



**The State of Political Inclusion of Persons with  
Disability (PWDs) within Political parties in  
Kenya**

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## ABBREVIATIONS

ANC	Amani National Congress
COVID-19	Corona Virus Disease
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organizations
DfID	Department for International Development
DPO	Organization for Persons with Disabilities
FORD-Kenya	Forum for Restoration of Democracy - Kenya
GCK	Green Congress of Kenya
IEBC	Independent Electoral and Boundaries Commission
JP	Jubilee Party
KANU	Kenya African National Union
KIPP	Kenya Inclusive Political Parties
KNHCR	Kenya National Human Rights Commission
KUB	Kenya Union for the Blind
MCA	Member of County Assembly
MCCP	Maendeleo Chap Chap Party
MP	Member of Parliament
NEC	National Executive Council
NGEC	National Gender and Equality Commission
ODM	Orange Democratic Movement
ORPP	Office of the Registrar of Political Parties
PDU	Party of Democratic Unity
PPF	Political Parties Fund
PPOK	Progressive Party of Kenya
PWD	Persons with Disabilities
SDG	Sustainable Development Goals
SIG	Special Interest Group (Youth, Women and PWDs)
UDPK	United Disabled Persons of Kenya
WDM-K	Wiper Democratic Movement -Kenya
WFD	Westminster Foundation for Democracy
WHO	World Health Organization

## EXECUTIVE SUMMARY

Participation of persons with disabilities (PWDs) in political and public life is a human right as well as an important factor that promotes social inclusive development. When PWDs participate in political and public life their voice is heard and reflected in policy decisions. Despite the significant numbers of PWDs in Kenya, research suggests that PWDs continue to experience systemic exclusion from mainstream governance and developmental processes. This exclusion has been particularly acute in the areas of political representation in elective and appointed positions, with limited efforts by political parties to provide a conducive environment for PWDs to engage in politics. To address the persistent gap within Kenya's political culture led and perpetuated by political parties while strengthening direct engagement between political parties and civil society, WFD with sponsorship from DemoFinland developed the Kenya Inclusive Political Parties (KIPP) Programme whose purpose is to address the critical knowledge gaps within political parties to create and promote more inclusive political discourse, political commitments and public policymaking.

At programme inception, WFD commissioned a comprehensive baseline study focusing on inclusive political participation of PWDs in Political Parties in Kenya. This study aimed at gathering data on the state of political inclusion of persons with disability within political parties in Kenya, including the determinants and behavioural drivers for political parties to include or exclude persons with disability within party structures, policies, and processes. The study was majorly qualitative, collecting data from the political parties, Disabled Persons Organisations (DPOs) and other relevant stakeholders concerned with the inclusion of PWDs in the political processes. The research was guided by nine research questions that sought to determine: (1) the key social, economic, and political drivers of Political Inclusion of Persons with Disability in Political Parties in Kenya; (2) the supportive structures existent within Political Parties to promote the participation of special interest groups specifically PWDs; (3) the most effective/ineffective practices/structures in political party inclusion; (4) the barriers existent within Political Parties that hinder the participation of special interest groups specifically PWDs; (5) whether political party ideology and manifesto impact on the participation of special interest groups specifically PWDs within Political Parties; (6) the legal, policy and programming options likely to promote/ or regulate the political inclusion of PWDs in Political Parties in Kenya; (7) the existing policy and legal framework in Kenya that support inclusion of PWDs in social, political, and economic processes including the extent of political parties compliance and/or utilisation of these policy provisions; (8) the existing policy and legal gaps that prohibit inclusion of PWDs in Social, Political and Economic processes; and (9) identification of good practices in PWDs inclusion on social, political, and economic processes from other jurisdictions that Kenya can learn from.

The findings of the study indicate that 67 out of the 71 registered political parties have at least one PWD in their National Executive Council (NEC) which is, the top decision-making

organ of the party. The remaining four are yet to comply with the Office of the Registrar of Political Parties (ORPP) following up on compliance with this provision. Out of those that have complied, only two (ODM and Jubilee) have strong PWD Leagues. The study sampled 10 of the 71 political parties with findings revealing that out of the ten sampled Political parties, all were cited to some extent having developed inclusive party constitution and manifestos. A study by NGEK revealed that 50% of the sampled political parties i.e. Forum for Restoration of Democracy Kenya (FORD-Kenya), Wiper Democratic Movement -Kenya (WDM-K), Amani National Congress (ANC), Maendeleo Chap Chap (MCC), Kenya African National Union (KANU do not clearly categorise special interest groups (SIGs) but rather reference them as a cluster i.e. youth, women, PWDs and other marginalized groups<sup>1</sup>. The study also observed that no clear timelines exist for the review of the party constitutions as such many constitutions are not reflective of the current trends in democratic practise. Half (50%) of the political parties had a clear provision of allowing discounted nomination fee of up to 50%. For example, JP, ODM and FORD-K offer a discount on nomination fees to PWDs of up to 50% while, MCC discounts up to 75% of the fees payable for nominations. For representation purposes in party structures, the majority of the political parties nominate mostly those with 'visible disabilities' such as those with physical disability and albinism, leaving out other non- visible forms of disability.

The study identified some of the determinants of the participation of PWDs in political parties being associated with internal party policies and programmes, power relations within the parties, social and economic factors. While specific barriers inhibiting PWDs to participate in the political parties include a culture of violence and intimidation within the party; lack of reasonable accommodation such as access to information and accessibility features; misconceived low value of PWDs by the political parties and low investment by political parties in programmes for PWDs. Within the legal and policy framework, the study observed that gaps exist with the current laws not carrying adequate strength to compel political parties to be inclusive. An example of such legislation is the Political Parties Act which does not provide specific penalties for non-compliance on the representation of special interest groups. A general penalty is stated in section 46 that; ' a person convicted of an offence under this Act for which penalty is prescribed shall be liable on conviction to a fine of not less than one million shillings or imprisonment for a term of not less than two years or both, thus providing a loophole for non-compliance.

A report by the Centre for Multiparty Democracy<sup>2</sup> revealed unclear accountability of funds for SIGs. The report indicated that 15% of the total Political Parties Fund (PPF) meant for Special Interest Groups (SIGs) was not utilized independently, despite the requirement of independent work plans and budgets. Both parties omitted to allocate funds to programmes that target PWDs and the expenditure for SIGs cannot be determined how it was utilized.

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<sup>1</sup> NGEK (2016). Status of Equality and Inclusion in Kenya

<sup>2</sup> Centre for Multiparty Democracy (2020). Political Parties' Utilization of the Political Parties' Fund (PPF) to Promote Political Participation of Marginalized and Minority Groups in Kenya

Findings from this study conclude that the inclusion of PWDs in the political parties in Kenya remains inadequate and presents a big gap in respect to the civil and political rights of PWDs as entrenched in the international legal instruments as well as in the Kenyan laws especially the Constitution of Kenya 2010. Political parties are still, albeit slowly, trying to include PWDs in their agenda in terms of policy and practice. On one hand, there have been some varied practices and incentives by different political parties such as discounted nomination fees, the formation of party disability leagues and the development of inclusive intra-party policies. On the other hand, other political parties are grappling with the inclusion of PWDs partly because of unresponsive internal policies, limited capacity, lack of awareness among the party leadership on inclusion among other barriers. Opportunities, therefore, exist for structured engagement with political parties towards building inclusive culture and practice among its membership. This, therefore, requires a paradigm shift to achieve intra-party pro-disability agenda and national legal reforms that address the challenges limiting the participation of PWDs in the political processes and more specifically in the political parties.

The study, therefore, provides the following recommendations targeted at specific stakeholders towards facilitating greater inclusive internal party and cross-party commitments and reforms.

## **Recommendations**

### **Political Parties**

- a) Increase the participation of PWDs by creating party policies that are pro-disability and hasten the process of approval of the pro-inclusion policies that are under review and or development.
- b) The political parties' leadership should come up with innovative strategies for mobilization of members with disabilities by incentivizing them to join and retain their membership.
- c) The department of political parties that deals with registration should develop a database for members who have disabilities
- d) The executive of the political parties should integrate programmes that build the capacity of their members on disability inclusion.
- e) The parties should promote reasonable accommodation within their structures by designing activities that are responsive to the needs of all PWDs.
- f) The political parties budgeting should include, and where already in place, increase the funding for programmes targeting the PWDs. Such budgets should be adequately reported by the political parties to include indicators of inclusion and audited by a reputable firm.
- g) To ensure access to justice within the parties, the parties should develop simplified party complaints mechanism of solving member disputes and should be sensitive to the needs of PWDs.

- h) The party leadership needs to explore an option of semi-autonomy of the Disability Leagues to ensure the funds from partners are directly channelled to such structures. The league can form partnerships with other organizations.

### **Legal and policy options**

- a) Review of the Electoral System that entrenches a proportional system of representation that gives an equal chance and opportunity for all players. The National Assembly should amend the electoral laws to embrace the system of proportional representation.
- b) Review Section 25 of the Political Parties Act on sharing of Political Parties' Fund and improve on accountability. This will introduce sharing of a certain proportion of the Political Parties Fund to all political parties equally that can be used to fund the programmes for SIGs.
- c) Review the Elections Act and its respective regulations to introduce legislative incentives that promote the participation of PWDs in the political processes such as lowering educational requirements, significantly lowering the nomination fees and monthly contributions by PWDs.
- d) Review the Elections Act (and its respective regulations), Election Campaign Financing Act and other relevant laws and policies to introduce legislative incentives that promote the participation of PWDs in the political processes. Examples would include affirmative actions on (a) lowering educational requirements; (b) significantly lowering the nomination fees and monthly contributions by PWDs; (c) introduce campaign financing for SIGs such as solidarity fund; and (d) allowing PWDs to be allowed to keep their jobs should they not make it through primary party nominations.
- e) Together with strict enforcement of the Elections Act 2011 (Electoral Code of Conduct section 5 and 6), the Party Primaries Bill under development should address the violence within the political parties to ensure that the culture of violence is addressed to regain the confidence of PWDs to participate in the political parties' activities.
- f) Clarity of guidelines for nominations and representation of PWDs in the assemblies by review the 2/3rd gender rule to have a clear clause of the number of women with disabilities; and clearly indicate the requirement for the representation of PWDs in the county assemblies, and providing clear guidance for specific accommodation for the various categories of disabilities.
- g) Improve the process of registration of PWDs as party members. ORPP should link with the NCPWD database to reduce the bureaucracy involved in confirming registration of PWDs and reduce instances of corruption where people who have no disability present fake identities.

### **Programming Options**

- a) Development partners should consider working with smaller parties, as they present more opportunities for the nomination of PWDs as opposed to bigger parties.

- b) Promote accessibility to electoral complaint mechanisms within the parties with follow up mechanisms through the engagement of enforcement agencies.
- c) Sensitization of political parties and players on the inclusion of PWDs in their programming.
- d) Strengthening the electoral systems to support PWDs.
- e) Build and strengthen structures for the stakeholders for improved inclusion, advocacy and accountability on PWDs in the political processes.

**Innovative programming for disability inclusion**

- a) ORPP and IEBC should develop results-based management mechanism for Political Party reporting disability inclusion.
- b) The political parties should be encouraged to use technology to mobilize, register and communicate with their members. The IEBC can leverage on such technology for voter education.
- c) The NCPWD should allocate funds for strengthening political participation among PWDs as part of empowerment.
- d) The Judiciary, as a critical player in the justice system, should be sensitized to follow up on enforcement of legislation on the representation of the PWDs in the political parties.
- e) To achieve a more sustained inclusion agenda, education sector actors should be engaged in lobbying for the integration of inclusive governance in the Kenyan Education curriculum at all levels.

## I. INTRODUCTION & CONTEXT

### 1.1 Background to the KIPP Project

**Political and Electoral:** Elections in Kenya are due in August 2022, which will be the focus for political parties and electoral actors from 2021 onwards. WFD observes that despite their significant numbers, PWDs in Kenya continue to experience systemic exclusion from mainstream governance and developmental processes. This exclusion has been particularly acute in the areas of political representation in elective and appointed positions, with limited efforts by political parties to provide a conducive environment for PWDs to engage in politics. More work is needed to support political parties in strengthening candidate nomination processes to enhance participation, implementing party quotas, applying inclusivity principles in the party leadership and decision-making structures; and putting forward commitments and policies that are truly inclusive and responsive to the needs of all Kenyan citizens.

**Inclusion.** Equality and inclusion are key priority areas in Kenya's national agenda. For example, Article 54 (2) of Kenya's 2010 Constitution says that the state shall ensure the progressive implementation of the principle that at least 5% of members of the public in elective and appointive bodies are persons with disabilities. Similarly, Kenya's development blueprint Vision 2030 envisages a nation where all women and men enjoy high quality life and equity. The constitutional provisions and related strategies seek to empower people with special needs to reduce dependency in all aspects of society. In addition, greater citizen engagement and representation has been identified as a key priority issue by both Executive and Parliament as evidenced through the prioritisation and development of the Public Participation Bill in 2019. Likewise, there are ongoing discussions around and calls for a more robust and inclusive policy and legal framework through systematic legislative reform to foster the active participation of *all* citizens, including groups such as women, youth and persons with disabilities that are traditionally underrepresented in political and economic decision making. Meaningful public consultation and participation strengthens the quality, relevance and responsiveness of policy and legislation, and, in turn, prospects of effective enforcement and implementation.

Despite the consensus on the need to prioritize the participation of PWDs, during its work in Kenya, WFD has found that support to ensure all voices are heard in and throughout political processes in Kenya remains weak, as does the mainstreaming of considerations around the inclusion of traditionally marginalised and/or under-represented groups into agenda setting and public policy. Amongst this, WFD has found that understanding of disability, in particular, is low amongst decision makers at all levels – both national and county. As a result, many policies and legislations fail to fully consider and make provision for PWDs, while structures and procedures to facilitate political participation are either

tokenistic in nature or continue to be geared to reinforcing the status quo, thereby continuing to exclude other voices. While recent programmes and interventions have sought to address women and youth, with most political parties in Kenya possessing an established women's and/or youth wing, political participation and representation of PWDs is still largely overlooked within the broad political inclusion agenda.

Socially, PWDs are still disproportionately subject to negative discrimination and stigma<sup>3</sup>, views that too often only serve to deter PWDs from entering politics. There are a host of interacting reasons preventing PWDs from participation in politics, from lack of knowledge of rights and systems; fear of additional levels of judgement and scrutiny by the public; exclusive processes and inadequate provisions within political parties and other political processes, or crucially, the inability to mobilise resources and the hidden costs of entering politics<sup>4</sup> - this is an area on which WFD has produced significant research.

The issue of participation is no doubt a complex one, deriving from and perpetuated by social and cultural views. Political parties both as social microcosms and in their potential to reach huge numbers of individuals have untapped potential to directly counteract and challenge these negative views of PWDs. However, as a result of a weak understanding of not only 'disability' but also what qualifies as inclusion, political parties currently reinforce the status quo. This is done not only in their thinking and policy agenda setting but also in practice through their internal governance structures and processes, thereby continuing to overlook and exclude PWDs. It is evident in nomination procedures and in those who move through the party ranks, and also in the commitments and policies, political parties generate and the wider political discourse and rhetoric they create and contribute to.

The Westminster Foundation for Democracy (WFD) is the UK's leading democracy support organisation, working in partnership with political parties, parliaments and civil society organisations (CSOs) around the world to create more inclusive, accountable and transparent democratic systems. WFD strengthens the capacity of these key democratic institutions, helping ensure they have the systems, knowledge and skills to perform effectively. WFD also fosters improved democratic processes, bringing together individuals and institutions and encouraging them to work together to solve concrete problems, applying democratic values and principles.

