POLITICAL PARTIES LEADERSHIP
TRAINING SOURCE BOOK

SEPTEMBER 2016

Preface

The Republic of Kenya is a multi-party democracy where every citizen is free to make political choices by vying for a political position, campaigning for a political party, or electing political leaders as guaranteed in the Constitution. This therefore gives mandate to the people of Kenya to exercise their political and democratic rights. The Kenyan political arena attracts various stakeholders whose technical and leadership competence require to be enhanced in a focused and uniform way across the country.

The Strengthening of the Political Parties Leadership Establishment: Inclusivity source book, is an informative book on compliance in Political Parties in Kenya. The book address the issue of compliance through a myriad of topics on compliance by political parties with the constitution and relevant laws; Leadership and integrity; best practice; transparency and accountability; campaign management; mergers and acquisitions; human resource and administration; media engagement; conflict management and the management of post-election outcomes.

The book is a creation of a curriculum developed by the Office of the Registrar, the Kenya School of Law and Intellectual Resource Centre (EA) (the Partners). The curriculum was developed from the conceptualisation of the need to have Political Parties that are issue based, compliant and have longevity (three prongs). It is believed that through the achievement of the foregoing peaceful elections will be realised in The Republic of Kenya.

The book is a study tool for trainers engaged in the Strengthen the Political Parties Leadership Establishment program. It has therefore been drafted in a simple and concise manner, as a guide.

The book communicates the key components required of Political Parties to achieve the three prongs. Unlike other source books, this book has a special focus on inclusivity in Political Parties. Each topic has highlighted and discussed inclusivity issues which are fundamental to Political Parties, whose compliance will assist in Strengthening of the Political Leadership in line with the Constitution.

The book started as a concept in August, 2015, when the three parties realised role of compliance in Strengthening of the Political Leadership Establishment. Since conceptualisation the three partners have undertaken trainings for party officials at national levels, where upon the officials, indicated that capacity building needs to be cascaded to the county level.

The need for the book was realised, when the partners during their training of Trainers, realised that each ToT needs to have a source book that they can refer to before, and during the training.

The writing of the book has been a team effort, ably guided by Prof. Catherine Ndungo. The process has involved drafting of chapters and subjecting them to peer review and validation by the ToTs, who are the principle users.

Prof. P.L.O Lumumba   Lucy Ndung'u, EBS   Judge Lee G. Muthoga

Acknowledgement

We hope and strongly so that this source book will be useful in Strengthening the Political Parties Leadership Establishment; Inclusivity in Kenya for the purposes of the next elections as well as the subsequent elections.

List of Abbreviations and Acronyms

ACHPR	African Charter on Human and Peoples Rights
ADR	Alternative Dispute Resolution
AU	African Union
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEO	Chief Executive Officer
CoK	Constitution of Kenya
CORD	Coalition for Restoration of Democracy
DRC	Dispute Resolution Committee
HR	Human Resource
ICCPR	International Covenant on Civil and Political Rights
ICT	Information Communication Technology
IDRM	Internal Dispute Resolution Mechanism
IEBC	Independent Electoral and Boundaries Commission
IMF	International Monetary Fund
KADU	Kenya African Democratic Union
KANU	Kenya African National Union
KSL	Kenya School of Law
LDP	Liberal Democratic Party
MBWA	Management By Walking Around
MCA	Member of County Assembly
MDGs	Millennium Development Goals
MOA	Media Owners Association

MOU   Memorandum of Understanding

MP   Member of Parliament

NARC   National Rainbow Coalition

NARC-K   National Rainbow Coalition-Kenya

NDI   National Democratic Institute

ODM   Orange Democratic Party

OECD   Organization for Economic Co-operation and Development

ORPP   Office of the Registrar of Political Parties

PPA   Political Parties Act

PPLC   Political Parties Liaison Committee

SDGs   Sustainable Development Goals

TNA   The National Alliance

URP   United Republican Party

UN   United Nations

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Training Tips for Adult Learners

Ann Nderitu

Introduction

Training is a key component of life. Since birth we learn on daily basis; how to walk, talk, write, relate with others etc.

In general terms training are a transformational process through which individuals change and improve. The change and the improvement occur at three levels:

i.   Knowledge- Acquire knowledge and information
ii. Attitude- Adjusting values, motivation, behaviour change, and emotional response.
iii. Skills- Acquire competences, application and practice

When you design a training event you need to reflect on the following:

a) What level you are trying to trigger change in your learner?
b) How can you achieve this change?

c) How will measure the change?

This chapter contains information for the trainer on how to plan for and organize a training activity, key qualities required to be a good trainer and a reminder on the requirements for adult training.

In using this manual, all trainers are required to adopt adult training methodologies. The trainers should realize that every adult has knowledge and experience to share in the training process. Adults learn much more from participating and contributing to the training process.

Principles of Adult Learning

Training should be conducted bearing in mind the quote that states that;

"I hear and I forget. I see and I remember. I do and I understand."

Much of the trainings will depend on your facilitation, as well as the level of constructive trainees' participation. Remember that you will be training adult participants. Some of the principles of adult learning are:

i. Adults are *autonomous* and *self-directed;* Trainers should allow the participants to assume responsibility for presentations and group leadership when working in groups.
ii. Adults are *goal-oriented;* they, therefore, appreciate a training that is organized and has clearly defined elements. The training objectives must be given to the participants early in the course.
iii. Adults are *practical.* Instructors must tell participants explicitly how the lesson will be useful to them on the job.
iv. Adults should be treated as equals in experience and allowed to voice their opinions freely in class.

Using group work in adult learning

During your training sessions plan to use group work and ensure participation of every participant for effective learning. When there is one person talking in a class, everyone else should be listening. Working in groups implies more people are participating. The following are tips of dealing with working groups:

i. Divide participants into groups to avoid wastage of time.

ii. Ensure everybody understands the instructions and the objective of the activity.

iii. Ask teach group to choose a chair and a rapporteur. Advise the participants to choose new leaders for each activity.

iv. Give groups a clear indication of the time they have for an activity. Before the time is up, alert groups how much time is still left, e.g. five minutes left. Also ensure that participants know when they must return after a break.

v. Ensure that there is participation, and that no one person dominates discussions.

Flexible Trainer

A good trainer is flexible and responsive to the needs of the participants. In order for the trainer to take charge of his/her facilitation role the following tips are important:

A. Be prepared

Master the content of the Trainer's Manual. Your familiarity with the course materials will allow you to adjust the program when necessary.

B. Be flexible and Realistic

Remember that all the preparation in the world will not account for all situations. Every training event is a new event with its own challenges and unique circumstances. Do not be rigid about following a certain path when it is evident that it is not working. You should also be flexible by adapting to the training session to meet the needs of the participants.

C. Acknowledge your own weaknesses

Though you might have extensive experience in different areas of elections gender and political parties, you do not possess all the knowledge. Acknowledging when you do not know the answer is not a weakness. It is important to ensure that participants do receive clarification later on issues you cannot address at that moment.

D. Be open to learn

You are amongst your peers. Training others is also an opportunity for you to learn from the participants.

E. Evaluate the training

You must, as part of your work, constantly assess and adjust the training program as needed, as well as group activities, to ensure equal participation.

Code of Conduct for Trainers

Here are some of the things to remember while working with people:

i. Be friendly, polite, courteous and patient. Do not get involved in arguments with people or lose your temper. Do not insist on your own point of view, but when talking about procedures they must be followed by everyone as no one can change them.

ii. Be punctual.

iii. Be competent. It is important that you perform your tasks well. In order to achieve the objectives, you must ensure that you attend all training of trainer sessions and read all materials to make sure that you are familiar with registration procedures. Ask questions about anything you do not fully understand.

iv. Have respect for age, tradition, ethnicity, and be sensitive about gender issues. Respect the knowledge and experiences of the participants and try to draw on the collective wisdom of the group.

v. Actively involve everyone in the training session. Do not allow any one person to dominate the discussion.

vi. Carry out your tasks impartially and in a non-partisan manner.

vii. Be helpful to everyone that requires assistance from you.

viii. You should use your initiative to solve problems that may arise in the course of conducting your training.

ix. Be accountable and responsible. Keep a record of all participants and evaluations. If you are using any equipment that does not belong to you, take care of it and make sure it is returned to its rightful owner.

A Typical Training Day

A typical training day begins around 08:30/09:00am in the morning and ends around 5:00/5:30pm in the afternoon. In adult training Topics are normally organized into 1½ to 2 hours before a break.

Preparing for Training Session

It is important to make some plans and arrangements before holding your training session. The sooner you plan and organize your training session, the easier it will be to manage. If arrangements are left to the last minute, chances are greater that things will go wrong.

Step 1 - Planning the Training Session

The first step is to plan the session. The checklist below will assist you in thinking through the logistics and details that you may need to arrange.

Participants

What do participants know about your topic of discussion in relation to political parties' leadership and/or elections?

How will participants be informed about the training sessions?

How many participants will be in each session?

Location/Equipment

Where will the training session be held?

What facilities are available? For example, are there tables and chairs so that participants can be seated?

Will the necessary training materials be available for use in the training session? If not, what alternative will be used?

Step 2 - Prepare Yourself

Begin your preparation by reading through this Manual, and any supplementary materials.

Think about the people you will be training and their experience.

Work out your time and prepare an agenda/program for the training session.

If the session will be your first time using these materials, practice delivering each portion of the course.

Step 3 - Organize the Timing & Agenda/program for the Training Session

Before training, a trainer must prepare:

- An agenda/program- It should reflect each topic to be covered and time frame. A good programme also assigns responsibilities to individuals including trainers and session moderators.
- The training methodology –Identify training method e.g co-facilitation, peer training etc.
- Training materials e.g.

✓ Trainer's Manual, Hand-outs (Political Parties Leadership Manual.),

✓ Flipchart papers,

✓ Stationery ,

✓ any materials you have prepared for certain exercises (Example: activity cards, stick notes, role play activity chart,)

✓ Complete Training Kit with all the materials a participant need to participate fully in training.

Facilitation Skills

Catherine Ndungo

Facilitation entails that the trainer becomes an enabler for trainees to learn by themselves. The facilitator and the trainees become interdependent and draw upon one another's knowledge and skills to achieve the learning objective.

Skills

Discussion groups

It is a circle, face to face mutual exchange of ideas and opinions by members of small groups (8-20) on problem or issue of mutual concern. The method enables the facilitator to solicit information from the participants. It can either be a small group or a whole discussion. Participants can discuss for example various means of wooing voters to vote for a candidate. A discussion group;

- Promotes exchange of ideas and opinions,
- Promotes critical thinking where ideas are critiqued and evaluated by the participants with supportive evidence for their arguments,
- Helps to maximize participation in a learning situation,
- Promotes the democratic principles in a class and make participants feel accepted and recognised.

To make the discussion method more effective, it is recommended that

- The smaller the group the better as it allows each member of the group to participate.
- The participants in each group should sit in a way that they face each other for effective group discussion.
- The topics for discussion should be interesting and challenging to the participants.
- Each group should have a group leader to control discussion and a recorder to record points.
- That members respect each other's point of view and not personalise the differences in opinion.
- Make the group of mixed ability.

Limitations of using this method include;

- It is time consuming.
- More resources are needed.
- Inappropriate resolutions can be made by means of majority support.

Buzz groups

This is a sub group of dyads/triads to discuss particular issue or question raised by a resource person. Their advantages include

- Time saving
- Draws participation of inactive/passive members
- Information is collected in a quick way.
  However their use might be threatening to quiet members and also there will be so much noise.

Lectures

This is a one way organised formal presentation of information or point of view by a resource person. It is used when new information is to be passed to participants e.g Political aspirants need to have knowledge of economics, reforms, legislation, history, civil liberties, civil rights electoral process etc. The facilitator is the expert. It is time saving and a lot of information is passed to a large audience within a short time. It's also economical as not many teaching materials are used. However, it is;

- Very involving to the facilitator
- There is no facilitator/participant interaction thus can easily get bored
- The participants are not given time to clarify issues.
- The participants do not develop creative and critical thinking skills'

In using lectures, it is important to know the subject matter well, be coherent and move from known to unknown.

Brainstorming

This is free flowing and uninhibited sharing and listing of ideas by a group without evaluation or consideration of practicality. Its aim is to generate as many

creative ideas as possible for example effects of politics on the family. It helps the participants to think very fast and be alert. It enhances active participation and boost the esteem of participants. However, participants may feel ambushed, and quiet members may get overwhelmed. It is important that the facilitator debrief the session properly to make a conclusion.

Role plays

It's an impromptu dramatization of a problem or a situation followed by a discussion. It involves assigning participants specific themes and roles to play for example playing the role of county women representative making a presentation in parliament. It involves creativity, imagination and visualization. It creates a lasting impression. However, if the role play is wrong, the participants can carry away lasting wrong information. It is also time consuming and may be threatening to participants thus may not volunteer.

Demonstrations

It is about showing how something is done while the others watch. The facilitator verbally explains and performs the act, procedure or process e.g the art of public speaking. It enhances learning because if practically shown it sticks in the memory. However it is time consuming and can be embarrassing.

Case Studies

It is a presentation of a problem or case for a small group to analyse and solve. It is given to participants to provide new experiences so that they can give ideas, perspectives or approaches of solving a problem. It focusses the participants on

real situations for example the case of an aspiring candidate who gave false promises to entice voters. Participants acquire problem-solving skills and have maximum participation. However it is time consuming.

Lecturettes

These are small pockets of information given to participants. It involves 15-20 minutes of facilitators input. The facilitator then welcomes trainee's participation or uses other participatory methods. Learners feel validated as they learn new information.

Simulations

This is where participants learn skills in a setting that simulates the real setting where skills are required. It is experience in a situation as near real as possible followed by a discussion. A real experience is brought by the facilitator and practice takes place e.g a facilitator who has held a political post and the experiences he/she has gone through.

1.0   Introduction to the Political Parties Leadership Curriculum

Brenda Kiberenge

In the Month of August 2015, the Office of the Registrar of Political Parties (ORPP) entered into a memorandum of understanding with the Kenya School of Law (KSL) and Intellectual Resources Centre (IRC) for the training of national and county level political party leaders and Training of Trainers (TOT) on political party compliance.

This curriculum sets out the goals, scope, methodology, process and the services that the Registrar and Trainer will undertake.

The Rationale for the Training

The Constitution of Kenya 2010 recognizes political parties as corporate and public institutions that should be regulated and managed in accordance with democratic values and principles.

The Registrar of Political Parties, under the Political Parties Act 2011, is mandated to register political parties, ensure they implement and comply with the Act's Code of Conduct in their operations and also administer the Political Parties Fund.

Political parties are required to promote the participation of women, youth, and persons with disabilities in their structures and political processes. They also have the responsibility to enable citizens and party members to aggregate and articulate their interests; mobilize citizens and provide them with political education, and present candidates to compete for leadership positions, and if successful, create the space for them to capture and exercise political power.

This training will help the various political parties understand their role in ensuring compliance with the provisions of the Constitution, the Political Parties Act and other relevant legislation.

Scope

This training will cover in depth, compliance with various enacted legislation governing the Political Parties namely:
- ❖ The Constitution.
- ❖ Elections Act.
- ❖ Political Parties Act.
- ❖ Election Offences Act.
- ❖ Leadership and Integrity Act.
- ❖ Public Officer Ethics Act.
- ❖ National Cohesion and Integration Act.
- ❖ Ethics and Anti-Corruption Act.
- ❖ Media Act.

The training will cover:-
- o Compliance with the Constitution and legislation governing Political Parties in Kenya.
- o Identification and avoidance of technical hiccups and constitutional landmines resulting to perpetual compliance.
- o Leadership and integrity.
- o Qualifications for and the process of nomination/election into various political offices.

- Special representation including the inclusion of marginalized groups such as women, youth and persons with disabilities.
- Management of political party membership records.
- Media management. Media briefings, political campaign, mass action, avoiding misreporting, party spokesman, public relations, public opinion. How to use the media and how to mitigate backlash. (Defamation, hate speech).
- Party discipline, sanctions.

Overall Objectives

1. Enable political party leadership to comply with the Constitution, Political Parties act and related legislation.
2. Make the political parties understand their role within the legal framework.
3. Enable political parties to promote integrity and enforce transparency and accountability.
4. Enable political parties to amicably resolve inter and intra-party disputes including management of post-election outcome
5. Enable political parties to have a national character, promote and uphold national unity.
6. Enable political parties to inculcate gender dimensions in their structures and policy implementation.

Expected Outcome

1. Greater understanding and appreciation of the Constitution, Political Parties Act and related legislation.
2. Established political parties system.
3. Enhanced integrity, transparency and accountability
4. Enhanced capacity for the Political Parties to amicably resolve their inter and intra-party disputes.
5. Stronger and better managed political parties with a national character.
6. Strengthened capacity to mainstream the involvement of women, youth and persons with disabilities in all party programmes.

The Mandate of the Office of the Registrar of Political Parties

Lucy Ndungu

The Office of Registrar of Political Parties is established under the Political Parties Act, 2011. It is a State Office, a body corporate, independent and with perpetual succession. The mandate of ORPP is to register, regulate and fund political parties.

Specific Functions include:
1. Registration, regulation, monitoring, investigation and supervision of political parties to ensure compliance with Political Parties Act, 2011
2. Administration of the Political Parties Fund
3. Ensuring publication of audited annual accounts of political parties
4. Verification and publicly availing lists of all members of political parties
5. Maintenance of a register of political parties and their symbols
6. Ensuring no one is a member of more than one political party

Vision of ORPP
An inclusive and viable democratic multi-party system

Mission of ORPP
To promote institutionalized democratic political parties in Kenya

Core Values of ORPP
Professionalism, Integrity, Teamwork, Transparency, Respect for the rule of law, Equality and equity, and Impartiality

Strategic Objective
To promote issue based political parties for inclusive participation

Expected Outcomes
1. The legal and regulatory framework strengthened
2. Institutional Capacity of ORPP Strengthened
3. Enhanced Compliance by the Political Parties
4. The Management and Administration of ORPP Finances Strengthened
5. ORPP Corporate Image Enhanced
6. PPLC Platform Strengthened
7. Strategic Partnerships with Stakeholders Strengthened
8. Monitoring and Evaluation Framework Enhanced

2.0 Positioning the Political Party in the 2010 Constitutional Scheme with Regard to Youth and Gender

Judge Lee Muthoga and Samuel Lemaloe

Background:

In order to appreciate the place of the Political Party in the Constitution of Kenya 2010 scheme it is necessary to first examine the historical development of the political party.

Where did the political party come from? What were its historical objectives? How did it acquire its current status in the political order?

In order to find answers to these questions there is need to make a brief exploration of the historical development of the right to assemble- the Freedom of Association as expressed in the Constitutional instruments of the various ages preceding the promulgation of the Constitution of Kenya 2010 on the 27th of August 2010.

That period may be segmented in two broad periods –The pre-independence period i.e. prior to 12th December 1963 and the post-independence period i.e. between 12th December 1963 and 27th August 2010.

Each of these periods may in turn be segmented further into segments reflecting the various stages of the evolution of the Right of Association.

The pre-independence period easily breaks in three segments.

1. The period preceding the Declaration of Emergency in October 1952;
2. The Emergency period ranging from 1952 -1959; and
3. The period following the end of the emergency to the enactment of the Independence Order in Council followed by the independence Constitution or the repealed Constitution (Cap 5).

The post-independence period may in turn be segmented into periods.

1. The period between 12th December 1963 and 1962 which period breaks into two parts namely when Kenya operated as a single party democracy (defacto or dejure) ending in the year 1992 with the repeal of Article 2A of the Constitution when Kenya operated as a multi-party democracy under the repealed Constitution i.e. between 1992 and 27th August 2010.

In each of these segments the political party has occupied a differing status in the Constitutional order.

Let's briefly examine the status of the political party in each of these segments.

In the first segment of the pre-independence era the Right of Association was restricted and confined to the formation of welfare associations along ethnic lines to look after the social welfare of its members and did not permit Association for political organizations. It is worth noting that most of the associations such Gikuyu Central Association, Kavirondo Association, Abaluhya Association among other were led by men and women were not included in their operations

The second segment of that period was during the Mau Mau Emergency when ALL Association was proscribed. All groups previously existing were banned on the Declaration of Emergency in 1952 and remained banned throughout that period. In the ensuing months thousands of men and women fled to the forests from where they waged attacks against British and loyalist troops, settlers and uncooperative Africans.

Mau Mau has been the only major war that the British had to fight in Africa. In its open form, this conflict largely took place in the Mount Kenya and Aberdare Forests and lasted from 1952 to 1957 [Clayton 1976]. There were thousands of forest guerrillas, most of them Kikuyu. Significantly, up to about 5 per cent of the guerrillas were women; by joining the men in warfare they subverted their traditional role-status and challenged formal and traditional political authority in Kikuyu society where political power and decision-making were customarily dominated by men [Kenyatta 1953:194-5].

The period following the end of the Emergency Association was again allowed. Many of the groups that had been banned revived or metamorphosed by assuming political agitation as an agenda. Labour associations emerged as political association.

 This period witnessed the formation of KANU to assume the role previously played by KAU which was not unbanned and subsequently expanded to become the Kenya African National Union (KANU) with the primary objective to agitate for the release of Jomo Kenyatta and call for self- government- Independence. Grassroots women and youth organized in affiliation with KANU which at this point "managed to convey the impression that it stood for free land for all" [Furedi 1989:168]. The male deal which accompanied this neo-colonial class arrangement focused on the domestication of women. Maendeleo promoted dependence of women on husbands whom they were pressured to marry in church. It established a network of women's groups ostensibly for education in home economics and money-making craft work. But in practice Maendeleo extolled Christian virtues pertaining to the nuclear family and the subordination of wives to their husbands. Only through marriage could women get access to land which was registered in the names of men. Formal politics, though including token women locally, was an arena for men as was the protection of the judicial system. Medical, curative and spiritual activities of women were discredited and in some instances outlawed [Davison 1989:141-170]

 There was also the emergence of the Kenya African Democratic Union (KADU) for which was a unification of many newly established small parties which

agitated for Independence to be delayed until such time as they would be ready to assume power.

The chiefs of the ethnic groupings were all men who included- Daniel Moi –Rift Valley, Ronald Ngala, Coast, Jaramogi Odinga Nyanza, Masinde Muliro, Western and Paul Ngei for Ukambani.

These groupings exercised the right to associate as prescribed in the Order in Council providing for the administration of the Kenya Colony and Protectorate.

Following the enactment of Her Majesty's Order in Council of December 1963 which included as a schedule thereof, the Independence Constitution, the right to associate was expressed as one of the rights guaranteed by the Constitution. The Independent Constitution which is popularly known as the Lancaster Constitution was negotiated by 70 Kenyans which only included the late Priscilla Abwao whose role has been hypothetical with some claiming that she was a secretary while others claim she was a delegate. There are also views that she had a memorandum which she wanted to present to the British government but it was snatched by a male delegate who shredded it so its contents are not known

That Constitution did not, however, prescribe the manner in which the right of association maybe exercised. Subsequent legislation provided for the registration of any group of ten or more persons seeking to form themselves into an Association. Such persons could be registered as a Society under the Societies Act (Cap108).

This remained the position until the promulgation of the Constitution of Kenya 2010.

Registration of any other Political Party was, however, proscribed for the period between 1966 when KADU was banned and 1992. The registration of any other political parties was forbidden by the Declaration of Kenya as a Single Party Democracy by the enactment of a law providing for the amendment of the Constitution to include a subsection 2 'A' in the Constitution.

Following strong political agitation the ruling party KANU was forced to concede political association to others of different persuasion. That section 2A of the Constitution was repealed giving rise to the formation of a multiplicity of new political parties.

These were registered pursuant to the statute the Societies Act (Cap 108) but more ingrained in the Constitution.

This state of affairs maintained until the enactment of the Constitution of Kenya 2010.

In all this period, the position of the Youth was merely salutary with no Constitutional or Legislative recognition. Whereas women supported the agitation process its face was that of men such as Jaramogi Odinga, Masinde Muliro, Kenneth Matiba, Charles Rubia and George Nthenge.

2.1   The Constitution of Kenya 2010

The Constitution of Kenya 2010, (hereinafter referred to as "The Constitution"), declares in Article 4 thereof that:-

"Kenya is a sovereign Republic and ***shall be a multi-party state founded on the national values and principles of governance referred to in Article 10"***.

These national values and principles of governance include, amongst others:-

> a) ....***democracy and participation of the people.***

Accordingly, Kenya can no longer become a single party democracy unless this section of the Constitution is first repealed.

By declaring that Kenya is a multi-party democracy, the Constitution presumes the existence of several strong and vibrant Political Parties run on democratic lines. Indeed, the Constitution directs that every Political Party shall abide by the democratic principles of good governance, promote and practice democracy through regular fair and free election within the Political Party. ***Article 91(1)(d)***

Accordingly, the existence of strong and vibrant Political Parties that foster democratic competition, it is important to ensure that Political Parties are strong, vibrant and tolerate alternative thought.

The place of a Political Party is thus ingrained in the Constitution.

And because Kenya must be governed as a democracy, then political competitions is an essential process in the governance of Kenya.

The Constitution the proceeds to prescribe the nature and character of political parties in Article 91(1) thereof which states:-

Every   political   party
(a) has a national character as prescribed by an Act of Parliament;
(b)   has   a   democratically   elected   governing   body;

(c) promotes and uphold national unity;
(d) abides by the democratic principles of good governance, promotes and practises democracy through regular, fair and free elections within the party;
(e) **respects the right of all persons to participate in the political process, including minorities and marginalised groups & the youth.**
(f) respects and promotes human rights and fundamental freedoms, and gender equality and equity;
(g) promotes the objects and principles of this Constitution and the rule of law; and
(h) subscribes to and observes the code of conduct for political parties.**(which requires that each political party respects and promotes the participation of amongst others "the youth" in the political process)**

Article 91(2) states that A political party may not:-
(a) be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;
(b) engage in or encourage violence by, or intimidation of, its members, supporters, opponents or any other person;
(c) establish or maintain a paramilitary force, militia or similar organisation;
(d) engage in bribery or other forms of corruption; or
(e) except as is provided under this Chapter or by an Act of Parliament, accept or use public resources to promote its interests or its candidates in elections.

The Constitution then goes on to empower Parliament to provide for, amongst other things, "the regulation of Political Parties, the roles and functions of Political Parties, registration and supervision of political parties……. " (See Article 92).

The legislation directed and contemplated by Article 92 was enacted as "The Political Parties Act (No. 11 of 2011)", an Act with which each one of you is expected to be very familiar with.

One of the objectives of this Training is to provide you with a forum to interrogate the working of this Act. Time does not allow us to go through this Act in any detail **but** we must all find time to fully acquaint ourselves with its provisions. The Act provides for the registration and the regulation of Political Parties, the formation and operation of coalitions and mergers of Political Parties, rights and privileges of Political Parties amongst others.

Article 100 of the Constitution obligates Parliament to enact legislation to promote the representation in Parliament and in the County Assemblies of amongst others "the youth".

Article 260 of the Constitution then goes on to define the youth as the collectivity of individuals who are over 18 years but under 35 years.

Important amongst its provisions is the establishment of the <u>Political Parties Fund (Section 23)</u>. That Section provides as one of the sources of the fund monies provided by Parliament. That provision read together with the section of the Constitution defining a State Office, Officer or entity leads one to say that in this country a Political Party, defined as an association contemplated in Part 3 of Chapter 7 of the Constitution is a public entity.

It therefore must be run, managed and controlled as such. It is not a private entity to be run and managed by its members as they deem fit.

Its characteristics, roles and functions are prescribed by the Constitution and the statute as outlined above.

Following from the above, it means that Political Parties, its officials, and its servants are governed by the provisions of Chapter Six of the Constitution – Leadership & Integrity as well as the provisions of the Public Officers Ethics Act 2003.

In conclusion it is important to ponder seriously and act wisely in the discharge of the Constitutional Functions delineated for Political Parties especially the following:-

1. Nomination of Candidates to contest elections to the National Assembly, The Senate and the County Assemblies based on gender, youth and marginalized groups as provided in the Constitution.
2. Nomination of Candidates to contest for the Office of President.
3. Compilation of the Party Lists as provided in the Elections Act 2011.

3.0   Leadership & Integrity: Youth & Gender

Brenda Kiberenge

Background:

Leadership, management and integrity are co-related issues. They concern the aspects of organization of people to achieve a goal be it common or varied. In the achievement of the said goal, actions will be taken as a team, or individually. Resources will be utilized either by a team accountable or by a person designate. It is therefore requisite that persons with integrity, who possess the right managerial and or leadership skills are placed in the positions of authority to ensure congruency of goals, and their achievement in a transparent manner.

Political Parties in the 2010 Constitution and the Political Parties Act, 2011 (PPA) are bodies corporate which engage in the pursuit of power. This pursuit involves various activities that bring into play the requirement of leadership and managed which cannot be done in isolation of integrity. Additionally as a country, our leaders are supposed to come from the various parties and we would like to have leaders of integrity which will be achieve if the whole body has the requisite integrity to hold the 'integrity looking' glass in the selection of its candidates for the ballot and nomination.

At the end of this session the learner should be able to:

- To define leadership, management & integrity
- To identify the types of leadership and management
- To describe the types of leadership and management
- To explain the role of women and youth in leadership
- To explain the process of party primary elections

3.1 Leadership

Leadership

Definition: This is the action of leading a group of people or an organization.

Leadership can also be referred to as directorship, governance, administration, captaincy, control, ascendancy, supremacy, rule, command, power, dominion, influence

Leaders set the direction and help themselves, and others to do the right thing to move forward. To do this they create an inspiring vision, and then motivate and inspire others to reach that vision.

3.2 Leadership Styles

3.2.1 Autocratic/Paternalistic

This type of leadership allows leaders to make decisions on their own without the input or participation of stakeholders. The Leader here have total authority over their stakeholders and impose their will on the stakeholders.

3.2.2 Democratic

This type of leadership takes a participatory approach, where all stakeholders are allowed to be part of the decision making process. The participatory nature

empowers the stakeholder to be involved in the management of the organization. This is usually best suited for enlightened/skilled stakeholders.

3.2.3 Laissez-faire

A laissez-faire leader lacks direct supervision of his stakeholders and fails to provide regular feedback to those under his supervision. Highly experienced and trained stakeholders requiring little supervision fall under the laissez-faire leadership style. However, not all stakeholders possess those characteristics. This leadership style hinders the production of stakeholders needing supervision. The laissez-faire style produces no leadership or supervision efforts from leader, which can lead to lack of control.

3.2.4 Transactional

Leaders using the transactional leadership style receive certain tasks to perform and provide rewards or punishments to team members based on performance results. The Leader and stakeholders set predetermined goals together, and stakeholders agree to follow the direction and leadership of the manager to accomplish those goals. It is essentially a 'scratch my back, I scratch your back' approach, coupled with the carrot and stick approach.

3.2.5 Transformational

The transformational leadership style depends on high levels of communication from leader to meet goals. Leaders motivate stakeholders and enhance productivity and efficiency through communication and high visibility. This style of leadership requires the involvement of the leadership to meet goals. Leaders focus on the big picture within an organization and delegate smaller tasks to the team to accomplish goals.

3.2.6 Servant

This type of leader heeds and believes that the power vested in him to lead is derived from the people and therefore should be exercised in the interest and only for the benefit of the people. This type of leadership is characterized with high levels of public participation and transparency.

3.2.7 Inspirational

This leadership seeks to inspire the citizens through a vision for change. Essentially he wants to create converts to his way of thinking, thereby inspiring them to action required to actualize the vision. This type of leadership is characterized by active listening, openness and inclusivity.

3.2.8 Entrepreneurial

This leader has the ability to organize citizens in order to achieve a specific goal by optimizing risks, innovating to take advantage of opportunities, instituting and managing change within a dynamic environment. This kind of leader engages in continuous self-improvement, leveraging of technical skills to optimize opportunities, accountability and decisiveness, and is a role model.

3.2.9 Charismatic

This leader leverages on his personality and charm instead of external power or authority to lead. They adjust their interaction with their citizens, at any given time, depending on their mood. This kind of leadership is characterized by sensitivity to the environment, high self-belief, articulate clear-cut vision, effective use of body & verbal language, and personal risk taking and unconventional behavior.

3.2.10   Toxic

This Leader leaves the citizens worse off than he found them. This is due to the fact that he exercises the leadership for selfish reasons, and not for the benefit/interest of the citizens. This leadership is characterized by bully and commanding, ineptness & rank incompetence, hypocrisy, self-importance, and a blatant abuse of authority.

Each of the leadership styles mentioned above have advantages and disadvantages and should be used according to the circumstances that a leaders finds themselves in. however, some styles like toxic and laissez-faire have too many disadvantages for countries and may lead to excess in power and corruption. The Constitution of Kenya advocates for leadership that is participatory, democratic and servant-ship.

3.3   Leadership as required under the Constitution

The Constitution provides that sovereign power belongs to the people which they can exercise directly or through their democratically elected representatives at National and County Level (article 1).

The governments that are established at both levels must be established in compliance with the Constitution in a bid to respect, uphold and defend the Constitution. It is the responsibility of every person to participate in the establishment of a government that is compliant as part of their duty to respect, uphold and defend the Constitution (Article 3 Defence of the Constitution).

