



GENDER-BASED VIOLENCE AS A BARRIER TO WOMEN'S PARTICIPATION IN POLITICS



"We the people...Inventing the future"

ACKNOWLEDGEMENT

I would like to express special thanks and gratitude to all the various parties, institutions and individuals who have been engaged in the process of this research. Hopefully, many of the suggestions and recommendations will form the basis for future engagement and involvement of special interest groups in political processes, moving from a place of tokenism and bare minimum engagement to meet constitutional quotas to a place of rich meaningful engagement that leads to eventual societal development. There have been a number of research documents demonstrating how political processes are violent, and even more violent for special interest groups. Many documents focus on the externalities that are causing these barriers to participation. This particular document investigates the parties themselves and their structures. A differentiation to this document is that it includes policy guidelines on addressing sexual and gender-based violence in political parties and a model of a sexual harassment policy that many parties lack even though the report shows that it is an issue.

As a member of Siasa Place, we are passionate about the involvement of young people in governance, but also recognize that youth is transient, all people must pass through youth, and this demographic of people are also women, and people with disabilities. Therefore, information that touches on young people is important for all.

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LIST OF ABBREVIATIONS

CSOs Civil Society Organizations

EGBV Election Gender-Based Violence

SGBV Sexual Gender-Based Violence

OGBV Online Gender-Based Violence

PWDs Persons with Disabilities

SIGs Special interests Group

ESGBV Electoral, Sexual, Gender-Based Violence

CSO Civil Society Organizations

NGO Non-governmental Organizations

UDA United Democratic Alliance

ODM Orange Democratic Movement

ANC Amani National Congress

WDP Wiper Democratic Party

KANU Kenya African National Union

FIDA Federation of Women Lawyers

ORPP Office of The Registrar of Political Parties

IEBC Independent Electoral and Boundaries Commission

MP Member of Parliament

MCA Member of the County Assembly

NDC National Delegates Conference

NEC National Executive Council

KEWOPA Kenya Women Parliamentarians Association

KYPA Kenya Young Parliamentarians Association

CMD- Ke Center for Multiparty Democracy- Kenya

ELOG Election Observation Group

AMWIK Association for Media Women in Kenya

NARC- Ke National Rainbow Coalition- Kenya

COVAW Coalition On Violence Against Women

IMLU Independent Medico- Legal Unit

PHR Physicians for Human Rights
ICJ- Ke International Commission of Jurists Kenya

AG Attorney General

IG- NPS Inspector General of the National Police Service

KHRC Kenya Human Rights Commission

KNCHR Kenya National Human Rights Commission

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Equal opportunity for the participation of women in governance and political processes remains elusive in Africa. The representation of women in the National Parliament in Africa is at 23.9 per cent. This is close to the global representation, which is at 24.3 per cent. Politics remains male-dominated, and several social-economic and political biases do not support women's leadership.

Gender is a critical dynamic in Political Parties, electoral processes and governance. Article 27- Expressly provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

Since Kenya attained independence in 1963, women and youth have not fared well in elective politics. Kenyan electorate is reluctant to support women's political leadership due to retrogressive beliefs that deem women unfit for political leadership. Patriarchal underpinnings, among other factors, undermine the prospects of women in leadership

\Political Parties are the vehicles for political leadership. Even though the Constitution of Kenya gives Independent candidates to vie for elections outside political parties, the opportunity is primarily a fallback for party members who do not clinch party nomination seats. Special Interest Groups (SIGs), including women, persons with disabilities, youth, and marginalized communities, are adversely affected by the lack of inclusive, credible and transparent political party policies and processes.

This report presents the challenges of women, youth, persons with disability (PWDs) and other special interest groups (SIGs) in participatory democracy stemming from political parties' structures, policies and power relations. It captures the experiences and journeys of young men and women to political leadership. Further, it examines the current status of participation of women, the youth (young men and women) and special interest groups in governance/ political processes to identify barriers that limit their involvement and the role of Online Gender Based Violence (OGBV)/Gender Based Violence (GBV)/violence and harassment as a hindrance.

Despite laws and policies that outlaw sexual and gender-based violence, harassment and violence against women occur in political parties. While the State has developed legal frameworks to safeguard all from any form of violence, there are systemized patriarchal systems that operate in either vague, non-accountable or oppressive environment that prevents addressing of EGBV/ OGBV.

EGBV/OGBV ultimately hinder Women and PWDs from actively participating in competitive politics. In their diverse roles, women experiencing EGBV face intimidation and are often excluded and discouraged from optimally participating in the electoral processes. The 2022 election witnessed an increase in online harassment. There was a spike in bloggers spreading misinformation and hate speech on competitors. However, Online bullying/OGBV takes on a stereotypically gendered angle regarding women in politics. Violence and harassment against women/ OGBV/ GBV are “normalized” and standardized, and there are insufficient political party mechanisms designed to root out violence and protect all its members.

Political parties must sensitize members on digital literacy (including social media branding), safety and security and have the essential structures and policies to address election-related GBV, Online Violence and harassment as they limit women’s political participation, SIGs and PWDs.

This report identifies the impediments to political participation, the interplay of culture, gender roles and political power. It explores

available structures, laws and policies to enhance democratic participation in political parties and limit structural barriers, OGBV/GBV. It recommends developing model policy guidelines for political parties to strengthen their policies and structures on violence and harassment/ OGBV/SGBV prevention and response in efforts to enhance the participation of Women, Youth, PWDs and SIGS in political processes.



The 2022 election witnessed an increase in online harassment. There was a spike in bloggers spreading misinformation and hate speech on competitors

Chapter 1: Introduction

BACKGROUND AND CONTEXT

1.1 Background information

The active and meaningful participation of citizens of a country in public affairs and governance is the distinguishing feature of democratic states. The extent to which governments allow citizen involvement in politics and public affairs and the demand for accountability is the test of democracy. The principles of liberty, equality, justice and power to the people are some of the tenets of a democratic society. The right to vote and run for political office, civic duty and political participation, diversity and inclusion enable the citizenry to exercise their democratic rights. It is, therefore, critical that institutions and processes through which citizens' interests are represented and articulated function efficiently.

This is particularly important as young people often bear the consequences of state responses to protests or activism around elections. The opportunity is pivotal, considering the political landscape is at a shift and without proper representation economically, socially and politically; young people will continue to be excluded from opportunities and greater chances for violent outcomes.

The Constitution of Kenya 2010 entrenches a culture of accountability. It includes democracy, the rule of law, inclusiveness, social justice, human rights, and non-discrimination among the national values and principles of governance that the State and its officials must abide by and respect when applying and interpreting the constitution. It recognizes the people's sovereignty as the nation's anchor and provides for political rights (Article 38); the right to form or join a political party, the right to free, fair and regular elections and the free expression of the will of the electors for; any office of a political party for which the citizen is a member, the right to vote and to be a candidate for a political office. It fosters accountability and checks the powers of all organs of the government and state institutions.

Political Parties are the vehicles for political leadership. Even though the constitution authorizes Independent candidates to vie for elective seats outside political parties, the opportunity is primarily a fallback for party members who do not clinch party nomination seats. Gender is a critical dynamic in Political Parties, electoral processes and governance. Article 27- Expressly provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.

Since Kenya attained independence in 1963, women have not fared well in elective politics. Several political, social, cultural and economic biases do not support women's leadership. These include patriarchal underpinnings, political party structures, gender-based violence rife during the election cycle, and inadequate resources to run political campaigns.

Special Interest Groups(SIGs) in Kenya, including women, persons with disabilities, Youth, and marginalized communities, are adversely affected by the lack of inclusive, credible and transparent political party policies and processes.

As the 2011 UN General Assembly resolution on women's political participation notes, "Women in every part of the world continue to be largely marginalized from the political sphere, often as a result of discriminatory laws, practices, attitudes and gender stereotypes, low levels of education, lack of access to health care and the disproportionate effect of poverty on women."

The African Union Agenda 2063 Aspiration 6 envisions an inclusive continent where no child, woman or man will be left behind or excluded based on gender, political affiliation, religion, ethnic affiliation, locality, age or other factors. It states, "An Africa whose development is people-

driven relying on the potential of African people, especially its women, youth and caring for children.”

Article 3 of the Protocol on Amendments of the Constitutive Act of the African Union recognizes the critical role of women in promoting inclusive development and calls for the AU “to ensure the effective participation of women in decision-making, particularly in the political, economic and socio-cultural areas”

In Kenya’s political scene, violence against women occurs in political parties despite laws and policies that outlaw GBV. While the State has developed legal frameworks meant to safeguard all from any form of violence, there are systemized patriarchal systems that operate in either vague, non-accountable or oppressive environment that prevents addressing of EGBV/ OGBV.

Despite the laws and policies encouraging participation and representation of women, Youth and SIGs in political parties, particularly young women and SIGs, are the least represented. In all their diverse roles, women experience EGBV/ OGBV, face intimidation and are often excluded and discouraged from optimally participating in politics and election processes.

Elections in Kenya have repeatedly resulted in outbreaks of violence, including gender-based and sexual violence. The 2007/2008 elections in Kenya were marred by irregularities leading to the disputed election results, and the post-election violence followed, leading to loss of lives, displacements, destruction of property and serious human rights violations. At least 900 individuals suffered sexual and gender-based violence perpetrated mainly by Kenyan security forces and gangs. More than 1,100 people died, and hundreds were sexually assaulted, including gang rape and castration.

Women and girls were disproportionately affected, but men and boys also endured sexual and gender-based violence.

In 2013, the Coalition on Violence against Women (COVAW), Independent Medico-legal Unit (IMLU), Physicians for Human Rights (PHR), and International Commission of Jurists (ICJ – Kenya) filed a constitutional petition together with eight (8) survivors; six (6) female and two (2) male, of the 2007 -2008 post-election gender-based violence. The Petition respondents included the Attorney General (AG), the Inspector General of the National Police Service (IG – NPS) and four (4) others. The Kenya Human Rights Commission (KHRC) was an Interested Party with Kenya National Commission on Human Rights (KNCHR), Katiba Institute and two (2) others joining as Amicus Curiae.



In Kenya’s political scene, violence against women occurs in political parties despite laws and policies that outlaw GBV

The Petitioners sought 12 prayers/ orders from the court. Among them:

- **A declaratory order that the Right to Life, the Prohibition of Torture, Inhuman and Degrading Treatment, the Right to Security of the Person, the Right to Protection of the Law, the Right to Equality and Freedom from Discrimination, the Right to Information, and the Right to Remedy were violated concerning the Petitioners 5 to 12 (both inclusive) and other victims of SGBV during the post-election violence, as a result of**

the failure of the Government of Kenya to protect those rights.

