



***Your Vote, Your Future***

# Table of Contents

Acronyms	vi
Foreword	viii
Profiles Of Iiec Commissioners - 2009 -2011	x
Executive Summary	xiv
<b>CHAPTER 1: INTRODUCTION</b>	<b>1</b>
1.0 Historical Background	2
1.1 Formation and Mandate of the IIEC	4
1.2 Composition of the IIEC	5
1.3 Summary of the IIEC Achievements	5
<b>CHAPTER 2: REFORMS IN THE ELECTORAL PROCESS AND MANAGEMENT OF ELECTIONS</b>	<b>9</b>
2.0 Overview	10
2.1 Reform in the electoral Management Body	10
2.1.1 Creation of the IIEC as a new Electoral body	10
2.1.2 Establishment of a Secretariat	11
2.1.3 Legal Framework	11
2.1.4 Reform in the Management of elections	12
2.1.5 Increasing integration of Technology in Election	15
2.1.6 Regulating political parties	16
2.1.7 Introducing Performance Management in IIEC's	15
<b>CHAPTER 3: ESTABLISHMENT OF AN EFFICIENT AND EFFECTIVE SECRETARIAT</b>	<b>17</b>
3.0 Overview	18
3.1 IIEC Secretariat	18
3.1.1 The Management Structure	18
3.1.2 Physical Facilities	22
3.1.3 Establishment of operational policies and Systems	22
3.1.4 Corporate and Operational Manuals	24
3.1.5 The IIEC Customer Service Charter	26
3.1.6 The Commission Charter	26
<b>CHAPTER 4: PROMOTION OF FREE AND FAIR ELECTIONS</b>	<b>27</b>
4.0 Overview	28
4.1 Marginalization and Inclusion	28
4.1.1 Expanding the Democratic Space	30
4.2 Integrity in Conducting Elections	32
<b>CHAPTER 5: FRESH REGISTRATION OF VOTERS AND THE CREATION OF A NEW VOTERS' REGISTER</b>	<b>35</b>
5.0 Overview	36
5.1 Voter Registration	36
5.1.1 OMR and EVR Registration	36
5.1.2 EVR Pilot Project	37
5.1.3 Registration of Prisoners	37
5.1.4 Continuous Voter Registration	39
5.2 Electronic Data Transmission	40
5.3 Inspection of Registers	40
5.4 Challenges	40
5.5 Achievements	41

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## CHAPTER 6: EFFICIENT CONDUCT AND SUPERVISION OF ELECTIONS AND REFERENDA 45

6.0	Overview	46
6.1	Parliamentary and Civic By-elections	46
6.2	The 2010 National Constitutional Referendum	46
6.3	Achievements	48
6.3.1	Development of Acceptable Referendum Symbols	48
6.3.2	Consultations with the Referendum committees	48
6.3.3	Acceptance of application of Technology	48
6.3.4	Staff Capacity Building in Efficient Conduct of Elections	48
6.3.5	Electronic Transmission of Results (ETR)	50
6.3.6	Virtual Tallying Centre	50
6.3.7	Online Call Centres	50
6.4	Challenges	52
6.5	Elections within other Institutions	52

## CHAPTER 7: DEVELOPMENT OF A MODERN SYSTEM FOR COLLECTION, COLLATION, TRANSMISSION AND TALLYING OF ELECTORAL DATA 59

7.0	Overview	60
7.1	Integration of Technology in Electoral Processes	60
7.2	Electronic Transmission of Provisional Results	60
7.3	Modernization of Internal Processes	62

## CHAPTER 8: FACILITATION OF THE OBSERVATION, MONITORING AND EVALUATION OF ELECTIONS AND REFERENDA 69

8.0	Overview	70
8.1	Elections Monitoring and Observation	70
8.1.1	Referendum Observer Missions	71
8.1.2	Commission Observation Missions and Other Activities	71
8.2	Relations with Stakeholders	74
	Management of Partnerships	74
	Political Parties Partnership	74
	Review of the Political Parties Act 2008	74
	Political Parties Liaison Committees	74
	Funding Political Parties	76
8.2.2	Partnership with Media	76
	Regulation of the Media	78
8.2.3	Partnership with other Electoral Institutions	78
8.3	Monitoring and Evaluation of Elections	80

