Prof. Wangari Maathai numerous awards. The government of Kenya forced a separation of the Green Belt Movement from the NCWK, claiming that the two organisations should focus on environmental and women's issues respectively.[14]

The 'disorganisation' exhibited by the separation of MYWO from NCWK was used by male politicians to discredit women's political leadership as they could seemingly not agree among themselves. Speaking at a predominantly-women seminar, President Moi caused an outrage by claiming that women could achieve so much, but their little minds would not allow them to achieve what they are expected to achieve.[15] Despite all these however, women managed to unite in their solidarity and formation of strategic alliances that helped ensure that women's issues became mainstream.

4.1.3 From Multi-party Democracy to a New Constitution (1992 - 2010)

The early 1990s witnessed the awakening of the fight for political empowerment by Kenyan women. This was a boost for democracy, which Dudley (2016) reiterates is hinged on incorporating voices of the majority. The awakening coincided with the international movement for women's empowerment, giving a positive impact on the struggle by Kenyan women. The women's movement in Kenya[16]made use of the international conventions outlined in Table 4.2 in sub-section 4.2.1 below to advance their agenda. Increased consciousness among women on their socio-economic and political rights added momentum to the fight for equality. Kenyan women therefore received a major boost from the CEDAW and the 1985 world conference to review and appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace. These ensured the alignment of the fight by Kenyan women with the international agenda.

Evidence of these efforts culminated in 1992 when the NCWK and the Africa Women's Development and Communication Network (FEMNET) organised a National Women's

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[14] Detailed information on this can be found in Prof. Wangari Maathai's memoir *Unbowed.*

[15] Outrage at Moi remark http://news.bbc.co.uk/2/hi/africa/1209531.stm Accessed: 15.04.2018

[16] In-depth analysis on the role of this movement can be found in Regina Mwatha's (2017) *The Women's Movement in Kenya,* as well as Antje Daniel's (2016) *Organisation – Vernetzung – Bewegung. Frauenbewegungen in Brasilien und Kenia* and Sonja Wölte's (2008) *International, national, lokal. FrauenMenschenrechte in Kenia.*

Convention to discuss how women could access political power. The convention focused on establishing an ''institutional framework for gender mainstreaming and resulted in the establishment of the National Gender Commission, a ministry in charge of women affairs, children and social services, a presidential directive for 30% women's representation in public service, establishment of women's fund and publication of the Sexual Offences Act, among many other gains'' (Kabira and Kimani, 2012: 843). Thus, 1992 became the year when the journey for the political inclusion of women under the current framework formally gained momentum.

The following years focused on network building and gender mainstreaming in public institutions. The 1995 Beijing Conference, where Kenyan women actively participated, also created an opportunity for them to further articulate their agenda. In its recognition of women's role in peace and security, the United Nations Security Council Resolution 1325 of 2000 promoted the inclusion of women in all decision-making institutions and structures. This also boosted the efforts of Kenyan women, encouraging them to pursue legislation to ensure their presence in these institutions. They fought for a 'critical mass' of women to de-masculinise these institutions, making them more democratic and responsive to women's needs (Kanyi, 2016). Data collection on women's representation at all institutional levels was undertaken, to highlight the negative effects of their marginalisation. The women then decided on affirmative action as the pathway to rectifying the situation. This process was however driven and dominated by a section of elite women – lawyers and those in academia – the prevailing effect of which is poor participation by women at the local level due to a lack of information and consequent engagement.

In 1997, Phoebe Asiyo tabled a motion in parliament, to increase the number of women in decision making at parliament and local government to 33%. This effort demonstrated the belief in the quota system as a means to increasing the number of women in politics in order to change gender policy debates (Sacchet, 2008; Childs and Krook, 2008). The motion however failed, with some of the arguments against it being that men represented all citizens, the Constitution did not stop any woman from going to parliament, and most importantly, that there was already a woman heading the Ministry of Culture and Social Services (Kanyi, 2016). While an increase in the number of women in the political scene would be a sign of change, the available crop of women who could easily take up political positions were either socialised into ''androcentric political ethos'' (Wambui, 2016: 7), or too connected to the male political class to be of any help to the rest of the women in Kenya. In 1997 for instance, Zipporah Kittony, as chair of

MYWO, urged women to vote for then President Moi, since women were not yet ready to lead.[17]She went further to encourage Charity Ngilu, the only female presidential candidate then, to seek the 'fatherly guidance' of Mr. Moi, as this was what Kenyans needed. It is worth noting that she is a relative of President Moi.

These challenges notwithstanding, there was a lot of mobilisation by women groups, involving grassroots organisations and making affirmative action a national movement. Key organisations involved in this process included MYWO, NCWK, FIDA, The League of Kenya Women Voters, the National Commission on the Status of Women, and Kenya Women's Political Caucus (KWPC) among others (Domingo et al., 2016).

When the ruling party – KANU – won the 1997 elections despite strong opposition, the debate on reviewing the Constitution began. Women lobbied to be part of the negotiations under the Women's Political Caucus, where they negotiated for inclusion in drafting the law to review the Constitution. KANU opposed this, wishing instead that negotiations be led by MYWO even though the organisation was registered and therefore represented by the KWPC. This was informed by KANU's recognition of its ability to influence what commissioners would be nominated to the review commission (Kabira and Kimani, 2012). These efforts were however not successful. KANU also wanted a parliamentary review process, which was rejected by religious and civil society groups who sought a people-driven review process. A citizen-driven process would ensure the inclusion of checks and balances that were not aligned with KANU politics, but in the interest of the population.

The constitutional review process kicked off in 1998 courtesy of The Constitution Review of Kenya Act, 1998. Debates on the leadership of the process delayed it by two years, but the Constitution of Kenya Review Commission (CKRC) was finally constituted. It had 27 commissioners, a third of whom were women from various backgrounds, a nod to the importance of including a critical mass of women in policy processes. These commissioners came together to lead consultations on what became famously known as the *Wanjiku* Constitution. *Wanjiku* is a female name from the Kikuyu community, and one that bears resonance to the ordinary *mwananchi* (Swahili for citizen). *Wanjiku* therefore became the symbol of expectations by ordinary citizens.

Another affirmative action motion was presented by Beth Mugo in 2000, seeking a 30% representation of women in parliament, and it was a success. In 2001, she tabled another motion,

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[17] Saturday Standard, July 28, 2002

seeking representation of marginalised groups and women. The Attorney General amended the bill to have its contents reviewed by the CKRC, which then convened a conference to draft the Constitution in April 2003. The drafting continued to April 2004. Throughout, women were able to make contributions, as well monitor the progress, with key players such as the Federation of Women Lawyers (FIDA) Kenya, Kenya Human Rights Commission (KHRC), League of Women Voters, and the Institute for Education and Democracy paying scrutiny (Owuor, 2016). The 2005 draft Constitution was however rejected, with gender being one of the nine contentious issues (Kameri-Mbote, 2016), and the review process resumed in 2006.

With the promise that the new Constitution would address the adequate representation of women in parliament and local government, a technical committee on women and marginalised persons embarked on educating their constituents. Women therefore followed the constitution review process very closely, to ensure that their needs were prioritised. Extra effort was required to counter the lack of support for the rights of women due to the patriarchal stereotypes of empowered women. In the end, affirmative action was successfully integrated into the draft by the Constitution's committee of experts.

When the Constitution was brought to a referendum on 4th August 2010, it was overwhelmingly voted for, and subsequently promulgated on 27th August 2010.

4.1.4 Post Promulgation of the New Constitution

Guided by the critical mass theory, affirmative action was adopted as the gateway to achieving gender equality in Kenya. This approach is designed to address the slow pace of change in women's political participation in areas of historical under-representation. Dudley (2016) emphasises that the adoption of gender quotas guarantees equality in results, by ensuring that there is a substantial representation of women. It is also a nod to the normative isomorphic process of setting acceptable minimums (Powell and DiMaggio, 1991) in the pursuit of gender equality. As chapter two has highlighted, quotas help in reversing the association of politics to men (Baldez, 2006), allowing women to break into the political space as has been demonstrated in Rwanda.

To promote the involvement of women in decision-making processes, Article 81(b) of the 2010 Constitution of Kenya provides that "*the electoral system shall comply with the following principle: not more than two thirds of the members of elective public bodies shall be of the same gender.*" To ensure compliance, Article 27(8) further demands that the state take legislative and other measures to implement the principle of Article 81(b).

A report by Steel et al. (2015) however shows that less than 19% of the 11th National Assembly and a mere 27% of the Senate comprised of women, meaning that there was no realisation of the gender equality principle in the first elections after the promulgation of the new Constitution. During these elections in March 2013, only 16 women were elected as Members of Parliament with none who vied for the governor or senator positions winning (Ndeta, 2013). As a result, Kenya had the lowest number of women parliamentary representatives compared with at least 30% in all its East African neighbours, except for South Sudan. This was however an improvement from the previous 9.8% representation in the 10th national assembly. It was also the first time that a woman from the Maasai community was elected to the National Assembly.

Regrettably, the 11th parliament not only failed to meet the gender representation requirement, but it was also unsuccessful at laying the legislative foundation on the same for the 12th assembly (Owuor, 2016). An amendment bill presented to parliament to make it easier to fulfil the two-thirds gender rule failed to muster two thirds of the National Assembly's vote. On 27th April 2016, the bill garnered 195 votes, with 28 MPs voting against it and at least 24 parliamentarians refusing to vote or indicate their abstinence. Upon realising that the numbers did not meet the threshold to get the bill subjected to a second vote, the speaker of the National Assembly invoked standing order number 62 (2):

> Whenever a Bill or a special Motion the passage of which requires a special majority in the Assembly fails to obtain the required majority 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, and the further vote shall be taken within five sitting days from the day the first vote was taken (National Assembly, 2013).

A week later, on May 4th, the bill was once again rejected. This occurred despite extensive lobbying by the Kenya Women Parliamentarians Association, civil society organisations and calls for support by the executive and opposition leaders. Reasons for the rejection ranged from the argument that women in parliament were underperforming, male parliamentarians represented everyone thus no need for special treatment of women, and that with an already bloated assembly, bringing in more women was just a strategy to have people nominate their girlfriends.[18]

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[18] Why Kenyan MPs shot down gender bill https://www.standardmedia.co.ke/article/2000200820/why-kenyan-mps-shot-down-gender-bill Accessed: 06.05.2016

In this instance, the male dominated assembly evidenced that despite the constitutional milestone, patriarchal attitudes continue to influence acceptance of women's political action. This validates the assertions by Nzomo (1997) on structural barriers to gender mainstreaming. The lack of political will to institute change means that the journey is far from over. Kenya's performance, Nzomo (2011) highlights, is in sharp contrast to the country's pioneering role in the region's post-1990 multi-party women empowerment programs. This, she notes, raises concerns on the disparities between policy theory and practice.[19]

After the 2017 general elections, there was a 2% increase in the representation of women elected to the 12th national assembly, but this representation remains below the constitutional one third minimum, and lags behind that of Kenya's neighbours. This increase in representation is illustrated in Table 4.1 below, which highlights the representation of women in parliament since the first post-independence general elections of 1963.

Improvements in the representation of women in Kenya are attributable to the 47 positions of women representatives (Maina, 2013), which effectively increase descriptive representation. The 47 positions are so determined by Article 97(b) of the 2010 Constitution. Substantive representation is mainly guided by provisions in Parts VIII and IX of the County Governments Act No. 17 of 2012, which set out guidelines for Citizen Participation and Public Communication and Access to Information respectively.

Increasing the percentage of women in public life through political institutions is also pursued under Chapter 11 of the 2010 Constitution on devolution. This is made possible in the legislature and public administration of devolved governments, as well as through public participation. However, the system of male dominance, patronage and the financial resources required to actively participate in politics has created a barrier for a majority of women. Consequently, Kenyan politics remains a male domain, a dominance that plays out in legislative decisions on gender equality where officials continue to disregard the constitutional mandate for the critical mass representation. The ruling by the Supreme Court on the progressive realisation of gender equality by 27th August 2016 thus remains unfulfilled.

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[19] Increased representation does not necessarily equate to the empowerment of women. This is evident in the case of Rwanda which ranks at the top globally on the representation of women, but women still face socio-cultural challenges linked to gender-based inequalities as Neeknaz Abari summarises here: http://www.representwomen.org/public_versus_private_realms_women_s_empowerment_in_rwanda Accessed: 10.02.2018

Table 4.1 Women representation in Kenyan parliament, 1963-2017

Term	Period	No. of Constituencies	Elected		Nominated		Total		
			Men	Women	Men	Women	Men	Women	Total
1st	1963-1969	158	158	0	0	2	158	2	160
2nd	1969-1974	158	157	1	10	1	167	2	169
3rd	1974-1979	158	154	4	14	2	168	6	174
4th	1979-1983	158	154	4	11	1	165	5	170
5th	1983-1988	158	156	2	9	1	165	3	168
6th	1988-1992	188	186	2	10	0	196	2	198
7th	1992-1997	188	182	6	12	1	194	7	201
8th	1997-2002	210	206	4	9	5	215	9	224
9th	2002-2007	210	200	10	4	8	204	18	222
10th	2007-2013	290	194	16	6	6	200	22	222
11th	2013-2017	290	274	63	7	5	281	68	349
12th	2017-2022	290	267	70*	6	6	273	76	349

Source: Author's compilation.

*47 of whom are elected as Women Representatives for each county.

An amendment to Article 97[20]of the Constitution has been proposed, to ensure that a special number of seats is determined after elections, so that no more than two thirds of elected members are of the same gender. This echoes the requirement under Article 177(b) that each County Government Assembly should consist of *the number of special seat members necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender*. This provision has created a de facto system where political parties nominate women after elections to fill the gender quota.

While the same is being pursued at the national assembly, it is the amendment's call for this to be realised in 20 years from the first general elections under the Act that raises concerns. If adopted, the push to ensure gender equality is postponed to 20 years after the 2022 elections, which effectively creates room for the continued political exclusion of women. It is also important to note that under Article 177(b) political parties are not motivated to nominate women for elective positions, and instead 'hand out' nomination slots to their proxies. By ending up as ineffective representatives, this strategy has done little to demonstrate women's

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[20] The Constitution of Kenya (Amendment) Bill, 2018
http://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2018/ConstitutionofKenya_Amendment_Bill_2018.pdf

capacity to take on political leadership and push agenda relating to gender equality and the specific needs of women, reflecting elite (male) captured in India by Mueller (2016) and Kabeer, as well as propagating the narrative of 'flower girls' in the Kenyan parliamentary system.

In retrospect therefore, the inability to meet constitutional requirements on the quota system in Kenya is a clear demonstration of a decoupling process (Mackay et al., 2010) while further highlighting the power of non formal institutional norms and considerations in influencing formal institutional goals.

A parliamentary debate on 28th November 2018 further highlighted this, after failing once again due to a lack of quorum. This happened even though members were reportedly present in parliamentary buildings, forcing a postponement further pushing the debate to 2019.[21] On 27th February 2019, a quorum hitch caused the bill's fourth failure, signalling a constitutional crisis that could necessitate another general election.

Moving away from these operational inefficiencies, I briefly shift to outline the framework under which the political engagement of Kenyan women is currently pursued and promoted.

4.2 Legal and Institutional Framework

There is an extensive legal framework that informs the parameters of the promotion, realisation and evaluation of gender equality in Kenya. It also highlights the constitutional institutions with the mandate to promote gender equality.

4.2.1 Legal Framework

As discussions so far evidence, special legislation is passed to protect and advance the rights of special interest groups such as women. Kenya is a signatory to several international and regional human rights treaties, charters, conventions, protocols and agreements, which are backed by additional national laws aimed at promoting gender equality for socio-economic development. These are outlined in Table 4. 2 below.

With these commitments to international and regional legal frameworks, Kenya's commitment to advancing human rights is also reflected in the 2010 Constitution. The Bill of Rights is exceptionally explicit in its focus on principles of equality and the advancement of rights. Additionally, Article 2 explicitly states that; (5) The general rules of international law shall

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[21] House shelves gender equity bill as quorum hitch hits vote https://www.nation.co.ke/news/politics/Aden-Duale-shelves-gender-Bill/1064-4872784-tettku/index.html Accessed: 28.11.2018

form part of the law of Kenya and (6) Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

The country is therefore obliged to honour the provisions of all international and regional agreements it has signed up for, by incorporating the same in the national legal system. The Constitution therefore has several provisions in line with the advancement of equality.

Table 4.2 Kenya's International Legal Commitment to Equality

International	Continental
Universal Declaration of Human Rights (1948)	African Charter on Human and Peoples Rights (1981)
International Convention on the Elimination of all Forms of Racial Discrimination (1965)	AU African Youth Charter (2006)
International Covenant on Economic, Social and Cultural Rights (1966)	Protocol on the Rights of Women in Africa (2005)
International Covenant on Civil and Political Rights (1966)	African Union's Solemn Declaration on Gender Equality in Africa (2004)
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)
Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1984)	African Plan of Action to Accelerate the Implementation of the Dakar and Beijing Platforms for Action for the Advancement of Women (1999)
Convention on the Rights of the Child (1989)	Constitutive Act of the African Union, the Dakar Platform for Action (1994)
Convention on the Rights of Persons with Disabilities (2006).	African Charter on the Rights and Welfare of the Child (1990)
	AU Cultural Charter for Africa (1976).

Source: Author's compilation

4.2.2 Institutional Framework

The Constitution is clear on the role of state organs to protect the welfare of special interest groups. This is spelt out in Chapter Four on The Bill of Rights, Article 21(3):

> All State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

In all their operations therefore, state agents and agencies are expected to respect and promote the socio-economic and political interests of women. However, there are specific bodies that are constitutionally mandated to promote the equality status of women. These are the National Gender and Equality Commission and the Kenya National Human Rights Commission. The

two commissions partner with civil society organisations in the shared goal of protecting and promoting the rights of women in Kenya.

National Gender and Equality Commission (NGEC)

NGEC acts as the principal state organ in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination for special interest groups such as women, persons with disabilities, and children.[22]Bearing the largest responsibility, the commission mainly derives its mandate from Articles 10, 27, 43 and 59, as well as Chapter 15 of the 2010 Constitution. Article 10 spells out national values and principles of governance, Article 27 deals with equality and freedom from discrimination, Article 43 focuses on economic and social rights, and Article 59 establishes the Kenya National Human Rights and Equality Commission. Chapter Fifteen provides information on commissions and independent offices.

The functions of the commission are provided in Section 8 of the NGEC Act 2011, and include among others, to:

- Monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions.
- Co-ordinate and facilitate mainstreaming of issues of gender, persons with disabilities and other marginalised groups in national development and to advise the Government on all aspects thereof.
- Monitor, facilitate and advise on the development of affirmative action implementation policies as contemplated in the Constitution.
- Investigate on its own initiative or on the basis of complaints, any matter in respect of any violations of the principle of equality and freedom from discrimination and make recommendations for the improvement of the functioning of the institutions concerned.
- Work with other relevant institutions in the development of standards for the implementation of policies for the progressive realization of the economic and social rights specified in Article 43 of the Constitution and other written laws.
- Work with the Kenya National Commission on Human Rights, the Commission on Administrative Justice and other related institutions to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and

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[22] Mandate and Function Of NGEC http://www.ngeckenya.org/about/15/mandate

collaboration in the protection and promotion of rights related to the principle of equality and freedom from discrimination;

- Prepare and submit annual reports to Parliament on the status of implementation of its obligations under this Act.

These aspects of Equality and freedom from discrimination that NGEC is tasked with are fundamental rights in accordance with Kenya's Bill of Rights as laid out in Chapter Four of the 2010 Constitution. The Bill calls for recognition and protection of human rights and fundamental freedoms in order to preserve the dignity of individuals and communities, and to promote social justice and the realisation of the full potential of Kenyans. In carrying out its mandate, NGEC conforms to national values and principles of governance introduced by the Constitution. These values and principles include sharing and devolution of power, the rule of law, democracy and participation of the people, good governance, integrity, transparency and accountability, and sustainable development among others (Franceschi et al., 2015).

Kenya National Human Rights and Equality Commission (KNHRC)

Established under Article 59 of the Constitution, the commission is mandated to, among others, promote gender equality and equity, and to coordinate and facilitate gender mainstreaming in national development (subsection 2 (b)). Specific functions of the commission include to:

- Promote respect for human rights and develop a culture of human rights in the Republic.
- Promote the protection and observance of human rights in public and private institutions.
- Monitor, investigate and report on the observance of human rights in all spheres of life in the Republic.
- Receive and investigate complaints about alleged abuses of human rights, except those relating to the violation of the principle of equality and freedom from discriminations under the gender and equality commission, and take steps to secure appropriate redress where human rights have been violated.
- On its own initiative or on the basis of complaints investigate or research matter in respect of human rights, and make recommendations to improve the functioning of State organs.
- Act as the principal organ of the State in ensuring compliance with obligations under international and regional treaties and conventions relating to human rights except those that relate to the rights of special interest groups protected under the law relating to equality and non-discrimination.

- Work with the National Gender and Equality Commission and the Commission on Administrative Justice to ensure efficiency, effectiveness and complementarity in their activities and to establish mechanisms for referrals and collaboration.

KNHRC therefore collaborates with NGEC to complement each other's roles in the promotion and protection of human rights and gender equality in the country. In fulfilling their brief, the two constitutional bodies also work together with MYWO, the Caucus for Women's Leadership, the Federation for Women Lawyers in Kenya (FIDA) and the Kenya Women Parliamentary Association (KEWOPA) among other civil society groups, which share in the goal of protecting and promoting the rights of women.

Having outlined the historical trajectory of gender equality in Kenya, the following section examines the current status of women's representation. I briefly describe the equality environment resulting from the current legal and socio-political environment.

4.3 Status of Equality and Inclusion in Kenya's Political Representation

Despite the well laid out legislation, Kenya seems to be failing in its quest for gender equality, pointing again to the gap between policy and practice. The national assembly does not meet the constitutional gender quota to guarantee equality in representation. All the efforts made by lawyers, academics and several civil society groups have not yielded the much-needed critical representation of women. Structural elements of the gender equality legislation are decoupled from the activities that would ensure its success leading to a loss of legitimacy (Meyer and Rowan, 1977) as will be demonstrated shortly. This failure echoes the critique by Claire Mathonsi (former director of operations at the Western Cape Network on Violence against Women) on the situation in South Africa, as captured by Christi van der Westhuizen (2011). She notes that in many ways, women's rights have been incorporated into the larger human rights discourse, which categorises women as a special interest group just like youth and persons with disabilities.

Mathonsi argues that this approach relegates women to a tick box category, which fails to deal with the crux of the problem that women are facing, which is patriarchal power relations. This can be seen for example, at county government assemblies, where political parties focus more on nominating women to fill the gender quota after elections, instead of fronting women candidates for elective positions. By so doing, this approach fails to deal with the normative realities of social and power relations in society and within political institutions (Lovendsuki, 2011). These sentiments reflect the issues that came up during the constitutional review process in Kenya, where major setbacks were caused by men's reluctance to accept the equal status of

women. Negative comments from male leaders, including the president, point to the reality that success lies not in dealing with gender equality as purely a policy matter, but going further and interacting with the unequal power relations that necessitate the debate in the first place. It is only by doing so that the gendered nature of institutions can be uncovered, allowing for the deconstruction of masculinist ideologies and unequal power relations (Mackay, 2008; Krook and Mackay, 2011).

Reflecting on the provisions of the two thirds gender rule highlights a goal focus on descriptive and not substantive representation. This approach, Mathonsi argues, ''replaces substantive issues with numbers. For example, when we talk about 50/50 representation in government, we don't talk about influence. When we talk about 50/50 political participation, we don't talk about decision making'' (van der Westhuizen, 2011: 13). Looking at the situation in Kenya, this critique echoes the one made by Nzomo (2011) that the continued focus on numbers fails to deal with matters of power and influence as part of the multidimensional nature of gender inequalities.

In Kenya, the version of the 50/50 quota provision is at 70/30, and so far, women are still struggling to achieve the stipulated 30% minimum. A focus on descriptive representation creates loopholes in the actual realisation of gender equality, especially considering the history of female bureaucrats (femocrats) in Kenya. These have been women who get political positions but cannot necessarily be relied upon to advance the agenda of women, as their relationship with the political male elite makes them ineffective representatives (Mueller, 2016). This observation is shared by Kabeer (2005), in the case of Indian women acting as proxies for their husbands or powerful men in their families. These strategies contribute to having a representation of women, but without any substantive or symbolic effect.

Women in Political Positions in Kajiado and Narok

As Table 4.1 on the representation of women in the Kenyan parliament shows, there are improvements in the number of women elected and nominated into political leadership. This trend is observable from the 2012 and 2017 general elections conducted under the new Constitution. By having more women in political positions, the historical dominance of men in these positions is minimised (Mackay, 2008; Chappell and Waylen, 2013), promising a shift in the power dimension of political institutions. Failure to meet the 30% threshold however raises concerns on why this is so, despite all the effort that has reportedly been put into political and education mass campaigns on promoting gender equality. The improvement can however be

viewed as the marginal success of these campaigns by the different institutions committed to campaigning for the rights of women.

Reserving a special seat for women representatives has undoubtedly contributed to an improvement in the symbolic representation of women's political leadership. However, even though it aims to increase the number of women representatives, this provision has unintentionally created a situation where women limit themselves to these positions as they guarantee higher chances of winning. Reflecting once again on Article 177(b), the opportunity to get nominated into County Assemblies arguably dis-incentivises women from fighting for electoral positions. In exploring whether Kenya's new Constitution was helping or hindering the political participation of women, (Leigh, 2012) argues that the introduction of quotas has caused misunderstandings and created a skewed system. Women choose the 'safer' Women Representative slots as there is limited squabbling with male politicians for this position.

The preference for this position is reflected in Kajiado and Narok Counties where, in the 2017 general elections, for example, Kajiado County had seven candidates for the Women Representative position, while Narok had eight. In contrast, Kajiado had only two women out of 27 candidates from the five constituencies vying for the position of Member of National Assembly. On the other hand, Narok had no women vying for the Member of National Assembly, which had 37 candidates from the six constituencies. This disparity is highlighted in Table 4.3 below which shows a similar trend in candidacy for the Member of the County Assembly (MCA) positions. Neither county had a woman vying for the Senator position, with Kajiado fielding four candidates, and five in Narok.

The political ambitions of women do not seem to transcend to the 'conventional' political battle grounds dominated by men. This attitude preference towards reduced interaction with men in the political sphere can be argued to be a result of the male dominated nature of the Kenyan political arena which is ruled by patronage (Brownsell and Gatabaki, 2013). The environment is therefore unfriendly to women who wish to break into the political space and compete with men, unless they have patrons to support them. Additionally, political engagement requires a lot of financial resources and combined, these conditions limit the capacity for women, and especially those with limited financial capacity, to fully engage in political party politics and legislation in general, as they lack the necessary capital ''to build political networks and gain electoral power'' (Kenny, 2014: 680). The reality of these challenges will be highlighted in the forthcoming chapters. In securing elective positions therefore, Kenya is far from achieving gender parity.

Table 4.3 Women candidates in the 2017 general elections

County	Constituency	Seat					
		MCA			MP		
		Male	Female	% Women	Male	Female	% Women
Kajiado	Kajiado West	26	2	7.14	6	0	0
	Kajiado Central	13	0	0	5	1	16.67
	Kajiado South	19	3	13.64	3	0	0
	Kajiado East	33	2	5.7	4	1	20
	Kajiado North	48	2	4	7	0	0
Narok	Narok East	23	0	0	7	0	0
	Narok North	30	1	3.2	5	0	0
	Narok West	19	0	0	7	0	0
	Narok South	36	5	12.2	9	0	0
	Kilgoris	35	1	2.8	5	0	0
	Emurua Dikirr	22	1	4.4	4	0	0

Source: Compiled from https://roggkenya.org/

Registered women and percent that voted in the last general elections

The 2012 general elections registered the highest voter turnout in Kenyan history (NGEC, 2016). Even then, as with many other Sub-Saharan African countries, women participated in fewer numbers than men. Data from the Independent Electoral and Boundaries Commission (IEBC) highlights that out of the 14,388,781 registered voters in the 2012 general election, 7,050,503 were women, placing them at 49% of the voting population. This trend was maintained in the 2017 elections, where there were 9,217,369 women voters, against 10,394,054 men. Women therefore accounted for 47% of the voters, a 2% decline from 2012.

Table 4.4 shows the statistics for Kajiado and Narok counties, which reported voter turnouts of 79.35 and 82.58% respectively.

Table 4.4 Registered voters per county

County	Total		Total Voters	% Female	% Male
	Female	Male			
Narok	161,414	180,316	341,730	47.2	52.8
Kajiado	201,125	210,068	411,193	48.9	51.1

Source: Independent Electoral and Boundaries Commission[23]

The gender gap in voting is significantly narrow, which is consistent with observations on voting patterns across Sub-Saharan Africa. In their study on gender gaps in political participation across Sub-Saharan African nations, Coffé and Bolzendahl (2011) find that gender gaps in voting patterns across Africa are smaller because, as the most institutionalised form of political participation, voting is a safer arena for the participation of women.

The number of women voters reported in the 2012 and 2017 elections also points to a radical change in another observation by Coffé and Bolzendahl (2011), that of the 18 countries under study, Kenyan women were the least likely to register to vote. Evidence from the 2012 and 2017 elections shows that the difference between women and men's voter registration in no way infers women's reluctance to participate in elections. This radical change can be attributed to the highly publicised constitution-drafting process, which increased public awareness of the importance of exercising political agency. During this process, debate on the rights of women was key alongside the discussion on devolution. Results of this can be observed in Kajiado and Narok, where women participate in elections just as much as men. An evaluation of voting as a civic duty therefore demonstrates the achievement of gender parity.

4.4 Informing Gender (in)Equality

The historical approach adopted here confirms the observation that history ''draws attention to the changing relationship between gender and institutions over time - for example, in terms of feminist engagement and institutional outcomes'' (Kenny, 2014: 82). In the Kenyan context, feminist engagement has been problematic because, from the beginning, the political leadership of women has mainly been through proxies and ineffective representatives (Mueller, 2016), highlighting the influence of formal and informal institutional practices of the elite in political recruitment (Krook, 2010). In their positions, these women have contributed to the reinforcement of patriarchy, effectively creating a system where it is mostly elite women who benefit from the patronage, as they are almost always related to the male politicians by either

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[23] Gender and age statistics per county https://www.iebc.or.ke/iebcreports/

marriage or class (Wambui, 2016). This has made politico-institutional transformation difficult, as the presence of these women has not always translated into substantive representation.

Another problematic dimension in the quest for equality in Kenya has been the negativity women face for being the embodiment of women's movements. There is a tendency to portray these women as 'un-African', hard-headed and unreliable, reflecting a desire to maintain a normative environment that perpetuates political male dominance. One KANU official is quoted saying that women could not be trusted as they were ''a time bomb that can explode at any time... and are hard, decisive and very difficult to deal with'' (Owuor, 2016: 11). Such assertions are used to delegitimise their efforts among the public as is well captured in the experiences of Wangari Maathai.

The discourse on demonising outspoken women and downplaying their efforts, together with the patriarchal reluctance to accept their equality status means that the struggles of Kenyan women transcend organisational challenges, to include socio-cultural norms that are webbed into the structures that constitute formal institutions. This indicates that the political sphere has the most effective institutional arrangements to incorporate a normative system of informal and internalized rules (Mackay et al., 2010: 576) that inform resistance to women's inclusion, even in the face of legislation that calls for the same. In Pakistan, for example, institutional reforms and the provision for reserved seats have ''contributed to an increased scope for positive action and greater acceptance of women as vehicles of political representation,'' leading to the election of more women in the National Assembly (Krook, 2010: 714).

In contrast, time, knowledge and interactions with women politicians do not seem to be effective at promoting the acceptance of the political agency of Kenyan women, and Maasai women are no exception. This shows that institutional norms that ''prescribe and proscribe 'acceptable' masculine and feminine…values for men and women'' within political institutions (Mackay et al., 2009: 259) have not shifted in favour of women in Kenya. Instead, the adoption of gender quotas in Kenya has become subject to isomorphic paradoxes (Mackay et al., 2009), due to the demonstrated lack of political will, coupled with the prevalence of masculinist ideologies associated with informal institutions. For example, an aspiring Member of County Assembly in the 2013 elections narrated how men and women alike would laugh at her efforts of trying to get into a male arena, with some men offering marriage to save her from running around and fighting with men. Such attitudes arguably contribute to the increased preference for the women representative position as opposed to other elective positions where women would have to face men as their opponents.

For women who make it to the county assemblies through direct nominations aimed at ensuring gender equality, the experiences remain negative. In conversations with some of these women from the Kajiado and Nairobi assemblies,[24] they reported that it was common practice that their male colleagues looked down upon them, regarding them as 'token' representatives. Their contributions are therefore disregarded, as they are not considered 'real' representatives since they were not duly elected. Women who are outspoken and dare to oppose agendas fronted by men in the assembly are also subjected to hostility. These experiences point out that creating quotas does little to change the norm environments, confirming Krook's (2006) argument that quotas do not really challenge the status quo. The challenges to the political inclusion of women lie in deeply enculturated social norms that impede ''women's ability to participate,'' and which need to be replaced ''with norms that foster parity of participation'' in order to promote just institutions (Mackay, 2008: 133).

One way to achieve this is to engage more women (and men) at the grassroots level, to maximise impact on the status of women (Achieng, 2016). This would help deal with the shortcomings noted by Daniel (2011) and Kanyi (2016) on the information and relational gap between policy makers, civil society groups and women in rural areas. As Maasai women additionally reported, there is very limited political engagement due to lack of awareness and channels of communication or civic education. Evaluating the country's adoption of gender equality legislation as a global trend therefore reflects the paradox of mimetic isomorphism in contexts where formal institutions are weak or seemingly absent. This echoes the observation that many organisations ''reflect the myths of their institutional environments instead of the demands of their work activities'' (Meyer and Rowan, 1977: 341).

Efforts to strengthen these weak institutional mechanisms would therefore facilitate the political inclusion of women and men from different socio-cultural and economic backgrounds. The process itself presents an opportunity to challenge the politics of institutional engagement, which Waylen (2018) argues is crucial in seeking to change gender norms. The ensuing heterogeneity of viewpoints, experiences and expertise would inform an approach to political agency that is more capable of dealing with the myriad of formal and informal challenges to the success of the gender equality agenda. It is critical that men and women work together in

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[24] For a project I carried out in March 2018 on the nomination of women to the county assemblies in order to meet the two thirds gender rule.

the formation of a collective state of consciousness that encourages and promotes normative change.

The next chapter however shows that collective political action among the Maasai is far from being realised. Just like in the rest of Kenya, women have to deal with barriers founded on socio-cultural biases towards their political agency. As the debate herein indicates, socio-cultural transformation sometimes needs an emancipation proclamation from the government through legal policing. Chapters one and two have highlighted why this viewpoint has gained much support over the years, and Kenya's legal and institutional frameworks have contributed to an improvement in the descriptive representation of women in the political arena.

As earlier noted however, the challenge remains that the affirmative action debate in Kenya has mainly occurred at the policy level. Being driven by a group of lawyers and academics has left out most citizens and especially women who stand to benefit from the gender equality legislation (and devolution by extension), fuelling the subsequent decoupling as will be explored in forthcoming discussions. The next chapter therefore investigates the challenges women in Kajiado and Narok face in their quest for political agency. By checking on the influence of both formal and informal institutions, the chapter discusses the collective state of affirmative action consciousness and status of gender equality among the Maasai.

CHAPTER FIVE

GENDERED NORMS AND THEIR EFFECTS ON POLITICAL AGENCY

The previous chapter has described the journey and current landscape of gender equality in Kenya. It has focused on how national policies, alongside global equality agenda, have influenced the political position of women, to the present-day reality of institutionalised gender equality norms. This chapter therefore focuses on the equality position of Maasai women, as informed by historical realities and changing socio-economic dynamics. The discussion establishes that the replacement of the traditional socio-political organisation with the currently preferred rights approach to political agency has done little to improve the status of Maasai women.

Attitudes towards women as domestic agents continue to make it difficult for the community to appreciate the value of female public agency and leadership. Women are therefore pro the gender equality agenda, but few men are supportive of a position that would reduce their dominance. Unfortunately, these supporters lack the political power to effect change, which has left Maasai women with the option to either accept a position of diminished political influence, or fight for equality at a high social cost. Some of the fighters are however successful, depending on their socio-economic realities and support from their husbands and other male relatives. This reality makes it clear that the success of equality in political representation relies on concurrent socio-economic adjustments (Dahlerup, 2005).

In the first section, I discuss how gender relations among the Maasai as a patriarchal community have influenced the position of women today. This is followed by an analysis of how specific factors such as education, age, employment and socialisation, have created environments that are slow in their acceptance of women's equal status, and political agency thereof. Section two also investigates how these attitudes shape and perpetuate barriers to the political engagement of women. In section three, I explore these barriers from cultural, economic and institutional perspectives, before summarising the discussion in section four. The analysis makes clear that for Maasai women, successful public engagement lies not necessarily in policy directives for equality. Rather, success is in the creation and promotion of avenues for exposure to what benefits the public stands to gain from women's input in decision making and the management of public affairs. It is only after this has been established that the community can engage in the constitutional drive towards gender equality.

5.1 Engagement, Equality and Authority

> *To maintain their hegemony, patriarchies in different times and places define gender relationships and roles like "wife," "mother," "daughter," or even "woman" in ways that seem natural, self-evident, unchangeable. Women who defy these dominant representations by challenging patriarchal control of their sexuality, fertility, or autonomy disrupt the status quo and threaten patriarchal hegemony by exposing the possibility for alternative, non-normative meanings and practices. To defuse the subversive potential of these "wicked" women, patriarchies must stigmatize the women's actions or persons as "wicked" or morally corrupt (Hodgson, 1996: 107)*

As the discussion in chapter four demonstrates, processes of equal engagement in Kenya are met with challenges rooted in the patriarchal set-up of the traditional public sphere. Omwami (2011) notes that patriarchal considerations far outweigh any interventions that would change the relational space in male dominated environments. The marginalisation of women in such communities as the Maasai thus becomes inevitable, frustrating efforts to improve the position of women in the political realm (Omwami, 2011). Additionally, the gendered separation has fuelled the absence of Maasai women from political spheres of public meetings and delegations, resulting in a lack of involvement in politics and public affairs (Hodgson, 1999).

This exclusion of Maasai women is rooted in the changing economic environment. Wangui (2008) reports that development interventions have resulted in a fundamental shift in gender roles in livestock production – the key economic activity of the Maasai. She notes that even though women's contributions to livestock production outweigh that of men, modernisation efforts in the sector means that women are losing control over milk resources, making them more vulnerable. Her findings echo Kipuri's (1990) observation that women are losing control over the products of their labour, even though they remain active producers. An explanation for this is in Talle's (1987) observation that the expansion of state administration, especially through the commercialisation of the pastoral economy, has contributed to men's firm control over family resources. The position of Maasai women is therefore tied to development agenda and the class formations that ensue, which have gradually pushed them to the periphery in the socio-political and economic realms (Kipuri, 1990). The political agency of Maasai women is therefore a reflection of the historical masculisation of the Kenyan public sphere detailed in the previous chapter.

In the examination of Maasai women's experiences in the complexity of literacy, Taeko (2014) notes that women's voices are heard and have an impact on the implementation of projects within their created space of women groups, but have almost zero effect on the community's decision-making processes. This, she explains, is because they rarely attend political initiatives which would not only provide opportunities for political consciousness, but also platforms to challenge discrimination and prejudice. Characteristic of this patriarchal set-up, considerations for age and paternity pay a big role in establishing power relations. At the core of it, Maasai women are supposed to respect men and do their best to avoid confrontations in both private and public spheres. Rooted in *enkanyit* (respect), Llewely-Davies (1981) explains that this moral value calls for courteous behaviour towards others, in a measure appropriate to their social position. As subordinates therefore, women are expected to exhibit courtesy and respect for men in all situations, and not voice opposition even when subjected to injustice.

Lack of *enkanyit* invites physical abuse in the domestic front and shunning, or even curses[25]in the public space. Therefore, even when women have reasonable cause to disagree with men, they exercise caution in doing this openly. This behaviour points to an operating logic of appropriateness when it comes to public engagement. Chappell (2006) explains that logic of appropriateness exists where there is a perpetuation of certain types of behaviours while others are being discouraged. The operation of this logic can be seen in the case of Ayola, a Maasai girl from Tanzania who sued her father Aladala for forcing her to get married against her choice. Hodgson (1996) reports that Aladala cursed Ayola in the courtroom for not being a proper Maasai daughter, as she had defied the legitimate authority of her father and the elders. Her curse also served as a warning to other wicked women who might be tempted to follow Ayola's example, and use the court system to circumvent traditional authority.

In a system is upheld by actors who dictate the acceptability of ''masculine and feminine forms of behaviour, rules, and values for men and women within institutions'' (Chappell, 2006: 226), a Maasai woman is encouraged not to argue against men in public forums. This encourages encouraging the dominance of positions that do not oppose the views of men. Respondents in the focus group discussions reported that widespread fear of curses from men pervades, and it is believed that the curses affect not just the woman in question, but her future generations. With a Christianity dominance, most do not believe in the power of these curses but would still

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[25] The Oxford dictionary defines a curse as 'a solemn utterance intended to invoke a supernatural power to inflict harm or punishment on someone or something.' In this case, curses are meted as punishment, intended to both stigmatize and ostracize those who disregard the traditional logic of appropriateness.

avoid contradicting and confronting men publicly as this would taint their image and soil their family name – a social cost too high to bear. In the case of Ayola, Hodgson (1996) reports that the few educated men and women who privately supported Ayola's actions refused to voice their opinions in public, because like most villagers, they did not wish to invite anger and curses from the elders.

In discussing how culture inhibits the implementation of women's rights in Anglophone Sub Saharan Africa, Howard (1982) explains that individuals place a high value on beliefs and practices, even when outsiders may regard these as irrational. The effect of the notions of appropriateness contributes to the limiting of women's freedom to participate and contribute to decision making in public affairs. Instead, most women choose to complain in the safe spaces of women group meetings, with the hope that their opinions will reach the decision makers through a woman or two among them who can openly discuss such matters with her husband, and the husbands will then have the matter addressed at an appropriate avenue.

It is however important to note that this system was, and remains, unfair as far as public awareness on development matters is concerned. Using husbands as proxies presupposes equality in access to information. As respondents in the fourth FGD however reported, men are not always keen to share the details and outcomes of their deliberations.

