

ELOG PRESS RELEASE ON ITS LONG TERM OBSERVATION MISSION AND COMMENTARY ON THE CURRENT ELECTORAL ISSUES

FOR IMMEDIATE RELEASE

NAIROBI, Wednesday, 4th April, 2017. ELOG today released its report on its long term observation mission and commentary on the prevailing electoral environment ahead of the August, 2017 general elections

Introduction

ELOG recognizes that elections are more than just Election Day and employs monitoring methodologies that seek to evaluate election-related processes throughout the electoral cycle. For the 2017 general elections, ELOG's observation strategy will incorporate critical aspects of the pre-election, Election Day and post-election periods. As part of this effort, ELOG has trained and deployed 290 Long-Term Observers (LTOs) to every constituency in Kenya to monitor activities and developments leading up to Election Day. ELOG will also be conducting systematic monitoring of hate speech in print, radio and television media in advance of the elections. On Election Day, ELOG plans to deploy 1700 observers to a representative nationwide sample of polling stations, as well as an additional 6,000 general observers to observe throughout the country. With these activities, ELOG will endeavor to increase the integrity of the electoral processes; increase public/voter confidence in the processes; deter irregularities, malpractices, violence and intimidation; and provide a basis for assessing and reporting on the fairness of the election.

This report is the first of a series of regular pre-election observation statements ELOG will release informed by the bi-weekly reports submitted by its LTOs. The findings below are based on data from the first two bi-weekly reports submitted by all 290 LTOs, covering the time period of March 8 to March 30, 2017.

Pre-Election Observation Methodology

ELOG has deployed a total of 290 LTOs each assigned to a constituency to observe and report on the pre-election environment in their respective constituencies. ELOG Long Term Observers are drawn from the broad ELOG membership and reside in their assigned constituencies. The LTOs were trained and deployed in early March 2017 and will observe and report until 4 August 2017, just before Election Day.

In order to observe and document their observations, ELOG LTOs have been equipped with a standardized checklist which includes questions about IEBC preparations, civic and

voter education, campaign conduct and environment, the political participation of women, youth, and persons with disabilities, voter list inspection, political party primaries, hate speech, and electoral security and violence. LTOs send reports every two weeks on this checklist, for a total of twelve bi-weekly reports over the course of their deployment. Additionally, LTOs use a critical incident form to report serious incidents that could undermine the electoral process immediately as they occur to assist other electoral actors to rapidly mitigate and respond to such incidents. LTOs communicate all their findings using coded text messages to a central ELOG database located in Nairobi.

LTOs are asked to characterize their observations as those they observed directly (events personally witnessed) and those that they observed indirectly or heard of (events that were conveyed by a credible third party). These third parties may include credible media outlets or other members of the community. Before reporting any observation from a third party, LTOs must first seek to verify the event or incident.

Summary of Findings and Recommendations

The first reports of ELOG’s long-term observers indicate an open and already competitive political environment and commencement of voter education in many constituencies. However, despite voter outreach efforts to promote women’s political participation, harassment of women candidates is an emerging problem. In addition, observers have noted some violations to the Elections Act 2011 such as early campaigning, the conduct of Harambees by aspirants, and campaigning by public officials. Political violence and disruptions in certain areas as well as historical and resource-based conflicts indicate heightening tensions in some counties.

Key Findings

1. Voter Education

Almost half of constituencies have reports of voter education activities. Civil society voter education activities were most prevalent, but many LTOs also noted efforts by the IEBC as well as the media to disseminate voter information messages.

Observers reported voter outreach in over 182 (63%) constituencies targeting women and youth. While observers also noted some efforts to engage persons with disabilities, this was only in 107 (37%) number of constituencies.

2. Campaigns

The vast majority of observers reported campaigning in many areas throughout the country despite being outside the official campaign period. In particular, the distribution of food, money, or commodities as inducement for support was noted in major party/coalitions, as

well as some third parties and independent candidates. This issue appeared to increase over the two reporting periods. Harambee activities by candidates and parties were also reported in 118 (43%) constituencies, which is prohibited by law¹, eight months to Election Day. Additionally almost half of the LTOs reported witnessing or hearing of campaigning by public officials, contrary to the Elections Act.² Heightened campaign activities may be related to the upcoming political party primaries. Despite these issues, LTOs generally reported minimal government interference to organizing of political meetings, speech or other forms of civic engagement.

