INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

ANALYSIS AND RECOMMENDATIONS BY INDEPENDENT ELECTORAL BOUNDARIES COMMISSION ON THE BUILDING BRIDGES TO UNITY ADVISORY TASKFORCE REPORT

SUBMITTED TO THE STEERING COMMITTEE ON THE IMPLEMENTATION OF THE BUILDING BRIDGES TO A UNITED KENYA TASK FORCE REPORT

ON

14TH FEBRUARY 2020

PREAMBLE

1. Election management in Kenya can be traced back to 1963 when the first Electoral Commission was established through The Kenya Independence Order-in Council 1963 that provided for the Speaker of the Senate as Chairman, Speaker of the House of Representatives as the Vice- Chairman and 9 members appointed by the Governor General, who presided over the first multi-party elections held in 1963.

2. In 1966, Kenya became a *de facto* one party state through a Constitutional Amendment. Following this amendment, election management in Kenya was placed under a Supervisor of Elections in the Attorney General's Chambers. During elections, the Provincial Administration, and particularly the District Commissioners and other civil servants, were appointed as Returning Officers.

3. However, in 1982, there was another Constitutional Amendment that made Kenya *de jure* one-party state.

4. In 1988, queue voting commonly referred to as *Mlolongo* was introduced. This negated the secrecy of the vote which is an international principle of free and fair elections.

5. In 1991, the Electoral Commission of Kenya (ECK) was established after repeal of Section 2A of the Constitution. In effect, Kenya reverted to a *de jure* multiparty state. The appointment of the Commission which presided over the 1992 General Election was made solely by the President.

6. In 1997, due to lack of trust between the Executive and political players as well as mistrust among politicians, the Inter Party Parliamentary Group (IPPG) spearheaded the nomination of Commissioners to ECK, prior to their appointment by the President. This arrangement was undermined by emergence of new political outfits prior to every General Election and erosion of independence in the electoral management body occasioned by political players appointing their own referees.

7. In the 2007 General Election, there was disputed Presidential results that led to post-election violence. Following the intervention of Eminent African Personalities, an Independent Review Commission (IREC), popularly known as the Kriegler Commission, was established to undertake a review of the country's electoral management process.

8. The IREC recommended an independent election management body with a lean policy-making structure and a professional and permanent Secretariat. Additionally, IREC recommended a review of the constitutional and legal framework of election management to address the political and legal dynamics in the country. Subsequently, in 2008, Parliament disbanded ECK and amended Section 41 of the 1963 Constitution. In the year 2009, two Commissions were created: The Interim Independent Boundaries Review Commission (IIBRC) and the Interim Independent Electoral Commission (IIEC),

whose functions were to review electoral boundaries and to conduct and supervise elections, respectively.

9. Following recommendations by the Kreigler Report, IIEC competitively recruited professional and permanent staff comprising of Returning Officers (ROs) from each of the then 210 Constituencies, supervised by 17 Regional Election Coordinators (RECs). The IIEC conducted and supervised the 2010 referendum that birthed the Constitution of Kenya, 2010.

10. Article 88 of the Constitution of Kenya 2010, established the Independent Electoral and Boundaries Commission (IEBC) in 2011 as a successor to IIEC and IIBRC. The IEBC (hereinafter **'the Commission'**) is responsible for conducting and supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament.

11. Since its establishment, the Commission has successfully conducted and supervised the 2013 and 2017 Elections. Additionally, the Commission continuously conducts by-elections and other elections prescribed by an Act of Parliament, such as Law Society of Kenya (LSK) and Judicial Service Commission (JSC) elections. The Commission also undertakes elections for other institutions such as Kenya Red Cross Society, Kenya Institute of Supplies Management (KISM), Colleges and Schools, among others, as part of its corporate social responsibility.

12. It is worth noting that since the advent of multi-party democracy in 1992 there has been persistent disbandment of the Electoral Management Body (EMB) and/or its leadership occasioned by negative ethnicity leading to divisive and highly contested elections. This has made the EMB a convenient target for blame and disbandment leading to institutional instability and inadequate preparedness for subsequent General Elections. The main root cause of political violence, which is negative ethnicity and highly competitive elections, has never been adequately addressed; but instead symptomatic treatments such as disbandment of the Electoral Management Body (EMB) and/or its leadership has been routinely undertaken which has not resulted in a lasting solution.

13. The divisive and highly contested 2017 Presidential Election Results led to a handshake between the President and the former Prime Minister on the 9th March 2018. The two leaders established the Building Bridges to Unity Advisory Taskforce, commonly referred to as the BBI Taskforce.

14. The Commission received invitations from BBI and made its presentations on two different occasions, first in open forum and secondly in a closed-door session. The BBI Committee, subsequently, submitted its final report to the President and was launched on 27th November, 2019 at Bomas of Kenya. However, the Commission's representations (see Annex 1) were totally ignored by the taskforce and was not captured in the report.

15. Following the extension of the term of the BBI taskforce and the initiation of the Report validation process, the Commission has been presented with an opportunity to once again make its representations to the taskforce. The Commission's representations are guided by the Constitution, existing statutes, the Kreigler Report, the Kofi Annan Foundation Report, the International Convention on Civil and Political Rights (ICCPR) Treaty that Kenya ratified.

16. The Commission notes that ICCPR Treaty provides a framework on election management. It demands of state parties to ensure that their EMBs act independently and free from the influence of government, political party or candidate. This is further buttressed by Article 88 read together with Article 249 (2)(b) of the Constitution of Kenya which lays emphasis on the independence of the Commission.

17. The independence of an EMB is manifested in the recruitment and appointment processes of its Commissioners and staff, accountability, and reporting lines. In addition, for an EMB to function independently and uphold professionalism and accountability, both IREC (the Kreigler Commission) and the Kofi Annan Foundation recommended that an EMB must have a core cadre of permanent election officials in order to sustain institutional memory, continuous professional development and maintain a culture of learning.

18. As reported in the BBI report on the issue of divisive elections (chapter 5, paragraph 79), the taskforce rightfully observed that **with the perceived high stakes of the winner-take-it-all system, elections for the President is a do-or-die affair which leads to extreme skepticism and mistrust of the electoral process. Divisive elections lead to enormous political pressure being applied on the IEBC such that it is almost certain to be judged a failure by one side or the other of the political divide.** Despite making this observation in the report, the recommendations by the taskforce on EMB does not address this key root cause of electoral problems in Kenya. It has also been reported by the Kofi Annan Foundation that the solution to divisive elections lies in addressing long-term socio-economic and political concerns of the electorate and strengthening the EMB in line with the global good practices.

FEEDBACK FROM IEBC ON BBI'S PROPOSALS

19. **Chapter 5, Paragraph 88(a) of the BBI Report:** *"A mechanism be devised that gives leaders of parliamentary political parties a role in the recruitment of Commissioners of IEBC. In nominating candidates to be Commissioners, the political party leaders should nominate individuals who are non-partisan, with a record of accomplishment and integrity, and who are not known political supporters or activists of the party".*

19.1. Issues Arising and Implication of the BBI Recommendations

Currently, Kenya has adopted an independent expert model in the composition of Chairperson and Commissioners. The selection panel that undertakes the recruitment process of the Chairperson and Commissioners has broad-based stakeholder

representation that include political parties. Successful candidates selected by the selection panel are also subjected to vetting by Parliament prior to appointment by the President. Given the competitive nature and ethnic polarization of our elections, allowing political parties to exclusively nominate the Chairperson and Commissioners will be detrimental for the following reasons;

i. The independence of the Commission will be severely compromised contrary to the spirit and letter of Article 249(2)(b) of the Constitution of Kenya.

ii. Political parties are loyalty-based institutions and are unlikely to have non-partisan individuals in its membership. Thus, Members' actions may be motivated by political interest contrary to Article 88 of the Constitution of Kenya. Moreover, non-parliamentary parties and independent candidates will have no say in the recruitment process of the Chairperson and Commissioners thus denting the credibility of the Commission.

iii. Considering experiences from Mozambique and Zanzibar where Commissioners comprised of political parties' nominees, there has been polarization along political lines, and consensus building in the EMBs decision making becomes a challenge because of hardline positions adopted by representatives of political parties. This model therefore does not guarantee political stability and may on the contrary lead to chaos and instability.

In the case of USA, their Constitution bestows upon the States the mandate of organizing, supervising and conducting elections. Thus, they do not have a National EMB to conduct Federal elections. There is, however, two bodies that support elections: The Election Assistance Commission (EAC) and The Federal Elections Commission (FEC). The EAC is an independent bi-partisan advisory Commission mandated to develop guidelines for implementation of the Help America Vote Act (HAVA) as well as adopting voluntary voting system certification and audit requirements. The EAC is managed by four (4) Commissioners recommended to the President for appointment by leadership of the majority and minority in the House and Senate. However, the FEC is charged with Federal election campaign funding and oversight, and is NOT directly involved in elections.

19.2. IEBC's Recommendations

i. The Independent Expert Model in the appointment of the Chairperson and Commissioners of the EMB (IEBC) should be maintained. This will ensure recruitment of professionals and not political appointees to manage elections.

ii. The Commission's recruitment process should remain as prescribed by the current Constitution and the IEBC Act.

iii. The recruitment of Commissioners should be staggered to ensure transfer of knowledge, institutional memory and growth.

20. **Chapter 5, Paragraph 88(b) of the BBI Report:** *"From the views received from Kenyans by the Taskforce, faith in the IEBC remains low. The Taskforce therefore recommends that we go to the next election with a clean slate to strengthen faith in the institution*".

20.1. **Issues Arising and Implication of the BBI Recommendations**

i. As reported in Chapter 5, paragraph 79 of the BBI report *"divisive elections are the result, with such enormous political pressure applied to the IEBC that it is almost certain to be judged a failure by one side or the other. Unfortunately, since ethnicity is the main currency of such intense electoral competition, it eventually takes on the character of a conflict between ethnic groups, leading to the ethnic antagonism that has undermined national unity and compromised security and stability".*

In our considered view, the above findings of the BBI Taskforce aptly captures the fundamental root cause of electoral challenges in Kenya. However, instead of making appropriate recommendations to address the identified challenges, the Taskforce recommended the easier option of putting the blame on IEBC and calling for its disbandment, a practice that has become a tradition in Kenya after every election.

ii. The perception of lack of faith in IEBC is a narrative aimed at diverting attention from the perpetual divisive elections and ethnic antagonism. Indeed, a study conducted by International Foundation for Electoral Systems (IFES) on perception and trust levels of IEBC in March 2018 indicated that IEBC trust levels was at 68% (see Annex 2). Moreover, as observed by the Kofi Annan Foundation Report, public trust on an EMB is dependent not only on the quality of the electoral process but also on the political environment.

The independence, credibility and legitimacy of the Commission gets eroded by the continuous, sustained negative campaigns often on suspicions and unfounded grounds. Therefore, IEBC requires support from all its stakeholders towards improvement of its legal and operational policies and procedures that will ensure accomplishment of its statutory mandate.

In the Presidential Election Petition No.1 of 2017, the Supreme Court of Kenya (SCoK) decreed that the problem of the 2017 election was not as a result of any Commissioner or staff being found culpable of any electoral malpractices but cited systemic issues. These systemic issues could have been occasioned by

inadequate and untimely funding, delay in enacting electoral laws informed by legal reforms and late appointment of Commissioners, among others.

The various court pronouncements during the determination of election petitions affirmed that the elections were largely free and fair. Out of 299 petitions filed after the 2017 General Election, 289 were disallowed, representing over 96%, affirming that the elections were largely conducted in a credible manner and in accordance with existing laws.

iii. The BBI recommendation of "...we go to the next election with a clean slate..." will greatly undermine best human resource practices of capacity building and institutional memory. Thus, the recommendation is ill-advised and does not strengthen and enhance faith in the Commission. The conduct of elections is not an event but follows a five (5) year electoral cycle that requires sufficient preparation, overseen by personnel with requisite knowledge and skills. Thus, going into the 2022 General Election with a new set of Commissioners and Secretariat staff will not only seriously undermine credibility of the elections but may also result in political instability.

20.2. IEBC's Recommendations

i. Implementation of the Kriegler Report that recommended that the expiry of the term for the Chairperson and Commissioners should not coincide with election years and that all Commissioners should be in office for two years prior to the conduct of a General or Presidential Elections. In addition, adoption of the international best practice of staggering the EMB's decision-making organ to allow for continuity and institutional memory.

ii. Retention and utilization of election management experience gained by the Commission over the years for the benefit of subsequent elections. A new team will not have the benefit of experience gained to conduct a successful election and may lead to electoral challenges.

iii. An independent EMB should have a lean policy-making structure and a professional and permanent Secretariat as recommended by IREC and in line with the current arrangement of IEBC.

iv. Addressing the real underlying root causes of divisive elections and ethnic antagonism.

v. Strengthening the Commission's independence and service delivery through adequate electoral cycle-based funding and autonomy in managing the allocated funds will undoubtedly contribute towards enhanced public trust.

21. Chapter 5, Paragraph 88(c) of the BBI Report: *"All IEBC staff should be employed on a three-year contract, renewable only once, if their performance is good.*

Otherwise, it will be terminated. This will prevent the continuation of errors by enabling each Commission a one time in its term to make appointments; AND Returning officers should be hired through a process like that used for commissioners, with the involvement of public participation. At the end of the process of recruiting returning officers, IEBC should receive reports on what their decision is and the basis on which they made the decision. This should be available to the public".

21.1. Issues Arising and Implication of the BBI Recommendation

i. As stated earlier, conduct of elections is not an event but follows a five (5) year electoral cycle that involves various activities which require professional and permanent staff with requisite knowledge and skills. Therefore, engaging staff on a three (3) year contract undermines the conduct of elections as those appointed in one election may not stay to conduct a subsequent election. This amounts to loss of experienced staff and costly frequent trainings of new employees who will conduct elections. Further, there will be lack of commitment, enormous anxiety, and limited focus on management of elections amongst staff thereby jeopardizing fairness and credibility of the elections. It also makes the Commission an unattractive employer.

ii. Involvement of political parties in the recruitment of Returning Officers amounts to a serious conflict of interest since referees will have been appointed by some players. Such staff will owe no allegiance to the Commission and are highly likely to serve partisan interests of political parties which lobbied for their employment thus undermining the credibility of elections. Besides, such recruitment process is likely to contribute to divisive elections.

iii. Non-parliamentary parties and independently elected legislators will have no say in the recruitment of Returning officer and therefore discriminates against them.

21.2. IEBC's Recommendations

i. The current practice of having a professional and permanent core staff on a full-time basis should be maintained for the conduct of efficient and credible elections.

ii. Returning officers, being referees in electoral contests, should not be appointed by some players as this would compromise their impartiality thereby undermining credibility of elections.

22. Chapter 5, Paragraph 88(d) of the BBI Report: *"Any person with at least fifteen (15) years management experience at senior level should qualify to apply for Chairmanship of IEBC. It should not be the preserve of lawyers. However, one of the Commissioners should be a lawyer".*

22.1. Issues Arising and Implication of the BBI Recommendation

i. Conduct of elections is a highly regulated process that often requires interpretation of law in order to facilitate decision-making. During the election season, the Commission is inundated with numerous litigations challenging the entire electoral processes. Additionally, there has always been legal reforms immediately after every election which requires electoral experience and legal expertise.

ii. The Commission's mandate includes, among others, electoral dispute resolution and enforcement of electoral code of conduct which demands making quasi-judicial decisions informed by thorough understanding and appreciation of the law. Further, one of the Commission's committees is the Legal and Compliance Committee that requires to be chaired by a Lawyer.

From the foregoing, it is evident that there is need for at least two lawyers as Members of the Commission.

22.2. IEBC's Recommendations

i. The Commission should be chaired by a person qualified to be appointed Judge of the Supreme Court as is the current practice.

ii. The Commission requires various expertise such as ICT, Management and Finance, among others. However, due to the various legal related activities in the Commission, there is need for at least two lawyers (the chair and one other person) as Members of the Commission.

23. Chapter 5, Paragraph 88(e) of the BBI Report: *"All current Senior Officers of IEBC should be vetted".*

23.1. Issues Arising and Implication of the BBI Recommendation

i. The Commission's Human Resource and Administration (HRA) Policies and Procedures Manual stipulates that all staff must be competitively recruited based on their competence and integrity. Any staff that violates terms and conditions of employment, including any electoral malpractice, are subject to internal disciplinary process as laid out in the Commission's HRA Policies and Procedures Manual. However, due to the sustained allegations of election malpractices advanced by some politicians over the years, the Commission has no objection to the vetting of its senior staff through a fair and transparent process.

ii. The Judgement of the Presidential Election Petition No.1 of 2017 cited systemic institutional problems as grounds for allowing the petition but did not find any IEBC staff culpable of electoral malpractice.

23.2. IEBC's Recommendations

i. In order to address the negative narrative advanced by some politicians and to enhance integrity and public trust, there is need to vet the Commission's senior staff.

ii. Staff vetting must be conducted within the confines of a clear framework with prescribed processes, procedures and remedies. Nonetheless, such vetting exercise must be undertaken in-house (within the Commission) in a structured manner that adheres to the principle of fair administrative action free from any political witch-hunt.

24. Chapter 5, Paragraph 88(f) of the BBI Report: *"Separate the duties of Secretary and Chief Executive Officer; make the Chairman of the Commission the Chief Executive Officer".*

24.1. Issues Arising and Implication of the BBI Recommendation

i. It should be noted that the previous EMB (ECK) in this country had an Executive Chairman. However, Kriegler Commission identified having an Executive Chairman as a contributor to the challenges faced by the Commission then. Consequently, it recommended an independent EMB with a lean policy-making structure headed by a Chairperson and a professional and permanent Secretariat headed by a CEO to enhance good corporate governance.

Currently, the Chairperson of IEBC heads the Commission with responsibility of formulation of policy and strategy, and oversight. The Commission Secretary is the CEO and Accounting officer of the Commission, implementing Plenary (Board) decisions and is also responsible for day to day operations.

ii. Contrary to the Kriegler Recommendations, BBI proposes an Executive Chairperson who will perform both functions of the Chairperson and that of the CEO. Such an arrangement lacks internal oversighting of the Chairperson/CEO and is contrary to best practice in corporate governance that separates oversighting by the Commission (Board) and implementation of Board decisions by the CEO who heads the Secretariat.

24.2. IEBC's Recommendations

i. Maintain the current governance structure where the Board of the Commission (Chairperson and Commissioners) are responsible for formulation of policy and strategy, and oversight; whereas the Commission Secretary/CEO is the Accounting Officer heading the Secretariat and is also responsible for the implementation of Board decisions.

ii. There is need to amend the IEBC Act to provide more clarity on the oversight role of the Chairperson and the Board of the Commission. Further, there is need to provide for this oversight role of the Chairperson and the Board in the Public Finance Management (PFM) and Public Procurement and Assets Disposal (PPAD) Acts.

25. **Chapter 5, Paragraph 88(g) of the BBI Report:** *"The composition of the Commission must reflect the Face of Kenya on all levels".*

25.1. **Issues Arising and Implication of the BBI Recommendation**

i. Recruitment of IEBC Commissioners over the years has always been based on regional, ethnic and gender considerations to ensure inclusivity in the Commission's decision-making body.

ii. The Commission's policy on recruitment of the County and Constituency based staff, is such that they must hail from the respective areas. This ensures representation from all Counties and Constituencies across the country.

iii. Currently, the composition of the Commission's staff reflects the Face of Kenya thus ensuring representation of Kenya's diverse communities in line with article 232 (h) of the Constitution of Kenya. This fair representation of the face of Kenya has been incrementally achieved and maintained over the years.

25.2. **IEBC's Recommendations**

i. The current practice of regional, ethnic and gender considerations in the recruitment of the Chairperson and Commissioners should be maintained.

ii. The Commission to retain and adhere to the current staff recruitment policy of ensuring fair regional and ethnic balance as well as gender and PWDs considerations.

26. **Chapter 5, Paragraph 88(h) of the BBI Report:** *"Explore ways to enact provisions that reduce the disproportionately high costs of our elections. The party list system is one".*

26.1. **Issues Arising and Implication of the BBI Recommendation**

i. The Commission recognizes the increasing cost of elections over the years occasioned by the need to address negative ethnicity and lack of trust amongst political players. The major cost drivers of elections in Kenya are: increased use of technology in elections, ballot papers with numerous security features, wages for temporary election and security officials, transportation, procurement related litigations (tender wars), election petitions, among others. The Commission has minimal control over most of these cost drivers.

Due to mistrust amongst political players, Kenya has increasingly legislated on the use of technology in elections, thus making elections expensive. For example, during the 2017 Elections the Commission deployed expensive electoral technology supplied by a France-based company. Ironically, France does not use such technology in its Elections because of the high trust levels amongst its political players.

ii. Immediately after the 2017 Elections, the Commission initiated an audit on the cost of Elections with a view to understanding how resources were utilized and how cost of Elections could be reduced in the future. Such audit was being done for the first time in the history of Kenyan elections. Upon receipt of the audit report, the Commission initiated the following: strengthening of internal controls; development of Finance policy and procedures manual, Procurement policy and procedures manual, Compliance policy and procedures manual, and Risk Management policy and procedures manual; establishment of an independent Audit Committee whose Chairperson and majority of its members are external amongst others.

iii. The manner in which the Commission is currently funded contributes to the high cost of elections. The Commission is starved off funding after every General Election only for the funds to be allocated in the election years. Such release of large lumpsum funds to be utilized within a very short period of time results in non-adherence to finance and procurement laws. In addition, the release of both budget and exchequer for implementing electoral activities is done at the whims of the National Treasury thus undermining the independence of the Commission and timely preparation for elections.

26.2. IEBC's Recommendations

i. Comprehensively addressing the root causes of negative ethnicity and mistrust amongst political players and the larger society. A more cohesive society with high trust levels will undoubtedly lead to reduced investment in electoral processes thereby reducing the overall cost of elections.

ii. Strengthening of the Commission's internal controls by continuously reviewing and fully implementing the policies and procedures manuals.

iii. Strengthening the Commission's independence and service delivery through adequate electoral cycle-based funding and autonomy in managing the allocated funds by operationalizing the IEBC Fund as provided for by the IEBC Act.