## CHAPTER 9: PROMOTION OF VOTER EDUCATION AND A CULTURE OF DEMOCRACY 85

9.0	Overview	86
9.1	Promoting Voter Education	86
9.2	Voter Education Platforms	87
9.2.1	Voter Education through Media	87
9.2.2	Voter Educators	90
9.2.3	Use of Mobile Technology	90
9.2.4	Civic Education	90
9.2.5	Voter Education Curriculum	90
9.2.6	Participation in National Music Festivals and Trade Fairs	90

9.3	Voter Education for Prisoners	91
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## CHAPTER 10: SETTLEMENT OF MINOR ELECTORAL DISPUTES DURING AN ELECTION AS MAY BE PROVIDED BY LAW 93

10.0	Overview	94
10.1	Specific Initiatives in Electoral Dispute Resolution by the IIEC	95
10.1.1	Conflict Management Panels	95
10.1.2	Launching the Regional Conflict Management Panels	96
10.1.3	Training of the Panelists	96
10.2	Political Parties Liaison Committee	97
10.3	Achievements	98

## CHAPTER 11: FUNDING COMMISSION ACTIVITIES AND FUTURE OPERATIONS 101

11.0	Overview	102
11.1	IIEC Funding Modalities	102
11.1.1	Financial Management System	102
11.1.2	Financial Provisions	103
11.2	Strengthening the Financial Function	104
11.3	IIEC Financial Performance	105
11.3.1	Contribution from Development Partners	105
11.4	Ensuring Value For Money	105
11.4.1	Cost of Voter Registration, Referendum and By- Elections	106
11.5	IIEC Budgetary Provisions	106
11.5.1	Financial Year 2010/2011 – Expenditure Report	110
11.6	Procurement	116
11.7	Challenges	116

## CHAPTER 12: WAY FORWARD 119

12.0	Conclusion	120
12.1	Changes in the Governing Legislation	120
12.2	Establishment of a fundamental Secretariat	120
12.3	Voter Registers Management and Election Systems	121
12.4	Enhancement of Free and Fair Elections	121
12.5	Integration of Technology	122
12.6	Observer Missions	123
12.7	Settlement of Minor Electoral Disputes	123
12.8	Corporate Governance	123
12.9	Finance Management	123
12.10	Commission Strategic Plan 2011-2017	124

## FIGURES

Fig. 1 IIEC Establishment as at June 2011	20
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## TABLES

## ANNEXES 127

Draft Plenary Charter	128
Annex A Staffing Overview	134
Annex B International Interactions	138
Annex C Litigation Cases – 2009-2011	142
Annex D By - Elections 2009 - 2011	144

# Acronyms

<b>ASK</b>	Agricultural Society of Kenya
<b>AU</b>	African Union
<b>BRIDGE</b>	Building Resources in Democracy, Governance and Elections
<b>CBO</b>	Community-Based Organizations
<b>CEC</b>	Constituency Electoral Coordinator
<b>CEDAW</b>	Convention for Elimination of All Forms of Discrimination Against Women
<b>CEO</b>	Chief Electoral Officer
<b>CFR</b>	Conflict Management Forum
<b>CKRC</b>	Constitution of Kenya Review Commission
<b>CPPLC</b>	Constituency Political Parties Liaison Committees
<b>CSO</b>	Civil Society Organizations
<b>DCEO</b>	Deputy Chief Electoral Officer
<b>DEC</b>	District Election Officer
<b>ECK</b>	Electoral Commission of Kenya
<b>EDR</b>	Electoral Dispute Resolution
<b>EMB</b>	Electoral Management Body
<b>EISA</b>	Electoral Institute for Sustainability of Democracy in Africa
<b>ERP</b>	Enterprises Resource Planning
<b>ETR</b>	Electronic Transmission of Results
<b>EV</b>	Electronic Voting
<b>EVR</b>	Electronic Voter Registration
<b>EVT</b>	Electronic Vote Transmission
<b>FIDA</b>	Federation of Women Lawyers - Kenya
<b>GIS</b>	Geographical Information System
<b>ICCPR</b>	International Convention on Civil and Political Rights
<b>ICERD</b>	International Convention on the Elimination of All Forms of Discrimination
<b>ICT</b>	Information & Communications Technology
<b>ID</b>	Identity Card
<b>IDEA</b>	Institute for Democracy and Electoral Assistance
<b>IDP</b>	Internally Displaced Person
<b>IEBC</b>	Independent Electoral & Boundaries Commission
<b>IED</b>	Institute for Education in Democracy
<b>IFES</b>	International Foundation for Electoral Systems
<b>IGAD</b>	Inter-Governmental Authority on Development
<b>IIEC</b>	Interim Independent Electoral Commission

