



2<sup>nd</sup> June 2022

**Mr. Wafula Chebukati,  
Chairperson,  
Independent Electoral and Boundaries Commission (IEBC)  
Anniversary Towers,  
NAIROBI**

Dear Chairman,

**RE: SECURING THE INTEGRITY OF OUR 2022 ELECTION**

We write to you on behalf of a multistakeholder advocacy group and voters about the vulnerabilities of our election systems and operations. We wish to raise serious public concerns and are alarmed by the lack of preparedness including some shocking pronouncements and revelations emanating from the IEBC. There is need for prompt action to ensure that our election standards as prescribed in our Constitution and our laws are secure and able to withstand any election security risk.

With only 67 days to go before the election, there is a total lack of clarity on very critical issues which include the status of the Voters' Register, the use and integrity of technology, recurrent challenges in procurement of electoral equipment by the IEBC and polling stations that are yet to be gazetted. We are concerned about the lack of independence of the Commission, political interference in its operations, rampant conflicts of interest and the continued lack of cohesion and capacity within the Commission which all conspire to compromise the delivery of free, fair, and credible elections to Kenyans.

Key issues threaten the operations and management of this election, and Kenyans are yet to be reassured as to how they will be resolved. These issues are not just technical, and this country knows only too well the human cost caused by the mismanagement of elections.

We demand clear communication from the IEBC on the status and plans to deal with the following issues:

1. **Procurement of Election equipment:** Procurement by the IEBC has been dogged by inefficiencies, negligence, and outright corruption. This has not only been pointed out in successive damning reports by the Auditor General reports and the Public Affairs Committee. The internal audit investigations by the IEBC in 2018 uncovered extensive and alarming irregularities and illegalities. A 2013 Special Audit found that every item bought for the elections was corruptly procured. The only reason the responsible authority (the Public Procurement Authority Review Board) did not annul the process due to the proximity of the elections. Once again, the IEBC appears to be running down the clock to confront Kenyans with an irresolvable dilemma, while taking refuge behind its purported concern for the "public

interest”. The IEBC has never been held accountable for wanton waste and misappropriation of public funds, cavalier mismanagement of inventory, leading to unnecessary additional procurement of goods and services and equipment, at exorbitant prices, some of which did not even reach the country in time for elections.

- 3. Unauthorised entry into technology systems:** The constitution and election laws hold that the Commission shall deploy technology and that it must be simple, accurate, verifiable, secure, accountable, and transparent. Unfortunately, the IEBC does not appear to be able to give the public a credible assurance that the technology in use will be secure from any external or internal interference, function effectively and that IEBC staff will be adequately trained on its use. The KPMG 2017 audit report raised concerns about unauthorised entry and the capacity to change, delete, amend, or add changes to records, without any trace whatsoever. Your recent public comments about transfer of voters in the Voters’ Register without authority is alarming as this is one of the issues that was flagged in 2017 and reflects a failure to address past problems. It is not enough for you as the Chairman to lament about this egregious breach: you must demonstrate to Kenyans that you are exacting accountability and closing the loopholes. Swift administrative and punitive action must be taken against any officer who deliberately tampered with the Voters’ Register.
- 4. The electoral calendar:** Although many of the components are not within its control, the IEBC has always been dilatory in sequencing and managing the electoral calendar, leading to a last-minute crunch, and forced decisions. We are concerned that multiple critical processes are occurring simultaneously, including “cleaning up” of the register by commission staff, while voters verify their status, and an audit of the register is presumably being conducted. How is it possible that our election system continues to fail so spectacularly?
- 5. Electoral Technology:** An audit of the election’s technology is either in the process or imminent and testing is yet to be done. We remind you that in the test runs in 2013, 2017, the technology did not pass the usability test as it collapsed across the country. The KIEMS kits did not capture and record all voters’ data and a number did not have power back up.

Problems experienced in the past elections with technology remain unresolved with no accountability exacted for failures. In addition, past suppliers hold the Commission hostage in accessing and configuring KIEMS kits. Moreover, the increase in the number of registered voters, even if sub-optimal, and the projected related increase in polling stations means that thousands of KIEMS kits must be configured, equipped with SIM cards, and tested, by an institution that has suffered a loss of capacity in personnel and is pressed for time. The voters are left in doubt as to the Commission’s ability to deliver technologically sound elections. However, challenging these issues are, IEBC must inform us what steps it’s taking to remedy and allay our concerns.

