

Women's Experiences as Sources of Public and Legitimate Knowledge: Constitution Making in Kenya

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1.0 Introduction and Context

Betty Friedan in her essay, *Model Making-Knowledge* notes:

“All human beings have a biased and limited view of the world: biased in that it begins with self and limited in that it is restrained by experience. This means that there are many ways of seeing the world....”¹

African women's view of the world is one of those ways, a perspective that needs to be made visible and integrated in our definition of how we see the world. We need to bring this contextual knowledge to visibility. African women have created their own governance structures and generated knowledge which remains outside the mainstream knowledge, policy and Institutional development in Africa. We continue, in our region, to refer to and use theories and frameworks whose basic assumptions do not include African women's worldviews. Theories of power, political and other, need to be interrogated from the African women's experiences point-of-view. Looking at such novels as Margaret Ogola's *The River and The Source* (Kenya), Mariama Ba's *So Long a Letter* (Senegal) and Lena Elieshi's "*Parched Earth*" (Tanzania), among other novels, will help us understand what this means. The story of women's participation in the review process in Kenya and indeed in Africa south of the Sahara will help us see how they have moved the process of naming, ordering and making sense of the world for themselves and for society.

1.1 African Women and Social Theory

Social theory argues that all human beings are influenced by belief systems that we subscribe to, and that we tend to project to the world the value systems we have learnt. We select evidence from the world that reinforces our value systems because this helps us respond to what is meaningful to us.

1. Betty Friedan, *For the record*, Page 10

In addition, we always tend to see that which reinforces our worldview.²² The Feminist theory has been concerned with how we think and how we can think differently, appreciating that our reasoning and other processes are always in a flux, always changing and responding to new challenges. In order to change our societies, women's experiences, vision and philosophy of life needs to find its way into shaping and making sense of the world. We need to offer a more comprehensive view of the world and change the nature of knowledge brewed in our region. Okot p' Bitek, the great African scholar, during his tenure at the University of Nairobi would often tell his students colleagues: "*I have heard what you say about what others have said, but what do you say?*" It is this question that I seek to answer in this essay. The voices of African women, their views, perspectives and experiences must be brought to the forefront and find their way to the centre of knowledge making and naming our world.

1.2 Theory and Methodological Issues

Traditional theories and methodologies reflect our values and assumptions in society: how we set our research agenda, determine our priorities, ask questions, validate methodologies, and verify the results, (among other aspects) reflect our values, our philosophy and assumptions. We need to formulate research models that can handle construction of African women's knowledge. Since the 1970s, gender and development theories and models have emerged. These include: *The Harvard model Gender Analysis Framework* (developed by Harvard Business School) and the *Policy Approaches to Third-world Women* (developed at the London School of Economics, often referred to as the Caroline Moser's Framework).

Some efforts such as that of Sarah Longwe's *Women's Empowerment Framework* in the 1990's have emerged. In addition, concepts such as *Women in Development* (WID) and *Gender and Development* (GAD) that focus on social gender relations and strategic and practical gender interests and needs also fall within the field of gender and development scholarship. Most of these approaches have been developed in the West where more often than not, third-world women are the subject of study rather than generators of knowledge about themselves. However, this should not be construed to mean that these theories and approaches

2. (Dale Spender, Model Knowledge-Making) Page 27

have not been successful in assisting women in the Third world as they struggle under the burden of poverty and social, cultural, political and economic oppression. Nevertheless, nothing beats definition and articulation of one's problems and joys than the individual himself or herself.

This paper makes a case for African women's voices and experiences to feed into any theoretical and conceptual frameworks that organize their knowledge and experiences in order for these voices to name the world for themselves and indeed, for Africa as a whole.

The constitutional review process in Kenya has contributed to this theoretical and methodological construction of knowledge that expands our understanding of why and how the constitution making process and indeed, other processes can benefit from the knowledge, experiences and methodological tools and models utilised to make the Constitution that we consider a people-friendly and people-centred product, a process and product that redefines and expands democratic space and the concept of democracy.

