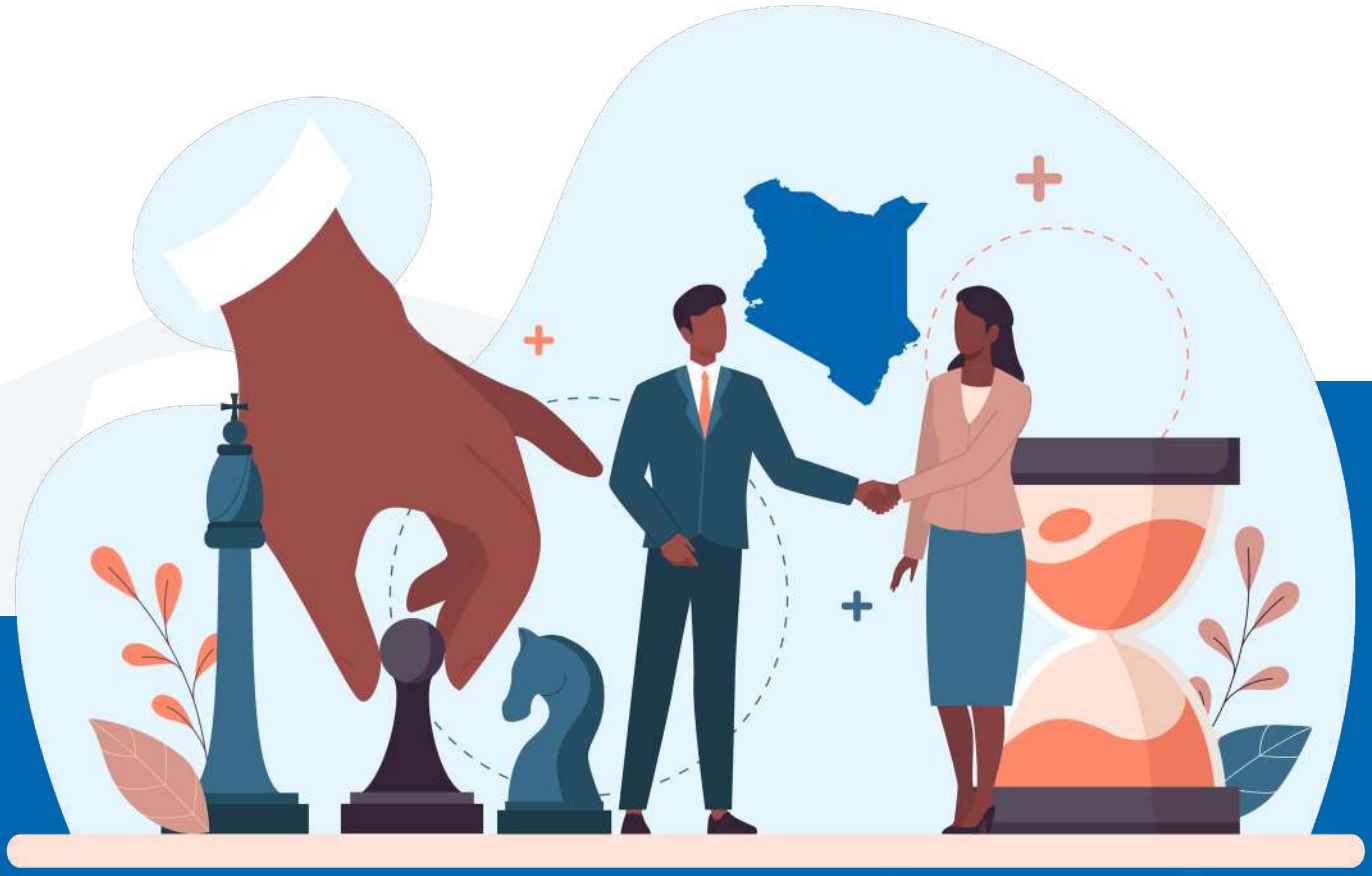
TRANSPARENCY INTERNATIONAL KENYA



# POLITICAL ECONOMY ANALYSIS OF KENYA'S LEADERSHIP & INTEGRITY VETTING FRAMEWORK

## FINAL REPORT

MARCH 2026

# ABOUT TRANSPARENCY INTERNATIONAL KENYA

TI-Kenya is a national civil society organisation that works towards a transparent and corruption-free society. Registered in Kenya in 1999 with a mission to combat corruption, we are dedicated to promoting integrity, transparency and accountability in the public and private spheres through good governance and social justice initiatives. With over 25 years' experience in governance interventions at the national and county levels, we work collaboratively with partners, institutions and citizens to prevent, expose and challenge corruption, and to strengthen systems that uphold good governance and public integrity. We pursue advocacy, partnerships development, strategic litigation, research, capacity building, and civic engagement as our core approaches.

As an independent chapter within the global Transparency International movement, we operate within our own governance structures and resources, strategies, and programmes tailored to Kenya's unique governance landscape. Our main office is in Nairobi, with regional presence in the Coast, Rift Valley, Western, and Eastern Kenya through four Advocacy and Legal Advice Centres (ALACs) in Mombasa, Eldoret, Kisumu, and Nairobi.

**Author**: Transparency International Kenya.

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# List of Acronyms and Abbreviations

| | |
|---|---|
| **ACECA** | Anti-Corruption and Economic Crimes Act |
| **AG** | Attorney General |
| **APNAC** | African Parliamentarians Network Against Corruption |
| **APSEA** | Association of Professional Societies in East Africa |
| **BACK** | Business Against Corruption in Kenya |
| **CAJ** | Commission on Administrative Justice |
| **CEO** | Chief Executive Officer |
| **CRB** | Credit Reference Bureau |
| **CS** | Cabinet Secretary |
| **COTU** | Central Organisation of Trade Unions |
| **DCI** | Directorate of Criminal Investigations |
| **EACC** | Ethics and Anti-Corruption Commission |
| **FKE** | Federation of Kenya Employers |
| **FCDO** | Foreign, Commonwealth and Development Office |
| **FGD** | Focus Group Discussion |
| **GESI** | Gender Equality and Social Inclusion |
| **HELB** | Higher Education Loans Board |
| **ICPAK** | Institute of Certified Public Accountants of Kenya |
| **IEBC** | Independent Electoral and Boundaries Commission |
| **IMF** | International Monetary Fund |
| **JMVB** | Judges and Magistrates Vetting Board |
| **KACC** | Kenya Anti-Corruption Commission |
| **KEMSA** | Kenya Medical Supplies Authority |
| **KEPSA** | Kenya Private Sector Alliance |
| **KII** | Key Informant Interview |
| **KNCHR** | Kenya National Commission on Human Rights |
| **KRA** | Kenya Revenue Authority |
| **LSK** | Law Society of Kenya |
| **MCA** | Member of County Assembly |
| **NCPWD** | National Council for Persons with Disabilities |
| **NGEC** | National Gender and Equality Commission |
| **NPSC** | National Police Service Commission |
| **NYS** | National Youth Service |
| **ODPP** | Office of the Director of Public Prosecutions |
| **PEA** | Political Economy Analysis |
| **PFM** | Public Financial Management |
| **PSC** | Public Service Commission |

# EXECUTIVE SUMMARY

Integrity and accountability were placed at the heart of governance when Kenya promulgated a new Constitution in 2010, following decades of centralised executive authority and limited accountability, recurrence of electoral violence, and poor governance. Chapter Six on Leadership and Integrity established specific standards of conduct for public officers. Its provisions underline the fact that public office is a public trust and that those who hold them must exercise authority in a manner consistent with constitutional values.

Notwithstanding the significance of the Constitution and attendant laws, the promise of Chapter Six remains largely unrealised more than a decade later. There is widespread corruption as evidenced by the Corruption Perception Index, which gave Kenya a score of 30 out of 100, in 2025 (where 100 is the highest score). In 2026, Kenya is also ranked at position 130 out of the 182 countries -- is a drop from position 121 in 2024.

This Political Economy Analysis (PEA) study, commissioned by TI–Kenya with support from the FCDO-funded Kenya Institutional Strengthening Programme (KISP), seeks to improve understanding of the political, institutional, and socio-cultural dynamics that continue to shape the implementation of Chapter Six of the Constitution. It also seeks to identify the factors that hinder effective implementation of leadership and integrity principles.

This study has adopted a problem-driven PEA approach. The central purpose is to explain why the leadership and integrity vetting framework in Kenya is not meeting the aspirations of the Constitution 2010. An additional question is why Kenya is not making progress in the fight against corruption and yet there are laws and policies to guide the fight against corruption.

The study has used a mixed methods approach combining desk-based review of documents, interviews with Key Informants, and consultations with stakeh holders. The study also draws from analysis of survey data on relevant issues. The section below presents key findings.

## *Key findings*

The findings reveal that actors with the greatest formal and informal power over appointments primarily the Executive and Parliament – have limited incentives and interest to enforce integrity standards. They prioritise political considerations and specifically how to address the interests of political elites in the ruling coalition. On the other hand, those with high interest for enforcement of laws and full implementation of the leadership and integrity framework lack the power to shape outcomes consistently. They include, civil society, the church, the media and the private sector.

It is noteworthy that the Constitution 2010 has very strong provisions to break with the past. The devolution of power and resources was meant to provide opportunities for local self-governance and reduce the powers of the centre. Chapter 15 Constitutional commissions were introduced to help limit the powers of the executive. However, the powers of the executive have re-emerged through appointments to the public service – this is manifest in the many selection panels in which the office the executive is represented,

Nonetheless, there are a few actors with power and interest. These are motivated by the need to maintain institutional credibility – their power is generally drawn from administrative positions and therefore they lack the political muscle to eventually shape the outcomes. They play their role despite the political challenges that they may find themselves confronting.

The decisive power over vetting is exercised through political negotiations and pacts among political elites. By the time nominees to public positions appear before parliamentary committees or county assemblies, outcomes are already politically determined. Vetting bodies therefore operate in a constrained space where rejecting a nominee is interpreted less as an integrity decision and more as a political act -- challenging executive authority. And very few vetting bodies may want to be viewed this way.

The findings show that the problems around compliance with Chapter Six and the broader leadership vetting framework is influenced by politics – the problems are not necessarily administrative or technical problem. The prevailing dynamics

https://www.transparency.org/en/cpi/2025/index/ken

show strong presidential and executive influence over appointments. Ethnic-based politics and the need to reward allies and maintain political loyalty play an important role in this space. Nonetheless, oversight institutions work in silos, with limited budgets and weak coordination.
There is also an obtaining legal argument that requires distinguishing integrity standards from criminal conviction for corruption.

There are important openings that can be exploited to improve the leadership and integrity framework. These can be leveraged to promote reform if approached with a clear understanding of incentives or interests of key political actors. The opportunities include:

Public support for ethical leadership in evident most of the time: There exists a sustained and widespread public demand for ethical leadership and public accountability. Second, the 2027 election campaigns provide a good entry point for integrity discourses. Electoral cycles create moments of heightened political attention to integrity issues. During elections, questions regarding the suitability of candidates are intensely debated in public forums, including social media platforms.
Compliance agencies and oversight institutions have demonstrated willingness to coordinate their work rather than compete. They lack mechanisms and resources to do so effectively. This creates an opening for operational reforms that may face less resistance.

The youth, and Gen Z in particular, demand an end to poor leadership. Gen Z and youth constituencies have shown willingness to engage in governance debates and demand accountability in an unprecedented manner.

During elections, questions regarding the suitability of candidates are intensely debated in public forums, including social media platforms

## *Success will require "Thinking and Working Politically"*

Thinking and Working Politically (TWP) approach requires working with political incentives to cause change. The focus is on what do incumbent and other political elites want so that they can 'buy into' or accept the reforms? It is also about building coalitions for change with like-minded actors -- who else can work with TI Kenya and CSOs to foster change?

Thinking and Working Politically also requires identifying informal rules and actors who are powerful and progressive. These then become the actors to refer to or to engage with so that they can influence formal actors for buy-in. Finally, there will be a need to adapt to the political context and the changing environment.

In particular, there is a need to balance between the interests of winners and losers – because losers organise to resist change: Any reform that threatens this opportunity cannot succeed because the president and the executive in general would be the losers if such an initiative succeeds. The language for such reforms, therefore, much be sensitive to losers and winners; it should point to the need to consolidate institutional integrity without weakening political power.

Second, ***establish a Coalition of Change Makers with powerful informal actors.*** Informal and powerful actors always countermand and influence formal office holders – they have an overbearing influence on appointments. Informal institutions and networks can be utilised to advance this language. Coalitions with churches (Catholic, Anglican, including the NCCK), informal powerful actors (select business elites) and other agencies can be networked to establish a Coalition of Change to assist in navigating reform pathways.

Shaping narratives for the 2027 election campaigns can give the Coalition of Change Makers – under the leadership of TI-Kenya – the opportunity to selectively dialogue with the various political actors on the need to strengthen leadership and integrity frameworks.

# Political pathways for change

Reframing integrity as politically advantageous to political elites gives the agendum credibility and buys it political capital. At present, strict enforcement of integrity standards is often perceived by political elites as limiting them from using patronage, which they need to reward allies. Reform will therefore face resistance if it is framed as an attempt to reduce executive powers or to target particular individuals.

Strengthening the operations of vetting frameworks through improved inter-agency coordination can deliver more concrete results. Oversight bodies operate largely in silos, with limited data sharing and inconsistent standards. This fragmentation weakens verification processes and creates opportunities for selective enforcement. These institutions have expressed an openness to collaboration.

Supporting the establishment of a multi-agency verification mechanism -- including shared access to tax compliance records, asset declarations, criminal records, and conflict-of-interest disclosures would strengthen procedural rigour without necessarily triggering direct confrontation with powerful political actors.

An opportunity still exists to clarify the integrity threshold by seeking a Supreme Court advisory opinion. Public interest litigation and the pursuit of an advisory opinion from the Supreme Court -- potentially through a progressive county government and backed by comprehensive studies and evidence on the meaning of integrity vis-a-vis conviction -- could help distinguish between criminal thresholds and integrity standards. By establishing that suitability for office is a preventive standard grounded in constitutional values, judicial clarification would provide vetting bodies with legal backing to act more decisively.

Durable reform requires engagement with both formal and informal powerful actors. The study has shown that political actors, and particularly the presidency, exercise both formal and informal influence over appointments. Any reform that is perceived as threatening this function will encounter resistance. It is necessary to map the "movers and shakers" who influence appointment processes, including informal networks that countermand formal office holders.

Establishing a Coalition of Change Makers is important: This coalition should be composed of trusted churches, select business elites, professional bodies, and civil society organisations can create an intermediary space for dialogue. Reform language must be carefully developed to emphasise institutional strengthening for the sake of building a better society.