> *If it is a meeting that does not discuss deep secrets, women are involved but when the meeting is about hot topics that require a lot of deliberations, women are sent away. They are told that the men have a private meeting. We are only invited to general conversations…When he comes home, and you ask him what was being discussed, he cannot tell you…But as women, we do talk because if he were to ask me, I would tell him. But the men would never discuss what their private meeting was about…He would tell you that the discussions were men's affairs. (Female Respondents, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Despite the passing of time and availability of policies that support equal participation, the reliance on men by most women is reminiscent of the traditional political organisation where sons and husbands were the voices of Maasai women's political interests (Hodgson, 1999). This system cemented a gendered separation of authority which saw women largely excluded from political affairs.

Notably, there is only one Maasai woman elected to parliament in Kenya today - Ms. Peris Tobiko, even though the dominantly Maasai counties of Kajiado and Narok have a total of 11 parliamentary seats. She is also the first Maasai female Member of Parliament in the country's history. To achieve this, she is reported to have overcome threats, alienation and curses from Maasai elders for 'trying to be a man'.[26] This analogy once again points to the association of the political sphere with men, and the presence of women as out of order. Mackay (2008: 130) explains that this is made possible through the reinforcement of masculinist ideologies, which are regarded as ''ostensibly gender neutral'' in public institutions and political life. The effect of this is that the absence of women in public and political institutions is normalised, causing efforts by women to seek leadership in these spaces to be regarded as disruptive and out of order.

All these notwithstanding, evidence from this research shows that while the women may be powerless, they are certainly not passive (as reported by Spencer, 2003). Any perceptions of passivity can be argued to be resulting from the lost will to fight losing battles against the dominant male authority. Many Maasai women rely on the courage of the outspoken women who, mainly with the support of their husbands, can speak out in public and engage with men without fear. These women therefore become the mouthpieces for the many who cannot raise their voices in public. Most of these outspoken women have gained experience from working with Non-Governmental Organisations (NGOs) mainly as community mobilisers, and therefore enjoy a legitimacy informed from their actions as key players in community development.

Nevertheless, the Maasai social structure and power relations have retained relevance in the community, especially rural areas. The role of gender and age in shaping roles, responsibility and power relations within the community is still persistent in present day politics in the community, confirming that internalised informal rules are very effective in shaping institutional arrangements (Mackay et al., 2010). The finality of male authority in structuring the community, in its design, contributes to denying women freedom and justice. This is especially made evident when matters reported to the Chiefs, or even the police, fall through the cracks. Cases involving the unfair sale of land and livestock, female circumcision and early child marriages are therefore not properly dealt with, as they are mostly orchestrated and resolved by and among men. By opting to settle such matters with male leaders, Chiefs

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[26] How Peris Tobiko escaped child marriage, Maasai curses to be MP https://www.the-star.co.ke/news/2017/10/24/how-peris-tobiko-escaped-child-marriage-maasai-curses-to-be-mp_c1657699 Accessed: 24.10.2017

contribute to the obstruction of justice. For example, in the case of an old man being reported to the authorities for marrying an underage girl, a respondent in the fourth FGD reported:

> *He can speak to the chief and explain that they are of the same age set and stuff like that and next thing you know, he has been released (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

The influence of traditional social organisation and its pervasion of patriarchal norms even at the civic public sphere inhibits women's access to fair recourse on private and domestic disputes. This leaves women prone to injustices supported by male authority, as the case of Ms. Kipaaya demonstrates.

Christine Kipaaya's Case

> A mother of four and a cook at one of the local schools, Christine from Rombo Ward in Kajiado South took some tea, allegedly infused with drugs by a group of men during the mourning period at the home of a neighbour. Her boyfriend then forced himself on her, as did his friends, and she ended up being raped by nine men. Not wanting to be implicated in any way, members of the mourning family decided to throw her into a ditch where she was later found by a man who then contacted her brother in law. The brother-in-law could not immediately assist, as he, by cultural dictates of decency, could not view his sister-in-law's half-naked body. He therefore sought help, and she was taken to a local dispensary where she later died. Seeking to resolve the matter, a male dominated council of elders decided that her family would be given 49 cows in compensation, a solution the family refused. They reported the matter to the Chief and local police but got no assistance, as the two authorities recommended a traditional dispute resolution. It was only after the story got media attention from a Facebook post that the government stepped in to investigate the matter.

Christine's case highlights the injustices women without influence, and men in the same category by extension, face from having to live under rules and norms orchestrated by powerful men. Her family's inability to get justice from the government additionally reflects how informal rules contribute to the incorporation of ''old ways and old paths'' that contribute to the maintenance of power relationships within formal institutional frameworks (Mackay et al., 2010: 576). Skewed influence over decisions has created an unfair system where it is common that women fall victim to domestic violence, but the perpetrators walk free thanks to a dispute

resolution system that largely favours men, and the misguided outlook on women as men's property and therefore without the right to question or disagree with them.[27]

Unsurprisingly therefore, and as Taeko (2014) reiterates, most Maasai women remain dormant on matters relating to public engagement, which leaves them increasingly unaware of social and political injustices due to the limited exposure to engagement and acting upon solving community problems. This is however not always the case, as the Member of County Assembly (MCA) for Rombo Ward in Kajiado South reported regarding the participation of women in public meetings.

> *In my ward, it's very different. We normally have the meetings in either Rombo or Illasit. Illasit women are very sharp, sharper than the men. (MCA, Rombo Ward – Kajiado South, 06.02.2017)*

As discussions will later show, the pattern of women's participation in Kajiado South is linked to their socio-economic positions within households.

Respondents made it clear that the biggest problem lies in the inability to assert influence, rendering them helpless within the male-dominated social structure which mostly disregards their input. All together, these conditions exacerbate the socio-political and economic underdevelopment of Maasai women, and are made worse by reports that silence is sometimes due to concerns about their security in the community (Taeko, 2014). This assertion is reiterated by Parsimei (2013) who notes that male family heads and other male relatives can become oppressors and exploiters within Maasai families, leading to an inferiority complex in most women. The absence of Maasai women from the political space therefore becomes a result of both choice and the lack of it. Ultimately, these conditions have promoted a culture where Maasai women remain subordinated in power structures, with very limited chances of being uplifted to an equal status of influence as men.

How is it that Maasai women still live under these circumstances? What informs their powerlessness and how does this influence their agency in society? The following section

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[27] Both social and mainstream media are however providing platforms for alternative emancipation as this case shows. While Twitter is most common in calling for accountability by Kenyans, Facebook has in this case been used a platform to publicise an affair that would otherwise have remained unjust. By linking the matter to the general Kenyan public, there is a by-passing of structures that collude in perpetrating injustice at the local level. This therefore subjects the case to due legal procedure, as would be the case if there was no conflict between cultural and administrative agents. This matter of interaction, collusion and collision of agents in traditional and civic publics will be discussed further in chapter seven. I tried to follw up on Christine's case but could unfortunately not get any updates on the status of the case.

explores how attitudes towards women as subjects in their respective communities are formed, and how these contribute to their powerlessness

5.2 Informing Attitudes and Shaping Norms

Discussing impediments to the political participation of women in Kenya, Kivoi (2014) explains that their marginalisation is the result of perceptions, stereotypes and traditional beliefs that depict women as inferior to men. This is part of a ''globally pervasive ideology of male superiority'' that has shaped the structures and processes that uphold women's marginalisation (Peet and Hartwick, 2009: 267-8). It is therefore important to understand how these beliefs, perceptions and stereotypes are reproduced, to shape male dominance in the public sphere. The analysis herein thus focuses on the attitudes of both men and women towards gender norms, how they influence approaches to gender equality, and the effects thereof. Equality agenda in this study relate to laws, policies and such other declarations or goals that aim to promote the status of women in their capacity as both individuals and collective agents in society.

Generally, attitudes towards the political agency of women and the equality agenda are based on the interests of an individual, as well as their levels of exposure to different norm environments (Bolzendahl and Myers, 2004). This exposure could be from personal experiences, as well as contextual realities. An interest-based approach is influenced by whether individuals stand to gain from a feminist agenda while exposure to feminist ideology, through either education, personal experience or socialization, is what determines the attitude of an individual towards the same (Bolzendahl and Myers, 2004).

A push for gender equality, in this case through the incorporation of Maasai women in political affairs, holds a lot of promise for women, which is evidently why most of them support it. For most Maasai men however, the engagement of women denotes reduced influence on their part, with a provision such as the two thirds gender rule making it possible that in some instances, men could be the minority. As a respondent in the fifth FGD succinctly put it:

> *On political matters, just like in development, women should be involved and in equal measure as men. Women could take up the Women Rep and Councillor positions. But not that women should take up all positions and leave out men. It should be 50/50. Just as we agree at home, so should it be in government - we should be equals. That is all I would add. (Male Respondent, Ewuaso Kedong Ward - Kajiado West, 24.03.2016)*

This denotes an openness to gender equality, but one that is clouded in uncertainty on what the implication of this would be on the dominant position of men. This fear is arguably informed by the lack of exposure to female leadership within the community. As Banaszak and Plutzer (1993) argue, resistance, or the reluctance to support the elevation of women in the political space, can be because of a status disconnect that happens when certain individuals react negatively to contexts they deem hostile to their status. The lack of exposure to female leadership in this case presents itself as a risk to the dominance of men. Men with exposure have differing opinions, acknowledging the unfair male dominance, welcoming the engagement of women, and even offering support to promote the same. This is evident in the discussions on the involvement of women in the management of communal land. The system is currently run by men, with women having no voting rights or other decision-making authority. As a member of one group ranch pointed out:

> *I wanted to mention that women are not allowed to be in the group ranch committees. Women do not appear anywhere, there is no one to represent them and the women depend on the men's decisions whether or not to give them any land. The committee is the men's. (Male respondent, Keekonyokie Ward – Narok East, 20.04.2016)*

It is very telling that such a practice prevails even in a space where the involvement of women would benefit their families as singular units of society. In addition, such attitudes symbolise the strong reluctance to accept the position of women as equals. As the comments by the respondent in the excerpt below however show, there are those that are of a contrary opinion, and they happen to be young therefore confirming arguments that the youth are more inclined to be pro-equality as will be discussed shortly.

> *On our side as young men, we are now one with the women unlike it was with the older generation. In our times, the fights that existed between men and women have reduced because things have changed and we discuss everything together. We take women as adults unlike before. We cooperate; when you want to do something at home, you have to involve her so things have become easier. There is more understanding and we stay together (Male respondent, Ewuaso Kedong Ward – Kajiado West, 25.03.2016)*

Unfortunately, such men are evidently in the minority and lacking political influence, as they would otherwise have successfully instituted change. This points to a probable influence of other factors on an individual's attitude towards agency in a public space. To explore this, the

discussion now shifts to family structure, socialisation background, employment and education, which Banaszak and Plutzer (1993) argue to be the factors that can be used to predict differences in attitudes among individuals.

5.2.1 Background and Socialisation

The socialisation background of an individual influences their political socialisation, and with it, attitudes towards equality agenda. This is in accordance with social context theory whereby the attitudes of an individual are influenced by their environments (Banaszak and Plutzer, 1993). Key background factors I explore here are age, religion, education, location, gender roles and family responsibilities. Alesina and Giuliano (2013) point out that in situations where the authority of women is limited to domestic affairs, there are significant socio-economic consequences. For the Maasai, this is manifested in women's lack of authority over financial decisions relating to land and livestock, leaving them reliant on proceeds from the meagre sales from milk. In maintaining significant financial authority, the hypothesis of men as providers continues to be supported and even strengthened. In addition, the exposure of women continues to be limited by duties restricted to the domestic realm, as men continue to interact with the socio-political and economic environments.

In opposition to this trend, are situations where female-headed households act as conducive environments for the promotion of equality agenda. In the case of widows in the Maasai community, Llewely-Davies (1981) explains that upon widowhood, a woman's animals are distributed among male relatives and any existing co-wives, leaving her dependent on the hospitality of her male relatives. Unfortunately, this hospitality is not always forthcoming. Forced by circumstances to take responsibility, women in these situations therefore work hard and invest in the education of their children, affording them increased opportunities for exposure. They also have an additional advantage when it comes to public engagement, as widows enjoy relatively more freedom of expression. Compared to her married counterparts, a widow is less restricted in her public interactions and can engage in public platforms more freely because, in the absence of a husband, she is answerable to male relatives and her late husband's age set, a secondary level of accountability.

As far as age is concerned, consensus would be that young people are highly likely to be educated and therefore supportive of ideas of equality (Kenny and Patel, 2017). While this is generally true, the situation is different among the Maasai, especially among women. For those in rural areas, early marriages are common, especially among those who have undergone female circumcision. By transitioning into adulthood through circumcision, they are pressured to drop

out of school and start families, limiting their chances to gain exposure through formal education. Circumcision marks the social maturity of a woman, where she is considered ready for childbirth, and therefore ends up getting married a year afterwards (Llewelyn-Davies, 1981). Women who follow this trajectory end up having to wait on adult education and such other opportunities that would provide the exposure to realities beyond their immediate environment.

In relation to this, there is a difference in exposure levels between rural and urban dwellers. Individuals in urban areas are more likely to favour equality ideas than their rural counterparts since ''urban environments provide greater heterogeneity in opportunities and ideological exposure than rural environments'' (Bolzendahl and Myers, 2004: 766). Evidence of this was found in the attitudes of respondents towards gender equality. Many who were open to the idea of including women in political affairs were those with exposure to urban environments through education, business activities or engagement with NGOs. Subsequently, even though respondents in this study were mainly from rural areas, it was unsurprising that narratives on reluctance or opposition to allowing women to fully engage in politics were mainly perpetrated by those with limited exposure to urban settings.

I observed that the spread of vernacular radio stations was useful in bridging geographical distance. The consumption of news provided exposure, increasing awareness of contemporary affairs. Interestingly however, women reported that they could not bank on news as a tool for challenging men on issues such as polygamy and land rights. The men front the argument that whatever was reported was something that happened 'there' in Nairobi and does not really apply to women in the rural areas. As female respondents in the fourth FGD narrated:

> *Even as you listen to the radio with your husband, he tells you that it does not apply to us…They say it only applies in Nairobi…When they are maybe discussing polygamy, dare you raise this with your husband…He will kick you out and remarry. (Female Respondents, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Men therefore continue to find ways of playing gatekeepers and curtailing influence in favour of traditional systems that suit them, a phenomenon that will be discussed in depth in chapter seven.

Beyond radio influence, there are other avenues of change available to women. In his discussion on the role of non-state actors in public policy in Africa, Neubert (2009) highlights that religion plays an important role by setting moral standards for their members. Adherence to these

standards facilitates mutual trust, especially since church members arguably obey the set standards even outside the church. This norm transferability can play a big role in influencing attitudes towards equality. Evidence on the influence of religion among the Maasai however depicts varied outcomes, as the protestant churches dominant in the community play a decidedly ambiguous role among men and women. For some men, as one respondent pointed out, effects of the church and religious teachings are confined to the church building. Once they are back home, inequality and unfairness prevail.

> *Jesus is left at the church door until next Sunday. (Female Respondent, Keekonyokie Ward - Narok East, 19.04.2016)*

In other circumstances however, the church promotes positive attitudes towards equality agenda, through the reiteration that everyone is equal in the eyes of God. Additionally, church-going men become familiar with women's freedom of expression and even leadership through various church organs. From the narration of a respondent in the ninth FGD, the church has become an instrument of change by influencing norms through the promotion of agenda that favour women.

> *It has become a point of knowledge and change, with the women slowly getting the husbands to go to church. As the man has explained, now men leave more land to their families and this can be credited to the church because you will notice that families with transparency are headed by church-going men. The church sheds spotlight on this issue, even saying that every man should leave at least one acre for his family. So, if we get an opportunity similar to this, then there will be change; but only a little because we have a very long way to go. (Female Respondent, Keekonyokie Ward - Narok East, 21.04.2016)*

Going by the example of promoting women's access to economic units such as land, the churches promote a positive attitude towards women's decision-making ability and even ownership rights. Church-going men who ignore such directives are considered not to be good Christians, a label not many in the community wish to carry around. Pentecostal Christianity therefore plays an influential role, however minimal.

As part of ''long-standing patterns of traditional socialisation'' (Krook, 2010: 709), gender roles and family responsibilities among the Maasai are arguably the biggest challenges to interest in, and exposure to, positive attitudes towards equality agenda. The intersection of these challenges with other factors such as education, age and location further increase the disadvantaged position of many women. This is especially so when the identity and personality

of an individual are regarded as the result of their environment, as for example communitarians would argue. The response of an individual to factors both within and outside their environment is determined by the lessons and responses learnt and unlearnt through various media that they have been exposed to. This explains why, despite the presence of educated men and women in the community, negative attitudes towards equality prevail, as will be analysed in detail in sub-section 5.2.3.

The Silent Listener

A respondent in the ninth FGD embodied the intersectionality of positions of disadvantage very clearly; aged below 30, she offered no opinions of her own, always speaking shyly and agreeing with whatever the older women said.[28] Having taken notice of this, I encouraged her to speak out, and she responded by saying that she had nothing to add, and that she agreed with what the rest had mentioned. To this, one of the older women explained:

> *Most of the people are not even aware of this new Constitution we keep referring to. This lady here who doesn't know what to say, it could be that she knows nothing about it; what it is or what it says. (Female Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

At her young age, she is married and living in a rural village where she has limited contact with government agencies beyond the area chief and the local school. She was thus unaware of the Constitution, and the state agenda on women empowerment. This young woman represents the population of Maasai women who get married very young and live in villages where they have limited interaction with urban or diverse environments, thus limiting room for exposure to contemporary socio-political issues. It is very unlikely therefore, that she, and women in similar positions, understand what rights are afforded to them, and how they can take advantage of opportunities such as public participation exercises under devolution, to advance their status and that of their community.

Unfortunately, it is such persons who perpetuate the 'if it is not broken, do not fix it' myth. Lacking knowledge on rights means that these women would accept the status quo as seemingly neutral, which only works to encourage male dominance. The lack of knowledge limits opportunities for critical engagement, query or dissent, ensuring that norms continue to apply as they do, relations continue to be governed as they are, and women continue to be

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[28] An arguably clear depiction of the application of the logic of appropriateness in respecting one's superior per the traditional Maasai social organisation and power structure.

subordinated. For these women, and men in similar situations by extension, the lack of exposure to equal rights agenda leaves them little room to seek change, ultimately strengthening the very system the Constitution seeks to change.

5.2.2 Family Structure

Bolzendahl and Myers (2004) note that marital status and number of children do influence attitudes towards equality agenda. They argue that women's attitudes are driven by the combination of family size and their marital status. For women who are divorced, their uptake of the role of provider pushes them to seek work opportunities so they can fulfil their responsibilities. Among the Maasai, divorces, especially in rural areas, are rare as polygamy and separations are common. Therefore, it is widows who take on the non-traditional financial responsibilities of the household in a way that matches that of the divorced women in the study by Bolzendahl and Myers (2004). It is also common for married women to be providers, in cases where men abandon this responsibility. As a respondent in the first FGD explained:

> *Many of the learned girls are children of widows, those with parents are married off early. Widows work very hard to ensure their children go to school. Even then, their efforts are rubbished. It is not many houses under the care of men thrive, it is those headed by women that succeed. The women take charge of homes, even with useless men and deceased ones. (Female Respondent, Loitokitok - Kajiado South, 03.03.2016)*

For many women however, time is a major determinant of the likelihood of exposure to ideas and debate on equal rights. Women who are overwhelmed by domestic chores have little time to spare and engage in activities that would provide relevant information. This confirms the observation by Ortiz-Ospina and Tzvetkova (2017) on the limitations of time use on the political agency of women. Women respondents repeatedly mentioned that even though they would like to, they could not attend public participation forums as these came in the way of their household chores and other domestic responsibilities. These arguments tally with observations by Alesina and Giuliano (2013) that increased household production limits interest and participation in political activities. For Maasai women, this is exacerbated by untimely communication from the relevant county government authorities, leaving them little time to plan accordingly, as will be demonstrated in the next chapter. In the end therefore, the increased participation by women in the role of caretaker, and sometimes provider, reduces their chances of exposure to forums that could equip them with information to take part in and fight for equality.

This situation does not have a similar effect on men. Bolzendahl and Myers (2004) report that even with reduced responsibilities around the homestead, men do not feel positively inclined to equality ideas. This was echoed by female respondents in Kajiado South and Narok East, who complained that men have abandoned their responsibilities as providers, choosing instead to spend time away from their families, hanging around shopping centres discussing politics while enjoying alcohol and the spoils of the unfair sale of land and livestock. This confirms observations that Maasai men, though not constrained by domestic chores, do not support equality ideas even though they are more engaged in political affairs (Taeko, 2014). Instead, for the men, education seems to play a bigger role in influencing their attitude; with those that are more educated tending to be more pro-equality than their uneducated but otherwise exposed counterparts are.

5.2.3 Education

Sections 5.2.1 and 5.2.2 above have alluded to the importance of education in shaping the attitudes of individuals towards equality. Formal educational attainments have been found to have a strong correlation with political behaviour, since education has the capacity to influence socio-cultural norms. It can therefore work to reproduce or reduce their influence. As Berinsky and Lenz (2011) highlight, education has been argued to equip citizens with the necessary skills for political participation as they can effectively communicate their concerns. Being educated also means that one is able to understand abstract political affairs, follow campaigns and evaluate candidates and the issues they present. Thus, education has both individual and collective benefits, with higher qualifications being associated with positive social outcomes that include participation in volunteer and civic activities, as well as political efficacy (Roser and Ortiz-Ospina, 2017).

There is also a strong correlation between education attainments, employability and income generation, as can be seen in Sudan where women's access to higher education increased their employment in the formal sector (Schultz, 2005), a correlation that will be demonstrated in sub-section 5.2.4 .

Using evidence from the World Values Survey to explore gender laws, values and outcomes, Kenny and Patel (2017) note that it is the young and educated who push the trend of positive attitudes towards gender equality, as they generally have more positive attitudes. This observation points to the crucial role of education, especially at the basic primary and secondary levels, as a platform for introduction to principles of rights and equality. As a factor, education alone does not control for norms or address possible reverse causality. It can also be used as a

tool to propagate inequalities as most elites tend to do in their employment of political dominance strategies. As a platform however, education promises an equal learning opportunity that carries a lot of potential to institute lasting change. If one is to borrow from Proverbs 22:6 (*Direct your children onto the right path, and when they are older, they will not leave it*), it is much easier to instil values of equality among children than to encourage the older generation to unlearn deeply internalised unfair norms. This is especially so in the Kenyan education system where primary education is free.

Unfortunately, statistics evidence a substantial reduction in completion rates from the primary to secondary school levels in both Kajiado and Narok Counties, with enrolment at the secondary level dropping by more than half that of the primary level.

Table 5.1 Primary school enrolment & access indicators, 2014

	Kajiado		Narok	
	Boys	**Girls**	**Boys**	**Girls**
Enrolment	80,276	77,788	130,386	119,827
Gross Enrolment Rate (%)	92.7	89.1	107	96.7
Net Enrolment Rate (%)	75.2	74.8	88.5	81.7

*Provisional. Source: Ministry of Education, Science & Technology

In the table above, ***Net enrolment rate*** represents the enrolment of the official age group for a given level of education expressed as a percentage of the corresponding population. ***Gross enrolment rate*** is the total enrolment in a specific level of education, regardless of age, expressed as a percentage of the eligible official school-age population corresponding to the same level of education in a school year (KNBS, 2015). A Gross Enrolment Rate of more than 100% indicates the existence of over-age and under-age children enrolled in primary schools. These numbers drop significantly when it comes to sitting qualification examinations, as the results for the Kenya Certificate of Primary Education (KCPE) in Narok show.

Table 5.2 KCPE candidates by sex and Sub-county 2013-2014

Sub - County	2013		2014*	
	Male	**Female**	**Male**	**Female**
Narok North	2,498	1,993	2,451	2,255
Narok South	2,987	2,193	3,425	2,392
Transmara West	1,782	1,580	2,084	1,792
Transmara East	1,049	901	1,202	933
Total	**8,316**	**6,667**	**9,162**	**7,372**
%	**55.5**	**44.5**	**55.4**	**44.6**

*Provisional. Source: Ministry of Education Science and Technology

Of the 250,213 pupils enrolled in primary schools across Narok County, only 16,534 sat the qualifying exams for primary school completion. This represents a primary school completion rate of only 7%. A similar trend can be observed at the secondary level where candidates who sat the Kenya Certificate of Secondary Education examinations (KCSE) are less than half the number of those enrolled.

Table 5.3 Secondary school enrolment and indicators 2014*

	Kajiado		Narok	
	Boys	**Girls**	**Boys**	**Girls**
Enrolment	12,918	11,791	15,467	10,875
Gross Enrolment Rate (%)	34.1	30.8	29	20
Net Enrolment Rate (%)	27.2	25.4	23.4	16.5

*Provisional Source: Ministry of Education, Science & Technology

In total, 24,709 students enrolled in secondary schools across Kajiado County, with Narok registering 26,342 students. Out of the enrolled students from Kajiado, only 24% sat the secondary school qualification exam, as table 5.4 below shows.

Table 5.4 KCSE candidates by sex and Sub-county, 2014

Sub - County	2014*	
	Male	Female
Kajiado Central	584	286
Kajiado North	1.529	1.273
Loitokitok	597	474
Mashuru	218	123
Isinya	287	655
Total	**3.215**	**2.811**
%	**53.4**	**46.6**

*Provisional. Source: Ministry of Education, Kajiado County

With the notable exception of Isinya,[29] these statistics point to the low education attainments across the counties, with the female population lagging behind their male counterparts. The trend is noted across the country, per research by the Institute of Economic Affairs: Of the 1.3 million pupils who entered Standard 1 in January 2003 when free primary education was introduced, only 67% completed primary school in 2010. Further, only 35% of the 1.3 million went ahead to complete secondary school education, with boys achieving a completion rate of 36% and girls, 34%.[30] This indicates that the high primary school dropout rates are not just in Kajiado and Narok, but throughout Kenya where generally, girls register slightly lower completion rates than boys at both levels.

A study by Nyagah and Luketero (2016) on transition rates of girls from lower (standard one to five) to upper primary (standard six to eight) in Kajiado County indicated that early child marriages were the top reason for dropouts. These usually follow from female circumcision, which, as a rite of passage, renders school-going girls marriageable, per the traditional social organisation structure. Other related contributors to dropout rates were early pregnancies and the lack of female teachers to act as role models to the girls. Of particular importance to note from the study, is that girls from poor backgrounds constituted a majority of the dropouts, as they were more likely to undergo circumcision, get married and fall pregnant. This phenomenon contributes to the dominance of a certain economic class that can avoid this cycle, advance their

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[29] Isinya hosts several boarding schools for girls, including Moi Girls School Isinya, the largest and most reputable in Kajiado County. The presence of these boarding schools could explain the high secondary school completion rate among female students.

[30] Institute of Economic Affairs, Kenya http://www.ieakenya.or.ke/number_of_the_week/number-of-the-week-35-primary-enrollment-amp-completion-in-kenya Accessed: 13.07.2018

education, and in the process, improve their political efficacy and be able to assert influence in the civic public sphere.

Considering however, that girls report higher dropout rates, it follows that Maasai women have lower literacy levels, with as much as 26.8% of them being illiterate, compared to men's 16.1% (CBS, 2004). However, women make up for their dropout rates through adult literacy programs, as demonstrated in Table 5.5.[31]

Table 5.5 Adult education by sex, 2013-2014

	Enrolment			
	2013		**2014***	
	Male	**Female**	**Male**	**Female**
Kajiado**	3,259	3,978	2,939	4,696
%	45	55	38.5	61.5
Narok***	1,284	1,660	1,385	2,096
%	43.6	56.4	39.8	60.2

*Provisional
 **Source: Department of Adult and Continuing Education, County Government of Kajiado.
***Source: Ministry of Education Science and Technology

Table 5.5 above shows that more women than men enrol for adult literacy programs, with the numbers increasing substantially in 2014. This disparity can be due to such factors as labour migration that renders men more mobile, and masculinity that makes it more difficult for men to attend school as if they were children. Particularities on these phenomena however fall beyond the scope of this discussion.

Women go ahead to perform slightly better than men in the proficiency test, as table 5.6 shows. This helps fill the literacy gap between men and women, with improved literacy increasing the potential for women to question political authority, a consequence of education as argued by Berinsky and Lenz (2011). Attending literacy programs also means that adults will be better placed to benefit from civic education programmes, which Finkel (2002) argues make up for the lack of higher educational attainments.

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[31] Data from Kajiado County represents that of Kajiado Central, Kajiado North, Loitokitok, Isinya and Mashuru Sub Counties, while Narok North, Narok South, Transmara West and Transmara East Sub Counties provide representative data from Narok Couty.

Table 5.6 Adult education proficiency by sex, 2013-2014

	PROFICIENCY TEST RESULTS							
	2013				2014*			
	Number Sat		Number Passed		Number Sat		Number Passed	
	Male	Female	Male	Female	Male	Female	Male	Female
Kajiado**	74	120	63	105	128	151	119	146
%	38.1	61.9	37.5	62.5	45.9	54.1	44.9	55.1
Narok***	178	206	177	198	129	154	126	154
%	46.4	53.6	47.2	52.8	45.6	54.4	45	55

*Provisional
**Source: Department of Adult and Continuing Education, County Government of Kajiado.
***Source: Ministry of Education Science and Technology

Just like in primary school however, both men and women exhibit high dropout rates. Without accounting for the pass rates, there is a huge gap in numbers between enrolment and completion. In 2013 for example, only 74 out of the 3,259 men from Kajiado who enrolled for the program sat the proficiency exam, registering a 2.3% completion rate. Women have an equally poor completion rate, at only 3% as only 120 out of the 3,978 women enrolled in the same year sat the exam. This is also the case in Narok, where in 2014, of the 1,385 enrolled men only 9.3% (129) sat the exam. In the same year, only 154 (7.4%) of the 2,096 women who enrolled for the program sat the exam. It is understandable that adults have more responsibilities and face different challenges from primary school pupils, but the statistics here paint a gloomy picture of education attainments. Persson (2015) argues that educational attainments influence political participation. Therefore, for as long as the Maasai continue to register lower attainments, then political participation will remain low, in both descriptively and substantively.

Poor literacy levels also highly undermine the capacity of individuals in the hierarchical socio-economic structures, as literacy promotes self-reliance, problem solving and is a tool for critiquing man-made social structures (Taeko, 2014). Women are additionally disadvantaged by socio-cultural barriers as discussed in section 5.3.1, making it difficult for them to critically engage with their socio-political environment.

A high number of educated women, Banaszak and Plutzer (1993) point out, provides a pool of women who can promote resistance to unfair gender norms. Of great relevance to this study, is what the effect of educated women would be, on power relations in the Maasai community. Kabeer (2005) points out that educated women are more capable of dealing with government officials, and the exposure afforded to them equips them with the ability to challenge male prerogatives, including standing up to domestic violence. Citing the case of Bangladesh, she demonstrates that educated women participate more in decision making.

This matter was discussed at length with many respondents who pointed out that, a lack of educated role models among the Maasai is a major contributor to the absence of women in the political space. Nyagah and Luketero (2016) have also reported the lack of role models as contributing to high school dropout rates for girls. For this reason, the Narok County Department for Gender, Youth, Sports and Culture is reportedly maximising on the presence of women with exposure, in their outreach program.

> *We go with them, and the women leaders and women who are exposed. We use them as our resource persons during the program. (County Chief Officer - Narok County Department for Gender, Youth, Sports and Culture, 26.02.2017)*

Dedication and commitment to improving literacy levels in the community are therefore key in promoting positive responses to gender equality. As Kabeer (2005) points out, education increases the capacity to question, reflect and act on life conditions, which is especially important for women as they negotiate their power and place in society. This necessitates action not just for adult literacy, but a critical look into contributors to the high dropout rates that necessitate the need for the adult literacy programmes.

5.2.4 Employment

Attitudes towards the role of women in the family influence their employability or dedication to income generating activities. Banaszak and Plutzer (1993) point out that in contexts where the economic participation of women is high, support for feminist goals is also high. As it is, economic participation is itself a source of conflicting gender identities. Shultz (2004: 414) explains that in many African communities, women's access to markets ''serves as a metaphor for different views of the appropriate place of women in society'' as their presence in centres of trade could be representative of either social transformations or traditional female spaces of autonomy and gender segregation. Employment among the Maasai is however not easily quantifiable as they, like most Kenyans, operate in the informal sector. As the table below illustrates, only 30,525 of the estimated 1.5 million (2%) Maasai population, is engaged in formally registered wage employment.[32]

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[32] There has been a slight increase in formal employment levels with the institutionalisation of devolution in 2013. Even though county governments across Kenya absorbed employees from the previous administration structure, they have also created new opportunities for employment. The figures in table 5.7 are also subject to a margin of error informed by the lack of data on parastatal employees in Kajiado County. Nonetheless, the percentage of registered wage employment is at less than 10%.

Table 5.7 Wage employment by sector, 2013-2014

Sector	Kajiado**		Narok***	
	2013	2014*	2013	2014*
Public Sector: National Government at Counties	2,798	1,918	2,554	1,747
: County Government	1,312	1,577	1,557	2,547
Teachers Service Commission		3,585	4,859	5,093
Government Agencies (Parastatals)			484	494
Total	**4,110**	**7,080**	**9,454**	**9,881**

*Provisional.
**Source: Kenya National Bureau of Statistics
***Source: County Commissioner, Teacher Service Commission, County Government of Narok

Majority of the population engages in micro and small enterprises related to agro-pastoral activities, with relatively few of them managing medium sized enterprises and being formally employed. It is however important to note that in most cases, Maasai men still control the units of production, in this case livestock and land. This gives them authority over decisions and economic benefits accrued from economic activities, allowing them to accumulate more economic capital. The trade and networking involved also afford men the opportunity to engage with others, increasing their knowledge of societal functions, an opportunity not many women have. In the end therefore, men continue to build on the socio-economic capital required for political activity in Kenya (Kimani, 2014).

Reduced or minimal participation of women in the socio-economic platforms thus limits their exposure to political affairs. This is so since economic participation not only increases the economic resources of women and dispels myths on their inability to perform as well as men, it also increases their power at the household level. Even though it might not challenge subordination, employment equips women to better cope with risks and uncertainties. Kabeer (2005) thus notes that at the household level, engagement in paid work is a strategic tool for increasing the agency of women, as it brings with it a shift in power relations. As a respondent commented on the host of our sixth FGD:

> *So it is all about coming to an agreeing at a household level. Today, every family has development projects and either the man or the wife can be in charge; as you can see in this family, it is developed because there is mutual understanding between the husband and wife. (Male Respondent, Ewuaso Kedong Ward - Kajiado West, 24.03.2016)*

The couple in reference work together in managing both the farm and livestock, and the wife is therefore free to make decisions that she considers beneficial to the business and her family, making her as authoritative as her husband. Accordingly, Banaszak and Plutzer (1993) point out that involvement opens the space for women to be exposed to existing inequalities, sharpening their socio-political efficacy. As role models, the host family for this focus group discussion represents the benefits of equality at the household, which provides a lens for the rest of the community to gauge the pros and cons of their attitudes and behaviour.

Most importantly, the participation of women in the economy promotes networking, through which experiences are shared and strategies developed on how to counter unfair practices in both business and community. It creates opportunities for exposure, for both men and women, on the benefits of economic and political liberties for women. In the case of Wad al Abbas in Sudan, Bernal (1994) narrates that many village women have never visited the nearest town, Sennar, unless for hospital visits, while the men commute daily to the town and have travelled widely in Sudan and even abroad. Consequently, teenage boys are more capable of navigating the world outside the village than their mothers. Bernal goes ahead to point out that such patterns of segregation not only mark gender differences but give rise to them. The same applies to the Maasai, where young men not only benefit from the exposure gained through increased mobility, but also benefit from a social structure that favours men, to the point of having them as more powerful than their mothers. In the end, the entitlement and dominance of men continue to be propagated.

The interconnectedness of the socio-cultural and politico-economic status of women discussed here highlights conditions that propagate their subordination. By interrogating barriers to public participation that Maasai women face, the following section thus explores the influence of attitudes and norms on determining the engagement of women in debating contemporary affairs.

5.3 Maasai Women and Public Participation

Engagement in decision making processes is an equality agenda whose effectiveness can be scrutinised in terms of accessibility, representation and the ability of women to influence decisions. Commitment to the effective engagement of women results in the normalisation of their political agency, generating ''new codes and norms'' that contribute to a more balanced political culture (Mackay, 2008: 130). In exploring gender parity in politics therefore, studies on the participation of women mainly focus on three inter-related explanatory variables: cultural norms and practices, socio-economics, and institutional factors. This section adopts this approach in exploring barriers to public engagement for Maasai women.

5.3.1 Socio-cultural Barriers

These barriers relate the combination of social and cultural elements, and how they influence the political engagement of women. For example, while it might be a source of power in some instances, Bernal (1994) warns that women's custodianship over community traditions can also work to perpetuate their subordination. As overseers of domestic affairs, Maasai women have the responsibility to pass on the socio-cultural traditions of the community to their children before they are initiated into adulthood. This involves passing knowledge on gender roles and societal expectations, and continues among women after their initiation. While this might be quite ordinary, it also means that women themselves perpetuate their subordinate position by constraining themselves in gender injustices embodied in ''institutionalized patterns of cultural value'' (Mackay, 2008: 132). They do this by passing down norms and lessons on appropriate behaviour, such as the acceptance of assertive and loud behaviour from men and not women (Schultz, 2005). The continuity of such norms does nothing to question the status of women, instead normalising the authority of men and supporting unfair practices.

Beyond custodianship, as overseers of domestic affairs, women continue to be absent from the public space, limiting their input in the decision-making processes within their communities. This is so because, as mentioned earlier, overseeing domestic affairs affords them little time to spare for political or such other public engagements, a problem that men do not have to deal with.

> *They [the men] are now off to their jobs so if there is a political meeting they can go at night and will come back home whenever they wish. But as a woman, you cannot do this; you have to take care of the children, cows and other domestic affairs, but the men have free time. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Due to a lack of control over economic resources, they are also relatively poor, [33] which combines with their non-engagement as informed by cultural norms on gender roles to create the double-burden barrier to participation (McNulty, 2015). However, with the increased awareness and legislative calls for change in engagement mechanisms, women are gradually becoming more visible in the public space, an effort that would ordinarily contribute to the legitimisation of their political interests and concerns. Descriptively speaking therefore, the

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[33] The Challenge of Being a Maasai Woman http://www.ipsnews.net/2013/05/the-challenge-of-being-a-maasai-woman/ Accessed: 02.02.2015

goal is met. However, it is the substantial element of their representation that remains lacking. Women are involved, arguably for the sake of numbers, without there being a commitment to understand and incorporate their views and opinions. Regarding her duties as a *Nyumba Kumi*[34] committee member, a respondent explained:

> *You will find that such a woman knows nothing and is not involved in anything. It is only the men who are involved. You find that in the same Nyumba Kumi, they asked us for several documents; they asked me for an ID, a picture and KES 200 but nothing came of it. There were two of us women from my area on this, but it is only the men who are recognised. So we have a problem of women being disregarded by men. (Female Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

In most cases, women are given the chance to give a closing or a 'women representative' remark at a public meeting. I observed this on 5th May 2016, at a meeting convened to celebrate the academic excellence of a local school in Rombo Ward, Loitokitok Sub-County. With the Member of Parliament as guest of honour, there were over 20 speakers, only three of which were women. Of the three, one was from the Ministry of Education, another from an NGO that sponsors pupils at the local school, and only one woman from the community. This lady spoke on behalf of the women in the community, a chance that had been given to more than ten men from the same community. Towards the end, women were invited to present the gift of two goats to the guest of honour.

It is scenarios such as this that continue to discourage women from public participation as they are increasingly aware of the lip service paid to the inclusion of women. They are largely ignored by a system that places high value on the input of men, forcing them to focus on their domestic duties instead.

> *...when we hear of such meetings, we do not see the importance of attending because we would only be taking our eyes as we have no opportunity. So we choose to remain at home and do other things. Men tell us whenever they go for meetings and we let them go and choose to focus on our chores as we have no chances in such meetings. (Female Respondent, Keekonyokie Ward – Narok East, 19.04.2016)*

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[34] *Nyumba* and *Kumi* are Swahili for house and ten respectively. *Nyumba Kumi* is a neighbourhood security programme championed by the government to engage citizens in security management

Unsurprisingly, this disregard for the public role of women shapes attitudes on their political leadership. As has earlier been mentioned, the only elected Maasai woman MP, Ms. Tobiko, narrated the harsh criticism she faced from the community, with her contestation being regarded as her trying to be a man. These sentiments were echoed by Nanoi,[35] an aspirant for the position of Ward Representative, Rombo Ward in the 2017 general elections. Being a young single mother, she was often criticised for choosing to fight with men and thereby neglecting her role as a mother.

Additionally, being separated from her husband earned her the title *Elkirikoi.* Llewely-Davies (1981: 341) provides an insightful explanation for what this title encompasses. In discussing men who carry the title, she explains that ''*Ilkiriko are men without substance. They are usually said to have lost their herds, and consequently their wives and children, through restlessness, alcoholism, or an excessive desire for women that has led them to neglect their responsibilities*.'' In Nanoi's case however, this was used as a synonym for 'prostitute,' by both men and women. Men would make promises to listen to her only after she has granted them sexual favours or agreed to be a second, third or even fourth wife, demonstrating the culturally mediated harassment that women have to contend with in the political arena.

But it is not just men that are hostile towards women's political ambitions. In a debate on why women do not support and vote for fellow women, both men and women in the focus groups agreed that there is a tendency among women to despise each other. They explained that this is part of the *pull her down* tactics employed by women in several competitive situations, to introduce doubt and destroy trust in their opponents. Objectively, this points to the internalised cultural politics of presence that view the public sphere as a male domain. A respondent went ahead to point out that could men vie for the position of women representative,[36] it would not be surprising that women vote for them over one of their own.