WFD developed Kenya Inclusive Political Parties (KIPP) Programme whose purpose is to address the critical knowledge gaps within political parties to create and promote more inclusive political discourse, political commitments and public policy making. The programme will lead to strengthened inclusive multi-party democracy in Kenya, by ensuring that effective provisions are in place in political parties to respond to the strategic

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<sup>3</sup> <http://www.parliament.go.ke/kenya-disability-parliamentary-association-kedipa-urges-more-inclusion-decision-making>

<sup>4</sup> [https://info.mzalendo.com/media\\_root/file\\_archive/Claiming\\_the\\_Space\\_GDY4IEq.pdf](https://info.mzalendo.com/media_root/file_archive/Claiming_the_Space_GDY4IEq.pdf)

and practical needs of PWDs within their internal party structures, political commitments and policies. The project has two main outputs:

- 1) Political parties are more knowledgeable and have the capacity to implement inclusive reforms specifically of PWDs, within their structures and processes, and develop inclusive public policies
- 2) CSOs and DPOs are more knowledgeable and have the capacity to advocate for political participation and representation to political parties

## 1.2 The Context and Policy Framework governing Political Inclusion

### 1.2.1 Understanding Disability

Disability has been defined in many ways but generally means a physical or mental condition that limits a person's movements, senses, or activities. The Convention on the Rights of Persons with Disabilities (CRPD)<sup>5</sup> defines PWDs to "include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others." This definition implies that a person with a disability may not be able to engage with full potential socially, economically and politically if the world continues to remain silent on their needs. Addressing their needs removes the disability hence enabling them to be independent.

The Constitution of Kenya defines disability to include "any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day-to-day activities."

According to WHO and World Bank,<sup>6</sup> defining disability as an interaction recognizes the role that the environment plays and makes it clear that disability is not an attribute of the person if the environment is completely inclusive and accessible to a person with an impairment. This definition implies that a person with a disability may not be able to engage with full potential socially, economically and politically if the world continues to remain silent on their needs. Addressing their needs removes the disability hence enabling them to be independent.

In the Kenyan political context, disability is viewed from a charity model of disability. This model focuses on the individual and tends to view people with disabilities as passive victims – objects of pity who need care, and whose impairment is their main identifier<sup>7</sup>. The widely appreciated models are the social model and the interaction model. The social

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<sup>5</sup> UN General Assembly 92006), Convention on the Rights of Persons with Disabilities

<sup>6</sup> WHO & World Bank (2011). World Report on Disability

<sup>7</sup> Al Ju'beh, K. (2015). Disability inclusive development toolkit. Bensheim: CBM.

model emphasis on society adapting to include people with disabilities by changing attitudes, practice, and policies to remove barriers to participation<sup>8</sup>. The current view by WHO & World Bank that is internationally accepted is the one that underlies the International Classification of Functioning (ICF) that views disability as arising from the negative interaction between health conditions and the context where people with impairments are operating in. This approach recognizes PWDs have a right to inclusive development that provides them with full participation, as empowered self-advocates in development processes.

### 1.2.2 Variations of Disability

PWDs are not a homogenous group. According to WHO<sup>9</sup>, generalizations about “disability” or “people with disabilities” can be misleading considering that PWDs have diverse personal factors with differences in gender, age, and socioeconomic status. Their needs vary depending on the type of disability and this may get complicated for those with multiple disabilities. Also, while disability correlates with disadvantage, not all people with disabilities are equally disadvantaged<sup>10</sup>. People with more severe impairments often experience greater disadvantage e.g. those with mental health conditions or intellectual impairments appear to be more disadvantaged in many settings than those who experience physical or sensory impairments.

Persons with intellectual or psychosocial disabilities, for instance, experience multiple legal, institutional, communicational and social barriers to exercise their rights; barriers that prevent them from voting<sup>11</sup>, from standing for election for public office, from exercising their civic participation, or simply from having a say in their own lives<sup>12</sup>. There is a rich literature indicating that persons with cognitive impairments are typically judged as less deserving than those with physical or sensory impairments<sup>13</sup>. Equally, it is very possible to address the barriers that PWDs meet and to increase their chances of participation in political activities.

### 1.2.3 Data on Disabilities

The World Disability Report 2011 estimates that one billion people, or 15% of the world’s population, experience some form of disability. Out of this, nearly 200 million experience considerable difficulties in functioning. The Global Burden of Disease Report estimates

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<sup>8</sup> DFID. (2000). *Disability, poverty and development*. London

<sup>9</sup> World Report on Disability: World Health Organization, 2011

<sup>10</sup> World Report on Disability: World Health Organization, 2011

<sup>11</sup> Agenda, 2016, Disability Access and Inclusion in the Political Processes of Four Southeast Asian Countries

<sup>12</sup> Abdoulaye Mar Dieye, 2020: Participation of persons with disabilities in political and public life, UNDP

<sup>13</sup> Thomas 2000; Harpur, Connolly, and Blanck (2017). Socially Constructed Hierarchies of Impairments: The Case of Australian and Irish Workers’ Access to Compensation for Injuries

that 2.9 per cent of the global population has a severe disability while 12.4 per cent experience moderate disabilities<sup>14</sup>. Low- and middle-income countries have higher prevalence rates than high-income countries. WHO estimates that in the years ahead, disability will be an even greater concern because its prevalence is on the rise<sup>15</sup>.

According to Kenya National Bureau of Statistics (KNBS) National Housing and Population Census 2009, 3.5% of Kenya's population had a form of disability compared to 2.2% in the 2019 Census, a decline by 1.3%. Direct comparison of disability prevalence in 2009 and 2019 is however problematic due to differences in data collection methodologies, ages covered and size of administrative units. A report by Development Initiatives holds that if the statistics are not accurate and are widely accepted, the inclusion of PWDs in Kenya's political agenda will not receive significant attention<sup>16</sup>.

#### 1.2.4 Why Disability is an Issue

PWDs in Kenya represent a critical segment of the population and have for a long-time experienced marginalization<sup>17</sup>. They are often stigmatized and have not been embraced well by society. Some communities view disability as a curse to the family resulting in PWDs being hidden from the public due to their disability. Negative myths and stigma about PWDs are common, such as the belief that they are incapable of making positive contributions to society<sup>18</sup>. Many PWDs end up with limited or no access to education, health, employment, rehabilitation or other basic public socio-economic services. PWDs have relatively higher rates of poverty than people without disabilities<sup>19</sup>. They face multiple and compounding forms of discrimination, based on disability but also on other grounds, which may lead to situations of political, social and economic exclusion and limitations in their participation in development activities.

According to the National Gender and Equality Commission (NGEC)<sup>20</sup>, political exclusion includes the denial of citizenship rights, such as that to political participation and personal security, the rule of law, freedom of expression, and equality of opportunity. Political exclusion also involves the notion that the State, which grants basic rights and civil liberties, is not a neutral agency, but a vehicle of a society's dominant classes, and may thus discriminate between social groups. A report on barriers and facilitating factors affecting people with disabilities in political life revealed that participation in a political party, from the level of local activist on up to running for office, requires time, energy and

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<sup>14</sup> World Report on Disability: World Health Organization, 2011

<sup>15</sup> Krystle Kabare, Social Protection and Disability in Kenya Working Paper, 2018

<sup>16</sup> [https://devinit.org/documents/727/Status\\_of\\_Disability\\_in\\_Kenya\\_-\\_Statistics\\_from\\_the\\_2019\\_census.pdf](https://devinit.org/documents/727/Status_of_Disability_in_Kenya_-_Statistics_from_the_2019_census.pdf)

<sup>17</sup> KNCHR (2014). From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

<sup>18</sup> Ana Radicevic 2020, Political Inclusion of PWD in Gambia

<sup>19</sup> World Report on Disability: World Health Organization, 2011

<sup>20</sup> NGEC (2016). Status of Equality and Inclusion in Kenya

money, and that success begins with having a large, strong personal network, a situation that naturally favours individuals from politically powerful families<sup>21</sup>. The cost of elections is usually one of the main barriers as indicated by a report by Westminster Foundation for Democracy<sup>22</sup>. The report shows that in Uganda, the estimated cost of a successful parliamentary campaign in 2015 was between USD 43,000-143,000 while in Nigeria it was about USD 700,000. This is a replica of most of the African countries.

Social exclusion can be seen as a process through which individuals or groups are wholly or partially excluded from fully participating in all aspects of the life of the society they live in, based their social identities such as age, sex, race, ethnicity, culture or language, and/or physical, economic, social disadvantages. Social exclusion may imply the lack of voice, recognition, or capacity for active participation, or exclusion from decent work, assets, land, opportunities, access to social services and/or political representation. It is imperative to work on addressing both political and social exclusion issues since they contribute to one another.

Political Exclusion involves groups of people been excluded from political participation based on religion, ethnicity, gender, sexuality, class, and disability. In some instances, the political exclusion is a result of a prejudiced ideology of a group being inferior. In the context of this study, it occurs when party structures do not provide an adequate environment for the participation of PWDs. This has been observed to take the form of non-inclusive policies and discriminatory party structures. The effect of such exclusion implies a denied opportunity to engage and represent PWD issues within elective, appointive and nominated policy making platforms thus limiting the possibility of inclusive governance being integrated into the National development agenda.

As assessment by the Kenya National Commission on Human Rights (KNHCR)<sup>23</sup> revealed a myriad of challenges faced by PWDs when seeking services or participating in public life. On physical access for example, out of the 1.7 million PWDs, 65% regard the environment as a major problem in their daily lives due to inaccessible buildings and inaccessible transport services. This means that most of PWDs must be assisted, usually by being carried, to board and alight from the vehicles.

The existence of these challenges limited the day to day activities of PWDs and many prefer staying at home to engaging in activities that are far from their homesteads including engaging in political activities. Concerning access to justice, PWDs continue to face challenges when seeking justice with key obstacles being inaccessibility and exercise of legal capacity especially for persons with intellectual disability.

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<sup>21</sup> Mitzi Waltz & Alice Schippers, 2020, Disability and Society: Barriers and facilitating factors affecting people with disabilities in political life within the European Union

<sup>22</sup> WFD (n.d). Cost of Politics Synthesis Report

<https://www.wfd.org/wp-content/uploads/2017/08/Research-WFD-Cost-of-Politics-Synthesis-Report.pdf>

<sup>23</sup> KNHCR (2014). From norm to practice a status report on implementation of the rights of persons with disabilities in Kenya

Historically, people with disabilities have largely been provided for through solutions that segregate them, such as residential institutions and special schools<sup>24</sup>. This is however changing to more inclusive approaches as defined in legal frameworks following efforts made to bring knowledge and creating awareness on how to better support PWDs. This is what is defined as a Human Rights Model – the belief that PWDs are equal to any other person that they have the same human rights as anyone else and that states should protect these rights<sup>25</sup>.

#### 1.2.5 Legal Frameworks and Policy Regulations

At the global and regional level, a good number of instruments exist that protect and promote human rights, including civil and political rights. At the domestic level, Kenya has signed and ratified some of the international instruments that effectively makes them part of Kenya’s law. In addition, Kenya has developed her legal and policy framework that addresses civil and political rights. This section analyses the existing legal and policy framework and its effectiveness towards political inclusion.

##### *a) International instruments and Frameworks*

Numerous and well elaborated international protocols have been domesticated at country level in Kenya such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples’ Rights (ACHPR among others. The Universal Declaration of Human Rights (UDHR), in which Article 21 supports the right to participate in government and election processes, and the International Covenant on Civil and Political Rights (ICCPR)<sup>26</sup>, in which Article 25 states that every citizen – including PWDs – should have the opportunity to vote and run as candidates in elections. The legal instruments provide the basis under which PWD should enjoy the same rights and basic needs as any other human including giving them the privilege to exercise their participation and involvement in active politics.

The Convention on the Rights of Persons with Disabilities (CRPD) is the first to elaborate the right to participate in political and public life in the context of disability. The Convention specifies certain measures – although it does not limit State parties to these measures alone - to be taken to ensure that PWDs can effectively and fully participate in political and public life on an equal basis with others, including the right and opportunity to vote and be elected. These include:-

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<sup>24</sup> World Report on Disability: World Health Organization, 2011

<sup>25</sup> Ana Radicevic 2020, Political Inclusion of PWD in Gambia

<sup>26</sup> The United Nations General Assembly. (1966). International Covenant on Civil and Political Rights

- ensuring that voting procedure, facilities, and materials are appropriate, accessible and easy to understand and use;
- protecting the right of PWDs to vote by secret ballot;
- protecting the right of PWDs to stand for elections and to hold office and perform all public functions at all levels of government, including facilitating the use of supportive technologies where relevant;
- ensuring equal and effective access to voting procedures and facilities; and
- exercise their right to vote, including the provision of reasonable accommodation.

b) *The Constitution of Kenya 2010*

The Constitution of Kenya<sup>27</sup> has to a large extent provided for the rights of PWDs. To begin with, Article 38 highlights the political rights of every Kenya as follows:<sup>28</sup>

- (1) Every citizen is free to make political choices, which includes the right--
  - (a) to form or participate in forming a political party;
  - (b) to participate in the activities of, or recruit members for, a political party; or
  - (c) to campaign for a political party or cause.
  
- (2) Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for--
  - (a) any elective public body or office established under this Constitution; or
  - (b) any office of any political party of which the citizen is a member.
  
- (3) Every adult citizen has the right, without unreasonable restrictions, --
  - (a) to be registered as a voter;
  - (b) to vote by secret ballot in any election or referendum; and
  - (c) to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.

The Constitution further provides specific provisions for PWDs enshrined in Article 54 of the Kenyan Constitution. A person with any disability is entitled to be treated with dignity and respect, to access integrated facilities and institutions, to access all places, to access public information, to use sign language or braille or other means of communication and to access materials and devices to manage barriers that may arise due to disability.

Other articles related to the rights for PWDs are listed below.

