



# **Citizen's GUIDE to GOOD Leadership Under Devolved Government**



**Citizen's GUIDE to  
GOOD Leadership  
Under Devolved Government**

GOOD Counties Need Good LEADERS

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## Acronyms

CDF	Constituency Development Fund
CEC	County Executive Committee
CRA	Commission on Revenue Allocation
FPTP	First Past the Post
IEBC	Independent Electoral and Boundaries Commission
KRA	Kenya Revenue Authority
MP	Member of Parliament
PR	Proportional Representation
PWD	Persons with Disabilities
VAT	Value Added Tax

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# 1

## INTRODUCTION

### 1.1 Kenya: A devolved system of government

Decentralisation describes the horizontal and vertical sharing of power by government. This implies the sharing of responsibilities for administrative, financial and political aspects of government. Horizontal decentralisation occurs when government shares power with institutions at the same level. In Kenya these institutions include the national executive, parliament, the judiciary and the independent offices and commissions established under chapter 15 of the constitution.

Vertical decentralisation occurs when the national government disperses power to sub-national units. The Constitution of Kenya 2010 establishes government at two levels, National and County. Article 6(1) divides the territory of Kenya into 47 Counties captured in Table 1.

Table 1: Kenya's 47 Counties

1. Mombasa	11. Isiolo	21. Murang'a	31. Laikipia	41. Siaya
2. Kwale	12. Meru	22. Kiambu	32. Nakuru	42. Kisumu
3. Kilifi	13. Tharaka-Nithi	23. Turkana	33. Narok	43. Homa Bay
4. Tana River	14. Embu	24. West Pokot	34. Kajiado	44. Migori
5. Lamu	15. Kitui	25. Samburu	35. Kericho	45. Kisii
6. Taita/Taveta	16. Machakos	26. Trans Nzoia	36. Bomet	46. Nyamira
7. Garissa	17. Makueni	27. UasinGishu	37. Kakamega	47. Nairobi
8. Wajir	18. Nyandarua	28. Elgeyo/Marakwet	38. Vihiga	
9. Mandera	19. Nyeri	29. Nandi	39. Bungoma	
10. Marsabit	20. Kirinyaga	30. Baringo	40. Busia	

## 1.2 The structure of government in Kenya

The national government comprises of the National Executive, the Parliament of Kenya and the Judiciary. The National Executive comprises of the President, Deputy President and the Cabinet. The Cabinet consists of the President, the Deputy President, the Attorney-General and, not fewer than fourteen and not more than twenty-two Cabinet Secretaries.

The Parliament is a bicameral parliament, that is, a parliament with two houses: The National Assembly and the Senate. The National Assembly represents the constituencies while the Senate represents the counties in Parliament.

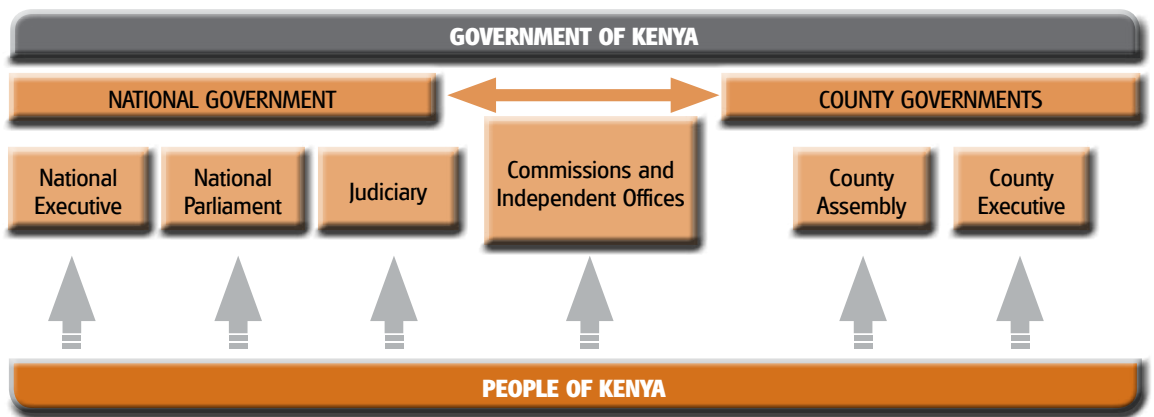
County governments are composed of the county executive and county assemblies. The county executive is known as the County Executive Committee (CEC) and comprises of the Governor and County Executive Committee members appointed by the Governor, who may not exceed 10 in number. The County Assembly is the legislative arm of county governments.

Judicial authority is derived from the people of Kenya and is vested in the courts and tribunals established under the Constitution of Kenya. The Judiciary is established at the national level. Under devolved government, the Judiciary is required to decentralise its services to the lowest level possible to ensure access to justice.

The Constitution also creates shared institutions to serve both levels of government. Chapter 15 recognises ten permanent and independent commissions, the Auditor General and the Controller of Budget offices. The Commission for the Implementation of the Constitution (CIC) is a five year Commission created for the purpose of overseeing and coordinating the implementation process of the Constitution.

Figure 1 shows the relationship between the National Government and the County Government under a devolved system of government.

Figure 1: Structure of Government in Kenya



## 1.3 Objects of devolution

Devolved government is the most transformative aspect of Kenya's governance in the Constitution of Kenya. It seeks to redress ingrained regional inequalities and poor governance. Chapter eleven of the Constitution provides the objects of devolution of government as:

- a). To promote democratic and accountable exercise of power;
- b). To foster national unity by recognising diversity;
- c). To give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them;
- d). To recognise the right of communities to manage their own affairs and to further their development;
- e). To protect and promote the interest and rights of minorities and marginalized communities;
- f). To promote social and economic development and the provision of proximate, easily accessible services throughout Kenya;
- g). To ensure equitable sharing of national and local resources throughout Kenya;
- h). To facilitate the decentralization of State organs, their functions and services, from the capital of Kenya;
- i). To enhance checks and balances and the separation of powers.

Article 6(2) of the constitution states that governments at both levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. **Distinct:** This means that national and county governments are equal to each other; neither is subordinate to the other. **Interdependent:** The decisions at one level of government will affect the other level of government. They, therefore, have to make decisions in consideration of each other. **Cooperation and Consultation:** The levels of government are expected to cooperate and consult in respective undertakings.