27. Chapter 5, Paragraph 88(i) of the BBI Report: *"Reform present electoral system to ensure it is simple, accurate, verifiable, secure, accountable and transparent as mandated by Article 86 of the Constitution".*

27.1. Issues Arising and Implication of the BBI Recommendation

i. Elections in Kenya are over legislated and too prescriptive, making them like workplans thus making the elections management a complex process. The over legislation of our elections coupled with inadequate and untimely disbursement of funding makes the Commission's efforts to comply with statutory timelines difficult, leading to numerous legal challenges that undermines credibility of elections.

ii. Late enactment or amendment of electoral laws too close to an election seriously undermines preparations by the Commission.

27.2. IEBC's Recommendations

i. There is need to review legislation on technology to make it less prescriptive and thus giving flexibility to the Commission.

ii. There should be no enactment or amendment of electoral laws two years to elections.

Conclusion

Kenya's electoral history has informed the various changes made over time in the management of our elections. These have been captured in the various reports and taskforces including Kriegler Commission and the Constitutional Review Commission. The most fundamental question that begs an appropriate answer is whether we as a country now have justifiable reasons to revert back to the systems that we abandoned a decade ago.

The perception of lack of faith in IEBC is a narrative resulting from the highly divisive and ethnized nature of our elections, therefore, one side in the competition will naturally always blame the referee. It is common knowledge that independence, credibility and legitimacy of the Commission gets eroded by the continuous and sustained negative campaigns targeting the Commission.

Given the competitive nature and ethnic polarization of our elections, allowing political parties to exclusively nominate the Chairperson and Commissioners will be detrimental. In addition, involvement of political parties in the recruitment of Returning Officers will result into serious conflict of interest as referees will have been appointed by players. Officers recruited in such manner are highly likely to serve partisan interests of political parties which lobbied for their employment as opposed to the interest of the EMB, thus undermining the credibility of elections.

Engaging EMB staff on a three (3) year contract undermines the conduct of elections as those appointed in one election may not remain behind to conduct the subsequent

elections. This will result to loss of experienced staff and costly frequent trainings of new employees who will be required to conduct elections. Further, there will be lack of commitment, enormous anxiety, and limited focus on management of elections thereby jeopardizing fairness and credibility of the elections. It will also make the EMB to be an unattractive employer.

The manner in which the Commission is currently funded contributes to high cost of elections. The Commission is starved off funding immediately after General Elections only for the funds to be allocated in the election years. In addition, the release of both budget and exchequer for implementing electoral activities is done at the whims of the National Treasury, thus undermining the independence of the Commission and timely preparation for elections.

In order to strengthen the EMB and to enable it fully discharge its constitutional mandate the following should be implemented as a minimum:

As rightly observed in the BBI report in Chapter 5, paragraph 79 *"divisive elections are the result, with such enormous political pressure applied to the IEBC that it is almost certain to be judged a failure by one side or the other. Unfortunately, since ethnicity is the main currency of such intense electoral competition, it eventually takes on the character of a conflict between ethnic groups, leading to the ethnic antagonism that has undermined national unity and compromised security and stability".* In our considered view, the above findings of the BBI Taskforce aptly captured the fundamental root cause of electoral challenges in Kenya. There is therefore a need for addressing the real underlying root causes of divisive elections and ethnic antagonism. The proposal in the BBI report that the country goes to the next elections on a clean slate which means with a new election management body is not a solution to the real root cause identified in the report. The country should, at any rate, not forget that this has been done three times in the past yet the blame on the EMB appears to have persisted all through. It is important to note that since the advent of multi-party elections in 1992, no election management body has conducted successive elections which strongly points to the fact that changing the EMB is not a solution to the divisive and polarized elections.

The Independent expert model (*recruitment of professionals and not political appointees to manage elections*) on the composition of an EMB should be retained in the appointment of the Chairperson, Commissioners and the Secretariat. An independent EMB should have a lean policy-making structure and a professional permanent Secretariat as recommended by Kriegler's Commission and fully implemented as evidenced by the current arrangement in the EMB. Further, the recruitment of Commissioners should be staggered to ensure smooth transfer of knowledge, institutional memory and growth. Recruitment of EMB Commissioners over the years has always been based on regional, ethnic and gender considerations to ensure inclusivity in the Commission's decision making body.

It is the Commission's considered view that Returning Officers, being referees in electoral contests, should not be appointed by some players as this would compromise their

impartiality thereby undermining credibility of elections. The current policy on recruitment of the County and Constituency based staff by the EMB, is such that they must hail from the respective areas. This ensures representation from all Counties and Constituencies across the country.

Finally, strengthening the Commission's independence and service delivery through adequate electoral cycle-based funding and autonomy in managing the allocated funds by operationalizing the IEBC Fund as provided for by the IEBC Act will go a long way in ensuring democratic elections in our country.

W.W. CHEBUKATI

CHAIRMAN

Annex 1:

Presentation by the Independent Electoral and Boundaries Commission (IEBC) to the Building Bridges to Unity Advisory Taskforce (BBI)

PRESENTATION BY THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION TO THE BUILDING BRIDGES TO UNITY ADVISORY TASKFORCE

1. The Independent Electoral and Boundaries Commission is pleased to have been invited to this Consultative forum convened by the Building Bridges to Unity Advisory Taskforce.

2. As a Constitutional Commission responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution in the Republic of Kenya, we are pleased to make our submissions.

3. Elections in Kenya are a do or die affair. This is so because it appears to be the only avenue for acquisition of Political power and its attendant benefits and trappings. Anytime the country gears towards a General election, it almost grinds to a halt. Whereas economic activities slow down, cut throat political competition soars. Ethnic and regional balkanization become the indices of identification of one's political inclination.

4. Election Campaigns are often high octane laced with highly personalized and ethicized attacks. By the time Kenyans go to the polls, the social fabric that underpins patriotism and brotherhood is completely broken. What is often left is a highly poisoned and polarized political environment where acceptance of the outcome of a free, fair and credible election by the electorate and political class is a tall order.

address: Anniversary Towers, 6th Floor, off University Way, P.O Box 45371-00100 Nairobi, Kenya
phone: +254 (0) 2769000, fax: +254 (0) 20 2219185, email: info@iebc.or.ke, website: www.iebc.or.ke

5. Our election system is that of **first past the post (FPTP)** which is also christened ***"The Winner takes it all."*** This type of electoral system is one in which the voters indicate on the ballot the candidate of their choice and the candidate who receives the most votes wins. This system has been inherited from the colonial regime and has existed in Kenya for decades. It is opined that it is the root cause of our highly divisive elections.

6. As an Election Management Body, it is our view that a panacea to such divisive elections should be explored. Maybe it is time that Kenyans had a conversation around our electoral system and explore other options such as **proportional representation (PR)** and **mixed member representation (MMR)** models.

7. Proportional representation is an electoral system in which parties gain seats in proportion to the number of votes cast for the parties. Proportional representation has been hailed for providing opportunities for strengthening of Political Parties. It is the most widely used electoral system in the world. It ensures that more focus is laid not on personalities but Political Parties as Institutions where leadership and democracy is nurtured. It also obviates marginalization on account of: -

   (i) Gender
   (ii) Persons with disability
   (iii) Youth
   (iv) Ethnic and other minorities

8. The **mixed member representation** model is an electoral system that combines first past the post with features of **proportional representation** most often based on party list. The mixed representation model has the advantage of blending the positives of both.

9. Article 81 of the Constitution provides general principles for the electoral system. It is a requirement that the electoral system must ensure that not more than 2/3 of the Members of elective public bodies shall be of the same gender.

In addition, Article 27 of the Constitution that speaks to equality and freedom from discrimination requires the state to take legislative and other measures to implement the principle that not more than 2/3 of the Members of elective or appointive bodies shall be of the same gender. There has been litigation around this issue and the courts have through judicial legislation decreed that it is a constitutional imperative which must be realized albeit progressively. Parliament has been directed to enact legislation to realize the 2/3 gender rule and the Commission has been enjoined in ensuring that this rule is realized.

10. Under the current FPTP electoral system it is difficult to realize the constitutional requirement of the 2/3 gender rule. However, the same can be achieved if either of the two models proposed above are explored.

11. Among major challenges faced by the Commission is inadequate funding throughout the electoral cycle. The electoral cycle covers *pre-election, election and post-election periods.* The cycle continues from one election to the other. Therefore, the conduct of election is a process and not an event. It therefore follows that resources are required throughout the election process and not just the election time. The Commission experiences rapid decline in funding immediately elections are over thereby constraining activities in subsequent phases. The present practice of providing funds towards election time leads to challenges related to non-compliance with procurement laws and regulations and inadequate time to test the electoral technologies prior to elections. For free, fair and credible elections to be realized, adequate time and resources must be invested throughout the electoral cycle.

12. The Commission, being a public institution, is dependent on the National Treasury for funding. Under Article 249 (2) (b) of the Constitution the Commission is independent and not subject to the direction or control by any person or authority. However, the Commission is entirely dependent on the National Treasury for budgetary allocation and exchequer releases thus compromising execution of its mandate.

This exposes the Commission to risk of state capture thereby compromising elections. To mitigate against this risk the Commission should be allocated adequate resources, in line with the electoral cycle, in one tranche at the beginning of the financial year and be given financial autonomy.

13. In the previous general elections, there has been review of electoral legal framework. However, the late enactment of the electoral laws poses a great challenge in the preparations of elections. The international best practice is such that no amendments are done to the election laws one year to a general election. Where amendments are done within one year, such amendments are deferred to subsequent elections.

14. A large number of Kenyan citizens reside outside the country. These citizens are entitled to participate in general elections in line with article 38 (3) of the Constitution. In fulfilment of this obligation, the Commission undertakes an expensive and cumbersome voter registration and voting exercise. The current legal framework does not provide for web-based voting which could not only potentially reduce the cost of diaspora voting but also allow many Kenyans living outside the country to vote.

15. The use of ICT in elections is increasingly becoming important in Kenya. However, only 78% of the geographical area in Kenya has reliable 3G mobile network coverage which is required for transmission of election results. There is need for the country to invest in telecommunication infrastructure, minimum 3G network, to facilitate results transmission in future elections.

16. The foundation of free, fair and credible party primaries is the basis for free, fair and credible elections in any country. The conduct of party primaries in Kenya is synonymous with chaos and allegations of rigging leading to disenfranchisement of aspirants resulting in numerous nomination disputes and high numbers of independent candidates.

This scenario may be as result of weak internal democracy within political parties. There is an urgent need for political parties to enhance governance and internal democracy.

17. In Kenya the recruitment of Commissioners for all Constitutional Commissions, including IEBC, is done at the same time. This is contrary to best practice in good governance where such appointments are staggered to ensure continuity of operations, institutional memory and succession management. The current scenario where there two Commissioners and Chairperson are in post, present an opportunity for staggering the appointment of Commissioners.

18. There are several electoral processes that require legal reforms, including

(a) Enhancement of time frame for the hearing and determination of presidential election petition from fourteen days to thirty days.

(b) Enactment of appropriate legislation to operationalize Articles 255-257 of the Constitution, on the conduct of referenda;

(c) Standardization of scrutiny processes, pursuant to court orders. This is informed by the haphazard manner with which scrutiny processes were conducted as ordered by the various courts in the recently concluded election petitions;

(d) Staggering of the elections for national and county elections to enhance efficiency and reduce pressure on the election systems and personnel;

(e) Enactment of timelines within which pre-election disputes, including procurement related suits, must be determined to avoid disputes dragging too close to the elections, which could interfere with proper conduct of elections;

(f) Enactment of a law on replacement of a deputy governor, should a vacancy occur in that office before a regularly scheduled election;

(g) Clarity on implementation of Chapter 6, of the Constitution in relation to clearance of candidates to contest in an elective position;

19. The Commission wishes to present to the Taskforce the Commission's Post Election Evaluation Report which contains a comprehensive review of the 2017 elections with a raft of recommendations for information and reference.

W.W. CHEBUKATI
CHAIRMAN
07/03/2019

Annex 2:

Public Perception Survey by IFES

Public Perception Survey

Prepared for: IFES
Prepared by: TIFA Research Ltd

March 27, 2018

IEBC Presentation

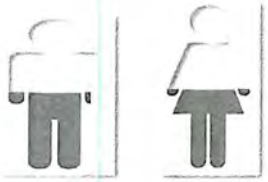
The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development of the United States Government.

Methodology

Field Dates	February 26th – March 6th 2018
Data Collection Methodology	• Quantitative research methodology was used • Face to face interviews conducted at the household level • Target respondent aged 18 years and above. • Selection of respondents at the household was by the use of a Kish Grid
Sample Size	• The achieved sample was 2,248 (n=2,000 and a boost sample of 248) • Multi stage sampling technique was used (i.e regions, counties, constituencies and wards) • At the initial sampling stage some counties had smaller samples allocated (i.e. less than the standard statistical minimum sample of 30). To address this, a boost sample was added. • The sampling is nationally representative and covers all the 47 counties)
Margin of Error	• The sample has a margin of error of +/- 2.07% at 95% confidence interval
Data Weighting	• The data has been weighted by gender, age, region against the population census data of those 18+

Demographics (1/2)

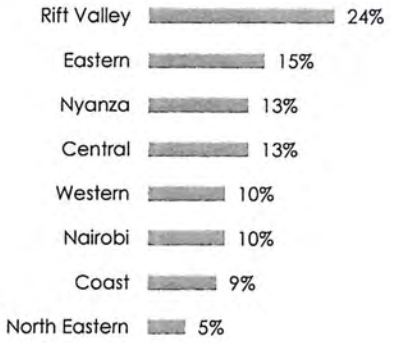
Gender



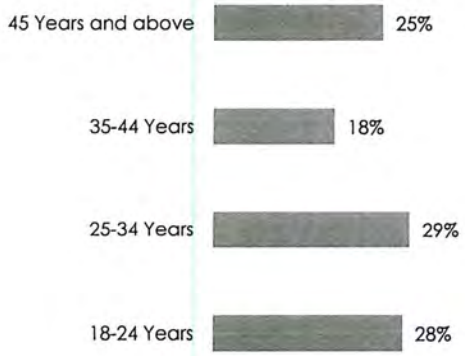
49% 51%

Rural –Urban Setting

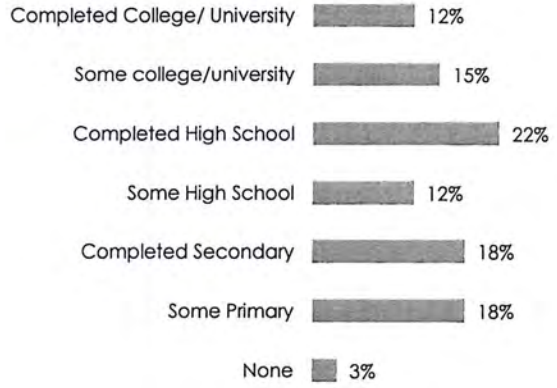
Regions



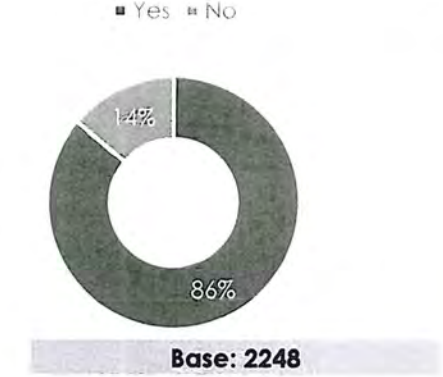
Age



Education Level



Voted in August 8 Election



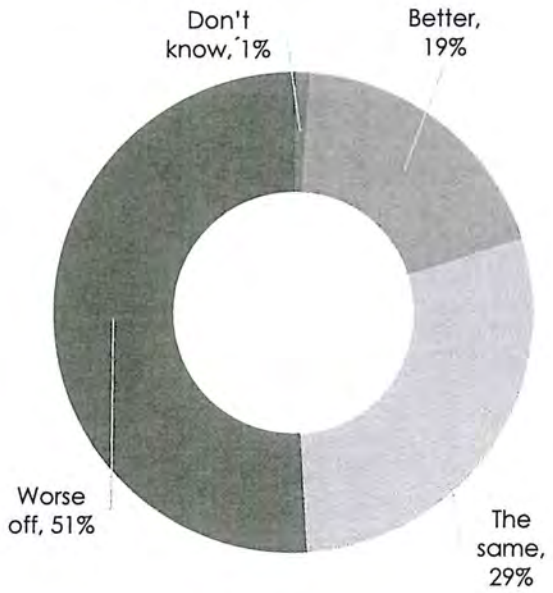
Base: 2248

General Issues Facing Kenya

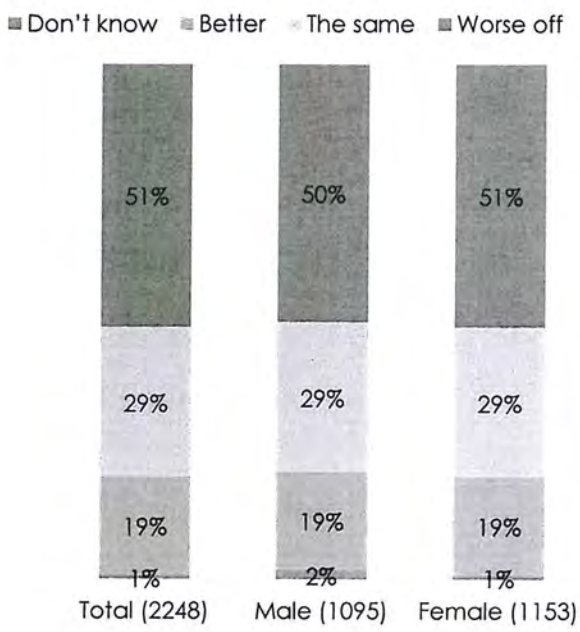
Household General Outlook

- As compared to the previous year, the household situation in Kenyan homes has worsened. This is stated by 51% of the surveyed respondents.
- There are no gender differences for the sentiments towards household situation.

Household Outlook (By Total)



Household Outlook (By Gender)

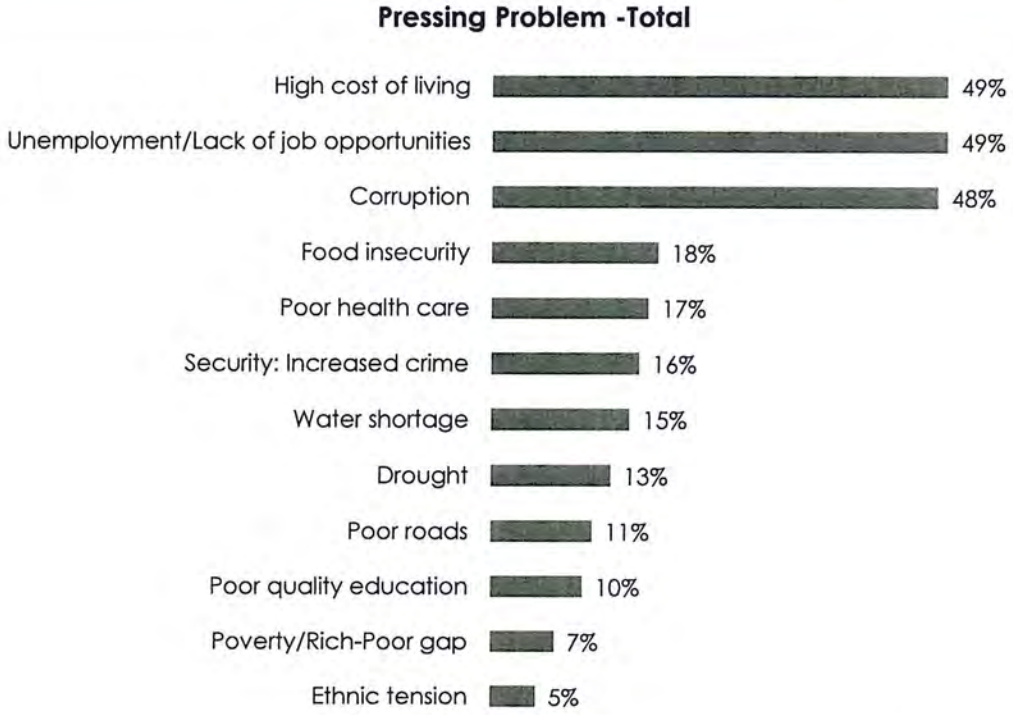


Base: Total 2248

Q: Since last year, are you and your household worse off, the same or better off compared with before?

Most Pressing Problems

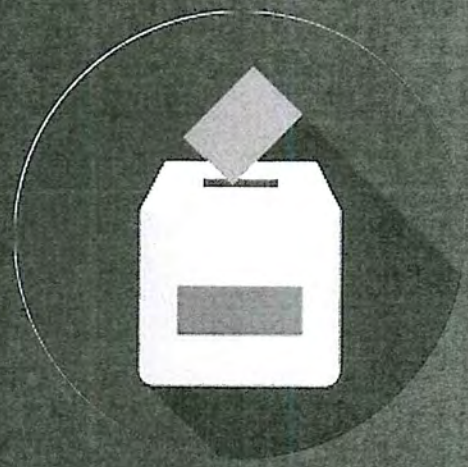
- The high cost of living, unemployment and corruption are the key pressing problems mentioned by almost half of the respondents.
- Other problems with lower but significant mentions (above 15%) include food insecurity, poor health care, security and water shortage.
- Ethnic tension, considered as an issue that has polarized the country in past elections, has only 5% mentions.



Base: Total 2248

Q: What are the three most pressing problems facing this country that the elected leaders should address?

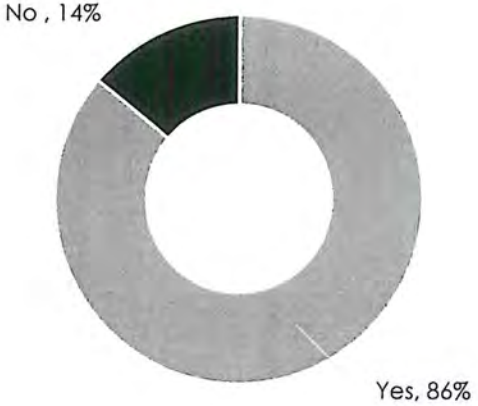
Participation and Confidence in 2017 Election Institutions



Voting in August 8th General Election

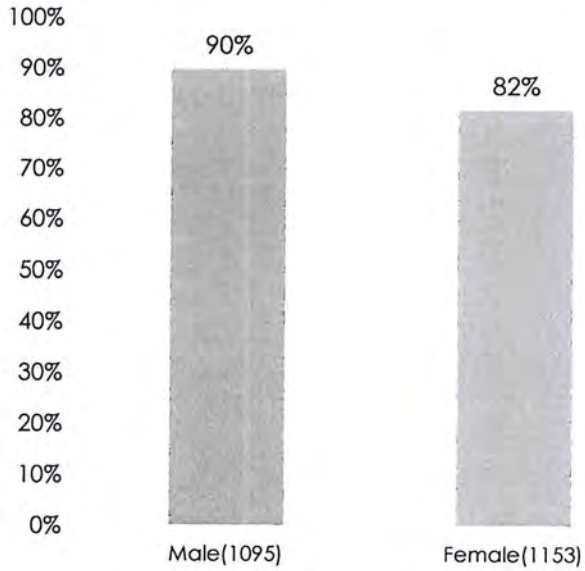
- An overwhelming majority (86%) of Kenyans claim to have voted in the August 8th election. (Self reported)
- More male respondents claim to have voted as compared to the females.

