THE KENYA GENERAL ELECTIONS - 4th MARCH, 2013

REPORT OF THE CCEDU ELECTION OBSERVATION/STUDY MISSION
26th February – 6th March, 2013

Contents

Acronyms

AU	African Union
BVR	Biometric Voter Registration
CCEDU	Citizens' Coalition for Electoral Democracy in Uganda
CRECO	Constitution and Reform Education Consortium
CSO	Civil Society Organization
CORD	Coalition for Reforms and Democracy
EALA	East African Legislative Assembly
EAC	East African Community
ECK	Electoral Commission of Kenya
ECOWAS	Economic Community of West African States
E- day	Election Day
EISA	Electoral Institute for Sustainable Democracy in Africa
ELOG	Election Observers' Group
EU	European Union
GSU	General Service Unit
ICC	International Criminal Court
ICT	Information Communication Technology
IEBC	Independent Electoral and Boundaries Commission
PPLC	Political Parties Liaison Committee
PVT	Parallel Vote Tallying
PWDs	Persons with Disabilities
UDF	United Democratic Forum

1.0 Executive Summary

The Citizens' Coalition for Electoral Democracy in Uganda (CCEDU) is a non-partisan, non-profit making and broad based civil society coalition that brings together like-minded civil society organizations to advocate for comprehensive electoral democracy in Uganda. The paramount agenda of the coalition is to advocate for and promote integrity, transparency and active citizen participation in Uganda's electoral process.

In preparation for the 2011 general elections in Uganda, CCEDU engaged in an electoral reform campaign; and also ran a mass multimedia messaging campaign. The aim was to motivate active citizen participation in the electoral process and to bring the issues and concerns of ordinary Ugandan citizens to the attention of political aspirants through debate forums at the district and national levels.

In its post 2011 election activities, CCEDU identified a technical team of experts who carefully studied the recommendations and proposals made by various election observer groups and individuals. The team came up with eight key proposals which herein form the basis for CCEDU's electoral reform advocacy efforts for the period, 2011 – 2016.

In efforts to craft a comprehensive strategy to push forward the electoral reform agenda, especially ahead of the 2016 elections, CCEDU has made election observation/study missions to some countries in the African region like Sierra Leone and Ghana. The study missions have been made possible by the kind financial support from USAID – Uganda; and are ostensibly geared towards enabling CCEDU benchmark best practices that can be applied to the Uganda situation to enable a credible electoral process.

It is against this background that CCEDU sent an 8 member team to observe and study the electoral process in Kenya. The elections that were held on 4th March, 2013 were a milestone in the political history of Kenya especially after the 2007/08 post election violence. Of specific significance, the elections were held under a new constitution promulgated in August 2011 that ushered in a raft of reforms including electoral, judicial and land reforms, among others.

The team which was in Kenya from 26th February – 6th March, 2013, comprised 3 women and 5 men, representative of the CCEDU membership and secretariat. During the mission, the team interacted with different stakeholders in the electoral process from the IEBC, political parties, civil society organizations, the media and the general public. Lessons were picked on various components of the Kenyan electoral process; ranging from the

electoral reforms, civic/voter education, election observation, ICT in elections, Parallel Vote Tallying, the media and elections, among others.

As a membership platform, CCEDU will engage with the different respective stakeholders; to share experiences and lessons learnt with a view of drawing a winning formula to achieve credible and democratic elections in Uganda.

2.0 Background

2.1. Electoral Background

Kenya's last general election held on 4th March, 2013 was the fifth election held under a multi party dispensation since the repeal of Section 2A of the constitution which had hitherto made Kenya a de-jure one-party state.

The election attracted lots of attention primarily because it followed the disputed 2007 presidential elections whose contentious results triggered riots in Nairobi, Kisumu and the Northern Rift Valley regions. In the end, over 1300 people were killed and an estimated 650,000 displaced.

Subsequently, in August 2010, a constitutional referendum was held to determine whether or not to adopt a proposed new constitution which was envisaged as a fundamental step towards avoiding a repetition of the post election violence that occurred in 2007/08.

Citizens voted in support of the adoption of the new constitution and consequently the establishment of the Independent Electoral and Boundaries Commission (IEBC) in place of the Electoral Commission of Kenya (ECK).

The just concluded general election was therefore the first general election conducted not only under the IEBC but also under the new constitution promulgated in 2010. As a notable feature too, the new document also introduced sweeping changes to the political system.

The 2013 general elections cost a staggering Kshs.24billion – 3 times the cost of the 2007 election; and was tagged the most expensive election ever in the history of Kenya. Interestingly, the cost of the Biometric equipment took up a whole Kshs.9 billion, up from the initial quote of Kshs.3.billion. That aside, Political parties were estimated to be spending nearly $100 million daily, mainly on logistics and advertising.

2.2. The New Constitution and Electoral Reforms:

Since independence, Kenya has undergone two major constitutional reform phases; one in 1969 and another in 2010. In August 2010, the revised draft constitution was subjected to a referendum and was approved by 67% of

Kenyan voters. The new constitution was deemed a significant score towards the elimination of legislative, institutional, and structural grievances that could have triggered the 2007/08 post election violence in Kenya.

The new constitution provided for the creation of a devolved system of government that transferred authority over a range of government functions from the central government to the newly-created 47 semi autonomous counties/ regional tiers. With this came new administrative positions; Governor, Senator, woman representative, and county representative. Presidential powers were trimmed; a bicameral parliament comprising the senate and national assembly introduced; and separation of powers among the three arms of government was further re- defined. Besides providing for a plethora of rights and freedoms under an elaborate bill of rights, the constitution also ushered in affirmative action for under-represented groups, more comprehensive electoral reforms, land reforms, as well as a restructured judiciary and security sector.

Besides the enactment of laws like the Leadership and Integrity Act 2012; to support provisions in the new constitution, new and revised electoral laws were tabled before parliament and all were passed except for the Campaign Finance Bill, 2011.

Under the new constitution, the IEBC was created and its independence shielded as well. Some of its salient provisions allow for among others, a separate budget vote for the electoral body, security of tenure for commissioners and presidential appointment of commissioners from a pool of suitable candidates selected by an independent panel and the subsequent necessity to approve the appointees by parliament.

It was however noted that failure to pass the Campaign Finance Bill, and passing of a watered down Leadership and Integrity Act provided loopholes in the regulation of money in elections as well as lowering the ethical threshold provided for in the constitution.

Although the 2010 Constitution is lauded as a constructive step towards achieving enhanced social justice, and the much yearned for institutional reforms that would help fortify accountability, it is likewise important to note that the ability and political will of the Kenyan government to translate the constitutional commitments into policy and practice will determine the extent of achievement as envisaged by the framers of the constitution.

2.3. Coalitions:

Section 10 of the Election Act, 2011 provides for formation of coalitions by two or more political parties. This can be done either before or after elections. The Act requires parties forming a coalition to develop a written coalition instrument and deposit it with registrar of political parties. Courtesy of this provision, the political process witnessed popular use of party coalitions this time around unlike in previous election.

The logic lay on various factors. One was that it was now a legal requirement to register coalition agreements with the registrar of political parties and well within a specified time frame as well. Another was the attempts by political parties to shore up support in areas of low support through strategic coalitions, including the added advantage that such arrangement helped bridge historical ethno-regional political divides.

Furthermore, the establishment of a substantive position of Deputy President within the new constitutional order, in place of the previous position of vice-president who served at the mercy of the president also largely contributed to this development by providing constitutional insurance and therefore security of tenure for running mates. In retrospect however, beyond these direct factors, no coalition appeared anchored by any political credo or agenda. In reflection too, even though the constitution allowed for independent candidature across all tiers, there was no independent presidential candidate in the race.

All opinion polls conducted during the campaign period and finally even the disputed results announced by the IEBC confirmed one thing- the value of coalitions. This is best illustrated by the fact that the top four contenders in the presidential race were all fronted by coalitions. See table below.

Coalition	Member parties	Presidential Candidate and running mate
Coalition for Reforms and Democracy (CORD)	Orange Democratic Movement, Wiper, and Ford Kenya	Mr. Raila Odinga Mr. Kalonzo Musyoka
The Jubilee Alliance	The National Alliance, and United Republican Party - URP	Mr. Uhuru Kenyatta Mr.William Ruto
Eagle Alliance	Kenya National Congress - KNC and Party of Action - POA	Mr. Peter Kenneth Mr.Ronny Osumba

Amani Coalition[1]	United Democratic Forum - UDF, New Ford Kenya and Kenya African National Union- KANU	Mr. Musalia Mudavadi
		Mr. Jeremiah Kioni

Other Presidential Candidates	
Presidential Candidate	**Political Party**
Mr. Mohammed Abduba Dida	Alliance for Real Change
Mr. James Ole Kiyaipi	Restore and Build Kenya
Mr. Paul Muite	Safina Party
Ms. Martha Karua	National Rainbow Coalition - Kenya

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[1] The Amani Coalition formed after UDF left the Jubilee Coalition

3.0 Kenya - Facts and Figures:

3.1. General Information

	Fact	Figures
A	Country Population	43,500,000[2]
B	Ethnic representation	22% Kikuyu; 14% Luhya; 13% Luo; 12% Kalenjin; Kamba 11%; Kisii 6%; Meru 6%; other African 15%; non-African (Asian, European, and Arab) 1%
C	Number of Constituencies	291
D	Total number of registered voters	14,300,000 million
	Voter registration per region	
	Central Region	2,190,477
	Coast Region	1,164,083
	Eastern Region	1,988,475
	Nairobi	1,778,903
	North Eastern	451,865
	Nyanza	1,954,756
	Rift Valley	3,373,853
	Western Region	1,434,987
E	Total votes cast	12,330,028 *(representing 86% voter turn up)*
F	Number of presidential candidates	8

3.2. Final Presidential Results:

3.2.1. Final results for the eight (8) candidates

The new constitution under which the recently concluded elections were held provides that the winner of the presidential election is required to garner a simple majority vote (50 +1%) as well as 25% of the votes in at least 24 of the 47 counties. Short of this, the first and second contenders in the race would face off in a second round of elections- a run off. In the elections held on 4th March, 2013, Deputy Prime Minister Uhuru Kenyatta was declared winner by the IEBC

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[2] World Bank estimates, 2013

and therefore President – elect after in their opinion meeting the set constitutional threshold.

