

BRIEF TO H.E. DR KOFFI ANNAN, FORMER UN SECRETARY-GENERAL AND CHIEF MEDIATOR TO KENYA'S POST-ELECTION STALEMATE

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1. Background:

The Interim Independent Electoral Commission of Kenya (IIEC) was established by the Government of Kenya as part of the wider reforms to be undertaken under Agenda 4 of the Kenya National Accord and Reconciliation Act.

The disputed Presidential Elections of 2007 and the events that followed re-awakened national consciousness to the need to address structural weaknesses of the electoral system and process in Kenya. As a result, the Independent Review Commission (Kriegler Commission) was established in March 2008 and mandated to look into this very question. Following its report submitted in September 2008, the Government established the Interim Independent Electoral Commission (IIEC) and the Interim Independent Boundaries Review Commission (IIBRC). The Commissions were started working in May 2009 after the recruitment and formal appointment of the Commissioners. These Commissions have the mandate to jointly spearhead the reforms recommended by the Kriegler Commission as adopted by the Cabinet.

IIEC was therefore set up to reform the electoral process and restore people's confidence in the country's electoral system. The new body, which was Gazetted on May 8th, 2009, is expected to carry out electoral reforms within 24 months starting from the 28th December, 2008. It will be dissolved by December, 2010 or 3 months after a new constitution comes into effect, whichever comes first.

Compared to the former electoral management body, the Electoral Commission of Kenya, ECK, which was disbanded on 29th December, 2009, IIEC is a lean institution. Whereas ECK had 22 commissioners, IIEC has only 9 commissioners; that is, 8 Commissioners and a Chairman.

A skeleton staff was seconded from the government to help the Commission as it sets up its own secretariat.

2. IIEC mandate

- Reform of the electoral process and the management of elections in order to institutionalize free and fair elections
- Establishment of an efficient and effective secretariat
- Promotion of free and fair elections

- Fresh registration of voters and the creation of a new voters' register
- Development of a modern system for collection, collation, transmission, and tallying of electoral data
- Conducting of the referendum for the new constitution
- Facilitation of the observation, monitoring and evaluation of elections and referenda
- Promotion of voter education and culture of democracy, and
- Settlement of minor electoral disputes during an election as may be provided by law

3. Milestones in IIEC's reform agenda

To start off the reform agenda, IIEC Commission embarked on the following tasks:

- Participated in an induction workshop (Naivasha, 5th -7th July, 2009) to learn from international experts on ways of building a strong electoral system and elections management body
- Made a study tour to Ghana and South Africa to study their electoral system
- Held two meetings in Nairobi with all the 47 Political Parties to deliberate on compliance of the Political Parties Act, formation of political parties liaison committee, the Code of Conduct and mechanisms for conflict resolution, among other pertinent issues
- Presented views on electoral reforms to the Committee of Experts on Constitutional Review
- Participated on the first National Electoral Reforms conference
- Undertook a voter registration exercise using mainly homegrown solutions by Community Based Organizations in the two constituencies, Shinyalu and Bomachoge, where parliamentary by-elections were to be held
- Conducted successful by-elections in Bomachoge and Shinyalu constituencies on 27th August, 2009. More than 400 local and international observers were accredited to watch the polls
- Developed a roadmap on constitutional, legal and administrative reforms to be implemented in during the period leading to December 2010

4. On-going activities

- a) Establishment of an efficient and effective secretariat
IIEC, through a Human Resource firm, is sourcing for 10 executives to work for the Secretariat. Advertisements have also been placed for 17 Regional Electoral Coordinators and 210 Constituency Elections Coordinators. The recruitment exercise is due to end by 31st October 2009, so as to have the new officials reporting to work by 1st November, 2009.
- b) The registration of voters countrywide
Structures for registration of voters countrywide have been put in place. The Commission is setting up regional and constituency and electoral offices. It is also studying a number of technology proposals for the exercise which is bound to come to an end by 31st March, 2010.

c) By-elections for Civic Wards

A number of elected civic officials (Councilors) have since the last General Elections, resigned or died. So far 21 positions are vacant and IIEC will be conducting by-elections in the affected Wards by the end of the year.

d) Use of ICT in elections

IIEC is working on technical reforms and legal provisions for the use of electronic formats such as biometrics, electronic data collation, and real time transmission of data in elections

e) Electoral law reforms

IIEC is in liaison with Kenya Law Reform Commission and the Parliamentary Committee on Legal Affairs to seek necessary legal reforms. To this end there is a planned workshop to discuss two bills to the electoral reforms, namely the Elections Bill and the Electoral Commissions Bill.

5. Challenges

- I. The time frame given to the commission to implement the 9 mandates may not be sufficient
- II. The lack of personnel is a big challenge. However, the Commission is expected to have recruited all its staff by the end of the year
- III. There is need for capacity building for the Commission and its Secretarial Staff
- IV. The high expectations and justified demands for the reform of the electoral process may not be met due to time and resource constraints
- V. There is need to build synergies among the Agenda 4 Commissions and sequencing of activities.

Attachments:

1. The Kenya Constitution Amendment Bill, 2008
2. Report on the National Electoral Conference, 2009
3. Elections Bill, 2009
4. Electoral Commission Bill, 2007
5. IIEC Implementation Matrix