

**REVIEW OF THE DEMOCRATIC, ELECTORAL AND  
DIPLOMATIC SUPPORT TOWARDS AND DURING KENYA'S  
2017 GENERAL ELECTION**

# **FINAL REPORT**

By

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## **List of Abbreviations and Acronyms**

ACT-Kenya	-	Act, Change and Transform
AFRICOG	-	Africa Centre for Open Governance
BVR	-	Biometric Voter Registration
CBOs	-	Community-based Organizations
CEC	-	County Elections Coordinator
CMD	-	Centre for Multiparty Democracy
CPD	-	Country Programme Document
CSOs	-	Civil Society Organizations
CTA	-	Chief Technical Advisor
DCDG	-	Donor Group on Democratic Governance
DFID	-	Department for International Development (UK)
DGE	-	Donor Group on Elections and Electoral Processes
DMEM	-	Decision Management Evaluation Model
DPG	-	Development Partners Group
DRM	-	Disputes' Resolution Mechanism
EDMS	-	Electronic Documents Management System
ELOG	-	Elections Observation Group
EMB	-	Electoral Management Body
EOM	-	Elections' Observation Mission
ETAC	-	Elections Technical Advisory Committee
EU	-	European Union
FBOs	-	Faith-based Organizations
FGDs	-	Focus Group Discussions
FTP	-	File Transfer Protocol
GNI	-	Gross National Income
ICCPR	-	International Covenant on Civil and Political Rights
IDLO	-	International Development Law Organization
IEBC	-	Independent Electoral and Boundaries Commission
IFES	-	International Foundation for Electoral Systems
IIDEA	-	International Institute for Democratic and Electoral Assistance
IPOA	-	Independent Policing Oversight Authority
JCE	-	Judiciary Committee on Elections
JTI	-	Judiciary Training Institute
KEAP	-	Kenya Electoral Assistance Programme

KENAO	-	Kenya National Audit Office
KES	-	Kenya Shillings
KHRC	-	Kenya Human Rights Commission
KIEMS	-	Kenya Integrated Elections Management System
KIIs	-	Key Informant Interviews
KNCHR	-	Kenya National Commission on Human Rights
K-NICE	-	Kenya National Integrated Civic Education Programme
KPMG	-	Klynveld Peat Marwick Goerdeler
LIMIC	-	Lower-Middle Income Country
LTOs	-	Long-Term Observers
MCAs	-	Members of the County Assembly
MCK	-	Media Council of Kenya
MNAs	-	Members of the National Assembly
NCIC	-	National Cohesion and Integration Commission
NDI	-	National Democratic Institute
NECC	-	National Elections Communication Center
NGEC	-	National Gender and Equality Commission
NGOs	-	Non-Governmental Organizations
NIM	-	National Implementation Modality
NPS	-	National Police Service
NRB	-	National Registration Bureau
NTC	-	National Tallying Centre
ODPP	-	Office of the Director of Public Prosecution
ORPP	-	Office of the Registrar of Political Parties
PAC	-	Public Accounts Committee (Parliament of Kenya)
PMU	-	Programme Management Unit
PPLC	-	Political Parties Liaison Committee
PST	-	Project Support Team
PVT	-	Parallel Vote Tabulation
PWDs	-	Persons Living with Disabilities
REC	-	Regional Elections Coordinators
SEPK	-	Support to Electoral Processes in Kenya
SERP	-	Support to the Electoral Reform and Processes
SIGs	-	Special Interests Groups
SSOs	-	Service Standing Orders

STA	-	Senior Technical Advisor
STOs	-	Short-Term Observers
ToRs	-	Terms of Reference
UK	-	United Kingdom
UN	-	United Nations
UNDAF	-	United Nations Development Assistance
UNDP	-	United Nations Development Programme
UNVs	-	United Nations Volunteers
USA	-	United States of America
USAID	-	United States Agency for International Development
USD	-	United States Dollars
WPS	-	Women Peace and Security
WSR	-	Women Situation Room

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Specifically, we are indebted to the following DGE partners for their support: International Foundation for Electoral Systems (IFES), International Development Law Organization (IDLO), the Oslo Centre, URAIA (citizenship), National Democratic Institute (NDI), Elections Observation Group (ELOG), United Nations Development Programme (UNDP) and UN Women. We appreciate these organizations for availing us sufficient information and also participating in the KIIs and FGDs.

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## Executive Summary

This Evaluation Report is based on the efforts of the DGE to have a global outlook of the impact of the donors' supports towards, during and after the Kenya's 2017 General Election, including the fresh presidential poll that was held in October 2017, as a consequence of the annulment of the presidential election by Kenya's Supreme Court.

The main objectives were basically four: first, to undertake a desktop review of the UNDP and the DGE reports, to evaluate whether those recommendations therein were fully, partially or never implemented. Second, to review exiting observers evaluation reports of key implementing partners to establish the impact of the DGE support. Third, to ascertain the actions and public perception of the diplomatic interventions, especially by the Heads of Missions, towards establishing the role of international community in Kenya's electoral and democratic processes. Finally, the DGE wanted to have practical recommendations on how to move forwards primarily targeting the 2022 General Election.

The major findings include: first, there were recommendation of the 2013 and 2014 reports by UNDP and the DGE respectively that were fully implemented, some were partially implemented and none of those recommendations were never implemented. The results vary as this Report indicates.

While most recommendations were fully implemented, some of those that were partially implemented include: a) to maintain and expand the basket-fund mechanisms; to address limitations of the UNDP basket-fund; b) to adopt and implement an electoral-cycle approach to Kenya's elections; c) to strengthen political parties, especially at the grassroots structures; d) to build IEBC ownership of UNDP-SERP and other projects; e) to strengthen the UNDP role in electoral assistance; f) to ensure a development focus for future assistance; and finally, g) to support the reduction of costs of Kenya's elections, amongst others. This is the case for both UNDP and DGE reports and reasons for partial implementation are contained in the major report.

This Report also provides the impact of donors' support, the challenges and the lessons learnt in the six thematic areas, which included: first, institutional reform and capacity-building; second, civic or voter education, including targeted women participation; third, strengthening of political parties; fourth, peace and security; fifth, legal reforms; and finally sixth, elections observation, media. There was a seventh area, which was never funded, but was on stakeholders' engagement and coordination, by those implementing partners and the DGE. The latter became the waterloo as this Report indicates.

Notwithstanding the above, the DGE support to institutional reform and capacity-building was about 46 percent of the total support, which was about 90.2 million USD. In that area, great results were achieved included, the role of technology, public confidence of the IEBC between January and July 2017 (which however reduced after the bungled presidential poll), interventions towards legal reforms, strengthening IEBC communication (despite the problematic issues surrounding the same), and finally, the DGE support towards women and dispute resolutions mechanisms, were very impactful in that General Election.

In the other thematic areas, there were also modest results in security and peace; on civic and vote education, which even if it came late it was worth the while; domestic observation was impactful since there LTOs and STOs, Kenya's election was better managed; there were modest results in political party strengthening; and finally, on stakeholder coordination, this Evaluation found out that IEBC lost the moral authority and gravitas to coordinate other stakeholders' after the annulment of the presidential poll.

The findings on the various areas tasked in this Evaluation are as different just as in the thematic areas. Public diplomacy interventions by Heads of Missions and the DGE technical group was highly praised as the past lone-ranger press statements were never recorded. Nonetheless, there indication that there is need for more robust energies as seen in the early 1990s. In terms of comparative analysis of the DGE support versus the Kenyan government, the contribution that was about 10% of the entire electoral costs, was hailed since the impact achieved in the above thematic areas, would not have happened, but then the DGE needs to do a funding-gaps analysis, and be demand-driven not supply-driven.

Other findings and lessons learnt include: the use of social media to effectively communicate to the first-time voters; the need to strengthen the DGE to have a global view of electoral processes, not as an event; the early planning of the DGE and UNDP was hailed as great practice; dispute resolution improved tremendously; the use of the KIEMS and particularly BVR was seen as a clear departure from 2013, other than the unanswered questions in the Supreme Court.

Further, there was great lessons in working with women, especially those within newer political parties, albeit it is cited that the Women Situation Room, could have contribute to reduction of discrimination, intimidation and threats towards their political contestation. As for civic and voter education this Evaluation points out to the need of multi-agency approach, since there was unparalleled duplication in many counties and constituencies.

Finally, this Evaluation points out the need for strengthened coordination of the DGE structures, thematic groups and also vertical coordination with implementing partners as well as horizontal engagement amongst the implementing partners to reduce duplication and waste.

The challenges were immense and include ordinary political rigmarole such as public protests witnessed in 2016 against IEBC, late appointment of IEBC commissioners six months before the August 2017 General Election, late changes in electoral laws, overzealous government bureaucrats shrinking civic space by abusing power and office, and also outright unwillingness of the political parties to toe the line of the legal framework.

The recommendations are 16, and many of them reflect the findings and the lessons, not to mention the above challenges. They include: first, the retention of the DGE thematic areas, but also to create different basket-funds for those areas and also ensure that the guidelines on implementing the same are drafted led by the UNDP. Second, there is need to strengthen the coordination that was found to be weak amongst implementing partners. Yet again, the Evaluation recommends the adoption of the electoral cycle approach. Fourth, there is need to support aftermath activities such as the review or audit of that General Election.

Moreover, there is need to support the electoral reforms that are underway, including the transformation of the IEBC, which includes commissioners and the secretariat. Connected to this there is need for supporting the audit carried out by the KPMG, which made transformational recommendation on how to deal with the register of voters. The electoral transmission of the results needs to fully supported, as it happens to be the weakest link of Kenya's elections. Support for effective communication strategies by all actors, not just IEBC is needed, to eliminate the fact of 'fake news' concept, but equally other support other to IEBC is needed for other State and non-State actors.



Finally, there is need to support all SIGs, not just women, but also continuous voter and civic education. To build on last support for political parties, it is recommended that the DGE invests in grassroots structures and support devolution of electoral observation. In conclusions, it is exhibited that the context of the 2022 General Election will be different from the last election, and therefore, the DGE should note the changes.

## **1.0 INTRODUCTION**

### **1.1 Evaluation Context**

Liberal democracy, as defined in international publications and instruments, demands that governments must be based on the consent of the people for them to legitimately govern the State. For instance, the International Covenant on Civil and Political Rights (ICCPR) provides that elections must be free, fair, credible and genuine. The tenets of Kenya's political-social contract are laid down in its 2010 Constitution of Kenya and the enacted electoral legislation. These principles are contemplated in Article 1 of the Constitution that provides that all sovereign power belongs to the people of Kenya, and that this power can be exercised directly or indirectly through democratically-elected representatives.

Kenya's democratic and electoral principles are further articulated under its Bill of Rights, which include political rights to vie for office and to vote, including Representation of the People (Chapter Seven of the Constitution). Specifically, Article 81 of the Constitution provides for democratic principles that should guide the electoral system including freedom of citizens to exercise their political rights under Article 38.

For elections to be free and fair, they should meet the bare minimum, including: exercising voting right through secret ballot; free from violence, intimidation; and, free from improper influence, bribery or corruption. Further, the exercise should be conducted by an independent Electoral Management Body (EMB), which should be transparent and administered in an impartial, neutral, efficient, accurate and accountable manner.

To enhance the representation of the people, the Constitution provides that every Kenyan has the right, without unreasonable restrictions to be registered as a voter; right to vote and stand for an election (Article 83); political parties and candidates should comply with elections code of conduct under Article 84); and finally, that the voting system should be simple, accurate, verifiable, secure, accountable and transparent (Article 86).

The Constitution also provides timelines for filling and determining electoral disputes (Article 87); establishes the Independent Electoral and Boundaries Commission (IEBC) and its mandate (Article 88); and also, provides criteria for boundary delimitation (Article 89) and allocation of party lists seats (Article 90). Finally, there is a democratic requirement that political parties should abide by democratic principles of good governance and should promote and practice democracy through, fair and free elections (Article 91).

