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Adili 97

## TEN THINGS TO CONSIDER WHEN VOTING - IN THE 10TH PARLIAMENT



*Elections were invented to make democracy possible; but once invented, they turned out to have other uses - self aggrandizement at the expense of the voter. It is against this glaring truth that ADILI has outlined ten benchmarks that you can encompass in making your decision, on who should be in the 10th Parliament .*

### 1. Integrity:

As the Executive and the Legislature pass and amend countless laws and regulations in parliament, which inevitably affect you the people, look out for candidates who demonstrate and have demonstrated strong personal integrity, whether in their fields as incumbent MPs and public servants or in their previous lines as personal or public workers.

### 2. Stand by their Word:

This general election look for candidates who are able to pinpoint past pledges they have made and stood by. More specifically, look for

those who are willing to sign new pledges and or alternatively resign if they renege on the same. Vote for candidates who you know or at least have faith in them keeping their campaign promises and identify what parameters they have set in place for holding themselves as countable to those promises.

### 3. Respect the Constitution:

The Constitution, being the Supreme law of the land, lays down the rules, responsibilities and regulations for government, political parties, political aspirants and the public in general. We are a nation governed by the rule of law and any politician who doesn't respect

the rule of law is not fit to run for a public office. Make sure when asked to respect the rule of law, so should your candidate.

### 4. Respect workers:

Parliamentarians don't make money - they take money. Whilst

***Vote for candidates who you know or at least have faith in them keeping their campaign promises and identify what parameters they have set...***

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## Ten things Voters should Look for in their Candidates

millions of Kenyans live in abject poverty, a handful of politicians live in absolute luxury. Select candidates who are committed, not only in word, but to putting money back into your pockets.

### 5. Don't give politicians a blank cheque:

Remember the first acts the 9<sup>th</sup> Parliament did-payrise! Support candidates who support expenditure limits and are determined to prioritize development and eliminate waste.

### 6. Bravery:

Look for candidates motivated by principle, not politics. Seek candidates with their feet firmly planted and with a backbone to withstand the wind.

### 7. A tight ship:

As the potential CEO either at Civic, Constituent and State level. Look for candidates committed to ensuring that every shilling spent is in the best interests of Kenyans. Look for candidates eager to do right by taxpayers money by in-

***Remember the first acts the 9th Parliament did-payrise! Support candidates who support expenditure limits and are determined to prioritize and eliminate waste.***

creasing efficiency and requiring transparency in all government actions.

### 8. Live and let live:

Government serves us well by securing our rights to life, liberty and happiness, but ill serves when it dictates lifestyle. Find candidates that respect the limited role of government in a free society, supporting policies like education, health and personal retirement accounts that empower people, not politicians.

### 9. Clean house:

Many ministries, projects and programs get an automatic budget raise each year regardless of how they serve citizens. Seek candidates who support zero-based budgeting, which makes sure no program gets a free pass. This measure requires programs to prove their worth to the Legislature before getting renewed funding.

### 10. Humility:

Seek candidates who recognize their fallibility.

## IMPORTANT LEGISLATIVE PILLARS THAT THE 10TH PARLIAMENT SHOULD ENACT

### Access to Information: Freedom of Information Bill, 2007

#### Why it's Important

Information is the currency that every Kenyan requires to participate in the governance of society, without which parliamentarians would otherwise be denying their electorate a basic human right.

The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption and is a fundamental principle of good governance and democracy. Such secrecy, including that enshrined in the Official Secrets Act, continues to allow corruption to flourish in this country.

The opaqueness of Parliament has been a key concern amongst many Kenyans over the past few years. A lack of transparency in the actions of those elected to represent the citizenry has enabled increasing public mistrust in this institution. The greater the access to information held in the public domain the greater the responsiveness of any government to community needs.

#### Current Status

At the closure of the 9<sup>th</sup> Parliament, the Freedom of Information Bill, 2007 awaited its 3<sup>rd</sup> and final reading. Enactment of the Bill before parliament will confirm Kenya as a leading democracy in Africa and set the tone for the numerous African countries without FOI legislation. It will also be an admirable benchmark for the 10<sup>th</sup> parliament.

