



ABRIDGED CHARTER OF INCLUSION

Introduction & background

Understanding the Charter of Inclusion

The Charter of Inclusion is a formal document calling for the state and non-state actors to adhere to and fully implement the constitutional rights, entitlements, and liberties of women, youth, and persons with disabilities for the promotion of inclusion in the electoral, political and governance processes in Kenya. The overall goal of the charter is to contribute to the building of a just, inclusive and democratic society, founded on an informed and empowered citizenry who are drivers of transformative change.

Constitutional Underpinning for the Charter of Inclusion

The Charter of Inclusion was developed against the background of growing national concern of the continued disenfranchisement of women, youth, Persons with Disabilities (PWDs) and marginalised communities based on culture, practice or the absence of appropriate infrastructure that would facilitate their inclusion in electoral, political and governance processes. This is despite the Constitution of Kenya 2010 in various articles spelling out the aspirations of the people of Kenya for an inclusive government.

Article 10(2)(a) provides for National Values and Principles of Governance which include among others participation of the people, human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, and protection of the marginalised. Article 27(1), (3) and (8) provides that every person is equal before the law and has the right to equal protection and equal benefit of the law; that women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social spheres; and that there can be no more than two thirds of the same gender in any elective or appointive public bodies. Article 38 on political rights and Articles 54, 55, 56, 81(b) and (c) and 100 also contemplate inclusive governance.

Article 54 provides for PWD rights to reasonable access to all places, public transport, and information, rights to use sign language, Braille or other appropriate means of communication,

access to materials and devices and progressive implementation of the principle that at least five per cent of the members of the public in elective and appointive bodies are persons with disabilities.

Articles 55 and 56 provide that the state shall put in place affirmative action programmes designed to ensure youth, minorities and marginalised groups participate and are represented in governance and other spheres of life and that they are provided with special opportunities to access employment, education and economic fields.

Further, Article 100 provides that the Parliament shall enact legislation to promote the representation in parliament of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities.

It is against this background that the marginalised groups have committed themselves to demand for adherence to constitutionalism and the rule of law by main-streaming gender equality and inclusiveness in electoral, political and governance processes in Kenya. We recognise the intersectionality of marginalisation and exclusion and hence these demands are not to be regarded as mutually exclusive to individual institutions. It will take deliberate concerted and coordinated efforts of all duty bearers and rights holders to see to it that the rights, privileges and protections provided in the various legal statutes are finally realised.

Why a Charter of Inclusion

The Charter of Inclusion is important because it is an advocacy tool to ensure that governance processes are inclusive so that they can effectively serve and engage all people; take into account women, youth and persons with disabilities and other marginalised communities; and ensure that state institutions, and governance policies, processes, and services are accessible, accountable and responsive to all members of society. By promoting inclusive governance we counteract the practices and forces that produce inequality and exclusion.

Rationale and justification

The rationale for the development of the Charter of Inclusion is to provide a practical standardised advocacy and accountability mechanism for rights holders targeting state and non-state actors on inclusion and equality mainstreaming in electoral, political and governance processes in Kenya.

GOAL

Adherence to constitutionalism and ensure inclusion and equality mainstreaming in leadership and governance processes and structures in Kenya.

Approach to the Charter of Inclusion Implementation

The Charter of Inclusion is to be implemented through making specific calls to the respective duty bearers and following up on actions towards its implementation. This will entail:

- Making calls from rights holders, for action by state actors
- Making calls from rights holders, for action by non-state actors
- Mobilisation and coordinated efforts by rights holders through their representatives

Appreciating that the calls for adherence, even when addressed by the respective state and non-state actors may not immediately deliver the changes desired, the Charter of Inclusion

is considered a living document of progressive movement towards inclusion and equality mainstreaming beyond the 2022 general elections.

Due to the intersectionality, there is a need to form a multi-sectoral, technical working team consisting of Civil Society Organisations-CSOs, Faith Based Organisations-FBOs, and Private sector representatives to coordinate the push for the demands to be met. For those calls that are specific to a particular segment of the marginalised groups and marginalised communities, a lead CSO will be responsible for presenting the demands and continuously following up (tracking) its implementation.

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Participative process of development of the Charter

The Charter of Inclusion is a result of a consultative and participative engagement of the duty bearers and the rights holders.

Our call to action

A Call to main-streaming of inclusion and equality in electoral, political and governance processes; no one should be left out in electoral, political and governance processes.

Inclusion must be recognised and acknowledged as a measure of credibility of the electoral, political and governance processes in Kenya.

1. **On Sidelining:** the weighty matter of "inclusion of the marginalised groups and marginalised communities" must be conclusively addressed as it is a constitutional imperative and a key national value.
2. **On Intersectionality:** commitment to addressing the vulnerability and drivers of exclusion combined and avoiding a "silo" approach of both the state and non-state actors and rights holders so as to drive a more harmonious approach in implementing the constitutional milestones for each category of marginalised groups.
3. **On Implementation:** Commitment to implementing the necessary legislative frameworks on equality and inclusion provisions as per Article 100 in the constitution 2010, especially with regards to women's inclusion and the application of not more than two-thirds gender rule.
4. **On the Negative Image and Misuse of "Affirmative Action" Provisions in the Constitution:** Commitment to avoid justifying the exclusion of any of the marginalised groups. For instance, the provision for the election of Women County Representative as being deemed "enough for women" and is hence used to sanitise the exclusion of women in other elective opportunities; abusing the provision of nomination of youth slots for nepotism and cronyism; the nomination of "un-vetted PWDs" and ignoring some categories of PWDs while further marginalising them as "unsuitable for political roles".
5. **On pervasive discrimination and exclusion of PWDs:** Commitment to ensuring access to knowledge and information useful for their participation in the electoral, political and governance engagement by state actors. This included provision of information in the legally recognised and accessible languages, formats and technologies to secure access as their fundamental constitutionally guaranteed rights. Ensuring that all information is available in accessible media print (English, Kiswahili, braille), Kenyan Sign Language, and audio.
6. **On Youth Inclusion and Participation:** Commitment to develop a clear and comprehensive strategy and pathway (institutions) to buttress youth inclusion Ratify the African Youth Charter and domesticate it in Kenya. Have a more cohesive approach by youth serving organisations.

Our commitment as rights holders

We, the marginalised groups and communities, are cognisant that legal instruments are insufficient on their own to realise the inclusion of marginalised groups in public and political processes. We therefore commit to

urgently raise our collective voices for collaborative efforts to realise our aspirations and ensure that all relevant state actors grant our rights and entitlements.

We wish to acknowledge the participation and support of Kenya Human Rights Commission, CARE-K, FEMNET, OXFAM, Global Affairs Canada, AMWIK, Badili Africa, Young Women Leaders Connect, UoN WEE Hub, Feminist for Peace Rights and Justice Centre, and the Coast Association for Persons Living with Disabilities together with like minded collaborators to ensure that political and governance processes are inclusive."



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