

**Leadership and governance parity: Are there adequate mitigation
measures for women in sports governance in Kenya?**

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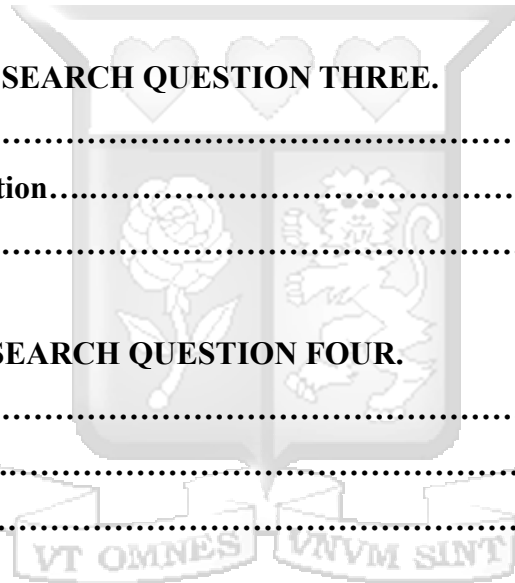
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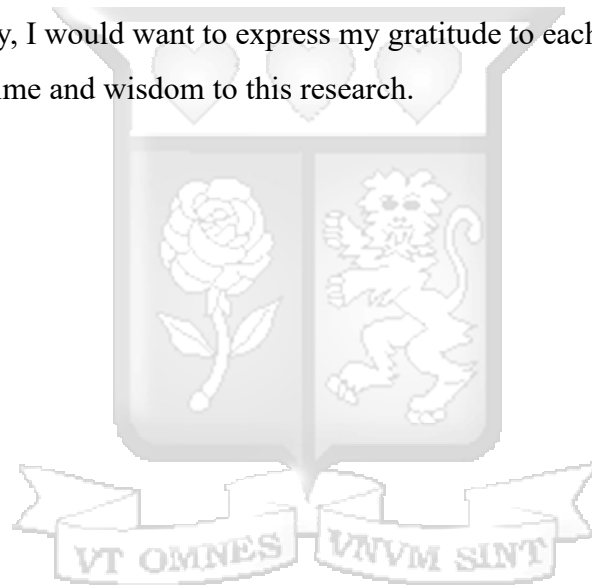


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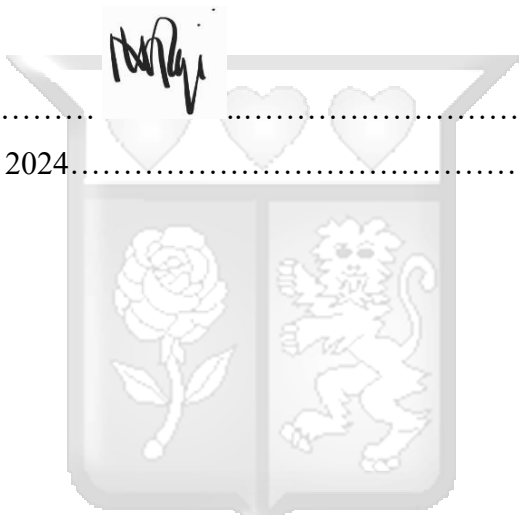
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DECLARATION.

I, Celine Esther Njeri, do hereby declare that this research is my original work and that to the best of my knowledge and belief, it has not been previously, in its entirety or in part, been submitted to any other university for a degree or diploma. Other works cited or referred to are accordingly acknowledged.

Signed;.....
Date;.....8 April 2024.....



This dissertation has been submitted for examination with my approval as University Supervisor.

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Supervisor's name;Eva Nyambura Maina
Date;8 April 2024.....

ABSTRACT.

In Kenya, the under-representation of women in sports governance persists as a serious problem that reflects larger obstacles to gender equality in the sports industry. This study explores the institutional and sociocultural hurdles that prevent women from entering and progressing in sports governance to understand the motivations behind the ongoing gender disparity in leadership roles. Using a mixed-methods approach, this study examines the experiences and viewpoints of women in Kenyan and western sports governance using a thorough analysis of the body of current literature. The study investigates structural barriers, subconscious biases and conventional gender norms that marginalise women and prevent them from occupying positions of decision-making.

Studies show ingrained prejudices that support the idea that sports governance is a field dominated by males and deter women from pursuing leadership positions. The low number of women in executive roles is also a result of institutional hurdles, such as uneven access to resources and few mentorship opportunities. The study assesses how this under-representation affects the growth of women's sports, the distribution of resources and the creation of laws that deal with challenges unique to one gender. To promote a more inclusive sports governance climate in Kenya, the research offers viable tactics and interventions, such as focused mentorship programs, awareness campaigns and regulatory changes. This study intends to add to the existing conversation on gender equality in the sports industry by illuminating the complex reasons behind women's under-representation in sports governance in Kenya. The results offer significant perspectives for legislators, athletic associations and advocacy groups aiming to execute efficacious strategies to tackle this structural disparity and foster a fairer and more varied sports governance terrain in Kenya.

LIST OF ABBREVIATIONS.

CEDAW- Convention of the Elimination of All Forms of Discrimination Against Women.

EU- European Union.

FIFA- Federation Internationale de Football Association.

FKF- Football Kenya Federation.

IOC- International Olympic Committee.

ICCPR- International Covenant on Civil and Political Rights.

ICPD- International Conference on Population and Development.

IWG- International Working Group.

KIE- Kenya Institute of Education.

MLB- Major League Baseball.

NBA- National Basketball Association.

NFL- National Football League.

NHL- National Hockey League.

SDGs- Sustainable Development Goals.

UN- United Nations.

UNESCO- United Nations Educational, Scientific and Cultural Organisation.

UNFPA- United Nations Fund for Population Activities.

US- United States.



LIST OF CASES.

Rose Wangui Mambo & 2 others v Limuru Country Club & 17 others [2014] eKLR.

Andrews v. The Law Society of British Columbia (1989), The Supreme Court of Canada.

Griggs v Duke Power (1971), The Supreme Court of the United States.

Enderby v Frenchay Authority, European Court of Justice.



LIST OF LEGAL INSTRUMENTS.

International instruments

Convention of the Elimination of All Forms of Discrimination Against Women (1984);

International Olympic Committee.

The African Charter of Human and Peoples' Rights on the Rights of Women in Africa (2003).

Sex Discrimination Act, Australia.

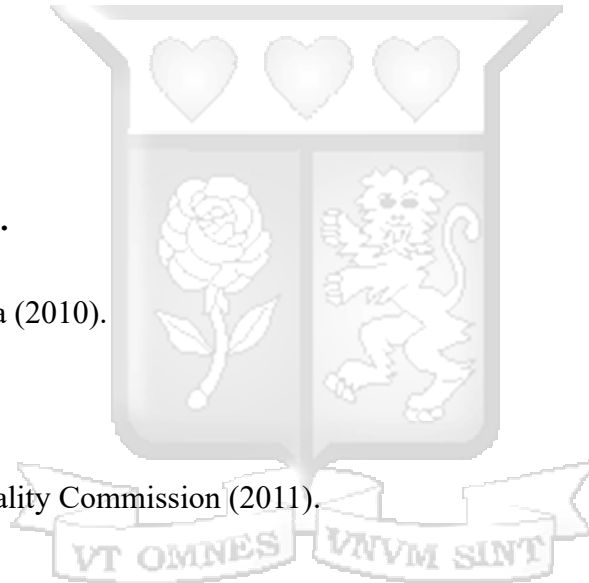
Maputo Protocol.

Kenyan instruments.

Constitution of Kenya (2010).

Sports Act (2013).

National Gender Equality Commission (2011).



CHAPTER ONE.

1.1 BACKGROUND.

One of the most favoured human activities in the contemporary world is sports. People of all ages, genders, talents and races value and embrace it. Its popularity is a result of its advantages on a societal, national and individual level. In majority of societies, sports is regarded as fundamental to the social and cultural fabric. The conventional view of sports as only being events for recreational purposes is no longer tenable, in light of the emergence of professional sports and the consequent commercialisation of the business. Sports are now a significant part of social, cultural and economic discourse on a global scale, with sports stars among the highest paid professionals. Additionally, both public and private organisations channel significant funding towards sponsoring sports events.

Sports is inseparable from other societal, political and cultural aspects. The equity of the different genders and their involvement in the national development agenda are highly stressed in Kenya's 2010 Constitution. Participation of the people, equity, social justice, inclusivity, equality, human rights, non-discrimination and protection of the marginalised are the most salient of these values and principles. Further, Article 43 provides for economic and social rights for all citizens to achieve, inclusive of enjoyment.¹ In many areas of human society, leadership is a crucial component. Sports leadership can apply to either coaching or managerial leadership. Coaches play the role of leaders in sports, influencing players' attitudes, beliefs and creating a climate that enables them to attain these goals. Additionally, the Maputo Protocol, to which Kenya is a signatory, requires its party nations to guarantee the greater participation of women in leadership.² Article 25 of the Maputo Protocol mandates that state parties offer women whose rights have been historically repressed "appropriate remedies." States must set up mechanisms to guarantee that appropriate remedies are decided by competent judicial, administrative, or legislative authorities, or by any other competent authority designated by law, when granting remedies.

¹ Article 43, Constitution of Kenya, 2010.

² Article 5, 9 and 17, The African Charter of Human and Peoples' Rights on the Rights of Women in Africa (2003).

