

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



PREPARATION FOR THE 2017 GENERAL ELECTIONS IN KENYA

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by

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## INTRODUCTION:

Elections are events held periodically in democratic societies. Elections have many phases spread over a period of time: the electoral phases and process are divided broadly into the pre, during and post elections activities. The entire process is referred to as electoral cycle. The Pre-elections process includes; the review of boundaries, legal reform, planning budgeting and procurement; the Elections period includes; the registration of voters nomination of candidates, political campaigns, accreditation of observers, logistics, training, conduct of elections announcement and tallying of results; the post elections includes; review of results, elections petitions post elections evaluation and revision of the voters register. Since the re-introduction of multi-party in Kenya, 1992-2013, Kenya has held regular elections over a period of five years.

Elections are governed by basic principles aimed at universal, free, equal, transparent expression of the vote. Elections are viewed as basic human rights as stipulated under Article 21 of the Universal Declaration of Human Rights (UDHR 1948), which requires that the will of the people shall be expressed through period genuine elections which shall be though universal and equal suffrage and though secret vote. This universal right has been domesticated under the Kenyan Constitution, 2010 under Article 38(2) on political Rights, which provides for regular elections through universal suffrage. Needless to say although not perfect, Kenya has made great strides towards building a democratic culture with relatively strong governance and democratic institutions. The management of election is entrusted to Elections Management Bodies and in the case of Kenya it's the IEBC.

The 2017 General Elections in Kenya will be the second such elections after the adoption of a new constitution in August, 2010; the first being the one on 4<sup>th</sup> March, 2013. Kenyans will vote for 1882 elective positions in the whole county in one day. These are Presidential – 1, Parliamentary – 290, Senate 47, Governors – 47, Women Representatives to Parliament – 47 and Members of the County Assemblies – 1450.

Kenya is perhaps one of the few countries in Africa (after Sudan and South Sudan) that hold all its elections in one day. This presents its own challenges.

The elections for 2017 will be held on the 8<sup>th</sup> of August, 2017 as provided for in the Constitution – the second Tuesday of August of the 5<sup>th</sup> year. An attempt by Parliament early this month to change the election date from August to December was defeated when the motion failed to get the required two-third majority.

With an incumbent President seeking for a second term against an opposition that feels excluded from Government and a public that has become more aware of the powers and benefits of a devolved system of Government, the 2017 elections are expected to be very competitive, politically charged and tension-packed with more candidates contesting. This will no doubt put more pressure on the IEBC to conduct a much more effective, efficient and transparent elections.

Chapter seven of the Constitution provides for the principles that guide the electoral process in Kenya.

#### THE MANDATE OF IEBC:

The IEBC is a constitutional Commission established under Article 88 of the Constitution of Kenya. It's a fairly young institution having been established in November 2011. It is composed of a Chairman and eight (8) Commissioners appointed for a single non-renewable term of six (6) years and a secretariat headed by a CEO with staff in the Headquarters and in the field totaling to 850.

The mandate of the IEBC is as follows: -

The conduct of elections and referenda

The continuous registration of voters and revision of the voter's roll;

The delimitation of constituencies and wards;

The regulation of political parties process;  
The settlement of electoral disputes;  
The registration of candidates for elections;  
Voter education;  
The facilitation of the observation, monitoring and evaluation of elections;  
The regulation of money spent by a candidate or party in respect of any election;  
The development of a code of conduct for candidates and parties;  
The monitoring of compliance with legislation on nomination of candidates by parties  
The investigation and prosecution of election offences.

#### MILESTONES AND EMERGING ISSUES FROM 2013 GENERAL ELECTIONS:

The current Commission came into office in November 2011 slightly over 16 months to the elections. The Commission organized and implemented a very complex election in less than 16 months. Despite the time limitation, the Commission was able to delimit electoral boundaries in 1450 wards, 47 Counties and 290 Constituencies in less than three months. Other activities undertaken include; Review of legislative framework on elections; Review of registration centers from 20,669 to 24,614 Registration of 14.3 Million voters in 30-days; development and implementation of comprehensive curriculum on voter education; undertaking voter education that led to 86% Voter-turnout which is unprecedented in the region; Establishing strong linkages with civil societies and development partners; adoption and deployment of various technologies; institutionalization of risk management systems; Piloting the Elections violence early warning tool and the Elections Security arrangement projects; conducting six-elections in one day and in the region, making it the most complex election in the world.

