



SELINUS UNIVERSITY

BUSINESS SCHOOL

ADVANCING SUSTAINABLE DEVELOPMENT BY ADAPTING GENDER IMPACT ASSESSMENT TOOLS IN LAW MAKING- CASE OF THE PARLIAMENT OF KENYA

BY: ELLYJOY KARIMI KITHURE

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Declaration

"This dissertation is my original work and has not been presented for a degree in any other university."

Signature: _____ Date: _____

Name: Kithure Ellyjoy Karimi

N° UNISE 3980IT

Supervisor

This dissertation has been submitted for review with our approval as university supervisor.

1. Signature: _____ Date: _____

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ABSTRACT

This study sought to assess how adapting gender impact assessment tools in policy making can contribute towards sustainable development, the case of the parliament of Kenya. The objectives of the study included to: (i) Establish how Gender Impact Assessment enables Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws. (ii) Highlight the legislative processes that enhance application of gender impact assessment on bills and laws. (iii) Assess how gender impact assessment of bills and laws contributes towards sustainable development. The research questions that guided the study include: (i) Do Gender Impact Assessments enable Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws? (ii) How do legislative processes enhance application of gender impact assessment on bills and laws? (iii) How does gender impact assessment of bills and laws contribute towards sustainable development?

The theoretical framework of gender impact analysis on legislation provides a foundation for understanding how laws influence gender relations and promote or hinder gender equality. This study combined theories from gender studies, law, and social justice to guide the systematic assessment of legislative impacts. This study applied the theoretical framework of gender impact analysis on legislation integrating concepts of social construction, structural inequality, power relations, and human rights to systematically evaluate and influence laws towards achieving gender equality. The conceptual framework of Gender Impact Assessment (GIA) provided a structured approach to evaluate how policies, laws, programs, or projects affect gender equality. The study showcased integration of gender analysis into decision-making processes to promote equitable outcomes for women, men, and diverse gender groups. This study outlined the areas of study in the context of legislation processes in the National Assembly of the Parliament of Kenya. The literature review highlighted latest research on gender impact assessment of legislative processes conducted and documented progress made to date. The study used qualitative approaches for primary data collection and analysis applying ethical research principles through confidential data recording techniques and citing secondary sources used to complete this research. The study applied a case study approach that showcased the application of gender impact assessment in the Kenya lawmaking process.

The findings of the study will add to the knowledge and research gaps on advancing sustainable development through utilization of gender impact assessment tools in policy making. Information gathered will increase collective knowledge as a regulatory policy tool and an instrument to make better laws and policies. The study will also contribute to the following: relevant literature in the scientific community for peer-review and reference points as well as inform guidelines, standard operating procedures for lawmaking, policy review and formulation at county and national levels.

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ABBREVIATIONS

BDPfA	Beijing Declaration Platform of Action
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CGE	Commission for Gender Equality
CIHR	Canadian Institute of Health Research
EAT	East African Time
EC	European Commission
EqIAs	Equality Impact Assessments
FGDs	Focused Group Discussions
GA	Gender Analysis
GIA	Gender Impact Assessment
GOK	Government of Kenya
HRAs	Human Rights Approaches
IA	Impact Assessment
ILO	International Labour Organization
IPU	Inter-Parliamentary Union
KIIs	Key Informant Interviews
KNAP	Kenya National Action Plan
NAP	National Action Plan
PSED	Public Sector Equality Duty
UNSCR	United Nations Security Council Resolution

OPERATIONAL DEFINITION OF TERMS

Gender Impact Assessment

Gender Impact Assessment is an ex-ante evaluation, analysis or assessment of a law, policy or programme that makes it possible to estimate in a preventative way the likelihood of a given decision to have positive, negative or neutral consequences for the state of equality between women and men.

The European Commission (EC, 2019) defines gender impact assessment as follows:

‘Gender impact assessment is the estimation of the different effects (positive, negative or neutral) of any policy or activity implemented to specific items in terms of gender equality’.

Gender Analysis

The European Commission defines gender analysis as ‘the study of differences in the conditions, needs, participation rates, access to resources and development, control of assets, decision-making powers, etc., between gender groups in their assigned gender roles’ (EC, 2001).

The purpose of gender analysis is to identify and address gender inequalities, as described by Queensland government, Gender analysis toolkit, Office for Women, Brisbane, (2009):

- ✧ Acknowledging differences between gender groups, based on the unequal distribution of resources, opportunities, constraints and power;
- ✧ ensuring that the different needs of gender groups are clearly identified and addressed at all stages of the policy cycle;
- ✧ recognizing that policies and laws can have different effects on women and men;
- ✧ seeking and articulating the viewpoints of women and men and making their contribution a critical part of developing policies and laws;

Gender analysis involves acknowledging the historical and social inequalities faced by women/men/boys/girls and aims to inform the design of policies, laws, projects and programmes to address these inequalities. (ILO, 2009).

Gender Groups

The American Psychological Association describes the term "gender groups" as a social categorization of individuals based on their gender identity—their deeply felt, internal, and individual experience of gender, which may or may not correspond to the sex they were assigned at birth. This concept moves beyond the biological binary of "male" and "female" to acknowledge the spectrum of gender identities (APA, 2015).

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

The implementation of gender analysis may be difficult in some contexts in part because there is no single methodology, and the practice application in impact assessment (IA) is not yet widespread.

Both impact assessment (IA) and gender analysis (GA) are well-established models, but it is relatively recently that efforts have been made to integrate gender analysis approaches into the practices of impact assessment. The most effective approach may be to integrate gender analysis techniques and concepts into social impact assessment, which has a long practice history in impact assessment, and an established set of methodologies, standard tools and approaches. This can provide a platform for effective implementation of gender analysis into impact analysis and helps ensure that the issues and qualities that gender analysis works to reveal are integrated into assessments of laws, policies, projects and plans (Peletz., N. and Hanna, K. (2019).

Gender analysis is a primary consideration in the development of laws and policies as well as assessments of programmes and projects. Gender analysis can help identify and address issues and concerns that may otherwise be overlooked. It can also help identify unique business and innovation opportunities for individuals and communities.

In impact assessment, gender analysis could help identify impacts of development interventions and their effects on all individuals. Negative gender-impacts could be better mitigated through an understanding of how gender inequalities are formed, and result in greater opportunities and benefits for different gender groups. Positive gender-impacts of laws, would be identified through gender analysis, encouraging the support for such initiatives, and promoting best practices for future lawmaking processes, providing practical guidance and examples for proponents as well as promoting sustainable development.

Gender analysis may best be implemented through the lens of social or economic impact assessment, where established tools and approaches can be adapted to include gender perspectives and issues. This can help ensure that the analysis is not an add-on but instead becomes part of the routine consideration of the legislative process and policy analysis.

1.2 Statement of the Problem

Kenya`s Constitution (2010) has progressive provisions that seek to promote gender equity and equality. Despite 15 years of its implementation, there are still pieces of legislation which are not aligned to its spirit and letter. Despite a robust legal and policy framework in Kenya, discriminatory laws persist, limiting human rights and hindering gender equality and achievement of sustainable development. These laws affect areas such as marriage, family, succession and inheritance, sexual and reproductive health rights, land ownership, employment, and political participation. Urgent action is needed to align these laws with regional and international gender equality standards.

This study assesses how adapting gender impact assessment tools in law making can contribute towards sustainable development, using the case of the legislative processes of the Parliament of Kenya. This research drew on existing gender impact assessment methodologies and those piloted by the Parliament of Kenya. If laws are mistakenly perceived as gender-neutral, opportunities will be missed to include the views of different groups in formulation and delivery and, in turn, to misjudge the different effects on each gender group, systems and organizations that support them.

1.3 Study Objectives

- 1) To establish how Gender Impact Assessment enables Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws.
- 2) To highlight the legislative processes that enhance application of gender impact assessment on bills and laws.
- 3) To assess how gender impact assessment of bills and laws contributes towards sustainable development.

1.4 Research Questions

- 1) Do Gender Impact Assessments enable Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws?
- 2) How do legislative processes enhance application of gender impact assessment on bills and laws?
- 3) How does gender impact assessment of bills and laws contribute towards sustainable development?

1.5 Assumptions of the Study

The study assumes that Gender Impact Assessment (GIA) involves a dual-pronged approach: the current gender-related position in relation to the law under consideration, and the projected impacts on gender groups once the law has been implemented. It is important that the assessment is structured; systematic, analytical and documented.

The study assumes that GIA will be applied to improve the design and the planning of the law under consideration, to prevent a negative impact on gender equality and to strengthen gender equality through better designed, transformative legislation that contributes to sustainable development. This study sought to prove that GIA can be adopted in the law making and review process to make sure that any discriminatory effects are either removed or mitigated. Beyond avoiding negative effects, this study showcased that GIA can be used in a more transformative way as a tool for defining gender equality objectives, formulating and scrutinizing the law to proactively promote gender equality and sustainable development.

1.6 Scope of the Study

This study focused on the Parliament of Kenya specifically the National Assembly. Kenya enacted a new Constitution in 2010 through which it established a system of government similar to a federation, with legislative authority shared between the national Parliament and county legislatures. At the national level, Kenya has a bicameral Parliament consisting of the National Assembly and the Senate. All members of Parliament are elected for a five-year term. Under the 2010 Constitution, Kenya opted for a presidential system of government to achieve a sharper

separation of powers between, and reduce the influence of, the executive body over the legislature. The President and his Cabinet are not members of Parliament. Of the 349 members of the National Assembly, 290 members of any gender are elected directly from single-member constituencies, forty-seven women members are elected directly from each county, and twelve representatives of special interest groups who are women, youth and persons with disability are nominated by parties based on the number of seats they control in the National Assembly (Law Library of Congress, 2017).

The sixty-eight-member Senate consist of forty-seven members directly elected from each county and twenty members nominated by political parties in accordance with their share of seats in Senate. In addition, the speakers of both houses are considered ex officio members.

Chapter Eight of the Constitution of Kenya (2010) establishes the Legislature. Article 93 of the Constitution states that “There is established a Parliament of Kenya, which shall consist of the National Assembly and the Senate.” The two Houses of Parliament shall perform their respective functions in accordance with the Constitution as stated in Article 93 (2) of the Constitution.

The legislative process through which bills become law involves one or both houses of the Parliament (National Assembly and Senate), depending on the issue under consideration. Bills not affecting the function of county governments are considered only in the National Assembly. This is because the primary function of the Senate is to protect the interests of the county governments within the national government. The legislative process in both houses mainly follows five steps: publication of the proposed bill in the Kenya Gazette: first reading; second reading; referral to committee, where amendments are offered and considered; and third reading, including a vote. In addition to the consideration of a bill in Parliament, Kenya’s President plays a key role in the legislative process by signing into law (or refusing to do so) every piece of legislation adopted by the National Assembly, Senate or both houses (GOK, 2010).

1.6.1 The Role of Parliament

Article 94 of the Constitution states the following as the role of Parliament:

- ✧ The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.
- ✧ Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.
- ✧ Parliament may consider and pass amendments to the Constitution and alter County boundaries as provided for in the Constitution.
- ✧ Parliament shall protect the Constitution and promote the democratic governance of the Republic.
- ✧ No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by the Constitution or by legislation.
- ✧ An Act of Parliament, or legislation of a county, that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority (GOK, 2010).

1.6.2 National Assembly

In the Constitution of Kenya 2010, the National Assembly is an important decision-making organ of the country. It determines national revenue allocation, appropriates funds for expenditure by the national government, and exercises oversight for national revenue and its expenditure.¹ The National Assembly also acts as a check-control for the executive and exercises oversight of State

¹ Constitution of Kenya Article 91(1)
Article 95 Constitution of Kenya Article 91

organs.²It is therefore a very important decision making organ of the country therefore gender impact assessment is an important process towards realization of gender equality, empowerment and sustainable development (GOK, 2010).

1.7 Limitations of the Study

This study experienced the following limitations:

- The scope of the study was limited to the national assembly and not the Senate or county assemblies.
- This study was limited to a qualitative approach to allow for in depth, rich study of gender impact assessment of the legislative processes of the National Assembly Parliament of Kenya thus expanding and developing evidence base.

1.8 Justification of the Study

The main objective of a Gender Impact Assessment (GIA) is to improve equality from the beginning of the law making process. It is a specific form of pre-emptive impact assessment of a law or regulation and involves intervening during the design and planning to eliminate or mitigate discriminatory effects.

Many countries are attempting to improve gender and power relations using Gender Impact Assessments to examine potential effects of laws and policies. However, social and cultural barriers to gender justice, along with the politicization of gender mainstreaming, challenge their successful implementation, writes Palgrave (2021).

As a regulatory policy tool and an instrument to make better rules, GIA aims to overcome human biases. Policymakers have their own preconceptions and gender biases when designing and implementing laws and policies. When reviewing an existing law, or designing a new one, GIA ensures that gender perspectives are considered. GIA involves a two-pronged approach: looking at the current gender-related position in relation to the law or policy under consideration as well

as assessing the projected impacts on gender groups after the law or policy has been implemented. It allows for the screening of a given legislative proposal, to detect and assess its differential impact or effects on gender groups, so that these imbalances can be redressed before the proposal is endorsed. An analysis from a gender perspective helps to see whether the needs of women, men, boys and girls, are equally considered and served by a legislative proposal. The advantage of this tool lies in the fact that it draws a very accurate picture of the effects of a given law.

GIA is an exercise and mindset for the regulator. It allows regulators to consider existing disparities, power dynamics, and barriers that affect various gender groups differently. GIA provides a systematic approach to understand and address intersectionality. In fact, GIA has its roots in the understanding that gender interacts with other social identities. To ensure comprehensive analysis, therefore, regulators must consider these intersections. GIA allows and encourages regulators to consider existing disparities, power dynamics, and barriers, each of which may affect gender groups differently.

However, GIA also faces challenges. Limited awareness and understanding of gender issues among policymakers and stakeholders can hinder its effective implementation. Insufficient resources, time constraints, and resistance to change can pose additional obstacles. Overcoming these challenges requires capacity building, education, and collaboration among diverse stakeholders. This study therefore seeks to build on previous studies and body of knowledge to address gaps experienced by policy makers towards adaptation of gender impact assessment in legislative processes.

CHAPTER TWO: REVIEW OF RELATED LITERATURE

2.1 Introduction

The interplay between law and gender equality forms a crucial dimension of contemporary society. An understanding of the impact of law on gender equality reveals how legal frameworks can either facilitate or hinder the pursuit of equal rights and opportunities for all gender groups. This chapter describes the understanding of gender equality in law including legal frameworks that support gender equality and sustainable development. It further highlights the global and regional adaptation of gender impact assessment tools responding to the questions of how Gender Impact Assessment enables Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws: Legislative processes that enhance application of gender impact assessment on bills and laws: How gender impact assessment of bills and laws contributes towards sustainable development, including the theoretical framework of gender impact analysis on legislation.

