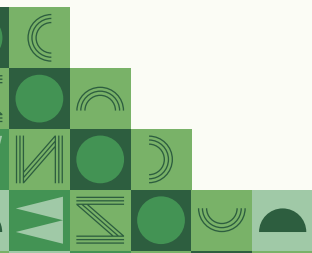


Walk the Talk:

A critical analysis of the legal framework on the inclusion of SIGs

POPULAR VERSION



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Foreword



Kenya is one of the countries hailed for having the most progressive constitutions in the world, particularly in regard to Articles on inclusive participation, representation, electoral system, electoral process, and political parties. It further provides for the inclusion of special interest groups (SIGs) i.e., women, youth, persons with disabilities (PWDs), the marginalized, and other minority groups. The right to participate in political and public life is also a well-established principle of international human rights law.

Special interest groups, particularly women, youth, and persons with disabilities, however, face difficulties in participating in the public sphere. The hallmark of the dawn of constitutionalism is the provision of rights-based public participation, equality, and inclusion in governance processes in Kenya. Despite the progressive nature of Kenya's Constitution, there still exists formal and informal barriers to political participation for women, youth, and PWDs. Among the formal challenges include the design and effective implementation of the legal framework.

This assessment report assesses the extent to which Kenya's legal framework governing political parties supports the inclusion and participation of SIGs in the electoral process and examines the views and proposals of marginalized groups concerning inclusion. Moreover, it also makes recommendations for possible areas of intervention to support and strengthen the participation of the SIGs in the electoral process. Kenya just concluded its third election in the 2010 constitution, which provided a great opportunity for learning and taking steps to strengthen the political participation of minority groups mainstream recommendations in the general electoral process.

I am most grateful to the political parties who participated in the interviews and the collection of information. The text has benefitted greatly from feedback obtained from a cross-section of parties in the country. I would like to thank the Registrar of Political Parties, Mrs. Ann Nderitu for her strategic insight into the legal framework, and the invaluable contribution of Prof. Collins Odote and his task team who helped develop the report. With gratitude, I acknowledge my colleagues at The Oslo Center; Phoebe Mungai, Stephen Maribie, Edin Allio, Isaac Juma, Daisy Mukung, Michael Sanya, and Bjarte Tora; the Netherlands Institute for Multiparty Democracy (NIMD); Danish Institute for Parties and Democracy (DIPD); Mzalendo Trust and Centre for Multiparty Democracy – Kenya (CMD) for their comments for their tireless review of the content and methodology that formed the basis for the report.

The Oslo Center hopes the assessment report will assist the political parties' respective party leagues; women, PWDs, and the youth continue to organize and operationalize the findings with the overall aim to support the participation and inclusion of the SIGs within the established legal framework. This is an opportunity for the political parties to utilize the full potential of the SIGs to contribute to the transformation of society, sustainable development, and good governance through the strategic implementation of the recommendations.

Finn Jarle Rode
The Executive Chair of the Board
The Oslo Center

Summary



Background

The right to participate in political and public life is a well-established principle of international human rights law. Special interest Groups (SIGs) in Kenya, particularly women, youth and persons with disabilities have faced challenges in participating in public sphere. One of the tools to mitigate the challenges is the legal framework. Whilst the Constitution of Kenya and ensuing legislations have provided for inclusion of SIGs, these groups have not realized their full participation. This study analysed the efficacy of the Kenyan legal framework on the inclusion of SIGs, specifically through considering political party nomination processes and dispute resolution processes.

Objectives of the Study

The Oslo Center commissioned this research to investigate how the process of political party nominations have affected Kenya's democratic and participatory status and if the legal framework governing political parties has supported the inclusion and participation of marginalized groups in the process. This study assesses the content and implementation of the legal framework, governing political parties' operations and party nominations and their effect on the country's democratic and participatory processes. This report captures the outcome of the assessment of the impact of the legal and regulatory framework of SIGs' participation in party politics.