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<sup>28</sup> Republic of Kenya (2010). Constitution of Kenya. <http://kenyalaw.org:8181/exist/ken-yalex/actview.xql?actid=Const2010>

- Article 7 recognizes sign language, braille, and other communication accessible to PWDs as part of the official languages.
- Article 20 (5) (b) obliges the court, in applying any rights under Article 43 to be guided by the principle that “in the allocation of resources the state shall give priority to the widest possible enjoyment of the right or fundamental freedom having regard to prevailing circumstances including the vulnerability of particular groups or individuals”.
- Article 21 confers a fundamental duty on the state and every state organ to observe, respect, protect, promote and fulfil the rights and fundamental freedoms. A person with any disability is entitled to be treated with dignity and respect, to access integrated educational facilities and institutions, to access all places, to access public information, to use sign language or braille or other means of communication and to access materials and devices to manage barriers that may arise due to disability. The State commits to the *progressive* implementation of the principle that at least 5 per cent of the members of the public in elective and appointive bodies are PWDs.
- Article 27 (4) on non-discrimination prohibits direct or indirect discrimination against any person on any ground, including disability.
- Article 28 promotes respect and protection for the human dignity of every person.
- Article 43 recognises economic and social rights, including the highest attainable standard of health, housing, sanitation, freedom from hunger, access to clean and safe water, social security, education and emergency treatment.
- Article 97(1) (c) requires twelve nominees to the National Assembly to be PWDs.
- Article 98 (1) (d) requires two nominees to the Senate to be PWDs.
- Article 100 provides that Parliament shall enact legislation to promote the representation in Parliament of women; persons with disabilities; youth; ethnic and other minorities; and marginalised communities.
- Article 177 (1) (c) specifically provides for the nomination of PWDs to County Assemblies.<sup>18</sup>

c) *The Elections Act Cap 24 of 2011*

The Act identifies PWDs as part of the “special interest groups” which include (a) women; (b) PWDs; (c) youth; (d) ethnic and other minorities; and (e) marginalized communities<sup>29</sup>. The Act states that where an aspiring candidate intends to be nominated and a candidate is a person with a disability, the candidate shall, in addition to the requirements specified under sub-regulation (1), submit an application in Form 4 set out in the Schedule which shall be certified by the National Council for PWDs. Section 6 (1) of the Elections Act says that “every political party shall, upon submission of the nomination rules and procedures to the Commission pursuant to section 27 of the Act will make them available and accessible to the members of the party with specific considerations to members with disabilities.”<sup>30</sup>

<sup>29</sup> The Elections Act (No. 24 Of 2011), The Elections (Party Primaries and Party Lists) Regulations, 2017

<sup>30</sup> The Elections Act (No. 24 Of 2011), The Elections (Party Primaries and Party Lists) Regulations, 2017

For example, in 2017, The Elections Act guided the Party Lists on the nomination of members to the National Assembly in Kenya. The Elections Act provided a formula for allocation of seats from the Party Lists by IEBC to the respective assemblies that included the inclusion of PWDs and other marginalized groups. Each political party participating in the general election of 2017 had to submit a list of PWDs: two PWDs nominees to the Senate Article.98 (1)(d) of the Constitution; each Party List also included nominees to represent PWDs and workers and any other special interests to the Parliament.

Amendments were made in 2017 to ensure the Elections Act was inclusive of PWDs - in reference to the Elections (General) (Amendment) Regulations, 2017<sup>31</sup>, the amended regulation 61 requires a sufficient number of compartments in which voters can mark their votes secretly with special consideration for PWDs. Regulations 62, 65, and 72 recognize that voters with disabilities may require assistance to vote. Regulation 72 particularly allows the presiding officer to permit the voter to be assisted or supported by a person of the voter's own free choice, and who shall not be a candidate or an agent and where the person who applies to be assisted is not accompanied by a person who is qualified to assist him or her, the presiding officer shall assist such voter, in the presence of the agents. The Regulation requires that in determining the number of polling stations and the location of any polling station, IEBC should have regard to geographical considerations, accessibility for PWDs. Further, IEBC is given leeway to make a provision for the voting, by election officials, by reason of disability among other reasons, are unable to access a polling station.

#### *d) Political Parties Act (2011)*

Political parties are important structures to participation and representation in the political process; as such, they are well-positioned to support greater inclusion of PWDs in the political sphere<sup>32</sup>. Section 7 (2) (c)<sup>33</sup> requires the political parties to have “the composition of its governing body that reflects regional and ethnic diversity, gender balance and representation of minorities and marginalized groups.” Similarly, political parties are required to fulfil the Article 91(1) (e) of the Constitution of Kenya<sup>34</sup> which requires them to “respect the right of all persons to participate in the political process, including minorities and marginalized groups.”

Political parties can help by finding PWDs, supporting them, and helping them get involved in politics<sup>35</sup>. The law in Kenya further requires that not more than two-thirds of the members of its governing body be of the same gender.

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<sup>31</sup> The Elections (General) (Amendment) Regulations, 2017

<sup>32</sup> Ana Radicevic 2020, Political Inclusion of PWD in Gambia

<sup>33</sup> The Political Parties Act, 2011 No. 11 of 2011

<sup>34</sup> Republic of Kenya (2010). Constitution of Kenya

<sup>35</sup> Mitzi Waltz & Alice Schippers, 2020, Disability and Society: Barriers and facilitating factors affecting people with disabilities in political life within the European Union

The Act establishes the Political Parties Fund, which is allocated to registered political parties after meeting the set requirements, but it should also be used to promote representation in Parliament and the County Assemblies, of women, PWDs, the youth, ethnic and other minorities, and marginalized groups.

*e) Persons with Disabilities Act (2003)*

Like the Elections Act (2011 and Political Parties Act (2011), this Act provides for the rights of PWDs to get involved in the activities of political parties, to campaign and to be elected and even form their party.

Persons with Disabilities (Amendment) Bill, 2020 requires the government to facilitate the full participation of PWDs in political activities including voting and seeking public positions whether elective or appointive. The Bill iterates the political rights of PWDs.

*f) Electoral Code of Conduct 2011*

The Code of Conduct for Political Parties, which all parties must sign up to, requires them to respect the right of all persons to participate in the political process, including the youth, and minorities and marginalized groups, and to respect and promote gender equity and equality, human rights and fundamental freedoms. The Code further requires parties to respect, uphold and promote human dignity, equity, social justice, inclusiveness, non-discrimination, and protection of the marginalized, and to respect, uphold and promote human rights and the rule of law. This Code establishes a level playing field for candidates in competitive elections. It sets out provisions that promote an atmosphere and culture of tolerance, courtesy and respect, all of which are beneficial to women's engagement in politics<sup>36</sup>.

#### 1.2.6 Institutional Frameworks for Disability Inclusion: Key Government Institutions

In Kenya, some institutions have been set up to promote the rights of the marginalized groups. Some have specific mandate such as the National Council for Persons with disabilities (NCPWD). Others have crosscutting mandate such as the National Gender and Equality Commission (NGEC). This section tries to examine the effectiveness of these structures towards the inclusion of PWDs in the political arena.

*a) National Council for Persons with Disabilities (NCPWD)*

The NCPWD is a state corporation established by an Act of Parliament; the Persons with Disabilities Act No. 14 of 2003 and set up in November 2004. The NCPWD is mandated to coordinate all issues of PWDs in national development.<sup>37</sup>

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<sup>36</sup> National Gender and Equality Commission, Status of Equality and Inclusion, 2016

<sup>37</sup> <http://ncpwd.go.ke/>

It seeks to achieve this by facilitating the formulation of policies, programmes and interventions geared towards ensuring PWDs participate fully in social, economic and political arenas of life without discrimination as provided for in the Constitution of Kenya 2010 and the Disability Act of 2003 among other legal and policy documents. One of the key plans in its strategic plan (2018-2022) is to enable PWDs to participate fully in political activities without discrimination.

A key role of the NCPWD is to register all PWDs in Kenya to enable access to various programmes and initiatives. To date, the Council has registered approximately 390,000 PWDs, amounting to between 17 and 28 per cent of the total number of people with disabilities in the country (depending on which prevalence rate is used)<sup>38</sup>. However, the NCPWD database is not fully functional. This registration process is seen to be bureaucratic and often lengthy as it requires final approval by the Director of Medical Services in Kenya for one to be confirmed as living with a disability. In 2016, a backlog of over 32,000 applications was found to have caused many potential applicants to wait upwards of a year to have their documents reviewed before being able to apply and/or access the services provided by the Council<sup>39</sup>.

In addition to registering PWDs, NCPWD is responsible for providing income support for the most vulnerable persons with severe disabilities. Resources for the Persons with Severe Disabilities Cash Transfer (PwSD-CT) flow through the NCPWD as they are mandated to provide income support to poor and vulnerable households with disabled. The NCPWD also provides a range of services and interventions specifically for people with disabilities with support from the National Development Fund. Such services include educational support, assistive devices and infrastructure and equipment.

*b) National Gender and Equality Commission (NGEC)*

NGEC was established by an Act of Parliament in 2011 as a successor commission to the National Human Rights and Equality Commission pursuant to Article 59 of the Kenyan Constitution. NGEC is sister Commission to the Kenya National Commission on Human Rights and the Commission on Administrative Justice (CAJ), all entrenched in the Constitution of Kenya under Article 59 under the umbrella the Kenya National Human Rights and Equality Commission.

The key objective of the NGEC is to promote gender equality and freedom from discrimination in accordance with Article 27 of the Constitution of Kenya<sup>40</sup>. In so doing, the Commission acts as the principal organ of the State in ensuring compliance with all treaties and conventions ratified by Kenya relating to issues of equality and freedom from discrimination and relating to special interest groups including minorities and marginalized

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<sup>38</sup> Krystle Kabare, Social Protection and Disability in Kenya Working Paper, 2018

<sup>39</sup> Krystle Kabare, Social Protection and Disability in Kenya Working Paper, 2018

<sup>40</sup> KNCHR, From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities In Kenya, 2014

persons, women, PWDs, and children. NGEC, therefore, plays a vital role in monitoring the implementation of the rights of PWDs. NGEC runs a Disability and Elderly Programme that promotes mainstreaming of disability and issues of ageing in governance structures. This Programme monitors how effectively issues of equality and inclusion are being addressed at the national and local levels. Human rights violations and discrimination cases, such as the marginalisation of older persons and PWDs and/or barriers to participation in society, are also addressed by the programme. NGEC also coordinates state and non-state actors on disability issues to allow for meaningful participation and inclusivity of the disabled community. Areas of support include monitoring efforts to improve the accessibility of public buildings and public transport and the integration of children with disabilities within educational institutions.

c) *Kenya National Commission on Human Rights (KNCHR)*

The KNCHR is a Constitutional Body established under Article 59 of the Constitution of Kenya 2010 and Section 3 of the Kenya National Commission on Human Rights Act No. 14 of 2011. KNCHR main role is to promote and protect human rights in Kenya. Kenya ratified the UN Convention on Rights of Persons with Disabilities (CRPD) on 19 May 2008 and subsequently became part of the law by virtue of Article 2(6) of the Constitution of Kenya 2010. The effect of this ratification was that the State undertook to ensure and promote the full realization of all human rights and fundamental freedoms for PWDs, without discrimination of any kind on the basis of disability.

Article 33 (2) of the CRPD on national implementation and monitoring obligates the state to “maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention.” In doing so, the state is required to consider the principles relating to the status and functioning of national institutions for protection and promotion of human rights. Considering this and in recognition of KNCHR’s role in ensuring compliance with obligations under international and regional treaties, the Attorney General designated the Commission as the monitoring agency on 1st February 2011.

### 1.3 Drivers of Inclusion of PWDs in Political Parties

The key objective of the Constitution of Kenya 2010 is to place governance in the hands of the people, with Article 1 declaring that “all sovereign power belongs to the people of Kenya may exercise their sovereign power either directly or through their democratically elected representatives.” Consequently, the theme of participation, of including people in decision-making, reverberates through the Constitution, and national policies, laws and the strategies for development implementation. This section tries to analyze what drives inclusion of PWDs within the political parties.

### 1.3.1 The push for disability rights

The United Nation's Universal Declaration on Human Rights (UDHR) defines HR as 'natural entitlements beyond dispute, which are in accord with natural and moral law (and) co-exist to redress injustices.' All these rights are universal and interrelated. The rights appear in various conventions and treaties at the international, regional and national levels. These rights are also emphasized in the Convention on Rights of PWDs giving them momentum to be observed and adhered to. The CRPD introduces a unique mechanism for national implementation and monitoring where State Parties are obligated to designate bodies to implement and monitor the CRPD<sup>41</sup> through article 33 (2). Article 9 of the CRPD obliges the State to facilitate PWDs to live independently and participate fully in politics.

The State is expected to put in place mechanisms to ensure that PWDs have access to the physical environment; to access information including the use of technology. This provision is echoed domestically in section 21 of the Persons with Disabilities Act, 2003 (PDA) which entitles PWDs to a barrier-free and disability-friendly environment<sup>42</sup>. Section 22 of the Persons with Disability Act states that every public building should be guided by NCPWD regulations that facilitate the access by PWDs. All developers of public buildings should have complied with the requirement within five (5) years after section 22 came into force. Unfortunately, this has not happened yet.

Several other international documents have highlighted that disability is a human rights issue, including the World Programme of Action Concerning Disabled People (1982), the Convention on the Rights of the Child (1989), and the Standard rules on the equalization of opportunities for People with Disabilities (1993). The CRPD – the most recent, and the most extensive recognition of the human rights of PWDs – outlines the civil, cultural, political, social, and economic rights of PWDs. Its purpose is to “promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities and to promote respect for their inherent dignity”. Disability rights are human rights that states must strive to protect, promote and fulfill<sup>43</sup> disability rights undertake to:

- adopt legislation and other appropriate administrative measures where needed;
- modify or repeal laws, customs, or practices that discriminate directly or indirectly;
- include disability in all relevant policies and programmes;
- refrain from any act or practice inconsistent with the CRPD; and
- take all appropriate measures to eliminate discrimination against PWDs by any person, organization, or private enterprise.

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<sup>41</sup> KNCHR (2014). From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

<sup>42</sup> KNCHR (2014). From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

<sup>43</sup> Convention on the Rights of Persons with Disabilities

A report by KNCHR on the implementation of the CRPD in Kenya provided insight into the status of the implementation of rights including political participation. It came out that despite the existence of the legal framework, there are significant challenges and weaknesses in their implementation<sup>44</sup>.

### 1.3.2 Awareness levels on political rights

Development partners, political leaders, communities, family and friends are much more aware of the rights that PWDs are supposed to enjoy in political processes but an effort to create a disability-friendly environment remains wanting. Their perception and knowledge of the political rights of PWDs are high. A study by Agenda in 2016, revealed that 95% of respondents who comprised of community and family members endorsed the proposition that PWDs should participate in elections<sup>45</sup>. Respondents mentioned voting as a basic human right, a right and duty as a citizen, a civil right, equal right, a basic right by law, and so on but only a few mentioned the right of PWDs to stand for election.

### 1.3.3 Political Parties Engagement of PWDs

From table 1, among the sampled parties, Jubilee Party has the highest number of PWDs nominated and elected (20) followed by ODM (12), Wiper (6), KANU (3).

A report by UDPK<sup>46</sup> indicated that in the National Assembly, out of the 350 MPS, there are five MPs with disabilities (1.4%), 3 elected and 2 nominated. Out of these, 3 are female and 2 males. In the Senate, out of the 67, there are two senators (3.0%) with disabilities (1 male, 1 female). Cumulatively, leaders with disabilities account for 1.7% of the Members of Parliament. In the county assemblies, compared to 2013 where 62 MCAs were nominated to the county assemblies (32 males, 30 females), the number declined to 42 (24 females and 18 males). Jubilee party had the highest nominees (17) followed by ODM (9), Wiper (5), KANU (3), ANC (2), Maendeleo Chap Chap (1). Others had none. Most of the counties had at least two nominees, of both gender with Migori and Mandera having the highest of three nominees. Out of the 47 counties, 17 of them had no nominated MCA with disability including Baringo, Bungoma, Busia, Kericho, Kilifi, Kisii, Kwale, Laikipia, Makueni, Muranga, Nairobi, Nakuru, Narok, Nyeri, Taita Taveta, Turkana and West Pokot. Of the 30 counties with nominated MCAs, two counties have three nominees who are PWDs, eight have two nominees who are PWDs whereas 20 counties have a single nominee who is a person with disability.

