



VOICES OF KENYAN YOUTH

KATIBA DAY

PRESS STATEMENT

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Marking The Third Anniversary Of Promulgation Of The Constitution Of Kenya, 2010

Today marks the third anniversary since the promulgation of the Constitution of Kenya, 2010. Youth Agenda celebrates the numerous opportunities that the Constitution has provided for youth in Kenya. If implemented to the spirit, the constitution will have the impact of empowering youth, women and all citizens of Kenya.

The struggle by young people to have a level playing ground in political participation and representation seemed to have made notable stride when the Constitution promulgated in 2010 brought great changes in the Kenya's electoral system with the youth and women and marginalized groups being greatest beneficiaries and with specific provisions on youth rights. For instance, the Constitution requires that each public body be composed by at least a third of each gender. It also provides specific rights to the every Kenyan youth, to have access to relevant education and training; to associate, be represented and participate in political, social, economic and other spheres of life; access employment; and be protected from harmful cultural practices and exploitation. In order to secure these rights entrenched in the Constitution, the government is required to: allocate resources; ensure that all state organs and public officers carry out their duty to address these needs; to enact and implement legislations; and take measures including affirmative action programs to ensure realization of these benefits by the youth.

However, the devil is in the details; the slow implementation process and forces against reforms are still at work. Kenyans need to be watchful and take more proactive measures to defend the Constitution. When Kenyans voted overwhelmingly for the Constitution they had the hope that it

will change the usual way of doing things; things were meant to change for the better. But are they truly changing? And if they are changing is the change positive?

Youth Representation

We celebrate the opportunity given to the many youth who were elected & nominated members of the county assembly and Parliament; 1 Governor, 11 Senators, 27 Members of National Assembly, 8 Women Representatives, and 441 Members of the County Assembly. It is an opportunity that they should take to advance issues affecting youth such as unemployment where 75% of the unemployed Kenyans are youth.

The Political Parties Act, 2011 provided that every political party respects the right of all persons to participate in the political process including youth. Most of the political parties were seen to facilitate ease of participation by the youth by lowering the fees for the youth.

An analysis conducted by the Youth Agenda showed that only a few parties had provisions for affirmative action in their nomination rules. However, a large the number of youth participated in the nomination process as aspirants. Due to high competition and lack of transparency reported in the large political parties, most young people opted for smaller parties which were friendlier.

Even with all the gains the constitution has given to us, we acknowledge that there are areas that could be improved so as to foster inclusiveness. One such area is the political parties' fund, only three parties will be beneficiaries of this fund; this is not conducive in fostering democratic growth and inclusiveness of the smaller political parties with ground level support of the Kenyan folk

Major Political Parties are expected to benefit from the Political Parties Fund. The Political Parties Act requires that these funds be used for purposes compatible with democracy must include promoting the representation in Parliament and in the county assemblies of youth among other groups of minorities and marginalized communities. The youth are hopeful that political parties will give priority to promotion of youth participation as envisaged by the law. Particularly with the delays to reconstitute the office of the Registrar of Political Parties which is mandated to oversee the allocation and utilization of these funds, which may result to lack of enforcement to ensure parties spend the funds as required. To safeguard this, the youth hope that this office plays its role to ensure proper spending by parties.

Consequently, youth must be represented at the highest organ of the parties in positions of decision making of the parties. In accordance to the constitution, political parties should make sufficient room for women in political parties and not just women but young women; whom have been previously marginalized in political party decision making and have often been masqueraded as ‘flower girls’ to be seen and not to be heard. We urge parties to use their party elections for officials to provide opportunities for youth leadership in the parties.

We further call upon the Parliament to enact a legislation to promote representation in parliament of marginalized groups as provided for in article 100 of the Constitution. **Government Responsiveness to youth issues**

To some extent, the Government has shown commitment in addressing youth problems such as unemployment, which has remained to be thorn for policy makers since independence of this country. Notable strides such as the initiation of Uwezo Fund under the Ministry of Devolution and Planning demonstrate that the government is keen to deliver their promise to Kenyan youth. However, there is need for a clear affirmative action policy and legislation to guide the implementation of these initiatives.

