



Inter-Parliamentary Union

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EVALUATING THE LEVEL OF GENDER SENSITIVITY OF THE PARLIAMENT OF KENYA

A SELF-ASSESSMENT EXERCISE

Nairobi, 28-30 November 2016

Report



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Introduction

The self-assessment exercise on the level of gender-sensitivity of the Parliament of Kenya was held from 28 to 30 November 2016 in Nairobi. It was supported by the Inter-Parliamentary Union (IPU) as part of its ongoing collaboration with the Kenyan Parliament in the area of gender equality.

This was a first such exercise in Kenya. It included 8 members (2 men and 6 women) and 31 staff (11 men and 20 women) of both houses of Parliament – the Senate and the National Assembly. It was facilitated by Ms. Anna Burke, former Speaker of the House of Representatives of Australia, and Mr. Masheti Masinjila, Kenyan gender expert.

The self-assessment was opened by the Speaker of the Senate of Kenya, Sen. David Ekwee Ethuro, the IPU Secretary-General, Mr. Martin Chungong, and the Chairperson of KEWOPA, Hon. Cecily Mbarire.

For the first half-day, MPs and staff were given an introductory seminar focused on basic gender concepts, which included presentations by Ms. Winfred Lichuma, Chairperson of the Gender and Equality Commission, and Ms. Nyokabi Kamau, Director of the Centre for Parliamentary Studies. The introductory seminar included a discussion on the elements of a Gender-sensitive Parliament – based on the 2012 IPU *Plan of Action for Gender-sensitive Parliaments* – and what should be expected from a self-assessment of the Parliament of Kenya.

The self-assessment exercise started by a desk review of women's representation in parliament and among parliamentary staff, including in decision-making and senior positions. It also included the consideration of documents related to the work of Parliament as well as discussions among participants. The discussions were held around questions based on the 2016 IPU Gender-sensitive parliament self-assessment toolkit. The same questions were distributed on the floor of the Senate and of the National Assembly, so that additional inputs could be collected from non participating parliamentarians.

Defining a Gender-sensitive Parliament

The report *Gender-sensitive Parliaments, Global Survey of Good Practice* published by the IPU in 2011, defines a gender-sensitive parliament as one that responds to the needs and interests of both men and women in its structures, methods, operations and work.

Themes of discussion

- The numbers and positions of women in Parliament
- Legal and policy frameworks on gender equality
- Parliamentary culture
- Gender mainstreaming procedures and infrastructure
- Partnerships: the role of political parties and working with men
- Parliamentary staff

Lessons learned

Lesson learned #1. Basing discussions on actual facts and numbers has allowed for *dissipating wrong perceptions of women's actual representation in parliamentary services and in positions of leadership*. While there has been an improvement in recent years, parliament has yet to embody the Constitution's principle that no more than two-thirds of decision-making positions be held by the same gender.

Lesson learned #2. The sharing of experiences, especially among staff, has revealed that there are *good family-friendly practices* in place in certain sectors that could be expanded across the parliamentary administration.

Lesson learned #3. Participants acknowledged *the need for clear, formal policies in the area of gender equality* which would send a strong signal and provide a basis for making further progress in this regard. This would ensure the well-being of all members and staff, promote women's representation and advance equal employment opportunities.

Lesson learned #4. Participants realised the importance of providing for a *confidential procedure for members and staff* when they feel they have been subjected to discrimination and harassment.

Conclusions and recommendations

1. Numbers and positions of women in Parliament

Regarding the **numbers of women in Parliament**, Article 81 (b) of the 2010 Constitution of Kenya requires that no more than two thirds of the members of elected public bodies shall be of the same gender. Several Constitutional Amendment Bills have been introduced in Parliament seeking to give effect to the two-thirds constitutional provision with respect to the National Assembly and the Senate. Parliament has so far not passed a Constitutional Amendment Bill in this regard.

The 2010 Constitution of Kenya introduced reserved seats for women in both houses of Parliament, which led to an unprecedented increase in the number of women members following the 2013 elections. Women now occupy 19.4% of seats in the National Assembly and 26.5% of seats in the Senate. Following the 2002 and 2007 elections, when Parliament was unicameral, women only held 8% and 9.8% of seats respectively.

In the National Assembly, 47 seats are reserved for the election of women to represent the 47 counties and 5 women are nominated to represent special interests, including youth, persons with disabilities and workers. At the 2013 elections, aside from the 52 reserved seats, 16 women were elected in open constituency seats. In the Senate, 16 seats are reserved for women to be nominated by political parties according to the proportion of their elected seats and 2 other women are nominated to represent youth and persons with disabilities. No women were elected to the Senate in 2013.