The Constitution has established national values and principles of governance that bind all State Organs, State Officers, public officers and all persons when interpreting and applying the Constitution and all others legislation and in policy making. These include patriotism, good governance, integrity, transparency & accountability, human dignity, equity, social justice (Article 10 National values and principles of governance).

Issues of mis-leadership and lack of integrity, transparency and accountability, plague the country and have led to the inclusion of Chapter 6 on Leadership and Integrity. This Chapter simply provides the responsibilities of leadership, the conduct expected of State Officers, pronounces itself on issues of financial probity, political neutrality, non-engagement in other income generating activities, citizenship and the establishment of the EACC which is mandated with ensuring compliance and enforcement of the Chapter.

Chapter 7 on Representation of the people provides the principles for an electoral system (article 81) which are:

(a) freedom of citizens to exercise their political rights under Article 38;

(b) not more than two-thirds of the members of elective public bodies shall be of the same gender;

(c) fair representation of persons with disabilities;

(d) universal suffrage based on the aspiration for fair representation and equality of vote; and

(e) free and fair elections, which are—

(i)   by secret ballot;

(ii) free from violence, intimidation, improper influence or corruption;

(iii) conducted by an independent body;

(iv) transparent; and

(v) administered in an impartial, neutral, efficient, accurate and accountable manner Freedom

Article 82 of Chapter 7 requires Parliament to enact legislation to provide for delimitation of electoral units by IEBC, nomination of candidates, continuous registration of citizens as voters, conduct of elections, referenda and the regulation and efficient supervision of elections, and the registration of diaspora citizens as voters. This information is contained in the Elections Act, 2011 (EA) and its regulations.

The qualification for registration of a voter are provided in Article 83, all candidates and political parties are required to comply with the Code of Conduct prescribe by IEBC (Article 84), and independent candidates were introduced in Article 85.

Article 91 of Chapter 7 introduced the Basic requirements for political parties, mandating parties to have;

(a) have a national character as prescribed by an Act of Parliament;

(b) have a democratically elected governing body;

(c) promote and uphold national unity;

(d) abide by the democratic principles of good governance, promote and practise democracy through regular, fair and free elections within the party;

(e) respect the right of all persons to participate in the political process, including minorities and marginalized groups;

(f) respect and promote human rights and fundamental freedoms, and gender equality and equity;

(g) promote the objects and principles of this Constitution and the rule of law; and

(h) subscribe to and observe the code of conduct for political parties.

The dos and don'ts of Political Parties are found in Article 91 (2). Article 92 required Parliament to engage legislation for the regulation of Political Parties hence the PPA.

Article 99(2) provides the Qualifications and disqualifications for election as Member of Parliament, the disqualifications are;

> *(a) is a State officer or other public officer, other than a member of Parliament;*

> *(b) has, at any time within the five years immediately preceding the date of election, held office as a member of the Independent Electoral and Boundaries Commission;*

> *(c) has not been a citizen of Kenya for at least the ten years immediately preceding the date of election;*

> *(d) is a member of a county assembly;*

> *(e) is of unsound mind;*

> *(f) is an undischarged bankrupt;*

> *(g) is subject to a sentence of imprisonment of at least six months, as at the date of registration as a candidate, or at the date of election; or*

> *(h) is found, in accordance with any law, to have misused or abused a State office or public office or in any way to have contravened Chapter Six.*

The right to recall by constituents of a member of parliament is provided under Article 104, this recall can be done before the end of the term. The grounds for removal were enacted in the EA.

Article 2 provides that sovereign power is delegated to State Organs which include the Executive. Article 129 provides the Principles of Executive Authority to ensure that this delegate power is used in the interest of the people. The principles are that the executive authority shall be exercised in a manner compatible with the principle of service to the people of Kenya and for their well-being and benefit.

Articles 144 and 145 provide for the Removal of President on grounds of incapacity and by impeachment. The articles provide the grounds and procedure to be used.

Per Article 2 and Article 159 of the Constitution, judicial authority is derived from the people and the Judiciary is therefore behooved to exercise it based on the following principles;

(a) *justice shall be done to all, irrespective of status;*

(b) *justice shall not be delayed;*

(c) *alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3);*

(d) *justice shall be administered without undue regard to procedural technicalities; and*

(e) *the purpose and principles of this Constitution shall be protected and promoted.*

Sovereign power is exercised at National and County Level, Article 174 provides that the Principles of devolution are;

(a) *to promote democratic and accountable exercise of power;*

(b) *to foster national unity by recognizing diversity;*

(c) *to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;*

(d) *to recognize the right of communities to manage their own affairs and to further their development;*

(e) *to protect and promote the interests and rights of minorities and marginalized communities;*

(f) *to promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;*

(g) *to ensure equitable sharing of national and local resources throughout Kenya;*

(h) *to facilitate the decentralization of State organs, their functions and services, from the capital of Kenya; and*

(i) to enhance checks and balances and the separation of powers.

County governments are supposed to be based on democratic principles & separation of powers, have reliable sources of revenue to govern and deliver services effectively, and no more than two thirds of the members of representatives' bodies in each county government should be of the same gender (Article 175).

A person who has been disqualified from holding public office under the Constitution, the PPA or any other written law is also disqualified from holding office in the governing body of a political party or be its founding member (Section 13).

SS 23 -25 EA, provide the qualification for nomination as a candidate for President, Member of Parliament and Member of County Assembly. The qualifications are academic, moral and ethical requirements under the Constitution, citizenship, not be a state officer and be a registered voter.

3.4 Characteristics of a Leader

Leadership, like the proverbial Elephant is easy to recognize but difficult to define. It may in a sense be defined as service for society's benefit. Leadership is the lifting of man's vision to higher sights, the raising of man's performance to higher standards, the building of men's personality beyond its normal limitations.

Article 73 provides that the authority assigned to a state officer is:

- ✓ A public trust that is to be exercised in a manner that is consistent with the purpose and objects of the Constitution;
- ✓ Demonstrates respect for the people;
- ✓ Brings honour to the nation and dignity to the office; and
- ✓ Promotes public confidence in the office.

A State Officer is defined under Article 260 as a person holding a State Office, state offices include the President, Deputy President, Members of Parliament and members of County Assembly.

The authority is vested as the responsibility to serve and not to rule people. The selfless service is based on public interest and should be demonstrated through;

- ✓ Honesty in execution of public duties;
- ✓ Declaration of personal interest that may conflict with public duties;
- ✓ Accountability for decisions; and
- ✓ Action and discipline and commitment in service.

3.5 Leadership Selection and Nomination

All person selected as leaders for nomination must be selected in accordance with Article 73 (2). This requires that the principles of leadership and integrity to be borne in mind by ensuring that the selection and nomination process is based on;

> *(a) personal integrity, competence and suitability, or election in free and fair elections;*

> *(b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;*

Nomination of candidate leaders is done in accordance with the qualification in sections 22-26 of the EA. The sections provide qualifications based on;

1. Educational/professional qualifications

For example to qualify to be nominated as a Candidate for the position of President, Deputy President, Governor and Deputy you must possess an undergraduate degree at the very basic. Other elective positions one just needs to have post-secondary qualifications.

2. Moral qualifications

The moral qualifications are measured per Chapter Six of the Constitution, relevant legislation and the codes of conduct. If one is found wanting, they cannot be nominated, or if found wanting after nomination, they shall be replaced.

3. Ability to lead and manage

This is not fully legislated and Political Parties should in their constitution and nomination rules come up with parameters that can be used assess this so that the candidates put forward are of the requisite leadership and managerial quality in reference to the position. However, legislative authority can be drawn from

tenets in the Constitution and the Leadership and Integrity Act, 2012 that are considered characteristics required of a good leader and manager.

4. Others

There are other qualifications like be a registered voter, citizen, not be a state officer, amongst others. These vary depending on the position one wants to be nominated.

3.6 Party Primaries

Are provided for under Section 13 of the EA

> *(1) A political party shall nominate its candidates for an election under this Act at least sixty days before a general election under this Act in accordance with its constitution and nomination rules*
>
> *(3) Notwithstanding subsection (1), in the case of any other election, the Commission shall by notice in the prescribed form, specify the day or days upon which political parties shall nominate candidates to contest in a presidential, parliamentary or county election in accordance with its constitution or rules, which shall not be more than twenty-one days after the date of publication of such notice.*

3.6.1 Conducting Party Primaries

All party primaries must be conducted in accordance with the law, the party's constitution and nomination rules. This position was upheld *National Gender and Equality Commission vs. IEBC &Anor [2013] eKLR*, where it was said that the method a party uses to come up with its party list must be democratic, transparent and participatory but is in the party's discretion, so long as it is in accordance with its constitution and nomination rules.

Section 27 of the EA requires Political Parties to submit to IEBC their nomination rules three months prior to the nomination of its candidates. The Rules can be amended seven days to the date of the nomination.

There are two methods used to conduct party primaries;

1. Direct Primary

This empowers all registered party members in a voting constituency to choose the person they would like as a candidate.

2. Representational Primary

This is used in big parties or depending on the constituent documents, where a select number of party member delegates are the ones that choose the candidates. The select delegates exercise the power on behalf of the other members of the party e.g. national delegates' conference where a party's political flag bearer (presidential candidate) is chosen.

Party primaries are done for the purpose of selection of candidate leaders for various elective posts and nomination. The party list for elective seats must be submitted to IEBC at least sixty (60) days to the date of a general election and for other elections twenty one days. Party lists for nomination seats are to be submitted forty (45) days to the date of the general election. Once the party (election) list has been submitted it cannot be changed unless the candidate dies, is incapacitated or is has violated the Electoral Code of Conduct (Section 13, EA). The change must be done before the nomination papers are presented to IEBC.

There are two types of party lists, the party list for candidates for elective positions and a party list for nominated positions in accordance with Articles 97 (1) (c), 98 (1) (b) & (d) and 177 (1) (b) & (c). The party (nomination) list must be drafted in priority i.e. man, woman, man, woman, and are valid for the period of the parliament, section 34 EA.

Section 31 (2) of the EA, empowers IEBC to conduct and supervise party primaries for elective posts, on the invitation of the political party. Twenty one days to the date of a party primary, a party must forward to IEBC the names of those contesting in the party primaries.

The Political Parties Dispute Tribunal is mandate to resolve any disputes arising from party primaries. In the event that any person has been nominated to contest for an elective seat or is selected for nomination (under Articles 97 (1) (c), 98 (1) (b) & (d) and 177 (1) (b) & (c)), and does not meet Chapter Six requirements, a person, including a natural person can raise the issue with IEBC at any point before the nomination papers are presented.

The process is however froth with challenges;

   a. Compliance with constitutional and statutory standards in the nomination process is usually hard and many complaints arise on

issues of adequate participation, leadership and integrity of candidates, fairness of the process.

b. Not all parties have the resources including financial capacity to undertake free, fair and participatory nominations that meet the compliance requirements.

c. The disaggregation of women and youth in selection of party lists for elective positions and nomination positions. Most women and youth and especially women who are youth are made to give up the agitation for elective positions in favour of nomination which is not guaranteed as this will depend on the numbers garnered in the elections and their position in the nomination party list. This is not to de-value nomination, however, women and youth should be encouraged and given actual opportunity to compete for the elective positions.

3.7 Gender and Leadership

Gender is a key dynamic in Political Parties, the electoral process and governance. The Constitution has made some progressive provisions in a bid to achieve gender parity. These are;

- Article 21 (3) mandates the state organs and all public officers to address the needs of vulnerable groups in society which includes women.

- Article 27- provides for equality and freedom from discrimination on the basis of sex. It expressly provides that women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social sphere

- Article 81(b) - has the two thirds gender rule. Which requires that not more than two thirds of the members of elective public bodies shall be of the same gender.

- Article 90(2)(b)- requires that IEBC ensures that party lists comprise of the appropriate number of qualified candidates and alternates between male and female candidates in the priority in which they are listed. This does not apply to the 16 women nominated to the Senate.

- Article 91(1) (f)- provides as a basic requirement of for political parties to respect and promote gender equality and equity.

- Article 100- mandates parliament to enact legislation to promote the representation of women in Parliament, this is yet to be done.

- Article 172(2)(b)- the Judicial Service Commission in the performance of its functions must be guided by the promotion of gender equality.

- Article 175(c)- requires that no more than two thirds of the composition of members of representative bodies in each county government shall not be of the same gender

3.8   Youth and Leadership

Youth is a key dynamic in Political Parties, the electoral process and governance. The Constitution has made some progressive provisions in a bid to achieve youth representation in the political sphere. These are;

- Article 21 (3) mandates the state organs and all public officers to address the needs of vulnerable groups in society which includes youth.

- Article 55(b) - the State is obligated to undertake measure including affirmative action programmes to ensure that youth have opportunities to be associated, be represented and participate in the political sphere of life.

- Article 97(1) (c) - the National Assembly consists of 12 nominated members who are to represent special interests including youth and persons with disabilities and worker. Parties there in accordance with their proportion (Article 90) must ensure that the person they nominate fall within these groups.

- Article98 (1) (c) - the composition of the Senate includes 2 youth representatives being one man and one woman.

- Article 100- mandates parliament to enact legislation to promote the representation of youth in Parliament, this is yet to be done.

- Article 177(1) (c) - requires that the county assembly consist of such number of members representing the youth and persons with disability as prescribed by the Act of Parliament (Article 100).

- Article 260- defines youth as the collectivity of all individuals in the Republic who are 18 years but have not attained 35 years.

3.9   Leadership Comparatives

3.9.1 Women-Men Leadership

In many areas of society, men have long dominated leadership positions. This dominance was especially apparent in business, where female members of boards of directors and corporate executives had been scarce. Over the past three decades, however, women have entered more leadership positions throughout industry. The trend has provided an opportunity to examine differences in how men   and   women   perform   in   the   role   of   leaders. Comprising over 50 percent of the world's population, women continue to be under-represented as voters, political leaders and elected officials. Democracy cannot truly deliver for all of its citizens if half of the population remains underrepresented in the political arena.

From the local to the global level, women's leadership and political participation are restricted. Women are underrepresented as voters, as well as in leading positions, whether in elected office, the civil service, the private sector or academia. This occurs despite their proven abilities as leaders and agents of change, and their right to participate equally in democratic governance.

Women face several obstacles to participating in political life. Structural barriers through discriminatory laws and institutions still limit women's options to run for office. Capacity gaps mean women are less likely than men to have the education, contacts and resources needed to become effective leaders.

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."

Individual women have overcome these obstacles with great acclaim, and often to the benefit of society at large. But for women as a whole, the playing field needs to be level, opening opportunities for all.

It has been observed that when women are in leadership, they rate themselves poorly in the 360 degrees and suffer from impostor syndrome. They are also able to balance calmly when under stress. They are also said be strong in emotional intelligence attributes: empathetic/ change catalysts/ inspirational. A transformative woman leader builds strong collaborative relationships, creates a

performance enhancing culture that is ethical, caring and sustainable. Women leaders lead beyond their ego especially through nurturing others through mentorship and coaching.

Men on the other hand are noted to rate themselves even beyond how others do in the 360 degrees. They are said to be confident and sure of themselves and don't shy away from raising their performance standards even beyond known capacity

3.9.2 Youth – Older (Experienced) Generation Leadership

There are advantages to be gained from youth leadership as compared to experienced leadership.

Youth leaders are usually more open to change, dedicated to continuous improvement, more willing to set higher goals, result oriented, receptive to feedback and have a greater ability to inspire especially in the implementation of new ideas.

On the other hand older or more experienced leaders are usually set in their way and therefore not receptive to change, complacent and therefore set manageable targets, are comfortable with the status quo and believe their experience makes them know everything thus not receptive to criticism or feedback.

A good mixture of both is good for leadership as the youth bring the risk taking innovation and the experienced bring the necessary risk required to ensure the Political Party survive

3.10 Management
Definition: Management includes planning, organizing, staffing, leading or directing, and controlling an organization to accomplish the goal or target.

Managers deploy and manipulate human resources, financial resources, technological resources, and natural resources to achieve organizational objectives.

3.11 Management styles

3.11.1   Autocratic

This is a style whose primary objective is immediate compliance from employees through close control, provision of direction on how things are to be done and motivation by threats and discipline.

It is effective when there is a crisis and deviations from 'how things are to be done' can be risky.

It is not effective when employees are underdeveloped as little learning happens with this style or where employees are highly skilled as they become frustrated and resentful at the micromanaging.

3.11.2   Consultative

This is a paternalistic form of leadership which is also dictatorial. However, decisions do take into account the best interests of the employees as well as the business. Communication is again generally downward, but feedback to the management is encouraged to maintain morale. This style can be highly advantageous when it engenders loyalty from the employees, leading to a lower labor turnover, thanks to the emphasis on social needs. On the other hand, for a consultative management style the lack of worker motivation can be typical if no loyal connection is established between the manager and the people who are managed. It shares disadvantages with an autocratic style, such as employees becoming dependent on the leader. However, by having an open door policy helps minimize conflicts among employees and empowers them to set standards to improve job performance.

3.11.3   Persuasive

In this style of management, the manager shares some characteristics with that of an autocratic manager. The most important aspect of a persuasive manager is that they maintain control over the entire decision-making process. The most prominent difference here is that the persuasive manager will spend more time working with their subordinates in order to try to convince them of the benefits of the decisions that have been made.

3.11.4   Democratic

This style's primary objective is building commitment and consensus among employees through encouraging employee input in decision making and motivates by rewarding team effort.

It is effective where there is good team work, staffs have experience and credibility and there is a steady working environment.

It is not effective where there is dismal team work and need to be coordinated, there is a crisis and the staffs are inexperienced and need close supervision.

3.11.5   Chaotic

Is a very modern style of management, chaotic management gives the employees total control over the decision-making process. Some modern companies have adopted this style of management and in return have become some of the most influential and innovative companies

3.11.6   Laissez-faire

Laissez-faire managers give minimal direction and expect their teams to self-driven. The manager is looked upon as more of a mentor than a leader.

3.11.7   Management by Walking Around (MBWA)

Management by Walking Around (MBWA) is a classic technique used by managers who are proactive listeners. Managers using this style gather as much information as possible so that a challenging situation doesn't turn into a bigger problem. Listening carefully to employees' suggestions and concerns will help evade potential crises. MBWA benefits managers by providing unfiltered, real-time information about processes and policies that is often left out of formal communication channels. By walking around, management gets an idea of the level of morale in the organization and can offer help if there is trouble.

A potential concern of MBWA is that the manager will second-guess employees' decisions. The manager must maintain his or her role as coach and counselor, not director. By leaving decision-making responsibilities with the employees, managers can be assured of the fastest possible response time.

3.12 Difference between a Leader and a Manager

A Manager Says, "GO"

A Leader Says, "Let's Go"

Not all managers are leaders.

3.12.1 Characteristics of Leading and Managing

LEADING

Vision & strategy
Creating value
Influence & inspiration
Have followers
Leading people
People focused
Charismatic style
Risk & change seekers
Appeal to the heart
Proactive
Sets direction
Raising expectations
Ask questions

Accomplish a goal
Explain vision
Organization figureheads
Motivate others
Mobilize resources

MANAGING

Policies & procedures
Counting value
Power & control
Have subordinates
Managing work
Work focused
Authoritarian style
Risk averse & stability
Appeal to the head
Reactive
Plans detail
Maintain status quo
Give directions

The traverse shows the aspects that can be achieved when leading and managing is synergized.

3.13 Integrity

Definition: The quality of being honest and having strong moral principles; moral uprightness. *Essentially doing the right thing when no one is watching.*

Integrity can also be referred to as honesty, probity, rectitude, honour, good character, principle(s), ethics, morals, righteousness, morality, virtue, decency, fairness, scrupulousness, sincerity, truthfulness, trustworthiness

3.13.1 Ethics and Integrity Statutes

The following statutes directly impact/make provisions on issues of ethic and integrity;

Chapter 6 CoK 2010

This is the bedrock legislation on issues of ethics and integrity. This Chapter provides the key characteristics of an ethical leader, what is expected of a leader and mandates the Ethics and Anti-Corruption Commission to enforce the Chapter. It is on the basis of the Chapter that the Leadership and Integrity Act, 2013 was legislated, which applies to state officers.

Article 10 CoK 2010

Provides the national values and principles of governance that bind all state organs, state officers and public officers and other person in interpretation of the constitution, laws and formulation and implementation of public policy decisions.

Leadership and Integrity Act, 2012

This is the legislation promulgated by parliament in accordance with Article 80. The LIA has detailed the expected behaviour of State Officers, offences, penalties and enforcement. Under the Act each state officer within 7 days of assumption of office is required to sign a code of conduct.

Public Finance Management Act (read together with ss 26 and 27 PP Act)

Section 24 of the PP Act establishes the Political Parties Fund managed by the Registrar. The Fund is to be distributed to Political Parties in accordance with the set criteria in law. The functions of the funds include administrative and staff costs, civic education, and education of people on policies and ideologies of the party.

The Funds being public fund are then subject to all the compliance requirements of public funds i.e. the Public Finance Management Act. The Public Procurement and Assets Disposal Act, and the Anti-Corruption and Economic Crimes Act.

However, Political Parties are also allowed to raise funds from other non-public sources like membership fees, nomination fees, voluntary contributions and donations (Section 27).

Political Parties Act, 2011 (First Schedule — Code Of Conduct for Political Parties)

The Constitution requires political parties to ascribe to and abide by a Code of Conduct, this was legislated in the PPA and non-compliance can lead to disqualification from nomination as a candidate.

Elections Act Sections 23-25(qualifications and disqualifications) (Part VI Election offenses) (S 72(2) (S 110—Electoral code of conduct.)

These sections provide for the qualification and dis-qualification criteria for nomination, election offences and the required electoral code of conduct.

Proceeds of Crime and Anti-money Laundering Act, 2009

The PPA in section 27 provides other sources of funds as including donations, investments, bequests, grants, voluntary contributions from lawful sources. The Political Party being authorized to mobilize funds from such sources should be cognizance of the 'lawfulness' of the funds to ensure that they are not engaging in money laundering or benefits from any proceeds of a crime.

National Cohesion and Integration Act, 2008

The NCIA criminalizes hate speech, as conduct by a person who:

> (a) uses of threatening, abusive or insulting words or behaviour, or displays any written material;
> (b) publish or distributes written material;
> (c) presents or directs the performance the public performance of a play;
> (d) distributes, shows or plays, a recording of visual images; or
> (e) provides, produces or directs a programme, which is threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behaviour commits an offence if such person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up.

Political parties are therefore required in their engagement verbal and written to ensure that they do not engage in hate speech. The Act also has consequences on human resource and customer care as it outlaws discrimination in employment and differential treatment of persons on ethnic lines.

3.13.2   *Who Enforces the Codes*

Enforcement of the aspects of leadership and integrity is vested in the Ethics and Anti-Corruption Commission, the code to be executed and enforced should be in line with Chapter Six and the Leadership and Integrity Act, 2012.

The Constitution requires Political Parties ascribe and adhere to a code of conduct, the code is prescribed under the PPA and the Registrar of Political Parties is mandated to ensure its enforcement.

The Political Parties Dispute Tribunal determines disputes between members in political parties, a member and a political party, political parties, coalition partners, an independent candidate and a political party, party primaries and disputes arising from decisions of the Registrar. In the last aspect, a decision on contravention of the Political Parties Code of Conduct by the Registrar can end up at the Tribunal; hence the decisions of the Tribunal can be used to enforce the Code.

The EA provides for an Electoral Code to be observed by candidates and political parties which IEBC is mandated to enforce.

The High Court has original jurisdiction on all constitutional matters including aspects of Chapter Six, suits have been filed in court on aspects of Chapter Six e.g. *Trusted Society of Human Rights Alliance vs. AG & 2 Others [2012] eKLR*. In this matter the Trusted Society had brought a suit against the AG protesting the appointment of Mumo Matemu as the Chairperson of the EACC on grounds that he did not meet the requirements of Chapter Six of the Constitution. Here the high court held that it can review the appointment decision itself to determine if it meets the constitutional threshold for appointment. This position was upheld on appeal in *Mumo Matemu vs. Trusted Society of Human Rights Alliance & 5 others [2013] eKLR.*

3.14 Conclusion

Leadership, management and integrity are key issues for the survival of a political party. Management is the means through with the Political party will ensure that its day to day back office matters are aptly handled for the Party to effectively achieve its vision.

Leadership and integrity are peas in pod. In the current dynamic world, and in Kenya one cannot exist without the other. Citizenry have become more

empowered through the Constitution 2010 to demand better Leadership, which can only be achieved through integrity. Political Parties should embrace integrity in its leadership and management, as only when we do the right thing when no one is watching shall we achieve the visions we have for our parties and the Country as a whole.

4.0   Political Party Best Practices; Youth & Gender

Bosire Nyamori

Introduction

Democracy also entails inclusion; aggregation of interests requires parties to represent different shade of opinion in society. Historically, there has been underrepresentation of women, youth and marginalized groups. For instance, increasing marginalized groups, inclusivity of women enhances party's image and reputation, enhances party policy agendas, strengthens party's electoral strategies and enhances membership base. The best practice for gender should be about institutionalizing gender equality within party structures, promoting of election of women, gender focused policies and those on marginalized groups. The best practices ought to and are found in laws and party documents such as the Constitution, manifesto, policies, and strategies. Best practices represent fundamental characteristics of successful political parties that are universal and transcend geographic boundaries and ideologies.

Specific objectives
Upon completing the training, the participant will be able to:

- Political party goals and objectives.
- Gender mainstreaming in Political Party's constitutions.
- The role, rights and obligations of the youth.
- Defining political parties' ideology, policy & manifestos & gender mainstreaming

4.1   Understanding Best Practices

Meaning

A best practice is a system, process, method or technique that has been applied or used to address particular situations/circumstances with superior, replicable and adaptable results. Quite often is used as a benchmark. The meaning and scope is further expounded on two writings:

According to the National Democratic Institute (NDI), best practices for political parties fall under three rubrics:

1. Internal democracy
2. Transparency;
3. Outreach

Party discloses and trains leaders and members on party rules, regulations and values

Party recruits members from new sectors based on solid research

Party operates in distinct geographic and functional units

Party develops targeted outreach messages and communicates them to all levels of the party

Members and leaders work together to develop and refine platforms and policies

Party develops outreach communication strategies with specific tasks and responsibilities for staff and volunteers

Leaders and candidates are selected freely, fairly and according to party rules

Party uses interactive methodology to train members on recruiting new sectors

Party uses open vertical and horizontal internal communication effectively

Internal Democracy

Outreach

Transparency

Party reports financial contributions, expenses, assets and funding sources to party members and the public

Party develops and implements monitoring strategies to ensure accountability to party members, voters and society

Independent disciplinary committees conduct investigations and sanction party members who do not follow party rules, regulations and values

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Internal democracy/ Intra-party Democracy

Internal democracy in political parties refers to the level and methods of including party members in the decision making and deliberation within the party structure. Internal functioning of parties is legally regulated in Kenya by the Constitution, the Political Parties Act, the Elections Act and the Elections Campaign Financing Act.

In this regard, internal democracy requires that:

- Party discloses and trains leaders and members on party rules, regulations and values;

- Members and leaders work together to develop and refine platforms and policies; and,

- Leaders and candidates are selected freely, fairly and according to party rules.

Transparency

Transparency is the term for a clear and open process, which is understandable and accountable to the electorate. Transparent procedures encourage participation in and support of the political part system. Transparency guard against corruption and improprieties and, by so doing, promotes public confidence and trust in political parties.

A Political party can promote transparency when it:

- reports financial contributions, expenses, assets and funding sources to party members and the public

- develops and implements monitoring strategies to ensure accountability to party members, voters and society

- Independent disciplinary committees conduct investigations and sanction party members who do not follow party rules, regulations and values

Outreach

According to the Concise Oxford English Dictionary, outreach is an organization's involvement with or influence in the community. Few institutions would want to have a lot of influence in a community as political parties. One way for achieving this is reaching out to the segment of the who might not otherwise be represented in the party. Women and the youth are certainly underrepresented.

Strategies for promoting outreach include:

- Party recruits members from new and diverse sectors

- Party develops targeted outreach messages and communicates them to all levels of the party

The Council of Europe, *European Commission for Democracy through Law (Venice Commission), Code of Good Practice in the Field of Political Parties* list several examples of best practices for political parties:

- legislation for political parties

- Internal organization of political parties-membership, accountability, transparency, representation

- principles and norms-such as ffreedom of association, freedom of association, political rights, respect for rule of law, democracy and human rights as pillars, transparency and openness, non-discrimination.

4.2   Why Political Parties Must Embrace Best Practices

Best practices are universal techniques that are transferable and used as benchmarks. In the context of political parties, they do engender two principal benefits. First, they increase the chances that the party will achieve its goals. Secondly, a party embracing them improves image and credibility.

While serving a useful purpose, political parties must be careful not accept without critical though and examination. A "One size" fits all approach to best practices is untenable and could stifle creativity, critical thinking and innovation.

4.3   Sources of Best Practices

Information about best practice is found in:

i.   **Laws**
- -Constitution
- -Political Parties Act
- -Elections Act
- -Election Campaign Financing Act

ii.   **Political Parties Rules and Policies such as the Constitution, -Manifesto, and -Policies**

These documents cover a wide spectrum of documents including:

iii.   **Membership**

The best practices include:

- procedures and requirements for joining and which clearly state the criteria to be fulfilled to be members

- existence of disciplinary bodies and clear procedures for reasoned decisions

- Dispute resolution procedures

- Participation of all age groups; specific programmes and structures may be created to suit different groups

- Rights and duties

iv.   Financing

The best practices include:

- audit of books of accounts
- public access to audited accounts
- budgetary allocation to cater for gender diversity and youth..

4.3   Select Best Practices

4.3.1 Political party goals and objectives

Article 81 sets out the basic requirements for political parties including key among them promoting democracy. Each individual party committed to democracy must decide on the appropriate structures and processes to promote their goals and realize their mission. One way of promoting internal democracy is by having clear goals and objectives.

A party must explain what it is that intends to. Normally, the goals and objectives are laid out in the party constitution. For instance, Article 3 of the Constitution of NARC-Kenya (available online) has listed 28 objects including: promoting gender diversity and youth in social, economic and political development.

4.3.2 Gender mainstreaming in Political Party's constitutions.

A party constitution provides the governance framework for a party. As part of part of its role in the democratic dispensation, a political must have gender mainstreaming as a priority. The constitution can achieve this in the following manner:

-Making clear in its objects that one of the goals is promoting and enhancing gender diversity

-requiring adherence to gender diversity in all its organs and structure for decision-making.

4.3.3 The role, rights and obligations of the youth

Kenya's Constitution defines the youth as individuals who have attained the age of eighteen but have not reached the age of thirty-five. More than 50% of the Kenyan population consists of individuals who are less than 35 years old, yet these have little role in the decision-making process of the political parties. They

are underrepresented in key organs. They are not known to participate enthusiastically in elections. Any political party aiming at getting power may well be advised to bring this segment of the population to its fold.

Article 91 of the Constitution states the basic requirements for political parties. They include:
-Every political party must have a democratically elected governing body

-Every political party must abide by the democratic principles of good governance, promote and practice democracy through regular, fair and free elections within the party.

-Every political party must respect the right of all persons to participate in the political process including minorities and marginalized groups.

-Every political party must respect and promote rights and fundamental freedoms and gender equality and equity

The Political Parties implements some of these requirements and requires:
-The composition of the party's governing body must reflect the regional and ethnic diversity, gender balance and representation of minorities and marginalized groups.

-Not more than two-thirds of members of the party's governing body should be of the same gender. This should also apply to the youth as a special category that requires effective representation.

The Constitution of a party can promote youth participation in its affairs by requiring that one of the goals is promoting youth membership and participation.

The roles of youths in political parties include: conducting recruitment drives; mobilizing people to join their respective parties; and conducting civic and political education and member registration

4.3.4 Defining political parties' ideology, policy & manifestos & gender mainstreaming

Party ideologies and beliefs are central to shaping the organisation, structure and ambitions for political parties. Policies

Ideologies

There is no reference to the need for parties to have ideologies in the law. But this may be implied from section 14(5)(e) of the Political Parties Act, identifying subscribing to the ideology of another party as a ground for being deemed to have ceased being a member of a political party. Regardless, serious political parties are defined by an ideology.

An ideology is a system of ideas, principles, beliefs, and values that underlie their economic, social and political policies. Ideologies shape policies in a wide spectrum of areas: the economy, gender, education, health, land, social welfare, and environment.

A party could be, among others, liberal (for instance, the US, Democratic Party), conservative (foe instance, the US Republic Party), socialism and communism (for instance, China Communist Party and Government in Cuba. Liberals are sometimes referred to as those on the left while conservatives as those who are on the right.

Policies

A policy is a course of action adopted or proposed by an organisation of individual. The action encompasses a slew of issues such as environment, land, education, and health. For instance, when NARC came to power in 2002, they promised and implemented free primary education.

Manifestos

Manifesto is a public pledge or declaration of policies and aims issued by political parties or candidates before an election. Parties use this to sell their policies to potential voters.

Gender mainstreaming

A concern here is what the policies of parties about gender are on a wide array of issues including representation, education, health and land.

