

**MEMORANDUM ON THE POLITICAL PARTIES (AMENDMENT) BILL 2021**

**PRESENTED TO**

**THE SENATE**

**THE TWELFTH PARLIAMENT (FIFTH SESSION)**

**SUBMITTED TO**

**CLERK OF THE SENATE**

**PO BOX 41482-00100, NAIROBI**

**IN THE MATTER OF CONSIDERATION BY THE SENATE OF THE POLITICAL  
PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 56 OF 202)**

**M.O.N.D.A.Y., 17 J.A.N.U.A.R.Y. 2022**

**SUBMITTED BY**

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## **1.0 INTRODUCTION**

The Youth Congress is the premier youth-serving N.G.O. that provides young people with a platform to articulate their issues, explore opportunities for participation and leadership to effectively address their interests, concerns, aspiration and engage young people in the social, economic and political process for development.

The growth of the Youth Congress has in part been on account of its focus on four thematic areas: *policy & research, youth & leadership, youth entrepreneurship, talent and innovation, and institutional development*. Our objectives are exemplified through numerous projects.

For example, The Youth Congress played a key stakeholder role within the technical committee in developing the Kenya Youth Development Policy (2019). We have also embarked on convening a Youth Leagues movement by bringing together over 500 youth organizations from the 47 counties. The project seeks to organize youth voices into regional caucuses that champion youth interest by speaking as a single voice.

With the run-up to the 2022 General Elections, The Youth Congress has embarked on the Elect Youth Initiative that seeks to empower youth candidates while calling for the youth to engage in peaceful electoral campaigns.

## **2.0 BACKGROUND/ CONTEXT**

Kenya of the future is being shaped by the youth – a significant part of the country's population, collectively determining the direction and enjoyment of rights and freedoms. An analysis of the 2019 Kenya population and Housing Census reveals that at least 76% of the country's young population is young.

Kenya's young people have shown great potential in all other areas except politics, signifying that if given the correct and supportive environment, they have strong convictions that can transform this country.

Our assertions on youth involvement in politics are best exemplified by the I.E.B.C Data Report of the 2017 General Elections, which revealed that youth voters are at least 51% of registered voters, only 23% of the 2017 electoral candidates were aged between 18 and 35. Currently, only 16% of elected leaders are youth.

**We firmly believe that increased youth inclusion and participation in political institutions shall lay a firm foundation for encouraging youth participation and success in elective politics.**

The Youth Congress has reviewed and interrogated the Political Parties (Amendment) Bill (National Assembly Bills No. 56 of 2021) 2021. It submits this memorandum in line with its mandate. Further, it responds to the invitation for public participation and submission of memoranda by the Senate - The Twelfth Parliament (Fifth Session) dated 12 January 2022 and pursuant to Article 118 of the Constitution and Standing Order 140 (5) of the Senate Standing Orders.

**This memorandum highlights The Youth Congress' select views of the proposals included in the Bill. Moreover, The Youth Congress provides recommendations on the various issues highlighted with the hope and expectation that The Senate shall consider the same as possible amendments to the Bill.**

### **3.0 THE ISSUES**

#### **3.1 Facilitate Youth Engagement in Political Parties**

*"Section 3 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) –*

*(2A) A citizen of Kenya who has attained the age of eighteen years may, subject to the provisions of this Act and any other law, join a political party – ...."*

**Observations:** Greater youth involvement is about reconnecting the electorate and those in power and guaranteeing safe spaces for constructive criticism even where one belongs to the same political alignment. A healthy, resilient democracy is based on inclusiveness, which political parties and representative institutions are in a key position to safeguard. Youths who become disconnected from the political process undermine the growth of democracy in a nation by engaging in anti-social behaviour such as terrorism and political hooliganism.

**Recommendations:**

- (1) Exemption of young members of political parties from payment of party membership fees;

(2) Providing for a guaranteed one-third of leadership/ management seats in political parties to the youth notwithstanding the presence of "Youth Leagues" in the respective political parties and;

(3) Provision for mandatory youth representation in the "National Executive Committee" and "National Election Boards" or their equivalent in political parties.