2.2 Onward

2.2.1 Description of Gender Impact Assessment

Gender impact assessment has been defined as an ex ante evaluation, analysis or assessment of a law, policy or programme that makes it possible to identify, in a preventative way, the likelihood of a given decision having negative consequences for the state of equality amongst gender groups. The central question of the GIA is: Does a law, policy or programme reduce, maintain or increase gender inequalities among gender groups? The European Commission defines gender impact assessment as follows: 'Gender impact assessment is the process of comparing and assessing, according to gender relevant criteria, the current situation and trend with the expected development resulting from the introduction of the proposed law (EC,2019).

‘Gender impact assessment is the estimation of the different effects (positive, negative or neutral) of any policy or activity implemented to specific items in terms of gender equality’ (EC,2019). The assessment involves a dual-pronged approach: the current gender-related position in relation to the law under consideration, and the projected impacts on women and men once the law has been implemented. It is important that the assessment is structured, i.e. systematic, analytical and documented. The final aim of the gender impact assessment is to improve the design and the planning of the law under consideration, in order to prevent a negative impact on gender equality and to strengthen gender equality through better designed, transformative legislation and policies. A primary objective is to adapt the law to make sure that any discriminatory effects are either removed or mitigated. Beyond avoiding negative effects, a GIA can also be used in a more transformative way as a tool for defining gender equality objectives and formulating the law so as to proactively promote gender equality and sustainable development.

2.2.2 Understanding Gender Equality in Law

Gender equality in law refers to the equitable treatment of individuals regardless of their gender within the legal framework. This concept emphasizes that laws should ensure equal rights, responsibilities, and opportunities for all gender groups, facilitating a fair and just society.

The impact of law on gender equality can be observed through various legal provisions that address discrimination based on gender. Effective legislation combats inequalities in multiple areas, including employment, family, education, and political representation, ensuring that all individuals can access their rights.

Understanding gender equality in law also involves recognizing the historical context from which these legal frameworks have emerged. To truly address gender disparities, legal structures must evolve continuously, reflecting societal changes and fostering an inclusive environment where gender equality is prioritized.

Overall, the impact of law on gender equality is significant, as it not only shapes individual lives but also influences societal norms and values. Legal reform and advocacy play a critical role in advancing gender equality, promoting social justice for all gender groups, promoting sustainable development (Government of United Kingdom Cabinet Office, Women and Equality Unit:7th July 2025. Time: 1737 hours EAT. http://www.womenandequalityunit.gov.uk/equality/gender_impact_assessment.pdf).

2.2.3 Legal Frameworks Promoting Gender Equality

Legal frameworks that promote gender equality encompass a range of laws and policies designed to eliminate discrimination and enhance opportunities for all gender groups. These frameworks often include constitutional provisions, anti-discrimination laws, and specific statutes addressing issues like domestic violence, workplace harassment, and reproductive rights.

International agreements, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), serve as vital foundations. These agreements not only encourage countries to adopt legislative measures but also emphasize accountability, ensuring governments commit to progressing towards gender equality and sustainable development.

Since the UN Security Council has adopted multiple “Women, Peace and Security” resolutions—including Resolution 1325 in 2000 which provides for women in conflict countries to participate in key institutions and decision-making bodies many African governments have committed to mainstreaming gender in their policies and laws (UN 2020).

The 2030 Agenda for Sustainable Development and its 17 Sustainable Development Goals (SDGs) adopted by world leaders in 2015, embody a road map for progress that is sustainable and leaves no one behind. Achieving gender equality and women’s empowerment is integral to each of the 17 goals (UN, 2015). Only by ensuring the rights of women and girls across all the goals will we get to justice and inclusion, economies that work for all, and sustaining our shared environment now and for future generations. For any development effort to be sustainable and effective, it must consider the needs of all people, including those who don’t typically have a voice in decision making. That is why gender equality is a critical ingredient in achieving sustainable development.

National laws like the Constitution of Kenya (2010) play a significant role as well, providing mechanisms for redress and protection of individuals facing gender-based discrimination. For instance, employment laws often include provisions mandating equal pay for equal work, enhancing financial independence for women.

The legal landscape surrounding gender equality is evolving, with future directions aimed at enhancing rights and protections for men, women, boys and girls. An increased focus on intersectionality is necessary in recognizing how overlapping identities—such as race, socioeconomic status, and sexual orientation—affect individuals’ experiences with the law.

Innovative legislative initiatives are emerging to address systemic biases and discrimination. For example, proposals to implement gender quotas in political representation aim to foster a more equitable political landscape.

International collaboration will also play a vital role in advancing gender equality. Countries can learn from each other’s successes and failures by sharing best practices in lawmaking and enforcement. This collective approach can lead to more robust legal frameworks worldwide.

Finally, fostering public awareness and education on gender issues remains critical. Empowering communities through education can catalyze grassroots movements that demand legal changes to promote gender equality, ensuring laws reflect the evolving societal norms.

The impact of law on gender equality is profound, influencing various aspects of society from employment to education. Legal frameworks not only serve as tools for establishing equity but also shape societal attitudes towards gender roles and rights.

Despite progress, challenges remain in the pursuit of true gender equality. Continued advocacy and legal reform are essential to address existing disparities and ensure that laws evolve in alignment with contemporary societal values and needs (United National Regional Information Centre. 7th July 2025. Time: 1754 hours. <https://unric.org/en/sdg-5/>).

2.2.4 Importance of Gender Impact Assessment in Legislation and Policy

According to the European Institute for Gender Equality (EIGE), application of gender impact assessment is important because traditionally, government policy and legislation have been viewed as gender-neutral and value-free instruments, on the assumption that the formulation and

administration of public policy benefit all members of the public equally. However, structural gender inequalities are still embedded in our society. Even if laws treat women and men as equals, women still do not have equal access to and control over material and non-material resources and assets. That is why addressing people suffering inequalities in an equal way causes, in practice, the perpetuation of these inequalities. That is actually what happens when existing gender inequalities in women's and men's economic, political and social position are not taken into consideration. That is why policies focused on target groups defined in broad terms (not distinguishing between women and men) are usually not neutral, but gender blind (EIGE, 2017).

The European Institute for Gender Equality (EIGE) through their research and publication on Gender Impact Assessment-Gender Mainstreaming Toolkit describes Gender Impact Assessment as a critical contributor to making better policy and legislation. Better policy means reaching the target group, safeguarding against potential pitfalls and maximizing the scope for obtaining the intended objectives.

A systematic and published GIA promotes transparency of decision-making and accountability. Performing gender impact assessment ensures that policy-making and legislative work is of higher quality and has a greater relevance for society, because it is responsive to the needs of all citizens - women and men, girls and boys.

GIA allows policy makers to build their capacity on gender equality. The exercise of asking questions, accumulating data and other relevant information contributes toward building a storehouse of on-the-ground information about gender inequality. Once this capacity is begun, policy makers are better able and more confident when it comes to equipping themselves to produce policies with better gender equality outcomes (European Institute for Gender Equality (EIGE), 2017).

2.2.5 Global Adaptation of Gender Impact Assessment Tools

Throughout the globe, gender analysis is increasingly being used in a range of legislative processes. In the current political and economic realities, where resources are limited and the desired scope of change demands an extremely wide coverage, gender analysis helps enhance the final impact of all interventions by seeking to determine the differential impacts of laws, policies, programmes

and development options on people, based on their gender identity and other intersecting factors. Gender equality is a prerequisite for achieving peaceful and sustainable development, besides being a fundamental human right as depicted by several developing countries.

Canada's new Impact Assessment Act (2019) requires attention to "the intersection of sex and gender with other identity factors" as a mandatory factor to consider in impact assessments. Other promising provisions of the act include commitments about indigenous knowledge, and a new planning phase that seeks broader preliminary input into proposed resource development and extraction projects.

In addition to the legislative requirement to conduct Gender Based Analysis (GBA) Plus during impact assessment, GBA Plus methodology has long been regarded as a best practice in many disciplines (Johnson and Beaudet, 2013; Canadian Institute of Health Research (CIHR), 2014; Johnson, Greaves and Repta, 2009; Tannenbaum et al., 2019; World Health Organization, 2020). GBA Plus recognizes that historical and current power structures (e.g., laws, policies, governments and other institutions) have shaped society and contributed to inequalities. Designated projects—and the positive and negative impacts they may cause—are layered on top of these structures and contribute to shaping and reshaping these structures. Recognizing this context is important to understand why the impacts of a project may be different for diverse groups of people, and how projects have the potential to both reinforce and transform existing inequalities or unequal power relations in communities. Importantly, GBA Plus can be adapted to ensure the methods and approach are culturally appropriate. Many Indigenous organizations have developed culturally competent and distinctions-based GBA Plus resources and tools (IAAC, 2021).

These developments showcase Canada's commitment towards achieving sustainable development by enhancing gender equality in legislation, policy and programming. Canada showcases practices in undertaking gender and inter-sectional impact assessments that consider the experiences of men, women, boys, girls and diverse gender groups (SSHRC, 2020).

The United Kingdom has made significant strides in promoting gender equality through its legislative and policy frameworks, notably the Equality Act 2010, that strengthens earlier anti-discrimination laws. A cornerstone of this Act is the Public Sector Equality Duty (PSED), which mandates public authorities to have "due regard" to the need to end discrimination, advance

equality of opportunity, and foster good relations between people who share a protected characteristic, including gender.

The UK government and its devolved administrations have sometimes integrated gender considerations within Equality Impact Assessments (EqlAs). The UK's National Action Plan (NAP) on United Nations Security Council Resolution 1325 (UNSCR 1325) for example, underlines the government's commitment to integrating gender perspectives in security challenges. This plan reinforces the nexus between SDG 5 and SDG 16 by promoting strong, safe, inclusive institutions and just societies.

Given the growing importance of integrated approaches to meet the Sustainable Development Goals (SDGs) particularly SDG 5 (Gender Equality) alongside SDG 1 (No Poverty), SDG 4 (Quality Education), SDG 11 (Sustainable and safe cities), and SDG 16 (Justice and Strong Institutions). The UK government has built solid legislative footing of the Equality Act 2010 to institutionalize more systematic, comprehensive, and intersectional GIAs. Such an approach has enhanced policy coherence, improved empirical data collection, and ensured that policymakers do not treat gender equality as an isolated aim or a sentence and a checkbox within an EqlA, but as a principle essential for sustainable development (Caywood & Darmstadt, 2024).

2.2.6 Regional Adaptation of Gender Impact Assessment Tools

In 2003, the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa was adopted, requiring state parties to "integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life" and "take corrective and positive action in those areas where discrimination against women in law and in fact continues" (UN, 2003).

In 2006, the 11 Member States of the International Conference on the Great Lakes Region (ICGLR) signed the Pact on Security, Stability and Development in the Great Lakes Region, which included the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children. In 2019, the African Union launched a strategy on Gender Equality and Women's Empowerment (GEWE).

To comply with its international obligations and ensure gender equality, Rwanda has attempted to repeal, amend and introduce new legislation that promotes gender equality. This section reviews some legislation that Rwanda has enacted to eliminate discriminatory provisions in its laws and analyses any underlying gaps therein.

The Constitution of the Republic of Rwanda of 2003, as revised in 2015, contains several provisions which protect against gender discrimination. These include:

- ✧ Article 2: provides for universal and equal suffrage for men and women;
- ✧ Article 10(4o): provides for equality of all Rwandans and equality between men and women as a fundamental principle of the State of Rwanda. The same provision also guarantees that women must occupy at least 30% of positions in decision-making organs;
- ✧ Article 15: guarantees equality of all persons before the law and equal protection of the law;
- ✧ Article 16: outlaw's discrimination of any kind and the promotion of discrimination, including discrimination based on sex;
- ✧ Article 17: protects the right to marry and found a family with full and free consent of each of the spouses, and for spouses to have equal rights and obligations at the time of marriage, during the marriage and in divorce.

As stated above, the Constitution gives all international conventions ratified by Rwanda and published in the Official Gazette direct force of law. While the Constitution lays down the general principle of equality between men and women and prohibits discrimination based on sex, various laws have also been put in place to provide specific protections and to ensure equality between men and women in all spheres of life.

In South Africa, The Commission for Gender Equality ("the Commission") is an independent statutory body created according to Chapter 9 of the country's Constitution 1996 ("the Constitution"). Section 187 of the Constitution, mandates the Commission to promote and protect gender equality in government, civil society and the private sector. To this end, the Commission for Gender Equality Act, has amended ("CGE Act"), giving the Commission the power to monitor and evaluate policies and practices of organs of State at any level, statutory bodies and functionaries, public bodies and authorities and private businesses, enterprises and institutions,

to promote gender equality and make any recommendations that the Commission deems necessary for South Africa (South Africa Commission for Gender Equality, 2023).

2.3 How Gender Impact Assessment enables Parliament to initiate, formulate, scrutinize, amend and approve gender responsive bills and laws

Gender impact assessment — like all impact assessment processes — contributes to making better policy and legislation, since it provides information about the foreseen result. It allows the possibility of including missed elements during the design phase of the regulation, policy or programme. Creating better policies implies the identification of gender gaps and an understanding of gender inequalities in the field, so that priorities can be defined and the target group reached. These measures can safeguard against potential pitfalls and maximize the scope for obtaining the intended objectives. Poorly designed and poorly targeted interventions produce unsatisfactory results and unsustainable impacts. Inadequate knowledge and analysis of the situation, and of the problems and needs of the target groups and beneficiaries, lead to the adoption of inappropriate or partial solutions to these problems and needs. If target groups are defined only in broad terms (young people, migrants, commuters, future pensioners, the sick, elderly, students, the poor, etc.) and there is little or no analysis of gender differences within the target groups, it is impossible to ensure that — or evaluate whether — the planned intervention meets the needs of women and men within the broader groups (EIGE, 2017).

The Inter-Parliamentary Union (IPU) defines a gender-sensitive parliament as one in which structures, operations, methods and work respond to the needs and interests of both men and women. The IPU emphasizes the importance of mainstreaming gender throughout all parliamentary work. This means making gender a key consideration when representing constituents, working as part of a cross-party committee, agreeing or amending legislation and budgets, conducting oversight inquiries and debating (IPU 2017).

Parliaments mirror our societies by representing and responding to everyday reality. This means that they constantly evolve in line with economic, social and cultural progress. A gender-sensitive parliament is therefore a modern parliament; one that addresses and reflects the equality demands of a modern society. Ultimately, it is a parliament that is more efficient, effective and

legitimate (IPU 2017).

‘Gender sensitivity’ means understanding and taking account of the different economic, social and cultural needs and experiences of men and women. It aims to ensure that no one is excluded or discriminated against (intentionally or unintentionally) because of these differences. The goal is to eliminate inequalities and increase effectiveness by targeting and adapting laws, policies and resources (IDEA, 2022).

Gender-sensitive scrutiny is the deliberate exploration of how laws, policies, programmes and budgets will affect, or are affecting, women and men based on their experiences, needs and contributions to society. Unless these differences are understood, there will be an assumption that decisions will affect everyone in the same way, which could lead to negative or unintended consequences. Laws, policies, programmes and budgets that take a ‘one-size-fits-all’ approach often result in discriminatory or ineffective outcomes because the ‘one size’ is usually modelled on one gender, without consideration for others (IDEA, 2022).

