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REPUBLIC OF KENYA

PARLIAMENT OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

DEPARTMENAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT OF THE SPECIALIZED TRAINING DATA ANALYSIS AND MANAGEMENT IN ELECTION ADMINISTRATION AND USA MID TERM ELECTIONS OBSERVER MISSION

5-9 November, 2018

Maryland, United States of America

Clerk's Chambers
Parliament Buildings
Nairobi
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TABLE OF CONTENTS

LIST OF ABBREVIATIONS

DOJ	Department of Justice
EAC	Election Assistance Commission
EMB	Election Management Body
HAVA	Help America Vote Act
HON.	Honourable
MP	Member of Parliament
NVRA	National Voter Registration Act
OSCE	Organisation for Security and Cooperation in Europe
UOCAVA	Uniformed and Overseas Citizens Absentee Voting Act
USA	United States of America
USICES	Unites States International Center for Electoral Support
WTO	World Trade Organisation

CHAIRPERSON'S FOREWORD

The Independent Electoral and Boundaries Commission (IEBC) invited the Departmental Committee on Justice and Legal Affairs to accompany it on an observer mission of the United States of America (USA) Mid-Term Elections held on 6th November 2018. The United States International Centre for Electoral Studies (USICES) hosted the mission within the program of a specialized course on data analysis and management in election administration. The Committee resolved to nominate the following four Honourable members to accompany IEBC on the said mission-

1.   Hon. William Kamoti Mwamkale, MP   - Leader of Delegation

2.   Hon. Beatrice Adagala, MP

3.   Hon. John Kiarie Waweru, MP

4.   Hon. Yussuf Adan Haji, MP

Ms. Doreen Karani, Legal Counsel, served as the delegation's secretary. With the exception of Honourable Yussuf Adan Haji who was unable to accompany the delegation due to visa challenges, the delegation departed Nairobi for Washington DC on 2nd November, 2018 and returned to Nairobi on 11th November, 2018.

May I take this opportunity to sincerely record the Committee's appreciation to the Offices of the Speaker and the Clerk of the National Assembly for their facilitation and approval for members to attend the specialized course on data management in election administration and observe the United States of America Mid-term elections in the State of Maryland and in the District of Columbia.

On behalf of the Committee, I wish to sincerely thank and acknowledge the organizers, USICES as well as the IEBC for inviting the Committee to attend this important mission. Members benefited immensely from the specialized course that proved extremely valuable as the topics under discussion resonated well with our Committee, Parliament and Kenya generally.

Gratitude is extended to His Excellency Hon. Robinson Njeru Githae, Kenya's Ambassador to the United States of America, his family and the staff of the Kenyan Embassy for their logistical support to the delegation, for taking time to meet with the delegation when it paid him a courtesy call at Kenya House in Potomac, Maryland and the enriching discussions on the state of the nation, politics, Kenya's trade prospects and her diplomatic relationship with the USA and general development matters.

Finally, the delegation conveys its appreciation to the Staff of the National Assembly for their commitment and dedication to duty and the production of this report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199 (6), it's my pleasant privilege and duty to present to the House, for noting, a report of the Committee on the specialized training data analysis and management in election administration and the USA 2018 mid-term elections observer mission.

Signed..Date.......20/03/2019

Hon. William Kamoti Mwamkale M.P.

Leader of Delegation

EXECUTIVE SUMMARY

The United States International Centre for Electoral Support invited members of Departmental Committee on Justice and Legal Affairs, other Members of Parliament serving in other Committees, Senators and the Independent Electoral and Boundaries Commission (IEBC) to attend a specialized course in election Management that included observation of the USA Mid-Term Elections on 6th November, 2018.

The objective of the course and observation mission was to equip participants with knowledge on management of elections in the USA. This training brought out and elaborated the concept of election data as a vital interconnected component that shapes election administration from a legislative, administrative, operational, and financial standpoint. The course equipped participants with election data management tools that assist in assessing potential legislation, review procedures, plan budgets, decision making and making voting accessible and simple for all eligible voters. Participants additionally gained invaluable insight on how to use election data to resolve and manage election challenges.

The training enabled Honourable Members to interact with Senators, the Chairman and a member of the IEBC and also participants from other countries. These interactions were useful in building of synergies whilst furthering professional development to improve international standards.

More specifically, the participants were trained on the election systems in the United States of America, the use of data in elections, ways of data collection and presentation by using online tools, the use of data to prevent election violence and lessons from the conduct of the USA midterm elections. Of importance were the lessons that each country took and measures proposed to be implemented to improve the voting experience and management of elections.