The representation of PWDs in the Parliament and the County Assemblies account for a paltry 1.9%. This is below the legal requirement, Article 54(2) of the Constitution of Kenya<sup>47</sup>,

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<sup>44</sup> KNCHR (2016). Compendium on Submissions to CRPD 2016. <http://www.knchr.org/Portals/0/InternationalObligationsReports/CRPD%20REPORT%20A4.pdf?ver=2016-08>

<sup>45</sup> Agenda (2016). Disability Access and Inclusion in the Political Processes of Four Southeast Asian Countries

<sup>46</sup> UDPK (2018), Post Audit Survey Level of Inclusivity in the 2017 General Elections

<sup>47</sup> Republic of Kenya (2010). Constitution of Kenya

that at least five per cent of the members of the public in elective and appointive bodies are PWDs.

*Table 1: Nominated and elected leaders with disabilities*

Party	Category	Nominated		Elected		Total
		Males	Female	Males	Female	
Jubilee	MCAs	5	12			17
	MPs	1	0		1	2
	Senators	1	0			1
ODM	MCAs	4	5			9
	MPs	0	1	1		2
	Senators	0	1			1
Wiper	MCAs	2	3			5
	WR				1	1
KANU	MCAs	3	0			3
ANC	MCAs	1	1			2
PPK	MCAs	0	1			1
MCC	MCAs	1	0			1
<b>Total</b>		<b>18</b>	<b>24</b>	<b>1</b>	<b>2</b>	<b>45</b>

Source: United Disabled Persons of Kenya -UDPK (2018) and Author (2020)

#### 1.3.4 Participation of PWDs in Political Activities

Participation in political and public life is a critical element of socially inclusive development, along with the realization of human rights<sup>48</sup>. However, meaningful participation of PWDs in the electoral process has to start with decision makers and family members at the community level having knowledge and awareness that PWDs have equal rights to participate otherwise it will remain a challenge.

Political inclusion entails the right to political participation and representation by all groups, including the SIGs. For example, implementation of the not more than two-thirds gender rule in elective and appointive public offices would ensure that women, who presently have less political representation, have a greater chance of being included in politics and decision making.

PWDs have been discriminated against in the country's electoral processes; their political representation is minimal because of various cultural and structural barriers. A Post Audit on the 2017 elections conducted by UDPK<sup>49</sup> revealed that approximately 150 aspirants with

<sup>48</sup> UDPK (2018), Post Audit Survey Level of Inclusivity in the 2017 General Elections

<sup>49</sup> UDPK (2018), Post Audit Survey Level of Inclusivity in the 2017 General Elections

disabilities competed in the party primaries in April 2017. Out of this, only 29 (0.2%) out of 14,523 candidates ran for political seats.

As with all citizens, PWDs need a national identity card to register and participate as voters and also run as candidates. A study by Agenda revealed that the process of obtaining an identity card is a significant challenge for individuals with some types of disabilities in South East Asia. In Kenya, according to NGECC<sup>50</sup> above<sup>50</sup> government officials and caregivers are not well sensitized to assist PWDs in navigating the registration process. As a result, some PWDs end up not eligible to vote in national elections and lack of it denies them political rights as envisaged by Article 38 of the Constitution of Kenya. In Kenya, according to NGECC<sup>51</sup>, of all PWDs who qualify to vote, 51.1% have acquired the national identity card. The greatest likelihood of not having an ID is among the older PWDs, who face the further disadvantage of poor physical access to ID and voter registration centres, and to polling centres.

The same report indicates that PWDs had the lowest share of registered voters (46%), among other special interest groups (SIGs). In the 2013 general elections, the shares among the SIGs that voted show that PWDs were most disadvantaged; in effect, only 41% of the 46 per cent registered as voters, thus enjoyed the right to participation. In effect, therefore, only about 10% of the PWDs voted in the 2013 general elections.

A report by KNCHR<sup>52</sup> indicated that physical and communication barriers and societal attitudes posed greater challenges to their political participation. For example, most PWDs reported that they do not vote because of the technical and physical challenges related to voting. Others feared that the voting process would be unfair to PWD considering violence which commonly occurs during campaigns and voting process.

Other reports consider the March 2013 elections a success especially on civic education and sensitization forums targeting PWDs conducted by Disabled People Organizations especially the Disability Caucus on Implementation of the Constitution. The civic education resulted in increased participation by PWDs unlike in past elections though physical access to polling centres and poor communication remains a hindrance to full effective participation by PWDs<sup>53</sup>. A report by NGECC<sup>54</sup> however indicates that there was no PWD who ran for the office of Senator or Governorship.

The biggest solution to promoting political participation is creating an enabling environment. Article 9 of the UNCRPD on accessibility State Parties are required to “enable PWDs to live independently and participate fully in all aspects of life,” and “take

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<sup>50</sup> NGECC (2016). Status of Equality and Inclusion

<sup>51</sup> NGECC (2016). Status of Equality and Inclusion

<sup>52</sup> <http://knchr.org/Portals/0/Reports/Disability%20Report.pdf>

<sup>53</sup> KNCHR (2014). From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

<sup>54</sup> NGECC (2016). Status of Equality and Inclusion

appropriate measures to ensure to PWDs access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and other facilities...” similarly, this is reflected in article 54 of the Constitution of Kenya. For the electoral system, an enabling environment would mean making an environment disability-friendly through physical accessibility of public meetings, disability responsive voting booths and machines, and facilitative communication and information for people with disabilities. Accessibility of information such as information through posters, banners leaflets, broadcasts, websites, television sets, radios, etc. are vital communication channels for PWDs. For example, sign language and closed captioning on party political broadcasts would remove barriers to deaf people and those with hearing loss. Such a move is a result of change of attitude among the duty bearers and goes a long way in changing the community’s perceptions towards PWDs and eventually addressing stigma.

People with disabilities who are confined to their homes or live in institutions may need postal voting or proxy voting to exercise their democratic right. Better still if the country can use information technology and enable people to vote through their mobile phone numbers. Research indicates that about 82 per cent of PWDs in Kenya own a mobile phone<sup>55</sup>. This is an opportunity that can be capitalized to increase the chances of PWDs participate in voting. The wider question of attitudes is also relevant to whether people with disabilities are respected as part of the democratic process – as voters, election observers, commentators or indeed elected representatives – or identify with mainstream society. In particular, people with intellectual impairments and mental health conditions often face discriminatory exclusion from the voting process (WHO).

Establishment of accountability mechanisms can lead to increased political participation of people with disabilities and consequently result in progress towards a more disability-inclusive public policy. In some countries, while progress has been achieved in making elections accessible, it is rare for people with disabilities to be elected to public positions. Countries such as the United States, the United Kingdom, Germany, Ecuador, and Peru, PWDs have held the highest office. In Uganda Section 59 of the Constitution of 1995 states that “Parliament shall make laws to provide for the facilitation of citizens with disabilities to register and vote,” while Section 78 provides for representation of people with disabilities in Parliament. People with disabilities are elected through an electoral college system at all levels from the village up to Parliament, giving influence which has resulted in disability-friendly legislation. Uganda has among the highest numbers of elected representatives with disabilities in the world<sup>56</sup>.

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<sup>55</sup> Jan C.A (2019). The mobile disability gap: how do persons with disabilities access and use mobile in Kenya and Bangladesh?

<sup>56</sup> World Health Organization and World Bank (2011). World Report on Disability  
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States must consult with people with disabilities and their representative organizations when developing laws, policies, and programmes to implement the CRPD. The Convention also requires public and private bodies to make “reasonable accommodation” to the situation of people with disabilities. Another study by NGE<sup>57</sup> in Kenya recommends that the National Assembly delivers on the constitutional imperative of Article 100 of the Constitution of Kenya. Political leaders and the Executive should show goodwill to efforts geared towards empowering PWDs and furthering their political representation at all levels of government. Government policies should aim at programmes that will ensure that political and socio-cultural factors that impede PWDs from political representation in the electoral process are addressed.

#### 1.4. Barriers to participation of PWDs in Political Parties

This section analyses the barriers that exist and possible limits the PWDs from getting involved in the political party activities. The barriers are looked at from the general ones to those that exist within the political parties.

##### 1.4.1. Low number of registered voters with disabilities

The inclusion of PWDs is fundamental to the democratic process of any country. Voting is regarded as one of the key democratic processes in Kenya and participation of all and especially PWDs who face many challenges must happen in line with the legal frameworks. Kenya is mandated to have mechanisms in place to ensure that PWDs are registered as voters and are enabled to vote. The number of PWDs estimated in the voter register is 143,812 accounting for only 0.73% of the total number of registered voters, and 20.9% of the expected number of registered voters with disabilities. Kakamega County has the highest number of PWDs as registered voters at 8,078 followed by Siaya county (7,648), Homa Bay county (6,794) and Nairobi (5,545). The counties with the lowest PWDs registered are Elgeyo Marakwet (687), Isiolo (725), Bomet (983), Laikipia (1,000) and Samburu (1,118)<sup>58</sup>. IEBC needs to take into account the distribution of PWDs across the counties and put in place adequate measures to ensure the inclusion of PWDs during electoral and voting processes.

Several sources<sup>59</sup> identify the following as the main factors affecting the participation of PWDs in the voter registration process:

- *Architectural and physical barriers*: Architectural and physical barriers are one of the most challenging factors affecting the registration of PWDs. Most of the registration centres in the country are located in public institutions such as schools, churches etc.

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<sup>57</sup> NGE (2016). Status of Equality and Inclusion in Kenya

<sup>58</sup> KPMG (2017). Independent Audit of the Register of Voters

<sup>59</sup> KPMG (2017). Independent Audit of the Register of Voters

These places are not always conducive for PWDs. Some of the notable issues include lack of proper sanitation facilities for use by PWDs when queuing/voting. Sanitation is a critical issue for PWDs and therefore lack of well-suited facilities may result in PWDs avoiding the electoral process altogether. Difficult terrain, long distances and the lack of mobility aids. Buildings with staircases and steps etc.

- *Attitudes and culture:* This refers to the beliefs, assumptions and actions or inactions of election officials when dealing with people with disabilities. In particular, Persons with invisible/hidden disabilities (these are disabilities that are not evident to the naked eye) are usually overlooked during the electoral processes.
- *Information and communication:* Limited statistical and other data regarding PWDs in Kenya limits the ability of IEBC in preparing adequately for them. The Commission started collecting data on PWDs during the last completed MVR II exercise. The registration form provides an opportunity for self-declaration of the type of disability broadly classified under Visual impairment, hearing impaired. The general limited disaggregated data on gender, age and geographical location is a major factor in voter registration of PWDs since the Commission cannot adequately prepare for them. Lack of access to information by PWDs. During voter registration, IEBC does not use braille material for the visually impaired, or sign language interpreters for those with hearing impairments. The failure of political parties to employ sign language and braille in their rallies/ campaign activities and written party manifestos. This leads to exclusion of PWDs as they are not able to make informed choices. Lack of awareness by the general public on the needs of PWDs.

#### 1.4.2. Policy implementation challenges

The low level of policy implementation and lack of political goodwill affects the participation of PWDs in the electoral process. For instance, there are very clear laws on ensuring that buildings are disability friendly but a study by KNCHR<sup>60</sup> confirmed that most of the buildings sampled were inaccessible with steep staircases and no ramps, some with very narrow doors that cannot accommodate a person on a wheelchair.

A 2011 study from the UN Office for the High Commissioner on Human Rights, involving more than 64 countries, found that persons with psychosocial and intellectual disabilities continue to be deprived of their right to vote and to be elected, due to constitutional or legal provisions that link their political rights to legal capacity<sup>61</sup>. It was found that obstacles faced by PWDs occur partially because electoral management bodies at the local level and lawmakers have not yet developed an adequate understanding of how to implement the rights of PWDs in elections which contributes to a lack of access when it comes to service, information provision, and implementation of electoral activities.

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<sup>60</sup> KNCHR (2014). From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya.

The Special Rapporteur on the Rights of Persons with Disabilities at UNDP<sup>62</sup> tackled the issue of legal capacity affecting persons with intellectual and psychosocial disabilities in the December 2017 report to the Human Rights Council and recommended that States “take immediate measures to reform their legal framework to ensure the right to the legal capacity of all PWDs” and allow for reform processes that enable the establishment of supported decision-making arrangements. She recommended that “the United Nations, including all its programmes, funds, and specialized agencies, should increase the awareness and expertise of its staff in relation to the right to the legal capacity of PWDs” and increase funding for “the design and development of supported decision-making initiatives:”

UNDP is currently drafting a practitioners’ guidance expected to be published in 2020 to be used towards promoting inclusive political processes and civic engagement whose goal is to identify good practices globally by engaging with Disabled Persons Organizations, policy makers, and disability experts working on legal capacity reform and supported decision-making arrangements for the participation of political and public life<sup>63</sup>.

#### 1.4.3. Lack of support and social stigma

Lack of social support is a fundamental barrier for PWDs in exercising their political rights<sup>64</sup>. In general, society still stigmatizes PWDs and even belittle their political aspirations. At the level of political parties, PWDs are thought to be less strong to participate in ever aggressive politics and that for them they can benefit from their reserved positions. The definitions stem from the charity model of disability, which further promotes stigma.

Families contribute to participation or non-participation of PWDs in political activities. A report by UNHCR<sup>65</sup> revealed that very often, family members of PWDs and members of the broader community are central to the inclusion or exclusion of PWDs. One of the reasons is that family members are often stigmatized and ostracized. Some PWDs rely on the support of family members for mobility and other forms of support, which seems tiresome.

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<sup>62</sup> Dieye A.M (2019). Participation of persons with disabilities in political and public Life

<sup>63</sup> Dieye A.M (2019). Participation of persons with disabilities in political and public Life

<sup>64</sup> Agenda, 2016, Disability Access and Inclusion in the Political Processes of Four Southeast Asian Countries

<sup>65</sup> UNHCR (2019). Working with persons with disabilities in forced displacement. <https://www.unhcr.org/4ec3c81c9.pdf>

PWDs continue to face stigmatization in the society mostly due to lack of awareness of their rights despite the government policy of mainstreaming disability in all government ministries. Lack of knowledge on various provisions in different legal frameworks contributes to this challenge. Several respondents interviewed by UDPK on the Disability Act, 2003 did not know the provision of the CRPD<sup>66</sup>. A lack of information contributes significantly to the violation of persons with disabilities' rights<sup>67</sup>. In terms of voter registration, access to information is crucial to know when, where, and how to register. The role of mass media is important as public opinion is shaped through the information that the media disseminates, including on voter registration. Yet, this has not been fully optimized. PWDs are not well-informed of the voter registration process nor its requirements. This applies not only to electoral officials but also to the political parties and the disability community itself.

While noting that some PWDs have not pursued participation in public life, opportunities to promote positive perception and awareness of their contribution to the society has also been limited. The findings of the KNHCR study (2014) indicated that many PWDs were not aware of their rights including the various legislations put in place to protect and promote their rights. Article 8 of the CRPD provides that: 1. State parties undertake to adopt immediate, effective and appropriate measures: a. To raise awareness throughout society, including at the family level, regarding PWDs, and to foster respect for the rights and dignity of PWDs; b. To combat stereotypes, prejudices and harmful practices relating to PWDs, including those based on sex and age, in all areas of life; and c. To promote awareness of the capabilities and contributions of PWDs.

A research conducted on the barriers and facilitating factors with politicians and political activists in five European countries found six categories of barriers and facilitating factors<sup>68</sup>. They included networks, recruitment and mentoring, resources (money, time and energy), the “hierarchy of impairments,” accessibility of political spaces and activities, and laws and policies. The same survey found out that there are several challenges faced by PWDs participation in the electoral process.

