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Hon. Jeremiah Kiari
(Chairperson)
Halima Ahmed

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-THIRD SESSION

REPORT OF A DELEGATION OF THE CONSTITUTIONAL
IMPLEMENTATION OVERSIGHT COMMITTEE TO NEW DELHI INDIA
ON AN ELECTION OBSERVATION MISSION OF THE INDIA GENERAL
ELECTIONS FROM 8TH TO 15TH, MAY 2019

Approved for table
7/8/19
H.A.
DSWA

Directorate of Committee Services
The National Assembly,
Parliament Buildings,
NAIROBI.

AUGUST 2019

TABLE OF CONTENTS

Table of Contents	2
LIST OF ABBREVIATIONS	3
FOREWORD	4
CHAPTER ONE	7
1.0 PREFACE	7
1.2. Membership.....	8
CHAPTER TWO.....	10
2.0 INTRODUCTION.....	10
2.1 Background information on Election Commission of India	10
2.2 ADDRESS BY MR. SUSHIL CHANDRA, ELECTION COMMISSIONER.....	11
2.3 ADDRESS BY MR. ASHOK LAVASA, ELECTION COMMISSIONER.....	12
2.4 ADDRESS BY MR. SUNIL ARORA, CHIEF ELECTION COMMISSIONER	12
1) Electoral Roll and Information Technology in Elections.....	15
3.0 ELECTION LAWS	16
4.0 ELECTION COMMISSION OF INDIA (ECI)	18
91. In the last six decades, the Commission conducted 16 elections for Parliament, over 337 for State Assemblies and 16 for President/Vice President. A large number of by-elections and elections to the upper house and Lok Sabha were also conducted.....	20
93. Challenges of Electoral Governance include geographical diversity,.....	20
5.0 SUPREME COURT AND ELECTION COMMISSION	20
6.0 INDIA INTERNATIONAL INSTITUTE OF DEMOCRACY AND ELECTION MANAGEMENT (IIIDEM)	21
7.0 RECENT INITIATIVES.....	22
8.0 MOCK POLL ON THE POLLING DAY.....	23
How to vote by VVPAT (Voter Verifiable Paper Audit Trail).....	23
CHAPTER THREE.....	24
9.0 LESSONS LEARNT AND WAY FORWARD/RECOMMENDATIONS.....	25

LIST OF ABBREVIATIONS

BLO	-Booth Level Officers
ERO	-Election Registration Officers
ECI	- Election Commission of India
CEN	- Commonwealth Electoral Network
ECI	- Election Commission of India
EMBs	- Election Management Bodies
ETPBS	- Electronic transmitted postal ballot system
EVM	- Electronic Voting Machine
ICT	- Information and Communications Technology
IDEA	- International Institute of Democracy and Electoral Assistance
IFES	- International Foundation for Electoral Systems
NVD	- National Voters Day
NOTA	- None of the Above
SVEEP	- Systematic Voters' Education and Electoral participation
SCs	- Scheduled Castes
STs	- Scheduled Tribes
VVPAT	- Voter Verifiable Paper Audit Trail

FOREWORD

The Constitutional Implementation Oversight Committee (CIOC) is a Select Committee of the National Assembly established under section 4 of the Sixth Schedule to the Constitution of Kenya and is mandated with overseeing the implementation of the Constitution and considering impediments, if any to the process of constitutional implementation.

The Committee has been considering amendments to the Independent Electoral and Boundaries Commission Act in order to streamline the electoral process in Kenya. The Committee therefore considered visiting some countries with effective electoral systems to benchmark with their systems. They chose India due to the fact that India was a developing country just like Kenya and it was the largest democracy in the world with close to about 900million voters. In the concluded 17th Lok Sabha general elections, India deployed new technology known as Voter Verifiable Paper Audit Trail (VVPAT) system which enabled Electronic Voting Machines (EVM) to record each vote cast by generating EVM slip. It was introduced in all 543 Lok Sabha constituencies and in all the 11,000 polling stations. The observation of the elections offered a learning opportunity for Kenya which had challenges with application of modern technology in the last two general elections.

In the exercise of the observation mission, the delegation received a first-hand experience of the Election Process and Management through comprehensive briefings on the main features of poll preparedness and interactions on different facets of the entire process of Election Management for the Assembly Elections. The delegation was also exposed to the demonstration and the use of technology in the elections, particularly the use of Electronic Voting Machine (EVM) and the use of the Voter Verifiable Paper Audit Trail (VVPAT).

The delegation observed that the Electoral Commission of India was seriously engaged in increasing voters' participation, especially of women, youth and socio-economically deprived sections of society through partnership with government departments, educational institutions, civil society, corporate, media and national and provincial icons.

The delegation further observed that the Commission developed special strategies to encourage participation of newly eligible young voters including the celebration of 25th January, its Foundation Day, as the National Voters Day (NVD) every year since 2011. The delegation noted the Commission's objective to increase enrollment of all eligible voters, by using this occasion to transform the constitutional guarantee of Universal Adult Franchise into a complete reality and thereby strengthening Indian democracy.

Objectives of the Election Observation Mission were:

- i) The observer team was to assess the election process and play a crucial role in sharing expertise among election management bodies, offer a supportive role in increasing public confidence and enhancing credibility of the Electoral process.

- ii) Strengthen the capacity of the respective Electoral Management Body in election management processes and maintain a good reputation; and
- iii) Assess the legitimacy of the electoral processes and outcome in accordance with internationally accepted standards; and compliment efforts of other election observation bodies.