- A further declaratory order to the effect that the failure to conduct independent and effective investigations and prosecutions of SGBV-related crimes during the post-election violence is a violation of the positive obligation to investigate and prosecute violations of the Right to Life, the Prohibition of Torture, Inhuman and Degrading Treatment, and/or the Right to Security of the Person;
- A further declaratory order to the effect that the failure to establish independent and effective investigations and effective investigations and prosecutions of SGBV-related crimes committed during the post-election violence is a Page 6 of 99 violation of Kenya's obligations under the Statute of the International Criminal Court, international human rights law and statutory law which requires the investigation and prosecution of Crimes against Humanity of torture, persecution, other sexual Violence, and other inhumane acts (mutilations)

In its ruling, the court held that the right to life; the prohibition of torture, inhuman and degrading treatment; the right to security of the person; the right to protection of the law; the right to equality and freedom from discrimination; and the right to remedy the 5th, 6th, 8th and 9th petitioners were violated during the 2007/2008 post-election violence, as a result of the failure of the Government of Kenya to protect those rights.

Further, the 5th, 6th, 8th and 9th petitioners were each awarded Kshs. 4 million as general damages to their constitutional rights; and judgement for costs of the suit entered against the Attorney General and the Inspector General of the National Police Service (1st and 4th Respondents).

The petition sought to hold the Kenyan government accountable for failure to: prevent the violence and resulting sexual and gender-based violence; protect the general population, including survivors, from sexual assault;

investigate and prosecute perpetrators and provide prompt, adequate, appropriate and effective reparations to survivors. It recognizes the legal responsibility of the government to prevent and respond to cases and instances of violence and harassment against its citizens.

In June 2021, President Uhuru Kenyatta committed to ending all forms of gender-based violence and harmful cultural practices (including female Genital Mutilation) by 2026. The government developed a five (5) year roadmap (2021-2026) in consultation with Civil Society Organizations (CSOs). It is imperative that Kenyans and CSOs, hold the government to account for the commitments to end all forms of Violence in Kenya.



At least 900 individuals suffered sexual and gender-based violence perpetrated mainly by Kenyan security forces and gangs. More than 1,100 people died, and hundreds were sexually assaulted, including gang rape

1.2 The Research

Goal: The research's main objective was to assess the impact of gender-based violence in political parties and political processes and how it impedes the participation of women in politics in Kenya. The main focus was laws, policies and advocacy strategies in managing political parties, their regulation and compliance with the law. Ultimately, to provide evidence for the formulation of Policy guidelines/ recommendations for promoting their participation in electoral processes.

Scope: The research looked into the current status of youth (male and female below the age of 40), special interest groups' participation in politics and political party activities to identify barriers that limit their involvement, including OGBV/GBV/violence and harassment. The research focused on youth below the age of 40 as opposed to the constitutional definition of a youth; under 35 years. The social-political environment and the numbers from Political Parties and IEBC of elected youth informed this. Politics require time, mobilization and resource investment. It takes time to learn the political climate, position oneself as a politician and vie for political office. Some have contested and lost only to clinch the seats when they are slightly above 35 years.

Methodology

Both qualitative and quantitative research methods were employed. The research team reviewed the literature on documented reports on politically related Gender-based violence, online harassment, election observation reports and laws on political rights, and political party regulation were reviewed. Information on the critical issues of concern was used to develop the recommendations and guidelines.

Purposive sampling was used to ensure that specific key informants were reached for relevant information. The key informants were identified

based on their roles, experiences, and knowledge level. They were drawn from the political parties' leadership (mostly the women's leagues), Members of Parliament (male and female who are below 40 years), the media, the Office of the Registrar of Political Parties (ORPP), Kenya Young Parliamentarians associations (KYPA), Election Observation Group (ELOG) and civil society organizations, past and present nominated members of Parliament and the County Assemblies and the general public. The research team interviewed 27 respondents (19 Males and 8 females, including one female PWD) were reached through in-depth interviews and Key informant interviews.

Data analysis:

A review of all the collected data was done to find the emerging themes or patterns and later analyzed into themes; results compared the prevalence and occurrence of EGBV and OGBV in the political parties during the elections and outside the election cycle and the response mechanisms.



The research's main objective was to assess the impact of gender-based violence in political parties and political processes and how it impedes the participation of women in politics in Kenya.

Summary of findings:

- In Kenya's political scene, violence against women occurs in the political parties despite laws and policies that outlaw sexual and gender-based violence.
- Violence and harassment against women/ OGBV/GBV are "normalized" and standardized, and there are insufficient political party mechanisms designed to root out violence and protect all its members.
- Online bullying/OGBV takes on a stereotypically gendered angle regarding women in politics. Types of violence include sexual harassment, sexual assault, physical violence, psychological violence, online violence/bullying and profiling, sextortion/ requests for sexual favour, and threats and coercion.
- Women, youth (including young men), PWDs and other minorities are often profiled and stereotyped on media (primarily social media) with detrimental consequences to their mental health and political participation.
- Due to power structures within the parties, young men and women face violence and harassment from older, more established members.

The research looked into the current status of youth (male and female below the age of 40), special interest groups' participation in politics and political party activities to identify barriers that limit their involvement, including OGBV/GBV/violence and harassment. The research focused on youth below the age of 40 as opposed to the constitutional definition of a youth;



Chapter 2

POLITICAL PARTICIPATION OF WOMEN, YOUTH & PERSONS WITH DISABILITIES

2.1 Women's Political Participation and Representation


"We need more women in parliaments and as political leaders because, quite simply, women represent half of the population, and they need to have input into the policies that affect them. Gender equality is essential to build and strengthen our communities. When women engage in the political process, societies thrive and prosper. There is still much to be done for women to reach full social, political, and legal equality worldwide, but having more women in political leadership positions is a crucial step toward realizing that important goal". Justin Trudeau, Prime Minister of Canada

Women's political leadership in Kenya has come a long way. Grace Onyango was the first and only woman parliamentarian in the second Parliament (1969-1974) to now 29 members from single-member constituencies, 47 women county members of Parliament (women representatives), 3 Elected Senators in the 13th Parliament (2022-2027). 7 Governors and 115 Members of the County Assembly (MCAs) were elected at the county government level.

The Constitutional provisions on gender representation have made way for the inclusion of women in public service appointments at the county and national level across all arms of government. However, these appointments have remained at "a third" inclusion of women. While this is progressive, Representation doesn't just lie in numbers, and there is a need to refine the quality of Representation. Article 27 does not provide an enforcement mechanism to ensure that the principle of the 'no more than two-thirds' guides how the Parliament is constituted. In 2012, Attorney General Prof. Githu Muigai moved the Supreme Court for an advisory opinion on the realization of the not more than two-thirds gender rule as enshrined in Articles 27(8) and 81(b) of the constitution ahead of the 2013 general elections or how its implementation would be structured. In its majority decision, the

Supreme court advised that should the electorate not elect enough women to Parliament, the political parties would not nominate numbers to top up as this may exceed the constitutional numbers set for Parliament. Article 97 on the membership of the National Assembly sets the total membership at 349, while Article 98 on the membership of the Senate sets the threshold at 67.

In his dissenting opinion, Chief Justice Dr Willy Mutunga noted that "unless the constitution is amended to allow for nominations to top up the deficit of women members to get to the constitutional threshold, the two-thirds gender rule will remain a mirage." Till now (2022), the not more than two-thirds gender rule is yet to be realized, and Parliament has yet to come up with a law that outlines how it shall be achieved despite publishing and pushing several bills; Duale Bill, Chepkonga Bill etc.



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2.1.1 Cultural, social and economic issues that hinder the participation of women in politics

(a) Cultural/Patriarchy

Patriarchal underpinnings undermine the prospects of women in leadership. Politics remains the last bastion of male power and dominance, and women seeking entry must contend with the gatekeepers. Kenyan electorate is reluctant to support women's political leadership due to retrogressive beliefs – young, unmarried, single, and divorced women as unfit for political leadership. Realizing the equality and nondiscrimination imperatives of Article 27(8) of the 2010 Constitution requires confrontation of the patriarchal structures and other barriers in how women seek to enter the political arena .

Martha Karua served as Gichugu MP for 20 years. She unsuccessfully contested the Presidency in 2013 and governorship in 2017 and was Azimio la Umoja's Presidential running mate in 2022. While sharing her journey , she stated, "When I first announced my bid for the Gichugu Parliamentary seat, I was told to go and get married. I asked them Since when have you asked all the men representing you since independence who their wives are? You look at their credentials and elect them. Why should it matter to you whether I have a spouse?"

Fatuma Dhullo was nominated to Senate in 2013 and elected as Isiolo Senator in 2017. "I needed the elders' endorsement to run for the senatorial seat. Most felt I should contest for the Woman Representative's seat and leave the other elective seats for men. They quoted the Koran and the Bible to dissuade me from competing with men, but I stood my ground. I told them women were highly regarded in the community and had always been consulted on important issues." shared Ms Dhullo.

Some women have managed to clinch nominations but faced the additional obstacle of a patriarchal society in which the general

assumption is that women will make good deputies for critical positions but are not fit to be key decision-makers.

On 20th December 2022, Senator Bonny Khalwale took on nominated Senator Gloria Orwoba, who contested the gender composition of the special committee constituted to probe the impeachment of Meru Governor Kawira Mwangaza. "I know that she has promised to school me on matters of gender. Over 250,000 people elected me in Kakamega, and the majority were women. I have many children, the majority of them are girls, I have more than one wife, I know matters of gender, she can't school me," Senator Khalwale said while insisting that Senator Gloria should apologize to him. The misinterpretation of gender and the misrepresentation of knowledge of gender issues by senator Khalwale was indeed worrying. This exemplifies the hurdles women in politics face in a patriarchal society where leadership is male-dominated.

"I think politics is five or ten times harder for women than men. Our society is still patriarchal, which poses numerous challenges for women leaders. Sometimes opponents got desperate and hired youths to stone my supporters. My security personnel had to shoot in the air to disperse the crowds." Hon Ann Anne Waiguru - Governor, Kirinyaga county.

Education: Valuing boy-child education over girl-child education has hindered the participation of women in politics. Phoebe Asiyo shared her experience attending a missionary school where girls were not allowed to learn mathematics because it was a preserve for men, the breadwinners.

Financial: In Kenya, financial muscle is a prerequisite to political participation and leadership.

Political campaigns in Kenya demand substantial resources, and women who cannot afford to pay for the first step – party nominations and funding

their political campaigns – often give up their ambitions in favour of their male counterparts. Women also tend to lack finances, essential in politics, to mobilize support and fund their campaigns. This is related to cultural and gender biases where women have less access to credit as they don't own land or collateral to secure loans, education and employment opportunities. Yet, election campaigns in Kenya focus on how much money a candidate can afford to give as handouts instead of their agenda or manifesto.

Political party structures: Phoebe Asiyi recounts running against her national political party chairman in the era of one-party politics for the Karachuonyo seat in 1979. Women have been rigged out of party primaries or asked to step down in favour of their male counterparts and promised appointments.

