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Political Campaigns Increasingly Leading to Elections-Related Human Rights Violations

The Kenya National Commission on Human Rights (KNCHR) has deployed 84 monitors for our elections monitoring project in 30 counties namely: Bungoma, Kakamega, Kisii, Migori, Siaya, Tana River, Lamu, Mombasa, Kwale, Garissa, Marsabit, Turkana, Mandera, Isiolo, Samburu, Baringo, Nakuru, Kirinyaga, Meru, Laikipia, Elgeyo Marakwet, Uasin Gishu, Nandi, Kericho, Bomet, Narok, Nairobi, Kiambu, Muranga and Kisumu.

The Commission undertook monitoring of the political parties’ primaries in the month of March and April 2017. The findings are compiled in a report titled the Fallacious vote which was released on 15th May 2017. The Commission’s report elaborated varied concerns and it anticipated that the Independent Electoral and Boundaries Commission (IEBC), Political Parties and aspirants would take into consideration and ensure that the campaigns would be devoid of human rights violations and blatant violation of the electoral code of conduct, electoral laws and constitutional provisions.

However, cases of violence, abuse of office, use of children in political campaigns, blatant scathing attacks on Independent Commissions such as IEBC, EACC and other monitoring bodies continue to remain a concern as our brief will specifically highlight today.

The Kenya National Commission on Human Rights is concerned that impunity is raising its ugly head again during the on-going political campaign period and as a Commission we are obligated to issue a red flag on the alarming campaign information and trends that our monitors have recorded across the country.

In view of the above, Kenya National Commission on Human Rights wishes to raise the following concerns:

1. Misuse of public resources in political campaigns:
The Kenya National Commission on Human Rights is concerned with the current attempts to make amendments to the Election Offences Act 2016 with less than two months to the general elections. Through the National Assembly, the Majority Leader Hon. Aden Duale, has
introduced a Bill that seeks to amend the Act by deleting Section 14 (2) of the Election Offences Act. The targeted section bars the government from advertising its achievements during an electioneering period.

The Commission has noted that the incumbent Government under the Jubilee Party has been flouting the law as it is placing paid up advertisements in the media and other platforms. These actions by the government amount to abuse of office and thus Kenyans must call for transparency and accountability of the public officers who unlawfully disregard legal provisions aimed at safeguarding free and fair elections.

In this regard, the Commission is concerned by the recent action to distribute monies for the integrated Internally Displaced Persons (IDPs) within some parts of Kisii County by the Government during their political campaigns in the region on 6th June 2017. The Commission cites this as an inducement to voters, which is an offence under Section 10 of the Elections Offences Act 2016.

Section 14(3) of the Election Offences Act provides that the IEBC shall in writing require any candidate, who is a member of Parliament, a county governor, a deputy county governor or a member of a county assembly, to state the facilities attached to the candidate or any equipment normally in the custody of the candidate by virtue of that office. This is an important clause aimed at monitoring the misuse of public resources and the KNCHR wishes to urge the IEBC to undertake this exercise as an effective measure of curing this rampant offence among public officers.

In addition, Section 15 (d) of the Elections Offences Act also prohibits public officers from using public resources to initiate new development projects in any County or Constituency for the sole purpose of supporting a candidate or political party.

The Commission wishes to refer to a recent case by the Cabinet Secretaries of Transport, infrastructure and Urban Development and Devolution during the commissioning of roads in Murang’a County where they cited the activity as an achievement of the Government and its supposedly commitment to build certain kilometers of road in the country during their tenure and therefore the reason why the voters must vote for the incumbents.

The Commission thus calls on Kenyans to remain vigilant of malpractices that infringe on their democratic rights, whether by the governing political party or by the opposition political parties.

2. Violence
The Kenya National Commission on Human Rights has documented two cases of loss of life in Turkana and Bungoma Counties during the ongoing political party campaigns. In Bungoma, Alice Khaemba, a vegetable vendor was shot and killed by bodyguards attached to one of the gubernatorial aspirants. In Turkana, Mr. Saudi Educe was fatally shot by an MCA aspirant during a rally held at Katiliu Stadium on 1st June 2017. KNCHR officers continue to investigate
the cases and will make and submit appropriate recommendations to the Office of the Director of Public Prosecution for action.

Furthermore, aspirants are increasingly becoming targets of their political competitors as has been witnessed in Bungoma and Machakos Counties where two aspirants had their vehicles burnt as a means of intimidating them off the political race.

3. Abuse of Office
The Commission has noted that the incumbent government has flouted the law by placing advertisements in the media and other platforms touting its achievements during the campaign period. These actions by the government amount to a breach of the law. We call on Kenyans to demand transparency of all public officers and to report disregard of legal provisions aimed at ensuring that our elections are free and fair.

The Commission has taken note of actions by a number of Governors who are using their powers to limit use of public grounds by their rivals to carry on with their political rallies. The Commission has noted these trends in Bungoma, Nairobi and West Pokot Counties, where the County Government officials have been accused of denying access to public spaces and controlling them for their own functions while denying their opponents the inherent right to use the facilities.

4. Use of children and disruption of learning
In January 2017, the Minister of Education, Science and Technology, Dr. Fred Matiang’i issued a directive prohibiting interference of learning and use of children during the electioneering period. Despite raising this concern in the Commission’s party primaries report, political parties and aspirants continue to flaunt the directive. During the President’s visit in Nyahururu, teachers from Nyandarua Boarding School were on national television stating that they pulled children from classes and onto the road to meet the President.

In the subsequent Jubilee Party campaigns in Kisii, students of Masimba primary and Masimba Secondary were spotted in large numbers at a public gathering that was held at the school’s fields. It is of great concern that the political party planned a gathering in a school’s grounds during a school day thus disrupting learning.

5. Attacks on IEBC, EACC and other monitoring bodies
In establishing Independent Commissions, the Constitution envisaged a cushion and independent checks on adherence to the rule of law. It therefore becomes a concern when these institutions become targets of both institutional and individual attacks.

In this regard, the Commission notes comments attributed to Uasin Gishu Women Representative aspirant Mrs. Gladys Shollei who is on record issuing threats to IEBC to the effect that the Commissioners’ term of office will be terminated once she becomes a Member of the National Assembly. She is also on record attacking Civil Society groups in Rift Valley who
raised the issue of integrity that is currently touching on her suitability to run for political office.

Increasingly, political leaders are also preaching divisive and ethnic politics that is threatening cohesion, peace and the enjoyment of fundamental human rights. Uasin Gishu is one such county that is affected by this brand of politics. The Kenya National Commission on Human Rights will continue to monitor leaders who are advocating for divisiveness; and as a Commission, in conjunction with our sister Commission the NCIC, we shall not relent to advocate for their prosecution under the existing laws.

6. Voter Register
The Commission notes submission of the voter register audit report by KPMG and looks forward to IEBC's implementation of the recommendations and subsequent publication of the final voter register in the Kenya Gazette and on its online platform as required by law. The KNCHR further calls on IEBC to reinstate the online and sms verification system to ensure continuous scrutiny by the members of the public of their voter registration details.

**Actions by** Kenya National Commission on Human Rights:

In the foregoing the Kenya National Commission on Human Rights in pursuit of its mandate will:

i. Issue an advisory to the Parliamentary Committee on Justice and Legal Affairs opposing the proposed bill to the Election Offences Act.

ii. Compile the reported cases and forward the necessary information to the relevant bodies including, IEBC, Office of the Registrar of Political Parties (ORPP), the Office of the Director of Public Prosecutions (ODPP), the affected political parties and National Police Service (NPS) for action.

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