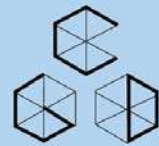


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INSTITUTE FOR EDUCATION IN DEMOCRACY

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SUPREME COUNCIL OF KENYA MUSLIMS



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making the youth factor count

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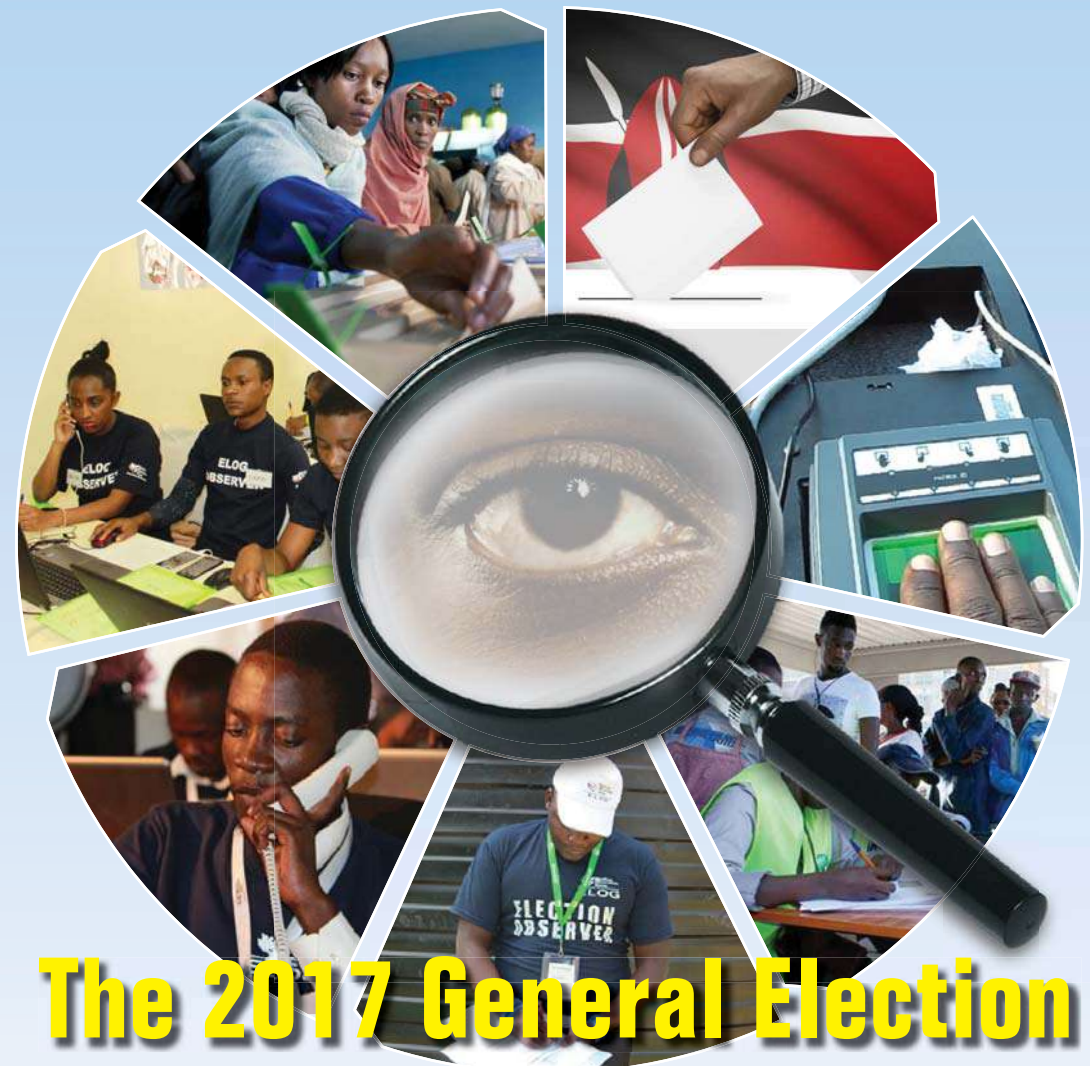
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Darubini

DARUBINI YA UCHAGUZI NO. 2 AUGUST 2017

YA UCHAGUZI



The 2017 General Election The Homestretch



CREDIBLE, PEACEFUL, FREE AND FAIR ELECTIONS



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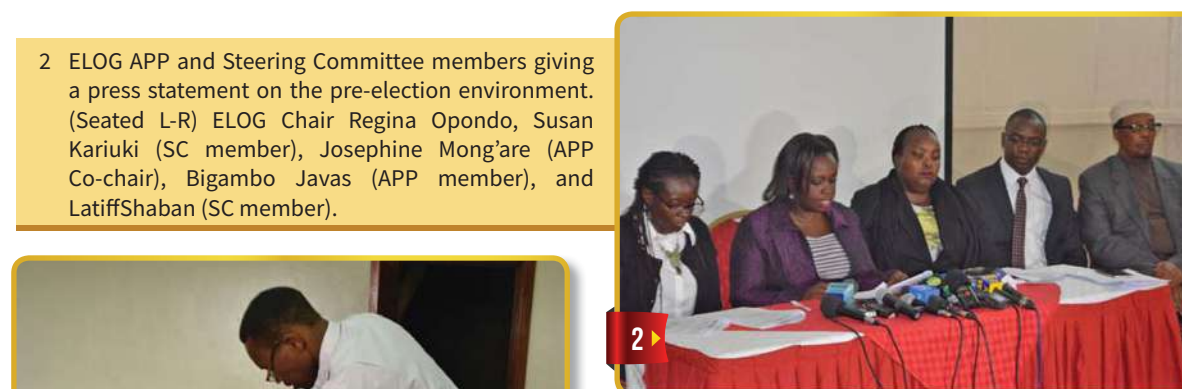
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ELOG ACTIVITIES



1 ELOG Chairperson Regina Opondo, and the National Coordinator Mulle Musau together with the Head of the African Union High Level Implementation Panel (AUHIP) Thabo Mbeki (former president of South Africa) with other members of the AU Election Observation Mission.



2 ELOG APP and Steering Committee members giving a press statement on the pre-election environment. (Seated L-R) ELOG Chair Regina Opondo, Susan Kariuki (SC member), Josephine Mong'are (APP Co-chair), Bigambo Javas (APP member), and LatiffShaban (SC member).



3 Zonal Coordinator Ken Angwa packing PVT materials before dispatchment.



5 General Observation Training of Trainers (TOT) trainees reviewing their material.



4 PVT training for Data Clerks.



By Agatha Nduku Muli

ADVOCATING FOR OPEN ELECTION DATA

How Fake News is influencing the campaigns and its impact on the upcoming Elections

Fake news (hoax news) websites are internet websites that deliberately publish fake news such as hoaxes, propaganda, conspiracies, biasness, and disinformation purporting to be real news. The medium most used for this is often social media in order to drive web traffic and intensify their effect.

How Prevalent are Election-Related Fake News? What has ELOG observed in this Election Cycle Compared to the Last Election?

Fake News continues to become a troublesome trend that is intensifying on a global scale. In the Digital Age, securing democracy is vital because of the substantial role it plays in the upcoming 2017 Kenya Elections. The Elections Observation Group (ELOG) has noted that social media's engagement with "alternative facts" has surpassed their engagement with the mainstream news.

"...so citizens must be able to trust that the computer systems responsible for handling the execution of an election will deliver an accurate result..."anonymous"

What is the Level of Impact that Fake News is having on the Election Processes from the Voter Registration, Party Primaries, and as we Count Down to August 8?

With Fake News sources going viral on social media, it has raised questions regarding the duty of social media sites such as Facebook and Twitter to monitor content, and differentiate fiction from fact. Throughout the year, various false election stories have been widely disseminated by websites professing legitimacy. These stories receive more engagement based and measured by the aggregate number of online shares, reactions, and comments than from legitimate sites such as The Standard and The Daily Nation.

"If we are not serious about facts and what's true and what's not...if we cannot discriminate between

serious arguments and propaganda, then we have problems....Nu Yang"

What are some of the interventions that ELOG, Other Civil Society Organizations (CSOs), Techies and Journos can Engage in to Fight the Spread of Fake News?

- i. Facebook and Google are working on a fake news detection system, a warning system, and the means to report it by incorporating code to stop the spread of Fake News.
- ii. Humans can Flag Whole Sites as Fakes
 - Activate this feature on your browser settings that provides a pop up saying 'warning this is a fake news site'.
- iii. Using algorithms to fight algorithms
 - Algorithms form part of what spreads Fake News – Computer code can form part of the solution. It's possible for social media sites to recognize instances such as websites created only two weeks ago, therefore showing that it's likely a less trustworthy site.
- iv. Teach users how to spot Fake News themselves
 - This focuses on teaching critical thinking skills necessary to keep up with the digital age, which includes fact checking skills to filter out fact from fiction.
- v. Stop the creation of Fake News in the first place
 - People are looking to make some quick cash, and so one way to stop such output would be to eliminate the financial incentives that make Fake News profitable.

Conclusion

In an age where dissemination of information is on multiple platforms and can spread like wildfire. We need to approach it from a critical perspective. This is how we can ensure that Fake News perishes as quickly as it rises.

MESSAGE FROM THE CHAIR

The Homestretch to Elections 2017

As we approach the homestretch to the 2017 General Elections, I take this opportunity on behalf of the Election Observation Group (ELOG) to send my condolences to the IEBC fraternity, family, and Kenya at large for the sudden demise of the ICT deputy director at the Independent Electoral and Boundaries Commission (IEBC) Mr. Chris Chege Msando. This is of great concern, as we recognize the position the deceased held in relation to the season we are in, and the importance of security for IEBC staff and all Kenyans. We hope for a swift filling of the gap as ICT is at the core of ensuring that all-systems-are go for IEBC during these elections.

ELOG is, and has been doing its mandate. This among others being to assess all aspects of the electoral process, its constitutional and legal framework, the delimitation of constituencies, the registration of voters and candidates, the training of election staff, voter education, media coverage, the campaigns, and the preparations for E-Day, as well as the appeals process. On Election Day, over 6000 ELOG observers will be stationed at the polling stations in order to observe the opening, voting, counting and aggregation of results.

I believe comprehensive security measures have been put in place across the country not just to secure the electoral process but also the citizens. While much has been done, regions like Baringo, West Pokot, Laikipia, Mandera, and Lamu have faced a lot of security challenges. Furthermore as ELOG data has consistently shown women, youth, and PWD still remain more vulnerable to violence as candidates, supporters, and voters. These challenges may deny many Kenyans the opportunity to exercise their right to vote. Therefore, we hope that the security organs are working to ensure safety and tolerance because every vote of every Kenyan counts. It is also important as we secure the process, and the country that we remember that the Constitution of Kenya (CoK) 2010 remains sacrosanct.

ELOG data has also shown a trend of flagrant abuse of public resources, and voter bribery amongst other electoral offences. We urge all the election stakeholders responsible to take charge and do their duties in particular the Director of Public Prosecutions (DPP), The Office of the Registrar of Political Parties (ORPP), The Political Parties, The National Police Service, The Ethics and Anti-Corruption Commission (EACC) and The National Cohesion and Integration Commission (NCIC) to ensure enforcement all round.

Everyone is responsible for credible, free, and fair elections. Each Kenyan should come out to vote for the leaders they want in order to embrace the change they desire.

God Bless Kenya.

Regina Utita Opondo

Chairperson

ELOG Steering Committee



I believe comprehensive security measures have been put in place across the country not just to secure the electoral process but also the citizens.



MESSAGE FROM THE NATIONAL COORDINATOR

The E-Day Draweth Nigh.....

.....As we approach E-day, The Elections Observation Group (ELOG) has continued to observe and share its findings from various missions with the public through stakeholder engagements and press conferences. The 290 Long Term Observers deployed in March this year continuously provide updates on the electoral environment, from every constituency in the country on various vital matters such as voter education, conduct of campaigns, and early warnings to circumvent incidences of violence among others. Voter education by IEBC, and other stakeholders in the country has improved considerably in the last few weeks before the E-Day.

93 Special Interest Group Observers deployed from May continue to track the participation of Persons with Disabilities, Women and Youth. IEBC recently released the total number of registered voters at 19,611,423 whereby 47% are Women, and 51% Youth (9,930,315). 14,552 candidates have also been cleared by IEBC to run for the elective office whereby 9% (1,310) are women and (1,892) are Youth. These categories represent part of the voter group (SIG's) being monitored by ELOG including Persons with Disabilities (PWDs) as stipulated in Article 100 of the Kenya Constitution. 21 Media Monitors continue to track Hate Speech in Print and Electronic media. Any Hate Speech occurrences reported are being escalated to the respective authorities in order to assist in curbing electoral malpractices.

ELOG has noted three key issues that are related to the Electoral Legal Framework of Kenya, in particular the malpractices. We have noted that the masses do not adhere to the laws pertaining to bribery, violence, and personation in the electoral environment. In response to this, we have produced popular versions of the Electoral Offences Act to educate the public on the same. As mentioned earlier in the first edition, 1,700 Parallel Vote Tabulation (PVT) observers are going to be deployed, whereby 1,000 will observe the presidential elections, and 700 will observe the gubernatorial elections in three counties on the E-Day. In *Darubini ya Uchaguzi*, read about the Frequently Asked Questions (FAQs) pertaining to PVT for better understanding of the process.