Political Context in relation to SIGs

Political parties have been instrumental in agitating for inclusion. From 1920s, political parties were critical in advocating for the inclusion of Kenyans in governance in the fight for independence. In the post-colonial era, the room for multiparty politics diminished in 1969 as Kenya became a de-facto one party state. The one-party state era was characterised by exclusion of several groups of people including SIGs. In 1982, Kenya became a de-jure one party state in which the government and the only party – KANU reduced contribution of youth to sycophancy and administratively misused them to chaotically deal with political opponents.

During the agitation for multiparty politics, the contribution of women and youth was vital. Nevertheless, the representation of SIGs in elective public offices remained wanting. The 2010 Constitution mandated the government to respect and implement the two-thirds gender rule and the political rights of persons with disabilities, youth, and marginalized communities as special interest groups. The Constitution also prescribed affirmative action mechanisms to ensure inclusion of special interest groups. The 2010 Constitution has enabled the increase of participation of SIGs in politics and governance. The tables below illustrate inclusivity of SIGs in elective offices at national and subnational level.

Figure 1: Women in Parliament in Kenya 1963-2022

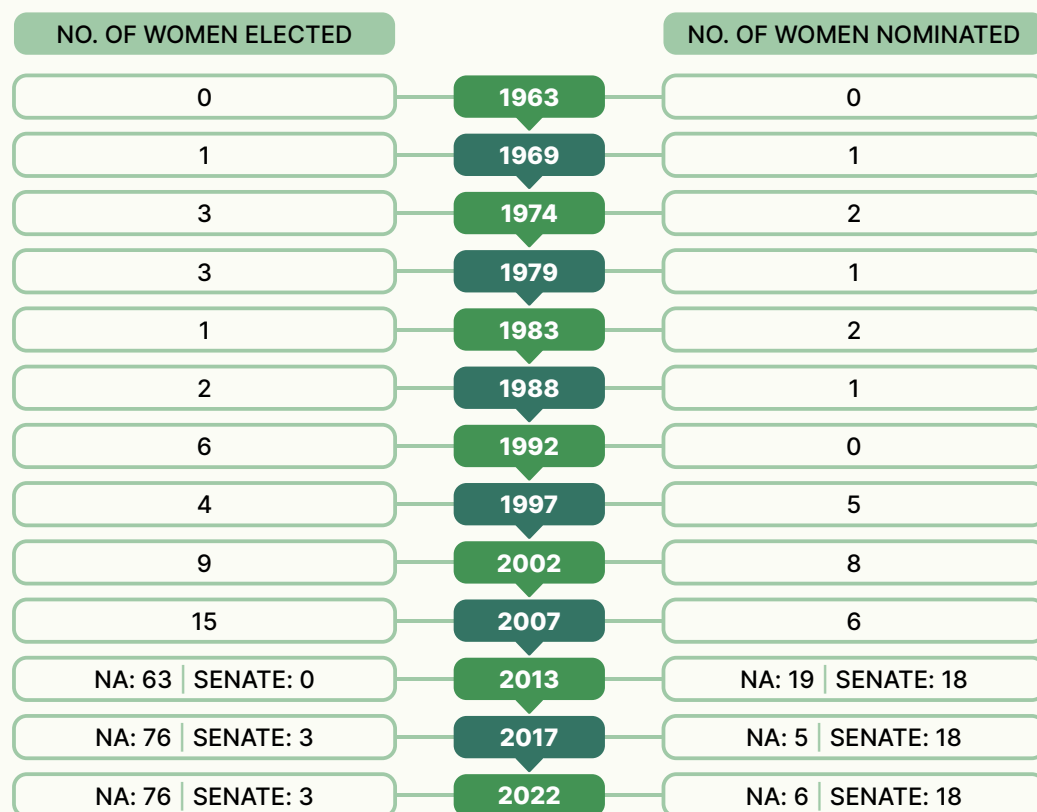


Table 1: Persons with Disabilities in Parliament and County Assemblies 2013-2022

YEAR	NO. OF PWDs IN NATIONAL ASSEMBLY	NO. OF PWDs IN SENATE	NO. OF PWDs IN COUNTY ASSEMBLIES
1980	9	4	62
1980	4	2	38
1980	4	2	37

