

# Darubini

*Ya Uchaguzi*

Issue 9



**MEDIA'S ROLE IN SHAPING  
THE CONVERSATIONS SURROUNDING  
THE 2022 ELECTIONS**



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# MESSAGE FROM THE CHAIR



## *Greetings from ELOG.*

Using the electoral cycle approach, ELOG has continued to observe the performance of key electoral actors such as the Independent Electoral and Boundaries Commission (IEBC), Office of the Registrar of Political Parties (ORPP), the Judiciary, Political Parties, Parliament and the Media. Further, we are continuously monitoring the electoral processes and other emerging issues in the country that are currently ongoing on various platforms. These include Parliament, the faith-led Dialogue Reference Group (DRG), Punguza Mizigo Initiative, Building Bridges Initiative (BBI) and other Civil Society Organisations (CSO) led initiatives.

As much as the COVID-19 pandemic significantly affected the timelines, conversations and momentum gained around electoral reforms, we urge the relevant state and non-state electoral actors to pick-up speed and kick-start the discussions while building consensus around the necessary electoral reforms.

ELOG commends President Uhuru Kenyatta for the suspension of campaign rallies and meetings in light of the upsurge in COVID-19 cases in the country. Additionally, ELOG commends the IEBC for developing and releasing the COVID-19 protocols that will ensure the safety of the citizenry as the country prepares for the by-elections scheduled to be held on 15th December 2020. We further commend the Building Bridges Initiative (BBI) taskforce for recently launching the much anticipated BBI report for public scrutiny and consumption.

In addition, ELOG further commends Parliament for processing and finalising some of the legislative proposals (bills) before it, such as the Independent Electoral and Boundaries Commission (Amendment) Bill No.3 of 2019 that sought to amend section 36 of the Independent Electoral and

Boundaries Commission (IEBC) Act, 2011. This bill's passing can be counted as a gain towards the electoral reforms agenda as the country begins preparations for the 2022 General Elections. ELOG further urges Parliament to continue with the current momentum to finalise the pending legislative bills before them.

As we head to the close of the year, ELOG calls for peace, security and cohesion to dominate the national discourse among state and non-state electoral actors. It would be prudent for all the stakeholders' involved to continuously engage and understand the proposals made in the BBI report together with the legislative proposals touching on the electoral reforms processes, in order to enhance their responsiveness to the critical and emerging issues in the political and electoral environment including the anticipated referendum.

**God Bless Kenya!**

*Regina Opondo*  
**ELOG Steering Committee-Chairperson**



# MESSAGE FROM THE NATIONAL COORDINATOR

So, the long-awaited Building Bridges Initiative (BBI) report is out and with it a pathway towards a referendum using the popular initiative route. If the politicians are to be believed, then we should be having the plebiscite by June 2021 and just over a year to the 2022 General Elections. Interesting times indeed.

This turn of events is bound to excite the political environment, especially because of the current divisions within the ruling party and the opposition. A number of these actors have taken a hardline position in respect to the proposed changes to the constitution.

As an election observation platform, our interest is first on the proposed electoral reforms as discussed under the BBI topic on divisive elections. While a number of progressive proposals have been given around the electoral system, political parties and the management of elections, Kenyans have continued to debate on the contentious recommendations such as making the electoral body a political commission that has short-termist features with reduced tenures (Commissioners) and contracts (technical staff).

Of much more urgent concern is that beyond the BBI proposals, a cast of other comprehensive electoral reforms have been canvassed over the last year by different actors such as the Independent Electoral and Boundaries Commission (IEBC), Office of the Registrar of Political Parties (ORPP), Parliament and the broader civil society. As things stand, it is difficult

to see how these proposals will be considered especially given that leading political actors are already decided on the pathway of implementing the BBI proposals through a seemingly insulated process to the referendum.