It is against this backdrop that international community support was designed; to ensure that key actors or stakeholders within the electoral chain and processes have sufficient financial, human and technical

resources to carry out their constitutional mandate for free, fair, credible and genuine elections to occur as provided for in the ICCPR and the Kenyan Constitution.

## **1.2. Analysis of Electoral DGE Support Context**

Donors have supported the Kenyan elections for many years, but more consistently, since 2007. The support has been coordinated within the aegis of the Donor Group on Elections and Electoral Process (DGE), a sub-group of the Donor Group on Democratic Governance (DGDG). The DGDG is a forum that brings together development partners that have programmatic and strategic interest in democratic governance in Kenya.

The 2014 DGE evaluation report indicates that this support to Kenyan elections is approximately 10% of the entire electoral budget. The report recommended that donors should consider balancing technical support with financial support and specifically ensuring that support is demand-driven as opposed to supply-driven. The report also noted that it is the responsibility of the Kenya government to ensure that elections and the IEBC are adequately funded.

Despite these facts, many stakeholders are of the view that financial and technical donor support to democratic and electoral processes in Kenya are essential, especially when aligned to government funding and capacity gaps to IEBC and other institutions that support Kenya's democracy.

Notably since 2013, some key developments have taken place, which have fundamentally affected how donors support elections and electoral processes. For example in 2015 Kenya's attained the category of Lower-Middle Income Country (LMIC) following the change in the way the size of its economy is calculated which showed it was 25% larger than previously estimated. Consequently, the level of development assistance to Kenya may decrease in future.

Additionally, trends since 2013 show that there has been increased funding of the IEBC and under-funding of the Judiciary and the constitutional commissions by the State. Also, there has been increased sensitivity to donor involvement in elections, human rights risks posed by elections and entrenchment of devolution.

This means future donor support to democratic governance in Kenya should take into consideration the above developments. Concurring with the 2014 DGE report, IEBC should not be viewed as the only weakest link in elections. Support to the IEBC should be demand-driven based on a comprehensive analysis of funding and technical gaps. Moving forward, donor funding should be scaled up to other key actors in electoral processes, particularly the judiciary in electoral dispute resolution, Civil Society Organizations (CSOs), and the media.

## **1.3. Rationale for Evaluation**

The international community continues to be an integral part of Kenya's democratization process that has consistently provided technical and financial support as well as diplomatic efforts, coordinated by the DGE, to contribute to the realization of free, fair and transparent elections.

During the 2017 elections members of the DGE provided substantial financial support to the tune of USD 90,217,196 to support interventions in six key areas: a) institutional reform and capacity-building; b) civic/voter education, including targeted women participation; c) strengthening of political parties; d)

peace and security; e) legal reforms; f) elections observation, media; and g), stakeholders engagement and coordination (the latter was unfunded).

The ultimate goal was to contribute to enhancement of democracy in Kenya through the realization of free, fair and transparent 2017 General Elections. This goal was to be realized through partnering with nine (9) organizations namely: International Foundation for Electoral Systems (IFES); International Development Law Organization (IDLO); UWIANO (cohesion); the Oslo Centre; URAIA (citizenship); the National Democratic Institute; Elections Observation Group (ELOG); the United Nations Development Programme (UNDP); and finally, UN Women, who later provided support to key beneficiaries to support in the implementation of interventions within each of the six thematic areas funded.

Apart from financial support, donors also provided technical support to key institutions, in particular the IEBC. They also undertook a number of diplomatic initiatives such as holding meetings with key electoral stakeholders and issuing periodic statements or press releases on specific electoral issues in support of a credible and genuine 2017 General Election.

Having completed, launched reports and, in some instances, undertaken evaluations of the interventions that were supported by the international community in the 2017 General Elections, it became imperative for the DGE to undertake a meta-evaluation to provide an objective and independent assessment of its activities for the 2014-2017 electoral cycle to inform future decisions.

#### **1.4. Review Objectives**

The review was set out to achieve four objectives:

1. To review the evaluation reports of the UNDP basket-fund and the DGE for the 2013 General Election in order to establish which recommendations were fully, partially or never implemented and the reasons and circumstances for this status.
2. To review existing published elections observer and evaluation reports of key state and non-state partner actors on the six thematic areas to establish the impact of the funded intervention, challenges and lessons learned.
3. To analyze the actions of, and public reaction to public diplomacy interventions by the DGE, Electoral Observations Missions (EOM) and Heads of Missions, to establish their views and perceptions towards international community support to Kenya's democratic and electoral processes.
4. To make clear and focused practical recommendations on possible areas for future engagement from the international community, primarily targeting the 2022 General Election.

#### **1.5. Review Methodology**

The review drew on the principles of Mixed Method Evaluation principles, which incorporates both quantitative and qualitative evaluations' procedures. For this evaluation, the qualitative procedures were more utilized and they included desktop review of key documents, undertaking Key Informant Interviews (KIIs) and Focused Group Discussions (FGDs).

Data was collected using semi-structured interview tools and the team used a mixed-methods approach and multiple analysis methods to collect data, deduce findings and arrive at conclusions and recommendations. Data collected from the various methods has been integrated to arrive at key triangulated findings that have informed this Evaluation Report.

## 2.0 KEY FINDINGS

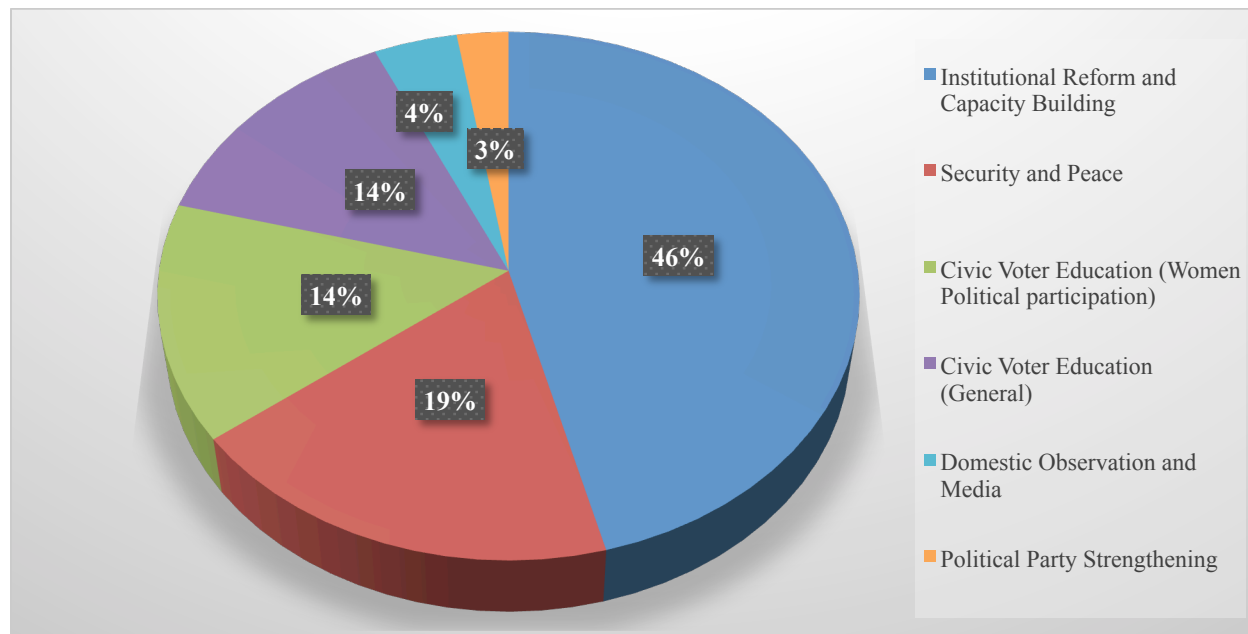
### 2.1. IMPLEMENTATION STATUS OF THE DGE 2014 REPORT

In 2014, the DGE engaged an independent evaluator to review their support during the 2013–2017 electoral cycle and make recommendations that were to inform the 2017 the DGE democratic and electoral interventions and support. The evaluator came up with 15 recommendations contained in that report. The recommendations were to be implemented by the DGE in order to inform its programming for the 2017 General Election. This section documents the status of each of the 15 recommendations, stipulating whether they were fully, partially or never implemented, and the reasons and circumstances for this.

**Recommendation One: Target Support based on Resource Envelope and Priority Areas:** The review found out that this recommendation was **FULLY** implemented. This is because prior to funding interventions for the 2017 elections, the DGE developed a funding Matrix that stipulated key thematic areas of support, funding mechanism per thematic area, donors contribution to each thematic area, total contribution per thematic area and the total amount that was available (resource envelop).

An analysis of the DGE funding matrix, which was provided to the evaluation team, showed that institutional reform and capacity building received the highest amount (46%) followed by security and peace (19%), civic/voter education targeting women political participation (14%) in that order as shown in Figure 1 below.

**Figure 1: Comparative Analysis of DGE Financial Support per Thematic Area**



*(Source: DGE 2017 Funding Matrix)*

Further, it was established that solicitation for project proposals from implementation partners was aligned to thematic areas. However, participants during KIIs felt that the thematic areas were too general and that specific sub-themes that addressed specific issues within the broader thematic area ought to have been identified for support.

Conversely, others felt that donors had a preference for specific sub-themes within the general thematic areas. For example, there was a general feeling that in the 2014-17 electoral cycle, donors focus was to enhance inclusivity within political parties while it would have been more beneficial if support were channeled towards strengthening party grassroots structures and policies as well as the Office of the Registrar of Political Parties (ORPP) to enhance compliance and enforcement of political party legal framework.

**Recommendation Two: Maintain and Expand Basket-Funding for Kenyan Elections:** This recommendation was **PARTIALLY** implemented. Analysis of the 2017 DGE funding matrix showed that despite the fact that the 2014 evaluation report recommended maintenance of the UNDP basket-fund and creation of more basket-funds for other electoral areas support, the DGE only retained the UNDP basket-fund but no other basket-funds were created.

Further analysis revealed that, different donors entered into bilateral agreements with major organizations / implementing partners who either implemented projects on their own or sub-contracted their beneficiaries to support in the implementation. This means that whilst some organizations were funded to manage donor funding and engage implementing partners at national and county levels, they were also implementers, and hence it was difficult to differentiate those managing donors' funds versus the implementers.

The DGE 2014 evaluation report recommended that in areas where bilateral support is undertaken, the DGE should provide a forum for sharing information and coordination. Findings from KIIs with a number of implementing partners revealed that since the major funding mechanism adopted by donors was bilateral agreements with implementing partners, the DGE was better placed to hold planning and information-sharing meetings with all implementing partners under specific thematic area to map out the areas of implementation to avert duplication of efforts.

Unfortunately, such planning meetings did not take place, leading to a duplication of interventions in a number of areas. Examples abound: IFES and UNDP sent technical support staff to IEBC; IDLO and UNDP also supported the judiciary in dispute resolution but in an uncoordinated manner; and finally, URAIA and UNDP both engaged in uncoordinated civic / voter education.

**Recommendation Three: Support should balance Financial and Technical Support:** This recommendation was **FULLY** implemented. This is because capacity building was one of the key thematic areas identified for support in 2014, and funded at 46%. Documents reviewed showed that donors supported a number of capacity-building and technical support initiatives such as seconding experts to the IEBC and capacity building for the judiciary, women aspirants, elections observers, the media and civic educators. However, the quality and impact of such technical support and capacity-building initiatives is analyzed separately in this report.

