



Kenya National Commission on Human Rights

Press Statement:

For Immediate Release

Nairobi, 11th August, 2022

A HUMAN RIGHTS UPDATE ON THE VOTING PROCESS

The Kenya National Commission on Human Rights (KNCHR) in fulfilment of its mandate of promoting and protecting human rights during the electioneering period monitored and observed the elections through **150** hired monitors and over **100** staff members. The Commission was able to monitor and observe the voting process across the country, documenting pre-poll and polling day activities and processes. It is unfortunate that at some of the polling stations, the KNCHR staff and other IEBC accredited observers were denied entry into the polling stations before the commencement of the poll to witness the sealing of the ballot boxes. The presence of the accredited observers, monitors and agents allows them to ensure all pre-poll processes are properly carried out by the election officials and that all the necessary election materials are available.

In this brief, the Commission shares its monitoring updates and initial preliminary findings of the 2022 polling process.

The Commission takes cognizance of the millions of Kenyans who came out to actualize their democratic right to vote and wishes to applaud them for participating in this very crucial civic duty that guarantees democracy for Kenyans. The KNCHR acknowledges, honors and salutes them!

Whilst the Commission appreciates the enormous task the IEBC undertakes in ensuring free fair and credible elections countrywide, the Commission noted concerns with some of the processes and incidents that occurred as outlined below:

- i. Misprinting of ballot papers and suspension of elections in **Mombasa, Kakamega, Kachileba** and **West Pokot** less than 12 hours to the polling. This caused a lot of confusion and conspiracy theories that dented the great efforts made by IEBC in preparing for the Elections. It also led to voter apathy in some areas. The Commission also notes that the new dates advertised for the elections will disrupt learning as schools will have to be used as polling stations.
- ii. Rampant failure of the KIEMS kits countrywide coupled with the decision rendered by the Court of Appeal on Monday 8th August 2022, led to a lot of confusion on whether manual voting was permitted or ruled out completely by

- the Court ruling. Different standards were observed being applied in various polling stations. In one polling station, the Presiding Officer ridiculously asked the voter to try using his toes for identification since the fingers had failed the biometric voter identification. There was also a shortage of the Form 32A that needed to be filled before resorting to manual voting.
- iii. Postponement of elections on polling day in **Rongai** and **Kitui Central** led to unnecessary tensions and several voters were very disheartened.
 - iv. Streams within a polling station opening at different times, yet closing at 5 pm led to loss of voting hours in certain streams within a polling station.
 - v. Voters found it difficult to properly identify their voting streams, and there was very little support offered by IEBC to voters to enable them readily identify their streams. A lot of people queued in the wrong streams and ended up not voting.
 - vi. There were reports from **Rangwe, Imara Daima, Chula, Awendo, Embakasi East** and **Kajiado** of ballot papers being found in the hands of people who were not elected officials. The Commission notes that in all instances swift action was taken, and in the Kajiado case it was established that the persons were properly authorized to ferry the materials, and were accompanied by security officials.
 - vii. Reports of destruction of election material in **Eldas in Wajir**, led to the postponement of the elections in that area.
 - viii. Several polling stations experienced long delays in opening. Most of the cases were as a result of the KIEMS kit failing to function properly or late delivery of electoral materials. A polling center in **Lunga Lunga Constituency, Kwale County** was opened in the evening of 9th August at 5 pm and voters were to be allowed to cast their votes until 5am of the 10th August. It is evidently clear that these voting times disenfranchised voters, especially women and elderly persons who might have been constrained to go and vote at night.
 - ix. Insufficient electoral and voter materials was also noted. As the voting proceeded, the Commission documented in the later parts of the day the insufficiency of electoral materials in some polling stations. In the stations that had large voter turnout, the two voting booths per station proved to be insufficient as the voters would be forced to wait longer in the queue. In a polling station in **Ruai, Kasarani Constituency Nairobi City County**, the IEBC Presiding Officer had to improvise a desk as a polling booth to facilitate faster movement of the queues. The Commission also documented cases of polling stations that ran out of Form 32A and in these cases voters were told to wait until more copies were delivered. In a polling station in **Salgaa Social Hall in Nakuru County**, the Presiding Officer had to improvise by taking down the details of the affected voters including their names, ID numbers, phone numbers and fingerprints on a piece of paper.
 - x. Persons with Disabilities had a difficult time accessing some of the polling stations. The Commission documented several polling stations that were not accessible to persons with disabilities with some centers like one in **Gatina Ward, Nairobi City County** having several polling stations on the first floor of a building with no lifts. Other similar cases documented included **Muhuri**

