RIGHTS OF WOMEN IN THE WORKPLACE:
INTERNATIONAL HUMAN RIGHTS AND LABOUR
LAWS AND THEIR IMPACT ON KENYAN LAW

BY

SARAH W. NGETHA

UNITED STATES INTERNATIONAL UNIVERSITY-
AFRICA

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UNITED STATES INTERNATIONAL UNIVERSITY-
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SPRING 2015
STUDENT’S DECLARATION

I, the undersigned, declare that this is my original work and has not been submitted to any other colleges, institutions or university other than the United States International University Nairobi for academic credit.

Signed_________________________ Date_________________________
Ngetha Sarah W. (621563)

This project has been presented for examination with my approval as the appointed supervisor

Signed_________________________ Date_________________________
Dr. Michael Kirubi, PhD.

Signed_________________________ Date_________________________
Dean, Chandaria School of Business
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ABSTRACT

All over Africa, women are a strong force for growth and development, making important contributions to the economy as well as playing a major role in the welfare of the family. However, the cultural hindrances in the workplace do not allow flexibility for the working woman, who still remains the primary care-giver in the home and society.

The main objective of this research was to find out how well protected the working woman is, at her workplace based on international laws treaties signed and ratified by the Kenyan government and Kenyan labour and human rights law. The research was based on the following questions: the obligations state parties have to upholding of the international laws and treaties they have signed and ratified, the challenges women face at the workplace and what provisions have been made within the Kenyan constitution to protect the rights of the working woman at her workplace.

The research methodology used was descriptive and specifically, interview and the survey methods. The target population was women working within the NGO world, public and private sectors and two figures of authority in the areas of Kenyan constitution and international law. Convenience sampling was used to determine the ideal sample size from the target population. The research wholly relied on primary data. The data was collected using interview questions and a questionnaire that was administered to the sample population. The collected data was analysed using descriptive analysis and presented in tables and figures. The data was analysed using the Windows based software Statistical Packaging for Social Sciences.

The findings of the study on the first research question; obligations of state parties to the international laws and treaties they sin and ratify indicated that the domestication of these treaties was entirely the prerogative of the party state. Though there are mechanisms that hold states accountable based on the committees of the specific treaties, they are not well equipped to handle cases of errant members. It was also found that, despite there being a clause within the new Kenyan constitution in Articles 2, 3 and 4, to automatically nationalize international law, the effort from the government is lacking owing to various reasons, from ignorance of these laws by the legislative and executive arms and lack of awareness of the same laws by the general citizenry.
The findings of study on the second research question; challenges women face at the workplace showed that there is indeed a gap in gender equality and the protection of women’s rights at the workplace. It identified the following issues as the main challenges facing women in the workplace: Gender discrimination and stereotyping, promotions and advancements, difficulties in maintaining the work-family balance and unhealthy competition between women.

On the findings of the study on the third and final research question; provisions made in the Kenyan laws by creating awareness of the rights of women at the workplace and how well the same are implemented within the HR policies showed that there was an inadequate knowledge of Kenyan labour laws and most of the women who were aware of these laws, stated that the laws were poorly implemented and did not think that there were adequate provisions made within the Kenyan law or the HR policies to protect their rights at the workplace as women and working mothers.

Following the findings of this research, adequate conclusions regarding the same have also been made, which can be captioned into three segments; short-Term, continuous and long term. The short term recommendations felt to be relevant and adequate are, developing and maintaining effective standards to be set in the workplace and ideally within the law. Recommendations that are expected to be continuous are proper capacity building of both men and women at the workplace and at every other societal level. Finally, long term recommendations will focus on creating an efficient and effective reporting system, where those who are aggrieved can have their cases listened to and attended to promptly.

The recommendations made after the findings of this study, were that there is a need for further studies be carried out to address the plight and rights of women who work in informal jobs within the rural areas and informal settlements, and those who work in unconventional jobs such as nannies and those who do menial jobs for survival in construction sites and road works, where there are no set work structures or a formal system to address grievances they might have on discrimination and/or sexual harassment, paid maternity leave and career development or advancements.
ACKNOWLEDGEMENT

First, I would like to thank the Lord God Almighty, the Author of my life for bringing me this far. It is through His grace and mercy that I have accomplished so much.

My most sincere gratitude to my research project supervisor, Dr. Michael Kirubi, PhD. for his patience, guidance and constant push to excel. This project is as good as it is because of him. Asante sana.
DEDICATION

To my late brother, Michael Kago Ngetha, you always saw the potential in me and never failed to say so, encouraging me to be my very best. You are dearly missed. To my father and mother, Mr. & Mrs. Ngetha, for molding me into the adult I have become, creating in me a sense of pride, confidence, dignity and self-respect. Your constant prayers have been my support. To Simon, my love and my pillar of strength, the encouragement and support you have given me all along has done so much to make me who I am. This is definitely for you. To my daughter Jasmin, my very heartbeat, I will expect you to beat this hands down!
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<table>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of all Forms of Discrimination against Women</td>
</tr>
<tr>
<td>CEO</td>
<td>Chief Executive Officer</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>HR</td>
<td>Human Resource</td>
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<td>MPC</td>
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CHAPTER 1

1.0 INTRODUCTION

1.1 Background of the Problem

The fight for gender equality and empowerment in Kenya has been ongoing since the colonial period, when women were left by their men folk to fend for themselves, as they (men) went out to fight in international wars and during the fight for freedom and independence. Due to ideological shifts brought about by colonialism, and economic need, women took the chance and went out to work in settler farms, hence becoming family providers and enrolled in school in a bid to get gainful employment and subsequently better pay (Roberts, 1995). Even with this move into the direction of intellectual and economic empowerment, women were restricted by traditions, which demanded them to be passive and submissive. Cultures that demanded them to go through traditional practices such as clitoridectomy, wife inheritance, forced and early marriage kept them from going to school or getting into any sort of paid employment since the role of the woman was strictly limited to child-bearing and family care.

The role of provider lay squarely on the shoulders of the man and any woman who took up this ‘manly’ role was frowned upon by society (Kanogo, 2005). Women have often been excluded from policy and decision making even though most decisions will affect them in the long run. It is imagined that the conditions of pre-colonial Kenya explain the reason why there is inequality between the sexes. However, although the roles of women were clear cut, they were not entirely locked out from the decision-making process. Instead, the women formed their own caucuses and made decisions that affected the whole society (Khasiani and Njiro, 1993).

All over Africa, women are a strong force for growth and development, making important contributions to the economy as employees and entrepreneurs, and playing a major role in the welfare of the family (Ellis, A., Cutura, J., Dione, N., Gillon, I., Manuel, C., & Thongori, J., 2007). The nature of today’s workforce is changing in dynamic and important ways. The social and economic revolution has seen more women enter the workforce. However, the cultural hindrances in the workplace do not allow flexibility for the working woman, who still remains the primary care-giver in the home and society.
The traditional view that women are the sole primary care givers hinders them from advancing comfortably in their careers without compromising their motherhood, and vice versa. There are a sizable number of women clamoring for positions and jobs that were previously considered a reserve for men. Though not entirely embraced, gender equality, equity and empowerment seem to be coming to the fore and revolutionizing not just the workplace, but also entire societies. Demand for family roles to be switched is on the rise as more women join the formal labour market and men tend to want to spend more time with their families (Lewis & Cooper, 1993).

Employment laws in Kenya have over time changed to accommodate the modern labour market and work in tandem with the international labour laws and human rights. Kenyan women are well represented in the labour market. With more than 88% of men and 78% of women, in the labour force, it can then be concluded that there is a sense of equality within the Kenyan labour market (Ellis et al., 2007). However, gender discrimination is still rife within the formal sector, with women being subjected to sexual harassment, lower remuneration as compared to their male counterparts in the same positions, and being a minority in policy making, decision-making and legislative institutions.

The Kenya Ministry of Labour in conjunction with the International Labour Organization, worked to produce six new laws that would see gender equality practiced. Employment Rights Act 2007 promotes equal employment opportunity by shunning any form of discrimination whether in policy form or practice (GOK, Employment Act of 2007). This Act also has provisions made for maternity and paternity leave and full pay during this period. However, even with passing of this law, the rights of the working woman are yet to be fully catered for in the Kenyan legal system. These rights include, but are not limited to: Family-friendly workplace policies, these recognize that above all employees with families have a duty towards their families as they do their jobs. There should be provisions allowing for flexible work schedules that allow women to be productive at work and still manage their families’ welfare. The provision of clean and private areas for breastfeeding mothers to express breast milk and have cold storage facilities for the expressed milk must also be prioritized. There should also be a no-discrimination attitude towards women who decide to resume work after a long absence.

Employment laws have been introduced in the workplace over time in many organizations to provide better working conditions and protect the rights of employees
from exploitation by the employer. Abdulatif (2011) agrees that Equal Employment Opportunity (EEO) has been a topic of debate over the years in many local and international forums. Despite this, many are yet to clearly define the issues faced by working women and provide tangible solutions to the same. With so many years of academic analysis, prestigious international conferences, conventions on gender equality, and advances in feminism, the progress still remains painfully slow. With the few laws and policies enacted to ensure that equal employment opportunities are accorded to women as they are to men, working women continue to seek new, positive changes in workplace policies that will allow them to be gainfully employed and still enjoy their motherhood.

For a society to achieve gender equality and promote EEO, it is important to establish gender mainstreaming. Simply defined, this is a strategy for making women’s and men’s concerns and experiences an integral part of designing, implementing, monitoring and evaluating policies and programs in all political, social and economic spheres, so that both men and women benefit equally (Kenyan section of the International commission of Jurists, 2003). The main aim for gender mainstreaming is ultimately to achieve gender equality.

As a key component in organizational development, a woman’s wellbeing impacts significantly on her productivity. Unlike her male counterparts, a working woman serves both as an employee and a caregiver at home and is expected to give her best in both. Globally, the history of labour laws shows that women were not prioritized: thus, there was no way of protecting them against the pitfalls that came with their work. Often, a woman who came out of the traditional role and sought paid employment faced issues of sexual harassment, dangerous work environments, and lower pay as compared to her male counterparts (Roberts, 1995). To a large extent, Kenyan labour laws are scanty as regards working women or those women who seek to return to work after a long period of child care.