**Recommendation Four: Adopt and Implement an Electoral Cycle approach to Supporting Kenyan Elections:** This recommendation was **PARTIALLY** implemented. The 2014 DGE evaluation report noted that election support should be much more linked to democratic consolidation and governance engagement in Kenya through an electoral cycle support approach. KIIs interviews and desktop review of documents show that donor funding mainly supported pre-elections and Election Day interventions, up to the announcement of results of the 8<sup>th</sup> August 2017 General Election, which happened on 11<sup>th</sup> August.

Participants during interviews noted that there were no funds that had been earmarked for interventions during the post-elections period in case of a re-run or nullification of an election. Of note is that no

interventions were supported for the period between nullification of the presidential elections on 1<sup>st</sup> September 2017 and the conduct of fresh presidential elections on 26<sup>th</sup> October 2017. Also, a review of the final report on the Women, Peace and Security (WPS) project implemented by UN women noted that peace initiatives were not active after the nullification of the August 8<sup>th</sup> Presidential Election. The report recommended planning and support of early warning and peace initiatives throughout the three electoral cycles: that is pre-election, Election Day, and post-electoral period.

Participants in KIIs also noted that a number of implementing partners have closed down while others have lost key staff since the elections as they could not sustain them; meaning that significant experience and institutional memory is lost between the declaration of elections results and the pre-election period for the next electoral cycle – the 2022 General Elections. Other participants pointed out that donors have priorities and as soon as elections results are announced and all seems well, they shift their focus to other countries holding elections, which in donors’ view have more needs.

**Recommendation Five: Diversify Electoral Support:** This recommendation was **FULLY** implemented. The 2014 DGE evaluation report recommended that support to 2017 General Election should be based on objective assessment needs for 2017 to enable donors focus on both the demand and supply sides and further support other actors or stakeholders within the electoral cycle. The review showed that, the seven thematic areas that donors supported in 2017 were informed by the independent assessment of the international support during the 2013-2017 electoral cycle.

Also, the DGE 2017 funding matrix shows that despite the fact that approximately USD 17.1 Million went to support IEBC through the UNDP basket-fund, the DGE identified other weaker links within the electoral chain that would undermine the credibility of elections and accorded both financial and technical support. The support areas included the judiciary, political parties, the ORPP and CSOs.

However, during interviews, participants were critical on the sustainability of such interventions due to a number of factors such as political interference on IEBC, judiciary and the fact that capacity-building initiatives targeted individual development as opposed to institutional development.

**Recommendation Six: Increase Coordination of Political and Diplomatic Engagement around Elections.** This recommendation was **FULLY** implemented. This recommendation required that there is greater coordination between donor political diplomacy and technical support. It also required that donors are well engaged at the ambassadorial (or Heads of Missions) level and that they should avoid lone-ranger public comments and press statements.

Respondents in the KIIs and FGDs opined that there was greater coordination within the Donor Group on Democratic Governance (DGDG) as well as within the DGE in 2017, in contrast to 2013. As a result, DGDG held regular meetings, built consensus on specific electoral issues and issued joint statements or press releases at the Heads of Missions level. A number of the statements coincided with major events or occurrences that had an implication on the holding of free, fair, credible and genuine elections in accordance with the ICCPR and constitutional imperatives.

However, some respondents cited a lack of vertical coordination between donors and the array of implementing partners leading to challenges, such as duplication of efforts. In addition, some development partners felt there should be more technical coordination as opposed to political coordination. This matter has been cited above.

**Recommendation Seven: Support Kenyan Stakeholder Engagement and Partnerships in the Electoral Process.** This recommendation was **FULLY** implemented. This recommendation required that donors prioritize networking and stakeholders relationships on both the demand and supply sides. It also required that the IEBC establish a permanent platform for regular dialogue with key stakeholders in addition to the Political Parties Liason Committee (PPLC).

This Evaluation Report notes that stakeholder engagement and coordination was one of the key thematic areas that was identified by donor to support the realization of free, fair elections, though no funding activities were identified. This was regarded as a cross cutting issue within all the main six (6) thematic areas, and therefore it was the responsibility of all the implementing partners to engage stakeholders within respective thematic areas.

The review showed that the majority of the implementing partners built, enhanced and maintained strategic stakeholders engagement and partnerships for specific thematic areas. For example the IEBC established various thematic groups to enhance consultations and information sharing; interventions within the judiciary enhanced information sharing and debate amongst stakeholders; there was also support to the Political Parties Liaison Committee (PPLC).

In addition, the Elections Technology Advisory Committee (ETAC), youth advisory committee and a women's coordination committee were established to provide an interface between the various stakeholders and the IEBC. However, participants during interviews were critical about the quality of such partnership especially with regard to sharing strategic, timely, comprehensive and consistent information.

**Recommendation Eight: Pay Greater Attention to Strengthen Political Parties' roles in Elections.** This recommendation was **PARTIALLY** implemented. This recommendation required that donors invest in political party regulation and strengthening since lack of reforms and institutionalization of democratic practices within political parties continue to negate democratic gains. The review found out that despite the fact that strengthening political parties was identified as a key thematic area, it received the lowest funding in light of Figure 1 above. Despite this, the evaluation found out that some support was extended to the ORPP to develop party primary nomination rules and procedures, which impacted on their internal dispute resolution mechanisms.

However, interviews with stakeholders revealed that during the 2017 General Election, the donors' focus was to enhance inclusivity within political parties and particularly increasing political participation of women. Therefore, major support was to enhance the capacity of aspiring women within political parties, strengthening communication and information sharing platforms and training of party agents. Participants in both KIIs and FGDs were of the view that donors could have focused more on impactful interventions such as strengthening grassroots party structures and policies that are more sustainable, which if supported could automatically lead to increased inclusivity.

Further, it was also found out that donors are wary of supporting institutional capacity building of political parties due to possible perceptions of being partisan. Participants recommended that such support should be provided way before elections to avoid partisan perceptions.

**Recommendation Nine: Build on the Strengths of UNDP as a Basket-Fund while addressing its Limitations:** This recommendation was **PARTIALLY** implemented. Evaluation findings indicate that



the DGE did built on the strength of the UNDP as a basket-fund by retaining it to specifically provide institutional strengthening for IEBC while separating it from other support areas. Primarily, the DGE benefitted from the UNDP's alignment to the Kenyan government support towards priorities as laid out in the UNDP project document co-signed between Kenya's government representative and the UNDP representative. This approach allowed the Kenyan government to have a comprehensive picture of the overall support.

However, as noted in 2013, close working relationships with governments, including the IEBC, limited UNDPs ability to be critical of the electoral body and government preparations for conducting elections. For instance, the evaluation team noted that when the funding mechanism on civic education came under criticism from the political leadership with far reaching implications, UNDP, the UN and indeed DGDG did not offer support, for instance when the Head of State, through his 2016 Jamhuri Day address criticized the role of civic education by foreigners, deeming it 'unnecessary'.

Further, internal UN bureaucracies prevented attempts by UN affiliates to undertake election observation through the establishment of a Women Situation Room (WSR) since it was not part of the outcome areas of UNDP-SEPK project. Similarly support for security and peace was highly securitized which curtailed proper election security that is consistent with democratic policing.

Indeed, the participants in the KIIs cited that the training of security agencies left gaps between what the DGE felt was important versus what the police Service Standing Orders (SSOs) provide. The trainings were given without requisite involvement of the National Police Service (NPS) SSOs, or any other accountability mechanisms, such the Independent Policing Oversight Authority (IPOA), which was lately conceived after the annulment of the August presidential election.

**Recommendation Ten: Reform the Management of Basket-Funds.** This recommendation was **PARTIALLY** implemented. Since the UNDP basket-fund was retained and a number of donors contributed to it, the review found out that there were some rules of engagement and common understanding on the role of the UNDP fund manager, contributing partners and beneficiaries. These rules were developed in 2013 and the same were applied in 2017.

However, as indicated above, there were no other basket-funds created. Interviews with KIIs respondents revealed that creating a basket-fund takes time to plan and develop rules of engagement to ensure each partner understands their mandate. Further, it was revealed that since donors' funds came late, there was insufficient time left for donors to review and agree on the basket-fund's rules of engagement, which would have culminated to the development of more basket-funds.

**Recommendation Eleven: Support Reduction in Cost of Elections:** This recommendation was **PARTIALLY** implemented to the extent of DGE support to the IEBC was through a basket-fund, which ensured a more coordinated approach to IEBC support. Evaluation findings suggest that these may have reduced past well-known election procurement-related cost overruns.

However, internally, the lack of coordination within the DGE may have resulted in an unseen increase in the cost of elections by allowing for double funding, which essentially meant that donors put their money in "mixed bags". For example, whilst the United States Agency for International Development (USAID), put money in the UNDP basket-fund, it also core-funded the IFES. Many other example abound on donors who put their money in the basket-fund, but also funded different organizations thereafter.

Findings suggest that there were multiple layers of personnel working and overseeing each aspect of a basket-funded project, which impinged unnecessary burden on overall increased basket-funds costs. Some of these are cited above, where IFES and UNDP technically supported IEBC, this meant that the costs of technical personnel was duplicated.

Indeed, the review findings indicate that the overreliance on consultancy and sub-contracting models may have increased the appetite for personal emoluments, thereby burdening the overall cost of elections. Further, findings from the implementing partners showed that donors did little to enhance coordination amongst implementing partners to share information on which partner is implementing which intervention to avoid duplication and ensure comprehensive coverage. For example it was noted that most of the interventions supported by the UNDP-SEPK project, other implementing partners also funded to support the same especially in the areas of electoral technology, civic or voter education and dispute resolution mechanisms. Examples have been cited above.

**Recommendation Twelve: Exploring Enhanced Engagement with the Auditor General around Elections.** This recommendation was **FULLY** implemented. The recommendation required donors support initiatives geared towards ensuring greater interface between IEBC and Government agencies involved in auditing and procurement.

There is evidence that this interface has been enhanced as evidenced by queries raised by the Kenya National Audit Office (KENAO) since 2013. The Auditor General raised a number of procurement issues with regard to the 2017 General Election, which are under investigation as this Report was being finalized. The Parliamentary Public Accounts Committee (PAC) has been involved in interrogating key IEBC officials on the audit queries raised by KENAO.

**Recommendation Thirteen: Identify Realistic Priority Support Areas for 2017 Elections.** This recommendation was **FULLY** implemented. Indeed, the DGE funding support was prioritized to support six broad thematic areas that generally encompassed areas of weakness observed during the 2013 General Election, as well as low key areas of support from the Kenyan government.

These priority areas included institutional reforms and capacity building, domestic observation and media, security and peace; political party strengthening, civic & voter education and stakeholder coordination. Despite this, participants in the KIIs and FGDs felt that there is need for strengthened consultations with stakeholders within specific thematic areas to establish key issues that directly or indirectly impact on realizing credible elections. These key issues should culminate in specific sub-themes that donors should support.

**Recommendation Fourteen: Develop a Support Programme that Responds to Devolution:** This recommendation was **PARTIALLY** implemented. During the 2017 General Election, the IEBC aligned itself to the devolved structure of devolution by abolishing regional offices and the position of Regional Elections Coordinators (REC) and replacing it with County Offices under the County Elections Coordinator (CEC).

Further, the implementation strategy of a number of implementing partners was through the devolved structures such as Counties, Constituencies and Wards. For example, implementing partners of the DGE, such as CSOs partnered and/or sub-contracted other downstream organizations and individuals to address certain aspects of the electoral process such as domestic observation and civic or voter education.

Some of the reasons cited for lack of full implementation of these recommendations include lack of sufficient financial resources to support a devolved structure of implementation especially for domestic election observation and limited bandwidth of certain implementing partners, which hindered them from working beyond certain geographical areas. Additionally, late disbursement of funds was also a significant challenge that constrained working in all Kenya's 47 counties.