5.0   Youth & Gender Compliance with the Constitution, Political Parties Act, and other relevant legislation

Charles B. Ouma

5.1   A situational analysis

Women and youth are a formidable political constituency. Yet in this country, because of certain historical socio-economic factors, the women and youth are yet to be sufficiently mainstreamed into our political system.

The constitution and Acts of parliament frequently mention women and youth in the same breath as it does minorities, marginalised groups and persons living with disability. The Political Parties (Amendment) (No2) Act of 2016 (Act No 21of 2016) includes women and youth in the category of special interest groups. It is perhaps safe to think of women and youth as a marginalised political constituency.

The reasons for this marginalization have been discussed in other parts of this source book. There are cultural reasons. Most of our communities have cultures that do not encourage the participation of women and youth in leadership roles. There are socio-economic constraints, women and youth are typically disadvantaged ecumenically and lack the resources to finance an electoral process. In the past there were significant educational barriers for women, that that has largely been overcome. There are religious barriers as certain religions do not encourage women to assume leadership roles life as too much exposure to a public is wrongly assumed to be incompatible with modesty. Our overall attitude as a society about women and youth participation in politics doesn't help.

Typically women and youth are relegated to a peripheral and sometimes (as in the case of the youth) unlawful roles in politics such as serving as foot soldiers in political militia. The results are depressing indeed. The presentation by Catherine Ndungo has elaborate statistics that speak volumes about this systematic exclusion of women from the political process. Depressing is, perhaps, the one word that accurately describes the situation in Kenyan politics. There can be no doubt that the data on the youth, if presented, will be no less depressing.

There is a general consensus that this state of affairs cannot be allowed to go on. A society that systematically discriminates against such an important segment

of society must sooner, rather than later, pay the price of exclusion. Civil society and forward looking political leaders of either gender have been at the forefront of pushing for a reversal of this unacceptable trend. The efforts have been salutary but the impact is still a long way from the desired outcomes. The last and perhaps most potent weapon in to catalyse change is arsenal is the law. What civic education is unable to achieve in decades, legislative intervention can achieve in the stroke of a pen. Starting with the CoK 2010, there have been a series of legislative interventions that have dramatically changed the way we manage our political affairs. Systematic discrimination and exclusion has been explicitly outlawed by law and measures have now been put in place to ensure that historical injustices are addressed and the intended political outcomes achieved without further delay.

Our mandate in this discussion is to identify, discuss and evaluate the legislative interventions the law has put in place to mainstream women and youth into our body politic. These interventions create mandatory obligations. The law does not trust the democratic process, left to its own, to guarantee the rights of women and youth. Some form of affirmative action is necessary, hence the interventions to guarantee a minimum level of participation in the political process for both women and youth

What the participant should expect from this discussion

Compliance is a broad subject indeed. There are numerous compliance obligations created by the many laws that impact directly and indirectly on political parties. This discussion focusses on the compliance requirements that relate to women and youth. Compliance is defined, specific compliance requirements identified and the possible consequences of non-compliance discussed. The importance of developing culture of compliance political parties is underscored and the various strategies for compliance explored. The discussion ends with an analysis of some of the emerging issues on the compliance debate and a sample compliance matrix is presented as an appendix.

Expected outcomes

By the end of our discussion, it is expected that the participant will be able to

- Define compliance;

- Explain why compliance is an issue for political parties;

- Identify, list and explain specific compliance obligations;

- Distinguish between internal and external sources of obligations.

- Show the benefits of compliance and the risk of non-compliance;

- Develop and implement strategies for compliance;

- Recognise some emerging issues in the compliance debate;

- Compile a compliance matrix.

5.2   Compliance Defined

'In general, compliance means conforming to a rule, such as a specification, policy, standard or law. Regulatory compliance describes the goal that organisations aspire to achieve in their efforts to ensure that they are aware of and take steps to comply with relevant laws and regulations'[1]:   From the foregoing, 'compliance' denotes of conformity. Conformity may be to a wish or a command. Compliance is therefore the act of obeying an order, rule, or request.

5.2.1 The long road to regulation

The last six years or so has witnessed the evolution of the political party from an exclusive 'private members club' into a public-funded constitutional organ of governance. That evolution is, in part, a consequence of the realization of the important role political parties play in entrenching good governance. As the primary organ for the acquisition of public power, the political party was, at least in retrospect, treated wrongly as a private members only club. Political parties were registered and regulated under the Societies Act. That is the same legal framework under which sport clubs, 'merry-go-rounds' charities and religious organizations were registered. The common denominator among such entities is that they are considered unsuitable for extended public scrutiny. That political parties were certainly keeping wrong company.

The political party, as the primary vehicle for the acquisition of public power is not a bird of the same feather as a football club or a self-help group. The justification for limited public intervention in the affairs of a football club is not far to seek. The absence of heightened public scrutiny of the primary vehicle of the acquisition of public power was, perhaps, an irresponsible oversight. We reaped where we sowed. In 2007/2008 elections, the two leading political

protagonists led their fanatical followers on the highway to hell. There is broad consensus that the events that unfolded during the period preceding the campaign and climaxing into a bloody confrontation were, in part, made possible by the absence of heightened scrutiny on the affairs of the political parties. The absence of regulation ensured that the political parties could mobilize for war away from the radar of public scrutiny. Happily for Kenya, that dark history is now a thing of the past!

5.2.2 The situation today

The law has now made it possible for the spotlight of public scrutiny to be firmly focused on the internal and external affairs of political parties. It is hoped that this heightened scrutiny will radically transform the management of political parties. Political parties are now recognised for what they are; vehicles for the acquisition of public power. Not private members-only clubs. Such an organ naturally attracts the attention of regulation. It is for these reason that even the internal affairs of a political party is now regarded as legitimate subject of public scrutiny. Today the political party is firmly grounded in the constitution. An entire article in the constitution is devoted to political parties. Then there is a dedicated policy, statutory and institutional framework. Political parties are now body's corporate, corporate citizens with constitutional (and statutory) rights and obligations. Political parties are now regulated by the constitution, the political parties act, the elections act, ethics and integrity laws, and even public finance management laws. This elaborate statutory framework in anchored on an equally elaborate policy framework that is discussed in the presentation on 'Political Rights and Gender': This includes;

- The   National Gender and Development Policy, 2000- framework for the state to reduce gender imbalance and inequality.

- Sessional Paper No.2 2006 on Gender Equality and Development provides a framework for the operationalization of gender mainstreaming in policy, planning and programming in Kenya.

- Gender Policy (July 2011) to mainstream gender concerns in the national development process in order to improve the social, legal/civic, economic and cultural conditions of women, men, girls and boys in Kenya

- Kenya's National Vision 2030: This is the new long term development blueprint for the country. The strategy proposes to collect, analyze and utilize gender disaggregated data to update the gender development index and

- 30% Presidential directive on public sector that all employment and promotion must be women youth and persons living with disability.

5.2.3 Why is compliance an issue for political parties?

It has been said that political parties are the primary vehicles for the acquisition of public power. In every election political parties compete for the acquisition of power. The lessons learnt from the discredited 2007 elections in Kenya are a stark reminder that this contest can degenerate into a full scale civil war. It is therefore important that we regulate these vehicles for the acquisition of power to ensure that ever present danger of unregulated political activity is not ignored.

5.2.4 Why then, the law?

This discussion is about an important governance issue in political parties; how the law guarantees the inclusion of specific interest groups and more particular, women and youth in the political process. The political process is largely driven by political parties. The discussion therefore explores the legislative measures put in place to ensure that political parties conforms to the agreed policy position that women and youth must be mainstreamed into the governance of our country.

Political theory teaches that the need for the law is usually a function of non-compliance with a generally accepted mode of behaviour. Laws are made because of the inherent unwillingness by many members of society to do what is considered right, absent some form of compulsion. The law thus recognises the inherent tendency towards noncompliance with generally accepted principles such as inclusivity and therefore encourages compliance through the threat of sanctions for non-compliance

Can we trust political parties to implement inclusion without the threat of sanctions? All one has to do is to take a look at the average political leader. How much confidence does your average political leader inspire in anybody? Can anybody trust the average political leader to do the right thing without some threat of sanction? Well, politicians have done little to inspire public confidence in their good intentions. And our legal system does not trust them either. The law does not believe in the inherent goodness of human beings, still less of political leaders. The law proceeds on the assumption that politicians are like unruly horses. There is need to rein in on them. Take a simple example of the provisions of article 81 of the constitution of Kenya. Article 81 is on the general principles of the electoral system. One of the general principles of the electoral system is that '(b) not more than two-thirds of the members of elective public

bodies shall be of the same gender;' Just because it is expressed as a principle, politicians have hidden behind the lack of consequential implementing legislation to flagrantly flout a clear constitutional principle. There is broad consensus that with necessary political goodwill even among political parties, this principle could be achieved even without consequential legislation. The reality is very sobering. Without legislation, there is no compliance what is now widely regarded as best political practice; Inclusion. It is now an opportune time to focus on the specific compliance requirements as they relate to youth and gender.

5.3   The Regulatory Framework

The question may be asked, what laws do political parties have to comply with. Political parties now operate within a framework of external legal regime made up of constitutional, statutory provisions and, not infrequently, recognised best practices, and an internal framework of party constitutions, party policies and party procedures. Then there is a veritable array of administrative law ranging from subsidiary legislation (read regulations) to administrative guidelines processes and procedures. Not to be left behind are the binding decisions of courts and other administrative tribunals such as the PPDT, the IEBC DRC.

In addition to external regulation there is plenty of internal legal obligations arising from the party's internal constitutive documents such as its manifesto, constitution, its procedures and processes. The external regime reinforces the internal obligation by imposing external sanctions for breach of internal obligations

Let us examine this complex web of internal and external regulation starting with the external framework.

5.3.1 The External Framework

- The Constitution

- Acts of parliament

- Subsidiary legislation

- Administrative guidelines and procedures

- Best practices

5.3.1.1   The Constitution

The Constitution proclaims itself to be the supreme law of the land. It binds all binds all persons and all State organs at both levels of government.[2] Any law that is inconsistent with the Constitution is void to the extent of the inconsistency. Any act or omission in contravention of this Constitution is invalid. Political parties are 'persons' within the meaning of article 2.They are accordingly bound by the constitution and their internal laws, processes policies procedures or operations must be in accordance with the constitution. If internal laws, processes, policies, procedures and operations of a political party are inconsistent with the constitution are inconsistent with the constitution, the internal laws, processes, policies, procedures and operations of a political party are invalid.

Constitutional Requirements on Women and Youth

The constitution outlaws discrimination on the basis of gender.[3] Political parties are required by law to comply with the constitutional principle that not more than 2/3rds of elective and appointive organs shall be of either gender[4]. This requirement is a safeguard against exclusion of any particular gender in the decision making process of public entities like political parties. Political parties must respect and promote gender equality.[5] Accordingly, a political party may not be founded on the basis of gender[6].

Article 55 requires the state take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life. Article 81 of the constitution is on principles of representation. Among those principles is the requirement that the electoral system shall comply with the principles that all citizens including women and youth are free to exercise their political rights under Article 38(the right to offer oneself for an election that is free and fair).

Article 91 requires political parties to respect the right **of all persons** to participate in the political process, including minorities and marginalised groups; ('all persons' includes women and youth). Specifically, article 91(1)(f) requires political parties to respect and promote human rights and fundamental freedoms, and gender equality and equity; Under Article 91(2)(a) a political party

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[2] Article 2(1)
[3] See Article 27
[4] Article 91(1)(g) as read with Article 27
[5] 91(1)(f)
[6] Article 91(2)

may not be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis.

Women are typically victims of violence during political campaigns especially in party primaries. Therefore Article 91(b) prohibits political parties from engaging in or encouraging violence by, or intimidation of, its members, supporters, opponents or any other person. The youth are typically used as a party militia. The constitution now prohibits a political party from converting its youth wing into a violent militia as has happened in the past. Bribery and other forms of corruption may constrain the participation of women and youth in the political process. This is because women and youth typically lack the financial resources necessary to engage in bribery and other forms of corruption. Therefore parties are prohibited from engaging in bribery or other forms of corruption (91(1) (f).

A political party must respect the rights of women and youth to participate in the political process.[7] Not more than 2/3rds of the members of the elective organs of a party may be of either gender (Article27 and 81). When presenting the party list for nominated positions under article 98(1)(b the list must alternate across the two genders. The political party must present a women only party list for purposes of nominating candidates under 98(1) (b) When nominating candidates for nominated positions to parliament), the political party must take into account the interests of the youth[8] . The party list for purposes of article 98(1) (c) is reserved for the youth and must have a man and a woman.

5.3.1.2   Acts of Parliament
Parliament is empowered by the constitution to make laws .The constitutional provisions have now been operationalized by provisions of the statutes, especially the Political Parties Act and the Elections Act.

Compliance requirements under the Political Parties Act

The Political Parties Act 2011 (as amended to date) has various provisions touching on women and youth. Political Parties are obliged to comply with these provisions.

- SECTION 7(2)(b) Obligation to ensure that the registered members reflect regional and ethnic diversity, gender balance and representation of minorities and marginalized groups

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[7] Section 5 Political Parties Act
[8] Article 96

- SECTION 7(2)(c) Obligation to ensure that the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of minorities and marginalized groups

- SECTION 7(2)(d) Obligation to ensure that not more than two-thirds of the members of its governing body are of the same gender

- S26(1)(a) as read with the proviso to section 26 Obligation to allocate at least 30% of the funds received from the Political Parties Fund to be used for promoting the representation in parliament and in county assemblies of women persons with disabilities youth ethnic and other minorities and marginalised communities

- SECTION 9 as read with section 6 of second schedule obligation to ensure the contents of a party constitution require the disclosure of membership details to be contained in the register including identification details, region, ethnicity, gender and county;

Political Parties Act (First Schedule — Code Of Conduct for Political Parties)

- SECTION 4. Obligation to (a) Promote policy alternatives responding to the interests, the concerns and the needs of the citizens of Kenya; (b) respect and uphold the democratic process as they compete for political power so as to implement their policies;

- SECTION 5. Obligation to (a) Respect the right of all persons to participate in the political process including youth, minorities and marginalized groups; (b) Respect and promote gender equity and equality, human rights and fundamental freedoms; and (c) Be tolerant and inclusive in all their political activities.

- SECTION 6. Obligation to (a) respect, uphold and defend the Constitution of Kenya; (b) respect and uphold this Act and any other written law relating to elections and political parties; (c) respect, uphold and defend their respective political party constitutions, political party election rules, political party nomination rules and any other political party rules and regulations developed and agreed upon in accordance with this code of conduct; (d) respect, uphold and promote human dignity, equity, social justice, inclusiveness and non-discrimination and protection of the marginalized; (e) respect, uphold and promote human rights and the rule of law; (g) respect, uphold and promote democratic values and principles,

performing inclusive participation of party members and accountable representation in governance for the development of the country; (h) respect, uphold and promote good governance, integrity, respect, tolerance, transparency and accountability; k) respect, uphold and promote democratic practices through regular free, fair and credible elections within the political party and among others have a democratically elected governing body and political party organs; (l) respect, uphold and promote democratic practices through free, fair and credible political party nominations; (k) respect, uphold and promote democratic practices through regular free, fair and credible elections within the political party and among others have a democratically elected governing body and political party organs; (l) respect, uphold and promote democratic practices through free, fair and credible political party nominations;

5.3.1.3   Election Laws

We highlight some of the provisions of the Elections Act that create compliance obligations on issues affecting women and youth

- SECTION 28 & 34 Nomination of party lists members. Submission of party membership lists. The list for nominated members of parliament and county assemblies must reflect the interests of women and youth

- SECTION 36 Allocation of special seats. (2) A party list submitted under subsection (1) (a), (c), (d), (e) and (f) shall contain alternates between male and female candidates in the priority in which they are listed.

- SECTION 36 (3) the party list referred to under subsection (1) (f) shall prioritise a person with disability, the youth and any other candidate representing a marginalized group.

- SECTION 36 (7) For purposes of Article 177 (1) (b) of the Constitution, the Commission shall draw from the list under subsection (1)(e), such number of special seat members in the order given by the party, necessary to ensure that no more than two-thirds of the membership of the assembly are of the same gender

- SECTION 37.(1) If a representative from a political party list dies, withdraws from the party list, changes parties, resigns or is expelled from his or her party during the term of the representative, the seat of the

representative shall be allocated to the next candidate of the same gender on the respective political party list

- Section 63 63. (1) A person who, directly or indirectly in person or through another person on his behalf uses or threatens to use any force, violence including sexual violence, restraint, or material, physical or spiritual injury, harmful cultural practices, damage or loss, or any fraudulent device, trick or deception for the purpose of or on account of—

    - (a) inducing or compelling a person to vote or not to vote for a particular candidate or political party at an election;

    - (b) impeding or preventing the free exercise of the franchise of a voter;

    - (c) inducing or compelling a person to refrain from becoming a candidate or to withdraw if he has become a candidate; or

    - (d) impeding or preventing a person from being nominated as a candidate or from being registered as a voter,

- SECTION 64 Prohibition against all forms of bribery and corruption

- Section 65 Prohibition against use of force or violence during election period.

- SECTION 66 Prohibition against various activities calculated to undermine the electoral process

- Elections Act (Part VI Election offenses) (S 72(2) (s 110—Electoral code of conduct.)

5.3.1.5   Subsidiary Legislation

Sometimes parliament delegates the power to make laws to the executive or some other organ of the state, e.g. the registrar of political parties. This type of legislation is commonly referred to as regulation. This is made possible by the constitution. The laws thus made are referred to as subsidiary legislation. A good example are the regulations recently made by the IEBC on election campaign financing, The Elections (Registration of Voters) Regulations the Elections (General) Regulations, 2012. Such laws are known as subsidiary legislation and are no less binding on political parties than those made by parliament itself.

5.3.1.5   Administrative Law

An Act of parliament or even any subsidiary legislation may empower an administrative officer to do certain things. This may result in some administrative procedure or process. These procedures and processes are also binding on political parties. For example, there are administrative procedures for registering a political party or filing statutory returns. Political parties must comply with such requirements

5.3.1.6   Court Decisions

In our system of government, the courts are responsible for authoritatively interpreting the law and resolving disputes. The rule of law requires that we all respect the decisions of the courts even if we disagree with them. There are established legal channels for contesting the decisions of the courts and recourse must be had to these channels whenever we are not satisfied with the decisions of the courts. Disregard of court decisions is a recipe for anarchy. Courts will make many decisions affecting political parties. It is important that the decisions of the courts be respected by the parties and their members. Some of these decisions may touch on the rights of women and youth

5.3.1.7   Decisions of Constitutional Commissions and Administrative Tribunals

There are many constitutional bodies such as the IEBC which will make decisions affecting political parties and their members. The political party's tribunal, the registrar of political parties, the dispute resolution tribunal under the elections act all make administrative decisions and quasi-judicial decisions which are binding on political parties. For example the Political Parties Disputes Tribunal is established under section 5 of the Political Parties Act. The functions of the tribunal are listed in section 6 of the Act as follows:

Section 6: The Tribunal shall determine—

(a) Disputes between the members of a political party;

(b) Disputes between political parties forming a coalition; or

(c) Appeals from decisions of the Registrar under this Act.

The tribunal is now empowered to adjudicate disputes arising from party primaries.(Political Parties (Amendment)(No2) Act of 2016) Political parties must respect and abide by these decisions, subject only to their right of appeal or review

These determinations are subject only to the right of appeal, binding on political parties. Some of these decisions may touch on the rights of women and youth.

5.3.1.8   Directives of the ORPP

The office of the Registrar of political parties is created by section 3 of the PP Act. The functions of the Registrar Include the registration of political parties in accordance with the provisions of this Act[9], the arbitration of disputes between members of a political party[10], keeping and maintaining a register containing a list of the registered political parties and such other particulars relating to a registered political party as may be prescribed[11]

Whenever the Registrar exercises any of these functions, the registrar makes decisions which are binding on political parties, subject only to the right to have the decisions reviewed by a court. Compliance with these requirements is a legal requirement. Again, some of the decisions of the Registrar may touch on the rights of women and youth

5.3.1.9   Best Practices

'A best practice is a method or technique that has been generally accepted as superior to any alternatives because it produces results that are superior to those achieved by other means or because it has become a standard way of doing things, e.g., a standard way of complying with legal or ethical requirements. Best practices are used to maintain quality as an alternative to mandatory legislated standards and can be based on self-assessment or benchmarking.'[12]

Political parties should aspire to go beyond formal legal compliance. For example, article 81 prescribes the minimum threshold for gender parity. A best practice may be that political parties insist on a 50.50 share of leadership positions. Political parties should bench mark against similar organizations and adopt those tried, tested and proven results even if there is no legal obligation to do so.

5.3.2 The Internal framework

Political parties must have a constitution. This internal document binds the party and its members. So do any operating procedures and processed developed for internal use. Political parties, and their members are bound by these self-imposed restraints. For example the Elections Act provides that party primaries must be conducted in accordance with the party nomination rules. A primary

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[9] Section 3(3) PP Act 2011
[10] Section 3(4) PP Act 2011
[11] Section 4 PP Act 2011
[12] https://en.wikipedia.org/wiki/Best_practice

that is not conducted in accordance with the party nomination rules is invalid and an aggrieved person can seek legal redress in the appropriate forum (usually starting with the internal dispute resolution mechanisms). The nomination can be invalidated and this can prove costly for a political party. The Political Parties Act has mandatory provisions which must be included in the constitution. These have already been highlighted above. They include, the obligation to disclose the details of the members, the obligation to provide for the 2/3rds gender rule. These provisions are binding on political parties and must be respected

5.3.2.1   Statutory Reporting

As part of their compliance obligations, political parties are required to make certain declarations, file certain returns or give certain notifications. This is what is known as statutory reporting. In the matrix below you will find some reporting obligations for political parties under the Political Parties Act 2011 that touch on women and youth

	SECTION	REPORTING OBLIGATION	Compliance Level	Risk
	SECTION 20	notification of changes, alterations in constitution		
	SECTION 20(2)	notification of the changes in at least two daily newspapers having nationwide circulation		
	SECTION 27(4)	disclosure to the Registrar full particulars of all funds or other resources obtained by it from any source		
	SECTION 29(1)(a)(i)	publication of the sources of funds stating the amount of money received from the Fund		
	SECTION 29(1)(a)(ii)	Publication of the sources of funds stating		

		the amount of money received from members and supporters		
	SECTION 30	Declaration of assets, liabilities and expenditure in relation to elections		
	SECTION 31	Audit of political parties accounts		
		Publication of accounts		

5.4   Benefits of Compliance

Compliant political parties will have a good corporate image. Since the compliant obligations touch on an important political constituency, compliance will also enhance party loyalty. Above all it is only compliant parties that can be registered, remain registered, be eligible for funding, and participate in elections. A good mantra for political parties is 'comply of perish'

5.5   Risks of Non-Compliance

Non-compliance is not without consequences. Compliance is not permissive. It is mandatory and non-compliance attracts sanctions

5.5.1 Political Risk (Disqualification)

S 72 (2) Elections Act

Where a political party knowingly nominates a candidate who does not meet the requirements of the Constitution, the political party commits an offence and shall be disqualified from nominating a candidate to contest in that election or in the next election in that electoral area

5.5.2 Political/legal risk (Deregistration)

Under Section 21 Political Parties Act –Section 45 Political parties Act- the Registrar has powers to sanction political parties. There are many options for the Registrar. The Registrar may;

a) Decline to register a prospective party

b) Warn and require the political party to conform to this Act within a specified period;

c) Suspend the registration of the political party for a period not exceeding twelve months; or

d) Withhold funds to the political party for a period not exceeding twelve months.

e) Deregister the political party

5.5.3 Reputational Risk

A non-compliant political party runs the risk of losing the respect of its members, rival parties, critical local and international constituencies and indeed society as a whole. A political party that seeks to win the good will of its prospective voters and funders cannot afford the luxury of non-compliance

5.6 Role of Party Leadership in Compliance

Leadership of political parties is a heavy responsibility. Leaders can be held responsible for the conduct of the party and its members. Leaders must therefore ensure the parties comply with their obligations

Under S45 (4) Political Parties Act, non-compliance with the provisions of the Act can attract vicarious liability. The section provides;

'Where a political party commits an offence under this Act, every principal officer of that political party shall also be deemed to have committed the offence'.

It is for the leader to persuade the court that he or she is innocent of an offense under this section. Let the section speak for itself

'A person does not commit an offence under subsection (1) or (2) if that person proves to the satisfaction of the court or tribunal that the act in respect of which such person is charged was committed without his consent or connivance, and that he exercised all diligence to prevent the commission of that act as he ought to have exercised, having regard to all the circumstances'

5.7   Emerging issues / Challenges in compliance

The advantages of the many compliance requirements are not far to seek. The compliance requirements are intended to give effect to important constitutional and statutory principles of good governance. But compliance is not without problems, in the next subsections, some of the challenges of compliance are explore

Overseeing Compliance

Compliance requires oversight. That means human and financial resources must be deployed to oversee compliance. This is not always possible because these resources are invariably limited. You might have noticed that many political parties are non-compliant in many respects. Yet they appear to get away with non-compliance. The capacity Registrar lacks to oversee political parties must be enhanced. It would require substantial outlay in financial resources for the Registrar to optimal capacity to enforce the compliance requirements. This is unlikely given the scarcity of resources. The only option is for political parties to develop a culture of compliance and self-regulation

Ignorance of the law

The legal adage that ignorance of the law is no defense is only valid in the criminal justice system. From a governance perspective, the difficulties political parties have in knowing their compliance obligations cannot be ignored. It always seems harsh to punish political parties for mistakes made out of ignorance of the law. Fairness requires that the political parties be educated on their compliance obligations before one can think about sanctioning them for non-compliance. Again that requires a lot of resources. And resources remain scarce

Box-ticking

Compliance can easily degenerate into a box-ticking public relations exercise. Parties can easily seek to achieve the bare minimum compliance level and invent many clever ways of circumventing the law. Voluntary compliance is better than enforced compliance. Parties must develop a culture of compliance. That way they will slowly begin to exceed the legal minimums and voluntarily adopt best practice which is always better than the legal standard

The cost of compliance ('the compliance burden')

Compliance can be costly. Political parties will need to invest in establishing a compliance function. Even if it is outsourced, they will still have to pay for it. The myriad financial and governance reporting standards expected of political parties may be beneficial, but they come at a cost. Political parties are typically short of financial resources and may be unable to ensure compliance.

5.8   What are the strategies for compliance?

Whatever the challenges of compliance, it would look like parties have no choice but to comply with their legal obligations. As has been shown above, the consequences of non-compliance are grave indeed. Political parties therefore need to develop a culture of compliance. They have to develop some strategies for compliance. In the subsections below, some of those strategies are proposed.

5.8.1 Mainstreaming Compliance

This means integrating compliance into the fabric of the organization. This can be done by making compliance an organizational value, preaching compliance, rewarding compliance and sanctioning non-compliance, conducting regular compliance audits (Internal and Independent) developing an organizational compliance   checklist. Reporting regularly and conducting in-house civic education on compliance.

5.8.2   A Compliance Function

It may also be helpful to create a compliance function in the organization and to develop an organizational compliance policy. This will ensure someone takes responsibility to ensure compliance within an agreed and predetermined framework. If resources are scarce, the compliance function can be outsourced

5.8.3 Civic Education for Members

All political parties need to educate their members on their compliance obligations. Many cases of noncompliance can easily be attributed to ignorance of the law. Attending workshops or seminars like this one goes a long way in sensitizing party officials and members on their legal obligations.

5.8.4 Compliance Audits

The time has come for political parties to undertake an evaluation of their compliance levels. It takes an expert compliance auditor to do this efficiently and effectively. One of the outputs of a compliance audit is a compliance matrix that

plots all the compliance obligations and acts as a quick reference pint for the political party. A compliance audit will evaluate the compliance levels in a political party and highlight the areas of non-compliance. Compliance auditors can also help the party develop an implementation matrix to address the identified non-conformities,

6.0   Political Rights and Gender

Catherine Ndungo

Introduction

According to various global, regional, and national statistics, women constitute slightly more than half of the world's population. However, despite this, women's participation in formal political structures and processes, where decisions regarding the use of public resources generated by both men and women are made, remains insignificant (UN Women 2014).

In 2000, the United Nations recognized the central role of women in development by including the empowerment of women as one of the Millennium Development Goals to accelerate the inclusion of women in development and decision-making. Women's low political representation has often been used as an indicator of gender inequality (Waring, 2011).

The political culture in Kenya is defined by male experiences and hence does not respond to or accommodate the peculiarities of women. The vicious often violent confrontation in the political landscape effectively locked out women from politic contests.

Female representatives not only advance women's rights, but also advance the rights of children. In national legislatures, there is a notable trend of women advancing gender and family-friendly legislation (UNDP 2012). This advocacy has been seen in countries ranging from France, Sweden and the Netherlands, to South Africa, Rwanda, and Egypt. Furthermore, a number of studies from both industrialized and developed countries indicate that women in local government tend to advance social issues (Ibid). In India, for instance, greater women's representation has corresponded with a more equitable distribution of community resources, including more gender-sensitive spending on programs related to health, nutrition, and education (Ibid). Majority of women leaders in Africa are still struggling to narrow the gender equality gaps in the various countries, including Kenya.

6.1 Situational and Statistical Analysis

Recently, Rwanda superseded Sweden at 64.3 % women representation against Sweden's 47.3% women's parliamentary representation (UN Women, 2014). Rwanda is an example of the new trend to use electoral gender quotas as a fast track to gender balance in politics. Other parliaments, however, still have very few women elected. In East Africa; Kenya at 20.7% is behind all partner states - Rwanda 64.3% (currently leading world statistics), Tanzania 36%, Uganda 35%, and Burundi 30.5% (UN Women, 2014). However, the case of Rwanda and South Africa has made it clear that the combined force of critical mass and gender

machineries does not consistently translate into governance that actively works to correct social, economic and cultural gender imbalances (Heinrich Boll 2011).

The promulgation of the 2010 Constitution ushered in a new dispensation in Kenya's constitutional, social, political and economic order. Indeed, some have argued that this launched the Second Republic, the first having been launched at independence in 1963.

Despite the affirmative action measures, women participation in the 2013 general elections remained very low. There were 6 women candidates for gubernatorial positions (out of 237 candidates). For the senatorial position, 17 women candidates vied (out of 244 candidates). However there were no women elected as senators or governors. Out of the elected 290 elected National Assembly members, just 16 women were elected which translates to 5.5 per cent. For the 1,450 ward representatives positions only 88 of the elected candidates were women (IEBC 2013). The percentage is way below the constitutional requirement of not more than two thirds of the members of elective or appointive bodies shall be of the same gender as per Article 27 (8) and 81(b) of Kenya 2010 Constitution, the global standard of 30% and the regional standard of 50% women representation in decision making.

The poor performance of women in Kenya's political arena can be attributed to two major factors: the Kenya's patriarchal culture and electoral system. Kenyan politics requires an enormous outlay of social capital, yet the processes of economic, cultural and political capital accumulation still favour men more than women, irrespective of men ethnic, religious and class divides.

