

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

FOR IMMEDIATE PRESS RELEASE

Sunday, 12th June 2022, Nairobi

With 58 days left until the August polls and with official campaigns having started in earnest, political activities across the country have gathered serious momentum as candidates hit the road to campaign and sell their manifestos. We, members of the CSO organizations under the banner of *Uchaguzi Platform*, have been reflecting on the state of electoral preparedness and therefore wish to address the following emerging issues and concerns:

1. CLEARANCE OF CANDIDATES BY THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION(IEBC)

On May 23, in a meeting with representatives of presidential candidates to discuss what they needed to submit for the Commission to clear them for the upcoming August election, the Chair intimated that anyone who had been impeached could not be cleared to seek elective office. The Commission, while maintaining this position, has failed to consider and bar candidates who do not meet the integrity standards as espoused under Chapter 6 of the Constitution as released by Ethics and Anti-Corruption Commission (EACC). The EACC discharged its mandate as the custodian of Chapter 6 and as such it was expected that IEBC would follow suit and reject the names forwarded by EACC. We remain optimistic that the courts will provide direction on implementation of chapter 6.

In this year's election, Kenya is set for the lowest number of presidential candidates since the advent of multiparty democracy in 1992 after the IEBC rejected more than 50 applicants from the race. Out of the 18 aspirants shortlisted from the 54 who had expressed interest only four were cleared. A number of those not cleared have expressed dissatisfaction and some have indeed sought the court's intervention and we urge for speedy conclusion of the disputes.

2. ELECTION CAMPAIGNS

Noting that the campaigns is a critical phase of the electoral process which accords those vying for various elective positions the opportunity to interact with voters and sell their manifestos, we wish to state the following:

- **Public Servants in Campaigns** -Article 38 of the Constitution of Kenya 2010 provides that every citizen is free to make political choices, which includes the right: (a) to form, or participate in forming, a political party; (b) to participate in the activities of, or recruit members for, a political party; or (c) to campaign for a political party or cause. While these rights are applicable to all Kenyans including public servants, the increasing participation of public servants including Cabinet Secretaries is a threat to the values of public service and the fundamental professional practices of public service. Public servants engaging in political activities are increasingly yielding to the political views who represent the opinions of a certain section of political class at the expense of others who do not subscribe to their ideals. This will certainly hamper effective and objective public service and delivery. Public service and interest therefore require public servants to consider the interests of all members of the community and serve them with utmost fairness and fidelity.
- **Misuse of State/Public Resources** – We are concerned with increased cases of public officers using public resources in furthering 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. The Public Officer Ethics Act prescribes a code of conduct that regulates public officers in their conduct while in public office. Section 15 (1) states that a public officer shall take all reasonable steps to ensure that property that is entrusted to his/her care is adequately protected and not misused or misappropriated. This applies to the diversion of public resources to further the political campaign of an individual. Under Section 16 (1), a public officer while going about his duties as a public officer is prohibited from acting as an agent for a political party, from advancing the interests of a political party, or from indicating support for or opposition to any political party or candidate in an election. We call upon public servants to refrain from this behavior and implore on relevant government bodies to hold these public servants to account and deter these actions of impunity.
- **Zoning of the country**- We wish to condemn continued zoning of the country by candidates and political parties. We wish to remind the political class that every citizen including candidates have the freedom of movement to and from any part of the country. Zoning the country is a threat to our national cohesion and an affront to our values. We also call upon relevant agencies to take necessary legal steps and address this concern.

Further, we call upon candidates, political parties as well citizens to exercise political sobriety as they carry out their campaigns.

3. MIS AND DISINFORMATION

In the run-up to Kenya's August 9th election, millions of Kenyans are learning about and discussing the election online. Social media platforms in the country are increasingly teeming with political dis and misinformation including propagating hate speech. The effect of un-regulated digital space is a threat to democracy and has the potential to harm not only the right to information but information that is truthful, accurate and effective thus potentially disenfranchising citizens and the users of such platforms.

While we recognize the efforts of IEBC in debunking fake news, we encourage the Commission to enhance its capacity to track, counter and hold the culprits of disinformation accountable. We also call for collaboration by media, technology companies, government agencies, CSOs and voters to engage in tracking, reporting and countering disinformation.