It is noteworthy that at the 2013 elections to the National Assembly, 303 women ran for the 47 women's county representative seats. However, only 152 women ran for the 290 open constituency seats (as compared to 1,937 men). Nonetheless, some of the women that are ending their mandate in reserved seats expressed their wish to run for open seats in 2017, especially in the Senate.

Why? Because of the role of political parties that tend to nominate men and to hold political gatherings at times and locations that are less preferable to women. Stereotypes on the role of women, violence in politics – including sexual violence – and financial risks of campaigning may have also dissuaded some women from running. In addition, some women have been prevented or deterred from standing for open seats, as reserved seats have been instituted through the 2010 Constitution.

How to address this?

- **Hold a parliamentary seminar, soon after the August 2017 general elections to sensitise MPs and political party representatives to the importance of gender equality in representation in parliament, and take stock of the 2017 electoral process through a gender lens. Interested stakeholders and the public would be invited.**

- **Pursue efforts to amend the Constitution and the laws on elections and political parties to 1) establish a mechanism to ensure women occupy at least one third of parliamentary seats, and 2) introduce incentives for political parties to field more women as candidates for open seats.**

With respect to the **positions of women in Parliament**, a very detailed review of the leadership positions in each house indicated some progress. In the Senate, the Majority Whip, the Deputy Minority Whip and one member of the Speaker's Panel are women. In the National Assembly, the Deputy Speaker, the Deputy Majority Leader and two members of the Speaker's Panel are women.

However, women are acutely underrepresented in Committees – and in Committee leadership in particular. In the National Assembly, women chair 8 Committees (which amounts to 30%) but only one woman is a Committee vice-chair. As for the Senate, while women chair only one, ad hoc Committee, they occupy half of Committee vice-chair positions.

Overall, women are underrepresented in Committee membership, especially in Committees dealing with budget, planning, finance, infrastructure, economy and trade, where they tend to make up 10% or less of the membership.

Why? Because the majority of women are first-time legislators and did not receive a timely and targeted induction on how appointments to Committees work within respective political parties.

How to address this?

- **Call on the women's caucus and other stakeholders supporting women candidates to start informing women early – both during the campaign and again at their induction as new MPs – on how designations to leadership positions and Committee membership work.**
- **Introduce a 1/3 quota for women in leadership positions in parliament and as chairs and vice-chairs of Committees.** The Constitutional requirement of 1/3 minimum representation of either sex is already being applied in several governance levels, including ministries. Such a policy would therefore enable Parliament to also align itself with this key constitutional principle. The Speaker of each House could have the responsibility of overseeing the process and ensuring compliance.

2. Legal and policy frameworks and parliamentary culture

Over the past ten years, the Kenyan Parliament has adopted a number of **bills on gender equality**, namely:

- Protection against Domestic Violence Act 2015
- Marriage Act 2014
- Matrimonial Property Act 2013
- Counter Trafficking in Persons Act 2012
- Law on Succession 2012
- National Gender and Equality Commission Act 2011
- Prohibition against female genital mutilation Act 2011
- Employment Act 2007
- Sexual Offences Act 2006

Family-friendly policies have also been put in place. These include the fact that women MPs and staff with children up to 1 year old are now entitled to bring their child and a nanny along with them for meetings and field visits outside Nairobi at parliament's expense. Both maternity and paternity leave benefits are available. A childcare centre and possibly a breastfeeding room are planned in the new building that is being constructed next to the current Parliament.

The **work environment of parliament** must also be gender-sensitive. Progress has been made in this regard in recent years, especially after the refurbishment of the Chambers of both Houses. Before that time, toilets located in the Chamber area were designed for use by men including the ones designated for women.

When it comes to **gender equality, anti-discrimination or anti-harassment policies in Parliament**, there is still a void. However, national legislation provides for such policies to be adopted and implemented, and its development in Parliament is underway. At present, any discrimination or harassment related matters are potentially dealt with by the Privileges Committee in cases relating to MPs and by the Staff Disciplinary Committee when it relates to staff. But it is unclear what procedure is to be applied if harassment is inflicted on a member of staff by an MP (or vice-versa). In addition, while a counselling mechanism for guidance and support of officers exists, it has not been formalised as part of a policy on sexual harassment and discrimination. It is therefore likely that incidents may go unreported.

Why? Bureaucracy and the absence of a clear policy on sexual harassment may deter a member of staff from reporting a case.

How to address this?

- **Adopt and resource a Gender Equality Policy / Plan of Action, which also addresses harassment and discrimination in parliament, with a particular focus on sexual harassment.**
- **Guarantee a confidential counselling procedure for staff and MPs to be able to turn to for guidance and support. Such a confidential mechanism should have a clear mandate and expertise to handle cases of harassment and discrimination.**

3. Gender mainstreaming procedures and infrastructure

Gender equality and gender mainstreaming work requires dedicated mechanisms and expertise. However, no parliamentary body has a specific mandate to promote gender equality. The Labour and Social Welfare Committee is expected to deal with gender equality among many other issues.