This is why it is important to approach issues that at first glance appear gender neutral from a gender perspective. This ultimately leads to better decision-making that is tailored to the different needs and strategic interests of women and men (IDEA, 2022).

2.4 Legislative processes that enhance application of gender impact assessment on bills and laws

The Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) developed a guide to gender-sensitive legislation in 2017. It sets a framework for analyzing the impact of legislation on men and women’s lives and integrating the gender perspective into the lawmaking process. This will provide a step-by-step guide on how to conduct gender-sensitive legislation analysis, including recommendations on how to approach a gender analysis in a specific sector, assess gender implications of specific laws, integrate gender-specific activities in new legislation, develop gender-sensitive indicators to monitor the laws’ implementation and analyze budgets from a gender perspective. It will also point out the importance of institutionalizing gender-sensitive legislation within internal parliamentary structures, such as gender equality committees or multi-portfolio committees that include gender

equality, women's parliamentary structures and informal networks, gender technical units and external research services (OSCE/ODIHR, 2017)

Parliamentary oversight mechanisms allow parliamentarians to follow-up on the government's commitments with gender equality, by scrutinizing its public policies and holding the executive politically accountable. Common oversight mechanisms include parliamentary questions and requests for documentation. A 2016 iKNOW Politics e-discussion on "Parliamentary Oversight of Gender Equality" identified the following four models of parliamentary oversight of gender equality (iKNOW, 2016):

- ✧ Parliament asks the government for information: Women and men parliamentarians can ask questions in all policy areas, inquiring about beneficiaries and policy impact on men and women.
- ✧ Parliament asks the government for public clarification of policy: Parliamentarians can ask whether the data considered in policy formulation is sex-disaggregated and inquire about women's inclusion in consulting mechanisms during policy design.
- ✧ Parliament obtains information from sources outside the government: Parliamentarians can establish communication channels with women's associations and gender experts.
- ✧ Parliament expresses its views to the government and the public: Parliamentarians can make recommendations for the government to promote gender equality and women's rights in its policies.

2.5 How gender impact assessment of bills and laws contributes towards sustainable development

The final aim of the gender impact assessment is to improve the design and planning of the policy under consideration, to prevent a negative impact on gender equality and to strengthen gender equality through better designed, transformative legislation and policies. A primary objective is to adapt the policy to make sure that any discriminatory effects are either removed or mitigated. Beyond avoiding negative effects, a gender impact assessment can also be used in a more transformative way as a tool for defining gender equality objectives and formulating the policy so as to proactively promote gender equality.

Most political decisions have a concrete impact on the lives of women and men. That is why in most cases gender impact assessment is relevant and needed to assess the effects of the decisions on both sexes – to evaluate the foreseen impact from a gender perspective and to ensure that the proposed legislation/programme will enhance gender equality. Consequently, all proposals/legal acts meeting those criteria should go through a gender impact assessment. Nevertheless, any proposal considered not relevant from a gender point of view should be accompanied by a supporting report, explaining the reasons why gender is not relevant.

A Gender Impact Assessment enables a systematic review of laws by analyzing their potential or actual effects on different gender groups. It considers social, economic, and cultural factors, helping to predict how the law might influence disparities. Once implemented, it allows for monitoring and evaluating actual impacts on women and men, ensuring that laws achieve their intended equality outcomes and guiding necessary adjustments to address any unforeseen consequences (8th July 2025. <https://genderinclusivepolicyinstitute.com/gender-impact-assessment>).

2.6 The theoretical framework of gender impact analysis on legislation

The theoretical framework of gender impact analysis on legislation provides a foundation for understanding how laws influence gender relations and promote or hinder gender equality. The study combined theories from gender studies, law, and social justice to guide the systematic assessment of legislative impacts. The core theoretical foundations of this study include:

2.6.1 Gender as a Social Construct

The theory recognizes that gender roles, norms, and relations are shaped by societal beliefs and institutions, not just biology.

Implication: legislation must be analyzed in terms of how it reproduces, challenges, or transforms these social constructs. Gender is an ever-changing and evolving social construct. The roles associated with gender are often defined by society's expectations, attitudes, and portrayals. These affect personal attitudes, career choices, and behaviors. Over the years, gender has evolved from a traditional standpoint to a more fluid role. A number of things, including media, family,

religion, globalizations, industrialization et al have influenced and continue to influence these changes (Rizky Ediana, 2024).

2.6.2 Gender Mainstreaming Theory

Gender mainstreaming was introduced as a new approach to policy making which takes into account both women's and men's situations and concerns. It was introduced in international gender equality policy through the Beijing Platform for Action adopted at the 1995 Fourth United Nations World Conference on Women. The Council of Europe subsequently played a pioneering role in developing and implementing the concept of gender mainstreaming. Gender mainstreaming is also an objective of the EU, as provided by Article 8 of the Treaty on the functioning of the EU. In 1998, the Council of Europe defined gender mainstreaming as:

“The (re)organization, improvement, development and evaluation of policy processes, so that a gender equality perspective is incorporated in all policies, at all levels and at all stages, by the actors normally involved in policy-making.”

Gender mainstreaming is based on the recognition that women and men have different needs and living conditions, including unequal access to, and control over, power and decision making, physical integrity, economic activity, money and other resources, human rights and justice. Gender mainstreaming therefore implies looking at the impact of any activity, highlighting the inequalities and differences between women and men as well as among women and among men. It thus allows to identify the potential differential impact of policies/activities on both women and men in their diversity. This leads to designing policies that are more likely to benefit girls and boys, women and men equally. Gender mainstreaming is not an end in itself, but an instrument towards the ultimate goal of achieving equality between women and men. In addition, there is a wide consensus among member states and international Organisations that a dual approach is necessary to effectively achieve this aim:

Specific policies and actions for the advancement of women, and the promotion, monitoring, co-ordination and evaluation of a gender main streaming strategy in all policy and programmes (Council of Europe, 2022).

Gender mainstreaming as an instrument for better policy-making:

- Gender mainstreaming implies grounding policies on the concrete situation and needs of people. It will introduce among policy makers and the public a learning process of paying attention to the broad effects of policies on citizens' lives, aiming at the well-being of both women and men.
- Gender mainstreaming should lead to better informed policy making and therefore better government. It challenges the assumption that policies are gender neutral – which they almost never are when they concern people – and it reveals hidden assumptions about reality and values.
- It leads to a fairer allocation of resources and to greater transparency in the policy process.
- Gender mainstreaming brings gender equality into mainstream society.

Emphasizes integrating gender perspectives into all areas of policy and law, rather than treating gender issues as separate or peripheral.

Implication: legislation should proactively promote equality across diverse gender identities (Council of Europe, 2022).

2.6.3 Structural Inequality Theory

The term systemic, structural gender discrimination and inequality (SSGDI) covers widespread, but often masked patterns of gendered behavior, policies or practices, relations and the social, economic or cultural background conditions that are entrenched in the processes and structures of institutions (such as health education and employment institutions) and which can create or perpetuate disadvantage for some members of a marginalized group relative to other groups in society or organizations (IWRAW, 2015).

It focuses on the systemic and institutional root causes of gender inequality.

Implication: laws should be designed to dismantle or mitigate structural barriers that perpetuate disparities.

2.6.4 Human Rights-Based Approach

The Human Rights-Based Approach (HRA) frames gender equality as a fundamental human right. Human rights approaches related to impact assessment products and services identify impacts of the product or service to all relevant internationally recognized human rights.

Key methodological elements of HRAs include identifying impacts to human rights using all internationally recognized human rights as a reference point; assessing and prioritizing risks based on severity; emphasizing vulnerable and marginalized groups; engaging affected stakeholders; assessing the connectivity between rights; and accounting for context.

HRAs focus on impacts to people; they enable more comprehensive identification of impacts than to other assessment approaches; they are adaptable to a variety of contexts; they provide an approach to prioritizing impacts; and they have an established, internationally accepted methodology. HRAs can also help meet emerging regulatory requirements related to risk assessment.

HRAs also have some limitations. While most impacts on people and society are also human rights impacts, there may be relevant risks that fall outside the scope of human rights (e.g., those not related to people). HRAs are also more qualitative than quantitative, and they do not replace technical assessments. Human rights principles and assessment methodology can be integrated into other gender impact assessment processes to help identify impacts, assess their severity, and prioritize actions to address them. HRAs can also utilize the results of other gender impact assessment processes as inputs.

Implication: legislation should recognize and protect individual rights to promote equality and address discrimination (BSR, 2025).

2.6.5 Intersectionality Theory

Applying an intersectional approach to a gender impact assessment requires thinking about the different experiences of people in the communities that one's organization serves and considering how their experience of gender inequality may be shaped by other aspects of their identity.

This theory recognizes that gender intersects with other social identities (race, class, ethnicity, sexuality), influencing individuals' experiences and vulnerabilities. Parliaments should apply an intersectional approach when considering what policies, programs and services require a gender impact assessment. This means thinking about the reach and depth of impact of parliaments law making process when considering whether its impact is 'significant'.

Some policies, programs or services may reach a small part of the population, but target people who may experience particular disadvantage or have particular needs – for example, services for people with disability, older people, or survivors of family violence.

Implication: laws need to address multilayered inequalities to be effective. (<https://www.genderequalitycommission.vic.gov.au/applying-intersectionality> 11 October, 2025).

Application of the Theoretical Frameworks in Gender Impact Assessment on Legislation:

These theories guide the identification of who will be affected by legislation and how, ensuring that assessments are comprehensive and sensitive to gender and power dynamics.

They support the development of criteria and indicators for evaluating whether laws promote equality, reduce disparities, or inadvertently reinforce biases.

The frameworks inform recommendations to modify or design legislation that advances social justice and gender equity.

Summary:

In summary, this study applied the theoretical framework of gender impact assessment on legislation integrating concepts of social construction, structural inequality, power relations, and human rights to systematically evaluate and influence laws towards achieving gender equality.

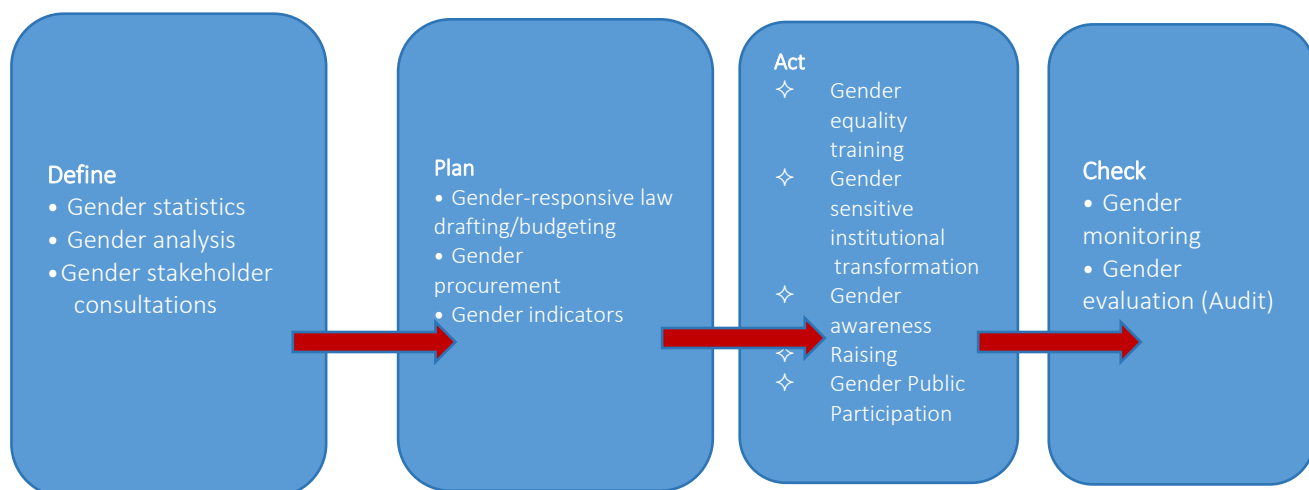
2.7 The conceptual framework of Gender Impact Assessment (GIA)

The conceptual framework of Gender Impact Assessment (GIA) provides a structured approach to evaluate how policies, laws, programs, or projects affect gender equality. Gender analysis was applied to interrogate equitable outcomes for women, men, and diverse gender groups in the context of legislation processes in the Parliament of Kenya National Assembly.

Key Components of the Conceptual Framework of GIA:

The figure below presents different tools and methods for gender mainstreaming, as well as the stages of policy making, and shows where the GIA stands in this process, according to the EIGE’s methodology.

Methods and tools used in different stages of the policy cycle:



Other experiences (UNDP, 2007; Commonwealth of Learning, 2015; Oxfam Australia, 2017; Grill, n.d.; Teschner, 2013) show that a GIA may also be carried out at the end of a policy cycle (ex post). This means that GIA methods can also be applied to existing policies. Ex post GIA can be used to assess the real effects of an existing policy or law. The question here would be “Do women and men benefit from an existing policy?”, compared to an ex-ante assessment, where the question is “Will women and men benefit from a proposed policy?” (UNDP, 2007)

Gender Analysis:

Assess the roles, responsibilities, needs, and vulnerabilities of different gender groups.
Identify existing inequalities and power dynamics.

Baseline Data Collection:

Gather disaggregated data (by gender, age, ethnicity, ability etc.) to understand the current situation. Use qualitative and quantitative methods.

Stakeholder Engagement:

Gender Needs and Gaps Assessment Capacity building, actor mapping and stakeholder engagement in GIA. Involves women, men, and marginalized groups to gather diverse perspectives. Ensuring inclusive participation in the assessment process.

Identification of Potential Impacts:

Analyze how proposed or existing policies/laws may impact gender relations, access to resources, decision-making, and opportunities. Consider both positive and negative effects.

Opportunity and Risk Analysis:

Highlight opportunities to promote gender equality, identify risks or adverse impacts that need mitigation.

Recommendations and Mitigation Strategies:

Develop actionable strategies to enhance positive impacts and minimize negative ones. Incorporate gender-sensitive measures into policy design and implementation.

Monitoring and Evaluation (M&E):

Establish indicators and processes to track actual impacts over time.

Adjust policies and actions based on ongoing findings.

Underlying Principles:

Equality and Non-Discrimination: Ensure all genders have equitable access and opportunities.

Participation: Promote inclusive involvement of diverse stakeholders.

Context-Sensitivity: Adapt assessments to specific socio-cultural contexts.

Sustainability: Aim for long-term gender equality impacts.

This framework helps policymakers and practitioners systematically integrate gender considerations into decision-making to foster more inclusive and equitable outcomes.

CHAPTER THREE: RESEARCH METHODOLOGY

3.0 Introduction

This section details the research methodology that was applied in this study. It provided a methodology for lawmakers to assess whether their legislative proposals and bills delivered equality of opportunity across the board and helped to challenge lawmakers to question the assumption that laws, policies and services affect everyone in the same way. This section describes the research design of gender impact assessment on legislative processes.