Every Kenyan citizen who is able has the right and duty to work in an environment that allows them to fully develop personally and professionally, and to realize self-actualization, regardless of their sex. Kenya is a member of international human rights bodies such as the International Labour Organization, has ratified 49 International Labour Organization Conventions and acceded to various international human rights laws. Such a
body requires that party states adapt the laws formulated and integrate them into national laws (Office of the High Commissioner for Human Rights; List of Kenyan Human Rights Treaties). Kenya is a signatory to some of these treaties and conventions, but has quite a poor record in international human rights progress reporting. Even those cases that have been submitted are lacking in detail and illustration of the real situation on the ground. The domestication of these international treaties and conventions has been a very slow, minimal and hardly impressive process. The few that have been domesticated in our national labour laws, such as the International Covenant on Economic Social and Cultural Rights (ICESCR) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), have been heavily watered down and the meaning of the human rights laws lost (Houghton, 2005).

This study seeks to create a timeline, which will explore the advances made, and loopholes within Kenyan labour laws vis-à-vis the international human rights and labour laws requirements as far as domestication in policy and practice is concerned, and how this then impacts on the rights of women in the workplace. Every woman is entitled to her rights as a worker and as a mother and should not be forced to choose between the two. This study will further seek to find and recommend how loopholes within our legal system can be addressed and thus attain gender equality and empowerment. It is only when the government addresses these issues that they will eventually be effectively applied in the workplace. Managers need to realize that the needs of the workforce are changing and shifting towards dual-earner families and employees who require being more involved in family life and functions. The traditional male work ethic is no longer applicable, where the man worked long hours while having a fulltime housewife in the background. The ideal employee was and still is, to a large extent, one who works continuously and with no breaks to achieve set targets. This workaholic environment is no longer conducive for a woman with a family or the one is considering raising a family of their own.

1.2 Statement of the Problem

Most research done on gender goes around the question of inequality in general. The impact of the empowerment of women on society is a general study. Little research has been done on how the current international labour and human rights laws are relevant to the national laws and subsequently can be applied in the workplace to ensure that women
advance in their careers at the same pace as their male counterparts. Until the very recent passing of the new constitution, Kenya did not have an automatic domestication clause for ratified treaties and conventions (Gender Gaps in our Constitutions. Women’s Concerns in Selected African Countries, 2002). Therefore, though the laws exist on paper, they are not applied in policy or practice: herein lies the problem.

This study seeks to address this gap in policy formation and practice that has been identified by various other studies that have addressed other issues that are pertinent to gender equality. Khasiani et al., (1993) analyses the history of the formation of women’s movements in Kenya and how they have eventually led to an improvement of gender equality and women empowerment. Such movements have seen the birth of organizations such as the Federation of Women Lawyers (FIDA), MaendeleoyaWanawake Organization (MYWO) and a myriad of others that push for the involvement of women in politics and policy formulation, and against violence and sexual harassment against the girl-child.

This study therefore seeks to address the academic gap, where very little has been written on the implications of international and local law, on the rights of the working women and how an infringement of their rights affects their productivity.

1.3 Purpose of the Study

The purpose of this study is to investigate the extent to which Kenya has domesticated International Human Rights and Labour laws, and how these laws impact on the rights of the working woman and subsequently on their organizational development.

1.4 Research Questions

1.4.1 What are the obligations of state parties that have signed and ratified international treaties?

1.4.2 What challenges do working women face in the workplaces that undermine their rights to paid employment and motherhood?

1.4.3 What provisions, if any, have been made in the Kenyan law to protect the rights of the working woman?
1.5 Importance of the Study

1.5.1 Law Makers

This study seeks to address the legal loopholes contained in the Kenyan legal system that seems to champion for the rights of women, but in reality still denies the woman realization of her full potential. It will shed light on past and present Kenyan labour laws regarding working women, especially those who are mothers. It will do this by comparing Kenyan law to the demands of international human rights and labour laws.

1.5.2 Human Resource Specialists and Employers

This study will attempt to make major contributions and push for radical change to the Kenyan legal system. Its findings and subsequent recommendations could eventually lead to the improvement of employment laws regarding maternity leave and revolutionizing the workplace to accommodate the working mothers.

1.5.3 Women’s Rights Organizations

It will seek to spur the Ministry of Gender, Labour and various women’s rights groups into action and pressure the government to domesticate the various international human rights laws it has ratified and acceded to.

These changes will impact largely on Kenyan women who for a long time have been subjected to working under the rough environment of a male-structured workplace or forced to make a choice between motherhood and employment. Women will finally have got a voice and revel in the family-friendly workplace, which will equip them with the ability to enjoy their rights as workers and mothers and subsequently make contributions to the advancement of the Kenyan economy.

1.5.4 Academicians and Researchers

This study will also be a contribution to the scholarly world that has so keenly dealt with gender issues and in particular the empowerment of women. It will seek to add to the wealth of knowledge as far as women empowerment and equal employment opportunity are concerned.
1.6 Scope of the Study

This study was wholly conducted within Nairobi, to work as the country’s representative, seeing that it is the economic, social and political hub of the country. This study targeted women working in various Kenyan organizations; within the non-profit, public and private sectors and personalities conversant with the Kenyan constitution, international law and foreign policy. This study was conducted between January 2013 and June 2013.

The research proved successful despite various limitations, such as late submission of the questionnaires by the respondents, this was solved by making frequent telephone calls and emails to serve as reminders. Getting a figure of authority in the areas of international law and Kenyan constitutional law and gender also proved to be a challenge as they were often busy and would cancelled set appointments at the last minute.

1.7 Definition of Terms

1.7.1 Acceding

Accede is an act by which a State signifies agreement to being legally bound by a treaty and is the same as ratification, though not preceded by a signature (UNICEF).

1.7.2 Clitoridectomy

Can be described as partial or whole removal of the external female genitalia, or inflicting of any other injury to the female genitalia in a bid to restrain sexual urges, or signify rite of passage into adulthood (World Health Organization).

1.7.3 Convention

A convention is a formal agreement between states (UNICEF, 1990).

1.7.4 Gender

This is the social process of dividing up people and social practices along the lines of sexual identities. (Beasley, 2005).
1.7.5 Gender Equality

States that all human beings are free to develop their individual abilities and make choices without limitations set by strict gender roles and that the different aspirations and needs of men and women are considered, valued and favored equally (Olgiati& Shapiro, 2002)

1.7.6 Gender Equity

This is the fairness of treatment based on gender, which could mean either equal treatment or different treatment but considered equivalent in terms of benefits, opportunities, rights, and obligations. (Olgiati& Shapiro, 2002).

1.7.7 Gender Mainstreaming

A strategy for making women’s and men’s concerns and experiences an integral part of designing, implementing, monitoring and evaluating policies and programs in all political, social and economic spheres, so that both men and women benefit equally (Kenyan Section of the International Commission of Jurists, 2003).

1.7.8 Gender Roles

These are set behaviours that are typically assumed or defined based on one’s sex (male/female) (Lips, 2008).

1.7.9 Ratification

This is an act by which states signify being legally bound by the terms of a specific treaty; this involves the state signing the treaty and then domesticating it (United Nations Children’s Fund, 2012).

1.7.10 Sex

A person’s biological make up. This can also be defined as possessing the male or female anatomy. (Lips, 2005)
1.7.11 Treaty

This is a formally concluded and ratified treaty between international entities (United Nations Children’s Fund, 2012)

1.8 Chapter Summary

This chapter gives an in-depth background on the rise of women into the labour market in Kenya. It also provided a justification on the need to study the rights of women at the workplace and how the Kenyan laws Vis a Vis the international labour laws are equipped to deal with the same. Chapter 2 is a literature review that will critically look into the requirements of the International bodies, the United Nations and International Labour Organization, in relation to the rights of working women, the challenges faced by women in the workplace and the provisions that have been made by Kenyan laws to protect the rights of women in the workplace. Chapter 3 will be on research methodology, which will provide the methods and tools that will be used to gather data. At the same time this chapter will define the population that the researcher will gather data from, how and why the researcher has chosen the said sample to be representative of the population targeted by the study. The researcher will also highlight the reasons why the specific tools will be used to carry out the data gathering. Chapter 4 will provide the main results and findings of the study. Lastly, Chapter 5 will present and discuss the resultant conclusions and recommendations of the study.
CHAPTER 2

2.0 LITERATURE REVIEW

2.1 Introduction

This chapter will review scholarly material written by other authors on the rights of women at the workplace and how international laws and treaties signed and ratified by member states impact on national laws. Although there are a myriad of authors and articles on the same topic, this review seeks to focus on three major areas; the obligations of state parties that have signed and ratified international treaties, the challenges working women face in the workplace that undermine their rights to paid employment and motherhood and finally what provision, if any, have been made in the Kenyan law to protect the rights of the working woman in the workplace.

2.2 State Obligations and Commitments to International Treaties

2.2.1 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

The journey to do away with discrimination against women by the UN was a daunting task. It started in 1948 with the formation of the Commission on the Status of Women and the Declaration of Human Rights. In 1967, the UN General Assembly adopted the Declaration on the Elimination of Discrimination against Women which sought to create clear definitions of the rights of women the world over and develop measures to ensure that they are implemented in countries (The United Nations and the Advancement of Women 1945-1995, 1995). In 1972, the Secretary General of the UN approached the Commission on the Status of Women to find out from member states if it was agreeable to have an international instrument on the human rights of women. The inception of CEDAW came at a time when the available International Human Rights laws did not adequately cover the rights of women (Ontario Women’s Justice Network [OWJN], 2009). In 1975, at the International Women’s Year World conference, the Convention on the Elimination of all forms of Discrimination against Women was formed (United Nations, Human Rights, 1994).