> *All work therefore needs dedication, and if we start this way, and women unite, become one and stop despising each other, we will have progress. What contributes mostly to women being left out is that some despise others; they look at them and ask, 'who do they think they are to stand and address us?'*
> *(Female Respondent, Loitokitok – Kajiado South, 07.03.2016)*

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[35] Pseudonym

[36] Which they have tried, as was reported in Kajiado and Bungoma Counties in the 2017 general elections - Why male candidates are seeking to become 'Women Reps' https://nairobinews.nation.co.ke/featured/why-male-candidates-are-seeking-to-become-women-reps/ Accessed: 08.09.2016

The phenomenon of questioning the capacity of women to lead is not limited to the Maasai, having played out in previous presidential elections. Throughout Kenyan history, female presidential candidates have failed to win despite the majority status of women. In examining attitudes toward descriptive representation and voting behaviour in the 2010 British election, Campbell and Heath (2017) point out that the link between the sex of a candidate and the voting behaviour of the public is not straightforward; it is mostly context specific. Among the Maasai, evidence points to the fact that beyond voting, and regardless of the constitutional provision for the inclusion of women in politics and public affairs, there are members of the community who still maintain attitudes and adhere to norms that are in opposition to this vision.

> *My opinion is that in our Maasai community, a woman cannot take on leadership. I am the man and as the head, I am in charge and have all the authority. (Male Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

These gendered norms and rules are very powerful and evidently work to undermine formal changes within the community. This points to the need for negotiations and reforms, to open the political space to women, especially through the exploitation of opportunities to influence attitudes towards gender equality. In the opinion of the respondent cited above, a Maasai man is the head of the home, and women should not be allowed to make decisions either at home or in the public arena. As gatekeepers of gender norms in the community, men are therefore key in the success of any attempts at gender equality reforms, an argument I revisit in chapter eight.

Religion

Religious teachings on the role of women in family and social settings influence attitudes toward the autonomy of women. Among the Maasai, religion plays a role especially since women are more active in religious life than men. As mentioned in section 5.2.1, the dominant Pentecostal churches in Kajiado and Narok influence attitudes and actions towards women, especially in their role as wives. Noteworthy however, is the fact that this influence depends on personal interpretations of matters at hand. In some cases, the church is a change agent, allowing women to take on leadership and even influencing men's attitudes towards women.

> *I think education has now penetrated Maasai-land through the word of God. This is because those women who have become Christians and go to church, get opportunities to attend seminars where they are taught about their position and responsibility because even if we are the neck, I think the neck is more powerful than the head. (Female Respondent, Loitokitok – Kajiado South, 07.03.2016)*

> *It seems like issues among the Maasai are changing. The Church has brought a lot of changes so men and women have changed and are more united now. Before, a woman would not even sit close to her husband, she would sit far away and not even speak to her husband, but today they sit together and even with their children, so we see good changes. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 24.03.2016)*

These statements affirm findings by Agadjanian and Yabiku (2015), who, in their study on religious belonging, agency, and women's autonomy in Mozambique, find that attendance in liberal Pentecostal churches translates to increased autonomy for women. Religion thus offers a viable empowerment platform for women, while also creating room for the negotiation of power and a shift of roles and authority within society.

In other cases, especially among men, the church has become the institution through which their superiority is affirmed. In a discussion on the behaviour of women as informed by religious teachings that reinforce equality, a businessman argued that what this meant was that women now felt like they had the moral authority to undermine men. The respondent was therefore of the opinion that women should not be quick to believe that they could now challenge decisions by men, simply because the church preaches equality.

As Bolzendahl and Myers (2004) point out, even though different religious groups have dissimilar attitudes toward gender roles, religion can also be used to support conservative values such as the subordination of women. This is supported by the following observation:

> *It [the Constitution] says that men and women should be equal. If this happens, bad things might happen because we read the Bible mostly where it does not say they are equals. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 25.03.2016)*

This reference can be traced to Ephesians 5:22-24[37]and 1 Timothy 2:11.[38]In the presence of such conservative attitudes, the influence of religion on the public participation of women largely remains limited to church affairs, bearing little consequence on decision making outside

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[37] Wives, submit yourselves to your own husbands as you do to the Lord. For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Saviour. Now as the church submits to Christ, so also wives should submit to their husbands in everything. (New International Version)

[38] A woman should learn in quietness and full submission. I do not permit a woman to teach or to assume authority over a man; she must be quiet. (New International Version)

the church (Agadjanian and Yabiku, 2015). The role of religion in promoting equality among the Maasai therefore remains largely ambiguous, since translation to action remains highly subjective.

5.3.2 Economic Barriers

> *A woman has milking rights to the females of her herd and the right to the sale or use of the hides of all stock that die or are slaughtered…These animals constitute the nucleus of the herds and flocks her sons will eventually come into possession of. She alone is responsible for the reallocation (a-itodol) of specific animals to them, and can decide to give nothing at all to a particular son. But she never has rights of alienation (a-itore) over any living animal; these rights pass through her from her husband and settle on her sons when they come of age. (Llewelyn-Davies, 1981: 334)*

The excerpt above summarises the traditional economic powers held by Maasai women. Today, their economic engagement is still limited by a lack of direct authority over resources, which strains their socio-economic development. As Schultz (2004) explains, even where men and women engage in economic activities, there are variations in the extent to which women access and control resources, which has men maintaining authority over capital intensive and large-scale operations. Among the Maasai, this is seen in women's authority over the sale of milk, but not the sale of livestock or land, which remain in the hands of men.

The traditional set-up described in the excerpt above was worsened by the colonial reconfigurations described in chapter four, that effectively established men as heads of households. The Swynnerton Plan of 1954 has had lasting effects among the Maasai, where beyond land privatisation, men still control the remaining communal land organised as group ranches. It is very difficult for women to be registered members, and even more difficult for them to be part of the managing committees, as a respondent in the first FGD described:

> *What we lack is leadership positions in the group ranches. They only use us for political purposes, when they need us to vote for them. In Kuku ward, the women are not members of the group ranches, it is assumed that women become members through their husbands. This means that whenever women have opposition, they have no voice since they are not members. Only members have the right to give opinions, thus excluding women. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

A male respondent who is a member of the Kuku group ranch in Kajiado South and opposed to the exclusion of women in the management and leadership of group ranches explained the unfairness of this system thus:

> *To tell the truth, because we are here to help each other intellectually and one can tell what might be of use; the group ranches are governed by male dictatorship. This is what causes women to fear because for example, as a member of my group ranch, why shouldn't my wife vote? She and I are one. But there is dictatorship between candidates. One looks at who has the majority, and knows that if women were to be added, he would be defeated. So we make decisions that are not in the by-laws just so that women cannot vote. That is dictatorship because, the land allocated to me, is equally my wife's because it cannot [should not only] be inherited by my children. (Male Respondent, Loitokitok - Kajiado South, 04.03.2016)[39]*

Women who successfully challenge the unfairness of this system are punished through means such as being allocated rocky ground to farm. Outright denials are however common, as one respondent narrated:

> *The other day we had a big problem; people were farming because the cows are dying from drought, only to be told that the space they tilled was not for farming. They push for pastoralism which is enslaving. They want women to just take care of cows, cook and do beadwork. We explained that days of pastoralism are over, one only needs a few animals for subsistence use. They then denied us farming space. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

This control over land by men leaves women with limited avenues for income generation, as they rarely control the sale of livestock. Historically, men have controlled pastoralism, so the prospect of farming is appealing to most women as it provides an avenue through which they can participate in income generation. As the female respondent in the excerpt above reports however, there is still a reluctance to grant economic autonomy to women.

Consequently, women are relatively poor and cannot afford to meet monetary demands relating to the basic needs of the household, for which they are responsible as part of role division with

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[39] There was another respondent in the focus group that is a group ranch committee member. He refused to engage in this topic.

their husbands. Women respondents who have managed to find ways to save and invest reported that their men would claim this success as theirs, openly showing off home improvements and claiming responsibility. Unfair as this might seem however, some who manage to make some investments also risk having the proceeds taken from them.

> *She is saying that her neighbour, a young woman, worked hard and bought a goat. She fed it daily and once there was a party at the neighbour's, her husband slaughtered it. When she made enquiries, her husband beat her up and sent her back to her parents' house because no woman owns cows or goats. She remained sick at her father's house for a week and when she went back to her husband's house, she vowed never to make such an investment and would rather buy clothes instead. That is why Maasai homes will always remain poor.*
> *(Female Respondent, Keekonyokie Ward – Narok East, 19.04.2016)*

This intersection of poverty and control affects the capacity of women to engage in public participation exercises. It is also a reflection of the failure to recognise that economic interactions are gendered (Krook, 2010), which should be considered in politico-institutional structures. As the next chapter will show, the conduct of these exercises in administrative centres, necessitating travel for those from the villages, becomes problematic, and is doubled by the increased likelihood that their input will not be dully considered. According to one respondent:

> *They make announcements for development meetings to be held in the administrative centre. Further, they do not provide transport for the people coming from remote areas…This process leaves out the common mwananchi because they need to go to the people at the grassroots and ask them what their needs are, and the people give their proposals. (Female respondent, Loitokitok – Kajiado South, 03.03.2016)*

For women whose domestic duties limit their mobility, participating in public fora ranks lower, as they choose to save time and the little resources they have. Any spare time they have for themselves is spent in women groups where they do beadwork, the proceeds of which contribute to meeting domestic and personal needs.

How public participation meetings are conducted excludes many inhabitants of areas further from administrative offices. This was confirmed by the Narok County Budget Officer who reported that his office only reaches out to 12 locations that are easier to access, excluding

citizens who live in the outskirts, and especially women who cannot afford to take time off their chores for such meetings, or even afford it.

Citizens and administration alike, depend on the availability of resources to be able to fulfil the participation mandate. The Kenyan Public Finance Management Act of 2012, in conjunction with the County Public Participation Guidelines of 2016, give the public the right to participate throughout the budgeting process, which runs from the formulation of the budget, throughout its implementation, to the evaluation stage. The effectiveness of public participation thus depends on the availability of resources to implement it. The issue of inadequate resources was prevalent in the discussions with both citizens and economists from Kajiado and Narok Counties, proving that financial constraints are limiting women's political agency, as well as the implementation of public participation as envisioned in the Constitution.

Financial resources do provide a constraint to the successful realisation of public participation. Jütting et al., (2005) point to the reality that local governments may sometimes lack the human and financial resources to effectively implement decentralisation. As the narratives above evidence, the lack of resources in both the domestic and public fronts continue to limit the capacity of women to actively engage in public participation exercises. Respondents continuously pointed out the need for such to take place within reasonable, preferably walking distance, so they could manage to attend at little or no cost. Collaboration with existing women groups could provide a platform to allow this, as will be discussed in detail in chapter eight.

5.3.3 Institutional Factors
The 2010 Constitution details Kenya's commitment to the equal inclusion of women. However, respondents argued that there have been very few efforts to take the gender equality agenda seriously. The dissemination of information on civil rights and public participation procedures was continuously reported as being absent. This is consistent with the observation by Rai (1996), that implementation of directives can be held hostage by facts that are beyond the state. Among the Maasai, implementation failure is exacerbated by low political efficacy and exclusionary social practices that affect women as previously mentioned.

Many community members are unaware of the provisions of the very transformative Constitution that guarantees them a position and a voice in governance procedures. Most voted for the Constitution in 2010 based on hearsay, with men being generally more knowledgeable thanks to their relatively wider socio-political networks. However, everyone is becoming more knowledgeable from the administrative failures that continue to play out in the public domain. Both men and women admitted that civic education on the 2010 Constitution was poor prior to

the vote in August 2010, and the situation still prevails, presenting the biggest challenge to gender mainstreaming within the community.

> *We are asking the government to come to the grassroots, we sit together and discuss, and for them to explain the Constitution to the community because we don't know. They only come during the campaign period. (Female respondent, Loitokitok – Kajiado South, 07.03.2016)*

The limited civic education carried out was skewed and marred with political interest, and very little, if anything at all, on rights and responsibilities was discussed.

> *There wasn't much of civic education…What there was, is that they told us Christians to refuse Islamic law and legalisation of abortion…But we did not understand what it all meant. (Female respondent, Ewuaso Kedong Ward - Kajiado West, 23.03.2016)*

These shortcomings created a loophole that promotes the apparent lack of political will and commitment to gender equality. Combined with the structural barriers, they create a system where political institutions are unable to perform as expected due to the proliferation of powerful norms that particularly undermine gender reforms (Chappell and Waylen, 2013). Women therefore continue to lack an equal voice in participatory decision-making processes which would improve their agency and legitimise public participation within the community.

Unlike the national level, public appointments at the ward level meet the two thirds gender rule, fulfilling women's descriptive representation. However, this representation cannot be substantiated, as the women do not really have a voice or any decision-making authority. This lack of authority reflects a lack of commitment to the enforcement of quota systems, which Dahlerup (2005) argues may be due to the perception that quotas are purely symbolic.

This attitude extends to other positions in the administration, such as the chiefs; it is recommended that the Chief and the assistant Chief be representative of both genders. This is so, to allow women have one of their own to whom they can address their concerns, especially on matters such as domestic disputes which would be difficult to report to a man. It however does not work out as envisioned, because the women in these positions always have men as colleagues and fellow decision makers. Therefore, these men and the structure as is, do little to legitimise the position of these women, clearly highlighting the paradox of policy commitments. On a female Chief in the Ewuaso Kedong Ward, respondents in the fourth FGD reported:

In her position, the men just let her be for the sake of it. So it can be seen that she is there…She is there because the government has said she should be…She is there but most decisions are made for her…She is given the opportunity to speak but it is not so that she can say everything. The power is there just because the government created the position…They still say a woman cannot do much…When a woman stands to speak on something they do not like, they use very bad language, asking 'What can a woman say or do?'…They ask in what capacity that woman gets up to speak to them. (Female respondents, Ewuaso Kedong Ward - Kajiado West, 23.03.2016)

This scenario depicts the infiltration of gender bias into the government administration, the consequence of which is a lack of commitment to fulfilling the agenda tasked to public institutions. Chapter seven will provide deeper insights into this. Cooke and Kothari (2001) point out that having women in power without power is a failure of participation, not from operation or technique, but as a systemic consequence. Supporting this, Connell (2005) theorises that principle and practice differ in the acceptance of change by men, which is especially evident in the Maasai community since it is men who, thanks to their political dominance, select women who will join in the committees and even endorse candidates for the Women Representative position.

For example, when Mary Seneta expressed political interest, we had not known her previously but we voted for her (as Women Representative) because the men said they already knew her. (Female respondent, Ewuaso Kedong – Kajiado West, 23.03.2016)

In the Maasai patriarchal set-up, it really matters that the male political class endorses a candidate, otherwise they stand little chance of winning. For women, this process begins with a husband's support, in consonance with the observation that families are ''a key source of support to women accessing parliamentary politics'' (Rai, 2012: 209). Fathers and husbands therefore play a big role in legitimising the political candidacy of women, as they have the socio-economic capital necessary to get into political institutions.

While it is true that Maasai women could do a lot more in nominating and voting for one of their own, the financial requirements in the Kenyan patron-client political set-up exclude many of them from being actively engaged in the political scene (Kimani, 2014). The endorsement of women candidates by men then makes it difficult for the women who get into political power

to contradict their benefactors, such that in the end, the system supports and upholds an elitist political structure controlled by men.

Beyond representative positions, there are men keen on volunteering as civic education ambassadors within their communities, if there is government support. This is necessary as financial support is required to facilitate movement and resources such as expertise and texts, to promote training of trainers in a system that would speed up the process and increase the depth of outreach.

> *In order to deal with these problems and help women feel like part of society is that we the knowledgeable men…need to volunteer to teach whenever public meetings take place or during the women's merry-go-rounds since the government seems to have abandoned the grassroots. If the county government can facilitate this because facilitation might be problematic especially in reaching out to women in this vast area, it would go a long way in uplifting our women and our community in general. (Male Respondent, Keekonyokie Ward – Narok East, 201.04.2016)*

Additionally, this partnership would have a positive influence on the relationship between citizens and government administration, as communication and support channels would be readily available to both parties. This would also go a long way in legitimising outcomes of public participation exercises. The role that men can play in the promotion of equality is discussed further in chapter eight.

However, the affordance of new platforms for empowerment does not translate to supportive environments and positive outcomes. This is made evident in the position of Women Representatives and their administration of funds meant to provide special attention to challenges faced by women. The representatives administer the Affirmative Action Social Development Fund (AASDF), established in February 2015. The object of the fund is to complement the National Government Constituency Development Fund (NG-CDF) by paying special focus on women, the youth, persons with disabilities, children and the elderly. The NG-CDF of 2016 is a successor of the 2003 CDF Act, and is set at 2.5% of the national government's annual revenue. On the other hand, the AASDF fund disbursement is limited to annual work programs and cost estimates, which are to be prepared by the administrator of the fund and approved by the board at the beginning of the financial year to which they relate. As a result, the AASDF allocations tend to be much lower than the NG-CDF. In the financial year 2015/16

for example, the AASDF fund received Kshs. 2 billion[40]while the NG-CDF received Ksh. 35.2 billion.[41]

In a political set-up that relies heavily on clientelistic relationships, the limited AASDF funding means that women representatives are incapacitated at giving special assistance to women. Many respondents were unaware of the existence of this fund, with the common belief being that the women representatives have no development fund.

> *We believe that the Women Rep. is the voice of women in parliament…they have no fund allocations to come help women. If I call her, she comes in her capacity as a friend, not as an MP who has the CDF (Constituency Development Fund) kitty. Our MP has a lot of projects, and no one can oppose him, but the Women Rep only has the name and the salary. (Female respondent, Loitokitok – Kajiado South, 03.03.2016)*

The Women Representatives are also allowed to administer the Uwezo Fund, a programme aimed at enabling women, youth and persons with disability access finances to promote businesses and enterprises at the constituency level. The equitable distribution of this fund has however been widely questioned. It has reportedly been overtaken by an elite who have become guaranteed beneficiaries in every allocation cycle, leaving out many other deserving citizens. This is in addition to its demanding and tedious application process that leaves very little room for the illiterate to participate.

This problem is spread out through the country, as reported by The Institute of Social Accountability (TISA). TISA's study finds that among Kenyans, perceptions of fairness and equity in the administration of various affirmative action funds are very low. For example, only 30% perceived the management of the Women Enterprise Fund (WEF) to be equitable and fair (TISA, 2017: 8).

Poor participation, lack of information and corruption in disbursement were generally reported as highly prevalent in the management and disbursement of affirmative action funds.

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[40] Affirmative Action Social Development Fund against the spirit of the Constitution http://www.mzalendo.com/blog/2015/09/12/affirmative-action-social-development-fund-against-the-spirit-of-the-constitution/ Accessed: 12.09.2015

[41] Kenya: More Cash for the CDF http://allafrica.com/stories/201506120533.html Accessed: 12.09.2015

Responding to complaints by women on the same, a male respondent asked the women to be more reflective of the process:

> *If my neighbour has benefitted, then I would say I am happy and comfortable because someone has benefitted. But if we all miss out, then there is a gap that could either be on our side or the administration's so when they give feedback, it can be used to bridge this gap. I have heard a lot of women saying they have really tried but they never benefit from the public fund. So where is the problem? Is it me who did not fulfil all the obligations, or is it that the whole thing is a hoax? (Male Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

According to the TISA report, the root cause of these complaints is the administration. The information sharing strategies are reportedly so poor that benefits are limited to those with networks to the administrators, who are privy to clear information on application criteria and procedures. Consequently, the funds remain out of reach for many women, especially those who are most in need. Even for those who qualify, the allocated funds are too little, requiring a top-up if they are to be truly transformative. It is for these reasons that the fund is argued to not only be duplicative of the NG-CDF, and therefore unnecessary, but also another platform for corruption.[42]Consequently, such initiatives that would be an opportunity for transforming the socio-economic condition of Maasai women sadly end up being ineffective.

5.4 The Maasai Woman as a Political Agent

As the history of affirmative action in Kenya detailed in chapter four shows, patriarchal considerations, though existent in pre-colonial times, were strengthened during the colonial era. This confirms that the informal can work to ''support, or work in parallel with the formal institutions of the state'' (Chappell and Waylen, 2013: 606). The Victorian dictates of gender roles from the British colonialists therefore alienated women from the public space even further, and the Maasai were not exempted from this. As Hodgson (2001) aptly documents, the complementarity of roles among men and women was replaced by a system that favoured men's authority and control.

The cultural, economic and institutional barriers to women's political involvement as highlighted in this chapter are therefore a result of the continued male dominance and their reluctance to cede control and share authority with women. The ensuing politico-institutional

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[42] Affirmative Action Social Development Fund against the spirit of the Constitution http://www.mzalendo.com/blog/2015/09/12/affirmative-action-social-development-fund-against-the-spirit-of-the-constitution/ Accessed: 12.09.2015

arrangements have thus constrained ''the expression and articulation'' of women's perspectives (Mackay, 2008: 129). As a result, most Kenyan women have been unable to benefit from the changing socio-political landscape, with Maasai men making it more difficult for their women by ascribing to a power structure that does not reflect contemporary socio-economic realities.

It could be assumed that Kenyan women would substantially benefit from the struggle that culminated in the 2010 Constitution, an instrument that exemplifies the success of the affirmative action struggle. But this is sadly not so. As this chapter demonstrates, Maasai women continue to face discrimination from their menfolk, many of whom insist that the public space rightfully belongs to men. As political agents, Maasai men demonstrate how actors resist institutional change when there is no ''tight coupling between the old informal and the new formal'' (Mackay et al., 2010: 576). Not even liberal Christian teachings have managed to influence a major shift in perspectives.

Opinions on the masculinity of the Maasai political sphere are founded on a traditional social structure which inadvertently promotes discrimination against women. The historical socio-cultural changes have caused substantial erosion to the complementarity of roles, meaning that there is also a reduction in the public influence of women. The prevalence of this attitude on subordination in present day Kenya may be difficult to grasp, especially considering the effort that has gone into publicising the women's struggle over the years. As Mackay (2008: 134) points out however, in the pursuit of substantive institutional change, ''inclusive mechanisms of dialogue in the ongoing and iterative processes of contestation that accompany implementation'' are as important as mechanisms for accountability., which are seemingly ineffective.

What gender debate in Kenya highlights therefore, is its non-inclusivity, which informs the disregard for historically moulded contextual realities. As Kanyi (2016) notes, ordinary women remained ignorant of the ongoing changes as these occurred predominantly at the policy level. Daniel (2011) further points out that the concentration of NGOs and women organisations in Nairobi means that they are out of touch with most women in Kenya, and especially those in rural areas. The current political situation among Maasai women in their struggle for equality is a clear manifestation of these shortcomings. They are facing the socio-political struggles that Kenyan women were supposed to have tackled in the 1990s, meaning that they are not only struggling to catch up with their men, but also the rest of the women in Kenya.

The attitude that informs individuals' perceptions and reception to change is a great determinant of the success of a change campaign. Among the Maasai, low levels of formal educational attainments and subsequently, formal employment, residence in mostly rural areas and a socialisation process that seemingly promotes the subordination of women, constitute an inhibiting environment. They limit opportunities for the recognition of the potential of women to participate and make public contributions to society as much as the men do.

Aware of this reality, the case depicts a community where most women opt for a powerless presence, instead of confrontation (Moglen, 1983) as the desired pathway to approaching gender equality. In confronting the struggles of legitimising their influence, women are slowly normalising their presence in the public space, and it can be hoped that with time, acceptability will increase, as will their influence on decision making. At the same time, there are women who are taking up the challenge; before the third FGD in Loitokitok for example, an argument erupted over women's insistence to be recognised as equally capable to engage in political affairs. To this, a female respondent pointed out that the men can call these women all the names they can conjure, but the women will not be quiet until they are taken seriously. The lady in question is a known activist who credits her active engagement to the support her husband provides. She acknowledges that without his support, she would not be able to be politically active. This support reportedly earned him disdain from his peers, but his refusal to concede has now earned him respect among those he has managed to demonstrate that supporting his wife does not emasculate him but has contributed to an improved livelihood of his family.

Altogether, the narratives in this chapter demonstrate the important role that informal institutions play in the Kenyan political landscape. The challenges that women face in trying to assert their political agency are grounded in cultural politics of belonging and power, which happen to favour men over women. Chappell and Waylen (2013: 601) point out that parity would not necessarily change how institutions operate, as the swapping of women for men in ''traditionally masculine arenas does little to disrupt either the symbolism or practices of the gender order.'' As the institutionalisation of equality in Kenya has so far demonstrated, gender bias is deeply entrenched, and impartial to equality arrangements in the politico-institutional environment.

Due consideration for the gendered politics of power and belonging is therefore necessary, as they govern power relations within the community, shaping attitudes and responses to the promotion of openness to inclusive engagement processes. These politics influence women's approach to engagement in the civic public sphere, and men's acceptance of this reality, because

political institutions are ''profoundly gendered'' (Kenny, 2014: 679). Among the Maasai therefore, evidence suggests that women will not enjoy their political rights unless and until there are opportunities that would amplify the benefits of allowing them to influence decision making in public affairs, thus dis-incentivising men's dominance.

Mackay (2008: 132) defines women's citizenship as ''agency to participate as peers in social and political spheres,'' and argues that the same should be recognised in both social and political institutions. One way to promote their citizenship would therefore be through the creation of platforms that can demonstrate the capacity of women to make meaningful contributions to the life of these institutions.

In the following chapter, I therefore explore how the provision of such a platform, namely participatory budgeting under devolution in Kenya, influences the position of women as agents capable of influencing public decisions. The chapter pays attention to the expected achievement of empowerment from power transfer to citizens, particularly women. By evaluating the extent of coupling between legislation on equality in public participation and actual practice, the chapter provides empirical evidence on the interaction between state law and informal institutions with differing value systems on the political agency of women.

CHAPTER SIX

DECENTRALISATION, PARTICIPATION AND EMPOWERMENT

The previous chapter concludes by inferring that attitudes towards the political agency of women can be reshaped through the provision of platforms where their political efficacy can be demonstrated. This would influence men to accept women's political agency, from the demonstrated benefits of allowing them to contribute to decision making. In this chapter therefore, I employ the concept of power transfer through decentralisation to analyse how participation, as a new affordance for inclusion, influences gender equality in politics among the Maasai. Situated within the context of devolution in Kenya, the chapter focuses on the complementarity of the principles of participation and empowerment in eliminating exclusion and achieving equality.

Taking into account attitudes towards the political agency of women as discussed in chapters four and five, I aim to explore whether, and to what extent, the coupling and decoupling of institutional norms influence women's political agency. In order to do so, I situate the discussion on the assumed neutrality of a public sphere as a space where individuals deliberate as equals towards the common good (Habermas, 1989). Coupling and decoupling processes are therefore examined through an evaluation of public participation in the county budgeting processes, in accordance with the 2016 County Public Participation (CPP) guidelines. These guidelines are in place to provide mechanisms for equality in participation as envisioned in Chapter Eleven of the Constitution which lays out the framework for devolution. Informed by the barriers and attitudes towards Maasai women's political participation discussed in chapter five, this chapter is guided by the following objectives under Article 174 of the Constitution:

(c)   to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.

(d)   to recognise the right of communities to manage their own affairs and to further their development.

(e)   to protect and promote the interests and rights of minorities and marginalised communities.

(f)   to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya.

Conceptually speaking therefore, these legal objectives project a Habermasian public sphere, where the legitimacy of a public decision depends on majority deliberation and support. Putting them into consideration therefore provides a glimpse into the patterns of engagement, different aspects of power relations, and how these then influence the achievement of equality objectives among the Maasai. The chapter thus explores how tightly coupled 'rules-in-form' and 'rules-in-use' are (Mackay et al., 2010: 576), through an investigation into how legal (constitutional) provisions guaranteeing citizens the right to political agency are operationalised in the face of informal systems that seemingly curtail women's political agency. In so doing, I aim to contribute to the understanding of how the formal and informal interact to influence responses, and how institutional realities influence the outcome of norm-changing legal provisions.

In section one, the chapter briefly discusses the debate on decentralisation and participation, outlining the pros and cons of propagating participation under decentralisation as an effective way of eliminating exclusion. This is followed in section two by a description of the administrative operation of devolution in Kenya. In section three, the chapter evaluates public participation in Kajiado and Narok CPP guidelines. The outcome of this evaluation informs the discussion on the empowerment of Maasai women through public participation. The reasons for the disparities between new formal and old informal rules on the political agency of women is then described in section five.

6.1 Decentralisation and Public Participation

Decentralisation bears significant socio-political consideration as it involves a shift in power and with it, resources. The transfer of power to citizens, making them co-sharers in decision making processes, makes an important contribution to participatory democracy, through increased avenues for the exercise of equality. This power however transfer takes place in the face of socio-political realities that can either accelerate or slow down this process, as the influence of informal norms in Kenya has suggested in chapters four and five. In addition to this, Crook (2003) points out that shaping a decentralisation structure and the extent of its acceptability, especially for the ruling elite, is very much determined by the politics of ethno-regional conflicts.

This is of relevance in the Kenyan political environment, where national politics are based on ensuring regional representation, since regions also tend to be ethnic enclaves. Among ethnic

groups are different clans,[43] making the clan system a sphere of political and social influence. Lowndes (2005) points out that taking these ethno-regional realities into consideration is crucial, because local governance is a matrix of rule sets that reflect power relationships existing in historical and spatial contexts. This, she posits, influences the interpretation, adaptation and implementation of rules as influenced by power relations and positions of authority. Ethno-regional balance is also pursued at the level of county governments in Kenya, to ensure the representation of the different clans that form ethnic groups, as well as sub-clans and minority ethnic groups whenever applicable.

By focusing on the adaptation and interpretation of public participation among the Maasai of Kajiado and Narok, this chapter sheds light on whether the participation forums are free from the socio-cultural politics discussed in chapter five. The affordance of a government-supported platform of engagement bears great potential in reshaping power relations among the Maasai, which could improve the status of women. In this case therefore, decentralisation allows for the investigation of ''processes of interpretation, imitation and adaptation'' in institutional change (Mackay et al., 2010: 578). This chapter therefore makes clear the extent and effect of interdependence between formal and informal institutions and their norm functions in relation to gender equality.

Before probing the specifics of this change process however, the discussion briefly looks at the debate on decentralisation and its influence on government-citizen relations, patterns of participation, and service delivery.

Challenges of Implementing Decentralisation

Transforming institutions requires dedicated effort to strengthening and broadening accountability mechanisms at both local and national levels. Ghana, Uganda and Ethiopia represent some of the countries across Sub-Saharan African that have embarked on decentralisation aimed at increasing citizen participation in governance. Despite the enhanced participation however, there is arguably little to show in consequences of the same as far as responsive local authorities and citizen-centred policymaking are concerned (Ndegwa, 2002). This therefore raises doubt on the value of decentralisation in the promotion of gender equality.

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[43] A clan constitutes individuals united by actual or perceived descent. This element of perception differentiates a clan from a 'lineage', where descent can be demonstrated. It is for example possible for a non-Maasai to be incorporated into a clan through ritual performance (Coast, 2001).

In the investigation of institutional gender dimensions, effective accountability mechanisms are crucial as they ''may counter legacies of institutional gender bias and capture'' (Mackay, 2008: 134). Wunsch (2001) echoes this in his argument that many decentralisation efforts in Africa are experiencing problems stemming from difficulties in translating initiatives for reform into workable processes and operations at the local level. This, he explains, is due to the combined reluctance of central governments to relinquish authority in key areas, and the complexity in redesigning organisational structures to support decentralisation. The presence of actors trying to retain authority and control resources therefore becomes a great barrier to effective decentralisation.

Evidence of this can be found in a study by Timothy Okech on the devolution of health services in Kenya. He finds that despite a commitment to universal healthcare, there is an apparent lack of investment planning, a poor distribution of medical supplies, and limited solidarity in healthcare financing. These have contributed to a skewed distribution of health resources, and consequently, differences in health outcomes across the country (Okech, 2017). These challenges echo similar observations by Ndii (2010) on the failure of decentralisation efforts in the 1980s.

These challenges are also part of a wider resource allocation challenge; county governments are supposed to receive financing from the treasury depending on their population size, poverty indices and fiscal responsibility. This allocation formula also includes an equalisation fund for counties that have lower levels of revenue generation. As it is however, the national treasury delays in releasing the funds, so county governments often find themselves lacking the financial resources required to meet their obligations.[44] As section 6.3 will demonstrate, this makes service delivery difficult for the county governments, in addition to delays in wage payments as has been the case with nurses across the country.[45]

Kena Jebessa reports on similar challenges in Ethiopia, where public protests are dominant, challenging continued control by the central government despite formal decentralisation. This control means that Ethiopia is still struggling to achieve good governance and democratisation, even though decentralisation has been in operation since 1991 (Jebessa, 2016). These cases

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[44]   Release county funds now, governors tell Government: https://www.standardmedia.co.ke/business/article/2001271266/release-county-cash-governors-demand Accessed: 27.02.2018

[45] Nurses threaten to take action over unpaid dues https://www.nation.co.ke/news/Nurses-threaten-to-take-action-over-unpaid-dues-/1056-4251386-by0srtz/ Accessed: 05.01.2018

resonate with the assessment by Wunsch (2001) on the unsuccessful operationalisation of decentralisation across Africa, reiterating the need for effectiveness through accountability and changes in institutional behaviour among government bureaucracies.

Citing the case of Ghana, Crook (2003) illustrates that participation by itself, though a necessary condition under decentralisation, is not enough to guarantee responsiveness. This, he notes, is because responsiveness does not automatically follow from increased participation or representation of special interest groups. Instead, he points out, the success of any decentralisation effort is a product of the seamless alignment of means, and towards the end – a governance structure that is inclusive, consultative and one that promotes justice and equality.

A lack of alignment between policy and delivery unfortunately means that participation becomes a platform for the legitimisation of institutional transformation, without actual commitment to addressing outcomes of the process. As a result, Hanna (2000) warns, participation can serve as window dressing, lending credibility to decisions rather than helping to construct them.

Benefits of Implementing Decentralisation

Despite these challenges, the main argument for decentralisation remains that it brings government closer to the people, promoting political participation by the citizens and ultimately, responsive policy making by the government (Crook, 2003). Decentralisation therefore becomes the driving force for deliberative democracy, an argument that topped the agenda in the period before the Kenyan Constitution was overwhelmingly voted for. 'Power to the people' created a euphoria that in some ways still prevails in the country, as citizens feel more engaged in decision making. This confirms arguments that recognition and inclusion play a significant role in promoting substantive representation (Mackay, 2008).

It has been observed therefore, that ''participation has in itself become a fundamental human and citizenship right, and a prerequisite for making other rights claims'' (Gaventa, 2002: 3). This is because participation emphasizes a bottom-up approach focused on locally defined priorities and perspectives for the generation of knowledge for action (Cornwall and Jewkes, 1995). Adoption of this approach to governance, Holland and Blackburn (1998) posit, allows for the involvement of different community members in the articulation of complex and non-quantifiable cause-and-effect processes. This then legitimizes their knowledge, redefining expertise in ways that create room for the experiences of those affected by social policies. For women therefore, participation provides an avenue where they can counter ''institutionalised

gender bias'' through substantive representation (Mackay, 2008: 129). Their involvement thus facilitates the emergence of alternative interpretations of needs, informing alternative policy solutions (Cornwall and Gaventa, 2000). These affordances make participation very important for social groups whose input has been historically absent from the political sphere.

Bolivia's 1994 Law of Popular Participation - *Ley de Participación Popular* (LPP) is an example of how decentralisation creates room for the involvement of marginalised groups. The law mandated broad-based participatory processes, starting at the neighbourhood level as part of local government decentralisation. It recognises the importance of social organisations that already existed (including indigenous communities, with their own practices and customs) and legally creates citizens' oversight committees in each municipality which are empowered to freeze municipal budgets if actual expenditures vary too far from the planning processes (Gaventa, 2004). Bolivia's LPP thus presents decentralisation as a process of power transfer to citizens, empowering them to drive local development.

At its core therefore, decentralisation is crucially about ''the processes that public managers, citizens, and stakeholders use in determining what shape policy, its implementation, and its enforcement will take'' (Bingham et al., 2005: 548). By definition therefore, the process promotes good governance as characterised by power sharing in decision making. Considering that institutions ''magnify the position of their creators,'' power sharing allows a marginal group such as women ''to exercise leverage well beyond their apparently meagre power resources'' (Lovenduski, 2011: ix). In its inclusion of the politically marginalised, decentralisation provides a platform for both the engagement and empowerment of women in public decision-making processes.

This argument bears a lot of significance for Maasai women who have had, for a long time, limited power over decisions that affect their public agency, designating them to a position of an equally limited power to effect change.

With such potential, being present at a public forum, as an act by itself, becomes beneficial even though forms of engagement may not be as inclusive as could ideally be. The additional provision of reserved seats for Women Representatives increases the incentive for active participation, because of the change in the face of public decision-making. Similar effects can be found at the local level, where women from Ewuaso Kedong Ward reported that even though there were no elected women in the County Assembly, the presence of women as *Nyumba Kumi*

members and chairs was a source of confidence in the increased opportunities for the political inclusion of women.

> *The present situation is better than what we had before. Women are getting closer to political leadership…At least women are now in positions of authority…We are saying it has helped a bit because earlier, women could not even speak. Meetings would go on and end without the engagement of women. But now, if a woman from Nyumba Kumi is present, she is given a chance and when they call for a meeting with community leaders, both men and women are present and women get a chance to speak. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

These opportunities are available as a result of quotas within devolved units, which necessitate the granting of opportunities for women in public forums. This has an influence on symbolic representation, by sending the message that the public space is slowly opening up to women, and that there eventually will be an equal engagement platform. In a study on the effect of substantive representation on political participation among American Latinos, Jeong (2013: 1247) observes that ''visible political leadership by members of a minority group encourages minorities to feel that politics is not a closed arena, thereby leading to their more active involvement in politics.'' As the excerpt above confirms, there is already a positive influence among women on the opportunities for inclusion, which encourages political engagement.

Bearing these in mind, the discussion now shifts to how decentralisation is organised in Kenya, before embarking on an evaluation of its promotion of gender equality.

6.2 Decentralisation in Kenya

Chapter 11 of the Constitution spells out, among others, the objects and principles of devolved government, functions and powers of county governments, and relationships between central and county governments. These are backed by the County Governments Act (CGA) of 2012, which sets the rules of operation under the devolution structure, specifying the coordination and facilitation of public participation in the development of policies and plans, and the delivery of services. Part VIII of the Act focuses on participation, with specifications on among others, the principles of public participation in counties, citizens' right to petition and challenge decisions, and the establishment of modalities and platforms for participation. Within this framework, power is devolved from the national government to 47 county governments, whose bottom-up operational and relational structure is captured in Figure 6.1 below.

This structure of decentralisation evidences a focus on reaching out to citizens at the lowest level, especially with the integration of village councils which are traditional non-governmental entities.

Figure 6.1 County governments organization structure based on officers

Governor
Deputy Governor
County Secretary
County Chief Officers
Sub County Administrators
Ward Administrators
Village Administrators
Village Council

☐ Remunerated

☐ Not Remunerated
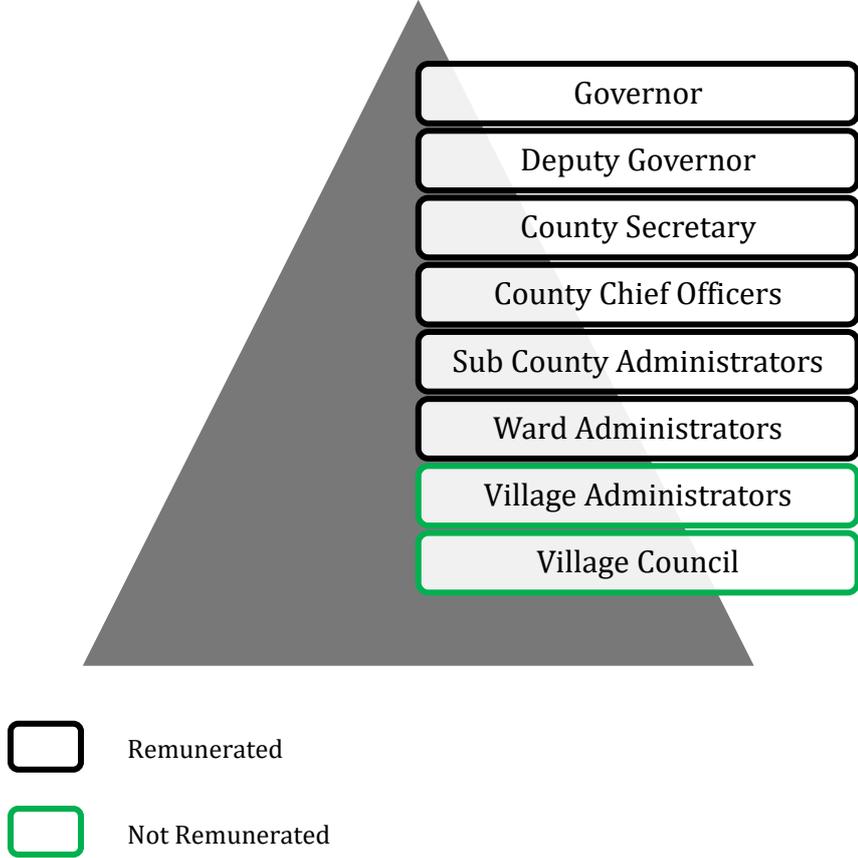
In the following sub-section, the discussion briefly summarises the role of officers at each level in fulfilling the objectives of devolution.

6.2.1 Composition and Duties of County Government Officers

Chaired by a Village Administrator, a Village Council consists of not less than three and not more than five elders chosen by the Village Administrator, with due respect to gender balance. This council is tasked with coordinating public participation at the village level, and such other activities that promote local development at the village, as well as cooperation with other administrative units. This unit symbolises the incorporation of informal institutions of governance, since village councils are a feature of traditional socio-political structures found across African communities. Their new status as formal state actors can be seen as the result of a negotiation process (Neubert, 2009) which has necessitated a restructuring of the institution - to include previously excluded women - in exchange for official state recognition. In its

legitimised decision-making position, the council is tasked with protecting and promoting public interests.

Above the council are Village Administrators, who oversee administrative functions at the village level and are answerable to the Ward Administrators. Village units are so determined by the County Assembly whose members are elected Ward Representatives, commonly referred to as Members of the County Assembly (MCAs). Neither Kajiado nor Narok County Assemblies have accomplished this task however, reportedly due to a lack of financial resources. In both counties therefore, local government administration officially begins at the Ward level, but the administrators reported having informally selected elders to help them out in their duties at the village level. The village councils and administrators do not however receive any form of remuneration from the county government, but receive financial and such other support as may be necessary for the fulfilment of their duties.

Ward Administrators are competitively selected by the County Public Service Board, the county government's employment agency, to represent each electoral ward represented in the County Assembly. Their roles are similar to those of Sub-County Administrators who are their supervisors. Also competitively selected by the County Public Service Board, Sub-County Administrators are charged with coordinating and supervising administrative functions for each constituency. In carrying out this mandate, they are responsible to the relevant County Chief Officers in charge of public service at the county and are nominated by the Governor from a list of competitively selected candidates. Nominated candidates need the approval of the County Assembly to assume office as County Chief Officers and are answerable to County Executive Committee Members of the relevant County Departments.

