

CHAIRMAN'S ADDRESS ON STATUS OF PREPAREDNESS FOR THE ELECTIONS – 18TH

OCTOBER, 2017

Fellow Kenyans,

Kenya has some of the best brains in the world who are respected and celebrated globally. These brains would love to serve their nation but unfortunately because of the arrogance and narcissism of our political class we cannot attract these minds and even if we do we cannot retain them as demonstrated in the resignation of Dr. Roselyn Akombe from the commission. She is one of our finest brains and it is very sad to see that we could not provide an environment for such minds to find full expression without fear for their lives. At the time of her departure Dr Akombe was the Chairperson of the Election Operations Committee, a critical organ in the Commission. She discharged her responsibilities with diligence, commitment and excellence. This development and others make it pertinent for me to address you today.

I address you today first as a Kenyan, a parent of Kenyan youth, as a lawyer and lastly as the National Returning Officer for the presidential election.

As a Kenyan I am very proud of the strides this country has taken over the last decade. Unfortunately when you have something it is easy to take it for granted. Just like a person seated inside a fast moving jet cannot appreciate how fast it is moving, many inside this Kenya jet do not appreciate the development that Kenya has gone through since the dark days of our recent past.

In a study of great empires such as the Egyptian Empire, the Babylonian Empire, the British Empire and even the American Empire, one common thread that ran through them all was that they were places where people could migrate to from all over the world, settle, establish themselves and even become citizens. In Africa today, no country has this like

Kenya does. The future of our great country is so great that if (and a big IF) we can pass this immediate hurdle ahead of us, we are very well on our way to becoming an African super economy.

I address you as a senior lawyer because I chose this noble profession in order to defend the law at all costs without fear or favor and without any form of partiality, come what may. I became a lawyer so I could defend people who had no one to defend them and since I started my practice over thirty years ago, that is what I have been doing.

Having built a successful law firm, an opportunity came for me to represent the people of Kenya, to ensure that the voice of every single Kenyan was heard as I presided over the elections and specifically in the position of the National Returning Officer. With gratitude to GOD AND THE Kenyan people that gave me this opportunity, that is why I have now come directly to the Kenyan people because you deserve to know the state of the Country's preparedness for the FPE.

I am under no illusion that all will be happy with my decision to come directly to the people who gave me this assignment – the people of Kenya, but then with the rapid twisting and turning of events between August and now, I turn to you in recognition of the words of our great constitution that, 'all sovereign power belongs to the people of Kenya...' I am fully convinced that the Kenyan people, on whose behalf I serve, have the power to determine how we move together as a people.

Since 20th January 2017 when I took the oath of office, I recognize that I am a custodian of the trust of the people and I serve at the pleasure of the Kenyan people and not the Kenyan elite. Democracy is about the people and I took an oath to preserve it and that is why I now turn to you. You have a right to know the state of things in our beloved country. I have chosen to communicate directly also to ensure that you do not get speculative ideas or outright false news from the fake news mongers.

Since the annulment of the presidential election by the Supreme Court on 1 September 2017 I have consulted widely with many of our returning officers and reviewed our performance in the 8 August 2017 election. I do not take lightly the indictment of the



Supreme Court and I have therefore been working to ensure that this second opportunity we have been given is not in vain.

As an advocate of the High Court, I hold that strict compliance to the constitution and electoral laws in organizing the fresh presidential election is fundamental. The commission has reviewed the Supreme Court judgment and has developed a matrix on its compliance to all the aspects of the constitution and the law. This has guided all the preparations for the elections with the goal of ensuring transparency verifiability and accountability. In the words of our Honorable Chief Justice David Maraga, “An election is not an event, it is a process from the beginning to the end,” ... As such, I have vowed to ensure transparency, verifiability and accountability in the entire process from beginning to end.

There are numerous calls for peace but we all appreciate that peace without fairness and justice is an illusion of peace. Credibility is the fountain where true peace flows from. The Bible tells us in 2 Samuel 23:3 He that ruleth over men must be just, ruling in the fear of God while the Koran reminds us in Quran 49:09 that Verily! Allah loves those who are just.

Fellow Kenyans,

We are faced with a dilemma as a country, one between the status of operational preparedness and the political environment for credible elections. The technical, operational and logistical arrangements for the election are on course. Printing of ballot papers and forms began this week with extra attention paid to standardization of forms and security features. The Commission intends to engage stakeholders in monitoring of the printing, packaging and shipping of the electoral material. Procurement of all strategic and non-strategic material is complete with dispatch to constituencies' ongoing. Logistical arrangements for the deployment of ballot papers and forms are in place. //

The Commission has worked with OT-Morpho/Safran to ensure that the technology is reconfigured to comply with the directives of the Supreme Court especially as it relates to transmission of results. To increase network coverage we have deployed Safaricom SIM cards in all the KIEMS tablets, as a primary and seconded by the other two major Mobile

Network Operators [MNOs] as secondary. The Commission has embedded technical experts from the international organizations into the ICT team and intends to do the same with representatives seconded by each Party/Candidate.