Lastly, our General Observation strategy for the E-Day is to deploy 6,000 observers with a presence in every ward (1450 wards) in the country. A final report from this observation mission will be produced in a timely manner after the announcement of results. This second issue of *Darubini*, has insights on some of the vital findings and reflections leading to, and including the E-Day. As we prepare for this, ELOG hopes that the process will be credible, free, and fair. Let the voters turn up in large numbers, and vote wisely without persuasion or coercion. Remember our conduct contributes to credible elections.

Enjoy.

Mulle Musau
ELOG National Coordinator



As we prepare for this, ELOG hopes that the process will be credible, free, and fair.

in my stomach. Who the hell is this guy? And why did I even look at those documents. He catches my hasty retraction and looks me dead in the eye and asks me *sotto voce*... "What is peace worth to you?" all of a sudden I wish the world would swallow me whole. He looks like he can do major harm. I suddenly notice the longish scar on his left forearm as he beckons me to sit and then I suddenly realise that curiosity also had a rather wicked twist... it kills cats and maybe humans, I'm beginning to think.

I'm confused, not really sure what to do because he is not a man I want to disobey but I have a shift supervisor who rains hell at the slightest provocation so I stutter a bit and proffer in a mouse like voice, "How about I get you those *dawas*?" I wish my voice was stronger but let's just face it, I'm not sure who I'm dealing with here and the girl's casual indifference is not helping matters, she is not offering me any clues as to how to conduct myself in this circumstance. He motions me away and tells me in his other regular more ordinary voice to tell Quentin my supervisor that my shift is over. I'm surprised that he knows him and even more surprised when I approach the counter my supervisor smiles and tells me, I know, your shift is over and he tells me that as long as it's the gentleman there is no problem.... **WHO IS THIS GUY?**

I take the *dawas* to the table as the girl packs up the remaining documents save for two, the one I glanced at earlier and another one. Both have codes at the top and they look like some advanced survey. He takes a sip of his *dawa* as I stand motionless by the table, I cannot pretend that I have other tables to wait on and he sounds like a grim kind of person especially with the *sotto voce* plus my supervisor has just bailed on me. The one time I wanted him to act like himself and he is grinning like the Cheshire cat as I feel every bit a canary in the sights of a hungry tom cat.

"Now that you seem like the sneakily curious mind, how about I give you so something to do that's a bit more up your alley?" The guy says it without a hint of malice on his voice but the knots in my stomach are multiplying like bunnies. The girl chimes in finally, after noticing that I seem to be choking on my words.

"Oh ... Quentin just happens to be my neighbour and recommended you for something I've been up to for a while. Hi am Katie and this is my boss James." This probably has nothing to do with the fact that Quentin throws me the eyes on the regular, I surmise.

James asks me the question he'd asked me before but this time it's in his regular voice. I know its election time and the country is in quite the mood. "Everything!" I answer. I mean this with all my heart. There is nothing that haunts me more than the experience I had in 2007 while the country teetered on the edge of the abyss. Nightmares and horror movies came to life over that period. I still shudder at the sound of gunshots and you cannot convince me to stay far from my kin. It took me an agonising week to get back to them so now I rarely if ever go far from home. Probably why Quentin will never convince me to go to visit their *bundus*, however sweet the offer sounds.

Katie gives me the other *dawa* I'd brought to the table and pours herself a glass of sparkling water, and James continues; you are clearly intelligent and observant, and I've been watching you as you handle your tables, you're good with people. Plus you seem to handle yourself quite well, discreet and all. I am monitoring the upcoming election as part of consortium of well-meaning organisations and the document you were sneaking a peek at is one of the tools I have been using to capture the general events prior to the election. It is known as an LTO checklist.

How would you feel about helping us do this as part of our team? We could use your knowledge of the area as well as your ability to interact with all sorts of people and you'll be part of a fairly big team... nothing too risky. This is a childhood scar, not from this job, he says as he motions to the scar on his arm. I'm not sure whether to believe him or not, but the butterflies in my stomach have transformed in to a warm feeling of excitement. I feel I just might be able to make a difference instead of standing by helpless or letting my county burn. Plus, who knows where this may lead, I tell myself. I take another sip of my *dawa* and lean in to hear more. This just might be the chance I've been waiting for.

"I feel I just might be able to make a difference instead of standing by helpless or letting my county burn. Plus, who knows where this may lead, I tell myself."



By Azarius Karanja

CREATIVE STORIES



Night shift is a killer around here. The blaring music from the club on the other side of the establishment is of little comfort and the minimalist décor in this of no help either, it is all cold. Every once in a while one of our clients will ask me why we can't sound proof that other end of the business. I also wonder, given how different the two establishments are, but sometimes I feel as if one is meant to feed into the other.

Many times, especially on the week end the clients from the posh restaurant where I waitress have a way of wandering into the club on the other end and the owners of the establishment seem to encourage it, after all it means more money in their pockets. Often, business meetings and formal dinners in our restaurant end in discombobulated writhing movements on the dance floor in the club. The reverse however, is highly frowned upon; few if any move back from the club to the restaurant. After all, who wants an unruly bunch of drunk young people high on adrenaline and who-knows-what else next to them when they are trying to impress a lady or some big shot? It would make for an interesting night and Lord knows I could use one, but the following morning would be the stuff that nightmares are made of given how picky our clientele can be.

I am halfway through the evening and the clientele is the usual mix, old money looking to pass the time, new money showing off their colours and pretenders to the throne, who show up with fake accents, too many demands and tip so miserly, it may as well be that they didn't. One guy however catches my attention. He dresses sharp, almost like new money, but has the relaxed mannerisms of old money. He neither appears harried like a wanna-be nor does he throw his weight around like some of the new money does. He is quite the enigma. I have seen him a couple of times at the restaurant most times, he

comes in around 7 pm, picks a booth or a corner table where he sits with his paperwork and by 11pm he is on his way out. In between he will have dinner and plenty to drink but no alcohol.

Tonight is no different, it is 10pm and he is seated in the corner booth but tonight he is not alone. He has already has dinner and has just motioned in my direction. I look around half expecting Kathy, his regular waitress to go instead but she is nowhere to be seen. She must be in the back room taking a well-deserved break. I realise he wasn't just motioning in my direction, he had actually called me to his table. I smooth my apron and walk up to him in the most professional walk I can muster. People like this who lie somewhere in between like the colour grey tend to be interesting, and I am admittedly curious about this man who comes to a fancy restaurant with paperwork.

"Two *dawas* please," he says in a regular almost forgettable voice. Disappointment. I half expected him to hit me with a *basso profundo*. The other *dawa* is for the slip of a girl is seated across the table. She doesn't look a day over 17, but she might be 35 for all I know. Such is life, until you know for sure you don't know. The table is cluttered with paperwork but appears somewhat orderly, with a neat pile on one end, some in an attaché case beside him and then the disaster that covers the table. Did I mention that I am curious? I sneakily throw a glance at the table hoping to catch an insight into this guy and I manage to make out words such as "pre-election" as well as "violence" and all of a sudden I get a knot

MESSAGE FROM THE EDITOR

The Last Mile: 2017 Elections

The 2017 Elections are the second under the new dispensation created by the 2010 Constitution. Like all the elections before, they have been characterised by high drama, charged campaigns and unfortunately, the loss of life after the IEBC's ICT deputy director was brutally murdered.

The pre-election period has also been characterised by numerous court cases that have without doubt tested the Judiciary's preparedness. "Elections provide citizens with an opportunity every five years to determine those to lead them, thereby delegating the exercise of their sovereign power as guaranteed by the CoK 2010. The Judiciary's responsibility is to help give meaning to the will of the people. It does this by determining any disputes that arise either during or after the conclusion of an election."¹

In this issue, we have an insightful expert opinion piece that delves into this key role that the Judiciary has played, and takes a closer look at the number of cases that they have dealt with in the pre-election period.

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. This publication also contains the field findings from this process thus far.

Observance of the election laws is key in having a successful election. However, there have many reports of election offences that have been highlighted by various agencies monitoring the elections. ELOG has published a popular version on the Elections Offences Act No 37 of 2016 and in this edition, we speak to this aspect of the election cycle.

It is not just about reports. This edition of *Darubini ya Uchaguzi* also has stories that tackle numerous key issues that are involved in the electoral process. It is a package that is insightful and will in many ways, contribute towards the understanding of the 2017 Election process.

Enjoy!

Msanii Kimani wa Wanjiru
Media and Communication Manager



The pre-election period has also been characterised by numerous court cases that have without doubt tested the Judiciary's preparedness.

¹ Bench Book on Electoral Disputes Resolution



LONG TERM OBSERVATION (LTO)

ELOG Long Term Observation (LTO): Key Findings in the Month of July 2017



Summary and Recommendations

During the month, ELOG has been following IEBC preparedness, and the key focus has been The Results Management Framework for Presidential Election. Expectations include:

- That the votes cast at each polling center shall be counted, tabulated, and the outcome of that tabulation announced without delay by the presiding officer.¹
- That they will electronically transmit election results in a prescribed form in order to safeguard the accuracy of the outcome. Hard copy will not be a necessity as was the case in previous elections.
- The role of the National Tallying Centre will be to verify that the winning candidate in the presidential elections has obtained 50% +1 votes, and that the candidate has

obtained at least 25% of the votes in at least 24 counties.²

- The decision with regards to the declaration of results can be subject only to an election petition.

Based on information collected during this period;

The report reflects many of the same positive and negative trends as the previous four reports. The systematically collected observer data showed that voter education efforts are still very thinly spread across the country, and the political rhetoric has increased as the polling day approaches. The issue of politically motivated attacks and vandalism of election materials by opponents is still being reported across the country. Of concern to ELOG, is the continued bribery cases reported across the political divide with political aspirants openly engaging in the vice with impunity. The latest reports of an attack on

do we ask what can we actually do for ourselves, better than lowering our worth into “enticements” that will lead to an even bigger gain? that will lead to the change and transformation we wish to see, by electing the right leaders for ourselves? Why do we still set tribal boundaries just because it is elections time, and for five years prior, we have just been great friends, workmates, neighbours, and in-laws.

The problem with our leaders. A question to the elite, where did your values go to? Where is your integrity? Why do we have to cry of scandals every day? Why is it so hard to know who and who not to trust as a true leader? Power is innocent, and yet so corrupting. Why do you not toil to fight corruption the way you toil to get your salaries raised – or to oppose your salaries cut? Why do you treat Kenyans like worthless creations, only getting need of them when time to renew your ‘contract’ is nigh? Why won’t you deliver on all your million pages manifestos?

“ I talk of these things as an observer. From the things I see and listen to. Leaders are very generous now that it’s elections year. ”

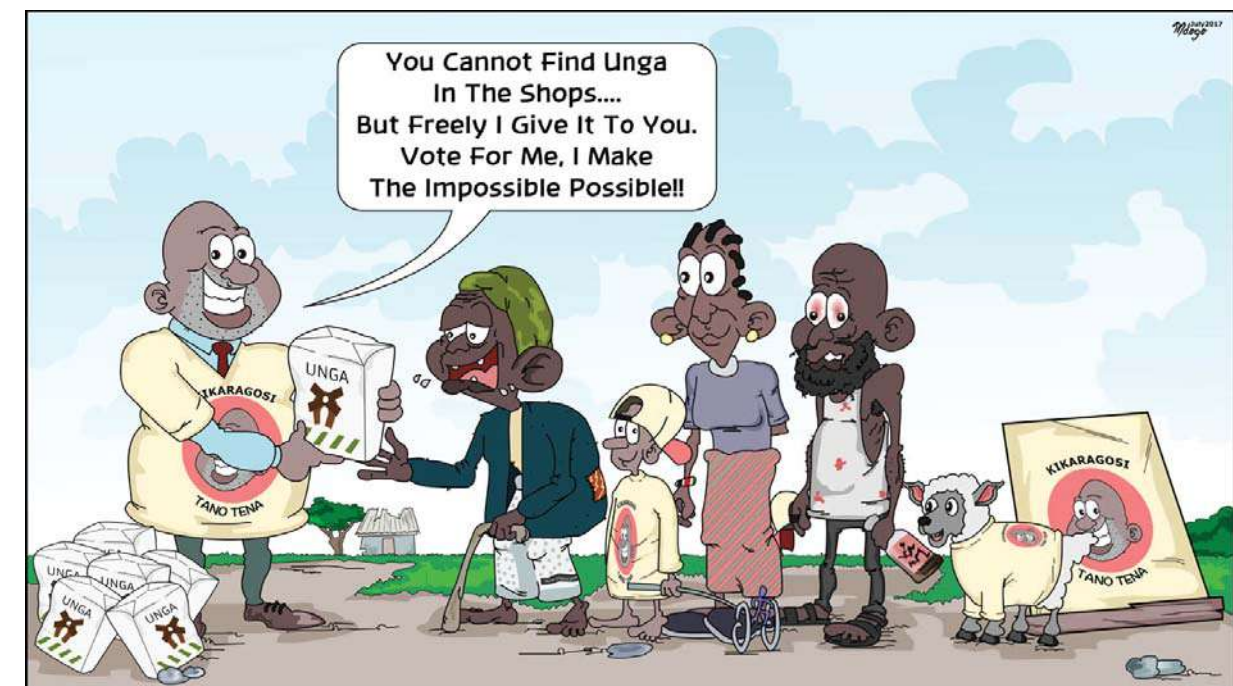
I talk of these things as an observer. From the things I see and listen to. Leaders are very generous now that it’s elections year. They are clearing hospital bills, and offering transport to the elderly and disabled persons to polling stations. Why not meet

the commitment to development? I do not mean that there are no developments and steps. However, is this the best Kenyans can get? is this what Kenya really deserves?