Nominated by the Governor and approved by the County Assembly, County Secretaries are secretaries to the County Executive Committee. They are therefore in charge of county public service and such other duties as may be determined by the County Executive Committee. Functions of the members of this committee are provided under Article 183 of the Constitution. These include; to implement county legislation; implement, within the county, national legislation to the extent that the legislation so requires; manage and coordinate the functions of the county administration and its departments and; perform any other functions conferred on it by the Constitution or national legislation. The committee may also prepare proposed legislation for consideration by the County Assembly and shall provide the assembly with full and regular reports on matters relating to the county.

Governors are directly elected by voters registered in a county. The roles of governors and their deputies include providing leadership in governance and development, while ensuring service delivery and proper management of county resources. The governor and his deputy are also legally required to promote public participation. Per Section 30(3) (g) of the CGA, the Governor should promote and facilitate citizen participation in the development of policies, plans and service delivery in the county. Section 46(2) (g) of the same Act provides that the County Executive Committee should ensure the widest possible outreach for participatory decision making.

The Sub County Administrator is, per Section 50(3) (g), responsible for the coordination, management and supervision of the general administrative functions in the Sub County. This includes the facilitation and coordination of citizen participation in the development of policies, plans and service delivery. Under Section 51(3) (g), the ward administrator is responsible for the coordination, management and supervision of the general administrative functions in the ward including the facilitation and coordination of citizen participation in the development of policies, plans and service delivery. Per Section 52(3)(a)(I), the village administrator is responsible for the coordination, management and supervision of the general administrative functions in the village, including ensuring and coordinating the participation of the village unit in governance.

Article 196 of the Constitution provides that a County Assembly should facilitate public participation and its involvement in its committees, the legislative and other business of the assembly. Lastly, Section 125 of the Public Finance Management Act provides the involvement of the public in the budget making process, to be overseen by the County Executive Committee member for finance.

Having outlined the structure of devolution according to the Constitution and articulating the composition and functions of each unit, the discussion now shifts to the operationalisation of this structure in Kajiado and Narok. With due recognition of the unofficial status of the existing Village Councils, the analysis in this chapter nonetheless focuses on the village and ward levels. The negotiated working arrangements reported by Ward Administrators negate the informal nature of the village units, as they nonetheless shape public participation. The analysis therefore checks on the mechanisms of inclusion and what effect these have, by evaluating the effectiveness of public participation as a platform for citizen empowerment in general, with

particular focus being paid to the effect of this on Maasai women. Before beginning the analysis, I describe the framework for the operationalisation of citizen engagement.

6.2.2 Framework for Public Participation in Kenya
Citizen participation in Kenya is guided by Part VIII of the CGA and the 2016 CPP guidelines as developed by the Ministry of Devolution and Planning in cooperation with the Council of Governors. The CPP guidelines inform on; the constitutional and legal foundation for public participation in county governments, content and mechanisms for public participation, enablers of public participation, petitions, compliment/complaint, grievance and redress mechanisms for public participation, monitoring, evaluation, reporting and learning of public participation, and common challenges with public participation and some proposals of mitigation.

Per the CPP guidelines, public participation entails; informing the public by providing information to help them understand the issues, options and solutions; consulting with the public to obtain their feedback on alternatives or decisions; involving the public to ensure their concerns are considered throughout the decision making process, particularly in the development of decision criteria and options; collaborating with the public to develop decision criteria and alternatives and identify the preferred solution and; empowering the public by placing final decision-making authority in their hands.

However, public participation rights and duties are not limited to the administration, as the public is also called to action to ensure effective public participation in their respective counties. These duties and responsibilities are laid out in the CPP guidelines and include:

- Equal participation in decision making processes at the county.
- Freedom of expression including the freedom to seek, receive or impart information or ideas.
- Right to access information held by the state, including information required for effective public participation.
- Involvement in strategizing, mapping, prioritisation and codification of issues that may be subjected to public participation be they draft policies, legislation or development plans.
- Participation in decision making processes as individuals or representative groups.
- Duty to fully participate in county civic education initiatives and other processes.
- Duty to monitor and evaluate the implementation of policies, legislation, development plans, citizen's participation and the civic education process.

Bearing in mind these duties and responsibilities for both county governments and citizens, the discussion now focuses on the mechanisms and outcomes of public participation exercises in the study areas.

6.3 Public Participation in Kajiado and Narok Counties

To analyse public participation and its affordance of opportunities for equality, this section adopts the framework provided in the CPP guidelines. This framework spells out the conditions necessary for meaningful participation, which are; clarity of the subject matter, clear structure and process, access to information, opportunity for balanced influence, commitment to the process, inclusive and effective representation, a climate of integrity, a belief in the value of public input, capacity to engage, complete transparency, and bearing in mind standing conditions of the participants.

To ensure that I check on the effectiveness of these conditions, the analysis additionally incorporates the evaluation criteria proposed by Rowe and Frewer (2000), which propose a division of public participation evaluation into Acceptance and Process Criteria. Acceptance criteria relate to the effective construction and implementation of a procedure, and include representativeness, independence, early involvement, influence and transparency. Process criteria relate to the potential public acceptance of a procedure, and include resource accessibility, task definition, structured decision making, and cost effectiveness. In justifying the criteria, Rowe and Frewer (2000: 11) point out that ''if a procedure is effectively constituted but perceived by the public to be in some sense unfair or undemocratic, then the procedure may fail in alleviating public concerns. On the other hand, if a procedure and its recommendations are accepted by the public but the ultimate decision is attained in an ineffective manner, then its implementation could prove objectively damaging for sponsors and public.'' It is therefore imperative that policies, procedures and outcomes are harmonized, to ensure the effectiveness of a public participation exercise.

The following section discusses the CPP guidelines' conditions for meaningful participation as applies to Kajiado and Narok counties.

6.3.1 Clarity of the Subject Matter and Access to Information

Need for clarity emphasises the importance of establishing realistic and practical goals that are acceptable to all stakeholders, to mitigate the public's expectations. Having all stakeholder on board is ensures ''there is good fit and tight coupling'' which reinforces change by minimising resistance or direct contradiction (Mackay et al., 2010: 576). For the public especially, confidence in the participation process is key to successful transformation. At the same time,

the nature and scope of the participation task should be clearly defined. This tallies with Rowe and Frewer's (2000) call for the early involvement of key stakeholders, as the transmission of information in a timely manner greatly influences the role played by participants in a public forum.

The CPP guidelines therefore require duty bearers to provide information in acceptable, easy to use formats. This calls for use of language that is easy to understand, especially considering the education achievements of a particular public, and through channels that would ensure the widest possible information outreach. According to Section 99 of the CPP guidelines, these channels include; Television, Brochures, Newsletters, Information communication technology, Mass mailing, Websites, Social media (Facebook, Twitter, LinkedIn, Instagram etc.), Community radio stations, Public meetings, Traditional media and Notices in county, Sub-county, ward and village offices, places of worships, markets, schools, libraries, social clubs, medical facilities and national government offices. With this in place, information can reach all social groups, ensuring inclusivity.

Accordingly, Ward administrators reported that they utilise all possible avenues, including local vernacular stations:

> *Like for instance now, if we have information on citizen participation on budget process, we have so many avenues like the local radio stations, the elders, village leaders. You know, we have created our networks and now, for most people there is this internet so we use WhatsApp groups. Like now in my ward, we have WhatsApp groups for elites, we have WhatsApp groups for leaders, so once information reaches us, we pass information to these groups, we visit churches and all other avenues that are available for conveying that particular message. (Ward Administrator, Ewuaso Kedong Ward – Kajiado West, 30.01.2017)*

This statement however bears challengeable truths. Most respondents reported that because information sharing is limited to a small group of people, they remain unaware of public fora. For those to whom information might reach at a later stage through their peers (considering limitations on exposure as discussed in chapter five, it is mostly men who benefit from this), it becomes too late to adequately prepare, or get detailed information. This means that contrary to reports by county government agents, the recommendation to explore various communication media as set out in the CPP guidelines is not adhered to, at least not in a manner that guarantees equal access to information and adequate preparation.

In the case of the Kajiado County Integrated Development Plan (CIDP) meeting held on 4th December 2017, for example, none of the people I spoke to knew of the scheduled meeting. My MCA needed to seek confirmation that the meeting had indeed been scheduled. All the participants I spoke to on the day of the forum reported that they had received invitations via text, signalling the exclusion of most of the people whose contacts the administrators do not have.

Ideally, women in various administrative offices and development committees should be relied upon to spread all the necessary information regarding forum agendas. Their positions allow them to be better informed and able to pass this information to fellow citizens and especially women. Unfortunately, these women are reportedly unaware of contemporary public affairs. For example, of a nominated female Member of the County Assembly and member of the bursary council for Entonet Ward in Kajiado South, a respondent who is also a relative of the nominee lamented that nobody understands what she does, as she never communicates what her position entails or what projects the office is working on and their progress. She is arguably in the County Assembly and bursary council for the purpose of representing women, without much evidence to substantiate her engagement.

> *She just occupies her seat, a Councillor in this area…We don't even know what she does, this Councillor, we don't know what development she's championing; she never reports that a child has received a bursary or we are working on a certain development project. (Male Respondent, Loitokitok – Kajiado South, 07.03.2016)*

This provides insight into the application of gender equality in county government structures, where more than their male counterparts, women are seemingly in power without power. These women are therefore unable to ''manipulate and subvert'' the present masculinist institutional arrangements, as they lack ''access to and control of information'' (Moglen: 1983: 133). The subsequent inability to engage with the public backtracks the potential gains of symbolic representation. The expectation is that these women will be able to communicate on the operations of their respective offices to their constituents, ensuring that the public stays informed and most importantly, appreciates the benefits of service delivery and government response that comes with the existence of these offices. With this in place, the public would be encouraged to participate, as there is a shared understanding of roles and responsibilities, backed by responsiveness that signals unity of purpose.

However, without proper information on the matters in their respective chairs or committees, these women are incapable of demonstrating their capacity to carry out their mandate as special representatives. Consequently, there is little incentive among the public to promote the political engagement and leadership potential of women, as the effect of their presence is hardly tangible.

In addition to challenges of outreach, respondents reiterated the need to provide information on public deliberations in Maa or even Swahili, to deepen the public's understanding of the subject matter and encourage participation. This points to the limits of text mediation in institutional practices. By limiting women's engagement in formal procedures, their knowledge is subordinated as it does not fit in the ruling perspective (Peet and Hartwick, 2009: 245) further alienating them from political engagement.

6.3.2 Complete Transparency

This condition highlights the importance of having easily understandable and accessible information to educate the public about the issues and options available. The same must additionally be shared in a timely manner. This condition is related to the call for the provision of information in formats that are easily understandable. The information shared is however not easily understandable for most participants. It is presented in policy language necessitating translations which consumes the already limited time allocated to deliberations.

> *...like I have said, with the policy, the county fiscal strategy paper, the presentation is done, everything is in English, some are figures, they cannot really make sense out of it so they would rather when it reaches a point where you have the plenary, then they raise general issues. It is upon you to know how to frame it to suit their needs (Officer, Budget and Economic Planning Department – Kajiado County, 23.01.2017)*

This was the case in Loitokitok, where approximately 30 minutes were spent translating and explaining the CIDP's guiding document into Kiswahili and Maa. If the same information had been shared on time, and in an easy-to-understand language, the public would have been more prepared to contribute to the agenda and make substantial contributions. This provision would also arguably contribute to effective time use, as little time would be required for internalising the subject matter and more time dedicated to actual deliberations.

Rowe and Fewer (2000) therefore argue for the involvement of the public early in the process, as soon as value judgments become salient. This enables them to be well prepared and therefore capable of engaging meaningfully in the participation exercise. From the interviews and focus group discussions, it was evident that the channels and timing of communication to the public

are problematic, as they often leave citizens unaware of public meeting agendas. As a result, citizens are ill prepared, and/or end up giving opinions that would not be considered due to their mismatch with the set agenda. This happens despite the CPP guidelines' clear condition, as noted in Figure 6.2 below, that information should be shared in a timely manner, so the public is knowledgeable and reasonably prepared. Timeliness in this process not only ensures effectiveness of the participation exercise, but also results in the success of the participation cycle, providing room for feedback sessions, that would allow for the improvement of the process, which helps overcome challenges and improve participatory democracy through decentralisation.

Figure 6.2 Public participation communication timelines
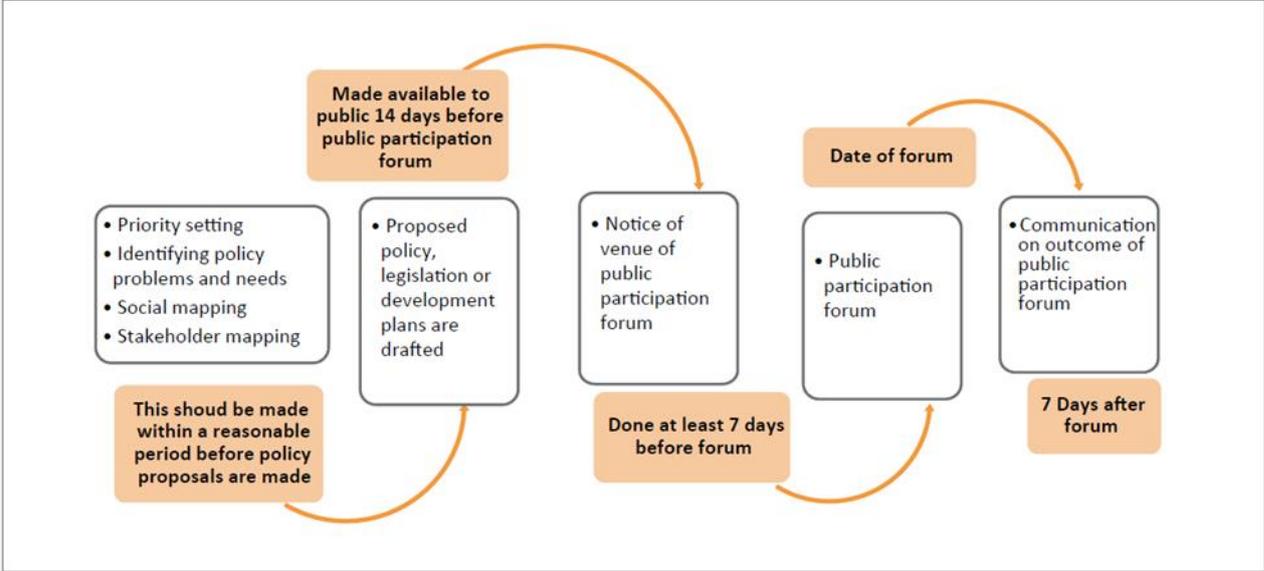
Source: CPP, 2016: 37

In line with this timeline, a Narok County Budget Officer narrated that ideally, citizens should be notified of upcoming public meetings 21 to seven days prior, but realistically, this is done three or four days before the main date. The Keekonyokie Ward Administrator noted that such poor timing is especially unfair to the women who, unlike their male counterparts who mainly focus on single tasks, must manage extensive responsibilities related to managing households and planning group meetings and activities. This burden of unpaid care work limits women's mobility (Ortiz-Ospina and Tzvetkova, 2017), and they therefore require more time than the men would, to plan accordingly if they are to be present and actively engaged at such meetings.

We've been having a problem with…the passing of information even between us and the head office…they publish something in the newspapers today and say the event is for the day after tomorrow…you know women's affairs require planning; if you want to take them for a trip next week, tell them last week so they prepare throughout this week. So if you say today that the meeting is tomorrow, it's difficult to find them. (Ward Administrator, Keekonyokie Ward – Narok East, 21.02.2017)

In the case of the 2018-2022 CIDP forums in Narok County, for example, the announcement was made on the county government's website and through *The Standard* newspaper, on Monday 12th February, with the forums scheduled from Wednesday 14th to Friday 16th February 2018 (see Appendix IV). The agenda was not clearly communicated either, except that the meetings would be used to discuss development plans. It is difficult to fathom adequate preparedness by members of the public on such short notice, even while ignoring the limitations stemming from the media platforms utilised.

While these faults could be attributed to poor planning and/or execution, they could be, in some instances, predetermined (Hanna, 2000). The Narok County Budget Officer interviewed on 15.02.2017 lent credibility to this argument by pointing out that for outcomes from public hearings to be incorporated to the County Integrated Development Plan, they should match predetermined functions of the county government, and not necessarily what the citizens have outlined.

This signals a limited commitment to citizen engagement, as outcomes from these forums do little to alter the plans already set by the county government. This contradicts the essence of participation as a platform for power transfer to citizens, confirming observations that it is ''more difficult to institutionalise gender equality reforms and norms than other sorts of innovations'' due to variations in the institutionalisation of these reforms in norms and practices (Mackay et al., 2009: 259).

This realisation strengthens the arguments for a genuine bottom up approach to participation. Commitment to this approach would ensure that there is a fit between public needs and government interventions, to avoid the reported incidences of undesired projects from disengaged informants only interested in private gains. Seeking agreeable terms of engagement for both the local government and citizens would go a long way in legitimising the participation exercises.

E-Participation and communication

The CPP guidelines recognise that online participation in governance and democracy processes has become widespread, and counties are increasingly open to receiving information and data online. In Narok for example, the government welcomed public opinion via email, to reach the administration before the end of the 2018-2022 CIDP deliberations, on 16th February 2018. This is very useful for those who cannot be physically present in the forums. For this group of people, it is important that the counties develop an elaborate e-participation platform to support reciprocal engagement. However, as of September 2018, not many counties provided information on public participation on their websites, as Figure 6.3 below illustrates. Before attending the Kajiado 2017-2022 CIDP forum in Loitokitok Sub-county, I tried checking for additional information from the website, but the website was unavailable. This was the case throughout the week before the main event on Monday, 4th December 2017.

The availability of information to the public and its ease of access are evidently lacking, which contributes to the weakening of the effectiveness of public participation in the two counties.

Figure 6.3 Availability of budget formulation data across counties in Kenya

How Much Budget Information are Kenya Counties Making Available Online?
March 2019

Legend:
- 0 documents available
- 1 document available
- 2 documents available
- 3 documents available
- 4 documents available
- 5 documents available
- 6 documents available
- 7 documents available

Counties should make key budget documents available to the public as the budget is formulated and implemented. The March 2019 analysis assessed the public availability of the following budget documents:

1. Approved Program Based Budget (2018/19)
2. Citizen Budget (Approved Budget 2018/19)
3. Annual Development Plan 2018 (for the year 2019/20)
4. County Budget Review and Outlook Paper 2018
5. Quarterly Budget Implementation Report (for Q1 2018/19)
6. Quarterly Budget Implementation Report (for Q2 2018/19)
7. Finance Act 2018

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As the map shows, Kajiado and Narok counties are among the poorest performing counties in the provision of key budget documents online.

6.3.3 Clear Structure and Process and Opportunity for Balanced Influence

The requirement here is that before public participation takes place, clear rules need to be set, defining the conduct of the process, tools to be used, and how final decisions will be arrived at. Rowe and Frewer (2000) note that a call for structured decision making in participation exercises should use and provide appropriate mechanisms for structuring and displaying the decision-making process. The establishment and maintenance of horizontal relationships of authority with fellow citizens, seek *power with* rather than *power over* the citizenry, thus providing an opportunity for the citizens' voices to be factored in policy making (Bingham et al., 2005).

As detailed under the devolution structure in Figure 6.1, descriptive representation begins at the very bottom level, ensuring that the views of citizens at the grassroots are taken up the command chain. Like all public service positions, there is need for gender balance in the Village Council (VC). Representatives of the VC are commonly referred to as Community Elders with the position of Village Administrator commonly occupied by a Chief, assisted by an Assistant Chief. These two positions were carried forward from the administrative structure in the previous constitutional framework. Together with the Ward Administrator, these three positions are tasked with voicing citizens' needs and concerns to the County Government, through the MCAs in the County Assembly. Clarity of task definition plays an important role in legitimising political processes and activities related to fulfilling public participation mandates (Rowe and Frewer, 2000).

Respondents however reported that due to the non-existent civic education on the new Constitution, most of them become knowledgeable on rights and duties as the structure is operationalised, and mostly through the failures that play out in the public domain.[46]This loophole has facilitated the dominance of an elite, mostly men, in decision making.

To ensure balanced influence, rules of engagement at public forums are supposed to ensure a balance of opinions and avoid dominance or bias by a section of the public. The participation process should therefore be conducted in an independent, unbiased way. Understandably, one of the biggest issues with participation, is who controls information and whether the same is trustworthy (Hanna, 2000). Participants in public forums need to be assured of the freedom to air their opinions and that the same will be given due consideration. This freedom of expression

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[46] Such as legal action against The Kiambu County Government for ignoring citizen participation before passing new laws in the county assembly. https://www.nation.co.ke/news/Court-nullifies-controversial-Kiambu-county-law/1056-2283222-s9eqg4/index.html Accessed: 04.01.2018

is a right for all citizens as stated in the CPP guidelines. Doubts in the legitimacy of participants' efforts therefore discourage commitment, faulting the process and consequently, its outcomes.

Respondents reported that pre-set agendas rule out fair input by citizens, locking out genuine deliberations and threatening the legitimacy of the entire process. They also reported that public meetings are largely dominated by a few citizens close to the people in power, contradicting reports by county government agents, that they put in effort to ensure equal participation:

> *There are other men and youth in the meeting, but some men would want to speak again and again. So you have to be in charge, and manage those situations in a professional way so they don't also feel slighted…as a facilitator, you have to be alive to that fact and let everyone participate (Chief Officer, Department of Development Planning – Narok County, 20.02.2017)*

Respondents pointed out that dominance by a certain group is inevitable, as they are made aware of agenda before others, allowing them to align their goals accordingly and therefore engage better and faster in the forums. They end up controlling the meetings, thereby shaping outcomes and action points, as was reported by a member of the Kuku group ranch in Loitokitok on the complete disregard for due process in citizen engagement in decision making processes.

> *When a chief calls for a meeting, he already knows who will speak. Even men who might have any contribution, stand no chance especially if one wants to oppose them, they give you no chance. It is the leaders who are dictators. Even in meetings called by the MP, he knows all the speakers. He plans a meeting for Rombo from Nairobi, knowing exactly who will speak. Those who had pressing issues stand no chance; the chief is told who not to give a chance to, as they would ruin the meeting's plans. So if they can suppress men, what about the women? (Male Respondent, Loitokitok – Kajiado South, 04.03.2016)*

This allegation on the suppression of the voices of those without close relations with administrative and political officers confirms the lack of equal opportunity to assert influence in participation exercises. As platforms for inclusion and gender mainstreaming therefore, devolved structures are reflecting the myths of their institutional environments instead of the demands of their work activities (Meyer and Rowan, 1977: 341). A farmer from *Acre Kumi* in Keekonyokie Ward reiterated this in explaining that his enthusiasm for attending public forums had waned because even when called to meetings, there are no benefits to be gained. Not

everyone is free to express their opinions, with the elite dominating, and the rest merely providing a quorum to qualify the agenda.

> *Sometimes you are called to a meeting whose benefits for participation are not evident because when you get there, you don't have a chance to give your opinion as it is dominated by the strong ones...it gets to a point where the women, or even us men, opt to stay at home and do our things as going to such meetings bears no fruit because there are those who already have an agenda and a strategy to push it through. So when some of us go, we are nothing more than pictures because everything has been discussed and decided. (Male Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

This confirms the argument by Cooke and Kothari (2001) that the unjust exercise of power is a real and potential consequence of participatory development, contrary to the empowerment rhetoric that accompanies it. This can be seen in the reported cases of inequality in opinion sharing, regardless of the CPP guidelines' pre-requisite for a commitment to the participation process, by ensuring openness to public opinion in decision making. Such accusations also contribute to the critique of a lack of genuine commitment to the actualisation of public participation and equality.

The transformative power of public participation is thus brought to question, with its independence being curtailed by hidden powers. As a face of power, hidden power fuels the exclusion that follows from agenda setting behind the scenes (VeneKlasen and Miller, 2002). When this power manifests itself, as in the argument presented in the excerpt above, it negatively influences individual power to act and consequently, the collective action that would follow from individuals working together. In the end, the continued lack of independence strengthens the power of certain individuals, further limiting the power of the general public in decision making.

The respondents' remarks highlight an elite dominance, which takes away neutrality from public forums, further subordinating men and women that are outside political power circles. Instead of providing opportunities for citizens to engage with government more closely, a key argument for participation, the process as actualised in Kajiado and Narok has created a platform where those with close ties to public officials are able to benefit more from devolution. Power relations are therefore highlighted, with the elite demonstrating that ''sometimes power

begets power'' (Lovenduski, 2011: ix), which is in this case magnified in the politico-institutional mechanisms. This phenomenon is discussed in detail in the following chapter.

6.3.4 Commitment to the Process and Belief in the Value of Public Input

The CPP guidelines point out that proponents of public participation must be willing to obtain and consider public input in decision making and to ensure that public participation works. This is necessary to minimise decoupling in change processes (Meyer and Rowan, 1977). While checking commitment levels can be difficult to ascertain, the participant observation technique adopted in the study was very useful in checking on the consideration for public input.

At only two hours, the time allocated to discuss the development needs in the Loitokitok CIDP forum was clearly insufficient. Coupled with the lack of access to information regarding the issues to be discussed, one can argue that the forum was more of an information and verification exercise, instead of being truly deliberative. To further this argument, I will use the example of a youth group that was represented in the forum. Having informed themselves of the upcoming meeting, a group of youth came together to discuss and articulate development issues they wanted to have addressed. Their action conforms to the principle of inclusion that is at the heart of pro-participation arguments, in addition to supporting the argument that participation allows problem definition by key stakeholders, and the consequent development of home-grown solutions (Gaventa, 2002). Unfortunately, the representative was not allowed to present the group's agenda, since, to paraphrase the forum's coordinator, the youth were part of the general public whose development needs had been presented in the general discussions. He therefore argued that allowing the youth to present their agenda would be repetitive and time consuming. This argument prevailed, disregarding the CPP guidelines' allowance for the formation of groups to represent special interests in public deliberation exercises.

These instances of questionable commitment to public participation strengthen the argument that public participation is not really a platform for inclusion (Hanna, 2000). Instead, it is used to create the illusion of inclusion, as governments and public institutions seek to legitimise their governance approaches. As platforms for gender mainstreaming, these participation exercises are instead contributing to the ''repeated exclusion of women'' through their rules and routines which further render women and their interests invisible (Chappel and Waylen, 2013: 602).

As a requirement for meaningful engagement, due consideration for public input results in better decision-making and improved governance. The output of a public participation exercise would therefore have a genuine impact on policy. Most importantly, the fulfilment of this condition ensures that there is an alignment between input and policy relevance for the public.

Involvement of all stakeholders is therefore argued to be the most effective way to ensure that policies reflect actual needs of the affected public. Cornwall and Jewkes (1995) point out that by its very nature, participation emphasizes a bottom-up approach that is focused on locally defined priorities and perspectives for the generation of knowledge for action. Public involvement thus provides room for the emergence of alternative interpretations of needs and therefore alternative policy solutions (Cornwall and Gaventa, 2000). It is these alternatives that reflect the needs of the public as deliberated upon in participation exercises. This is however not a guaranteed outcome.

One respondent reported that despite endlessly requesting better roads, her village continues to get more boreholes. She is therefore surrounded by five water projects, but a poor road that makes transport, trade and medical emergencies a nightmare. The government does not seem intent on listening to what the needs of the citizens are, relying instead on informants seeking to benefit from tendering processes.

> *They don't care about coming to the people, they get information on development needs from a few men with whom they eat and drink. Sometimes they carry out simple projects like drilling boreholes and find ways to misappropriate funds…Presently, because 2017 is nearing, we are important stakeholders, we have started being invited to meetings. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

The continued dominance by men as decision makers has further strengthened their de facto leadership role. A respondent argued that men are in a better position to understand community needs since women are mostly holed up at home taking care of household chores. This reinforces observations that the Maasai woman's sphere of influence remains the homestead, while the man deals with public affairs and political matters (Hodgson, 1999). These informal and cultural dictates on gender roles are still powerful, and as respondents from Ewuaso Kedong Ward pointed out, some women are resigned to having no influence on decision making.

> *A lot of things are decided by men and as women, we only get to hear that decisions have been made. It is very hard for us women to be involved and our opinions sought. They believe they are knowledgeable enough and we just act on their decisions because we cannot refuse as we have no authority to do so. We agree with their decisions and see them fit for the whole community. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

The attitude reflected here points to internalised dependence and subordination as effects of a socialisation process that informs the avoidance of conflict (Moglen, 1983), maintaining an institutional environment that perpetuates male dominance. The influence of traditional gender roles means that participation forums limit not only the input by women, but also opportunities for them to gain knowledge, skills and confidence in their ability to influence decisions that affect their daily lives. This lack of engagement in decision making strips them of the opportunity to exercise their power to challenge the boundaries to their participation, benefits Dworski-Riggs and Langhout (2010) argue may be gained from participation, even if limited.

6.3.5 Inclusive and Effective Representation

This condition calls for the establishment of mechanisms that will ensure outreach to all the relevant stakeholders. According to Rowe and Frewer (2000), public participants should comprise a broadly representative sample of the population of the affected public. This way, ownership, implementation and enforcement will follow through. Bingham et al. (2005) support this view by pointing out that successful governance calls for processes that include all stakeholders. Broad representation ensures the legitimisation of stakeholder knowledge and redefines expertise in ways that provide spaces for the experiences of those affected by social policies.

Respondents however reported that calls for participation in public meetings tend to exclude inhabitants of areas further from administrative offices. One respondent from Entonet Ward in Kajiado South, complained of the neglect her area continues to face especially with poor infrastructure. She blamed this on the public engagement process, especially the holding of meetings in administrative centres that are inaccessible to residents of outskirt villages which have poor roads and lack reliable means of transport. Development proposals thus continue to exclude the needs of this population, catering instead to urban and peri-urban residents who can easily access avenues for public forums. Non-interaction with these groups of citizens results in the lack of ''articulation and reflection of group perspective'' as a basis for substantive representation (Mackay, 2008: 129). In the end, policy formulations not only exclude key stakeholders, but risk being irrelevant to their actual development needs.

They make announcements for development meetings to be held in the administrative central. Further, they do not provide transport for the people coming from remote areas. In the end, it is only those from around town centres that attend these meetings, and they communicate their development needs which might not be representative of the entire population. This process leaves out the common citizen because they need to go to the people at the grassroots and ask them what their needs are, and the people give their proposals. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)

The lack of mechanisms to reach out to all relevant stakeholders therefore violates the condition of inclusive and effective representation. Poor representation also breeds a conducive environment for elite capture due to the dominance of particular voices during meetings. An example of this is found in the lamentation of a respondent from Keekonyokie Ward, on the lack of equal opportunities for opinion sharing. The few dominant voices end up being interpreted as the public's position, even though they tend to be mainly peri-urban, educated and close to political power. Considering the patriarchal set up, these voices also tend to be representative of men's opinions. As a respondent reported:

When people discuss politics, as a woman, you remain quiet. It is men who decide. We keep quiet and are led by men. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)

These institutional realities contribute to one of the main arguments against participation, that open and fair as it might be envisioned, in reality, it is only the voices of the powerful and organised that succeed in private deal-making processes (Innes and Booher, 2004). The excerpt above also points to the failure of public participation to challenge unfair power relations, such that for most Maasai women, despite the provision of this affordance for political engagement, public decision making largely remains *business as usual*.

This reflects the existing attitudes towards the inclusion of women in other public, albeit traditional, spheres. On the absence of women members in group ranches,[47] for example, a member of the Kuku Group Ranch admitted that the reason for this is that there is an awareness

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[47] System of communal, instead of individual, land ownership among the Maasai, which supports communal grazing and where proceeds from rent – especially to tourist and business ventures - are used for such communal development agenda as education. This system is however being replaced by the more widespread individual land ownership system, due to the reduced nomadic pastoralist nature of the community.

of the power women wield thanks to their numbers. Decisions that contravene the group ranches' governing by-laws are therefore made to ensure that women continue to be left out of decision making. These decisions are supported by a reported dictatorship that locks out men who would be in opposition.[48]

> *It is not right not to give them membership and voting rights. Why do we call them to vote for Councillors, Senators and MPs but exclude them from Group Ranch elections? National voter registration is currently ongoing, why aren't we registering them in the Group Ranches? It is just dictatorship because those in power do not want this issue resolved. (Male Respondent, Loitokitok – Kajiado South, 04.03.2016)*

This attitude, the respondents highlighted, is transferred to public forums where, even though men and women are supposed to equally enjoy the freedom of expression, speakers are already pre-determined to avoid confrontation and calls for accountability. This dominance thus rules out any chance for fairness in representation and by extension, fair prioritisation of development agenda.

Respondents argued that women who get to speak at public forums are specially selected, to give the impression of fair representation, while they only support the agenda of the men in power. Once again, this affirms observations by Kabeer (2005) on women in political positions in India, who merely act as proxies for husbands or powerful men within their families or caste. The chosen representatives reported in this study also act as proxies for the political elite, and not genuine representatives of the public, as the legitimacy of their positions is riddled with tokenism. Since ''language, consciousness, and the structures of power are all socially determined'' (Moglen, 1983: 132), the women who then benefit from such set-ups further align themselves with agendas that are favourable to the men in power.

This embodiment of femocracy was once again confirmed in the study, through the process of electing the Women Representative for Kajiado County in 2013. As mentioned in the previous chapter, the rationale behind voting for her in 2012 was not driven by women's interests, as the candidate of choice was actually endorsed by men. It is not surprising therefore, that the women

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[48] This allegation was made by a male respondent who was particularly angered by the reluctance of the Kuku group ranch's committee to register women and give them voting rights. The matter was debated at length, in what I believe was triggered by the presence of one of the committee members in the focus group discussion. The gentleman in question remained quiet throughout the debate on the group ranches.

did not find the representative beneficial to their cause, having witnessed no tangible benefits. They did not believe that she truly represented their interests.

6.3.6 A Climate of Integrity

Government agencies and decision makers are required to be credible, honest and trustworthy in matters of public participation. Women respondents however reported a general distrust in government, confirming observations that women exhibit more distrust in government than men (Verba et al., 1997 and Chanley et al., 2000). This is especially prevalent among those with lower levels of education and limited exposure, who lack trust in the neutrality of government administration. This is evidenced in the attitude of the respondent whose contributions to development needs of her area continue to be unfruitful. In such cases, it is difficult for individuals to trust that the government is genuinely concerned with listening to them and placing value in their input. The additional experiences of unequal opportunities for opinion sharing by both men and women further delegitimises the public participation exercises.

This lack of trust is also experienced in the distribution of public funds such as education bursaries and women empowerment funds.

> *What I see is that we still have problems with the government. The bursaries being made available to school children, for example, are distributed through networks. When we submit our papers, it is known that the child of so and so should get it and the one of so and so, not. This…continues even when job opportunities are involved. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

Elite capture has caused many to lose regard for government entities as fair, therefore discouraging openness to engagement in public participation. Perhaps as a sign of hopelessness, a respondent answered to the complaint thus:

> *To end this agenda, even in saying that our chiefs are good, we said that once bribed, they become lions. There is no discussion around it, once bribed, they are bad. But if you get to them before the oppressors do, they dare not receive the bribe because the women can hold them accountable as they were unaware of the situation before the women reported it to them. It is in line with the true nature of Kenyan government operations. We are the third most corrupt country and soon to be number one. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

This excerpt however points to an existing awareness of the unfair power structures that exist in the community and how they could be navigated. Mackay (2008: 130) points out that power patterns are ''embedded within the design of institutions and are reinforced or challenged by the informal practices that evolve over time.'' By detailing the benefit of reaching the chiefs before the men do, this respondent's statement can be interpreted as an invitation to proactiveness, which would minimise the chances of unfairness. Whether this approach can work in matters of public participation is however difficult to ascertain, as information flow and location setting remain centred around physical locations of power and social networks that exclude those outside power circles.

6.3.7 Capacity to Engage

Knowledge on designing and implementing public participation processes by all persons responsible is necessary for the success of a public participation process. The CPP guidelines therefore clarify official responsibility for managing public participation. Both the government agencies and citizens are required to have the knowledge and communication skills necessary to ensure the effectiveness of the participation process. The public should be able to see what is going on, and how decisions are made. This criterion presupposes knowledge on due process and mechanisms to redress any deviations thereof. Respondents however reported widespread ignorance on the operating system of devolution as provided for in the Constitution. They pointed to the need to bring the Constitution to the people, mainly through translated texts in the local Maa language to spread awareness and improve accountability mechanisms.

In a discussion with women from Keekonyokie ward in Narok East, for example, they reported that there was no woman from their area in the County Assembly. This is however untrue because, even though there was no woman elected to the County Assembly, there are female nominees as part of the gender top-up, to ensure gender equality in the assemblies as required by the Constitution. This information gap highlights the much-needed civic education among the Maasai, especially women, to improve their understanding of representation under devolution. Jeong (2013) rightfully points out that minorities respond to descriptive representation. However, without knowledge of how gender and representation work within the devolution structure, it is unlikely that these women will have contact with their representatives, further alienating them from active political engagement.

Reacting to this during the discussion with men from the same area, a gentleman who is one of the chairpersons of *Nyumba Kumi* pointed out that the claim was indicative of the women's ignorance on how the county government operates, and representation protocol therein. In his

opinion, which was backed by other men in the eight FGD, women would be much more aware of how the system operates if anyone took the time to educate them. This, he reiterated, must be done through vernacular radio as many women spend their evenings listening to the radio to get informed on current affairs. A female respondent who is a leader at a local church insisted that this would work well when both government and civil society groups collaborated on the initiative.

The effect of this lack of information is reflected in the rationale that informed voting for the 2010 Constitution, pointing evidence to a lack of outreach in civic education:

> *As Christians, we chose the Orange (No) and the others were Bananas (Yes). That is how we voted, those who could not express themselves carried oranges as symbols of their vote…we did not understand what it all meant…as Christians we fought the legalisation of abortion. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Such information gaps continue to make it difficult for citizens, and especially women, to understand how devolution works, and the engagement opportunities available to them. This limits their knowledge on the *hows* and *wheres* of exercising and demanding their rights and holding the government accountable. These circumstances limit the women's capacity for active political involvement, considering how experiences are ''written about and reflected officially in documents differs fundamentally from women's real experiences in home and family'' (Peet and Hartwick, 2009: 245). Reaching out to them would ensure that participation exercises contribute to tighter coupling of formal and informal norms on equality in public participation.

6.3.8 Standing Conditions of the Participants

This condition calls on facilitators to understand their audience well. They should clearly discern the socio-economic status, religious beliefs and other relevant demographic characteristics of those engaging in public participation. This is because knowledge levels, incomes and wielded power will influence deliberations and ultimately have a bearing on the conclusions of deliberation exercise and their subsequent outcomes.

Rowe and Frewer (2000) argue that there should be access to the appropriate resources to enable participants successfully fulfil their brief. Information accessibility by the public is key to ensuring that they are aware of the on-goings of participation exercises. This provision is supported by the Kenyan Public Finance Management (PFM) Act of 2012, which outlines the

public's right to participate throughout the entire budget process; from the formulation, through its implementation, to the evaluation of the process as outlined in Figure 6.2. This is however difficult to implement since financial resources are required in the passing of information and planning of these meetings.

The issue of inadequate resources was prevalent in the discussions with both citizens and economists from Kajiado and Narok Counties. Considering the economic challenges discussed in chapter five, more women than men are subjected to economic marginalisation which further limits their political engagement (Mackay, 2008). The inability of the government to reach out means that there is no foreseeable remedy for this.

A Narok County Budget Officer reported that his office did not have enough resources to facilitate participatory budgeting as provided for in the PFM Act. As a result, the county has resorted to carrying out the annual budgeting exercises in 12 locations[49] within the county that are accessible to the officers. This process leaves out many residents who cannot reach these locations, while at the same time making the 12 locations the entire county's mouthpiece. This confirms observations that decentralisation efforts across Sub Saharan Africa are hampered by economic challenges.

Resources do provide a constraint to the successful realisation of public participation, with Jütting et al. (2005) pointing to the reality that local governments may sometimes lack the human and financial resources to effectively implement decentralisation. This is well captured in the reflection of the Narok County Chief Officer in charge of Gender, Youth, Sports and Culture. She notes that due to the limited financial resources, there are no efforts to promote political empowerment, with focus being on economic empowerment through women groups instead.

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[49] This was reported during the first field research phase – March to May 2016. Another officer from the Department of County Development planning interviewed in the second phase – January to March 2017 – stated that it was nine locations. For the CIDP forum however, as Appendix IV shows, the schedule listed 30 locations across the six constituencies, meaning that for the master budget plan, the county reaches out to all administrative wards.

Now, my office is not focusing much more on the political space for women…it is more about economic empowerment, other than political. It's not like a human rights aspect whereby we want women to be participating politically…we have never really developed a program that is targeted on the political aspect or even one that encourages women to participate in politics. (Chief Officer - Gender, Youth, Sports and Culture - Narok County, 20.02.2017)

The same strategy is employed in the women empowerment program administered by the gender department in Kajiado County. Even though the economic empowerment objective is also valuable, its preconditions lock out most women, especially the illiterate. This is because women groups need to fulfil criteria that involve reading, writing and arithmetic, to be considered for such programs. The inability of these programs' benefits to be more inclusive and widespread becomes disempowering for the non-beneficiaries, as there is no due consideration for the socio-economic dimensions of class and poverty that affect them.

From her study on the empowerment of factory workers in Malaysia, Miles (2016) finds evidence that redressing gender inequality requires not so much a focus on the economic integration of women, but the redistribution of power so that social relations, processes and structures can be transformed. Putting these into consideration would require that relevant agencies find ways of reaching to all people. This can be done through such alternatives as rotating locations, or supporting groups that can have official representatives, as will be discussed in chapter eight.

The financial constraints faced by the county governments merge with the logistical and socio-economic challenges the citizens must deal with, making it increasingly difficult to ensure a resource input that would result in widely inclusive participation forums whose outcomes best reflect public needs.

Informed by the empirical evidence discussed so far, the discussion now shifts to the debate on how gender mainstreaming, through the utilisation of such platforms as public participation, works to promote women's political agency.