3.1 Research Design

Qualitative techniques were applied throughout the study.

Qualitative Technique

This technique allowed information to be gathered from respondents to learn about their experiences, behaviors or beliefs. Data was collected using focused group discussions and key informant interviews.

3.2 Variables and Categories of Analysis

The independent variable in this study was 'Gender Impact Assessment' which is the cause, and its value is independent of other variables. The dependent variable in this study was 'policy making' which is the effect. Its value depends on changes in the independent variable.

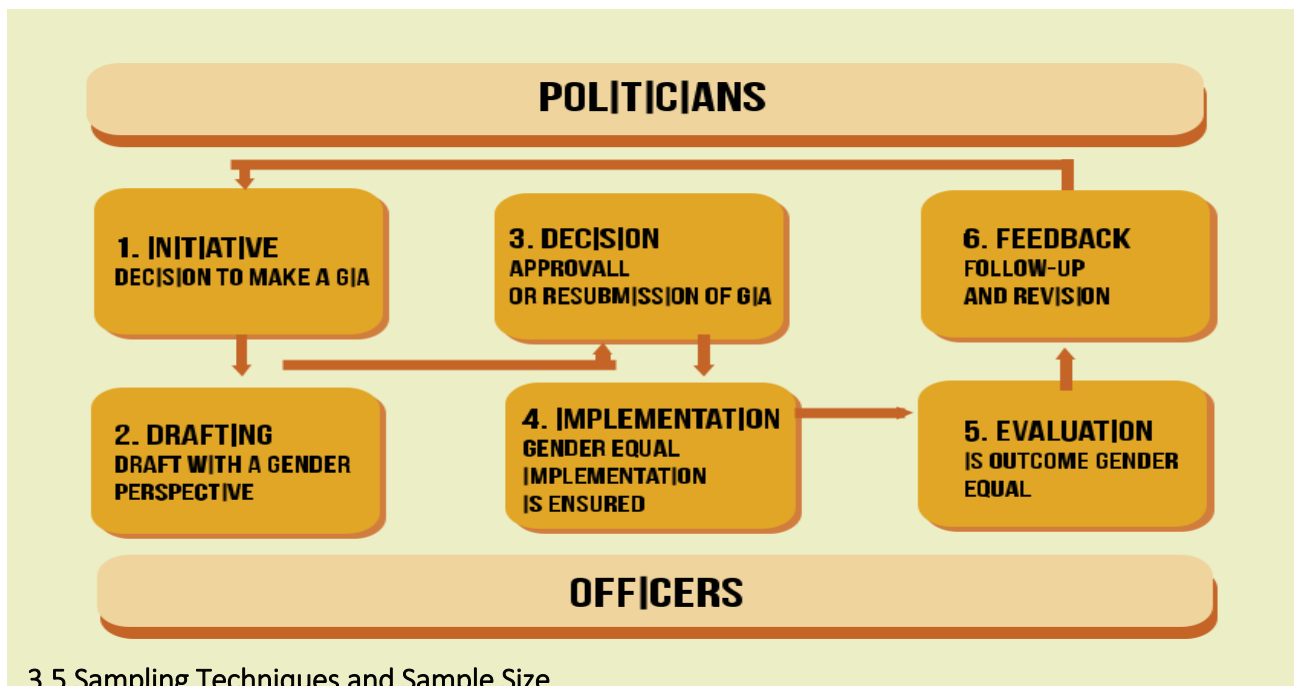
3.3 Site of the Study

The National Assembly in Kenya is fundamental to the country's democratic framework and central to the legislative process and the governance of Kenya. It plays a pivotal role in shaping national laws and policies and ensuring effective government operations. As the principal legislative body, the National Assembly formulates laws and oversees their implementation while also representing the interests and concerns of the Kenyan people. Through its varied functions, the National Assembly ensures that governance remains responsive and accountable, reflecting the diverse needs and aspirations of the nation's citizens. The National Assembly represents the people, makes and amends laws (including budget appropriation) and oversees State organs. The study site was Nairobi County which hosts the Senate and National Assembly.

3.4 Target population

The study targeted National Assembly that comprises of 349 elected members, representing constituencies across the country. These members are the voices of their respective communities, bringing local concerns and aspirations to the national stage. The National Assembly is presided over by the Speaker, who ensures the smooth functioning of the chamber and maintains order during debates.

Parliamentary Staff from the Directorates of Parliamentary Research Services, Legal Services, Parliamentary Budget Office, compliance and litigation.



3.5 Sampling Techniques and Sample Size

Purposive sampling

Purposive sampling- a non-probability sampling technique was applied in this study. Respondents were selected based on their knowledge, relevance and expertise on the private member bills that they have moved in the National Assembly.

Cluster Sampling

This technique involved selecting respondents from parliament. The targeted respondents were members of parliament and parliamentary staff from the social protection parliamentary committee.

3.6 Sample Size and Unit of Analysis

The study worked with 10 (5 males and 5 female) members of parliament who have sponsored a bill in the National Assembly. Members of parliament from the social protection, Diaspora Affairs & migrant workers and labour parliamentary committees, 20 (10 females and 10 male) parliamentary staff from the Directorates of Parliamentary Research Services, Legal Services, Compliance and Litigation and Parliamentary Budget Office.

3.7 Research Instruments

The study utilized qualitative methods for data collection as described below:

3.7.1 Qualitative Data Collection Methods

A qualitative data collection method was used to collect additional data and information collected triangulated through the quantitative approach described above. The study used focused group discussions and key informant interviews to collect qualitative data.

Focused Group Discussions (FGDs)

Focused group discussions were held with 20 (10 females, 10 male) Parliamentary staff who discussed and responded to how the legislative processes enhance application of gender impact assessment on bills and laws.

Key Informant Interviews (KIIs)

These were held with 10 (5 males and 5 female) members of parliament who have sponsored a bill and members of parliament from the social protection, Diaspora Affairs & migrant workers and labour parliamentary committees. The interviews focused on how Gender Impact Assessments supports Members of Parliament in the initiation, formulation, scrutiny, amendment and approval of gender responsive bills and laws.

3.8 Pre-Testing/Pilot Study

To identify and solve the confusing points and review the flow and time spent, the FGD and KII guides were pre-tested with FGD and KII respondents randomly selected from Machakos county. Based on the feedback received, the FGD and KII guides were adjusted to incorporate input from the pilot study.

3.9 Data Validity

As with any aspect of data quality, this study ensured that metrics are in place to measure data validity. The following data validity measures were considered:

- ✧ Completeness rate: The percentage of expected data that was present in the datasets.
- ✧ Accuracy rate: The percentage of data that was correct.
- ✧ Timeliness rate: The amount of time that elapsed between the occurrence of an event and the data's inclusion in the dataset.

3.10 Data Reliability

Data reliability in this study focused on the consistency and repeatability of data across different observations or measurements. Essentially, this study ensured that data collected can yield the same or very similar results each time a particular measurement or observation is repeated. The following was done to promote data reliability:

- ✧ Standardized data collection: Established clear, standardized procedures for data collection. This helped reduce variation and ensured consistency over time.
- ✧ Trained data collectors: Individuals collecting data were properly trained to understand the methods, tools and protocols to minimize human errors. They were made aware of the importance of reliable data and the consequences of unreliable data.
- ✧ Data cleaning: The study employed a rigorous data cleaning process. This included identifying and addressing outliers, missing values and inconsistencies. Used systematic methods for handling missing or problematic data.
- ✧ Maintain a data dictionary: A data dictionary is a centralized repository of information about data, like types of data, meanings, relationships to other data, origin, usage and format. This was used to help maintain data consistency and ensured that everyone used and interpreted data in the same way.
- ✧ Ensure data can be reproduced: Documented all the steps in data collection and processing ensuring that others can reproduce the study results, which is an important aspect of reliability. This included providing clear explanations of methodologies used and maintaining version control for data sets and codes.

- ✧ Implement data governance: Good data governance policies helped improve the reliability of data. This involved having clear policies and procedures about who can access and modify data and maintaining clear records of all the changes made to datasets.
- ✧ Data backup and recovery: Data back-up system was installed and done regularly to avoid loss of data.

3.11 Data Analysis Procedure

3.11.1 Qualitative Data Analysis

Data analysis was systematically collated, information collected using each instrument was clearly labeled in the form of (source, day, time, venue of collection, and other identifiers).

The qualitative data was analyzed as follows:

- i. Sorting: this entailed arranging the information by ensuring all the key issues identified across the study objectives.
- ii. Thematising: drawing themes to classify information to fit within specified objectives.
- iii. Classifying entailed organizing information into specific thematic areas while checking for any gaps.
- iv. Interpreting: making deductions out of the information from the meanings.
- v. Drawing implications and conclusions: delving into the meaning and arising implications of the information.

3.11.2 Data Presentation

Qualitative data was presented by using illustrative quotes. Quotes from "raw data" were presented based on the thematic analysis. The quotes were labeled using codes to ensure that the respondents' views remained anonymous and maintained confidentiality.

3.12 Logistical and Ethical consideration for participants and institutions

The following key ethical considerations were adhered to throughout the research process:

- Written and oral consent was sought from each study participant before administering the KII and FGD guides.
- Quotes presented from the qualitative data collection process were coded and stored in password protected files.

CHAPTER 4: THE CASE OF THE PARLIAMENT OF KENYA - NATIONAL ASSEMBLY

This chapter presents the case of the Parliament of Kenya - National Assembly. This chapter focuses on the gender impact assessment in the lawmaking process of the Kenya Parliament - National Assembly.

4.1 Gender Equality of Kenyan Laws

4.1.1 Global Gender Legal and Policy Commitments by Kenya

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Kenya ratified the CEDAW on 9 March 1984. Since then, the Government has submitted up to the eighth periodic State Party report. CEDAW is the most significant international instrument on the protection of women's rights and the equality of men and women. CEDAW in its 30 articles, the Convention explicitly defines discrimination against women and sets up an agenda for national action to end such discrimination. The Convention targets culture and tradition as influential forces shaping gender roles and family relations, and it is the first human rights treaty to affirm the reproductive rights of women.

The United Nations Security Council Resolution 1325, on Women, Peace and Security: The resolution-reaffirms the important role of women in the prevention and resolution of conflicts, peace negotiations, peace building, peacekeeping, humanitarian response and in post conflict reconstruction and stresses the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. Kenya developed the National Action Plan for the Implementation of United Nations Security Council Resolution 1325 and Related Resolutions in 2016. This was known as the first Kenya National Action Plan (KNAP).

Kenya's second Kenya National Action Plan on Women, Peace, and Security is anchored on the gains made and lessons learned in KNAP I; subsequent UN Security Council Resolutions passed since 2016; and Kenya's national frameworks that guide its development, peace, and security landscape. KNAP II reaffirmed women's right to participate in all aspects of peace and security in Kenya as a means of prompting sustainable. Kenya has made remarkable progress in mainstreaming gender in peace and security through the implementation of KNAP II and currently in the process of developing KNAP III.

The Beijing Declaration and Platform for Action: The Beijing Declaration and Platform for Action (BDPfA) of the Fourth World Conference on Women identified, as critical policy priorities in the global economy, the persistent burden of poverty on women, and inequalities in education, training, economic structures and policies, productive activities and access to resources. The Beijing Platform recognizes that women's rights are human rights and that "women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace". The BDPfA is anchored within the Kenya Vision 2030 and Medium-Term Plans.

The 2030 Agenda for Sustainable Development

The 17 goals and 169 targets of the 2030 Agenda are integrated and indivisible, ensuring gender equality is mainstreamed throughout. For example, under Goal 1 on ending poverty everywhere, States undertake by 2030 to "ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance". As well as being mainstreamed throughout the goals of the 2030 Agenda, there is a specific goal, Goal 5, on gender equality. Under Goal 5, States undertake to achieve the following targets:

5.1 End all forms of discrimination against women and girls everywhere.

5.2 Eliminate all forms of violence against women and girls in the public and private spheres, including trafficking, sexual and other types of exploitation.

5.3 Eliminate all harmful practices, such as genital mutilation. child, early and forced marriage and female.

5.4 Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.

5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making, including political, economic and public life.

5.6 Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development, the Beijing Platform for Action and the outcome documents of their review conferences.

Goal 16 on peace, justice and strong institutions is also highly relevant to the issue of women's equality in law and practice. Under target 16.3, States undertake to “promote the rule of law at the national and international levels and ensure equal access to justice for all”.

4.1.2 Regional Laws on Gender Equality and Non-Discrimination

Achieving full gender equality in all spheres of life is a critical element of the African Union's Agenda 2063: The Africa We Want³. Women and girls' empowerment and addressing violence and discrimination against women and girls are earmarked as the topmost priority areas towards achieving this goal. The African Union boasts of a robust normative and institutional framework on gender equality and women and girls' rights. There are several other treaties and soft law instruments that form a continental framework for the protection and promotion of the rights of women and girls:

1. Continental Policy Framework on Sexual and Reproductive Health and Rights (2006)
2. African Union Gender Policy (2009)
3. African Women's Decade 2010–2020 (2010)
4. African Charter on Human and Peoples' Rights (1981)
5. African Charter on the Rights and Welfare of the Child (1990)
6. African Charter on Human and Peoples' Rights General Comment No. 1 (Article 14) (2012)
African Charter on Human and Peoples' Rights General Comment No. 2 (Article 14) (2014)
7. Joint General Comment on African Charter on Human and Peoples' Rights and African Charter on the Rights and Welfare of the Child on Ending Child Marriage (2017)
8. African Union Strategy for Gender Equality & Women's Empowerment 2018-2028 and African Charter on Human and Peoples' Rights Resolution 275 on Protection against

³ African Union, Agenda 2063: The Africa We Want, available at: <https://au.int/en/agenda2063/overview>.

Violence and other Human Rights Violations against Persons based on their real or imputed Sexual Orientation or Gender Identity (2014).

9. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, or the Maputo Protocol, is the most influential instrument on gender equality and non-discrimination in the African continent. The various General Comments by the African Commission on Human and Peoples' Rights further augment and expound on the rich substantive provisions. The Maputo Protocol came into force in 2005. Kenya acceded to the Protocol in October 2010. Like CEDAW, the Maputo Protocol explicitly provides for a definition of discrimination. Accordingly, discrimination is "any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life".
10. The African Commission is the supervisory body over the Maputo Protocol. Periodic reports are to be submitted every two years in accordance with Article 62 of the African Charter, indicating the legislative and other measures undertaken for the full realization of the rights herein recognized. Kenya submitted the initial periodic report in 2023 alongside its twelfth and thirteenth periodic reports on the African Charter on Human and Peoples' Rights.
11. Kenya is a member of the East African Community. The East Africa Community Treaty, the EAC Vision 2050 and the Gender Policy 2018 provide a supporting policy framework for member states to advance the empowerment of women and girls.

