



JOINT CIVIL SOCIETY STATEMENT ON ELECTION PREPAREDNESS AND OTHER OBTAINING ELECTORAL ISSUES IN KENYA

FOR IMMEDIATE PRESS RELEASE

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It is 43 days left to the August 9, General Elections and with this, a number of electoral processes have reached high octane with IEBC and other electoral institutions finalizing preparations for the August polls. We, members of the CSO organizations under the banner of *Uchaguzi Platform*, in our commitment towards credible, peaceful, free and fair elections, have been reflecting on the state of electoral preparedness and other obtaining electoral related issues. Accordingly, we wish to address the following emerging issues and concerns:

1. Register of Voters (ROV), Identification of Voters and Simulation

We laud the IEBC for a successful audit and subsequent gazettelement of the register of voters for the purposes of the 9th August, 2022 General Election vide the gazette notice no. 7290. This revision and certification of the ROV is a great milestone towards safeguarding the integrity of the August polls. In this regard, and in the spirit of open data principles, the Commission should make public the final report of the audit for stakeholders to engage with the report. The maintaining of an accurate ROV, free from arbitrary purges that may hinder access to voting for all citizens, is a matter of human rights, which must never be violated.

However, we are concerned by the Commission's administrative decision to scrap the use of manual register during election day and instead use digital register ostensibly to avoid manipulation of the polling exercise. It will be remembered that in 2017, the IEBC employed a complementary mechanism that allowed voters not identified electronically (about 2.5 million of them) to be allowed to vote on the account of the manual/printed register with the candidates' agents signing off on the fact.

In any case, and taking into account an electoral environment dominated by mistrust, exclusive use of a digital register makes it hard for stakeholders to be assured that the KIEMS kit will be talking to their database only and not any other.

While the matter is still in court, it is important for the Commission to reconsider this decision and taking into account the fact that the simulation exercise carried out at Bomas did build much confidence in the system as well as its own declaration that close to 1,111 polling stations are not 3G/4G enabled. We further call upon the Commission, in the next simulation exercise to ensure that all systems work so as to inspire confidence in the processes, particularly on the electronic transmission of results and actively engage other stakeholders.

2. Voter Education

With electoral campaigns having intensified, there is need to put in more resources for voter education bearing in mind that actual voter education activities commenced extremely late in the electoral cycle due to the *note verbal* issued by the Ministry of Foreign Affairs saying that the Government bears the sole prerogative to coordinate election related needs and resources.

For the remaining period before the elections, the resources required should be channeled to mass voter education through grass root channels, media and specifically radio stations, due to their wide network and deep grassroots' reach.

In the same vein we want to call upon all the media houses, as part of their civic responsibilities, to provide airtime at subsidized costs to support voter education efforts that are being undertaken by the different stakeholders. We call particularly upon the national broadcaster, KBC, that is being funded by taxpayers, to provide adequate airtime for voter education through its nationwide reach as well as its wide vernacular base.

We are also calling upon the government to ensure that the IEBC receives the resources that it requested for voter education initiatives so that they can reach more Kenyans with this essential information. Further, we call upon the IEBC to liaise with the over 1,000 voter education providers spread all over the country to undertake this final phase of voter education.

While we are grateful for the support provided by the different development partners on voter education work, we are still appealing to them to provide additional support to county based grassroots' civil society organizations so that they can supplement the voter education efforts being carried by the IEBC and other national organizations

3. Election Campaigns

As the election date draws closer, we are witnessing highly contentious electoral campaigns in many parts of the country making the country vulnerable to episodes of pre- and post-election violence. We are appalled by elements of elite polarization and ethnically driven campaigns that continue to shape the electoral competition mainly among the major political coalitions.

We caution that the constant elite polarization and open differences among political leaders remains the biggest threat for the prevailing peace and stability during the campaign period and could spill over to the election day and after. It is also instilling a negative perception that State institutions may not play a neutral role during the election period. It is therefore likely to heighten the risk that whichever side of the political divide that loses in the August elections will claim the election results were compromised.

For the elections to unfold peacefully, government institutions, civil society and political elites who hold considerable sway over supporters must work together and commit to play respective roles in ensuring this is achieved. As CSOs under the Uchaguzi Platform, we urge political leaders to lower political temperatures during the campaigns and commit to accept the outcomes of a free and fair elections on August 9, 2022. We also urge the electoral and security institutions to resist interference as they undertake their mandates ahead of the elections.

While doing so, they should maintain open communication with political actors as a measure of trust building and confidence in the electoral process. On their part, by virtue of the influence they have on their supporters, we urge candidates to conduct the campaigns cautiously and observe the electoral code of conduct throughout the period.

