



The Kenya Women Parliamentary
Association



United Nations Entity for Gender Equality
and the Empowerment of Women

ACHIEVING THE TWO THIRDS GENDER RULE THROUGH ELECTIVE PROCESSES: FOCUS ON POLITICAL PARTIES

NOV/DEC 2016

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ABBREVIATIONS

KEWOPA	Kenya Women Parliamentary Association
NDC	National Delegates Conferences
NEB	National Elections Board
NEC	National Executive Committee
NGC	National Governing Council
PPLC	Political Parties Liaison Committee
PWD	National Council of People Living with Disabilities
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women

1.0. EXECUTIVE SUMMARY

Since the promulgation and enactment of the Constitution of Kenya, 2010, which provides for compliance with gender equality provisions by any public or private entity, there has been notable progress in public bodies in Kenya including the political parties in terms of gender representation especially in the political parties governance structures- National Delegates Conferences (NDC), National Executive Committee (NEC), National Governing Council (NGC) and the Secretariat Management. To a greater degree, the current state of affairs in our political parties can be said to be progressively fulfilling the fundamental principle of democracy, which posits that *“the achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarity, drawing mutual enrichment from their differences.”*

The March 2013 general election being the first election cycle under the new legal and policy framework (Political Parties Act and Elections Act both of 2011), the gender equality provisions of Article 81.b and Article 27 (3) (8)¹ were put to test and a rapid assessment of the performance of most political parties and their representation in parliament clearly indicates that as a nation, we are still below the bare minimum of 30%. For instance, the elected women in the National Assembly add up to only 5.5% while at the county assemblies 5.5%. It is the affirmative action measures (County Women Representatives and Nominations) which pushed the figures up to 19.8% and 34.5% respectively.

The election of women competitively has been a challenge for the female candidates therefore for the constitution of Kenya to be fully implemented in relation to 2/3 thirds gender principle there is need for political parties to play a key role in increasing women candidature through fair and inclusive nominations

In the run-up to the August 2017 general election, the Kenya Women Parliamentary Association (KEWOPA) is seeking to work with political party leadership closely including the National Executive Committees, to reduce barriers for women’s access to leadership and gain traction for initiatives that increase women’s political participation through

¹ *Art. 27.3 Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres;*

Art. 27.8 The State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender;

Art. 81.b not more than two-thirds of the members of elective public bodies shall be of the same gender;

interrogation of party documents and advocacy to enhance enforcement of provision on inclusion of women.

KEWOPA seeks to increase the number of seats competitively won by women in the national assembly (single member constituencies) from the current 5.5 % to at least 8% in the 2017 elections. To achieve this, it is imperative to collaboratively engage with political parties nominate winnable women in winnable positions and constituencies. In so doing, the political parties will be making their cardinal contribution towards achieving gender equality and the 2/3 gender rule in elective positions.

2.0. ACTIVITY OUTCOMES

To achieve gender equality in the elective leadership and governance structures through the political parties, it is very critical to juxtapose and answer the questions, why women and why now? The responses are varied i.e.; because it is law (constitutional provision); it is a basic tenet of democracy; to ensure that unique interests of women and other marginalized groups are represented and above all, to improve the quality of performance, governance and political and leadership practices.

Based on the foregoing, the program was implemented in three facets:

1. Desk review advocacy oriented assessment of relevant political party policy documents including the constitutions, manifestoes, election and nomination rules and procedures for compliance with 2/3rd gender rule;
2. Roundtable discussion with key political parties leadership (Executive Directors)

2.1. Overview of political parties policy documents

The interrogated policy documents of Jubilee Party (JP), Orange Democratic Movement (ODM), Wiper Democratic Movement (WIPER), FORD Kenya, NARCK Kenya and KANU, having been re-written to comply with the Constitution of Kenya (CoK), all contain positive and progressive provisions to ensure gender equality in their management and governance structures. Particular mentions by each individual party under review include:

Political party	Gender equality provisions
JP	Established office of the National Chairperson, Women League to oversee the Party women's programmes and coordinate all activities relating to the female membership of the party, in liaison with the National Executive Committee

ODM	The election of National Officials shall be conducted on the guiding principle that at least one third be of either gender
WIPER	Adhere to the gender equality principles
NARC-K	Gender equality is based on a ratio of 50:50
KANU	To involve specialized groups of persons such as women, youth, non-governmental organizations and religious organizations into the affairs and management of the party with a view to winning their support for the party and in this respect constitute within the party hierarchy units and program so through which these groups can actively participate in the affairs of the party so as to strengthen it. To fight for gender equality and the empowerment of women, the rights of minority people and of any other marginalized or disadvantaged groups of Kenya.
FORD KENYA	Not more than two thirds of the total members of any party organ should be of one gender