This paper is organized into four sections. Analysis of methods and processes that influenced the drafting of the Constitution of Kenya (2010) are addressed. It examines how women's knowledge and methodological tools informed the process and the product to become one of the most people-friendly constitutions in the region. Moreover, it shows how important it is to bring to greater visibility women's experiences and views as a core part of public discourse.

2.0 Defining the Legislative Framework for the Review Process

One of the most challenging issues confronting women in Kenya was negotiating their way into being at the centre of the review process in order to define the legislative framework and the structures that would guide the review process.

The story begins with Hon. Phoebe Asiyo Motion in 1997 when she tabled the first motion on Affirmative Action. This Motion called for Parliament to increase the number of women parliamentarians to eighteen. Unfortunately, the Motion was defeated - it is beyond the scope of paper to go into the arguments detailed in the Hansard. However, the debate was revealing in many ways. It not only demonstrated the hurdles that women in Kenya have to go through, but it also

brought to the forefront the level at which cultural traditions and power struggles between the various communities, men and women and other social groups are entrenched. Immediately after the defeat of the motion, women leaders met in Parliament and decided to wage an organized battle. The defeat of the Asiyo Motion was the beginning of a new, well coordinated Women's political Movement. It was a wakeup call that gave women the energy and unprecedented collective determination to walk together to negotiate for institutional, constitutional and policy changes in order to reclaim their space in political institutions such as Parliament, local authorities and political parties.

On 12th April, 2000, Hon. Beth Mugo and the women's movement, mobilised by the Women Political Caucus was back in Parliament with renewed energy to push for the 33 per cent critical mass not just in Parliament but also within local authorities. She had previously worked closely with the technical committee on Affirmative action that provided all the technical information required to the movement. Women's organisations and women leaders had now formed a formidable women's movement and were now ready to claim their place in constitution making. The motion was passed and forwarded to the Constitution of Kenya Review Commission (CKRC) which was about to start the process of negotiating for a new constitution.

At this point in time, women had identified what they considered critical for them to address if they were to find their place in the political and administrative institutions where they could name and label the world for themselves and for the nation at large. Affirmative action was now recognized as one effective way through which women would be able to move to the centre. It was the women speaking for themselves and bringing their experiences and knowledge into the public sphere.

2.1 Negotiating to and from the Centre

Women had already redefined for themselves the strategies to use to ensure that there would be a critical mass of women at all levels in order to ensure the development of a Constitution that would promote better social, economic and political order. Primarily, however, women also saw this as an opportunity to ensure that the issues which they had struggled for so long were finally entrenched in the New Constitution. Moreover, they were now ready to begin the long, political walk of negotiating to be in the process of clearly articulating their problems and making

sense of the world for themselves. Indeed, they realised that their experiences and knowledge of their status in society and the strategies to change this situation could only come from them.

The year 1998 saw the debate on the nature of the process that would review the Constitution. Parliament appointed a 25 member Inter-party Committee headed by the then Attorney General Amos Wako to seek the views of individuals and organizations on the amendment of the Constitution. Under the leadership of the Women's Political Caucus, Kenyan women negotiated for both their participation in the process and also the structures that would facilitate the review process. They therefore developed a system that would ensure that men and women as well as marginalised groups were able to influence the process. This entailed developing a district strategy and constituency-level structures to ensure maximum participation of the people. This was possible because they had negotiated their space in the drafting committee of the review process, known as the Sulumeti Committee. In essence, the 1999 Bill to review the Constitution was the most gender-sensitive instrument that Kenya could have integrated.

To this effect, during the drafting stage, women ensured the following:

- They supported a structure that ensured consultations with all Kenyans at all levels - from constituency, to the district and national levels;
- The Affirmative Action for women's representation at all levels was entrenched;
- Women's organizations as nominating bodies were entrenched in the law;
- 30 per cent of the 25 per cent of civil society representation went to women;
- 30 per cent of the constitutional review commissioners would be women;
- 30 per cent of the district representations at the National Conference were women. This ensured that at least one out of every three districts representatives were women.