In the period following the elections, the Commission conducted an internal and external post-election evaluation, which offered valuable lessons aimed at

strengthening the institution. Key emerging issues during the elections have been used to inform the 2017 strategic priorities. They include; the need to audit the existing technology and strengthen its implementation; strengthening internal business process particular the finance and procurement unit; enhancing the voting experience and results management systems; strengthening the logistic framework; focusing on the campaign financing and prosecution of the those who violate the elections code of conduct; institutionalize performance management; and strengthening internal and external communication.

#### PREPARATIONS FOR THE 2017 GENERAL ELECTIONS:

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## STRATEGIC PLAN 2015-2020 AND TWO-YEAR OPERATION PLAN 2015-2017:

A strategic plan is the road map or compass of any institution. It gives the strategic directions and programmes that the institution intends to undertake within a certain period. The Commission launched its 2015 – 2020 Strategic Plan which will serve the dual purpose of guiding the Commission in the implementation of its five (5) year Strategic Plan as well as steering it towards the 2017 General Elections.

The Commission is in the process of finalizing its two-year Elections Operations plan (EOP). The EOP that is derived from the Strategic Plan offers a detailed roadmap that will guide all the preparations and conduct of the election. Some of the key preparations as stipulated in the EOP for the 2017 elections include the following:-

### a. Staff strengthening and capacity building

The Commission has taken steps to learn from its lessons and work towards improvement of its systems, processes and operations for better delivery of elections in 2017. It has recruited new staff for the secretariat from the CEO, Deputy, Directors Finance, ICT, Voter Education and Manager, Procurement. It has also invested in training and capacity building in Finance, Procurement, ICT, and Communication. During this electoral period, the Commission will continue to expose its technical staff to election observation mission in different countries as one of the way of enhancing the staff capacity in the management of elections.

The Commission has signed MoUs with AWEB (Association of World Election Bodies), IFES (International Foundation for Election Systems) and Elections Commission of India and South Africa for the purpose of enhancing the capacity building of staff and improving on its election operation processes.

b. Electoral Law Reform:

Election is a highly regulated process throughout the electoral cycle. Therefore, the importance of timely enactment of legislation cannot be underscored. Towards this end, the Commission in conjunction with other stakeholders such as the Judiciary, the Kenya Law Reform Commission and the Parliamentary Committee on Justice and Legal Affairs, is working on proposed amendments to various election laws and regulations to be tabling and enactment in Parliament by December 2015. This will allow adequate time for the Commission to plan and develop the prerequisite manuals for training its staff on the different procedures on conducting elections.

c. Financial and Procurement Systems:

Principles of financial managements for EMBs include: Financial transparency which means sharing information on the EMB's finances with the public. Towards this the Commission will continue filling its annual financial report with the National Assembly and the public.

In conducting its affairs, the Commission is guided by the Finance and Procurement Laws; Public Finance Management Act, 2012, the Public Procurement and Disposal Act, 2005 and the Public Procurement Regulations, 2006. Furthermore, its financial and procurement manuals guide the commission's internal processes.

The Commission is in the process of enhancing its portal on whistle blowing for purpose of receiving information on any financial or procurement misconduct. The Commission will continue using open tendering process as the default procurement process in all its procurement informed by its annual procurement plans.

Considering the challenges experienced in timely procurement, the Commission has prioritized the development of procurement plans, and automation of the inventory system. It is envisaged that all procurement will be completed in 2016 except for the strategic materials such as ballot papers.

d. Logistics, Warehousing and Document Management:

Electoral logistics is at the center of any electoral support for purpose of ensuring that the equipment, staff and communication are available on time in provision of the elections processes. Logistics rely on an effective warehouse system for purpose of tracking materials and equipment. Logistics must be flexible and delivery done on time.

To address the delays in materials distribution witnessed in the sourcing of materials for 2013 general elections, the Commission is in the process of putting in place a comprehensive logistics framework. The logistics framework will be preceded by; a logistics needs assessment; inventory and disposal of obsolete materials at the warehouses. Further, the Commission will distribute its materials by early 2017 with the exception of strategic materials such as ballot papers and EVIDS, which will be, distribute by June 2017.

