



SECTORAL BRIEF

GENDER, POLITICAL PARTICIPATION AND LEADERSHIP IN KENYA



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Introduction

This policy brief is part of the Country Gender Equality Profile (CGEP), which assesses the status of gender equality and women's empowerment in Kenya based on recently produced reports and resources. The assessment aims to strengthen national understanding and data on advancing international, regional and national commitments to Gender Equality and Women's Empowerment (GEWE). As the primary source of evidence-driven advocacy and programming, the CGEP provides insights to county and national stakeholders, development partners, the European Union, and the UN System to advance gains and overcome challenges at the county and national levels.

Furthermore, the gender analysis is guided by the transformative and rights-based gender equality and women's empowerment approach embodied in the core European Union values on human rights and reinforced by the new EU Gender Action Plan 2021-2025 (GAP III). The framework recognises that gender equality is crucial in promoting democracy, good governance and sustainable development. As a

result, all EU policies and actions in Kenya contribute to the dual goal of advancing gender equality and accelerating progress toward Kenya's SDG goals and targets. Gender analysis is a starting point for gender mainstreaming and integrating gender equality and inclusion perspectives into the EU programming processes, policies, actions and dialogues.

This policy brief serves as a strategic guide for programmes and policies aimed at advancing and strengthening Kenya's integration of gender equality and women's empowerment across key stakeholders: The Government of Kenya (Ministries, Departments, Agencies [MDAs] and structures of governance: national, county and communities); development partners including the private sector and the United Nations (UN) agencies. This ensures that actions aimed at closing gender gaps and ending discrimination are informed by context-specific analysis that reflects the different realities, needs and challenges of men, women, boys and girls in all their diversity.

Background and Context

Kenya's legal framework lays a firm foundation for the principles of gender equality in political representation and governance. The Constitution provides that no elective and appointive institutions shall have more than two-thirds of their members from the same gender. This key provision is supported by other articles within the Constitution, upheld by legislation regulating


elections and, political parties, judicial decisions and complemented by a body of international treaties and conventions. Kenya's signatory status to various international laws on women's representation has led to the domestication of the same through the adoption of laws, policies and regulatory frameworks that have increased women's participation in politics

and governance. Further, the representation of Special Interest Groups Laws (Amendment) Bill 2019 was introduced to the National Assembly in July 2019. The Bill seeks to amend various laws to effect Article 100 of the Constitution to promote the representation of women, persons with disabilities, youth, ethnic minorities, and other minorities in Parliament.

In collaboration with the County Assemblies Forum, the National Gender and Equality Commission developed a training curriculum for women members to enhance their representation role, oversight, budgeting and legislative functions. To give effect to the African Charter on Human and Peoples' Rights, the government developed a legislative handbook on Principles of Equality and Non-discrimination, which guides legislators at the national and county levels in policy and legislation review and in overseeing the formulation and implementation by state and non-state agencies of appropriate programmes, plans and actions toward the realisation of gender equality and inclusion of special interest groups in the society. This firm promise remains a pipe dream, with the legal requirement not being met by the current composition. These laws have increased women's representation within all levels of government and, consequently, allowed women to increase their influence in decision-making processes.

DURING THE 2017 GENERAL ELECTIONS,

96 WOMEN WERE ELECTED TO THE 47 COUNTY ASSEMBLIES FROM THE 1,450 WARD SEATS AVAILABLE.



However, Article 177(c) of the constitution requires the appointment of an additional 650 women to comply with the law.¹ Despite the increase in the number of women in Kenya's political landscape, the critical legal standards of gender equality and

women's empowerment have not been completely met in the National Assembly and the Senate. The 2017 election results saw three female governors and three female senators elected directly, a significant improvement from the 2013 election, where no female was elected to these positions. Additionally, 23 women won National and County Assembly seats in 2017 compared to 16 in 2013, while 96 women won county assembly seats in 2017 compared to 82 in 2013. Interestingly, women who contested for various seats as independent candidates outside the dominant parties were also elected, indicating an upward trajectory in women's electability. While these are positive changes,