It was apparent that the training and election observation provided deep insights to the delegation and the Kenyan team recommended-

1. That, the election management body (IEBC) does adopt the use of online tools such as Tableau in management and presentation of election data;

2. That, the election management body (IEBC) does consider the use of foolproof methods of storing ballots such as the multipurpose ballot scanner machines that are inbuilt as ballot boxes. This safeguards votes and ensures ease of vote verification since voters drop their ballots in the multipurpose machine for simultaneous scanning and storage;

3. That, polling station infrastructure be improved to facilitate access by persons with disabilities;

4. That, IEBC adopts strategies to develop alternative voting options such as online voting and early voting for those legitimately unable to vote on election date e.g. security officers, poll workers, diaspora voters etc;

5. That, IEBC should undertake a comprehensive examination of the reasons why long queues are witnessed in Kenya and adopt strategies to reduce queues e.g. to allow a voting centre to operate as one polling station in order for voters to cast their votes in any area of the polling station where there is a shorter queue and not have them restricted to the specific queues where their names appear alphabetically;

6. That, key stakeholders, including political parties, legislators and IEBC among others, take into consideration, the implementation of same day registration and voting including on the election day; and

7. That, key stakeholders, including political parties, legislators, IEBC, consider the conduct of simultaneous general election and referendum voting on the same day.

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Justice and Legal Affairs derives its mandate from Standing Order No. 216(5) which provides for the functions of Departmental Committees, inter alia as follows-

   (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

   (b) study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;

   (c) study and review all legislation referred to it;

   (d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;

   (e) investigate and enquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;

   (f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments)

   (g) examine treaties, agreements and conventions;

   (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;

   (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and

   (j) examine any questions raised by Members on a matter within its mandate.

2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-
   (i) Constitutional affairs;
   (ii) The administration of law and Justice
   (iii) The Judiciary;
   (iv) Public prosecutions;
   (v) Elections;
   (vi) Ethics, integrity and anti-corruption; and
   (vii) Human rights.

1.2 Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Hon. William Cheptumo, M.P.   –   *Chairperson*

      Hon. Alice Muthoni Wahome, M.P. –   *Vice Chairperson*

      Hon. John Olago Aluoch, M.P.

      Hon. Roselinda Soipan Tuya, M.P.

      Hon. Charles Gimose, M.P.

      Hon. Johana Ng'eno, M.P.

      Hon. William Kamoti Mwamkale, M.P.

      Hon. Ben Orori Momanyi, M.P.

      Hon. Peter Opondo Kaluma, M.P.

      Hon. Zuleikha Hassan, M.P.

      Hon. Jennifer Shamalla, M.P.

      Hon. Beatrice Adagala, M.P.

      Hon. Gladys Boss Shollei, CBS, M.P.

      Hon. John Munene Wambugu, M.P.

      Hon. George Gitonga Murugara, M.P.

      Hon. Anthony Githiaka Kiai, M.P.

      Hon. John Kiarie Waweru, M.P.

      Hon. Japheth Mutai, M.P.

      Hon. Adan Haji Yussuf, M.P.

1.3 Committee Secretariat

Mr. George Gazemba	-	Principal Clerk Assistant II
Mr. Denis Abisai	-	Principal Legal Counsel I
Ms. Halima Hussein	-	Clerk Assistant III
Ms. Fiona Musili	-	Research Officer III
Mr. Omar Abdirahim	-	Fiscal Analyst III
Mr. Joseph Okongo	-	Media Liaison Officer
Ms. Roselyne Ndegi	-	Serjeant-at-Arms
Mr. Hakeem Kimiti	-	Audio Officer

2.0 INTRODUCTION

4. The programme commenced with welcome remarks from Mr. Henry Atem, the Executive Director of USICES who then introduced Mr. Jared De Marinis, Director of Maryland Board of Elections, Division of Candidacy and Campaign Finance to give his opening remarks.

5. Mr. Marinis spoke on the high level of confidence that election management bodies should maintain throughout an election cycle by keeping open interactions with voters and sharing data to ensure that the election story is true and accurate. This means sharing information on voters registered, where people voted, breakdown of votes cast on the website among others ways. On security issues, he spoke on cyber-attacks, circulation of bad elections news and attacks on officials, which is intended to sow chaos for distrust in the process. He further submitted that officials must ensure confidence in the process as it is paramount.

6. Mr. Marinis informed the participants that Maryland elections would cover Governor, Lieutenant Governor, Senator, Attorney General and the county level referendum questions. One of the referendum questions would be whether to include same day voter registration, which was available to early voters. The participants learned that the USA had a culture where the loser concedes defeat. It was therefore evident that Americans had confidence in their electoral management bodies to deliver free and fair elections, as there was general acceptance of the provisional result even though the official results would be declared after several days.

2.1 INTRODUCTION OF PARTICIPANTS AND THEIR EXPECTATIONS

7. Mr. Henry Atem facilitated the session where participants introduced themselves and shared their expectations. Overall, the participants expressed optimism and hoped that their concerns would be addressed during the sessions including understanding-
    i. security and data;
    ii. use of block chain technology in elections;
    iii. data integration in election management;

iv. impact of data in management of elections and learning areas on data management that are most crucial in elections, impact on budgeting;

v. best practices;

vi. role of legislation in a democratic electoral process;

vii. the role of artificial intelligence in data analysis and management in elections and data management tools;

viii. selection criteria of poll officials and management of poll result;

ix. how good data management can lift the veil of secrecy that leads to distrust in the electoral process leading to acrimony and contested result;

x. use of ICT in elections (pros and cons and impact on public trust);

xi. to be able to analyse reports from ICT teams and data sharing;

xii. how to gather and register data;

xiii. learning on how to handle security during elections;

xiv. data verification;

xv. reasons why human rights are being abused in many underdeveloped nations;

xvi. to be able to analyse reports from ICT teams; and

xvii. how free and fair elections are held in democratic nations.

