

Interrogating the evolution of a constitutionally-legitimised 'Big Man' political culture and its influence on political participation by Kenyan youth

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Summary: *This article critically analyses the evolution of Kenya's constitutionally-legitimised 'Big Man' political culture and its influence on youth political participation. The core thesis of the article is that Kenya's constitutionally-legitimised 'Big Man' political culture restricts youth political participation, beyond voting, while making them susceptible to manipulation by politicians. In exploring this thesis, the article's guiding research question is: Beyond voting, how has the Kenyan government enhanced or restricted direct youth political participation as a right provided for under article 25 of International Covenant on Civil and Political Rights (ICCPR) and subsequently domesticated under the Kenyan Constitution? The modes of political participation examined in this context are forming a political party and running for public office. Contextually, the article interrogates the political regimes of Kenyatta, Moi, Kibaki and Uhuru and their use of constitutional amendments to crystallise power in the executive for critical analysis of the evolution of Kenya's 'Big Man' political culture pertaining to youth political participation. It then applies the lessons learned from past and current regimes to inform recommendations on how the state can*

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facilitate the Kenyan youth to enjoy the right of political participation fully, effectively and equally as provided for under article 25 of ICCPR as domesticated under the Kenyan Constitution.

Key words: *political rights; political participation; 'Big Man' political culture; constitutional reforms; electoral reforms*

1 Introduction

Political participation is loosely defined as citizens' activities affecting politics.¹ However, the nature and scope of these participatory activities continuously evolve in line with the growing importance of politics in daily life, increasing competencies and resources of citizens, increasing availability of political information, and the blurring of distinctions between private and public spheres.² Nonetheless, the right to political participation is a fundamental right and is globally established under article 25 of the International Covenant on Civil and Political Rights (ICCPR) which provides that every citizen has the right to take part in the conduct of public affairs either directly or through freely chosen representatives; the right to vote and to be elected at genuine periodic elections by universal and equal suffrage; and to have access, on general terms of equality, to public service.³ This constitutes the human rights framework for political participation globally. States that are party to the Covenant are subsequently obligated to implement positive mechanisms to ensure 'the full, effective, and equal enjoyment of the rights to participate in political and public affairs'.⁴

Kenya ratified ICCPR on 23 March 1976⁵ and therefore is obligated to protect the civil and political rights of its citizens, including the right to political participation. Kenya has domesticated the provisions of ICCPR in its Constitutions, which also specifically provide for how a

1 JW van Deth 'What is political participation' (2016) *Oxford Research Encyclopedia of Politics*, <https://doi.org/10.1093/acrefore/9780190228637.013.68> (accessed 31 August 2023).

2 Van Deth (n 1) 2.

3 International Covenant on Civil and Political Rights (ICCPR) UN Treaty Series, Vol 999, I-14668, 179, 19 December 1966.

4 United Nations General Assembly (UNGA) 'Factors that impede equal participation and steps to overcome those challenges: Report of the Office of the United Nations High Commissioner for Human Rights' UN A/HRC/27/29, 30 June 2014, <https://digitalibrary.un.org/record/777756?ln=en> (accessed 11 April 2022).

5 'List of Kenya's Ratification of International Human Rights Treaties', https://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KE/KSC_UPR_KEN_S08_2010_KenyaStakeholdersCoalitionforUPR_Annex3.pdf (accessed 11 April 2022).

citizen qualifies for direct political participation either as an electoral candidate or a voter. The old Constitution⁶ only contained provisions for qualifications and disqualifications for election under sections 34 and 35 respectively, as well as qualifications and disqualifications for registration as a voter under section 43. By contrast, the 2010 Constitution⁷ specifically recognises and protects political rights under article 38 in the manner and tone espoused under article 25 of ICCPR, in addition to qualifications for registration as a voter under article 83, eligibility to stand as an independent candidate under article 85, qualifications and disqualifications for election as a member of parliament under article 99, and qualifications and disqualifications for election as a member of county assembly under article 193.

However, despite the inclusion of these provisions in both the old and 2010 Constitutions, there is a discernible trend in the subversion of a citizen's right to political participation as encompassed under article 25 of ICCPR. This often occurs as part of an overall move towards concentration of power in the executive facilitated by constitutional amendments, a trend that began immediately after independence in 1963. Ghai and McAuslan⁸ chronicle the gradual concentration of powers in the executive, more specifically the presidency, as beginning immediately after independence with the first constitutional amendment law (The Constitution of Kenya (Amendment) Act 28 of 1964)⁹ which declared Kenya a republic and combined the powers of the head of state with those of the head of government, vesting both in the presidency. The end result was the transformation of the Constitution into an instrument of highly-concentrated and authoritarian executive power by the President,¹⁰ resulting in political participation being subject to the undue control and influence of the President.

A political structure¹¹ dominated by the executive in this manner is inherently exclusionary to the extent that the President determines

6 The previous post-independence Constitution that was repealed and replaced with the 2010 Constitution. Constitution of Kenya, Revised edition 2008 (2001), <http://kenyalaw.org/kl/index.php?id=398> (accessed 4 September 2023).

7 Constitution of Kenya, 2010, <http://kenyalaw.org/kl/index.php?id=398> (accessed 4 September 2023). Referred to as such as it was promulgated on 27 August 2010 after a referendum that saw it endorsed by 68,85% Kenyans. See AM Wanga *The Kenyan constitutional referendum of 4th August 2010: A case study* (2011) 2.

8 YP Ghai & JPWB McAuslan *Public law and political change in Kenya* (1970).

9 <http://kenyalaw.org/kl/index.php?id=9631> (accessed 4 September 2023).

10 P Anyang Nyong'o 'State and society in Kenya: The disintegration of the nationalist coalitions and the rise of presidential authoritarianism 1963-78' (1989) 88 *African Affairs* 229.

11 Refers to the arrangement of political institutions (executive, legislature, judiciary) and the nature of their interactions, independence and inter-dependence.

who can participate in the available political spaces, as well as when and how they can do so. Such a political structure actively imposes limits on the extent to which citizens can exercise the full, effective and equal enjoyment of their rights of political participation. This results in the exclusion of certain segments of society, such as the youth,¹² from participating in the democratic process. This article interrogates whether, when and how the alteration of Kenya's political structure, using constitutional amendments to centralise power in the executive, has affected youth political participation. It does so with a focus on two direct forms of participation: forming a political party and being a candidate for public office in Kenya.

In the Kenyan socio-political context, the term 'youth' refers to all individuals between the ages of 18 and 35 years.¹³ The youth are adults within the meaning of article 260 of the 2010 Constitution¹⁴ by virtue of attaining the age of 18 years and, therefore, they also qualify to register as voters under article 83 which holds that one needs to be an adult citizen of sound mind that has not been convicted of an election offence in the preceding five years.¹⁵ There has been a steady increase in Kenya's youth population since 1969¹⁶ and, as per the last census held in 2019, they constitute 75 per cent of the total population.¹⁷ Correspondingly, there has also been a steady increase in the numbers of youth registered as voters,¹⁸ which constituted 51 per cent of the total number of registered voters in the 2017 general elections.¹⁹ However, a distinction must be made between those who are registered to vote and those who actually vote, and the number of youths that have actually vote since 2007²⁰ reached a peak of 76,8 per cent in the 2013 elections, the first under

See: S Graben & E Biber 'Presidents, parliaments, and legal change: Quantifying the effect of political systems in comparative environmental law' (2017) 35 *Virginia Environmental Law Journal* 357.

