



PRESENTATION DURING NATIONAL CONFERENCE ON THE STATE OF ELECTORAL PREPAREDNESS FOR THE 2022 GENERAL ELECTIONS IN KENYA- FORUM ORGANISED BY ELOG FROM 16TH -17TH DECEMBER,2021, BOMAS OF KENYA

I INTRODUCTION

1. I most sincerely thank the ELOG for the invitation to share status of preparation for the August 9th, 2022 General elections during this dialogue conference. I equally thank all of you for participating in the conference whose significance cannot be gainsaid.

ELOG has stood out as a trailblazer in maintaining national dialogue on matters election throughout electoral cycle.

The Commission is established under Article 88 of the Constitution of Kenya and mandated to supervise referenda and elections to any elective body or office, and any other elections as prescribed by an Act of Parliament. Secondly, the Commission is responsible for delimitation constituency and ward boundaries.

2. The mandate of the Commission includes Continuous registration of citizens as voters, Regular revision of the voters' roll; Delimitation of constituencies and wards; Regulation of the process by which parties nominate candidates for elections; Settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the

declaration of election results; Registration of candidates for election; Voter education; Facilitation of the observation, monitoring and evaluation of elections; Regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election; Development of a code of conduct for candidates and parties contesting elections; and Monitoring of compliance with the legislation required by Article 82(1)(b) relating to nomination of candidates by parties.

II. ELECTION PREPAREDNESS

3. The Commission's long and tested experience in election management during both General Elections and By-elections has created a large body of technical knowledge and practical competence that informs its preparations for the General Election. IEBC has tapped into this experience and is on course in preparation for an elaborate and comprehensive preparation for the forthcoming election. We are building on the operational and jurisprudential lessons of the past, based on our realization that free and fair elections can only be delivered by an institution that possesses sufficient operational capabilities that are functional under the four corners of the law. Election preparedness can be demonstrated through the following milestones:

Post-Election Evaluation

4. Preparations for the 2022 General started at the conclusion of the 2017 Post Election Evaluation exercise that was marked with the launch of its report in February 2019. Conducting a Post-Election Evaluation (PEE) is an integral component of an electoral cycle and a best practice for election management. The findings of the evaluation provided important insights into the conduct of the 2017 General and Fresh Presidential Elections, and particular, what worked, what did not work and areas of improvement.

5. The evaluation was conducted in a participatory manner and involved Key electoral stakeholders at every stage of the electoral cycle. The lessons learnt have been incorporated in the Commission's, Strategic Plan 2020-2024, The Elections Operations Plan and the general preparations for the 2022 General Elections.

Development and Review of Policy and Standard Operating Procedure Manuals.

6. The Commission, drawing from the findings and recommendations of the PEE Report on its systems and operations, has developed or reviewed various Policy and Standard Operations Procedure (SOP) Manuals to streamline processes. Specifically, the Commission has reviewed:

- Supply Chain Policies and Procedures Manual
- Human Resource and Administration Manual (Policies and Procedures)
- Finance and Accounts Policies and procedures Manual
- Internal Audit Policies and Procedures Manual
- Internal Audit Charter
- Audit and Risk Committee Charter
- Risk Management Framework
- Risk Management Policy
- Compliance Management Framework
- Gender and Social Inclusion Policy

Development of Strategic Plan 2020-2024

7. The Commission has developed Strategic Plan 2020-2024 within the context of its constitutional mandate and the Kenya Vision 2030. This Strategic Plan that was

officially launched on 15th June 2021, provides a roadmap for the Commission to fulfil its mandate within the set five years and specifically, the 2022 General Election.

8. Noting that Kenya's electoral process is grounded on participation, the Commission has closely aligned its priorities to credibility, inclusivity and voter experience. This is based on feedback from both internal and external stakeholders during the Post-Election Evaluation exercise.

Election Operation Plan

9. The Elections Operations Plan (EOP) is a major operationalization document for the Commission's Strategic Plan 2020-2024. The EOP is a key navigation instrument to steer the planning and execution of key electoral activities in planning for the 2022 General Election. It provides implementation schedules, activities and timelines.
10. The Commission has continued to sensitize stakeholders and the public at large on election timelines contained in the EOP through press releases and stakeholder consultative forums. Where need be, the Commission shall vary the timelines in consultation with stakeholders but in strict compliance with the set electoral legal timelines. *To access the EOP visit www.iebc.or.ke*

Legal Reforms

11. The Commission plays a lead role in legal reforms in appreciation of the fact that the electoral legal framework should facilitate a free, fair, transparent and credible election. The Commission, in conjunction with stakeholders, has therefore reviewed the electoral laws and proposed amendments that have been discussed with the Justice, Legal Affairs Committee (JLAC) of the National Assembly. On 6th and 7th of December 2021, the Commission held a workshop with JLAC to finalize on the proposed amendments which are now expected to be submitted to Parliament.

