HITS AND MISSES

Media Performance & Press Freedom
Violations **Pre, During & Post** the August 9
General Election in Kenya

1.0 INTRODUCTION

Kenya held its General Election on 9 August 2022 and the announcement of the President -Elect Hon Dr William Ruto was done on 15 August 2022, by the National Returning Officer Mr Wafula Chebukati. All media in Kenya broadcasted the announcement live.

As part of the preparation and support to the media, the Independent Electoral and Boundaries Commission (IEBC) accredited over 11,000 local and international journalists and media practitioners to cover the elections across the country. The Council collaborated with IEBC to ensure journalists were facilitated with Media Council of Kenya (MCK) accreditation and IEBC cards to access polling and tallying centers across the country. Journalists were able to access their designated areas of work using the cards. At the national tallying centre, at the Bomas of Kenya, the Commission set up a media centre which hosted an average of 200 journalists daily. The media center was well equipped to ensure comfort and effective delivery. Journalists were also able to access the main tallying auditorium, from where the Commission was announcing the tallied and verified results.

The Media Council of Kenya, in line with its mandate to promote press freedom and protect the rights and privileges of journalists as well as ensuring an independent and professional media, offered support in various ways to journalists and media workers in the period preceding, during and after the August General Election.

The Council, individually and through partnerships, invested in ensuring that media coverage of the 2022 General Election was not only professional and responsible but fair, accurate comprehensive and informative; and provided a balanced and adequate opportunity for citizens, candidates and political parties to express divergent political opinions.

It also monitored the fairness and credibility of the electoral process contributing positively to the peaceful conduct of elections. The Council had presence online, across the country and deployed various tools and approaches to content analysis as well as media monitoring.

MCK and professional media support groups signed a memorandum of understanding with the electoral management body on access to information and working relations including the establishment of a steering committee on media and elections. Media houses established election reporting desks, acquired equipment, and hired more staff to ensure they had presence in all 290 constituencies. In most cases and based on MCK's observation, live coverage was mostly employed in news dissemination.

Jointly with the Kenya Editors Guild (KEG) and Media Owners Association (MOA), MCK successfully organised and conducted media debates including Presidential, Deputy President, Nairobi Governor debate at the national level and select county debates. The only hitch registered was the snub by Azimio la Umoja One Kenya Alliance Presidential candidate Raila Odinga and Roots Party of Kenya's George Wajackoyah who did not attend the presidential debates. However, the debate's secretariat had prepared for such eventualities, which saw those appearing receiving 90 minutes of broadcast time on professionally moderated sessions.

The Council jointly with the UNDP established a fact-checking platform – iVerify that helped with addressing misinformation and propaganda during the election period. The intervention saw the creation of a strong network of fact-checkers drawn from the media including TV, radio, print and digital who were trained, equipped with current tools for information verification and actively networked to mount an industry led intervention.

The Council deployed over 70 media analysts to monitor editorial content in all media platforms including print, radio, TV and online platforms, to reduce the spread of hate speech, misinformation and political extremism in the media space. This included aspects of tonality, political parties' performance against set rules and guidelines, conduct of selected candidates, issues covered, airtime given to various candidates particularly on aspects of biasness, sensitivity to issues covered and advertisement, among others.

Further, the Council set up media centres/information hubs in eight (8) counties that provided accredited journalists and media practitioners with working space during the elections and after relaying of results by the IEBC.

The Council also developed and executed an election safety plan for journalists and media practitioners including setting up a rapid response mechanism to protect journalists, holding media and security dialogues, development and signing of safety for journalists' charter by stakeholders, creation of an emergency safety fund, trauma and related pre, during and post-election times for journalists and media practitioners' hotline. In addition, journalists were issued with press cards and press jackets to ensure visibility and protection while on duty during the elections.

2.0 OBSERVATIONS

Based on the above background and having extensively monitored and observed the elections and media's role in the same the Council communicates as follows:

a. We note with satisfaction that media preparedness and coverage of the 2022 General Election was very professional. The Council with support from various players prepared the sector well for the assignment including trainings and heavy investment in financial and human resources by the media to enable responsible and professional reporting of the polls. Over 3,500 journalists and media practitioners were trained from across the 47 counties. Overarching in these trainings were ethical principles in reporting elections with emphasis on independence and fairness among other values, digitalisation and new media laws such as content regulation, reporting on opinion polls and online reporting.

Prior to the training, the Council led the industry in reviewing of the election reporting guidelines and development of a training manual for election reporting and established a refined group of trainers on the same.

b. The Council registered an improvement in the adherence to the Code of Conduct for the Practice of Journalism in Kenya, IEBC code of conduct for the media and related election offences.

c. There were no major hate speech incidences reported especially via mainstream media.

d. The Council applauded IEBC for ensuring unhindered access to election data particularly for allowing the media to access results from their servers and live transmission of results. However, the process encountered challenges largely in implementation as the approach by media houses to individually transmit results without synchronisation seemed to cause confusion amongst the public.

e. There was no effort by the Government to close or *restrict use of the Internet* during the period. Thus, citizens continued accessing electoral information through the Internet including election results. There was notable adherence to the constitutional provisions on freedom of expression, media freedom and access to information as provided for in Articles 33,34 and 35.

f. Unfortunately, MCK also observed increased cases of *press freedom violations* including denial to access voting areas, critical information from relevant public bodies, profiling of journalists and media outlets, online trolling of journalists and media outlets and in some cases physical attacks on journalists. At least 43 journalists from various media houses were affected by various forms of harassment in 12 incidences documented by the Council. Majority of these (37) involved in incidences that denied them an opportunity to easily access their designated polling and tallying centers while the others included arrest, threats and harassment.

g. Media allocation of space and time continued to be guided/based on many factors and improved towards the voting day. Some members of the public had raised concerns over alleged media bias. However, MCK observed attempts towards fair and balanced coverage especially among leading media houses.

h. Additionally, the Council observed gaps in support for journalists based at the counties by their employers. These included unavailability of reliable transport, meals and other general issues of welfare. The Council was able to deploy resources available to assist those that sought assistance.