Voting –By Total (Self reported)



Base: Total 2248

% Voted by Region (Self reported)

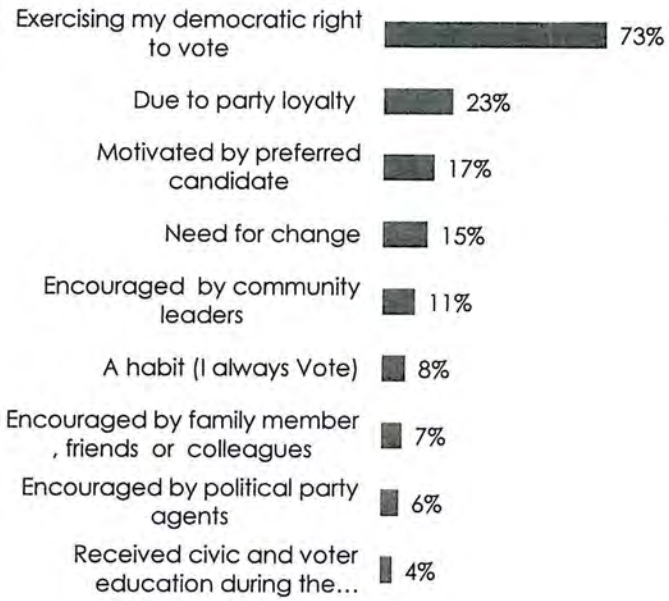


Q: Did you vote in the August 8th General Elections last year?

Voting Barriers and Motivations

- Exercising a democratic right to vote was the top motivator of voting in the August 8th Election. Political party loyalty is a distant motivator.
- Those who self report as not voting make reference to technical issues, rather than feelings of apathy about the efficacy of their vote.
- Not being registered was cited by 32%, followed by not being in possession of voting documentation among 21%, of 14% of survey respondents who did not vote.

Reasons for Voting



Base =1924

Reasons for NOT Voting

Base =315

Q: Did you vote/not vote in the August 8th General Elections last year?

Satisfaction with IEBC (By Total)

- Satisfaction with IEBC performance is high overall, particularly in the pre-election period.
- The highest marks are attributed to updating the voter registration, creating awareness to the public on the election process and upholding Kenyans right to vote.
- The lowest satisfaction ratings concern IEBC's role in ensuring that official election results are accurate, with 33% of respondents somewhat dissatisfied or very dissatisfied with the IEBC's performance.

Satisfaction With IEBC – By Total

Q: Please tell me whether you are very satisfied are you with the IEBC, in terms of ….?

Satisfaction with IEBC (By Region)

- Central, Eastern, North Eastern and Rift Valley regions demonstrate a higher satisfaction levels with IEBC and its ability to delivery on its various roles.

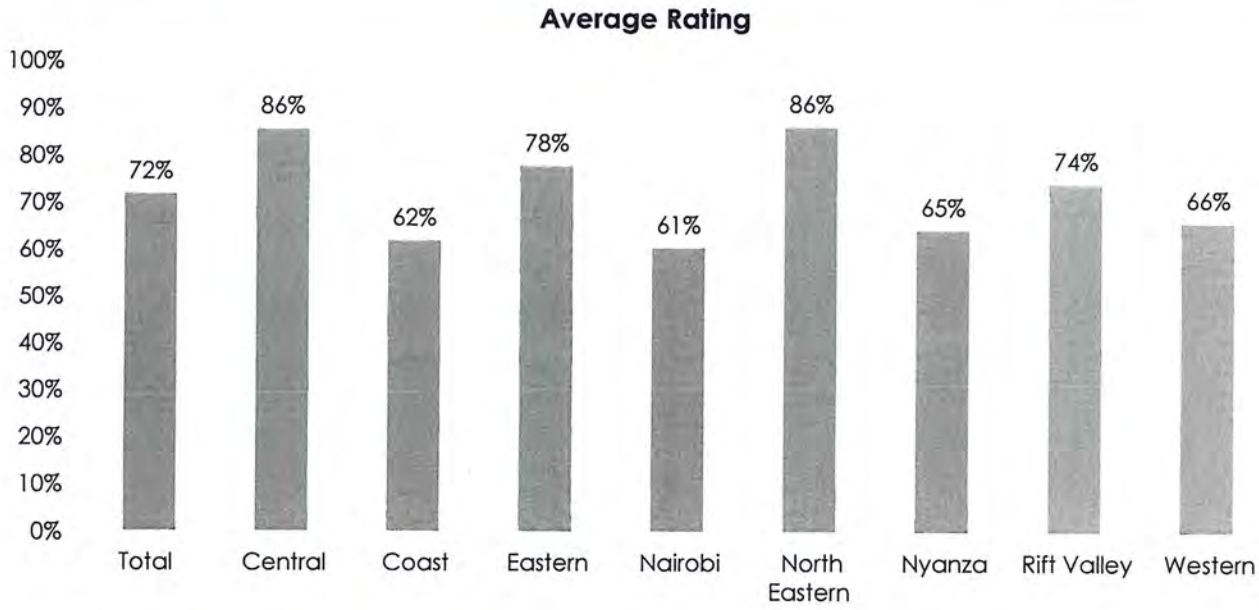
% who are very satisfied + satisfied

	Total	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western
Base	**2248**	**292**	**213**	**333**	**234**	**107**	**292**	**550**	**227**
Updating the Voter Register	78%	92%	70%	86%	66%	92%	70%	77%	69%
Informing and educating the public about the election process in Kenya.	78%	90%	68%	83%	68%	86%	69%	80%	74%
Ensuring the rights of all Kenyan voters to take part/vote in elections	76%	91%	66%	79%	70%	85%	70%	78%	71%
Maintaining independence from Political pressures in the administration of elections	70%	81%	65%	75%	55%	86%	62%	72%	69%
Ensuring that all political parties and candidates are treated equally during the election process	68%	81%	55%	73%	56%	85%	59%	71%	62%
Ensuring that official election results are accurate	64%	80%	49%	72%	49%	84%	57%	68%	52%

Q: Please tell me whether you are very satisfied are you with the IEBC, in terms of …?.

Satisfaction with IEBC (Average Score)

- On average, Central and North Eastern regions lead in the satisfaction with IEBC.
- Although Nairobi, Coast and Nyanza regions record the lowest scores in comparison with the other regions, the satisfaction levels is above 60%.

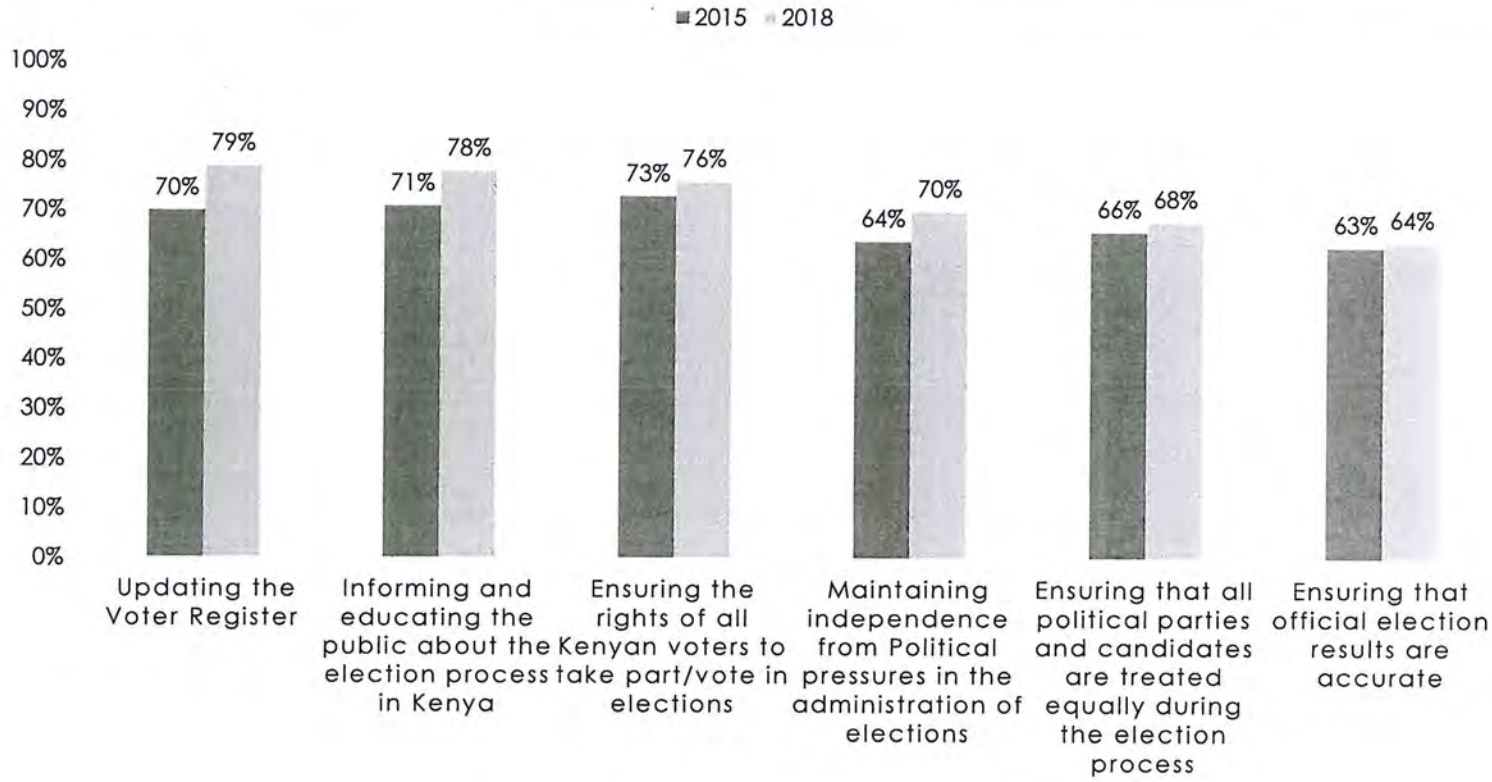


Q: Please tell me whether you are very satisfied are you with the IEBC, in terms of..?

NB: Average score computed by summing up the satisfaction scores for all attributes per region and then dividing it with the number of attributes

Satisfaction with IEBC (Trend)

- Since 2015 the satisfaction with IEBC has slightly increased in almost all attributes apart from ensuring that official election results are accurate.
- The highest improvement in satisfaction is for updating the voter register.

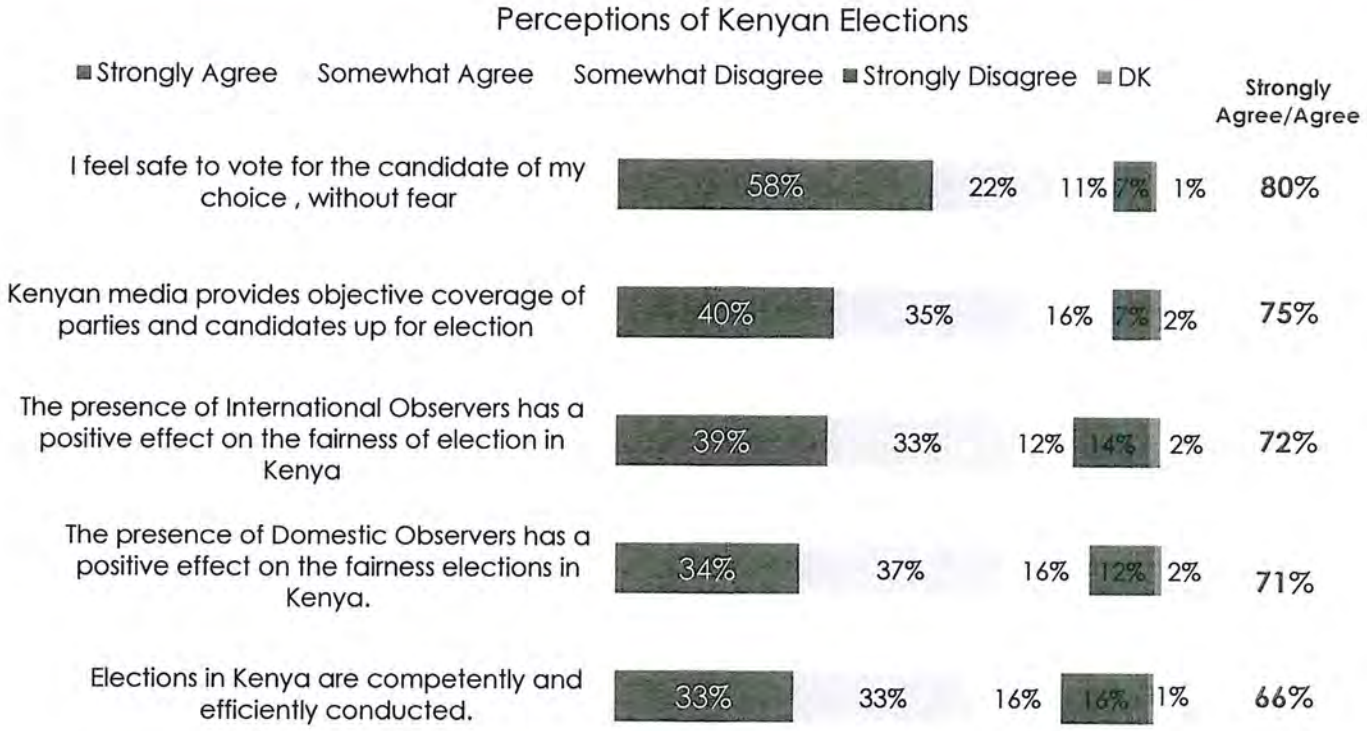


Base: Total 2248 (2018) & 2509 (2015)

Q: Please tell me whether you are very satisfied are you with the IEBC, in terms of ....

Perceptions of Elections in Kenya (Total)

- The majority of respondents have a positive perception towards elections in the country.
- Importantly, 80% of respondents feel safe to vote for their candidate of choice without fear.
- However, more is needed to improve perceptions on IEBC's ability to run an election competently and efficiently with 32% who somewhat or strongly disagree that elections are well conducted.



Q: Please tell me whether you agree with the following statements about elections in Kenya?

Perceptions of Elections (Gender & Region)

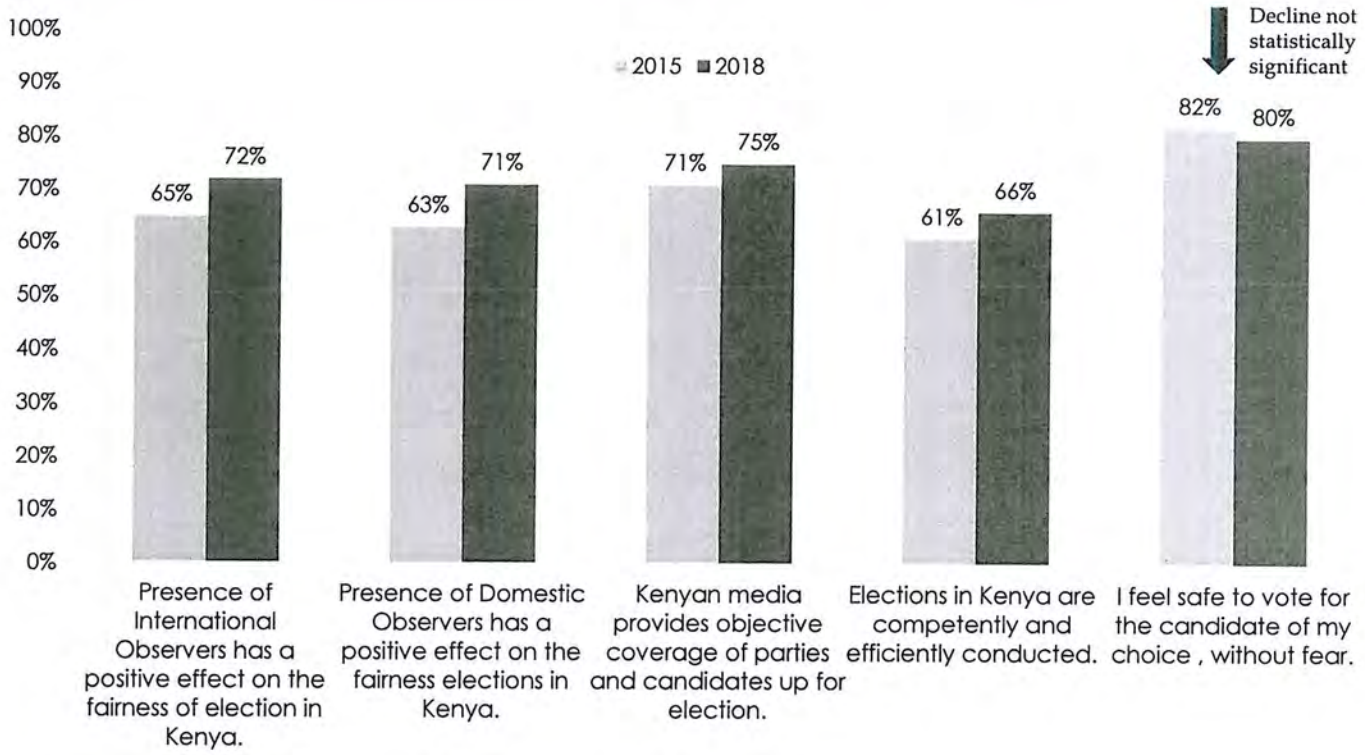
- Nairobi and Nyanza region are more likely to have respondents who feel unsafe to vote for their candidate of choice.
- Coast, Nairobi, Nyanza and Western are less likely to agree on the elections being conducted competently and efficiently.

	Total	Male	Female	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western
I feel safe to vote for the candidate of my choice, without fear.	80%	80%	81%	92%	67%	82%	70%	92%	72%	86%	79%
Kenyan media provides objective coverage of parties and candidates up for election.	75%	75%	75%	82%	62%	74%	76%	80%	72%	77%	75%
The presence of International Observers has a positive effect on the fairness of election in Kenya.	72%	73%	71%	74%	76%	79%	67%	89%	61%	69%	71%
The presence of Domestic Observers has a positive effect on the fairness elections in Kenya.	71%	70%	71%	74%	59%	74%	63%	88%	69%	75%	66%
Elections in Kenya are competently and efficiently conducted.	66%	66%	66%	84%	54%	70%	52%	88%	56%	70%	56%

Q: Please tell me whether you agree with the following statements about elections in Kenya

Perceptions of Elections in Kenya (Trend)

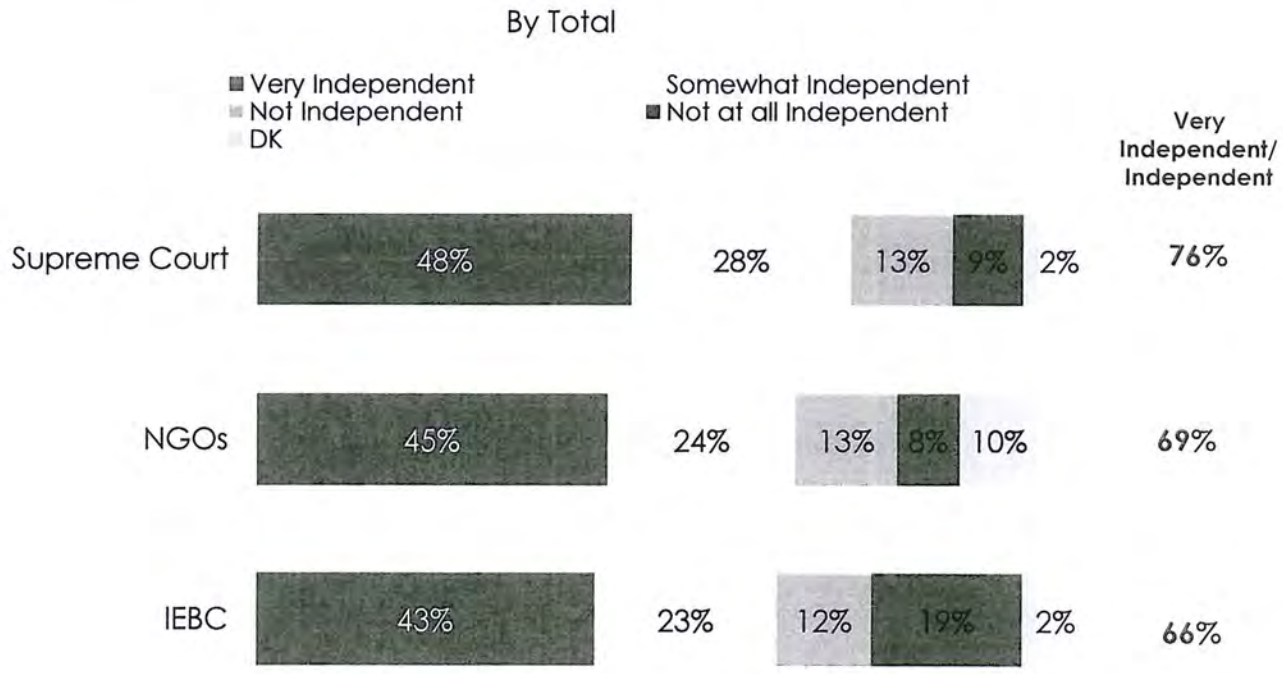
- Overall, the perceptions of elections has slightly improved across nearly all attributes.
- The role of Kenya media in providing objective coverage has increased by four percent since 2015 with 75% support for their role.
- There has not been any significant improvement in the perceptions of respondents feeling safe to vote for the candidate of their choice without fear, although the satisfaction levels are still high with the vast majority of respondents indicating safety in vote choice.



Q: Please tell me whether you agree with the following statements about elections in Kenya?

