

The Constitution of Kenya, 2010, and the Feminist Legal Theory

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Abstract : Although before and at the advent of colonial administration, several women such as Mekatilili wa Menza and Muthoni Nyanjiru took up leadership positions in resisting the colonial administration. Kenya is generally considered a patriarchal society. Many women who tried to take up positions of leadership in postcolonial Kenya, such as the Nobel Prize winner Wangari Maathai, were branded as prostitutes or generally immoral women. However, the Constitution of Kenya, 2010, has since made a huge impact not only in the area of affirmative action but also in various aspects of the feminist legal theory such as the constitutional requirement that no more than two-thirds of the members of the elective or appointive bodies should be of the same gender. This favours women who are often sidelined in elective posts such as parliament or county assemblies and state-appointed posts in the parastatals and commissions. The constitution also recognizes the right to abortion, which was outrightly outlawed in the independence constitution. Certain practices adverse to women's health, such as wife inheritance, female genital mutilation, and property rights, are either outlawed or framed to recognized women's rights. The education of the girl-child is also now considered a priority, unlike in the past. Despite these developments, a lot remains to be done.

Keywords : feminist legal theory, constitution of Kenya, 2010, affirmative action, leadership

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