



Participation of Persons with Disabilities in 2022 GENERAL ELECTIONS

AUDIT REPORT



FROM WORDS TO MORE WORDS?

AUDIT OF THE 9 AUGUST 2022 GENERAL ELECTION

FROM A DISABILITY-INCLUSION PERSPECTIVE

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Table of Contents

| | |
|---|-----------|
| Abbreviations and Acronyms | 7 |
| 1. Summary of Recommendations | 8 |
| 2. Introduction | II |
| 2.1. Background..... | II |
| 2.2 Objectives | 12 |
| 2.3 Methodology | 13 |
| 3. Conceptual and Normative Framework for the Inclusion of Persons with Disabilities in the 2022 General Election | 14 |
| 3.1. Participation and inclusion | 14 |
| 3.2 Legal framework for the inclusion of persons with disabilities in elections | 15 |
| 4. Electoral Institutional Framework and the Inclusion of Persons with Disabilities in the 2022 General Election. | 18 |
| 4.1 Composition of Election Management Bodies | 18 |
| 4.2 Institutional stakeholder connections and engagements | 19 |
| 4.3 National Council for Persons with Disabilities | 21 |
| 5. The Inclusion of Persons with Disabilities in Political Parties | 22 |
| 5.1. Political parties | 22 |
| 5.2 Office of Registrar of Political Parties | 24 |
| 5.3. The Independent Electoral and Boundaries Commission..... | 25 |
| 6. Disability-Inclusion During the Pre-Election Period. | 27 |
| 6.1. Voter registration | 27 |
| 6.2 Voter education | 28 |
| 6.3 Electoral justice for persons with disabilities | 29 |
| 7. Disability-Inclusion on Election Day | 31 |
| 8. Representation of Persons with Disabilities in the National and County Legislatures. | 33 |
| 9. Conclusion: Final Reckonings | 36 |
| Annex | 37 |

Abbreviations and Acronyms

| | |
|----------------|---|
| AGPO: | Access to Government Procurement Opportunities |
| Azimio: | Azimio la Umoja One Kenya Alliance |
| CDRA: | Caucus of Disability Rights Advocacy |
| CRPD: | Convention on the Rights of Persons with Disabilities |
| DICC: | Disability Inclusion Coordination Committee |
| ELOG: | Election Observation Group |
| EMBs: | Electoral Management Bodies |
| IEBC: | Independent Electoral and Boundaries Commission |
| KIPP: | Kenya Inclusive Political Parties |
| MCA: | Member of County Assembly |
| NCPWD: | National Council for Persons with Disabilities |
| NGEC: | National Gender and Equality Commission |
| OPDs: | Organisations of Persons with Disabilities |
| ORPP: | Office of Registrar of Political Parties |
| PPA: | Political Parties Act |
| PPF: | Political Parties Fund |
| UDA: | United Democratic Alliance |
| UDPK: | United Disabled Persons of Kenya |
| WFD: | Westminster Foundation for Democracy |



Stanley Mutuma of UDPK during a panel discussion at the People's Dialogue Forum, 2023 on participation of persons with disabilities in elections.

I. Summary of Recommendations

This study audits the extent to which the 2022 election cycle ensured the inclusion of voters and candidates with disabilities. It identifies and reflects on progress, gaps and lessons on the extent and nature of the inclusion, participation and representation of persons with disabilities, in conformity with the Constitution, the Convention on the Rights of Persons with Disabilities, and election statutes. The study shows that while virtually all electoral stakeholders now employ the language of disability-inclusion in their policy frameworks, disability-inclusion too often remains rhetoric not marched by practice. The recommendations made in this study address the barriers which exclude persons with disabilities from elections: attitudinal barriers; communication barriers; environmental barriers; and institutional barriers.

The audit makes the following recommendations:

1. Right to vote: Electoral stakeholders should recognise and act on the basis that all adults with disabilities, regardless of their disability, have the right to vote and stand for elective office. The constitutional provisions that bar persons of unsound mind from voting in or standing for elections constitute discrimination on the basis of disability.
2. Composition of election management bodies:
 - a. Independent Electoral and Boundaries Commission (IEBC) and the Office of Registrar of Political Parties (ORPP) should establish long-term staff-diversity plans to ensure they recruit staff with disabilities with various relevant expertise.
 - b. Authorities with the mandate to recruit Commissioners for the IEBC (Parliament and the President) should put in place protocols that ensure at least one person with disability is appointed as a Commissioner. Selection committees should include persons with disability-

inclusion expertise. Selection protocols should anticipate the possibility of re-advertisement to ensure inclusive institutions.

3. Institutional stakeholder connections and engagements:
 - a. Organisations of persons with disabilities (OPDs) and development partners should establish multiyear democracy programmes to support disability-inclusion.
 - b. OPDs should leverage on the technical capacities of mainstream democracy organisations which increasingly in the 2022 election cycle made important research and advocacy contributions to causes of disability-inclusion.
 - c. The terms of reference of the Disability Inclusion Coordination Committee (DICC) should be reviewed to clarify its roles and responsibilities. IEBC should play a proactive role in DICC which should not be left to become one more forum where OPDs simply speak to each other or fundraise to undertake electoral work that is mandated to the IEBC.
4. National Council for Persons with Disabilities:
 - a. The IEBC and the ORPP should work with the NCPWD to interlink and rationalise their databases while at the same time ensuring data integrity.
 - b. For practical reasons, deadlines should be established during an electoral cycle beyond which a person desiring to stand for elections for disability list seats will not receive NCPWD certification.
5. Political parties:
 - a. The ORPP and other stakeholders should initiate and participate in a process towards ensuring that political parties understand and respect the spirit of disability-inclusion, since only then will parties respect the letter of the law which requires the inclusion of persons with disabilities in political parties.
 - b. The ORPP should demand greater accountability in the application of the Political Parties Fund by political parties. Each party should detail disability-specific applications of receipts from the Fund. The ORPP should sanction political parties which do not apply monies from the Fund as required under the Political Parties Act.
 - c. Political parties should review and entrench the specific affirmative measures that facilitate persons with disabilities wishing to stand for elective offices.
 - d. The IEBC should refine its protocols for accepting nominations for list seats submitted to it by political parties. It should invite public feedback on candidacies which may be fraudulent, for example, claiming disability when that is not the case. IEBC should cross-check submitted lists against the database of the NCPWD.
 - e. The Kenya Kwanza Government should implement the commitments on disability-inclusion it made in its manifesto, and persons with disabilities should hold it to account on those commitments. Azimio should use its manifesto to check the Government and to offer alternatives for disability-inclusion.
6. Voter registration: The IEBC and ORPP should as a matter of course disaggregate and communicate data specific to persons with disabilities, including the number of members of specific political parties with disabilities, the number of registered voters with disabilities, the number of candidates with disabilities standing for various elections, and the number of candidates elected to various positions. This information is relevant for assessing the realisation of the important constitutional goal of disability-inclusion.
7. Voter education:
 - a. EMBs should establish more concerted protocols for ensuring effective communication in accessible means and formats. The IEBC must not assume it has fulfilled its voter education responsibility simply by availing a limited amount of material in Braille since many blind persons in fact may not even use Braille. The IEBC, therefore, has to ensure that its website is accessible to persons with different disabilities. The IEBC should also work with stakeholders to determine the most optimal way of providing Sign Language interpretation services to enable deaf persons to participate in voter registration, voter education and voting.
 - b. The IEBC and other stakeholders should ensure that voter education material communicates

to the public and to persons with disabilities specifically on matters of disability. The material should not lump or typify issues of persons with disabilities under a generic category such as special interest groups.

8. The polls:
 - a. The IEBC should use universally designed booths to ensure they are accessible to persons with different disabilities. The Commission should consult with disability stakeholders on specifications for such booths.
 - b. The design (including colours) and placement of ballot boxes should take account of the needs of persons with disabilities.
 - c. All voting material (including ballots and signage) should have distinct colours and large font.
 - d. IEBC should use disability-disaggregated data to determine the deployment of its resources and services, including Sign Language interpretation and tactile ballots.
 - e. In line with the recommendation of the Supreme Court, the IEBC should establish the manner and procedure for the conduct of special voting to accommodate persons with disabilities and others who are unable to access polling stations.
9. Representation of persons with disabilities in the national and county legislatures:
 - a. The two dominant political parties or coalitions in the National Assembly should ensure that at least two persons with disabilities in the 12 least seats, one from each formation, is a person with disability.
 - b. The law should be framed expressly or interpreted in such a manner as to ensure that each County Assembly has at least one member with disability elected under the special interest groups category of list seats.



Lawrence Mute of the Caucus on Disability Rights Advocacy (CDRA) discussing participation of persons with disabilities in elections (Symposium on elections, December 2022).

2. Introduction

2.1 Background

The 9 August 2022 general election was the third national poll conducted under the Constitution of Kenya (2010),¹ following on the 2013 and 2017 general elections. The three elections were run under a radically different constitutional framework which, unlike pre-2010 elections, guaranteed the representation of groups which were previously mostly unrepresented. The previous Constitution provided for 12 nominated Members of Parliament (MPS) to be appointed by the President following a general election to represent what that Constitution referred to as ‘special interests’.² When this provision was applied correctly, persons with disabilities and other minority groups could be nominated to Parliament. In practice, however, the sweeping discretion bestowed on the President under this provision enabled him to reward members of the political establishment while mostly leaving marginalised groups unrepresented.³

¹ Constitution of Kenya (2010) <http://kenyalaw.org/lex/actview.xql?actid=Const2010>

² S33(1) of the Constitution of Kenya, Revised Edition 2008 (2001) [http://kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution%20of%20Kenya%20\(Repealed\).pdf](http://kenyalaw.org/kl/fileadmin/pdfdownloads/Constitution%20of%20Kenya%20(Repealed).pdf)

³ In consequence, Kenya’s last Parliament under the repealed Constitution (the 10th Parliament) did not have even one legislator with disability. Indeed, throughout the life of post-independence parliaments, only on one occasion did a party consciously use Section 33 of the Constitution to nominate a person with disability to the National Assembly, when the Safina Party nominated Josephine Sinyo to replace Richard Leakey in the 8th Parliament. See Lawrence Mute, *From Affirmation to Practice: Assessing a Decade of Implementing the Constitution of Kenya 2010 for Persons with Disabilities* (United Disabled Persons of Kenya, 2020) <https://www.udpkenya.or.ke/wp-content/uploads/2021/03/Assessing-A-Decade-of-Implementing-the-Constitution-for-PWDs-in-Kenya.pdf>

Hence, inclusion guarantees in the 2010 Constitution communicated the promise of a new dawn for persons with disabilities where they would be included fully in the political life of the country. Yet, the first two post-2010 general elections, in practice, highlighted the difficulties voters with disabilities continued to experience in attaining meaningful inclusion. Election monitoring reports of the 2017 general election catalogued multiple barriers which voters and candidates with disabilities faced. These barriers included inaccessible polling stations, inaccessible voting material and institutional bottlenecks.⁴ The 2022 general election, therefore, offered another apt opportunity for solidifying the inclusion of persons with disabilities in elections.

