



27th OCTOBER 2017

TO VOTE OR NOT

**STATEMENT ON THE VOTING, CLOSING AND COUNTING OF THE FRESH
PRESIDENTIAL ELECTION**

Yesterday, Kenyans across the country had the opportunity to cast their votes once again during the fresh presidential election. This was an extraordinary election. The process was characterized by boycotts from a large constituency in the country and generally registered *low turnout*. The Independent Electoral and Boundaries Commission (IEBC) in a statement issued by its Chairman, postponed elections in 4 counties; Siaya, Migori, Kisumu and Homabay, citing security concerns for their staff and materials. New elections for these counties are scheduled for Saturday, the 28th October 2017.

The repeat presidential election has considerably amplified the divisions in Kenya's society and body politic. Consequently, it will be an uphill task bringing Kenyans to embrace nationhood and live as one people. The repeat election has also *so far* witnessed the loss of more than 70 lives, over 60 cases of sexual violence, scores of injuries and the destruction of millions of shillings worth of property.¹ Most of the deaths have resulted from violent confrontation between protesters and security forces. There are also allegations that militia groups and other vigilantes could have been responsible for a small portion of the deaths. Ultimately, it is the responsibility of the state to protect citizens and their property.

ELOG through, the deployment of **1773** field observers deployed in 215 out of the 290 constituencies, has kept close vigil over the entire voting process. This statement is based

¹ This is in relation to the electoral process. CF Reports of ELOG and other observers, KNCHR, Human Rights Watch, Amnesty International, various media reports.

on **Observation and Incident Reports** filed as of 9.30 a.m. by ELOG's sample based observers.

In our opening statement 26th October, 2017, we shared our findings on the opening process in the polling stations that ELOG was able to access. While it was indicative that many of the polling stations had opened in time and had the requisite strategic materials, it was also clear from other field reports that in many parts of the country there was very little activity in respect to opening and voting processes. This was largely attributable to the election boycott by the NASA coalition and insecurity.

Incident reports on barricaded polling stations were received from parts of Nairobi and Mombasa. In a number of areas, our observers were barred from accessing polling stations. This happened in Kibra, Ruaraka and Nyali.

It is evident from the observation process that the exercise was characterized by tension, voter apathy, boycott and insecurity in some places *which appear to have informed the IEBC's decision to postpone* voting in Siaya, Homabay, Kisumu and Migori by IEBC due to security concerns.

Deployment and Monitoring Methodology

ELOG deployed **1773** observers in all the **215** constituencies with the exception of constituencies in Siaya, Migori, Homabay, Kisumu, Kisii, Nyamira, Busia, Bungoma, Kakamega and Vihiga counties due to security concerns.

The following are ELOG's findings on the **voting** process:

- In 99.6% polling stations, ballot papers were stamped with the IEBC official stamp before being issued.
- In 4.8% of the stations, the Electronic Voter Identification Devices (EVIDs) failed to function properly.
- In 28.8% of polling stations observed, some people (i.e., 1 to 25) or many people (greater than 25) were not permitted to vote.
- In 57.8% of the stations observed, at least one person was identified alphanumerically not biometrically by the KIEMS device.
- In 15.7% of polling stations, many people (i.e. 25+) were assisted to vote. A majority of those assisted were women. Out of these stations where people were assisted, the assisted voters were **not** allowed to have a person of their choice (and not a presiding officer) helping them in 3%.

- The secrecy of the ballot was **not** violated in 86% of the polling stations (not including those assisted to vote).
- There was a queue at 5:00 p.m. in 45.9% of polling stations. Of those stations with a queue at 5:00 p.m., 91.9% were properly permitted to vote.
- Our observers reported that there was a print out of the data contained in KIEMS which was used to verify voter information. This was not present during the 8th August Elections.

Counting Process

We have also concluded our analysis on the counting process. The following are ELOG's findings on the closing and counting.

- In 99.1 % of the stations observed the ballots box seals were intact before counting began.
- In 1.7% of stations observed one or more political party agents requested a recount of the presidential ballots.
- For the closing and counting process, a Jubilee party agent was present in 94.8% in the polling stations. In stations where they were present, the Jubilee Party agents signed the declaration of results for the presidential elections.
- In 95.4% of the polling stations a copy of the presidential results Form 34A was publicly affixed outside.
- In 99.6% of the polling stations observed, the presiding officer properly signed the presidential results Form 34A.
- In 99.7% of the polling stations observed, the presiding officer stamped the presidential results Form 34A with the official IEBC stamp. In 94.8% of the stations, observers witnessed the presiding officer scan and send the presidential results Form 34A through the KIEMS kit and receive a confirmation message.

Critical Incidents

A number of incidents were received from ELOG observers throughout the course of the day, key among them were:

- **Opening of Polling Stations**
 - By 11:00 a.m. four polling stations in Kibra had not opened; these are Joseph Kang'ethe Primary, Holy Trinity, Olympic Primary School and Lindi Mosque.

- In Budalangi Constituency, Osieko polling station did not open at all following the burning of all polling materials and chaos caused by protesters.
 - In Musanda Ward, Mumias West Constituency, ballot materials were destroyed at Ugana and Buyundo polling centres hence the centres were never opened for voting.
- **Attack on Observers, Harassment and Intimidation**
 - In Ruaraka Constituency, an ELOG Observer was attacked by a group of armed protesters.
 - In Nyali constituency, an ELOG observer was harassed and beaten by unknown assailants on her way to the polling station.
 - In Kilifi North, there was a group of people destroying the houses of those who attempted to vote.
 - In Lang'ata Constituency St. Jude Church polling station, voters were pelted with stones by unknown people scaring them away from voting.
 - In Teso South, Obekai Primary school polling centre, two men masquerading as voters unleashed bees on unsuspecting police officers.

ELOG will be collecting all Presidential Results Forms (34As and 34Bs) from the sampled polling stations that our observers were stationed. These forms will then be compared with the forms that IEBC will be posting forms site (<https://forms.iebc.or.ke/>).

It is clear from the observation findings that there were mixed outcomes in the voting process. In the main opposition strongholds, very little activity was recorded in the stations with many keeping away. In Jubilee strongholds the voting as expected was characterized by good turnouts and long queues.

Going Forward

ELOG therefore recommends as follows;

1. On police brutality

We remind the Minister for Interior, the Inspector General of Police and the National Police Service that their primary role is to serve and protect Kenyans. The Policing Protocols and Code of conduct should be availed publicly and adhered to strictly. The Constitution of Kenya remains in force and must be followed.

We urge the Independent Policing Oversight Authority (IPOA) and the Director of Public Prosecution to also ensure swift action is taken as per their mandates. Kenyans, survivors, their families, and communities should be assured that the state does not condone violence committed by the police or any other person, and will take all measures necessary to end impunity for these violations.

2. On the ongoing election

The IEBC must provide clear and timely information to the public on how they will conduct *postponed* election in Homabay, Kisumu, Migori and Siaya counties.

3. On National Cohesion

In August 2010 when Kenya promulgated our Constitution, as Kenyans, we declared that we were proud of our ethnic, cultural, religious and political diversity. We asserted that we were determined to live in peace and unity as one indivisible sovereign nation.

As already observed, this election has been very divisive. ELOG as a diverse citizen platform, notes that despite the outcome of this election; there is need for urgent, inclusive dialogue led by Uhuru Kenyatta and Raila Odinga as soon as possible. This will not only address the political impasse but also start to pull Kenya back together to ensure political, economic and social inclusion *and cohesion*.

***“In the moment of crisis, the wise build bridges and the foolish build dams.”
African Proverb***

Thank You and May God Bless Kenya

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