- 12 Other segments include women, persons with disabilities, indigenous people, ethnic minorities, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons and other marginalised groups. In the Kenyan context, art 260 of the Constitution of Kenya (2010) defines marginalised groups as 'a group of people who, because of laws or practices before, on, or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4)'.
- 13 Art 260 Constitution of Kenya (2010).
- 14 <http://kenyalaw.org/kl/index.php?id=398> (accessed 4 September 2023).
- 15 This is the minimum qualification for one to be registered as a voter in Kenya under art 83(1)(a) of the Constitution of Kenya (2010).
- 16 K Sivi-Njonjo *Youth fact book: Infinite possibility or definite disaster?* (2010) 4.
- 17 Kenya National Bureau of Statistics '2019 Kenya population and housing census: volume III, distribution of population by age and sex' (2019) 11.
- 18 With reference to the maiden elections held under the 2010 Constitution, with the first in 2013 and the subsequently in 2017.
- 19 Data Science Ltd 'Demographics of the Kenyan voter', <https://www.datascience.co.ke/demographics-of-the-kenyan-voter/> (accessed 11 April 2022).
- 20 In 2007 68% of the registered youth voters reported that they voted. Mandela Institute for Development Studies (MINDS) 2016: 'Youth participation in elections in Africa, an eight-country study', <https://minds-africa.org/Downloads/>

the 2010 Constitution.²¹ Thereafter, there is a discernible decline in youth voter turnout with the lowest turnout being witnessed in the 2022 elections where only 39,84 per cent of total registered voters were youths, a decline of 5,17 per cent from the 2017 elections.²²

There is a similar paucity of youth political participation and representation in the formation and running of political parties in Kenya, as well as those who stand for election. Under section 6(2)(f) of the Political Parties Act²³ an application for registration of a political party must be accompanied by the prescribed fee. As of 3 September 2023,²⁴ the fees prescribed by the office of the Registrar of Political Parties²⁵ is Kshs 100 000 for provisional registration and Kshs 500 000 for full registration.²⁶ These costs are prohibitive in a country of which the overall employment to population ratio stood at 63,4 per cent and had an unemployment rate of 4,9 per cent as at December 2022.²⁷ Moreover, the percentage of youths (15-34) that were not in the education system and were not working or being trained for work during this period were recorded at 19 per cent.²⁸ Similarly, even the other option of being a candidate for public office is also cost prohibitive since it entails payment of party nomination fees ranging from Kshs 20 000 to 1 000 000²⁹ depending on the seat, and thereafter, vast sums of money for campaigns. For instance, in 2017 political aspirants spent between Kshs 15 and 25 million in the race to secure party nomination slots to contest in the general

MINDS%202016%20Youth%20Program%20Research%20Publication.pdf (accessed 11 April 2022).

21 MINDS (n 20).

22 Kofi Anan Foundation 'Roundtable: Kenya post-election 2022 review', <https://www.kofiannanfoundation.org/supporting-democracy-and-elections-with-integrity/kenya-post-election-roundtable-2022/> (accessed 4 September 2023).

23 Act 11 of 2011, <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2011%20of%202011> (accessed 4 September 2023).

24 Office of the Registrar of Political Parties (ORPP) 'What are the charges in various stages of registering a political party?' <https://www.orpp.or.ke/index.php/2-uncategorised/21-frequently-asked-questions> (accessed 4 September 2023).

25 Sec 34(a) of the Political Parties Act (11 of 2011) bestows upon the Registrar of Political Parties the mandate to register, regulate, monitor, investigate and supervise political parties to ensure compliance with this Act.

26 'How do I register a political party?' <https://www.orpp.or.ke/index.php/2-uncategorised/21-frequently-asked-questions> (accessed 4 September 2023).

27 Kenya National Bureau of Statistics (KNBS) *Quarterly Labour Force Report 2022* (2022) 3, https://www.knbs.or.ke/download/quarterly-labour-force-report-2022_quarter_4/ (accessed 4 September 2023).

28 KNBS (n 27) 8.

29 The sums further vary among different political parties. Eg, in 2017 the Jubilee Party charged Kshs 20 000 for the Member of County Assembly (MCA) while the Orange Democratic Movement (ODM) charged Kshs 25 000. ODM charged Kshs 500 000 for the governor's seat while the Jubilee Party charged Kshs 400 000. See J Ngetich 'Political parties collect Sh2 billion in nomination fees' *The Standard* 8 April 2017, <https://www.standardmedia.co.ke/politics/article/2001235499/political-parties-collect-sh2-billion-in-nomination-fees> (accessed 11 April 2022).

elections for parliamentary seats,³⁰ and these costs³¹ rose even higher in the subsequent campaigns.³²

However, despite the monetary challenges locking them out of running for public office, Kenyan youths have an ever-increasing attractiveness as potential voters for politicians. Unfortunately, their economic deficiencies make them susceptible to the manipulations inherent in 'Big Man' politics. Lederman traces the anthropological antecedents of the term 'Big Man' to early Melanesian society where it referred to male leaders that achieved political influence through public oratory, informal persuasion, and clever control of both private and public wealth exchange.³³ Salafia observes that 'Bigmanism' or 'Big Man syndrome' is broadly applied, first, to describe African post-colonial presidential systems of government and thereafter as a lens through which to interrogate African democracies.³⁴ In the Kenyan context it is characterised by the usurpation of power by the executive in general and the presidency in particular and follows the precedent set by President Jomo Kenyatta in its legitimisation through constitutional amendments.³⁵ This singular insulation of governmental power is subsequently extended to the President's inner circle who invariably are drawn from his own ethnic group.³⁶ This is in keeping with the Melanesian 'Big Man' antecedent, as

30 T Mboya *The cost of parliamentary politics in Kenya* (2020) 6, <https://www.wfd.org/wp-content/uploads/2020/10/Cost-of-Parliamentary-Politics-in-Kenya.pdf> (accessed 12 April 2022).

31 The costs of a political campaign include party nomination fees; branded merchandise; media and advertising fees; campaign team salaries; mobilisation costs; and legal fees. See Mboya (n 30) 7.

32 Current estimates are that it costs a minimum of Kshs 20 million to run an effective campaign from the party nomination phase all the way to the actual elections. See Mboya (n 30) 9.

33 R Lederman 'The anthropology of the Big Man' in N Smelser & U Hanners (eds) *International encyclopedia of the social and behavioural sciences* (2000) 1162.

