



PRESS RELEASE

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NAIROBI, KENYA: FRIDAY 4TH FEBRUARY, 2022

SUBJECT: MISREPRESENTATION BY MEDIA ON ELECTIONS LAWS (AMENDMENT) BILL, 2022

The Commission's attention has been drawn to media reports to the effect that the Election Laws (Amendment) Bill, 2022 seeks to scrap live streaming of poll results, ban live broadcast of poll results and return the voting system to manual voter identification and transmission of poll results akin to what was used in the General Election, 2007.

The Commission wishes to state as follows:-

1. The media reports are erroneous and a misrepresentation of the Bill as tabled before the Parliament.
2. The Bill does not in any way propose amendment to Section 44 of the Elections Act that provides for the deployment of an Integrated Elections Management System for voter registration, voter identification and results transmission. Instead, it proposes a complementary mechanism for result transmission to address instances where transmission of results is not possible owing to lack of 3G network which is the minimum standard required for transmission of results Form.
3. The Bill seeks to align with Case Law (the Judgement of the Supreme Court in the Presidential Election Petition number 1 of 2017) in which the Court held and decreed that election results is what is contained in the election results declaration form (34A Series) which is the primary document and final result recorded at the polling station. The Commission is required to verify the results by comparing the original physical form 34A and the image of the result declaration form as transmitted from the polling station.

4. As a result, the Bill proposes that the Commission will inter alia electronically transmit the image of the statutory election result declaration form filled by the Presiding Officer (PO) and witnessed by Political Parties and Candidates Agents present at the polling station. The Commission will ensure that all stakeholders access the portal where the election results will be reposed.
4. In addition, the POs at the polling stations will submit the statutory result declaration forms to the respective Returning Officers (ROs) at the Constituency tallying centres whereupon the ROs will collate the results and prepare form 34B and both form 34As and 34B will then be submitted to the National Returning Officer for the presidential election at the National tallying Centre for tallying and declaration of results.
5. The counting and prompt announcement of results by the presiding officers at the polling stations will be done in an open and transparent manner in full glare of the media and election observers.
6. The bill seeks to delete the provisions of the Elections Act which were annulled by the High Court in the Katiba Institute case where the Court declared void the provisions of Sections 39 (1C) (a), 39(1D), 39(1E), 39(1F), and 39 (1G) and Section 83 of the Act. The effect of those declarations is that the results process and the standard by which elections is to be determined by the Court does not exist. The law must therefore be amended to cure the gap which was occasioned by the Court decision.

The Commission wishes to assure all Kenyans that the election results management path will be transparent, secure and accountable and that the statutory result forms will be availed to all stakeholders at the polling stations and the Constituency and National Tallying centres.



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CHAIRMAN