Table 2: Youth in Parliament 2013-2022

YEAR	NO. OF YOUTHS IN NATIONAL ASSEMBLY	NO. OF YOUTHS IN SENATE
1980	37	14
1980	36	12

Historical Inclusivity Challenges in Political Parties

Political parties are at the center of democracy. Despite their centrality in democracy, parties have not fully achieved the inclusion of SIGs. Although SIGs have been instrumental in the growth of multiparty politics, their numbers in elective offices through political parties have been low. For instance, by 1997, there were only 18 women represented in Parliament. Despite petitioning for a motion to have at least a third of candidates nominated by political parties as women, this was shot down. Through lobbying of women's groups such as the Women Parliamentary Caucus, the 2010 Constitution provided for the two thirds gender principle. The principle provides that there should be no more than two thirds of a gender represented in the membership of any elective position or the governing body of any political entity. More than one decade since the promulgation of the Constitution, this standard is yet to be fully achieved.

Persons with disabilities (PWDs) have faced dire socio-economic and political marginalisation. Persons with disabilities have had limited access to education, health, employment, and other basic social services. This includes challenges relating to physical access. Their influential political participation has been curtailed to tokenism. Inclusion of PWDs within political parties remain inadequate with significant legal gaps existing and lack of PWD leagues amongst most parties in the country. The National Gender and Equality Commission has observed that Special interest Groups have historically been limited to addressing their own specific issues. For instance, persons with disabilities have not been put at the same level as other members and they are mostly required to speak about disability issues. The same would apply to women and the youth. This minimizes their chances of moving the masses on other topical issues hence lowering their chances of election through popular contest.

Other past challenges with inclusivity in political parties included the inaccessibility of political party offices by persons with disabilities. Secondly, the offices and officials of parties were not accessible because there were no set channels of communication. One needed to be well connected before they could get access to a political party leader.

The participation of youth in politics has been minimal. The data from ORPP reveal that youth comprise only 35% of membership to political parties despite their demographic strength in population. Youth participation in politics has been characterised by voter apathy and general disinterest. Political parties though remain a critical avenue to legitimacy and financial support for youth.

Prior to the promulgation of the Constitution of Kenya in 2010, there were no dedicated avenues of conflict resolution within the party and the electoral management institutions. Violent political campaigns including party primaries deterred the participation of SIGs in political parties' processes. In a study conducted by the Kenyan Chapter of the International Federation of Women Lawyers in the run up to the 2022 General Elections, it was concluded that political parties remain a significant barrier to women's inclusion in politics and leadership. The areas cited as the most problematic include lack of transparency within parties, lack of access to campaign finance and lack of free and fair political party nominations which are normally skewed against women aspirants.

Addressing the Inclusivity Gap in Political Parties Through Party Nominations

The Constitution of Kenya provides for party lists as an affirmative action tool to ensure equitable representation of special interest groups and the marginalized in Parliament and County Assemblies. These seats are allocated to political parties in proportion to the total number of seats won by candidates of the political party at the general election. It is therefore prudent and a requirement for political parties to include SIGs in their membership and decision-making organs to effectively nominate these marginalised groups through party lists.

Parties are required to present party lists for SIGs to IEBC nominating members to the Parliament and the County Assemblies using proportional representation. Each political party must submit the following party lists to IEBC:

- National Assembly Party List – 12 nominees to the national assembly
- Senate (women) party list - 16 women nominees to the senate
- Senate (youth) party list – 2 youth nominees to the senate
- Senate (persons with disability) party list – 2 persons with disability nominees
- County Assembly (gender) party list – 47 party lists, each representing a county and separately consisting of the number of nominees equal to the number of wards in the respective county.
- County Assembly (marginalised) party list – 8 persons, 4 PWDs, 4 Youth. Priority is given to a person with disability, the youth and any other candidate representing a marginalised group.