My critique goes on and on. There are a million questions yet to be answered. Lest we forget of the progress that is there in the electoral process. Talk of ELOG, NCIC, a better IEBC... and as they say, every day is a learning experience.

As we dance to the beats of the 2017 elections, let us ask ourselves about the legacy we will leave behind, the elected and the electors. Will the future generations look behind and smile at the mention of our names? The names that set them on the path of glory? Let us value self-actualization – value cultural diversity, self-worth, value integrity and value peace.

Until then, I still dance to the beats of the rhythm. There and back again - let’s preach peace, let’s elect the right leaders, let’s all honour our forefathers before us by doing what is right. However, err is to man, let’s not beat ourselves down but instead use every experience to learn... and the critique continues. There and back again.





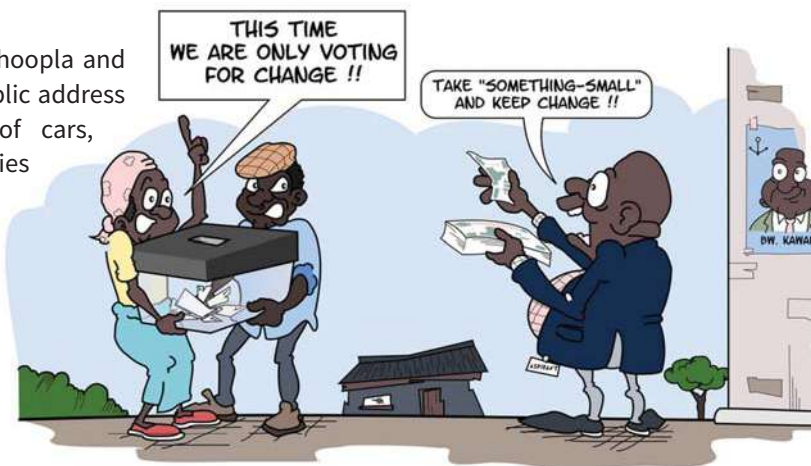
AN OBSERVER'S OUTLOOK

There and Back Again

By Dudely Ishmun Manokin

There and back again, and the hoopla and bustling is back. Sounds of public address systems everywhere, fleets of cars, labeled and marked by the parties and persons they campaign for. Words sweeter than honey, and promises greater than Canaan. Stratagems vast and endless, there and back again, and it is another election year. Five years down the line, some things changed and others remain intact. Developments made and promises unfulfilled. A time for leaders to remember their subjects, and a time to get back to their roots. A time for new promises, and a time to preach peace, unity and love. Suddenly positions hardening—tribalism taking root. Another chance granted by fate to make a choice.

Here we are in 2017, still talking of problems we were talking about years before, and probably problems we will be talking about years to come, if we do not make a step in the right direction. We



talk about unfulfilling leaders and poor governance, and yet every five years we are granted a chance to correct our steps. Viewing it, it could be the fault in our system, one likened to a growing cancer. Where does the problem emanate from, is it the citizens, is it our leaders or is it the system as a whole? Why is the European Union Observation Mission warning of possible eruption of violence after the August election? Why do we still hear of massive corruption scandals and so little to show in terms of development even after elections?

We say power to the people, but the very core of that is questionable. People have eyes, they see yet they are still blind. They hear, listen, and yet they are deaf. We as the voters are making the biggest mistake. We talk of electing leaders who will bring change, but we still elect and re-elect leaders who buy our votes using bribes. Selling our votes to the highest bidder. We value the few bucks we get now, for the common man's saying is that, "Acha tule saa hii campaign zikiisha hatutawapata tena". (Let us eat now, when the campaigns end, we will not get them again). Nevertheless,



the deputy president's rural home, and the killing of the IEBC Official calls for the beefing up of security across the country as we approach the E-day.

The printing of the presidential ballot papers has also raised a lot of questions that need to be addressed before the 8th August 2017; the issue of extra ballots being printed this time round has been made publicly known in advance, and this dispels any concerns for rigging based on the number of ballots. ELOG is urging all observers and stakeholders involved in elections to remain vigilant, and work with the printed ballot data made available by IEBC to safeguard the integrity of the ballot.

ELOG will monitor keenly all the data received from all the 290 constituencies, and keep a tally of all the ballots cast, spoilt, rejected, and the balances at all constituency tallying centers. ELOG will compare the results with the data made available for every constituency prior to elections. These efforts will help a big deal to restore public confidence on the integrity of the ballot. To ensure the success of this drive, ELOG is urging IEBC to make public the ballot deployment schedule to all the 290 constituencies, if not to all the polling stations before the 8th August Elections.

“Of concern to ELOG is the continued bribery cases reported across the political divide with political aspirant openly engaging in the vice with impunity.”

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 31st August 2017, after the Elections.

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

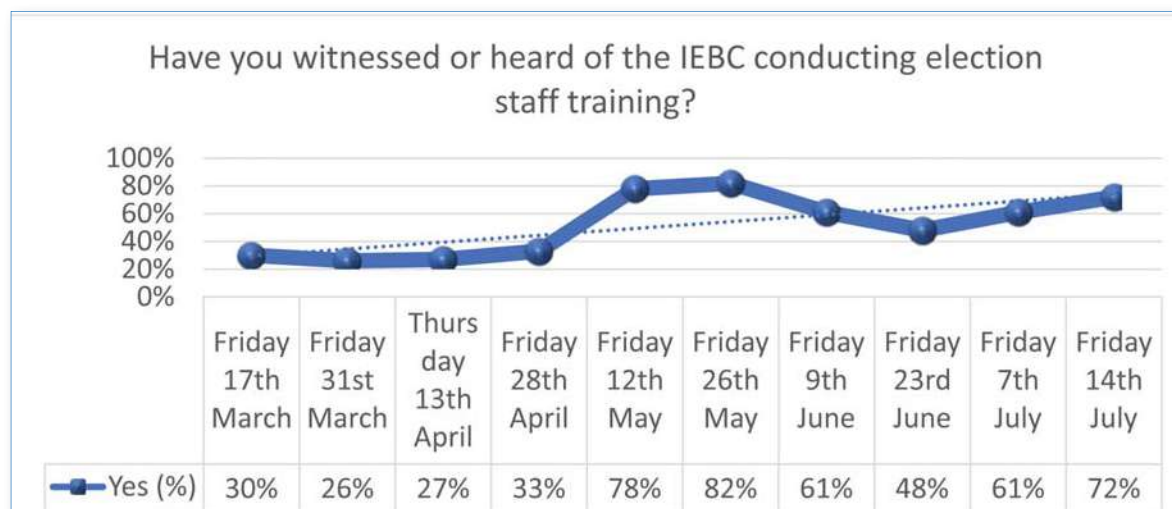
LTOs are asked to characterize their observations as those they observed directly (events personally witnessed), and those that they observed indirectly or heard of (events that were conveyed by a credible third party). These third parties may include credible media outlets or other members of the community.

Before reporting any observation from a third party, LTOs must first seek to verify the event or incident.

ELOG LTO mission unlike PVT Observation does not rely on sample-based observation to carry out its pre-election observation efforts. The reported data is therefore not statistically representative of the country as a whole, but does provide an indication of general emerging trends nationally and within geopolitical zones. ELOG encourages end users of its reports and data to independently corroborate and respond appropriately to trends identified and discussed in these reports.



Eustace Kinyua Long Term Observers (LTO) Manager



Key Highlights during the Reporting Period

The IEBC has made it clear that:

For purposes of the presidential results at the polling station, in presence of the party agents the presiding official shall³:-

- Type into the KIEMS tablets the results as captured in F34A.
- Scan F34A using KIEMS tablet.
- Confirm that the typed results and the results on the scanned form are accurate, and are correctly captured.
- Electronically transmit the results to the Constituency Tallying Centre, and the National Tallying Centre.

Form 34A shall be made available on an online portal for public to download and collate.

At the constituency tallying center the constituency returning official will tally all the results from the constituency, announce results of the presidential election in that constituency, and transmit the same using Form 34B to the national tallying center.

At the national tallying center in accordance with the decision of the Court of Appeal, the national returning official with the help of two designated officers in presence of chief agents for the candidates will receive, and authenticate the original forms besides receiving the scanned form 34Bs and archive them in the format accessible to the public. There shall be six (6) collation teams to serve the 47 counties at the national tallying center. The collation team thereafter generates relevant sections of F34C,

and hands the same to the validation team to verify before handing over to the Commission Form F34C, which the Chairman of the Commission uses to declare the final results of presidential elections.

LTO Report Key Findings

Provision of Voter Education

The IEBC has a mandate to inform Kenyan citizens about the electoral process and are assisted by independent efforts undertaken by civil society organizations. Accordingly, ELOG has noted an erratic reporting in voter education activity, particularly by the IEBC. This trends clearly indicates a citizenry deprived of vital electoral information that might have dire consequences on the quality of voting on Election Day.

Conduct of Campaigns

These were mainly characterized by alleged voter bribery in the form of inducements such as distribution of foods, services, and money across the political divide. The month has seen increased cases of voter bribery as the key highlight for the month, as the aspirants compete to win the hearts of the voters. Of concern to ELOG is the fact that the said incidences are going on unabated.

Although the use of threatening or abusive language remains overall moderately low in the official campaigns period, like previous reports, the same is still mainly directed at women candidates

is free and neutral without outside influence, and looking out for any signs of violence. The voters feel that their security and privacy is protected.

Current Strategies in use to enhance Election Observation and Monitoring

Various strategies have emerged to improve election observation and monitoring by involving local members of the community on-the-ground to improve the quality of elections such as:-

- Text-messaging services to report voting irregularities and results immediately. Thus, the information is moved from an SMS to the database without human intervention, and at a low cost.
- Citizen-engagement through crowd-sourcing who report on violence incidences.
- Mapping community groups thus strengthening democratic institutions.
- Coded-SMS platforms can be used to report on violence to assist in the mapping of hotspots in real-time.
- Capacity building of the citizens on observation and monitoring of elections.

Well-trained domestic and international observers are vital to the process because it inspires civic participation in the political process.

- **Insecurity**
Violence can sometimes erupt in polling stations, and some of the casualties are the domestic observers. In addition to that, they lack the finances to seek medical attention, as most assigning organizations and political parties do not have provision for that.

- **Speed of Data Collection**
Data must be collected and analyzed rapidly so that a credible assessment is made before the official results are released, therefore determining whether the ballot results reflect the will of the voters. Depending on the energy of the observers, the data collection might contain errors based on the time of day. The geographical area, as well as time constraints, can cause reporting delay too.

- **Lack of Capacity Building**
Most domestic observers lack the essential knowledge on what to observe and from what time. This limits their ability to give an accurate and in-depth feedback.

- **Poor Infrastructure and Unfavorable Weather Conditions**

Poor infrastructure, hostile weather conditions, poor communication systems, violence, and intimidation sometimes impedes movement. This, in turn, inhibits the movement of observers and they may or may not get to their polling station in time.

Recommendations

- Organizations employing domestic observers should factor in a security allowance or provision of short term medical covers. In addition, they should be trained on how to conduct themselves in a potentially violent environment.
- Before engaging domestic observers, intense training should be carried out, as this will enhance their quality of work.
- Deployment of domestic observers to the nearest polling station is critical. This will enhance ease of movement.

Challenges Faced by Domestic Observers

Domestic Short Term Observers face numerous challenges while carrying out their civic duties. They include and are not limited to:



General Observation Manager - Elizabeth Marete



By Caroline Ndebu

GENERAL OBSERVATION (GO)

Election Integrity: Deployment of Short Term Domestic Election Observers



participation in the political process. Long-term observation begins months before the Election Day. The observers' witness voter education and registration, procurement, and design of election materials such as posters, booklets, and their distribution. Other observations include the party financing nominations and campaign processes, special interest groups participation, which include the women, persons with disabilities, and the minorities. The electoral management body preparedness based on staff recruitment, training and deployment, and violence (or the absence of it) is also monitored. On the eve of the Election Day, the Short-Term Observers arrive to witness the last stages of the campaigns, which include the dispatch of the voting materials to their different destinations on the E-Day and tallying of results.

The domestic election observers include party agents, persons representing organizations who are carrying out election observation, or people working for organizations that carry-out work related to election observation. On the E-day, they attentively watch the actual voting process in their respective polling stations once they open until they close. They participate in the verification of election materials and the voting process with particular attention being given to the ballot boxes, voter registration lists, ballots, use of indelible ink, and conduct of the electoral management officials, that is the clerks and the presiding officer. They also observe the filling in and signing of the various official documents that verify the winners in the different categories. The observers ensure that the polling station environment

Election Observation is a critical process in enhancing the credibility of an election. Observers assist in building public confidence in electoral processes. Observation assists in the promotion and protection of civil and political rights of observers in elections. Weak practices and errors are corrected while the election process is still ongoing. This leads to the deterrence of manipulation, fraud and also exposes such issues if and when they occur. Positive reports from observers build trust regarding the democratic process and enhance government legitimacy emerging from the electoral process. The reports and recommendations made after the elections can assist in the improvements and changes in national law and practice.

Well-trained domestic and international observers are vital to the process because it inspires civic

more than any other disaggregated group.