These challenges take different forms but are mainly classified in the following categories: Accessibility of the voter registration process; the level of political participation by PWDs; promoting election accessibility; the level of political awareness of PWDs. A report by UDPK reported some challenges that faced PWDs participation in the electoral process, including accessibility to the polling station, lack of support services, financial constraints,

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<sup>66</sup> UN General Assembly, Convention on the Rights of Persons with Disabilities, 13 December 2006, A/RES/61/106, Annex I, available at: <https://www.refworld.org/docid/4680cd212.html> [accessed 13 October 2020]

<sup>67</sup> Agenda, 2016, Disability Access and Inclusion in the Political Processes of Four Southeast Asian Countries

<sup>68</sup> Waltz M. & Schippers A. (2020). Politically disabled: barriers and facilitating factors affecting people with disabilities in political life within the European Union

attitudinal barriers, low level of awareness due to limited civic education, lack of system support and security concerns<sup>69</sup>.

#### 1.4.4. Low educational attainment

The World Report on Disability<sup>70</sup> indicates that PWDs are among the most marginalized groups in the world with lower educational achievements. This is further acknowledged by a Sight Savers report<sup>71</sup> by that many people with disabilities dropped out of school and were functionally illiterate, which impacted on their awareness of their rights and their willingness to participate in politics.

A research in Kenya<sup>72</sup> revealed that education has a positive influence on the outlook of PWDs in relation to peoples' attitudes towards them. From the study, the highest proportion of those who viewed it as a daily problem had pre-primary level of education (12%), while the lowest proportion was found among those with university education.

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<sup>69</sup> UDPK (2018), Post Audit Survey Level of Inclusivity in the 2017 General Elections

<sup>70</sup> WHO and World Bank (2011). World Report on Disability.

<sup>71</sup> Disability-inclusive-elections-in-Africa-a-qualitative-systematic-review.pdf

<sup>72</sup> National Coordinating Agency for Population and Development (2007). Kenya National Survey for Persons with Disabilities.

## II. METHODOLOGY & APPROACH

The study utilized a qualitative research approach, principally exploratory research. This approach was chosen since the research was aimed to gain an understanding of underlying reasons, opinions, and motivations of the political players on the inclusion of PWDs in the political parties. The information gathered was analysed and helped craft conclusions and recommendations for different actors.

### 2.1 Purpose of Baseline

This research, guided by nine research questions, aimed to assess the current state of political inclusion of PWDs within political parties in Kenya, including the determinants and behavioural drivers for political parties to include or exclude PWDs within party structures, policies, and processes. The following key questions underpinned this research:

- a) What are the key social, economic, and political drivers of Political Inclusion of PWDs in Political Parties in Kenya?
- b) What supportive structures exist within Political Parties to promote the participation of special interest groups specifically PWDs?
- c) What are the most effective/ineffective practices/structures in political party inclusion?
- d) What barriers exist within Political Parties that hinder the participation of special interest groups specifically PWDs?
- e) Do Political Party ideology and manifesto impact on the participation of special interest groups specifically PWDs within Political Parties? If so, how?
- f) What are the legal, policy and programming options likely to promote/ or regulate the political inclusion of PWDs in Political Parties in Kenya?
- g) What are the existing policy and legal framework in Kenya that supports the inclusion of PWDs in social, political, and economic processes? To what extent are political parties complying and/or utilising existing legal provisions? Is the issue of an inadequate legal provision or one of compliance?
- h) What are the existing policy and legal gaps that prohibit the inclusion of PWDs in Social, Political and Economic processes?

Are there good practices in PWDs inclusion on social, political, and economic processes from other jurisdictions that Kenya can learn from?

### 2.2 Scope

The specific tasks of this research were to:

- a) Review the existing political party instruments such as their Constitution, nomination procedures and manifesto among others to extract the status of inclusion of PWDs in such documents.

- b) Consult with and review existing reports on the state of inclusion by Disabled Persons Organizations.
- c) Develop research tools and conduct Key Informant Interviews (KIIs) across all stakeholders with aim of gathering data for the baseline report.
- d) Conduct an online/offline validation forum of the draft inclusion report.
- e) Prepare and submit the final report based on feedback and input from the validation forum.
- f) Make a detailed, high-level presentation to WFD on general and specific findings including on strong areas of understanding, and where relevant, recommendations for follow-up.

The key deliverables of this research included:

- a) Preparing a draft report on the assignment in an easy to read format;
- b) Making a presentation at a validation meeting to the study respondents and stakeholders;
- c) Preparing an abridged version of the same final report; and
- d) Making a presentation to stakeholders at a launch event.

## 2.3 Data Collection Procedures

### 2.3.1. Recruitment and Training of Research Assistants

The research was conducted by a team of three consultants. Due to the technical nature of the assignment, the consultants conducted the survey in the understanding that they would have the capacity to synthesize high-level information from the political parties and the politicians. Similarly, the team had an understanding of the disability etiquettes, which was a key consideration since a significant number of participants had disabilities. However, due to the logistical challenges, one research assistant was incorporated to support the data collection. Before the assignment, the research assistant was oriented on the tools for data collection and disability etiquettes.

### 2.3.2. Pre-Testing of Tools

Mainly, the research utilized a key informant interview approach. The key interview guides that were developed include KII guides for political parties, MCAs with disabilities, DPOs, ORPP, IEBC, NGOs doing similar programmes.

The tools were developed by experts in the area of politics and disability. The tools were further reviewed by the WFD team. The pretesting was conducted among the consultants. Each of the consultants was required to fill in all the tools and report back any challenges/difficulties experienced. The challenges noted were considered and led to the improvement of the tools.

### 2.3.3. Sample Size and Sample Distribution

The research reached 33 organizations out of the 35 sampled, which is a 94% response rate. The respondents included the political parties, County Assemblies Disability Caucus, government agencies (IEBC and ORPP), DPOs and other stakeholders. The table below provides a summary of the respondents.

Table 2: Sampling

Group	No of respondents
Political parties	10(12 respondents)
County Assemblies Disability Caucus and sitting MCAs with disability (from all the regions including Nyanza, Western, Central, Eastern, North Rift, South Rift, North Eastern and Coast.	9 (1 elected, 8 nominated)
Organizations of persons with disabilities (DPOs) - UDPK (umbrella), Kenya Union for the Blind (KUB), Women Challenged to Challenge, Federation of Deaf Women in Kenya, Albinism Empowerment Network (AEN), Albinism Society of Kenya (ASK), ANDY, Blind and Low Vision Network (BLINK), Leadership empowerment for Disability Initiative.	9
Independent Electoral and Boundaries Commission (IEBC)	1
Office of the Registrar of Political Parties (ORPP)	1 (2 respondents)
The Kenya Disability Parliamentary Association (KEDIPA)	1
NGOs doing a similar programme (National Democratic Institute)	1
Former MCA with disability	1

### 2.3.4. Detailed Documents and Literature Review

The literature review was done about the laws, policies, reports from the government and the civil society organizations. The main ones included:

- a) WFD project documents
- b) The Convention on the Rights of Persons with Disabilities
- c) The World Disability Report 2011
- d) The Constitution of Kenya 2010
- e) IEBC nomination and elections rules (2017)
- f) The Political Parties Act, 2011 (No. 11 Of 2011)
- g) Kenya's Vision 2030
- h) The Persons with Disabilities Act (2003)
- i) The Elections Act Cap 24 of 2011
- j) Electoral Code of Conduct 2011

- k) National Council for Disability Act regulations 2015 for Uganda
- l) Manifestos of sampled political parties
- m) Constitution of the sampled political parties
- n) Party nomination rules of the sampled political parties
- o) Guidelines for the election of representatives of PWDs in parliament, 2017 (Uganda)
- p) A post audit report of 2017 elections by the UDPK
- q) A roadmap to 2022 general election by the UDPK
- r) KNCHR, From Norm to Practice, A Status Report on Implementation of the Rights of Persons with Disabilities in Kenya, 2014
- s) National Gender and Equality Commission, Status of Equality and Inclusion, 2016
- t) Toolkit on disability for Africa: Participation in Political and Public Life
- u) Sustainable Development Goal 10 – Reduced Inequalities: Progress and Prospects. An Expert Group Meeting in preparation for HLPF 2019: Empowering people and ensuring inclusiveness and equality.
- v) Second Voluntary National Review Report on the Implementation of the Sustainable Development Goals in Kenya by the National Treasury

#### 2.3.5. Key Informant Interviews

The key information interviews (KII) were conducted for most of the respondents. However, four respondents including three political parties and a former MCA chose to make written submissions, through this had its limitations of the depth of information provided since there were no aspects of probing.

#### 2.3.6. Focused Group Discussions

Due to the limitations of getting all the participant at once, and adherence to COVID-19 protocols, there were no focused group discussions conducted.

#### 2.3.7. Quality Control and Data Management

The following strategies were used to ensure quality principles were adhered to

- a) Use of multiple methods to capture data. This entailed note taking and recording the interviews. This ensured consistency in interpretation and inclusion of all findings.
- b) Peer review. Some joint interviews were made and different members of the research team wrote independently their findings with any differences in findings being further interrogated and confirmed from subsequent research
- c) The draft report was subjected to a review different member of the consultancy team to ensure all findings were captured
- d) Stakeholders were required to validate the findings before the report was finalized

## 2.4 Ethical Considerations

During the study, the following ethical considerations were made:

- a) Informed consent was sought from all the respondents;
- b) The respondents were informed that participation was purely voluntary;
- c) Participants were informed that they had an option of withdrawing at any time during the interview;
- d) The researchers ensured anonymity and confidentiality of the respondents during the reporting

## 2.5 Limitations of the Study

The research was only limited to 10 political parties. The political parties were selected in the lens of diversity in terms of size, membership, ideology aimed to provide cross representation in the Parliament and the county assemblies. Several of them were not available within the planned period of data collection. However, efforts were made to acquire alternative contacts from the political parties from those initially targeted. Suitable replacements were done for those that were completely unreachable.

As part of adherence to the COVID-19 Ministry of Health guidelines on limited contact, very few one-on-one meetings were made. This had a limitation on the level of interactions between the interviewer and the interviewee. To bridge this gap, the interviewers made effort to probe the respondents and, in some cases, interviewed more than one respondent from the same party.

### III. KEY FINDINGS

#### 3.1 Respondent Demographic Characteristics

From figure 1, slightly a higher number of males participated in the study. Males were slightly higher (51%) than women (49%).

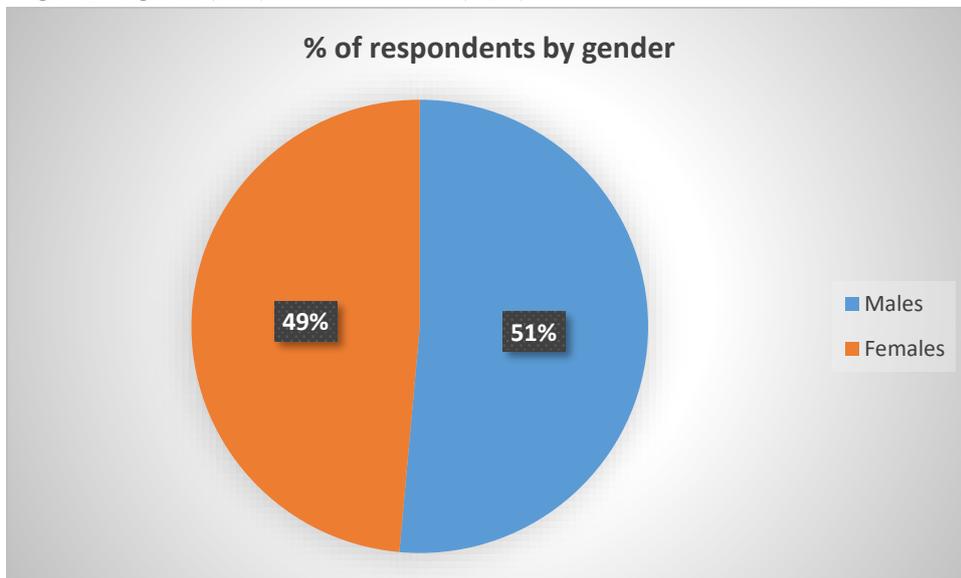


Figure 1: Percentage of respondents by gender

From figure 2, the majority of the respondents were aged between 35-49 years. They were followed by those aged between 26-34 and lastly those aged above 50 years.

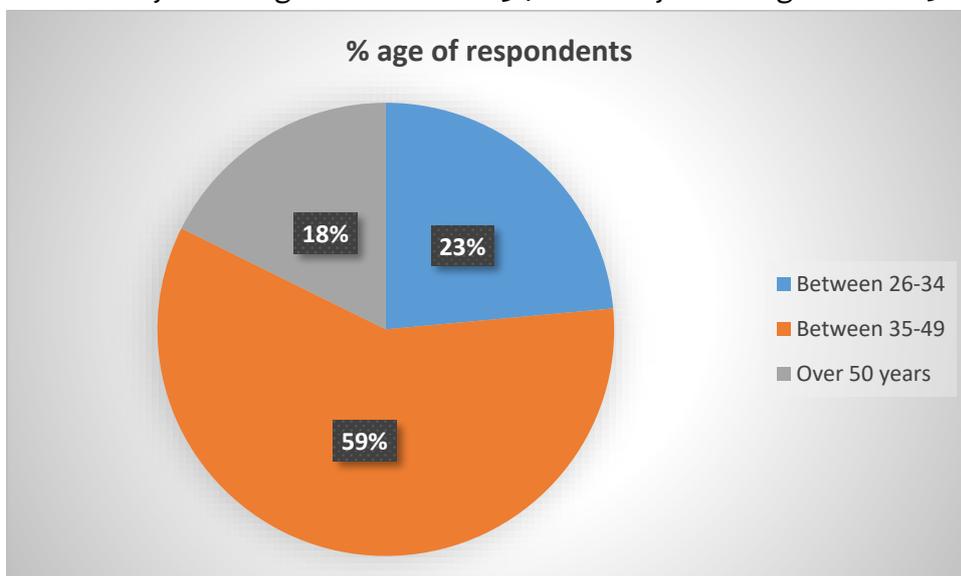


Figure 2: Age group of respondents

The majority of the respondents were from Nyanza (24%) followed by Nairobi (21%) and North Eastern had the least number of respondents. This is partly because the WFD programme is being led in Nyanza, Western and Nairobi.

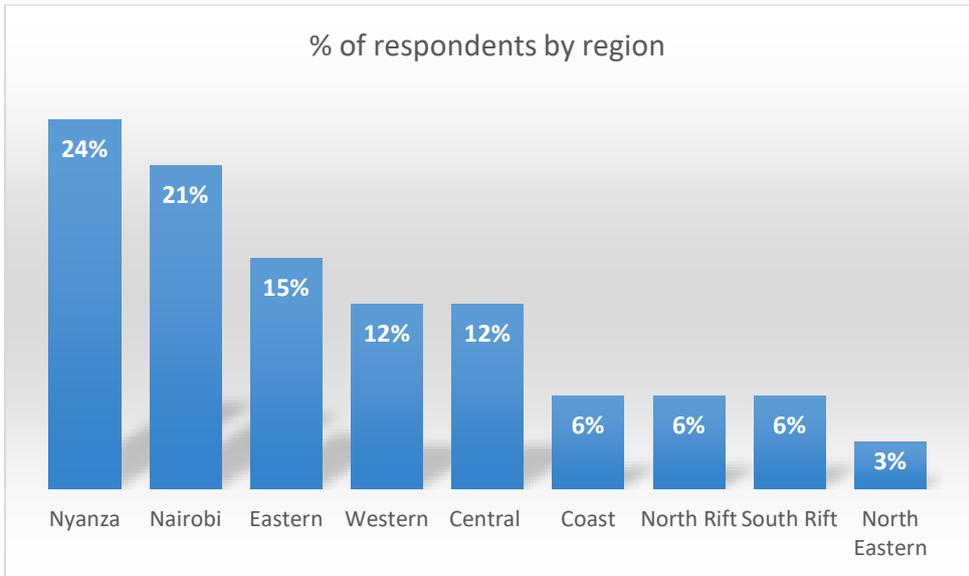


Figure 3: Percentage of respondents by region

According to figure 4, the majority (59%) of the respondents had a form of a disability while 41% had none. Mainly MCAs who were targeted all had a disability. More focus was on representative of political parties who had disabilities or representing special interest groups where there was none with a disability. For government agencies none had a disability.

