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Independent Electoral and Boundaries Commission (IEBC)

THE POST ELECTION EVALUATION REPORT

FOR THE AUGUST 8, 2017 **GENERAL ELECTION** AND OCTOBER 26, 2017 **FRESH PRESIDENTIAL ELECTION**



Moving Kenya towards a Stronger Democracy

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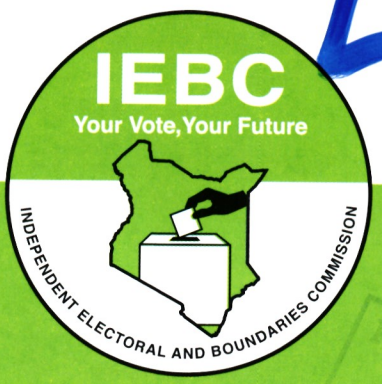

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"A credible electoral management body committed to strengthening democracy in Kenya"

Mission

"To conduct free and fair elections and to institutionalize a sustainable electoral process"

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Our operational environment and behavior is governed by a set of guiding principles which constitute our desired culture. The following Core values reflect our overall philosophy, setting moral and professional standards:-

- **Independence** - We shall conduct our affairs free from undue external influence.
- **Teamwork** - We undertake to work collaboratively as colleagues to achieve Commission's goals.
- **Innovativeness** - We are committed to transforming the electoral process to meet and exceed the expectations of Kenyans.
- **Professionalism** - We shall demonstrate mastery of the electoral process and work to the highest standards.
- **Integrity** - We shall conduct our affairs with utmost honesty.
- **Accountability** - We shall take responsibility for our decisions and actions.
- **Respect for rule of law** - We shall conduct our affairs within the law.
- **Respect for National Diversity** - We commit to work with people from all backgrounds.



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ACRONYMS AND ABBREVIATIONS

BVR	Biometric Voter Registration
BVRS	Biometric Voter Registration System
CAADA	Center for Advocacy Against Alcohol and Drug Abuse
CAW	County Assembly Ward
CECs	Constituency Elections Coordinator
CEM	County Elections Manager
CICT	Constituency ICT
CRMS	Candidate Registration and Management System
CRO	County Returning Officer
CSO	Community Service Organisations
CVR	Continuous Voter Registration
DCI	Directorate of Criminal Investigation
DPO	Deputy Presiding Officer
DRO	Deputy Returning Officer
EAK	Evangelical Alliance of Kenya
ECF	Election Campaign Fund
ECK	Electoral Commission of Kenya
EDMS	Electronic Document Management System
ELOG	Election Observation Group
EMIG	Election Monitoring International Group
EOP	Elections Operations Plan 2015 2017
ESAP	Election Security Arrangement Programme
ETAC	Elections Technology Advisory Committee
EVI	Electronic Voter Identification
FBOs	Faith Based Organizations
FGD	Focus Group Discussions
FPE	Fresh Presidential Election
ICT	Information Communication and Technology
IEBC	Independent Electoral and Boundaries Commission
IIBRC	Interim Independent Boundaries Review Commission
IPOA	Independent Police Oversight Authority
IPPG	Inter Parties Parliamentary Group

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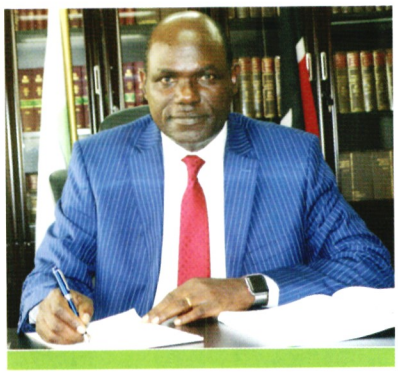
IRCK	Inter Religious Council of Kenya
IREC	Independent Review Commission
IRMPF	Institutional Risk Management Policy Framework
KEBS	Kenya Bureau of Standards
KIEMS	Kenya Integrated Elections Management System
KII	Key Informant Interviews
LAN	Local Area Network
MCA	Member of County Assembly
MNA	Member of National Assembly
MoU	Memorandum of Understanding
MTEF	Medium Term Expenditure Framework
MVR	Mass Voter Registration
NAIC	National Accord Implementation Committee
NASA	National Super Alliance
NCIC	National Cohesion and Integration Commission
NEB	Party National Election Boards
NRO	National Returning Officer
ODPP	Office of the Director of Public Prosecution
ORPP	Office of the Registrar of Political Parties
PEE	Post-Election evaluation
PFM	Public Finance Management
PO	Presiding Officers
PPARB	Public Procurement Advisory and Review Board
PPDT	Political Parties Disputes Tribunal
PPLC	Political Parties Liaison Committee
PWDs	Persons with Disabilities
RAC	Real Application Cluster
RO	Returning Officer
RTS	Election Results Transmission System
SADC	South African Development Community
SETs	Support Electoral Trainers
SG	Secretaries General

SLA	Service Level Agreement
SOC	Security Operation Centre
SSL	Secure Socket Layer
TOT	Trainer of Trainers
VLAN	Virtual Local Area Network
VRA	Voter Registration Assistant
WMNA	Woman Member to the National Assembly



FOREWORD

As a cardinal rule, Establishments are expected in the course of their enterprise to reflect and take stock of their milestones while evaluating the attendant successes, setbacks and false starts. Such reflections provide vital insights and lessons that inform the subsequent strategic goals and objectives.

For an Election Management Body (EMB), the significance of a Post-election evaluation process cannot be gainsaid. Broadly speaking, it affords the EMB and stakeholders in the Electoral process an opportunity to examine, albeit in retrospect, the experiences of the voters, candidates, election officials and political parties. Further, it highlights the key activities implemented, challenges encountered and the remedial actions proposed.

I am therefore pleased to present The Post-Election Evaluation (PEE) Report of the Independent Electoral and Boundaries Commission (IEBC) in respect to the Elections Operations Plan (EOP) 2015-2017. This report is a culmination of the election review phase where the IEBC along with stakeholders and partners critiqued the planning and conduct of the August 8th 2017 General Elections and the October 26th Fresh Presidential Elections. The IEBC, under the EOP 2015-2017 formulated three (3) goals for the period under review, to wit: Conduct elections that are efficient, effective and credible; Reposition IEBC for efficient and effective electoral services; and Foster trust and participation of Kenyans in the electoral process. The Post-Election Evaluation exercise thus assessed the extent to which these goals were achieved.

It is noteworthy that the August 8th 2017 General Election was the second where polling for six (6) elective positions was held concurrently. In addition, elections were conducted against a backdrop of unprecedented legal, administrative and political environments. Manifest among these was the limited time to prepare for polls. This was occasioned by the appointment of the Commission in January 2017 (seven months to the General Election), enactment of weighty statutory law amendments too close to polls and a considerable number of court cases touching on various aspects of elections that had far reaching changes to election planning, logistics and operations. Apart from the foregoing, the commission had to adjudge a myriad of disputes arising from nominations and campaigns within impossible deadlines.

Despite the foregoing bottlenecks, the Commission eventually conducted the August 8th General Election within the prescribed legal framework including the successful deployment of the Kenya integrated Elections Management System (KIEMS). However, in a season of mixed fortunes, the Supreme Court nullified the Presidential Elections Results which necessitated the conduct of Fresh Presidential Election. Eventually, the Supreme Court upheld the Fresh Presidential Election Results as declared by the IEBC.

There were also two hundred and ninety-nine (299) petitions filed for the other elective positions, out of which the trial courts allowed twenty-three (23) cases. As at the time of releasing this report, three (3) by elections had been occasioned by nullification of Election results while eight (8) appeals are pending determination by the Supreme Court. We take the verdicts pronounced by the courts in our stride as they have served to enrich jurisprudence in the Electoral process.

As a Commission we drew valuable lessons from the 2017 General and Fresh presidential Elections which were documented as reports during the various county cluster forums for IEBC staff. To ensure inclusivity and a balanced assessment of the experience, the commission convened key informant interview sessions, Focus group discussions, development partners round table meetings, national stakeholder's forum and political parties' and independent candidates' forum. All these forums yielded valuable information that consolidated into this report

I wish to most sincerely thank the technical team that worked tirelessly to fuse the views and recommendations of various stakeholders and partners including the IFES Audit Reports on ICT and voter education, Voter Register and the Post-Election Evaluation Report. We consider the recommendations valuable in enriching the Commission's strategic direction.

The IEBC is already taking reformative and transformative measures in implementing the lesson learnt. The commission will also engrain the successes of the 8th August General Election and the 26th October Fresh Presidential Election. We are at work on the institutional reformation program as well as review of the electoral services modernization agenda, in order to enhance the experience of voters in the areas of voter information, voter registration and polling services. Following this, we will present our proposals on legal reforms to improve the administration of Elections in response to Kenyans' growing expectations.

As we embark on the planning stage that is to produce a revised five (5) year strategic plan 2020-2025, we remain alive to the confidence crisis (especially from the political class) bedeviling our corporate identity, the demand for integrity in electoral processes that entrenches credibility, and the elusive financial independence within the framework of a cost effective and sustainable funding. We look forward to developing concrete strategies that will assuage, if not cure, the missteps that may have been evident in the grand match towards a widely accepted election outcome

I invite readership to this report, with the hope that it will provoke further discourse on better ways and means of managing elections that are free, fair and credible.

Lastly, I offer my sincere gratitude to the entire IEBC fraternity for rallying together to undertake the sacrosanct responsibility of midwifing the will of the people in a highly charged and competitive political environment.
God Bless Kenya



W. W. CHEBUKATI
CHAIRMAN

EXECUTIVE SUMMARY

Conducting a post-election evaluation is an integral component of an electoral cycle and a best practice for any forward-looking Election Management Body (EMB). This post-election evaluation sought to make a critical assessment of the conduct of the 8th August 2017 General Election and the 26th October 2017 Fresh Presidential Election.

The evaluation was meant to establish what worked and what did not work as expected; and lessons-learnt for improvement of conduct of future elections in Kenya. The lessons learnt from this evaluation will be the basis for the review of the Commission's Strategic Plan 2015-2020 in preparation for the 2022 General Election

The evaluation was conducted in a participatory manner based on the electoral cycle, the Commission's Strategic Plan, Election Operations Plan and Legal mandate. The evaluation addressed processes and activities in the electoral cycle leading to the 2017 General and Fresh Presidential Elections. Key electoral stakeholders at national, county and constituency levels were engaged as respondents during Key Informant Interviews, Focus Group Discussions and various stakeholders' forums.

Elections in Kenya are guided and supported by a comprehensive legal framework. The late amendments of electoral laws for the August 8th, 2017 General Election interfered with electoral timelines thus affecting the planning and implementation of electoral activities. This was also witnessed during the 2013 General election.

The 2017 General Election witnessed an unprecedented number of court decisions that impacted negatively on the set timelines. Further, protracted disputes arising from party primaries affected the candidate registration process and ballot paper production. The time for settling of electoral disputes was also noted to be inadequate especially settlement of disputes arising from presidential election.

In corporate governance, appointment of Commissioners for the Electoral Commission in Kenya has been done too close to the election. In 2017, Commissioners were appointed seven months to the General Election and in 2013 they were appointed 15 months to the election. The late appointment of Commissioners goes against international best practices and the recommendation of Independent Review Commission (IREC) that

Commissioners should be in office at least two years prior to the conduct of a General Election. The funding for the 2017 General Election was considered adequate. However, the disbursement of funds was not aligned to the electoral cycle. The bulk of the funding was provided late in the electoral cycle. This affected activities that are conducted early in the electoral cycle such as voter education.

While registration of eligible citizen as voters is a continuous process, heightened voter registration exercises have the capacity to register more voters as compared to the continuous voter registration as demonstrated by MVR I & II that enrolled a total of 5,190,285 voters while continuous voter registration only managed 98,755 voters.

The main inhibiting factor to registration as voters among the youth is lack of national Identity Card either because they had not applied or there was a delay in provision or they had not collected the IDs from the registration centres. Out of the total registered voters, 17.4 % were aged between 18-25 years, a very slight increase from 17% in 2013. In terms of gender, out of the total registered voters, 47% were women while 53% were male. The total number of youths between 18-35 years represented 51% of the total number of registered voters. Registration of Kenyan citizens living outside the country as voters recorded an increase from 2,637 in 2013 to 4,224 in 2017.

Provision of voter education for the 2017 General and Fresh Presidential Election was adequate in terms of content and delivery, but the support materials were delivered late for the General Election. Inclusiveness in provision of voter education was noted with materials translated into Braille and inclusion of Kenya Sign Language interpreters in Voter education forums as well as use of sign TV to disseminate voter education.

Whereas public participation is a constitutional requirement, the definition and interpretation of the extent to which the participation is applied in the Commission's activities resulted into delays in implementation of some electoral activities such as procurement of election materials.

The Commission nominated 14,542 candidates using the Candidate Registration Management System (CRMS) to vie for 1882 slots in the six elective positions. In the conduct of elections, identification of voters through KIEMs was reported to have been supported by provision of extra powers banks as opposed to 2013 where kits failed as a result of power challenges. A total of 14,641,943 and 7,575,806 voters were identified through KIEMs during GE and FPE respectively.

In terms of process and procedures, the conduct of six elections in one day was reported by poll officials to affect the counting and tallying process. These processes were reported to take long. Some of the errors that occurred were attributed to fatigue among poll officials. Similar observations were made in the 2013 General Election. The development of a comprehensive procurement and distribution plan for the 2017 General Election and hiring of an external logistics expert enhanced the dispatch of election materials to polling stations across the country in a timely and effective manner.

In enhancing access to information by voters, members of the public and electoral stakeholders, the Commission employed several communications and media strategies geared towards increasing publicity on the management and conduct of elections. A total of 4000 local and international journalists were accredited. In addition, the Commission provided a live feed from the National Tallying Center from which media houses obtained live signal.

In the 2017 General and Fresh Presidential Elections, technology was used in voter registration, verification of voter registration details, nomination and registration of candidates, identification of voters on polling day and transmission of results. Out of these processes, transmission of results elicited the most interest among electoral stakeholders. Transmission of results during the General Election was 92.7%, while during the Fresh Presidential Election it improved to 100% in areas where the election was conducted. In 2013 the transmission rate was 44%.

Key Recommendations

1. Legal reforms and amendments of electoral laws should be carried out at least two years to the election to allow adequate time for implementation.
2. There is need to extend the deadline for the determination of post-election presidential petitions to allow more realistic time for the preparation of cases, results publication and full due process in court, including possibility of recount. There is need to implement the suspended Campaign Financing Act, 2013.
3. Considering the Kenyan electoral cycle is five years, ideally Commissioners should be appointed to be in office the entire electoral cycle, where not possible, they should be in office at least two years to the General Election date. There is need to consider staggering appointment of Commissioners so that the term of the entire Commission does not end on the same date. This would ensure continuity and institutional memory.

4. Funding for electoral activities should be timely and aligned to the electoral cycle. This calls for sensitization of Parliament and the National Treasury on the electoral cycle and its relation to election financing. Disbursement of bulk of electoral funding during the last year in the electoral cycle does not do justice to electoral planning. The ideal position would be operationalization of the Commission fund to ensure the Commission implements its disposal funding for electoral activities throughout the electoral cycle.
5. To ensure that all eligible Kenyans are registered as voters, there is need for integration of the national citizen registration database with the register of voters.
6. The Commission need to review its policy on registration and voting among Kenyan citizens residing outside the country to make it economical and available to all those who would like to register as voters.
7. Update the compendium of credible voter education providers throughout the country based on appropriate criteria for their selection; and build their capacities for the provision of quality voter education.
8. There is need to have targeted voter registration for particular groups in the community such as the youth, women, pastoralists and people living in informal settlements. This would enhance registration of eligible citizens.
9. There is need for Parliament to consider amendment of the law to provide for staggering of elections. This would call for conduct of county and national elections on different dates.
10. The Commission in collaboration with electoral stakeholders need to develop a framework to guide the extent of public participation in the Commission's activities.
11. Considering the central role technology plays in elections in Kenya, there is need to develop specific voter education programs on use of technologies in elections in order to demystify election technology.
12. There is need for the Commission to periodically audit technology independently, considering security, sustainability, institutional ownership and effectiveness.
13. Adoption of new election technologies should be at least one year to the date of an election in order to facilitate for testing, simulation and public education

CHAPTER ONE

BACKGROUND

1.0 BACKGROUND

1.1 Mandate of the Independent Electoral and Boundaries Commission

The Independent Electoral and Boundaries Commission (IEBC) is a constitutional commission created under Article 88 of the Constitution of Kenya 2010. The commission is responsible for supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament.

Specifically, the Constitution in Article 88(4) assigns the Commission responsibility for:

(i) Continuous registration of citizens as voters;
(ii) Regular revision of the Voters Roll;
(iii) Delimitation of constituencies and wards in accordance with the Constitution;
(iv) Regulation of the process by which parties nominate candidates for elections;
(v) Settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results;
(vi) Registration of candidates for election;
(vii) Voter education;
(viii) Facilitation of the observation, monitoring and evaluation of elections;
(ix) Regulation of the amount of money that may be spent by or on behalf of a candidate or party in respect of any election;
(x) Development and enforcement of a Code of Conduct for candidates and parties contesting elections; and
(xi) Monitoring of compliance with the legislation required by Article 82 (1) (b) of the Constitution relating to nomination of candidates by parties.

These functions are further elaborated in IEBC Act 2011, Elections Act 2011 and Elections Offences Act 2016. The Elections Act gives the commission powers and responsibility to investigate and prosecute electoral offences by candidates, political parties or their agents pursuant to Article 157(12) of the Constitution; and to use appropriate technology and approaches in the performance of its functions.

1.2 Legal Framework for Conduct of Elections in Kenya

The conduct of free and fair elections is governed by a comprehensive legal framework to guide electoral management body (IEBC), Office of Registrar of Political Parties (ORPP), political parties, candidates and other electoral stakeholders in organizing, supervising or participating in the electoral process. The Legal Framework within which the August 8, 2017 General Election and October 26, 2017 Fresh Presidential Election (FPE) were conducted consists of the following:

i. **Constitution of the Kenya, 2010**

The Constitution defines the general principles of the electoral system, scope of legislations on election, registration of voters, the need for an electoral code of conduct to guide the conduct of parties and candidates, eligibility of independent candidates, voting processes and electoral dispute resolution. The constitution also provides for the composition, mandate, and functions of the Commission in the electoral process and timeline within which to conduct the elections.

ii. **The Independent Electoral and Boundaries Commission Act, 2011**

The Act provides for the structure, roles, responsibilities and functions of the Commission in discharging its Constitutional mandate. In addition the Act also governs delimitation of boundaries.

iii. **The Elections Act, 2011**

This Act provides for the election of the President, Senators, County Governors, Members of the National Assembly, County Woman Member to the National Assembly, and Members of County Assemblies. It also spells out the qualifications for nomination of candidates, sponsorship of candidates by political parties and organizations, facilitation of candidates, campaign period, polling procedure, counting, tallying and declaration of results and handling of petitions, among others. The Act stipulates the procedures to be followed during elections including registration of voters, nomination of candidates for elections, referendum processes and election dispute resolution.

iv. **Election Offences Act, 2016**

The Act identifies common election offences and prescribes penalties to be meted upon offenders found culpable for the said offences.

v. **The Political Parties Act, 2011**

The Act Provides for the formation of Political parties, requirements of political parties, registration, deregistration, membership and organization, rights and privileges of political parties, funding of

political parties, and offences, prescription of their code of conduct and the establishment of the National Consultative Forum. It also establishes the Office of the Registrar of Political Parties (ORPP) as a state office responsible for registration, regulation, monitoring, investigation and supervision of political parties to ensure compliance with this Act.

vi. **Elections (Technology) Regulations, 2017**

These were developed to provide further guidance on technology setting out rules and requirements regarding the technical aspects of election technology.

vii. **Election (Voter Registration) Regulations, 2017**

The statutory instrument provides for continuous registration of citizens in Kenyan prisons and Kenyan Citizens living outside the country.

viii. **Election (General) Regulations, 2017**

This addresses the procedure for the general conduct of election which includes among others submission of party membership lists, submission of names of persons nominated to contest in elections, employment of complementary mechanism in identification of voters and transmission of results.

ix. **Election (Voter Education) Regulations, 2017**

It provides all information whose purpose is to educate members of the public on their rights and responsibilities in the electoral process. It also creates efficient coordination of voter education, monitoring and evaluation, and effective use of resources for voter education.

x. **Elections (Party Primaries and Party Lists) Regulations, 2017**

Provides for the procedures through which political parties nominate candidates for elections. These include the conduct of party primaries and preparation of party lists by political parties, preparation of party nomination rules and procedures and nomination code of conduct. It also provides for composition and functions of political party Election Boards.

xi. **Rules of Procedure on Settlement of Disputes, 2012**

The Rules and procedures provided for the settlement of disputes arising out of nomination of candidates, registration of voters and violation of the electoral code of conduct.

xii. **Elections (Parliamentary and County Elections) Petition Rules, 2013**

The Petition rules provided for legal framework to manage election disputes arising from declaration of results in respect of Parliamentary and County elections.

xiii. **Supreme Court (Presidential Election) Petition Rules, 2017**
These rules apply in respect of Presidential election including petitions arising upon declaration by the Commission of the President-elect. They provide for filing grounds and other matters up to the determination of a presidential election.

1.3 IEBC Strategic Direction

The Commission is guided by its Strategic Plan 2015 – 2020, which it defines its Vision to be *"A credible electoral management body committed to strengthening democracy in Kenya." This Vision informs the Commission's Mission "To conduct free and fair elections and to institutionalize sustainable electoral processes"*. The day-to-day operations of the Commission are guided by a set of Core Values which are: Respect for the Rule of Law; Independence; Integrity; Teamwork; and Innovativeness.

The Commission's strategic direction is anchored on three pillars: managing elections, institutional transformation and public trust and participation. The managing elections pillar seeks to address voter experiences before, during and after elections. Under the Institutional Transformation pillar, the commission seeks to enhance its effectiveness guided by regularly updated processes and procedures informed by internally driven institutional reforms including innovative business processes, staff capacity, financial management and change management with a view to building a culture of performance management. The Public Trust and Participation pillar emphasizes meeting the expectations of different stakeholders in the political space, enhancing participation in the electoral process and building public confidence in the electoral process and electoral outcomes. This will be achieved through proactive collaboration, awareness creation and greater openness by the commission.

The organization and management of the 2017 General Election and Fresh Presidential Election was guided by the Commission's Elections Operations Plan 2015-2017 (EOP). The EOP provided a framework for the conduct of the 2017 elections and guided the commission to administer and deliver a free, fair and credible election. The plan (EOP) was informed by the IEBC Strategic Plan 2015-20 and built on the lessons learnt from the 2013 General Election and subsequent by-elections. The EOP identified priority activities for the 2017 elections, proposed a framework for monitoring their implementation and a system for managing risks.

1.4 Evolution of Elections in Kenya

The electoral process in Kenya has evolved over time; with the first General Election at Independence in 1963 being held under a multi-party system. The

Kenya Independence Order-in-Council created the first Electoral Commission with the Speaker of the Senate as its Chairman and the Speaker of the House of Representatives as the Vice Chairman. Nine other members of the Electoral Commission were appointed by the Governor General. Following the Constitutional Amendment of 1966 (The Turn-Coat Rule), the two-tier parliamentary system was abolished; and elections were managed by a Supervisor of Elections from the Attorney General's Chambers. During this period, Civil Servants became increasingly involved in the management of the electoral processes. The Provincial Administration assumed some key roles with District Commissioners and other civil servants being designated as Returning Officers.

In 1991, following the repeal of section 2 (A) of the Constitution of Kenya which made Kenya a single party state, the country reverted to a multiparty democracy and the Electoral Commission of Kenya (ECK) was established. However, the process of appointing Commissioners to the ECK remained contentious with political parties questioning its impartiality and independence. In 1997, the Inter-Parties Parliamentary Group (IPPG) agreed that political parties recommend names of commissioners to serve on the ECK prior to their appointment by the President. This arrangement was however, not anchored in the Constitution or any other law and was, therefore, still susceptible to manipulation. ECK conducted the 2002 General Election, 2005 Referendum and the 2007 General Election.

Following the disputed results of the presidential elections in 2007 and the resultant post-election violence, a National Accord Implementation Committee (NAIC) was established. The NAIC made far reaching recommendations among them, a review of the electoral process. This led to the establishment of the Independent Review Commission (IREC), popularly known as the Kriegler Commission to inquire into all aspects of the December 2007 elections with particular emphasis on the presidential election and report back to the President and the African Panel of Eminent Persons. The IREC recommended a new or transformed ECK with a lean policy-making structure and a professional secretariat.

It also recommended review of the entire constitutional and legal framework in line with the political and legal aspirations of Kenyans. Following these recommendations, Parliament in 2008, amended Section 41 of the Constitution leading to the disbandment of the ECK. The amendment resulted in the creation of the Interim Independent Electoral Commission (IIEC), and the Interim Independent Boundaries Review Commission (IIBRC).
The promulgation of the Constitution of Kenya 2010 resulted in the

establishment of the Independent Electoral and Boundaries Commission (IEBC) in November 2011. The Constitution provided the general principles and rules under which the country's General Election could be conducted. It created two levels of representation: The National Level, comprising of the Senate and National Assembly; and the County Level (comprising of the County Executive and County Assembly).

The first elections under the Constitution of Kenya 2010 were held in March 2013. There were six elective positions: President, Senator, Member of National Assembly, County Woman Member to the National Assembly (commonly referred to as Women Representative), County Governor and Member of County Assembly. The 2013 General Election provided valuable lessons for improving the electoral process in Kenya.

1.5 Elections and Elective Positions

According to Articles 101(1), 136 (2) (a) and 180 (1) of the Constitution of Kenya, the IEBC is mandated to hold Presidential, Parliamentary and County Government elections in a General Election on the second Tuesday in August every 5th year. Based on this provision, the 2017 General Election was held on August 8, 2017.

The roles of each of the six elective positions provided by the Constitution are summarized below:

1.5.1 The President

The President is the Head of State and Government; and also Commander-in-Chief of the armed forces. The President is a symbol of national unity, elected by universal adult suffrage through secret ballot. In order for the President's election to be conclusive, the winning candidate has to obtain at least 50% plus one of the total votes cast in the elections as provided for in Article 138 (4) (a) and (b) of the Constitution of Kenya and at least 25% of votes cast in each of more than half of the Counties.

1.5.2 The Senator

The Senator represents a County and is elected by the registered voters in the County with each County constituting a single member Constituency. The Senator participates in the law-making function of Parliament by considering, debating and approving bills concerning Counties. The Senator also participates in the oversight of State Officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145 of the Constitution.

The Senate consists of 68 Members with 47 of them being elected from each County; 16 being women Senators nominated by their respective political parties; one man and one woman representing the youth; one man and one woman representing persons with disabilities; and the Speaker who is an ex-officio member.

1.5.3 The County Governor

The Governor is the Head of the County Executive; and is elected by voters registered in the County. The functions of the County Governor include administering and managing the affairs of the County; appointing members of the County Executive Committee following approval by the County Assembly; and appointing members of the Urban and Municipal Boards for towns and municipalities within their areas of jurisdiction.

1.5.4 Member of the National Assembly

A Member of the National Assembly is elected by the registered voters of the Constituency. A Member of the National Assembly deliberates on and resolves issues of concern to the electorate; makes laws; determines the allocation of national revenue between the National and County governments; determines allocation of funds for expenditure by the National Government and other State organs; exercises oversight over national revenue and expenditure; reviews the conduct of the President, Deputy President and other State Officers; initiates the process of removing them from office; exercises oversight over State organs; and approves declaration of war and extension of States of Emergency.

The National Assembly consists of 290 members elected from each constituency by voters in the constituency, 47 County Women Members to the National Assembly elected from each County by voters, 12 members nominated by parliamentary political parties according to their proportionate membership in the National Assembly; and the Speaker, who is an ex officio member.

1.5.5 County Woman Member to the National Assembly

The County Woman Member to the National Assembly is elected by voters registered in a county, with the county representing a single member constituency. The County Woman Member to the National Assembly deliberates on and resolves issues of concern to the electorate; makes laws; determines the allocation of national revenue between the National and County governments; determines allocation of funds for expenditure by the National Government and other State organs; exercises oversight over national revenue and expenditure; reviews the conduct of the President, Deputy

President and other State Officers; initiates the process of removing them from office; exercises oversight over State organs; and approves declaration of war and extension of States of Emergency.

1.5.6 Member of County Assembly

The MCA is elected by the electorate in the Ward and they represent the wards at the County Assembly. A total of 1,450 MCAs were elected throughout the country.

1.6 Rationale for the Post-Election Evaluation

Post-election evaluation (PEE) is an integral component of an electoral cycle; and is therefore, a best practice for any forward-looking Election Management Body (EMB). The purpose of this post-election evaluation was to: -

(i) Provide the Commission with feedback in order to make informed decisions in the conduct of future elections. This was achieved by making an internal critical assessment of the Commission's performance in the conduct of the 2017 General Election and Fresh Presidential Election. Following the PEE exercise, the Commission was able to establish what worked, what did not work as expected and what could have been done better. The challenges experienced and the lessons learnt for future elections have also been documented as a result;

(ii) Assess whether IEBC's programmes' as articulated in the Strategic Plan 2015-2020 is contributing towards building democracy in Kenya. It is envisaged that the Commission will use the evaluation findings as a performance management tool to improve on the existing programme; and to inform future policy decisions. The findings of the evaluation will also be shared with relevant Government Institutions, Development Partners and other stakeholders involved in the electoral process in Kenya.

(iii) Assess the Commission's capacity, structure and operational linkages with stakeholders such as political parties, civil society organizations, the executive, security agencies, judiciary and legislature.

(iv) Identify and establish commonalities of the lessons-learnt, findings and recommendations of 2017 election observers (i.e. international and domestic observers) for the purposes of supporting future electoral reform in Kenya.



Post-Election Evaluation Forum, IEBC 2017

CHAPTER TWO

PREPARATION FOR THE 2017 GENERAL ELECTION

2.0 PREPARATION FOR THE 2017 GENERAL ELECTION

The preparation for 2017 general election commenced in 2014 with the review of the 2011-2017 IEBC Strategic plan drawing lessons from the post-election evaluation of the 2013 general election. The plan was anchored on three strategic goals that focus on the management of elections, institutional transformation and public trust and participation. New strategies were put in place to address emerging issues towards the 2017 general election.

To operationalize the Strategic Plan, a two-year Elections Operations Plan (EOP) was developed. The EOP outlined strategic outcomes to be achieved namely;

a) Efficient, effective and credible elections.
b) A respected corporate brand in the provision of electoral services.
c) Improved and sustained public confidence and participation in electoral processes.

The EOP outlined measurable milestones (objectively verifiable indicators) to be achieved in order to realize a free, fair, credible and transparent election.

2.1 Implementation of the IEBC Strategic Plan 2015-2020

The IEBC Strategic Plan was developed with a two-pronged objective in mind. First, the Commission's development programme encompassing its strategic direction for a five-year period was outlined. The strategic plan also focused on establishing and strengthening internal systems and building the capacities of the Commission in line with the electoral cycle. Secondly, a two-year election Operations Plan containing the roadmap for enhancing the Commission's state of preparedness for the impending General Election was developed.

The roadmap provided detailed plans and strategies for implementation on all aspects of conducting elections.
The objectives of the roadmap were to:-

(i) Create a common understanding of the priorities for implementation leading to the General Election;
(ii) Establish timelines and budgets for each of the identified activities;
(iii) Assign responsibility for implementation to individuals and Departments; and
(iv) Engender stakeholder participation in the electoral processes.

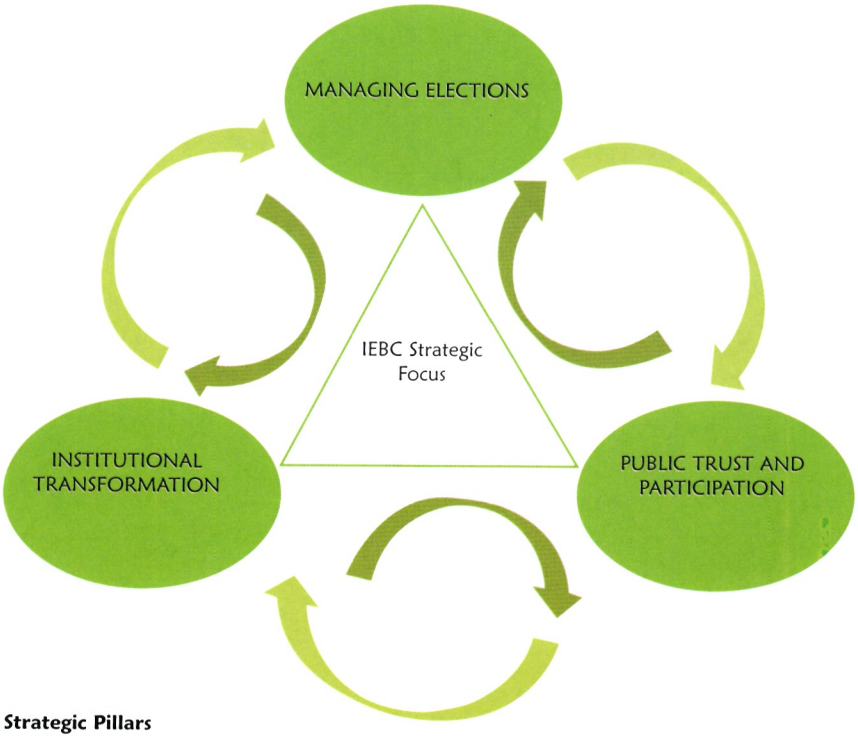


Figure 1: IEBC strategic focus.

The commission identified priority areas that required improvement. These included; legal framework, planning, resource mobilization, voter information and education, voters registration, nomination of candidates, campaigns and financing, electoral security, polling, counting, result tabulation and transmission, and declaration of results.

2.2 Legal Framework

The successful conduct of a free and fair election is anchored on an enabling legal framework, policies and other administrative arrangements targeted to ensure a conducive environment for all voters to participate in universal suffrage and candidates have a level playing field to compete in the electoral contest.

In the run up to the 2017 General Election, the Commission embarked on a consultative process of law reform in collaboration with key stakeholders. The legal reform agenda sought to address the gaps and ambiguities in the law, which posed challenges in the effective management of the 2013 General Election. The legal reform process involved the review of existing laws aimed at improving the electoral environment and enactment of new electoral laws,

consolidation, harmonization, amendment and repealing of those statutes that were not in harmony with the Constitution of Kenya 2010.
Subject to the foregoing the Commission reviewed the following legislations;

1 The Independent Electoral and Boundaries Commission Act, 2011;
2 The Elections Act, 2011;
3 The Political Parties Act, 2011;
4 The Elections (Registration of Voters) Regulations, 2012;
5 The Elections (General) Regulations, 2012;
6 Rules of Procedure on Settlement of Electoral Disputes, 2012;
7 Elections (Parliamentary and County Elections) Petition Rules, 2017;
8 Supreme Court (Presidential Election Petition) Rules, 2017;

As a start the Election Laws (Amendment) Act, 2016[1] was passed to amend the Elections Act, 2011, the Independent Electoral and Boundaries Commission Act, 2011, the Political Parties Act, 2011, the Supreme Court Act, 2011, and the Registration of Persons Act, Cap 106 to address concerns noted by the Joint Parliamentary Select Committee appointed to steer reform of the electoral process.

The Electoral Laws (Amendment) Act, 2017[2] was subsequently passed following recommendations to amend certain provisions under the Election Laws (Amendment) Act, 2016. Thereafter, the Commission developed various amendments to the existing election Regulations and proposed new regulations which were passed by the National Assembly on 5th April, 2017 as summarized in Table 1.

Table 1: Regulations for 2017 Elections

	Regulations	Purpose
1.	Elections (Technology) Regulations, 2017	Developed to provide further guidance on technology, setting out rules and requirements regarding the technical aspects of use of technology in elections
2.	Election (Voter Registration) (Amendment) Regulations, 2017	Amendment made to provide for continuous registration of citizens in Kenyan prisons and Kenyan Citizens living outside the country.
3.	Election (General) Regulations) (Amendment) Regulations, 2017	Addresses submission of party membership lists, submission of names of persons nominated to contest in elections, employment of complementary mechanism in identification of voters and transmission of results.

[1] Election Laws (Amendment) Act, No. 36 of 2016
[2] Election Laws (Amendment) Act, No. 1 of 2017 and Election Laws (Amendment) Act, No. 34 of 2017

	Regulations	Purpose
4.	Election (Voter Education) Regulations, 2017	Addresses significant changes introduced in Kenya's electoral process. These include the use of technology, the requirement that party primaries be conducted by registered members of a political party and the introduction of new timelines to undertake various electoral processes.
5.	Elections (Party Primaries and Party Lists) Regulations, 2017	Provides for the conduct of party primaries and preparation of party lists by political parties, provide guidelines for the preparation of party nomination rules and procedures and nomination code of conduct. It also provides for composition and functions of political party Election Boards, their role in the conduct of party primaries and party lists and the role of the Commission whenever it is requested by a political party to conduct party primaries.

2.3 Resource Mobilization

Resource mobilization refers to all activities aimed at securing new and additional resources for an organization. It also involves making better use of, and maximizing existing resources. The Commission commenced mobilization of resources immediately the Election Operational Plan 2015/17 was effected in 2015. The EOP outlines activities to be undertaken and the budget for election.

2.3.1 Election Financing

The Commission mainly depends on the National Treasury for funding of its activities, with additional support of about 2.5% of its total funding from the international donor community. The 2017 General Election financing was covered across three financial years; 2015/16, 2016/2017 and 2017/2018. The finances were obtained through the Government Medium Term Expenditure Framework (MTEF) budgeting process. The MTEF budget was informed by the activities of the Strategic Plan 2015-2020 and the Election Operation Plan (EOP) 2015-2017.

In the 2015-2017 of the EOP Plan period, the Commission was allocated Kshs. 53,530 million for the 2017 General Election compared to Kshs. 24,266 million for 4th March, 2013 General Elections as shown in Table 2. This increase in allocation can be attributed to increase in number of polling stations from 31,981 in 2013 to 40,833 in 2017 General Elections, development of technology in elections and FPE. The other areas included procurement of ballot papers with high number of security features.

These funds were allocated and disbursed by National Treasury over a period of three financial years. Table 2 illustrates the details.

Table 2: Budgetary Allocation for the 2013 and 2017 General Elections

	2015/16 KSHS Million	2016/17 KSHS Million	2017/18 KSHS Million	Total 2017 GE/FPE KSHS Million	Total 2013 GE KSHS Million
Budgetary Requirement	4,879	23,061	33,886	61,826	24,710
Allocation	4,767	15,739	33,024	53,530	24,266
Variance	112	7,322	862	8,296	444

2.3.2 Procurement of Election Materials and Equipment

The Commission prepared a multiyear procurement plan for the General Election. The procurement plan covered 2016/2017 and 2017/2018 financial years which were implemented accordingly. The Commission then developed standards in liaison with the Kenya Bureau of Standards for all strategic election materials.

The Commission further completed the process of prequalification/registration of suppliers for the relevant categories for the supply of goods, services and works for elections. Nine hundred and ninety-three (993) suppliers were approved for the standing prequalified list for all the relevant categories excluding Legal service providers, which was prequalified separately.

The key items that were procured in the Financial Year 2016/17 and 2017/18 for the General Election are shown in Table 3.

Table 3: Key Procurable Items for elections

No	Key Expenditure Areas
1.	Kenya Integrated Election Management System
2.	Ballot Papers
2.	IEBC Branded Ballot Boxes
5.	Catering Services
6.	Workshop Conference facilities and Accommodation
7.	Hire of Transport

No	Key Expenditure Areas
8.	Legal Services
9.	Branding, Advertising, Publicity, Production and Broadcast Media Commercials
10.	Non-Strategic voter registration and election materials

For the Fresh Presidential Election, the Commission used the same service providers and suppliers who were engaged during the General Election. This was in line with provision in Section 103(2) (d) of the Public Procurement and Disposal Act, 2015 for purposes of standardization considering the short timeframe to deliver goods and services required.

2.4 Voter Information and Education

Article 21 of the Universal Declaration of Human Rights emphasizes the right of citizens to take part in the governance of their Country either directly or through freely elected representatives. This right can only be fully realized if citizens are informed on why and how they can exercise this right through participation in the electoral process.

The process of educating the citizens is carried out through voter and civic education. Portraying the importance of educating voters, the African Union Charter on Democracy, Elections and Governance Article 12 (4) requires member states to integrate civic/voter education in their education curriculum. Similar emphasis is observed in East African Community and South African Development Community (SADC) guides on observations of elections.

In Article 88(4) (g) of the Constitution of Kenya, 2010, voter education is identified as one of the mandates of the Independent Electoral and Boundaries Commission (IEBC). In addition, Section 40 of the Elections Act 2011 requires the Commission '*to establish mechanisms for the provision of continuous voter education and cause to be prepared a voter education curriculum.*' Further, Section 26 of IEBC Act 2011 requires the Commission to observe the principles of public participation and the requirement for consultation with stakeholders while maintaining independence in performance of its mandate.

Considering the importance of voter education in equipping voters with the requisite information, knowledge, skills and attitudes to enable them make informed choices on various electoral processes, the Commission in its Elections Operations Plan (2015-2017) outlined priority areas and activities aimed at enhancing voter education for the August, 2017 General Election.

These include; voter education regulatory framework, continuous voter education programme, campaigns on registration of voters, pre-election and General Election interventions.

In planning for the General Election, the Commission developed the following documents for efficient management of the voter education programme: -

a) Voter Education Curriculum;
b) Voter Education Policy; 2017
c) The Voter Education Regulations, 2017;
d) partnership and Stakeholder Engagement Policy, 2017;
e) Guidelines for accreditation of election Observers; 2017
f) Information Education and Communication materials on voter education which included assorted posters, booklets, stickers, fliers, brochures and handbooks on Elective Positions in Kenya, 2017.

To deliver the voter education, the Commission mounted mass-media campaigns utilizing media scripts, newspaper adverts, appearances by IEBC officers and prominent media personalities. Some voter education activities were undertaken through radio using radio spots and presenter-guided talk shows. Eight TV stations were used to disseminate voter education to the public. All major newspapers in the country were used to disseminate voter education messages.

To further engage the public, the Commission used social media platforms such as twitter, Facebook, WhatsApp, and Instagram. Voter education materials were also transcribed into braille format for ease of use by voters who were visually challenged. Sign language translators were engaged in voter education forums to facilitate communication for citizens with hearing impairment.

In a collaborative initiative with various organizations and associations, the Commission wrote appeal letters requesting them to assist in mobilizing their members and staff to register as voters.

This approach was considered viable since unions and other organizations have a large membership. Some of the Institutions reached included religious organizations, Central Organization of Trade Unions (COTU), Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET), public and private universities and colleges, Nairobi City Council, among others.

Other approaches and agents engaged at different levels to mobilize voters included:

i. County Administration;
ii. Multi- Sectoral Stakeholders Constituency forums;
iii. Ward Based Mobilization;
iv. Political parties;
v. Volunteer community mobilizers; and
vi. Road shows in collaboration with media houses.

The Commission sensitized political parties through the platform of the Political Parties Liaison Committee (PPLC) on the Campaign Financing Laws, Party Nomination Rules and Guidelines. This was to empower them on reporting mechanisms through presentations on the applicable laws and the various forms of reporting.

2.5 Registration of Voters

Registration of voters is a core mandate of the Commission. The Commission carries out continuous registration of citizens as voters and regularly updates the register of voters in order to establish a comprehensive, accurate and complete register. The Commission prioritized the following activities in the run up to the 2017 General Election.

a) Review of voter registration and election training manuals.
b) Review of voter registration centers.
c) Continuous voter registration
d) Conducting two Mass voter registration for a period of thirty days each.
e) Developing a reliable database of citizens of Kenya residing outside the country who are eligible to vote in elections.
f) Mapping registration centers and register persons residing outside the country.
g) Establishing structured engagements with other State Agencies in providing reliable information for updating the register of voters.
h) Opening the register of voters for public inspection and verification.
i) Updating the register of voters periodically.
j) Certifying and publishing the register of voters for the purpose of elections.

2.6 Nomination of Candidates

Nomination refers to the process by which political parties identify candidates for elections as well as the registration of candidates for election. The following are key nomination milestones.

2.7 Nomination of Independent Candidates

Pre-nomination meeting with candidates

The Commission appoints the Returning Officers (RO) whose duty is to clear candidates for nomination among other duties. The RO is required to hold a pre-nomination meeting with aspirants to discuss timelines, qualifications, legal and administrative aspects of nomination. The pre-nomination meetings were held at National, County and Constituency levels. The pre-nomination meetings were meant to;

a) Enable IEBC, clarify the legal requirements for candidate nomination;
b) Develop a joint understanding on the process of verification of nomination papers using checklists;
c) Demonstrate the process of the automated Candidate Registration Management System (CRMS) and
d) Facilitate participatory scheduling of returning of nomination papers by candidates.

During these meetings, candidates or their formally appointed representatives got an opportunity to choose preferred times for presentation of nomination papers to the ROs within the dates set for nomination. Further, candidates were issued with formal campaign schedule templates to fill in and return on the day set for nominations.

During 2017 General Election, Political party nominees submitted their nomination papers to the IEBC Returning Officers between May 28th, and 2nd June, 2017 as shown in Table 4.

Table 4: Candidates' Nomination Dates in 2017 General Election

Nomination Dates	Position	Returning Officer
28th -May-17 & May 29th -May-2017	President	Chairman, IEBC
1st -June-17 & 2nd -Jun-2017	Governor	County Returning Officer
28th -May-17 & May 29th -May-2017	Senator	County Returning Officer
28th -May-17 & 31st -May-2017	County Woman Member to the National Assembly	County Returning Officer

Nomination Dates	Position	Returning Officer
1st June -17 & 2nd -Jun-2017	Member of National Assembly	Constituency Returning Officer
28th -May-17 & 31st -May-2017	County Assembly Ward Member	Constituency Returning Officer

2.8 Candidate Registration Management System (CRMS)

The political party module of the CRMS system was launched on 9th May 2017 after successful training of the political parties' ICT Administrators on 3rd May 2017 in Nairobi. The system was used by the political parties to upload their candidates. The IEBC technical team and the vendor provided full-time support to the political parties. Due to the gaps in the data provided by the political parties, the commission in a consultative meeting with political parties on Monday 15th May 2017 in Nairobi, agreed to extend the deadline for uploading candidate details in the CRMS from 14th May 2017 to 16th May 2017.

The Commission consulted with Political Parties to ensure compliance with the prescribed format including uploading of the lists through the Candidate Registration and Management System (CRMS). The Commission further published guidelines on preparation and submission of party lists in Gazette Notice No. 76 of 12th June 2017 diverse dates from 14th June, 2017 in the local dailies. A total of fifty-six (56) Political Parties submitted their lists by the stated deadline. Table 5 shows the number nominated for each elective position.

Table 5: Number of candidates For Elective Positions in 2017 General Elections

Election position	Electoral area(s)	Number of persons nominated to contest
Presidential election	Republic of Kenya	8
Member of National Assembly Elections	290 constituencies	1,893
County Assembly Elections	1450 county wards	11,873
County Senator Elections	47 counties	258
County Woman Member to National Assembly	47 counties	299
County Governor Elections	47 counties	211

After the close of the nomination period, CRMS candidate's data was exported to the Result Transmission system (RTS) system and subsequently used to aid in ballot paper production.

2.9 Allocation of Party List Seats

After nomination of candidates through CRMS, the Commission held a meeting with political parties to discuss party list seats. The party list seats are allocated to political parties in proportion to the total number of seats won by a political party at the General Election. Each political party participating in a General Election nominates and submits a list of all the persons who would stand nominated if the party were to be entitled to all the seats contested for at the General Election within a prescribed time.

In preparation for General Election under review, Political Parties were required to submit their respective lists at least forty-five (45) days before the date of the General Election; this date falling from 10th to 24th June 2017.

2.10 Preparation for the Conduct of Elections

The conduct of an election requires skilled personnel who are well trained. In the run up to the 2017 General Election, the Commission recruited, trained and deployed a total of 436,553 officials to manage the election as shown in Table 6.

Table 6: Election Officials for the 2017 General Elections

No.	Particulars	Unit	No. Per Unit	Total
1	County Returning Officers	47	1	47
2	County Deputy Returning Officers	47	1	47
3	Returning Officers	290	1	290
4	Deputy Returning Officers	290	1	290
5	Presiding Officers	40,883	1	40,883
6	Tallying Centre POs- County	47	5	235
7	Tallying Centre POs- Constituency	290	5	1,450
8	Deputy Presiding Officers	40,883	1	40,883
9	Polling Clerks	40,883	6	245,298
10	Queuing Clerks	16,265	1	16,265
11	Tallying Centre Clerks - County	47	7	329
12	Tallying Centre Clerks - Constituency	290	7	2,030

No.	Particulars	Unit	No. Per Unit	Total
13	Polling Station Security	40,883	2	81,766
14	County Tallying Center Security	47	20	940
15	Constituency Tallying Center Security	290	20	5,800
	Total			436,553

The training of election officials was implemented in five different levels using a cascaded approach as shown in Table 7.

Table 7: Training of Poll Officials

Level	Trainers	Trainees	Duration Days
1	BRIDGE facilitators and other CECs and Managers	2 TOTs from each electoral region	4
2	2 TOTs form each region	ROs and DROS	3
3	ROs and DROS	11 SETs from each Constituency	3
4	ROs, DROS and SETs	POs and DPOS	3
5	POs and DPOs	Clerks	2

In preparation for the General Election, the Commission conducted a simulation exercise, including testing of transmission of results, a week before the 8th August 2017 General Election. The objective of this exercise was to ascertain the level of preparedness of the commission, especially in the use of technology. The simulation also tested the preparedness of Returning Officers to tally and transmit results from polling station to constituency tallying centres, and subsequently to the National Tallying Centre.

Other measures designed to improve the management of the General Election included: holding consultative meetings with stakeholders to plan and agree on their respective roles; mounting seminars and workshops for stakeholders principally, political parties, candidates and their agents. To enhance a peaceful environment for elections, an Electoral Risk Management Tool was used in monitoring the environment in collaboration with the Security Agencies through an Election Security Arrangement Program (ESAP) Project.

2.11 The Management of Logistics and Distribution of Election Materials

The General Election required comprehensive logistical plans in distribution of strategic and non-strategic materials. The Commission developed a comprehensive procurement and distribution plan for the 2017 General Election. The evaluation established that having the Logistics Plan and hiring of an external logistics expert enhanced the dispatch of election materials to polling stations across the country in a timely and effective manner.

2.12 Risk Management and Mitigation

Risk minimization was a central objective of the Commission during the preparation for the General Election. The goal was to reduce exposure of the Commission to risk and enhance the credibility of the electoral processes. In order to achieve this objective, the following activities were implemented: -

i. Developed an Internal Audit Plan and Charter;
ii. Undertook periodic audit reviews both at the Headquarters and field offices;
iii. Undertook risk assessment of the electoral environment prior to the conduct of the General Election and all by-elections.
iv. Undertook training of Risk Champions;
v. Developed a Risk Register;
vi. Trained Security officers and IEBC staff on electoral security;
vii. Trained IEBC staff on gender violence and discrimination;
viii. Published pocket friendly handbooks for security officers on electoral process; and
ix. Undertook mapping of electoral violence hotspots in the country.

CHAPTER THREE

METHODOLOGY

3.0 METHODOLOGY

This chapter discusses the methodology that was adopted in the Post-Election Evaluation of the 2017 General Elections (GE) and the Fresh Presidential Elections (FPE) in Kenya. The methodology adopted was designed to accommodate the social and cultural dynamics of the respondents reached as well as to capture various perspectives of election stakeholders. These dynamics were also based on the type, level and diversity of respondents, both within the Commission and outside.

3.1 Facilitation of the Post-Election Evaluation Process

The post-election evaluation (PEE) was a reflection exercise on the IEBC. To inject objectivity and impartiality, the PEE process was facilitated by an external consultancy firm. The firm provided support in the execution of the agreed research methodology activities including the running of key stakeholder consultation forums, key informant interviews (KIIs) and focus group discussions (FGDs). The firm also provided technical support during background research and synthesis of data to generate information used in this report.

3.2 Evaluation Design

The evaluation was conducted using a cross-sectional qualitative study design that captured both the pre- and post-election period events. Existing baseline indicators, progress reports, and election observation reports were used to establish key indicators at the different periods of the evaluation. Key stakeholders at national, county and constituency levels were engaged as respondents during the Key Informant Interviews, Focused Group Discussion sessions and various stakeholder forums.

