

RELEASE IN FULL

NDI Kenya Referendum Update August 4, 2010

Current Political Situation

- **Referendum day enthusiasm:** was very high as evidenced by the high voter turnout. Some Kenyans came out at 3:00am to participate – polls opened at 6:00am. There has not been a single reported incidence of violence.
- **Security:** There has been a marked increase in security as compared with the 2007 elections. There are more military personnel in the polling stations and more police presence. There is a particularly high military/police presence in potential trouble areas like the Rift Valley.
- **Political good will:** Media coverage (both state-run and private) indicates that most Kenyans have been impressed by the IIEC's transparency, regular updates to the public, and have applauded their efforts to address challenges as they have occurred.

Citizen Participation

- **Voter Turnout:** Voter turn-out appears high (some polling stations had reported that more than 50% of registered voters had voted by mid-day). The IIEC has said that turnout was 60% at 3pm with two hours of voting still to go.
- **The Church Mobilization:** The “No” vote was largely mobilized by religious organizations and churches. Thousands of voters turned-out in areas that are thought to be supportive of the NO campaign. The final public statement issued by the NO campaign going into the referendum encouraged Kenyans to vote and called for peaceful polls. However, there were troubling signs contained within the statement as well. For instance, the statement read in part: “We are aware that the government has put an elaborate strategy together to rig the referendum... We will reject the results of the referendum if we find that government has operationalized its rigging plans.” The NO campaign statement further stated that “Americans are using Kenya as an experiment of their new method of destabilizing and manipulating African nations. If we as Kenyans allow Americans to influence us and manipulate our new constitution, we shall have set the way for other African nations to similarly be manipulated.” It does not appear that some elements are prepared for a loss at the polls. This does not mean that the religious leadership or its supporters will result to violence. This

may not be true of some politically motivated elements with the NO campaign structure. However, William Ruto has now delivered a statement stating that he will accept the results. This may be driven by the strong messages of support for the IIEC from Kenyan citizens which have been aired by the media all day which make it more difficult for anyone choosing to undermine their results.

IIEC Performance

- **Voter Registry Problems:** There have been some incidences of misspelled names on the register – with proper identification most citizens were still allowed to vote at most polling stations despite minor spelling errors. However, these problems do not appear to be on a scale that could undermine the credibility of the process overall.
- **Materials Distribution Challenges:** Throughout the country, most of the polling stations received their ballot materials. Most of the polling stations opened on time (06:00 am) or shortly thereafter. Ballot materials in Tana River were lost once the IIEC's canoes leaked but no one was hurt and the commission stated they would get materials to the center later in the day. There have been a few complaints by the “no” camp that ballot papers were inappropriately colored at some stations (they were orange) – the IIEC responded by stating they would attempt to replace the papers in the affected areas.
- **Commissioners' Optimism.** NDI held a brief “off the record” meeting with the Chair of the IIEC and later with most of the IIEC Commissioners. In both meetings there was acknowledgement of the challenges that the commission had faced during the first half of the election-day but there was also a visible level of optimism among the Commissioners that the process was generally being seen as an open, transparent and participatory one. The Commission has issued two statements thus far. Both are attached to this update.
- **Announcement of Results.** Officially IIEC has 48 hours from the close of polls (17:00 today) to release results (pushing the deadline to 17:00 Friday, Kenya team). However, the IIEC is releasing interim results by polling station and the team thinks the picture will be clear as early as tomorrow morning. If the process proceeds smoothly, it is likely that the PVT results will be announced after the IIEC's interim results but before the official results.