To accomplish the task, the team attended the Election briefing for international observers organized by the Election Commission of India on 11th – 12th May, 2019 at the Election Commission of India offices. The meeting was addressed by the following officials of the Commission:-

1. Mr. Sunil Arora, Chief Election Commissioner
2. Mr. Ashok Lavasa, Election Commissioner
3. Mr. Sushil Chandra, Election Commissioner

The Members and accompanying staff who represented the committee were the following:

1. Hon. Jeremiah Kioni, MP - Ndaragua Constituency, *Chairman & Leader of delegation*
2. Hon. Fred Kapondi, MP - Mt. Elgon Constituency
3. Hon. Fabian Muli, MP - Kangundo Constituency
4. Hon. Halima Mucheke, MP - Nominated Member
5. Ms. Mary Luka Lemerelle - *Clerk Assistant & Secretary to the delegation.*

From the observation mission exercise, the delegation learnt that India ensures free and fair elections through electronic voting and therefore recommends that the Independent Electoral and Boundaries Commission (IEBC) should adopt the India biometric system and get everyone in the voter register through the *Huduma Number*; and source for Service Provider from India.

The delegation further learnt that India has set up an Institute of Democracy and Election Management for training and capacity building of electoral commissioners. The institute provides domestic and international courses and has a network of knowledge partners working together to promote inter –institutional contact and provide technical and professional support to Election Management Bodies around the world. The delegation therefore also recommends establishment of a training institute for electoral commissioners in Kenya.

The delegation registers its profound appreciation to the Office of the Speaker and the Clerk of the National Assembly for facilitating the delegation to participate in the 17th Lok Sabha General Election observation mission and ensuring the Committee continues to fulfill its mandate.

It is now my pleasant duty and privilege, on behalf of the delegation and by extension the Constitutional Implementation Oversight Committee, to table this Report in the House pursuant to Standing Order 199 (6).



Hon. Jeremiah Kioni, M.P
Chairman & Leader of Delegation

CHAPTER ONE

1.0 PREFACE

1.1. Establishment and Mandate

1. The Constitutional Implementation Oversight Committee (CIOC) is a National assembly Select Committee constituted under Section 4 of the Sixth Schedule to the Constitution of Kenya. The Committee is responsible for overseeing the implementation of the Constitution and among other things-
 - i. Shall receive regular reports from the Commission on the Implementation of the Constitution on the implementation of the Constitution of Kenya, 2010 including reports concerning: -
 - (a) the preparation of the legislation required by the Constitution and any challenges in that regard;
 - (b) the process of establishing the new commissions;
 - (c) The process of establishing the infrastructure necessary for the proper operation of each county including progress on locating offices and assemblies and establishment and transfers of staff.
 - (d) The devolution of powers and functions to the counties under the legislation contemplated in section 15 of the sixth Schedule;
 - (e) Any impediments to the process of implementing this Constitution.
 - ii. Coordinate with the Attorney-General, the Commission on the Implementation of the Constitution and relevant parliamentary committees to ensure the timely introduction and passage of the legislation required by the Constitution; and
 - iii. Take appropriate action on the reports including addressing any problems in the implementation of the Constitution.

1.2. Membership

Chairperson
Jeremiah Kioni, M.P.
Member of Parliament for Ndaragua Constituency
Jubilee Coalition

Vice Chairperson
Fred Kapondi, M.P.
Member of Parliament for Mt. Elgon Constituency
Jubilee Coalition

MEMBERS

NO.	NAME	CONSTITUENCY	PARTY
1.	Hon. Jeremiah Kioni, M.P. – Chairman	Ndaragua	Jubilee
2.	Hon. Fred Kapondi, M.P – Vice Chairperson	Mt. Elgon	Jubilee
3.	Hon. (Dr.) Naomi Shaban, M.P.	Taveta	Jubilee
4.	Hon. Wafula Wamunyinyi, M.P.	Kanduyi	Jubilee
5.	Hon. T. J. Kajwang, M.P.	Ruaraka	ODM
6.	Hon. Ken Okoth, M.P.	Kibra	ODM
7.	Hon. Ayub Savula, M.P.	Lugari	ANC
8.	Hon. Raphael B. S. Wanjala, M.P	Budalangi	ODM
9.	Hon. Charles Gimose, M.P.	Hamisi	FORD Kenya
10.	Hon. Peris Tobiko, M.P.	Kajiado East	Jubilee
11.	Hon. Sarah P. Korere, M.P.	Laikipia North	Jubilee
12.	Hon. Abdi Shurie, M.P.	Balambala	Jubilee
13.	Hon. Fabian K. Muli, M.P.	Kangundo	Muungano
14.	Hon. (Col.) Geoffrey King'angi, M.P.	Mbeere South	Jubilee
15.	Hon. Gideon Koske, M.P.	Chepalungu	CCM
16.	Hon. Halima Mucheke, M.P.	Nominated	Jubilee
17.	Hon. Jane Njiru, M.P.	Embu County	Jubilee

18.	Hon. Joshua Chepyegon, M.P.	Baringo Central	Jubilee
19.	Hon. Japheth Mutai, M.P.	Bureti	Jubilee
20.	Hon. Simon Ng'ang'a King'ara, M.P.	Ruiru	Jubilee
21.	Hon. Daniel Rono, M.P.	Keiyo South	Jubilee
22.	Hon. Anthony Aluoch, M.P.	Mathare	Jubilee
23.	Hon. Christine Ombaka, M.P.	Siaya County	ODM