In order to manage the cooperation between the levels of government the Intergovernmental Relations Act, 2012 provides for the establishment of institutions for intergovernmental relations, the Summit and Council.

The National and County Government Coordinating Summit is the apex body for intergovernmental relations and will comprise the President and the Governors of the 47 Counties. The Summit will provide a forum for:

- ☞ Consultation and co-operation between the national and county governments
- ☞ Promotion of national values and principles of governance
- ☞ Promotion of national cohesion and unity
- ☞ Consideration and promotion of matters of national interest.

The Council of County Governors shall consist of the Governors of the 47 Counties and shall provide a forum for:

- ☞ Consultation amongst county governments;
- ☞ Sharing of information on the performance of the counties in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;
- ☞ Considering matters of common interest to county governments;
- ☞ Dispute resolution between counties within the framework provided under this Act;
- ☞ Facilitating capacity building for governors;
- ☞ Receiving reports and monitoring the implementation of inter-county agreements on inter-county projects;
- ☞ Consideration of matters referred to the Council by a member of the public.

## 1.4 The Functions of National and County Governments

The Fourth Schedule of the Constitution sets out the functions and powers of the National and County governments. The Constitution allows for the transfer of functions and powers from one level of government to another. Article 189(1) further states that government at either level shall perform its functions and exercise its powers in a manner that respects the functional and institutional integrity of government at the other level.

Article 186 of the Constitution classifies functions as: exclusive, concurrent and residual. Exclusive functions are assigned to one level of government, to the exclusion of the other level of government; Concurrent functions are conferred on more than one level of government; A power not assigned by the constitution or national legislation is a residual function and is assigned by the National government. Table 2 outlines the functions of National and County Governments.

Table 2: Functions of National and County Governments<sup>1</sup>

National Government	County Government
1. Foreign Affairs	1. Agriculture
2. Use of international waters	2. County Health Services
3. Immigration and citizenship	3. Control of air pollution, public nuisances and outdoor advertising
4. Relationship between religion and state	4. Cultural activities, public entertainment and public amenities
5. Language policy	5. County transport
6. National Defence	6. Animal control and welfare
7. Police Services	7. Trade development and regulation
8. Courts	8. County planning and development
9. National economic and monetary policy	9. Pre-primary education and village polytechnics implementation of national specific policy
10. National statistics	10. County public works including water and sanitation
11. Intellectual property rights	11. Fire fighting and disaster management
12. Labour standards	12. Control of drugs and pornography
13. Consumer protection	13. Ensuring public participation in county governance
14. Education policy, standards, curricula, examinations	
15. Universities, tertiary education, primary, secondary, special education	
16. Promotion of sports and sports education	
17. Transport and communications	
18. National public works	
19. Housing policy	
20. General principles of land planning	
21. Protection of environment and natural resource	
22. National referral health facilities	
23. Disaster management	
24. Ancient and historical monuments	
25. National elections	
26. Health, agricultural, veterinary, energy policy	
27. Capacity building and technical assistance to the counties	
28. Public investment	
29. National betting, casinos	
30. Tourism policy and development	
31. National infrastructure	
32. Education	
33. National Health services	
34. Tourism	
35. Capacity building County Governments	

<sup>1</sup> Adapted from Schedule 4 of the Constitution of Kenya

## 2 ORGANISATION OF COUNTY GOVERNMENTS

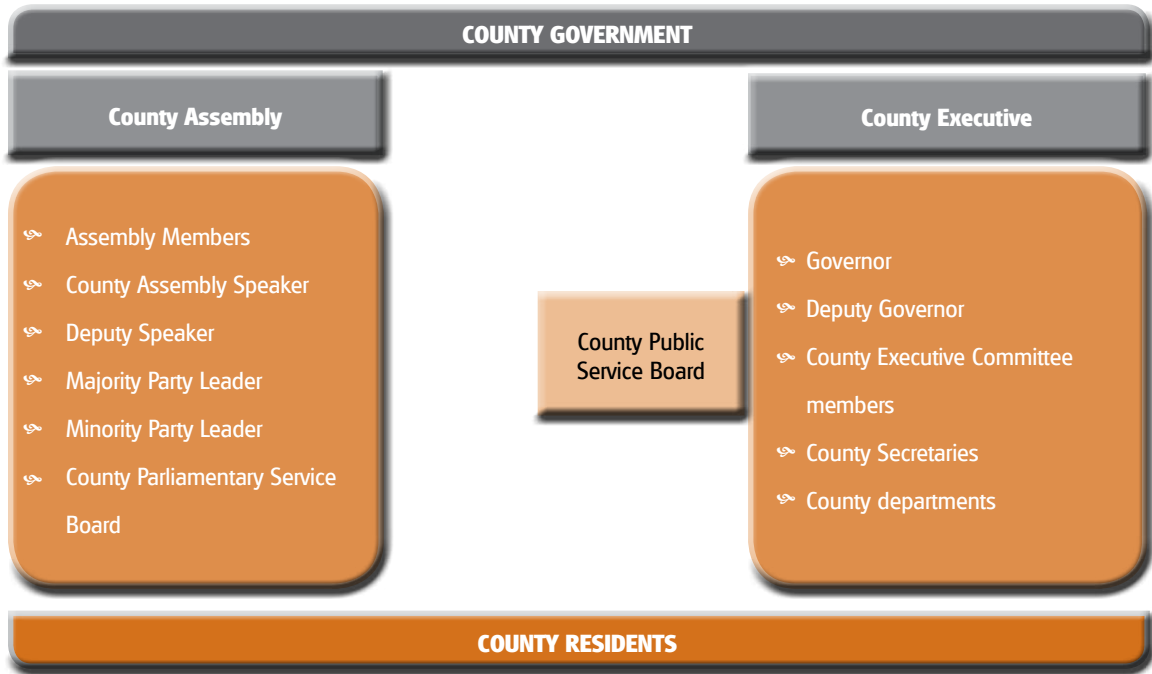
The county governments have an executive arm of government and a legislative arm. The executive arm of county governments comprises the governor, the deputy governor and the county executive committee appointed by the Governor and approved by the County Assembly. The county executive committee shall not exceed one third of the members of the County Assembly up to a maximum of ten. It will be responsible for the running and management of Counties and will develop and implement county policy.