This is the context within which the United Disabled Persons of Kenya (UDPK) commissioned this audit to assess the extent to which the 2022 general election enhanced the inclusion of persons with disabilities. UDPK is the umbrella body of organisations of persons with disabilities (OPDs) in the country. UDPK and its partners have assessed the inclusion of persons with disabilities in previous general elections, notably since the promulgation of the 2010 Constitution.⁵

2.2 Objectives

This study audits the extent to which the 2022 election cycle ensured the inclusion of voters and candidates with disabilities. It identifies and reflects on progress, gaps and lessons on the extent and nature of inclusion, participation and representation of persons with disabilities. UDPK and its partners will use the conclusions and recommendations from this study to support the goal of ensuring the full inclusion of persons with disabilities in elections through the removal of policy, legal and other barriers and the institution of necessary positive measures.

The specific objectives of the study are to:

1. Establish and assess the extent to which persons with disabilities participated in the 2022 general election;
2. Establish and assess progress in the inclusion, participation and representation of persons with disabilities in political and governance bodies (political parties, national and county legislatures), and arising gaps and lessons;
3. Establish and assess the extent to which relevant election management bodies (EMBs) and other

4 For example see 'African Union Election Observation Mission to the 8 August 2017 General Elections and the 26 October 2017 Fresh Presidential Election in the Republic of Kenya' (African Union 2022) <https://www.google.com/search?q=%E2%80%98AFRICAN+UNION+ELECTION+OBSERVATION+MISSION+TO+THE+8+AUGUST+2017+-GENERAL+ELECTIONS+AND+THE+26+OCTOBER+2017+FRESH+PRESIDENTIAL+ELECTION+IN+THE+REPUBLIC+OF+KENYA%E2%80%99&q=%E2%80%98AFRICAN+UNION+ELECTION+OBSERVATION+MISSION+TO+THE+8+AUGUST+2017+GENERAL+ELECTIONS+AND+THE+26+OCTOBER+2017+FRESH+PRESIDENTIAL+ELECTION+IN+THE+REPUBLIC+OF+KENYA%E2%80%99&aqs=chrome..69i57.539j0j7&sourceid=chrome&ie=UTF-8>

5 For example see 'From the Margins to the Centre: a Roadmap to the 2022 General Election' (United Disabled Persons of Kenya, 2018); 'Post 2017 General Elections Audit: Examining the Level of Disability Inclusion' (United Disabled Persons of Kenya, 2018) <https://www.udpkkenya.or.ke/wp-content/uploads/2020/05/Baseline-Survey-Report-INCLUSIVE-ELECTION-Participation-of-Persons-with-Disabilities-in-Electoral-and-Political-processes-in-Kenya-11.pdf> ; 'Ensuring a Participatory and Inclusive Electoral Environment for Persons with Psychosocial Disabilities During the 2017 General Elections: Advisory Brief' (Users and Survivors of Psychiatry in Kenya, 2017) <http://rodra.co.za/images/countries/kenya/research/Advisory%20Brief%20-%20Users%20and%20Survivors%20of%20Psychiatry%20in%20Kenya%20USP%20on%20Inclusive%20Elections.pdf> ; and Lawrence Mute, 'That Near Yet So Far: an Examination of the Extent to which Political and Electoral Participation Is Being Realised for the 2013 Elections' (Disability Caucus on Implementation of the Constitution, 2013); 'The Effective Representation in Parliament for Persons with Disabilities: Proposals in Relation to Article 54(2), Article 82(1)(d) and Article 100 of the Constitution of Kenya, 2010' (Disability Caucus on Implementation of the Constitution, 2015).

- election actors abided by the Constitution in their engagements on disability issues; and
4. Recommend measures and strategies for ensuring the full inclusion, effective participation and representation of persons with disabilities in future election cycles.

2.3 Methodology

This audit has drawn data from formal and informal sources. It uses information provided by EMBs as well as various election monitoring and observation missions. It also draws from the electoral work of OPDs, including UDPK which engaged with communities across the country during the 2022 election cycle. It also uses internet searches of newspaper and other sources. A draft of the study was peer reviewed by an expert who had participated in the election process. The study's main limitation was its framing as an audit that relied mostly on secondary sources. These secondary sources, however, drew heavily on the primary activities undertaken by stakeholders throughout the polls period.



Participants at a capacity strengthening session on the UNCRPD.

3. Conceptual and Normative Framework for the Inclusion of Persons with Disabilities in the 2022 General Election

3.1 Participation and inclusion

Every individual has the right to participate in public affairs. This right is commonly realised through democratic elections. Participation plays a key role in promoting the political inclusion of persons with disabilities. Society, however, far too often excludes or limits persons with disabilities from expressing their political will as voters and candidates for election. As the Office of the High Commissioner for Human Rights has noted, the principle of full and effective participation and inclusion in society anticipates that society is organised to enable all, including persons with disabilities, to take part fully in all its spheres. Full inclusion requires that persons with disabilities are recognised and valued as equal participants, with their needs being understood as integral to the social and economic order rather than as 'special'.⁶

The meaningful inclusion of persons with disabilities in politics is undermined by attitudinal, communication, environmental and institutional barriers. Attitudinal barriers are stereotypes or stigma about persons with disabilities (for example about their leadership qualities). Communication barriers occur when formats or methods of sharing information are not accessible (such as inaccessible vote recording technology). Environmental barriers in registration centres or polling stations include architectural obstacles (such as

⁶ 'Thematic Study by the Office of the United Nations High Commissioner for Human Rights on Participation in Political and Public Life by Persons with Disabilities' (Human Rights Council, 19th Session) paras 20-21 <https://www.ohchr.org/en/calls-for-input/report-participation-political-and-public-life-persons-disabilities>

narrow doorways or stairs) and signage that is inaccessible for people with different disabilities. Institutional barriers are laws and policies that are not inclusive of persons with disabilities. These include disability-based voting restrictions predicated on the basis that persons with disabilities do not have legal capacity, which is the ability to hold rights and duties and to exercise those rights and duties.⁷

3.2 Legal framework for the inclusion of persons with disabilities in elections

Kenya has established significant constitutional, statutory and regulatory measures for realising its commitments of ensuring the inclusion of persons with disabilities in elections.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD)⁸ requires Kenya, which became party to the Convention in 2008, to ensure that persons with disabilities have the right and opportunity to vote and be elected on an equal basis with others. To this end, Kenya should ensure that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use by persons with disabilities. Kenya should also protect the rights of persons with disabilities to vote by secret ballot, and to stand for elections, to effectively hold office and perform all public functions at all levels of government.⁹

The Constitution frames a number of overlapping normative and institutional measures for the inclusion of persons with disabilities in elective politics. In the words of the Court of Appeal, the Constitution endeavours ‘... to inject equity, rationality, objectivity and inclusivity into the process consistent with the dictates of participatory democracy and an attempt, through affirmative measures, to redress the marginalization that had kept certain portions of the populace in the peripheries of the political process.’¹⁰

The Constitution identifies persons with disabilities as a vulnerable group and establishes an incumbent duty by state organs and public officers (including EMBs) to address their needs.¹¹ It prohibits the direct or indirect discrimination of persons with disabilities both by the state (including EMBs) and other persons (including political parties).¹²

The political rights guaranteed to Kenyans in the Constitution apply to citizens with disabilities too. Adult citizens with disabilities may: form or participate in the formation of a political party; participate in the activities of or recruit members for a political party; campaign for a political party or cause; stand for any elective office in a political party where one is a member; be registered as a voter; vote by secret ballot in any election or referendum; and be a candidate for public office or office in a political party where one is a member, and hold such office if elected.¹³ One fundamental discrepancy in the Constitution is the exclusionary restrictions which it places on what it refers to as ‘persons of unsound mind’. The Constitution provides that a person qualifies to be registered as a voter or to stand for office in Parliament or a County Assembly if, among other things, he or

7 ‘Election Access Observation Toolkit’ (International Foundation for Electoral Systems, 2018) <https://www.ifes.org/publications/election-access-observation-toolkit> ; also see Helene Conbrinck, ‘Everybody Counts: the Right to Vote of Persons with Psychosocial Disabilities in South Africa’ (2014) ADRY 4 <http://www.saflii.org/za/journals/ADRY/2014/4.html>

8 Convention on the Rights of Persons with Disabilities (United Nations, 2006) <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

9 As above art29.

Also see Guidelines for States on the Effective Implementation of the Right to Participate in Public Affairs (OHCHR) Guidelines 38-39 https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipate-PublicAffairs_web.pdf

10 *Commission for the Implementation of the Constitution v Attorney General & 2 others* [2013] eKLR <http://kenyalaw.org/caselaw/cases/view/97844/>

11 NI art21(3).

12 As above art27.

13 As above art38.

she is not declared to be of unsound mind.¹⁴ International human rights standards affirm that no person with disability or group of persons with disabilities should be excluded from voting or standing for elections: ‘... an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability.’¹⁵

The Constitution underpins the political inclusion of persons with disabilities on a series of entitlements to enable them to operate on an equal basis with others. It entitles persons with disabilities to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning.¹⁶ This, for example, means that a politician must not use demeaning language against a political competitor with disability. The Constitution also entitles disabled persons ‘to reasonable access to all places, public transport and information’.¹⁷ A person with disability seeking elective office or a voter with disability should, therefore, have barrier-free access to the physical and digital environment to facilitate their electioneering on a basis of equality. In that vein, the Constitution acknowledges that the full inclusion of persons with disabilities calls for effective written and oral communication. To this end, it obligates the state to: ‘promote the development and use of ... Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.’¹⁸ Every person with disability is entitled ‘to use Sign language, Braille or other appropriate means of communication’; and the entitlement ‘to access materials and devices to overcome constraints arising from the person’s disability’.¹⁹ The Constitution provides that the official languages of Parliament include Kenyan Sign Language.²⁰ The Constitution also obligates the state to ‘... ensure the progressive implementation of the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities.’²¹

The Constitution establishes a series of principles on the electoral system and process to support the inclusion of persons with disabilities. Notably, the electoral system should comply with the principle of fair representation for persons with disabilities.²² It enjoins Parliament to enact legislation, among others, on ‘the conduct of elections and referenda and the regulation and efficient supervision of elections and referenda, including the nomination of candidates for elections’.²³ That legislation should take account of what the Constitution refers to as ‘the special needs’ of persons with disabilities.²⁴

Finally, the Constitution establishes specific institutional devices for ensuring the election of legislators with disabilities in the National Assembly, Senate and County Assemblies. The composition of the

14 As above art83(1)(c), art99(2)(e), art193(2)(d).

15 Committee on the Rights of Persons with Disabilities, General Comment No. 1 (2014) Article 12: Equal Recognition before the Law, para48.

