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**Charity W Njimu**  
(1) Department of  
Communication and  
Multimedia Journalism, Riara  
University, Kenya  
(2) School of Business and  
Economics, Daystar  
University, Kenya

**Shem O Sam**  
School of Business and  
Economics, Daystar  
University, Kenya

**Corresponding Author:**  
**Charity W Njimu**  
(1) Department of  
Communication and  
Multimedia Journalism, Riara  
University, Kenya  
(2) School of Business and  
Economics, Daystar  
University, Kenya

## A review of two-thirds gender rule in Kenya: Case of women representation

**Charity W Njimu and Shem O Sam**

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### Abstract

**Background:** Gender disparity has been a developmental global concern and a crippling phenomenon in realization of full potential of Kenya as a country. Women's condition is characterized by time poverty, petty trade, low education attainment, undesired health outcomes, little to no inclusion in pertinent decision-making processes. In Kenya, the situation is perceived to be improving courtesy of progressive promulgated constitution. This paper seeks to explore progress towards gender inclusivity through the lens of political representation.

**Objective:** To review the progress towards realization of two-thirds gender rule in Kenya and predict its possible realization.

**Method:** The study reviews data contained in statutory state and nonstate documents including international convention reports. Quantitative data is mined from parliamentary Hansard covering 1<sup>st</sup> - 13<sup>th</sup> August Houses. Descriptive and time series ARIMA model analysis is done to forecast future projections of political representation and achievement of the two-thirds gender rule. Qualitative analysis is equally conducted to capture interests that would not be obtained otherwise. Results are interpreted and discussed.

**Results:** The analysis revealed that the beginning of multiparty democracy in 1992 resulting in 7<sup>th</sup> parliament; and Agenda Four Reforms preceding 11<sup>th</sup> parliament, particularly new constitutional dispensation, bolstered female representation. Presently, the 13<sup>th</sup> Parliament has 267 and 82 males and female representatives, respectively. The gap between both genders is 185, translating to 23.5% for women. However, the two-third gender rule implies that the gap should not be more than 117, a deficit of 35 seats presently. The ARIMA model forecast shows the likelihood of two-thirds gender rule being achieved and surpassed after 2047.

**Conclusion:** With continued progressive reforms and pertinent legislation, proper enforcement of Agenda Four reforms, the analysis predicts that two-thirds gender rule achievement in the foreseeable future.

**Keywords:** Two-thirds, gender, rule, parliament

### Introduction

In addressing gender disparity, a global priority that persists across diverse geopolitical and socio-economic contexts, Kenya has ratified various international treaties (Oduor, 2015) <sup>[9]</sup>. These include the Universal Declaration of Human Rights (Sheik, 2020) <sup>[11]</sup>; the Convention on Elimination of all forms Discrimination Against Women (CEDAW) (Hussein, 2023) <sup>[5]</sup>; the Beijing Declaration and Platform for Action; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); and the Solemn Declaration on Gender Equality in Africa—all of which guarantee gender equality. Further, Kenya has demonstrated determination (Jubril, 2022) <sup>[6]</sup> through a spectrum of legislative, institutional and policy measures to achieve SDG 5: "Achieve gender equality and empower all women and girls" (Tanui-Too, 2021) <sup>[12]</sup>. Central to Kenya's constitutional framework which states that not more than two-thirds of elective or appointive public positions shall be of the same gender articulated in Articles 27(8) and 81(b) (Murray, 2013; Makau, 2019; GoK, 2010). It is posited that the effective implementation of the two-thirds gender rule would enhance women's participation in public policy formulation and implementation in all matters that affect their lives and society (Agutu, 2017) <sup>[2]</sup>. The Kenyan constitution is socially progressive and egalitarian thereby providing for gender equity before the law and in access to opportunities (Ibid.page.2).

However, the framework to operationalize these provisions is nuanced with challenges of legislation, political goodwill, among others. In this context, the Supreme Court of Kenya advisory noted that the absence of a specific requirement in relation to the two-third-gender principle, was amenable only to “progressive realization” and not enforceable expediently (Aluku, 2011) <sup>[3]</sup>.

According to Kimani (2017), Kenya has performed dismally in its pursuit for gender parity as far as women’s representation in politics, in inference to, Kenya’s Parliament. The present status remains significantly below the constitutional threshold. Also, UNDP (2019) <sup>[13]</sup>, recognizes that gender inequality undermines Kenya’s developmental potential, a situation exacerbated by structural and normative barriers. Moreover, the Gender Inequality Index (2018) ranks Kenya at position 134 out of 162 countries concomitant with persistent political underrepresentation of women. The gender ranking also aligns with little to no gender inclusivity in elective, and appointive decision-making public positions, constitutional and policy frameworks promoting gender parity notwithstanding.