Staff of the county administration shall be recruited by the county public service board. At least 30 per cent of the county public service staff must be residents of the County. The county public service shall be headed by the County Secretary who shall also serve as secretary to the county executive committee. The county executive committee shall determine the number and role of departments that the county shall require. Each department shall be headed by a county secretary, for instance financial matters at the county shall be managed by the County Secretary for Finance.

County Assemblies comprise the legislative arm of county governments. Members of the county assembly shall be sworn in within fourteen days after the announcement of the final results of an election. The County Assembly shall elect the county speaker during their first sitting before the county assembly proceeds with the dispatch of any other business. Figure 2 outlines the composition and structure of county government.

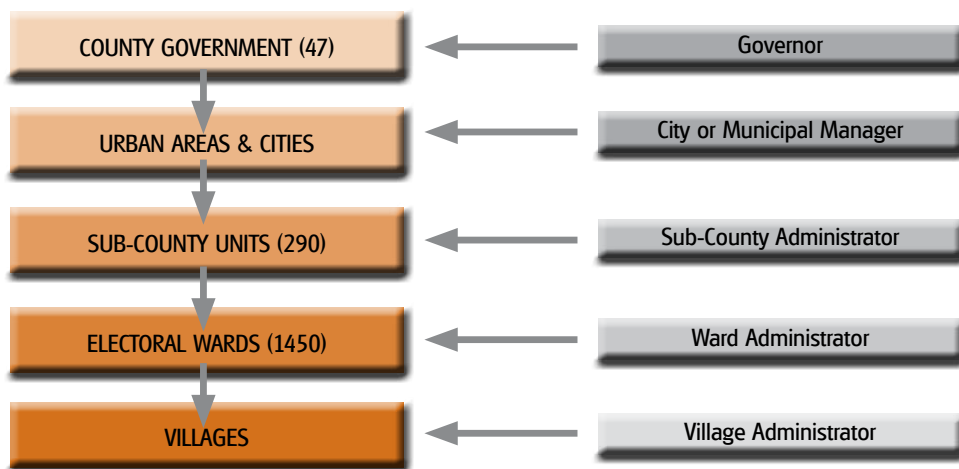
There shall be in each County Assembly a leader of the majority party and a leader of the minority party. The leader of the majority party shall be the person who is the leader of the political party which captures the most assembly seats in the county. There shall be a county assembly service board for each county assembly comprising the speaker, leader of majority party, leader of minority party, one person resident in the county knowledgeable in public affairs. There shall be a clerk of the county assembly, appointed by the county assembly service board with the approval of the county assembly.

Figure 2: Structure of County Government



Article 176 of the constitution requires County governments to decentralise their functions to the lowest level possible as indicated in Figure 3. The County Government Act, 2012 provides for several levels of decentralisation, each to be managed by an administrator who shall be competitively recruited by the county public service.

Figure 3: County government levels of decentralisation



### **Urban Areas**

Article 184 provides for the establishment of urban areas. Urban areas shall be classified as cities, municipalities or towns. Cities and Municipalities will be managed under a city or municipal board. The board will function as an agency of the county government and will be accountable to the governor and its residents. The board will undertake service delivery functions and will have the powers to raise revenue and make financial spending decisions. The plans and budgets of urban areas must be approved by the county government.



# 3

## FINANCING OF COUNTY GOVERNMENTS

Chapter 12 of the Constitution of Kenya addresses public finance and provides principles for public finance management which are: Openness, accountability and public participation in financial matters; Equitable development, equitable and fair sharing of tax burden, national revenue, revenues from resource exploitation; Institutions responsible for finance are to be prudent and responsible in the use of public finances and reporting for public finance clear.

To finance its operations, County government will raise resources from several sources:

- a). Revenue collected by the National government (Income tax, VAT, Custom Duties, Excise tax), will be divided equitably between the national and county governments based on proposals of the Commission on Revenue Allocation (CRA), and approved by Parliament in the Division of Revenue Bill. Equitable share to Counties shall not be less than 15 per cent. This is also known as the vertical share.

The divided revenue will be shared equitably across counties through the County Allocation of Revenue Bill, 2012 based on recommendations of the Commission on Revenue Allocation, and approved by the Senate and passed by the National Assembly. This is known as the horizontal sharing of revenue and will be proposed by the Commission on Revenue Allocation after consultations. The formula for horizontal sharing of revenue will be reviewed every five years. Annex 1 illustrates the CRA allocations per County for 2012-2013.

Table 3: Recommended Parameter Weights

PARAMETER	WEIGHT (%)
1. Population	45
2. Basic equal share	25
3. Poverty index	20
4. Land area	8
5. Fiscal responsibility	2
<b>TOTAL</b>	<b>100</b>

Source: CRA, October 2012

- b). County governments may collect revenue from rates charged on property, entertainment taxes and charges imposed on the delivery of a particular service.
- c). County governments can also receive grants or financial transfers from the national government if this is provided in an Act of Parliament. e.g. Constituency Development Fund (CDF).
- d). County governments may receive grants from external bodies if approved by the County Executive Committee(CEC) and the County Assembly.
- e). County governments may borrow through loans for capital expenditure, upon guarantee of the loan by the national government.
- f). Natural resources: Many Counties in Kenya have natural resources such as coal, precious stones, titanium, limestone, national parks, natural gas and petroleum. Kenya does not presently have legislation to guide on the sharing of resources between national and county governments.
- g). Article 204 of the constitution also provides for the equalisation fund which will be directed towards basic services in marginalised areas based on recommendations by the Commission on Revenue Allocation.

### County Budget Process

The Public Finance Act, 2012 provides for the county budget process as summarised in Table 4.