These gains formed the basis for women's negotiations throughout the process and also ensured the development of a people-centred and women-friendly constitution. Women had finally created their space at the table where negotiations were being conducted. Moreover, these gains ensured that women were involved in the review process, in the CKRC, the National Constitutional Conference at the Bomas of Kenya, district representatives, at Constitutional Constituency Committees (CCCs) and as chairs of committees at the conference. Even at the committee of

experts that was to take up the final push, women's 30 per cent principle was implemented. When they arrived at the table for negotiations, the structures expanded, the hierarchical way of consultations of the people became more inclusive, there was greater involvement right from the grassroots levels and the needs of each of the different interest groups including those of persons with disabilities and minority communities were addressed. Women influenced the structures design and composition of those who would lead the process. More importantly, the experiences and knowledge of women became public legitimate knowledge thereby creating a product that was rich, new and inclusive.

Admittedly, this was not an easy process because even though Parliament had agreed in principle that women would be part of the process, it wanted to be allowed to decide which women would be involved in the process. However, the legal structures had given women the mandate to select exactly who would articulate their issues. When Parliament was denied the power to elect the women to the review process, the issue ended up in court where women's organisation that had nominated women commissioners stuck to their nominees and defended themselves in court. We shall reflect a little on the court process because it was also a new territory for both the judge and the counsel for the accusers. On 25th January, 1999, the High Court granted seven women leaders restraining the Attorney General from registering the five nominees nominated by the Women's Political Caucus. Justice Mary Angawa granted the women representatives four days within which to file a substantive application.

In court, it was argued that the caucus nomination was flawed, apparently because it did not cater for all the women in the country. The women lawyers representing the nominated commissioners further argued that those nominated did not represent the women in total and that 'the caucus was neither registered as a society nor did it exist by an act of parliament.'³ The former President Daniel arap Moi also criticised the nomination of women commissioners saying that they could not represent rural women.

Justice Aganyanya had a hard time trying to distinguish between women's groups, community based organizations, women's organizations, etc.

3. The People Daily, Wednesday 27th January 1999

The accusation was that the nomination of the five commissioners, namely; Phoebe Asiyu, Nancy Baraza, Abida Ali Aroni, Salome Muigai and Prof. Wanjiku Kabira was not proper and that the nominations should be revoked and the process started again. For the judge and Steve Mwenesi the counsel for the accusers, this was unprecedented territory since they did not seem to understand the complexities of women's organizations. Conversely the defence lawyers led by Racheal Omamo and a host of FIDA Lawyers were in familiar territory. This was their world, a different world from that of Steve Mwenesi and Justice Aganyanya. The media had a field day. Even the then president of Kenya His Excellency Daniel Arap Moi talked about the issue in public. The judge castigated those who were discussing the matter in public while it was in court. He ruled that the women Commissioners were properly nominated and subsequently upheld their nomination.

It is clear from this discussion that our knowledge of the world is skewed. As Achebe would say, "Until the lions learn how to write, the hunter will continue to tell his/her own story." Men, women and other categories have to collectively make sense of the world. The product of this process also justifies what we said in the introduction to this paper that using African women's knowledge and experiences to inform policies is necessary if we want to, not only open up democratic space but also to develop people friendly, people centred policies and institutions for our region.

This struggle by the women and the successes therein, in naming the world for themselves, and for their society, clearly demonstrates the need for the invisible African women's experiences and knowledge to come to visibility and influence the way we think, the way our institutions operate and public knowledge that influences our policies.

The new constitution is rich in its provisions to deal with women's practical and strategic gender needs, as well as the interests of many minorities and marginalised groups. The provisions have expanded the Bill of rights including Social/economic and cultural rights.

The fact that women had spoken for themselves had negotiated their place in the review process, had decided on their representatives, had nominated their commissioners to CKRC or added to shaping both the product and the process of

the new constitution their visibility, their knowledge and experiences made a significant contribution to both the process and the end-product in the form of the 2010 Kenyan Constitution.