8. Mr. Atem thereafter took the delegation through the topics proposed for the next five days as follows-

(a) A quantitative introduction to voting in America;

(b) The impact of Data in US Election Administration;

(c) Election observation – November 6 Midterm Elections: Briefing on US Election Administration;

(d) Election day observation briefing: deployment plans, logistics and transportation;

(e) Observation of the elections on 6th November, 2018;

(f) Debriefing and reporting of election day observation;

(g) Data and electoral conflict prevention;

(h) Election data collection techniques, audiences and consumption;

(i) Pre-election period: system data assets, tools for resource management;

(j) Election day: data collection and command centers;

(k) Post-election: telling the election story accurately for innovation, influencing policy, reform and legislation; and

(l) Debriefing and presentation of group work.

3.0 ELECTION MANAGEMENT IN THE UNITED STATES OF AMERICA

9. On the eve of the elections, participants engaged Mr. Tim Harper, a policy analyst from the Democracy Project Bipartisan Policy Center, on various topics on election management in the USA. Mr. Tim Harper briefed the participants as follows-

3. 1 THE USA ELECTION ADMINISTRATION STRUCTURE

10. The United States election administration structure is unique as the Federal structure is highly decentralized and complex. Prior to the 2000 election, few federal standards existed unifying election administration across states. However, the structure has become increasingly professionalized though systems still vary greatly between states.

11. The Organisation for Security and Cooperation in Europe (OSCE) Report on election administration in the U.S. in 2016 stated "the 2016 general elections were administered by competent and professional staff, including on Election Day, which was assessed positively by International Election Observer Mission, despite some instance of long queues and malfunctioning voting equipment".

3.2 FEDERALISM AND U.S. ELECTION ADMINISTRATION

12. Mr. Harper then spoke on federalism and election administration and mentioned that the U.S. Constitution delegates most responsibilities for conducting elections to the states, that is, the Elections Clause (Article One, Section Four) and the 14th Amendment. As a result, the legal framework is highly decentralized and complex.

13. There are over 10,500 jurisdictions across the country, which play a role in administering federal, state, and local elections. The Election Assistance Commission (EAC) collects data

on voting from each of these jurisdictions. The categories of governmental functions in U.S. campaigns and elections is as highlighted in the table below-

Table 1. Categories of Major Governmental Functions in U.S. Campaigns and Elections, In Brief

(Refers to federal elections only)

Major Governmental Function	Government Primarily Responsible	Federal Agencies Primarily Involved
Campaign Finance	Federal	• Federal Election Commission • Department of Justice
Election Administration	States	• Election Assistance Commission • Department of Justice
Election Security	States	• Department of Homeland Security • Department of Justice
Qualifications and Contested Elections	Federal	• House and Senate
Redistricting	States	• Department of Commerce • Department of Justice
Voting Rights	Federal	• Department of Justice

Source: CRS.

3.3 FEDERAL STATUTES THAT REGULATE ELECTION ADMINISTRATION

14. Mr. Harper took the attendees through an overview of the statues that regulate election administration. Firstly, the Help America Vote Act (HAVA) that was passed in 2002 is the primary federal statute devoted to election administration. The Act created the Election Assistance Commission (EAC) and empowered it with authority to conduct research and develop voluntary voting system guidelines. It authorized payments (disbursed by the EAC) to help states improve election administration and equipment and required states to establish voter registration databases and provide provisional ballots, among other requirements.

15. Secondly, the National Voter Registration Act (NVRA) that was passed in 1993 often called "Motor Voter" also applies. The Act provided the Department of Justice with responsibility for NVRA enforcement. It requires-

   a) states to provide voter registration materials at certain government agencies;

   b) states to accept voter registration by mail;

   c) restricted removing of voters from registration lists;

d) states to designate a chief election official for purposes of the Act.

16. The third Act is the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which was amended in 2009 with the passage of the Military and Overseas Voter Empowerment Act. It applies to eligible members of the U.S. military serving away from their residence, their spouses and dependents, and overseas civilians. It encourages or requires states to make registration and voting easier by accepting single absentee ballot request for multiple elections, accepting federal write-in absentee ballot (FWAB), accepting registration and ballots without notarization, and processing absentee ballots expeditiously.

