



Analysis of the Inclusion of Women, Youth and People with Disabilities in the Political Parties (Amendment) Act, 2018

Submitted to

The Parliamentary Committee on Constitution and Legal Affairs

Submitted on January 18, 2019

1. Introduction

We, members of the Working Group Two (WG2)¹ organizations led by Women in Law and Development in Africa (WiLDAF) are hereby submitting our analysis of amendment to the Political Parties Act, 1992 [Cap.258 R.E 2002].

The members of the working group two (WG2) are as follows: Women in Law and Development in Africa (WiLDAF), Tanzania Media Women Association (TAMWA), Mulika Tanzania, Community Focus on Teenage and Single Mothers Welfare (CFTSW), Dignity Kwanza, Tanzania Early Childhood Development Network (TECDEN), People Development Forum (PDF), SHIVYAWATA, Tanzania Youth Partnership Countrywide (TYPC) and Young Lawyers Foundation (YLF).

¹ Working Group Two includes organizations of women, children, youth and people with disabilities

Considering the broad analysis, our focus will be on Women, Youth, and People with Disability which are regarded as special groups based on the following principles which are fundamental aspects of human rights and social justice.

- i. Equality and Non-Discrimination.
- ii. Participation and Inclusion.
- iii. Accountability and Rule of Law.

Our recommendations consider the opportunity to engage Women, Youth and People with Disabilities in the political participation and decision making and ensuring inclusiveness of participation and deepen citizen engagement in decision making process. Working group two (WG2) believes political participation is a means of improving state accountability responsiveness and therefore no one should be left behind.

2. General Observations and Comments

Working group two (WG2) recommendations adhere to the Constitution of the United Republic of Tanzania, various International and National Laws. The following are considered as some of remarks that need to be taken into consideration.

- i. The Bill is not exhaustive on the participation of Women, Youth, and People with Disabilities in all of its sections.
- ii. The Bill is gender blind and does not consider the minimum ratio of the representation of women in the political decision making organs as enshrined in Article 66 (1) (b) of the Constitution of United Republic of Tanzania, 1977. WG2 proposes the Political Parties Act to clearly state that the political parties Constitutions should include this affirmative action. This provision should also apply to youth and people with disability.
- iii. The issue of accountability and integrity needs to be taken into consideration to ensure that all political parties are zero tolerance to violence. The value of zero tolerance should be included in the internal constitution of political parties. In addition, any person who has been convicted for gender based violence should be disqualified in any political decision making.
- iv. In the interpretation the bill should provide definition for social inclusion and gender related concepts.
- v. The bill should provide checks and balance for the power granted to the registrar in this Act to promote accountability and transparency to the extent that the Political parties shall be granted an opportunity to appeal decisions and directives of the registrar in the court of law.

- vi. The bill should specify the period of suspensions that may be imposed to a certain political parties by the registrar (reference section 18 of, the principal Act and s 24(6) of the Bill). In addition, the bill should grant entitlement to some of the privileges (reference section 19 of the principal Act reflect section 27 (2) of the Bill).
- vii. Disbursement of the subvention fund should be articulated in the Act, with the interest of promoting strengthening of political parties instead of leaving that to the discretion of the minister in charge in administering the welfare of the political parties. (Reference section 22(g) of the Principal Act and 32(b) of the Bill).
- viii. The registrar of Political Parties having mandate to permit civic education it contradicts powers granted to the Commissioner of National Electoral Commission, therefore we recommend the removal of section 5A(1) of the Bill.

3. Gaps and Recommendations.

The table below provides the identified area which is improved as proposed will reflect the participation of women, youth and people with disability.

| S/N | SECTION IN THE ACT | THE PROPOSED BILL | OBJECTIVE AND REASONS | PROPOSED RECOMMENDATIONS |
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| 1 | S.3(c) Amending section 4 of the Principal Act | Without prejudice to subsection (4) the functions of the office of the registrar shall be ; to monitor intra party elections and nominations process | The bill should reflect inclusion of special groups in elections and nomination process | Without prejudice to subsection (4) the functions of the office of the registrar shall be ; to monitor intra party elections and nominations process to ensure the inclusion of women ,youth and people with disability |
| 2 | Section 4 amend Section 5 of the principal Act | The principal Act is amended in section 5 by deleting the word “assistant registrars” appearing in the marginal note and in the contents of section 5 and substituting for them the word “directors” | <p>We endorse the proposed amendments however in order to guarantee the inclusion of women youths and people with disability in the management of office of registrar, the law should clearly provide that when exercising his powers conferred under this section the minister shall have due regard to Gender balance, youth and people with disability representation</p> <p>We draw an example from Section 33 (2) of Kenya Political Parties Act No 11 of 2011 which provide that “The Registrar shall be deputized by three Assistant Registrars, not more than two of whom shall be of the same gender”.</p> | <p>We recommend addition of the following new subsection</p> <p>(1) In exercising powers conferred under this section the Minister shall have due regard to gender balance, youths and people with disabilities representation.</p> |