Table 4: The County Budget Process

DATE	BUDGET ACTIVITY	PERSON/INSTITUTION RESPONSIBLE
30 <sup>th</sup> August	Budget circular is issued	County Finance Secretary
1 <sup>st</sup> September	County Development Plan submitted to County Assembly for approval. It is published and publicized seven days after submission.	County Planning Secretary
28 <sup>th</sup> February	The County Fiscal Strategy Paper is approved by the CEC and then submitted to County Assembly. The County Assembly must adopt it within 14 days with or without amendment. County Treasury is required to publish it within 7 days of submission to Assembly	County Finance Secretary County Assembly
30 <sup>th</sup> April	Budget Estimates are submitted to the County Assembly County Finance Secretary shall publish and publicize documents as soon as possible Submit any other bills required to effect the budget by April 30 <sup>th</sup> Upon approval of estimates the County Finance Secretary shall prepare and submit the County Appropriation Bill to County Assembly	County Finance Secretary
30 <sup>th</sup> April	County Assembly Clerk submits county assembly budget estimates to County Assembly and County Finance Secretary	County Assembly Clerk
30 <sup>th</sup> June	County Assembly considers budget estimates with a view to approving the Appropriation Act and other bills by 30 <sup>th</sup> June.	County Assembly
90 days	County Finance Secretary shall read the budget statement. County Finance Secretary shall submit to assembly the County Finance Bill with recommendations of the County Finance Secretary Assembly shall pass the County Finance Bill not later than 90 days after passing the appropriations Bill	County Finance Secretary County Assembly
15 <sup>th</sup> June	Annual Cash flow projections prepared and submitted to Controller of Budget	County Finance Secretary
30 <sup>th</sup> September	County Budget Review and Outlook Paper is submitted to CEC County Executive Committee must approve within 14 days County Executive Committee present paper to County Assembly within 7 days County Executive Committee publish and publicize Paper within 7 days	County Treasury CEC
28 <sup>th</sup> February	County Government Debt Management strategy submitted to County Assembly County Finance Secretary to publish and publicize, and submit to CRA and Inter-governmental Budget and Economic Council	County Finance Secretary

## ELECTIONS UNDER THE CONSTITUTION

The Constitution of Kenya 2010 adopts two methods of elections in Kenya:

- ∞ **First Past the Post (FPTP) Electoral system** where the person with a simple majority of the votes wins;
- ∞ **Proportional Representation (PR)** where the candidates are chosen from a party list prepared by political parties.

Table 5 illustrates the electoral seats created under the constitution and methods used in filling them.

Table 5: Number of Electoral Seats and Methods

OFFICE	POSITION	NUMBER	ELECTORAL METHOD
<b>Presidency</b>	President	1	FPTP
	Deputy President	1	Automatically assumes seat as the President's running mate
<b>National Assembly</b>	Members of the National Assembly	290	FPTP
	Women Representative	47	FPTP (one per County)
	Special interests (youth, persons with disabilities and workers)	12	Party List
<b>Senate</b>	Elected	47	FPTP
	Women	16	Party List
	Youth	2	Party List (1 man and 1 woman)
	Persons with disabilities	2	Party list (1 man and 1 woman)
<b>Governor</b>	Governor	47	FPTP
	Deputy Governor	47	Automatically assumes the seat as Governor's running mate
<b>County Assembly</b>	Elected	1450	FPTP (one per Ward)
	Gender	2/3 <sup>rd</sup> s rule	Party List - Number required to meet the two-thirds or one-third-rule
	Marginalized (Youth and persons with disabilities)	4 per County	Party List

Source: Leadership and Campaign Academy; Candidates Manual, National Democratic Institute 2011

### Election Offences

The Elections Act, 2011 states that a person convicted of the electoral offences is liable to warning, disqualification or a fine not exceeding one million shillings and to imprisonment for a term not exceeding six years or to both. Some of the election offences include;

- ☞ Double or multiple registration: your name appearing more than once on the voters' register;
- ☞ Having more than one voter's card;
- ☞ Impersonation: the use of another person's voter's card; use of another person's elector's card is punishable;
- ☞ Selling or buying voter's card: buying or selling voter's card for cash or material gain;

- ❧ Deliberately destroying a voter's card;
- ❧ Carrying another person voter's card;
- ❧ Voting more than once;
- ❧ Carrying out campaigns on polling day;
- ❧ Double registration, with your name appearing twice on the voters' register;
- ❧ Voter buying and selling. Do not exchange your card for money, food, beer or any other gift. You will be selling your conscience and your democratic right;
- ❧ Soliciting or receiving bribes to encourage voting for a candidate;
- ❧ Hate speech targeting the opposing side;
- ❧ Carrying another person's elector's card;
- ❧ Destruction of campaign materials of the opposing candidate;
- ❧ Use of another person's elector's card and identity card to vote;
- ❧ Prevention, obstruction or barring of a person from voting.



# 5

## ELECTED LEADERSHIP UNDER THE CONSTITUTION

The Constitution provides for 6 electoral leadership positions namely:

- ✧ County Assembly Representatives;
- ✧ Governors;
- ✧ Senators;
- ✧ Woman Representative to the National Assembly;
- ✧ Member the National Assembly;
- ✧ President.

Once elected, the leaders will be expected to play their specific constitutional roles and responsibilities as illustrated in Table 6.

Table 6: Roles of Elected Leaders

POSITION	DUTIES
<b>County Assembly Member</b> (The Eyes of the People)	<p>Make sure that the governor and the county executive committee respect the interest of the people</p> <p>Vet and approve nominees to county public offices</p> <p>Approve the budget and expenditure of the county government</p> <p>Approve borrowing by the county government</p> <p>Approve County development plans</p>
<b>Governor</b> (The County Boss)	<p>Represent the county in national and international events;</p> <p>Appoint, with the approval of the County Assembly, the county executive committees</p> <p>Submit the county plans and policies to the County Assembly for approval</p> <p>Consider, approve and assent to bills passed by the County Assembly</p> <p>Promote peace and order within the county</p> <p>Promote competitiveness of the county</p> <p>Be accountable for the management and use of county resources</p>
<b>Senator</b> (The County Protector)	<p>Protect the interest of the counties</p> <p>Determine county revenue allocation</p> <p>Approve national laws that affect counties</p> <p>Determine any resolution to remove the President or Deputy President</p>
<b>Women’s Representative</b>	<p>To voice the interests of women and minority groups in the National Assembly</p> <p>To strengthen the participation of women in the economic, social, and political decision making processes</p> <p>To ensure adequate attention to gender in programmes initiated/overseen by the National Assembly</p>
<b>Member of the National Assembly</b> (The Peoples’ Representative)	<p>To represent the constituency interests in the National Assembly</p> <p>To make necessary laws in the National Assembly</p> <p>To oversee the activities of the National Executive and state organs</p> <p>To oversee matters relating to national revenue and expenditure.</p>
<b>President</b>	<p>Appoint and dismiss cabinet secretaries, attorney general, secretary to the cabinet, principle secretaries, high commissioners, ambassadors, diplomatic and consular representatives and any other state or public officer whom the Constitution requires or empowers the President to appoint or dismiss</p> <p>Chair Cabinet meetings, direct and co-ordinate the functions of ministries and government departments; and by a decision published in the Gazette, assign responsibility for the implementation and administration of any Act of Parliament to a Cabinet Secretary, to the extent not inconsistent with any Act of Parliament</p>



