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**JOINT CIVIL SOCIETY STATEMENT ON PERTINENT ELECTORAL ISSUES IN KENYA**

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**NAIROBI, Kenya, Sunday, 23<sup>rd</sup> July 2023-** We, the members of CSO organizations under the banner of *Uchaguzi Platform*, have been keenly monitoring the political situation in the country and are deeply concerned over the recent events that have unfolded during the series of protests by various entities including CSOs, members of the public, public transporters and the Azimio Coalition Party over a number of grievances which included new tax regime, high cost of living and election related complaints.

In view of the above, we wish to state as follows:

**1. Respect for fundamental human rights**

We are appalled by the alarming incidents witnessed recently where some peaceful protesters, exercising their democratic right to picket, were met with unnecessary force and arbitrary and unlawful arrests by the National Police Service. It is disheartening to witness such actions in a country that prides itself on upholding the principles of human rights and freedom of speech, and which is sovereign by the Constitution in which the freedom of assembly and expression is enshrined. We call upon the authorities to respect and protect these fundamental rights, allowing peaceful demonstrations to take place without intimidation or undue restrictions. Safeguarding human rights is not only a legal obligation but also a moral imperative that ensures the dignity and well-being of every citizen.

That notwithstanding, we acknowledge that whereas the right to protest is codified in the law, it has a corresponding duty that it be exercised in a peaceful manner. We therefore wish to call upon members of the public who are exercising their constitutional right to demonstrate to do so peacefully and within the confines of the law. We also wish to invite the organizers of the demonstrations to make public pronouncements calling on their supporters to refrain from destruction of property and causing disruption to livelihoods and businesses of their fellow Kenyans.

## **2. The reconstitution of the electoral body- urgent**

We are aware that an IEBC selection panel was constituted and is operational, the recent developments occasioned by the bi-partisan parliamentary process have thrown the country into uncertainties in terms of its operations and anticipated timelines. Serious questions have been raised on the IEBC in terms of its composition, the model and its place in the overall role in the managing and delivering credible elections and *refenda* in Kenya. In view of this and noting the opportunity being accorded by the bi-partisan parliamentary processes, Kenyans need to have an honest conversation as to what kind of an election management body they need which will safeguard the integrity of their elections.

While we do not wish that this process be rushed and thereby run the risk of missing out the needed reforms and other proposals, it is important to indicate that critical decisions and processes are pending and wait for the full constitution of the IEBC. For example, processes of by-elections (for Magarini, Lagdara and Banisa) and boundary delimitation have been put on hold and if this process drags longer, the country risks running into a constitutional crisis. Every Kenyan has the right to representation and therefore the continued uncertainty on when to conduct the by-elections may lead to the disenfranchisement of the respective residents of these electoral areas. We therefore call on the IEBC to give clear directions to the process.

We therefore urge that sober discussions and meaningful engagements in this regard be expedited and consensus arrived at to move this process ahead.

## **3. On the Cost living and Repeal of Finance Act 2023- urgent and necessary**

On 10<sup>th</sup> of July, 2023, the High Court extended orders barring Treasury Cabinet Secretary Prof. Njuguna Ndung'u from implementing the Finance Act, 2023 after dismissing an application by the government to lift the conservatory order. This week, various civil society and religious leaders called for the repeal of the Finance Act 2023, a call which we hereby reiterate and support.

It's worth noting that as civil society through our partners under the OKOA Uchumi Coalition, we presented our proposal to the relevant committee in May 2023 on how the government could shift focus from overtaxing citizens and businesses, and laws on applying austerity measures, addressing corruption and illicit financial flows, strengthening assets recovery, and shielding *wananchi* from the high cost of living.

However, in June, the National Assembly passed, and the President assented to the Finance Act, 2023, imposing onerous tax burdens on Kenyans amidst the rising cost of living and a global economic recession, in complete disregard of many Kenyans who protested the burdensome and inequitable tax measures in the Bill citing the high cost of living. According to Tifa polls 60% of Kenyans rejected the finance bill and this should not be ignored.

The Finance Act 2023, if implemented as is, will increase the cost of different basic commodities through punitive taxes, including doubling the Value Added Tax on fuel to 16%, the ripple effect is an increase in prices of Unga, bread, and commuter fare among key basic commodities and services. Small businesses are also being hit, with a tax on their total sales increasing from 1% to 3%. This will kill the struggling small enterprises reporting losses since the COVID-19 pandemic started.

#### **4. Call for National Inclusive Dialogue and Revival of Multi-Sectoral Talks**

We call for an immediate revival of the Bipartisan talks and emphasize the importance of making it a multi-sectoral representation. The bipartisan talks gave Kenyans a glimmer of hope as it created a golden opportunity for issues affecting Kenyans to be deliberated and addressed. We reiterate the importance of the talks and the need for our leaders to exercise patience, soberness and selflessness needed to resume and see through the talks.

We also wish to emphasize the need for the talks to go beyond political interests and genuinely encompass the diverse concerns and aspirations of all Kenyan citizens. Only through inclusive dialogue can we address the root causes of discontent and pave the way for a more just and equitable society. Further, we call upon the country to have a

discussion on the nature of electoral system, particularly, on the import of the *First Past the Post* given our experience of its since 2013. Part of reason of unending and protracted electoral related disputes including violence is out of the 'winner take it all' inherent in this system. There is need therefore for a system that is inclusive and promotes inter and intra political party democracy.

#### **5. Reckless conduct of leaders**

We have noted with concern the degenerating conduct of some of the leaders who use reckless language that may incite violence and chaos, and others assaulting members of the public. We wish to remind public officers of their oath to public office which requires them to be faithful to the Constitution and the rule of law, and the Code of Corporate Governance for State Corporations (Mwongozo Code) which they ascribed to and requires them to uphold high levels of ethics and integrity in their functions.

We demand that they understand and appreciate that their offices are held in trust on behalf of Kenyans and should they violate these ethical duties, we shall boldly and relentlessly call them out and take due action. Leaders should use their positions responsibly, promoting unity, understanding, and constructive dialogue rather than adding fuel to the flames of unrest. It is vital for the nation's stability and prosperity that leaders act as beacons of hope and reason. We also ask citizens to watch the conduct of their public representatives and assess their leadership values in promoting national unity and cohesion.

#### **6. Respect for Media Freedom & Responsible use of Media Platforms**

We emphasize the importance of a free and independent media in a democratic society. Journalists play a critical role in providing unbiased information to the public, and we call upon all parties to respect media freedom. An environment where journalists can report without fear of reprisal is essential for an informed citizenry and a thriving democracy.

We note with concern increased spread of cases of disinformation, misinformation and hate speech through social media platforms and some vernacular stations. We have

observed the use of old pictures and videos, inciting video posts and clips and tweets targeting particular political leaders, political parties and communities. We urge users of communication channels to be mindful of the content they share and to exercise restraint.

## CONCLUSION

We conclude by reminding ourselves as Kenyans that a cohesive and a prosperous Kenya require concerted efforts by each and every Kenyan, playing his or her part. We therefore encourage citizens and leaders to exercise maturity and responsibility even as they go about their daily duties. As Uchaguzi Platform, we shall be providing any information needed for the bi-partisan parliamentary and multi-sectoral dialogue engagements.

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### Signed by

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