Below is a graphical representation of Kenya's women representation in terms of gender

2009 Census
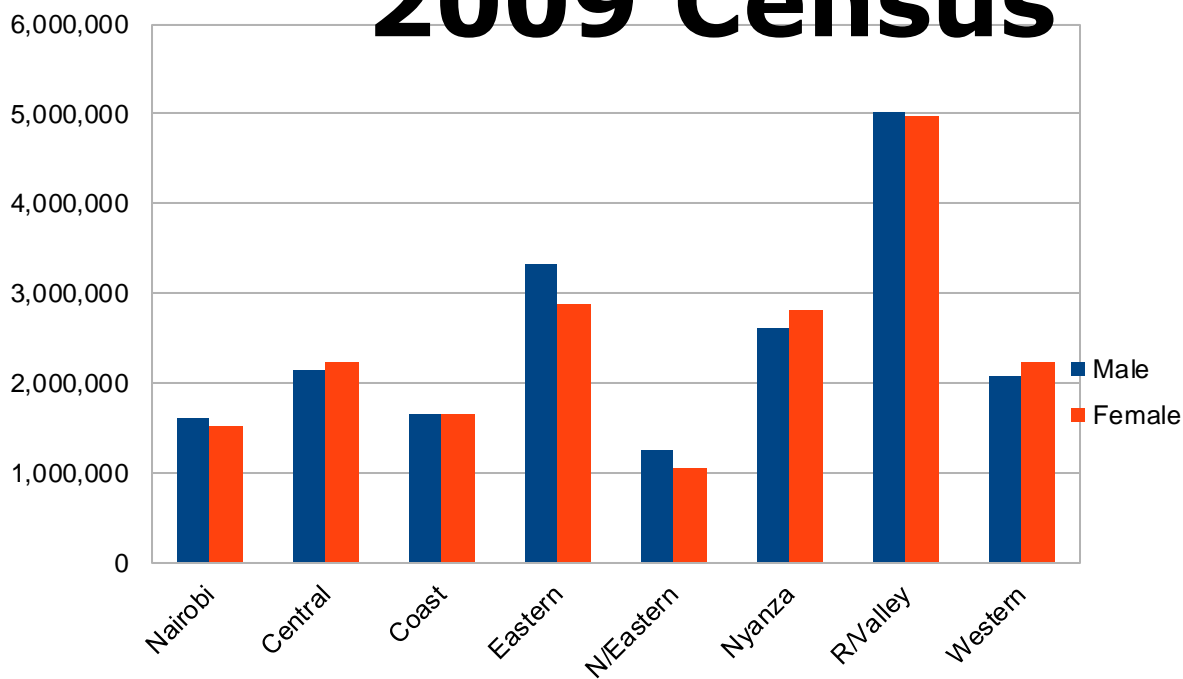
Percentage By Gender By 2012
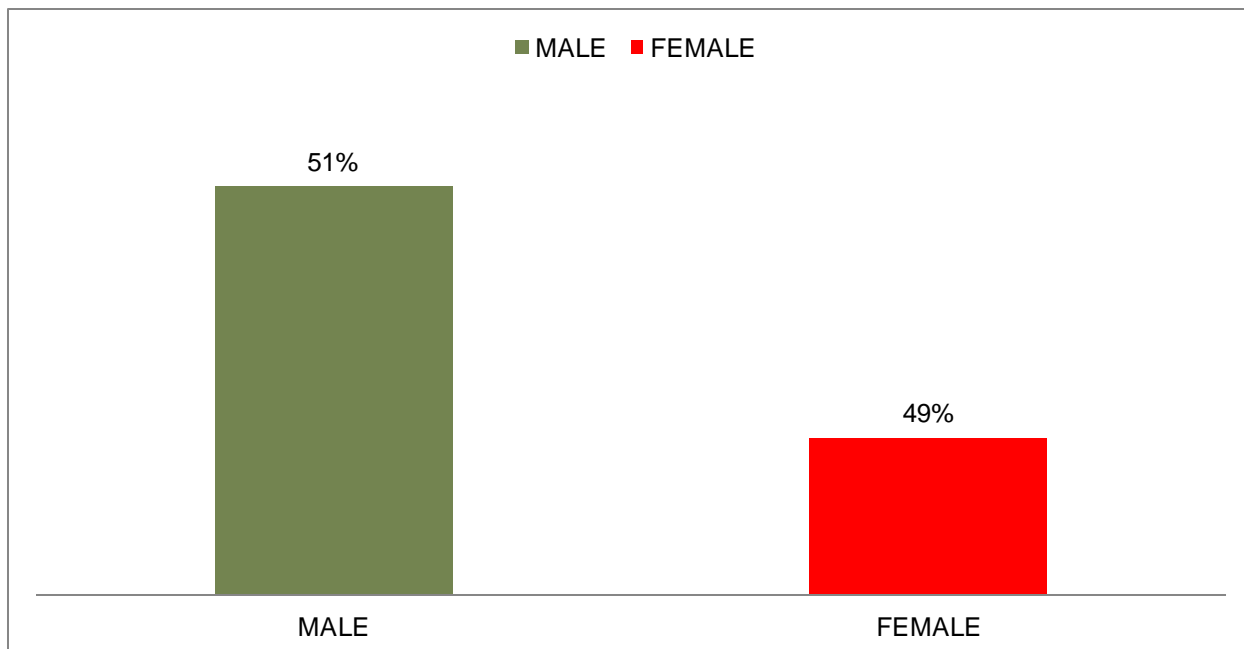
Top 10 Constituencies with the Highest Percentage of Female Voters

COUNTY	CONST CODE	CONSTITUENCY	MALE	FEMALE	TOTAL	% MALE	% FEMALE
	15	GANZE	12,851	24,075	36,926	34.80	65.20
	126	LOIMA	6,886	11,748	18,634	36.95	63.05
TURKANA	123	TURKANA NORTH	8,901	14,782	23,683	37.58	62.42
	42	MANDERA SOUTH	4,182	6,392	10,574	39.55	60.45
	128	TURKANA EAST	4,520	6,542	11,062	40.86	59.14
	125	TURKANA CENTRAL	14,400	20,086	34,486	41.76	58.24
	124	TURKANA WEST	8,923	12,329	21,252	41.99	58.01
	127	TURKANA SOUTH	10,005	13,763	23,768	42.09	57.91
SIAYA	232	UGENYA	16,738	22,991	39,729	42.13	57.87
	48	LAISAMIS	9,078	12,237	21,315	42.59	57.41

SOURCE IEBC 2014

COUNTY	CONST CODE	CONSTITUENCY	MALE	FEMALE	TOTAL	% MALE	% FEMALE
	4	NYALI	47,167	31,952	79,119	59.62	40.38
	278	KIBRA	58,312	39,501	97,813	59.62	40.38
	6	MVITA	50,125	32,799	82,924	60.45	39.55
	80	MAVOKO	48,286	31,577	79,863	60.46	39.54
NAIROBI CITY	274	WESTLANDS	72,319	46,401	118,720	60.92	39.08
MOMBASA	1	CHANGAMWE	36,222	22,750	58,972	61.42	38.58
	288	KAMUKUNJI	61,417	34,495	95,912	64.03	35.97

	282	EMBAKASI SOUTH	70,589	37,627	108,216	65.23	34.77
	289	STAREHE	87,106	46,173	133,279	65.36	34.64
DIASPORA	291	DIASPORA	1,871	766	2,637	70.95	29.05

SOURCE: IEBC 2014

6.2   Women in Elections

Since independence in 1963, women have not fared well in elective positions. It was not until the 2007 elections that we started to see some good participation of women in politics. Women have only fared better in the lower level offices, such as local authorities.

TOTAL OF ALL CANDIDATES: 6 Elective Positions			
	Vying	**Elected**	**% who vied and were Elected**
Men	11,709	1,734	15%
Women	1,079	148	14%

TOTAL	12,788	1,882	15%
% Men	92%	92%	
% Women	8%	8%	

ANALYSIS OF CANDIDATE'S ELECTORAL PERFORMANCE IN 2013 GENERAL ELECTIONS: WOMAN REPS			
County Women Rep			
	Vying	**Elected**	**% who vied and were Elected**
Women Candidates	303	47	16%

CANDIDATES 2013 GENERAL ELECTIONS: WOMEN REP		
County Code	County Name	No. of Candidates
01	MOMBASA	10
02	KWALE	6
03	KILIFI	11
04	TANA RIVER	7
05	LAMU	4
06	TAITA TAVETA	5
07	GARISSA	6
08	WAJIR	7
09	MANDERA	3
10	MARSABIT	8
11	ISIOLO	4
12	MERU	9
13	THARAKA - NITHI	8
14	EMBU	11
15	KITUI	5
16	MACHAKOS	4
17	MAKUENI	6

18	NYANDARUA	7	
19	NYERI	5	
20	KIRINYAGA	7	
21	MURANGA	3	
22	KIAMBU	13	
23	TURKANA	4	
24	WEST POKOT	6	

Summary of elected women in 2013 general election

- **National Assembly** - 16 women elected out of 290

- **Women Reps.** - 47 women out of the total 47 Counties

- **County Assembly Ward Reps.** -85 women out of 1,450

- **Governors –** no woman elected

- **Deputy Governors** - 6 women elected out of 47

- **Senate** – no woman elected

%age of Women Representation in the National Assembly
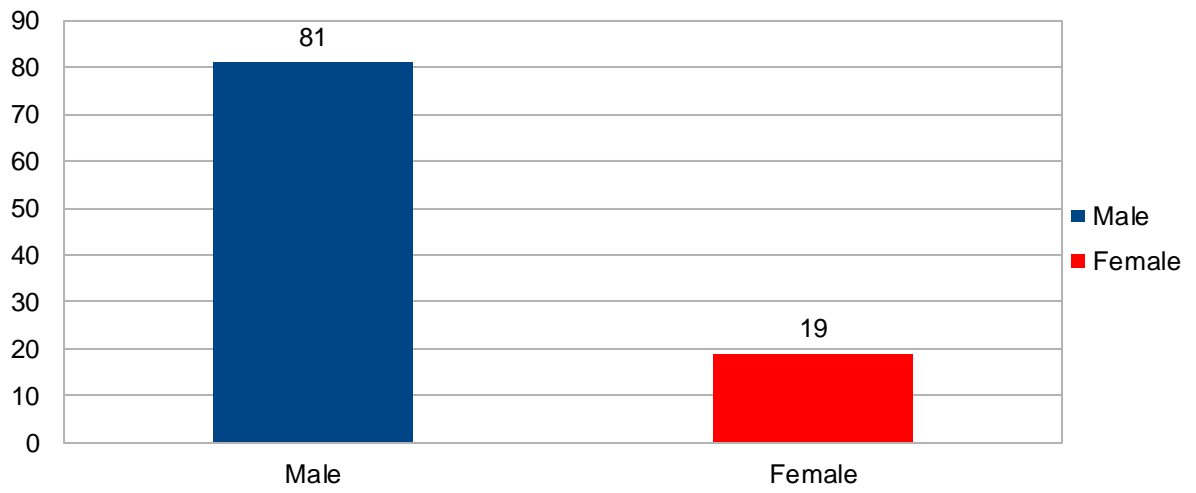
SOURE :IEBC 2014

%age of women representation in the Senate
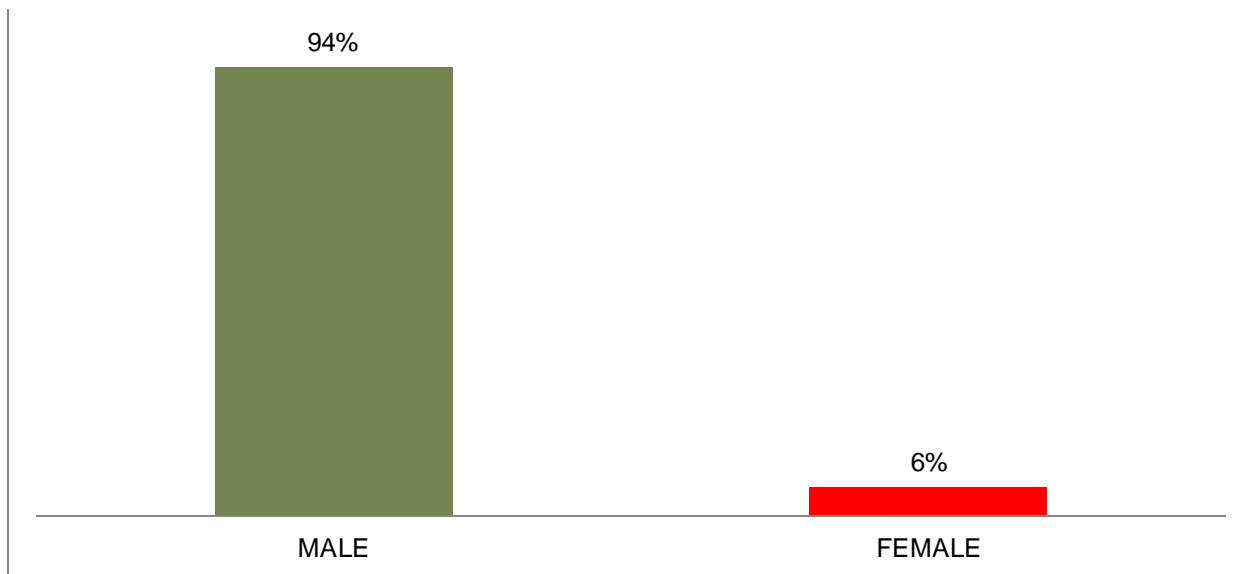
SOURCE: IEBC 2014

%age of women representation in the County Assemblies; Elected
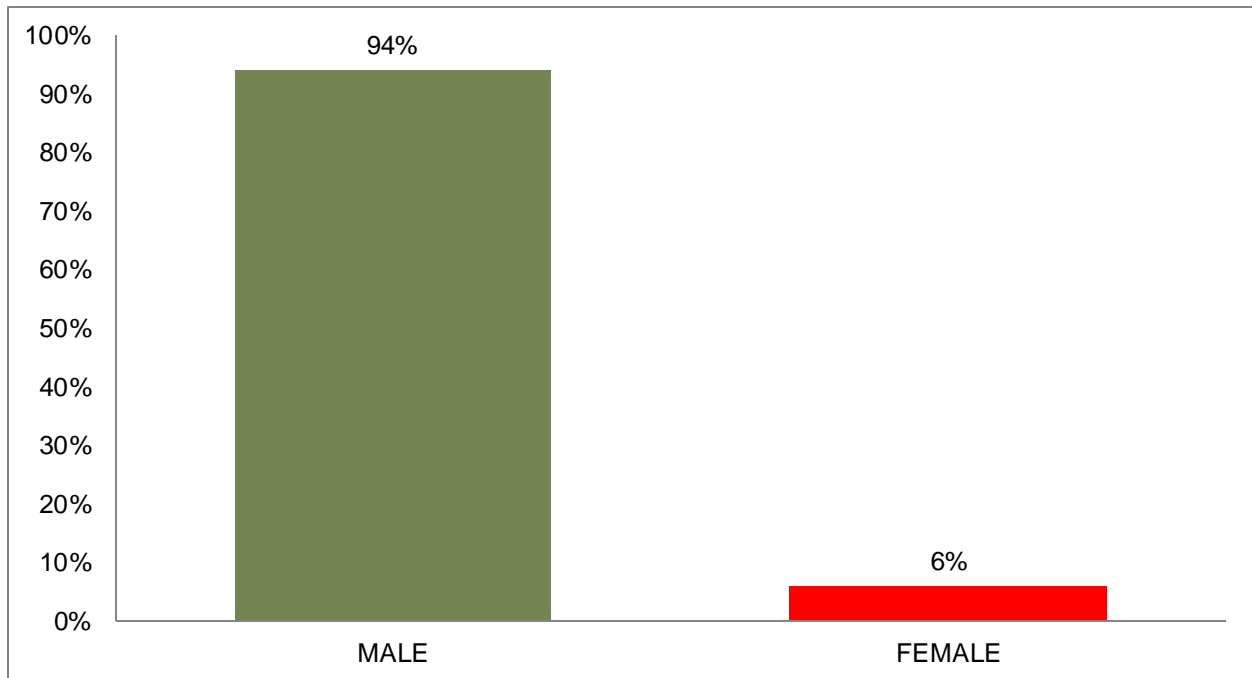
Women representation in   political parties' top leadership

Position	Women	Men	Total
Party Leader	1	23	24
Chairperson	7	50	57
Treasurer	20	35	55
Secretary General	12	45	57

SOURCE: RPP 2014

6.3   Government Position on Gender Mainstreaming

Gender is the social construction of roles, responsibilities and behaviour patterns assigned to men and women, boys and girls in a given society in time. Through process of socialization society provides gender identity to males and females. Gender differs from culture to culture and it changes in time

Sex is the biological differentiation between women and men. It is Natural and it is Permanent.

By policy, Government of Kenya is committed to promotion of gender equality and women's empowerment in compliance with:

  i. Several global, regional instruments, conventions, resolutions and declarations that she is a signatory to.
 ii. The Constitution of Kenya, 2010
iii. The Electoral and Political System Laws (Elections Act, Political Parties Act)
 iv. Equality Bill (Article 100)
  v. Judicial precedent/Advisory opinions

6.4   Political Party Constitutions

The party constitution identifies guiding principles for its functions and activities. This is one of the initial and fundamental tasks of any democratic party. Ideally, before a party constitution is written, adopted and applied, party leaders and key members come together and discuss the party ideology, values and principles, goals and objectives, internal organization, structures and decision-making protocol as well as the responsibilities of each office and party organs(NDI 2007).

A close look at party structures and leadership in Kenya shows that women are under-represented. This is despite parties declaring in their constitution that they are committed to promoting women's participation. It is evident that very few parties have policies ensuring that women are in positions of leadership; the few existent women leaders have gained their positions through extraordinary determination and luck rather than a party environment conducive to women's success.

Political parties must ensure that the party constitutions that they endorse have provisions that promote the participation of women in party politics by mainstreaming gender issues in their constitutions and party documents and implementing the same provisions.

6.5   International and Regional Frameworks on Gender Mainstreaming

One of the major barriers to increasing women's participation is failure to implement affirmative action policies that seek to promote the inclusion of women in their party hierarchies. This is despite the fact that there are international, national and party legal instruments, which women can utilize to demand more space in the party politics. These include the African Charter on Peoples Rights; Convention on Elimination of all Discrimination against Women; the Universal Declaration on Human Rights, Beijing Platform of Action, Millennium Development Goals, and Sustainable Development Goals etc.

6.5.1 Universal Declaration of Human Rights

The 1948 Universal Declaration of Human Rights (UDHR) enshrines "equal rights of men and women", including the right to participate in government. The Declaration paved the way for further international commitments in the area of women's rights, most comprehensively in the 1979 United Nations (UN)

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), UN Beijing Declaration and Platform for Action among others

The Universal Declaration of Human Rights (UDHR) has had a profound influence on the development of international human rights law with its principles elaborated in a number of binding instruments. Though not technically binding on signatories, the 1948 Declaration has acquired the status of customary international law, owing to the fact that most countries have consistently promoted adherence to its articles and accepted its provisions as law for over 50 years. The UDHR has some important provisions related to gender equality, including:

Prohibition of discrimination

Need for inclusion and participation of all (including women) in governance

It provides women in Kenya with an undisputable claim and right to realize equality in electoral and political life. Further, these principles are well articulated in Kenya's Constitution and other national laws.

6.5.2 International Covenant on Civil and Political Rights (ICCPR)

Kenya is a party to the ICCPR, which provides that every citizen shall have the right and the opportunity without any distinctions and without unreasonable restrictions to:

- Take part in the conduct of public affairs, directly or through freely chosen representatives;
- Vote and be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; and
- Have access, on general terms of equality, to public services in their country.
- The importance of the rights outlined in the first and last bullets protect women's engagement in political life despite any traditional customs and practices, which generally dictate that women should not pursue leadership roles.

6.5.3 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

It is also described as the 'international bill of rights for women', provides the basis for realizing equality between women and men. In addition, the UN conferences held in Mexico City (1975), Copenhagen (1980), Nairobi (1985) and Beijing (1995) and its Platform for Action, which aims to remove all obstacles in all spheres of public and private life based on a full and equal share in economic,

social, cultural and political decision-making, as well as conferences in the 1990s on population and development, human rights, social development and human settlements, financing for development, trade and poverty reduction strategies.

It is through democratic representation that women's interests can be represented and their voices heard. **Article 7**of CEDAW reiterates the importance of women's representation in the political life of their countries by providing that member states must ensure equal terms for men and women the right to vote in all elections and to be eligible of elections.

The role of women in democratic processes is further emphasized in the 2011 General Assembly resolution on Women's Political Participation (A/RES/66/130), which reaffirms the active participation of women, on equal terms with men, at all levels of decision-making is essential to the achievement of equality, sustainable development, peace and democracy.

6.5.4 Beijing Platform for Action

The Platform for Action is an agenda for women's empowerment. It aims at accelerating the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women and at removing all the obstacles to women's active participation in all spheres of public and private life through a full and equal share in economic, social, cultural and political decision-making. This means that the principle of shared power and responsibility should be established between women and men at home, in the workplace and in the wider national and international communities. Equality between women and men is a matter of human rights and a condition for social justice and is also a necessary and fundamental prerequisite for equality, development and peace.

The Platform for Action emphasizes that women share common concerns that can be addressed only by working together and in partnership with men towards the common goal of gender* equality around the world. It respects and values the full diversity of women's situations and conditions and recognizes that some women face particular barriers to their empowerment.

6.5.5 Millennium Development Goals (MDGS)

In September 2000, one hundred and eighty nine (189) countries, Kenya included, adopted the Millennium Declaration, whose main objective was to define a common vision of development by 2015. With the endorsement of the

Millennium Declaration, countries set themselves a limited number of achievable goals to be reached by the year 2015.

MDG 3 on gender equality and women's empowerment stress the importance of tackling gender inequality. From the analysis and the progress reports, Kenya is far from achieving this particular goal due to the low numbers of women in elective and appointive positions despite the constitutional provision on the same.

6.5.6 Sustainable Development Goals

At the United Nations Sustainable Development Summit on 25 September 2015, world leaders adopted the 2030 Agenda for Sustainable Development, which includes a set of 17 Sustainable Development Goals (SDGs) to end poverty, fight inequality and injustice, and tackle climate change by 2030.

The Sustainable Development Goals, otherwise known as the Global Goals, build on the Millennium Development Goals (MDGs), eight anti-poverty targets that the world committed to achieving by 2015. The new SDGs, and the broader sustainability agenda, go much further than the MDGs, addressing the root causes of poverty and the universal need for development that works for all people.
Women have a critical role to play in all of the SDGs, with many targets specifically recognizing women's equality and empowerment as both the objective, and as part of the solution. Goal 5 is known as the stand-alone gender goal because it is dedicated to achieving these ends. Advancing women's political participation and leadership and economic empowerment are two of the entity's central goals.

6.5.7 AU Solemn Declaration on Gender Equality in Africa

Adopted by AU heads of state and government at their July 2004 Summit, the SDGEA is divided into six thematic areas of action: Health, Peace and Security, Governance, Human Rights, Education and Women's Empowerment. The heads of state and government reaffirmed their commitment to the principle of gender equality as enshrined in Article 4 of the Constitutive Act of the AU, as well as other existing commitments set out at regional, continental and international levels, and committed themselves to report annually on their progress in gender mainstreaming.

The AU's approach to the advancement of women's rights and gender equality has been informed by UN frameworks and instruments. The commitment to the achievement of gender equality can be traced to the 1948 UN Charter and the Universal Declaration on Human Rights which states that rights and freedoms will not be limited by a person's gender and establishes that 'all human beings are born free and equal in dignity and rights'.

6.5.8 African Union Gender Policy

This was approved in 2009 and adopted in 2010. The Gender Policy provides the basis for the elimination of barriers to gender equality and fosters the reorientation of existing institutions by making use of gender-disaggregated data and performance indicators. It also establishes measures to hold managers accountable for policy implementation. The Assembly of Heads of State and Government is the supreme organ of the AU and one of its functions is to determine the sanctions to be imposed on any member state for non-compliance with the decision of the Union.

The policy commitments target eight areas. One of the commitments is the creation of an enabling and stable environment to ensure that all political declarations and decisions are geared towards the elimination of persisting barriers that militate against gender equality and women's empowerment.

Gender parity and representation is to be enforced in all AU structures (already achieved in the Commission with the appointment of five women and five men), and operational policies and practices are to be in alignment with UN and AU gender policies.

6.5.9 The African Charter on Human and Peoples' Rights (Maputo Protocol)

The ACHPR was adopted in July 2003 in Mozambique and came into effect in 2005 after being ratified by the requisite 15 AU member states. It was criticized, however, for the omission of women's rights from its provisions, despite the fact that women brought issues on gender inequalities to the African agenda through their participation in liberation struggles, and also for the emphasis given to cultural values, which appeared to create a dualism of norms regarding women's rights. The adoption of the Women's Rights Protocol sought to address these omissions.

The Maputo Protocol can be a powerful tool for change. However, it must be recognized as such and embraced by governments and civil society. While legislative and other measures to protect women's rights should be undertaken once States ratify the Protocol. These actions towards Gender equality do not happen automatically. Implementing the Maputo Protocol requires commitment by governments to Gender equality as well as strategic efforts by civil society to hold States accountable to their obligations under the Maputo Protocol.

Article 2 of the Maputo Protocol explicitly deals with equality and elimination of discrimination. It sets out legislative and policy measures that signatory countries should be taking to combat discrimination against women and contains a commitment from signatories to modify their citizens' conduct through education and information to eliminate discrimination. It emphasis the right to equal opportunities in political spheres for both men and women

6.6   National Policies and Mechanisms on Gender and Women's Empowerment

6.6.1 *Constitution of Kenya 2010*

The Constitution of Kenya, 2010 provides for democracy, public participation, accountability, equity, equality and adherence to the rule of law. The Constitution's provisions on gender equity are amongst the most advanced by international standards, and represent a huge normative leap forward for Kenya. The Bill of right recognizes that in order to give full effect to the right to full equality before the law, it may be necessary to take measures to redress past patterns of discrimination, such as those that relate to gender relations.

- Article 27 (8) provide the state shall ensure that not more than two thirds of members of elective and appointive public bodies shall be of the same gender

- Article 81 of the constitution provide that the electoral system shall comply with the principle that not more than two thirds of members of elective public offices shall be of the same gender

- Article 175 (c) principles of county government include the principle that no more than two-thirds of the members of representative bodies in each county government shall be of the same gender.

- Article 177 provides for special seats to ensure that the principle that not more than two thirds of the members of the County Assembly are of the same gender

6.6.2 The Political Parties Act 2011

The political parties Act provides for the registration, regulation, and overall management of political parties. Significantly, the Constitution envisages that political parties are required to respect the right of all persons, including minorities and marginalized groups, to participate in the political process and promote human rights and fundamental freedoms and gender equality and equity.

The Act contains a number of provisions aimed at protecting women and promoting their participation with the expectation of its implementation by political parties. These provisions provide clear opportunities to enhance the participation of women in politics and the electoral process and bridge the gender gap. The provisions include:

- The members recruited by political parties must reflect regional and ethnic diversity, gender balance, and the representation of minorities and marginalized groups.
- The composition of parties' governing boards must reflect regional and ethnic diversity, gender balance, and representation of minorities and marginalized groups. Both genders must take part in the management of political parties, such that not more than two-thirds of the members of a party's governing body should be of the same gender.
- As a requirement for full registration and for receiving the political parties' fund, a party's governing body must satisfy the two-thirds principle of representation in its membership and governing body.
- Requires parties to set aside 30 percent of the political parties' fund for promoting the representation in parliament and in the County Assemblies of women, persons with disabilities, youth, minorities, and marginalized communities.
- The Code of Conduct under the act directs parties to respect and promote gender equity and equality, human rights, and fundamental freedoms, as well as practice tolerance and inclusive political activities.
- The office of the registrar of political parties can deregister parties that fail to meet gender requirements, do not promote free and fair nominations, and do not respect national values, which include equality and inclusiveness.

- The establishment of the political parties' Disputes tribunal, which provides an impartial platform to address grievances that women may encounter as they pursue engagement in political parties.
- The act provides for the registration and management of parties, defining certain criteria to remain registered. The structured management of political parties increases the need for adoption and application of rules and regulations, which, in turn, offers opportunities to include measures to address the inclusion of women in political life.
- The Code of Conduct guides relations and, among other things, prohibits abuse of women members.

6.6.3 Policy Frameworks

These are procedures, rules and allocation mechanisms that provide the basis for programmes and services. Policies set priorities and provide the framework within which the resources are allocated for their implementation. These are:

- **National Gender and Development Policy, 2000**- framework for the state to reduce gender imbalance and inequality.
- **Sessional Paper No.2 2006 on Gender Equality and Development** provides a framework for the operationalization of gender mainstreaming in policy, planning and programming in Kenya.
- **Gender Policy (July 2011)** to mainstream gender concerns in the national development process in order to improve the social, legal/civic, economic and cultural conditions of women, men, girls and boys in Kenya
- **Kenya's National Vision 2030:** This is the new long term development blueprint for the country. The vision is anchored on three key pillars i.e. economic, social and political governance. The political governance pillar aims to realize an issue based people-centred, result oriented and accountable democratic system.
  The strategy proposes to collect, analyse and utilize gender disaggregated data to update the gender development index and 30% Presidential directive on public sector that all employment and promotion must be women.

6.7   Role of Political Parties and Gender

The Kenya Constitution 2010 provides that the members of a political party should reflect regional and ethnic diversity, gender balance and representation of minorities and marginalised groups;

It also provides that the composition of its governing body should reflects regional and ethnic diversity, gender balance and representation of minorities and marginalised groups; including not more than two-thirds of the members of its governing body are of the same gender; This constitutional provision is echoed in the Political Parties Act 2011. However this is only in written documents but not in practice. Even where women are represented, their role is normally minimal and their input is hardly visible in party operations Check on this.

6.8   The Rights and Obligations of Members and Gender

Members of the party must be empowered to utilize the party constitution to hold the party leadership accountable for pledges made and placed emphasis on transparency in all party processes and activities.

The party members have a duty to utilize party rules and civic education to uproot deeply entrenched obstacles to the participation of women in leadership and to work towards more balanced representation of women and men in decision making at all levels.

Party membership has been called upon to agitate for inclusive governance and the participation of all marginalized groups in decision making, to dislodge obstacles to full and active participation of all categories of persons in decision making, to hold political parties to account on their manifestos, constitutions and the Political Parties Act, and to join political parties and influence change from within.

6.9   Inclusivity & Mainstreaming Gender in Political Parties Ideology, Manifestos and Policies

Political parties are the primary and most direct vehicles through which women can access elected office and political leadership, therefore, the structures, policies, practices and values of political parties have a profound impact on the level of women's participation in political life of their country.

Parties that take women's political participation seriously benefit from stronger electoral positions, access to new groups of voters, and stronger relationships with their constituents. Additionally, parties that can produce new faces and ideas maintain a vibrant and energized image in an age of declining voter turnout.

Gender mainstreaming in all sectors of the political party, increased transparency and accountability in the electoral and party processes, creation of a political environment that promoted women's political participation, rigorous civic education drives to ensure information reached grassroots women and men.

Aspects such as party institutionalization and ideology are among the most important variables when considering features that influence political parties' responsiveness to gender issues.

Highly institutionalized political parties are said to be more committed to the gender policy agenda as they have more transparent structures and are governed by clearly defined set of rules, making it easier for their members to demand accountability.

The internal organization of political parties affects how different needs, interests, and social demands get represented in society. The official documents and statements of a political party are important for providing a gender equality framework – they provide a vision of the party but also entrench the rules for achieving that vision. Internal Party Organization strategies include:

- Addressing gender equality in the party's legal framework. This can include adopting a statement on gender equality in the party's founding documents;
- Adopting measures, including internal quotas, that ensure women's participation on governing boards;
- Setting targets for participation in party conventions. This can include holding separate forums for women delegates at the conventions;
- Establishing women's wings and sections within parties, which should be formally integrated into the party structure, with defined roles and responsibilities and appropriate funding if needed;
- Ensuring that gender is mainstreamed into all of the party's policies.

6.10 Benefits from Mainstreaming Women's Roles in Political Parties

- *Democracy strengthening:* women comprise the majority of voters in Kenya. The essence of democracy and indeed democratic rule demands that the majority views be respected while the minority protected. For this reason countries everywhere cannot afford to ignore the wishes of the majority (women) in its pursuit of socio, political and economic empowerment.

- *Better observation of human rights:* the internationally acceptable position is that human rights are interrelated, indivisible and cross-cutting. Ample evidence has shown that women's issues are not regarded as human rights issues. Mainstreaming women within political parties would therefore accord them an opportunity to articulate in their own language pertinent human rights issues and concerns that they face.

- *Creating equality:* equality envisages equal treatment in all spheres of life. In the context of women there are so many obstacles which in essence deprive them of equal treatment. These are historic imbalances. Parties have the opportunity to identify mechanisms for their redress. Increasing women's influence within political parties may assist to keep gender issues among the priorities of the party's activities and in the societal consciousness.

- *Providing leadership:* Women in leadership positions are very important as role models. Women in leadership positions have the opportunity to show quality performance, participate effectively and ground themselves in the party.

- *Supporting political parties:* Increasing the participation of women within the party increases the visibility of parties themselves, as well as the work of women politicians.

6.11 Incorporating Youth in Party Affairs

Kenya Vision 2030 states that Kenya population is predominantly young with age group of 15-35 constituting 38 %. The youth constitute more than 60 % registered voters. The constitution has provided affirmative action for the youth to enhance their participation. Article 55 provides that the state shall take

affirmative action to ensure the youth are represented and participate in political spheres.

The constitution in Article 100 provides for the youth to be included as part of the 12 nominated members of the national Assembly to be elected through proportional representation and 2 youth members of the senate to be elected through proportional representation. Further the article provides for the youth to be included as part of the four representing marginalized groups in every County Assembly

Youth can also contribute to the policy making process. This ensures that the voices of the youth are heard and incorporated in the party policies and other governance structures. The party has the opportunity to provide a platform for young people to engage in critical thinking about the myriad problems and concerns affecting the party and the society. Through these activities, the party will be nurturing upcoming leaders and enhancing their party's knowledge and skill base. Capacity and leadership development is always important to galvanize reforms in a political party and in a country in general.

Engaging youth in the political process should not be done solely to confirm that a democracy is working because more youth are voting. Parties should engage youth in order to transform the way decisions are made in the national government. When youth are included in the decision making process both the party and the government become a more inclusive institution. Furthermore, youth are an untapped source of new ideas that can result in greater political success.

By mainstreaming youth participation in its management and leadership structures, parties have the opportunity to identify, tap, nurture and train emerging youth leaders who can provide future leadership. Through youth congresses, youth clubs and/or other forums and structures, youth become an integrated part of the party structure at local and national levels. Developing youth programmes in parties includes short-term, middle-term and long-term strategies and activities. Parties can develop and internalize concrete qualitative and quantitative indicators of achievement as well as risk analysis for the youth development programmes. Parties can benefit from intensive mobilization and recruitment of youth to become members of their parties. The roles, rights and responsibilities of the young members of the party need to be clearly stipulated in the party constitution, manifesto and other policy document.