WOMEN COMPRISED JUST

9.2% OF THE 1,835 ELECTED INDIVIDUALS IN 2017, A MARGINAL INCREASE FROM



7.7% IN 2013.²



One setback in the 2017 election was the increased forms of election-related gender-based violence against women, leading to unprecedented emotional abuse, slander and violations on social media. Women continue to experience barriers in their quest to assent to all electoral seats, including a lack of gender-responsive political parties, a lack of campaign resources, gender-based violence faced by women, poor voter education, and ongoing violent campaigns that stereotype women. Political parties have also failed to comply with the two-thirds gender rule when presenting their candidates to the Independent Electoral and Boundaries Commission (IEBC). Though Sexual and Gender-Based Violence (SGBV) is acknowledged by law as an electoral offense, there has been no known successful prosecution of offenders. On the other hand, women are least prepared for elections; some decide to vie too late

¹ Republic of Kenya. 2020. Gender Sector Statistics Plan.

² FDS Kenya. Bridging the Gender Divide: Implications for Kenya's 21st Century Pathway to Inclusive Growth, 2019. <https://fsdkenya.org/blog/bridging-the-gender-divide-implications-for-kenyas21st-century-pathway-to-inclusive-growth/>

and thus lack sufficient time to mobilise support. While the media plays a significant role in promoting candidates' agendas, women reported that the media in Kenya has double standards and, in most cases,

report negatively about strong women candidates often favouring their opponents. At the same time, some media personnel perpetuate gender stereotypes that are against female candidates.

Women in Corporate Leadership

Participation of men and women in corporate leadership has continuously elicited significant interest across varied spaces. Men have often perceivably dominated leadership in corporate boards in Kenya due to male leaders who use their old boys' network to make new appointments. This practice has hindered women's visibility and representation in corporate leadership and governance.³ With women constituting over 51 per cent of Kenya's population, this scenario has changed over the past few years.

Women have made considerable progress in their participation in the corporate labour markets, despite the persistent gender disparities that constrain their representation in the corporate leadership sector. Despite Kenya ranking first (19.8 per cent) in women's representation on the boards of top-listed companies, gender diversity is still not outwardly reflected in most corporate boardrooms and top management levels of state corporations or listed companies.

Findings and current situation

The Constitution of Kenya, 2010, provides for gender equality in all political positions (Article 27). Specifically, Article 81(b) of the Constitution promotes gender equality and inclusion in political leadership. Article 177(1) of the Constitution has contributed immensely to increased women's leadership in County Assemblies. Further, Article 100 of the Constitution requires Parliament to enact a law to promote the representation of women in Parliament, Persons with Disabilities (PWDs), youth, ethnic and other minorities, and marginalised communities, for which the Representation of Special Interests Group Law (Amendment) Bill 2019 is already before the National Assembly. This aligns with Kenya's commitment to the CEDAW, Maputo and Beijing Platform for Action (BDPfA).

Following the 2022 elections,

7 WOMEN GOVERNORS 

8 WOMEN DEPUTY GOVERNORS AND 

3 WOMEN SENATORS 

29 WOMEN FROM SINGLE-MEMBER CONSTITUENCIES 

47 women county MPs and 115 Women Members of County Assemblies were elected with a 10 per cent success rate. This was following a 56 per cent increase in the participation of women as candidates compared with 2017 (12 per cent in 2022 vs 8.7 per cent in the 2017 election). Notably, there was also an increase in the number of women registered as independent candidates from 271 in 2017 to 442 in 2022. Presently, the Chief Justice, Deputy Chief Justice and the Chief Registrar of the judiciary are women. The number of female judges in the High Court and Magistrates Court increased from 14 and 41 women to 79 and 298 women, respectively, in 2022 and have thus achieved the two-thirds gender rule. At cabinet level, 10 women out of 22 were appointed, including seven cabinet secretaries and three advisors to the president.

3 World Bank. Women, Business and the Law 2020, 2020.

Women seeking political leadership continue to face numerous barriers, including lack of support from political parties, extremely high cost of campaign financing, risk of election violence and Violence Against Women in Elections (VAWiE) and deeply entrenched patriarchal and discriminatory institutions, laws and social/gender norms. These challenges are compounded by the non-compliance of Parliament in implementing the two-thirds gender rule. However, advocacy on the two-thirds principle has yielded success in compliance by political parties. For the first time, the IEBC declared it would enforce the court ruling on the compliance of the two-thirds gender principle by political parties. Though this decision was later challenged, it signalled a shift in the political landscape on the enforcement of the rule since the directive by the IEBC contributed to a 98 per cent compliance by political parties.⁴ According to the Commission, 75 out of 77 political parties' nomination lists for Member of the National Assembly and 68 out of 69 political parties' nomination lists for the Senate complied with the two-thirds gender principle,

representing 98 per cent compliance.