Kenya's legal framework provides for elaborate nomination and dispute resolution mechanisms for disputes relating to party nominations. This encourages political parties to adhere to the legal provisions on inclusion of SIGs in party nominations since they are aware that failure to do so would result in convoluted legal battles that may portray the parties in bad light. The number of disputes handled by IEBC, the PPDT and courts relating to party primaries and party list nominations points towards the awareness of participants.

Legal Framework and the Space for SIGs

There are international legal framework and instruments guiding the inclusion of SIGs in socioeconomic and political spheres of life. This guidance emanates from the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights 1981.

PWDs

The rights of persons with disabilities are asserted in the UN Convention on the Rights of Persons with Disabilities, 2006 (UNCRPD). In the East African Community (EAC), the East African Community Policy on Persons with Disabilities, (EACPPWD) provides that member states shall be gender responsive and shall include disability interests through establishing mechanisms that promote equal access of resources and benefits to both men and women; and through encouraging active involvement/ participation of PWDs in leadership and decision-making processes about policies and programs that affects their daily lives.

Women

Women's Right to political participation has a broad international framework, starting from the universal right against discrimination provided for in the UDHR and ICCPR. It is more specifically articulated in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The Beijing Declaration and Plan for Action 1995 identified the inequality between men and women in the sharing of power and decision-making at all levels as one of twelve critical areas that needed the attention of the international community and civil society.

In the African Continent, the African Charter on Human and Peoples' Rights mandates States to ensure the elimination of every discrimination against women and ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.

The Protocol to the African Charter on Human and People's Rights (ACHPR) on the Rights of Women in Africa (Maputo Protocol), expands this provision and provides for the right of women to participate in political and decision-making processes.

The Treaty establishing the East African Community also lists as one of its objectives the mainstreaming of gender in all its endeavors and the enhancement of the role of women in cultural, social, political, economic, and technological development.

Youth

The Constitution of Kenya defines youth as persons who have attained the age of 18 years; but have not attained the age of 35 years. The UN General Assembly in 1995 called on States parties to take action to develop and/or strengthen opportunities for young people to learn their rights and responsibilities, promote their social, political, developmental, and environmental participation, remove obstacles that affect their full contribution to society and respect their freedom of association.

The African Youth Charter, 2006 enjoins state parties to take measures to promote active youth participation in society including guaranteeing the participation of youth in parliament and other decision-making bodies.

Kenyan Legal Framework on Inclusion of Special interest Groups



The Constitution of Kenya emphasizes the national values of human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of the marginalised.

The Constitution impels the State to undertake legislative and other measures, including affirmative action programs and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination, particularly, youth and marginalized groups. Article 100 includes women, persons with disabilities, youth, ethnic and other minorities, and marginalised communities as “marginalized groups”. More than ten years following promulgation of the Constitution, this provision is yet to be legislated.

The IEBC is responsible for the conduct of elections including election through party lists where SIGs are included on affirmative action basis.

Article 91 requires parties to respect the right of all persons to participate in the political process, including minorities and marginalized groups; respect and promote human rights and fundamental freedoms, and gender equality and equity; and subscribe to and observe the code of conduct for political parties.

The Constitution, consequently, not only underscores equality before the law but also makes inclusive politics a mandatory cornerstone of Kenyan politics. Despite the electoral system not being a purely proportional representation system, it captures provisions for party lists and affirmative action which seek to ensure that women, youth and persons with disabilities are represented in elective politics. At the National Assembly level, there are 47 seats for women to be elected one each to represent each of the country's counties; 12 members to represent special interest groups including youth and persons with disabilities; while within the Senate political parties are to nominate 16 women, two youth and two persons with disabilities.

Persons with Disabilities Act, 2003

This Act establishes the National Council for Persons with Disabilities, which is mandated to issue adjustment orders to premises, services or amenities that are inaccessible to persons with disabilities by reason of any structural, physical, administrative, or other impediment and to register persons with disabilities among other roles.

Whilst the Act provides for civic rights, it does not expound the breadth of political rights of PWDs, nor does it offer actionable remedies for challenges faced in the political sphere. Civic rights in this instance include provision of assistance to persons with disabilities during voting, accessibility of polling stations and registration of organizations of persons with disabilities. It does not contain robust provision to promote the participation of persons with disabilities in politics beyond acting as voters.