CHAPTER TWO

2.0 INTRODUCTION

2.1 Background information on Election Commission of India

3. The Election Commission of India (ECI) was constituted on 25th January, 1950 with its headquarters at New Delhi. ECI is a permanent independent constitutional body vested with powers and responsibilities of superintendence, direction and control of the entire process of preparation and revision of electoral rolls for, and conduct of elections to the houses of Parliament and legislatures of the States and the Union Territories and of elections to the Offices of President and Vice President.
4. The Constitution of India provides for the constitution of the Election Commission consisting of a Chief Election Commissioner and one or more Election Commissioners. The present Commission is a three- member body with Mr. Sunil Arora as the current Chief Election Commissioner, Mr. Ashok Lavasa and Mr. Sushil Chandra as the two Election Commissioners.
5. The Election Commission has the exclusive jurisdiction to decide the election schedules for the conduct of elections-both general elections and by-elections. It prepares, maintains and periodically updates the electoral rolls, supervises the whole process of conduct of elections, monitors the election campaigns, including funding and expenditure of candidates. It also facilitates the coverage of election process by the media, carries out the voter education and awareness measures, organizes the polling stations/booths where voting takes place, and oversees the counting of votes and the declaration of results. It has introduced polling through Electronic Voting Machines (EVMs) and recently, introduced Voter Verifiable Paper Audit Trail (VVPAT).
6. Elections are conducted according to the constitutional provisions, supplemented by laws made by Parliament and rules and orders made thereunder. The major laws are the Presidential and Vice-Presidential Elections Act, 1952, the Representation of the People Act, 1950, and the Representation of the People Act, 1951.
7. All political parties are required to get themselves registered with the Election Commission. Based on performance criteria laid down in the Election Symbols (Reservation and Allotment) Order 1968, the Commission grants recognition to political parties as national or state parties. It also decides disputes relating to splits/mergers of recognized political parties.
8. The Commission has a small Secretariat with about 400 officers and staff. The work is organized in Divisions, Branches and Sections. There are functional and territorial divisions in the Commission headed by Deputy Election Commissioners and Directors General. The main functional divisions are Planning, Judicial, Electoral Rolls, Political Parties, Election Expenditure, Communication, Systematic Voters' Education and Electoral Participation

(SVEEP), International Cooperation, Training Election Database Management, Automation and Technology, Documentation Administration, Finance and Co-ordination. The territorial work is distributed among separate units responsible for five Zones into which the 29 constituent States and 7 Union Territories of the country are grouped for convenience of management.

9. During the last 68 years, the Commission has conducted 16 General Elections to the Lok Sabha and about 388 general elections to State Legislative Assemblies, apart from thousands of by-elections, thus facilitating peaceful orderly and democratic transfer of power. In the 2014 Lok Sabha elections, the Commission catered for an electorate of 834 million, larger than the total population of many continents.

MEETING WITH THE ELECTION COMMISSIONERS

2.2 ADDRESS BY MR. SUSHIL CHANDRA, ELECTION COMMISSIONER

12. The Election Commissioner extended sincere gratitude to the delegates for finding time amidst busy schedules to show interest in observing the largest democracy in the world which he said was proactive in international partnership, promoting the course of democracy world wide. He said India is a partner in the largest forum association since 1930 in the General Assembly session which is chaired by the Chief Election Commissioner of India, Mr. Sunil Arora.
13. He stated that the Election Commission of India (ECI) undertakes its duty of conducting comprehensive elections in a free, fair and transparent manner –and free from monetary influence. He also noted the mode of conduct by ECI on entire electoral process is usually completed promptly and that the process of the 2019 general elections would be completed by 27th May, 2019.
14. He pointed out that the observers were composed of three (3) groups; the general observers monitoring polling stations, expenditure observers and police observers.
15. He mentioned the role of ECI in electoral process as to be consisting of scrutiny of nomination, vulnerability mapping, training of polling personnel, and scrutiny after polling and counting.
16. He stated that ECI appointed over 800 expenditure observers whose names and telephone numbers are provided in the dailies. The expenditure observers monitor illegal cash and inducements given to voters during Lok Sabha polls. He also stated that the ECI appointed over 300 police observers to maintain security, law and order to coordinate between civilians and police for smooth, free and fair elections.
17. He further stated that the social media is monitored by the ECI and is committed to implementing the code of ethics.

2.3 ADDRESS BY MR. ASHOK LAVASA, ELECTION COMMISSIONER

18. The Election Commissioner welcomed delegates to the election observation exercise. He termed the general elections as the most important event in India, the best occasion witnessing a mammoth exercise.
19. He stated that the size and scale of Indian elections originates back to 1950 and that the world was skeptical how India would handle with the rate /level of literacy at 16%.
20. He said the Commission functions with over 500 staff who transform into a gigantic machine during elections with over 12 million work-force.
21. He underscored the intent of the Commission to have voters not walk for a radius of over 2kms to a polling station.
22. He pointed out the growth in voter participation by 64% which according to international standards was good.
23. He also pointed out the significant increase in the level of participation of women in the voting exercise.
24. He also reiterated the value of the visitors to the Commission in observing the biggest management exercise and giving them feedback.

2.4 ADDRESS BY MR. SUNIL ARORA, CHIEF ELECTION COMMISSIONER

25. The Chief Election Commissioner thanked the delegates and welcomed the delegates to witness the undisputedly largest exercise in the world. He stated that his colleagues/commissioners had shared information lucidly and that he would be brief.
26. He mentioned that India has 29 states and there are different election schedules for state assemblies. He stated that ICT would be used greatly in the elections to make the elections easier to administer. He reported that all people registered to vote are encouraged to participate in the elections and that the oldest voter expected to cast his vote in West Delhi was 111 years old.
27. He also reported the general elections were being held in seven phases and would constitute the 17th Lok Sabha elections whose votes would be counted and results declared on 23rd May, 2019.
28. He said elections were successful in the first 5 phases and that only two phases were remaining to conclude the elections. He pointed out the challenges/obstacles as litigations in High Court and Supreme Court. He however mentioned that according to the Constitution, ongoing elections cannot be interfered with and that the remaining two phases would go on uninterrupted.
29. He also pointed out a challenge of lack of a legislative framework for the role of the media and that they had been working with them based on an agreed code of ethics. He gave an example of Germany which he said had done more and that the ECI would make an attempt after the elections are concluded to visit Germany.
30. He thanked the delegation for visiting and being part of the election observation mission, saying that their feedback would be valuable to the Commission.