On social media use and related issues MCK observed as follows:

i. There was weaponisation of misinformation and propaganda during the elections and beyond especially on digital platforms that border on defamation and publication of false content. Most of the websites that shared misinformation were designed to make consumers assume they are reading reliable sources.

j. There was enhanced role of digital platforms and influencers in the election – including information sharing, fundraising, publicity, advertising and related areas.

k. Further, vocal and influential social media users especially on Twitter shared glaring misinformation in the process. Edwin Sifuna, Ahmednasir Abdullahi, Dikembe Disembe, Mac Otani, Dennis Itumbi, Robert Alai and Miguna Miguna were some of those affected.

In this regard, the Directorate of Criminal Investigations (DCI) summoned Gatundu South Member of Parliament Moses Kuria on 8 August 2022 over allegations of vote rigging. The MP claimed in a series of Facebook posts and videos that the State was planning to manipulate the vote.

Most of the content was fabricated to mislead consumers and spread fake news within their networks. From the

Media Observer monitoring desk, it was noted that bloggers played a significant role in spreading misinformation and propaganda, with the trends noted including:

◆ Most media houses were caught in the web of sharing misinformation, especially on the suspension of the Unga subsidy by Agriculture Cabinet Secretary Peter Munya.

◆ Use of hashtags to front an agenda by different political parties and misinformation was identified from the hashtags

◆ The use of pseudo accounts by individuals was very rampant during the election period, an example is Davis Chirchir, S.K Macharia and Wambugu Ngunjiri.

◆ The use of reputable brands (media houses) to spread propaganda and misinformation was also observed.

Media tallying of election results

Efforts by the Media sector in Kenya to organise a joint tallying of presidential election results started too late in the day and could not materialise before the August 9 General Elections.

While MCK, and in fact both the Media Owners and Editors Guild, agreed in principle that a joint approach and synchronisation of the process across the media, akin to the joint production approach used in the Presidential Debates would be the best solution, the discussions started too late in the day when individual media houses had already deployed in-house plans, the preliminary report on the Media Coverage of the Elections 2022.

While the Media houses largely relied on the Independent Electoral and Boundaries Commission (IEBC) portal to get the results which were displayed on their screens, different methodologies applied, and varying sizes of human capacity saw different media houses displaying different results at the same time.

All the results displayed by media houses were accurate and only sourced from the IEBC portal. However, because different media houses started counting at different times, others counted in descending order, others in alphabetical order, while some media houses employed more personnel than others and results displayed at any one time were not the same.

While efforts had been made to deploy media personnel countrywide, the sudden availability of the IEBC forms 34A on the portal was unprecedented and caught many newsrooms flatfooted.

The decision to suspend display of the results was made by media stakeholders when they felt that the numbers displayed by different media houses were bringing unnecessary anxiety and was not occasioned by external pressure.

3.0 CONCLUSION AND RECOMMENDATION

Considering the above, the Council concludes as follows:

On press freedom:

01 Investigations on all pending cases were reported by journalists in various police stations around the country. This calls for cooperation between police officers, the complainants and Office of the Director of Public Prosecutions (ODPP). In case there are plausible reasons why such cases cannot proceed, it should be stated, and the cases closed or/and further action is recommended. In the last one year for instance, at least 12 cases have been reported by journalists from various media houses relating to elections. However, none of the cases are actively under investigations nor has any suspect been arrested or arraigned in court.

02 The Council has started the process of forwarding complaints from journalists on denial of information and physical access during the electioneering period to the Commission on Administrative Justice, the constitutional commission mandated to enforce Access to Information for further investigation and subsequent action against public officers involved.

On accreditation:

03 The collaboration between MCK and IEBC on accreditation ensured only journalists and media practitioners with valid Press Cards covered the election, effectively locking out quacks. This provides a pointer to the Council's potential to work with other public institutions wishing to offer second tier accreditation to members. As mandated by Media Council Act 2013 and given the fact that MCK maintains an up-to-date register of local, foreign and media practitioners, the Council's accreditation should remain the primary accreditation for journalists and media practitioners. Accreditation of journalists should be solely left to the MCK which has the legal and institutional capacity to issue press cards, specialised press cards and special media purposes should any need arise. Multiple accreditations are a violation of press freedom.

Media tallying of election results:

04 Enhanced coordination among media houses in future will see better transmission of election results from shared and public information sources such as the IEBC portal.

Other recommendations and conclusion:

05 Going by how media handled election results and interpreted the tallying process, MCK proposes a dire need for training on data journalism targeting all journalists in Kenya.

06 MCK remains steadfast in supporting media houses, media support groups, journalists, and digital content creators in promoting professionalism across all media content. Every election year is a learning opportunity – the media keeps learning and progressing. More needs to be done in the next five years. Besides, MCK will be conducting in-depth research to establish 'hits and misses' by media in the 2022 vote. The report will be comparative of previous elections and will produce practical recommendations for consideration by the sector.

MEDIA
COUNCIL OF KENYA