In a rare case, Gladys Wanga was given a direct nomination by the Orange Democratic Movement (ODM) to vie for Governorship in Homabay against her closest contender, Dr Evans Kidero, a member of ODM but opted out to contest as an independent candidate. She was not asked to step down in favour of a male candidate and her loyalty and service to the Party had paid off. Wanga was elected the youngest woman governor, and she was previously the first female legislator to be selected as the chairperson of the Finance and Planning Committee in the National assembly.

Violence against women;

“When I joined politics, I was first confronted with physical violence meted on women by their male challengers. It also happened to my supporters. Women were raped in my constituency for supporting me.” Noted Hon. Charity Ngilu, the first woman to vie for the Presidency (1997) and former Kitui county governor (2017 -2022), while sharing her political journey.

Online violence against women:

In the run-up to the 2022 general elections, Online Gender-based Violence (OGBV) was rife on social media spaces.

“I was a divorced woman who wanted a political seat in the Muslim community, and that was not taken lightly. My family is not known, and I come from a minority clan. Photos of me with men were taken during my campaign and posted on social media and other WhatsApp groups where I was accused of being a prostitute.” A female MP narrated her journey

Politically, a strong campaign means speaking fluently to the public, and in Kenya, oratorical strength is vital, especially with a dash of humour and hurled insults. There were instances politicians used gendered slurs to insult competitors and drive points across. There was an infamous remark that Hon. Raila Odinga made in Luo, saying that Luos from Homabay are stupid, like their mothers, for not supporting his preferred candidate. In politics, it is common for a man to be insulted for having feminine characteristics or behavior. The online space is no different; there was a rise in gendered terminology regarding politicians. A viral video of a man insulting former President Uhuru Kenyatta's mother circulated early in the year, forcing the individual who was a member of the UDA party in the diaspora to apologize. Women were attacked based on their physical appearance, education, ethnicity, marital status, and sexual relations.

2.2 Political Participation of Persons with Disability

The constitutional definition of disability includes ‘any physical, sensory, mental, psychological or other impairment, condition or illness that has, or as perceived to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day-to-day activities’. Article 97 (1) (c) provides for the nomination of special interest groups, including persons with disability, the youth and workers, to represent their interests in Parliament. Despite the provisions, the Representation of PWDs in the Parliament and the county assemblies need improvement.

The Persons with Disabilities Act, enacted in 2003, prohibits discrimination against persons with disability. The Act establishes the National Council for Persons with Disabilities, whose mission is to promote and protect equalization of opportunities and realization of human rights for PWDs to live decent livelihoods.

The 2019 census shows a significant drop in disability prevalence, as the 2009 census estimated 3 million Kenyans; 10% of the population had a disability. According to the 2019 census, 2.2% (0.9 million people) of Kenyans live with some disability. The 2019 census indicates that 1.9% of men have a disability compared with 2.5% of women. The drop in numbers is attributed to the lack of universally accepted standards for categorizing disabilities and methods for collecting data that navigate potential issues of stigma. This translates to underfunding and underrepresentation of PWDs.

2.2.1 Representation of PWDs

In the 2022 general elections, 600 persons with disability vied for various elective positions, but only seven were successful. From the findings, the political scene is hostile to PWDs, and given that campaigns are expensive to run, most of them get to Parliament and the county assembly through nominations. Even though there are nomination seats for PWDs, the nominations are reserved as a reward for party loyalists and political elites who

fund the Party’s presidential campaigns.

Godliver Omondi, a physically challenged woman, was nominated to the Senate in 2013 to represent PWDs. In 2017, she vied for the MCA position in Kholera Ward, Kakamega County won the seat against six opponents. While sharing her journey, she noted, “For one to be nominated or elected, loyalty to the Party and participation in its activities are critical. If you are a person with a disability, movement and finances can be a constraint, hence the need to support the Party from positions within your reach. During the campaigns, mobility is a challenge, and yet one is expected to reach people everywhere. [Politicians] conduct campaigns at night by using boda bodas [motorcycle taxis] or walking. But as a woman with a disability, I had to use a car and a wheelchair, both of which left me exposed and vulnerable.” Article 90 of the constitution provides for proportional representation using party lists; to ensure the inclusion of women, youth, the marginalized and other SIGS in the nomination lists. PWDs in Parliament constitute the Kenya Disability Parliamentary association (KEDIPA), a parliamentary caucus of parliamentarians with a disability to ensure PWDs issues are considered in legislation and government programs.

2.3 Youth Political Participation and Representation

The 2019 National census report records that the youth constitute 75% of the Kenyan population, yet this is not reflected in their representation. Article 21 (3) of the constitution mandates the state organs and all public officers to address the needs of vulnerable groups in society, including youth. Article 55(b) provides that the State shall undertake measures, including affirmative action programmes to ensure that youth have opportunities to be represented and participate in

the political sphere of life. Article 97(1) (c) provides that the National Assembly consists of 12 nominated members representing special interests, including youth and persons with disabilities and workers. Per their proportion (Article 90), parties must ensure that the person they nominate falls within these groups. The nomination to the Senate should include two youth representatives, one man and one woman.

In Kenya, young people are often politically marginalized because of age, lack of experience, and resources. At individual and structural levels, young people in Kenya have significant political participation obstacles. These include mistrust in political institutions, the conviction of a weak democracy, and social-political exclusion. A male member of Parliament below 40 years shared his experience during the political campaigns. in his words, “As a young man, I was told intimidated to step down in favor of an older candidate in my constituency who had more money and had political experience, I did not step down. During the campaign, my opponents would woo the voters with money and discourage the people from voting for me because I was young, inexperienced, and could easily lose focus because girls would be all over me if I won the elections. I stayed true to the cause and used my networks to campaign and win the elections.”

Recent data that Siasa Place sourced from the Independent Electoral Boundaries and Committee (IEBC) comparing the 2017 and 2022 numbers of youth participation in elective politics indicate an increase of 922.

Politics is a significant stressor and cause of depression, and political parties do not prioritize their members’ emotional and mental well-being, particularly those in active politics. Youths refrain from competitive politics due to the mental cost of politics. There are global conversations on managing mental health issues due to the upsurge in depression and suicide cases. However, political parties treat it with silence, yet many young people are grappling with this issue.

In Kenya, young people are often politically marginalized because of age, lack of experience, and resources.

Year	Youth on the ballot	Youth Elected
2017	3428	314
2022	4350	335

Source: IEBC

Chapter 3

POLITICAL PARTIES

Political parties shape public opinions and galvanize support among members and affiliates who are nonmembers. They mobilize citizens to exercise their right to vote, aggregate and articulate interests, promote pluralistic debates by presenting alternative policy platforms, and integrate the diverse groups within a country into a cohesive nation. They are the lifeline of democratic government systems worldwide as they play a critical role by socializing political leaders on the principles of democracy and democratic participation.

Although the constitution provides the alternative of vying for elective positions as independent candidates, the avenue is mainly used as a fallback plan for candidates who didn't manage to get the political party nomination ticket. Data from ORPP indicate that from the 7000 cleared by IEBC, only 3028 got clearance, and only 127 voted in.

3.1 Formation and regulation of political parties

For a party to be fully registered;

- Its membership should reflect regional diversity (have at least 1000 members in not less than 24 counties), regional balance, gender diversity and representation of special interest groups. The composition of its governing body, the national executive council, should reflect regional diversity, gender balance and the representation of minorities and marginalized groups.
- Not more than two-thirds of the members of its governing body should be of the same gender
- Members of its governing body should meet the requirements of chapter 6 of the constitution; leadership and integrity

Article 91(1) of the Constitution outlines the basic requirements that political parties must meet;

- A national character as prescribed by the Political Parties Act
- A democratically elected governing body
- Promote and uphold national unity
- Abide by the democratic principles of good governance and promote and practice democracy through regular, free and fair

elections

- Respect the rights of all persons to participate in political processes, including minorities and marginalized groups
- Respect and promote human rights and fundamental freedoms, gender equality and equity
- Subscribe to and observe the code of conduct for political parties

Article 91(2), a political party shall not be founded on an ethnic, gender or regional basis or engage in violence or intimidation of members, supporters or opponents or any other person. Bribery, corruption and establishment of a Militia are prohibited.

The Political Parties Act (2011) created the Office of the Registrar of Political Parties (ORPP) mandated to register political parties, regulate their operations in compliance with the law and administering the political parties' funds. ORPP is the custodian of political party membership and approves coalitions and mergers (interview – ORPP official). Currently, there are ninety (90) registered political parties.

Despite the preceding, political parties and party coalitions are mainly formed for election purposes a year or less before the next elections, and some do not live beyond the general election results. Usually, membership is mobilized from specific regions and tribes instead of ideology and policies. In the run-up to the 2022 general elections, the two main alliances, Kenya Kwanza and Azimio la Umoja were formed to capture state power rather than promote national good. The alliances are not institutionalized and were created to unite specific communities and build voting blocs, resulting in their fragmentation.

Party hopping has been a significant compliance concern. There is a transfer window after party primaries where candidates who lose nominations move to other parties or choose to vie as independent candidates. In Parliament, there have been cases where Members of Parliament form political parties and promote them in anticipation of the elections without resigning from the Party that sponsored them to Parliament. For instance, in August 2021, Hon. Moses Kuria unveiled and started popularizing the Chama cha Kazi Party while serving as a Member of Parliament for Gatundu South, sponsored by the Jubilee Party.

Section 14 of the Political Parties Act (2011) provides that a person shall not simultaneously be a member of more than one political Party. Any person who forms another political party or joins in the formation of another political party, joins another political party, in any way or manner publicly advocates for the formation of another political party or promotes the ideology, interests or policies of another political party' shall be 'deemed' to have resigned, even if one has not done so in writing to the Party, the clerk of Parliament.

3.2 Political party membership and Governance structure

Membership

Ideally, the membership of a political party should reflect regional diversity (have at least 1000 members in not less than 24 counties), regional balance, gender diversity and representation of special interest groups.

Parties register members who express interest in joining the Party. Membership recruitment is also done by candidates vying during the primaries. The ODM official noted that candidates need to garner support to get the nomination and thus recruit their supporters to join the Party.

In 2021, political party membership stood at 16.3 million, a rise from 7.6 million in 2013. The current membership data obtained by Siasa Place from ORPP indicate that the no. of women is now 9,245,333, youth; 3,051,289 and PWDs are the least represented at 21,000. The ORPP launched an online platform where members of the public can verify their political party membership details. However, there were reports of people being listed in political parties that they never subscribed to, casting doubt on the authenticity of the numbers on parties' membership or the genuineness of party primaries, often locking out SIGs. The membership information system should be accurate, verifiable and secure.

Leadership and Governance

Party governance portrays the existence of a frightening gap between ideals and practice. Legitimacy in leadership is dependent on how the mantle of leadership was passed. Party elections are often flawed and corrupted through bribery during campaigns, vote rigging and other manipulations, blurring accountability and making representation ineffective. Parties should strive to conduct free and fair elections, meeting the standards of democratic principles, norms and practices. There should be participatory decision-making from the grassroots and national party organs.