Disparities in leadership, decision making and representation within the management of sports is deemed to be inequality in sports governance. Gender, race and social class are some of the numerous factors attributed to this kind of discrimination. These disparities need to be addressed to encourage an equal playing field in the sports industry. Gender equity, SDG 5, alludes to the equality of life events for men and women while incorporating their diverse needs and interests.³ It encourages for women's full and effective participation in leadership at all levels in their political, economic and social lives. Moreover, it refers to the necessity for a redistribution of power and resources.

The International Covenant on Civil and Political Rights (ICCPR) stipulates that all are equal before the law and are entitled, without any discrimination, to equal protection of the law.⁴ Despite acknowledging that men and women may have different needs, it insists on their legal right to equality and to receive equal treatment under law. The inadequacy of explicit provisions to promote gender equity, in the sports sector, there arises an indirect form of discrimination, hindering women's participation. This resulting systematic disparity suggests discriminatory practices that warrant legal action. However, to be able to effectively realise and sustain the socio-economic benefits of sports, a country must provide an enabling environment that allows the industry to thrive. Such is provided and established by appropriate policies and laws governing sport. Sports policies and laws must provide an attractive environment for investment in sport by both the public and private sector, by guaranteeing certainty and predictability of actions and processes in regulation and resolution of grievances. To be enabling, the legal framework must establish strong sport management and administration systems characterised by effective financial accountability, management mechanisms and leadership. In Kenya, the term "sports" in the Sports Act is "as all forms of physical or mental activity that, through unofficial or organised participation, or training exercises, improves physical and mental well-being, create social bonds, or achieve success in competition at all levels". Section 6(2) of the Sports Act stipulates that there shall be the considerations of the principles of gender equity as well as affirmative action in appointing

³ United Nations Development Programme, Human development report 2000: Human rights and human development, Oxford University Press, New York, 2000, 25.

⁴ Article 3, International Convention on Civil and Political Rights, 19 December 1966, 999 UNTS 171.

board members to Sports Kenya.⁵ According to the Government's Sessional Paper No. 3 of 2005 on Sports Development, sport is a significant source of employment and a setting for wealth generation.⁶ Through the application of a comprehensive approach to mutually agreed operational principles, administrative practices, and resource utilisation processes among all organisations participating in sports activities, the Sessional Paper offers policy direction on sports growth and development. In line with Vision 2030, the state aims to capitalise on her reputation as an 'athletic superpower' by opening the country up for major international sporting events, supported by corporate sponsorship.⁷ Moreover, Article 47 of the Constitution provides for a right to a fair administrative action, which is to be administered in an expeditious, lawful, reasonable and procedurally fair manner.⁸

The renowned case of *Rose Mambo* involved disputes within an exclusive members-only club.⁹ The executive board of the club established a new by-law that had the effect of denying female club members the power to vote for new board members during general meetings. The female members were to attend as guests only and to abstain from voting. The petitioners are female club members who have held a variety of senior positions and are paid club members. The club's board of directors revised the by-laws to eliminate them. The respondents claimed to be a private entity that is ungoverned by constitutional provisions. In rejecting this line of thinking, the court stated that to arrive at a finding that permits private entities to conceal behind the guise of "privacy" to avoid constitutional accountability is discriminatory, hence unconstitutional.

1.2 STATEMENT OF THE PROBLEM.

An overview of women's experiences in sports leadership is provided by the existing literature. A persistent and widespread imbalance in sports leadership roles, however, is prevalent to date.

⁵ Section 6(2), Sports Act (2013).

⁶ Government of Kenya, Sessional Paper No.3 of 2005 on Sports Development, Ministry of Gender, Sports, Culture and Social Services.

⁷ Government of Kenya, Vision 2030,— <https://vision2030.go.ke/press/vision-2030-promotion-for-the-sports-sector/> on 10 June 2008.

⁸ Article 47, Constitution of Kenya, 2010.

⁹ *Rose Wangui Mambo & 2 others v Limuru Country Club & 17 others* [2014] eKLR.

This is despite tremendous progress made in increasing the number of women participants in sports. The general diversity and inclusivity of sports organisations is hampered by this imbalance, which also reinforces gender preconceptions and biases, limits the full ability of female leaders to influence the sports world. From participation levels to leadership roles, women are disproportionately underrepresented. There are frequently no obvious routes to lead athletes to administrative and eventually leadership posts, particularly in Africa.¹⁰ This makes reference to the persistently unequal power dynamics at the highest levels of sport, where parity between the projected gender-equality targets at the executive level is still far off.¹¹ The International Olympic Committee (IOC) has reaffirmed its commitment to guaranteeing 50% female representation at the participation level for the forthcoming Paris Games in 2024, but only 30% female presence at the decision-making levels.¹² This is the clearest example of this at the international level. The IOC's declaration can only be practically fulfilled if autonomous organisations, NGOs, other NOC stakeholders, such as government and private sector organisations, are permitted to offer the assistance and direction required to guarantee gender parity.

The year 2010 saw the adoption of a new constitution in Kenya. A fundamental requirement of this new constitutional framework was that no more than two thirds of each gender be represented in any public office or position. Ever since, every sports organization or association has worked to guarantee that women have a voice in the federations' or associations' management. But, in order to comply with constitutional requirements, women must directly be nominated for sport federations and are not elected. This has presented many challenges. The purpose of this study was to identify the political, social, cultural, and economic barriers that prevent women from having an equal voice in the sports world. Promoting gender equity, diversity and good governance within the sports business requires addressing the under-representation of women in sports leadership.

¹⁰ Fasting K, 'Gender, participation and leadership in sport in Southern Africa: A baseline study, Norway,' The Norwegian Olympic and Paralympic Committee and Confederation of Sports, 2014 ,– https://www.academia.edu/13170444/Gender_Participation_and_Leadership_in_Sport_in_Southern_Africa_A_baseline_study on 4 August 2016.

¹¹ Burton J, 'Underrepresentation of women in sport leadership: a review of research,' Sport Manage Review, 2014.

¹² Palmer D, IOC Outlines gender equality targets for Paris 2024, Inside the games, 2021, – <https://www.insidethegames.biz/articles/1109911/paris-2024-gender-equality-ioc>

Agency is a key component in the portrayal of civic society and activist or reformist viewpoints, a factor that is frequently missing from Western viewpoints and academic works that standardise women's participation in leadership roles in sports. Therefore, a fresh paradigm constituted by activist viewpoints from civic society and the sport sector, may significantly shape the current global gender equity discourse.¹³ To offer insights and underlying causes beyond positivist surveys of regional studies by northern researchers, a more comprehensive critical examination is necessary. To bridge this divide in mainstream gender discourse, we should assist academics and activists from marginalized backgrounds who construct paradigms rather than just consuming and augmenting them.¹⁴ Further to that, there is a gap in depicting how female academics in sport management positions negotiate their tasks and foster fulfilment in their profession. In light of the aforementioned realities of sport, the proposed research aims to examine the hindrances faced by women in their quest for negotiating authoritative positions in a male dominated field.

1.3 RESEARCH OBJECTIVES.

- 1) Assessing the degree of underrepresentation in sports leadership and governance and factors that have led to such underrepresentation.
- 2) Assessing the current composition of leadership roles in sports organisations in Kenya.
- 3) Studying the effectiveness of the current legal and governance structures in perpetuating indirect discrimination.

1.4 RESEARCH QUESTIONS.

- 1) What factors have contributed to female under-representation in the sports leadership?
- 2) What is the current composition of leadership in sports governance in Kenya?

¹³ Connell R, 'Southern Theory: The global dynamics of knowledge in social science,' London, UK: Routledge, 2007.

¹⁴ Fasting K, 'Gender, participation and leadership in sport in Southern Africa: A baseline study, Norway,' The Norwegian Olympic and Paralympic Committee and Confederation of Sports, 2014 ,– https://www.academia.edu/13170444/Gender_Participation_and_Leadership_in_Sport_in_Southern_Africa_A_baseline_study on 4 August 2016.

- 3) What factors have contributed to female under-representation in the sports leadership?
- 4) Does the existing legal and governance framework perpetuate indirect discrimination?

1.5 HYPOTHESIS.

By providing a non-discriminatory platform for women to participate in both governance and competitions, there is the realisation of gender inclusivity, promoting affirmative action measures to actualise the SDGs. This is in line with the goal of achieving the equality of rights and respect for human dignity, as promoted in the Constitution.¹⁵ The need to provide for and promote women's participation is a significant social and cultural phenomenon that is crucial to social development in Kenya.

1.6 JUSTIFICATION.

In today's society, the topic of female leadership inequity in sports is of utmost importance. The ongoing under-representation of women in leadership positions in sports, where those positions have significant influence and authority, raises questions about fairness, diversity, and the ability of sports organisations to reach their full potential. The social fabric and international standing of Kenya are significantly influenced by its rich sporting history and thriving sports sector. In light of international initiatives to promote gender equity and diversity in sports, examining gender inequality in sports leadership within the Kenyan context is not only pertinent but also important.

The merit of this study rests in giving women's sports issues a voice and offering them an opportunity to discuss their sporting concerns. There is a need for leadership development since it is understood that women cannot be disregarded in leadership roles. Also, through conducting research, the requirements of African women are identified, stressed and enhanced. It is also clear that women and girls who take part in sports governance in Kenya must battle gender norms in a culture where patriarchal ideology is prevalent. The significance of the study is to provide a research-based analysis on the prevalent discrimination in governance, to offer a platform to shed light on it, specifically in the sports sphere. It additionally offers an encouragement to women counterparts with an interest in the leadership field and are heavily

¹⁵ United Nations Development Programme, Human development report 2000: Human rights and human development, Oxford University Press, New York, 2000, 25.

discouraged by the ongoing bias in the field, aside from the inevitable discrimination faced in other aspects of their life.