The evaluation utilized a mixed-method participatory approach. The qualitative data collected through County Forums, KIIs and FGDs was triangulated with the different data drawn from desk reviews in order to draw commonalities of issues raised in order to generate key findings, extract lessons learnt, draw conclusions and provide recommendations.

3.3 Tools for Data Collection

The Commission worked with the consulting firm and relevant stakeholders to develop appropriate data collection tools. A Technical Working Committee comprising of Commission representatives and the consulting firm agreed on the major milestones for the evaluation. The tools developed and used included:

a) County cluster consultation guide
b) Focus Group Discussion guides
c) Interview guides for various stakeholders
d) National stakeholders' forum discussion guide-
e) Document Analysis Guide

The Commission's Directorates and County teams had undertaken several internal post-election reflection sessions to document their experiences during the different electoral stages and key lessons learnt. These internal reports were used as foundation materials for the evaluation.

3.4 Key Respondents and Discussants

During the PEE exercise, the consultants interacted with different categories of respondents through the following forums:

i. **County Cluster Forums** – organized for two days in six clusters as shown in Table 8. The six county cluster forums reached 413 IEBC staff. During the forums, participants reviewed the findings of internal county consultation sessions and shared their experiences on the elections.

Table 8: County Cluster Forums for the Post-Election Evaluation

Cluster	Venue	Counties	Total Participants Per Cluster
1	Mombasa	Mombasa, Kwale, Kilifi, Tana River, Lamu, TaitaTaveta, Kitui, Makueni	63
2	Nyeri	Kiambu, Murang'a, Nyeri, Kirinyaga, Mandera, Nyandarua, Machakos, Nairobi,Kajiado	96
3	Meru	Marsabit, Isiolo, Meru, Embu, Tharaka Nithi, Garissa, Wajir	55
4	Eldoret	ElgeyoMarakwet, Turkana, West Pokot, Trans Nzoia, UasinGishu, Nandi, Baringo	55
5	Nakuru	Narok, Bomet, Kericho, Nakuru, Samburu, Laikipia, Kisii, Nyamira	52
6	Kisumu	Migori, Homa Bay, Kisumu, Siaya, Bungoma, Busia, Kakamega, Vihiga	92
		TOTAL	**413**

ii. Key Informant Interviews: Key Informant Interviews were conducted targeting 68 respondents from 15 counties and 30 constituencies. The key informants comprised of the following categories:
   a) County Election Managers
   b) Constituency Returning Officers
   c) Candidates
   d) Agents of Political parties/Independent candidates
   e) Civil Society representatives (Observers, Civic education providers and education)

The Key informant interviews at the IEBC Head Office were held with representatives from the following:

1. Voter Registration & Electoral Operation
2. Information Communication Technology
3. Voter Education & Partnerships
4. Finance
5. Communication & Corporate Affairs
6. Human Resources & Administration
7. Legal & Public Affairs
8. Audit Risk and Compliance
9. Supply Chain Management

iii. Focus Group Discussions
The Focus Group Discussions (FDG) were conducted in 15 counties and 30 constituencies. A total of 18 FGD sessions were held in Mombasa County (Jomvu, Changamwe), Kilifi County (Kilifi South, Malindi), Nyeri County (Mukurweini, Kieni), Meru County (Igembe South, Central Imenti), Machakos County (Kangundo, Masinga), Nairobi County (Langata, Embakasi West, Starehe, Westlands), Garissa County (Garissa Township), Samburu County (Samburu East), Bomet County (Sotik, Bomet Central), Nyamira County (West Mugirango, Borabu), West Pokot County (Kapenguria, Pokot South), Uasin Gishu County (Ainabkoi, Turbo), Nakuru County (Nakuru town West, Naivasha), Siaya County (Ugunja, Bondo), Vihiga County (Sabatia, Emuhaya). The FGD participants were composed of the following:
   a) Polling Clerks
   b) Presiding Officers and Deputy Presiding Officers
   c) Constituency ICT Officers
   d) Support staff
   e) Selected electoral stakeholders including voters and candidates
   f) Development partners

g) National stakeholders
h) Political parties'

3.5 Data Collection Methods

Data for this evaluation exercise was collected using the following methods:

3.5.1 Review of literature

This included extensive desk review of key documents such as the Constitution of Kenya 2010, The IEBC Act, The Elections Act and other related laws; The IEBC Strategic Plan 2015 – 2020, The Elections Operations Plan 2015-2017, Internal Evaluation reports of Directorates, Election Observation reports, Development partner reports and other relevant documents on the Kenyan elections 2018.

These reviews provided an in-depth understanding of elections and electoral management in Kenya; the effect of the socio-economic and political environment on the conduct of the 2017 elections; governance issues which may have impacted on the conduct and management of 2017 elections; and possible recommendations for improvement of the electoral process in Kenya.

3.5.2 Key Informant Interviews (KII)

These involved face-to-face interviews with individuals who are key stakeholders of the electoral process. The KII guides were designed on the basis of the evaluation objectives and aimed at getting in-depth opinions about the election, the current situation, expectations during the electioneering period, successes, strengths and weaknesses and the future activities of the Commission.

The key respondents of the KIIs included key representatives of the Secretariat of IEBC, Civil Society Organizations, political parties, parliamentary committees, government agencies, international partners, CSOs, media, security agencies and election observer groups.

3.5.3 Focus Group Discussions (FGDs)

Data collection through FGDs was aimed at getting voices, views and opinions regarding performance, effects and impacts of the elections. Relevant Focus Group guides were used to guide the discussions in line with the post-election evaluation specific objectives. Eighteen FGDs were conducted in 15 Counties and 30 Constituencies across Kenya.

3.5.4 County Cluster Forums

The forums involved the Commission staff drawn from different Counties but organized into clusters as illustrated in Table 8. The participants were mobilized by the PEE Technical Working Committee. During the forums participants were divided into groups to discuss issues guided by the county forum discussion guides.

The groups also analyzed the different county evaluation reports. The group outcomes were presented and discussed in plenary sessions. Based on the discussions, each county cluster developed a report. The reports were used as source of information for the main evaluation report.

3.5.5 Development Partners Round Table Meeting

The Development Partners Consultative Evaluation workshop was held at Hilton Hotel Nairobi on 11th September 2018. The forum was attended by representatives of various Embassies and High Commissions in Kenya and development partners in elections.

Using the group discussion guide for development partners, the facilitator guided the participants in discussing the different thematic areas related to the conduct of the 2017 General and Fresh Presidential Elections. The participants discussed their experiences, expectations and suggested areas of improvement in future elections.

3.5.6 National Stakeholder Forum

The national stakeholders' forum brought together representatives of Civil Society Organizations, constitutional commissions and independent offices, Judiciary, security agencies, media and election observer groups. The two-day National Stakeholders' Forum was held at Sarova Panafric Hotel on September 12 – 13, 2018.

Participants provided their feedback on electoral issues in line with a framework that was developed earlier touching on the Legal Framework and Political Parties Liaison, Voter Registration, Conduct of Elections and Use of Technology, Voter Education, Communication, Stakeholder engagement and Electoral Support.

3.5.7 Political Parties and Independent Candidates Forum

The Commission organized a two-day workshop at Sagana Gate-Away Resort on September 17 – 18, 2018. The meeting was attended by participants representing 65 political parties, the Political Parties Liaison Committee

(PPLC), representatives of independent candidates, Office of the Registrar of Political Parties (ORPP) and the IEBC.

The discussion elicited experiences, thoughts and opinions building on areas including the Legal Framework and Political Parties Liaison, Voter Registration, conduct of elections and use of technology, Voter Education, Communication and Stakeholder engagement, Electoral Support.

3.6 Data Analysis

Data obtained from Literature review, Key Informant Interviews (KII), Focus Group Discussions (FGD), reports from the County Cluster consultative forums and the various stakeholder forums was analyzed using both qualitative and quantitative data analysis techniques where applicable. Comparative analyses across countries, counties and different demographic groups were undertaken.

The electoral legal framework, IEBC Strategic Plan 2015 - 2020, Elections Operations Plan 2015-2017, Post-Election Evaluation Directorates Reports, and various Election Observation Missions/groups reports were among the documents analyzed.

3.7 Triangulation

Triangulation is a technique for validating data through cross verification from two or more unrelated sources. During this evaluation, all the data derived from desk review and those collected through the cluster forums, the KIIs and FGDs, were collated to draw a more objective verdict of the 2017 Elections and Fresh Presidential Elections.

The triangulation was done based on thematic areas that included the legal framework, voter education and stakeholder engagement, voter registration, register of voters and conduct of elections, management of risks, electoral security, research and planning, integration of ICT in the electoral process.



Development Partner's Consultative Forum held in Hilton Hotel, Nairobi

CHAPTER FOUR

LEGAL FRAMEWORK

4.0 LEGAL FRAMEWORK

This Chapter presents the evaluation findings based on the legal framework and along the electoral cycle as well as issues of governance in the Commission. The post-election evaluation revealed that the Commission continued to encounter incessant amendments and judicial interventions on the enacted and reviewed laws. This had an impact on the effective management of the elections as this resulted in several reviews of election operations and timelines. The evaluation identified legal issues along the electoral cycle.

4.1 Legal Issues Touching on Registration of Voters and Gazettement of Polling Stations

Voter registration is a key component in the conduct of an election as established under Article 83(1) and 88 (4)(a) of the Constitution; section 4(a) of the IEBC Act; and section 5 of The Elections Act. In preparation for the conduct of the 2017 General Election, IEBC was required to put in place an integrated system for registration, identification and transmission of results. The following legal issues relating to registration of voters were identified:-

(i) The inadequacy in the number of the KIEMs Kits used during voter registration exercise was a major challenge. A total of 15,894 BVR Kits was deployed for the exercise against 24,614 registration centers forcing them to share the Kits contrary to provisions of the law.

(ii) On eligibility to register, the question of timely acquisition of National Identification Card by some eligible voters was a challenge.

4.2 Boundary Disputes

Challenges were experienced in some areas facing unresolved electoral boundary issues. A case in point being issues surrounding the boundaries of Mandera East and Lafey Constituencies where the Commission pursuant to a High Court Ruling on their respective electoral boundaries reverted to the electoral boundaries as published in the 2012 review. The net effect of this case led to redistribution, changes of names and codes as well as Geo referencing of at least 83 existing registration centres in the two constituencies. This affected the commencement of voter registration in the two constituencies.

4.3 Issues Relating to the Register of Voters

Section 4 of the Elections Act, 2011 requires that the Commission keeps a Register of Voters which shall comprise of a Poll Register for each polling station, a Ward Register for every ward, a Constituency Register for each constituency, a County Register for every county, and a Register for Voters residing outside Kenya. Incessant amendments to existing electoral timelines posed a number of challenges and had an impact on the following activities related to the compilation of the Register of Voters;

4.3.1 Verification of Biometric Data

Section 6 (3) of the Elections Act provides that the Commission shall, not later than sixty days before the date of a general election, open the Register of Voters for verification of biometric data by members of the public at their respective polling stations for a period of thirty days. The evaluation observed that only 10,000 KIEMS kits were deployed to serve the 24,614 registration centers. Further, due to the stringent timelines, continuous inspection of the Register of Voters was hampered. The Commission managed to set up a mechanism through Short Message Service (SMS) to enable all registered voters to check their details up until the Election Day.

Whereas Section 6 (3)(a) of the Elections Act requires that the Commission publishes a notice in the Kenya Gazette stating that the compilation of the Register had been completed, Kenyans expected publication of the entire Register of Voters. This was a misinterpretation of the law.

4.3.2 Inspection of the Register of Voters

Section 6 of the Elections Act as amended provided for the Commission to maintain a public web portal for inspection of the Register of Voters by members of the public.

Whereas previously inspection and verification of the Register of Voters were synonymous, the introduction of verification of biometric data with distinct and separate timelines posed confusion as to when each exercise was to take place. However, the Commission in reviewing the Elections (Registration of Voters) Regulations, 2012 made a deliberate effort to distinguish the two processes.

4.3.3 Audit of the Register of Voters

Section 8A of the Elections Act requires the Commission to engage a professional reputable firm to conduct an audit of the Register of Voters at least six months before a General Election.

Related to the foregoing, the amendments to the timelines created conflict on which process between inspection, verification and audit would precede the other with respect to verification of the accuracy of the Register and update thereof. Pursuant to the provisions of Section 6A and 8A of the Elections Act, the Commission pursued measures to mitigate the variance of the various timelines. Audit faced litigation which delayed this activity until close to election.

4.4 Legal Issues arising from Investigation and Prosecution

Article 252 of the Constitution provides the Commission with the authority to investigate and prosecute electoral offences. This is operationalized by section 107 (2) of the Elections Act, 2011 which empowers the Commission to prosecute any offence(s) under the Elections Act, 2011 and impose sanctions against persons who commit such offences. Previously the Commission worked through a tripartite framework with the Office of the Director Public Prosecution (ODPP), National Police Service and Judiciary in execution of its constitutional mandate.

The run up to the 2017 General Election saw a departure from the 2013 model informed by amendments to the Elections Act, 2011, that resulted in a reversal of gains made to empower the Commission to prosecute electoral offenders.

The Election Offences Act, 2016 was enacted granting the prosecutorial powers of electoral offences to the Office of the Director Public Prosecution (ODPP). This arrangement encountered various challenges that included: Lack of sufficient funds, inadequate personnel to investigate and follow up on cases pending in various courts.

The evaluation further reveals that despite the effected amendments, the Elections Act still empowers the Commission to conduct investigation and prosecution of election offences. This warrants a further review of the electoral laws.

4.5 Legal Issues Pertaining to Political Parties Regulation and Liaison

Guided by the provisions of Paragraph 9 of the Second Schedule to the IEBC Act and Section 38 of the Political Parties Act, the Commission engaged Political Parties in a series of consultations and trainings that resulted in:

a. Development of Political Party Nomination Rules
b. Regulation of Election Campaign Expenses
c. Proposed draft guidelines for Party nominations and draft party nomination regulations
d. Review of Political Parties' Nomination Rules and Submission of Political Parties' Membership Lists
e. Candidate Registration and Management System (CRMS) on how Parties were to submit Party Candidates and Party Lists to the Commission
f. Sensitization of Party Secretary Generals and Party National Election Boards (NEBs) on preparation of Party Lists.

During the Political Parties Evaluation Forum, Political Parties appreciated the increased engagements with the Commission compared to 2013. The political parties and independent candidates raised the following issues:

i. Political Interference and partisan interests in electoral law development.
ii. Inadequacy of the Internal Political Party Dispute Resolution Mechanisms.
iii. Fraudulent practices by party officials/members in the nomination processes:
    a) Manipulation of Party Membership Registers and Party lists. Whereof it was noted that the continuous changes to the lists through the system once uploaded resulted in differences between the lists uploaded and the hard copy submitted earlier.
    b) Incessant amendments by political parties to Nomination Lists and Party Lists after submission to the Commission resulting in inconsistencies.
    c) Issuance of multiple nomination certificates to candidates.
    d) Chaotic nomination exercises including targeted discrimination of Secretary Generals.

The political parties and Independent candidates recommended more extensive consultation with the Commission.

4.6 Legal Issues on Election Campaign Finance Regulation

Article 88 (4) (i) of the Constitution mandates the Commission to "*regulate the amount of money that may be spent by or on behalf of a candidate or party in respect of any election.*" The Election Campaign Financing Act, which was enacted in 2013, seeks to implement Article 88 (4) (i) of the Constitution by making provisions for the regulation, management, expenditure and accountability of election campaign funds during election and referendum campaigns; and for connected purposes.

The Commission as mandated by Section 29 developed the Election Campaign Financing Regulations for operationalization of the Act which was to be tabled before the National Assembly for approval and publication in the Gazette. The Commission submitted the reviewed draft on the 25thJuly, 2016 to the Speaker of the National Assembly and the Chairperson of the Committee on Delegated Legislation.

In the spirit of public participation as envisaged under Articles 10 and 118 of the Constitution respectively, the Commission developed:

a) Election Campaign Financing Regulations 2016 to operationalize the Election Campaign Financing Act which Regulations are still pending approval of Parliament;
b) Formula for Determining Campaign Finance Limits;
c) Gazette Notice No. 6307 -Limits on contributions for Political Parties for the General Election scheduled to be held on 8th August 2017;
d) Gazette Notice No. 6308-Expenditure Limits for Political Parties for the General Election scheduled to be held on 8th August 2017;
e) Gazette Notice No. 6309- Limits on contributions for Political Party Candidates and Independent candidates for the General Election scheduled to be held on 8th August 2017; and
f) Gazette Notice No. 6310- Limits on expenditure for Political Party Candidates and Independent candidates for the General Election scheduled to be held on 8th August, 2017.



The Taskforce on Electoral Legal Reform developing the Election Campaign Regulations, 2017



The Legal taskforce on operationalisation of the Election Campaign Financing Act.

The National Assembly did not enact the Campaign Financing Regulations, effectively suspending implementation of the Election Campaign Financing Act, 2013. Instead the National Assembly amended Section 1A of the Elections Campaign Financing Act to the effect that; '*Operation of the Act is suspended and the Act shall come into force immediately after the General Election to be held in 2017.*'

4.7 Legal Issues on Information Communication and Technology

Previously, Section 44 of the Elections Act, empowered the Commission to use technology as it considered appropriate in the electoral process. However, the provisions under the Elections Laws (Amendment) Act No. 36 of 2016 amended this provision expanding the Commission's use of election technology. Subsequently, the Election Law (Amendment) Act No. 1 of 2017 further amended the said section by obligating the Commission to provide for a complimentary mechanism for identification of voters and transmission of election results.

Consequently, the decision in **Dr. Kenneth Otieno v Attorney General & another [2017] eKLR** declared section 44(8) of the Elections Act, 2011

which provided for the establishment of a technical committee to oversee the adoption and implementation of technology unconstitutional for being in contravention with Articles 88 and 249(2) of the Constitution.

The evaluation pointed out that regarding the use of ICT in registration and transmission of results, the Commission has limited control over user rights of the technology. This has hampered the continuous use of the technology in registration since the Commission requires renewing user licenses and rights. The evaluation noted that this flaw in the contractual arrangements needs to be addressed in order to allow the Commission full licensing ownership of software and control of user rights.

4.8 Legal Issues Pertaining to Political Parties Liaison

The Commission engaged Political Parties in a series of consultations and trainings. The areas of consultation included;

a) Development of Political Party Nomination Rules
b) Regulation of Election Campaign Expenses
c) Proposed draft guidelines for Party nominations and draft party nomination regulations
d) Review of Political Parties' Nomination Rules and Submission of Political Parties' Membership Lists
e) Candidate Registration and Management System (CRMS) on how Parties were to submit Party Candidates and Party Lists to the Commission
f) Sensitization of Party Secretary Generals and Party National Election Boards (NEBs) on preparation of Party Lists.

During the evaluation forum with political party stakeholders, the participants appreciated the increased engagements with the commission compared to 2013.

However, the forum noted the following issues that need to be addressed to improve the management of future elections;

1. There were fraudulent changes made by political party officers authorised to upload the membership and party lists. These continuous changes to the lists through the system once uploaded resulting in differences between the lists uploaded and those hard copies earlier submitted physically.
2. Political parties continued to submit amendments long after conclusion of the uploading of party list in the system. These amendments resulted in inconsistencies.

4.9 Issues Relating to Statutory Polling Forms

The Commission pursuant to the provisions of Section 39 of the Elections Act, 2011 and Regulation 87 of the Election (General) Regulations is required to determine, declare and publish results of the election immediately after close of polling. Counting, collation, tabulation and declaration of results is done using statutory forms whose format is prescribed in regulations. The evaluation noted that the design of the Statutory Form as provided in the Regulations did not conform to the tallying needs and processes. There is need to relook at the format of the Statutory Forms (with specific reference to Forms 34 and 36) to determine whether there is need to provide for the Presiding Officer's to append statutory comments. However, it is not clear in the Election (General) Regulations, 2012 what the statutory comments entail.[3]

4.10 Presidential Election Petitions

A petition to challenge the declaration of the winner in presidential elections has to be filed in the Supreme Court for determination within seven days after the date of the declaration of the results[4]; and to be heard and determined within 14 days after the filing of the petition. Before the hearing of a petition, the court conducts a pre-trial conference with all the parties to the petition. In assessing the applicability of the rules and procedures that govern the management of presidential disputes, the evaluation noted that the 14 days provided were not enough for parties involved to adequately prepare for the petition. The Supreme Court judges also don't have adequate time to render judgement.

4.11 Legal Issues on Polling Stations

Section 38A of the Elections Act, 2011 capped the number of voters per polling station to seven hundred. This was meant to manage the numbers in the polling stations for purposes of efficient and effective service to the electorate. The evaluation established that due to the capping of polling stations, the queues were shorter and the voting was faster compared to 2013 elections. However, capping of polling stations at 700 voters per polling station significantly increased the cost of elections.

[3] Report on the Post-Election Evaluation De-Briefing Workshop on Electoral Justice System

[4] Regulation 87 of the Elections (General) Regulations, 2012

4.12 Summary of Challenges and Recommendations in the Legal Framework

1. Legislative Framework

Challenges

The Commission experienced certain challenges in enforcing and operationalization of the electoral laws:

(i) Failure by Parliament to enact the draft regulations to operationalize Election Campaign Financing Act, 2013 thus suspending the implementation of the Campaign Financing Act, 2013.

(ii) Last minute changes to the Elections Act, 2011 (on technology) posed a challenge on implementation on the part of the Commission. Some legal amendments caused a shift in the operations of the Commission by requiring the use of technology without appropriate safeguards to the users and the Commission.

(iii) No timelines pegged on when the County Assembly term should be terminated.

(iv) Review provisions of Sections 34-38 of the Elections Act, 2011 against the County Government Act, 2012 to address the composition of the marginalized groups for purposes of harmonizing the provisions under the two Acts on number of seats to be allocated. (The Elections Act dictates that upon preparing a list with 8 names only 4 seats shall be allocated while Section 7 (1)(a) of the County Governments Act, 2012 provides that the county assembly shall comprise 6 persons nominated under Article 177 (1) (c) of the Constitution).

Recommendations

(i) There is need to buttress the Krieger's recommendation that Laws be enacted two years before the election.

(ii) Re-align the term of the County Assembly with that of the other elective seats to provide legal clarity.

(iii) Need to have a legal platform to discuss and make proposals that will inform reform on the validity and invalidity of an election result.

(iv) Need to build consensus through engagement with the key stakeholders after the elections as a crucial need on buttressing electoral reform.

(v) Review Section 38 of the Elections Act to determine priority of marginalized persons.

(vi) The need to legislate the decisions by the Courts and develop the requisite rules and regulations for implementation.

2. Regulation Of Election Campaign Financing

Challenges

The Commission experienced a number of operational and statutory challenges:

(i) The number of persons and political parties submitting campaign financing details to the Commission was larger than anticipated owing to existing ambiguities in the law as to who was to be termed as a 'candidate' at a period when nominations had not yet been undertaken. Given this lacuna, all aspirants took caution and proceeded to submit their details, nonetheless. The crowds posed a strain and logistical nightmare on the lean staff available to manage the process thus resulting in a chaotic process.

(ii) The legal timelines provided for receipt and registration by candidates and political parties was insufficient.

(iii) Receipt and registration was central thus posing logistical challenges in time management in a bid to facilitate those travelling from other counties.

(iv) The HQs lacked the necessary facilities for accessibility by persons with disability.

(v) Statutory provisions within the Election Campaign Financing Act and lack of publication of the Election Campaign Financing Regulations created ambiguities and inconsistencies in managing the process:

a) The ECF obliged Parties and candidates to submit registration details 8 months to the date of the General Election. The period legislated created ambiguity as to whom would be considered a candidate noting that the meaning of 'candidate' as described under Section 2 of the Elections Act, 2011, is he/she cleared following the Commission nomination. At 8 months to the general election, no nominations had been conducted.

b) The ECF Act seems to establish two distinct committees; campaign financing and expenditure committees. It may prove costly and operationally challenging to require a party/candidate to maintain two separate committees.

c) Section 12 of the Act dictates that contributions from a single source shall not exceed 20% of the total contributions. This can only be

ascertained post facto, thus posing a difficulty in capping contributions as anticipated in the said Act.

d) Provisions governing management of surplus funds are ambiguous. The role of Government Agencies and the rights of the receiver are at cross-purposes.

e) Disclosure of funds under Section 16 extends to the money used in campaigns for nominations yet at that time, the aspirant is not a candidate.

f) Section 19(f) of ECF stipulates allowable expenses to include 'any other justifiable allowances'. This provision may be open to abuse by the political class.

Recommendations

(i) Submission of details of authorized persons should be devolved to County and Constituency levels.

(ii) Development of Electronic software to facilitate registration of candidate/party details.

(iii) Review of timelines under the Election Campaign Financing Act, 2013 to align with the Elections Act, 2011 timelines.

(iv) Review of the Election Campaign Financing Act, 2013 to address, ambiguities, inconsistencies and flaws.

(v) Publication of the Election Campaign Financing Regulations to effectively operationalize the Act.

3. Submission Of Party Membership Lists

Challenges

(i) The lack of a centralised point of receipt of the lists created unnecessary delays in transmission of the same to Directorate of Voter Registration and Electoral Operation (DVREO)

(ii) Concern was raised on whether parties had a right to continue registering members after the submission of lists as long as they had not yet conducted primaries AND whether denial of the same would be tantamount to violation of rights of citizens under Article 38 of the Constitution.

(iii) Challenge also arose in the management of resignations from party members as it was noted that party members submitted their resignations to the Commission and to the ORPP. The Commission

thus had to deal with the question of what extent the membership lists would be opened up for amendments.

(iv) Section 28 (2) of the Elections Act requires the Commission to publicize the membership lists as received from political parties however this was not done for all political parties given the technical and human resource limitations, therefore only membership lists from two political parties, Wiper Democratic Movement-Kenya and Maendeleo Chap Chap Party, were uploaded on the Commission's website.

(v) Conflicting legal obligations between Office of Registrar of Political Parties and the Commission (IEBC) creating confusion. The unstructured delinking of the Office of the Registrar of Political Parties from the Commission created a duality of roles thus it was not easy to ascertain the final membership lists of parties particularly where membership of individuals changed within the election period.

(vi) Court interventions and interference from litigious persons thus undermining election preparations by the Commission.

(vii) Incessant and sometimes fraudulent resignations by party members.

(viii) Section 31 (2D) of the Elections Act, 2011 provides that a candidate for a presidential, parliamentary or county election shall be selected by persons who are members of the respective political parties and whose names appear on the party membership list as submitted to the Commission under section 28. It was observed that a number of political parties did not strictly adhere to this provision as persons other than members of the respective political party participated in the primaries.

Recommendations

(i) Section 7 (2) (f) (i) of the Political Parties Act, 2011 places the sole mandate of registration of Political Parties with the Office of the Registrar of Political Parties (ORPP). The ORPP thus as the custodian of information on membership of all political parties should ensure compilation of final membership lists by the time of submission to the Commission. No further amendments should be effected after submission to the Commission.

(ii) The Commission to consider establishing a link with the ORPP's database on party membership lists as well as designing a system to host the information. This will assist the Commission in detecting anomalies and/or ascertaining authenticity of lists deposited with the Commission.

(iii) Mode of submission of party membership lists to be interlinked with

the ORPP to ensure seamless submissions align to the provisions of Regulation 13A of the Elections (General) Regulations, 2012.

(iv) Noting the requirement for publicizing the membership lists as received from political parties, preparations ought to be made to facilitate the process of uploading the lists on the Commission's website to enable access by the public.

(v) Review of the provisions of Section 29 of the Elections Act which was considered unconstitutional by the High Court decision in -Council of Governors vs Inspector General, National Police Service & 3 others (2015).

(vi) Review of Section 3192D) to enhance the regulation of the mode and conduct of party primaries and the attendant responsibility on the Commission to oversee this process.

(vii) Review of laws to provide with finality that persons intending to contest in party primaries to be nominated as candidates for elections must also be members of the nominating parties at the time of submission of membership lists to the Commission.

4. Submission Of Lists Of Aspirants For Party Primaries

Challenges

(i) Clash of venues and dates necessitating constant dialogue between the Commission, ORPP and Political Parties.

(ii) Endless changes in names of candidates.

(iii) Lack of strict adherence to the laid out format to submit list of aspirants by some political parties to the Commission.

(iv) Fraudulent and Irregular duplication of candidates in various parties.

(v) Lack of strict adherence to the legal requirements by political parties.

(vi) Ambiguities in the Law-Section 31(2E) -In the event the Commission is requested by more than one political party to conduct their party primaries, the primaries shall be conducted on the same day, in the same polling centres, and in different polling streams for each of the participating political parties. This is not operationally sound.

Recommendations

(i) Review of Section 31(E) to make it operationally sound.

(ii) Enhanced regulation of political party activities.

(iii) Review of timelines to mitigate against clashes envisioned.

5. Submission Of Lists Of Party Candidates

A number of challenges were however encountered in the use of the system by political parties.

Challenges

(i) There was no clarity on the audit trail of the system in terms of determining the identity of the personnel that logged into the system (i.e who had access to the system).
(ii) The CRMS was not functional within the required time thus making it difficult for Political Parties to upload details of their candidates.
(iii) The Parties did not have a mechanism of monitoring details submitted by their I.T officials.
(iv) Party hopping.

Recommendations

(i) Enhanced training for political parties to increase their familiarity with the CRM system.
(ii) To also ensure adherence with the legal and operational timelines for submission, the system shall have to be deployed in good time to allow political parties ample time to upload the required information so as to reduce on the requests for corrections outside the prescribed period for submission.
(iii) Independent candidate's vs party nominations need to be harmonized to prevent party hopping.

6. Submission Of Party Lists

Challenges

(i) Limited time for uploading lists by political parties.
(ii) Continuous failure of the system due to too much activity at the same time by many parties.
(iii) Fraudulent changes in lists during uploading by Political Party Officers authorised to upload the lists.
(iv) Incessant changes to the lists through the system once uploaded resulting in differences between the lists uploaded and those earlier submitted physically.

(v) Incessant requests from Political to the Commission on amendments to the lists resulting in inconsistencies.

Recommendations

(i) Noting that a party's leadership cannot vouch for details submitted through the CRMS save for the fact that they have authorized their officers to upload the said information. Therefore, there is need to have a control function introduced in the CRMS to ensure that either the chairperson or the secretary general has rights to approve the information uploaded to the system before submission to the Commission.

(ii) The process of physical submission to be reviewed to ensure that it is the role of either the party chairperson or the secretary general to submit the hard copy report generated from the CRMS to the Commission. These checks and balances will ensure that the list is not manipulated by elements within the political party.

(iii) Review of regulations to curb change in the lists once soft uploaded onto the system and hard copy delivered.

(iv) Party list to be approved by National Election Councils (NECs) of parties.

7. Review Of Party Lists

Challenges

(i) Ambiguities in the legal provisions governing the review process:

a. The electoral laws do not provide an additional period for review of amended lists after re-submission by political parties. The Commission did, however, undertake a cursory overview to highlight emerging concerns for the Commission's attention and direction. As a consequence, the Commission lacked an opportunity to engage in further comprehensive review of the party lists even after the dispute resolution process.

b. Upon receipt of the party lists, the Commission is required to either issue certificates of compliance to political parties or require the parties to review the lists to ensure compliance failing which the Commission shall reject the list. Given the significance of the provisions of Section 34 (6A) of the Elections Act, 2011 it is worth noting that the laws do not provide for a subsequent period of

review post-submission of the amended party lists to determine actual compliance with the prescribed guidelines.

c. Upon submission of party lists, political parties are required to submit a statutory declaration form certified by the authorised part officials stating authenticity of the nomination process as guided by law.

Recommendations

(i) Review of the timeline for submission and review of party lists to provide for additional time for review of re-submitted lists following resolution of disputes.

(ii) Develop mechanisms to grant authorised officials of the party access to the system for final submission of party lists upon uploading by their appointed ICT officials.

(iii) Review of Section 34(6A) to provide for further vetting of lists after publication where disputes have been heard and decisions issued that alters the party list.

8. Publication of Party Lists

Challenges

(i) The law is ambiguous on what constitutes 'final party lists' given that parties affected by disputes were then required to submit amended lists after the dispute resolution process.

(ii) The Electoral laws do not anticipate publication of Party Lists after invoking of Regulation 54(8) of the Elections (General) Regulations, 2012 on dispute resolution.

Recommendations

(i) Review of Regulation 54(8) of the Elections General Regulations to provide delineation between publication of the first list and the second list after the dispute resolution processes.

(ii) Review of processes post-dispute resolution to provide for a mechanism and period of reviewing lists to ensure compliance with court orders without re-opening a series of disputes by aggrieved persons noting that party list processes are required to be completed before the date of the general elections.

9. Allocation of Special Seats

Challenges

While a lot of strides were made to improve nominations by use of party lists through enhanced regulation, some unique challenges were encountered in the processes of allocating nominees from the party lists, generally.

(i) The formula for allocation of special seats is not exhaustive in terms of indicating the procedure to be used in the event there is a tie in the allocation of seats among qualifying political parties. In instances where there has been a tie among qualifying political parties on the allocation of the last available seat, the Commission has made use of the Hare Quota principle as informed by international best practice.

(ii) With regard to the composition of the marginalized groups party list, Section 36 (1) (f) of the Elections Act, 2011 requires the party list to contain 8 candidates at least two of whom shall be persons with disability, two of whom shall be the youth and two of whom shall be person representing a marginalized group. However, during allocation of special seats, the Commission is required to draw from the list four (4) special seat members in the order given by the party as stipulated in Section 36 (8).

(iii) Further, Article 177 (1) (c) of the Constitution provides that the county assembly shall comprise the number of members of marginalized groups, including persons with disabilities and the youth, prescribed by an Act of Parliament. Consequently, the Elections Act, 2011 does prescribe the composition of the list in Section 36 (1) (f) as outlined above. Section 36 (3) further states that the marginalized groups party list shall prioritize a person with disability, the youth and any other candidate representing a marginalized group. It was the Commission's position that in the preparation of the list, political parties were to have 8 nominees at least two of whom shall be youth; two shall be persons with disabilities and two persons representing marginalized groups. The order of priority of these categories was at the discretion of the political parties noting that allocation would be based on the order submitted by the party.

(iv) This position was challenged by the National Gender and Equality Commission (NGEC) in Nairobi JR No. 409 of 2017 whereby it was argued that the interpretation of Section 36 (3) was that the nominees to the county assembly under the marginalized groups category would have a person with disability, the youth and any other candidate representing a marginalized group in that order.

(v) Clarity on the determination of ethnic minorities in the context of elections. In the absence of laws as governed by Article 100, Political parties stressed for recognition of internal autonomy in the determination of regional diversity and representation of marginalized groups. To this end there is need to expedite legislation envisioned under Article 100.

Recommendations

(i) Legislative reform agenda that seeks to subject the Hare Quota principle to public scrutiny and have it legislated in the interest of transparency in the Commission's processes. A greater understanding of the application of the formula will also decrease the number of election petitions filed challenging the Commission's decisions.
(ii) Build the capacity of the department of Political Parties Campaign Financing (PPCF) to address the limited technical support available in management of political parties.
(iii) Review the law on mandate of the Commission to address errors in Gazettement of nominees on allocated seats by way of corrigendum against positions taken by court that upon Gazettement, allocation is complete and Commission is functus officio (Constitutional Petition No 456 Of 2017 Rahma Issak Ibrahim v Independent Electoral & Boundary Commission & 2 others [2017] Eklr).
(iv) Review of the law to address existing ambiguities, flaws and inconsistencies in the selection of nominees from party lists and allocation of special seats at the County Assemblies.

4.13 Publication of Commission Decisions

The Commission is required under section 27 (1) of the Independent Electoral and Boundaries Commission Act, 2011 to publish and publicize all important information within its mandate affecting the nation. Pursuant to its mandate the Commission publicized various information in the Kenya Gazette, print and electronic media in the run up to the August, 2017 General Election as shown in Annex 1.

4.14 Corporate Governance

Corporate governance refers to the establishment of an appropriate legal, economic and institutional framework that allows organizations to thrive. This is achieved through advancing long-term shareholder value and maximum human-centered development.

In the aftermath of the devastating 2007 post-election violence that ravaged the country, the Kenyan government commissioned the Independent Review Commission (IREC) to investigate all aspects of the 2007 General Election, with particular emphasis on the presidential contest. The Commission was mandated to examine *inter alia* the following aspects of the election:

(i) The constitutional and legal framework to identify any weaknesses or inconsistencies and

(ii) The structure and composition of the ECK in order to assess its independence, capacity and functioning.

On composition of ECK and appointment of Commissioners, IREC recommended that the maximum number of commissioners be reduced to such a number as are functionally able to do the work and that a fully composed commission should be in office for two years prior to the conduct of general or presidential elections and that the electoral legal framework ought to be in place two years prior to the conduct of a general election. IREC recommended that the ECK be made accountable to Parliament, without prejudice to its status as an independent body.[5]

Pursuant to this, and with the promulgation of the Constitution 2010, the Independent Electoral and Boundaries Commission was established to be accountable to the public and stakeholders through Parliament for ensuring that it complies with the highest standards of corporate governance and operational ethics. The Commission has since embraced corporate governance by promoting the right corporate culture and values.

The Commission exercises reasonable care to ensure that the management of the Commission is carried out in the best interest of the citizens of Kenya.

The Commission recognizes the need to conduct its affairs with integrity and in accordance with generally accepted corporate practices and internationally developed principles of corporate governance.

4.14.1 Appointment and Composition of the Commission

The size, composition and appointment of the Commission are prescribed by Article 250 of the Constitution and by the IEBC Act 2011.There are seven Commissioners who work on a full time basis. Each member was appointed to serve for a single term of six years.

Prior to the 2016 amendment of the IEBC Act, 2011, there were barely 15 months to the General Election held 4th March, 2013, a commissioners

[5] Provided under the Second Schedule of the Independent Electoral and Boundaries Commission Act, 2011.

appointed vide Gazette Notices Nos. 14091 and 14094 via Special Issue Vol. CXVIII-No.109 published on 9th November, 2011, the Chairperson, Mr. Ahmed Issack Hassan; and Commissioners Mr. Yusuf Abdulrahman Nzibo, Mr. Mohamed Alawi Hussun,, Eng. Abdullahi M. Sharawe, Lilian Bokeeye Mahiri Zaja, Thomas Letangule, Joyce Muthoni Wangai, Albert Camus Bwire and Kule Galma Godana.

Subsequently, barely seven months to the General Election 18th January, 2017, a seven (7) member Commission was appointed vide Gazette Notices Nos. 399 and 400 via Special Issue Vol. CXIX-No.8 published on 18th January, 2017, the Chairperson, Mr. Wafula Chebukati; and Commissioners Mr. Boya Molu, Prof. Abdi Yakub Guliye, Amb. Dr. Paul Kurgat, Ms. Consolata Nkatha Maina, Dr. Roselyn Akombe and Ms. Margaret Mwachanya.

These appointments came too close to the two General Election as opposed to the recommendations by IREC and international recognized best practices. The need and importance to have a Commission in place at least two years before an election was expressed during the national and political parties' stakeholders' forums. Similar sentiments were also made during the development partners' forum.

4.14.2 The Commission Committees and their Responsibilities

The Commission delegates certain oversight functions to committees[6] without abdicating its own responsibilities. The Commission has developed a committee structure that assists in the execution of its duties, powers and authorities. The Committees are appropriately constituted drawing membership from amongst the Commissioners with the appropriate set of skills and experience and directors co-opted from various directorates.

The Commission has in place an independent Audit Risk and Compliance Committee that is chaired by an external non-executive member. It also has two independent audit committee members, from the National Treasury and Ministry of ICT, and one Commissioner.

The Audit, Risk and Compliance Committee oversees the internal audit activity charged with the responsibility of continuous review and providing assurance on effectiveness of the Commission's Governance, Risk and Control.

In the run up to the general election the Commission conducted its business under the following committees;

[6] Provided under the Second Schedule of the Independent Electoral and Boundaries Commission Act, 2011.

Table 9: Commission Committees in the run up to the 2017 General Elections

Committee	Responsibility
Finance and Procurement	Procurement and Finance Oversight.
Audit, Risk and Compliance	Advisory on Governance, Risk and Compliance.
Human Resources, Training and Administration	Advisory and oversight on Human Resource functions.
Elections, Technical and Operations	Oversight on Election Planning and Implementation.
Boundaries Delimitation	Oversight on Bounadries Review and delimitation.
Legal Reforms, Enforcement of Code of Conduct and Compliance	Legal Oversight and Compliance.
ICT, Research and Development	Advisory on use of Technology in Elections.
Political Parties Liaison and Campaign Finance Control	Advisory on Engagement with Political Party and Campaign Financing.
Voter Education, Partnerships and Media	Voter Education, Partnership and Collaboration advisory.
Dispute Resolutions	Resolve Disputes on Party Primaries.

4.14.3 The Legislative framework

Despite the Commission submitting its proposals on the electoral legal framework vide the Election Laws (amendments) Bill, 2015, the same was not passed until January, 2017. This necessitated the drafting of new regulations and amending the existing electoral regulations to operationalize the 2016 and 2017 amendments which were passed by parliament on 5th April, 2017, about 3 months to the general election and almost too late going by the IREC recommendations.

4.14.4 Impartiality and Independence of Members

It is statutory requirement that every member of the Commission and employee shall perform their functions impartially and independently without influence from any person, authority or organization.

4.14.5 Disclosure of Conflict of Interests

If a member of the Commission or an employee is directly or indirectly interested in any matter before the Commission and is present at any meeting of the Commission at which the matter is the subject of consideration, he/she shall as soon as practicable disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the matter or be counted in the quorum of the meeting during consideration of the matter.

Some of the activities that were conducted when the new Commission was appointed were as follows:

i) The sensitization of Commissioners on Dispute resolution;

Following the sensitization workshop for the Commission staff that was held at Mt. Kenya Safari Club, Nanyuki from 28th March to 1st April, 2017, it was recommended that the Commissioners should be taken through the sensitization program.

Consequently, the Commission, with support of International Foundation of Electoral Systems, held a workshop for sensitization of the Commissioners from 7th to 8th April, 2017 at Windsor Golf Hotel and Country Club, Nairobi to deliberate on;

a) Options for settling of disputes in view of stringent timelines and conflicting mandates between the Commission and the Political Parties Dispute Tribunal (PPDT).
b) Development of guidelines for dispute resolution by the Commission and PPDT.
c) Development of a Risk matrix on Dispute Resolution.
d) Development of a case management system.
e) Sensitization of the Commission and Commission staff on Dispute Resolution.
f) Identification of priority areas and activities under Election Dispute Resolution.

ii) Appraisal of Commissioners on the new legislative framework and Draft Regulations

Upon appointment, the Commission was apprised of the legislative framework and the implications thereof. Additionally, the Commission was taken through the draft regulations (clause by clause) in preparation for discussions with the select committee on delegated legislation.

CHAPTER FIVE

RESOURCE MOBILIZATION

5.0 RESOURCE MOBILIZATION

The post-election evaluation revealed that development partners provided support to electoral process amounting to Kshs. 9,202 million over the period 2015-2017 some of which was channelled directly to government institutions involved in electoral process. The rest of the support was channelled through Civil Society Organizations. The Commission received Kshs. 1,424 million from development partners over the period. The main areas supported are as shown in Figure 2.

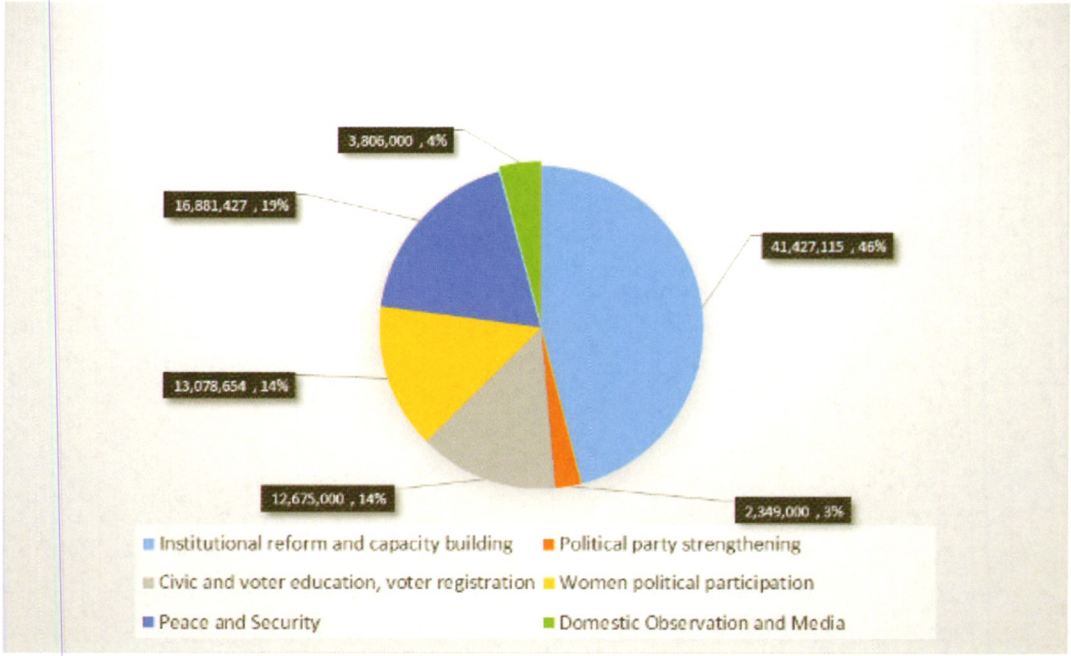


Figure 2: Donor Funding in support of the 2017 Elections by Thematic Area- (Source: UNDP Basket Fund)

This funding arrangement resulted in poor monitoring and coordination of initiatives, making the results not readily visible. This evaluation recommends that development partners channel their support through government institutions with convening mandates so as to forge a coordinated approach to provision of electoral technical assistance. The forum of Electoral Technical Assistance Providers (ETAPs) should be strengthened for information sharing and convergence of interventions.

During the evaluation, participants in the County Consultative Forums noted that the budgeting process did not involve all stakeholders from planning to implementation, and that the process was mainly a top-down approach and not based on market survey of goods and services. It was also observed that

the budget for logistics and transportation on ICT equipment during voter registration was not sufficient, while during the GE and FPE, transportation of materials from constituency office to tallying centres and training centres was not considered in the budget. As a recommendation, participants suggested that procurement of some goods can be decentralized to the county level.

At the National Post-Election Evaluation forum, the participants further observed that the funding for stakeholder engagement was not sufficient to cascade it to the Ward level. As a result, the stakeholder engagements were only confined at the National and Counties levels.

5.1 Human Resource Mobilization

5.1.1 Recruitment of Secretariat Staff

The Commission has a staff establishment of 903 out of which 884 were in post as of 30th June 2018. During the period between 2016 and 2017 the Commission recruited a total of 120 members of staff to fill up vacant positions in the Secretariat. The most notable human resource mobilization was the establishment of the 47 County offices as opposed to the 17 regional offices that existed during the 2013 General Elections.

5.1.2 Recruitment of Election Officials

The Commission embarked on recruitment of temporary staff to manage the electoral process. The recruitment process was designed to ensure integrity, objectivity, transparency and professionalism. The number of officials recruited per activity is as shown in Table 10.

Table 10: The Number of Temporary Election Officials Recruited for the 2017 General Election

No	Designation	MVR1	MVR2	Nomination	Verification	GE	FPE	TOTAL
1	DROs	-	-	47	-	337	337	721
2	SETS	-	-	-	-	5,054	4,238	9,292
3	POs	-	-	-	-	42,568	42,333	84,901
4	DPOs	-	-	-	-	40,883	40,883	81,766
5	VRAs	2,878	1,775	-	1,775	-	-	6,428
6	Clerks	-	15,692	2,696	20,846	263,922	140,944	444,100
7	Logistics	-	-	-	-	337	337	674
8	VEs	2,900	2,900	-	2,900	3,237	3,237	15,174
9	CICTC	290	580	-	580	627	627	2,704
10	Security	7,100	7,100	3,370	7,100	88,506	87,566	200,742
	TOTAL	**13,168**	**28,047**	**6,113**	**33,201**	**445,471**	**320,502**	**846,502**

In preparation for the General Election, the Commission developed a web portal to receive job applications for temporary election officials. The evaluation revealed that this method eased the process of recruitment and reduced paperwork. Information gathered from election officials revealed that some applicants experienced difficulties in submitting their applications in the web portal due to high traffic. It was noted that age restriction for the applicants locked out skilled personnel. For the Fresh Presidential Election, the Commission used the database of the officials who had conducted the 2017 General Election.

A suitability interview was conducted to identify poll officials who qualified to conduct the election. A total of 445,471 poll officials were deployed in 2017 as compared to 320,502 in 2013. This represented a 38.9% increase in deployment of election officials.

5.1.3 Capacity Building for Staff and Commissioners

As part of human resource development, the Commission embarked on training staff and Commissioners on various courses related to elections management as shown in Table 11. Feedback from Commission staff revealed that these trainings significantly improved the overall performance of the Commission in the planning and management of 2017 elections.

Table 11: Number of Staff Trained Prior to 2017 GE

No	Course Description/Title	2015/16	2016/17	2017/18
1	BRIDGE Train the Facilitator (TtF) Training		31	
2	Peace building and electoral security.		12	
3	5th Electronic Document Management System (EDMS) Workshop: Digitizing Records and Automation of processes and Workflows		2	
4	Enterprise Risk Management Conference		11	
5	Induction Course for Staff and Commissioners		32	
6	Performance Appraisal	36	43	
7	Professional Development Training	25	1	32
8	Senior Management Course		5	38
9	Strategic Planning and Management	40	94	

No	Course Description/Title	2015/16	2016/17	2017/18
10	Accredited Certificate Programme in Management of Democratic Elections in Africa	2		
11	Contemporary Public Administration Management	4		
12	KOCEI 2016 Foreign EMB Officials' course	8		
13	Management of Democratic Elections in Africa (MDEA)	9		
14	Re-organization and Change Management Workshop	7		
15	Performance Management Training	348		
16	Strategic Leadership Development Programme			13
17	Supervisory Development Course			97
18	HR for Non-HR Managers			15
19	Records Office Management Course			110
20	Corporate Governance Commissioner's Training			8
21	International Trainings			87

5.2 Development of Election Training Content and Procedures

The Commission embarked on the Review and Development of Electoral Training Manuals Project. This resulted in the production of nine manuals including; Election Manual (Source Book), Elections Operations Handbook, Nomination Guide, Presiding Officer's Guide, Elections Communication Center Guide, Elections Facilitator's Manual, Polling Station Diary and By-Election Quick Guide. Later the Election Result Management Framework which was developed by a different task-force was refined by the Material development task-force. All the training manuals were reviewed to reflect the legal and operational changes that had been brought on board since the last General Election.

The challenges encountered during content and process development by the task-force include; delay in statutory amendments, determination of cases filed in PPOA on KIEMS procurement which had an impact on the development of ICT component, late policy decisions and pending court cases which affected election procedures.

5.3 Training of Election Officials

In a bid to address the training gaps identified in 2013 Post–Election Evaluation, the Commission formed the 2017 Electoral Training Project with the following objectives; to explore the principles of training; to consider the implementation of training including needs assessment, training plans, training strategy, and logistical arrangements; to provide participants with concrete relevant training and content delivery skills and to equip the electoral officials with skills required to conduct elections. In order to achieve the desired results, the project adopted Building Resources in Democracy Governance and Elections (BRIDGE) adult training methodology which is participatory.

In the run-up to the 2017 General Election, the Commission developed the following training manuals;

i) Voter Registration;
ii) Nomination, Legal reforms and Elections Manuals;
iii) Kenya Integrated Management System and Verification of the Register of Voters;
iv) General Election Operations; and
v) Fresh Presidential Election.

These training programs were targeted at specific activities of the electoral cycle. The Commission then developed a training calendar as shown in Table 12.

Table 12: Training Plan for Election Officials

Activity	No of Days	Date	Participants
Recruitment, Appointment, Training and deployment of election officials	59	10th June–7th August, 2017	Elections officials (378,000)
Training and deployment of election officials	24	13th July–5th August, 2017	Elections officials (378,000)
National Planning and Training of TOTs	4	13th– 16th July, 2017	138 TOTs (CECs, CEMs, CICTS)
Training of Returning Officers and Deputy Returning Officers	4	19th – 22nd July, 2017	ROs, DRO, DCROs (627)
Training of Support Electoral Trainers (SETs),ICT Clerks, Logistics Officers	4	25th – 28th July, 2017	SETS (9,296)

Activity	No of Days	Date	Participants
Training and Deployment of Presiding and Deputy Presiding Officers,	4	30th July, 2017	POs, DPOs (93,648)
Training and Deployment of Election Clerks	2	4th – 5th August, 2017	Clerks (286,478)
Training of Chief Agents and County and Constituency Level	2	24th July–5th August, 2017	Party Agents (31,350)
Security Briefing	1	7th August, 2017	Security (94,740)

To support the training for FPE, the Commission reviewed training materials to align them with the requirements of the conduct of the Fresh Presidential Election. These materials included The Presiding Officers Guide and Polling Station Diary. A Returning Officer guide was developed and disseminated.