The proposed revisions to this law in the Persons with Disabilities Bill, 2022 are overdue as they contain robust proposals on civic and political rights for persons with disabilities including the right to participate in public and political life and the opportunity to enjoy the right on an equal basis with others and to vote and be voted for in any public or political office hence reinforcing the political rights captured in the Constitution.

Political Parties Act, 2011

The Political Parties Act mandates political parties to promote inclusiveness, democracy, and participation of the people in the formulation of its policies and in the nomination of candidates for elections.

Registration of Political Parties is Contingent on Inclusion

The Act gender equality and equity, respect for the rights of all persons to participate in political processes and other human rights and fundamental freedoms. This is to ensure that women and all other marginalized groups can participate in politics both as voters and as candidates as set out in Article 91 of the Constitution.

The Act requires political parties to promote the representation in Parliament and County Assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities.

Code of Conduct for Political Parties

The Code of Conduct for Political regulates the behaviour of members and office holders of political parties, aspiring candidates, candidates, and their supporters, promotes good governance and eradicates political malpractices such as violence, intimidation or bribery. The Code mandates political parties to respect the rights of all persons to participate in the political process including special interest groups, respect and promote gender equity and equality, human rights and fundamental freedoms; and be tolerant and inclusive in all their political activities.

Political Parties Fund

The Act establishes the Political Parties Fund which is to be administered by the Registrar of Political Parties. 15% of the Fund is to be distributed proportionately to political parties based on the number of candidates of the political party from special interest groups elected in the preceding general election. Based on this guaranteed allocation, the youth, women and PWD leagues within the parties should demand the 15% allocated to them and prepare 5-year work plans to push their agenda.

The Act disqualifies any party from receiving the Fund if its registered officials fail to meet the two thirds gender rule and if the party's governing body does not have representation of special interest groups. This provision is key in promoting inclusion of SIGs in political parties. However, political parties ought to be intentional to promote SIGs' interests in the party through deliberate recruitment and crafting a SIGs inclusive agenda.

Establishment of the Office of the Registrar of Political Parties

The Office of the Registrar of Political Parties is established under Section 34 of the Act and mandated to register, regulate, monitor, investigate and supervise political parties to ensure compliance with the Act, regulate political party nominations in accordance with the Act and to investigate complaints received. The ORPP's mandate is thus critical to ensuring that the constitutional role of inclusivity placed on political parties is indeed realized.

Negotiated Democracy

A key amendment in the 2022 election cycle was the introduction of indirect party nomination method. This method allowed parties to select delegates from its list of members, rather than holding an internal voting exercise among its members. The indirect nomination is disadvantageous to SIGS since there is likelihood of a bias towards persons affiliated to party leaders and persons with wide resources. The process may thus benefit from the Political Party Primaries Bill, 2020 which had clear proposals on protecting the interests of SIGs especially during the nomination process.

Coalition Political Parties

Coalition political parties were introduced just before the 2022 elections in an amendment to the Political Parties Act. Despite having provisions for coalition building, the amendment brought in the aspect of an “umbrella party” with the following contents deposited with the ORPP: the parties which are members of the coalition party; the policies and objectives of the coalition; the overall structure of the coalition; the criteria or formula for sharing of positions in the coalition structure, roles and responsibilities within the coalition; the coalition election rules, and the coalition nomination rules, as well as the dispute resolution mechanisms and procedures.

Election Campaign Financing Act, 2013

This Act was established to provide for the regulation, management, expenditure, and accountability of election campaign funds during election and referendum campaigns. The Act gives power to IEBC to regulate parties' and candidates' spending in an electoral campaign. However, in the last two electoral cycles, parliament has failed to adapt the proposed campaign finance regulations which have recommended capping of election costs. Furthermore, the Act has clear prescriptions that have not been enforced. The requirement for candidates and political parties to disclose the sources of support is yet to be enforced. Further, the practice of the ruling party using public resources has never attracted a penalty.