4.1.3 National Laws and Policies

The Constitution of Kenya (2010) provides the overall legal framework. Section 27(3) of the Constitution provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural, and social spheres. This policy builds on the National Policy for Gender and Development (2019) which envisages a just, fair and transformed society free from gender-based discrimination in all spheres of life practices. It also draws from other national policies such as National Land Policy (2009) that recognizes women's rights to own

property on an equal basis with men; the National Policy for Prevention and Response to Gender Based Violence 2014; the National Policy for the Abandonment of Female Genital Mutilation 2011. Vision 2030 and Medium-Term Plans: The Vision is built on three pillars (economic, social and political) which are anchored on the principles of macroeconomic stability; continuity in governance reforms; enhanced equity and wealth creation opportunities for the poor; infrastructure; energy; science, technology and innovation; land reform; human resources development; security and public sector reforms. Vision 2030's goal for equity and poverty reduction is to reduce the number of people living in absolute poverty to the tiniest proportion of the total population. The priority set within the Vision is in alignment with the SDGs and further reinforce the gender equality and women's empowerment agenda as set within the BDPfA.

Gender-related provisions in National Development plans such as Kenya's Economic Recovery Strategy for Wealth Creation (2003-2007), Kenya Vision 2030 and the Medium-Term Plans 2018-2022. Matrimonial Property Act, 2013 which safeguards women's property rights during and upon dissolution of the marriage; the Marriage Act, 2014 that gives effect to constitutional provisions on equality between parties to a marriage; and the Land Act and Land Registration Acts which secure women's rights to land; the Counter-Trafficking in Persons Act, 2010; the Prohibition of Female Genital Mutilation (FGM) Act, 2011 and the Sexual Offences Act, 2006 outlaw specific forms of violence against women and the girl child. National Policy on Gender and Development, Education and Training Sector Gender Policy 2015.

Kenya Social Protection Policies

- ✧ Kenya Social Protection Policy - 2023
- ✧ Sessional Paper no 5 of 2012 on the National Social Protection Policy
- ✧ Sessional Paper no 2 of 2014 on the National Social Protection Policy
- ✧ Kenya Social Protection Policy 2011
- ✧ National Prevention and Response Plan on VAC 2019-2023
- ✧ National Action Plan to Tackle Online Child Sexual Exploitation and Abuse in Kenya 2022-2026
- ✧ National policy on older persons and aging 2014
- ✧ National Volunteerism Policy 2015
- ✧ The National Children Policy 2010
- ✧ The national policy on family promotion and protection

- ✧ The national policy on family promotion and protection

Social Protection Guidelines

- ✧ National Positive Parenting Guidelines
- ✧ Guidelines on establishment and management of institutions for older persons
- ✧ ESR and Inua Jamii brand book
- ✧ Guidelines for child protection case management and referral in Kenya 2019
- ✧ Operational guidelines for Consolidated Cash Transfer Programmes 2017
- ✧ Guidelines for Child Protection in emergencies

Kenya Social Protection Laws

- ✧ Social Protection Act 2025
- ✧ Social Assistance Act 2013
- ✧ Children Act 2022
- ✧ Community Registration Act 2022

4.2 Gender Impact Assessment Process in the Parliament of Kenya National Assembly

The legislative process in Kenya has undergone various changes since the promulgation of the Constitution 2010. This includes the establishment of a Bicameral Parliament, the creation of 47 County Assemblies, and the requirement for public participation in policy making and legislation. The legislative process is devolved, with the Senate and National Assembly at the national level, and the County Assemblies at the county level, serving as the primary legislative organs. This process can be broken down into several stages, from the introduction of a bill to its final approval, and it involves the participation of various actors, including legislative drafters, committees, and the Executive arm of the government.

4.2.1 The role of the National Assembly

The National Assembly is a key legislative body in Kenya, and it plays a crucial role in the process of a bill becoming a law. Here is a detailed overview of its functions and responsibilities in this process:

The National Assembly, along with the Senate, forms the bicameral Parliament of Kenya. This legislative body holds the power to make, amend, or repeal laws. The National Assembly is

responsible for initiating, debating, and reviewing proposed legislation in the form of bills. It serves as the primary platform for introducing and discussing legislative proposals.

During the legislative process, a bill undergoes several readings in the National Assembly. In the First Reading, a bill is introduced in the Assembly, assigned a tracking number, and referred to the relevant committees. This initial stage sets the bill on its legislative journey. The Second Reading involves a more detailed examination of the bill's content. A vote is typically taken on the general outlines of the bill before it is sent to the designated committee for further scrutiny and potential amendments.

The committee plays a vital role in the process, as it reviews and analyses the bill, considering its potential impact and ensuring its conformity with the Constitution and existing statutes. This stage may involve expert input and public participation to gather diverse perspectives, including gender perspectives. The committee may propose amendments to the bill, addressing any concerns or inconsistencies identified during the review process.

After the committee has completed its work, the bill returns to the National Assembly for the Third Reading. At this stage, the bill is presented with all the amendments incorporated. The Assembly engages in a final debate and deliberation on the amended bill, providing an opportunity for members to raise any remaining concerns or highlight its merits. A final vote is conducted to give the bill its final approval.

It is important to note that the National Assembly's role in law-making extends beyond just passing bills. Members of the Assembly are also involved in policy development and ensuring public participation. They represent their constituents' interests and ensure that the laws enacted align with the needs and aspirations of the Kenyan people. Additionally, the National Assembly works in collaboration with the Senate, and both houses must consent to an Act for it to become a law, demonstrating a spirit of cooperation and consensus-building in the legislative process.

4.2.2 The Senate's function

The Senate consists of 68 members, with 47 elected directly from each county and 20 nominated by political parties based on their share of seats in the body. The primary function of the Senate is to protect the interests of the county governments within the national government. This is reflected in the types of bills they consider.

Bills concerning county governments, including those affecting their functions and powers, elections, and finances, are considered by the Senate. These are divided into ordinary and special bills. Ordinary bills are any that do not affect the election of members of county governments or annual revenue allocation to counties. If the Senate passes an ordinary bill, and the National Assembly rejects it, the bill is referred to the Mediation Committee. If the National Assembly then passes the bill with amendments, it returns to the Senate for reconsideration.

Special bills are those related to the election of county government members or revenue allocation. If the National Assembly wants to change or reject a special bill passed by the Senate, it requires the support of at least two-thirds of its members.

The Senate's role in the legislative process ensures that county interests are considered and protected in law-making. This contributes to harmony between national and county-level laws.

This study will focus on the national assembly to illuminate how GIA has been applied in the legislative and oversight processes.

As the EIGE's methodology suggests (EIGE, 2016), a GIA should be used in the very early stages of policy making (ex-ante) to assess the potential effects of proposed changes to a policy or law. The aim is to achieve a significant impact not only on the policy design but also on its planning, to ensure adequate equality outcomes. In this way, before the regulation or administrative procedure is approved, a GIA ascertains whether the activity planned may have any positive or negative repercussions from the perspective of eliminating inequalities between women and men and promoting equality in the social context concerned (EUDEL, 2018).

Another rationale of carrying out a GIA prior to policy planning/ legislative proposal is that, in many cases, after implementing a GIA, respective policies and projects can be modified. Therefore, a GIA

can also be seen as a risk management tool (Oxfam Asia, 2013) that enables policymakers to adjust the law, taking into consideration the existing patterns of equality between men and women in specific fields, industries and communities.

4.2.3 The Lawmaking Process in Kenya and Application of Gender Impact Assessment

This process involves several stages from the initial drafting of a bill to its final approval and assent by the President:

- ✧ The law-making process in Kenya is structured and involves multiple stages with thorough scrutiny and public participation.
- ✧ The process starts with the drafting of a bill, which can be initiated by the government, individual members of parliament, or private entities.
- ✧ If the bill passes both houses of parliament, it is presented to the President for assent within 14 days.
- ✧ The law-making process in Kenya is a structured and multi-stage procedure designed to ensure thorough scrutiny, public participation, and adherence to constitutional principles.

4.3 How Gender Impact Assessment was Applied During Review of the Social Protection Law

Social Protection has become increasingly important as a powerful tool for combating poverty and vulnerability to shocks throughout people's life cycle. Evidence from different studies has shown that investing in Social Protection has a higher impact on human capital development, social cohesion, inclusive growth and sustainable development. It is also acknowledged as a human right and a key instrument for the achievement of the SDGs.

The Constitution of Kenya (2010) contains a comprehensive Bill of Rights. Article 43 guarantees all Kenyans their economic, social, and cultural (ESC) rights. It asserts the "right for every person...to social security and binds the State to provide appropriate social security to people who are unable to support themselves and their dependants. "This right is closely linked to other social protection rights, including the right to healthcare, human dignity, reasonable working conditions, and access to justice. Article 21 establishes the progressive realization of social and economic rights and

obligates the State to "observe, respect, protect, promote, and fulfill the rights and fundamental freedoms in the Bill of Rights

Kenya developed its first Social Protection Policy in 2011, the Kenya National Social Protection Policy (NSPP, 2011), to give strategic guidance on the implementation and delivery of Social Protection interventions in the country in line with the Constitutional provisions, Vision 2030, and other related international instruments described above. The Policy initiative was part of the broader global, regional, and National dynamics which positioned Social Protection as a key driver in sustainable development.

The development of the Kenya Social Protection Policy (2023) was informed by the need to create a policy framework that addresses the country's evolving and growing Social Protection needs. In addition, emergency situations and shocks witnessed in the past few years, such as the COVID-19 pandemic, also heightened the need for a policy framework that is more progressive and ensures adequate response. Considering lessons drawn from the previous National Social Protection Policy (2011) as captured in various sector review reports, there was a fundamental need for Social Protection to strengthen, complement, improve data management and collaboration, focus on the informal sector, and expand Health Insurance.

After development and approval of the Social protection policy, a legislative proposal by the State Department of Social Protection and key stakeholders was initiated.

4.3.1 The Legislative Proposal

The legislative process begins with a legislative proposal. This stage involves research which includes gender analysis to understand the need for the proposed law and its impact to men, women, boys and girls. The National Assembly through the Directorates of Parliamentary Research Services and Legal have developed gender impact assessment guidelines which entails a checklist that guide development of the laws while taking gender considerations into perspective.

The legislative proposals can emanate from public policy what is commonly referred to as Government or executive initiated legislative proposal. This policy-making process sets the government's objectives and strategies. Some policies only require minor administrative measures, while others need new legislation. Other legislative proposals emanate from political parties, business associations, civil society organizations, organized groups, or even individual

citizens presented to the national assembly through a member of parliament. The decision to initiate a new legislative process depends on factors such as the cost-benefit analysis including gender impact assessment of the proposal, consistency with the constitutional framework, and the existence of similar applicable laws.

The Social Protection legislative proposal was developed in 2024 by the State Department of Social Protection in collaboration with key stakeholders. It was reviewed by the Attorney General's office, tabled to the Cabinet by the Cabinet Secretary for approval. The aim of the social protection bill is to fortify the protection of Kenyan citizens' rights to essential services, including basic education, nutrition, food security, healthcare, and employment. The comprehensive bill addresses existing gaps in social protection, targeting fragmented legislation, lack of coordination, and insufficient funding. This initiative aligns with the government's commitment to combating poverty, promoting inclusive growth and sustainable development.

After approval by Cabinet the Government or Executive sponsored legislative proposals are submitted and led by Majority leaders who champion government or executive interests in parliament. An example is the Social Protection bill that was sponsored by National Assembly Majority Leader.

4.3.2 Legislative Drafting

Legislative drafting is the process of converting policies into legislative instruments. A legislative drafter translates the agreed policy framework into a draft bill or legislative proposal presented to the Assembly. Drafters should use simple and unequivocal language, considering the practicality of implementing the law. They also ensure the bill's conformity with the Constitution and existing statutes. The legislative drafters in the National Assembly have been trained on gender mainstreaming and have adopted a formula of operation where they apply gender impact assessment checklist that enables scrutiny of laws to ensure that they are gender responsive and adequately respond to the needs and aspirations of men, women, girls and boys in Kenya.

4.3.3 Review, Debate, and Approval

Once tabled in the Assembly, the legislative proposal becomes a bill. It undergoes review by relevant committees, plenary readings, and debates according to the Standing Orders. After approval, the bill is forwarded to the Governor for assent. The Governor has fourteen days to

assent or request specific changes. If the Governor requests changes, the Assembly can consider them or resubmit the original bill with the approval of at least two-thirds of the members. Once assented to, the bill becomes a law and is published in the county and national gazettes. It comes into force fourteen days after publication.

4.3.4 National Assembly Bill Readings

The legislative process involves three readings:

1. First Reading

Once the bill is drafted, it is introduced to the National Assembly. The first reading involves the formal presentation of the bill's title and objectives.

No debate on the bill's content occurs at this stage. The primary purpose is to inform members of parliament (MPs) and the public of the proposed legislation.

2. Second Reading

During the second reading, MPs debate the general principles and merits of the bill. This stage is crucial as it allows for a detailed discussion on the bill's intent, potential impact, and relevance.

MPs may support, oppose, or suggest amendments to the bill. At the end of the debate, a vote is taken. If the bill passes this stage, it moves to the committee stage.

3. Committee Stage

The bill is referred to a relevant parliamentary committee for detailed examination. This committee can be a standing committee, a departmental committee, or a select committee.

The committee stage involves a clause-by-clause analysis of the bill. Public participation is often invited at this stage, allowing stakeholders and citizens to present their views and suggestions.

The committee can recommend amendments to the bill based on their findings and public input. A good example is the Social Protection bill where amendments were introduced in April 2025, when it was proposed to provide monthly stipends to workers affected by economic disruptions, such as job losses due to recessions or environmental challenges. This marked a shift from earlier proposals, like the unemployment insurance fund, which required contributions from employers and workers. Instead, the Social Protection Bill 2025 adopted a non-contributory model, meaning

beneficiaries receive support without prior payments, funded directly through the national budget.

The gender impact assessment conducted and shared with the committee through key stakeholders proposed recommendations of how the Social protection law will enable Kenya to continue recovering from the economic impacts of the COVID-19 pandemic and other challenges. With approximately 31.3 billion Kenyan shillings allocated to social protection programs in the financial year ending June 2025, the new law aims to build on existing efforts to reduce poverty and improve livelihoods. By addressing vulnerabilities across different stages of life, from childhood to old age, the legislation seeks to provide a lifeline to millions of Kenyans facing financial instability.

4. Report Stage

After the committee stage, the bill, along with any proposed amendments, is reported back to the National Assembly.

During the report stage, MPs debate the committee's recommendations and may suggest further amendments. This stage ensures that the bill has been thoroughly vetted and refined.

5. Third Reading

The third reading is the final debate on the bill in the National Assembly. At this stage, MPs discuss the bill as amended during the committee and report stages. The focus is on the final form of the bill.

A vote is then taken. If the bill is approved, it proceeds to the Senate if it concerns county governments or directly to the President if it does not. This Social Protection bill was passed by the National Assembly on April 30, 2025.