The 2022 general election was the first time that the National Cohesion and Integration Commission (NCIC) published a list of terms, considered hate speech, that are often used to incite violence and destabilise female candidates. Though the 2022 General Election witnessed new ways of spreading hate speech and propaganda, the NCIC's efforts in early warning resulted in significantly fewer incidences of hate speech instigated violence.⁵

Notable changes arising from the amendments to the Political Parties Act 2022 include the new provisions allowing all 48 political parties participating in the 2022 General Elections to receive a share of the Kshs. 1.48 billion political parties' funds. This is significant as it will ensure parties' sustainability in between elections. The funds allocated to parties also included 15 per cent to advance the participation of special interest groups.

Conclusions

The patriarchal culture in Kenya has contributed to women's low participation in politics and leadership. Significant gender biases also exist within the political sphere that lock out women's participation despite existing guidelines such as the two-thirds gender rule. The government should support women in politics and leadership positions by implementing gender-sensitive policies and legislation.⁶ The IEBC should operationalise the Election Campaign Financing Act to

regulate the amount of money received and spent by candidates and political parties during an election or referendum by introducing new regulations subsidiary to the Election Campaign Financing Act, 2013, with the aim of supporting more women to be elected to government and leadership positions. Campaigns need to be regulated to facilitate more women to compete fairly with their male counterparts.

Recommendations for the Government of Kenya

- a. Parliament should lead in establishing a clear legal mechanism for achieving the required two-thirds gender ratio in elective and appointive positions.
- b. The Office of the Registrar of Political Parties (ORPP) should initiate the gender audit of political parties that have received public resources to monitor the implementation of gender requirements of party

financing. The office of the Registrar of Courts and the Chief Justice need to implement the recommendations of the Judiciary gender audit report. In broader public service, the Ministry of Public Service, Gender, Senior Citizens Affairs and Special Programmes need to negotiate inclusivity in the executive appointments and train women based on the curriculum.

4 Independent Electoral and Boundaries Commission. 2022. Media Release. Update On Voter Verification And Compliance With Two-Thirds Gender Principle. <https://www.iebc.or.ke/uploads/resources/Kgel1joFnc.pdf>

5 The National Cohesion and Integration Commission. 2022. Keynote Address by The National Cohesion And Integration Commission's Chairman, Rev. Dr. Samuel Kobia, During the Post 2022 Elections Reflections on Regulations and Practices to Address Online Harmful Content in Kenya. https://cohesion.or.ke/images/docs/downloads/keynote_address.pdf

6 UN Women. Women's political leadership and participation. Accessed <https://africa.unwomen.org/en/where-we-are/eastern-and-southern-africa/kenya/womens-political-leadership-and-participation>

- c. Political parties must strengthen gender policies and capacities and promote the youth and women's participation in elections.
- d. Strengthen the National Cohesion and Integration Commission's (NCIC's) role in administering

justice against perpetrators of violence in the run-up to the General Elections and enforcing the Elections Offences Act No. 37 of 2016 against VAW in elections.

Recommendations for Other Stakeholders and Partners

- a. Scale up women's political caucus initiatives or CSO coalitions that aim to build capacity and empower women and youth with political aspirations.
- b. Scale up programmes that enhance women's political participation. Also, provide women with training in public speaking and debate.
- c. Scale-up programmes on voters' education, especially target women and young voters across Kenya's diverse socioeconomic and cultural groups. Include advocacy on increasing women's leadership in politics and on informed voting.

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It was developed by Diana Karua-International Consultant; Sebastian Gatimu-UN Women Kenya

Planning and Coordination Specialist; Jackline Kiambi-UN Women Kenya Planning and Coordination Programme Associate; Jack Onyisi Abebe-UN Women East and Southern Africa Regional Knowledge Management and Research Specialist and Wendy Akinyi-UN Women Consultant for Knowledge Management.



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UN Women Kenya
UN Gigiri Complex, UN Avenue;
Block M, Ground Floor
P.O. Box 30218- 00100 Nairobi, Kenya
Tel: +254 20 762 4778

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