However, Prime-Minister Raila Odinga and first runner up in the presidential race rejected the results and filed a grievance suit in the Supreme Court of Kenya.

Presidential Candidate	Running Mate	Coalition/ Party	Popular Vote %	Cast votes %	Valid Votes %
Uhuru Kenyatta	William Ruto	Jubilee Alliance/TNA	6,173,433	50.07%	50.51%
Raila Odinga	Kalonzo Musyoka	Coalition for Reforms and Democracy/ ODM	5,340,546	43.31%	43.70%
Musalia Mudavadi	Jeremiah Ngayu Kioni	Amani Coalition/ UDF	483,981	3.93%	3.96%
Peter Kenneth	Ronald Osumba	Eagle Alliance/ KNC	72,786	0.59%	0.60%
Mohammed Abduba Dida	Joshua Odong Onono	Alliance for Real Change	52,848	0.43%	0.43%
Martha Karua	Augustine Lotodo	National Rainbow Coalition – Kenya	43,881	0.36%	0.36%
James Ole Kiyaipi	Winnie Kaburu	Restore and Build Kenya	40,998	0.33%	0.34%
Paul Muite	Shem Ochuodho	Safina PArty	12,580	0.10%	0.10%
Votes Cast				12,330,028	100%
Valid Votes				12,221,053	99.12%
Spoilt votes				108,975	0.88%
Contested Votes				0.0	0.0%

In the run-up to the elections, many political analysts had predicted the unlikelihood of any candidate to securing the 50 + 1% mark required to win the presidential election in the first round. However, Mr. Uhuru Kenyatta won the vote in the first round with a popular vote of 6,173,433 of the 12,330,028 votes cast; representing 50.07%.

On the other hand, according to ELOG, a joint election observation platform of civil society groups which applied 'the parallel voter tabulation' system of tracking results, the final results announced were 'compatible with those announced by the IEBC', showing that Uhuru Kenyatta received 49.7% and Raila 43.4%, with a margin of error of between 2.5%-2.7%. ELOG's PVT observer reports also indicate that 'the electoral process was credible', noting that there were party agents from the 2 major coalitions in about 90% of polling stations, and that about 95% of these signed the Presidential results declaration forms.

3.2.2. Final results of the presidential election for the top three contenders in the presidential race; by region.
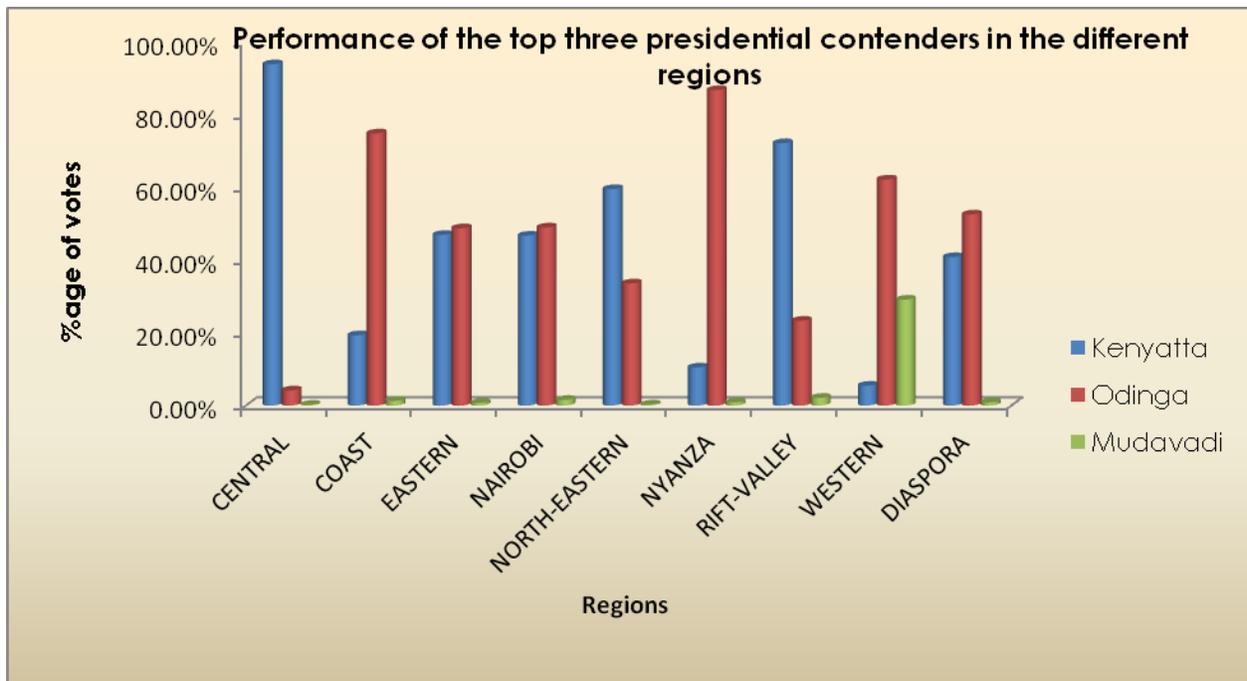
3.2.3 Voter Turnout by Region

Out of the 14,350,000 registers, a total of 12,330,028 voters cast their votes on the polling day. This represents a record 86% voter turnout.

%age of Voter Turnout by Region

Legend:
- CENTRAL
- COAST
- EASTERN
- NAIROBI
- NORTH-EASTERN
- NYANZA
- RIFT-VALLEY

Values shown: 84.79%, 88.28%, 92.03%, 70.15%, 86.14%, 88.07%, 89.58%, 82.97%, 81.60%
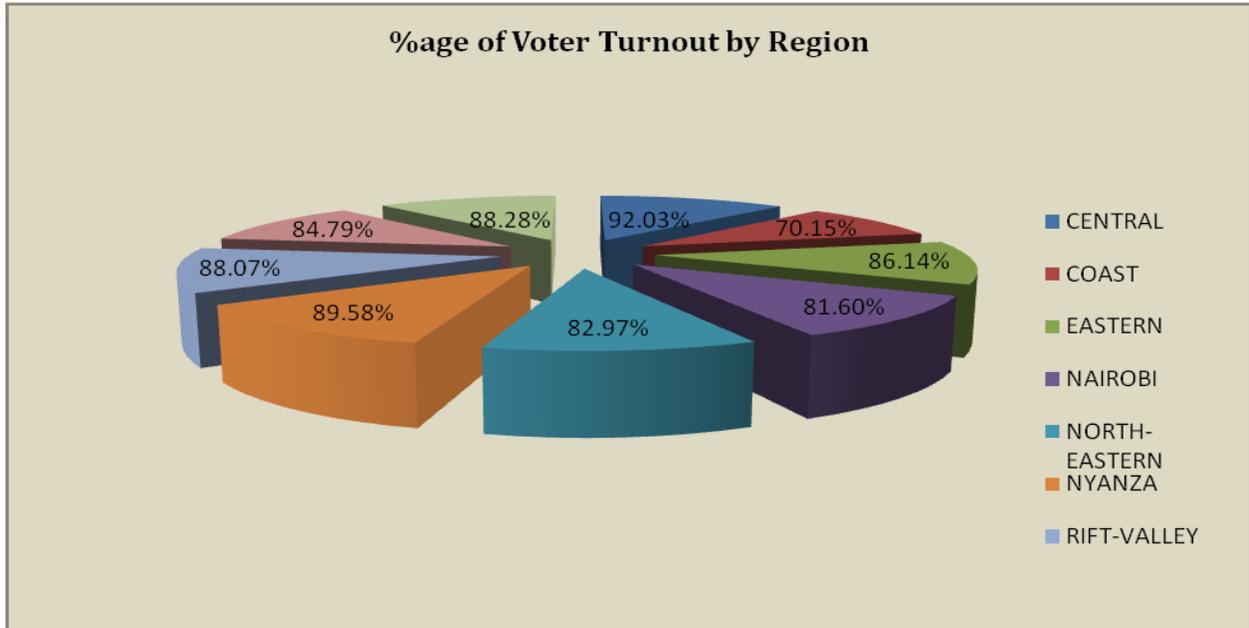
4.0 Election Environment: Perceptions: Myths and Reality

4.1 Youth factor

80% of Kenya's unemployed population is aged between 15 and 34 years. That translates into more than 1.8 million unemployed youth. Some of the regions register about 40% youth unemployment rate.

As a result, youth unemployment was elevated by presidential candidates to one of the most pressing issues for young people in this election. This explains why many of the contestants acknowledged this challenge in their manifestos and generously detailed strategies on job creation if they were elected into office.

In relation too, numerous promises were made, including a pledge to make primary and secondary education free; enhancement of the capacity of the Youth Development Fund and the creation of a diversified economy with more focus on industrialization than agriculture. Clearly, the objective here was to diagnose the causes of youth.

In order to follow-up on promises by politicians, and in their conscious efforts to be a part of the decision making processes, a number of young people made their way to the inner circle campaign teams of the contending politicians. It is therefore no wonder that quite a good number of youth were endorsed and some nominated for national assembly positions, including a 19year old county representative.

