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To cite this article: Yolande Bouka, Marie E. Berry & Marilyn Muthoni Kamuru (2019): Women's political inclusion in Kenya's devolved political system, Journal of Eastern African Studies, DOI: [10.1080/17531055.2019.1592294](https://doi.org/10.1080/17531055.2019.1592294)

To link to this article: <https://doi.org/10.1080/17531055.2019.1592294>



Published online: 19 Mar 2019.



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Women's political inclusion in Kenya's devolved political system

Yolande Bouka^a, Marie E. Berry^b and Marilyn Muthoni Kamuru^c

^aElliott School of International Affairs, George Washington University, Washington, DC, USA; ^bJosef Korbel School of International Studies, University of Denver, CO, USA; ^cGender Expert, Consultant and Legal Analyst, Nairobi, Kenya

ABSTRACT

Kenya's 2010 constitutional reforms devolved the political system and included a quota designed to secure a minimum threshold of women in government. While the 2017 elections yielded the country's highest proportion of women in government in history via both elected and appointed positions, many political entities still fell short of the new gender rule, leaving them in noncompliance with the constitution. The 2017 elections reveal a tension: while devolution raised the stakes of local elections and the quota has improved women's political inclusion, these reforms have not fundamentally changed the power of political parties, the way campaigns are financed, cultural ideas about women's leadership, and the pervasiveness of violence in Kenyan elections. Drawing on data from both the national and county levels, this article maps these persistent obstacles to women's political inclusion and argues that increasing women's political power will require both the full implementation of the constitution, as well as a broader consideration of how power operates and is consolidated.

ARTICLE HISTORY

Received 9 April 2018

Accepted 9 February 2019

KEYWORDS

Women; quotas; inclusion; violence; decentralization; elections; rule of law; Kenya

As part of the 2010 constitutional reforms, Kenya introduced a quota system, or gender principle, designed to increase the representation of women in government institutions by limiting the domination of a single sex in political offices. Following the more than 120 countries across the world that have implemented gender quotas, Articles 27(8) and 81(b) of the Constitution limit the representation of the majority gender to no more than two-thirds in elective and appointive bodies. This gender principle was implemented – although incompletely – alongside devolution, which brought power, resources, and representation down to the local level. In 2013, this legal framework resulted in the largest number of women in government in Kenya's history, with women holding 21% of seats in the national legislature and 22% of cabinet positions, an increase from 9.8% and 15% respectively after the 2007 elections.¹ In 2017, women performed even better, accounting for 22% of seats in the National Assembly and 31% of the Senate. Moreover, 2017 saw the election of three female governors and three female senators for the first time.

Despite this apparent progress, the 2017 elections demonstrated that women still struggle to gain access to political positions and to fulfill their functions once in office.

The current levels of representation in key national bodies – such as the National Assembly, Senate, and Supreme Court – still fall short of one-third, a violation of the Constitution and numerous court orders.² County Assemblies are, for the most part, in compliance, but only succeeded in meeting the quota through a top-up nomination process. Women in elected positions in both the National Assembly and County Assemblies account for merely 9% of these bodies. The majority of women in government are, therefore, in reserved seats or were appointed.

Kenya's poor performance in terms of promoting women in politics and adhering to its constitutional mandate is puzzling for several reasons. First, Kenya's neighbors perform well in measures of women's political inclusion. In Burundi, for instance, women hold 36% of the seats in the national assembly. Women account for 34% and 37% of members of parliament (MPs) in Uganda and Tanzania respectively; Rwanda continues to have the world's highest level of women in parliament at 61%; Ethiopia has 39% women in its legislature, and in 2018 Prime Minister Abiy Ahmed appointed its first female president, Sahle-Work Zewde.³ Second, Kenya's poor performance is also surprising not only given this regional trend but also given Kenya's robust policy framework designed to promote gender equality, which includes policies mandating women's inclusion in the security sector and other spheres.⁴ Third, Kenya has historically been home to one of the most vibrant women's movements in the region and has been the site of multiple internationally-led programs and conferences designed to cultivate women's leadership and empowerment, from the 1985 United Nations (UN) Nairobi Conference on Women to recent gender empowerment initiatives implemented by the National Democratic Institute and Heinrich Böll Foundation. Thus, Kenya's failure to comply with its own constitutionally-mandated gender principle deserves further exploration in the context of its broader political system.

In this article, we unpack these tensions by investigating why women's participation in politics remains so difficult despite the constitutional changes that birthed the gender principle and devolution. To do so, we trace the different avenues through which Kenyan women assume leadership positions. Unlike the preponderance of studies which focus exclusively on female representation in the national legislature, here we draw from 86 interviews and 24 focus groups in Kisumu, Kilifi, Nyandarua, and Nairobi counties that we primarily conducted between October and November 2016 to investigate variations in how women access political positions at both the national and county levels in different parts of the country. We also highlight the differences between factors that structurally impede women's participation, and those that act more informally to discourage women from voting or running for office. This complexity helps to move beyond a simple listing of barriers, by revealing which barriers are most likely to be resistant to change.

Our investigation also takes into account the new political spaces and increased competition in various political arenas brought forth by the new constitution and devolution, and problematizes women's access to power based on the shifting loci of political power during Kenya's 2013 and 2017 elections. Ultimately, we argue that, while devolution raised the stakes of local elections and the quota has "given [women] a chance to be in leadership positions,"⁵ these reforms have not fundamentally changed the power of political parties, the way campaigns are financed, cultural ideas about women's leadership, and the pervasiveness of (often gendered) violence in Kenyan elections. While the legal framework created new access points to political leadership roles for women, the prevailing norms

have not changed sufficiently to entrench the legal developments. Increasing women's political power, we argue, will require both the full implementation of the law, as well as a broader reconsideration of how power is consolidated within the Kenyan political system.

Women's political inclusion

Over the past decades, consensus has emerged around the idea that including women in governance is necessary for strengthening democracy and promoting human development. In 2018, women comprise nearly 24% of seats in all parliamentary structures worldwide, up from merely 11.3% in 1995.⁶ Of course, this trend of women's political inclusion is not limited to democracies and several authoritarian leaning states include a relatively high number of women in their legislatures, sometimes in an effort to mask the weakness of government structures outside of the executive.⁷ Despite this, scholars, policy makers, multinationals, and women's rights activists across the world argue that women's political inclusion matters for promoting democracy,⁸ improving development outcomes,⁹ and even bolstering national security.¹⁰

Extensive research has aimed to identify the factors that enable or impede women's legislative representation, such as the number of years of female suffrage, cultures or religions that are amenable towards women in power, and the number of political parties that dominate elections.¹¹ The bulk of studies agree that trajectories of women's empowerment are not based on single factors, but are the results of multi-causal processes.¹² Two factors, however, are well established as being particularly conducive to the election of women legislators. First, countries with proportional representation (PR) electoral systems are more likely to benefit female candidates, compared to first-past-the-post (FPTP) systems. Party-lists under PR systems allow for women to be placed on the list by political party elites, rather than requiring women to campaign independently. Second, quota systems are proven to fast-track women's entry into politics.¹³ The support of quotas is informed by the theory that in order to effectively influence policy, underrepresented groups need a critical mass (often thought to be at least 30%) to be the tipping point that secures influence.¹⁴

Over half of sub-Saharan African countries have implemented quotas to facilitate women's entry into government. This has helped to make the region a leader in women's political representation in legislative bodies, in addition to cabinet or executive posts.¹⁵ The success of some sub-Saharan African countries in terms of women's political representation likely has something to do with their recent transitions from war or dictatorship to more stable, democratic societies. As countries have emerged from violent conflict in recent decades, many have incorporated gender quotas during constitutional redrafting process.¹⁶ In addition, some studies link conflict to restructured gender norms, potentially giving women new opportunities to engage in politics.¹⁷ Transitions from authoritarian systems of government to more democratic ones also provide an opening for a renegotiation of the political status quo, often creating space for women's political inclusion.¹⁸

Despite opportunities for progress, women in many sub-Saharan African states continue to face obstacles when accessing positions of political power. Weak political parties in which mobility and advancement are linked to patronage as opposed to merit are less likely to promote or nominate women to decision-making roles – particularly

in states with weak rule of law and in highly patriarchal political systems.¹⁹ In fact, new research suggests that regimes governed by institutionalized ruling parties have more incentives and capacity to promote women's rights and representation for mobilization purposes than weaker parties in highly competitive systems where ethnicity is politicized.²⁰

Violence associated with political engagement also disproportionately disadvantages women who have limited resources to protect themselves from it or to engage in it. Increasingly, policy makers and scholars are recognizing violence against women in politics as a unique form of political violence. A 2016 study by the Inter-Parliamentary Union (IPU) helped to establish the scale of the phenomenon, finding that 82% of women legislators across the world have faced some form of psychological violence, while 44% had received threats of rape, death, beatings, or abduction of their children.²¹ The scale of this problem suggests that some women will either choose not to vie for political posts or will withdraw from the process altogether.²²

History of women in leadership in Kenya

Kenya is a predominantly patriarchal society with deeply rooted resistance to women's leadership, especially in the political arena.²³ Nevertheless, women have played significant roles in shaping Kenya's political landscape from the colonial period through the post-independent era. Under British rule, for instance, women led *muthurigos*, or protest songs, to publically shame the colonial rulers, and often staged work stoppages or labor strikes to demand better working conditions. During the struggle for independence, women risked their lives by engaging in peaceful protests (such as Mary Muthoni Nyanjiru) and in armed resistance (Field Marshall Muthoni Kirima) against the British.²⁴ Others, like Priscilla Ingasiani Abwao, participated in negotiations leading to the country's independence.²⁵

Both colonial and early governments after independence understood the power of women's mobilization and worked to instrumentalize it. For example, in the 1950s *Maendeleo ya Wanawake* (or "women's development") was formed as a women's organization by the British and was later co-opted by the then-ruling party, Kenya African National Union (KANU), to mobilize women at the grassroots level for the government.²⁶ After independence in 1963, a handful of women took on leadership roles in politics. But it was the advent of multipartyism and the 1992 National Women's Convention that marked new efforts by women to organize to access political power. With these changes, women leaders fought for increased democratic space and the normalization of women in politics.²⁷

By 1997, women still constituted only 3% of the National Assembly. Their slow progress in elected office was attributed to Kenya's deeply embedded patriarchal values, low levels of civic and gender awareness, undemocratic institutions and policy frameworks.²⁸ In order to remedy these barriers, Hon. Phoebe Asiyo (MP for Karachuonyo, Nyanza) put forth the first affirmative action motion to Parliament in 1997. The motion sought to increase the number of women in Parliament up to a minimum of 18 and encouraged political parties to nominate one-third of women candidates to vie for political posts both at the national and ward level. However, the motion was defeated.²⁹ In 2000, Hon. Beth Mugo (MP for Dagoretti, Nairobi) introduced another ill-fated

motion with the support from women's organizations and the Committee on Affirmative Action. These motions formed the basis for women's engagement and advocacy around the gender principle during the subsequent constitutional process.

The Kenyan political context

The participation of Kenyan women in politics must be understood within the context of Kenya's evolving political landscape. Devolution transformed the structure of Kenya's government by decentralizing state power and resources to 47 new counties. Designed to shift power away from the presidency and "winner-takes-all" politics, devolution aims to decentralize power and promote vertical inclusivity, as it allows more people at sub-elite levels to be involved in the state bureaucracy.³⁰ In design, delegating more power and responsibility to local governments opens up leadership opportunities to previously underrepresented communities – including women. Yet in practice, devolution has also strengthened regional political identities, the power of sub-national elites, and created a more localized and highly competitive political apparatus.³¹

Under this new system, the national legislature is bicameral with the National Assembly and Senate. The senators represent their counties, while governors head the county executive government, which is charged with managing the county resources, including funds transferred by the national government (a minimum of 15% of the total revenue). The governors appoint – with the approval of the County Assembly – County Executive Committee (CEC) members to complete the county-level executive branch. CECs have their own portfolio and influence the formulation of the county budget and policy. Those budgets are then revised and approved by members of the county assembly (MCAs), who, if they are elected, also have access to a ward development fund to be used for local development. At the National Assembly, elected MPs of the 290 constituencies control a Constituency Development Fund. Forty-seven women's representatives, who represent their counties in reserved seats in the National Assembly, also have funds to allocate, which vary based on the number of wards they have.³²

In 2013 and 2017, the combined results of devolution and the corresponding implementation of the gender principle resulted in the largest ever number of women holding legislative and executive posts in the Government of Kenya (Tables 1 and 2). In 2013, women held 21% of the seats in Parliament, and 22% of the Cabinet – although these levels are still below that required by the law. Thirty-three of the 47 county legislatures maintained compliance with the gender principle. At the county cabinet level, some – but not all – counties were in compliance in the compositions of the CECs. After the 2017 elections, women comprised 23% of the national legislature and 25% of the cabinet, again in violation of the constitutional mandate. At the county level, only three counties did not meet the 33% requirement.³³ The discernible trend for elective positions at both the national and county levels is that compliance is generally realized through nomination rather than election of women. However, in appointive positions, the trend is of non-compliance at the national level or the bare minimum number of women necessary to comply at the county level.