Standardized training to all our poll officials has commenced. We have ensured that all policies and practices required for the election are contained in one document rather than several advisories. The Commission has developed a comprehensive presiding officer's guide and a new returning officers guide with specific do's and don'ts and checklists. Our current training involves all aspects of the work of the poll officers including mundane issues such as the use of printers and scanners. The Commission has already completed three phases of training, and the fourth phase of training of presiding officers is ongoing. The commission has constituted a "Fresh Presidential Election Implementation Team" which is overseeing the management of the new election. I am therefore confident that from an operational angle, we are ready for the 26 October 2017 election as directed by the Supreme Court.

Fellow Kenyans,

But even as I assure you of our election preparedness, as an election manager, I am aware that an election is not about the logistics and the operations alone. That credible elections, if they are to meet the high bar set by our Supreme Court, require that there be a conducive environment for the voters to exercise their rights.

To quote former United Nations Secretary-General Ban Ki-Moon, "It is important to recognize that conducting genuine elections requires more than improving technicalities or comparing processes against international obligations and practices. I wish to emphasize that elections are fundamentally political, rather than technical events; and more importantly they are not an end in themselves"

This raises an important question for us to answer.

As a country, are we convinced that in addition to the technical preparations we have a conducive environment for Kenyans to freely express their choice? In the past few weeks I have pondered over various issues.



A leading candidate who garnered more than 6 million votes has withdrawn from the race. While it is his right we must think beyond him and think of the 6 million Kenyans who will feel disenfranchised by this action. Do we just go on as if this withdrawal means nothing?

In Zimbabwe, after the withdrawal of Mr. Morgan Tsvangirai from the 2008 presidential run off, their economy has never recovered from its then 5.8% economic growth to the current 0.7%. While President Robert Mugabe had a resounding victory after the withdrawal of the opposition leader from the race, issues of legitimacy continue to dog his legacy to date.

In our neighboring Burundi, President Pierre Nkurunziza won the presidential election in 2015 after all the 17 opposition political parties withdrew from the presidential race. Economic growth nose-dived from 4.5% to its current negative 0.5%

There are many more similar examples in our continent and elsewhere, such as Bangladesh and Thailand both in 2014 showing us the negative political and economic impact, of using the business as usual approach to managing elections. The lesson we can pick from these countries is that dismissing withdrawal of candidates with a large number of voters does not improve the economic, political or social situation in the country. In fact, it leads to a deeper crisis.

Fellow Kenyans

While today I want to confirm to you our full technical preparedness for this election, I want to state categorically that I shall not go down in history as the National Returning Officer that plunged the country into a further crisis than I had found it. It is already painful to be on record as the Chairman of the IEBC that presided over a presidential election that was nullified by the Supreme Court.

I have made this point on numerous occasions to my colleagues at the Commission. I have made several attempts to make critical changes but all my motions have been defeated by a majority of the Commissioners. Under such conditions, it is difficult to guarantee free fair

and credible elections. I am convinced that without critical changes in key Secretariat staff we may not have a free, fair and credible election. I ask the staff who have been adversely mentioned to step aside and allow the project team to function without interference.

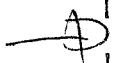
And yet, the burden placed on me as the Chairman is huge. The expectations Kenyans have of me are high. Yet, I cannot move forward with a divided Commission. I cannot move forward when presidential candidates refuse to put their personal interests aside and for once serve the country. If candidates on all sides put the country first it will affect the quality of decisions they make. They will realize that for the greater good of the country, there are things that they would like to do that they will have to stop, and things that they do not want to do that they will have to do for the sake of the country.

I took this job to make Kenya better, not to draw it to a crisis. As a victim of the 2007 post-election violence, I will not sit at the helm of the commission as we plunge the Country into a possibly worse situation than we had in 2007/8. We cannot miss the significance and relevance of the Koffi Annan led Serena talks. In early 2008, world leaders converged in our Country, to help save us from ourselves. For those who may not remember: neighbor turned against neighbor, and violence nearly engulfed the entire nation, simply, on account of our political intolerance. We ought not to have forgotten that so easily or quickly; but it appears so.



As a lawyer, I cannot continue to be pushed by majority Commissioners to accept legal opinions that serve partisan interests and are not grounded in the Constitution or the law. In the least, this is intellectual dishonesty for which my professional training demands that

I abhor.



