



**FIRST POST-ELECTION STATEMENT OF THE
NATIONAL DEMOCRATIC INSTITUTE
ON KENYA'S AUGUST 8, 2017, ELECTION PROCESS**
August 16, 2017

Immediate Post-Election Recommendations: NDI's International Election Observation Mission (IEOM) calls on:

- Kenya's electoral authorities to immediately complete its release of presidential election results forms;
- Political leaders to ensure peaceful political action concerning the elections;
- Security forces to respect the right to life and peaceful assembly as they secure public order;
- The Government of Kenya to ensure respect for freedom of political expression in the media and civil society; and the
- Courts to provide a full, fair and independent review of all election challenges that may be filed.

NDI's August 10 [Preliminary Statement](#) offered 14 recommendations. Among other things, it called on the Independent Electoral and Boundaries Commission (IEBC) to make timely available to the public copies of all Forms 34A and 34B, which would allow candidates to compare copies of the forms provided to their agents at polling stations with the IEBC's records in order to confirm data and/or identify inconsistencies. The IEBC has not completed that publication. This is an even more urgent matter in light the seven-day time limit to file legal challenges concerning the announcement of the presidential election result. That deadline is Friday, August 18. Those forms report the results recorded at polling stations (Form 34A) and the consolidated results from the 290 constituency tallying centers (Form 34B) and are vital to public confidence in the election process. Open electoral data practices include making the forms available in an easily analyzable format.

NDI abhors the loss of life following the announcement of the presidential election result, including the deaths of at least two children. While political leaders must take all possible measures to maintain peaceful political expression, including any peaceful protests, security forces must do everything possible to protect lives and

not use excessive force in responding to incidents. There should be a full public account of all election related deaths.

NASA has announced its intention to legally challenge the IEBC's presidential election result. The Supreme Court will have 14 days to rule on the challenge, and NASA has said that it may organize peaceful vigils and other assemblies during that time. The government and security forces will have a heavy responsibility to respect the right to peaceful assembly and expression, as well as the right to life, as appropriate actions are taken to protect public order. Organizers and participants in such assemblies will have a heavy responsibility to ensure that expression remains peaceful.

NDI also notes that the Cabinet Secretary for the Ministry of Interior froze the post-election revocation of the registration rights of the Kenya Human Rights Commission (KHRC) and orders to close the Africa Centre for Open Governance (AfriCOG), both prominent Kenyan NGOs. Their rights of free expression should be protected. The ability of civil society, religious leaders and the media to provide points of view and to provide credible information to the public is vital to democracy and electoral integrity particularly in light of incidents of fake news and other disinformation during the pre-election period.

In the next two-weeks public attention will focus on the Supreme Court of Kenya as it processes the likely legal challenge of the IEBC's presidential election result. All political actors should respect the independence of the Court and refrain from pressuring it in public or privately. The Court has its constitutional duty to provide a full, fair and independent hearing and to render its judgment based on the rule of law for the benefit of the people of Kenya. Accordingly, the Court's judgment should be respected by all parties.

NDI will continue to monitor the post-election process and will issue further statements if necessary. The Institute restates its longstanding principle that NDI does not seek to interfere in the August 8 elections and recognizes that it is the people of Kenya who ultimately will evaluate the integrity of their elections.