It should also be noted that the age bracket of the political aspirants may have shaped or influenced the voting pattern of the youth with many of them being possibly drawn to the more youthful candidates against the hope that they would appreciate and expeditiously deal with the issues that affect the young generation of the country.

4.2 Generational factor:

The 2013 general election brought to light an emerging political class that comprises of a new generation of elite, learned and urban young citizens. These drew a clear distinction between themselves and the older generation of politicians. It was noted that the ethnic question mainly applies to the latter group and not the former. The election process revealed a complete turn over

from conventional campaign tactics. In came, use of new media; social media and ICT applications such blogs, twitter, face book though in many ways they were not an exclusive preserve of the younger citizens. The ICT factor in the race for the 2013 presidential elections in Kenya, led to the distinction by Jubilee running mate of two classes of competitors- the 'analog' and 'digital' generations.

Internet usage in Kenya has grown at one of the fastest rates in Africa. More than 14 million people now use the Internet as compared to 3 million people five years ago. According to Kenya's Communication Commission, 99 percent of Internet access is via mobile phone. This scenario has helped open up the platform for discussion of pertinent political issues among the public especially the young generation. It was noted that some civil society organizations also made use the social media to open up informative discussion platforms on election violence and peace besides other electoral issues.

As result, it was a more informed electorate that went out to the polls on 4th March, 2013.

4.3 Ethnic factor:

Throughout the interactions that CCEDU had with the different stakeholders in the electoral process, ethnicity remained a cross cutting issue for discussion. The general perception was that the politics of and elections in Kenya are driven by ethnic affiliation and to a much lesser extent, issues. The various pollsters who predicted a possible run off also alluded to the enormous effect of ethnicity on the voting patterns. Although there was a general observation that contending politicians called for peace against the backdrop of disregard for ethnic/tribal politics, it was notable that the main contestants still heavily appealed to their own ethnic groups. Candidates also vehemently urged their respective communities to turn up in large numbers and vote for them to avoid a possible second round.

However, further scrutiny of the ethnicity question in the Kenya elections reveals more underlying factors that fuel the ethnicized picture of the politics and elections in this country. The land question, equitable distribution of the national cake and the pending court case against Uhuru Kenyatta and his running mate William Ruto, at the ICC are just a tip of the ice bug. Issues like these compelled the different presidential hopefuls to identify and make use of 'appropriate and strategic vehicles' to drive their respective ethnic groups to vote them into power.

4.4. Economic factor:

As the largest economy in East Africa, Kenya is a crucial trade route into the rest of the continent and provides an important buffer of stability in a region that includes the budding Somali government and the politically tense Sudan and South Sudan. This led to the huge interest and involvement in the electoral process in Kenya by her neighbors. In addition, the strategic relevance of the port of Mombasa to the economies of the entire East African region contributed to this interest.

It is very likely that in fact, wealthier political aspirants and those who also offered clearer strategies to maintain the robust -fast growing economy may have appealed more to the populace. More so because, despite much talk of national economic development, the spread is completely uneven and communities across the country remain deeply deprived. Almost half the country falls below the World Bank's poverty line, life expectancy staggers at around 57 years, and over a third of its population are denied access to safe water and sanitation. The people were also well aware that a repeat of the 2007/08 scenario would bring the national economy to a halt. This was seen with the sluggish business in the country in preparation for the elections. There were also fears of a bleak future where the economy would go down especially because of the sour relation with the international community if Mr. Uhuru won the election; because of the ICC case.

These factors and many more could have informed the voting pattern.

4.5. Special interest factor:

Low inclusion of all citizens in public affairs has always been a significant governance challenge facing Kenya. The minority groups have always viewed the national resources as accessible to only those with either economic might or strong ethnic affiliations with holders of political power. Minorities and indigenous peoples in the country remain some of the groups that have suffered from exclusion. Even when their participation in the electoral process does not amount to inclusion, it was seen as a fundamental step towards having the voices of the minority, under privileged heard.

Better representation of the minority and marginalized persons was one of the envisioned benefits of the 2010 constitution. Under the devolved system of governance, new administrative positions created were aimed at enhanced representation of women, PWDs and other special interest groups. The

constitution also provides for appointment of special interest group representatives to the Senate and county assemblies

However, although the Constitution prohibits more than two-thirds of membership of an elective public body from the same gender, there was a contentious ruling made by the Supreme Court in December 2012 endorsed progressive implementation of the rule. More still, the Elections Act, 2011, makes no attempt to indicate the make-up of the lists intended to provide the 12 'special interest candidates' for the National Assembly, presumably leaving it to the parties to comply with the Constitution.

4.6   Political parties:

As of 2007, Kenya had over 160 registered political parties. However, the implementation of the Political Parties Act resulted into the reduction of this number to 24 political parties as at April, 2012. As a result of the electoral reforms ahead of the 2013 elections, the Registrar of Political Parties (RPP), under the Political Parties Act (PP Act) 2011, is mandated to register political parties, ensure they comply with the PP Act in their operations and also administer the Political Parties Fund.

One of the requirements for registration of political parties is mobilization and registration of a membership of 1,000 people. To date, only four political parties have fully complied with the registration requirement while 24 others have presented their papers for the registration exercise which will close on April 30, 2013. Failure to meet some of the requirements for registration could have discouraged some of the political parties from taking part in the just concluded elections.

During the 2013 elections, only 13 parties fielded candidates across the country. These were: -

* The National Alliance (TNA)
* United Democratic Forum Party (UDFP)
* United Republican Party (URP)
* Alliance for Real Change
* Restore and Build Kenya
* Safina Party
* Orange Democratic Movement (ODM)
* Wiper
* Ford – Kenya
* New Ford - Kenya
* Party of Action (POA)

* Kenya National Congress (KNC)
* Kenya African National Union (KANU)

The recent electoral reforms in Kenya gave birth to clear cut regulation of registration, conduct, funding, and dispute resolution among political parties. Besides the establishment of an electoral code of conduct of the political parties, the political parties Act 2011 also provided for the institution of a Registrar of political parties, Political Parties Liaison Committee - PPLC, Political Parties Fund and a Political Parties Disputes Tribunal.

Although many of these institutions have not yet registered full operation, the initiative is a bold step towards achieving a well organized environment for the political parties to operate. The PPLC which commenced operations shortly before the elections is used as a dais for engagement between political parties and the IEBC.

On the other hand, contrary to the Ugandan setting where internal political party disputes are handled by the standard court system, in Kenya, in the event of failure by the internal party systems to conclusively deal with a dispute; aggrieved parties seek redress from the Political Parties Disputes Tribunal - an independent entity tasked to decide in disputes within and among political parties.

4.7   Security apparatus:

At the time of going to elections, Kenya had several security concerns to deal with, both local and international in nature. From the secession calls by the Mombasa Republican Council (MRC) in coast province and the growing ferocity of their attacks, the spillover of the war against Al-Shabaab by the Kenya Defense Forces in conjunction with the United Nations (UN) backed African Command Forces (AFRICOM) in Somalia that had resulted in sporadic bomb and grenade blasts in Nairobi, North Eastern province and Mombasa, as well as the known existence of militia groups which normally resurrect around election seasons.

Deployment of security agents was therefore heavy especially around polling stations all over the country. At each polling station, there was a minimum of two armed police officers to man each station. For the first time in Kenya, the IEBC conducted specialized training on security during elections for security personnel.

The police also announced a deployment of an additional 90,000 police officers specifically for the election exercise. Though specialized units like the dreaded

General Service unit (GSU) were deployed, prisons officers, regular police and large numbers of civilian dressed police officers were visible at polling stations. Unlike the case in Uganda, there was notable absence of deployment of armed military officers during the election period.

4.8   Observers

The IEBC accredited 3,000 international observers and 30,000 local observers to observe the electoral process. In addition, 1,700 international and 3,000 local media persons were also accredited for election observation.

The Election Observers Group (ELOG) was the largest observer group accredited by the IEBC. The group mainly comprised of domestic and local observers from National Non Governmental and Community Based Organizations from across the country.

ELOG launched a long term observation programme that focused on threats to the electoral system. In addition, 7300 short term observers were deployed prior to polling day.

Other groups that run election observation initiatives were IED, and 'Uchaguzi'. Uchaguzi used ICT to source and receive information via email, Twitter, the web and SMS codes on vital incidents during the Election Day. Information received was then verified for accuracy, confirmed and referred to the respective relevant authorities for quick action.

Besides the domestic and local observers, there were quite a number of international observer missions that were spread across the country. These groups periodically gave statements on the state of affairs in Kenya as per their observation. The international observer groups included: - The East African Commission Mission/ EALA mission, ECOWAS Mission, the European Union, African Union, the Carter Centre, the US government, the Citizens Coalition for Electoral Democracy in Uganda, representatives from various foreign missions and electoral bodies in the region, among others.

4.9   Presidential candidates

There were 8 presidential candidates viz: -

1. Mr. Raila Odinga
2. Mr. Uhuru Kenyatta
3. Mr. Peter Kenneth

4. Mr. Musalia Mudavadi
5. Mr. Mohammed Abduba Dida
6. Mr. Paul Muite
7. Ms. Martha Karua

Main presidential aspirants from the incumbent government

The three main contenders for the Kenyan presidency - Uhuru, Raila and Mudavadi- are all incumbent members of the current government. This means that there was no clear opposition in the contest. As a result, there was widespread unchecked misuse of state resources through the use of state media and other state machinery by the three candidates. There are media reports to the effect that the two big camps (Jubilee and CORD) ran the most expensive campaigns, spending approximately $100,000 each, per day. The mass voter buying by the three main contenders went unchecked as there was no opposition in the race to highlight such election evils.

4.10 Media

In the 2007 election, the local media seemed ill-prepared for the 2007/08 post-election violence. It appeared unable to communicate the election results and the subsequent violence without partisan flavor. However, the media during the 2013 elections played a central role to the entire electoral process through endorsements in certain instances, heavy advertising and reportage.