**Recommendation Fifteen: Support Restructured Domestic Observation:** This recommendation was **FULLY** implemented. One of the DGE 2017 thematic areas was election and media. Significant support in this area was given to ELOG, which is a permanent domestic election observation platform in Kenya that comprises Faith-Based Organizations (FBOs), NGOs and CSOs. ELOG employed both long-term and short-term election observation strategies including media monitoring of hate speech as well as the participation of special interest groups in elections. ELOG observers were drawn from member organization networks.

The short-term observation was oriented towards scientific observation through the application of Parallel Voter Tabulation (PVT). Reports show that there was enhanced collaboration between domestic and international election observers and ELOG acted as a point of reference by international observers. However, analysis of DGE funding matrix reveals that there was no specific donor support to media.

## **2.2. IMPLEMENTATION STATUS OF THE UNDP 2013 EVALUATION REPORT**

The Strengthening Electoral Reforms and Processes (SERP) Project was designed to build the institutional capacity of the IEBC to manage a peaceful, credible and inclusive electoral process in 2013. This included a new voter registration done in 2012 and the 2013 General Election. It was a USD 41,389,740 project that pooled the funds of 12 donors (some of them being the DGE), UNDP and the IEBC.

The project was the second phase to an earlier project that covered the Kenya's referendum on the Constitution in 2010 and the establishment of the IEBC. It had four (4) main components: a) institutional strengthening; b) support to electoral operations; c) strengthening civic engagement and participation; and finally d), support for project management. It used a National Implementation Modality (NIM) with the IEBC as implementing agency supported by a Project Support Team (PST) and Senior Technical Advisor (STA).

UNDP Kenya commissioned an independent evaluation of the SERP Project to review its performance and assess its results. The evaluation came up with eight recommendations that are enumerated below. As part of the objectives of this evaluation, the following section discusses the implementation status of the eight recommendations.

**Recommendation One: Continued International and National support for the Electoral Processes in Kenya.** This recommendation was **FULLY** implemented. The recommendation required that UNDP and the international community remain engaged and support the consolidation of democracy in Kenya through supporting the conduct of the 2017 General Election and future electoral processes. This is evidenced by the continued support of the international community to the democratization and electoral process. The review found that the recommendations contained in UNDP 2013 evaluation report and those in DGE 2014 evaluation report, informed the key outcomes areas for the DGE interventions in the 2017 General Election.

Apart from the above financial support, the international community also provided technical support to the IEBC and other State institutions as well as diplomatic efforts whose goal was to have credible and genuine 2017 General Election in Kenya. In addition, the recommendations of this review are meant to inform the international community's future democratic and electoral interventions.

**Recommendation Two: Use of some of the remaining SERP funds to undertake the type of analysis needed to understand the problems and to design a new programme of SERP assistance (2014-2018):** This was **FULLY** implemented. The review found out that a new project titled “Strengthening of the Electoral Processes in Kenya (SEPK)” for the period 2015-2018 was designed to consolidate the gains made from constitutional transition process and the 2013 General Election, so as to strengthen and develop sustainable and effective election institutions, systems and processes. The design of this programme was informed by situational analysis of the political environment and institutions of democracy and previous assessments on donor support in Kenya’s electoral and democratic processes.

Recommendations from the above assessments informed the design of the UNDP-SEPK Project (from 2015 to 2018), which envisioned four outcomes, namely: a) strengthened legal and institutional framework for elections; b) strengthened, more informed and inclusive participation in the electoral process; c) more efficient and peaceful elections; and finally, d) strengthened electoral justice.

**Recommendation Three: Ensure a Development focus for future Assistance and embed Technical assistance within recipient Institutions.** This recommendation was **PARTIALLY** implemented. The recommendation required that donors prioritize the provision of expert knowledge and institutional capacity development instead of filling budget gaps. The review found that UNDP embedded a Programme Management Unit (PMU) within the IEBC and within it a Chief Technical Advisor (CTA), an international procurement expert, an ICT expert, a media expert as well as United Nations Volunteers (UNV’s) in the IEBC secretariat.

In addition, capacity building was identified as a key thematic area in 2017. However, a review of documents raised concerns on the sustainability of capacity building initiatives since a number of them focused on individuals within the organizations whose contract came to an end with funding.

**Recommendation Four: Build IEBC Ownership in SERP and any follow-up Projects.** This recommendation was **PARTIALLY** implemented. It required that IEBC representatives are included in the follow up projects for ownership and support. It also required that IEBC institutional technical and development support is integrated in the IEBC Strategic Plan. Review confirmed that UNDP supported the IEBC to develop its 2015-2020 strategic and operational plans that had three pillars that included: a) management of elections; b) institutional transformation; and c), public trust and participation. Findings also indicate that both UNDP and IEBC co-chaired the basket-fund and held regular coordination meetings to enhance information sharing and ownership of decision made.

However, analysis of the 2017 observer and evaluation reports showed that despite that fact that IEBC owned other electoral processes, it lacked ownership of the Kenya Integrated Elections Management System (KIEMS), particularly of the results transmission system. It contracted these services and depended on external expertise to resolve technical issues, since it lacked adequate capacity to do so. Reports also indicate that engagement of external electoral technology services was a key contributor to the elevated cost of Kenya’s 2017 General Election.

**Recommendation Five: Strengthen UNDP’s role in leading Electoral Assistance Efforts.** This recommendation was **PARTIALLY** implemented. It required that UNDP ensure continuity of its support to electoral processes in Kenya and provide a leadership role on behalf of the basket-fund donors. As the only basket-fund in 2017 was UNDP’s, which specifically supported institutional strengthening of IEBC, this shows a partial implementation of this recommendation.

Basket-funding has been regarded as the most effective and efficient funding mechanisms for donor support. It was expected that UNDP, having a lot of experience in managing basket-funds, would provide leadership in developing rules and procedures to govern the creation of more basket-funds in 2017.

Unfortunately, this did not happen.

Also analysis of the 2017 donor funding matrix show that despite the fact that the UNDP basket-fund contributed substantially to international support before, during and after the 2017 General Election, there were other institutions, such as IFES, that made substantial contributions as well.

**Recommendation Six: Put a Monitoring, Evaluation and Reporting system in place.** This was **FULLY** implemented. Documentary analysis of the findings suggests that the SEPK results framework was designed to respond to a Country Programme Document (CPD), which also fed in to the United Nations Development Assistance Framework (UNDAF). The analysis of the SEPK document show that UNDP through the PMU was to develop a monitoring and evaluation framework to track the achievement of project outcomes and outputs.

Further review findings reveal that the UNDP adopted a monitoring and evaluation strategy including undertaking of baseline surveys and review of monitors reports by the ‘elections hub’ to assess key outcomes of the SEPK project and make recommendations for improvements. Also, there was documentation of quarterly narrative and financial progress reports that documented results achieved, challenges and lessons learned. The progress reports informed next project implementation processes.

**Recommendation Seven: Use a different Implementation Mechanism to reduce the Management Burden on the IEBC and allow for a more Coherent implementation of Projects.** The review found out this recommendation as **FULLY** implemented. This recommendation required that UNDP consider direct procurement for electoral assistance to allow it to have: first, a more substantive input into the technical aspects of the materials, whether goods or services; and, second, enable more cost-effective procurement for some items, since the UNDP’s Electoral Procurement Centre in Copenhagen (Denmark) and other regional procurement arrangements would apply. Unlike in 2013, UNDP overwhelmingly preferred the use of direct implementation procurement system to procure both goods and services for IEBC rather than fund the IEBC.

**Recommendation Eight: Use of fast-track Mechanisms by UNDP for Electoral Support related Procurement and Recruitment.** This recommendation was **FULLY** implemented since the UNDP adopted the direct implementation strategy. This recommendation required that UNDP adopts its fast track processes such as automatic delegation of authority, recruiting five technical assistance contracts without competitive process within 90 days, automatic use of other UN agencies for procurement, since the ‘delivery time’ included best-value-for-money waiver for receiving less than three offers in a competitive process above USD 30,000. Further, the UNDP-European Commission Joint Electoral Taskforce on Electoral Assistance Implementation Modalities by the Kenya’s country office for SERP and its follow-up project was relied upon.

### **3.0 IMPACT OF THE 2017 DONOR SUPPORT, CHALLENGES AND LESSONS LEARNED**

#### **3.1. IMPACT OF DONOR SUPPORT**

In establishing the effects of the interventions, the evaluation utilized the 2013 General Election as the baseline. In addition, since elections are processes with many players, and the international community being on of these, the impact will focus on the contribution of donor support to the identified changes rather than attribution. The impact analysis is organized as per the thematic areas identified in 2014, and are discussed below.

### **3.1 Institutional Reform and Capacity-Building**

DGE funding for this thematic area was through UNDP-SEPK project, IFES through the Kenya's Electoral Assistance Programme (KEAP), International Institute for Democratic and Electoral Assistance (IIDEA) and IDLO. Support mainly focused on institutional strengthening and capacity-building of the IEBC, ORPP and the Judiciary. As indicated earlier, this thematic area received the highest donor investment, totaling USD 41,427,115.

Institutional Donor particularly through UNDP's SEPK project to the IEBC developed: a) policies, procedures and process including risk management framework; b) human resource manuals, performance management systems; c) voter education and partnership policies; d) a communication strategy, procurement and deployment of electoral technology; and also, e) regulations for managing polling stations and logistics as well as warehousing procedures.

Also, IFES through KEAP supported electoral technology initiatives. These included: development of File Transfer Protocol (FTP) that was used to transfer Forms 34B from constituency tallying centers to the National Tallying Centre (NTC); provision of technical assistance in the development of the National Tallying Centre (NTC) operational plan that entailed results display screens; scanning and collation of forms; procurement and establishment of Electronic Document Management System (EDMS) archiving rooms; the National Elections Communication Centre (NECC); and finally, installation of ICT rooms with high speed connectivity.

IFES advocacy also led to the formation of the Elections Technology Advisory Committee (ETAC); a broad based group representing political parties, CSOs, private sector and international experts, that developed technical specification for KIEMS to enable BVR, electronic candidate registration, voter identification and transmission of results.

The review found these efforts led to significant improvements in the operational planning, administration and management of the 2017 General Election leading to better organized elections compared to 2013. This was occasioned by the fact that donor support was aligned to the IEBC priority areas as stipulated in its 2015-2020 Strategic Plan and subsequent operational plans.

The following sub-section provides an analysis of specific aspects of donor support to institutional strengthening, documenting specific successes and gaps that require improvements in the future.

#### *A) DGE Support to Electoral Technology*

Despite improved use of technology in the 2017 General Election, with a view that it would prevent fraud, reliance on technologies did not remove mistrust; it led to specific new concerns. Also, the overall capacity and security testing of technology was late and insufficient. This was occasioned by late availability of donor support to IEBC.

Also, institutional ownership of ICT by the IEBC remained limited and implementation challenges arose from its dependence on contracted private sector service providers and limited knowledge transfer. The contracting of technology companies also significantly increased the cost of the elections.

IEBC refusal to comply with the judicial request for access to its servers during the hearing of the presidential election petition, contributed to the decision of the Supreme Court to nullify the presidential poll. The collapse of the transmission technology affected greatly the public's confidence in the electoral process and undermined the credibility of the 8<sup>th</sup> August 2017 General Election. There were improvements during the repeat elections.

This Evaluation Report notes that vote counting, tallying and transmission of the results system still remain the weakest link in Kenya's electoral processes. Review of observer reports recommend that

advance feasibility studies and simulations should be undertaken way ahead of any General Election. Additionally, electoral technology should be reviewed periodically considering security, sustainability, institutional ownership and effectiveness. In essence, strengthening the results transmission ICT system is an area that donors should consider supporting in future.

#### *B) DGE Contribution to Public Confidence in the IEBC*

With regard to public confidence of the IEBC, the review found out that in the run-up to the 2017 General Election, many stakeholders had confidence in the IEBC. This was evidenced by a survey conducted by IPSOS in July 2017, which found that 46% of respondents were very confident and 29% were confident meaning that 74% of the populace had confidence that the IEBC was going to produce credible results. These figures changed rapidly in the course of that General Election.