The leadership of political parties is male-dominated. Even though the constitutions of all the parties provide for the inclusion of Women, Youth and PWDs and other SIGs, they are often underrepresented in the principal leadership of political parties and election boards. They lead the Youth/Women/PWDs league or run the campaign secretariat. Section 7(2)(d) of the Political Parties Act requires parties to ensure that not more than two-thirds of the members of their governing bodies are of the same gender. Further, at least 30 per cent of

the funds received from the State should be utilized to promote the representation of women, persons with disabilities, youth, ethnic and other minorities and marginalized groups engaged in elective politics.

Ukweli Party; is a youth-led political party with a young woman Secretary General, a young man with a disability serving as the chairperson and has achieved gender parity in its leadership structure. NARC Kenya is the only Party that participated in the research whose party leader was a woman, and its NEC has achieved gender parity.

The United Democratic Alliance (UDA) Secretary General is a woman, while the other three top officials, party leader, chairperson and treasurer, are men. The UDA chairperson has three male deputies, and the Secretary general, a woman, has two male deputies.

In Jubilee Party, only 4 of the 21 party officials are female. Women leaders occupy the following positions; Deputy Party Leader Outreach, Deputy Director of Elections, Chairperson of the National Women League and Chairperson PWDs League. In ODM, the Party Leader, Deputy Party Leaders, National Chairperson, Director of Elections, Secretary General and Secretary for Political Affairs are all male.

Parties have youth leagues that are weak and poorly funded with unclear mandates. The youth are generally underrepresented in party leadership and representative assemblies. Their voices are not heard when represented because they do not constitute a cohesive group that could command more significant influence and demand action from the party patriarchs and matriarchs.

The lack of internal party democracy could be attributed to the purposes for which the parties are formed. Entrepreneurial party founders know that every election year will be good for business since people want to give their political careers a fresh outfit. Smaller opposition parties have been folded in favour of the highest bidder, mainly

when splits occur in larger parties in an election year.

Political party organs

There are four key party organs:

- National Executive Council (NEC): It comprises the party chair, party leader, deputy party leader, organizing secretary, treasurer and the leaders of the youth, women and PWDs leagues. It is the Party's planning organ and is concerned with the day-to-day running of the Party.
- National Governing Council (NGC) comprises the NEC and all elected officials on the party ticket; MPs, MCAs, County Women representatives etc. It approves the agenda forwarded by the NEC.
- National Delegates Conference (NDC) comprises the NEC, NGC and elected delegates at the grassroots/branch level and elected representatives by the members at the constituency level. It ratifies amendments to the Party's constitution and approves coalition agreements and expulsion of members. It is the highest decision-making organ, and its decisions are final. Decisions are made by consensus or a vote.
- The Secretariat: The staff of the Party who implement the decisions made by the other three organs of government.

Meaningful participation demands that women, youth, PWDs and SIGs participate in the political party leadership organs. It is, therefore, imperative that political parties/ORPP enforce measures and policies to ensure their representation. To begin with, parties should refrain from appointing women to deputize male officials and ensure that they hold influential positions such as Chairperson, Secretary General, Treasurer and Director of elections.

3.3 Political Education

Political education in Kenya has remained a preserve of civil society organizations and, in some cases, IEBC, which is mainly dubbed “civic education” during the election cycle. There are no established political party organs/programs to educate the membership. Political parties must take up the responsibility of political education to inform their members on political rights, tenets of democracy and governance and citizen participation in leadership.

Political parties should socialize their members on public order, legitimacy, justice, policy, stability, and leadership. They should teach and exemplify leadership, tolerance of divergent opinions, the conduct of elections, diversity and inclusion. Political education programs should encourage members to refrain from hate speech and political violence, tolerate divergent views, and conduct of elections.

Parties can play an essential role in demonstrating the value-proposition

of women, youth and PWDs leadership by promoting their participation in influential decision-making positions within the parties as part of broader strategies to enhance their visibility and build their skills in political participation.

3.4 Political Party Financing

Many Kenyans join political parties expecting to gain materially from the Party and its leaders. The financial resource base for most parties often comprises a few friends or associates of the parties’ leaders. Membership fees, therefore, form a minimal part of political party financing because they are hardly ever collected. Different parties have different classes of membership with fees ranging from Kshs. 100 – 1,000,000. Party membership fees are mainly collected during the election period when most people register as members of political parties. The nomination fees for party primaries also constitute part of the Party’s earnings. The Political Parties Act (2011) established the political parties’ funds and audits of political

parties to support the operation of political parties and strengthen accountability mechanisms.

The Political Parties Act sets up a partially state-funded Political Parties Fund to be managed and administered by the Registrar of Political Parties. 95% fund is distributed proportionately to the total votes each Party’s parliamentary candidates secured in the previous general election, while 5% is allocated for administration.

However, if a party does not secure at least 5% of the votes cast in the preceding election, they do not get funding. An interview with the Ukweli Party Secretary General confirmed that they did not get financing since they did not participate in the preceding general elections. It was further noted that parties whose governing body did not meet the not more than two-thirds gender rule did not qualify for funding.

ORPP noted that publishing the audit reports on the party expenditure was a compliance issue. It’s imperative to enforce regulations on accountability for political parties’ funds.

The amendment to the Political Parties Act intimates that 70% of the funds will be distributed based on votes garnered during the 9th August 2022 general election, 15% based on no. of elected members from the special interest groups fielded by the Party and 10% on the no. of elected representatives. This is a win for SIGs and an incentive for political parties to encourage the participation of women and special interest groups within the parties.

3.5 Party incentives for Women, Youth and PWDs

ODM, WDP, NARC Kenya and Ukweli Party had lowered the nomination fees for female, youth and PWD candidates by 50% to encourage them to vie for elective politics. UDA lowered the nomination fees for women and did not charge PWDs nomination fees. Unfortunately, the campaign trails did not offer a level playing ground, with more established men and female politicians being preferred as they had more financial muscle and political experience.

The Kenya Inclusive Political Parties Program(KIPP) has been supporting political parties to respond to the needs of PWDs within their internal party structures and policies. Among its wins is the proposed County Government Amendment Bill that seeks the inclusion of PWDs in county assembly nominations for an assembly to be legally constituted. ODM, Jubilee Party and NARC Kenya are members of KIPP who participated in the research.

3.6 Political Violence, Discrimination, and Harassment/ EGBV/OGBV /SGBV

In Kenya's political scene, violence against women occurs in the political parties despite laws and policies that outlaw sexual and gender gender-based violence. While the State has developed legal frameworks that safeguard all from any form of violence, there are systemized patriarchal systems that operate in either vague, non-accountable or oppressive environment that prevents addressing of EGBV/ OGBV.

SGBV is a primary form of political violence against "ordinary" women and men, particularly when elections lead to an outbreak of violence. Additionally, the desire to exert political dominance and power, including control over particular communities, is frequently the impetus behind the violence. The repercussions of this can vary but make women reluctant to participate in the electoral process.

Women, youth (young men and women), PWDs and other minorities are often profiled and stereotyped on media (primarily social media) with detrimental consequences to their mental health and political participation. Due to power structures within the parties, young men face violence and harassment from older, more established members.

3.6.1 Prevalence of violence and harassment/ EGBV/OGBV/ESGBV

Gender-based violence, violence targeted at a person because of their gender, has been rife in nearly all electoral contests since the re-introduction of multi-party democracy in 1991. Women have been raped just because they are perceived to belong to a community with divergent political ideologies from the perpetrators. In various contexts, GBV has been used as a weapon of war, oppression and political intimidation to punish perceived political divergence. SGBV/EGBV demonstrates enforcement of power hierarchies and structural inequalities created and sustained by cultural norms and political processes.

Institutionalized electoral SGBV undignifies its victims and deters prospective female politicians from engaging in political processes. It sends the message that politics is not for their kind, leading to the underrepresentation of women and SIGs in politics. Although some women have braved these ills and proceeded to contest elections, the fear of violence (which violence may be physical, sexual, or psychological) appears to haunt them perpetually.

Dr. Naomi Shaaban's entry into politics was through a by-election in 2021. When she announced her political bid, she was threatened with violence. "I received threats from elders who opposed a woman being in charge of the constituency. When I refused to back down, they pelted my mother and grandmother with stones. "They took my three-year-old son and threatened to throw him into a pit latrine." She narrated

"Party primaries are very transactional, and the witnessed violence is not conducive for women. Competition is vicious, even among women in some instances and without a clean voter

register to ensure that only members vote, there is much transactional chaos. At ODM, we cleaned the record to ensure that only registered members voted during the primaries, and we had zero tolerance for violence. In Nakuru, for example, we could not proceed at first because of the attempted violence” – Senator Catherine Mumma, ODM National Election Board.

Violence and harassment against women/ OGBV/ GBV are “normalized” and standardized, and there are insufficient political party mechanisms designed to root out violence and protect all its members. A report by FIDA Kenya on ESGBV indicates that 1746 cases were reported between 1st April to 30th September 2022.

Verbal and Hate speech took over 54% of the reported cases, followed by cyberbullying, representing 23% of the cases. More severe ESGBV cases like forced circumcision, Defilement, rape, sexual assault and attempted rape were reported. Unfortunately, loss of life was also reported.

“Not all women have finishing power. Many start their political career but do not finish because of online bullying and harassment. One online bullying story or trolling can finish a woman’s ambition” – Senator Veronica Maina, UDA Secretary General.

Other types of violence included physical violence, psychological violence, online violence/ bullying and profiling, sextortion/requests for sexual favour, and threats and coercion. Women were attacked based on their physical appearance, education, ethnicity, marital status, and sexual relations.

“When you vie for elections as a young man, they call you greedy and shameless. When you are not married, they say you will entertain young girls and may not focus on leadership. I was asked to wait for my time since I was still young. Some men

and women came before me and had invested in the Party.” A young male parliamentarian recounted.

A female MCA shared her experience from party primaries to the ballot. She was asked to step down in favour of the male candidate, and when she didn’t get the nomination certificate, she moved to another party and contested for the seat. She didn’t win elections despite having a clear agenda and manifesto for the people she sought to represent. “I had to buy a ring, take new photos for the campaign posters and reprint because people asked me irrelevant questions on the campaign trail.

They wanted to know if I had a husband and children.” Interestingly, the preferred male candidate won the elections without a manifesto, and he frequently consults the female nominated MCA on how to represent his constituents meaningfully.

A female (youth) parliamentarian narrated, “As a woman, you cannot run a campaign without hiring security personnel. When I started the campaigns in my county, I was threatened with rape. Men in the county vying for different positions would run their campaigns even at night, but I couldn’t campaign at night because of fear. I had to get a loan, buy security gadgets, and hire bodyguards.” Therefore, increasing the cost of women-run campaigns, some women opt out of the political contest.