There are concerns some provisions of the Act hinder its implementation. Key among them is the requirement by political parties to establish an expenditure committee which would regulate spending by a candidate, a political party or referendum committee. There have been attempts at amending the same including the Election Campaign Financing (Amendment) Bill, 2021 which sought to repeal the said requirement. There is need for parliament to consider the report prepared by the Constitutional Implementation Oversight Committee regarding the said Bill with a view to making the process of implementation of the Act possible.

Elections Act, 2011

Role of the ORPP

The Elections Act governs the conduct of elections. The Act expounds on the role of the ORPP in receiving party nomination rules from parties six months before nomination of their members and certifying the same. Such rules are thereafter forwarded to the IEBC who shall within fourteen days, review such rules against the prescribed regulations and issue the political party with a certificate of compliance; or require the political party to amend the rules to ensure such compliance within fourteen days.

Party Lists

Section 34 provides the process of nomination of party lists. It prescribes the submission of the different lists to the IEBC, who then review the list to ensure compliance with the prescribed regulations and issue the political party with a certificate of compliance; or require the political party to amend the party list to ensure such compliance failing which the Commission shall reject the list. Before such submission, such lists ought to be produced before ORPP for certification under Section 35A, with the role of Registrar being to verify that the names appearing in the party list belong to registered members of the political party and certify the party list within seven days.

The Act stipulates that the party lists shall contain alternates between male and female candidates in the priority in which they are listed; that county party lists for marginalized groups shall prioritize a person with disability, the youth and any other candidate representing a marginalised group.

Elections (Party Primaries and Party Lists) Regulations, 2017

These Regulations guide the conduct of party primaries and constitution of party lists, and they include providing equal opportunities for all eligible candidates; non-discrimination against any eligible candidate and being inclusive and participatory. They also obligate political parties, to avail party's nomination rules to its members, publish and publicise them, and to deposit the same at its party branches.

Regulation 15 provides the requirements for a person aspiring to be nominated. Among the documents required for nomination is disability certification by the National Council for Persons with Disabilities.

Regulation 20 reiterates that party lists should alternate between male and female candidates' failure to which it is rejected by IEBC under regulation 26.

County Laws

There has barely been any progress in the creation of a legal framework to support women's political participation at the county level, with no laws being in place to facilitate the same. Indeed, some counties are in the process of drafting a gender policy, while others are yet to commence the legislative process.

With respect to county disability laws, the County Governments of Homabay, Kisii and Machakos have enacted County disability laws. These laws have established a county authority with the aim of protecting the rights and interests of persons with disability.

Party Constitutions and Nomination Rules

All parties' constitutions analysed in this study contained a commitment to inclusion of special interest groups. All the Parties have a Women, Youth and Person with Disability League or Congress. The National Organs have representation from these Leagues or Congresses. Special interest groups are also represented at the County level, constituency level as well as the ward level of these parties.

Party Nomination Rules

While Political Parties are required to publish their nomination rules on their websites and to forward such rules to the IEBC, this study was only able to obtain the Jubilee Party Nomination Rules, 2016.

Internal Disputes Resolution Bodies

Political parties analysed in this study have elaborate structures, rules and regulations for internal disputes resolution.



Conclusion

The IEBC in Kenya struggles to ensure political parties comply with laws that ensure the nomination of SIGs, particularly persons with disabilities (PWDs). This is due to a lack of commitment for the interests of special interest groups by political parties and the IEBC's failure to hold parties accountable to the rule of law. This encourages a continued culture where SIGs are not prioritized in their positions in the party lists. Whilst the law provides for party lists to have alternate gender listing, there is no such a provision in other types of marginalization. The legal provisions for the national assembly and the senate assembly are clear, but those that prescribe the composition of county assembly party lists are less so, which could result in the marginalization of PWDs. Although all parties have established leagues for women, youth, and PWDs, the effectiveness of these leagues remains unclear, and they lack adequate resources and funding. There is a need to consider the intersectionality of special interest groups to create a formula that is inclusive of PWDs when generating party lists.

