



PRESS RELEASE

1 March 2013

Mr. Isaack Hassan
Chairman
Independent Elections and Boundaries Commission
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Nairobi.

OPEN LETTER TO THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ON ISSUES OF CONCERN RELATED TO THE MARCH 4TH GENERAL ELECTION

Dear Sir,

The forthcoming elections will be a key milestone in the implementation of the new constitution, which was voted in by a majority of the Kenyan population. All institutions concerned have a constitutional duty to ensure the transparency and accountability of the electoral process. At the same time, these are the most complex and logistically challenging elections in our history.

We realize that these elections, and indeed any elections, cannot be perfect.

However, clear and timely communication on the challenges that we are likely to face would go a long way towards mitigating public concern. We therefore wish to draw attention to what we perceive to be critical areas of vulnerability as we finalize preparations for the March 4th General Elections. The perceived areas of vulnerability include:

1. Voters' register and party lists:

- a) There appears to be a lack of clarity on the exact status of voters' register at this late stage.
- b) Article 97 (1) (c) Constitution provides that the twelve nominated members of the National Assembly shall represent special interests including the youth, persons

with disabilities and workers. The lists of the political parties do not conform to these regulations.

- c) The party lists were published on February 28, 2013, meaning that voters were ill-informed of who will represent special interests until this late stage. This causes anxiety among special interest groups as to whether the constitution will be enforced with regard to special seats. The lists are also provisional, which means they could still be amended. The rules presented by the IEBC may not have served to allay the fears of special interests about the protection of their constitutional rights.

2. Period for voting:

Due to the complexity of the present elections, voters will be in need of a much greater level of assistance from polling station staff.

- a) The national simulation exercise reportedly showed it could take each voter between 6 and 10 minutes to cast a ballot. The mock elections saw voters taking 10-12 minutes to vote.
- b) This means that voting may well continue long beyond the official opening times. The IEBC must communicate its contingency plans to deal with this eventuality to the public in good time. Leaving it too late to do so risks causing public disquiet as to the motivations behind any last minute changes.

3. Ballot Issues:

- a) There is a range of concerns in connection with the potential for a high rate of spoilage of ballots, particularly given inadequate voter education and information. IEBC staff may be overwhelmed by extended voting periods and the high need for voter assistance.
- b) IEBC should once again clearly communicate the standards by which ballots will be counted to all officials and the public for the avoidance of doubt.

4. Poll Books

- a) The public would appreciate clarification of the number of poll books available. Are there enough poll books to cover all polling stations and streams? If there are shortages, what criteria will govern their distribution? The gross delay in the configuration of poll books is also causing public anxiety. Kenyans need to be informed in time of the implications of this. Whatever solution is found, the IEBC must be clear and proactive in communicating it.
- b) The IEBC says 31,000 voters are missing from BVR because of attempts to register more than once.

- c) Observer groups have been unable to audit the voter's register due to its unavailability. Until 28th February and possibly later, the final register had not been made available to domestic observers for their audit. The IEBC has not clearly communicated the status of gazettelement of the register to the public and observers.
- d) Again, the IEBC must transparently communicate the status of poll books and the register to the public and explain any necessary contingency plans.

5. Issues at Polling Stations

- a) The IEBC's contingency plans in case of logistical, security or other problems at polling stations are unclear. Since these will surely arise, the IEBC must communicate clearly and in a timely manner to the public how it intends to manage contingencies.
- b) It is unclear what plans are in place to secure election materials, if voting continues for prolonged periods, especially after dark.
- c) The IEBC should also communicate what plans are in place to deliver the correct materials to the correct polling centres on time or what contingency plans are in place if that does not occur.

6. Security

- a) While we understand that it is not feasible to communicate the details of existing security plans, it should be possible to inform the public as to the general outlines of whether the IEBC and the security forces have a coordinated plan to provide security for voters, polling stations and election materials. Voter turnout may be negatively impacted upon if voters are not confident that their security is assured, even if polling stations are open for longer periods.

8. Election Observation:

- a) It is unclear how many monitors the IEBC will deploy. This raises doubts as to whether the IEBC will effectively monitor all 33,000 plus polling stations and be able to preserve the credibility of the process at the polling centers.
- b) There are grounds for concern that coverage by observers, both local and international, may not be sufficient, especially when compared to previous elections in 2002 and 2007. We believe that, despite the shortage, there must be a particular focus on observing the process in strongholds of the major parties.

9. Results Transmission

- a) Recent simulation exercises observed by political parties and the media have revealed technological deficiencies with regard to the result transmission system. Given that the simulations were carried out within days of the general election, it

remains unclear whether the technological hitches have been dealt with and whether the technology procured for this exercise will deliver.

- b) Noting that high public confidence in this election rests on public perceptions of the use and reliability of technology, we urge that extra caution to be exercised on this aspect. The commission must be ready to respond rapidly in the event of any technological challenges that may arise in the course of elections. Of particular concern should be the working conditions of the poll books and security of the results transmission system. Recalling that results transmission was a particular challenge in the last elections, the Commission should be able to reassure Kenyans of its contingency plans in the event of a system crash or interception and manipulation of results before they reach the national tallying center.

In conclusion, we reiterate our interest in supporting the Commission in whatever way we can to deliver on your critical mandate. We are well aware that new information may be enough to allay the concerns raised in this letter. We underline that timely and effective communication is an essential part of maintaining public confidence in the electoral process. We look forward to your publicly communicating your answers to the concerns we raise before the election. We believe that clear communication would go a long way towards mitigating public anxiety.

Yours faithfully,

Kenyans for Peace with Truth and Justice (KPTJ)

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cc:

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