Independence of Institutions in Relation to Elections

- The Supreme Court has the highest rating followed by NGOs with a plurality stating they are very independent.
- Independence of the IEBC ranks third in comparison, yet with 66% of respondents indicating they are someone to very independent.
- IEBC has a higher percentage of respondents who cited is not independent.

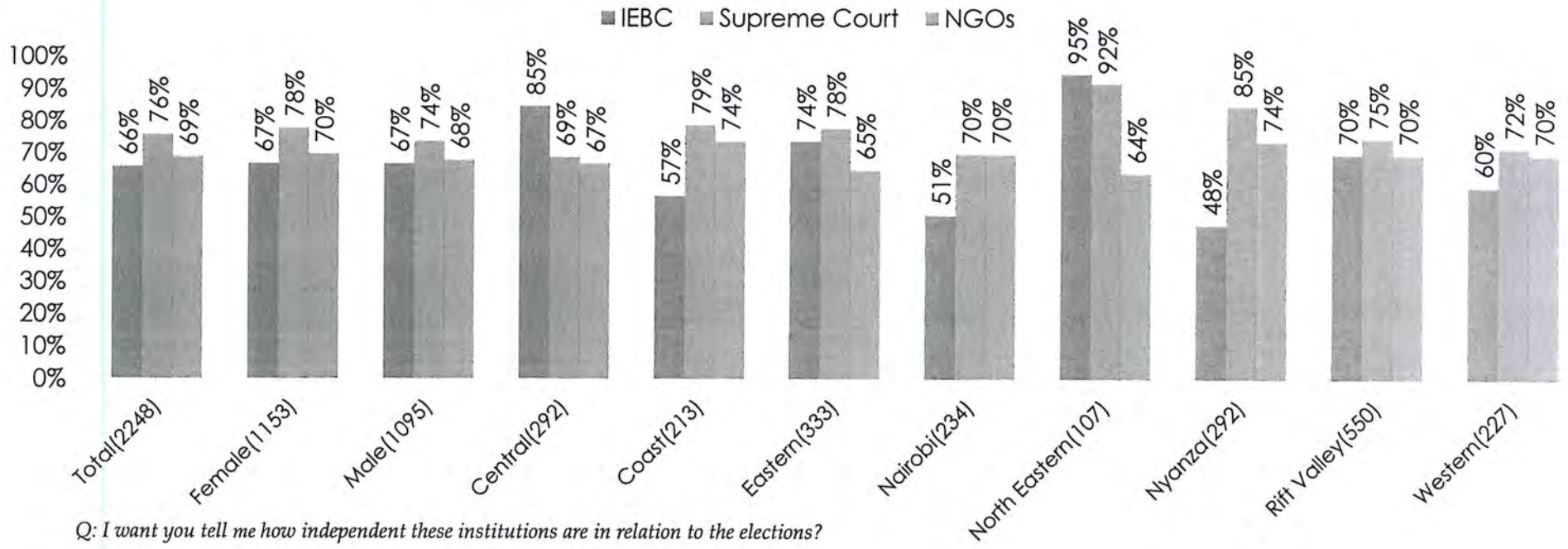


Q: I want you tell me how ***independent*** *these institutions are in relation to the elections?*

Independence of Institutions in Relation to Elections

- The IEBC is rated higher on independence than the Supreme Court and NGOs in Central and North Eastern region. On the other hand, the Supreme Court has a higher rating on independence in Coast, Nyanza, Rift Valley, Western and Eastern regions. In Nairobi, both the Supreme Court and NGOs have an even share of rating for independence.

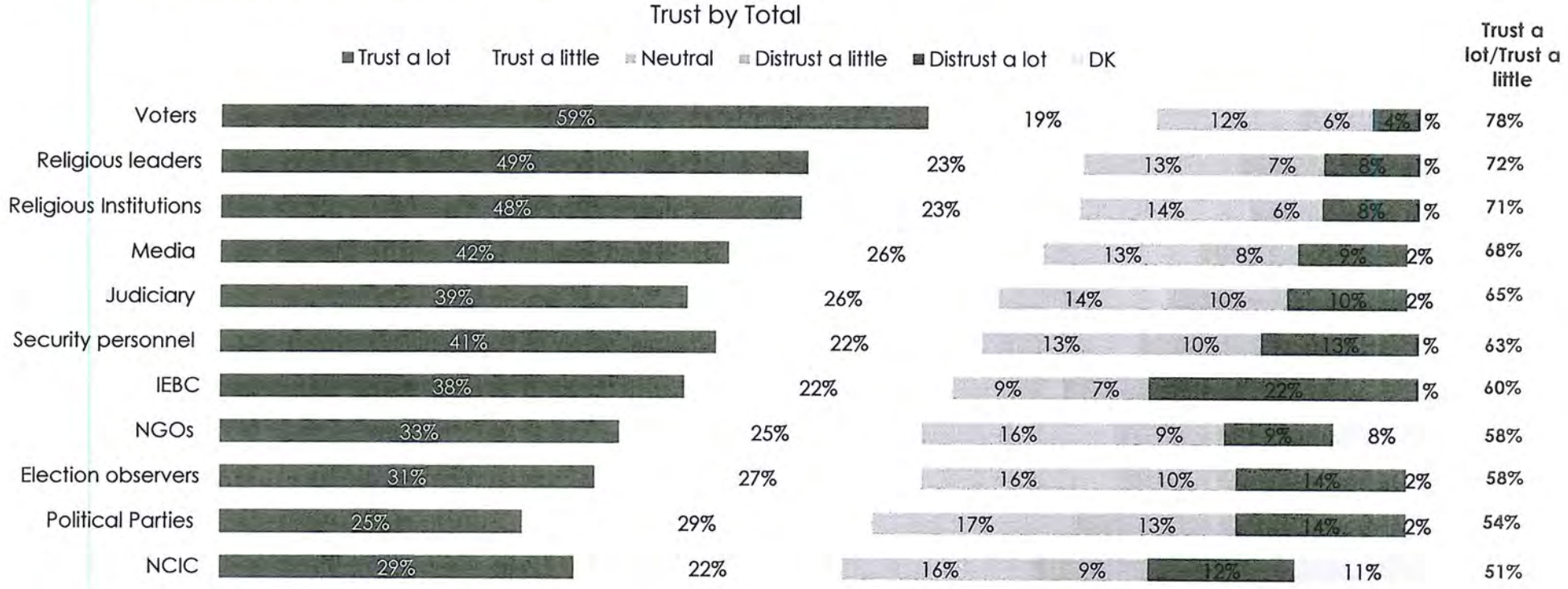
% who say Electoral Institutions are very independent + independent



Q: I want you tell me how independent these institutions are in relation to the elections?

Trust for Kenya Election System Actors

- There is a higher trust in the voters as compared to other actors in the election system.
- Low trust levels are cited for NCIC and political parties.



Q: How much do you trust or distrust the following actors in the Kenya Election system ?

Trust for Kenya Election System Actors

- Residents in the Coast region have a higher trust for religious leaders as compared to other election actors. In North Eastern, there is much trust in IEBC while in the Western region, the voters and religious institutions have an even share of trust.

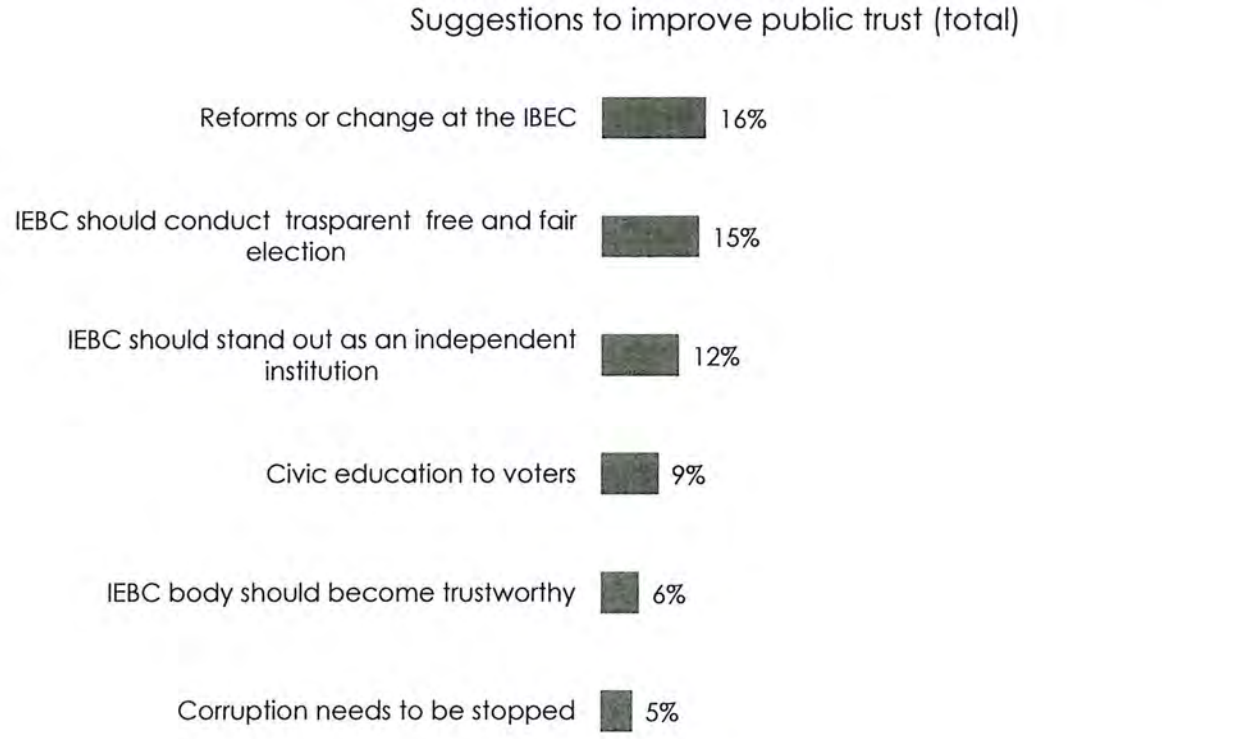
Election System Actors		Gender		Region							
	Total	Male	Female	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western
Voters	78%	80%	76%	83%	61%	75%	74%	95%	76%	82%	84%
Religious leaders	72%	72%	71%	70%	62%	72%	65%	95%	59%	77%	81%
Religious Institutions	71%	69%	71%	76%	48%	74%	59%	95%	58%	76%	84%
IEBC	60%	60%	61%	81%	46%	70%	39%	96%	38%	68%	48%
Media	68%	70%	68%	59%	49%	65%	59%	91%	72%	75%	83%
Judiciary	65%	68%	62%	58%	55%	63%	58%	86%	68%	69%	69%
Security personnel	63%	61%	65%	72%	51%	69%	45%	92%	43%	73%	62%
Election observers	58%	58%	59%	67%	44%	63%	43%	92%	45%	63%	58%
NGOs	58%	58%	58%	57%	49%	58%	54%	64%	48%	66%	62%
Political Parties	54%	53%	55%	54%	50%	53%	37%	95%	49%	55%	63%
NCIC	51%	52%	49%	50%	41%	69%	33%	65%	38%	54%	55%

**The highlighted in orange represent the highest mentions in the regions*

Q: How much do you trust or distrust the following actors in the Kenya Election system ?

Suggestions To Improve Public Trust

- To improve public trust in elections, respondents suggest "reforms or change" in IEBC.
- Other suggestions touch on improving IEBC's ability to conduct a free and fair election and its independence.



Base: Total 2248

Q: Generally, what do you think needs to be done to improve the public trust in elections?

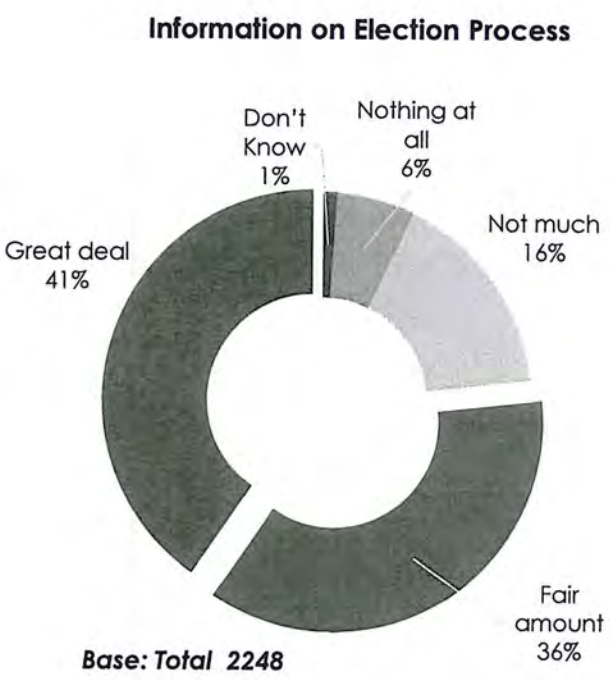
Section Summary

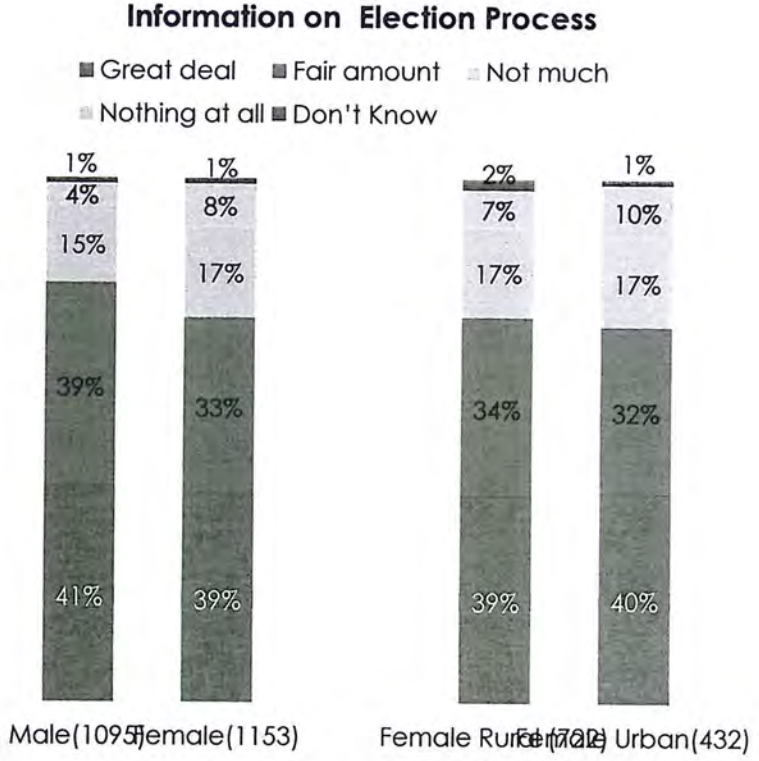
- Public confidence in the IEBC to deliver on this mandate has increased for most of its roles apart from announcing accurate results.
- The IEBC trust levels are lower than the Supreme Court and NGOs.
- The Kenya elections were well run, but IEBC lost the public perception battle with regards to trust and independence.
- Political parties have a long ways to go in building trust among citizens about their roles in elections and contribution, ranking the lowest out of 11 key electoral actors.

Voter Education

Information on Election Process

- The majority (77%) of respondents indicate that they have either a great deal or a fair amount of information about the Kenyan election process.
- Male respondents received more information on the election process as compared to women.
- There were no significant differences in information received by female respondents living urban and rural areas.

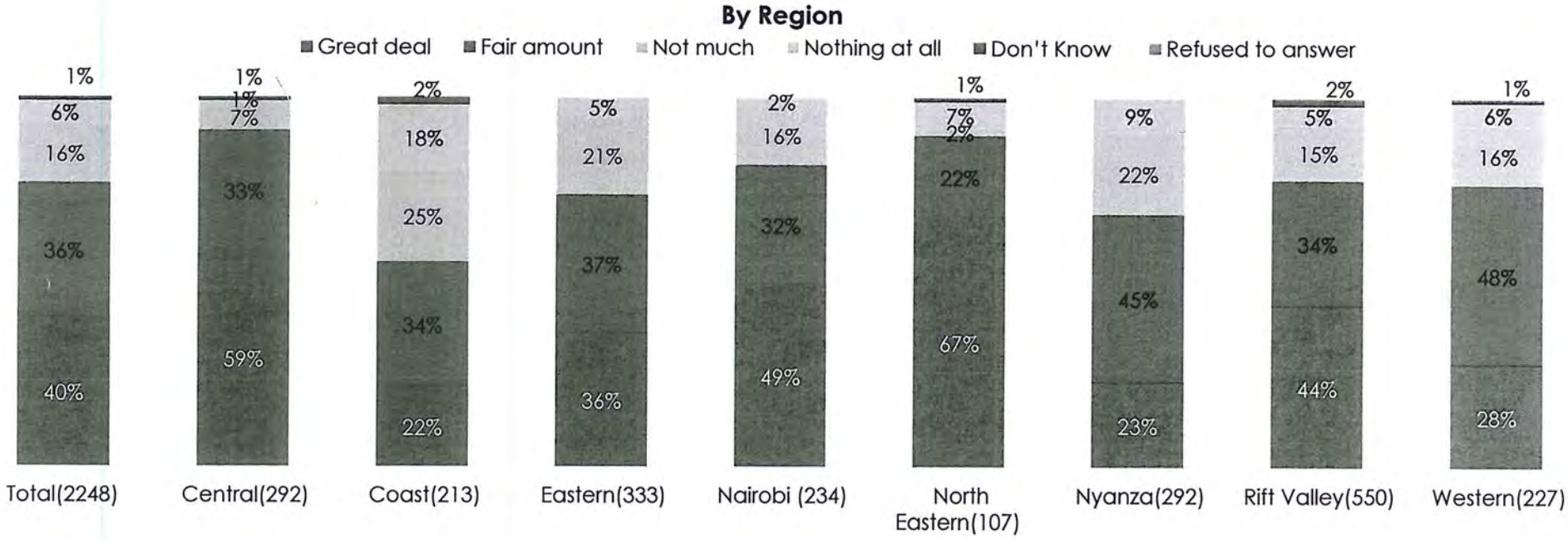




Q: Thinking back to the 2017 election, how much information did you have about the election process?

Information on Election Process

- North Eastern and Central region lead in terms of having a great deal of information on the election process. Nyanza and Coast regions have low scores on this attribute.

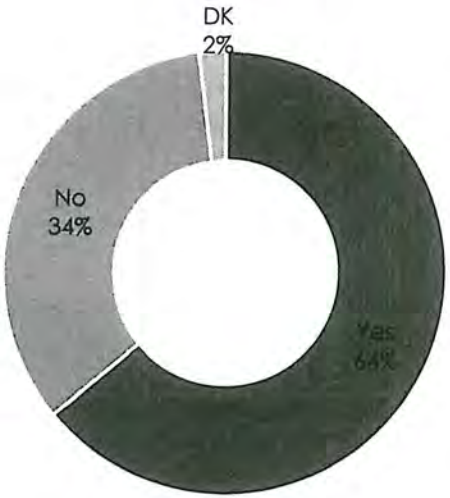


Q: Thinking back to the 2017 election, how much information did you have about the election process?

Exposure to Voting Information

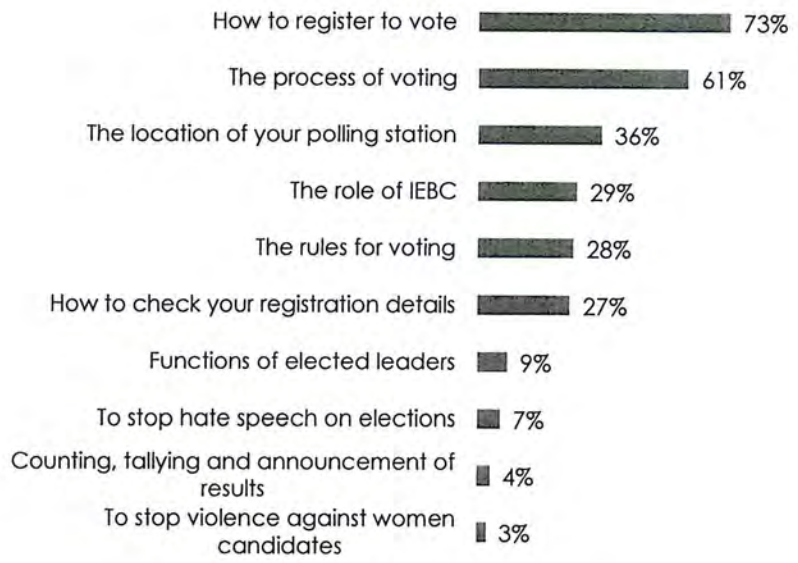
- The majority of respondents (64%) recall either seeing or hearing voting information.
- The top messages recalled were how to register to vote, the process of voting and location of polling stations.
- While information about violence against women in elections ranks low in comparison, it is at least on the radar of citizens this year.