34 S Salafia 'The "Bigmanism" or the "Big Man syndrome" as an optical lens to understand African "democracies" – A "case study" in Zimbabwe' (2014), https://www.academia.edu/6025327/The_Bigmanism_or_the_Big_Man_Syndrome_As_an_Optical_Lens_to_Understand_African_Democracies_A_Case_Study_in_Zimbabwe (accessed 12 April 2022).

35 Immediately after independence in 1964 the Constitution of Kenya (Amendment) Act (28 of 1964) declared Kenya a republic and combined the powers and functions of the head of state with those of the head of government, vesting both in the presidency. Thereafter, The Constitution of Kenya (Amendment) (No 2) Act 38 of 1964 and the Constitution of Kenya (Amendment) Act 14 of 1965 removed all powers and functions from the regional assemblies and transferred them to parliament. Moreover, they repealed the provisions relating to regional taxation thereby starving the regional assemblies of local sources of revenue. See D Juma 'The normative foundations of constitution making in Kenya: The judiciary past, present and future' in C Murungi (ed) *Judiciary watch report, vol IX: Constitutional change, democratic transition and the role of the judiciary in government reform: Questions and lessons for Kenya* (2010) 220.

36 Jomo Kenyatta appointed his own relatives to cabinet positions, Daniel Moi's cabinet opened up to the wider Kalenjin community whereas Mwai Kibaki was insulated by the 'Mt Kenya Mafia'. See B Bwire 'How far is too far? The separation of powers doctrine and judicial review of legislative action in Kenya' unpublished PhD thesis, University of Nairobi, 2020 81, 88, 102.

observed by Lederman, where political organisation is further based on patrilineal descent.³⁷

Based on the foregoing, the core thesis of this article is that Kenya's constitutionally-legitimised 'Big Man' political culture restricts youth political participation, beyond voting, while making them susceptible to manipulation by politicians. In exploring this thesis, the article's guiding research question is the following: Beyond voting, how has the Kenyan government enhanced or restricted direct youth political participation as a right provided for under article 25 of ICCPR and subsequently domesticated under the Kenyan Constitution? The modes of political participation examined in this context are forming a political party and running for public office. Contextually, the article interrogates the political regimes of Kenyatta, Moi, Kibaki and Uhuru and their use of constitutional amendments to crystallise power in the executive for critical analysis of the evolution of Kenya's 'Big Man' political culture in relation to youth political participation. It then applies the lessons learned from past and current regimes to inform recommendations on how the state can facilitate Kenyan youths to enjoy the right of political participation fully, effectively and equally as provided for under article 25 of ICCPR as domesticated under the Kenyan Constitution.

2 Conceptual framework

Financial resources are at the heart of political participation. This is in keeping with the socio-economic theory of political participation that basically holds that people with higher levels of education and income are more likely to directly participate in politics.³⁸ This is mainly due to the fact that a socio-economically disadvantaged citizen faces both social and financial obstacles hindering him or her as compared to a socio-economically advantaged citizen.³⁹ Moreover, direct forms of political participation often demand higher knowledge, time and resources.⁴⁰

37 Patrilineal descent in this context refers to tracing kin exclusively through men. See L Ugyel 'How "place" shapes the public servant: Papua New Guinea's public administration within the contexts of "Big Man" and "Wantok" systems' in H Sullivan, H Dickinson & H Henderson (eds) *The Palgrave handbook of the public servant* (2020) 381.

38 S Verba, K Schlozman & H Brady *Voice and equality: Civic voluntarism in American politics* (1995).

39 Verba and others (n 38) 10.

40 D Stolle & M Hooghe 'Shifting inequalities: Patterns of exclusion and inclusion in emerging forms of political participation' (2011) 13 *European Societies* 119.

Barsegyan and others⁴¹ in their 2023 study investigating the link between social origin and political participation found that the political advantage of having higher occupational status parents is stronger for higher educated children, hence reinforcing the political participation gap between children from different socio-economic backgrounds.⁴² Barsegyan and others further postulate that parents with a high socio-economic status may be more convinced that direct political participation is a tool for societal change as well as for protecting their privileged position, and they tend to transfer these beliefs to their children. They contrast this with children of parents with a low socio-economic background whose less educated parents may lack political knowledge and interest.⁴³ Consequently, given that the focus of this article is on youth political participation, the socio-economic theory of political participation forms the first limb of its conceptual framework.

This conceptual framework also incorporates the political socialisation theory. Neundorf and Smets describe it as 'the process by which citizens crystallise political identities, values and behaviour that remain relatively persistent throughout later life'.⁴⁴ Political socialisation is what begets a country's political culture, which Pye defines as the sum of societal attitudes, beliefs and sentiments that form the underlying assumptions and rules governing behaviour in political systems.⁴⁵ Cho holds that 'socio-economic status variables merely provide the skills necessary for political activity in a suitable political context. Socialisation determines how these skills will be manifested'.⁴⁶ Therefore, whereas the socio-economic theory of political participation explains the key tools required, namely, education and income, it is the political socialisation theory that explains how these tools are utilised within any political context.

41 V Barsegyan, A Knigge & I Maas 'Social origin and political participation: Does education compensate for or reinforce family advantages and disadvantages?' (2023) *Acta Politica* 1.

42 As above.

43 As above.

44 A Neundorf & K Smets 'Political socialisation and the making of citizens' *Oxford handbooks online: Political science, political behaviour*, <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199935307.001.0001/oxfordhb-9780199935307-e-98> (accessed 12 April 2022).

45 L Morlino, D Berg-Schlosser & B Badie *Political science: A global perspective* (2017) 64-74.

46 WK Tam Cho 'Naturalisation, socialisation, participation: Immigrants, and (non-) voting' (1999) 61 *Journal of Politics* 1140-1155.

Family plays a key role in political socialisation and there tends to be a considerable overlap between parents' and children's political orientations.⁴⁷ Consequently, parents are crucial socialising agents for the development of adolescents' political preferences and behaviour and retain an enduring influence until later in life.⁴⁸ Van Ditmars, in her 2022 study investigating the intergenerational transmission of left/right ideological positions in two European multi-party systems,⁴⁹ Germany and Switzerland, found that when both parents have similar ideological leanings, their offspring usually identify with the same ideological block.⁵⁰ This is in contrast to parents that are of different ideological leaning, in which case intergenerational transmission becomes less obvious as their offspring are exposed to conflicting political cues and are more likely to be impacted by political socialisation forces outside the parental home.⁵¹ Therefore, family plays a key role in the political socialisation of the youth and forms the basis for their political self-identification and the way in which they choose to engage in political participation. It is on this basis that the political socialisation theory forms the second limb of this article's conceptual framework.

Based on the foregoing, the article proposes a conceptual framework that embraces the notion that socio-economic background and political socialisation play a key role in the evolution and development of a country's political culture, which then determines when and how the youth access political spaces. Moreover, political culture as developed based on a youth's socio-economic background and political socialisation, influences that youth's political knowledge, interest and efficacy. Political efficacy refers to their perceptions on whether the youth's individual political actions can have an impact on the political process.⁵² Ultimately, this conceptual framework holds that these three factors of political knowledge, interest and efficacy in turn determine the nature and extent of youth political participation in the context of their specific political culture. Subsequently, the article uses this conceptual framework to critically analyse the evolution of Kenya's constitutionally-legitimised 'Big Man' political culture in relation to youth political participation.