However, the media has been accused of neglecting sensitive issues of concern to the election in probable fear of inadvertently pulling a trigger. Perhaps this was an overreaction to the inflammatory coverage that fueled the violence in 2007. In this election, media coverage was restrained, with high levels of self imposed censorship. The airwaves were as a result also blanketed the with public service announcements urging Kenyans to keep peace. In addition, international media agencies also played a critical role in overall coverage of the electoral process.

After the 2007/08 post election violence, there were threats by government to shut down media houses that were said to have sown seeds of hatred and tension that led to violence. However, not a single media house has been closed which made the pronouncements appear more as cosmetic window dressing exercises than real in actual fact.
For fear of a repeat, there was a perception that the media traded objectivity for self survival. Coverage of quite a number of issues that were pertinent in the

electoral period like voter buying, trade of national identity cards for money did not feature in the media although they were very evident in the communities.

4.11 Civil Society Organizations

CSOs in Kenya played a critical role in all activities as part of the preparation for the elections as well as on the E - Day and after. Organizations like EISA and the Center for Constitutional Governance - CMD also actively participated in the push for electoral reforms ahead of the 2013 general elections. Their participation stretched from extensive research to inform the content of the electoral legislation; to advocacy and lobbying for the same.

They had consistent engagement with the IEBC, Members of Parliament and other stakeholders to ensure a clean electoral process was conducted on a leveled political ground. All except one of the electoral laws proposed were passed by parliament. EISA also supported the IEBC and political parties through capacity building for the officers and agents of the two entities respectively.

Besides, there was also heavy involvement of CSOs in civic/voter education that was mainly aimed at helping the citizenry understand and appreciate the tenets of the upcoming elections under the reformed legal and structural framework, as well as enlighten the masses on the value of holding elections in a peaceful environment. Without a doubt, the shadow of the 2007/08 electoral experience lingered above the entire process.

To facilitate CSO engagements, quite a number of CSOs received direct funding from various development partners; and sub grants from the 'Uraia Trust'[3] to facilitate voter education across the country.

Other engagements were in election observation efforts with the Elections Observers Groups (ELOG)[4] – the biggest election observer group accredited by IEBC. ELOG deployed 7300 short term observers across the country. Whereas information from the short term observers fed into the PVT, there were long term observers who had been deployed earlier to report on threats to the whole electoral process, and 5500 general observers who would provide reports on the general observation of the whole process.

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[3] *'Uraia' is Swahili for 'Citizenship'*. 'Uraia Trust' was established in 2011 as a successor to the National Civic Education Programme phase I and II which was operational from January 2000 to June 2011. The Trust focuses on promotion of citizenship using a "rights and responsibility" approach.
[4] A civil society coalition formed based on lessons from previous domestic election observation missions in Kenya. It is aimed at ensure permanency, observe the entire electoral process, and respond to election and post Election Day issues.

ELOG also conducted PVT – a concept that had been piloted during the 2010 constitutional referendum. The exercise was aimed at providing prompt and concise analysis of the E – day and provide an independent authentication of the results announced by the IEBC.

4.12 Ethnicity:

From the first elections under a multi party dispensation in Kenya, elections have repetitively triggered unrest among ethnic groups. Ethnically-based politics combined with a struggle over access to resources have their roots in the colonial era where access to land, political power and authority over others was determined on the basis of ethnicity. The immediate post independence government of President Jomo Kenyatta entrenched this practice and set the stage for what has become a cancer in Kenyan society.

Ethnically-based politics expectedly resurfaced in the run up to the 2013 general elections. The three leading presidential candidates- Kenyatta, Odinga and Mudavadi- all hail from the tribal dynasties that have dominated Kenyan politics since independence from Britain in 1963 and for the Mudavadi family, from the Moi regime.

The nature of coalition building and the support base of candidates were also primarily based on ethnic considerations. As earlier noted, the first- the Coalition for Reform and Democracy (CORD) which brought together Prime Minister Raila Odinga and Kalonzo Musyoka was essentially based on the support from Nyanza (Luo) and Eastern (Kamba).Other key ethno-regional stakeholders in the coalition included the Muslim Coast and North Eastern Provinces. The second coalition; The Jubilee Coalition was based on support from the Central (Kikuyu) and Rift Valley (Kalenjins) as well as the Embu and Meru from Eastern from Central Provinces.

Though narrower in terms of national scope, the Jubilee coalition had brought together two populous vote baskets – the Kalenjin speakers led by William Ruto and Kikuyu vote block led by Uhuru Kenyatta- the two communities which have ruled Kenya exclusively since independence to date. This position was largely validated by the rejected results of the first round of presidential elections. On the upside however, the coalitions spread ethnic

4.13 Political Party and Campaign Financing:

There has been a general concern about campaign financing in Kenya. Significant and unregulated campaign financing often creates an uneven playing field in election contest. The recent electoral reforms facilitated a process to stream line the campaign and political financing in Kenya. In the run up to the 2013 elections, among the new and revised electoral laws tabled in parliament was the campaign financing bill, 2012. This bill was intended to provide for regulation, management, expenditure and accountability of election campaign funds during elections. However, it was not passed hence regulation of campaign financing was largely left to the Political Parties Act 2011 and the Election Act 2011.

Unlike in the past where funding of political parties was entirely under the ministry of finance, all political parties received an equal share of 15% of the available funding with the rest shared out against numerical strength in parliament. This new practice was enabled by the establishment of a Political Parties Fund that is managed by the Registrar of parties. Under the new law, the political parties fund is entitled to 0.3% of the total national revenue and is shared out among parties that garner at least 5% of the total national votes cast in the general elections and who meet gender requirements set out in the political parties Act on the composition of the party executive. More still, the law prohibits financial support from foreign nationals and organizations to political parties.

It should be noted that even with this legislation in place, clear priorities, strategies and parameters for ensuring compliance with the law or regulations and plans for their effective implementation are yet to be put in place. This could be one of the reasons as to why there was a distinct discrepancy in expenditure of the political parties during the campaign period.

5.0 Challenges and opportunities

5.1 Challenges

5.1.1 Technological failure:

There was mass break down of the ICT systems through the election process that in turn defeated the huge cost of €88.52 million tagged to the procurement of the same.

The biometric voter identification kits did not function properly at most of the polling stations across the country. The IEBC provided three (3) backup laptop batteries for each laptop computer at each polling stream. However, by mid-day, all the three batteries had run out at most polling stations across Kenya, especially in those which had no electricity supply. Notably however, and it is unknown whether it was by design or oversight, the IEBC did not provide battery chargers. In addition, there were numerous reports on cases of failure by the equipment to read thumb prints.

Apart from the malfunction of the telephonic results transmission system, the IEBC servers are said to have also run out of disk space; and the multiplication of rejected votes by a factor of eight. All these factors contributed to the causes of the delay in the announcement of election results. Reluctance by the IEBC to admit to the technological failure in the transmission of results increased speculation among the populace especially with the wide spread rumors that the server had been hacked into.

There were also reports that the IEBC shared access to the coded results transmission system with the TNA election secretariat. This later formed part of the basis for the dispute of the election results by CORD.

5.1.2 Logistical challenges to the IEBC

Although the election officers at the polling stations were conversant with their job, they were clearly overwhelmed by the historic numbers of voters who turned up to cast their vote. The numbers may have surpassed the personal preparations by the IEBC and rendered inadequate the staffing at the polling stations. The result of this was congestion and threats of disorderliness at the polling stations. In some places like Mathare, Embakasi in Nairobi, people who were present at polling stations at 4:00AM had not voted by 3:00PM.

More still, the streaming format was not clear to the voters who kept on moving from one stream to the other in search of the right stream with their names.

With the polling procedure being seen as complex, especially because of the 6 separate color-coded ballots, each with a different transparent ballot box, many of the voters were not able to identify the particular box meant for the color coded ballots in a timely manner. In the process, the much needed secrecy for voting became near impossible and was in many instances lost because of the crowded polling stations; and in some cases, party agents were seen to clearly supervise the voting by those who sought guidance at the polling stations.

The election process also suffered from a negative and inadvertent influence from the widely propagated peace campaign. Its intensity seemed to have had an intimidatory effect on the party agents at the polling stations as well as the voters. Many of them shied away from effectively engaging with election officials and observers on anomalies that were taking place at the stations, for fear of being seen to fuel tension and eventual violence. It was also observed that they were keen to keep a distance from the presiding officers during the verification of voters.

5.1.3 Substitution of voter education with peace education hence narrow scale of the former

Ahead of the elections, there was a wide spread campaign for peace across the country. This was intended to encourage the populace to steer away from any activities that would draw Kenya back to the scenario of 2007/08; during or after the 2013 elections. The main message across the board during the voter education was – peace. This could have compromised on the amount of clear cut voter education broadcast.

5.1.4 Relationship between polling officials and election observers:

On many occasions there was noted apprehensiveness of IEBC officials towards the observers. Many polling officials were not willing to share information with the observers. They always painted a picture of ''all is well'' even when there were glaring hitches at the polling stations.

5.1.5 Pockets of Violence on E- day:

Isolated cases of violence were noted especially in the coastal parts of Kenya (Mombasa) by suspected members of the outlawed Mombasa Republican Council (MRC) - a separatist group that had opposed the elections and believes that Kenya's coastal zone should be a separate country. The group allegedly murdered a total of 10 people including six police officers. There was however an alternative view which held that this could have been the work of other groups interested in dispersing the coastal vote.

In another instance in coast province, some IEBC officials were attacked and robbed of ballot boxes in attempts to sabotage the voting processes. Even though, the Mombasa Republican council had consistently warned residents of the coast province against taking part in the election, it has not been clearly established whether they were indeed the perpetrators. Nevertheless, voter turnout in the affected counties remained high.