# G

## GENDER AND AFFIRMATIVE ACTION SEATS

Even where political representatives are chosen through free and fair democratic elections, political processes tend to favour the elite category of the society. In Kenya political representation has favoured, wealthy male candidates from large communities. For example, despite making up 51 per cent of the population women in Kenya still lag behind in political representation compared to other countries in the region. Table 7 shows the level of current female representation amongst the East African community members.

Table 7: Current Female representation in Parliament in East Africa

COUNTRY	PERCENTAGE
Rwanda	56.3
Tanzania	36
Uganda	35
Burundi	30.5
Kenya	9.8

Source: CRA

It is worth noting that Kenya’s population ratio is almost 1:1.

Article 27 (8) and Article 100 of the Constitution of Kenya provides for the promotion of the representation of women, persons with disability (PWD), youth, ethnic and other minorities and marginalised communities in political representation. This is to be realised through seats already prescribed in the Constitution and through additional seats to be prescribed by an Act of Parliament. Table 8 shows gender and affirmative action seats under the Constitution of Kenya.

Table 8: Gender and Affirmative Action Seats

<b>National Assembly</b>	Article 97(b) 47 women reps elected by counties	Article 97 (c) 12 members nominated by political parties to represent special interests, youth, persons with disabilities, and workers.	2/3 <sup>rd</sup> s gender seats to be prescribed in an Act of Parliament
<b>Senate</b>	Article 98(b) 16 women members nominated by political parties	Article 98(c) two youth (one man one woman) nominated by political parties 98(d) two people with disability (one man, one woman) nominated by political parties	2/3 <sup>rd</sup> s gender seats to be prescribed in an Act of Parliament
<b>County Assembly</b>	177(b) the number of special seats necessary to ensure no more than 2/3 <sup>rd</sup> are of same gender	117 ( c) the number of members of marginalized groups including youth, PWD prescribed in an Act of Parliament	Mechanism to give effect to 177( b) and 177(c) to be prescribed in an Act of Parliament

Party nominations for gender and affirmative action seats will be done on the basis of proportional representation through party lists. Under Article 90 (2) (a) of the Constitution of Kenya each political party is required to nominate candidates on the basis of gender and marginalised interests. The political party will be allocated the number of seats proportional to its representation in parliament and the assembly once the final election results are announced.

Party nominations shall be guided by the party nomination rules and the submission of party lists by political parties. A person who is nominated by a political party shall have been a member of the political party for at least three months preceding the date of submission of the party list by the political party. Political parties shall submit a list of party nominees to the IEBC on or before the specified deadline as prescribed by Section 13 (3) of the Elections Act, 2012. A party list submitted shall not be amended during the term of Parliament or the County Assembly.

However, political parties have been unable to agree on how to give effect to the two thirds gender rule 27(8) and 177 (b) and (c). The Commission on Revenue Allocation has issued a warning, that if political parties do not take responsibility for effecting gender and affirmative action seats it will result in bloated county assemblies which will cause a high wage burden on counties. The matter was referred to the Supreme Court which ruled that the two thirds provision could not be enforced immediately but will be progressively implemented to be fully realized by August, 2015.

# 7

## THE ROLE OF CITIZENS IN ELECTIONS

Article 1 of the Constitution provides that the people of Kenya are sovereign and 1(2) may exercise their sovereign power either directly or through their democratically elected representatives. Article 38 states that every citizen is free to make political choices, and to engage freely in political parties. Article 38 also declares that every citizen has the right to free, fair and regular elections. Elections shall be by secret ballot.

Article 81 states that the electoral system shall comply with the principle of free and fair elections; which are free from violence, intimidation, improper influence or corruption.

A person qualifies for registration as a voter at elections or referenda if the person is an adult citizen, is not declared to be of unsound mind, and has not been convicted of an election offence during the preceding five years.

It is the duty of every eligible citizen to:

- a). Register as a voter;
- b). Report election offences as soon as possible to designated IEBC

Security Officer's desks, designated Peace Committees or the nearest Police Station;



- c). Conduct campaigns in a peaceful manner and to ALWAYS adhere to the laws, rules and regulations guiding elections in Kenya;
- d). Participate in the election by coming out to vote;
- e). Monitoring the performance of political leaders while in office (Article 174 (c) and (d) of the Constitution);
- f). Petitioning for action on bad leadership (Article 37 of the Constitution, Clause 86 of the County Governments Bill).

# 8

## LEADERSHIP UNDER THE CONSTITUTION OF KENYA

The Constitution of Kenya seeks to transform our country. Article 10 of the Constitution of Kenya lays out the national values and principles of governance in Kenya. They apply to all Citizens of Kenya and are:

- ✧ Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- ✧ Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- ✧ Good governance, integrity, transparency and accountability;
- ✧ Sustainable development.

Chapter 6 of the Constitution lays a foundation for integrity in Kenyan leadership. It outlines the conduct and general requirements of state officers. All political electoral representatives



are state officers. Article 73 (1) outlines the standards of leadership by stating that the authority assigned to a State officer:

- a) Is a public trust to be exercised in a manner that:
  - ☞ Is consistent with the purposes and objects of this Constitution;
  - ☞ Demonstrates respect for the people;
  - ☞ Brings honour to the nation and dignity to the office;
  - ☞ Promotes public confidence in the integrity of the office;
- b) Vests in the State officer the responsibility to serve the people, rather than the power to rule them.

State officers should conduct themselves on the basis of:

- i. Selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- ii. Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
- iii. Selfless service based solely on the public interest, demonstrated by:
  - ☞ Honesty in the execution of public duties
  - ☞ The declaration of any personal interest that may conflict with public duties.
- iv. Accountability to the public for decisions and actions;
- v. Discipline and commitment in service to the people.