During the FGDs with the POs, DPOs and Clerks, the materials were reported to have enhanced their training. Returning Officers who were interviewed also reported that the training materials contributed to improvement in training. Additionally, the ROs guide was reported to have made the processes and procedures clearer. This observation was also noted in some Election Observation Mission reports.

To address the concerns raised during the presidential petition, the Commission conducted a national training for all ROs, DROs and CICTs. The ROs and DROs cascaded the training to the ICT Officers, Support Electoral Trainers (SETS), POs, DPOs and Clerks. However, monitoring of the trainings revealed that in some constituencies, the cascaded training was disrupted by some citizens who were opposed to the Fresh Presidential Election.

The evaluation established that the training programs were monitored and evaluated for quality control. Further, the trainees revealed that the methodology used for training was suitable. The training methods included; simulation, discussion, role play, brainstorming and written tests. In addition, the trainees reported that the trainers had mastery of content and were adequately prepared to train. Further, the training venues were rated as suitable with adequate facilities for the large number of participants. In cases where there were participants with hearing impairment, Kenya sign language

interpreters were hired to facilitate the communication during the training. This development was lauded during the National Post-Election Evaluation Stakeholders' Forum.

The evaluation data captured at the County consultative forums inform that the cascaded and clustered training ensured uniform information dissemination. Information drawn from the County Cluster Forums revealed that training on KIEMS was simple, user-friendly and the training manuals were comprehensive.

However, despite the fact that the training of the election officials was reported to have improved, the non-residential training in areas with poor infrastructure experienced challenges in maximizing the training hours mainly because trainees reported late and expected to leave before the official closing time. Participants recommended that future trainings be made residential and enough time be allowed for simulation exercises.

The evaluation also observed that logistics officers were only sensitized for one day. This was not adequate to fully equip the logistics officers to undertake their duties, which tremendously increased during elections. Due to the sensitive nature of their responsibilities, the logistics officers should be subjected to more detailed relevant trainings.

5.4 Challenges Related to Procurement

1. Incessant litigation leading to delay in procurement and delivery of strategic and non-strategic electoral materials: The Commission encountered several legal challenges where some procurement processes were referred to the Public Procurement Administrative Review Board (PPARB) and the courts resulting in delays of the procurement process.
2. Delay in the procurement and supply of General Election materials: In the Strategic Plan, 2015-2020 and subsequent election timelines, the Commission had indicated that all General Election materials should have been delivered to the central warehouse by April 30, 2017 in order to allow enough time for packaging and distribution. This did not happen as some materials were still being delivered as late as August 4, 2017.
3. State of preparedness in the Counties: The point of delivery of election materials from the main warehouse in Nairobi was the former 17 IEBC regions. However, the Commission had devolved its structure from the regional set-up to county which posed new challenges since

some services and staff were still based at the regional offices. The county structure also lacked requisite infrastructure and staff to fully operationalize smooth distribution in the counties.

4. Funding and challenges of the exchequer: The Commission was allocated adequate funding in the budget. However, the exchequer was not released as and when it was required. The funds were released towards the end of the financial year.

5.5 Challenges in Resource Mobilization

1. Late delivery of election materials which affected election timelines
2. Late procurement of election materials and equipment
3. Inadequate inventory of election materials in the warehouses
4. Delayed delivery of election materials and equipment for training
5. Inadequate training for election staff on supply chain management
6 Lack of synchronization of disbursement of funds with electoral activities

5.6 Recommendations

1. Timelines drawn for procurement should be strictly adhered to avoid late deliveries.
2. Material for the General Election to be procured six months to election except ballot papers, this will give ample time to curb the problem of suppliers failing to supply.
3. Proper and comprehensive inventory should be carried out and reported in time. This will mitigate the problem of either under-buying or over-buying of materials necessary for an election.
4. Materials and equipment for training should be availed at the right time and quantitates to ensure delivery of the training content.
5. There is need for capacity building on public procurement for the Commission staff.
6. The National Treasury should avail funds for the electoral process as per the electoral cycle.

CHAPTER SIX

VOTER EDUCATION AND OUTREACH

6.0 VOTER EDUCATION AND OUTREACH

6.1 Voter Education for 2017 General Election and Fresh Presidential Election

Voter education is meant to empower citizens with the relevant information, knowledge, skills and attitudes in order to enable them to exercise their democratic and civic duties. Implementation of voter education should be supported by, good voter education materials that are clear and simple, address all the phases of the electoral cycle. The voter education content should be inclusive and target various groups namely the youth, professionals, illiterate, elderly, women, Persons with Disabilities (PWDs), minorities and the marginalized.

The evaluation established that in preparation for the August 2017 General Election, the Commission accredited 266 Voter education providers spread in the 47 Counties and the 290 Constituencies. Data collected from the Commission's *"Voter Education report on the 8th August 2017 and the Fresh Presidential Elections of 26th October, 2017"* and the evaluation data gathered during the County consultative forums both confirm that the Commission used various methods to deliver voter education to citizens. The evaluation established that the Commission employed the following strategies:

a) Engagement of two voter educators in each of the 1,450 County Assembly Wards and a voter education coordinator at the County and Constituency level
b) Accreditation of voter education providers from among the Non-State organisations such as Civil Society Organisations (CSOs), Faith-Based Organisations (FBOs), Private Sector, Professional Bodies, among others.
c) Stakeholder engagements at the National, County, Constituency level.
d) Use of bulk SMS sent to Kenya citizens who had subscribed to various mobile service providers.
e) Use of electronic, print and social media platforms, with emphasis on National and Local radio stations, Televisions, newspapers adverts and social media.
f) Use of caravans mounted to reach out to Kenyans from different walks of life.
g) Engagement through opportunistic gatherings like Chiefs barazas, religious gatherings, use of drama to reach out to school-going children, ASK shows and use of IEBC Website.



Targeted Voter Education at Community Level

h) Establishment of Inter-Agency Coordination Committee which comprised of various line Ministries and departments, namely: Ministry of Interior and Coordination of National Government, Ministry of Education, Science and Technology, Ministry of Public Service, Youth and Gender Affairs, Office of the Attorney General and Department of Justice, Kenya Law Reform, State Department for Immigration, Border Control and Registration of Persons, Ministry of Foreign Affairs. This Committee was replicated at the County and Constituency levels. These committees were instrumental in enhancing joint approach to the conduct of the elections especially in electoral security, registration and voting of Kenyan citizens residing outside the country, outreach and provision of polling stations. These voter education strategies were implemented throughout the electoral cycle.

6.1.1 Effectiveness and Adequacy of Voter Education

The effectiveness of the voter education programme was determined by evaluating the adequacy and appropriateness of the content, the methodologies used for dissemination, timeliness of delivery and the extent to which the programmes were inclusive in terms of addressing the divergent needs of citizens.

The evaluation revealed that the voter education programme content was simple, clear and provided information that the electorate needed to make informed choices and participate effectively in the electoral process, including turning out to cast their votes and mark the ballot paper correctly.

The evaluation also established that the commencement of voter education programmes for the various electoral processes, namely: voter registration, inspection and verification of the Register of Voters, campaigns and voting was timely. However, the voter education materials to support the delivery did not reach some electoral areas on time. This mainly affected constituencies that were far from the distribution centres.

The evaluation further established that there was insufficient voter education provided on political party primary nominations, registration of candidates by IEBC and the period between actual voting and announcement of results. The inclusiveness in provision of voter education was demonstrated by engagement of Kenya Sign language interpreters in all voter education and stakeholder engagement forums, delivery of voter education messages through Signs Television dedicated to persons with hearing impairment, and animation of the registration and voting process. The evaluation also established that posters and stickers were designed to address the needs of the youth, women, PWDs, the marginalized and the minorities.

For the Fresh Presidential Election, the evaluation observed that the County and Constituency Voter Education Coordinators including Trainers of Trainers drawn from prisons that served as polling stations were trained on adult learning, public relations, effective reporting writing, monitoring, and evaluation of the voter education programmes. The effect of these trainings was reported in the County Cluster PEE reports which noted that there was significant improvement in the quality of delivery and reporting.

Similarly, data captured from the National and Political Parties Stakeholders forums revealed that the coordination of voter education improved considerably. Such improvement was also recorded on the transcription of voter education materials into Braille.

6.1.2 Challenges in Voter Education

The evaluation observed the following challenges as cited by participants in the FGDs and the County forums:

i. The disbursement of voter education funds was not in line with the activities in the electoral cycle. The funds were disbursed too close

to the election period hence affecting provision of voter education for the legal reform, voter registration, nominations and election campaigns.

This had the effect of delaying the development and review of election materials and timely commencement of voter education during the Pre-election period. The Pre-election period is the most conducive period for both civic and voter education.

ii. Change of electoral laws too close to the elections affected the review and limited the time to customize voter education materials.
iii. The practice of having two voter educators per County Assembly Ward, irrespective of the size and terrain did not work well in expansive electoral areas.
iv. The application form for accreditation of voter education providers as currently used leaves out crucial details that would be useful in vetting the capacity of potential voter education providers.
v. Logistics for the distribution of voter education materials, where the focal point was the former 17 Regions, affected the timeliness of the materials reaching the Constituencies and Wards.
vi. Although there was a comprehensive Code of Conduct for Voter Education Providers, the Commission has not yet fully enforced it to regulate the voter education providers.
vii. Voter education support materials were provided in Kiswahili and English while there were many voters who were not conversant with the two languages.

6.1.3 Recommendations

1. Funding for voter education should be factored throughout the electoral cycle in order to ensure it is a continuous process.
2. Supervision, monitoring and evaluation of accredited voter educators should be enhanced.
3. Code of conduct for Voter education providers need to operationalized and enforced.

6.2 Partnerships and Stakeholder Engagement

The engagement of the Commission with stakeholders and Partners in the conduct of elections is based on Section 40 of the Election Act, 2011, which provides "for partnership with other agencies and non-state actors in the provision of voter education". Further, Section 8(A)(2) of the Elections Act (2011) provides for "the Commission to avail information to stakeholders". In addition, Section 26 of IEBC Act 2011 requires the Commission to "observe

the principle of public participation and the requirement for consultation with stakeholders."

6.2.1 Partnerships and Stakeholder Engagement for the 2017 General and Fresh Presidential Elections

The Commission's Strategic Plan 2015-2020 under Pillar three provides for fostering of public trust and participation of citizens and stakeholders in the electoral process. In the conduct of the 2017 General and Fresh Presidential Elections, the Commission engaged with various stakeholders drawn from both State and Non-State Agencies.

The Commission's engagement with Stakeholders and Partners was guided by understanding their interests, capacities and concerns in the electoral process.

6.2.2 Types of Development Partners Engaged

In the last electoral phase the Commission worked with three (3) broad dimensions of development partners namely:

1. **Donor Coordination Group:** this refers to the established mechanisms and arrangements that the Commission and its donor partners have agreed on, in order to maximize the effectiveness of support in the electoral process.
2. **Electoral Technical Assistance Providers (ETAPs).** This is a subset of the Donor Coordination Group. This group gives technical support to the Commission in areas like ICT, capacity building, voter education among others.
3. **Sector/thematic groups:** Proactive mechanisms between the Commission and the non-state actors comprising of International NGOs, Multilateral Development Agencies, as well as Foundations.

During the Evaluation, analysis of the various Commission's documents revealed that in preparation for the conduct of the 2017 General Election, the Commission had outlined key priority areas for stakeholder support.

These included:

1. **Technical Assistance to the Commission in diverse fields:** These include providing consultants who advise the Commission in Inclusion, Voter Registration, Voter Education, Policy Development, Logistics, Media Work, Transmission of Results and Election Management.
2. **Capacity building/training.** Several Commission, staff and stakeholder workshops and training were funded, including BRIDGE Training.

3. **Development of various electoral resource materials:** these included development of the IEBC 2015-21 Strategic Plan; the 2016/17 Electoral Operation Plan; Curriculums, Manuals, Policy documents and various handbooks.

Feedback from the evaluation revealed that the Commission received support from Development Partners in both the pre and post-election periods. The cooperation between the Commission and Development Partners contributed to the following:

1. **Responsiveness:** The Commission entered into partnerships with a view to augment its work in areas where there were budgetary short falls or in programs that had no budgetary provisions at all. The Commission benefitted from the flexibility in the support offered by Development Partners. This made it possible for funds to be applied to urgent, unanticipated needs.
2. **Mutuality:** The Commission worked with the partners to co-sponsor activities, in the areas of voter education, gender, ICT, capacity building, youth PWDs among others.
3. **Transparency and Accountability:** The Commission engaged the partners in an open and accountable manner. Ensuring that requisite reports were provided and areas of concern were clarified.
4. **Rule of law:** The Commission signed Memorandum of Understanding with the partners while ensuring that the provisions there in complied with Kenya's electoral legal framework

a) Partnerships in Electoral Laws Reform

For electoral law reform, the evaluation established that the Commission worked closely with relevant parliamentary committees, CSOs, FBOs and the ORPP. Other stakeholders in the legal reforms included the Judiciary, the Kenya Law Society, Constitutional Commissions, Kenya Law Reform, and Media among others.



Panellists in the National Elections Conference (NEC) on elections held from on 12th to 14th June, 2017 at the Kenyatta International Convention Centre (KICC) in Nairobi.

b) Partnerships in Voter Registration

During the continuous and mass voter registration exercises, the evaluation observed that the Commission organized National, County and Constituency stakeholders' forums to elicit support and mobilization of eligible voters to register. The stakeholders included The Registrar of Births and Deaths, CSOs, FBOs, Ministry of Education, County Assemblies and Kenya National Bureau of Statistics among others.

c) Partnerships in Nominations

The law requires that after the political parties nominate their candidates, the Commission should ascertain that the candidates have complied with the law and hence registered to vie for the various elective positions. This scrutiny also applied to the independent candidates. This evaluation confirmed that to complete this process, the Commission collaborated with the Ministry of Education, The Kenya National Examination Council, Ethics and Anti-corruption Commission, Office of the Registrar of Political Parties, Political Party Liaison Committee and the Kenya Police Service.

The evaluation however noted that registration of independent candidates was challenging due to lack of clarity in some aspects of their registration. The registration of party sponsored candidates was also hampered by internal political party intrigues.

d) Partnerships in Campaigns and Elections

The electioneering and campaign period in Kenya is usually very emotive. The tense environment calls for proper handling and consultation in issues such as security, logistics, recruitment of temporary poll officials and access to information. These collaborations and consultations are aimed at ensuring delivery of peaceful and acceptable elections.

The evaluation established that in the 2017 General and Fresh Presidential Elections, the Commission collaborated with National Police Service, Local and international observers, Ministry of Interior, Media, CSOs, FBOs and Community based organizations. This structure of collaboration was at the national, County, Constituency and County Assembly Ward levels.

e) Partnership in Information Communication and Technology

The use of technology in elections in Kenya has not only been accepted but has been legislated. The evaluation observed that in the 2017 General and Fresh Presidential Elections, the Commission partnered with Communication Authority of Kenya, mobile network service providers such as Safaricom Public Limited Company (PLC), Airtel Kenya and Telkom Kenya who provided support in electronic results transmission. Others included the Kenya Bureau of Standards (KEBS) who ensured that the technology complied with the required specifications.

f) Partnerships in the Post-Election Period

The period after the polling day is usually tense, emotive and elicits mixed reactions from the electorates, candidates, political parties, observers and other electoral stakeholders. The 2017 General Election elicited mixed reactions especially after the nullification of the presidential election results by the Supreme Court. The 26th October, 2017 Fresh Presidential election was compounded by boycotts by major opposition parties that resulted into street protests and calls for disbandment of the Electoral Commission.

To manage the post-election period of the August 8th General Election and the October 26th Fresh Presidential election, this evaluation established that the Commission worked with the Office of the Registrar of Political Parties, Ministry of Interior and Coordination of National Government, County Governments, FBOs and CSOs among others to mitigate the impact of the negative reactions that emerged after the poll.



Display of polling materials.

6.2.3 Effectiveness of Partnerships during the 2017 Elections

During the evaluation, various relevant stakeholders were requested to rate the effectiveness of the partnerships between the Commission and the various stakeholders in the conduct of the August 8th GE and October 26th 2017 FPE. Development partners and state and non- state actors considered stakeholder partnerships as effective while political parties' stakeholders considered the partnerships as fairly effective. Further probing established that the political class would have wanted to be involved more in the activities of the Commission.

6.2.4 Partnerships for Inclusiveness in Elections

The engagement of women, youth and persons with disability in the democratic process is enshrined in international conventions, human rights instruments and international and Kenya's electoral legislation. With regard to women's political participation, the Constitution of Kenya provided for the principle of non-discrimination as entrenched in Article 27(4) while the right to participate in politics and to make political choices is embedded in Article 38. Feedback from the National Stakeholders forum indicated that in spite of the Commission making progress in improvement of electoral infrastructure

for women, youth and PWDs, a lot needs to be done to address specific challenges and gaps that hinder their full participation in electoral processes.

6.2.5 Challenges in Partnerships

The evaluation established the following challenges:

i. Lack of harmonized internal mechanism in the management of partners and stakeholders leading to overlaps.
ii. Limited information on formal partnership structures at County and Constituency which leads to engagement gaps.
iii. Inadequate enforcement of the code of conduct for election Observers and other stakeholders.
iv. Misconception by some partners that the Commission should fund their activities.
v. Unavailability of disaggregated data on various disability forms to inform targeted interventions.
vi. Lack of a specialist in disability and gender matters within the Commission has led to the slow implementation of the inclusive agenda.

6.2.6 Recommendation in Partnership

There is need to develop a Partnership procedures manual to guide all aspects of Partnerships within the Commisssion.

6.3 Election Observation

The evaluation established that fifty-eight thousand (58,000) observers representing 150 accredited international and domestic organizations participated in the electoral processes. Domestic observers formed the greater majority.

Most international observers released their reports six months after the General Elections. The beneficiaries of these election observation reports included the full range of stakeholders in the electoral process which include: Political Parties and candidates, state departments and agencies, civil society, voters and citizens, and the International community and donors.

While appreciating the role of domestic observers in the electoral process, the evaluation notes that there is need to have this process protected. Such protection includes the development of appropriate legislation that articulates rights and responsibilities in upholding of the rule of law. In the management of observers in the 2017 GE, the Commission took note of some of the key factors that affected the credibility of electoral observation which included: the source of funds for observation, representation and geographical coverage

of observation, technical assistance provided and the recruitment process of observers.

An analysis of the election observation reports and feedback from the National stakeholders' forums identified the following achievements:

1. The centralized accreditation of observers ensured close monitoring of the accredited organizations and reduced malpractices.
2. Introduction of the online Observer Accreditation Management System increased efficiency and transparency.
3. The developed handbook facilitated quick briefs on the status of elections by observers.
4. Three observer briefings were held at the national and county levels respectively.
5. The observers reported to have received guidance and support from the Commission's staff in the areas they visited.
6. Both international and local observation groups presented observer reports as required of them.

With regard to election observation, the evaluation further noted the following;

6.3.1 Challenges in Election Observation

1. Most observers were concentrated at the National and County levels and did not spread to the grassroots to be able to give representative reports.
2. Limited movement of the election observers due to lack of locational and route maps.
3. Inadequate briefing of observers at County and Constituency levels due to competing electoral activities.
4. Uncoordinated monitoring of observers at the National, County and Constituency levels.
5. Lack of adherence to the Election Observers' Code of conduct by some observers.
6. Some of the accredited organizations expected funding from the Commission and when it did not materialize, they reneged.
7. Some of the domestic observers recruited personnel who had no knowledge of electoral processes.
8. Demand by observers for personalized briefing by staff leading to strained engagement.

6.3.2 Recommendations

1. There is need for prior planning for observer meetings that involves the various missions/observer groups.
2. Establish a long-term information desk for election observers during the election period. This will also help in logistical support of observers.
3. Collect, organize and disseminate electoral legislation and EMB procedures pocket booklets.
4. Accreditation observers should end two weeks to the election to enable electoral officers concentrate on other electoral activities.
5. There is need to enhance and enforce the code of conduct for observers to include recall of accredited observers who don't abide by the code of conduct.

6.4 Media and Communication

Managing the electoral process entails cultivating and endeavouring to meet expectations of different stakeholders in the political arena to foster public confidence and participation of Kenyans in the electoral process.

During the 2017 GE and the FPE, the Commission employed several communications and media strategies geared towards increasing publicity on the management and conduct of elections. These strategies were meant to enhance access to information by voters, members of the public, stakeholders among others. These strategies included:

6.4.1 Enhancing Commission's Visibility

In a bid to enhance the brand visibility of the Commission and for ease of access of electoral services, feedback gathered from FGDs with poll officials revealed that the Commission facilitated branding of IEBC offices across the country as well as the Tallying centers. These included mounting of directional signage and labelling facilities for ease of public access.

6.4.2 Establishment and Operationalization of the National Elections and Communications Center (NECC)

In order to inform, educate and communicate with voters and IEBC staff in the field, the Commission set up a National Elections Communication Centre (NECC) with the objective of monitoring, tracking and providing a near real time reports on the progress of election operation activities during the August 2017 General Election. The NECC was located at the National tallying center to monitor the elections in all the 47 counties and the 290 constituencies providing real time periodic reports on the progress of the polling day activities. The NECC had the following units: Operation Support Unit (OSU);

Public support unit (PSU) and the Media Monitoring Unit (MMU). The figure 3 shows the NECC workflow.

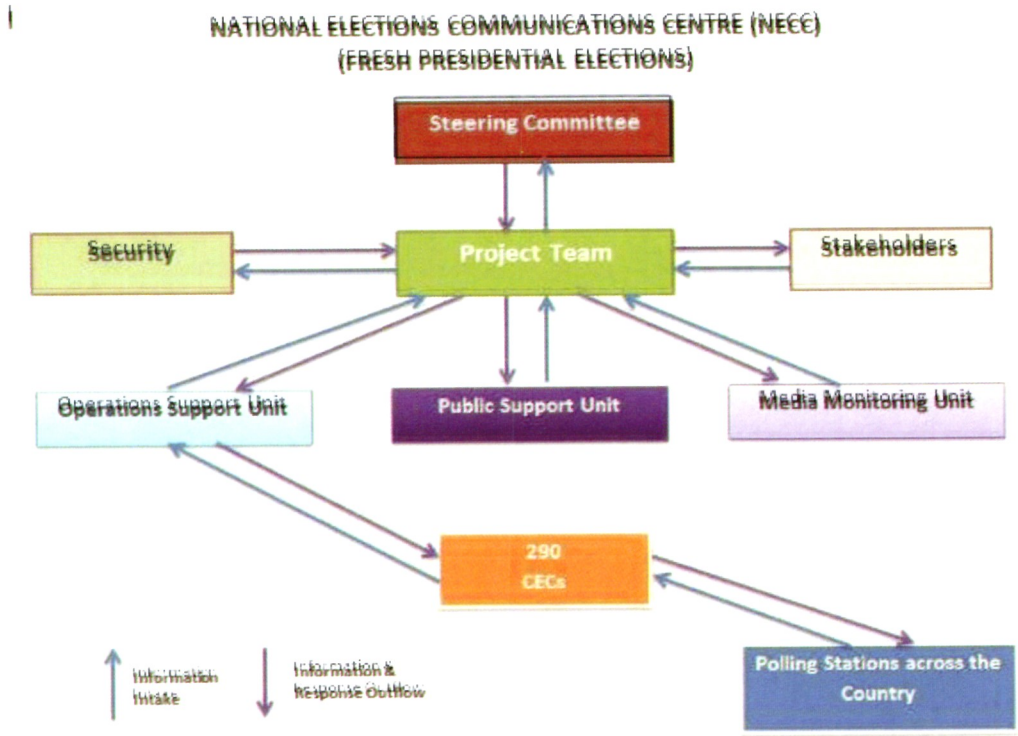


Figure 3: The National Elections Communications Centre workflow

The Operations Support Unit (OSU) collected and provided information to Returning officers on the logistics, dispatch and arrival of materials and general preparation for the Election. Feedback received from CROs and ROs revealed that OSU was a supportive communication platform between the field and the head office.

The Public Support Unit (PSU) was a communication platform where the Commission received concerns from members of the public on election related matters. The Commission deployed 30 officers who received calls around the clock and disseminated information to voters and the public during the electioneering period.

The Media Monitoring Unit (MMU) recorded a total of 285 incidences. The team comprised of 8 media monitors who worked round the clock to monitor conversations about IEBC on Whatsapp, Twitter, Facebook, YouTube, Google Alerts and Blogs. Figure 4 shows the distribution frequency of the incidences

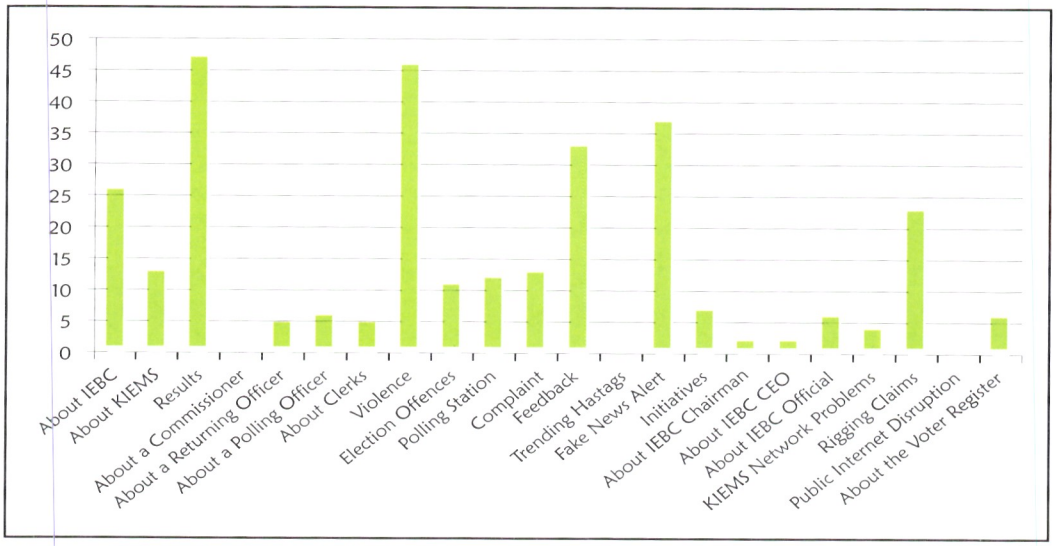


Figure 4: Reported election related incidences

6.4.3 Development and Implementation of Integrated media campaign

The Commission engaged a professional media agency to undertake integrated and targeted media services in creative production, media planning, media production, media buying, media monitoring and Public Relations.

The Commission undertook production and airing of infomercials under the clarion call '*niwewe kusema*'. '*Ndani ya Debe*' interactive, educative and informative television episodes were recorded at the National Museums of Kenya with live audiences drawn across varied demographics.

Programs and infomercials were aired on prime-time on both electronic and social media platforms. Information received from FGDs with members of the public established that these TV programs were informative.

They were reported to have simplified some of the electoral process such as how to vote and mark a ballot paper.

6.4.4 Provision of live feed from the National Tallying Center

The Commission provided a live video feed running from the main auditorium and terminating at the media center. The live video feed was complete with an audio feed embedded.

This allowed media houses that could not mount their tripods strategically in the auditoriums to access live feed. Feedback from national post-election evaluation stakeholder forum revealed that the live feed was key in reducing

congestion in the main auditorium by media since they could easily and conveniently access the High Definition feed without setting up in the auditorium.

6.4.5 Media Management and Media Accreditation

The Commission engaged with the media through direct interviews, press conferences, statements and use of electronic and social media platforms. The purpose was to promote media relations, responsible coverage, information sharing, openness and transparency. Over 4000 local and international journalists were accredited. In addition, 700 local and international journalists were accredited to access the National Tallying Center main auditorium. The Commission provided an online portal for ease of accreditation.

6.4.6 Social Media Management

The Commission was actively present on Twitter, Facebook and Instagram. These platforms provided an alternative avenue of engagement with the online community. Any online inquiries were promptly responded to. Feedback from media stakeholders revealed that the Commissions' Twitter handle was a news source and media houses would pick news items from the post since the Commission Twitters handle is verified thus credible.

6.4.7 Establishment and Operationalization of the Media Center

The Commission established and set up a media centre facility within the National Elections/Tallying Centre at Bomas of Kenya. The media centre was equipped with the necessary communication infrastructure (workstations, computers and internet) to allow accredited media personnel access election results and information and as well be able to file stories in real time from the National Elections Centre.

The main objectives of setting up the media center was to provide a single point of communication of official electoral information to the media, to facilitate journalists to cover elections in a well-organized manner and to allow journalists to file stories in real time from the National Tallying centre.

Feedback from media stakeholders revealed that the media Centre provided the journalists with the facilities and communication infrastructure that enabled them to file stories and undertake their coverage from the National tallying centre facility.

Based on the experience of Communication and Media management during the GE and the FPE, the following are recommended:

6.4.8 Recommendations

1. The media centre should be incorporated permanently into the National Tallying Centre plan and be expanded to accommodate interview sections within the centre.
2. The election hotline should be maintained throughout the electoral cycle to promote public dialogue and understanding.
3. There should be continuous media monitoring to track Commission's ratings and put in place appropriate mitigation measures to enhance public trust and confidence.

CHAPTER SEVEN

REGISTRATION OF VOTERS AND REGISTER OF VOTERS

7.0 REGISTRATION OF VOTERS AND REGISTER OF VOTERS

7.1 Registration of Voters

Voter registration establishes the eligibility of individuals to vote in an election or a referendum. If conducted well, voter registration confers legitimacy on the process. The legitimacy of an entire electoral process is dependent on the credibility of the voter registration process. The registration process and the outcome should be accurate, sustainable and acceptable to citizens and the political stakeholders.

To register as a voter, an eligible citizen is required to present self to a registration officer gazetted to register voters in a particular constituency. They must provide a national ID card or a Kenyan passport as evidence of being an adult. The registration officer then gathers citizen biometrics, personal information as provided in the citizen identification national document. Information gathered was then submitted to a focal point for purpose of developing a register of voters. A citizen received an acknowledgement of registration. The Biometric Voter Registration (BVR) system was used for registration of voters and preparation of the register of voters.

The Commission is mandated to continuously register citizens as voters under Continuous Voter Registration (CVR). After conclusion of the 2013 General Election petitions and subsequent by-elections, the evaluation noted the Commission restarted Continuous Voter Registration in April 2014. The CVR was undertaken in the 290 Constituency offices and at Huduma centres countrywide. However, the evaluation noted that the rate of registration was low. For instance, in the 2013-14, 2014-15 CVR only 98,755 voters were registered.



A voter being registered at Huduma Centre during the Continous Voter Registration.

The post-election evaluation observed that the commission implemented a High Court Order touching on electoral boundaries for Mandera East and Lafey Constituencies which reverted to the boundaries gazetted in 2012. As a result, there was redistribution of 83 registration centres, changes of names and codes of registration centres as well as their geo-reference. These boundary changes delayed the start of MVRII in these constituencies as some voters resisted the changes.

The Commission conducted mapping of the registration centres to geo-reference them in order to comply with the enacted ICT regulations.

7.1.1 Planning for Registration of Voters

The Commission targeted to register eligible citizens as voters. According to the Strategic Plan 2015-2020, this entailed registering a projected - 22.5 million voters against a projected national population of 48million before the 2017 General Election. The Commission planned to register 7.75m new voters in addition to existing 14,388,781 voters registered in 2013.

The post-election evaluation revealed that the Commission carried out an inventory of functional BVR kits and worked out a distribution plan based on voting population and county assembly ward area as shown in Table 13.

Table 13: BVR Kits Distribution Criteria

No.	Allocation criteria (area)
1	0 - 10 sq. km
2	11 - 30 sq.km
3	31 - 100 sq.km
4	101 - 500 sq.km
5	501 - 2,000 sq.km
6	2,001 - 5,000 sq.km
7	Greater than 5,000 sq.km

This criteria provided a normal distribution curve of BVR kits across the country. The distribution of BVR kits ensured that each County Assembly Ward received at least four BVR kits with two spare kits to cater for replacement in case of breakdown.

A total of 9,976 BVR kits were deployed during MVRII exercise. This implies that some registration centres shared one kit which was supported by a kit movement schedule publicized in the locality.

7.1.2 Training of Voter Registration Staff

With adoption of BVR technology it was important that the registration personnel should have appropriate skills on the use of the technology. The Commission trained 15,586 Registration Clerks, 580 ICT support clerks, 1,775 Voter Registration Assistants (VRAs) to assist in the supervision and coordination of the registration exercise.

A total of 47 County Elections Managers (CEMs) and 290 Registration Officers (ROs) were also trained on the use of the BVR kits in the registration. They in turn trained the Deputy Registration Officers (DROs) under a cascaded training module. This involved level one training of TOTs, level two training for CEMS and ROs, level three training of DROs and ICT support clerks and VRAs and level four was the training of voter Registration clerks.

Table 14 shows the training levels and number of days the training was conducted.

Table 14: Training Schedule for Mass Voter Registration

	TRAINING LEGEND (start 20 days before exercise)	DAYS
1	ToTs Training	3
2	Training of ROs/AROs	2
3	Training of VRAs	2
4	Training of Clerks	2
5	MVR II Period	30
6	Collate data and transmit to central database	6
7	Matching, de-duplication and printing of register	22

7.1.3 Mass Voter Registration (MVR) - Phase I

The first phase of Mass Voter Registration (MVRI) was conducted from 15th February to 15th March, 2016. It targeted to enlist a total of 4 million new eligible voters. The target was informed by the number of people projected to have National ID cards but had not registered as voters in 2013 and subsequent continuous voter registration (CVR) exercise.

A total of 5,753 BVR kits were deployed in 290 constituencies. The Voter registration was conducted at County assembly ward level using four kits per ward. At the end of the exercise, a total of 1,451,489 (36%) of the targeted new voters were registered. This was below the target of 4 million.

Table 15: BVR Kits distribution in Mass Voter Registration Phase One

No.	Allocation criteria (area)	Number of kits to be allocated to each CAW	No. of CAWs	Total kits to be allocated
1	0 - 10 sq. km	2	132	264
2	11 - 30 sq.km	3	138	414
3	31 - 100 sq.km	4	575	1725
4	101 - 500 sq.km	5	371	1855
5	501 - 2,000 sq.km	6	158	948
6	2,001 - 5,000 sq.km	7	61	427
7	greater than 5,000 sq.km	8	15	120
	Total		**1,450**	**5,753**

The number of women registered during MVR I was 660,445 representing 46% of the additional voters registered. Majority of those registered were men (54%). The number of registered female voters declined marginally from what was recorded in 2013 as compared to 2017 register of voters as shown in Table 16.

Table 16: Registered Voters by Gender in 2013 and 2017 Comparison

Year	Gender	Registered voters	Percentage (%)
2013	Female	7,246,307	49%
	Male	7,542,074	51%
2017	Female	9,142,275	46.6%
	Male	10,469,148	53.4%

The post-election evaluation reveals that the youth recorded the highest registration turnout that stood at 77%. Out of 1,451,489 registered voters, 1,124,722 were youth, of which, 55% were male and 45% female.

7.1.4 Mass Voter Registration Phase II

The Mass Voter Registration Phase II (MVRII) was conducted from 16th January 2017 to the 19th February, 2017 using 9,976 BVR kits distributed in 24,614 Registration Centres across the country as shown in Table 17.

Table 17: BVR Kits Distribution in Mass Voter Registration Phase Two

No.	Allocation criteria (area)	Number of kits allocated to each caw	No. of caws	Total kits allocated
1	0 - 10 sq. km	5	132	650
2	11 - 30 sq.km	6	138	767
3	31 - 100 sq.km	7	575	3,755
4	101 - 500 sq.km	8	371	2,788
5	501 - 2,000 sq.km	9	158	1,296
6	2,001 - 5,000 sq.km	10	61	554
7	Greater than 5,000 sq.km	11	15	166
	Total		**1,450**	**9,976**

This was an improvement in the number of BVR kits deployed compared to MVRI (5,753 BVR kits). The Commission also extended registration of voters to Universities and Tertiary Institutions within the same period and 103 Prisons.

The evaluation established that the Commission conducted MVR II from 16th February 2017 to 19th March 2017. It was initially planned to be conducted for 30 days but was extended by the High Court for a further five days. The Commission was able to register 3,738,796 voters against a target of 6.1 million eligible voters representing 61.9% of the target population.

Analysis of Commissions internal reports revealed that MVR II had an increase in numbers of registered voters due to more resource allocation and provision additional BVR Kits per County Assembly Ward. In addition, the Commission deployed Voter Registration Assistant who acted as supervisors per CAW. This enhanced the monitoring, supervision and publicity.



Voter Registration Assistants registering voters during Mass Voter Registration phase II

In the period between April 2014 to March 2017, 5,222,642 were registered as voters. This increased the total number of registered voters in the register of voters to a total of 19,611,423 which represented 89.1% of the 22 million projected eligible voters.

7.1.5 Diaspora Voter Registration

The evaluation established that the Commission conducted Voter registration for Kenyans residing outside the country as per Article 82(1)(e). The law provides for gradual realization of the right to vote for Kenyan citizens residing outside the country.

For the 2017 General Election, registration of Kenya Citizens living outside the country was extended to one more Country, namely South Africa in addition to Uganda, Tanzania, Burundi and Rwanda used in 2013. This was an effort to progressively bring the Kenyans citizens residing outside the country in the Register of Voters. The Diaspora voter registration commenced on 30th January 2017 and was concluded on 16th February, 2017.

During the 2013 and 2016 voter registration exercise for Kenyans living outside the country, the Commission experienced various challenges. These included inadequate funding and lack of reliable data on the number and distribution of Kenyans living outside the country.

An analysis of the number of Kenyans citizens residing outside the country registered as voters revealed that there was an increase of 60% from 2,637 in 2013 to 4,224 in 2017. The registration was conducted in the following countries as shown in Table 18.

Table 18: Number of Kenyans Residing outside the Country Registered

No.	Country	Registration Centre	Voters (2013)	Voters (2017)
1	Tanzania	Dar El Salaam	721	1,068
	Tanzania	Arusha	200	324
2	Uganda	Kampala	960	1,172
3	Rwanda	Kigali	654	730
4	Burundi	Bujumbura	102	141
5	South Africa	Pretoria	-	789
			2637	**4,224**

7.1.6 Voter Registration in Prisons

Post-election evaluation noted that the Commission, was sued by four (4) prisoners on behalf of other prisoners and sought orders to compel the Commission to register them as voters for the purposes of the 8th August 2017 General Election.

Notably, the prisoners alleged that the Commission had not registered them during MVR I. The case was a follow up to the decision in the "*matter of Kituo cha Sheria viz IEBC as first respondent and Attorney General as second Respondent with Legal Resource Foundation as an interested party in 2016*".

In compliance to the High Court ruling on the registration of inmates, the Commission mapped eligible persons deprived of liberty and the number of prison facilities. A total of 103 Prisons facilities were gazetted as registration centers to capture the details of inmates who qualified to be registered as voters. Annex 2 provides the gazetted prisons.

However, as noted by the post-election evaluation, those registered in the prison registration centers could only participate in the presidential elections. A total of 5,528 inmates were registered as voters for the 2017 General Election.

7.2 Targeted Voter Registration

7.2.1 Targeted Voter Registration for Youth

In 2017 the number of registered youths increased to 51% from 46% in 2013. The feedback from KII with poll officials attributed the increase to targeted voter registration campaigns for the youths. Further, it was noted that the highest change amongst the registered youth was in the age group 26–35 years that increased from 15% in 2013 to 33.41% in 2017. This is highlighted in Table 19.

Table 19: Registered Youth Voters for the 2013 and 2017 General Elections

Year	Age bracket	Registered voters	Percentage (%)
2013	Youth	6,802,655	46%
	Others	7,985,726	54%
2016	Youth	10,001,826	51%
	Others	9,609,597	49%
2013	26-35	2,218,257	15
	Others	12,570,124	85
2016	26-35	6,552,176	33.41
	Others	13,059,247	66.59

The proportion of registered voters amongst the age group 18–25 years in relation to the total registered voters did not change significantly, as it is currently at 17.14% from 17% in 2013.

7.2.2 Targeted Voter Registration for Women

The Commission targeted to register Kenyan Women citizens. In 2013, 7,246,307 women were registered as voters, representing 49% of voters registered. The number of registered women voters increased from 7,246,307 to 9,142,275 in 2017 representing 46.6% of voters registered.

A total of 19,611,423 voters or 87 % of the targeted figure of 22.5 million were registered as shown in Table 20.

Table 20: Registered Voters by Gender in 2013 and 2017 Comparison

Year	Gender	Registered voters	Percentage (%)
2013	Female	7,246,307	49%
	Total	**14,788,381**	**100%**
2017	Female	9,142,275	46.6%
	Total	**19,611,423**	**100%**

7.3 Production of Register of Voters for Verification

7.3.1 Quality Assurance

The Post-election evaluation noted that the process of production of the Register of Voters entailed other processes other than just biometric voter registration. This meant that the biometric data captured during registration had to be transmitted to a central server for processing.

After the final data uploads at the central server in HQs, the data was tested for quality and to flag out any persons who had attempted to register more than once in a process known as de-duplication.

The de-duplication process leads to quality assurance conducted by the Registration officers at the constituency offices. The findings were then processed and the register was ready for roll out for verification purposes.

7.4 Verification of the Register of Voters

Post-election evaluation revealed that the Commission opened the register of voters for inspection and verification, a statutory requirement under the Elections Act 2011 Section 6(2) and 6(3). Registered voters were given 30 days in which to verify their particulars before the General Election.

The Commission rolled out the verification exercise in May the 10th 2017, and last 30 days to June the 8th. 2017. 10,000 KIEMS were configured and deployed for the purposes of Verification of the Register of Voters.

During the verification period registered voters had to present themselves and using their biometric data were able to ascertain their registration particulars that had been preinstalled in KIEMs Kits. The Registered voters had the chance to either visit registration centres to verify their voter details or send an SMS (using the National Identity card or Passport Number used during registration) short code number 70000.

7.5 Quality Assurance of the Register of Voters

The evaluation confirmed that the Commission undertook quality assurance exercise on the register of voters before certification. The process entailed making corrections on the register of voters based on the findings during the public inspection and verification of biometric data period.

The final run on the quality control check on the register of voters was conducted for two weeks at the HQs by the ROs. Each RO was to ensure that all persons registered under their electoral areas were captured and their data was accurate. The ROs effected pending voter transfers, change of particulars', deletion of deceased voters and implemented some of the KPMG audit recommendations.

During the quality control exercise, the Returning Officers established a number of issues that emerged and documented them as shown on Table 21.

Table 21: Issues that Emerged During Post Verification Quality Control

Other Issues	Definition	Action taken
Missing Voters	Voters captured by ROs recorded to be missing.	RO recaptured the voter details and uploaded for inclusion in the register of voters
Other Issues	**Definition**	**Action taken**
Rejected	Records of voters who registered more than once. They had been rejected and were also under the suspension list in ICT.	The original record was retained in the register of voters
Suspended	Records of voters who were registered more than once since 2012.	Only one record was retained
Exception	Records that show underage, abnormal age like 200 years, missing surname, wrongly captured ID Number mixing numbers and letters in the ID field, or missing details such name polling station or codes or typing O instead of zero, omitting some numbers in ID or passport.	Returning Officers provided record details for correction in the database.
Misplaced	Records showing that the Voter is registered in a centre that was not of his/her choice or in non-gazetted area.	Changes were effected.
Deactivated	Records of voters who requested to be transferred or correction of particulars and are still being tracked. This is a method to control voters' data.	No action was taken.

This Post-election evaluation established that the number of registered voters in the register of voters at the time of quality assurance stood at 19,697,824.



IEBC Returning Officers during the quality assurance exercise on the register of voters

7.6 Audit on the Register of Voters

The Commission procured the services of KPMG audit firm to undertake an audit on the register of voters for the purpose of verifying the quality of the register of voters and recommending mechanisms for enhancing its quality.

During the audit process the Commission established an inter-agency Committee with membership drawn from Ministry of Interior and Coordination of National Government; Directorate of Immigration; National Bureau of Registration (NRB); Civil Registry Births and Deaths (CRBD), and Kenya National Bureau of Statistics (KNBS). The inter-agency Committee on data sharing met quarterly to share population data for the purpose of updating the Register of voters. Of importance in data sharing is the certified Register of Deaths from Civil Registry Services which needs to be accurate, current and in electronic form to enable the Commission to de-activate deceased voters on a continuous basis.

KPMG carried out an audit and recommended implementation of its covering the following;

a) The specific exceptions identified and the recommended actions to address those exceptions.

b) The report of the legal, systems and process improvements required to secure the integrity and security of the Register of voters.

c) Stakeholder engagement and feedback – the report recommended the engagement of various stakeholders in the electoral cycle. This includes the Political Parties, Inter-Religious Council of Kenya (IRCK), Civil Society groups, Representatives of the Private Sector, Government representatives particularly responsible for maintaining and providing the reference data required for the audit, both electronic and print media for countrywide dissemination, and Representatives of International Missions in Kenya.

d) Legal and institutional issues – the audit recommended that IEBC gives priority to implementing a medium term transformation programme to ensure that it has the systems, capacity and character that will enable it to assert its independence, demonstrate excellence and high performance to avoid the kind of errors detected by the audit, and distinguish itself as an institution worthy of trust by the Kenyans.

e) Inaccuracies in the Register of Voters – these included gender and date of birth that did not match, Inconsistencies in gender, and inconsistencies in names and other permutation of particulars. KPMG recommended that the Commission should use Biometric as a means of identifying voters on the polling day.

f) Irregularities in the Register of Voters - These irregularities include:
   (i) 171,476 voters whose details of IDs could not be found in the data provided by the National Registration Bureau
   (ii) 17,523 voters whose details could not be found in the data on passports provided by the Directorate of Immigration. Of these, 98 were confirmed to be Diplomatic Passports whose data had not been provided.
   (iii) 264,242 records in the Register of Voters with duplicate IDs or passports and out of range details in the Register of Voters (e.g. ID Number, Date of Birth, or Names appear as numbers).
   (iv) 2,610 Voters who have registered with both an ID and Passport
   (v) Deceased persons in the Register of Voters - recommended that the IEBC work with Civil Registration Service (CRS) to obtain the full details of deceased persons based on the total registered deaths. KPMG identified 92,277 deceased persons whose ID's and the names matched within the register of voters and for whom IEBC expunged from the Register of Voters.
   (vi) Inclusiveness in the Register of Voters – that Register of Voters includes all the people irrespective of their gender or age.

(vii) Database security and infrastructure controls – the audit recommended on enhancing controls over the database and infrastructure to ensure security of the Register of Voters

The post-election evaluation noted that following the recommendations, the Commission expunged 86,401 records from the register of voters out of the 92,277 records who had been declared deceased in the report. The variance was occasioned by a test run on the data against the candidates list which showed some of them had been deemed deceased which was not the case. Annex 3 and Annex 4 provides the detailed findings of the KPMG Audit report of the register of voters and action taken by the Commission.

The audit report recommended the operationalization of the Kenya Citizens and Foreign National Management Service. This is a body established under the Kenya Citizens and Foreign Nationals Management Service Act 2011, but is yet to be operationalized. In addition, KPMG recommended the establishment of a formal inter-agency mechanism for sharing data that is key to the register of voters.

The audit recommended the rationalization of the registration of births and deaths. It was observed that regulations governing the registration of deaths remain very weak. The law provides for manual records and indices which are cumbersome to extract at the point of need. Further, there is no unique identifier that can integrate a record to identity card, passport or register of voters. Accordingly, there is need to revamp data management systems at the Civil Registry which may include use of modern technology and integration.

There is lack of clarity on the use of expired passports as an identification document during voting. As such, KPMG audit recommended that the law is reviewed to create more certainty.

The results of the audit suggested that many of errors in the register of voters could have been caused by clerical errors which the Commission addressed through the quality assurance and data reconciliation. The Commission further implemented certain actions such as retaining one record in case of duplicates. The method of identification was through biometrics thus eliminating incidences of double voting.

KPMG also tested on a sample basis based on biometric data in the register of voters and found the quality was very high.

7.7 Production of the Register of Voters

The primary output of voter registration process is a Register of Voters. Internationally accepted standards require that a register is accurate, comprehensive and up-to-date. Where a register of voters is accurate and updated, it promotes legitimacy and credibility of an election. The contrast results to compromise on the legitimacy and credibility of the whole process

The final number of registered voters stood at 19,611,423 after the clean-up exercise. The statistics before the verification, Quality assurance and implementation of the Audit reports were as shown in Table 22.

Table 22: Voter Registration Statistics

Description	Registered voters	Total Registered voters
Register of voters as per 2013	14,388,781	14,388,781
Register of voters after CVR and MVR I	1,572,846	15,961,627
Register of voters after MVR II and CVR	3,736,197	19,697,824
Deceased persons Expunged from ROV	86,401	19,611,423
Register of voters for certification	19,611,423	19,611,423

7.8 Certification of the Register of Voters

The Commission chair is required by law to certify the Register and further provide for the process of gazette of the register of voters and polling stations as outlined in the Elections Act 2011 (amendment 2016).

Post-elections evaluation established that the certification was done on the 25th June, 2017 in respect to every Constituency, County Assembly Ward and National Register. This paved way for the gazette of the register of voters.

7.9 Gazette on the Register of Voters

The Commission gazetted the register of voters' in respect to every Constituency, County Assembly Ward, Prison and the Diaspora. This was followed by the gazettement of all the 40,883 polling stations (which included 103 for prisons, 10 for the Diaspora and 40,770 for the rest of the country) in readiness for the 2017, August 8th General Election.

Table 23: Register of Voters Gazette Template

Description	Name/unique feature
County Code	
County Name	
Constituency Code	
Constituency Name	
County Assembly Ward Code	
County Assembly Ward Name	
Registration Centre Code	
Registration Centre Name	
Registered Voters	
Polling Station Name	
Polling Station Code	
Registered Voters	

Post-election evaluation noted that registered voters in Prisons and Diaspora were to vote for the presidential candidates only while the rest often voters were to vote for all the other six elective positions. This indicated that the number of persons eligible to vote for the presidential candidates would be slightly higher than other elective positions. Table 24 shows the voters and polling stations.

Table 24: Voter and Polling Stations Statistics

Description	Number of Centres	Registered voters
Registered voters in prisons	103	5,528
Registered voters Diaspora	10	4,393
Registered voters in other polling stations	40,770	19,601,502
Total registered voters	40,883	19,611,423

The polling stations were generated from the registration centres and the capping for the number of registered voters per polling station had been dictated by law. This meant that the registration centres with more than 700 registered voters were split into more than one polling station. This gave rise to the 40,883 polling stations which was an increase from 31,981 in 2013.

7.10 Achievements

a) The Commission configured and tested the voter registration kits three weeks to the start of voter registration.
b) Timely recruitment, training and deployment of registration officials ensured efficiency in voter registration.
c) The external audit revealed a 92 percent accuracy on the Register of Voters.
d) The Commission was able to conduct verification of biometric data after registration using KIEMS technology.
e) The Commission expunged 86,401 deceased voters from the register of voters as recommended by KPMG.

7.11 Challenges

a) Inadequate funding resulted in BVR Kits not being deployed in all registration centers thus inconveniencing eligible citizens to register as voters and failure of some components of the BVR kits due to exposure to harsh weather conditions.
b) Late arrivals of voter registration materials due to delayed procurement.
c) Loss of Kits, flash disks and breakdown of BVR kits in some registration areas led to loss of data.
d) Inadequate internet connectivity in some regions affected uploading of voter data.
e) Insecurity in some electoral areas affected voter registration.
f) Litigations on the procurement of audit firm and voter registration equipment.

7.12 Recommendations

a) Need to provide adequate and timely funding from exchequer for voter registration.
b) Timely procurement of voter registration materials and equipment.
c) Enactment of laws relating to voter registration a year prior to voter registration.
d) Enhancement of security of equipment and data.
e) Enhance internet connectivity to all regions.
f) Collaborate with security agencies to enhance security in hot spot areas.

CHAPTER EIGHT

NOMINATION

8.0 NOMINATION

The post-election evaluation established that the Commission published operational timelines which required Political Parties to submit names of the persons contesting in their party primaries and the dates of their party primaries at least twenty-one days before nomination day.