In this way, full realization of the two-thirds gender principle particularly in political representation remains elusive because of plethora of influences that continue to constrain women’s participation in politics. According to a Government of Kenya, State Department for Gender Report (2025) the cited matters include time poverty, deeply rooted socio-cultural norms, petty trade due to limited access to financial capital, undesired education outcomes, little to no inclusion in pertinent decision-making processes, inadequate political goodwill, gaps in the legislative framework, bad health outcomes, and the prevalence of debilitating gender-based violence. Collectively, these barriers hinder women from fully exercising their sociopolitical rights contributing to lack of effective decision-making processes at the national level to improve their conditions.

Comparatively, empirical evidence and existing literature indicate that targeted interventions can narrow the gap. In recent years, some Sub-Saharan African states have

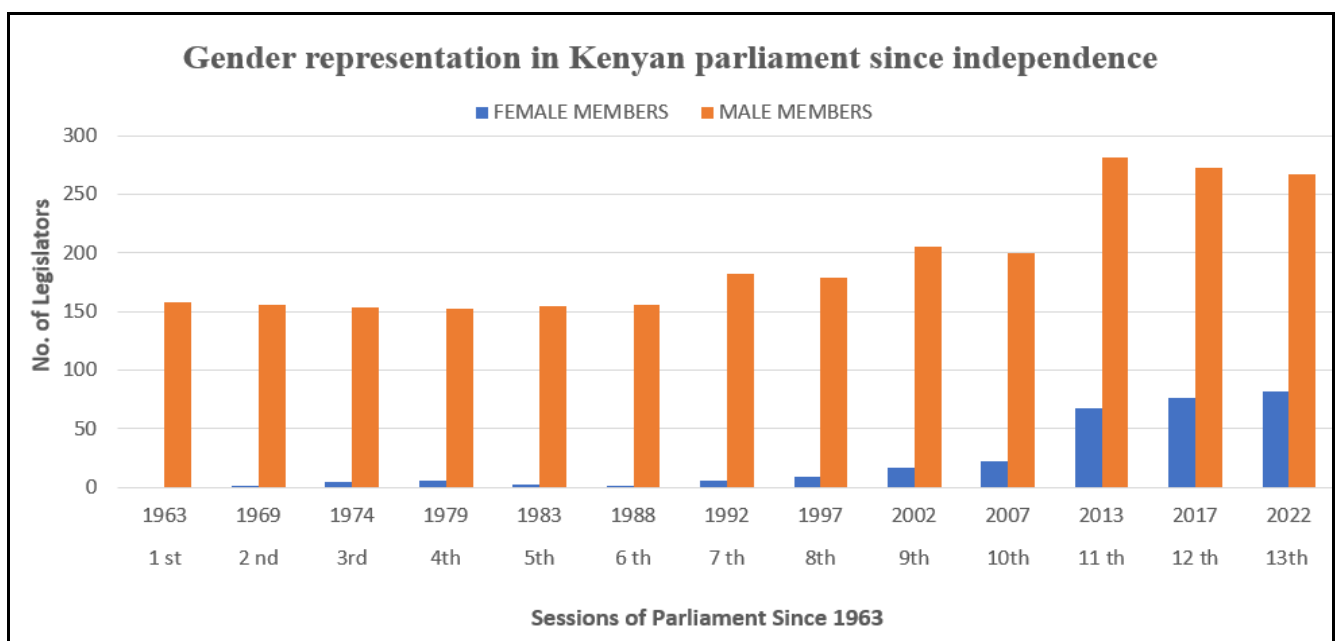
witnessed improvement in women’s political representation and participation, largely driven by progressive policies and legislative measures, including the implementation of gender quotas, and affirmative action. According to IPU (2025), on a global scale, Rwanda leads with the highest proportion of women in national Parliament in Africa at 63.8%, followed by countries like South Africa, Senegal, Namibia, and Mozambique, which are ranked among the top twenty worldwide (Inter-Parliamentary Union, 2023).

Although a considerable gap persists between the constitutional threshold for gender parity and the actual representation in Kenyan Parliament, incremental progress is experienced and prospects for further improvement are realistic in the foreseeable future. This paper seeks to empirically explore progress towards gender inclusivity through the lens of political representation in the Kenyan context and forecast the feasibility.

