



THE KENYAN SECTION OF THE INTERNATIONAL COMMISSION OF JURISTS

MOCK ELECTIONS OBSERVATION: KAJIADO NORTH CONSTITUENCY

INTRODUCTION

The Kenya Section of the International Commission of Jurist is a non-profit membership based organization whose mandate is to promote and protect the Rule of Law, Human Rights and Democracy.

In furtherance of this mandate, ICJ-Kenya submitted its application for accreditation as “election observers” in the Kajiado North mock election scheduled for 24 March 2012 and undertaken by the Independent Electoral and Boundaries Commission (IEBC).

IEBC accepted the accreditation request recognizing that electoral observation is an integral part of the democratic process. This has gone far to enhance credibility and trustworthiness in the electoral institutions and procedures themselves. Observation can also be viewed as a tool for public participation, where citizens are afforded the right to monitor and oversee elections, from the opening of the ballot boxes to the announcement of results.

The following therefore is the report on the findings at the by- elections;

The polling stations were opened at the stipulated time, 8 am and closed before 5 pm. This was attributed to the fact that this was a mock election.

ICJ-Kenya was duly represented by three observers who traversed the vast Kajiado North Constituency.

The constituency has a total of 12 polling stations and ICJ-Kenya managed to observe the elections in four of the polling stations namely;

Polling station	Registered voters	Terrain
a) Ngong Township Primary School		Non-hardship
b) Ensonorua Primary School	571	Hardship Terrain
c) Ol donyonyokie Primary School	544	Hardship Terrain
d) Magadi Primary School	1087	Extreme Hardship

GENERAL OBSERVATIONS

a) Apparel and Identification of Officials

There is need to have the officials of the IEBC easily identifiable throughout the conduct of elections. At the polling stations the following officials play a pivotal role and need to be identifiable to the voter and observer(s):

- i) The Presiding and deputy Presiding Officer(s)
- ii) The Clerks
- iii) Observers
- iv) Party Agents

During the mock elections ICJ-Kenya observed that officials were identifiable through a badge that indicated what their designation was and some officials had an additional identifier of a luminous green jacket reflector written "Official IEBC" at the back.

It was also noted that the officials wore black IEBC t-shirts as well as a form of identification.

At each Polling Station, names were taken of those in the room at any time, but no identification document was requested or a check list used.

b) Ballot Boxes

Three out of the four polling stations visited had all the 6 ballot boxes, representing one each for elections for the: Presidency; Governor; Member of Parliament; Senator; County Representative and Women representative.

Ensonorua Polling Station approached the issue of ballot boxes by combining the ballots as follows: Presidency & Governor; member of Parliament and Senator; County representative and women

representative. Only three ballot boxes were therefore used. We noted that this brought problems with voters being confused and at times casting the vote in the wrong ballot box.

Each ballot box was marked with the name and a colour representing the elections in which ballots are to be cast, for example the ballot box for the presidency was written in black "Presidential elections." The colour signified the colour of the ballot paper for the presidential elections.

The language used to inscribe the ballot boxes was English Only. Being that the area is highly illiterate and English is not the preferred language of communication, marking the ballot boxes in English served no purpose to help the voters identify where they were casting their votes.

c) Information and Education Material

At each of the polling stations visited information was posted to guide voters on how to mark their ballot paper for their preferred candidate. The information was in both Swahili and English and the use of pictures/figures was used to illustrate the action of marking the ballot paper.

No other information material was spotted in the four polling stations visited.

d) Time used for Voting & voter assistance

The polling stations visited by ICJ-Kenya were in rural areas except for the Magadi polling Station. Almost all the voters at the period of our observation required assistance in marking and casting their ballot, an exercise that increased the time taken for casting a vote. Officials at the polling station who assisted the voters did so against the electoral regulations. Most voters were assisted by the same officials from marking the ballot to the casting of the ballot.