In compliance with the notice, Political Parties submitted their respective lists of aspirants, dates and venues for the conduct of their party primaries in the prescribed format for every elective position. The Commission published the lists of aspirants in Gazette Notice No. 3796 of 13th April 2017.

8.1 Registration of Candidates for Elections

Registration of candidates for elections is a process where candidates return nomination papers to a returning officer. The returning officer scrutinizes the papers to verify qualification of the candidates as outlined in the electoral legal framework and other related laws. Table 25 shows the program for the returning of nomination papers.

Table 25: Program for the returning of nomination papers

Activity	Start date	End Date
Submission by political parties of candidate's intent on via in political party primaries, venue and dates of the primaries		5th April 2017
Political party primaries		26th April 2017
Intra political party nomination disputes settlement		10th May 2017
Delivery to IEBC of nomination papers for presidential election	28th May 2017	29th May 2017
Delivery to IEBC of nomination papers for National Assembly election	1st June 2017	2nd June 2017
Delivery to IEBC of nomination papers for Senate election	28th May 2017	29th May 2017
Delivery to IEBC of nomination papers for County Woman Member of National Assembly election	30th May 2017	31st May 2017
Member of county Assembly	28th May 2017	29th May 2017
	28th May 2017	8th June 2017

In order to improve the nomination system, an electronic Candidate Registration Management System (CRMS) was established to enable the Returning Officers to register and nominate/clear candidates either independent or party affiliated with the existing legal procedures of nomination. The system is web-based where users are required to have; a computer, latest version of a web browser (Mozilla, Chrome, and Microsoft Edge) as well as Internet Access.

The evaluation confirmed that the political parties' module of the CRMS was completed on 16th May 2017, after which, the political parties could not modify their candidates' list but only generate reports.

The evaluation confirmed that the Returning Officers used CRMS in confirmation of qualifications and requirements for nomination. The system generated a sample Ballot proof which Candidate signed to approve the Name, Party/Candidate Symbol and Passport size photograph on the Ballot.

In addition, the returning officers used the system to generate candidate certificate of nomination (form 21) as well as lists of people nominated (form 24). At the end of nomination of candidates for each election, the returning officer used the system to transmit nomination reports to IEBC Headquarters.

Analysis of the use of CRMS revealed the following:

a) The 2017 nomination software system had great improvement, worked well and all candidates, both political party-sponsored and Independent candidates were cleared electronically through the Candidate Registration Management System (CRMS) compared to 2013.
b) The CRMS ensured that primary data on candidates nominated by political parties were entered in a format that made it easy for the commission to verify the accuracy of the candidate details, compliance and generate ballot paper proofs.
c) CRMS Improved data exchange from Political Parties to IEBC returning officers and ability to internally process counts of supporters for independent candidates. This increased the speed of processing candidate papers.
d) The integration of BVRs data (register of voters) with the CRMS ensured that all candidates were auto-validated against the register of voters on their registration status.

8.3 Challenges

a) There were weaknesses observed in the system such as the possibility of deleting a nominated candidate from the system and difficulties in the verification of independent candidates' registration status.

b) In addition, the administration module of the CRMS system was used to alter nomination details without consultation with the returning officers. As a result, changes in persons nominated were altered without the knowledge of returning officer.

c) The CRMS was aligned with ballot paper production timelines and closed up before all nominations allowed after determination of nomination disputes. A number of candidates had their nomination papers processed outside the CRMS system, late into the ballot paper production period and therefore placed pressure on ballot paper and forms production.

d) When stable internet connection was not available, staff used manual procedure. Some aspirants' records were not in the system, which slowed the nomination procedures. Inconsistencies in the application of procedures were also noted. Some candidates were rejected because of insufficient number of qualified supporters (sometimes because voters supported more than one candidate leading to rejection by the system), an incomplete application, or insufficient proof of valid academic and other documents.

e) The concurrent conduct of the nominations exercise and verification exercises was overwhelming to the Returning Officers. This was further compounded by the overlapping and stringent legal timelines that had to be followed.

f) There appears to be a missing link between registration of candidates for elections as provided in the Constitution and nomination as defined in the Elections Act, 2011. While registration of candidates for elections appears to be a process, the definition of nomination in the elections considers nomination as an event.

g) The narrow definition of Elections Act, 2011 led to low funding prioritization of the nomination process as it is mainstreamed within wider elections planning budget. Yet nomination requires focused structured engagement of aspirants, internet connectivity, stationery printing and transport facilitation.

h) The number of days allocated for clearance of candidates for elections is inadequate due to high number of aspirants for some elective positions, especially county assembly and member of national assembly.

8.4 Recommendations

Based on analysis of the nomination process the following recommendations for improvement:

a) The definition of nomination needs to be expanded in the Elections Act, 2011 to reflect the Constitutional mandate of registration of candidates for elections

b) Prioritize funding for nomination as a process taking into consideration adequate and timely disbursement of funds towards structured engagement of aspirants, CRMS modems and internet connectivity, stationery printing and transport facilitation.

c) Setting of nomination dates need to take into consideration previous experience on average time per candidate and therefore provide different nomination days for areas with large numbers of candidates. County assembly elections nominations days need to be revised to enable reasonable allocation of time for each candidate

d) There is need for Electoral Law amendment to cap the period settlement of disputes arising from nomination at commission level and also appeal level, to at least twenty-one (21) days for production delivery and distribution of ballot papers and election declaration forms in case of General Election and multiple by elections and seven (7) days in case of single by elections.

e) Advocate for faster rate of establishment of digital villages and information resource centers in the rural areas as outlined in the National Development Vision 2030, 2nd medium term plan II. This will enhance internet connectivity and improve usability of CRMS. The CRMS should also be configured to also work offline to cater for areas that have no or low internet connectivity.

f) Enhance accountability in regard to levels of access in CRMS to ensure the outcome of nomination is in line with relevant laws and to make it tamper proof.

g) Make the CRMS flexible to the nomination process especially the post nomination dispute resolution to ensure all candidates whose nomination is validated have their details processed into the system.

h) Develop a prototype election campaign schedule that promotes equity across political parties, independent candidates, as well as elective positions in regard to campaign times and space.

i) Consider devolving electoral code of conduct committee operations in partnership with justice systems to enhance access and reduce costs.

j) An integrated software harmonizing details of membership be developed between ORPP and IEBC.

CHAPTER NINE

ELECTORAL DISPUTE RESOLUTION

9.0 ELECTORAL DISPUTE RESOLUTION

Article 88 (4)(e) of the Constitution mandates the Commission to settle electoral disputes relating to or arising from nominations. The Political Parties Act provides three avenues for dispute resolution as being: The Registrar of Political Parties, The Political Party Liaison Committee and The Political Parties Dispute Tribunal (PPDT). Article 88(4)(e) of the Constitution further outlines the mandate of the Commission in the settlement of electoral disputes to include disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

In the run up to the 2017 General Election in a bid to address the unresolved dual mandate between the Political Parties Dispute Resolution Tribunal (PPDT) and the Commission in the resolution of disputes related to or arising from party primaries, the commission in collaboration with the PPDT and the Office of Registrar of Political Parties introduced amendments to the definition of 'nominations' under Section 2 of the Elections Act, 2011 to provide a clear delineation on the type of nomination disputes that are to be heard by the Commission and PPDT. In consonance Section 40 of the Political Parties Act was amended by introducing Section 40(1), (fa) to include disputes arising from party primaries.

The evaluation noted that whereas these amendments served their purpose in determination of disputes arising from party primaries, it failed to address disputes arising from political party nominations by way of Party Lists. In this respect, with a view to mitigate against 'forum-shopping' witnessed in 2013 by disputants, the Commission entered into a Memorandum of Understanding (MoU) with the Political Parties Disputes Tribunal (PPDT) on 28th March 2017.

The MoU clearly spelt out the framework on delineation of roles where the PPDT heard and determined disputes arising from party primaries and the Commission handled disputes arising from Commission nominations. The evaluation noted that separation of roles between the IEBC and the PPDT created synergy and order in handling nomination disputes.

Despite the establishment of the requisite legal framework, the evaluation established that the Commission faced challenges relating to: inadequacies in the capacities of the institutions involved to undertake dispute resolution; and inadequate time to hear and determine disputes.

The evaluation noted that the ten days as provided by law proved insufficient for effective dispute resolution management. This process was also largely affected by the period provided for political party nominations under section 13 (1) of the Elections Act, 2011.

Additionally, Section 13 (2A) of the Elections Act provided that a political party shall hear and determine all intra party disputes arising from political party nominations within thirty days. This then conflicted with the timelines of Commission Nominations which were to be held 60 days before the general election.

The evaluation observed that there was need to align all these timelines. A review of the amendments under sections 2, 13(1) and 13 (2A) of the Elections Act, 2011 may provide a proper framework for dispute resolution. Dispute Resolution maybe enhanced further by legislating for different stages of determination of the disputes.

9.1 Arbitration of Dispute Arising from Registration of Candidates for Election

Pursuant to its mandate under Article 88(4) (e) of the Constitution and Section 74 of the Elections Act, 2011 to settle electoral disputes relating to or arising from nominations. The Commission constituted the Dispute Resolution Committee (DRC) comprising of five members to hear and determine disputes arising from party list nominations and registration of candidates for election. Following its establishment, the DRC heard and determined 350 nomination disputes emanating from registration of candidates for the August 2017 General Election from 4th June 2017 to 13th June 2017 at the Milimani Law Courts. Annex 5 gives the details.

During the evaluation, it was established that disputes arose from a myriad of issues including but not limited to, Returning Officers rejection to register candidates outside the time allocated, failure of candidates to meet the minimum requirements and expecting the returning officer not to follow the law, failure of parties in uploading the candidates' names in the nomination software, candidates belonging to different political parties or in some cases independent candidates belonging to political parties among other complaints.

9.2 Arbitration of Disputes Emanating from Nomination via Party Lists

Pursuant to its mandate to resolve nomination disputes and subject to the provisions of section 35 of the Elections Act, 2011, the Commission received party lists 45 days to the General Election. Following receipt of the said list, the Commission constituted a team to review the Party List for compliance. Having confirmed compliance, it issued certificates of compliance to parties while sending back the non- compliant Party Lists to the respective political parties to review.

The evaluation found out that there was minimal compliance by political parties to the rules and procedures for order and categorization of nominated members. Upon publication of the List, issues were raised regarding the proportion of gender representation and marginalized persons. As a result, the IEBC was caught up in tussles between parties and their members in resolving the disputes arising there from. This created confusion and delays in the publication of the Party Lists.

The evaluation established that the law is ambiguous on what constitutes 'final party lists' given that parties affected by disputes were then required to submit amended lists after the dispute resolution process. Additionally, the Electoral laws do not anticipate publication of Party Lists after invoking Regulation 54(8) of the Elections (General) Regulations, 2012 on dispute resolution.

Besides the Commission, other institutions like the Judiciary have roles to play in resolving disputes relating to election process as per their various mandates. This being the second time the Commission handled disputes relating to nominations and breach of the Code of Conduct, there is need for the Commission to publish its second case digest highlighting its achievements, challenges and areas for review and possible reform.

Finally, the evaluation established that the requirement to publish the party lists afforded the public an opportunity to scrutinize the lists and enable aggrieved persons lodge their complaints through the dispute resolution process.

The evaluation observed that the Commission published the final lists in two newspapers of national circulation for public information. Following this, the DRC heard and determined a total of 23 Party List disputes at the Kenyatta International Convention Centre (KICC) from 21st to 28th July 2017 whereas, the PPDT heard and determined 234 disputes at Milimani Law courts. Annex 6 shows the party list disputes.

9.3 Arbitration of Disputes Arising From Breaches of the Electoral Code of Conduct

Section 110 of the Elections Act, 2011 requires that every political party and every person who participates in an election or referendum under the Constitution and the Elections Act, 2011, signs the electoral code of Conduct. During the 2017 General Election period, disputes arising from breach of the Electoral Code of Conduct were filed at the Commission. These cases were heard before the Commission's Electoral Code of Conduct Enforcement Committee established under the Second Schedule of the Elections Act, 2011.

The membership comprised of not less than five members of the Commission and chaired by the Chairman of the Commission a total of seventy-one (71) disputes emanated from breach of the Code of Conduct touching on campaigns leading to violence, plagiarism and/or use of symbols of other candidates, independent candidates using political party symbols or pictures, destruction or defacing campaign materials of other candidates amongst others. Table 26 and Annex 7 show the details.

Table 26: Disputes Emanating From Breach of the Code of Conduct

S/NO	SUBJECT	UNITS
1	Prosecuted and accused found culpable	31
2.	Defaulted the orders of the Committee and were disqualified.	2
3.	Prosecuted, accused found not culpable and dismissed for lack of merit	14
4.	Dismissed for want of Prosecution and non-attendance.	14
5.	Dismissed by order of High court	3
6.	Withdrawn by the complainant	3
7.	The High Court through Judicial review issued an order of stay of judgment which challenged the Committee to execute the judgment	4
	Total	**71**

9.4 Investigation and Prosecution

The Commission, in collaboration with the Office the Director of Public Prosecution (ODPP) under the support of the Election Security Arrangement Program (ESAP) monitored election offences which occurred during the 8th August 2017 General Election and Fresh Presidential Election held on 26th October 2017.

The evaluation established that through this collaboration, several polling officials were arrested and charged in court for various offences including but not limited to breach of official duty, preventing IEBC officer(s) to perform his/her official duty, wilful prevention of a person from voting, failure to follow the process of identifying voters through KIEMS and issuing more than one ballot paper to a voter for any elective seat.

Other offences committed by other persons include, bribery, electoral violence, assault, intimidation, double voting, unlawful possession of election materials, destruction of election materials and impersonation.

9.5 Integrity Vetting Committee

As the Country prepared for the 2nd General Election, 2017 under the Constitution of Kenya, 2010, there was increased focus not only on the integrity of the electoral process but also on the integrity of the Candidates. As it were, the General Election provided an opportunity to ensure that only men and women who met the high threshold of ethical and moral standards were elected to public office.

The Independent Electoral and Boundaries Commission (IEBC) mustered leadership on this front and in collaboration with other relevant line State Agencies established a Framework on how to give effect to and enforce, the provisions of Chapter Six of the Constitution of Kenya on Leadership and Integrity for Candidates seeking election to elective State Offices in the General Election, 2017.

The working group on enforcement of Chapter Six of the Constitution was birthed under the auspices of the Office of the Honourable Attorney General and the Department of Justice. In addition to the Office of the Honourable Attorney General, the Working Group comprised of Electoral Institutions to wit:- The Independent Electoral and Boundaries Commission (IEBC), The Ethics and Anti – Corruption Commission (EACC) and The Office of the Registrar of Political Parties (ORPP).

The working group established a collaborative relationship with other relevant State and Non – State Agencies to support IEBC in realizing the expeditious processing and verification of Candidates' information. Table 27 shows the mandatory Legal, ethical and Integrity requirements for rejection of candidates.

Table 27: Mandatory Legal, Ethical and Integrity Requirements for Qualification of Candidates.

S/ No	Qualification/ Disqualification	Elective position	Guiding notes
1	University degree	Presidency/ Deputy President Governor/ Deputy Governor	Genuine Valid If issued by a foreign university, it must be recognized in Kenya

S/ no	Qualification/ Disqualification	Elective position	Guiding notes
2	Must satisfy the Moral/Ethical requirements set out in law	All elective positions	A candidate must not have violated any of the requirements in section 13 of the Leadership and Integrity Act (LIA), which include- • Dishonesty in conduct of public affairs; • Abuse of office; • Inaccurate representation of information to the public; • Misuse of public resources; • Discrimination of persons;
2	Must satisfy the Moral/Ethical requirements set out in law	All elective positions	• Falsification of records; • Engaging in actions which would lead to removal from membership of a professional body; • Commission of an offence under Part XV and XVI of the Penal Code; • Commission of any offence under the Sexual Offences Act, 2006, the Children's Act 2008 or the Counter-Trafficking in Persons Act, 2010.
3	Must not be a State officer or other Public officer	All elective positions	A public officer is defined to include anyone who receives remuneration in whatever form from a public fund.
4	Must be a Citizens of Kenya for at least 10 years	All elective positions	A Presidential candidate must be a Kenyan citizen by birth while for the other elective positions, the Candidate must have been citizens of Kenya for at least 10 years.
5	Must not hold Dual Citizenship	All elective positions	A holder of dual citizenship must renounce his other citizenship upon election, unless he has been made a citizen of another country by operation of that country's Law without ability to opt out.

S/ no	Qualification/ Disqualification	Elective position	Guiding notes
6	Must not be an undischarged bankrupt	All elective positions	A candidate shall not be disqualified on this ground if; • He or she has preferred an appeal or review against the sentence or decision; or adjudging him/her bankrupt
			• All possibility of review has not been exhausted.
7	Must not be subject to a sentence of imprisonment for at least six months at the date of registration of candidates or elections	All elective positions	A candidate shall not be disqualified on this ground if; • He or she has preferred an appeal or review against the sentence or decision; or adjudging him/her bankrupt • All possibility of review has not been exhausted
8	Must not have been found, in accordance with any law to have abused or misused state or public office or contravened any of the requirements under Chapter Six of the Constitution.	All elective positions	
9	Must not have been dismissed or removed from public office for contravening the provisions of Articles 75, 76, 77 and 78 of the Constitution.	All elective positions	Article 75 relates to conduct of a State Officer in both public and private life. Article 76 relates to financial probity of State Officers Article 77 relates to restriction on activities of State Officers. Article 78 relates to Citizenship and Leadership.

On the 31st May 2017, the Chairperson of Independent Electoral and Boundaries Commission received a report from the Ethics and Anti-Corruption Commission bearing records of 106 candidates on diverse subjects relating to the enforcement of Chapter Six of the Constitution of Kenya, 2010.[7] The summary of the report is shown in Annex 8.

9.6 Challenges

The evaluation noted that the Commission faced several challenges in the implementation of dispute resolution process. These challenges include;

a) Insufficient timelines provided for the receipt and registration by candidates and political parties.
b) Ambiguity in the legal provisions governing the Political Party List receipt and review process. For instance, the electoral laws do not provide an additional period for review of amended lists after re-submission by political parties. Ideally, upon receipt of the party lists, the Commission is required to either issue certificates of compliance to political parties or require the parties to review the lists to ensure compliance, failure to which the Commission shall reject the list. The law is also ambiguous on what constitutes 'final party lists' given that parties affected by disputes were not required to submit amended lists after the dispute resolution process.
c) Provisions of Section 34 (6A) of the Elections Act, 2011 do not provide for a subsequent period of review post-submission of the amended party lists to determine actual compliance with the prescribed guidelines.
d) The Electoral laws do not anticipate publication of Party Lists after invoking of Regulation 54(8) of the Elections (General) Regulations, 2012 on dispute resolution.
e) Time constraint to vet candidates in good time noting that the EACC report having 106 cases was submitted to the Commission when the Commission was already conducting registration of candidates on 31st May, 2017.There was no sufficient time to handle all the cases.
f) Elated responses from the various institutions to the vetting Committee's inquiry list.
g) Inadequacy of resources both financial, personnel and space to handle the conduct of the hearings of the various cases.

9.7 Recommendations

a) The commission needs to review the timelines provided for the submission and review of Party Lists to provide for additional time for re-submitted lists.
b) To curb fraudulent insertions to Party Lists by party officials, the Commission needs to develop mechanisms that grant authorized officials of the party access to the system for final submission of party lists upon uploading by their appointed ICT officials.

c) Section 34(6A) of the Elections Act, 2011 needs a review to provide for further vetting of lists after publication where disputes are heard and decisions issued that alter the party list. Subsequently, Regulation 54(8) of the Elections General Regulations also require to be reviewed to provide delineation between publication of the first list and the second list after the dispute resolution processes.

d) The post-dispute resolution processes needs to be reviewed to provide for a mechanism and period of reviewing lists to ensure compliance with court orders without re-opening a series of disputes by aggrieved persons. This is in consideration that party lists are required to be completed before the date of the General Election.

e) To deter defiant aspirants and to institute discipline in Political Parties nomination process, charges should be awarded to the Party should a member whose matter is before PPDT choose to become an independent candidate.

f) The Commission should consider the decentralization of PPDT for greater efficiency, especially during the election time when disputes are many. Conversely, a review of the law to provide that all nomination disputes be handled by PPDT to enable IEBC focus on planning for the conduct of the elections.

g) There is inadequate public information regarding dispute resolution, so it is Important to scale up awareness on the various platforms on electoral disputes settlement and how these platforms do their work.

h) The Commission should further review and clearly establish the procedures for submitting electoral complaints, lodging electoral disputes, and the jurisdiction of the relevant adjudicating bodies. In addition, complaints and dispute resolution procedures should be consistently undertaken within reasonable timelines, transparently, with open public hearings, and publication of decisions and reasons thereof.

CHAPTER TEN

ELECTORAL CAMPAIGNS

10. ELECTORAL CAMPAIGNS

Election campaigns are used by political parties and candidates to communicate their ideas and manifestos and appeal to their supporters to participate in the electoral process. During this period, candidates and political parties use a variety of techniques to reach voters and deliver their messages such as electronic, print and social media, public events among others.

Previous research and monitoring of by-elections reveal that the campaign period is very emotive, many election offences are committed and a lot of resources are mobilized. The Campaign Financing Act, 2013 was meant to regulate the amount of money a candidate or a party can use during the campaign period. The implementation of this Act for the 2017 General Election was suspended hence campaign financing was not a subject of this evaluation.

It is also worth noting that in the absence of a regulation governing campaigns the Commission employed the international best practices to provide guidelines for purposes of the General Election and Fresh Presidential Election. This meant that the campaigns would commence once an aspirant was registered as a candidate by the Commission and would stop 48 hours before the date of the General Election. Therefore, for purposes of the 2017 General Election campaigns commenced on 28th May, 2017 and ended on 6th August, 2017, 48 hours to start of polling day.

Regarding campaigns, this evaluation focused on the Timelines and Code of Conduct for Candidates and Political Parties.

10.1 Campaign Harmonization Meetings

The evaluation notes that the Commission through its respective returning officers organized campaign harmonization meetings to deliberate on the proposed campaign schedules and code of conduct during campaigns. The overall purpose of campaign harmonization was to enhance compliance with Electoral Code of Conduct and to minimize incidences which could catalyse threats to free, fair and peaceful electoral campaign period.

The objectives of campaign harmonization meeting were to;

1. Jointly identify strategic campaign venues and times in each constituency as basis of equity in time and venue allocation.
2. Align campaign schedule to timelines and venues while avoiding confrontation of competing interests in the same venue at the same time.

10.2 Electoral Code of Conduct Monitoring and Compliance

Candidates, political parties and agents participating in the general election were expected to sign and observe the provisions under the Electoral Code of Conduct under the Elections Act which underlines promotion of conditions conducive to the conduct of free and fair elections, a climate of political tolerance to enable free political campaigning and open public debate to take place in all parts of Kenya during an election period.

This Code comes to life during candidate nomination when each aspirant presents to a returning officer a duly signed code of conduct. Signing of this code signifies each candidate's acceptance to be bound by the provisions of the Code. The signing of the electoral code of conduct also signifies individual candidate commitment to strive to ensure that their supporters also abide by the code at all stages of election. The Commission received and determined complaints on the breach of the Electoral Code of Conduct. A breakdown of the cases is shown in Table 28.

Table 28: Complaints on the breach of the electoral code of conduct

S/ NO	SUBJECT	UNITS
1	Prosecuted and accused found culpable	35
2	Prosecuted, accused found not culpable and dismissed for lack of merit	14
3	Dismissed for want of Prosecution and non-attendance.	14
4	Dismissed by order of High court	3
5	Withdrawn by the complainant	3
6	The Judicial review issued an order to stay of judgment which challenged the Committee to execute the judgment	2

10.3 Monitoring Compliance on the use of public resources by Candidates

The Commission has a mandate under of section 14(2) of the Election Offences Act, 2016 on the use of public resources by candidates for purposes of campaigning for election or campaign. No candidate is allowed to use public resources for campaigns.

Additionally, no government shall publish any advertisements of achievements of the respective government either in the print media, electronic media, or by way of banners or hoardings in public places during the election period.

Pursuant to this mandate the Commission directed that any candidate who had public resources to declare them in writing to the commission. Unfortunately, there was only handful responses to this directive.

10.4 Challenges

a) Centralization of electoral code of conduct committees does not favour the national commitment to access to justice due to cost of travel for those involved.
b) Reported cases or allegations of use of excessive force by security personnel during the campaign period.
c) The Commission's capacity to impound or to order impounding of state resources that are unlawfully used in an election campaign.

10.5 Recommendations

a) Operationalization and Implementation of the campaign Finance Act.
b) Enactment of the Election Campaign Finance Regulations
c) Enhancement of the enforcement of the Code of Conduct.
d) Define the commencement of the official campaigning period.

CHAPTER ELEVEN

CONDUCT OF ELECTIONS

11.0 CONDUCT OF ELECTIONS

11.1 The 2017 General Election

The Constitution of Kenya 2010, mandates the IEBC to conduct or supervise referenda and elections. Article 81 of the Constitution provides the electoral system and general principles to be applied. Article 86 of the Constitution requires that the Commission employs a voting system that is simple, accurate, verifiable, secure, accountable and transparent; and that the votes cast are counted, tabulated and the results announced promptly by the Presiding Officer (PO) at each polling station.

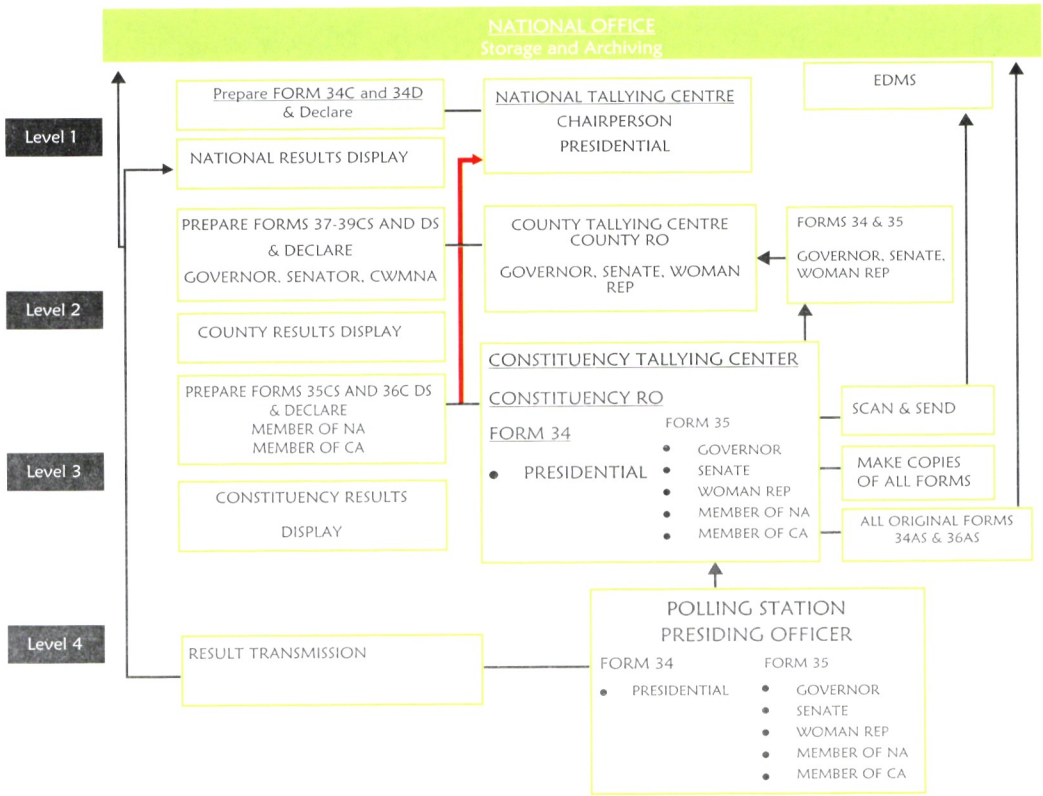
The results from a polling station shall be openly and accurately collated and promptly announced by the Returning Officer (RO); and appropriate structures and mechanisms are put in place to eliminate electoral malpractice including safekeeping of election materials. Towards 2017 General election, the Commission developed a new result management framework (ERMF) that provided a guideline on results management path from polling station to tallying centres including sorting, counting, tallying, collation, verification, announcement, declaration of results, issuing of certificates and archiving of the election results.

The ERMF provided accountability procedures assigning responsibility to individual election officials at each stage of result processing, transmission process, tallying centre management, communication centre and its protocol. Among the prioritised activities undertaken included; workload analysis at polling station and tallying centres to inform deployment of personnel; establishing and building the interface between manual results management with technology and establishment of call centres with well-trained personnel. Figure 5 shows the ERMF workflow. The various categorises of personnel deployed as shown in the Table 29.

Table 29: Personnel deployed in the 2017 General Election.

Category of centres with Registered voters	Number of POs	Number of DPOs	Polling Clerks	Counting Clerks
1-10	1	0	1	0
11-100	1	1	4	0
101-175	1	1	5	0
176-350	1	1	6	2
351-700	1	2	6	3

Figure 5: Election Result Management Framework



In the 2013 General Election, the Commission experienced the challenge of managing large number of voters in a polling station. This led to voting taking place up to very late in the night. To address this, Section 38(A) of the Elections Act provides for the capping of voters per polling station at 700. There were 19,611,423 registered voters distributed in 40,883 polling stations. The evaluation sought to establish the impact of capping the number of voters per polling station at 700.

According to the election officials and voters interviews, the capping improved efficiency in queue management and reduced time taken by a voter to vote. The Commission registered a total of 19,611,423 eligible voters in 40,833 polling stations across the country who were expected to participate in the August 2017 General Election.

The polling procedures during the August 2017 General Election were divided into three broad activities namely:

- Pre-poll activities
- Activities during polling, and
- Activities after polling

11.1.1 Pre-Poll Activities

The Commission conducted a series of activities in preparation for the polling day.



Preparation of election materials before dispatching poll officials to the polling stations

Mapping of polling stations was done to assess accessibility and availability of structures to be used for polling. This was meant to inform planning for distribution of election materials and transportation of election officials. In areas where there were no structures, the Commission made provisions for tents. This exercise was also meant to assess the suitability of polling stations to PWDs.

The printed register of voters was posted at every polling station at least seven days before the election. This was meant to enable voters ascertain their polling stations prior to the polling day. Feedback from Returning Officers indicated that posting of the register of voters assisted a great deal in queue management.

The Commission conducted briefing for party/candidate agents, accredited observers, media, and security on their roles during polling. This was done

at the National, County and Constituency levels. Majority of polling officials reported that they were overwhelmed by the number of agents at the polling stations. Out of the 85,308 national and international observers who applied, the Commission accredited 50,000.

A total of 35,308 applicants were not accredited since they did not meet the accreditation criteria.

The General Election required comprehensive logistical arrangements in the distribution of strategic and non-strategic materials. The success of the election to a large extent depends upon adherence to strict distribution timelines; and availability of the requisite materials among other factors. The Commission developed a distribution plan for materials from the National to County and Constituency warehouses; and subsequently to the polling stations.

The services of Postal Corporation of Kenya (PCK) were procured for the distribution of election materials to the former 17 IEBC Regional Warehouses. The engagement of PCK was informed by logistical challenges experienced in 2013, where in certain cases, materials didn't arrive in time and in their right quantities.

The evaluation obtained information on the effectiveness of the logistics from CEMs, ROs and the relevant Directorates. Reponses from the officials in all the 47 Counties and relevant Directorates at the headquarters confirmed that that the engagement of a logistics firm was an improvement in material distribution as compared to 2013.

11.1.2 Activities During Polling

Polling is the process by which voters avail themselves at a polling station where they registered as voters and cast their votes in order to elect their leaders. During the 8th August 2017 General Election, 15,082 candidates vied for 1,882 elective slots: 19 for President, 246 for Governor, 349 for Senator, 330 for Women Member of National Assembly, 2,078 for Member of National Assembly and 12,060 for Member of County Assembly.

Out of these, 3,752 (24.88%) were independent candidates. The evaluation found that the unprecedented high number of independent candidates was a result of the shambolic nature of political party primaries and the growing interest in gubernatorial and county legislative positions.



Queuing at the polling station on polling day.

The official of the stations opening time for polling stations is 6.00 a.m. This evaluation established that majority opened as expected. Only a few stations experienced delays due to various logistical, weather, technical and security challenges. These challenges were addressed, and the stations were opened and voting took place. The Commission extended voting period in those affected stations with time equivalent to the time lost from the official opening time, 6.00 a.m. There was postponement of elections in Kitutu Chache South Constituency occasioned by death of a candidate and CAW due to a Court Order for inclusion of a candidate on the ballot paper.

Election (Technology) Regulations, 2017 (r. 3-5) requires the Commission to deploy election technology to enhance integrity, efficiency, and transparency of the election process. The Commission deployed 40,388 Kenya Integrated Elections Management System (KIEMS) in the 2017 elections. The two major components that were used were Electronic Voter Identification (EVI), and Results Transmission System (RTS).

For seamless flow of voters into the polling stations, the Commission deployed Queuing Clerks to the polling centers with multiple stations to direct voters to their respective polling stations. Although this was meant to improve the management of queues, challenge was faced where some polling stations had very long queues due to the method used in assigning of voters to a particular polling station using their surnames.

Feedback from poll officials, observers, and agents indicated that voters were identified through the KIEMS. Unlike in 2013 when technology failed in some stations due to power issues among others. The KIEMs kit that was deployed by the Commission had enough power backup that enabled seamless operation from the beginning to the end of polling process.

During the 8th August 2017 General Election, voters were issued with six (6) ballot papers stamped with IEBC stamp for each elective position. The colour of the ballot papers for each elective position was matched with the colour of the lid of the respective ballot boxes to assist voters to easily identify the ballot boxes. The ballot boxes were also labelled with respective elective position title on one side for ease of identification. This was aimed at reducing the number of stray ballots. The voter proceeded to the booth to mark and cast the ballots in the respective boxes.

Evaluation reports from the County forums indicated that in some areas, there were significant cases of assisted voters. The analysis of the Observer Mission Reports on the 2017 General Election in Kenya revealed that most voters understood the voting process. However, there were instances particularly in some rural areas where there were many assisted voters.

According to data collected by the Commissions election monitors, the average time taken by a voter to cast their vote was 1-5 minutes while according to analysis of the ELOG's Observer Mission Report, 31% of the voters in the polling stations they sampled took approximately 1-3 minutes to vote while an additional 53% took between 3-6 minutes. Information collected during the FGDs with poll officials revealed that the elderly, expectant women, women with young children and PWDs were given priority to vote. The official closing time for polling is 5.00 p.m. Voters who were already on the queue by 5.00 p.m. were allowed to vote. Stations that opened after 6 a.m. had their closing time extended to recover equivalent time lost.

11.1.3 Activities After Polling

The main activities after polling include processing of results and retrieval of election materials. Elections Results Management is a highly regulated process in Kenya. Articles 35, 38, 81, 86, 88 and 138 of the Constitution clearly articulate the regime to govern the management of elections result. Section 14 of the Elections Laws (Amendment) Bill, 2016 sets out guidelines for the determination and declaration of results, while giving visibility to transmission of Presidential election results from the polling station to the constituency tallying center and national tallying center.

The Elections (General) Regulations, 2012 provide for the administrative procedures regarding the election results process within a legislative framework, specifically in counting, announcement, packaging and transmission of results from polling stations to tallying centres as well as tallying, announcing and declaration of results at tallying centres.

11.1.4 Counting

Counting of ballots is a manual process that starts at the end of polling. Polling stations are converted into counting rooms. Persons allowed in the counting room include; PO, DPO, Voting/Counting Clerks, accredited party/candidate agents, media, accredited observers and IEBC officials. Ballot boxes are expected to be sealed at all times. The serial numbers of the seals are recorded in the Polling Station Diary (PSD), before and after counting. Political party and candidate agents are expected to be in the counting room throughout the period.



Poll officials sorting ballot papers

During the FDGs with poll officials, it was revealed that the counting of votes in the six elective positions took a long time. This caused fatigue among the poll officials, a factor that could have contributed to some of the errors that were observed in some statutory forms. This was also expressed in the observer reports and during FGDs with other electoral stakeholders. This observation was also noted in the 2013 General Election.

The poll officials also reported that some of the party/candidate agents walked out of the counting room before the end of counting hence did not sign the statutory forms. Analysis of the grounds for election petition revealed that the unsigned statutory forms was one of the main grounds for most petitions.

11.1.4 Tallying of Results and Filling of Forms

One of the most important outputs of a tallying process are correctly filled, signed and stamped statutory forms. At the polling station, the PO fills in Forms 34A, 35A, 36A, 37A, 38A and 39A before transmission. As a requirement in Regulation 79(1), the party/candidate agents present in the counting room are required to append their signatures in all the Statutory Forms. At the constituency tallying center, the Returning Officer (RO) collates, tallies and fills in Forms 34B, 35B, 35C, 36B, 36C, 37B, 38B, and 39B, based on results from the Form 34A, 35A, 36A, 37A, 38A, and 39A.

At the County tallying center, the County Returning Officer (CRO) generated in Forms 37C and 37D, 38C and 38D, and 39C and 39D, based on results received the Constituency Returning Officers. At the national tallying center, the National Returning Officer (NRO) for the Presidential Election generated Form 34C based on results from Form 34As received from the Constituency Returning Officers.

The evaluation established that in a majority of cases, the poll officials correctly filled, signed and stamped the statutory forms. However, in a few cases, the forms were not signed or stamped by the respective polling officials. It was also noted that in some cases the result forms were not enough for agents to get copies. During the discussions with the poll officials, the reason for the inadequacy of the forms was explained to be as a result of political party candidates having their individual agents instead of relying on the party agent. This was against what had been agreed upon between the Commission, Political Parties and candidates. It was also noted that the carbonated copies of the statutory forms were faint. In a few cases, the entries in the copies were not aligned with the original.

11.1.5 Announcement and Declaration of Election Results

Article 86 (c) of the Constitution of Kenya, provides that the results from the polling stations are openly and accurately collated and promptly announced by the Returning Officer. The election results from the polling stations were final, and the order of announcement of results at the polling station was; President, Member of National Assembly, Member of County Assembly, Senator, County Woman Member to the National Assembly and Governor.

The Constituency Returning Officer announced, declared and issued certificate for winners in the position of MNA and MCA. The County Returning Officer announced, declared and issued certificate for Governor, Senator, and County Woman Member to the National Assembly. The National Returning Officer announced, declared and issued certificate for the President.

Information from FGDs with Poll officials and Key Informant Interviews with senior election officials revealed that a lot of pressure was exerted on POs and ROs to announce results immediately after the close of polling. This was confirmed during the political parties' post-election evaluation forum where several of the participants wondered why the Commission should take 'so long' with the results after Kenyans have done their civic duty of voting. This is despite the fact that the law provides for seven days duration within which to announce election results.

11.1.6 Transmission of Results

The Elections (Amendment) Act, 2016 requires that, for the purpose of Presidential Election, the Commission shall transmit, in the prescribed form, the tabulated results of an election for the President from a polling station to the constituency tallying centre and to the national tallying centre. This law also requires IEBC to avail all results through an online portal.

The POs used the KIEMS (RTS) kit to transmit the results starting with the Presidential results, election logs and finally the other five elective positions.

For every elective position, the respective statutory form was scanned and sent alongside the text results. The forms were published on the public portal upon successful submission.

Prior to the election, the Commission together with the mobile network operators had mapped out the country to determine signal strength. However, 3,000 polling stations across the country were identified as not having 3G connectivity necessary for result transmission. The POs under these regions were under instruction to move to the tallying centres to transmit results using satellite modems that were available at the tallying centres.

Failure of some polling station to transmit results raised anxiety among the electorates. The question most people were asking was why the results could not be transmitted while they could make calls from those locations. This was as a result of lack of understanding that the transmission of result used 3G network as opposed to 2G that is used for voice calling and covers most

parts of the country. This information was shared with electoral stakeholders. The transmission rate for the presidential election results in the 2017 General election was 92%. This was a significant improvement from 2013 Presidential election where the transmission rate was 44.6%.

In the 2017 presidential election, a total of 15,114,622 valid votes were cast with a voter turnout of 78% as compared to 2013 Presidential election, where there were 12,221,053 valid votes cast with a voter turnout of 86%. In the Fresh Presidential election in 2017, a total of 7,616,217 valid votes were cast with a voter turnout of 38.4%. There was a significant reduction in the number of rejected ballot papers from 108,975 (0.9%) in 2013 Presidential election to 81,685 (0.5%) in the 2017 Presidential election. Based on internationally acceptable 2% - 4%[8] range of rejected ballots for a well-managed election, this evaluation concludes that the 2017 General Election was within the acceptable range.

Analysis of the Presidential election results conducted on the 8th August, 2017 revealed a decrease in voter turnout as compared to presidential election in 2013. It also showed a significant decrease in the number of rejected ballots in 2017. This analysis is based on the top ten Counties in voter registration.

Table 30: A comparison of voter turnout and rejected ballots in the 2017 and 2013 Presidential elections

No.	County Name	Registered Voters		Turnout %		Rejected Ballots	
		2017	2013	2017	2013	2017	2013
1	NAIROBI CITY	2,251,929	1,732,288	72%	82.00%	0.42%	0.86%
2	KIAMBU	1,181,076	863,199	83%	91.00%	0.39%	0.65%
3	NAKURU	949,971	696,594	79%	89.00%	0.62%	0.89%
4	KAKAMEGA	743,929	568,151	74%	84.00%	0.75%	1.47%
5	MERU	702,776	489,590	77%	88.00%	0.86%	1.03%
6	MACHAKOS	620,363	445,421	76%	84.00%	0.70%	1.30%
7	MURANG'A	587,222	453,725	87%	94.00%	0.23%	0.56%
8	MOMBASA	580,644	413,069	59%	66.62%	0.83%	1.1%
9	BUNGOMA	559,866	412,018	75%	86.00%	0.86%	1.51%
10	KISII	546,682	413,161	74%	84.00%	0.75%	1.32%

[8] http://aceproject.org/electoral-advice/archive/questions/replies/864793780

11.1.7 Retrieval and Storage of Election Materials

Feedback from the Commission's internal monitors who visited sampled tallying centers revealed that retrieval and storage of election materials was done immediately after the announcement of the results. The POs and DPOs handed over the used and unused election materials before they were cleared at the constituency tallying centers. The ROs ensured safe custody of all election materials. Strategic materials such as sealed ballot boxes and KIEMS kits were stored in County and Constituency Warehouses.

Retrieval and proper storage of election materials is an international best practice as it reduces the cost of elections as some of the election materials are reused in future elections. This was demonstrated during the FPE where some materials used in the General Election were reused.

11.2 Tallying Centres

In line with Regulation 84 of the Elections (General) Regulations 2012, the Commission gazetted Constituency, County and National Tallying centers. The National Tallying Centre was based at the Bomas of Kenya where elections operations, logistics and administrative tasks were coordinated whereas the Constituency and County Tallying Centers were based in Constituency and County headquarters respectively.

To facilitate smooth flow of the processes at the tallying centre, the Commission developed tallying centre layout and workflow procedures for the three tallying centre levels namely, Constituency, County and National Tallying Centers.

According to information gathered from interviews with Constituency and County Returning Officers, the Tallying Center Layout and workflow procedures enhanced the running and processing of election results. Similar sentiments were confirmed by feedback from officials who were in charge of various processes at the national tallying center.

The choice of Bomas of Kenya as the national tallying centre was commended due to its strategic location, adequate facilities, security and ambience. During the County Evaluation forums, the Returning Officers expressed their views and experiences at the National Tallying Centre. The processes and procedures at the tallying centre, the following observations were made on:

(i) In the GE, the ROs brought the results forms way after declaration of presidential results for archiving and storage. However, in the FPE, the ROs handed over the results forms (34A and 34B) for verification

and subsequent announcement by the National Returning Officer. Thereafter, the forms were handed over for storage and archiving.

(ii) There was a clear guideline on the engagement of party agents and observers at the tallying centers.

(iii) Low levels of public awareness on the legal provision governing the management of election results thus the expectation of results to be announced within a short time after closure of polling

11.3 The Fresh Presidential Election

The Supreme Court of Kenya, nullified the 8th August 2017 Presidential Election following a successful petition. The Commission was ordered to conduct a fresh Presidential election in accordance with Article 140 (3) of the Constitution of Kenya within 60 days. This brought an unprecedented challenge to the Commission on how to prepare for the repeat election. A delay in releasing the detailed judgment, heightened political onslaught on the Commission, limited time for procurement and logistics were the main challenges. The Commission initially gazetted 17th October 2017 as the date for the Fresh Presidential Election. This was later changed to 26th October 2017.

The Commission gazetted the top two presidential candidates in the 8th August 2017 presidential election to run for the fresh presidential election. This decision was challenged in the High Court in Petition 471 of 2017 by Ekuru Aukot. The High Court ruled that all candidates that had participated in the Presidential election during the General Election be included in the ballot. The NASA presidential candidate pulled out of the fresh presidential election a day before the High Court ruling.

11.3.1 Conduct of the Fresh Presidential Election

The process of conducting the FPE was similar to the General Election except for certain changes which were made based on 'irregularities and illegalities' cited in the Supreme Court ruling. One of the notable changes was the formation of a project team composed of IEBC staff that was mandated to coordinate the conduct of the FPE. The evaluation noted that the establishment of the project team lead to an improvement in the management of the FPE compared to the GE in terms of tallying and transmission of election results.

On Election Day, there were reported cases of violence in some constituencies in areas where citizens were opposed to the conduct of the FPE. As a result, the Commission postponed elections in 23 constituencies.

11.3.2 Opening of Polling Stations

Feedback from IEBC internal monitoring reports revealed majority of the polling stations opened at 6.00 a.m. A few polling stations opened late. The reasons for late opening included:

a) Bad weather conditions in Turkana County,
b) Violence and disruptions witnessed in Kisumu, Homabay and Migori Counties, Kibra, Butula, Budalangi, Mumias West, Kilifi North, Nyali, Teso South, Kibra, Budalangi, Ruraka, Mumias West and Langata Constituencies;

11.3.3 Voting Process

Similar to the 8th August General Elections, voters were identified using KIEMS. In addition, voters' details were crossed in the printed register of voters. This was a notable change from the 8th August, 2017 General Election where voters were identified through KIEMS without crossing their details in the printed register of voters. During the stakeholders' forum, this extra step of crossing the register was hailed as a measure to prevent the possibility of multiple-voting.



A voter being identified through the KIEMS

During the Fresh Presidential Election, the voter turnout was 38.4% compared to 78% during the 8th August General Election. Feedback from the FGDs with poll officials revealed reasons such as voter fatigue and fear of violence.

11.3.4 Closing of Polling Stations and Counting Process

During the FPE the polling station closing procedures were adhered to. Feedback from FGDs with poll officials revealed that the POs announced the official closing of the stations and consensus building between agents and the poll officials was done before counting. This was also confirmed from the analysis of the election observer mission reports.

The presiding officers correctly signed the presidential results Form 34A, stamped the presidential results Form 34A using the official IEBC stamp, scanned and sent the presidential results Form 34A through the KIEMS kit, sent the Logs and received a confirmation message. A copy of the presidential results form (34A) was affixed outside the polling stations. ELOG findings indicate that in 99.1 % of the stations observed, ballots box seals were intact before counting began while in 1.7% of stations one or more political party agents requested a recount of the presidential ballots. In 94.8% of the stations, observers witnessed the presiding officers scanned and sent the presidential results Form 34A through the KIEMS kit and received a confirmation message.

11.3.5 Transmission of Election Results

In areas where the election was conducted, transmission and processing of election results was conclusively conducted in adherence to the provisions of the electoral laws.

It should however be noted that in compliance with the High court findings in the Maina Kiai Vs IEBC [2017] case in the run up to the General Election, where the court determined the finality of election results as announced by the Constituency Returning Officer, the Commission adopted a new process for the electronic results transmission where a scanned image of the results forms 34A from the polling station was transmitted to the Constituency and the National Tallying Center.
This ruling compelled a change of the design of the RTS software as well as the process for the display of the results at the tallying centers.

Additionally, a new process was developed after the GE where not only were the scanned images electronically transmitted but the results forms were physically delivered to the national returning officer. The text results were then keyed in at the national tallying center after verification. A comparison of the Form 34A on the online portal and the physical forms by Election Observer Missions, indicate a 99.99% accuracy. ELOG compared 522 of the forms collected to forms posted on the IEBC Forms site. The figures for the candidates in the ELOG copies matched the figures in the corresponding IEBC forms in 521 cases[9].

[9] Election Observer Group Report, pg 83



The National Tallying Center, Bomas of Kenya, during the fresh Presidential Election

11.4 The Constituency Tallying Center

At the constituency tallying centres, all polling station results forms (Form 34A) were tabulated before the Returning Officer signs and stamps the printout of the collated results Form 34B. Feedback from KIIs with ROs revealed that the process of tallying involved input of Presidential Results Form 34A results into an excel spreadsheet.

The evaluation's analysis of the Election Observation Reports revealed that in 2.9% of the observed constituencies, the tallying process was either postponed, disrupted or halted at some point and attempts to harass or intimidate election officials were also observed during the tallying process. In 99.5% of Constituency tallying centres, observers witnessed the capturing of Presidential Results Form 34A results into an excel spreadsheet by the Returning Officers. It was also observed that no party agents filed a written complaint regarding the constituency tallying process.

11.5 The National Tallying Center

The National Tallying Center (NTC) for the Fresh Presidential election was at Bomas of Kenya in Nairobi. The Center comprised of: National Election Communication Center, (NECC) which was organized into three units: Operations Support Unit (OSU), Public Support Unit (PSU) and Media monitoring unit (MMU).

Other facilities included: a Media center, a Political Parties lounge from where political party chief agents verified results as they were received, Commission's administrative offices, boardrooms, makeshift studios, the election security command center and the main auditorium.

The NTC's Auditorium had the following areas: the National RO Desk, Constituency RO's receiving Desk, Media Section, Chief Agents Section, Observers Section, the Presidential Candidates area, ICT Unit, Results Compilation Unit, Accreditation and Badge Issuance Unit. The Returning Officers presented the original form 34As and form 34Bs to the National Returning Officer for Verification, Tallying, announcement and declaration of results. The results were displayed on a screen in the National Tallying Center after verification.

11.6 Challenges

1) The Candidate Registration Management System CRMS module for the registration of independent candidates whose numbers continue to increase with each election was not active.
2) Fatigue among poll officials due to long hours of counting and tallying of election results for the six elective positions. Some of the errors were attributed to the fatigue among poll officials.
3) Political party/candidate Agents lists were being changed up to and including on Election Day.
4) Offloading of ballot paper pellets at the Constituency and County levels was a challenge due to lack of heavy –lifting machinery.
5) Inadequate warehousing Commission's facilities in most of the Counties. This led to hire of warehouse facilities at a high cost.

11.7 Recommendations

1. The CRMS should also have a functionality of registration of independent candidates online to avoid the current situation were the candidates have to physically visit IEBC headquarters for registration.
2. There is need to amend the electoral laws to allow for staggering of elections such that the County and National elections are conducted on different dates.
3. A timeline should be set for Political party/candidate Agents to submit their Agents lists.
4. The ballot papers pallet to be standardized into weightage that can be handled even in places where mechanical handling equipment are non-existent.
5. Ware house facilities should be provided in all counties.



Electoral Officials Determined to Deliver at all Costs

CHAPTER TWELVE

USE OF INFORMATION COMMUNICATION TECHNOLOGY IN ELECTIONS

12.0 USE OF INFORMATION COMMUNICATION TECHNOLOGY IN ELECTIONS

Information Communication Technology (ICT) plays a vital role in enhancing the efficiency of the electoral process. It ensures that information is captured, processed, analysed and presented appropriately for effective decision-making. The Commission recognized that ICTs have the potential of delivering strategic benefits to the electoral process by enhancing the efficiency and integrity of critical electoral operations. The ICT function in the Commission is, therefore, regarded as an integral component of the electoral process.

12.1 Use of Technology in Elections

The use of technology in elections has been entrenched in the Kenyan electoral system since the promulgation of the new Constitution in 2010. This was aimed at supplementing the human element or manual process in the electoral process from boundary delimitation, voter registration, voter identification, results transmission and political party and candidate registrations management.

The adoption of technology was largely informed by the aftermath of the 2007-2008 Post-election violence and subsequent evaluation and review by the Kriegler Commission. The Kriegler Commission recommended amongst other major reforms, the need to adopt technology in the election process to provide efficient, transparent, auditable and credible results.