<b>IPPG</b>	Inter-Parties Parliamentary Forum
<b>IPRS</b>	Integrated Population Registration System
<b>IREC</b>	Independent Review Commission
<b>IT</b>	Information Technology
<b>KIE</b>	Kenya Institute of Education
<b>LSK</b>	Law Society of Kenya
<b>MDA</b>	Ministries, Departments and Agencies
<b>MTEF</b>	Medium Term Expenditure Framework
<b>NDI</b>	National Democratic Institute
<b>NGO</b>	Non-Governmental Organization
<b>NPPLC</b>	National Political Parties Liaison Committees
<b>OMR</b>	Optical Mark Reader
<b>PAS</b>	Performance Appraisal System
<b>PMS</b>	Performance Management System
<b>POA</b>	Public Oversight Authority
<b>PPA</b>	Political Parties Act
<b>PPLC</b>	Political Parties Liaison Committees
<b>PRSK</b>	Public Relations Society of Kenya
<b>REC</b>	Regional Electoral Coordinator
<b>RPPLC</b>	Regional Political Parties Liaison Committees
<b>SMS</b>	Short Messaging Services
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>USAID</b>	United States Agency
<b>VSAT</b>	Very Small Aperture Terminals
<b>WAN</b>	Wide Area Network
<b>WRMA</b>	Water Resource Management Authority



**Ahmed Issack Hassan,  
EBS Chairman**

## Foreword

It is with pride that I submit to Parliament, the Exit Report of the Interim Independent Electoral Commission.

The Commission was established at a time when the country was at a crossroad, having lost faith in the management of elections. Immediately upon establishment, the Commission embarked on activities designed to restore credibility in the electoral process. It is important to note from the outset, that most of the initial achievements of the Commission were accomplished by the Commissioners themselves, who doubled as operatives and applied a hands-on approach. Whereas this made our first year in office an arduous experience, it nonetheless gave us the requisite grounding in electoral operations.

After a period of one year in office, the Commission successfully established a fully-fledged Secretariat to manage its operations. To this end, the necessary operational structures, systems and concomitant staffing have been established at the National, Regional and Constituency levels. In an effort to further strengthen the Commission, significant effort and resources have been expended to build the capacities of both the Commissioners and the Secretariat staff. We have insisted on using the opportunities presented by the National Referendum on the Constitution and the various by-elections held, to expose all the staff to hands-on experience with elections. This, coupled with the benchmarking visits to other Electoral Management Bodies, equipped the staff, in my opinion, with the skills needed to successfully manage the electoral process in Kenya.

The Commission also steadfastly proceeded to address the other dimensions of its mandate. To this end, it introduced major reforms in the electoral process and management of elections in the country. Some of the notable accomplishments in this regard include having successfully conducted the National Referendum on the Constitution and managing the various by-elections across the country. It is also noteworthy to highlight the fact that in 2010, over 12.4 million eligible voters were registered in a record period of forty-nine days in readiness for the National Referendum. This achievement affirms the potential inherent in the Commission to perform when called upon to do so. Also worth mentioning is the fact that a record voter turn-out of 72 percent was achieved during the National Constitutional Referendum. The Commission continues to enhance its capacities in preparation for delivering the impending 2012 multiple elections.

A key mandate of the Commission at establishment was the development of a modern system for collection, collation, transmission and tallying of electoral data. I can proudly say that the Commission has boldly proceeded to address the challenges inherent in this mandate by embracing information technology in the electoral process. Although the integration of ICT in the electoral process is still in its nascent stage, its potential to enhance efficiency, particularly in the transmission of election results, has been demonstrated. It must be noted that the speedy transmission of election results is one area in which the expectations of Kenyans have been heightened following the repeated successful performance by the Commission. We also envisage increasing the employment of technology in other areas of the electoral process and in our operations, in order to improve the internal efficiencies of the Secretariat.

The Commission during its tenure has successfully delivered on most of its mandate. It has put the requisite legal framework in place to sufficiently enable it perform at optimal level. Thus, in collaboration with key stakeholders, concerted effort was made to provide legislation on the IEBC Act 2011, the Elections Act 2011, and the Political Parties Act 2011. Effort is being made to introduce the Financing Bill that will regulate expenditure by political parties. Effort is also being made to ensure that the required regulations on the electoral laws are put in place in order to implement the Constitution.

