



**Elections
Observation
Group**

CREDIBLE, PEACEFUL, FREE AND FAIR ELECTIONS

ELOG MACHAKOS SENATORIAL BY-ELECTION OBSERVATION PRELIMINARY STATEMENT

TODAY, ELOG released its preliminary statement on the just concluded Machakos Senator by-elections held on the 18th March, 2021. The Machakos Senatorial by-election attracted participation of 11 candidates namely: John Mutua Katuku, Simeone Kioko Kitheka, Johnathan Makenzi Maweu, Stanley Masai Muindi, Francis Musembi Munyambu, John Kioko Musingi, Agnes Kavindu M. Muthama, Lily Nduku Mwanzia, Arbanus Mutunga Muthama Ngengele, Sebastian Nzau Nthama, and Otto Edward Musembi Nthenge.

The elections were conducted under the observation and adherence to the COVID-19 protocols set out by the Ministry of Health.

Two days to the set date of by-election, the MCC-P candidate Mr. John Mutua Katuku announced that he was stepping down from the race. This was however not communicated to the IEBC who announced that despite the withdrawal, the candidate was still in the race with the ballot papers having already been printed.

METHODOLOGY

ELOG's election observation strategies and methodologies for this by-election included fielding of polling station observation team of 40 observers who were stationed at sampled polling stations within the county and were supervised by 8 (Constituency) supervisors and 4 roving teams (made up of three officers per team). A core team stationed at the National Observation Center coordinated the field teams.

ELOG comprehensively trained its observers and equipped them with standardized data collection tools – checklists as well as incident forms that were designed to collect and report on evidence-based data relating to compliance with electoral legal and operational framework governing elections in Kenya.

The Elections day processes observed included the following: Setup and opening of the polling stations, voting process, closing and counting of votes, tallying and announcement of results. The observers were required to send information to the National Observation Center on these processes promptly through coded text messages.

Analysis of the collected information was done at the data center and the findings used to prepare this statement. This statement is based on the information collected from all the polling stations in which ELOG was present.

SUMMARY OF FINDINGS

OPENING AND SET-UP

- All ELOG observers were permitted to observe with only 2 observers in Mwala Constituency at Katithi Polling Station and Mutula Primary School polling station initially denied entry at the polling station during opening. After intervention from the field coordination unit the observers were later allowed to observe.
- All the polling stations observed opened on time with very minimal delays.
- Ballot boxes were shown to be empty before being sealed.
- COVID-19 protocols were adhered to in the set-up of the polling stations.
- Presence of security officers was observed.
- All the polling stations had a functioning Kenya Integrated Elections Management System (KIEMS) before the voting commenced.
- All polling stations had the requisite strategic materials (ballot boxes, ballot papers, IEBC stamp, indelible ink, copy of voter register and the Results Form).
- At least 2 party agents (Wiper and UDA) were present in majority of the polling station visited.

VOTING PROCEDURES

- Election procedures and electoral laws were widely adhered to, with no incidences reported within the polling stations.
- Protocols for conducting elections under a COVID 19 environment were generally adhered to.
- Some voters who could not be identified with KIEMS Kits but whose details were found in the hard copy register were allowed to vote after signing the requisite forms.
- There were very few cases of assisted voters observed with those affected, assisted by the presiding officers in the presence of the party agents present.

CLOSING AND COUNTING

On the closing and counting process, ELOG findings indicated as follows:

- That counting was conducted according to the laid down procedures and in the presence of party agents.
- At least 2 party agents were present during closing and counting in all the stations.
- The COVID-19 Protocols were observed both at the polling stations and the tallying centers.
- Party agents signed the declaration of Result Form 38A.
- 33% of ELOG observers were issued with a copy of Form 38A and copies of the Form 38A was publicly affixed outside.

INCIDENCES

On Election-Day:

- **Voter Bribery:** There were reports of alleged voter bribery leading to some agents of UDA party being arrested. However, ELOG was not able to verify these allegations.
- **KIEMS Kit Failing to verify voters:** ELOG observers noted that in Mangeni Primary School, 11 voters could not be verified using KIEMS Kit but they were in the hard copy of the register and were then allowed to vote.

GENERAL RECOMMENDATION:

Some of the issues that need to be addressed quickly to improve the integrity of our elections include:

- Need for IEBC to audit its ICT infrastructure: ELOG recommends an assessment and audit of all the KIEMS kits ahead of the forthcoming elections. This assessment will assist the Commission in knowing which of the kits are fit for use and draft a maintenance plan.
- Need for the Office of the Director of Public Prosecution investigate and prosecute the rising cases of election offences and prosecute those found to have committed these offences. This will address the rising cases of electoral malpractices that continue to assault electoral integrity.
- While it is within one's democratic right to present himself or herself and contest for any elective position in the land and withdraw from the contest at will, considerations should be made so that timelines are provided within which one can withdraw. This will minimize wastage of public resources and voter apathy.

CONCLUSION

The country is heading to a general election in the next 16 months. Cognizant of this fact, ELOG once again calls upon all electoral actors especially the IEBC and political parties to take practical steps towards electoral reforms needed for the realization of credible, peaceful, free and fair electoral processes in Kenya.

Yours Sincerely,



Regina U. Opondo
Chairperson,
ELOG Steering Committee



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