3.0 Methodological issues

As we said in the introduction, traditional theories and methods reflect our values and assumptions in society. This is reflected in the way we set our research agenda, determine our priorities, ask questions and validate our methodologies and even verify results. However, our societies are gendered and we have biases that sometimes limit our view of the world. We therefore believe that appropriate methodologies will be necessary to ensure that the invisible knowledge and experiences of women are captured and influence the policy and legislation as well as structures and institutions we create. It is therefore pertinent to reflect on the different methodologies that would be considered appropriate for women developed results that enriched the new constitution.

3.1 Harvesting of the views

As women spoke, on many occasions, it was not unlikely for us to hear more than twenty men before a woman could get courage and volunteer to speak and give her views. When men spoke, they often spoke with authority and with confidence. Women often, were slow in express their views as individuals but they never the less presented themselves. In the case of Women's groups and women's organizations, the women had prepared memoranda on all the issues they wanted to present to the commission. Women's organisations had carried out civic education in line with the programme of the C.K.R.C and also on the women's own volition.

As a number of individual women told their stories, they often apologized for not knowing whether what they were saying and often had to be assured that whatever they said made sense. This was understandable because women have not been given opportunities to express themselves in political processes including negotiating a new constitutional dispensation. When women sat separately from men, their expressions changed, their kindred spirits emerged, and they laughed at themselves, at men and joked about culture, as a whole. They would laugh and encourage each other to speak. One woman would start a story and another one would pick it up and the third woman would also add her story and they would create one story instantly.

It was absolutely amazing how women told one story as if they had rehearsed. It is not unusual to see women feeling powerless, doubtful themselves, giving up their creative lives, uncertain and faltering when they speak in the presence of men. They have lived in a world where the source of public knowledge about them has been men.

During the review process, women were given an opportunity to name the world for themselves and their nation. Men have articulated women's needs for centuries and the church had not realised that women had begun naming the world for themselves. This process shows that if we want to bring the women's experience, perspectives and knowledge to inform public policy and for us to do this we have to address the question of methodological tools that facilitate the articulate and harvesting of women's knowledge and experiences.

3.2 Naming the Problem

W.E.B Du Bois in his *Souls of Black Folk* (1904) referring to the problems of the black people in America says;

Between me and the other world, there is ever an unasked question: unasked by some through feelings of delicacy; by others through the difficulty of rightly framing it. All, nevertheless, flutters around it. They approach me in a half-resistant sort of way, eye me curiously or compassionately, and then instead of saying, 'How does it feel to be a problem?' They say, I know an excellent coloured man in my town; or I fought at mechanics Ville; or do not these southern outrages make your blood boil?⁴

Women in the review process had to explain themselves to the rest of the society members. Many can resonate with the message from W.E.B Dubois. In some cases, men are afraid or are not sure what to ask the women when they keep talking about affirmative action. They think it is a delicate question or why you talk about being marginalized all the time. They wonder what your problem is and you live in a world where democracy is the system that is "practiced". If you look at their faces, you can tell that they sympathize with you but are not sure what the problem is. They want to

4. W.E.B Du Bois, *Souls of Black Folk*,(page 213)

ask you how it feels to be a woman, but they are not sure how you will receive the question. So they look at you and do not know what to say or ask.

Du Bois in his essay *“Of our Spiritual Strivings”* (1903) observes that it is like looking at the world through others people’s eyes or through a veil. Women have had to do comparative studies, criss-cross Europe, Asia, America and the rest of Africa looking for data to support their proposals. They have had to prove to the rest of the people in the process that what they were proposing was not from the moon. They had to respond to questions such as: why do you want to be represented by women? Doesn’t a Member of Parliament represent everyone?

One of the reasons why women’s knowledge and experiences have remained outside public knowledge and policy formulation is because the methodologies and knowledge development models have not come up with tools and appropriate methods that can capture these experiences and bring them to visibility. The Kenya Constitutional Review process has shown that women’s knowledge and experiences when harvested through appropriate methods can be brought to greater visibility and influence policy and institutional development.