Senate (If Applicable)

If the bill affects county governments, it is sent to the Senate for consideration. The Senate follows a similar process: first reading, second reading, committee stage, report stage, and third reading. The Senate's role is to ensure that the interests of counties are considered. If the Senate makes amendments, the bill is returned to the National Assembly for concurrence.

The Kenyan Senate has invited members of the public to submit their views on the Social Protection Bill, 2025 (National Assembly Bills No. 12 of 2025).

During review of the Social protection bill by the Senate Standing Committee on Labour and Social Welfare, the Senate called for public participation to enable input from the public after the bill was read for the first time in the Senate on 13 May 2025. According to a public notice from the Clerk of the Senate, J.M. Nyegenye, the committee is required by law to allow public participation. This is in line with Article 118 of the Constitution and Senate Standing Order 145(5). The public is encouraged to send written memorandum expressing their opinions, suggestions, or concerns about the bill. In addition to written submissions, the committee also held public hearings on Thursday, June 12, 2025, at 11:00 am. The hearing took place at the Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi. All interested members of the public participated (Refer to Annex 2 for the sample of Senate Social Protection Bill call for memorandum and public hearing).

The bill was approved by the Senate on July 23, 2025, without amendments, replacing the outdated Social Assistance Act.

6. Mediation Committee (If Necessary)

If there is a disagreement between the National Assembly and the Senate on the amendments, a mediation committee is formed.

This committee, consisting of members from both houses, seeks to resolve the differences and produce a version of the bill acceptable to both houses.

If the committee reaches an agreement, the bill is passed by both houses and proceeds to the President. If not, the bill fails.

7. Presidential Assent

Once both houses of parliament pass the bill, it is presented to the President for assent. The President has 14 days to assent to the bill or refer it back to parliament with reservations.

If the President refers the bill back, parliament can reconsider it and make the necessary changes.

If parliament passes the bill again with or without amendments, the President must assent to it.

Once the President gives assent, the bill becomes law and is published in the Kenya Gazette.

The legislative process is completed with Presidential Assent, where the Head of the Executive formally assents to the Act of Parliament. The President's consent is required for the law to come

into effect. An Act of Parliament may provide that it will come into force on a notified date, which is usually announced by the relevant Minister.

The President has 14 days to either assent to the Bill or refer it back to Parliament for reconsideration, noting any reservations. If the President refers the Bill back, Parliament may amend the Bill to accommodate the President's reservations or pass the Bill a second time without amendment. If the Bill is amended to accommodate the President's reservations, it is then resubmitted to the President for assent. If the Bill is passed a second time, with or without amendments that do not address the President's reservations, it must be supported by two-thirds of the members of the National Assembly and two-thirds of the delegations in the Senate. The Speaker will then have seven days to resubmit the Bill to the President, who must assent to it within seven days. If the President does not take any action within the prescribed time frame, the Bill is taken to have been assented to upon the expiry of that period.

Once a Bill has received Presidential Assent, notification of the date of its coming into effect is given through a legal notice, usually by the Minister in charge of the matters with which the Act is concerned.

On Wednesday, July 30, 2025, President William Ruto signed the Social Protection Bill 2025 into law at State House, Nairobi, marking a significant step towards enhancing social welfare for vulnerable Kenyans.

4.4 Outline for Gender Impact Assessment Reports on Legislation and Policy

Gender impact assessments for policy and legislation are about answering these key questions:

- Does the proposed legislation/policy consider the experiences of women and men?
- Does the proposed legislation/ policy consider the current state of gender relations vis-a-vis the four gender components A-D described below?

A. Work relations within the sector of focus, institutions, and at home;

- Division of jobs between women and men in the target communities
- Roles of women and men in governance structures

B. Personal and family relations;

- Different roles and tasks that women and men perform in the home
- How women and men relate with children and adults

C. Rules and norms relating to gender in the target communities;

- Social and legal rules that dictate how women and men behave in the target communities

D. Access to, distribution, and use of resources;

- Different resources to which women and men have access and control over in the target communities.

- Does the proposed legislation/ policy favour one gender and disadvantage the other, or favour a particular demographic and disadvantage other?
- Does the proposed legislation/policy add constraints and limitations to the full participation of women? (e.g. banning pregnant women and women who are breastfeeding). Using this tool will help teams craft laws/policy that better supports gender equality and gender mainstreaming (IMPACT,2020).

This step is about compiling the GIA findings, recommendations, and plans in a report to communicate the results to strategic partners, decision-makers, the target group and other stakeholders, and beyond.

GIA reports should always be written in accessible, gender-inclusive language. A clear and concise GIA report can ensure final decision makers adopt and enact policies that support gender equality. The report will be useful in informing discussions about the proposed policy and decisions related to gender equality outcomes.

Steps that need to be taken when drafting a GIA report

Chapter 1: Introduction

- ✧ Background on the proposed policy
- ✧ Overview of the legislative proposal/policy sponsor's commitments toward gender equality in the sector.
- ✧ Overview of gender equality in the sector.
- ✧ Overview of GIA process and other methodology used to integrate gender into the legislative proposal/proposed policy/law under review.
- ✧ Overview of methodology and gender expertise utilized

- ✧ Summary of report

Chapter 2: Current gender relations in the target group

- ✧ Descriptions reflecting the diverse nature of the target group context analysis on mapping gender components:
 - Work relations within the sector of focus, institutions, and at home;
 - general community profile
 - social and economic resources
 - land coverage
 - different demographics of women and men
- ✧ Descriptions of gender/power relations:
- ✧ Descriptions of existing initiatives and resources that are directly affected by the proposed policy
- ✧ Descriptions of access to and control of resources by women and men.

BASELINE DATA

Baseline data on the current state of gender relations in the area(s) targeted by the proposed project/policy is necessary to analyze its potential impact.

Baseline data establishes a preliminary understanding of the situation of women and men in the policy/law target community that is used to compare with data acquired afterward.

Baseline data should be collected in consultation with women, men, members of various ethnic groups and social classes, women's organizations, civil society organizations, and other community groups.

Considerations for the data collection process include:

- ✧ Community selection (if not already identified in the proposed policy plan)
- ✧ Different demographics of women and men in the area based on information from the context analysis such as age, gender, geographical location, education, marital status, sources and levels of income, persons with disabilities, internally displaced persons, refugees.
- ✧ Government institutions, local political and community institutions that will be engaged in the implementation of the proposed project
- ✧ Characteristics of the legislative proposal/policy from a gender perspective

- ✧ Methodologies for gathering information from the target group or, if resources are limited, for organizing secondary data from reliable sources such as independent research by non-governmental organizations, academic research, field reports, documentaries, and statistics from government bodies and international organizations.
- ✧ To ensure the diversity within the area targeted by the legislative proposal/policy is accurately reflected in the data, women and men must participate meaningfully, both individually and in groups. This means ensuring adequate representation across participant samples and sessions that are held at convenient times and locations to maximize women and men's opportunity to participate.

CONTEXT ANALYSIS

Collecting baseline data begins with context analysis.

A solid understanding of social, legal, economic, and cultural factors will help determine the scope of the GIA. During analysis, the following elements should be considered:

- ✧ Participants/informants (they will form the GIA's target group)
- ✧ demographics of women and men to be included
- ✧ methodology
- ✧ researcher assignments

Use a combination of participatory research such as focus group discussions and interviews, as well as a desk review of materials available. This includes published reports, census data, national poverty reduction plans, mining legislation, gender equality legislation, in-depth reports by academics and experts, family code, labour code, local government reports and international covenants related to human rights and gender equality.

Chapter 3: Legislation/Policy description

- ✧ Goals and objectives
- ✧ Problem the legislation/policy is trying to solve
- ✧ Causes and consequences of the problem
- ✧ Values, norms, assumptions (from a gender perspective)
- ✧ How the proposed legislation/policy seeks to advance gender equality?

Chapter 4: Analysis of impacts on gender relations

- ✧ Analysis of Gender Equality Continuum
- ✧ Scoring and rationale for Gender Equality Continuum
- ✧ Analysis of Gender Impact Matrix
- ✧ Copy of completed Gender Impact Matrix

Chapter 5: Summary

- ✧ Overall conclusions
- ✧ Recommendations noted in the Gender Impact Matrix
- ✧ Plan for follow-up, next steps

CHAPTER FIVE: RECOMMENDATIONS AND CONCLUSION

5.1 RECOMMENDATIONS

As a regulatory policy tool and an instrument to make better rules, GIA aims to overcome human biases. Like any human being, policymakers have preconceptions and confirmation biases when designing and implementing policies. GIA is meant to correct such biases around what concerns inclusivity. When reviewing an existing law or policy, or designing a new one, GIA ensures that gender perspectives are taken into account.

GIA is an exercise and mindset for the regulator. It allows regulators to consider existing disparities, power dynamics, and barriers that affect various gender groups differently. GIA provides a systematic approach to understanding and addressing intersectionality. In fact, GIA has its roots in the understanding that gender interacts with other social identities. To ensure comprehensive analysis, therefore, regulators must consider these intersections.

“GIA allows and encourages regulators to consider existing disparities, power dynamics, and barriers, each of which may affect gender groups differently” PRS Director.

However, GIA also faces challenges. Limited awareness and understanding of gender issues among policymakers and stakeholders can hinder its effective implementation. Insufficient resources, time constraints, and resistance to change can pose additional obstacles. Overcoming these challenges requires capacity building, education, and collaboration among diverse stakeholders. Key recommendations that emanated from the study elucidate the need for leadership to be responsible for ensuring that the necessary resources, both human and financial, are allocated for the GIA tool’s implementation and sustainability.

1) Institutionalize GIA Guidelines

The below table of content was used to guide the development of GIA guidelines by the Directorate of Parliamentary Research Services (PRS). During the pilot phase in 2024-2025, the guidelines were applied during the Social Protection Act 2025, development, review and public participation. There is need for the Parliament of Kenya to institutionalize the GIA guidelines so that they can be applied as a mandatory process in the lawmaking process.



PARLIAMENTARY RESEARCH SERVICES

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 - 1.1 Purpose of the Guidelines
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 - 2.1 Overview
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 - 4.3 Tools to conduct a GIA
 - 4.5 Data sources and indicators for analyzing gender responsive legislative processes

- 4.6 Identifying gender disparities in legislative processes
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5. SELECTING STRATEGIES AND INTERVENTIONS TO ADDRESS GENDER DISPARITIES

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- 5.2 Using gender analysis to inform strategy selection to address gender disparities
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8. CHALLENGES AND RECOMMENDATIONS TOWARDS GENDER RESPONSIVE POLICY AND LEGISLATIVE PROCESSES

- 8.1 Challenges in implementing gender impact assessment
- 8.2 Recommendations for gender impact assessment integration in legislative processes

9. CASE STUDIES AND BEST PRACTICES OF GENDER RESPONSIVE POLICY AND LEGISLATIVE PROCESSES

10. CONCLUSION

ANNEX 1.

- i) Generic context checklist
- ii) Could have several annexes as need may be from group discussions

2) Digitize gender impact assessment process and tools

There is need to digitize gender impact assessment process and tools by parliament to broaden the vision of achieving sustainable development through gender equality.

Digitizing a **Gender Impact Assessment (GIA) tool** for a parliament involves transforming an existing gender assessment methodology into an interactive, digital platform that can systematically collect, analyze, and visualize data while promoting transparency and inclusiveness. Based on best practices from IPU, OSCE, EIGE, UN Women, and national GIA frameworks, the digitization process can be approached in a structured, multi-layered way.

A. Define Objectives and Scope

- **Purpose:** Assess how parliamentary procedures, policies, and infrastructure impact gender equality.
- **Scope:** Legislative processes, representative composition, parliamentary staff, internal culture, and oversight functions.
- **User Types:** MPs, parliamentary staff, civil society organizations (CSOs), external auditors, and the general public (for transparency).

B. Map Key Components of the GIA

Referencing established methodologies ([UN Women, 2021]; [OSCE, 2022]; [EIGE, 2021]):

- **Stage I: Gender Relevance Assessment**
 - Determines if a proposed law, policy, or reform is likely to affect genders differently.
- **Stage II: Gender Impact Assessment**
 - Analyzes differential effects on women, men, and intersecting identities.
- **Stage III: Gender Quality Assessment**
 - Evaluates whether the intervention meets gender equality objectives.

- **Indicator Areas for a Parliamentary Context:**
 - Gender representation (attendance, positions, and leadership roles)
 - Legislative and policy impact on gender equality
 - Gender-sensitive infrastructure and culture
 - Resource allocation and accessibility
 - Participation and influence of MPs, staff, and civil society
- C. Digital Platform Design**
 - a) **Data Collection Module**
 - a. Interactive questionnaires for MPs, staff, and relevant stakeholders
 - b. Pre-populated fields from national statistics where possible
 - c. Support for qualitative and quantitative inputs
 - d. Option to upload relevant documents (policies, reports, legislative drafts)
 - b) **Analysis Engine**
 - a. Automated scoring and weighting of indicators
 - b. Gender-disaggregated reporting
 - c. Intersectional analysis (age, ethnicity, disability, etc.)
 - d. Visual dashboards for trends, strengths, and gaps
 - c) **Reporting Module**
 - a. Dynamic reports with recommendations
 - b. Ability to track progress over time
 - c. Printable executive summaries for parliamentary committees
 - d) **User Management and Security**
 - a. Role-based access (MPs, administrators, public)
 - b. Data confidentiality protocols
 - c. Audit trail for changes and submissions
 - e) **Interoperability**
 - a. Integration with legislative management systems (if present)
 - b. Compatibility with existing parliamentary HR and policy databases
- D. Implementation Steps**

a) **Assessment of Existing GIA Framework**

- a. Review existing paper/manual GIA tools ([NCPE, Malta, 2023]; [IPU 2016]).
- b. Identify digital-friendly question formats and performance indicators.

b) **Develop Digital Survey/Portal**

- a. Choose platform: web-based application or dedicated software.
- b. Convert sections of the GIA into online forms with conditional logic to adapt questions according to responses.

c) **Pilot Testing**

- a. Start with one parliamentary committee or select policy area.
- b. Collect feedback on usability, clarity, and analytics functionality.

d) **Training and Capacity Building**

- a. Train parliamentarians and staff on using the digital tool.
- b. Provide manuals, tutorials, and workshops on gender-sensitive evaluation.

e) **Full Deployment**

- a. Launch institution-wide.
- b. Ensure annual or policy-cycle-linked assessments.

f) **Continuous Improvement**

- a. Incorporate audit results into new policies and amendments.
- b. Update indicators and functionalities based on user experience and evolving best practices.