2.5 BRIEFING OF FOREIGN DELEGATES

31. The Senior Deputy Election Commissioner took the delegates through a briefing of the 17th Lok Sabha General Election electoral process which he said was the country's greatest event. He welcomed the delegates noting that they were 66 representatives from 21 countries to the greatest festival of democracy on earth.
32. He stated that the exercise was already completed in 5 phases and that the 6th phase would be from 12th May, 2019, while the 7th and last phase would be on 19th May, 2019. He further stated that counting of votes and declaration of results would be done on 23rd May, 2019. Each phase involved conducting elections in a number of states with various seats involved.
33. He stated that there were 543 parliamentary constituencies in the country and the total voter population was 900 million with more than 1 million polling stations.
34. He informed the delegates of a name/logo 'Desh Ka Maha' which were on the official poster of the ECI for the 2019 general election which urged all Indians to check that they were on the register of voters. It was launched 3 months before the election as a campaign whose main purpose was to promote total inclusivity, participatory and accessibility in the elections exercise.

a) SVEEP objective for LSE 2019

35. Systematic Voters' Education and Electoral participation (SVEEP) is a multi-pronged intervention whose objectives were to maximize enrolment, higher voter turnout, zero gender gap, higher youth participation, high turnout of persons with disabilities and higher turnout of voters.
36. The components of SVEEP included information, facilitation and motivation for participation of youth, women, persons with disabilities and new voters.
37. The comprehensive strategy was that there were four groups of committees in every state set up to look at the needs of the people and make recommendations on voter education programme. SVEEP Core Committees at each province included Committees on Accessible Elections, Nodal Officers, Disability Coordinators and Observers including Accessibility Observers.
38. The process included five steps; Preparation & Situational Analysis, Planning & Partnerships, Roll Out, Monitoring and Evaluation. The preparation constituted of situational analysis which consisted of surveys –KAP, identification of lowest turnout, polling station areas and identifying marginalized segments. Capacity building for Nodal Officers, Conveners of Chunav Pathshala (*platforms for engaging community members mainly in rural areas*), Campus Ambassadors, ELC Members, Partner Organization and Volunteers. Planning included State Plan, District Plan and Booth Level Plan and partnerships with Departments, Media, Civil Society, NGOs and Individuals.

39. The focus groups/targeted intervention largely focused on women, persons with disabilities, armed forces and marginalized segments.
40. Voter Verifiable Paper Audit Trail (EVM-VVPAT) awareness at the Permanent EVM/VVPAT Centre for Hands on Experience at District HQs, mobile vans covering all polling stations, distribution of publicity materials, Kiosks and sensitization in Colleges and Secondary Schools.

b) Political Parties and Training

41. An application for registration was to be submitted to the Secretary, ECI as per the standard guidelines laid down by the ECI. The application was to be presented within thirty days following the date of formation of the party .A processing fee of Rs. 10,000/- had to be paid with the application. The first and foremost requirement prescribed under the law was that the association or body which sought registration was to be comprised wholly of the citizens of India.
42. Recognition of Political parties: The political parties registered with the Commission were granted recognition either as “State party” or “National party” by the ECI on the basis of their poll performance. The criteria for such recognition are laid down in the “Election Symbols (Reservation and Allotment) Order, 1968”.
43. Conditions for recognition as a state party: At the last general election to the legislative assembly of the State, the candidates of the party should have secured not less than six percent of the total valid votes polled, and in addition, at least two candidates of the party get elected, or the party wins at least three percent of the total number of seats in the Legislative Assembly or at least three seats, whichever is more.
44. The total number of political parties in the 2019 elections included: Recognized National Parties – 7, Recognized State Parties – 54 and Unrecognized registered political parties as on 1st April, 2019 – 2354.
45. The type of symbols includes; Reserved Symbols – for recognized parties and Free Symbols – for unregistered parties and independent candidates.

j) Rationale behind Control of Money Power

46. Constitutional Mandate of ECI to conduct free and fair elections under Article 324 of the Constitution.
47. Supreme Court of India in a landmark judgement in 1975 held that a Level playing field should be provided in elections and influence of big money in electoral process should be eliminated.

48. Cost estimates for Lok Sabha 2014 Rs.30,000 Crores (\$4B) while Lok Sabha 2019 were Rs. 50000 ¹Crores (\$7B).
49. Total money spent by candidates in Lok Sabha (LS) 2014 Rs. 721 Crores (\$106M) while Total money spent by political parties in LS 2014 Rs. 1524 Crores (\$224M) making a total of (\$330 M).
50. Manpower deployment included the following: Expenditure Observers-857, Assistant Expenditure Observers-5000, Flying Squads-16840, Static Surveillance Teams-15707, Video Surveillance Teams-9664, and Accounting Teams-7231.
51. Reporting by political parties entailed contribution Reports- to be submitted by all parties to the Election Commission of India-with details of all contributions over ₹20,000. Details- Name, address, Permanent Account Number (PAN), mode of payment. The Representation of the People Act, 1951- failure to report by due date shall lead to denial of Income tax benefits. Annual Audited Accounts- are also to be submitted to the Commission.

k) Campaign expenditure by candidates

53. The Representation of the People's Act, 1951 Section 10A: Failure to lodge an account of election expenses within time and manner required by law and with no good reason or justification for the failure leads to disqualification for a period of three years from the date of order of the Commission.
54. Section 77(1) of the Representation of the People's Act, 1951 provides that a Candidate/Election agent shall keep a separate, correct account of election expenditure incurred/authorized between the date of nomination & declaration of results (both dates inclusive).
55. Key decision in cancellation of Elections in 4 constituencies in Tamil Nadu; R.K Nagar, Thanjavur, Avrakurchi and Vellore was noted. Cash seizure of Rs.11.48 Crores. (\$1.64 million) carefully packed in plastic packets with names of wards and numbers of voters in the Vellore constituency, owned up by a party functionary to be used to bribe voters was confiscated. The election to the Parliamentary Constituency was rescinded by the Election Commission of India

l) Electoral Roll and Information Technology in Elections

57. ECI extensively used technology in elections to maintain error-free electoral rolls, to conduct elections efficiently, to ensure better services to stakeholders, to provide access to information for greater transparency, to redress complaints and grievances of the stakeholders and to create awareness and build capacity of stakeholders.