In previous commentaries on the electoral environment, ELOG has warned that the electoral reforms needed to be discussed within an enabling environment of political sobriety. This is not the case anymore with sharp divisions emerging over the BBI proposals. Several actors, especially the religious leaders, have already rejected the said proposals calling for an opportunity to build consensus over the desired reforms.

Given this environment and in the spirit of building bridges, we caution all the actors to avoid brinkmanship and hardline positions and embrace a more inclusive approach in order to mobilize consensus on the contentious issues as well as give consideration to other progressive reform proposals.

*Mulle Musau*  
National Coordinator



# MESSAGE FROM THE EDITOR



**E**lections are a cycle and as the country prepares for the beginning of the new cycle, many stakeholders' are getting ready for the 2022 General Elections amid an anticipated referendum.

There is a lot of work ahead for the state and non-state electoral actors, including ELOG, as we continuously monitor and observe these electoral processes. As anticipated, our 9th issue is out and in this edition, we outline issues that stakeholders need to grapple with in the journey of electoral preparedness.

It takes a single decision to alter the entire course of history. We hope that the *Darubini ya Uchaguzi e-newsletter* would continue to play a significant role in this process.

As we dive into yet another exciting edition, we invite you, our reader, to engage with the writers as they interrogate new emerging issues within the electoral environment. There is a felt need to re-engineer several issues, including how the media reports on electoral processes.

In this respect, Mr. Jerry Rawlings examines the role of political journalism and its place in the realm of elections and electoral processes. On the other hand, Dr. Elizabeth Gitau assesses the delicate balance between democracy and health in light of the COVID-19 pandemic. She offers some ground-breaking recommendations on how to proceed in the current political and electoral environment.

Lastly, do not forget to check out the electoral news roundup section for an illuminating peek at the current electoral environment. The section highlights among other issues, the electoral preparedness of the Electoral Management Body, which is at the heart of all election cycles.

*Let's engage!*

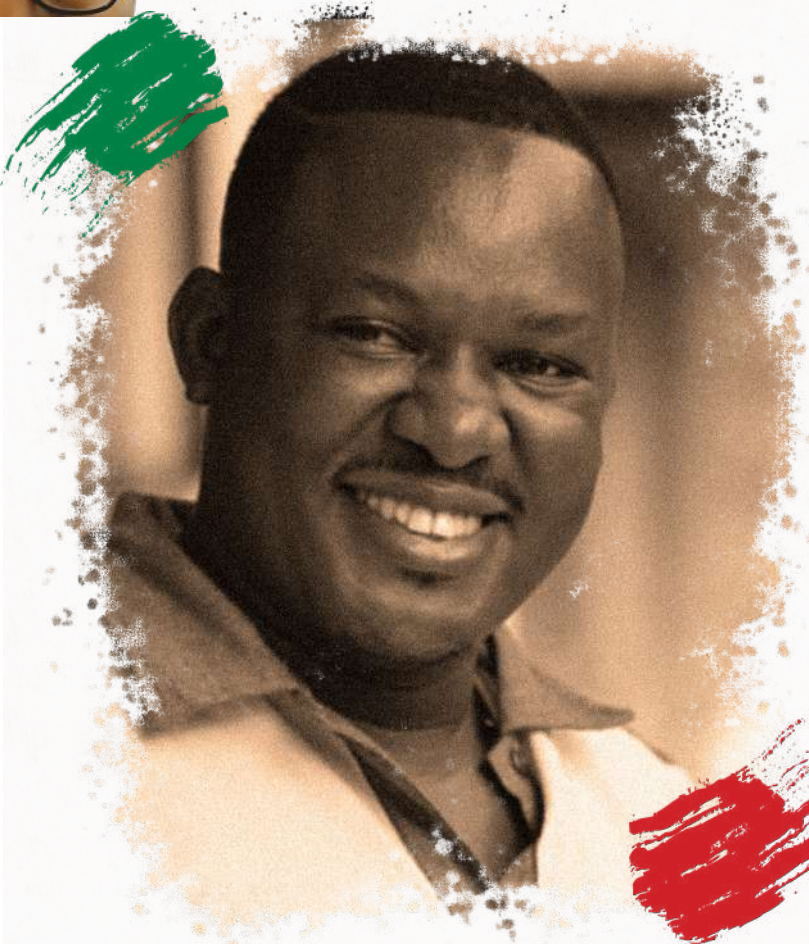
*Hilda N. Mulandi*  
Editor and Program Officer

