

# Implementing Inclusion: Gender Quotas, Inequality, and Backlash in Kenya

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Extensive research has affirmed the potential of gender quotas to advance women's political inclusion. When Kenya's gender quota took effect after a new constitution was promulgated in 2010, women were elected to the highest number of seats in the country's history. In this article, we investigate how the process of implementing the quota has shaped Kenyan women's power more broadly. Drawing on more than 80 interviews and 24 focus groups with 140 participants, we affirm and refine the literature on quotas by making two conceptual contributions: (1) quota design can inadvertently create new inequalities among women in government, and (2) women's entry into previously male-dominated spaces can be met with patriarchal backlash, amplifying gender oppression. Using the

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ongoing process of quota implementation in Kenya as a case to theoretically question inclusionary efforts to empower women more generally, our analysis highlights the challenges for implementing women's rights laws and policies and the need for women's rights activists to prioritize a parallel bottom-up process of transforming gendered power relations alongside top-down institutional efforts.

**Keywords:** Quotas, politics, inclusion, implementation, empowerment, inequality, backlash, violence against women in politics, VAWIP

More than 120 countries have adopted legislative gender quotas in an effort to advance women's political power. As part of this trend, Kenya adopted a new constitution in 2010 that entrenched the principle of gender equality by preventing any one sex from holding more than two-thirds of the positions in any elective or appointive body. Although Kenya is one of the stronger democracies in the region with a robust history of women's organizing, its "gender rule" came long after neighboring countries such as Uganda, Rwanda, and Burundi had implemented reserved seat quotas for their lower houses of parliament. And, unlike its neighbors, Kenya has failed to fully implement its gender quota. In this article, we theorize the outcome of that implementation process on women's power and rights more broadly, both inside and outside politics.

In terms of numbers, Kenya's gender quota has produced notable gains. After the 2013 elections, women held 21 percent of the seats in the national parliament — up from 9 percent after the 2007 elections (IPU [n.d.](#)). Yet no women were elected to the Senate, nor as governors in any of the country's 47 counties. Women fared better in county assemblies, holding 33 percent of the seats — yet this level was only achieved through a nomination process designed to maintain compliance with the gender quota, rather than through open, competitive elections. Just 82 women were elected to 1,450 open county assembly seats.

The August 2017 elections saw these numbers improve slightly: women now hold 22 percent of the seats in the national parliament, and three women were elected as governors and three as senators. However, despite a host of efforts led by international nongovernmental organizations (NGOs) to train women candidates and secure their political voice since the 2013 elections,<sup>1</sup> merely 88 women were elected to nonreserved county assembly seats — 6 percent of the total. This led political parties

1. These include programs and trainings put on by the National Democratic Institute, New Tactics in Human Rights, UN Women, the Heinrich Boll Foundation, and other smaller organizations.

to nominate more than 750 women to county-level reserved seats to maintain compliance with the gender rule. While Kenya today has “history-making”<sup>2</sup> levels of women in political office, the relative paucity of these numbers reveals the way the broader political context limits the full implementation of the gender quota in practice.

Moving beyond the numbers allows us to theorize how the *process* of implementing the gender quota shapes women’s power more broadly. In what follows, we draw on more than 80 interviews and 24 focus groups with 140 people in different parts of Kenya to make two contributions to a broader understanding of how women’s rights laws and policies are implemented. First, we affirm previous research emphasizing the importance of quota design (Kang 2015; Schwindt-Bayer 2009) and show how the outcome of the quota in Kenya has inadvertently created new inequalities among women in government. Second, we bring in the work of feminist theorists (Ahmed 2017; Faludi 1991; Fraser 1997) to caution that women’s entry into previously male-dominated spaces can be met with patriarchal backlash that amplifies gender oppression, often in the form of violence against women in politics.

In sum, we suggest that the implementation of policies aimed at securing women’s political inclusion does not automatically lead to increases in women’s power more broadly; individual women may gain, while broader emancipatory progress can remain stagnant or even backslide. Our findings underscore the need for women’s rights activists to prioritize a parallel, bottom-up process of gender transformation that tackles the structural embeddedness of patriarchy, alongside top-down institutional ones promoting women’s inclusion. We conclude by discussing several concrete pathways for reform that emerged from our fieldwork.

## QUOTAS AND WOMEN’S POLITICAL INCLUSION

A vast literature on political gender quotas has both affirmed their potential to advance women’s political inclusion and equality in general and cautioned about their limitations (see Barnes and Burchard 2013; Dahlerup 2006; Franceschet and Piscopo 2008; Jones 2009; Krook 2009; Tamale 1999; Tønnessen and al-Naggar 2013; Verge and de la

2. Ismail Akwei, “Kenya’s History-Making Women Elected Governors, Senators,” Africa News, November 8, 2017, <http://www.africanews.com/2017/08/11/kenya-s-history-making-women-elected-governors-senators/> (accessed December 2, 2019).