6.4 Public Participation and the Political Agency of Women

The foregoing analysis on public participation in the study areas depicts a community in motion as far the political agency of women is concerned. The intricacies of this process are seen in both the positive and negative narratives on the outcomes of pursuing equality in public

participation. It is true that devolution has brought government closer to the people and with it, the increased visibility of women as political actors.

> *They are responding well… So having learned ladies or women who come from those villages and having women who are employed in the county government, having women heading those departments especially in the general office, and having some of them as ward administrators, and having them in few offices there, it is giving them courage to come out. You see now, things are improving. As men now we see women as part of this society so we're giving them a chance and they're getting better and better every day. (MCA, Ewuaso Kedong Ward – Kajiado West, 30.01.2017)*

While government agents report a commitment to the promotion of equity in participation however, citizens' experiences offer a different perspective on the realities of devolution operatives. These are captured in the grievances on the structure's lack of information, transparency, inclusivity and integrity among others. I argue that the existence of these challenges is due to the fact that devolution and all its processes operate within the prevalent elite capture that characterises Kenyan political institutions (Sheely, 2015). Elite capture facilitates the creation and sustenance of power bases at the local level, which is reinforced by weak institutional accountability mechanisms (Crook, 2003). In the end, the rules-in-use propagate resistance to the coupling of the old informal and new informal institutional arrangements (Mackay et al., 2009).

The accountability mechanisms discussed in section 6.3 demonstrate how the co-optation of elites in the devolution structure disenfranchises both men and women, creating heterogeneous interest groups on matters equality. This heterogeneity means that women have allies in men who support the equality agenda. However, being outside the power circles and therefore not able to influence decisions or action among the elite in control dwarfs their efforts to influence equality outcomes.

Despite efforts in place therefore, the promotion of gender equality through public participation in Kajiado and Narok appears to be failing at providing a platform that would reshape attitudes towards the political agency of women. The reason for this lies heavily in prevailing socio-cultural and economic realities. As a patriarchal community, power relations favour men in general, and particularly those with links to positions of power. As a result, the political participation of women continues to be frustrated. This evidence supports the argument that power remains difficult and elusive, especially when its definition is determined by differing

cultural habitus (Cheater, 1999). Men's control over public affairs as a 'cultural right' makes it difficult to approach public participation as an avenue of equality, as will be discussed in depth in the following chapter.

The engagement process of both the domineering and subordinate groups forms the genesis from which ''power might itself be purged and ultimately made the servant of empowerment'' (Moglen, 1983: 134). Political empowerment in this context thus becomes the change process through which the ability to make choices is acquired by those to whom it was previously denied (Kabeer, 2001). Debate is thus rife on what strategies can best be adopted to bridge the gap and make negligible, the consequences of the limited political participation by women. Questions on how to go about this in contemporary society abound, with Murray and Simeon (2007) summarising this debate as deliberation on whether to institutionalise, blur, or crosscut and transcend differences. The current engagement mechanisms employed in Kajiado and Narok do very little to overcome challenges of participation, contributing instead to the magnification of socio-political differences.

This brings to the fore, the importance of breaking socio-cultural barriers to ensure that women exercise their political agency just as freely and effectively as (most) men do. This is supported by observations that the importance of women empowerment is emphasised by the awareness of the negative aspects of the power structures that have excluded them (Moglen, 1983). Their empowerment thus involves engaging power dynamics around the different spheres of their lives. Against this backdrop, women's empowerment comes across as ''a multi-dimensional process of civil, political, social, economic, and cultural participation and rights'' (Moghadam and Senftova, 2005: 390). In this regard therefore, this process requires an engagement with formal and informal institutions, to understand how practices in either sphere can be aligned to the goal of improving the status of women.

Participation processes such as participatory budgeting as discussed in this chapter lay the foundation for women's equal citizenship, itself an opportunity to break barriers. By participating in socio-economic and political deliberations, women have an opportunity to challenge the acceptance of their political agency as they exercise their legal rights. It is therefore imperative that the conditions for meaningful engagement are met, in order to promote this change. While the CPP guidelines touch on the multidimensional aspects fronted by Moghadam and Senftova (2005), in their application, the cultural aspects are ignored, supposing public participation to be free from cultural influence. This, Fraser (1990) argues, is a

problematic approach, as public spaces can never be free from cultural influences. This oversight explains why, despite the efforts by county government administration, public participation has little to report in the way of successfully challenging the public dominance of Maasai men.

Nevertheless, participation as an avenue for raising political consciousness is propagated on the premise that it is the pathway to the inclusion of the marginalised. As has been previously mentioned, women respondents in the study agreed that the quota system applied in public committees and similar arrangements are an important step towards their inclusion in public decision making. The argument that increased participation can motivate women to ''break down customs of inequality and discrimination'' (Johnson, 2001: 9) is especially important in such cases as the women of Ewuaso Kedong, who have resigned themselves to male dominance, because men *know these things*, and they therefore let them make the decisions.

Participation processes strengthen women's political agency, lending credibility to the observations that empowered minorities are not alienated, tend to trust the government, and are politically engaged (Jeong, 2013). This is especially important for a representative democracy such as Kenya, since the loyalty and trust that is predetermined by how citizens orient themselves to their government largely determines systemic stability (Gilliam, 1996). Women empowerment would therefore not only work for the benefit of the female population, but also contribute to the general stability that arises from an informed and equally engaged citizenry.[50]

Moghadam and Senftova (2005) note that along with long term advances and socio-economic development, empowering marginalised groups comes about through legal reform and policy changes. Policy making should therefore act as both a catalyst and guideline on achieving equality, making empowerment both a strategy and goal of civic engagement. This dual nature however introduces complexities since, as VeneKlasen and Miller (2002) point out, political participation among women is a result of power dynamics in the public (lived experiences of daily life that are visible), private (relationships between family, friends and such other relations) and intimate realms (relating to *power within* and overall well-being). Without strategies in place to harmonise power interactions in all three realms, empowerment remains largely unattainable.

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[50] This argument closely relates to that used by champions for girl-child education – when you educate a girl, you educate a village. Benefits from informed and empowered women are tangible and widespread, an opinion shared by men who appreciate the benefits of encouraging power sharing at the household level.

From the focus group discussions, there was continued reference to politically active women having the support of their husbands, which reportedly increases their opportunities for participation and the acquisition of knowledge and skills on political affairs. In explaining her active involvement, a respondent explained:

> *Using my own example; I am involved in hospital matters and the county government...I am in a women's group through which I am here today. All this is because at home, my husband and I work together and respect each other. If anyone calls and tells him that I am needed to attend a meeting somewhere, I am free to go. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

This privilege of understanding and acceptance is however not enjoyed by all. As a community mobiliser pointed out, active engagement in public affairs is sometimes frowned upon as it purports insubordination by the women to their husbands:

> *I have been called names: I am bad, I rule over my husband among others...My husband and I are one, which the Maasais translate as me ruling over my husband. (Female Respondent, Loitokitok - Kajiado South, 03.03.2016)*

Still, there is a room for compromises. The chair of one of the women groups in Loitokitok explained that some men remain sceptical, allowing their wives such freedoms of engagement only in the presence of older women acting as chaperons:

> *I have been in leadership for many years. It used to be that whenever I asked a woman to join me for a seminar in Narok or Kajiado on community development, I had to ask the woman's husband for permission. The man would tell me to guard the wife until she came back home. That is heart-breaking. They don't think we have the capacity to take care of or lead ourselves and that contributes to our being undermined. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

These excerpts point to the dynamics of power relations in the private sphere of the home, and how this influences the exercise of agency in the public space of participatory democracy. As Kenny (2007: 94) points out, ''gender relations are inevitably power relations, and are, therefore, political, extending beyond formal 'public' structures – politics and paid work – to include 'private' structures, such as the family.'' Women that have influence over decisions at home are more likely to freely participate in public, a demonstration of what one would consider to

be *legitimised agency* from the private sphere. This form of agency is characterised by a husband's acceptance and support for the wife's freedom of public expression and association. Women who benefit from this support enjoy influence at home, and are subsequently confident to engage in, and interrogate public affairs. The importance of this legitimisation is made evident in the case of women who are separated or divorced from their husbands. Should they seek political positions, the absence of a husband or such other supporting male figure delegitimises their capacity to lead in the eyes of the community. In explaining why a female candidate lost in the 2013 elections, for example, the chair of a women group narrated:

> *...what contributed to her failure is the mentality that an unmarried woman cannot lead. We have Sweety now who wants to vie but she is being opposed in many areas because she left her husband. They ask 'if she was unable to control her husband to the point of his leaving, will she manage us?' (Female Respondent, Loitokitok – Kajiado South, 07.03.2016)*

Overall, there is an acknowledgement by both men and women that alignment in the power dynamics and harmonised power relations at home, are prerequisites for equality and opportunity for women to engage with their male counterparts in political affairs. As a male respondent and member of a development committee pointed out:

> *My opinion is that now things are changing; there are those being oppressed, and there are those who have seen the clear path. Those from the latter group, like the beautiful ones you see here, are evidence that even at home, they cooperate with their husbands. But if you look closely, even at the market place, you will see the difference with others who are still being oppressed. (Male Respondent, Loitokitok – Kajiado South, 07.03.2016)*

These scenarios point clearly to the transferability of the approach to power relations from the domestic to the public realm. In households where dialogue and power sharing are supported, the women are more active in public affairs, and the reverse is true for their counterparts in male dominated households where they are voiceless. What this demonstrates therefore, is that on political matters, it is difficult to pinpoint a distinct separation between private and public spheres, as value judgements are largely dependent on private interests (mainly of men).

Female respondents in Ewuaso Kedong Ward reported that for women who face subordination at home, it is difficult to use the arguably neutral civic space as a platform to speak out. Should their engagement contribute to any form of confrontation, especially with a man, it is a risk to

domestic harmony, as their husbands would find this a dishonour to the family. This narrative points to the argument that empowerment manifests itself in four spheres: personal/individual, family, group or team, organization and community (Thompson, 2006). The interconnectedness of these spheres influences the exercise of public agency by individual women, signifying the importance of approaching empowerment as a construct of the resultant space of private-public interactions, and not simply privy to the civic platform.

Structural inequalities and the social processes that generate them need to be considered, while at the same time acknowledging the complexity of individual persons as equal entities in all forms of social interactions (Perrons and Skyers, 2003). This approach, Dworski-Riggs and Langhout (2010) posit, allows for the understanding of power relations in communities where power asymmetries exist. This process of checking on inequalities and understanding power relations improves public consciousness, paving the way for structures that can challenge power asymmetries and pursue change, conditions necessary for the political empowerment of Maasai women.

The intended outcome of empowerment initiatives ''is for all community members to have access to control over the resources that affect their lives, paying special attention to groups who have been historically excluded from that access'' (Dworski-Riggs and Langhout, 2010: 216). It is therefore not achieved from an individual's ability to control every aspect of their lives, but from the awareness of existing boundaries and their nature as socio-cultural constructs. As an effort to promote equality and deliberative democracy, public participation therefore needs to engage with existing power dynamics in specific societies. Otherwise, the exercises will be considered a manifestation of institutional biases as the empirical evidence in section 6.3 shows.

6.5 The Expectations – Reality Divide
Despite the existence of participation guidelines, public participation is riddled with integrity concerns and an apparent disregard for the socio-economic status of public participation audiences. This is problematic since limited financial resources, though a challenge by itself, affect other aspects of citizenship and agency. It is important therefore, to give due consideration to these effects, to create an enabling environment for the realisation of empowerment (Thompson, 2006).

The CPP guidelines acknowledge that counties are yet to establish multiple mechanisms that are inclusive enough to ensure the widest public participation. Exclusion has therefore been a

key complaint, stemming from **''**the limited scope of outreach channels used to mobilize the people, such as adverts in the national newspapers that reach only a small segment of the population'' (CPP; 2016: 51). To ensure inclusivity therefore, the CPP guidelines call upon all county governments to map stakeholders and register organised groups, preferably along sectoral lines. While this would provide an opportunity for women to organize and deliberate politics more freely, it was not evident in either Kajiado or Narok, where citizen engagement took on a general approach. If anything, specific organisations such as the youth group in Loitokitok do not receive adequate support to encourage political engagement.

Complaints of unaligned development projects in areas of Kajiado County are blamed on elite capture, while in Narok the blame is on the county government and its disregard for citizens' recommendations. This is confirmed by the Ward Administrator for Keekonyokie Ward:

> *...the governor, knowing he still has to seek a second term, he also tries to work according to how he feels can be best. For example, in Nairagie-Enkare, there was a request for the upgrading of several feeder roads within the ward, but the governor opted to construct one tarmac road. It cost a lot of money, almost 400Million...If you try to look at the money that has been spent, and the money that was needed, the money used to construct that one road, could have improved all the feeder roads. Upgrading the market is still in the pipeline, but these things are annual. The finance bill public participation is annual so next year could come while last year's projects are pending, for example issues to do with the marketplace; they passed that they want a marketplace, the contractor is yet to come and start, we have given him everything. That's why I said there are a lot of challenges in dealing with the community. (Ward Administrator, Keekonyokie Ward – Narok East, 21.02.2017)*

The matrix of information gaps especially among the citizens, poor communication within county government offices and between government and citizens, integrity concerns from the lack of fairness and transparency in participation exercises, and influence over policy decisions are key impediments to the effectiveness of public participation in both counties.

As the empirical evidence herein clearly shows, there has not been a substantial transformation in the status of the public, especially among women as a special interest group, and neither among those from poor economic backgrounds nor those lacking political networks. Undoubtedly, there is increased visibility of the government in the grassroots, but it is clouded in a system that does not promote transparency and equality, which undercuts inclusion and

transformation envisioned from devolution. This highlights that the introduction of formal rules does not wipe out institutional norms and power structures, and ''informal ones can continue to operate to contradict them'' (Chapell and Waylen,2013: 607).The current structures therefore do little to support the meaningful transfer of power to the citizens over policy decisions that affect their lives.

Cases of discouragement from public engagement due to the process' lack of fairness and integrity rip off individuals' power to make any contribution, and most importantly, the empowerment that arguably comes from having an opportunity to engage in decision making. For Maasai women especially, evidence of unfairness even towards some men offers little incentive to engage in the very platform that promises a chance at equality. In the end, the unfair exercise of power in the public realm continues to cultivate powerlessness among the women. Unfortunately, public participation in these environments is far from realising inclusion and empowerment, having instead cultivated distrust and promoted elite capture.

These shortcomings in the formal institutions have allowed for the proliferation of informal gender norms, as well as attitudes and practices that uphold elite (male) dominance. The discussion therefore confirms that formal and informal institutions are interdependent, and outcomes on gender equality cannot be read off an examination of either institution independently since ''it is the interaction between them that shapes these outcomes'' (Chappell and Waylen, 2013: 607-8).

In the following chapter, I delve into this interdependence, by investigating what contributes to the disparities between gender policy and practice. I interrogate the peculiar circumstances in Kajiado and Narok which cause the limited impact of gender equality provisions on inclusion and equality as by-products of citizen participation under devolution. The chapter therefore makes clear why and how informal norms are able to render ineffective, legal norms aimed at promoting the political agency of women.

CHAPTER SEVEN

THE FUNCTIONAL (in)CONSISTENCY OF GENDER EQUALITY LEGISLATION

In the previous chapters, I have described how the Maasai community is responding to policy legislation on gender equality. Evidence confirms that informal norms have a strong influence on attitudes towards the public agency of women, as demonstrated through gender relations as power relations that transcend into the political sphere (Kenny, 2007). In this chapter, I interrogate the concept of statutory law as a tool for engineering social norms. The discussion focuses on whether and how legislation on gender equality in Kenya is influencing attitudes and norms on the equality status of Maasai women. I focus on the contexts within which interests and norms are formed, building on what Mackay et al. (2009) term as context-bound rationality of sociological institutionalism.

The chapter therefore investigates the realisation of gender equality as a constitutional provision in the face of opposing socio-cultural norms, as highlighted from chapters four to six. I use the legal framework for public participation as a guide, with a particular focus on the provisions set out in Chapter Four of the 2010 Constitution: The Bill of Rights, Subsections (3), (6) and (8) of Article 27 ''Equality and freedom from discrimination.'' They state:

(3)   Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

(6)   To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

(8)   In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

These provisions are also to be applied by county governments, with the County Governments Act (CGA) of 2012 tasking the county executive with the promotion of gender equity under Article 34(f). Again, these provisions are analysed within the context of public participation.

In the first section, the chapter outlines the rationale behind legislation as a pathway to influencing the desirability of certain norms. I therefore discuss how laws influence attitudes

and inform behavioural change among different agents in a society. This is followed by an exploration of challenges in adopting a legal approach to changing social norms as experienced in Kajiado and Narok Counties, bearing in mind that ''institutional processes and practices are, in fact, embedded in norms and cognitive frames'' that might constrain change (Mackay et al., 2009: 254). Section three then focuses on understanding the effectiveness of social engineering in changing attitudes and behaviour towards gender equality among the Maasai. In the last section, I demonstrate how rules of engagement among the Maasai, responses to legal requirements for change, and a poor demonstration of commitment by government agencies, have created an environment where women are unable to enjoy the intended benefits of equality legislation.

7.1 Law as a Tool for Social Engineering.

Following Platteau et al.'s (2017) description of the process, social engineering in the context of this study can be seen in the efforts of the Kenyan government to adopt and implement legislative amendments aimed at promoting the political agency of women in order to address their historical marginalisation from the political sphere. As chapter one demonstrates, these efforts are not restricted to Kenya.

Among the Maasai, there is also a history of social engineering, as can be seen in the efforts of the colonial administration to modernise the Maasai. Kibutu (2006) explains that the administration regarded *manyatta* as the basis for conservativism among the Maasai, and the reason why they refused to embrace colonial education. *Manyatta* commonly refers to the traditional Maasai houses, and in this case refer to camps where boys live in seclusion after circumcision, graduating to become *Morans* (warriors). It is here that they learn about dictates on rituals and appropriate behaviour, marking the period as the heart of Maasai identity (Talle, 1988; Spencer 1993).

The continuation of *Manyatta* was therefore forbidden, with the goal of limiting the military capacity of *Morans*. Through indirect rule, the administration allied with the authority of the male elders, broadening and deepening their control over younger men and warriors. This alliance worked well for the administration whose willingness to work with the elders instead of the *Morans* was informed by the former's ''willingness to assist the government in modernizing Maasai society'' (Kibutu, 2006: 121). Male dominance was therefore perpetuated by allowing them to reconstruct the logic of institutions in the community (Mackay et. al., 2010). It can however be argued that these efforts were necessary to ensure the uptake of formal education in the community, itself a positive goal. While focused on achieving the desired

results therefore, institutional reforms can sometimes generate unwanted results that could have either positive or negative effects on certain social groups.

Within the human rights framework, such institutional reforms are adopted with the aim to eradicate norms such as FGM and early child marriages which are considered harmful and/or retrogressive. As discussions in chapters four and five have shown, the campaign against FGM is very visible in Kenya, and continues to be a subject of debate among the Maasai. Just like FGM, gender equality as presented in the 2010 Constitution is approached from the dimension of advancing the rights of women. Promoting the political inclusion of women normalises their agency, potentially generating norms that encourage more women to be politically active (Mackay, 2008). Supporting norms of equality therefore becomes a positive outcome of this social engineering process.

In their nature, social norms are constituted by behaviours that are considered desirable, and whose violation invites disapproval in a societal setting. Platteau et al. (2017: 18) define behaviour as ''a social norm in the sense that an agent is better off if he (she) matches his (her) behaviour with the expected average behaviour in the society.'' This expectation is especially relevant among the Maasai, where *enkanyit* calls for a certain code of conduct, even when an individual would rather do or say something different if personal interest was to prevail. This codified logic of appropriateness (Chappell, 2006) is therefore at the heart of reception towards a new social order. On the reported fear of women political aspirants to engage with men in public, for example, a respondent commented:

> *A woman like that has a lot of respect! That woman is very respectful, and she should speak in the presence of people as she will not insult men. There are those who should not speak too much as she might insult men and ruin her vote. So that woman should retain her respectful nature. Respect is more important than looking for power and in such a meeting, such a woman is building her reputation. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 24.03.2016)*

This excerpt highlights the influence of informal institutions as custodians of norms even in the sphere of formal institutions. It shows how adherence to what is regarded as acceptable behaviour in the informal set-up can work to legitimise agency in the formal sphere, binding both in an operational logic of appropriateness. This interconnectedness highlights the benefit of a neo-institutionalist approach to understanding the relationship between the two, as it allows for the consideration of the roles and interests of different agents in the different institutional

contexts (Lovenduski, 2011). I will get into more details on these roles and interests of different agents in sub-section 7.1.1 which focuses on what informs the different reactions by men and women in the Maasai community to the gender equality legislation.

Overall, the law often plays a significant role in changing social norms either voluntarily, or as a means to avoid negative consequences - as would be the case with criminalised norms. As Bilz and Nadler (2014) expound, legal regulation can either have direct impact through fear of sanctions or the desire for rewards, or indirectly, through attitude change towards the behaviour under regulation. The impact of gender equality legislation can be achieved by either pathway, as is the case in Kenya where the National Gender and Equality Commission is tasked with ensuring the two thirds gender rule is observed, while at the same time engaging in sensitisation programs to spread awareness and promote positive attitudes towards gender equality among citizens. This latter mechanism can be more effective especially if the regulation manages to change moral attitudes and reduce the need for monitoring by the state (Bilz and Nadler, 2014).

If citizens can use morality as a guide to legality, the alignment of legal rules with social norms would promote adherence by economising on legal counsel (Licht, 2008). According to Roland (2004), this success depends on the systemic consistency between social institutions, which would promote complementarity and conceptual compatibility between laws and social norms. In other words, successful social engineering depends on the tight coupling of formal and informal norm systems. Further, this compatibility depends on content and functionality, with content consistency being subject to the compatibility of dictates of law and social norms, while functional consistency is derived from the compatibility between the role played by the law in social regulation and the informal environment (Licht, 2008: 734). Any inconsistencies between content and functionality cause a non-alignment of legal rules and social norms, signalling the potential failure of a social engineering process.

The politics of gender as explored in chapter five draw evidence to the reality that as a legal rule, gender equality is not conceptually compatible with equality norms as practised by the Maasai. This already creates a disconnect that weakens the systemic consistency between the Maasai socio-normative environment and the state legal environment. The question therefore arises, whether there is any possibility for functional consistency between the two environments. This brings to the fore, what Licht (2008: 736) refers to as ''the most fundamental question about social norms and the law – namely, the relations between the content of the law ("law on the books") and compliance with the law ("law in action").'' Licht goes ahead to warn that unless the rule of law prevails, the interface between state and non-state norm systems will not

function. As evidence so far however demonstrates, enforcing compliance to the rule of law in the pursuit of gender equality among the Maasai is subject to resistance, and could potentially cause conflicts that could lead to failure as will be established later on in this chapter.

Noteworthy at this point, is that cultural rights in Kenya are protected and promoted in the Constitution, under Article 44 (1) *Every person has the right to use the language, and to participate in the cultural life, of the person's choice*. This introduces potential contradiction in practice, especially where cultural practices fall outside the scope of legal acceptability. Cultural rights however remain subject to provisions in Article 2 (4) *Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.* In this regard therefore, the rule of law prevails, signalling functionality as argued by Licht (2008), and promising the successful realisation of gender equality.

How then, does the prevalence of state norms influence social norms? The following section explores this.

7.1.1 How Laws Influence Social Norms

Individuals adhere to social norms to signal that they are good members of society, especially where social capital stemming from reputation loss is at stake. This is the driving force behind non-state norms which, though unwritten, have the power to control mass behaviour. State norms, as embodied in legislation, can also change the perception of what is considered right or wrong (Jakobsson and Kotsadam, 2010). They can therefore, incentivise change, stemming from the ability of the law to express values which in turn influence behaviour. As Equality Now (2012) reports, the adoption of awareness raising and education on social norms relating to discrimination is important, but established state laws and policies are a major boost to the success of such agenda. This is because of the provision of ''opportunities for marginal groups to exercise power'' in institutional settings (Kenny, 2007: 92). The effect of this can be seen in the widespread respect for equal representation in the constitution of public bodies such as *Nyumba Kumi* committees and local development committees.

> *The way I have selected my (bursary) committee members, there is a person living with a disability, youth, women, men, pastor. (MCA, Rombo Ward – Kajiado South, 06.02.2017)*

It is important to note however, that there is no direct correlation between the signal sent out by legal norms, and the success on the desired attitudinal change. Rather, reactions to legal norms could either reinforce or undermine legislation (Jakobsson and Kotsadam, 2010). As evidence

on the discrepancy between descriptive and substantive representation of women in this study has shown, the enactment of gender equality laws does not automatically create equality:

> *In my area, we have a problem as women because it is as if men disregard the women because even when you take a look at Nyumba Kumi or the village elders' initiatives, both men and women are selected but only men do the work. When there is a meeting, it is only the men that attend…It is truly like we have been kept aside, we cannot be involved wherever men are present. We are there in name but not in action. (Women Respondents, Keekonyokie Ward - Narok East, 21.04.2016)*

This reality confirms that the reproduction of gender relations can be reflected in actors whose interests are constrained in the pursuit of institutional reforms (Mackay et al., 2009). In this case, men can be seen to cooperate in excluding women from public decision making. Even though there is respect for descriptive representation as required by law, the overall goal of substantive representation is unrealised due to the non-alignment between policy and practice. Therefore, setting laws on non-discriminatory does not automatically eliminate discrimination, just as the criminalisation of harmful practices does not eliminate them. This is especially evident in the case of FGM where, among the Maasai, the practice prevails despite its criminalisation in 2011.

> *Now it is hidden but it is still happening because it will not be made public, it will happen in secret. I will not invite guests, but I will do it…I don't think this will end among the Maasai. It will not stop. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Evidently, the existence of the Prohibition of Female Genital Mutilation Act of 2011 has not automatically translated to its eradication.

On equality, Kameri-Mbote (2016: 46) argues that ''the effectiveness of laws in according women equal opportunities with men depends largely on the society's willingness and ability to enforce such laws.'' This is key in institutional reforms because official enforcement is what grants legitimacy to an institution (Chappell and Waylen, 2013). When a law lacks enforceable sanctions, regardless of how high or low these might be, its effect on behaviour is limited to its expressive function. This is manifested in the quest for gender equality beyond elective and nominative public service positions. There is no formula for the achievement of gender equality in open public forums, and consequences of a gender imbalance unclear: do the meetings get

postponed? Are the outcomes considered representative and inclusive? Should outcomes regarded as unrepresentative be adopted or ignored?

The grey zone created by the lack of a formula or engagement/recruitment criteria means that it is upon the discretion of citizens to show up in equal numbers if possible, and any additional input by county administration to ensure that members of the public are equally informed and supported to attend such meetings.[51] This lack of clarity is compounded by the challenges outlined in chapter six, such as the lack of adherence to communication timeliness, limited breadth of outreach to citizens and poor infrastructure, which make participation impossible for many. Beyond government's willingness to enforce laws (Kameri-Mbote, 2016), the case of the Maasai highlights the additional role played by informal codes of conduct which allow for agenda setting, making public participation forums prone to elite capture. Consequently, public participation reflects a situation where the public is ''playing by rules of a game, but it is another game – one backed by power that the law cannot match,'' meaning that the laws of the state are not actually the laws in operation (Adler and So, 2012: 85-86).

Where the formal and informal institutional functions collude therefore, legal requirements on gender equality are difficult to fulfil, due to the resultant relational environment of institutional challenges and informal politics of belonging in a public sphere. Licht (2008) however points out that emphasis should not be on why law in practise differs from written law, but rather, what drives this phenomenon. To understand this, I adopt Platteau et al.'s (2017) approach. They explore the effects of the law on individuals as society members, and under three main situations:

Effect of Legal Norms on Homogeneous Agents

According to Platteau et al. (2017), individuals make choices depending on the number of people in their reference group that will adopt a certain behaviour. For homogenous agents therefore, bad or even harmful practices prevail despite the awareness of their negativity, because no one takes the initiative to deviate from the group norm. This can be seen in the responses by some women, who realise the unfairness of being locked out of political processes but take no initiative to challenge this position. Regarding situations where candidate preferences in voting differ from their spouses, for example, women reported they would rather

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[51] An effort at this is exhibited by the Ward Administrators in Kajiado South, who did their best to contact and facilitate attendance by 10 men and 10 women from each ward, to ensure that the 2017-2022 Kajiado County Integrated Development Plan forum respected gender equality.

not exercise their civic right than risk a squabble with their husbands. This was discussed at length with the women of Ewuaso Kedong, as this excerpt from the fourth FGD shows:

> *Respondent: You would rather stay at home and look after the cows if you cannot vote for a leader of your choice.*
>
> *Interviewer: So you choose not to be involved?*
>
> *Respondents: Yes.*
>
> *Respondent: There are no arguments about it.*
>
> *Respondent: Sometimes you realise that you will be fighting with your husband over a politician, and at the end of the day you will come home to the same husband. Therefore, you would rather stay, and the man will emerge the happy winner as I am stuck with him forever and the politician is just a passer-by. We therefore agree to let it be.*

Even though Table 4.4 depicts gender parity in voting patterns, this discussion makes it clear that women's votes might not really be a reflection of their candidate preference. This highlights the non-universality of voting as a political right among women, making it secondary to other considerations. Llewely-Davies (1978) explains that solidarity is difficult to achieve when an issue does not equally matter for a certain interest group. As these women demonstrate, peace in the household is more important than the exercise of political agency, dis-incentivising a collective push for equality in political participation. This points to the interconnectedness of not just normative approaches, but also power relations between formal and informal institutional environments.

Beyond the lack of incentive for deviation from certain normative structures, Sunstein (1995) points out that perceived judgements of other people, as informed by social norms, influence how people behave. Strategic decisions are therefore made to avoid reproach, as women do in choosing silence over domestic conflicts or even the loss of reputation in the case of public disagreements with men. The costs at hand force women to choose dormancy, with the politic here being defined within customary boundaries of acceptable behaviour. Despite being otherwise knowledgeable on the benefits of exercising political agency, their contextual reality forces them to falsify their internal beliefs on political participation, for the sake of harmony and a good reputation. Mackay et al. (2010: 577) explain that even in the presence of better

choices, individuals choose to stick to a particular path due to the self-reinforcement nature of institutions which effectively makes it difficult to effect reforms.

The conduct of members of the national assembly as discussed in chapter four, and the resistance by Maasai men to share power with the women, also find their position in this category of homogeneity. Reluctance by members of the male dominated national assembly to adopt a formula to achieve the two thirds gender rule means that despite being otherwise knowledgeable in their position as legislators, the men still uphold a system that is in violation of the Constitution mainly because it serves to maintain their status quo.

This scenario is replicated in the attitudes of women respondents from Ewuaso Kedong Ward in Kajiado West. Even though they agreed that male dominance did not always work to their advantage, they were not willing to challenge the situation. In addition to resigning to its being too difficult a task, if not outright futile, one middle aged woman admitted that she is fine with men making political decisions as their historical exposure has afforded them the experience in dealing with public affairs. For her, and others in her group, male dominance was acceptable, especially since the men also took responsibility for providing food and catering for the children's education. The women therefore had no reason to 'cause trouble.' Their acceptance of male dominance converges with the interests of men to maintain their dominance, creating what I regard as a *circumstantial homogeneity*[52]that sustains the power structure that allows men to dominate the civic public sphere.

Platteau et al. (2017) advance the argument that changing norms in such an environment requires effort into shifting focus from the cultural norm to a new focal point, such as a legal provision. Gender equality legislation therefore presents itself as one such focal point. In its quest for power distribution among men and women, the legislation could potentially contribute to shifting the focus of this group of women who are resigned to male political dominance, as well as the men who enjoy the benefits of the current status quo. As has been established in chapters five and six however, there is little effort by governments to familiarise citizens in the study areas on the new constitutional provisions. This makes it difficult to shift the point of focus and achieve the desired effect of the law on gender norms among the Maasai. The unfair norms thus prevail through direct support from the men, indirectly through the resignation of

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[52] It is circumstantial because their acceptance of male dominance is informed by men's fulfilment of their role as providers. It can therefore be assumed that the opposite would be true, would the men fail to meet this responsibility, as was the reported case in Kajiado South and Narok East.

women, and ultimately from weak institutional mechanisms. A reversal of this thus requires effort to shift convergence to the benefits of the gender equality legislation.

Effect of Legal Norms on Heterogeneous Agents

Guided by a social norm approach, Platteau et al. (2017) hypothesise that there is a positive variation between an individual's utility function and the proportion of the population that follows a certain custom. On the flip side, the negative component is distinct in its reflection of an individual's aversion to the custom or the cost of compliance to it. Taking preference heterogeneity into consideration therefore, the effect of legislation depends on preference distribution in favour of, or against a custom. The more people have an aversion to a custom, the more effective the law promises to be by acting as a new focal point away from the undesirable custom. This effect is minimised when the number and influence of people with an aversion to the custom are low and changing the custom cannot therefore be achieved by changing people's expectations. Evidence of this is found in the reports by women on broaching the subject of equality with their spouses:

> *Even as you listen to the radio with your husband, he tells you that it does not apply to us…They say it only applies in Nairobi. (Female Respondents, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

This excerpt points to two things; it sheds light on the distance of the equality debate from everyday realities, and shows that a change in expectations does not necessarily translate to a change in normative institutions. Evidence from this study on the variation between what women expect and how men respond to gender equality legislation positions the realisation of gender equality in the study areas, and Kenya by extension, in this category of heterogeneity.

At the national level, the failure to pass legislation on the realisation of the two thirds gender rule in the national assembly points to the weakness of legislation in social engineering where the influence of opponents far outweighs that of the supporters. Considering that questions of change are closely linked to questions of power, it can be argued that these opponents benefit from the institutional arrangements that perpetuate the political underrepresentation of women (Kenny, 2007: 92). Convergence thus becomes difficult to achieve, due to the absence of a substantial number of members interested in changing the status quo.

A similar experience is shared by women in Loitokitok, Kajiado South and those in Keekonyokie, Narok East, reminiscent of a tug of war. Despite a largely collective aversion to the unfair male dominance, the women have not been successful at challenging the power

structure. This signals the presence of a stronger factor that limits their capacity for action, as is the case for homogenous agents (Platteau et al., 2017). The men remain reluctant to give women 'a seat at the table', and the women keep pushing for it, a reality that is determined by the socio-economic positions occupied by the women. Participatory parity is therefore dependent upon the recognition and redistribution of cultural and socio-economic rights (Mackay, 2008: 132).

In her study on changing gender roles in Sudanese households, Schultz (2005: 419) identifies four types of income allocation systems: main breadwinner as financial manager; allowance; whole wage; and shared responsibilities. She further acknowledges that households can have a mix of these systems. Among the Maasai, evidence suggests that most households operate under either a breadwinner or financial manager system (with the position being occupied by either a man or a woman, depending on their circumstances), or shared responsibilities system. A few have an allowance system, where husbands provide an allowance to their wives to take care of household needs. These different income allocation systems produce different outcomes on the political agency of women.

Unlike their counterparts in Ewuaso Kedong who reported that their men were dependable providers (in a combination of allowance and main breadwinner as financial manager systems), the women in Kajiado South and Narok East, must work hard to meet domestic needs that the men would ordinarily be in charge of, but have neglected (putting them in the position of main breadwinner and financial manager). This increase in their scope of responsibility therefore provides an additional platform for exposure to existing inequalities, as they have to find means to meet the demands of their households. Being forced to interact in socio-economic environments they were previously unexposed to raises their consciousness on inequalities and political realities of their disadvantaged positions.

It is these personal experiences that inform positive attitude towards the gender equality agenda (Bolzendahl and Myers, 2004) among women who take on the breadwinner as financial manager role. They are highly motivated to influence public decision making, unlike the women in Ewuaso Kedong who reported being satisfied with men's decision making. Political agency therefore becomes an outcome of the socio-economic position occupied by women, as determined by their exposure to the reality of their position and the benefits that can be accrued from influencing financial decisions. Evidence of the benefits of this exposure is to be found in the statement of a respondent, who reiterated the need for men to let their wives gain exposure, as she has from her engagement as a community mobiliser.

I would ask the men to allow the women to be free, to go for group meetings and seminars as these open their eyes to even how a woman should conduct herself and manage her home. This way, things will go well, and men will notice changes around their homes. The women will learn from each other how to manage their homes, be involved in development and how to take on leadership. (Female Respondent, Loitokitok, Kajiado South, 07.03.2016)

For most Maasai men however, the gender equality legislation is interpreted as a threat to their dominance, which is why they make all the necessary effort to ensure that the subordinate status of women is not changed. These tactics reiterate the argument by Kameri-Mbote (2016) that the capacity of the law on gender equality is mediated by other factors such as men's resistance to the political engagement of women that may be interpreted as a threat. Evidence of this is in detailed complaints by women on being listed as development committee members but having no input in decision making, or even attending meetings but not being allowed to speak and make any contributions.

Additionally, there are men who view the provisions on equality as a threat to not just their position of authority, but the fabric of family that holds the community together.

The Constitution can bring difficulty within the family and we have to revert to traditions because, if a wife says, 'I must do this' and the man says the same thing, it might not work out well as one has to calm down so there is peace in the family. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 25.03.2016)

This view points to the desire to hold on to the traditional Maasai social organisation, which is the foundation of Maasai identity (Coast, 2001; Llewelyn-Davies, 1978). It also confirms reports by many women politicians that choosing an active political life is mostly regarded as an abandonment of wifely duties, as politics is more demanding, making it difficult to balance the public and family responsibilities. An interview with Grace Oloo from Tudor Ward in Mombasa by Badurdeen and Mwinzi (2017) confirms this. Ms. Oloo opines that for most women in politics, it is a matter of choosing whether to be a good politician or a good wife, not both. It is therefore not uncommon that marriages fail when women are deemed unable to strike this balance.

Citing the example of women nominated to the Narok County Assembly, a male respondent argued that the conferment of power to women was a bad idea. This he explained, could be

evidenced by the action of some of the women nominated to the Narok County Assembly in 2013 to fulfil the gender quota. He reported that of the 11, four had divorced their husbands and moved out of their homes.[53]According to him, the four had become arrogant because, like their husbands, they also contributed to the household income, but unlike the husbands, they were more powerful and influential, and could therefore not continue to be submissive. In his opinion therefore, the legislation was doing more harm than good, and should not be allowed to influence more women.

The differential effect of the gender equality legislation on men and women is also experienced in other spheres of interaction. An example is to be found in the observations by Merry (2003) from her study on implementing women's human rights to protection from violence in Hawaii. She reports that in their encounter with the law, men and women responded differently to the effect of the law on their identities of femininity/masculinity and power. By discarding cultural notions of femininity and reporting their abusive husbands, women gained courage and appreciated the help of the law. On the other hand, being reported and therefore having cultural notions on their exercise of power questioned, men were surprised and even angered by what they considered as betrayal by their women. These views however differed by education and class, with the more educated and those with previous contact with legal authorities being considerably open to legal intervention. Male respondents in Kajiado and Narok exhibited similar tendencies, with the educated and those with more exposure being more supportive of the call to share the public space with women, going even further to suggest that the government considers enlisting their services in civic education within the counties.

However, unlike the women in Merry's (2003) study who receive support from the government, Maasai women that have embraced legal channels have little to celebrate. Among those that have tried to settle disputes which have been unfairly dismissed at the sphere of customary law, there is a sense of fearlessness towards unfair male authority. Sadly, few of them have succeeded, and those who dare to openly question decisions by men must deal with the reputational cost of mocking customary law. These women are therefore disadvantaged in their quest to work as role models and educate other women on alternative channels of challenging unfair male authority. The state legal sphere does reportedly little to remedy women's position in society as the narrative by Neenkai,[54]a female community mobiliser from Loitokitok, reveals.

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[53] Even though other respondents agreed with this claim, I could not find evidence to verify them.
[54] Pseudonym

Once a relative of mine was beaten up by her husband at six months pregnant. He took her, naked, to the woods and beat her up. When she started fainting off, he untied her and left her for dead. When a passer-by noticed her, he notified her mother who was not moved to act since it is fairly acceptable that men beat up their wives. When she realised that the day was ending, and she had not come home, she finally went for her and brought her home. They did not take good care of her and denied me permission to take care of her. When it seemed that she would die, they finally allowed me to take her with me. We took her to the hospital, and I took up the case with the courts. I have never been to court or had such a case, but I took it up anyway. That is when I approached the Federation of Women Lawyers (FIDA) for assistance. I went to the government offices in Kajiado and faced difficulties because the abuser was from the ruling clan and the woman and I from the poor clan.

When I say the government does not help, it is because they rallied chiefs to come get me and I had to run away to the most rural places where they would not find me. They wanted to get to me and talk at me to curse me. But the Chiefs are government, and that is when I began losing my faith in the presence of government. The lady was still hospitalised. FIDA helped me throughout: the office hid the file since they had been bribed and when I asked for help, they sent me to the prosecutor who they mentioned does not talk to the people. I believed them as I was not knowledgeable enough on the matter. I was stranded with the mother and her new-born child. I took courage and decided to face the prosecutor myself. He was not very friendly at the beginning, but I finally managed to explain my case and he promised to help and bring the case closer to Loitokitok. We were successful, and the abuser was asked to pay KES 40,000 or serve four years in jail. He paid the fee and was set free after spending three days behind bars. But we won.

This news was widespread, but the women were afraid of being cursed should their husbands learn that they were seeking assistance. I was also afraid because the women were threatening to curse me, so I was helping out in secret. There was also a woman who came to me complaining of her irresponsible alcoholic husband. She reported to the Chief that the husband wanted to sell off their land, not knowing that the chief was involved in the sale and was expecting a

commission from it. How then will we say that the government helps? I reported this to another Chief in Loitokitok who put me in contact with a woman District Officer. The other Chief however managed to get to her and she dismissed the case. How then has the government helped? The woman continues to suffer, and her land continues to be sold off.

I believe the government has pushed us very far away and I say this with a lot of pain. I am now afraid to fight for women because I lack support from top government levels. So even if I have the capacity, it is all in vain because women from my area are also very afraid. (Loitokitok, 03.03.2016)

Situations such as this bring out the effects of heterogeneous preferences on the influence of legislation. Even in cases of domestic abuse as detailed by Neenkai, both the formal and informal institutions seem to collude in favour of men, especially those with political connections, even though state systems are supposed to be just and fair. It is not surprising therefore, that in the case of gender equality legislation among the Maasai, the issue of whether women should have equal socio-political powers, has created a rift in expectations between men and women, limiting the intended effect of the law.