Hearing/Seeing Voter Education



Base: Total 2248

Key Information Seen or Heard - By Total (spontaneous recall)

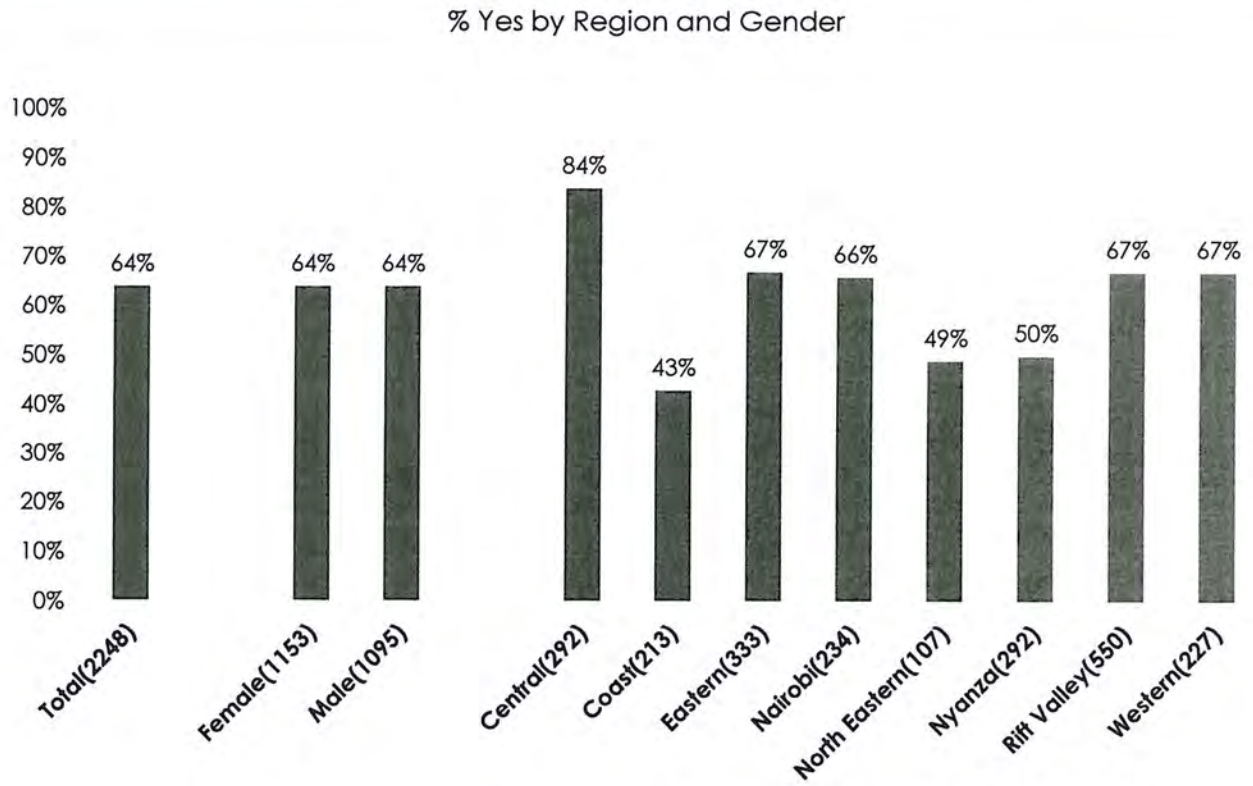


Base; 1432

Q: Prior to last year's general elections, did you see/ hear any voting information on voter education?

Exposure to Voting Information

- There is no gender difference in access to information on voting.
- Regionally, a greater percentage (84%) of residents of Central region heard or saw voter information as compared to other regions.
- The Coast region had the least access to voter information with only 43% saying they had seen or heard of any information.



Q: Prior to last year's general elections, did you see/ hear any voting information on voter education?

Exposure to Voting Information

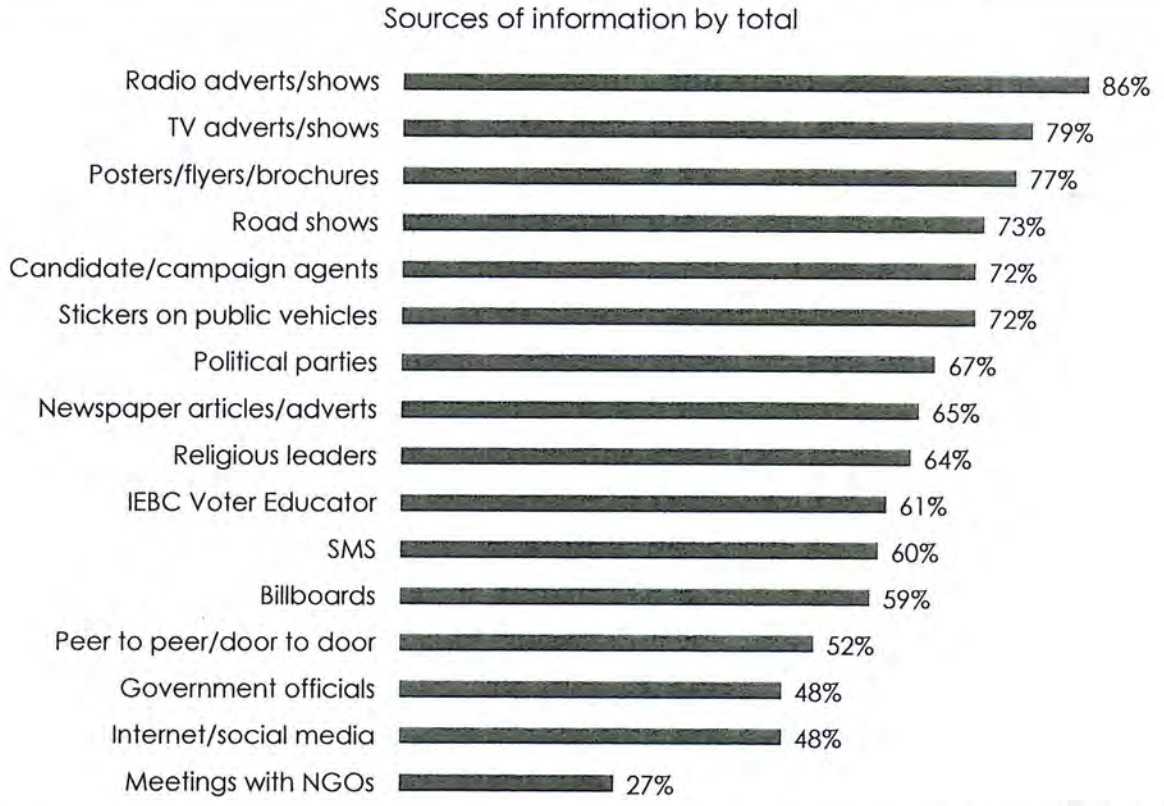
- All regions and gender remember seeing or hearing information on how to register to vote. There is low spontaneous recall of messages on vote counting , tallying and announcement of results .

	Total	Respondents Gender		Region							
		Male	Female	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western
Base	1432	696	736	244	92	223	155	52	147	368	151
How to register to vote	73%	73%	74%	78%	78%	74%	76%	78%	77%	68%	69%
The process of voting	61%	64%	58%	72%	49%	62%	66%	36%	68%	62%	42%
The location of your polling station	36%	39%	33%	44%	50%	41%	35%	27%	27%	31%	34%
The role of IEBC	29%	32%	26%	35%	44%	23%	27%	26%	44%	24%	16%
The rules for voting	28%	30%	27%	34%	34%	27%	32%	27%	25%	26%	24%
How to check your registration details	27%	28%	26%	26%	29%	37%	37%	8%	25%	22%	25%
Functions of elected leaders	9%	12%	7%	16%	12%	7%	10%	3%	14%	8%	3%
To stop hate speech on elections	7%	8%	6%	9%	7%	9%	10%	3%	9%	4%	5%
Counting, tallying and announcement of results	4%	4%	4%	7%	2%	3%	9%	0%	2%	3%	4%
To stop violence against women candidates	3%	3%	2%	4%	1%	3%	4%	0%	4%	2%	2%

Q: What key information about voting do you remember hearing or seeing?

Sources of Information on Voter Education

- Radio adverts is the leading source of voting information. This is followed by use of TV adverts and posters with 79% and 73% respectively.
- With high levels of trust attributed to voters, the effectiveness of road shows and peer-to-peer engagement, with a majority reporting receiving information in this form, is worth further examination.
- Although 77% of respondents received information from campaign agents, they appear to be the least trusted.



Base: Total 2248

Q: Several sources of information were used to educate voters on the 2017 elections. Please tell me whether you received information from these sources or not ..../.

Sources of Information on Voter Education

- A greater proportion of residents in all regions claim to have received information on voter education through radio adverts /Radio shows. However, TV adverts were have a higher incidence in Central region while Posters had more mentions in Nyanza region.

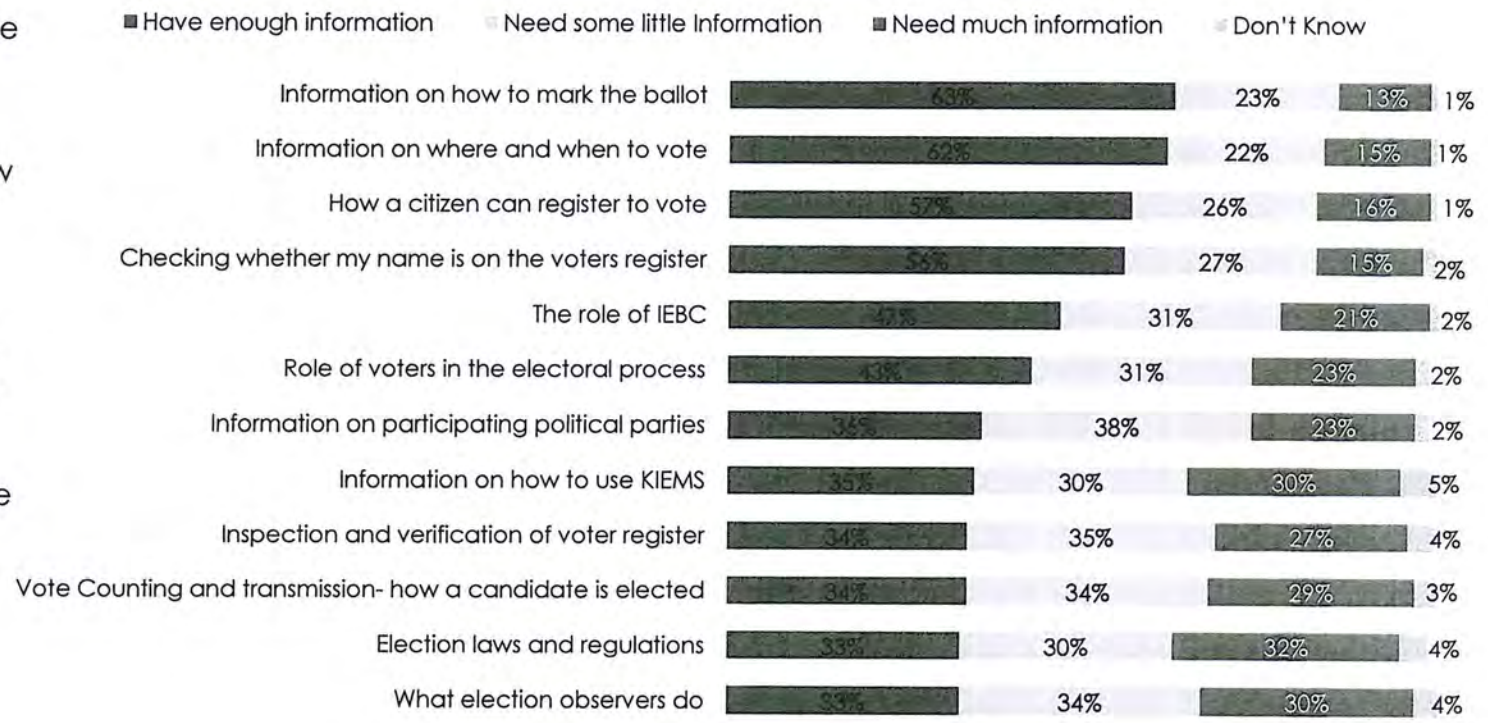
	Total	Male	Female	Central	Coast	Eastern	Nairobi	North Eastern	Nyanza	Rift Valley	Western
Base	2248	1095	1153	292	213	333	234	107	292	550	227
Radio adverts/Radio shows	86%	88%	85%	91%	72%	83%	88%	82%	89%	88%	92%
TV adverts/ TV shows	79%	83%	75%	94%	67%	74%	90%	70%	78%	77%	77%
Posters/flyers/brochures	77%	79%	75%	81%	56%	75%	75%	60%	90%	79%	81%
Road shows	73%	74%	71%	74%	43%	73%	76%	49%	81%	76%	88%
Candidate/Campaign Agents	72%	76%	69%	80%	47%	61%	77%	76%	82%	71%	83%
Stickers on public service vehicles	72%	76%	68%	79%	43%	64%	79%	73%	77%	77%	75%
Political parties	67%	71%	63%	76%	55%	56%	67%	67%	74%	66%	75%
Newspaper- articles/ads	65%	73%	57%	63%	45%	51%	79%	84%	72%	69%	66%
Religious leaders	64%	64%	64%	68%	35%	64%	64%	65%	72%	65%	73%
IEBC Voter Educator	61%	64%	57%	69%	40%	57%	63%	82%	62%	61%	62%
SMS	60%	65%	55%	54%	43%	49%	54%	89%	78%	59%	66%
Billboards	59%	63%	55%	60%	42%	58%	58%	46%	67%	61%	69%
Peer –to peer/door to door engagement	52%	55%	49%	50%	42%	50%	48%	49%	65%	50%	59%
Government officials	48%	50%	45%	48%	44%	38%	35%	55%	59%	50%	54%
Internet based adverts/digital/social media	48%	55%	41%	43%	29%	41%	66%	72%	63%	48%	34%
Meeting with NGOs	27%	31%	24%	21%	29%	26%	14%	36%	41%	28%	27%

Q: Several sources of information were used to educate voters on the 2017 elections. Please tell me whether you received information from these sources or not …./.

Information Gaps

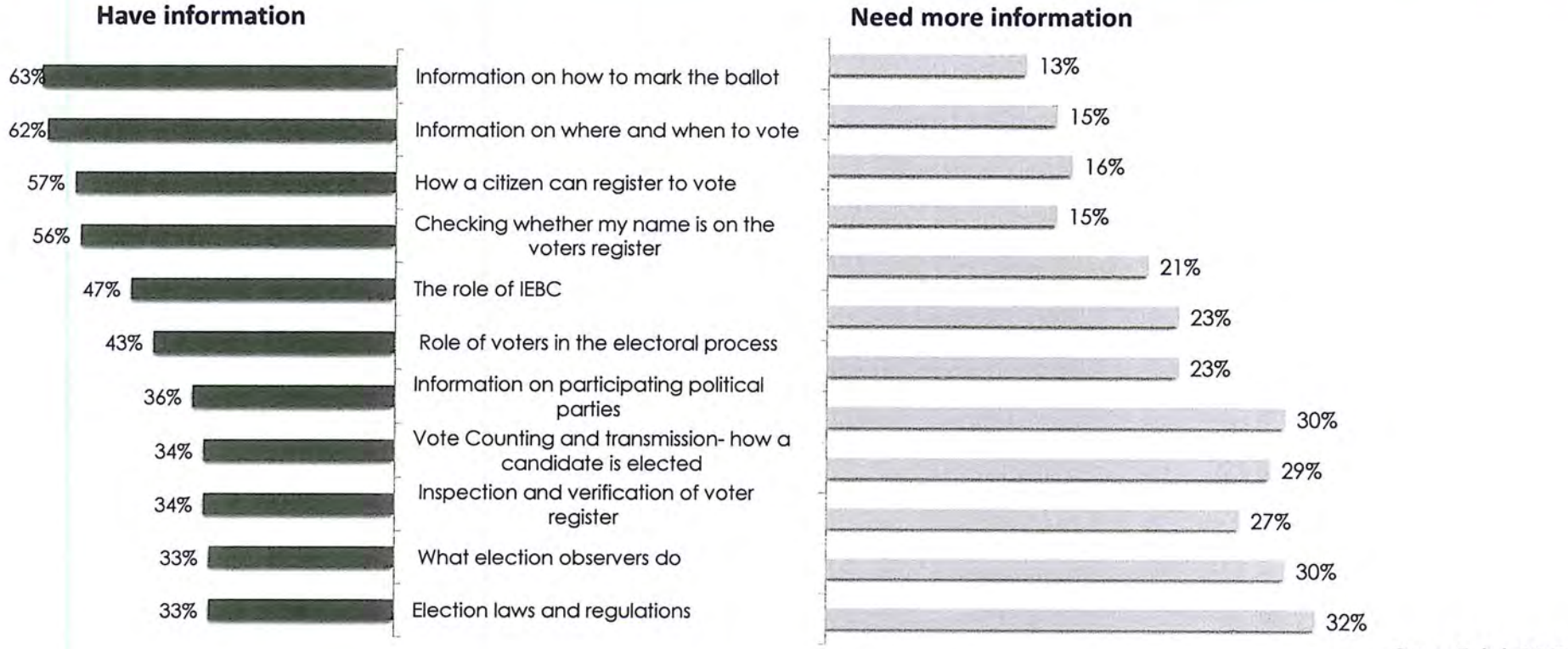
- A significant percentage of respondents are knowledgeable on where to vote, how to register to vote and how to mark the ballot.
- However, more is needed to educate voters on election laws and regulation, how to use KIEMS, voter counting and transmission and the role of election observers.

Information on aspects of election process- By Total



Q: Please tell me whether you have enough information, need some more information, or need much more information on the following aspects of the Election process

Information Gaps

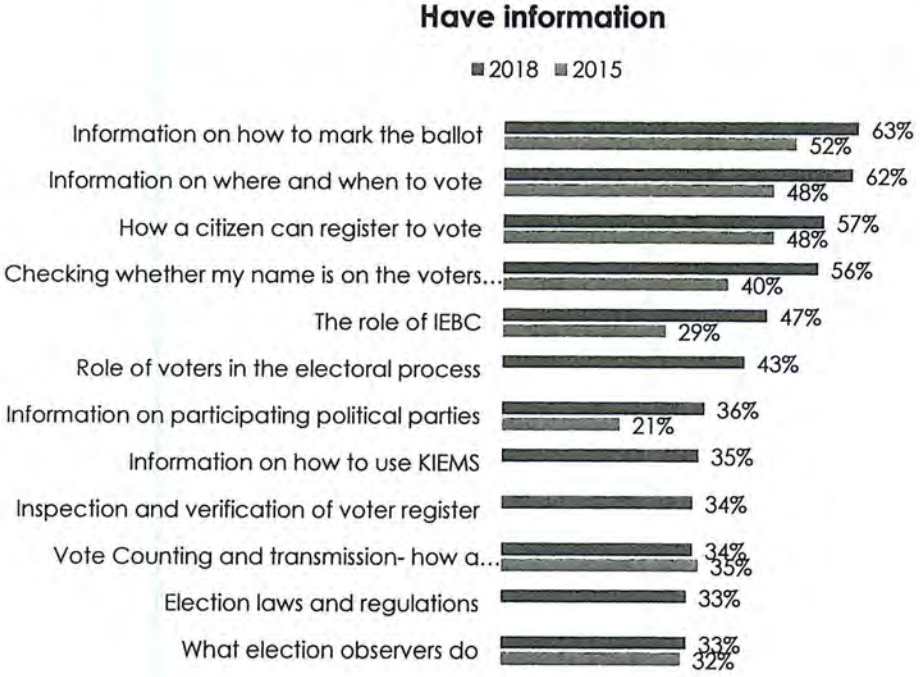


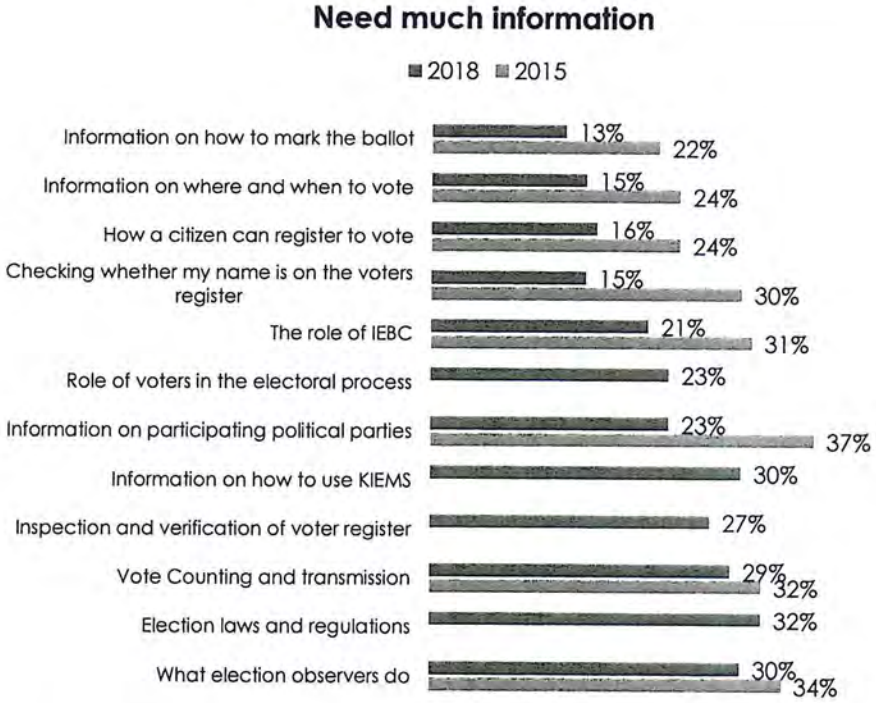
Base: Total 2248

Q: Please tell me whether you have enough information, need some more information, or need much more information on the following aspects of the Election process

Information Gaps in Comparison to 2015

- The access to information on the election process has improved in some areas and decreased in some areas.





Q: Please tell me whether you have enough information, need some more information, or need much more information on the following aspects of the Election process

Section Summary

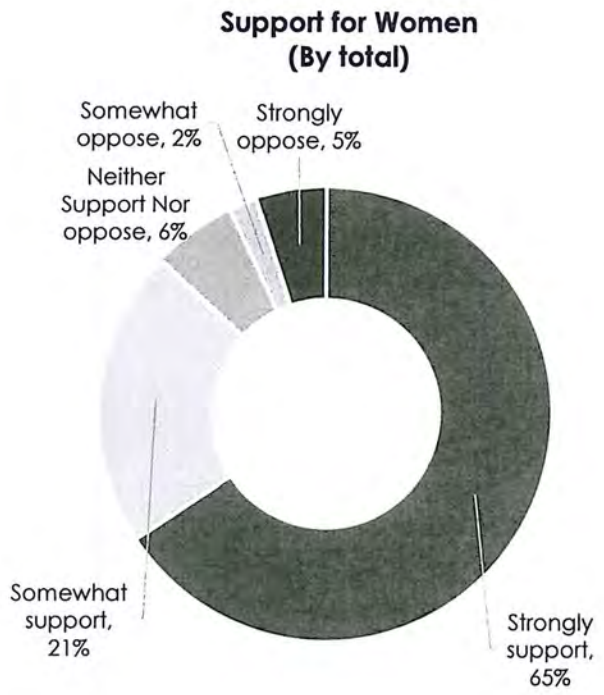
- The surveyed respondents have either a great or fair amount of information on the Kenyan election process which is attributed to the voter education.
- Over half of respondents were exposed to (either heard or saw) voting information. Central region had high access to voter education as compared to other regions. Coast region had the least access to voter information.