States that signed and ratified these declarations and conventions were then bound by international law to domesticate them and make them national laws. In the same breathe,
international law demands that any member State that has ratified or acceded to the Convention submit a report to the CEDAW committee under Article 18, within a year of entry into the convention, and at least every four years thereafter (International Commission of Jurists-Kenya, 2005). This is what has strengthened the impact of CEDAW, seeing that it has been subjected to weaker implementation obligations and its committee accorded fewer resources than other UN committees. This in turn ensures that the treaty was not just a piece of paper with a to-do list, but as something to be taken seriously in terms of policy formation and application in practice, an area Kenya has failed to implement adequately.

CEDAW was created to promote gender equality and give women the opportunity to advance themselves in all spheres of life. The purpose was to give women a voice, which would remove them from the sidelines and have them in the field as equal players to the men. Women are the driving force of any nation, economically, socially and politically, therefore it is only appropriate that the roles played by women in advancing societies be recognized and duly rewarded (Smith, 2005). Articles in CEDAW seek to protect the pregnant mother in the workplace, give women rights to own property, be free to choose marriage partners, inheritance, paid maternity leave and be accorded the same chance as her male counterparts to excel and thrive in the workplace. According to Ontario Women’s Justice Network (2009) CEDAW was also cognizant of the fact that culture and religion were key factors in establishing or downplaying the importance of the rights of women, and thus aimed to create sections that addressed all forms of discrimination, including cultural and religious.

Kenya ratified CEDAW in March 1984 without any reservations and therefore automatically agreed to all the contents of the Conventions (Office of the High Commissioner for Human Rights [OHCHR], 2010). Under this, the Kenyan law ought to provide for the rights of women in society and in the workplace by doing away with any forms of discrimination and making perpetration of any form of discrimination an offence punishable by law. Kenya has not yet ratified the CEDAW Optional Protocol, which provides for individuals to present their cases on discrimination to the international CEDAW committee. This means that, where Kenya drags her feet in policy formulation and implementation, then individuals who feel oppressed do not have a body or law they can turn to seek redress.
Despite the milestones that CEDAW has achieved this far since its inception, it still faces major challenges as far as its nationalization is concerned. States such as the United States have not yet ratified the treaty, despite having been signed by President Jimmy Carter on 17th July 1980 (LaRose, 2007), claiming sovereignty and security issues, in reference to the September 11, 1998 terrorist attack. According to Roskos (2003), most critics of the CEDAW treaty cite threats to national security and sovereignty, since the international treaties and human rights laws demand that once ratified, then the member State has an automatic obligation to fulfill the demands that are within the treaty.

Munson (2010) states that ratification of the CEDAW treaty by the US is imposing the demands of non-democratic states on those that are democratic. This is in view of the fact that the CEDAW committee has individuals from non-democratic countries such as Cuba, Nigeria, and Libya, just to mention a few. According to this author, Munson, this would mean that the non-democratic ideologies that are practiced in these countries would then be transferred to the democratic states through binding recommendations made by the committee and go against the grain of their constitutions.

According to Women, Power and Politics (2012), CEDAW was a Western creation and what might work in the Western society might not work in the Arab world. In the same breathe, it is argued that, the fact that CEDAW allows states to ratify and have reservations means that most have preferred to keep the status quo. This way they can choose which articles to domesticate and which ones they can do away with. In essence the requirements needed to make the treaty effective are ignored and the end result is a shallow watered-down national policy. Zhonghong (2008) reiterates this by stating that CEDAW is the one treaty that has so many reservations, and some of these reservations go against the object and purpose of the treaty, significantly reducing its effectiveness.

Rosenblum (2012) argues that the exclusive focus on women in CEDAW locks out the men and therefore is still discriminatory and in essence does not address gender equality since men are a part of gender equality. He states that for CEDAW to make sense then it must remove the express address of women and also include men, ideally “unsexing CEDAW”.
2.2.2 The International Convention on the Rights of the Child (CRC)


The CRC seeks to ensure the survival of the child right from birth and into adulthood, to develop the child’s full potential, protect them from abuse and neglect and exploitation and to enjoy full participation in family life, cultural and social aspects of the society (UNICEF, 2012). According to the Human Rights watch (2009), the child is free to express him/herself and be protected from sale, prostitution, involvement in armed conflict and child pornography. This protects the child from any adverse psychological, physiological and emotional trauma he/she might suffer in the event of being subjected to the afore-mentioned vices.

The CRC is legally binding to the states that ratify it, and requires domestication of the treaty and accountability from the member states. The reporting obligation of the treaty requires that States that have ratified the convention give a report within two years of ratifying and every five years thereafter (ICJ-Kenya, 2004). Article 4 of the convention reiterates that once a government ratifies it, then it is required to review their laws on children’s rights and ensure that measures have been put in place to protect that child from any form of human rights violations, including discrimination based on religion, ability, race or culture (United Nations Children’s Fund, Factsheet 2010).

Kenya ratified the CRC in 1990 and the subsequent Optional Protocols that protect the child against being involved in armed conflict as child soldiers and protection against the sale of children, child prostitution and child pornography. Kenya submitted its first report on the implementation progress in the year 2000, eight years after its ratification (Human Rights Watch, 2001). This means that the subsequent reports were late and had to be addressed in bunches. The delays in reporting are considered a barrier to sufficient
implementation of the treaties and a show of little or total lack of commitment (World Organization against Torture, 2006)

According to the CRC, the child has the right to grow up protected within a family setting, since the family is the fundamental group of society. It is the family that determines the adult the child will grow up into and subsequently the impact the child will have on his/her society. The convention therefore expressly notes that the parents play the most important role in the life of the child and should be a part of their growing up, unless forced by natural circumstances (UNICEF (2012). This means that a child should enjoy the presence of the parents and not have that attention taken away due to work constraints.

There should be mechanisms that allow for a comfortable work-family relationship. According to Article 18 (3), the States should ensure that the children of working parents are provided with adequate child-care facilities and services which will ensure safety and promote the well-being of the child (CRC, 1989). To this end then, it is important to note that in the absence of parents due to work conditions, then the child is deprived of the attention of his/her parents and proper guidance from the same.

The CRC has done a commendable job in ensuring that the rights of the child are taken care of by individual governments. However, over time critics have found issues with the convention. According to Amnesty International, USA (2012), it is feared that the convention gives too much liberty to the child and this could result in disrespect towards parents and disregard to society, this is in reference to Article 12, which allows the child freedom of choice and expression and receipt of any information the child would want access to. However, this is not necessarily true since the convention has put a lot of weight on the need for parents to guide their children and be the main responsibility bearers of the child’s needs. The convention is also thought to impede on the sovereignty of States by having this treaty imposed on their national law Amnesty International, USA (2012).

The relevance of this convention to this study is to show that the presence of parents in the upbringing of children to protect, provide and educate them is of utmost importance. Having both parents held up in their places of work due to lack of family-oriented/friendly organizations is forcing most parents to make the hard choice between their
career choices, fending for their families and enjoying parenthood. This especially impacts on the woman, who has to carry the load of being an employee and a primary caregiver. According to Goldsmith (2005), in this day and age parents are not only concerned by the quantity of time they spend with their children but also the quality of that time. Parents today are increasingly interested in being involved in their children's academic and social lives, enjoying each stage of their children’s development.

2.2.3 Maternity Protection Convention

The Maternity Protection Convention was put into force in 1919 No.3, as a brainchild of the International Labour Organization. This convention’s aim was to protect the rights of the pregnant mother and the breastfeeding mother (ILO, 2012). The rights were to safeguard the mother’s and unborn child’s health at work, by recommending that the mother should not work in hazardous environments, by ensuring that the mother went on paid maternity leave and that she could not receive dismissal before, during and after her maternity leave due to her pregnancy (ILO Maternity Protection Resource Package, 2012).

The subsequent revisions of the Maternity Protection Convention 1952 Number 103 and 2000 Number 183, put emphasis on the role that government and organizations should play in supporting breastfeeding mothers at the workplace. This was to be achieved through the provision of daily breastfeeding breaks or flexible hours to allow the mothers time to breastfeed (Women Alliance for Breastfeeding Action, 2012). This support for breastfeeding by employers has shown to greatly improve the loyalty, satisfaction and productivity of employees and is therefore an ideal practice, beneficial to the organization and the employees (International Lactation Consultant Association, 2012).

According to Kenya Law Reports (2012), Kenya has not ratified this convention but has only signed it. This means that the government has the choice of adopting the convention purely out of its own volition or not. However, through the Employment Act 2007, the constitution recognizes the need for paid maternity leave and has it at 90 days, as opposed to the ILO recommendation for 12 weeks, and 2 weeks paid paternity leave (Employment Act 2007-2). Having this law in place will mean that women will be given a chance to be employed and have a fair fighting chance as the men and at the same time will not be
denied the opportunity to take care of their families. In turn it will boost the morale of the women and contribute to an increase in their productivity.

2.3 Challenges Faced by Women in the Workplace

Many women are constantly entering the workforce, but the same number cannot be accounted for at the top, in managerial levels (Burke & Mattis, 2005). This part of the study will seek to understand some of the challenges that women face in the workplace that impede on their rights and subsequently hinder their career development.

2.3.1 Gender Stereotyping and Discrimination

The glass ceiling has been a major barrier that has seen many qualified women not rise the organizational ranks as fast as their male counterparts, despite being qualified for the positions. Burke & Vinnicombe (2005), describe the glass ceiling as the invisible but impermeable barrier that impedes the career advancement of women in organizations. The glass ceiling can be classified as gender stereotyping and discrimination since it locks out women from going up the career ladder.

The word ‘glass-ceiling’ was coined by a Wall Street Journal journalist, in a bid to explain the barriers women face when seeking top-level management positions (Lockwood, 2004). More women are going back to school in order to earn higher positions as CEOs and top level management, but are not getting the opportunity to utilize the skills they acquire in the workplace. The progress is made slower by the predominantly masculine organizational cultures which will sex-type jobs, where some jobs are specifically said to be for women and others for men (International Labour Office, 2007). In effect this discourages women who have made great academic achievements, but cannot apply the skills honed in the workplace (Locke, 2004). According to Cai & Kleiner (1999), most women managers are seen to possess less success attributes as compared to their male counterparts and are considered more people-oriented than the men who are task-oriented and therefore less capable managers than the men.