“

*No matter what people tell you, words and ideas can change the world.*

**~Robin Williams**

”



# The Media's Role in Shaping the Conversations surrounding the 2022 General Elections and Electoral Processes

*By Jerry Rawlings Otieno-Secretary General of Political Journalists Association of Kenya (PJAK)*

**W**ithin political and electoral environments as well as societies as a whole, the media is deemed as an integral part of safeguarding the transparency of democratic processes. In its simplest form, political journalism is reporting on government, politics and political candidates. It focuses on political processes, activities of elected officials and the results of political work that ensures the public has access to information about political activity. The media and especially political journalists have a duty and **"watchdog"** role in penning stories about electoral processes, technology and laws objectively. This is a cardinal duty in a democratic and developing nation like Kenya. Transparency is a core requirement on various levels, particularly regarding access to information; accountability and legitimacy of individuals; institutions and processes; and the rightful participation and public debate. Although that is the call, only a limited number of political journalists have the necessary competencies and skills to objectively pen or broadcast the electoral spectrum issues such as elections and electoral reforms related matters among others.

In the run-up to the 2017 polls, one of the identifiable issues had been the biasness of some media houses in their reporting. Some media houses' political and ideological leanings affected coverage of the 2017 elections, with some media houses even being caught up in tribalism. Additionally, media coverage was allegedly skewed with major political parties receiving more media coverage than the less popular

ones.

Prior to the 2017 General Elections, the Independent Electoral and Boundaries Commission (IEBC) organised a training workshop to take journalists through their processes. However, the selection process did not fully consider the core issues that journalists faced in covering various aspects of the electoral process. From the lessons learnt, it was evident that there was a need to have the journalists well-prepared on matters and activities around elections beyond the Election Day (E-Day) processes in order to enable them to cover the same in a transparent, impartial and palatable manner. Essentially, media acts as a mechanism for the prevention and investigation of allegations of violations or malpractice through its watchdog role. This role not only extends to holding the officials of electoral institutions accountable to the citizenry whilst in office but also to the entire electoral processes. For example, in the past, the media's presence in the voting and tallying centres on E-day proved critical in preventing electoral fraud and increasing public trust in the processes. This was guaranteed through the implementation of the full measures that protected the freedom of speech of the media as well as its right to act independently and impartially.

Furthermore, transparency in the context of access to information essentially means that an electorate is provided with the necessary and comprehensive information to make



informed choices in order to hold their entrusted officials and institutions accountable as they are expected to work in the interest of the public. Transparency in electoral processes helps ensure that these expectations are met and the media is the vehicle through which this is achieved. For example, in the case of the IEBC, the institution is obligated to inform the citizenry about their actions, decisions and plans throughout an electoral cycle and the media serves as a public educator for the same. When the media reports on electoral events and issues, the transparency of electoral processes such as the registration of voters, voter education, voting, counting, the nomination of candidates, and campaigns may be shared with the audience which further enables and encourages them to participate in these processes. For this reason, it is vital for the IEBC to communicate frequently with the media in order to provide them with the necessary information to ensure accurate reporting. This is no different for the 2022 General Elections, which is less than two years away.