The gendered turn to the law has created a situation where women are open to formal alternatives, even though they are not easily accessible, but they have to contend with the social cost of side-lining the traditional dispute resolution system. Chappell and Waylen (2013: 601) note that women's presence draws attention to the extent of male dominance and hidden expectations in institutional spaces, causing disruption. As the case above indicates, men do their best to frustrate efforts by such women and ascertain their dominance as derived from the informal institutional environment. Here, as in the case of homogeneous agents, failure by county governments to converge interests of both men and women slows down the institutional reforms envisaged in the legislation.

The Deterrence Effect of the Law

Efficient legal systems are necessary to guarantee human rights and the rule of law (Sippel and Wanitzek, 2010). This is expounded by Kenny and Patel (2017) who note that the regulative nature of laws can either incentivise or dis-incentivise norms and behaviour, through the provision of rewards or imposition of punishments. In instances of deterrence, the law introduces a payoff by making it costly to follow a certain norm (Platteau et al., 2017), effectively calling for rationality in decision making. Breaking the law therefore invites

punishment from state authorities, mainly through the court system, reconfiguring the implication analysis by individuals in their exercise of either personal or collective action. Law thus becomes a driver of change, with its effect relying heavily on enforcement.

The criminalisation of female circumcision adopts this deterrence approach, such that, even though the practice prevails, there is an awareness among actors of the cost of being caught. It is this cost that deters many from engaging in the practice.

> *...we are now against FGM because we were educated on its negative consequences. Many became afraid and the message spread especially since there was tough punishment for those who perpetrated the act. (Male Respondent, Loitokitok – Kajiado South, 04.03.2016)*

The gender equality legislation also comes with sanctions, such as the revocation of nominations that do not meet the two thirds gender rule,[55] or enforcing the nomination of more members to meet this requirement. Beyond this scope however, there are no sanctions to deter non-compliance at, for example, the ward and village levels where the effect of the law would be more beneficial to the women in its application within public participation. This has allowed for the descriptive representation of women discussed under heterogeneous conditions, but without substantive engagement that would ensure the inclusivity goals of the gender equality legislation is met.

The absence of effective enforcement mechanisms for gender equality diminishes impact, since ''enforcement transforms the *de jure* (law, mandate, command, decree or agreement) into the *de facto* and enables both women and men to enjoy rights and resources'' (Chiongson et al., 2011:16). This explains why gender equality for Maasai women continues to be elusive, as it remains written, with no relevance in practice. It is also why attitudes on equality as something that applies in the capital, Nairobi, prevail, as there are no efforts at enforcement, to encourage adherence and create resonance in the daily lives of the Maasai. This is compounded by the experiences of those such as Neenkai, who have sought legal redress. The negative experiences and consequences of their actions further dis-incentivise the pursuit of rights through formal channels of state law.

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[55] Court revokes nomination of 12 Migori MCAs http://www.nation.co.ke/counties/migori/Court-revokes-nomination12-Migori-MCAs/1183306-4251058-i70lotz/index.html Accessed: 04.01.2018

Important to note however, is the fact that cultural values of individual autonomy and egalitarianism that characterise legal norms (Licht, 2008) are inconsistent with cultural values of the embeddedness of an individual in a tight social fabric or one that emphasises a hierarchical societal order. As earlier discussions have shown, the Maasai social structure is inherently communal, with individual choices having to take communal codes of conduct into consideration. Individual rationalisation of action is therefore made subject to a communal logic of appropriateness. In such environments, decisions can be made even if they go against individual interests protected by law, demonstrating how institutions constrain actors' interests (Mackay et al, 2009). This points to an inconsistency between the state and the Maasai systems, a position that threatens the effectiveness of enforcing legislature, due to a decoupling between written law and the context of its application.

The narrative by Neenkai additionally sheds light on the lack of commitment to enforcement, even where sanctions are very well laid out. Women are still struggling with female circumcision and domestic violence, which are outlawed and whose legal consequences are spelt out in the Prohibition of Female Genital Mutilation Act of 2011 and the Protection against Domestic Violence Act of 2015 respectively. It is therefore unsurprising that for legislation without clearly enforceable sanctions, there is very little to show as success in attitudes and behaviour towards socio-political equality among the Maasai. The dates when these laws were passed arguably point to the Kenyan society's overall tolerance for customary practices that are unfair to women, and the reluctance by the legislature to provide strict legal guidelines to deal with the effects of the clash between formal and informal norms.

It is however important to note that in some cases, legislation can also influence social norms with or without enforcement action. Sunstein (1995) explains that this happens when laws have a strong signal on acceptable behaviour, leading to a norms cascade. This is, for example, the case for compulsory primary school education, for example, introduced by the government introduced in 2003. Like all Kenyans, Maasai families were forced to send their children to school, instead of keeping them at home to take care of animals and domestic chores.

> *Before, you would visit a home and find a lot of children but now they have to be taken to school or the parents will face the law, and they are properly taken care of. They are well dressed as opposed to before where you would find them poorly dressed for the cold weather or even completely naked. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 21.04.2016)*

Such behavioural and attitudinal changes are motivated by the reputational incentive to comply, and the consequent shame of non-compliance. Sunstein (1995: 2033) explains that the success of legislation to achieve this is ''the least controversial case for the expressive function of the law,'' since there are no objections in principle. Gender equality legislation however provides no such compliance incentive for Maasai men, as the principle of equality threatens their dominance, a status they are reluctant to let go of. The perception of this provision as unjust to men therefore contributes to their undermining the state law, fostering non-compliance. Since they do this as a group that still polices customs in the community, there is no feeling of shame to deter their behaviour, which Licht (2008) argues to be the case for drivers of behavioural change.

This analysis on how laws influence social norms points to two things; first, is the fact that the commitment of governments to enforce legal mandates plays a crucial role in ensuring compliance. This is because by passing the law, the government signals a common good, and one whose successful internalisation depends on the exhibition of commitment from government agencies and their agents. Second, the discussion shows that legal norms aimed at re-engineering norms elicit varied responses from different interest groups – namely men and women, as they perceive and react differently to the options available to them (Merry, 2012). In the following section, I focus on the effect of this differential response to legal norms on gender relations. The discussion explores how reception to the gender equality agenda by both groups shapes and reshapes gender relations in the Maasai community.

7.1.2 Influence of Legal Norms on Gender Dynamics

Even though informed by the need to improve the status of women, Teschner (2013) emphasises that the adoption of a gender dimension in legislation not only benefits women, but can also be useful in identifying how such laws influence equality between men and women. Incidentally, this influence could be either positive or negative.

There were male respondents who responded positively to the push for gender equality, as seen among those that are ready to act as ambassadors to other men. On the other hand, female respondents reported that their empowerment and their increased involvement in community affairs has had the negative consequence of pushing men to abandon their responsibilities, especially those relating to the role of provider. This was a matter of reference in Kajiado South and Narok East, where the women complained that at any sign of financial autonomy from their wives, some men abandoned their responsibility as providers.

It is important because even at home, we need support since all the burden falls on women, even feeding the children. The men have abandoned all their responsibilities on us and do absolutely nothing. (Female Respondent, Keekonyokie Ward – Narok East, 19.04.2016).

By abandoning their responsibilities, the men's actions confirm Schultz's (2005) hypothesis that women who choose to forego their financial autonomy do so as a trade-off. In the context of financial planning in Sudanese households, Schultz explains that women let their husbands control their income as a way of ensuring that the men continue to meet their responsibilities at the household. By choosing their financial autonomy, Maasai women can be seen to have unintentionally contributed to men's abandonment of their responsibilities as reported in the excerpt above.

When men abandon their responsibilities, avenues of gender equality turn out to be avenues for burden creation. This resonates with the study on rural Rwanda by Kagaba (2015), who finds that gender equality laws, and programs along with them, have also increased women's burden as they not only have to be carers, but also providers. In this process, as in the case of the Maasai, gender equality laws play a significant role in reshaping traditional notions of femininity and masculinity, especially within the scope of financial responsibilities. This is because, with the push for equality, men respond by choosing to either share or abandon their responsibilities together with the decision-making power that comes with this decision. Unlike Kagaba's report on rural Rwanda however, the inclination towards power sharing does not spread to economic decisions over land and livestock among the Maasai. Instead, the bargaining power of the women is limited to their contribution from women groups' saving schemes and the sale of the traditional beadwork jewellery.

This process of reshaping roles and bargaining power is especially relevant in this study where female respondents pointed out that even though their desire to acquire more knowledge and exercise their rights was in most cases a source of friction, it was also, albeit slowly, positively redefining power relations at the household level. Some men also shared this view, attributing it to the realisation of the benefits of running households as a team, instead of the man bearing sole responsibility. Such shifts towards equality at the household level, have a positive influence on men's attitude towards the inclusion of women in public affairs.

When an African woman, a Maasai woman has the awareness and is empowered, and I as a man accepts, - I will give an example; there were NGOs giving water tanks to people and there was a man who refused it because he did not understand how the wife came to benefit from it. So if men understand and accept women's empowerment, we will go far and it will help to improve the economy and homes will greatly improve. (Male Respondent, Keekonyokie Ward – Narok East, 20.04.2016)

Positions of responsibility and power at the household level are therefore key determinants of attitudes towards women's political agency. Kenny (2007: 94) refers to this as ''gender as practice,'' which transcends notions of femininity and masculinity in the context of social and political institutions. As the experiences in the discussion on the effect of legal norms on homogenous and heterogeneous agents show, women that have been left to bear the burden of meeting household needs (itself a negative thing), are more inclined to exercise their political rights. On the other hand, women whose husbands assume the responsibility of meeting household needs (itself a positive thing), have little incentive to exercise their political rights. Consequently, the increased responsibility for women improves their political efficacy, as they are forced to engage with environments beyond the domestic realm, exposing them to contemporary development and political affairs.

It is also important to note that the outward manifestation of this viewpoint, expressed in economic terms and livelihood conditions, provides an incentive that is difficult to ignore. Both male and female respondents reported that whether they supported equality or not, men take pride in having wives who contribute to their prosperity as it boosts their social standing in society, earning them respect and making them more influential.

So I asked him whether or not he was bothered that maybe another man was giving me the money and he said even if it was so, he still gets all the praise because I am his wife. (Female Respondent, Keekonyokie Ward, Narok East, 19.04.2016)

This attitude has its roots in the Maasai structure of kinship and economic life. As Llewelyn-Davies (1981) explains, traditionally, men have rights in women relating to both labour power and sexuality. Prosperity and influence thereof, ordinarily follow from how many cows, women and children a man owns. Whatever the woman has is under custodianship, not ownership. Llewelyn-Davies (1981: 334) goes ahead to elaborate, ''I may write 'the women have no property' when in Maasai this would be rendered as 'there is nothing which women own' –

meeta ene-itore inkituaak.'' This further cements the women's position of powerlessness, grounded in their lack of *A-itore* which Llewelyn-Davies defines as being in command of, or in charge, as applies to both authority and property rights. Instead, women operate under *A-itodol*, which is having limited rights, mainly over domestic animals. Following this logic therefore, as a wife belongs to her husband, everything that she contributes to the household is considered her husband's asset. This does not however mean that they will always give women due credit for the contribution, as women respondents in Keekonyokie made clear.

At the same time, men who support their wives' risk being branded as subordinate to their wives,[56]as they are no longer regarded as the decision makers in their households.

> *I have been called names: I am bad, I rule over my husband among others…My husband and I always cooperate, which the Maasais translate as me ruling over my husband. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

The influence of gender equality laws on attitudes towards power sharing is especially important in the Maasai community, where support for women's political leadership relies heavily on the support from their husbands. Many women who are actively engaged in public affairs, and politics by extension, largely depend on the support of their husbands, which is interpreted as proof of their capacity to lead while remaining respectful. Being respectful here refers to the woman's continued respect for male authority, and therefore any disagreements would be dealt with in a manner that will not belittle or shed negative light on a man. On the other hand, the lack of a husband's support for political engagement translates to a woman's difficulty in convincing the public of her 'balanced' capacity, therefore increasing chances of failure.

The legitimisation through husbands means that it is more difficult for unmarried or divorced women to gain political leadership. As Nanoi who was aspiring for the Representative position for Rombo Ward in Kajiado South narrated, her biggest obstacle in convincing the public to vote for her was the fact that she was separated from her husband. A failed marriage was interpreted as demonstrated inability to manage personal affairs, rendering her incapable of taking on a public role. For Soipan Tuya, the Women Representative for Narok County, her extensive experience working with the community on rights issues as a lawyer was not enough. Her biggest challenge was convincing her fiancé to support her political ambitions, with her father being equally reluctant to support her, despite being a politician himself. To them, politics

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[56] The actual description was that the men would be regarded as having been sat on (the heads) by their wives.

was not a woman's game. Ultimately however, it was their support that stamped the path to her success. In the case of Mary Seneta, her husband's support from the onset went a long way in ensuring the success of her 2012 campaign for the Kajiado County Women Representative seat.[57]

These narratives point to the fact that, even while not receiving adequate support from the men, gender equality laws are influencing how men and women relate. The increased presence of women in the political space is disrupting male dominance, while at the same increasing women's realisation of a shift in power structures that could work to their advantage. This has therefore created an environment where both parties either choose to cooperate without men feeling they are being subordinated (made possible by having proxies and ineffective women representatives), women pushing boundaries and causing conflict (at a high social cost), or men actively putting in effort to block women's rights.

Similar responses can be observed from Arpino et al.'s (2015) analysis on how a change in gender role attitudes influences fertility. By focusing on women's responses, they show that women respond in three ways to perceived unfairness: exit, voice or loyalty. In their context, exit involved women foregoing marriage or reducing fertility. In this study, the strategy applies in an interesting manner: there were no reported cases of separation or divorce from women's push for inclusion, but there was an awareness that there were limits to how much a woman can push before the husband punishes her by getting a more submissive wife and separating from her. Divorce was however not mentioned.

> *What I would request is that because they are heads and we are necks, we cannot switch positions, and we respect them because even the Bible asks a woman to respect her husband, that whenever they meet, they should that encourage their peers to go to church, to maybe help change the hard-headed women because they are there. They force men to abandon their homes in search of peace, even if it means living with another woman who is unmarried. (Female Respondent, Loitokitok – Kajiado South, 07.03.2016)*

The voice strategy involves active pursuit of equality, which in the case of the Maasai is the conflict-causing alternative. Women fighting for equality are mostly regarded as troublemakers who disrespect cultural dictates on gender roles in society. On the other hand, loyalty involves

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[57] As made obvious by reports by women respondents that they voted for her not because they knew her, but because their husbands recommended that they do so.

women foregoing their fight for freedom and emancipation, choosing instead to surrender to the status quo. This strategy is adopted by many women who wish not to pursue the futility of fighting against men as embodied by women in Ewuaso Kedong who reported that unlike their Loitokitok counterparts, they purposefully choose not to contradict men in fighting for their rights.

As subsection 7.1.1 above explores, these differences are based on the different socio-economic positions occupied by women (Schultz, 2005). Women in Loitokitok and Keekonyokie are therefore more vocal and engaged in public affairs, as they have had to take on more financial responsibilities that their husbands would ordinarily be in charge of. This exposes them to socio-economic and political realities, raising their consciousness and with it, the quest for fair institutional practices. On their part, the women in Ewuaso Kedong exhibit loyalty since their husbands cater for all households needs, minimising exposure and incentive to engage or question socio-political decisions.

These varied responses can be explained by observations that legal reforms rely heavily on already existing attitudinal shifts: there will be little effect where there is unanimous support for a certain practice, and conversely, increased effect where debates and differences of opinion exist on the matter (Crisman et al., 2016). This explains the different approaches by Maasai women in the fight for their rights, choosing to either accept subordination and move on, or confront the men who uphold the inequalities. Consequently, where women choose the path of least confrontation, there is limited awareness of what their rights are. This contrasts with the women who take on the fight, who are considerably informed, and channel their struggle towards accessing justice. Both instances nonetheless demonstrate the effect of exposure on the political agency of women.

Considering the rationale, mechanisms and effects of social engineering, the following section delves into what informs the challenges faced by the Maasai community. It probes the issues that make it difficult to converge interests towards the positive reception of the gender equality agenda. I do this by examining the perceived justice and legitimacy of gender equality legislation by men and women in the community.

7.2 Challenges to the Effectiveness of Legislation on Gender Equality

From their rationale, gender equality laws would be characterised as an overlap between preference-changing and equilibrium-selection norms (Basu, 1998). The social context of their enforcement thus greatly influences reception and commitment to the legislation in a way that can have tangible effects on behaviour. Kenny and Patel (2017) go ahead to suggest that a

change in beliefs comes about from a change in societal values and legal changes that come along in the process. The success of this pattern however relies on the alignment of shared beliefs with the need for change. Having more gender positive laws denotes the desire to promote gender positive attitudes. This is true for the case of gender equality in representation at the national level in Kenya. Legal provisions, in their clarity on the critical number of women to substantiate their representation, reflect the alignment of women's equality struggle described in chapter four with the global agenda on improving the status of women and their agency in society.

Among the Maasai however, this alignment is generally absent, with men unwilling to accept the equal status of women. This resistance stands in the way of according women equal rights for involvement in decision making and resource control. Considering the traditional Maasai social organisation and the changes introduced from the colonial era onwards, it is evident that men are clinging on to the traditional system that supports their dominance in public decision-making processes. This is despite the fact that Maasai women have, over the years, lost influence from the erosion of the traditional system of complementarity which allowed men to have political influence (Hodgson, 2001).

This situation reflects the nature of informal institutions as constituting norms that are slow to change, as opposed to formal institutions whose norms can and do change at a faster rate (Roland, 2004). The resistance to change in the informal space is informed by the proximity, relatability and tangible effect of non-state norms in the daily lives of society members, which weave themselves into the fabric that shapes daily life. Employing Ekeh's (1975) argument helps us understand that state norms fail to have an equally strong effect due to the continued othering of the state and its institutions. Among the Maasai, this othering is exacerbated by the physical invisibility of state apparatus, as is common across rural areas in Kenya.

In the following subsection, I discuss the challenges introduced by the differences in proximity and relatability of state and non-state institutions. The focus is therefore on the consequences of a hybrid legal environment on the gender equality goal.

Legal pluralism

As the discussions have so far alluded, the Kenyan legal system recognises non-state legal orders in what Kameri-Mbote (2016) summarises as a juristic legal pluralism that can be found across Africa. Sippel and Wanitzek (2010) explain this coexistence as the product of legal traditions of former colonial powers (which were later modified to fit the legal and cultural context of post-independence states) functioning alongside customary concepts of law in local

communities, determined by their socio-economic and cultural characteristics. This determination of norms and practices without following formal procedures or any fixed codification means that rule making within the informal systems is either negotiated inside a community or arbitrarily set by powerful actors (Neubert, 2009). The result is either consensus or unfairness, as can be seen in the politics of public agency among the Maasai.

Kenya adopted the British common law system, which operates alongside informal orders that are mainly religious and customary. These orders must however be in consonance with the constitutional standards. Even though the power of customary laws is made subject to Article 2 (4) of the Constitution, for example, the presence and impact of Article 44 (1) confers a level of self-determination to communities that have, over time, developed a code of conduct that informs norms and governs relations. It is this recognition of more than one source of law that gives rise to legal pluralism (Sage and Woolcock, 2012), with everyday transactions falling into the jurisdiction of either the state or customary and religious authorities. The different legal institutions with their underlying norms therefore coexist in ways that either reinforce, contradict or complement each other. Careful consideration of this complexity is therefore important in the adoption and application of legal policies to influence social norms.

The Marriage Act of 2014 for example, allows for polygamy in Kenya, and the same may be conducted under the customary rites of any Kenyan community. Additionally, Kadhi courts retain jurisdiction over Muslim marriages, signalling recognition and respect for Shariah law. In this case therefore, the informal and formal norm systems work to reinforce and complement the institution of marriage. On the other hand, Article 60 (1) (f) eliminates gender discrimination in law, customs and practices related to land and property. This works to ensure that women are allowed to inherit land and property from their parents, which is, under customary law, a privilege only enjoyed by men. By extending property rights to women, the provision contradicts customary law, forcing a change in attitudes and behaviour towards the inheritance and property rights of women, or risk facing legal sanctions. By contradicting customary laws, Article 60 contributes to the promotion of the status of women by granting them equal inheritance rights, as confirmed by a respondent in the second FGD:

> *…we said that the opportunity cannot be taken by male children, we decide that women would inherit their husbands and divide it among the children. (Male Respondent, Loitokitok – Kajiado South, 04.03.2016)*

However, this legal plurality creates the potential for ambiguities, confusion, or even conflict, which may be compounded by an absence of, or failed mechanisms for, mediation between the

formal and informal institutions (Chiongson et al., 2011). Gender equality laws fall within this formal-informal intersection, as customary and religious laws also define boundaries and duties which might not necessarily favour women, as is the case in patriarchal communities. This can be seen in the reported attitudes towards the political engagement of women among the Maasai, which are grounded on customary norms that are more focused on maintaining the dominant position of men. Kameri-Mbote (2016) points out that as an underlying principle of customary law in Kenya, patriarchy remains a hindrance to the realisation of gender equality. This assertion is proved by the experiences described in chapters four, five and six.

Overall, the social meaning attached to a law is a function of social norms more than the intention of the law maker (Sunstein, 1995). It is imperative therefore, that there is deliberate effort at synchronisation, to minimise conflicts and promote coexistence. This is important considering the powerful position of informal institutions that are governed according to a community's accepted 'living law' (Sippel and Wanitzek, 2010). Calls by women, and some men, for civic education to increase awareness on the benefits of supporting the political inclusion of women in the Maasai community point to the importance of this synchronisation. Understandably, Chiongson et al. (2011: 25) warn that trying to force multiple systems into uniformity by only focusing on one system minimises impact and might even alienate individuals whose social life is ''embedded in a particular, localized set of norms and values.''

Evidence of this is found in the case of maternal healthcare in parts of Kajiado County, where the government was forced to build modern *Manyatta*, to encourage pregnant women to seek medical care.[58] This became necessary because, despite education efforts and investment in upgrading medical facilities, pregnant Maasai women from certain rural areas were reluctant to seek medical care from government facilities as they found them foreign and cold. Additionally, pregnant women had difficulties accepting care from young nurses, as it is taboo for younger women to see the nakedness of older women, considered their mothers. Incorporating a housing style that was familiar to them was therefore a huge step in encouraging them to visit medical facilities.

This case demonstrates that positive attitude cannot be expected from knowledge dissemination on the positivity of something new or foreign to a society. A legal statement informing individuals that gender discrimination and inequality is a rights violation for example, is

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[58] Innovative modern manyatta maternity saving lives in Kajiado https://citizentv.co.ke/lifestyle/a-modern-manyatta-maternity-in-kajiado-161897/ Accessed: 27.03.2017

unlikely to have tangible influence on their attitudes if they do not place great value on the matter. Institutional patterns among the Maasai do not place cultural value on women ''as legitimate political actors with legitimate interests and differentiated interests and concerns'' (Mackay, 2008: 132); thus subordinating their status. Efforts to push for attitude change on this is therefore increasingly difficult.

Crisman et al. (2016) argue that the cultural embeddedness of a practice signifies the limited role of state intervention to change in behaviours. Based on the case of fighting FGM, they note that the success of similar campaigns relies on cooperation with local leaders who understand community practices, together with the culture and identity perceptions. These leaders come in handy in steering change as they can navigate the cultural terrain better than outsiders. At the same time Crisman et al. point out that this localisation supports the identification of external threats, so state laws will be ignored, and undesired practices prevail where there is no change in underlying notions of identity. This can once again be seen in attitudes towards female circumcision, outlawed by the state, but still a part of the Maasai cultural identity:

> *The men push for it because they refuse girls that are not circumcised…My*
> *daughter will not be married if I do not circumcise her. She will remain in my*
> *house forever…She will not even be recognised by her agemates…She will be*
> *an outcast…They will say she is just a girl, not a woman. (Female Respondents,*
> *Ewuaso Kedong Ward - Kajiado West, 23.03.2016)*

Positioning Maasai men in these two debates makes it clear that the success of the gender equality campaign relies on their cooperation, as they are the community's culture 'gatekeepers'. The role of the men will be discussed in-depth in the next chapter. Kameri-Mbote (2016) points out that as a basic principle of customary law in Kenya, patriarchy remains a hindrance to the realisation of gender. Support from men for the equality agenda would mean that they would willingly give up their control over decision making, which informs their identity as leaders. Alternatively put, they stand to lose, what Connell (2005) terms as their collective patriarchal dividend. It is not surprising therefore, that most men exhibit a reluctance to accept and support the legislation.

> *It is also not just the women, even the men have not accepted being led by women*
> *because women are still under the authority of men…If the woman is unmarried,*
> *it is even more problematic. So it is these perceptions that create a barrier in*
> *the election of women. (Male Respondent, Loitokitok – Kajiado South,*
> *07.03.2016)*

This excerpt points to a rejection of women's leadership due to the double consequence of men losing dominant authority and being made to be answerable to women. What this makes clear is the reality that proposed legislation is most likely to be unsuccessful when it carries a negative connotation to what is considered socially acceptable by a dominant group. Bilz and Nadler (2014) explain that since customs are chosen by intrinsically conservative authorities, they tend to be elitist and favourable to dominant groups. In the context of the Maasai, norms that guide gender relations in public decision-making favour men over women, pushing the men to make adjustments so they can retain their influence in the face of state laws that threaten their position. This has been done, respondents pointed out, through the inclusion of a woman or two whenever a council of elders was called upon, without conferring any meaningful power to them. In so doing, the men are able to maintain control over decision making, even though women constitute the decision-making bodies.

Complete adoption of norms that contravene the traditional set-up is understandably liable to elicit more negative than positive reactions from target groups. Soss and Schram (2007) thus postulate that when an official government policy affirms dominant values, rewarding those who comply and punishing those who deviate from them, this reinforces patterns of opinion and behaviour. The opposite is also true, as is the case with gender equality which challenges traditional arrangements and acts in favour of women. As chapters five and six demonstrate, the lack of rewards and sanctions as evidence of the government's commitment to gender equality have contributed to the continued dominance of traditional values of men's superiority.

Additionally, the statement being made that the dominant position held by men reinforces undesirable negative values fuels their desire to protect themselves from both criticism and a loss of power. This is done through the vindication of their actions – in the name of culture and tradition – while protecting the status quo. This is in line with the argument that an assessment of social consequences informs the expressive approach to law where favour follows an expected positive outcome (Sunstein, 1995). Among Maasai men, the expected outcome is perceived as negative, thus eliciting resistance.

Men's control over public decision making therefore continues to be supported by cultural dictates of public engagement. Women are not allowed to publicly criticise men, especially those in a similar age-sets with their husbands and older. Doing so contravenes *enkanyit*, the foundation of Maasai social relations. Responding to a woman's fear of speaking out against men in a public meeting, a male respondent rationalised it thus:

In such a scenario, it might be that the man speaking is the woman's father's age and she might, as it happens sometimes, have a slip of the tongue. When this happens, then it would not be good. So she decides to respectfully keep quiet in front of her father. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 24.03.2016)

This points to the continued influence of the age-set system, with its dictates on conduct and respect for one's seniors (Coast, 2001). Applying this logic to a public participation forum founded on guaranteed equality of representation and freedom of expression therefore means that women's political agency is curtailed. Even though it is well within their rights under state laws, their actions have to be within customary order, or invite a social cost many cannot afford to bear.

This challenge as faced by women in navigating the different spheres means that they are unable to take advantage of the plurality of legal opportunities available to them. Within the context of forum shopping (Maloy, 2005; Merry, 2012 and Sippel and Wanitzek, 2010), women would be tempted to circumvent customary authority to seek legal justice (as in the case of domestic violence as narrated by Neenkai), guided by the value of a court's favourable judgement. Value judgement therefore becomes crucial at this point, as a woman has to decide whether the favourable decision sought is really worth it. As Platteau et al. (2017) point out, the cost implication goes beyond monetary costs incurred in going to court, to include the cost of ignoring the decision of the customary authority. For a community where the customary authority is more visible, and whose effects are more tangible in daily life, women have to decide whether to live by an unfair decision, or bear the cost of challenging what is, in this case, traditionally legitimised male authority. This can be seen in the case of Ayola who, by taking her father to court to protest his choice of a partner, defied her father and the elders, causing her to be stigmatised and ostracised (Hodgson, 1996).

Understandably, many female respondents reported that they were not ready to bear such consequences. As with curses, the reputational cost implication does not stop at an individual woman, but extends to her children and future generations as well. This perception is reinforced by the strong community-centred sense of identity among the Maasai, as opposed to an individual-centred one which benefits much more from formal institutional arrangements. This community-centred sense of identity also explains why women sometimes revisit their decisions due to the cost of having made individually centred decisions. Going back to the case of female circumcision, for example, married women in Uganda are reported to undergo the

procedure just so that they can qualify as real women by being allowed to do things like attending meetings and serving elders.[59]They are therefore forced to revisit individual decisions if they are to maintain their identity and properly belong to their communities.

The choice of a normative system over another therefore requires careful consideration of consequences, regardless of personal convictions and even relief being sought. Among the Maasai, it is evident that customary norms are very influential, making them a strong determinant of the acceptability and support for gender equality in political decision making. This confirms that the powerful nature of informal norms and rules, particularly relating to gender, can undermine formal institutional rules (Chapell and Waylen, 2013: 603).

Taking note of the arguments for social engineering and the challenges that this reform faces, the discussion now shifts to the position of gender equality as a goal among the Maasai, factoring in the influence of both formal and informal institutions.

7.3 Effectiveness of Legislation in Changing Attitudes and Norms

From the discussion so far, it is evident that the uptake and commitment to legal norms depend on how much the said norms influence daily lives of individuals. This reality implies the lack of a universal effect of legislation. Jakobsson and Kotsadam (2010) explain that the most affected attitudes will be of those most affected by the legal provisions in question. This can be seen in the widespread support for gender equality by women compared to men, as women understand that equality translates to their enjoyment of rights and improved status.

In addition to the proximity in people's lives, the effect of legislation also depends on such other factors as age, education background and urban or rural residence. Age is especially influential, as younger people are arguably more likely to change their attitudes than adults, due to their increased adaptability to change (Banaszak and Plutzer, 1993). These factors have been discussed in detail in chapter five. In this section, the discussion centres on the effect of gender equality legislation - in its formulation and implementation - on attitudes towards equality among the Maasai. To achieve this, I evaluate the legislation against factors that influence the success or failure of legislation as proposed by Bilz and Nadler (2014), in conjunction with Soss and Schram's (2007) mass policy feedback process. I examine how these factors converge

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[59] Why married women in Uganda are getting circumcised https://www.nation.co.ke/news/africa/Uganda-married-women-undergoing-circumcision/1066-4269734-6wsagyz/index.html Accessed: 19.01.2018

with the visibility and proximity dimensions of legislation to shape the effect of the gender equality legislation among the Maasai.

According to Bilz and Nadler (2014), the source of legislation, attitude object and the manner of regulation are the three factors that influence the success or failure of legislation. On the other hand, the policy feedback process by Soss and Schram (2007) is based on dimensions of visibility and proximity. They hypothesise that the material design of a policy will have little influence on individuals' lives when these dimensions exist as symbols that are compelling but distant. Accordingly, said individuals will pay little attention to the changes being introduced, clinging instead to their old ways of doing things. While the original framework is adopted to shed light on policy feedback in mass publics as a practical political strategy in political science theorising, I apply it here in a much simpler form, to evaluate the effect of policy characteristics on intended feedbacks. The focus is therefore much narrower and the application less detailed. The framework nonetheless provides a very useful lens to investigate the characteristics – effects relationship of legislation and attitude change.

I begin the analysis with the factors as discussed by Bilz and Nadler (2014).

7.3.1 Effects of the Source
Even though legal norms are in most cases regarded as representing state position, the representation is not monolithic. Bilz and Nadler (2014: 254) point out that the appropriateness of specific actions varies ''by subject matter, by hierarchy (local, regional, national, inter-national), or by mode of action.'' This variation could be extended to include the influence of non-state laws as well, to make sense of the phenomenon of forum shopping among Maasai women, especially regarding mode of action and how this influences reception to rights as guaranteed by the Constitution.

Perceptions of a system's fairness influence individuals' recourse to justice. Women would therefore, for example, decide between customary law and state law to deal with a grievance, depending on what platform is likely to favour them. In the case of Ayola for example, Hodgson (1996) explains that she rejected the passive role of silent assent expected of her as a daughter, as it left her voiceless on the elders' decisions. By opting for the Tanzanian state's legal system, she chose a forum where she and her father would be regarded as equals and where justice would prevail.

On decision making, empirical evidence points clearly to the unfairness of the customary law system towards women, as is the case with locking Maasai women out of decision making and land ownership under the group ranches and settling domestic disputes. It would be expected

therefore, that the women would make the rational decision to approach the government to solve any issues relating to property rights and rights' violations. Reality however points otherwise.

Perceptions of the unfairness of the state legal system are widespread among Maasai women. This aligns with the Afrobarometer report by Bratton and Gyimah-Boadion (2016), on the trustworthiness of government agencies among the public. Prevalence of a negative perception among the Maasai is important to note, considering the limited interactions the women have had with the state system courtesy of procedural ignorance and distance as will be discussed shortly. To make sense of this, Bilz and Nadler (2014) explain that perceptions are not only informed by direct interactions with legal agents and agencies, but also indirectly through observations of their pervasive operations. These experiences then inform perceptions of the legitimacy of decisions made by formal institutions and their agents.

The case of Christine Kapaaya's rape and subsequent death, for instance, details how both the police and local chief failed to facilitate the prosecution of the alleged rapists, choosing instead to push the family to accept the solution arrived at by the local council of elders. When the case of Neenkai is brought into comparison, it also shows the difficulty of earning the support of local state agents, due to the entrenchment of patriarchal considerations into the formal system. This goes against the proposition by Chiongson et al. (2011) that hybrid systems which incorporate aspects of formal and informal institutions are the solution to enhancing justice for women and other marginalised groups. Experiences of Maasai women captured in this study demonstrate otherwise.

Since the chiefs and village elders constitute the bottom level of the devolution structure that is supposed to assist in the inclusion of women, it is only fair that women hope that as state agents, they would facilitate justice for women.

> *For the knowledgeable who don't believe in curses, they go report to the chief, letting them know that should they not take action, then the woman would report to higher authorities. But all this depends on local level leadership because should the Chief be bribed, then they don't work. (Female Respondent, Loitokitok – Kajiado South, 03.03.2016)*

Hybrid systems therefore seem to only work for women who are aware of their rights and how to claim them, another argument that Chiongson et al. (2011) put forth. For most women in rural areas and with limited socio-political exposure therefore, hybrid systems do little to guarantee their enjoyment of rights. The case of Neenkai additionally shows that knowledge on

claiming rights is not enough to guarantee justice, and instead, women must be able to counter the influence of men in the formal institutional set-ups. This reality contradicts Chiongson et al.'s (2011) argument for the advantage of a hybrid system. Instead, it points to the failure of this system to work for Maasai women, since traditional norms founded on patriarchy extend to the realm of the state. Within the larger institutional framework, these norms magnify the ''constraints of the interlocking roles of the formal and informal in structuring action" (Nee and Brinton 1998: xvi in Mackay et al., 2009: 256). Consequently, the benefits of forum shopping are curtailed for many, as both avenues are equally open to injustices perpetrated by men.

It is not surprising therefore, that many women do not trust government officials to be fair and are cautiously optimistic in their recourse for justice. The agents lack credibility as far as fairness towards women is concerned. This is exacerbated by the neglect and lack of support that women report of the government, from their experiences with state development and resource management as discussed in chapter six regarding the management of affirmative action funds.

Bilz and Nadler (2014) warn that being untrustworthy is a sure way to reduce credibility and with it, the authority and ability to persuade individuals to change. This reiterates observations that it is crucial that those charged with norm management can be trusted by those whose norms are at issue (Sunstein, 1995). While the government has done a lot to promote the education of girls, end female circumcision and early child marriages, the relationship between its officials and those guarding the patriarchal set-up is a huge stumbling block to its credibility on gender equality matters.

7.3.2 Effects of the Attitude Object
Characteristics of the attitude being targeted also determine the success or failure of regulation (Bilz and Nadler, 2014). Any perceived discrepancies between the law and what individuals think should be right can undermine its effect. This is made clear in the attitudes of most men towards the attempt to make women their equals. From their standpoint, this position merits no support as it not only threatens their status quo in general, but open support for the agenda by an individual puts them at the risk of 'losing face' among their peers as a female respondent reported on the responses to her husband's support for her public engagement.

Mackay et al. (2009: 255) explain that such attitudes are grounded in ''understandings and frames of meaning that define "appropriate" action and roles and acceptable behaviour of their members'' within institutions. As such, they are difficult to change since their perpetuation is

not guided by ''purposive action'' but ''institutionalized repertoires of responses'' (Mackay et al., 2009: 255). It is therefore understandable that many are reluctant to commit to its pursuit.

Another aspect of the attitude object is how, and to what extent, individuals are involved with the issue. The more the issue is embedded in their daily lives, the more resistance any change efforts will face. Referencing the work of Linda Skitka, Bilz and Nadler (2014: 256) point out that ''where people's attitudes are strong, wrapped up in their personal identity, and related to core moral values, they will be particularly resistant to changing theme.'' This argument points to a challenge the pursuit for gender equality has in common with the struggles against female circumcision: cultural identity informs the resistance by some men and women to abandon the custom. As a rite of passage from childhood to adulthood, it is an important part of the Maasai identity. For proponents, ''the rationality of female genital operations…would seem to be in their connection of the individual to the ethnic group of which she is a part, as a mature, respected adult'' (Howard, 1982: 50). A law that demonises this act is therefore viewed as a threat to the identity of women in the community.

The strength of this identity effect can be seen in the actions of the Ugandan women who choose to undergo circumcision even after marriage as a mark of belonging to their communities. Such strong sentiments are behind accusations that by legislating on cultural matters, the Kenyan parliament is stretching its mandate.[60]Such accusations point to the strong desire to protect informal norms and practices against interference by the state.

Regarding equal socio-political rights for Maasai women, the response is far from different. Patriarchy defines relations in the community and male dominance along with it. For men therefore, being the decision makers and having women as subordinate, submissive, and not in opposition to what the men decide is part of what they regard as the social order. A threat to this organisation system is therefore subject to opposition.

How then, does gender equality as an attitude object relate to the Maasai in their daily lives? The following section integrates the framework by Soss and Schram (2007) for a quick evaluation.

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[60] Legalise Female Genital Mutilation, says doctor in court https://www.nation.co.ke/news/Legalise-female-circumcision--says-doctor-in-court/1056-4267584-11ajval/index.html Accessed: 18.01.2018

Figure 7.1 Framework for the analysis of mass feedback processes: Policy visibility and proximity
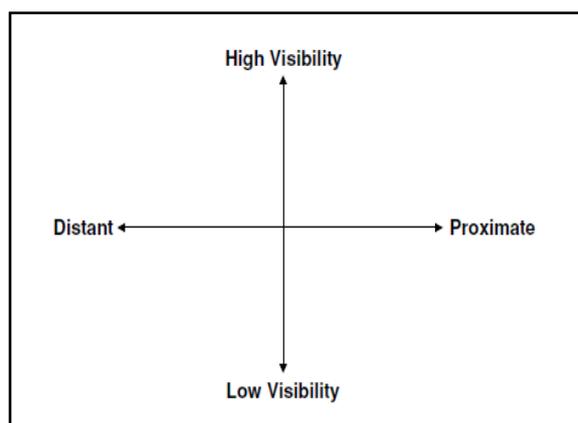
Source: Soss and Schram, 2007: 121.

Visibility centres on the prominence of policy among the public. The more visible a policy is, the more capable it is of arousing mass feedback, depending on whether it provides reassurance or poses a threat. On the other hand, proximity concerns the tangibility of policy in the everyday lives of individuals, and can be measured according to geographical distance, patterns of social relations and time. As Crisman et al. (2016) point out, geography can have an impact on the effect of legal change, with regions in the periphery experiencing lessened enforcement and reduced media access. For communities in these regions, state law and related government institutions are foreign institutions, as has been demonstrated in the case of challenges arising from legal pluralism.

This makes visibility and proximity important factors to consider in evaluating the effectiveness of legislation, since the design and effects of a policy ultimately influence the feedback process, especially in how they disrupt the status quo. For isolated environments, such as the rural areas where the presence of state agencies is not always visible, operating social norms could substantially slow down any norm changing state laws.

Factoring in policy visibility and proximity therefore, I incorporate the feedback process to position the experiences of gender equality legislation among the Maasai.

High Visibility but Distant

Policies at this level are mainly distant objects of perception among citizens. These include foreign policies that receive wide media coverage, but whose effect is felt by a small number of the population. An example of this in Kenya would be the deployment of the Kenya Defence Forces to Somalia for peacekeeping. The decision is debated widely in the media but has little

significance for most Kenyans, unless their families are directly involved. Soss and Schram (2007) argue that even though these policies are capable of attention and powerful emotion, they lack concrete presence in most people's lives and therefore slip away easily from public view. In this instance, feedback effects are most likely structured and conditioned by an elite and the media, and the prediction of feedback relies on information about accompanying political discourse.

Considering these characteristics and effects, it is clear that attitude and behavioural change towards gender equality among the Maasai do not fit into this category. Due to the reality of legal pluralism, support for gender equality is not highly visible, as the governing customary norms do not support this norm. This situation is promoted by the existing close relationship between gatekeepers of the customary laws and agents of statutory law, which continues to blur the visibility of gender equality legislation. In addition, for most people domicile in rural areas, the formal system is far away, even physically, to be of timely assistance. It is therefore not only difficult to relate to formal policies but also to engage with them.

High Visibility and Proximate

At this level, policies are not only tangible in people's lives, but also act as objects of conscious evaluation. Such policies therefore have the potential to enable citizens to connect their personal struggles with those in contemporary society. Soss and Schramm (2007) further point out that beyond changing the lives of individuals, policies at this level are also capable of producing feedback from the cues they convey to wider audiences.

In this case, mass feedback can be derived from the impact on people's lives, or the different symbolic meanings that stem from it. Together, these effects either reinforce each other or produce completely different feedback dynamics. The position of Women Representatives falls into this category, with the visibility created having an effect that reaches women at the village level. On having the position of a woman representative, women respondents agreed that they now have a role model on women's access to political power, as the position of a women representative signals improved opportunities for political inclusion.