E. Advantages of Digitization

- Faster and more accurate data collection
- Real-time analysis and reporting
- Greater transparency and accountability
- Easier longitudinal tracking of gender sensitivity
- Supports intersectional analysis of multiple identity factors

References and Resources for Implementation

- IPU: Evaluating the Gender Sensitivity of Parliaments – Toolkit
- OSCE: Participatory Gender Audits of Parliaments

- EIGE: Gender-Sensitive Parliaments Toolkit
- UN Women: Gender Impact Assessment Methodology

A digitized GIA tool for parliament should be **interactive, inclusive, and data-driven**, transforming traditional gender assessments into continuous institutional learning and reform mechanisms. This approach ensures that parliamentary processes are systematically evaluated for gender impact, enabling evidence-based policymaking and fostering a gender-sensitive legislative environment

3) Enhance Data-Driven Decision-Making at all levels of government

Gender-Disaggregated Data Collection: The parliament of Kenya needs to work real time with the Kenya National Bureau of Statistics (KNBS) to inform parliament research, drafting and budgeting office. This will capture and analyze data on gender representation, budget allocations, and policy impacts, ensuring decisions are informed by real evidence.

Gender-segregated data as well as sex-segregated data play a vital role in improving the evidence-based policies as mentioned in previous chapters. Gender statistics increase awareness on gender inequalities and gaps among public bureaucrats, decision makers and experts. Statistical data promotes better understanding of inequalities and current issues that have to be solved on time.

4) Gender Focal Points in Parliament

Gender focal points are designated parliamentarians or staff members within each parliamentary committee or ministry who are responsible for ensuring gender is incorporated into decision-making processes.

Roles and Responsibilities include:

(i)Championing the GIA Tool: Gender focal points play a crucial role in advocating for the use of the tool within parliamentary committees and ensuring that gender is considered in all legislative processes.

(ii)Providing Guidance and Support: They are responsible for guiding their colleagues on how to use the GIA tool effectively and how to interpret its findings in the context of legislation and policy discussions.

(iii) Ensuring Gender Accountability: Gender focal points ensure that gender considerations are not overlooked and that the GIA tool's outputs are used to hold the government and parliament accountable for their gender-responsive actions.

(iv) Capacity Building: Gender focal points should assist in training other parliamentarians and staff on how to use the tool effectively and on the importance of gender-responsive oversight.

5) The Speaker of Parliament and Parliamentary Leadership

The Speaker and other parliamentary leaders are crucial for providing the institutional support necessary for the integration of the GIA tools and ensuring it is used effectively.

Roles and Responsibilities include:

(i) Endorsement and Leadership: The Speaker and other leaders need to endorse the GIA tool and publicly advocate for its use. They set the tone for gender-sensitive governance by ensuring that the tool becomes an integral part of the parliamentary processes.

6) Stakeholder Consultations

Consulting stakeholders about their needs can contribute to and even deepen the analysis, by validating and adding insights to the study, suggesting policy solutions, and enriching and fine-tuning the policy and legislative plans. It can also be useful for the identification of appropriate indicators for monitoring and follow-up. When involving stakeholders, it is paramount to establish good cooperation with civil society organizations with gender expertise. Feminist and women's organizations are a priority, as they can contribute to reinforcing the gender perspective needed during the process.

7) Strategic Parliament Oversight

Parliamentary oversight involves examining government expenditure, administration and policies. It is conducted through questioning cabinet secretaries and other government officials, through committee work, debates and votes, public inquiries and investigations, as well as through audit reports and other assessments from independent bodies. The function is therefore a critical tool for holding governments accountable to gender commitments; however, parliamentary scrutiny

often lacks a gender lens. The GIA guide responds to the growing recognition that gender-responsive oversight is essential for enhancing transparency and equity in public service delivery, promoting fair resource distribution across gender groups, and ensuring that men, women, boys and girls, are represented in governance outcomes.

Parliamentary leadership needs to provide strategic oversight to ensure that the GIA tool is incorporated into the agenda, ensuring gender equality issues are prioritized at all levels of decision-making. Recognizing that GIA ensures a systematic, structured approach to gender responsiveness can transform oversight processes, making them more inclusive and impactful. Equipping parliamentarians with the necessary knowledge, skills, and tools will foster a more gender-sensitive legislative environment, ultimately contributing to the advancement of gender equality and the realization of citizens' rights.

8) Gender impact assessment as a learning process

The implementation of gender impact assessments should be understood as a learning process. The commitment to develop gender impact assessment allows for the identification of shortcomings, data gaps, mistaken assumptions, lack of gender training. All the information is useful to activate subsequent measures to strengthen and improve the approach from a gender perspective. That is why gender impact assessment should always be public and accessible, not only for policymakers and public servants, but also for citizens taking into consideration public participation tools and initiatives.

5.2 CONCLUSION

A gender impact assessment goes beyond an analysis of the existing situation, as it also includes a prospective dimension. This means that the exercise implies an assessment of the status of gender equality after the planned legislative or policy measure has been enacted. Admittedly, this is not an easy task — especially when data and knowledge are scarce. A focus on analyzing the existing situation is therefore a valid approach when beginning to work with gender impact assessment. Assessing the current situation is always the starting point of a gender impact assessment. This stage of the process provides a substantial picture of how gender inequality is manifested in a range of legal and policy areas. All this information will help create a culture of gender awareness within the law and policy making institutions and thus contribute to gender mainstreaming.

Innovative legislative initiatives are emerging to address systemic biases and discrimination. For example, proposals to implement gender quotas in political representation aim to foster a more equitable political landscape. However, in order to sustain gender equality gains beyond affirmative action and quotas, gender impact assessment needs to be institutionalized in the parliament. Adapting and institutionalizing gender impact assessment in the lawmaking process will promote sustainability development in Kenya, regionally and globally. Parliaments that have adopted GIA, Notably, Canada and Australia have set up GIA guidelines for impact assessment. Similarly, GIA has been law in the Spanish region of Catalonia since 2010. Every law approved by the Catalan government must now take gender perspectives into account. These countries have seen significant progress towards sustainable development that countries like Kenya need to emulate.

International collaboration will also play a vital role in advancing gender equality. Countries can learn from each other's successes and failures by sharing best practices in lawmaking and enforcement. This collective approach can lead to more robust legal frameworks worldwide.

Finally, fostering public awareness and education on gender issues remains critical. Empowering communities through education can catalyze grassroots movements that demand legal changes to promote gender equality, ensuring laws reflect the evolving societal norms thus advancing sustainable development.

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ANNEX 1: DATA COLLECTION TOOLS

Focused Group Discussion and Key Informant Interview Guide

1. Does the proposed law or policy consider the experiences of women, men, boys and girls?

2. Does the proposed law or policy consider the current state of gender relations vis-a-vis the four gender components?

- I. Work relations within the sector of focus, institutions, and at home,
- II. Personal and family relations,
- III. Rules and norms relating to gender in the community on the sector of focus,
- IV. Access to, distribution, and use of resources.

3. Does the proposed law or policy favour one gender and disadvantage the other, or favour a particular demographic and disadvantage other?

4. Does the proposed law or policy add constraints and limitations to the full participation of women and men?

Gender Impact Matrix for Legislative Proposal/Bills and Laws Analysis

What are the impacts on gender of the proposed law?

Legislative proposal (or Aspect of law) that are Likely to Impact Gender	Gender Components	Current Gender Relations	Positive Impacts	Negative Impacts	Recommendations to mitigate negative impacts
	A) Work relations within the areas of policy focus, institutions, and at home				
	B) Personal and family relations				
	C) Rules and norms relating to gender in the sector of focus				

	D) Access to, distribution, and use of resources				
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REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | FOURTH SESSION
THE SENATE

**INVITATION FOR SUBMISSION OF MEMORANDA AND
PUBLIC HEARING**

**THE SOCIAL PROTECTION BILL, 2025 (NATIONAL ASSEMBLY
BILLS NO. 12 OF 2025)**

The **Social Protection Bill, 2025 (National Assembly Bills No. 12 of 2025)** was read a First Time in the Senate on Tuesday, 13th May, 2025 and thereafter stood committed to the Standing Committee on Labour and Social Welfare for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to provide a framework for the administration of non-contributory social protection interventions in Kenya, to establish the National Board for Social Protection to be the primary institution responsible for coordinating social protection interventions in Kenya. The Bill further seeks to create a comprehensive legal framework to guide the implementation of social protection programs that support vulnerable individuals and households, to cushion persons in need against risks and contingencies, build human capital capabilities and resilience of persons in need and to promote the well-being of persons in need.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Labour and Social Welfare now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke to be received on or before **Thursday, 5th June, 2025 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Thursday, 12th June, 2025 at 11.00 a.m.** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings, Nairobi.** Members of the public are welcome to attend the hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

Annex 3: Sample Social Protection Bill Submission of Memorandum from Expert Civil Society
Organizations (CSOs)



REPUBLIC OF KENYA
PARLIAMENT

THIRTEENTH PARLIAMENT

Memorandum on Social protection Bill 2024

This memorandum has been drafted and submitted by a coalition of United Nations Development Programs(UNDP), Organizations of persons with Disabilities and civil society organizations (CSOs) who are committed to inclusive policy making, gender-responsive policies, and equitable economic opportunities across multiple sectors. The coalition brings together organizations working on women’s rights, social justice and protection, disability advocacy, unpaid essential care work, youth empowerment, business development, civic-tech, cleanTech, climate change, health, and governance, among other areas. Our engagement spans various sectors, reflecting our commitment to equity, sustainability, and socio-economic development.

As regards Social Protection and more specifically about the Social Protection Bill 2024, the Budget Policy Statement (BPS) should prioritize the enactment of the Social Protection Bill, 2024 (SP Bill, 2024). The proposed bill Provides a comprehensive legal framework for social assistance, income security, and shock-responsive interventions; enacts Article 10(2b), Article 43, Article 54 (1- b), A- persons with disabilities; 57 d, older members of society to receive reasonable care and assistance from their family and the state, Article 27(4) 27(6), of the Constitution. More importantly, it addresses gaps in the existing social protection framework. The SP Bill 2024 addresses gaps in the existing social protection framework, enhances inclusivity, governance, and funding, and integrates shock-responsive mechanisms to cushion vulnerable populations.

Article in the bill	Issue	Recommendation	Justification
<p>Clause 1 - Definitions</p>	<p>No definition of Marginalized groups</p> <p>Definition of Caregivers</p> <p>i(i) Unpaid/Family/Community or Informal Caregiver</p> <p>(ii) Formal Caregiver</p>	<p>Add “include the definition of marginalized groups as outlined within the constitution of Kenya Article 260</p> <p>Unpaid caregivers”</p> <p>Unpaid/Informal/Family or Community Caregiver: A person who gives care to a member of the family or Community, (a care-receiver), who needs help taking care of themselves. Sometimes they are called Family or Community Caregivers. This situation poses a huge socio-economic, emotional, and psychosocial burden on the unpaid Caregiver since they are not paid or compensated in any way for providing the service. That burden is most of the time not acknowledged by the society and due to gender roles, more often than not the unpaid caregivers are women and girls. The care receiver, who most of the time is suffering from Non-Communicable Diseases (NCDs), deteriorating conditions or disability depends fully or almost fully on the Unpaid Caregiver.</p> <p>Formal Caregiver - This is a person who has been employed formally by a family or institution to provide care for a person who needs care because of disability, health challenges, age or other related</p>	<p>Marginalized groups Article 260 of the constitution</p>

	Institutional Care leavers	<p>deteriorating conditions. The support is usually required for a long period and continuously e.g. from six months up to a lifetime. In this case, the caregiver has been trained for this role and earns from it. The caregiver in this case is paid for their work.</p> <p>Add “unpaid caregivers”</p> <p>Add “ institutional care leavers” Care-leavers are generally recognized as young people who leave an institutional care setting without a stable family which exposes them to vulnerability.</p>	<p><i>These are children who grow in children's homes who are beyond the age of 17 years. Majority are expected to leave children homes and have no idea where they need to go</i></p>
Clause 2 Interpretation	No Definition of the word Persons with Disabilities	Define the word Persons with disabilities from the Constitution of Kenya Article 260	This is to have inclusive definition from the Legal Framework of Social protection Act
Clause 2 on Interpretation	SHA (social health Authority) and SHIF (Social Health Insurance Fund) not included in the interpretation of the Bill	<p>Insert the following definitions:</p> <p>“Social Health Authority” means the Authority established under section 4 of the Social Health Insurance Act, 2023, and mandated to regulate, supervise and coordinate the administration of social health insurance in Kenya.</p> <p>“Social Health Insurance Fund” means the Fund established under section 9 of the Social Health Insurance Act, 2023, for the purpose of providing financial protection against health-related</p>	Ensures consistent terminology and anchors SHA/SHIF into the legal framework of social protection

		risks for all persons resident in Kenya	
Clause on Objective of the Bill -Part 1 (3)	Objects of the Bill lack specific reference to empowerment of women and marginalized groups. No recognition of unpaid care work or socio-economic marginalization	Add an objective <i>“To promote gender equality and empower women, vulnerable and marginalized groups through inclusive and targeted social protection measures.”</i> Add: 'To recognize, redistribute, and reduce unpaid care and domestic work.'	It shall recognize the systemic inequalities that women, vulnerable and marginalized groups face including the role of caregivers who majorly engage in unpaid care work.
Clause on Guiding Principles-Part 1 (5)	The guiding principles do not include gender responsiveness Excludes informal caregivers and intersectionality	Add a principle stating <i>“Social protection shall be gender responsive, promoting equal access, participation, needs and benefits for all genders.”</i> Include: 'Recognition of unpaid care work and inclusion of marginalized groups.'	Tackles systemic inequalities such as unequal access to resources, unpaid care burdens, special needs among persons with disabilities & orphaned children and gender pay gaps
Clause 6: The Role of County Governments	The use of the word “may” in defining the roles of the county government on social protection seems is ambiguous and leaves chances for the Act not be effectively implemented	Change the word “may” to “shall”	The use of the word may be ambiguous, using the word shall will ensure the county government is compelled on its roles.
Clause on the roles of National Government County Government - Part 1 (6)	The roles of National government have not been provided	The roles of the National Government include: The national government shall— (a) develop laws and policies on the protection and promotion of the welfare of all; (b) provide facilities and infrastructure for the training of professionals in the rehabilitation and provision of care;	Kenya has created the functions of both the national and county governments that needs to be outlined clearly in law to enhance coordination, reporting and tracking progress.