On the other hand, the media in Kenya rarely prioritises the coverage of electoral reforms in its agenda-setting, and neither do the relevant stakeholders have the opportunity to focus more on the issues surrounding electoral reforms. Although elections are a cycle and the end of one activity denotes the beginning of another activity, currently, not much attention has been dedicated to the issues impacting the electoral reforms agenda save for the Building Bridges Initiative (BBI). It would be prudent for the media to continuously cover other pending electoral reforms issues that are not synonymous with the BBI, such as the implementation of two-third gender rule and the participation of special interest groups according to Article 100 of the constitution. For example, after the launch of the BBI report various state and non-state actors representing the marginalised persons such as the youth, persons with disabilities and women have come forth through press engagements and conferences to raise concerns and advocate for critical issues that still needed to be considered before the proposed amendments are passed into law either through a referendum or Act of Parliament. In this respect, it would be prudent for the media to actively engage in the coverage of such issues currently taking place in the political and electoral space.

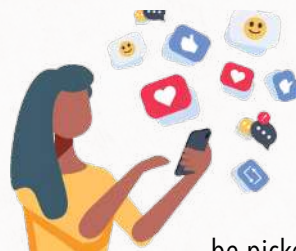
## RECOMMENDATIONS

- a. Promote empirical research both in academia and policy-making communities, emphasizing the media's impact on elections and electoral processes. The studies would not only assist in demonstrating the impact of the



media but also identify gaps that require support. A theory of change offering a detailed explanation of the systematic pathway from media interventions to specific development and democratisation goals could be advanced in the long-term.

- b. Engaging thought leaders in explicit conversations around media and electoral reporting could also help identify the specific building blocks required to achieve clearly stated goals and the gaps.
- c. State and non-state actors in the electoral environment should consider recruiting media persons to increase their visibility based on the electoral activities they carry out. They could hire social media experts who could help them maintain a social media presence that could easily be picked upon by the mainstream media channels as they undertake their reporting exercises while searching for newsworthy content. This would help both the journalists and the public understand the actors' roles in elections and the electoral processes.
- d. Capacity-building of the media practitioners in electoral reporting in order for them to understand the electoral cycle approach and its nexus with the media.
- e. Partnerships and collaborations should be encouraged between the media and the state and non-state actors within the electoral environment. This could provide visibility to their activities through media coverage. Media spaces could be created for electoral actors to speak to various issues impacting the electoral environment and the media reports on the same. The collaborations could assist in ensuring that media support is sustainable and integrated throughout the electoral cycle.



## CONCLUSION

In conclusion, the media plays a vital role in providing a transparent public platform for debate and participation in the discussions surrounding elections and electoral processes. Further, it is crucial to empower political journalists on electoral coverage throughout the electoral cycle. Elections cannot be deemed democratic unless the public is fully able to participate and is unhindered in its exercising choice.



# IS DEMOCRACY GOOD FOR YOUR HEALTH?

## *The Quagmire of Balancing Civil Rights and Health Concerns in Electoral Processes amid the COVID-19 Pandemic*

**BY DR. ELIZABETH GITAU- Chief Executive Officer at the Kenya Medical Association**

Kenya recorded its first COVID-19 case on 12th March 2020 and this immediately necessitated many adjustments to how the citizenry lived, worked and interacted. The spread of the pandemic in the country led to a lockdown and curfew that limited movement and social gatherings.



The government instituted various measures to contain the pandemic that has had multiple adverse effects on individual freedoms and rights, with many people lacking access to basic needs such as food and shelter. Preventive measures taken by the government to safeguard its citizens' included the closure of schools and businesses and the restriction of movement in counties such as Nairobi, Kwale, Kilifi and Mombasa, which affected the country's economic activities.

Meanwhile, various government institutions such as the Independent Electoral and Boundaries Commission (IEBC) postponed the by-elections that were recently re-scheduled to be conducted on 15th December 2020. The Electoral Management Body (EMB) also recently released the COVID-19 protocols that would be observed during the forthcoming electoral activities in the country, such as the by-elections, to ensure its staff's safety and the voters among other stakeholders. However, the quagmire that has continued to plague countries across the world during the pandemic is whether it is possible to balance their citizens' civil rights vis-à-vis their health concerns in electoral processes amid the COVID-19 pandemic.