Lockwood (2004) affirms that most women hit the glass ceiling early in their careers only to find hindrances created by men, since most organizations are predominantly male run.
For a woman to survive such an environment, she has to automatically assume the behavior of her male counterparts. At the same time for a woman to go up the ranks, she has to prove herself beyond reasonable doubt that she is just as capable as a man.

Careers such as finance, law and science are dominated by men and most women in these fields are met with difficulties of lack of acceptance from their male counterparts, fellow women, her clients and the society at large. Even though more women are getting into these careers, the discrimination they face is still great (Patil, 2008). This can be explained also by the number of women who are actually enrolling to study these courses in the university. The percentage of men doing mathematics and sciences is relatively larger than that of women and vice versa for languages and humanities (Davidson & Burke, 2012). Often most women will fear putting themselves in a position that will subject them to rejection, even if it means giving up a career in a ‘tough’ profession in order to avert the snide remarks she might get.

2.3.2. Women are their Own Worst Enemies

This has been an age old adage, which shows how women downplay themselves and in effect hinder their own success at the workplace. According to Institute of Leadership and Management (2011), women normally set their sights lower than men. This is propelled by the socialization that the women have gone through. Women will therefore hesitate to apply for jobs that they consider challenging and carry high risk potential.

Despite the many opportunities accorded to them by the various laws, women still take the second-best positions despite complaining of being relegated to the sidelines. Case in point is the Kenyan trade union Central Organization for Trade Unions (COTU), where only three of its 33 executive board members are women. Most of the applications they received from women sought the position of deputy secretary-general and not many were keen on vying for the position of secretary-general (Barasa, 2012). This shows that, despite having made great strides to empower the women, they (women) still feel inadequate for the top jobs. In essence the only thing that stands between a woman and the realization of her full potential is she. Once this mentality is gone half the war towards attaining gender equality will have been won.
Apart from the lack of confidence women have for occupying high-risk positions, another challenge comes in at the negotiation table. According to (Bowles & McGinn, 2008), the gender wage gap has reduced over time but has not entirely disappeared. This is due to the methods applied by both genders to negotiate wages. The methods used by women to negotiate within the domestic setting are the same that are used in the work-setting. This is influenced by the fact that women are ‘structured’ to take charge of the home affairs while the men cater for the needs of the family economically. In this sense the man then tends to be more aggressive than the woman even at the wage negotiation table (Institute of Leadership and Management, 2012).

The wave of feminism and gender equality carried with it a wind of change, that women would be able to do what men could. But be it as it may, women have turned against each other and are the onestearing each other down instead of building each other. According to Kepcher, (2011), the women who have risen the ranks through struggle, right past the glass ceiling feel that other women at a lower level and seeking to go up the ranks should struggle as hard as they did, and therefore create barriers that hinder other women to achieve the same status as theirs. At the same time women employees tend to have a negative perception of women who have a higher job status (Patil, 2008), and therefore propagate the same gender discrimination they so vehemently fight. Patil, (2008) elicitates that a woman is expected to behave in a communal way, being nice and sensitive to others and any woman who does not, then is viewed negatively. Meaning that for the woman who believes that to achieve a higher job status then she has to behave in a masculine way and this is in turn percieved negatively.

2.3.3 Work-Family Balance

The achievement of balance between work and family is a quality that many strive to get but remains elusive. Work-life balance can be defined as policies that strive to better complement work and life. They seek to lift the pressure of both and strike a balance in a bid to improve the quality of life (Raymond, et. al., 2006). Traditionally, the woman is supposed to take up the role of the care-giver in the home. Over time, the economic landscape has changed and it has proven difficult to meet the cost day to day expenditure within the household on just a single salary. Women have therefore had to reduce their domestic and care giving responsibilities at home for paid employment outside the home (Gornick&Hegewisch, 2010). The role of the woman as a caregiver still stands, as it is
expected that, even as an employee, the family responsibility still lies squarely on the woman’s shoulders. Many women are overwhelmed by these responsibilities and are therefore viewed as inefficient, compared to their male counterparts who can easily focus more on career progression. Women are seen as not being serious or reliable enough to take up managerial roles, as it seems like their priorities lie toward nurturing the family (Pollard, 2012).

According to (Berheide, 1994), the enforcement of rigid work schedules and the need to put in more time at work, and the lack of family-sensitive workplace, tends to overwhelm women who are still looked upon to tend to the family. This greatly reduces the quality of life of women and will at some point negatively impact on their career advancement. Due to lack of flexible time, some women opt to start their own businesses so that they can be able to give quality time to their families, especially those who are married have elderly dependants and children to take care of (Rehman & Roomi, 2012).

According to research conducted by Rehman & Roomi, (2012), the women interviewed stated that it was easier to handle work if their husbands got involved in the household chores. For those who did not get support, achieving a work-life balance seemed to be an almost impossible task and they eventually ended up neglecting one. This goes to show that the support from a spouse alleviates the pressure that comes from life and enables the woman to give her best at home and at work.

With lack of a balance between work and life then, a woman experiences a stage where there is a work-family conflict. Eventually this leads to exhaustion, burn-out, stress and irritability and dissatisfaction with work and the family (Kreiner, Hollensbe, & Sheep, 2009)

2.4 Provisions Championing for the Rights of Women in the Kenyan Laws

2.4.1 Constitutional Review and Mandate

Before the new constitution was made law, there were no provisions made for domestication of international treaties that Kenya had ratified or signed, meaning that the international laws could take so long to be domesticated and therefore create barriers in the search for justice. Chapter 1 of the Kenyan constitution (2010), Article 2 (1) states that “Any treaty or convention ratified by Kenya shall form part of the law of Kenya
under the constitution”. This then ensures that any treaty Kenya will sign then automatically becomes law unless there are reservations.

The fight for gender equality in Kenya has been a long arduous task, which finally seemed to bear fruit with the inclusion of gender bills and the inclusion of the rights of women within the new Kenyan constitution. Arduous because Kenya is a largely patriarchal system, which believes that there are masculine and feminine roles within the society and no gender should take up the roles of the other (Odhiambo & Oduor, 2010).

The hosting of the Nairobi Forward Looking Strategies (NFLS) in Nairobi, July 1985 marked a turning point in the history of the rights of women in Kenya. It saw the rise of numerous women’s organizations that would constantly push for the honoring of the rights of women (O’Neil, 1986). (Nzomo & Kameri-Mbote, 2003) analyse the old constitution and affirm that it did not cushion adequately the women against gender discrimination. Section 82 of the constitution legitimized the traditional stand that women could not inherit land, they could not pass citizenship rights to their children or spouses and could not adopt children. The same section then seemed to advocate for discrimination based on ‘sex’, meaning that a woman could not challenge any discrimination against her based on her gender.

Mucai-Kattambo, Kababeri-Macharia, & Kameri-Mbote, (1995), argue that section 82 (3) denied women their rights outside their homes and in essence even in their place of work. It is during this period that sexual harassment in the workplace was common. This also meant that women could have no where to seek legal redress if discriminated against them in a workplace environment based on their gender. In this respect the old constitution was not in tandem with the requirements of CEDAW, which required a proper definition of discrimination that would encompass the rights of women and put in place an instrument that would be used to seek redress in court in case of discrimination. The Employment Act Cap 226, did not adequately cover the right of employment, though it had the generality of gender. But considering that there was a clause that condoned sex discrimination, then the meaning was all dissolved by this clause (Mucai-Kattambo, Kababeri-Macharia, & Kameri-Mbote, 1995).

With the drafting of the new constitution came a new dawn for women, one that would see their rights to gainful employment, property ownership, sharing of parental
responsibilities and the right to enjoy motherhood recognized. According to the 7th CEDAW report presented to the CEDAW committee, Kenya had taken huge strides that would see the rights of the women upheld (Government of Kenya, 2006). This was before the passing of the new constitution in August 2010 (Nzomo & Kameri-Mbote, 2003). Many women’s groups contributed towards the drafting of the new constitution, highlighting what they wanted addressed. From this process, it was clear that most wanted laws that would give the woman a fighting chance and accord the woman a level playing ground just like the men had. They wanted entrenched in the Bill of Rights the inclusion of “equality, non-discrimination, unity and tolerance for diversity, patriotism and inclusiveness, justice and peace as basic principles”. Doing this ensured that the laws would be constructed by women who best understood themselves and therefore were fair to all women across the social, economic and political divide.

The current constitution seeks to adhere to the requirement by making comprehensive laws that will follow the guidelines laid out in the international laws. Amongst them are maternity laws, sharing of childcare responsibilities between parents whether they are married or not; the right to employment without discrimination based on gender; and, quite recently, a Bill that would see the government championing for exclusive breastfeeding for six months (Odhiambo & Oduor, 2010).

The preamble of the new constitution of Kenya states that “recognizing the aspirations of all Kenyans for a government based on the essential values of human rights, equality, freedom, democracy, social justice and the rule of law” (the Constitution of Kenya, 2010). This recognizes gender equity which covers social justice, parity and fair representation of all people of Kenya (African Woman and Child Feature Service, 2010). The Kenyan constitution also seeks to adhere to the Universal Declaration of Human Rights that perceive all to be equal in this section of the preamble, further solidifying the rights of women in their various capacities and protects their rights even in the courts of law.

Chapter one of the constitution states that all sovereign power belongs to the people of Kenya. This means that the government will protect its people in accordance to the constitution (Kenyan Constitution, 2010). Article 2 of chapter one states that all other law is void under the constitution, meaning that even the customary and religious laws that bind women from exercising their freedoms and rights are automatically nullified by the
new constitution (Gender Equality Movement & African Woman and Child Feature Service, 2010).