### Money laundering: The Proceeds of Crime and Anti-Money Laundering Bill, 2006

#### Why it's Important

Money laundering is closely associated to the underground economy and there have been attempts to measure it locally and globally.

Figures indicate that about \$500 billion 2% to \$1000 or 4% of the global GDP is represented by the underground economy.

Kenya has some specific experiences that have demonstrated that the country is vulnerable and these include:

- The first Charterhouse Bank Case
- The Second Charterhouse Bank Case
- The Anglo Leasing Case
- The Goldenberg Case
- The Pyramid Schemes

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## Legislative Pillars that the 10th Parliament should Enact

As money laundering legislation has developed in more countries around the world, so have the volumes increased in countries with no legislation such as Kenya. Concurrently, the premiums charges have increased and are estimated to be between 20 per cent to 25 per cent.

### Current Status

The bill on The Proceeds of Crime and Anti-Money Laundering Bill was tabled before the 9<sup>th</sup> parliament but to date it has not seen the light of day. The Bill if enacted will have reaching effects considering that there is a complimentary Bill on Prevention of Organized Crime.

### Whistleblower Protection: TI-K currently advocating for its enactment

#### Why it's Important

A whistle-blower protection law is a subset of the laws regulating access to information. It rests on the principle that there are times when to conceal information is more culpable than to release it.

The function of whistle-blower laws is to give people the incentive to disclose official wrong-doing that seriously harms the public good and to give them protection once they have done so

### Current Status

The Witness Protection Act, 2006 enacted in December 2006, DOES NOT protect whistle blowers outside criminal cases. To fill the gap of whistle blower in general malpractice, the Civil Society is currently advocating for Whistle blower legislation and hope the 10<sup>th</sup> will be keen to embrace the initiative.

As the date for this years general elections nears, Kenyans should evaluate their aspirants so as to bring in credible parliamentarians who will push tangible legislative anticorruption agenda in this country. TI-Kenya has developed an Elections Checklist for observers and it can be access on [www.tikenya.org](http://www.tikenya.org).

According to the Transparency International Global Barometer Report release Thursday, 6<sup>th</sup> December, political parties and parliaments – the very institutions entrusted to represent the public interest in political decision-making – take in first place as the most corrupt institutions worldwide. Despite Kenya not being surveyed, the findings present a glaring manifestation of what our political institutions have failed to achieve in terms of good governance.



## GENDER CHECKLIST FOR FREE AND FAIR ELECTIONS

**In terms of international standards, a state must make provision for the following to ensure a free and fair election:**

\_ The right of the candidate to present herself as a candidate for election.

\_ The right of the individual to join, or together with others to establish a political party for purposes of competing in an election.

\_ The right to express political opinions without interference.

\_ The right of women to join, or together with others to establish, a political party for purposes of competing in an election.

\_ The right of women party members and candidates to move freely within the country in order to campaign for election.

### The right to campaign:

\_ The right of women to conditions for competition in elections on an equitable basis taking substantive equality into account.

\_ The right of women party members, candidates and voters to campaign on an equal basis with their male counterparts.

\_ The right of women party members to campaign around issues that are of particular concern to women, for example, domestic violence.

\_ The right of women party members, candidates and voters to security with respect to their lives and property during campaigns (and throughout the electoral process).

toral process).

\_ The content of campaign messages must be directed at men and women so that stereotypes are not entrenched.

***The right of women party members , candidates and voters to security with respect to their lives and property during campaigns (and through the electoral process).***

## THE RIGHT TO CAMPAIGN

\_ The right of women party members and candidates to have access to the media in order to put forward political views on an equal basis with their male counterparts; gender equality as a central feature of democratic citizenship.

\_ Voter education programmes must develop an understanding of substantive equality with regard to gender.

\_ Voter education programmes must be aimed specifically at women.

\_ Voter education programmes must explain complex electoral processes in a manner which will be understood by illiterate voters (the majority of whom are women).

\_ Voter education workshops must take place at times suitable to accommodate the domestic and economic roles performed by women.

\_ Voter education workshops must take place in venues accessible to women (these venues must be chosen to accommodate children who may have to accompany their mothers to workshops).

\_ Voter education workshops must take place in an environment in which women feel confident that they can express themselves without fear of disruption and ridicule.

