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LIST OF ABBREVIATIONS

CCF   Constituency Community Facilitators
COBADES  Community Based Development Services
CLARION  Center for Law and Research International
CRECO  Constitution and Reform Education Consortium
CSO   Civil Society Organization
ECK   Electoral Commission of Kenya
KACC  Kenya Anti - Corruption Commission
MP   Members of Parliament
NCEC  National Convention Executive Council
ODM  Orange Democratic Movement
ODM K  Orange Democratic Movement Kenya
PNU  Party of National Unity
DP  Democratic Party of Kenya.
SMS  Short Message Services
4CS  Citizens Coalition for Constitutional Change
1. INTRODUCTION
This report seeks to give an analysis of what has been observed by four organizations working towards ensuring that 2007 elections are conducted in a free and fair manner. These organizations have been funded by HIVOS and are working under the coordination of Constitution & Reform Education Consortium (CRECO).

The report outlines issues that were monitored from the month of December 2007 and it was carried out in 48 constituencies by our respective constituency observers. The issues under consideration include:

- Political party campaigns
- Violence that is still being experienced during campaigns especially gender-based violence.
- Role of media during the electioneering period
- Hate speech and misuse of state resources
- The issues arising out of government institutions i.e. The ECK conduct, the Judiciary and the police and security provision.

The report also makes suggestions of what needs to be done by different actors among them citizens of Kenya, ECK, and State institutions like the Police, the Judiciary and Kenya Anti-Corruption Commission (KACC) to ensure that current and future elections in this country are conducted in a democratic and free and fair manner.

It calls for urgent actions that need to be put in place - The ECK to effectively enforce the electoral code of conduct not only on errant aspirants but also on parties, the Judiciary to expeditiously act on the pending cases in court related to election violence, petitions etc and the police to act very fast in apprehending those people who are perpetrating acts of violence. It also calls on Kenyans to ensure they desist from violence and report cases of violence to the relevant actors including police and other relevant authorities.
2. ACKNOWLEDGEMENT:

The five organisations wish to thank all Kenyans of goodwill who have tirelessly come out to give information on all the electoral malpractices going on in the constituencies and also those Kenyans who have come out to give direction during the this electioneering. This goes on to give hope for the achievement of democratic maturity in Kenya.

Special thanks to the entire forty eight Constituency Community Facilitators (CCFs) in the constituencies for your continued monitoring of events in the constituencies. No doubt without you this report would not have been a success.

We also take the same opportunity to thank media people who have struggled to highlight electoral malpractices in their various mediums. We urge them to continue with the good work without bias.

The Humanistic Organization for International Cooperation, HIVOS, which made this project possible, is sincerely thanked.

For all those who made this report a success and have not been specifically named we say ASANTE.
Part 1: Campaigns

Introduction
Campaigns have been geared up towards the general election to be held on the 27th December 2007. Despite the fact that the electoral commission is mandated manage the electoral process constitutionary and ensure affair play to all the parties involved i.e. Voters, and aspiring candidates, the campaign environment is worrying. Kenya has along way towards achieving mature and issue based campaigns as evidenced by the following events in sampled constituencies in Kenya:

a. Political Parties

- Violence between supporters of different political parties.
- There is less tolerance to difference in political party affiliation among the electorate and aspiring candidates.
- There is evidence of rape cases perpetrated against women while coming from political rallies e.g. in Mwala constituency.
- A lot of abusive language from the politicians as they campaign in almost all constituencies sampled.
- That mostly party agenda is dominating campaigns as issues that form the electorate agenda come second in the sampled constituencies.
- The strong parties are dominating the in many areas submerging the influence of small parties.
- Campaigns are even extending to nights in all the constituencies sampled.
- That clanism, tribalism and regionalism are evident in political party campaigns and support.
- That most major political parties and aspirants through their agents have intensified bribery of voters in most of the sampled constituencies.

b. Electorate

The following critical observations were made on the voters in the sampled constituencies:

- That most voters are showing up in campaign rallies in large numbers but with expectations of handouts from political aspirants and their agents.
- A lot of demand for peaceful campaigns is high from the electorate in all the regions.
- That there is high demand from voters for change of leadership in their areas be they civic or parliamentary.
- That there is continuous use of youths by the aspirants to cause chaos and disrupt opponents rallies in most of the constituencies.
- That voters in the sampled constituencies are to vote MPs and civic candidates on their development record but by tribal and regional inclinations for presidential candidates.
- That the homes of parliamentary aspirants are frequented by voters in organized groups e.g. women, youths among others promising them support in exchange for handouts.
c. Government Institutions

i. The judiciary: has so far not prosecuted anyone despite the numerous electoral malpractices being witnessed across the country.

ii. The electoral Commission of Kenya ECK is undertaking various activities in the sampled constituencies, these are:

- Circulating electoral code of conduct to candidates and their supporters.
- Campaign to stop buying of votes and violence in electoral processes in the sampled constituencies.
- Undertaking voter education in the sampled constituencies.

iii. The police

- The police presence is felt in most of the constituencies sampled although there are accusations of the police being more keen in providing security to PNU campaigns than other parties campaigns.
d. The Media

- The media continued to cover issues related to the campaigns across the sampled constituencies.
- TV and FM stations have intensified leadership awareness campaigns to the electorate through debates and programmes targeting the 2007 general elections.
- That the state broadcasting station has been accused of bias in reporting, arguably favoring PNU.
- That the media has continued to provide platforms to aspirants to sell their agenda to Kenyans if elected at all levels i.e. Parliamentary, Civic and Presidential.

![Histogram showing Responsible Bodies Responsiveness](image)

<table>
<thead>
<tr>
<th>Responsible Bodies</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>ECK</td>
<td>22%</td>
</tr>
<tr>
<td>KACC</td>
<td>5%</td>
</tr>
<tr>
<td>POLICE</td>
<td>45%</td>
</tr>
<tr>
<td>Judiciary</td>
<td>0%</td>
</tr>
</tbody>
</table>

Source: Constituent Observers 2007.
e. Lessons Learnt

- That ECK continues to relax in punishing those who break the electoral rules and regulations - e.g. bribery of voters, violence among other malpractices.
- That in most of the constituencies sampled, bribes are being given to voters meaning that most people might vote for candidates pegged on bribes and not issues.
- Intense competition continues to mount in campaigns leading to high rate of violence, bribery and misuse of the state resources.
- That Politicians at all levels continue to divide Kenyans on regional, tribal and clan inclinations in a bid to win votes.

Recommendations

- That ECK need to identify all abusive candidates and disqualify them from contesting for political seats.
- That the ECK should be more vigilant in ensuring that the electoral rules and regulations are adhered to.
- The police should be now more than ever be seen to do their work accordingly, by providing security to all Kenyans at this electioneering period.
- The Electoral commission of Kenya should take action against the contestants who are not adhering to the electoral code of conduct.
- Any leader buying votes should be disqualified by the ECK not to vie during the elections.
Part 2: Violence

a. Political Parties

There is still a lot of violence across the country as the general elections come closer. Some of the notable cases of violence during party campaigns in the month of December are:

- In most parts of the country, violence has become a critical concern where some people have lost their lives during the campaign period whereas some have survived with dreadful injuries. **Example:** Naivasha constituency female PNU supporter had her lip bitten almost chopped off by KANU parliamentary candidate.
- From Kuria when PNU are having rallies the deployment of security is highly beefed up unlike when other parties where security is wanting.
- Supporters of various political parties keep clashing during campaign rallies in most sampled constituencies.
- Political parties continue to campaigns at night in most sampled constituencies.
- That politicians from various parties continue to heighten propaganda against their rivals occasioning hate and possible clashes from their supporters.

b. Gender related violence

Harassment of women aspirants and supporters is still being experienced during the campaigning period in some parts of the country, this ranged from verbal to physical assault. Some of the prominent examples include:

- Woman seriously injured when PNU supporters stoned an ODM convoy of Ida Odinga as she was heading to rally in Bungoma town at Kaduyi center on the 8th December 2007.
- Man killed as armed youth stormed ODM rally as candidate John Pesa was addressing the rally Nyanza, Kadika 8th December 2007.

c. Hate speech / Ethnic violence

Hate speech and ethnic intolerance in political campaigns continue to be manifested in the following ways:

- SMS's
- Emails especially from ODM-K, PNU and ODM supporters.
- Propaganda speeches in political rallies demonizing opponents.
- Tribal clashes continue in Kuresoi and Mt. Elgon Scaring potential voters.
- Media adverts
Election Violence Prevalence

Source: Constituent Observers 2007.