### QUARANTINE AND COVID-19 PROTOCOLS

Recently, the poll agency made milestones to align its operations to the Government of Kenya's directives as well as the Ministry of Health guidelines and measures towards the containment of the COVID-19 pandemic. Some of the protocols set include face

masks, sanitisation of surfaces, and social-distancing, among others, that are expected to be applied in the upcoming by-elections. Other measures also include avoiding gatherings at the polling stations during voting, temperature checks



of the electorate, and promotion of health hygiene practices such as hand-washing, use of sanitisers and face masks. Recently, the Health Cabinet Secretary Mutahi Kagwe also warned about a possible second wave of the pandemic. Further, President Uhuru Kenyatta gave a directive that all political campaigns and rallies be suspended during his recent address to the nation.

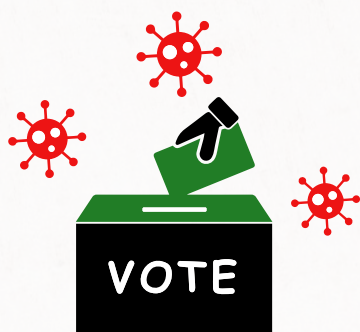
### DEMOCRACY AND ELECTIONS

As democracy dictates, a legitimate government must be one chosen by the people and everyone has the right to elect a leader of their own choice. The citizenry must therefore, be given the opportunity to cast their vote. Whether this has been achieved in the current COVID-19 environment is a matter of contention. In light of the Coronavirus pandemic, many countries have had to postpone elections to keep their populations safe. The COVID-19 pandemic has not only become a health emergency but also an economic one. It also presents a crisis for democracy, governance and human rights which could undermine or collapse fragile democracies. It further poses severe threats to democratic governance, elections and transitions through: straining of citizen relationships with their governments, intensifying political and social tensions thus further disenfranchising many voters (including internally displaced persons), exacerbate marginalisation and inequality as well as increasing conditions for violence.



In addition, fake news and misinformation could spread quickly and thus have the power to incite government crackdowns, stigmatisation and conflict. It would be prudent to ensure clear and accurate information is passed across to the citizenry regarding the pandemic's impact and risk. This is essential in ensuring that both the populations are kept safe and healthy while instilling public trust in the official electoral processes based on how the disease is being tackled.

For example, In Ghana, where elections were scheduled to be conducted this year, due to the COVID-19 pandemic, the same was postponed with the suspension of the campaign rallies. Currently,



parties are campaigning virtually through different platforms in what has been dubbed "scientific campaigns." Political parties, which recently launched manifestos, did so virtually. With insufficient internet access in many parts of the country, voters could be limited in making a fully informed choice. Thus the scientific campaigns would disenfranchise some citizens and

their right to elect the leaders of their choice.

In Kenya, with the 2022 General Elections less than two years away, campaigns have been suspended due to the current status of the COVID-19 pandemic. Under normal circumstances, Kenya's political rallies and campaigns are typically filled with fanfare and a high turnout of voters, which increases human interactions. COVID-19 prevention measures call for physical distancing, the washing of hands and the wearing of masks. In the recent past where various public rallies and meetings were held, these measures were broken and flaunted with crowds interacting closely. This exposed a lack of duty of care by the politicians who were expected to ensure that their constituents and voters were kept safe from contracting COVID-19 even as they held political gatherings. With the new directive from the president, the government, all political leaders and parties are expected to ensure that the COVID-19 measures and directives are adhered to accordingly.