The political and economic power devolved at the county level has created new opportunities for women, as well as sources of competition. This competition increased in 2017 when a record number of candidates competed for office. This means that women's

Table 1. Distribution of female and male members of the national assembly in 2013 and 2017.

| | Members of the national assembly | | | | | |
|---------|----------------------------------|-----------|----------|---------|-----------|----------|
| | 2013 | | | 2017 | | |
| | Elected | Nominated | Reserved | Elected | Nominated | Reserved |
| Men | 274 | 7 | 0 | 267 | 7 | 0 |
| Women | 16 | 5 | 47 | 23 | 5 | 47 |
| % Women | 5.5% | 41.7% | 100% | 7.9% | 41.7% | 100% |

Source: FIDA *Key Gains and Challenges*, 48; NDI and FIDA, *A Gender Analysis*, 30.

Table 2. Distribution of female and male members of the Senate in 2013 and 2017.

| | Members of the Senate | | | |
|---------|-----------------------|-----------|---------|-----------|
| | 2013 | | 2017 | |
| | Elected | Nominated | Elected | Nominated |
| Men | 47 | 2 | 44 | 2 |
| Women | 0 | 16 | 3 | 18 |
| % Women | 0% | 89% | 6.8% | 90% |

Source: FIDA *Key Gains and Challenges*, 49; NDI and FIDA, *A Gender Analysis*, 30.

success in vying for office is not solely dependent on affirmative action, but rather on a host of different factors shaping their agency and the course of their campaign. In what follows, we outline our methodology before turning to a discussion of the barriers that continue to shape women's political inclusion in the wake of the 2010 Constitution.

Data and methods

The data for this paper comes from a study aimed at identifying the barriers and enablers to women's political participation at different levels of government in Kenya. We undertook this research in collaboration with the Rift Valley Institute.³⁴ The research team conducted 86 interviews and 24 focus groups in Kisumu, Kilifi, Nyandarua, and Nairobi counties in 2016 and 2017. The focus counties were selected based on the number of women elected to MCA positions in 2013, with an additional consideration to reflect Kenya's political and regional diversity. After ranking the 47 counties from highest to lowest based on elected female representation, we selected Kisumu, Kilifi, and Nyandarua to reflect high, average, and low levels of women's political representation (Tables 3 and 4). The focus counties also capture some of Kenya's political diversity. Kisumu has historically been an opposition stronghold; it remained so in 2013 when the Orange Democratic Movement (ODM) dominated the electoral field. While ODM candidates also won most seats in Kilifi in 2013, the political field sees more inter-party competition. In Nyandarua, The National Alliance (TNA) swept the board in 2013 taking the governorship, senate seat, and 23 out of 25 ward representative seats. We conducted additional interviews in Nairobi because it is the seat of the national government. Additional primary data was collected during consultation events with female politicians and stakeholders held in Nairobi in May 2017, as well as after the 2017 elections with previously interviewed female politicians in each county.

Interviewees were targeted because they were either (a) women in politics; (b) women who had run for office but had lost; (c) men in politics; (d) political party officials; or (e) people involved with non-governmental organizations (NGOs) focused on women's

Table 3. Distribution of female and male members of county assembly in focus counties – 2013.

| Members of county assembly in focus counties – 2013 | | | | | | |
|---|---------|-----------|---------|-----------|-------|-------------------------|
| | Women | | Men | | Total | Women % of elected MCAs |
| | Elected | Nominated | Elected | Nominated | | |
| Kisumu | 7 | 11 | 28 | 3 | 49 | 37% |
| Kilifi | 2 | 16 | 33 | 2 | 53 | 34% |
| Nyandarua | 0 | 14 | 25 | 1 | 40 | 35% |

Source: IEBC. *Summary Of Results For Members Of County Assembly Ward Representatives*. 4 March 2013. General Elections; Vol CXV - No 105 Gazette Notice 9794.

Table 4. Distribution of female and male members of county assembly in focus counties – 2017.

| Members of County Assembly in Focus Counties – 2017 | | | | | | | |
|---|---------|-----------|---------|-----------|-------|---------|-------------------------|
| | Women | | Men | | Total | Women % | Women % of elected MCAs |
| | Elected | Nominated | Elected | Nominated | | | |
| Kisumu | 5 | 11 | 30 | 2 | 48 | 33% | 14% |
| Kilifi | 2 | 17 | 33 | 2 | 54 | 35% | 6% |
| Nyandarua | 1 | 12 | 24 | 2 | 39 | 31% | 4% |

Source: Vol CXIX - No 123 Gazette Notice 8378; Vol CXIX 124 Gazette Notice 8380.

advancement. In each interview with a woman involved in politics, we asked participants about their personal experience running for office, focusing our questions around understanding the resources and factors that shaped their campaigns or experiences. In interviews with men, we were interested in understanding how men perceive their female counterparts, and asked further questions about how men viewed nominated versus elected women. In interviews with other stakeholders, we were interested in exploring what programs and initiatives had been implemented to support women's political leadership in the different counties, as well as how various stakeholders viewed the barriers and enablers to women's political participation.

We also conducted 24 focus groups with approximately 140 people in the three focus countries. These focus groups were convened by local research assistants and stratified by age, gender, and, where appropriate, religion. Our goal with these groups was to gain insight into how different community groups viewed their female political representatives, and to investigate how the gender principle had been discussed in each region during the process of devolution.

Women's political representation in Kenya

Variables that influence Kenyan women's ability to access political office operate at various junctures of women's political careers and do so in a range of ways. These factors shape women's decision to seek political office; in other situations, the factors are structural and create obstacles or opportunities once women decide to enter the political sphere. Moreover, some factors can act as both a barrier and an enabler, depending on the level or type of post one seeks, as well as where one is vying across the diverse economic, socio-political, and cultural dynamics of Kenya's 47 counties. In what follows, we discuss four of the most salient barriers to women's political inclusion that continue to operate despite the gender principle, including political parties, campaign financing, social and gender norms, and violence.