4. Integrity and leadership

The *Uchaguzi* Platform is concerned by the lack of appreciation of values and principles of Chapter 6 of the constitution by key institutions in the election process. Our concerns are aggravated by the recent court judgment delivered on 24th June 2022 by a 3 judge bench based on a petition filed by 16 petitioners who sought the courts direction on three main issues; the standards of Chapter 6 to be applied during vetting and clearing issues, the institutions mandated to vet and clear candidates and their interrelationships, and, the qualification of three candidates to contest for public office under Chapter 6.

Unfortunately, the court declined to provide directions on the basis that it lacked jurisdiction and that the petitions did not raise any disputable facts. We are deeply disappointed by the court's judgment and strongly believe that the petitioners raised valid justifiable grounds which needed the court to adjudicate on. The petition raised factual disputable issues such as the lack of clarity on IEBCs and EACCs institutional mandates on Chapter 6, the lack of a proper vetting standard for chapter 6 which is mandatory in the Constitution, and by IEBCs to clear candidates with unresolved questions of character among other critical concerns.

Furthermore, in 2017, the Supreme Court in a petition on similar issues ruled that the High Court has jurisdiction on interpretation of Chapter 6. This verdict, unless over tuned, coupled by the IEBC's decision to set aside EACC's advisory and use a criminal threshold to vet aspirants, leaves citizens as the last line of defense in weeding out candidates with questionable integrity at the ballot.

We therefore make a rallying call to our courts to be bold and progressive in the intended appeal and in all other cases before them on Chapter 6. Sentiments from different state authorities have noted that a number of candidates have criminal issues. We cannot allow

our leadership to be stained to such levels. We also implore citizens to overwhelmingly reject individuals who have been implicated in corruption and criminal cases.

5. Clearance of Candidates

We have noted with concern that the Independent Electoral and Boundaries Commission (IEBC) cleared some individuals to contest for various elective seats who are in breach of the leadership and integrity tenets as enshrined in Chapter 6 of the Constitution of Kenya 2010, with some having been prosecuted for corruption, economic crimes and abuse of office, and other criminal offenses. The consequences are dire, as Kenya is likely to be stifled by a political leadership that is not transparent in the management of public resources, honest in the execution of public duties, and accountable to the public for decisions.

Out of the 214 persons blacklisted by the Ethics and Anti-Corruption Commission (EACC) as morally and ethically unfit to hold public office, IEBC barred only 6 individuals who had been convicted without appeals, those who had been impeached from office, those without the required academic qualifications, and the public officers who failed to resign by the stipulated timelines. For the remaining 208 individuals in the Ethics and Anti-Corruption Commission (EACC) list, the commission seems to have thrown their hands in the air, quoting the provisions of Articles 99(3) and 193(3) that grants a leeway, even to ethically tainted individuals to exhaust all levels of appeal before they can be barred to contest for elective seats.

Therefore, for future elections, we recommend amendment of the Elections Act, of 2011 to include a vetting framework with a checklist with relevant requirements for use by IEBC officers during the vetting process. The checklist should include verification of candidates' financial integrity, assessment of candidates' criminal record and professional conduct, a robust mechanism to verify authenticity of education qualifications and verification that they have no allegiance to foreign states in a manner that is prejudicial to national security and interests. Finally, to ensure comprehensive vetting of candidates and avoid rushing the process we propose that timelines for verification, vetting and clearance of aspirants be reviewed to give adequate time and ensure that only those who have met qualifications stipulated in law to various elective offices are cleared to vie in the elections.

6. Dis and Misinformation

We continue to witness fake information generated by outlets that masquerade as actual media sites but promulgate false or misleading accounts designed to deceive the public even as the election date draws closer. Fake news and sophisticated disinformation campaigns are especially problematic in nascent democratic systems like ours.

When these activities move from sporadic and haphazard to organized and systematic efforts, they become disinformation campaigns with the potential to disrupt campaigns and governance in Kenya. We take note of the fact that some social media platforms are being weaponized by various players to spread disinformation campaigns and derail constructive debate. It has also been found that some Kenyan influencers are being paid

to spread misinformation on Twitter and even Tiktok where dozens of content that violate Kenya's National Cohesion and Integration Act and TikTok's own community guidelines are being shared.

We call upon Kenyans to desist from propagating and sharing unverifiable information and call upon the tech companies such as Facebook, Twitter, Instagram and Tiktok to delete accounts of users who don't comply with the community guidelines. If we allow them to continue spreading propaganda and sensational content, it may interfere with our quest for a free, fair, credible and peaceful elections in Kenya.

Conclusion

Credible, peaceful, free and fair election is integral to human development and as such, we urge citizens to be mindful of their simultaneous right and duty to vote freely in the interest of advancing the common good of all our citizens.

Signed by

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