Fuente 2014; Wängnerud 2000; Yoon 2001). Quotas are seen as the primary way of “fast-tracking” women into politics (Dahlerup and Freidenvall 2005), particularly in the aftermath of conflict or democratic transitions, when constitutions and legal frameworks are often rewritten (Bauer and Britton 2006; Tripp 2015). Scholars are in agreement that the effectiveness of quotas largely depends on their design (Clayton 2015; Jones 2004; Kang 2015; Schwindt-Bayer 2009). Quotas vary in structure, typically based on the type of electoral system in a given context (Laserud and Taphorn 2007). Quota “types” include reserved seat quotas that establish women-only seats, pledges from political parties to aim for a particular ratio of women candidates on their lists, and legislative quotas that apply to all political groupings and require a certain percentage of female candidates.<sup>3</sup> Single-member district electoral systems are the most difficult for women and the most challenging for successful quota implementation, while proportional representation (PR) systems make it easier to enforce quota policies (Dahlerup 2006). While reserved seat quotas are typically the most straightforward way to ensure women’s inclusion, different versions of gender quotas have been effective in different political contexts. Nicaragua, for example, uses a legislated “zipper list” PR quota system that alternates between male and female candidates; as a result, women were elected to 46 percent of the seats in the lower house of parliament in the 2016 elections. In contrast, Iraq, another PR system, reserves 25 percent of its seats for women candidates (IDEA n.d.; IPU n.d.).

Beyond the type of quota, key questions for quota design include whether it mandates a minimum threshold of women, whether it includes a placement mandate stipulating that women must occupy winnable positions on party lists, and whether noncompliance is punishable (Baldez 2004; Dahlerup and Freidenvall 2005, 2011; Kang 2015; Schwindt-Bayer 2009). As discussed later, Kenya’s quota design is a hybrid, composed of reserved “women’s representative” seats in the national legislature and a “top-up” mandate after the competitive election cycle at the county and national levels. Once women are in office, the presence of a women’s caucuses or cross-party forums (e.g., Rwanda Women Parliamentary Forum, Uganda Women Parliament Association) is critical for supporting women’s substantive ability to

3. International Institute for Democracy and Electoral Assistance (IDEA), Gender Quotas Database, <http://www.idea.int/data-tools/data/gender-quotas/quotas>.

advance policy (see Bauer 2012; Tønnessen and al-Nagar 2013; Yoon 2011).

Regionally, Sub-Saharan Africa is at the forefront of gender quota adoption. Many countries adopted quotas following their transition to democracy in the early 1990s. In addition, 16 countries on the continent have emerged from major civil conflict since the mid-1980s, creating openings for them to rewrite their constitutions and legal systems more in line with transnational frameworks emphasizing gender equality. Postconflict countries are more likely to make constitutional and legislative changes that advance women's formal status (Anderson 2016; Tripp 2015). Among the eight countries in Eastern Africa — Kenya, Uganda, Tanzania, Rwanda, Burundi, Somalia, Ethiopia, and South Sudan — all but Tanzania have experienced varying levels of violent conflict since the 1980s and have adopted gender quotas in the aftermath. Postgenocide Rwanda now leads the world in women's formal political representation, with women holding 64 percent of the seats in its national legislature. Despite gains in women's descriptive representation secured through quotas, an increase in women legislators has not always translated into women-friendly policies across the continent (Devlin and Elgie 2008; Muriaas and Wang 2012).

## THEORIZING THE LIMITS OF QUOTAS

Despite the significant gains that quotas have ensured in securing women's descriptive representation, our analysis here echoes scholars who have detailed the limited ability of inclusionary strategies such as quotas to ensure the equitable and substantive integration of women in politics, particularly in shifting political landscapes. These range from concerns about reserved seat quotas reinforcing patronage politics and political elites (Bauer 2008; Goetz 2003; Matland 2006; Tripp 2006), to worries that once in power, women often do not advance women's interests (Abebe and Woldeyesus 2013; Dahlerup 2006; Devlin and Elgie 2008; Wang 2013). Quotas can also produce gaps in power between women; in Uganda, for instance, women holding reserved positions have less respect and authority than their peers in elected positions (Clayton, Josefsson, and Wang 2014). Quotas can also reduce female citizens' engagement in the political process (Clayton 2015). In authoritarian contexts such as Rwanda, the high rate of women in politics has served as an effective political smokescreen for the ruling regime to deflect

attention from its authoritarian practices and ethnic consolidation (Berry 2018; Burnet 2008; Longman 2005).

Beyond these concerns, our analysis also builds on feminist theorizing, which fundamentally questions affirmative and inclusionary versus transformative and justice-centered strategies to generate egalitarian social change (see Ahmed 2012, 2017; Brown 2000; Fraser 1997). These approaches challenge us to question the very institutions and structures that constitute our understanding of “political space,” asking us to think instead about the broader social, economic, patriarchal, colonial, and neoliberal milieu in which a political constituency is located. Looking more holistically at how power operates — and how it is maintained — in such spaces allows us to pay attention to the way in which seemingly emancipatory, inclusionary efforts can reinforce the very institutions and systems that have structured injustice and inequality in the first place.

Recently, scholars have extended these feminist critiques to quotas (Krook and Sanín 2016; Meir 2012). Krook and Sanín, for instance, note how quotas can “trigger various forms of backlash and resistance to women’s political integration, ranging from explicit acts of violence and harassment to sexism in media coverage and social media platforms, directed at women *as women* with the purpose of leading them to withdraw from political life” (2016, 126). As women begin to enter previously male-dominated spaces in greater numbers, they can be subjected to the “renewed determination by patriarchal forces to maintain and increase the subordination of women” (Walby 1993, 76). This “renewed” attention suggests a reactivation of patriarchal efforts to police women’s bodies and rights through whatever means possible, rather than simply a continuation of ongoing patterns of violence.