Following the recommendations of the Kriegler Commission, Parliament through legal and institutional framework sought to embed technology by requiring progressive adoption of technology in the electoral process. In 2010, the Commission piloted the use of technology in the registration of voters in 18 constituencies. This was meant to determine its accuracy, ability to ease the compilation of the register of voters as well as voter identification during voting thus reducing anomalies such as multiple registration of voters. In this system data was recorded in stand-alone computers. The results from the pilot revealed that EVR was an efficient way of registering voters as compared to the manual system.

During the 2010 Constitutional Referendum technology was used for transmission of results. For the 2013 general election and all subsequent by-elections, technology was used for biometric registration of voters, voter identification and results transmission as stand-alone systems.

Whereas section 44 of the Elections Act 2011 provided that the Commission may use such technology as it considered appropriate in the electoral process,

the Act did not specify which technology the Commission would adopt, thus when the technology faced major challenges during the 2013 General Election, the Commission reverted to manual process of identification of voters and transmission of results. The Elections Act did not envisage scenarios where technology would fail and safeguard mechanisms put in place.

Additionally, calls for electoral reform were later undertaken by Parliament in a bi-partisan process culminating in Election Laws (Amendment) Act, 2016 in what was popularly referred to as the 'Windsor Talks'. The amendments inter alia established the Kenya Integrated Electoral Management System (KIEMs) that enables an integrated biometric voter registration (BVR), electronic voter identification (EVI), electronic candidate registration management system (CRMS) and electronic Results Transmission System (RTS).

The Act also provided a legal framework for the adoption and use of technology in the electoral process including the establishment of an Election Technology Advisory Committee to oversee the deployment and use technology in Elections.

The Election Laws (Amendment) Act 2016 also provided for the development and enactment of the Elections (Technology) Regulations, 2017 which came into effect in April 2017. The regulations provide for the governance, sustenance and maintenance of the election technology in order to ensure the benefit realization, security and integrity of the technology.

12.2 Types of Technologies Used in the 2017 Elections

Pursuant to Section 44 (8) of the Elections Laws (Amendment) Act, 2016, the Commission established the Elections Technology Advisory Committee consisting of three (3) members of the Commission, representative of the registrar of political party, representative from the majority and minority party, political party liaison committee, telecommunication service providers and ICT professional body as well as one expert consultant in the ICT industry. This committee held meetings to validate the deployment of KIEMS amongst other ICT projects before the General Elections. However, provisions of Section 44 (8) was declared unconstitutional rendering the Committee null.

12.2.1 KIEMS Technology

The KIEMS technology consisted of four sub-components working together to achieve a common goal; namely biometric voter registration, Candidate registration, voter identification and results transmission systems.

In the conduct of the elections the Commission procured a total of 45,000 KIEMS Kits, out of which 40,883 were deployed to the polling stations and

the remainder were strategically deployed at designated centres as backups for replacement of possible faulty or functionally defective kits on polling day.



KIEMS Kits Configurations by ICT offers.

12.2.2 Biometric Voter Registration (BVR)

The Commission deployed the BVR kits for purposes of registration of voters and preparation of the Register of Voters during the MVR exercise carried out between January - February 2017. The data captured using the BVR kits was seamlessly processed and integrated to the back end to ensure efficient production of the electronic register of voters.

The BVR Kits were used to capture biographic and biometric data of voters at their registration centres. The data was exported through USB flash-disks and uploaded to the central system for matching to eliminate multiple registrations.

The Commission carried out a technical assessment and inventory to ascertain the status of the BVR kits prior to the Commencement of the MVR II. The findings of the assessment are shown on Table 31 and 32.

Table 31: BVR Retrofitting and Inventory - 2016-2017

SN	ITEM	QUANTITY
1	Number of BVR kits deployed	9,976
2	Flash disk requirements (2 per kit)	19,952
3	Flash disks available in the regional offices	7,535
4	Additional Flash disks procured (National/County)	12,417
5	External batteries deployed	8,847
6	Internal Batteries deployed	6,048

Table 32: Status of BVR Kits Accessories

SN	COMPONENT	QUANTITY
1	Kits with faulty screen	366
2	Kits with faulty hard drives	93
3	Kits missing hard drives	393
4	Kits with faulty USB hubs	131
5	Kits missing USB hub	72
6	Kits with faulty scanner	293
7	Kits missing scanner	14
8	Kits with faulty camera	47
9	Kits missing camera	43
10	Kits with Faulty battery charging cable	1,240

12.2.3 Candidate Registration Management System (CRMS)

CRMS is a web-based application established to automate candidate registration process and help in registering and nominating both party sponsored and independent candidates with the existing legal procedures for candidate's nomination. The CRMS System was used for the following functions:

I. Automate candidate registration process
II. Validation of candidate details against the register of voters
III. Upload of the candidate passport photo and supporters
IV. Generation of ballot proof, ballot poster and ballot papers
V. Validation of candidate's supporters, proposers and seconders against the register of voters.
VI. Provide data for RTS

On the close of the nomination period, CRMS candidate's data was exported to the RTS system and subsequently forwarded to the ballot printer for the printing of the ballot papers. A total number of 14,542 candidates were nominated for the 2017 General Election.

Although the CRMS greatly improved the candidate nomination process, some challenges were revealed during the Key Informant Interviews with the Directorate of ICT. These challenges included: The constrained timelines for the setup, deployment and testing of these systems compelling the Commission to use the Cloud hosting services in order to meet the strict legal timelines as provided in the Elections Act.

The other challenge was late acquisition of equipment which led to inadequate testing of the electoral systems.

12.2.4 Use of KIEMS in Verification of the Register of Voters

The Commission deployed a total of 10,667 KIEMS kits for purposes of verification of the biometric details of the voters at their polling stations. The results of this exercise are summarized in Table 33.

Table 33: Summary of Inspection/Verification of Voters

Description	Figures
1. Number of Kits deployed	10,667
2. Total Number of voters who presented themselves for verification	7,631,705
3. Number of voters accurately & biometrically verified	6,762,385
4. Number of voters verified through text	131,476

12.2.5 Electronic Voter Identification (EVI)

For the purposes of 2017 General Election, the Commission deployed Electronic Voter Identification (EVI) (as part of the KIEMS) as the electronic means of identifying the voter. The EVI system was meant to eliminate impersonation and to ensure that only those who registered to vote were allowed to vote while keeping track of the number of voters identified to ensure integrity in the August 8th General Election and the Fresh Presidential Election. Through EVI, the total number of voters identified was 14,641,973 for the General Election and 7,575,806 for the Fresh Presidential Election. Table 34 shows the details.

Table 34: Number of Voters Electronically Identified During the General Election and Fresh Presidential election

Election	Number of voters biometrically identified	Number of voters verified using presiding officer account	Total voters Electronically verified
8th August 2017 (General Election)	13,616,129	1,025,844	14,641,973
26th October 2017 (Fresh Presidential Election)	7,364,360	211,446	7,575,806

Feedback from the FGDs with the Poll officials revealed that some voters could not be identified biometrically as a result of poor quality of the fingerprints, exposure of the KIEMS kits to weather elements and technical failure of some of the KIEMS kits. However, in the case where a voter could not be identified biometrically, a complementary method (alphanumeric) was used.

12.2.6 Result Transmission System (RTS)

This system was deployed as part of integrated system for transmission of results from all polling stations during General Election and Fresh Presidential Election. The Results Transmission System (RTS) was used for transmitting results electronically (Text and Image) from counting to tallying centres. At the end of voting and when votes had been counted and tallied, the Presiding Officers entered the data on the signed results sheet (Form 34A), into the KIEMS and took an image of the signed form, and thereafter transmitted the data to the election results centres at the Constituency, County and National level.

The Results Transmission System (RTS) was meant to enhance transparency by displaying and visualizing the results at the tallying centres and also provide access of the elections data to media and other stakeholders in real time.

Section 44 (4) b of the Election Laws (amendment) Act, 2016 required the Commission to test, verify and deploy technology at least sixty days before a General Election in what is normally referred to as technology Simulation. This testing was done on 9th June 2017 in Nairobi in the presence of various stakeholders including political parties. The Second Simulation was done at BOMAS of Kenya on 2nd August 2017.

The technology simulation was aimed at demonstrating to the public and media the end to end transmission and aggregation of election results which

included the following

a) Transmission of the election results from the KIEMS tablet to the RTS back-end
b) Transmission of dummy data from Tallying centre of each of the 47 Counties
c) Test of the transmission network using primary Mobile Network Operator (MNO) if available, or secondary MNO if not.

The Commission dispatched KIEMS kits to the 47 county tallying centres before the dry-run and retrieved them after the dry-run. The test involved keying-in of some dummy text results from each of the 47 tallying centres and sending a dummy image of the results forms. The Mobile Network operators were able to monitor the transmission network during the test window period.
The results were displayed using the RTS back end (ENR & validation application) at the National Tallying centre which was located at the BOMAS of Kenya. This was witnessed by the Commission, the Vendor, the Public and Members of the Press.

Out of the 47 Counties that were expected to transmit results, 46 were successful, and only one tablet did not transmit. The reason for not transmitting was because the kit had transmitted some dummy test just before the dry run. Table 35 shows the simulation status reports.

Table 35: Report on the KIEMS Technology Simulation Results

S/ NO	Test Plan	Test Status
1	Presiding Officer opens the polling station	Successful
2	Test 1: Regular voter Successful Biometric Voter Identification	Successful
3	Test 1: Regular voter : Biometric Voter Identification	Successful
4	Test #2: Voter who is already identified	Successful
5	Test #3: Regular voter Verification with identification document	Successful
6	Test #4: unregistered voter	Successful
7	Electoral Results Management System - Closing of Stations Opening STATION 1	Successful

S/ NO	Test Plan	Test Status
8	Electoral Results Management System - Entering results + Scanning Images. STATION 1	Successful
9	Electoral Results Management System - Sending results + Displaying results STATION 1	Successful
10	Electoral Results Management System - Closing of Stations + Opening STATION II	Successful
11	Electoral Results Management System - Entering results + Scanning Images. STATION II	Successful
12	Electoral Results Management System - Sending results + Displaying results STATION II	Successful

During the August 8th General Election, the system was configured so that the transmission of the scanned image was made optional to allow transmission when the strength of the network signal was poor, thus allowing the presiding officers to transmit the text results only without the image. 37,883 polling stations out of the 40,883 recorded successful transmission.

During the Fresh Presidential Election, the system was enhanced to allow mandatory transmission of both image and text results as well as to allow for sending of form 34B through ROs interface. This led to 100% result transmission during the Fresh Presidential Election which was an improvement compared to the GE (92.7%). In 2013, the transmission rate was at 44%.

The geographical network disparity across the country required the Commission to design a robust mobile network [connectivity] infrastructure for results transmission. Only 78% of the geographical area in Kenya has reliable 3G mobile network coverage which was required for transmission of the result forms.

The country was divided into zones between the operators so as to provide fail-over and or alternative. Each zone had a primary and secondary service provider assigned. The zones were partitioned to make sure that on average each zone had approximately 1.6 million voters. The Diaspora and Prisons were partitioned as a special zone, making a total of 13 zones.

Therefore, during the General Election; each KIEMS kit was fitted with two SIM cards from the strongest Mobile Network providers in the country (Airtel KE, Safaricom PLC, Telkom KE) depending on the strength of Network availability

at the polling station. The dual SIM card acted as backup in the event the primary network failed. Additionally, the Commission also deployed satellite devices at the constituency offices to facilitate electronic transmission of results in areas with poor network connectivity. This provided a necessary support for the connectivity challenge, complementing the Results transmission.

Though the country was zoned and mobile network operators allocated zones where they had strong presence, some areas experienced weak signals leading to transmission failures. During the GE the RTS was configured to send either the scanned image of Form 34A or text while during FPE the system was configured to send both the scanned image of Form 34A and text. However, where signals were weak the system could only send the result in text form. Annex 9 shows the Network coverage status.

The presidential results Form 34s and the text data was captured as transmitted from the polling stations while the form 34Bs were scanned at the constituency offices and transmitted securely to the National Tallying Centre. These forms were hosted in the cloud servers. For backup purposes, the Commission set up primary data centres in addition to the cloud servers, for ease of access to the servers.

During the GE and FPE the Commission maintained a public portal (https://forms.iebc.or.ke) where members of the public could access the result forms (form34As and form34Bs) to enhance transparency and verifiability.

12.3 Other ICT Infrastructural Support Systems

To support the deployment of technology in the elections, the Commission upgraded its infrastructure to ensure efficiency, availability, integrity and security of its systems during the elections. These consisted of:

a) An upgrade of the Oracle database Management System

In order to comply with the Election (Technology) Regulations and the best practices, the Commissions was required to ensure that all the software licenses were maintained with the latest software updates and also configured to protect the confidentiality and integrity of the Commissions data. The BVR database is hosted on an Oracle DBMS and therefore it was necessary to protect it as such. This project included

a. The supply of Oracle Enterprise licenses.
b. Installation of the Oracle enterprise management solution
c. Security assessment and closure of the BVR system security gaps
d. Installation of Audit Vault and Database Firewall

b) Procurement of Servers, Storage and Data Centre Collocation Facility

The Commissions datacentre hardware and storage at Anniversary Towers on 17th floor were procured in 2010 and hence obsolete. From best practice, the shelf life of any ICT equipment is three to five years. At the time of replacement, the age of the datacentre equipment was seven years. The computing and storage requirements of the Commission have since changed and hence the need for the upgrade. The upgrade of the hardware was to bring the benefit of converged infrastructure, high availability, scalability, training and support benefits. The hardware and the storage were also used for FPE RTS backup and currently for day to day Commission's operations.

The location of the data centre facility at the Commission premises was not ideal for the magnitude of the Commission's operations. Therefore the Commission set up a collocation facility to enhance the availability, accessibility and security of the systems.



Servers, Storage and Data Centre Collocation Facility

c) **Expansion of the Wide Area Network (WAN) Connectivity to the 290 Constituency offices**

The Expansion of the Wide area network was aimed at extending the coverage of the Communication network from the original 17 regional offices to the 290 constituency offices after the devolvement of the Organizational structure. This was for purposes of to enhancing accessibility of the Commission services.

d) **Engagement of the three main Mobile network service providers in the country for Results Transmission**

The Commission engaged the three (3) mobile network service providers (Safaricom PLC, Airtel Kenya and Telkom Kenya) to provide Telecommunication network services across the country for purposes of complying with the legal requirement to electronically transmit results from the polling stations. In the lead up to the General election, it was evident that the only 78% of the country had the 3G network coverage. As a result, the Commission engaged a Satellite service provider for those areas without 3G coverage.

e) **Establishment of a Security Operations Centre (SOC)**

The Provision of Server Infrastructure and KIEMS security monitoring solution was aimed at providing maintenance of the BVR server's infrastructure as well as providing an enhanced security infrastructure during the Election period. This included setting up a 24/7 security operation centre for monitoring of security threats on the election infrastructure.



The Security Operations Center (SOC)

f) **Devolution of the Commission's ICT operations to 47 Counties**
The Commission devolved its ICT support function to the 47 County offices from the initial 17 regional offices. This enhanced delivery of ICT support to the constituency and polling stations. Further a back-up team was deployed for rapid response to incidences occurring at the polling stations.

During the 2017 GE and FPE the Commission employed various systems and platforms to improve the efficiency and effectiveness of the electoral processes. These included; Electronic Document Management System (EDMS), Incident Management System, Short Message Service (SMS), Website, Recruitment System

12.3.1 Electronic Document Management System (EDMS)

Electronic Document Management System was used to store and retrieve statutory electoral forms from the constituencies to a central server. The system was accessible from the Constituencies via a secure link through the Commission wide area network.

12.3.2 Incident Management System

Incident management system was developed and used to capture and report incidences from the constituencies during the GE and FPE. The system provided an effective tool for escalation of incidence arising from the field that could be resolved by ICT field officers or mobile service providers. Table 36 shows a summary of incidences while Annex 10 contains the details.

Table 36: Summarised Total Number of Incidences reported

Category/ Classification of Issue	Number of Cases Reported
1. BATTERY	6
2. FORMS	4
3. HARDWARE	50
4. SOFWARE	79
5. LOW NETWORK	13
6. MNO-AIRTEL	5
7. MNO-SAFARICOM	8
8. MNO-TELKOM	2
9. OTHERS	14
10. PROCEDURE	4
11. SIMCARD	2
TOTAL	**187**

12.3.3 Short Message Service

The Short Message Service (SMS) platform was implemented to support the voter details verification exercise. The members of the public were given a short code (70000) to verify their registration details. Between June and October 2017 a total of 6,048,007 registered voters utilised the service to check their particulars.

Table 37: Number of voters who utilized the SMS service

Month	SMS Queries
June 2017	259,729
July 2017	871,074
August 2017	4,268,463
September 2017	44,893
October 2017	603,848
Total	**6,048,007**

12.3.4 Website

The Commission re-designed its website to improve its usability and manage election content. A link was provided on the website to enable the members of the public access election results. Feedback from the National Stakeholders Forum indicated that there was improved reliability and accessibility of the online portal.

12.3.5 The Online Recruitment System

The system automated the application and selection of election officials to enhance transparency and efficiency. It was a web based application where users would apply for the advertised positions. The system keeps a database of all applicants for future reference. The same database was used for the selection of officials during the FPE.

12.4 Supreme Court Order on Access to the RTS Server

The August 8th 2017 Presidential Election results were contested and the election was nullified by the Supreme Court on 1st September 2017. Technology having played a central role during the election was a subject of interest during the Supreme Court proceedings in which allegations of compromise and hacking of the Results Transmission Server (RTS) emerged. However, the Commission made various press releases and clarified that the RTS back end systems were hosted on a secure Oracle database and not the Microsoft SQL server demonstrated by the database logs presented by petitioner.

During the 8th August 2017 election, the Commission provided a secure access to the RTS server to all agents of the presidential/political parties upon their request. This enabled them to view the results as they were being received from the polling stations across the country. The Table 38 shows the party personnel who were given access to the RTS and their level of interaction with the server.

Table 38: Personnel Given Secure Access to RTS and Level of Interaction During the 2017 General Election

Presidential / Party Agent	Party	Number of Logins
1 John Walubengo	NASA	34
2 Davis Chirchir	Jubilee Party	10
3 Collins Ndindi	Independent Candidate	6
4 Japheth Kaluyu Agent	Independent Candidate	3
5 Bern Wafukho	UDP	6
6 Bildad Kagai	Third way Alliance	5

During the Supreme Court proceedings, the Commission made submissions in regard to the application for unrestricted access to the servers particularly the absolute confidentiality of usernames, passwords, location of servers, identity of password holders, IP addresses and software running applications amongst others concerns. The Supreme Court made fresh orders for read only access to the information related to the servers cognizant of the security concerns raised by the Commission.

Upon receipt of the orders, the Commission made efforts to expedite the order as soon as it was practically possible. The Commission provided the following information as ordered by the Supreme Court to the petitioners and interested parties

i. Information relating to the number of servers in possession of the 1st respondent
ii. Information regarding firewalls without disclosure of internal and external firewall configurations
iii. Operating system without disclosure of software version
iv. Password policy
v. Password matrix
vi. System user types
vii. Disaster recovery plan

viii. Certified copies of penetration tests conducted on the Election technology system
ix. GPS Locations for polling stations
x. Certified list of all KIEMS kits
xi. Polling station allocation for each KIEMS kit
xii. Technical Partnerships Agreements for the Election Technology
xiii. Pre-downloaded log-in trails

The parties accepted all the information as provided. However, in regard to the systems log files that had been downloaded and provided to the parties, the petitioner declined the system logs provided and demanded to confirm whether the information had come from the Commission servers and therefore they requested for log-in access to the servers. This was near the end of the exercise.

The design of the system required the Commission to create special user accounts with permissions and user rights to allow for login and download of the system logs. The process of granting secured access was lengthy than anticipated since it involved collaboration with the ICT experts outside the country. This took more time than the allocated by the Court (48 hours). By the and by the time this was granted, the petitioners and parties had no time to interrogate the system logs and report back to the Supreme Court. Lack of regulations to govern scrutiny of election technology led Parties to rely on individual expert opinion on the interpretation of the process thus causing misunderstanding among the different teams. Annex 11 details the Commission Response to the Presidential election on ICT Issues.

12.5 Challenges

1. Inadequate time to procure, install, test, and commission technology due to late enactment of laws by parliament.
2. Lack of regulations to govern the scrutiny of election technology during petition proceedings.

12.6 Recommendations

1. There is need to enhance capacity of the Commission's ICT staff in order to continuously keep up with changing trends in the industry.
2. A framework to govern the scrutiny of election technology during petition proceeding should be developed.
3. The legislation that affect the use of technology in election operation should be passed at least 2-3 years before the election to allow sufficient time for the implementation and adoption. This will allow the Commission to engage all the stakeholders sufficiently on the proposed changes to avert misunderstandings and wrong expectations.
4. For long-term and sustainable benefits realization of election technology investment and pursuant to the Election Technology Regulations 2017, parliament should avoid enactment of laws which lead to change of technology thereby rendering the current investment redundant leading to fresh procurement and complex management of change close to the election.
5. The National Treasury should provide timely and adequate funding for proper maintenance and storage of the current technology to ensure long term sustainability, reliability and benefit realization of technology for Kenya public.
6. The Commission requires funding to conduct regular audits of the election technology as per the requirements of the law.

CHAPTER THIRTEEN

MANAGING LITIGATION

13.0 MANAGING LITIGATION

Pursuant to Section 13 of the IEBC Act, 2011, the Commission is a body corporate with perpetual succession and a common seal and is capable of suing and being sued. In this respect, whenever faced by election petitions, civil or criminal matters, the Commission engages or instructs advocates who are on its panel of pre-qualified list of lawyers to represent it. Following the 2017 General Election, the Commission was served with election petitions before and after the declaration of results.

13.1 Pre-election Litigation Phase

In the run up to the 2017 General Election, the Commission advertised tenders for supply of high valued services and goods as early as 2016 to avoid a last minute procurement.

Following the advert, the Commission was sued in 50 cases at the High Court challenging various stages of the procurement processes. These cases touched on procurement of the KIEMS kits, tenders of supply of ballot papers by Al-Ghurair Printing & Publishing Company, Audit of the voters register by the KPMG, deployment of complementary mechanism for identification of voters and extension of voter registration period among other issues.

Additionally, a total of seven cases were filed at the Public Procurement Advisory and Review Board (PPARB) to challenge various tenders awarded by the Commission. 15 decisions of the PPARB found their way into the High Court by way of Judicial Review. For instance, the tender for printing of ballot papers awarded to Al-Ghurair was cancelled once by PPARB and the High Court twice.

Other cases filed at the PPARB included tender for supply of KIEMS kits by Dittel Limited, and supply of ballot papers by Roscate Ltd, and media consultancy services by Transcend Media and Media Edge Interactive Ltd.
Notably, the landmark case of Maina Kiai & 2 others v Independent Electoral and Boundaries Commission & 2 others Petition No. 207 of 2016 which determined the issue of finality of results at the constituency, thereby changing the arena of management of results. The petition affirmed that the Commission could not change results at the National Tallying Centre.

The effect of these court orders, rulings and judgements were that, the Commission changes its operational policies and procedures in order to be compliant. This in turn affected training and procedures established way before the elections.

13.2 Post-Election Litigation Phase

13.2.1 Election Petitions

Following the declaration of results, 299 election petitions were filed. The Judiciary vide Gazette Notice No 9060 of 15th September, 2017 published the list of details of petitions filed, the names of judges and magistrates to hear the matters, and the court venues.

13.2.2 Presidential Election Petitions

Article 140 of the Constitution establishes that a petition to challenge the election of a president-elect has to be filed in the Supreme Court for determination within seven (7) days after the declaration of results. This is to be heard and determined within fourteen (14) days of filing the election petition.

13.2.3 First Presidential Petition

On 18th August, 2017, Raila Amolo Odinga and Stephen Kalonzo Musyoka, being the presidential and deputy presidential candidates respectively of the National Super Alliance (NASA) Coalition, filed a petition challenging the declared result of the Presidential election.

On 1st September, 2017, in its judgement, the Supreme Court annulled the 8th August, 2017 presidential election results. The Court held that, the election was not conducted in compliance with the constitutional principles and requirements, and the applicable electoral legal framework. The Commission was ordered to conduct a Fresh Presidential Election within sixty (60) days. The annulment of the presidential election by the Supreme Court set a precedent in Kenya and Africa for being the first in Africa and the 4th in the World. The implication of this decision was that Presidency would rule on an incumbency basis for the sixty days within which the Fresh Presidential Election was to be conducted.

In the run up to the Fresh Presidential Election, NASA withdrew from the race on 10th October 2017, citing non-compliance with their demands. Other presidential hopefuls were, vide a High Court ruling on the 11th October 2017, reinstated to the ballot for the Fresh Presidential Election in Petition No. 471 of 2017 Ekuru Aukot v Independent Electoral & Boundaries Commission & 3 others.

13.2.4 Second Presidential Petition

In the run up to the fresh presidential election, five Constitutional petitions were filed challenging processes that could have had a significant impact on the Fresh Presidential election, the 2013 presidential election and provisions of the existing laws. The cases are summarized as follows;

(i) Nairobi Petition No. 530 of 2017 – Hon. Jude Njomo V IEBC and Others

The Petitioner filed suit against the Commission and other parties seeking various orders from the court. The issues raised among others are:

a) Whether the withdrawal by the 6th Respondent (Raila Odinga) is binding in light of Regulation 52 of the Election (General) Regulations.
b) Whether the withdrawal of a candidate can lead to a cancellation of an election in terms of Article 138(8)(b) of the Constitution
c) Whether the Supreme Court obiter dicta finding in paragraph 290 of the Raila Odinga (2013) petition is binding

However, the petitioner sought leave to withdraw the petition on account of lack of jurisdiction by the court. The Honorable court ordered that the matter be withdrawn.

(ii) Nairobi Petition No. 504 of 2017 – Okiya Omtatah Okoiti V IEBC and Others

The Petitioner filed suit against the Commission and others seeking orders:

a) Conservatory orders to suspend the Election Laws (Amendment) Act, 2017
b) A temporary injunction restraining the Commission from giving effect to the Election Laws (Amendment) Act, 2017.
c) Conservatory order suspending the repeat presidential election scheduled for 26th October, 2017.
d) Temporary injunction restraining the Commission from conducting the repeat presidential election scheduled for 26th October, 2017

The court gave its ruling on 24th October, 2017 holding that it has no jurisdiction in the matter and dismissed the petition with no orders as to costs.

(iii) Nairobi Petition No. 516 0f 2017 – Uzalendo Institute of Leadership & Democracy V IEBC and Others

The Petitioner filed suit against the Commission and others seeking:

a) A declaration that paragraphs 290 and 291 of the Supreme Court Petition no. 5 of 2013 were obiter dictum and therefore not binding to the Commission.
b) A declaration that Regulation 52 and 53 of the Elections Regulations supersedes paragraphs 290 and 291 of the Supreme Court judgment of 2013.

The matter was mentioned for direction on 11th December, 2017 and the same was withdrawn with no orders as to costs given that it had been overtaken by events (the repeat elections had been concluded).

(iv) Nairobi Petition No. 514 0f 2017 – Hon. John Harun Mwau V IEBC and Others

The Petitioner filed suit against the Commission and others seeking:

a) A declaration nullifying the presidential election held on 8th August, 2017 meant that the election to follow is a new presidential election.
b) A declaration that nomination process is a prerequisite for a candidate to participate in a presidential election.
c) Declaration that the gazette notices no. 8751 of 5th September, 2017 and 9800 of 13th October, 2017 be declared null and void.

The thrust of the petition was that a nomination of a candidate for the repeat presidential election scheduled for 26th October, 2017 was key to any electoral process.

On 25th October, 2017 the Court in striking out the petition, held that it had no jurisdiction to entertain the issues raised as they fell within the ambit of the Supreme Court.

(v) Nairobi Petition No. 490 of 2017 – Hon. David Pkosing V IEBC and Others

The Petitioner filed suit against the Commission and others seeking among other prayers:

a) A declaration that the candidates nominated for the fresh presidential election were bound by the order of the Supreme Court of Kenya made on 1st September, 2017 to participate in the said election

b) A declaration that any decision, action, threats, attempts or omission by ODM Party, Raila Odinga and Kalonzo Musyoka to boycott, impede, subvert or otherwise ensure that fresh presidential election to be held on 26th October, 2017 was unlawful, treasonous and in contempt of the order of Supreme Court issued on 1st September, 2017.
c) The nullification of the presidential election held on 8th August, 2017 meant that the election to follow is a new presidential election.

The Court in dismissing the petition on 24th October, 2017, held that the matter did not meet the threshold of a constitutional petition as the issues raised, though couched as constitutional questions fell outside the mandate of the court.

After the conclusion and declaration of results for the fresh presidential election voters who were aggrieved by the said results moved to the Supreme Court seeking for its nullification. In this respect four election petitions were filed. These were, Petition No. 2 of 2017 by Mr. John Harun Mwau and Petition No. 4 of 2017 by Mr. Njonjo Mue and Mr. Khelef Khalifa, Petition No.3 of 2017 by institute of Democratic Governance. These petitions were consolidated, and heard together.

One petition, which sought to have NASA leaders held in contempt of court, was deferred for hearing later while two petitions that sought to invalidate the Fresh Presidential Election were consolidated and heard. The Honorable Court reached a unanimous verdict which determined that the petitions were not merited and were thus dismissed with the court upholding the 26th October, 2017 Fresh Presidential Election results.

13.2.5 Parliamentary and County Election Petitions

Article 105 of the Constitution provides for the High Court to determine election petition within six (6) months while section 75 of the Elections Act, 2011 was amended to provide for an additional six (6) months for filing and hearing of appeals.

Further, it was highlighted that due to a policy decision by the Appellate Court not to entertain interlocutory applications arising from election petitions the parties and specifically the Commission suffered the resultant orders to either conduct or stop a By-election a day or two to the scheduled date.

As revealed by the evaluation, this has caused severe financial strain to the Commission where colossal expenditure is incurred before cancellation of

the election or where order(s) by the Honourable Court results in increased budgetary requirements that are not cost effective.

Following the conclusion and declaration of results in the General Election held on 8th August, 2017, several dissatisfied candidates, voters and citizens filed election petitions challenging the results as declared by the Commission in the Parliamentary and County Elections including allocation of special seats through party lists. At the end of the statutory timeline to file petitions, a total of 299 cases were lodged challenging declarations of various elections. This represented a significant increase from the 188 petitions that were filed after conclusion of the 2013 elections.

The general grounds for the election petitions included: irregularities, non-compliance to the election laws, and manipulation of the Results Transmission System (RTS), use of counterfeit election result forms not in statute, erroneous posting and declarations of results, violence, bribery, corruption, and witchcraft among other issues. Table 39 show the details.

Table 39: Summary of Election Petitions filed after 2017 General Election

Index	Elective Position	Number	Dismissed	Allowed
1.	Governor	35	32	3
2.	Senator	15	15	0
3.	County Women Member to the National Assembly	12	11	1
4.	Member of the National Assembly	98	91	7
5.	Member of the County Assembly	139	127	12

A total of 23 election petitions were allowed from the total of 299 filed. The general grounds for nullification of the elections included, irregularities, non-compliance with the constitution and electoral law, errors in statutory forms, declaration of the wrong winner, Commission of election offences and malpractices including party hopping, lack of academic qualification and compromise of election materials such as ballot boxes and seals.

13.2.6 Appeals from the Trial Court

Following the hearing and determination of the election petitions within the 6-month period provided by law, several appeals were filed by persons dissatisfied by the decision of the election courts. Election appeals from the lower courts were lodged at the High Court, while the appeals from the High Court were filed at the Court of Appeal and further appeals to the Supreme Court. Appeals from the High Court to the Court of Appeal are filed within 30 days of the decision of the High Court.

A total of thirty-one (31) appeals were filed at the High Court from the Magistrates' Courts while eighty (80) appeals were filed at the Court of Appeal against the decisions of the High Court. Additionally, two matters were lodged at the Supreme Court from the Court of Appeal.

13.3 Comparative Analysis of the 2013 and 2017 General Election

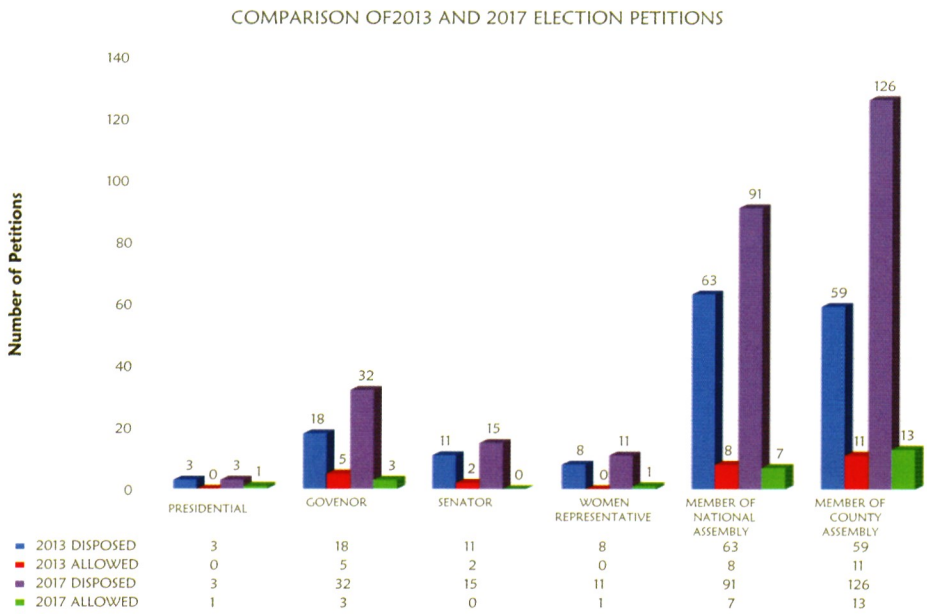
The evaluation looked into the comparison between 2013 and 2017 election petitions which is shown in Table 40 and Figure 6.

Table 40: Comparison of election petitions in 2007, 2013 and 2017

Year	No. of Election Petitions filed	No. of Election Petitions dismissed	No. of successful Election Petitions	No of Election Petitions withdrawn	No of Election Petitions struck out.
2007	36	17	17	-	2
2013	188	115	24	17	31
2017	446[10]	398	35		

[10] E446* represents the number of both election petitions and judicial review matters. The Judicial Review matters are yet to be concluded.

Figure 6: Comparison of 2013 and 2017 election petitions per elective position



Analysis of the cases filed by political parties showed that majority of the cases were filed by Jubilee (46%) and ODM (31%) Figure 6 shows the details.

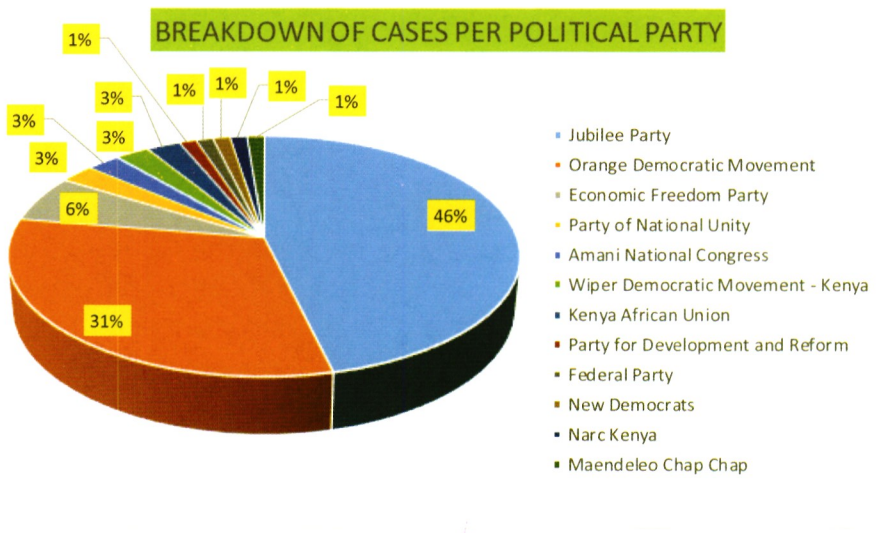


Figure 7: Cases filed per Political Party.

The evaluation revealed that there were rigid timelines provided for efficient preparation and representation for the Commission to gather evidence and file the necessary pleadings in its defence.

13.4 Challenges

a) Inadequate internal legal capacity to handle election petitions Returning Officers were not adequately prepared to handle the petition process.
b) Limited timeframe within which the Commission was required to respond to Petitions and limited timelines to provide election materials required in courts.
c) Unavailability of temporary election officials as witnesses.
d) The temporary election officials required travel and subsistence funding during petition hearing which was not provided for in the budget.
e) Submission of the Polling Station Diary (PSD) and SD Cards in different courts at the same time yet there is only one copy per polling station.
f) Lack of uniformity in conducting recount and scrutiny in different courts.
g) There were cases where the courts would order for production of election materials in court but with no provision of a facility to store the materials.
h) Difficulty in recovery of costs awarded by the courts to the Commission.

13.5 Recommendations

a) Amend the electoral and the election petition laws to enhance legal certainty precision and remove ambiguity.
b) There is need for modification on the KIEMS to facilitate generation of reports when required by the courts during conduct of election petition.
c) There is need for the Commission to source for adequate funds in regards to travel and subsistence funding for petition witnesses.
d) Develop a common understanding between the Commission and the Judiciary on conduct of scrutiny and/or recount. The understanding should include transport of ballot boxes and storage as it varied from one court to another.

CHAPTER FOURTEEN

MANAGING RISKS IN THE ELECTORAL PROCESSES AND OPERATIONS

14.0 MANAGING RISKS IN THE ELECTORAL PROCESSES AND OPERATIONS

Risk identification and management is a key component of corporate governance. In compliance with National Treasury Circular no. 3/2009 on Development and Implementation of Institutional Risk Management Policy Framework (IRMPF), the Commission institutionalized risk management its operations. Further, the Public Finance Management Act, 2015 lays emphasis on the need to have effective corporate governance framework as well as an accountable financial management system in the management of the Commission activities. The purpose of integrating a risk management component is to identify issues that significantly impact on the operations of the Commission.

14.1 Managing Risks during the 2017 General Election

In preparation for the 2017 General Election, the Commission conducted risks assessment and monitoring in the different stages of the electoral cycle. The risks analysis together with proposed mitigation measures were shared with the respective risk owners for action.

14.1.1 Risk Assessment for the Legal Framework

Risk assessment was done on the implication of the legal framework following the enactment of Election Laws (Amendment) Act 2016 and the Election Offences Act 2016. The new laws required IEBC to conduct an audit of the register and carry out verification of the voters using biometric data within the strict legal timelines. The risk assessment provided various scenarios for identification of a professional firm to conduct the audit of the register.

The evaluation established that the results of the audit of the register were widely accepted despite the earlier contestations regarding the selection of the firm to conduct the audit process. The Commission was also able to conduct biometric verification of voters both within the country and for Kenyans residing outside the country using KIEMS.

Regarding the capping of the number of voters per polling station at 500, risk assessment conducted revealed that capping of number of voters without allowing the Commission any flexibility would not only disenfranchise voters, but would also lead to additional costs since the polling stations are drivers of an election budget. Owing to this, the commission proposed an amendment to the Elections Act to cap the number of voters to 700 as opposed to 500. Parliament approved and enacted this legislation.

Regarding party primaries, IEBC is mandated to conduct party primaries upon request by Political parties. However the Commission did not receive any request to conduct party primaries for any political party.

Regarding procurement and deployment of technology, the law required that procurement of the technology must be done in an open and transparent manner. However given the short duration that remained before the 2017 General Election, it was impossible to procure technology in an open tender process. Risk assessment conducted advised the Commission to reach to Key stakeholders on the best method of acquisition of technology in order to avoid litigation.

14.1.2 Risk Assessment on Results Management

Election Laws (Amendment) Act, 2016 Section 39(1C) requires that (a) For the purpose of presidential election the Commission shall transmit, in the prescribed form, the tabulated results of an election for the President from a polling station to the Constituency Tallying Centre and to the national Tallying Centre. The law also required the Commission to avail all results through an online portal. This therefore called for configuration of the RTS to deliver results to the Constituency Tallying Centre for collation and transmission of the final results to the national tallying Centre.

The main risks included non-compliance with the law in terms of result transmission, failure of KIEMs technology, inadequate training on the use of technology, lack of 3G enabled network for results transmission in some areas and lack of clear guidelines on the statutory forms to be used for results declaration.

14.1.3 Risk Assessment for Continuous Voter Registration

Pursuant to the provisions of section 5(1) of the Elections Act 2011, the Commission conducted continuous voter registration ahead of the 2017 General Election. The exercise was conducted at the IEBC Constituency Offices in all the 290 constituencies and at Huduma centres. The Commission conducted risk assessment for the continuous voter registration exercises. Some of the risks identified included vast distances, malfunctioning of kits, theft of BVR Kits and lack of awareness due to inadequate voter education.

14.1.4 Risk Assessment for Commission Warehouses

The Commission has several warehouses and stores across the country where both strategic and nonstrategic election materials are stored. Risk assessment for these facilities is not only important in ensuring a safe, secure and healthy environment, but it is also a legal requirement.

Non-compliance with safety standards, insecure warehouse and unhealthy warehouse environment can not only lead to damage or loss of goods but can also lead to injuries and death to the workers. This could lead to huge loses to the organization.

The Commission conducted a risk assessment on its warehouses prior to the 2017 General Election. The scope of this assessment included fire safety, security of the warehouses, flooding, worker safety, material storage and handling, controls and records management, electrical safety, leakages and pests and rodents control.

Some of the risks identified included non-adherence to safety standards, improper storage of items in the warehouses, storage of gas cylinders inside the warehouses, leakages of gas cylinders, absence of secure perimeter walls, lack of disposal plans, inadequate staffing at the warehouses and lack of handover procedures for security officers manning the warehouses. Various mitigation measures were proposed to rectify the anomaly. The evaluation noted that the Commission is yet to conduct disposal for election materials from 2013, a situation that has led to the warehouses being piled up with materials.

14.1.5 Risk Assessment on Use of Technology

The Commission conducted a risk assessment on the technologies used in the elections. The following risks were identified; inability to implement technology in line with legislations, inability to transmit results in accordance with the law, lack of adequate training for the end user staff, delayed procurement processes of the technologies leading to late delivery and increased costs, lack of IT infrastructure, absence of elaborate service level agreements (SLAs) with service providers, hacking, unclear systems design and specifications, problematic implementation and operationalization of the technology and lack of adequate simulation during the training.

14.1.6 Risk Assessment on Electoral Security

Historically, Kenyan elections are very competitive and have the potential of perpetuating conflict and electoral related violence. Based on this understanding the Commission conducted a security risk assessment for the 2017 General Election and Fresh Presidential Election. Some of the risks identified included terrorism, cattle rustling, and presence of organized groups, proliferation of small arms and light weapons and election-related violence.

14.1.7 Risk Assessment for Voter Education

Voter education serves to empower voters to effectively participate in the

electoral processes. The Commission conducted a risk assessment in voter education and identified the following: insufficient time for voter education, late enactment of laws leading to late review of voter education content and acquisition of technology. There was also the risk of misinformation of the public by some voter education provides.

14.1.8 Risk Assessment on Party Primaries

The Constitution provides for the registration of candidates for elections by IEBC. This exercise is preceded by political party nominations with parties submitting lists of political party candidates nominated for elections. The Commission conducted risk assessment for party primaries across the country. Risk assessment report indicated that there was likelihood of violence during political party primaries.

14.1.9 Risk Assessment for MVR I and MVR II

With regard to the registration of voters, the Commission carried out risk assessment for MVR I and MVR II. The Commission utilized Biometric Voter Registration Technology.

Risk assessment conducted for MVR identified various risks which included defective BVR kits, missing data in the BVR data base, multiple registration, violence, mass and multiple transfer of voters and inadequate resourcing for MVR. Others included lack of adequate data backup, challenges of uploading of data and limited number of kits to mop up the residual voters.

14.1.10 Risk Assessment for the Fresh Presidential Election

In its decision, the Supreme Court on 1st September, 2017 nullified the Presidential Election results of the 8th August 2017. Subsequently, the Commission conducted a risk assessment on the Fresh Presidential Election. The risks identified were likelihood of electoral violence, procurement challenges and ethno-political mobilization in party strongholds and threats to IEBC staff.

Annex 12 gives a summary of risks identified and mitigation measures for the 2017 General Election.

14.1.11 Unforeseen Risks that Materialized

There were risks that were unforeseen by the Commission that eventually materialized. These included:

i) Decision by the courts to extend Mass Voter Registration (MVR II) period by five days;

ii) Nullification of presidential election results;
iii) Withdrawal of a candidate for repeat presidential election;
iv) Boycott of a candidate for repeat presidential election;
v) Extensive targeting of IEBC staff;
vi) Profiling of IEBC staff along ethnic/political lines;
vii) Temporary election officials turning out as witnesses for petitioners;
viii) IEBC lawyers acting for petitioners after receiving crucial information from the Commission; and
ix) Court injunctions/ orders to include candidates very late in the ballot preparation stage and long after the lapse of nomination dispute resolution period which created unnecessary costs and derailed timelines for delivery of election materials. This was also experienced in the Fresh Presidential Election.

14.1.12 Challenges

a) Low-level of awareness of risk management among Commission staff; and
b) Inadequate responses by risk owners to identified risks.

14.1.13 Recommendations

a) Training of all IEBC staff on risk management; and
b) Effective monitoring and evaluation framework for risk management.

14.2 Integration of Election Risk Management Tool (ERMTool) In IEBC's Processes

The main prerequisites to conducting free, fair and credible elections is a peaceful environment where eligible voters can express their will freely, without violence, threats, intimidation or coercion. This can be achieved if electoral risks are promptly identified and mitigated.

In the run up to the 2017 GE, the Commission used Electoral Risk Management Tool (ERMT) to address electoral risk and improve on its election risk management strategy.

Election Risk Management tool is an integrated software that is used to identify and analyse risks and provide prevention and mitigation strategies. The tool has three modules which includes;

i. Knowledge resources which consist of digital library that contain internal and external risk factors;

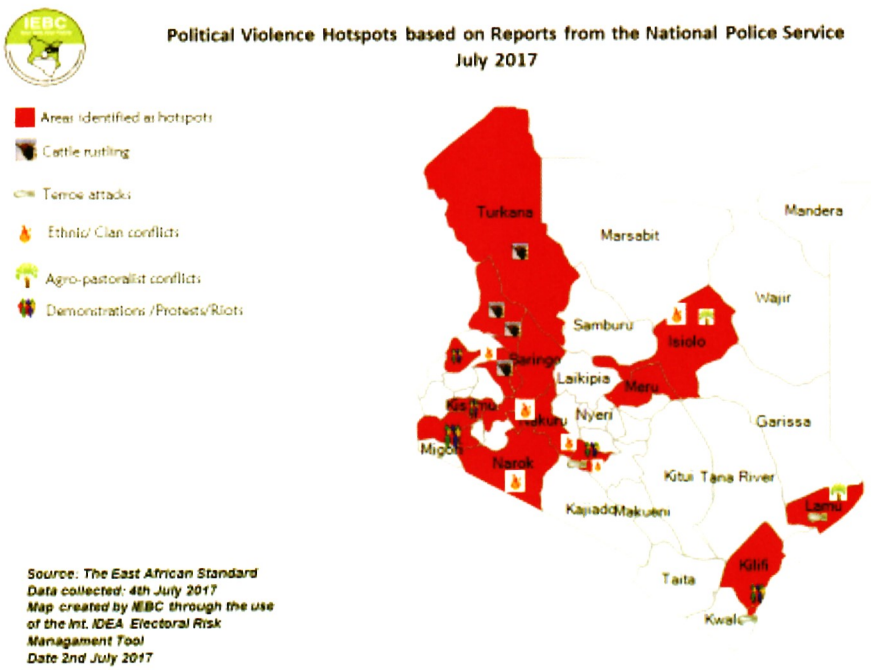
ii. Analytical instruments that allows users to upload different types of risk data, generate risk maps and trends;
iii. Prevention and mitigation module that provides actions to be taken around the electoral cycle

The ERMTool was developed after realization that despite the existence of Early Warning systems in many parts of the world, none had a specific focus on elections. The tool was used in identifying risks, formulating mitigation strategies and providing early warning and response to electoral threats both internally and externally.

In preparation for the 2017 GE, the Commission held context overview workshops with security agencies and other electoral stakeholders; trained risk champions; conducted baseline survey on election related violence; and conducted risk identification and analysis for various election processes.

Feedback from National Stakeholders Forum and analysis of internal Commission reports revealed that the tool identified electoral violence risk factors for the 2017 General Election, came up with prevention and mitigation strategies and strengthened linkages between Commission and stakeholders in information sharing. Figure 8 shows political violence hotspots identified prior to the 2017 general election.

Figure 8: Political violence hotspots



14.2.1 Achievements

a) The ERMTool enabled the Commission in identifying risks, analysing and sharing information.
b) The ERMTool has been mainstreamed within the Commission throughout the electoral cycle.
c) The ERMTool enabled institutional linkages between the Commission and other relevant agencies.
d) The ERMTool helped the Commission make conflict sensitive decisions.

CHAPTER FIFTEEN

ELECTION SECURITY FOR THE 2017 GENERAL ELECTIONS

15.0 ELECTION SECURITY FOR THE 2017 GENERAL ELECTIONS

Election security refers to the protection of election officials, election stakeholders, electoral events, facilities, system, materials and election information from threats and vulnerabilities based on risk assessment.

Election Security for the 2017 General Election and Fresh Presidential Election was built on the success and learning points from the 2013 and 2007 General Election.

The 2007 General Election led to unprecedented violent outcomes in Kenya. The results of the presidential election were disputed culminating in violence whereby human deaths, displacement, property damages, and disruption of national and regional economies.

While security agencies had some role to play in the 2007 elections and even previous elections, there existed no structured consultations and linkages with the Election Management Body to plan for electoral security arrangements. This is despite the acknowledged importance of election security in the delivery of free, fair and credible elections and in tackling identified security threats facing elections.

Against the above background, the Commission in partnership with the National Police Service and supported by the United Nations Development Programme's (UNDP) Support to Elections Reforms and Processes (SERP) designed the Election Security Arrangements Project (ESAP) for the 2017 General Election based on lessons learnt from the same project in 2013.

The project aimed at contributing to the following;

i) Building a culture of cooperation between the public, the police, the IEBC and independent commissions in promoting and ensuring security of the campaign periods through best practices in negotiated public order management;
ii) Promoting credible and objective investigations and prosecutions of election offenders in Kenya;
iii) Promoting "joint election risk assessment and response center" during the critical times of the campaigns, the elections day and the period immediately after the release of the results; and
iv) Facilitating public participation in promoting election security in Kenya though monitoring and reporting.

The Commission's Strategic Plan 2015-2020, identified Election Security as a key pillar towards delivering free, fair and credible elections for 2017 General Election. Unlike the 2013 General Election where it was implemented in four months, for 2017 General Election, engagements between IEBC, NPS and other stakeholders commenced in June 2016 to December, 2017.

During the 2017 GE the Commission established, an interagency technical committee comprising of the Commission, National Police service (NPS), The Judiciary, Directorate of Criminal Investigations (DCI), Office of the Director of Public Prosecutions (ODPP), Independent Policing Oversight Authority (IPOA), National Cohesion and Integration Commission (NCIC), Office of the Registrar of Political Parties (ORPP), National Steering Committee on Peace building and Conflict Management (NSC) and Usalama Forum. This collaboration brought more synergy by bring on board institutions working in the criminal justice system and the IEBC.

In its mandate to implement Election security the technical committee was tasked with reviewing materials used in the 2013 GE that is, "*Elections Handbook for Security Personnel and a Pocket size security Guide*", and conducting trainings for Police officers and other stakeholders. The evaluation revealed that the committee reviewed the materials, published and disseminated 200,000 copies of handbook for security personnel and security guide to cater for all the poll security officer.

In addition, the committee also developed a training manual used for training of security personnel. The evaluation revealed that trainings were conducted through a cascaded approach that was done at the National, County, Constituency and Ward/Police Station/ Administration Police Camp level.

The evaluation noted that the handbooks made it easier for the officers to understand the election offences and the prosecution process. The Handbook and Election Security documents had model charge sheets for each of the election offences that only required filing in by officers in case suspects were apprehended for committing election offences.

The Police Role cards enumerated roles of election officials at the polling station and tallying centre. It also contained roles of poll officials, police officers, party and candidate agents, observers and media at the polling stations and tallying centres.

Feedback from FGDs with poll officials revealed that there was coordinated response to election security threats in hot spot areas during the 2017 GE. For instance, following terror threats in Tana River County, the Commission staff in collaboration with Security agencies enhanced Security at the polling stations and tallying centers.

15.1 Challenges

1) Sustainability of election security activities is not assured since it is donor funded;
2) Security threat in some areas made it impossible to conduct electoral activities leading to postponement of the elections; and
3) Election security not fully linked with other early warning systems in the country.

15.2 Recommendations

1. The design and implementation of a future election security activities should adopt and align to an electoral cycle approach. It should be integrated with other early warning systems.
2. Need for linkages with political parties as main actors in elections. Election security should include engagements with political parties and independent candidates in deliberating on security, law and order.
3. Enhance Monitoring and Evaluation processes for elections security.

CHAPTER SIXTEEN

ANALYSIS OF ELECTION OBSERVER MISSIONS REPORTS

16.0 ANALYSIS OF ELECTION OBSERVER MISSIONS REPORTS

According to the African Union Elections Observation Manual is the 'process of systematically gathering information on the electoral process as a basis of making an informed decision on the integrity of and credibility of the electoral processes' (AUC: 2013:6). Election observation has been accepted internationally as an integral part of the electoral process. The October 24th 2005 endorsement of the Declaration of Principles for International election Observation and Code of Conduct for international Observers by major bodies involved in election observation is a demonstration of the seriousness in which election observation is held.

In Africa, the importance of observation of elections is demonstrated by the commitment of the African Union in sending Observer Missions during elections in Member State. Similarly, regional trading blocks such as EAC, SADC, ECOWAS, and ECCASS have election observation in member states as a mandate.

Article 88 (4) (h) mandates the Commission to facilitate observation, monitoring and evaluation of elections. To implement this mandate, the Commission developed a General Handbook for Observers. The manual contains the code of conduct that guide election observers in Kenya. People or organizations interested in observing elections are expected to apply for accreditation in a prescribed form and make a declaration to abide by the code of conduct for election observers. Observer missions or individuals are supposed to submit to the Commission their observation reports.

In the 2017 General and Fresh Presidential elections, the Commission accredited a total of 58,308, out of which 6,400 were long term observers while 51,308 were short term.

Given the mandate and purpose of observation of elections, this evaluation analysed a number of election observation reports submitted to the Commission by National and International observer missions/groups. The analysis was done based on the electoral cycle that is Pre-election, during the election and post-election period.

16.1 Key Findings From Election Observer Reports

16.1.1 Pre-Election Period

Analysis of the Pre-election period is mainly based on findings of election

observer missions/groups that deployed long term election observers. Information drawn from observer mission reports on the Pre-election period shows commonalities in their judgment of the electoral processes/activities. Although there were a number of reported observations, the following cut across most observer reports:

1. Registration of eligible citizens to register as voters was hampered by lack of or delay in acquiring national Identity cards. To register as a voter, it is mandatory to have a Kenyan National Identity card or a valid Kenyan passport. This disfranchised some Kenyans, although the Commission was able to register 5,222,642 new voters.
2. The Commission used varied medium for disseminating voter education/information. In some instances commencement was late in some cases starting when the activity was already ongoing.
3. Kenya has a robust and comprehensive electoral legal framework that compares well with internationally accepted standards. However, amendments of electoral laws too close to the election puts pressure on administration of elections. This impacted on electoral activities such as procurement of election equipment, materials and services.
4. The implementation of the Election Campaign Financing Act, 2013 was affected by failure to put in place regulations to guide its implementation. The observer mission/groups reports noted that this created uneven playing ground for candidates and political parties thus defeating the purpose for which the Act was put in place.
5. Party primaries were overall competitive. Majority of the political parties did not have laid down procedures for their nominations. Parties lacked authentic register of their members and logistical challenges were a common feature in the conduct of party primaries. This put into question political parties internal democracy. The significant increase in number of independent candidates was to a certain extent contributed by the competitiveness of the party primaries and the manner in which they were conducted. A number of people who felt they did not get a fair chance in the political party primaries opted to contest as independent candidates.
6. There were reported cases of misuse of state resources by major political competitors. The Commission was observed not to have been strong in enforcement of its mandate in this regard.
7. Participation of women in political parties' politics is still minimal as very few women were nominated by political parties to contest in the various elective positions.

16.1.2 During The Election Period

This section highlights some key observations of activities on the Election Day for the 2017 August 8th General and Fresh Presidential Elections.

16.1.2.1 August 8th 2017 General Election

Reports on the polling day were recorded according to activities. These included opening of the polling stations, polling, counting of votes, tallying, results transmission and declaration of the results.

16.1.2.1.1 Opening of the Polling Stations

Reports analysed revealed that polling Election Day generally went on well with few complaints and incidents reported. Majority of the polling stations opened at 6am, the official opening time for the polling stations. This observation is in line with the IEBC's report that states that majority of polling stations were opened on time.

16.1.2.1.2 During Polling

1. On the use of technology for identification of voters, KIEMS system was utilized with only a few reported cases of KIEMS kits failure.
2. There was absence of long queues like those that were witnessed during the 2013 General Election. This was attributed to capping of voters in a polling station to a maximum of 700. However, many polling stations lacked facilities to cater for voters with disabilities. Noted was the participation of prisoners who voted for the first time in the Kenya's history
3. The closing of polling stations was carried out according to guidelines provided.
4. On voting and counting of votes, observer reports gave a positive verdict, reporting that the two activities were generally well carried out across the country. The counting was described as transparent with party and candidate agents participating. However, the time taken seemed to be longer than expected.
5. Transmission of results from polling stations was generally successful but some stations did not transmit on time while some did not transmit at all since they were outside the 3G network.

16.1.2.1.3 Tallying of the Results

1. Reports show the common issues noted in tabulation of results were delays in tabulation, mathematical errors, and procedural gaps such as unstamped forms and lack of transparency in tallying. Lack of transparency is however not defined or explained. Notable was the

amount of time taken in the tallying of results at the Constituency, County and National Tallying centres.

2. The time taken between tallying, announcement and declaration of results was rather long.
3. Technology employed for the different processes was complex. According the Carter Center EOM, 'it was difficulty to observe the inner working'. This observation explains the suspicion that majority of political players had in the technology used for the various electoral activities.

In their conclusion of their preliminary reports, the EOMs termed the elations peaceful with some like the African Union EOM stating that the elections met standards set for democratic elections. The nullification of the presidential elections by Supreme Court generated a debate on credibility of EOMs observation findings. Issues that the debate raised was the need for election observation to widen the scope, pay attention to procedures and audit of strategic election materials. Although the verdict on the election did not change, in the final reports EOM are a bit cautious in terms of words used in describing their observation of the various electoral activities.

16.1.2.2 The October 26th, 2017 Fresh Presidential Election

The assessment of the observer reports revealed majority termed the environment against which the Fresh Presidential Election was characterized by insecurity, intimidation and general tension. The boycott of the election by the main opposition party resulted into violence and intimidation of poll officials in some areas.

A summary of main observations:

1. Election was held in a tense and polarized political environment characterized by inflexible political positions, attacks on IEBC and the Judiciary, demonstrations and clashes.
2. Voting took place in Most parts of the country except in 25 constituencies where there was violence and boycott of the election.
3. There was heightened presence of security at the polling stations and their environments, a factor that could have prevented some people from going to cast their vote.
4. KIEMS worked well during the voting process with a few delays experienced in some centres.
5. Election officials were keen on following procedures as stipulated especially handling of result forms at the polling stations and tallying centres.

6. Improvement was noted in tallying, verification and announcement of results as compared to August 8th General Election. Elaborate process of results verification, collation was witnessed. Verified results were promptly uploaded on the IEBC portal which was a significant improvement compared to August 8th 2017 General Election. Projection of the results at the Constituency and County Tallying centres was reported as an improvement in transparency.
7. Further violence after announcement of fresh presidential results and report of excessive police action resulting to injuries and deaths

16.1.3 Post-Election Period

Following the declaration of the results, there was extreme tensions and violence resulting in deaths and injuries. Street protests were witnessed and calls for resignation of the Commission.

16.2 Summary of Recommendations from Election Observation Reports

No.	Primary Implementing responsibility	Recommendations
1.	Parliament	1. Ensure that legal reforms or amendments to electoral laws are done at most one year before the date of the general election. 2. Operationalize the Election Campaign Financing Act by having the Campaign Financing Regulations take effect. 3. Ensure compliance with two-third constitutional provision with regard to women representation in elective offices. 4. Extend the deadline for the determination of post-election petition presidential petitions to allow more realistic time for the preparation of cases results publication and full due process in court, including possibility of recount. 5. IEBC independence and accountability be strengthened through greater financial autonomy. The quorum for commissioners meeting increased to promote institutional cohesiveness and consistency. 6. Strengthening mechanism for enforcement of the Electoral Code of Conduct.

No.	Primary Implementing responsibility	Recommendations
2.	Executive	1. Strengthen the resilience of constitutionally independent institutions involved in the elections to preserve checks and balance in the electoral process. 2. Enhance inclusive dialogue to address political impasse and pull Kenya together to ensure political, economic and social inclusion and cohesion.
3.	IEBC	1. Review technology independently, periodically considering security, sustainability, institutional ownership and effectiveness. 2. Ensure civic and voter education is a continuous exercise. 3. Ensure credibility of voter registration by effecting all recommendation of KPMG register of voters audit report. 4. Adopt a proactive consultative approach with all stakeholders in the electoral process. 5. Procurement and distribution logistics of election materials should be put in place at least six months to the election date. 6. Improve on the display register of voters at the polling stations. It should also be done in good time to allow voters to identify specific polling stations. 7. Ensure that the Polling stations with poor network coverage are gazetted and Presiding Officers facilitated to reach specific points to transmit the results. 8. Improve facilities in polling stations to cater for PWDs. 9. Enhance coordination of electoral security with the National Police Service, sharing of data and electoral risk assessment. 10. Enforce adherence to code of conducts signed with the Commission
4.	Judiciary	Enhance citizens and stakeholder confidence in its work through consistent demonstration of independence, neutrality and impartiality.
5.	Media	Adherence to the professional code of conduct.
6.	Political Parties	1. Enforce the code of conduct and prescribed penalties and sanctions. 2. Professionalize the conduct of party primaries.

No.	Primary Implementing responsibility	Recommendations
7.	Political Parties Disputes Tribunal	Decentralize their services to the County level for ease of access.
8.	Officer of the Registrar of Political Parties	1. Enforce the code of conduct and prescribed penalties and sanctions including withdrawal of funding and deregistration of culpable parties. 2. Report on party's compliance with gender requirements
9.	National Police Service	1. Ensure general security of the citizens during the election. 2. Enhance coordination with IEBC on electoral security, including sharing of relevant data. 3. Use of force by police officers must only be used as per the sixth schedule of the National Police Service Act. 4. Observe principles of human rights.
11.	National Registration Bureau	Enhance provision and distribution of National Identity to enable citizens to register as vote.
12.	Civil Society Organization	Should be neutral actors interrogating issues objectively and holding all stakeholders in the electoral process accountable
14.	Ethics and Anti-Corruption Commission	Ensure all candidates fronting their names for various positions meet the integrity threshold as prescribed in the constitution and all other written laws.

CHAPTER SEVENTEEN

CONCLUSIONS AND RECOMMENDATIONS

17.0 CONCLUSIONS AND RECOMMENDATIONS

This chapter spells out the main conclusions and recommendations based on the findings of the evaluation. Specific recommendations are presented at the end of each chapter.

17.1 Conclusions

This post-election evaluation sought to make a critical assessment of the conduct of the 8th August 2017 General Election and the 26th October 2017 Fresh Presidential Election. The evaluation was meant to establish what worked and what did not work as expected; and lessons-learned for improvement of conduct of future elections in Kenya.

The evaluation exercise was conducted in a participatory manner based on the electoral cycle, the Commission's Strategic Plan, Election Operations Plan and Legal mandate. Overall the evaluation addressed processes and activities in the electoral cycle leading to the 2017 General and Fresh Presidential Elections and revealed important lessons that can be used in the review of the Commission's Strategic Plan 2015- 2020.

On the legal framework, the amendment of electoral laws close to the elections affects implementation of election activities. The August 8th 2017 General Election witnessed an unprecedented number of court decisions that impacted negatively the planning and implementation of the General Election activities. For instance the review and customization of voter education materials to the amended laws delayed the commencement of voter education.

Additionally, protracted disputes arising from party primaries affected the candidate registration process and ballot paper production.

Financing of elections is not aligned to the electoral cycle. The bulk of electoral funding is done during the final year of the electoral cycle. This affects activities that fall early in the electoral cycle. The disbursement of voter education fund was done too close to the polling day hence affecting provision of voter education for the legal reform, voter registration, nominations and election campaigns. Periodical and targeted voter registration exercises led to registration of more voters as compared to the continuous voter registration.

The Audit of the register of voters revealed the need for the Commission to continuously clean the register to keep it up to date.

In the conduct of elections, management of election results generates mistrust and suspicion among the electorates as compared to other stages in the electoral process.

The conduct of six elections in a single day resulted in fatigue among electoral officials. Some of the errors witnessed were as a result of such fatigue.

The technologies used in elections are not well understood by the electorates. In addition, the legislation of use of technology in elections did not take into consideration the dynamic nature of technology.

In relation to partnerships and stakeholder engagement, the structures for networking with partners and stakeholders are weak and have a negative effect on coordination and continuous information sharing at National, County and Constituency levels.

Whereas public participation is a constitutional requirement, the definition and interpretation of the extent to which the participation is applied in the Commission's activities resulted into delays in implementation of some electoral activities.

17.2 Recommendations

17.2.1 Key Recommendations

1. Legal reforms and amendments of electoral laws should be carried out at least two years to the election. This is in line with accepted best practices in election management. There is need to extend the deadline for the determination of post-election presidential petitions to allow more realistic time for the preparation of cases results publication and full due process in court, including possibility of recount. The Campaign Financing Act, 2013 needs to be implemented.
2. Considering the Kenyan electoral cycle is five years, ideally Commissioners should be appointed to be in office the entire electoral cycle, if this is not possible, they should be in office at least two years to the general election date. There is need to consider staggering appointment of Commissioners so that the term of the entire Commission does not end on the same date. This would ensure continuity and institutional memory.
3. Funding for electoral activities should be timely and aligned to the electoral cycle. This calls for sensitization of Parliament and the National Treasury on the electoral cycle and its relation to election

financing. Disbursement of bulk of electoral funding during the last year in the electoral cycle does not do justice to electoral planning. The ideal position would be operationalization of the Commission fund to ensure the Commission implements its disposal funding for electoral activities throughout the electoral cycle.

4. To ensure that all eligible Kenyans are registered as voters, there is need to integrate the national citizen registration database and the register of voters.
5. The Commission needs to review its policy on registration and voting among Kenyan citizens residing outside the country to make it economical and available to those who would like to register as voters.
6. Considering the dynamic nature of the political and electoral landscape, there is need to periodically review the voter education curriculum and curriculum support materials to address emerging issues.
7. Update the compendium of credible voter education providers throughout the country based on appropriate criteria for their selection; and build their capacities for the provision of quality voter education.
8. There is need to have targeted voter registration for particular groups in the community such as the youth, women, pastoralists and people living in informal settlements. This would enhance registration of eligible citizens.
9. Electoral laws should be reviewed with the aim of staggering elections. The national and county elections to be held at different times.
10. The Commission in collaboration with electoral stakeholders need to develop a framework to guide the extent of public participation in the Commission's activities.
11. There is need for the Commission to continuously audit its electoral technologies independently.
12. Considering the central role technology plays in elections in Kenya, there is need to develop specific voter education programs on use of technologies in elections in order to demystify election technology.

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ANNEXES

Annex 1: Publication of Commission Decisions

S/ NO	GAZETTE NOTICE	DATE	VOLUME NO.
1.	Addendum Nominated Candidates for 8th August General Election	14/7/17	VOL CXIX-NO. 95
2.	Certifying that the revision of the register of voters has been completed for purposes of the 8th August General Election Candidates for the General Election Corrigenda Deputy National Returning Officer	27/6/17	VOL CXIX-NO. 84
3.	Corrigenda appointment of County and Constituency Returning Officer for 8th August General Election	7/7/17	VOL CXIX-NO. 79
4.	Notice of Submission of Party List	12/6/17	VOL CXIX-NO. 76
5.	Availability of the register of voters for verification	10/5/17	VOL CXIX-NO. 60
6.	Appointment of Constituency and County Returning Officer for the 8th August General Election Appointment of the National Returning Officer	5/5/17	VOL CXIX-NO. 58
7.	Tallying Centers for August 2017 General Election and Voter Polling Station for 8th August General Election	8/7/17	VOL CXIX-NO. 86
8.	Appointment of Deputy County and Constituency Returning Officer Corrigenda appointment of County and Constituency Returning for the General Election	26/5/17	VOL CXIX-NO. 67
9.	Appointment of National Returning Officer Availability of the register of voters for Kenyan citizens living outside the country for verification Name and Symbols of Independent Candidate	19/5/17	VOL CXIX-NO. 65

S/ NO	GAZETTE NOTICE	DATE	VOLUME NO.
10.	Persons Scheduled to Participate in the Party Primaries	28/4/17	Vol. CXIX—No. 54
11.	Persons Scheduled to Participate in the Party Primaries	13/4/17	VOL CXIX-NO. 49
12.	Notice of Presidential Election, Member of National Assembly, County Governor, Member of the Senate , County Woman Member of the National Assembly, Member of the County Assembly Ward for 8th August General Election	17/3/17	VOL CXIX-NO. 30
13.	Suspension for continuous registration of voters Appointment of Registration and Assistant Registration Officers for Kenyan Citizens residing outside Kenya Appointment of Registration and Assistant Registration Officers for Kenyan citizens in Kenyan prisons Registration Centres for the registration of Kenyan citizens residing outside Kenya Registration Centres to register Kenyans in prison	27/2/17	VOL CXIX-N0.26
14.	Appointment of IEBC Chairperson and Commissioners	18/1/17	VOL CXIX-NO. 8
15.	Appointment of Constituency Registration and Assistant Registration Officers	18/1/17	VOL CXIX-NO.7
16.	Corrigenda Nominated Members To The County Assembly	6/9/17	Vol. CXIX—No. 131
17.	Nominated Members to the County Assembly	28/8/17	Vol. CXIX—No. 124
18.	Nominated Members to the National Assembly and the Senate	25/8/17	Vol. CXIX—No. 123
19.	The President Elect and Deputy President Elect	11/8/17	Vol. CXIX—No. 115
20.	Declaration of persons elected to Parliament as members of the national assembly and members of the county assemblies	22/8/17	Vol. CXIX—No. 121

S/ NO	GAZETTE NOTICE	DATE	VOLUME NO.
21.	Declaration of persons elected as county governors and deputy county governors, senate, County Woman Member to the National Assembly and Declaration Of No Contest	18/11/17	Vol. CXIX—No. 118
22.	Notice of Fresh Presidential election	5/9/2017	Vol. CXIX—No. 130
23.	Addendum for Candidates for Fresh Presidential election. Election Result Path Complementary Mechanism for Results Transmission System	13/10/17	Vol. CXIX—No. 153
24.	Appointment for Returning Officers and their Deputies for Fresh Presidential election	12/10/17	Vol. CXIX—No. 150
25.	Notice for Returning Officers and Deputy Returning Officers for conduct of elections for Kenya citizens living outside the country, Appointment of National Returning Officer Corrigenda For Returning Officers and Deputies for FPE	23/10/17	Vol. CXIX—No. 158
26.	Notice of President and Deputy President Elect	30/10/17	Vol. CXIX—No. 164
27.	Corrigenda on particulars of the Fresh Presidential Election	29/10/17	Vol. CXIX—No. 145
28.	Corrigenda for Tallying Centres for Fresh Presidential election	24/10/17	Vol. CXIX—No. 161
29.	Addendum for Candidates in the Fresh Presidential election Appointment of the Deputy National Returning Officer	24/10/17	Vol. CXIX—No. 160

Annex 2: Prison facilities used as polling stations

COUNTY CODE	COUNTY NAME	CONSTITUENCY CODE	CONSTITUENCY NAME	CAW CODE	CAW_ NAME	REGISTRATION CENTRE CODE	REGISTRATION CENTRE NAME
001	MOMBASA	003	KISAUNI	1451	PRISONS	002	SHIMO LA TEWA WOMEN
001	MOMBASA	003	KISAUNI	1451	PRISONS	003	SHIMO LA TEWA MEDIUM
001	MOMBASA	006	MVITA	1451	PRISONS	005	KINGORANI PRISON (B)
002	KWALE	009	MATUGA	1451	PRISONS	006	KWALE MAIN PRISON (B)
002	KWALE	010	MATUGA	1451	PRISONS	007	KWALE WOMEN
003	KILIFI	011	KILIFI NORTH	1451	PRISONS	008	KILIFI PRISON
003	KILIFI	013	KALOLENI	1451	PRISONS	009	KALOLENI
003	KILIFI	017	MAGARINI	1451	PRISONS	010	MALINDI PRISON (B)
003	KILIFI	017	MAGARINI	1451	PRISONS	011	MALINDI WOMEN
004	TANA RIVER	019	GALOLE	1451	PRISONS	012	HOLA PRISON
005	LAMU	022	LAMU WEST	1451	PRISONS	013	HINDI PRISON
006	TAITA TAVETA	023	TAVETA	1451	PRISONS	014	TAVETA PRISON
006	TAITA TAVETA	024	WUNDANYI	1451	PRISONS	015	WUNDANYI
006	TAITA TAVETA	026	VOI	1451	PRISONS	016	VOI REMAND PRISON
006	TAITA TAVETA	026	VOI	1451	PRISONS	017	MANYANI
007	GARISSA	027	GARISSA TOWNSHIP	1451	PRISONS	018	GARISSA MAIN
008	WAJIR	034	WAJIR EAST	1451	PRISONS	020	WAJIR
009	MANDERA	043	MANDERA EAST	1451	PRISONS	021	MANDERA
010	MARSABIT	045	MOYALE	1451	PRISONS	022	MOYALE PRISON
010	MARSABIT	047	SAKU	1451	PRISONS	023	MARSABIT PRISON
011	ISIOLO	049	ISIOLO NORTH	1451	PRISONS	024	ISIOLO PRISON
012	MERU	052	IGEMBE CENTRAL	1451	PRISONS	025	KANGETA PRISON

COUNTY CODE	COUNTY NAME	CONSTITUENCY CODE	CONSTITUENCY NAME	CAW CODE	CAW_ NAME	REGISTRATION CENTRE CODE	REGISTRATION CENTRE NAME
012	MERU	056	NORTH IMENTI	1451	PRISONS	026	MERU MAIN
012	MERU	056	NORTH IMENTI	1451	PRISONS	027	MERU WOMEN
012	MERU	059	SOUTH IMENTI	1451	PRISONS	028	URUKU PRISON
013	THARAKA NTHI	061	CHUKA/ IGAMBANG'OMBE	1451	PRISONS	030	CHUKA
014	EMBU	063	MANYATTA	1451	PRISONS	032	EMBU MAIN
014	EMBU	063	MANYATTA	1451	PRISONS	033	EMBU WOMEN
015	KITUI	069	MWINGI CENTRAL	1451	PRISONS	034	MWINGI PRISON
015	KITUI	072	KITUI CENTRAL	1451	PRISONS	035	KITUI WOMEN
015	KITUI	072	KITUI CENTRAL	1451	PRISONS	036	KITUI PRISON (B)
016	MACHAKOS	076	MASINGA	1451	PRISONS	038	YATTA PRISON (B)
016	MACHAKOS	081	MACHAKOS TOWN	1451	PRISONS	039	MACHAKOS MAIN
016	MACHAKOS	081	MACHAKOS TOWN	1451	PRISONS	040	MACHAKOS WOMEN
017	MAKUENI	086	MAKUENI	1451	PRISONS	041	MAKUENI PRISON (B)
018	NYANDARUA	092	OL JOROK	1451	PRISONS	042	NYANDARUA PRISON
019	NYERI	099	NYERI TOWN	1451	PRISONS	043	NYERI MAIN
019	NYERI	099	NYERI TOWN	1451	PRISONS	044	NYERI WOMEN
019	NYERI	099	NYERI TOWN	1451	PRISONS	045	NYERI MEDIUM
020	KIRINYAGA	100	MWEA	1451	PRISONS	046	MWEA PRISON
020	KIRINYAGA	103	KIRINYAGA CENTRAL	1451	PRISONS	047	KERUGOYA PRISON
021	MURANGA	106	KIHARU	1451	PRISONS	048	MURANGA PRIOSN
021	MURANGA	106	KIHARU	1451	PRISONS	049	MURANGA WOMEN
021	MURANGA	108	MARAGWA	1451	PRISONS	050	MURANJAU PRISON

COUNTY CODE	COUNTY NAME	CONSTITUENCY CODE	CONSTITUENCY NAME	CAW CODE	CAW_ NAME	REGISTRATION CENTRE CODE	REGISTRATION CENTRE NAME
022	KIAMBU	114	THIKA TOWN	1451	PRISONS	051	THIKA MAIN PRISON
022	KIAMBU	114	THIKA TOWN	1451	PRISONS	052	THIKA WOMEN PRISON
022	KIAMBU	115	RUIRU	1451	PRISONS	053	RUIRU PRISON
022	KIAMBU	117	KIAMBU	1451	PRISONS	054	KIAMBU PRISON
024	WEST POKOT	129	KAPENGURIA	1451	PRISONS	056	KAPENGURIA
025	SAMBURU	133	SAMBURU WEST	1451	PRISONS	057	MARALAL
026	TRANS NZOIA	138	SABOTI	1451	PRISONS	058	KITALE MEDIUM
026	TRANS NZOIA	138	SABOTI	1451	PRISONS	059	KITALE ANNEX
026	TRANS NZOIA	138	SABOTI	1451	PRISONS	060	KITALE WOMEN
026	TRANS NZOIA	138	SABOTI	1451	PRISONS	061	KITALE MAIN PRISON (B)
027	UASIN GISHU	144	AINABKOI	1451	PRISONS	062	ELDORET WOMEN
027	UASIN GISHU	145	AINABKOI	1451	PRISONS	063	ELDORET MAIN
027	UASIN GISHU	145	KAPSERET	1451	PRISONS	064	NGERIA FARM
028	ELGEYO/ MARAKWET	149	KEIYO NORTH	1451	PRISONS	065	TAMBACH PRISON
029	NANDI	155	EMGWEN	1451	PRISONS	066	KAPSABET PRISON
030	BARINGO	159	BARINGO CENTRAL	1451	PRISONS	067	KABARNET PRISON
030	BARINGO	162	ELDAMA RAVINE	1451	PRISONS	068	ELDAMA RAVINE PRISON
031	LAIKIPIA	163	LAIKIPIA WEST	1451	PRISONS	069	RUMURUTI
031	LAIKIPIA	163	LAIKIPIA WEST	1451	PRISONS	070	T/FALL PRISON
031	LAIKIPIA	163	LAIKIPIA WEST	1451	PRISONS	071	T/FALL WOMEN
031	LAIKIPIA	164	LAIKIPIA EAST	1451	PRISONS	072	NANYUKI PRISON
032	NAKURU	168	NAIVASHA	1451	PRISONS	073	NAIVASHA MAIN
032	NAKURU	168	NAIVASHA	1451	PRISONS	074	NAIVASHA MEDIUM

COUNTY CODE	COUNTY NAME	CONSTITUENCY CODE	CONSTITUENCY NAME	CAW CODE	CAW_ NAME	REGISTRATION CENTRE CODE	REGISTRATION CENTRE NAME
032	NAKURU	168	NAIVASHA	1451	PRISONS	075	NAIVASHA WOMEN
032	NAKURU	175	NAKURU TOWN WEST	1451	PRISONS	076	NAKURU MAIN
032	NAKURU	175	NAKURU TOWN WEST	1451	PRISONS	077	NAKURU WOMEN
033	NAROK	177	NAROK NORTH	1451	PRISONS	078	NAROK PRISON
034	KAJIADO	184	KAJIADO CENTRAL	1451	PRISONS	079	KAJIADO PRISON
034	KAJIADO	185	KAJIADO EAST	1451	PRISONS	080	ATHIR RIVER PRISON
035	KERICHO	190	AINAMOI	1451	PRISONS	082	KERICHO MAIN
035	KERICHO	190	AINAMOI	1451	PRISONS	084	KERICHO ANNEX
036	BOMET	194	SOTIK	1451	PRISONS	085	SOTIK PRISON
036	BOMET	196	BOMET EAST	1451	PRISONS	086	BOMET PRISON
037	KAKAMEGA	202	LURAMBI	1451	PRISONS	087	KAKAMEGA MAIN
037	KAKAMEGA	202	LURAMBI	1451	PRISONS	088	KAKAMEGA WOMEN
037	KAKAMEGA	209	SHINYALU	1451	PRISONS	089	SHIKUSA FARM
038	VIHIGA	211	VIHIGA	1451	PRISONS	091	VIHIGA PRISON
039	BUNGOMA	220	KANDUYI	1451	PRISONS	092	BUNGOMA PRISON (B)
040	BUSIA	226	TESO SOUTH	1451	PRISONS	093	BUSIA WOMEN WING
040	BUSIA	226	TESO SOUTH	1451	PRISONS	094	BUSIA PRISON
041	SIAYA	234	ALEGO USONGA	1451	PRISONS	095	SIAYA PRISON (B)
042	KISUMU	238	KISUMU EAST	1451	PRISONS	096	KISUMU MAIN
042	KISUMU	239	KISUMU WEST	1451	PRISONS	097	KISUMU WOMEN
042	KISUMU	239	MUHORONI	1451	PRISONS	098	KISUMU MEDIUM
042	KISUMU	243	HOMA BAY TOWN	1451	PRISONS	099	KIBOS MAIN PRISON (B)

COUNTY CODE	COUNTY NAME	CONSTITUENCY CODE	CONSTITUENCY NAME	CAW CODE	CAW_ NAME	REGISTRATION CENTRE CODE	REGISTRATION CENTRE NAME
042	KISUMU	243	HOMA BAY TOWN	1451	PRISONS	100	KIBOS MEDIUM PRISON (B)
043	HOMA BAY	249	HOMA BAY TOWN	1451	PRISONS	102	HOMA BAY PRISON
044	MIGORI	255	SUNA EAST	1451	PRISONS	103	MIGORI WOMEN
044	MIGORI	255	SUNA EAST	1451	PRISONS	104	MIGORI PRISON (B)
044	MIGORI	259	KURIA WEST	1451	PRISONS	105	KEHANCHA PRISON/ KENDEGE
045	KISII	267	NYARIBARI CHACHE	1451	PRISONS	106	KISII MAIN
045	KISII	267	NYARIBARI CHACHE	1451	PRISONS	107	KISII WOMEN
047	NAIROBI	277	LANGATA	1451	PRISONS	109	NAIROBI WEST
047	NAIROBI	277	LANGATA	1451	PRISONS	110	LANGATA WOMEN PRISON
047	NAIROBI	279	ROYSAMBU	1451	PRISONS	112	KAMITI MEDIUM PRISON
047	NAIROBI	279	ROYSAMBU	1451	PRISONS	113	KAMITI MAIN PRISON
047	NAIROBI	289	STAREHE	1451	PRISONS	116	NAIROBI REMAND/ ALLOCATION
033	NAROK	179	KILGORIS	1451	PRISONS	118	KILGORIS PRISON

Annex 3: Detailed Findings of KPMG Audit

Major Issue	Sub items	No. of Records	Rationale	Action taken
Records without Biometric	Records with no biometric fingerprint images in the Register of Voters	5,427	These were voters who could be identified through complementary method using alpha numerical search of ID or name in the database	Voters were included in the Register of Voters.
Irregularities in the Register of Voters	Records in the Register of Voters with (a) duplicate IDs or passports. (b) Out of range details in the Register of Voters (e.g. ID no, Date of Birth, or Names appear as numbers)	264,242	Voters who registered more than once due to low level awareness. They consider each Mass Voter registration as a new Registration; Some cases were due to system hang or restart, while out of range was due to wrong date setting in the system	Retained the most recent record. The previous record became inactive (deactivated)
	Voters who had registered with both an ID and Passport	2,610	This could have been a case of fraud or data entry errors on passports	Only one current/ most recent record was retained
	voters whose details of IDs could not be found in the data provided by the National Registration Bureau	171,476	This could have been fraud or incomplete record at NRB	Records that did not match with the relevant Government agencies issuing the documents after verification with the authority were to flagged for investigation
	Voters whose details could not be found in the data on passports provided by the Directorate of Immigration.	17,523	Of these, 98 were confirmed to be Diplomatic Passports whose data had not been provided.	These were retained

Major Issue	Sub items	No. of Records	Rationale	Action taken
Deceased Voters	Deceased persons whose ID's and the names matched within the register of voters and for whom IEBC would immediately expunge from the Register.	92,277	CRS had provided to KPMG a list containing 435,175 deceased persons of all ages Of these only 196,988 records had complete details which could be used as a reference to the register of voters.	KPMG reviewed the number further downwards to 86,401 which were expunged from the register of voters

Annex 4: Inaccuracies in the Register of Voters

Type of inaccuracy	No of inaccuracies in RoV			Action taken
	Against IDs	Against Passports	Total	
Gender and Date of Birth did not match	12,640	33	12,673	Correction of records was done in the data base backend
Date of birth did not match	781,694	4,177	785,871	Correction of records was done in the data base backend
Inconsistencies in gender	259,572	252	259,824	Correction of records was done in the data base backend
Inconsistencies in names and other permutation of particulars	1,833,153	8,568	1,841,721	Correction of records was done in the data base backend
TOTAL	**2,887,059**	**13,030**	**2,900,089**	

Annex 5: Disputes Arising from Registration of Candidates for the 8th August, 2017 General Election

NO.	FILE NO.	PARTIES
1.	IEBC/DRC/NM/93/2017	ALEXANDAR NGONGESA DONISION VS RETRNING OFFICER NAVAKHOLO CONSTITUENCY
2.	IEBC/DRC/NM/62/2017	CHARLES MAGATI ABUGA VS RETURNING OFFICER STAREHE CONSTITUENCY
3.	IEBC/DRC/71/2017	FARAH ABDI HASSAN VS RETURNING OFFICER DADAAB CONSTITUENCY
4.	IEBC/DRC/NM/87/2017	MOSHE MUTUA KITU VS THE RETRNING OFFICER KIAMBU COUNTY
5.	IEBC/DRC/NM/70/2017	STEPHEN GICHINGA KIGUTA VS THE RETURNING OFFICER GITHUNGUTI CONSTITUENCY
6	IEBC/DRC/NM/65/2017	PETER KIMANI WANJOHI VS THE RETURNING OFFICER TURBO CONSTITUENCY
7	IEBC/DRC/NM/46/2017	MORRIS MUTWIRI MAINGI VS THE RETURNING OFFICER BUURI CONSTITUENCY
8	IEBC/DRC/NM/86/17	PETER KIHANDA KAHUKI VS THE RERTUNING OFFICER KANDARA CONSTITUENCY
9	IEBC/DRC/NM/204/2017	CATHRINE MANZI KITHEKA VS DENNIS NYAMBOGA MAUTI
10	IEBC/DRC/NM/180/2017	PATRICK KINYUA MWANGI VS THE RETURNING OFFICER MURANGA COUNTY
11	IEBC/DRC/207/2017	HENRY MILIMU VS THE RETURNING OFFICER SHINYALU CONSTITUENCY
12	IEBC/DRC/NM/212/2017	BENSON WAITA MUTUNE RETURNING OFFICER EMBAKASI CONSTITUENCY
13	IEBC/DRC/NM/218/2017	PAUL OCHIENG ACHAYO VS THE RETURNING OFFICER KISUMU CENTRAL CONSTITUENCY
14	IEBC/DRC/NM/231/2017	ABDIFATAH FARAH ADAN VS THE RETURNING OFFICER KAMUKUNJI CONSTITUENCY
15	IEBC/DRC/NM/210/2017	RONNIE CARLOSE YOUNG ONYANGOVS THE RETURNING OFFICER RAILWAYS WARD KISUMU
16	IEBC/DRC/NM/199/17	HASSAN HALAKE BAGAJO VS THE RETURNING OFFICER ISIOLO
17	IEBC/DRC/NM/205/2017	BENSON O. ONG'ONGE AND OTHERS VS ODM AND FREDRICK ONYANGO
18	IEBC/DRC/NM/202/2017	MICHEAL MUGAMBI NJAGI VS THE RETURNING OFFICER TURKANA CENTRAL CONSTITUENCY
19	IEBC/DRC/NM/274/2017	ZACHARIAH OMAR VS THE RETURNING OFFICER BOB OMWENGA OKIYA

NO.	FILE NO.	PARTIES
20	IEBC/DRC/NM/277/2017	KILONZO CHRSIPIN NZILI VS THE RETURNING OFFICER KAMUKUNJI CONSTITUENCY
21	IEBC/DRC/NM/300/2017	JOHN ROBERT VS THE RETURNING OFFICER NAKURU EAST
22	IEBC/DRC/NM/302/2017	STEPHEN OMONDI OYOO VS JAIRO ASITIBI ATENYA
23	IEBC/DRC/NM/265/2017	ENOSH OTIENO ORORE VS JULIUS ODHIAMBO
24	IEBC/DRC/NM/217/2017	ELIMINA ATAMBA MWIMALI VS CYRUS LISWA
25	IEBC/DRC/NM/203/2017	GEOFFREY KHISA BARASA VS THE RETURNING OFFICER KANDUNYI CONSTITUENCY
26	IEBC/DRC/NM/303/2017	ISAAC ALOUCH VS DALMAS OTIENO
27	IEBC/DRC/NM/220/2017	BLASIO OTIENO JUMA VS THE RETURNING OFFICER KISUMU CENTRAL CONSTITUENCY
28	IEBC/DRC/NM/305/2017	ZEPHANIAMUKWAYA CHACHA VS THE RETURNING OFFICER KURIA EAST
29	IEBC/DRC/NM/258/2017	ONESMUS MWANGI MWAURA VS THE RETURNING OFICER KANDARA
30	IEBC/DRC/NM/338/2017	JELAGAT RAYMOND VS THE RETURNING OFFICER ELGEYO MARAKWET CONSITUTUENCY
31	IEBC/DRC/NM/211/2017	NAZLIN OMAR VS THE CHAIR WAFULA CHEBUKATI
32	IEBC/DRC/NM/282/2017	WAIGANJO DAVID NG'ANG'A VS THE RETURNING OFFICER GITHUNGURI CONSTITUENCY
33	IEBC/DRC/NM/317/2017	JOSEPH CHIRO VS THE RETURNING OFFICER KINANGO, KWALE COUNTY
34	IEBC/DRC/NM/316/2017	ERICK ONYANGO VS AUGUSTINE N.ADHALO
35	IEBC/DRC/NM/225/2017	JANE WANJIRU GITUKU VS JOSEPH MUNGAI KAMANU
36	IEBC/DRC/NM/339/2017	ELIJAH OMONDI VS THE RETURNING OFFICER KISUMU CENTRAL
37	IEBC/DRC/NM/312/2017	THOMAS JOSEPH MATUI VS THE RETURNING OFFICER ALDAI CONSTITUENCY
38	IEBC/DRC/NM/301/2017	JOSEPHINE MWENDARANI JUMBA VS THE RETURNING OFFICER AWENDO CONSTITUENCY
39	IEBC/DRC/NM/314/2017	NICHOLAS ZANI VS ISSA JUMA BOY
40	IEBC/DRC/NM/338/2017	IBRAHIM OSURA ANG'ILA VS MAURICE GARE OTIENO
41	IEBC/DRC/291/2017	LUCAS AMAYO VS THE RETURNING OFFICER BONCHARI CONSTITUENCY
42	IEBC/DRC/NM/219/2017	ABDIRAHMAN MOHAMED ABDILE VS MOHAMED ABDI MOHAMUD
43	IEBC/DRC/NM/68/2017	HARUN RUGENDO NJOKA VS THE RETURNING OFFICER CHUKA IGAMBA NGOMBA

NO.	FILE NO.	PARTIES
44	IEBC/DRC/NM/334/2017	JOSEPH AWICH VS RETURNING OFFICER RARIEDA CONSTITUENCY
45	DRC No. 95 of 2017	PETER GATAWA MUTHOGA & 9 OTHERS VERSUS MOSES NDUNG'U MWANGI.
46	DRC No. 176 of 2017	BERNARD ODHIAMBO OGADA VERSUS ODM & JOAN OGADA
47	DRC No. 178 of 2017	SIMON MUTURI KURIA VERSUS RETURNING OFFICER, KASARANI.
48	DRC No. 242 of 2017	OMAR ABDALLA MOHAMED VERSUS RETURNING OFFICER, LIKONI.
49	DRC No. 177 of 2017	ROBERT ORUKO OTUGE VERSUS STEPHEN OUMA OWITI.
50	DRC No. 283 of 2017.	MATHU ADAMS NJERI VERSUS RETURNING OFFICER, RONGAI
51	DRC No. 285 of 2017	ABCHIRO IBRAHIM LERAPO & 5 OTHERS VERSUS UMORO SORA ADANO.
52	DRC No. 237 of 2017	ANDERSON NYUNDO THOYA VERSUS RETURNING OFFICER, KILIFI NORTH.
53	DRC No. 340 of 2017	BERNARD MOGENI KIAGE VERSUS RETURNING OFFICER, KITUTU MASABA.
54	DRC No. 137 of 2017	NJAGI MICHENI VERSUS KAKUTA MAIMAI HAMISI & ANOTHER.
55	DRC No. 320 of 2017	DANIEL MWENDA RUKUNGA VERSUS RETURNING OFFICER, ISIOLO.
56	DRC No. 216 of 2017 Eric	MUTHURI MUTHAURA VERSUS RETURNING OFFICER, EMBAKASI NORTH.
57	DRC No. 173 of 2017	FRANCIS M. MWANGI VERSUS RETURNING OFFICER, EMBAKASI NORTH.
58	DRC No. 175 of 2017	FRANCIS NGACHA WAHOME VERSUS DR. THUO MATHENGE.
59	DRC No. 190 of 2017.	HARDLEY MWAKHA MWALE VERSUS RETURNING OFFICER, EMBAKASI WEST & ANOTHER
60	DRC No. 293 of 2017	HENRY MIHESO LUBANG'A VERSUS RETURNING OFFICER, LUGARI.
61	DRC No. 138 of 2017	INNOCENT OTIENO MASARA VERSUS INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION.
62	DRC No. 127 of 2017 Jerry	OUMA OMOLO VERSUS RETURNING OFFICER, RANGWE & ANOTHER.
63	DRC No. 35 of 2017 Joshua	OKUMU VERSUS RETURNING OFFICER, KASIPUL.
64	DRC No. 272 of 2017	KINGSLEY WELLINGTON ODIDA OBONYO VERSUS JOSEPH OUMA NDONJI & ANOTHER.

NO.	FILE NO.	PARTIES
65	DRC No. 244 of 2017	MUHEMO DISMAS ASERI VERSUS RETURNING OFFICER, HAMISI.
66	DRC No. 187 of 2017	PAUL ODHIAMBO RETURNING OFFICER, NYALI.
67	DRC No. 140 of 2017	PETER MAINA KARUMBA VERSUS RETURNING OFFICER, LAIKIPIA NORTH.
68	DRC No. 296 of 2017	ROBINSON OTUKE NYOUGO VERSUS JOSEPH ONTITA ONSONGO.
69	DRC No. 104 of 2017	SHUEIB HUSSEIN AHMED VERSUS RETURNING OFFICER, WAJIR EAST.
70	DRC No. 143 of 2017	WYCLIFFE KHISA LUSAKA VERSUS RETURNING OFFICER, KANDUYI.
71	DRC No. 92 of 2017	YEZIEL MATHUFALI DADDAH VERSUS RETURNING OFFICER, GARSEN.
72	DRC No. 165 of 2017	JOHN OMURUMBA ASHIEMBI VERSUS RETURNING OFFICER, BUTERE.
73	DRC No. 260 of 2017	CLINTON ANYONA MWENE VERSUS ADAMS NYATANGI.
74	DRC No. 323 of 2017	DAVID MZUNGU UDZILE VERSUS RETURNING OFFICER, KILIFI SOUTH.
75	DRC No. 318 of 2017	GEDION OGOLA OWITI VERSUS JARED OKOTH OKODE & ANOTHER.
76	DRC No. 169 of 2017	JOASH PEREIZE ONDEYO VERSUS LEONARD ALUDA MUHALI.
77	DRC No. 268 of 2017	JULIUS TOMBO OWINGA VERSUS JUBILEE PARTY.
78	DRC No. 142 of 2017	RONE ACHOKI HUSSEIN VERSUS ODM.
79	DRC No. 326 of 2017	SALIM OMAR SALIM VERSUS RETURNING OFFICER, KILIFI.
80	DRC No. 304 of 2017	SAMWEL MWANGI MACHARIA VERSUS RETURNING OFFICER, NAIVASHA.
81	DRC No. 261 of 2017	KONYANDO DUNCAN OTIENO VERSUS SEVERAL CANDIDATES.
82	DRC No. 128 of 2017 Tom	MIGIRO ORENGE VERSUS ODM & ANOTHER.
83	DRC No. 288 of 2017.	SHEM BENJAMIN MOLENJI VERSUS RETURNING OFFICER, NAKURU
84	DRC No. 51 of 2017	BENSON NENE GITHINJI VERSUS RETURNING OFFICER, GITUNGURI.
85	DRC No. 60 of 2017	ESTHER WANJIRU NDIRANGU VERSUS RETURNING OFFICER, GITHUNGURI.
86	DRC No. 80 of 2017	GEORGE MWASARU SHENA VERSUS RETURNING OFFICER, WUNDANYI.
87	DRC No. 38 of 2017	ALICE NAKAPWEPWE JAPHET VERSUS RETURNING OFFICER, TANA RIVER.