It is necessary to map the ***"movers and shakers"*** who influence appointment processes, including informal networks that countermand formal office holders.

Focus on inclusion can be presented as a structural means of disrupting patronage networks. Women, youth, and persons with disabilities frequently face heightened scrutiny especially because they lack access to patronage networks. Strengthening equality in vetting processes can increase vigilance and broaden participation in oversight.

Civic education efforts must address the irony in politics whereby citizens criticise patronage yet pressurise their own elites to practise it. By linking everyday realities to the consequences of "mtu wetu" arguments, civic engagement can gradually shift norms. Inclusion not only advances equity but also expands the density of accountability actors, making integrity failures more visible and costly.

# Key risks and mitigating measures

Reforms will trigger resistance from actors who benefit from the status quo. Executive and parliamentary resistance should be expected. Attempts at elite capture are all high-probability risks. Institutional weaknesses, judicial delays, ethnic mobilisation, gendered backlash, and perceptions of foreign influence will complicate reform uptake. This raises the need for putting in place effective mitigation measures.

Mitigation requires framing reforms as strengthening national values and institutional legitimacy – for purposes of improving investor confidence in Kenya -- to grow the economy to create jobs and wealth. Cross-party engagement and reliance on trusted informal actors such as the churches can reduce perceptions of partisanship. Gender and social inclusion must be integrated into reform design to prevent reproduction of existing gatekeeping patterns.

# 1

# INTRODUCTION AND BACKGROUND

After decades of centralised executive authority and limited accountability, recurrence of electoral violence, and poor governance, Kenya promulgated a new Constitution in 2010. The constitution sought not only to restructure government but also to transform the framework of governance to ensure increased accountability of government to the citizens. Further, the Constitution established institutional mechanisms to strengthen checks and balances and thus transform the Kenyan society.

Integrity and accountability were at the heart of the 2010 Constitution. Article 10 entrenched national values and principles of governance -- including integrity, transparency, accountability, good governance and participation of the people -- as binding on all public officers. Chapter Six on Leadership and Integrity established specific standards of conduct for public officers. The provisions in it underline that public office is a public trust and that those who occupy it must exercise authority in a manner consistent with constitutional values.

The 2010 Constitution envisages leadership that is ethical and accountable. Parliament enacted a wide range of laws to operationalise Chapter Six and related constitutional provisions. These include the Leadership and Integrity Act (2012), the Ethics and Anti-Corruption Act (2011), and most recently, the Conflict-of-Interest Act (2025), among others. Overall, Kenya has an extensive legal and institutional framework governing leadership and integrity. Notwithstanding the significance of the Constitution and these laws, more than a decade later, the promise of Chapter Six remains largely unrealised. There is widespread corruption as evidenced by the Corruption Perception Index, which gives Kenya a score of 30 out of 100 in 2025 (where 100 is the highest score). In 2026, Kenya is also ranked in position 130 out of 182 countries, which is a drop from position 121 in 2024. This drop in rung demonstrates a decline in integrity and anti-corruption perception. Afrobarometer data also echoes these findings. Between 2016 and 2024, Afrobarometer survey data in Kenya consistently show that most citizens believe corruption has increased and that trust in key public institutions, including Parliament, the presidency, and oversight bodies, remains low.

These observations are reinforced by the fact that individuals with unresolved integrity questions continue to hold public office. Vetting processes – both in parliament and by various panels appointing public officers often succumb to partisan politics and bargains among political elites. The enforcement of integrity laws remains inconsistent, too. All this is occurs in a context where Kenya has laws and policies that should prevent or correct the situation. Overall, the implementation of the Constitution has been not produced the desired results – to break with the past and strengthen integrity.

This Political Economy Analysis (PEA) study, commissioned by TI-Kenya, with support from the FCDO-funded Kenya Institutional Strengthening Programme (KISP), seeks to improve understanding of the political, institutional, and socio-cultural dynamics that continue to shape the implementation of Chapter Six. It also seeks to identify the factors that hinder effective implementation of leadership and integrity principles. Specifically, this study is about why integrity and anti-corruption performance are on the decline and yet the Constitution provides a strong framework for improving integrity and accountability.

[2] https://www.transparency.org/en/cpi/2025/index/ken
[3] Afrobarometer Data, Kenya Rounds 7–10 (2016–2024), responses to questions on corruption trends and trust in public institutions.

## 1.1 Problem-driven PEA questions

This study has adopted a problem-driven PEA approach. The central purpose is to explain why the leadership and integrity vetting framework in Kenya is not achieving the aspirations of the Constitution 2010. An additional question is why Kenya is not making progress in the fight against corruption and yet there are laws and policies that guide such a fight.

The PEA study has several inter-related objectives.

a. Examine the **historical, political, and structural context** shaping how integrity vetting – and leadership deficit – unfolds.

b. Analyse the complex interaction between formal rules and informal norms. The analyses will be based on recognition that laws and policies articulate strict integrity requirements but often informal practices - patronage, ethnic mobilisation, political interests and elite bargains -- often determine outcomes.

c. Map the **actors, interests, incentives and relative power** at play in the vetting ecosystem, including Parliament and independent commissions, the Judiciary, civil society and the public. Attention will also be focused on county assemblies if access to credible data and information will permit.

d. Examine how integrity vetting processes differentially affect women, youth, Persons with Disabilities (PWDs), and marginalised groups. This will help in integrating a comprehensive Gender and Social Inclusion (GESI) framework into the PEA.

e. Formulate practical, politically feasible reform recommendations, recognising that successful reform requires altering incentive structures rather than merely strengthening rules.

## 1.2 Methodology

The study has adopted a problem-driven Political Economy Analysis (PEA) approach which involves examining the root causes of a problem and provides recommendations for politically feasible solutions. The study has used a mixed methods approach combining desk-based review of documents, survey data, and qualitative interviews with stakeholders.

Review of documents was undertaken to establish the legal and institutional context of the study questions. This included analysis of relevant statutes governing leadership and integrity, parliamentary Hansards on vetting proceedings, judicial decisions interpreting integrity standards, reports from oversight bodies, and secondary academic and policy literature on political economy of governance and development in Kenya. This review informed the development of data collection tools and helped identify the stakeholders to be interviewed.

Primary data collection consisted of semi-structured **Key Informant Interviews (KIIs) and consultative discussions** with representatives from the Presidency, Parliament, the Judiciary, constitutional commissions and independent offices, professional associations, civil society organisations, private sector actors, and representatives of marginalised groups. Focus Group Discussions and stakeholder forums were used to triangulate perspectives and validate emerging themes and findings from key informant interviews and review of secondary data.

A **stakeholder mapping exercise** was conducted to assess the relative power, interests, and incentives of key actors within the integrity ecosystem. This mapping enabled identification of constraints, potential reform champions, and areas of political risk.

Gender and Social Inclusion (GESI) considerations were integrated throughout the methodology. Data collection tools included targeted questions on women's participation in vetting processes, youth leadership and inclusion challenges, inclusion barriers for persons with disabilities, and representation within oversight and selection panels.

The study adhered to strict ethical standards. Participation was voluntary, informed consent was obtained, respondents were anonymised, and findings are presented in aggregate form to protect confidentiality.

## 1.3 Analytical framework

This study has adopted a problem-driven PEA framework to help understand the reasons for ineffective implementation of leadership and integrity provisions of the 2010 Constitution and the vetting framework itself. The analysis focuses on the institutional, political and structural forces that constrain effective implementation of the constitution too.

The analytical framework is designed around five core areas.

### 1.3.1 Foundational context of leadership and accountability

The first step involved analysing the foundational and structural factors, including Kenya's political contexts or patronage-based politics, the historically centralised executive, and the ethnicization of political competition. These factors create enduring incentives for leaders to maintain loyal networks even when this undermines integrity standards. On foundational context, the guiding questions were:

a. How do political structures and ethnic politics shape integrity vetting framework?
b. How does patronage -- political rewards and loyalty structure -- influence appointments?
c. How does money in politics affect integrity vetting outcomes?

### 1.3.2 Institutional context: formal and informal rules shaping leadership and integrity

A second step involved examination of the formal rules governing vetting: the Constitution, the Leadership and Integrity Act, the Public Appointments Acts, the Ethics and Anti-Corruption Act, the Judicial Service Act, the National Police Service Commission Act, and the Conflict-of-Interest Act (2025).

***Box 1: Laws and policies underpinning leadership and integrity***

i. The Constitution, 2010
ii. The Vetting of Judges and Magistrates Act, 2011
iii. Ethics and Anti-Corruption Act, 2011
iv. The Public Appointments (County Assembly Approvals) Act, 2011
v. The National Police Service Commission Act, 2011
vi. The Judicial Service Act, 2011
vii. The Commission on Administrative Justice, 2011
viii. The Leadership and Integrity Act, 2012
ix. The Public Appointments (Parliamentary Approvals) Act, 2017
x. The Public Service Commission Act, 2017
xi. The Conflict-of-Interest Act, 2025.

Alongside the analysis of these laws, the study has also examined the informal rules that often override them. These include ethnic-based interests and how they shape political bargains and appointments to public positions. They also include patronage politics and elite bargains/pacts. The key analytical questions guiding the analysis include:

a. Which informal practices distort vetting (patronage, loyalty, ethnic mobilisation)?
b. How do informal networks override formal laws?
c. What invisible pressures influence parliamentary vetting?

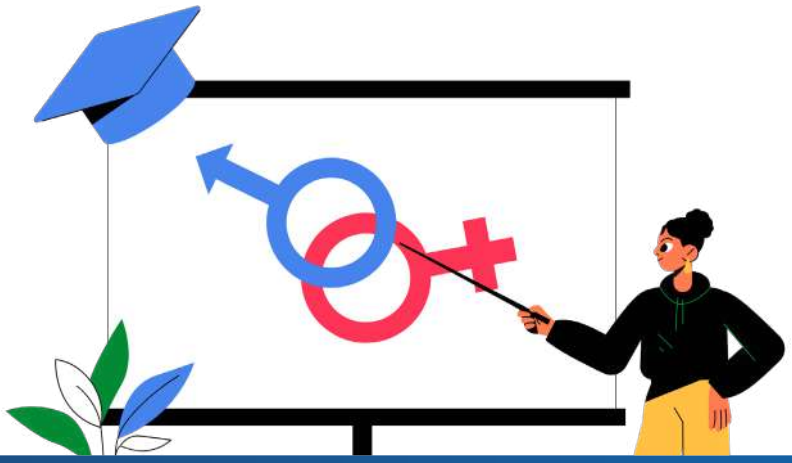
### 1.3.3 Actors and interests

The third step of analysis involved identifying key actors, their interests, and incentives that make them support or constrain application of the legal framework. This is done bearing in mind that each actor's behaviour is influenced by a unique combination of power, interest, and vulnerability. Understanding these dynamics is central to designing feasible reforms.

4 National Gender and Equality Commission. Status of Equality and Inclusion in Kenya (2016). https://www.ngeckenya.org/Downloads/Status%20of%20Equality%20and%20Inclusion%20in%20Kenya.pdf
5 Ibid
6 Transparency International. Breaking the Silence Around Sextortion (2020). https://images.transparencycdn.org/images/2020_Report_BreakingSilenceAroundSextortion_English.pdf

### 1.3.4 Gender and inclusion

Women and other special interest groups, including persons with disability, remain under-represented in leadership and decision-making spaces. Political participation remains highly gendered, with leadership spaces shaped by patriarchal norms, unequal access to resources, and exclusionary political cultures. Globally, gendered forms of corruption, including sextortion, have emerged as subtle but increasingly recognised barriers to women's access to political power.



***Box 2: Gender and social inclusion – the key issues***

**1.Representation and Participation**

i. Who participates in vetting processes—as decision-makers, as candidates, and as oversight actors?
ii. What gender and inclusion gaps exist in the composition of vetting committees, parliamentary panels, and institutional boards?

**2.Access and Barriers**

i. What factors enable or hinder women, youth, minorities and marginalized groups from being vetted or appointed to leadership positions?
ii. How do power hierarchies and social expectations affect who is deemed "leadership material"?

**3.Power and Agency**

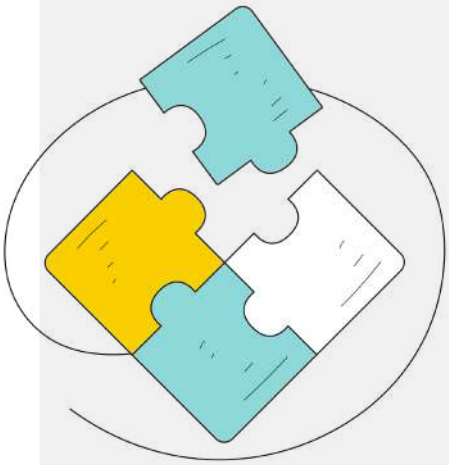
i. How do informal networks, political patronage, or sexual exploitation (including sextortion) operate as an instrument of control and exclusion?
ii. What strategies have marginalized actors used to navigate or resist these dynamics?

**Table 1: Summary of data and participating institutions**

| Method | Participants / Institutions |
|---|---|
| **Key Informant Interviews** | Senior State Officers; NGEC; NCPWD; Auditor General; County Government; KEPSA; ICPAK; Religious Leadership |
| **Focus Group Discussions** | Civil Society Youth; Religious Leaders; Media Associations; Youth Leaders |
| **Consultative Forums** | Chapter Six Working Group; APNAC & EALA; Civil Society Leaders; British High Commission |

## 1.4 Structure of the report

Following this Introduction, the report proceeds as follows:



### Section 2: Foundational Context

This section situates leadership and integrity vetting within Kenya's broader historical, political and structural trajectory. The purpose of this section is to explain the deep-rooted structural drivers that influence how integrity norms are interpreted and applied in practice.

### Section 3: Legal and Institutional Framework

This section reviews the formal "rules of the game" governing leadership and integrity, including constitutional provisions, statutory frameworks, oversight mandates, and parliamentary procedures. It assesses the design strengths of Kenya's integrity architecture while identifying ambiguities, overlaps, and enforcement constraints embedded within the legal framework.

### Section 4: Prevailing Dynamics and Emerging Challenges

This section moves from formal design to lived institutional practice. It analyses how vetting operates in reality including executive dominance at the nomination stage, parliamentary negotiation dynamics, fragmentation among oversight institutions, constitutional criminal thresholds, discretion in scoring and consolidation processes, public participation gaps, and Gender and Social Inclusion (GESI) dynamics. The section demonstrates how political incentives and informal norms mediate the application of formal standards.