¹ A crore denotes ten million and is equal to 100 lakh in the Indian numbering system as 1,00,00,000 with the local style of digit group separators

58. The following were used to maintain error-free and healthy electoral rolls: Unified National Photo Electoral Rolls, Election Registration Officers (ERO) Net to Link over 10,000 Electoral Officers, Booth Level Officers (BLO) Net - Linking over one million booth level officers and online service voters registration system.
59. The following systems were installed to conduct elections efficiently: Electronic transmitted postal ballot system (ETPBS), Election related Complaint Monitoring System- NGS, Single Window Clearance for Campaigning Permissions, Vehicles Hiring and Deployment System, Web Casting and CCTV at Polling booth, Election Expenditure Monitoring System and Trends and Results Management System.
60. To ensure better services to stakeholders, the following was in place and working: a National Voters Services Portal <http://www.nvsp.in/>, Overseas Voters Portal <http://eci.nic.in/overseasvoters>, ECI Portal/Website, Service Voters Registration Portal and E-Office system & E-Personal Management in ECI.
61. The following were used for access to information for greater transparency: citizens' vigil (cVigil) application to capture picture on any violation, mobile applications to share information among stakeholders, Voter Helpline mobile applications to motivate & educate voters, Persons with Disabilities applications and short message service (SMS) Gateway for sharing of Information.
62. 1.8 million Voters had been registered electronically on the National Voters Services Portal (NVSP).
63. How citizen lodge a complaint: They were required to log onto National Grievances Service Portal on the online Citizen Portal www.eci.gov.in and do a physical application to the Deputy Returning Officer (DRO) or Election Returning Officer (ERO).

ELECTION LAWS

64. The Deputy Election Commissioner, Dr. Chandra Bhushan Kumar took the delegates through the legal framework, commission powers, functions, territorial distribution/delimitation, electoral roll, conduct of elections and dispute resolution.
65. He said that the framers of the India Constitution took care by leaving scope of exercise of residuary power by the Commission, in its own right, as a creature of the Constitution, in the infinite variety of situations that may emerge from time to time in such a large democracy. Every contingency could not be foreseen, or anticipated with precision that is why there was no hedging in Article 324.
66. The legal framework included delimitation by the commission, Representation of the People Act, 1950, the Representation of the People Act, 1951 and symbol orders plenary powers.

67. The elected bodies are president/ vice-president, Parliament which consist of Upper House (Rajya Sabha) & Lower House (Lok Sabha), State Assembly's 4120 seats in 29 assemblies, Legislative Councils and Local Bodies.
68. Parliament Upper House (Rajya Sabha) consist of 250 members whereby 238 are elected through single transferable voting on a six year term/every two year fresh election and 12 nominated eminent persons.
69. The Lower House (Lok Sabha) consists of 545 members whereas 543 members are elected by direct voting and 2 members nominated of Anglo-Indian race all on a five year term.
70. The Commission consists of 3 members; the chief election commissioner, and two election commissioners who are on a fixed tenure/protected from removal. The Commission powers include superintendence, control, direction and reference.
71. Delimitation: Delimitation of boundaries was done as follows: In 1952 under Delimitation Commission Act, 1952, in 1963 under Delimitation Commission Act, 1962, in 1973 under Delimitation Act, 1972 and in 2002 under Delimitation Act, 2002. The next delimitation is planned for 2026.
72. Article 81 envisages that there shall be allotted to each State a number of seats in the House of the People in such manner that the ratio between that number and the population of the State is, so far as practicable, the same for all States.
73. Article 330 envisages that seats shall be reserved for Scheduled Castes (SCs), Scheduled Tribes (STs) and the number of seats so reserved in the lower house shall bear, as nearly as may be, the same proportion to the total number of seats allotted to that State/Union Territory in the House of the People as the population of Scheduled Castes in State/Union Territory.
74. There shall be one general electoral roll for every territorial constituency (Article 325).
75. The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage.(Article 326)
76. Conduct of Elections include bar to interference by courts in electoral matters. (Article 329) and Government has to provide all officials (Article 324(6) including security/police on deputation to ECI.

77. Pre- election disputes and resolutions are categorized into three: Disputes relating to delimitation of constituencies, disputes relating to electoral rolls, and issues relating to symbol disputes.
78. Disputes pertaining to election expenditure: According to Section 78 of Representation of Peoples Act, 1951, every contesting candidate is required to lodge a true copy of the account of his election expenses with the District Election Officer (DEO) within 30 days of the declaration of the result of the election. Failure to do the same without good reason or justification may result in disqualification of the candidate concerned by the Election Commission of India under Section 10A of Representation of Peoples Act, 1951. Any complaints regarding election expenditure is decided by the Election Commission.
79. Post- election disputes include disputes relating to Disqualification arising out of corrupt practices and disqualification due to holding of office for profit.

ELECTION COMMISSION OF INDIA (ECI)

80. The Election Commission of India (ECI) was founded on January 25, 1950 under Article 324(1) in the Constitution of India, as an independent constitutional body.
81. ECI is an autonomous constitutional authority responsible for preparation of Electoral Roll and Conduct of elections of the office of the President and Vice-President of India, National Parliament, State Assemblies and Councils in India.
82. The Constitution of India vests the superintendence, direction, and control of the entire process of elections to the ECI.
83. The Chief Election Commissioner and Election Commissioners enjoy the status of Judges of India's Supreme Court. The ECI is Independent and Autonomous with the sole authority for scheduling elections. ECI is not just a regulatory body but also an Electoral Management Body and deploys necessary police and paramilitary forces during elections and engages requisite Government officials during election time.
84. The guiding principles of the ECI include:
- a) to uphold the values of equality, equity, impartiality, independence, and rule of law in superintendence, direction and control over the electoral governance;
 - b) To ensure the participation of all eligible citizens in the electoral process without any discrimination in voter-centric and voter-friendly environment;
 - c) To facilitate active consultation with all stakeholders including political parties, civil society, and media for cooperation and compliance;

- d) To conduct credible and acceptable elections with highest standards of professionalism involving fairness, transparency, integrity, accountability, autonomy, and authority; and
- e) To promote awareness about electoral governance, enhancing confidence and trust in the electoral system, and suggesting improvement in the electoral legal framework

85. The Election Commission of India (ECI) milestones include its establishment in 1950 and conducting the first general elections in 1951-1952 and 494 seats were elected through first past the post voting system in 1957.

