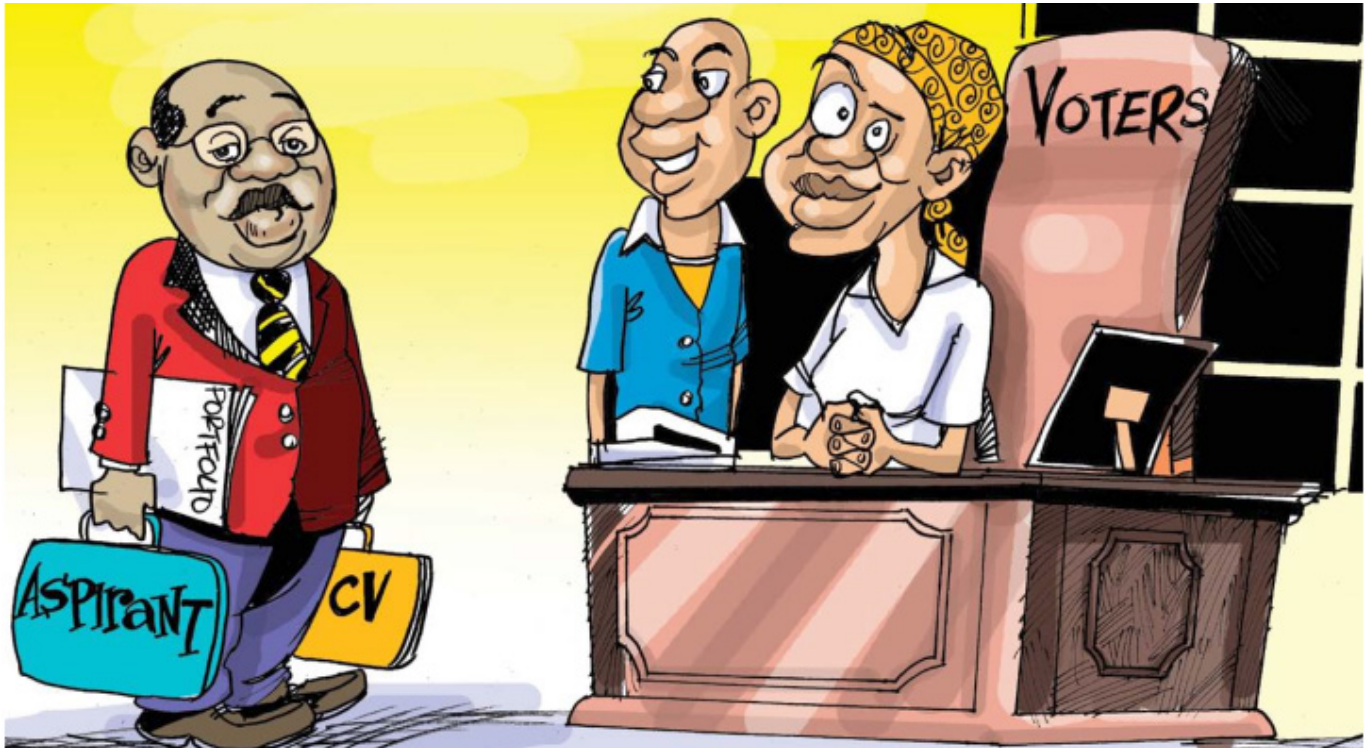


ELECTORAL LAWS OF KENYA



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ELECTORAL LAWS OF KENYA

The laws governing the electoral system of Kenya include:

- a) The Constitution of Kenya, 2010.
- b) The Elections Act, 2011;
- c) Elections Offenses Act, 2016.
- d) The Political Parties Act, 2011;
- e) The Independent Electoral and Boundaries Commission Act, 2011;
- f) The Elections Campaign Financing Act, 2013;
- g) The Leadership and Integrity Act, 2012

1. The Constitution of Kenya, 2010

The Constitution establishes the Independent Electoral and Boundaries Commission, IEBC. The IEBC is the electoral body in Kenya. The Commission has the major responsibility of conducting elections and referenda.

In the performance of its functions, the Commission is subject only to the Constitution and the law and hence not subject to the direction or control by any person or authority.