## RECOMMENDATIONS

- The citizens must be protected at all costs from illness as envisioned in Article 43(a) of the constitution on their right to health and this should not exclude the rights and freedoms. In a pandemic, this can be done through humane quarantine and isolation measures while keeping in mind the protection of the mental health of the said individuals and the provision of social safety nets to cater to the basic needs of those in need. However, all measures must ensure pluralistic and fair electoral competition, maximum enfranchisement of the entire electorate and credible electoral oversight by competitors and the civil society.
- During these unprecedented times, it would be prudent for the Kenyan government to ensure the citizens' safety during

campaigns, voting, and vote-counting regarding their health while ensuring that their democratic rights enshrined in the constitution are respected. With proper planning, voting avenues could be increased to prevent long queues during the voting process. Such measures would include extended voting times and increasing the number of polling centres. Additionally, COVID-19 protocols must be implemented to prevent the spread of the disease.

- Prior to elections, it would be vital for the IEBC and other state and non-state actors, including the Ministry of Health, to discuss and decide the measures that would be implemented to mitigate public health risks. In this regard, civil society groups should play a key role in presenting their concerns while also proposing potential solutions.
- The EMB could also host a series of webinars with various players in the electoral environment such as civil society, election observers', international experts, and other relevant actors to help overcome the challenges that might be presented with the pandemic. Some of the countries such as the United States of America, South Korea, Sri Lanka, New Zealand among other European and African countries that have already held their elections amid the pandemic could share their knowledge and experience. The lessons learnt, perspectives and insights on the possible approaches that would form the basis for constructive discussion on advocacy points to tackle the risks involved during the by-elections as well as the upcoming 2022 General Elections. These points could also be shared with the public for awareness purposes.
- The preservation of electoral integrity during the COVID-19 pandemic is essential. The pandemic presents serious challenges towards credible electoral processes as well as the ability of the electoral institutions to undertake their mandates. It would be prudent to support election authorities to make informed decisions regarding its scheduled electoral activities while coordinating with the Ministry of Health and other authorities. Further, it would be vital to resist any form of manipulation by political actors thus maintaining inclusion, transparency and accountability in electoral processes.

## CONCLUSION

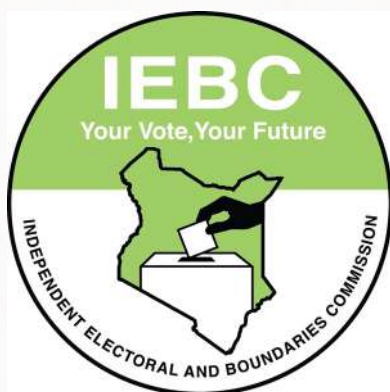
Prudent mitigation measures must be considered in addressing the impact of COVID-19 on democracy globally. It is an urgent matter that should be treated as such by policymakers to ensure that governance is part of the strategic planning and thought-process as they make decisions regarding future assistance regarding democracy, human rights and governance. Countries must urgently invest in political capital and resources to ensure that the COVID-19 pandemic and its impact on the political and electoral environment is addressed accordingly.



# ELECTORAL News Roundup



## ELECTORAL ACTORS PREPAREDNESS TOWARDS 2022 GENERAL ELECTIONS



Independent Electoral and Boundaries Commission (IEBC)

The Independent Electoral and Boundaries Commission (Amendment) Bill No.3 of 2019 that sought to amend section 36 of the Independent Electoral and Boundaries Commission (IEBC) Act, 2011 was passed into law.

The law establishes a selection panel to oversee the filling up of vacant positions at the Commission as well as future appointments to the electoral agency. Additionally, the new law also sets the criteria for the selection of IEBC Commissioners and outlines the qualifications of members of the selection panel. This bill's passing can be counted as a gain towards the electoral reforms agenda currently taking place towards the preparations for the 2022 General Elections.

