



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

THE COMMISSION'S UPDATE ON ACTIVITIES AND ELECTORAL REFORM AGENDA

It is about one year since the **8th August, 2017** General Elections (GE) and the **26th October, 2017** Fresh Presidential Elections (FPE) both of which were monumental tasks undertaken by the Commission. We have since initiated a review of the conduct of these elections as part of the Post-Election Evaluation (PEE), as we pursue other measures to reform and transform the Commission to realize its obligation to the Kenyan people. The Commission's resolve and resilience to deliver on its constitutional mandate, is not about to diminish. The number of successfully accomplished activities and other programs subsequent to the GE and FPE serve as an example. Additionally, various measures continue to be proposed and adopted in realization of the Commission's mandate.

A. CLARIFICATION ON COMMISSION'S QUORUM AND COMPOSITION

The High Court judgment delivered on Friday **10th August, 2018** in **Pet No 212 of 2018 Isaiah Biwott Kangwony Vs IEBC & Another**, affirmed that the Commission is properly composed and constituted for purposes of delivering and discharging on its mandate, including conduct of by-elections scheduled for **17th August, 2018** and **8th October, 2018** - notwithstanding vacancies arising from the resignations of four commissioners. We urge the relevant government authorities to act on the Court's finding that the vacancies ought to have been addressed through immediate recruitment of new Commissioners. We also note the Court's finding that quorum is a matter of construction depending on the total number of Commissioners at any given time.

It is our hope that this considered judgment settles the concerns on the composition and constitution of the Commission vis-à-vis our ability to legally deliver on our mandate.

B. POST-ELECTION ACTIVITIES

i. Post-Election Evaluation (PEE)

Post-Election Evaluation is part of the electoral cycle and is in line with the best electoral management practices. Such evaluation is useful in identifying strengths and weaknesses, as well as successes and failures not only in the organization of the elections, but also in the Commission's administrative operations and our linkages with stakeholders. The results of the evaluation will inform operational and legal electoral reforms and plans for future elections starting the 2022 General Elections. It will also inform the formulation of the Commission's next 5-year Strategic Plan that covers 2018-2022 electoral cycle. The internal PEE activities are being finalized and the Commission is at the stage of engaging external stakeholders. The Commission has held the following activities towards realizing the objective of the 2017 General Elections Post Election Evaluation Exercise.

- County Forums (six clusters).
- Focus Group Discussion (FGDs). This involved poll officials in 15 counties and 30 constituencies.
- Key Informant Interviews with County Governments, Religious Organizations, Candidates and the general public.
- Received PEE reports from the IEBC Directorates and the 47 IEBC County offices.

The Commission is scheduled to hold a National Stakeholders Forum from the 28th to 30th August, 2018. About 300 stakeholders will be drawn from the

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| I. Political Parties and Independents' lobby groups | VI. Media |
| II. Parliamentary Committees | VII. Security Agencies |
| III. Government Agencies | VIII. Election Observer Groups |
| IV. International Partners | IX. County Governors' offices |
| V. Civil Society Organizations | |

following institutions that participated or engaged with the Commission in different phases of the electoral cycle, including:

ii. By-Elections

The Commission has successfully conducted 3 by-elections since the 2017 GE and FPE. Preparations are underway for other by-elections for 1 Member of National Assembly (MNA) seat, 3 County Assembly Ward (CAW) seats and 1 Senatorial seat.

BY-ELECTIONS	COUNTY	SEAT	DATE	STATUS
1 Migori County	Migori	Senator	October 8, 2018	Upcoming
2 Central Sakwa Ward	Siaya	CAW	October 8, 2018	Upcoming
3 North Kadem	Migori	CAW	August 17, 2018	Upcoming
4 Bobasi Chache Ward	Kisii	CAW	August 17, 2018	Upcoming
5 Baringo South Const.	Baringo	MNA	August 17, 2018	Upcoming
6 Ruguru Ward	Nyeri	CAW	April 18, 2018	Conducted
7 Kinondo Ward	Kwale	CAW	April 18, 2018	Conducted
8 Kitui West Const.	Kitui	MNA	March 26, 2018	Conducted