The average time taken by voters was between 9 minutes and 12 minutes, a period that could increase when the ballot paper has more candidates. (In the mock elections three candidates were used as a sample)

The placement and location of the polling booths in the areas in which voter assistance was widely done could provide perception of bias or partisanship, if not properly addressed.

e) Polling Booths

The Polling booths used during the mock elections were improvised from carton boxes. With the stringent budget the IEBC is working with, this will work fine as it secures privacy. However we noted different styles use in the location or placing of the polling booths. There was lack of consistency even in the arrangement of the rooms. The placement of the polling booths has a direct perception as to secrecy and to the credibility and non-partisan voter assistance. We have replicated drawing of the different styles in which the voting streams were arranged that will further explain this point below.

f) *Format of voting streams*

We found various designs at the polling stations visited. We highlight observations on the practicability of each of the designs below:

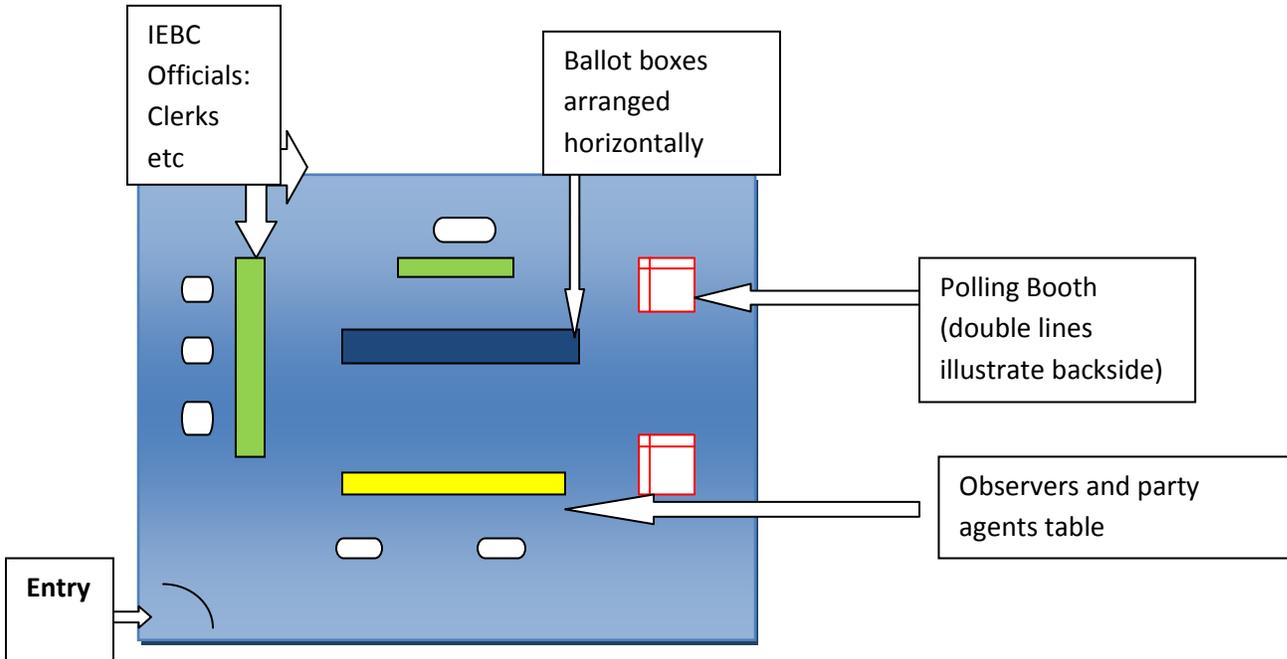


Figure 1: ENSONORUA PRIMARY SCHOOL: LAYOUT OF POLLING STATION

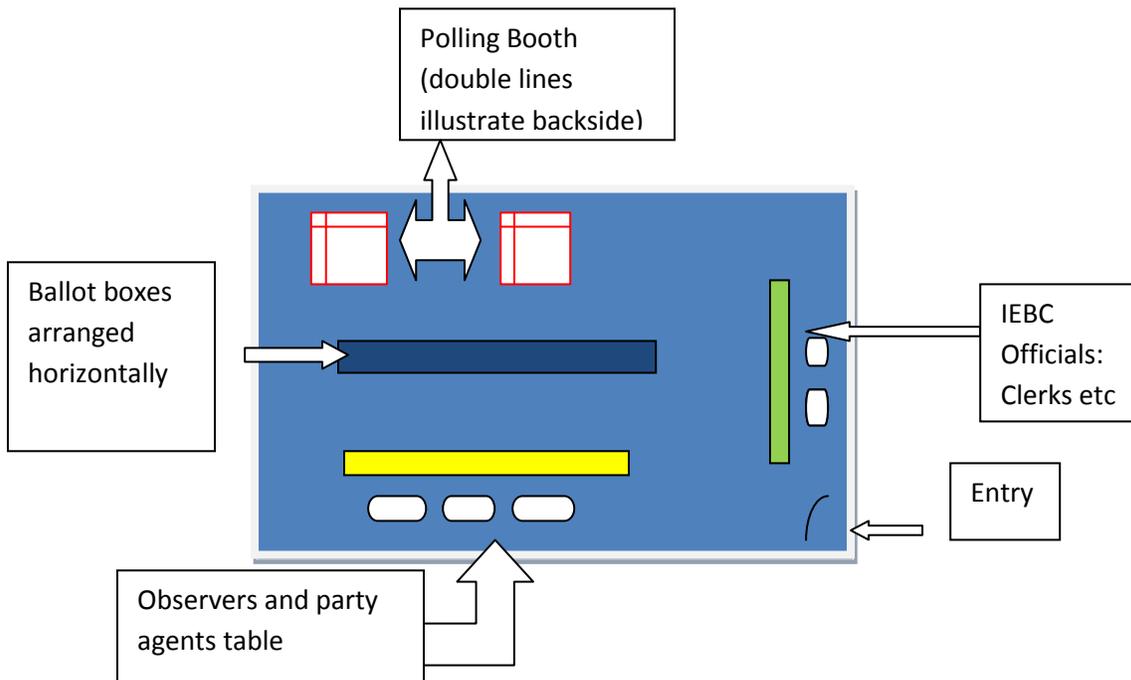


Figure 2: OLDONYONYOKIE PRIMARY SCHOOL: LAYOUT OF POLLING STATION

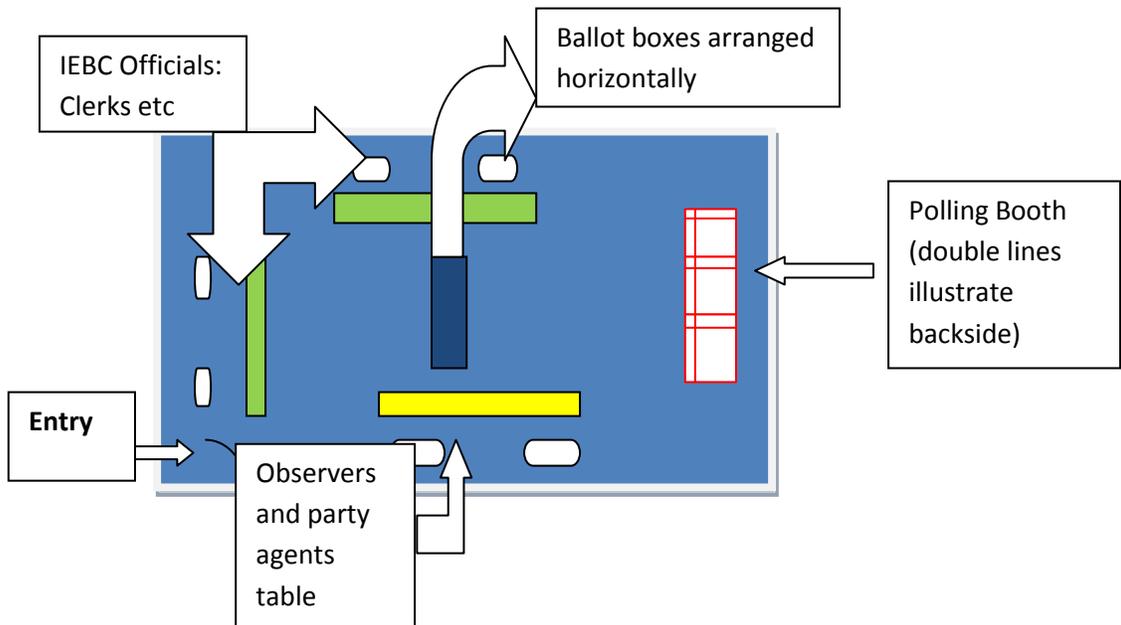


Figure 3: MAGADI PRIMARY SCHOOL, STREAM 1: LAYOUT OF POLLING STATION

Figure 2 in our view enabled the observers and officials to observe the marking of the ballot by the voter, while still maintain the secrecy of the ballot. We found that the design, which places the backside of the voter facing the observers ideal especially where the voter is assisted. This prevents any scenarios where the person assisting the voter is unduly influencing the assisted voter. We found that the design put all the happenings at the polling station in plain sight of officials and

