IMPLEMENTATION OF INTERNATIONAL TREATIES: A FOCUS ON THE IMPACT OF CEDAW IN KENYA

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ABSTRACT

Women’s rights have continually been violated in Kenya over the years. Kenya acceded to CEDAW in 1984 in order to ensure gender equity and equality. In an effort to implement the Convention, Kenya has undertaken several strategies from legislative, policy to programmatic.
The process has been slow noting that CEDAW was acceded to 26 years ago. This study sought to establish how effective CEDAW has been in enhancing the rights of women in Kenya. It sought to determine the legal instruments, policies and other measures that have been put in place to eliminate discrimination against women and to ensure gender equality and whether these were effective in achieving their intended results. An examination of the effects of patriarchy on the rights of women was also undertaken. Kenya just like most African states is a deeply patriarchal society. Women’s rights continue to be subjugated to date on a daily basis owing to this phenomenon. The political and public processes (law making and policy implementation) as well as the socioeconomic processes are compromised by patriarchal influences. This study confirmed that women continue to be discriminated against regardless of their educational, economic or professional status. Women activists have over the years tried to agitate for the recognition of women’s rights and despite facing a lot of opposition from the political establishment, piecemeal legislation has continued to be passed ultimately culminating in the passing of the 2013 pro-women Constitution. The study also found that the courts have in interpreting the law been very restrictive in their approach thus denying women their rights. However a few judicial officers have used their discretion in reaching magnanimous decisions by referring to CEDAW. Given that patriarchy or male dominance is a deeply rooted dynamic in Kenyan society, the study found that it is not just enough to enact legislation or formulate policy. This must go hand in hand with the creation of awareness both at the time of creating policy, enacting the law and after the law has been passed as a way creating knowledge and ensuring acceptance of the law. Beneficiaries of the law (women) as well as the enforcers of the law (judiciary, Police, immigration officers and the executive in general) as well as the citizens of Kenya need to be aware of their rights and respect these rights to ensure a cohesive and fair society. Affirmative action as provided in the Constitution and other laws needs to be implemented to ensure a critical mass of women is present in decision-making to push women’s agenda forward. Further women placed in such capacities should use their platforms to protect the gains achieved but even more important to devise mechanisms that will effectively ensure the gender equality question is addressed.