## Methods

This paper presents an exploratory study on the progress and status of gender inclusivity in political representation. The study relies on secondary data obtained from parliamentary reports, Hansard, documents from other government agencies, and special interest non-governmental organizations. Both qualitative and quantitative approaches are employed to capture a near-complete picture of progress and status of women representation. Quantitative data is mined from parliamentary Hansard from the 1st to the 13th August Houses. Descriptive and time series analysis are conducted including forecasting of future projections of political representation using ARIMA model. The gap in gender represented is obtained from finding difference in series from 1963 to 2022, that is from 1<sup>st</sup> to 13<sup>th</sup> parliaments. The data is visualized in graphs for clarity, differences, and evolution of progress. The study uses R statistical software version R-4.5.2 for quantitative data analysis. Also, qualitative analysis is equally used in this discussion to capture interest that would not be obtained otherwise. Results are interpreted and discussed.

## Results



**Fig 1:** Graphical illustration of gender representation evolution since independence.

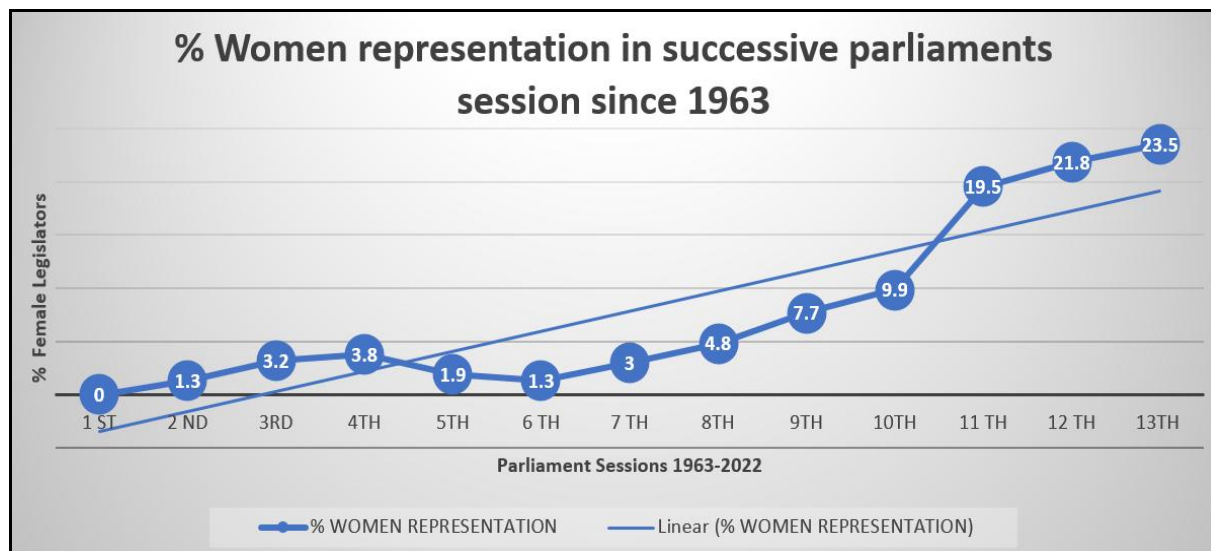


Fig 2: Increasing% of female representation in parliament.