NO.	FILE NO.	PARTIES
88	DRC No. 40 of 2017	BENEDICT KIPYEGON RUTTO VERSUS RETURNING OFFICER, KIPKELION WEST.
89	DRC No. 34 of 2017	EMILY KALAMBO SHENA VERSUS MAURICE ACHIENG.
90	DRC No. 37 of 2017	NANCY LUNGAHI MUDEHELI VERSUS RETURNING OFFICER, KAKAMEGA.
91	DRC No. 59 of 2017	STEPHEN KORIO KANJA VERSUS RETURNING OFFICER, GITHUNGURI.
92	DRC No. 84 of 2017	WESTON GITONGA VERSUS RETURNING OFFICER, LAIKIPIA
93	DRC No. 134 of 2017	JUBILEE PARTY VERSUS ABDUL KASSIM.
94	DRC No. 264 of 2017	SAMUEL KAMAU NDUNGU VERSUS IEBC.
95	DRC No. 82 of 2017	BOAZ ABWAO KIVANDA VERSUS ORANGE DEMOCRATIC MOVEMENT.
96	DRC No. 68 of 2017	HARON RUGENDO NJOKA VERSUS RETURNING OFFICER, CHUKA.
97	DRC No. 107 of 2017	EDWARD MUKAYA KHAMALA VERSUS RETURNING OFFICER, NAVAKHOLO.
98	DRC No. 313 of 2017	MARK SIKO VERSUS IEBC & 2 OTHERS.
99	DRC No. 120 of 2017	JAMES MUNYI NGANGU VERSUS ODM.
100	DRC No. 328 of 2017	ABDULLAHI ALI DHIMA VERSUS RETURNING OFFICER, ISIOLO.
101	DRC No. 329 of 2017	ADAM BARISSA DHIDHA VERSUS INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION & 2 OTHERS.
102	IEBC/DRC/NM/03/2017	JOHN ORWA VS GEORGE OKINYI OMAMBA (THE RETURNING OFFICER)
103	IEBC/DRC/NM/04/2017	HILLARY WASONGA SORO VS ALBERT ODETE AMOLLO
104	IEBC/DRC/NM/06/2017	LOMUTONGOLE JOSHUA YATTA VS THE RETURNING OFFICER (THE RETURNING OFFICER FOR TIATY CONSTITUENCY)
105	IEBC/DRC/NM/14/2017	SIMON JUMA VS. MAURICE OMONDI ONDIEKI (THE RETURNING OFFICER)
106	IEBC/DRC/NM/18/2017	TOM OMOLLO KASERA VS. BRIAN ODHIAMBO OSODO (THE RETURNING OFFICER)
107	IEBC/DRC/NM/35/2017	JOSHUA OKUMU NYABOLAH VS. CLEMENT OSIEMO MOKOBO (THE RETURNING OFFICER)
108	IEBC/DRC/NM/39/2017	JULIUS S. NYAMBOK VS. YEGON KIBOS KIPRUTO (THE RETURNING OFFICER)
109	IEBC/DRC/NM/41/2017	NELSON KIPRONO SIONGOK VS. THE CONSTITUENCY RETURNING OFFICER, KIPKELION WEST

NO.	FILE NO.	PARTIES
110	IEBC/DRC/NM/45/2017	NASSIR KUYO MHAMARI VS. NZOGOMOA MBIZI (THE RETURNING OFFICER)
111	IEBC/DRC/NM/64/2017	THOMAS ODHIAMBO MAKOMBORA VS. AZIZ KASSIM
112	IEBC/DRC/NM/91/2017	JOSEPH OUMA NDONJI VS. KINGSLEY WELLINGTON ODIDA & THE ORANGE DEMOCRATIC MOVEMENT (ODM)
113	IEBC/DRC/NM/96/2017	CHRISTOPHER ALVIN MOKAYA VS. DR. JOSEPH MEHLE THE IEBC NAIROBI COUNTY RETURNING OFFICER
114	IEBC/DRC/NM/101/2017	ROY OCHIENG SAMO VS. CLIFFORD ODHIAMBO MWALO
114	IEBC/DRC/NM/111/2017	WYCLIFF BOB OGETO VS. PATRICK ONYANGO OKELLO & ORANGE DEMOCRATIC MOVEMENT
116	IEBC/DRC/NM/128/2017	TOM MIGIRO ORENGE VS. ORANGE DEMOCRATIC MOVEMENT & ABINA MOGIRE
117	IEBC/DRC/NM/129/2017	PETER KIARIE MUTHONI VS. RETURNING OFFICER RURU CONSTITUENCY
118	IEBC/DRC/NM/130/2017	GOLLO ABDALLA ADAN VS. RAJAB HUSSEIN
119	IEBC/DRC/NM/131/2017	SALA JARED OWINO VS. ORANGE DEMOCRATIC MOVEMENT & JARED OKELLO
120	IEBC/DRC/NM/132/2017	DANIEL IMANYE OMUKA VS. EMUHAYA SUB- COUNTY RETURNING OFFICER
121	IEBC/DRC/NM/144/2017	GODFREY WANYONYI SICHANGE VS. THE RETURNING OFFICER FOR KANDUNYI CONSTITUENCY
122	IEBC/DRC/NM/146/201	JAMES CHWALA WAFULA VS. THE RETURNING OFFICER FOR WESTLANDS CONSTITUENCY
123	IEBC/DRC/NM/149/2017	JACKSON MUTURI WANGARI VS. THE RETURNING OFFICER FOR JOMVU CONSTITUENCY
124	IEBC/DRC/NM/150/2017	JAMES MWANGI KAMAU VS. THE RETURNING OFFICER FOR MOLO CONSTITUENCY
125	IEBC/DRC/NM/161/2017	ZAKAYO ROTIKEN VS. THE RETURNING OFFICER NAROK COUNTY
126	IEBC/DRC/NM/162/2017	SIMON NJENGA KARIUKI VS. THE RETURNING OFFICER KABETE CONSTITUENCY
127	IEBC/DRC/NM/163/2017	JOHN OTIENO AOKO VS JOSHUA ONYANGO OUMA & JOHN KENNEDY OMONDI
128	IEBC/DRC/NM/164/2017	WILSON GECHONGE VS. DENIS WAFULA OKINDA
129	IEBC/DRC/NM/165/2017	JOHN OMURUMBA ASHIEMI VS. THE RETURNING OFFICER BUTERE CONSTUTUENCY
130	IEBC/DRC/NM/166/2017	JOSEPH KIMAIYO TOWETT VS. THE RETURNING OFFICER MOLO CONSTUTUENCY
131	IEBC/DRC/NM/167/2017	MICHAEL OUMA MAJUA VS. FREDRICK OSEWE BONYO

NO.	FILE NO.	PARTIES
132	IEBC/DRC/NM/168/2017	ORANGE DEMOCRATIC MOVEMENT (ODM) VS. EDICK PETER ANYANGA
133	IEBC/DRC/NM/169/2017	JOASH PEREIZE ONDEYO VS. LEONARD ALUDA MUHALI
134	IEBC/DRC/NM/198/2017	JARED MAINYE VS. FRANCIS OSIMBA MALACHI
135	IEBC/DRC/NM/222/2017	GEORGE OMWERI VS. WIPER DEMOCRATIC PARTY
136	IEBC/DRC/NM/223/2017	JOHN WEKESA WALIARO VS. THE RETURNING OFFICER FOR BUETE CONSTITUENCY
137	IEBC/DRC/NM/236/2017	CHARLES KEERA VS. THE RETURNING OFFICER BONCHARI CONSTITUENCY
138	IEBC/DRC/NM/262/2017	SAID ALI YAWA VS. THE RETURNING OFFICER KILIFI SOUTH CONSTITUENCY
139	IEBC/DRC/NM/263/2017	ISHMAEL ATUDO ATIENO VS. RETURNING OFFICER FOR KISUMU COUNTY
140	IEBC/DRC/NM/269/2017	ISAAC ALUOCH POLO ALUOCHIER VS. UHURU MUIGAI KENYATTA, RAILA AMOLO ODINGA, JOSEPH WILLIAM NTHIGA NYAGAH, WILLIAM SAMOEI RUTO & STEPHEN KALONZO MUSYOKA
141	IEBC/DRC/NM/270/2017	SHONGOK AGNESS NAILANTEY VS. JUBILEE PARTY, CHAMA MWANGAZA DAIMA, THE REGISTRAR OF POLITCAL PARTIES & ROTIKEN SYMON KAITIKEI
142	IEBC/DRC/NM/275/2017	ABDIRIZAK ISMAIL SHEIKH VS. ODM NATIONAL ELECTIONS BOARD & IBRAHIM ABDI ALI
143	IEBC/DRC/NM/278/2017	MUKINGINYI WALTER TRENK VS. DR. MELE EROO (RETURNING OFFICER)
144	IEBC/DRC/NM/297/2017	JOSEPH M. MUCHIRI VS. THE RETURNING OFFICE MWEA CONSTITUENCY
145	IEBC/DRC/NM/308/2017	WILSON ONGELE OCHOLA VS. ABEL OSUMBA ATITO & ORANGE DEMOCRATIC MOVEMENT
146	IEBC/DRC/NM/324/2017	KENNEDY ODURU NYARUMBA VS. FREDRICK OMONDI OTIENO
147	IEBC/DRC/NM/332/2017	BENBELLA ONYANGO OGOLA VS. JOBANDO ONYANGO GEORGE
148	IEBC/DRC/NM/2/2017	DAVID ODHIAMBO OFUO –VS- ELIJAH ADONGO MBOGO
149	IEBC/DRC/NM/9/2017	LAWISES JUMA OTETE –VS- ORANGE DEMOCRATIC MOVEMENT
150	IEBC/DRC/NM/10/2017	VICTOR ODUOR WESONGA –VS- ORANGE DEMOCRATIC MOVEMENT
151	IEBC/DRC/NM/5/2017	TOM OGALO OLUOCH –VS- THE RETURNING OFFICER, LIKONI CONSTITUENCY
152	IEBC/DRC/NM/23/2017	CHRISPIN MWANGANGI –VS- THE RETURNING OFFICER, MATHARE CONSTITUENCY

NO.	FILE NO.	PARTIES
153	IEBC/DRC/NM/16/2017	EUNICE WANGARI KIRAGU –VS- THE COUNTY RETURNING OFFICER, NYERI
154	IEBC/DRC/NM/21/2017	GEORGE MAGANGE JAMES -VS- THE RETURNING OFFICER, BOBASI CONSTITUENCY
155	IEBC/DRC/NM/19/2017	CHARLES AGUKO AGUKO –VS- THE RETURNING OFFICER, NYANDO CONSTITUENCY
156	IEBC/DRC/NM/81/2017	MOSES BANDA MWENDWA –VS- MPARO RIARA MAURICE
157	IEBC/DRC/NM/85/2017	DUNCAN GITHINJI CHEGE –VS- RETURNING OFFICER OL JORO.ROK
158	IEBC/DRC/NM/306/2017	WEKESA CHISTOPHER SIFUNA –VS- RETURNING OFFICER KANDUYI
159	IEBC/DRC/NM/230/2017	FREDRICK KINGANGIR –VS- FRANCIS KAESA
160	IEBC/DRC/NM/208/2017	PHILIP IMBENZI MUKABWA & JARED ODHIAMBO OUYA –VS- JOSEPH MWOLOLO WILFRED OLUOCH ODALO, ORANGE DEMOCRATIC MOVEMENT PARTY & HERBERT MUGANDA MULAA
161	IEBC/DRC/NM/227/2017	BASHIR MOHAMUD HASSAN –VS- THE RETURNING OFFICER SUNA WEST & MALAN OMOLO OGEGA
162	IEBC/DRC/NM/309/2017	DANIEL M. NYAMBOKA & GODFREY SENDA GISORE –VS- ANDREW MOKORO NYAGWANSA
163	IEBC/DRC/NM/154/2017	LABAN KURIA –VS- THE RETURNING OFFICER STAREHE CONSTITUENCY
164	IEBC/DRC/NM/204/2017	CATHERINE MANZI KITHEKA –VS- DENNIS NYABOGA MAISTI & JUBILEE PARTY
165	IEBC/DRC/NM/158/2017	EZEKIEL MAHUGU KARANJA –VS- THE RETURNING OFFICER KANDARA
166	IEBC/DRC/NM/157A/2017	FRANCIS OJANGO OCHWACHO –VS- RETURNING OFFICER LUANDA CONSTITUENCY
167	IEBC/DRC/NM/151/2017	FRANCIS OJANGO OCHWACH –VS- THE RETURNING OFFICER LUANDA CONSTITUENCY
168	IEBC/DRC/NM/158A/2017	BENSON ANDAYI OMWAKWE –VS- BENSON KENNEDY FRANCIS AMEYO
169	IEBC/DRC/NM/159/2017	JOEL MWANGANGI KIMI VS THE RETURNING OFFICER MWINGI WEST CONSTITUENCY
170	IEBC/DRC/NM/289/2017	ISAAC ALUOCH POLOALUOCHIER VS JUBILEE PARTY, ODM, FORD-K, KANU
171	IEBC/DRC/NM/197/2017	JACKSON KIAGO ISAAC VS RETURNING OFFICERNYARIBARI MASABA CONSTITUENCY
172	IEBC/DRC/NM/191/2017	ALEX AUDA OTIENO –VS- ORANGE DEMOCRATICMOVEMENT KENYA & OSCAR OMOKE

NO.	FILE NO.	PARTIES
173	IEBC/DRC/NM/119/2017	SAFINA PARTY –VS- INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION & THE RETURNING OFFICER, KIKUYU CONSTITUENCY
174	IEBC/DRC/NM/171/2017 IEBC/DRC/NM/179/2017	PETER OWERA OLUOCH –VS- THE RETURNING OFFICER MATHARE CONSTITUENCY CONSOLIDATED WITH ORANGE DEMOCRATIC MOVEMENT PARTY –VS- THE INDEPENDENT ELECTORAL AND BOUNDARIIES COMMISSION & THE RETURNING OFFICER MATHARE CONSTITUENCY & DAVID RUONGO OKELLO & PETER OWERA
175	IEBC/DRC/NM/141/2017	PAUL OTIENO OBIA –VS- THE RETURNING OFFICER KIBRA CONSTITUENCY
176	IEBC/DRC/NM/139/2017	DOROTHY MASUKA ADHU –VS- ORANGE DEMOCRATIC MOVEMENTS & ODM NOMINEE FOR RAILWAYS WARD
177	IEBC/DRC/NM/310/2017	ELPHAS ODIWUOR OMONDI –VS- ORANGE DEMOCRATIC MOVEMENT & JOAN MINSARI OGADA
178	IEBC/DRC/NM/290/2017	OMBESO GEOFFREY –VS- THE RETURNING OFFICER MIGORI COUNTY
179	IEBC/DRC/NM/298/2017	FREDRICK OKOLLA OJWANG –VS- ORANGE DEMOCRATIC MOVEMENT PARTY & FADHILI MWALIMU MAKARANI
180	IEBC/DRC/NM/294/2017	JAMES PATRICK CHERUIYOT –VS- AP OFFICERS CONTRACTED BY IEBC
181	IEBC/DRC/NM/238/2017	HASSAN IDAN ISSAK –VS- THE RETURNING OFFICER MANDERA SOUTH CONSTITUENCY
182	IEBC/DRC/NM/243/2017	ALEX G. WAMBOGO –VS- THE RETURNING OFFICER LIKONI CONSTITUENCY
183	IEBC/DRC/NM/330/2017	JUBILEE PARTY –VS- THE RETURNING OFFICER ISIOLO NORTH CONSTITUENCY
184	IEBC/DRC/NM/336/2017	LAWRENCE OUMA OWUORO OGUTU –VS- THE RETURNING OFFICER MBITA CONSTITUENCY
185	IEBC/DRC/NM/341/2017	SAMWEL HAWALA –VS- JAMES OTARE.
136	IEBC/DRC/NM/292/2017	WILFRED G. MACHAGE –VS- SAMSON MATIKO BOHOKO
137	IEBC/DRC/NM/233/2017	MOSES KITEME –VS- THE RETURNING OFFICER, MWINGI WEST CONSTITUENCY
138	IEBC/DRC/NM/130/2017	GOLLO ABDALLA ADAN –VS- THE RETURNING OFFICER, LURAMBI CONSTITUENCY
189	IEBC/DRC/NM/276/2017	KINGSTON SULEIMAN BULEMI –VS- THE RETURNING OFFICER, STAREHE CONSTITUENCY

NO.	FILE NO.	PARTIES
190	IEBC/DRC/NM/281/2017	ALBERT ASIAGO OBADE –VS- BOAZ OWITI OKOTH & ANOTHER
191	IEBC/DRC/NM/270/2017	SHONKO AGNES NAILANTEY –VS- JUBILEE PARTY AND OTHERS
192	IEBC/DRC/NM/321/2017	FRANCIS NDUNG'U WANYORO –VS- PIUS MBONO
193	IEBC/DRC/NM/156/2017	BENJAMIN KEVIN NDAMBUKI -VS - THE RETURNING OFFICER STAREHE CONSTITUENCY
194	IEBC/DRC/NM/214/2017	STEPHEN OMODIA EMUSUKUT -VS - THE RETURNING OFFICER EMBAKASI NORTH
195	IEBC/DRC/NM/200/2017	BASSIL OTIENO ODERO -VS - THE RETURNING OFFICER NYATIKE CONSTITUENCY
196	IEBC/DRC/NM/155/2017	OSCAR TSIMBALAKA MWANZI -VS - JUSTUS KIZITO MUGALI & THE RETURNING OFFICER SHINYALU CONSTITUENCY
197	IEBC/DRC/NM/188/2017	CHARLES ODHIAMBO AMENYA -VS - THE RETURNING OFFICER KARACHUONYO CONSTITUENCY
198	IEBC/DRC/NM/182/2017	FRIDAH MUENDI –VS- RETURNING OFFICER MATUNGULU WEST CONSTITUENCY
199	IEBC/DRC/NM/228/2017	CHARLES KENYATTA ONKUNDI -VS- THE RETURNING OFFICER, UTAWALA
200	IEBC/DRC/NM/152/2017	GEORGE LEMPEEI –VS- THE RETURNING OFFICER, UTAWALA
201	IEBC/DRC/NM/215/2017	PAUL OCHIENG OUMA –VS- THE RETURNING OFFICER, SUBA NORTH CONSTITUENCY
202	IEBC/DRC/NM/153/2017	CLEMENT CHERUIYOT KIPLAGAT –VS- NIXON KIPROTICH MOROGO & INDEPENDENT ELECTION BOUNDARIES COMMISSION
203	IEBC/DRC/NM/184/2017	EVANS OTIENO –VS- RETURNING OFFICER KITUTU CHACHE
204	IEBC/DRC/NM/219/201	ABDIRAHMAN MOHAMED ABDILLE –VS-JUBILEE PARTY
205	IEBC/DRC/NM/1/2017	SHEM ODONGO OCHUODHO AND MICHAEL KOSGEI (HOMABAY COUNTY RETURNING OFFICER)
206	IEBC/DRC/NM/7/2017	BENSON THURANIRA KATHIAI AND MUHIA NJIRAINI ANTONY RETURNING OFFICER
207	IEBC/DRC/NM/11/2017	MOHAMED HASSAN ALI AND GULIYA HUSSEIN ABIDWAHID (MNARANI WARD RETURNING OFFICER)
208	IEBC/DRC/NM/12/2017	PITHON MUGAMBI NGURU AND LENARUM DANIEL (COUNTY RETURNING OFFICER, EMBU)
209	IEBC/DRC/NM/20/2017	FRANCIS MUTUKU MUSYOKA AND MARVIN MUNGA KARANJA PITHON MUGAMBI NGURU AND LENARUM DANIEL (RETURNING OFFICER, MACHAKOS TOWN CONSTITUENCY)

NO.	FILE NO.	PARTIES
210	IEBC/DRC/NM/28/2017	EDWARD ILANDI KITHEKA AND MWANGI KANYORIA STANLEY (RETURNING OFFICER, KITUI EAST CONSTITUENCY)
211	IEBC/DRC/NM/31/2017	ONGERI JARED MAEBA AND PHILICE AYIEMBA (RETURNING OFFICER, STAREHE CONSTITUENCY
212	IEBC/DRC/NM/32/2017	PETER MAKESA AND JAPHET LAGAT RETURNING OFFICER, LUGARI CONSTITUENCY
213	IEBC/DRC/NM/42/2017	NYAMBOGA M CONSTANTINE AND JAMES MACHUKA MICHOMA
214	IEBC/DRC/NM/47/2017	SAMUEL MAGECHA CHACHA AND K. BOINETT FRANK (RETURNING OFFICER, EMBAKASI NORTH CONSTITUENCY)
215	IEBC/DRC/NM/48/2017	PETER OLUOCH LANGO AND WACHERA MWANGI KAREN (RETURNING OFFICER, RUARAKA CONSTITUENCY)
216	IEBC/DRC/NM/49/2017	JOSEPH ORWARU NAFTAL AND KIPKORIR CHARLES KYAVOA (RETURNING OFFICER, EMBAKASI SOUTH CONSTITUENCY)
217	IEBC/DRC/NM/72/2017	EUNICE KHALWALI MIIMA AND RETURNING OFFICER, KAKAMEGA COUNTY
218	IEBC/DRC/NM/74/2017	PETER AGINGO OMUKHANGO AND RETURNING OFFICER, EMBAKASI NORTH CONSTITUENCY
219	IEBC/DRC/NM/77/2017	NIMROD BUNDI STANLEY AND AMANI NATIONAL CONGRESS
220	IEBC/DRC/NM/82/2017	BOAZ ABWAO KIVANDA AND ORANGE DEMOCRATIC MOVEMENT
221	IEBC/DRC/NM/88/2017	SAMMY KIPKORIR SERONEY AND KIPCHIRCHIR SEREM GILBERT (NAKURU TOWN WEST RETURNING OFFICER)
222	IEBC/DRC/NM/89/2017	SAMSON OPIYO OWITI AND (RETURNING OFFICER, EMBAKASI WEST CONSTITUENCY)
223	IEBC/DRC/NM/94/2017	ELIJAH ISABOKE AND RETURNING OFFICER, KITUTU CHACHE NORTH CONSTITUENCY
224	IEBC/DRC/NM/105/2017	ISAYA OYOO OPAP AND IEBC AND 3 OTHERS
225	IEBC/DRC/NM/98/2017	KENNETH KIPLAGAT KORIR AND GRACE ATIENO OWINO (RETURNING OFFICER, NAROK SOUTH CONSTITUENCY)
226	IEBC/DRC/NM/110/2017	ANTONY RAGORI MONDA AND RETURNING OFFICER, NYARIBARI MASABA CONSTITUENCY
227	IEBC/DRC/NM/111/2017	WYCLIFFE BOB OGETO AND PATRICK ONYANGO OKELLO AND ODM
228	IEBC/DRC/NM/122/2017	DAVID KIMELI LETING AND HILARY KIPKEMBOI RONO, RETURNING OFFICER, KAPSERET CONSTITUENCY

NO.	FILE NO.	PARTIES
229	IEBC/DRC/NM/124/2017	EDWARD ONGUKO AJWANG AND RETURNING OFFICER, KISUMU CENTRAL CONSTITUENCY
230	IEBC/DRC/NM/125/2017	PROTUS WASWA WAFULA AND RETURNING OFFICER, KANDUYI CONSTITUENCY
231	IEBC/DRC/NM/133/2017	ENOCH ONKOBA MOKAYA AND RETURNING OFFICER, MOLO CONSTITUENCY
332	IEBC/DRC/NM/147/2017	CHARLES ONCHIRI MANONO AND JOHN ONSOMU KEBIRO
233	IEBC/DRC/NM/164/2017	WILSON GECHONGE AND RETURNING OFFICER MATAYOS CONSTITUENCY
234	IEBC/DRC/NM/175/2017	FRANCIS NGACHA WAHOME AND RETURNING OFFICER, NYERI AND DR THUO MATHENGE
235	IEBC/DRC/NM/181/2017	JOSEPH GARANA AND JOSEPH GARANA
236	IEBC/DRC/NM/183/2017	BABRA NKIROTE MURITHI AND FRANKLIN MITHIKA LINTURI
237	IEBC/DRC/NM/209/2017	REUBEN NGUGI AND RETURNING OFFICER KANDARA
238	IEBC/DRC/NM/226/2017	PROTUS OCHIENG NYONGESA AND KEVIN KEEGAN KINGADA
239	IEBC/DRC/NM/232/2017	JOHN ATIENO AWUOR AND RETURNING OFFICER STAREHE CONSTITUENCY
240	IEBC/DRC/NM/234/2017	KHAMIS MWAKAONJE LIGANJE AND RETURNING OFFICER MSAMBWENI CONSTITUENCY KWALE
241	IEBC/DRC/NM/240/2017	PHANNY AKOSA ABUTI AND ODM
242	IEBC/DRC/NM/259/2017	GEOFFREY OKUTO AND GEORGE OCHOLLA
243	IEBC/DRC/NM/279/2017	JAMES KARIMI AND RETURNING OFFICER KIRINYAGA
244	IEBC/DRC/NM/307/2017	MATHIAS MUTISO MULI AND RETURNING OFFICER KAMUKUNJI
245	IEBC/DRC/NM/315/2017	FREDRICK ODHIAMBO OYUGI AND JANE WANGUI AND ODM PARTY AND IEBC
246	IEBC/DRC/NM/328/2017	ABDULLAHI ALI AND RETURNING OFFICER ISIOLO NORTH
247	IEBC/DRC/NM/333/2017	GODFREY JUMA AND ODM & 2 OTHERS
248	IEBC/DRC/NM/356/2017	JOAB ANDIBA REUBEN AND RETURNING OFFICER NAIROBI COUNTY
249	IEBC/DRC/NM/8/2017	DR. HARUN MWANDALI vs. FESTUS MUCHEKE MUREITHI
250	IEBC/DRC/NM/13/2017	FELIX ANDITI AWUOR vs. COUNTY RETURNING OFFICER, NAIROBI
251	IEBC/DRC/NM/22/2017	AGGREY NAGWEYA NDEDA vs. VIHIGA COUNTY RETURNING OFFICER
252	IEBC/DRC/NM/26/2017	SAMUEL ANDIWO OTIENO vs. OWUOR LAWRENCE

NO.	FILE NO.	PARTIES
253	IEBC/DRC/NM/27/2017	SAMUEL ANDIWO OTIENO & CHARLES ODODA OPIYO vs. WALTER WERE MUOK
254	IEBC/DRC/NM/29/2017	KENNEDY MUCHIRI vs. RETURNING OFFICER, STAREHE
255	IEBC/DRC/NM/44/2017	KEMEI DANIEL KIPRONO vs. RETURNING OFFICER, TURBO CONSTITUENCY
256	IEBC/DRC/NM/54/2017	KOTIEZO CHRISTOPHER vs. R. OFFICER, LIKUYANI CONSTITUENCY
257	IEBC/DRC/NM/56/2017	JOSHUA NJOROGE NJAU vs. THE CONSTITUENCY RETURNING OFFICER, GITHUNGURI
258	IEBC/DRC/NM/57/2017	ISAAC MAINA KIMANI vs. THE CONSTITUENCY RETURNING OFFICER, EMBAKASI NORTH
259	IEBC/DRC/NM/66/2017	BONIFACE ALEXANDER OLUMU vs. RETURNING OFFICER, MATUNGU CONSTITUENCY
260	IEBC/DRC/NM/69/2017	BONIFACE KIARIE GITAGIA vs. RETURNING OFFICER, TRANS NZOIA
261	IEBC/DRC/NM/71/2017	FARAH ABDI HASSAN vs. RETURNING OFFICER,DADAAB CONSTITUENCY
262	IEBC/DRC/NM/75/2017	BEVON MOSIRIA MOMANYI vs. RETURNINGOFFICER, CHANGAMWE CONSTITUENCY
263	IEBC/DRC/NM/91/2017	JOSEPH OUMA NDONJI vs. KINGSLEY WELLINGTON ODIDA & ANOTHER
264	IEBC/DRC/NM/100/2017	TOM MBOYA ODEGE vs. THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION RETURNINGOFFICER & 3 OTHERS
265	IEBC/DRC/NM/102/2017.	POLLYINS OCHIENG ANYANGO vs. HON. JOSHUA ADUMA AWUOR
266	IEBC/DRC/NM/103/2017	CROMWELL SULTAN MASENO vs. RETURNINGOFFICER, HAMISI CONSTITUENCY
267	IEBC/DRC/NM/109/2017	KELVIN OSELO OBONDO vs. RETURNINGOFFICER, KISUMU EAST CONSTITUENCY
267	IEBC/DRC/NM/113/2017	DANIEL MOGESI OTERO vs. RETURNING OFFICER, KITUTU MASABA CONSTITUENCY
269	IEBC/DRC/NM/114/2017	MAURICE NYAMWEYA MATOKE vs. RETURNING OFFICER, KITUTU CHACHE SOUTH
270	IEBC/DRC/NM/115/2017	ZABLON RASHID MINYONGA vs. JUBILEE PARTY
271	IEBC/DRC/NM/118/2017	ALEX WANJALA WAKOLI vs. RETURNING OFFICER, KILIMANI WARD
272	IEBC/DRC/NM/126/2017	FRANKLINE NJERU NYAGA vs. RETURNING OFFICER, RUIRU CONSTITUENCY
273	IEBC/DRC/NM/131/2017	SALA JARED OWINO vs. ORANGE DEMOCRATIC MOVEMENT & JARED OKELLO

NO.	FILE NO.	PARTIES
274	IEBC/DRC/NM/135/2017	NYARINDA NYANCHAMA MOIKOBU vs. RETURNING OFFICER, NYAMIRA COUNTY
275	IEBC/DRC/NM/145/2017	CAROLINE ANYANGO OMEDO vs. FREDRICK OMONDI OTIENO
276	IEBC/DRC/NM/162/2017	SIMON NJENGA KARIUKI vs. RETURNING OFFICER, KABETE CONSTITUENCY
277	IEBC/DRC/NM/186/2017	FRANCIS CHEGE WACHIRA vs. RETURNING OFFICER, NAKURU TOWN EAST
278	IEBC/DRC/NM/195/2017	FRANCIS ANDREW NAMU vs. ORANGE DEMOCRATIC MOVEMENT & FREDRICK OMONDI OTIENO
279	IEBC/DRC/NM/206/2017	DANIEL MWILU KYENGO vs. RETURNING OFFICER, KAMUKUNJI
280	IEBC/DRC/NM/221/2017	ANTHONY MUGERA NJUE Versus RETURNING OFFICER, MANYATTA CONSTITUENCY, EMBU
281	IEBC/DRC/NM/229/2017	EDWARD MUTHURI TIMUI Versus CONSTITUENCY RETURNING OFFICER, KILIFI SOUTH
282	IEBC/DRC/NM/266/2017	FESTUS TAMAA MUTUKU vs. RETURNING OFFICER, KITUI EAST
283	IEBC/DRC/NM/267/2017	HUMPHREY LIHANDA IBWAGA vs. RETURNING OFFICER, VIHIGA COUNTY
284	IEBC/DRC/NM/284/2017	BENJAMIN NJERU KATHENYA vs. RETURNING OFFICER, THARAKA CONSTITUENCY
285	IEBC/DRC/NM/286/2017	JUSTUS OIRERE CHUMA vs. ORANGE DEMOCRATIC MOVEMENT
286	IEBC/DRC/NM/322/2017	GEORGE OMONDI OKOTH vs. JOSEPH OYUGI MAGWANGA & 4 OTHERS
287	IEBC/DRC/NM/325/2017	JANE MASAI MICHIRA vs. RETURNING OFFICER, MANYATTA CONSTITUENCY, EMBU
288	IEBC/DRC/NM/17/2017	OSORO DAVIES VERSUS RETURNING OFFICER, DAGORETTI NORTH
289	IEBC/DRC/NM/24/2017	SAMUEL IRUNGU KABUCHWA VERSUS THE COUNTY RETURNING OFFICER, LAIKIPIA
290	IEBC/DRC/NM/33/2017	GABRIEL BUKACHI CHAPIA VERSUS EDWIN SIFUNA
291	IEBC/DRC/NM/36/2017	DINAH WANJA GICHAIYA VERSUS JULIUS MAINGI
292	IEBC/DRC/NM/50/2017	GERALD WARUI MBOTE VERSUS CONSTITUENCY R.O JUJA CONSTITUENCY
293	IEBC/DRC/NM/52/2017	EZEKIAH WAIGURU KAMAU VERSUS HANSON MUGO, THE CONSTITUENCY RETURNING OFFICER, GITHUNGURI
294	IEBC/DRC/NM/58/2017	DANIEL MUSEMBI NOAH VERSUS THE CONSTITUENCY RETURNING OFFICER, KITUI EAST

NO.	FILE NO.	PARTIES
295	IEBC/DRC/NM/63/2017	ANTHONY NJOROGE GITARI VERSUS RETURNING OFFICER, EMBAKASI NORTH
296	IEBC/DRC/NM/90/2017	DANIEL KIMANZI MWENGA VERSUS THE RETURNING OFFICER, KILIFI SOUTH CONSTITUENCY
297	IEBC/DRC/NM/25/2017	LAMECK OMONDI OJWANG VERSUS THE RETURNING OFFICER, KARACHUONYO CONSTITUENCY
298	IEBC/DRC/NM/30/2017	JOSEPH MURIITHI MUNGE VERSUS THE RETURNING OFFICER, KIRINYAGA CENTRAL CONSTITUENCY
299	IEBC/DRC/NM/43/2017	ELIJAH OMWENGA OIRERE VERSUS THE RETURNING OFFICER, SOY CONSTITUENCY
300	IEBC/DRC/NM/53/2017	RAMLA MAALIM MOHAMUD VERSUS THE RETURNING OFFICER, NAIROBI COUNTY
301	IEBC/DRC/NM/55/2017	VICTOR KIBET LANGAT VERSUS THE RETURNING OFFICER, BELGUT CONSTITUENCY
302	IEBC/DRC/NM/73/2017	PAUL OCHIENG OUMA VERSUS THE RETURNING OFFICER, SUBA NORTH CONSTITUENCY
303	IEBC/DRC/NM/76/2017	JOHN MASETU SHIKUNYI VERSUS THE RETURNING OFFICER, KHWISERO CONSTITUENCY
304	IEBC/DRC/NM/78/2017	BENARD OMARE FIDELIS VERSUS THE RETURNING OFFICER EMBAKASI SOUTH CONSTITUENCY
305	IEBC/DRC/NM/83/2017	INNOCENT MORARA MAGARE VERSUS THE RETURNING OFFICER, BONCHARI CONSTITUENCY
306	IEBC/DRC/NM/99/2017	ASHIRUMAH OCHIENG REAGAN VERSUS THE RETURNING OFFICER, KHWISERO CONSTITUENCY
307	IEBC/DRC/NM/108/2017	JOHN OWUOR OGOLLA VERSUS THE RETURNING OFFICER, HOMABAY COUNTY
308	EBC/DRC/NM/112/2017	MACHANURE BOAZ AMBENGE VERSUS THE RETURNING OFFICER, HAMISI CONSTITUENCY
309	IEBC/DRC/NM/116/2017	OKONGO TOM POOLS ONYANGO VERSUS BOAZ OWITI OKOTH
310	IEBC/DRC/NM/117/2017	GRACE AKINYI OBONGO VERSUS THE RETURNING OFFICER TURBO CONSTITUENCY
311	IEBC/DRC/NM/118/2017	ALEX WANJALA WAKOLI VERSUS KILIMANI WARD, DAGORETTI NORTH CONSTITUENCY
312	IEBC/DRC/NM/121/2017	MELLON WITTO NDORE VERSUS THE RETURNING OFFICER KILIFI SOUTH CONSTITUENCY
313	IEBC/DRC/NM/139/2017	DOROTHY MASUKA ADHU VERSUS THE RETURNING OFFICER, KISUMU CENTRAL CONSTITUENCY

NO.	FILE NO.	PARTIES
314	IEBC/DRC/NM/148/2017	JOHN KENNEDY ACHOKI VERSUS THE RETURNING OFFICER, WEST MUGIRANGO CONSTITUENCY
315	IEBC/DRC/NM/153/2017	CLEMENT CHERUIYOT KIPLANGAT VERSUS THE RETURNING OFFICER, RONGAI CONSTITUENCY
316	IEBC/DRC/NM/160/2017	ROBERT KINYUA MARETE VERSUS THE RETURNING OFFICER, BUURI CONSTITUENCY
317	IEBC/DRC/NM/196/2017	NGOME MWACHUDA NGOME VERSUS THE RETURNING OFFICER MATUGA CONSTITUENCY
318	IEBC/DRC/NM/201/2017	KELVIN ODHIAMBO OKOTH VERSUS GEORGE OMONDI ORWA
319	IEBC/DRC/NM/224/2017	IMBANTU PATRICK VERSUS THE RETURNING OFFICER, LURAMBI CONSTITUENCY
320	IEBC/DRC/NM/235/2017	PIUS NYATTA CHAO VERSUS THE RETURNING OFFICER, LIKONI CONSTITUENCY
321	IEBC/DRC/NM/239/2017	FREDRICK ISIKA KALUMBO VERSUS THE RETURNING KITUI COUNTY
322	IEBC/DRC/NM/335/2017	FREDRICK ODHIAMBO AYIEKO VERSUS THE RETURNING OFFICER, RUARAKA CONSTITUENCY
323	IEBC/DRC/NM/1/2017	SHEM ODONGOOCHUODHO VS MICHAEL KOSGEI, HOMABY
324	IEBC/DRC/NM/3/2017	JOHN ORWA VS GEORGE OKINYIOMAMBA
325	IEBC/DRC/NM/4/2017	HILLARY WASONGA VS ALBERT ODETEAMOLLO
326	IEBC/DRC/NM/6/2017	JOSHUA YATTALOMUTONGOLE VS AHETEOPIYO MOSES
327	IEBC/DRC/NM/8/2017	HARUN MWANDALI VS MUREITHIMUCHEKE FESTUS
328	IEBC/DRC/NM/11/2017	MOHAMED HASSAN ALI VS GULIYA HUSSEIN ABIDWAHID
329	IEBC/DRC/NM/12/2017	PITHON MUGAMBI NGURU VS LENARUM DANIEL
330	IEBC/DRC/NM/13/2017	FELIX ANDITI AWUOR VS. MELE EROO
331	IEBC/DRC/NM/14/2017	SIMON JUMA VS MAURICE OMONDIONDIEK
332	IEBC/DRC/NM/15/2017	MOSE AMOS VS KIPKORIRBUTTUK
333	IEBC/DRC/NM/17/2017	OSORO DAVIES VS MUNGAIMAINA JAMES
334	IEBC/DRC/NM/18/2017	TOM OMOLLO KASERA VS BRIAN ODHIAMBOOSODO
335	IEBC/DRC/NM/20/2017	FRANCIS MUTUKU MUSYOKA VS MARVIN MUNGAHKARANJA
336	IEBC/DRC/44/2017	DANIEL KIPRONO VS MICHAEL M. MWOSE, TURBO CONSTITUENCY
337	IEBC/DRC/NM/39/2017	YEGON KIBOS KIPRUTO VS RETURNING OFFICER HOMA BAY CENTRAL CONSTITUENCY

Annex 6(i): Party List Disputes

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
HIGH COURT PARTY LIST PETITIONS 2017				
1	IEBC/PL/HC/1/2017	NAKURU HC PET NO 23 OF 2017	NKAURAKIEN LESIDAI & 42 OTHERS	JUBULEE & IEBC
2	IEBC/PL/HC/2/2017	NAIROBI PET NO 282 OF 2017	AGNES SHONKO	JUBILEE, ORPP & IEBC
3	IEBC/PL/HC/3/2017	NAIROBI HCC NO 26 OF 2017	WIPER DEMOCRATIC MOVEMENT	IEBC
4	IEBC/PL/HC/4/2017	MOMBASA PETITION NO 36 OF 2017	MICHAEL KANJA KAGORI	IEBC, PDU & OTHERS
5	IEBC/PL/HC/5/2017	NBI HC NO 520 OF 2017	PETER MAITHA KIMWELE	WIPER PARTY, IEBC
6	IEBC/PL/HC/6/2017	NBI PET 415 OF 2017	PARTY OF DEMOCRATIC UNITY	IEBC
7	IEBC/PL/HC/7/2017	NAIROBI HCC JR NO 533 OF 2017	ADEN NOOR ALI	IEBC, JUBILEE,JEFIFFER SHAMALLAH , PSC
8	IEBC/PL/HC/8/2017	NBI HCC PET NO 425 OF 2017	MOSES AGNES BANGE	IEBC , ODM
9	IEBC/PL/HC/9/2017	NBI PET NO 423 OF 2017	PETER KITELO CHONGEYWO	IEBC, CLERK NATIONAL ASSEMBLY
10	IEBC/PL/HC/10/2017	PET NO 424 OF 2017 2017	EVANS KURGAT	IEBC , SPEAKER KERICHO COUNTY
11	IEBC/PL/HC/11/2017	NBI PET NO 427 OF 2017	HELLEN WAGIO & 2 OTHERS	IEBC & KIAMBU COUNTY
12	IEBC/PL/HC/12/2017	KAPENGURIA PET NO 2 OF 2017	AGNES CHEPKORIR NDEGE	IEBC
13	IEBC/PL/HC/13/2017	MOMBASA HC PET NO 41 OF 2017	MARIA MWEKE	IEBC, ODM, JUBILEE,CLERK TAITA TAVETA COUNTY

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
14	IEBC/PL/HC/14/2017	NYERI PETITION NO 7 OF 2017	DUNCAN MAINA MATHENGE	IEBC, JUBILEE, 16 OTHERS
15	IEBC/PL/HC/15/2017	KAPENGURIA PETITION NO 1 OF 2017	ISAAC EPEYO, PEDOO CHRISTINE YORI	IEBC
16	IEBC/PL/HC/16/2017	NYERI PET NO 8 OF 2017	DUNCAN MAINA MATHENGE	IEBC & 17 OTHERS
17	IEBC/PL/HC/17/2017	NAIROBI CP NO 434 OF 2017	ZAHARA MOHAMMED & 5 OTHERS	IEBC & JUBILEE PARTY
18	IEBC/PL/HC/18/2017	NAROK HCC PET NO 20 OF 2017	SALO NATANYA TASUR	IEBC, NAROK COUNTY ASSEMBLY
19	IEBC/PL/HC/19/2017	NAIROBI PET 433 OF 2017	DANILA NTALASON LENATIYAMA	IEBC
20	IEBC/PL/ HC/20/2017	NAIROBI PET 438 OF 2017	KEFA WAFUIA KARORI	IEBC
21	IEBC/PL/HC/21/2017	GARISSA PET NO 4 OF 2017	KAMILA MUTHOW SALAT	IEBC
22	IEBC/PL/ HC/22/2017	MERU HCEP NO 19 OF 2017	GODFREY MUGAMBI & 2 OTHERS	IEBC
23	IEBC/PL/ HC/23/2017	NAIROBI HCEP NO 435 OF 2017	MOHAMMED ALI BASHIR	IEBC
24	IEBC/PL/ HC/24/2017	BUSIA PET NO 5 OF 2017	BUSIA COUNTY PWDS & 4 OTHERS	IEBC
25	IEBC/PL/ HC/25/2017	KISUMU PETITION NO 1 OF 2017	VITALIS OJWANG ODEKE	IEBC
26	IEBC/PL/ HC/26/2017	KISUMU PETITION NO 14 OF 2017	ELVIS AYIMBO SICHENGA	IEBC

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
27	IEBC/PL/ HC/27/2017	NAIROBI PETITION 448 OF 2017	DAVIS LUTALI SAKARI	IEBC
28	IEBC/PL/ HC/28/2017	NAIROBI JR 560 OF 2017	HELLEN KISIKU KITHEKA	IEBC
29	IEBC/PL/ HC/29/2017	KITALE HCC PET 7 OF 2017	JOHN OSING AYAPAN	ODM, IEBC, CERK TURKANA COUNTY ASSEMBLY
30	IEBC/PL/ HC/30/2017	NAKURU HCC ELECTION PET 5 OF 2017	SHEILA CHEBIEGON, ESTHER NYOKABI MBURU	IEBC , JUBILEE PARTY
31	IEBC/PL/HC/31/2017	MERU HCC PET 21 OF 2017	KAMENDE PURITY KENDI	IEBC CHAIR, PHILIP OBOYO OKELLO
32	IEBC/PL/ HC/32/2017	NAIROBI PETITION 449 OF 2017	FATUMA FILLE ELMI	IEBC
33	IEBC/PL/ HC/33/2017	KITALE PET 8 OF 2017	CLAUDIA CHEBET KOSGEI	IEBC
34	IEBC/PL/ HC/34/2017	KITUI PET 5 OF 2017	SHADRACK MUTUA KITILI	IEBC
35	IEBC/PL/ HC/35/2017	MURANGA HCEP NO 10 OF 2017	WANJA MAINA HANNAH	IEBC
36	IEBC/PL/ HC/37/2017	NAIROBI HC PET JR 56 OF 2017	ABDI HASSAN MAHAT	IEBC , PNU
37	IEBC/PL/ HC/38/2017	NBI PET 455 OF 2017	ZEYNAB ALLY ISSACK	IEBC
38	IEBC/PL/ HC/39/2017	NBI PET 456 OF 2017	RAHMA ISAAC IBRAHIM	IEBC
39	IEBC/PL/ HC/40/2017	KAKAMEGA PET 14 OF 2017	THE TERIK COMMINITY	IEBC
40	IEBC/PL/HC/41/2017	NAIROBI HCC PET NO 440 OF 2017	HENRY WANYOIKE WAHU	IEBC, COUNTY ASSEMBLY OF KIAMBU

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
41	IEBC/PL/ HC/42/2017	NBI ELECTION PET 25 OF 2017	HAROLD KIMUGE KIPCHUMBA	IEBC, GETRUDE INIMAH MUSURUVE
42	IEBC/PL/ HC/43/2017	NAIROBI HCC JR NO 556 OF 2017	SAMSON ODHIAMBO	IEBC, COUNTY ASSEMBLY OF GARISSA , ABDOW ABDI
43	IEBC/PL/ HC/44/2017	ELDORET PET 19 OF 2017	JACOB KIPSEREM MASWA & 4 OTHERS	JUBILEE, IEBC
44	IEBC/PL/ HC/45/2017	NAROK HCC NO 14 OF 2017	ANN TUSHAMBEI TOME, MAENDELEO CHAP CHAP PARTY	IEBC, COUNTY ASSEMBLY NAROK
45	IEBC/PL/ HC/46/2017	NAIROBI HCC JR NO 603 OF 2017	SULEIMAN YUSUF HAJEE	JUBILEE, IEBC PARTY
46	IEBC/PL/ HC/47/2017	LODWAR HCC PET NO 1 OF 2017	PAUL NANGOLOL LOBWIN	IEBC, JUBILEE PARTY, COUNTY ASSEMBLY TURKANA
47	IEBC/PL/ HC/48/2017	LODWAR HCC PET NO 2 OF 2017	YUSUF ALI MOHAMMED	IEBC, ODM, LILIAN JEBIWOTT KIMOSOP , COUNTY ASSEMBLY TURKANA
48	IEBC/PL/ HC/49/2017	GARISSA PET NO 14 OF 2017	KALTUMA ABDIRHAMIN MAALIM	IEBC, SPEAKER WAJIR COUNTY, SAADIA AHMED MUUMIN
49	IEBC/PL/ HC/50/2017	NAIROBI HCC PET NO 492 OF 2017	ZACHARY GODWIN MWEU & 2 OTHERS	IEBC, SPEAKER COUNTY ASSEMBLY NYANDARUA
50	IEBC/PL/HC/51/2017	NAIROBI CP NO 476 OF 2017	JAPHET MUSYOK MUSEE	IEBC , WIPER PARTY
51	IEBC/PL/ HC/52/2017	NAKURU HCC PET 3 OF 2017	IRENE CHEROP CHEBOI & 2 OTHERS	IEBC, JUBILEE PARTY, CLERK COUNTY ASSEMBLY NAKURU

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
52	IEBC/PL/ HC/53/2017	NAIROBI HCC PET 11 OF 2017	ADEN NOOR ALI	IEBC, JENIFFER SHAMALLAH, JUBILEE PARTY
53	IEBC/PL/ HC/54/2017	GARSEN PET NO 2 OF 2017	FAISAH SHAIB KHAN , WARDA ABDALLAH MOHAMED	IEBC
54	IEBC/PL/ HC/55/2017	NAIROBI PET NO 500 OF 2017	NARC KENYA	IEBC
55	IEBC/PL/ HC/56/2017	NANYUKI HCC APPLICATION NO 7 OF 2017	PAULINE WANJIKU KIGERA	IEBC, SAMBURU COUNTY ASSEMBLY
56	IEBC/PL/ HC/57/2017	VOI HCC PET NO 13 OF 2017	ROSINA KISOCHI	IEBC
57	IEBC/PL/ HC/58/2017	NAIROBI PETITION NO 531 OF 2017	JILLO TADICHA JARSO & 49 OTHERS	IEBC & 4 OTHERS
58	IEBC/PL/ HC/59/2017	NANYUKI HC PET 3 OF 2017	CHARLES NJARAMBA	IEBC
59	IEBC/PL/ HC/60/2017	KISII HC NO 6 OF 2017	MUSA	
60	IEBC/PL/HC/61/2017	VOI HCC PET NO 17 OF 2017	ATHMAN MOSE MSAFIR	
61	IEBC/PL/ HC/62/2017	NANYUKI HCC 4 OF 2017	EMMA NKIROTE	
62	IEBC/PL/ HC/63/2017	NANYUKI HC JR 3 OF 2017	MARY NYAGA WANJIRY	
63	IEBC/PL/ HC/64/2017	BUNGOMA HCC JR 8 OF 2017	IBRAHIM KONES	
LOWER COURT PARTY LIST PETITIONS 2017				
1	IEBC/PL/ MISC/1/2017	BUNGOMA JR 5 OF 2017	IBRAHIM KONES	IEBC, JUBILEE PARTY,DAVID KIPROTICH
2	IEBC/PL/ MISC/2/2017	MALINDI MISC 16 OF 2017	RASHID HAMID AHMED & 11 OTHERS	IEBC

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
3	IEBC/PL/ MISC/3/2017	NAIROBI MILIMANI APPLICATION NO 1 OF 2017	MOHAMUD IBRAHIM MAALIM	IEBC CHAIR
4	IEBC/PL/ MISC/4/2017	NAIROBI JR NO 527 OF 2017	AMINA ISMAIL HILLOW	ODM & 4 OTHERS
5	IEBC/PL/ MISC/5/2017	NAIROBI JR NO 531 OF 2017	ALMAS ISSAC MOHAMED	IEBC, ECONOMIC FREEDOM PARTY
6	IEBC/PL/ MISC/6/2017	NAIROBI JR NO 545 OF 2017	RAHAB WANJIKU MWAURA	IEBC, JUBILEE, COUNTY ASSEMBLY KIAMBU
7	IEBC/PL/ MISC/7/2017	NAIROBI JR NO 542 OF 2017	SOFIA GALGALO	IEBC, ODM
8	IEBC/PL/ MISC/8/2017	NAIROBI JR NO 535 OF 2017	CHARLES NJOROGE MUTHONI & 2 OTHERS	JUBILEE PARTY, IEBC
9	IEBC/PL/ MISC/9/2017	NAIROBI JR NO 432 OF 2017	MIRIAM ABDI MOHAMUD	IEBC, PNU
10	IEBC/PL/ MISC/10/2017	MURANGA CMCC PETITION 1 OF 2017	HELLEN NDIKO KIGIA & 2 OTHERS	IEBC
11	IEBC/PL/ MISC/11/2017	NYERI CMCC PETITION NO 1 OF 2017	OMARI WANJIKU ESHA	IEBC
12	IEBC/PL/ MISC/12/2017	NAIROBI CMCC PETITION NO 5 OF 2017	TRUFOSA JELAGAT KUTTO	IEBC, JUBILEE PARTY, ROP PHILEMON
13	IEBC/PL/ MISC/13/2017	NAKURU CMCC NO 2 OF 2017	ANN NASHIPAE , GRACE AWUOR	IEBC & 2 OTHERS
14	IEBC/PL/ MISC/14/2017	NAIROBI CMCC NO 8 OF 2017	ASHA ABDI SOSSO	IEBC, ODM NAIROBI COUNTY ASEMBLY
15	IEBC/PL/ MISC/15/2017	NAIROBI JR MISC NO 548 OF 2017	HABIBA ABDULLAHI ISSACK	IEBC & ANOTHER
16	IEBC/PL/ MISC/16/2017	WAJIR CMCC NO 6 OF 2017	SHAMOMBASA ISSA JIMALE	IEBC

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
17	IEBC/PL/ MISC/17/2017	NANYUKI CMCC NO 1 OF 2017	GEOFFREY GITHINJI MWANGI & 2 OTHERS	IEBC
18	IEBC/PL/ MISC/18/2017	MANDERA CMCC ELECTION PETITION NO 2 OF 2017	HAFID MAALIM IBRAHIM	IEBC, ECONOMIC FREEDOM PARTY, ISSAC DAHIR ABDI, HALIMA BILLOW OMAR
19	IEBC/PL/ MISC/19/2017	MOMBASA JR 43 OF 2017	SAADI FARAJ AHMED & 3 OTHERS	IEBC
20	IEBC/PL/ MISC/20/2017	SRMCC AT KIMILILI NO 2 OF 2017	JUSTINE CHEMTAI	IEBC & WINNIE OTIENO
21	IEBC/PL/ MISC/22/2017	KAKAMEGA CMCC NO 7 OF 2017	ALEXANDER KHAMASI MULIMI	IEBC
22	IEBC/PL/ MISC/23/2017	MIGORI CMCC NO 3 OF 2017	MOGESI AGNES BANGE	
23	IEBC/PL/ MISC/24/2017	NYAHURURU CMCC NO 1 OF 2017	MONICA GATHONI GITHAE, SOLOMON KIMANI	IEBC, JUBILEE PATY
24	IEBC/PL/ MISC/25/2017	NYAHURURU CMCC NO 2 OF 2017	DAVID NDUNGU NDEGWA	IEBC, JUBILEE PARTY & 4 OTHERS
25	IEBC/PL/ MISC/26/2017	NAIROBI CMCC NO 4 OF 2017	PETER MUCHIRI MWANGI	IEBC, JUBILEE PARTY, SUSAN MUKUNGU KAVAYA
26	IEBC/PL/ MISC/27/2017	KERICHO CMCC ELECTION PETITION NO 2 OF 2017	LORNA CHEMUTAI	IEBC, JUBILEE PARTY & 17 OTHERS
27	IEBC/PL/ MISC/28/2017	KIAMBU CMCC ELECTION PETITION NO 9 OF 2017	CHEGE ANN WANJIKU	IEBC, CLERK KIAMBU COUNTY ASSEMBLY

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
28	IEBC/PL/ MISC/29/2017	KERICHO CMCC ELECTION PETITION NO 3 OF 2017	ERICK KIPYEGON KOECH	IEBC, JUBILEE PARTY, 17 OTHERS
29	IEBC/PL/ MISC/30/2017	NAKURU ELECTION PETITION NO 4 OF 2017	ROSE WANGUI KABURU	IEBC, JUBILEE PARTY, NAKURU COUNTY ASSEMBLY
30	IEBC/PL/ MISC/31/2017	NAIROBI CMCC NO 13 OF 2017	SUSAN WACHUKA	IEBC, JUBILEE PARTY
31	IEBC/PL/ MISC/32/2017	NAKURU JR MISC NO 22 OF 2017	JENIFFER LETUIYA	IEBC
32	IEBC/PL/ MISC/33/2017	NAKURU JR MISC NO 23 OF 2017	STEHANIA LENYASUNGA	IEBC
33	IEBC/PL/ MISC/34/2017	NAIROBI CMCC NO 16 OF 2017	BISHOP JOHN NDUATI	IEBC
34	IEBC/PL/ MISC/35/2017	MURANGA CMCC NO 2 OF 2017	CHARLES NJOROGE MUTHONI & 3 OTHERS	IEBC
35	IEBC/PL/ MISC/36/2017	NAIROBI CMCC NO 20 OF 2017	MIRIAM ABDI MOHAMED	IEBC , PNU
36	IEBC/PL/ MISC/37/2017	KAKAMEGA CMCC NO 12 OF 2017	NOAH NGINA MWANTHI	IEBC
37	IEBC/PL/ MISC/38/2017	KABARNET RMCC NO 1 OF 2017	ESTHER CHELIMO & 2 OTHERS	IEBC
38	IEBC/PL/ MISC/39/2017	NAIROBI JR MISC 558 OF 2017	ALFRED MDEIZI & ANOTHER	IEBC
39	IEBC/PL/ MISC/40/2017	KAPSABET PMCC NO 3 OF 2017	AMINA AZIZ	IEBC
40	IEBC/PL/ MISC/41/2017	NYAMIRA CMCC NO 3 OF 2017	DAMARIS NYARANGI MOUNI	IEBC

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
41	IEBC/PL/ MISC/42/2017	MANDERA RMCC NO 4 OF 2017	FEISAL ABDINOOR ISSACK	IEBC
42	IEBC/PL/ MISC/43/2017	NAROK CMCC NO2 OF 2017	VIOLET SOITA	IEBC, JUBILEE PARTY, NAROK COUNTY ASSEMBLY
43	IEBC/PL/ MISC/43/2017	MANDERA CMCC ELECTION PETITION NO 5 OF 2017	MOHAMED ALI BASHIR	IEBC, ISAACK DAHIR ABDI, ECONOMIC FREEDOM PARTY
44	IEBC/PL/ MISC/44/2017	NAIROBI CMCC PETITION NO 21 OF 2017	ILMAS ISSAC MOHAMMHED	IEBC, UMUR KER KASSIM, ECONOMIC FREEDOM PARTY
45	IEBC/PL/ MISC/45/2017	KISII CMCC NO 9 OF 2017	ESTHER OKENYURI ANYIENI	IEBC & ANOTHER
46	IEBC/PL/ MISC/46/2017	KISII RMCC NO 8 OF 2017	ROSE MOTURI MWENE	IEBC & ANOTHER
47	IEBC/PL/ MISC/47/2017	MOMBASA JR 48 OF 2017	MIRIAM NEVI BEFAKI	IEBC & ANOTHER
48	IEBC/PL/ MISC/48/2017	SIAYA PMCC 95 OF 2017	SIAYA COUNTY DISABLED PEOPLE NETWORK	IEBC
49	IEBC/PL/ MISC/49/2017	NAIROBI CMCC NO 3 OF 2017	PERPETITIUA MPONJIWA	IEBC
50	IEBC/PL/ MISC/50/2017	MAKUENI CMCC NO 2 OF 2017	LUCAS MULINGE WAMBUA	IEBC, COUNTY ASSEMBLY MAKUENI, JUSTUS MUTUA
51	IEBC/PL/ MISC/51/2017	MERU CMCC NO 2 OF 2017	MOHAMMED ABASS SHEIKH	IEBC
52	IEBC/PL/ MISC/52/2017	NAIROBI JR NO 466 OF 2017	NATIONAL COHESION & INTERGRATION COMMISSION	IEBC
53	IEBC/PL/ MISC/53/2017	NAIROBI JR 576 OF 2017	SAADIA AHMED MUNIN	IEBC

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
54	IEBC/PL/ MISC/54/2017	MARSABIT PMCC NO 1 OF 2017	ZAMZAM HUSSEIN OSMAN	IEBC
55	IEBC/PL/ MISC/55/2017	NAIROBI JR MISC NO 548 OF 2017	SAMATAR MOHAMMED ABDULLAHI	IEBC
56	IEBC/PL/ MISC/56/2017	NAIROBI CMCC ELECTION PETITION NO 23 OF 2017	HAMDIA YAROI SHEK NURI	IEBC , AMANI FAITH
57	IEBC/PL/ MISC/57/2017	MOMBASA JR 46 OF 2017	MARY CHARLES KALINGA	IEBC
58	IEBC/PL/ MISC/58/2017	GARISSA CMCC ELECTION PETITION NO 5 OF 2017	HAMDI AHMED ALI	IEBC
59	IEBC/PL/ MISC/59/2017	NAIROBI CMCC NO 22 OF 2017	HELLEN KISIKU KITHEKA	IEBC
60	IEBC/PL/ MISC/60/2017	MIGORI CMCC NO 8 OF 2017	MATILDA AUMA OLOO	IEBC
61	IEBC/PL/ MISC/61/2017	KAJIADO CMCC ELECTION PETITION NO 2 OF 2017	ELIZABETH CHEBET KIBOR	IEBC, ODM , SANDRA MARIU
62	IEBC/PL/ MISC/62/2017	MIGORI ELECTION PETITION NO 5 OF 2017	ERIC OUMA OPANY	IEBC, ODM, GEORGE WANGARE NDEGWA
63	IEBC/PL/ MISC/63/2017	MIGORI CMCC ELECTION PETITION NO 6 OF 2017	ALFRED NDEIZI	IEBC, ODM
64	IEBC/PL/ MISC/64/2017	NYERI CMCC ELECTION PETITION NO 2 OF 2017	MARGARET NYATHOGORA & 5 OTHERS	IEBC, JUBILEE PARTY
65	IEBC/PL/ MISC/65/2017	NAIROBI CMCC ELECTION PETITION NO 24 OF 2017	SAMIRA ABDIRAHMAN HASSAN	IEBC, NARC KENYA , NOOR MOHAMMED

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
66	IEBC/PL/ MISC/66/2017	MIGORI CMCC NO 7 OF 2017	CLINTON MUGESI WAREMA	OIEBC, ODM
67	IEBC/PL/ MISC/67/2017	NANYUKI CMCC NO 3 OF 2017	DENNIS KANIARU MATHENGE	IEBC, ZAMZAM SALMA
68	IEBC/PL/ MISC/68/2017	LAMU CMCC NO 2 OF 2017	MUSLIMS FOR HUMAN RIGHTS MUHURI	IEBC
69	IEBC/PL/ MISC/69/2017	NAIROBI CMCC NO 24 OF 2017	HALIMA DAUD DIRIYE	IEBC
70	IEBC/PL/ MISC/70/2017	KITALE CMCC NO 3 OF 2017	KEFA WAFULA KARORI	IEBC, JUBILEE PARTY
71	IEBC/PL/ MISC/71/2017	ELDORET CMCC NO 1 OF 2017	REGINA CHEPKEMBOI CHUMBA	JUBILEE PARTY, IEBC
72	IEBC/PL/ MISC/72/2017	BOMET JR NO 4 OF 2017	KOROS WILLIAM & 2 OTHERS	IEBC, LEONARD NGENY
73	IEBC/PL/ MISC/73/2017	BOMET JR NO 5 OF 2017	MARY CHEPKOECH, ESTHER KOSKEY & ANOTHER	IEBC
74	IEBC/PL/ MISC/74/2017	MARSABIT CMCC ELECTION PETITION NO 2 OF 2017	ABDI MOHAMMED OSHOW	IEBC, ECONOMIC FREEDOM PARTY, ZAMZAM ABDULLAHI
75	IEBC/PL/ MISC/75/2017	NAROK CMCC N0 7 OF 2017	SAMUEL MUNKASIO OLE LEMURI	IEBC, ELVIS KIRUI
76	IEBC/PL/ MISC/76/2017	MAKUENI PMCC ELECTION PETITION NO 1 OF 2017	AHMED MOHAMED IBRAHIM	IEBC, WIPER PARTY
77	IEBC/PL/ MISC/77/2017	NAIROBI CMCC NO 12 OF 2017	SAADIA AHMED MUUMIN	IEBC , JUBILEE PATY
78	IEBC/PL/ MISC/78/2017	NAIROBI JR 533 OF 2017	ADEN NOOR ALI	IEBC, JENIFFER SHAMALLAH

No.	FILE NUMBER	PETITION COURT NUMBER	PETITIONER(S)	RESPONDENT(S)
79	IEBC/PL/ MISC/79/2017	NAIROBI CMCC NO 2 OF 2017	ADEN NOOR ALI	IEBC, JENIFFER SHAMALLAH
80	IEBC/PL/ MISC/80/2017	NAIROBI CMCC NO 25 OF 2017	SULEIMAN YUSUF HAJEE	IEBC , JUBILEE PATY
81	IEBC/PL/ MISC/81/2017	NAIROBI MILIMANI CMCC NO 3 OF 2017	JANE CHEMUTAI KOSGEI	IEBC , JUBILEE PATY
82	IEBC/PL/ MISC/82/2017	KAKAMEGA CMCC NO 9 OF 2017	SCOLASTIC NGINA SHIRAKU	IEBC
83	IEBC/PL/ MISC/83/2017	KILIFI MCEP 6 OF 2017	JACOB KAZUNGU KAHINDI	IEBC & 2 OTHERS
84	IEBC/PL/LC/18/2017	NAROK EP PET NO 6 OF 2017	SALO NATANYA TASUR	IEBC, NAROK COUNTY ASSEMBLY

Annex 6(ii): Arbitration of Disputes Arising from Allocation of Special Seats (Party Lists)

	CASE	DECISION
1.	IEBC/NM/PL/01/2017 Aden Noor Ali vs Jeniffer Shamalla and Jubilee Party	The Complaint was marked as withdrawn following withdrawal of the Complaint by the Complaint.
2.	IEBC/NM/PL/02/2017 Daniel K. Osoi vs ODM and IEBC	ODM to submit a fresh party list in respect of Kajiado County as approved by the Kajiado County ODM Electoral College as specifically prayed for in the Complaint.
3.	IEBC/NM/PL/3/2017 Josephine N Karia& Others Vs ODM & IEBC	Complaint dismissed for want of prosecution.
4.	IEBC/NM/PL/04/2017 Cecilia Wanjohi vs Jubilee Party and IEBC	Complaint dismissed for want of prosecution.
5.	IEBC/NM/PL/5/2017 Francis NgúriaeiKibai Vs IEBC & Jubilee Party	Respondent to correct and resubmit the Complainant's name with the correct age as prayed.
6.	IEBC/NM/PL/06/2017 Osman Muktar Abdi vs Jubilee Party and IEBC	Complaint dismissed for want of prosecution.
7.	IEBC/NM/PL/07/2017 Mohamed Idle Vs IEBC	Respondent to re-submit a properly constituted Party List for Jubilee Party County Assembly (Gender Seats) for Wajir County bearing clear and correct personal information of all nominees and the same be representative of the communities in the said area of representation.
8.	IEBC/NM/PL/08/2017 Grace Anyango Odhiambo Vs IEBC & ODM	Complaint allowed'; 2nd Respondent to undertake the correction in the party list of the Complainant's names as sought.
9.	IEBC/NM/PL/09/2017 Linah Sote Chebet vs Orange Democratic Movement	Complaint allowed.
10.	IEBC/NM/PL/10/2017 Alice ChepkiruiKering vs Orange Democratic Movement	Complaint dismissed for lacking merit.
11.	IEBC/NM/PL/11/2017 Isaiah BiwottKangwony vs Orange	Complaint allowed.