- 6. Polling Stations:** Less than 70 days to elections, major questions remain unclarified. Additional polling stations have yet to be gazetted, neither are we clear about whether they will all be equipped with electronic machines and transmit election results electronically. We are also aware that certain polling stations have been closed and no mention of transfer of voters to new polling centers. The Commission needs to clearly communicate to the voters how these changes, affects them.

7. **Voter's Register** – The voters' register has remained a contentious issue over successive election. A definitive and verifiable voters' register is the basis of an accountable election. In Kenya the register has been plagued by a litany of recurring problems, some of which we have referred to above. Together these issues have contributed to an environment in which the validity of the register is in significant doubt. It remains profoundly disappointing that IEBC has not fulfilled its constitutional mandate of continuous voter registration and not been active enough in educating Kenyans to continue to register until the statutory deadline. A perception by Kenyans of a flawed voters register will only damage the election outcome. Moreover, verification of the register is more than voters checking their credentials by SMS: this is not good enough, as it is not inclusive in reach. The Voters' Register in its entirety and the process of registration must be open to public scrutiny in a timely manner.
8. **Election Management Coordination**: The Office of the Directorate of Public Prosecution (ODPP), Ethics and Anti-Corruption Commission (EACC), Independent Police Oversight Authority (IPOA), National Cohesion and Integration Commission (NCIC), Communication Authority of Kenya and other independent organs are dealing with a trust deficit by citizens. Yet, all these institutions have important and related roles in delivering a credible election. The current public spats and blame games between election management bodies only weakens their stature and does not restore citizens' faith in their capacity to carry out their mandate independently, fairly and with integrity.

Lack of seriousness, coordination, cohesion, and accountability with other public bodies involved in election management issues continues to diminish the capacity to deal with urgent matters like gaps in leadership and integrity, electoral violence, hate speech, exclusion, sexual and gender-based violence, protection of data and equal access to information amongst other critical concerns.

The release by the EACC of a list of aspirants for various positions with integrity issues is an opportunity for the IEBC to take leadership, and deal with the significant integrity raised. We demand that IEBC have the courage to use their constitutional powers and coordinate their actions for meaningful action on enforcing Chapter Six and other legal and constitutional provisions.

9. **Voter Apathy**: 1.5 million newly registered voters out of 6 million eligible shows a serious lack of confidence in Kenya's electoral structure. The Commission's poor performance and our political leaders' failure to live up to their promise of fair elections has brought high voter apathy and indifference. An IEBC commitment to transparency and honesty would help build public trust in body's capacity to conduct a free and fair election. There is need to enhance voter education specifically on rights and responsibilities of voters and use of technology and integrity in elections.
10. **Independence of the IEBC**: The Kenyan public has little faith in the Commission due to multiple reports about its lack of independence, as well as political alliances and alignments within the Commission itself. We are concerned about reports of internal competition over recruitment processes and supplies, influenced by clear conflicts of interest. We remain mindful of the conflict between the chair and the former CEO which exploded in public.

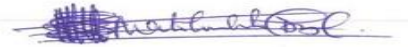
The inability to carry out its mandate continues to impact all major activities necessary for making our election free, credible, and legitimate. The only way for Kenyans to have credible elections begin with a Commission that is independent, impartial and embodies our national

values, that is aligned only to public interest of Kenyans, embodying the principles laid out in the Constitution

**11. Results Transmission:** We note with concern that more than 8 years later, IEBC is still unable to ensure all polling stations have adequate network coverage for transmission of elections results. The provision of 4G network by other network providers should be explored to ensure all polling stations meet the threshold for use of election technology.

This letter raises immediate and critical issues that we need IEBC to urgently address. Kenyans have long been exposed and subjected to serial failures by all institutions mandated to deal with integrity because of refusal or failure to act.

This election has some potential to be peaceful and transformative, however, for this to happen, IEBC needs to commit to getting it right. It has a huge share of our income and Constitutional powers. So... ACT!



**DAVIS MULANDI MALOMBE**  
**Executive Director**  
**Kenya Human Rights Commission**

**ON BEHALF OF:**

<b>NO</b>	<b>NAME</b>	<b>ORGANIZATION</b>
1	WINNIE MASAI	INFORMATION
2	BETTY OKERO	ANGAZA MOVEMENT/CSO NETWORK
3	GLADWELL OTIENO	AFRICOG
4	KHELEF KHALIFA	MUHURI
5	ELSY SAINNA	ICJ-KENYA
6	WAMBUA KAWIVE	INUKA KENYA
7	JOSEPH OMONDI	MIDRIFT NETWORK
8	FR. GABRIEL DOLAN	HAKI YETU
9	DAISY AMDANY	CRAWN TRUST