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| 3 | Section 7 adding new Part II A | <p>S.6A(5) Political party shall promote the union of the United Republic ,the Zanzibar Revolution ,democracy ,good governance, anti-Corruption, ethics ,patriotism ,uhuru torch national peace and tranquility in the</p> <p style="padding-left: 40px;">a) Formulation and implementation of its policies</p> <p style="padding-left: 40px;">b) Nomination of Candidates for elections and</p> <p style="padding-left: 40px;">c) Election of its leaders</p> <p>S.6B(d) A person shall qualify to apply for registration of a political party if ;</p> <p>That person has attained or is above the age of twenty one years.</p> | <p>Gender equality and special groups are not considered in the provision.</p> <p>Example is taken from our neighbors Kenya, 1st schedule to the Political Parties Act provides for Code of Conduct of Political Parties. It is provided Under Item 5 of the said schedule that political parties shall respect and promote gender equity and equality, human rights and fundamental freedoms.</p> <p>All Political Parties should promote gender equality, youth, women and disability inclusion.</p> <p>According to the Law of the Child Act, A person who has attained 18 years and above is an adult and has the same obligation and rights as other adults.</p> <p>Therefore, this section will only limit youth opportunity to engage actively in politics.</p> <p>For instance Section 3 (2) (a) of The Kenya Political Parties Act allows Kenyan Citizen who has attained age</p> | <p>Political party shall promote the union of the United Republic ,the Zanzibar Revolution ,democracy ,good governance, anti-Corruption, ethics ,patriotism ,uhuru torch national peace ,tranquility, gender equality, youth, women and disability inclusion ;</p> <p>We recommend changes in the proposed amendments and the new section should read as follows</p> <p style="padding-left: 40px;">A person shall qualify to apply for registration of a political party if ;</p> <p style="padding-left: 40px;">That person has attained or is above the age of eighteen years.</p> |
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| | | S.6B (a) Both parents of that person are a citizen of the United Republic by birth | <p>18 to form or participate in the formation of political</p> <p>It contradicts Article 13 of the Constitution of URT, Section 6A(2) of this Bill which both prohibit Non Discrimination</p> | We recommend this section should be deleted |
| 4 | S. 11 amend principal Act by adding new sections 8C, 8D, 8E | 8D (1) The constitution of political party shall provide for all the matters specified in the regulations made under this Act. | <p>Constitution is the fundamental document that set out how the Political party is governed. It is the constitution that established the governing bodies. It should be mandatory that composition of governing bodies must reflect gender balance, women, youth and people with disability inclusion.</p> <p>E.g. Section 9(1A) of Kenya Political Parties Act provide that “The constitution or rules of every political party shall ensure that no more than two-thirds of the membership of all party organs, bodies and committees, in aggregate, are of the same gender”.</p> | In section 8D there should be added a new subsection (1A) immediately after 8D(1) which reads <i>(1A) political party constitution shall ensure that membership of all party organs bodies and committee in aggregate include not less than 30% women, 10% youth and 5% People with disability.</i> |

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| 5 | Section 13 Amend Section 10 of the Principle Act | <p>13. The principal Act is amended in section 10-</p> <p>(a) by deleting paragraph (b) and substituting for it the following: “(b) it has obtained not less than two hundred members who are qualified to be registered as voters for the purpose of parliamentary elections from at least-</p> <p>(i) half of regions of the United Republic out of which at least two regions are in Tanzania Zanzibar being one region from Unguja and Pemba; and</p> <p>(ii) one region is from each zone in Mainland Tanzania specified in the regulations made under this Act;”</p> | <p>In order to ensure equality and non-discrimination in the political arena. 200 members mentioned under this section should reflect gender, women, youths and people with disability inclusion.</p> <p>The reflection of these members should not only be in the membership but also in the governing bodies</p> <p>The evidence shows that in 2015 the youth who voted were 57% and in 2018 youth calculate up to 63% of population in Tanzania.</p> <p>–Example Kenya political parties Act No 11 of 2011 (under section 7(2) (b) and (c).</p> <p>Also in Rwanda In Rwanda the law that guides the formation of political parties also sets the condition for the representation of women in the leadership of the party before the part is registered.</p> | <p>We recommend that the law should include the conditions for full registrations of a political parties in section 10 to include membership of the respective political party that reflect regional, ethnic diversity, gender balance and representation of special interest groups. Also the composition of the governing body of the respective political party to reflect the same</p> <p>Addition provisions</p> <p>(d) the members referred in paragraph b reflect regional and ethnic diversity, gender balance and representation of women, youth and PWDs</p> <p>(e) the composition of its governing body reflects regional and ethnic diversity, gender balance and representation of women, youth and PWDs</p> |
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| 6 | <p>Section 14 Amend section 10A of the principle Act Amend section 10A (c)</p> | <p>The Principal Act is amended in section 10A by adding immediately after paragraph (d) the following new paragraphs: “(e) not declared bankrupt by a court of competent jurisdiction; (f) Disqualified from holding public office under the Constitution of the United Republic or the Constitution of Zanzibar of 1984 or any other written law.”</p> | <p>Gender Based Violence is national concern.</p> | <p>We recommend the additional of the word Gender based Violence So it reads: c) a person who, within five years prior to the date of submission of the name for election or nomination has not been convicted of or sentenced for commission of an offence of dishonest, corruption or evading tax and Gender Based Violence.</p> |
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