### Section 5: Emerging Risks and Reform Pathways

Building on the diagnostic analysis, this section identifies systemic risks to integrity enforcement, including institutional self-censorship, selective compliance, reform fatigue, and public trust erosion. It then outlines politically feasible reform pathways, highlighting leverage points, sequencing considerations, and UK/FCDO entry points aligned with Kenya's political realities.

# 2

# THE FOUNDATION OF LEADERSHIP AND ACCOUNTABILITY

Over the years, several factors have combined to shape the context of leadership and integrity in Kenya's public service. These factors include ethnicisation of Kenya's politics and voters' behaviour; weak rule of law; fragility of governance institutions; and continued erosion of traditional social values and norms on integrity. Either individually or collectively, these factors continue to shape Kenya's leadership and integrity in public service.

These factors have historical origins. Public leadership under the colonial state was defined by the desire to control populations, extraction and selective enforcement of rules (e.g., along racial lines). Among other things, the colonial state augmented the authority of traditional leaders to enable them 'extract' on behalf of the Crown within the colonial structure.

## 2.1 Post-independence governments and a dominant executive

Successive post-independence governments did not completely dismantle how leadership was practised under the colonial state. Governments continued to replicate the practices under the colonial state. The need to consolidate political power through patronage, and elite bargains continued to inform organisation of the public sector. For instance, the first government under Jomo Kenyatta (1963–1978) was marked by consolidation of a strong executive, and extensive patronage. This was taking place alongside deeply entrenched culture of elite capture of public resources.

The regime of President Daniel Arap Moi (1978–2002) was characterised by the further weakening of state institutions. The President exerted immense control over the appointment of senior state officials. Presidential patronage permeated all aspects of the functioning of the state, which in turn undermined the independence of institutions, including Parliament and the Judiciary.

There were attempts to reform the public service under President Mwai Kibaki (2003–2013). However, ethno-regional interests undermined these reform initiatives. Corruption remained endemic, and patronage politics continued to dominate the board.

## 2.2 The 2010 Constitution and Elite Pacts

The 2010 Constitution was introduced in this context to break with the past and strengthen accountability. After a violent conflict over the 2007 election results, the first election under the 2010 Constitution was held in March 2013 under the cloud of crimes against humanity charges facing two candidates on a presidential ticket at the International Criminal Court (ICC). Notable among these elites were Uhuru Kenyatta and William Ruto, who had been charged in connection with the post-2007 election violence.

Uhuru Kenyatta and William Ruto had formed a political alliance and won the 2013 election, which effectively marked the beginning of the end of the ICC prosecution. The Uhuru Kenyatta government (2013–2022) began by rewarding allies who had assisted him and his deputy, William Ruto, during the ICC proceedings, with public appointments. Corruption continued to deepen. Appointments to public service were made on patronage basis to help the President consolidate power and improve legitimacy.

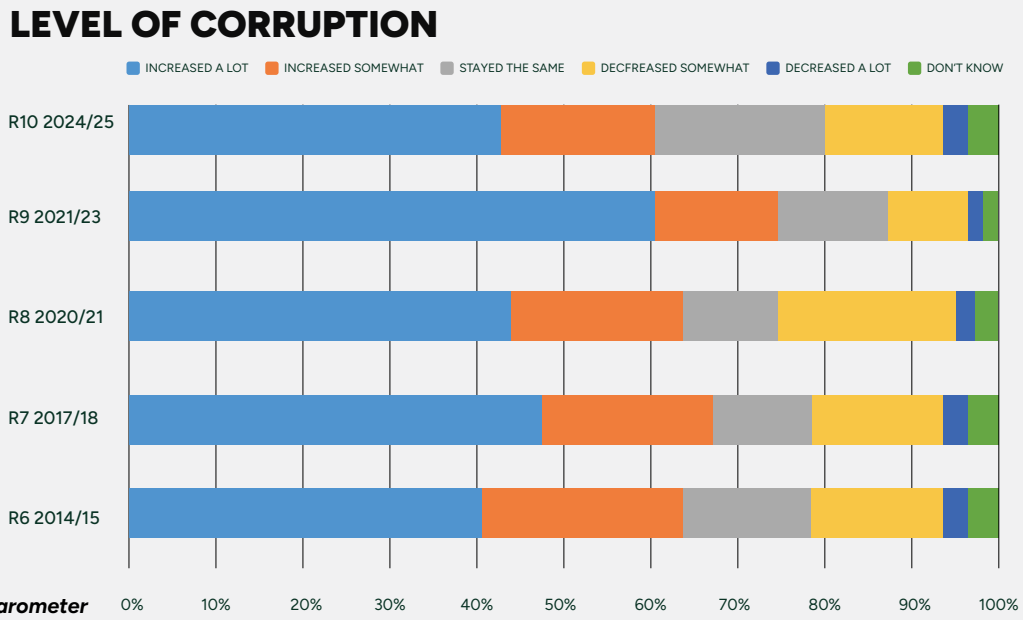
William Ruto also successfully ran for office in 2022 and won the presidency against an alliance led by the late Raila Odinga and backed by incumbent Uhuru Kenyatta. He, too, began by rewarding allies with public appointments -- including appointment to the Cabinet, parastatals and diplomatic missions.

[7] Zimbalist, Z. (2021). Explaining variation in levels of public trust (Dis)trust in traditional leaders: colonial ruling strategies and contemporary roles in governance. Government and Opposition, 2021:56(4): 661 – 662.
[8] Ghai, Y. P., & McAuslan, P. (1970). Public law and political change in Kenya: A study of the legal framework of government from colonial times to the present. (No Title).
[9] Mueller, S. D. (2008). The political economy of Kenya's crisis. Journal of Eastern African Studies, 2(2), 185-210.
[10] See Cheeseman, N., Kanyinga, K., & Lynch, G. (Eds.). (2020). The oxford handbook of Kenyan politics. Oxford University Press.

## 2.3 Public pessimism and the trust deficit

Political patronage deepened. Corruption also deepened alongside widespread impunity, characterised by limited adherence to the rule of law. Afrobarometer data depict public disillusionment with the turn the country was taking. For nearly a decade, between 2016 and 2024, between 60 per cent and 67 per cent of Kenyans consistently reported that corruption was increasing despite government commitments to fight graft.

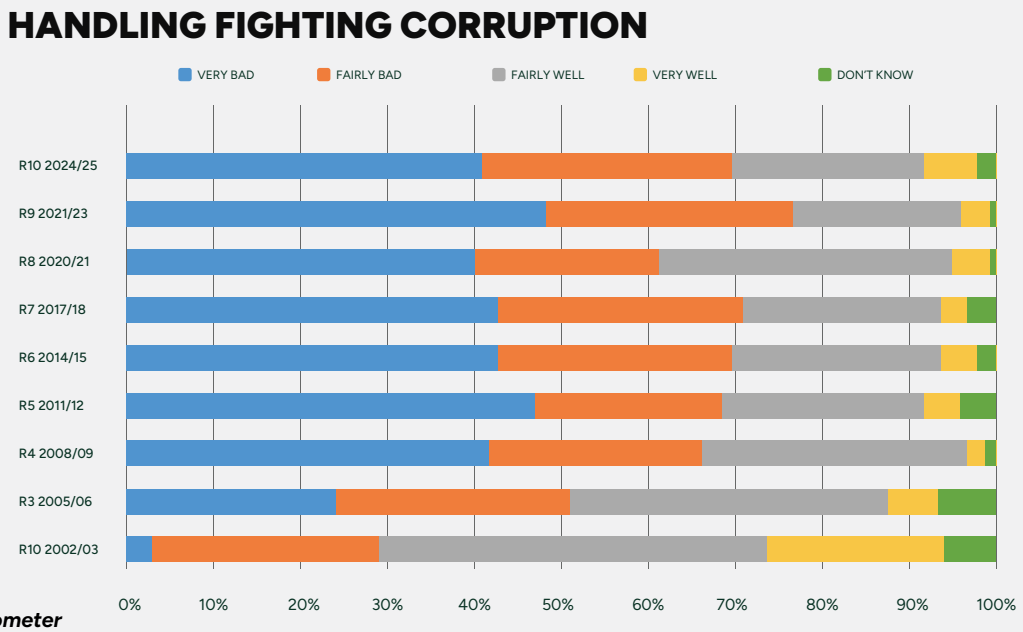
**Figure 1:** In your opinion, over the past year, has the level of corruption in this country increased, decreased, or stayed the same?




*Source: Afrobarometer*

A growing number of citizens perceive the government as doing a 'fairly bad' or 'very bad' job in fighting corruption. The police are persistently rated as the most corrupt institution. A similar trend can be observed for the judiciary, tax officials, and parliament across multiple rounds of Afrobarometer surveys.

**Figure 2:** How well or badly would you say the current government is handling the following matters, or haven't you heard enough to say? Fighting corruption in government?




*Source: Afrobarometer*

Overall, patronage politics, dominance of the presidency, coupled with weakening of institutions and rule law combine to erode the basis for integrity. They combine to undermine accountability by entrenching partisan interests in public service and advancing interests of powerful political elites.

The public also expresses concerns about poor compliance with the law. There is also fear that corruption fights back, especially when whistle blowers make reports. Indeed, Afrobarometer highlighted widespread fears that ordinary citizens risk negative consequences when attempting to expose wrongdoing.

Of note is the growing role of the president even after the promulgation of the new constitution in 2010. The presidency is still powerful and perpetuates politics of patronage to reward loyalists and supporters as well as to manage the political coalition. This results in interference in appointments to public service. Key institutions become captives of the presidency, thereby undermining their efficacy in discharging their mandates. Decisions on appointments are influenced by loyalty to the ruling coalitions, patronage, and directives from the presidency, as opposed to adherence to leadership and integrity provisions as contained in Chapter Six of the Constitution.

Furthermore, ethnicization of politics influences appointments. Political leaders tend to favour co-ethnics in public appointments, resource allocation, and administrative decisions. This in turn fosters perceptions of injustice and partiality that can erode trust in state institutions charged with enforcing leadership and integrity norms.

These factors have combined to weaken demand for accountability, even on the part of the citizens. Political patronage ensures access to state resources, which ethnic elites use to mobilise political patronage. Patronage may be in the form of jobs, contracts and development projects for a particular region. This creates an ecosystem where integrity in public service gets weakened because political calculations override integrity questions and ethical conduct. In turn, voters support candidates or nominees who represent a realistic chance for them to access state largesse, irrespective of credibility concerns around the candidate.

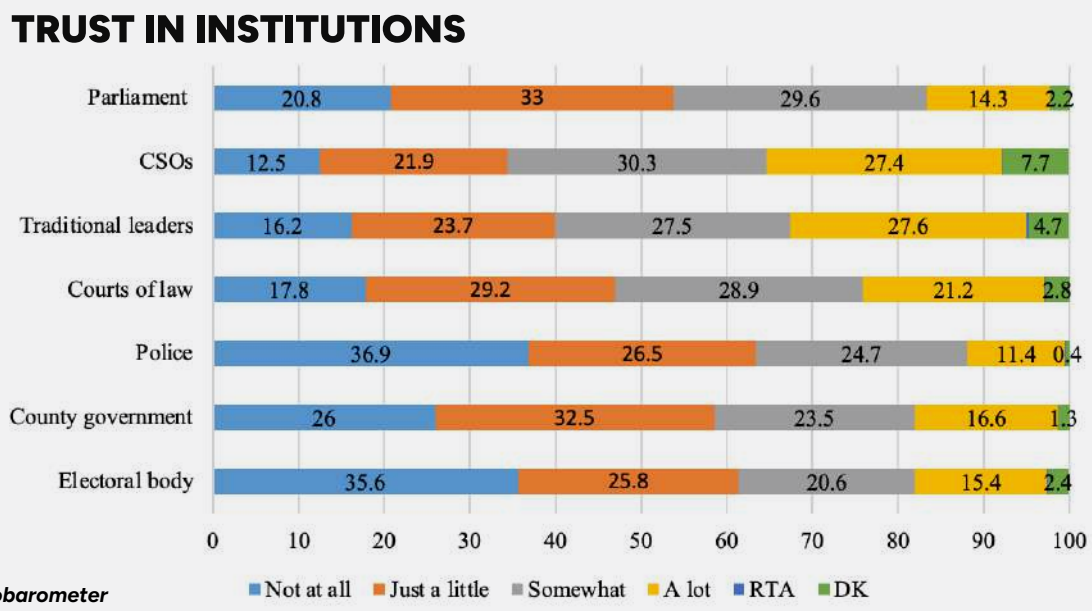
The voters' behaviour presents a paradox, where voters continue to elect or support public officers with integrity questions because the candidate is perceived as capable of mobilising public resources for them or accessing the state to support development projects for them. This dynamic is compounded by new voters' behaviour – such as accepting money to vote for candidates:

> *...electoral bribery is widespread, with candidates openly distributing money to the electorates. Poverty drives voters to prioritise immediate financial benefits over the candidate's integrity. When you are given KES50 that can be someone's lifeline." -- Focus Group Discussion participant, February 2, 2026, Chapter Six Working Group*

> *"... I come from one of the slums in Kisumu. A person is likely to come and try to influence me. Electoral bribery succeeds because KES 5,000 can serve like 20 households. Thus, poor communities prioritize immediate survival over long-term governance quality." -- Focus Group Discussion participant, February 2, 2026, Chapter Six Working Group*

Vote-buying is also fuelled by low economic security, which in turn weakens the enforcement of ethical standards in public office. Thus, poverty can distort electoral incentives and make accountability mechanisms less effective in practice. Indeed, poverty not only limits citizens' ability to choose leaders based on integrity but also weakens the state's capacity to uphold constitutionalism. This, in turn, contributes to citizens deep distrust in critical institutions, particularly the police, Parliament, and the IEBC.

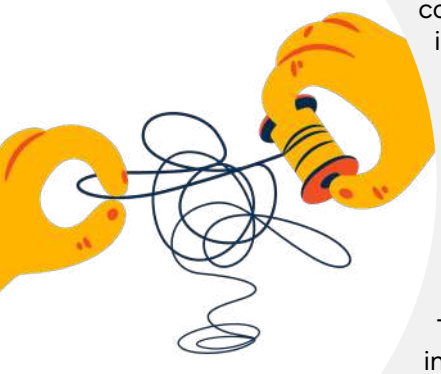
**Figure 3:** How much do you trust each of the following, or haven't you heard enough about them to say? [Uganda Electoral Commission]




***Source: Afrobarometer 2024/2025, Round 10***

Trust deficits in key institutions continued to deepen over the years as citizens became disillusioned with the use of political considerations in appointments. Citizens lost trust in key institutions, especially because of failure of these institutions to effectively address public needs. Indeed, because most officials are appointed on the basis of political considerations, these institutions tend to be answerable to the powerful political individuals rather than to the public.