Political parties

Our research revealed that most candidates access political posts through political parties, particularly when they are members of the dominant political party in the region. Despite hope that devolution would democratize access to political office, research has shown that among governors, at least, most are political insiders who were part of patronage networks prior to devolution.³⁵ This shows the continuing power of political parties and “king-makers” – powerful, typically male, actors who wield influence from within the party structure. The support of such elites can make or break a candidate’s campaign. An aspirant from Kilifi described how competing for the ODM ticket “was really a struggle for the fittest because you needed to have influence over those prominent politicians who were like the vanguard.”³⁶ According to the Federation of Women Lawyers (FIDA) Gender Audit, ‘during the 2013 elections, political party selection was assessed as one of the most pivotal factors in the success or failure of women aspirants and candidates.’³⁷ This remained true during the 2017 elections.

Like in many recent multiparty polities, Kenyan political parties do not have a strong ideological basis. Instead, they tend to be organized around regional and ethnic identities with opaque organizational structures.³⁸ Party affiliation in Kenya is fluid as politicians may find it relatively easy to join another party, as doing so does not require a fundamental shift in political orientation. With this fluidity, however, comes impermanence and unpredictability, making it difficult for candidates to invest in a political party in anticipation of the next electoral cycle. This has been complicated by the recent rise of coalition-based politics; as political parties form formal or informal pre-election coalitions, candidates can struggle to make an investment in a political party since it is unclear until immediately before an election which parties are aligned and most likely to succeed. For example, ODM, whether independently or in coalition, is the only political party to have fielded a candidate (Raila Odinga) in all presidential elections since 2007. Only KANU has fielded MPs in every election from 1992 to 2013. In 2016, despite TNA’s success in electing the President and the United Republican Party’s (URP) successful fielding of the Deputy President, both parties were dissolved to form the Jubilee Party making them redundant after only one election cycle.

Women seeking national and county positions have responded to this challenge by forming their own political parties or choosing to vie with less popular parties, as strong political personalities moved onto new electoral vehicles. In this way, women have come to control smaller political parties and thereby ensure their names on the ballot. Examples include Charity Ngilu, who successfully ran for the governor of Kitui county on the National Rainbow Coalition (NARC) ticket; Martha Karua, who unsuccessfully vied for President (in 2013) and governor of Kirinyaga (2017) with NARC Kenya; and Wavinya Ndeti, who successfully ran for MP of Kathiani with Chama Cha Uzalendo.

While women vying for open seats can run as independent candidates or candidates from small parties, women seeking nominated positions must be selected by their party based on the party’s proportionate share of votes. This typically requires loyalty and connections to elites from regionally popular parties. Once in office, this allegiance must continue; a nominated MCA from Nyandarua put it bluntly: “I represent the party and not the people.”³⁹ In order to get the backing of party leaders to secure the nomination on an elected ticket, a woman MCA from Kisumu explained that loyalty to powerful members

of the party early in the process was essential. “You have to be loyal to the party,” she described. “For instance, if there is a senator aspirant from your ward, they will demand that you support them, or they will fund another candidate against you.”⁴⁰ While this reality is the same for men and women, it disproportionately curbs women’s political agency and independence, as the majority of nominated politicians in Kenya are women and the majority of female politicians are in nominated positions. International observers found that across the country, very few women were nominated by their parties for competitive seats during the 2013 elections.⁴¹ The pattern remained unchanged during the 2017 elections.

Previous research has identified the particular obstacles that party primaries pose for women in the Kenyan system.⁴² Our research also found that in many instances, political parties and male candidates deliberately try to prevent women from running for dual gender seats, arguing that women are already provided for through women’s representative positions and the nominations process. For example, during both the 2013 and 2017 elections, some male candidates campaigning against women in their own party promoted their candidacy by arguing that women should only vie for affirmative action seats or wait to be nominated. According to one failed aspirant,

... There was a lot of hardship because devolution came about and nobody educated the people on the constitution ... nobody knew about the various seats at the county assembly. People were only familiar with the Parliament, the president and they didn’t know what an MCA was. So we had a very heavy load because when you were asking for votes, men would come out and tell people: “Leave this woman. They have been given separate seats.” Others were saying, “Leave this woman alone. She is vying for the woman representative seat.” Voters didn’t know that there was a difference between a woman rep and MCA, so it was very difficult to work.⁴³

In some cases, women were directly asked by parties to step aside in favor of their male counterparts in exchange for a nomination. This had a negative impact on the number of female candidates vying for open seats. Overall, 11% of the candidates who presented themselves to the party primaries for nomination were women.⁴⁴ Of these candidates, 17% competed for the women’s representative seats, despite comprising merely 3% of the available seats.⁴⁵ In 2013, a woman who had held an elected post under the previous electoral system opted to seek a nominated seat instead of competing for an open seat. In 2017, she also opted not to vie for her county seat as she, the male MCA representing her ward, and her party, agreed on the status quo.⁴⁶ This trend contrasts with previous studies suggesting that nominated seats can act as a “stepping stone” to elected seats.⁴⁷

There are specific cases that demonstrate the way that the gender principle has created opportunities for political opportunism. Between 2013 and 2017, for instance, the Jubilee administration consistently violated the gender principle in appointive bodies and thwarted its full implementation in Parliament. Yet, when it became politically advantageous to promote women’s political inclusion in 2017, the ruling Jubilee Party seized on the rhetoric of women’s empowerment and garnered attention by nominating the largest number of female governors out of all parties (4 out of 9). This was despite the fact that the party only put forth women aspirants for 12% of MCA positions, rendering it fourth in terms of female MCA aspirants behind small parties such as Kadu Asili, Social Democratic Party, Ford Kenya and Chama Cha Mashinani.⁴⁸ Jubilee’s investment paid off. All three female governors elected – Joyce Laboso, Charity Ngilu and Anne Waiguru – had

enjoyed high-level positions in the Jubilee administration before the elections and in the process neutralized perceived challengers to the Jubilee Party succession plan in areas not considered to be Jubilee strongholds.⁴⁹

During the 2017 elections, 25% of gazetted candidates competed as independents. Among women candidates, 21% were independents.⁵⁰ However, independents did not perform as well as anticipated. The 2017 elections saw only 15 MPs elected as independents (14 in the National Assembly and 1 in the Senate), making them less than 5% of the national legislature (Table 5).