This backlash can manifest in various ways. It can be directed at individual women who seek political office or enter political spaces in official capacities, often through verbal or physical violence that aims to deny individual women entry into previously male-dominated spaces. Moreover, it may be directed at women more generally, such as women outside politics who attempt to assert their rights or make decisions without consulting male family members. Moreover, backlash can be particularly acute in contexts in which women’s inclusion in formal, visible institutions has been prioritized without a corresponding effort to change entrenched forms of gender oppression, such as in the family or the economy.

We employ backlash as a conceptual tool to understand unanticipated outcomes of the implementation of gender empowerment policies. We

focus in particular on violence against women in politics (VAWIP), a phenomenon that has gained attention worldwide as a result of studies conducted by the National Democratic Institute, iKnowPolitics, and the Inter-Parliamentary Union (IPU) that have revealed the pervasiveness of these forms of violence across the globe (see also the Critical Perspectives section of the December 2018 issue of *Politics & Gender* on the topic). In an IPU survey of women parliamentarians in 39 countries, 82 percent reported having been subjected to psychological violence, while 25 percent had been subjected to physical violence and 20 percent to sexual violence.<sup>4</sup> Our research revealed that women in politics in Kenya face astounding rates of violence when they run for political office, as well as after they are elected.

## DATA AND METHODS

Data for this article come from a research study aimed at identifying the barriers to and enablers of women's political participation at different levels of government in Kenya. This study was undertaken by the authors in collaboration with the Rift Valley Institute, with funding from the U.K. Department for International Development's East Africa Research Fund. In October and November 2016, the research team – which consisted of the authors and four research assistants – conducted more than 80 interviews and 24 focus groups in Kisumu, Kilifi, Nyandarua, and Nairobi Counties. We conducted a handful of follow-up interviews after the 2017 elections.

We selected these focus counties based on the number of women each elected to member of county assembly (MCA) positions in 2013, with additional consideration to reflect Kenya's political and regional diversity (Table 1; see also Bouka, Berry, and Kamuru 2019). After ranking the 47 countries from highest to lowest based on elected female representation, we selected Kisumu, Kilifi, and Nyandarua to reflect high, average, and low levels of women's political representation. The focus counties also capture some of Kenya's political diversity, as Kisumu is in the former Nyanza Province, Kilifi is in the former Coast Province, and Nyandarua is in the former Central Province. We conducted additional interviews in Nairobi because it is the seat of the national government.

4. See the full report: "Sexism, Harassment, and Violence against Women," 2016, <https://www.ipu.org/resources/publications/reports/2016-10/sexism-harassment-and-violence-against-women-parliamentarians> (accessed December 2, 2019).

Interviewees were approached because of they were either (a) women in politics, (b) women who had run for office but lost, (c) men in politics, (d) political party officials, or (e) people involved with NGOs focused on women's advancement. We contacted the respondents through local fixers in each county, as well as directly by email and phone. We further conducted 24 focus groups with approximately 140 people in the three focus counties. These focus groups were stratified by age, gender, and, where appropriate, religion.<sup>5</sup> They were arranged by research assistants and designed to provide a snapshot of how ordinary Kenyans felt about women's leadership and political inclusion. Interviews and focus groups were typically conducted in English or Swahili. In a few cases, interviews were conducted in other languages. Each interview and focus group was audio-recorded, transcribed, and then coded for patterns and common themes in Dedoose, a qualitative coding software. The broader study also included a mapping project and a qualitative phone survey, but these are not analyzed in this article.

## KENYA: AN ONGOING PROCESS OF IMPLEMENTATION

We focus on Kenya as a case study for one primary reason: it is still struggling with its quota implementation process, almost a decade after the new constitution was adopted. This allows us to examine the outcomes of the quota's implementation over time. Kenya also serves as an interesting case for theory building for additional reasons, including that it performs poorly in measures of political gender parity despite being lauded as one of the more competitive democracies on the continent, and because of its rich history of women's organizing. During anticolonial struggles, women such as Mekatilli wa Menza led her Giriama people in a rebellion against British rule (Musila 2009). Since then, Nairobi hosted the 1985 United Nations Women's Conference, and the Green Belt movement, led by Nobel laureate Wangari Maathai, served as a powerful force for women's organizing. Today, organizations such as the Center for Rights Education and Awareness and the National Women's Steering Committee play a critical role in advancing issues related to women's rights; these organizations

5. While religion is not a salient marker of social difference in counties like Nyandarua (which is predominantly Christian), it is in Kilifi, which has large Muslim and Christian populations. Thus, in Kilifi, we selected some of our focus group participants with the intention of reflecting this religious diversity.

also played key roles in advocating for the gender quota during the constitutional redrafting process.<sup>6</sup> Moreover, the population is generally supportive of women's leadership: 73 percent of Kenyans say that women should have the same chance as men of being elected to political office (Mitullah 2017).