## 2.4 Summary: Foundation of leadership and accountability challenges



Kenya's leadership and integrity challenges are rooted in a long history, reaching back into the colonial period and the early days of independence. The colonial state established an administrative structure that required selective appointment of public officials to help consolidate its power and authority. The executive became highly centralised to exert influence in the society.

Successive post-independence governments maintained this structure for the same purpose: consolidation of power and authority. Executive dominance is increasingly exerted through institutionalised patronage and elite bargains. Patronage politics is itself strengthened by political elites gaining access jobs for allies, and resources for their communities. This enables the communities to defend "their" leaders despite integrity concerns.

The 2010 Constitution introduced reforms, but these have not fundamentally altered the incentives that enable political elites to trade public appointments. Public institutions have increasingly become part of the political patronage networks. The presidency continues to wield significant influence over public appointments, often subordinating merit and integrity considerations to political loyalty, elite interests and ethnic bargains.

# 3 LEGAL AND INSTITUTIONAL ENVIRONMENT

## 3.1 The legal framework on leadership and integrity

### 3.1.1 Spirit of the 2010 Constitution and challenge of implementation

The Constitution of Kenya, 2010, has several articles covering leadership and integrity: it underlines the importance of personal integrity, competence, and suitability. Article 10 (1) sets out the national values and principles and states that they are binding on all state organs, state officers, and public officers. Chapter Six lays down the leadership and integrity requirements for public officers. Article 73 is specific about the selection of leaders, stating that the guiding principles in the selection of public officers be based on personal integrity, competence, and suitability, or election in free and fair elections.

State officers are also required to take oaths of office committing them to protect the integrity of the constitutional principles. The respective oaths of office for the President, Deputy President, and Chief Justice have the term "integrity" embedded in them. The President and the Deputy President take an oath to protect "…. the integrity of the people of Kenya…"

The Constitution also prohibits conflict of interest in public leadership and proscribes leaders from demeaning the office they hold, whether in their public or private life. Those demeaning public office are expected to undergo a disciplinary process. If found guilty, they are removed from office and are not eligible to hold public office in future.

The Judicial Service Commission (JSC) was the first agency, under the 2010 Constitution, to test the constitutional provisions on Leadership and Integrity. Specifically, in 2011, the Commission triggered the formation of a tribunal to inquire into allegations on the conduct of the Deputy Chief Justice, Justice Nancy Baraza. The tribunal found that she had demeaned public office and declared her unfit to serve. This was after evaluating evidence on her altercation with a security guard at a mall in December 2011, six months after her appointment. This became a pointer of a clear break with the past, but no other institution followed this pathway to change.

The High Court also nullified appointment of the first post-2010 chairperson of the Ethics and Anti-Corruption Commission, Mr Mumo Matemu. His suitability to hold office was challenged on the grounds of professional misconduct while he served at the Agricultural Financial Corporation. However, the Court of Appeal overturned the decision by the High Court, arguing that the High Court had no jurisdiction in determining the suitability of the chairperson, especially because he had undergone a vetting process in Parliament. Overturning the decision of the High Court brought to fore the challenges of institutional coherence, a challenge that has continued to the present time.

It is noteworthy that ethical concerns are frequently subordinated to criminal thresholds – which often leads to the dilution of conditions for holding nominees to public office accountable. That is, the determination of suitability to hold public office -- rooted in integrity, ethics, and public trust -- often conflicts with criminal law standards, particularly the requirement that individuals are presumed innocent until proven guilty. This is regularly exploited to approve anyone facing prosecution in courts. Specifically, provisions in Chapter Six puts the entry threshold of suitability at the level of any impropriety and misconduct. However, Article 50 of the Constitution provides that any accused person has the right to a fair hearing, including a right to appeal.

[11] Article 74.
[12] Mumo Matemu v Trusted Society of Human Rights Alliance & 5 others [2013] eKLR Court of Appeal.

Civil society groups have continued to exert pressure for the contradiction and conflict between moral thresholds and criminal law requirements to be addressed but this has not registered any success. For instance, in October 2022, the National Integrity Alliance petitioned against the nomination of individuals to Cabinet who had pending criminal or integrity cases. These individuals were appointed to office, notwithstanding the petition.

It is evident that the early days of implementing the Constitution witnessed progress in effective entrenchment of its values – the letter and spirit. However, the first signal of weakening progressive implementation came from the Court of Appeal. The Court of Appeal eroded the positive interpretation of the High Court on what constitutes 'integrity' in leadership. This set the stage for continued weakening of implementation.

### 3.1.2 Weak implementation and compliance with the Leadership and Integrity Act

The Leadership and Integrity Act provides the procedures and mechanisms for the effective administration of leadership and integrity. It outlines a comprehensive framework for the conduct of State and public officers to ensure they respect constitutional values and principles. The law defines the ethical boundaries for leadership in Kenya, providing a baseline for the behaviour of State Officers as outlined in Chapter 6 of the Constitution, with an emphasis on the rule of law, public trust, and the transparent execution of duties. The Leadership and Integrity Act, in Part III, requires every public entity to develop a specific Leadership and Integrity Code for its officers, which must be approved by the Ethics and Anti-Corruption Commission.

The law requires that anyone wishing to be appointed to a state office must submit a self-declaration form to the EACC. Those who wish to contest for elective office must submit a self-declaration form to the Independent Electoral and Boundaries Commission (IEBC). However, without a conclusive conviction for disclosures about criminal offences, anyone can still be appointed into office while awaiting the exhaustion of the full administration of justice process. The law also prohibits the appointment as state officer of anyone holding dual citizenship. However, this requirement faced a legal test when the court drew a distinction between public and state officer. This concerned the nomination of Kenya's Ambassador to South Korea by President Uhuru Kenyatta in 2018. Parliament approved the nomination on condition that the candidate would renounce citizenship of the second country. The nominee petitioned the court where it was ruled that ambassadors are not state officers and therefore the nominee did not need to renounce citizenship of another country.

> This discussion shows a lack of consistency in the application of the law – ***there is weak coordination between and among agencies***

There are contradictions in the application of the law. In 2013, a dual Kenya-US citizen sought clearance to run for a Senate seat. The IEBC ruled that he could not. He filed a petition in the High Court, which upheld IEBC's decision, but he appealed. The Court of Appeal ruled that the clause on renouncing dual citizenship only kicks in when one has been appointed or elected to the said office, and not during the process of seeking to be in that office.

This discussion shows a lack of consistency in the application of the law – there is weak coordination between and among agencies. Several institutions are involved in making decisions on the same matter, but they all make differing decisions: parliament, the courts, constitutional commissions, and the Presidency.

### 3.1.3 The Anti-Corruption and Economic Crimes Act

The Act provides a comprehensive legal structure for the prevention, investigation, and punishment of corruption and economic crimes. Although it came into force before 2010, it matters because it set the tone for the fight against corruption – it established a foundation on which other laws and practices have evolved and provided the context for Constitution.

The law defined corruption extensively to include bribery, fraud, embezzlement, misappropriation of public funds, abuse of office, and breach of trust. It initially provided for the establishment of the Kenya and Anti-Corruption Authority (KACA) (as well as the successor commissions) and the Kenya Anti-Corruption Advisory Board to oversee and advise on anti-corruption efforts. This section was later repealed by the Ethics and Anti-Corruption Commission Act.

[13] FGD with Chapter 6 Working Group.
[14] The National Integrity Alliance (NIA) is a citizen-centred integrity and anti-corruption coalition comprising Transparency International Kenya (TI-Kenya), Inuka Kenya Ni Sisi!, Mzalendo Trust, The Institute for Social Accountability (TISA), and The Kenya Human Rights Commission (KHRC).

A critical feature of the law is the power to seek the forfeiture of unexplained assets -- defined as property whose value is disproportionate to a person's known sources of income. Also, investigators provided for in the law are granted the powers and immunities of police officers, including the authority to search premises, arrest suspects, and require individuals to provide detailed statements of their property.

The law has shifted the focus of corruption from proving "bribery" to identifying "unexplained wealth." This has enabled the Ethics and Anti-Corruption Commission (EACC) to freeze and recover billions of shillings from public officials whose lifestyles do not match their formal salaries. In the FY 2024/25, EACC reported that assets worth KSh3.4 billion were recovered and that convictions rose from 12 to 33, with 54 cases finalised in court.

By establishing an Advisory Board accountable only to Parliament, the law sought to insulate anti-corruption efforts from Executive interference. The law's definitions of economic crime and corruption serve as the primary benchmarks for Parliament and the Executive in vetting state officers. Any active investigation or charge under this law is often grounds for suspending a public officer. The law provides the legal teeth for Public Financial Management (PFM) laws. It criminalises "bid-rigging" and promotes the "protection of public property and revenue," making it a central tool for auditing and prosecuting failures in government procurement.

### 3.1.4 The Vetting of Judges and Magistrates Act

The Vetting of Judges and Magistrates Act, 2011, was enacted to implement Section 23 of the Sixth Schedule of the 2010 Constitution, which mandated a one-time clean-up of the judiciary to restore public trust. The law established an independent body to determine the suitability of all serving judges and magistrates who were in office before August 27, 2010, or simply put, a legal and procedural framework for a "radical surgery" of the Kenyan judiciary. The vetting body evaluated judicial officers based on professional competence, integrity, fairness, temperament, and past record.

Kenyan Chief Justices initiated the previous clean-ups in the judiciary. The measures were, however, piecemeal, and they generally failed to act fully on reports the chief justices commissioned. The first effort at a systematic clean-up of the judiciary was in 2003 and saw half of the judges resign or face a tribunal, and a third of all the magistrates were dismissed. The 'radical surgery of the judiciary', as it was called, has not been repeated.

The implementation of this Act, and the decisions of the vetting body – the Judges and Magistrates Vetting Board -- had an impact that continued to shape the character of the Judiciary. The process resulted in the removal of several high-profile judges, including members of the Court of Appeal and the High Court, primarily on grounds of integrity and professional unsuitability. Some of those aggrieved filed suits in the High Court. This led to a constitutional struggle in which the Supreme Court eventually ruled that while the courts could not review the merits of the Board's decisions, they could review the process to ensure that the rules of natural justice were followed.

The vetting of judges had another effect. It set the tone for the independence of the Judiciary. The decisions that the Board reached were a far cry from what some of the political elites would have wanted to see. That is, by removing officers perceived as "executive-minded" or corrupt, the law helped shift the judiciary from a subordinate arm of the President to a truly independent stat organ. This was critical for the 2013 and 2017 presidential election petitions.

[15] First Report of the Committee on Appointments on the suitability of persons nominated to the Office of Cabinet Secretary, Attorney General and Secretary to the Cabinet. Page 122. October 2022.
[16] Examples include the Mwongozo Code of Governance for State Corporations.
[17] Sections 12 and 13.
[18] Section 35.

The vetting established a culture of accountability in the judiciary, too. Judges today are more aware that their decisions and private wealth (through the Leadership and Integrity Act) are under constant scrutiny. The implementation of this law was seen as a signal that Kenya was serious about protecting property rights and enforcing contracts fairly.

### 3.1.5 The Ethics and Anti-Corruption Act

The EACC Act has transitioned Kenya from a purely reactive anti-corruption model to one that emphasizes **preventive ethics.** The EACC now plays a mandatory role in the vetting of all high-level State appointments. Politically, this has made the EACC a central player in establishing the suitability of public officers – elective and appointed. However, public trust in EACC is low owing to its "clearance" of individuals with integrity questions.

A long-standing bottleneck to the EACC's mandate is that it can only recommend prosecution; the final decision to prosecute lies with the Director of Public Prosecutions. This "two-key" system has occasionally led to finger-pointing between the two offices when high-profile cases stall or collapse. Periodic attempts by Parliament to amend the Act -- such as reducing the EACC's powers to investigate certain economic crimes — reflect political resistance to a truly empowered commission.

> A long-standing bottleneck to the EACC's mandate is that it can only recommend prosecution;

### 3.1.6 The Anti- Bribery Act, 2016

Unlike earlier laws, the Anti-Bribery Act, focuses places significant responsibilities on private and public entities and establishes strict penalties for individuals and corporations alike. It is a specialized legal instrument to prevent, investigate, and punish bribery in both the public and private sectors. The law criminalises both giving and receiving a bribe, defined as offering or accepting a "financial or other advantage" to influence a "relevant function or activity."

The law has fundamentally altered the "rules of engagement" for businesses and public officials in Kenya. By mandating that private companies develop internal anti-bribery policies, the Act shifts part of the enforcement burden from the state to the private sector. This has led to the widespread adoption of compliance programs in Kenyan firms. The Kenya Private Sector Alliance was instrumental in initiating and enacting the law. KEPSA led the private sector in several initiatives, including the formation of Business Against Corruption in Kenya (BACK). KEPSA also rallied its members to sign up to the UN Global Compact through its local chapter and to sign a code of ethics it had developed.

The law applies to conduct by Kenyan citizens or entities even if the offence occurs outside Kenya. This has significant implications for Kenyan firms operating regionally, making them accountable at home for their actions abroad. The mandatory 24-hour reporting requirement has occasionally been used as a political tool, where "whistleblowing" (or the threat of it) is leveraged against opponents, though actual prosecutions under this specific clause are rare.

While this law defines "advantage" to include facilitation payments made to expedite performance, distinguishing these from "gifts" in a cultural context remains a challenge for enforcement. Also, while companies are required to have anti-bribery procedures, the EACC lacks the resources to audit their effectiveness across thousands of registered private entities in Kenya.

[19] Mwende Maluki Mwinzi v Cabinet Secretary, Ministry of Foreign Affairs & 2 others [2019] eKLR
[20] Report of the Select Committee on Implementation on the implementation status of the of the resolution of the house regarding the conditional approval of Ms Mwende Mwinzi as Ambassador of Kenya to South Korea – November 2019.
[21] Bishop Donald Kisaka Mwawasi v Attorney General & 2 Others (2014) eKLR
[22] Recent examples include that of the former Governor of Kiambu County, Ferdinand Waititu, who had a civil case filed against him by the EACC to recover property worth KSh1.9 billion allegedly acquired during his tenure as MP and as Governor. The High Court ruled in December 2025 that Waititu should forfeit property worth only KSh131 million because the EACC didn't present its case with sufficient clarity and evidence.
[23] EACC Annual Report 2024/2025.
[24] Four Kenyan appeals court judges declared unfit for office, Tom Maliti, April 2012, International Justice Monitor
[25] The UN Global Compact is headed by a Kenyan, Ms Sanda Ojiambo, who is at the level of Assistant Secretary General.
[26] President William Ruto, State of the Nation Address, November 21, 2024.