6.12   People with Disabilities in Party Politics

Article 54 (2) of Kenya Constitution 2010 provides that the state shall ensure the progressive implementation of the principle that at least 5% of the members of the public in elective and appointive bodies are persons with disabilities.

The Kenya's Vision 2030 envisages a nation where women and men enjoy high quality life and equity. It aims at empowering people with special needs to reduce dependency in all aspects of the society.

According to 2009 census, the population of people with disability is about 1.3 million accounting for 3.5% 0f the total population (Kenya National Bureau of Statistics 2010).

This is a conservative figure given that only the traditional areas of disability were considered which includes physical, mental, hearing visual and speech and considering that only conventional households were asked this question.

6.13   Gender and Political rights

6.13.1   Equality and Freedom from Discrimination (Article 27)

Article 27 of the Constitution requires the government to develop and pass policies and laws, including affirmative action programs and policies to address the past discrimination that women have faced. The Constitution provides that women   and   men have the   right to   equal treatment, including the   right to   equal opportunities   in   political,   economic, cultural   and   social spheres.

The government is required to develop policies and laws to ensure that, *not more than two-thirds of elective or appointive bodies shall be of the same sex.*

These two provisions constitute a critical milestone in the efforts towards increasing women's participation in politics especially through political parties which are the gate way to parliament and county assemblies

- The Constitution does recognize the need for political parties having the following characteristics:

- National outreach;

- democratically elected leadership; committed to promoting national unity;

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- respecting the right of all persons, including minorities and marginalized communities to participate in the political processes;

- respecting and promoting human rights, fundamental freedoms and gender equality; obeying the Constitution, rule of law and the code of conduct for political parties.

6.13.2 Political Rights and Gender (Article 38)

The 2010 Constitution also provides for the right of every citizen to make political choices including the right to form, as well as participate in the formation of political parties and in their activities. This provision further secures the right to free, fair and regular elections.

 This provision includes women, youth and people with disabilities and parties should adhere to it

6.13.3 General Principles for Electoral System and Gender (Article 81)

Article 81 of the constitution provides that no more than 2/3rds members of elective bodies shall be of the same gender. Measures to comply with this include-

- 47 national Assembly seats to be contested by women at the county level(Article 97)

- 16 Women to be nominated by political parties to the senate proportionately(Article 98)

  These provisions are the ones which have enabled the women representation in parliament to be at 20.7 % otherwise it would 6.6%

6.13.4 Basic Requirements for Political Parties and Gender (Article 91&92)

To enhance the participation of women in politics and the electoral processes, and to bridge the gender gap, the Political Parties Act 2011 requires that:

- The members recruited by political parties reflect regional and ethnic diversity, gender balance and the representation of minorities and marginalized groups;

- The composition of parties governing bodies reflect regional and ethnic diversity, gender balance and representation of minorities and marginalized groups;

- Both genders take part in the management of political parties –so that not more than two-thirds of the members of a party's governing body should be of the same gender;

- Parties set aside 35% of their funds for promoting the representation in Parliament and in the county assembly of *women,* persons with disabilities, youth, ethnic and other minorities and marginalized communities; and

- Parties respect and promote gender equity and equality, human rights and fundamental freedoms as well as practice tolerance and inclusive political activities.

Code of conduct

- The code of conduct is the tool to regulate the behaviour of members of parties, office holders, aspiring candidates, promote good governance and eradicate political malpractices

- The code of conduct requires every political party to respect the rights of all persons to participate in the political process including youth, minorities and marginalized groups.

- And also to "to respect and promote gender equity and equality, human rights and fundamental freedoms."

6.13.5 Membership of the National Assembly, Senate and County Assembly, and Gender principal Article 97, 98 and 177)

Article 97 is on membership to the National Assembly, sub article (1c) provides that the National Assembly consists of, among others, twelve members nominated by parliamentary political parties on a proportional basis in accordance with Article 90 to represent special interests including the youth, persons with disabilities and workers.

Article 98 (1) (d) provides that the Senate consists of, among others, two members being one man and one woman representing persons with disabilities. Article

100 (b) requires that Parliament enacts legislation to promote representation of persons with disabilities, among other groups. To implement these provisions, the following measures should be undertaken:

- The political parties Act should provide a clear framework for making operational party lists and clarifying the distribution of the twelve seats among persons with disabilities, workers and the youth.
- Awareness should be raised on the need for persons with disabilities to participate meaningfully in political parties, or to campaign as independent candidates.

Article 177 provides for the Party list to top up the numbers in the county assembly to ensure that the overall number of members reflect the gender principle of not more than 2/3rds.

Political parties have the power to resolve the crisis since they are the major vehicles through which Kenyans assume political leadership positions.

Currently Parliament has four hundred and sixteen members and only eighty six are women. To change this, the political parties can steer the transformation of the gender path by taking cognizance of the barriers women have encountered traditionally in trying to acquire political leadership positions. FIDA (2013) identifies these barriers as:

- A society that has not yet acknowledged women's leadership rights or abilities.
- Lack of critical political connections that would enable women to secure the initial nomination from their respective political parties.
- Irregularities in political party primaries that lock women out.
- Inadequate financial resources.
- Lack of political party support for female candidates, especially in terms of the abovementioned critical areas of financial resources and political network
- Failure to implement electoral rules, especially during party nominations, which encourages the lawlessness witnessed during the nomination process that works to the advantage of men
- Male domination of influential decision-making structures in most political parties, giving them an edge over their female counterparts
- The unprecedented upsurge in violence against women aspirants that marks both the party nomination process, as well as campaigns.
- Lack of solidarity among women across the political divide.

The Constitution and law only gives basis for increasing representation of women in political processes. Practical action required

- Membership Recruitment

- Review of party structures

- Input into Development of party policy documents

- Revise party constitution

- Revise party nominations rules and procedures

- Identification of women, youth and PWDs to vie as candidates on party tickets in winnable areas and positions.

- Awareness on constitution, election laws and law on political parties especially for women, youth and other marginalized groups.

- Parties should encourage more women ,youth and marginalized groups to effectively engage in party affairs

- Registrar of Political Parties should ensure that parties adhere to Kenya Constitution 2010 party provisions ,their constitutional and other legal provisions designed to increase women presentation in party and national structures

6.14 Road Map for Gender Mainstreaming

1. **Education**
   - Education is the first line of empowerment for women. Educated women are likely to have healthy families and are freer from GBV.
   - Education equips the women with the knowledge and information to participate effectively in politics and decision making.
   - With education women can access employment, resources and other social amenities
   - Through economic empowerment women can enjoy steady income
   - Resources and social amenities- water, maternal health, access to information,
   - Education address stereotypes that hinder women political participation

2. **Counter stereotypes**

   A man is described as <u>firm</u> when dealing with a difficult situation, but under the same condition, a woman is referred to as <u>stubborn</u>.

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"A man who gets angry at work may well be <u>admired</u> for it but if a woman shows anger in the workplace it is seen as <u>'out of control'</u> and <u>'incompetent.'</u>

3. **Achieve Equity and Equality**
   - Land Titles: Women own less than 6% of land titles in Kenya but contribute to over 70% of agricultural production.
   - Enterprise ownership: Medium & Large enterprises are male dominate, women dominates small enterprise e.g. hair dressing tailoring, small scale farming etc
   - Access to justice against social vices e.g. rape FGM,GBV, early forced marriages, matrimonial property, etc

4. **Legislative and Representation Agenda**

   Enactment of necessary laws-Equality Law as envisaged under Article 100 of the Constitution. Enactment of legislation that ensures political parties attain representation 50-50 affirmative target.

   Party positioning-Lobbying at party level thus encouraging as many candidates as possible during elections

   Consciously lobby for Political goodwill for women participation in politics and decision making

5. **Gender Mainstreaming**
   - Continuous include the gender disintegrated data
   - Strengthen the gender desk officers and gender/committees.
   - Identify gender issues/concerns and strategies for addressing them.
   - Collect information and data from your county.
   - Sensitize political party leaders on Gender mainstreaming.
   - Engender political party programs and activities.
   - Ensure that the budgets and programmes are gender responsive

6.15 Conclusion

Countries such as Rwanda, South Africa, Tanzania and Uganda had made some progress in enhancing women's representation by use of constitutional gender quotas. Kenya could therefore learn from the experiences of these countries instead of trying to reinvent the wheel.

Based on the above discussion, it is evident that political parties hold the key to the attainment of the not more than 2/3 gender provision and other affirmative

action provisions in the constitution .Parties can design a tool geared towards self-auditing and regulation to ensure they achieve not only the not more than two 3rds gender principle but the 50/50 gender parity as envisioned in African Agenda 2063

7.0   Coalitions and Mergers and in Political Parties

Bjarte Tora and Lucy Ndung'u

Background

After the reintroduction of a multi-party system in 1991, for the next 10 years Kenya did not experience any party merger or coalition arrangements.

It all changed in 2002 where KANU and LDP merged on the one hand and political parties came together and formed the National Rainbow Coalition on the other hand. Both the merger and the coalition faced challenges.

It was in the Political Parties Act 2007 Kenya for the first time got a legal framework for coalitions and mergers. The provisions in the Act has been revised and amended - latest in the Political Parties (Amendment) (no 2) Act 2016.

In February 2008, Kenya got a Government of National Unity including the two main competitors in the 2007 election. The coalition was in office till the election in March 2013. In this election Kenya experienced several pre-election coalitions bringing political parties together for the sake of winning the election. This was the first time coalition arrangements were guided by the provisions in the Act.

After the election, Kenya experienced for the first time a coalition in government and a coalition in opposition.

In September 2016, 12 political parties merged into one political party. This is the highest number of parties ever experienced in the history of Kenya coming together in a merger.

The expected outcome of this section of the source book is that the participants will be able to

- Distinguish between mergers and coalitions and related concepts
- Explain the different types of mergers and coalitions
- Describe possible pros and cons in relation to mergers and coalitions
- Identify and explain the areas of compliance
- Highlight challenges with particular focus on gender

7.2　Parties working together

Political parties can work together in different ways to find workable solutions to the challenges they and their societies face. These different types of relationships can include cooperation, collaboration, coalition-building or merger, each representing a different degree of partnership. Parties may choose among these different types based on their operating context and the outcomes they desire to achieve.

	Timespan	Issue	Joint formal structure
Cooperation	Short	One or few	None – very informal
Collaboration	Medium	Several	Some
Coalition	Long	Many or all	Comprehensive
Merger	Very long	All	One

Cooperation is a process whereby two or more individuals or groups work or act together – as opposed to competing against each other – in order to achieve a common/mutual benefit or individual gain. In a political party context, this typically involves efforts to influence, direct or implement government policy. During co-operation, parties may work together on one or a few issues without sharing a joint formal structure. In a pre-election context, while working together to win majority in the election, party typically nominates its own candidates and works to see them elected. In a reform context, parties cooperate on the one issue to secure the strongest support possible for the one reform to last for decades. In an issue-of-national-importance context, again parties can cooperate to find the best possible solution on that issue for the common good. Cooperation rarely involves any Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA).

Collaboration involves a more structured approach to working together. The groups involved often develop joint approaches to problem solving and communication. They may also develop documents outlining the goals they hope to achieve together and share resources as well any recognition and rewards accruing from their partnership. Collaboration may have a MOU or any relevant collaboration document.

Coalitions are formed when two or more political parties organize around a common political agenda for the purpose of contesting an election, forming government or presenting a united front against a ruling party. While some studies make a distinction between alliances formed in order to contest elections and coalitions created in order to form government, this source book applies the word coalitions to the following types of partnerships. In Kenya a coalitions must have a Coalition Agreement (MOA).

There are two main types of coalitions.

- Pre-Election Coalitions: The main purpose of a pre-election coalition – sometimes referred to as an electoral alliance – is to combine resources in order to improve electoral outcomes. In proportional representation systems, they may be created in order to meet the thresholds required for representation in parliament.

The ultimate goal is to get the numbers required to win an election, achieve majority in the legislative and to form the next government.

Despite their initial focus on electoral success, pre-election coalitions should also plan for post-election scenarios, that is, how they will govern if successful. The failure to develop such plans has often fuelled internal rifts, hampering the performance -- and sometimes even leading to the collapse -- of pre-election coalitions that have found themselves in government. The mistake seen many times is that political parties form pre-election coalition to "get somebody out" and not focusing on "what to do when getting inn". Several analysts claim this was the case when NARC came together to win the election in Kenya in 2002. Numerous political parties joined together in the pre-election coalition to replace KANU which had been in power for almost 40 years. Only weeks after getting in to power, the coalition started to crack and later the coalition split.

- Post-Election Coalitions: Post-elections are usually established either in order to form government or to create a viable opposition. In other words, they are created to increase the partners' influence over policy processes or to implement the policies that the partners have agreed upon. The various types of post-election coalitions include the following.
    - Executive Coalitions: In situations where no political party wins a clear majority in the legislature, various political parties may come together in order to reach agreement on a basis for government. Typically, in majority executive coalitions, the largest party in the

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legislature reaches agreement with likeminded parties to form a cabinet and a legislative majority. Based on the policy agreements for the coalition, the cabinet includes representatives from the different member parties and its legislative proposals are typically supported by MPs from the various member papers. After the 2013 election in Kenya the pre-election coalition Jubilee Alliance transformed itself in to an executive post-election coalition through which to perform the roles of a government.

- o <u>Legislative Coalitions</u>: Typically, these involve parties forming a coalition to pursue specific legislative goals without a division of cabinet/executive responsibilities. These are most common among, but not exclusive to, opposition parties. After the 2013 election in Kenya the pre-election coalition CORD agreed to perform as a legislative post-election coalition through which to perform roles of opposition.

- o <u>Grand Coalition:</u> This is when the two largest parties of opposing political ideologies or policies - usually competing with one another for the majority position in the legislative and the support (power) to form government alone – unite in a coalition government. Because these two parties see themselves as competitors, opponents and sometimes as rivals (enemies), they often find it very challenging to agree on the common direction for the Grand Coalition. Since parties that typically oppose each other agree to work together in a Grand Coalition, this can lead to a weak or almost non-existent opposition.

- o <u>Government of National Unity:</u> This is a broad coalition government including all political parties or all major political parties in the legislative usually formed when a country faces exceptional challenges, national crises or need for healing and reconciliation. This is the government we saw formed after the 2007 election in Kenya where all major political parties came together. When there is a Government of National Unity, the opposition is very week or non-existent.

Merger means where two or more political parties consolidate their operations and combine the policies (policy documents), structures, institutional documents, all officers and all functions of the merging political parties – now becoming one party.

7.3　Coalitions

Before the Political Parties Act, 2007 came into force, there was no law that governed formation of coalitions in Kenya. This is not to say that there were no coalitions before. There were few coalitions but these were often wracked with wrangles and never achieved what they had aimed to. This was partly because internal rules were not clearly defined or adhered to.

According to the Act, political parties may sign coalition agreements before an election or after an election.

The Act outlines a legal framework for formation and management of coalitions. It also requires political parties in a coalition to draft clear internal rules and procedures so that party members and ordinary Kenyans can understand what to expect from the coalition between parties. This must include;

- who and how a coalition initiation can be set in motion
- internal consultations
- decision-making for exploring possible coalition options
- initiation of negotiations
- anchoring negotiation results in the party
- decision making for agreeing to enter in to a coalition

7.3.1　Opportunities and Challenges Of Forming Coalitions

Why parties may enter in to coalitions	Challenges parties may experience entering in to coalitions
• By combining forces, parties can gain influence and accomplish goals they could not on their own • Shared resources assist the coalition in overcoming deficiencies in staff, time and money • Member parties can focus on their various strengths and share in their partner's accomplishments	• To find common ground with other members, a party may have to compromise on priorities and principle • In a coalition, parties loose some control over messaging and decision-making • Parties may lose their individual identity during the coalition period, which can lead to disagreements between coalition

• Partners in a coalition can learn new skills from one another, broadening their knowledge • Homogenous partners can potentially broaden their appeal joining a diverse coalition • The new communication and dispute resolution skills learned in a coalition can be utilized by members within their own party	members and within member parties • Parties may be associated with the negative aspects of the other members • The needs of the coalition may be prioritized over those of the party • Public perception of coalitions is sometimes negative, assuming parties are joining simply to win without considering constituent needs • Coalition negotiations are often conducted by party leadership without adequate internal party consultations

7.3.2 Requirements of Coalitions

The requirements for coalition agreement are set out in the Third Schedule of the Act and require that the agreement be:
- sanctioned by the governing body of the political parties entering into the coalition and shall;
- be in writing and duly executed by authorized national party officials; and
- Commissioned by a Commissioner of Oaths.

7.3.3 Timelines

PPs sign a pre-elections coalition agreement

3 months before elections (Date XX), and deposit with RPP within 21 days after signing.

NO REGISTRATION POSSIBLE (THREE MONTHS)

Date XX
Elections

PPs sign a post-election coalition agreement

21 days after signing of agreement

PPs deposit a post-election coalition agreement to the Registrar
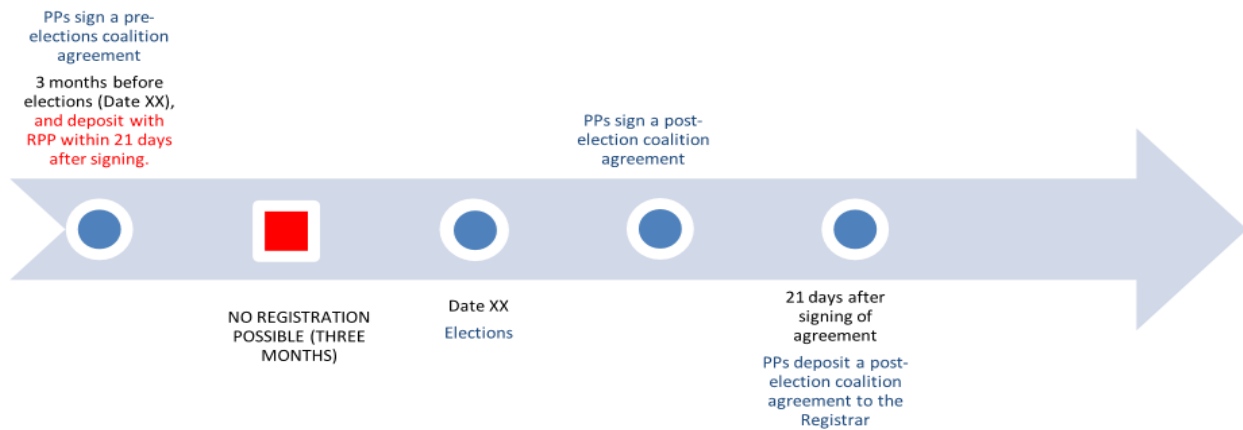
7.3.4 Consequences of a Coalitions

Each political party in the coalition is still recognised as a legal entity and has an independent legal existence from that of its coalition partner(s).

Parties are still entitled to rights and have to fulfil responsibilities and liabilities under the Act and other laws.

A coalition:

- shall not register a coalition name, but may use such name in popularizing the coalition;
- shall not register a coalition slogan, logo or colours but may use such particulars in popularizing the coalition
- may use the logo, symbol and colours of its constituent political parties;
- will not receive funds from the political parties fund but each party will;
- may only admit as its members registered
  Political parties;
- shall not recruit individual members except through its constituent political parties; and
- No candidate shall be nominated on a coalition ticket.

7.3.5 Changing of a Coalition agreement

A coalition agreement may be amended by following the provisions spelt out in the coalition agreement.

7.3.6 Ending of Coalitions

A coalition may end by following the provisions spelt out in the coalition agreement.

7.4 Merger

The Political Parties Act does not define a merger but states that

A political party may merge with another political party by—

   (a) forming a new political party; or

   (b) merging into an already registered political party";

In other words, mergers may occur by:

- **Amalgamation:** In this case, political parties merge by forming a new political party.
- **Absorption:** In this case, one or more political parties merge into an already registered political party.

7.4.1 Opportunities and Challenges of Mergers

Why parties may merge	Challenges parties may experience in mergers
- Similarity in policy or ideology. If parties have similar party ideologies, a merger for them will work best as they will be combining forces to push for their agenda collectively. - Vote maximization. This is mostly to gain maximum votes during elections. - Influence maximization. This is achieved through gaining more positions, strengthening political relevance and influence (power). - Rebranding a political party's image. Sometimes a political party may seek a merger in order to rebrand its image. - Representation and participation of members.	- Members and supporters, real or perceived, see themselves not included in the process. - The differences between the merging parties can only be managed by making compromises where one or more of the merging parties feel "being swallowed". - The number of positions in the merged party is (significantly) reduced and therefore the level of competition might increase proportionally - The risk of "fall outs"

Parties may merge in order to broaden its representative and participatory role increase its diversity in support base and members and • Be more attractive to new target groups • To keep undesired political ideologies, groups or forces out and prevent undue influence.	

The Act outlines a legal framework for merger.

It also requires political parties to draft clear internal rules and procedures so that party members and ordinary Kenyans can understand the process of merger. This must include;

- who and how a merger initiation can be set in motion
- internal consultations
- decision-making for exploring possible merger
- initiation of negotiations
- anchoring negotiation results in the party
- decision making for agreeing to enter in to a merger

7.4.2 Requirements for Mergers

Political parties entering into a merger shall deposit with the Registrar within 21 days after signing the agreement:

- The merger agreement
- Documentation showing that the internal party rules and procedures entering into a merger have been followed
- Minutes of the meeting of the governing bodies of each of the political parties entering into the merger sanctioning the merger

7.4.3 Merger Procedures

Political parties intending to merge have to submit to the Office of the Registrar of Political Parties the application for merger together with the agreement.

When two or more political parties merge by forming a new political party and upon receiving the letter of confirmation of the merger

➢ the Registrar shall issue certificate of full registration of the new party

➢ the Registrar shall amend the Registry of Political Parties by replacing the names of the merging parties with the name of the new political party.

7.4.4 Consequences of a Merger

The merger of two or more political parties forming a new political party has these consequences:

- The new party is the successor of both/all merging parties. The former parties cease to exist and no longer appear as parties in the Registry of Political Parties from the date of the merger.
- The parties which merged into an already registered political party, cease to exist and no longer appear as parties in the Registry of Political Parties from the date of the merger.
- The new party becomes a registered party.
- The assets of each merging party belong to the new party.
- The new party is responsible for the liabilities of each merging party.
- The new party is responsible for the obligations of each merging party to report on its financial transactions and election expenses for any period before the merger took effect.
- The new party replaces each merging party in any legal proceedings – whether civil, penal or administrative – by or against a merging party.
- Any decision of a judicial or quasi-judicial nature involving a merging party may be enforced by or against the new party.
- A new party is entitled to the combined total of the allowances to which the merging parties would be entitled if they had not merged.
- Any decision of a judicial or quasi-judicial nature involving a merging party may be enforced by or against the registered political party into which the other political parties merged.

The merger where two or more political parties merge into an already registered political party has these consequences:

i.   The parties which merged into an already registered political party, cease to exist and no longer appear as parties in the Registry of Political Parties from the date of the merger.

ii.   The assets of each of the parties merging into an already registered political party belong to the registered political party into which the other political parties merged.

iii. The registered political party into which the other political parties merged -

- is responsible for the liabilities of each merging party
- is responsible for the obligations of each merging party to report on its financial transactions and election expenses for any period before the merger took effect.
- replaces each merging party in any legal proceedings – whether civil, penal or administrative – by or against a merging party.
- is entitled to the combined total of the allowances to which the merging parties would be entitled if they had not merged.

iv.   Any decision of a judicial or quasi-judicial nature involving a merging party may be enforced by or against the registered political party into which the other political parties merged.

7.4.5 Removal of Particulars

When political parties merge by forming a new political party or merging into an already registered political party, their particulars shall be removed from the register of political parties and their names, symbols, logos and colours shall not be registered by any political party for a period of five years.

7.5 Gender Mainstreaming

It is of great importance that a political party has written rules and procedures guiding initiation and entering in to coalitions or mergers. They must be clear, agreed upon, known and understood so every actor and stakeholder in the process know their roles and responsibilities in the process. From a gender perspective, this may ensure the party rules and procedures are gender sensitive. It assist in preparedness knowing who-how-when to contribute in the process securing the gender interests.

The challenge is that in a coalition arrangement – depending on its design - the number of positions and seats may have reduced. This in particular applies where pre-election coalition arrangements include some form for join nomination processes.

These challenges are even more significant in a merger. All merging political parties have their party officials, staff and elected representatives. In the merged party, they all have to come together as one. In some of the merger processes we see there is a transitional period where the existing individual party bodies and organs come together – facing the risk of each one being bloated affecting the effectiveness and efficiency of the party. Ultimately, the number of positions has to be reduced – a process which often bring very serious gender challenges. This is one reason why it is extremely important that not only the process of merger must be gender sensitive but the outcome must adequately include both men and women.

8.0 Youth & Gender Mainstreaming in Human Resource Management & Administration

Brenda Kiberenge

8.1 Introduction

The Political Parties Act, section 16 provides that a Political Party is a body corporate with the ability to sue and be sued in its name, and acquire and dispose of property. Political parties are associations that are created for the purposes of acquiring political power which ultimately, in Kenya, is formation of the executive. The above actives require an operating base and personnel who will do the work necessary for the party to take power, main power and maintain its corporate nature.

In Kenya many a political parties are born at campaign period only to hibernate after the elections, especially if they have not acquired the ruling power. It is important for parties to have posterity which can be achieved through the articulation of policies, ideologies and the subsistence of personnel and an operation that exists beyond an election campaign period.

Political Parties in the Constitution are required to have a national character, which requires them to have offices in at least half of the counties in Kenya. These offices are supposed to be operational, and are regulated by the Office of the Registrar of Political Parties. These offices cannot be operationalize in isolation of the law and regulation in relation in human resource and administration.

The roles Political Parties play in society from policy making to recruiting people for positions in government depend heavily on a party's internal organization. The better organized the party is internally, the stronger its responses when faced with sudden challenges such as leadership changes, elections or reforms within society.

At the most basic level, this means that a successful party will have a clear internal structure that is well known and understood by its members. It is critical that people know:
- Where they fall within a party's structure.

- What their roles and responsibilities are based on their position within the structure.
- The roles and responsibilities of other positions within the structure.

Some of the main factors that limit a party's activities are:
- Time
- Human resources
- Financial resources

This session will address human resources, while financial resources and time will be addressed in chapters 8 and 9 of the source book.

At the end of this session a participant should be able to:

a. Define party human resource management
b. Describe the elements of human resource management
c. Explain the role of office administration
d. Identify the need for out sourcing and the public procurement process
e. Monitor and evaluate human resource processes

8.2 Definition of Human Resource

Human resource refers to the personnel of a business or organization they are also referred to as the persons that make up the workforce of an organization; employees; workers.

8.2.1 HR as factor of production

Factors of productions are the items required by an entrepreneur in order to establish a business, these are:-

1. Natural resources- refers to aspects like water, minerals.
2. Land- this is the terra firma.
3. Social capital- are the social relationships and how they influence the success of the entrepreneurship.
4. Energy- this is the time and labour invested by the entrepreneur.
5. Investment/capital- this is the money put into the business by the entrepreneur.
6. Human resource.

All the above factors of production revolve/are influenced by Human resource, as the key factor, because human resources is the one that organizes the other factors into the optimal required levels for success/failure.

Therefore the engagement, organization and treatment of a Political Party's human resource can lead to its success or failure, as a going concern.

8.3 Human Resource Management

These are the *policies* and *practices* involved in carrying out the "people" or human resource aspects of a management position, including *recruiting, screening, training, rewarding, and appraising*.

The process can be simplified as follows

Step 1: Planning

Each Political Party is different and therefore has different human resource needs in accordance with its strategic plan and documents. The leaders therefore need to recognize this and identify the key human resource skills they need and when they need them.

Step 2: Recruitment

Once the key human resource skills have been identified, the Political Party needs to undertake the recruitment process. This involves, identification of the person and job specifications for each position to be recruited and the salary that the Political Party can offer. Once this is drawn it is condensed into an advertisement.

Once this is identified they will proceed and choose the type of recruitment method to utilize. Recruitment methods can be internal where sourcing is done from the current human resource, this is usually employed where the position is not highly skilled or the benefit of the positions being recruited outweighs the cost of undertaking an external recruitment e.g. sweepers, cooks, clerks. Recruitment is external where there are no internal candidates that have the required skills and where the position is so highly skilled and sensitive only open external recruitment would suit, for example recruitment of senior managers, CEOs.

Step 3: Selection

Once applications have been received from interested persons, the Political Party needs to analyse the applications against the job and person specifications provided, shortlist and conduct interview in order to select the best person for the vacancy.

In today's Kenya there is need for cognizance on issues of non-discrimination (Art. 27 of the Constitution and Sec. 5 of the Employment Act) and adherence to the not more than $2/3^{rd}$ gender and ethnicity, to ensure that the workforce is representative of the diversity that is Kenya.

Step 4: Training

There are two kinds of training that a Political Party needs to undertake for its employees;

i.   Induction

On joining the Political Party each employee needs to be taken through the policies, procedures and strategic documents of the Political Party. The employee is an ambassador of the Political Party and therefore they must be in tune with the policies and strategic documents in order to embody them.

ii.   Continuous training and development

A Political Party on a yearly or every two year period should undertake a talent and training needs analysis to find out what areas of training and development it workforce needs in order to better undertake their roles and achieve the mandate of the Political Party.

When this is done properly a workforce grows with the Political Party and more internal recruitment and retention occur thus reducing the recruitment costs.

Step 5: Assessment

Employees are engaged to assist a Political Party to achieve its mandate. Their contribution has to be assess periodically to ascertain their continued value. This is done in the form of performance appraisal, which should ideally be undertaken yearly, based on targets set at the beginning of the year.

Political Parties should include in the human resource policies the rationale and periodic requirement for appraisal and the tools to be employed.

The outcome of appraisals can be;

a. Recommendation for reward including bonuses, promotions.
b. Recommendation for training and development to improve identified skills requisite for the Political Party.
c. Recommendation for discipline including separation.

Step 6: Consequence Management

This is a key component of human resource management. The workforce is composed of human beings who are prone to error. The behaviour at the workplace and related work area is governed by various legislations and polices promulgated by an organization. Where there is breach of policy the designated entity/manager/supervisor should undertake consequence management.

Please note that consequence management can be positive or negative in nature depending on the action or omission.

8.3.1 Human Resource Department Functions

The functions undertaken by the Human Resource department are managerial and operative in nature. It is important for each Party to have a Human resource department as its functions are key to the achievement of the Party's strategies, and there are human resource compliance issues that human resource professionals can assist the leadership adhere.

8.3.1.1   Managerial

These functions, usually carried by the Human Resource Manager, are;

i. Planning

This is the process of aligning the Political Party's strategic objectives with the human resource by determining the right number of persons required, ensuring that the right persons, at the right time to achieve the Political Party's strategic objectives.

ii.   Organizing

This is the process of organizing the staff that one needs into an organizational structure that is aligned to the goals of the Political Party in order to leverage the Human Resource to achieve the strategic objectives of the Political Party.

iii.   Staffing

The Department is mandated to ensure that the Political Party is always optimally staffed to achieve its strategies. This entails looking at the Human resource Plan and scheduling recruitments to ensure that the optimal staffing levels to achieve the strategic goals are in place.

iv.   Directing

The department is the professional in human resource management and part of their duties is day to day management of human resource to ensure that they are undertaking the duties that they have been assigned. This is more oversight role which is achieve through performance management planning which involves having a policy and tools for appraisal.

v.   Controlling and compliance

The Human Resource Department should comprise of professional who are conversant with the laws and compliance issues in Kenya. When this is achieved the Political Party through its HR officials will stay complaint.

Furthermore, the HR being a professional can help the Political Party to cut down on costs by doing surveys to ascertain the best compensation packages and benefits to be offered to personnel therefore increasing their retention and reducing recruitment costs.

8.3.1.2   Operational

1. *Recruitment function:*

The first operative function of personnel management is recruitment. It is concerned with procuring and employing people who possess necessary skill, knowledge and aptitude. Under its purview you have job analysis, manpower planning, recruitment, selection, placement, induction and internal mobility.

2. *Development:*

It is the process of improving, moulding, changing and developing the skills, knowledge, creative ability, aptitude, attitude, values and commitment based on present and future requirements both at the individual's and Political Party's level.

3. *Motivation and compensation:*

It is a process which inspires people to give their best to the Political Party through the use of intrinsic (achievement, recognition, responsibility) and extrinsic (job design, work scheduling, appraisal based incentives) rewards.

4. *Maintenance:*

It aims at protecting and preserving the physical and psychological health of employees through various welfare measures.

5. *Integration function:*

This tries to integrate the goals of an Political Party with employee aspirations through various employees' oriented programmes, like redressing grievances promptly, instituting proper disciplinary measures, empowering people to decide things independently, encouraging a participative culture, offering constructive help to trade unions etc.

6. *Emerging issues:*

Effective management of human resources depends on refining HRM practices to changing conditions. Hence the need to look at other important issues that can motivate people to give their best in a dynamic and ever-changing environment.