## BUILDING BRIDGES INITIATIVE (BBI) REPORT LAUNCH

On 26th October 2020, President Uhuru Kenyatta, Deputy President William Ruto, the former Prime Minister Raila Odinga and other officials convened at the Bomas of Kenya to launch the Building Bridges Initiative (BBI) report that outlines the following among others:

**BBI 01** Full gender parity in the Senate which has implications on the two-third gender rule which Chief Justice David Maraga had recommended for the dissolution of Parliament for its failure to enact it, which caused shock-waves in various quarters;

**BBI 02** Governor and the deputy to be of the opposite gender;

**BBI 03** Political Parties to access funds based on their inclusivity with regards to women and youth;

**BBI 04** A transformation of the presidential political system to do away with the "winner takes all" model; and

**BBI 05** Changes to the composition of the Independent Electoral and Boundaries Commission (IEBC)

In reaction to the same, various state and non-state actors have engaged in talks regarding the report. Leaders have come forth to raise concerns about the proposals made therein strongly. Most notably was the BBI retreat held in Naivasha with the aim of taking Members of Parliament through the document. It is hoped that the engagements would lead to a better understanding of the report and enhance the state and non-state electoral actors' responsiveness to the critical and emerging issues including the anticipated referendum.

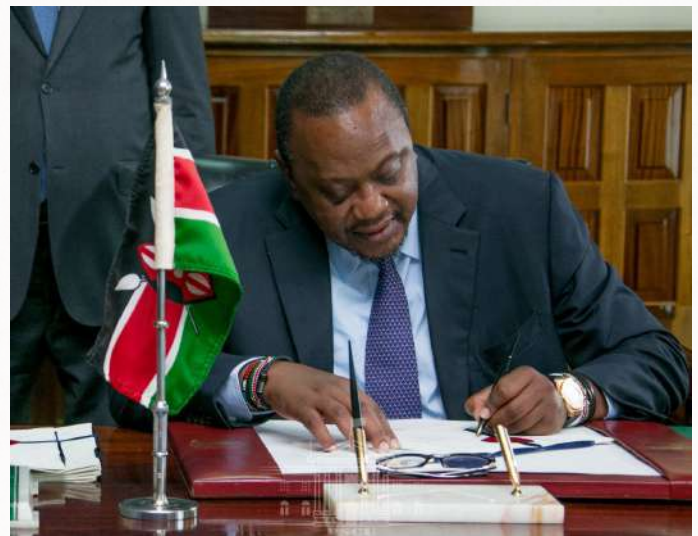
## TANZANIA ELECTIONS

On 28th October 2020, Tanzania held its General Elections, whereby the incumbent president John Magufuli officially won his second term in office with a landslide victory of more than 84% of the vote. His opponent, Tundu Lissu, earned 13% of the voter according to the official count. However, opposition leaders and the US embassy in Tanzania raised concerns about the elections' credibility. This was due to the



## SUSPENSION OF POLITICAL CAMPAIGNS

Recently, President Uhuru Kenyatta gave a directive for all political gatherings and rallies to be suspended for 60 days as new measures to combat the spread of the COVID-19 pandemic were enforced. He further directed that persons wishing to hold political meetings could host them in town halls while observing the mandatory COVID-19 protocols and limiting the attendance to one-third of the seating capacity in the halls. The ban came at a time when politicians were gearing up for the Building Bridges Initiatives (BBI) rallies meant to popularise the report’s recommendations ahead of the anticipated national referendum.



overwhelming margins of victory, which raised serious doubts regarding the credibility of the results as well as concerns about Tanzania’s government commitment to democratic values. The incumbent has been the president of Tanzania since 2015 and the ruling party Chama Cha Mapinduzi (CCM) has been in power since Tanzania’s independence in 1961.

## ELOG ACTIVITIES

### REGIONAL MEETINGS



*ELOG held regional meetings in Mombasa, Nairobi, Nakuru and Kisumu with citizen agencies to disseminate the comparative study of electoral systems and governance report as well as a summary of reform proposals by key duty bearers. The meeting further discussed minimal critical electoral reform issues and developed a joint memoranda on the same.*

# Musings



**Democracy is based upon the conviction that there are extraordinary possibilities in ordinary people.**

*~ Harry Emmerson Fosdick*



# Compliments and Regards



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