47 MM van Ditmars 'Political socialisation, political gender gaps and the intergenerational transmission of left-right ideology' (2023) 62 *European Journal of Political Research* 3.

48 As above.

49 As above.

50 Van Ditmars (n 47) 19.

51 Van Ditmars (n 47) 20.

52 A Campbell, G Gurin & W Miller *The voter decides* (1954) 187.

3 Evolution of Kenya's constitutionally-legitimised 'Big Man' political culture in relation to youth political participation

Kenya's journey towards creating an imperial presidency⁵³ commenced in 1964 with the first in what eventually became a series of constitutional amendments of which the primary objective was to eliminate institutional checks on the executive so as to strengthen it and centralise politics while nullifying human rights.⁵⁴ This first amendment,⁵⁵ by combining the powers of the head of state with those of the head of government and vesting both in the President, facilitated the gradual erosion of proper checks and balances between the three arms of government, resulting in the eventual distortion of the political structure to the point where both Parliament and the judiciary were subservient to the executive.⁵⁶ This ultimately created an imperial presidency, a term used to describe a presidency that is uncontrollable and has exceeded its constitutional limits.⁵⁷ A President in this mould qualifies to be classified as a 'Big Man' in the context of Bigmanism as earlier expounded in this article.⁵⁸ President Jomo Kenyatta thus became post-independence Kenya's first 'Big Man', and his use of constitutional amendments to consolidate power in the presidency laid the foundation for the evolution of Kenya's constitutionally-legitimised 'Big Man' political culture. Subsequent constitutional amendments under his government removed all powers and functions from the regional assemblies,⁵⁹ marking their end and the centralisation of power around the executive,⁶⁰ and the regression of the Kenyan state from a multi-party devolved system of government in 1963 to a *de facto* single party state by 1978 when he died.⁶¹

53 A term used to describe a presidency that is uncontrollable and has exceeded its constitutional limits. See A Schlessinger *The imperial presidency* (1973).

54 HWO Okoth-Ogendo 'Constitutions without constitutionalism: Reflections on an African paradox' in I Shivji (ed) *State and constitutionalism: An African debate on democracy* (1991).

55 n 9.

56 M Akech 'Abuse of power and corruption in Kenya: Will the new Constitution enhance government accountability?' (2011) *Indiana Journal of Global Legal Studies* 378.

57 Schlessinger (n 53).

58 Salafia (n 34).

59 The second and third amendments; The Constitution of Kenya (Amendment) (No 2) Act 38 of 1964 and The Constitution of Kenya (Amendment) Act 14 of 1965.

60 Juma (n 35) 220.

61 G Murunga, D Okello & A Sjørgen 'Towards a new constitutional order in Kenya: An introduction' in G Murunga, D Okello & A Sjørgen (eds) *Kenya: The struggle for a new constitutional order* (2014) 4.

Additionally, Kenya's political socialisation under President Jomo Kenyatta was one of ethnicised Bigmanism that promoted ethnicity as a key factor in political mobilisation and sensitisation of voters.⁶² As a consequence, Kenyatta's political appointments were similarly inclined to first reward his own Kikuyu ethnic elite.⁶³ As early as 1965, only two years after independence, Kenyatta was surrounded by an inner circle of predominantly Kikuyu political leaders and senior officers in the armed forces.⁶⁴ This was accompanied by acts of patronage that saw Kikuyus and their ethnic kin, the Meru and Embu communities, favoured in public appointments,⁶⁵ resulting in increasing discontent over what was perceived as Kikuyu privilege under Kenyatta.⁶⁶ Consequently, Kenyans were exposed to exclusionary ethnic-based narratives in their political and civic education, which then informed their political socialisation.

Moreover, direct political participation at this time was only possible through the President's party, the Kenya African National Union (KANU), which rose to dominance as the sole political party following the disbandment of the Kenya African Democratic Union (KADU) and the proscription of the Kenya People's Union (KPU) shortly after independence.⁶⁷ This resulted in limited opportunities for direct youth political participation in terms of either forming a political party or contesting for a parliamentary seat. Nyong'o⁶⁸ in his analysis of this period notes that the rigid presidential authoritarian system narrowed the avenues of political participation and encouraged political intrigues and plots among the ruling class.⁶⁹ On the other hand, legal recourse was curtailed given that the political structure was such that the courts were subverted and used to silence political dissent through detention without trial under two restrictive colonial era laws: the Public Order Act⁷⁰ and the Preservation of Public

62 H Fjelde & K Hoglund 'Ethnic politics and elite competition: The roots of electoral violence in Kenya' in M Kovacs & J Bjarnesen (eds) *Violence in African elections: Between democracy and Big Man politics* (2018) 28.

63 K Kanyinga 'Governance institutions and inequality' in Society for International Development (SID) *Readings on inequality in Kenya* (2007) 373.

64 D Branch *Kenya: Between hope and despair, 1963-2011* (2011) 46.

65 Such positions were in the armed forces, provincial administration, government ministries, departments, and agencies. See A Auma-Osolo *Why leaders fail and plunge the innocent into a sea of agonies: The danger of abnormal politics Vol 1* (2013) 167 168.

66 Branch (n 64) 76.

67 SD Mueller 'Government and opposition in Kenya: 1966-1969' (1984) 22 *Journal of Modern African Studies* 399.

68 P Anyang Nyongó 'State and society in Kenya: The disintegration of the nationalist coalitions and the rise of presidential authoritarianism 1963-78' (1986) 11 *Africa Development* 175.

69 Anyang Nyongó (n 68) 212.

70 Ch 56 of the Laws of Kenya. It came into force on 13 June 1950 and the government used it to prohibit public meetings and processions of a political nature as well as issue curfew orders.

Security Act.⁷¹ The political detainees of this era included former parliamentarians and university lecturers, namely, among others, Professor Ngugi wa Thiongo, Koigi wa Wamwere, Martin Shikuku, Chelagat Mutai, and Wasonga Sijeyo who was the longest serving having been detained in 1969 and released in 1978 after Kenyatta's death.⁷²

Upon President Jomo Kenyatta's death, his Vice President, Daniel arap Moi, succeeded him as President⁷³ after a succession crisis that began prior to Kenyatta's death, pitting Moi against ethnic loyalists under the umbrella of the Gikuyu, Embu and Meru Association (GEMA) who preferred Kenyatta's successor to be Kikuyu.⁷⁴ President Moi followed in the late President Jomo Kenyatta's footsteps and embraced a similar ethos of ethnicised Bigmanism while utilising constitutional amendments to further consolidate power. The first was to transform Kenya from a *de facto* to a *de jure* one-party state through the Constitution of Kenya (Amendment) Act 7 of 1982,⁷⁵ establishing KANU as the only political party in Kenya. Moreover, similar to President Jomo Kenyatta, Moi also had ethnic elite from his Kalenjin community dominate cabinet positions.⁷⁶ Moi further utilised constitutional amendments to weaken the judiciary in 1988 when Parliament passed amendments to sections 61, 62, 69, 72 and 106 of the old Constitution, which then vested the power of firing judges solely with the President, thereby removing their constitutional security of tenure.⁷⁷ This greatly undermined the judiciary's independence and made it subservient to the President. Hence, it could neither effectively check the excesses of the executive and legislative branches of government, nor defend the integrity of the old Constitution.⁷⁸

In this context, just as during President Jomo Kenyatta's tenure and for similar reasons, there existed limited opportunities for direct youth political participation in terms of either forming a political party or contesting for a parliamentary seat. Nevertheless, the youth

71 Ch 57 of the Laws of Kenya. It came into force on 11 January 1960 and the government used it for 'the prevention and suppression of rebellion, mutiny, violence, intimidation, disorder and crime, and unlawful attempts and conspiracies to overthrow the government or the Constitution'.