Election Observers

- **Domestic Observers.** The IIEC says that it certified 41 domestic election observation groups totaling close to 30,000 observers. NDI's partner, the Election Observation Group (ELOG) is fielding more than 10,000 observers. 702 of the ELOG observers are dedicated to the PVT exercise. ELOG issued two statements today (both are attached).
- **International Observers.** There are at least three international observer missions in Kenya for the referendum. The missions are from *the Commonwealth* (3 observers) that were not deployed outside of Nairobi; *the East Africa Community (EAC)* delegation is also a small one (8 observers) and is headed by EALA member, Hon. Leonce Ndarubagiye from Burundi; and the *European Union* has an "informal presence" in Nairobi. Last week the EU released a statement praising the IIEC's preparations for the referendum. The African Union has also sent an observation mission. Finally, a number of Embassies deployed staff "observers" throughout the country.
- **"Yes" and "No" Polling Station Agents.** Observers from the both campaigns were out in force. According to the ELOG (PVT) observers YES and NO observers were present in close to 68% of the polling centers visited. They are allowed 1 per committee per polling station. With 8 committees the maximum could be as much as 240,000 agents. NDI trained the constituency chief agents for all 8 committees and the PVT qualitative results show that only 7% of polling stations did not have agents present at the opening. Some No observers have raised concerns about inappropriately colored ballot papers (they were orange). Otherwise, there have been no serious complaints reported by either side. Some have also made claims that they were prevented from operating but claims of this type have been sporadic, rather than systematic. There have also been claims from the No side that the heavy police presence in the Rift Valley is designed to intimidate their voters but this has not been backed by feedback from the public at large as aired by the media.
- **Regional Liaison Observers:** There are 20 regional liaison observers throughout the country - all of their reports have been positive and indicate that the process was smooth and there has been no violence. There have been a few minor problems on the register. At present they are observing the tallying process.

The ELOG PVT Exercise

ELOGs PVT operation faced some challenges early in the day because observers were either prevented from entering the polling station or had their phones confiscated. This was the result of poor internal communication within the IIEC which prevented helpful decisions made by the Commission filtering down to Presiding Officers on the ground.

The IIEC has been helpful during the day in resolving at least some of these problems. By 7pm text messages had been received from all but a few PVT observers (96% of the first message and 94% of the second message). ELOG have been able to use reports from their observers in a representative sample of polling stations to draw conclusions about the overall process across the country.

On opening, they reported that:

- 99% of polling stations were set up for secret voting
- 100% of polling stations had ballot boxes which were empty prior to being sealed
- 96% of polling stations had no key materials missing
- 98% of polling stations were open by 7.15am

On the voting process they reported:

- 99% of polling stations reported no attempts to disrupt the voting process
- 98% of polling stations had no cases of voters not being inked
- 84% of polling stations had no cases of voters being allowed to vote without an ID or without their name on the register
- 42% had no cases of voters not being permitted to vote (because they were not registered), 55% had a few cases (1-14) and 3% had some cases (15-49)
- The only issue observed which is difficult to interpret without additional information is the incidence of assisted voting. 5% reported no cases; 27% reported a few cases; 47% reported some cases and 22% reported many cases (50 or more).

Overall, ELOG has received 162 critical incident reports from its entire 10,000+ cadre of observers. Of these, 111 were observers not being permitted to observe.

NDI Mapping Update: NDI has provided maps to visualize critical incidence to Elections Observation Group (ELOG). NDI also provided routing maps that pinpointed polling stations to IIEC who used them to assist the foreign media and their own staff and to observers from the US and several European embassies.

Challenges Ahead

- **Release of the results:** The IIEC's wish to show the results from all 27,000 polling stations in real time has proved to be over ambitious. However, the counting is going well and there should not be significant delays in the overall reporting process.
- **Acceptance of the results:** Perhaps the biggest fear is that the "No" camp is not going to accept the results and this will spark post-electoral violence (especially in the Rift Valley). So far there is no evidence that this will occur. However, the point of greatest danger is after the announcement of the results, not before. So far as the political leader of the No side, William Ruto, is concerned, the results in Rift Valley are at least as important as the national total. If the No side has performed as well as expected there, he may not have an interest in seeking to undermine the credibility of the tallying and reporting process.