3.4 MAJOR ELEMENTS OF ELECTION ADMINISTRATION

17. The next sub-topic presented by Mr. Tim Harper was on the major elements of election administration. The elements that were identified were those occurring before, during and after elections. For instance, before elections, there is registration, printing ballots, hiring poll officials, procuring voting technology, on election day, there are polling place operations while afterwards, comes counting, audit, certification, contest

3.5 ROLE OF FEDERAL AGENCIES IN ELECTION ADMINISTRATION

18. On this topic, Mr. Harper stated that the following agencies and departments play crucial roles in election administration-

    i. Department of Commerce - National Institutes of Standards and Technology (NIST) advises Election Assistance Commission (EAC) on technical and scientific matters;

    ii. Department of Defence- Federal Voting Assistance Program (FVAP) administers Uniformed and Oversea Citizens Absentee Voting Act (UOCAVA) and the FVAP director is included in the EAC Board of Advisors; cyber security and intelligence in some cases;

    iii. Department of Health and Human Services- Administers the Help America Vote Act (HAVA) funding for disability access to polls;

    iv. Department of Homeland Security- Assists states on cyber security and related matters;

v. Department of Justice (DOJ)- Enforces criminal law and civil aspects of some elections statutes; DOJ is included in EAC Board of Advisors; Federal Bureau of Investigation investigates election crimes and participates in Intelligence Community;

vi. Department of State – Support overseas citizen voting under UOCAVA;

vii. Election Assistance Commission - Sole federal agency devoted to election administration; distributes HAVA funds and coordinates information with states;

viii. Federal Election Commission- Sole federal agency devoted to campaign finance; administers and enforces civil campaign finance law;

ix. Intelligence Community- Assesses foreign efforts to influence U.S. campaigns and elections;

x. Office of Personnel Management- NVRA permits the office of personnel management to deploy federal election observers in specific cases. This involves consultation with Department of Justice;

xi. U.S Access Board- Access Board personnel are included in EAC Board of Advisors and the Technical Guidelines Development Committee;

xii. U.S Postal Service- Transmits election mail and political mail.

3.6 ELECTION ADMINISTRATION AT THE STATE LEVEL

19. Mr. Tim Harper spoke on the duties of the chief election official or election board/commission, which he pointed out, vary from state to state. Secretaries of State often have other duties beyond administering elections. However, all chief state election officials have the following similar duties:

  i. Ensure locals comply with election laws
  ii. Administer statewide voter registration database
  iii. Assist local officials by providing training
  iv. Provide testing and certification process for voting equipment in the state

Some states have greater authority to mandate local election officials follow certain protocols than others.

3.7 ELECTION ADMINISTRATION AT THE LOCAL LEVEL

20. Mr. Tim Harper further presented on the administration of election at the local levels. The administration varies from boards to single individuals who are either elected or appointed and both have shared and divided duties.

21. With respect to poll workers, during the 2016 elections, local election officials operated 116,990 polling places, including 8,616 early voting locations, across the country. 917, 694 poll workers operated these polling sites. There has been a continued decrease in physical polling places, which can likely be explained by the expansion of alternative voting options, the increased use of these options by voters, and the corresponding decrease in in-person voters on Election Day. Nearly 65 percent of jurisdictions reported that it was "very difficult" or "somewhat difficult" to obtain a sufficient number of poll workers.

3.8 MODERNIZING ELECTION ADMINISTRATION: THE PRESIDENTIAL COMMISSION ON ELECTION ADMINISTRATION (PCEA)

22. Mr. Tim Harper informed the class that the Presidential Commission on Election Administration (PCEA), popularly known as the "line commission", was established by retired President Barrack Obama to look into the long queues experienced during the 2008 general elections and to come up with solutions and recommendations to tackle the issue.

23. A nationwide election data collection on election administration was undertaken and made major recommendations to reduce long queues and wait time. Its recommendations were as follows with respect to the following different aspects:
   a) Voter Registration-
      (i) adopt online voter registration;
      (ii) expand participation in interstate exchanges of voter registration information; and
      (iii) further intrastate voter data sharing
   b) Management before election day - expansion of voting before election day

c) Voting Technology - Reform standard-setting and verification process for voting machines

d) Conduct post-election audits as part of comprehensive audit program and release data in common data format to public.

e) Improved Management of the polling place

f) Develop and adopt resource allocation tools

g) Transition to e-poll books

h) Institute poll worker training standards

3.9 POLLING PLACE MANAGEMENT: E-POLL BOOKS

24. Mr. Harper informed the class that from 2012 to 2016, there was a significant increase in the use of electronic poll books (e-poll books) nationwide as per the PCEA recommendation. The number of in-person voters checked in with e-poll books more than doubled, increasing 110 percent from 19.7 million to 41.4 million voters. Thirty-two states, the District of Columbia and U.S. Virgin Islands reported using e-poll books in at least one jurisdiction in the 2016 elections. Five states used e-poll books statewide.

3.10 USE OF ELECTION DATA

25. On this subtopic, Mr. Tim Harper was of the view that collecting data benefits voters. Data was for instance used to analyse voter inconvenience and cost and it was concluded that waiting to vote had cost the country over half a billion dollars and that voter confidence declines. Long queues may have cost half a million votes due to long lines in 2000. A 2016 survey found that 3% of people standing in queues left before voting. Data can therefore be used to improve elections

26. The queues may be a sign of problems with election administration. Collecting data benefits election administrators. With data, administrators are able to:

a) Calculate the average wait time in each precinct

b) Determine peak voting hours and device strategies to deal

c) Tell an accurate story about voting in your jurisdictions

d) Improve voter experience in future

e) Plan for the next elections

27. These calculations can be used with resource allocate tools to determine where jurisdictions should allocate resources such as voting machines, rovers, and poll workers in order to prevent long lines in the future.