IEBC Preparedness

The Cases of IEBC Conducting staff training have increased tremendously in this reporting period with a growth from 61% to 70% attributed to the current drive by IEBC to recruit, and train E-day temporary staff.

Voter Education

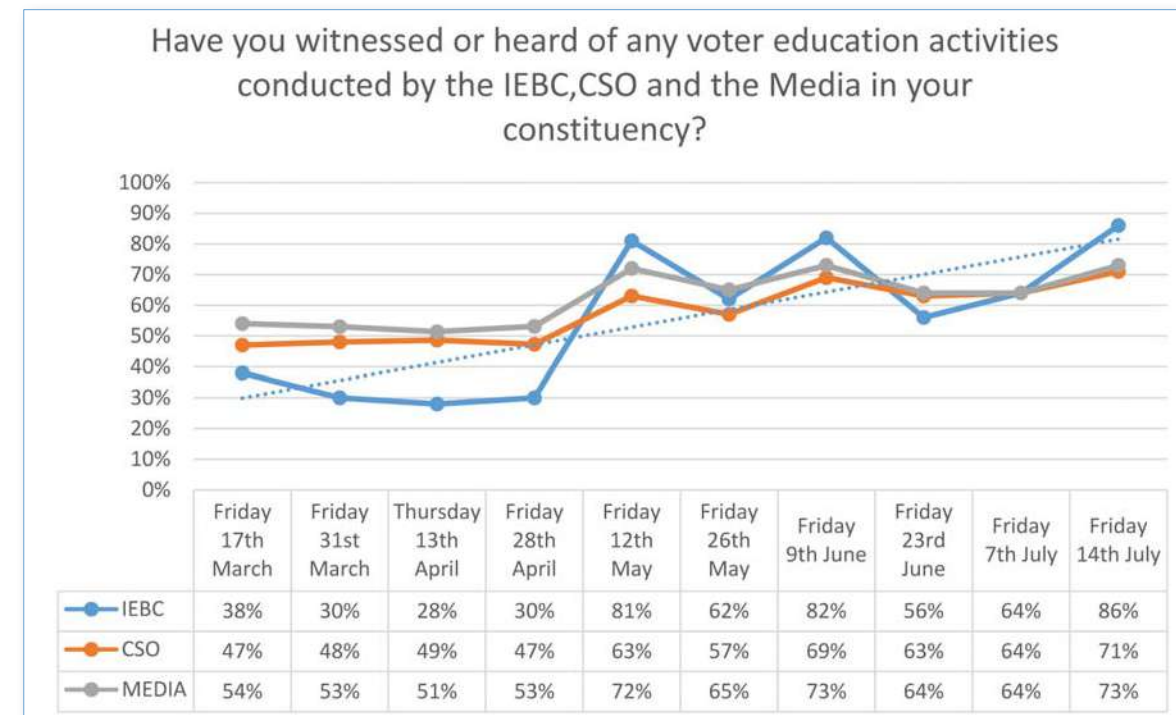
The voter education trend by IEBC have grown in the reporting period with a 22% growth from 64% to 86%. IEBC has rolled out the 2900 county-based voter educators (2 per ward) since 8th July 2017, as was reported by IEBC chairman during a Press Release - 26th July 2017 - Status Updates on Election Preparedness.

The Civil Society presence has also increase during the same period with a 7% growth from 64% to 71%. The efforts to have voter education in the country have improved though too late in the day. The media campaigns have also maintained the same trends as was reported in the previous reporting periods. With a slight growth of 9% from 64% to 73%. IEBC is utilizing



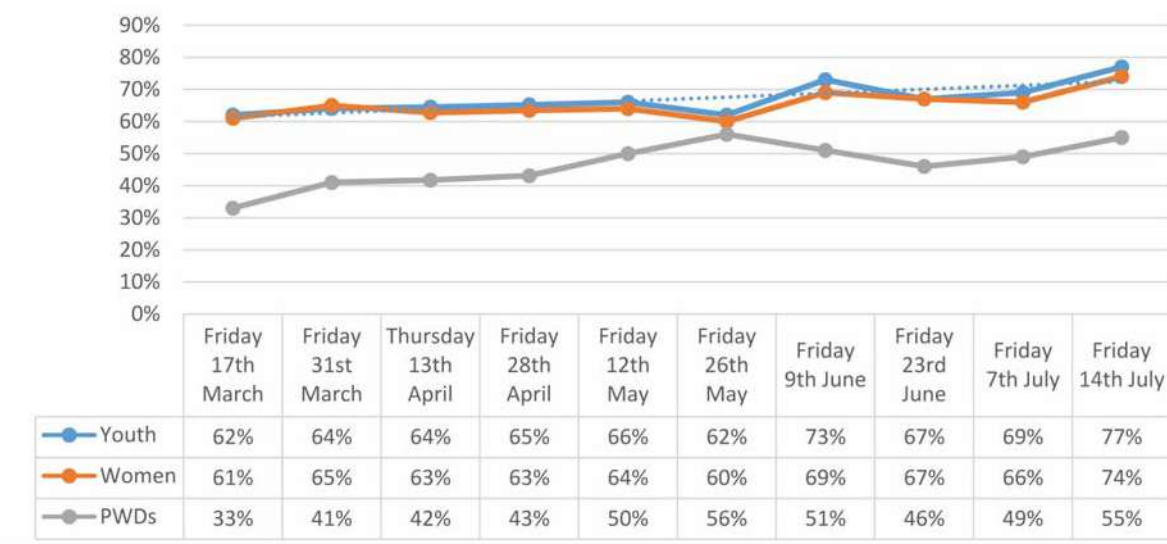
the media as one of its avenue to dispense its voter education information, and the growth experienced shows a media drive that has not been utilized well.

ELOG is calling on civil society organizations, corporate, political parties, and the media to collaborate with IEBC to boost their efforts to reach more voters during the remaining week. ELOG has observed these worrying trends in all the elections, and referendum observed in the country since 2010. IEBC as mandated by electoral law has used public





Have you witnessed or heard of voter information campaigns aimed at enhancing Youth, Women and PWDs participation in your constituency?



resources to prepare IEC material targeting the voters, but due to late disbursement and lack of resources from CSO partners offering to support in the drive to disperse the printed materials, it has always resulted in material never reaching the voters. This year is not different, and ELOG is calling upon the stakeholders to go out of their way to try and educate the masses with or without resources. We call on the corporate sector to also offer a hand in this drive for Kenya by Kenyans.

Early Warnings

Other key highlights that LTO observers have reported include:

- In Machakos county, Matungulu constituency, there was violence reported during a campaign meeting organized by a political aspirant. A man who is a supporter of the incumbent governor was caught taking photos. He was roughed up by the crowd and sent away from the campaign meeting.
- In Nyeri county, Keini constituency an aspirant senator gave out money to the aspiring member of the county assembly who in turn gave the present supporters kshs.100 per person. During the disbursement violence erupted as the crowd scuffled for the money.

- In Uasin Gishu county-Moiben & Ainabkoi constituencies there were some leaflets that were found reading “*Agikuyu musipogigia Mandago Kura mukuwetayari kuhama by Aug 8th 2017*”. (Kikuyus if you do not vote for Mandago, prepare to be evicted by Aug 8th 2017).
- Uasin Gishu county Kapseret constituency there was an altercation between the supporters of two opposing contenders, and a vehicle belonging to one of them was damaged. Three people were seriously injured, and they were rushed to hospital.
- In Bungoma county-Kanduyi constituency, a chief campaigner of one of the contenders was killed, following an incident that had occurred in Kimilili. As a result, there was tension in Kanduyi whereby another man reportedly received a threatening message telling him that he will be the next victim.

¹ “IEBC Releases Status of Key Electoral Process to Ensure Credible Polls” Retrieved from <https://citizentv.co.ke/news/iebc-releases-status-of-key-electoral-process-to-ensure-credible-polls> (Published on 26 July 2017)

² Ibid

³ 2017 General Election results: The Process” Retrieved from <http://mobile.nation.co.ke/news/Kenya-General-Election-results-2017/1950946-4033> (Published on 26 July 2017)

of flawed, skewed, or incomplete information.

How does the PVT sample work?

- ELOG’s sample is drawn from the entire universe of approximately 48000 polling stations at random, which means that every polling station had the exact same chance of being selected; this approach removes bias.
- ELOG’s sample is stratified so it covers every county and constituency in the country, and the distribution of observers is proportionate to the percentage of polling stations in each county and constituency; this approach makes it representative.

What is a Margin of Error?

- While statistics are a proven tool to draw accurate conclusions about a larger population, all sample-based statistics have a margin of error.
- The margin of error can be thought of as a window on either side of the estimate in which there is uncertainty.
- The final margin of error for the PVT will only be known once the information is collected from polling stations but ELOG will publish it alongside its results estimates.

How accurate was the PVT in 2013? What was the margin of error and what did it confirm?

- During the 2013 Kenyan referendum, ELOG’s margin of error for Kenyatta’s projection was +/- 2.7% and +/- 2.5% for Odinga’s.
- ELOG’s projected vote share and turnout very closely matched the results of the election commission
 - ✓ The PVT confirmed that Kenyatta’s vote share was definitely greater than Odinga’s vote share.
 - ✓ Taking into account the margin of error, the PVT could only project that Kenyatta’s vote share was either just above or just below the 50% threshold.
- The PVT also projected turnout at 85.6% with a margin of error of +/- 1.7%, which was very close to the IEBC’s 85.9%

Are PVTs even legal in Kenya? What does the IEBC say?

- PVTs are just a type of election observation and election observers are recognized in the Kenya Election Law 2012, Section 42.

- The IEBC is aware that ELOG will be conducting PVT observation in 2017, as they were aware of the introduction of PVT methodology in ELOG’s 2010 and 2013 observation.
- All ELOG observers will be accredited by the IEBC for Election Day observation.
- ELOG will use the information gathered through PVT observers to be able to verify the conduct of the tabulation process and the accuracy of the results, but it remains the responsibility of the IEBC to announce the official results.

Is ELOG really neutral?

- ELOG is a principled coalition comprised of diverse civic organizations which have long histories of promoting peaceful democratic development in Kenya
- ELOG has strict requirements for recruiting observers, including that they cannot be an official member of any political party nor publicly support one.
- All ELOG observers must sign a pledge of nonpartisanship

Why not just cover all the polling stations?

- Deploying observers to all 48,000 polling stations is logistically and financially implausible
- However attempting to cover even most polling stations in Kenya is likely to sacrifice the quality and completeness of data transmitted by observers, including creating geographic bias in data and gaps in reporting
- ELOG focuses on a more manageable group of well-trained, representatively deployed observers that can transmit complete and accurate data on the electoral process quickly
- In addition to the 1700 PVT observers, ELOG will also be deploying an additional 6000 general election day observers to deter irregularities at polling stations and monitor the process

When will you release your statement?

- ELOG may release statements regarding the quality of the opening, voting, closing, and counting process on and immediately after election day.
- However ELOG will not release a verification statement including information regarding vote share projections until after the IEBC releases official results.



- ✓ Measure views and the respondents might decline to answer and/or feel they need to lie.

How does the PVT work on Election Day?

- A PVT involves deploying well-trained, unbiased citizen observers to a random sample of polling stations that is nationally representative.
- Because the PVT methodology deploys observers to a representative, random sample of polling stations (drawn prior to Election Day), the data they collect can be used to scientifically assess the quality of the process on a national scale in order to formulate an accurate projection of the presidential election results.
- The PVT observers quickly report using short message service (SMS) that evaluates all parts of the Election Day process from opening of the polling stations, voting through the counting and tabulation of results.
- The observer reports are entered into a specialized PVT database whereby the data is checked for completeness. Quality control checks are executed prior to analysis.
- Findings are released based on the data (and not on opinions).
- For the 2017 election, ELOG will deploy approximately 1,700 PVT observers. ELOG will also be deploying additional (non-PVT) observers to increase visibility.

What Types of Information does the PVT collect?

The PVT collects two types of information:

- a) Qualitative: Information collected regarding the conduct of the Election Day Process.
 - PVT observers use a standardized form that allows them to examine the integrity of the



voting and counting processes for the entire country.

- This informs the observer organization about whether to have confidence in the vote results by evaluating the conduct of the Election Day process.
- Some example qualitative findings from ELOG's PVT for the 2013 elections:
 - ✓ The vast majority of polling stations (99.4%) had the requisite materials (ballot box, ballot papers, stamp, ink, etc).
 - ✓ In 54% of polling streams, many voters (more than 25) were assisted to vote.
 - ✓ Following the count, only 2.8% of party agents requested a recount.
- b) Results: Information collected on the outcome of the Presidential Election and Turnout
 - This data are examined only after the information collected on the conduct confirmed that the voting and counting processes progressed well.
 - PVTs can project voting results and voter turnout with a high level of precision (i.e., low margins of error).

What can the PVT not measure?

- The PVT cannot assess things that occur in the pre-election period, such as voter registration problems. PVT only evaluates the E-Day processes.
- Only standardized information on the PVT observer form can be used to produce findings and project estimates (e.g., the PVT will not project the results of the parliamentary election)
- The PVT cannot tell you a voter's motivation for voting.

How is a PVT different from political party parallel tallies?