Table 1.0 Schedule of By-Elections post GE and FPE

iii. Continuous Voter Registration (CVR)

The Commission is finalizing plans to register those who have not registered as voters, from **10th September, 2018**. The training of staff has been accomplished. The exercise, which will be conducted only at the Commission's Constituency offices, will also give an opportunity to those who are already registered to update their particulars. The CVR is a constitutional and statutory requirement and we target to increase the 19.6m registered voters by 3% by June, 2019.

iv. Boundary Delimitation

The Commission is undertaking the preliminary processes for the Second Review of Boundary Delimitation. The Law states that Boundary Delimitation must be undertaken in a cycle of between 8-12 years. The last boundary delimitation exercise was undertaken in 2012 and as such the next such exercise must, by law, be accomplished between 2020 and 2024. The process will commence in earnest once the Census due in August, 2019 is finalized.

We note that the Commission's mandate on boundary delimitation is restricted to electoral boundaries i.e. Wards and Constituencies. We also note the concern on administrative boundaries i.e. County boundaries and we are engaged alongside other Government and State organs to design the system within which the trans-county boundary disputes will be addressed and resolved.

The Commission has made efforts to embed Enterprise Risk Management (ERM) practices in all its operations to identify and mitigate the possible risks

- Undertaken a risk management analysis of the Commission
- Trained risk champions
- Developed a risk management framework
- Developed a risk register
- Developed a compliance policy

in the discharge of our mandate. We have since accomplished the following:

v. Engagements with County Governments

The Chairman and Commissioners continue to hold consultative meetings with county governments with the aim of sensitizing them on the Commission's devolved units. The Commission has adopted a devolved structure with the establishment of 47 county election management offices – from the previous 17 regional offices.

The devolution of the Commission's operations is meant to enhance the efficacy in the Commission's operations and specifically enhance its reach on service delivery. The Commission is working on an initiative for partnership with the county governments through the Council of Governors on civic education. This initiative will focus on inculcating good governance, democracy and election management.

vi. Voter Education

The Commission has been engaged in sensitizing citizens and stakeholders on the Post-election evaluation exercise, democracy education, good governance and citizen participation in the electoral process at the county and county-cluster levels across the country. This is aimed at demystifying the activities of the Commission and electoral management generally.

The Commission now plans to sensitize the citizens and stakeholders on the Continuous Voter Registration, Legal Reforms and Boundary Delimitation exercise and we will be issuing appropriate and timely communication to maximize public participation. In an effort to inculcate a culture of democracy in our children, the Commission is finalizing the Voter education Curriculum for Schools in collaboration with the Kenya Institute of Curriculum Development (KICD) and the Ministry of Education (MOE). Additionally the Commission has been successfully facilitating the conduct of elections in schools, colleges and other professional associations including the Law Society of Kenya (LSK), the Judges and Magistrates Association *inter alia*

vii. Funding to the Commission

The Commission has been endeavoring to deliver on its mandate despite working under very limited budgetary allocations. However, we are working with the National Treasury and relevant Committees of Parliament with the view of enhancing the said budgetary allocation to enable the Commission deliver on its mandate. We are also engaging the National Treasury on timeous release of exchequer grants upon request by the Commission.

C. THE COMMISSION'S REFORM AGENDA

The Commission appreciates the drive and national conversation centering on real reforms that will entrench integrity and accountability with the public service. This we acknowledge is necessary to create an enabling environment that will accelerate meaningful development for the Country.

The Commission, in conducting the programs identified above and more particularly having prepared and conducted the FPE and GE, has identified certain priority activities to facilitate the growth and stability of the Commission. These include:

i. Institutional Restructuring

The current Commission's organizational structure has duplicity of functions, overlapping roles and a culture of silo mentality between various functional units. These create coordination and accountability challenges. The current structure further lacks clarity on the terms of service for staff and their career progression paths. There is need to restructure to enhance efficiency and coordinate delivery of the Commission's mandate.