While dominant political parties remain important vehicles to political office in Kenya, the extent to which they act as consistent barriers – and enablers – for women’s access to office varies significantly. Parties need women to maintain compliance with the gender principle, as well as to further their own strategic interests. Also clear, however, is that the gender principle and devolution have not catalyzed significant shifts in how power operates within political parties, including how elites and “big men” affect the political viability of female candidates. Moreover, the gender principle has increasingly restricted women to reserved seats and nominated positions, as evidenced by the way male candidates encourage constituents to ignore women candidates, asserting that they are bound to end up in political office through the nomination process. This has further facilitated the entrenchment of sub-national political power in the hands of regional elites. Despite the legal change brought about by the gender principle, political parties continue to limit women’s meaningful political inclusion.

Campaign financing and resources

Campaign financing in Kenyan elections is another potential barrier for anyone who seeks elected office. But like in many other countries, the gendered nature of electoral financing presents a significant hurdle to women’s access to decision-making roles.⁵¹ Successful campaigns usually require resources for things like party membership, candidate nomination fees, campaign materials, payments to constituents, logistical support, transportation, and security. During the long campaign period – as well as in preparation for upcoming elections – candidates typically require a vehicle, along with funds for petrol and maintenance, especially if they are vying for electoral positions that require travel throughout the county. Significantly, voters also expect candidates to distribute fare reimbursement, water, lunch, or money to “buy sugar” at meetings. A party representative confirmed, “everywhere you go you must buy sugar, you must buy something.”⁵² In many elections in sub-Saharan Africa, gift giving is not only a sign of generosity, wealth, and adherence to local customs, it is also part of “big men” politics, where candidates affirm their status,

Table 5. Women’s success rates by positions, in 2017 Kenyan elections.

| Women’s success rates by positions, in 2017 Kenyan elections | | | |
|--|-------|-------------|-------------------|
| | Total | Independent | Party Affiliation |
| Members of the National Assembly w/out Women County Representative | 17% | 2% | 19% |
| MCAs | 12% | 5% | 14% |
| Senators | 8% | 0% | n/a |
| Governors | 36% | 0% | n/a |

Source: Vol CXIX - No 49 Gazette Notice 3796; Vol CXIX Vol 118 Gazette Notice 7843; Vol CIXX Vol 118 Gazette Notice 7846; Vol CXIX - No 123 Gazette Notice 8379; Vol CXIX - No 121 Gazette Notice 8239.

ability and willingness to provide for their community.⁵³ These kinds of expenses are ubiquitous on the campaign trail in Kenya and are accepted as legitimate practice, rather than examples of corruption. Corruption, however, exists alongside these more minor payouts. Many respondents indicated that they needed to pay large sums of money to receive the certificates of their nomination. Others indicated they needed to bribe security officers working the polls to protect them and their supporters when tensions escalated.⁵⁴

Several of our respondents suggested that the costs of campaigning have increased in recent elections, as power has devolved to the county level and local races have become more competitive. The women representative for Kitui County, for example, stated, “The first election I used exactly KES 150,000 for the whole campaign. The only extra I had was two vehicles. The last one I used KES 20 million plus.”⁵⁵ Political parties offer only limited assistance in covering the range of costs associated with vying for political office. The 2011 Political Parties Act has strict requirements for political parties’ eligibility for public funding. Since 2013, only three out of 59 registered political parties – TNA, ODM, and URP parties – were eligible for public funding of between USD \$2.5 and 3.5 million per year, to be divided between them. TNA and URP subsequently dissolved in 2016 to create the Jubilee Party; despite the parties’ dissolution, they did not lose any of their public funds. As such the political party financing framework allows for transient parties to benefit, while simultaneously locking out smaller more durable parties. Given the important role that smaller parties can play in women’s campaigns and the number of women choosing to run as independents in the 2017 elections, such policies are structurally discriminatory.

The financial cost of electoral campaigns is often a heavier burden for women than men for a number of reasons. First, Kenyan women have access to only 65% of the personal financial resources available to men.⁵⁶ Women also typically have less flexibility in how they spend their money. A focus group participant in Nyandarua explained, “if a man is given a tender to work, most of the money goes to his pocket but a woman will look at her dignity, and she has children.”⁵⁷ Second, while men are free to spend their income autonomously, women may be constrained by their spouses who often control family finances. Many families invest their resources in assets such as land or livestock, which are usually owned and controlled by men. As one respondent from Kisumu noted, “resources like land are in the hands of men, so [women] can’t take a man’s land and use it in the campaigns.”⁵⁸ Some of the respondents explained how it was common for a man to sell family assets to fund his campaign, but married women were less likely to do so unless they had their husbands’ support. Third, the cost of campaigning is a heavier burden on women because they often have to spend more resources than their male counterparts to achieve similar results. Many respondents suggested that they needed to spend more money on security to protect themselves and their supporters against violence. Since many women derive political legitimacy by framing themselves as “mothers” of their communities, they also find themselves asked to support the poorest and most vulnerable of their constituents – oftentimes at a high cost. Additionally, given the previously low level of women in politics, most women candidates are challengers. They thereby have to spend more resources than their incumbent rivals, as they lack the name recognition, public record of accomplishments, and many other advantages associated with incumbency. Finally, as women they typically also have to spend more than men to convince voters of their electability.⁵⁹

Money alone does not determine the outcome of elections. Some women in our study described how they successfully navigated electoral campaigns with limited financial resources by relying on their social networks, mobilizing experience, and skills. That said, the increasing cost associated with campaigning will continue to disproportionately hinder women's ability to run for office unless measures are taken to address the inequalities across parties and candidates in campaign financing and lessen voters' material expectations of candidates.

Social and gender norms

Social norms and gender expectations also shape women's ability to enter into politics. Our respondents suggested that many Kenyans are not yet fully at ease with women's leadership, or may be comfortable with only limited participation of women in politics. In 2012, an Afrobarometer survey found that 75% of Kenyans saw the inclusion of women in political leadership as positive. Yet, our discursive analysis of the language interviewees and focus group participants used to describe women's skills, capacities, and general qualities indicates widespread ambivalence about whether women truly have a place in politics.