Women have consistently argued that people have and must have the right to participate in their own governance and in the process of their own social, economic and political transformation. This belief in the right of the people to participate at all stages and in decisions that affect them guided our debate on devolution. Their right is reflected in the chapter on principles, goals and values, principals guiding devolution and chapter on the representation of the people, legislature, and other chapters. We argued that participation of the people is both desirable and a right because in the process of participating, the people learn, influence and shape their lives. They may/should get rid of attitudes of silence; accommodation and passivity, and therefore gain confidence and abilities to alter unjust conditions and structures. This belief in the capacity of the people to transform their lives recognises the power of the people to learn through action/participation and creates and promotes construction of practices that strengthen hope and growth of human spirit. It is therefore important to reflect on methodologies, models and tools that ensure harvesting of women’s experiences and knowledge to bear on the product.

Among those methods that worked well was engagement with the communities

through Civic Education. This process gave women an opportunity to debate their issues and prepare memoranda for presentation at the hearings. The process gives women the confidence they need to clarify the issues, and develop a collective ownership of the proposals. It also gives them an opportunity to identify among them, those who would present their views.

Women-only sessions also provided some unique opportunities. During these sessions, women became more personal, spoke freely about gender based violence, their vulnerability, and their desire to have their rights upheld among other issues that affect them. This was the case at one sitting I had at Bura (Garissa), where Muslim women were able to express their concerns on problems at the domestic level and similarly of the young women from Nyanza, Ndhiwa constituency. There was also another “women only” session from Bomet in the Rift Valley Province where women spoke their hearts out and yet another at Kapenguria, also in the Rift Valley. Women shared certain intimate details in the private sphere that they would never do in mixed sessions.

Utilisation of Gender aware data collection tools and methods was another strategy used. This involves having gender awareness perspectives and skills that allow the collector of the views to recognise the different ways by which men and women speak and allowing for flexibility and patience as well as asking the right questions and allowing women to speak the way women speak. This means that those collecting information at all times are aware of the different ways men and women communicate, the way they perceive the gendered world and what informs the different perspectives. Tools for gender aware data collection will be critical. Women for instance respond better to case methods than questionnaires and respond to questionnaires differently from men. As mentioned in the introduction, the questions we ask and how we phrase the question, the time we give the individual to respond, the language of the question all need to take gender into consideration. On methods of analysis which involved gender awareness in the analysis of the views, being able to deal with sex disaggregated data and identify the male female perspectives and distinguishing between practical and strategic interests and needs of both men and women. This too proved to be very useful.

It was important to utilise women’s structures and methods. Often, women whose concept of power may differ from that of men would use their structures to get to the

negotiating table. These structures are not in the public sphere and often are considered not legitimate and are relegated to the periphery. These structures including women's organisations, women's technical committees, and women's negotiating teams, women's groups and other networks women used both to mobilise and negotiate for their issues. It was evident that women had never attended such an important national conference as the Bomas Conference. It was highly political and guided by regional and ethnic interests. However, they were up to the task and lobbied and negotiated.

We shall use example of negotiations at Bomas to illustrate the methods women used to get their proposals adopted by the conference at committee levels and by the committee of the whole house i.e. plenary. The women representatives demonstrated that they had skills to negotiate, qualities and personalities needed to move their negotiations forward. These qualities included being skilled, prepared, accountable, positive and consultative. The qualities were seen in committees such as the *Committee for Representation of the People* where the women wanted to adopt *Proportional Representation (PR)* as an electoral process. They demonstrated their capacity to do research, to listen to other members of the committees, account to the women in the conference and let them know what was going on and adjust their positions accordingly after the constituents made alternative proposals. In addition, women consulted with the chairs of the committees often working under immense pressure while closely monitoring the ongoing debate.

As in the earlier negotiations of the processes namely Safari Park negotiations, women at Bomas Conference defined their problems at every stage, developed strategies to address the problems, negotiated with influential individuals at the conference and assigned roles and responsibilities to each other depending on the individual skills and experiences. Women called on experts to clarify the issues and advice them, organized meetings outside the Bomas Conference in order to consolidate and share their strategies and agreed to stick to principles but understand details for the purpose of pushing their case forward.

Women also formed teams of experts where mediating or negotiating teams were required, women identified those who would be listened to by the other teams, taking into consideration expertise, technical and otherwise, traditional attitudes that for instance allows older women to present their case to leaders, character of the

individual women and how the other side would view/accept their views among others.