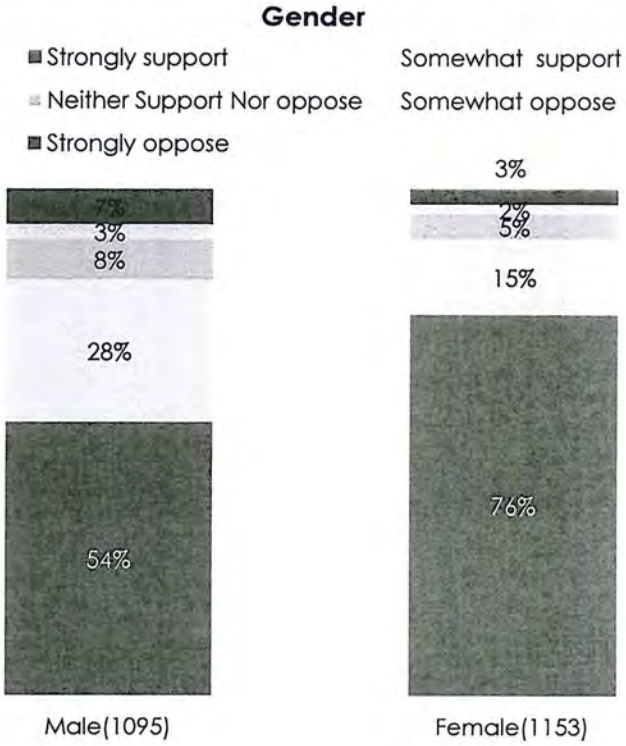
- Radio/TV adverts and brochures/flyers were the leading source of information on voting.
- Respondents are knowledgeable on where to vote, how to register to vote and how to mark the ballot. This is an indication of voter education that has been effective.
- There are information gaps in voting and there is need to educate voters on election laws and regulations, how to use KIEMS kit, vote counting, transmission and the role of election observers.

Women's Participation in Politics

Support for Women as Political Leaders

- An overwhelming majority of respondents support women as political leaders.
- Support is higher amongst female respondents as compared to male respondents, although 82% of male respondents support women as leaders, with a high amount who strong support at 54%.





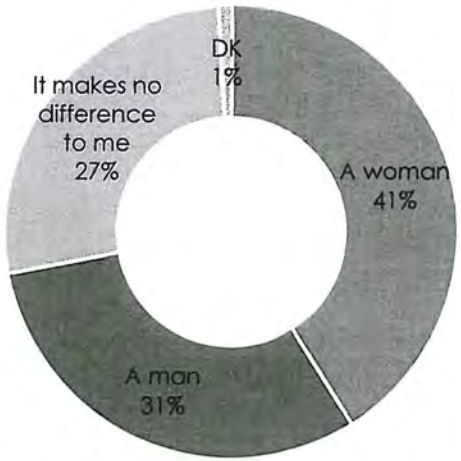
Base: Total 2248

Q: To what extent do you support women as political leaders?

Male vs. Female Legislator

- Over a quarter of voters report gender of a candidate makes no difference, demonstrating a low level of bias in voting preference.
- Coupled with the desire to vote for a woman candidate being greater (41%) than preference toward a male candidate (31%), there is a strong value of women serving in public office.
- There is greater support among women for female legislators as compared to men at 54%.

Male vs Female Legislator Preference



Base: Total 2248

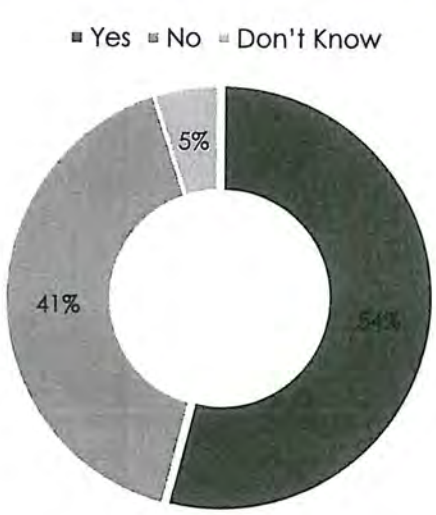
By Gender

Q: If a male legislator and a female legislator were equally qualified, would you prefer to have a woman or a man represent you in elected office or would it not make a difference to you?

Awareness of 2/3 Gender Rule

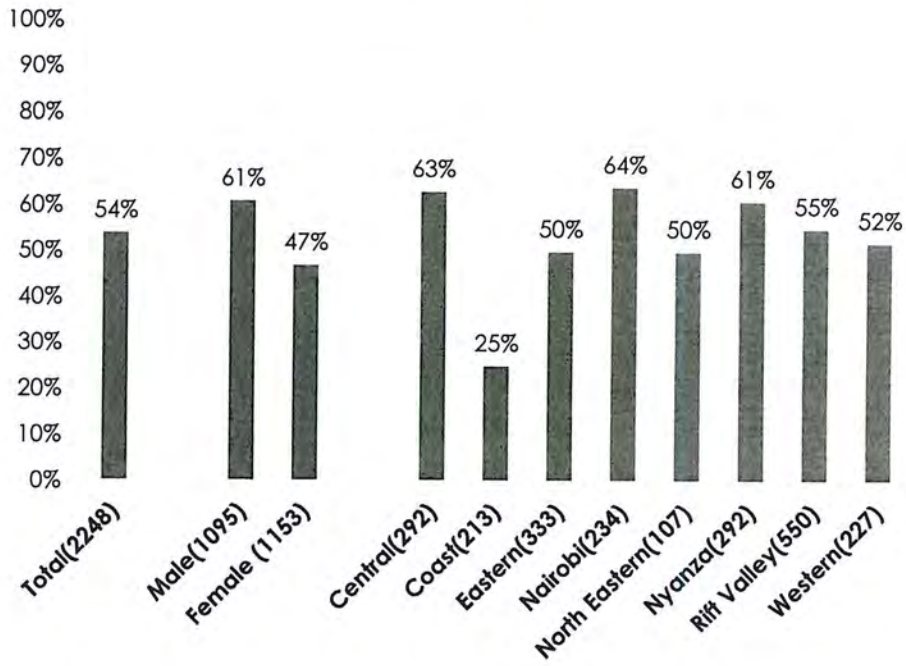
- Slightly over half (54%) of the surveyed respondents are aware of the 2/3 gender rule.
- Region wise, the 2/3 gender rule awareness is highest in Nairobi and Central regions with the least awareness being cited in Coast region.
- Awareness is higher in males as compared to the females.

Awareness of the 2/3 gender rule- By Total



Base: Total 2248

% Aware of the 2/3 gender rule

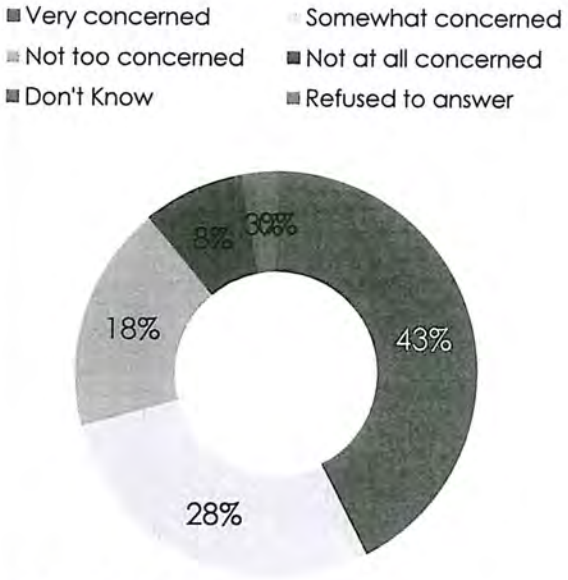


Q: Are you aware of the 2/3 gender rule?

Concern on Kenya Meeting 2/3 Gender Rule

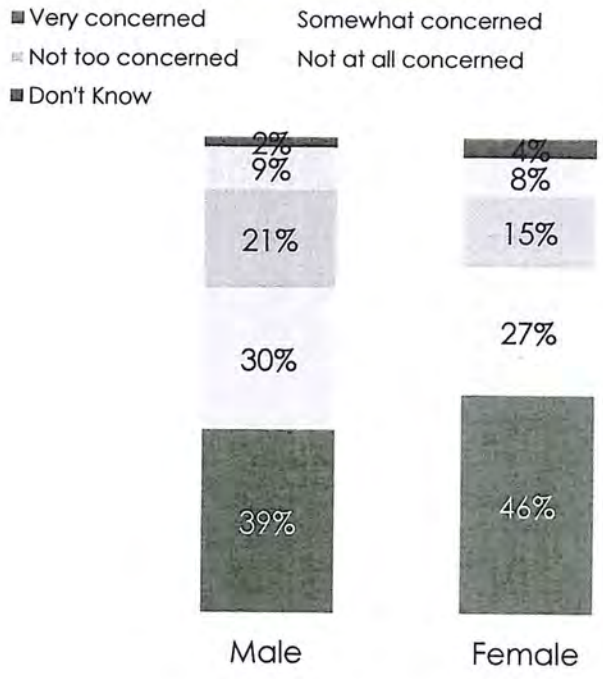
- The majority (71%) of respondents are concerned about Kenya not meeting its constitutional obligation to ensure that there is no more than 2/3rd of any one gender in elected or appointed positions.
- The concern is higher amongst the female respondents.

Response By Total



Base: Total 2248

Response By Gender

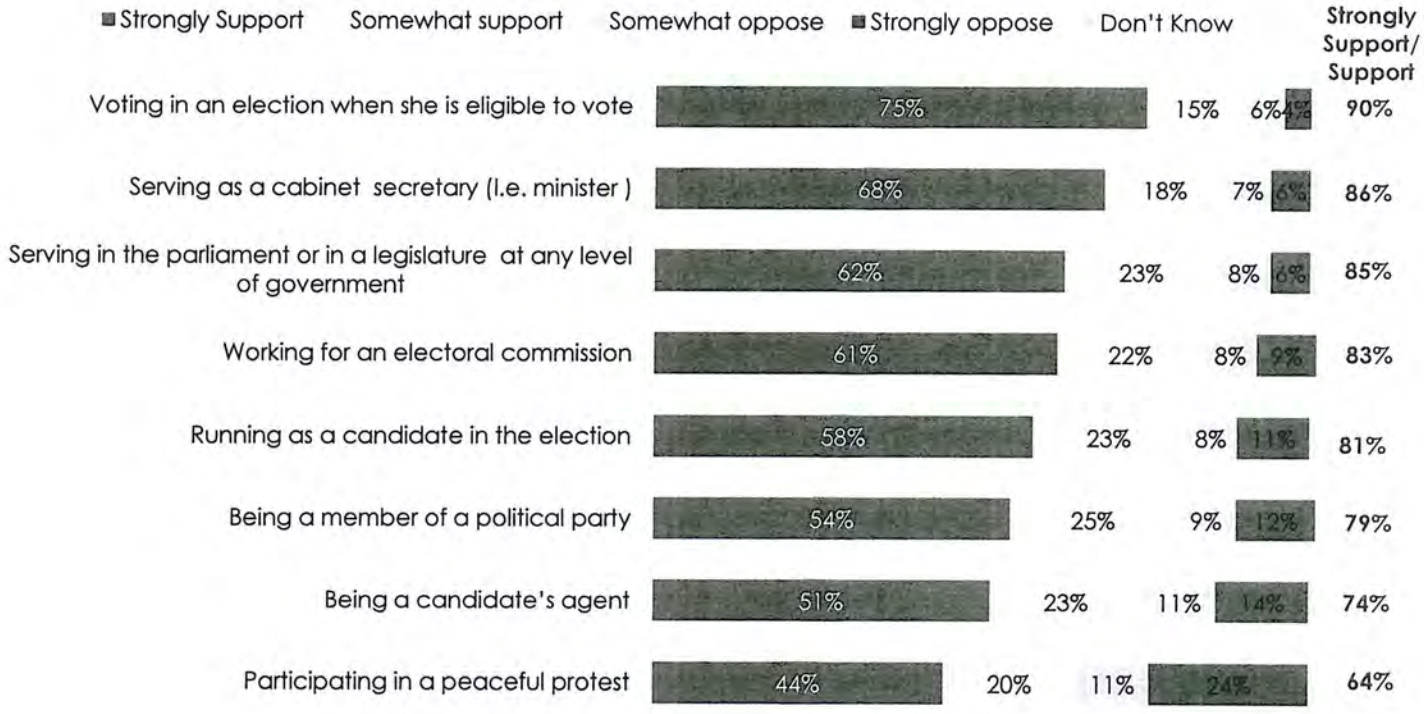


Q: How concerned are you that Kenya is not meeting its constitutional obligation to ensure that there is no more than 2/3rd of any one gender in elected or appointed positions?

Support for Women in Political Roles

- There is a high level of support and intensity around women's role in politics in a variety of positions.
- Support for women in leadership roles is highest for voting and serving as a cabinet minister.
- The lowest support is for women taking part in protests and being a candidate's agent, although both are strongly supported.

Support for a Daughter taking on the following roles – by Total

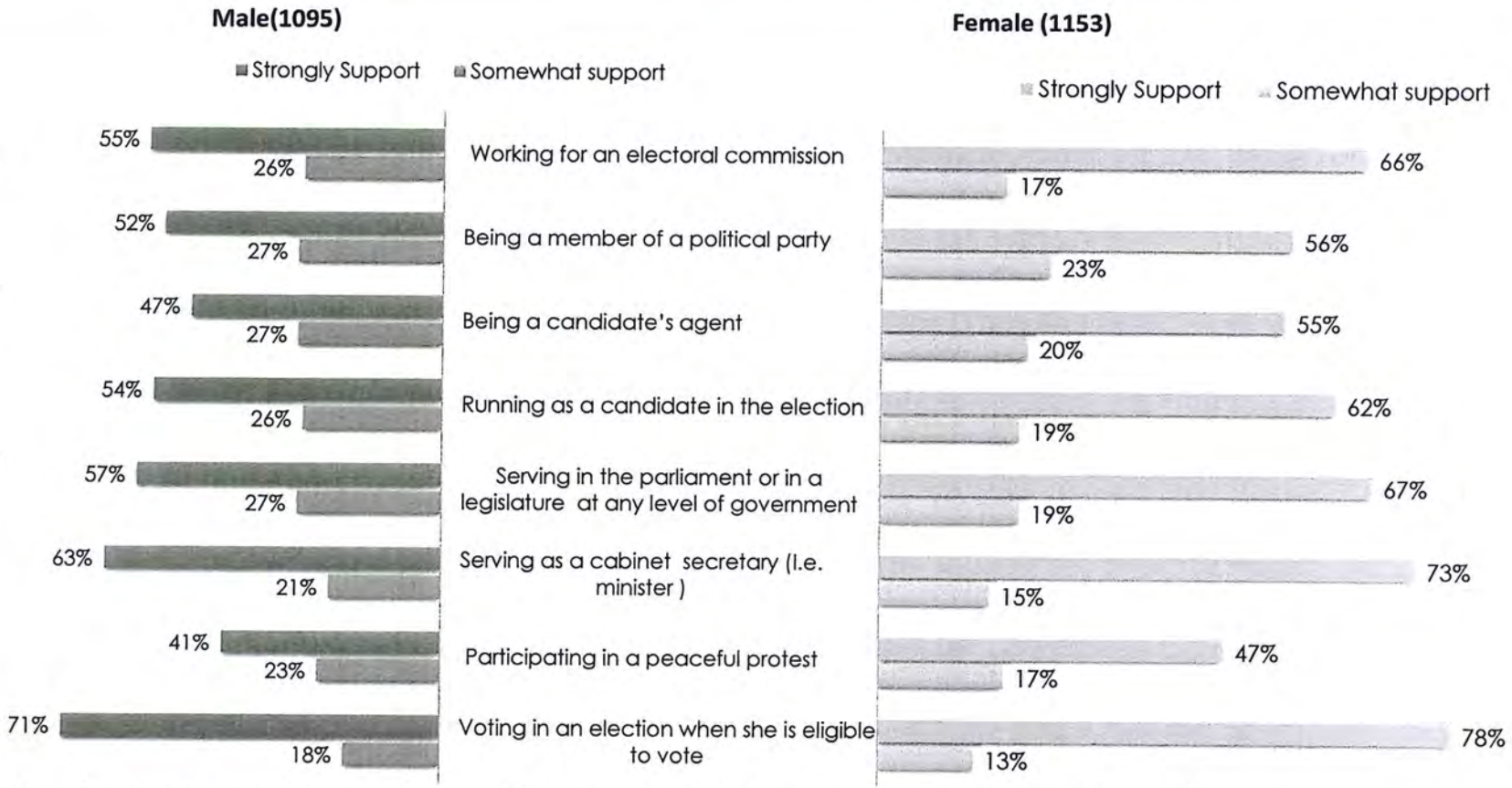


Base: Total 2248

Q: Would you strongly support, somewhat support, somewhat oppose, or strongly oppose your daughter taking on the role?

Support for Women in Election Roles

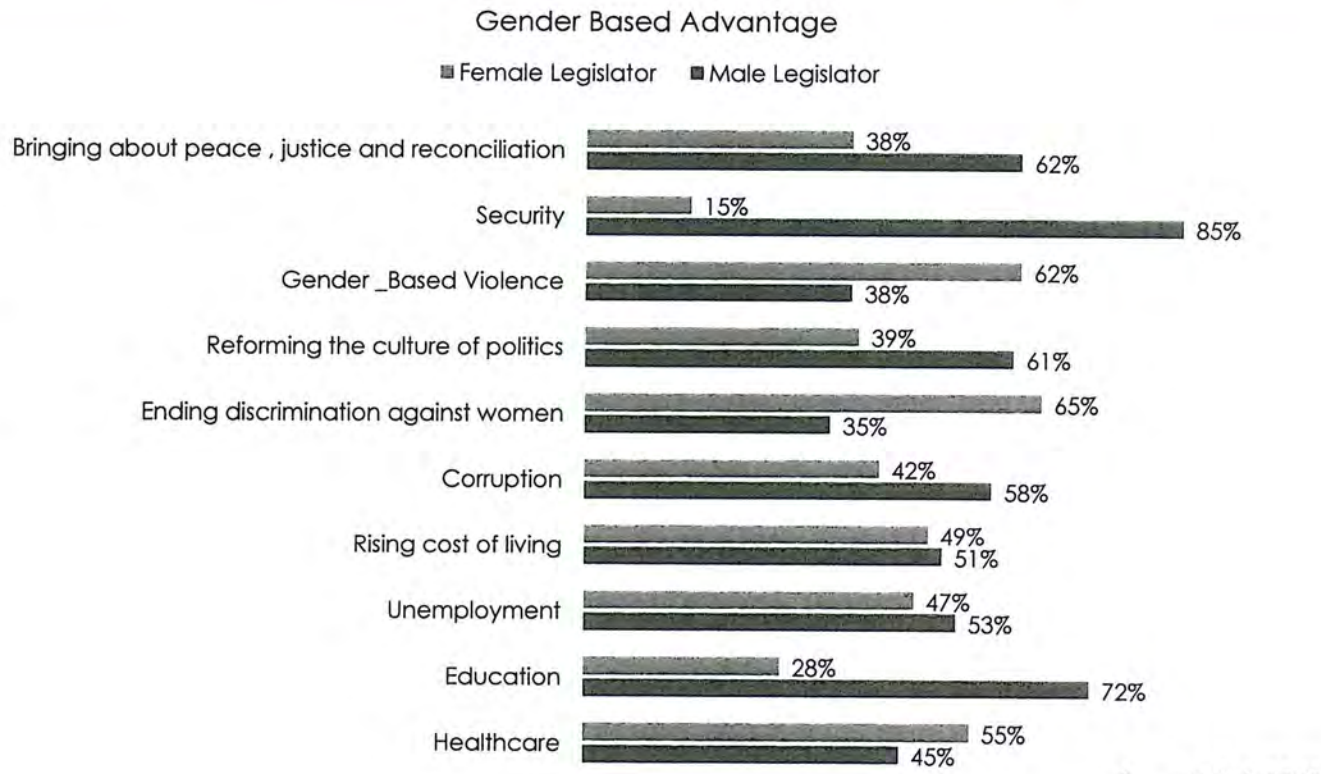
- There is high support for women taking various roles in elections by both male and female respondents.



Q: Would you strongly support, somewhat support, somewhat oppose, or strongly oppose your daughter taking on the role?

Gender-Based Issues Advantages

- Male legislators are most preferred to handle peace, justice and reconciliation, security, reforming the culture of politics, corruption, and education.
- Female legislators are believed to be better able to handle healthcare, ending discrimination against women and handling gender- based violence issues.
- There is less of a gender gap in issue advantages around handling the rising cost of living and unemployment.

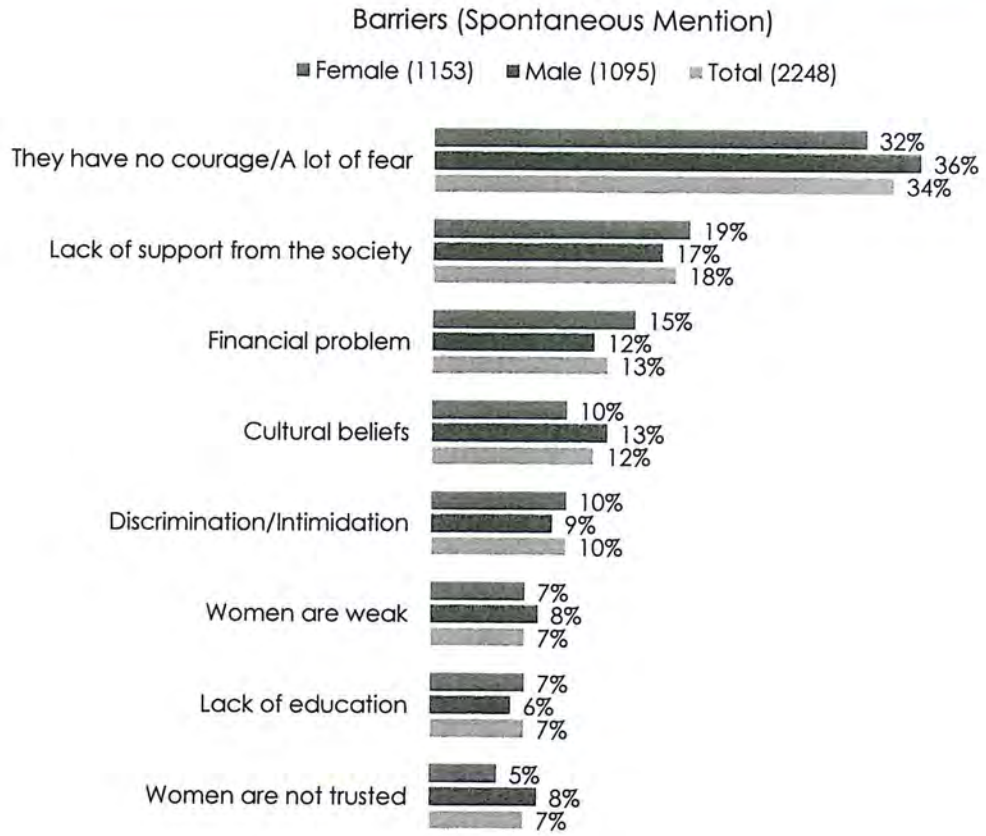


Base: Total 2248

Q: I would like you to tell me whether you think a a_male legislator or _a female legislator would better handle …

Barriers for Women Running as Political Candidates

- Respondents cite fear as one of the key factors inhibiting women from running as political candidates in political races. Other mentioned reasons include the lack of perceived support from society, financial problems and cultural beliefs.
- There are marginal differences between the perceptions of male and female respondents on the barriers to women running for political office.
- Personal attributes of women as being less trusted, lacking education or being weak leaders is not perceived to be a major barrier for participation.