### The right to express political opinions:

\_ The right of women citizens to express political opinions without interference otherwise than as reasonably permitted by law.

### The right to access to information:

\_ The right of women citizens to seek, receive and impart information and to make an informed electoral choice.

### The rights to freedom of association, assembly and movement:

*Otherwise than as reasonably permitted by law;*

\_ The right to seek, receive and impart information and to make an informed choice.

\_ The right to move freely within the country in order to campaign for election.

\_ The right to campaign on an equal basis with other political parties, including the party representing the existing government.

\_ The right to have access to the media, in order to put forward political views.

\_ the right of candidates and voters to security with respect to their lives and property.

\_ The right to protection of the law and to a remedy for violation of political rights, including those perti-

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*What you need to have when voting in the December 27<sup>th</sup> General Elections*

# The Right To Campaign

ment to participating in an election as a voter or candidate.

The state is also obliged to do the following to guarantee a free and fair election:

\_ To provide for the holding of legislative elections at regular intervals.

\_ To establish a neutral, impartial mechanism for the management of legislative elections

\_ To establish an effective, impartial and non-discriminatory procedure for the registration of voters

\_ To stipulate clear criteria for the registration of voters, inter alia, age and citizenship

\_ To make regulations governing the formation, registration and functioning of political parties.

\_ To establish the conditions for competition in elections on an equitable basis.

\_ To provide for and regulate the funding of political parties and electoral campaigns in order to ensure the promotion of equality of opportunity

\_ To ensure parties and candidates equal access to government-controlled media.

\_ To ensure that voters have a free choice by maintaining the viability of political parties by public funding or free time in the media.

\_ To ensure through national programmes of civic education that the electorate becomes familiar with electoral issues and procedures. The authorities responsible for managing an election must fulfil the following obligations.

\_ Ensure that those responsible for the administration of an election are trained and act impartially

\_ Ensure that coherent voting procedures are established and made known to the voting public.

\_ Ensure the registration of voters, updating of the voters' roll and voting procedures.

\_ Encourage the acceptance and adoption of an Electoral Code of Conduct and encourage the development of further

## Codes of Conduct;

- \_ The right to polling stations that are accessible so that women citizens can exercise their right to vote; and
- \_ The right of women citizens to vote without fear of any form violence or intimidation.

## The Right To vote:

The right of women citizen to vote on a non-discriminatory basis in regular elections of legislative bodies.

The right to vote for a political party which has a record of addressing issues which affect women.

\_ The right to vote for a political party which has women in leadership positions.

\_ The right of every citizen to be eligible as a voter; subject only to disqualification in accordance with criteria established.

\_ By law that are objectively verifiable and not subject to arbitrary decision based on sex or gender.

\_ Ensure the integrity of the voting process through appropriate measures to prevent electoral fraud or other electoral offences.

\_ Ensure the integrity of the entire electoral process and the counting of votes.

\_ Announce the election results and facilitate any transfer of authority

\_ Ensure that complaints and challenges in electoral matters be determined by an independent and impartial authority, such as the electoral commission or the courts.

\_ Ensure that decisions are reached promptly within the time-frame of the election, and that procedures are open and known to the electorate and political parties.

\_ Political rights should only be subject to limitations which are reasonable and justifiable in a democratic society

\_ Limitations on candidature, the creation and activities of political parties and campaign rights should not be applied so as to violate the principle of non-discrimination on grounds of race, colour, sex, language, religion, political opinion, social origin, property, birth or other status.

***Voter education workshop must take place in venues accessible to women (these venues must be chosen to accommodate children who may have to accompany their mothers to workshops.***

*Adopted from Electoral Institute of Southern Africa*

## Checklist for ensuring Gender Equality In Free And Fair Election

*The Following conditions must be met to enhance free and fair elections taking gender equality into account:*

**Political rights:**

- \_ Political rights should only be subject to limitations which are reasonable and justifiable in a democratic society;
- \_ Limitations on candidature, the creation and activities of political parties and campaign rights should not be applied so as to violate the principle of non-discrimination on inter alia, grounds sex, gender, race, colour language, religion, political opinion, social origin, property, birth or other status.

**Citizenship:**

- \_ A definition and understanding of citizenship containing a commitment to substantive equality with regard to gender.