	CASE	DECISION
12.	IEBC/NM/PL/12/2017 Mohamud M. Ali vs Jubilee Party and IEBC	Complaint allowed by consent of the parties, Mohamud M. Ali and Jubilee Party.
		The Respondent to re-submit a properly constituted party lists for Jubilee Party County Assembly (Gender Seats) and County Assembly (Marginalised Groups) Party Lists for Marsabit County.
13.	IEBC/NM/PL/13/2017 EmmaculateMusya and others Vs Hafsa Mohamed Khalif, Nimo Omar Hadji, Rhoda JelangaKipkore, Emily WanjikuWaithaka and Hellen KisikuKithekaare	Party to review their list within the parameters of the Guidelines and resubmit.
14.	IEBC/NM/PL/14/2017 Grace JepkorirRonoh vs Jubilee Party and IEBC	Dismissed for want of prosecution.
15.	IEBC/NM/PL/15/2017 Walter Sani Mark Vs Jubilee Party & IEBC	Complaint dismissed.
16.	IEBC/NM/PL/16/2017 Hassan Abdullahi Abdirahman vs Jubilee Party and IEBC	Complaint allowed'; Complainant's names as indicated in his identification card was not properly captured in the list submitted to IEBC and thus the same to be rectified.
17.	IEBC/NM/PL/17/2017 Wanjiku Hellen and Others vs Jubilee Party and IEBC	Respondent is directed to resubmit the list.
18.	IEBC/NM/PL/18/2017 Nyamita Mark Ogolla Vs Orange Democratic Movement(ODM)	Respondent to re submit the list submitted to the IEBC and in so doing, ensure that it fully complies with its own nomination rules and the law.
19.	IEBC/NM/PL/19/2017 Abditafah Mohamed Diriye Vs IEBC	Complaint allowed; Commission to publish the name of the Complainant.
20.	IEBC/NM/PL/20/2017 AbigaelWanjiruGikonyo vs Jubilee Party and IEBC	1. The Respondent is directed to re-examine its party list to ensure that the list complies with the law and its own nomination rules. 2. Those who are not registered voters in Nakuru County are not validly in the Party List as per the Party Nomination Rules Part 1

	CASE	DECISION
21.	IEBC/NM/PL/21/2017 Jane Odera Asembo, Dennis Otieno Odede& Victoria Amondi Adero Vs Orange Democratic Movement(ODM)	Respondent to resubmit the name of the 2nd Complainant under the category of PWD. 1st and 3rd Complainants failed to appear before the Committee to prosecute their cases thus dismissed.
22.	IEBC/NM/PL/22/2017 Jane Simta Munka vs Jubilee Party	Complaint dismissed.
23.	IEBC/NM/PL/23/2017 Rudisha Odida, Mary Akinyi, Margaret Akinyi through Manyonge Wanyama Advocates Vs ODM	Complaint dismissed.

Annex 7: Disputes Arising from breaches of the electoral code of conduct

S.NO.	CASE NUMBER	PARTIES	DECISION
1.	IEBC/ ECCC/1/2017	Hon. Ken Lusaka Vs Wycliffe Wangamati	Both parties were fined Kshs. 1,000,000.
2.	IEBC/ ECCC/2/2017	Hon. Jesica Nduku Mbalu Vs Prof. Philip Kaloki	The accused was fined kshs. 500,000
3.	IEBC/ ECCC/3/2017	Thomas Makori Hamed Getange Vs Steve Mbogo Ndwiga	The complaint was dismissed for lack of merit.
4.	IEBC/ ECCC/4/2017	Erick Onyango Vs Netto Adhola	The accused was fined kshs. 250,000. He defaulted and was disqualified.
5.	IEBC/ ECCC/5/2017	Kavore Kariuki Vs Nixon Korir	The complaint was dismissed for want of prosecution.
6.	IEBC/ ECCC/6/2017	Benson O Ong'onge Vs Fredrick Onyango Okeyo	The accused was fined kshs 100,000 within 48 hours. The accused was directed to refrain from acts of violence towards the complainant and his supporters.
7.	IEBC/ ECCC/7/2017	Raphael Musyoki Vs Peris Ayuma	The commission issued a formal warning to the accused and ordered that all offensive posters and banners be brought down.
8.	IEBC/ ECCC/8/2017	John Ngari Wainaina vs Joseph Wambugu	The commission issued a formal warning and ordered that the accused to refrain from using abusive language.
9.	IEBC/ ECCC/9/2017	Milka Chelangat Vs Jonas Kuko and Lawrence Mukose	The complaint was withdrawn They were directed to have a peace agreement.
10.	IEBC/ ECCC/10/2017	Ken odhiambo vs John Agwenge and Dorine Aoko	Dismissed for want of prosecution
11.	IEBC/ ECCC/11/2017	Kenya Urban Roads Authority vs Paul Ndungu Irungu	The complaint was withdrawn by the complainant
12.	IEBC/ ECCC/12/2017	Rose Atieno Ogolla vs Francis Obingo Were	The complaint was dismissed for want of prosecution
13.	IEBC/ ECCC/13/2017	Hon. Zacharia Okoth obado vs Hon. George Mbogo Ochilo Ayako	The complaint was dismissed by an order of the High Court

S.NO.	CASE NUMBER	PARTIES	DECISION
14.	IEBC/ ECCC/14/2017	Hon. Zacharia Okoth obado vs George Mbogo Ochilo Ayako	The complaint was dismissed by an order of the High Court
15.	IEBC/ ECCC/15/2017	Joseph Kimenya Mutuku Vs Muasa Benson Mbindye	The complaint was withdrawn by the complainant
16.	IEBC/ ECCC/16/2017	Peter Kinyua vs Kimani Ngujiri Onesmus	The complaint dismissed for want of prosecution.
17.	IEBC/ ECCC/17/2017	Florence Kajuju vs Kawira Mwangaza	The accused was ordered to desist from perpetuating broadcasts meant to incite the public against the complainant.
18.	IEBC/ ECCC/18/2017	Eng. Nicholas Gumbo vs ODM party	The complainant withdrew the complaint.
19.	IEBC/ ECCC/19/2017	Fredrick Hussein vs Robert Momanyi	The accused was fined kshs. 250,000 A formal warning was issued to the accused Accused was ordered to remove all posters and campaign materials bearing jubilee party colours and the jubilee party presidential candidate and his deputy and the jubilee party gubernatorial candidate.
20.	IEBC/ ECCC/20/2017	Hon.Ochilo Ayako vs Hon. Zacharia Okoth Obado	The complaint was dismissed by an order of the High Court
21.	IEBC/ ECCC/21/2017	Hon. Paul Koinange Vs Kariri Njama	The accused was fined kshs. 200,000 The accused bring down all infringing posters within 24 hours.
22.	IEBC/ ECCC/22/2017	Allan Juma Masika Vs Hon. Elizabeth Ongoro and Hon. Tom J. Kajwang'	The case was dismissed for lack of merit.
23.	IEBC/ ECCC/23/2017	Edith Gathoni Vs Mwaura Denis	The accused was fined kshs. 50,000 The accused was warned and ordered to cease & desist from branding his campaign materials bearing the jubilee party presidential candidate and directed to remove all offensive posters within 24 hours.
24.	IEBC/ ECCC/24/2017	Ibrahim Memba Vs Moses Akaranga	The accused was fined kshs. 500,000 The accused was directed to remove offensive posters within 72 hours and to adhere to the code of conduct

S.NO.	CASE NUMBER	PARTIES	DECISION
25.	IEBC/ ECCC/25/2017	Christopher Obiero Vs Francis Obingo Were	The accused was fined kshs. 50,000 payable within 48 hours. A formal warning was issued to the accused against branding his posters and campaign materials with the photograph of the ODM presidential candidate and to bring down all campaign materials bearing the photograph of the ODM presidential candidate.
26.	IEBC/ ECCC/26/2017	Ruweida Obo Vs Hon. Monica Muthoni Marubu	A stern warning was issued to Monica Marubu and was directed to remove all offending posters and campaign materials within 24 hours. The accused was fined kshs. 350,000
27.	IEBC/ ECCC/27/2017	Hon. Monica Muthoni Marubu Vs Ruweida Obo	The complaint was dismissed Both parties were directed to conduct peaceful campaigns devoid of intimidation, violence or reprisal and adhere to the code of conduct.
28.	IEBC/ ECCC/28/2017	Richard Maoka Maore Vs Julius Tuitumu	The accused was fined kshs. 250,000 payable within 48 hours. Accused was ordered to remove all offensive posters, banners bearing the Jubilee party colours and photographs of the jubilee party presidential candidate and his running mate.
29.	IEBC/ ECCC/29/2017	Peter Ngugi Ndonyi Vs Nderitu Muriithi	The accused was fined kshs. 500,000 and was ordered to remove offending posters and banners
30.	IEBC/ ECCC/30/2017	J. M. Mathenge Vs Hon. Joshua Irungu	The complaint was dismissed. Accused is directed to conduct peaceful campaigns and ensure adherence to the Electoral code of conduct.
31.	IEBC/ ECCC/31/2017	Mercy Gakuya Vs Hon. John Njoroge	The accused was fine kshs. 250,000 and a stern warning was issued to the accused to refrain from putting up any offensive posters.
32.	IEBC/ ECCC/32/2017	David Wesonga Vs Caren Ajwang	The complaint was dismissed for lack of merit.
33.	IEBC/ ECCC/33/2017	Benter Otieno Vs Martin Oginda	The complaint was dismissed for want of prosecution.

S.NO.	CASE NUMBER	PARTIES	DECISION
34.	IEBC/ ECCC/34/2017	Fredrick Osewe Bonyo Vs Dishon Odere	The accused was ordered to refrain from acts of violence and ordered to pay a fine of kshs 30,000
35.	IEBC/ ECCC/35/2017	Joshua Mbithi Mwalyo Vs Ken Makali	The accused was fined kshs. 100,000. He defaulted and was disqualified to run in election.
36.	IEBC/ ECCC/36/2017	Carolyne Kinyiri Vs Omonyi Maranga Simeon	The accused was fined kshs. 50,000
37.	IEBC/ ECCC/37/2017	Omuocha felix Vs Vitalis Otieno	The accused was fined kshs. 20,000 and ordered to bring down all infringing campaign materials.
38.	IEBC/ ECCC/38/2017	Sylvester Otieno Olwanda Vs Gabriel Maunda	The complaint was dismissed for lack of merit.
39.	IEBC/ ECCC/39/2017	Aloice Ager Vs Jacktone Ranguma	The complaint was dismissed. The complainant is given stern warning against destroying and defacing accused posters.
40.	IEBC/ ECCC/40/2017	Peter Kibet Chepkong VS Zedekiah Kiprop Bundotich	The accused was fined kshs. 500,000 payable within 48 hours He was ordered to bring down all the campaign materials bearing the jubilee Party presidential candidate.
41.	IEBC/ ECCC/41/2017	Antony Njuguna Njui vs John Mbugua Honest	The accused was ordered to pull do downtown offensive posters within 24 hours. A stern warning was issued to the accused to refrain from putting up any offensive posters.
42.	IEBC/ ECCC/42/2017	Hon. Peter Mungai Mwathi Vs Eng. John Kiragu Chege	The accused was ordered to pull down offensive posters within 24 hours. The accused was warned against putting up offensive campaign materials.
43.	IEBC/ ECCC/43/2017	Hon. Elizabeth Ongoro vs T. J Kajwang'	The accused was fined kshs. 500,000 payable within 24 hours. The accused person challenged the decision of the Committee in the High Court seeking an order of the stay of judgment.
44.	IEBC/ ECCC/44/2017	Hon. Moses Kirima vs Hon. Gideon Mwiti Irea	The accused was fined kshs. 250,000 A formal warning was issued to the accused and directed to remove the offensive posters.

S.NO.	CASE NUMBER	PARTIES	DECISION
45.	IEBC/ ECCC/45/2017	Benson Muriithi Njue vs Ruku Geoffrey	The accused was ordered to bring down all infringing campaign materials and ordered to pay a fine of kshs 250,000
46.	IEBC/ ECCC/46/2017	John Kariuki Ndirangu Vs Simon Ngungi Muigai	The accused was fined kshs. 250,000 and ordered to remove all infringing posters within 24 hours.
47.	IEBC/ ECCC/47/2017	Newton Khaki vs Joseph Opiyo	The accused was fined kshs. 100,000 to be paid within 48 hours and a formal warning was issued to the accused and ordered to abide by the Electoral code of conduct.
48.	IEBC/ ECCC/48/2017	Agness Waithera Njeri vs Erick Karani Giture.	The complaint was dismissed for lack of merit.
49.	IEBC/ ECCC/49/2017	Mark Muyaka, Samson Wekulo and Kennedy Wasike vs John M. Ngobe	The complaint was dismissed for lack of merit. A formal warning was issued.
50.	IEBC/ ECCC/50/2017	Simon Mwangi Kamau vs Joel Bundi	The complaint was dismissed for lack of merit.
51.	IEBC/ ECCC/51/2017	Ritho Kevin vs Odhiambo Cyrus Omondi and Wairiri Peter Kimura.	Dismissed for want of prosecution.
52.	IEBC/ ECCC/52/2017	Isaak Mwangi Kamote Waciama vs Michael Irungu Chege	The accused was ordered to bring down all infringing campaign materials The accused was ordered to pay a fine of kshs 50,000
53.	IEBC/ ECCC/53/2017	Bodo Duncan Odhiambo vs Muturi Gachugi.	The complaint was dismissed for lack of merit.
54.	IEBC/ ECCC/54/2017	Mohammed Mohammud Ali vs Ukur Yattani	Both parties were fined kshs. 1,000,000 and kshs. 3,000,000 respectively. Both parties were suspended from campaigning and supporters of both parties were to maintain a distance of 400m from the Marsabit County tallying centre. *The accused person challenged the decision of the Committee in the High Court seeking stay of judgment*

S.NO.	CASE NUMBER	PARTIES	DECISION
55.	IEBC/ ECCC/55/2017	Hon. Ali Roba Ibrahim vs Hon. Hassan Noor Hassan	First accused was fined kshs. 1,000,000. Second accused was fined kshs. 3,000,000 Both the accused persons were ordered to desist from using abusive language. The accused person challenged the decision of the Committee in the High Court through order of the stay of judgment.
56.	IEBC/ ECCC/56/2017	Hon Ken Lusaka vs Wycliffe Wangamati	The complaint by Lusaka was dismissed for lack of merit Hon. Ken Lusaka was fined kshs. 1,000,000 and all campaigns banned for both parties.
57.	IEBC/ ECCC/57/2017	Jacktone Ranguma vs Prof. Anyang Nyongo	The complaint was dismissed for lack of merit.
58.	IEBC/ ECCC/58/2017	Francis T Kimemia Vs Daniel Waithaka Mwangi	The complaint was dismissed for lack of merit.
59.	IEBC/ ECCC/59/2017	Hon. Charity Kaluki Ngilu vs Dr. Julius Malombe	The complaint was dismissed for want of prosecution.
60.	IEBC/ ECCC/60/2017	John Kamau Githinji vs Benson Kamau King'ara	The complaint was dismissed for want of prosecution
61.	IEBC/ ECCC/61/2017	Levy Ochieng vs Benny Pete Iko and Kennedy Odondi	The complaint was dismissed for want of prosecution
62.	IEBC/ ECCC/62/2017	Francis Mburu Machua vs Gabriel Kago Mukuha	The complaint was dismissed for want of prosecution
63.	IEBC/ ECCC/63/2017	Paul Gitahi Mwaura VS Martha Wanjira Wangari	The complaint was dismissed for want of prosecution
64.	IEBC/ ECCC/64/2017	Mercy Gakuya vs John Njoroge	The accused was ordered to bring down the offending posters and other related campaign materials in 6 hours.
65.	IEBC/ ECCC/65/2017	John Omondi Umidha vs Charles Odunga	The complaint was dismissed for want of prosecution
66.	IEBC/ ECCC/66/2017	Sammy Ndungu Waita vs Anthony Mutahi	The accused was fined kshs. 250,000 The accused pull down all posters and campaign materials bearing photograph of the Jubilee party presidential candidate. The accused person did not comply with the order of the committee.

S.NO.	CASE NUMBER	PARTIES	DECISION
67.	IEBC/ ECCC/67/2017	James Mwangi and John Kamau vs Paul Ngeche Wambaire	The complaint was dismissed for want of prosecution
68.	IEBC/ ECCC/68/2017	Daniel Ondera Tresvant vs Oscar Omoke	The complaint was dismissed for want of prosecution
69.	IEBC/ ECCC/69/2017	Eng. Mark Ogolla Nyamitta vs John Kobado	The accused was fined kshs. 250,000. The accused was found guilty of using the portrait of NASA coalition leader. The accused was ordered to bring down campaign posters and banners bearing the portrait of NASA flag bearer The committee lacked sufficient evidence for destruction and defacing the complainant's posters. The accused person did not comply with the order of the committee.
70.	IEBC/ ECCC/70/2017	Victor Oluoch Omwako vs Robert Mutie Luvai	The complaint was dismissed for want of prosecution
71.	IEBC/ ECCC/71/2017	Ruweida Obo Mohamed vs Monica Muthoni Marubu	The accused was fined kshs. 500,000

Annex 8: Enforcement of Chapter Six of the Constitution

S/ no	Elective Position	No. of candidates	Cases under investigation	Cases pending in Court	Charged and convicted	Remarks
	Presidential	19	Nil	Nil	Nil	All cleared
	Gubernatorial	18	11cases • Sospeter O. Ojamong • Hassan Ali Joho • Adhi Godana Doyo • Mwangi wa Iria • Dr. Evans O. Kidero • Daniel Waithaka • Cornel Rasanga • Okoth Obado • Peter Munya • Mike Mbuvi Sonko • Granton G. Samboja • Ann M. Waiguru	6 cases • Mwangi wa Iria • Adhi Godana Doyo • Dr. Alfred Mutua Ng'ang'a • Adan Nadhif Jama • Hassan Nool Hassan • Chris Obure	2 cases • Chitavi Antony Mkala (Mombasa) • Thuo Mathenge (Nyeri)	Both Mwangi wa Iria and Adhi Godana Doyo appear in the category of those under investigation and those with cases pending in court Chitavi Antony Mkala was convicted of a criminal offence and sentenced to pay a fine of Ksh 800,000 of serve 3yrs imprisonment. No appeal was lodged. Thuo Mathenge had been found not to hold a valid degree certificate in Nyeri High Court Election petition No. 1/2013.
	Senatorial	4	1 case • Mithika Linturi	2 cases • David K. Sifuna • Kiriiro Francis Kiambi	1 case • Diriye Abdulahi Mohamed	• Diriye Abdulahi Mohamed was charged in Makadara court criminal case No. 1632/2014 with the offence of creating disturbance and entering a security restricted area. Fined Ksh 10,000 and Ksh 40,000 respectively and he paid the fine (offences were misdemeanors).

S/ no	Elective Position	No. of candidates	Cases under investigation	Cases pending in Court	Charged and convicted	Remarks
	County Women Member of National Assembly	3	2 cases • Gure Shukran Hussein • Benedict Wangui	1 case • Gladys Boss Sholei	Nil	All cleared
	Member of National Assembly (MNA)	23	7 cases • Simon Kimani • William B. Mtengo • Gwendo Jot Adhiambo • Lempurkel Mathew Lekidime • Robi Mathias Nyamabe • Masha Elizabeth Ongoro • Onyonka Richard	14 cases • Peter Kaluma • John Juma Matsanza • Nicholas Ngeno • Pete Safari Shehe • Afred Keter • Oscar Sudi • Julius Kariuki Ndegwa • Minyika Karisa Nzui • Chege John Njoroge • Lempurkel Mathew Lekidime • Onyonka Richard • Said M. Nangekh • Kitule Millitonic Mwendwa Kimanzi • Mathews Maciira Nyarungo	3 cases • Elizabeth Ongoro • T J. Kajwang • Fred Ouda	• Both Elizabeth Ongoro and T J. Kajwang were punished by the ODM Disciplinary Committee • Fred Ouda who was hitherto an MCA was punished by the Siaya County Assembly's powers and privilege's Committee. • Elizabeth Ongoro appears in two categories under investigation and also punished under a party disciplinary process.

S/ no	Elective Position	No. of candidates	Cases under investigation	Cases pending in Court	Charged and convicted	Remarks
	Member of County Assembly (MCA)	37	14 cases • Samwel K. Ndungu • Jackson K. Gikanda • Wright B. Okenye • Ronarld O. Morara • Bernard Wambua • Okumu Michael • Cosmas Mutunga • Timothy Sirei • John M. Mwenze • Bernard Muthoka • Bensley Mwania • Kimuhu Peter • Nelson Kivali • Kamau Thuo	23 Cases • David Lemantile • Abdi Sora • David Kiboloman • Japheth Wamba laba • Joel M. Wekesa • Sam Buyera • Tuwei Magdalene • Mwangi Njuguna • Emanuel Waswa • Alfred Weswa • Andrew Sichangi • Angeline Chemutai Too • David Wangira • Francis O. Were • Hilary Kemei • John Likvele • Munene Mukuha • Patrick Kiseiro • Simon Makhanu • Victor Osiako • Gichuhi Jackson • Gilbert Kitiyo • Ndiema • Samwel Yator		

Annex 9. Polling Stations Network Coverage

COUNTY CODE	COUNTY NAME	NO. POLLING STATIONS	COVERED WITH 3G OR 4G	PENDING DATA	COVERED BY SATELLITE	NO COVERAGE
001	MOMBASA	934	934	0	0	0
002	KWALE	612	592	0	3	17
003	KILIFI	988	919	2	5	62
004	TANA RIVER	307	174	8	59	66
005	LAMU	167	161	0	1	5
006	TAITA TAVETA	354	306	0	21	27
007	GARISSA	381	190	3	75	113
008	WAJIR	434	121	19	135	159
009	MANDERA	401	82	0	225	94
010	MARSABIT	384	125	15	102	142
011	ISIOLO	195	129	7	11	48
012	MERU	1473	1335	0	5	133
013	THARAKA – NITHI	625	588	0	3	34
014	EMBU	710	689	0	1	20
015	KITUI	1454	1110	7	82	255
016	MACHAKOS	1332	1317	0	1	14
017	MAKUENI	1060	1001	2	11	46
018	NYANDARUA	654	575	0	8	71
019	NYERI	917	910	0	2	5
020	KIRINYAGA	659	659	0	0	0
021	MURANG'A	1131	1089	0	2	40

COUNTY CODE	COUNTY NAME	NO. POLLING STATIONS	COVERED WITH 3G OR 4G	PENDING DATA	COVERED BY SATELLITE	NO COVERAGE
022	KIAMBU	1963	1959	0	0	4
023	TURKANA	644	142	3	162	337
024	WEST POKOT	712	238	22	146	306
025	SAMBURU	284	101	16	73	94
026	TRANS NZOIA	639	614	13	3	9
027	UASIN GISHU	868	845	10	3	10
028	ELGEYO/MARAKWET	529	313	48	79	89
029	NANDI	796	772	0	2	22
030	BARINGO	892	500	34	91	267
031	LAIKIPIA	531	423	0	6	102
032	NAKURU	1806	1689	0	0	117
033	NAROK	750	541	3	54	152
034	KAJIADO	797	635	1	89	72
035	KERICHO	780	751	5	2	22
036	BOMET	728	728	0	0	0
037	KAKAMEGA	1497	1495	0	0	2
038	VIHIGA	548	548	0	0	0
039	BUNGOMA	1186	1177	1	1	7
040	BUSIA	760	756	1	1	2
041	SIAYA	916	915	0	1	0
042	KISUMU	1027	1026	0	1	0
043	HOMA BAY	1062	1014	0	1	47
044	MIGORI	826	716	101	0	9

COUNTY CODE	COUNTY NAME	NO. POLLING STATIONS	COVERED WITH 3G OR 4G	PENDING DATA	COVERED BY SATELLITE	NO COVERAGE
045	KISII	1126	1117	0	1	8
046	NYAMIRA	553	548	0	2	3
047	NAIROBI CITY	3378	3363	15	0	0
048	DIASPORA	10	10	0	0	0
049	PRISONS	103	103	0	0	0
TOTAL		**40883**	**36045**	**336**	**1470**	**3032**
	PERCENTAGE		**88%**	**1%**	**4%**	**7%**

Annex 10: Incidences Reported and Recorded at Call Centre During General election

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
1.	BATTERY	• Power bank and KIEMS KIT went off after a few hours	6	NANDI, VIHIGA, MACHAKOS AND NAIROBI TOWN	HIGH	HIGH	CLOSED	• Connected to the power source
2.	FORMS	• "Invalid/corrupt file" message while attempting to upload the form 34B via FTP • Misplaced MNA ballot papers • Forms 32C was unavailable • Inadequate form 32C	4	MERU, MIGORI, BOMET, NAIROBI CITY	HIGH	HIGH	CLOSED	• The 34B file was uploaded using correct format and send to right destination, • Misplaced ballot papers were taken to the right PS • More Form 34Cs were rushed to the PS
3.	HARDWARE	• Finger print scanner not responding at all • Broken KIEMS tablet screen before the commencement of the polling • Printer and its scanner not working (missing drivers) • No THURAYA • KIEMS freezing anytime even after hard rebooting	50	ALL COUNTIES WERE AFFECTED BY ATLEAST ONE H/W ISSUE	HIGH	HIGH	CLOSED	• Hard reboot was done on Hanging KIEMS kit(EVI & Camera/scanner) if not a replacement of KIT was done • Replaced broken KIEMS kit before start of polling • faulty power banks were replaced

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
		• KIEMS failing to connect to NCT repeated times • THURAYA failing to connect • Tablet freezes during biometric fingerprint scanning • Power bank faulty, KIEMS not powering on • The tablet restart when finger is placed on the scanner • The KIEMS tablet not working at all • Nonfunctional cameras to scan the MRZ of the voter's ID • KIEMS EVI not responding at all • KIEMS scanner failed to work after sometime • Modem not working, failed to log in.						• Troubleshoot THURAYAs and they worked so well • Replaced faulty modems

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
4.	SOFTWARE	• KIEMS running double validation of voters • Unable to read/scan QR code • Results for MNA not showing on the public display • KIEMS transmitted successfully but fails to display on the public portal (displays 00) • QR code showing/ opening another constituency • The kit reading out of zone • Error messages when scanning QR codes • Wrong RO's credentials to log in • KIEMS skips voters count number upon validation • EVI application unable to launch • KIEMS keeps on restarting every time a voter is identified • Polling stations (streams) used same QR code for polling	79	ALL COUNTIES WERE AFFECTED BY ATLEAST ONE S/W ISSUE	HIGH	HIGH	CLOSED	• Hard reboot solved the problem to do with double validation of voters • restarting the KIEMS helped read/ scan QR code • PSs with wrong QR codes were sent right ones • Kits reading out of Zone were sent right QR code too • ROs were sent the right credential to enable log in to their backend • KIEMS with French language were replaced with others • KIEMS indicating already casted votes was given the right QR code • transmission of PS that read MTN Uganda networks was done at constituency tallying center

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
		• SD card in KIEMS kit is not initializing ops • KIEMS with wrong dates • KIEMS scanner very slow • KIEMS indicates already casted votes on opening the PS • KIEMS keeps on hanging • The kit displays French language • NCT reading only Uganda network • Filezilla connects and then dr						
5.	LOW NETWORK	• Low network connectivity while uploading form 34B • No network for transmitting results • Issue with EDMS in transmission of form 34B • Network connectivity below 2G • After running the NCT the network could not be identified • THURAYA Network very slow	13	BARINGO, BUNGOMA, GARISA, NANDI, NAROK, MANDERA, MERU, WAJIR, KAKAMEGA, HOMABAY	HIGH	HIGH	CLOSED	• All networks were boosted to enable transmission of results and of form 34Bs. All forms were transmitted

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
6.	MOBILE NETWORK OPERATOR-AIRTEL	• No connection on Airtel Modem • Slow airtel network	5	MANDERA, MARSABIT, MERU	HIGH	HIGH	CLOSED	okay
7.	MOBILE NETWORK OPERATOR-SAFARICOM	• Getting only a 2G signal • unable to connect-slow	8	KAKAMEGA, BOMET, MARSABIT, GARISA, WAJIR, BUNGOMA	HIGH	HIGH	CLOSED	okay
8.	MOBILE NETWORK OPERATOR-TELCOM	• Network unable to generate report • unable to connect-very slow	2	MIGORI, KWALE	HIGH	HIGH	CLOSED	okay
9.	PROCEDURE	• Clerk did not validate voters hence the correct number of votes casted is not correct • ICT system login issue	MORE THAN 4	HOMABAY, NAROK, NAIROBI CITY AND OTHERS	HIGH	HIGH	CLOSED	• The PS was able to transmit ALL voters who voted in • either way • User was • created to access the incidence reporting system
10.	SIMCARDS	• SIM card wrongly inserted • Lack of SD Card inside KIEMS kit	2	KAKAMEGA, TURKANA	HIGH	HIGH	CLOSED	• SIM card was inserted well • An SD card was replaced immediately

S/N	INCIDENCE TYPE	INCIDENCE DESCRIPTION	NO OF CASES REPORTED	AFFECTED AREAS (COUNTY)	PRIORITY	IMPACT	STATUS	REMARKS
11.	OTHERS	• No excel register of voters • Broken ballot boxes • Forgot KIEMS supervisor password • Projector and screen missing • Printer error during scanning • Wrong/misplaced QR code • Wrong mapping of ROS backend accounts • No QR code • No power banks • No THURAYA password to login • No ROS credentials for login in to backend • Lack of security personnel • P.O didn't report to work • P.O opened the polling station earlier and closed it • Lack of communication due to bad network coverage • Invalid QR code for the polling station • Voting without biometrics • Opening the polling with training QR code	14	GARISSA, BUNGOMA, NYERI, VIHIGA, MIGORI, KWALE, HOMABAY, NANDI, KIAMBU, NYANDARUA, UASIN GISHU	HIGH	HIGH	CLOSED	• The excel register was traced • Replaced broken ballot boxes • PO was reminded his/her supervisor password, projector/ screen were provided. • Printer was replaced to enable scan form 34B • Right QR codes were provided • A power bank was provided • Password for THURAYA was provided, • RO was provided with the correct and right credentials • For those who opened with training QR code had to scan the right QR code • Those who voted without biometrics, form 34C was filled • Security was provided

Annex 11: Detailed Response to the Presidential Petition on ICT Issues

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

RESPONSE TO NASA CLAIMS ON THE RECENT PRESIDENTIAL ELECTIONS: THE FACTS

1. The August 8th 2017 Presidential Election was concluded and the outcome published several months ago. However, the enduring claims by the National Super Alliance (NASA) coalition and the recent release of falsified results compels the Commission to restate the real facts. This is because Kenyans are entitled to the truth. The Commission will continue to defend the truth on the recent elections for the sake of protecting our democracy.

I. August 8th 2017 Presidential RESULTS Tally

2. The Commission tallied the presidential results and declared Mr. Uhuru Kenyatta as the winner with 8,203,290 (54.27%) votes while Mr. Raila Odinga came second with 6,762,224 (44.74%) votes. The Commission arrived at these figures after receiving ALL the Form 34Bs from the Constituency Returning Officers (CROs) from 290 constituencies and the diaspora. This was based on the interpretation of the Maina Kiai Case Civil Appeal No. 105 of 2017 which ruled that the presidential results declared at the constituency level are final. Subsequently, the Commission sought clarification on this procedure and the same was provided by the Supreme Court. The procedure, as clarified, was later applied in the October 26th 2017 fresh presidential election.

II. Opening of the Results Transmission Server

3. The facts around access to Results Transmission Server (RTS) has been the subject of misinformation. During the August 8th 2017 presidential election, the Commission provided a secure access to the RTS server to all agents of presidential/political parties upon their request. This enabled them to view the results as they were being received from polling stations across the country. The table below shows party personnel who were given access to the RTS and their level of interaction with the server:

PRESIDENTIAL/ PARTY AGENT	EMAIL ADDRESS USED	PARTY	ATTEMPTED LOG IN	SUCCESSFUL LOG IN	FAILED LOG IN
John Walubengo	walu@gmail.com	NASA	54	34	20
Davis Chirchir	dkchirchir@gmail.com	Jubilee Party	24	10	14
Collins Ndindi	collinsdndi@gmail.com	Independent Candidate	46	6	40
Jappheth Kaluyu's agent	rowa.juls@gmail.com	Independent Candidate	6	3	3
Bern Wafukho	bernwafukho@gmail.com	UDP	8	6	2
Bildad Kagai	billkagai@gmail.com	Thirdway Alliance	5	5	0

4. It is very clear from the table above that NASA agent had the highest number of successful "log-ins." This is a fact that NASA has always deliberately avoided to inform Kenyans. Instead, NASA continuously mentions the names of the agents of their political opponents to give an impression that only their opponents were given this access.
5. Based on the lessons learnt in the August 8th election, in the October 26th election, the Commission developed and shared with stakeholders an even better mechanism of accessing the servers which resulted in enhanced transparency.

III. Compliance with Supreme Court Order to Access the Servers

6. When the Supreme Court ordered the Commission to provide petitioners and the third respondent access to the servers in the first 2017 presidential petition, the Commission made efforts to expedite the order as soon as it was practically possible. It should be noted that opening a server entails establishment of a secure link, defining user accounts and assigning permissions to a highly secure environment.
   It required collaboration by different experts, some of whom were based in Europe where the Commission's cloud servers were hosted. This process took time and the 48 hours given to comply with the order were certainly not adequate. By the time the secure link was established, there was little time left for the Court experts to report back to the Registrar and then the Supreme Court. It is a fact that access was provided to both NASA and Jubilee Party agents, though for a shorter period of time than anticipated.

7. At no time did the Commission deliberately prevent access to the server. Indeed, once a secure connection was established, the server continued to be available and accessible until mid-October 2017 when the facility was redirected for use in the fresh presidential election.

IV. Claims on Hacking

8. Allegations of hacking of the Results Transmission System (RTS) emerged during the 8th August 2017 election which the Commission denounced after establishing the evidence being relied on were fake logs from a Microsoft platform as opposed to the Commission's Oracle database.

   An independent audit conducted on behalf of OT-Morpho by Verizon, a reputable international telecommunication company, showed that there was no evidence of hacking of the RTS as used for the August 8th elections. The ICT infrastructure deployed in the August 8th election met high international standards in terms of security.

V. Claims of Results Forms being deleted from the Server

9. First, Kenyans should know that there were two different pathways of submitting result forms to the National Tallying Centre (NTC). Form 34As were transmitted from the polling stations to the NTC and uploaded to the public portal.

   This was done directly through the Kenya Integrated Election Management System (KIEMS) kit. Agents who were given access to the RTS at the NTC were able to view the forms that were successfully transmitted from the polling stations.

10. Second, the Form 34Bs were transmitted to the NTC through a secure File Transfer Protocol server (SFTP). The SFTP server was developed to enable the Commission to comply with the ruling in the Maina Kiai case which required to electronically transmit Form 34Bs to the NTC. It is a fact that some of the files sent by the Returning Officers (ROs) were of poor quality and had to be resent by the ROs to allow for quality printouts. There was no relationship between the SFTP server and the Cloud-based RTS server, contrary to assertions by NASA.

VI. The Missing 11,000 Form 34As

11. The claims that the Commission had not received all the forms before declaring the 8th August presidential election winner is unfounded. Our interpretation of the Maina Kiai case was such that once the Constituency Returning Officer (RO) received all the Form 34As from

the polling stations within their respective constituency, they would prepare the final results in Form 34B which is then scanned and sent via SFTP to the NTC at Bomas of Kenya for verification and declaration of final results.

At the time, the Commission's interpretation was such that it was not mandatory to receive Form 34As at the NTC once they had been received by the CROs and Form 34B prepared.

12. It is therefore not true that the Commission never received 11,000 Form 34As. All the said forms were received, scanned and published on the online public portal (forms.iebc.or.ke). In addition, the PROVISIONAL results relayed via KIEMS RTS as extracted from the servers with TimeStamp are also available in MS Excel for anyone to carry out independent analysis of the results.

    It will be recalled that the forms from areas with network challenges were eventually availed at the NTC and then uploaded on the public portal.

VII. Conclusion and Way Forward

13. The Commission is committed to strengthening democracy in Kenya. While it invites criticisms, such arguments must be based on facts and goodwill to improve the electoral process. Access to the servers was granted to parties even before the declaration of the August 8th results; and after the Supreme Court direction, albeit with delays. All the August 8th presidential polls results are available and accessible at: forms.iebc.or.ke.
14. The Commission is currently undertaking a post-election evaluation exercise and soon stakeholders will be invited to make their contributions on lessons learnt for better management of future elections in Kenya. In the meantime, we will not hesitate to provide clarification on any issue about the recently held elections.

Connie Maina Nkatha
Acting Chairperson

29th January, 2018

Annex 12. Risk Management for the 2017 General Election

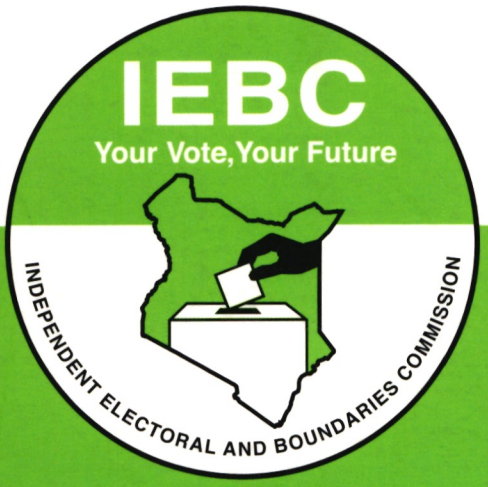
S/ NO	ACTIVITY	RISKS IDENTIFIED	PROPOSED MITIGATION	ACTION TAKEN BY THE COMMISSION FOR 2017 GENERAL ELECTIONS
1	Risk assessment on election technology (BVR, EVIDs and RTS	i) Malfunctioning Kits ii) Several kits lost/ stolen iii) Components of the BVR kits lost iv) Lost mobile phones Dead batteries v) Incompatible standalone election technologies vi) Loss/ mix-up of data from BVR to EVID vii) Failure of results transmission viii) Power blackout ix) Absence of SLAs with service providers	i) Procurement of an integrated election technology solution ii) Procure technology with inbuilt power backup iii) Improved procurement/ vendor management iv) Mapping of polling stations with low network coverage v) Provide satellite connectivity in low network polling stations/ tallying centres vi) Provide for redundancy vii) Invest in cyber security viii) Renewal of SLAs	i) Procurement of Kenya integrated Election Management System (KIEMS) ii) Polling stations with low network coverage mapped iii) Thuraya satellite solution provided iv) Cyber security acquired and installed v) Backup servers installed vi) Power backup installed vii) SLAs with service providers were renewed
2.	Risk associated with registration of voters.	i) Inadequate number of BVR kits deployed ii) Inadequate backing of data and uploading at the regional server.	i) Deploy adequate kits based on eligible voters and geographical factors. ii) Provide mobile registration for arid areas	i) Additional kits were provided ii) Provision for Mobile registration iii) Procurement of additional flash disks for back ups
		i) Inadequate voter education.	(i) Provide adequate resources for voter education (ii) Engage the provincial administration in voter education and mobilization (iii) Early procurement of voter education materials	(i) Chiefs engaged in voter education and voter mobilization (ii) Outreach programmes carried out by voter educators

S/ NO	ACTIVITY	RISKS IDENTIFIED	PROPOSED MITIGATION	ACTION TAKEN BY THE COMMISSION FOR 2017 GENERAL ELECTIONS
		ii) Inadequate resourcing of MVR monitoring	Provide resources to facilitate the monitoring of MVR	Increased allocation for movement of VRAs and ROs for MVR monitoring
		iii) Multiple transfer of voters	(i) Timely update of the register (ii) Voter education (iii) Integrated voter registration system.	Clean-up and reconciliation of register of voters
		iv) Voters without biometrics	(i) Contact the individual voter.	Voters contacted and biometrics recaptured
3	Risk assessment on Commission warehouses	i) Lack of proper storage plan ii) Lack of proper inventory iii) Low capacity among the Supply Chain Management (SCM) staff iv) Warehouses full of obsolete items	i) Develop and approve a disposal policy ii) Dispose all obsolete items to create space for items to be used in 2017 general elections	i) Disposal committee constituted ii) Items for disposal identified iii) SCM staff trained.
		Lack of inventory register for commission assets	i) Develop an asset register ii) Regular stock take should be undertaken	Stock take taken annually
4.	Assessment on likelihood of election related violence	Likelihood of election-related violence in the 2017 General elections	Undertake joint election security coordination with the security sector agencies and other stakeholders	Election security project (ESAP) undertaken by IEBC, NPS, IPOA, DCI and UWIANO
		Inadequate capacity by the Commission staff to identify electoral violence risk factors	Conduct training for Commission staff	Trainings conducted to county and headquarter risk champions

S/ NO	ACTIVITY	RISKS IDENTIFIED	PROPOSED MITIGATION	ACTION TAKEN BY THE COMMISSION FOR 2017 GENERAL ELECTIONS
		Threats to polling officials, candidates, election materials and voters.	(i) Enhanced security to election officials in high risk areas (ii) Election security coordination between Commission staff and security agencies (iii) Enforcement of electoral code of conduct (iv) Provision of voter education	Enhanced security provided to the Commission officers and offices in high risk areas
5.	Risk assessment on The Election Laws (Amendment) Act 2016 and the Election Offences Act 2016	Delays in procurement due to limited time occasioned by the late amendment	(i) Explore other methods of procurement including restricted tendering and direct procurement (ii) Stakeholder engagement in procurement to enhance trust and public participation	(i) The Commission adopted direct procurement for KIEMs and ballot papers (ii) Stakeholders invited and participated in observation of printing of ballot papers in Dubai
		Non adherence of result management framework	Proper training of election staff on results management	Staff trained on result management in line with new legislation
		Inability to adhere to the timelines set in the EOP	i) Review the timelines ii) Stakeholder engagement	i) Timelines reviewed. ii) Stakeholder meetings conducted with political parties, media and observers
		Failure of technology to perform in line with the new laws	i) Conduct testing and configuration of KIEMs ii) provide backup to KIEMs iii) Complementary mechanism	i) Testing of KIEMs and accessories conducted on time ii) Backup to KIEMs provided at the CAWs level

S/ NO	ACTIVITY	RISKS IDENTIFIED	PROPOSED MITIGATION	ACTION TAKEN BY THE COMMISSION FOR 2017 GENERAL ELECTIONS
		Inadequate resources to cater for additional polling stations following capping of voters at a maximum of 500	i) Revise the budget to cater for increased polling stations. ii) Lobby Parliament to review the capping.	i) Polling stations capped at 700.
6.	Risk assessment on election training	ii) Inadequate provision for accommodation and transport in vast constituencies	i) Make provision for enhanced transport allowances in vast or hardship constituencies ii)Make provision for accommodation in vast/ hardship constituencies	Accommodation and enhanced budget provided for in the 2017 general election budget
7.	Results management risks	Failure to comply with The Election Laws (Amendment) Act 2016	i) Conduct proper training on results management ii) provide business continuity plan iii) Conduct simulation of result transmission	i) Training on filling of results declaration forms conducted ii) Simulation of results transmission conducted
		Hacking of IEBC servers	Acquire and install security for Commission servers	Provision of cyber security for the data center by the Commission.
8.	Legal risks	i) Ineffective enforcement of the electoral code of conduct	i) Strengthen the Inter-agency cooperation framework	i) An interagency committee comprising IEBC, ODPP and DCI established ii) Individuals engage in violence sanctioned by the Commission
9.	Risk assessment on Fresh presidential Elections	Failure in results management	Conduct trainings to polling officials	Trainings conducted on polling process with more focus on filling of statutory forms and results transmission

S/ NO	ACTIVITY	RISKS IDENTIFIED	PROPOSED MITIGATION	ACTION TAKEN BY THE COMMISSION FOR 2017 GENERAL ELECTIONS
		Threats of violence in some constituencies	i) Provision of adequate security	The Commission asked NPS to provide adequate security.
		Procurement challenges due to constrained timelines	i) Conduct direct procurement ii) Give repeat orders for standardized election materials	i) Procurement and modification of KIEMS solution directly awarded to OT Morpho ii) Direct procurement of ballot papers iii) Suppliers of goods and services for the 8th August 2017 General Elections given repeat orders
		Boycott of elections	i) Engagement of the parties and candidates	Consultative meetings conducted between IEBC and candidates in the FPE
		Threat of ethnic/political violence	i) Deploy security in high risk areas ii) Enforcement of electoral code of conduct	i) Security deployed to high risk areas ii) Enhanced stakeholder engagement in high risk areas
		Threat of ethnic/political violence	i) Deploy security in high risk areas ii) Enforcement of electoral code of conduct	i) Security deployed to high risk areas ii) Enhanced stakeholder engagement in high risk areas
10.	Risk assessment on Supreme Court Petition II	Likelihood of nullification of the Presidential election.	Engage lawyers to come up with scenarios and appropriate responses	Scenario analysis conducted
		Violence incidents in response to Supreme Court ruling	i) Deployment of security in hotspot areas	Additional security deployed in Volatile party strongholds



Your Vote, Your Future

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