Illustratively, the IPSOS survey conducted in October 2017, after the August General Election, showed a number of stakeholders felt that election was not credible: 30% of those interviewed, said the IEBC had failed to conduct the presidential election fairly because officials were bribed; 18% said because they were inexperienced; and finally, 17% said because they were intimidated and threatened. The post-August survey results showed negative public perceptions of the capacity of the IEBC to manage the October 26<sup>th</sup> fresh presidential elections and future elections.

Forward looking, the DGE should support initiatives geared towards reforming the IEBC, including making it accountable for losses up to KES 9 billion in procurement, incurred in 2017 that are under investigations by KENAO, so as to enhance public confidence of its capacity to manage any impending referendum, boundary delimitation and the 2022 General Election.

#### *C) DGE Interventions towards Legal Reforms*

Donors, particularly through UNDP-SEPK, supported efforts to strengthen the legal framework for credible, transparent and peaceful elections in 2017 and beyond. The support included six (6) main areas: a) amendment of the Political Parties 2011 Act; b) seconding a CTA at IEBC to support to the electoral reform process; c) amendment to the 2011 elections Act; d) development of Electoral Offences Act, 2016; e) development of subsidiary legislation emanating from electoral laws including guidelines for political party nominations; and finally, f) on rules on political party nominations, rules for submission of political party lists, and rules of procedure for political party list nomination.

There were also developments within the context of developing of Campaign Financing Regulations to give effect to the Elections and Campaign Financing Act 2013 of and the PPLC Regulations. Implementation of this Act was however suspended until the 2022 General Elections. These legal review initiatives, to some extent, strengthened the management and administration of elections.

However, review of reports show that only 10% of the lists submitted to IEBC complied with the law. Most parties disregarded requirements for the nomination of marginalized groups such as women, youth and Persons with Disabilities (PWDs). Despite sensitization of political parties, such low level of compliance points to an entrenched culture of impunity within political parties. There is need for sustained engagement with political parties and ORPP to foster respect of law and fidelity to the principles underlining the idea of party lists.

In addition, the review of observer reports show that electoral reform was undertaken too late in the day, with substantial amendments passed at the end of 2016 and January 2017. Those amendments were passed without the agreement of the official opposition. The reports noted that late amendments and appointment of leadership of IEBC, including the adoption and use of electoral technology in a highly politicized environment, caused excessive pressure on election administration. Even though these amendments largely increased the role of technology in the electoral process, their efficacy remained

largely untested. This was because of their late introduction: indeed, less than one year to the scheduled General Election.

The review observed that the law is silent on time limits for determination of pre-electoral cases – both civil and criminal. Decisions on pre-election petitions related to primaries and other matters are open to appeal to the High Court, the Court of Appeal and even the Supreme Court, resulting in prolonged adjudication of those cases. Some cases were only decided very close to Election Day and others after Election Day.

Further, in October 2015, the Judiciary Committee on Elections (JCE) proposed that the timelines for post- electoral presidential petitions be extended from 14 to 30 days. A bill was introduced in parliament on 2<sup>nd</sup> June 2016, but was yet to be discussed in Parliament, by Election Day.

There is need for legal review to establish legal time limits for the filing, hearing and determination of pre-election cases and extending the deadline for the determination of post-election presidential petitions, to allow more realistic time for the preparation of cases after results publication and full due process in court, including the possibility of recounts. The DGE should consider supporting this area moving to the 2022 General Election.

There is need for legal requirements for a comprehensive results transmission framework to include prompt publication of disaggregated results and polling station result forms for all elections, as well as clear provisions for electronic and manual results transmission, so as to enable consistent application and confidence in the declared outcome. Additionally, there is need to review the Election Campaign Financing Act 2013 and finalize its regulations. These are areas that the DGE should focus on towards the 2022 General Election.

#### *D) DGE Efforts at Strengthening IEBC's Communication Strategies*

The DGE's interventions to strengthening IEBC's communication strategies included: first, training of media editors; second, recruitment of two United Nations Volunteers (UNVs); and third, development of social media strategies and publication of elections coverage guidelines for Media Council of Kenya (MCK). This enabled the IEBC to foster active engagement with the general public, monitoring and responding to public queries on IEBC's activities, helped it combat the 'fake news' concept and enhanced its presence in social media, enhancing public confidence prior to the August 2017 General Election.

Notwithstanding the positive contributions made by the DGE to the IEBC's communication strategies, review of observer reports indicate that IEBC did not provide sufficiently structured and timely communication. Reasons given within KIIs and also FGDs, was unavailability of key information on the website, failure of IEBC to consult with key electoral actors on ballot printing, appointment of returning officers, nomination for candidates for fresh presidential election and with political parties over the October election date.

Additionally, other sources of data attested to the mistrust between the commissioners, within themselves, and also between the commissioners and the secretariat: this resulted in a breakdown in the IEBC's strategic communication and electoral leadership. The engagement was insufficient to enable IEBC to communicate effectively, especially given the damaging political context, which culminated with the Supreme Court decision to nullify the presidential elections.

The review of documents also shows that there was lack of clarity on the roles and communication responsibilities of technical experts attached to IEBC. A case in point is where the communications advisor attached to IEBC was on more than one count seen on national television commenting on issues in a manner that portrayed UNDP as taking sides. To avert a similar future occurrence, the DGE should



clearly communicate to external experts on the span of their control based on their policies and procedures on communication with external stakeholders.

In the future, it is important that IEBC strengthens transparency, communication and public outreach through a public communication strategy that provides continuous, comprehensive, clear and prompt information. IEBC should also undertake regular, structured and meaningful stakeholder consultation throughout the electoral cycle, to enable discussion and buy-in on key decisions, including those from political parties, local observers, CSOs, Faith-Based Organizations (FBOs) and the media. In addition, IEBC should develop electoral plans in good time, seeking judicial clarification where situations are uncertain. The DGE should support these processes with a focus to the 2022 General Election.

#### *E) DGE Interventions towards Strengthening Voter Registration*

The DGE support to voter registration was in form of mass voter education campaigns through the media, and particularly, the social media. This contributed to increased voter registration statistics particularly among the youth and the subsequent timely compilation of the preliminary register of voters, allowing for the compulsory 30-day verification unlike in 2013, where the closure occurred only 10 days to the polls.

Further, as a result of the policy and legal reforms support (including, subsidiary legislation and regulations), the IEBC was able to compile a single voter register unlike 2013 where there were multiple registers. In addition, the national registration rate increased from 68% in 2013 to 78% in 2017.

In particular donor support through Kenya's Electoral Assistance Programme (KEAP) for better social media messaging targeting youth, contributed to the registration of approximately 5 million new voters. Notably, the audit of the 2017 register of voters show that youth registration rate increased from 57% in 2013 to 83% in 2017.

However, the Klynveld Peat Marwick Goerdeler (KPMG) audit report on the register of voters revealed that the register contained some clerical errors including 197,677 duplicated records. KPMG recommended that the IEBC builds in a BVR data capture system that can detect errors. The report also noted that the removal of deceased voters from the register presents the biggest challenge to the EMB. This is because there is no central electronic list of the number of deceased voters in the country kept by the registrar of births and deaths.

The report recommended that IEBC continue and enhance the use of biometrics to identify voters during voting; compile accurate lists from other state departments and develop a policy to guide the removal of dead voters from the register and support to strategies for integrating civil registration and voter registration to reduce cost of elections. In essence, future donor support should focus on support to implementing KPMG report recommendations to strengthen voter registration process.

#### *F) The DGE's Role in Strengthening Participation of SIGs*

The DGE support to political participation of special interest groups in elections included: the development of the IEBC's Gender and Inclusion Policy; voter education for women; capacity-building for women aspirants; and capacity-building for political parties on party legal framework with special focus to participation of women as voters and candidates.

These interventions contributed to more women winning seats in all elective positions other than the presidential race. For the first time, women were elected as Governors and Senators. There were 23 Members of the National Assembly (MNAs) elected in 2017 compared to 16 in 2013. There were 96 elected as Members of the County Assembly (MCAs) in 2017 compared to 82 in 2013.

This Evaluation Report notes that despite the above positive changes, women continue to be under-represented in voter registration. Analysis of the 2017 register of voters shows that out of the 19,611,423

records in the 2017 IEBC's register of voters, 50.61 % were men while 49.39% were women, despite having more women eligible voters. These statistics are a reflection of persistent under representation of women in voter registration and in electoral processes in general.

Also despite support to the development and implementation of the Nomination Strategy for Gender Equality in which political parties committed to having women comprise at least one-third of their candidates during the primaries; reports showed that among the 77 registered parties in Kenya, only six fielded more than 10 women as aspirants during their primaries.

Additionally, women comprised 9.2% of the 1,835 elected individuals in 2017, which was a marginal increase of 1.5% from 7.7% in 2013. This dismal performance was attributed to low number of women participating in political party primaries due to lack of resources, the concept of 'negotiated democracy' where men are favored, stiff competition from men contenders, women family obligations, violence and intimidation against women, and also lack of internal political party democracy. Moving forward, donors should support initiatives geared towards enactment of the two third gender rule and strategies to enforce compliance to political party legal framework.

### *G) The DGE and Disputes' Resolution Mechanisms*

The DGE support to interventions on Disputes' Resolution Mechanisms (DRM) was mainly through International Development Law Organization (IDLO). Interventions included support to the training judges, magistrates, legal researchers and staff; development of rules of Court of Appeal; revision of Supreme Court rules; County elections' disputes' elections rules; the provision of technical assistance; enhanced EDR stakeholders engagement; and finally, support in the development of a case-management system to be able to track all cases across the country.

Capacity-building support to the judiciary was through the Judiciary Training Institute (JTI), which ensured improved skills amongst large number of judicial officers whilst support to Political Parties Dispute Tribunal (PPDT), ensured they had sufficient capacity to rule on party disputes on a timely basis. Without the DGE support, the PPDT would have struggled to cope with high numbers of cases. In addition, the IEBC Dispute Resolution Committee received a total of 372 disputes arising from the nomination of candidates for various seats. These disputes were heard and disposed of ahead of 20<sup>th</sup> June 2017 deadline.

However, despite improvements in resolving 2017 electoral disputes, KIIs participants observed that donor funding was availed very late. They also registered the need to devolve PPDT operations to hasten the filling and determination of disputes. They were of the view that more is still needed to create awareness on the institutions involved in DRM particularly the PPDT. There is also need for continued strengthening of PPDT including strategies for devolving its operations.

### **3.2 Security and Peace**

This thematic area ranked second with an investment of USD 16,881,427. The DGE's interventions were implemented through a number of implementing partners: the Centre for Multiparty Democracy (CMD), the UNDP, UWIANO, IFES, Coffey, Act, Change and Transform (ACT-Kenya), Mercy Corps-Kenya and Saferworld. Initiatives that were supported included early warning systems, conflict prevention and response strategies under the UNDP-UWIANO platform and UNDP-SEPK through the Women Peace and Security (WPS) Programme implemented by UN women.

Additionally, the DGE supported initiatives such as training of the police on electoral security, engagement with the ordinary public and support to hate speech monitoring which contributed to some restraint amongst politicians and the media.

Notwithstanding the above, the review shows that elections were on the whole peaceful, even if voter registration was characterized by some tensions. The DGE's support enabled numerous dialogue initiatives across the country involving multiple stakeholder groups, especially the ordinary public and in areas where tensions were likely to be high. In addition, communication channels were opened up between the police and youth groups. Election Day had few violent incidents. However, whereas English-speaking media was more careful in reporting hate speech, the vernacular-speaking media was less restrained.