I would like to thank His Excellency the President and the Prime Minister for entrusting such a momentous national responsibility on the Commissioners and myself.

In fulfilling its mandate, the Commission also appreciates the complementary role the Secretariat continues to play. To this end I must commend the Secretariat under the leadership of the Chief Electoral Officer who together with the Commissioners ensured that as a team, we delivered as expected. I must also express my appreciation to all other Kenyans who provided services to the Commission in one way or the other. I wish to thank all of them for their support and dedication.

I also thank the various Public Service agencies including Government Ministries, Parliament and other State bodies who worked with us. Other key stakeholders, including Civil Society Organizations, Community Based Organizations and Development Partners who are members of the Electoral Support Group, played major roles to ensure that our work was successful. We recognize that without their support our work may not have been as successful.



## PROFILES OF IIEC COMMISSIONERS - 2009 -2011



**Ahmed Issack Hassan**  
Chairman

The Chairperson of IIEC Mr. Ahmed Issack Hassan is a University of Nairobi Law Graduate who has been practicing Law in Nairobi since 1995. He is also a Certified Public Secretary of Kenya (CPSK). Mr. Ahmed served as a Commissioner in the Constitution of Kenya Review Commission (CKRC) from 2000 to 2005. In May 2006, he was appointed by the United Nations Political Office for Somalia (UNPOS) as a legal consultant in the training of Somali Parliamentarians on Constitutionalism and Federalism in Baidoa, Somalia. In June 2006, he was appointed by the President to the Kiruki Commission of Inquiry to inquire into the activities of Artur Margaryan and Artur Sargasyan. He also served as a Legal Consultant for UNDP – Somalia on the Somalia Constitution Making Project from June to December 2008. He has also served on the Board of Directors of Water Resources Management Authority (WRMA) from December 2007 to March 2009. In December 2010, Mr. Hassan was awarded the order of the Elder of the Burning Spear (EBS) by His Excellency the President for service to the nation.



**Ken Nyaundi**

Mr. Ken M. Nyaundi is an Advocate of the High Court of Kenya with a wealth of experience in private practice and Civil Society work. He is the Chairman of the Board of Directors of Kituo Cha Sheria and the Media Complaints Commission and a Council Member of the International Commission of Jurists (ICJ) Kenya chapter. He has served as a consultant for various organizations on International Law, Governance and Administration of Justice. He has been instrumental in the IIEC's legal issues.

Ms. Winnie Guchu is an Education Graduate of the Kenyatta University. Before joining the Commission, MS Guchu was a Director of WMG Consultancy Limited and a full time senior consultant. She has vast experience in the development field, where her work spans several areas of specialization and multi-cultural settings. She has worked in the areas of gender, human rights, elections, democracy and governance in different countries. These include Kenya, Uganda, Tanzania, Rwanda, Burundi, Ethiopia, Somalis, Somaliland, Sudan and South Africa. In these countries, she worked through various United Nations Agencies, Government Ministries, Local Government Authorities, Judiciary, Police and Prison Services, international and local Non-Governmental Organizations. Winnie is renowned for organizational capacity building and training. During her two and a half years tenure at the IIEC, Winnie chaired the Human Resource and Training Committee. As chair of this committee, she is credited with building the capacity of the Commission's elections team to manage credible, transparent, free and fair elections, contributing to the restoration of trust in the electoral process.



**Winnie Guchu**

Amb. Yusuf A. Nzibo, a renowned diplomat, has served as Kenya's Ambassador to Netherlands, United States and Saudi Arabia among other nations. A former lecturer of history at the University of Nairobi, Dr. Nzibo has written several seminar and academic papers on history and financial administration. In the mid-1990s he helped restructure the Industrial Development Bank, turning it into a profitable venture. He also served as the Commissioner General of Kenya Revenue Authority at its inception and setup its systems and corporate identity. Upon retirement from Diplomatic service in 2006, Ambassador Nzibo helped set up the first Islamic bank in Kenya, Gulf African Bank Limited serving as its first Managing Director. He holds a B.A. (University of Nairobi), M. Phil. and Ph. D. (University of Glasgow), and an M.B.A. (Strayer College, Washington, D.C). He is also a recipient of two National Honours – OGW and MBS. His wealth of experience in administrative matters came in handy for IIEC's logistics and operations. He chairs the Finance & Administration and Media and & Political Parties Liaison committees.