This piece aims to provide important knowledge and practical advice considering the persisting gender discrepancies in sports leadership, the effects on women in sports, and the possibilities for change. This project aims to empower women in sport and advance a more inclusive and equitable sports business in Kenya by examining the underlying causes, effects, and potential remedies of female inequality in sports leadership.

1.7 THEORETICAL FRAMEWORK.

In light of this under-representation, two theories that adequately explain this are the Feminist and Role Congruity theories.

1.7.1 Feminist Theory.

This theory examines and challenges the social, economic and political inequalities between genders with a goal of achieving gender equity. These protracted struggles for women's equality continue in today's sports business. The current condition of women's equality in sports reflects the long struggle for gender equality in society. The term "patriarchal society" has been broadened by feminist theorists to include a bias against women that is institutionalised. Most feminists allege that women's subjugation arises from the underlying prejudice of a patriarchal culture rather than from specific males. They argue that the historical preferential treatment of men over women in society factors in as a core element of such discrimination.

The overall perception of women's fragility status is reflected in sports, where the male-dominated institution is biased in regarding the study and promotion of women in sports. Female modesty is prevalent, whereby women practice reluctance in self-promotion habits while men are adamant in their quests to occupy leadership positions.¹⁶ Despite major promotion of diversity in corporations as well as legislation for equal opportunities for women and men, it must be underlined that women remain largely in the minority in decision-making

¹⁶ IOC, 2019, 'Promotion of gender equality in sport: statistics', — <https://www.olympic.org/women-in-sport/background/statistics> on 25 August 2022.

positions. This discovery represents the glass ceiling phenomenon, which results in the vertical discrimination of women in the workplace.

Despite this, the problems highlighted in global women's studies of sport leadership aren't always applicable to or relatable to marginalised women in underdeveloped states like those in Africa.¹⁷ Scanty research from the African viewpoint in the formal sport sector have found comparable, if occasionally different, problems affecting women in sport leadership. However, because ethnicity, culture, religion, and socioeconomic class intersect in so many different ways in Africa, experiences of patriarchy vary greatly between countries and frequently within the same community.¹⁸ African feminism focuses on understanding the distinct experiences that African women had living in patriarchal institutions both before and after the main colonial tendencies.¹⁹ Though national alignments, "commitments," and ratifications of international gender policy, achieving gender equity has proven to be a slow process.²⁰ A comprehensive understanding of how these influences and experiences affect women (past and present) and intersect with oppressive traditions, cultures, structures, and practices, offers insight into this phenomenon.²¹

1.7.2 Role Congruity Theory.

Role Congruity Theory is a social psychological theory that investigates how people's views and assessments of leaders can be affected by the congruence between gender roles and perceived leadership positions.²² Understanding the obstacles and prejudices that women may experience in leadership roles across a variety of fields, including sports, calls on this idea. They assert that women are frequently viewed in lesser status jobs than their male colleagues

¹⁷ Hargreaves J, 'The women's international sports movement: Local-global strategies and empowerment, Women's Stud International Forum,' 1999, 6.

¹⁸ Edstrom, 'Introduction: undressing patriarchy and masculinities to re-politicise gender', 2014, 62.

¹⁹ Morountodun J, Female filmmakers: Towards reconstructing women's images in Nollywood films, Doctoral Thesis, University of Capetown, 2019.

²⁰ Gatwiri J, 'Discovering my own African feminism: embarking on a journey to explore Kenyan women's oppression', J International Women's Study, 2016, 263-273.

²¹ Chiweshe M, 'African men and feminism: reflections on using African feminism in research', Agenda, 2018, 76-82.

²² Karau S & Eagly A, 'Role Congruity theory of prejudice toward female leaders', Southern Illinois University, Carbondale, US, 573-598.

because of their socially acceptable roles. These widely recognized gender stereotypes make it easier to predict the differences in social behaviour between men and women based on sex.

The Glass Ceiling Concept was opined by Hymowitz and Schellhardt to refer to the barriers affecting women's occupation of managerial roles, based on the historical discrimination of women.²³ Currently, the definition of the phrase has been expanded to encompass prejudice against minorities generally. The phenomenon is founded on a handful of presumptions. The glass ceiling is a special and specific form of inequality due to various factors, in contrast to other forms of discrimination and inequality. To start with, the discrimination against women in management is the fundamental component. Additionally, regardless of their level of education, experience or skills, women would still be subject to discrimination.

The concept is also used to describe the developing disparities that exist between men and women as their professional careers advance inside the organisation. Secondly, given that open discrimination against these communities is prohibited by the present equal opportunity laws, it is challenging to detect this bias, nevertheless. Moreover, this encompasses norms or stereotypes that are frequently imperceptibly exposed through behaviour, deeds, facts, processes or attitudes. Finally, the presence of invisible barriers prevents the progression in the hierarchy. In fact, this concept concentrates on top or senior management, if this level experiences the glass ceiling concept more frequently than medium and lower grade roles. As a result, women cannot surpass this limit and are shoved to the side-lines.

1.8 LITERATURE REVIEW.

To comprehend the factors underlying the impact of gendered stereotypes on girls' participation in sports, this review of the literature highlights the major findings from recent academic articles, industry reports and reports from the sports business and governance sectors from both domestic and foreign sources. The wider culture and history of each nation, the participation rates of each gender, the degree of contact in a sport, and the level of aesthetics all have an impact on how sports are gendered. The widespread universal concern regarding

²³ Hymowitz C & Schelhard .D, 'The Glass-Ceiling: Why Women Can't Seem to Break the Invisible Barrier that Blocks Them from Top Jobs', The Wall Street Journal, 1986, 57, — <https://www.scirp.org/reference/ReferencesPapers?ReferenceID=2092173> on 7 August 2017.

the under-representation of women in leadership and participation roles in sports has gained traction in recent times.

The genesis of this study traces back to 1970, in the developed nations, where Kanter remarkably analysed gender composition in institutions.²⁴ Henry and Robinson contended that gender equity is concerned with good governance.²⁵ Hence, it is an institutional responsibility to pioneer for diversity and inclusivity. His analysis was further reiterated by Goodwin and Schofield in their paper, where they sought to revolutionise gender politics.²⁶ Northouse defined leadership as a process by which an individual influences a group of others to achieve a common goal.²⁷ Setting the direction and creating the vision, acting with an inspirational and motivating demeanour, taking calculated risks, and encouraging change are all parts of being a leader. Likewise, management procedures comprise carrying out the strategy, arranging and arranging standard procedures, resolving emergent issues in a low-risk manner, and accomplishing the desired outcomes.²⁸

The Education Amendments of 1972, in the United States of America, sometimes known as "Title IX," was one of the pioneering attempts to reduce gender discrimination in publicly funded educational institutions. In the US, Title IX is a federal statute protecting civil rights. It was enacted as a component of the Education Amendments with the intention of shielding individuals from sex-based discrimination in the classroom and in athletics.²⁹ This statute prohibited any institution receiving federal assistance from discriminating against women in educational or extracurricular activities. While Title IX had far-reaching effects as it has had a

²⁴ Kanter R, *Men and women of the corporation*, 1st ed, New York, NY: Basic.

²⁵ Henry I, Robinson L, '*Gender Equity and Leadership in Olympic Bodies*. Loughborough, Loughborough University and International Olympic Committee, — <https://journals.sagepub.com/doi/abs/10.1177/1012690214548493> on January 2004.

²⁶ Schofield T & Goodwin S, '*Gender Politics and Public Policy Making: Prospects for Advancing Gender Equality*' 25-44, — <https://www.tandfonline.com/doi/abs/10.1016/S1449-4035%2805%2970067-9> on 3 March 2017.

²⁷ Northouse, *Introduction to leadership: concepts and practice*, 3rd ed. Thousand Oaks, CA: Sage Publishing, 2015.

²⁸ Kotterman J, '*Leadership versus management: what's the difference*. The journal of quality and participation, 13-17, — <http://ezproxy.jamk.fi:2048/login?url=https://search-proquestcom.ezproxy.jamk.fi:2443/docview/219091679?accountid=11773> on 20 April 2020.

²⁹ What is Title IX. N.d. Page on Harvard University's website, — <https://titleix.harvard.edu/what-title-ix> on 22 March 2020.

tremendous impact on female participation in sports management, female involvement increased in the decades that followed.³⁰ A more diversified leadership team was required due to the expansion of women's sports programs, opening opportunities for women to fill these positions. Despite this, Title IX had a severe impact on American athletics' administration, notwithstanding its beneficial effects on women's active engagement in sports. Men's and women's sports departments at universities that had previously operated independently were urged to combine under a new regulation. There was a significant increment in opportunities for women in the sports, education and other fields in the leadership realm.³¹

There has been an explosion of sports participation among women, over the past 40 years, although they are relatively unnoticed in sports leadership. Despite this, sports still manifests a clear gender divide today, with men heavily dominating sport governance. There is an acknowledgement, however, of the progressive initiatives to do so. True equity is nevertheless a wanting subject. This initiative is encumbered with challenges but there is a degree of necessity to be undertaken. It requires a collective effort from athletes, the government and sports organisations. The fruits to be born are bountiful since there is an incorporation of diversity and inclusivity. Resolving gender inequality and diversity in all its various indicators, including representations in sports, may have cascading ramifications or replicate systemic difficulties seen in broader society. Therefore, it is imperative to establish gender as a basic component of corporate and social structures in any discussion of women's leadership experiences in sport. This makes it easier to comprehend how and why gender plays a significant role in the social and organisational dynamics that shape organisations, including those in the sport industry.