28. In the USA, elections data had long been used by political parties and not for election administration. Politicians use it to plan campaigns e.g. Obama used data to target the youth and target certain states. It was only until after the 2000 case of *Al Gore v Bush* that the concept of data usage gained momentum in election administration. Majority of USA election administrators realized the benefits and used the data to draw comparison between states and counties.

4.0   THE USA MIDTERM ELECTION OBSERVATION

4.1 DEPLOYMENT OF OBSERVER GROUPS

29. The USICES deployed 2 teams of international observers to observe the elections in Maryland State and Washington DC. The two teams visited a total of 9 polling stations in Maryland and Washington DC. In addition to holding the State and Local Council Elections, the State of Maryland also conducted a referendum.

4.2 WHAT TO EXPECT AT THE POLLS

30. The participants were offered a brief by Mr. Henry Atem, on what to watch out for during Election Day, e.g. arrival time, layout of the polling station, number of election judges and chief judges, crowds, hourly publication of voter numbers, access for persons with disability, future voters initiative, close of the polls and much more. Participants would be keen to also observe the length of queues and functioning of equipment during the voting exercise the following day.

31. The State and Local Council Elections are held on the first Tuesday after the first Monday of November. State laws determine the hours that polls are open in the state e.g. in Maryland and Washington, D.C., voters vote from 7:00 a.m. to 8:00 p.m.

32. Participants learned about the basics of the voting process. In general, voters in the U.S. can cast ballots in the following ways:

    i. Election Day voting where voters can cast a ballot in-person at a polling place on Election Day. This is the most common way in which voters cast ballots.

    ii. In-Person (early voting) where voters can cast ballots at polling places in their electoral jurisdiction during the weeks prior to Election Day. This process is intended to make it easier for voters who may have difficulty voting on Election Day.

33. On Election Day voters either:

    a) Votes electronically by casting the ballot on a computer, which also tabulates the ballot instantaneously, or

    b) Votes on paper by marking a paper ballot that is then scanned and the votes on that ballot tabulated by the scanner.

34. The manual voting process is as follows, voter is identified, picks ballot, marks ballot, scans and drops ballot into scanner. If a voter makes an error, there are three attempts to rectify a ballot in manual voting.

35. In some states, same day registration and voting (provisional ballot) is permitted. During the elections, Maryland would vote on a referendum question on whether to allow for same day registration or not.

36. The polling venues vary by jurisdiction. In Maryland and Washington, DC, these include social buildings, such as schools, tertiary institutions and community centers. Poll workers, who are also referred to as election judges, man polling stations and most jurisdictions engage volunteers (teenagers) through the Future Vote Initiative to assist the poll workers.

37. Participants were informed that because of the length of ballots, hand-counting ballots at the polling place on the Election Day is generally not feasible. Instead, ballots are tabulated electronically and results transmitted after several weeks.

4.3 ELECTION DAY FINDINGS

38. The teams were divided into two groups and taken to various polling stations in Maryland and Washington D.C. the team made the following observations-

   a) Generally, most polling stations:

      i. Had opened by 7a.m.

      ii. Had one entrance that served as an entry and exit point for voters

      iii. Reflected good gender balance of polling officials, including the young and old, and had volunteers (mainly teens) assigned in all the polling stations visited

      iv. Were clearly marked to direct voters

      v. Were accessible to eligible voters, including PWDs and senior citizens - e.g. ramps, voice machines for blind persons, etc.

      vi. Witnessed long queues in the morning hours – by mid-morning there were smaller queues

   b) Voter were required to only state their names, address and/or social security number and no ID was required when they checked in

   c) Voters could either vote electronically or manually using paper ballot

   d) Most voters were well informed about the voting procedures – only a few requested for assistance to cast their vote

   e) There was one ballot for all elections

   f) On average, voters took approximately ten minutes from check in, vote and exit

   g) The atmosphere - outside and inside - was calm and peaceful

h) Campaigns and vote canvassing outside the polling stations

i) There was provision for provisional, electronic and paper ballots; and voters could vote either electronically or use a paper ballot

j) Most of the machines were old

k) Very few local poll watchers (independent) were sighted

l) International observers were welcomed in all polling stations visited. However, at end of the day, at the last polling station visited, before close of polls the Chief Judge asked the team to leave

m) Most poll officials belong to political parties

n) Poll officials were not employees of the state electoral body, and a good number (particularly the youthful ones) were not knowledgeable of the voting process

o) High level of patriotism and voter confidence was witnessed. After voting, voters were issued with "**I Voted**" stickers

p) Voter turnout was tabulated regularly

q) Poll officials (particularly new recruits) require more training on the processes and procedures

r) Additional scanning machines may be needed in polling stations with high number of voters

- In Maryland State:

    i. The state had provision for "write in candidates" on the ballot paper. A voter could vote for a candidate whose details are not in the ballot by writing the name of the candidate on the ballot

    ii. Due to the number of elections, the ballot paper was complex to the average voter, and voters took longer to mark their votes in Maryland than in Washington, DC

iii.   Chief judge could call for additional poll officials, if necessary.