Muchiri Polling Center in Kasarani and Ziwa la ng’ombe Primary School, Mombasa County which were equally inaccessible to persons with disabilities. The Commission also notes that there were neither voting materials to cater for persons with visual impairment, nor lower voting booths for voters with physical disabilities.

- xi. Following its preliminary analysis of the voting process in polling stations across the country, the Commission notes with concern the different and varied approaches that the Presiding Officers adopted in carrying out some of their critical duties which questions the level of training that they received prior to the polls. For instance, in some polling stations, the Presiding Officers seemed not to understand the role of observers, and some obstructed observers from taking photographic evidence, such as ballot seals which is part of an accountability measure. Several of the election officials also suffered challenges in operating the KEIMS kits which resulted in delays in opening stations and also delays in processing voters thus lengthy queues and a very slow voting process.
- xii. The Commission documented instances of bribery and campaigning during the voting process at the queues and in the precincts of the polling stations.
- xiii. Insecurity was a great concern, with pockets of violence reported in **Baringo, Wajir, Garissa, Mombasa, Siaya** and **Kakamega Counties**. These cases range from candidates inciting their supporters; altercations between opposing political factions; misuse of firearms as documented in **Bungoma, Busia** and **Siaya Counties**; to physical violence and destruction of property as documented in **Mombasa**; and confrontations at polling stations that resulted in physical injuries of civilians, security personnel and IEBC officials as documented in **Kakamega, Mombasa** and **Nairobi Counties**. In all instances the security agencies acted swiftly. However it is unfortunate that a total of two lives were lost in the incidents in **Kakamega** and **Kisumu counties**. The loss of lives is highly condemned by the Commission, and the Commission calls on the relevant actors to initiate timely investigation, arrest and prosecution of those involved. The Commission is also concerned about the current state of insecurity in Eldas where it is reported that aspirants have marshalled ‘*militia*’ to cause fracas at polling centers making them inaccessible to voters. Politicians should learn to value the lives and rights of their employers, who are the voters.
- xiv. On Gender-Based Violence and Gender Discrimination, the Commission received unsettling reports of various forms of Gender Based Violence that were perpetrated in the context of voting. Some of these cases include alleged threats to women by either their spouses, relatives, political supporters, or members of the public to vote for particular candidates. Some of these instances resulted in physical injuries with the victims fearing for their lives. The Commission condemns such heinous violations which are in contravention of Article 27 of the Constitution of Kenya that bestows on all equality and freedom from discrimination.
- xv. Security and Safety of the Media: The Kenya National Commission on Human Rights has also received reports of journalists being attacked by some politicians and people in cahoots with the politicians. The Commission

reiterates that during the general election, journalists and media practitioners are expected to stay at the frontline and their access to and provision of information on elections as well as their safety and protection must be guaranteed.

The Commission continues to monitor the vote counting and tallying process and shall issue a statement on its findings on the same in due course. In the meantime, the Commission wishes to commend the Inspector General of the National Police Service for the responsiveness of security agencies, and the restraint with which they have executed their duties. The Commission urges them to continue on this trajectory as the country moves towards the critical stage of the declaration of the Presidential election result. The Commission also notes that despite the recorded incidences of violence, it has been a fairly peaceful election with most Kenyans heeding the call to vote and return home to await the outcome. The Commission wishes to urge Kenyans to continue maintaining peace and calm, and to patiently await the final tallies. Equally, all candidates are called upon to encourage their supporters to maintain peace and desist from violence as results are awaited, and where necessary, to follow the rightful legal channels in seeking redress. The Commission also calls upon Kenyans to stop rousing emotions, especially on social media by peddling untruths and forecasting the outcome without any factual supporting data.

A handwritten signature in black ink, appearing to read 'Roseline D A Odede'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Roseline D A Odede, HSC
Chairperson
Kenya National Commission on Human Rights