With this method, it is possible to determine whether the configurations discovered reinforce gender inequities or support gender transformation. McAllister opines that female leadership is revolutionary, as it is empowering, participatory and relationship oriented. Locally, Njonjorai acknowledges that Kenyan women are under-represented in sport administration at

³⁰ Brake D, 'Revisiting Title IX's Feminist Legacy: Moving beyond the three-part test. *Journal of Gender, Social Policy, and the Law*, 453-482, — <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1316&context=jgspl> on 1 May 2020.

³¹ Cain P, 'Women, Race, and Sports: Life before Title IX. *Journal of Gender, Race & Justice*, 337-351, — <https://pdfs.semanticscholar.org/be05/3ce48e232717b054a6e5179b2ee894bb8cc8.pdf> on 25 April 2020.

the national sports federations, universities and as authorities accompanying athletes to world sports championships. The desire to level the playing field in a significant social cultural phenomenon like sport and its overall importance to social justice is reflected in the academic interest in women's roles in sports in Kenya. The under-representation of women in sports in the African context is linked to the conflicting values of sexual beauty, athletic prowess and the separation of women from the indigenous African warrior heritage.

Studies show lesser inclusion in sports participation, spectatorship and leadership is prevalent among women. Women in Kenya are underrepresented in sport management at the national sports organisations. Ever since women in Kenya were first admitted to the national teams for international competition, they have regularly represented Kenya in athletics at all Olympic Games since 1968. Yet, as evidenced by the numerous national sports organisations, there are more male sports administrators than female.³²

Gender inequity is superseded by two major tenets, comprising of sexism and gender stereotypes:

1.8.1 Sexism.

Sexism is defined as preferential treatment based on sex. Every day, both online and offline, at work and at home, women are subjected to sexism. There is still a pay disparity and a glass ceiling for women. They are perceived as "trophies," commodities, and inanimate objects.³³ This results in the difference in pay gaps, unfair hierarchical promotion and sexual harassment in the workplace. Women's contributions to society were undervalued compared to men's throughout the 19th century. Due to this prejudice, women's advancement in the workforce has been stifled because they were forced to compete with males for positions even when they were qualified for them.³⁴ There was little distinction between home and work or between public and private life before the industrial revolution.³⁵ Gender stereotypes include aggressive, forceful and powerful traits for men and submissive, emotional, and weak traits for

³² Mwisukha A, 'Towards gender equity in sports: Insights into the under-representation of women in sports leadership in Kenya', Final Report, 9.

³³ Sabo D and Runfola R, 'Jock; Sports and Male Identity, Prentice Hal', New Jersey, 1980, 10.

³⁴ Robinson L, 'Feminist scholarship: Kindling the groves of academe, University of Illinois Press: Chicago', 1987, 22.

³⁵ English Sport Council, 'Women friendly sport facilities', 33.

women. While they restrict men access to the caring, emotional, and other-focused realm of home life, traditional gender norms also deny women access to the public sphere of power, achievement, and independence. In this way, conventional gender norms restrict people's psychological and social potential.³⁶

Gender disparity arose when economic crisis took place throughout the 19th century. Many feminists began to question the notion that "biology is destiny" because of the changing labour conditions in the global state. A new gender order arose with post-Fordism, and women were given a larger role in the workforce.³⁷ One of the areas of social connections that is changing the most quickly is gender relations in the workplace. The International Working Group (IWG) on women and sport was established in 1994, following the Brighton Declaration, to advocate for gender equity and equality in sports. This is a Declaration for commonwealth countries to encourage inclusivity of women and their empowerment. However, it is not legally binding for the said members, including Kenya. It aims to increase the participation of women in sport at all levels, in all positions and functions, to create a sporting culture that supports and values the full involvement of women in every aspect. Nonetheless, whether unconsciously or not, sexism still exists in society to some extent and has an impact on many women's lives.

1.8.2 Stereotypes.

A stereotype is a prejudice that applies a condensed description of someone's traits and attributes to all members of a group. Men are stereotyped to be working and acting as the family's primary breadwinner, while women are thought of as staying at home to raise their children full-time. Hence, gender stereotypes are rigid, condensed and exaggerated descriptions of the characteristics of men and women. These stereotypes can be separated into the prescriptive and descriptive aspects. While prescriptive gender stereotypes depict what men and women should be like, descriptive gender stereotypes depict how women and men are. Most of the behaviour related with gender is learnt rather than natural since gender roles are socially constructed.

³⁶ Andersen M, 'Thinking About Women: Sociological Perspectives on Sex and Gender', Allyn and Bacon: Singapore, 1997, 72.

³⁷ Walby S, 'Gender, work and post-Fordism, The EC context', International Journal of Sociology, 1994, 67-82.

Gender is defined as the differences between men and women, based on culturally and socially constructed mores, politics and affairs. This contrasts the definition of the biological sex of a human being.³⁸

1.9 METHODOLOGY.

The overall research goal is to explore gender equity in the sports profession and governance, with specific emphasis on female sports administrators. The research shall be conducted in a qualitative manner, where I will concentrate on, comprehend and recognise the scholarly voice and academic advantages of research investigations. To demonstrate the usefulness of the findings of this study, primary sources such as hard laws, statutes and preparatory documents shall be prudently utilised, to shed light on the evidential gap in sports governance. This is by studying the challenges faced by women in sports governance to figure out whether it results in a different output, as compared to their male counterparts.

I shall supplement it with secondary sources comprising of necessary case law and scholarly work, to offer diverse and educated perspectives on gender inclusivity in the sports field. I have additionally chosen to use a feminist epistemology approach to tackle the research topic. The feminist epistemology is appropriate for a qualitative investigation and fits well with the nature of the demand. This is through the study of the success and failures of women governors in sports to compute their endurance in the field. I shall dominantly apply a deductive strategy, which is crucial in achieving my eventual solution, by assessing the best approach to promoting gender equity in sports governance.

1.10 LIMITATIONS OF THE STUDY.

This study will be carried out within Kenyan jurisdiction, but references from other jurisdictions will be consulted to enhance the quality of the research. The veracity of the study is restricted to the data derived from doctrinal research due to its qualitative nature. Nonetheless, the research will gather information from as many sources as it reasonably could to have a better and clearer grasp of the problem.

³⁸ Black's Law Dictionary, 3rd ed.

1.11 CHAPTER BREAKDOWN.

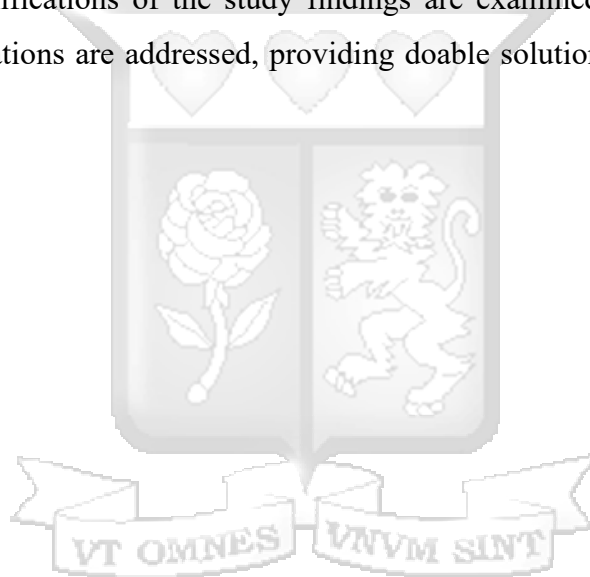
Chapter 1; The introductory chapter provides a background, problem statement, objectives, a hypothesis and research questions.

Chapter 2; Addresses the first research question, analysing the current stance in place and the mitigatory measures employed.

Chapter 3; Proceeds to address the second question, by analysing the factors contributing to the under-representation of women in the sports governance sector.

Chapter 4; Picks up from the former question and marries it with the third question on how it impacts decision making in sports.

Chapter 5; The ramifications of the study findings are examined in this last chapter and possible recommendations are addressed, providing doable solutions and avenues for future research.



CHAPTER TWO.

Factors contributing to under-representation of women in sports governance.

2.1 Introduction.

Minority groups still experience biases and preconceptions that shape their place in society in many nations. The literature is progressively beginning to address discrimination in sports against women in leadership roles and members of ethnic minorities. The literature first identifies many areas in the school system that are impacted by group preferences and prejudice in sports. To be employed, head coaches must meet several requirements, many of which are related to specialised training and a top-notch education. There is a potential to develop conditions that support a range of coaching techniques with different racial, ethnic and gender identities for high-performance sport to flourish. This chapter uses statistics from elite football and Olympic sports to highlight the issue of women coaches being underrepresented in high-performance sport and it draws on a variety of literature to inform an evidence-based and strategic approach to designing development in the context of increasing coach and leader gender diversity in these settings. It begins at the primary level in sports conducted in schools as it is a basis for sports governance at the grass-root level. It delves into high-performance sport leadership, learning and development and high-performance sport settings.

2.2 Factors.

Women's under-representation in sports governance is a complicated problem impacted by several variables. Despite recent advances, there is still a considerable gender imbalance in leadership roles within sports organisations. The investigation focused on how the legal and governance framework interact with respondents' age, gender, and positional status to explain why women are underrepresented in sports leadership.