Interventions For Women To Run For Political Office

- There is a strong support for a variety of interventions to support women in running for political office.
- The highest support is for women getting equal and fair coverage in the media followed by political parties supporting women to develop connections (linkages).

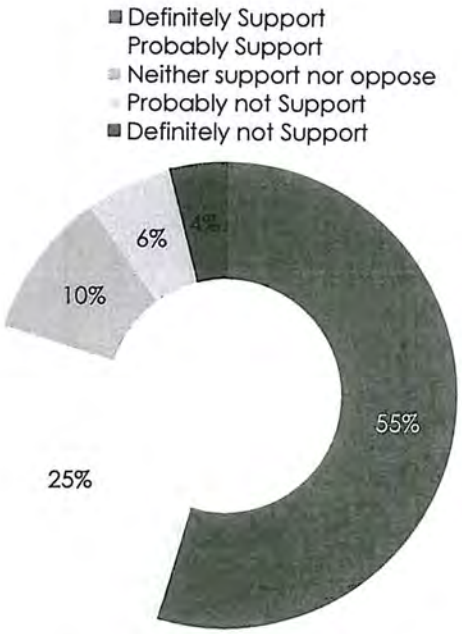
Base: Total 2248

Q: In order to increase the number of women who run for political office. Please tell me, to what extent do you agree or disagree with the following …?

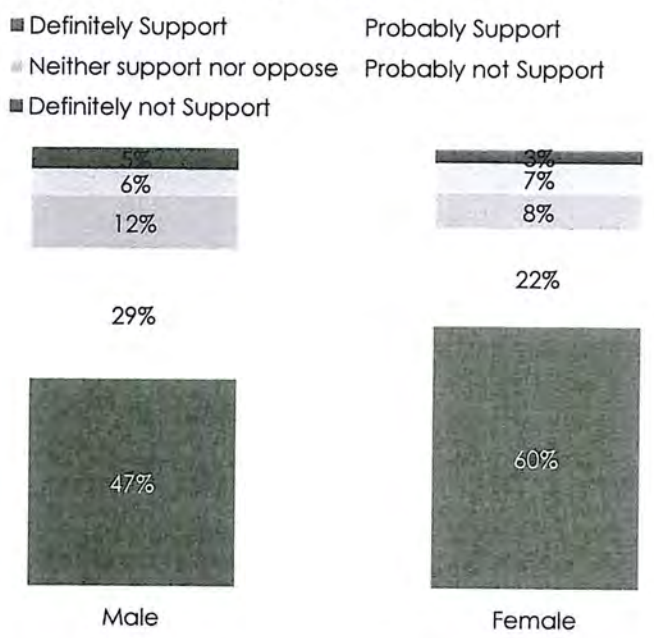
Impact of Political Party Commitment To Supporting More Women Candidates

- An overwhelming majority of respondents would support a political party if it made a commitment to have more women candidates.
- The level of support for political parties who have a commitment to have more women candidates is higher amongst female respondents as compared to males.

By Total



By Gender

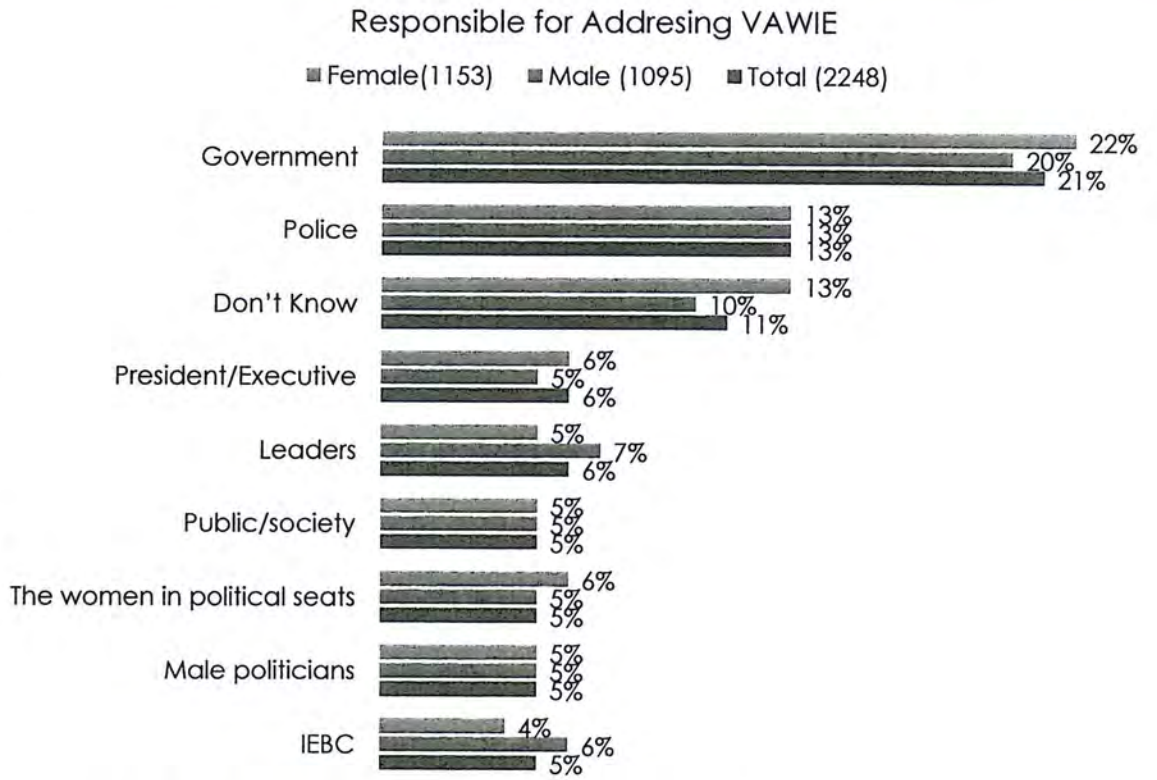


Base: Total 2248

Q:Would you be more likely to support a political party if it made a commitment to have more women as candidates?

Responsibility for Addressing VAWIE

- To address Violence Against Women in Election (VAWIE), a higher proportion of respondents believe it is the responsibility of the government.
- The police are ranked second in having a role to play in addressing VAWIE.
- Quite a significant percentage of respondents do not know whose role it is in addressing VAWIE, demonstrating a need for more education and awareness.



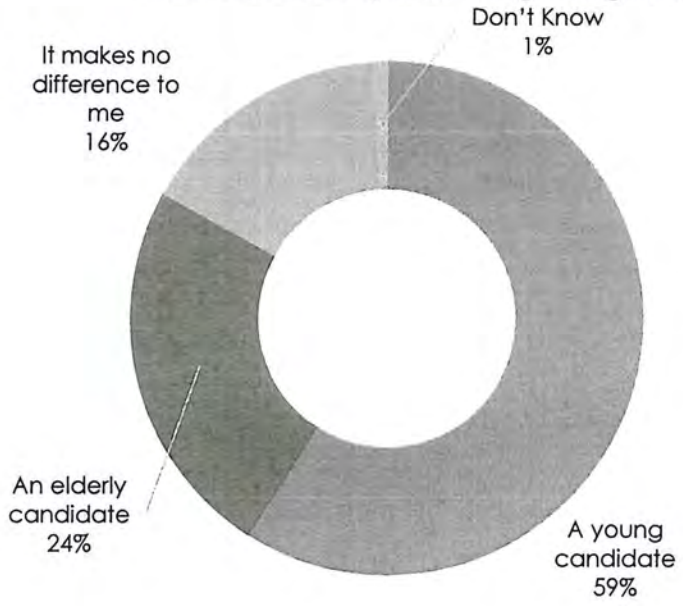
Q: Who do you hold responsible for addressing violence against women in elections?

Youth Participation in Politics

Legislator Preference : Old vs. Young

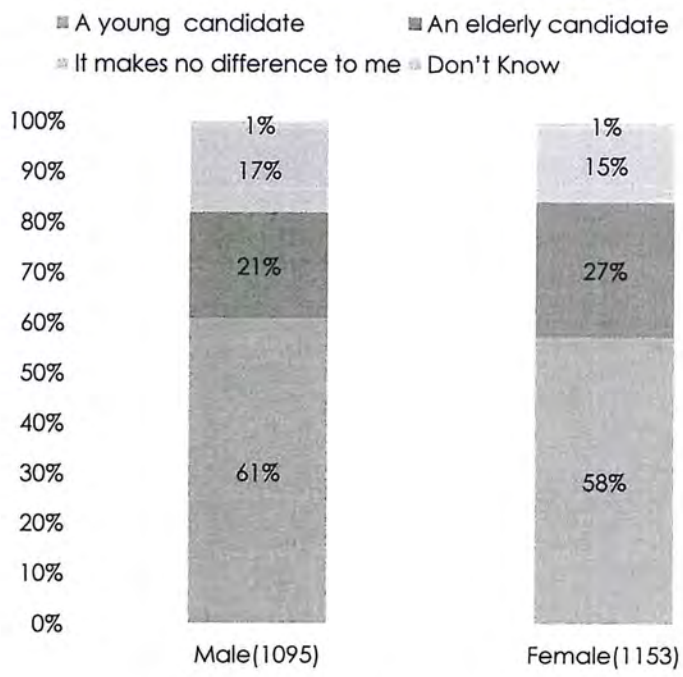
- Over half of Kenyans would prefer a young legislator.
- More male respondents compared to female would prefer youthful representation.

Preference of a youth or aged legislator



Base: Total 2248

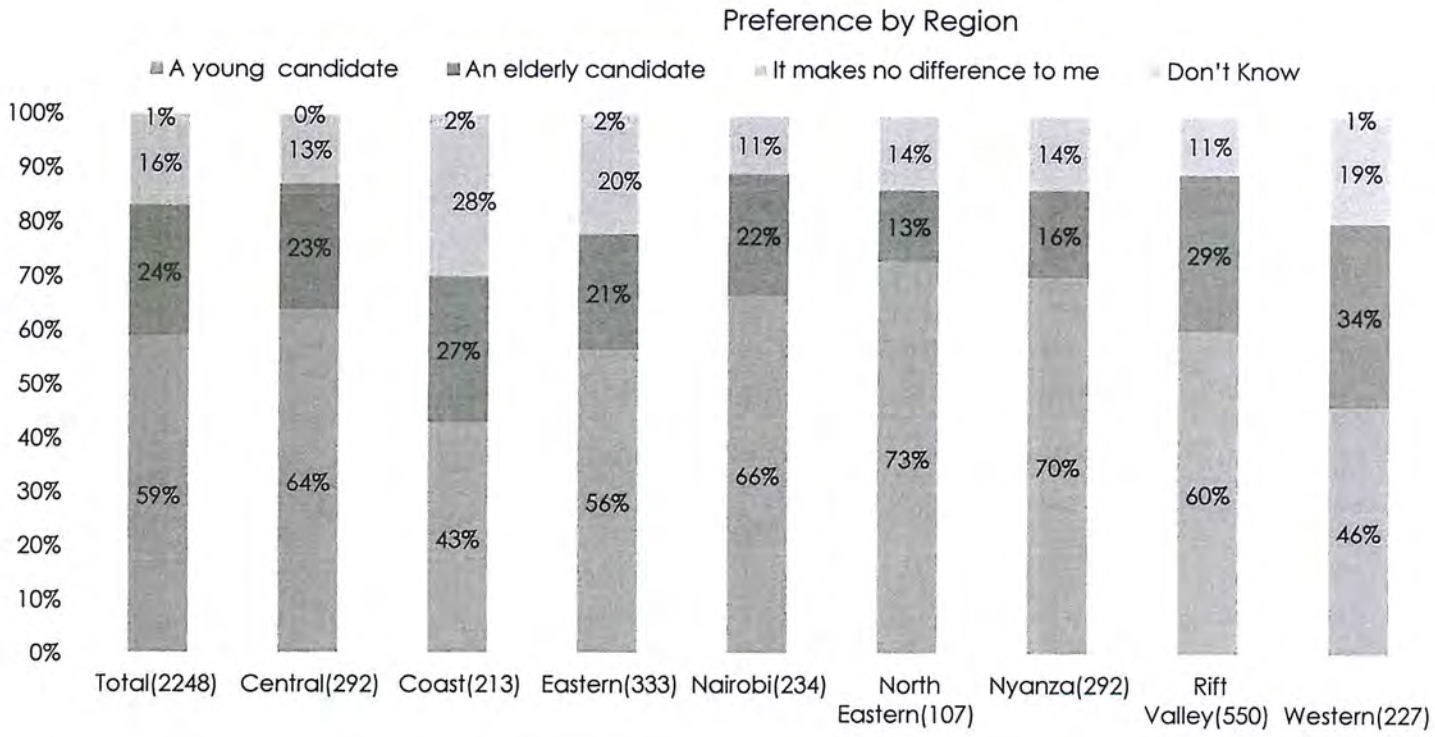
Preference for Youth or Elderly Legislator



Q: Would you prefer to have a youth or an aged legislator to represent you in parliament or would it not make a difference to you?

Legislator Preference: Old vs. Young

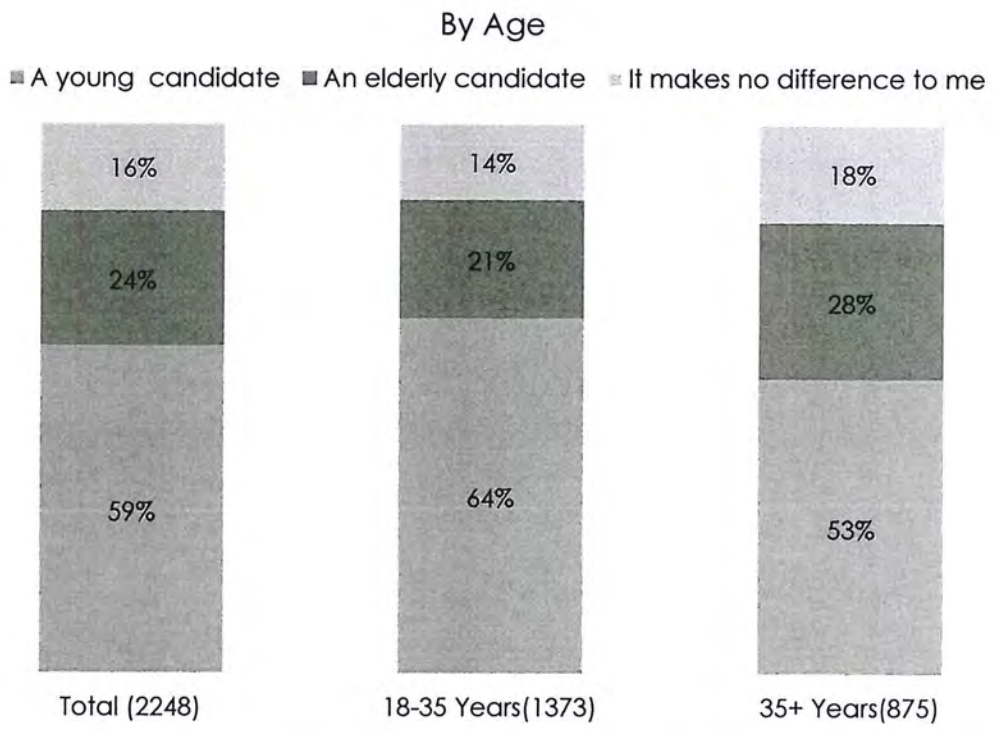
- The preference for a young candidate is highest in North Eastern, Nyanza and Nairobi as compared to other regions.
- The lowest support for youthful legislators is from Coast and Western regions.



Q: Would you prefer to have a youth or an aged legislator to represent you in parliament or would it not make a difference to you?

Legislator Preference: Old vs. Youth

- A higher proportion of youth would prefer their fellow youth representing them in parliament as compared to the older respondents.

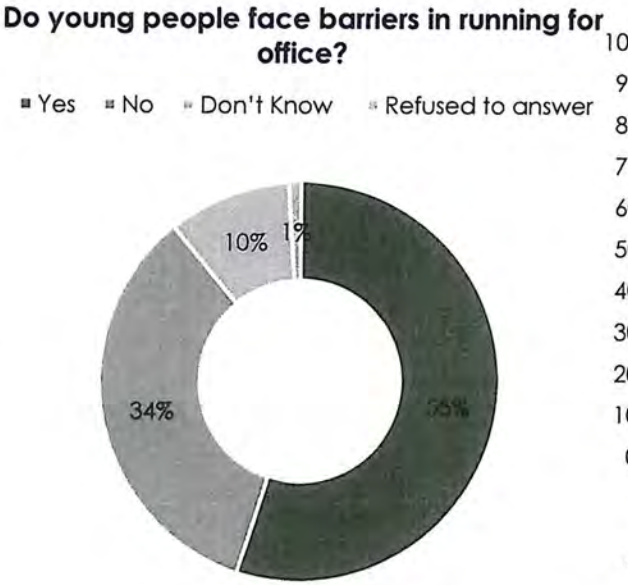


Q: Would you prefer to have a youth or an aged legislator to represent you in parliament or would it not make a difference to you?

Incidence of Barriers Facing Youth

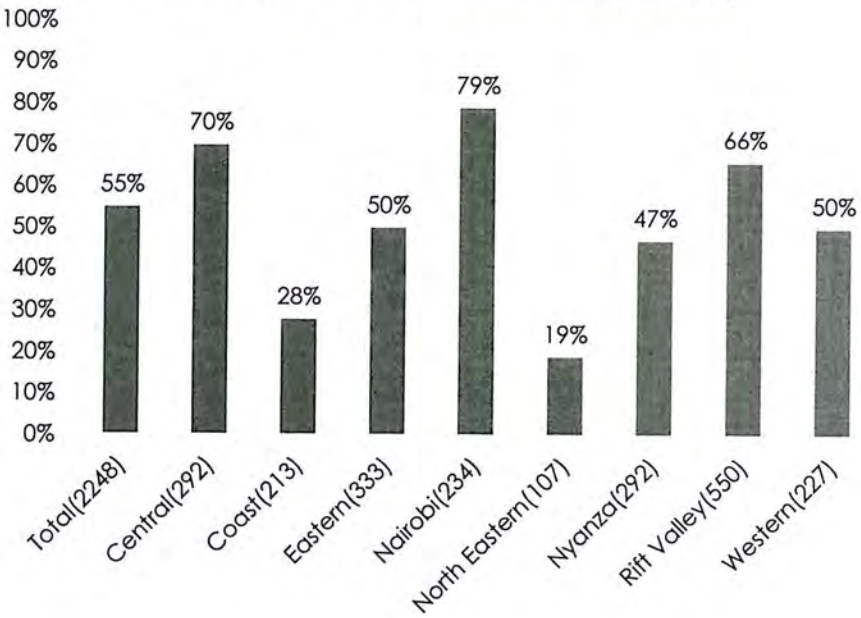
- Over half of respondents have the perception that the young people face barriers in running for office. This was cited by more respondents in Nairobi, Central and Rift Valley regions.
- Less than a third of respondents in Coast and North Eastern feel that the youth face barriers when running for political office.

Do young people face barriers in running for office?



Base: Total 2248

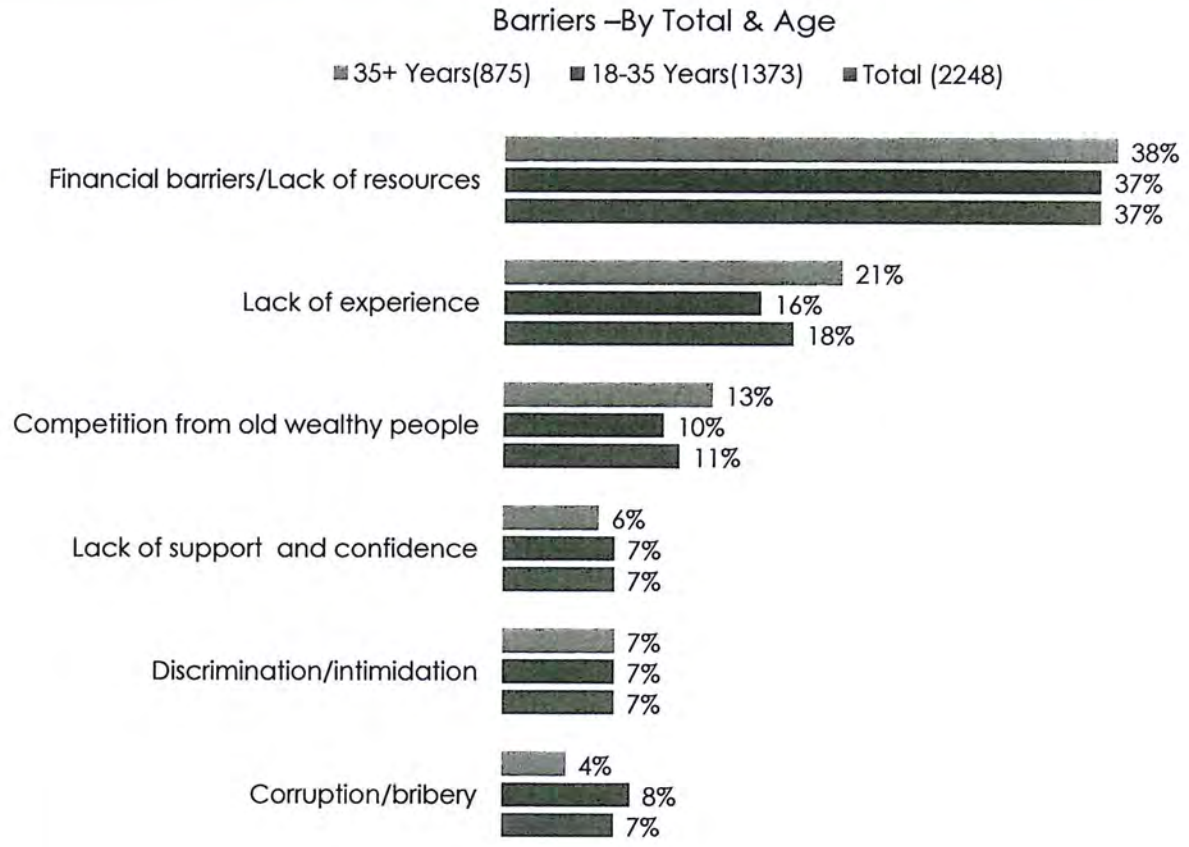
% Who feel youth face barriers (By Region)



Q: Do young people face barriers in running for office? What type of barriers ?