2.4.2 Kenyan Employment Laws and HR Policy

The Employment Act (2007), Article 5 ensures that equality is observed by employers and the minister of Labour, labour officers and the industrial court, are bound by the law to champion for equal treatment of all employees and breaking of this law is punishable by law. The same Act also states that all persons shall be equally remunerated depending on the cadre and on merit if the job done. In effect this act seeks to ensure that there is equal payment of employees regardless of gender, race or disability. It also addresses the glaring wage disparities that have created the divide between women’s and men’s wages. This Act is in line with the international law standards that demand equality in employment and remuneration. However, this law does not adequately cover women who work in export Processing Zones (EPZ), as articulated by research done by the African Women and Child Feature Service, (2012). The women are overworked and underpaid which goes against the labour laws that dictate that the pay of an employee should relate directly to his/her cost of living (Labour Institutions Act, 2007). These women are subjected to living from hand to mouth and are forced to leave the bringing up of their children entirely to househelps.

Article 53 of the constitution states that every child has a right to parental care and protection, which includes equal opportunity to be provided for by both the mother and the father. Gender Equality Movement & African Woman and Child Feature Service, (2010) expounds on this article stating that the responsibility of bringing up a child should not be left to only one parent. This protects single mothers who struggle to fend for children who’s father’s have neglected their duties towards them, meaning that the mother works extra to cover the gap left by the father and might lead to her compromising the time spent with the child.

In a bid to put in checks and balances to monitor adherence of government, individuals and organizations to the rule of law and observe the human rights and equality laws, the Kenya National Commission on Human Rights (KNCHR) was formed under the umbrella of the Kenya National Commission on Human Rights Act was formed to act as an enforcement mechanism and is mandated to investigate on its own, any acts of human rights violations and to ensure that the rule of law is applied.
rights violations presented by individuals or groups of individuals, (The Kenya Human Rights Commission, 2010). Alongside the KNHCR is the National Comission on Gender and Development, whose mandate is to promote and protect human rights and especially those that are related to gender. They stand in the gap for individuals who bring petitions to them regarding unfair treatment or discrimination and guide them in seeking legal redress (Federation of Women Lawyers, 2011).

2.4.3 Awareness of Rights of Women at the Workplace

The constitution of Kenya gives women many avenues for women to realise their rights. Women no longer have to suffer in silence and can use the laws within the constitution to demand their rights as full and equal citizens. It gives women a right to be fully involved in politics, a right to employment and remuneration comensurate with their jobs and they have a myriad of bodies that will champion for their rights in court (African Women and Child Feature Service, 2012).

2.5 Chapter Summary

This chapter is a literature review of the material that relate to the research objectives highlighted in chapter one. Chapter three is research methodology, and will highlight the research design, sampling size, sampling frame and techniques, the methods of data collection and data analysis.
CHAPTER 3

3.0 RESEARCH METHODOLOGY

3.1 Introduction
This chapter covers the research methodology that the researcher used to collect, analyze and interpret the data that was gathered. It is divided into research design, population and sampling design, data collection methods, research procedures, data analysis methods and the chapter summary.

3.2 Research Design
The research design adopted was the descriptive research design. Descriptive research design attempts to answer the questions what, who, when, where and how (Cooper & Schindler, 2011). This type of research is used to facilitate the description of the phenomenon under study in order to establish the relation between variables. It is aimed at getting the correct descriptions of factors related to the problem being studied. It is also used to give perspective on current issues through collection of data which will allow for better description of an underlying issue (Fox & Bayat, 2007).

The researcher used the survey and interview method to gather data that would help determine the extent to which Kenya is held accountable to the treaties signed and ratified, the challenges faced by women at the workplace, and how far Kenyan laws have gone in cushioning women rights at work. In these methods, a representative sample was surveyed; this was done using questionnaires and interview questions (Collis & Hussey, 2009). The dependent variable for this study was the rights of the women at the workplace, while the independent variables were: the obligation if state parties to the international treaties and laws signed and ratified, women’s rights and the various challenges women face at the workplace that hinder their career development and joy of motherhood and the provisions made within the Kenyan human rights and labour laws to protect the working woman’s rights at the workplace.

3.3 Population and Sampling Design

3.3.1 Population
According to Collis & Hussey (2009), a population is a well-defined group of people or objects that are under scrutiny for the purposes of statistics or carrying out a research. The
population for this study was working women drawn from various industries and at different levels in their careers. They were picked from Non-profit organizations, private organizations and government institutions. The population size was 300. As for the questions that required expert opinion, the researcher picked 2 key expert individuals.

3.3.2 Sampling Design

3.3.2.1 Sampling Frame

A sampling frame is described as a list of elements from which a sample may be drawn (Sigmund et.al, 2010). The sampling frame comprised of fifty women to accommodate accessibility and variety. The respondents were from varied public and private firms. This ensured that the researcher gathered information from the non-profit, public and private sectors, which are the major categories in the Kenyan employment market. The source of the sampling frame was based on the researcher’s networks within the city. For the experts, the researcher handpicked 1 international law lecturer and 1 lecturer who was familiar with the new Kenyan constitution and gender equality progress in the country. The source for the lecturers was the USIU course catalogue and course advisor’s office.

3.3.2.2 Sampling Technique

The sampling technique describes the manner in which a sample of the data is used to be a representative of the whole population (Royal Geographical Society, 2012). The researcher used the convenience sampling technique, for purposes of availability of the required sample size (Palys, 2012).

3.3.2.3 Sampling Size

The sampling size used was 50 to be a representative of the population under research which is 300. This meant that this figure was relatively easy to work with, yet still provided data that gave the desired results, yet afforded a small margin of error.

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3.4 Data Collection Methods
The researcher mainly used questionnaires as tools to conduct the survey in different organizations, as it was an efficient and economical method and yielded a lot of useful information. However, one aspect of the study required an authority in the field of international law and one on gender and Kenyan law, therefore there was use of a Key Informant Interview (KII) was necessary. The interview questions for the KII were open-ended questions that sought to draw out as much information from the interviewee as possible.

The first question sought to gauge the familiarity of the interviewee with the international treaties and the other questions sought the expert opinion on matters law and constitutionalism in the implementation of the international treaties and laws, the willingness and capability of government to adopt and implement the same and what provisions have been made within the Kenyan constitution to address the rights of women at the workplace.

The questionnaires contained both open-ended and close ended questions. The open-ended questions allowed the respondents an opportunity to express themselves freely. The open-ended questions were focused on the respondent’s personal information, while the close-ended questions were more factual. The questionnaire consisted of three sections. The first section focused on the respondent’s personal information/ demographics, while the second and third sections consisted of workplace challenges women faced and the provisions if any made in the Kenyan law to deal with discrimination against women in the workplace.

3.5 Research Procedures
The interview was face-to-face and was conducted personally by the researcher. The questionnaires were handed out physically to the respondents by the researcher’s research assistants. The use of research assistants was to ensure that the sample size was adequately covered and was also more time efficient. The research assistants were taken through the questionnaires and trained adequately on the necessity of getting quality information out in the field. The pre-testing of the questionnaires was done with 10 respondents to ascertain the relevance and if they were easy to understand. Necessary revisions of the questionnaire were done based on the feedback from the pre-testing exercise. The purpose of the study was clearly explained to the participants and sought to
have their consent before they took part in the study. The researcher, went further to assure the participants of the confidentiality of the information relayed and gathered, no names were to be mentioned and the information gathered was strictly for the purposes of the study.

3.6 Data Analysis

Data analysis comprises of a myriad of methods used to deal with data obtained through surveys, observation, questionnaires or experiments. The purpose of data analysis is to get as much information from the data presented to the researcher on the issue being investigated (ILRI, Research Methods Groups, 2012). The data collected was first coded, edited, transcribed and the cleaned, for the purposes of accuracy. The researcher used descriptive statistics to analyze the data gathered from the respondents via the questionnaire. The data was presented in the form of figures and tables. The tool that was used to analyze the data was the Statistical Package for the Social Sciences (SPSS).

3.7 Chapter Summary

This chapter has provided an overview of the research methodology that the researcher used to collect data and how a sample from which the data was collected was arrived at. It also analyzed the tools of data collection and how analysis of the data will be done. The next chapter, 4 will be results and findings, where the data will be analyzed and interpreted to answer the research questions posed in the body of the research.
CHAPTER 4

4.0 RESULTS & FINDINGS

4.1 Introduction
The purpose of this chapter is to present the findings from the field data collected during the research phase of this study. Further, it will also present the analysis and synthesis of this data, as well as the issues of concern that will emerge. The tool mostly used in this analysis was data frequencies. The chapter is divided into an analysis of obligations of state parties that have signed and ratified international treaties, of the respondent demographic characteristics, challenges facing women at work, as well as the level and knowledge of labor law rights and HR policy in the workplace. It concludes with the chapter summary, where the emerging issues will be highlighted.

4.2 Obligations of State Parties to Signed and Ratified Treaties

4.2.1 Familiarity with CEDAW, CRC and MPC
The respondent interviewed as an authority in the field of international law, stated that he was familiar with the above-mentioned treaties; CEDAW, CRC and MPC. Although he was not an expert in the specific treaties, he had an idea on what they involved and the Kenyan government status on the treaties.

4.2.1.1 Obligations of the State Parties towards the Treaties They Have Signed and Ratified
As regards the obligations that state parties have towards the treaties they have signed and ratified, the respondent stated that there are no obligations cast in stone towards the treaties.

There are no sold mechanisms to enforce compliance or accountability within member states, whether they have signed or ratified the treaties or laws. Within each country, the prerogative lie solely within the party state to nationalize, domesticate and implement the specific laws or treaties they have ratified.
4.2.1.2 Can State Parties be Held Accountable to the Treaties they signed and Ratified?