Implications of violence

- The loss of lives. Several cases have been reported where voters have died during political rallies e.g. a man was killed in Nyanza, Kadika 8th December 2007.
- Scaring of voter hence a possibility of low voter turn out in Kuresoi and Mt Elgon.
- That women voter turnout might be affected in constituencies experiencing a lot of violence during campaigns.
- That tribal, ethnic and regional violence created by politicians might extend beyond the coming general elections.
Recommended actions

- ECK should put up mechanisms for Logistical preparedness to ensure that all the necessary requirements to enable voting are met in every part of the country to avert anger and frustrations from Kenyans that might be a recipe for violence as evidenced in the 2002 general elections.
- That the ECK need to be ready to deal with all electoral malpractices indiscriminately.
- The governments need to beef up Security in all constituencies in Kenya to curb incidences of political violence that might be experienced in different parts of the country in the remaining campaign days, during the polling, counting and after announcement of results.
- Voters need to be vigilant in ensuring that there are no electoral malpractices within their constituencies for the elections to be free and fair.
- That the youth should avoid being used as agents of violence by the political class.
- That the police need to take measures and ensure that rival candidates to not hold campaign meetings at close proximity in a bid to avoid confrontations and violence.

Part 3: Towards National Harmony

Projections

- Violence – there is a possibility of continued cases of violence in three critical stages of the elections i.e. Last minute campaigns, counting and violence occasioned by election losers, violence occasioned by lack of logistical preparedness on the side of ECK.
- Time - voters might need extra time to vote owing to the large number of candidates in the ballot papers, ECK needs then to come up with mechanisms of ensuring that all people will vote.
- That there is need for a national heeling process in Kenya after the general election as a result of the major divisions created by the political class during the electioneering period.
- Bribery of voters still remains a major challenge in the Kenyan electioneering process.
- That civil servants engaging in political affairs are likely to be affected in case of change of government.
- That the Constitution reform agenda will remain a major challenge even with the incoming of anew government.
- There is a possibility of security lapses so as to favour some candidates allied to the government.
- That the coming general election will witness the highest number of petitions as a result of a high number of political seats aspirants.
Lessons learnt

- That ECK remains challenged in fulfilling its mandate of punishing electoral process offenders.
- Three piece voting is being advocated by presidential candidates in areas where they lack adequate support.
- That women candidate have not been so vigilant in their campaigns as the election day comes to a close.
- There is a possibility of more voter turnout in all the sampled constituencies than in the 2002 general election.
- That bribery of voters remains a major challenge in Kenya electoral system, as evidenced in all sampled constituencies.
- That the line between issues based voting and bribe influenced voting is becoming thinner as we approach the general election.
Recommendations

- ECK needs to be more active and proactive in dealing with perpetrators of electoral malpractices.
- The ECK must establish mechanisms to handle the mobile polling stations it has established in clash tone areas of Kuresoi and Mount Elgon to avoid cases of being used for rigging and other electoral flaws.
- The ECK must be prepared to meticulously handle petitions that are likely to be filed by political contestants, considering that this year has witnessed the highest number of contestants majorly at both Civic and parliamentary levels.
- The Kenya Police must provide security and carry out prompt, independent and impartial investigations into each and every case of electoral violence and all violations of electoral laws and hand over the perpetrators to the relevant authorities on time for appropriate action.
- The Kenya Anti-Corruption Commission (KACC) need to carry out investigations and build Cases against public servants who are suspected of violating the Public Officers’ Ethics Act and appropriate action taken.
- The electorate should desist from taking bribes from politicians and their agents.
- Political parties need to establish mechanism of having registered members across the country to avoid cases of voters seeking bribes from different parties masquerading as members.
- That the government desists from continued use of state resources engaging in actions perceived to be wooing voters in their favor.
- That all Kenyans and especially the youth shun violent behaviors as we head to the general election.
Part 4: Annexes