Barriers Faced By Youth

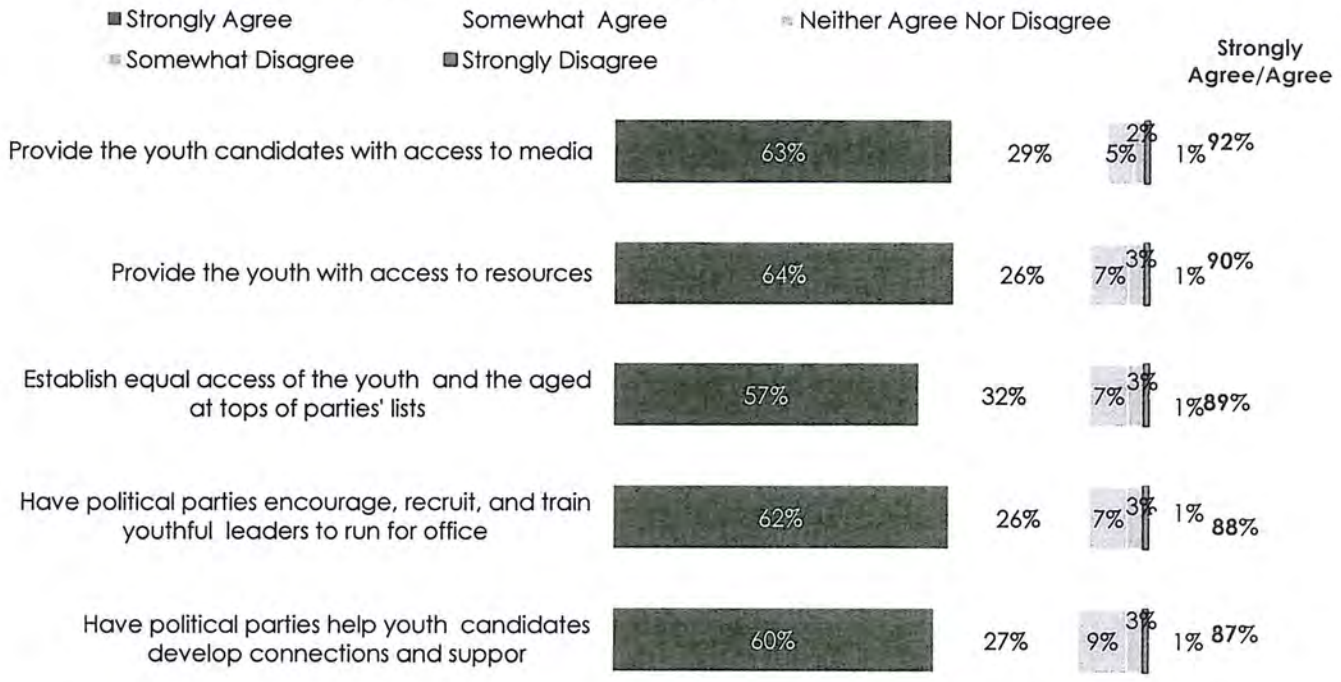
- Finances top the list of the barriers facing the youth running as political candidates and the mentions for this are similar across old and young respondents.
- Lack of experience as a barrier has more mentions amongst older respondents aged 35+ years.



Supporting Youth in Politics

- Giving youth access to the media followed by access to resources are cited as top support requirement for running for office.

Support for youth running for political office



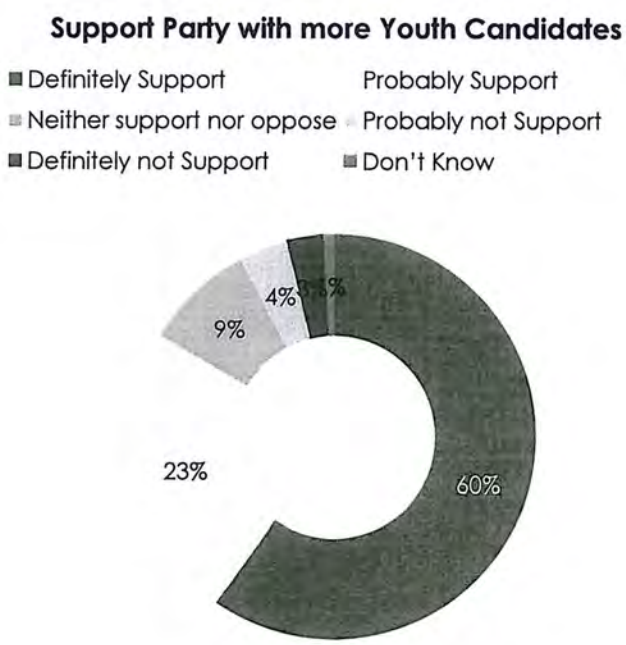
Base: Total 2248

Q: In order to increase the number of YOUTH who run for political office. Please tell me, to what extent do you support or oppose the following?

Political Party with More Youth Candidates

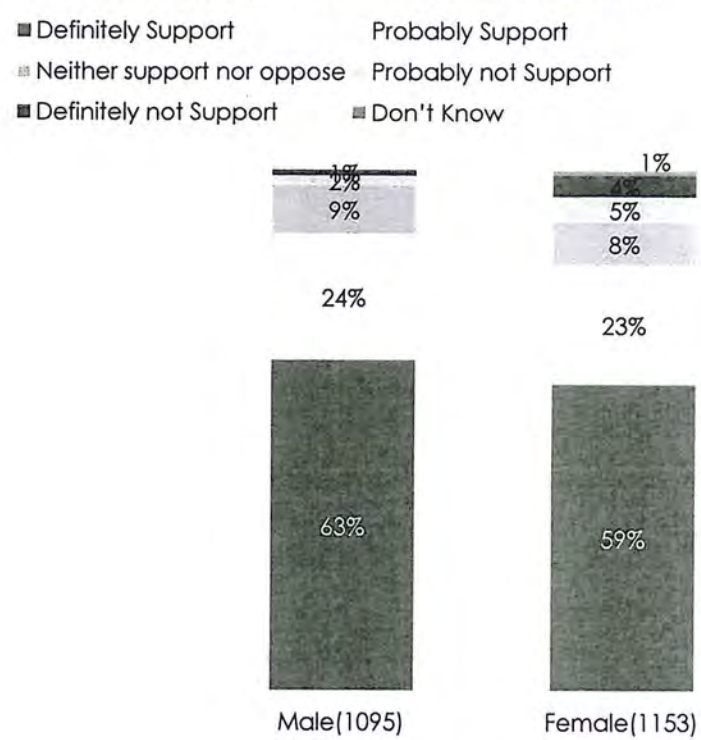
- The majority of respondents would support a political party with more youth as candidates.
- This view is shared amongst both male and female respondents.

Support Party with more Youth Candidates



Base: Total 2248

Support For Party With More Youth Candidates



Q: Would you be more likely to support a political party if it made a commitment to have more YOUTH as candidates?

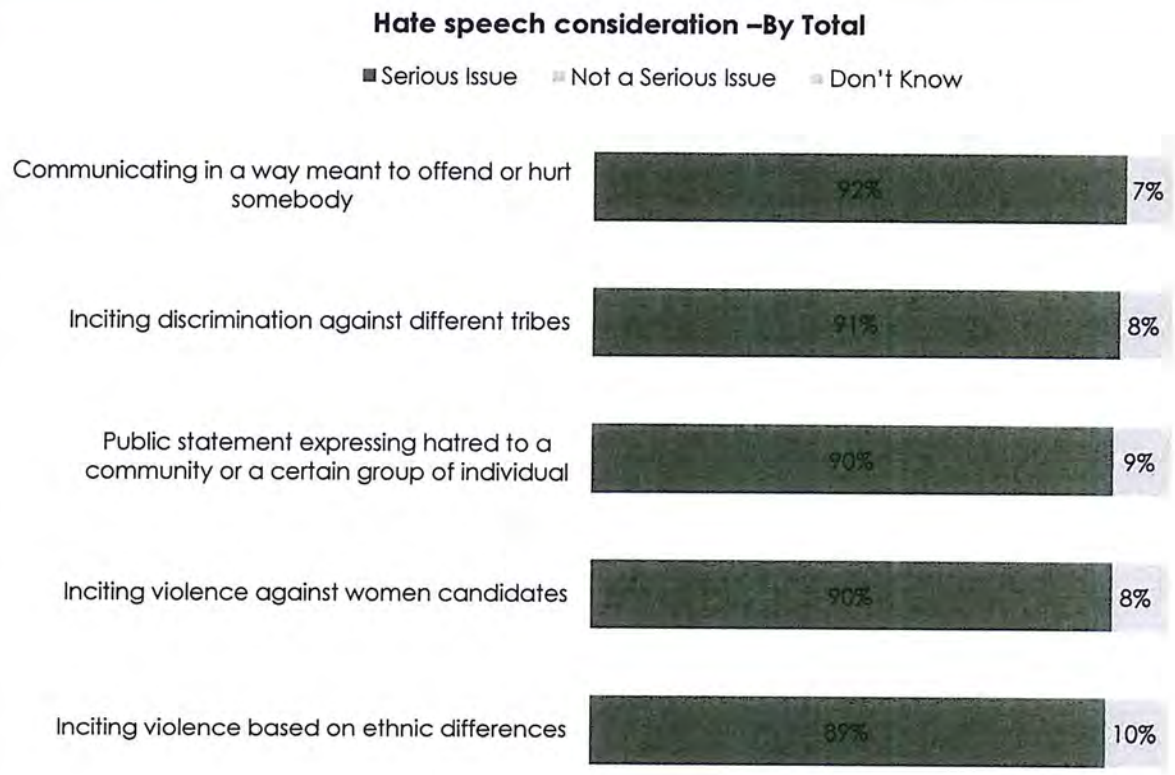
Summary

- The majority feel that there is not enough youth representation in elected offices.
- Over half of respondents would prefer a youth legislator as compared to an older legislator.
- Lack of finances is the to barrier of youth not running as political candidates in political positions.
- The majority of respondents would support a political party with more youth as candidates.
- Messages focusing on youthful energy and entrepreneurial spirit are most appealing.

Hate Speech

Understanding of Hate Speech (prompted)

- Hate speech is considered to be a serious issue and respondents appear to be extremely concerned about it.
- Amongst issues considered to be hate speech include communicating in a way to offend or hurt somebody.



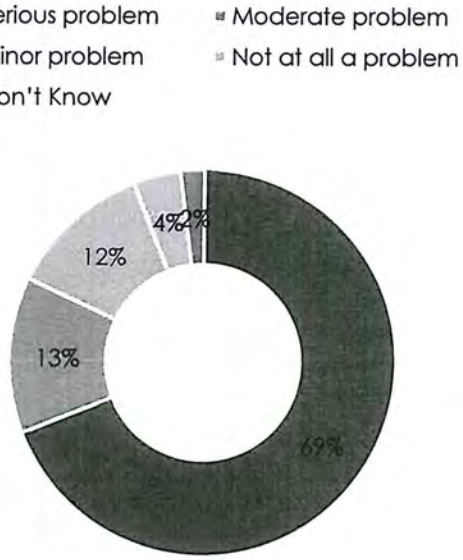
Base: Total 2248

Q: Please tell me whether you consider this to be a serious issue or not?

Hate Speech in Elections

- During the election period, hate speech was considered to be a serious problem by a majority of the respondents.
- This view was common amongst both male and females.

Hate speech in elections



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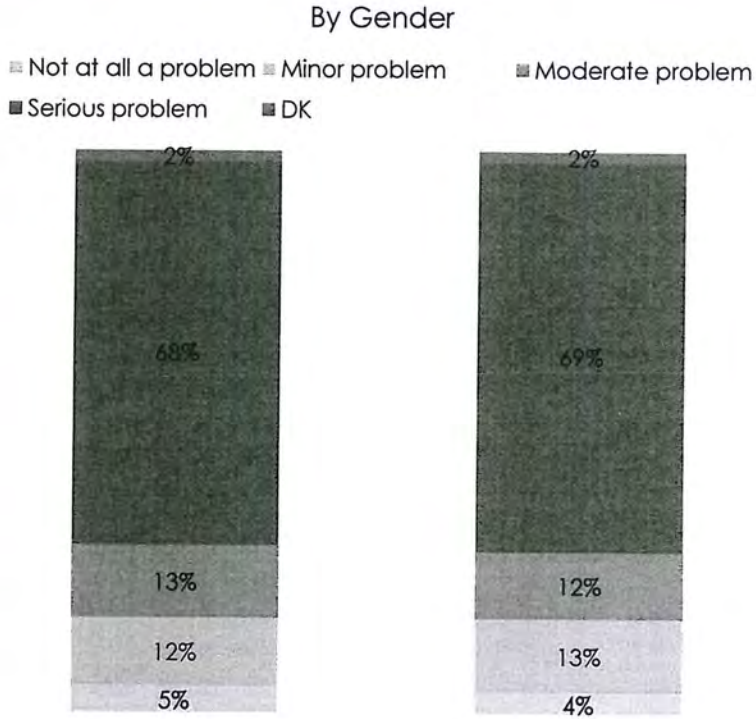
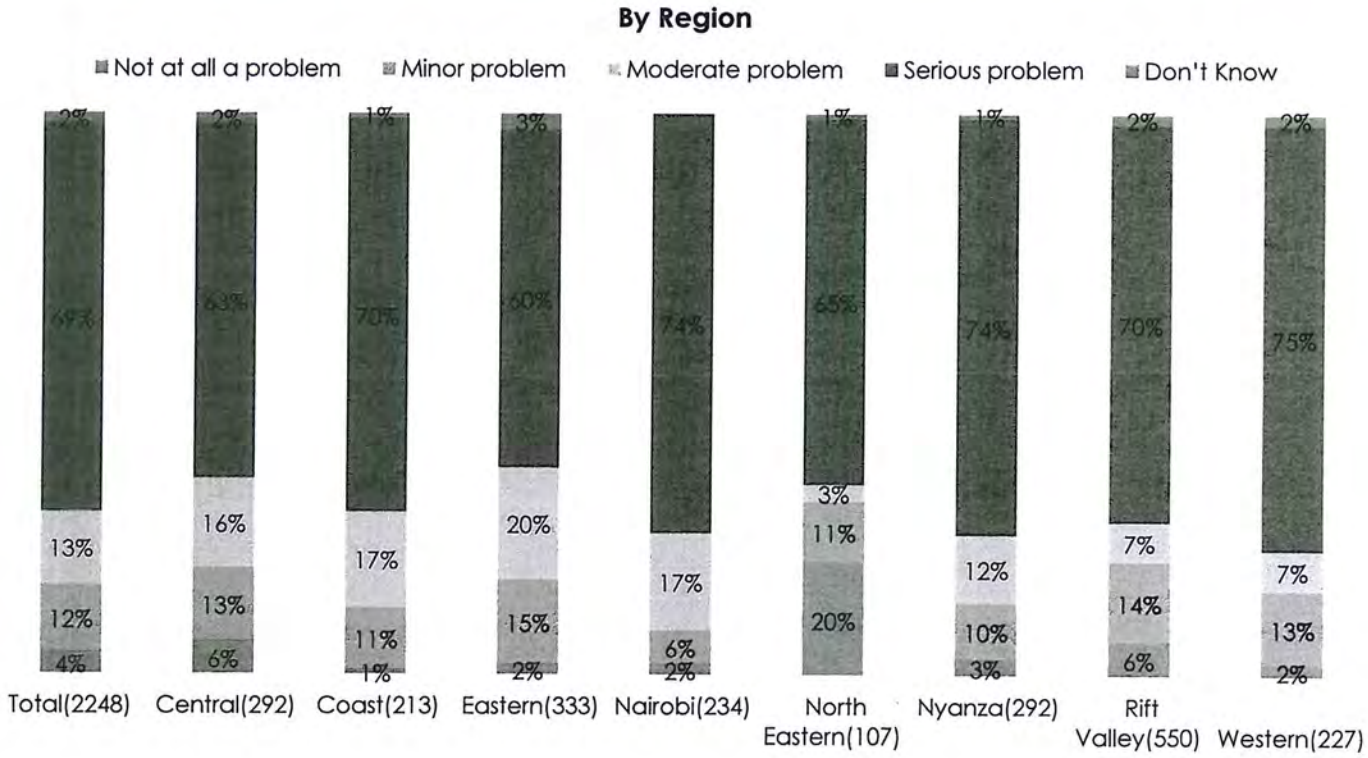
By Gender



Q: To what extent do you think hate speech was a problem during the election period? Would you say it was…

Hate Speech in Elections

- Over 70% of residents in Western, Rift Valley, Coast, Nairobi and Nyanza regions were of the view that hate speech was a serious problem to them during the electioneering period.

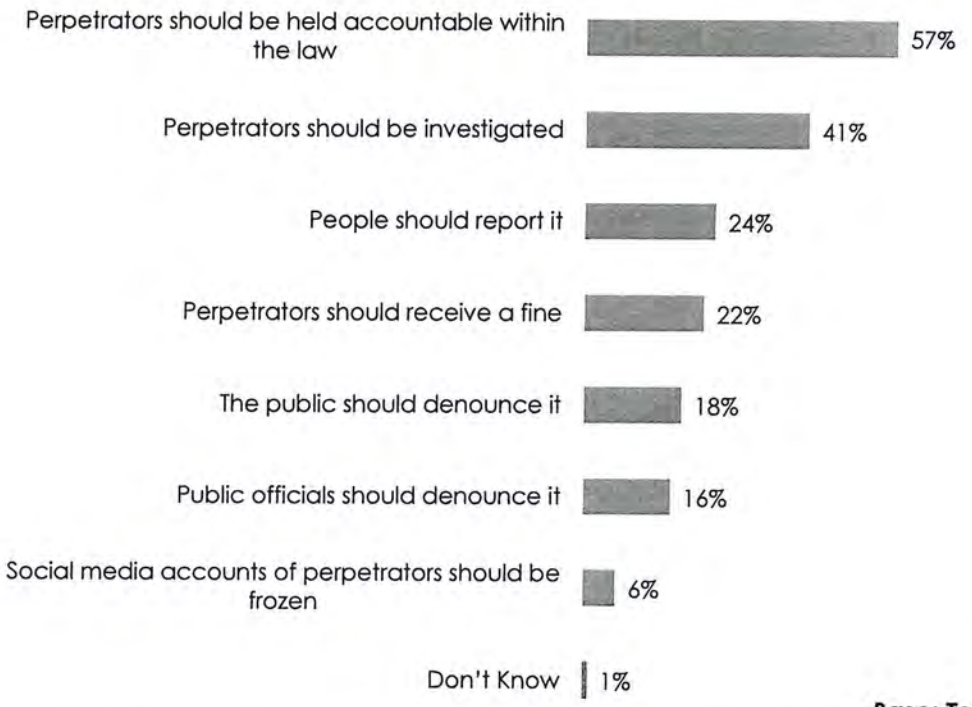


Q: To what extent do you think hate speech was a problem during the election period? Would you say it was…

Punishment for Hate Speech Offenders

- The majority (57%) of respondents want perpetuators of hate speech held accountable within the law while 41% would like them to be investigated.
- Only 6% of Kenyans would like the social media accounts of perpetuators frozen.
- Denunciations by public officials or the public were less cited as a recommended action.

Actions against Hate speech offenders – By Total



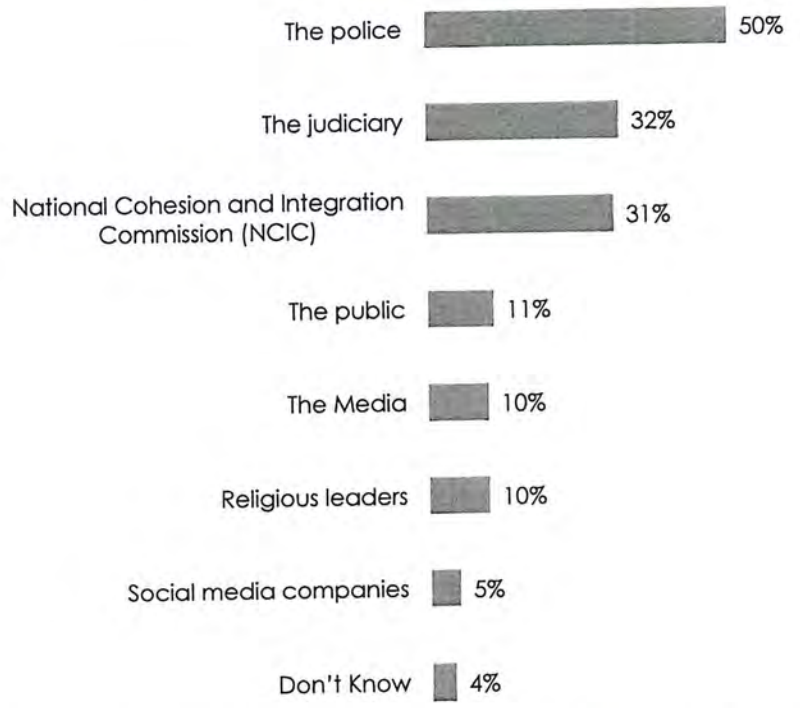
Base: Total 2248

Q: What actions should be taken by relevant authorities or the public against hate speech

Enforcements Agents for Hate Speech Offenders

- Half of the respondents hold the police accountable for anti-hate speech enforcements followed by the judiciary and NCIC.
- An insignificant percentage (5%) hold social media companies accountable for the anti hate speech enforcements.

Accountable for enforcing anti-hate speech enforcements



Q: Who do you hold accountable for anti-hate speech enforcements?

Base: Total 2248