- In Washington, DC:

    i. Chief judge could call for language translators, if necessary

    ii. Voters could register and vote on Election Day

5.0 POST-ELECTION STORY TELLING

39. Ms. Tammy Patrick, Senior Adviser from Democracy Fund facilitated the topic revolving around use of data to tell the election story. She stated that data may be used to measure one's own performance as well as against others. Ms. Tammy informed the participants that knowing your numbers can be the "antidote to the anecdotes", help in resource allocations, and aid in telling the election story to external Government audiences (e.g. legislatures, funding agencies, the courts), voters, candidates, advocates, vendors, media appropriators etc.

40. Data can also aid in staff and management for process improvement, resource efficiencies and costs and help improve a voter's experience.

41. The interactive session involved group discussions on-
    a) What data do we have to help serve our underserved communities and what more do we need?

    b) What data do we have at our disposal to help with the logistics of administration (site locations, population shifts, etc. and what more do we need?

    c) What data do we have in our systems that we can cultivate?

    d) What audiences do you utilize data in order to tell your story?

    e) Are some more receptive/swayed by data?

    f) Are there tools you find helpful?

6.0 DATA COLLECTION TECHNIQUES, AUDIENCES AND CONSUMPTION

42. Mr. Henry Atem took the team through a topic on data as statistics, facts, and other documentable resources that can be collected for reference or analysis and used in electoral administration and related processes.

43. Delegates were divided into two groups and undertook discussions on methods of data collection and types of data. These were identified as, through websites, literature, election management bodies, phones, social media, interviews and government agencies among others. The kinds of data that could be collected include, date of birth of voters, name of voter, phone number, votes cast, poll workers, voting material, gender, disability, refugees, deceased voters, age group, voting sequence. To pass the reliability test, data should be consistent, indicate sources, be verifiable, and have integrity.

44. Presentation of data collected is also equally important. This can be done in table form, point form, graphic presentation and visualization. Numerous online tools e.g. applications such as CTCL and software such as Tableau exists to assist in presenting datasets. Another tool is the election performance index by the Pew Charitable Trusts.

45. During this session, the teams also interacted with some election data tools available online such as the voting time estimators, line optimization stimulators on go41.com.

7.0 DATA AND ELECTION VIOLENCE PREVENTION

On this topic, Mr. Henry Atem presented as follows-

7.1 DEFINITION OF ELECTION VIOLENCE

46. Election violence, which relates to acts or threats of coercion, intimidation, or physical harm perpetrated to affect an electoral process or that arises in the context of electoral competition. When perpetrated to affect an electoral process, violence may be employed to influence the process of elections, such as efforts to delay, disrupt, or derail a poll, to influence the

outcomes, the determining of winners in competitive races for political office or to secure approval or disapproval of referendum questions.

47. From these definitions, various points are derived-
    i. Electoral violence has a broad range of manifestations
    ii. Violence is employed to achieve a political objective
    iii. Electoral violence can occur during any phase of the election – Pre-Election, Election Day or Post-Election
    iv. The threat profile can change in different phases of the electoral cycle

7.2 WHY IS ELECTORAL VIOLENCE AN IMPORTANT INTERNATIONAL ISSUE?

48. Mr. Atem noted that one in five elections experience some form of measurable violence. It is concentrated in countries rated as "Partly Free" and there are always some cases in every region. There are serious transnational implications and often violence experienced includes crimes against humanity.

49. There are different forms of election violence. In identifying the different forms of election violence it is important to distinguish between:
    a) Election violence aimed at disrupting elections by actors who do not want the elections to take place at all;

    b) Election violence triggered by the rivalry between the contesting candidates/parties; and

    c) Election violence triggered by acts of the Election Management Body.

50. If the above occurs, national security forces can be mobilized and target the obstructionists.

7.3 FORMS OF ELECTION VIOLENCE IN AN ELECTORAL CYCLE

51. The presentations by Mr. Atem proceeded with discussions on pre-election violence and intimidation strategies that include-
    a) Intimidation or removal of independent judges;

b) intimidation and targeting of election officials;

c) intimidation and harassment of journalists;

d) security forces targeting opposition meetings;

e) protection and expansion of "turfs/strongholds";

f) increase in extortion, kidnapping etc; and

g) incitement to violence in media or other public space.