The Commission is also in the process of strengthening its document management system. It is envisaged by 2017 the all-strategic document including elections forms will be available in electronic form for purpose of enhancing transparency and accountability.

e. ICT:

Technology is key to enhancing the efficacy of the electoral process. To enhance efficiency in the lead up to the 2013 General Election, the Commission adopted various election technologies namely; Biometric Voter Registration (BVR) used for registering voters; candidates nomination technology used to capture the details of nominees and generate ballot paper proofs; Electronic Voter Identification Device (EVID) and Results Transmission System (RTS) for result transmission from polling stations.

The Commission has embarked on the process of developing an elections technology implementation road map to guide the 2017 General Elections.

As part of the preparations for the 2017 General elections, the Commission will undertake an audit of these technologies to assess their efficiency and effectiveness in the electoral process and provide the baseline for improvements of the technologies. Based on lessons learnt, the Commission will simulate the nomination and results management system at least 6- months to the general elections. This will assist the Commission in improving any gaps identified during the simulation. The Commission is also assessing ways of integrating the BVR and EVID so as to provide for a seamless transmission of the register and thus building the credibility of the electoral process.

Further, the Commission will be deploying Geographic Information System (GIS) to map out all polling centers and routes across the entire country. The GIS system is expected to enhance the internal process particularly the logistics and mapping of voters.

The use of short-message will be utilized to enhance the inspection of the voters register.

f. Voter Registration:

Voter registration can be described as the legal process of gathering personal information data on citizens guided by the Kenyan law. Upon collection of the data, the information is collated in the database and the final product is a Principle register of voters with five components; county, constituency, ward and polling station and Diaspora register of voters which is used to verify the identity an eligible voter before allowing the voter to vote in elections. A credible Principle register of voters is the cornerstone of democratic elections.

It is estimated that as at 2017, the projected voting population will be 25.7 million of which 14.4 are already in the Principle voters register. Therefore, the Commission is targeting to register 8 million of the eligible voters by 2017. In order to meet the target, the Commission will continue with the Continuous Voter Registration (CVR) supplemented by two-mass registration (outreach programme) in 2016 and 2017. The Commission will draw lessons from the 2012 voter registration exercise for purpose of

optimum results. In particular, the Commission will adopt strategies that address special groups, pastoralist, youth and women.

g. Diaspora:

Providing a good external voting practices is a future challenge to democracy and to the perception of democracy among migrant voters in particular.

In 2000, there were estimated 175 million international migrants in the world – 1 out of every 35 person in the world was on international migrant.

Diaspora is defined as the dispersion or spreading of something that was originally localized (as a people, culture or language).

The Constitution of Kenya provides for the progressive realization of the right to register and the progressive right to vote for Kenyans living abroad. This has been reiterated by Supreme Court when it held that the Kenyan diaspora has the right to vote for all the six elective positions to be realized in a progressive manner.

The word progressive has been defined to mean gradual, incremental, or increasing in intensity. It does not mean quickly or slowly.

The right of Kenyans living abroad to vote is governed by the laws in Kenya. They must be Kenyan citizens, above the age of 18 and with a valid Kenyan passport. For the avoidance of doubt a Kenyan living abroad with a dual nationality is not disqualified from voting or being voted in the elections. For those seeking elective positions the only condition set by the High Court is that one should renounce his other citizenship before being sworn in for the position for which he/she was elected.

During the 2013 General Elections, the Commission made a policy decision to conduct elections for Kenyans living within the East Africa. As a result, IEBC was able to register a total of 2637 Voters of which 2328 voted. The Commission is currently undertaking an online mapping tool for the Diaspora voters. So far only 1,500 have responded to the survey. However, according to a research done by Migration Policy Institute (MPI)

for the Rockefeller Foundation/Les Aspen Centre there are slightly close to 200,000 Kenyans living in the USA.