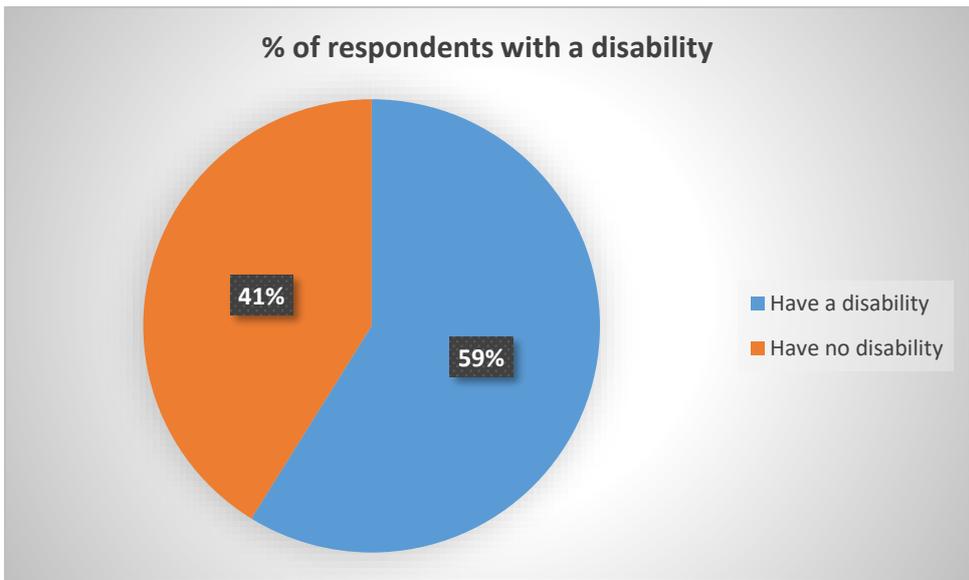


Figure 4: Percentage of respondents with disability

From figure 5, the majority (38%) had no disability while 35% had physical disabilities, with an equal proportion having visual impairments, those with hearing impairment and albinism were 9%. This reflects on the political representation of persons on with disabilities in the political parties, and to a large extent agrees with the findings that the majority of those representing PWDs have physical disabilities.

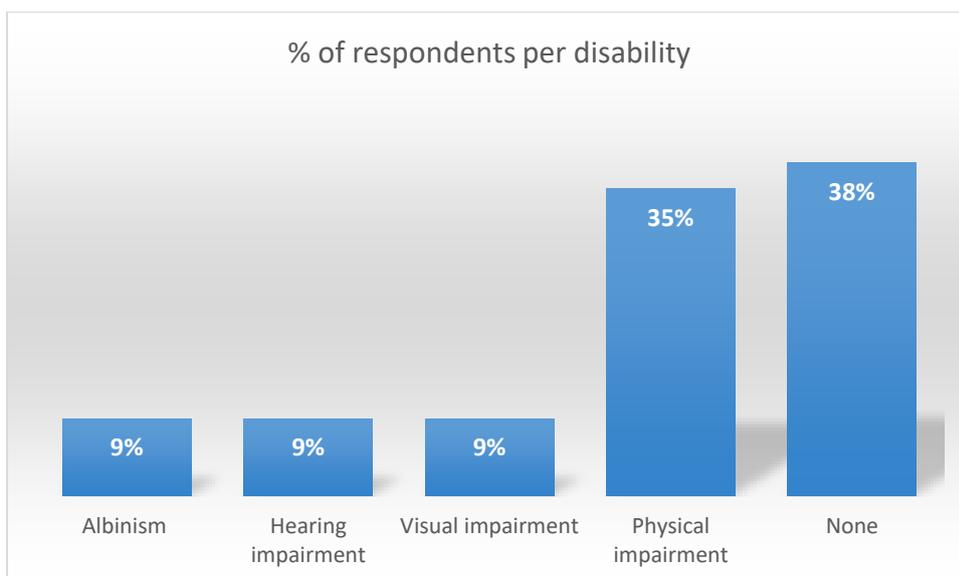


Figure 5: Percentage of respondents by disability

### 3.2 STUDY AREA 1: Assessment of Party Practices & Structures

#### 3.2.1 The Disability Structures within the Political Parties

Political parties are grappling with the question of disability inclusion each with varying degrees of success. ODM, Ford-Kenya and Jubilee have formed PWDs Leagues, although whereas for Jubilee and Ford-K, this mandate is derived from the Party Constitution, for the ODM League, the Party Constitution is yet to be amended to expressly provide for this addition. Progressive Party of Kenya (PPK) and Amani National Congress (ANC) are in the process of constituting the Disability Leagues. Ford-K has expanded the Party structure from polling station to the national level to ensure PWDs are represented. Out of this, five positions are allocated to PWDs in the expanded committee of 45 from the previous 25 members at the polling station. Despite these efforts, the positions of PWDs have not been adequately filled. For the parties that have established the disability leagues/caucuses, they remain inactive due to among other factors inadequate funding, low capacity to mobilize and represent the interests of PWDs.

#### 3.2.2 The Ever-Slippery Party Lists

Despite the practise that requires Parties to maintain Party Lists for consideration of individuals to be nominated, Parties still nominate based on how active the individual is in the Party mobilization of votes; whether they are life members; and sometimes extraneous considerations such as favouritism that benefits relatives, well-heeled individuals or friends who sometimes may not even be PWDs. Cases abound where nominations on the lists are quashed by the Party leadership or removed by IEBC at the behest of party officials to benefit close associates of the party leaders contrary to the Elections Act. That the nominees are not vetted in most cases opens room for the inclusion of persons who do not necessarily have disabilities.

Most of the parties have made provisions for a zebra or alternating list in which the names are switched between men and women. This drops disability inclusion from the priority list and entrenches the notion that PWDs cannot, without exhibiting other strengths, qualify in their own right to be nominated for these positions. For example, some MPs have been nominated based on not only disability but also being vocal and the ability to mobilize the votes for their parties. In many parties, there is stiff competition between youth, women and PWDs all part of the Special Interest Groups (SIG) which dims the chances for PWDs considerably to the extent that FORD-K, for example, has no single MCA with disability. During nominations, political parties across the board are concerned with attaining regional balance, a feat most achieve at the expense of active members who deserve a nomination.

### 3.2.3 Encouragement and Incentives for PWDs

From table 4, half (50%) of the political parties were found to incentivize the nominees with disabilities, by allowing them to pay an average discounted nomination fee of 50%. For example, JP, ODM and FoRD-K discount up to 50% while, MCC discounts up to 75% of fees payable for nominations. ANC despite providing a 50% discount for other categories, MCAs are required to pay the nomination fee in full. In some cases, some Parties such as FORD-K waives or foots the full cost of the nomination fees for PWDs. For others, such as KANU and MCCC, the variation of fees is not clearly provided but empowers the National Elections Board (NEB), with or without conditions, to vary, waive or revise nomination fees to a maximum 50% for vulnerable groups which apply in writing. It is important to note that most of the political parties vary the nominations every electoral period.

Table 3: Examples of discounted figures by political parties

Group	MCAs		MPs		Senators		Governors		% discount
	Regular	Discounted	Regular	Discounted	Regular	Discounted	Regular	Discounted	
ODM <sup>73</sup>	25,000	15,000	250,000	125,000	250,000	125,000	1000,000	500,000	50%
JP <sup>74</sup>	50,000	25,000	250,000	175,000	250,000	175,000	500,000	250,000	50%
GCK <sup>75</sup>	50,000	30,000	100,000	50,000			1M	500,000	50%
FORD-K	20,000	10,000	100,000	50,000	100,000	50,000	300,000	150,000	50%

<sup>73</sup> Application forms e.g <https://www.odm.co.ke/images/downloads/Application-Form-MP.pdf>

<sup>74</sup> <https://www.iebc.or.ke/uploads/resources/n4Chm2B1sF.pdf>

<sup>75</sup> [http://staging.gck.or.ke/wp-content/uploads/2020/08/Nomination-Rules-GREEN-CONGRESS-OF-KENYA\\_final-for-full-registration.pdf](http://staging.gck.or.ke/wp-content/uploads/2020/08/Nomination-Rules-GREEN-CONGRESS-OF-KENYA_final-for-full-registration.pdf)

Group	MCAs		MPs		Senators		Governors		% discount
	Regular	Discounted	Regular	Discounted	Regular	Discounted	Regular	Discounted	
ANC	20,000						300,000		50% but MCAs pay in full
WDM	20,000		200,000		200,000		500,000		Not clear
MCC	250,000		150,000		150,000		250,000		Not clear
KANU <sup>76</sup>	20,000		100,000		200,000		300,000		Not clear

### 3.2.4 Inclusion of PWDs in Party Structures

In all political parties, at least one PWD is included in the NEC (table 4). Jubilee Party has a functional Disability League. There is no single party that has a documented number of members with disabilities and some, such as ODM is working on a database to increase the role of the League through forums at sub-national electoral units. FORD-K has a representation of a PWD in every sub-county but has been unable to run any programmes that target the sector due to the huge resources required for such programmes. Since very few PWDs are ready and prepared to participate in politics, these few are courted by many political parties. During the time of this research, ODM was planning recruitment drives for membership in all the regions/counties. As part of promoting accessible information, PPK is updating its website to make it accessible to PWDs as well as undertaking CSR programmes for PWDs to have everyone have access to party information.

Table 4: Representation of PWDs in the political parties decision making organs

Party	Representation of PWD in the NEC
JP	<ul style="list-style-type: none"> <li>4 officials of PWD league in the NEC</li> <li>1 (NDC)</li> <li>County chairpersons of National Governing Council (NGC)</li> </ul>
ODM	<ul style="list-style-type: none"> <li>Secretary for PWDs among the national party officials</li> <li>1 PWD (ODM Disability League) as part of NEC</li> <li>2 PWDs from each county in the NDC</li> </ul>

<sup>76</sup> <https://www.ngeckenyia.org/Downloads/Equality-and%20Inclusion-in-the-2017-Kenyan-General-Election.pdf>

Party	Representation of PWD in the NEC
	<ul style="list-style-type: none"> <li>NGC has no provision for PWDs</li> </ul>
FORD-K	1 PWD in the NEC
WDM-K	2 PWDs in NEC
ANC	1 in Amani Council (formerly NEC)
MCC	1 PWD in the NEC
KANU	1 PWD in the NEC
GCK	1 PWD in the NEC
PPK	1 PWD in NEC

3.2.5 The dominance of those with ‘Visible Disabilities’ over those Without Despite having a significant number of people with other forms of disability, the political parties are dominated by people with ‘visible disabilities’ such as those with a physical disability (42% from 2019 Census) and albinism (0.02 from 2019 Census)<sup>77</sup>. Majority of the other groups including those with hearing difficulties, visual difficulties and cognition difficulties feel left out of representation. People with mobility difficulties and albinism are perceived to be more visible and with fewer limitations compared to those with other disabilities. The political parties report that they are continually faced with difficulty in getting PWDs to register as members and subsequently get included in the political structures especially at the county level. The marginalization of other subgroups of PWDs is partly attributed to three factors: (a) the fact that physical impairment and albinism are more visible and seem to represent disability at the first instance; (b) people with physical impairment and albinism are more empowered than other groups; (c) the political parties have limited capacity to adequately understand disability inclusion.

### 3.3 STUDY AREA 2: Power Relations within Political Parties I.E. Structures of Decision Making and Platforms to Participate as Members within Political Parties

This section provides a discussion of intra-party dynamics that influences the participation or lack of it of PWDs within the political parties.

- a) *A shift of loyalty from representing the PWDs to representing the party interests.* Once nominated to represent PWDs most beneficiaries end up being more proactive in representing the interests of the political parties as opposed to representing the constituency of PWDs they are supposed to represent. Those nominated feel no obligation to account to the people they represent and therefore PWDs feel no value of their representatives in the assemblies. In the

<sup>77</sup> Development Initiatives (2020). Status of disability in Kenya: Statistics from the 2019 census. <https://devinit.org/resources/status-disability-kenya-statistics-2019-census/#downloads>

words of one respondent, once nominated, “*The nominated MCAs are not approachable. They say it is the party that nominated them and not PWDs. It is easier to access an elected MP than a nominated MCA with PWDs.*” Their loyalty shifts completely to the defense of Party interests for them to keep their positions.

- b) *Corruption and favouritism.* Some political parties under the guise that the law only provides for nomination of ‘representatives of disability’ submit names of people without disability to represent PWDs. Such persons can obtain registration from the National Council for Persons with Disabilities through corrupt means. Parties are not keen on verifying such an identification document. Majority of the respondents felt that for someone to participate and succeed in political parties, they must have a godfather or cronies that will support them ‘win’ the nominations. Most respondents reported that the top leaders end up nominating relatives and people to represent PWDs who do not necessary because they qualify but because they are known. It becomes difficult for PWDs to question such decisions otherwise they risk being struck out from future participation. Only a few nomination slots are available thus attracting stiff competition that opens room for collusion between IEBC and political parties that leads to alterations on the party lists where many end up being shortchanged, struck out or swapped with other names. Majority of the respondents, especially the members of the county assemblies, recounted that they were at least once, short-changed. Usually, the nomination list is prepared by the political party and submitted to IEBC. The nominees are nominated preferentially as they appear on the list. The list is usually altered without the knowledge of the nominees and they end losing an opportunity.
- c) *Regional based political parties.* The formation of the key political parties in Kenya is mainly based on the regions. Majority of the members in such political parties come from the regions which are aligned to those tribes. For example, JP is predominantly constituted of membership from Mt. Kenya region while ODM has a majority of members from Nyanza while WDM-K has most of its members from Lower Eastern. This is similar for political party leadership which is dominated by people from such regions. Members who have disabilities and are not from such regions have limited chances of being nominated by such parties.
- d) *Culture of violence and intimidation within the parties.* In the Kenyan political arena, political activities are characterized by violence and this has been imprinted among the political parties. This alone disheartens the potential candidates with disabilities. Those who proceed to field their candidature for nominations and subsequently to elections are always afraid of political violence since they have no physical strength to escape in the event violence erupts during political activities. PWDs thus choose to stay away from such activities.