At present, gender-specific information and gender-responsive analysis of matters before Parliament is mainly provided by the Government, including sex-disaggregated data in a given sector. So Parliament has no control or initiative in this regard.

Although the women's parliamentary caucuses KEWOPA and KEWOSA contribute to parliament's work in the area of gender equality and receive secretarial support from Parliament, they are not formally recognised as parliamentary structures and rely to a certain extent on external funding for their activities. In addition, gender mainstreaming should not be the sole responsibility of women MPs.

As regards the gender infrastructure at the staff level, Parliament has started addressing this issue by establishing a Gender Desk. The desk officers are a man and a woman at a senior management level, who have this task in addition to their main job description.

How to address this?

- **In the short run, adequately resource the Parliament's Gender Desk , thus ensuring that gender expertise is made available and that Parliament's work and environment are monitored from a gender perspective.**
- **In the longer run, set up a Gender Equality Committee in each house, composed of men and women, as a complement to the existing women's caucuses, KEWOPA and KEWOSA, which are not formal parliamentary bodies.**
- **Enhance the capacity of all staff to understand gender issues and implementation mechanisms through mandatory training (for new staff and then every two years).**
- **Regularly collect information on gender equality in parliament (women's representation, positions held by women, dedicated policies and achievements in the area of gender equality etc.) and make them publicly available.**
- **Include a gender component in the induction of new MPs – men and women – after the 2017 elections.**

4. Partnerships: the role of political parties and working with men

Women have acceded to leadership positions in some political parties. The Secretary General of ODM (opposition) is currently a woman. But the moving multiparty landscape in Kenya, with weak stability of political parties and sustainability of coalitions, does not favour the establishment of strong gender equality policies in these structures. In addition, most political gatherings occur in the late evening. Overall insecurity and gender stereotypes tend to keep most women active in political parties away from such gatherings.

In 2011, the adoption of the bill outlawing female genital mutilation was only achieved thanks to its sponsorship by a male parliamentarian. This is a clear indication of the importance of men championing gender equality and women's rights in Parliament.

How to address this?

Call on more men to champion women's rights in political parties and in Parliament. A dedicated Gender Equality Committee composed of women and men in each house should allow for promoting a culture of gender equality as being the responsibility and in the interests of both men and women.

5. Parliamentary staff

A detailed analysis of the gender breakdown among staff and in senior positions in the parliamentary administration leads to the following conclusions: despite some progress in recent years and although more and more women earn higher education degrees in the country, **women are still a minority among parliamentary staff (41.6%) and are particularly underrepresented in senior management (22.8%).**

Participants felt that overall, the recruitment policy in parliament favours equality of opportunities and diversity, although it mostly focuses on ethnic diversity. Most recently, it was found that in a directorate of 14 officers, only one was a man. In the process of enhancing the capacity of the directorate, the Parliamentary Service Commission sought to correct this disparity and has now engaged an additional 4 men and 2 women to join the directorate.

As regards senior management, women hold some key positions. However, there is still a long way to go to achieve gender balance, with only 22.8% women. Positions currently held by women in the Senate include the Senior Deputy Clerk, the Director of the Parliamentary Budget Office, the Director of Legislative and Procedural Services and the Hansard Editor. In the National Assembly, the Hansard Editor and the Director of Committee Services are women. In addition, the Director of the Centre for Parliamentary Studies is also a woman.

It appears that family-friendly policies exist, such as flexi-time for staff with young children, but that their application may rely on the will of management. This gap has been identified and is in the process of being addressed.

Why? The parliamentary culture is still male-dominated. Staff often have to work long hours and their work load is very heavy. Women may be particularly reluctant to apply for positions in Parliament, especially senior ones, due to existing stereotypes that imply that one cannot be a good wife and mother if one works such long hours. Existing family-friendly policies do not seem to apply evenly across all departments. Women are reluctant to apply internally for senior positions, as they feel their chances of success are small and that men are most likely to be replaced by other men.

How to address this?

- **Harmonise existing family-friendly policies across all units and departments in Parliament, whereby staff may be entitled to flexible working hours, especially when they have small children.**
- **Ensure at least 1/3 of senior management positions are occupied by women through a proactive promotion, staff development and recruitment policy.**

6. Follow-up

When Parliament resumes its work in February 2017, **the self-assessment report should be tabled and discussed in both houses and referred to the relevant bodies** for further action. These will include the Parliament's Board of Senior Management, the Parliamentary Service Commission and the women's caucuses KEWOPA and KEWOSA.