**Yusuf A. Nzibo**



**Davis Chirchir**

Mr. Davis Chirchir is a leader in the field of ICT and has contributed to the successful and innovative use of ICT and mobile technology in the registration of voters and transmission and tallying of election results. Mr. Chirchir has a depth of project management training, experience and extensive skills in program development and execution. He has skills in strategic analysis, financial management, leadership, and communication and personnel management. He has worked successfully in reforming electoral and governance programs in Kenya and has also supported other elections programs as an election observer in Brazil, Tanzania, Nigeria and United Kingdom.

Mr. Chirchir has exceptional management, communication and negotiation skills gained while managing a number of critical governance support programs in the telecommunications industry and while working and associating for over 20 years with Telkom Kenya, Safaricom, the Nairobi Stock Exchange, and Interim Independent Electoral Commission in Kenya. Mr. Chirchir worked as General Manager in Telkom Kenya in charge of Change Management and Information Technology and was responsible for managing the transition and reform process of KPTC to Telkom Kenya. While at IIEC, Mr. Chirchir worked on election projects that have achieved successful results in the face of adverse voter apathy, lack of basic infrastructure in a country emerging from civil electoral conflict and with an electoral management body that required technical support and capacity building. Mr. Chirchir contributed significantly to the introduction of technology at various levels of electoral management including but not limited to biometric registration of voters, voter reporting system with great success in the collection, collation, transmission and tallying of electoral results.

Mr. Chirchir has an MBA in International Management from the University of London, Royal Holloway School of Management, a Diploma in Tele-traffic Engineering from Central Training School, Mbagathi, Nairobi and a Bachelor of Science degree in Computer Science & Physics from the University of Nairobi.



**Tiyah Galgalo Ali**

Ms Galgalo, holds a Masters degree in Education, Administration and Planning. She is a former high school teacher and principal. Her experience in project management, monitoring and evaluation was crucial to IIEC's mission, contributing to the civic education program.



**Simiyu Abiud Wasike**

Mr. Wasike has held several senior positions in the public sector. He was an Under Secretary at the Ministry of Education later becoming the Permanent Secretary, Ministry of Local Government. Mr. Wasike has written policy papers on public administration and is a board member of several public institutions.

Mr. Mwashigadi is a University of Nairobi Economics and Government graduate. He has also attended many policy analysis and implementation seminars locally and abroad. He is a long serving public administrator with over 31 years of experience in Economics Planning, Governance, and Policy analysis. He has written many policy papers for the public sector and was instrumental in streamlining many sensitive Government Departments. In 2005, Mr. Mwashigadi retired from civil service, having attained the rank of Senior Deputy Secretary. His organization skills in Public Administration and Election reforms were a valuable asset in strengthening the IIEC's strategy in managing by-elections, handling Internal Audit issues and the Referendum.



**Douglas Mwashigadi**

Ms Hamara, holds a Degree in Natural Resources Management, has worked in various capacities in the public sector in Research and Community Development. Ms Hamara Aden has been instrumental in the development and implementation of policy which has resulted in landmark changes in electoral reforms and processes in Kenya. As the Chairperson for the Media and Political Parties Committee (MPPLC), Ms Aden initiated programs for the Commission's engagement with political parties especially in areas of peace building and structuring campaigns and nominations. Under her guidance, MPPLC successfully partnered with the media to create awareness and build a strong brand for IIEC. As a member of the voter education committee she has been engaged in voter education especially on the elective positions in the new constitution. Hamara has been active in community service where she led peace keeping initiatives, championed gender issues and advocated for the care of vulnerable groups especially in Northern Kenya.



**Hamara Ibrahim Aden**

# Executive Summary

This Exit Report has been prepared in fulfilment of the requirement that the Commission prepares an exit report at the expiry of its term in office. The report records the progress and achievements of the Interim Independent Electoral Commission of Kenya (IIEC) over the two and a half years that it has been in existence. It also provides an account of the programme activities that are currently in progress and any outstanding actions that need to be completed for the Commission to fully accomplish the mandate for which it was established.