(a) Discrimination within political parties

Discrimination when it comes to the nomination of young women, young men and SIGs primarily due to lack of financial resources/ contribution (What value do you bring to the Party). There was reported discrimination in access to political party funding, campaign support and materials.

In one Party, one candidate for County Woman representative got Kshs. One million from her Party as campaign support, while another got only printed campaign materials.

Political parties in Kenya tend to bias candidate nominations in favour of those who have accumulated personal political capital and resources based on personal status or external group support. In most cases, the beneficiaries of these biases are men. Party elections and primaries are also held arbitrarily and at the party officials' whims. In some cases, the elections aren't held. Thus, as newcomers to parties with fewer resources, women, youth and PWDs find it more challenging to catch up with established men.

Women parliamentarians and MCAs who were interviewed complained that corruption undermined their chances of being nominated. It is, therefore, imperative that parties improve their processes and nomination rules to guarantee democratic outcomes.

(b) Sexual harassment within parties

There were reported cases of sexual harassment within the parties by party officials. Mostly, the cases were reported to the Women and youth leagues, but the issues were suppressed since the abusers were the persons in authority. Young men did share that they do not report cases of sexual harassment because of the stigma of being viewed as weak and 'not-man enough' to manage the situation.

(c) OGBV/cyberbullying

Online bullying/OGBV takes on a stereotypically gendered angle regarding women in politics. Women, youth (including young men), PWDs and other minorities are often profiled and stereotyped on media (primarily social media) with detrimental consequences to their mental health and political participation. In the run-up to the 2022 general elections, Online Gender-based

Violence (OGBV) was rife on social media spaces, the only space that women, Youth and PWDs could campaign without investing high budgets.

During the campaign period in the run-up to the 2022 general elections, there were concerted efforts to bully and harass female candidates online. Even the highest contenders, like Martha Karua, the NARC Kenya party leader, were not spared. Online bullies used her marital status to discredit her candidature, and she was profiled as a grandmother who should be home taking care of her grandchildren.

"During the campaigns, a network of men rose and emboldened each other to attack women online. Political opponents and their cronies discussed strategies for attacking women candidates in WhatsApp and Telegram groups. When campaigning for party primaries, I would wake up to learn that my photos were posted in some Telegram group and edited before being reposted online with abusive captions. When I was nominated to Parliament, I was accused of using my body to manipulate men within my political Party to be considered for nomination. " a nominated member of the National Assembly recounted.

During the launch of the manosphere report by Fumbua Ke, Amnesty Kenya Country Director Irungu Houghton noted in his remarks, "The #metoo campaign was a powerful expression of the challenges women experience. Society is judged on the expressions of the marginalized, and if women are not safe on the internet, then nobody is safe. What happens online doesn't stay on the internet; it translates to real-life experiences in our communities, so the government must prioritize digital safety policies."

(d) Mental health challenges

Cases of Psychological Violence and personal attacks leading to depression and mental health challenges were reported as politics is stress averse. Political parties do not prioritize their members' emotional and mental well-being,

particularly in active politics. Women, Youth and PWDs refrain from competitive politics due to the mental health implications, yet parties remain silent on the issue.

3.6.2 Media Reporting /monitoring of EGBV/OGBV/SGBV

Women, youth and candidates from minority groups, such as persons living with disabilities, have historically been stereotypically profiled on both traditional and digital media. Women often speak about cases of OGBV but don't report cases of GBV, particularly OGBV, primarily due to the stigma associated. The media has documented instances where party leadership asked candidates who couldn't pay to be nominated for sexual favours. Online harassment peaked during the election cycle, with profiling, slander and revenge porn being used.

There is a need to strengthen the visibility of women in politics. There is a public assumption that women in parliament are flower girls that don't do any work. Media coverage is expensive and online presence is almost insignificant for many who fear cyberbullying.

Key agencies such as IEBC have had engagements with media houses on electoral reporting, but no emphasis was put on gender and disability -sensitive electoral reporting. Media houses received training on election reporting primarily funded or supported by civil society organizations. The training included gender-sensitive reporting. There was a visible shift in how they registered, with a deliberate effort to incorporate a gender and disability lens.

3.6.3 Political Party policies and structures on violence and harassment/EGBV/OGBV/SGBV

The Party's constitution, manifestos and procedures provide the institutional framework for party operations, commitment and resolve to promote gender equity and inclusion of SIGs in political leadership. Parties must have gender-responsive, youth-friendly and disability-inclusive policy statements and

structures that encourage the inclusion and political participation of women, youth and PWDs and have protection mechanisms and systems for their membership. Meaningful inclusion and participation demand that women, youth and PWDs occupy decision-making positions within the Party as opposed to the traditional youth, women and PWD Leagues. There is a tendency to balkanize and relegate women, youth and PWDs issues to the leagues.

All the parties interviewed didn't have specific policies on SGBV/OGBV. There were general provisions against violence in the constitutions and the election code of conduct. The ORPP noted that most party Constitutions and Codes of Conduct were a copy-paste or an improved version of another party's documentation.

"UDA's dispute resolution mechanism looks into cases of violence even though there is no elaborate policy on Sexual Harassment and GBV. Violence, aggression or intimidation should be frowned upon by women leaders. If the violence card is used, women will not ascend to power. UDA did not condone anyone who stood for violence during the election cycle. The culture of violence in political parties must end" - UDA Secretary General

The Wiper Democratic Movement (WDM-K) Constitution establishes internal disciplinary procedures and a disciplinary committee. The acts that would lead to disciplinary action are enlisted in Chapter 7, and there is no mention of political violence/SGBV/OGBV. The only statement is in the Code of Conduct, "I further aver that I shall not engage in or encourage violence intimidation of/ or by Party members, opponents, supporters or any other person or advocate hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm."

Ukweli Party's Constitution doesn't have provisions on SGBV/EGBV or a party department/ structure to deal with such cases save for the general disciplinary committee. However, they have this provision in the Code of Conduct,

“A member, official, applicant for nomination, candidate, supporter and employee of the Party shall not engage in or encourage violence in the conduct of the Party and national political processes or ally themselves with perpetrators of all forms of political violence; or encourage any kind of intimidation of any person, including challengers within the Party’s political processes and externally with other political parties.”

The parties also lacked efficient structures for reporting and responding to cases of violence and harassment/SGBV/OGBV/EGBV, which was attributed to the fluid nature of the political parties. None of the parties had a department to deal with such matters or offer psychosocial support and trauma therapy. However, the Ukweli Party secretary general noted the need to create safe spaces for women, youth and PWDs within the parties and have institutional structures for accountability, debriefing after elections and emotional support for election candidates. “It is important to link elections to livelihoods, people invest a lot in the campaigns both emotionally and financially, and if they fail to win the elections, they become miserable. How do they recover from the loss of livelihoods without support?” she noted.

Notably, NARC Kenya, a woman-led party, had no cases of violence or harassment. It was attributed to the Party’s ideology of zero tolerance for corruption and violence. Hon. Martha Karua, is respected as a national leader, and the Party attracts members due to the perceived safety that comes with the leadership.

3.7. Power structures within political parties and Negotiated Democracy

1. Power structures within political parties

Political parties in Kenya rate poorly on internal party organization. They do not keep updated

membership registers or adopt inclusive decision-making procedures. The disorganization favours those with more financial resources and fosters patronage networks. A key informant from one of the political parties noted that political parties in Kenya thrive in chaos.

The parties also lacked efficient structures for reporting and responding to cases of violence and harassment/SGBV/

Internal structural weaknesses have led to the Party’s control by an elite few who make decisions without the consultation/participation of the members. Unfortunately, this has facilitated the exclusion of historically excluded groups such as women, youth and persons with disabilities whose participation and representation are not prioritized.

“The Kenyan political landscape is characterized by patronage and cronyism network that stifle inexperienced youth and women participation. Criticism of political parties revolves around the fact that they are personal properties of powerful politicians and exhibit arbitrary, autocratic and unaccountable tendencies.

Apart from being avenues to personal power, many parties are platforms for extorting money from people with political ambitions. Women and youth leaders rarely have the kind of resources needed to grease the networks of political patronage” – Mbeke P.O

Notably, all parliamentarians and MCAs who participated in the research requested

the research team to record their responses anonymously, as recording their names may lead to disciplinary action.

2. Negotiated democracy

Cases of negotiated democracy where younger candidates were coerced to step down in favour of “older” party members with more financial muscle. A lady vying for an MP seat in Nairobi narrated how she was intimidated to step down in favour of an older, established party matriarch. She refused to step down and campaigned for party nominations, only for the Party to give a direct ticket to the matriarch. The direct nominations demonstrate a lack of internal democracy. This forces those who lose to defect to other parties or contest as independent candidates.

My Party was famous in my county, and I gave my time and resources to mentor young women at the Party. During nominations, I was asked to step down in favour of a man who was not active in the Party, but he had money, power and influence. I

quickly withdrew, changed party membership to a less popular party within the same coalition, and won with a landslide.” A female parliamentarian noted.



Chapter 4: COMPARATIVE ANALYSIS; TANZANIA



4.1 Representation of Women in Parliament: Affirmative action

Tanzania's Constitution provides that "Political parties that participated in the previous general elections and obtained at least 5% of the total valid votes for parliamentary election shall propose to the National Electoral Commission the names of women based on the proportion of votes obtained by each party in the parliamentary election..." (Article 78 (1) read together with Article 66 (i) (b) of the Constitution).

Affirmative action is provided for in Article 66 (1) (b) of the Constitution, which adds that the total number of women MPs should not be less than 30 % of all the Members of Parliament per Article 78 based on the proportion of votes. Thus, in addition to any constituency seats women may win in constituencies, a further 30% of reserved seats (special seats) are guaranteed under the Constitution. Though affirmative action has been successful, the unintended consequence has been challenging for women to contest constituency seats as they are deemed already to have their place.

4.2 Provisions on GBV/OGBV/EGBV

"In Tanzania, 37% of parliamentarians are women. 30% of slots are reserved for women through a quota system, but there is a need to increase women's political participation at the constituency level. There are ongoing efforts to champion political parties to have quotas for women to reserve nomination slots for constituency positions. On matters of GBV, the Elections Act recognizes gender-based abuse. If you are found culpable, you cannot run for political office. However, the Political Parties Act and the Elections Act do not recognize OGBV, and it is unclear how to prosecute it because there are no sanctions. Women should forget gender mainstreaming and start looking at transformative approaches such as addressing structural and systemic issues like access to land, formalizing access to credit and gendered violence. What alternatives are we offering as women? – Neema Lugangira, Nominated MP in Tanzania.