However, between August and December 2017, several incidents of violence, including gender-based violence, were reported, leading to deaths and injuries. Despite the fact that security forces showed restraint on Election Day, they were criticized for using excessive force afterwards. Additionally, findings indicate that there was underwhelming response by security agents, which compromised some electoral processes. This was particularly true for the party primaries. Also, the period leading to the repeat presidential poll also witnessed disproportionate use of force by some security elements reminiscent of regime policing rather than democratic policing.

Indeed, some of those interviewed, whether by KIIs or FGDs, indicated some weaknesses in the security and peace interventions: first, the interventions focused primarily on the top-level police officers, but never used the Service Standing Orders (SSOs) of the NPS as the basis of the training manuals that were developed. Second, institutions that are responsible to hold police to account such as the Independent Policing Oversight Authority (IPOA), were consulted towards the tail-end of the programming and trainings.

Third, there was need to consult other external monitors within CSOs, who would hold police to account, not just train police on electoral human rights standards expected of them, without having civil society accountability mechanisms in place. Finally, after the failed August election, very little or no investment was made towards holding police to account, either through IPOA or the Office of the Director of Public Prosecutions (ODPP).

### **3.3 Civic and Voter Education**

This Evaluation Report found that donors provided a substantial contribution towards IEBC's constitutional mandate on voter education as well as to CSOs to a tune of USD 25,753,654 (sum total for civic /voter education in general, plus the kitty for women political participation). The funding was channeled through URAIA, UN-Women and the NDI to support the political participation of the general public, particularly of women, youth, and Persons Living with Disabilities (PWD) in the democratic and electoral processes.

UNDP-SEPK project supported initiatives geared towards enhancing civic /voter education. These included support to the IEBC to develop voter education curriculum, manual for accreditation of voter educators, development of partnerships and stakeholder engagement policy; mobilization and educating members of the public on the electoral process through the *Maendeleo* (development) Policy Forum (a dialogue forum of experts, which seeks to directly influence policy-making on democracy, governance and elections) and support to the 'National Elections Conference'. These initiatives were expected to enhance voter education with a view to increasing participation in the 2017 General Election, both as voters and candidates.

In addition, URAIA under its programme of 'Rooting Democracy through an Informed Citizenry', undertook a number of civic or voter Education initiatives. These included undertaking mass voter education campaigns through: a) national television and radio stations, support to voter simulation exercises; b) support to civic engagement activities such as civic action by communities and groups; and c), social accountability work and social vetting. The NDI also undertook civic or voter education to enhance women political participation.

The DGE's support to civic or voter education contributed to increased citizens' and CSOs' participation and engagement and oversight in governance at the national and county levels. For example, most of the civic or voter county partners are using participatory approaches such as social accountability mechanisms to provide oversight on service delivery, while national partners provide oversight on policy and legislative developments based on their areas of focus.

The support also enhanced partnership and collaboration amongst civic /voter education stakeholders such as the IEBC, Kenya Integrated Civic Education (K-NICE) Programme, Private sector, and CSOs. In addition, in 2017 there was an increase of 5,258,890 registered voters. It can be deduced that donor support made a tremendous contribution to this increase. Further, in 2013, 12,221,053, voters turned out to vote compared to 15,196,307 voters who turned out to vote in 2017. These figures account for there was an increase in voter turnout of an additional 2,975,254 voters in the 2017 General Election.

However, as a percentage of the registered voters, the voter turnout dropped to 77.5% from 85.9% in 2013, marking a drop of 8.4%. This could be attributed to a number of reasons such as voter movement to urban and high risk areas, where citizens did not vote as they feared an eruption of politically-instigated violence; cases of voters not being identified by KIEMS kits, and also, voter bribery.

The desktop review of documents indicate that at national level, there was a 21.5 % decrease in the number of youth elected and/or nominated to public office, with 346 youth elected and/or nominated in 2017 compared to 441 in 2013. At the national level, there was a decrease of 34% in representation for PWDs in 2017 compared to 2013. 88 PWDs were elected and/or nominated in 2013, compared to 54 in 2017.

Further, a review of the observer reports show that the rollout of civic education was delayed and the coverage was not comprehensive enough with some placing it at 60% coverage. These observer reports show that, on average, IEBC covered 58.9%, CSOs 59.3% and media 63.6% of all 290 constituencies in voter education activities. This is an indication that there was lack of comprehensive voter education campaigns in all parts of the country. Participation of Special Interests Groups (SIGs) showed that women were more targeted at 68.1% of all constituencies, youth (66.3%) and PWDs (47.7%)

Delayed implementation and lack of comprehensive implementation was attributed to insecurity in some areas, decrease civic space due the government pronouncement on perceived donor interference to the county's political process under the disguise of civic education and lack of proper coordination and mapping among civic education providers.

Document analysis revealed that despite concerted civic /voter education, considerable number of voters, still vote along tribal lines rather than based on individual preference. Reports also show that IEBC voter education programme and the Office of the Attorney General education programme were not effective. In actual fact, the government K-NICE programme was not visible at all.

Also, despite IEBC accrediting 200 organizations as voter education providers, only a few were engaged in voter educations due to lack of funding. Due to late implementation, civic education considered with electoral campaigns. Consequently, citizens were often unable to distinguish between campaign platforms and civic and/or voter education sessions and as such they attended the sessions with a lot of expectations for monetary handouts.

This Evaluation Report recommends that civic education programmes should be developed and implemented as a multi-stakeholder exercise, with a focus on individual choice, inclusion, accountability of those elected, and integrity matters in electoral processes. Additionally, there should be comprehensive, effective, and efficient and timely roll-out through improved mapping, coordination, strategic and inclusive implementation by all actors. This is one of the areas that the DGE should consider

developing a basket-fund to enhance coordination.

### **3.4 Domestic Observation and Media**

Donor funding was primarily channeled through the UNDP basket-fund to the Elections' Observation Group (ELOG) and the Kenya National Commission on Human Rights (KNHRC) to a tune of USD 3,806,000.

Analysis of the DGE 2017 funding matrix revealed that despite the fact that Inter-news was identified as an implementing partner, no funding was allocated to it. Inter-news is a non-profit organization operating internationally, with regional hubs in Bangkok and Nairobi.

This Evaluation Report notes that significant support on this area went to ELOG's project on Safeguarding the Integrity of the 2017 General Elections. ELOG's interventions under this project included engagement of 290 Long Term Observers (LTOs) who observed pre- and elections day period with a particular focus on the participation of Special Interest Groups (SIG) in elections. Interventions also included media monitoring on hate speech and debunking fake news. On Election Day, ELOG deployed Short-Term Observers (STOs) to execute the Parallel Vote Tabulation (PVT) strategy as well as the general observation strategy.

A review of ELOG's end-of-project evaluation shows that overall, ELOG's pre-election reports made specific recommendations that led to remedial action being taken by relevant authorities such as the IEBC, National Cohesion and Integration Commission (NCIC) and the National Registration Bureau (NRB). For example, ELOG's recommendation to the IEBC and the NRB to urgently address the double registration problem during the voter registration process was considered. Additionally, ELOG recorded a total of 46 hate speech cases in a period of six (6) months. Based on these reports, the Media Council of Kenya (MCK) reported that it took action against media reporters who violated the law.

However, respondents raised concerns that despite the innovation on media monitoring, where the upsurge of social media requires a robust and sustained approach to information dissemination, would have enhanced ELOG's media monitoring strategies. This would also enable ELOG to undertake a comparative analysis of social media and traditional media to enable in-depth analysis of hate speech and 'fake news' to enable a more informed and comprehensive redress. This is an area that donors should support in future.

It is important to note that this review concurs with the findings and recommendations contained in ELOG's 2018 evaluation report. That report noted that ELOG commendably demonstrated its adaptive capacity to the dynamic political environment; ensured maintenance of a non-partisan approach through inclusivity of ethnic diversity within its ranks including the observers and adopted electoral-cycle approach, which is uniquely suitable to organizations conducting citizen election observation. Strategically, ELOG adopted a thematic-focused approach, which enabled it to focus on various key processes within the electoral cycle.

However, the review noted that despite its contribution to the 2017 General Election, the ELOG project was not entirely well executed due to limited funding for a devolved observation strategy and had some institutional and programme design shortcomings. Areas of ELOG's methodology that weakened its performance and potentially its overall contribution and credibility in observing the electoral process include among others, its prioritization of Parallel Voter Tabulation (PVT) methodology on Election Day reporting over the traditional observation under which it deployed LTOs.

Given its long-term observation and reporting of the pre-election environment (including the context leading to the 26 October 2018 fresh presidential elections), the evaluation concluded that the PVT concept was not well thought out and appropriately applied to suit the Kenyan context. There was also an issue of whether PVT outcomes that conferred authenticity of the IEBC results corresponds to or contradicts with the substantive and qualitative observation made throughout the electoral process by taking the General Election as a process, not an event.

KIIs participants were of the view that future support to the election observation in Kenya should focus on comprehensive traditional observation as opposed to sample-based observation. Observation at the constituency and national tallying centers should also be strengthened especially the vote transmission system.

More importantly, ELOG should device mechanisms of observing result transmission process. This will involve recruitment of technologically competence observers who should be accredited by the IEBC to observe the application and credibility of electoral technology. For them to do so, IEBC would need to ensure maximum access to the servers and other results transmission platforms.

The evaluation also found that ELOG's lacks an integrated monitoring and evaluation framework, which is key to tracking results. KIIs attributed this to the lack of establishing an integrated framework is also partly correlated to donors' evidentiary non-adherence to the framework of Development Aid Effectiveness as outlined in the Paris Declaration on Aid Effectiveness (2005) and the Accra Agenda for Action (2005). The evaluation recommends that the DGE supports ELOG in developing an integrated monitoring and evaluation framework to enhance its programming capacity.

### **3.5 Political Party Strengthening**

The DGE funding for this theme was mainly through the National Democratic Institute (NDI) and the Oslo Center. Donors support to strengthen institutional capacity of ORPPs Office included review of the Risk Management Framework; development of a risk profile for its mandate; review of ORPP's Human Resources Management Manual; the development of the Political Parties Liaison Committee (PPLC) regulations; and finally, the publication of political party nomination rules and guidelines.

The support also targeted capacity-building of political parties and women aspirants with aim of enhancing their political participation. All these initiatives were meant to strengthen the ORPPs regulation and oversight role of political parties as well as enhancing party internal democracy.

This Evaluation Report notes that, despite support to the development and implementation of the Nomination Strategy for Gender Equality in which political parties committed to having women comprise at least one-third of their candidates during the primaries, women aspirants faced significant hurdles during the political party primaries.

As a result, these interventions contributed to more women winning seats in all elective positions other than the presidential one. For the first time, women became governors and senators. There were 23 MNAs elected in 2017 compared to 16 in 2013. There were 96 elected MCAs in 2017 compared to 82 in 2013

A desktop review of the observer reports showed that the ORPP did not undertake many enforcement actions in regards to the legal provisions for inclusive political participation. There was selective interference by party leadership and lack of party membership lists. In addition, there were inadequate procedures for party primaries that led to the vulnerability of parties to multiple voting and even non-member voting due to failure to use the party membership registers. Most political parties used the IEBC register of voters.

A further review of documents notes that the party primaries were generally poorly organized and executed. Some parties experienced logistical difficulties leading to postponement of primaries. In some cases, there were accusations of rigging. Sporadic outbreaks of violence, intimidation, voter bribery and ballot stuffing were witnessed. This indicates that political parties do not currently have the capacity or goodwill to foster internal democracy and conduct meaningful nominations, a gap that need to addressed, including supporting options for establishing an independent body or committee apart from the IEBC to manage party elections.

Consequently, women comprised 9.2% of the 1,835 elected individuals in 2017, a marginal increase of 1.5% from 7.7% in 2013. This dismal performance was attributed to low number of women participating in party primaries due to lack of resources, negotiated democracy, stiff competition, family obligations, violence, intimidation and lack of internal party democracy. Moving forward, donors should support initiatives geared towards operationalization of the two-thirds gender rule and strategies to enforce compliance to political party legal framework.