5.2   Opportunities

From the 2013 Kenya general elections, there are a number of opportunities to explore especially ahead of the 2016 Uganda elections. These include:

5.2.1 Adoption of the Biometric Voting System

The use of the biometric information system in the electoral process allows for the enrollment and identification of millions of voters quickly and unmistakably. Use of this system would greatly minimize the possibility of election fraud, ensure high level security that allows for data protection, and facilitate quick enrollment. Biometric Voter Registration, Identification and Voting would enhance the credibility of the electoral process. It is however important that the functionality of the systems be double checked before use and the officers to use them should be well trained before they are entrusted with the use of the systems. Another challenge is its vulnerability to power failures and hanging of the machines due to heavy use.

5.2.2 Parallel Vote Tallying

PVT is a vital exercise that ensures checks and balances on the preliminary and final election results released by the electoral body. However, there is need for the entity that would like to conduct PVT to work together with the electoral

body so as to have agreeable terms on which to work. Civil Society Organizations need to ensure that they have got a backup plan to the service network; to mitigate eventualities of network compromise. On the other hand, a backup plan to ensure uninterrupted transmission and relay of election results is worthy investing in by the national electoral body.

PVT likewise has a specific weakness- in that it focuses more on examining the outputs of results than scrutinizing the process through which the outcomes are reached.

5.2.3   Voting in enclosed areas – indoor

As much as voting in open fields may dispel possibilities of ballot stuffing and other election irregularities, voting indoors may guarantee secrecy of the ballot and also help to guard against possible natural and unforeseen calamities like change in weather that could disrupt the voting exercise. Also, in case of any unrest around the polling station, there would be considerable security of the election material.

5.2.4   Use of polling booths

The use of well branded and life size polling booths provides ease of voting and adequate space for secrecy as well. This is as opposed to the use of basins like is the case in Uganda. Also the use of several polling booths at a particular polling station allows several individuals to vote at the same time hence reducing the overall time in taken in the voting process.

5.2.5   Keep army out of the polls and army representation in parliament

In Kenya, the experience of an army completely kept out of politics and of course the poll is an interesting one and one worthy emulating. The absence of heavy deployment of the army during polls guarantees a process free of intimidation free environment that allows for free and fair voting.

5.2.6 Electronic transmission of election results from polling centers to the national tally centre

The use of online or telephonic transmission of election results minimizes the risks of compromise of results and speeds up the process of tallying and relay of results at the national tally centre.
Adoption of this system should however be tagged with credible and reliable back up plans to alleviate technological break downs. Most importantly, the process requires a review of the Elections Act to ensure the use of technology complies with constitutional edict as is the case in Kenya.

5.2.7 Creation of synergy among the respective stakeholders for the advocacy for electoral reforms

Combined effort among the political parties, members of parliament, the Electoral commission and civil society organizations would allow for a greater critical mass for effective advocacy for electoral reforms.

6.0 Meetings

The CCEDU team held a number of meetings with different stakeholders in the electoral process; civil society organizations, political parties, the local population, the IEBC, among others.

This was intended to provide the team with a clear picture of the political and election environment; representative of a cross section of stakeholders.

Meetings held were with: -

6.1 Manager Partnerships – Independent Electoral and Boundaries Commission (IEBC), *Ms. Ann Nderitu - Nairobi Serena Hotel*

During the one hour meeting, Ms. Nderitu shared about the general preparedness of the IEBC for the general elections. The following were highlighted: -

Soon after its establishment, the IEBC implemented a project on the delimitation of Kenya's electoral boundaries. This was an important undertaking as disparity curved along geographical and ethnic territories is said to be one of the reasons that sparked off the 2007/08 post election violence. The process was aimed at, among others providing for effective representation of all. The redefinition exercise created 47 new counties and 1450 wards.

After the delimitation of electoral boundaries, the IEBC embarked on a process of establishing a new voter register. Using biometric technology, the IEBC registered 14,350,000 voters across the country - short of the projected 18,000,000. Completion of the biometric voter registration process was IEBC's biggest challenge in preparation for the elections.

Although some counties recorded above 100% voter registration, there are counties that recorded less than 50% voter registration. For example Nairobi County recorded registration of 1.78 million people – 121% while Mandera County registered only 1121,005 voters – 25% of the total voter population of the county.

Ms. Nderitu mentioned that the IEBC would share the final copy of the biometric voter register with political parties and domestic observers. This was however not fulfilled in a timely fashion and the matter of the election register became central to the election petition before the high court, over allegations of the existence of several voter registers.

As regards civic education, although the IEBC was in charge of conducting civic/voter education across the country, there were, many other stakeholders like civil society organizations that conducted voter education across the country. IEBC's biggest partner in the conduct of voter education was 'Uraia Trust' which was supported by various developmental partners; and gave sub grants to other NGOs to carry out the programme.

An overall assessment of the voter education programs, finds that the call for peace was a cross cutting item especially against the background of the post election violence in 2007/08. These peace campaigns were run in partnership with National Cohesion and Integration Commission. Indeed, for the first time in the history of Kenya elections, the IEBC trained all security agencies on effective handling of the elections.

As part of the voter education programme, IEBC conducted a mock election so as to help the populace acquaint themselves with the electoral procedure ahead of the Election Day. In the effort to make the electoral process as open as possible, the IEBC also accredited 3,000 international observers and 30,000 local observers to observe the electoral process as earlier indicated. In addition, 1,700 international and 3,000 local media persons were also accredited for election observation.

From a local vista, the Election Observers Group (ELOG) was noted to be the largest observer group accredited by the IEBC. ELOG is a coalition of civil society organizations that seeks to promote peaceful, credible, transparent, accountable, free, fair, and inclusive elections through consistent election monitoring and observation.

The IEBC too, in fulfillment of its mandate, conducted a policy briefing for heads of missions and was yet to conduct separate technical briefing sessions for international and domestic election observers respectively. Although the IEBC accredited quite a big number of observers, there are few applications for accreditation which were rejected. This was done on one or more of the set grounds for the same viz: - political affiliation, inadequate funding, and individual applications.

Ms. Nderitu further informed the CCEDU team that a national election centre had been set up at the Bomas of Kenya. This centre would serve as the IEBC liaison centre during the election period; and national tallying centre for the election results for the six elective positions across the 47 counties in Kenya. Access to this centre would be granted to only accredited persons, namely, political party representatives, civil society organizations representatives, members of the diplomatic missions, election observers, the media, and other accredited individuals.

In addition, technology was for the first time designed to play a key role in the process. Hence, the Biometric Voter verification (poll book) would be used to ascertain authenticity of voters. In some cases manual and electronic voter identification would be used concurrently so at to cater for voters whose bio data was not available in the IEBC electronic voter records.

At party levels, all party/candidate agents to be present at the polling stations had been accredited by IEBC and had sworn an oath of secrecy. The IEBC did this to ensure secrecy of the ballot.

The IEBC also invested in a simultaneous telephonic transfer system of election results from polling centers to the constituency and national tallying centers.

On the preparedness of the IEBC for the elections, Ms. Nderitu expressed confidence in the preparatory work done by the IEBC and was optimistic that the process would be a success.

6.2 Constitution and Reform Education Consortium (CRECO): Ms. Regina Opondo and Mr. Kawive Wambua- the CRECO office.

The CCEDU team held a meeting with officers from CRECO – the CCEDU host organization. At the meeting, CRECO was represented by Ms. Regina Opondo – the programmes manager and Mr. Kawive Wambua.

Mr. Kawive and Ms. Opondo gave the CCEDU team an insight on the political and election environment in Kenya; and shared on what was expected of CCEDU team during their study visit.

Ms. Opondo gave a brief on the CRECO programming that is executed under four thematic areas viz:-

- Violence in Elections
- Special Interest groups
- Voter Education; and
- Campaign financing

From Mr. Kawive's brief on the political and election environment the following was noted:-

Ethnicity is still deep rooted in the politics of Kenya. The bigger percentage of the population perceived the bid for presidency by the two top contenders (Hon. Raila Odinga and Mr. Uhuru Kenyatta) as a battle between two ethnic groups i.e. the Luo and Kikuyu.

It was noted that the top two contender camps were cautious about the election leading to a run off. This was evidenced by the persistent calls to their supporters to come turn up in big numbers to vote so as to ensure a win in the first round.

There was also wide spread fear of a run off further polarizing an already deeply divided country. It was envisaged that the latter scenario would spark off another wave of violence across the country. The presidential aspirants therefore on several occasions; especially at their rallies, urged the populace to keep calm and peace through the process. Mr. Kawive however noted that these calls were just precautionary reactions to the 2007/08 experience and subsequent ICC indictments.
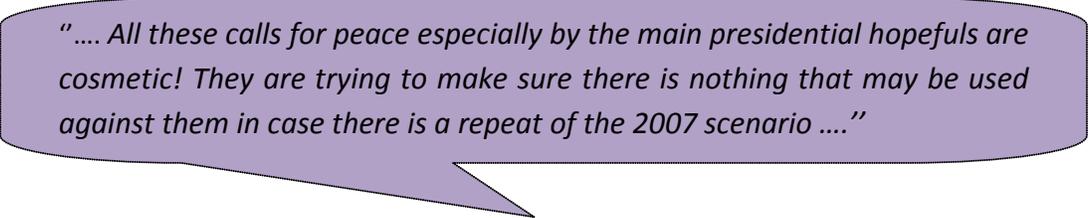
''…. All these calls for peace especially by the main presidential hopefuls are cosmetic! They are trying to make sure there is nothing that may be used against them in case there is a repeat of the 2007 scenario ….''