Article 75 (1) states that a State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids:

- ☞ Any conflict between personal interests and public or official duties;
- ☞ Compromising any public or official interest in favor of a personal interest;
- ☞ Demeaning the office the officer holds.

Under Article 79 of the Constitution, the Ethics and Anti-Corruption Commission (EACC), has the status and powers for ensuring compliance with, and enforcement of, the provisions of Chapter 6 of the Constitution.

The Leadership and Integrity Act, 2012 was intended to safeguard leadership standards and integrity among leaders, but was watered down by the Cabinet and Members of Parliament through the removal of vetting requirements for electoral aspirants.

Transformative leadership starts with voting in good leaders. We should **NOT** vote for a candidate:

- ☞ Who tries to buy our vote;
- ☞ Just because they are from our tribe;
- ☞ Because our friends or family are voting for that person;
- ☞ Only because the person speaks well or is good looking;

We need to think carefully about the kind of leader we will elect.



# 9

## LEADERSHIP VETTING BY VOTERS

Chapter 6 of the Constitution of Kenya Article 73(2) provides the following principles of leadership and integrity that applies to all elected leaders:

- ∞ Personal integrity;
- ∞ Competence;
- ∞ Objectivity and impartiality in decision making;
- ∞ Selfless service based solely on public interest;
- ∞ Honesty;
- ∞ Declaration of personal interest that may conflict with public duties;
- ∞ Accountability to the public;
- ∞ Discipline and commitment in service to the people.

A quote from High Court Judges Justice Joel Ngugi, Mumbi Ngugi and G. V. Odunga on the ruling against Mr. Mumo Matemu heading the Ethic and Anti-Corruption Commission in September 2012 illustrates the importance placed on the need for ethics and integrity in leadership. It reads:

“Kenyans were very clear in their intentions when they entrenched Chapter Six and Article 73 in the Constitution. They were singularly aware that the Constitution has other values such as the presumption of innocence until one is proven guilty. Yet, Kenyans were singularly desirous of cleaning up our politics and governance structures by insisting on high standards of personal integrity among those seeking to govern us or hold public office. They intended that Chapter Six and Article 73, will be enforced



in the spirit in which they included them in the Constitution. The people of Kenya did not intend that these provisions on integrity and suitability for public offices be merely suggestions, superfluous or ornamental. They did not intend to include these provisions as lofty aspirations. Kenyans intended that the provisions on integrity and suitability for office for public and state offices should have substantive effect.

To our mind therefore, a person is said to lack integrity when there are serious unresolved questions about his honesty, financial probity, scrupulousness, fairness, reputation, soundness of his moral judgment or his commitment to the national values enumerated in the constitution.

For purposes of the integrity test in our Constitution, there is no requirement that the behaviour, attribute or conduct in question has to rise to the threshold of criminality. It therefore follows that just because a person has not been convicted of a criminal offence is not dispositive of the inquiry whether they lack integrity or not”

### Leadership Vetting

If we the citizens do not elect good leaders, bad leaders will devolve corruption and poor management to the county governments. This means that we will not get important services such as water, health, food. Unfortunately the cabinet and parliament diluted the Leadership and



Integrity law so that it will not be effective in vetting out unsuitable candidates. We can however ensure that a candidate meets the necessary Chapter 6 requirements by vetting them.

Vetting is a sieving activity in which citizens or government agencies identify those who are fit to hold leadership positions based on leadership standards provided for in the constitution. This process is supposed to deny those who are likely to misuse power the chance to lead.

The main objective of vetting is to ensure that those who get into this leadership position meets integrity threshold in the constitution such as:

- ✎ They pay their tax (Tax Compliance Certificate from the KRA);
- ✎ They have not abused public office;
- ✎ They do not have a criminal record or do not have ongoing criminal and civil cases in court that relate to their personal integrity;
- ✎ They have not defaulted on their financial commitments, e.g. issuing bouncing cheques;
- ✎ They have obtained clearance from the Higher Education Loans Board (HELB);
- ✎ They performed competently in their previous position;
- ✎ They are not involved in or beneficiaries of regional or international crime, money laundering, spying, drug trafficking and affiliation to terrorism activities;
- ✎ They have not been involved in negative electoral practices such as bribery, vote buying, and funding violence and militia groups;
- ✎ They will support the pay cut to be recommended by the Salaries and Revenue Commission.

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# ANNEXES

## Annex 1: County Revenue Analysis

COUNTY	REVENUE COLLECTED PER COUNTY*	CRA ALLOCATION**	TOTAL REVENUE ESTIMATE	COST OF DEVOLVED FUNCTIONS*	REVENUE GAP
	(Ksh. Millions)	(Ksh. Millions)		(Ksh. Millions)	(Ksh. Millions)
1 Mombasa	1349.44	4062	5411.44	4735	676.44
2 Kwale	99.2	4005	4104.2	2040	2064.2
3 Kilifi	275.64	5815	6090.64	3171	2919.64
4 Tana-River	25.5	3114	3139.5	1753	1386.5
5 Lamu	28.11	1606	1634.11	1159	475.11
6 Taita-Taveta	123.21	2586	2709.21	1895	814.21
7 Garissa	42.16	4510	4552.16	3440	1112.16
8 Wajir	2796	5652	5679.96	3218	2461.96
9 Mandera	38.95	6998	7036.95	2270	4766.95
10 Marsabit	46.42	4055	4101.42	2187	1914.42
11 Isiolo	136.34	2389	2525.34	1728	797.34
12 Meru	212.08	5074	5286.08	4169	1117.08
13 Tharaka-Nithi	47.26	2452	2499.26	1303	1196.26
14 Embu	164.22	2999	3163.22	3159	4.22
15 Kitui	141.92	5679	5820.92	3381	2439.92
16 Machakos	427.68	5289	5716.68	3783	1933.68
17 Makueni	86.11	4665	4751.11	3136	1615.11
18 Nyandarua	214.54	3366	3580.54	2539	1041.54
19 Nyeri	291.45	3477	3768.45	6885	-3116.55