52. Campaign violence and intimidation strategies include-

a) clashes between rival supporters;

b) attacks on election rallies;

c) attacks on candidates;

d) bomb scares;

e) attacks, intimidation of election officials;

f) attacks on observers

53. Before results violence and intimidation strategies include-

a) armed clashes between political parties/supporters;

b) violent clashes among rival supporters

c) vandalism and physical attacks of property of opponents

d) targeted attacks against certain parties and candidates

54. After results violence and intimidation strategies include-

a) attacks on political rivals

b) violent street protests

c) violent response by security officers

d) emergence of armed resistance movements

e) escalation or perpetration of ethnic or sectarian violence

7.4 DATASETS AND COLLECTION

55. Mr. Atem noted the existence of various web applications for data collection such as Aggie Data Analytics, which is a web application developed by Georgia Tech, Sassafras Tech Collective, and UN University's Institute for Computing and Society. It enables real-time monitoring of large volumes of social media traffic from Twitter, Facebook, RSS feeds, ELMO (an election monitoring system) and WhatsApp. It brings together relevant reports based upon matches to pre-selected keywords. It was developed for Nigerian elections in 2011, has been used for elections in Liberia, Ghana, Kenya, Argentina, Uganda. Aggie was effectively used by Ghana in management of the 2016 elections.

8.0 OBSERVATIONS

The delegation observed that –

1. Generally, most polling stations had opened on time, that is, by 7 a.m.

2. The layout of the polling station was simple and effective in that there was one entrance that served as an entry and exit point for voters, a good gender balance of polling officials, including the young and old, the floor was clearly marked to direct voters and the polling stations were accessible to eligible voters, including PWDs and senior citizens e.g. ramps, voice machines for blind persons, etc.

3. The country had adopted a 'Future Voters Initiative' in order to encourage young persons below the age of eighteen years to participate in election matters and also to encourage them vote in future. The polling stations had teen volunteers handing out fliers, "I voted" pins and undertaking various menial duties.

4. Voters were required to only state their names, address and/or social security number and no identification document was required when they checked in.

5. Voters could either vote electronically or manually using paper ballot. There was provision for provisional voting as well but these were sealed and counted later. Voters could register and vote on Election Day. Early voting was also possible for those who could not make it to the polling station on the Election Day.

6. At the polling centre, the voters could vote at any free machine/booth and there was no designated station where one must vote.

7. Most voters were well informed about the voting procedures and only a few requested for assistance to cast their vote.

8. Long queues were seen in the morning hours but by mid-morning, there were shorter queues. The reduction of long queues was a result of the President Obama Commission that was established by retired President Barrack Obama to look into the long queues experienced during the 2008 general elections and to come up with solutions and

recommendations to tackle the issue. A nationwide election data collection on election administration was undertaken and the major recommendations to reduce long queues and wait time were made and implemented.

9. There was one paper ballot for all elections held, that is the elections for state and local offices as well as referendum (in the case of Maryland).On average, voters took approximately ten minutes from the point of check in, vote and exit.

10. The atmosphere both outside and inside the polling station was calm and peaceful.

11. There were campaigns ongoing on the televisions and vote canvassing outside the polling stations. Banners had also been placed outside the polling stations.

12. Very few local independent poll watchers were sighted. International observers were welcomed in all polling stations visited. However, at end of the day, at the last polling station visited before close of polls, the Chief Judge asked the team to leave.

13. Most poll officials belonged to political parties. Poll officials were not employees of the state electoral body, and a good number (particularly the youthful ones) were not knowledgeable of the voting process. It was apparent that poll officials (particularly new recruits) required more training on the processes and procedures. There were variances in the number of poll officials/volunteers and equipment at the polling stations visited.

14. A high level of patriotism and voter confidence was witnessed after voting, voters were issued with "I Voted" stickers.

15. Voter turnout tabulated regularly on an hourly basis and recorded by the Chief Judge.

16. There were scanning machines at the polling stations that were also ballot boxes, which contributed to vote security.

17. In the State of Maryland -

a. There was a provision for "write in candidates" on the ballot paper. This meant that a voter could vote for a candidate whose details were not in the ballot by writing in the name of a preferred candidate on the ballot;

b. Due to the number of elections, the ballot paper was complex to the average voter, and voters took longer to mark their votes in Maryland than in Washington, DC; and

c. The chief judge could call for additional poll officials, if necessary.

18. In Washington, DC, the chief judge could call for language translators, if necessary.

19. Use of online tools such as Tableau in management and presentation of data would encourage efficiency and ease of monitoring and reporting

20. The official election results are announced after several days but it is customary for Americans to concede defeat based on the unofficial Election Day projections.

21. Despite campaigns going on up to the election date, the same were carried out calmly and the atmosphere outside the polling stations and the country was generally calm.

22. The country utilized data to improve the election experience and management of elections. For instance, the recommendations of the Presidential Commission on Election Administration had been adopted hence queues were not too long. These included use of e-poll books and both early voting and electronic voting, which was faster than manual paper voting. On polling station management, the same appeared to be smooth as the machine set up and delivery of ballots was done the previous day.

23. The ballot papers were translated into other languages depending on the population. For instance, in areas with more Hispanics, ballot papers were in English and Spanish. The poll workers in those areas were also multilingual and acted as translators.