Also see *Human Rights and Elections: a Handbook on International Human Rights Standards on Elections* (Office of High Commissioner for Human Rights, 2021) para75) <https://www.ohchr.org/sites/default/files/Documents/Publications/Human-Rights-and-Elections.pdf> ; also see Oliver Lewis, POLITICAL PARTICIPATION OF PERSONS WITH INTELLECTUAL OR PSYCHOSOCIAL DISABILITIES (UNDP, 2021) <https://www.undp.org/sites/g/files/zskgke326/files/2021-12/UNDP-II-UNPRPD-Political-Participation-of-Persons-with-Intellectual-or-Psychosocial-Disabilities-V2.pdf>

16 NI art54(1).

17 As above.

18 As above art7(d).

19 As above art54 (d) and (e).

20 As above Art120(1).

21 As above art54(2).

22 As above art81 (c).

23 As above art82.

24 As above art82(2)(c).

National Assembly includes ‘twelve members nominated by parliamentary political parties according to their proportion of members of the National Assembly ... to represent special interests including the youth, persons with disabilities and workers’.²⁵ The composition of the Senate includes ‘two members, being one man and one woman, representing persons with disabilities’.²⁶ The membership of a County Assembly includes ‘the number of members of marginalised groups, including persons with disabilities and the youth, prescribed by an Act of Parliament’.²⁷

The above constitutional requirements for disability-inclusion are made operational in the various statutes that regulate elections. Key statutes include the Political Parties Act, the Independent Electoral and Boundaries Commission Act, the Election Act, the County Governments Act and the Persons with Disabilities Act.

It is recommended that all electoral stakeholders should reaffirm that all adults with disabilities, regardless of their disability, have the right to vote and stand for elective office.

25 As above art97(1)(c).

26 As above art98(1)(d).

27 As above art177(1)(c).



UDPK's CEO participating at a panel discussion on inclusive governance at both national and county levels.

4. Electoral Institutional Framework and the Inclusion of Persons with Disabilities in the 2022 General Election

4.1 Composition of Election Management Bodies

The 2022 general election was managed principally by two EMBs: The Independent Electoral and Boundaries Commission (IEBC) and the Office of the Registrar of Political Parties (ORPP). One long-standing demand of persons with disabilities was the inclusion of individuals with disabilities particularly in the IEBC. For the 2022 election cycle, the Commission failed the basic inclusion test of diversity of composition. This is despite the fact that the IEBC's own self-evaluation of the 2017 general election concluded that the inclusion agenda was undermined, among others, by lack of a specialist in disability and gender matters within the IEBC.²⁸ The IEBC could also have drawn from persons with disabilities with other relevant expertise.

At the same time, the cohort of seven IEBC commissioners who oversaw the 2022 general election did not include a person with disability. The selection process for the four new commissioners appointed in 2021 was not configured to make particular considerations for applicants with disabilities. Under the Independent Electoral and Boundaries Commission Act (IEBCA), the panel that shortlists, interviews and proposes members of the IEBC comprises four persons nominated by the Parliamentary Service Commission, a nominee from the

²⁸ 'The Post-Election Evaluation Report for the August 8, 2017 General Election and October 26, 2017 Fresh Presidential Election' (Independent Electoral and Boundaries Commission) <https://www.iebc.or.ke/uploads/resources/V9UUoGq-VBK.pdf>

Law Society of Kenya and two nominees from the Inter-Religious Council of Kenya.²⁹ None of these members had a disability. The Selection Panel, which convened in April 2021 to initiate the process of advertising and shortlisting for the four vacancies, reported that of 669 applicants, two applicants had disabilities evidenced by certification from the National Council for Persons with Disabilities (NCPWD). The Selection Panel, however, reported that it did not shortlist either of the two applicants because they failed to meet the pass mark of 60%: Michael Napoo Ilukwol Lokoruka (Prof.) and Rose Mumbua Musyoka (Dr.), respectively, scored 57.29% and 55.86%.³⁰ Consequently, the appointing authorities did not consider options for ensuring the inclusion of persons with disabilities in the IEBC.³¹

It is recommended that:

1. The IEBC and ORPP should establish long-term staff-diversity plans to ensure they recruit staff with disabilities with various relevant expertise.
2. Authorities with the mandate to recruit Commissioners for the IEBC (Parliament and the President) should put in place protocols that ensure at least one person with disability is appointed as a Commissioner. Selection committees should include persons with disability-inclusion expertise. Selection protocols should anticipate the possibility of re-advertisement to ensure inclusive institutions.

4.2 Institutional stakeholder connections and engagements

During the 2022 election cycle, electoral stakeholders, including the IEBC, ORPP, political parties, OPDs and development partners undertook initiatives towards ensuring the inclusion of persons with disabilities in the 2022 election.

the stakeholder analysis in the Strategic Plan of the IEBC (2020-2024)³² itemised the mutual expectations of the IEBC and of stakeholders with disabilities. IEBC expected that persons with disabilities would exercise their democratic right to register and vote, and that they would disclose to the Commission their disabilities. Persons with disabilities in turn expected that the IEBC would establish conducive infrastructure to enable them access services of the Commission, and provide information and voter education in accessible formats. Stakeholders also had non-core expectations which for them were as important: that IEBC would provide them opportunities for employment and that it would comply with the 30% Access to Government Procurement Opportunities (AGPO) Programme. IEBC committed itself, among other things, to introduce disability friendly materials and equipment.

The Caucus on Disability Rights Advocacy (CDRA) played critical advocacy roles towards ensuring the inclusion of persons with disabilities in the 2022 general election. CDRA is a coalition of non-state actors, including organisations of and for persons with disabilities, which promotes the interests of persons with disabilities under the Constitution and the law. UDPK is a leading member of the Caucus. CDRA was particularly instrumental in spurring the IEBC to establish the Disability Inclusion Coordination Committee (DICC).

29 Independent Electoral and Boundaries Commission Act (No. 9 of 2011) s11(5)(a) <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=No.%209%20of%202011>

30 'Report on the Approval Hearing for Appointment of Ms. Juliana Whonge Cherera, Mr. Francis Mathenge Wanderingi, Ms. Irene Cherop Masit and Mr. Justus Abonyo Nyang'aya as Members of the Independent Electoral and Boundaries Commission', (Departmental Committee on Justice and Legal Affairs, August 2021) Volume I <http://www.parliament.go.ke/sites/default/files/2021-08/JLAC%20Report%20on%20the%20approval%20hearing%20for%20the%20appointment%20of%20Members%20of%20IEBC.pdf>

31 On a related matter, the Departmental Committee on Justice and Legal Affairs took the view that Article 250(4) of the Constitution as read together with Article 10 provides that the composition of the commissions and offices taken as a whole should reflect the regional and ethnic diversity of the people of Kenya. That interpretation of the gender rule should not be confined to appointments in one commission. (Ibid).

32 IEBC Strategic Plan 2020 - 2024 <https://www.iebc.or.ke/uploads/resources/TuqVmFrzOu.pdf>

The IEBC established the DICC as a platform for facilitating its engagements on the participation of persons with disabilities in the electoral process. DICC comprised, in the IEBC's words: 'PWD serving organizations and institutions, PWD influencers, PWD leaders in business, political parties and institutions of learning in Kenya.'³³ IEBC established DICC to support it in the following areas:

1. To develop a work plan to ensure that the participation of persons with disabilities is achieved, monitored and evaluated across IEBC priority areas;
2. To work with the IEBC in the establishment, coordination and holding of platforms for persons with disabilities and coordinating committees in 47 counties;
3. To distribute information, education and communication materials to persons with disabilities;
4. To mobilise and convene forums of persons with disabilities across 47 counties to disseminate voter education messages; and
5. To help the IEBC to design and implement disability-friendly programmes.³⁴

While DICC played a networking role between OPDs and the IEBC, the IEBC did not seem to take an active enough role in facilitating and indeed resourcing the Committee.³⁵ The DICC's leadership was drawn essentially from organisations of and for persons with disabilities, including only one ex-officio member from the IEBC.³⁶

In another initiative, the Westminster Foundation (WFD) run the Kenya Inclusive Political Parties (KIPP) Programme. KIPP sought to address the critical knowledge gaps within political parties to create and promote more inclusive political discourse, political commitments and public policymaking. As part of KIPP, WFD initiated a baseline study to gather data on the state of political inclusion of persons with disabilities within political parties.³⁷ WFD also spearheaded the preparation of the minimum standards on inclusion of persons with disabilities in political parties. These standards described what must be in place as a minimum for persons with disabilities to engage and participate effectively in political party activities, structures, policies, practices and processes. They sought to promote a consistent approach to the inclusion of persons with disabilities in political party activities.³⁸ WFD also filled an important gap by preparing a training module on the political inclusion of persons with disabilities.³⁹ The module aimed to support capacity building on strengthening and advocating for internal party structures, political commitments, and policies in response to the strategic and practical political inclusion of persons with disabilities.