- PVTs are conducted by trusted nonpartisan actors without a political stake in the election result
- PVTs use representative sampling to gather information quickly, accurately, and completely
- Party tallies are conducted by party agents and analyzed by party officials who have strong political interests in how the outcome is perceived
- Party tallies often seek results from most or all polling stations which can increase the likelihood

EXPERT OPINION

Legal Suits Rock Kenya's 2017 Elections

By Peter Aling'o
Democracy and Governance Consultant



Kenya is set to hold elections on 8 August 2017. This will be the 5th elections since the restoration of multi-party based electoral politics in 1991. It will also be the 2nd elections to be held under the 2010 Constitution. The 2017 Elections will, therefore, be significant in many respects in Kenya's electoral history. Already, and with less than 20 days remaining to the elections, Kenya's 2017 Elections are evincing a character that is unprecedented in Kenya's history.

The unprecedented character of the 2017 elections manifests principally in two areas in terms of costs of the elections, and the numerous legal challenges it has attracted. The overall effect of these two key manifestations is that they have rocked the 2017 elections, and they threaten the very essence of the elections in terms of imposing an extremely

burdensome cost implication, and the likelihood to drift the country into an arena of serious governance anarchy and constitutional crisis.

The Burdensome Cost Effect

Every time elections draw near, greater focus shifts on the electoral management body, the Independent Electoral and Boundaries Commission (IEBC). The focus is for a good reason, given that the IEBC is typically a crucial player in the entire electoral process. The role of the IEBC is significant in shaping public perceptions on how well elections are conducted, managed, and ultimately how well democratic governance works.

In a bid to manage the electoral process well, the IEBC has since the last elections in 2013, resorted to massive investment in the electoral process



in terms of resources, electoral hardware, software, and security. The process should be devoid of fraud, political alienation, public mistrust, protest and violence, and buoyed by an environment of extreme political mistrust and pre-election anxieties. The cost implication of this is horrendous, making Kenya's elections one of the most costly in the world¹ and extremely burdensome to the people of Kenya.

For example, in 2013, the cost of elections in Kenya stood over Kshs.20 Billion (USD.200 Million), which translated into roughly Kshs.2000 (USD.20) per voter. This figure is expected to double in 2017 given the allocations that the government has made on elections of Kshs.49.9 Billion (nearly USD.490 Million), of which Kshs.33.3 Billion (roughly USD.330 Million) is expected to go towards direct electoral expenses while indirect costs stand at Kshs.16.6 Billion (nearly USD.160 Million).

This will translate into roughly Kshs.2540 (USD.25) per voter, an increase from that of 2013 when the expenditure was approximately Kshs.2000 (USD.20) per voter².

Compared to other countries in East Africa (Tanzania, Uganda, and Rwanda) and the entire Africa region (Ghana, Nigeria, and the DRC), Kenya's elections stand out as one of the most expensive, and less cost-effective. Adoption and deployment of technology remain a significant factor in the spiraling cost of elections in Kenya. Numerous legal challenges that are mounted in elections also contribute significantly especially towards the indirect costs. The 2017 elections will be extremely costly given the additional burden imposed by the numerous court cases it has attracted. In fact, some of the legal suits have brought the cost-effectiveness of some of the direct expenses including those related to procurement of election materials under scrutiny.

Kenya is a developing country characterized by competing development priorities. Massive and



Kenya's 2017 elections stand out as one that has attracted numerous court-cases in Kenya's electoral history.

less cost-effective expenditure on elections, which is perceived as a non-development item, has the effect of dampening economic growth. The spirit of citizens is also dampened especially when the elections outcomes do not translate into tangible economic growth and benefit to citizens. This may also give rise to democratic apathy thus undermining the ethos of democratic governance, including citizen's participation in democratic governance processes.

The Challenge of Legal Suits

Afrobarometer survey conducted in 2014/2015 indicated that citizens often have minimal levels of trust on how elections are conducted and managed. With only one-third of them thinking that votes in elections are always counted fairly³. The Afrobarometer survey further shows that as key stakeholders in the electoral process, citizens often have many concerns about it, which are rarely fixed in the electoral cycle⁴. Yet, the hallmark of good elections management is in ensuring honest and fair electoral competition with a fair playing ground, and safeguarded electoral integrity.

Court cases that target the electoral process are often a manifestation of citizens' concerns.

PARALLEL VOTE TABULATION (PVT)

Frequently Asked Questions (FAQs)

Frequently Asked Questions (FAQs)

Parallel Vote tabulation (PVT) is a major strategy that ELOG uses to observe elections on the E-day, this strategy has seen a number of questions come to its attention, ELOG tackles most of the frequently asked questions as well as the talking points on PVT.

What is a PVT?

- PVT is a proven and advanced election monitoring methodology that allows nonpartisan citizen observers to systematically assess the quality of opening, voting, closing and counting processes.
• In countries where the process goes well, PVT can accurately verify the official election results.
• PVTs use direct observations by trained observers and do not ask voters' for opinions.

How is a PVT different from traditional Election Day observation?

- PVTs deploy observers to a representative sample of polling stations carefully selected by statisticians and use rapid reporting technology to transmit observation data quickly and completely to a central data center
• This enables observers to provide the public with more accurate and comprehensive information about the conduct of an election for the entire country.

Why is ELOG conducting a PVT?

- PVTs that are properly conducted by citizen groups, remove uncertainty by independently validating the official election results.
• PVTs can increase public confidence in well run elections and
• PVTs can reduce potentials for political violence
• Where PVTs identify shortcomings, they provide an objective basis for seeking peaceful redress and making specific improvements in the process.
• PVTs produce statistically reliable and valid data on which to base an assessment. The deployment of observers and their reports are not biased in any way. Observation efforts that allow observers to go wherever it is convenient often produce biased data (i.e., usually over-representing urban



Parallel Vote Tabulation (PVT) Manager Simon Waweru

areas and under-representing places that are difficult to reach).

What is ELOG's experience with PVTs?

- ELOG first piloted the PVT methodology for the 2010 Constitutional Referendum and again for the 2013 Presidential Elections.

Where is else have PVTs been done the African continent?

- PVTs have contributed to electoral integrity and elections security efforts in almost 50 countries worldwide, including countries in Africa such as Kenya (2010 and 2013), Cote d'Ivoire (2016), Malawi (2009 and 2014), Zambia (2008, 2011, 2015 and 2016), Ghana (2008, 2012 and 2016), Uganda (2011), and Nigeria (2011, 2012 and 2015).

How is the PVT different from an Opinion or Exit Poll?

- PVTs:
• Measure the votes as actually cast and indicates whether the results should be trusted based on information about the voting and counting process.
✓ Collect specific, actionable information for improving the process next time.
• Opinion and exit polls:
✓ Measure recollections of how people voted.



By Laureen Odera

LAW REVIEW: Election Offences Act.” No. 37 2016

Know Your Rights! Think Differently

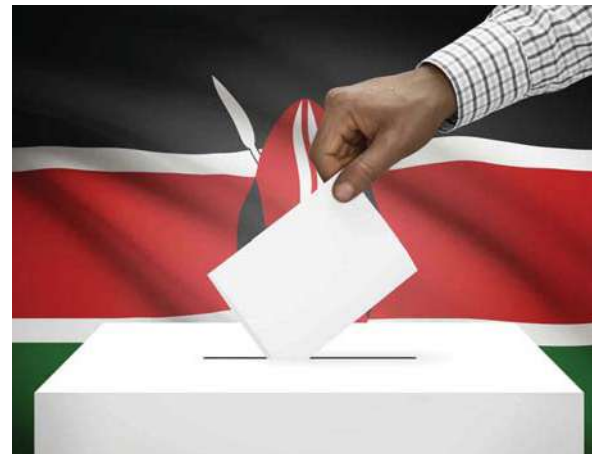
Are you familiar with the annotation that it is a crime to intentionally hire, borrow, lend or use a vehicle, vessel, aircraft, or any animal to transport voters to and from a polling station?¹

Legal matters are viewed as ambiguous, broad and boring to read, with many people opting to hire lawyers to handle their legal affairs. It is possible to state that this is the only time that lawyer jokes turn out to be favorable. Examples of jokes such as, “How do you know when a lawyer is lying? Her lips are moving”. Another one states, “What do you get when you run an honest lawyer contest? No winners”. Finally, “Why do they bury lawyers twelve feet deep? Because deep down, they’re excellent guys”, impliedly hint to lawyers’ competency and articulateness.

Interestingly, visiting lawyers’ offices would be mitigated if persons knew and adhered to the existing laws of a country.

Nonetheless, a well-established legal principle is that ignorance of the Law is no defense. No one is above the Law of Kenya, and any individual who violates the law is culpable whether they know that their actions constitute an offence or not. Joseph, a 29-year-old man and a single father of two, is one such individual who fell prey to his ignorance. He admitted to taking bribes as a way to earn a living and ended up having to pay a fine of 2 million as a result. He had to seek help from friends and family who had to carry out a *Harambee* to raise the required funds. In essence, he admits that the fine he had to pay as a result cost him more than what he initially received. Not only are his children suffering the consequences of his actions, but he has also had to endure the stigma attached to being branded as corrupt.

ELOG in partnership with Uraia has identified this need, and is working to sensitize the masses on the



issue. ELOG is currently working to popularize the Election Offences Act No. 37 of 2016 by printing out booklets and flyers that give short snippets on the aforementioned issues.

As an organization that seeks to promote democracy in not only Kenya but in the African region, ELOG’s mandate not only works to advocate for public participation in the elections process, but also seeks to advocate for adherence to national laws with the intent to effect positive change.

Election Offences is one of the hottest topics in Kenya’s political and legal sphere right now. Issues surrounding multiple registration by voters, bribery, hate speech, violence, and the use of public resources to finance campaigns are on everyone’s lips. However, the question as to whether the ordinary citizen truly understands what this encompasses, and the implications there instill remains to be seen. Revolutionary change is not the sole responsibility of one organization or a single individual. It is the responsibility of every individual that resides within the Kenyan borders.

¹ Kenya, Parliament, “Election Offences Act.” No. 37, 2016,.

They ideally focus on ways and means of mitigating past and experienced electoral flaws, as well as safeguarding the quality and security of the electoral process. However, for court cases to serve effectively as an electoral flaws mitigation tool, and means for safeguarding the quality and security of the electoral process, the necessity, substance, and timing of the court cases become crucial.

Kenya’s 2017 elections stand out as one that has attracted numerous court-cases in Kenya’s electoral history. Of these, nine (9) cases stand out prominently not only on account of the implications emanating from their substance, but also their necessity and timing in the context of the timelines for Kenya’s 2017 Elections. These are the court cases that challenged the IEBC’s set deadlines for mass voter registration and party nominations; the court cases that challenged the propriety of the whole election system, and the ballot papers printing procurement tender cases.

a) The Court Cases Challenging the Timelines for Voter Registration and Party Nominations

A voters’ register is one of the fundamental building blocks for any democratic elections. Therefore, voter registration is a very significant process in the election process. It gives citizens an opportunity to be listed in order for them to exercise their political and electoral rights. The principles of voter registration require that the process is undertaken to ensure that it results into an inclusive, complete and accurate register.

An accurate, complete and inclusive voters register is thus the foundation of a truly credible, free and fair election. In principle, the case challenging the timeline for the mass voter registration exercise while seeking to safeguard the completeness, and inclusivity of the register as critical components of democratic elections implied additional cost as well as a burden on the strict time frame for the preparations for the 2017 elections in the part of IEBC.

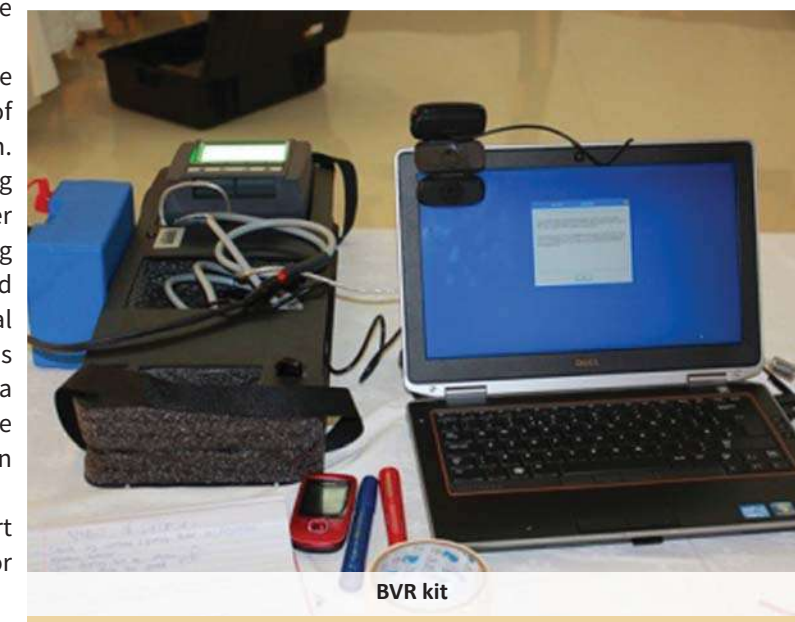
It is critical to note that the court granted the extension of the period for voter registration.

Similarly, the extension of the time for party nominations, which the court granted while serving to safeguard the right of citizens to political and electoral participation, implied additional costs, in addition to abridging the time set aside by the IEBC for technical and logistical preparations towards the 2017 Elections.