### **3.2 Youth Representation in Parliament and County Assemblies**

*"Section 4. The principal Act is amended by inserting the following new sections immediately after section 4*

*4A.(c) promote representation in Parliament and county assemblies of women, persons with disabilities, youth, ethnic and other minorities and marginalized communities."*

**Observations:** Political Parties are the main gatekeepers for candidates to participate in elections. Parties determine which candidates are shortlisted for nomination and subsequently presented for election. As intermediary institutions, political parties link the state and civil society, translating citizens' policy preferences into political action. Individuals with political ambition are likely to seek leadership positions within political parties. With the known high cost of elective politics, there is a need for political parties to enable greater youth engagement in elective politics. The I.E.B.C Data Report of the 2017 General Elections offers adequate evidence of the shortcomings of political parties on matters of supporting youths' engagement in elective politics.

#### **Recommendations:**

(1) Provisions made for mandatory allocation of one-third of the nomination slots to youths by political parties.

### **3.3 Political Party Funds**

*"17. Section 25 of the principal Act is amended-*

*(a) by deleting subsection 1) and substituting, therefore, the following new subsection-*

*(1) The Fund shall be distributed as follows*

*(b) Fifteen percent of the Fun proportionately to political parties based on the number of political party candidates from special interest groups elected in the preceding general election.*

*(2) Notwithstanding subsection (1), a political party shall not be entitled to receive funding from the Fund under section (1) if-*

*(b) the party does not have, in its governing body, representation of special interest groups."*

**Observations:** Although state financing has its risks, clearly desirable subsidies include access to state media or direct public funding for activities such as policy research. Whereas the Bill makes provisions for quantitative conditionalities, there is a need to make similar attempts for the special interest groups. By merely mentioning a requirement to represent special interest groups without setting the bare minimum, political parties could ensure only one person represents the special interest group.

**Recommendation:**

(1) Provision where the measure representation of special interest groups in the governing body is at least one-third and;

(2) Provision where political parties that are beneficiaries of The Fund allocate at least one-fifth of the resources towards civic education and peace-building campaigns across all their 47 county branches.

### **3.4 Registrar of Political Parties and Political Party Nominations**

*"28 A. (2) the Registrar shall verify the names contained in the party membership list submitted by a political party under subsection (1) and, where the names are of members of that political party, certify the membership list within seven days after receiving the application under subsection (1)."*

**Observation:** The role of political parties in elections cannot be overstated; they provide the most important platforms for access to political office. The conduct of political party affairs and, specifically, party nominations are key processes in the

electoral process. Parties set a basis for good governance or lack of it through their choice of candidates.

**Recommendations:**

- (1) Provision for the Registrar of Political Parties to develop an up-to-date checklist for Political Party Elections and Nominations Rules;
- (2) Provision that guarantees that the nomination rules of all political parties strictly comply with the Constitution of Kenya (2010) and relevant laws of Kenya to enable youth to participate effectively;
- (3) Provision for the Registrar of Political Parties to develop measures that ensure proper management of independent candidates, party membership recruitment and registration and;
- (4) Provision for punitive measures to political parties, including electoral in their membership database absent of their consent.

**3.5 Political Parties Dispute Tribunal**

*"39A. (1) At least six months to the date of a general election, the Judicial Service Commission shall appoint not more than eighteen ad hoc members of the Tribunal of whom:"*

**Observations:** Dispute resolutions presents an opportunity to avert fallouts that, if not properly managed, may result in parties feeling disgruntled and result in undesirable retaliations. Cognizant that the majority of both the population and electorate are youths, there is a need to ensure the representation of young men and young women in all aspects of society, including but not limited to dispute resolution tribunals. The inclusion of youth representation in such forums ensures a youth perspective is available in the process.

**Recommendations:**

- (1) Provision for the mandatory appointment of at least three members of the Tribunal who are youth and shall be the designated representative of the youth constituency.

#### **4.0 CONCLUSION**

It is important to note that proposals to alter electoral governance laws should be a people-driven, people-centred and inclusive process that aligns with principles of the rule of law, democracy, and human rights.

Considering the above observations, The Youth Congress acknowledges that the Political Parties (Amendment) Bill (National Assembly Bills No. 56 of 2021) 2021 has presented important amendments geared towards improving the electoral governance space. Nevertheless, we opine that the selected and highlighted issues presented offer a further opportunity to improve the said space.

**-- E.N.D. --**