The Commission has adopted a Diaspora policy with clear guidelines on the policy and implementation framework in registration and voting of Kenyans living in the Diaspora. The policy will be shared with stakeholders and subsequently National Assembly for purpose of informing legal reform. IEBC will hold discussions with key stakeholders such as the Ministry of Foreign Affairs (MOFA) for purpose of sharing data and information on diaspora. The data collected from the IEBC portal and the MOFA will inform the decision on the countries that the Commission will prioritize in the registration and voting during the 2017 General elections. The Commission intends to roll out registration in the priority countries in February 2017. The existing legal framework governing voter registration and voting requires the Commission to conduct this exercises where Kenya has got established embassies, high commissions and consulates.

h. Voter Education:

The new Constitution has introduced a new electoral system and governance structure that is yet to be fully understood and internalized. The electoral system is a mixed member proportional system (MMPR), which combines a first past the post system (FPTP) and a proportional representation (PR) system. It also produces a pure presidential system of government, a bi-cameral legislature and devolve system of government. The devolve system of government essentially makes the country a unitary state with a federal character – 47 Counties with elected Governors, County Assemblies, and County Executive Committees. There is a serious need for civic and voter education.

Voter education is basic facts on election given to the voter; for instance if the information is about registration, voter education will tell you the eligibility/qualification of the voter. Voter information programmes play a major role in encouraging participation through providing accessible information.

The Commission has the mandate under the constitution to implement voter education. Given the important role played by voter education, the Commission has embarked on both short- term and long-term strategies in the implementation of voter education. The Commission launched an annual Voter Education Week whose main objective is creating awareness on different elements of the electoral cycle and to mobilize voters to register.

The Commission recognizes the importance of sustainability in elections. To address this issue, we signed a Memorandum of Understanding with Ministry of Education with the aim of nurturing democracy in young Kenyans. In addition, as part of Corporate Social Responsibility, the Commission supports the conduct of elections in schools by provision of elections materials and officials. As part of the 2017 election preparations, we will review the voter education curriculum and Information Education and Communication (IEC) materials. The curriculum will be informed by the 2013 general election in order to optimize on increasing registered voter, target marginalized groups and maintain/ improve the voter- turn out. The curriculum will also be utilized in training of the voter education providers deployed in each ward.

i. Elections Operations:

The most publicly visible activity for an EMB is the voting. Organizing voting in polling station across the country within tight and limited deadlines is labor intense and high-pressure job. The voting process is governed by Article 81 (e) of the constitution; it must be by secret ballot; free from violence and intimidation; transparent and administered in an impartial, neutral, efficient, accurate and accountable manner.

The underlying requirement of the electoral operations is; access of all eligible voters to polling stations; the recruitment, training and deployment of polling officials; application of appropriate technology; voter education on procedures for voting; deployment of logistics and adequate voting materials; smooth flow of voter in a polling

station; accurate register to confirm registration status of a voter; presence of party agents and observers;

The Commission had tremendous lessons from the 2013 polls. During the by-elections the Commission has continued to improve the queue management strategy, use of EVID and Results Transmission systems. To enhance performance by elections officials, the Commission has introduced an exam during training before deployment. The exam focuses on the accurate filling of forms and use of technology.

In preparation of the 2017 General elections, the commission has prioritize the issue of improved access for persons with disability at polling stations; digitalizing the training material for purpose of uniformity; enhancing the color-coding on the ballot papers to make them more conspicuous; reducing the number of voters per station by mapping neighbouring station an focusing on proper queue management. The Commission is exploring ways of enhancing results management by harmonizing procedures of setting up tallying centers across the country and sharing the same with political parties. The Commission is looking into the possibility of scanning results in addition to the transmission at the polling station.

j. Communication – Internal and External:

Communicating to both internal and external stakeholder is very critical for the success of any elections. Lack of ability to communicate reliable information in a timely manner in highly charged political environment could often lead to mistrust. Lack of timely communication was identified as one of the weaknesses in the build up to the 2013 general elections.

The Commission is committed to improving the communication avenues for both its internal and external stakeholders through; review of its communication policy; use of weekly brief via intranet on going an up coming activities; enhancing weekly, monthly communication with field offices using the teleconference; regular update of the

Commission newsletter. Further IEBC will continue using the social media such as twitter and Facebook to inform its external stakeholders. There will be regular briefing for the media house in the lead up to the 2017 general elections. We will also set up a media center by May of 2017. The media center will act as the focal point for all information relating to the elections.

k. Risk Management:

Risk identification and management is at the center of corporate governance. The purpose of integrating risk management is to identify issues that have significant impact on the operation of the Commission. Thus as part of the complying with Article 81 of the constitution, the Commission is compelled to institutionalize risk management in its processes and operations.