According to the interviewee, there are no proper mechanisms put in place within the international arena to hold the member states accountable and to ensure compliance of the member states to the treaties and laws they have signed and ratified. He states that:

*Within each international instrument (treaty/law), there are committees and commissions that are set up to do follow-ups on the state parties commitment to the laws signed. However, these committees have no power and cannot impress upon the party state to commit to the reporting policy or sanctions for those states that do not adhere to the treaties or international laws they have signed and ratified.*

4.2.2 Influence of Kenya’s Foreign Policy on International treaties

With the inception of the new constitution in 2010, Kenya’s foreign policy has moved from being dualistic to monistic. According to the respondent, any law or treaty that Kenya signs, automatically becomes national/municipal law. This means that the international law or treaty will supersede national law and therefore, an individual who feels that their rights have been violated, can go to a Kenyan court and use excerpts of the international law or treaty signed to plead their case.

The interviewee observed that,

*The Kenyan executive as well as the legislative arm (parliament) ought to be well informed of the requirements of the treaties pending their approval as they directly impact on the national law. The laws and treaties signed must be seen to be in line with our national laws before they are approved of and signed into law. The treaties signed and ratified therefore should be done judiciously and not be used as a tool for diplomacy to please or garner favors from another party state.*

4.2.3 Challenges on the Implementation of Treaties

Each member state faces various challenges on the implementation of the international treaties. One interviewee stated that the biggest challenge in Kenya is a lack of understanding of the requirements of the signed and ratified treaties by the members of Kenya’s legislature.

She stated that:
There is an inherent lack of awareness on the part of the politician’s. The fight for gender equality does not interest the politicians. It does not sell their agenda or get them into parliament, therefore, even the national laws are not easy to implement, leave alone the international ones.

She further stated that the fact that there are few women in parliament means that there are less people to push for the passing of these international laws and domesticating them to benefit the common (wo)man.

It was also observed that the Kenyan constitution is still quite young and most Kenyans and legislators are struggling to interpret various clauses and articles to present day situations. The fact that implementing national law is proving challenging; the domestication of nationalized international law is also a dynamite field for the government. The priority lies in the general laws before any emphasis is put on the rights of women and the minority.

As regards the CRC and MPC, most women are not aware that such laws exist and so, have no way of making reference of the same, when seeking legal redress. The cost of taking a case to court, social stigma and the possible loss of jobs also discourages many women from having their cases addressed in a court of law.

4.2.4 Provisions in the Kenyan Constitution for Implementation of International Laws and Treaties

The interviewee stated that there are provisions made within the new Kenyan constitution, 2010, in Articles 2, 3 and 4 that allow for the nationalization of international laws and treaties that Kenya has signed and ratified.

Asked if he feels that the areas covered within CEDAW, CRC and MPC are properly implemented within the Kenyan law; he said that in his observation, they were not. He felt that most of the clauses contained in the conventions were watered down by the Kenyan legislature or by customary and personal Kenyan law. He further stated that the reasons behind this would range from lack of a proper understanding of the treaties to outright unwillingness to properly implement the said treaties.

4.2.5 Willingness and Capability of the Government to implement the International Treaties and Laws

On the issue of willingness and capability of the government to implement international treaties and laws, one of the respondents observed that the pendulum swung both ways.
Implementation of laws requires an availability of resources, human and financial. Both of which the government does not have an abundance of. Human resources are translated into a workforce that is employed to ensure that the laws are gazetted and put up in the public domain. There is also a need to establish legal systems to address the issues of gender discrimination objectively, just as there was an establishment of the family court to deal with the issues of child custody and upkeep. This would translate to training of the judiciary and publication of training manuals to that effect, on proper organizational systems, policies and procedures that need to be observed in the even that a court is handling a gender-related case, especially at the workplace.

She observed that:

*The government lacks the finances to establish courts and tribunals that will effectively handle cases based on gender discrimination at the workplace. There is also some unwillingness, since like peace, women issues will only be addressed when the need arises. Women issues are not considered national issues or voter issues.*

She went ahead to further explain her point, pointing out the watering down of woman lawyer Njoki Ndung’u’s sexual offences Act of 2007 and the sexual harassment claim by a lady who was working for a member of parliament, which disappeared from the public domain as fast as it appeared. She reiterated that women issues do not sell on media, so the political class does not put much emphasis on them.

The requirements of the CRC and MPC dictate that there should be creation of child centers at work to enable working mothers to pay attention both to her child and her work. As it is the government has left this prerogative to the various organizations. Given the need to remain investor-friendly, some of these requirements have been put in the back seat and forgotten.

**4.3 Respondent Characteristics**

**4.3.1 Age of the Respondents**

The findings represented in Figure 4.1. below, presented that 42% of the respondents were in the 25-34 years age bracket, 33% were in the age bracket of 35-44 years, 12% were in the 18-24 years age bracket, 10% were in the 45-54 years age bracket and 3% of the respondents were 55 years and above.
4.3.2 Marital Status

According to the analysis of findings in Table 4.1., majority of the respondents 60% were married, 10% of the respondents were divorced, while 30% of the respondents were single.

Table 4.1 Marital Status of the Respondents

<table>
<thead>
<tr>
<th>Marital Status</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Divorced</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Single</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

4.3.3 Level of Education

Another important demographic characteristic relates to education: over 46% of the respondents had achieved a masters’ level of education, while the remnant is shared among those who have attained bachelors at 32%, diploma at 12% and certificate levels at 10%.
4.4 Challenges Facing Women at the Workplace

The second research objective aimed at determining the various challenges women were facing at the workplace.

4.4.1 Gender Discrimination and Stereotyping

Firstly, approximately 11% of respondents “strongly disagreed” that they had never experienced workplace gender discrimination. Secondly, 32.3% reported that they felt that they had to work harder than their male colleagues in order to advance in their careers. However, over 62% of respondents say that, in their experience, their current organization’s culture adequately promotes the development of women’s careers.

4.4.2 Promotions & Advancements

The respondents surveyed for this study held various levels of positions within their organizations:

![Figure 4.2 Respondents’ Education Levels]

- Masters: 46%
- Bachelor’s: 32%
- Diploma: 12%
- Certificate: 10%
Approximately 43% of the respondents had worked for between one to five years in their current firms: the data shows that most promotions happened within this time. Of these, only 42% reported that they had been promoted at least once within that time. The average time between these promotions is one to two years. Further, approximately 55% of respondents either “agree” or “strongly agree” that their organization accords them continuous opportunities to grow in their careers, whether through training and capacity building, or promotions.

4.4.3 Work – Family Balance

Majority of the respondents replied that they either “agreed” or “strongly agreed” that they felt that their work interfered with their family commitments.
Spousal support was also another important variable, with majority of respondents saying that they “agree” that their spouse has played an important role in their career development.

![Spousal Support](image)

**Figure 4.5 Spousal Support**

This data points out an inherent organizational failure to foster a healthy work-family balance. When the respondents were asked why they felt that their work and family life objectives conflicted so often, many pointed out that the work times were not flexible enough to allow them to play both roles optimally. Further, the married respondents who gave a contrary opinion of spousal support said that the main reason for this was two-fold: either their spouses held the societal view that the role of primary breadwinner is not the woman’s, whose career then suffers for it; or, that the women spent too much time working and thus were not adequately fulfilling their roles at home.

### 4.4.4 ‘Women are their own Worst Enemies’

The respondents were asked, if given a choice, whether they would prefer to work for either a male or female employer. The results were as follows: 76.4% of the respondents preferred a male employed as compared to the 22.6% who preferred a female employer.
Figure 4.6 Employer Preference by Gender
The respondents offered myriad reasons for their choice above, including: Temperament – Respondents felt that men are able to be more objective – or cautious – in their decisions in the workplace. In other words, they believe that women in management positions are more prone to making decisions based on their own feelings or biases as compared to their male counterparts.

Status Quo – Others felt that, since the workplace is so heavily male-dominated, working under a male employer will either provide the ‘motivation’ or ‘opportunity’ for a female employee to rise through the ranks.

Competition – Others still felt that working under a male employer would provide a more conducive environment for career progress without any unnecessary – and often vicious – competition from a fellow female colleague.

4.5 Provisions Championing for the Rights of Women in the Workplace within the Laws of Kenya

4.5.1 Employment laws and HR Policy
56% of respondents felt that there were adequate laws championing of the rights of women at the workplace. They felt that these laws had been adequately coopted into their organization’s human resource policies while 42% felt that the implementation within the HR policies was inadequate, while 2% did not answer the question.
Table 4.2 Employment Laws and HR Policy

<table>
<thead>
<tr>
<th>Implementation of Laws</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>28</td>
<td>56</td>
</tr>
<tr>
<td>No</td>
<td>21</td>
<td>42</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>Missing</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

4.5.2 Adequacy in Curbing Discrimination

However, only 48% felt that these regulations were adequately curbing the discrimination of women in the workplace, while 52% felt that the regulation and policies were inadequate in curbing discrimination at the workplace.

Table 4.3 Adequacy of Regulations

<table>
<thead>
<tr>
<th>Adequacy</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>24</td>
<td>48</td>
</tr>
<tr>
<td>No</td>
<td>26</td>
<td>52</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

4.5.3 Awareness of Laws

Respondents were asked whether they were conversant with the labor law rights they were accorded under the Kenyan constitution: only 40% said they were conversant, 60% said they were not conversant with these laws.

Table 4.4 Awareness of Laws

<table>
<thead>
<tr>
<th>Awareness</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>20</td>
<td>40</td>
</tr>
<tr>
<td>No</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>Total</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

4.6 Chapter Summary

The chapter has discussed and analyzed the findings from the surveys field data research. From this analysis, we get a breakdown of the state’s obligations to international laws and treaties it has signed and ratified, we see that the problems facing women in the
workplace include: gender stereotyping and discrimination; irregular and incommensurate promotions; challenges in work-family balance; unhealthy competition among women, and; inadequate knowledge and implementation of gender-specific labor laws in the Kenyan law and the workplace. The discussions, conclusions and recommendations of this study will be presented in Chapter Five.
CHAPTER 5

5.0 DISCUSSION, CONCLUSION & RECOMMENDATIONS

5.1 Introduction

The purpose of this chapter is to synthesize the data collected during the course of this study; both from the desk-top review and the field survey, and propose a comprehensive set of recommendations that can be implemented at the national and organizational levels so as to curb the problem of discrimination of women in the workplace. It is divided into a summary of the findings, a description of the proposed recommendations, and comments and observations to conclude the study.