Being focused, meticulous and detailed was another strategy that women used. Having the experience of knowing that their views are not part of legitimate public knowledge, women have learnt to be focused, meticulous and simple. They would collect all the necessary data, and take nothing for granted. This was the case as women negotiated in the devolution committee, committee on legislature, Bill of Rights and Constitutional Commissions. A look at these committee reports will tell you how detailed women were in negotiating, lobbying and ensuring that their issues were adopted by the conference.

One of the key debates, as mentioned earlier, revolved around Proportional Representation (PR) method or the District Representation for implementation of at least one third women's representation in the electoral bodies. Mixed Members Proportional Representation (MMPR) was proposed in order to accommodate various groups, including women. This appealed to women because the MMPR method was one that would promote better representation for the diverse groups, strengthen political parties and also ensure every vote counts. Women proposed this method after thorough discussions and analyses by experts on the electoral processes. However, it was clear to women that it would be difficult to achieve one third women's representation through this process without a lot of antagonism from the men whose minds were like concrete, permanently set on the majority system for national elections. It was also clear that the MMPR method was a system not fully understood by both the male and female delegates. Women had to drop this proposal as it was clear that the men would not buy it. Instead, they went the Ugandan route of district representation which had lesser resistance.

One of the most contentious issues throughout the process was devolution of powers. It was clear from Kenyans that the centralisation of power had deprived Kenyans of access to decision making power and to resources. Centralization of political power and power to distribute resources was wasteful as argued many times, it keeps the energy of communities locked up and frustrated. However, the debate was whether the country should adopt a devolved system within a unitary state or go federal so that the federal governments have both economic and political powers. However, there were many intrigues around the issue and it was not until

after 2005 referendum when women started giving serious thought on this matter.

After the proposed constitution was defeated in a referendum in 2005, women did not give up, they organized one of the biggest Women's meetings in Nairobi in 2006 where more than 2,000 women attended when the then Justice minister Hon. Martha Karua had tabled a bill that would increase the number of women by 50 per cent. Women held Road Shows through Nairobi starting from the Kamukunji grounds – the traditional place for those who have been fighting for Democracy. In addition, they had embarked on ***the Women's One Million Signatures for 50 Seats***. Within a week, women had collected close to 700,000 signatures and 42,000 petitions from all the 210 constituencies.

On the day of debate on the Bill, women presented the 42,000 petitions to the late Ndindiri, the former clerk of the National Assembly. It was the first time in the history of the Kenyan Parliament that a petition had been taken to Parliament by the public. Many parliamentarians however, boycotted the session and so the bill could not be debated.

4.0 The transformative power of Women's experiences and knowledge

Looking at the issues and methods that women used in defining the framework for the review process, and in influencing the women's participation in negotiating the double covenant it was clear that: Women operating from the centre, where their views and knowledge is shared will shape policy products and institutional frameworks that are richer and more inclusive. In addition, the visibility and utilisation of their knowledge and experiences will bring into the negotiating table a more holistic product. Their focus on lobbying, negotiations and consultations will create peaceful process that are good for our young democracies and utilising these skills will broaden our knowledge of our societies and ourselves and expand our understanding of concepts such as democracy and human rights.

The new constitution ensures recognition of the ethnic, cultural and religious diversity, outlaws discrimination, conferred Affirmative Action for women's rights to participate in elective and appointive bodies, proposes not more than two thirds of either gender should be in appointive or elective bodies, equal rights to citizenship

for women and men, protection for women in relation to motherhood, pregnancy, equal rights in marriage, among others benefits. This process has clearly shown that bringing women's perspectives, world view, experiences and knowledge to influence policy and legislative frameworks will create a more inclusive and less hierarchical structures in our societies.