Kenya is also a critical case to explore because the gender quota is being implemented alongside a massive decentralization process, which, like the gender quota, is aimed at promoting greater political responsiveness to all Kenyan citizens. Kenya's 2010 constitution dramatically restructured power by devolving authority and resources to the local level. Under the new system, local authorities have genuine legal and fiscal power to implement policy at the local level. Beyond decentralizing budgets and authority, devolution created 47 counties. Under this new system, each ward within the county sends elected representatives (MCAs) to the county assemblies, which serve as the legislative body. Each county's executive power rests in the governor and the county executive committee, who wield significant influence over the county's budget and policy. These budgets are then revised and approved by the MCAs. At the national level, the new constitution created a bicameral legislature, with the Senate representing each of the 47 counties, and nominated members to reflect special interests, as well as a National Assembly with members elected from 290 constituencies, with designated women's representatives from each county (Cheeseman, Lynch, and Willis 2016).

### Kenya's "Gender Rule"

Kenya's quota reflects an innovative — and complicated — design. The provision is constitutionally guaranteed,<sup>7</sup> and it is worded so that it limits the dominance of either gender beyond two-thirds in any government body. Because Kenya has a first-past-the-post electoral system, however, the determination of whether the legally required gender balance has been attained primarily occurs post-election. Moreover, at the national level, the constitution fails to provide a means to meet the gender rule should elections result in one gender's dominance.<sup>8</sup> This has posed a

6. Recently, several women have led prominent political campaigns. Martha Karua, for instance, ran for president in the 2013 elections.

7. Articles 27(8) and 81(b).

8. Articles 97 and 98.

major challenge to implementation. The constitution provides a mechanism at the county level, stating that counties shall provide for “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.”<sup>9</sup> As a result, most county assemblies are in compliance with the gender rule.

In 2012, prior to the first election under the 2010 constitution, the Supreme Court directed parliament to enact legislation to provide a mechanism for the realization of the gender rule. Parliament, however, has refused to do so (see Kamuru 2017a, 2017b).<sup>10</sup> Therefore, the 2017 general elections occurred under essentially the same legal framework as the 2013 elections, resulting in a National Assembly and Senate with male representation of 78 percent and 69 percent, respectively. At the county level, the existence of the “top-up” or post-election nomination provision<sup>11</sup> ensures that the Independent Electoral and Boundaries Commission (IEBC) has the legal authority to select candidates to realize the “not more than two-thirds” requirement. Political parties are required to present nomination lists with names of both men and women to the IEBC before the general elections. Candidates on the ballot are ineligible for nomination. Post-election, the IEBC selects candidates based on the proportionate strength of the political parties in the respective county assembly. As a result, the number of nominations granted to each party is determined by the number of elected seats a party secures, allowing parties to swell their numbers in the assembly with female MCAs who are expected to follow the party line.

In the following section, we outline how the implementation of the “top-up” provision in the county assemblies has created new inequalities among women in government, potentially undermining the project of advancing women’s power more broadly. Then, we turn to another outcome of the quota implementation process: patriarchal backlash against women’s gains made particularly visible in violence against women in politics. We conclude by discussing the generalizability of this case study and its implications for liberal and emancipatory rights and policies more broadly.

9. Article 177.

10. This refusal to enforce the two-thirds rule continued in 2019; see Stephen Astariko, “Parliament Will Never Be Dissolved, Says Duale,” *The Star*, April 8, 2019, <https://www.the-star.co.ke/counties/north-eastern/2019-04-08-parliament-will-never-be-dissolved-says-duale/> (accessed December 19, 2019).

11. Article 177(1)(b)

## Nomination Process

The first key outcome of the quota implementation process is an emerging inequality among women in government caused by the nominations process, which thus far has been necessary for most government entities to stay in compliance with the gender rule. As described earlier, nominations for the county assemblies happen after the general elections have concluded and the IEBC assesses whether the gender rule has been met. If the assembly is not in compliance, the IEBC selects names from the nomination lists to “top up” the number of elected women. The IEBC also nominates people living with disabilities (PLWD) and youth representatives at this time. Table 1 shows that women are more likely to be nominated than elected.

The differences between nominated and elected legislators at the county level are vast and may contribute to a broader sense that women are not capable political actors. First, nominated women do not represent any specific ward; unlike their elected counterparts, they represent the entire county not a clear geographic constituency. According to nominated MCAs across our three focus counties, not having a clear geographic constituency limited their ability to effectively serve in politics. For instance, a nominated MCA from Kilifi County described how “we are here as a special seat and we came to represent the women. So we don’t have a voice” (KF8). Another, from Nyandarua, described how, as a result of being nominated,

[Male colleagues] always suppress the ideas that we have. They don’t want us to have any kind visibility. They say that we represent the county and not any ward. . . . They call us “flower girls” and they say we were nominated by our boyfriends and so on. So there is very little respect for [us]. (NY17)

Table 1. Distribution of female and male members of county assemblies in focus counties, 2013.

	<T-1 > Women		Men		Total	Women % (total)	Women % (elected)
	Elected	Nominated	Elected	Nominated			
Kisumu	7	11	28	3	49	37%	20%
Kilifi	2	16	33	2	53	34%	6%
Nyandarua	0	14	25	1	40	35%	0%

Note: Numbers obtained from “Summary of Results for Members of County Assembly Ward Representatives,” IEBC, March 4, 2013. General Elections; Vol CXV, No. 105 Gazette Notice 9794.