The Constitution grants four (4) types of rights to participate in an election which are:

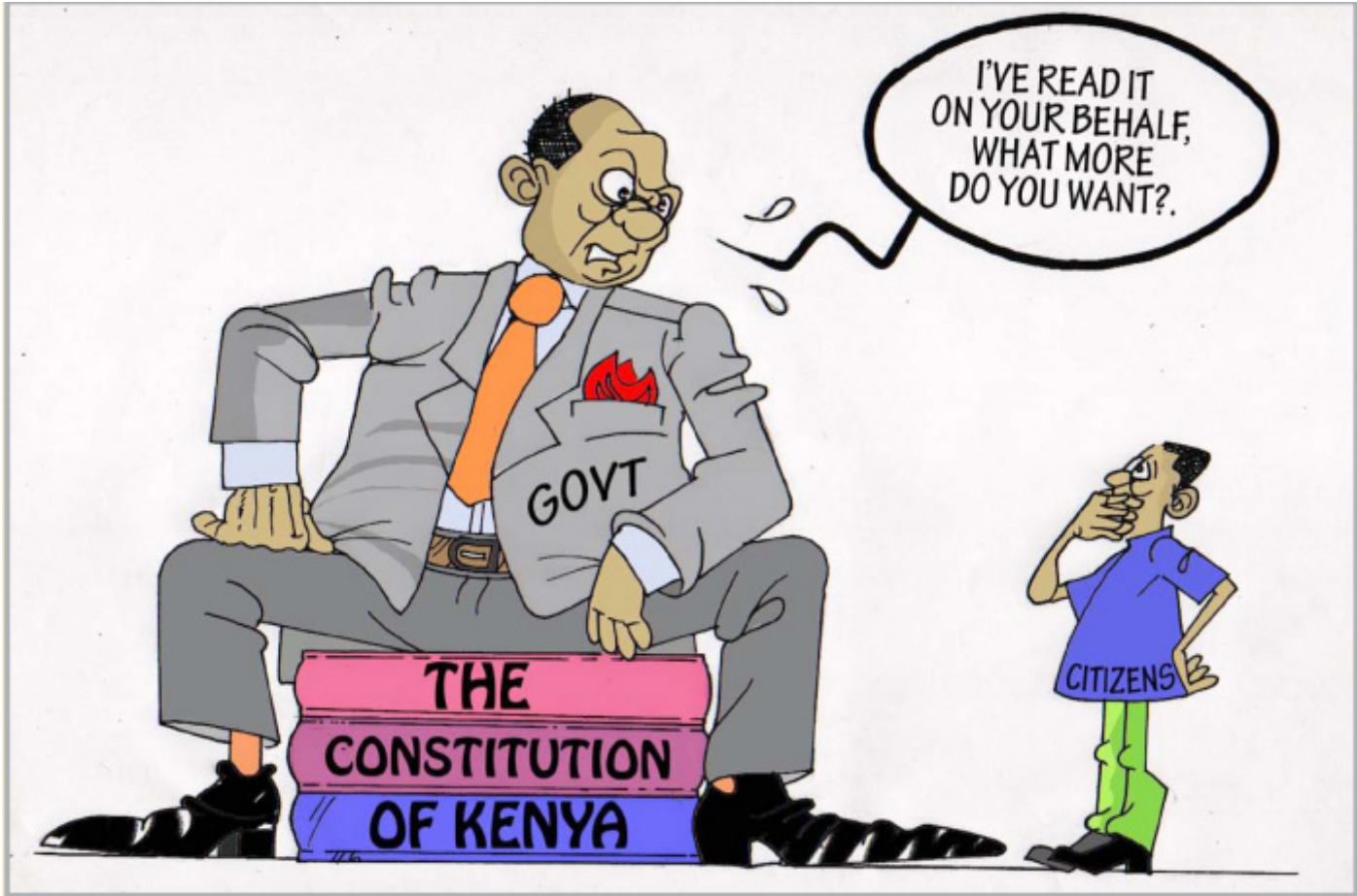
- Right to be registered as a voter;
- Right to vote by secret ballot in any election or referendum;
- Right to be a candidate and if elected, right to hold a public office; and
- Right to join and participate in a political party.

Article 10 of the Constitution provides for national values and principles that is required to be observed during elections. These values include: good governance, integrity, transparency and accountability.

The constitution requires that the electoral system be subject to the following principles:

- The citizens must be given the freedom to exercise their political rights.
- Not more than two-thirds of members of elective public bodies shall be of the same gender.
- Persons with disabilities must be fairly represented.

- The electoral system must comply with the principle of free and fair elections that bear the following characteristics:
 - By secret ballot;
 - Free from violence, intimidation, improper influence or corruption;
 - Conducted by an independent body;
 - Transparent; and
 - Administered in an impartial, neutral, efficient, accurate and accountable manner.



2. The Elections Act, 2011

This Act provides for the following:

- the conduct of both elections and referenda
- the registration of voters, and the determination of questions concerning registration
- election offences and resolution of election disputes

All adult Kenyan citizens have the right to vote provided they are registered in the Register of Voters. The Register of Voters comprises —

- A poll register in respect of every polling station;
- A ward register in respect of every ward;
- A constituency register in respect of every constituency;
- A county register in respect of every county; and
- A register of voters residing outside Kenya

The registered voters in a county or constituency may remove their Member of Parliament before the end of

the term of the relevant House of Parliament if he/ she is:

- found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution;
- found, after due process of the law, to have mismanaged public resources;
- convicted of an offence under this Act.