### 3.1.7 The Conflict-of-Interest Act

The Conflict-of-Interest Act received presidential assent on July 30, 2025, and came into operation on August 19, 2025. It provides a legal mechanism to manage and regulate public duties and private interests. The law's primary objective is to promote objectivity and impartiality in official decision-making by ensuring that private interests do not compromise public trust.

The law faced high resistance at the time of its introduction in parliament. It was first tabled in the National Assembly as a Bill in April 2023, then passed and forwarded to the Senate. Here, several provisions perceived as restrictive were omitted, thereby weakening the Bill. EACC was also stripped of the enforcement function and mandate, which were spread across multiple entities in the public sector. This amendment was picked up by some of the protesters in the June 2024 protests. They protested corruption in government and increase in taxes while watering down this piece of legislation that was aimed at reducing wastefulness and controlling expenditure.

The president declined to assent to the Bill, noting that it had been watered down by parliament and that the role of EACC had been weakened. The President stated that: ***"...It is unacceptable for the Houses of Parliament to deny the nation a much-needed instrument in the war on corruption by continuing to sabotage the passage of the Conflict-of-Interest Bill..."*** The concerns that the President raised were addressed and he signed the Act into law.

It restricts public officers from:

a. Granting preferential treatment or using official information for private gain.
b. Contracting with public entities or acquiring interests in partnerships that do so while in office.
c. Accepting offers of outside employment that create a conflict.

An important aspect of the law is that it turns ethical guidelines into enforceable laws. The implication of this is that it makes the breach of conflict-of-interest rules a criminal offence. It empowers the EACC to institute proceedings for the forfeiture of undeclared or unexplained assets, thereby serving as a powerful deterrent against illicit enrichment. As seen with previous integrity laws, the effectiveness of the Act depends on the political will to allow the EACC to investigate high-ranking officials without interference.

## 3.2 Summary: Legal and Institutional Context

Kenya has a strong leadership and integrity legal framework grounded in a progressives 2010 Constitution. The Constitution set high standards for suitability of state and public offices to help break with the past in which the political interests of the executive (centralised presidency) subordinated merit in appointments. Early implementation, including the appointment of judges by a new Judicial Service Commission, and strong High Court interpretations of the 2010 Constitution, signalled a decisive break from the past. The values of integrity guided appointments or even removal from office of those accused of abuse.

The progress made was eroded by, ironically, the Court of Appeal interpretations as well as the increased dilution of the moral basis for appointment by using criminal conviction as the threshold for disqualification. The integrity requirement was subordinated to criminal arguments and more so the presumption of innocence as a standard in vetting and appointment processes.

Across these laws, a consistent pattern emerges. There is selective application of the law. The legal framework is strong but functions effectively when there is high scrutiny and public vigilance. The framework is often bent through interference by the executive.

# 4

# STAKEHOLDER MAPPING AND ANALYSIS

Several actors are involved and interacting in the leadership and integrity space. Some of them have more power and influence than others but they have limited interest in ensuring successful implementation of integrity laws. Their main incentive in this regard is to advance the interests of their institutions, which in the end weakens objectivity in appointments to public offices or even the implementation of the laws.

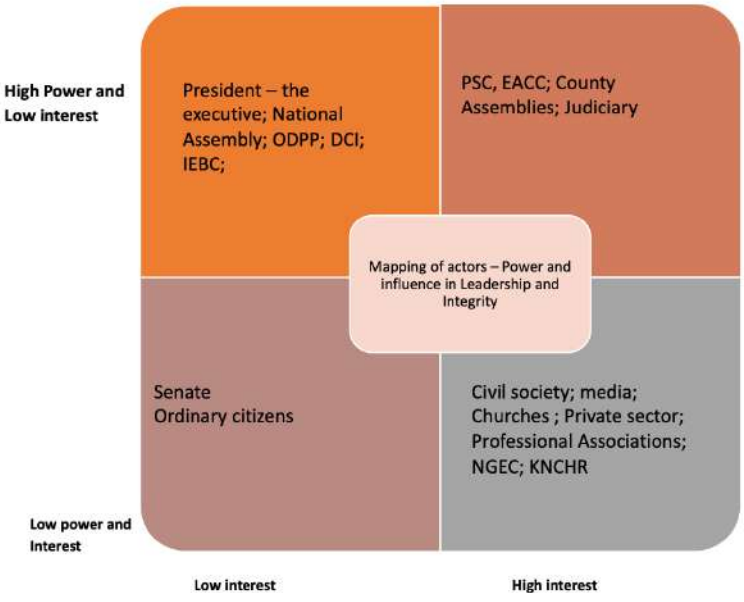
There are actors who are passionate about effective implementation of the provisions of Chapter Six and integrity laws in general. However, they lack the power to make to make everyone commit to the principles and values of governance.

The third category of actors includes those with power, influence and interest to promote the principles and values around leadership and integrity. In order to be effective, some of these actors form coalitions with those who have 'high interest'. This helps to insulate their gains from erosion by those with power.

Finally, there are those who remain passive – disinterested in public affairs and are, therefore, not actively engaged on matters of leadership and integrity. However, they remain an important constituency that those with "high interest" mobilise for support.

The sections that follow discuss the power and interest of these actors. The discussion also examines where they draw their power from, and why they act the way they do -- the incentives for their behaviour. The sections need to be read with caution because politics is central to these appointments. And because political dynamics evolve fast, the influence and interests of some actors also change. Moreover, there are some appointments that do not attract much public or political attention. These may sometimes evidence more attention being given to merit than political considerations.

Figure 1: Illustrative power-interest map




[27] The President nominates most senior State Officers and appoints them after parliamentary vetting and approval. The Office of the President is represented in most, if not all, selection panels for selecting Commissioners and Independent Offices (Documents Review and KIIs).
[28] Vetting of the Inspector General is carried out jointly by the National Assembly's Departmental Committee on Administration and Internal Security and the Senate's Standing Committee on National Security, Defence and Foreign Relations.

Table 2 also presents the interests of various actors and the implications for vetting outcomes. Again, this is illustrative – the conditions under which many actors play are fluid. Political interests align and actors change thereby creating opportunities for some actors to win more influence or consolidate power.

## Table 2: Summary of stakeholder mapping and analysis

| Stakeholder | Interests / Motivations | Power / Influence | Implications for Vetting Outcomes |
|---|---|---|---|
| **Presidency/ Executive** | Rewarding political loyalists, balancing ethno-regional interest, maintaining political coalition/elite pacts; and delivering the policy agenda | Very High | Political interference -- Presidential nominations shape integrity outcomes more than any other actor. Political interests override integrity concerns. |
| **National Assembly** | Subordinated to the executive; party loyalty, rent-seeking among MPs, and political bargaining/horse trading | Very High | Committees approve nominees regardless of integrity concerns – with or without executive interference; enforcement of laws remains inconsistent. |
| **Senate** | Oversight but little influence over nominations, party loyalty play an important role | Medium | Plays a limited role in most vetting but is critical in police vetting and political accountability at the county level, especially the impeachment of Governors. |
| **Judiciary** | Upholding the Constitution, asserting institutional independence | Medium–High | Increasingly influential through Chapter Six jurisprudence but constrained by conflicts between the High Court and Court of Appeal; mostly gives objective outcome |
| **Compliance and Clearance entities - EACC, KRA, ODPP, DCI, HELB, and CRBs** | Enforcement of rules, institutional credibility; often succumbs to political pressure because of weak political independence | Medium | High interest but limited power. Their recommendations are often ignored, compromised or negotiated away. |
| **Public Service Commission** | Merit-based recruitment, institutional professionalism | Medium–High | Strong ally for reforms when dealing with career public service; limited influence on political appointments. |
| **IEBC** | Integrity of electoral candidates, compliance with Chapter Six | Medium | Technical enforcer but politically constrained; faces trust deficits. |
| **NGEC and KNCHR** | Inclusion in vetting frameworks and processes, and monitoring compliance. | Medium | Advisory, but recommendations are not binding. |
| **County Assemblies** | Local patronage, ethnic/clan balancing, party dynamics | Medium | Local political arrangements heavily influence vetting outcomes. |
| **Civil Society & Media** | Accountability, transparency, anti-corruption advocacy | Low–Medium | Raise the political cost of appointing compromised individuals; it is essential for public mobilisation. |
| **Professional Associations** | Upholding standards of the profession, enhancing institutional roles | Low–Medium | Indirectly influences vetting through selection panels and task forces. |
| **Private Sector** | Sections of the business community favour predictable, rules-based governance to reduce bribery costs and uncertainty. | Low – Medium. | Indirectly influences vetting through selection panels, task forces, and patronage networks. |
| **General Public** | Demand for integrity and quality leadership | Low | Perceived powerlessness and fear of retaliation reduce pressure to comply with integrity standards. |

[29] There is role conflict between PSC, Head of Public Service and Ministry of Public Service that threatens the PSC's constitutional mandate (Documents Review).
[30] In the Kiagu Ward by-election petition filed in 2021, the Judiciary ruled that IEBC does not have a leadership jurisdiction to enforce the Leadership and integrity Act. The matter is still pending in the Court of Appeal (FGD with Chapter 6 Working Group).

## 4.1 The Executive – the Precedency

The Constitution and statute give the President powers to make appointments of state officers in constitutional and independent offices as well as all state office holders. The President has influence and power – both formal and informal. The President and the executive in general influence appointments to help address political demands in the coalition, identify individuals to assist in the implementation of priority policies or those who can drive policy agenda.

The President is usually under pressure to reward those who help in winning elections, including those funding the campaigns and/or mobilising bloc ethnic votes. Other times, the pressure emanates from managing political interests and ensuring that there is equitable share of posts. The vetting process thus becomes some sort of a stumbling block that requires the President to place coalition politics above integrity.

## 4.2 Parliament

Parliament -- the National Assembly and the Senate -- exercises the power of vetting and approval of key offices. Parliament thus is the centre of decision making on key appointments before the President appoints.

Parliament is driven by many interests. In recent times, rent-seeking has become a common practice: MPs require inducements to give favourable reports. The inducements are passed through the vetting committees. Parties also bargain among themselves on how to support each other's candidates, irrespective of integrity issues that may face a candidate. Finally, the President may ask the party leadership to put pressure on MPs to approve the nomination of those favoured by the executive or even the President himself.

These interests often combine to prevent Parliament from acting in the public interest. MPs bend to the needs of the executive. There are also informal actors who are powerful and influential They exert pressure on MPs through Chairs of parliamentary Committees. Their powers draw from their relationship either with the President or other powerful individuals in government.

## 4.3 Judiciary

The Judiciary has become an important counterweight in integrity vetting, particularly through its decisions on constitutional petitions challenging qualifications, suitability, constitutionality of appointments, or legality of processes. Courts have sometimes invalidated appointments, clarified integrity standards, or expanded interpretations of Chapter Six.

Judiciary the often determines the litigated cases in the public interest. The Judiciary has been making judgments that demonstrate progressive interpretation of the provisions on leadership and integrity, resulting in the barring of Governors who have been charged with corruption offences from accessing their offices.

All this is made possible by the political and financial independence of the Judiciary. In the past, lack of financial independence would always lead to the Judiciary bending to accommodate the interests of the executive. Nonetheless, there are instances where there is demonstrable conflict between the Court of Appeal and the High Court.

## 4.4 Constitutional Commissions and Independent Offices

The PSC tends to favour rules, process, and human resource standards, and is more insulated from frontline political bargaining. PSC is a high-interest, medium–high power ally for reforms that target career bureaucracy (e.g., standard integrity checks, conflict-of-interest disclosures, disciplinary procedures). However, the PSC lacks direct control over high-level political appointments.

The Ethics and Anti- and the other clearance agencies sit at the heart of enforcement: issuing integrity clearances, investigating conduct, and administering the Conflict-of-Interest Act. They have a very high institutional interest in robust vetting .

[31] The Association of Professional Societies in East Africa sits on six (6) selection panels for Commissions and Independent Offices (Desk Review).

Their power is constrained by dependence on prosecution services and courts, a limited budget, and political attacks when they go after powerful actors. Their reports and recommendations can be ignored or politically negotiated away by appointed authorities. They are thus considered as technical powerhouses but political lightweights. Their impact (especially EACC) depends on coalitions with civil society, courts, media, and reform champions in the Executive/Parliament.

**Table 3: Composition of selection panels for commissions**

| Constitutional Commission and Independent Office | Interests / Motivations |
|---|---|
| **Salaries and Remuneration Commission** | JSC, the Parliamentary Service Commission, Public Service Commission, the TSC, the NPSC, the Senate, COTU, FKE, and APSEA. |
| **Public Service Commission** | OP, AG, CS, Public Service Ministry, ICPAK, IHRM, FKE, and NCPWD. |
| **Kenya National Commission on Human Rights.** | OP, AG, Ministry of Gender, PSC, LSK, NCPWD, and APSEA (replaced by PSC after 2013). |
| **National Police Service Commission** | OP, OPM, JSC, EACC, KNCHR, NGEC and APSEA. |
| **Commission on Administrative Justice** | OP, AG, PSC, APSEA, NCPWD |
| **National Gender and Equality Commission** | OP, AG, Gender Ministry, PSC, APSEA, KEPSA, NCPWD |
| **National Land Commission** | OP, CS Lands, (2 pax)– PBO Federation, KEPSA, APSEA, NGEC |
| **Independent Electoral and Boundaries Commission** | Parliamentary Service Commission (Majority and Minority Parties reps); PPLC (3 – Non-parliamentary + Majority + Minority); LSK; ICPAK; IRCK – 2 Pax |
| **Teachers Service Commission** | CS Education, AG, CS Public Service, FKE, 2 Teachers Unions Reps, Kenya Association of Private Schools |
| **Ethics and Anti-Corruption Commission** | OP, AG, Gender Ministry, PSC, APSEA, KEPSA, NCPWD |
| **Judicial Service Commission** | CJ, SC, CoA, KMJA (2), AG, LSK (2), PSC, OP/President |
| **Parliamentary Service Commission** | Accountability, transparency, anti-corruption advocacy |
| **Office of the Controller of Budget** | OP, Treasury, AG and Public Service Ministry |
| **Office of the Auditor General** | OP, Treasury, Public Service Ministry, ICPAK, APSEA and LSK |
| **Office of the Director of Public Prosecutions.** | OP, AG, Public Service Ministry, KNCHR, LSK, COTU and EACC. |

## 4.5 Governors in County Governments

Some county governors exert influence in appointments depending on the political significance of their county and especially if they are from the majority national political party. At the county level, the governors have more power and influence than any other body. They nominate County Executive Committee Members, the County Secretary, and the County Attorney. They appoint them with the approval of the County Assembly. The vetting is carried out by the County Assembly's Committee on Appointments,

[32] All state offices that require vetting and approval must seek clearance from the EACC, the Kenya Revenue Authority, the Directorate of Criminal Investigations, the Director of Public Prosecutions, the Higher Education Loans Board and Credit Reference Bureaus.

The County Assembly also initiates the process for the impeachment and removal of the governor from office. The County Public Service Board establishes offices in the county public service, appoints staff, exercises disciplinary control, and dismisses staff from those offices.

## 4.6 Civil Society, the Church and the Media

Civil Society can shift public opinion through their advocacy and direct citizens' engagement. Civil society groups also petition the courts in public interest litigation or occasion investigations on appointments – when and if the advocacy and protests by CSOs point at anomalies.

It is noteworthy that civil society organisations and media (investigative journalists), as well the Church, are the most consistent champions of Chapter Six enforcement. They pursue litigation, file petitions, expose scandals, and mobilise public opinion against appointments that undermine the values of integrity. While they lack direct appointing power, they significantly raise the political cost of appointing individuals who lack integrity. Their influence spikes during high-profile cases and elections but can wane under restrictive civic space policies.

The mainstream church, nonetheless, remains central in demanding that the appointments reflect the letter and spirit of the Constitution. The churches enjoy unlimited access to powerful individuals. Sometimes they use this access to power to put pressure on the government to correct the wrongs.

## 4.7 Professional Associations

Professional associations play a role in some appointment panels. The Law Society of Kenya elects and nominates a male and female member to the Judicial Service Commission and nominates a member to the selection panel for the IEBC and the KNCHR.

The Institute for Certified Public Accountants nominates a member to the selection panel for the IEBC and the PSC. The members of the Salaries and Remunerations Commission include nominees from the APSEA, the Federation of Kenya Employers, and the Central Organisation of Trade Unions.

APSEA has the highest number of nominee slots in selection panels: the association is represented in panels for the IEBC, NGEC, NLC, NPSC, KNCHR and CAJ. The National Council for Persons with Disabilities nominates members to the panels for the CAJ, NGEC and PSC. The Inter-Religious Council of Kenya has two slots on the IEBC selection panel. The Institute for Human Resource Management nominates a member to the PSC panel while the PBO Federation nominates to the National Land Commission selection panel.

Representation in these panels adds value. In some instances, their voice prevents use of administrative and political considerations – they voice concerns based on professionalism. Their voice is well respected in some of the panels but not always.

In some instances, their voice prevents use of administrative and political considerations – they voice concerns based on professionalism.

## 4.8 Private Sector

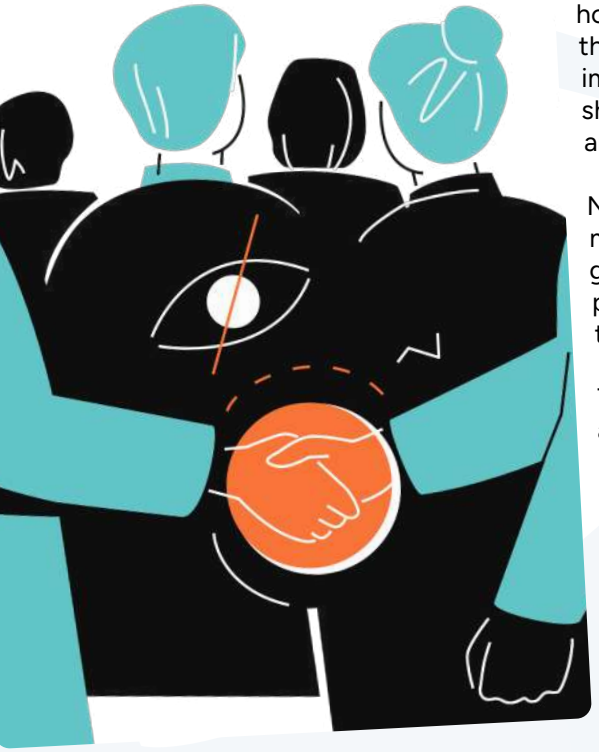
The private sector does not play a central role in any vetting process even though it is often affected by the quality of governance and decision making. Private sector nominates members to the selection panel of the National Land Commission and NGEC and its members are also appointed to the boards of state corporations where they are involved in recruiting chief executive officers and board of management directors.

Some associations in the private sector collectively articulate concerns for the sector, especially during the vetting process. These include KEPSA and KAM. Collectively, they informally promote governance norms and integrity by reaching out to political elites.

There are private businesses who benefit from the status quo. They benefit from 'rent', government procurement and capture of policies. Such businesses have allies among powerful political elites and therefore tend to push only interests that benefit their business.

This suggests that private sector is a divided constituency. There are those who collectively push for governance reforms to advance the interests of the sector. There is another group motivated by interests to advance self-interests; this is the group often allied to powerful individuals and will seek the appointment into public officers of those who can advance their interests and those of their political allies.

## 4.9 Summary: Power and interest of key actors



The mapping of actors and their power and interest reveals that those with the greatest formal and informal power over appointments -- primarily the Executive and Parliament -– have limited incentives and interest to enforce integrity standards. They prioritise political considerations and specifically how to address the interests of political elites in the ruling coalition. On the other hand, those with high interest for enforcement of laws and full implementation of the leadership and integrity framework lack the power to shape outcomes consistently. They include, civil society, the church, media and the private sector.

Nonetheless, there are a few actors with power and interest. These are motivated by the need to maintain institutional credibility – their powers are generally drawing from administrative positions and therefore they lack the political power to eventually shape key outcomes. They nonetheless play their role despite the political challenges that they may confront.

The decisive power over vetting is exercised through political negotiations and pacts among political elites. By the time nominees appear before parliamentary committees or county assemblies, outcomes are already politically determined. Vetting bodies therefore operate in a constrained space where rejecting a nominee is interpreted less as an integrity decision and more as a political act -- challenging executive authority. And very few vetting bodies may want to be viewed this way.

# 5

# PREVAILING DYNAMICS AND EMERGING CHALLENGES

The sections in this chapter examine how leadership and integrity vetting operate in practice, drawing on field data. The discussion shows how formal rules interact with informal power to produce outcomes that are often inconsistent with the constitutional aspirations of Chapter Six. The analysis further highlights how these dynamics differentially affect women, youth, PWDs, and other marginalised groups, revealing gender and social inclusion outcomes as key indicators of whether integrity frameworks are functioning substantively or symbolically.

Importantly, many of those interviewed often described vetting as a negotiated political arena, where decisions are shaped by political considerations. Integrity was frequently characterised as procedural -- focused on documentation and formal compliance with KRA, EACC clearance and DCI certification.

In FGDs and other consultations, participants emphasised that standards are applied selectively and that there is limited follow up on what nominees present or say during the vetting. In addition, although public participation is a requirement in vetting processes, it was widely perceived as largely tokenistic, with limited influence on final decisions. The sections hereunder present these findings in detail.

### *Box 3: Observations on blockages to implementation of leadership and integrity framework*

Kenya operates a political system in which the Executive holds dominant influence over high-level appointments. Chapter 6 articulates strong ethical standards, but implementation is shaped by

**a) Coalition politics and patronage networks influencing appointments**
Coalitions, alliances and elite bargains are central to Kenya's competitive elections. The political parties and interest groups within coalitions that form the government negotiate to share out appointments in public service. Parliamentary oversight is weakened by elite bargains and negotiations that hold the alliances together.

**b) Political reward structures affects appointments in public services:**
Positions of Cabinet Secretaries, Permanent Secretaries, Ambassadorial, and board positions are based on political considerations – it is not based on merit but the political capital to be enriched. Often the nominees to these roles are linked to coalition leaders, influential families and senior or key political supporters and funders of a presidential campaign.

**c) Weak coordination across integrity institutions (EACC, PSC, Parliament, Judiciary)**
Effective coordination amongst integrity institutions is envisaged in laws. However, 'integrity institutions' are fragmented and tend to pull apart either when there is competition in highly visible cases or where one agency does not play its part or withdraws.

**d) Increased judicialization of integrity framework and integrity-related disputes**
Judicial activism is discernible in corruption and election cases. There are instances where rulings are made from a flexible point of view and taking into consideration public policy and political economy of cases. In some instances, the rulings tends to be informed by subjective reasoning rather than objective evaluation of applicable law.

**e) Cycles of public pressure during scandals, elections, and fiscal crises**
The inconsistency and lengthy way with which integrity cases are investigated and prosecuted are episodically interrupted by occasional spikes in public pressure that push the duty bearers to act. Politically sensitive cases are revived or killed depending on who is in power and through subjecting the judiciary to intimidation.

## 5.1 Vetting as procedure

A dominant theme across interviews and discussions was that vetting has become procedural. Some of those interviewed characterised vetting as "cosmetic" and pointed out that decisions are generally made before the actual vetting. To some, integrity vetting and assessments focus on compliance such as clearance certificates, wealth declaration forms, and criminal records. There is little focus on ethical conduct, leadership values, and performance history.

The citizens are becoming disillusioned through televised drama – some point out that vetting is about how a nominee "performs in the room when facing the panel." To them, integrity vetting is more about questions of procedure and documentation rather than the behaviour of individuals. Accountability issues such as adverse audit findings do not feature much and when they do, there are no consequences. This reinforces a perception that the vetting no longer focus on integrity and values. This framing of issues around procedures allows individuals to satisfy documentation requirements but leaves ethical and accountability issues without attention:

> ***"There is no vetting that takes place. What you see and you think is vetting is actually not vetting. It's just a public show. It's drama. It's just like Hollywood movies."*** [36]

## 5.2 The presidency – the executive - dominates and shapes outcomes

The office of the President is a key – and dominant -- player in panels constituted to pick members of constitutional commissions and independent bodies. The executive is represented in over 65 per cent of the panels interviewing candidates for public office. The Office of the President, the Attorney General, National Treasury and the Ministry of Public Service have the largest representation in these panels as shown in Table 4.

**Table 4: Composition of selection panels for commissions**

| Selection Panel Members | Number of Panels |
|---|---|
| Office of the President | 10 |
| Attorney General | 8 |
| APSEA | 7 |
| LSK | 5 |
| Ministry of Public Service | 5 |
| Public Service Commission | 5 |
| NCPWD | 4 |
| ICPAK | 3 |
| The National Treasury | 3 |
| Federation of Kenya Employers | 3 |

[33] Multiple field interviews and discussions.
[34] Youth FGD.
[35] Discussions with Professional Associations: ICPAK, KEPSA.
[36] Key informant interview with an officer who has taken part in a county-based selection panel.
[37] Cross-source field pattern (FGDs among youth, media, religious institutions, consultative forums and various KIIs).
[38] Examples: KIIs with professional bodies, and senior government officials.

This domination of the interview and selection process has led to observations that vetting is a politically managed process. Many institutions formally participate in vetting but the outcome is determined by the interests of the presidency – the executive. Those holding this view argue that Parliament, independent commissions, clearance agencies, and oversight bodies participate in the process but in the end it is the executive that decides the outcome. Furthermore, 'most decisions are agreed on through political negotiations before nominees appear in public hearings'.

Pre-processed decisions place parliamentary committees, and other selection bodies in a politically difficult position. Not many of these bodies have the courage to go against powerful political elites who shape these outcomes. Furthermore, parliamentary committees are presented with a single nominee. This limits opportunities for comparing candidates but, as some of the respondents explained, the committee does not have the courage to reject any nominee. Interviews and the vetting of candidates also witness manipulation of scores to shape a particular outcome.

> ***You are asked to vet one name. Rejecting that name becomes a political statement, not a professional judgment."*** [40]
>
> ***By the time someone appears before Parliament, the decision has already been made....it is rubber-stamping".***[41]

While public attention tends to focus on hearings and questioning, outcomes are frequently shaped after public sessions conclude. Chairs of some panels may collude with technical staff to alter the scores to pass some of the candidates.

Scoring templates, moderation of scores, and final consolidation of marks are often handled internally, thereby creating room for manipulation. Some of those who have been in the panels at the counties noted that the scores can be retroactively adjusted to align with predetermined political preferences. Interviews are conducted but as a public show only.

## 5.3 Parliament under Executive influence

Although Parliament is constitutionally mandated to enforce leadership and integrity standards, parliamentary vetting is increasingly influenced by the executive. Many of those interviewed point out that vetting is taking place within a negotiated political context, where the executive, political alliances and interests shape the decisions of parliamentary committees. Because of this, parliamentary committees have become instruments for advancing the interests of the executive and more so to manage broader political interests. As one participant in an FGD noted, "Parliament's role is no longer to interrogate integrity; it is to manage political interests."

These dynamics reinforce perceptions that parliamentary committees have become the arena for finalising pre-negotiated outcomes rather than testing the suitability of nominees. As a result, Chapter Six is weakened; there are very few champions in parliament to advance integrity. At the county level, similar patterns were observed. Members of County Assemblies (MCAs) may receive direct or indirect financial and political inducements during vetting processes. In such instances, oversight becomes secondary. It is the interests of the governor that shape the final decisions.

## 5.4 Oversight institutions face weak coordination and funding challenges

Oversight institutions, including the constitutional commission and independent offices, operate in silos. There is limited coordination among them. While many of these institutions generate their own information on the integrity of public officials, it is rare that they share it with one another. One of the respondents observed that they often compete and hide information from one another. Because of this, the information they have does not help in the vetting decisions.

The findings of oversight bodies are also treated as technical or administrative inputs and rarely given significant attention. This results in the underutilisation of such findings even when they would help in verifying the integrity of individuals. As some respondents noted, individuals may appear before vetting committees with unresolved integrity questions and still receive approval. This happens especially when institutions fail to share the information they have.

[39] Key informant interview with an officer who has served in some panels.
[40] FGD with religious leaders.
[41] Media representatives.
[42] KII with a senior officer.
[43] Key informant interview with an officer who has taken part in a county-based selection panel.
[44] Consultative forum with civil society.

Again, some FGD participants noted that: "You can have adverse audit issues year after year, and still sail through vetting. Those issues don't stop anyone from appointment."

There is growing lack of trust and confidence in some institutions because they make decisions that, to the public, look compromised. In particular, the EACC was described by some as compromised, with one participant stating that "the persons who are supposed to fight corruption are the most corrupt. " The ODPP was similarly characterised by some as a weak link in the accountability chain, perceived as hesitant and inconsistent in pursuing politically sensitive cases.

Inadequate funding also prevents some of these institutions from being effective in their oversight roles.
They are dependent on the exchequer funding – sometimes getting budget for recurrent expenses but no budget for key activities. This dependence on national government for funding reduces their effectiveness. As pointed out by some, "if an institution continues to negotiate with the National Treasury or Parliament for funding, it begins to lose independence." With limited funding, therefore, the institutions lack the courage to make tough decisions.