In our fieldwork, women were consistently described as motherly and nurturing. Remarks such as "women are mothers," "they can manage money better than men," and "they have children so must take care of other citizens"⁶⁰ were common. These sentiments were very different from the language used to describe male politicians, who were depicted as strong, aggressive and often corrupt.⁶¹ Many respondents suggested that women were not as corrupt as men because women were used to managing their homes and were therefore expected to bring house-management skills into their government roles. Finally, and likely most damaging, is the recurrent use of words like "weak" to describe women and their challenges in political life.⁶²

Although Kenyans generally approve of women's participation in politics, these subtler types of gendered, dismissive language suggests the stickiness of patriarchal attitudes towards women's leadership. While such descriptions are ostensibly positive, they are problematic in that they assume the role of women is to be caretakers, legitimizing women's public leadership through a reinforcement of women's highly gendered domestic responsibilities. The way Kenyan women politicians are discussed by the general public keeps them squarely in the domestic realm and absolves men of their responsibilities as representatives of the people. The emphasis on women's management skills also perpetuates the idea of women in support roles in traditionally male domains. Further, as Kenyan politics is consistently described as combative, the portrayal of women as weak contradicts stated beliefs that women belong in this sphere. The persistence of these perceptions shows a contradiction between the legal framework and popular attitudes about women in politics.

Many Kenyans have been socialized to believe that men are more suited to political leadership. Consequently, voters are often more forgiving of male politicians' flaws than women's.⁶³ For instance, women must prove that they are good wives and homemakers before they are elected; these qualities are often considered a prerequisite to being a trustworthy political leader, even by female voters.⁶⁴ Some focus groups participants questioned how a woman could be trusted with political office if she could not take care of her own home. During a political rally one of the researchers attended in Kisumu ahead of the 2017 elections, a prominent female political figure told women who intended

to vie for office that their primary responsibility was to their families and that it was unacceptable for them to neglect their homes in the evening. Her comments were met with loud approval by the women politicians and aspirants in attendance, indicating that those norms and values were also internalized and accepted by many women themselves. The level of scrutiny that a woman must face before they are entrusted with leadership is so high that many women choose not to subject themselves to the pressure, thereby reducing the number of women willing to participate.

Violence

Violence serves as the fourth barrier to women's political inclusion in Kenya that has not been mitigated by devolution or the gender principle. Elections in 1992, 1997 and 2007 saw large-scale violence in different parts of the country.⁶⁵ Beyond these high-profile violent episodes, candidates and their supporters are also subjected to routine violence and protests at local levels throughout the campaign cycle. Nanjala Nyabola noted that in Kenyan politics, "the ability to muster and marshal violence to intimidate opponents is known colloquially as *mimi ni ndume* (I am a bull) politics, and is rewarded and admired."⁶⁶ During the campaign seasons, women politicians seeking legislative seats at both the national and county levels are disproportionately targeted for both verbal and physical violence.⁶⁷

Pervasive misogyny and high rates of gender-based violence also persist in Kenya. Figures on gender-based violence outside of politics are glaring; for instance, in the last round of the Demographic and Health Survey, 26% of Kenyan women reported experiencing physical or sexual intimate partner violence in the past 12 months.⁶⁸ While systematic data on rates of violence against women in politics (VAWIP) is lacking, our research affirms studies from other contexts which suggest that violence directed at women running for office is different from violence directed at men throughout the electoral process. Women are targeted for violence in particular ways that are both *political* and *gendered*; VAWIP, according to Krook and Restrepo Sanín, is violence that is "directed at women *as women* with the purpose of leading them to withdraw from political life." These forms of violence exist at all stages of the electoral cycle, from the earliest days of the campaigns until long after they are in office. This form of gendered political violence threatens to undermine democratic progress by dissuading women from vying and pressuring them to withdraw from political life.⁶⁹ Awino Okech explains:

The daily insecurity faced by women is justified by our acceptance of violence as synonymous with security and an accompanying structural belief that women who have "strayed" away from their traditional roles should be violently guided back to their rightful place.⁷⁰

This violence manifests itself in various ways. Sexist and abusive language is the most frequent form of violence against women in politics in Kenya – one elected MCA from Kisumu described it as "out of this world."⁷¹ Depending on women's marital status, during campaigns constituents, male opponents, and journalists accuse them of being "loose women," "prostitutes," or "adulterers." For instance, one nominated MCA from Nyandarua described how, "[t]hey used to call us prostitutes and other words that I cannot even mention."⁷² Members of the public – including other women – scrutinize

and criticize the way women candidates dress. One religious leader from Nyandarua attributed these attitudes to the culture more generally, saying:

They don't believe that the woman is supposed to lead the public. She is supposed to stay at home. So even if she vies, the people will say that she doesn't deserve to ... if she vies she is a prostitute, she is seen as crooked, and they say that she is not worthy and shouldn't be a leader. A woman is viewed as a home person and not a leader.⁷³

The media is often a major culprit in these sorts of attacks. Media outlets have become notorious for engaging in semiotic violence⁷⁴ by publishing doctored photographs of women candidates naked or out with men they are suspected of having affairs with.⁷⁵ There are also major differences in how the media covers men and women. One elected MCA Kisumu described,

[W]hen a man is promiscuous he is termed as a hero; they will say he is the guy, don't play with the son of so and so. But when they start getting some stories about [women] having been seen here and there, then you are finished.⁷⁶

Men who are supportive of their spouses' political campaigns can also find themselves subjected to verbal violence and insults. For instance, a woman candidate for the women's representative position in Kilifi described how she was able to avoid some of the accusations about her morality because her husband was a visible presence on her campaign trail. However, her husband was then subjected to constant questions and jeers from strangers and peers who asked, "[y]eah why would you let your wife hang around with men? How sure you are that she is safe? She might be cheating on you."⁷⁷

The second most visible type of violence takes the form of direct physical assault against candidates or their supporters. A woman who vied for an MCA seat in Kisumu described how she was stabbed repeatedly by a group of men who were waiting for her at her residence. The attack left her in the hospital for months.⁷⁸ Another woman who vied for, but failed to secure, an elected seat in Nyandarua was relentlessly persecuted during her electoral campaign. She narrowly escaped rape by a group of men before *boda-boda* (motor-cycle) drivers rescued her.

Importantly, while narratives of violence in Kenya are often focused on interethnic confrontation, the reality is that much of the violence deployed against women during the electoral cycle takes place during the competitive primary stage between people of the same party – and often the same ethnic group. This violence is not uniform across the country, but it is more likely to be concentrated in certain counties with contested elections. Moreover, it is not uniform across women candidates – several women candidates noted that they had thankfully escaped any serious threats to their security.