5.2 Summary

The research methodology used was descriptive and specifically, interview and the survey methods. The target population was women working within the NGO world, public and private sectors and two experts in the areas of international law, Kenyan constitution and foreign policy. Convenience sampling was used to determine the ideal sample size from the target population. The research wholly relied on primary data. The data was collected using interview questions and a questionnaire that was administered to the sample population. The collected data was analysed using descriptive analysis and presented in tables and figures. The data was analysed using the Windows based software Statistical Packaging for Social Sciences

The findings of the study on the first research question; obligations of state parties to the international laws and treaties they sign and ratify indicated that the domestication of these treaties was entirely the prerogative of the party state. Though there are mechanisms that hold states accountable based on the committees of the specific treaties, they are not well equipped to handle cases of errant members. It was also found that, despite there being a clause within the new Kenyan constitution in Articles 2, 3 and 4, to automatically nationalize international law; the effort from the government is lacking owing to various reasons, from ignorance of these laws by the legislative and executive arms and lack of awareness of the same laws by the general citizenry.

The findings of study on the second research question; challenges women face at the workplace showed that there is indeed a gap in gender equality and the protection of
women’s rights at the workplace. It identified the following issues as the main challenges facing women in the workplace: Gender discrimination and stereotyping, promotions and advancements, difficulties in maintaining the work-family balance and unhealthy competition between women.

On the findings of the study on the third and final research question; provisions made in the Kenyan laws by creating awareness of the rights of women at the workplace and how well the same are implemented within the HR policies showed that there was an inadequate knowledge of Kenyan labour laws and most of the women who were aware of these laws, stated that the laws were poorly implemented and did not think that there were adequate provisions made within the Kenyan law or the HR policies to protect their rights at the workplace as women and working mothers.

5.3 Discussion
This section interprets the results and findings of the studying in respect to the research questions. This section also compared the literature review with the research findings.

5.3.1 Obligation of State Parties to the International treaties and Laws Signed and Ratified

In the findings of the first research question of the study, the researcher noted that indeed Kenya had signed and ratified CEDAW, CRC and MPC and was known to the experts interviewed. However, they noted the gap in proper implementation by the government despite the fact that most of the international laws and treaties signed by the state are automatically translated to national law, provisions made under the current Kenyan constitution 2010, within article 2(6). Unlike in the previous constitution where domestication of international laws and treaties was subject to legislation, within the Kenyan parliament, (Gender Gaps in our Constitutions. Women’s Concerns in Selected African Countries, 2002) the current one automatically adopts international law. The prerogative for domestication lies solely on the government.

The study therefore found that despite adequate provisions to domesticate these international laws, the government was facing challenges of personnel, finances and general lack of interest to put any effort in the domestication of these laws.

Within these treaties, specifically CEDAW, a number of provisions are required to be implemented immediately, while others are done over time in terms of policy change and awareness creation, in order to have an impact within the state party laws (Advancing the
5.3.2 Challenges Working Women Face in the Workplace

The study found that there are many challenges the working woman faces at the workplace, ranging from gender discrimination, late advancements and promotions, incommensurate pay structures for women, unhealthy competition amongst women and lack of a proper work-family balance.

In her book Sandberg (2013) notes that despite the fact that there is progress in curbing gender discrimination in the workplace, the glass ceiling is yet to be completely removed. She cites that in the fortune 500 companies only 4 percent have women CEOs. Gregory (2003), states in his research that the glass ceiling holds firm owing to typical stereotypes that seem to hinder the career development of women. These stereotypes include, but are not limited to; women do not want to work, are unwilling to relocate, are too passive, generally unwilling to work long hours and are less committed to their careers.

Gregory (2003) reiterates that women are seen as the primary care givers within the home, and they carry this same tag in the workplace, as noted in the study, 55.6% of the respondents agreed that there was a definite clash between their family responsibilities, while 22.2%, strongly agreed on the same. It is therefore inherent that there is a conflict in work-family balance.

Connelly & Ghodsee (2011), state that most women employees have to work twice as hard as their male counterparts to earn salary increases or promotions. Female employees who were also mothers, despite their expertise in the various industries took longer to get promoted or advanced in their careers. In the study, 32.3% of the respondents agreed that they had to work harder than their male counterparts to earn a promotion.

Majority of the respondents, 70%, stated that they preferred male employers to female employers. In the fight for gender equality, women are the most notorious for propagating the agenda against each other. In her book, Kelly (2012) notes that most women are driven to jealousy against their female counterparts who seem to be progressing in the workplace. The women site the female bosses as overly bossy and boisterous, while the female bosses assume that their female juniors should struggle as much as they did to rise to the top, and therefore, instead of mentoring them, they make the break towards the top much harder. D. Gardner (2012) also notes that there exists unhealthy competition.
between women, giving rise to jealousy, negative criticism and unnecessary judgements. Where men tend to grow each other by cheering each other down and encouraging each other, women do the opposite making the rise to the top that much harder.

5.3.3 Provisions Made in the Kenyan Law to Protect the Rights of Working Women

The study found that there are provisions within the Kenyan law and their HR policies that address the rights of women at the workplace. Most respondents however, stated that they are not aware of any laws or provisions within the law that they can use to seek redress in case of discrimination based on gender.

The study confirms however that, there are myriad provisions in Kenyan legislation that deal with labor laws and the rights of women in the workplace: The preamble of the new constitution of Kenya recognizes gender equity which covers social justice, parity and fair representation of all people of Kenya (the Constitution of Kenya, 2010; African Woman and Child Feature Service , 2010).

Article 2 of chapter one states that all other law is void under the constitution, meaning that even the customary and religious laws that bind women from exercising their freedoms and rights are automatically nullified by the new constitution (Gender Equality Movement & African Woman and Child Feature Service, 2010).

The Employment Act (2007), Article 5 ensures that equality is observed by employers and the minister of Labour, labour officers and the industrial court, are bound by the law to champion for equal treatment of all employees and breaking of this law is punishable by law. It also states that all persons shall be equally remunerated depending on the cadre and on merit if the job done, effectively ensuring that there is equal payment of employees regardless of gender, race or disability. It also addresses the glaring wage disparities that have created the divide between women’s and men’s wages.

The Kenya National Commission on Human Rights (KNCHR), formed under the Kenya National Commission on Human Rights Act, is bound to act as an enforcement mechanism and is mandated to investigate on its own, any acts of human rights violations presented by individuals or groups of individuals, (The Kenya Human Rights Commission, 2010).
Another important statutory organization is the National Commission on Gender and Development, whose mandate is to promote and protect human rights and especially those that are related to gender (Federation of Women Lawyers, 2011).

If a government has signed and ratified any international treaty and drags its feet in the case of implementation, using the various protocols within the treaties, advocates from the said country can push the government in a court of law, to have the necessary policies implemented (Step-by-Step Guide. Using the UN Treaty Monitoring Bodies to Promote Reproductive Rights. Center for Reproductive Rights, 2002).

5.4 Conclusion

5.4.1 Obligation of State Parties to the International treaties and Laws Signed and Ratified

The first research objective was to find out the obligations that the state parties have to upholding the international treaties and laws they have signed and ratified. The first two conventions have been ratified without reservation; thus, the new constitution provides that they be incorporated into law and affect national policy. On the other hand, provisions of the last convention can only be implemented at the government's own volition. The mechanisms of accountability at the international level are lax and therefore not very effective.

5.4.2 Challenges Working Women Face in the Workplace

The second research objective was to investigate the various challenges that working women face at the workplace. It is clear from the study that, a woman's career success and success as a primary caregiver cannot go in tandem; one has to supersede the other. The challenges of lack of spousal support, retrogressive competition between the women and gender discrimination are some of the barriers that women find to achieving career success and enjoying the joys of raising a family.

Most women feel that gender discrimination is rife in every sector of the economy and therefore feel no need to raise an issue about it. Moreover, many women avoid the legal tussle involved in such cases, where they feel the issue will not be justly addressed by the current justice system or that they lack the proper financial backing to pursue the cases. Family responsibilities may also make them fear the extended litigation and so give up on them altogether.
5.4.3 Provisions Made in the Kenyan Law to Protect the Rights of Working Women

The study finally looks into provisions made in the Kenyan law to protect the rights of women. The study found that there are provisions, however the implementation, within the HR policies and accountability for the same is lacking. Most women are not aware of these laws, or even that there are provisions made within the law to protect them at the workplace. It is the responsibility of the government to put in place mechanisms for reporting workplace discrimination, policies that will then be rolled out to the organizational and grassroots level to protect working women within the formal and informal sectors, and create awareness through the National Gender and Equality Commission and the various gender offices within the counties.

5.5 Recommendations

With a clear understanding of the problems women face in the workplace, certain actions can be taken to curb workplace discrimination. These recommendations are as follows:

5.5.1 Recommendations for Improvement

5.5.1.1 Obligations of State Parties to International Treaties and Laws Signed and Ratified

With the inauguration of the new constitution, the nationalization of international laws and treaties has become automatic. Within the various treaties there are reporting structures to show the achievements and limitations the various governments are facing as regards the implementation of the said laws. In this regard, the reporting culture of Kenya with effect to CEDAW, CRC and MPC have been dismal to say the least.

However, with the formation of the National Gender and Equality commission, more should be done to create benchmarks within the country on the domestication of the international laws and treaties. Having specific individuals and women’s rights groups challenging the government to find proper legislation and implementation of the law within the constitution and ideally have them boil down to the organizational level. This will give women an avenue to seek legal redress where their rights are violated.

5.5.1.2 Challenges Working Women Face in the Workplace

To adequately address the challenges women face at the workplace, there needs to be a combined effort between the government and the various organizations within all the
sectors. This is to ensure that there is a formulation of regulations that will see to the 
upholding of the rights of the working woman at the workplace.