**Conducting elections:**

- \_ The structure which manages elections must be committed to this conception of gender equality;
- \_ In accordance with this commitment, the structure which manages elections must employ women at all levels of its operation.
- \_ All policy formulated and legislation promulgated which is relevant to conducting elections must give effect to substantive equality with regard to gender.
- \_ All policy and legislation must be implemented to give effect to substantive equality.
- \_ The criteria for demarcation of voting districts or constituencies (where applicable) must not affect women.

*Adopted from Electoral Institute of Southern Africa*

### Issues and Procedures to Observe Include:

- Are there indications of disorganization, such as unusually long lines of people or excessive delays?
- Is there any sign of partisan campaign materials or campaign activity in the polling station?
- Is there any attempt to solicit people to vote in a particular manner, or is any pressure being applied to voters? Is there any sign of intimidation?
- Are there police, security forces, or government officials in polling stations?
- Are there other persons in the polling station with no apparent official function?
- Is anyone other than a polling-station official administering the polling process or giving directions to polling-station officials?
- How are voters identified, and do they produce the correct documents?
- How are voters processed, e.g., by crossing names off the voter list, by signing the list, or by stamping identity cards? Is indelible ink used?
- If voters sign the voter list, are there any apparently identical signatures?
- Are voters being turned away because they are not on the voter list?
- Do ballot papers bear an official stamp specific to the polling station and/or the signature of a polling-station official(s)?
- Are voters given more ballot papers than they are entitled to, or are there any other indications of multiple voting?
- Is there any evidence of ballot-box stuffing?
- Do voters appear to understand the process, or do large numbers of voters require assistance? Are the ballots simple and easy to use?
- Could the layout of a polling station potentially breach the secrecy of a person's vote?
- Are voters being allowed to enter the voting booth together?
- Are any voters voting outside the booth?
- Are the facilities suitable for disabled persons to use independently?
- Are voters who need assistance provided with appropriate help?
- Are ballot boxes located in full view of election officials and observers?
- Are the boxes properly sealed?
- Are all required voting procedures being properly and efficiently followed?



# ELECTION ANTI-RIGGING CHECK LIST

A guide for the detection and prevention of rigging of elections

**BE VIGILANT. END CORRUPTION THIS COMING ELECTION:  
Report electoral malpractices to election officials and observers**

## IRREGULARITIES DURING CAMPAIGNS

- Use of government personnel, equipment, vehicles or other resources
- Involvement of civil servants in partisan campaigns
- Harassment of candidates by security personnel or organised gangs
- Unequal political coverage of candidates by the media
- Violence, intimidation, threats or incitement of voters
- Campaigns that do not end at least 12 hours before voting begins

## IRREGULARITIES BEFORE POLLING DAY

- Buying or destruction of voting cards
- Attempts to influence voters, poll watchers or election officials by bribery or other rewards
- Verbal or physical threats against candidates, voters, poll watchers, election officials or their families
- Disrupting or obstructing the orderly process of preparing for voting day by spreading false reports and interfering with transportation
- The presence of voting materials in un-official places

## IRREGULARITIES ON POLLING DAY

- Campaign posters, t-shirts or banners worn or displayed within 400 metres of the polling station
- Use of loudspeakers by anyone other than the presiding officers
- Destruction, substitution or removal from the polling station of election materials; fake election materials
- Inadequate provision of electoral materials eg ballot papers and boxes, voting booths, Indelible ink, Electoral Commission Stamps
- Failure by election officials to open and turn ballot boxes upside down to show they were empty before voting began
- Ballot papers are not wrapped and sealed at the start of voting
- Improper voter identification procedures eg failure to check identification documents against the Register of Electors
- Polling station closes before the expiry of 12 hours of voting
- Voting booths are not placed so as to reveal the voters when they are marking the ballot papers
- Ballot boxes are placed out of the view of the public
- Refusal to allow agents and election observers to closely observe the voting process
- Refusal to allow candidates and their agents to place their seals on election materials packets at the close of voting
- Voters being issued more than one ballot paper for each election (Presidential, Parliamentary or Local Authority) or voting more than once on each election
- Bribery of voters or presiding officers
- Transportation of voters by candidates or their agents
- Voting using another person's name
- Intimidation of voters within the polling area
- Blocking of eligible and qualified voters from voting
- Creating a violent environment around a polling station so as to deter voting