8.4 Employee Separation

This refers to the severing of the employee-employer relationship. This can be done by either party depending on the circumstances. The following are some of the examples:

a. Notice as per the contract for employees on contract. The notice can be given by either party, as long as it is as per the contract.
b. Summary dismissal in accordance with Section 44 (4) of the Employment Act, 2007.
c. Retirement which can be voluntary or on attainment of the maximum years of service in accordance with the Political Parties Human Resource Policies and the law.
d. Resignation by an employee.
e. Redundancy in accordance with section 40 of the Employment Act, 2007.

8.5 Basic Policies

Political Parties are subject to the Constitution, and various Employment laws, and as a minimum should have;

a. An organisation structure showing the various jobs and their reporting structure. This will make consequence management easier.
b. A Human Resource Policy that addresses recruitment, employee welfare, separation, discipline (consequence management), terms and conditions of employment, remuneration, leave, and staff training and development.
c. Internship and Volunteer Policy.
d. Written employment contracts for engagements that are beyond three months, that address as aspects in Section 10 of the Employment Act i.e. contain employer-employee address, employee bio data, terms and conditions of service, work place, duties, remuneration and when it is paid, date of commencement of employment, and hours of work.
e. Occupier Liability Policy.
f. Sexual Harassment Policy, where the Party has 20 or more employees.

8.6 Sexual Harassment

Sexual harassment is defined by the Employment Act, as an act that occurs when the employer of that employee or a representative of that employer or a co-worker—

(a) Directly or indirectly requests that employee for sexual intercourse, sexual contact or any other form of sexual activity that contains an implied or express—

(i) promise of preferential treatment in employment;

(ii) Threat of detrimental treatment in employment; or

(iii) Threat about the present or future employment status of the employee;

(b) uses language whether written or spoken of a sexual nature;

(c) Uses visual material of a sexual nature; or

(d) Shows physical behaviour of a sexual nature which directly or indirectly subjects the employee to behaviour that is unwelcome or offensive to that employee and that by its nature has a detrimental effect on that employee's employment, job performance, or job satisfaction.

An employer who employs twenty or more employees shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment. The content of the policy is found in Section 6 (3) of the Act. Once the policy has been formulated the Employer is mandated to undertake sensitization for the employees on the content and redress mechanisms available.

Most employees and employers grapple with how to treat cases of sexual harassment, a model redress mechanism is;

1. In some situations, a person may not realize that his or her behaviour is inappropriate or undesirable. Therefore, is important to inform the offender that their behaviour is inappropriate. This may be done verbally or in writing, but in either case, the complainant needs to be assertive, stating the behaviour that is considered unacceptable and requesting that it be stopped.

2. Where the behaviour persists or is of such magnitude that (1) does not suffice the victim should report it in writing to their supervisor, human resource manager/officer and or chief executive officer. If the alleged offender is the immediate supervisor, the written complaint should be presented to the next higher level supervisor, with a copy to head of Human Resources.

   The report should contain details of the offensive act

   - description of the specific act;
   - the time and date of the act;

- the circumstances surrounding the offensive act;
- the manner and location of the incident;
- whether, and under what circumstances, the complainant made it clear to the alleged offender that the disputed behaviour was unwelcome;
- witnesses to the offence or persons to whom the offence was mentioned; and
- Other information relevant to the case.

All cases of sexual harassment and discrimination shall be investigates and, where appropriate, prompt corrective action taken. All complaints should be handled with sensitivity and with concern for confidentiality, reputation and privacy of employees as far as is practicable.

3. Once the complaint has been documented an investigation should ensue. The investigating body will depend on the Human Resource or Sexual Harassment Policy of the Political Party.

4. On conclusion of the investigation any of the following measures may be taken, depending on the severity of the offence:

    a) the offender may be required to provide a private apology or a written public apology;
    b) the offender may receive a verbal warning and professional counselling;
    c) the offender may be served with a written warning;
    d) the offender's contract may be terminated; or
    e) The offender may be dismissed summarily.

5. Sexual harassment can have emotional effects on the victim hence it is important for the management to undertake follow up with the victim to find out if they need counselling and ensure they get it. To find out if any staff member who believes that he or she was unjustly treated by the investigation find advise them of the available grievance resolution procedure to seek resolution of his or her concern. To carry out a follow-up enquiry with the complainant six months after the case is decided, regardless of the outcome. The enquiry should ascertain whether the complainant has been subjected to retaliation by the alleged offender or any other staff member in the workplace, then take appropriate action.

8.7 Youth and Women in Employment

The Constitution 2010 advocates for the provision of opportunities to youth and women in social, economic and political spheres of life. This means that Political Parties should be equal opportunity employers and not discriminate against any person on the basis of their age or sex.

Further Political Parties can in a bid to implement to the constitution be allowed to employ a youth or woman interviewee even if he/she was not the best, in order to assist in achieving the 2/3rd gender rule and give the requisite opportunities. Caution should however be exercised not to just tick the box by employing this demographic but just in positions that are not decision making. When the former happens the demographic is still in the shackles of the rest as they are not in a position to advance policies that assist them.

Political Parties should in coming up with policies ensure that they are sensitive to all demographics in their employment. Remuneration packages and even rewards should be customized, where possible to suit the demographic needs.

8.8 Sample Organizational Structure

Secretary General

Executive Director

Director-Counties | Director Elections | Director Campaigns | Director Finance&Adm

County Coordinator | Head Agent | Head of membership and recruitment | Head of Campaign | Public Relation | Head of Finance | ICT-Manager
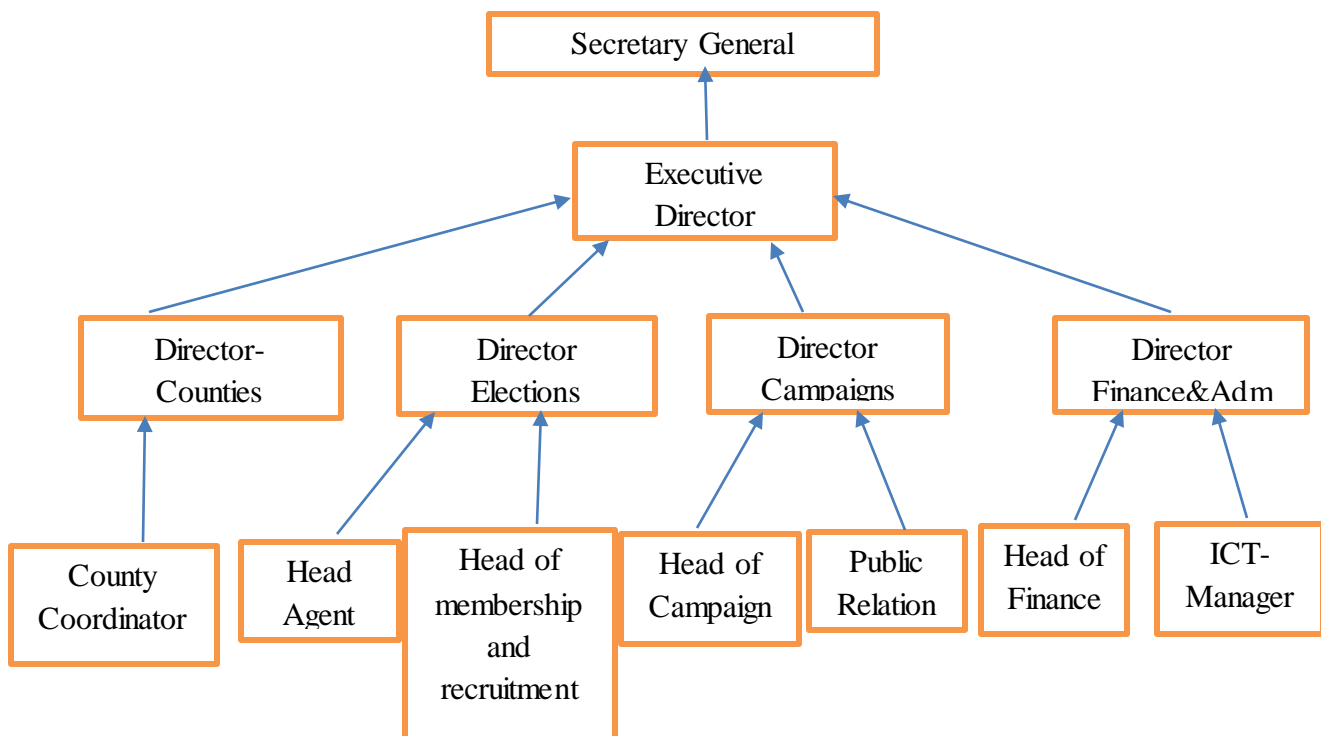
8.9   Office Administration

This is the set of everyday activities that relate to financial planning, record keeping, billing, personnel, physical distribution and logistics within the Political Party.

The Political Parties Act, requires that all parties have at least 24 offices spread in the 47 counties. Part of the added requirements is a greater need for transparency and accountability which is tied to the collation and submission of information from the grassroots to the national offices.

Each of the office whether national or county levels should have inculcated minimum office administration staff who can be able to undertake the basic data receipt and input roles, customer care roles, record management and provision of information roles (access to information Art.35 of the Constitution).

The basic work environment requirements are stipulated in the Employment Act and Workmen's Injury Benefit Act, this requires that each workplace must have;

a. Water for the employees
b. Leave- maternity, paternity, sick.
c. One day off in every seven day.
d. Protective clothing for certain calibre of work.
e. Occupiers' liability insurance.
f. Housing or a housing allowance.

8.10 Outsourcing

Definition: "The strategic use of outside resources to perform activities traditionally handled by internal staff and resources" *Dave Griffiths*

8.10.1   Why Outsource?

Political Parties can outsource in order to provide services that are scalable, secure, and efficient, while improving overall service and reducing costs.

The main reasons that other organizations outsource services are;

✓ Focus on their core functions-36%
✓ Reduce their operational costs-36%
✓ Improve on quality-13%
✓ Increase speed to the market-10%
✓ Foster innovation-4%
✓ Conserve capital- 1%

Source: 2001 the Outsourcing World Summit

What can be outsourced?

The services that can be outsourced differ from one industry to another and, one political party to another. This is due to the fact that the core activity, strategic core thrust and financial capability to outsource is different. Additionally financially capability to outsource also influences what services and the magnitude of the outsourcing. Below are some of the of services that political parties can outsource;

- Legal service
- Public relations services
- Auditing services
- ICT services

8.11 Volunteer Mobilization

One way to engage members is to have them volunteer to perform some function for the party. Secondly volunteers are key when an organization/political party does not have the financial resources to recruit enough human resource. Volunteers are needed to:

- Recruit new members.
- Campaign for the party and the party's candidates.
- Conduct voter education and get out the vote.
- Observe the election process as party agents.
- Volunteers need to be compensated, but this does not have to be financial. Giving certificates and mentioning the contribution of members in a party newsletter can often replace monetary rewards.

8.12 I C T

Information Communication and Technology (ICT) can potentially contribute to the democratic process of political parties by supporting four different types of activities.

- Obtaining information.
- Engaging in deliberation.
- Participating in decision making.
- Record keeping.
- Internal operating system like a recruitment system, payroll system, accounting system, enterprise resource planning.

The level and kind of ICT that a Political Party has will depend on its Strategic Plan, its financial capacity and its specific needs.

8.13 Conclusion

This module clearly shows the importance of human resource and administration in the operation and success of a political party. It has indicated the basic human resource requirements for Political Parties. In the Kenya with the current Constitution citizens' have the right and are demanding more from their Parties which can only be achieved through an operational party which has the requisite human resource and administration.

The time has come for Political Parties to embrace their corporate nature, employ optimal human resource and administration as a strategic tool. Kenyans and the political mood in the country has shifted to longevity of political parties, which can only be achieved through operationalization, with human resource being the key factor of production.

9.0   Party Transparency and Accountability; Youth & Gender

Bosire Nyamori

Introduction

There has been, and still is, growing global focus on transparency, demonstrated by several initiatives that seek to promote transparency practices. The initiatives include the United Nations (UN)'s *Convention against Corruption,* the International Monetary Fund (IMF)'s *Code of Good Practices on Fiscal Transparency, and* the Organization for Economic Cooperation and Development (OECD)'s *Best Practices for Budget Transparency.* Ideas in these initiatives have found way to Kenyan laws and policies.

Article 10 of the Constitution 2010 states that transparency and accountability are national values and principles of governance. Sessional Paper Number 10 of 2012 on Kenya Vision 2030 (Vision 2030) is the Kenyan government's roadmap for implementing its social, economic and political development agenda for the period 2008 to 2030. Its principal objective is create 'a globally competitive and prosperous country with a high quality of life by 2030.' Three pillars undergird Vision 2030: economic, social, and political. There are six strategic for achieving the political pillar and one of these is transparency and accountability. Eencouraging public access to information and data is one of the ways for achieving transparency and accountability.

Thus, transparency and accountability are principles that law, policies and institutions must observe in the conduct of their affairs. Political parties must too observe these. Indeed, Political Parties Code of Conduct requires parties: respect, uphold and promote, inter alia, transparency and accountability [Para 6 (h), Code of Conduct]; and, perform transparency and accountability in all its legislation and regulations, structures, procedures and performance [Para 6 (h), Code of Conduct].

Specific objectives

Upon completing the training, the participant will be able to:

- Access to information.
- Individual incentives.
- Understanding your party.
- Organizational incentives and deterrents

9.1   Understanding Transparency

According to Benard and Lord, transparency is the legal, political and institutional structures that make information about the internal characteristics of a government and society available to actors inside and outside of the domestic political system. This definition is so wide as to cover many areas of the society, not least political parties.

Thus transparency requires sharing information and acting in an open manner, which is understandable and accountable to the actors-in this case of political parties, members and the public. Transparent procedures encourage participation in and support of the political part system. Transparency guard against corruption and improprieties and, by so doing, promotes public confidence and trust in political parties. For information to be effective, it has to be: Reliable, comprehensive, timely, and understandable.

There are two major reasons why transparency is important. First, members, officials, candidates, MPs MCAs Senators, and governors of the party can scrutinize the political party and by so doing be able to hold it accountable. In the words of US Supreme Court Justice Louis Brandeis (1856–1941): 'sunlight is the most powerful of all disinfectants'. Secondly, it shows stakeholders (members of the public, assistance providers, regulators, etc.) that parties are ethical. By so doing, it prevents forestalls misconduct and malpractices.

9.2   Transparency and the Laws

9.2.1 The Constitution

Transparency and accountability are national values and principles of governance (Art.10, COK 2010)

9.2.2 The Political Parties Act

A political party shall ensure accountability and transparency in its procurement processes (sec 26(4), PPA)
Political Parties Code of Conduct emphasizes this too:
- respect, uphold and promote, inter alia, transparency and accountability [Para 6 (h), Code of Conduct]

- perform transparency and accountability in all its legislation and regulations, structures, procedures and performance [Para 6 (h), Code of Conduct]

9.3 How to Promote Transparency

9.3.1 Access to Information

Information is power. However, it is not enough to allow individuals access to information; rather, the information that is provided must be must be must be reliable, -comprehensive, -timely, and -understandable. The right of the public to know is fundamental in any society that is governed by the rule of law.

The provision of reliable, -comprehensive, -timely, and -understandable provides data that stakeholders require to participate effectively in the democratic process in the political party. In many ways this promotes the right to participate in elections. Additionally, information could enable stakeholders to make informed choices about the activities of the political party. Moreover, informed stakeholders are likely to contribute to the economic development of any society compared to one that is ignorant.

In the context of political parties, access to information must be given to its stakeholders, both internal and external, scrutinize the political party and by so doing be able to hold it accountable.

The twelfth edition of the Concise Oxford English Dictionary defines a stakeholder as "a person with an interest or concern in something. For political parties these include members, officials, candidates, MPs. MCAs. Senators, and governors of the party.

Article 35 of the Constitution provides for the right of access to information. It states that every citizen has the right of access to—
  • (a) Information held by the State; and
  • (b) Information held by another person and required for the exercise or protection of any right or fundamental freedom.

The Access to Information Act implements Article 35 of the Constitution.

Information to disclose include:
(a)   Party Constitution, manifestos and policies

These documents are source of information about several issues:

Policies on

-Gender and youth

-Mergers and coalitions

-Human resource

-Leadership

-Governing body; which must, among others, observe 2/3 gender rule

9.3.2 Organizational structure

An organizational structure defines how activities such as responsibilities, coordination and supervision are directed toward the achievement of the aims of political parties.

9.3.3 Membership

-Must draw from all segments of the society including women and the youth.

9.3.4 Funding

-A party must meet 2/3 gender rules before receiving funds (s 25(2((b), PPA)

-Purpose of fund include promoting representation of, inter alia, *women* and *youth* (S 26(1) (a)

-Statements of revenues and expenditure must disclose this element

-The Election Campaign Financing Act require gender balance in expenditure committees

9.3.5 Incentives and Deterrents

It shows stakeholders (members of the public, assistance providers, regulators, etc.) that parties are ethical. By so doing, it prevents misconduct (mismanagement, violation of the law) and malfeasance

How to deal with *malfeasance* and *misconduct* depends on the incentives and deterrents within the political party. The party has to ensure individuals incentives are aligned with those of the party by having an ethical framework, which defines ethical behaviour, ensure within the party knows the rules, ask the members and officials to abide with them, and make them understand the

consequences for behaving unethically and stipulates binding norms and specifies consequences for non-compliance

When faced with the possibility of malfeasance and misconduct from members and officials, there are 3 approaches that the party may adopt:

9.3.5.1 Organization incentives

The party ought to develop a system for rewarding success and effort of officials; essentially, a reward system for doing the ethical things. Doing so generates cooperation and mutual benefit.

This can be achieved through, among others:
- Training
- nominations for positions

9.3.5.2 Deterrence

The party should institute mechanisms for preventing criminal behavior by instilling fear or making known that punishment will follow.

Strategies for deterrence:
- Threats of expulsion or suspension
- Contracts outlining ethical and performance expectations
- Conflict of interest agreements for party officials and candidates.

9.4 Understanding Accountability

Accountability is a principle that requires political parties to explain and justify decisions and actions. Accountability allows stakeholders are able to demand that the political justifies its actions and are able to sanction the political party if it fails to meet certain standards.

Thus the political party has an obligation to account for, among others:

-treatment of gender and youth

-the use of the raising and expenditure of funds

- Conduct of party primaries

-the way it acts and executes its public roles within the law, in a fair, non-corrupt and legitimate manner.

According to Bovens and Schillemans (2007), accountability encompasses three phases.

a) The transparency, information and voice phase

The elements for this include transparency, timely and accessible information, participation, and capacities to deliver and analyse information;

b) The debating, consultation and negotiating phase

The key elements for this include answerability, a neutral/safe space for debate, negotiating power, complaint mechanisms, participation and capacities for debating;

c) The sanctioning, rewarding and learning phase

The elements include direct or indirect, formal or informal enforcement/sanctioning or rewarding mechanisms, individual and/or organizational learning via self-reflection, monitoring and evaluating activities.

Political parties must clear about who is responsible for taking actions and making decisions. When doing so, they must be alive to: Five w's-what, why, who, where, when?) and how?

In context of political parties, members, candidates, officials and other stakeholders should be able to know, among others:

- how they can participate in decision making process

- how they can raise concerns and grievances

- Be assured there is a robust and effective mechanism to address their concerns

9.5   Accountability and the Law

The Constitution

Transparency and accountability are national values and principles of governance (Art.10, COK 2010)

The Political Parties Act

A political party shall ensure accountability and transparency in its procurement processes (sec 26(4), PPA)

Political Parties Code of Conduct emphasizes this too:

- respect, uphold and promote, inter alia, transparency and accountability [Para 6 (h), Code of Conduct]
- perform transparency and accountability in all its legislation and regulations, structures, procedures and performance [Para 6 (h), Code of Conduct]

Relationship between Accountability and Transparency

According to Bovens and Schillemans, accountability includes: transparency, that is, timely and accessible information, participation, and capacities to deliver and analyse information. The definition of transparency and accountability is not very clear in the literature. In some literature, transparency and accountability are presented as having one meaning. Yet in others they are different. Both transparency and accountability fall under the rubric of good governance

In this document, transparent is about giving information. To this extent it is a subset of accountability. That is, transparency is a way for promoting accountability. Thus Transparency and accountability are mutually reinforcing and inter-related – a good political party will have clear roles and responsibilities as well as widely available information about itself

9.6   How to promote accountability
There are two dimensions of accountability:

9.6.1 Internally
The political must explain and justify decisions and actions to to members, officials, candidates, MPs, Governors, senators & MCAs)

Some of the ways for promoting internal accountability include
- Introducing affirmative action in leadership positions
- Ensuring leadership is drawn from diverse segments of the society including youth and women
- Imposing term limits for offices
- Conducting Open and competitive primaries/nominations
- Fundraising guidelines and full disclosure of and reporting of financial records
- Set up a clear organizational structure

9.6.2 Externally

The political must explain and justify decisions and actions to to third parties, e.g., media, civil society, academia)

Some of the ways for promoting internal accountability include:
- Introducing affirmative action in leadership positions
- Ensuring leadership is drawn from diverse segments of the society including youth and women
- Imposing term limits for offices
- Conducting Open and competitive primaries/nominations
- Fundraising guidelines and full disclosure of and reporting of financial records

A political party can promote accountability for third parties through:

How can a party promote accountability?

- Organizing forums with civic groups, academics, and citizens to discuss policies, laws, party affairs, etc.
- Establishing party think tanks and research institutes to propose solutions
- Recruiting potential leaders from, inter alia, women and youth to dilute perceived "old boy" networks.

9.7   Gender and Accountability

The Constitution requires that that every citizen has the right to seek public office and participate in the process of decision making. However, in practice there is under-representation of some segments of the society including women and the youth.

Political must account for underrepresentation of these segments of the society. At the same time, they must give information that enables to make decisions about participating in the decision-making process and other activities of the parties.

Transparency and accountability must be practised with regard to:

-Representation in leadership positions in the party

-conduct of party primaries

 -Nominations, etc.

10.0 Gender and Youth Inclusivity in Political Party Outreach

Patrick Mwangi

This session sets out to create awareness about how political parties can use the media as a tool for outreach, and how parties can mainstream gender and youth in their outreach using the media.

10.1 Why this training is important for women and youth

There are two key reasons why women and youth need to be empowered with the knowledge about political parties and how they can use the media for purposes of outreach.

First, women and youth are leaders in their political parties. This means that they take part in making decisions for the party. They have levels of responsibility within the party and can influence policy. Armed with the correct information, they can be agents for change.

Secondly, this is meant to create awareness among male leaders in political parties to appreciate the challenges women and youth face when engaging with the media, and be motivated to do something about it. They should, therefore, try to bring the agenda of women and youth into the party mainstream, and have it articulated coherently and consistently.

10.2 Media as a Tool for Building Your Political Party

The very first thing to appreciate about the media is that it is a double edged sword. Politicians love it when the media praises them and gives them positive coverage. However, when the same media criticizes them, they really hate it. It is important that political parties understand how the media works so that they can use it effectively in building their parties.

Political parties need to appreciate the critical role that the media plays in their operations.

The Constitution of Kenya 2010 elevated political parties as key organizations in the political life of the country unlike the old constitution. The Constitution has legislated new conditions on how parties are organized. A key demand is that parties must be national in character.

This demand means that political parties must now mobilize and propagate themselves nationally if not to fall afoul of this regulation. The only way that political parties can propagate themselves nationally is through the media. The media is, therefore, a critical entity to any political party.

Political parties have all types of agendas and programmes. These include programmes on the youth, gender, economic and even elections. The media is the only channel through which political parties can keep their members and Kenyans in general, aware of what activities they are carrying out.

The media, therefore, helps parties to stay alive. Many political parties, unfortunately, do not have continuous programmes to keep their members engaged. To stay alive in the consciousness of their members, political parties have to continuously package and sell themselves and their agendas. For instance, party members should be able to state what their party's agenda is for the youth, for the environment, for the economy etc. The answers should also be consistent across physical locations wherever those members are to be found, and age groups.

Political parties should use the media to keep their profiles alive between elections. Many parties go moribund after the elections and are hardly heard from. Their presence is not felt in the political space even as critical events take place in the country. Such political parties are left far behind by those that remain engaged with issues that are important to Kenyans.

Political parties need to support their teams in the houses of Parliament, the National Assembly, and the Senate. Those are their teams, and they are the reason why political parties exist in the first place- to win electoral contests at every level of representation. The party needs to ensure that its teams are cohesive, by keeping them well briefed on party positions, and ensuring they work as a team.

The problem is that if the teams are not cohesive, their discordance plays itself out in the media as these players contradict one another, pass the ball to the opposing team, and other negative activities.

The public forms its image of a political party through the lenses of the media. This depends on how the media covers that party. This image is critical to a party's standing in public. A political party can either keep growing in stature or increasing its public support, or keep undermining its public confidence through sustained negative coverage from the media. These chickens come home to roost

every five years when political parties return to the ballot box for the public to make its verdict. As part of its media management, a political party needs to ensure its teams in any representative forums like the National Assembly are well and regularly briefed on party positions on critical issues. This is to align all communication that comes from party officials to remove contradictions in pronouncements.

To make this engagement effective, the political party should create an interface with its teams on the ground. Its teams include its officials in its branches all over the country. This interface ensures cohesion in messaging from the political party, so that officials at the headquarters do not just wake up to find its activists have held a press conference on its behalf and made unauthorized, or even inaccurate, statements.

It is critical that the party establishes feedback mechanisms so that it can receive communication from all its stakeholders. Without feedback mechanisms, a party's own officials go to the media to force party headquarters to listen to them. The party then is forced to respond to issues in an ad hoc and unprepared manner. It's obvious that the media will have a field day on them.

10.3 Media as a Campaign Tool

The most popular use of media by political parties is as a campaign tool. During campaigns, parties use the media to market their manifestos as well as their candidates.

There is also a negative aspect during this time. The flipside is that this is the time when parties use the media to rubbish their rivals and incite their supporters, often to violence.

For parties to make most effective use of the media during this period there are a number of things they need to take into consideration.

i.   Parties need to ensure that their candidates and troops out in the field are consistent in their messages. This means that the party must align its candidates to its messaging. The party needs, therefore, to develop a party platform on issues, and prepare its troops to deliver it.

ii. The party should develop a crisis communication plan. This is because crises are inevitable during elections. The point is that the media will latch onto any crisis that a party is facing, and will have a field day with it. Has the party instituted capacity to respond during such times?

iii. The media is used during campaigns to enhance the visibility of the political party. Consequently, the party has to determine what media platforms it will use to achieve this. This plan will consist of advertising, communication materials and engaging journalists. It is also important that a media monitoring function is established to keep track and monitor the type of media exposure the party is getting, and how effective it is.

iv. Political parties need to mainstream media work. It is an integral and critical function within the party, and must be well resourced and populated with professionals.

In recent years, a very controversial trend has manifested itself in the engagement between political parties and the media. Political parties now take it as a matter of course that they must give journalists money for coverage. The aim is to influence journalists to write positive stories about them. Parties should resist this. First, that journalists is engaging in corruption and will be fired if caught. Political parties should professionalize media management for optimum results.

Political parties should give their frontline officials media training. Frontline officials are those who are likely to be find themselves regularly interacting with journalists by dint of their positions. These include such official as chairpersons, secretaries general and executive directors. Media training gives them confidence and the skill to successfully engage with the media.

10.4 Developing and Managing the Media Function

Political parties must plan their media engagement properly if they want it to be effective. The party must also take a proactive approach towards its media management.

The communication function must be well developed within the party structure. It must have a director of communication supported by other professionals. The director of communication must report directly to the secretary general or the chairman.

There are several requirements for the party to develop and manage the media function. The first is for the party to develop a communication strategy. This document will identify the party's stakeholders, their information needs, what channels to use to reach them, and the messages that need to be targeted at each stakeholder. The communication strategy offers direction on public engagement.

A media strategy forms part of the party's communication strategy. Secondly, parties need to engage the media professionally. That is how one gains the respect of the media. Thirdly, media inquiries should be responded to in a timely manner. Many people, including politicians, believe that they have secured their positions on an issue by refusing to respond to requests by journalists for comments on issues. This is a mistake, because journalists will always report whether they get a comment from the subject of the story or not. Responding to media inquiries promptly builds trust and credibility, and party officials are likely to get far more sympathetic journalists when engaging with the media. Fourth, the party needs to develop appropriate media tools. These include brochures, advertisements, newsletters, social media pages, simplified versions of their party manifestos and policies for various sectors etc. These tools are critical to the party's outreach and engagement with its target groups. Fifth, the political party must budget for the outreach work. This means that the whole outreach programme will be costed, and the funds required to run these programmes will be set aside. Parties should budget for media work in the very same way they budget for their other activities.

10.5 Challenges Facing Women and Youth in Media Use and Mitigation Measures

10.5.1   Challenges Facing Women and Youth

Women and youth have little or no voice in the media. They also find it very difficult to access the media to have their issues ventilated. As a consequence, the media marginalizes them, and their issues rarely find traction as part of the wider discourse on the national agenda. There are myriad challenges.

i.   They face a media that is gender blind and unsympathetic. This means that the media does not treat the issues that face them as requiring any particular attention. Their issues simply get swallowed up in national debate. Sometimes the stories are insensitive or even callous. This is due to lack of sensitization on the part of journalists. Media houses rarely train their journalists on being gender sensitive in their coverage, meaning there is a lot of stories published in the media that ignore issues of women and youth, sometimes inadvertently.

ii.   A lot of the language used in the media is gender hostile. This alienates women and youth who feel it is not talking to them. There is a lot of sexist language especially in radio that tends to degrade women and perpetuate negative mindsets.

iii. Women face a major challenge in terms of access to media. For the print, most papers are out of reach of majority of women and youth as they cannot afford them. Television is thinly spread countrywide; meaning access in general is low. For radio, women find themselves having to make deliberate efforts from their workloads to make themselves available to listen to programmes. The situation is exacerbated by the fact that they may not have the power in the house to determine what is listened to at what time.

iv. The issue of who sets the political agenda is central to whose agenda is dominant. The sector whose agenda is dominant in the media is the one that dominates the political arena. This is the force whose profile elbows everybody else out.

A casual look though all news media, especially print and television, shows the dominant coverage particularly the main stories are about the key political players who are almost exclusively men. Nowhere in the issues discussed do the media ever pause to ask the question, how all these affect women and the youth, or even ask them their opinions on those issues. They are assumed to have been represented in the discourse. This is a mistake, and it ends up marginalizing further the two groups.

All these factors lead to the exclusion of women and youth agendas from the mainstream media. Their agendas can hardly find traction.

10.5.2 Women and Media
Several measures can be taken to mitigate these adverse circumstances
   i. Women leaders in political parties must reach out to other women in a countrywide mobilization, awareness campaigns and motivation. This has to go to the grassroots. This is to make women aware of the media challenges they face, and the measures that they can take to mitigate this. Many women are equally unaware that the marginalization they face from the mainstream media has also been injurious to their interests.
   ii. To put in place mitigation measures, there has to be proper planning. Map out the media consumption patterns of the women being targeted at the local, regional and national levels.
   iii. Women in political leadership should challenge the existing orthodoxy. That is why they are in leadership, and should see this as part of the challenges they are expected to confront. They need to adopt this as part of their work programme, and put consistent pressure on media houses through a variety of tools and institutions.

iv. Women leaders should complain when unhappy. Bringing these dynamics to the attention of the media editors through their institutions like the Media Owners Association (MOA), or the Editors Guild consistently, will make sure that it becomes an issue the media editors must address.

10.5.3   Youth and Media

What can the youth do to mitigate this adversity?

i. They need to work through party structures to ensure that their parties articulate a youth agenda, and that they put together programmes to roll out that agenda. The youth must remember that if their parties take the youth agenda seriously, it will trend in the mainstream media because party honchos will always articulate it.

ii. The youth need to remember that all political entities are bending over backwards to reach them because of their power as a voting machine. Kenya is far and away a youthful country, so most of the votes are with the youth. Youth must position themselves to leverage that dynamic to ensure political parties address their issues. In other words, youth is not helpless.

iii. Youth leaders need to lead their compatriots by showing them the way. They need to reach out to the youth countrywide at the grassroots for mobilization, creating awareness about how media treats their issues, and motivating them. They need to lead the youth to demonstrate focus, seriousness, and the importance of the youth agenda.

iv. Youth need to make use of the media channels available to them, especially the social media space. The social media space is a youth space, and they can utilize it to push their agenda, and ensure it trends. They need to eschew the use of social media for insults, and concentrate on mobilization of youth, and dissemination of the youth agenda.

10.6 Regulation of the Media

The media works in a well regulated environment, with a very elaborate body of laws having been enacted to govern it. This is critical to political parties, since they risk running afoul of the law if they are not fully cognizant of its provisions. These laws are embodied in various statutes. Below is a sampling of these laws.

The Constitution

One of the provisions of the Constitution is that a party shall not engage in or encourage violence or intimidation of others. It also estops a political party from engaging in bribery as well as corruption.

National Cohesion and Integration Act

This Act prohibits the use of media to broadcast messages deemed threatening, abusive or insulting. Both the person uttering the words, and the media publishing them, are both culpable.

The Media Act

The Act has a very elaborate Code of Conduct for journalists. The following are some of its provisions.

- It prohibits writing of partisan stories, or those with personal bias.

- It prohibits journalists from soliciting of receiving any bribes to publish stories.