Chapter 5: CONCLUSION AND RECOMMENDATIONS

Recommendations

Political parties

- Parties need to generate disaggregated data. The call for the inclusion of women, youth, PWDs and other SIGs should be evidence-based. Disaggregated data by gender, age, ability (disability) and different minority sub-categories are essential for targeted planning and inclusion advocacy
- Parties to enhance Internal party democracy by developing member-centred policies, constitutions, manifestos and position papers
- Many parties had incentives for women, youth, and PWDs such as Lowering nomination fees for eligible candidates to encourage them to vie for elective positions, however need to recognize the structural challenges that limit participation – party primaries that are not fair and credible are barriers for SIG's
- Implementing the statutory requirement to have representation on SIGs, 1/3rd gender rule in leadership, representatives from youth, women and marginalized. (ORPP noted this as a compliance issue)
- Development of legal and policy guidelines on violence and harassment/ EGBV/OGBV prevention and response
- Partner with CSOs: Training and counselling support on GBV prevention and response

ORPP

- Ensure explicit provisions and structures are in the parties' constitution and Election/ Nomination code of conduct on addressing GBV, Online violence and harassment.
- ORPP/IEBC to constitute a political 'parties' committee/task force to develop training modules on violence and harassment. External oversight/ structure to address cases.
- Consider funding support for youth-led parties that are just starting out

IEBC

- Transparency in the allocation of Special Seats. An amendment to election regulations for IEBC to publish the party lists submitted by political parties as provided under Article

90 of the Constitution and the candidates nominated by parties to vie for elective positions.

- Ensure Political Parties strictly adhere to Section 72 of the Elections Act 2011, which mandates the Commission to take stern measures on such perpetrators of violence, incitement and abuse to the extent of barring or disqualifying candidates from contesting.

Parliament

- legislative Reform: Parliament should amend existing legislation on GBV/OGBV/EGBV to include provisions that criminalize political gender-based violence. Tunisia is the only country in Africa whose domestic law on combating violence against women, adopted in 2017, recognizes and defines political violence and provides specific sanctions for this form of violence.
- Prioritize the enactment of a law that prescribes the formula on how to achieve the not more than two-thirds gender principle

The Media

- Neutrality and balanced reporting to highlight issues of SIGs and their participation in governance/ political processes.
- Media must exercise neutrality and balance in reporting or telling stories of violence and harassment. There is a need to interrogate how gender functions in harassment cases and give agency to survivors to tell their stories.
- Need for media houses to develop gender-sensitive reporting guidelines / basic framework.
- An impactful strategy and use of the Microphone's power to create awareness on the issues of politically related GBV/OGBV and shape opinions on how to address the issues effectively.

CSOs

- Support the youth, women, PWDs and SIG candidates vying for elective positions. Most shy away from politics due to a lack of resources, political acumen or even limited public speaking skills. Ongoing efforts can

be scaled to increase their chances of being successful in their political campaigns.

- Organize debrief sessions for election candidates after elections
- Link elections with livelihoods
- Sensitize the communities on deep-rooted cultures that hinder the full participation of women, PWDs and the youth in politics



Conclusion

This research was conducted to assess the impact of gender-based violence in political parties and political processes and how it impedes the participation of women in politics in Kenya. The main focus was laws, policies in managing political parties, their regulation and compliance with the law. The research looked into the current status of participation of young women, youth (male and female below the age of 40) and special interest groups in politics and political party activities to identify barriers that limit their involvement and the role of OGBV/GBV/violence and harassment as a barrier. From the findings, it was established that in Kenya's political scene, violence against women occurs in the political parties despite laws and policies that outlaw sexual and gender gender-based violence. While the State has developed legal frameworks that safeguard all from any form of violence, there are systemized patriarchal systems that operate in either vague, non-accountable or oppressive environment that prevents addressing of EGBV/ OGBV. Women, youth (including young men), PWDs and other minorities are often profiled and stereotyped on media (primarily social media) with detrimental consequences to their mental health and political participation. Due to power structures within the parties, young people face violence and harassment from older, more established members. The parties lack efficient structures for reporting and responding to cases of violence and harassment, which was attributed to the fluid nature of the political parties. None of the parties had a department to deal with such matters or offer psychosocial support and trauma therapy. Parties must enhance their Internal party democracy by developing inclusive, member-centred policies and constitutions, Implementing the statutory requirement to have representation on SIGs, 1/3rd gender rule in leadership, representatives from youth, women and marginalized and develop legal and policy guidelines on violence and harassment/ EGBV/OGBV prevention and response.





The research looked into the current status of participation of young women, youth (male and female below the age of 40) and special interest groups in politics and political party activities to identify barriers that limit their involvement and the role of OGBV/GBV/ violence and harassment as a barrier.

Context and background

The Constitution of Kenya 2010 entrenches a culture of accountability which firmly entrenches democracy, the rule of law, inclusiveness, social justice, human rights, and non-discrimination among the national values and principles of governance that the State and its officials must abide by and respect when applying and interpreting the constitution. It recognizes the people's sovereignty as the nation's anchor and provides for political rights (Article 38); the right to form or join a political party, the right to free, fair and regular elections and the free expression of the will of the electors for; any office of a political party for which the citizen is a member, the right to vote and to be a candidate for a political office and fosters accountability and checks the powers of all organs of the government and state institutions.

Gender, diversity and inclusion is a critical dynamic in Political Parties, electoral processes and governance. Article 27 expressly provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Despite this, equal opportunity for the participation of women, young women, the young men, and Persons with Disability in governance and political processes remains elusive in Kenya. Political parties are the vehicles for political leadership. Despite the laws and policies encouraging participation and representation of women, youth and special interest groups, they remain to be the least represented. In all their diverse roles, women experience EGBV/ OGBV, face intimidation and are often excluded and discouraged from optimally participating in the electoral processes.

Purpose

The policy guideline's main goal is to provide recommendations to address the impacts of online, and gender-based violence and sexual harassment on the participation of women, youth, PWDs and SIGs in political parties in order to enhance and promote their full participation in political and electoral processes

Scope

These policy guidelines have been developed primarily for political parties, and can be used by government agencies such as ORPP, IEBC, civil society organisations and other relevant stakeholders. The guidelines are based on current laws, policies and advocacy strategies in managing political parties, their regulation and compliance with the law. The recommendations cover members as well as staff of political parties.

LEGISLATIVE & POLICY FRAMEWORK

The Constitution of Kenya 2010

The Constitution of Kenya guarantees rights and freedoms of every person in Kenya including:

Right to freedom and security of the person under Article 29;

Right to fair administrative action under Article 47;

Right to fair hearing under Article 50;

Freedom of conscience, religion and opinion under Article 32;

Right to human dignity under Article 28;

and Freedom from discrimination under Article 27. 2.2.2:

The Elections Act

The Elections Act provides for ethical leadership and equitable representation. This is enshrined in the Code of Conduct for Political Parties that gives provisions against discrimination and violence among other things.

The Employment Act Section 5(3) of the Employment Act provides that there shall be no discrimination in employment. It prohibits employers from discriminating either directly or indirectly against an employee or prospective employee or harassing an employee or prospective employee: -

- On grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.
- in respect of recruitment training, promotion, and terms and conditions of employment.

Section 6 of the Employment Act prohibits sexual harassment in the workplace and sets out the steps that are required to secure workers from sexual harassment. The Act requires establishments with 20 or more employees to have a Workplace Sexual Harassment Policy.

The Sexual Offences Act: The Sexual Offences Act criminalizes Sexual Harassment with the offence set out in Section 23 which provides as follows: "Any person, who being in a position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than three years or to a fine of not less than one hundred thousand shillings or to both.

The Fair Administrative Actions Act:

The Fair Administrative Actions Act, requires that all administrative actions that are likely to affect an individual, including employment rights and opportunities, must be made in a fair, transparent, expeditious, efficient and lawful manner. It stresses the need to provide written reasons for any administrative action taken against an individual, including an employee, and to provide every person an opportunity to be heard before a decision is made.

International Law

The Constitution of Kenya 2010 at Article 2 recognises International Law and provides that all International Law that has been ratified forms part of National Law whether domesticated or not. 2.3.1: The UN Convention on the Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW). Sexual Harassment is defined in Article 11 as:

- unwelcome sexually determined behaviour physical contact and advances,
- sexually coloured remarks,
- showing pornography,
- sexual demand whether by words or actions.

Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when an employee has reasonable grounds to believe that their objection would disadvantage them in connection with their employment, including recruitment or promotion, or when it creates a hostile working environment. CEDAW recognizes that Equality in employment can be seriously impaired when employees are subjected to gender-specific violence, such as sexual harassment in the workplace.

The International Labour Organization's Discrimination (Employment and Occupation) Convention, 1958 (No.111)

The Convention requires employers to provide a conducive workplace and prohibits sexual harassment which is identified as a form of sex discrimination.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 (Maputo protocol) Kenya has ratified the Maputo Protocol with two reservations; these are in relation to reducing military spending in favour of women and development; and in relation to termination of pregnancy. The protocol protects women from all forms of abuse including sexual harassment. The African Commission on Human and Peoples' Rights charged with the mandate of implementing the Maputo

Protocol have developed Guidelines for Combating Sexual Violence and its Consequences which address the eradication of all forms of sexual violence, including sexual harassment.

The UN Declaration against Elimination of Violence against Women, 1993

The Declaration prohibits three categories of violence against women: • Violence perpetrated by the state; • Physical, sexual and psychological violence occurring within the general community, including rape, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; and • Violence in the family and in the private sphere. Additionally, Governments have adopted a number of resolutions on the elimination of violence against women through the UN General Assembly (UNGA), the Human Rights Council (HRC) and the Commission on the Status of Women (CSW). These include a specific resolution 3 on preventing and eliminating sexual harassment in the workplace, calling on States to take a range of measures.

On equity and representation:

Article 91 of the COK on the basic requirements for political parties provides for respect of the right of all persons to participate in the political process, including minorities and marginalised groups as well as the respect and promotion of human rights and fundamental freedoms, and gender equality and equity.

Article 27(8) requires the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

Article 56(a) provides that the State shall put in place affirmative action programmes designed to ensure that minorities and marginalised groups participate and are represented in governance and other spheres of life. Article 55 (b) focuses on youth representation in all spheres of leadership, including political leadership. (c) participate and are represented in governance and other spheres of life;

1.2 OBJECTIVES FOR CONSIDERATION

1.2.1 Objective 1: Prevention Strategies

Develop an SGBV prevention environment

Challenges

- Low understanding of the concept of gender, entrenched ideas of gender roles and negative social attitudes create an environment that fosters electoral or political O/SGBV.

- Knowledge and understanding of SGBV – law, legal rights and individual responsibilities. - Insufficient and inconsistent coordination of prevention programmes and implementation.