The Commission has approved a report on the restructuring and plans are underway to recruit a reputable and professional human resource firm to guide the process.

ii. Relocation of the IEBC HQ

The Commission spends about KES. 100 million a year on rent for the headquarter offices in Nairobi. This sum excludes costs incurred in hiring venues for meetings, conducting trainings etc. The proposed acquisition of the Commission's own premises would not only cut the high recurrent costs of office space rent, but also the costs for hiring of venue for various Commission activities including meetings with stakeholders, nomination of candidates, trainings for staff and stakeholders, storage/warehousing for strategic and non-strategic materials. This would significantly save the Kenyan tax payers resources.

The relocation out of the CBD would further see minimal disruptions to other activities in the CBD in the event of any picketing and demonstrations.

iii. Procurement Processes

The current cost of elections in Kenya is very high. This high cost could be partially attributable to pilferage and wastage of public resources and also opacity in the procurement of various goods and services at the Commission. The Commission is reviewing its internal processes in tandem with the Public Procurement and Assets Disposals Act, 2015, with the view of making our processes more open and transparent. This reform will not only encourage stakeholder participation in the process of procuring goods and services but also ultimately lower the overall cost of elections in Kenya.

iv. Public Vetting of all Senior IEBC Staff

In order to enhance the Commission's effectiveness, accountability and restore public confidence, the Commission has identified a need to undertake public vetting of all staff manning critical functions. Stakeholders will be accorded an opportunity to raise any concerns about our staff, within a defined structure. The exercise will meaningfully address any integrity concerns posed taking cognizance of the need to safeguard our employees' lawful rights.

v. Commission Plenary meetings

To ensure accountability and objectivity in the Commissioners' debates at Plenary [board] meetings, we have identified the need to implement a Hansard record, to facilitate recording and transcribing of Plenary proceedings. This will guarantee the integrity of contributions and deliberations, putting an end to the debates and misinformation that have affected the Commission meetings and decision making processes. The Hansard will be available to all interested stakeholders. The introduction of Hansard records will be cascaded to Plenary Committees and Management meetings.

vi. Electoral Legal Reforms

The Commission has formed a task-force to guide the legal reform process. An inception workshop was held from **10th to 13th of July 2018** in Machakos. The legal reform activity is at the preliminary stages and the Commission will be conducting stakeholder engagements, including incorporating views and representations from the PEE, in the legal reform process. The priority areas for legal reform identified by the Commission include:

- Challenges created by late and incessant amendments to electoral laws
- Electoral technology - adoption of blockchain technology/distributed ledgers to enable presidential candidates securely access results real-time, enhancing transparency and alleviating suspicion/perceptions of opacity
- Election campaign financing and review of the existing draft regulations
- Election dispute resolution; timelines and overlapping mandates
- Electoral timelines
- Electoral code of conduct and the existing (integrity) vetting mechanisms
- Boundaries delimitation procedures following the first review
- Enhanced regulation of party primaries & nominations by way of party lists
- Interrogation and operationalization of the IEBC Fund
- Adoption of alternative modes of voting including early voting, electronic voting with regard to the diaspora
- Addressing the legislative gap on the 'place of' independent candidates to afford them a platform for continuous engagement with the Commission
- Review of law to entrench the procedure for assumption of office by a deputy governor in the event of a death of a governor, and the subsequent appointment of a new deputy
- Clarify on the withdrawal of candidates after nominations and/or lapse of period for withdrawal
- Review law on exit polls *inter alia*

Conclusion:

The Commission continuously endeavors to deliver on its constitutional mandate in line with the aspirations of the Kenyan people. We are committed to addressing the shortcomings and making the institution more efficient and accountable. We will not be distracted in the quest to entrench and institutionalize free, fair, credible and transparent elections for our Country. We welcome all Kenyans of goodwill to support the institution on this journey of reform and transformation.

W.W. CHEBUKATI
CHAIRMAN - IEBC
15th August, 2018