## 5.5 The presumption of innocence shields against scrutiny

Chapter Six identifies moral and ethical requirements for leadership, but Articles 99 and 193 suspend disqualification until all possibilities of appeal or review have been exhausted. This allows individuals whose ethical conduct is questionable to pass vetting because their cases are in court or under investigation.
IEBC is cited as one agency that has continually failed to pursue ethical and integrity requirements citing the argument that any court case must be concluded before one is presumed not to meet moral and ethical standards. On the other hand, EACC pursues ethical standards but is constrained by lack of powers to prosecute. The Commission is described by many as failing to act decisively during vetting, despite credible evidence of people failing to meet ethical and moral standards. To IEBC "until a case is concluded, and all appeals are done, our hands are tied."

## 5.6 Public participation is about ticking boxes

Public participation is generally seen as having little consequence – it is reduced to a ritual and a box-ticking exercise. This is despite the provisions of the Constitution that underline the importance of public participation and citizens engagement. To many of those interviewed, public participation is "done to comply with procedures and tick boxes rather than alter the predetermined choices."

In vetting by Parliament, the committees invite memoranda through public advertisements, require submissions to be presented as sworn affidavits, and question nominees on issues raised by the public during hearings. Public petitions may raise integrity issues concerning nominees, or alleged conflicts of interest. However, these do not shape the final decision by the committees – it is rare for someone to be struck down from the list of nominees on the basis of these presentations, especially if the person is fronted by powerful politicians. In this regard, some say: "We submit memoranda, but we never see how they are used. " If the petitions touch on a matter in court, then this approval is linked to the 'presumption of innocence' argument rather than integrity and ethical behaviour.

A further constraint concerns compliance requirements for public participation. During the August 2024 vetting exercise, 837 memoranda were received, but only 181 met the formal requirements and were considered. This raises concerns about public capacity to comply with technical submission standards and suggests that technical procedure may be prioritised over the substance of the petitions.

## 5.7 Gender and Social Inclusion (GESI) Dynamics in Integrity Vetting

Our analysis also focused on whether gender and social inclusion are effectively implemented within the framework of Chapter Six. Again, the findings show equality, non-discrimination, and accessibility (for PWDs) are rarely given attention on the extent to which the candidates merit appointment. Clearance certificates and wealth declaration forms are prioritised over gender and social inclusion. In this regard, merit is not prioritised. Focus on certificates and documentation without paying attention to how the candidates satisfy gender and social inclusion requirements alongside moral and ethical requirements (integrity) leads to outcomes that are shaped by dominant political interests.

[45] Key informant interview with an officer who has taken part in a county-based selection panel.
[46] Common observation across interviews and discussions.
[47] FGD with Chapter Six Working Group.
[48] KII with a senior officer in Government.
[49] FGD with Chapter Six Working Group.
[50] FGD with Chapter Six Working Group.
[51] Youth FGD.

### 5.7.1 Gendered expectations, and informal coercion during vetting

Women nominees face relatively intense scrutiny compared to men, particularly around competence, preparedness, and sectoral knowledge. The findings show that women are often subjected to detailed questioning during vetting hearings and are often asked questions that are embarrassing to a woman. The reputational costs associated with such an approach to vetting women candidates tend to discourage some women from applying for public sector posts.

Vetting committees are predominantly male and tend to shape questions on women candidates differently from how they question men. They tend focus more on whether a woman "looks like a leader." Women respondents who have faced the vetting committees generally pointed out that women's authority is relatively more questioned compared to men.

> ***Vetting is brutal. It makes women shy away."*** [58]
> ***Women are asked to prove themselves in ways men are not".***[59]

Beyond formal questioning, there are informal gatekeeping practices that operate alongside official vetting procedures. These included gendered forms of corruption such as "sextortion", particularly at lower levels of appointment and clearance processes. These practices are rarely reported but are generally described as shaping access to opportunities. Women do not report such issues because of fear of reputational harm and stigma, as well as because of limited protection. These issues are illustrated in the case of the vetting of one-woman candidate in Parliament.

#### *Box 4: Parliamentary vetting and the rejection of Stella Soi Lang'at (2024)*

Stella Soi Lang'at was the only Cabinet nominee rejected during the 2024 vetting by Parliament – following the reconstitution of Cabinet after the Gen Z protests. She was a nominee for the Ministry of Gender, Culture, Arts and Heritage. Hansard shows MPs explicitly questioning whether or not women nominees face uneven standards (Hansard: National Assembly Debates, 7 August 2024).

The parliamentary committee framed the questions from "suitability for the docket" perspective, rather than general competence. The committee rejected her nomination. The Leader of Majority stated that: "... she did not demonstrate adequate understanding of the docket to which she had been nominated) (Hansard, 7 Aug 2024, p.17).

**Parliamentary contestation and gendered framing**

Several MPs openly challenged whether standards were being applied consistently -- particularly to Another MP cautioned against treating a single performance moment as decisive: "The fact that, maybe, during that day, she did not wake up properly to answer the questions does not necessitate us negating." (Hansard, 7 August 2024, p.29). A woman MP further questioned whether communication style was being conflated with competence:" Maybe, she was not eloquent, but... there are other ways through which one can communicate."(Hansard, 7 August 2024, p.43)

**Media framing and political contingency**

Media coverage reinforced this narrative of "unsuitability" and buttressed the argument that during the interviews she did not show that she was suitable for the job. The issue of her ethical and moral standards – central to Leadership and Integrity – were not examined or brought to fore.

[52] Committee on Appointments, Second Report on the Approval Hearings of Nominees for Appointment as Cabinet Secretaries, August 2024.
[53] Cross-source field pattern ((NGEC; NCPWD; youth FGD; civil society consultation)
[54] (NGEC, NCPWD, KIIs with senior government official.
[55] KII-NGEC.
[56] KII-KEPSA (professional association).
[57] KII-NGEC.
[58] Ibid.
[59] Ibid.
[60] KII: NGEC; KEPSA; NCPWD.
[61] Biegon, E. (2024, August 8). Parliament lists reasons why it rejected Gender CS nominee Stella Soi Lang'at. Breaking Kenya News. https://www.breakingkenyanews.com/2024/08/08/parliament-lists-reasons-why-it/

### 5.7.2 Persons with Disabilities and structural barriers

PWD-focused interviews emphasised that exclusion is systemic and begins early in the life through unequal access to education and continues into exclusion from future opportunities. As a result, exclusion from vetting is the culmination of long-standing barriers embedded within education and public institutions -- exclusions persist throughout appointment and vetting processes.

During vetting, PWDs face other challenges -- inaccessible venues, absence of sign language interpretation, lack of braille or other accessible documentation. To them, institutions are reluctant to incur the costs to address these challenges. Some informants further noted that some actors prevail upon associations for PWDS to nominate individuals with less visible or less demanding disabilities: "They want representation without accommodation. Reasonable accommodation becomes a cost issue".

Visibility shapes inclusion too. Persons with visible and socially recognised disabilities such as blindness, albinism, or wheelchair users are more likely to get to leadership positions than those with psychosocial and intellectual disabilities. The latter remain invisible due to stigma, non-disclosure, and institutional avoidance.

Women with disabilities face intersecting vulnerabilities. They face gender bias, disability-related stigma, and exclusion from political and professional networks through which nominations are made. These intersecting barriers are rarely addressed within integrity vetting spaces.

### 5.7.3 Youth exclusion and informal thresholds

The youth underline that exclusion is exerted through nuances relating to experience and age or political maturity. They generally note that even where young aspirants for political office meet formal qualifications, they are frequently perceived as lacking authority. This becomes a challenge during the nomination and vetting processes.

Many note that political leaders depend on the youth for mobilising political support during campaigns but rarely do they consider them for leadership opportunities: "... youth are told to wait for their turn". These leaders do not provide support or political mentorship to the youth. Furthermore, the youth without such support do not get access to leadership nomination processes.

Participants further emphasised that youth exclusion is gendered. While young men may remain visible within political spaces as mobilisers or apprentices, young women face an additional challenge. They can face reputational risks when they assert themselves and get into leadership spaces early. This remains a blockage to young women – to some, therefore -- leadership is "left for the brave women".

### 5.7.4 Summary: prevailing dynamics

The findings reveal that integrity vetting in Kenya – operationalisation of Chapter Six -- operates more as a politically managed process where integrity standards are subordinated to political interests and priorities. Appointments to public officers are an outcome of politics. The context is shaped and dominated by the executive and the key drivers are political rather than merit. Decisions are frequently perceived as pre-determined before public hearings occur. Vetting itself has been increasingly reduced to checking compliance certificates rather than an examination of ethical conduct and accountability history.

Parliamentary committees function under the influence the executive and the presidency in particular. This limits their willingness to challenge nominees who are backed by powerful political elites. Oversight institutions operate in silos and face funding constraints, which prevents them from being effective. Finally, presumption of innocence is routinely invoked to justify approval of individuals with pending legal cases. This leads to treatment of Chapter Six as secondary. Public participation itself is a requirement but has been turned into an exercise for ticking boxes.

These dynamics produce exclusionary outcomes for women, youth, and Persons with Disabilities. Gendered scrutiny, informal coercion, and reputational risk generally discourage women's participation in public affairs. PWDs also face accessibility barriers.

[62] Nation Africa. (2024, August 9). Last-minute change of heart that cost Stella Lang'at a Cabinet slot. Nation Media Group. https://nation.africa/kenya/news/last-minute-change-heart-that-cost-stella-langat-cabinet-slot-4719118
[63] KII-; NCPWD.
[64] KII. NCPWD.
[65] KII. NCPWD.
[66] KII. NCPWD.
[67] Youth FGD, Civil society consultations.
[68] Youth FGD.
[69] KII KEPSA.

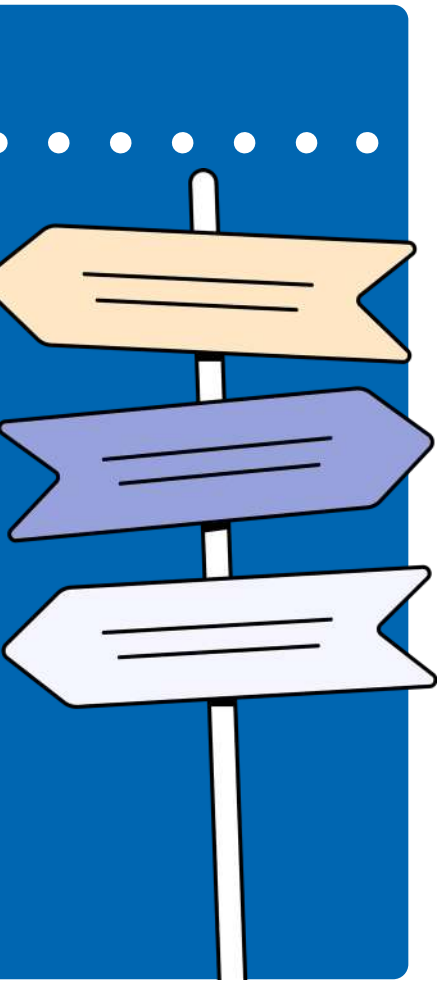
# 6

# OPPORTUNITIES AND PATHWAYS FOR CHANGE

## 6.1 Opportunities and openings for change

The findings show that the problems around compliance with Chapter Six and the broader leadership vetting framework is influenced by politics – the problems are not necessarily administrative or technical problem. The prevailing dynamics show strong presidential and executive influence over appointments. Ethnic-based politics and the need to reward allies and maintain political loyalty play an important role in this space. Nonetheless, oversight institutions work in silos with limited budgets and weak coordination. There is also a dominant legal dispute on whether to prioritise integrity standards or criminal conviction.

The findings also show important opportunities. These can be leveraged to promote reform if approached strategically and with a clear understanding of incentives or interests of key political actors. The opportunities include:



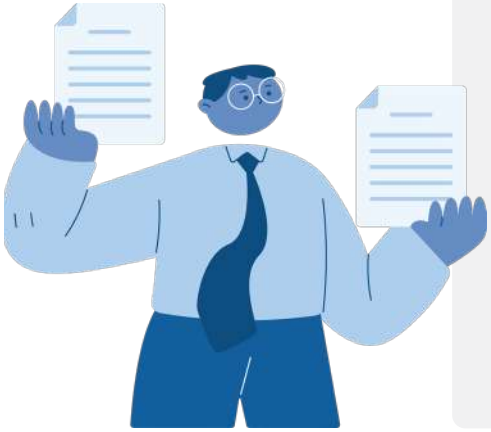
**Public support for ethical leadership:** There exists a sustained and widespread public demand for ethical leadership and public accountability. Confidence in public institutions is declining, and citizens increasingly express frustration with impunity in public office. Integrity scandals generate reputational costs not only for individuals but for institutions. This demand for accountability constitutes latent political capital that can be mobilised under the right conditions.

**The 2010 Constitution retains strong legitimacy among Kenyans**. The framing of ethical leadership as a constitutional requirement has always had the support of many citizens. This framing certainly helps de-risk actors who champion strict adherence to Chapter Six. Placing the reform of integrity vetting on a constitutional language platform provides a nationally endorsed framework that transcends political party positions.

**The 2027 election campaigns have begun in earnest.** Electoral cycles create moments of heightened political attention to integrity issues. During elections, questions regarding the suitability of candidates are intensely debated in public forums, including social media platforms. The 2027 election therefore presents a critical moment. It offers both a pre-election agenda-setting window. But this window will close a few months after August 2027. It will remain open but close after elite bargains are concluded. Timing when to engage with elites will be important.

**Compliance agencies are happy to coordinate but lack facilitation:** Compliance agencies and oversight institutions have demonstrated willingness to coordinate rather than compete. They lack mechanisms and resources to do so. This creates an opening for operational reforms that may face less resistance.

**The youth and Gen Z in particular demand an end to poor leadership.** The rise of Gen Z and digitisation have expanded platforms for transparency. Gen Z and youth constituencies have shown willingness to engage in governance debates and demand accountability. These dynamics create opportunities to increase the reputational cost of not complying with integrity standards.



## What are the Incentives and Disincentives on Leadership and Integrity?

### Incentives for Reform:

» Public demand for integrity
» International pressure, donor support
» Emerging legal reform(conflict of interest act)

### Disincentives

» Patronage networks - chain of protection/influence
» High Political stakes in elections
» Weak enforcement culture - weak rule of law
» Incentives for impunity among elites

## 6.2 Thinking and Working Politically

**Thinking and Working Politically (TWP)** approach requires working with political incentives to cause change. The focus should be: what do **incumbent and other political elites** want so that they can 'buy into' or accept reforms? It is also about building **Coalitions for Change** with like-minded actors -- who else can work with TI Kenya and CSOs to foster change?