COMPLIANCE WITH THE LAW

We did not note any violations of the electoral laws that were significant to note. Being mock elections the elections were devoid of any offences. However the officials at the polling station assisted the voters against the electoral regulations. Most voters were assisted by the same officials from marking the ballot to the casting of the ballot.

It was observed that there is a draft electoral manual 2012, that guides the officials on how to deal with issues during the elections such as the design of the arrangement, how to deal with electoral materials among others. The electoral officials will require familiarizing themselves with the manual way in advance of the elections. Stakeholders and electoral observers should be given the opportunity to comment on it and observe it compliance.

As noted by the ICJ-Kenya team, one of the polling station visited during the tallying of votes did not comply with the manual by safely guarding the electoral materials such as the unused ballot papers and counter foils a sign that the officials had not familiarized themselves with the manual.

RECOMMENDATIONS

From the observation of the mock elections, ICJ-Kenya makes the following recommendations:

- ✚ The IEBC conducts intensive civic education on the voting process. Where possible, IEBC should endeavour to conduct the civic education in the various vernacular languages especially in the rural areas as most of them don't understand either English or Swahili.
- ✚ IEBC staff should at all times during the conduct of the elections be in clearly marked apparel. The apparel should be easily identifiable of the official and should be clear what their role in the polling station is.
- ✚ We further recommend that an information material be used that clearly informs voter on how to identify the Presiding Officer and other officials. For example, Presiding officers could wear the Luminous green jackets and other officials wear another colour.
- ✚ ICJ-Kenya observed that the information and education material was in English and Kiswahili. Most people in the rural areas are illiterate hence cannot benefit from this information.

It is recommended that the information and education materials should be customized to suit the various geographical areas that shall have polling stations. IEBC should include the vernacular languages of the people in each of the different geographical locations in these educational materials where possible. The IEBC could further use other mediums such as vernacular and community radio to inform the voter of the information required during elections.

- ✚ ICJ-Kenya observed that the format adopted for the polling station was generally voter friendly and sequential. The positioning of the polling booths was however not uniform as well as the arrangement of the polling station.

It is recommended that the IEBC develops and adopts a blue print that will have all polling station arranged in similar fashion and in a way that guarantees the secrecy of the vote as well as guard the integrity of assisted voting.

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- ✚ The ballot boxes were labeled in English which most voters cannot read. As a consequence, some voters cast their votes in the wrong ballot boxes.

It is recommended that the ballot boxes be labeled in both English and Kiswahili and that the colour codes used for the different ballot papers be placed as part of the information material outside the polling station as well as the ballot boxes.