Educating the boy child and involving the men in the fight for gender equality will go a 
long way to aid in the decrease of sexual harassment at the workplace, discrimination 
based on gender and enabling the woman adequately handle her maternal responsibilities 
and still manage to be an asset at the workplace. The introduction of gender 
mainstreaming within the government structures and organizational structures will see 
this achieved. In the same breathe creating family-friendly organizations and policies will 
go a long way into creating a work-family balance for

It is also important that women play the role of mentorship to their female juniors, to 
foster a ‘sisterhood’ that seeks to empower as opposed to tearing each other down. This 
will encourage young girls to thrive in their education and pursue careers that are ideally 
main dominated and to see to the shattering of the glass ceiling.

5.5.1.3 Provisions Made in Kenyan Laws to Protect the Rights of the Working 
Woman at the Workplace

The government ought to develop a set of standards that ought to be implemented in 
every organization’s human resource policies as a minimum, and set up adequate systems 
to ensure their implementation. More effort should be put into educating women on their 
rights in the workplace, what they can do so as to ensure that these rights are 
implemented, and what options are available to them if they are not. At the same time 
men should also be educated and aware of the rights of women at the workplace and 
strive to uphold them as well. Effective systems should be implemented that will facilitate 
reporting of cases of discrimination of women in the workplace. The government should 
clearly define and implement penalties against the discrimination of women, so as to curb 
such cases in the workplace.

Having more women legislators who are aware of the various challenges the women 
working in the formal and informal sectors face, will enhance the creation of more pieces 
of legislature that will protect the rights of the women at the workplace and adequate 
 improvement and implementation of those that are already enshrined in the constitution.

5.5.2 Recommendations for Further Studies

This is certainly the case in the Kenyan context, as this study has proven. Although the 
study focuses on the issues of women in urban areas, we would be remiss to think that
gender-based discrimination has not also permeated into the rural context. Indeed, it seems that patriarchy has been assimilated into many aspects of Kenyan social life, and gender-based workplace discrimination is just one of the ways in which it has manifested itself over time. The fact is that segments of the population still believe that a woman’s place is in the home or that once a woman has gotten children her priorities must automatically shift from career to family development. These insidious stereotypes are the basis for much of the inaction surrounding the push for equality, both in society and legislation.

Civic education (preferably at the grass root levels) is one way to combat this mindset. The other is to have a concerted push by government to enact the provisions of international conventions it has signed and ratified (or is yet to ratify). There is need to develop minimum standards that public and private entities are required to implement into their human resource policies as well as their organizational cultures. Further, there is need to educate women on the rights accorded them under law, and the available avenues for redress if these rights are infringed. Lastly, there is need to create credible and effective reporting systems and institutions, charged solely with the propagation of institutional equality and the rights of working mothers. In this way, harmful stereotypes may be squashed and women will be presented with a level playing field and an important chance to finally break the glass ceiling.

Women in the urban areas are advantaged since they are better exposed to their rights and the laws that govern employment. They have means and ways to seek redress if they feel that their rights are being abused. However, the situation is different in the rural areas. Women are still regarded as inferior beings and infringement of their rights begins at home. They are denied basic education in favor of the boy child. The girl child lacks proper mentorship and will often end up in the quagmire of early pregnancy, early marriage or turn to mediocre jobs in order to survive. This cycle is continued and passed on from one generation to another and will only be broken if one female breaks out of the gender stereotype and seeks to further herself in career.

In the rural areas, girls are discouraged from getting ‘too educated’ as it is believed that they will not get husbands, therefore the only solution is to lower their standards and just get basic education. Therefore creating gender equality awareness within the rural context is of utmost importance if the country is to move in unison towards development.
Another area of study is the rights of the women in the slums, who earn their living by working in industrial factories or as house helps within urban centers. These women are often mistreated at their places of work and have no way of knowing what their rights are. They are often discriminated against by their male colleagues and many suffer sexual abuse in the hands of their employers.

The law requires clarity therefore for the various levels of female employees in various industries since the work environments are varied. These women need to be educated on what their rights are and where they can seek legal redress if they are violated.
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APPENDICES

APPENDIX I: INTRODUCTORY LETTER

I would like to thank you for taking the time to meet with me today.

My name is ............................................................, a graduate studies student at USIU, pursuing a Master of Science degree in Organizational Development.

I would like to talk to you about the obligations Kenya, as a party state within the international scene, has towards the international treaties and international laws it signs and ratifies. Of special interest are; Convention on the Elimination of all Forms of Discriminations against Women (CEDAW), the international Convention on the Rights of the Child (CRC) and Maternity Protection Convention (MPC). Additionally, I will seek to understand the provisions, if any, that exist in the current constitution that allow for the domestication of the international laws and treaties, how willing and capable the Kenyan government is to implement, down to the grassroots, the domesticated international laws and the influence the Kenyan foreign policy has on the domestication of these international laws and treaties and challenges, if any, that are faced during the domestication process.

The information provided will be used solely academic purposes and confidentiality is assured. Kindly note that during the interview, I will be taking notes, to ensure that all the valuable information you provide is captured.

Please state if you are willing to participate in this interview and the appropriate time and place to meet with you.

Sincerely,

Sarah Ngetha.
APPENDIX II: INTERVIEW GUIDE

A. FAMILIARITY WITH CEDAW, CRC AND MPC
   • How familiar are you with these treaties?
   • What obligations do the state parties have towards the treaties and international laws they have signed and ratified?
   • How can these state parties be held responsible for the treaties they have signed and ratified by the international governing bodies?

B. KENYA’S FOREIGN POLICY
   • What is Kenya’s foreign policy on the domestication of international treaties and laws?

C. PROVISIONS IN THE CONSTITUTION
   • Are there any provisions in the current constitution that are made for the purposes of the domestication of international laws and treaties? Kindly state a specific chapter or section of the law.
   • In your opinion do you feel that the areas covered within these conventions are properly implemented within the Kenyan laws?

D. CHALLENGES
   • Kindly state any challenges that you feel hinder the domestication and/ or implementation of these laws and treaties.
   • What challenges does the government face in the implementation of these laws at the grassroots and within the Kenyan organizations.

E. CAPABILITY AND WILLINGNESS
   • In your opinion, how willing and capable is the Kenyan government in the implementation of these laws and international treaties? As far as domestication and reporting responsibility is concerned?
APPENDIX III: COVER LETTER

RE: Questionnaire Respondent’s Cover Letter

Dear Participant:

My name is Sarah W. Ngetha; I am a graduate student at United states International University. For my final project, I am examining the Impact of International Human Rights on the Kenyan Law and how it Impacts on the Rights of Working Women. Because you are a part of the sample size selected from a larger population I am inviting you to participate in this research study by completing the attached questionnaire.

The following questionnaire will require approximately 15 minutes completing. Please note that there is no compensation for responding. In order to ensure that all information will remain confidential, please DO NOT include your name. Copies of the project will be provided to my USIU project supervisor, the Dean, Chandaria School of Business and the USIU university research office.

If you choose to participate in this project, please answer all questions as honestly as possible and return the completed questionnaire promptly. Participation is strictly voluntary, I however hope that you can accord me 15 minutes of your time.

Thank you for taking the time to assist me in my educational endeavors. The data collected will provide useful information regarding assessing the impact of Kenyan laws on the rights of women and what should be done to improve them. If you would like a summary copy of this study please include your contact mobile number or e-mail address. Completion and return of the questionnaire will indicate your willingness to participate in this study. If you require additional information or have questions, please contact me on 0723008107 or send me an email on sngetha86@gmail.com.

Sincerely,

Sarah Ngetha.
APPENDIX IV: QUESTIONNAIRE

UNITED STATES INTERNATIONAL UNIVERSITY

RIGHTS OF WOMEN IN THE WORKPLACE: INTERNATIONAL HUMAN RIGHTS AND LABOUR LAWS AND THEIR IMPACT ON KENYAN LAW

Declaration: This information is confidential and is meant for academic use only.

Interviewer name_____________________________ Questionnaire
No._______________________

Date of Interview_____________________________

A. RESPONDENT PROFILE

1. Name of respondent
   (optional)________________________________________________________

2. Age of Respondent

<table>
<thead>
<tr>
<th>Age cohorts</th>
<th>18-24</th>
<th>25-34</th>
<th>35-44</th>
<th>45-54</th>
<th>55+</th>
</tr>
</thead>
<tbody>
<tr>
<td>Age cohorts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


B. WORK HISTORY


C. CHALLENGES WOMEN FACE AT THE WORKPLACE

7. In the period you have worked, have you ever been promoted?
   a. If yes, how many times have you been promoted? ____________________________
   b. What was the average period between each promotion? _________________________

8. On a scale of 1-5 (1-Strongly Disagree 2-Disagree 3-Undecided 4-Agree 5-Strongly Agree), please indicate with a tick your opinion on the following:

<table>
<thead>
<tr>
<th></th>
<th>Strongly Disagree</th>
<th>Disagree</th>
<th>Undecided</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have never experienced workplace gender discrimination</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>My organization accords me opportunities to grow in my career</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>I have to work twice as hard as my male counterparts in order to move up the organizational ladder</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>My work does not interfere with my family commitments</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>My spouse has played a positive role in my career development</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. Please add any other comments regarding how you would like organizations to facilitate women to achieve maximum career development and increase their productivity


11. If given a choice, would you prefer to work for a: [1] Male or [2] Female employer?
Please elaborate on your choice above


C. PROVISIONS MADE IN LAW TO PROTECT THE RIGHTS OF THE WORKING WOMAN

12. Are you aware of the labor law rights accorded to you by the Kenyan Constitution as a working woman?
   a. If yes, do you feel that they are adequately coopted in your firm’s Human Resource policies?
   b. In your opinion, are these regulations adequate to curb the discrimination of women in the workplace? [1] Yes [2] No
   c. In your opinion, what can the government do to cushion women against gender discrimination in the workplace?
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      ………………………………………………………………………………………………………

THANK YOU.