9.0 RECOMMENDATIONS

From the above observations and discussions, Members of the delegation and the Kenyan team recommend-

1. That, the election management body (IEBC) does adopt the use of online tools such as Tableau in management and presentation of election data;

2. That, IEBC considers the use of tamper-proof methods of ballots storage such as the multipurpose ballot scanner machines that are inbuilt as ballot boxes. This will aid in safeguarding votes and ensure ease of vote verification since voters drop their ballots in the multipurpose machine for simultaneous scanning and storage;

3. That, polling station infrastructure be improved to facilitate access by persons with disabilities;

4. That, IEBC adopts strategies to develop alternative voting options such as online voting and early voting for those legitimately unable to vote on election date e.g. security officers, poll workers, diaspora voters etc;

5. That, IEBC should undertake a comprehensive investigation of the reasons why long queues are witnessed in Kenya and adopt strategies to reduce queues e.g. to allow a voting centre to operate as one polling station in order for voters to cast their votes in any area of the polling station where there is a shorter queue and not have them restricted to the specific queues where their names appear alphabetically;

6. That, key stakeholders, including political parties, legislators and IEBC among others, take into consideration, the implementation of same day registration and voting including on the election day and make necessary policy and legislative changes; and

7. That, key stakeholders, including political parties, legislators and IEBC, consider the conduct of simultaneous general election and referendum voting on the same day, which is a more efficient use of resources. Necessary policy and legislative changes should be made to effect this

Signed..Date....20/03/2019...

Hon. William Kamoti Mwamkale M.P.

Leader of Delegation

MINUTES OF THE ONE HUNDRED AND SIXTEENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON THURSDAY, 21ST MARCH, 2019 AT 10.30 A.M. IN SHIMBA HALL, PRIDE-INN PARADISE HOTEL, MOMBASA

PRESENT-

1. Hon. William Cheptumo, M.P.   -   **Chairperson**
2. Hon. John Olago Aluoch, M.P.
3. Hon. William K. Mwamkale, M.P.
4. Hon. Peter Kaluma, M.P.
5. Hon. Charles Gimose, M.P.
6. Hon. George G. Murugara, M.P.
7. Hon. Adan Haji Yussuf, M.P.
8. Hon. Anthony G. Kiai, M.P.
9. Hon. John Kiarie Waweru, M.P.
10. Hon. Jennifer Shamalla, M.P.

ABSENT WITH APOLOGIES

1. Hon. Alice Muthoni Wahome, M.P.   -   **Vice Chairperson**
2. Hon. Ben Momanyi, M.P.
3. Hon. Roselinda Soipan Tuya, M.P
4. Hon. Johana Ng'eno, M.P.
5. Hon. Zuleikha Hassan, M.P.
6. Hon. Gladys Boss Shollei, CBS, M.P.
7. Hon. Japheth Mutai, M.P.
8. Hon. Beatrice Adagala, M.P.
9. Hon. John M. Wambugu, M.P.

IN ATTENDANCE-

COMMITTEE SECRETARIAT-

1. Mr. George Gazemba   -   Principal Clerk Assistant II
2. Mr. Denis Abisai   -   Principal Legal Counsel I
3. Ms. Halima Hussein   -   Third Clerk Assistant
4. Ms. Roselyn Ndegi   -   Serjeant-at-Arms
5. Ms. Brigitta Mati   -   Legal Counsel
6. Mr. Hakeem Kimiti   -   Audio Officer

7. Mr. Simon Maina   -   Support Staff

MIN No. 455/2019:-   **PRELIMINARIES**

The meeting commenced at 10.40 a.m. with a word of prayer by Hon John Olago, Aluoch.

MIN No. 456/2019:-   **CONSIDERATION AND ADOPTION OF REPORTS ON INTERNATIONAL TOURS**

The Committee considered and unanimously adopted the following reports for tabling in the House for noting by the Chairperson-
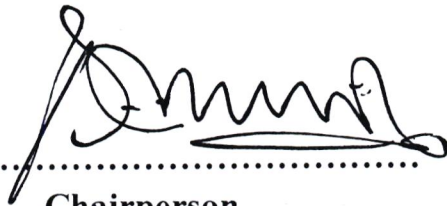
(i)   Report on the Specialized Training Data Analysis and Management in Election Administration and United States of America Mid Term Elections observation mission in Maryland, United States of America from 5th to 9th November, 2018;

(ii)   Report on Attendance to the 41st International Association of Commercial Administrators (IACA) Annual Conference held in Charlotte, North Carolina, United States of America from 6th to 10th May, 2018;

(iii)   Reports on Electoral Conflict Resolution Training by the International Centre for Parliamentary Studies (ICPS) held in London, United Kingdom from 21st to 25th January, 2019; and

(iv)   Report on Attendance to the International Bar Association (IBA) Annual Conference held from 7th to 12th October, 2018 in Rome, Italy.

MIN No. 457/2019:-   **ADJOURNMENT**

There being no other business to transact, the meeting was adjourned at midday until 2.30 p.m. of the same day.

Signed..
Chairperson

Date.............26/03/2019.............