> *The present situation is better than what we had before. Women are getting closer to political leadership. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

The same holds true for the women who are actively engaged in political discourse; the county government assemblies can fulfil the two thirds rule through nominations, increasing the

descriptive representation of women. An improvement in descriptive representation increases the potential for improvements in substantive and symbolic representation, as argued by Kurebwa (2015). Even though this has not been realised at the national level, the debate goes on in a way that legitimises the fight by lawyers, academics and civil society actors who are spearheading the fight for equality in representation. For many women at the village level however, the discussions and debate take place far away from them, and are, for them, a matter of hearsay. Though a visible debate, the effects of it all are far from being tangible for most Maasai women.

Low Visibility and Distant

This happens when public awareness and proximity of effects are both at a minimum. In this situation, Soss and Schram (2007) expound, policies escape public notice as they either affect isolated constituencies or their effect is very distant as would be the case with regulations on emissions that advance global warming. It follows therefore that for policies in this category, they are less likely to influence, or be influenced by, mass opinion.

Gender equality legislation among the Maasai clearly does not fit into this category, even after factoring in the effects of the attitude object (Bilz and Nadler, 2014). In their design and effect, these laws might not be tangible, but the effects, however minimal, cannot be ignored. The goal of equality disrupts the status quo maintained by men, and the public is not, per the characteristics of policies in this category, largely unaware and unaffected.

> *We have an elected woman MP and if the MCA is a man, he has to nominate a woman and vice versa. The Constitution has helped, and we can see that changes are coming, even if it has been slow, we can see the changes and now there is more consensus with the women. (Male Respondent, Ewuaso Kedong Ward – Kajiado West, 25.03.2016)*

Even though the specifics remain questionable, there is an agreement on an ongoing power shift. The inclusion of women in development committees, having female (assistant) Chiefs, gender quotas and the position of women representatives, communicate that something is happening. What dims the visibility of this shift are the alliances between actors at the customary and statutory levels that make it difficult to understand policies and procedures, seek information and push for justice.

Low Visibility but Proximate

In this category, policies are experienced more directly by a larger segment of the population, even though they may have low prominence for mass publics. Mass feedback is therefore expected to be closely related to the design and operation of the policy. Soss and Schram (2007) warn that these policies are likely to bring concealed political dynamics to the fore. This is because, even though they are rarely noticeable, policies of this kind influence social relations in daily life. Design and implementation are therefore likely to shape beliefs, expectations and behaviours.

The realities of the implementation of gender equality as experienced by the Maasai fall into this category. Even though there is limited awareness of the specifics of what is in store for women per the Constitution, the ongoing political dynamics have awakened the desire for rights awareness and accountability from the government.

> *…it would be nice for the Constitution to be brought so the women can become aware, know our rights, have a say and be able to decide in development, and at home and have a say in politics. So the Constitution should be brought to the Maasai. (Female Respondent, Ewuaso Kedong Ward – Kajiado West, 23.03.2016)*

Soss and Schram (2007) explain that the tangibility of policy effects on people's lives has the consequence of drawing public attention, even though the policy might be obscure. As the excerpt above indicates, Maasai women make it clear that something about the Constitution promises a power shift, even though they cannot pinpoint what it is exactly. The lack of civic education has contributed to this disadvantaged position, but the proximity of its effects cannot be ignored. Through devolution, individuals are more aware of increased formal spaces of interaction and political participation, with the challenge being whether the new platform contributes to the advancement of gender equality as envisioned.

7.3.3 Effects of the Manner of Regulation

Effective regulation requires an investment in awareness promotion, lobbying and coordination. As has earlier been discussed however, gender equality implementation beyond accounting for the two thirds rule is difficult to regulate due to a lack of clarity on an agreeable formula. In addition, the agenda remains unclear to many, despite extensive lobbying in the constitution-drafting process. These challenges have therefore significantly contributed to limiting the intended influence on attitudes and behaviour towards gender equality.

Bilz and Nadler (2014) point out that poor coordination and a lack of resources could negatively impact the effectiveness of legislation. Reports by officers in charge of gender in both counties under study confirm the absence of efforts to promote the political empowerment of women. This, coupled with financial strains confirmed by budget officers, make it difficult for the county governments to actively promote the gender equality agenda.

An important dimension to consider in the effectiveness of regulation, is the implementation strategy or strategies in place. Lépinard and Lieber (2015) emphasise that legislation rarely meets its goals if it relies on the voluntary compliance and self-regulation of social actors. In the absence of clear strategies for implementation, the pace of persuasion towards attitude change slows down, as can be seen from the empirical evidence provided in this study. Equality goals thus remain ''loosely coupled to other institutional goals'' when there is a mismatch between policy and performance (Mackay et al., 2009: 258). The lack of enforceable regulations has therefore facilitated the political dominance and influence of Maasai men even in spaces that are beyond their customary jurisdiction.

Platteau et al. (2017) point out that the effectiveness of the demise of an undesired custom relies on the increased cost of conformity. As evidence in this study has shown, the county governments have not instituted any sanctions that would discourage non-conformity, so the gender equality goal remains elusive for both government and citizens. This loophole has allowed Maasai men to assert influence beyond the traditional sphere, by creating and maintaining strategic alliances that favour them. As Merry (2003) emphasises, establishing consciousness on rights is dependent on implementation. Without clear implementation strategies, for example through programmes as has been done in Rwanda (Burnet, 2008), gender equality will remain a matter of debate on goals that could be achieved.

7.4 Informing Functional Inconsistency

Recognition of gender-based barriers is important in understanding gendered policy implications (Mackay, 2008). The analysis in this chapter has explored how legislation influences people's attitudes and behaviour. It points to the realisation that the effect of legislation depends on the status of an individual, as well as the direct influence of legislation on their daily experiences. This explains why men and women are affected differently by gender equality norms, as it has a lot to do with their socio-economic conditions and their geo-political location. Sunstein (1995) points out that just like preferences and beliefs, social norms are not pre-determined, but are a product of complex social forces that include the law. This complexity

introduces subjectivity to the understandings, meanings and lived experiences of gender equality in both formal and informal institutions.

Experiences of gender equality legislation among the Maasai point to the failure of state law to translate into everyday practice. One of the reasons for this, as has been documented in previous chapters, is the lack of involvement of the people in drafting and discussing the legislation. Relevance on this can be found in other cases of social engineering. Using the case of traffic courts in Chicago, for example, Licht (2008) points out that compliance relies heavily on the perceived fairness of a process, as informed by the ability of subjects to participate and give input in legislation. This points to the critical role that the involvement of a targeted population plays in contributing to the success of attitude and behavioural change.

A sense of ownership of the legislation increases the chances of its success, in ways similar to the arguments for citizen involvement contributing to the success of bottom-up approaches to development (Cornwall and Jewkes, 1995). The lack of citizen engagement at the grassroots – both men and women – thus diminishes the incentive for compliance, due to a lack of detailed knowledge and ownership of the entire process. This shortcoming was repeatedly mentioned by respondents, pointing to their acknowledgement of alienation in the drafting of the gender equality policy that was incorporated into the Constitution. Effects of this can be seen in the co-optation of the male elite, who have managed to maintain influence over formal institutional processes, demonstrating that privileged groups are able to use their resources to reinforce their position of power during institutional change processes, creating asymmetrical power relations that work to their advantage (Kenny, 2007: 92).

On matters proximity and visibility, the driving of gender legislation by lawyers and those in academia has positioned the debate further from those at the grassroots. This condition is exacerbated by the absence of political civil society organisations at the local level (Daniel, 2011; Kanyi, 2016). The agenda is therefore deemed successful from the macro perspective of looking at numbers at the national and county assemblies, which demonstrate an improvement in gender equality in political representation. Sadly, this has not translated to the inclusion of women in public deliberation exercises at the grassroots level, where transformation could have a greater impact on the political agency of women. The institutionalisation of gender equality has therefore become a rationalised myth in the Kenyan society, as it remains largely uninvolved in the targeted environments (Meyer and Rowan, 1977: 346).

Beyond involvement, Licht (2008) points out that once the regulations are in place, compliance relies on normative attitudes of guilt, pride, disapproval and shame. But what happens when

regulations do not evoke any of these strongly enough to effect change? Evidence shows that for many Maasai men, the passing of gender equality legislation has had little impact on their attitudes towards the status of women. If anything, the process of gender mainstreaming has provided a platform for them to guard the status quo, with the additional aid of political influence gained from their position of historical advantage in the public sphere. Kameri-Mbote (2016:47) notes that ''gender equality in all realms represents a struggle for scarce resources and power and is vigorously resisted by those already privileged.'' This resistance can be explained by the non-universalistic attitude towards equality among men. As Llewelyn-Davies (1978) explains, the requirement for equality challenges the existing Maasai social order and male hegemony. These circumstances make resistance the reasonable response to equality legislation among Maasai men.

This resistance could easily be dealt with through a commitment to training and enforcement from the government; after all, it is in the state that resources and the wealth of a society are located (Oyewumi, 1997). This is however not the case. There is an apparent lack of clarity on what qualifies as gender equality in participation, and consequences of non-compliance further disincentivising compliance. It is therefore arguable that Kenya joined the global trend of constitutional amendments to increase the percentage of women in political spaces (Krook, 2008), without paying attention to the contextual realities of different communities in the country. This oversight has created loopholes which frustrate the goal of reform envisioned by gender equality laws, to create environments where men and women can engage on a transparent and equitable basis.

Chiongson et al. (2011) point out that the dynamic nature of laws and institutions as social facets is reflected in the shifting power dynamics and the formation of new alliances through socio-political arrangements. They therefore end up being interwoven with group and individual identities and are reflected in the same. As evidence so far demonstrates, it is the positioning of men as power brokers under customary law that has perpetuated gender inequality. The proximity of Maasai men to political institutions puts them in a favourable position, where they are able to tap into the political capital reproduced over time to find ways of making the new system work to their advantage.

With the penetration of state laws that could threaten this position, men have managed to form alliances which ensure that their influence transcends the informal space. As a result, gender norms can be seen to be working with formal institutions to entrench gender inequalities, instead of offering new possibilities for women who have been ''disadvantaged by earlier

institutional arrangements'' (Chappell and Waylen, 2013: 607). This is reminiscent of observations by Oyewumi (1997), on how Yoruba men were better positioned to take advantage of the new legal system during colonialism. By finding pockets of power under the new legal system, influential Maasai men are able to assert influence in the formal space as well, perpetuating injustices against women as well as their socio-political subordination. This delegitimises government agents and agencies among the women (Bilz and Nadler, 2014), and among men who would not be inclined to cooperate in the strategic alliances.

This confirms the argument by Ekeh (1975), that even though the civic public sphere subordinates the traditional public sphere, the two realms are not rigidly separate, because the actors are the same. A good example of this is to be found in the connection between politicians and management boards of group ranches as entities governed by informal institutions. This has inspired protests from local communities,[61] with the effects on notions of gender equality being ostensible:

> *I want to oppose him because, if you look closely, it is our MP who is in charge of the Group Ranches. It is he that appoints his supporters. So if you try as a woman, it is difficult. ...when we look keenly, it is our MPs that appoint their supporters to manage our Group Ranches, like ours in Olarashi. We have tried to kick out the chairman but failed because he has the MP's support. So how will we women join in? (Female Respondent, Loitokitok – Kajiado South, 07.03.2016)*

From the colonial interference that made the political space inherently masculine (Oyewumi, 1997; Hodgson, 1999), Maasai men have over the years managed to assert influence in both customary and civil public realms. Whenever women seek to assert themselves, be it as equal political agents or seekers of justice, powerful men find ways of ensuring the dominance of their preferences. Proof of this is also found in the cases of Christine Kipaaya and Neenkai, where men invoked their customary power to influence decisions by government agencies, succeeding in frustrating access to justice. In the end, these factors converge to contribute to the functional inconsistency of law as a just equaliser, leaving women with unreliable forums for equality.

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[61] Members of Orgulului/Olalarashi Group protest against political interference https://ntv.nation.co.ke/news/2720124-4872888-102q2eg/index.html?platform=hootsuite Accessed: 28.11.2018

As a right, the successful realisation of gender equality calls for ''an interaction between consciousness, experience, and institutional receptivity that is critical to human rights practice'' (Merry, 2003: 344). These are evidently lacking in Kajiado and Narok, where women are subjected to an accessible and relatable informal institutional environment that is not always fair, especially when it comes to issues of equality. On the other end, is the option of a formal alternative that is inaccessible, expensive, largely non-relatable, and most importantly, subject to manipulation by influential actors from the informal institutions whose decisions they would be trying to avoid.

All these contribute to the characterisation of the legislation on gender equality as invisibly proximate (Soss and Schram, 2007) because, even though it is not being enforced in a way that ensures utmost feedback, it is forcing reconfigurations in a manner that forces reactions that are reconstructing the face of decision making among the Maasai. The nature of this reconfiguration is important to note, as it brings forth both negative and positive consequences. Positive consequences involve the readiness for cooperation by men from the realisation that the improved status of women benefits them as well, due to the improvements that happen from the household level. Conversely, the reconstruction also has negative consequences, as exhibited in the increased burden borne by women whose husbands abandon their responsibilities in response to the financial autonomy of their women.

This evidence reiterates observations that laws that modify the status of individuals through increased bargaining power at the household level are bound to have consequences that either improve or worsen women's conditions (Platteau et al., 2017). Another negative consequence, unintended but maybe foreseen, is the commitment by the elite to block women's access to justice and equality, in order to protect and maintain their public dominance. This could be dealt with through civic education programmes, but as has been discussed earlier, neither Kajiado nor Narok have demonstrated a commitment to civic education on political rights and benefits of gender equality.

Ultimately, the unforeseen and unintended negative consequences of gender equality legislation act as the largest stumbling block to the success of this legislation. These consequences are rooted in the disregard for the interwoven relationship between formal and informal institutions, and how prevalent norms in each of these could either improve or roll back developments in the other.

The multidimensional nature of institutions means that their effects cannot be conceived as independent in either the formal or informal realm. As the empirical evidence in this study

makes clear, the political agency of a Maasai woman is the combined outcome of her position and authority at home and immediate society as a first instance, before taking shape in the civic public sphere. This discussion has therefore managed to demonstrate that ''the complexities of institutional design, continuity, and change'' are rooted in the operations and interactions of power structures in and between formal and informal institutional set-ups (Chappell and Waylen, 2013: 613).

In the following chapter therefore, I finalise the discussion on the political agency of Maasai women in Kenya. Departing from the goal of institutional transformation through legislation as outlined in chapter one, the chapter uses the experiences of the Maasai to highlight the role of formal and informal institutions (with their rules, norms and practices) in the debate on gender and politics.

CHAPTER EIGHT

AGENCY, NORMATIVE ENVIRONMENTS AND POLITICO-INSTITUTIONAL REFORM

> *Institutional transformation requires movement along a number of fronts: from individual to collective agency, from private negotiations to public action, and from the informal sphere to the formal arenas of struggle where power is legitimately exercised (Kabeer, 2005: 16).*

The aim of this study was to understand how gender norms and gender relations influence equality, by focusing on the interconnectedness between formal and informal institutions. Situated in Kenya, it explored factors that have contributed to the absence of Maasai women in public participation, examined how provisions of the 2010 Constitution of Kenya have influenced the participation of these women in the political space, and sought to understand the institutional frameworks that influence the realisation of gender parity in public participation.

To achieve this, I gave a historical background on the political reforms that led to the institutionalisation of gender equality in Kenya in chapter four. This was followed by a focus on Maasai women in chapter five, which investigated contributors to their exclusion from the public sphere. In chapter six, I evaluated the effectiveness of public participation as a platform for transforming Maasai women's political agency, and chapter seven explained the variation between policy and practice. These discussions have demonstrated how different norm functions interact to influence women's political agency in Kenya, with evidence pointing to the role of actors and norms from informal institutions in influencing the realisation of gender equality legislation.

Based on the study's aim, this chapter concludes the discussion on how formal and informal structures converge to influence the political agency of women in patriarchal societies. I therefore begin by summarising findings on the reality of politico-institutional reforms in Kenya. This is followed by a discussion on the implication of the research findings on the political agency and institutional transformation discourse. The outcome of this discussion then shapes recommendations on how gender equality can effectively be institutionalised, with due consideration for the influence of norms and practices in both and formal and informal institutions.

8.1 Women and the Public Sphere in Kenya

As I have argued in previous chapters, gender equality legislation in Kenya is evidently modelled on the Habermasian characterisation of a public sphere where participants engage as equals. In addition, participants in this sphere are not driven by the advancement of private interests but the common good. This is seen in the way county governments design public deliberation forums, based on principles of fairness, accessibility and room for equal representation. Men, women, the youth and persons with disabilities are therefore brought together to deliberate on development needs without consideration for specific group interests or any socio-cultural norms that might influence behaviour in public group settings.

To effectively summarise the findings of the study's focus on the agency of women in the public sphere therefore, I adopt Nancy Fraser's (1990) *Rethinking the Public Sphere*, as a guide to understanding the process of institutionalising gender equality norms in Kenya. I employ Fraser's critique of a Habermasian public sphere as a space that is neutral and free from cultural ethos, to make sense of the challenges to the promotion of women's political agency as discussed in chapters four to seven. The question here is, how has the modelling of public participation alongside these assumptions on neutrality and freedom affected the realisation of gender equality in public forums, and the subsequent symbolic effect on the political agency of women in Kenya? To answer this, I refer to the research questions.

8.1.1 Institutional Norms and Practices that Influence the Agency of Women in Public/Political Spaces.

Chapter five summarises the socio-cultural as well as economic and institutional barriers to Maasai women's political engagement. These factors corroborate findings on the marginalisation of women in the political realm, which highlight education attainments (Coffé and Bolzendahl, 2010; Berinsky and Lenz, 2011 and Roser and Ortiz-Ospina, 2017), access to economic resources (Norris and Inglehart, 2000; Bolzendahl and Myers, 2004 and Kivoi, 2014), and cultural factors (Norris and Inglehart, 2000 and Giavazzi et al., 2013) as key inhibitors to women's political agency. The Maasai experience goes further to demonstrate how the community's organisation structure has perpetuated male hegemony, affording men socio-political capital which they then strategically deploy to legitimise the exclusion of women.

In chapter four, the historization of the institutionalisation of gender equality in Kenya points to the reality of institutionalised cultural barriers to women's political agency. The predominantly male political class has applied direct resistance to frustrate reforms that would see to the improvement of women's political representation. Celis and Lovenduski (2018: 158) describe direct resistance as ''the refusal, inter alia: to change rules, regulations and practices

that disadvantage women's positional and active power.'' This resistance continues to ensure that men maintain political dominance, effectively shaping the institutional barriers to the substantial representation of women in the Kenyan political sphere.

Beyond the cultural power play, women are also victim to additional socio-economic disadvantages. Chapter five details how, compared to men, Maasai women have lower formal educational attainments, limited access to economic resources (since men control factors of production), and are subject to cultural norms that limit their political socialisation and subsequent agency. These demonstrate the interconnectedness between social and political structures in shaping interactions between actors and institutions (Mackay et al., 2009), the result of which is that women fare comparatively poorer than men in matters of political consciousness and engagement.

This disparity establishes what Fraser (1990: 66) terms as a stratified society, defined as one ''whose basic institutional framework generates unequal social groups in structural relations of dominance and subordination.'' Among the Maasai, the subordinate position is occupied by women, a situation that is exacerbated by cultural norms that have perpetuated a gendered logic of appropriateness that delegates women to the domestic realm. With due respect to class and other socio-economic differences, men as a social category continue to dominate both traditional and civic public platforms. This fuels the political disempowerment of women. These findings reiterate observations by Nzomo (1997), Kimani (2014) and Kameri-Mbote (2016) among others, on the overall position of women in Kenyan politics.

The distinction of domestic versus public agency is a defining component of the exclusionary political practices among the Maasai. Coupled with the gendered logic of appropriateness, its consequences are manifested in reported incidences of women not speaking up because cultural norms forbid women to publicly disagree or criticise men. Krook (2010) describes this as a socialisation of women as private and men as public agents, maintaining an institutional arrangement that reflects these internalised norms (Mackay et al, 2010). Historically, the traditional position on disregard for this logic, as I have reported in chapters six and seven, has a high social cost and invites a 'generational curse' on the culpable subject. This belief remains prevalent in the face of religious teachings, as well as the trends, social movements and debates on equality and equal rights that have prevailed in the 21st century. This confirms the observation that reluctance to change or shift attitudes on deep rooted traditional cultural beliefs remains an obstacle to the transformation of political institutions (Norris and Inglehart, 2000).

This cross-over of traditional norms to logics of conduct in the civic space proves that power relations encompass both private and public structures (Kenny, 2007), depicting dual agency per Ekeh's (1975) argument on the case of two publics across Sub Saharan African communities. A result of colonialism, Ekeh theorises post-colonial African societies as constituted by a primordial/traditional public that is treated as private, and a civic public that is considered public. He however notes that with time, agents who dominate the primordial public (mainly a male elite), have managed to assert their influence in the civic public. The colonial consequence of having men as public officers further ironed the position of men as de facto public agents and women as private, a process Hodgson (2001) and Oyewumi (1997) outline in detail based on experiences of the Tanzanian Maasai and Nigerian Yoruba respectively. What the considerations on private and public agency point to therefore, is not only a cross-public dominance by men, but also the cross-over of normative approaches, which reinforce and maintain male dominance in political institutions (Kenny, 2014).

Legislation on devolution in Kenya and the call for gender equality in decision making processes therefore pose a threat to male dominance and the perpetuation of discriminatory norms. Many locations that now fall under Administrative Wards have historically not had government presence, leaving them under the jurisdiction of traditional authorities. Neubert (2011) points out that such authorities are understandably populated by men who regard themselves as alternatives to the government. This modus operandi is now shaken by the presence of the government, whose legislation has become disruptive of the male dominance in socio-political institutions (Chappel and Waylen, 2013) with additional calls for a gendered restructuring of the traditional authorities that have now been co-opted and gained constitutional legitimacy as administrative structures.

Mackay (2008) however warns that these disruptions do not guarantee change to the status quo, and as chapter seven reveals, men in positions of influence are resisting the loss of absolute authority. This is why they have deepened as well as formed strategic alliances to ensure that in instances where they cannot fight against the inclusion of women, they frustrate their efforts. These influential Maasai men have therefore managed to model systems where women are in representative bodies, but without any substantive influence. Celis and Lovenduski (2018) characterise these tactics as indirect resistance, where strategies are employed to neutralise the impact of transformation by ensuring that informal rules prevail. As the discussion in chapter seven on reasons why the constitutional provisions on equality are failing shows, the absence

of sanctions in the case of non-compliance makes it easier for men to further retain control of decision making in the political realm.

Ultimately, men have managed to assert authority and control over both the primordial and civic publics (Ekeh, 1975), making it difficult to separate matters of justice and equality as privy and subject to normative approaches in either public. Consequently, as a debate, gender equality has become a construct of the interwoven relationship between private and public conduct. For Maasai women therefore, the conceptualisation of the civic public as a platform for equality is untrue as it negates Habermas' assumption on the neutrality of the public sphere, upon which the Kenya public participation guidelines are founded. The legal provisions to rid exclusions based on gender are failing to promote equality, proving arguments that informal impediments to participation parity persist even if everyone has the legal right to participate (Fraser, 1990; Mackay, 2008). The achievement of equality thus relies on paying attention to these informal impediments in the design of public deliberation exercises, if political institutions are to reform.

Ultimately, Maasai women's disadvantaged position of having lesser formal educational attainments and fewer economic resources than men are exacerbated by the strong influence of cultural norms on the gendered logic of appropriateness – on belonging and public conduct. Once again, this confirms Fraser's disputation of Habermas' assumption that a public sphere can be neutral, and free from any cultural ethos. The political position of Maasai women reflects a socialisation process that has enculturated norms of inequality. While these can be reversed through carefully executed equality policies, the challenges of the county governments discussed in chapters six and seven means that Maasai women are far from fully enjoying their right to political participation.

8.1.2 The engagement of Maasai Women in Decision Making within the New Devolution Structure and How this has Influenced Perceptions on their Political Agency.

The devolution structure has indeed created a key platform for women to engage in political processes. Additionally, other platforms such as the *Nyumba Kumi* security initiative and the presence of development committees at the Ward levels that require gender equality in representation have created more spaces for women to engage in public affairs. Unfortunately, their formal engagement has remained largely descriptive, with the influential men's reluctance to let go of their dominance limiting substantive representation. This confirms that the descriptive representation of women has no effect when ''deeply embedded substantive gender dimensions'' infiltrate political institutions (Chappell and Waylen, 2013: 601). Evidence of this

is in the reported lack of awareness among women on the state of affairs in bodies they are supposedly a part of, due to being locked out of decision making by their male colleagues.

Actions by devolved government agencies have significantly contributed to the loose coupling between equality legislation and the meaningful inclusion of women in public participation forums. From methods of advertising, timelines provided, venues and the actual conduct of events, little attention is paid to the reality of women's time use and logistical considerations. This also affects the symbolic representation of devolved units, as reported by the Administrator for Keekonyokie Ward: as a public servant, she has to deal with poor communication from her superiors, and as a woman, she is tasked to explain why she does not take into account the planning required by her fellow women when she expects them to attend meetings with only a day's notice. It is such shortcomings that further subject women to exclusion, while minimising the symbolic effect of those in positions of power.

In the case of the Narok County Integrated Development Plan (CIDP) for the 2017-2022 period, for example, the call for participation was posted on the county's website and in one local daily newspaper on Monday 12th February 2018, for meetings that were scheduled for Wednesday 14th to Friday 16th February 2018, depending on one's location. In addition to this being in violation of the legal requirement for two weeks' notice, the timeline not only excluded those that require financial planning to facilitate travel, but also those who, even with easier access to the venues, remained unaware as the same was not communicated in churches or local radio stations to facilitate wider outreach as recommended in the CPP guidelines.

In such prevailing circumstances, Maasai women are at an overall disadvantage compared to men. Their circles of interaction limit exposure and awareness of political affairs, while the county governments make no deliberate effort to align public forums with women's situational realities. These realities include for example, the inability of a number of them to deliberate in Swahili or English, the official languages of dialogue in public meetings, and the lack of exposure to informal platforms for political awareness such as the men's daily *barazas*[62] that keep them informed on political affairs. Additionally, affordability means that they have limited access to newspapers and the internet, the two prominent information dissemination channels. Fraser makes reference to this, though in the context of media ownership. She explains that subordinated groups often lack access to the ''material means of public participation,'' further

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[62] While barzas could be formally arranged, the daily ones are mostly informal get-togethers that take place mainly in the evening at spots such as pubs, restaurants, random pavements, outside a shop or even under a tree.

enforcing their cultural disadvantages (Fraser, 1990: 64). When all these factors are put into consideration, it becomes clear that unlike the men, Maasai women have less exposure to institutionalised patterns necessary to acquire socio-economic and political tools for public participation (Mackay, 2008; Krook, 2010 and Kimani, 2014).

Some women do however manage to attend public participation forums, as was the case in the CIDP process in Kajiado. This is largely due to the efforts by Ward Administrators to invite members of the public through text messages and sometimes via WhatsApp. Nonetheless, as the discussion on the logic of appropriateness indicates, an improvement in the descriptive representation of women does not necessarily substantiate their presence in political processes. While there is an understanding among representatives that they are part of a wider public, participation does not guarantee that input will represent public interest. This might be made additionally difficult when those who receive personal invitations choose to either push for private interests, or shy from critiquing the government for fear of not being invited next time (and lose out on the little compensation that is thereafter distributed to cover their expenses).

Even without accounting for shyness and private interests, the influence of the logic of appropriateness means that 'we' does not really mean 'we' every time it is presented as such. As Fraser (1990) notes, style protocols that have a correlation with inequality govern discussions in a public sphere. Despite being a special interest group, women find their concerns generalised as public concerns, even though they would benefit more from special consideration. This proves that the representation of women's interests is subject to personal, institutional and political factors that may act as constraints (Annesley and Gains, 2010: 911). While considering the multifaceted nature of women's issues, one could argue that the lack of women's voices makes the deliberation outcome general, but one canvassed as incorporating women's voices.

This becomes evident when one considers narratives from respondents that in case of collision during deliberation, Maasai women find themselves in a difficult position. They must balance between the fight for equality as a statutory right, and the identity and social security granted by being members of the community and therefore governed by its customary norms. This dilemma is directly linked to the debate on the universalism versus cultural relativism of rights. Even though the particularities of this debate are beyond the scope of this study, it is evident that among the Maasai, the reluctance to afford women the right to political participation, as informed by the community's gendered organisation structure, can be interpreted as a relativistic approach to the United Nations Covenant on Civil and Political Rights, as well as the Kenyan constitutional right to political participation.

As stated in the introduction chapter, the adoption of gender equality policies by the Kenyan government is part of the global trend to institutionalise the elimination of gender discrimination. This is especially true when one considers that gender was not considered as grounds for discrimination in the repealed Constitution. Incorporating this commitment to equality in structures of devolution went further in legitimising Kenya's commitment to a gender responsive democracy. In operationalising the same however, the Kenyan government, through the devolved units, can be accused of falling victim to the 'one size fits all' criticism levelled against development intervention programmes of the World Bank.[63]

Itself a victim to this approach from the World Bank and the International Monetary Fund, the country paid no heed to the contextual realities of different communities in the country, so as to design participatory approaches that would be effective at achieving participation parity. Binder (1999: 214) points out that ''rights are based on value judgments made by culturally and socially situated human beings, drawing on the social norms -- and the critical perspectives on those norms -- that are culturally available to them.'' It is therefore not surprising that there is resistance to the promotion of Maasai women's political agency, as it does not fit within the community's institutionalised value judgement (Mackay, 2008) to have women as public decision makers. Similar experiences are shared in rural Rwanda, where Kagaba (2015) reports of women's dilemma on whether to enjoy statutory rights even when the same might cause conflicts in their households. The need to balance this dual identity in the civic public sphere points once again to the inadequacy of Habermas' conceptualisation of the public sphere as a space of neutrality and free from cultural ethos (on equality).

This does not however mean that there is no room for change, or that relativism should be allowed to reign. Donnelly (1984) notes that strong practices can be overridden by stronger external judgements. In the case of the Maasai therefore, discrimination against women could be overridden by stronger enforcement of equality legislation by the government. This is very important because the nature of enforcement is what defines and legitimises formal institutions (Chappell and Waylen: 2013: 604). As chapters six and seven demonstrate however, county governments exhibit weakness in asserting influence over adherence to equality legislation, owing to both financial and capacity constraints, as well as the infiltration of traditional gender norms into the civic realm. As the empirical evidence shows, these gender norms support the

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[63] By the Bretton Woods Project in '*After 15 years, World Bank's Doing Business Report still missing the mark*' http://www.brettonwoodsproject.org/2017/12/15-years-world-banks-business-report-still-missing-mark/ Accessed: 06.07.2018

dominance of influential men (and their female proxies where descriptive representation must be respected) in decision making, supporting observations by Howard (1982) and Donnelly (1984) that clinging on to traditional value systems is driven by the selfish interests of elites.

Individuals however internalise and abide by these systems, as they are at the heart of their identity and belonging in society. According to Renteln (1988), enculturation causes people to prefer their way of doing things, and that there is always a point of moral convergence, even where values don't match. In the case of Maasai, the point of convergence is the respect for women as members of the community, even though their political influence is subordinated. This provides an opportunity for what could be regarded as dealing with reconcilable differences. In the following subsection, I explore what such opportunities might be.

8.1.3 Institutional Frameworks that Could Influence the Successful Realisation of Gender Parity in Public Participation.

The functional inconsistency of gender equality laws has been demonstrated in chapter seven. Evidence points to the non-alignment of normative structures that make it difficult for social engineering in the context of gender equality to be successful among the Maasai. The dominant influence of Maasai men has transcended the socio-cultural space, combining with the disadvantages brought about by women's lack of political capital and county governments' operative and structural weaknesses to make negligible, the desired effects of gender equality legislation. Realistically therefore, any chance of changing attitudes and behaviour towards women's political agency lies outside the boundaries of frameworks currently in place. A starting point on this can be found in the continued reference to the realities of women's financial autonomy, and the influence this has had on power relations in the private sphere.

The historical analysis in chapter four details women's efforts to achieve political parity. On its part, Maendeleo Ya Wanawake Organisation (MYWO), despite its shortcomings, has proven women's ability to mobilise and achieve their goals. The MYWO model of focusing on improving the livelihoods of women is found throughout the country. It exists in the form of women's saving and credit groups that are avenues of solidarity and self-improvement. These groups have allowed women to accumulate capital while at the same time strengthening bonds of solidarity and mutual aid (Schultz, 2004). With economic empowerment as their goal, the groups have been so instrumental in transforming women's welfare, that both Kajiado and Narok county governments use them in leadership training and such other programs that require the mobilisation of women. This is made possible through their leaders, who are able to efficiently coordinate women from across different geographical locations. Unfortunately, these groups have not been utilised as a political resource despite their potential.

In Peru, the institutionalisation of women groups as political entities has contributed to significant improvements in the political engagement of women (McNulty, 2015). These groups have allowed members to discuss issues that they would otherwise not openly discuss but are nonetheless important to them. Women groups as political entities would therefore allow for these issues to be 'made public,' through what Fraser terms as alternative counter-publics. Referencing the 20th century feminist movement, Fraser (1990: 67) argues that in stratified societies, subaltern counter-publics provide subordinated groups with ''parallel discursive arenas'' where they can ''invent and circulate counter-discourses,'' allowing them to formulate their own interests and needs. The existence of these counter-publics therefore contributes to the achievement of participatory parity

This approach has been attempted by the youth in Kajiado. In the December 4th 2017 CIDP forum, for example, there was a youth representative who wished to present the development priorities that the youth had separately deliberated on and wanted the county government to address. Unfortunately, the representative never got to present his ideas, and was told that the needs of the youth had been covered in the general discussion. This discussion had also covered women's needs, but the needs of both social groups had been discussed within a generalisability steered by the county government (the discussion template can be found in Appendix III). Denying the youth the chance to present that which they had formulated and defined as their concerns, signals a probable resistance to the possibility of institutionalising women-only subaltern counter-publics.

Historical evidence shows that women groups in Kenya have been a source of self-reliance for many women at the local level. Women who took part in the study also reported that the success of their lending groups has inspired men to form their own groups due to the tangible benefits that they could point out. At the national level, many women who have joined politics have a background in women organisations, signalling the potential that these institutions hold for the political inclusion of women. Even though there is the probability of resistance, it remains an alternative course of action. As Donnelly (2007) argues for the indisputable benefit of rights despite the debate on their universalism, alternative channels may be argued to be the only spaces where the inclusion of women and their priorities could receive fair attention.

In addition, subaltern counter-publics bear the potential to deal with the organisational shortcomings of county governments. Designating two hours for deliberations on a four-year plan is very ambitious, if not an outright act of 'shadow participation' – inviting participants to a public participation forum because it is a legal requirement, and not really because of the

interest in getting their views. While logistics and financial challenges can be used to justify this approach, there is room for improvement, and having already existing structures would be very efficient. Women groups as subaltern counter-publics would therefore expand the discursive space while at the same time countering the challenges presented by cultural considerations on appropriateness, which act to limit women's contributions in deliberative processes. While this may be argued as exclusionary and therefore contrary to the goal of inclusion in a deliberative democracy, it bears the potential to offset the unfair decision-making privilege of men among the Maasai.

Being able to freely debate and make decisions would ensure that the political agency of women influences society in a way that makes their actions as crucial as those of men. This is also in line with CPP guidelines' support for the organisation of citizens into groups, should they so determine this to be the most effective form of engagement with the county governments. Under the rights and duties of members of the public, the guidelines state that: *Members of the public may participate in decision making processes as individuals or representative groups. County residents should determine the most effective grouping to engage the county governments. Such organisation may be in the form of youth and women groups, Sacco's, chambers of commerce, civil society or religious entities.*

Co-opting women groups into the wider public participation framework would provide a supplementary means of substantive representation since ''these avenues explicitly recognise and seek to counteract the institutionalised gender bias present in policy-making'' processes (Mackay, 2008: 129). Having alternative channels that institutionalise women's voices would therefore minimise the challenges of ensuring gender equality goals within public participation.

Having understood the background to women's exclusion in public affairs and the shortcomings of the public participation forums, the next section discusses what these outcomes mean for the debate on norms of equality, the political agency of women, and institutional reform.

8.2 Implication of Normative Environments on Agency and Institutional Reform

Through the reported experiences of Maasai women, the discussions have so far demonstrated the role of both formal and informal norms in influencing gender equality in the civic public sphere, and how this evokes varied attitudes and responses from both men and women. In this section, I discuss the implication of these findings on women's political participation agenda.

8.2.1 Political Agency in Opposing Norm Environments

Human agency can either be iterative, projective, or practical-evaluative. Iteratively, past experiences influence thought patterns and actions of actors (Goetze, 2014). Within the projective element, the imagination of future action trajectories influences actors to reconfigure their actions according to desired results. The practical-evaluative element is characterised by actors' capacity to make judgement on alternative courses of action, both practically and normatively, with due consideration for changing circumstances. Which element then characterises the political agency of Maasai women?

As the experiences in the empirical chapters illustrate, a judgment on consequences drives the choice of action that transcends an individual. This confirms Chabal's (2014: 47) observation that African societies are not atomistic, as value is not put on an individual's ''intentional, purposeful and autonomous social action.'' Maasai women demonstrate an awareness of the logic of appropriateness in their primordial public, which then influences their decisions on how and whether to assert their political agency in the civic public. For this community therefore, gender and power relations are highly interconnected between the formal and informal institutional environments (Kenny, 2007). As evidence shows, the choice to assert agency comes with a readiness to bear the social costs and is therefore not taken up by those without the support of men in their lives, or those without the socio-economic and political influence to subvert the consequences.

At the same time, men with power apply the rationale of appropriateness from the informal environment to ensure and protect their dominance in the formal political realm. Unfortunately, men with a demonstrated willingness to support the inclusion of women lack the socio-political influence to counter the power of the elite. Ultimately therefore, political agency in the Maasai community is dictated by men with socio-economic and political influence, who extend this opportunity to women who are, unfortunately, reduced to ineffective representatives. In their positions, they are unable to represent the interests of women, especially when these go against the interests of the men in power. This can be seen in the complaints about the lack of support from women in development committees, as well as in the composition of participants in public forums, who are in most cases personally contacted by government officials. Because ''power begets power,'' these women do more to reinforce the powerful position of men in political institutions instead of ensuring the substantive representation of women's interests (Lovenduski, 2011: ix)

The logic of appropriateness as a norm that is reproduced in the civic public sphere has thus influenced the political agency of women in ways similar to outcomes from the debate on gender-based violence. In discussing gender-based violence and instances of sexual violence, the debate often focuses on the conduct of women as an invitation to violence. Calls are for instance made for women not to agitate their husbands to avoid beatings or dress appropriately so as not to entice rapists. The debate therefore places the burden of care on victims, and not perpetrators. On matters political agency among the Maasai, non-consideration for how men could loosen their grip on decision making powers and respect constitutional rights means that women have the responsibility to evaluate their assertion of agency against the risk of jeopardising their social capital.

Placing the burden of care on women is largely rooted in the non-involvement of men as critical actors in the agenda of women's political empowerment. However, it is a clear demonstration of agency as heavily determined by social and cultural contexts. As Annesley and Gains (2010: 4-5) point out, ''it is not enough to focus on critical actors…it is necessary to place them in their institutional context...this both enables and constrains their ability to make substantive policy changes…critical actors are enabled by operating in institutions that distribute power and resources.''

While Neubert and Scherer (2014) argue that social action cannot be pre-empted from binding traditions and habits, Maasai women have in this case demonstrated that political agency is the result of iterated norms of acceptable conduct and the consequent consideration of social costs. This reproduction cycle is so strong, that legal norms alone are unable to ensure that the goal of gender equality is achieved. An analysis of the interplay between context and practical evaluation and the possibility of creating an alternative future off projectivity, as recommended by Neubert and Scherer, establishes that political agency among heterogeneous agents is a deliberate decision on either independence without social capital, or acceptance and belonging without 'political freedom.'

The creation of an alternative future for Maasai women's political participation therefore relies on a practical-evaluative element of human agency (Goetze, 2014). Engagement strategies in place at the moment show that the iterative element of agency promotes the exclusion of women from active engagement, as rooted in the normative logic of appropriateness in conduct at the traditional public sphere. At the same time, the projective element carries little promise for change in the normative approach to women's political agency, as the judgement on consequences deters many women from being assertive. Considering the changing

circumstances in the civic public therefore, it is clear that practical and normative changes are imminent.

Following in the consideration of counter-publics, I argue that the political agency of Maasai women lies in the exploration of alternative courses of action, which can be used as a starting point in demonstrating women's political efficacy. There is already acknowledgement of their expertise on certain matters, as reported by women on their involvement in development committees on education and healthcare. Allowing women to make certain policy decisions increases the chances of acceptability of their public decision making. Unlike activities of their women groups, matters of healthcare and education have a wider impact on the public, which would make them indispensable in policy deliberations. Adopting subaltern counter-publics would therefore minimise conflicts in public forums, while at the same time improving women's political awareness and demonstrating their capacity.

8.2.2 Institutional Transformation

Legislative amendments not only affect relationships among individuals as discussed above, but also between individuals and institutions that govern them. This is why Soss and Schramm (2007) point out that the introduction of new policies creates room for new politics, which could either have negative or positive impacts on the realisation of policy objectives. This is for example the case in environments where informal norms such as the politics of gender among the Maasai have become intertwined with formal state norms, weakening the effectiveness of gender equality legislation, as empirical evidence herein shows. Maasai men have crafted new ways to maintain their authority, while giving the impression that they are opening the political space to women by supporting descriptive representation.

This reality highlights the important role that men play in the success of gender equality policies. It also signals the need to focus on them as 'gatekeepers' of norms in the community. For change to effectively take place, men need to be supportive of the equality agenda, since change cannot ''take place if the status quo is not called into question'' (Platteau et al., 2017: 19). The mobilisation of influential men as agents who maintain this status quo is therefore crucial in the efforts to change norms. As Waylen (2018) emphasises, the involvement of male critical actors is required for a change in gender norms to be successful. This approach has proved successful

in the fight against FGM, through the engagement of *Morans* in Kajiado as the decision makers on whether to marry uncircumcised girls.[64]

Questioning the status quo calls for awareness creation and consensus building with the men, since this, more than the empowerment of women as a single target group, will ensure that gender equality is realised. It might be difficult to convince them of the desirability of a change in status quo, but it is something that must be done, especially since there are those already aware and supportive of the mutual benefits from the political empowerment of women. Mackay (2008: 130) emphasises that ''institutional innovation and strategic action by actors'' could contribute to the substantive representation of women. The presence of allies among men therefore provides a starting point for the exploration of strategic action.