86. ECI conducted largest election exercise in a democracy in the General Elections of 2014 and began using new technologies like social media in 2017.

87. Globally, India as a country has more voters than some continents combined as illustrated by its population in the table below:

Country	Europe	North America	South America	Africa	India
population	731 million	528 million	382 million	922 million	1.22 billion
electorate	449 million	324 million	235 million	566 million	875 million

88. The table below shows the Magnitude of 2014 General Elections for Lok Sabha (Lower House of the Parliament):

Electorate:	840 Million (at Present 875 Mn)
Polling Stations :	927,553 (at Present 997,269)
EVMS used:	15, 50, 000
Staff and Security Deployed:	11 Million
Observers:	1200
Political Parties:	464
Candidates:	8251

89. Organizational Chart of the ECI

National	Chief Election Commissioner + 2 ECs and Secretariat with 500 staff
Province	(State/Union Territory Chief Electoral Officer (total 36)
Districts	District Election Officer (More than 600)
Assembly	Constituency Electoral Registration Officer (4120)
Polling Station/Booth	Booth Level Officer (Close to one million)

During election time, Civilian employees and Police force in the Country are placed on deputation with a Total Workforce of Eleven Million.

90. Building Blocks of the Electoral Governance include guarding independence & autonomy, free from influence, free, fair & transparent elections, stakeholder consultation, capable human resource (civil and police), Information Technology, Election Expenditure Monitoring, Model Code of Conduct, Electronic Voting Machine, basic minimum facilities and SVEEP.
91. In the last six decades, the Commission conducted 16 elections for Parliament, over 337 for State Assemblies and 16 for President/Vice President. A large number of by-elections and elections to the upper house and Lok Sabha were also conducted.
92. ECI envisages a vision of digitally empowered citizens in order to provide first-hand information
93. Challenges of Electoral Governance include geographical diversity, resource mobilization, credibility, uniformity, Swiftness, linguistic diversity and socio-cultural diversity

SUPREME COURT AND ELECTION COMMISSION

82. Time and again the Apex Court has provided a solid support to the Commission through its pronouncements in achieving the ideals of electoral democracy. Some of the significant judgements were to the following effect:-
 - a) An Election can only be challenged through an Election Petition. N.P. Ponnuswami vs the Returning Officer, Namakkal Constituency (AIR 1985 SC 12 33);
 - b) The Commission is entitled to exercise certain powers under Article 324 itself on its own rights in an area not covered by the Representation of People Acts and the Rules. Mohinder Singh Gill & Another vs. the Chief Election Commissioner (AIR 1978 SC 851)

- c) The right to be included in the electoral roll or to challenge the inclusion of any name in the roll is a statutory right conferred on an individual and not upon any political party;
 - d) All candidates are required to file affidavits declaring education, income, assets and criminal background.
83. None of the Above (NOTA) option should be provided on the EVM and ballot papers to maintain secrecy of voter deciding not to vote for any of the contesting candidates.

INDIA INTERNATIONAL INSTITUTE OF DEMOCRACY AND ELECTION MANAGEMENT (IIIDEM)

88. India International Institute of Democracy and Election Management (IIIDEM) was established on 17 June, 2011 as a response to and recognition of the long felt need for developing capacity and promoting professionalism in the management of elections in order to strengthen democracy.
89. IIIDEM is an integral wing under the direct supervision & control of the Election Commission of India
90. The main object of IIIDEM is to ensure free, fair credible and professionally managed elections with the vision of promoting & reinforcing true democratic values. Its mission – is establishment of highest standards.
91. Goals and Guiding Principles include promoting professional competence in election management nationally and internationally, to enable voter friendly implementation of election processes, to support enriching democratic systems, values & practices, establishing exemplary global leadership in fields of democracy & election management, to support & supplement the efforts of the ECI and to encourage & promote pure & applied research & publication.
92. Institutional block (total 12,500sqm) equipped with state of the art training rooms (50-100 capacity), conference halls, library, IT server room, election museum, publication center, record room, computer labs and lavish office spaces. It has 2, 3 – Auditorium, 4 Hostel Blocks, 5 Conference Halls and 6 Guest Rooms
93. The Institute conducts its programs in broadly the following categories: Election Management Trainings for Polling Officials in India, Facilitation Skills Training for Master Trainers, Leadership and Motivation Trainings for Polling Officials, Election Management Training for International EMBs, Consultation Workshops for Election Commissioners and Senior Officers of Electoral Management Bodies (EMBs).
94. IIIDEM- trainings as of January,2019: 83 countries participated in the trainings as follows:

Type of Program	No of programmes	No. of training days	No. of persons trained at IIIDEM
International Programmes	36	233	615
Domestic Programmes	527	1376	18,300