The Parliament of Kenya should take action to

- o Ensure implementation of the self-assessment report by helping to build a more gender-sensitive parliamentary culture and infrastructure; and
- o Support constitutional and legal reforms to ensure implementation of the constitutional requirement that at least one third of the membership of Parliament be women.

Participants also suggested that **another gender self-assessment be organised at the mid-term of the next Parliament (2019).**

7. IPU support

The IPU stands ready to support the Parliament of Kenya in ensuring follow-up to the self-assessment exercise, specifically through the provision of gender expertise and counselling, and the facilitation of experience-sharing with other parliaments.

In particular, **the following joint activities could be envisaged in 2017:**

May/June 2017:

- organisation of a **training seminar for staff** on gender mainstreaming and
- **study visit by some staff to another parliament** that has undertaken gender-sensitive reform.

September 2017: induction for new MPs on gender equality, gender mainstreaming and gender-sensitive parliaments.

November 2017: organisation of a **parliamentary seminar on women's participation in parliament** to take stock of the 2017 parliamentary elections through a gender lens and to lay the ground for legal and constitutional reform to ensure compliance with the two-thirds gender rule.

Suggested actions to be taken

Issue	Recommendation	Actors	Timeline
Adoption and follow-up to the self-assessment report	<p>Self-assessment report tabled in Parliament.</p> <p>Members that attended the seminar act as rapporteurs and present the self-assessment report for endorsement by both Houses.</p> <p>Self-assessment report is referred for action to the Parliamentary Service Commission (PSC), Parliament's Board of Senior Management and KEWOPA/KEWOSA.</p>	Speakers, Seminar rapporteurs, Board of Senior Management, PSC, KEWOPA/KEWOSA	April 2017
Numbers of women in parliament	<p>Hold a parliamentary seminar on the importance of gender equality in parliamentary representation and take stock of the 2017 elections from a gender perspective.</p> <p>Amend the Constitution and laws on elections and political parties to 1) establish a mechanism to ensure women occupy at least one third of parliamentary seats, and 2) introduce incentives for political parties to field more women as candidates for open seats.</p>	Speakers, KEWOPA/KEWOSA, Political Parties, IPU	November 2017 2018-2019
Positions of women in parliament	<p>Call on the women's caucus and other stakeholders supporting women candidates to start informing women early on how designations to leadership positions and Committee membership work (induction).</p> <p>Introduce a quota of at least 1/3 women in leadership positions in parliament and as chairs and vice-chairs of Committees, in compliance with the constitutional gender rule.</p>	Speakers, Clerks of both Houses, KEWOPA/KEWOSA, IPU	June-Sept 2017 2017
Legal and policy frameworks Parliamentary culture	<p>Adopt and resource a Gender Equality Policy / Plan of Action, which also addresses harassment and discrimination in parliament, with a particular focus on sexual harassment.</p> <p>Guarantee a confidential counselling procedure for staff and MPs to be able to turn to for guidance and support with a clear mandate and adequate expertise to handle cases of harassment and discrimination.</p>	Speakers, PSC, Board of Senior Management	2017 2017

<p>Gender mainstreaming procedures and infrastructure</p>	<p>Ensure mechanisms for gender mainstreaming are in place and effective, namely:</p> <ul style="list-style-type: none"> - ensure that the Gender Desk remains at the most senior levels of the parliamentary service (scale 17 or 16) and has adequate human and financial resources. - Establish a Standing Parliamentary Committee on Gender Equality, with men and women MPs. <p>Enhance the capacity of all staff to understand gender issues and implementation mechanisms through mandatory gender training (for new staff and then every two years).</p> <p>Regularly collect information on gender equality in parliament and make it publicly available.</p> <p>Include a component on gender-sensitive parliaments and gender mainstreaming in the induction of new MPs.</p>	<p>Speakers, PSC, Board of Senior Management, Clerks of both Houses, IPU</p>	<p>2017</p> <p>2018</p> <p>Pilot training for staff in May/June 2017.</p> <p>September 2017</p> <p>September/October 2017</p>
<p>Partnerships: the role of political parties and working with men</p>	<p>Call on more men to champion women's rights in political parties and in Parliament.</p>	<p>Political parties, KEWOPA/KEWOSA</p>	<p>Continuous</p>
<p>Parliamentary staff</p>	<p>Harmonise existing family-friendly policies across all units and departments in Parliament.</p> <p>Ensure at least 1/3 of senior management positions are occupied by women through a proactive promotion, staff development and recruitment policy.</p>	<p>PSC, Board of Senior Management</p>	<p>September 2017</p>
<p>Continuous monitoring of progress</p>	<p>Hold another self-assessment on the level of gender sensitivity of parliament at the mid-term of the next parliament.</p>	<p>Speakers, Board of Senior Management, Clerks of both Houses, IPU</p>	<p>2019</p>