Socio-cultural and economic realities faced by women have significant consequences at both the household level and the political arena. As women respondents reported, the power dynamics at home influence how women relate in public affairs: if a husband supports dialogue and power sharing, he will support the wife's public engagement, and the opposite is true. Rai (2012) reports the same for female politicians in India. As authority figures at home, men play a big role in legitimising women's public engagement, which facilitates the process of including women in decision making in the civic public sphere. This argument was reiterated by men as well, a clear demonstration of the interconnectedness of power dynamics between the formal and informal institutional environments.

Any efforts at institutional reforms therefore need to take this into account, if a comprehensive approach is to be adopted. As Kabeer (2005: 16) points out, ''[i]nstitutional transformation requires movement along a number of fronts: from individual to collective agency, from private negotiations to public action, and from the informal sphere to the formal arenas of struggle where power is legitimately exercised.'' This cannot be realised without acknowledging socio-cultural influences such as the Maasai logic of appropriateness on agency in the traditional public sphere.

Studies on reforms in political institutions therefore need to focus on individuals as products of socialisation processes that begin in the family setting, and not atomistic agents that can neutrally engage in public affairs because they have the right to do so. It is for this reason that the model of women's political participation developed in chapter two (Figure 2.1) places

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[64] Legalise Female Genital Mutilation, says doctor in court https://www.nation.co.ke/news/Legalise-female-circumcision--says-doctor-in-court/1056-4267584-11ajval/index.html Accessed: 18.01.2018

emphasis on individual socio-economic realities and political socialisation as primary factors in the political participation feedback process that ultimately influences descriptive and symbolic representation.

8.3 Addressing Gender Inequality in Kenya

The 2010 Constitution of Kenya is very clear in its call for gender equality in public deliberation processes. It promises to ensure that women are included in public decision-making processes, through forums that accommodate both men and women of different age groups and from different socio-economic backgrounds. With this in place, there would be optimal realisation of equality in citizen participation under devolution.

Empirical evidence from this study however shows that the laws are decoupled from institutional practice. The most they have managed to do is successfully create an illusion of inclusion, characterised by an increase in the descriptive representation of women, but a significantly absent substantive representation. While women are represented, their voices are largely absent in decision making. A solution to this, as proposed by Sunstein (1995), is focusing on the enforcement of consequences for non-compliance, a strategy that could be employed by county governments to gain institutional legitimacy (Mackay et al, 2009). As gender equality in public participation remains expressive, it requires a consequentialist dimension which would give a social meaning (and cost) to non-compliance. It should therefore be possible for women to challenge the validity of decisions that do not incorporate their input, allowing them to exercise their constitutionally mandated decision-making authority. This would ensure a norm balance on the expressive effect of the law beyond the intrinsic value of its statement. But are county governments committed, and do they have the capacity to enforce this?

The discussion in chapters six and seven reveal the entrenchment of private interests and deal making in public deliberations. Evaluating the ''processes underpinning the formal adoption of commitments by governments…to gender equality norms in institutional forms…and the variable institutionalization of those reforms in norms and practices'' (Mackay et al, 2009: 259), has demonstrated a lack of commitment to the promotion of equality and fairness. The unenforceability of gender equality legislation beyond descriptive representation also means that in the absence of an environment of incentives and consequences, there is little motivation for compliance.

Regarding capacity, a stocktaking survey on decentralisation in Africa by Ndegwa (2002) reports of a lack of capacity at local levels, which limits efforts on citizen engagement. This is reflected in both Kajiado and Narok Counties where, in addition to the financial constraints outlined from chapters five to seven, relevant departments have had to work without policy guidelines on gender mainstreaming. As of March 2017, both departments had policy drafts, with the Kajiado office having forwarded it to the County Assembly for deliberation and review. This means that by the end of the Constitution's first term in operation, the period under study, both governments approached gender mainstreaming in an arguably unstructured manner, leaving little room for accountability and process improvement.

Taking into account the institutional realities and challenges, I argue that it is necessary to consider reasonable compromises, which would ensure that even though the ideal is not realistically achievable, alternative strategies could be adopted to redress the historical exclusion of women from the political arena, while at the same time incorporating their input in policy processes under the new governance structure. I will outline these briefly, as informed by the outcome of this study.

8.3.1 Utilising Men's Role as 'Gatekeepers' of Cultural Norms

Beyond the involvement of *Morans* in the campaign against female circumcision, this approach has also been adopted in maternal healthcare campaigns, an approach guided by the recognition of men's authority over their wives' and partners' reproduction choices (Nyandieka et al., 2016). By educating men as a special interest group on the importance of prenatal care, hospital births and post-natal care, many more women have safe deliveries, thus reducing mortality rates. This shows that men are significant players in institutional reforms where socio-cultural norms are involved.

On gender reforms, Connell (2005: 1802) points out that ''the very gender inequalities in economic assets, political power, and cultural authority, as well as the means of coercion, that gender reforms intend to change, currently mean that an elite group of men (often specific groups of men) control most of the resources required to implement women's claims for justice.'' Among the Maasai, this specific group of men constitutes an elite group with socio-economic influence, as well as close ties to government and political agents. These advantages allow them to assert influence in both the customary and civic public spaces.

While traditions and customs were often cited as reasons for continued male dominance in authority and decision making among the Maasai, a male respondent in the second FGD in Loitokitok made it clear that this argument is only used as an excuse to perpetuate male

dominance and maintain the status quo. He pointed out that the community has over time adopted many changes that contradicted what was termed traditional, and they could also support gender equality, but are reluctant to let go of their position of dominance. This affirms arguments made in chapter two, that men, through their historical dominance of the political sphere, have accumulated enough capital to ensure their grip on power is maintained (Chappell and Waylen, 2013). There is therefore need for a strategic engagement of men if gender reforms are to be successful.

Suggestions on this were made by men (not the politically influential unfortunately). On the political engagement of women, male respondents made suggestions to have male ambassadors at the community level, who could volunteer for civic education whenever an opportunity for public engagement presents itself. This way, they argued, more community members, and most especially men, would embrace the agenda as the figures of authority in the community would be championing it. This echoes sentiments by the women, that knowledge transmission on the importance of including women in governance processes should not be restricted to women alone, but should also include men so they can promote change starting at the home front:

> *Even men need the training. They are saying that 'women do not speak' so they also need the training so that when both are educated, he can give me the freedom. I am not saying it is all of them, but without the training, he will not understand me when I bring an agenda to the home. For us to understand each other, we both need the training. (Female Respondent, Keekonyokie Ward – Narok East, 21.04.2016)*

Having men as the drivers of the agenda on women's inclusion is likely to be met with less resistance than when it is considered an imposition or a drive to reduce their power. With this strategy in place, men and women can approach roles as equals, recognising and respecting each other's rights to engage in public affairs. The ensuing support structure would minimise confrontations, while opening the space for equity and equality. Having men as champions of women empowerment increases chances of the agenda's success since as gatekeepers of Maasai customs, they have the power to influence the language and attitude that could ultimately reshape the equality landscape. This observation is in line with the Platform for Action from

the Beijing Declaration's[65] call for the equal treatment of boys and girls, and the active involvement of men in the quest for gender equality in society.

This can however be a difficult task. For example, Connell (2005) argues that in strongly gendered societies, it might be difficult for men to understand women's experiences. A continued lack of involvement perpetuates the bias against women's ability to take on public roles, and men's superiority as decision makers. As the discussion on men's responses to women's majority status however shows, difficulty lies not in the lack of understanding, but fear of creating room for women's experiences in a manner that could challenge men's authority and dominance. It could be argued that there is unreadiness to deal with the consequences of disrupting the status quo (Mackay, 2008: Chapelle and Waylen, 2013). It is important therefore that there is dialogue to allow for knowledge exchange through which fears and biases can be deconstructed, allowing for cooperation and reduced resistance to gender equality legislation.

8.3.2 Strategic Collaboration with Women Groups

> *...institutionalised voice and place, through these alternative channels, provides a supplementary means of SRW [substantive representation of women] because these avenues explicitly recognise and seek to counteract the institutionalised gender bias present in policy-making (Mackay, 2008: 129)*

This position has been mentioned in the call for subaltern counter-publics to facilitate women's political agency. I argue that giving legal recognition to women groups could provide a remedy for the shortcomings in general public meetings. Specifically, these alternative spaces will help deal with the institutional arrangements of politics as usual, which have frustrated the substantive representation of women, by ''constraining the expression and articulation'' of their perspectives (Mackay, 2008: 129).

Such alternative channels can be found in registered and unregistered women groups which are spread out in Kenya. Anunobi (2002) traces the roots of these groups to the pre-colonial era, where women supported each other in their extended families and within their age sets. Their activities, though not fitting into the mainstream political classification, play a very significant role, as they provide excellent opportunities for mobilisation. Even though in their operations they do little to challenge gender norms that subordinate women, they do provide a platform

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[65] Fourth World Conference on Women: Action for Equality, Development and Peace - Beijing, 1995, paragraphs 40, 72, 83b, 107c, 108e, 120, 179. Available at http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf Accessed: 12.10.2015

for the improvement of members' self-confidence and welfare through peer learning, income generating activities and peer lending. As chapter four additionally shows, they are the grounds where women's political leadership is groomed.

Since men have no control over the groups, they are women's power domains, allowing them to manage their socio-economic wellbeing. So successful have their efforts been, that they are introducing unintended consequences. Women's improved welfare has caused some men to abandon their role as providers, as detailed in section 8.1.3. In the seventh FGD a member of a group that has enabled her to renovate her home explained:

> *Men, and not just Maasai, will bring visitors to your home regardless of its status; whether or not there are seats or if the walls are crumbling down. It is upon you as a woman to cover your shame. You will get KES 10,000 and improve your house, a wall at a time…Men are not bothered; you can stay in a paper house if you wish. When you make improvements, they will brag about it, bringing in visitors so that he can be praised. (Female Respondent, Keekonyokie Ward – Narok East, 19.04.2016)*

The effect of these reconfigurations of economic power on political participation has been captured in chapter five, section 5.2. Considering the transformative nature of these groups, their incorporation as alternative platforms for political deliberation could provide alternative avenues for the incorporation of women's voices in governance as successfully adopted in Peru (McNulty, 2015). As an informal platform for participation, women groups as recognisable political entities could become the channels for agenda that could not, for reasons guided by considerations of appropriateness and consequences, be discussed in public fora. It would also allow for further deliberation on agenda that are of strong standing among the women, which were discussed in general forums but not incorporated improving the substantive representation of women (Fraser, 1990; Mackay, 2008).

Moreover, benefits of this approach would be manifold, as women groups are of great significance in the lives of the women, and in ways that benefit the community at large (Taeko, 2014). Social and economic projects undertaken within these groups tend to introduce significant changes in not just the lives of the women and their immediate families, but to the rest of the community as well. Discussions with the respondents confirmed this, where they explained that they have transformed their lives through the knowledge and assistance they get from their women groups.

Maasai women use these spaces not only as meeting points to support group lending and organise the sale of beadwork, but also for peer counselling and information sharing on public affairs. The women have therefore been able to learn more about community affairs and development agenda, in addition to meeting their culturally pre-determined mandate of care. They therefore take charge of domestic duties, alongside running micro and small businesses. For this reason, these groups have become an important space for networking and information sharing, especially since a woman can belong to more than one group.

> *Things have totally changed today. There are village elders and among them*
> *are women. The women are now involved in community development and pass*
> *on all the necessary information to the women in the merry-go-round groups.*[66]
> *(Female Respondent, Keekonyokie Ward – Narok East, 19.04.2016)*

Being strategic collaborators of county governments would increase their legitimacy and provide a platform for training on political agency as well as legitimise their citizenship through socio-political agency (Mackay et al., 2008: 132).

I acknowledge the threat of co-optation and elite capture as probable outcomes of this process, as the history of MYWO in chapter four has shown. However, the collaboration I argue for in this case is the recognition of informal women groups as strategic platforms that could help bypass the challenges discussed in chapter five. They would ensure that women ''have access to the political resources and informal networks needed'' for political awareness (Kenny, 2014: 680) by acting as information-access points on political matters. Women would then be motivated to engage in public affairs and find alternative ways of communicating and influencing decisions. Most importantly, the groups would be a channel for women to communicate their needs without fear of prejudice or disregard from their male counterparts.

It is also worth mentioning respondents' acknowledgement that men and women have different expertise; with women being more knowledgeable on affairs related to education and healthcare, and men being informed on matters of economy and agriculture. Borrowing from feminist standpoint theorists, one could argue that ''women's standpoint grounded in everyday experience offers a challenge to…ruling perspectives'' allowing them to contribute in shaping ruling practices within institutions (Peet and Hartwick, 2009: 11). Having a platform where women could freely debate on matters they are aware of, and having their input incorporated in

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[66] Women groups whereby members make deposits that are then given to individual members on a rotational basis.

policy decisions, could be a motivating force for their involvement in other affairs that they would ordinarily lock themselves out of.

Giving political representation authority to women groups therefore presents a navigation system which allows free communication on matters that would otherwise remain unaired in mainstream participation processes. The value of this is known to government agents as well, as I gathered from my interview with Narok County's Chief Officer in the Development Planning Department on 20.02.2017:

> *Interviewer: Any areas you think need working on to make this process more effective?*
>
> *Interviewee: Of course everything is a learning process… This year I feel that it will be internalised even more, and we're going to bring out a more inclusive, well thought out structure for public participation. In areas where we have many challenges; women and youth are not well represented, there will be no harm to make other arrangements to make sure that their inputs are also captured.*
>
> *Interviewer: What sort of arrangements would those be?*
>
> *Interviewee: You can have a women's meeting, that way they will be free to speak to you from their hearts without fear.*

Even though this alternative does not rid the threat of political influence, it bears the advantage of an already accepted and appreciated body in the society. It is therefore likely to face little opposition from the men, as operations of these groups are not avenues for power contestations. Additionally, considering that women's scope of action is influenced by the status and value attached to female spaces (Schultz, 2004), broadening the range of their activities improves their perceived esteem and status in society, ultimately strengthening women's bargaining power. Women groups as political units can therefore allow for the navigation of both socio-cultural and institutional challenges to the promotion of women's political agency.

Instead of having one general meeting such as the CIDPs therefore, I argue for the promotion of counter publics, as the youth of Kajiado have managed to organise separately. These can be adopted in preparation for deliberations in the general public participation forums. By facilitating discussions where men and women can separately but freely deliberate on public affairs, different perspectives would enrich the final deliberations. Cognisant of the financial

constraints on both citizens and county governments, this strategy would allow different interest groups to meet at their own convenience. Afterwards, representatives could present outcomes of these meetings in the overall forum, a presence that could be facilitated as the ward administrators did for the invitees to Kajiado County's CIDP forum.

Smaller representative units could also be effective at avoiding the challenges experienced by MYWO as an umbrella organisation that could facilitate the gender mainstreaming process. Oduol (2016) points out that despite having representation throughout the country, the organisation continues to depend on directives from the headquarters, political parties or even the government, on how they can operationalise the two thirds gender rule. Women groups can provide alternatives to these bureaucratic and structural challenges, as they do not rely on official representatives in a system that is open to political contest. The success of this alternative however depends on the improvement of communication from county government agencies. As the discussions in chapters five and six demonstrate, adequate timeliness and improved communication channels to ensure the breadth and depth of outreach are crucial to meaningful public debates.

Consolidating different groups for the sole purpose of political deliberations can also be implemented. This would allow women who are members of different groups the chance to attend at least one session, increasing their chances of influencing policy decisions. CIDP forums would therefore act as consolidation platforms, and not avenues for comprehensive discussions hampered by poor timing and challenges of the gendered logic of appropriateness in public participation. While this proposition does not guarantee neutrality, the dominance of an influential few is minimised by the presence of several recognised and supported subaltern counter-publics with the right to provide input into the deliberation process.

This proposition is also supported by the observation that ''values informing the means and goals of political life'' are set by formal and informal principles, making them ''normative institutions that shape beliefs about equality and representation'' (Krook, 2010: 712). Ultimately, consideration for this alternative would help weaken the reproduction of a male dominated civic public sphere, improve women's political efficacy, and in the process, influence shifts in perceptions on the political agency of women. Eventually, this would contribute to improvements in the descriptive and substantive representation of women in political institutions as envisioned in legislation.

8.4 Conclusion

As acknowledged in chapter three, it can sometimes be difficult to generalise findings of a single case study. I therefore argue for the transferability of the findings from my study, guided by Malterud's (2001) argument for the ability of case study outcomes to gain external validity beyond their context. Noting Kimani's (2014) observation that capital accumulation by men in Kenya is a key contributor to the political marginalisation of women, we can see that the debate on challenges faced by Maasai women in their quest for public agency is well situated in the struggle for political agency by women across Kenya.

By zeroing in on the Maasai community, I was able to effectively engage with how actors define themselves and act in institutionalised worlds (March and Olsen, 2005) where identities and role definitions play a big role in determining political agency. Goslin (1969) describes such situations as highly institutionalised, since individuals have little opportunity to deviate from societal expectations or make demands beyond those they are legitimately allowed to make. Investigating the political agency of Maasai women as a constitutional right thus presented an opportunity to check on the interplay between formal and informal institutions in defining political roles. The outcome of this study therefore makes an empirical contribution to a debate Chapelle and Waylen (2013) argue is under-theorised and under-played in both gendered and non-gendered institutionalist analyses.

By looking into the political agency of Maasai women as actors operating in two different but intertwined public spheres, I was able to outline mechanisms that reproduce gender relations in the wider political system in Kenya. In chapters four, five and six, the discussions demonstrate how interests constrain the political activity of women, contributing to their continued exclusion (Mackay, 2008; Annesley and Gains, 2010; Mackay et al., 2010; Chappell and Waylen, 2013). In chapter seven, the discussion explored institutional reform aimed at realising gender justice, highlighting the challenges of such efforts. What I have therefore done in this study on gender and politics, is employ feminist scholarship approaches to understand the gendered nature of political institutions in Kenya, and how this influences the political agency of women.

8.4.1 Theoretical Contribution

The outcome of this study shows that as political actors, individuals are unique and are faced by different realities. Ultimately however, the reality of women's exclusion transcends socio-economic differences, because the life of institutions continues to be perpetuated by actors who embody and enact norms (Powell and DiMaggio, 1991). With feminist institutionalists focusing on power relations within institutions, they fail to carefully consider power creation processes.

This calls for the need to engage with behavioural change scholarship, to better understand why people behave as they do. Understanding these processes will inform critical approaches to gender reform. As the case of the Maasai demonstrates, such reforms are largely determined by dynamics of gender, as constructed and perpetuated by normative environments in the family as well as institutions with power over identity and belonging.

Bolzendahl and Myers (2004) aptly point out that changes in individuals' attitudes and behaviour have an influence in the functioning of society. They link this argument to studies that have demonstrated the connection of feminist attitudes towards voting behaviour, as well as marital happiness and divorces. Once again, this affirms call for institutional transformation grounded on the recognition of the interconnectedness of different institutional set-ups in society (Kabeer, 2005; Kenny, 2007). Recognising and engaging with these dynamics will force feminist institutionalists to deal with aspects of patriarchy and power relations as key aspects of gender and politics. This will connect contemporary debates with earlier works on patriarchy and institutionalised male power, which Findlay (2012) argues is left out of current feminist institutionalist debates. The connection of these debates will therefore ensure that gender equality is addressed as both systemic and structural.

8.4.2 Implications for Research on Gender and Politics

The model of women's political participation in Kenya (Figure 2.1) indicates both primary and secondary feedback processes. This study has focused on the primary feedback process, leaving unaddressed, the issue of how outputs from participation processes can influence the political environment. As research into the primary feedback process has shown, formal and informal institutions have been unable to ensure that the political agency of women is promoted without consideration for cultural ethos. Policy revisions on recruitment and styles of engagement are therefore necessary. Two of these have been proposed in subsection 8.3.1: the inclusion of men as critical actors, and strategic collaboration with informal women groups. For a system that aims at inclusivity however, these alternatives are not enough, as they do not address the root problem of male political dominance.

This study has demonstrated that this dominance is perpetuated by men's higher educational attainments, their increased exposure to contemporary political affairs, and their historically acquired capital as de facto public agents. These conditions place them at an advantage over women in influencing decision making in the civic public sphere. Increased commitment from the government could easily deal with issues of education and exposure, as they require resource allocation to ensure depth and breadth of outreach in communicating development and

political affairs, as well as the protection of school going children to reduce dropout rates. As the interconnectedness of formal and informal institutions has however shown, these efforts will not have much effect on the process of enculturation that perpetuates male dominance.

Once again, this points to the importance of looking at gendered power relations as influenced by both formal and informal institutional settings. Though focused on women, the gender analysis in this study has duly acknowledged the role of men. However, to comprehensively understand the gendered nature of institutions, I argue for the need to pay more attention to the role and experiences of men, in order to enrich output from research on the political representation of women. Conceiving masculinity as an intersectional category interlocked with other categories like age and class will help to bring individual men into focus. This would then enable us to understand processes and mechanisms that sustain elite male dominance in politics, even where groups of men that support the ideas of equity exist. Understanding the persistence of this dominance is crucial in the debate on transforming political institutions because, as this research has highlighted, the multidimensional relationship between men and women operates at every level of daily experiences.

If we are to consider men and women as two halves of a whole therefore, then opposition to women's political agency could be easily explained by studying the two as distinct groups. I regard the female half as a whole because evidence shows that their 'circumstantial homogeneity' with men is not an expression of opposition to gender equality legislation. Instead, it is a reflection of their socio-economic position, which provides no incentive for active assertion of political agency. Answers to the opposition to equality legislation can therefore be understood by studying the male half, in which an approximate half is pro-equality. While ordinarily, an elite would constitute less than a half of the male group, I nonetheless consider it so due to the realities of interest-based co-optation that has actors shifting from one 'base' to another. When we combine the total supporters of equality, participation parity has the support of two thirds of the population, yet remains unattained. The question that needs exploration therefore is, how is it that a third male elite manages to maintain political dominance despite trends on equality and equal rights that are supported by law and the majority?

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APPENDIX I: INTERVIEW GUIDES

Government Officials

1. How long have you served in your current capacity as **XYZ**?

2. How does your office engage in matters of public participation?

3. What are your policy guidelines?
   - What role is your office expected to play in the exercise?

4. Which other offices do you work often and closely with?

   - Do you work with any NGOs/Women or Religious organisations/groups?
   - How would you describe this/these working relationship(s)?

5. Does your office pay particular concern to women inclusivity and gender equality?

6. Has your office introduced/recommended any innovative approaches to achieving gender equality?
   - Why/why not?

   Were there any innovations introduced that conflicted with the socio-cultural values of the people of the area?

   - How was this received: Internally and by the public?
   - How did you deal with this?

7. Are there any impediments to your office's role in the pursuit of gender equality?

8. What public communication channels does your office use?
   - How would you describe their effectiveness?

9. What is your view on gender equality in your capacity as a government officer?

   - What is your personal standpoint?

10. How would you describe the future of gender equality in the county and country?

Women Representatives

1. Describe your experiences as a woman in your position.
2. Did you have any expectations that were not met?
   - How would you describe the gains or losses in the fight for gender equality?
3. Have you/do you receive any institutional support?
   - If yes; which ones, how and how would you rate the support?

- If no; why not?

4. Do you have any recommendations on the role of women in gender equality, and how this can better be approached and realised?

Aspiring Female Politicians

1. What has motivated you to join politics?
2. How would you describe the experience?
   - Is this along or away from your expectation?
3. Are you a member of any professional group or institution that supports you?
4. How would you describe the support system for female politicians?

APPENDIX II: ADMINISTRATIVE UNITS IN RESEARCH AREAS

County	Constituency	Ward	County	Constituency	Ward
Kajiado	Kajiado North	Olkeri	Narok	Kilgoris	Kilgoris Central
		Ogata Rongai			Keyian
		Nakimurunya			Angata Barikoi
		Oloolua			Shankoe
		Ngong			Kimintet
	Kajiado Central	Purko			Lolgorian
		Ildamat		Emurua Dikirr	Ilkerin
		Dalalekutuk			Oloimasani
		Matapato North			Mogondo
		Matapato South			Kapsasian
	Kajiado East	Kaputiei North		Narok North	Olpusimoru
		Kitengela			Olokurto
		Oloosirkon Sholinke			Narok Town
		Kenyawa-Poka			Nkareta
		Imaroro			Olorropil
	Kajiado West	Keekonyokie			Melili
		Iloodokilani		Narok East	Mosiro
		Magadi			Ildamat
		Ewuaso Kedong			Keekonyokie
		Mosiro			Suswa
	Kajiado South	Entonet Lenkisim		Narok South	Majimoto Naroosura
		Mbirinkai Eselenkei			Ololulung'a
		Kuku			Melelo
		Rombo			Loita
		Kimana			Sogoo
					Sagamian
				Narok West	Ilmotiok
					Mara
					Siana
					Naikarra

Source: Author's Compilation from the Independent Electoral and Boundaries Commission

APPENDIX III: KAJIADO COUNTY CIDP GUIDELINE

LEAD QUESTIONS FOR USE DURING THE 2018-2022 SUB-COUNTY CONSULTATIVE FORUMS ON 4TH DECEMBER 2017.

S/No.	Key priority Areas	Lead Question

1.	**ENABLERS**
	• Infrastructure
	• Labour and employment
	• ICT
	• Science Technology and Innovation (STI)
	• Public Sector Reforms
	• Land Reforms
	• Security and peace building
	• National Values and Ethics
	• Ending Drought Emergencies
		1. Is employment within this locality fairly distributed?
		2. What are the local employment opportunities in this sub-county?
		3. What do you think can be done to solve unemployment issue?
		4. What are the challenges of the following infrastructural aspects in this sub-county;
		    a. Road network (Murram, Tarmac)
		    b. Access to markets (local and international)
		    c. Power connectivity
		    d. Telecommunication connectivity.
		5. What opportunities exist in development of solar, wind and other green energy initiatives in this sub-county?
		6. What is the current situation in matters ICT in our locality?
		7. How is the internet connectivity within this area?
		8. List the opportunities in ICT and Science, Technology and Innovation (STI).
		9. How is the current security situation in this sub-county?
		10. How can this situation be improved?
		11. What measures (programmes, projects and activities) can be put in place to improve all the enabling sectors?
		12. What are the land problems that you experience in your locality?
		13. What are the measures to improve the situation?
		14. Who are the other funding agencies supporting natural calamities e.g drought and other interventions within your area?

	General Questions	1. Are you aware of the 1st Kajiado County Integrated Development Plan and have you interacted with it? 2. If yes, what can be done to improve the 2018-2022 CIDP 3. Can you list five (5) top priority areas to be implemented in the county in the next five years? 4. Suggest indicators that can be used to measure progress? 5. How does climate change affect development in your sub-county?
2.	**SOCIAL PILLAR** • Education and Vocational Training (Youth Polytechnics) • Health	1. In your view what are the causes of poverty in this sub-county? a. What measures can you propose to reduce poverty and inequality in this sub-county?

	• Environment, Water and Sanitation
	• Population, Urbanization and Housing
	• Gender, Youth and Vulnerable Groups
	• Youth Training, Sports, Culture and Arts
		2. Discuss the situation of the following services in this sub-county?
		    a. Pre-pry education
		    b. Vocational Training (Youth polytechnic)
		    c. Youth and women fund
		    d. Homecraft centers
		
		3. Discuss the situation of the following services in this sub-county?
		
		    a. water and sanitation
		    b. Housing
		    c. Community based groups mobilization
		    d. Services by Other non-state actors (NGOs, FBOs, CBOs e.t.c.)
		4. Discuss the situation of the following in the sub county:
		    a. Hospitals (Tier 3)
		    b. Health Centres and dispensaries (Tier 2)
		    c. Community Units, Public health, Sanitation, Cemeteries, Ambulance / Refferal services
		    d. Partners support, CSOs, private, Insurance (NHIF)
		5. What measures can be taken to improve the quality of health in:
		    a. Hospitals
		    b. Health centres and dispensaries
		    c. Community units, public health, sanitation, cemeteries, ambulance/referral services
		    d. Partnerships, CSOs, private sectors, NHIF
		6. What are the measures to improve
		    e. Pre-pry education
		    f. Vocational Training (Youth polytechnic)
		    g. Youth and women fund
		    h. Homecraft centers
		7. What are the measures to improve
		
		    a. water and sanitation
		    b. Housing
		    c. Community based groups mobilization
		    d. Services by other non-state actors (NGOs, FBOs, CBOs etc.)
		8. What are the environmental concerns in this sub-county?
		9. What measures can be put in place to improve and facilitate environmental conservation initiatives in this sub-county
		10. What are the challenges facing the special groups in this sub-county? (youth, PWDs, women, the elderly)
		11. Propose programmes that can be implemented to mitigate challenges affecting these special groups.
		12. What programs can the county put in place to promote youth training, sports, culture and Arts?

		General Questions	1. Are you aware of the 1st Kajiado County Integrated Development Plan and have you interacted with it? 2. If yes, what can be done to improve the 2018-2022 CIDP 3. Can you list five (5) top priority areas to be implemented in the county in the next five years? 4. Suggest indicators that can be used to measure progress? 5. How does climate change affect development in your sub-county?

3.		**ECONOMIC PILLAR**
		• Tourism
		• Cooperatives
		• Agriculture, Livestock and Fisheries
		• Trade
		• Manufacturing
		• Business Process Outsourcing (BPO)
		• Financial Services
		• Oil and Other Mineral Resources
		• Blue Economy
			1. What are the main economic activities and their potentials in the sub-county?
			2. What are the untapped economic activities of this sub-county?
			3. How effective are the existing interventions/policies in promoting the economy of this sub-county?
			4. How has been the food security situation in this sub-county in the last five years?
			5. What are the challenges experienced by the livestock keepers and how can they be improved?
			6. What are the milestones noted by the livestock keepers?
			7. What measures (programmes, projects and activities) can be taken to enhance:
			   a. Crop production to improve food security?
			   b. Livestock to improve food security?
			   c. Fisheries to improve food security?
			8. What measures (programmes, projects and activities) can be taken to enhance irrigation potential and other strategies to improve food security?
			9. What incentives need to be put in place to improve agricultural productivity and food security?
			10. Propose actions/measures that can be used to promote savings
			11. In your view, what can be done to improve financial institutions as a means of promoting saving and investment?
			12. What produce can be developed for export in this sub-county?
			13. What measures (programmes, projects and activities) can be taken to promote other economic sectors such as manufacturing, tourism and trade.

		General Questions	1. Are you aware of the 1st Kajiado County Integrated Development Plan and have you interacted with it? 2. If yes, what can be done to improve the 2018-2022 CIDP 3. Can you list five (5) top priority areas to be implemented in the county in the next five years? 4. Suggest indicators that can be used to measure progress? 5. How does climate change affect development in your sub-county?
6.		**POLITICAL PILLAR** • Devolution	1. Discuss how Devolution has improved service delivery. 2. What are some of the challenges facing Devolution? 3. What are proposed measures to improve Devolution?

	• Governance and Rule of Law	4.	How can the link between the national and county programmes be strengthened?
	General Questions	1.	Are you aware of the 1st Kajiado County Integrated Development Plan and have you interacted with it?
		2.	If yes, what can be done to improve the 2018-2022 CIDP
		3.	Can you list five (5) top priority areas to be implemented in the county in the next five years?
		4.	Suggest indicators that can be used to measure progress?
		5.	How does climate change affect development in your sub-county?

APPENDIX IV: NAROK COUNTY CALL FOR PARTICIPATION

COUNTY GOVERNMENT OF NAROK

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PUBLIC NOTICE

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**NAROK COUNTY PUBLIC PARTICIPATION/DIALOGUE
IN THE PREPARATION OF
2ND GENERATION COUNTY INTEGRATED DEVELOPMENT PLAN, 2018-2022 AND
COUNTY FISCAL STRATEGY PAPER FOR FY 2018/19**

The County Government of Narok through this notice, and pursuant to the provisions in the; Constitution of Kenya 2010, Section 108 of the County Government Act 2012, and the Public Finance Management Act 2012, hereby invites members of the public; private sector organization interested parties and other stakeholders, to submit their proposals for inclusion in the County Integrated Development Plan for the period 2018-2022 and the County Fiscal Strategic Paper for FY 2018/19.

To facilitate timely consultation and adequate considerations, your proposals should be delivered in hand-copies to the undersigned or through email to epu@narok.go.ke so as to reach us not later than **16th February 2018.**

Members of the public are also invited to attend public participation forums at the ward level from **14th – 16th February 2018** at various venues as shown in the schedule below;

Constituency	Wards	Venue	Date	Time
Kilgoris				
	Kilgoris Central	Shartuka Wards Offices	16.02.2018	10:00am
	Keyian	Enosaeni –Maranatha Church	14.02.2018	10:00am
	AngataBarikoi	Oldonyorok PEFA Church	14.02.2018	10:00am
	Shankoe	Kilgoris Social Hall	15.02.2018	10:00am
	Kimintet	Sitoka AGC Church	16.02.2018	10:00am
	Lolgorian	Maranatha Church	15.02.2018	10:00am
Emurua Dikirr				
	Ilkerin	Dikirr AGC Church	14.02.2018	10:00am

Constituency	Wards	Venue	Date	Time
	Ololmasani	Olchobosei Council of Elders Hall	16.02.2018	10:00am
	Mogondo	Soget AGC Church	15.02.2018	10:00am
	Kapsasian	Kapolecho Church of Christ	16.02.2018	10:00am
Narok North				
	Olposimoru	Olposimoru PCEA Church	14.02.2018	10:00am
	Olokurto	Olokurto Catholic Church	15.02.2018	10:00am
	Narok Town	Narok youth Empowerment Centre	15.02.2018	10:00am
	Nkareta	Nkareta Social Hall	16.02.2018	10:00am
	Olorropil	Enengetia PAG Church	16.02.2018	10:00am
	Melili Ward	Entontol Social Hall	14.02.2018	10:00am
Narok East				
	Mosiro	Ntulele Outreach church	16.02.2018	10:00am
	Ildamat	Eor-Ekule AIC Hall	16.02.2018	10:00am
	Keekonyokie	Nairegia enkare Catholic church	15.02.2018	10:00am
	Suswa	Suswa Baptist church	14.02.2018	10:00am
Narok South				
	Maji Moto/ Naroosura	Naroosura Catholic Church	15.02.2018	10:00am
	Ololulung'a	Youth empowerment centre	14.02.2018	10:00am
	Melelo	Olmekenyu catholic Church	14.02.2018	10:00am
	Loita	Entasekera Health Centre (CBHC Hall)	16.02.2018	10:00am
	Sogoo	Sogoo Deliverance Church	15.02.2018	10:00am
	Sagamian	Sagamian Catholic church	14.02.2018	10:00am
Narok West				
	Ilmotiook	Mulot Catholic Church	15.02.2018	10:00am
	Mara	Maasai Discovery Centre (MDC) Aitong	16.02.2018	10:00am
	Siana	Sekenani Centre	14.02.2018	10:00am
	Naikarra	Naikarra Community Centre	15.02.2018	10:00am

Ag. COUNTY SECRETARY

COUNTY GOVERNMENT OF NAROK

APPENDIX V: LIST OF RESPONDENTS

Focus Group Discussion	Occupation	Location	Date	Remarks
10 Female Respondents	Self employed	Loitokitok, Kajiado South	03.03.2016	25-60 age bracket. Mixed primary and secondary level. Active in politics and community affairs. Engaged in managing households
8 Male Respondents	Self employed	Loitokitok, Kajiado South	06.03.2016	30-50 age bracket. Mixed primary and secondary level. All active in politics and community affairs. Mixed perceptions on the equality status of women
4 Male and 4 Female Respondents	Self employed	Loitokitok, Kajiado South	07.03.2016	25-60 age bracket. Mixed primary and secondary level. All active in politics and community affairs. Women directly confronting men
8 Female Respondents	Self employed	Kimuka, Kajiado West	23.03.2016	25-40 age bracket. Mixed primary and secondary level. Uninterested in political engagement. OK with being guided by husbands
8 Male Respondents	Self employed	Kimuka, Kajiado West	24.03.2016	30-60 age bracket. Mixed primary and secondary level. Politically aware, some self-declared elders
4 Male and 4 Female Respondents	Self employed	Kimuka Kajiado West	25.03.2016	30-50 age bracket. Mixed primary and secondary level. Politically inactive women and politically aware men. Young men supportive of women's equality
8 Female Respondents	Self employed	Nairagie Enkare, Narok East	19.04.2016	25-65 age bracket. Mixed primary and secondary level. Frustrated by non-responsive government and irresponsible men
8 Male Respondents	Self employed	Nairagie Enkare, Narok East	20.04.2016	30-50 age bracket. Mixed primary and secondary level. Politically aware
4 Male and 4 Female Respondents	Self employed	Nairagie Enkare, Narok East	21.04.2016	30-50 age bracket. Mixed primary and secondary level. Mix of politically aware an unaware women. Politically aware men frustrated by non-responsive government
Interviewee	**Occupation**	**Location**	**Date**	**Remarks**
Officer - County Budget and Economic Planning Department (Male)	Civil Servant	Narok County Offices	22.04.2016	Refused to be recorded. Reported that the county can only reach out to nine locations for public participation forums due to financial constraints and infrastructural challenges
Aspiring Member of the County Assembly - Rombo Ward, Kajiado South (Female)	Politician	Entarara, Kajiado South	29.05.2016	She reported that being separated from her husband was her biggest challenge in seeking political legitimacy. She reported being subjected to verbal abuse lined with sexual innuendos, with men offering to marry her so she could stop running around 'fighting men'

Head - Department of Gender, Kajiado County (Female)	Civil Servant	Kajiado County Offices	16.01.2017	Noted the lack of commitment to equality in public appointments by the county government. Acknowledged support from civil society groups. Reported department's focus on education and economic empowerment of women
Chief Officer - Department of Civil Service, Administration and Citizen Participation, Kajiado County (Female)	Civil Servant	Kajiado County Offices	19.01.2017	Reported of equal participation. Acknowledged lack of civic education and funds to support this. Mentioned that focus on mainstreaming is on the elderly and persons with disabilities. Works closely with the department on gender
Officer - County Budget and Economic Planning Department, Kajiado County (Male)	Civil Servant	Kajiado County Offices	23.01.2017	Reports successful realisation of descriptive representation. Acknowledges that content may sometimes be too technical for ordinary citizens
Women Representative - Kajiado County	Politician	Parliament buildings, Nairobi	24.01.2017	Acknowledged husband's support as crucial for her campaign success. Explained the challenge in meeting women across the county. Opined that women are not as politically committed as men.
Member of Parliament - Kajiado South (Male)	Politician	Parliament buildings, Nairobi	24.01.2017	Reported commitment to the two thirds gender rule in appointments for the constituency development fund. Opined that increased literacy among the Maasai has increased rights awareness and public engagement
Member of County Assembly - Ewuaso Kedong Ward, Kajiado West Constituency (Male)	Politician	Ngong, Kajiado North	30.01.2017	Reported organising thematic social and economic forums to understand needs of his constituents. Noted that the legal system has forced men to accept women's participation, as well as empowering women to take up the challenge and speak out for themselves.
Ward Administrator - Ewuaso Kedong Ward, Kajiado West Constituency (Male)	Civil Servant	Ngong, Kajiado North	30.01.2017	Reported satisfactory citizen participation even without efforts to reach out to women. Noted the unfortunate existence of an elite group to whom information gets faster. Reiterated the need for civic education
Member of County Assembly - Rombo Ward, Kajiado South Constituency (Male)	Politician	Entarara, Kajiado South	06.02.2017	Noted that female constituents were more politically vocal than men. Reported that economic resources are women's biggest challenge

Ward Administrator - Rombo Ward, Kajiado South Constituency (Male)	Civil Servant	Kajiado South Sub County Offices	07.02.2017	Reported of equal and satisfactory citizen participation. To counter the lack of effort to reach out to women, he mentioned that special effort is put in moderating discussions to ensure a balance. Opine that devolution has brought the government closer to the people
Ward Administrator - Kuku Ward, Kajiado South Constituency (Male)	Civil Servant	Kajiado South Sub County Offices	07.02.2017	Noted poor infrastructure as key in geographical marginalisation that mostly affects women. Reported instances of verbal abuse against women, but also the slow acceptance of women's political agency
Officer - County Budget and Economic Planning Department (Male)	Civil Servant	Narok County Offices	15.02.2017	Reported that everything works as it is supposed to, taking all reasonable challenges into account. Referred me to the chief officer for 'on the record' information
Chief Officer - Department of Gender, Youth and Culture (Female)	Civil Servant	Narok County Offices	15.02.2017	Acknowledged the scarcity of resources and subsequent political sensitisation through women's economic empowerment groups especially through role models. Reported close cooperation with the national government as well as the county's economic and planning department.
Chief Officer - County Budget and Economic Planning Department (Male)	Civil Servant	Narok County Offices	20.02.2017	Reported adherence to the county public participation guidelines as well as personal networks. Noted that despite challenges, citizens attend public forums satisfactorily. Also reported that different areas exhibit different attitudes towards women's participation, so moderators are keen to ensure equality in opinion sharing
Member of County Assembly - Keekonyokie Ward, Narok East Constituency (Male)	Politician	Narok town, Narok North	20.02.2017	Reported that cultural barriers are evident in public forums, where women are too shy to speak, allowing men to dominate. Noted that with time and adequate resources, devolution is a transformative system

Ward Administrator - Keekonyokie Ward, Narok East Constituency (Female)	Civil Servant	Narok town, Narok North	21.02.2017	Noted that communication timeliness was the biggest challenge to ensuring timely citizen engagement, which affect more women than men due to the nature of domestic responsibilities. Reported that a delegation of men approached Narok County's governor to petition for her dismissal as a woman should not be allowed to hold such a position. Legitimising her authority remains the biggest obstacle as some men would rather travel to the headquarters than address their concerns to her.
Women Representative - Narok County	Politician	Narok town, Narok North	26.03.2017	A lawyer and the daughter of a politician, she reported that support from her family was difficult to get as they did not believe the political arena is fit for a woman. Being unmarried was also an issue against her candidacy. Despite her qualifications, she reported that her male colleagues do not take her seriously, while at the same time her constituents expect personal favours. nonetheless, she notes that reasonable progress has been made in normalising women's political agency
Chair - Nyumba Kumi Initiative, Nairagie Enkare (Male)	Self employed	Telephone interview	16.02.2018	Reported that the forum was fair, allowing citizens to articulate their development needs