Another from Kisumu described how, as a nominated MCA, “Honestly we are just there. . . . You are just there! You just hang in the balance.” In Nyandarua, a nominated MCA noted the difficulties of the job. As she put it,

Being a nominated MCA is not easy because number one, you don’t have a ward. So when you’re doing any debate in the assembly . . . you know sometimes they talk of, ‘my ward, my ward, my ward.’ For you, even if you debate as a member of the assembly, you don’t do it with the vigor you’re supposed to have. If I was elected and I represented a ward, then I would represent the issues of that ward. (NY25)

Elected MCAs are aware of these differences. An elected MCA from Nairobi County who serves as chair of the women’s caucus lamented that nominated women “[are] not answerable to anybody, so there are no checks and balances in place as opposed to somebody who is elected” (KE11). This lack of a geographic constituency leads nominated MCAs to feel voiceless and powerless; moreover, without representing a specific constituency, they are perceived not to be accountable to anyone other than the powerful political elites who put in them there. This means that the general public sees them as less powerful than their elected, predominantly male counterparts.

The second major difference between nominated and elected positions is that nominated MCAs lack a ward budget (or “kitty”), which typically includes funds for bursaries or development projects.<sup>12</sup> The lack of access to such funds is a critical factor limiting nominated MCA’s abilities to serve effectively, since, according to a nominated MCA from Kisumu, “Politics is about resource allocation. It’s the key factor” (KS6). Without access to funds, nominated women feel ineffective, as they are not able to complete development projects, hand out bursaries, or make informal deals with powerful local actors.

Because political effectiveness in Kenya is often understood through infrastructural development projects — for example, politicians who can build roads are seen as effective — nominated women struggle to be perceived as effective political actors. The nominated MCA from Kisumu continued to describe how her lack of a budget prevented her from being influential, emphasizing, “We want to move from presence to influence. For me, I don’t believe in filling the seats and yet you are

12. Recent discussions have suggested changing this, and there appears to be some variation at the county level.

not being heard. [But] the facilitation to do our work is nowhere” (KS6). Without funds, one nominated MCA from Nyandarua described, “The challenge is that there is nothing I can go and tell people that I have done for them. So as a woman there is nothing I can say I have done, that I can use to convince people to vote for me next time” (NY1). As we discuss later, this may be leading to a broader sense that women are ineffective political leaders.

Some counties have allocated small funds to nominated women. In Nyandarua, where no women were elected to the county assembly in 2013, nominated MCAs were able to petition for funding to build roads for their wards. However, elected men from the same wards as the nominated women reportedly benefited the most from these road construction projects, since constituents perceived the work to have been done by their elected representatives. This is because elected men took credit for allocating the resources in the first place; when in front of their constituents, male MCAs would say, “This is my ward. You gave me your votes and I’m doing this for you” (NY25).

A third outcome of the quota structure is that nominated women see themselves as having “second-class status” in county assemblies. This feeling of serving in a secondary, less important role stems from the fact that they are not provided offices, support staff, or transport on a par with their elected counterparts. This lack of commensurate resources creates an undue financial burden on nominated women, many of whom use a significant portion of their salaries on things that elected MCAs have budgets for — especially transportation. Moreover, the lack of resources such as office space creates an impression among the MCAs and their constituents that a nominated position is less professional than an elected one. One nominated MCA in Kilifi County lamented, “We operate from houses, from [under] mango trees” (KF4). The ramifications of such unprofessional “offices” are not immediately clear, but this may further the impression that women are not as professional or powerful as men. Moreover, the lack of offices may affect nominated women’s ability to do their work effectively.

### **Impact of Women’s Perceived Ineffectiveness**

Given that there are far more nominated than elected women in Kenya, and there are far more nominated women than nominated men, we are concerned that the perceived ineffectiveness of nominated women may

be shaping a broader perception that women politicians in Kenya are less powerful or competent than male politicians. This is because many constituents do not realize that nominated women do not have access to funds, creating misunderstanding and disappointment. In Kilifi, one nominated MCA described how her constituents “think we are getting the same [budget] as the elected ones, but they came to realize that we don’t get anything — it is only the salary” (KF5). “But the women from the grassroots expect a lot from us because we are the ones who they know,” explained another, suggesting that nominated women’s inability to fulfill these expectations can lead to a general perception that women are dishonest about their capabilities or are weak because they cannot spearhead development projects.

This perception of ineffectiveness has also fostered divides between elected and nominated women, potentially limiting the possibilities for women’s collective organizing around shared gender interests. As an elected MCA from Kisumu (KS9) put it, “amongst ourselves we are aware of our differences,” suggesting that the elevated profile and power of elected women prevents solidarity and may even be a source of interpersonal conflict. Moreover, the confusion over nominated women’s constituencies can further amplify conflict, especially if elected women hail from the same ward as nominated women. Several women we interviewed suggested that this is particularly acute if the nominated women are nominated on a PLWD or youth ticket, since many of the elected MCAs’ initiatives might be related to these substantive areas.

Men within the county assemblies are frequently aggressive toward women in politics, and especially toward nominated women, whom they perceive as being less important or influential than elected MCAs. One nominated MCA from Kilifi described how male colleagues were insulting to her and her colleagues, telling them, “you nominated, shut up” (KF4). Moreover, men we interviewed suggested that the thing holding women back was a lack of confidence as well as a tendency to not support other women. As one put it, women “need to demonstrate they are good as men” (KS13). Yet to do so requires money — and therefore, women do struggle to demonstrate their capacity. Some men suggested that nominated women do not need money, because their entire job is to pass budgets. As one put it, “They are forgetting their roles. Their role is on oversight . . . why do they need that money? They are charged with the responsibility of passing budgets, so let them pass budgets that favor projects in their sub-counties and wards” (KS12). This statement suggests something calculated and dismissive of the political

realities for women. Moreover, nominated women repeatedly expressed frustration that they had little control or influence over the county budget. As one nominated MCA from Nyandarua put it, “considering we are lesser, we have so little influence on the budget. We would want to influence the budget so that it would take care of women’s issues” (NY25).