- It prohibits journalists from quoting any person making derogatory remarks based on ethnicity, race, creed, or sex. It also prohibits use of racist or negative terms.

10.7 Tips to Navigate the Media Minefield

Navigating the media is a minefield. The dynamics are fraught with challenges. Political parties need to ensure access so that they can publicize themselves and their agenda. At the same time, they must avoid falling afoul of the laws governing media use. The following tips should provide a guideline to political parties to do this.

- Use of moderate language in public utterances is encouraged. Political parties should eliminate the language of the enemy and see their opponents as their worthy competitors.

- Political parties must manage their media relations for them to be effective. It needs to be emphasized that they should have a plan.

- Political parties should not try to control the media. The media resent such attempts. The emphasis should be on being professional in engagement with the media. It should be noted that there are too many voices to

control. Kenya has at least four daily newspapers, dozens of periodicals, at least 60 televisions stations, and over 100 radio stations. The flipside, however, is that this diversity offers political parties a wide choice, and a discerning party can be effective in pushing its message if it plans well.

- A word of caution is that not all media will see things the way of a political party, meaning that some very adverse articles will be published every now and again. The party must not adopt hostile and antagonistic attitudes towards the particular media. This is not a battle the party can win.

- Political parties must also remember that the Elections Act places security of journalists during campaigns in the hands of political parties. Parties, therefore, need to educate their supporters and enthusiasts not to incite others against journalists deemed hostile to their party and its candidates.

10.8 Conclusion

The bottom line is that if a party does the right things, it will generate positive media coverage. If, on the other hand it botches, it will be in the media headlines for all the wrong reasons. It is worth noting that the threshold for receiving good media coverage is far higher than that of receiving bad press. The choice is, therefore, stark.

Lastly, there is a world of choice in contemporary times in media platforms. Parties should broaden their horizons and make use of them. Think outside the box.

11.0 Management and Administration of Political Parties Fund

Joel Onchwati and Bon Makolwal

Introduction

Funding of political parties is a critical factor for any democracy. This is for the reason that political parties like any other institution, need sufficient and sustainable funding to perform their functions effectively. Various strategies have been adopted by different polities to fund political parties with varied impact on party system and development. Funding of political parties involves either direct public funding from the state through tax relief or incentives or private funding by private donations by the members or membership fee. In this paper the focus is on the public funding of political parties by the state In Kenya, the concept of public funding of political parties in management and operation of political parties is new. However, the political parties fund is enacted in law and some political parties receive direct funding from the state. To this end, the general objective of this presentation is to underscore various issues with regards to public funding of Political Parties in Kenya.

Objective

This section intends to analyses the political parties funding in Kenya. To achieve its objective it focuses on the past and current status of political parties funding in Kenya. For that reason at the end of this session the participants should be able to;

a. Understand what is meant by public funding of political parties
b. The historical background of the political parties Fund
c. Understand the benefits/ achievements of the fund in the Kenya democracy
d. Understand the legal frame work of the fund which includes;
   i. The establishment and Purpose of the fund
   ii. Administration of the fund by the Registrar
   iii. Management and utilization of the fund by political parties
   iv. Funding Regulations (Qualification and criteria for distribution)
   v. Offences under the Political Parties Act

11.1 Public Funding of Political Parties in Kenya

Generally political parties funding refers to the set of methods that a political party applies to raise money for its routine activities this informed by the fact that modern political systems always face a major and persistent problem of lack of financial resources which prevent the political organization to realize full political participation through representation. Public funding of political parties refers to funds provided by the state/ Government to political parties in line with developed regulations and guidelines which are usually enshrined in l

11.1.1   The Genesis of public funding of Political Parties in Kenya

The repeal of section 2A of the Constitution in 1991 reintroduced multiparty politics in Kenya. Even though this was a positive development, the country failed to include direct provisions in the Constitution to guide the formation of political parties including their organization, funding, role, functions and operations. The absence of solid constitutional provisions for political parties and elections provided the week base for multi-party democracy in Kenya. Most of the political parties formed then remained ineffectual. The condition of which was attributed to lack of proper legal framework with regards to management of political parties.

To this end, the debate on public funding of political parties in Kenya began in 2001 by Hon. Musikari Kombo through the introduction of (Political parties funding Bill 2001). This bill was seeking state funding of political parties. It re-ignited the waning debate on management of political parties. This initiative was spearheaded by other non-governmental organizations including the Centre for Governance and Development (CGD) under its Strengthening of Parliament Programme (SOP) now renamed Representative Institutions Program me (RIP). Despite the passage of the Bill, implementation could not be realized because Parliament was dissolved by the then President Daniel Arap Moi- a move which effectively rendered the Bill invalid.

In 2002 there was another attempt to introduce another bill on funding of political parties. However the bill did not see the light of the day for the unknown reasons. Later, in 2004 the Kenya Law Reform Commission drafted a Bill, (Political Parties Bill 2004) whose object was to impact on the funding of political parties and other relevant regulations of political parties. The said Bill was fairly consultative among some leading NGO/civil society. It is notable that whereas the earlier Bill tabled in 2002, sought to legislate only on funding of political parties, the 2004 Bill appreciated the reality of the Kenyan context especially the fact that such legislation should widen its scope beyond funding of political

parties, and include other issues including registration and regulation of political parties.

In 2007 the Political Parties Act was enacted to regulate the formation and operation of political parties with an aim to institutionalize them by making them legal entities. In doing this, the Act established the political parties fund, its sources, and management and distribution criteria. Never the less, the promulgation Constitution in 2010 provided numerous changes with regard to the general management of political parties. This was actualized through the enactment of the Political Parties Act 2011; the new laws provided a paradigm shift in the conduct and management of political parties the Act further established the Political Parties Fund to be administered by the Registrar of Political Parties in a different way from the 2007 Act.

11.2 Benefits of public funding of political parties

This topic narrows down to the question whether a system whereby political parties are funded by the state is preferable in epoch of advanced democracy. Different schools of thought have been developed around the debate.

- **Public funding is a natural and necessary cost of democracy**

Political parties need money for operation including, preparation of good policies and to pay professional staff. For that reason, if a country wants to have stable political parties, it is fundamental that it needs to be prepared to fund of the same.

- **Public funding can limit the influence of interested money and thereby help curb corruption**

Research from developed democracies shows that if political parties get at least some basic amount of money from the public purse this has the potential to limit the likelihood of them feeling the need to accept "interested money" or duty money from donors who want to influence their policies, at the expense of ideologies. This by a large measure reduces corruption. It also enhances transparency and accountability within the parties as the same is subject to audit by the state.

- **With public funding comes in level playing field**

Unlike private donations which come with demands on party or candidate behaviour, public funds levels the playing field and encourage (or force) political parties to undertake reforms, hold internal elections or field a certain number of women and youth candidates.

▪ **In societies with high levels of poverty, ordinary citizens cannot be expected to contribute much to political parties**

In societies where many citizens are under or just above the poverty line, they cannot be expected to donate large amounts of money to political parties or candidates. If parties and candidates receive at least a basic amount of money from the State the country could have a functioning multi-party system without people having to give up their scarce resources.

11.3 The Legal Frame work of the Fund

The legal frame work has been drafted with the aim of regulating the management of the fund. The Fund is established under the political parties Act 2011. However there are other statutory provisions relevant to the management of the fund. This is informed by the fact that political parties are public institutions.

11.3.1 Establishment and Sources of the Political Parties Fund

The Political Parties Fund is established under the Political Parties Act 2011. The Act also provides for the administration and management of the fund. It also outlines the sources of the fund which are moneys from:-

i. The national government (0.3 % of national revenue); and
ii. Any contributions and donations to the Fund, and any other lawful source.
iii. Other sources include;
     i. Membership fee;
     ii. Voluntary contribution from a lawful source;
     iii. The proceeds of any investment, project or undertaking in which the political party has an interest.
     iv. Donations, bequests and grants from any other lawful source, but not from a non-citizen, foreign government, inter-governmental or non-governmental organization
     v. However, a foreign agency, or a foreign political party which shares an ideology with a political party registered in Kenya, may provide technical assistance to that political party

11.3.2 Qualification & Distribution of the Fund under PPA 2011

Unlike the repealed 2007 Act, under the 2011 Act not all registered political party receives the fund. The 2011 Act provides for the threshold for qualification for the fund. It also outlines the criteria for distribution of the fund amongst the qualified political parties. In administering the fund, Registrar of Political Parties has a statutory mandate in ensuring that only political parties that meet the outline threshold receives that fund quarterly.

A. Qualification threshold

Under the Act a political party shall not be entitled to receive funding from the fund if;

    i.   The party does not secure at least three percent of the total number of votes at the preceding General Elections

    ii.   More than two thirds of its registered office bearers are of the same gender and

    iii.   If the party does not have;

    a.   twenty elected members of the National Assembly;

    b.   three elected members of the senate;

    c.   three elected members who are Governors; and

    d.   forty members of County Assemblies.

It is important to note that the above threshold is set out in the amended Political Parties (amendment) Act no. 1 of 2016. Going by this, only four political parties shall receive the fund; TNA, ODM, URP and WIPER PARTY. It is important to note that under the political parties fund Regulations the Registrar also develops other administration guidelines and procedure of applying for the Fund. Under the regulations the registrar sets out other administration requirements to the legible political parties in receiving the fund. For Example, in applying for the funds a political party has to submit the work plan and other necessary financial policy papers to the Registrar

B. Fund distribution criteria

The Act provides the criteria by which the Registrar of political parties is meant to distribute the funds received from the national treasury to the qualified political parties.

The Act provides that;

    a. Ninety five per cent of the Fund is distributed proportionately by reference to the total number of votes secured by each political party in the preceding general election,

    b. The five percent of the fund is utilized by the Office of the Registrar of Political Parties for the administration of the Fund.

11.3.3 Purpose & prohibition of the use of the Fund

The Act restricts the use of the funds by doing this, it stipulates that moneys allocated to the political party from the Fund shall be used for purposes compatible with democracy including -

    i. promoting the representation in Parliament and in the county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities, which shall not be less than thirty per cent of the moneys received;

    ii. promoting active participation by individual citizens in political life;

    iii. covering the election expenses of the political party and the broadcasting of the policies of the political party;

    iv. the organization by the political party of civic education in democracy and other electoral processes;

    v. bringing the political party's influence to bear on the shaping of public opinion; and

Administrative and staff expenses of the political party which shall not be more than thirty per cent of the moneys allocated to the political party.

The Act restrict the use of the Fund allocated to the political parties it provides expressly expenses that the political parties cannot fund using the funds. This includes the following;

    1. Paying directly or indirectly the remuneration, fees, rewards, allowances or any benefit to a member or supporter other than the staff,

    2. Financing expenses contrary to code of ethics for public officers,

    3. Business(es) including immovable property – directly or indirectly, and

    4. Any purpose contrary to promoting multi-party democracy and electoral processes.

11.4. Administration and Management of the Fund

The Act mandates the Registrar of political parties to administer that Fund. It empowers the Registrar to administer the Fund by ensuring that;

1. There is a developed formula and guidelines for qualification and distribution of the fund, in line with the provisions of the Act

2. Develop regulations and tools to guide the application for the fund by the qualified parties

3. The funds are dispersed and utilized as per the approved work plan and other relevant provisions

4. To ensure that the political parties disclose the following to the Registrar of political

- Declaration of assets, liabilities in the prescribed form

- Sources of funds
- The income and expenditure
- Asset and liabilities statement
- Physical address
- Authorized bank signatories
- Assets Register
- Expenditure control book (Vote book)
- Cash books
- Advance/Imprest registers

In addition to the above, the political parties are required to;

  i. Publish the sources of its funds in at least two newspapers having wide circulation; stating :-
    - The amount of money received from the Political Parties Fund
    - The amount of money received from its members and supporters
    - The amount and sources of the donations given to the party
 ii. The income and expenditure of the political party, and
iii. The assets and liabilities of the political party
 iv. Declaration of assets, liabilities expenditure in relation to elections.
  v. The political Party shall keep proper books and records of account of income, expenditure, assets and liabilities

11.4.1   Management of the Fund

Management generally comprises effective planning, organizing each of which must be done for proper internal control. The Act mandates the political parties to utilize and manage the fund in line with the a proved work-plan, other legal provisions and regulations which includes the following;

- The Constitution (Chapter 12)

- The Public Financial Management Act, 2012

- The Public Procurement and Disposal Act, 2015

- The Political Parties Act, 2011

- The Audit and Exchequer Act

- The Regulations and guidelines issued regularly

- Other Laws

The Political Parties Act specifically requires the political parties to keep proper books and records of accounts of the income, expenditures assets and liabilities. This is to ensure transparency and accountability in the management of the fund.

11.5 Offences under the Fund
The Political Parties Act 2011 stipulate that;

- A political party that receives funds from a non-citizen commits an offence

- No person or organization shall, in one year, contribute to a political party an amount, whether in cash or in kind exceeding five percent of the total expenditure of the political party

- A political party which fails to declare its sources of funds *(section 29 (3))*

- A party which fails to submit to the Registrar (within 60 days before an election) a register of its members and a statement of its assets and liabilities commits an offence

- A party which fails to keep proper books of accounts commits an offence

- No person or organization shall, in one year, contribute to a political party an amount, whether in cash or in kind exceeding five percent of the total expenditure of the political party

11.6   Audit of the Funds

The Political Parties Act, 2011 brought in the aspect of auditing of political party funds as well as disclosure mechanisms with a bid to enhance transparency. Political parties were not open to scrutiny especially when it came to their sources of funds or their expenditures.

Parties are also mandated to publish their sources of funding, assets and liabilities and income and expenditure reports annually in two newspapers having nationwide circulation. This enhances public auditing and scrutiny of the utilization of the fund.

At the end of each financial year, all political parties, whether they receive the Fund or not, are required to have their books audited by the Auditor General. The audit report is then submitted to the Registrar and tabled in the National Assembly. The Registrar may also at any time request the Auditor – General to carry out an audit of the accounts of a political party

It is noteworthy that the office of Registrar of political parties is also mandated to keep proper books of accounts of the income. Just as political parties, the ORPP is mandated to submit to the Auditor General the accounts of the Office with regards to the funds.

11.7   Political Parties Fund vis a vi the political parties Coalition and Mergers

The political party Act establishes the Political Parties Fund. The Act also provides and allows pre and post political parties Coalitions and Mergers. More often or not, there have been public debates on the utilization and management of the fund in respect of the coalition and merger arrangements. With regards to the Coalition the Act provides for the basic requirement of the coalition Agreement which must include the formula and the mechanism for sharing of the funds from the political fund to the respective members of the coalition. It is on this basis that CORD and Jubilee coalitions shared the fund.

With regard to the mergers of political parties (the Jubilee party scenario) is a new concept in Kenya for that matter the Political Parties Amendments Act 2011provides that upon such a merger all the records, assets rights and obligations including their entailment to the fund shall transfer to the new political party.

11.8 Comparative analysis on Funding of Political parties

Fund of political parties is appreciated within other jurisdictions across the world. Most of the developed democracies provide public funding of political parties. As it has been discussed above different strategies have been deployed to embrace political parties funding across the world. In Jurisdictions like Germany, Portugal and Spain the Government uses tax exemption as a method to fund political parties. In Greece the benefits from members of parliament could be extended to parties this includes favourable conditions for bank loan for parties. It is prudent to have a brief comparative study over the same in the following countries.

    i.   Britain.

In U.K Political parties are paid funds by the Electoral Commission and other bodies including public funds known as Policy Development Grants. Policy Development Grants are prescribed under Political Parties Election, Referendum Act 2000.

Who is eligible?

The grant is provided for every year and distributed based on a formula based on representation and performance at national and devolved legislature elections. To qualify a party must have at least to sitting members of the House of Commons.

Currently there are 7 parties eligible for the grant.

The grant is distributed based on a formula drawn by the Electoral Commission and approved by parliament

    ii.   U.S.A

The law of funding of political parties is still remote in USA. However there has been Presidential election public funding. There Federal Public funding laws and Commission Regulations that guides the excise.

The qualified presidential candidates receive federal government funds to pay for valid expenses of their political campaigns in both the primary and general campaigns. In the past political parties were also receiving public funding for their national nomination convention but this was a abolished on April 3, 2014 by a legislation.

Eligibility for Public Funding

To eligible the presidential candidate must submit a letter of agreement spelling out the conditions of the funds. Upon violation of the conditions the candidate shall be compelled to repay.

It noteworthy that New South Wales started public funding in 1981.The main political parties receives reimbursement of their electoral communications expenditures during the six months prior to an elections. Recently there are calls for full public funding of political parties by taxpayers in New South Wales.

iii.   South Africa

Apart from Kenya, South Africa is one of the African countries that have introduced public funding of political parties. This is done through Public Funding of Represented Political Parties Act 1997. It only provides funds for political parties represented in parliament.

The fund is administered by the Chief Electoral Officer under the oversight of the Electoral Commission.

Allocation is to the parties represented in the National Assembly or provincial legislatures. The Act stipulate on the function and purpose of the funds. However the Act does not stipulate the amount to be given but as such are out lined in the regulations.

The Act provides for the formula taking into account the proportional membership and minimum threshold to ensure equity.

The fund use prohibitions and accountability are outlined in the Act and the regulations.

11.9 Conclusion

Funding of Political Parties by the state has merits and demerits hover as we have discussed public funding has greatly enhanced the accountability and

transparency in the administration and management of the political parties' fund. It has also institutionalized the general management of political parties. However there are great challenges of which cannot be ignore. Challenges most of which originates from the affordability and the budded that comes with its. However in this paper we focused on the merits of public funding and its management. Having briefly looked at the different ways and strategies to fund political parties it would only be prudent for Kenyans to explore other revolutionary strategies such as those discussed above.

12.0   Conflict Management; Youth & Gender

Kyalo Mbobu

12.1 Understanding Conflicts

"Contradiction is universal, absolute, existing in all processes of the development of things and running through all processes from beginning to end." -Selected Works of Mao Tse-Tung, Vol. 2-

> "To the heroines and heroes among us who understand that Losing is not losing;
>
> Winning is not winning; Vulnerability is not weakness; Pretending vulnerability is not strength; May they become our leaders." –Anonymous

Political parties are crucial elements in the democratic process, and to that extent, very important from the perspective of conflict resolution.

Political parties and politicking, being avenues for the pursuit of power, disputes are inevitable amongst them.

In every age and time, the pursuit and maintenance of power and influence amongst persons and nations/peoples has been the source of most of humankind wars and conflicts.

In a heterogeneous country like Kenya, in which different sections of people have grievances that arise out of social, economic and political issues that remain to be resolved, it is important that they make use of the democratic space for the resolution of such grievances.

In this respect, political parties have a crucial role to play.

When the political process is not in a position to articulate such legitimate demands, conflicts emerge.

12.2   Levels of Conflicts
- ➢ Conflict typically occurs in escalating levels of seriousness.
- ➢ In the earlier stages it is easier to deal with the issues which are generated, and solutions are more easily found. People can often solve their differences with little difficulty at the early stages.
- ➢ At the other end of the spectrum, once conflict has degenerated to a deeply hostile and serious level, assistance is needed from an external source to mediate a solution with the parties.

> E.g. Kofi Annan being called in to mediate the dispute between the political players in the 2007 general election. The mediation team consisted of both men and women as recommended in UN Council Resolution 1325

12.2.1   Discomfort Stage

> Nothing specifically may have happened but there may have been some tensions or awareness that something is "not right" in a relationship.
> Generally, little is said or done about the problem at this stage as it is not recognized that any problem actually exists.
> This stage is a part of normal, everyday life.
> Even good relationships have moments of conflict. In this stage, people look for objective solutions a cooperative manner.
> If a solution is not found, especially because one of the parties sticks obstinately to his or her point of view, the conflict escalates.

12.2.2 The Incidents Stage

> This is the stage where minor events or incidents occur.
> In themselves they may be minor, but a negative meaning is attached to these events and the parties are moving from a relatively minor feeling of tension to mistrust.
> Typically, at this stage things are done or said which give an impression that a problem exists.
> The parties may feel irritated with each other. They fluctuate between cooperation and competition.
> They may have common interests, but their own wishes become more important.
> Dealing with information becomes limited to that which favours one's own arguments.
> Logic and understanding are used to convince or win over the opposing side.
> At this stage, each party does everything possible to not show weakness.
> The temptation to leave the field of argument increases until the conflict escalates because of some action taken by one of the parties.

12.2.3 Misunderstandings Stage

- ➢ At this stage, it is likely misunderstandings have contributed to the problem.
- ➢ There may be confusion about the incidents which have previously occurred and the parties may apply false interpretations to those incidents.
- ➢ Facts may not be clearly presented and may be obscured.

12.2.4 The Tension Level

- ➢ If the conflict is not resolved, this level follows very quickly as the situation deteriorates, and as a result of the parties viewing each other with deep suspicion.
- ➢ Typically there is a tension to their dealings with each other.
- ➢ At this stage, all behaviour in the relevant parties is viewed through the filter of mistrust and there is little or no trust in the relationships.
- ➢ There may be entrenched negative attitudes toward each other and the parties tend to have fixed positions.
- ➢ At this level the parties each fear that the grounds for a common solution are lost. In other words, they lose hope for a reasonable outcome.
- ➢ Interaction becomes hostile. All logic is focused on action, replacing fruitless and nerve-wracking discussions.
- ➢ Paradoxically, the conflicting parties each believe that through pressure they will change the other party. At the same time neither is prepared to yield.

12.2.5 The Crisis Level

- ➢ Finally, the situation develops into the Crisis Level as the parties reach a stage of outright hostility and it is clear by this time that events have reached a serious stage indeed.
- ➢ This stage is characterized by poor interactions and extreme gestures are contemplated.
- ➢ At this level, stereotyping is applied as negative identification of the opponent. For example, if one of the parties involved is a woman, she could be blamed for the conflict, (Schipper,1992)
- ➢ When this level is reached, it is unlikely the parties will be able to resolve the conflict without external, objective and professional assistance.

12.3 Conflicts in the Political Context

Political parties and politicking, being avenues for the pursuit of power, disputes are inevitable amongst them. Throughout history, the pursuit and maintenance of power and influence amongst persons and nations/peoples has been the source of most of humankind's wars and conflicts.

It is particularly so in an environment like Kenya's where selfless service does not always seem to be the primary motive for seeking political power.

12.3.1   Intra-Party Conflicts

More than anything else, intra party disputes have the capacity to seriously weaken a political party. It is also particularly so in a setting like ours where discipline party often seems to be rather elusive

Sources of Intra-Party Conflicts
- ➢ Membership
- ➢ Selection (Election or Appointment) of Party Office bearers e.g. Party Chairperson, etc
- ➢ Nomination of Candidates for Elective Offices e.g. President, MP, MCA, etc
- ➢ Handling of Party Funds and other Assets
- ➢ Recognition of particular members' importance in the party
- ➢ The 'godfather /godmother syndrome'
- ➢ Deep-seated sectional/ethnic sentiments and rivalry
- ➢ Payment of monthly contributions
- ➢ Failure to consult members/some officials before taking decisions
- ➢ Failure to follow due process (Rules of Natural Justice) before taking disciplinary action against members e.g. Majority/Minority Leaders
- ➢ Disloyalty to the party/Supporting other parties without defecting officially
- ➢ Disagreement between male female candidates with women being requested to step down for male candidates to be elected and promised to be nominated

Effects of Intra-Party Conflicts

What Happens if Intra-Party Disputes are not Resolved Amicably?
For the Party…
- ➢ Formation of camps within the party
- ➢ Decamping of members to other parties
- ➢ Weakening of the party

- In some cases, the actual demise of the party in question. Many of Kenya's leading parties are now a pale shadow of their former selves.
  FORD split into several smaller parties due to poorly-managed disagreements before and after the 1992 general election. FORD due to internal conflict gave birth to FORD Asili, FORD Kenya, FORD People, New FORD Kenya, etc

For the Nation

- Poor governance resulting from weakening of the voice and influence of political parties. KANU easily won the 1992 General Election due to conflicts between members of opposition parties which led to their decamping and split opposition votes resulting in 10 more years of former President Moi leadership despite the Kenyans generally feeling it was time for presidency. President Moi actually ruled with minority support.

12.3.2 Inter-Party Conflicts

These are disagreements between Coalition Partners e.g.

- Over the Political Parties Fund
- Over Presidential or other candidates – Potential conflict within the CORD Coalition over the Presidential candidate may split and weaken the coalition
- Nomination of Candidates for Offices
- Controversies over whether or not a particular candidate (belonging to a particular party) has been properly elected and declared
- Allegations of rigged elections e.g. 2013 dispute between TNA and ODM over the presidential poll results
- Some inter party disputes sometimes touch on and include the bodies or organizations responsible for organizing election.
- Disagreements between parties over how a certain thing has allegedly been done or not done to favour or disfavour one party or the other

12.4 Dispute Resolution for Political Parties

Dispute resolution generally refers to one of several different processes used to resolve disputes between parties, including negotiation, mediation, arbitration, and litigation.

Properly resolving a dispute means settling it i.e. removing the misunderstanding and, if possible, the source of misunderstanding and returning the parties to their pre-dispute relationship or situation.

Such a resolution engenders the removal of hurts and offences, healing of the mind and ego of the disputants. It invigorates them for continued (and possibly greater) productivity.

In a political party setting, it works through ensuring that everyone continues to put in his best for the party rather than engaging in anti-party activities or just lying low waiting for the appropriate time to decamp from the party or "revenge" within the party by hurting it in one way or the other

12.4.1   Standards for Dispute Resolution

The Constitution provides certain minimum standards that must be met by anyone handling a dispute between two or more people. Article 50(1) of the Constitution states that

> "Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body."

The right to fair hearing entails:

- ➤ The dispute being handled by an independent person(s) – you cannot be a judge in your own case.
- ➤ Giving each party adequate notice of the case to enable him/her prepare his response.
- ➤ Giving each party adequate time to present his side of the story.
- ➤ These standards must be met in whatever form the dispute is resolved, i.e. whether in court, the Tribunal, party IDRM or in ADR

Litigation

Litigation is done before Courts and Tribunals such as the Political Parties Disputes Tribunal. Political disputes have normally been taken to litigation fora when the disputes arise. Now and again they are insoluble through litigation with attendant resort to violence and other forms of self-help. In fact, many times even before or without attempting a resort to litigation, a residual apprehension that the Courts may not render justice at all or timeously pushes political gladiators into resort to rigging of elections, political violence and other unlawful

actions in the bid to protect their interests. The 2007/8 PEV was a result of mistrust in the Courts.

Litigation before the PPDT is supposed to be the second step after parties fail to resolve their disputes within the political party's internal dispute resolution mechanism. However, some parties have taken to litigation before attempting internal dispute resolution.

12.5 Internal Party Dispute Resolution Mechanisms

All political parties are required to have internal dispute resolution mechanisms. Section 40(2) of the Political Parties Act - requires political parties have internal dispute resolution mechanisms. The PPDT cannot entertain a dispute that has not been taken to an internal forum. Clause 23 of the Second Schedule to the PPA says that Party Constitutions should have provisions for an internal party dispute resolution mechanism.

The mechanism adopted by the political party must meet minimum standards to ensure it guarantees certain fundamental rights, such as fair hearing and natural justice.

The PPDT has, with the assistance of stakeholders, developed model internal dispute resolution rules for use by parties. The rules were validated at a workshop in Machakos ,(Gelian Hotel) in December 2015.

Appeals from party internal dispute mechanisms are referred to the PPDT

The PPA establishes the Political Parties Liaison Committee to provide a platform for dialogue between the Registrar of Political Parties, the IEBC and political parties.

Formal disputes between parties are filed before the PPDT.

The PPA does not require political parties to try internal dispute resolution mechanism before coming to the Tribunal since the dispute is between two parties as opposed to a dispute within a party.

12.5.1   Alternative Dispute Resolution for Political Parties

ADR offers an alternative system for relief from the hardship created by the substantive and procedural law of formal adjudication. The word **alternative** refers to looking outside the courtroom setting to resolve some disputes.

ADR, then is "a broad spectrum of structured processes, including mediation and conciliation, which does not include litigation though it may be linked to or integrated with litigation, and which involves the assistance of a

neutral third party, and which empowers parties to resolve their own disputes."

There are different kinds of ADR:

1) Arbitration
2) Mediation
3) Conciliation, etc.

Any ADR mechanism employed for the resolution of any political dispute will ultimately depend for its success on disputing parties' readiness and willingness to submit their dispute to non-litigation resolution processes and an equal readiness and willingness to accept the resolution of the dispute.

12.5.2   Forms of ADR

Compromise

Compromise is the peaceful settlement, either express or tacit, of a dispute, without recourse by the two disputants to a third person or agency to help settle the dispute. Compromise requires the bilateral or multilateral agreement of both or all the disputants involved.

Mediation & Conciliation

Mediation and conciliation are similar in so far as in both the parties use an impartial third party to resolve their dispute.

In **mediation**, the mediator sets out to bring the parties closer together while acting as a passive facilitator.

In **conciliation**, the conciliator is an active participant in the negotiation, proposing possible solutions to the disputants in order to arrive at one that is acceptable to both or all disputants.

Arbitration

Arbitration arises from the parties' agreement to use an arbitrator. The final decision, normally called an 'award', is be handed down based on either the law or equity.

Arbitration has characteristics similar to judicial decisions because, on its endorsement by a court, the award takes on the characteristics of a court decision or judgement, meaning that it is binding on the disputants and legally enforceable.

12.5.3 Key Benefits of ADR

In more ways than one, the ADRs avail political disputants an opportunity for very qualitative or very effective resolution of their dispute more than any other dispute resolution mechanism can avail them. These include:

1. Saving time
2. Saves money
3. Confidentiality and protection of party/personal secrets
4. Rescues the judicial system from an overload
5. A simpler and less legalistic structure with relaxed rules of evidence and procedure
6. Having better processes – more open, flexible and responsive to the unique needs of the participants.
7. Achieving better results – outcomes that serve the real needs of the participants or society
8. Enhancing community involvement in the dispute process; and
9. Broadening access to justice

12.6 Mainstreaming ADR in Political Parties Disputes Resolution

Due to the heavy burden of litigation and the many benefits that ADR presents to parties in a dispute, the Constitution calls upon the Judiciary to mainstream ADR to minimize the number of cases that come before the Courts.
ADR is equally useful in the political context because the PPDT may not have the resources and capacity to handle all the disputes that arise from election cycle within the required timelines.
It is extremely useful that some of the disputes be handled through ADR.

12.7 Conclusion

All political parties have in-built structural party mechanisms that operate as dispute resolution mechanisms, but these are often unused or abused and essentially the reason why most political disputes arise in the first place.
Political parties, as organizations, are expected to have structures within which to work; they are expected to have a collective aspiration above the individual aspirations of those who form or join them; it is also expected that in carrying out their functions as avenues for leadership recruitment, they will be guided by the rules they collectively set for themselves.

The Model IDRM Rules developed by the PPDT with the participation of stakeholders (including political parties) will be useful in ensuring parties have IDRM mechanisms that meet the minimum requirements of the law.

At the moment, politicians and political parties have not made the best use of several dispute resolution methods that could have assisted in removing the tensions that litigation produced in the political system.

13.0 Campaign Management

Samuel Lemaloe

Introduction

Political Parties' main goal is the acquisition of power. This is achieved, and understood in Kenya as the attainment of electoral positions and formation of the government. In the run up to elections, in order to win the seats the voters must be convinced of the party's ideologies and manifesto in order to vote for those specific candidates. This presupposes that the voters are able to make an informed decision. A political party therefore is obligated to disseminate pertinent information to the electorate to be able to make that informed decision, hence the campaign.

At the end of this presentation participants should be able to;

a. Define campaign
b. Define campaign management
c. Formulate and implement a campaign strategy.
d. Enumerate electoral offences.

13.1 What is a campaign?

A campaign is a series of coordinated activities designed to achieve a particular purpose or goal.

Political campaigns are organized efforts which seek to influence the decision of people to vote in the political party's favour. In democracies such as ours, political campaigns often refer to electoral campaigns, by which voters are swayed to vote for certain representatives or decide a referendums.

13.1.1   Methods of Campaigning

A person or group of people is promoted both within and outside of the party.

- Well-known (celebrity) faces are more visible and therefore using them may make it easier to reach voters.
- Meetings

- One on one attempts to try and influence
- Posters and pamphlets
- Advertisements and billboards
- Chants/Songs/Marches

Positive features of a political campaign	Negative features of a political campaign
- Long standing issues are identified during this period	- Physical violence, fear/dread in the community
- Public works projects get started or done in the time leading up to an election. (roads, bridge repair etc.)	- Division in the community
- Politicians are more visible and accessible.	- Racial trouble
	- Mud slinging

13.1.2   Campaign management

Campaign management involves the coordination of a political campaign's operations such as fundraising, advertising, soliciting for votes (with direct contact to the public), and other activities supporting the effort, directly during the campaign period.

13.1.3   Effective preparation for the elections

The core business of any political party is to strive to acquire political power through a free and fair contest of the elections.

Political power enables a party to implement its programmes and purposes set out in its Election Manifesto.

A good election manifesto contains:-

A. Actions and programs that a party would implement in the country if it were to capture political power and
B. Programs and activities it will undertake in the event that it does not capture power or does not capture power exclusively.