### **3.6 Stakeholder Engagement and Coordination**

This was carried out by, UNDP, IFES and UN Women with a focus on PPLC, Women Coordination Committee (WCC), Youth Advisory Committee (YAC) and the Elections Technology Advisory Committee (ETAC), Elections Technical Assistance Providers (ETAP) and media practitioners.

This Report's findings indicate that stakeholders' coordination came in late. In this regard, the DGE's funding supported strengthening or establishment of stakeholder platforms such as PPLC, WCC, YAC, ETAP and ETAC.

Further findings indicate that stakeholders' coordination then faced the challenge of determining who has the mandate to invite, coordinate and facilitate process and procedures. As a result, stakeholder coordination meetings were held by the IEBC but were unsatisfactory. Further, low confidence levels in the IEBC, especially after the annulment of the August presidential elections, affected stakeholders' coordination. In particular, a respondent regretted the underutilization of PPLC as a platform for dialogue.

The disbandment of ETAC also denied the electoral process stakeholders the means to independently verify key aspects of information and communications technology systems, especially the tallying and tabulation of results. This played a key role in fuelling mistrust in the electoral process and the official results.

Ultimately, documentary evidence suggests that following the annulment, and in the face of intense political pressure, IEBC seemed to lose the gravitas to mobilize stakeholders together to discuss and agree on the way forward for the repeat presidential poll. The IEBC seemed to have lost its electoral leadership and convening power, and made some decisions that did not involve all key stakeholders. Therefore, stakeholders could not assist the IEBC with the challenges it confronted and the IEBC continued to appear isolated and operated under very difficult conditions.

## **4.0 STAKEHOLDERS VIEWS ON DONOR ACTIONS AND PUBLIC DIPLOMACY INTERVENTIONS BY HEADS OF MISSIONS**

The ongoing engagement by donors in elections elicited different perceptions among the public. This Evaluation Report indicates that the DGE was considered to have acted as the voice of reason amidst the

tense electoral environment, a role that they can be replicated for future elections. There was the calculated release of joint statements on key electoral issues.

Findings among a section of the implementing partners indicated the DGE should have played a more robust role to influence political actors by leveraging their influence with political actors, especially through the Heads of Missions.

In this regard, some respondents were nostalgic of the more forceful accountability driven donors of the first decade of multi-partyism. In this case, there might have been too high of expectations by the Kenyan public of the DGE, where some respondents indicate that they had simultaneous bilateral interests to protect. Some donors were perceived as preferring political calm and stability rather than accountability – what was typified by a respondent as “peace-ocracy” as contrasted from democracy.

## **5.0 COMPARATIVE ANALYSIS OF DONOR SUPPORT TO GOVERNMENT SUPPORT**

Despite the fact that most of the donor support came late in the cycle, its contribution to the realization of free, fair and credible and genuine elections cannot be underestimated. Donor support contributed to equally important processes within the electoral cycle such as voter education, electoral technology and dispute resolution mechanisms.

For example, IEBC officials noted that the early support it received from donors to conduct voter education enabled them to begin work in this area in the year leading up to the election. If the IEBC relied on the government alone, delayed and little civic or voter education preparation or electoral planning would have been taken place until, very late, most probably the election year itself. Though some stakeholders interviewed were critical about the scope and quality of voter education in 2017, it would have been significantly worse without donor support.

The DGE’s technical support complimented the existing capacities within democratic institutions, such as IEBC, judiciary, and others such as ORPP. This was a unique contribution since the government does not second technical experts to IEBC or other electoral actors.

Additionally, the DGE’s support was instrumental to democratic civil society in Kenya as it enabled it to undertake its mandate of non-partisan observation of the electoral processes. It also supported government commissions such as Kenya National Commission of Human Rights (KNCHR) to monitors human rights violations. In a nutshell, the DGE support seemed little, but respondents in the FGDs and KIIs, stated that it was worthwhile, especially civic or voter education, noting what the Head of State and other government bureaucrats unleashing threats to such efforts.

## **6.0 CHALLENGES OF THE 2017 GENERAL ELECTIONS**

This Evaluation Report notes some of the challenges that implementing partners encountered during the implementation process of the DGE support, as well as other factors at play during the 2017 General Election. These are:

- a) **Protracted public protests against the former IEBC Commissioners:** Due to challenges in the political environment including protracted public protests against the IEBC commissioners



between April and June 2016, the period saw immense delays in the implementation of planned donor interventions and IEBC activities especially those in the IEBC's Electoral Operational Plan. The demonstrations also lowered IEBC's staff morale.

- b) **Late appointment of IEBC commissioners:** They were appointed in January 2017; six (6) months before the August General Election. This occasioned delays in the implementation of partners' work plans as most of the activities were to be put on hold pending orientation of the current commissioners, where some already resigned immediately after that election.
- c) **Shrinking civic space:** As mentioned above, this was accessioned by the government pronouncement that international community's support to civic education had an agenda of interfering with Kenya's political process. This delayed the implementation process since permission to conduct civic education was to be sought from the county commissioners. It led to the reorganization of leadership in IFES, one of the DGE implementing partners.
- d) **Frequent and late amendment of electoral laws and court litigation processes:** These legislative processes impacted on the IEBC timelines and subsequently to the implementing partners work plans. Additionally, it also led to refocusing on civic or voter education contents.
- e) **Unwillingness by political parties to comply with electoral laws:** Despite capacity-building initiatives for political parties, parties displayed unwillingness and political will to adhere to the legal framework. The review found only 10% of the party lists submitted by political parties to the IEBC had complied with the law.

The latter challenge exposed political parties to unwarranted litigation and thus needlessly consuming IEBC time and resources. Political parties also exhibited unwillingness to comply with the law on party primaries leading to the rather chaotic conduct of the party nomination process. More focus to strengthen ORPPs office to enforce party compliance with law is required.

## 7.0 GENERAL LESSONS LEARNT

This Evaluation Report suggests the following lessons from the DGE support to the 2017 elections, as the donors prepare for the next cycle of 2019-2022.

- a) There is need to strengthen the DGE support to the electoral cycle approach to democratic and electoral processes in Kenya. This involves departure from elections as an *event* to thinking of them as a long-term *process* of building institutional capacity, empowering democratic actors to respond and engage with government consistently and building on the gains made from previous interventions. Therefore, electoral reforms initiatives should be undertaken early on. The process should adopt a multi-sectoral approach and consensus - building.
- b) Donor support should be demand-driven as opposed to supply-driven: Desktop reviews of various reports indicated that there was a growing apathy of IEBC to donors' support less than seven months to the 8<sup>th</sup> August 2017 General Election, which was attributed to near full-funding that the government allocated to its electoral operations.

The demand-driven approach should be informed by thorough context and content analysis of financial gaps existing within IEBC after government funding and gaps in capacity. It should also focus on other institutions such as the judiciary, constitutional commissions and ORPP that receive less funding from the government. More importantly, greater support should also be accorded to CSOs and the media.

- c) Further on media, the use of radio, TV and social media was found to be very effective with the most impact in the dissemination civic education messages. Donors should focus on building gains through these strategies, by supporting traditional and social media platforms, to not only allow citizens to understand their rights, but also ensure that the media can be an effective tool of accountability of the electoral actors.
- d) On planning, the identification of an effective set of projects and partners and providing them with support in advance is crucial in realizing significant gains in a number of key thematic areas supported by the DGE. Early planning including identification of like-minded stakeholders (both at national, county and grass root levels) and development of monitoring and evaluation framework is essential.
- e) The DGE's support to the IEBC, judiciary and PPDT led to a clearer and more efficient process of dispute resolution, which reduced the possibilities of "forum shopping" and enabled key bodies to perform their functions within the stipulated electoral timetable. There is a need for continued support to strengthen these bodies including devolving the operations of PPDT.
- f) Non-partisan actors should spearhead peace initiatives. Since elections in Kenya are highly politicized processes and mobilization is mainly around tribal lines it would be important that peace initiatives are spearheaded by independent and non-partisan organizations. Training of police on standards should include service standing orders and be accompanied by funding institutions that can hold them to account, such as IPOA.
- g) On political parties, it is a lesson that working with smaller and newer political parties made a larger impact compared to more established institutions. For instance, work with smaller political parties led to an increased number of female candidates in party primaries and the national elections. The DGE interventions appear to have weaker impact in more established political parties in particular the ruling party, which was less open to outside training and guidance.
- h) For mainstreaming women, and protecting them from threats, intimidation and discrimination, there is need to establish the Women Situation Room (WSR) as an election observation strategy to be implemented by domestic election observers. This review found out that under the UN Women support to CSOs, the project had intended to establish a Women Situation Room as a coordination mechanism for mobilizing support and response mechanism for women candidates during the election period.

However, the initiative encountered headwinds following failure to garner the necessary buy-in from the Kenyan government on the justification that election observation was not within the mandate of UNDP under the SEPK programme. Even if the initiative was reprogrammed and re-characterized as the Women Peace and Security Project, this did not meet the objectives of WSR.

- i) On civic and voter education, there is need for a multi-sectoral approach to education coupled with timely provision of adequate resources and enhanced cooperation and coordination amongst actors. This is necessary for civic/voter education effectiveness. As this Evaluation Report has demonstrated, there was duplication between IFES and URAIA on civic education.
- j) On coordination, there is need to strengthen coordination between implementing partners within a specific thematic area. The DGE should undertake a robust mapping of partners working on specific identified thematic areas to facilitate enhancement of synergy amongst implementing partners; tracking of resources and initiatives, and facilitate equitable coverage of all counties and constituencies in Kenya. Coordination, both horizontal within implementing partner, and vertically between the DGE and the implementing partners has been cited as the weakest link in between some of the thematic areas.
- k) Further, on coordination, there is need to strengthen cooperation of the DGE support to elections. This review found that despite donors coming together under the umbrella of DGE, thematic committees within DGE are weak. Poor coordination of development partners' support to elections still persists. This resulted to competition between various Electoral Technical Assistance Providers (ETAPs), undermining the quality of their interventions. This could have contributed to the failure to develop more basket-funds for the 2017 elections.
- l) On information sharing, there is need for sustained sharing with government and non-governmental actors on electoral assistance activities to enable information flow and trust. During the implementation of some of the DGE-funded initiatives particularly on civic education were hampered due to pronouncement made by the government cautioning on respect for sovereignty.

## 8.0. RECOMMENDATIONS

The incremental gains identified in this Evaluation Report suggest that the DGE's support made significant improvements in the run up to the 2017 General Election. The review makes sixteen (16) recommendations to inform the entire international community ahead of the 2022 General Election and future support towards, during and after the democratic and electoral processes in Kenya.

1. **Retain the DGE 2017 Thematic Areas:** Within each thematic area specify sub-themes based on key issues that need to be addressed to ensure a free, fair, credible and genuine 2022 General Election. This Evaluation recommends that all the seven thematic areas be retained for the 2022 General Election.

However, consensus should be built on specific weak links in each thematic area to generate sub-themes that the DGE should support. For example, on electoral technology, transmission of results systems is the weakest link. The support to specific sub-themes should take into consideration the available funds, the 2019-2022 political context and partners who demonstrated significant performance to the contribution in the realization of the 2017 General Election.

More importantly media support and support to strengthening political parties should be enhanced. In essence, the support should build on the gains realized in 2017 in all the thematic areas.

- 2. Strengthen Coordination amongst Implementing partners:** Within each specific thematic area, implementing partners should find coordination to reduce duplication. The review found that there were a multiplicity of partners undertaking activities similar to those funded under the UNDP SEPK programme. This was occasioned by weak coordination amongst implementing partners.