72 MT Kaufman 'Kenya's political detainees freed' *The New York Times* 13 December 1978, <https://www.nytimes.com/1978/12/13/archives/kenyas-political-detainees-freed.html> (accessed 6 September 2023).

73 DPS Ahluwalia 'Political succession in Kenya: The transition from Kenyatta to Moi' (1985) 12 *The African Review: A Journal of African Politics* 1.

74 As above.

75 <http://kenyalaw.org/kl/index.php?id=9631> (accessed 11 September 2023).

76 Branch (n 64) 373.

77 The Constitution of Kenya (Amendment) Act 4 of 1988, <http://kenyalaw.org/kl/index.php?id=9631> (accessed 11 September 2023).

78 Bwire (n 36) 81, 88, 102.

formed a key contingent of those Kenyans who stood up to confront and call out the excesses of the Moi regime. Key among these were the seven radical youthful parliamentarians who were elected in the fourth Parliament of 1979 to 1983: Abuya Abuya Onyango Midika, Mwashengu Mwachofi, James Orengo, Lawrence Sifuna, Chibule wa Tsuma and Koigi wa Wamwere.⁷⁹ Their ascension to Parliament was largely built on the support of the student bodies of public universities led by the then powerful Student Organisation of Nairobi University (SONU) and the University Academic Staff Union (UASU).⁸⁰ In the absence of viable alternatives to KANU, both SONU and UASU became the vehicle of choice for youth political participation albeit in opposition to President Moi's government. Consequently, most of the youthful leaders who came up through SONU and UASU ended up being detained without trial, or exiled at best, or tortured and killed at worst.⁸¹

4 A new dawn: Moving towards dismantling Kenya's constitutionally-legitimised 'Big Man' political culture and facilitating youth political participation

By 1992 President Moi had all key institutions, Parliament, the judiciary, security services, public services and provincial administration, firmly under his control to the extent that they were reduced to instruments of authoritarian domination.⁸² However, the dawn of the 1990s also witnessed the winds of change in terms of the introduction of multi-party democracy on the African continent, and Kenya was no exception.⁸³ Consequently, President Moi repealed section 2A of the Constitution, through the Constitution of Kenya (Amendment) Act 12 of 1991, thereby converting Kenya to a multi-party state.⁸⁴ However, President Moi would still go on to win both the subsequent 1992 and 1997 elections, hence serving the maximum two terms as President provided for under section 9(2) of the old Constitution.⁸⁵ Both elections are also notable for being the

79 C Osanya 'Time Orengo and Njonjo traded insults in parliament', <https://www.kenyans.co.ke/news/44762-time-orengo-and-njonjo-traded-insults-parliament> (accessed 11 September 2023).

80 JM Klopp & JR Orina 'University crisis, student activism, and the contemporary struggle for democracy in Kenya' (2002) 45 *African Studies Review* 43-76.

81 Friedrich Ebert Stiftung *We lived to tell: The Nyayo house story* (2003), https://books.google.nl/books/about/We_Lived_to_Tell_the_Nyayo_House_Story.html?id=5DAFAQAIAAJ&redir_esc=y (accessed 11 September 2023).

82 Anyang Nyongó (n 68) 174.

83 PO Nyingũro 'The external sources of Kenya's democratisation process' (1997) 25 *Journal of Political Science* 5.

84 <http://kenyalaw.org/kl/index.php?id=9631> (accessed 11 September 2023).

85 <http://kenyalaw.org/kl/index.php?id=398> (accessed 11 September 2023).

first time the old Constitution⁸⁶ allowed the results of a presidential election to be challenged in Kenyan courts. This was done through *Kenneth Stanley Njindo Matiba v Daniel Toroitich arap Moi*⁸⁷ in 1992 and *Kibaki v Moi & 2 Others (No 2)* in 1997.⁸⁸

In 2002 Kibaki replaced Moi and effected a regime change when the National Alliance of Rainbow Coalition (NARC)⁸⁹ beat KANU and ascended to power on a promise of democratisation and constitutional change.⁹⁰ NARC comprised two main political parties, both of which were conglomerations of smaller parties.⁹¹ However, underlying these parties was the concept of ethnic-based political mobilisation of supporters, which persisted despite the change in political socialisation in Kenya from authoritarianism to democratisation. Nying'uro in his analysis of Kenya's transition towards democracy in 1992 notes that despite democratisation, the Kenyan opposition parties continued to be polarised along ethnic and personality lines.⁹² Consequently, the NARC coalition, thereafter, gradually disintegrated owing to disagreements among partners on how to share power based on a pre-election memorandum of understanding.⁹³ Similarly, the promise of constitutional change in 100 days of assuming office did not materialise, and Kibaki continued to rule under the old Constitution that he inherited from the previous regimes, which concentrated power in the presidency.⁹⁴ Subsequently, Kibaki and his inner circle, some of whom were part of the Kenyatta era Kikuyu elite,⁹⁵ christened 'the Mt Kenya Mafia', reconstituted political power and privilege within the executive in

86 Sec 10, <http://kenyalaw.org/kl/index.php?id=398> (accessed 11 September 2023).

87 (1994) eKLR.

88 (2008) KLR (EP) 308.

89 It comprised two main political parties both of which were conglomerations of smaller parties, the National Alliance Party of Kenya (NAK) and the Rainbow Coalition led by Raila Odinga's Liberal Democratic Party of Kenya (LDP). See D Kadima & F Owuor 'The National Rainbow Coalition: Achievements and challenges of building and sustaining a broad-based political party coalition in Kenya', <https://www.eisa.org/pdf/kadima2006coalitions6.pdf> (accessed 12 April 2022).

90 Murunga and others (n 61) 1.

91 NARC (n 89).

92 Nying'uro (n 83) 29.

93 The pre-election agreement was that they would share power on a 50:50 basis. Kibaki ignored it and since it did not have a constitutional or legislative anchor, it was easily discarded leading to a fall-out between the constituent NARC partners led by Raila Odinga. See S Kwatamba, 'Everything is possible without Moi': Kenya's 2002 abortive transition and 2007 post-election violence', https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2205849 (accessed 12 April 2022). E Njoki Wamai, 'Mediating Kenya's post-election violence: From a peace-making to a constitutional moment' in Murunga and others (n 61) 69.