		<p>(c) allocate adequate resources to programmes specifically targeting social protection interventions;</p> <p>(d) allocate adequate resources for training of both paid and unpaid (family) caregivers and social workers in the social protection interventions;</p>	
Clause 8 - Functions of the Board	No focus on care economy or disability inclusion	Mandate support for unpaid caregivers and inclusive economic strategies.	
<p>Part II (10) Composition of the board</p> <p>Clause 10 (e) On nominations of members</p>	<p>Non-governmental Organisations working on social support have been left out.</p> <p>There's no incorporation of the State Department for Gender into the governance framework</p> <p>Excludes representatives from care and disability sectors</p> <p>Does not mandate inclusion of gender advocacy groups or women's organizations in consultations.</p>	<p>Add "<i>Principal Secretary State Department of Gender</i>"</p> <p>Include the secretariat of NGECS secretary because social protection falls within the mandate of NGECS</p> <p>Add "<i>Principal secretary state department of children services</i>"</p> <p>Ensure representation of Organizations of Persons with Disabilities, care advocates, and youth-led organizations.</p> <p>Add clause "<i>Stakeholder consultations shall include representatives from gender focused civil society organizations</i>".</p> <p>Add (f) <i>unpaid family caregivers</i> Introduce equivalency pathways recognizing lived experience and informal expertise.</p>	<p>Boards with gender diversity benefit from a broader range of experiences, ideas, and problem-solving approaches, which leads to more balanced and innovative decisions.</p> <p>NGECS being an oversight commission ensures gender equality and inclusion commitment compliance</p> <p>to avoid duplication of resources and will promote inclusivity and balance distribution of resources.</p> <p>This will promote institutional mainstreaming of gender, children related needs.</p> <ul style="list-style-type: none"> The Principal Secretary State Department of Gender will serve as consultative stakeholder in

			<p>implementation.</p> <ul style="list-style-type: none"> The Principal Secretary State Department of children services will serve as consultative stakeholder in implementation. <p>They will bring lived experiences to the table</p>
<p>Clause 11- Qualification of the board Members</p>	<p>Eligibility Criteria</p> <p>Degree and 10+ years' experience excludes marginalized persons</p>	<p>Degree and 10+ years' experience excludes marginalized persons</p> <p>Excludes representatives from care and disability sectors</p>	<p>Introduce equivalency pathways recognizing lived experience and informal expertise.</p> <p>Parents and caregivers in social protection bring in lived experience and expertise that can inform the board on policy and programme implementation; by indicating degree and 10+ years' experience, we exclude this expert</p> <p>Ensure representation of OPDs, care advocates, and youth-led organizations.</p>
<p>Clause 13 (1) (c) (iii) (vi)</p> <p>Clause 13 (c) (iv) Vacancy</p>	<p>Framing of language that has a potential for discrimination by saying that the office of Chairperson or member of the board shall become vacant if the person is incapacitated by prolonged physical or mental illness.</p>	<p>Retain iii which has disability neutral language that reads, is otherwise unable or unfit to discharge the functions of the office. Delete vi</p>	<p>The phrase 'to vacate office because one is incapacitated by prolonged physical or mental illness' can be considered biased as it frames these impairments and or/disability as a reason for termination, potentially implying a negative view of disability. It's more neutral and</p>

			respectful to use language that focuses on the specific inability to perform the job's essential functions, while also acknowledging the need for reasonable accommodations
Clause 18 mandate		Add to the mandate - Protect and promote the rights and interests of vulnerable groups including the older members of society ty and popularize online and offline socio-economic opportunities for guardians, and caregivers of beneficiaries of social protection	To mitigate abuse, taking advantage and killings of older members of society The Board is appropriately placed to advise and implement socio-economic policies and strategies towards enhancing socio-economic empowerment of caregivers and guardians of beneficiaries of social protection
Clause on Administration of Social Protection - Part 28 (3)	Fails to include persons in humanitarian crisis, unpaid/family caregivers and persons affected by impact of climate change (Floods, drought)	Add to the lists (e) person affected by climate change (floods, drought etc) (f) person in humanitarian crisis (g) <i>victims of gender based violence</i> (h) Unpaid/family Caregivers i) Care Leavers j) and any other group	Most parts of Northern Kenya are characterized by extreme weather conditions resulting in prolonged drought, impact of floods and climate change. There is a need for the bill to incorporate their needs. Non-Communicable diseases are on the increase- including but not limited to cancer, kidney failures and cardiovascular diseases- majority of those who hail

			<p>from these are cared of at home by family members, mainly women and girls who have to bear the heavy burden of nursing these people at a huge socio-economic cost on themselves- the burden includes but is not limited to purchasing diapers, drugs, mobility devices etc.</p> <p>Care-leavers are generally recognized as young people who leave an institutional care setting without a stable family which exposes them to vulnerability.</p>
<p>Clause on Social Protection Benefits-Part III - 29 (b)</p>	<p>Lacks dedicated programs such as for women in informal labour, female headed households and victims of gender based violence</p> <p>Lacks the issue of an accommodative and flexi working environment for family caregivers- so that it may be possible for them to take 'caregiving leaves' and also have flexi working environment.</p> <p>Lacks anything that is medical/health-related: majority of unpaid caregivers spend most of their finances in medical health-related issues- including regular checkups, purchasing drugs, including essential drugs and purchasing supportive devices</p>	<p>Add "<i>women in informal labor, female headed households and survivors of gender based violence</i>" to the list.</p> <p>Add 'caregiving leaves (just the way we have maternity/paternity leave) for primary family caregivers whenever there is need.'</p> <p>Add 'free and/or subsidized medical care for care-receivers and primary unpaid caregivers.</p> <p>Add' free essential drugs' and 'free/subsidized cost of diapers and assistive devices.'</p> <p>insert a new provision to mandate the Board to develop and fund</p>	<p>Widening the scope will address women's unique needs.</p> <p>One of the biggest challenges for employed primary family caregivers is the need to take their care-receivers to hospital frequently. There is a need to accommodate this need in the human resource policies. We know of some primary caregivers who have lost their jobs because of rigid HR policies, yet, as a caregiver, one spends a big portion of their income on the care-receiver, that is when one needs their job the most.</p>

	<p>lacks a specific framework or programme for community-based elderly care, including support for informal caregivers.</p>	<p>community-based elderly care programmes, including training, home-based services, and caregiver support.</p> <p>Add psychosocial support for caregivers as well.</p> <p>Protect the socio-economic opportunities for the caregivers as well.</p>	<p>Older persons face growing care needs, yet most rely on family caregivers who receive no formal support. Community-based care promotes aging in place, protects dignity, and builds a care economy. It also reduces elder neglect and pressure on institutional care.</p>
<p>Not in the social protection Bill 2025</p>	<p>Provision of social health protection- Lacks the provision of social health protection under section</p>	<p>the National Government, in collaboration with relevant State and non-state actors, shall-</p> <p>(a) support the implementation of universal health care pursuant to the National Social Health Insurance Act;</p> <p>(b) expand health insurance coverage and health service provision to poor and vulnerable groups, informal and rural workers;</p> <p>(c) develop strategies to ensure increased coverage among formal sector workers;</p> <p>(d) develop measures to strengthen the response to healthcare crises and future pandemics;</p> <p>(e) support the development of a mechanism to facilitate a post-retirement medical insurance scheme for employees;</p> <p>(f) facilitate and enhance the portability of social health protection benefits;</p> <p>(g) support the development and</p>	<p>This was proposed and included to the Social Protection Bill 2024</p> <p>There is need to have cohesion and leverage to avoid duplication of roles and</p>

		<p>implementation of mechanisms to extend social health insurance for migrant Kenyan workers;</p> <p>(h) introduce a maternity benefit to cushion mothers from maternity- or pregnancy-related income loss, with a particular focus on informal economy workers;</p> <p>(i) enhance and utilize gender and age disaggregated integrated systems including the Single Registry to inform the support of provision of Social Health Protection interventions; and put in place any other measures and introduce any interventions and programme for the provision of social health protection.</p> <p>Subsidized Medical products and Insurance Supports: Include provisions to subsidies and fully cover health insurance premiums, medicines, for vulnerable groups by providing it within the Inua Jamii social protection framework. This includes caregivers or persons with disabilities, domestic workers, and individuals in the informal sector. Establish a special fund or subsidy scheme to offer medical waivers for essential health services with priority for households providing long term care or affected by disability</p>	
<p>Clause on Eligibility for Social Protection-Part III-30</p>	<p>Eligibility is broadly defined without acknowledging gender specific vulnerabilities</p> <p>Has omitted the Caregivers and informal workers</p>	<p>Add <i>“Eligible persons shall include single parents, unpaid family caregivers, widowed persons and survivors of gender-based violence among other vulnerable groups”</i></p> <p>Add <i>“include unpaid caregivers and informal sector workers”</i></p>	<p>It will promote equity and fairness</p> <p>Add caregiver stipends and reintegration support</p>

	omitted		
	The bill rightly provides for Social Protection for the older persons. However, subjecting them to poverty/means testing is just inclusion of a bureaucratic criteria that will lead to exclusion of majority of them	Amend Clause 30 to introduce a guaranteed, universal cash transfer for all Kenyan citizens aged 60 and above, regardless of economic status.	A nation that cannot take care of its elderly has failed its most basic test of dignity and social justice. A universal pension guarantees that all older persons, regardless of wealth, geography, or status, can age with dignity. This will eliminate any exclusion errors common in means-testing especially for rural elders and women, who often lack formal documentation or income history. It also simplifies programme implementation and reflects regional best practices, as seen in Lesotho, Botswana, and Mauritius. In Botswana and Lesotho any person over the age of 70+ gets Appx KSh 5,000 per person. - So it is doable in Kenya
Clause on Social Protection Registry-Part III-40(f)	There's no requirement for gender-disaggregated data collection	Add a provision <i>"All monitoring and evaluation frameworks shall include gender-disaggregated data and conduct impact assessments on gender inclusivity."</i>	It identifies gender gaps and inequalities
Clause on Social Protection Fund and Regulations-Part V-48(2)	There's no reference to gender responsive budgeting No earmarking for unpaid care or inclusion programs	Add a provision <i>"The fund shall allocate a minimum percentage of its budget annually to programs addressing the specific needs of women and gender minorities."</i> Add <i>"Create dedicated funds for caregivers and marginalized"</i>	It will address gender specific vulnerabilities

		<i>groups.</i> “	
Cross-cutting	Private Sector Involvement No obligation or incentive for private sector participation	Include a clause encouraging private sector compliance with inclusive social protection standards, tax incentives for hiring caregivers and persons with disabilities, and partnership in the delivery of care infrastructure.	Incentivize private sector adoption of inclusive social protection practices, and formalize collaboration with UNDP, UNICEF, and ILO in care infrastructure and policy development.
	Engagement of Private Sector and UN Agency	Limited integration of private and development partners in implementation	
	Inclusive Labour Practices Insufficient incentives or mandates for employers to adopt care-sensitive practices	Encourage public and private employers to adopt inclusive labour standards such as reasonable accommodation, care leave, and workplace flexibility especially for caregivers and persons with disabilities.	
Add a new clause to ensure accessibility of information and communication for persons with disability	The Bill does not provide for the provision of information to persons with disability	Accessible Information and Communication: Ensure that all public information and delivery systems related to social protection are fully accessible. This includes the use of sign language interpretation, Braille materials, captioning, screen-reader friendly formats, and simplified language. The Social Protection Registry and Grievance Mechanisms must be designed with accessibility in mind, ensuring that persons with disabilities and caregivers can engage meaningfully with these platforms.	This will ensure inclusion in access of information to persons with disabilities regarding social protection.

Conclusion

The Social Protection Bill, 2025 is a critical step toward a more inclusive and resilient Kenya. We encourage Parliament to amend the Bill to remove systemic barriers and embed principles of equity, care, and dignity. UNDP Kenya and CSOs stand ready to support technical implementation, monitoring, and further consultation with stakeholders to realize these objectives. In addition to previous recommendations, the Bill should explicitly define and support unpaid care work through a comprehensive framework that includes flexible work policies, recognition of diverse caregiver roles, and engagement of private sector and UN actors in implementation. The following additional elements are recommended:

1. Flexible Work Hours and Remote Work Options for Caregivers: Public and private employers should be encouraged to adopt flexible working arrangements including remote work, adjusted schedules, and paid care leave to support employees providing care to children, persons with disabilities, older persons, or those with chronic illnesses.

2. Definition of Caregivers: Include a legal definition in the interpretation section of the Bill: 'Caregivers' refers to individuals who provide ongoing assistance with daily living activities or emotional support to a dependent individual, including parents or guardians of children with disabilities, domestic workers, and family members caring for the elderly or persons with chronic conditions. Both paid and unpaid caregiving roles should be recognized.

3. Private Sector and Development Partner Involvement: Encourage private companies to adopt and report on inclusive social protection practices, offer caregiver support programs, and collaborate on care-related infrastructure. Provide tax incentives or corporate social responsibility (CSR) credits for companies implementing inclusive policies. UN agencies such as UNDP, UNICEF, and ILO can serve as technical partners to co-develop frameworks, pilot programs, and share global best practices with government counterparts.

4. Accessible Information and Communication: Ensure that all public information and delivery systems related to social protection are fully accessible. This includes the use of sign language interpretation, Braille materials, captioning, screen-reader friendly formats, and simplified language. The Social Protection Registry and Grievance Mechanisms must be designed with accessibility in mind, ensuring that persons with disabilities and caregivers can engage meaningfully with these platforms.

5. Medical Waivers and Insurance Support: Include provisions to subsidize or fully cover health insurance premiums for vulnerable groups under the social protection framework. This includes caregivers of persons with disabilities, domestic workers, and individuals in the informal sector. Establish a special fund or subsidy scheme to offer medical waivers for essential health services, with priority for households providing long-term care or affected by disability.

CSO/WRGs who shared their contribution to the review of the Social Protection Bill

No	Name	Organization	Email
1	Violet Mbiti	Bajeti Hub	violet.mbiti@gmail.com
2	Renaldah Mboje	Caregivers Empowerment Network	renaldah.mboje@gmail.com
3	Lisa Mushega	HENNET Network	programs@hennet.or.ke
4	Rosemary Juma	KEWOPA	rosemary.juma@kewopa.org
5	Mary Wambui	University of Nairobi Women Economic Empowerment Hub UoN WEE Hub	wambuimk@uonbi.ac.ke
6	Beatrice Kamau	Women Political Alliance - Kenya	beatrice.kamau@wpakenya.org
7	Duncan Njoroge	Naitera Community Empowerment Programme	naiteracbo@gmail.com
8	Daniel Murakaru	KEWOPA	murakarudaniel@gmail.com
9	Ellyjoy Masila	ILGRP project ACEPA/PC	ellyjoy.masila@acepa-africa.org
10	Jeniffer Githegi	ILGRP project ACEPA/PC	jeniffer.githegi@acepa-africa.org
11	Hope Muli	ILGRP Project ACEPA/PC	hope.muli@acepa-africa.org
12	Elizabeth Ombati	ICASSA/Kenya Network of Women and Girls with Disabilities	lizombati@hotmail.com
13	Pascal Mailu	SOS Children Villages	pascal.mailu@soskenya.org

14	Ashura Michael	UNDP	ashura.michael@undp.org
15	Vexinah Muindi		vexmuindi@gmail.com
16	Seline Achieng'	Kenya Network of Women and Girls with Disabilities	advocacynetworkkenya@gmail.com

Annex 4: Overview of Social Protection Presentation to the Parliamentary Committee of Social Protection



16042025 ILGRP-Overview of Social Protection Bill.pdf

Annex 5: Report of the Departmental Committee on Social Protection on its Consideration in the Social Protection Bill



Report of the Departmental Committee on Social Protection on its consideration of the Social Protection Bill (NA Bill No. 12 of 2025).pdf

Annex 6: Social Protection Act 5th August 2025



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