## IRREGULARITIES RELATING TO COUNTING OF VOTES

- Presiding Officer fails to indicate when counting will take place
- Transportation of ballot boxes to a place outside the counting hall without just reason
- Instances when any candidate, agent or observer is locked out of the counting hall
- Instances of stealing, destroying or substituting election returns before, during or after the counting of votes
- Misreading and/or wrong recording of votes or wrong communication of the recorded results
- Unnecessary delay in starting or completion of counting
- Recount of votes more than twice
- Signing of records in before completion of counting
- Effecting of incorrect entries in election returns
- Non-genuine ballot boxes and papers introduced at the time of counting
- Failure to safeguard the security of ballot papers or returns by election officials
- Mixing of candidates ballot papers
- Interference with ballot papers and results while in transit from polling station to the constituency centre
- Refusal or failure by election officials to note objections by candidates or their agents

### Useful Contacts:

- Electoral Commission of Kenya - Head Office, Anniversary Towers, P.O. Box 45371, Nairobi Tel: 222072 Email: [eck@nbnet.co.ke](mailto:eck@nbnet.co.ke)
- Kenya Anti-Corruption Commission: Hotline: (Nairobi) 020 2717468; (Mombasa) 041 2319081/2; Email: [reports@integritty.go.ke](mailto:reports@integritty.go.ke)

The ECK website: [www.eck.or.ke](http://www.eck.or.ke) contains additional contact information for the following district offices: Mombasa, Kwale, Kilifi, Malindi, Tana-River, Tamu, Taita, Garissa, Ijara, Wajir, Mandera, Moyale, Marsabit, Isiolo, Meru North, Meru Central, Tharaka, Meru South, Embu, Mbeere, Mwingi, Machakos, Makueni, Nyandarua, Nyeri, Kirinyaga, Muranga, Maragwa, Thika, Kiambu, Turkana, West Pokot, Samburu, Trans-Nzola, Uasin Gishu, Marakwet, Keiyo, Nandi North, Nandi South, Baringo, Kolbatek, Laikipia, Nakuru, Transmara, Narok, Kajiado, Bomet, Kericho, Bureti, Lugari, Kakamega, Vihiga

**IT'S YOUR COUNTRY, IT'S YOUR VOTE. VOTE WISELY**

Adapted from electoral legislation including the Electoral Commission of Kenya Act and extracted from the Transparency International-Kenya booklet: "Dealing with Electoral Malpractice – Your anti-rigging guide" available online at: [www.tkenya.org](http://www.tkenya.org)

An anti-corruption checklist for election observers is available at the same website.

## Some Indicator of Free and Fair Election

- Are the elections the responsibility of an independent and fully professional body of high public standing and enjoying public confidence? In particular, are the process of appointments to the Election Commission such as to command the support of the [political parties themselves as well as of the wider public.
- Are parties and candidates acceptably free to campaign for support for their policies? So all major parties have a reasonable chance to get their message across through the mass media, and particularly any media which is state owned or controlled?
- Are the polling procedures to be rendered more transparent but in ways which do not intrude upon the secrecy of the ballot? Are political parties aware of their own role in checking the various stages of the polling process and thereby playing an essential part in guaranteeing its integrity?
- Do the election laws reflect best international practice in their openness and transparency? Are there effective procedures to ensure that government assets and funds are not used by a government in support of its election campaign?
- What are realistic limits to political party expenditure, both during and election campaign and at other times? Is there effective monitoring of political parties income and expenditure?
- If civil society through non-partisan observer groups have a role to play in observing national and other elections, do present electoral laws enable them to do so?
- All in all. Does the electoral process (however imperfect it may be and whatever the advantage to the ruling party of its incumbency) offer a means by which public opinion can in fact be expressed in ways which bring about a change in the administration?

*Adopted from TI-Source Book*

### General election: 27th December 2007

TI-Kenya would like to urge you to exercise your civil responsibility and vote in the forthcoming elections.

*IT'S YOUR COUNTRY, IT'S YOUR VOTE. VOTE WISELY*

*Happy Holidays and Prosperous New Year*

For up-to-date information on election information, anti-rigging techniques and discussions



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