Annex 1: SAMPLED CASE STUDIES

a. Propaganda speeches in political rallies:

* Hate speech, was witnessed when (PICK) parliamentary cand. Mutua Kilungu used abusive language towards his opponent pastor Muoki of ODM-K Lower eastern 8th Dec. Derogatory text messages targeting Safina parliamentary candidate, depicting him as devil worshiper being circulated in the area: From central, province
* Hate leaflets against oDM candidate circulated in Emgwen by the NARC candidate supporters-18/12/07.

b. Sample of hate SMSs

* i am very disappointed with unjust hop what I heard about u isn’t true coz everyone is taking abt it: if the rumour is true, pls ,pls 4 ur sake & 4 the sake of pple who care abt u, do somethin abt ur tainted image & change 4 the better. umaibisha not only ur family but every 1 who is related to u. Now tell me, is it true what pple are sayin? That are in PNU?

* A deadly fish flue known as ODM which affects the brain has been reported in lake Victoria and parts of Rift Valley province symptoms include laziness, jealousy, pride & coughs a kin to Majimbo the regions have been placed on quarantine. People in other parts of Kenya are advised to take PNU pills to avoid infection.

c. Violence

* Rally-ODM and PNU supporters crushed in Lurambi 18th December 207.

* PNU activist Mary Wambui rouged for being in company of john Mututho, Kanu Naivasha, Gilgil 15th Dec 2007
* ODM van on campaign trail was pelted with stones by irate youth in Nairobi, Korogocho ward, Starehe const. 7th Dec 2007

* Two women supporters of pastor Muoki (ODM Kenya) candidate were raped after participating in campaign trail of parliamentary candidate in Lower eastern 8th Dec Mbiuni market, Mwala constituency.
* ODM VS PNU supporters clashes in Kapsabet on 16/12/07.

* Boy wearing PNU T-Shirt Seriously injured in Emgwen in Namgoi Nandi -19/12/07.

d. Voter Bribery:

* Voters were bribed Gachoka, on 9th Dec 2007.
* Creation of a new District: After the president was persuaded by Mr. Simon Nyachae and Mr. Wilfred Machage (MP – Kuria) the president promised to create a new District to make Kuria two District region, but the new District has left most residents in suspense whether the District is real or is a political geared District that will leave Kurians in problem after the election. Some view the District, as a big burden that has been imposed to them some preferred a constituency than District, which is an impossible thing by now. Kuria/Kehancha/17/12/2007
* Voters were bribed between 100/= - 200/= a day before the president came for campaigns in Kuria District. This was done by the government officials like the D.Os and Chiefs. Kuria, 16/12/2007
* Creation of two new districts by the president- Nandi East and Mosop, Nandi Hills 19th December 2007.
e. Sample of Hate and propaganda Emails

* DOMO DOMO DOMO with funny orange mouths.

* You have your weapon. make use of it on that day.....
A: Statistics prove that 600,000 jobs have in fact been created annually since the NARC government came to power. Here is a recent breakdown; 50,000 carjackers, 50,000 muggers, 37 developers of collapsing buildings, 63 liars and cover-up artists for Anglo leasing-like projects 100,000 Brand new burglars and other petty offenders, 12,4,884 rapists, 15,000 car thieves, 22,000 pickpockets, 12,000 Brand new beggars, 750 Vicious Wife beaters countrywide out of frustration, 250 Vicious Husband beaters countrywide, 100,000 child molesters, 2 foreign mercenaries, 1 Political asylum seeker in UK over Anglo Leasing, 13 Local specialist newspaper burning and press raid experts, 1 Former President actively involved in politics, 125,000 Kenyan immigrants who have had to flee Kenya to seek survival elsewhere., 600,001 jobs in total have been created.