In sum, the design of Kenya’s quota reflects research from other contexts that emphasizes the importance of quota design within the broader electoral system (Clayton 2015; Kang 2015; Schwindt-Bayer 2009). The reliance on the nominations process to secure compliance with the two-thirds rule has created unequal forms of women’s legislative power. Of particular concern is the perception of women’s ineffectiveness once in political office as a result of the structure of the nomination system, which may be unintentionally entrenching women’s secondary status both inside and outside of politics by reinforcing negative gender stereotypes. This suggests that if the routes through which women enter politics are not equivalent to men’s, implementing women’s presence in government will be insufficient to create fundamental substantive and normative change.

### Backlash against Women’s Entry into Male-Dominated Spaces

Earlier, we outlined some of the unintended consequences of having women’s political inclusion rely on a nomination process that creates unequal types of legislators. Here, we outline a broader concern: that the implementation of the gender quota in Kenya has fomented patriarchal backlash against women, potentially undermining their gains by normalizing new forms of oppression. This backlash ranges from refusal by political elites and institutions to comply with the constitution and court orders to verbal and physical violence.

Violence has featured prominently in Kenya’s electoral politics. The 1992, 1997, and 2007 elections saw large-scale violence in different parts of the country. Violence operates at lower levels during other phases of the electoral cycle, with many documented cases of politically motivated kidnappings, beatings, and murders. Nanjala Nyabola noted that in Kenyan politics, “the ability to muster and marshal violence to intimidate opponents is known colloquially as *mimi ni ndume* [I am a bull] politics, and is rewarded and admired” (2016b, 12). Therefore, all who enter the political fray risk violence. This has long kept women out of political spaces and was one of the primary motivations behind the implementation of the gender quota in the first place (see Tamale 1999 on similar processes in Uganda).

Yet what makes political and electoral violence more challenging for women is that such violence is coupled with misogyny and gender-based violence more broadly. Moreover, sexualized violence often accompanies election violence and is perpetrated by many different parties, including state security forces. These systems of gender oppression operate both inside and outside of politics, compounding the difficulties women face vis-à-vis men when engaging in politics. For women vying for elections, violence is verbal, psychological, and reputational, as well as physical, and it manifests in various ways to keep some women abject — cast out and down, or positioned as “revolting subjects” — within the political process (Kristeva 1982; Tyler 2013).

### *Verbal and Psychological Violence*

As women have increasingly entered the political fray in Kenya, sexist and abusive language has been ubiquitous: one elected MCA from Kisumu described it as “out of this world” (KS9). The women we interviewed chalked this abuse up to the cost of engagement, reporting that they were often accused of being “loose women,” “prostitutes,” and “adulterers.” For instance, as one nominated MCA from Nyandarua described, “They used to call us prostitutes and other words that I cannot even mention” (NY2). According to an elected MCA from Kisumu, this accusation that women are “prostitutes” is “automatic” after women enter the political fray (KS8). Women are the recipients of such verbal violence when they embody what Grace Musila (2009) has called “gynocratic contestations” of the hegemonic masculinity that lies at the center of Kenyan politics.

During the campaign period, women’s marital status is linked to the type of verbal assaults they are exposed to. If a woman is married, she is accused of not being a good wife by running for office. If women are single or divorced, accusations of being a “prostitute” are particularly pervasive. One religious leader from Nyandarua attributed these attitudes to the culture more generally:

They don’t believe that the woman is supposed to lead in the public. She is supposed to stay at home. So even if she vies, the people will say that she doesn’t deserve to . . . if she vies she is a prostitute, she is seen as crooked and they say that she is not worthy and shouldn’t be a leader. A woman is viewed as a home person and not a leader. (NY12)

The media is often a major culprit in these sorts of attacks. Media outlets have become notorious for publishing doctored photographs of women

candidates naked or with men they are rumored to be having affairs with.<sup>13</sup> There are also major differences in how the media covers men and women. One elected MCA from Kisumu described, “When a man is promiscuous he is termed as a hero; they will say ‘he is the guy, don’t play with the son of so and so.’ But when they start getting some stories about [women] having been seen here and there, then you are finished” (KS9). These types of stories were ubiquitous in the 2017 elections.

Men who are supportive of their spouses’ political campaigns can also find themselves subjected to verbal violence and insults. For instance, a woman candidate for the women’s representative position in Kilifi described how she was able to avoid some of the accusations about her morality because her husband was a visible presence on the campaign trail. However, her husband was then subjected to constant questions and jeers from strangers and peers who asked, “Yeah, why would you let your wife to hang around with men? How sure you are that she is safe? She might be cheating on you” (KF15).