Mundane as these issues may appear, their impact on the calendar for the delivery of a credible, free, and fair elections stand out. Given the stringent timelines for the delivery of Kenya’s elections on 8 August 2017, were these cases a complete necessity or would they have been negated to allow citizens and political parties to plan appropriately, and participate in a timely manner as required? The verdict is out there.

b) The Court Cases Challenging the Propriety of the Whole Election System

Some seven-court cases were filed in this category. Two out of these cases have been decided by the courts while five are still pending. The two cases focused on safeguarding the integrity, credibility, transparency, and accountability of the 2017 Elections. The first case sought a determination by the court of the point at which elections result should be considered final, while the second case challenged the procurement process of the BVR and Electronic Voter Identification kits. While the applicants succeeded in the first case, they, however, lost in the second case. The ruling in the first case brought clarity to the process of



BVR kit



IEBC compelled to undertake fresh procurement. While this case is yet to be decided, its purport is on securing and safeguarding the integrity and credibility of the electoral process including the security, accountability, and transparency of the voting, and results management processes (the sanctity of the ballot).

Of the other two cases, which are also still pending, one seeks to compel the IEBC to announce and declare presidential results within seven hours of the closure of polling stations. The court will rule on this case on 24 July 2017. The other case was filed on 17 July 2017 by a Civil Society organization African Centre

announcement and declaration of election results, and therefore had a significant impact in safeguarding the electoral integrity, credibility, transparency, and accountability. It also contributed in securing the electoral process, thus strengthening electoral security.

Out of the five cases that are still pending, two are challenging the alternative or complementary or back up system to the electronic voting and results transmission system. These two cases are essentially challenging the implementation of Section 44A of the 2011 Elections Act as either unconstitutional or impracticable in the absence of operationalizing regulations and clarity. The two cases were separately filed by a civil society organization, *Bado Mapambano* Movement and the Opposition Coalition, the National Super Alliance (NASA). The NASA case, which was argued before the court on 17 July 2017 seeks to compel IEBC to exclusively use the electronic system to identify voters and transmit results.

Of the other three cases, one filed by a Mr. Willis Otieno, an Advocate, seeks to challenge the propriety of the procurement of the BVR and EVID kits. According to the case, the IEBC procured these devices without subjecting them to KEBS pre-export standards verification and certification and as a result, the devices could be defective, might not be tamper proof, and might be used to rig the 2017 elections. This case, therefore, seeks to declare the procurement of these devices a nullity, and the

for Open Governance (AFRICO), which seeks to compel the IEBC to release and make public the voters register, allow public scrutiny of the register, and correct errors therein before the elections on 8 August 2017.

The former case primarily seeks to shorten the waiting time before presidential results are announced and declared. A matter that hinges on the need to safeguard against the possibility of heightened political anxiety and violence. The latter case, on the other hand, seeks to secure the integrity of the voters' register, and that of elections.

c) The Ballot Papers Printing Procurement Tender Cases

Of all the court cases on the 2017 Elections, none has threatened to derail the elections, as the ballot papers printing procurement tender cases did. The history of the ballot tender cases began in August 2016 when the IEBC advertised the tender, which attracted some nine firms. The IEBC subsequently awarded the tender to a Dubai based firm, Al-Ghurair Printing and Publishing LLC. The decision prompted an appeal to the Public Procurement Administrative Review Board, which was dismissed by the Board on 28 November 2016.

The dismissal prompted the opposition NASA to move to the High Court in December 2016, appealing against the decision of the Board and seeking to quash the tender. In February 2017, the High Court



Compiled By Hilda Mulandi

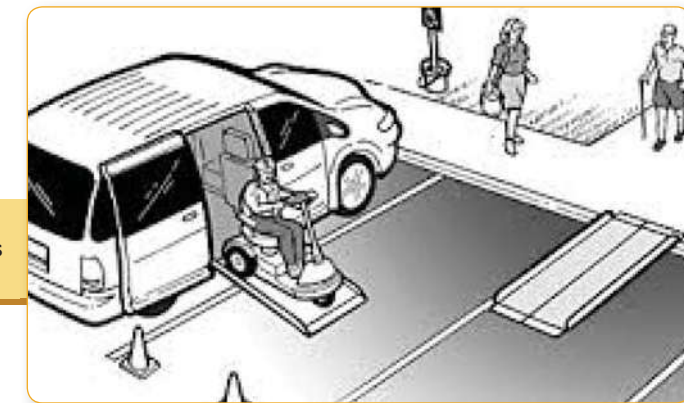
Accessibility for Persons with Disabilities at Polling Stations

Sighted Guides to assist Persons with Visual Impairment/Blind to access the polling station



Sign Language Interpreter (SLI) to assist persons with Hearing Impairment/Deaf to access the polling station

Ramps to assist Persons with physical impairment/ Wheelchair users to access the polling station.



Low voting booths accessible to wheelchair users



Abdi: (Laughing) Thank you. I have great passion in observing elections, this is due to the many challenges I faced in 2013. For instance when I went to vote in 2013, there was no privacy for me as I was forced to shout the names of the persons I was electing, since we were not allowed to have a personal aid, and I could not trust the people around me. I have since been at the forefront of advocating for the rights of people with disabilities in various spheres of life including electoral participation.

Interviewer: Do you have any fears or concerns when it comes to your security as an SIG observer?

Violet: Given that I have a mobility impairment, my greatest fear would be, in the case that chaos erupts at the polling station, how will I be able to run? Will anyone remember that I cannot run? I have a standby motorcycle person whom we agreed should pick me up in case of danger. However, the problem might be that he may be unable to sacrifice, in order to pick me up if it also endangers his life.

Abdi: Of course I have concerns! I am very conscious when it comes to my security since I cannot see what is around me. I have developed measures to ensure my safety. For instance, I always discuss with my guide about every new environment we visit, and we figure out the exit strategy together, in case of danger. I always work close to the exit and the security officers can also be helpful.

Interviewer: Finally, can you mention challenges that voters with disabilities face and how they can be addressed?

Violet: Having worked with several organizations that advocate for persons with disabilities (PwDs), I can say a lot of

issues have been addressed such as positioning of the ballot boxes, aiding the blind with sighted guides while voting, as well as ensuring the voting stations are disability friendly for persons with physical impairment.

Abdi: In as much as most organizations like UDPK are doing a great job, and I really acknowledge their good work in terms of civic education and fighting for the rights of persons with disabilities (PwDs), most still do not know their rights. For instance, majority of persons with disabilities (PwDs) still do not know that they are not supposed to queue when going to vote, you will find a person with albinism queuing while some blind persons do not know it is their right to have a personal aid/sighted guide while voting.

My suggestion would be to have chief “barazas”, frequent civic education, and have the ballot booths place in accessible positions for everyone.

Interviewer: What is that one thing you would want to have as a Special Interest Group (SIG) observer?

Violet: Since I move around different polling centers, I definitely would require a motorcycle to help in easy and quick movements that will be helpful.

Abdi: At the moment I am contended, however for the future I would suggest we have more personal aid trained to handle the blind in case the aid leave you without notice, you will quickly contact the other trained aid to fill in quickly.

Interviewer: Thank you very much for your time, thoughts and insight.



quashed the tender. In May 2017 the re-tendering and fresh procurement was ordered.

Owing to the short time available, the IEBC in June 2017 single sourced and awarded the tender to Al-Ghurair, again prompting the opposition NASA to move to the High Court. A High Court Constitutional Bench of three Judges heard the case and delivered their ruling on 7 July 2017, which canceled the award of the portion of the tender relating to the printing of presidential ballots. The bench ordered fresh tendering and public participation in the process. This decision prompted the IEBC to move to the Court of Appeal where a bench of five Judges delivered their ruling on 20 July 2017 quashing the decision of the High Court, and ordering that the printing of the ballot papers by Al-Ghurair should go on.

Other than the theatrical nature of the ballot printing procurement tender cases and the time the cases took, it is the potential of the cases derailing the 2017 Elections, and undermining the role of the Judiciary as a vital institution in elections that raised most concerns. The cases effectively brought into focus the role of the Judiciary in elections, pitting the Judiciary against the principal political actors in the 2017 elections, namely; the Jubilee coalition and the NASA coalition. While the Judiciary is expected to play a critical role as the last arbitrator on electoral disputes, especially in a highly-charged political environment and closely contested elections, a decision, either way, could easily be politically perceived as partisan, and therefore undermine the authority of and respect for the courts, and the Rule of Law. This is exactly what happened when the High Court cancelled the presidential ballot paper printing tender, with the Jubilee coalition attacking the court’s authority and integrity, and it will certainly happen with NASA following its loss in the Court of Appeal.

Also important is the question of what would happen to constitutional and statutorily stipulated timelines for the elections were the Court of Appeal to agree with the High Court. It would have required a miracle for the IEBC to tender afresh and have the presidential ballot papers printed and ready for the 8th August 2017 elections. The possibility that the remaining time could not have allowed this to happen raised serious concerns and panic in the public domain, with a potential of undermining democratic

governance and plunging the country into a serious governance anarchy, and constitutional crisis.

The Constitution requires that all elections be held on the same date, 8th August 2017 and therefore without the presidential ballots, the presidential elections would have had to be postponed, and the term of office of the president extended; matters that are not contemplated under the constitution and would therefore generate serious crisis in the country. It remains unclear what next steps NASA would take following the decision by the Court of Appeal. Therefore, it is premature to contend that the Court of Appeal has brought finality to the presidential ballot papers printing procurement tender cases.

Conclusion

While court actions remain the constitutional right of citizens, their propriety and timeliness deserve consideration in the context of the strict timelines for the delivery of the 2017 elections. Their necessity is also a matter of concern considering that some of the matters canvassed could have been implemented earlier on, were due attention to be paid to the electoral cycle approach to elections management. The 2017 elections stand out in history as one that has attracted numerous legal suits. Lessons need to be drawn from this with a clear resolve that these court cases, while significant in some ways, have a burdensome cost implication. Additionally, their timing has a potential to derail and rock the elections. Kenya remains at crossroads and perhaps narrowly survived from plunging into a moment of governance anarchy and constitutional crisis, which the numerous court cases on the 2017 elections threatened. It remains the duty of the electoral management body and all stakeholders in the electoral process to create a conducive environment where trust, dialogue, and timely constructive reforms become the building blocks for delivery of genuinely credible, free, and fair elections.

¹ <http://aceproject.org/ace-en/focus/core/crb/crb03>

² Daily Nation, Tuesday July 18, 2017, pg. 6

³ <https://theconversation.com/african-citizens-have-very-low-levels-of-trust-in-how-elections-are-run-66447>

⁴ Ibid



SENIOR PROGRAMS OFFICER'S DESK

Marcus A. Ageng'a is the **Elections Observation Group (ELOG) Senior Programs Officer**. He coordinates ELOG's corporate programs and projects which include: Long-Term Observation (LTO), Parallel Vote Tabulation (PVT) and General Observation (GO). He also coordinates ELOG's thematic areas which include: The Legal Framework and Monitoring the Participation of Special Interest Group (SIG) in the electoral process and Party Primaries. He spoke to Darubini ya Uchaguzi's Grace Njambi.

Question: Marcus, you are ELOGs Senior Programs Officer. Kindly give a brief on how ELOG's programs merge together to achieve a common goal that fits the ELOG Vision?

Answer:

First, it is important to remind ourselves of the vision, and the goal of ELOG's 2017 observation project. ELOG's stands for *credible, peaceful, free and fair elections* while the goal of our project for the 2017 observation mission is *Integrity, Impartiality, and Inclusivity of the 2017 General Election*.

Now, ELOG's takes an electoral cycle approach where each phase of the process is connected together to contribute to the success of the entire process. ELOG runs the following programs. The:

- i. General Observation (GO);
- ii. Parallel Vote Tabulation (PVT); and
- iii. Long Term Observation (LTO) programs.

Both the GO and PVT programs primarily focus on the E-Day processes and the results. Whereas the LTO program accesses and appraises the pre-electoral environment.

Elections is not just an event but also a process. The LTO program allows ELOG to speak to the processes in the pre-electoral period, which directly affect E-Day processes and results.



Marcus A. Ageng'a is the Elections Observation Group (ELOG) Senior Programs Officer

Similarly, PVT and GO programs allows ELOG to speak to the election results. Therefore, ELOG's statements and reports (which include detailed findings and recommendations) are shared with various stakeholders with the aim of having them infused to inform further electoral processes, thus contributing to the integrity of 2017 Elections. Similarly, and in particular, PVT allows ELOG to independently project the presidential results.

Question: ELOG has distinguished itself as a Nonpartisan Domestic Observation platform. How



PWDs



By Grace Njambi

Participation of Persons With Disabilities (PWDs) in the Electoral Process

ELOG's **Grace Njambi** met with **Violet Yimbo** and **Abdi Gamadid** to interview them regarding the participation of Persons with Disabilities (PWDs) in the electoral process. Violet is physically impaired while Abdi is visually impaired. Their disabilities has not been a hindrance for them to pursue their goals effectively compared to persons without disabilities. Violet is a constituency supervisor, while Abdi Gamadid is a tallying center observer. ELOG has trained and deployed 93 Special Interest Group (SIG) Observers to 83 constituencies in 45 counties with specific mandate of interrogating the manner which SIGs are engaging in the electoral process, while safeguarding the integrity of the 2017 General Elections.

Interviewer: How has it been for you working with ELOG as an observer?

Violet: I find a lot of fulfilment working with ELOG since it is a new challenge. I have realized that as a supervisor, people will respect you based on your professionalism and hard work, and not your physical appearance.

Abdi: I am very happy that ELOG gave me the chance to work with them. It is evident to me that ELOG believes that persons with disabilities are capable of undertaking tasks assigned to them just as persons without disabilities. I was received well together with my sighted guide, and we were well taken care of.