These stakeholder engagements and connections played important roles in profiling the issues of and advocating for the inclusion of persons with disabilities. The effectiveness of various initiatives, however, was undermined by the ad hoc nature of established frameworks and the ad hoc and short term character of the projects they fronted. The capacities of far more established organisations such as UDPK were not exploited fully. UDPK, for example, received quite limited support to undertake voter education despite the fact it had elaborate networks throughout the country which it could have mobilised far earlier than it did. It, therefore, undertook only a modest number of voter education activities which started quite near the polls.⁴⁰

33 Circular from Secretary of IEBC REF. NO. IEBC/DVEPC/46/8/1 23rd February, 2022

34 As above.

35 Interview with official of DICC on 1 December 2022 (notes on file with author).

36 N33.

37 'The State of Political Inclusion of Persons with Disability (PWDs) within Political parties in Kenya' (Westminster Foundation, 2020) <https://www.wfd.org/sites/default/files/2022-01/WFD-KIPP-Baseline-Report-The-State-of-Political-Inclusion-of-Persons-with-Disability-PWDs-within-Political-parties-in-Kenya.pdf>

38 'Minimum Standards on Inclusion of Persons with Disabilities in Political Parties' (Westminster Foundation, December 2021) <https://www.wfd.org/what-we-do/resources/minimum-standards-inclusion-persons-disabilities-political-parties>

39 'Module for Training on Political Inclusion of Persons with Disabilities' (Westminster Foundation, December 2020) <https://www.wfd.org/sites/default/files/2022-01/Module-for-training-on-political-inclusion-of-PWDs.pdf>

40 Discussions with senior UDPK official (notes on file with author).

It is recommended that:

1. OPDs and development partners should establish multiyear democracy programmes to support disability-inclusion.
2. OPDs should leverage on the technical capacities of mainstream democracy organisations which increasingly in the 2022 election cycle made important research and advocacy contributions to causes of disability-inclusion.
3. The terms of reference of the DICC should be reviewed to clarify its roles and responsibilities. IEBC should play a proactive role in DICC which should not be left to become one more forum where OPDs simply speak to each other or fundraise to undertake electoral work that is mandated to the IEBC.

4.3 National Council for Persons with Disabilities

The National Council for Persons with Disabilities (NCPWD) is not a classic EMB like the ORPP or IEBC. Yet, the NCPWD is a statutory body that plays a key election facilitation role. One of its functions under the Persons with Disabilities Act is the registration of persons with disabilities.⁴¹ All electoral stakeholders, including the ORPP, IEBC and political parties use the registration database of the Council for purposes of determining persons who are eligible to stand for political office under the Constitution as persons with disabilities. This is the basis on which the ORPP planned to integrate its Political Party Membership database with key stakeholders' databases, including the IEBC's Voter Register, Integrated Population Registration System (IPRS), and the database on persons with disabilities of the NCPWD.⁴² As well, the nomination rules of all political parties require NCPWD certification for applicants wishing to stand for elections as persons with disabilities. Finally, following the 2022 polls, the IEBC deferred declaring a number of party list nominees under the disability subcategory as validly elected members of county assembly (MCAs) because they had still not furnished it with NCPWD certification.⁴³

It is recommended that:

1. The IEBC and the ORPP should work with the NCPWD to interlink and rationalise their databases while at the same time ensuring data integrity.
2. For practical reasons, deadlines should be established during an electoral cycle beyond which a person desiring to stand for elections for disability list seats will not receive NCPWD certification.

⁴¹ Persons with Disabilities Act (No. 14 of 2003) s7(1)(c) <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=-No.%2014%20of%202003>

⁴² Strategic Plan 2020-2025 (Office of Registrar of Political Parties) https://www.orpp.or.ke/images/UPLOADSpdf/ORPP_Strategic_Plan_2020_2025_Sept2021.pdf

⁴³ Gazette Notice No. 10712 of 9 September 2022.



Persons with disabilities in a meeting with the IEBC, July 2022.

5. The Inclusion of Persons with Disabilities in Political Parties

5.1 Political parties

The Political Parties Act (PPA)⁴⁴ establishes the legal framework for the inclusion of persons with disabilities in political parties. Some functions of political parties hold particular relevance for persons with disabilities. Under the PPA, political parties promote the representation in Parliament and County Assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities. They also sensitise the public on the functioning of the political and electoral system, mobilise citizens to participate in political decisions, solicit and articulate public policy priorities, and shape and influence public policy.⁴⁵ Under the PPA, an entity is registered as a political party only if its members and governing bodies reflect regional and ethnic diversity, gender balance and representation of special interest groups. The PPA specifically requires political parties to disaggregate their membership information on the basis of each of the components of the special interest groups.⁴⁶

A baseline study on inclusive participation of persons with disabilities in political parties undertaken in 2020 found that 67 of the then 71 registered political parties had at least one person with disability in their National

⁴⁴ Political Parties Act (No. 11 of 2011) <http://kenyalaw.org/8181/exist/kenyalex/actview.xql?actid=No.%2011%20of%202011>

⁴⁵ As above s4A.

⁴⁶ https://www.orpp.or.ke/images/PDFdocuments/REGISTER-OF-PARTICULARS-FULLY-REGISTERED_PARTIES-2022.pdf

Executive Councils. Of 10 sampled parties, all had some level of inclusive party constitutions and manifestos. Half of the sampled parties had clear provisions discounting nomination fees for persons with disabilities. The study also found that barriers inhibiting persons with disabilities from participating in political parties included the culture of violence and intimidation within political parties; lack of reasonable accommodation; and misconceived low value of persons with disabilities by political parties.⁴⁷

During the 2022 election cycle, political parties attempted to abide by the minimum letter of the requirements in the PPA while in practice quite often not adhering to the spirit of the law. Political parties had units tasked to work with persons with disabilities, usually referred to as disability leagues.⁴⁸ Regardless of their appellations, observers and monitors concluded that these units ultimately had insignificant influence where it really mattered, for example, in determining the nominees with disabilities who political parties included on their slates for list seats. One election observation report⁴⁹ concluded that the efforts political parties made to include persons with disabilities in internal party affairs and activities remained largely tokenistic.

The nomination rules established by political parties included a level of specific measures to encourage the participation of persons with disabilities to stand for elective offices.⁵⁰ Parties lowered the nomination fees payable by persons with disabilities applying for candidacy for the presidency, national legislature, governorship and county assembly (usually half the fee payable by non-disabled applicants). Candidates seeking nomination for party list seats would still pay a non-refundable fee (sh5,000 in the instance of the Orange Democratic Movement [ODM]).⁵¹ A notable innovation of ODM was a measure providing that a candidate who selected a running mate with disability would be refunded a quarter of the fees they had paid. Party nomination rules also made provisions for assisted voting.⁵²

On a positive note, the election manifestoes of the main political parties included election platforms relevant for persons with disabilities. political manifestoes of the principal election contenders identified concerns of persons with disabilities and accordingly made commitments. Some of the pledges were nonetheless quite fantastical and unlikely to be implemented.

Azimio la Umoja One Kenya Alliance committed to:

1. Ensure that persons with disabilities are treated with respect including by developing a comprehensive programme to support and ensure that they live in dignity;
2. Make public spaces and facilities including toilets accessible to persons with disabilities;
3. Integrate persons with disabilities into society and the economy as much as possible including through access to affordable credit and other economic opportunities;
4. Review the legal and policy frameworks relating to persons with disabilities towards enhancing their participation in society; and
5. Provide permanent tax exemption.⁵³

The Kenya Kwanza Alliance committed to:

47 N37.

48 The ODM, for example, established the ODM Party's Disability League <https://odm.co.ke/odm-disability-league/>. Also see Maendeleo Chap Chap Nomination and Election Rules <https://www.iebc.or.ke/uploads/resources/YzwzkLmtcn.pdf>

49 'From the Ballot to the Portal: ELOG Observation Report for the 2022 General Elections in Kenya (Election Observation Group, 2022) <https://elog.or.ke/observation-reports/>

50 As above.

51 Orange Democratic Movement Party Primaries and Nomination Rules (February 2021) https://www.politicalpartydb.org/wp-content/uploads/2021/01/Kenya_ODM_Election-and-Nomination-Rules_2014.pdf

52 As above.

53 Azimio la Umoja One Kenya Alliance Inawezekana Agenda 2022-2027 <https://venasnews.co.ke/wp-content/uploads/2022/06/AZIMIO-MANIFESTO.pdf>

1. Ensure 100% National Hospital Insurance Fund coverage for persons with disabilities within 18 months;
2. Integrate schools to allow children with disabilities to start interacting with the general public at an early age to restore their confidence and self-esteem;
3. Merge the National Fund for the Disabled of Kenya with the NCPWD and ensure parliamentary oversight for accountability;
4. Increase capitation of pupils with disabilities by 50%;
5. Set aside 15% of all public-funded bursaries for pupils with disabilities;
6. Ring fence an adequate percentage of the Hustler Fund for persons with disabilities;
7. Allocate 5% of all market stalls to persons with disabilities;
8. Reserve 5% of the AGPO Programme for persons with disabilities with an increase in LPO (local purchase order) financing;
9. Encourage counties to waive licences and fees of new businesses established by persons with disabilities; and
10. Exempt all assistive devices from import duty and explore possibilities of partnership with domestic manufacturers to produce affordable devices.⁵⁴

5.2 Office of Registrar of Political Parties

The ORPP took measures to support the inclusion of persons with disabilities in political parties. It prepared a quick guide for party/candidates' agents which includes specific information such as on how presiding officers should support voters with disabilities.⁵⁵ The ORPP also prepared a checklist for political party nomination rules to guide political parties on the issues/questions they should address to ensure the inclusion of persons with disabilities in elections.⁵⁶ Pertinent issues included:

1. Additional qualifications to be a candidate on the party list over and above that of party primaries;
2. The procedure for identifying or declaring interest to be a candidate for nomination on a party list, and who can identify and suggest candidates;
3. Timelines identified for the process and whether they are known to party members well in advance;
4. Whether the party has an affirmative action strategy to increase the number of women and other special interest group aspiring candidates seeking to be nominated on party lists, such as prioritising persons with disabilities or other special interest groups on the party lists of special interest groups to the county assemblies;
5. The party's plan to prepare party lists for 12 special seats to the National Assembly, and 16 women, two persons with disabilities and two youth to the senate;
6. The party's plan to prepare a gender top up list and special interest list to the county assemblies for every county that the party is presenting candidates;
7. Whether the list of 12 special seats to the National Assembly contains alternates between male and female candidates in the priority in which they are listed;
8. Whether the lists of the two youth and the two persons with disabilities to the Senate contain alternates between male and female candidates in the priority in which they are listed;
9. Whether the gender top up list and the special interest list to the county assemblies contain alternates between male and female candidates in the priority in which they are listed;
10. Whether there is a party code of conduct for the candidates running for party nominations for party lists;
11. Whether there is a requirement that members eligible to be candidates for party lists must have been members of the party for a specific period of time immediately prior to the party nomination;

54 The Bottom Up Economic Transformation Agenda 2022-2027 <https://uda.ke/downloads/manifesto.pdf>

55 Quick Guide for Party Candidates/Agents (Office of Registrar of Political Parties, June 2022) https://www.orpp.or.ke/images/PDFdocuments/Agents_Quick_Guide.pdf

56 'Checklist for Political Party Nomination Rules' (Office of Registrar of Political Parties) <https://orpp.or.ke/images/UPLOADSpdf/Checklistfornominationrules.pdf>

12. The documents to be attached to an aspiring candidate's application (including certification from the NCPWD for applicants with disabilities);
13. Whether there are fees required to be paid by candidates for nominations for party lists, and when this information is communicated to the party members;
14. Whether aspiring candidates who participate in party primaries and do not succeed to win the party ticket are eligible for consideration for nomination on the party list; and
15. Whether women and members of other special interest groups participating in the party primary, and who loose, are given priority during party list nominations.