Our constitution mandates that a general election of members of the National Assembly, the Senate, the County Assemblies and the Governors be held every five years, and it be held on the second Tuesday of the month of August in the 5th year.

Therefore the dates of our general elections are certain. Because they are known and we can plan for them.

It is important for a Political Party to undertake a brief examination and discussion on the processes that should precede the general election as well as the manner in which the general election itself is managed and conducted. A general election is a most important occurrence in the calendar of any political party.

An electoral cycle commences with the end of a General election and ends with the commencement of the next general election. The outcome of an election depends on the manner in which the general election was prepared and conducted. It will also be impacted upon by the way that political party has been organized, managed and run during the preceding electoral cycle.

13.1.4   Campaign Activities

It is important to engage in a pre-campaign analysis. Questions to address are:-

1. Is the venture worth it?
   • Is there enough information?
   • Have you considered what resources you would need (including money and human resources) and where you would get them?
   • Did you collaborate with others?
2. Have you identified possible barriers to a successful campaign?
   • Public apathy
   • Resistance to change in attitudes, beliefs and practice
   • Insufficient resources
3. How can barriers be overcome?
   • How can specific groups in the community be targeted differently (age, special interest, ethnic, women)?
   • Research issues that are of interest to your target audience
   • Marketing and getting your message out
   • Professional approach

13.1.5   Considerations for contesting an Election

1. <u>Why do you want to run for office?</u>
   Elected office is demanding and time-consuming. Have you carefully considered why you want to contest? A potential candidate should ask themselves the following questions:
   • Am I fully prepared?
   • Is my family prepared?
   • How will this affect my professional life?
2. <u>What are your financial resources?</u>
   Election campaigns can be expensive.
   • Do you have adequate resources to run?
   • Can you raise necessary resources to cover your campaign costs?
   • Do you have independent means outside of politics?
3. <u>What are your campaign issues?</u>
   • Do you have clear campaign issues that are important to voters?
   • Is your campaign theme based on community needs?
4. <u>What level of support do you have in your community</u>?
   • Are you well known and supported?
   • Can you identify your support base?
5. <u>Who are your allies?</u>
   • Have you identified your allies?
   • Are they willing to be part of your campaign team?
   • Are they willing to support your campaign financially?
   • Are they willing to use their influence to support your campaign?
6. <u>Where does your opponent stand on important issues?</u>
   • Have you researched your position in relation to your opponents?
   • Can you identify the areas in which you will have to do work to gain support?
7. <u>What is the process for entering the campaign?</u>
   • Do you know what steps you need to take to become a candidate? i.e. Public officer resigning six months prior to an election, Section 43 (5) Elections Act, 2011.

13.2 The Campaign Strategy

A well-managed political party has a department which deals with and organizes elections both within the party and externally versus other parties. That department is often headed by an officer known as the Director of Elections or manager of elections or any such title. That department is charged with the responsibility to develop an election manual which, in each electoral cycle,

should be fully updated revised and edited at the very least 18 months prior to the occurrence of a general election.

13.2.1   Contents of the election manual
The election manual will generally contain a number of things such as:-

1. That parties electoral map depicting preferably by colour coding, the party's electoral strength in ALL the counties and wards in which that party has presence segmented in gender, age and degree of literacy.

2. Names and contact particulars of all the current officials in the Head Office and in each county or ward or sub-county in the country.

3. An electoral calendar which depicts a road-map towards a general election indicating what step ought to be taken how many days before the General Election.

4. A schedule of all anticipated preparatory meetings and showing which official is responsible for convening which meeting and who are expected to attend to which meeting.

5. A schedule distributing and assigning responsibilities for the various actions that need to be undertaken ahead of or leading to the general election.

6. A table showing the date and times when meetings would be held to carry out pre-general meeting leadership selections.

NOTE: A refreshing of staff and selection of volunteer team and suppliers and contractors advised at least six (6) months before the anticipated general election.

7. A statement spelling out how the general election should be managed and providing for:-
   a)
   i.   Recruitment of officials
   ii. Recruitment of electioneering staff
   iii. Recruitment of volunteers cadre
   iv. Recruitment and training of electoral agents, election observers etc

   b) A briefing schedule

c) A de-briefing schedule

8. A statement spelling out a resource mobilization strategy and a program for its implementation and formulating the fund raising strategies activities and accounting process.

9. The election manual should also draw up a campaign program covering the entire country or area of presence or at the very least should indicate how such a campaign program is to be drawn up, when, and by whom.

10. A detailed schedule of pre-general election and post-general election strategic planning meetings.

Note: Pre-general election meetings will deal with preparation for and conduct of the general election while Post-general election meetings deal with how to overcome the challenges arising out of these results.

13.2.2   Party Outreach

To gain political support, a candidate must be able to communicate the campaign message to potential supporters effectively.

13.2.3   The Campaign Message

The messages you develop must answer the questions Why? Why care? Why act? A message must explain what's valued, what's at risk and it must align you with others who share your values and concerns. A message must be short, simple and repeated to be heard. To be effective, a message must be included in every communication - written and oral - and used in all your free and paid media. A message must clearly state the issue/organization/campaign's values and align itself with the concerns of the majority of citizens: for example – Youth & gender inclusivity, children and education, etc.

Effective Messages

- Messages come from campaign strategies and goals. Clearly define your goals and the audiences you want to engage.
- Messages have a firm foundation in the issues, and require 'buy-in' from all levels of the campaign.
- Your messages are a road map, but you must know where you want to go. Begin messages with where people are and then take them where you want them to go.

- Use your messages as the foundation of all campaigns or projects. They may have their own 'sub' messages, but should be arteries to your main road.
- Your messages should not always be delivered by you. Credibility, persuasion, etc. may require different voices and different spokespeople.

How to deliver the message during campaigns

a. Door - to - Door Canvassing
b. Petitions, Raffles and Auctions
c. Posters and Banners
d. Plays, Puppet Shows and Local Theatre
e. Festivals and Rallies – subject to the Public Order Act
f. Leaflets and Brochures
g. Policy Manifestos and Discussion Documents
h. Media Releases
i. Media Events
j. Direct Mail
k. Discussions with community leaders

13.2.4   Access to and obligation of media in communicating the Political Party's message

The Elections Act provides under Section 47(1), that a political party participating in an election shall have access to the state owned media services during the campaign period.

Subsection two of the same Act authorizes the Commission to monitor the equitable allocation of air-time during the campaign period, after consultations with the independent candidates, the political parties concerned and the officers responsible for the state owned media services.

Party outreach was covered broadly in this source book.

13.3 The Role of Youth & Women in Campaign Management

13.3.1   Youth

The campaign period is crucial for encouraging and supporting youth to participate in elections. The civic engagement of youth and youth-friendly political parties are important building blocks, given that education for active citizenship is most effective if students not only read about it in textbooks, but

also try it out themselves. Youth-led groups and their networks can be important means of participation for many young people across the divide. Depending on the contextual factors, they can have a positive impact on their communities and create spaces for participation.

Political parties should play a role in identifying and addressing context-specific social barriers to youth participation, such as to facilitate the registration of youth-led organizations.

13.3.2 Women

The principle of equity of gender and the instrument of gender mainstreaming should be included in most of the parties' programmes. Gender balance is part of many party statutes. As earlier mentioned in this source book, Political parties are required to make sure that not more than 2/3rds of its leadership are of the same gender.

13.4 Campaign Offences

13.4.1 Participation in elections by public officers (Elections Act Section 43)

(1) A public officer shall not:-

(a) Engage in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election

(b) Publicly indicate support for or opposition against any party, side or candidate participating in an election;

(c) Engage in political campaigns or other political activity; or (d) use public resources to initiate new development projects in any constituency or county for the purpose of supporting a candidate or political party in that constituency or county.

(2) A public officer who contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.

(3) A person who knowingly aids in contravention of subsection (1) commits an offence and is liable, on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) A candidate who knowingly aids in contravention of subsection (1) shall not be eligible to contest in the election.

(5) A public officer who intends to contest an election under this Act shall *resign from public office at least six months before the date of election*.

Exceptions
(6) This section shall not apply to—

(a) the President;

(b) the Prime Minister;

(c) the Deputy President;

 (d) a member of Parliament;

(e) a county governor;

(f) a deputy county governor;

(g) a member of a county assembly.

13.5 Role of Political Parties
It's the duty of a political party to -

* Recruit election agents and observers

* Train the election agents how to report election offences as soon as possible to Designated IEBC Security Officer's desk, Designated Peace Committees or the nearest Police Station

* Train elections observes how to prepare a report on the conduct of the elections

* Conduct campaigns in a peaceful manner and to always adhere to the laws, rules and regulations guiding elections in Kenya

* Participate in the elections

13.6 Conclusion
Political campaigns are constantly evolving. They once relied on print advertisement and word of mouth and severely impacted by the radio. However,

new technology that allows politicians to reach more potential voters than ever before. Social media has redefined the political world. Although image and appearance play a major role in political campaigns, the Internet and email marketing have revolutionized the way campaigns are run, allowing politicians to quickly and easily reach large numbers of people in a matter of seconds. And today, social media is the new, big thing on the political scene.

14.0 Management of Post- Election Outcomes

Judge Lee Muthoga and Samuel Lemaloe

Background

A general election will ordinarily include the election of a President, The members of The National Assembly, The senators, The Members of the County Assembly and the Governors. That is the complex general election that each party will strive to win. In this contest there are those who win and others who do not win. It is therefore clear is that every political party participating in a general election will need to manage an electoral outcome for either result.

In the previously discussed Election Manual, it is important to include in it, activities and events directed at celebrating the win, and managing the resultant succession within and without the party, and also how to accept and embrace the loss and overcome the challenges resulting therefrom at both the individual contestants' level or at the Political Party level.

This chapter provides you with information to enable you prepare for victory or defeat, anticipate the next elections, adjust to the life in office and become a successful leader.

At the end of this session a participant should be able to:

a. Manage immediate outcome

b. Reconstitute themselves after an election

c. Carry out a self-assessment and evaluate their role in the electoral process

d. Develop a post-election strategy

e. Institute and file election petitions

14.1 Managing the outcome of Election Results

Your own conduct on Election Day will have a huge influence on whether the electoral process goes smoothly or not. It is especially important for you to understand, and consider in advance, what steps you should take if you are

concerned about any aspect of the electoral process. Always try to collect as much factual information as possible before raising complaints about the electoral process. Emotions are usually raised at election time but you should approach any problem soberly and avoid jumping to conclusions based on rumor or hearsay. For the election to be conducted peacefully, it is essential that candidates use proper channels of communication and legal means to assert their rights. No matter what the nature of your complaint, incitement of your own supporters is never the right way to proceed because it can result in injury or loss of life for which you may be held responsible.

14.1.1 *What is the way forward after an election?*

Party candidates can contact their party headquarters to discuss the situation and seek advice on whether a complaint should be filed. You can contact the IEBC either in the polling station where problems may have occurred, or at the nearest regional/county coordination office if you are not satisfied with the response locally or if the problem is more widespread. Prior to the election, information will be made available on the best points of contact for candidates needing to raise concerns with the IEBC. If there is a risk of disorder, you can also contact the police but remember that police in and around polling stations work under the direction of the IEBC on Election Day.

According to the election laws and regulations, voting commences at six in the morning and ends at five in the afternoon, after which votes cast are counted at the same polling station where they were cast. The results for the station are then announced by the Presiding Officer (PO), recorded and transmitted to the tallying centre, established at a central point within the constituency. It is important for you to be present at the tallying centre to follow the process throughout until the declaration of results by the Returning Officer (RO).

Once the results are announced, your next steps will depend on whether you win or lose. Should you lose in a free and fair election, you should accept the results, publicly congratulate the winner, thank your supporters and commit yourself to cooperating with the winner in developing the constituency, ward or other electoral unit. If you have evidence of some irregularities, you should still concede defeat but point out you were not satisfied with the process and will be pursuing legal avenues of redress. Ensure that your supporters do not take this as a signal that you want them to cause mayhem on your behalf. Ask your supporters to remain calm and assure them that you want all concerned to follow the law. You need to be aware of your rights as a candidate, including requesting a recount and filing an election petition.

After the election, a losing candidate needs to maintain a very delicate balance between continuing to relate with the constituents, engaging in constituency activities and giving space to the elected leader to discharge his/her mandate. On the one hand, you should not abandon the constituency and constituency issues just because you lost an election. Instead, you should remain available to participate and offer leadership within the constituency whenever that is called for. However, do not try to compete or overshadow the duly elected representative of the people. If you do, you will make it difficult for the elected representative to perform his or her role and you may also breed conflict and resentment. If you win, you should prepare and deliver a victory speech. You should be magnanimous in victory, thank your supporters but also reach out to the electorate as a whole, including those who voted for your opponents. Reach out to your opponents too, so that you can cooperate in the task of developing your electoral area. The victory speech should also briefly outline what your electors should expect from you. You should seek to define the type of leader you will be and what your key priorities will be. Do not speak for too long as everyone will have had a long day by this time.

It is advisable to make every effort to avoid being drawn into illegitimate contest of electoral results. CONTEST ONLY THE CONTESTABLE. Contests are costly and risk disunity and destabilization of the party. Avoid the blame game. It destroys the Political Party's spirit.

If a political party decides to contest the outcome of an election, it proceeds by way of instituting an election petition.

Carrying out a self-assessment and evaluating the political party's role in the electoral process (The post-mortem)

The campaign post-mortem, or evaluation, is important whether you have won or lost and should be based on the planning and monitoring tools developed at the start of the campaign and adjusted throughout. Naturally, the performance will be determined according to the goals that were set at the outset and can be based on the 5 campaign fundamentals (visibility, communication, fundraising, identification, and getting out the vote). Goals and objectives, resource mobilization and allocation, decision-making processes, materials and instructions for each the fundamentals should be discussed. It is also relevant to identify events that led to any adjustment of tactics and strategy. Was the event over or under estimated? Was the campaign's reaction timely and appropriate? Could it have been better anticipated? How? Candidates and managers should take stock of the campaign successes and shortcomings

individually. This can inform a discussion with members of the campaign team. Honesty, seriousness, and a constructive approach create opportunities to articulate practical recommendations to help improve the next campaign's performance draw lessons and prepare for the next contest.

14.2 Developing a post-election strategy

What Next After Being Elected?

The election is over and you won! You will need a little time to let the new reality sink in. There are a lot of questions that you will have and you will probably not know the answers to all of them. It is important to prepare and adjust to your role as an elected representative. If you have not done so in advance, you should immediately prepare a list of things to do as soon as you get into office. This may include family preparations, party relations, settling into office and engaging with your constituents.

14.2.1   Election petitions in Kenya

14.2.1.1   Presidential election petition

Article 140(1) of the Constitution of Kenya states that a petition to challenge the election of a President-elect is to be fi led within seven days after the date of declaration of the results of the Presidential election.

14.2.1.2   Other petitions

Article 87(2) of the Constitution of Kenya read with Section 76(1)(a) of the Elections Act 2011 states that with the exception of petitions concerning a presidential election, all other petitions challenging election results must be filed within twenty-eight days after the declaration of the election results by the Independent Electoral and Boundaries Commission.

14.2.1.3   Petitions involving vacancy of office

Section 76(1)(b) of the Elections Act, 2011 provides that a petition seeking a declaration that a seat in Parliament or a County Assembly has not become vacant shall be presented within twenty-eight days after the date of publication of the notification of vacancy by the relevant speaker.

Section 76(1)(c) further states that a petition to seek a declaration that a seat in Parliament has become vacant may be presented at any time.

14.2.2   Procedures and processes

The constitution and the Elections Act are silent on the mode of resolving disputes arising from the first round of presidential elections. It is reasonable to expect disputes and challenges to arise from the first round presidential elections where a candidate may dispute the results as announced by the Independent Electoral and Boundaries Commission. The constitution in Article 140 only envisages disputes relating to challenges to the election of a president- elect and provides that they have to be heard by the Supreme Court. That jurisdiction conferred on the Supreme Court is restricted to challenges to the election of a president elect.

In the absence of clear mechanisms of resolving first round presidential election results disputes, parties may resort to one of the following ways of challenging the first round presidential election results;

1. File judicial review proceedings in the High Court against the IEBC challenging its decision and calling for the results as announced by the Commission to be quashed;
2. File a constitutional petition in the High Court grounded on amongst others issues, an infringement of the right to free and fair elections as granted in article 38, the right to fair administrative action as granted in article 47 and other fundamental rights that the action may find were infringed in the course of the elections.
3. Parties may also invoke the unlimited original jurisdiction of the High Court as conferred in article 165 (3) of the constitution to challenge the results before the High Court.

We must point out at this point that the dispute will be subject to the usual court process prone to delays and the case will have to compete for precious judicial time with other disputes courts ordinarily try. The competition for space must be considered against the pressure of time imposed by the constitution which stipulates the time frame within which the runoff elections are to be held. Article 138(5) of the constitution provides that a runoff election has to be held **within 30 days** from the date of the first election.

14.3 Conclusion

The Election Manual should set out an elaborate election observation protocol which provides for training party election observers (***as distinct from party agents***) on how to observe an election, how to keep a diary of all occurrences in

the area under their observation. An observation manual for their use should be developed and they should be trained on how to report on their observations.

A check-list helps to ensure that your new role does not overwhelm you.

The detail of your checklist will depend on the position to which you have been elected. Possible items include:

• Making any changes required at your current place of work.

• Making arrangements in your home including, if necessary, preparing for your new residence during your term as an elected representative if that is different from where you are residing currently.

• Making alternative arrangements for school for your children, if necessary.

• Learning the rules of procedure of the House you have been elected to.

• Getting to know your colleagues from the same party and other parties.

• Deciding where you are going to do most of your work and ensuring you have the necessary space and equipment.

• Identifying the key groups and organisations in your constituency/county/ward that you will need to remain in touch with in your new role.

• Identifying and agreeing with your constituents on the priority issues you will focus on as an elected leader, possibly based on feedback obtained during the campaign.

• Making a list of key media contacts, based on those you got to know during the campaign, and communicating your priorities through the media.

• Identifying roles that will need to be performed by volunteers, interns or paid staff and then selecting/hiring the staff.

• Getting down to performing your roles as an elected leader.

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APPENDIX 1 Sample Compliance Matrices

Basic Compliance Matrix COK 2010

	Obligation	Finding	Compliance Level
1.	Article 2 and 3 Binding effect of the constitution Obligation to align party constitution, internal procedures processes and operations with the constitution		
2.	Article 3 obligation to respect, uphold and Defend the Constitution.		
3.	Article 3(2) Obligation not to attempt to establish a government otherwise than incompliance with this Constitution		
4.	Article 7 Obligation to use Kiswahili English and disability friendly language		
5.	Article 10 Obligation to uphold national values		
6.	Article 20 Obligation to respect Human Rights Generally		
7.	O Article 27(8) 81 Obligation to respect the 1/3rd gender rule		
8.	Article 91 Basic requirements for political parties		

9.	Obligation to		
	(a) have a national character as prescribed by an Act of Parliament		
	(b) have a democratically elected governing body		
	(c) promote and uphold national unity;		
	(d) abide by the democratic principles of good governance, promote and practice democracy through regular, fair and free elections within the party;		
	(e) respect the right of all persons to participate in the political process, including minorities and marginalised groups		
	(f) respect and promote human rights and fundamental freedoms, and gender equality and equity;		
	(g) promote the objects and principles of this Constitution and the rule of law; and		
	(h) subscribe to and observe the code of conduct for political parties.		

10.	Article 91(2) Obligation not to		
	(a) be founded on a religious, linguistic, racial, ethnic, gender or regional basis or seek to engage in advocacy of hatred on any such basis;		
	(b) engage in or encourage violence by, or intimidation of, its members, supporters, opponents or any other person;		
	(c) establish or maintain a paramilitary force, militia or similar organisation;		
	(d) engage in bribery or other forms of corruption; or		
	(e) except as is provided under this Chapter or by an Act of Parliament, accept or use public resources to promote its interests or its candidates in elections.		
11.	Article 92 Obligation to comply with consequential legislation on political parties.		

### *Sample Compliance matrix Political Parties Act*

	Obligation	Finding	Compliance Level
1.	SECTION 3(1) Obligation not to form a political party to further purposes which are not contrary to the		

	Constitution or any written law		
2.	SECTION 3(2) Obligation to ensure that only persons above the age of 18 are members.		
3.	SECTION 3(2) Obligation to ensure that only persons above the age of 18 may contest for an elective position in the party.		
4.	SECTION 4(1) Obligation to register in accordance with the provisions of the Act		
5.	SECTION 5(2) Obligation to apply for full registration within 180 days of the date of provisional registration		
6.	SECTION 7(2)(a) Obligation to have not fewer than 1000 registered voters from each of more than half of the counties		
7.	SECTION 7(2)(b) Obligation to ensure that the registered members reflect regional and ethnic diversity, gender balance and representation of minorities and marginalized groups		
8.	SECTION 7(2)(c) Obligation to ensure that the composition of its governing body reflects regional and ethnic diversity, gender balance and		

	representation of minorities and marginalized groups		
9.	SECTION 7(2)(d) Obligation to ensure that not more than two-thirds of the members of its governing body are of the same gender		
10.	8—Obligation to avoid certain names		
11.	9—Obligation to include mandatory contents in the constitution or rules of the political party.		
12.	10—Obligation to comply with the requirements as to coalitions		
13.	11— Obligation to comply with the requirements as to Mergers.		
14.	12—Restrictions public officers in a political party.		
15.	13—Disqualification from holding executive office in a political party.		
16.	14—Resignation from political party.		
17.	15—Rights and privileges of political party.		
18.	16—Corporate status of political party and declaration of assets etc.		
19.	17—Records of political party.		

20.	18—Duty of political party to inform Registrar.		
21.	19—Public meetings of political party.		
22.	20—Notification of changes, alterations in constitution etc. of political party.		
23.	21—Deregistration of a political party.		
24.	22—Effect of cancellation of registration		
25.	26 Obligations on the use of the funds from the Political Parties Fund		
26.	S 27 authorised sources of funds		
27.	S 29 Publication of sources of funds		
28.	S 30 Declaration of assets, liabilities and expenditure in relation to elections.		
29.	S 31 Audit of political parties accounts.		
30.	S 40 Obligation to first attempt to resolve disputes internally		
31.	S40 obligation to submit disputes to the PPDT		
32.	FIRST SCHEDULE (s.6(2)(e)) Obligation to subscribe to and comply with the		

	Code of conduct for political parties		

List of Contributors' Profiles

Ann Nderitu

She holds a Bachelor's Degree in Education (Moi University) and Masters in Linguistics (University of Nairobi) among other qualifications. Ann is a seasoned educationist with a wealth of experience in Project Management and Adult Training. She is also an accredited expert BRIDGE Trainer.

Currently, she is the Head of Electoral Training at the Independent Electoral and Boundaries Commission IEBC. Her work at the commission includes development of training materials, design and implementation of National training programmes that trains all election officials and key stakeholders. Ann is also well versed and passionate about gender and inclusion and she facilitates on the same in national and international workshops.

Bjarte Tora.

Bjarte Tora has more than 30 years of experience being in politics and more than 25 years of experience in democracy development working with the democratic legal framework, political institutional strengthening and electoral processes in more than ten countries on four continents including Estonia, Latvia, Lithuania, Russia, Bosnia-Herzegovina, Bolivia, Kenya, South Sudan, Somalia, Yemen, Afghanistan and Nepal.

Mr. Tora joined National Democratic Institute (NDI) in 2001 and directed NDI's programs in Kenya for 8 years. In this capacity he developed and implemented extensive programs to assist Kenyan political parties, including close collaboration with the Electoral Commission in Kenya establishing inter-institutional liaison mechanism. He also extended his expertise to help initiate NDI's democracy support programs in Somalia and South Sudan.

In January 2009 Mr. Tora joined International IDEA serving as the Head of the Political Party, Participation and Representation Program.

Mr. Tora is since June 2011 Senior Advisor at the Oslo Center in charge of its democracy assistance program.

Mr. Tora has been working in Kenya for the last 15 years following the political and democratic developments in the country and the region closely. He has an extensive network in the country. He has worked with Kenyan institutions in assisting developing and/or operationalization of the Election Law, Political Party Law and Campaign Finance Law.

Bon Makolwal

He is an advocate of High Court of Kenya, currently working at the office of Registrar of Political Parties. He has five years' experience in law practice and litigation specialised in Judicial Review, Constitutional Petitions and Governance. He holds a Bachelors' degree in Law (LLB) from Moi University and Diploma in Law from Kenya Schools of Law. He is currently pursuing a master degree in Law (LLM) at University of Nairobi.

Bosire Nyamori

Mr. Bosire is a lawyer and an accountant and he presently teaches law at the University of Nairobi and consults on campaign finance, elections, political parties law and tax law and policy. His particular strengths are in legal research and writing; development of laws; tax advisory work; governance advisory works; evaluations; and strategic planning and reviews; capacity strengthening and training.

As a consultant he has worked with the Office of the Registrar of Political Parties (ORPP), Independent Electoral and Boundaries Commission (IEBC), International IDEA, International Foundation for Electoral Systems (IFES), Oslo Centre, Electoral Institute for Sustainable Democracy in Africa (EISA).

Mr. Bosire has consulted in the area of Political Parties Law in the Republic of South Sudan under Democracy International and the International Republican Institute

Brenda A. Kiberenge

Brenda A. Kiberenge is currently the Senior Legal Officer and Personal Assistant to the Director/Chief Executive Officer of the Kenya School of Law. She holds a Masters of Law in Human Rights Law from the University of Strathclyde, UK, a Postgraduate Diploma in Law from the Kenya School of Law and a Bachelor of Laws from the University of Nairobi, Kenya. She was admitted to the High Court of Kenya on 20th July, 2006. Brenda is currently pursuing her Certified Secretary qualifications and Masters in Business Administration (Strategic Management). She has a wealth of knowledge and experience in corporate governance, human rights, human resource, strategic management and commercial, conveyance and administrative legal practice

Prof Catherine Ndungo

Prof Catherine Ndungo is an Associate Professor in the Department of Kiswahili at Kenyatta University .She holds a PhD in African Oral Literature. She also holds a Masters degree in Linguistics and African Languages. .She also obtained Certificates in in Women in Political Leadership from Mashav Institute in Israel ,Mediation and Conflict Resolution from Strathmore School of Law and Higher National Diploma in Psychological Counselling from Kenya Institute of Professional Counsellors.

Prof. Catherine Ndungo is currently the Associate Dean in the School of Humanities and Social Sciences at Kenyatta University. Previously she was the Director of the Institute of African Studies. She was the founder and the first Chairperson of the Department of Gender and Development Studies. She is also a consultant in gender, leadership, strategic planning and education. She has worked in the university and in the development field for the last twenty eight years and has vast experience in training political party officials, women, youth and people living with Disabilities. She has been consulted by many organizations including Office of the Registrar of Political Parties, IEBC, Kenya Institute for Curriculum Development on Gender Disability Mainstreaming among others among others.

She has also undertaken strategic planning training with political parties, educational institutions and religious based organizations locally, regionally and internationally. She has been trained in rapid results initiative, constitution making, and organizational management among other skills. Her areas of specialization are gender mainstreaming, capacity building for women, youth

and people living with Disabilities leadership, governance and democracy and communication skills. She has skills in monitoring and evaluations which she has used to evaluate gender impact of National Livestock and Agricultural Programmes (NALEP) and Gender Mainstreaming Initiatives for Jomo Kenyatta Foundation.

She has vast experience in mainstreaming gender, women and youth training in Non-Governmental Organizations, United Nations World Food Programme, Oxfam Intermonth and UN Women where she participated in writing a Women Candidates Training Manual. She has been able to develop training materials such as curricula, manuals, handbooks in the areas of gender, team building, leadership communication, civic education, women and good governance. She has widely published in her area of scholarship.

Charles B G Ouma

He is an advocate of the High Court of Kenya of 25 years standing. He is presently the Assistant Director Continuing Professional Development Projects and Research at the Kenya School of Law. Charles specializes in undertaking legal compliance audits and has undertaken 34 legal compliance audits for state corporations since 2009. He has also taught constitutional law, law of evidence, arbitration and ADR at Catholic University of Eastern Africa, commercial law and banking law Jomo Kenyatta University of Agriculture and Technology, and professional ethics at the Kenya School of Law

Kyalo Mbobu

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He is an advocate of the High Court of Kenya of 29 years good standing. Since 1987, He has practiced law right from the District Magistrate's Court level to the level of the Supreme Court of Kenya.

Since October, 1994, He has Lectured law at the School of Law of University of Nairobi both at the Undergraduate and Post-Graduate level. He has taught law of Contract, Evidence, Equity, Law of International Institutions and International Commercial Arbitration. He has also supervised numerous LLB dissertations and LLM thesis. He has published a legal text entitled:- **The Law and Practice of Evidence in Kenya**. He has also contributed a chapter in a publication called

Arbitration Law and Practice in Kenya. He has attended and made presentations in numerous local and international fora and symposia.

Currently, He is the Chairman of the Political Parties Disputes Tribunal (PPDT) established under the Political Parties Act, 2011. The Tribunal hears and determines disputes arising with and among political parties in Kenya.

He is a Fellow of the Chartered Institute of Arbitrators (CIArb) of London. As an arbitrator, he has participated in several local, regional and international arbitral proceedings within Kenya.

Mr. Joel Nyagwoka Onchwati.

Mr. Onchwati is the acting Finance Manager at the Office of the Registrar of Political Parties. He holds a Masters Degree in Business Administration, Finance and Accounting. He has particular strengths in budget planning, resource mobilization and accounting.
He has worked in the public service, serving in various ministries for over 20 years, in various positions both as a finance officer and as an internal Auditor.

Judge Lee G. Muthoga, S.C., - Chairman DCRI

Justice Lee Gacuiga Muthoga is a renowned Advocate of the High Court of Kenya and Senior Counsel having been in the legal profession for over 40 years. He was a founding partner in the firm of Muthoga Gaturu & Co. Advocates.

He has previously held the offices of Chairman of the Law Society of Kenya, President of the African Bar Association, Chairman of the African Forum of the International Bar Association, Chairman of the International Commission of Jurists (Kenya Section), and Chairman of the African Network for Prevention of and Protection Against Child Abuse and Neglect.

He was also Founder-Director of the Public Law Institute and Director of Liberty International.

He was enrolled in the Law Society of Kenya Roll of Honour in 2007.

Judge Muthoga holds a Bachelor of Laws degree from the University of East Africa, now the University of Dar es Salaam.

He is a Fellow of the Chartered Institute of Arbitrators, a Certified Public Secretary, a Certified Professional Mediator and a Trainer of Mediators.

He has published various papers on criminal justice and human rights.

Since October 2003, Judge Lee Muthoga has served as ad litem Judge in Trial Chamber II of the International Criminal Tribunal for Rwanda (ICTR), having been elected to the position in June 2003. He also sat as chair of the Tribunal's Case Management Committee.

On 20th December, 2011, Judge Lee Muthoga was successfully elected to the United Nations Residual Mechanism of the International Criminal Tribunals.

The International Residual Mechanism for Criminal Tribunals was established by the UN Security Council in 2010 through resolution 1966 (2010) to finish the remaining tasks of the International Criminal Tribunals for Rwanda and for the former Yugoslavia. Judge Muthoga is listed in the Roster of Judges who will be called upon to serve on a need be basis in the Residual Mechanism.

The Judge brings on board his vast expertise as IRC's Principal Consultant on legal and constitutional issues especially in implementation, devolution and dispute resolution.

Lucy Kamunye Ndungu

Lucy Kamunyu Ndungu is currently the Registrar of Political parties. Previously was a Deputy Registrar General and a Senior Principal State Counsel. She has a wealthy of Legal Professional and administrative skills and knowledge acquired through attending workshops pertaining to her professional area of operation. She has attended very many capacity building workshops locally and abroad which has accorded her exposure and experience enabling her to execute her mandate effectively in her work in the current office.

Academically she holds a Bachelor of Law degree from the University of Nairobi and a Postgraduate Diploma of Law from the Kenya School of Law. Currently she is studying for a master's degree in law at the University of Nairobi.

She is a member of many professional and social clubs.

Her hobby is reading and travelling.

Patrick Mwangi

Patrick Mwangi is a communication professional with over 20 years of experience in the field. Mr Mwangi started his career as writer in business and politics for several publications both locally and internationally.

He has been part of the media transition in Kenya from a strictly controlled sector to a liberal environment where media is free to report issues. Indeed, his first job as a business reporter with the defunct *Financial Review* ended when the publication was banned during the days of one party dictatorship in Kenya.

He has worked as a communications officer for various organizations including the Privatization Agency of the Government of Kenya and UNICEF.

As a consultant, he has worked in various African countries for such organizations as The World Bank Group and Trade Mark East Africa. He has worked as a consultant for the Government of South Sudan and Uganda.

Mr Mwangi is the Chief Executive Officer of Aquarius Media Limited, a publishing and Communications Consultancy with clients in Kenya and several African countries.

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Samuel Lemaloe is a Legal Researcher with Intellectual Resources Centre - East Africa. (IRC-EA).

He holds a Bachelor of Laws (LL.B) from the Catholic University of Eastern Africa (CUEA), and a Postgraduate Diploma in Law from the Kenya School of Law (KSL).