Mr. Kawive Wambua, Executive Secretary, CRECO

Although opinion polls received extensive media coverage, and a huge following from the public, there were noted claims that the polls were commissioned by biased sources; and the sampling methodology used by pollsters was queried. There was fear that the opinion polls would only fan the already building tension; which would lead to violence.

6.3 *United Democratic Forum (UDF)*: Mr. Sande Oyolo and Prof. Tom Destiny Namwambah – UDF office

The CCEDU team also held a meeting with the campaign team of one of the presidential aspirants, Musalia Mudavadi. During the meeting, Mr. Oyolo, the Campaign Director and Prof. Namwambah underscored the following: -

One is that, there was considerably high confidence in the IEBC; not only among the populace but also among the political parties. This was as a result of the transparency exhibited by the electoral body in its operations; in preparation for the elections.

''…. We as a party, have so much confidence in the IEBC… We believe it will effectively deliver on its mandate albeit some few challenges that it has faced along the way……''

Mr. Sande Oyolo, Campaign Director - UDF

Although the IEBC and other civil society organizations conducted voter education across the country, the public was not given adequate information on the use of the Biometric Voter Registration and Identification. It was therefore not clear to a big percentage of the populace whether the BVR was an instrument for voting or registration.

There were also financial hitches which impacted the process. Budget cuts by the treasury were suspected to have impacted on the IEBCs operational effectiveness. Treasury, in the budget read on June 14, 2012 allocated the Independent Electoral and Boundaries Commission Ksh17 billion ($200 million) although the body had requested close to Ksh26 billion ($300 million). The near half budget cut meant operation of the IEBC on a shoe string budget that would adversely affect the extent of voter education; and the supervisory capacity of the IEBC to avert election malpractices.

As expected during a campaign season, there was a lot of misinformation among the population on the voting process. Even after the voter education and particularly the mock election conducted by the IEBC, many voters across the country were not aware of the details of the voting process like the six different colors of ballot papers, the biometric voter identification at the polling stations, among others. However, Political parties expected heavy voter turn up especially in the Luo- Nyanza, Kikuyu- central and the Rift Valley provinces. In the final tally, save for Nyanza, the two other regions voted as expected.

There was more visible ethnic polarization of the country especially in the urban areas; high tension; and the populace was evidently compelled to vote along ethnic lines. To assuage any spill over's, the IEBC had planned, trained and deployed security officers across the country to ensure security during the election process. Although the public and security apparatus were precautious

of possible external threats/ attacks from the Al Shabab, the deployment by the IEBC was insufficient to ensure security; especially during the process.

> ''…. I do not believe that t*he security officers who were trained and deployed by the IEBC for this election are enough to ensure security of the citizens and the vote… the ratio of police officers to the population stands at 1:500! This is completely inadequate! ….''*

Mr. Sande Oyolo

Concerns too had been raised about the availability of big room for rigging the election especially through the manual voting system. There was a high risk of compromise of election officials especially in party strong holds. However, some political parties would run independent voter tallying centers so as to check the authenticity of the results from the IEBC national tallying centers.

Broadly, the politics of Kenya today is based on the ''Agenda 4''. Agenda item number 4 was one of Agenda items of the National Accord Reconciliation Agreement (NARA) that was signed in February 2008 after the wave of post election violence; as a step towards the restoration of sustainable peace in Kenya.

The items therein were:

* To stop violence and restore fundamental rights and liberties
* To address the humanitarian crisis that involved resettlement of internally displaced persons
* To resolve the political crisis in Kenya
* To address constitutional, legal and institutional reforms, poverty and inequality, youth unemployment and land reforms.

Out of this, the Political Parties Liaison Committee (s) – PPLC came to being:

* It was a result of the 'Agenda 4'; under the electoral reform process.
* The PPLCs were established nationally and in each of the 47 counties
* They provide a venue for regular dialogue on contentious issues during constitutional implementation.
* The PPLC is a watchdog of the IEBC and the registrar of political parties.
* The PPLC's major score has been its ability to reduce tension among political parties.

6.4   *Institute for Education in Democracy (IED)* – Ms. Carla Chianese & Mr. Njehia Kimani at IED Offices

Highlights from the short meeting with Ms. Chianese and Mr. Kimani were:-

IED is membership organization and operates in partnership with Community Based Organizations across the country. The organization runs a fully fledged civic/voter education programme as one of the service providers in that area with approval of the IEBC.

Ahead of the 2013 general elections, IED implemented a voter education programme in partnership with the IEBC; across the country. There was mass production of IEC materials ahead of the elections. These were developed in consultation with the IEBC and tailor made to the suit the different communities that were reached out to.

Although the IED is a member of the Election Observers Group – ELOG, an election observer mission parallel to that of ELOG would be deployed to observe the elections and an independent report would be issued.

6.5 *IEBC Technical Briefing to the International Election Observers* - at Laico Regency Hotel

The CCEDU team attended a technical briefing session for the international election observers; that was organized and facilitated by the IEBC technical staff.

The three hour briefing was attended by various international observer groups among which were the; ECOWAS, EAC, Common wealth, African Union, Carter Centre, civil society organizations from the region and beyond, representatives from the electoral commissions of countries in the region; as well as the international media. The IEBC was represented by the Deputy Chairperson of the commission, some commissioners and departmental managers.

From the remarks and presentations made, the following were noted:-

Using the Biometric technology, the IEBC registered 14,350,000 voters against the set target of 18million voters; and a total of 13,000 duplicate voter registers were produced by the IEBC; for all stakeholders to access. 38,000 voters across the country did not have biometric details captured by the IEBC. These would however be allowed to vote since their bio data was captured in the manual records of the commission.

The IEBC mapped out about 33,000 polling stations across the country. At least two police officers were assigned to each polling station to ensure security of the voters and polling officers.

A mock election was conducted by the IEBC across the country to help the electorate familiarize themselves with the election procedure. During the exercise, it was noted that it took an average of 5- 10 minutes for a voter to go through the process. The IEBC was however hopeful that this span would be reduced on the Election Day so as to avoid the possibility of the election spilling over to a second day. Under the new setting of the elections, voters would cast ballots for six elective positions – using six different color coded ballot papers for each of the six elective positions.

In addition to the permanent IEBC staff that were deployed as election officers, the commission had also hired and deployed temporary staff to fill the man power gap on the election day, across the country. Details of all hired temporary staff were shared with the political parties as a way of ensuring an integrity check on the people hired.

The new electoral law provides for the conduct of elections in the diaspora. However, due to logistical limitations, the IEBC would conduct elections for

registered Kenyan voters in the East African region then reach out to other regions in the subsequent elections.

The Deputy Chair also informed the members that the IEBC adopted a telephonic transmission system for the election results that would allow for presidential election results to be simultaneously transferred from the polling stations to the county tally centre and to the national tallying centre at the Bomas.

The commission would provide specially configured cell phones to all polling station presiding officers to facilitate the transmission/ relying of the results. Safaricom – the biggest telecommunication service provider in Kenya as well as Airtel -provided free virtual network to facilitate the transmission.

To allow for on the spot coverage; broadcast and telecast of election updates the media would have a live feed into the IEBC information update system. This would enhance transparency and lessen space for speculation as well as possible effects of the same.

To deal with the issue of monetization of campaigns and elections, the IEBC noted the need to explore the possibility of having the campaign financing law passed by parliament. The campaign financing bill, 2011 is the only proposed electoral legislation that was not passed by parliament during the consideration of electoral reforms that were proposed ahead of the 2013 elections.

Due to the poorly conducted party primaries ahead of the general election, there were suggestions from the public and subsequent consideration by the IEBC to; in the future:-

- Build capacity of electoral commissions of political parties to be able to conduct elections.
- Take up the conduct of party primary elections.

In handling the disputes that emerged from the political party primaries, there was a challenge of clash of mandate between the IEBC dispute resolution committee and the political parties' dispute resolution tribunals. Poll dispute resolution was categorized as follows:-

- Pre Poll disputes – handled by the IEBC
- Post Poll disputes – handled by the Judiciary

6.6 *Election Observers Group, and the Centre for Governance*: Ms. Mercy Njoroge and Mr. Kennedy Masime - the ELOG Offices

During the meeting held at the ELOG offices, Ms. Mercy Njoroge – the national coordinator of ELOG shared with members on the profile of ELOG, challenges and preparations for the 2013 general elections.

ELOG, formerly the National Election Monitoring Group was founded by 18 core member organizations. It was established in response to the lessons and challenges from the previous domestic election observation missions. Its establishment was motivated by **the** critical need to have a sense of permanency, observe the entire electoral process, and be responsive to E - Day and post E - day issues.

Although ELOG offers a valuable forum for the Kenya domestic election observers, the coalition was always faced with the challenge of phasing out right after elections. From the previous election observation missions, ELOG noted the loopholes in observation of only the Election Day activities hence the need to identify an appropriate methodology and set up structures that would enable ELOG observe the electoral cycle rather than the Election Day activities was underscored.

In order to effectively achieve the organizational objectives, ELOG operates under seven themes:- Voter registration, Monitoring Campaign Violence, Political Party Financing, Legal Reform, Media Monitoring, inclusion of marginalized groups.

Besides active involvement in the advocacy for electoral reforms before the general elections, ELOG launched a long term observation mission of 442 persons for the long term election process; while 7000 short term observers were to be deployed for the 4th March election. Observers are sourced from and seconded by ELOG member organizations and their qualities are checked against set standards. Persons who meet the set criterion are then trained by the ELOG secretariat before deployment.

As a coalition, ELOG brings themes of existing governance work together with a specific focus on the electoral process. This also allows individual members to keep their visibility/identity. In its support to the IEBC, ELOG trained the commissioners with the aim of helping them appreciate the new dynamics of elections and the apparent concerns of the general public towards the electoral process.