Some of the major causes that contribute to women's under-representation in sports governance are;

2.2.1 Lack of inclusivity.

Diversity is an often mentioned as an organisational ideal, but when it comes to boards of governance, support for it is frequently lacking.³⁹ By way of example, in 2017 women held

³⁹ Knoppers, A., Hovden, J., and Elling A, 'Meta-analysis: theoretical issues. In: A. Elling, J. Hovden, and A. Knoppers, *Gender balance in European sport governance*. London: Routledge, 205–217.

just 25% of the board positions in the biggest publicly traded corporations in the European Union.⁴⁰ Given that women made up just less than 50% of competitors at the 2016 Olympic Games, the absence of gender parity in sport governance is particularly alarming.⁴¹ In Kenya, the road to political parity for women has not been easy. Women work hard to defy the societal and cultural norms that limit women to becoming spouses and mothers and taking care of the home.⁴² Nzomo divides political obstacles facing women into three categories, which are: pervasive sexism, authoritarian structures and practices, and a deficiency in civic awareness, which contribute to the significant non-inclusivity in Kenya.⁴³ The goal of an inclusive democracy is to distribute political power such that minorities are protected, represented, and able to participate in the political process. Its goal is to remove all forms of discrimination, including gender-based ones, from the distribution of power.⁴⁴ Inclusion of minorities is a key aspect of the United Nations, which encourages such in all aspects, particularly in the governance sphere.⁴⁵

2.2.2 Work-life balance hindrance.

The inability of the percentage of women on boards to significantly change has been attributed to the skewed work-life balance required of many board members, the lack of mentors and role models for women, and the preference of men for people who are like themselves (male homosociality).⁴⁶ Additionally, workplace harassment can result in unhealthy work settings,

⁴⁰ European Commission, 2018. *Report on equality between women and men in the EU 2018*. Brussels: European Union.

⁴¹ IOC, 2019, 'Promotion of gender equality in sport: statistics', — <https://www.olympic.org/women-in-sport/background/statistics> on 25 August 2022.

⁴² Iman MT, Sotoudeh M, Enayat H & Rajabi M, 'Construction of The Symbolic Domination Against Women and Their Cultural Strategies Confronting It', 1060.

⁴³ Nzomo M, 'Women in Political Leadership in Kenya: Access, Agenda Setting and Accountability' — <https://cutt.ly/CfVY0yf> on 24 September 2022.

⁴⁴ United Nations Development Programme, *Human development report 2000: Human rights and human development*, Oxford University Press, New York, 2000, 57.

⁴⁵ United Nations Development Programme, *Human Development Report 2000: Human Rights and Human Development*, 57.

⁴⁶ Terjesen, S., Sealy, R. & Singh V, 'Women directors on corporate boards: A review and research agenda', *Corporate Governance: An International Review*, 320–337, — https://onlinelibrary.wiley.com/doi/full/10.1111/j.1467-8683.2009.00742.x?casa_token=Y5TNxEdqiEkAAAAA%3A1fTZ_fS9e6186o-1ekS-lav3QAWBo2HzEr4BYC9OxPA0jJmx4s-kXj4oUVQUdPa_KCB6rwp8P0tKXj0 on 7 June 2009.

mental health issues, and low job satisfaction for women. This might be a motivating factor in women quitting their jobs early or looking for employment elsewhere. Furthermore, there may be differences in the workload and work culture between male and female administrators.⁴⁷

2.2.3 Gender roles and stereotypes in place.

First and foremost, it is critical to recognise athletics as a gendered domain. Anderson contends that sports actively construct boys and men to exhibit, value and reproduce traditional notions of masculinity and that competitive sports function as a social institution centred on defining certain types of masculinity as acceptable while demeaning others.⁴⁸ Sport functions as a place for the definition and reproduction of hegemonic masculinity, in which one type of masculinity, exclusively heterosexual and physically dominating, maintains supremacy by repressing all other forms of masculinity and subordinating women, as coined by Connell.⁴⁹ This is significant because women are frequently positioned as the 'other' in the social institution of sports and the presence of women in sports, whether as athletes, coaches, managers, or leaders, is constantly overlooked.

Further, a report on the Step-Up Equality project was conducted by the European Commission in 2019. Its main objective was to encourage female leadership, which will hasten the transition to gender parity in European sports. This entails combating gender-based discrimination, cultural norms and structural impediments within the sports industry. It also heavily emphasises collaboration and the sharing of best practices and knowledge between various sports and nations. The project's main goal is to advance the much-needed transition to a more inclusive and equitable sport. Consequently, a survey was conducted on over 200 women participants, who were required to give their views on the hindrances to female leadership in sports. An unsupported environment was cited as a major factor, with 48% of the participants in agreement. It was followed closely by limiting gender roles which amassed a whopping

⁴⁷ Batz-Babarich C, Tay L, Kuykendall L, et al, 'A meta-analysis of gender differences in subjective well-being. A meta-analysis of gender differences in subjective well-being: estimating effect sizes and associations with gender inequality', — <https://journals.sagepub.com/doi/abs/10.1177/0956797618774796> on 13 April 2018.

⁴⁸ Anderson E, 'The maintenance of masculinity among the stakeholders of sport', *Sport Management Review*, 2009.

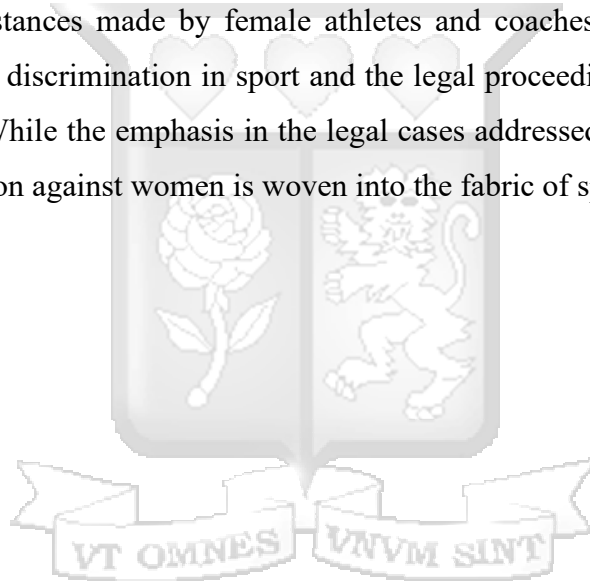
⁴⁹ Connell R, *Masculinities*, 2nd Ed, University of California Press, Los Angeles, 1995, 12-21.

25%. Lastly, lack of self-confidence and inadequate resources accumulated 12% and 15% respectively.⁵⁰

While competent women referees increased by 72% between 2016 and 2020, there is still a significant lack of women in officiating jobs, notably in men's football.⁵¹ Rebecca Welch made global headlines in early 2021 when she became the first woman to referee a men's Premier League match, yet males account for 37% of referees in the Women's Super League.⁵² Certainly, even without these numbers, it is evident to those of us who frequently watch football in our local that women are underrepresented in the multiplicity of positions that allow the game to thrive.

2.3 Conclusion.

An assortment of instances made by female athletes and coaches against organisations to analyse gender-based discrimination in sport and the legal proceedings that aim to remedy it has been prevalent. While the emphasis in the legal cases addressed has been on players and coaches, discrimination against women is woven into the fabric of sport at all levels.



⁵⁰ The European Commission, Step Up Equality, — <https://stepupequality.geacoop.org/>

⁵¹ Stimpson J, 'Find out we Helped Increase Number of Female Refs by 72 percent Since 2016', *The FA*, — <https://www.thefa.com/news/2020/jun/03/gameplan-for-growth-refereeing-030620> on November 30, 2022.

⁵² MacInnes P, 'Really Excited': Rebecca Welch the First Female Referee Appointed to EFL Match', *The Guardian*, — <https://www.theguardian.com/football/2021/mar/30/rebecca-welch-first-female-referee-appointed-to-efl-match> on 1 December 2021.

CHAPTER THREE.

An assessment of the current repressive situation and the inclusive practices in place.

3.1 Introduction.

The sport sector, like many other fields, has gradual inclusivity of women in leadership, with men dominating sports governance.⁵³ Even though the mechanisms that govern an organisation are not often readily apparent, governance is an essential part of all sport-related organisations worldwide, regardless of size, from amateur to professional.⁵⁴ The governance landscape in sports is gradually evolving as more women are taking on leadership positions in sports organisations.⁵⁵

Equity is defined as the spirit or habit of fairness, justice and right dealing within the purview of the law.⁵⁶ This stands in sharp contrast to equality, which is ensuring that everyone is viewed and treated equally under the law.⁵⁷ The Constitution guarantees that everyone can enjoy their rights and freedoms on an equal basis, but nevertheless specifies when special treatment may be used.⁵⁸ This demonstrates its awareness of the necessity to address the unique requirements of a group in order to improve them. The application of this difference to Kenya's setting aims to address historical injustices, particularly those faced by the country's political minority.⁵⁹ Substantial equality is essentially this acknowledgement of disenfranchisement that requires redistribution.⁶⁰

⁵³ Kihl, L. A., Shaw, S., & Schull V, 'Fear, anxiety, and loss of control: Analysing an athletic department merger as a gendered political process', *Journal of Sport Management*, 146–157, — <https://doi.org/10.1123/jsm.27.2.146> on 3 May 2020.