Youth unemployment should be declared a national disaster as over 75% of Kenyan youth remain jobless. With the 3rd anniversary of the new constitution, we should look deeper into ways of including the majority of the population (youth) in economic nation building. Measures that have been put in place and those being proposed such as the *Uwezo Fund* need to have in mind that the youth require to be informed on the initiatives being developed. Many initiatives have failed to benefit the youth due to their bureaucratic nature and lack of information that prevents more youth accessing the services. Where there is a fund to benefit the youth it is not enough to have the fund without training the youth how to apply for the funds and utilize them. It is also worrying where those who did not manage to access the funds are not informed of how to improve their applications.

Institutional Frameworks that will guarantee youth empowerment are still weak especially at the County Level. We applaud 28 Counties that formed County Executives with a youth department but we are alarmed that 19 did not recognize the importance of a youth ministry in their county.

The Constitution guarantees the youth under Article 55 to access to opportunities in representation at the social, economic and political levels as well as access to employment. Discriminatory clauses such as “over 10 years experience” that continue to exclude the youth should be done away with to give the youth an opportunity to prove themselves. These are not favors that the youth are seeking; it is a fundamental right as enshrined in the Constitution. We continue to await the benefits that would accrue in 30% of procurement contracts being awarded to the youth as promised by the Government. We also urge speedy amendment to the procurement Act to be in line with the proposal put forward.

Too Slow In Implementing

Even as the country is engaged in conversations about a referendum, Parliament is yet to pass key legislations required to affirm the Bill of Rights that is intended to facilitate the citizens to enjoy the fruits of its promulgation. This has continued to have public institutions and organs interpret the rights in a manner that derogates the rights as opposed to advancing the rights. This has been the case in for instance the workings of the police that continue to indicate they are still working in the mindset of the 1963 Constitution. Parliament needs to shift gears and debate crucial bills to advance the rights specifically of those marginalized from past discrimination and provide oversight to institutions in ensuring public accountability and affirmation of the ideals of the Constitution.

The Call For A Referendum

There have been calls for a referendum to change the percentage of the monetary allocation of public resources to counties and the strengthening of the Senate. Though as youth we support the strengthening of the Senate and more county allocations, we know the same can be achieved with political will and without amending the Constitution at this juncture. We are yet to utilize the current county allocations; in fact we have the unfortunate incidence of misplaced priorities by majority of counties where money is allocated for non-development expenditure at the expense of development projects and the essence of devolution. The Senate and National Assembly can work harmoniously; we do not see why two houses that have clear functions and have Speakers from the same side of the coalition should have turf wars. The Senate and National Assembly are the Parliament of the Republic of Kenya. There is no need for Supremacy battles between the two. Their functions are mutually complimentary.

A Constitutional Amendment On The Offing Without Public Participation

The real threat to the Constitution are the constitutional amendments made without public participation, the National Assembly has proposed a constitutional amendment to spare members of parliament as accountable to the Constitution and Kenyans as State Officers. Members of Parliament cannot be Public Officers they are State Officers. We do not see the rationale or the mischief that would be solved by the constitutional amendment sought by members of Parliament that is of a public nature. They are advancing a narrow motive disguised as concern for the welfare of the constitution when in fact they are contributing to a decline in its development in the country; should the amendment pass, the wage bill would soar by up to Ksh 8 Billion- to come from the mwananchi's pocket. We are equally alarmed at the way public participation has been downplayed with regard to the constitutional amendment bill. Such a bill should have been equally publicized as its ramifications are serious to the constitutional framework that Kenyans passed three years ago. We urge Parliament to abandon the initiative and engage in passing legislations to implement the constitution such as the Affirmative action law, amendments to the public procurement Act among other necessary legislations.

Conclusion

The new gains in the constitution and safeguards will not be realized if the citizenry do not fully understand the provisions of the new Constitution. It is therefore imperative that citizens remain vigilant to ensure the rights and freedoms they championed for 3 years ago in the Constitution of Kenya 2010 are accessed through proper and accurate implementation.

Signed by:

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