2.1.1. Women representation in Party Structures

The political parties' documents under review revealed that they have enshrined provisions for women representation to the extent that NARC Kenya provides for 50:50 for both men and women. This good provision has not been achieved as the party only had one elected member. However, the common trend in all these political parties is that they have not outlined clear measures to implement these good ideals, hence putting into question their sincere commitment to increase women's participation, especially in key decision-making organs of the parties. A part from NARC Kenya which has a woman leader, all other political parties are headed by men, save for a few deputies. However, FORD-Kenya has categorically stated that women are not contesting nor taking up their executive positions in the high ranking party positions. For instance, out of 60 NEC members, only 19 are women and other positions have not been occupied.

On the positive end of the stick, women who held executive positions in their respective political parties were eventually nominated to parliament and this include:

Political Party	Name	Position Held in 2013	Senate/National Assembly (NA)
ODM	Hon. Elizabeth Ongoro	Vice Secretary General	Senate
ODM	Hon. Janet Ongera	Executive Director	Senate
ODM	Hon. Dr. Agnes Nzani	Coast Women Leader	Senate
TNA (Now JP)	Hon. Amina Abdalla	Party Strategist	NA
TNA (Now JP)	Hon. Beth Mugo	Party Advisor	Senate
WIPER	Hon. Judith Sijeny	Deputy Treasurer	Senate

In light of the foregoing table, it's evident that women who hold executive and influential party positions are highly likely to be nominated into parliament provided that the respective political parties win seats in any election. In addition due to the limited number of nomination positions, the said women are legible to be appointed into other government organs including parastatal and corporation boards, envoys, and special advisers and strategists. For instance Hon. Chebii Kilimo who was a strong candidate on a TNA ticket in the run up to 2013 general elections but when she lost, she was appointed the Chair of the Anti-Female Genital Mutilation Board. This still provides traction and space to showcase women leadership abilities even in arms outside of the legislature.

It is interesting to note that the JP Grand Campaign Team of 60 members which was unveiled on November 4, 2016 at a National Governing Council meeting by the Party Leader, H.E Uhuru Kenyatta comprises of 18 women (30%), who stand a high chance of making it to the 12th parliament as they also campaign for the president and his deputy.

2.1.2. Nominations (party primaries)

The nomination rules, regulations and procedures do not provide for any special or practicable considerations to influence the issuance of nomination certificates to winnable women candidates who are strong and have strong presence and support at the grassroots. This is due to the fact that there is still a great ideological gulf separating women and men when it comes to elective leadership. The situation is made worse by the assertive male dominance in the political parties coupled with clear lack of political goodwill even from the party leaders to show outright positive biasness to women candidates for fear of creating rebellion from the men. However, women enjoy reduced nomination fees by 25%.

FORD Kenya's National Elections Board provides to undertake mapping exercise to determine the strength of women candidates vs. their male counterparts across the constituencies and wards to increase the number of women elected into the county assemblies and parliament in the subsequent elections.

2.1.3. Training and capacity building

Indeed, all the political parties have made an effort to provide for training and capacity building of the women candidates through partnerships with development partners namely National Democratic Institute (NDI) and UN Women among others. It is also notable that the political parties are open to working with the Civil Society Organizations to train and capacity build the women in political parties as mobilizers, agents, leaders and supporters with the aim of eventually realizing the 2/3rd gender equality principles. Through the trainings, women's knowledge, skills and capacity to fight all odds and biases within their political parties will be assured.