- e) *Low levels of reasonable accommodation.* More often than not, the political parties are not keen on inclusion as they plan for their activities. The parties are not genuine about inclusion. They are more reactive than proactive to the requirements on the inclusion of PWDs. For example, the parties do not take care of aides, sign language interpreters and security during the political activities and PWDs end up taking care of such costs. Also, the physical platforms such as podiums used during the political activities remain inaccessible to, for example, the wheelchair users. Usually, meetings are called with very short notice and in most cases, PWDs require more time to plan for their participation including ensuring their aides, security, transport, and other logistics that their peers without a disability do not have to plan for. They may end up not participating at all or even if they do, not doing so meaningfully.
- f) *Insufficient funding for PWDS programmes and poor accountability.* Only JP and ODM get the Political Parties Fund. The other parties that do not get PPF are struggling to fund party activities and however much the ORPP requires the parties to support PWDs, it becomes a challenge. The political parties are supposed to spend at least 30% of the PPF on programmes targeting the SIG. According to the report by the Centre for Multiparty Democracy (2020)<sup>78</sup>, it came out that 15% of the total PPF meant for SIGs was not utilized independently, despite the requirement of independent work plans and budgets. Both parties omitted to allocate funds to programmes that target PWDs. The work plans under the special interest groups captured only women and youth leagues. This expenditure for special interest groups cannot be determined how it was utilized. This was also reflected by the respondents who were concerned with the accountability of such funds.
- g) *High levels of uncertainty.* For public servants wishing to join politics, they are required by law to resign from their jobs. This condition coupled with the high level of uncertainties discourages many potential candidates from participating in politics. Legally for one to submit their name for the political party nomination, the rule is that they must first resign from their current position or job. Fear bars many PWDs from engaging in political activities since there is uncertainty and in case one does not, they lose their livelihood (from employment). In a situation where most PWDs are sole breadwinners for their families the cost of engaging in politics is too high for the majority of PWDs, the study found.
- h) *Misconceived low contribution of PWDs to the political parties.* In political parties, any member is expected to give more than you expect to receive. There is a misperception on the value that PWDs add to the party in terms of membership.

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<sup>78</sup> <https://cmd-kenya.org/wp-content/uploads/2020/10/Political-Parties-Utilization-of-the-Political-Parties-Fund-PPF-CMD-Kenya-2.pdf>

According to table 5, more females (52%) members with disabilities are in political parties than men (48%). JP had the highest number of PWDs (28) followed by ANC (16). The rest have less than 20 PWDs in their party with FORD -Kenya and Green Congress Party having none. During mobilization and recruitment of members, parties reported that only a few PWDs are interested in joining political parties. This is partly because the political parties are not attractive to PWDs and are not clear on how to engage the PWDs and therefore PWDs are less motivated to join them. Many parties fail to fulfill the promises they make to PWDs.

Many political parties feel that there is already multiple representation by the special interest group. From the 2019 National Population and Housing Census, a report by Development Initiatives (2020)<sup>79</sup> indicates that there are less than one million PWDs and out of those, only a little proportion is potential voters. Even for those who qualify for voting, it still becomes challenging for them to participate in the voting. Furthermore, most of the political parties feel that PWDs have not much financial resources to contribute to the party and have a low political constituency that they can influence the party.

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<sup>79</sup> <https://devinit.org/resources/status-disability-kenya-statistics-2019-census/>

Table 5: Members with disabilities registered by ORPP

No.	Party	Members with disability in the parties				Total
		Males	Male (%)	Females	Female (%)	
1.	JP	14	50%	14	50%	28
2.	ANC	5	31%	11	69%	16
3.	PPOK	11	73%	4	27%	15
4.	ODM	8	62%	5	38%	13
5.	WDM-K	8	73%	3	27%	11
6.	KANU	2	40%	3	60%	5
7.	PDU	1	50%	1	50%	2
8.	MCCP	0	0%	1	0%	1
9.	FORD-Kenya	0	0%	0	0%	0
10.	GCK	0	0%	0	0%	0

*Political parties have challenges of mainstreaming disability ideologies.* Although most political parties interviewed have well-documented ideologies there remains a huge gap between what is documented and how the members understand and operationalize these ideologies. As a result, candidates including those with disabilities may not be committed to these party ideologies and thus can party hop with the hope of getting better opportunities. Political parties largely are insensitive to the needs of PWDs. Even where Parties nominate PWDs their voices being the minority is not adequately considered.

*Reserved versus competitive position.* More often than not, political parties do not provide adequate opportunities to PWDs, with the argument that they already have their reserved positions. This has contributed to PWDs becoming less aggressive as they wait for nomination into their reserved positions. This is another reason why PWDs often party hop, with the hope that they will get nominations. Combined with the support some receive from organizations that work with a disability, many feel no need to struggle for elective positions.

### 3.4 STUDY AREA 3: Party Ideology and Manifesto Impact on Participation

Out of the sampled parties, all parties have to some extent developed inclusive party constitution and manifestos. It was realized that the parties that had formed the National Super Alliance (NASA) pre-election coalition including ODM, WDM-K, ANC and FORD-K were running under one manifesto, meaning that theirs were watered down. The NASA Coalition (which is no longer functional) manifesto has no evidence of promoting the participation of PWDs in the political parties.

Only JP and ODM (20%) have to a large extent made effort to put in place mechanisms for representation, including the formation of the PWD League. The JP has a PWDs League Constituted at National, county and constituency levels but the composition at the Ward and Polling Station Committee level is not clear. The Party constitution proposes to have 4 officials of PWD league in the NEC, 1 chairperson of the PWDs league in the National Delegates Convention (NDC) and County chairpersons of PWD in the National Governing Council (NGC).

ODM has already formed an ODM PWDs League (ODL). However, the ODL has not yet been officially ratified by the NEC, since November 2016. There are plans to review the constitution to take care of several proposals that will ensure total inclusion of PWDS in the party structure. Some of the recommendation made include the formation of the Disability League at national, county, sub county, village and polling station levels. Once this is ratified, there will be a representation of 20 PWDs at the national level, one County coordinator, 2 at the constituency level, 2 at the ward level. The current constitution provides for Secretary for PWDs. Even before this ratification, currently, four officials of PWD league are represented the NEC, the chairperson of the PWDs league in the National Delegates Convention (NDC) and the 47 county chairpersons are represented in the National Governing Council (NGC) activities. The ODL has developed its work plan that will guide their work towards promoting an inclusive party.

50% of the parties (FORD-Kenya, WDM-K, ANC, MCC and KANU) in their its current constitution does not clearly define the special interest groups. To that effect, there are no strong organs for PWDs but have made effort to include PWDs in the NEC as follows: FORD-Kenya (1), WDM-K (2), ANC (1), MCC (1) and KANU (1).

The GCK in its constitution proposes a secretary for PWDs as part of National Office Bearers and a representation of a PWD at the Sub Branch Executive Committee. It is not mandatory, but NEC is allowed to decide, on its wisdom, to have at least two representatives of PWDs. The PPK has approved the establishment of the league for disability and next step is mobilize members to the league.

The constitution of most of the political parties sampled seems to focus disproportionately on gender equality at the expense of other special interest groups categories, meaning that PWDs are not adequately involved in most of the political activities.

It can be concluded that most of the political parties have not satisfactorily included PWDs in their structures and activities as desired. This is because they lack a long-term strategy of including PWDs in their daily operations and thus are reactive as they try to comply. More often the inclusion of PWDs does not prominently feature in the substantive agenda of the NEC, meaning that the matters of PWDs are not given adequate policy attention.

### 3.5 STUDY AREA 4: Policy and Legal Gaps

This section provides the legal and policy provisions that exist, and their gaps.

#### 3.5.1 Integration of Laws and Regulations in Party Internal Policies

All the political parties sampled, to some extent have integrated the laws and regulations provided by the government into their various party internal policies. For example, the nominations and elections rules have been integrated into the various respective party elections and nomination rules of different political parties. The results of the research indicate that 67 out of 71 political parties have at least one PWD in their National Executive Council (NEC), the top decision-making organ of the party. Four others are yet to comply and ORPP is following them up. Out of those that have complied, only two (ODM and Jubilee) have strong PWD Leagues.

As much as there the Political Parties Act of 2011 Section 7 (2) (c)<sup>80</sup> and Article 91(1) (e) of the Constitution of Kenya<sup>81</sup> requires political parties to ensure inclusion and diversity, there is no legal guidance on the specific number of PWDs to be included in the leadership as well as in the membership. Most of the parties have complied to having a PWDs in their NEC but there is clearly a low number of PWDs in other structures and the general membership. Most of the political parties prefer the easy route of nominating women and youth to PWDs in their party structures.

To make recruitment of party membership easier, the ORPP requires all parties to have online registration. However, only about 50% have complied to this. The Political Parties Act does not compel the political parties to include PWDs. There is no legal requirement to indicate disability status (in the registration platform/template) during the registration of party members. The Act does not provide specific penalties to the political parties for non-compliance on the representation of the special interest groups. Instead, a general penalty is stated in section 46 as follows; “a person convicted of an offence under this Act for which no penalty is prescribed shall be liable, on conviction, to a fine of not less than one million shillings or to imprisonment for a term of not less than two years, or to both.” This provides a loophole for non-compliance. Furthermore, some nominees with disabilities expressed concern over how justice is delivered citing corruption and influence thus compromising the outcome of the court, in favour of the candidates who have close contact to the party and have more resources.

On their part, the political parties felt that no strict monitoring of compliance. ORPP has not been proactive enough on following up the compliance on the representation of PWDs. For example, ORPP has not updated the number of PWDs in the political parties

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<sup>80</sup> The Political Parties Act, 2011 No. 11 of 2011

<sup>81</sup> Republic of Kenya (2010). Constitution of Kenya

registering online thus painting the political parties as not complying with low numbers of PWDs as their members (refer to table 3).

### 3.5.2 The Requirements for the Political Parties Fund

Article 6 of the Political Parties Act requires that not less than 30% of the money allocated to a political party shall be used for “promoting the representation in Parliament and the county assemblies of women, PWDs, youth, ethnic and other minorities and marginalised communities.” This does not provide a clear guideline for the use of these monies and political parties end up using them for other purposes. Only two political parties (ODM and Jubilee) have so far qualified for the Political Parties Fund. Others have not complied with article 25 of the Political Parties Act. Those that have not qualified are required to report how they support the special interest groups from their other sources of funds. 30% of the funds even from other lawful sources should go to activities specified by PPF. The purpose of the Political Parties Fund specified under article 26 of the Political Parties Act include:

- a) promoting the representation in Parliament and the county assemblies of women, PWDs, youth, ethnic and other minorities and marginalised communities;
- b) promoting active participation by individual citizens in political life;
- c) covering the election expenses of the political party and the broadcasting of the policies of the political party;
- d) the organisation by the political party of civic education in democracy and other electoral processes;
- e) bringing the political party’s influence to bear on the shaping of public opinion; and
- f) administrative and staff expenses of the political party which shall not be more than thirty per cent of the money allocated to the political party

The political parties are supposed to file with the ORPP the activities that they plan to undertake targeting the SIGs using the Political Parties Fund. However, reporting is mostly done superficially and in a general manner, with no specific breakdown for each group under the SIGs and no indicators that guide such reporting.

### 3.5.3 The Capacity of the Electoral System to Safeguard the Political Rights of PWDs.

The Kenyan electoral systems, despite the efforts, still have inadequate support mechanisms that promote the inclusion of PWDs in the electoral cycle. Some efforts have been made to ensure accessibility during voting but much remains to be done. For example, many voting centres remain inaccessible for PWDs who require ramps. Again, though tactile ballot papers have been availed during elections, there’s need for the Commission to make this known to stakeholders and the PWDs to create the much-needed confidence. Equally, The Commission needs to mainstream disability across the electoral cycle that is the inclusion of Sign Language interpreters to aid deaf voters during elections, as well as

undertake adequate sensitization of staff and voting clerks to support PWDs during voting, this will go a long way in adhering to the secrecy of the ballot principle.

For free and fair elections to take place, all electoral players must ensure that PWDs have unfettered access to register as voters, vote by secret ballot in any election or referendum and be a candidate for public office, or office within a political party of which they are a member and finally hold office if elected. DPOs/PWDs are not actively engaged in the electoral process including monitoring of elections. Most PWDs lack awareness on the political participation rights and processes because civic and voter education hardly targets and reaches them.

### 3.6 **STUDY AREA 5:** Barriers to Inclusion of PWDs in Political Parties

This section provides the key barriers to the participation of PWDs in the political parties. The barriers are presented in three categories: social, economic and political barriers.

- a) *Social stigma, stereotypes, discrimination and negative attitudes.* Generally, the society views the PWDs from a welfare perspective, as weak, special and needing help and special care and thus should stay off from aggressive activities such as politics. People believe that those without disabilities can do more than those with disabilities. This misconception is transferred to the political parties and their leaders in most cases perceive PWDs with negativity and expect little from them. Their participation is disingenuous, aimed mainly to comply with the legal provisions. The political parties fail to make provision for inclusion where the law does not exist. For example, since the constitutional and other supplementary laws on the representation of PWDs are not, most political parties end up handpicking nominees just to fill in the positions. A few counties have nominees who do not have a disability.
- b) *Culture.* The general perception all over the world is that to achieve adequate and effective representation, a strong candidate must be fronted. Such perception comes out in the culture of the majority of Kenyan communities. PWDs being seen as cursed and as a source of bad omen then they cannot represent others. It becomes difficult to change such thinking. Women with disabilities face double discrimination, first being a woman and second having a disability. In some cultures, women are not allowed to participate in active politics, leave alone those with a disability. Those who succeed, having struggled much engage in unending battles in their political life. Some political parties feel that if they nominate them it might cause them loss.

- c) *Influence of the family.* The family contributes significantly on the political participation of PWDs. Since voting is competency-based, in most cases family members with disabilities are thought not to have the capacity to make political decisions and therefore the heads of the families or other influential family members tend to dictate on the direction of political decisions such whether to participate in the political competitions or not. In most cases, family members tend to dissuade family members with disabilities from participating in active politics.
- d) *Low levels of education.* Majority of the respondents (75%) felt that most of the PWDs who wish to participate in politics have a low level of education and end up being locked out due to this requirement. This agrees with the World Report on Disability that PWDs are among the most marginalized groups in the world with lower educational achievements. This is further acknowledged by a Sight Savers report<sup>82</sup> that many people with disabilities dropped out of school and were functionally illiterate, which impacted on their awareness of their rights and their willingness to participate in politics.
- e) *Cost of participating in politics.* Participation in political activities is an expensive undertaking which requires the deployment of massive resources. In political parties, one is expected to give and not to receive. Disability is linked to poverty. Politics involves those who have resources, therefore are seen as weak to represent the constituencies they wish to. Those without resources are seen as a burden to the party. Voters are equally poor and take advantage of the electoral period to benefit. Majority of PWDs lack such money to facilitate their participation from nomination fees, bribing of voters, monthly party contributions and attendance of political activities. PWDs do not have an equal footing to mount an effective campaign that can match that of their peers. Political parties do not support financially the PWDs to participate in political activities and thus are required to participate in all activities. It becomes more expensive since they are required to take of costs related to transport, accommodation and, hiring the aides, sign language interpreters and security. Compared to those who are born with disabilities, people who get disability later in life have more access to financial resources. This means they can fund more established to fund their campaigns.
- f) *Inadequate preparation of potential candidates.* It was found out that most of the democracy work is largely funded by donors most local implementers of such programmes receive such support mostly at the tail end of the electoral cycle, sometimes even up to less than a year before elections. This means that the potential candidates are hardly ever well prepared to fully participate in the

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<sup>82</sup> Disability-inclusive-elections-in-Africa-a-qualitative-systematic-review.pdf

elections. Such programmes are consequently mostly unsustainable and hardly meet all the needs of PWDs.