Verbal assaults directed at women reflect broader debates about women’s rightful place in politics. These debates have been amplified since the implementation of the gender rule, with debates about removing the rule frequently reentering political discourse. For example, in early 2016, member of the National Assembly Moses Kuria launched a campaign to collect signatures to amend the constitution to reduce expenditures by, among other things, removing the position of the women’s representative. This initiative, dubbed *Punda Amechoka* (the donkey is tired), was launched after the National Assembly failed to enact legislation required by the constitution and Supreme Court to provide a mechanism for parliament to ensure compliance with the gender rule.<sup>14</sup> The popular legitimacy of debates about the validity of the gender rule reflect a backsliding of support for women’s political inclusion since the constitutional drafting process.

### *Physical Violence*

Psychological violence and the continual violations of laws aimed at securing women’s rights are only partial components of a broader regime of patriarchal gender-based violence in Kenya. The campaign trail is a particularly nerve-racking time for women candidates, especially during

13. Mona Lena Krook and Juliana Restrepo Sanín (2019) call this form of violence “semiotic violence.”

14. Article 81(b) of the Constitution of Kenya 2010.

the nomination period, when women face violence from the party coterie. For instance, Sophie<sup>15</sup> (KS11), an aspirant for a women's representative seat in Kisumu during the 2013 elections, was known in her community as passionate about gender issues and an expert on gender-based violence. In her early 30s, she was a relatively young candidate, but she had the support of her husband and many others in her community. In the lead-up to her political party's nomination process, she abandoned the most popular party in the region for a smaller one that committed to support her campaign. Weeks before the primaries, three men appeared on her property. She described how "they cut me and even the [knife] went through my breast . . . they started to cut me everywhere; the head, hands." Sophie needed several surgeries and months of recovery to regain her health. Another woman who vied for but failed to secure an elected seat in Nyandarua narrowly escaped rape by a group of men before *boda* (motorcycle) drivers rescued her. This violence is not only directed at losing candidates: an MCA from Kilifi who successfully won her contest stayed in a hotel away from her home ward during and after the elections because the risk of violence against her was so high (KF1).

Moreover, violence is not only directed at the candidates themselves; it often extends to female supporters. An elected MCA in Nairobi County described how during the 2017 primaries many of her female supporters were attacked — two were even shot — and her opponents' "goons" tear-gassed the polling stations. This was deliberate, as her opponent's team would "map [my] key mobilizers and they intimidate them. Once they intimidated them, they ran away." Rather than simply electoral violence more generally, she described the gendered aspects of this abuse:

In Nairobi, you know, we have some women who live below a dollar a day. They can't have a house minder who can take care of their child. So they come carrying their children to the polling station, hoping for security because they have seen the police patrolling. But they have been tear-gassed and the kids are suffering and the stones are being thrown and the violence is meted against women and you are actually beaten — so many women were beaten.

Intimidation of supporters can take other acutely gendered forms. For instance, in past years, there has been a streak of public strippings of women candidates and their supporters. These strippings are typically carried out by mobs from opposing political parties who physically

15. Pseudonym.

undress women in the streets, often while taking pictures or video-recording their humiliation, before abandoning them to seek shelter.<sup>16</sup> These assaults are designed to publicly shame women and often follow on the heels of other public accusations or rumors.

This risk of physical violence does not abate once in office and, according to our respondents, appears particularly likely when women speak up, push for things not currently granted to them, or refuse to acquiesce to a male politician's demands. For instance, a nominated MCA from Kisumu described how she was assaulted by a male colleague when she was pushing for nominated MCAs to be given office space and staff. A woman nominated to a PLWD seat in Kilifi described a male colleague grabbing her by the neck and lifting her off the ground right outside of the assembly hall (KF10). In an astoundingly egregious example, in 2016, a male member of the Nairobi County Assembly smashed elected MCA Elizabeth Manyala's head into a wall after she refused to reallocate funding to his own personal project.<sup>17</sup> The assault sent her to the hospital with extensive head and neck injuries. Manyala described how this violence is used to keep women out of politics:

When violence is coming against you, it makes you feel ostracized within the community because sometimes when you're beaten and they remove your clothes in front of people and they take your photos or you're raped, then what will you tell your children and your husband? What will you tell your community? They will tell you, "Well, politics is a man's game. Why did you venture into it?" The blame will still come on you.

Manyala experienced this firsthand after she was attacked, describing how "my political party was saying now I am the bad one. Everybody, even the women I was representing, were saying it was my fault." This blaming of the victims of attack or harassment was commonly mentioned by the women we interviewed and suggests another dimension of violence against women in politics that operates by keeping women subordinated within the political system.

16. For media coverage of one of these events, see Charles Lwanga, "Hundreds Protest Women's Stripping during Malindi By-Election," *Daily Nation*, March 14, 2016, <https://www.nation.co.ke/counties/kilifi/protest-woman-stripping-Malindi/1183282-3116046-format-xhtml-afjos7z/index.html>; and "Martha Wanguo Stripped in Malindi by Rowdy Youths," *MinBane* (blog), March 9, 2016, <https://minbane.wordpress.com/2016/03/09/http://wp-mep1xtjg-1mz/> (both accessed December 2, 2019).

17. For coverage of Manyala's assault, see Mary Nyambura, "An Abomination That Is Nairobi City's Majority Leader," *Angaza News*, July 4, 2017, <http://angazanews.com/an-abomination-that-is-nairobi-citys-majority-leader/> (accessed December 2, 2019).