As part of Risk management, during the 2013 general election, the Commission piloted International IDEA's Electoral Risk Management Tool (ERMT). The pilot included, capacity building of staff on data collection, analyses, designing prevention and mitigation strategies. The tool was utilized in risk mapping across the country. Using this tool the Commission was able to improve Electoral management and justice; improve the electoral peace Architecture and electoral security. In addition, the Commission implemented the Elections Security Arrangement Project (ESAP). Under the ESAP, electoral and security personnel were able to plan together for purpose of managing security issue in a specific region. This was important in assisting the Commission identify potential violence occurrence and take necessary remedies.

The Commission will build on the gains of these two-projects in the build up to the 2017 general elections. Under the strategic plan and two year EOP, the IEBC has identified a number of risks and mitigating measures. The major risks are in the area of operations, financial management, reputation, technology, and project management implementation. These risks have been classified in order of their consequences, likelihood of occurrence and level of impact. As a mitigating measure, the IEBC will

ensure that there is accountability and implementation of the risk management recommendations.

1. Investigation and Prosecution of Election offences:

The powers to investigate and prosecute electoral offences enables the Commission enforce the electoral code of conduct. Nonetheless, it's important to note that the Commission has resource limitation in full operationalizing this function. To-date, the commission has recruited a prosecution and investigation department task with this responsibility. In undertaking this mandate, the Commission will work with the Inspector General (IG) and Director of Public Prosecution under a tripartite agreement. Under the agreement, the Commission will empower the security officers with knowledge of electoral practice, investigation and prosecution of electoral offences in the run up to 2017.

m. Publication:

Publication of election result is the hallmark of an election process it marks the end of the elections period paving way for the post-election period. The Law requires the Commission to publish the final results in a Gazette notice. The Commission plans to use technology so that the production of the final result is fast and transparent.

CHALLENGES:

- a. Socio-Cultural: - High stake ethnic based politics creating an unstable electoral environment; prejudicial cultural perspectives on inclusivity in promoting representation of women, persons with disability and marginalized communities.
- b. Legal: - Unpredictable timelines for the processing of statutory amendments to electoral laws, which causes a strain in the implementation of EOP. Delays in publication of laws/legislative amendments leading to the possibility of undertaking training sessions with un-updated election manuals; Shambolic parties primaries and more candidates becoming independent candidates

- c. Political: -Maintaining a balance between the Commission's independence and the requirement for consultations with stakeholders.
- d. Technological: Rapid technology changes leading to obsolescence of existing election technologies. Insufficient mobile network coverage in some parts of the country. Lack of or unreliable electricity supply in some areas. Emergence of cybercrime and mutating cyber related crimes.
- e. Financial: -The escalating costs of elections owing to high commercialization of electoral works, goods and services by service providers. Insufficient government funding for core electoral activities. Slow and lengthy public procurement procedures leading to delays in implementation of programmes and uncoordinated execution of electoral process logistics.
- f. Operational and Logistics: - The six elective positions attract high candidacy thus heightened logistical complexity of the general election. Slow issuance and collection of national identification documents. High level of adult illiteracy in some electoral areas leading to high number of assisted voters thereby compromising secrecy of the ballot. Hindrance of effective voter registration exercise in pastoral communities due to their nomadic way of life. Poor road network and difficult geographical terrain in some areas. Balancing Commission mandate in undertaking registration and voting of citizens residing outside Kenya against existing foreign policies, laws and regulations of host countries.
- g. Security: -Presence of militia groups and gangs that have the potential of precipitating pockets of violent confrontations which may affect voter turnout. Sustained threat from international terrorism. Security concerns over large number of voters concentrated in some polling stations mostly found in cities and large urban settings.

## CONCLUSION:

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The 2017, general elections will provide an opportunity for the Commission to strengthen its systems structures and stakeholders relations. Towards the preparation of the 2017 general elections, the Commission will continue to build on valuable lessons during the 2013 general elections as embedded in the strategic priority areas. The Commission will focus on this key priority areas so as to make the 2017 general election credible elections thus strengthening the democratic culture of Kenya and contribute towards the political pillar under vision 2030. It must however be noted that while a lot is required of the Commission, the other institutions and players in electoral process such as the political parties, Treasury, National Assembly and Judiciary must also play their respective roles.

END