Thinking and Working Politically also requires identifying informal rules and actors who are powerful and progressive. These then become the actors to refer to or to engage with so that they can influence formal actors for buy=in. Finally, there will be a need to adapt to political contexts and the changing environment.

Experience from governance reforms globally demonstrates that such initiatives work best when they are grounded in a clear understanding of political power arrangements in the country, understanding what constitutes elite bargains and dynamics in a ruling coalition, and in the case of this study -- understanding the informal rules that shape appointment and oversight processes. Without an understanding of what constitutes elite interests, it is difficult to develop a reform pathway that would lead to success.

### 6.2.1 Mapping formal and informal actors with influence

The study has shown that those with power and influence are political actors and more so the executive and the President, in particular. The president has both formal and informal influence over appointments. To the President, the appointments serve the purpose of addressing political interests – to secure votes and accommodate allies.

**Balance between the interests of winners and losers; losers organise and resist change:** Any reform that threatens this opportunity cannot succeed because the president and the executive in general will be the losers. The language for such reforms, therefore, much be sensitive to losers and winners; it should point to the need to consolidate institutional integrity without weakening political power.

**Establish a Coalition of Change Makers with Powerful informal actors.** Informal and powerful actors always countermand and influence formal office holders – they have an overbearing influence on appointments. Informal institutions and networks can be utilised to advance this language. Coalitions with churches (Catholic, Anglicans including NCCK), informal powerful actors (select business elites) and other agencies can be networked to establish a Coalition of Change to assist in navigating the reform pathways.

**Map mover and shaker of politics**: It is highly recommended that TI-Kenya conducts a comprehensive mapping of 'Movers and Shakers' of political appointments and use the findings to develop a programme for the Coalition of Change Makers. This will enable the coalition to prioritise dialogue with the Movers and Shakers. The dialogue can lead to a national convention before the 2027 elections.

**Shape narratives for the 2027 elections:** It is important to begin talking about how to shape the narratives in the campaigns for the 2027 elections. The Coalition of Change Makers – under the leadership of TI -Kenya – should selectively dialogue with the various political actors on the need to strengthen leadership and integrity frameworks.

**The 2027 election presents an opportunity but the window for radical reforms will close fast after the polls.** It is important to bear in mind that after elections in August 2027, there will be a window to influence reforms. That window usually closes fast and therefore TI-Kenya and the Coalition of Change Makers should be ready with the standards and requirements of what would constitute compliance with Chapter Six. This will be accepted to guide the new administration if presented early after the elections.

## 6.3 Political Pathways for Change

The study underscores the fact that success in strengthening the leadership and integrity framework requires Thinking and Working Politically (TWP). Reform must engage with political interests and recognise that in Kenya elite bargains play an important role in facilitating or blocking reforms. It must also be recognised that in Kenya informal rules and informal power actors influence appointments and oversight processes on what the formal institutions do.

The pathways outlined hereunder are based on the realities of political power. They are based on the recognition of the nature of political power dynamics in Kenya.

### Reframe integrity as politically advantageous to political elites.

This; gives credibility and political capital. At present, strict enforcement of integrity standards is often perceived by political elites as limiting them from using patronage, which they need to reward allies. Reform will therefore face resistance if it is framed as an attempt to reduce executive powers or target particular individuals.

Integrity can be positioned as essential to institutional legitimacy, improved trust and confidence in institutions – all of which are required to boost investor confidence and help in economic growth. The period leading up to the 2027 elections provides an opportunity to shape narratives so that integrity becomes an important issue in the election campaigns.

By working through informal power holders such as the church, respected professional associations, and trusted business elites, the reform language can be anchored in constitutional values.

Digital platforms, mainstream and social media, and youth engagement can amplify scrutiny on leadership and raise the reputational costs associated with controversial appointments. That is, if integrity becomes an issue that influences voting behaviour and public perception, political actors may begin to see compliance as a good in itself. In this way, integrity enforcement can gradually align with political interests.

### Strengthen the operations of the vetting framework through improved inter-agency coordination.

The study has shown that oversight bodies operate largely in silos, with limited data sharing and inconsistent standards. This fragmentation weakens verification processes and creates opportunities for selective enforcement.

|These institutions have indicated openness to collaboration. Supporting the establishment of a multi-agency verification mechanism -- including shared access to tax compliance records, asset declarations, criminal records, and conflict-of-interest disclosures -would strengthen procedural rigour without necessarily triggering direct confrontation with powerful political actors.

Alongside this sharing of information, there is a need to support annual joint review meetings to harmonise standards and discuss lessons learned. This will cause peer review to put pressure on everyone to act appropriately.

Developing comprehensive indicators defining ethical and moral requirements, beyond the criminal conviction threshold, would provide practical guidance for vetting committees. Such reforms will shift incentives and interests by enhancing institutional credibility and distributing responsibility. This will reduce individual exposure to political pressure.

### Clarify the integrity threshold through a Supreme Court advisory opinion

One of the central constraints identified in this study is the dominant interpretation of the law that presumption of innocence prevents vetting bodies from disqualifying candidates whose cases are pending in court or under investigation. This interpretation conflates criminal conviction with suitability for public office. Public interest litigation and the pursuit of an advisory opinion from the Supreme Court -- potentially through progressive county governments and backed by comprehensive studies and evidence on the meaning of integrity vis-a-vis conviction -- could help distinguish between criminal thresholds and integrity standard.

By establishing that suitability for office is a preventive standard grounded in constitutional values, judicial clarification would provide vetting bodies with legal backing to act more decisively.

### Recognise that durable reform requires engagement with both formal and informal powerful actors.

The study has shown that political actors, and particularly the presidency, exercise both formal and informal influence over appointments. Appointments serve political purposes, including rewarding allies and securing votes. Any reform perceived as threatening this function will encounter resistance. It is necessary to map the "movers and shakers" who influence appointment processes, including informal networks that countermand formal office holders.

### Establishing a Coalition of Change Makers is important:

This coalition should be composed of trusted churches, select business elites, professional bodies, and civil society organisations and can create an intermediary space for dialogue. Reform language must be carefully developed to emphasise institutional strengthening for the sake of building a better society. Framed in this way, reforms can be presented as insulating the executive from appointment scandals and enhancing the legitimacy of government rather than constraining authority. This approach reduces the likelihood of elite resistance and increases the prospects for incremental buy-in.

### Focus on inclusion as a structural means of disrupting patronage networks.

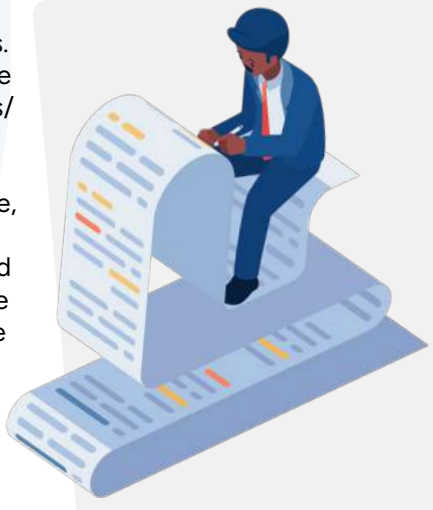
Informal gatekeeping mechanisms, often organised along ethnic lines, reproduce exclusion and facilitate loyalty-based appointments. Women, youth, and persons with disabilities frequently face heightened scrutiny but do not have access to patronage networks. Strengthening equality in vetting processes can increase vigilance and broaden participation in oversight.

Civic education efforts must address the irony in politics whereby citizens criticise patronage yet pressurise their own elites to practise it. By linking everyday realities to the consequences of "mtu wetu" arguments, civic engagement can gradually shift norms. Inclusion not only advances equity but also expands the density of accountability actors, making integrity failures more visible and costly.

### 6.3.1 Sequencing reform windows

The pathways described in the foregoing section must be sequenced to ensure success. In the period leading up to the 2027 elections, emphasis should be placed on narrative shaping, building a Coalition of Change Makers, development of integrity indicators/ code, and strengthening inter-agency coordination.

a. **During the election period,** integrity debates should be amplified in public discourse, increasing reputational incentives for compliance.
b. **Immediately after the elections,** a short but critical window will emerge – and it will not last beyond the first two to six months. During this period, any will be administration will be more receptive to reform proposals before elite bargains are concluded.



TI-Kenya and the Coalition of Change Makers can prepare standards and operational proposals to present early in this window. The post-election window typically closes quickly. Reform actors must therefore anticipate rather than react to political transitions.

## Uptake of Reforms and Risk Management

Reforms will generate resistance from actors who benefit from the status quo. Executive and parliamentary resistance should be expected. Attempts at elite capture are all high-probability risks. Institutional weaknesses, judicial delays, ethnic mobilisation, gendered backlash, and perceptions of foreign influence will complicate reform uptake. This raises the need for putting in place effective mitigation measures.
Mitigation requires framing reforms as strengthening national values and institutional legitimacy – for purposes of improving investor confidence in Kenya to grow the economy, create jobs and expand wealth. Cross-party engagement and reliance on trusted informal actors such as the churches can reduce perceptions of partisanship. Gender and social inclusion must be integrated into reform design to prevent reproduction of existing gatekeeping patterns.

Ultimately, strengthening Chapter Six is a political project that must engage with political interests and incentives, parliamentary dynamics, ethno-regional elites, and the judiciary, among others. Reform success will depend on aligning integrity enforcement with political advantage, institutional credibility, and public demand. By working with politics rather than against it, and by sequencing reforms carefully across electoral cycles, durable shifts in the integrity framework will be evident in the long run.

What follows is a detailed illustration of the specific risks. The rating is captured as: Likelihood (L): Low / Medium / High; Impact (I): Low / Medium / High; and Overall Risk: Low / Medium / High / Critical.

### Table 5: Political Power Risk

| Risk factor | Description | L | I | Overall | Mitigation / Management Strategy |
|---|---|---|---|---|---|
| **Executive pushback – resistance by the Presidency** | Reform efforts perceived as constraining appointment powers of the Presidency, or the executive will be resisted. Reforms to prevent appointment of allies of the President and allies of powerful individuals in government will also be resisted. | High | High | High | Frame reforms as protecting institutional legitimacy and reducing appointment scandals; avoid naming individuals; emphasise the need to strengthen institutions – a bonus for legacy of any political elite. |
| **Parliamentary resistance** | MPs prioritise 'rent-seeking;' party politics and coalition arithmetic; over integrity standards. | High | High | High | Use informal rules and actors to reach leadership of parliament and committee; Strengthen technical support of committees; establish a coalition of civil society and media to monitor vetting processes – highlight both the positives and negatives because MPs would be afraid of being seen taking rents. |
| **Politicisation of reforms** | Reforms framed as opposition-aligned or foreign-driven will be resisted at the outset | Medium | High | High | Maintain cross-party engagement; use Kenyan constitutional language; avoid public adversarial positioning; use the mainstream churches – NCCK, Catholics and Anglicans – to reach out to key actors |
| **Capture of reforms by political elites** | Powerful political elites would want to capture and shape reforms to advance self-political interests | High | Medium | High | Focus on operational reforms (verification, timelines, coordination) rather than headline legal changes |

## Table 6: Institutional and Governance Risk

| Risk factor | Description | L | I | Overall | Mitigation / Management Strategy |
|---|---|---|---|---|---|
| **Weak inter-agency coordination** | Oversight bodies operate in silos; data sharing is limited; they tend to compete – not competing for impact | High | Medium | High | Support coordination agreements where this is possible; support and fund joint technical platforms; support legal reforms to demand inter-agency coordination |
| **Limited independence of oversight institutions** | Budgetary and political interference undermines enforcement | High | High | High | Strengthen technical capacity; support undertaking of activities that reinforce independence |
| **Judicialisation of integrity vetting outcomes** | Overreliance on courts delays preventive action | Medium | Medium | Medium | Promote development of indicators on ethical and moral and integrity requirements; Co-create the indicators with the Judiciary for buy in; petition the Supreme Court through County Governments to establish a threshold for ethical and moral requirements away from criminal thresholds. |
| **'Box-ticking compliance by institutions** | Some institutions may adoption reforms formally without behavioural change – they will do so to tick boxes. | High | Medium | High | Support annual joint review meetings for relevant institutions; the review should embed monitoring indicators; and lesson learning. |

## Table 7: Legal and Procedural Risk

| Risk factor | Description | L | I | Overall | Mitigation / Management Strategy |
|---|---|---|---|---|---|
| **Dominant argument on presumption of innocence before determination of a matter in court** | Vetting bodies are reluctant disapprove anyone – no matter the nature of ethical or integrity issue – if the matter is in court or under investigation. | High | Medium | High | Use the courts to promote 'integrity ' and ethical standards and separate from criminal threshold. |
| **Litigation delays** | Losers will go to court to challenge reforms that threaten their interests. | Medium | Medium | Medium | Ensure reforms are procedurally fair, transparent, and legally grounded. |

## Table 8: Social, Cultural and Inclusion Risk

| Risk factor | Description | L | I | Overall | Mitigation / Management Strategy |
|---|---|---|---|---|---|
| **Ethnic mobilisation ("mtu wetu") against reforms that create 'losers' among powerful ethno-regional elites.** | Reform efforts that threaten influence are frequently countered through ethnic mobilisation – integrity standards are seen as political targeting; they are then subordinated to political interests . | High | High | Critical | Frame integrity and ethical requirements as national issue – to underline that national values are facing erosion; that values will spur economic confidence and trust in the country. |
| **Gendered backlash** | Women candidates face disproportionate scrutiny and reputational attacks | Medium | Medium | Medium | Integrate gender-sensitive vetting guidance and protections. |
| **Youth exclusion persists.** | Experience thresholds and gatekeeping remain unchanged. | High | Medium | High | Support youth-focused civic engagement and pipeline programmes. |
| **Public participation is taken for granted – box ticking.** | Citizens disengage due to lack of impact. | High | Medium | High | Improve usability and feedback mechanisms for public memoranda. |

## Table 9: Reputational Risk

| Risk factor | Description | L | I | Overall | Mitigation / Management Strategy |
|---|---|---|---|---|---|
| **Perception of foreign and CSOs influence** | TI and FCDO may be seen as working to undermine political interests of the incumbent. | Medium | High | High | Bring to the front the Coalitions of Change – the Churches and TI<br>Use this to Position TI and UK role as facilitative, and Kenyan-led. |
| **Dissemination of findings that are negative – politically** | Public release of the findings is likely to trigger backlash. | Medium | Medium | Medium | Use selective publication and dissemination of findings. |
| **Reform uptake during an election period is difficult** | Many political alliances may not pay attention to reforms except if they gain politically. | High | Medium | High | Sell and market the need to improve public sector effective implementation of Chapter Six. |

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