12. The Commission also shared the same proposal with members Political Parties Liaison Committee in workshop held from 12th to 14th December, 2021.

13. Additionally, the Commission finalized and forwarded to the Parliament a report titled, “Report on Electoral Law Reform in Kenya: The IEBC Experience”. The Report details a comparative analysis of electoral systems similar to Kenya and gives an understanding of the basic threshold that electoral systems must meet. The report further details areas for review of our electoral legal framework and recommends laws that should be amended or enacted to regulate conduct of Elections.

Regulation of the Process by which Parties Nominate their Candidates

14. Pursuant to Article 88(4)(d) of the Constitution of Kenya, 2010 and Section 27 of the Elections Act, the Commission set 18th October 2021 as the deadline for submission of nomination rules. By the said date, eighty-nine (89) Political Parties had submitted their Party nomination rules, which the Commission reviewed and informed political parties to revise the said party nomination rules for purposes of compliance. The Commission has conducted a further review and shall give a report in due course.

Conduct of By-Elections

15. The Commission has successfully conducted by-elections whenever vacancies occur to ensure the all electoral areas have representation. During the post 2017 General Election period, We have conducted 43 by-elections (27 for MCAs, 13 for National Assembly and 3 for Senate). The said by-elections were occasioned by death, resignation or election petitions. In addition today 16th Dec, 2021 the Commission is conducting two more by-elections for Mahoo ward in Voi constituency, Taita Taveta County and Kiagu ward in Meru Central constituency Meru County.

Dispute Resolution Mechanisms

16. As provided for under Article 88(4)(2), of the Constitution of Kenya 2010, the Commission prioritizes effective dispute resolution through the Commission's Dispute Resolution Committee (DRC) and the Code of Conduct Enforcement Committee. In 2017 the Commission enhanced penalties for person found to have breached the Code of Conduct during the campaign period and we shall not relent in enforcing the code during the 2022 General Election. Specially those found culpable of harassing and intimidating female candidates will face severe penalties including disqualification.
17. The Commission also collaborates with other electoral dispute resolution actors such as the Political Parties' Dispute Resolution Tribunal (PPDT) and the Courts of Law.

Stakeholder Engagement

18. The Commission collaborates with various stakeholders in the delivery of its mandate. These stakeholders have varying interest and areas of focus around the electoral cycle. The Commission engages key partners and stakeholders including but not limited to Government Ministries, Departments and Agencies (MDAs), Public Benefit Organizations, Electoral Technical Assistance Providers (ETAPs), Development Partners, Election Observers, Political Parties and the Media among others. Some of the ongoing stakeholder engagements include:

a. **Election Security Arrangement Program(ESAP)-**

This is a multi-sectoral arrangement that has been in place since 2013 and whose membership is largely drawn from players in Security and Administration of justice to address issues of Election Security. These include: Judiciary, National Police Service (NPS), Office of the Director of Public Prosecutions (ODPP), Office of the Registrar of Political Parties (ORPP),

Independent Policing Oversight Authority (IPOA), National Cohesion and Integration Commission (NCIC), National Steering Committee on Peace building and Conflict Management (NSC)

ESAP intends to build capacity of poll and security officials to conduct of elections in a secure environment. Furthermore, it is geared towards the efficient and proper enforcement of Elections Offences Act. A high level meeting was held between the Commission and the Inspector General on 22nd October 2021 to discuss the implementation of ESAP. During the meeting the Commission's Vice Chairperson Juliana Cherera and the Deputy Inspector General, Kenya Police Service Mr. Edward Mbugua were tasked to oversee the roll out of ESAP. Currently, a technical committee spearheaded jointly by the Commission and the police service is reviewing and developing Election Security Manuals in readiness for cascaded training of both poll and security officials.

b. Judicial Committee on Elections(JCE)-

This collaboration provides for preparation of resolution of electoral disputes including dialogue on legislative framework review on Electoral Dispute Resolution (EDR) and training of Judges, Magistrates and other Judicial officers on the electoral process.