20 Kirinyaga	184.43	2765	2949.43	3066	-116.57
21 Murang'a	220.86	4185	4405.86	4279	126.86
22 Kiambu	655.74	5832	6487.74	5741	746.74
23 Turkana	33.67	8189	8222.67	2019	6203.67
24 West Pokot	37	3371	3408	2540	868
25 Samburu	136.65	2776	2912.65	1332	1580.65
26 Trans-Nzoia	143.67	3985	4128.67	1948	2180.67
27 Uasin-Gishu	402.12	4056	4458.12	2634	1824.12
28 Elgeyo-Marakwet	60.9	2556	2616.9	2111	505.9
29 Nandi	70.83	3716	3786.83	2097	1689.83
30 Baringo	76.25	3470	3546.25	2656	890.25
31 Laikipia	168.96	2696	2864.96	2003	861.96
32 Nakuru	631.86	6342	6973.86	5723	1250.86
33 Narok	983.08	4135	5118.08	1964	3154.08
34 Kajiado	185.47	3448	3633.47	2150	1483.47
35 Kericho	180.05	3520	3700.05	2772	928.05
36 Bomet	58.88	3678	3736.88	1971	1765.88
37 Kakamega	238.72	6961	7199.72	4953	2246.72
38 Vihiga	69.92	3025	3094.92	1781	1313.92
39 Bungoma	224.94	6604	6828.94	3687	3141.94
40 Busia	148.74	3646	3794.74	2784	1010.74
41 Siaya	131.08	3904	4035.08	2776	1259.08
42 Kisumu	869.17	4440	5309.17	4296	1013.17
43 Homa-Bay	106.12	4403	4509.12	4646	-136.88
44 Migori	123.7	4561	4684.7	3238	1446.7
45 Kisii	180.06	5543	5723.06	3678	2045.06
46 Nyamira	31.61	3247	3278.61	1780	1498.61
47 Nairobi City	6860.46	10156	17016.46	12812	4204.46
Total	16993.13	203000	219996.13	149385	

Sources: *The MP's Budget Watch by The Parliamentary Budget Office*

*CRA- Recommendations on sharing of revenue raised nationally between the National and County governments for the fiscal year 2012/2013*

**Annex 2:** Map of Kenya Showing the Counties provided for in the 1<sup>st</sup> Schedule of the Constitution of Kenya



**Annex 3:** Proposed distribution of gender and affirmative action seats for county assemblies. (CRA)

COUNTY	NUMBER OF CONSTITUENCIES	NUMBER OF WARDS	COUNTY REPRESENTATIVES		
			1/3	2/3	
1	<b>Nairobi</b>	17	85	29	56
2	<b>Kakamega</b>	12	60	20	40
3	<b>Kiambu</b>	12	60	20	40
4	<b>Nakuru</b>	11	55	19	36
5	<b>Bungoma</b>	9	45	15	30
6	<b>Kisii</b>	9	45	15	30
7	<b>Meru</b>	9	45	15	30
8	<b>Homa Bay</b>	8	40	14	26
9	<b>Kitui</b>	8	40	14	26
10	<b>Machakos</b>	8	40	14	26
11	<b>Migori</b>	8	40	14	26
12	<b>Busia</b>	7	35	12	23
13	<b>Kilifi</b>	7	35	12	23
14	<b>Kisumu</b>	7	35	12	23
15	<b>Murang'a</b>	7	35	12	23
16	<b>Baringo</b>	6	30	10	20
17	<b>Garissa</b>	6	30	10	20
18	<b>Kericho</b>	6	30	10	20
19	<b>Makueni</b>	6	30	10	20
20	<b>Mandera</b>	6	30	10	20
21	<b>Mombasa</b>	6	30	10	20
22	<b>Nandi</b>	6	30	10	20
23	<b>Narok</b>	6	30	10	20
24	<b>Nyeri</b>	6	30	10	20
25	<b>Siaya</b>	6	30	10	20
26	<b>Turkana</b>	6	30	10	20
27	<b>Uasin Gishu</b>	6	30	10	20
28	<b>Wajir</b>	6	30	10	20

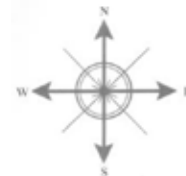
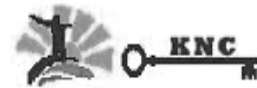





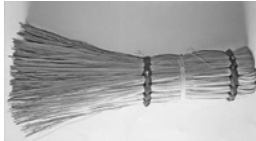




29	<b>Bomet</b>	5	25	9	16
30	<b>Kajiado</b>	5	25	9	16
31	<b>Nyandarua</b>	5	25	9	16
32	<b>Trans Nzoia</b>	5	25	9	16
33	<b>Vihiga</b>	5	25	9	16
34	<b>Elgeyo Marakwet</b>	4	20	7	13
35	<b>Embu</b>	4	20	7	13
36	<b>Kirinyaga</b>	4	20	7	13
37	<b>Kwale</b>	4	20	7	13
38	<b>Marsabit</b>	4	20	7	13
39	<b>Nyamira</b>	4	20	7	13
40	<b>Taita Taveta</b>	4	20	7	13
41	<b>West Pokot</b>	4	20	7	13
42	<b>Laikipia</b>	3	15	5	10
43	<b>Samburu</b>	3	15	5	10
44	<b>Tana River</b>	3	15	5	10
45	<b>Tharaka Nithi</b>	3	15	5	10
46	<b>Isiolo</b>	2	10	4	6
47	<b>Lamu</b>	2	10	4	6
<b>TOTAL</b>		<b>290</b>	<b>1450</b>	<b>492</b>	<b>958</b>

**Annex 4:** List of Registered Political Parties and their Symbols

PARTY CODE/ PARTY NAME	ABBREV	SYMBOL NAME	SYMBOL
1. NARC - KENYA	NARC - K	Flower	
2. THE NATIONAL VISION PARTY	NVP	Light house	
3. THE LABOUR PARTY OF KENYA	LPK	Star	
4. GRAND NATIONAL UNION	GNU	Spade	
5. MWANGAZA PARTY	MP	Nyumba	
6. RESTORE AND BUILD KENYA	RBK	The rising sun	 The Rising Sun
7. UNITED DEMOCRATIC FORUM PARTY	UDFP	Greeting hands	 <b>UDF</b> PARTY   unity for prosperity, a new dawn