95 These included Njenga Karume, George Muhoho, Charles Njonjo, Matere Keriri, Joe Wanjui, Peter Kanyago, SK Macharia, Nat Kang'ethe, and Francis Muthaura amongst others. See: G Murunga & S Nasong'o 'Bent on self-destruction: the Kibaki regime in Kenya' (2006) 24, 1 *Journal of Contemporary African Studies* 8.

much the same way Kenyatta and Moi had.⁹⁶ Godwin Murunga notes that once Kibaki was sworn into office, the old Kikuyu political elite regrouped around him and vocally supported the Kikuyu's right to power⁹⁷ while procrastinating constitutional reform since it was in their best interests to retain the Moi era power structure.⁹⁸

However, despite its shortcomings, the Kibaki regime will be remembered for nursing the birth of Kenya's new Constitution that, among other things, sought to provide for and safeguard youth political participation. The new Constitution is commonly referred to as the 2010 Constitution⁹⁹ as it was promulgated on 27 August 2010 after a referendum that saw it endorsed by 68,85 per cent of Kenyans.¹⁰⁰ The youth are recognised as a vulnerable group under article 21(3) of the 2010 Constitution,¹⁰¹ for whom all state organs and all public officers have a duty to address their needs; whereas article 27(4) recognises age as a basis on which discrimination is prohibited. Moreover, article 55(b) specifically provides that 'the state shall take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life'. In addition, article 98(1)(c) holds that the composition of the senate must include 'two members, being one man and one woman, representing the youth'. This is the foundation of the constitutional and legal framework facilitating youth political participation under the 2010 Constitution.

5 A new dawn delayed: Challenges in implementation of the 2010 Constitution and elimination of Bigmanism that hinders increased direct youth political participation in Kenya

Despite the constitutional and legal framework facilitating youth political participation under the 2010 Constitution, Kenyan youths

96 G Murunga 'Elite compromises and the content of the 2010 Constitution' in Murunga and others (n 61) 156.

97 Safina Party leader Paul Muite who had campaigned against NARC did so at a public rally in Kiambu after he had reconciled with Kibaki's inner circle and was subsequently appointed chairman of the parliamentary select committee. See GR Murunga & SW Nasong'o *Kenya: The struggle for democracy* (2007), <https://journals.openedition.org/etudesafricaines/14073> (accessed 11 September 2023).

98 G Murunga 'Elite compromises and the content of the 2010 Constitution' in Murunga and others (n 61) 157.

99 Constitution of Kenya, 2010 (n 7).

100 As above.

101 As above. Other vulnerable groups recognised under article 21(3) are women, older members of society, persons with disabilities, children, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

continue to face serious socio-economic and cultural challenges that hinder their full participation. A 2018 study by the Carter Centre found that government bodies mandated with ensuring full compliance with these progressive constitutional obligations to protect and advance youth and women's political participation, including Parliament and regulatory bodies, had failed to ensure that these were fully achieved.¹⁰² Moreover, respondents in the study identified the lack of sufficient financial resources and the capital intensive nature of elections¹⁰³ as a major barrier 'in a context where youth and women suffer from high unemployment and often lack property ownership to secure loans'.¹⁰⁴ Furthermore, Kenya's political socialisation continues to be one of ethnicised political mobilisation and the parties are polarised along ethnic and personality lines,¹⁰⁵ which invariably results in the youth having very limited roles in political party leadership structures, and consequently lack the necessary institutional support critical to success when running as candidates in the elections.¹⁰⁶

Affirmative action policies such as quotas are a viable means of redressing the historical exclusion of Kenyan youth from opportunities to independently either form political parties or run for public office as seen above. However, although the 2010 Constitution recognises the use of affirmative action to redress the historical exclusion of individuals and groups, including the youth,¹⁰⁷ its utilisation to enhance youth political participation is restricted to their nomination to Parliament and the county assemblies.¹⁰⁸ Nomination remains a challenge for most Kenyan youths that do not have the socio-economic status linking them to the requisite political networks.¹⁰⁹ Moreover, it does not solve the problem of the prohibitive costs of registering a political party or campaigning for public office. Also, there is the real danger of nominees becoming proxies due to perceived indebtedness to their nominators.¹¹⁰

102 The Carter Centre 'Youth and women's consultations on political participation in Kenya: Findings and recommendations' (2018), <https://www.cartercenter.org/news/pr/kenya-113018.html> (accessed 11 September 2023).

103 The Carter Centre (n 102) 11. Some of the expenses identified by study respondents include funds to pay party membership fees, secure their party's nomination, and pay IEBC nomination fees. Other expenses include funds for campaign logistics including transport, advertisements, organisation of rallies, payment of campaign staff and party agents, as well as funds to file election petitions.

104 The Carter Centre (n 102) 11.

105 Nyingúro (n 83) 29.

106 The Carter Centre (n 102) 12.

107 Art 27(6) Constitution of Kenya (2010).

108 See arts 97(1)(c), 98(1)(c) and 177(1)(c).

109 One need already be on the radar of the political party Big Men.

110 S Owino and I Oruko 'Kenya: Why it's no walk in the park for nominated MPs' *All Africa* 10 September 2020, <https://allafrica.com/stories/202009110054.html>

Additionally, ethnicised Bigmanism persists despite the promulgation of the 2010 Constitution, albeit allowing for the sharing of power within the executive between the President and his deputy since under article 130(1) the executive is composed of the President, the Deputy-President and the rest of the cabinet.¹¹¹ Furthermore, unlike the old Constitution where the President appointed the Vice-President from among the ministers who in turn were elected members of the National Assembly,¹¹² the 2010 Constitution provides that they run for election on a joint ticket and, therefore, under article 148(1) each presidential candidate is required to nominate a person who is also qualified for election as President, as a candidate for Deputy-President.¹¹³ With ethnicity being a key factor in political mobilisation and sensitisation of voters,¹¹⁴ the joint ticket tends to be one that unites the dominant ethnic communities in Kenya. This was witnessed during the 2013 elections, the first to be held under the 2010 Constitution, when President Uhuru Kenyatta (Kikuyu) and his running mate, William Ruto (Kalenjin), won the presidential elections on the strength of majority votes from their Kikuyu and Kalenjin communities.¹¹⁵

Their 2013 candidacy came on the back of their facing charges for crimes against humanity at the International Criminal Court (ICC) for their alleged roles in the 2007 post-election violence.¹¹⁶ Their indictments were a centrepiece of the political campaigns. This was the common bond that forged the alliance between two historically-antagonistic majority ethnic groups.¹¹⁷ However, this alliance experienced fractures in the aftermath of the disputed 2017 elections in which UhuRuto¹¹⁸ was declared the winner with 54,3 per

(accessed 13 April 2022); M Juniour 'Jubilee expels six nominated senators' *The Standard* 8 February 2021, <https://www.standardmedia.co.ke/politics/article/2001402742/jubilee-expels-six-nominated-senators> (accessed 13 April 2022).