As part of its mandate, ELOG set up a parallel voter tallying centre at its offices. The IEBC was aware of this arrangement and agreed to it after the former swore

an oath of secrecy of the ballot. ELOG was prepared for possible technical hitches to the system at the PVT centre. Arrangements for alternative election result transmission systems had been procured for the Election Day.

The CCEDU and ELOG teams agreed to establish and maintain partnership so as to further share best practices and challenges in the day to day work of the duo. It was envisaged that this would allow CCEDU learn more on the establishment and use of an effective parallel vote tallying system and management of membership for effective observation of the electoral process.

6.7 *Electoral Institute for Sustainable Democracy in Africa (EISA)*: Mr. Willis Othieno – at the EISA Office

At the meeting held with Mr. Othieno, the programmes officer EISA, the following were the highlights: -

The Electoral Institute for Sustainable Democracy in Africa is a not for profit organization established in 1996. The organization has its headquarters in Johannesburg – South Africa but has field offices in five other countries on the continent – including Kenya.

The Kenya office that was opened in 2010 implements activities under three programme components viz: - political parties (Institutional strengthening), electoral legislation, and conflict management.

EISA engages in initiatives aimed at strengthening political parties as institutions of governance, and offers technical support to the parties. In the run up to the 2013 elections, EISA conducted training sessions for political party agents on general election management and participation in the same.

After the passing of the Political Parties Act, the office of the registrar of political parties received institutional support in terms of building the capacity of the office to be an effective administrative body capable of competently overseeing the implementation of the Political Parties Act; development of the strategic and action plans as well as requisite rules and manuals that would aid in the effective implementation of the Act.

Other entities supported were the political parties' dispute tribunals and the judicial working committee on election preparations.

In the quest for electoral reforms ahead of the 2013 elections EISA in partnership with respective civil society organizations and government entities engaged in research, actual drafting and lobbying for the enactment of new and/or revised

electoral legislation. EISA, political parties and indeed the Kenyan population scored when all the bills tabled were passed by parliament except for the Campaign financing Bill.

The IEBC also benefited from capacity building programmes for their staff, exposure visits on electoral management, research services and general support in elections administration and management.

EISA was part of the team that drafted the new pieces of electoral legislation and in partnership with other civil society organizations advocated for the electoral reforms ahead of the general election of 2013.

The importance of bringing together: the electoral body, political parties, civil society, academicians and parliamentarians for a united purpose of pushing for electoral reform was highlighted. Mr. Othieno gave an account of how EISA linked with political party players, civil society organizations, members of the executive (AG chambers) and interested MPs to push for electoral reforms while the 'academicians' provided research information around key electoral issues to back up the 'hands on' activists.

With such synergy, by the time electoral reform proposals were being debated by the public, there was concrete back-up information in form of working papers and several other publications that offered concrete overview over specific proposals.
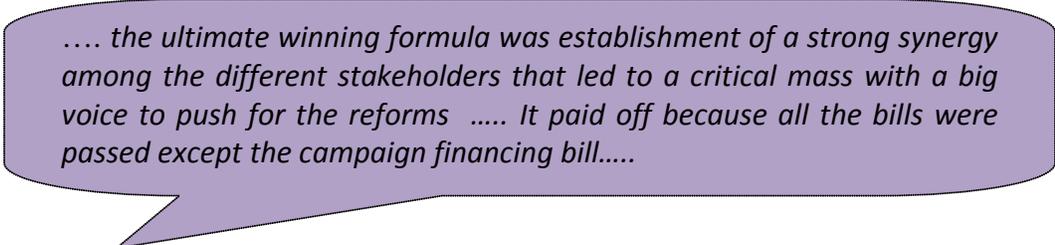
> *…. the ultimate winning formula was establishment of a strong synergy among the different stakeholders that led to a critical mass with a big voice to push for the reforms ….. It paid off because all the bills were passed except the campaign financing bill…..*

Mr. Willis Othieno, Programmes Officer, EISA Kenya

Mr. Othieno took the team through an assessment of the establishment and composition of the IEBC as well as the process of recruitment of technical officers to the IEBC. He credited the open and transparent manner in which the process was handled. This he said had greatly contributed to the enormous trust that the IEBC enjoyed among the citizenry and all the other stakeholders in the electoral process.

…. of course anyone would have so much faith and trust in a body that has transacted its business in the open for all to see… The IEBC has earned the trust that it enjoys…..

Mr. Willis Othieno

He however underscored some challenges that dented the IEBC preparations for a free and fair election in Kenya. Although the IEBC reported to have completed the Biometric Voter Registration exercise and had the register ready and available, the electoral body had failed to avail copies of the voter register to all stakeholders ahead of the elections which were due in 4 days. Mr. Othieno also mentioned that there were three varied copies of the register available at the IEBC hence raising questions on the authenticity of the voter register.

Concern about the high possibility of widespread IEBC logistical crash on Election Day; especially with the Biometric Voter identification, and telephonic results transfer systems was raised. This, Mr. Othieno said would result from the fact that the delivery of the biometric kits was done late hence leaving very little time for testing the kits; and the election officers to be adequately oriented on the use of the technology.

After this meeting, members agreed that it was imperative that CCEDU makes follow up consultative forums and sharing sessions with the EISA team on the best practices for advocacy for electoral reforms ahead of the 2016 elections in Uganda.

6.8 Interaction with the local community; Mr. George Atinga, *aka* Chairman

The CCEDU team went out to the community to interact with members of the general public so as to establish their opinion about the electoral process.

During this meeting, Mr. George Atinga acknowledged the importance of the reformed legislative and structural reforms under which the elections were to be held. The political will to put the commitments in the reforms to action was yet to be seen. Mr. Atinga noted that there was widespread fear that some communities would take advantage of the electoral period to pick up pending bones among them.

There were reports of threats to provincial administration officials who were seen not to be supporters of particular political parties. This stemmed from the party primaries that were marred by rigging, anxiety, and unrest in some communities across the country. Cases of national identity cards being bought from the local community were also reported. This was said to be done in the strongholds of particular candidates so as to lessen the number of voters who would go out to vote these candidates.

Some communities linked the technological failure of the biometric systems during the voter registration to an alleged ploy to deprive certain communities of their right to vote for their preferred candidates. Apart from this, there was also a belief that the 2007/08 post election violence in Mombasa and the Rift Valley stemmed from the land question as opposed to the much publicized mismanaged electoral process; while on the other hand violence in the Nyanza province was caused by euphoria among the populace.
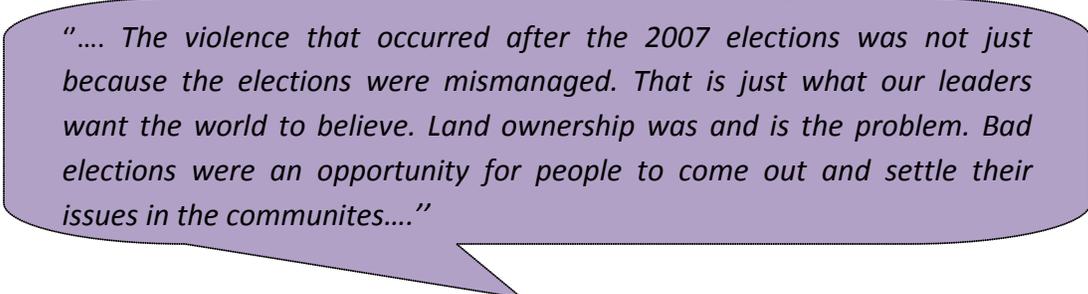
''…. The violence that occurred after the 2007 elections was not just because the elections were mismanaged. That is just what our leaders want the world to believe. Land ownership was and is the problem. Bad elections were an opportunity for people to come out and settle their issues in the communites….''

Mr. George Atinga *aka* Chairman

6.9 *Ushahidi/ i Hub*: Mr. Daudi Were – at the i Hub Office

Ushahidi (Swahili for "testimony" or "witness") is a free and open source software company started out life collecting eyewitness reports of the 2007/8 Kenya post-election violence. While the initial goal was to have the public report on the incidents of violence from across Kenya through e-mail and/or text-messages and place them on a Google Maps map, Ushahidi later transformed into an election-based incidents reporting platform.

Prior to the 2013 Kenyan general election, the Ushahidi project set out to contribute to stability in Kenya, by increasing transparency and accountability through active citizen participation in the electoral cycles.

Rather than introducing a new concept or organisation, the project sought to leverage on existing (traditional) activities around electoral observation, such as those carried out by the Elections Observer Group (ELOG) in Kenya. Ushahidi set

up rapid reporting and alert system in traditional electoral monitoring, as well as bringing in the voices of citizens as a new dimension in electoral monitoring through crowd sourcing of data.

Ushahidi maintains a three-tier progression in its mobile-based election monitoring process including: crowd sourcing of incident reports, verifying the credibility of the reports, and getting verified information to organizations and individuals who can intervene positively.

7.0 Overall assessment and General Conclusion

The general elections held on 4th March put to test Kenya's commitment to democratic electoral processes. The maiden election conducted under the newly promulgated constitution and by the IEBC was a rich learning ground for young democracies in the region. Apart from isolated incidences of violence in some parts of country; and logistical challenges to the IEBC, the electoral process came off as a success in many aspects.

The overall atmosphere, days before and during the election was calm and punctuated by evident zeal among the populace to exercise their democratic right to vote and rewrite the election history of their country. The 86% record voter turn up on polling day emphasized the commitment of Kenyans to make their voice heard. This was also a score to the efforts put into civic/voter education by the IEBC, civil society organizations and other stakeholders in the electoral process.