The ORPP oversees the distribution and use of the Political Parties Fund (PPF), whose aims include promoting the representation in Parliament and County Assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities. The formula for distributing the PPF is geared to support the inclusion of persons with disabilities in political parties: 70% of the PPF is distributed proportionately by reference to the total number of votes secured by each political party; 15% is distributed proportionately on the basis of the number of candidates of the political party from special interest groups elected in the preceding general election; 10% is distributed proportionately based on the total number of representatives from the political party elected in the preceding general election; and 5% of the Fund is for the PPF's administrative expenses.⁵⁷

During the 2022 election cycle, it was not clear that the PPF had achieved its intended inclusion aims. One study found that the Jubilee Party and the ODM Party, which received monies from the PPF in the 2017-2022 electoral cycle, had budgets with ambiguous titles such as 'next generation leaders programme' and 'women and youth league activities'. These budget-lines, therefore, did not cover persons with disabilities. Improper planning was also evidenced by the budgeting for special interest groups which in both parties was way higher than the actual received monies. Finally, the study also found that the parties' financial audits could not make explicit determinations on how funding for special interest groups was utilised.⁵⁸

5.3 The Independent Electoral and Boundaries Commission

The IEBC also attempted to enforce measures for the inclusion of nominees with disabilities onto the slates filed by political parties for list seats in the National Assembly, Senate and County Assemblies. Political parties were to submit lists for 12 nominees to the National Assembly, 16 female nominees to the Senate, two youth nominees to the Senate and two nominees with disabilities to the Senate. They were also to submit 47 lists, each representing a county and separately consisting of eight marginalised group nominees; and 47 lists, each representing a county and separately consisting of a number of women nominees equal to the number of wards in the respective county. A clear trend saw political parties failing to use list seat nominations to enhance inclusion by bringing in members of marginalised groups. Rather, they tended to use them, in the words of one editorial, '... to reward cronies and party charlatans'.⁵⁹ The IEBC rejected the initial proposals of 79 political parties when it determined that the lists did not conform to the law.⁶⁰

It is recommended that:

1. The ORPP and other stakeholders should initiate and participate in a process towards ensuring

⁵⁷ N44 s25(1).

⁵⁸ Political Parties' Utilisation of the Political Parties' Fund (PPF) to Promote Political Participation (CMD)

⁵⁹ 'Political Parties Must Fix Wrong Nomination Lists' (Nation, 17 July 2022) <https://nation.africa/kenya/blogs-opinion/editorials/political-parties-must-fix-wrong-nomination-lists--3882492>

⁶⁰ Menya and Nyamori 'Raila, DP Allies Dominate Lists of National Assembly, Senate Nominees' (Nation, 10 July 2022) <https://nation.africa/kenya/news/politics/raila-dp-allies-dominate-lists-of-national-assembly-senate-nominees-3874932>

that political parties understand and respect the spirit of disability-inclusion, since only then will parties respect the letter and spirit of the law which requires the inclusion of persons with disabilities in political parties.

2. The ORPP should demand greater accountability in the application of the PPF by political parties. Each party should detail disability-specific applications of receipts from the Fund. The ORPP should sanction political parties which do not apply monies from the Fund as required under the Political Parties Act.
3. Political parties should review and entrench the specific affirmative measures that facilitate persons with disabilities wishing to stand for elective offices.
4. The IEBC should refine its protocols for accepting nominations for list seats submitted to it by political parties. It should invite public feedback on candidacies which may be fraudulent, for example, claiming disability when that is not the case. IEBC should cross-check submitted lists against the database of the NCPWD.
5. The Kenya Kwanza Government should implement the commitments on disability-inclusion it made in its manifesto, and persons with disabilities should hold it to account on those commitments. Azimio should use its manifesto to check the Government and to offer alternatives for disability-inclusion.



Persons with disabilities at a workshop on the 2030 agenda on sustainable development.

6. Disability-Inclusion During the Pre-Election Period

6.1 Voter registration

The continuous registration of citizens as voters is one of the responsibilities of the IEBC. Of the total of 22,120,458 registered voters for the 2022 election, the IEBC communicated that voters with disabilities constituted 8.7% of the eligible voting population). This information heralded a landmark for the IEBC which had never previously communicated disability-disaggregated data on registered voters.⁶¹ It should, however, be noted that this disaggregated data was gleaned almost coincidentally as a spinoff from an external (KPMG) audit commissioned by the IEBC to audit the Register of Voters. The audit also assessed the inclusiveness of the Register in relation to age, gender, disability and geographic distribution.⁶² As such, formal notices of the IEBC still did not include disability-based disaggregated data.⁶³ One election monitoring mission expressed regret that while the IEBC recorded new voters' disability status and the type of disability they had on the register of voters, and allowed previously registered persons with disabilities to update their disability status, IEBC

61 Media Briefing on Audit Report on the Register of Voters (Independent and Electoral Boundaries Commission, 20 June 2022) <https://www.iebc.or.ke/uploads/resources/JqmDO7vRLo.pdf>

62 As above.

63 For example see Vol. CXXIV—No. 119, 21st June, 2022, Gazette Notice No. 7290, the Constitution of Kenya the Independent Electoral and Boundaries Commission Act (No. 9 of 2011) the Elections Act (no. 24 of 2011) the Elections (Registration of Voters) Regulations, 2012 certifying that the revision of the register of voters has been completed for purposes of the 9th august, 2022 general election.

failed to disaggregate the final list of candidates and the election results by gender, age or disability status.⁶⁴ It is, however, extremely significant that IEBC took the step of communicating the number of registered persons with disabilities since this began to demystify the statistical estimates of the number of voters to who IEBC should be providing disability-specific support.

The IEBC undertook two enhanced continuous voter registration exercises, from October to November 2021 and from January to February 2022. Persons with disabilities faced a number of barriers as they sought to be registered as voters. In October-November 2021, the NGEC undertook an observation exercise in 31 counties which made some notable findings on the registration of persons with disabilities as voters. NGEC found that the most accessible centres were located in huduma centres. The most inaccessible centres lacked ramps for use by persons with disabilities; were located on upper floors of buildings with no lifts, or at steep locations or in unfinished buildings with rough incomplete surfaces. Some centres had narrow entrances and some were accessible through alternative back-entrances. The exercise found that persons with disabilities were offered facilitative services such as registration on a priority basis, communication through Sign Language and improvised ramps.⁶⁵ Other observation missions found that the IEBC collected disability-specific information from persons who applied to register as voters.⁶⁶

It is recommended that the IEBC and ORPP should as a matter of course disaggregate and communicate data specific to persons with disabilities, including the number of members of specific political parties with disabilities, the number of registered voters with disabilities, the number of candidates with disabilities standing for various elections, and the number of candidates elected to various positions. This information is relevant for assessing the realisation of the important constitutional goal of disability-inclusion.

6.2 Voter education

Voter education is another responsibility of the IEBC. For the 2022 election cycle, the IEBC's priorities on voter education included: automating voter education providers; developing standard operating procedures for voter education; developing a framework for conducting voter education throughout the electoral cycle; increasing the reach of voter education across the country; and conducting voter education for special interest groups.⁶⁷

Interlocutors for persons with disabilities were concerned that the IEBC had not done enough to facilitate voter education for persons with disabilities. IEBC did not consult OPDs on their voter education needs until as late as July 2022, leaving hardly any time for substantive voter education to take place.⁶⁸ Still, the IEBC had implemented measures to enhance the inclusion and participation of persons with disabilities including by availing voter education material in Braille and deploying Sign Language interpreters as voter educators.⁶⁹

64 'Election Observation Mission to Kenya Final Report of the 2022 General Election' (International Republican Institute and National Democratic Institute, 2022) <https://www.iri.org/resources/iri-ndi-international-election-observation-mission-to-kenya/>

65 'Promoting Participation and Inclusion of Special Interest Groups in the 2022 Electoral Processes: Monitoring Report of the 2021 Phase One of the Enhanced Mass Voter Registration' (National Gender and Equality Commission, January 2022) <https://www.ngeckkenya.org/Downloads/PROMOTING%20PARTICIPATION%20AND%20INCLUSION%20OF%20SIGNS%20IN%20THE%202022%20ELECTORAL%20PROCESSES.pdf>

66 'IRI/NDI Kenya International Election Observation Mission' (International Republican Institute and National Democratic Institute, 2022) <https://www.iri.org/resources/iri-ndi-international-election-observation-mission-to-kenya/>

67 'Elections operations plan (IEBC)' <https://www.iebc.or.ke/uploads/resources/t3aLQUgYXv.pdf>

68 'Preliminary Report: the Carter Center Election Expert Mission Presidential Election, Kenya' (Carter Centre, 8 September 2022) <https://privacyinternational.org/news-analysis/4959/preliminary-statement-kenyas-election-collaboration-carter-center-election>

69 N49.

On another positive note, the IEBC partnered with AssistAll to provide a mobile platform that included a helpline for deaf persons, a database of Sign Language interpreters, subtitle video content, and targeted voter education.⁷⁰

A further pertinent remark may be made here about the IEBC's voter education. Its voter education material tends to be generic rather than specific. The material tends to make brief comments on persons with disabilities, usually clustering them with other special interest groups. A common question in the IEBC's voter education material was framed as follows: 'Discuss the importance of participation of women, youth, elderly, marginalized and persons with disabilities in activities of Political Parties'.⁷¹

It is recommended that:

1. EMBs should establish more concerted protocols for ensuring effective communication in accessible means and formats. The IEBC must not assume it has fulfilled its voter education responsibility simply by availing a limited amount of material in Braille since many blind persons in fact may not even use Braille. The IEBC, therefore, has to ensure that its website is accessible to persons with different disabilities. The IEBC should also work with stakeholders to determine the most optimal way of providing Sign Language interpretation services to enable deaf persons to participate in voter registration, voter education and voting.
2. The IEBC and other stakeholders should ensure that voter education material communicates to the public and to persons with disabilities specifically on matters of disability. The material should not lump or typify issues of persons with disabilities under a generic category such as special interest groups.

