



International Center for Policy and Conflict

DEFEND YOUR CONSTITUTION! DEMAND FOR A WATERTIGHT VETTING AND LUSTRATION LEGAL FRAMEWORK IN ACCORDANCE WITH THE CONSTITUTION!

ICPC CALLS FOR STANDARD WATERTIGHT LAW FOR VETTING AND LUSTRATION

A new Constitution without transforming the institutions and the people who work in them will prove the new constitutional order futile. This is because the new Constitution ushered a ground breaking new Socio-Political value and culture system and set up radical framework for good governance, human rights and rule of law.

Leadership and Integrity Bill 2012 is a critical cornerstone in enforcing ethics, integrity, transparency and accountability in management of public affairs. It must have irreducible (non-negotiable) conditions governing all public office holders.

Vigilance and full disclosure of information to public, through vetting, will be extremely necessary to ensure that the people who ascend to positions of authority merit in accordance with the Constitution. Vetting is a transitional justice process of assessing integrity to determine the suitability for public employment. Integrity refers to a person's adherence to standards of human rights, ethics and professional conduct. **The Constitution has only provided a landmark normative framework but there is need to have a law that will entrench credible, impartial and thorough vetting in the country. Effective Participation is key.**

Done correctly, vetting will break the legacy of past, by excluding abusive or corrupt employees from public office, provide and restore confidence in public office holders and state institutions, and enhance transparency and accountability in public affairs management. It will provide the country with the best of state and public officers and save the country revenue that goes to waste every year. This can only be done by ensuring that those who are guilty of human rights abuses, land grabbing, economic crimes, corruption and abuse of public office and who have enjoyed impunity are barred from holding public offices. **Done incorrectly, even the progressive Constitution, which has been hailed as the most progressive, may not work.**

The process of vetting needs a predictable pattern and full disclosure so that it guarantees every Kenyan citizen the right to information of all the candidates for state and public offices, included in any election conducted by the Independent Electoral and Boundaries Commission. Responsible public institutions like National Intelligence

Service (NIS) are duty and constitutionally bound to provide information they are holding about the candidate.

CONDITIONS FOR ELECTION CANDIDATES

As part of its obligation to adhering, respecting and defending the Constitution, ICPC **DEMANDS** that the Independent Electoral and Boundaries Commission, and all other vetting bodies should by law (Leadership and Integrity), be empowered, in respect of and in accordance with the Constitution to have each candidate seeking election as President, Governor, Member of Parliament, Senator or County representative as a necessary part of his or her nomination paper, swear an affidavit furnishing therein, information on the following irreducible minimum conditions in relation to his/her candidature:-

- i. **Whether the candidate has been convicted /acquitted/ discharged of any criminal offence in the past - if convicted, whether he/she was punished with imprisonment and/or fine**
- ii. **Whether six months prior to the filing of nomination, the candidate has been charged in any pending case, with any offence punishable with imprisonment for two years or more, and in which charge is framed by or cognizance is taken by the Court of Law. If so, the details thereof**
- iii. **The assets (immovable, movable, bank balances etc.) of a candidate and of his/her spouse and that of dependants**
- iv. **Liabilities, if any, particularly due to any public institution and/or Government including taxation and loans**
- v. **Also, liabilities of the candidate's spouse and children; and any requirement (clearance) form from public institutions as well as any dues and charges**
- vi. **The educational qualifications of the candidate**
- vii. **Nomination papers to assist in assessing the capacity and capability for election**
- viii. **Clearance Certificate from Criminal Investigation Services (CIS), Human Rights and Gender Commission, Kenya Revenue Authority (KRA), Ethics and Anti-Corruption Commission (EACC) among other state and professional bodies.**

NOTE: THIS DULY SWORN AFFIDAVIT SHOULD BE WIDELY DISSEMINATED BY THE ELECTION COMMISSION TO THE PUBLIC AND NECESSARY BODIES

ICPC main concern in the reform of the electoral process is the decriminalization of politics, entrenchment of meritocracy in public service and deepening democracy in Kenya. We believe in a new constitutional dispensation measures should be adopted in tandem with the spirit of the Constitution that guarantee clean politics and good governance.

ABOUT INTERNATIONAL CENTER FOR POLICY AND CONFLICT, ICPC

International Center for Policy and Conflict (ICPC) is a Non-Governmental Organization founded in 2005 in Kenya operating under the Trustee (perpetual succession) Act. The Center is an affiliate of Africa Open Democracy Foundation and partner of Africa Rights and Democracy Institute. It focuses and exists to stimulate and support informed public policies dialogue, develop human capacities and research communications that promote and safeguard human dignity, freedom, justice and equality for all through building democratic, peaceful, secure and just societies. Its thematic programs consist of: *Transitional Justice, Human Rights and Rule of Law; Human Security, Sustainable Development and Conflict; Gender Justice and Equality; Capacity Building, Partnership and Information Sharing; Communication and Public Affairs; and Regional and International Advocacy.*

Signed by:
Ndung'u Wainaina,
Executive Director

VETTING AND LUSTRATION: NEW DAWN FOR KENYA; BREAK FROM IMPUNITY LEGACIES

This Message is generated by ICPC with generous support of Royal Netherlands Embassy, HIVOS, UNDP Amkeni Wakenya and OSIEA. The views expressed herein emerged purely from activities of the project itself and do not in any way represent the position of the supporting partners.