⁵⁴ Ferkins, L., Shilbury, D., & McDonald G, 'The Role of the Board in Building Strategic Capability: Towards an Integrated Model of Sport Governance Research', *Sport Management Review*, 195–225, — <https://www.sciencedirect.com/science/article/abs/pii/S1441352305700395> on November 2005.

⁵⁵ UNFPA, Gender equality and equity: A summary review of UNESCO's accomplishments since the Fourth World Conference on Women, — <http://unesdoc.unesco.org/images/0012/001211/121145e.pdf>

⁵⁶ Black's Law Dictionary, 3rd Ed.

⁵⁷ *Andrews v. The Law Society of British Columbia* (1989), The Supreme Court of Canada.

⁵⁸ Article 19, Constitution of Kenya, 2010.

⁵⁹ Article 22(3), Constitution of Kenya, 2010.

⁶⁰ Albertyn C, 'Contested Substantive Equality in the South African Constitution: beyond social inclusion towards systemic justice', 442, — <https://www.studocu.com/en-za/document/university-of-pretoria/jurisprudence/albertyn-contested-substantive-equality-in-the-south-african-constitution-beyond-social-inclusion-towards-systemic-justice/36890202> on 31 December 2018.

This chapter highlights the gender composition of governors in the sports industry and the inclusive measures in place to support gender inclusivity in decision-making. The experiences of current female governors in the sports sector are also discussed here, along with recommendations to overcoming prevalent obstacles and the success of inclusive policies. The content of this section adds to the continuing discussion on gender equality in sports leadership by looking at actual cases and analysing the wider implications for the sports governance environment.

3.2 Challenges.

In their discussion of how governments regulate sports in Europe, Lewis makes a distinction between "interventionist" and "non-interventionist" methods of regulation.⁶¹ Kenya falls under the latter category. The FKF is the governing body of sports nationally. There have been recorded cases of serious charges of corruption against FKF officials on a national and international level.⁶² It has been notorious for scoring a zero in transparent transaction in relation to its management, finances and proper code of conduct.⁶³ The FKF is a member of FIFA and gets funding from it. Without a doubt, the FIFA non-interference rule was established with the goal of promoting and developing football globally by banning political and governmental meddling in football-related affairs. The suspension of states for interference is one of these consequences. FIFA considers any kind of regulation, whether it be judicial or legislative, implemented by a state to be interference and punishes the state accordingly. Suspension or the fear of suspension is one of FIFA's most effective forms of discipline.⁶⁴ This

⁶¹ Adam Lewis & Jonathan Taylor, *Sport: Law & Practice*, Butterworths, Lewis Nexis, 5-11, — https://www.bloomsburyprofessionalonline.com/view/sport_law_practice/sport_law_practice.xml on March 2021.

⁶² Ochieng' E, Ndunda E, 'Football Kenya Federation hit with claims of corruption' Standard Media — <http://www.standardmedia.co.ke/sports/article/2000088593/football-kenya-federation-hit-by-claims-ofcorruption> on 17 July 2007. See also <http://www.bbc.com/sport/football/23464557>

⁶³ Mututota M 'Kenya: 'Transparency International gives FKF Zero Points in Governance League' Capital FM . — <http://allafrica.com/stories/201511250491.html> on 24 Nov 2015.

⁶⁴ Meier H & Garcia B, 'Protecting Private Transnational Authority against Public Intervention: FIFA's Power over National Governments' — https://onlinelibrary.wiley.com/doi/full/10.1111/padm.12208?casa_token=I_xCtj55LYgAAAAA%3AZrDKNx84vIju4ZbDNtDOs_Lq5wuFqIxSTSSeXf9nLndq4RfMQwv_5Vv5dzWpYuX7tZ_gR-FBadtShUI on 17 September 2015.

poses a challenge in respect to focusing on gender inclusivity, given the endless problems it is currently facing.

Existing research has shed some light on the institutional factors that influence the gender diversity of boards. Nevertheless, a few drawbacks must be mentioned. First, the institutional factors that have been studied are limited in number. As a result, environmental factors that influence board gender diversity are still not well studied, according to Brieger.⁶⁵ Second, gender stereotypes are even harder to dispel in the sports industry because it has historically been dominated by men.⁶⁶ Consequently, given its significant social and political role, the sports industry merits a closer look. Studying the institutional elements influencing the degree of gender diversity in sport governance is therefore crucial.⁶⁷ Due to a lack of aggressive recruiting plans and the prevalence of employment processes that prioritises similarities over diversity, several sports organisations continue to be controlled by males.⁶⁸ Because of homologous reproduction, male-dominated networks bar women from the hiring process even when they recognise the value of having women on their boards.⁶⁹ In organizations, the idea of homologous reproduction is commonplace. It refers to the process by which individuals in positions of authority bestow influence on candidates who share their traits and gain access to positions of power.

3.3 Current stance.

Community-level sports greatly depends on the numerous non-player roles that it entails, such as administration, coaching, officiating and governance. Reducing the gender gap in sports has received more attention lately.⁷⁰ The development of sports is heavily reliant on the

⁶⁵ Brieger SA, Francoeur C, Welzel C, Ben-Amar W, 'Empowering women: the role of emancipative forces in board gender diversity. *J Bus Ethics*, 495–511. — <https://doi.org/10.1007/s10551-017-3489-3>

⁶⁶ Anderson E, 'The maintenance of masculinity among the stakeholders of sport', *Sport Manag Rev*, 3–14, — <https://doi.org/10.1016/j.smr.2008.09.003> on February 2009.

⁶⁷ Spaaij R, Knoppers A, Jeanes R, 'We want more diversity but...': resisting diversity in recreational sport clubs. *Sport Manag Rev*, 363–373, — <https://doi.org/10.1016/j.smr.2019.05.007> on 7 May 2019.

⁶⁸ O'Boyle, I., Murray, D., & Cummins, P, *Leadership in sport*, 1st ed. London, New York: Routledge, 2015.

⁶⁹ Burton, L. J. 2015. Underrepresentation of women in sport leadership: A review of research. *Sport Management Review*, 18(2), 155–165. Accessed on 20 April 2020. Retrieved from <https://doi.org/10.1016/j.smr.2014.02.004>

⁷⁰ International Olympic Committee. IOC gender equality review project, — <https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/News/2018/03/IOC-Gender-Equality-Report-March-2018.pdf>. on December 2018.

government, which it is closely linked to.⁷¹ Some of the measures include the participation in national and international competitions, provisions of sporting facilities and equipment, policies empowering sports among the youth and financial assistance from the government. According to an international study on gender diversity in sport governance, women are still underrepresented as chief executives (16%), board chairs (11%), and directors (20%) in 45 countries worldwide.⁷² A sufficient number of women in leadership positions was only attained by a few nations. There is compelling evidence that having a diverse mix of genders on corporate boards improves several business outcomes and processes. It also serves as a valuable role model for other women.⁷³

In 2017, the International Olympic Committee (IOC) committed to diversifying its governance structures by gender by 2020. The percentage of women on the IOC board of directors rose from 19% to 29% between 2016 and 2018, but this still falls short of the goal of having a gender-balanced board with between 40 and 60% of the total number of women.⁷⁴ In Australia, non-profit community organisations frequently oversee grass roots sports. Over 2.3 million people participate in paid or unpaid non-playing roles in such sports. The term "volunteers" is used in most of the research that has been done so far on the sport workforce; however, this implies that they are not compensated for their time, whereas positions like coaches, officials and administrators may be. Because of this, the term "non-playing" will be used collectively in this study to refer to both paid and unpaid roles that allow athletes to take part in all aspects of the sport ecosystem, including coaching, officiating, governance, and administration.

⁷¹ Petry K, Steinbach D, Tokarski W, 'Sport systems in the countries of the European Union: similarities and differences', 15–21, — <https://www.tandfonline.com/doi/abs/10.1080/16138171.2004.11687744> 2004.

⁷² Adriaanse J, 'Gender Diversity in the Governance of Sport Associations: The Sydney Scoreboard Global Index of Participation. *J Bus Ethics*, ' 149–60, — <https://www.jstor.org/stable/24755752> on 24 January 2015.

⁷³ Terjesen S, Sealy R & Singh V, 'Women Directors on Corporate Boards: A Review and Research Agenda. *Corporate Governance: An International Review*, ' 320–37, — https://onlinelibrary.wiley.com/doi/full/10.1111/j.1467-8683.2009.00742.x?casa_token=Y5TNxEdqIEkAAAAA%3A1fTZ_fS9e6186o-1ekS-lav3QAWBo2HzEr4BYC9OxPA0jJmx4s-kXj4oUVQUdPa_KCB6rwp8P0tKXj0 on 7 November 2023.

⁷⁴ IOC sustainability report, 'Sharing progress on our 2020 objectives', — https://stillmedab.olympic.org/media/Document%20Library/OlympicOrg/IOC/What-We-Do/celebrate-olympic-games/Sustainability/IOC%20Sustainability%20Report_Final%20Rev1.pdf?la=en&hash=6D79625806503870C73D7218AB52936BC9DDB756 on 19 February 2024.