5.0 Deconstructing knowledge and expanding democratic theory and practice.

Frene Ginwala in her forward in *Women in Parliament Beyond Numbers* (1998) observes that:

The seeds of democracy lie in the principle that the power to make decisions about people's lives, society and their country, should derive a choice by those who will be affected. For many centuries, the basis of this legitimacy was limited and many were excluded from making a choice: slaves, those without property or formal education, those not "civilized" or not part of the dominant culture or religion in society, people of colour, of a particular race, of ethnic group, indigenous people of countries and overwhelmingly women.⁵

It is evidently clear that participatory democracy must take into consideration the voices of those who will be affected by decisions being made. Conscious and deliberate steps must be taken to ensure that even the minorities or any other disadvantaged group that were initially marginalized are included in decision making processes and mainstream development processes. This is based on the fact that any laws passed affect these groups that were deliberately left out by the definition and operationalization of the ideology and theory of democracy. In return, the same groups are expected to adhere to the rule of the game made without their participation.

There is need to clarify women's ideology, and philosophy, distil the knowledge gained from our experiences and form flexible inclusive structures that women have been creating at the national and grassroots levels. One can easily argue that the structures women have created to move this process forward including the formation of: Affirmative action committees; National women's negotiating teams; National women leadership forums; National women's coordinating committee;

5. Frene Ginwala in her forward in *Women in Parliament Beyond Numbers* (1998)

National Women's Committee on the Implementation of the Constitution; Technical committees for the review process; among others have been inclusive, horizontal, and dependant on individual commitment.

It is clear that women's knowledge and experiences have given birth to a more holistic constitutional dispensation. It is for this reason that issues of land, inheritance, basic needs of water, health, food, security, education among others, gender based violence, traditional cultural practices harmful to women, gender equality and citizenship have been at the centre of negotiations and have found their way into the new constitution. In addition, Affirmative action for women representation at all levels, with clear percentage of not more than two thirds of either gender has been constitutionalised. Focus on the rights of the elderly, social economic rights, rights within marriage, and reproductive health rights, property ownership and issues of succession and inheritance, cultural diversity, ethnic, regional and communal rights, good governance, culture, the family, girl child education, rights of vulnerable groups like persons with disabilities, equitable distribution of resources, environment and natural resources and rights of minorities are at the centre of the new Constitution. Many of these issues are reflected courtesy of women's participation in the review process.

Women also focused on institutions of governance and made sure that they presented their views on electoral laws, powers of the president which they wanted reviewed, devolution of power to lower levels of government, judiciary, legislature and Constitution Commissions. However, unlike the issues in (5.0), this area was not very well focused on by women until after the 2005 referendum. It was clear to the women that issues of devolution which focused on creating devolved units of government that would control resources at lower levels and that of the nature of the executive that Kenya would adopt were the main reasons why the proposed constitution (2005) was defeated.

A look at many verbatim records tells you that women were looking for institutional governance structures that will ensure equitable distribution of resources, promote fairness, irrespective of individual and collective rights.

The stories of women during the constitutional review process were also stories of day-to-day struggles and demonstrate women's determination to change their

situation. They focused on basic needs of their communities, on food, shelter, clothing, education, health, security and representation. During this period women expressed themselves and participated in one of the greatest moments in the history of Kenya. It becomes clear that they had identified and named their problems. They had spoken, loudly and clearly on the problems they face in their daily lives. Their knowledge and experiences have given birth to a more comprehensive, people friendly constitution. Indeed, the challenge now falls on how to effectively implement the new Constitution.

6.0 Conclusion

As I have reiterated throughout this paper, it is important for us to focus on women's experiences, women's world views, and create new knowledge, new frameworks for promoting democratic process in Africa because, as Audrey Lorded says: "The master's tools will never dismantle the master's house."⁶ We therefore must take the struggle further and women leaders, women academics and women lobbyists must identify critical tools of analysis and prepare the agenda for dismantling patriarchal institutions ensuring that women's experiences, women's structures and philosophy that is now entrenched in the new constitution is utilised to transform the institutions we create and philosophies that breathes through the new constitution.