Policy Statements

The Party commits itself to: -

- **Develop and implement Party sexual harassment prevention policies including emerging forms of violence such as cyberbullying and harassment**
- **Undertake awareness raising on political/election-related O/SGBV in the party to leverage for positive social norms and attitudes.**

- **Undertake legal literacy and legal rights awareness.**
- **Actively involve male party members in the fight against O/SGBV.**
- **Mobilise Government institutions, CSOs and the Private Sector to support Policy against political/election related O/SGBV and to support implementation of the relevant laws including those that promote gender equality such as the two thirds gender rule the minimum requirements for SIGs..**
- **Implement laws on inclusion of special interest groups**
- **Engage the media in broadening the knowledge of evidence about political/election related O/SGBV**
- **Improve coordination with key service providers and stakeholders such as the police as it pertains to prevention of and response to political/election related O/SGBV**
- **Define and incorporate guidelines on Political/election related O/SGBV in to party instruments such as the code of conduct**
- **Undertake digital literacy and online safety trainings for party members**
- **Pursue relevant legislative reform that will adequately define and address electoral and political O/SGBV including relevant punitive measures against guilty perpetrators and parties**
- **Ensure that any relevant existing policies within the parties are reviewed, enforced and implemented**

Develop Anti-Sexual harassment and GBV Policy at the party

Challenges

1. The vast number of sexual and gender-based violence situations in political parties go unreported, mainly for personal and social reasons (fear of retaliation, libel suits, victimization, stigmatization etc). While political parties are vehicles to political leadership, their fluid nature has led to the development as parties as a means to an end specific to election cycles with parties having insufficient internal regulation and poor implementation of policies and regulations. Political parties bear a responsibility in preventing and addressing sexual harassment, cyber bullying and sexual and gender based violence
2. Inadequate experience and tools to handle political/election related cyber for bullying, sexual harassment and gender-based violence cases in political parties. With the rise of digital technology and internet penetration, the existence of online presence by politicians and/or political candidates has become vital. Social media also provides a mostly free platform for public engagement and campaigning. However, this has also led to the emergence of online gender based violence and targeted cyber bullying. The internet has quickly become the next frontier for violence. Unfortunately, political parties lack updated policies and procedures to respond to this.
3. Limited guidelines and procedures for addressing political/election related cyber bullying, sexual harassment and gender-based violence cases. Currently, political parties are guided by their codes of conduct which have general provisions against violence and discrimination but fail to capture the nuances in violence and discrimination such as gender, class and age. Emerging forms of violence such as cyber-bullying are also not currently covered by existing internal party policies and procedures.

Policy Statements

The party commits itself to:

- Sponsor and facilitate programmes to inform party staff and members about political/election related cyber bullying, sexual harassment and gender based violence and to make them more sensitive to its forms

and the damaging consequences.

- Facilitate sessions that publicize the procedures, sanctions and remedies available against it.
- Notify the party staff and members of prohibited conduct
- Include the O/SGBV policy in orientation materials for new staff and party members by making the policy and awareness raising opportunities available online/in person.
- Advise party staff and members of their rights, obligations and responsibilities under the policy and procedures.
- Identify, appoint and build capacity of personnel responsible for the administration of the policy and procedures through appropriate formal training.
- Develop procedures for prompt corrective action and discipline

REDUCE VULNERABILITY OF GROUPS AT RISK OF SGBV SUCH AS WOMEN (INCLUDING YOUNG WOMEN), YOUTH AND OTHER SIGS

Challenges

Some individuals and groups such as women (including young women, young men and SIGs) are at high risk of political/election related O/SGBV and need specific attention, services and programmes to reduce their vulnerability.

Policy Statements

The Party will undertake to:

- Put in place mechanisms to identify groups and individuals at high risk of political/election related O/SGBV.
- Promote links between actors/partner organisations/stakeholders who can help to identify those at risk
- Develop and reinforce affirmative action programs that can empower and better include such groups such as the -thirds gender rule and provisions such as Article 97 (1) (c) of the Constitution on nomination and representation of SIGs

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1.2.2 Objective 2: Response Strategies

To increase access to quality and comprehensive response and support services for political/election related O/SGBV.

Challenges

- Appropriate services are not easily accessible to political/election related O/SGBV victims in political parties due to awareness and a lack of clearly defined and incorporated reporting and response systems and structures.
- Referral processes for victims are not clearly defined or known in parties. This can be attributed to the fluid nature of political parties that do not warrant the creation of strong systems and structures.
- Some service providers lack specialized knowledge and skills to deal with emerging forms of violence such as online GBV
- Power structures in political parties lead to lack of/under-reporting, as well as the lack of follow up of cases.
- Insufficient/lack of coordination between parties and key service providers such as security agencies
- Non-recognition of males as victims of political and election related O/SGBV leading to limited support.
- Insufficient/lack of capacity, response guidelines and procedures on emerging forms GBV and harassment such as cyberbullying leading to inadequate/lack of response

Policy Statements

The Party commits to:

- Identify/appoint a party O/SGBV focal point through the party's gender desk.
- Create a Sexual Harassment Complaints Committee to address party related sexual harassment and bullying cases. The Committee's members should be drawn from the NEC and will have a minimum of three members
- Develop and build on existing internal party fora such as women and youth wings/leagues to create safe spaces for the relevant members.
- Enable access to short and long-term support services (health, legal, social infrastructure) through partnerships with key service providers to enable sufficient response
- Expand access to psychosocial support through relevant partnerships and/or provision of wellness services.
- Ensure allocation of adequate finances to support services at all levels within the party's reporting structure
- Fast-track dissemination and implementation of the party's O/SGBV policy and sexual harassment reporting procedure
- Ensure gender mainstreaming in all party functions and operations including key party organs such as the NEC, NGC and the secretariat
- Advocate for the ORPP's creation of an external GBV Response Committee
- Strengthen the party's referral process and coordination of a multi-sectoral approach for interventions and for reporting on cases.
- Ensure that the party office displays charters and provides information to all parties at the front desks to increase awareness.
- Ensure that the specific needs of all members, including men, women youth and SIGs affected are incorporated into the planning, delivery and evaluation of party functions such as budgetary allocation and campaign-related activities.
- Collaborate with the relevant partners (CSOs and national government) to strengthen the capacity of institutions and service providers handling political and election-related O/SGBV across the health and social sectors and the criminal justice system.
- Ensure access to services is free where possible and available for victims
- Ensure a minimum package of support is available for victims
- Ensure establishment and monitoring of formal protocols and referral systems between the party and key service providers-health, security, legal services and psychosocial support.
- Collaborate with and raise awareness on existing confidential telephone helplines and/or online service for victims/survivors of O/SGBV, providing information, advocacy, support and counselling referrals at all times including election and campaign season.
- Facilitate free legal assistance, advice, advocacy and other support services to victims/survivors, and accessible information about their rights and entitlements through internal party mechanisms such as the gender focal point/gender desks or relevant partnerships with CSOs.

Improve accountability for SGBV

Challenges

- Power structures within the parties, ignorance of the law, fear or embarrassment of raising complaints and apprehension about the consequences of prosecution impacts the reporting of O/SGBV cases.
- Political and election related O/GBV is largely normalised in politics
- Fear of reprisal is a challenge in the fight to eliminate political and election related O/SGBV.

- Limited digital literacy and safety contributes to the normalisation and high rates of cyber bullying/online GBV.
- Non-existent, lenient and inconsistent penalties.

Policy Statements

The Party commits to:

- Raise awareness of the political/election-related O/SGBV laws and provide adequate information on the internal party procedures and external legal process
- Improve systems of identifying and reporting political/election-related O/SGBV cases in a safe and confidential environment, without unnecessarily burdening the victims;
- In collaboration with relevant partners, encourage continuous training of law enforcement officers dealing with political/election-related O/SGBV cases.
- Provide support to members to promote understanding of gender and positive social norms and attitudes through existing party structures such as the youth and women wings
- Strengthen the internal party mechanisms to deal with some of the O/SGBV cases in the best interest of the victim while ensuring the imposition of relevant sanctions and reprisal on perpetrators

1.2.3 OBJECTIVE 3: DEVELOPING COORDINATION, MONITORING SYSTEMS AND DATA COLLECTION

Build coordination and monitoring systems

Challenges

- Inefficient party intervention has led to weakness and gaps in political and election-related O/SGBV prevention and response.
- Need for an external oversight committee to ensure proper and adequate handling and prosecution of political and election-related O/SGBV cases to ensure political parties are held accountable for ensuring their members' safety and well-being.
- Reporting systems are not sufficiently synchronized, which limits the ability to effectively monitor political and election-related O/SGBV data and information sharing among key stakeholders.

Policy Statements

The Party commits to:

- Develop a system for coordinating implementation of the party's policy against O/SGBV embedded in the key party organs and the gender focal point.
- Accelerate gender mainstreaming into all party structures, policies, plans and programmes.
- Ensure implementation of guidelines in inclusion of SIGs in party structures
- Build a cohesive and common system for monitoring O/SGBV data and implementation of the Party's Policy against O/SGBV.

Improving data collection of evidence on SGBV

Challenges

- Parties do not collect baseline data on political and election related O/SGBV thus making progress and gaps in prevention and response difficult to measure.
- Poor keeping of records and insensitivity to those reporting.
- Lack of/ Inadequate resources allocated to O/SGBV prevention and response in political parties due to a lack of prioritisation.

Policy Statements

The Party commits to:

- Support and facilitate the gathering of disaggregated statistical data at regular intervals on the causes, consequences and frequency of all forms of political and election-related O/SGBV, and the effectiveness of measures leading towards its prevention, punishment and eradication and protect and support complainants/survivors
- Widen the data collection metrics used to incorporate identifiers that will enable more specialised support to all party members including women, youth and SIGs.
- Encourage the collection, analysis and use of data and research to enhance O/SGBV prevention and response efforts
- Ensure sufficient budgetary allocation for coordination, capacity development, awareness creation evidence generation, monitoring and evaluation to achieve this policy's objectives.
- Collaborate with non-state actors including the private sector, CSOs and development partners to ensure that all political and election related O/SGBV prevention and response programmes within the party are adequately resourced.

1.8 POLICY REVIEW

The Party shall ensure that the O/SGBV Policy and any related procedures and guidelines will be implemented within a stipulated period and shall be subjected to a mid-term as need be, to take into account the social and economic realities associated with political and election related O/ SGBV.

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Political Parties' Model Sexual Harassment Policy

This model sexual harassment policy is intended for use by political parties to help them develop their own sexual harassment policies. It is based on national and international good practices and includes all the components which make a sexual harassment policy comprehensive. Parties should modify certain clauses to meet their specific conditions.

The Policy Statement

The Party is committed to providing a safe environment for all its members and employees free from discrimination on any grounds and from harassment at work including sexual harassment.

The Party will operate a zero-tolerance policy for any form of gender-based violence, including online and sexual harassment, treat all incidents seriously and promptly investigate all allegations thereof.

Any person found to have sexually harassed another will face disciplinary action, up to and including expulsion from the party. All complaints of sexual harassment will be taken seriously and treated with respect and in confidence. No one will be victimised for making such a complaint.

Guiding Principles

Non-Retaliation

Retaliation means taking adverse action against an individual as a consequence of reporting, for expressing an intent to report, for assisting another member/staff to report, for testifying or assisting in a proceeding involving sexual harassment and bullying. Retaliation for raising a concern about a violation of this policy or participating in an investigation relating to a violation of this policy is discouraged.