Violence during the party primaries impacts candidates as well as voters. A nominated MCA from Kisumu explained that many "voters don't participate in the primaries because they fear the chaos."⁷⁹ Another from Kisumu noted, "in some areas it was so bad ... The situation was so violent even women supporters were beaten and chased out of the polling stations."⁸⁰ The 2017 primaries resulted in several deaths and many reports of abuse, kidnappings, and injuries in places like Nairobi, Homa Bay, and Migori counties. Those most likely deterred by the violence are women and other vulnerable groups. For instance, a sitting MCA described how her opponent hired "goons" to identify her key mobilizers to intimidate them. Violence escalated, as "two women were shot, they even tear gassed

the polling stations.” On the day of the primary, her opponent paid local police to take over the polling station and kidnap the presiding officer. As she noted,

I fought my battle by telling police I’m employing you to remove me from this place, how much have you been paid by opposition? 10 thousands? I’ll give you 20 thousand to take me away. If I had had no money, I would have been raped, but they removed me from there.⁸¹

The pervasive violence during the primaries dissuades women from voting and participating in the political process, thereby decreasing the likelihood of women securing party tickets. Moreover, gender-based violence directed at women in politics is rarely punished despite a robust legal and policy framework, including the penal code, the electoral code of conduct and political party sanctions. Political parties typically ignore violence against women and perpetuate a culture of impunity, making violence a structural barrier to political office that women must content with both as aspiring politicians and as citizens/voters. Thus despite the seats made available via the gender principle, the threat of violence during the electoral period acts as a deterrent for women. Achieving full compliance with the constitution is insufficient to reduce this violence, which will ultimately continue to limit which women brave campaigns and careers in political office until laws and codes of conducts about violence are fully enforced.

Discussion

Our analysis above emphasized the structural challenges to women’s political inclusion that persist despite the 2010 constitutional reforms. Importantly, devolution, which aimed to temper “winner-take-all” politics and reallocate power to the county-level, has led to a shift in how political power operates in Kenya; it has opened up opportunities for new forms of political negotiation and claims-making, and established the county as a vehicle through which local elites situate themselves vis-a-vis national parties and alliances. These changes have gendered effects, shaping the way in which women candidates vie for political office. As these political changes take hold, structural barriers – including how political parties operate, campaign financing, cultural norms about gender, and violence – continue to present challenges to women’s political engagement.

These barriers are underscored by the fact that, despite multiple attempts, the national government has failed to implement a legal means to realize compliance with the gender principle. For example, in March 2017 the High Court gave Parliament 60 days to enact legislation to enable Parliament to comply with the constitution. The court ruling added that if the National Assembly failed to pass said legislation, any Kenyan could petition the Chief Justice to advise the President to dissolve Parliament.⁸² Despite having a parliamentary majority, the Jubilee Party failed to pass the law as required by the courts. On September 27, 2017 a women’s collective, #WeAre52pc, delivered a petition to the Chief Justice seeking the dissolution of Parliament. To date, the Chief Justice has failed to advise the President to dissolve Parliament as required by the Constitution Article 261(7) and the High Court order. The national government’s continued disregard of the Constitution and court orders indicates the deteriorating rule of law environment, which has consequences beyond women’s inclusion. The state’s refusal to accept the role of the judiciary as an instrument to limit state authority or of social and legal change has significant implications for democracy and women’s rights. Ultimately, our analysis confirms research⁸³

that suggests that women's rights and representation are not a priority for the political elite where ethnic and regional contestation remain an important part of the political landscape, despite the letter of the law.

For many women we interviewed, the gender principle was a deciding factor in seeking political office for the first time.⁸⁴ For some, it affirmed their right to be included in politics.⁸⁵ For others, affirmative action seats have alleviated some of the risks associated with electoral campaigning for open seats. Women with limited resources or political capital can now opt to seek a reserved position or nominated position. However, the flocking of women towards these positions risks ghettoizing women in politics instead of creating a stepping-stone for female politicians.

Conclusion

Our research investigated why women continue to be underrepresented in political office in Kenya, despite the increased opportunities for women's political inclusion brought about through the gender principle. While devolution and the gender principle have been critical to advancing women's political leadership – and full implementation of the gender principle is vital to continued progress – they have not fundamentally changed important dynamics of Kenyan politics. Our analysis thus considered some of the persistent obstacles to women's successful political inclusion in this context, including the patriarchal nature of political parties, campaign financing and the cost of political campaigns, social and gender norms that situate women as inferior political actors to men, and the pervasiveness of gendered violence during the electoral process. Our research suggests that increasing women's political leadership in Kenya will require not only the full implementation of the law and compliance with judicial orders, but also greater attention to how power operates, and is wielded, within the Kenyan political system.

Despite the hostile political terrain, Kenyan women are not retreating from the political battlefield. In 2017, there were 1,161 women aspirants for the MCA position, almost double the number from 2013 (623).⁸⁶ With women accounting for less than 15% of candidates on party tickets, it is clear that all levels of government need the nominations process to comply with the constitution. This confirms the integral role of political parties in realizing better representation of women. Indeed, from the 2013 and 2017 data, it is apparent that in this fluid political landscape, political party dominance and ethnic patronage trumps gender consideration in elections. Unless there is a fundamental refocus on the role of political parties and the distribution of power, Kenya is likely to continue to lag behind in women's representation in politics and leadership.