111 <http://kenyalaw.org/kl/index.php?id=398> (accessed 12 September 2023).

112 Sec15(2) Constitution of Kenya, 2010 (n 7).

113 <http://kenyalaw.org/kl/index.php?id=398> (accessed 12 September 2023).

114 Fjelde & Hoglund (n 62).

115 Their joint ticket fronted Uhuru Kenyatta as President and William Ruto as his deputy and were able to secure 50,03% of the vote, narrowly beating Raila Odinga's Orange Democratic Movement (ODM) by 4 099 votes. See G Lynch 'Electing the alliance of the accused: The success of the Jubilee Alliance in Kenya's Rift Valley' (2014) 8 *Journal of Eastern African Studies* 93-114.

116 Their candidature was challenged in court on this ground, but the court held, among others, that both Kenyatta and Ruto were yet to be found guilty of a criminal offence by any court of competent jurisdiction and that therefore they enjoyed the presumption of innocence provided to every Kenyan citizen under art 50(2)(a) of the Constitution, hence barring them from contesting in the elections would be a violation of their political rights under art 38. See *International Centre for Policy and Conflict & 5 Others v The Hon Attorney General & 4 Others* (2013) eKLR.

117 Lynch (n 115) 93-114.

118 A mash-up of their names, Uhuru and Ruto, which was deployed as a very effective campaign slogan. See D Waweru 'Kenya: The rise of the "Uhuruto"'

cent of the vote against Raila Odinga (Luo) and Kalonzo Musyoka's (Kamba)'s 44,7 per cent.¹¹⁹ Raila and Kalonzo subsequently challenged the results by filing a petition in the Supreme Court as provided for under article 140(1) of the 2010 Constitution.¹²⁰ In the petition, *Presidential Election Petition 1 of 2017*,¹²¹ the Supreme Court declared the presidential election invalid, null and void on the grounds of a number of identified irregularities and illegalities, which was notable for being the first time in Africa that a court nullified the election of an incumbent president.¹²² The Supreme Court subsequently ordered the Independent Electoral and Boundaries Commission (IEBC) to conduct a fresh election within 60 days as provided for under article 140(3).¹²³ However, Odinga withdrew from the rerun citing a lack of real electoral reform and level playing field, and calling for his supporters to boycott the polls. As a result Uhuru won with 98,27 per cent of the vote.¹²⁴

Uhuru and Ruto had a major falling-out in the wake of their 2017 re-election when Uhuru entered into a 'handshake' alliance¹²⁵ with their former rival, Raila Odinga, thereby introducing a third, although informal, centre of power within the executive. Uhuru and Raila's handshake alliance subsequently made an unsuccessful attempt to rally Kenyans to agree to constitutional amendments proposed under the Building Bridges Initiative (BBI) that would, among other things, 'do away with the "winner takes all" model of presidency and establish a more inclusive political system'.¹²⁶ Departing from prior practice since independence, this would have seen the Constitution being used to dismantle Kenya's 'Big Man' political culture as opposed to legitimising it. Nevertheless, the BBI suffered a slow but resounding defeat when Ruto fiercely opposed it on the grounds, among others, that expansion of the executive was not a solution

African Arguments 5 December 2012, <https://africanarguments.org/2012/12/kenya-the-rise-of-the-uhuruto-by-daniel-waweru/> (accessed 11 April 2022).

119 International Foundation for Electoral Systems (IFES) 'Elections in Kenya: 2017 rerun presidential elections', <https://www.ifes.org/tools-resources/faqs/elections-kenya-2017-rerun-presidential-elections> (accessed 12 September 2023).

120 <http://kenyalaw.org/kl/index.php?id=398> (accessed 12 September 2023).

121 (2017)eKLR, <http://kenyalaw.org/caselaw/cases/view/140716/> (accessed 12 September 2023).

122 IFES (n 119).

123 <http://kenyalaw.org/kl/index.php?id=398> (accessed 12 September 2023).

124 The Carter Centre 'Kenya 2017 general and presidential elections: Final report' (2018), <https://www.cartercenter.org/news/pr/kenya-030718.html> (accessed 12 September 2023).

125 *BBC News* 'Letter from Africa: The handshake that left millions of Kenyans confused', <https://www.bbc.com/news/world-africa-43656971> (accessed 11 April 2022).

126 The Building Bridges Taskforce 'Highlights of the report of the building bridges initiative taskforce', <https://dc.sourceafrica.net/documents/120776-Highlights-of-the-Report-of-the-Building-Bridges.html> (accessed 12 September 2023).

to the ‘winner takes all’ problem since appointees to the proposed offices of the prime minister and two deputies would all be appointed by the President.¹²⁷

Ruto subsequently made his opposition to the BBI one of the key focus areas of his campaign for President in the run-up to the 2022 elections, and he chose Rigathi Gachagua (Kikuyu) as his running mate in a move to consolidate and seek to retain control of the critical Kikuyu and Kalenjin voting blocs while seeking to establish alliances with other ethnic groups across Kenya.¹²⁸ As earlier noted, ethnicised Bigmanism persists despite the promulgation of the 2010 Constitution, with the slight difference that we now have ‘Big Man’ alliances based on ethnic groups uniting to share executive power. On this note, Ruto and Rigathi’s Kenya Kwanza Alliance won the 2022 presidential elections with 50,5 per cent of the vote against Raila Odinga (Luo) and Martha Karua’s (Kikuyu) Azimio la Umoja-One Kenya Alliance which garnered 48,8 per cent. It should be noted that Kikuyu candidates appeared as running mates in both alliances in these elections, partly because the incumbent President Uhuru Kenyatta (Kikuyu) chose to back Raila Odinga, his partner in the ‘handshake alliance’ that pushed for the BBI, at the expense of his Deputy, William Ruto.¹²⁹

6 What now? Current status of direct youth political participation in Kenya and possible ways forward

Currently, the average Kenyan youth who does not have the socio-economic status to access vast financial resources still cannot afford to either independently form a political party or run a comprehensive political campaign that is essential when vying for public office.¹³⁰ The role of money in Kenyan politics cannot be gainsaid, and it is known to have a direct bearing on two key elements of electoral

127 J Otieno ‘DP Ruto: My case against BBI report’ *The Star* 27 October 2020, <https://www.the-star.co.ke/news/2020-10-27-dp-ruto-my-case-against-bbi-report/> (accessed 12 September 2023).

128 Recently when Uhuru perceived that Ruto was making inroads into his Kikuyu strongholds in opposing the Building Bridges Initiative (BBI) being backed by him and Raila, he went on the offensive and addressed them to reassure them and reassert his control on vernacular radio. See O Mathenge ‘Uhuru rallies Kikuyu nation behind BBI, dismisses critics’, <https://www.the-star.co.ke/news/2021-01-18-uhuru-rallies-kikuyu-nation-behind-bbi-dismisses-critics/> (accessed 11 April 2022).