Additionally, an AusPlay survey was conducted by Sport Australia, to determine the participation of women and girls in non-player roles. The four main roles of focus were coaching, managing, administration and officiating. Women are gradually growing more prevalent in coaching positions outside of athletics. Although they are more likely to be managers, there remains a level of under-representation in the ranks of administrators, officials, and coaches. In 2020, a five-year game plan was implemented in Victoria, which seeks to dispel gender stereotypes in the sports industry and inspire more women and girls to realize their full potential. It does this by funding female-friendly sports facilities and setting quotas for the number of women who can serve on boards.⁷⁵

The Irish government through the National Sports Policy under Action 32, assigns National Governing Bodies the responsibility of creating action plans for equality and establishing goals for gender diversity.⁷⁶ As part of the Leadership & Governance pillar of the Sport Ireland Women in Sport Policy, Sport Ireland has published a statement outlining its policy on women in sport as well as the progress made since the policy's publication. According to the first update, which was released in March 2020, the average percentage of female board members across funded National Governing Bodies was 29%. When the Sport Ireland Policy on Women in Sport was released in 2019, this represented a rise from 24%. In National Governing Bodies (such as Sport Ireland, the Federation of Irish Sport, the Olympic Federation of Ireland, and Paralympics Ireland), this percentage currently stands at 36%. With 39% of board members being female, the same number for local sports partnerships has increased by 2% in the past year.⁷⁷

The Sports Act of 2013 establishes the office of the Registrar of Sports, which oversees licensing professional sports activities and athletes, registering and regulating sports organizations and multisport bodies that represent sports organisations, and mediating registration disputes.⁷⁸ To become legally recognized, a sports organisation needs to register

⁷⁵ Victoria State Government. *Change our Game*. — <https://sport.vic.gov.au/our-work/participation/change-our-game> 2nd December 2023.

⁷⁶ Government of Ireland, National Sports Policy,
— <https://assets.gov.ie/15979/04e0f52cee5f47ee9c01003cf559e98d.pdf>

⁷⁷ Sport Ireland Leadership Snapshot, <https://www.sportireland.ie/WISSnapshot>

⁷⁸ Section 45(1), Sports Act (2013).

with the Registrar of Sports office. Sports organizations that are not properly registered are illegal organizations that are not eligible to use the rights and benefits granted by the Act. A sports organisation can register as a national sports organisation, a county sports association, or a sports club.⁷⁹ A sports organisation's constitution must also include provisions for officer elections that incorporate and adhere to the main principles of the electoral system as stipulated in Article 81 of the Kenyan Constitution.⁸⁰ The aforementioned principles that must be adhered to by the electoral system include: the freedom of citizens to exercise their political rights, the requirement that no more than two thirds of the members of elective public bodies be of the same gender, fair representation of individuals with disabilities, universal suffrage predicated on equality of vote and fair representation and free and fair elections that are held by secret ballot, free from intimidation, violence or improper influence.

3.4 Successes of inclusivity.

In other facets of the sports industry, women are already acknowledged as being extremely important and advantageous. For instance, there are several reasons why female agents are becoming more and more well-liked in Major League Baseball (MLB), the National Basketball Association (NBA), the National Football League (NFL), and the National Hockey League (NHL). To begin with, they are honest, uphold their word, and are not dishonest. Second, nurturing is a basic skill that female agents possess that is not particularly unique to males. They consider a broader variety of factors that affect the athlete and his or her family. Beyond customary discussions, women agents have responsibility for negotiating extra agreements pertaining to the everyday athlete's life, such as pay, perks, and working conditions.⁸¹

Young contends that it is necessary to express each person's unique voice in order to guarantee that they are all free to pursue their own goals. Real participatory systems, she continues, guarantee representation and the expression of different viewpoints.⁸² The Gender Principle

⁷⁹ Section 46(1), Sports Act (2013).

⁸⁰ Article 81, Constitution of Kenya, 2010.

⁸¹ Hong E, 'Female agents a rarity in team sports' ESPN, — <https://www.espn.com/espn/sportsbusiness/news/story?id=2079652> 8 June 2023.

⁸² Young M, Justice and the Politics of Difference, Princeton University Press, Princeton, 1990, 116.

was developed to guarantee that Kenyan women's particular situations be taken into account.⁸³ This refers to the concept of inclusion of women in governance structures to address historical disparities. This is seen in Kenya under Article 27 of the Constitution, where the state is tasked with the promotion of gender equity and equality.⁸⁴ Previous elections have made it abundantly clear that, absent affirmative action or legislative assistance, the public's perception of women in politics may not support their substantive representation in the legislature.⁸⁵ As a result, the inaction on these measures themselves constitutes injustice.

Aside from the ethical requirements of gender inclusivity in the boardroom, there is also the economic benefit that is derived from it.⁸⁶ There is sufficient evidence accrediting the generation of a high per capita revenue in a corporation with a diverse administration.⁸⁷ It is recommended that mentoring programs be maintained, that female role models be recognised and highlighted, and that additional tactics be used to boost the representation of women in non-playing roles.

3.5 Conclusion.

Sport's ability to address broader agendas such as health, economic, and social inclusion is widely acknowledged. The promotion of women in sport leadership has been proposed regionally by the African Union (AU).⁸⁸ The AU's support of the Kazan Action Plan (KAP), which is supported by most national governments and links the creation of sport policy to the

⁸³ Braun M, 'Kenyan Women Struggle in Politics' DW, 8 February 2013, — <https://cutt.ly/kfpanol> on 23 August 2023.

⁸⁴ Article 27, Constitution of Kenya (2010).

⁸⁵ Reuters, 'Kenyan Women Candidates Face Curses and Violence' The East African, — <https://www.theeastafrican.co.ke/tea/news/east-africa/kenyan-women-candidates-face-curses-and-violence--1370986> on 5 August 2022.

⁸⁶ Terjesen S, Sealy R, Singh V, 'Women directors on corporate boards: a review and research agenda', 320–337, — <https://doi.org/10.1111/j.1467-8683.2009.00742.x> on June 2022.

⁸⁷ Wicker P & Kerwin S, 'Women representation in the boardroom of Canadian sport governing bodies: structural and financial characteristics of three organizational cluster', — <https://doi.org/10.1080/23750472.2020.1825987> 2022.

⁸⁸ African Union, Policy Framework for the sustainable development of sport in Africa — https://au.int/sites/default/files/pages/32902-file-final_sport_policy_framework_for_africa-version_to_be_printed_-_english.pdf on 14 March 2023.

UN's Sustainable Development Goals (SDGs), advances this even further. The KAP demands that gender equality for women and girls in sports be upheld, advanced, and empowered.⁸⁹ The KAP was developed under the International Conference on Population and Development (ICPD). Kenya is not yet a signatory but has made efforts that align to the KAP including reproductive health, youth empowerment and gender equity.



CHAPTER FOUR.

How does the existing sports legal and governance framework perpetuate indirect discrimination?

4.1 Introduction.

Gender equality has emerged as a crucial issue in modern society, affecting many different areas, including sports governance. Indirect gender discrimination is still a problem, especially when it comes to the makeup of sports boardrooms, even as overt gender prejudice is becoming

⁸⁹ UNESCO, The kazan action plan: A foundation of the global framework for leveraging sport for development and peace, New York, USA, 2017— <https://www.un.org/development/desa/dspd/wp-content/uploads/sites/22/2018/06/10.pdf> on 14 March 2023.

more widely acknowledged and denounced. This chapter investigates the issue of indirect discrimination, looking at its underlying causes, effects and possible solutions. The concept of indirect discrimination under constitutional law is when a working practice or policy is neutral in its application but has a disadvantageous effect on a given group of people. It was established in the case of *Griggs v Duke Power*, where it was held that the existing neutrality at face value had a discriminatory element in practice.⁹⁰ In this context, it is applicable whereby there exists a level of difficulty or inconvenience that affects the composition of a sports governance board, despite the non-existence of an outright discriminatory policy in place.⁹¹ To achieve the abolition of prejudices and customs that are based on the belief that one sex is superior to the other or that there are stereotypes about what roles men and women should play, states parties are required by CEDAW to take all reasonable steps to modify the social and cultural patterns of conduct of men and women.⁹²

4.2 Indirect indiscrimination and substantive equity.

The European Court of Justice established the elements of direct (disparate treatment) and indirect (disparate impact) forms of discrimination in the case of *Enderby v Frenchay Authority*, with the latter posing a challenge in identification.⁹³ To demonstrate that there is or has been indirect discrimination, the policy must disadvantage people with a protected characteristic and that the policy has negatively impacted such persons. Further, the organisation or society ought to demonstrate that there is a valid reason for implementing the policy despite the degree of disadvantage to people with your protected characteristic.⁹⁴

The indirect discrimination experienced by female governors in sports boardrooms is caused by several mechanisms:⁹⁵ Implicit bias, whereby pervasive cultural norms and gender stereotypes can give rise to unconscious biases against women's leadership potential, which

⁹⁰ *Griggs v Duke Power* (1971), The Supreme Court of the United States.

⁹¹ Doyle O, 'Direct Discrimination, Indirect Discrimination and Autonomy' 27, *Oxford Journal of Legal Studies* 3, 2007, 537-553.

⁹² Article 1, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, 1249 UNTS.

⁹³ *Enderby v Frenchay Authority*, European Court of Justice.

⁹⁴ Bell M, 'More Equal Than Others: Distinguishing European Union Equality Directives' 38 *Common Market Law Review*, 2001, 587.

⁹⁵ Fredman S, *Discrimination Law*, 3 ed, Oxford, England, 2023, 247-258.

can impact boardroom appointment decision-making processes. A selection criterion is another factor, where women who may have different but equally valuable skill sets may be disadvantaged by criteria for boardroom jobs that unintentionally favour qualities or experiences often associated with men, such as substantial sports experience or networking prowess. This however does not mean they are incapacitated, but rather that they are faced with more blockades and hinderances, which affect their exposure and easy access to the industry. Finally, there exists male-dominated networks in which women are frequently excluded from informal networks and channels of influence within the sports community, which restricts their access to boardroom roles and upholds gender inequality.