Conclusions and Recommendations



Conclusions

This study sought to interrogate the extent to which the legal framework for the inclusion of special interest groups in elective politics, with a focus on the impact of party nominations on the participation and success of women, youth, and persons with disabilities (PWDs) in 2022 elections in Kenya. The study finds that while the Constitution and legal framework provide for inclusivity in politics, gaps and contradictions in their content and inadequate implementation prevent special interest groups from enjoying their political rights equally with other members of society. Despite regulations and oversight by the Independent Electoral and Boundaries Commission (IEBC) and the Office of the Registrar of Political Parties (ORPP), political parties have not adequately increased the participation of these groups in their nominations, failing to fulfil the constitutional requirement.

The Political Parties Act (2011) was amended to differentiate between parties and coalitions, restrict party-hopping, and require political parties to publish their nomination processes with the ORPP. The amendments also encouraged coalition formation and addressed party primaries, including indirect nominations. However, the study found that political parties lacked a structured approach to conducting indirect nominations, leading to questions about meaningful participation. National nomination processes for presidential candidates showed more activity than lower political positions, as most parties used an indirect method of nominating candidates, with only a few investing in a nationwide process. Most parties focused on their perceived "strongholds" during nominations, and in 2022, parties prioritized their strongest candidates under their respective alliances during the nominations process. Coalitions and alliances played a significant role in the election.

The study observed that although most political parties used a hybrid system of nomination, which included indirect nominations, there was a bias towards candidates with financial resources. Aspirants invested significant campaign time and resources only to be asked to step down for candidates who sowed discord. This contradicted the democratic ideals expressed in the constitution and led to voter apathy in the general elections.

The electoral legal framework in Kenya, based on the 2010 Constitution and related election legislation, strongly supports the political and electoral rights of special interest groups. However, the gender quota and campaign finance regulations that could enhance electoral inclusion and transparency have not been operationalized. Subsidiary legislation proposed by the IEBC to enforce the Election Campaign Financing Act of 2013 was rejected by successive parliaments, and the law has never been implemented.

In October 2021, the IEBC's regulations were de-gazetted after the National Assembly rejected them, but the High Court ruled that the IEBC could create regulations without the National Assembly's approval. However, this decision came too late to allow their implementation in time for the 2022 elections.

Despite the Constitution of Kenya providing for the inclusion of women, youth, and persons with disabilities in politics, parliament has failed to pass legislation for the two-thirds gender rule and for inclusion of special interest groups. This has resulted to the failure to achieve the Constitutional thresholds for the gender quota in the National Assembly and 5% representation of persons with disabilities in elective and appointive bodies. In the recent elections, the IEBC required disability status certification from the National Council for Persons with Disabilities before nomination. However, political parties have not effectively identified, recruited, and supported persons with disabilities to participate in internal party processes.

Recommendations

- i. Full implementation of Articles 81 and 100 of the Constitution.
- ii. Parliament to urgently enact legislation to promote the representation in Parliament of marginalised groups.
- iii. Parliament should prioritise enactment of the Representation of Special interest Groups Laws (Amendment) Bill, The Persons with Disabilities (Amendment) Bill and the Political Primaries Bill.
- iv. The Memorandum by the President to Parliament and the Building Bridges Initiative proposals on the realisation of the gender principle to be explored in a bipartisan approach.
- v. With respect to the operationalisation of the Election Campaign Financing Act, there is a need to amend Section 29(1) of the Act, which was declared unconstitutional.
- vi. Amendment of Section 29(1) of the Election Campaign Financing Act which was declared unconstitutional to ensure its operationalisation.