8. PARTY OF INDEPENDENT CANDIDATES OF KENYA	PICK	Child
9. KENYA NATIONAL CONGRESS	KNC	Key
10. MAZINGIRA GREENS PARTY OF KENYA	MGPK	Tree
11. NATIONAL DEMOCRATIC MOVEMENT	NDM	Green compass
12. WIPER DEMOCRATIC MOVEMENT- KENYA	WDM-K	Umbrella
13. DEMOCRATIC PARTY OF KENYA	DP	Lantern
14. PARTY OF NATIONAL UNITY	PNU	Two torches with flames
15. PARTY OF ACTION	POA	Mobile phone



16. ALLIANCE PARTY OF KENYA	APK	Bus	
17. AGANO PARTY	AP	Lamb	
18. THE INDEPENDENT PARTY	TIP	Three legged traditional stool	
19. KENYA SOCIAL CONGRESS	KSC	Broom	
20. NEW FORD KENYA	NFK	Cup	
21. ORANGE DEMOCRATIC MOVEMENT	ODM	Orange	
22. PEOPLES PARTY OF KENYA	PPK	Trumpet	
23. FORUM FOR RESTORATION OF DEMOCRACY-KENYA	FORD-KENYA	Lion	

24. FORD-PEOPLE	FORD-P	Pen
25. PROGRESSIVE PARTY OF KENYA	PPK	Battery torch
26. UNITED REPUBLICAN PARTY	URP	Horn
27. CONSERVATIVE PARTY	CP	Elderly walking stick
28. MAENDELEO DEMOCRATIC PARTY	MDP	Scissors
29. NATIONAL RAINBOW COALITION	NARC	Traditional African torch (Mwenge)
30. KENYA AFRICAN DEMOCRATIC UNION-ASILI	KADU-ASILI	Coconut tree
31. CHAMA CHA MWANANCHI	CCM	Thumb up



PROGRESSIVE PARTY OF KENYA SYMBOL
















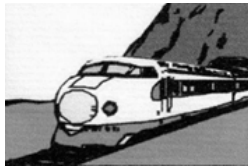
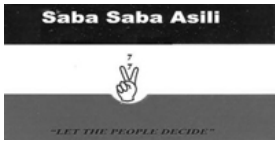

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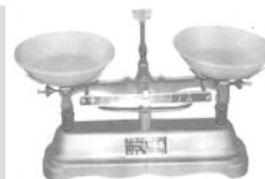
KUSEMA NA KUTENDA



32. SOCIAL DEMOCRATIC PARTY OF KENYA	SDP	Face of clock	
33. KENYA AFRICAN NATIONAL UNION	KANU	Cockerel	
34. SAFINA PARTY	SAFINA	Safina	
35. THE NATIONAL ALLIANCE	TNA	Dove	
36. CHAMA CHA UZALENDO	CCU	Whistle	
37. NATIONAL AGENDA PARTY OF KENYA	NAPK	Teacher	
38. MKENYA SOLIDARITY MOVEMENT	MSM	Elephant	
39. PEOPLES DEMOCRATIC PARTY	PDP	Traditional African Banjo	

40. NEW DEMOCRATS	ND	Bridge	
41. UNITED DEMOCRATIC MOVEMENT	UDM	Milk can	
42. SHIRIKISHO PARTY OF KENYA	SPK	Fish	
43. UNITY PARTY OF KENYA	UPK	Egg	
44. PARTY OF DEMOCRATIC UNITY	PDU	Crocodile	
45. SISI KWA SISI PARTY	SSP	Train	
46. SABA SABA ASILI	77	Saba Saba	
47. FARMERS PARTY	FP	Maize plant	

48. NATIONAL LABOUR PARTY	NLP	Bull
49. FEDERAL PARTY OF KENYA	FPK	Giraffe
50. MUUNGANO DEVELOPMENT MOVEMENT PARTY OF KENYA	MDM	Weighing balance
51. NATIONAL PARTY OF KENYA	NPK	Book



Source: IEBC website- <http://www.iebc.or.ke/index.php/political-parties/574-party-symbols-2012.html>



**Annex 5:** A sample vetting tool presented below is informed by the Leadership and Integrity Act 2012 and particularly Part 11 of the general Leadership and Integrity Code for State Officers. The tool is designed in the form of a scorecard to be used by the members of the community to indicate individual evaluations of each aspiring candidate. The rating is based on a scale of 1–5 as follows:

WHAT AN EVALUATOR FEELS ABOUT A CANDIDATE/ASPIRANT	THE SCORE AN EVALUATOR AWARDS TO A CANDIDATE
POOR/WEAK	1
BELOW AVERAGE	2
AVERAGE	3
ABOVE AVERAGE	4
EXCELLENT	5

Those filling in the score card are encouraged to relate their evaluation to the words first before writing their scores in the corresponding numerals.

Respondent Number: (no name); Gender: (F) (M); Name of the Ward of residence \_\_\_\_\_

Age: (18 – 25); (26 – 35); (36 – 45); (46 – 55); (56 - 65); above 65

Education level: Completed Primary School ( ) Completed Secondary school ( )  
 Has post-secondary school education ( )

How do you rate the candidate on:	Defining indicators	Your score ( 1 – 5 )
Competence	Known for achieving positive results in most of the things he/she does	
Pro-poor and development conscious	Known to be concerned about the poor in the community Participates in initiatives to reduce poverty, and Generally contributes (financially or otherwise) to community development efforts.	
Leadership vision	Expresses clear ideas about how he/she wants to change our constituency/ward	
Integrity and patriotism	We have confidence in the character of this candidate/aspirant Shows love of the country in talk and action	
Commitment and trustworthiness	Is committed to serving the public and can be trusted to keep his/her campaign promises	
Gender sensitivity and respect for children and disabled persons	Speaks and acts in ways that show recognition of gender equality and respect for children and disabled persons	
Respect for human rights	Has not been involved in any human rights abuse in public or in his/her private life	
Past record	Has never been adversely mentioned in commissions of inquiry and taskforce reports Has never been declared bankrupt Has never been convicted of an offence and sentenced to imprisonment for a term of 6 months or more without the option of a fine	
Promotion of inter-ethnic/ inter-clan harmony	Has never made hate-speech statements Treats people of different communities/clans fairly when they work under him/her	
Communication	Able to make his/her leadership ideas clear to listeners of different educational and economic backgrounds	
Affiliations	Has not been affiliated to any unlawful religious, political or dangerous groups	





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