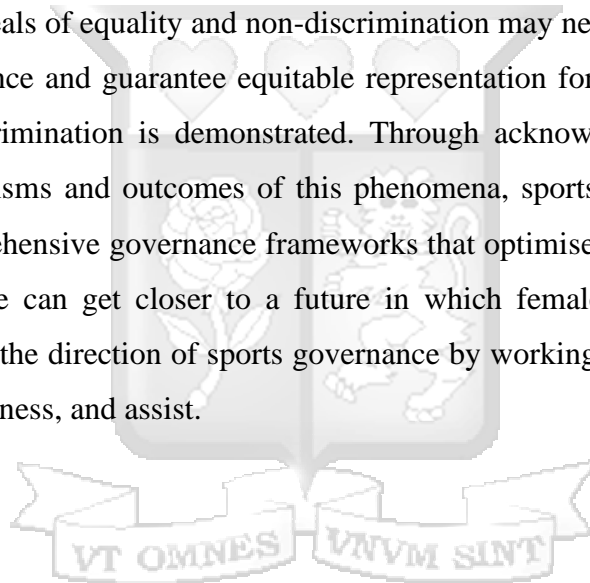
The effects of discrimination that is not direct discrimination against female governors in sports boardrooms has far-reaching and complex consequences. Indirect discrimination contributes to the "glass ceiling" effect, which limits women's chances for leadership positions and career advancement in sports organizations by creating imperceptible barriers to advancement. Sports organisations lose out on a wealth of talent, creativity and experience that gender-diverse leadership teams may bring, which ultimately jeopardises their long-term viability and success. This is because women are not allowed to hold positions of administration, contributing to missed opportunities. If the selection of governors is mostly based on unofficial networks or connections within the sports community, women who are not as highly involved in these networks as men may face exclusion or disadvantage.

Indirect discrimination can also result from policies or practices that, while appearing neutral on the surface, have a discriminatory effect on women, leading to unintended consequences. While the Sports Act itself does not explicitly discriminate on women, its inadequate inclusion of provisions to promote gender equity and discrimination may be deemed to be indirectly discriminatory. Advocating for amendments on the Act could go a long way to address this unintended consequence. An example could be the requirement for gender sensitive sports boards or gender development initiatives. Deeply ingrained cultural or societal standards about gender roles and expectations can also be a contributing factor to indirect discrimination. For instance, women may encounter covert obstacles or prejudices that hinder their advancement into leadership roles in the sports board game community if there is an implicit belief that sports governance is a male realm.

Taking a diverse approach is necessary to combat indirect prejudice against women governors in sports boardrooms. To encourage gender diversity and inclusion in boardroom compositions, sports organisations need to take proactive steps. These include establishing gender-neutral selection criteria, setting goals for female representation, and putting in place systems for accountability and monitoring. By educating board members and other stakeholders about unconscious bias and gender sensitivity, training programs can promote inclusivity and dispel long-standing assumptions and prejudices. For ambitious women leaders in sports governance, the creation of mentorship programs and support systems can offer priceless advice, inspiration, and chances for professional growth and networking.

4.3 Conclusion.

The constitutional ideals of equality and non-discrimination may necessitate corrective action to rectify the imbalance and guarantee equitable representation for all people, regardless of gender, if such discrimination is demonstrated. Through acknowledging and tackling the fundamental mechanisms and outcomes of this phenomena, sports organisations can foster more just and comprehensive governance frameworks that optimise the capabilities of varied leadership teams. We can get closer to a future in which female governors actively and powerfully influence the direction of sports governance by working together to change laws, increase public awareness, and assist.



CHAPTER FIVE.

What recommendations can be made to sports organisations and policy makers to curb this problem?

5.1 Introduction.

Chapter one introduced the problem of the inadequacy of female sports governors in the sports sector, with a closer lens on the Kenyan context. It additionally highlighted the problem statement, hypothesis, research objectives, research questions, theoretical framework,

literature review and finally the limitations of the study at hand. The consequent chapters delved deeper into the research questions. Chapter two discusses the current stance in regard to the mitigation measures at hand and the effectiveness of the same. Chapter three goes further ahead to highlight and analyse the factors in place that undermine the much-needed inclusion of female governors in sports management. Chapter four assesses how the former research question impacts the decision-making process in sports management and whether there is a difference in effecting this inclusivity. Finally, Chapter five seeks to find possible solutions and ameliorate the current measures in place that are feeble.

5.2 Recommendations.

Legal protections in existing legislations against gender discrimination should be enforced. Explicit prohibition of should also be addressed as well as sanctions for it. For example, the National Gender and Equality Act ought to provide for indirect discrimination and the measures taken by the established Commission to avoid these unintended consequences of neutrality, particularly under Section 8.⁹⁶ The courts have an obligation to uphold, defend, and fulfil basic freedoms and constitutional rights, as well as to make revisions when they are violated because of this discrimination.⁹⁷ Sustainable development is based on the principles of accountability, transparency, equality, and participation. It is the duty of the government to educate its people about gender equality, which is guaranteed under the constitution under Article 10, to fulfil its international agreements.⁹⁸ It recognises that to achieve gender equality, the State Department of Gender has established implementation plans that are unambiguous. On the other side, the National Gender Equality Commission is tasked with supervising the achievement of freedom from discrimination and gender equality.⁹⁹ Its provision under Article 8 includes the promotion of gender equality and freedom from discrimination in accordance with Article 27 of the Constitution.¹⁰⁰ This should further encompass the duty of upholding a gender quota in leadership positions, particularly regarding to sports, as stipulated under sub-

⁹⁶ Section 8, National Gender and Equality Commission (Act No. 15 of 2011).

⁹⁷ Article 21(1), Constitution of Kenya (2010).

⁹⁸ Article 10, Constitution of Kenya, 2010.

⁹⁹ Article 8, National Gender Equality Commission,

¹⁰⁰ Article 27, Constitution of Kenya, 2010.

article (d) and (i). These uphold the duty of coordination and cooperation with Government and non-government sectors to spearhead non-discrimination based on gender.

Gender responsive policies should be developed regarding sports governance. There should be considerations of leadership equity and gender-sensitive budgeting. Owing to Article 81 of the Constitution, a sports organisation's constitution must protect members' rights to choose their own officials. Structures for the representation of people with disabilities in the sports organisation's leadership must also be included in the internal constitution. The purpose of these clauses is to protect sports organisation members' rights. It is hoped that they will address the issue of Kenyan sports organisations' individualist leadership, which is not accountable to or receptive to the needs of the members.

The implementation of an overall capacity building and training would be a crucial development to the sports sector, focusing on the empowerment of coaches, administrators and officials. This acts as a proper avenue to address such disparities. It is also advisable that commercial entities, sponsors of sporting events, and the Ministry of Youth Affairs, Sports and the Arts provide adequate funding for Kenyan women to continue their education.¹⁰¹ The Ministry of Gender and Sports ought to develop affirmative action policies that provides women's leadership roles, participation in sports and selection for international tournaments. Furthermore, it is recommended that the Kenya Institute of Education (KIE) develop a curriculum that challenges cultural prejudices that impede women's advancement into leadership roles within the sports industry.

The media's representation of female athletes is a significant element in the feminisation of sports and the upholding of hegemonic masculinity. Gender marking, which portrays male athletes and men's sports as the standard and women's sports as "other," is a problem that women frequently encounter in the media. Another problem is that successful female athletes are frequently portrayed in the media according to their physical appearance, hairstyle, and other characteristics.¹⁰² The public should be educated by the media on the value of sports for people of all genders, and greater coverage and exposure of female athletes should be provided

¹⁰¹ Mwisukha A & Elijah G, 'Insights into the Under-Representation of Women in Sports-Leadership in Kenya', *International Journal of Applied Sociology*, 102-108.

¹⁰² Trolan E, 'The Impact of the media on gender inequality within sport'. *Procedia – Social And Behavioral Sciences*, 215-227.

to encourage more women to participate in sports. By recognising and addressing this under-representation, I believe we can make sure that the most brilliant minds from all backgrounds can contribute to the growth of research and improve not just the sports community but also society at large.

5.3 Conclusion.

The main economic factor that leads to the under-representation of women in sports leadership is determined to be the inadequate funding available to women for additional sports training. More women than men agreed with government sports officers, national team coaches and Federation officials that economic factors were important. Second, the primary cultural issue that prevented women from assuming leadership roles in sports and other fields was identified as the notion that women cannot lead men. The main societal variables that contribute to women's under-representation in sports leadership are low female engagement in sports and a lack of role models. Gender does, in fact, influence how sports professionals perceive societal barriers that prevent women from pursuing leadership roles in the sport. The under-representation of women in sports leadership can be attributed, in part, to women's failure to use their own networks to support friends and associates.

Additionally, age plays a major role in how sports personnel perceive the degree to which cultural factors undermine women's participation in sports. In Australia, individuals of one gender who are 12 years of age or older may be prohibited from competitive sports if their competitors' strength, endurance, or physical appearance is a factor. However, children under the age of 12 are not permitted to be excluded from competitive sports because of their sex or gender identity.¹⁰³ The younger generation views the under-representation differently than the elder generation, who attributes it to cultural causes.

¹⁰³ Section 5, *Sex Discrimination Act (Australia)*.



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