Participants in the KIIs indicated that the DGE failed to provide leadership in coordinating implementing partners. The review recommend that donors supporting specific thematic areas, take up the responsibility of coordinating implementing partners working on specific identified thematic areas to facilitate enhancement of synergy amongst implementing partners; tracking of resources and initiatives; and also, facilitate equitable coverage of all counties and constituencies in Kenya.

- 3. Adopt Electoral Cycle Support:** This recommendation was made in the DGE 2014 evaluation report but it was implemented partially since most of the projects supported by the DGE ended a few months after the announcement of the 8<sup>th</sup> August 2017 results.

The DGE electoral cycle support would ensure that implementing partners build on the gains made from 2017 support moving to 2022, sustain staff whose capacity was enhanced for institutional memory, as well as ensuring that there is adequate time for continuity and lesson learning. This report notes that continuous support is less expensive compared to one-time support since it ensures the consolidation of procedural improvements over time.

- 4. Support Post-Election Activities:** Noting the above, this Evaluation Report recommends that the DGE consider supporting the IEBC and other electoral actors' post-election activities including undertaking independent post-elections evaluation of IEBC, boundary delimitation process by IEBC, developing 2022 General Election plans and also stakeholder engagement forums. The support should be based on funding and capacity gaps at the IEBC plus other actors.

This means a proper analysis of the financial and capacity gaps should be undertaken to inform the DGE decision-making on their support. The analysis is essential to ensure the DGE support not only adds value to IEBC work, but also avoids wastage, and more generally, reduces cost of elections.

- 5. Retain UNDP Basket-fund and Create more Baskets:** As evidently documented in this Evaluation Report, there is need to continue with basket-funding, but equally important is to create basket-funds in all the other thematic areas. This evaluation recommends that UNDP basket-fund is retained but however, more basket funds for the other thematic areas. UNDP should provide leadership in the creation of more basket-funds. Discussions and development of a donor basket-fund policy, regulations and guidelines should begin in 2019. The documents are crucial in guiding the management of basket-funds.

- 6. Support the Electoral Results System.** The results system involves counting, tallying and transmission of results. A review of 2017 observer and evaluation reports revealed that within the

electoral technology, the results system is the weakest link in Kenya's elections, both in 2013 and 2017. Moving to the 2022 General Election, the DGE should play a facilitative role in strengthening this system by ensuring that more funds and technical support is availed in 2022 compared to what it received in 2017.

The support should focus on conducting feasibility studies of the technology and simulating it during the by-elections before 2022 and enhancing the capacity of the IEBC on the technology to ensure institutional ownership and effectiveness. Other evaluation reports indicate that unless the counting and transmission process is strengthened, other investments in the electoral process are unlikely to lead to a free, fair, credible and genuine electoral processes and outcomes.

- 7. Strengthen Election Observation:** The DGE should focus on strengthening institutional and programmatic areas of ELOG. Institutionally, the support should be on ensuring that ELOG structures and operations are permanently integrated within one of its partners to promote sustainability of its operations and staff. On programmatic support, donors should consider supporting comprehensive elections observation strategy on elections day as opposed to PVT.

This recommendation is based on the review findings, that since ELOG adopts a election cycle and a thematic based approach to Elections observations, it is imperative that its findings of the pre-election elections process are taken into consideration when determining the accuracy of an elections outcome, rather than relying on elections events as captured through PVT.

Additionally, since a Women Situation Room is an observation strategy to enhance women participation in election, donors should consider supporting such an initiative under the Elections Observation Group, or any other observer group. Support should also be accorded to ELOG to develop a comprehensive Monitoring and Evaluation Frame for election observer groups. Initiatives to monitor both traditional and social media should also be supported moving forward.

- 8. Support IEBC Transformation:** This Evaluation Report indicates that public confidence to the IEBC declined after the 8<sup>th</sup> August General Election due to how it handled results transmission and the annulment of the presidential elections by the Supreme Court. Currently, there is a general feeling that the public does not have confidence to the IEBC to conduct a referendum or future elections.

As development partners pointed out, they would continue investing in IEBC if it is transformed significantly. Therefore, this Evaluation Report recommends that the DGE support initiatives to transform IEBC including recruitment of new commissioners, restructuring of the secretariat, and also changing the IEBC procedures and processes.

- 9. Support Electoral Reforms:** Review of the observer and evaluation reports point gaps in the current electoral legal framework for Kenya. Some of the gaps noted include: a) lack of timelines to file and determine pre-election disputes; b) constrained timelines for filing and determination of presidential petition; c) gaps in the Elections and campaign financing 2013 Act; and d), lack of regulations to effect its operationalization.

There are proposals to integrate civil and voter registration to reduce the cost of elections. More importantly the DGE support should focus on stakeholders' engagement and dialogue around the proposed legal amendments for consensus building and ownership.

**10. Support implementation of KPMG Recommendations:** The KPMG audit report has salient recommendations to strengthen voter registration process. These includes strengthening BVR data capture to detect errors, support to other state departments (such as NRB, including the registrar of births and deaths) to have accurate, comprehensive and updated digital records and development of a policy to remove voters who have since died, from the register of voters.

The KPMG report also recommends the strengthening of voter biometric identification process. Moving to the 2022 General Election, the DGE should consider supporting these areas based on proper analysis of financial and capacity gaps that exists.

**11. Support Institutions for Effective Communication:** Given the importance of public perceptions and the fact that these do not always accurately reflect events, the DGE should consider supporting the development effective communication strategies of institutions such the IEBC, judiciary, parliament, ORPP and political parties. More focus should be on IEBC for central role in the conduct of elections.

The communication strategies should ensure regular, structured and meaningful stakeholders consultations throughout the electoral cycle. It should also ensure continuous, comprehensive, accurate and prompt information is availed on a time manner to avoid public speculations and negative perceptions.

**12. Support other State and Non state Institutions:** It is noted in this Evaluation Report that IEBC was the primary target, yet there are other State institutions that receive less funding from the government. Reports show that during elections, IEBC receive more financial, technical and also human resources both from the government and development partners. There is a feeling amongst stakeholders that during election IEBC is over-funded, a factor that may trigger wastage and corruption. Elections being a process require that there is a balance in support of all key actors.

Therefore, this Evaluation Report recommends that moving forward, the DGE support be directed more to institutions that receive less funding from the government such as the judiciary and by extension the PPDT and CSOs.

**13. Strengthen Political Participation of Special Interest Groups (SIGs):** This Evaluation Report indicates that despite the facilitation and capacity-building interventions to ensure increased participation of women, PWDs and youth, their political participation still remained low. While there were more women elected at County and National levels, this review recommends for continued support to these groups, building on gains made from the 2017 interventions.

Specifically, support should focus on initiatives to influence the enactment of the two-thirds gender principle as contained in the Constitution, as well as Article 100 legislation that would increase SIGs' political participation; creating public awareness on the same; support to the ORPPs office to ensure enforcement and compliance to the political parties Act and the related amendments; support to legal aid for SIGs to enable them access electoral justice; and also, support to political parties grassroots structures, policies and procedures that will allow adequate and quality political participation of SIGs.

Additionally, support to civic education on economic opportunities available for special interest groups should be supported. In addition, support should be extended to organizations that

implement practical and results based interventions that increase the political participation of marginalized groups.

- 14. Support the implementation of Continuous Civic Education:** An empowered citizenry is a precursor to citizens' economic, social and political participation. As indicated earlier, civic or voter education strategies for last electoral cycle started late leading to competition with political campaigns. Thus, it was not comprehensive in terms of coverage and there was poor coordination among the implementing partners.

This is one of the areas that this Evaluation Report has recommended that a basket-fund be created. Therefore this review recommends that the DGE extends timely support to accredited civic education providers to enable them to continuously engage and inform citizens on the ongoing electoral reforms, their constitutional rights and responsibilities.

- 15. Support interventions for strengthening party internal democracy:** Throughout the review, it was felt that future DGE support to political parties should focus on strengthening political party structures, with a key focus on their devolved structures. It was felt that a strong bottom-up party structure would not only increase the numbers and inclusivity in parties but would also enhance the quality of elected and nominated women, PWDs and youth to political positions.

Further, it would also ensure that grassroots' party structures have some autonomy in decision-making thereby reducing the level of influence of the supposed party leader. Additionally, strengthened party structures, policies and procedures would enhance internal democracy within parties including the conduct of party primaries and better party dispute resolution mechanisms. The DGE support to party strengthening should be increased and should be made available at least two years to the 2022 General Election to avoid partisan tags and to ensure there is ample time to implement the projects.

- 16. Respond to Devolution:** As stated above, this recommendation was made in the previous evaluation but it was only partially implemented. There is a growing focus on County-level politics and international intervention could be strengthened by increasingly working at the County level. Therefore, the DGE should encourage and support partnership with local institutions in the implementation of the DGE-funded interventions.

## 9.0 CONCLUSION

In conclusion, it is important to note that the 2022 electoral context is likely to be different from that of the 2017 General Election. The 2022 succession politics have started in earnest. Political alignments and realignments are likely to take place through 2019 up to the year 2022, and will surely generate new challenges and opportunities. As recommended in this Evaluation Report, the DGE support should be based on a comprehensive and thorough analysis of the electoral context leading to the 2022 General Election.

Essentially, the future DGE support should be built on the gains made in the 2017 General Election. Indeed, the sixteen (16) recommendations contained herein, if implemented, will support a stronger and more credible and genuine electoral processes towards the 2022 General Election, which is essential if Kenya is to stay on the trajectory of the democratic consolidation, based on the Constitution of Kenya.

## 10.0 APPENDICES

### 10.1 Appendix One: List of Reports Reviewed

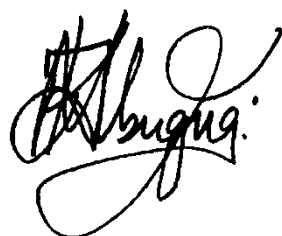
Organization	Title of the Report	Year
Government of Kenya	The Report on the Independent Review of Elections Commission	2008
Elections Observation Group (ELOG)	One Country, Two Elections, Many Voices! The 2017 General Elections and Historic Fresh Presidential Elections; Observation Report	2018
European Union; Elections Observation Mission	EU EOM Final Report, General Elections, 2017	2018
NDI & FIDA Kenya	A gender Analysis of the 2017 Kenya General Elections	2018
IEBC	Report of the Independent Audit of the Register of Voters	2017
UNDP	Evaluation of the Support to Electoral Reform and Processes in Kenya (SERP) Project; Final Report	2013
UN Women	Final Report on the Women, Peace & Security Programme in Kenya	2017
UNDP	Strengthening the Electoral Processes in Kenya (SEPK) project document	2015-2018
UKAID- DDP Programme	A Review of DDP's Contribution to the 2017 Kenya Elections	2018
KNCHR	<i>A Human Rights Monitoring Report On The 2017 Repeat Presidential Elections</i>	2017
ELOG	Elections Observation Group (ELOG) end of Project Evaluation Report	2018
USAID / KENYA	Kenya Electoral Assistance Program (KEAP) 2017 Annual Performance Report	2017
UNDP	Strengthening Electoral Processes in Kenya (SEPK); Second Quarter Report (April – June 2016)	2016
UNDP	Strengthening Electoral Processes in Kenya (SEPK); Third Quarter Report (July – September 2016)	2016
UNDP	Strengthening Electoral Processes in Kenya (SEPK); Fourth Quarter Report (October – December 2016)	2016



UNDP	Strengthening Electoral Processes in Kenya (SEPK); Quarterly Report (April – June 2017)	2017
UNDP	Strengthening Electoral Processes in Kenya (SEPK); Quarterly Report (January – March 2018)	2018
URAIA Trust	ANNUAL REPORT PERIOD: JANUARY 2017 – DECEMBER 2017.	2018

Signed,

Tom Kagwe, J.P.




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Team Leader, the DGE Meta-Evaluation