c. Political Parties Liaison Committee(PPLC)-

This is platform for dialogue between the Commission, the ORPP and all registered political parties on all issues and activities affecting political parties on the electoral process. The Commission is in constant engagement to advise parties on issues of compliance, election timelines and stakeholder feedback.

d. Office of the Registrar of Political Parties (ORPP)-

The Commission and ORPP have established a joint Technical advisory committee to address emerging concerns, in relation to political parties, that have an impact on the operation of IEBC and ORPP for purposes of the election.

e. Directorate of Criminal Investigations (DCI)-

The DCI has seconded investigators to the Commission under a program that seeks to enhance investigation and prosecution of breaches of security and election malpractices during election period.

f. Office of the Director for Public Prosecution-

the Commission has a draft MOU to establish a collaborative framework that seeks to efficiently enforce the Election Offences Act. The basis of the collaboration is to find synergy between the Commission staff and the ODPP in managing cases including election materials as Exhibits during hearing of election related cases.

g. The Commission for University Education (CUE) and the Kenya National Qualifications Authority (KNQA):

The collaboration aims at ensuring that the academic certificates presented by candidates are authenticated to weed out cases fake certificates. The Commission is in receipt of a Report of the Joint Technical Sub-Committee of CUE and KNQA guidelines for Recognizing and Equating Qualifications for Political Aspirants during the 2022 General Elections. This will be followed by signing of a tri-partite MOU by the Commission, CUE and KNQA for the implementation of the framework.

h. Media

The Commission met the Kenya Media Sector Working Group on 22nd June 2021 to deliberate on ways of enhancing electoral reporting during the electioneering period.

This was followed by a media convention in October 2021 and Media workshop to appraise the media practitioners on the electoral process. During the media workshop a Joint Media Taskforce of the Commission and Media Sector Working Group was established to maintain collaboration efforts.

i. Communications Authority of Kenya (CA)

The Commission is required to electronically transmit, in the prescribed form, the tabulated results of an election for the Presidential Election from a polling station to the Constituency and National Tallying Centre. During the 2017 General Elections, 11,155 polling stations out of 40,883 did not have the minimum standard 3G network coverage necessary for transmission of the image of results forms.

To remedy this situation Commission held a meeting with the CA on 22nd February 2021 with the aim of addressing 3G network coverage in polling stations. The meeting, among others, established a Joint Technical Committee to map out polling stations that will not be covered 3G network during elections for purposes of planning and informing the public

19. The Commission has also held stakeholder forums with;

- Various organizations representing Women Youth, People with Disabilities and minority groups to discuss inclusivity of the marginalized in the electoral process.

- Inter-Religious Council of Kenya to discuss election preparedness.

20. To enhance inclusivity, the Commission has organized and held targeted special outreaches and engagements for special interest groups such as youth, women, persons with disabilities, minorities and marginalized. The Commission applies modern communication and PR techniques in informing and engaging its stakeholders.

21. The Commission will continue to disseminate its publications, timelines, plans and procedures through various mechanism including but not limited to meetings with relevant stakeholders, use of the Commission website, public notice boards, mainstream and social media and dedicated portal for Presidential elections result.

Accreditation of Observers

22. The Commission has institutionalized scrutiny of its processes, procedures and its conduct through various mechanism that are anchored in law. Facilitation of observation and monitoring of elections is a core mandate that has been entrenched in Kenya's elections. Both domestic and international observers are being accredited to undertake either short-term or long-term observation of electoral processes. The media, political parties and candidate agents are important observers who are closely involved in all the electoral processes. Agents play a central role in polling, counting and verification of results at the polling stations and the tallying centres. The Commission has developed an online application system that various observer mission will use to apply for accreditation. The call for application will be out in January 2022.