There was widespread advocacy for peace before, during and after the election. Besides the messages from the civil society organizations and the IEBC, political candidates were also seen and heard to engage in the peace campaign during their rallies. This could be one of the reasons for the remarkable calm and patience exhibited among the populace through the process. These messages however had a reverse effect on the quality of voter education, attitude of the political party agents toward election officials and election observers, as well as the mode of coverage of the elections by the local media in Kenya.

Although the IEBC paid a handsome price for the extremely ambitious undertaking of conducting simultaneous elections for six elective positions, it was able to ensure and uphold the integrity of the vote while retaining the trust of the electorate; logistical challenges notwithstanding.

The IEBC also enjoyed high confidence among stakeholders from across the board; political parties, civil society organizations and the general public. One of the reasons to explain this could be the transparent process of the establishment of the IEBC; composition, and recruitment of officers to the electoral body. This process had a positive impact on its independence and positioning in the political and electoral environment.

Although the election was mainly hinged on the ethnic affiliations of the electorate, there was clear sign of representation of the different interests in the bid for the presidency. There was evident representation of; minority and under privileged groups, and religious interests. However it should also be noted that

through the campaign and election period, focus was on the internal politics of Kenya and almost no attention was given to the political positioning of Kenya in the region.

Following the conclusion of the election exercise, what is left to be seen to cement the credibility of the electoral process in Kenya is the manner in which election disputes will be resolved. Issues to look out for could be transparency and the expeditious resolution of the same.

8.0 Recommendations

After the study experience we had during the Kenya elections, the following are recommendations that are worthy being fed into the Ugandan situation.

8.1   Adoption of the Biometric Registration and Voting System

Use of this system would greatly minimize the possibility of election fraud, ensure high level security that enables for data protection, and facilitate quick enrollment. Biometric Voter Registration, Identification and Voting would also enhance the credibility of the electoral process.
It is however important that the functionality of the systems be double checked before use and the officers to use them should be well trained before they are entrusted with the use of the systems.

8.2   Legal framework for the use of ICT in elections

Adoption of e –electoral systems should be preceded by enactment of legislation to regulate the same.

While electoral technologies open up new frontiers and offer new possibilities for the electoral process, especially for voting operations, there may be unforeseen risks involved, such as difficulty in auditing election results. This calls for legislation to regulate and check the effective use of the same.

8.3   E- observation of elections

Preparations to adopt an e-electoral process in Uganda should take care of apt mechanisms of appraisal of the process. Civil society organizations and other stakeholders should devise means by which e- observation can be conducted throughout the electoral process.

This follows a new phenomenon of e-rigging that has emerged alongside the e –election concept. E – rigging entails the use of advanced software applications rather than bulky hardware apparatus

If the Electoral Commission adopts the use of the e- electoral systems for the upcoming elections, there is need for civil society organizations in Uganda to work out an agenda that will see them review the available tools and applications of election observation; to allow for e –

observation. This may involve bringing on board persons highly knowledgeable in the ICT field as well as impart basic ICT skills to the election observers.

E-observation proposes civil society participation in selection and development of soft ware for elections. As a standard feature, such effort should ideally include partnership' with the EC in identifying, selecting and possibly monitoring server hosts and IP addresses as well as their suitability against attacks.

8.4   Parallel Vote Tallying

PVT is a vital exercise that ensures checks and balances on the preliminary and final election results released by the electoral body. However, there is need for civil society organizations or any other entity that would like to conduct PVT to work together with the electoral body so as to have agreeable terms on which to work. There should also be several back up plans to the service network; to mitigate eventualities of network compromise.

On the other hand, with the e – electoral process and the shortcomings of the same, the practical relevance Parallel Vote Tallying (PVT) and other initiatives which analyze outcomes rather than processes should be subjected to keen review with the intention of broadening their efficacy thresholds and suitability for e-observation.

8.5   Voting in enclosed areas – indoor

As much as voting in open fields may dispel possibilities of ballot staffing and other election irregularities, voting indoors – where possible may guarantee secrecy of the ballot and also help to guard against possible natural, unforeseen calamities like change in weather that could disrupt the voting exercise. Also, in case of any unrest around the polling station, there would be considerable security of the election material.

8.6   Use of polling booths

The use of polling booths provides space for secrecy of the ballot. Also the use of several polling booths at a particular polling station allows for several individuals voting at the same time hence reducing the time of the process.

8.7   Army involvement in polls and representation in parliament

The Kenya experience of the army completely kept out of the polls was an interesting one and worthy emulating. The absence of heavy deployment of the army during polls guarantees an intimidation free environment that allows for free and fair voting.

8.8   Harmonization of the civic/voter education messages

The Electoral Commission and civil society organizations should work together and harmonize the message(s) that they would like to take out to the populace in preparation for the elections. This allows for a strong message that is easily digested by the voters.

8.9   Electronic transmission of election results

The use of online or telephonic transmission of election results minimizes the risks of compromise of results and speeds up the process of tallying and relay of results at the national tally centre.
Adoption of this system should however be tagged with credible and reliable back up plans to alleviate technological break downs.

8.10   Fast track the electoral reforms

A deliberate move ought to be taken by the EC and the CSOs as well as other stakeholders in this direction to fast track the electoral reforms. This as seen from the Kenyan experience is the centre of the peaceful electoral process and also generates the basis for the voter and civic education that is a requirement for the populace before elections. This also gives credence to the process when there are no parties that feel aggrieved and therefore apportioning blame or unfair play in the electoral process.

The next general elections in Uganda are only three years away. Considering the time it may take to have the proposed electoral reforms adopted and passed by parliament, it is pertinent that robust advocacy for the reforms be undertaken. Civil society organizations could also explore the possibility of ranking the proposed reforms in the order of priority and impact to the next elections. This would mean more advocacy for the high priority ranking reforms. CCEDU and other civil

society organizations also need to expand their role in the push for these reforms; from just advocacy to making direct input to the proposed legislation, ensure mass media coverage of the reforms and engage political parties under the Inter Party Organization for Dialogue (IPOD) and the National Consultative Forum.

8.11 Legal Code of Conduct for Political Parties

The Electoral Commission should delve into putting in place a code of conduct for political parties. The code of conduct which should be enforced by the Electoral commission would go a long way in the streamlining and regulation of activities of political parties especially during the electoral process.

Other interventions in the activities of political parties may be performance of an oversight function of the process by which parties nominate candidates, conduct of political party primaries and settling disputes arising from the two. CCEDU and other civil society organizations should engage the EC and IPOD on these and other reforms so as to aid a more leveled and regulated political field for political parties ahead of the 2016 elections.

8.12 Consultative and regular dialogue engagements

Following yet the various elections we have had in Uganda with various experiences and opportunities for that matter, it is imperative that Uganda conducts regular dialogue engagements. This would help to agree on the best practices where all interested parties would participate and give our elections the respect they deserve. In these engagements, borrowing a leaf from the other places like Kenya and Ghana would be of great importance but also sharing with them on their experiences particularly on the lessons they learnt in their own processes.

i) List of Meetings Attended

No.	Institution: Organization/ Office	Officer (s)	Venue
1	Independent Electoral and Boundaries Commission (IEBC)	Ms. Ann Nderitu	Serena Nairobi Hotel
2	Constitution and Reform Education Consortium (CRECO)	Ms. Regina Utita Opondo and Mr. Kawive Wambua	CRECO Office
3	Independent Electoral and Boundaries Commission (IEBC)	Mr. James Oswago	Serena Nairobi Hotel
4	Political Parties Liaison Committee (PPLC)/ United Democratic Forum (UDF)	Mr. Sande Oyolo & Prof. Tom Namwambah	UDF Office
5	Institute for Education in Democracy (IED)	Ms. Carol Chianese & Mr. Njehia Kimani	IED Office
6	IEBC - election observers and monitors general briefing	Dr. Joel Mabonda	Laico Regency Hotel, Nairobi
7	Election Observers Group (ELOG)	Ms. Mercy Njoroge	ELOG Office, Nairobi
8	Center for Governance and Development (CGD)	Mr. Kennedy Masime	ELOG Office, Nairobi
9	Electoral Institute for the Sustainability of Democracy in Africa (EISA)	Mr. Willis Othieno	EISA Office, Nairobi
10	Uchaguzi Kenya/ Ushahidi/i Hub	Mr. Daudi Were	i Hub Office, Nairobi
11	Discussion with members of the community	Mr. George Atinga	Kaloleni Body Building Gymnasium
12	The National Alliance (TNA)	TNA Political	Uhuru Park,

	Grand Finale Political Rally	Candidates	Nairobi
13	Coalition for Reform and Democracy (CORD) Grand Finale Political Rally	CORD Political Candidates	Nyayo Stadium, Nairobi
14	IEBC Tally Center	IEBC	Bomas of Kenya
15	EAC-COMESA-IGAD	Preliminary Election Report	Hilton Hotel, Nairobi
16	African Union Observation Mission	Preliminary Election Report	Fairmont The Norfolk Hotel, Nairobi
17	The Common Wealth Observation Mission	Preliminary Election Report	Fairmont The Norfolk Hotel, Nairobi
18	Uganda High Commission	Second Secretary	Nairobi

The CCEDU team also spoke to a cross section of voters, media practitioners, government leaders and political party members.

ii)   CCEDU Mission Team

	Name	Position
	Name	Position
1	Crispy Kaheru	Project Coordinator, CCEDU
2	Gwada Ogot	Communication Manager, CCEDU
3	Patrick Kaboyo	Member of the Executive Committee, CCEDU
4	Lillian Nakaweesi	Member of the Executive Committee, CCEDU
5	Celestin Mugisha	Member of the Executive Committee, CCEDU
6	Faridah Lule	Project Associate, CCEDU
7	Geofrey Ssebagala Wokulira	Member of the Executive Committee, CCEDU
8	Christine Nakirya	Member of CCEDU