



PRESS STATEMENT ON KIBRA CONSTITUENCY BY- ELECTION

1. The Commission is seized of a press release issued by Orange Democratic Movement (ODM) earlier today on the Kibra Register of Voters and is taken aback by the baseless allegations levelled without any substantial basis.
2. On 9th October, 2019 the Commission held a meeting with officials of ODM Party led by its Chairman and Secretary General at the Commission Headquarters who raised a number of concerns with respect to the Kibra Constituency register of voters and it was agreed thereof that the Commission would avail the Kibra Register of Voters as requested.
3. Contrary to the party's allegation, the Commission confirms that the Register of voters was availed to ODM party in respect to the Kibra Constituency by – election as follows:
 - i. *On 9th October, 2019, the ODM party collected the 2017 certified Register of Voters for Kibra Constituency and the list of 333 newly registered voters and 50 inward transfers.*
 - ii. *On 24th October, 2019, the party collected the updated Register of Voters totaling to 118,658.*
 - iii. *On 25th October, 2019, the Commission shared with all political parties the Gazette Notice No. 10055 carried under Vol. CXXI— No. 145 published on 25th October, 2019 certifying that the*

revision of the Register of Voters for Kibra Constituency had been completed.

4. The Register of Voters availed to the ODM party contained the names of the voters, identification numbers (truncated) polling station numbers and voter registration number.

5. The Commission refutes the allegation by ODM that we have availed an incomplete register and wishes to draw the attention of the public to the following provisions of the law that govern access to voter information.

6. The Constitution of Kenya, 2010 provides under Article 35 on the right to access of information while the same right is limited under Article 24 which provides that, limitation of access to information under Article 35 of the Constitution shall take into account all relevant factors including; -

(d) the need to ensure that the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others; and

(e) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.

7. Additionally, Section 27(3) and (4) of the Independent Electoral and Boundaries Act, 2011 provides that subject to Article 35 of the Constitution, the Commission may decline to give information to an applicant where inter alia;

(a) The request is unreasonable in the circumstances;

(b) The information requested is at a deliberative stage by the Commission; and

(d) The applicant fails to satisfy any confidentiality requirements by the Commission.

8. The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.
9. The Commission is further guided by the provisions under the Access to Information Act, 2016 under section 6 (1) (d) which provides that pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution shall be limited in respect of information whose disclosure is likely to:-

(d) Involve the unwarranted invasion of the privacy of an individual, other than the applicant or the person on whose behalf an application has, with proper authority, been made.

10. It is against these principles that the Commission has put in place mechanisms to ensure confidentiality in management of the information provided in the Register of Voters and thus in availing the Register of Voters cannot therefore, avail full Identification numbers and mobile numbers hence the truncation.
11. It is worth noting that further to availing the register of voters the Commission posted the Register of Voters at all polling stations on 30th October, 2019, a practice that has been adapted by the Commission in every election to ensure that no voter is disenfranchised. This practice affords an opportunity for voters who have an issue upon inspection (which is a continuous process) to avail themselves at the Constituency office to be assisted in confirming their details ahead of the election.
12. The total number of registered voters for Kibra Constituency eligible to vote is 118,658 as per the published Gazette Notice which includes 383

new voters added to the certified 2017 Register of Voters (333 registered by CVR, 50 Transfers into the Constituency and 1 deletion).

13. The Commission takes exception to the unfounded and untruthful allegations by ODM party in respect to the unsubstantiated deletion and addition of names to the Kibra Register of Voters.
14. We sternly caution party officials to cease and desist from deliberately misleading voters and the general public. The Commission is committed to provide a level playing field for all candidates and political parties and will not be intimidated as it endeavors to fulfil its constitutional mandate.
15. The Commission reaffirms its impartiality to its mandate to deliver free and fair elections and encourages the voters of Kibra Constituency to come out in large numbers to exercise their right to vote.



W. W. CHEBUKATI
CHAIRMAN

31st October, 2019