Continuous Voter Registration and the Register of Voters

23. The Register of Voters is the foundation of any free, fair, transparent and credible elections. It is the basis upon which the political rights to vote and stand for any elective office is realized.
24. The Commission marked the start of the 2022 General Election electoral cycle with the launch of Continuous Voter Registration (CVR) at an event that was held in Makueni County on 15th October 2018. From the date of the launch to 31st August 2021 the Commission had registered a total of 180,938 new voters. The Commission later rolled out an Enhanced Continuous Voter Registration (ECVR) exercise in all the 1,450 Wards on 4th October 2021 at a launch held in Nakuru County. By the close of the exercise on 5th November, 2021, a total 1,519,294 eligible Kenyans had been enrolled as voters. The Commission is currently planning for a second and last round of ECVR in January 2022. The actual date will be communicated to the general public in due course.
25. As provided for under Section 6 of the Elections Act, 2011, the voters will be afforded an opportunity to inspect and verify their registration details in the Register of Voters at least sixty (60) days before the 2022 General Election. This promotes transparency and accountability in the electoral process.
26. The right to register as voter is progressively being realized for Kenyans living outside Kenya (the diaspora) and prisoners. In 2017 the Commission registered eligible Kenyans living in the Diaspora as voters in South Africa, Uganda, Tanzania, Rwanda and Burundi. For the 2022 General Elections, the Commission plans to include six more countries the Diaspora voter registration exercise namely; the United Kingdom, Canada, the United States, South Sudan, Qatar, the United Arab Emirates and Germany.

27. Use of biometrics in voter registration has enabled generation of both hardcopy and electronic Register of Voters which not only facilitates timely inspection and verification of registration details by voters but also periodic audit of the register by independent auditors before any general election. The electoral technology in place facilitates not only easy removal of dead voters but also ensures integrity of the electoral process as no dead voter is “able to vote.”

Procurement of Strategic Election Materials

28. The Commission, with the provision of General Election budget in the current financial year 2021-2022, has commenced the procurement of general election materials, equipment and services. The major ones being ballot papers, election technology, ballot boxes, security seals, logistics partner, media agencies among others. We have so far concluded about 90% of procurement processes for General Election materials.

29. The procurement exercise is therefore on course and is expected to be concluded in goodtime for the General Election.

Data Centre and Cloud Hosting

30. The Commission has acquired and established two data centres (primary and secondary), and is in the process of identifying a data centre cloud infrastructure in Kenya to provide business continuity and contingency mechanisms.

Early Campaigns

31. Section 2 of the Elections Act defines Campaign period as the period specified as such in the notice issued by the Commission in relation to an election; Therefore, Official Campaign Period for purposes of the 2022 general Election is yet to be published. Additionally, It is to be appreciated that campaigns only commence once one has been registered as candidate by the IEBC to contest for elections.

32. By dint of the definition above, read together with Section 14 of the Elections Act which provides for the initiation of a General Election, it follows that any ongoing campaign drive including the erection of campaign posters is tantamount to a breach of the Elections Act and as such an Electoral Offence punishable under the Election Offences Act, 2016. It is important to note that enforcement of Election Offences Act is under ODPP and not IEBC.

Participation in Harambees

33. Section 26 of the Elections Act provides-

(1) A person who directly or indirectly participates in any manner in any or public fundraising or harambee within eight months preceding a general election or during an election period, in any other case, shall be disqualified from contesting in the election held during that election year or election period.

(2) Subsection (1) shall not apply to a fundraising for a person who is contesting an election under this Act or to a fundraising for a political party.

34. Pursuant thereof, aspirants cannot participate in fundraising either by themselves or proxies within eight months to the election being on **9th December 2021**. The prohibition includes participation either by attendance or contributions. The import being to curb aspirants from influencing voters by donating funds/monies for support. By exception, however, as provided under Sub-section (2), aspirants or participating political parties are allowed to hold harambees/fundraising to raise money for their campaigns. This has no cut-off-date within the meaning of sub-section (2) but is a time-frame that is then regulated under the Election Campaign Financing Act, 2013 that provides for the total amount one can fund-raise and period of fundraising (which timelines are now subject of the Election Campaign Financing (Amendment) Bill 2021).

I. CONCLUSION

35. The Commission is committed to execute its primary role in planning and putting in place measures and mechanism to ensure simple, accurate, verifiable, secure, accountable, impartial, efficient, credible and transparent elections.
36. The Commission is alive to the significant role played by stakeholders in the electoral process and assures you that it shall continue to engage all relevant stakeholders within the confines of the law and in particular Article 88 of the Constitution of Kenya 2010. The Commission assures Kenyans that it shall continue to engage all stakeholders in the execution of its constitutional mandate.
37. The Commission appeals to stakeholders to extend their support to enable it undertake a successful General Election on 9th August 2022.

Thank you.

God bless you and God bless Kenya.

BOYA MOLU

COMMISSIONER -IEBC