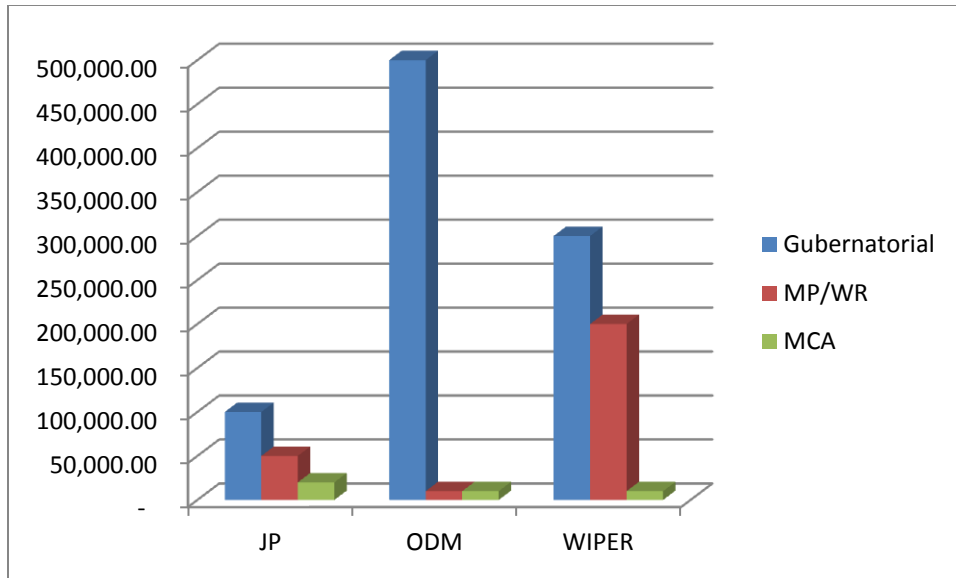
2.1.4. Visibility creation and handholding of women candidates

In the case of the 2013 elections, no political party clearly hand held the strong women candidates. Being a new era with elective positions ranging from ward representatives at the county assembly, constituencies MPs, Senate, Women Representatives, Governorship and Presidency, the political parties failed to clearly support women in single member constituencies. There are no provisions in the various party documents to allow deliberate handholding, visibility creation and profiling of women. This is a drawback which must be corrected for the forthcoming 2017 general elections in order to achieve the 2/3rd gender rule through an election process.

2.1.5. Financing and material support

Due to heavy commercialization of the political elective process, inadequate finances are a major setback to the fulfillment of the 2/3rd gender principle at political party levels. Some of the political parties provide very minimal financial support directly to the candidates (those who have been nominated and whose names appear in the ballot papers) e.g. NARC and FORD Kenya.

All other parties provide campaign materials support generally for the party and the presidential candidate namely fliers, caps, t-shirts, umbrellas, jacket reflectors, posters and banners. In addition, women and youth leagues benefit from the political parties fund as allocated by the individual parties especially for capacities training forums but such allocations are very minimal for any meaningful impact- increasing women participation through public engagement programs and activities.



Graph 1 Nomination Fee Comparison

In terms of nomination fee, three political parties namely JP, ODM and WIPER availed their nomination fee lists (which are subject to changes as political parties adopt revised nomination rules and regulations). Comparatively, the Jubilee Party has the friendliest fees in all major elective positions-Gubernatorial, Senate, National Assembly and Women representative. WIPER’s MCA nomination fee stands at Ksh 10,000.

To meet the two thirds gender principle through an election process, ODM party has reduced the nomination fee of women MPs aspirants from Kshs 250,000 to Kshs 100,000 and further reduced for the women MCA aspirants from Kshs 25,000 to Kshs 10,000 and proposed to adopt the zebra party list which begins with female then male in that order to increase chances of more women in parliament and county assemblies.

2.1.6. Safety and security

All the political parties’ documents reviewed champion for free, fair, non-violent primaries and election. However, there are no measures to curb violence especially during the party primaries. The situation is worsened in constituencies which are strongholds of particular political parties whereby, securing a nomination certificate is as well as a won election. Political parties have integrated the national values and principles of governance in the nomination regulations as espoused in Article 10 (2) of the constitution however, the practice is far below average.

2.2. Roundtable Discussion with Targeted Political Parties Executive Directors

To gain a deeper appreciation of the achievements and challenges and to secure commitment by political party leadership in actualizing the 2/3rd gender rule, a roundtable meeting of select political parties was held at Intercontinental Hotel on December 19, 2016. The parties represented include; ODM, NARC Kenya, FORD Kenya & WIPER. The discussions revealed the following:

- ❖ The political parties recognize that they are the gateways through which both men and women enter into elective leadership. As such, at their level they're committed to actualize the gender equality provisions in their policy documents. However, political parties as institutions feel that the fight is being lost at parliament level where the legal framework to allow for the two thirds implementation has not been passed especially the Technical Working Group proposal cum the Constitutional of Kenya (amendment) bill, 2015 which failed to pass the vote twice;
- ❖ Each political party prides in having a huge base of support of women however this is not reflected in the leadership structures. FORD Kenya alluded that there are no women even the elected ones who are willing to take on the various executive positions in the party management. To date, it has many unfilled positions;
- ❖ The Executive Directors admitted that each individual political party has its way of handling internal and external resistance meted against women aspirants & candidates such as denial & inversions, dilution & selection, subversion, shelving and lip service, compartmentalization, tokenism, further investigation and postponed promises. However, there has not been success stories recorded by any party. In the light of the mergers and coalitions such as CORD, Jubilee Party and now National Super Alliance (NASA), there are no or little efforts if any put in place ensure that the mergers are women friendly. This point at which women fight alone and many a times lose the fight. A case in point, the Jubilee Party election of county officials has been rocked with chaos and suspected underhand dealings from the headquarters. Women are a frustrated lot and even before an audit is commissioned to determine how many women vs. men won which positions, it is clear that women have gotten a raw deal. The Executive Directors pledged to have influence their political parties to move from political clientelism to a genuinely pro-women agenda;
- ❖ The political parties are also concerned about the large number of women aspirants in reference the just concluded 5000 women aspirants conference at KICC. They wonder which parties the women aspirants belong to. This is

comparison with the number of women they have in their database who have shown dependable interest to vie for various elective positions;

3.0. WAY FORWARD

For effective implementation of this program, KEWOPA shall undertake to do the following:

- ❖ Carry out in-depth continuous analysis and monitoring of political parties affirmative measures, actions and statements in support of women candidates in the 2017 general elections;
- ❖ Involve other levels of political party leadership especially the Political Party Liaison Committee (PPLC), Women and Youth Leagues at interparty level and the findings of this meeting be shared at a higher level with political party leaders;
- ❖ Support the Hon. Judith Sijeny Bill aimed at realizing the 2/3rd gender rule by mobilizing the Senators as they plan to convene a special session in January 2017;
- ❖ Engage with the faculty of the people with disability as candidates for nomination especially the women;
- ❖ Help women candidates develop a winning strategy and help walk with them to actualize it;
- ❖ Undertake consultative vetting even with political parties in identifying the mentees to ascertain their strength and abilities before formally recommending them for support by the development partners;
- ❖ To do a desk review of all current impediments and barriers affecting active involvement and participation of women in the run up to the 2017 general elections;
- ❖ Continue lobbying the political parties' leadership to make their political parties friendly, caring and supportive of women candidates.

4.0. RECOMENDATIONS

Based on the review of the parties' documents and the roundtable discussions by the political parties' Executive Directors, to remedy the situation and make a contribution towards realizing the 2/3rd gender rule at the election level, the following must be undertaken:

Outcome Areas	Actors	Output
Appealing, recruitment and retention of women aspirants/candidates	Political Parties and all their decision making organs	Revised Political Parties' policy documents & frameworks or at least instituted Temporary Special Measures providing for enforcement mechanisms of the good ideals of gender equality with a particular reference to the 2/3 rd gender principle
Removal of barriers to women's full participation in the elective process	i. Political parties ii. Parliament iii. Executive good will iv. KEWOPA & like-minded collaborative partners v. Development Partners	i. Institutionalized process of achieving gender parity ii. Strengthened linkages between policy, planning and implementation at political party levels
Capacity Building and mentorship/handholding of the prospective winnable women candidates	Political parties Development partners KEWOPA	i. Increased social capital and political capacities of the women candidates to compete favorable in positions viewed as men preserve; ii. Increased self-confidence by the women aspirants
Financing and visibility creation of women candidates	Political parties Development partners	Levelled political playfield and increased chances of women getting into the county assembly or parliament.
Amendment of the Political Parties and Elections Act 2011 to provide that the Gender top up to be done after election not in a pre-election party list	Parliament	To ensure that strong women who lost in elections get to parliament
Dissolution of parliament if the Executive and parliament cannot support the 2/3 rd gender rule with the same vigour as other laws	Executive, Parliament and Judiciary	Forced compliance with the constitutional provision of 2/3 rd gender rule

5.0 ANNEXURE

5.1 Annex 1: List of Political Parties sampled

- 5.1.1 Orange Democratic Movement (ODM)
- 5.1.2 Jubilee Party (JP)
- 5.1.3 FORD Kenya
- 5.1.4 NARC Kenya
- 5.1.5 Wiper Democratic Movement
- 5.1.6 KANU

5.2 Annex 2: Reference Documents

- 5.2.1 Constitution of Kenya, 2010
- 5.2.2 Political Parties Act, 2011
- 5.2.3 Elections Act, 2011 (revised 2016)
- 5.2.4 Political Parties 'Constitutions, rules and regulations