A recall can only be started twenty-four months after the election of the Member of Parliament and not later than twelve months immediately preceding the next general election.

A recall petition cannot be filed against a Member of Parliament more than once during the term of that member in Parliament.

A person who unsuccessfully contested an election cannot initiate a petition for the removal of the Member of Parliament.

The IEBC is responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but this excludes election petitions and disputes subsequent to the declaration of election results.

Have we left out anyone?



3. The Election Offences Act, 2016

This Act came in the year 2016. Election offences will cause warning, disqualification, prosecution or imprisonment. These are some of the offences that you, as a Kenyan citizen need to be familiar with:

- a. Multiple registration: your name appearing more than once on the voters' register
- b. Having more than one voter's card
- c. Impersonation: using somebody else's voter's card
- d. Selling or buying voter's card. Do not exchange your card for money, food, beer or any other gift, you will be selling your ethics and your democratic right
- e. Deliberately destroying a voter's card
- f. Offences relating to voting
- g. Voting more than once
- h. Carrying out campaigns on the polling day
- i. Soliciting or receiving bribes to encourage voting for a candidate

- j. Hate speech targeting the opposing side
- k. Destruction of campaign materials of the opposing candidate.
- l. Use of another person's elector's card and ID to vote
- m. Prevention, obstruction or barring of a person from voting
- n. Use of threats, force, or violence during the election to compel someone to vote in a particular way or refrain from voting.

It is your duty as a citizen to -

- a. Report election offences as soon as possible to Designated IEBC Security Officer's desk, Designated Peace Committees or the nearest Police Station
- b. Conduct campaigns in a peaceful manner and to always adhere to the laws, rules and regulations guiding elections in Kenya
- c. Participate in peaceful elections

I WANT TO WIN
IN THIS COMING
ELECTIONS. JUST TAKE
THIS AND DROP MY
SUPPORTERS AT THE
POLLING STATION



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4. Political Parties Act, 2011

- This Act regulates the formation and operation of political parties. It provides for the registration of political parties and how they are regulated. It also provides for the funding and accounting of political parties, and the resolution of disputes within political parties.
- The Act has created the office of the Registrar of Political Parties that is independent that cannot be directed or controlled by any person or authority. It is mandatory for any political party to be registered before it can be allowed to operate.
- It establishes a fund called the Political Parties Fund, which is administered by the Registrar of Political Parties. The fund promotes accountability, transparency and fair competition between parties.
- The Act provides for distribution of the fund, restriction of sources, disclosure and audit of the Fund.

5. The Independent Electoral and Boundaries Commission (IEBC) Act 2011

The EBC is responsible for conducting or supervising elections to any elective office. Under this Act, the Commission is made up of the commissioners headed by a chairperson and a secretariat headed by a Chief Executive Officer who also is also the secretary to the commission.

The Commission consists of nine (9) Members with the Chair and Vice Chair. The commissioners are appointed by the President of Kenya and confirmed by the Kenyan Parliament. The term of office of the members of the commission is a single term of six (6) years.

The commission is independent from the control or influence of any person or authority. In carrying out its functions, the commission is required to observe the principle of public participation and the requirement for consultation with stakeholders.

The functions of the IEBC are:

1. Conducting or supervising referenda
2. Conducting or supervising elections to any elective body established by the constitution
3. Conducting and supervising any other election as may be as may be prescribed by an Act of Parliament
4. Registration of citizens as voters
5. Regular revision of voters register
6. Delimitation of constituencies and wards
7. Settlement of electoral disputes such as disputes arising from nominations

There is a code of conduct for members and staff of the Commission. The Code is fairly comprehensive. The Code requires the Commission's employees to conduct themselves with integrity and neutrality. All the members are expected to perform their duties in a manner that maintains public confidence and to discharge their duties in a professional and efficient manner and respect the rights and freedoms of all persons.