Interviewer: What challenges have you faced in your line of work as an SIG observer?

Violet: At first my fellow observers did not understand me. They thought I would underperform. However, with time, everyone understood that I did not need any pity. All I need is respect, and understanding that I am



hardworking and professional.

Abdi: In earlier trainings, most trainers used to be a bit worried that I might under deliver but with time I proved them wrong. In cases of chaos, your personal aid may leave you alone as they run for safety. We once met a group of political party supporters who were rioting and that proved a great challenge.

Interviewer: Abdi, you are a tallying center observer, and I understand you have a personal aid to help you move around among other duties. If on the Election Day your personal aid fails to go with you to the polling station, how will you handle that, and are you prepared for such a scenario?

Abdi: I have been trained to answer questions on the observation checklist, I can ask someone else to read for me because I know the format.

Interviewer: Abdi, the ELOG SIG Program Officer states that you are one of the best and efficient observers. What motivates you?



YOUTH AND ELECTIONS

The Kenyan Youth Electorate

By Valdore Obuya



Kenyan local artist, Juakali performs during campaign urging the youth to vote wisely

will favor not only the youth club, but the entire nation in general.

It is due to this high unemployment rate in Kenya, that the Kenyan youth has fallen prey to unscrupulous politicians who take advantage of them to organize, and instigate violence in some parts of Kenya. The 2007/8 is a good case study whereby 70% of the violence perpetrators were youths, after which more than 1000 people were killed and an excruciating number of 600,000 were left homeless. Infrastructure worth billions of shillings were damaged too.

Through organizing and attending concerts, walks and rallies aimed at promoting peace in the country.

The 2017 youth electorate are however taking a different direction. Through organizing and attending concerts, walks and rallies aimed at promoting peace in the country. The youths have also been able to volunteer in various platforms such as The Elections Observations Group (ELOG), where they play a key role in monitoring the political events that unfold as the country gears towards the 2017 General Elections.

Subsequently, the youth are also seeking elective seats in various parts of the country. A story is told of Suzzane Lengewa, a young 23-year old Kenyan lady eyeing the Nairobi senatorial seat. Vying as an independent candidate, she says she is vying to be the senator of Nairobi because she does not want to watch from the sidelines anymore as young people are underestimated by the public. She therefore wants to inspire young people to stop limiting themselves based on what they can achieve. The likes of Suzzane are indeed changing the country's political sphere for the better.

Throughout Kenya's history, the General Elections have been conducted to determine the country's future for the next five years. It is therefore, every Kenyan citizen's duty and responsibility to be a part of this process by practicing their democratic, and fundamental constitutional right to vote their suitable leaders into office.

The 2010 new constitution defines the youth as any person between the ages of 18 and 35 years. In 2013, the country held its first General Elections under the new constitution in which 14.3million people were registered by the IEBC, out of which 46% were youths. In 2017, the certified number of registered voters is 19.6million, 51% of which represent the Kenyan youth. This might be the deciding factor in the race when it comes to the crunch. According to the 2016 World Bank report, Kenyan youth has the highest unemployment rate estimated at 17.3%. Therefore, as young voters we should use this opportunity to elect leaders that will create job opportunities that



does ELOG ensure neutrality of their members?

Answer:

All ELOG members, staff and its field observers have signed a pledge of neutrality. In addition to the pledge of neutrality all the field officers have undergone a thorough recruit and training process where nonpartisanship was focused on.

Question: ELOG is observing the 2017 Elections. How would you describe the preparations thus far?

Answer:

It is all systems go for ELOG. All our observers have been trained and deployed. The GO and PVT systems, for the purposes of observing the E-Day processes and results have been tested, and are functioning optimally. ELOG PVT Simulations have all been successful.

Question: Election Observation is an extremely intense exercise. What challenges have been faced?

Answer:

- Shifting timelines from electoral stakeholders like IEBC and political parties.
- Accusations that ELOG is aligned to one political outfit.

Question: What has been different in this year's approach as compared to the 2013 observation?

Answer:

Unlike the 2013 election observation, ELOG has been able to monitor a number of processes which include the participation of the special interest group (SIG) in the electoral process, the conduct of political party nomination processes, and monitoring media for hate speech occurrences.

Similarly, ELOG plans to observe the tally processes and the announcement of results at the constituency tallying center.

Question: ELOG conducts a lot of observer trainings across the country, what tools does ELOG use to conduct these trainings?

Answer:

ELOG uses two types of tools during these trainings:

- Checklist**- which details information that our observers will collect upon arrival at the assigned polling station, voting process, counting, and tallying process as well as results announcement.
- Incident form**- which allows the observers to report various incidents and malpractices that they see. The incidents will be reported immediately they occur.

Q: What are your expectations and deliverables for ELOG during the 2017 Elections?

Answer:

- That:
- ELOG has 100% turn out of its field observers and reports sent to ELOG data center; and
 - ELOG issues accurate and detailed information on the electoral environment, process and results;

Question: Do you have any Sustainability plans for ELOG beyond the August Elections?

Answer:

ELOG is designed as a Long Term Domestic Observation Platform, and as such has put in place a number of strategies to ensure that it is sustained beyond 8th August, 2017. These include:

- The reduction of the workforce into a lean secretariat;
- The hosting of the secretariat by a member organization;
- Continuous fund raising by corporate and member organization;
- Widening the donor base; and
- Partnership with other organizations and outfits.



Mwandishi: Ken Angwa

Uchaguzi Na Uangalizi Wake



kupiga kura kwa namna fulani na taratibu za upigaji kura zinafuatwa kikamilifu. Pia watashuhudia iwapo matokeo yaliyotangazwa na Tume yanaambatana na kura zilozohesabiwa.

Katika utekelezaji wa majukumu yake ya kuboresha demokrasia na kutoa jukwaa la watu kushiriki kiuadilifu katika utazamaji wa uchaguzi, ELOG imetoa nafasi kwa wakenya wa matabaka yote kushiriki kama watetezi wa haki za wapigaji kura kwa kuwasajili kama waangalizi. Mfumo unaotumika umejikita katika mzunguko wa Uchaguzi (Electoral Cycle). Walioteuliwa ni waangalizi 290 wa kudumu (LTOs), waangalizi wa muda (Short Term Observers - STOs),

Tume ya Uchaguzi ilipotangaza rasmi kipindi cha kampeni, kinyang'anyiro cha kipekee cha kugombea nafasi katika afisi za umma za uongozi zilianza kujisuka. Shirika la kijamii la kuchunguza uchaguzi, Elections Observation Group (ELOG) tayari lilikuwa mbioni kuhakikisha kuwa lina angazia mchakato huu wa uchaguzi katika vipindi vyake vyote vya kabla ya, wakati wa na baada ya uchaguzi kupitia waangalizi wake 290 wa kudumu (Long Term Observers -LTOs) waliosajiliwa Machi mwakani.

ELOG, kama waangalizi wa Uchaguzi, wanawajibu wa kuweka bayana mafanikio na kuibua changamoto yoyote inayoweza kutokea katika mchakato huu. Aidha, wana umuhimu mkubwa katika kujiridhisha kuwa wapiga kura wanapiga kura zao katika mazingira ya usalama na amani bila ya vitisho au kulazimishwa

“ ELOG itazidi kutekeleza wajibu wake kwa weledi ili kujijengea imani ndani ya mchakato wa uchaguzi na kutoka kwa wadau wengine. ”

waangalizi 1,700 watakaotumia teknolojia ya (Parallel Vote Tabulation - PVT) kutuma ripoti zao, waangalizi 6,000 wa kawaida (General Observers GO) na waangalizi 21 wa vyombo vya habari wanaofuatilia lugha ya uchochezi (Media Monitoring for Hate Speech- Electronic media and print). Kupitia mkakati huu, ELOG itahakikisha uchaguzi mkuu wa Kenya unakuwa ni uchaguzi huru na wa haki na unakidhi matarajio ya wadau, wakiwemo wapiga kura na wananchi.¹ Ili kuweka mazingira bora ya uchaguzi, kila jitihada imefanywa na mikakati kuwekwa kuhakikisha wagombea, washikadau wa kimsingi, watendaji na wasimamizi wa uchaguzi wanatazamwa ili wamakinikie majukumu yao.

ELOG IN THE PRESS



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4 The Advisory Peace Panel (APP) Co-Chair Josephine Mong'are giving her comments about the IEBC register. She stated that it was vital for the electoral body to publish it, to ensure the transparency and credibility of the register.

5 Steering Committee Member Susan Mwongera commenting on the pre-electoral environment. Primarily on voter education, destruction of campaign.

- 1 ELOG chair Regina Opondo commenting on the pre-electoral environment.
- 2 ELOG National Coordinator Mulle Musau speaking on various issues observed during the pre-electoral period.
- 3 ELOG's Senior Programmes Officer Marcus Ageng'a commenting on the integrity of the IEBC voter register.

- 6 Special Interest Group (SIG) Manager Anne Kathirima speaking on the role of SIG in the electoral process.
- 7 PVT Manager Simon Waweru giving speaking on the Parallel Vote Tabulation (PVT) methodology.



We as a Kenyan people can do better in managing our parties. The ordinary party member needs to be more vibrant in using structures at their disposal to clamor for progressive change. They need to coalesce under the banner of accountability, and press for comprehensive, and transparent audit of party registers. This way, it will be clear to the party fraternity who the bonafide members are, consequently mitigating cases of votes cast inexplicably exceeding the number registered by the party in different regions.

Party members need to add their voice to any efforts that are aimed at purging election boards and secretariats off cartels

Political Parties Disputes Tribunal (PPDT), was also at hand to give audience to the aspirants not satisfied with the judgment dispensed by their parties. Fearing judicial fraud by their own party dispute resolution mechanisms, some candidates elected to ditch their parties entirely. Something which appeared to be self-defeating by the political parties. Some parties will definitely rue the exodus of strong candidates who would have otherwise won them elective seats.

Due to the issuance of certificates to aspirants under dubious circumstances, the Political Parties Disputes Tribunal (PPDT) and the courts have had to nullify some results, and ordered parties to conduct repeat polls in the concerned cases. That the Judiciary has been able to expeditiously and firmly overrule elections that did not meet the threshold of fairness is a plus in the quest to stamp out impunity from our parties. It is unfortunate to note that in contravention of court orders, some parties have been reluctant to proceed as instructed by the courts, further violating the law.

Vibrant, strong parties translate positively into thriving democracies. Political parties despite the turbulent waters that they have had to negotiate, have at times earnestly tried to manage their affairs justly. In pursuit of prudent management of party primaries, some parties opted to stagger their election schedules in order to better manage logistical nightmares that can easily paralyze effective running of an exercise. This move was commendable though debatable on how successfully the parties were able to execute such plans.

that trade in party certificates, and undue electoral favoritism. Considering this, party members will not be apprehensive of clandestine forces out to rob them off victory. Their loyalty to the party will likely be fortified, and there will be less hemorrhaging by parties during party primaries.

It is also imperative that parties comply fully with the constitution of Kenya 2010 (second schedule of the political parties act) which requires them to institute internal party dispute resolution mechanisms. That way, the first level of seeking recourse will be at the party instead of having cases overloaded at the political party's disputes tribunal and the law courts. This legal requirement needs to be unequivocally adhered to if we are to break away from having amorphous "political parties".

When the 12th Parliament resumes its business, it should prioritize approval of proposed amendments to the Political Parties Act that would empower the Judicial Service Commission (JSC), in appointing at least 15 ad hoc members of the Political Parties Disputes Tribunal (PPDT) to sit in various parts of the country. This would enhance efficiency and timeliness of litigation across the country in relation to party primaries and by extension General Elections.

Fundamental to entrenching democratic party ideals, the party hierarchy needs to uphold party rules, and statutory structures as sacrosanct. Undue interference in party affairs only serves to alienate certain segments of their party membership, and ultimately injures their approval among the Kenyan masses.



Tume Huru ya Uchaguzi nchini Kenya (IEBC), ndicho chombo ambacho kimepewa dhamana ya Kikatiba kuratibu, kusimamia na kuendesha chaguzi za Rais, Wabunge, Magavana na Madiwani. Hivyo basi, wao ni wenye umuhimu mkubwa katika kuhakikisha tuna chaguzi huru, wa haki na iliyo na uwazi na amani. IEBC inajaribu kutumia kikamilifu fursa mbalimbali zinazopatikana kuimarisha elimu ya wapigaji kura ili kuhakikisha kuwa wananchi wengi wanapata elimu hii na kufahamu taratibu, kanuni na sheria zote zinazotawala na kusimamia uchaguzi.

ELOG itazidi kutekeleza wajibu wake kwa weledi ili kujijengea imani ndani ya mchakato wa uchaguzi na kutoka kwa wadau wengine. Hatma ya shughuli za ELOG itakuwa utoaji wa ripoti ya uangalizi itakayotoa taarifa muhimu kwa kuboresha upigaji kura Kenya hasa ikizingatia umuhimu wa ushiriki wa makundi yaliyo katika hatari ya kukandamizwa wakiwemo wanawake, vijana na watu wenye ulemavu.