## Gender Gap

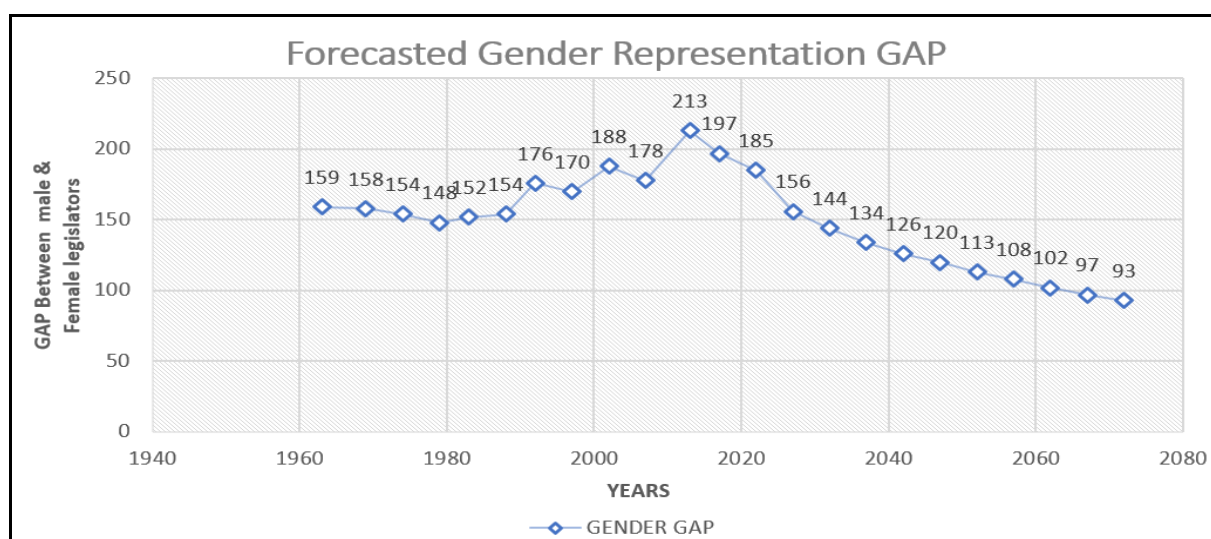


Fig 3: Projected declining gap between male and female legislators in Kenyan parliament.

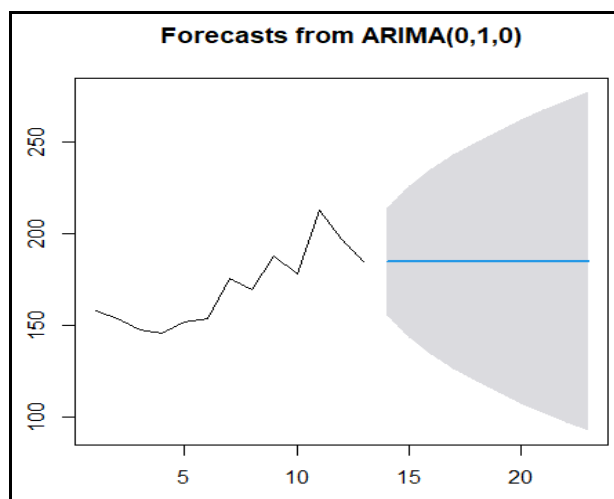


Fig 4: ARIMA forecast of gender representation gap.

## Discussions

Kenyan parliament was at independence men-only parliament. However, overtime the situation has improved

to 23.5% of legislators being female. It is noteworthy that the transition has not been smooth, uneventful inevitability. On the contrary, the progress has been and continues to be protracted, largely driven by civil society, and lobbyists from other special interest groups. In Kenya, state-backed body known as *Maendeleo ya Wanawake* started agitation way before September 1995 Beijing Women's Conference. As illustrated in Figure 1, the first multiparty election in 1992, constituting the 7<sup>th</sup> parliament, marked the beginning of increase of female parliamentarians, which was substantially negligible. Likewise, female representation in the 8<sup>th</sup> and 9<sup>th</sup> parliaments registered gradual improvement. However, Agenda Four reforms following the unprecedented post-election violence paid homage to female representation in both the National Parliament, and sub-nation County Assemblies. Although Agenda Four outlined the formation of Truth Justice and Reconciliation Commission (TJRC), National Cohesion and Integration Commission (NCIC) and Committee of Experts on the Constitution (CoE), it is the output of the latter that provided solid foundation for gender representation. The Agenda 4 reforms included: Constitutional, Legal, and Institutional

Reforms; Electoral Systems and Management Reforms; Police and Security Sector Reform; Tracking Historical Injustices; Addressing Poverty, Inequality and Regional Imbalances; and National Cohesion and Reconciliation.

The promulgated constitution 2010 gave gender-related reforms basis for existence, implementation, and legal teeth to remedy women's conditions. As depicted in Figures 1 and 2, female representation witnessed a leap during the 11<sup>th</sup> Parliament following its implementation -guided by the Commission for Implementation of the Constitution (CIC). Elective and appointive position for females were established. In the 13<sup>th</sup> parliament there were 267 and 82 males and female representatives, respectively. The gap of representation between both genders is 185, translating to 23.5% for women as shown in Figure 2 and 3. However the two-thirds gender rule establishes that the gap should not be more than 117, a deficit of 35 at present.

In the foreseeable future, the two-thirds gender rule will be achieved as illustrated in the ARIMA forecast translated in Figure 3. It is predicted that two-thirds gender rule will be realized and surpassed after 2047 if all factors remain constant. Given the progressive reforms underway supported by pending legislations, a flicker of hope is in the offing.

### Recommendations

1. The state legislature should wrap up pending gender-related bills to fast track two-thirds gender rule.
2. Political good will is crucial to the passage of bills in (1) above.
3. Proper enforcement of electoral laws would level the playing field for female aspirants.
4. The independence and objectivity of the judiciary is desired for full enforcement of Electoral Offences Act.

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