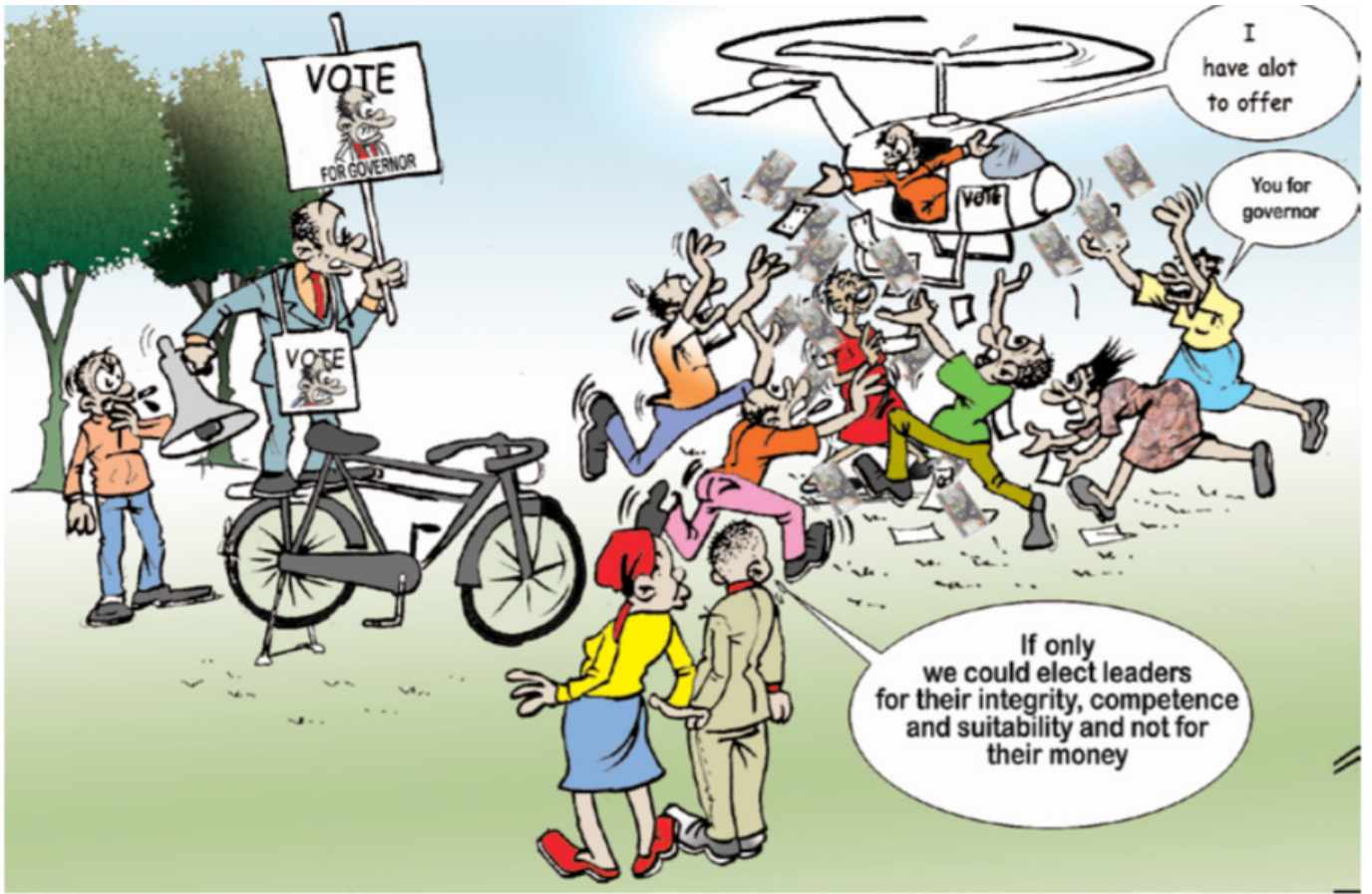
6. The Election Campaign Financing Act, 2013

This law was passed by parliament in 2013 to provide for the regulation, management, expenditure and accountability of election campaign funds during election and referendum campaigns.

The IEBC is responsible for the regulation and administration of campaign financing and is required to—

- (a) keep a register of authorised persons under this Act;
- (b) Supervise candidates, political parties, referendum committees and authorised persons in relation to campaign expenses;
- (c) Set spending limits and enforce compliance with such limits

A political party intending to contest in an election is required to constitute a party expenditure committee which shall consist of nine members whose mandate is to advise the political party on all financial matters related to the party nomination or to the party campaign expenditure;



7. The Leadership and Integrity Act, 2012

This Act came into place in 2012 to give effect to the provisions of the Constitution on leadership and integrity under Chapter six, (6)

This law requires leaders to have the following leadership qualities:

1. State officers are required to abide by the Constitution and the law.
2. State officers are required to use the power given to them in the interest of Kenyans
3. State officers are required to carry out their duties efficiently and with honesty
4. State officers are required to carry out duties of the office in a manner that maintains public confidence in the integrity of the office
5. A State officer shall not use the office to unlawfully enrich himself or herself or any other person
6. A State officer shall not use the office to wrongfully or unlawfully influence the acquisition of property





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