7.0 RECENT INITIATIVES

94. E-Postal Ballot- Is a new initiative to ensure that servicemen/women voters (Army, Air-force, Navy and Para Military Personnel) are able to cast their votes. New rules empower a returning officer in any constituency to send postal ballots to an eligible voter by electronic means (e-transfer of postal ballot). Returning officer to send ballot through a web portal with a 'One Time Password (OTP)' to voters. The voter needs to download the ballot for voting. After voting, the voter will physically return the ballot through post. It will cut time in transmission of the ballot paper and help the ECI overcome logistical problems. Two-way e-voting has not yet been recommended by the Election Commission due to Security and Secrecy concerns
95. ECI introduced None Of The Above (NOTA) option with effect from 11th October, 2013. Its main objective is to enable voters who do not wish to vote for any candidate to exercise their right not to vote for any candidate without violation of the secrecy of their decision. ECI introduced the specific NOTA symbol on 18th September, 2015.
96. Voter Information, Communication, Education Network, a Global Knowledge Network for sharing knowledge, resources and expertise on Voter Education was launched on 20th October, 2016 at the International Conference on Voter Education for Inclusive, Informed and Ethical Participation held in New Delhi. Part of the New Delhi Declaration adopted at the Conference by the 25 Election Management Bodies (EMBs) and representatives from UNDP, International Institute of Democracy and Electoral Assistance (IDEA), International Foundation for Electoral Systems (IFES) and Malaysian Commonwealth Studies Center, VoICE.Net contents are provided by the member EMBs/Organizations and the portal is maintained by the Election Commission of India.
97. Election Expenditure Monitoring Division was set-up. Several instruments were used to bring about transparency in campaign finance including Candidate affidavit, Expenditure Statement, Expenditure observers etc. Comprehensive instructions were given and enforcement enhanced to deal with illegal use of money and media in elections. Ceiling on expenditure and filing of expenditure statement was introduced. Separate bank account mandatory for election expenses was also introduced.

98. Leveraging technology for election management: use of video/still cameras as a tool for tracking events including violations of Model Code and of law during campaign as well as on poll/counting days. Others included Video Conferencing as a monitoring tool, use of GPS for tracking vehicles in remote areas, use of group SMS in information dissemination and 34 mobile applications for the use of officers, political parties and citizens. Few important applications are:-Samadhan (Grievance Redresser) – for citizens/political parties, Suvidha (Single Window Clearance) – for political parties/candidates and Sugam (Vehicle Management) – for citizens
99. ECI has Membership to International Organizations among them:
- Founding member and Ex-Chair of the Association of the Asian Election Authorities [AAEA] (2015-16). ECI is presently a member of the Executive Board (2017-19).
 - Founding member and Ex-Chair of the Forum of Election Management Bodies of South Asia [FEMBoSA] (2012-13)
 - Member of the Executive Board of the Association of World Election Bodies (A-WEB) since 2013. ECI is the Vice Chair of A-WEB and will take over as the chair of the Group in 2019.
 - Founding member of International Institute of Democracy and Electoral Assistance (IDEA), Stockholm; Dr. S.Y. Quraishi, former Commissioner Electoral Commission (CEC) of India, is on the Board of Advisors of International IDEA.
 - Member of Commonwealth Electoral Network (CEN) (2010) and was on the Steering Committee since inception in 2010 till 2014.
 - Member of the Advisory Group to the Global Commission on Elections, Democracy and Security.
 - Presently 21 MoUs signed and active for cooperation in the field of Electoral Management and administration with Australia, Bosnia & Herzegovina, Fiji, Georgia, Ivory Coast, Mexico, Nepal, South Africa, Yemen, Guinea, Moldova, Russian Federation, Kyrgyz Republic, Libya, Mauritius, Brazil, Republic of Korea, United Nations, International IDEA and International Foundation for Electoral Systems (IFES).

8.0 MOCK POLL ON THE POLLING DAY

How to vote by VVPAT (Voter Verifiable Paper Audit Trail)

100. Mock poll was conducted to test the integrity of the process and it was conducted by the presiding officer at every polling station on the day of voting with at least 50 votes cast in the presence of candidates or their representatives and others present at the polling station. The electronic results of the control unit and VVPAT slips would then be tallied and shown to the candidates and representatives.

101. Mock poll was a mandatory step and a presiding officer had to give a certificate to this effect. At this point it also reconfirmed the functioning of the control unit clock and the battery levels.
102. The delegates witnessed the mock poll which was conducted one hour before the actual voting. In the first step before beginning the mock poll, one pressed the clear button and then the total button to show to the polling agents that there were no votes polled in the EVM.
103. Conduct of mock poll was by pressing buttons of each candidate and of NOTA (None of the Above) on the Button Unit (BU). After the button of each candidate had been pressed for nearly equal number of times, the presiding officer would press the close button then press the ballot button in the control unit to show that no votes could be polled after pressing of the close button.
104. The Presiding officer would then press the result button and show the agents the candidate results of the mock poll. Once they were satisfied, he would clear the mock poll data from the EVM and prepare the mock poll certificate and get it signed by the polling agents and observers.
105. He would then properly Seal the control unit using the prescribed seals and tags and make it ready for the actual polls.

CHAPTER 3


9.0 LESSONS LEARNT AND WAY FORWARD/ RECOMMENDATIONS

106. The Electronic Voting Machine (EVM) was one of the significant features in elections. With consistent support of political parties, the Commission replaced the use of ballot boxes by the EVMs in 2004. EVM gave speed, efficiency, and visibility to the process. Selective introduction of Voter-Verified Paper Audit Trail or VVPAT with the EVM in some constituencies was appreciated by all the stakeholders. Since 2000, the EVMs were used in all elections specifically in 3 Lok Sabha and 107 State Legislative Assemblies.
107. Voter Verifiable Paper Audit Trail is an independent system, attached with the Electronic Voting Machines that allows the voters to verify that their votes are cast as intended. When a vote is cast, the elector is able to view through the transparent window of the VVPAT, the printed paper slip showing the serial no, name and the symbol of the candidate of his choice. The slip remains exposed through the window for 7 seconds, after which it automatically gets cut and falls in the sealed drop box of the VVPAT. Since 2013, VVPATs were used in selected constituencies in every Legislative and Parliamentary election.
108. Moral Code of Conduct –It is a moral guideline for candidates and political parties that has evolved with consensus. It ensures fair play for all including the party in power. It ensures observation of ethical conduct of good behavior and monitoring through teams/video/media constantly. All citizens were sensitized of the code.
109. To curb the money power, well thought out mechanisms were put in place. It involved coordination and control over income tax, police, banks, excise agencies amongst others to have better intelligence and implementation.
110. Meeting gender gap involved grass root level workers of Government's women's public grievances monitoring systems trained and involved in electoral participation, Women centric activities and competitions conducted to engage women, Women centric messages and advocacy material in mass media and Young mothers targeted through health workers.
111. With at least 22 scheduled languages, 30 languages with more than one million native speakers, and 122 languages with more than 10,000 speakers, conduct of Indian election is also the story of cultural diversity.
112. Registration of political parties, symbol allotment and its status are constantly monitored.
113. The Election Commission of India (ECI) consists of 3 members only who are appointed by the President of India for a 6year term and who cannot be dismissed from office except by parliamentary impeachment. The ECI is invulnerable to

political influences and scrupulously nonpartisan and therefore is charged conducting fair and orderly election.