KIBAKI TOKA!!

f. Campaign case studies

* From Kuria and some other constituencies, when PNU are having rallies the deployment of security is 100% unlike when other parties where security is wanting.

* AP’s, chiefs and D.O’s are campaigning for the president openly in most parts of the country.

* Manyala Keas agents threatened Dkt Newton Kurundu to campaign in Keya’s home area., as reported from Lurambi constituency on 6th December 2007.

* Destruction of PNU posters in Emgwen, 18/12/07.
* Massive use of public resources: Cars and Choppers in president Kbaki’s tour of Nandi District.

* Noted Massive use of public resources in President Kibaki’s campaign In Dujis e.g. Vehicle – GKA417H and GK961N, The GSU band were also invited to entertain guests.

* ODM rally disrupted by FORD Kenya supporters in Vihiga on 19th/12/07.

* SDP rally disrupted in Butula by NARC supporters-11/12/07.

* PNU and ODM supporters clash in Funyula - 10/12/07

* UDP rally disrupted in Imenti South by DP youth supporters.
Annex 4: A BRIEF ON THE ORGANISATIONS

i. Constitution & Reform Education Consortium (CRECO).
CRECO is a multisectoral network of twenty two (22) Civil Society Organizations (CSOs) working in the democracy and governance sector. The network was founded in 1998, initially with the intention of undertaking countrywide mass civic education targeted at the Constitutional review process. The early work of CRECO culminated in the design and implementation of National Civic Education Program (NCEP I), between the years 2000 and 2002.

CRECO has over time expanded its mandate and today stands as a network that envisions a just society for all. Its mission is to promote constitutionalism, democratic governance and institutional development through the coordination and capacity building of civil society institutions. The consortium is currently implementing programs within the framework of a 5-year Strategic Plan, with the goal of entrenching democratic governance in Kenya.

ii. Citizens Coalition for Constitutional change (4Cs Trust)
Since its inception in 1994, the Trust has consistently and steadfastly worked towards the creation and maintenance of a new constitutional order in Kenya. The pursuit of this mission is premised on the conviction that realization of a new and democratic constitution order through a democratic and all-inclusive process would guarantee a better society desired by all Kenyan citizens. The organization’s mission is to promote a just constitutional order in Kenya and empower its citizens to contribute towards this endeavor. It envisions a Kenyan society that upholds practices and protects constitutionalism and democracy, where citizens participate in just governance, human rights are protected, gender equity is ensured, interests of the disadvantaged are guaranteed and a sustainable wholesome development is promoted. Currently 4Cs Trust is acting as the focal point for all national civil society congress activities.

iii. Centre for Law & Research International (CLARION)
CLARION is a national Non Governmental Organization (NGO) founded in 1993 to enhance legal and human rights, democratization and good governance in Kenya through research, documentation and dissemination. Its programmes are Legal Awareness and Development, Human rights, Constitutionalism and Civic education.

iv. Community Based Development Services (COBADES)
Founded in 1990, COBADES offers Public Legal and Human Rights education training for teachers and head teachers in primary and secondary schools. COBADES believes that the school system is a strategic target for introducing and encouraging this kind of training as early childhood and adolescence are good starting points to promote correct and relevant values in the family, school, community and the wider Kenyan society. COBADES collaborates with the Ministry of Education Science and Technology in the in-servicing of
both primary and secondary head-teachers and teachers who teach the legal and human rights content infused in the curriculum. In addition, COBADES has included gender and development, human sexuality, HIV/AIDS, constitutional review process, prevention of drug and substance abuse, poverty reduction, leadership, stewardship, accountability, communication skills and effective planning into its training. During the workshops COBADES uses the Psycho-Socio Method of education (PSM) by Paulo Freire.

v. National Convention Executive Council (NCEC)

NCEC has been in the forefront in engaging the government and other stakeholders on matters related to governance, democracy and human rights. NCEC has curved a niche on the constitutional matters since its inception in the 1990's. NCEC has specific objectives geared towards ensuring a new democratic constitution, conducting constitutional education and instilling a culture of constitutionalism and rule of law within the Kenyan society.