6.3 Electoral justice for persons with disabilities

The IEBC Electoral Code of Conduct binds political parties and candidates participating in elections to avoid discrimination based on the grounds protected under Article 27 of the Constitution, including disability, in connection with the election and political activities. Provisions in the Code are, however, exceedingly vague, requiring political parties to do things such as ensuring security and full participation of persons with disabilities as candidates and voters, and ensuring free access of persons with disabilities to all public political meetings, marches, demonstrations, rallies and other public political events. The IEBC has never expounded what this means or indeed what measures it has taken to enforce those provisions. Indeed, the Election Observation Group (ELOG) raised concerns about the increased use of abusive, insulting or derogatory language targeting persons with disabilities and other groups as voters and candidates.⁷²

Despite a generally challenging electoral environment, persons with disabilities sought nominations from political parties as candidates to be elected as President, MP, Senator, Governor or MCA. Women Challenge to Challenge, an OPD, reported that women candidates with disabilities in primary party elections faced monumental challenges, and only two of the 20 candidates they had targeted to be picked to contest the general election had succeeded.⁷³

Candidates with disabilities aggrieved by the conduct of their political parties sought redress before relevant forums, including IEBC's Election Disputes Resolution Tribunal, and the courts. A person who applied to be

⁷⁰ 'IEBC Partners with AssistALL' <https://www.youtube.com/watch?v=aLQSoePhzio>

⁷¹ Voter Education Training Manual (Independent Electoral and Boundaries Commission) <https://www.iebc.or.ke/uploads/resources/pdQMe3WKeV.pdf>

⁷² 'Report on the Long - Term Observation Mission May 2022' (ELOG) <https://elog.or.ke/observation-reports/>

⁷³ Ian Byron, 'Women with Disabilities Deplore Rough Political Terrain' (Nation, 15 June 2022) <https://nation.africa/kenya/news/gender/women-with-disability-deplore-rough-political-terrain-3849670>

nominated by Wiper as a candidate for an MCA seat in Kitui got orders from the IEBC Disputes Resolution Tribunal, which Wiper nonetheless declined to implement.⁷⁴

Another fraught matter was the presidential aspirations of Reuben Kigame who has a disability. Kigame got orders from the High Court requiring the IEBC to accept and consider his presidential nomination papers which the IEBC had rejected because they had been tendered out of time.⁷⁵ The High Court's decision was based on the following reasoning:

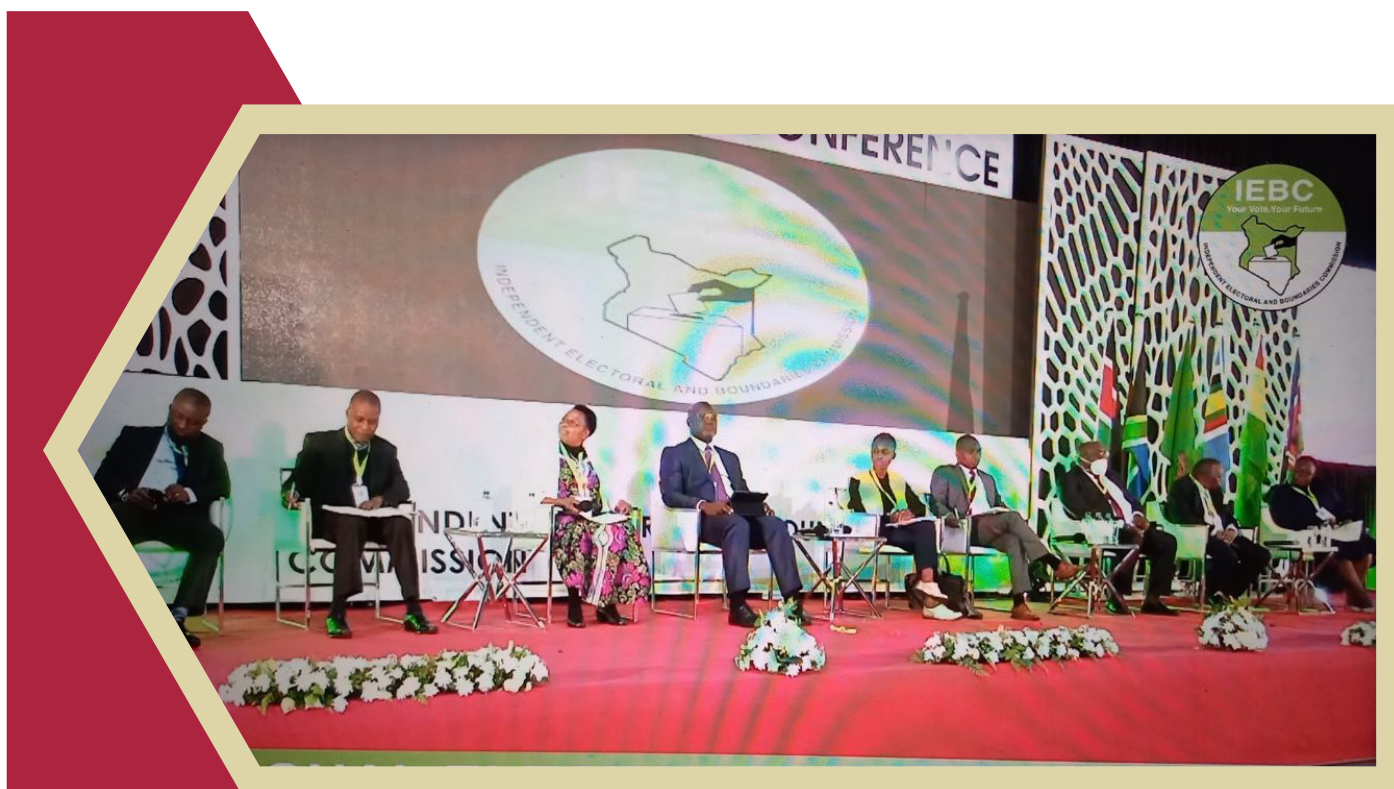
1. That the Constitution and statutes deliberately seek to ensure equalisation of opportunities for persons with disabilities;
2. That IEBC took no steps to accord the petitioner assistance towards compliance with electoral requirements, including by furnishing him with relevant documentation in an accessible format (Braille).
3. That the IEBC, having taken note that the petitioner was the only person with disability in the presidential race, should have accorded him reasonable opportunity to participate in the election;
4. That IEBC failed to accord the petitioner a reasonable opportunity to participate in the general election as a presidential candidate by placing the bar at the same level as other presidential candidates;
5. That the petitioner had endeavoured to collect the requisite number of signatures from his supporters despite exceeding the regulated timeline;
6. That IEBC did not accord the petitioner any reprieve on account of his disability;
7. That the CRPD is part of Kenyan law under the Constitution and that its provisions on the political participation of persons with disabilities apply; and
8. That, in any case, the High Court had already voided the requirement that aspiring presidential candidates should supply IEBC with their supporters' identity cards.⁷⁶

The IEBC, however, appealed this determination and Kigame was not included on the presidential ballot.

⁷⁴ Information from candidate given at meeting of the CDRA on 3 October 2022.

⁷⁵ *Lichete v Independent Electoral and Boundaries Commission & another; Attorney General (Interested Party)* [2022] KEHC 13244 (KLR) <http://kenyalaw.org/caselaw/cases/view/235315/>

⁷⁶ As above.



Panel discussion on inclusion at the 2022 general election, at the national elections Conference.

7. Disability-Inclusion on Election Day

Voters with disabilities had both positive and negative experiences as they voted in the 9 August 2022 polls.

DICC undertook a voter observation exercise of the polls covering the inclusion of voters with disabilities.⁷⁷ The exercise was undertaken in 16 polling centres in Nairobi, 16 polling centres in Kiambu, and four polling centres in Machakos. The exercise made a number of findings which were corroborated to various extents by other election observation groups.

DICC found levels of inaccessibility for polling centres located in most schools. While most polling stations were on ground floors, their entrances had steps and high slabs, and they were approached through walkways and pathways with obstacles, all of which impeded easy access for persons with mobility and visual disabilities. The toilets in most schools acting as polling centres had narrow entrances with steps, and had no hand-rails. Voters with disabilities who were conveyed to vote in vehicles found it difficult to get priority or indeed any parking at all, and had to walk or wheel long-distances to their polling stations. Lighting in some polling stations was low, making it difficult for persons with certain disabilities to decipher ballot papers which themselves had text in small print. The printed voters lists on noticeboards in all polling centres also had small print, making it difficult for persons with visual disabilities to decipher them. Most polling stations did not have Sign Language interpreters. The layout of voting booths was not configured to suit voters who needed to sit as they marked their ballots. The secrecy of the ballot was compromised where party agents crowded around persons with disabilities using assisted voting. ELOG found that 18.4% of polling stations were located on inaccessible upper

⁷⁷ 'Report of Initial Findings and Recommendations of Disability Inclusion Coordinating Committee (DICC) Election Observers to Kenya's August 9 2022 General Elections (on file with author).

floors of buildings.⁷⁸

DICC also found that poll workers sought to provide reasonable accommodations to voters with disabilities. Accommodations included arrangements to vote downstairs where persons could not access stations sited on higher floors; communicating to deaf voters in writing; and facilitating assisted voting. ELOG found that persons with disabilities, pregnant women, the sick, nursing mothers and the elderly were allowed priority voting in 99.4 % of polling stations.⁷⁹

It is recommended that:

1. The IEBC should use universally designed booths to ensure they are accessible to persons with different disabilities. The Commission should consult with disability stakeholders on specifications for such booths.
2. The design (including colours) and placement of ballot boxes should take account of the needs of persons with disabilities.
3. Voting material (including ballots and signage) should have distinct colours and large font.
4. IEBC should use disability-disaggregated data to determine the deployment of its resources and services, including Sign Language interpretation and tactile ballots.
5. In line with the recommendation of the Supreme Court,⁸⁰ the IEBC should establish the manner and procedure for the conduct of special voting to accommodate persons with disabilities and others who are unable to access polling stations.

⁷⁸ N49.

⁷⁹ As above.

⁸⁰ *Odinga & 16 others v Ruto & 10 others; Law Society of Kenya & 4 others (Amicus Curiae)* (Presidential Election Petition E005, E001, E002, E003, E004, E007 & E008 of 2022 (Consolidated)) [2022] KESC 54 (KLR) (Election Petitions) (5 September 2022) (Judgment) <http://kenyalaw.org/caselaw/cases/view/240578/>



Persons with disabilities presenting a memorandum on disability inclusive governance.