114. The delegation learnt that India ensures free and fair elections through elec voting and therefore recommends that the Independent Election Commission s adopt the India biometric system and get everyone in the voter register throug *Huduma Number* and could consider sourcing for Service Provider from India.
115. The delegation further recommends establishment of a training institute for ele commissioners in Kenya.

SIGNED


HON. JEREMIAH KIONI, MP
CHAIRMAN & LEADER OF THE DELEGATION

DATE

6/8/2019

MINUTES OF THE 31ST SITTING OF THE CONSTITUTIONAL IMPLEMENTATION OVERSIGHT COMMITTEE HELD ON TUESDAY, 6TH AUGUST, 2019 IN UKULIMA HOUSE, 8TH FLOOR COMMITTEE ROOM, PARLIAMENT BUILDINGS AT 11.30 A.M.

PRESENT

1. The Hon. Jeremiah Kioni, M.P. - Chairman
2. The Hon. Fred Kapondi, M.P. - Vice-Chairman
3. The Hon. Wafula Wamunyinyi, M.P.
4. The Hon. (Dr.) Christine Ombaka, M.P.
5. The Hon. Sarah Korere, M.P.
6. The Hon. Peris Tobiko, M.P.
7. The Hon. Raphael B. S. Wanjala, M.P.
8. The Hon. Joshua Chepyegon, M.P.
9. The Hon. Abdi Shurie, M.P.
10. The Hon. Jane Njiru, M.P.
11. The Hon. (Col.) Geoffrey King'ang'i, M.P.
12. The Hon. Japheth Mutai, M.P.
13. The Hon. Halima Mucheke, M.P.

APOLOGY

14. The Hon. Anthony Oluoch, M.P.
15. The Hon. Charles Gimose, M.P.
16. The Hon. Daniel Rono, M.P.
17. The Hon. Simon Ng'ang'a King'ara, M.P.
18. The Hon. Fabian K. Muli, M.P.
- 19.
20. The Hon. (Dr.) Naomi Shaban, M.P.
- 21.
22. The Hon. Gideon Koske, M.P.
23. The Hon. Ayub Savula, M.P.
24. The Hon. Ken Okoth, M.P.
25. The Hon. T.J Kajwang', M.P

SECRETARIAT


1. Mr. Edward Libendi - Senior Clerk Assistant
2. Ms. Christine Odhiambo - Legal Counsel
3. Mr. Allan Githaiga - Serjeant-at-Arms

MIN.NO.CIOC/2019/185 ANY OTHER BUSINESS

There was no any other business.

MIN.NO.CIOC/2019/186 ADJOURNMENT

There being no other business the meeting was adjourned at One o'clock (1. 00 pm). The next sitting will be on Thursday, 8th August, 2019 at 11.30 am.

SIGN.....

THE HON. JEREMIAH KIONI, M.P.

DATE 6/8/2019
CHAIRMAN

REPUBLIC OF KENYA



TWELFTH PARLIAMENT *Hon SPEAKER*

THE *CIOC three (3)*
Reports for your
approval for tabling

CONSTITUTIONAL IMI

COMMITTEE

MEMBERS PRESENT DURING
OBSERVATION IN NEW DELHI
MALAWI

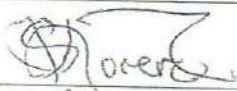

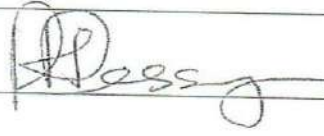
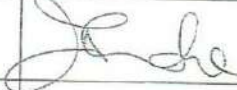
GENERAL ELECTION
NG VISIT TO

2/Committee
06/8/19


Date: *08/2019*

House, 4th Floor.

	HON. MEMBER	SIGNATURE
1.	Hon. Jeremiah Kioni, M.P. (Chairman)	
2.	Hon. Fred Kapondi, M.P (Vice Chairman)	
3.	Hon. (Dr.) Naomi Shaban, M.P	
4.	Hon. (Dr.) Christine Ombaka, M.P.	
5.	Hon. Wafula Wamunyinyi, M.P.	
6.	Hon. Charles Gimose, M.P.	
7.	Hon. Anthony Oluoch, M.P.	
8.	Hon. Abdi Shurie, M.P.	
9.	Hon. (Col.) Geoffrey Kingangi, M.P	
10.	Hon. Raphael B. S. Wanjala, M.P	
11.	Hon. Simon Nganga Kingara, M.P.	
12.	Hon. Halima Mucheke, M.P.	

	HON. MEMBER	SIGNATURE
13.	Hon. Sarah P. Korere, M.P.	
14.	Hon. Jane Njiru, M.P.	
15.	Hon. Japheth Mutai, M.P.	
16.	Hon. Peris Tobiko, M.P.	
17.	Hon. Daniel Rono, M.P.	
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20.	Hon. Gideon Koske, M.P.	
21.	Hon. Ayub Savula, M.P.	
22.	Hon. Ken Okoth, M.P.	
23.	Hon. T.J Kajwang, M.P.	

Name: Edward Mbendi
 Committee Clerk

Signature 

Name:

Signature

Director, Committee Services