Non-disclosure & Confidentiality

Every effort shall be made to maintain confidentiality during any process required under this policy. Where necessary, parties and persons involved in the investigation may be required to sign a confidentiality deed to protect the names of the parties, witnesses or the circumstances related to the complaint; except where disclosure is necessary for the purpose of investigating the complaint or taking disciplinary measures concerning legal action.

Good faith, Honesty & Integrity.

Reports of sexual harassment and bullying must be made in good faith. Any person determined to have intentionally made a false claim, acts maliciously, offers false statements or refuses to cooperate with an investigation regarding any process in this policy will be treated as having committed an act of professional misconduct.

Professionalism

All complaints shall be handled with professionalism. Remedial actions will depend on the severity of the incident. Disciplinary recommendations will be imposed according to the internal disciplinary policies and procedures set by the Party as guided by the Constitution of Kenya, Political Parties Code of Conduct, Sexual Offences Act, the Party's internal complaints mechanism and any other applicable laws. The Party shall take measures that will deter the recurrence of sexual harassment and bullying. The remedial action should be taken within reasonable time. Any party aggrieved by any process, decision or remedial action under this policy, shall have the right to challenge it and seek relevant redress.

Guiding objectives:

Introduction

The Party and its members are committed to providing a working environment in which all members and staff agents are free from sexual harassment.

Objective 1: Awareness & Sensitization:

The Party will sensitize and create awareness amongst its members and staff on Sexual Harassment and bullying in order:

- To improve members' and staff's knowledge and awareness of sexual harassment and bullying.
- To set standards of acceptable behavior for all of its members.
- To protect from any victimization or reprisals.
- Objective 2: Zero Tolerance to Sexual Harassment & Bullying In The Party:
- The Party intends to create an atmosphere of zero tolerance to sexual harassment and bullying within its structures. The intended outputs of this objective are:
- To create an environment where all members, staff and visitors are treated with dignity, courtesy and respect.
- To enable the Party to provide their employees with sexual harassment and bullying awareness training.
- To encourage other Parties to adopt and establish Sexual Harassment and Bullying Policies with prevention, complaints and redress mechanisms.

Objective 3: Redress & Support to Victims

The Party shall establish redress and support systems; provide counselling; and an avenue for victims concerns to be addressed in a clear, fair and transparent manner, as well as appropriate referral mechanisms for victims and perpetrators. The systems should address possible retaliation; and false and malicious complaints. The intended outputs are:

- To provide an effective procedure for complaints
- To encourage the reporting of behaviour which breaches this policy.
- To deal effectively with conflict arising from sexual harassment.

Objective 4: Monitoring & Evaluation

The party shall establish systems for monitoring and evaluating the effectiveness of this policy, through data collection and analysis, whilst observing confidentiality. The intended output is:

- To inform the regular review of this policy, the complaint handling procedures and training needs.
- To advise and inform recommendations for the amendment and creation of national legislation on political sexual and gender-based violence.

Institutional Framework:**Internal Processes:**

Parties who subscribe to this policy are encouraged to set up internal mechanisms to facilitate the hearing and resolution of complaints of Sexual Harassment and bullying. The internal process must ensure to accord the complainant a fair transparent, efficient, effective and expeditious process. The process must be developed through a consultative process and must be clearly explained to all members and party staff.

A Party member or staff or any other person who is sexually harassed and/or bullied is not bound to use the internal processes and can opt to pursue any other avenue available to them.

The Sexual Harassment Complaints Committee:**Definition of sexual harassment**

Sexual harassment is unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated. It includes situations where a person is asked to engage in sexual activity as a condition of that person's employment (as it pertains to staff of the party) and membership of the party, as well as situations which create an environment which is hostile, intimidating or humiliating for the recipient. Sexual harassment can involve one or more incidents and actions constituting harassment may be physical, verbal, online and non-verbal. Examples of conduct or behaviour which constitute sexual harassment

include, but are not limited to:

Physical conduct

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching
- Physical violence, including sexual assault
- Physical contact, e.g. touching, pinching
- The use of job/membership/campaign-related threats or rewards to solicit sexual favours

Verbal conduct

- Comments on a worker/member's appearance, age, private life, etc.
- Sexual comments, stories and jokes
- Sexual advances
- Repeated and unwanted social invitations for dates or physical intimacy
- Insults based on the sex of the worker/member
- Condescending or paternalistic remarks
- Sexual coercion
- Sending sexually explicit messages (by phone or by email)

Non-verbal conduct

- Display of sexually explicit or suggestive material
- Sexually-suggestive gestures
- Whistling
- Leering

Online conduct

- Cyberstalking- involves using the internet, cell phone, and/or any other electronic communication device to continuously harass or stalk another person
- Online impersonation: when someone uses the name or persona of someone online without their consent with the intent to harm, intimidate, defraud or threaten the person.
- Trolling -when someone makes unsolicited comments in an online community that are random or controversial, in order to provoke emotion.
- Revenge porn- refers to non-consensual pornography and the act of distributing private, sexually explicit images or videos without the person's consent. More often than not, this is done as a form of revenge.
- Cyberbullying-sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal or private information about someone else, causing embarrassment or humiliation. Some cyberbullying crosses the line into unlawful or criminal behaviour.

Anyone can be a victim of sexual harassment, regardless of their sex and of the sex of the harasser. The Party recognises that sexual harassment may also occur between people of the same sex. What matters is that the sexual conduct is unwanted and unwelcome by the person against whom the conduct is directed.

The Party recognises that sexual harassment is a manifestation of power relationships and often occurs within unequal relationships, for example between an older/more established member or leader and a younger or lower member. Anyone, including employed staff and members of the Party, who sexually harasses another will be reprimanded in accordance with this internal policy.

All sexual harassment is prohibited whether it takes place within the Party premises or outside, including at social events, campaign trails, training sessions or conferences sponsored by the Party.

Complaints procedures

Anyone who is subject to sexual harassment should, if possible, inform the alleged harasser that the conduct is unwanted and unwelcome. The Party recognises that sexual harassment may occur in unequal relationships (i.e. between an older/more established member and a younger/less established member) and

that it may not be possible for the victim to inform the alleged harasser.

If a victim cannot directly approach an alleged harasser, he/she can approach one of the designated staff members responsible for receiving complaints of sexual harassment. This person could be an appointed gender and wellbeing focal person in charge of the party's gender desk, a member of the Sexual Harassment Complaints Committee, etc. When a designated person receives a complaint of sexual harassment, he/she will:

- immediately record the dates, times and facts of the incident(s)
- ascertain the views of the victim as to what outcome he/she wants
- ensure that the victim understands the Party's procedures for dealing with the complaint
- discuss and agree the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if he/she is not satisfied with the outcome
- keep a confidential record of all discussions
- respect the choice of the victim
- ensure that the victim knows that they can lodge the complaint outside of the Party through the legal framework
- ensure that the victim is aware of the party's referral mechanism (medical, security, legal and psychosocial support)

Throughout the complaints procedure, a victim is entitled to be helped by a counsellor within the Party or referral to psychosocial support service providers. The Party will nominate a number of counsellors and provide them with special training to enable them to assist victims of sexual harassment, or partner with relevant psychosocial support service providers for purposes of referral.

The Party recognises that because sexual harassment often occurs in unequal relationships, victims often feel that they cannot come forward. The Party understands the need to support victims in making complaints

Informal complaints mechanism

Informal complaints mechanisms will be handled by a focal person (stationed at the party's gender desk if available). If the victim wishes to deal with the matter informally, the designated person will:

- give an opportunity to the alleged harasser to respond to the complaint
- ensure that the alleged harasser understands the complaints mechanism
- facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant, or refer the matter to an external designated mediator to resolve the matter
- ensure that a confidential record is kept of what happens
- follow up after the outcome of the complaints mechanism to ensure that the behaviour has stopped
- ensure that the above is done speedily and within [...] days of the complaint being made

Formal complaints mechanism

If the victim wants to make a formal complaint or if the informal complaint mechanism has not led to a satisfactory outcome for the victim, the formal complaint mechanism should be used to resolve the matter. The designated person who initially received the complaint will refer the matter to the Sexual Harassment Complaints Committee to instigate a formal investigation.

The Committee may deal with the matter themselves, refer the matter to an internal or external investigator or escalate the matter to the party's Disciplinary Committee in accordance with this policy. The person carrying out the investigation will:

- interview the victim and the alleged harasser separately
- interview other relevant third parties separately

- decide whether or not the incident(s) of sexual harassment took place
- produce a report detailing the investigations, findings and any recommendations
- if the harassment took place, decide what the appropriate remedy for the victim is, in consultation with the victim (i.e.- an apology, if a staff member is involved-a change to working arrangements, training for the harasser, discipline, or escalation to the disciplinary committee)
- follow up to ensure that the recommendations are implemented, that the behaviour has stopped and that the victim is satisfied with the outcome
- if it cannot determine that the harassment took place, he/she may still make recommendations to ensure proper functioning of the Party
- keep a record of all actions taken
- ensure that the all records concerning the matter are kept confidential
- ensure that the process is done as quickly as possible and in any event within [...] days of the complaint being made

Outside complaints mechanisms

A person who has been subject to sexual harassment can also make a complaint outside of the Party. They can do so through filing a case with the police and securing legal representation/advice. This internal policy does not prevent a party staff/member from also using the legal mechanisms available to him or her.

Sanctions and disciplinary measures

Anyone who has been found to have sexually harassed another person under the terms of this policy is liable to any of the following sanctions:

Where party members are involved:

- Verbal or written warning
- The imposition of a fine
- Expulsion from the party

Where party staff are involved,

- a reduction in wages
- transfer
- adverse performance evaluation
- demotion
- suspension
- dismissal

The nature of the sanctions will depend on the gravity and extent of the harassment. Suitable deterrent sanctions will be applied to ensure that incidents of sexual harassment are not treated as trivial. Certain serious cases, including physical and sexual violence if proven, will result in the immediate dismissal/expulsion of the harasser.

Implementation of this policy

The Party will ensure that this policy is widely disseminated to all party members, staff and relevant persons. It will be included in the Party handbook. All new members and staff must be trained on the content of this policy as part of their induction into the Party. Every year, the Party will require all members to attend a refresher training course on the content of this policy. This can be done virtually or in-person. It is the responsibility of the Party's leadership to ensure that all the Party members and staff are aware of the policy.

Monitoring and evaluation

The Party recognises the importance of monitoring this sexual harassment policy and will ensure that it anonymously collects statistics and data as to how it is used and whether or not it is effective. Those responsible for dealing with sexual harassment cases will report on compliance with this policy, including the number of incidents, how they were dealt with, and any recommendations made to the Party's National Executive Council. This will be done on a yearly basis. As a result of this report, the Party will evaluate the effectiveness of this policy and make any changes needed.





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