129 O K’Onyango ‘How Uhuru Kenyatta ditched buddy William Ruto and turned to “enemy” Raila Odinga’ *The East African* 30 July 2022, <https://www.theeastafrican.co.ke/tea/news/east-africa/how-uhuru-kenyatta-ditched-buddy-william-ruto-and-turned-to-enemy-raila-odinga-3897204> (accessed 12 September 2023).

130 See earlier discussions on the costs of registering a political party in Kenya and running a successful campaign from the nomination phase up to the actual general elections.

democracy, namely, popular participation and fair contestation.¹³¹ Without money, Kenyan youths cannot easily run for public office in a field skewed in favour of those who have a bigger purse since they are better able to sponsor and manage their election campaigns. As Fawole rightly observes, a lack of finances hinders the survival of political parties whereas those with power and money can dictate terms.¹³²

A good example is the 2013 general election which went down as the most expensive in Kenya's history,¹³³ with the Jubilee Alliance being the biggest spender and throwing down approximately Kshs 40,66 million on media alone, as compared to its closest rival, CORD, which spent Kshs 23,29 million.¹³⁴ Jubilee won. In this context, the only way in which the average Kenyan youth can participate is through the backing of generous financial sponsors, in which case they would be indebted to them and, therefore, susceptible to ending up as a proxy. Youthful mavericks that attempt to do so independently, such as Boniface Mwangi,¹³⁵ only succeed in exciting the masses initially. However, this excitement soon fizzles out as the campaigns gain momentum and voters get sucked in by the 'Big Men' leaving the likes of Mwangi without a win at the ballot.¹³⁶ In Mwangi's case he lost to an equally youthful Charles Njagua¹³⁷ who was in the Jubilee behemoth.

Political parties are the primary vehicles for political mobilisation and organisation.¹³⁸ Therefore, they must be prodded to actively recruit and involve the youth in party affairs as well as promote their candidatures and provide the necessary financial resources required

131 L Shulika, W Muna & S Mutula 'Monetary clout and electoral politics in Kenya: The 1992 to 2013 presidential elections in focus' (2014) 13 *Journal of African Elections* 197, <https://www.eisa.org/pdf/JAE13.2Shulika.pdf> (accessed 13 April 2022).

132 A Fawole 'Voting without choosing: Interrogating the crisis of electoral democracy in Nigeria' in T Lumumba-Kasongo (ed) *Liberal democracy and its critics in Africa: Political dysfunction and the struggle for social progress* (2005) 160.

133 Shulika and others (n 131) 211.

134 As above.

135 A youthful activist who has consistently campaigned against the Jubilee regime on an anti-corruption platform. In 2017 he formed the Ukweli Party on which he vied for the Starehe constituency seat in Nairobi County. He lost to Jubilee's Charles Njagua. See C Gaffey 'The most popular activist in Kenya has conceded defeat in the election, and people are mourning' *Newsweek* 8 September 2017, <https://www.newsweek.com/kenya-elections-corruption-kenya-boniface-mwangi-648382> (accessed 13 April 2022).

136 Gaffey (n 135).

137 He had made a career as a popular Kenyan hip hop musician. See 'Kenyan musician Jaguar wins Starehe parliamentary seat' *All Africa*, <https://allafrica.com/view/group/main/main/id/00054432.html> (accessed 13 April 2022).

138 D Omondi 'The role of political parties in promoting women's political participation' in J Biegon (ed) *Gender equality and political processes in Kenya* (2016) 119.

to run for public office. This will help the average Kenyan youth overcome the obstacle of the high cost of politics that otherwise locks them out of running political parties and vying for public office. This is best achieved through a combination of legislated and voluntary quotas. In the instances where political parties have actively recruited and involved youth in party affairs and given them the institutional, structural and financial support to vie for seats in the elections, the beneficiaries have done quite well. Key examples include Johnson Sakaja and Edwin Sifuna. In 2013 Johnson Sakaja was appointed Chairperson of the National Alliance Party (TNA) at the age of 26. He was subsequently nominated to Parliament at the age of 27 and thereafter he vied for and was elected senator of Nairobi county in the 2017 elections at the age of 32.¹³⁹ Building on this momentum of successes, he vied for the position of governor of Nairobi county in the 2022 elections and won.¹⁴⁰ Similarly, in 2018, Edwin Sifuna was appointed secretary-general of the leading opposition party, the Orange Democratic Movement (ODM), at the age of 32.¹⁴¹ He subsequently vied for the position of senator of Nairobi county in the 2022 elections and won.¹⁴²

Article 100(c) of the 2010 Constitution¹⁴³ allows Parliament to enact legislation to enhance youth representation in Parliament. Hence, Parliament should enact legislated quotas prescribing that a minimum number of slots be reserved for the youth in various governance bodies at the village, division, district, ward, sub-county, county and national levels. The government can then implement these legislative quotas by law in the administrative units, whereas political parties can implement voluntary quotas to ensure youth representation at all these levels within their party structures. The aim is substantive representation and, hence, political parties should facilitate their full and active participation in the party's decision making and activities. This would consequently enable them to ascend to top party leadership positions, and subsequently to public office.

139 <http://sakaja.co.ke/sakaja-johnson-about/> (accessed 13 April 2022).

140 M Kinyanjui 'Sakaja declared winner in Nairobi Governor race' *The Star* 14 August 2022, <https://www.the-star.co.ke/news/realtime/2022-08-14-sakaja-declared-winner-in-nairobi-governor-race/> (accessed 12 September 2023).

141 A Odenyo 'ODM picks lawyer Sifuna as secretary general, replaces Ababu Namwamba' *The Standard*, <https://www.standardmedia.co.ke/article/2001270886/lawyer-sifuna-is-new-odm-secretary-general> (accessed 12 September 2023).

142 D Musau 'Edwin Sifuna floors Bishop Wanjiru to win Nairobi senator seat', <https://www.citizen.digital/news/edwin-sifuna-is-nairobi-senator-elect-n303889> (accessed 12 September 2023).

143 <http://kenyalaw.org/kl/index.php?id=398> (accessed 12 September 2023).

Moreover, the government bodies mandated with ensuring full compliance with the 2010 Constitution's progressive obligations to protect and advance youth political participation, including Parliament and regulatory bodies, should be allocated sufficient resources to fulfil their obligations. These include the office of the Registrar of Political Parties whose mandate it is to monitor, regulate and enforce compliance with the Political Parties Act provisions related to youth political participation; the relevant independent commissions responsible for electoral civic education and public awareness and sensitisation such as the Independent Electoral and Boundaries Commission; the National Gender and Equality Commission; the Kenya National Commission on Human Rights; and all the civil society organisations working on electoral and voter rights in Kenya.

The youth must also be factored into any and all solutions being considered to resolve the 'winner take all' problem that is a result of Kenya's 'Big Man' political culture. Similar to the quota for youth representation in the composition of the senate under the 2010 Constitution, the same quota ought to be established for representation in the executive, particularly the cabinet. This will in some way ensure that the youth perspective is tabled by youths on behalf of the youth. It would also help in terms of providing role models for other youths that they too can compete for the highest elective and appointive positions in Kenya regardless of their socio-economic background.