Notes

1. IPU, "Parline Database."
2. Kamuru, "Our Unlawful Lawmakers Parliament," 8.
3. IPU, "Parline Database"; EIU "Democracy Index."
4. Bouka and Sigsworth, "Women in the military in Africa," 2.
5. Interview NY1, 22 October 2016, Nyandarua.
6. IPU, "Parline Database 2018".
7. Donno and Kreft, "Authoritarian Institutions," 2.
8. UN Beijing Platform of Action, UN Women, <http://beijing20.unwomen.org/en/about>

9. Bolzendahl, "Making the Implicit Explicit," 44.
10. Hudson et al., "Sex and World Peace," 124; Caprioli, "Gender Equality and State Aggression," 209.
11. Matland, "Women's Representation," 109; Kenworthy and Malami "Gender Inequality," 237; Reynolds "Women in the Legislatures," 572.
12. Paxton and Kunovich, "Women's Political Representation," 103.
13. Dahlerup and Freidenvall, "'Quotas as a 'Fast Track,'" 41; Hughes et al., "Civil War and Trajectories of Change," 1518.
14. Wängnerud "Women in Parliaments," 60.
15. Tremblay and Bauer, *Women in Executive Power*, 173.
16. Tripp, *Women and Power in Post-Conflict Africa*.
17. Berry, *War, Women, and Power*, 210.
18. Viterna and Fallon, "Democratization, women's movements," 685.
19. Goetz and Hassim, *No Shortcuts to Power*, 48–50.
20. Donno and Kreft, "Authoritarian Institutions," 25.
21. IPU, *Sexism*, 4.
22. Krook, "Violence Against Women in Politics," 84.
23. Musila, "Phallogracies".
24. Kabira, *Time for Harvest*, 169; Carrier and Nyamweru, "Reinventing Africa's National Heroes," 601.
25. Kamau, *Women and Political Leadership in Kenya*, 18.
26. Kabira, *Time for Harvest*, 14; Kamau, *Women and Political Leadership in Kenya*, 17.
27. For a summary of the history of women in political leadership in Kenya, see Kabira and Kimani, "Women's Leadership in Kenya."
28. Nzomo, "Women in Politics," 10.
29. Kabira and Kimani, "Women's Leadership in Kenya," 843.
30. Crook and Manor, *Democracy and Decentralization*, 4.
31. Cheeseman et al., "Kenya's 2017 Elections".
32. Cheeseman et al., "Democracy and its Discontents," 13.
33. NDI and FIDA, *A Gender Analysis*, 31.
34. Funding from DFID's East Africa Research Fund.
35. Cornell and D'Arcy, "Plus Ça Change?" 174.
36. Interview KF1, 25 October 2016, Kilifi.
37. FIDA, *Key Gains and Challenge*, 58.
38. Jonyo, *Assessing the Role of Political Parties*, 12–13.
39. Interview NY15, 1 November 2016, Nyandarua.
40. Interview KS7, 31 October 2016, Kisumu.
41. Carter Center, *Observing*, 22.
42. See FIDA *Key Gains and Challenges*, 3.
43. Interview NY27, 21 November 2016, Nyandarua.
44. CMD-Kenya, *Report on the Tracking*, 5.
45. NDI and FIDA, *A Gender Analysis*, 27.
46. Interview NY1, 22 October 2016, Nyandarua.
47. Yoon, "Special Seats for Women," 75.
48. NDI and FIDA, *A Gender Analysis*, 21.
49. These victories were not unproblematic, however. Martha Karua, Waiguru's opponent, alleged illegalities and irregularities.
50. NDI and FIDA, *A Gender Analysis*, 28.
51. Kayuni and Muriaas, "Alternatives to Gender Quotas."
52. Interview KE1, 26 October 2016, Nairobi.
53. Nugent, "Banknotes," 254; Gadjanova, "Electoral clientelism," 600.
54. Validation meeting, May 2017.
55. Interview KE12, 16 November 2016, Nairobi.
56. World Economic Forum report 2013: 51.
57. NYFG6, Focus Group, 24 October 2017, Nyandarua.

58. Interview KS5, 27 October 2016, Kisumu.
59. Ohman and Lintari, *Political Party Financing*, 20; Goetz and Hassim, *No Shortcuts to Power*, 56.
60. KFFG6, Focus Group 6, October 2016, Kilifi.
61. NYFG4; NYFG6: Focus Groups 4 and 6, October 2016, Nyandarua.
62. NYFG5 and NYFG6: Focus Groups 5 and 6, October 2016, Nyandarua; Kivoi, "Factors Impeding Political Participation," 179.
63. Interview KE13, 17 November 2016, Nairobi.
64. NYFG4.
65. Mueller, "Dying to Win," 103.
66. Nyabola, "A Seat at the Table," 12.
67. See our previous work on this topic: Marie E. Berry, Yolande Bouka, and Muthoni Kamuru. "Kenyan Women Just Fought One of the Most Violent Campaigns in History", *Foreign Policy*, 7 August 2017.
68. Kenya National Bureau of Statistics, "Intimate Partner," 307.
69. Krook and Sanín, "Violence," 476.
70. Okech, "Then They Came for Us," 7.
71. Interview KS12, 3 November 2016, Kisumu.
72. Interview NY2, 30 October 2016, Nyandarua.
73. Interview NY12, 27 October 2016, Nyandarua.
74. Krook and Sanín, "Violence," 482.
75. There are countless newspaper reports on this topic. See, for example: Simon Curl. "Kenyan Politicians Sex Scandals." *Tuko*, 2017. <https://www.tuko.co.ke/202656-5-prominent-kenyan-politicians-hit-by-relationship-scandals.html#202656>; and Willis Okech, "Mombasa Court Stunned by Love Claims about Senator Emma Mbura", *Standard Digital*, 21 March 2016. <https://www.standardmedia.co.ke/article/2000195668/mombasa-court-stunned-by-love-claims-about-senator-emma-mbura>
76. Interview KS9, 31 October 2016, Kisumu.
77. Interview KF15, 28 October 2016.
78. Interview KS15, 2 November 2016, Kisumu.
79. Interview KS8, 31 October 2016, Kisumu.
80. Interview KS5, 27 October 2016, Kisumu.
81. Validation meeting, May 2017, Nairobi.
82. Centre for Rights Education and Awareness & 2 others v Speaker the National Assembly & 6 others [2017] eKLR at <http://kenyalaw.org/caselaw/cases/view/133439/> [accessed on 24 March 2018]
83. Donno and Kreft, "Authoritarian Institutions," 19.
84. Interview KE11, 15 November 2016, Nairobi.
85. Interview KE7, 10 November 2016, Nairobi.
86. The number of male candidates also increased in 2017, but by only 13% across all positions compared to 2013.

Acknowledgements

The authors would like to thank Lanoi Maloiy, Margaret Monyani, Kennedy Mwangi, and Mabel Rubadiri for their research assistance, and the Rift Valley Institute for their administrative support. The findings and reflections in this contribution draw on research made possible through the support of the United Kingdom Department for International Development's East Africa Research Fund. The authors are grateful to the reviewers and editors for their valued comments and feedback on this contribution.

Disclosure statement

No potential conflict of interest was reported by the authors.

Funding

This was supported by Department for International Development [EARF/ITT/012].

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