- vii. On party nominations, it is recommended that Section 38G of the Political Parties Act on the conduct of indirect nominations be amended to prescribe that principles of inclusion and equity shall guide such process, and that parties shall prioritise the interests of SIGs in indirect nomination.
- viii. The study recommends that ORPP should be strengthened and provided for extra resources to effectively monitor the activities and party nominations regarding inclusivity and conduct capacity building and awareness programs to enhance the participation and election of special interest groups.
- ix. To arrest any biases that may be held by party leaders who engage in resolution of disputes, there is a need for an independent body other than IEBC to conduct nominations for political parties so that there can be some level of transparency. This requires amendment to Section 38F of the Political Parties Act vesting institutional responsibility for the conduct of party nominations.
- x. Political parties need to strengthen their leagues for the respective special interest groups, through well prepared way-before-elections training for the special interest groups to seek elective positions and conduct continuous and inclusive membership drives.
- xi. The Attorney General should liaise with Office of the Registrar of Political Parties (ORPP) and IEBC to put the suspended legislation of electoral campaign financing into force.
- xii. Political parties, whose membership are part of parliament should support legislative review and amendments on inclusion and thereafter, implement the laws on inclusivity.
- xiii. Section 34 of the Elections Act at section 34 requires an amendment to provide more elaborate guidelines and stipulations on the process and of development of political party lists to ensure more equitable representation of special interest groups including PWDs and Youth.

Programmatic Interventions

- Support to relevant bodies including Civil Society, National Gender and Equality Commission, Ethics and Anti-corruption Commission and relevant Parliamentary Committees monitor extent of implementation of enacted electoral legislation including but not limited to the Campaign Financing Act, 2013, the Elections Act, 2011.
- Continuous capacity strengthening of technical staff of political and electoral management bodies on an array of issues including but not limited to electoral public expenditure management, conflict mitigation and inclusion.
- Support and implementation of political parties' programmes to enhance their engagement with women, youth and PWDs within their party processes, strengthening of the special interest groups caucuses, reviewing party nomination rules and consulting and engaging the electorate on inclusivity in politics would also support improved participation and election of special interest groups.
- Conduct of a multi-stakeholder forum, including the Attorney General's Office, the ORPP, the IEBC, Parliament, Political Parties and Civil Societies to push for the identified legal amendments, including constitutional reforms.
- Extensive civic education by electoral stakeholders on electoral processes whilst mainstreaming the promotion of Special interest Groups participation in elective politics.
- A specific programmatic intervention targeting elected members of special interest groups and their caucuses on building their capacity, building a platform to influence their political parties and mentorship of other aspiring politicians.
- Create awareness and influence the public on the importance of electing more special interest groups into politics.

Summary Matrix of Key Required Actions

THEME	FINDING	RECOMMENDATION	INSTITUTION RESPONSIBLE
LEGAL & REGULATORY FRAMEWORK	Lack of laws to operationalize the two-thirds gender rule	In accordance with constitutional provisions, swiftly pass legislation to implement the two-thirds gender rule in both chambers.	PARLIAMENT
		Lobby and advocate for legislation on implementation of two thirds gender rule	CSOs
	Election Campaign Financing Act of 2013 remained un-operationalized and during the 2022 elections.	Implement the Campaign Finance Act of 2013 by imposing limits on contributions and expenditures by donors and imposing disclosure and reporting requirements on candidates and parties.	IEBC
INTERNAL DEMOCRACY	Lack of clarity in political party rules on how exactly negotiated democracy undertaken, consequently disenfranchising and Women, youth and PWDs).	In order to promote good governance and transparent and accountable internal party processes, including the election of party officials and the nomination of candidates for elective positions, political parties should review their internal constitutions and rules, particularly the elections and nomination rules. This includes using the register of genuine members for crucial decision-making activities like party nominations.	Political Parties ORPP
ENFORCEMENT & COMPLIANCE	Poor compliance by political parties with the provisions of the law on elections and party nominations disenfranchising special interest groups and weak enforcement by electoral management body, state agencies and the Judiciary	Strengthen capacity of relevant state agencies, KIEBC and Judiciary to enforce political party compliance with legal provisions on inclusivity in party nominations and elective politics	IEBC ORPP ODPP Ethics and Anti-corruption Commission Judiciary
DISPUTE RESOLUTION	Decentralization of PPDT + Digitized case management + remote hearings-improved efficiency and effectiveness.	Increase the regions in which PPDT sit as well as timing for hearing cases	Judiciary

Notes

