

WE-THE-PEOPLE PRESS STATEMENT ON THE POLITICAL SITUATION IN KENYA

We-the-People is a group of trade unions, civil society organisations, the academia, the media and wananchi at large who have come together over the past week to address the political crisis that has gripped the country. We are united by the commitment to non-violence, justice, truth and free, fair, credible and peaceful elections.

Our consultations have convinced us that it is not possible to hold a free, fair and credible election on October 26, 2017 as scheduled. We-the-People therefore demand that the election scheduled for October 26 be called off.

Kenya is in a grave and deepening crisis, with ethnic militias mobilising and vernacular radio stations calling on people to prepare for war. Communities are arming themselves; politicians are making incendiary speeches and threatening violence. Militia are being openly mobilised – even Cabinet Secretary for Interior, Fred Matiangi, is on record mobilising the ‘chinkororo’ in Kisii County. We are on the brink of bloodshed and hurtling towards catastrophe.

We are greatly alarmed at the sight of public servants and members of the Cabinet wearing military fatigues at political rallies. This visual intimidation and show of might will not bring good tidings to the peoples of Kenya.

We are also deeply disappointed at the broadcast of new advertisements from State House purportedly representing the people of Kenya and imploring the people to vote even when it is evident that a large chunk of the country will not take part in the forthcoming election. The current political and security environment in the country does not support elections under the constitutional principle of universal suffrage.

Security officers deployed to police demonstrations demanding reforms ahead of fresh presidential election have caused scores of deaths and injuries, with evidence indicating that the use of lethal force was neither proportional to the seriousness of the offence nor strictly unavoidable to protect life. We are also deeply concerned by attacks on electoral officials by opposition supporters in parts of the country. We fear for the safety and lives of election staff who will manage the polling stations, and voters who may turn up, should the election go ahead. The exercise will neither confirm credibility nor confer any legitimacy on the winner.

We-the-People demand that a national dialogue be convened to address the political situation in Kenya. As we prepare for national dialogue, it is urgent that:

Mr Wafula Chebukati, as the National Returning Officer for the presidential election, urgently seek the guidance of the Supreme Court in light of the present

circumstances. It is a fact that the IEBC cannot deliver a free, fair and credible election on October 26, 2017.

That the political leadership commit to the national dialogue, and de-escalate the rising tensions in the country. In order to achieve this, the President must refrain from assenting to and gazetting the Election laws Amendment Bill, 2017, while all political actors must commit not to mobilise their supporters for violence.

Security forces must uphold the constitutional right to freedom of assembly and cease acts of brutality. The shocking number of deaths and injuries of protestors has been condemned nationally and internationally, and must cease immediately. We demand swift intervention from Independent Policing Oversight Authority, the Directorate of Public Prosecutions and other related State agencies for accountability and justice for these actions.

The DPP release a status report on the IEBC officials currently being investigated for improprieties committed during the August 8, 2017 General Election.

Putting off the October 26 election will not result in a constitutional crisis. We-the-People remind those clutching at this legal fig leaf that the judiciary has previously helped the country to identify election dates in 2012 under the current Constitution and can do so again.

The electoral commission has power to postpone polling in the event that the environment is hostile to and will likely frustrate free, fair and credible elections. Further, the guidance of the Supreme Court on conducting a fresh election is required after one of the candidates announced his withdrawal from the race on the basis of a 2013 decision. The court had previously observed that a candidate abandoning a fresh presidential race should trigger an entirely fresh election, including the nomination of candidates. The High Court's recent decision that the direction was obiter dicta and therefore not binding contradicts the advice of the Supreme Court that its obiter and advisory opinions are binding on other courts. The printing of ballot papers and declaration of a voting day cannot override the country's needs for accountability, truth and justice.

We-the-People call for the involvement of multiple stakeholders to national dialogue. It is only this form of dialogue, embracing a multi-stakeholder approach that can de-escalate the rising tensions and restore the country on a roadmap to peace, truth and justice at this important juncture by focusing on the following issues:

Deep electoral reforms that bring an end to bungled and illegal and manipulated elections once and for all. Never again must we as Kenyans be placed in this situations where elections become a matter of life and death and disrupt country's life.

Accountability for the violence in the aftermath of the August 8, 2017 General Election

Accountability for crimes and improprieties committed in the August 8, 2017 General Election by IEBC and other officials.

Wide-ranging consultations this week – incorporating the entire spectrum of views -- have convinced us that it is impossible to deliver free, fair and credible elections on October 26, 2017. We are alarmed at the drums of war and unrest that cloud the national atmosphere and which may result in political, social and economic upheaval and long term instability that could drive this country to the abyss of civil strife. Proceeding with the election as planned will deepen the political crisis and push Kenya into another round of devastating violence. This must not happen at any cost.

We-the-People conclude that the only way to stave off imminent large-scale violence is to stop the brinkmanship and call off the election to give our country time to properly handle and resolve the crisis. This includes receiving further direction from the courts.

Done in Nairobi AND dated 23rd of October, 2017.

Kenya Medical Practitioners Pharmacists and Dentists Union (KMPDU)

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Kenya Union Post Primary Education Teachers (KUPPET)

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Central Organization of Trade Unions (COTU-K)

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Kura Yangu Sauti Yangu (KYSY)

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Universities Academic Staff Union (UASU)

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