



**JOINT STATEMENT BY CIVIL SOCIETY ORGANISATIONS ON IEBC'S PREPAREDNESS IN  
MANAGING THE 2022 GENERAL ELECTIONS AND EMERGING ELECTORAL ISSUES**

**FOR IMMEDIATE PRESS RELEASE**

**Nairobi, 17<sup>TH</sup> October 2021**

**INTRODUCTION**

Regulation of Election Campaign spending is crucial in a democratic society. This provision is consistent with the principles of good governance as it seeks to enhance transparency and reduce incentives for grand corruption and other vices that tempt looting in a bid to recover funds used during political campaigns. The law mandates the Independent Elections and Boundaries Commission (IEBC) to put in place guidelines to cap election spending by both candidates and political parties, and therefore suspending or failing to enforce provisions of Article 88 (4) (i) of the Constitution amounts to a violation of the Constitution.

In accordance with Section 29 of the Act, the Commission developed the Election Campaign Financing Regulations in 2016 with intention of operationalizing the Act, which were rejected in December 2016 by Parliament. In January 2017, the ECFA was deferred to 2022. Consequently, the 2017 elections were held without a legal regime to regulate the use of campaign money.

In August 2021, IEBC published Gazette Notice outlining contributions and spending limits for political parties and candidates to guide the 2022 general election.

However, the National Assembly Committee on Delegated Legislation nullified these limits arguing that they were intended to be published as part of the regulations and citing lapse of legal timelines within which they ought to have been submitted by the IEBC. In addition, the Committee faulted the Commission for publishing the limits before approval by the National Assembly.

IEBC is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by

lost their lives in the senseless killings. This kind of environment is not conducive for voter registration.

**Based on the above, we the representatives from the institutions hereunder, wish to issue the following commentaries and recommendations for the purposes of the 2022 uchaguzi**

We take exception to the move by IEBC to revoke the guidelines and we are questioning the basis on which the decision was arrived at. We hold that IEBC was well within the law to publish the election campaign spending limits despite the move by parliament to annul them.

Unregulated use of money in the forthcoming elections is likely to promote electoral malpractices like voter bribery, encourage the use of dirty money and essentially distort the essence of democracy as envisioned in our constitution by hindering the participation of certain marginalized groups such as women, youth and People with Disabilities (PWDS).

On the issue of Electoral Campaign Financing, we call upon the IEBC and other relevant bodies to explore other ways of enforcing the Election Campaign Funding regulations including;

- Judicial intervention to ensure enforcement Art. 88 (4) (i) of the Constitution which gives IEBC the mandate to regulate the amount of money used in election, Art. 91 (2) (e) provides for prohibition of political parties from accepting or using public resources to promote party interests or supporting candidates in elections
- Pushing for judicial intervention to compel candidates and political parties to make public campaign donations and spending.
- Demanding the full implementation of the Election Campaign Financing Act, 2013, especially the Sections that don't require Regulations or Guidelines.
- Enlisting citizen vetting of political parties and candidates in promoting transparency and accountability in the use of resources and de-campaigning the use of big money in the upcoming elections.
- Encouraging candidates and political parties to self-disclose their sources of campaign monies on their own volition. Further, we call upon aspirants and candidates to raise their voice and commit to sign up pledge to decampaign big money.
- Step up voter education campaigns on the adverse effect of un-regulated use of money in elections pm the marginalized groups.



an Act of Parliament. Continuous registration of voters and revision of the voters' roll is among the many responsibilities bestowed upon IEBC by the Constitution.

It is important to note that a credible voters' register, regulations of campaign spending limits, secret voting and prevention of electoral violence are key to a free, fair and credible elections. These principles of credible elections are safeguarded in the Constitution of Kenya 2010. However, we are witnessing a diminishing power of the Constitution and our attention has been drawn to the following issues which we believe we must speak to:

- a) That the National Assembly made a resolution on the 28<sup>th</sup> September, 2021 to reject and annul in its entirety the draft campaign financing regulations and the contributions and spending limits for the purposes of next year's general elections
- b) The IEBC vide a gazette notice dated 5<sup>th</sup> October 2021 revoked the contributions and spending limits it had gazzetted on the 9<sup>th</sup> August, 2021 for political parties and candidates for purposes of the general election scheduled to held on 9<sup>th</sup> August 2022, citing the powers conferred to it by Art 88 (4) (i) of the CoK; Section 4 of the IEBC's Act; Sections 12,18 and 19 of the ECF Act and sections 18 and 19 of the Statutory instruments Act.
- c) That on 4<sup>th</sup> October,2021 the IEBC kicked off a nationwide enhanced continuous voter registration (ECVR) drive in which it planned to enlist 6 million new eligible Kenyans. Reports from 80 observers deployed by the Elections Observation Group throughout the 1450 electoral wards in Kenya to monitor and observe the ongoing exercise indicate the following manifestations during the 1<sup>st</sup> week.
  - I. Turn out- That the IEBC has only met 13.5% of its weekly target. This is attributed to a number of factors which include lack of proper identification documents, insecurity in some parts of the country as well voter apathy.
  - II. Claims of voter bribery where political class are encouraging mass vote transfers to areas they intend to vie in.
  - III. Pursuant to Section 5 of the Elections Act, ECVR was not being carried out in County Assembly Wards like Nguu/Masumba, Mahoo, Kiagu and Kiambaa Constituency.
- d) That cases of violence in the form of cattle rustling are being witnessed hence affecting participation of citizens in the voter registration exercise. In the past month we have seen what happened and is still happening in Laikipia. The Kerio Valley has now been rocked by violence and loss of lives witnessed in the past two days and its with regrettable that an Agricultural Officer, a mother and child have

**On the ongoing voter registration, we wish to state as follows:**

Voter registration is an important exercise in the preparation for general elections. A credible voter register is key to a credible election.

- a) We urge all eligible Kenyans to turn up in large numbers to register as voters
- b) While we appreciate the weekly information in terms of targets, the weekly target should be further disaggregated in terms of youth, PWDs, women.
- c) We urge that the movement of the kits should be flexible to address the needs and concerns of people living in vast terrains as well as those areas experiencing other forms of hardships.
- d) IEBC in collaboration with the relevant stakeholders should implement youth friendly outreach strategies such as use of interactive online tools like Facebook, twitter, blogs, use of infotainment and edutainment voter education strategies.
- e) The National Registration Bureau (NRB) should come up with strategies of ensuring that those who have come of age are adequately facilitated to acquire ID cards. NRB should also establish mechanism of notifying those who have applied for the ID card when the cards are ready for collection.

**On the emerging cases of violence in Laikipia and Kerio Valley, we wish to state as follows:**

- a) That the government should beef up security in the Kerio Valley just as it did in Laikipia to safeguard the rule of law and order.
- b) That the Ministry of Interior mounts a definitive and sustained operation in the Kerio Valley to weed out all criminal elements and safeguard the innocent people.
- c) That the IEBC considers extending the voter registration exercise in the troubled areas of Laikipia and Kerio Valley.

**Conclusion**

Finally, we wish to inform Kenyans that we are considering instituting a public interest litigation (PIL) to ensure that money for the purposes of 2022 elections is regulated. Elections are a celebration of fundamental human rights and as such all relevant duty bearers should take practical steps within the confines of law to ensure that political rights are promoted, protected and fulfilled. We shall be engaging these actors in the coming days to address some of these issues we have raised and update members of the public.



Signed by

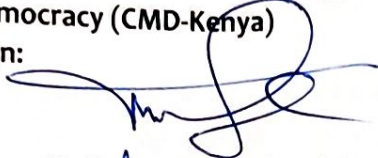
1. Name: Sheila Masinde, Executive Director, Transparency International Kenya (TI-Kenya)

Sign:



2. Name: Frankline Mukwanja, Executive Director, Center for Multiparty Democracy (CMD-Kenya)

Sign:



3. Name: Mulle Musau, National Coordinator, Elections Observation Group (ELOG)

Sign:



4. Name: Caroline Gaita, Executive Director, Mzalendo Trust

Sign:



5. Name: Joshua Changwony, Executive Secretary, Constitution and Reform Education Consortium (CRECO)

Sign:

