



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

FOR IMMEDIATE PRESS RELEASE

Friday, 27th May 2022, Mombasa

With 73 days left to the August 9th polls, political activities across the country are continuing to gather momentum. We, members of the CSO organizations under the banner of Uchaguzi Platform, have held a two-day reflection on the state of electoral preparedness and therefore wish to address the following issues and concerns pertaining to the elections:

1. PRE-ELECTION ENVIRONMENT

Taking an electoral cycle approach, we have been keenly monitoring the pre-electoral environment across the 47 counties and noted with concern the growing trend of 'zoning of parts of the country' which is a real threat to freedom of movement and expression and has caused disruption of political meetings or rallies of opponents. The country risks divisive and polarized contexts if this is unchecked.

We are perturbed by the rampant incidents of voter inducement as political contestants use branded gift items such as food products, branded T-shirts, caps, reflectors jackets and lesos to entice voters. Further, our attention has been drawn to rising cases of political party candidates conducting *harambees* in spite of this being an electoral offense in Kenya.

While we recognize the constitutional right to freedom of speech, we are concerned by the increased use of abusive or insulting or derogatory language targeting women, youth, PWD, minority groups and communities as voters and as candidates thus disenfranchising citizens.

Despite clear legal provision, the country is witnessing public officers illegally using public resources to further their political campaigns. Fair elections include the need for a level

playing ground for all political contestants. Using public resources to advance one's political aspirations is a clear violation of this provision. While we call upon public servants to refrain from this behavior, we also call upon IEBC, National Police Service and ODPP, relevant government bodies to hold these public servants to account and deter these acts of impunity. Voters should call out the violators and also take note of these anomalies when making their informed choices in the ballot.

2. IEBC OUTREACH TO STAKEHOLDERS

We are concerned by the lack of serious efforts by IEBC on stakeholder engagement despite their critical role in the management and administration of the electoral processes. IEBC has not fostered close cooperation with its stakeholders for purposes of securing their support and to strengthen their confidence and trust in its performance. Issues touching on electoral technology and the entire process of electoral transmission of results remain unclear and unknown to the citizens and other actors. We aver that these issues affected the integrity of the 2013 and 2017 elections leading to disputed election results and electoral violence.

We urge the IEBC to intensify efforts towards creating and sustaining sound relations with its stakeholders so as to prevent likely elements of misunderstandings and suspicions about its activities. In particular, we urge IEBC to address the aspects of transparency mechanisms in the conduct of the elections and electoral technology, authenticity of the testing, certification of the technology to be utilized and the availability of audit mechanisms the Commission has put in place to ensure that the process is transparent and acceptable to Kenyans.

IEBC needs to undertake electoral activities that will help voters and candidates to participate meaningfully in the elections. We urge IEBC to develop an operational culture and an effective communication strategy that makes it responsive to the expectations and needs of its stakeholders. This will generate support for and goodwill towards IEBC's policies, practices and to enhance its credibility.

3. LEADERSHIP AND INTEGRITY

We are aware that IEBC is in the process of vetting candidates for elections by checking their backgrounds and verifying the information as presented by them. IEBC should thoroughly vet all the candidates to ensure they meet Chapter 6 requirements. We also urge the government and other development partners to facilitate IEBC and EACC to conduct effective vetting of the candidates as a precursor to enhancing integrity in public service.

Even though the 2010 constitution has dedicated an entire chapter to an ethical based system of governance through values of leadership and integrity, it is regrettable that chapter 6 of the Constitution on Leadership and Integrity remains one of the most sidelined provisions. As of today, there has never been an objective and proper vetting and clearing mechanism for candidates on the basis of Chapter 6. In previous elections, vetting institutions have inaccurately applied a criminal standard, i.e., presumed innocent until proven guilty by a court of last instance, as the basis for clearing for Chapter 6 which provides for ethical and moral standards.

It is based on this that the National Integrity Alliance, a coalition of CSOs, launched the Red Card 2022 campaign on 22nd May 2022 to push for realization of constitutional ethical and moral standards. The RedCard 2022 campaign blacklisted 25 individuals with serious questions over their character based on their actions while serving in office. These individuals either have active corruption and criminal cases or have been adversely mentioned by credible investigative bodies which have raised doubts over their credibility.

The campaign's rallying call, which the Uchaguzi Platform endorses with, is to call upon all voters, institutions and organizations to prioritize values of Chapter 6 during this election. We specifically call upon EACC and IEBC to lock out the 25 blacklisted individuals and others from contesting for office.

4. LEGAL FRAMEWORK AND ADHERENCE

We are concerned about pending crucial electoral related Bills; specifically, the Elections Amendment Bill, 2022 that seeks to rectify the gaps identified in the IEBC Post 2017 Evaluation Report and specifically, the issue of complementarity mechanisms to be used by IEBC for transmission of results especially for the polling stations that do not have 3G network coverage. On the Election Campaign Financing (Amendment) Bill, 2021, there is need for Parliament to consider the recent judgment from the High Court on the constitutionality of some impugned clauses such that the same fate does not meet the Bill if enacted. We also note that there could be further electoral related Regulations which need to be considered carefully with the hindsight of time constraints for public participation.

As highlighted in the 2017 Presidential election petition, elections are a process. IEBC should not dither in enforcing constitutional and statutory obligations. Statutory timelines have been repeatedly ignored especially on the campaign periods, thus, entrenching impunity. We reiterate that IEBC, the public and other stakeholders should have a clear roadmap on how to approach the upcoming elections. Any ambiguities are likely to have a huge implication on the outcome of the elections.

The proposed Elections (General) Amendments Regulations 2022) seek to recast the manner of transmission of results as expected under Articles 86 and 138(3) of the CoK

and Section 39 of the Elections Act, 2011. The amendments seek to introduce Regulation 83A which, ostensibly, reverses the progress made in the electronic transmission of election results over the last 2 elections cycles, 2013 and 2017 where the Presidential elections result at the polling station are electronically transmitted to the constituency and the National tallying center for tallying, collation and declaration.

5. DISINFORMATION AND MISINFORMATION

We continue to witness misuse and abuse of digital platforms by individuals leveraging ton anonymity to promote hate speech, misinformation and disinformation. This has disproportionately affected the political participation of special interest groups, specifically youth and women. We are disappointed in the manner in which investigative agencies have treated this matter and insist that such individuals be traced and brought to book because sharing of sensational information may interfere with the cohesion and the peace in Kenya.

We call upon the members of the public to be responsible when sharing information and help in countering falsehoods by pushing back, flagging and forwarding malicious content to the relevant authorities and platform service providers.

Conclusion

Safeguarding the integrity of the electoral process is key in the realization of credible, peaceful, free and fair elections in Kenya. Election involves a plurality of actors each doing their part to contribute to the overall success of the electoral process. It is important therefore that all actors, including the members of the public, do their part to contribute to clean elections in August.

Signed by

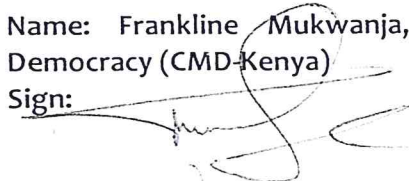
1. Name: Sheila Masinde, Executive Director, Transparency International Kenya (TI-Kenya)

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2. Name: Frankline Mukwanja, Executive Director, Center for Multiparty Democracy (CMD-Kenya)

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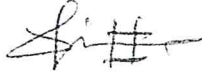
3. Name: Mulle Musau, National Coordinator, Elections Observation Group (ELOG)

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