3. Violence and Intimidation

Relatively low-levels of threatening, abusive, or insulting language against individuals, ethnic communities and marginalized populations were reported. However the use of abusive language towards women candidates was higher, in 96 out of 290 constituencies, than the other categories.

Isolated incidents of disruptions, harassment, fighting, and restriction of movement between and among political factions were also reported, often related to the primary process. In at least two reported cases, women aspirants and their supporters were specifically targeted.

4. Early Warning Signs

In addition to electoral integrity and process issues, LTOs are also tracking non-political events that could be indicators of the potentials for electoral conflict as Election Day approaches. This includes monitoring instances of heightened security presence, increases in recruitment and arming of militias, the displacement of people due to security concerns, and ethnic or clan-based conflicts over resources. Over the last month, LTOs in Baringo, Samburu, and Laikipia counties noted ongoing violence over resources and livestock between tribes resulting in several deaths and displacements. Observers also noted an increase in security deployment in some of the affected areas in an effort to restore peace.

ELOGS COMMENTARY ON KEY ELECTORAL ISSUES

5. Leadership and Integrity Concerns

ELOG's attention has been drawn to recent media reports concerning the academic qualifications of a section of leaders and public servants where degree and diploma certificates of some key leaders, including governors, MPs and heads of government bodies,

¹ Article 26

² Article 43

have been subjected to authentication, after questions were raised on how they were acquired. Some are still under investigation, while others ended up in the courts.

6. Political Party Primaries

Political parties are set to conduct their primaries beginning this week till the 26th April, 2017. ELOG is concerned that with a week to the said primaries, a number of issues still obtain. These include the fact that most political parties still lack authentic and complete party membership list, lack of clear mechanism within the parties to engender the nominations, lack of clear procedures and processes of conducting the primaries and no information has been provided regarding the polling centers/stations. The National Assembly is yet to approve the nomination rules submitted to it by IEBC.

7. Audit of the register of voters

ELOG is aware of last week's judgment in which Justice Chacha Mwita dismissed the case contesting IEBC's decision to award the tender to KPMG. A number concerns are foreseen by ELOG since the timelines during this audit ought to have been dispensed with elapsed: IEBC just concluded its 2nd Phase of MVR and is now in the process of cleaning up and finalizing the preliminary register before being made public in May 10, April, 2017 for the purposes of verification by the public

8. Kenya Integrated Elections Management System (KIEMS)

ELOG is deeply concerned that with less than a week to the statutory deadline of April, 10th 2017, the integrated elections management system is not yet in place. Furthermore, the IEBC cancelled the initial tender and singled sourced, citing budgetary constraints and operational timelines.

Recommendations

- a) ELOG wishes to reiterate that the integrity of any voters' register is key to the realization of credible, peaceful, free and fair election. Now that the courts have given the nod for the audit to be conducted, ELOG wishes that the process and the methodology to be used during this audit be very consultative as possible.
- b) ELOG underlines the central role that the political party primaries play in the electoral process and calls upon political parties to move with speed and publish the list of their members, gazette the polling stations and publicly carry out voter education programs regarding how their elections will be conducted. Furthermore, ELOG calls on the National Assembly to move with speed and approve the nomination rules that are before them from the IEBC.
- c) Regarding the issue of suspicion academic and professional degree and diplomas, ELOG advises all Kenyans to adhere to chapter 6 of the Constitution and the Leadership and Integrity Act. Similarly, ELOG calls upon the EACC and CUE to be

very professional in handling these cases. Should any leader or any aspiring leader be found to be in violation of the law, action should be taken upon them.

- d) While it is understandable and the law provides for single sourcing, ELOG encourages that decision such as this which touches on sensitive issues like electoral technology; IEBC should consult widely and try to get a buy-in from stakeholders in order to boost public confidence in the process.