## DISCUSSION: OUTCOMES OF THE QUOTA IMPLEMENTATION PROCESS

In this article, we have outlined some of the outcomes of the implementation of Kenya's gender rule thus far. Our analysis suggests two worrisome trends: first, the quota has created new divisions among women in politics, potentially fomenting a broader belief that women are not capable political actors; and second, the quota has provoked a backlash against women in the form of an uptick in discrimination and gendered violence against women in politics and their supporters.

Our fieldwork also revealed other potential shortcomings of the quota that deserve further investigation. For instance, there is some evidence that the structure of the gender rule, particularly its reliance on women's representative seats to achieve the required level in the national parliament, has drawn out the strongest voices from more competitive seats. For instance, many experienced women politicians were encouraged to vie for women's representative seats in lieu of competing against men in open elections. This may have secured the political survival of these individual women, but it may also have robbed the National Assembly of key women leaders (Nyabola 2016b, 13). This echoes scholarship in other contexts in which the inclusion of women in politics came at the expense of the robustness of women's civil society organizations (see Tripp 2015). Another avenue for research is the way in which powerful male political elites have emphasized women's inclusion by championing a narrow "type" of female political actor to deepen their party's political power. When gender quotas can be instrumentalized to serve the strategic interests of male political elites, they become a tool not for countering patriarchal political systems, but for reinforcing them (Berry and Lake 2017).

What does this discussion mean for advancing women in politics — and more generally — in Kenya? Moreover, what does the Kenyan case reveal about how the implementation of broader women's empowerment strategies, such as quotas, play out in practice? We make two primary claims based on the preceding discussion that echo existing scholarship on women in politics while providing additional nuance.

First, *how* women get included in politics matters. Reserved seats or nominated positions, particularly when designed to have different roles, resources, and responsibilities than elected positions, risk fomenting divides among women within government and thereby may inadvertently thwart the formation of strong, crosscutting women's coalitions within

government. Perhaps most significantly, the limited power of nominated positions may have strengthened public impressions that women are not effective political actors, undermining the broader gender equality goals of the quota in the first place. This suggests that efforts to secure women's political inclusion must be attentive to the potential for seemingly emancipatory gender strategies to set back and retrench women's power.

Second, we suggest that efforts to secure women's inclusion must always be attentive to the potential for backlash, both targeted at individual women running for political office as well as women in general. State-sponsored, sanctioned, and sustained backlash can be particularly difficult as it undermines the very institutions that women would seek redress from (e.g., the judiciary, legislature) in its attempts to marginalize and exclude women (see Kamuru 2017a, 2017b). Backlash is not simply the inevitable cost of women's advancement that will subside the more women's leadership is normalized — although it is possible that such overt forms of violence against women in politics will eventually abate. Instead, this backlash has the potential to create new norms that legitimize discrimination and violence against women in general, reinforcing masculinist norms that undermine the broader project of women's advancement.

What reforms will be necessary to ensure that Kenya's gender quota can be implemented in a way that minimizes unintended gendered harms? Here, we draw from suggestions mentioned by our research participants to offer a few concrete steps. First, much of the confusion about the differences between nominated and elected women in politics could be lessened with broader, bottom-up civic education initiatives about the two-phase structure of the Kenyan electoral process (and indeed, several of these initiatives have been implemented since we conducted our research). Civic education initiatives that inform constituents about the nominations process would begin to counter the impression that women are weak political actors.

Second, the case of Kenya makes it clear that legislated gender quotas are ineffective without a strong commitment to the rule of law: increased international pressure on political leadership to adhere to the constitution and court orders mandating the full implementation of the gender rule would help to counter the current impunity surrounding implementation (see Kamuru 2017b, 2018).

Third, international NGOs that have been funding and championing women running for office should provide funds and support for women

candidates to employ security to both protect their physical safety and send a strong message that patriarchal backlash is unacceptable. In addition, these NGOs should direct their interventions away from empowering individual candidates, to putting pressure on the structural impediments to women's enjoyment of legal rights by supporting the independence of institutions and the full implementation of national laws.

Finally, and as Kenyan feminists have been saying for decades, there is a need to delegitimize the male-dominated political culture that exists, and especially the focus on ethnicity to the exclusion of inclusion more generally in politics (gender, socioeconomic class, youth, and so forth; see Musila 2009; Nyabola 2016a). As long as interventions exclude women and entrench existing political inequalities, they cannot offer the transformative change that women seek from expanded legal rights. Patriarchy is at its most visible and virulent when it manifests as violence directed at women; unraveling women's marginalization in formal political spaces must be coupled with efforts to dismantle patriarchal structures in women's everyday lives, including women's subordinate position in the family, education systems, and economy.

In sum, efforts to secure women's political advancement, such as liberal, emancipatory frameworks more generally, can often have unintended consequences that are in tension with their goals. Different women occupying different advantages and disadvantages — be it class, marital status, ability, ethnicity, language, or proximity to political elites — will gain differently from inclusive strategies directed from the top down. The gender rule in Kenya has served to put issues of gender equality at the center of national dialogue. The fact that Kenya today boasts the highest level of women in political office in its history, however, should not distract from the failure to abide by the constitution and the backlash that has ensued. As the process of implementation continues, the adjustments suggested here will be essential for ensuring that women continue to gain rights and power, and to reduce the inequalities between men and women in the political, economic, and social spheres.

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