Katiba yetu inaeleza kuwa kila mwananchi ana haki za kisiasa. Uchaguzi Mkuu wa Agosti 8, utatoa fursa kwa wananchi kutumia haki hii. Kila raia ana haki ya uchaguzi huru, wa haki na wa mara kwa mara. Vile vile, ana haki ya



Uchaguzi una umuhimu mkubwa katika taifa lolote lenye demokrasia. Demokrasia yetu bado ni changa na iliyosalia na hatua kadhaa muhimu za ukomavu. ELOG inachangia pakubwa ukuaji wake. Hili linatokana na kuwa uangalizi wa uchaguzi unasaidia katika kujenga ukweli, uaminifu na uhalali wa uchaguzi. Unasaidia kujenga mazingira yatakayoweza uchaguzi kuendesha kwa uwazi, uhuru na kwa mujibu wa sheria. Mahususi, uangalizi wa uchaguzi unasaidia kuwaweka watendaji wa uchaguzi katika hali ya umakini wa kuzingatia sheria na kanuni za uchaguzi na katika utekelezaji wa majukumu yao ya kuendesha uchaguzi.² Mfumo wetu wa kisiasa unavyoendelea kukua unahitaji ushiriki mkubwa wa wananchi katika michakato ya siasa ili kuhakikisha umiliki na uhalali wa uongozi.

kupiga kura na kuyafanya mawazo au uamuzi wake huo kuheshimiwa.

Ninavyoamini, siasa ya taifa letu yaelekea pale ambapo mkenya wa leo hawezi kushiriki katika hongo kabla yeye hajahongwa. Ndiposa natoa rai kwa wale wote mliojiandikisha kama wapiga kura kujitokeza kwenye vituo mliojiandikisha ili kuweza kupiga kura na kuwachagua viongozi mnaowataka bila hofu, woga, wasiwasi au ushawishi wowote.

Kura ni haki yako na ni kwa mustakabali wako na nchi yetu.

¹ Tume ya Uchaguzi ya Zanzibar; Mwongozo Na Maadili Ya Waangalizi Wa Ndani Na Wa Nje Wa Chaguzi Za Zanzibar.pdf (2015)

² "Michuzi Blog: Taarifa Ya KaimuMkurugenzi wa Uchaguzi Tume Ya Taifa ya Uchaguzi" Retrieved from <<https://issamichuzi.blogspot.com/2015/11/taarifa-ya-kaimu-mkurugenzi-wa-uchaguzi>> (2015)



By Leo Mutisya - Project Lead

Media Monitoring for Hate Speech

ELOG applies hate speech according to the definition provided by the NCIC Act 2008 (revised 2012), which defines hate speech in the terms that it is anything [or anyone] that “uses, displays, publishes, distributes, shows or plays threatening, abusive or insulting words or behavior including written material, programs, visual images, recordings or plays), with the intent “to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up.” Beyond this definition, ELOG has gone further and crystallized hate speech in three categories.

These categories are important in defining what form of hate speech is being reported and the level of its intensity.

These categories are: - Somewhat inflammatory: this is low intensity hate speech, which has no call for action but it creates a negative image of the targeted victim. - Inflammatory: this is hate speech of medium intensity, and among others has a dormant call for action. - Dangerously inflammatory, which ELOG considers as the highest intensity of hate speech as it has the strongest potential to lead to violence and or discrimination.

Media monitoring for Hate Speech aims at:

- a) Sharing with the public, media and stakeholders some of the important findings and analysis of hate speech and inflammatory language within the project domain;
- b) Promote dialogue among state and non-state actors on the composition and consequences of hate speech and inflammatory language in Kenya; and



- c) Call to action state agencies responsible for enforcing law on the subject matter.

The Characteristic Period between, May and June: Important Statistics and Analysis

The total number of incident reports received were 82. Out of the 82, only 28 were categorised as hate speech and or inflammatory language based on ELOG’s definition of the same. The rest were regarded as just abusive language or a general exercise of freedom of expression, 4 incidences were considered dangerously inflammatory, 13 were considered to be inflammatory and 11 somewhat inflammatory. Furthermore, more incidences were reported via the radio, followed by TV, and then print media. Equally, radio media produced the most dangerously inflammatory statements. ELOG monitored both sampled outlets of TV and Radio stations targeting both mainstream and community FM stations. ELOG

of prospective candidates’ and consequently the strength of the party among voters.

Political parties in Kenya face many peculiar socio-political challenges. None more pronounced and familiar as electoral violence. Chaos during party nominations pervades our electoral environment, and in the year 2017 it was no different. Polling in countless parts of the country were disrupted by unruly goons presumably hired to spook voters from queuing to cast their vote. In numerous instances, returning officers had to announce results far away from tallying centers lest they fell victim to kicks and blows from blood thirsty “supporters”. Ironically, however, the party primaries in 2017 comparatively fared better than those that have been conducted in previous years concerning violence. The destruction of property and assets was witnessed alright but to a lesser degree than in preceding years.

In rather comical episodes, party aspirants hijacked the electoral process, and illegally installed returning officers that were not recognized by party secretariats. The imposters working at the behest of their bosses announced fictitious results. Many party secretariats had to overturn some announcements to allow for adjudication of the cases by their dispute resolution structures. Due to the high occurrence of manipulated results, glaring discrepancies were sometimes observed between votes tallied, and those announced by returning officers. A clear subversion of democracy.

Political parties in their wisdom chose to vary eligibility of the public to participate in their polls across different political zones. In regions that parties enjoy relatively strong support, voting was limited to people who were registered voters of the party. The same political outfits however, chose to allow voting to any member of the public registered with IEBC in areas where their support base was relatively weaker. This arrangement proved disconcerting to many voters who were turned away at the voting centers based on technicalities that they could hardly understand. Eager voters were disenfranchised.

In some instances, there was uproar when the

ballot papers reaching the polling stations did not have serial numbers thus seriously injuring the credibility and legitimacy of the voting exercise, in the eyes of candidates and party supporters alike. Omission of aspirants names from the ballot papers only succeeded in reinforcing suspicions of foul play, which in turn succeeded in fueling unrest and skirmishes at polling stations.

The Kenyan constitution 2010 provides for one to seek elective office as an independent candidate. This leeway was presumably anchored in law to allow for individuals who do not subscribe to any of the policies of the existing parties, to sell and assert their programmes to the public as individuals. Inadvertently, it seems that the party primaries 2017 were highly plagued by gross malpractice that they forced 4,940 disgruntled candidates to defect from their parties to now seek elective seats as independents. Expectedly, many cited electoral fraud as reasons for leaving their parties. Never mind that some stood no mathematical chance of victory in the mini polls.

The 4,940 independent candidates have as a result been emboldened enough to form their own caucus, through which they can be better able to leverage their interests. The emergence of this group, some of whom have strong support in their backyards has upset long established political capital by the dominant parties across the country. The “6 piece” slogan by dominant political parties is now widely met with cynicism by voters. They want absolute freedom to choose the leaders of their choice at every level of governance.

This new civic awakening among Kenya’s voters might not only be an indictment of our political parties, but also a resolve by citizenry to break away from political patronage that has seen political leaders being imposed upon voters. Some of these aspirants, are entirely beholden to the whims of their party leaders. Party leadership have been guilty of invariably rewarding sycophancy other than letting the electorate choose the leaders of their choice.

For aspirants aggrieved by how polls were conducted, doors were open to seek redress through internal party dispute resolution mechanisms. The

“ Political parties in their wisdom chose to vary eligibility of the public to participate in their polls across different political zones. ”



By Emmanuel Mwangi

POLITICAL PARTY PRIMARIES

Political Parties and the Quest for Democracy



undertakings of arbitrating electoral disputes. The challenges that were experienced by parties were however not new in comparison to previously held party nominations.

It was no surprise when the major political players in the country incessantly postponed the commencement of their party primaries, much to the dismay of party aspirants. Needless to say, many of these aspirants had invested fortunes untold to meet the demands of campaigns whose expenditure surged rapidly with every passing day. Most, sacrificing money gained from years of

By definition, political parties are vehicles through which policies, programmes and interests are aggregated, and represented in a political system. Through party nominations as practiced in liberal democracies, party members are able to compete for positions within the party structure or seek party nomination to run for elective seats within a political system.

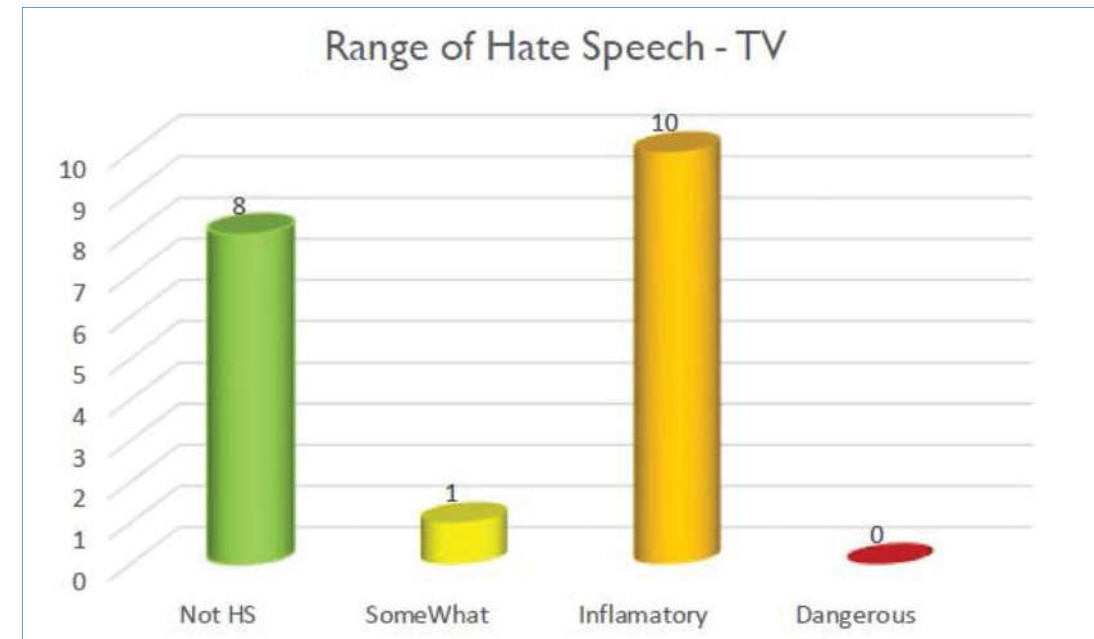
In multiparty political systems such as the one we have in Kenya, political parties invest in conducting party nominations that would hopefully produce candidates who will have the best chance of emerging victorious, against rival counterparts from other parties for the various elective seats. Long divorced from any ideological doctrine, inter party and intra party competitions in Kenya are played with little adherence to the basic tenets of fair play, rule of law, or public decency.

The Kenyan party nominations that were held in April 2017, were marred by irregularities that ranged from mundane tasks such as providing adequate ballot papers at polling stations, to the more weighty

hard work.

In a political scene that is not adequately governed by pieces of legislation that cap expenditure of aspiring candidates, it is often the politician who can outspend his opponent and litter streets with posters and banners with abandon that will win the ears and eyes of the voter. In effect, parties run the risk of sponsoring candidates who might have the deepest pockets albeit lacking in imagination and leadership skills.

To avoid fall outs that arise from party incumbents slugging it out against perceived political minnows, senior party stalwarts in most of the political parties were handed direct tickets to contest in the August polls. Indeed political parties inherently hold discretionary power to decide who will best guarantee them victory in the General Elections. It is anybody's guess as to whether or not these direct ticket holders have the continued blessing of the party electorate in their respective areas of jurisdiction. Some would argue that wide universal suffrage within the party, is still the best bet to testing the popularity



identified 5 TV stations at project inception based on their popularity, strength and length of coverage, NTV, KTN, KBC, K24, and Citizen TV.

For Radio, ELOG identified 14 radio stations for purposes of monitoring hate speech in the country. These were identified based on their target community and how big this community is, their political affiliations in terms of ownership and their listenership. There stations are: Citizen Radio, Radio Jambo, Kameme FM, Inooro FM, Mbaitu FM, County FM which broadcasts in Kitui, Radio Rahma, which broadcasts in the Coast, Ramogi FM, Radio Lake Victoria, broadcasting from Nyanza, Kass FM, Chamige FM, Ingo FM, Mulembe FM, and Ghetto Radio.

Media Monitoring for Hate Speech newspaper category targeted the four main dailies i.e. the Daily Nation, the Standard, the Star and the People. These are the main newspapers in the category. While the rest are widely distributed, The People is given freely within major towns. From these 4 newspapers, only 8 hate speech incident reports were received. Out of these, only 3 qualified for categorization as hate speech incidences.

ELOG has filed a summary of the key findings after two months of monitoring - A total of 28 hate speech and inflammatory language incidences were received during the months of May and June.

These emanated from across the country but were prolific in counties like Nairobi, Kilifi, Uasin Gishu, Narok, Kakamega, Bungoma and Machakos. These statistics are however not representative of the whole country. These incidences were perpetrated mostly by candidates/aspirants and state officers. This can be attributed to intensified campaigns. However,

some of the incidences were reckless utterances by politicians targeting IEBC staff because of their tribal affiliations. There were a number of cases where the perpetrators were radio presenters. In one of the incidences, an opposition candidate was ridiculed, insulted and stereotyped by presenters in a morning program, for joining the opposition after losing in the Jubilee party primaries. The reported act also involved playing mocking songs and telling the politician off.

Moreover, while in most cases the victims were male, except for 2 counts (04%) reported under Radio outlets, there were also cases where the

“Once the data is received by the ELOG server the ELOG media monitoring for hate speech data analyst is responsible for analysing and triangulating data.”