It is important for us to recognize that institutions and ideologies guiding the institutions' philosophies, on which they are based, reflect the interplay between historical practices and the masculine and male ideology that is reflected in political and social culture. The foundation for the journey to social transformation has been put in place in the new constitution and as Margaret Ogola says in *The River and the Source*: "For the great river starts its journey as a little stream which at first meanders around without any apparent direction, sometimes disappearing underground altogether, but always there, always moving towards the sea"⁷

The women's quest for visibility and deconstruction of knowledge will continue to flow. *Women of Kenya have said the centre of gravity must shift so that institutions become more inclusive, more accommodating and more appreciative of views and perspectives of women and other socially excluded groups.*

6 Ruth Whitney, "Feminism and Love" Transforming our lives and our world p 126

7 Margaret Ogola, *The River and The Source*, page 71

The great river of knowledge will be fed by many tributaries and will be richer and fuller. She will nurture all those who form the mainstream. In turn, the mainstream will change because it will have been expanded and enriched by fresh waters. The Kenyan review process has brought women's knowledge and experiences to the process of naming, labelling and making sense of our world, our social order within the new constitutional dispensation. Women's knowledge and experiences now form part of public and legitimate knowledge. In searching our paths towards *Feminism and Development in Africa*, the starting point must be women. They know their history, experiences, world and knowledge. They can interpret their dreams for our communities and our continent. They know.

7.0 References

- Ba, Mariama. *So Long a Letter*. Heinemann Publishers, 1981.
- C.K.R.C. Verbatim Report, Constituency Public Forums, Narok South Constituency, Mulot Catholic Hall. Kenya. 10th July 2002.
- C.K.R.C. Verbatim Report, Constituency Public Forums, Narok South Constituency, Mulot Catholic Hall. 10th July 2002.
- C.K.R.C. Draft Constitution of Kenya as adopted by the National Constitutional Conference, verified by C.K.R.C. Nairobi, Kenya. 15th March 2004.
- C.K.R.C. Report of the mobilisation and outreach activities for the Kenya Review process. Nairobi, Kenya. 2001-2004.
- C.K.R.C. Draft Bill of the C.K.R.C. Nairobi. 2002.
- C.K.R.C. Verbatim Report, Constituency Public Forums, Kapenguria Constituency, Mtalao Municipal Hall. 27th June 2002.
- C.K.R.C. Verbatim Report, Constituency Public Forums, Fafi Constituency Bura, Garissa. 8th June 2002.
- C.K.R.C. National Constitutional Conference (NCC) plenary proceedings: presentations and debate on draft provision on Devolution Culture and Affirmative Action. Nairobi, Kenya. September 2003.
- Dubois, W.E.B. *Souls of Black Folk*. New York London: Pocket Books, 1903.
- Dubois, W.E.B. "Of our Spiritual Strivings." *Souls of Black Folk*. New York London: Pocket Books, 1903.
- Elieshi, Lena. *Parched Earth*. Dar es Salaam: E&D Ltd, 2001.
- FAWCETT. *Closing the Inequality Gap*. United Kingdom. 1966.
- Ginwala Frene. "Foreword (1998)." *Women in Parliament: Beyond Numbers*. Eds. Julie Ballington and Azza Karam. IDEA: Stockholm, Sweden, 2005.
- Harvard Business School. *The Harvard model Gender Analysis Framework*. Boston, Massachusetts, United States, 1985.
- W.M. Kabira and Akinyi Nzioki (1993) "Celebrating Women's Resistance," New Earth Publications, New Earth Publication Nairobi.
- London School of Economics. *The Policy Approaches to Third-world Women often referred to as the Caroline Moser's Framework*.
- Longwe, Sarah. *Women's Empowerment Framework*. 1990's.
- Ogola, Margaret. *The River and the Source*. Nairobi Kenya: Focus Books, 2004. *People Daily*, Wednesday 27th January 1999
- Spender, Dale. "Model knowledge Making; Anne Oakley research" For *The Record: The Making and Meaning of Feminist Knowledge*." London: Women's Press Ltd. 1985.
- W.M. Kabira (2011), "A Time of Harvest: Women and Constitution Making in Kenya-1992-2010" University of Nairobi Press.
- Whitney, Ruth. *Feminism and Love: Transforming Ourselves and Our World*. Notre Dame, India: Cross Cultural Publication Inc. 1998.