8. Representation of Persons with Disabilities in the National and County Legislatures

The most evident marker of successful inclusion of persons with disabilities in elections is the extent to which they are represented in governance institutions, in this case the national and county executives and legislatures.

As we have already shown, the IEBC declined to accept the presidential nomination papers of a candidate with disability, Reuben Kigame, despite his spirited efforts to be included on the presidential ballot. No information is available on whether persons with disabilities stood or sought to stand for election as county or deputy governors.

Three persons with disabilities were elected to the National Assembly via the first-past-the-post electoral system (Westlands, Webuye East and Isiolo North), along with one county woman representative (Makueni County). Another person with disability, Jackson Kipkemoi Kosgei, was elected to the National Assembly as a UDA list seat legislator.⁸¹ This means that Azimio, the other dominant coalition in the National Assembly, did not nominate a person with disability to take up one of the party list seats. The Senate has two senators with disabilities, both filling the seats reserved for persons with disabilities under the Constitution: Crystal Asige (ODM) and George Mbugua (UDA).⁸²

At least four MCAs with disabilities were elected directly (Kiambu, Kilifi, Siaya and Wajir). The 188 MCAs elected in the 47 County Assemblies under the special interest groups category included at least 38 MCAs

81 Gazette Notice No. 10537 of 7 September 2022

82 As above.

with disabilities.⁸³ The category of special interest groups covered identities variously recorded by the IEBC as ‘persons with disabilities’, ‘youth’, ‘ethnic minorities’, ‘minorities’, ‘marginalised communities’ and ‘special interests’.⁸⁴ Of 47 County Assemblies, 26 had nominees with disabilities. This number, however, includes four nominees whose listing (by the time of writing this study) was pending by the IEBC for want of certification from the NCPWD. County assemblies with MCAs with disabilities ranged from four members in Kisii, and two members each in nine counties (Tana River, Lamu, Garissa, Kirinyaga, Murang’a, Kiambu, Elgeyo Marakwet, Kakamega and Homabay); and one member in 16 counties (Mombasa, Madera, Embu, Kitui, Nyandarua, Nyeri, Samburu, Nandi, Nakuru, Kajiado, Bomet, Vihiga, Busia, Siaya, Kisumu and Migori). County Assemblies with no MCAs with disabilities were 21: Kwale, Kilifi, Taita Taveta, Wajir, Marsabit, Isiolo, Meru, Tharaka Nithi, Machakos, Makueni, Turkana, West Pokot, Trans Nzoia, Uasin Ngishu, Baringo, Laikipia, Narok, Kericho, Bungoma, Nyamira and Nairobi. Of the 38 MCAs with disabilities in the 26 county assemblies, UDA had 17 MCAs, ODM 11 MCAs, Jubilee Party 2 MCAs, Amani National Congress 2 MCAs, Kenya National Congress 1 MCA, United Progressive Alliance 1 MCA, Safina 1 MCA, Wiper Democratic Movement 1 MCA, Devolution Empowerment Party 1 MCA, and National Rainbow Coalition 1 MCA.

Analysis undertaken by UDPK⁸⁵ comparing the lists under the special interest groups category gazetted by the IEBC and the party nomination lists submitted by political parties to the IEBC before the polls found deficiencies including the following:

1. That county assembly lists gazetted by the IEBC skipped persons with disabilities ranked high to include lower-ranked persons from other subcategories;
2. That certain subcategories took up most of the allocable list slots at the expense of persons with disabilities;
3. That some names of gazetted persons were not on the official party nomination lists at the expense of nominees with disabilities;
4. That IEBC had deferred allocating some seats to nominees with disabilities because they did not have NCPWD certification, and hence those slots were endangered;
5. That the gazetted lists and the party lists had mismatched genders which could affect the final composition of county assemblies; and
6. That while most political parties included nominees with disabilities on their lists, many ranked them so low on the lists that they would never have a chance to be elected.

Following the 2013 general election, four County Assemblies did not include even one legislator with disability. The number of County Assemblies with no MCAs with disability increased to 17 following the 2017 general election. This is the reason why persons with disabilities have increasingly raised the concern that constitutional guarantees of disability-inclusion particularly in County Assemblies are being eroded gradually by the manner in which political parties, the IEBC and even the courts are addressing relevant matters.

The case persons with disabilities are making is that the law should be framed expressly or interpreted in such a manner as to ensure that each county assembly has at least one MCA with disability elected under the special interest groups category of list seats. To this end, Section 7A(1) of the County Governments Act provides as follows: ‘A county assembly shall not be fully and duly constituted for the first sitting after a general election unless all the members provided for under paragraphs (b) and (c) of Article 177(1) of the Constitution have been duly nominated and their names published in the Gazette.’⁸⁶ One of the categories of members provided for in Article 177(1)(c) of the Constitution is persons with disabilities.

It is recommended that:

⁸³ Gazette Notice No. 10712 of 9 September 2022.

⁸⁴ As above.

⁸⁵ On file with author.

⁸⁶ County Governments Act (No. 17 of 2012) <http://kenyalaw.org/8181/exist/kenyalex/actview.xml?actid=No.%2017%20of%202012>

1. The two dominant political parties or coalitions in the National Assembly should ensure that at least two persons with disabilities in the 12 least seats, one from each formation, is a person with disability.
2. the law should be framed expressly or interpreted in such a manner as to ensure that each county assembly has at least one MCA with disability elected under the special interest groups category of list seats.



Labour and Social Protection Cabinet Secretary, Florence Bore and Narok County Governor Patrick Olentutu and other leaders visiting UDPK's Exhibition during International Day, December 2022.

9. Conclusion: Final Reckonings

This study has shown that virtually all electoral stakeholders now employ the language of disability-inclusion in their policy frameworks. The study also, however, shows that disability-inclusion too often remains rhetoric not marched by meaningful practice. It is as if the inclusion agenda is marching on the spot; as if disability-inclusion is not more than lip-service; as if disability-inclusion boggles the mind; as if disability-inclusion is an institutional blind-spot.

The recommendations made in this study address the quartet of barriers which exclude persons with disabilities from elections. Kenya must address attitudinal barriers about the leadership qualities of persons with disabilities and their capacity to vote. They must resolve the communication and environmental barriers that persons with disabilities encounter as they engage with the electoral process. Despite a progressive Constitution, institutional barriers remain which must be addressed.

Annex



REPORT ON COUNTY ASSEMBLY NOMINATIONS ANALYSIS

SEPTEMBER 2022

Article 29 of the UNCRPD, that Kenya ratified in 2008, protects the rights of persons with disabilities to participate in politics, governance and in civic activities. On 9th August 2022, citizens in Kenya went to the polls to elect leaders of their choice. The president, governors, senators, members of the National Assembly, and members of county assemblies were elected. This was the third general election in Kenya and the fourth presidential one since the promulgation of the 2010 constitution.

Many fundamental changes were heralded by that Constitution, notably with its establishment or enhancement of normative and institutional frameworks for ensuring the representation and inclusion of persons with disabilities in governance and political processes and as full participants in society.

According to Articles 177 (1) (b) & (c) of the 2010 Constitution, elections management bodies are supposed to ensure that a county assembly is not constituted by no more than two thirds of the same gender. Article 1(c) also calls for the County Assembly to include members from marginalized communities including women, persons with disabilities and youth.

There are frustrations felt by persons with disabilities due to twenty-one (21) counties failing to nominate persons with disabilities to the county assembly. It is observed that the situation has been getting worse for people with disabilities because in 2017, 17 counties lacked representation of persons with disabilities at the county assembly.

This analysis on representation of persons with disabilities in county assemblies during the 2022 elections cycle was done UDPK and is described in the tables below.

The analysis sought to identify gaps and anomalies that led to lack of representation of persons with disabilities in twenty-one (21) counties.

COUNTY ASSEMBLY NOMINATIONS ANALYSIS September 2022

(Party Nomination List Vs IEBC Nomination gazettelement)

SUMMARY OF KEY FINDINGS

- There are 21 counties without representation of persons with disabilities in the assemblies
- We have instances of inconsistency where a nominee with disability is skipped and the selection is done on persons below in the numbering
- Some counties have over-representation of some special interest group in the special interest category. This has been at the expense of nominees with disabilities
- There are cases of persons in the Gazette who are not in the party nomination list and this has been to the expense of person with disability listed as number one on the party nomination list.
- The unallocated seats reserved for persons with disabilities in some counties may not be guarantee because IEBC requires certificate/disability card before allocating them and two nominees for the seats do not have the cards (From party nomination Lists)
- There is an issue of mismatched gender on nomination list and IEBC Gazettelement. This could affect the composition of the assembly-because the list envisions to have male and female
- IEBC picks from Party List according to the numbering (Starting from number one downwards) but this is not consistent

BREAK DOWN PER COUNTY (Counties without disability representation)

| KILIFI COUNTY | | | | |
|---------------|-------|---|--|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettelement (IEBC List) | Issue(s) |
| KILIFI | UDA | (2) Nominees positioned at number 6 and 7 on the Party List | (1) Nominee under youth Group Category who was in position 1 on the party nomination List | |
| | ODM | (2) Nominees positioned at number 4 and 7 on the Party List | (2) Nominees under Youth and ethnic minority Category who was in position 1 and 2 on the party nomination List | |
| | PAA | (1) Nominees positioned at number 6 on the Party List | (1) Nominee under Marginalized Communities Category who was in position 1 on the party nomination List | |

| KWALE COUNTY | | | | |
|--------------|-------|---|---|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| KWALE | UDA | (2) Nominees positioned at number 2 and 5 on the Party List | (1) Nominee under Minority Group Category who was in position 1 on the party nomination List | In the Gazette notice, the person is a male (But on the IEBC list he is captured as female) |
| | UDM | (2) Nominees positioned at number 3 and 6 on the Party List | (1) Nominee under Ethnic Minority Group Category who was in position 1 on the party nomination List | |
| | ODM | (4) Nominees positioned at number 3, 5, 6 and 8 on the Party List | (1) Nominee under Youth Category who was in position 1 on the party nomination List | |
| | PAA | Never had a nominee with disability | Never had a nominee with disability | |