### 3.7 **STUDY AREA 6: Best Practices in Social, Political and Economic Processes**

There are several best practices on the inclusion of PWDs in the political processes that can be learned from other jurisdictions. Kenya can learn from such best practices and make political parties more inclusive in terms of policy and practice. Some of the examples to learn from include: (a) representation of PWDs through the National Electoral College (Uganda); (b) Inclusion of the persons with disabilities in the Democratic Party Platform/Manifesto (USA); (c) Party rules that are inclusive of PWDs (Australia); and (d) adoption of criteria for non-discrimination that includes disability (New Zealand).

**Uganda<sup>83</sup>:** Representation of PWDs through the National Electoral College. The formation of the Electoral College to represent PWDs is guided by the National Council for Disability Act regulations 2015. PWDs elect their representatives to Parliament and local government councils. The Electoral College starts from the Village to the national Electoral College. From the village, PWDs of different categories come together to elect five representatives (at least one is required to be a woman). The five members elected at the village level converge at parish level to elect five representatives to the sub-county Electoral College. At sub-county level, the Electoral College elects five representatives to the district electoral college. At the district level, five PWDs form the National Electoral College. For the nomination of candidates for PWDs committees, no nomination fee is required to be paid but for those wishing to be nominated to represent PWDs in the parliament, they pay a fee. The minimum qualification for nomination as Member of Parliament is formal education of Advanced Level standard or its equivalent but for other committees, no education qualification is required. The nomination of candidates is done by two registered voters, who are members of the National Electoral College for electing representatives of PWDs in Parliament. The election of representatives of PWDs in Parliament is conducted by secret ballot by the National Electoral College comprising the five PWDs Executive Committee members from each district. Any vacancy in the National Electoral College does not invalidate the election. The voting by members of the National Electoral College for representatives of PWDs in Parliament is done through a secret ballot. During voting, each voter ticks against the two names of her/his preferred Person with Disabilities candidate on the ballot paper. Voters who cannot vote independently are allowed a person of her/his choice.

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<sup>83</sup> The Electoral Commission of Uganda (2020). Guidelines for nomination of candidates for election of persons with disabilities councils and committees, 2020

**USA<sup>84</sup>:** Inclusion of the persons with disabilities in the Democratic Party Platform/Manifesto. The Democratic Party in its manifesto has included provisions that are aimed towards promoting the rights of the marginalised including PWDs. Part of its manifesto, it aims to expand equal opportunities, increase participation in our workforce, and improve accessibility to independent living for people with disabilities. The Democrats believe people with disabilities deserve to lead full, happy, and healthy lives and plans to fully enforce laws that promote rights for PWDs such as the Americans with Disabilities Act, plans to ratify the CRPD. The Democrats plan to appoint a Special Envoy for International Disability Rights.

**Australia<sup>85</sup>:** Australian Labor Party 2019 rules are inclusive of PWDs. The Party rules entitle all members of the Party with an impairment or disability or have a lived experience with disability to be members of Labor Enabled Queensland (LEQ). The LEQ is a structure within the Labor Party that represents PWDs. Among its objectives is that LEQ promotes membership of PWDs, strengthen the Party's relationships with relevant organisations, advocating for National Disability Insurance Scheme; and educating members of the Party regarding disability issues. The LEC has 11 executive members, at least half of the Executive are members who have an impairment or disability and at least half have a lived experience elected for a two-year term. Members with visual, auditory or related disability are entitled to equal access to video link registration for video meeting facilities.

**New Zealand<sup>86</sup>:** The New Zealand Labour Party in its constitution includes the New Zealand's criteria for non-discrimination that includes disability, as one of the party's nine accepted social democratic principles. The Party's policy committees are required to fairly represent several societal groups including people with disabilities.

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<sup>84</sup> 2020 Democratic Party Platform. <https://www.demconvention.com/wp-content/uploads/2020/08/2020-07-31-Democratic-Party-Platform-For-Distribution.pdf>

<sup>85</sup> Australian Labor Party (State of Queensland) Rules 2019. From [https://www.ecq.qld.gov.au/\\_data/assets/pdf\\_file/0012/2271/ALP-Constitution.pdf](https://www.ecq.qld.gov.au/_data/assets/pdf_file/0012/2271/ALP-Constitution.pdf)

<sup>86</sup> Hey, Andrew. (2017). Embodying Disability Politics: Learning from the experiences of people with disabilities contesting and serving in public office: A New Zealand case study. 10.13140/RG.2.2.28298.98244.

#### IV. CONCLUSIONS AND RECOMMENDATIONS

This research, therefore, concludes that the inclusion of PWDs in the political parties in Kenya remains inadequate and presents a big gap in respect to the civil and political rights of PWDs as entrenched in the international legal instruments as well as in the Kenyan laws especially the Constitution of Kenya 2010. Political parties are still, albeit slowly, trying to include PWDs in their agenda in terms of policy and practice. On one hand, there are some varied practices and incentives by different political parties such as discounted nomination fees, the formation of party disability leagues and the development of inclusive intra-party policies. On the other hand, other political parties are grappling with the inclusion of PWDs partly because of unresponsive internal policies, limited capacity, and lack of awareness among the party leadership on inclusion among other barriers. Opportunities, therefore, exist for structured engagement with political parties towards building inclusive culture and practice among its membership. This requires a paradigm shift to achieve intra-party pro-disability agenda and national legal reforms that address the challenges limiting the participation of PWDs in the political processes and more specifically in the political parties.

The study, therefore, provides recommendations targeted at specific stakeholders towards facilitating greater inclusive internal party and cross-party commitments and reforms. The recommendations are pointed at the political parties, the legal and policy options, programming options and other relevant recommendations.

##### 4.1 Recommendations for the Political Parties

- a) Increase the participation of PWDs by creating party policies that are pro-disability and hasten the process of approval of the pro-inclusion policies that are under review and or development.
- b) The political parties' leadership should come up with innovative strategies for mobilization of members with disabilities by incentivizing them to join and retain their membership. Such would include but not limited to significantly discounting or waiving the nomination and membership fees for PWDs and develop creative approaches that demonstrate benefits to members with disabilities such as through economic empowerment and corporate social responsibility programmes. Additionally, the political parties should work the chiefs to mobilize more members with disabilities to join them.
- c) The department of political parties that deals with registration should develop a database for members who have disabilities.

- d) The executive of the political parties should integrate programmes that build the capacity of their members on disability inclusion. Such would include training on:
- the legal provisions and compliance areas as well as the necessary policies and strategies for mainstreaming PWDs;
  - inclusion practices such as physical accessibility and information accessibility;
  - use of modern technology in mobilizing members with disabilities.
- e) The parties should promote reasonable accommodation within their structures by designing activities that are responsive to the needs of all PWDs. This can be achieved through:
- budgeting for aides, security and Sign Language interpreters during party activities;
  - creating an accessible physical environment for the party offices;
  - promoting the accessibility of party information such as through accessible and updated websites; and
  - developing inclusive party policies.
- f) The political parties budgeting should include, and where already in place, increase the funding for programmes targeting the PWDs. Such budgets should be adequately reported by the political parties to include indicators of inclusion audited by a reputable firm.
- g) To ensure access justice within the parties, the parties should develop simplified the party complaints mechanism of solving member disputes and should be sensitive to the needs of PWDs.
- h) The party leadership needs to explore an option of semi-autonomy of the Disability Leagues to ensure the funds from partners are directly channelled to such structures. The league can form partnerships with other organizations.

#### 4.2 Legal and Policy Options

Several options for legal and policy reforms are recommended including:

- a) *Review the Electoral System of representation.* The electoral system in its current form disadvantages minority groups through the ‘first past the post’ and ‘winner takes all’ model of representation. This needs to move to a system that entrenches a proportional system of representation that gives an equal chance and opportunity for all players. The National Assembly should amend the electoral laws to embrace the system of proportional representation.

A good example of a representative model is National Electoral College in the election of PWDs representatives. Learning from successful countries such as Uganda, Kenya, through legal reform, can adopt a representative model of elections such as the National Electoral College to ensure proportional representation of balkanized regions and underrepresented categories of disabilities. Design an electoral college for the election of PWDs into the parliament.

- b) Review Section 25 of the Political Parties Act on *sharing of Political Parties' Fund and improve on accountability*. The current high threshold for the political parties to benefit from the Political Parties Fund means that the SIGs are discriminated from a national resource that ought to empower PWDs within the political parties and by extension limiting the growth of parties and subsequent inclusion. The following specific actions should be made: -
- review the Political Parties Act requiring the ORPP to share a certain proportion of the Political Parties Fund to all political parties equally that can be used to fund the programmes for SIGs;
  - The proportion allocated to the political parties for the SIGs should be further clarified on the equitable sharing among the SIGs; and
  - the PPF for SIGs should be audited more comprehensively by the Auditor General to ensure accountability of such funds.
- c) Review the Elections Act (and its respective regulations), Election Campaign Financing Act and other relevant laws and policies to introduce legislative incentives that promote the participation of PWDs in the political processes. Examples would include affirmative actions on (a) lowering educational requirements; (b) significantly lowering the nomination fees and monthly contributions by PWDs; (c) introduce campaign financing for SIGs such as solidarity fund; and (d) allowing PWDs who wish to contest, and are working with the government, to be allowed to keep their jobs should they not make it through primary party nominations.
- d) Together with strict enforcement of the Elections Act 2011 (Electoral Code of Conduct section 5 and 6), the Party Primaries Bill under development should address the violence within the political parties to ensure that the culture of violence is addressed to regain the confidence of PWDs to participate in the political parties' activities.
- e) *Clarity of guidelines for nominations and representation of PWDs in the assemblies;*
- review the 2/3rd gender rule to have a clear clause of the number of women with disabilities;

- clearly indicate the requirement for the representation of PWDs in the county assemblies; and
  - provide clear guidance for specific accommodation for the various categories of disabilities.
- f) *Improve the process of registration of PWDs as party members.* To ensure a transparent and easy process of registering PWDs to join the political parties, the ORPP should link with the NCPWD database. This will reduce the bureaucracy involved while confirming registration of PWDs as required by the Elections (Party Primaries and Party Lists) Regulations<sup>87</sup> by the NCPWD and secondly it will reduce instances of corruption where people who have no disability present fake identities.

### 6.3. Programming Options

- a) *Development partners should consider working with smaller parties.* The partners involved in the democratic processes should consider working with all political parties. Smaller political parties present more opportunities for the nomination of PWDs as opposed to big parties. It becomes easy for PWDs to get recognition and subsequent nominations by the smaller parties due to reduced bureaucracy.
- b) *Promote accessibility to electoral complaint mechanisms.* Wherever PWDs feel disenfranchised in the political process, they must be able to file their grievances on any matter. The mechanisms should promote fairness in handling the cases including the government and/or party supported representation in the court of law. ORPP can compel the political parties to ensure that the procedure of filing complaints is made clear, in simplified language and accessible formats. Additionally, the PWDs need to be trained in handling complaints mechanism.
- c) *Sensitization of political parties and players on the inclusion of PWDs in their programming.* The Political parties need to provide information that is modified to accommodate all people and to ensure the information provided is useful for a broad range of potential party members, including persons with visual impairments, hearing impairments and intellectual disabilities. For example, the websites for different political parties can be made to have accessible features. The security apparatus needs to be sensitized on the needs of PWDs, especially those of women, are considered when promoting a safe and conducive environment for people to exercise their political rights.

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<sup>87</sup> <https://www.iebc.or.ke/uploads/resources/levdA3RXCy.pdf>  
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- d) *Strengthening the electoral systems to support PWDs.* The electoral systems should continually and elaborately build the capacity of the DPOs. This should not be tied to the elections only but the entire electoral cycle. DPOs should be involved in the audit of elections and such lessons used to inform the subsequent electoral cycles. PWDs need to be capacity build to take a leading role of the political parties so that such leadership understands their plight. To promote accessibility during elections, stakeholders such as the churches, the Ministry of Education and the private sector should ensure schools, churches, halls that are often used as voting centres, are more accessible. The IEBC should train their staff (including the temporary staff) on how to support PWDs during voting.
- e) *Build and strengthen structures for the stakeholders for improved inclusion, advocacy and accountability on PWDS in the political processes.* The following actions can help achieve this: -
- build a group that brings together stakeholders including the state and non-state actors that advocates and monitors the political inclusion in the political processes;
  - the government should regard DPOs as expert resource organizations. They should be empowered and supported by state and non-state agencies in designing and in undertaking a monitoring role of adherence of PWDS policies within parties; undertake sustained civic and voter education among parties, duty bearers in the electoral process and other stakeholders; and
  - build and strengthen DPOs coalition. DPOs should be supported to build a strong coalition/caucus bringing together all categories of disabilities and that specializing in civic and electoral engagement and monitoring of the processes.
- f) *Develop a national curriculum for the capacity building of DPOs and PWDs on:*
- legal provisions on rights of PWDs;
  - operations of the political parties, the process of joining political parties and becoming an active member;
  - dealing with self-esteem, personal branding, communication skills, messaging, writing manifestos and campaigning by use of technology;
  - handling complaints within the political parties and court petitions
  - inclusive voter education and information;
  - advocacy strategies/skills;
  - the political institutional framework such as the role of IEBC, ORPP and other agencies;
  - leadership and governance; and
  - resource mobilization strategies

- g) *Early and efficient preparation of potential candidates with disabilities.* Empowerment and visibility programmes for potential candidates should run through the entire electoral cycle instead of focusing on the elections. Part of the preparation may include: the mobilization of funds, understanding the nomination processes, guidance on complaints mechanisms among others. This can be done through coaching and mentorships programmes.
- h) *Participatory programme design.* Donors need to be included early at the stage of programme design. In addition, DPOs may especially target women with disabilities and those who lost narrowly. Their participation at the design stage will ensure that the programmes address their needs consequently increasing their chance of winning in subsequent nominations. Part of the preparation may also include initiating or creating interest among other participants.

#### 6.4. Innovative Programming for Disability Inclusion Needed

- a) Develop a results-based management mechanism for reporting disability inclusion. The political parties, ORPP and IEBC should move from the traditional programming and reporting to a result-based management approach that includes outputs, outcomes, and impact and the respective. Inclusion indicators should be integrated into programming and reporting and entities required to report against them. Electoral cycle audits and observer tools should also include such indicators of disability inclusion.
- b) The use of technology in promoting political inclusion. The political parties should be encouraged to use technology to mobilize, register and communicate with their members. The IEBC can also develop such technology for voter education, especially with the restrictions brought about by COVID-19.
- c) The NCPWD, a government agency mandated to promote the rights of PWDs, should allocate fund for strengthening political participation among PWDs as part of empowerment. The political actors should develop targeted and inclusive information package to the PWDs for voter education.
- d) The Judiciary, as a critical player in the justice system, should be sensitized to enforce the law on the representation of the PWDs in the political parties.
- e) To achieve a more sustained inclusion agenda, the Kenyan education system should integrate inclusive governance in its curriculum. The Kenya Institute of Curriculum Development (KICD) in partnership with other actors can develop modules for basic and tertiary education that teaches the principles of inclusion. When inclusion is taught as part of the national values, it becomes a practice in society for future leadership.

## ANNEXURE

### Annex 1: Schedule of work



Schedule of  
work.docx

### Annex 2: KII for political parties



KII for political  
parties.docx

### Annex 3: KII for DPOs



KII for DPOs  
-Revised.docx

### Annex 4: KII for MCAs with disabilities



KII guide for MCAs  
with disabilities.docx

### Annex 5: KII for ORPP



KII for ORPP.docx

### Annex 6: KII for IEBC



KII for IEBC.docx