We call upon the citizens and users of the digital spaces to be mindful and exercise restraint when engaging with these platforms. Further, we call upon stakeholders continue tracking the spread of these vices and debunking of the same.

4. INTEGRITY OF THE VOTERS REGISTER

Audit of the voters' register is of prime interest to electoral stakeholders. We are aware that the IEBC engaged KPMG to carry out an audit of the voters register for the purposes of the 2022 general election. While we commend the Commission for instituting this audit, we are concerned by the lack of adequate involvement of electoral stakeholders in this process and in particular, the Commission ought to have made the development of the terms of reference for the audit firm consultative and method of auditing the register public. Further, it failed to make public the preliminary report by the audit firm. Our attention has also been drawn to the Commissions own admission of 'invalidly transferred' voters. The promised investigations into these should be quickly expedited and action taken on those culpable.

A clean, accurate and complete voters' register is an integral component of a credible, peaceful, free and fair electoral process and we therefore urge the Commission to move with speed to address these allegations, make public the report of investigations into the claims of these illegal transfers and culprits brought to book. Further, we demand that the IEBC addresses all the concerns arising from the stakeholders before certifying and publishing the 2022 voters register.

5. INTEGRITY OF ELECTORAL TECHNOLOGY

Integration of technology is essential in achieving credible electoral outcomes and as a country, we have made considerable strides in this. However, despite heavy investments and public expectations raised through use of technology in our electoral process, myriad of challenges have been observed with less than two months to the polls and noting the 2017 Supreme Court of Kenya's directions on electronic transmission of results, we are concerned that a number of issues are still pending. For example, did the Commission undertake any audit of the existing kits before purchase of any new ones? If it did, was the report made public?

During the recent testing and simulation of the electronic transmission of results by the Commission, the system was slow in streaming results from the sampled polling stations recording a success of 45%. This raises serious concerns given that we are only 58 days to the polls and that a simulation exercise performed dismally as it did. We call upon the IEBC to move with speed and address any gaps and foreseen risks relating to transmission of results which also includes the development and sharing of protocols that will govern the process as well as institutionalizing internal controls in the system.

The Commission announced that close to 1,111 polling stations are out of 3G and 4G coverage and will employ the use of satellite modems to transmit presidential results from these stations. In the spirit of accountability, we call upon the Communications Authority of Kenya to come out and confirm these numbers and explain to the public why this is the case. Similarly, we urge that the Commission makes public the names of these polling stations as well as explain how it will identify which tablet a form 34A will be coming from these polling stations from given the lack of coverage.

6. SECURITY PREPAREDNESS

The National Cohesion and Integration Commission published a report on areas in the country that are likely to witness electoral violence during, before and after the elections. The report must be read through the lenses of the country's security preparedness levels at both preventive and reactive fronts. Such an undertaking raises deep concerns on whether our security organs are indeed fully prepared to respond to and prevent any possible incidents of violence and if at all they are indeed ready, the leadership has not effectively communicated the same to the country.

The insecurity issues in parts of the Rift Valley are indicative of a security apparatus that has not attracted public confidence in its competence. For instance, the insecurity issues in Elgeyo Marakwet and Laikipia alone have seen the loss of close to 100 lives including security personnel within the past year. We therefore call upon the Inspector General of Police to issue a public communique on security preparedness.

CONCLUSION

The realization of credible, peaceful, free and fair election requires the concerted and synergized efforts of all actors in the electoral processes with each actor discharging its mandate as required. With less than two months to these elections, we call upon citizens, political parties, law enforcement agencies, electoral institutions and other relevant actors to work together in ensuring that every vote counts in this election.

Signed by

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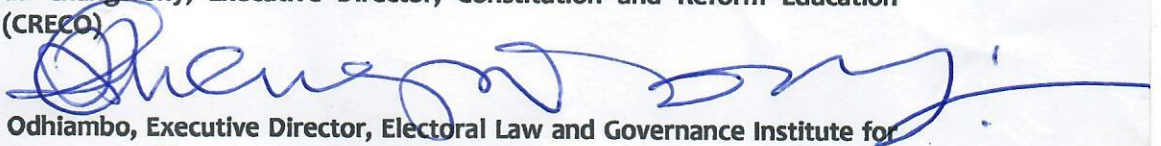
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