I would rather bow out with my name intact and my head lifted high than to be a part of a process where personal interests dwarf the interest of the nation. I realize that my actions in this noble office will define me for life. My actions will become my legacy and the reference point not only for my life but that of my family. I am therefore not ready to sacrifice an eternal legacy for short term gains that will sear my conscience.



Fellow Kenyans

I welcome the actions of the religious leaders, civil society and the international community to “convene, facilitate and mediate high level talks on resolving the political crisis” in our country, I fully concur that what the country urgently needs now is National Dialogue. I therefore urge all political leaders to turn their attention to work on this National Dialogue to give us a chance to save the soul of our country.

Our economy is hurting. The investors are watching from a distance as we wrangle. Our Churches, temples and Mosques are filled with anxious Kenyans praying for a peaceful, free, fair and credible election. Our neighbors are watching, praying that we do not go over the cliff as we almost did in 2007/8. The international community is watching with bated breath hoping that the country pulls itself together to avoid further destabilizing the Great Lakes and the Horn of Africa region.

I appeal to leaders and supporters of the Jubilee Party and the NASA Coalition, to forge together towards a political dialogue that will help restore the dignity, genuine independence and respect for our institutions. Political and economic problems cannot be fixed through elections or legal mechanisms alone. As such as the referee of this contest, I am extending an open invitation to the candidates to a meeting that I will preside over so that they can talk. Once the Kenyan people see that their leaders are talking and are putting Kenya First, then we can douse the tension in the air. Politics should not make people enemies. It is only in primitive societies that divergent views lead to enmity. If we cannot disagree and remain friends, then the foundations of our friendship are shaky. We are the hope of Africa and we must display this in every aspect of our existence. The fact that we disagree does not mean we are enemies who will allow our supporters to kill each other. It is truly time for the candidates to stop thinking like divisive politicians and start putting Kenya first. Without this, what example are they showing the next generation? If we don't curb this mess, I fear for the future because a new generation will perfect the intolerance for divergent views and will plunge us to the birthing of a nation that the founding fathers will not recognize.



Once there is a political agreement as a result of dialogue; when there is a genuine commitment to let the Commission work independently; when all the Commissioners and staff truly commit to serving the country rather than partisan political interests; And when we work together to create a conducive environment for Kenyans to express their sovereign will, then I can truly be confident of having a credible presidential election. Only then can I commit to serve as the National Returning Officer in order to deliver a free, fair and credible election.

As the referee I want to issue a stern warning to the players of this game on all sides that they should stop all attempts to interfere with the process. Failure to do this will result in consequences as I have made up my mind to uphold the constitution and the will of the people of Kenya regardless of threats, intimidation or pressure. No one side is absolved from this and that is why my warning goes to all parties involved. Let me and my Commission do our job and we shall deliver. Interfere as you have been doing and we get stuck as a country. Anyone who truly loves this country will not want it to be destroyed by the selfish ambitions of a few people. I love this country which is why I have chosen to serve and because of my love for the country and dedication to the people of Kenya I address you as I do today. I will not allow anyone to destroy this country as long as I am the referee of this contest.

Let me close by reminding us all that peace is the end result of all things being done in an open and transparent manner. It is the result of the winner and the losers understanding why they won and why they lost without their confidence in the process wavering at all. Peace is what we get when the losers having faith in the transparency and fairness of the process and get inspired to work harder next time. Peace is what we get when the supporters of the losers are satisfied that the process was fair and transparent. Peace is what we get when the winner did not have to help the process. Peace is what we get when we embrace true democracy – where nobody needs to be aided to become somebody.

If Kenya burns it will be because we have not addressed these issues and because we have created an Orwellian society where some are more equal than others. Never forget the fact that the people for whom it burns all have the resources to relocate their families abroad in a minute. The people that will suffer are the innocent people of Kenya whose



lives would have been permanently altered because of the inability of the people they look up to as leaders to dialogue. When we do things right, we will get right things.

I know there are elements who would love nothing more than to hear me announce my resignation at this point. In reality, that will be the easier thing to do but we all have to put Kenya first and that is why I am determined to make this Commission work. Ironically, the very people – the political leaders that are supposed to build the nation have become the greatest threats to the peace and stability of the Nation and so today let me be very clear that this is a yellow card to both sides. I will not tolerate the interference in the commission anymore. Kenyans are paying a lot of money for this election and as their custodian I will not let the money of the Kenyan people or the development partners go to waste anymore. I will not tolerate threats to my staff.

Fellow Kenyans, this is the state of your nation as at today.

I thank you very much. God Bless you. God Bless Kenya.


W.W. CHEBUKATI
CHAIRMAN