| TAITA TAVETA COUNTY | | | | |
|---------------------|---------|---|--|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| TAI-TA-TAV-ETA | JUBILEE | No Nominee with disability on the Party List | (1) Nominee under marginalized Category who was in position 1 on the party nomination List | |
| | ODM | (2) Nominees positioned at number 4 and 7 on the Party List | (2) Nominees under Youth and ethnic minority Category who was in position 1 and 2 on the party nomination List | |
| | PAA | No Nominee with disability on the Party List | (1) Nominees under ethnic minority Category who was in position on the party nomination List | |
| | WIPER | (1) Nominees positioned at number 3 on the Party List | (1) Nominee under Ethnic Minority Category who was in position 1 on the party nomination List | |

| WAJIR COUNTY | | | | |
|--------------|------------|--|--|--|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| WAJIR | JUBILEE | (1) Nominee positioned at number 2 on the Party List | (1) Nominee under Youth Category who was in position 1 on the party nomination List | The person in the Gazette notice is listed as female on the party nomination list but on the IEBC list he is captured as male |
| | ODM | (2) Nominees positioned at number 3 and 4 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |
| | UDA | (1) Nominee positioned at number 6 on the Party List | (1) Nominees under ethnic minority Category who was in position 1 on the party nomination List | |
| | NARC-KENYA | (1) Nominee positioned at number 1 on the Party List | (1) Nominee under Youth Category who was in position 1 on the party nomination List | Person in the gazette is under the youth category and on party nomination list he is also listed as a person with disability (This might mean in WAJIR we have a representation) |

| MARSABIT COUNTY | | | | |
|-----------------|--------------------------------------|--|---|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| Marsa-bit | JUBILEE | (2) Nominee positioned at number 2 and 6 on the Party List | (1) Nominee under Youth Category who was in position 1 on the party nomination List | FEMALE |
| | UDM | (2) Nominees positioned at number 5 and 7 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |
| | UDA | No nominee with disability | (1) Nominee under youth Category who was in position 1 on the party nomination List | male |
| | United Party of Independent Alliance | (1) Nominee positioned at number 3 on the Party List | (1) Nominee under ethnic minorities Category who was in position 1 on the party nomination List | |

| ISIOLO COUNTY | | | | |
|---------------|-------|---|---|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| Isiolo | KANU | No nominee with disability | (1) Nominee under ethnic minorities Category who was in position 1 on the party nomination List | There is mismatch of gender of the nominee on party nomination list and IEBC list |
| | UDM | (2) Nominees positioned at number 5 and 7 on the Party List | (2) Nominees under Youth and worker Category who was in position 1 and 2 on the party nomination List | There is mismatch of gender of the nominee on party nomination list and IEBC list |
| | UDA | (1) Nominee positioned at number 7 on the Party List | (1) Nominee under ethnic minority Category who was in position 1 on the party nomination List | There is mismatch of gender of the nominee on party nomination list and IEBC list |

| MERU COUNTY | | | | |
|-------------|---------|---|---|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| MERU | JUBILEE | (1) Nominees positioned at number 5 on the Party List | (1) Nominee under youth Category who was in position 1 on the party nomination List | |
| | PNU | (2) Nominees positioned at number 5 and 7 on the Party List | (1) Nominees under women Category who was in position 1 on the party nomination List | |
| | UDA | (2) Nominee positioned at number 3 and 4 on the Party List | (1) Nominee under ethnic minority Category who was in position 1 on the party nomination List | |
| | DEK | (2) Nominee positioned at number 5 and 6 on the Party List | (1) Nominee under youth Category who was in position 1 on the party nomination List | |

| THARAKA NITHI COUNTY | | | | |
|----------------------|-------|---|---|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| THARAKA NITHI | UDA | (2) Nominees positioned at number 4 and 7 on the Party List | (3) Nominee under youth, marginalized and minorities Category who was in position 1, 2 and 3 on the party nomination List | |

| | | | | |
|--|-------------------|---|---|--|
| | THE SERVICE PARTY | (1) Nominees positioned at number 3 on the Party List | (1) Nominees under marginalized Category who was in position 1 on the party nomination List | |
|--|-------------------|---|---|--|

MACHAKOS COUNTY

| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
|----------|--------------|--|---|----------|
| MACHAKOS | UDA | (1) Nominees positioned at number 2 on the Party List | (1) Nominee under ethnic minorities Category who was in position 1 on the party nomination List | |
| | WIPER | (1) Nominees positioned at number 3 on the Party List | (1) Nominees under marginalized Category who was in position 1 on the party nomination List | |
| | CHAP CHAP | (2) Nominees positioned at number 4 and 5 on the Party List | (1) Nominees under ethnic minority Category who was in position 1 on the party nomination List | |

MAKUENI COUNTY

| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
|---------|--------------|--|--|----------|
| MAKUENI | MUNGA-NO | (2) Nominees positioned at number 3 and 4 on the Party List | (1) Nominee under ethnic minorities Category who was in position 1 on the party nomination List | |
| | WIPER | (2) Nominees positioned at number 5 and 6 on the Party List | (2) Nominees under ethnic minority Category who was in position 1 and 2 on the party nomination List | |
| | CHAP CHAP | (1) Nominees positioned at number 5 on the Party List | (1) Nominees under ethnic minority Category who was in position 1 on the party nomination List | |

TURKANA COUNTY

| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
|---------|---------|--|---|----------|
| TURKANA | UDA | (2) Nominees positioned at number 6 and 7 on the Party List | (3) Nominee under ethnic minorities and youth Category who was in position 1,2 and 3 on the party nomination List | |
| | JUBILEE | No nominee with disability | (1) Nominees under marginalized Category who was in position 1 on the party nomination List | |

| TRANS NZOIA COUNTY | | | | |
|--------------------|--------|---|---|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| TRANS NZOIA | UDA | (1) Nominees positioned at number 7 on the Party List | (2) Nominee under ethnic minorities Category who was in position 1 and 2 on the party nomination List | Over-representation of one category of special groups |
| | DAP-K | (3) Nominees positioned at number 4,5 and 9 on the Party List | (1) Nominees under youth Category who was in position 1 on the party nomination List | |
| | FORD-K | (2) Nominees positioned at number 4 and 8 on the Party List | (1) Nominees under youth Category who was in position 1 on the party nomination List | |

Lamu County not allocated card

NONE COMPLIANT COUNTIES PWDS SLOTS

| WEST POKOT COUNTY | | | | |
|-------------------|-------------------|---|--|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| WEST POKOT | UDA | (2) Nominees positioned at number 7 and 8 on the Party List | (2) Nominee under ethnic minorities and marginalized Category who was in position,2 and 5 on the party nomination List | IEBC here did not follow the top down approach. The person in position 1,3 and 4 were skipped – in the same manner they could have skipped 6 and picked from 7 or 8 |
| | KANU | (1) Nominees positioned at number 9 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |
| | KENYA UNION PARTY | (1) Nominees positioned at number 5 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |

| UASIN GISHU COUNTY | | | | |
|--------------------|-------|--|--|--|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| UASIN GISHU | UDA | (2) Nominees positioned at number 7 and 8 on the Party List | (4) Nominee under ethnic minorities, youth and marginalized Category who was in position 1,2,3, and 4 on the party nomination List | Over-representation of one category of special groups(Ethnic Minorities) |

| BARINGO COUNTY | | | | |
|----------------|-------|--|---|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| BARINGO | UDA | (2) Nominees positioned at number 5 and 6 on the Party List | (3) Nominee under ethnic minorities, youth marginalized Category who was in position 1,2 and 3 on the party nomination List | |
| | KANU | (1) Nominees positioned at number 4 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |

| LAIKIPIA COUNTY | | | | |
|-----------------|-------|--|---|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| LAIKIP-IA | UDA | (1) Nominees positioned at number 3 on the Party List | (3) Nominee under ethnic minorities, youth marginalized Category who was in position 4,5 and 8 on the party nomination List | Here IEBC Skipped person with disability nominee at position 3 and picked from number 4 downwards |
| | ODM | (4) Nominees positioned at number 2,5 7 and 8 on the Party List | (1) Nominees under Youth Category who was in position 1 on the party nomination List | |

| NAROK COUNTY | | | | |
|--------------|---------|---|---|---|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| NAROK | UDA | (2) Nominees positioned at number 5 and 8 on the Party List | (2) Nominee under youth Category who was in position 1 and 2 on the party nomination List | Over-representation of one category of special groups (Youth) |
| | ODM | (1) Nominees positioned at number 3 on the Party List | (1) Nominees under Youth Category who was not in the in position 1 on party nomination List | The person gazetted by IEBC is not in the party Nomination List |
| | JUBILEE | No nominee with disabilities | (1) Nominees under Youth Category who was in position 1 on party nomination List | |

| KERICHO COUNTY | | | | |
|----------------|-------|---|---|--|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| KERICHO | UDA | (2) Nominees positioned at number 5 and 6 on the Party List | (4) Nominee under youth, Marginalized and ethnic minorities Category who was in position 1 and 2 on the party nomination List | Over-representation of one category of special groups (Marginalized) |

| BUGOMA COUNTY | | | | |
|---------------|--------|---|--|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| BUGOMA | UDA | (2) Nominees positioned at number 3 and 4 on the Party List | (1) Nominee under minority Category who was in position 1 on the party nomination List | |
| | FORD-K | (2) Nominees positioned at number 7 and 8 on the Party List | (2) Nominees under marginalized and minority Category who was in position 1 and 2 on party nomination List | |
| | DAP-K | (3) Nominees positioned at number 5, 7 and 8 on the Party List | Not allocated yet | |

| NYAMIRA COUNTY | | | | |
|----------------|--------|--|---|--|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| NYAMI-RA | ODM | (3) Nominees positioned at number 3,4 and 6 on the Party List | (1) Nominee under Youth Category who was in position 1 on the party nomination List | |
| | WIPER | No nominee with disability | (1) Nominees under minority Category who was in position 1 on party nomination List | |
| | FORD-K | (2) Nominees positioned at number 4 and 6 on the Party List | (1) Nominees under marginalized Category who was in position 1 on party nomination List | |
| | UPA | (3) Nominees positioned at number 1,3 and 6 on the Party List | The person gazette not in the Party Nomination List | The person in the gazette notice is not in the party Nomination List-Expense of person with disability in position 1 |

| NAIROBI COUNTY | | | | |
|----------------|-------|--|---|----------|
| County | Party | Party Nomination List (Persons with disabilities) special category Group | Gazettement (IEBC List) | Issue(s) |
| NYAMI-RA | ODM | (2) Nominees positioned at number 3 and 8 on the Party List | (2) Nominee under Ethnicity Category who was in position 1 and 2 on the party nomination List | |
| | UDA | No nominee with disability | (2) Nominees under youth and marginalized Category who was in position 1 and 2 on party nomination List | |


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