



26th October 2017

STATEMENT ON THE REPEAT PRESIDENTIAL ELECTION

PRE-ELECTION, OPENING, SET-UP OF POLLING AND INCIDENTS

Background

October 26th 2017 is the day Kenya conducted a fresh presidential poll after the Supreme Court of Kenya nullified, on the 1st September 2017, the initial Presidential results of the elections held on August 8th 2017. This followed a successful election petition by the opposition NASA alliance against the declaration on 11th August 2017 of Uhuru Kenyatta of Jubilee Party as the president elect by IEBC. The court cited irregularities and illegalities in the conduct of the elections and directed a fresh poll conducted within the provision of the constitution.

The Supreme Court directed that fresh elections be conducted within a period of 60 days of the annulment. In turn, the IEBC first declared Oct 17th as the new date for the fresh presidential election only to revise the date to Oct 26th. Since then, the country has experienced a most fluid electoral and political environment ever. From scathing attacks on the judiciary to conditions on irreducible minimums to IEBC issued by NASA, Kenyans eventually saw the withdrawal of the NASA presidential candidate, the onset of anti-IEBC demonstrations followed by brutal response by the state through instances of police brutality against many, including university students. More legal action led to the inclusion of other presidential candidates in the fresh poll that had earlier been unilaterally excluded from running by IEBC. The IEBC has also been at the centre of internal bickering, politicking and confusion with revelations of seeming compromise of its independence, numerous electoral litigations and political brinkmanship leading to the resignation of Commissioner Roselyn Akombe and the admission by the IEBC Chair Wafula Chebukati that he could not guarantee a credible elections.

Compounding the unfolding drama within the Commission are the recent happenings at the Supreme Court where Judges failed to show up for a scheduled petition thereby rendering the petition null due to lack of quorum. The consequence of this has fed into a growing crisis in politics and political parties leading to widening polarization of the country.

It is this polarized environment that forms the backdrop for the fresh presidential elections that began this morning.

Electoral Observation

ELOG has subscribed to the international election observation and monitoring standards which demands that observers remain non-partisan, impartial and politically neutral in assessing and evaluating electoral processes in the country as well as to conduct election observation and monitoring for the benefit of the country.¹ Additionally, ELOG is also guided by paragraph 10 of the DOGP which notes that:

“The decision by citizen organizations to observe and/or monitor an election or any element of it does not indicate that the organizations either presume the election process to be credible or to lack credibility;”

ELOG’s observation of the October 26, 2017 presidential election is thus premised on the principles that non-partisan, election observation and monitoring by citizen organizations seeks to evaluate the process and its elements accurately, impartially and as systematically as practicable in order to properly characterize processes according to national legal requirements and applicable international obligations and commitments.²

ELOG constituency supervisors have been observing and reporting on the immediate pre-election environment across the country. For election day, ELOG has deployed 766 observers to a representative sample of polling stations in the country excluding Nyanza and Western where it was felt that security of the observers was at risk. ELOG will report and process data from the polling stations observed. ELOG will not project results as has previously done. In addition, ELOG

¹ DOGP Paragraph 5 and 7

² Paragraph 10

has deployed 215 constituency supervisors to aid the polling station observers and assess the security environment. There are also another 730 general observers deployed to polling stations and 430 observers to constituency tallying centers. Although our deployment has taken concern of the security situation in the country and therefore not comprehensive, we trust that the information collected from all the observed polling stations will offer useful insights into the process during election day.

Our observers in 766 sampled polling stations observed the adherence of the opening and setup of the polling stations process. This statement is based on **Observation and Incident Reports** filed as of 11:30am by ELOG observers.

Opening and Set-up

- ELOG observers were properly permitted to observe in 99.5% of polling stations observed
- In 93.0% of polling stations observed, there were or more polling station officials present.
- 80.7% of the polling stations observed opened on time. The remaining stations opened between 7:00am with some opening after 8:00am.
- In 99.9 % of polling stations observed, the ballot boxes were shown to be empty before being sealed.
- ELOG observers reported that majority of the polling stations observed, 98.6%, had security officers present.
- 99.7% of polling stations observed had KIEMS devices.
- A majority of polling stations observed (97.8%) had the requisite strategic materials (ballot boxes, ballot papers, IEBC stamp, indelible ink, and the Results Form 34A).
- In 36.0% of polling stations observed, the Presiding Officer was a woman.
 - A Jubilee party agent was present in 82.6% of all the polling stations observed.
 - Agents from other parties (not listed above) were present in 2.8% of all the polling stations observed.
 - In 16.4% of all the polling stations observed, there were no party agents.

Critical Incidents

So far ELOG has observed critical incidents during the opening and setup of polling stations process:

Violence, intimidation or harassment

In Mombasa, Nyali constituency, an ELOG observer was harassed and beaten by unknown assailants on his way to his assigned polling station, preventing him from carrying out his duties. In the same constituency, another observer was threatened by a group of young men at around 5:30 am while she was on a *boda boda* headed to her assigned polling station. They threatened to deal with her in case she returned to the polling station. She defied their orders and returned to the polling station an hour later and reported that it had been opened but was unable to complete her observation role due to the intimidation.

In Ruaraka Constituency, an observer was beaten and robbed of her observation materials by a group of young men who had barricaded a road. She was rescued by officers from the Ruaraka AP Camp.

In Olympic Primary School, Kibra Constituency, the access gate was barricaded with building blocks and voters were assaulted as they tried to access the polling station. People were also reportedly blocked from leaving their homes to go and vote. The protestors also threatened to burn any polling material brought to the station and stoned the police who attempted to disperse them.

Incidents of disrupted voting

In Trans Nzoia, at Matisi Cattle dip polling station, voting was disrupted by a group of young men at around 8:30 am who attacked IEBC officials with stones. The police however intervened and voting resumed.

Next steps of the ELOG observation process

ELOG will continue observing throughout the day and will release some of its key findings on the voting process to the media.

ELOG will issue a preliminary statement on the conduct of the elections on Friday, October, 2017. This statement will summarize our preliminary findings and conclusions on the conduct of

Election Day Processes. This will include assessing the closing, counting and transmission of results processes.

ELOG anticipates to issue its final statement of the presidential elections within reasonable time after the finalization of the presidential election results tabulation process.

ELOG is committed to its mandate and will remain vigilant and diligent in serving Kenyans to comprehensively monitor and observe the electoral processes and provide timely, impartial and objective reports and recommendations.

Due to the reported incidences where observers been targeted, we appeal to Kenyans to desist from harassing or intimidating observers as they conduct their service to the country. Observers are non-partisan and work to promote transparency and accountability in the process.

May God Bless You and God Bless Kenya

Thank You

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