The Commission comprising of the Chairman and eight commissioners was constituted at a time when Kenyans had lost faith in the management of elections in the country. It has in its short period of existence, striven to restore credibility in the electoral process.

An analysis of the Commission's performance since inception reveals that it has gone a long way in fulfilling its mandate. Key among these is the establishment of an efficient and effective secretariat with offices at the Headquarters, region and constituency levels. The creation of a fresh National Voter Register and the registration of 12.4 million voters in a period of forty-nine days was a record achievement. This was facilitated by the massive voter education program that was implemented in collaboration with stakeholders, key among them being political parties, media, professional bodies and civil society.

The conduct of the 2010 referendum was one of the major achievements of the IIEC. This success was a culmination of several months of planning and preparation. It yielded a voter turnout of 72.2% which was high by international standards. Other notable achievements were the successful piloting of the Electronic Voter Registration (EVR) technology in 18 constituencies; piloting of electronic transmission of results in ten parliamentary by-elections and during the 2010 National Constitutional Referendum; the establishment of Political Parties Liaison Committees and Peace committees as forums for settling minor electoral disputes; the creation of a Membership Register of all registered political parties; and the successful conduct of nationwide voter education for voter registration exercises prior to the Referendum.

The IIEC also delivered a range of other innovative services during elections. These included a revamped virtual tallying room, enhanced Call Centre services at the constituency and national levels; and the use of the IIEC website to publish a range of election statistics and information not previously provided.

This report is presented in three parts. Part one presents an introduction to the IIEC and includes the historical background leading to its establishment, the existing legal framework and mandate and the composition of the Commission. The second part details the performance of the Commission vis-à-vis its mandate. Under this section an evaluative account of the Commission's accomplishments against the established mandate is provided. Part three of the Report presents the Way Forward and presents the major milestones to be accomplished in fulfilment of the mandate. This includes the policies and systems to be established and the technical preparatory activities leading to the impending multiple elections in 2012.

The audience of the report includes key stakeholders of the Commission including the President, the Prime Minister, the Vice President, Parliament, the Kenyan voter, political parties, the media, Government agencies, development partners, research and learning institutions, and the general public.

# Chapter *1*



IIEC Commissioners with H.E. President Mwai Kibaki  
and other senior Government Officials.

## INTRODUCTION



## 1.0. Historical Background

Kenya was officially declared a British colony in 1920 at which time, Africans and Asians were not allowed to directly participate in politics or governance.

The MAU MAU movement was formed in 1942 to fight for freedom from British rule. As a result, Kenya was put under a state of emergency from October 1952 to December 1959 as tension rose between the MAU MAU and the British Colonial rule. Even though many Kenyans were put into detention camps during this period, by 1954, Africans and Asians were allowed to sit in the Kenya Legislative Council and joined the Europeans on a representative basis. In 1957, the first direct elections of Africans to the Legislative Council took place.

The electoral process and the management of elections in Kenya have evolved over time since the first general elections that were held in 1963 when Kenya became an independent state. The first Electoral Commission was then established with representation from the two tier Parliamentary system, the Senate and the House of Representatives. Members of the Commission included the Speaker of the Senate as Chair, the Speaker of the House of Representatives as the Vice Chair and nine members appointed by the Governor General.

Following the abolition of the two-tier parliamentary system in 1966, elections were managed by the Supervisor of Elections from the Attorney General's Chambers. During this period (1963-1991), elections were managed by civil servants with the Provincial Administration assuming some key roles. The District Commissioners and other civil servants were designated as Returning Officers during elections. In 1982, another Constitutional Amendment made Kenya a *de jure* one-party state. The first election under the single party system was held in September 1983 and the second in 1988 where the *mlolongo* (a system in which voters queue behind their preferred candidate) system of voting was introduced, replacing the secret ballot.

In 1991, after the repeal of section 2(A) of the Constitution, Kenya reverted to a multiparty state and the Electoral Commission of Kenya (ECK) was established. Initially, the ECK commissioners were appointed by the president. However, after the Inter-Parties Parliamentary Group (IPPG) agreement, an additional ten commissioners nominated by the opposition parties with representatives in parliament and based on proportional representation of parties, were added to the ECK. The ECK continued to manage elections in Kenya until 2008 when it was disbanded following dispute over the results of the Presidential elections in 2007 and the resultant post-election violence.

Consequently, a National Accord Implementation Committee (NAIC) was established, which 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 undertake the exercise.

The IREC made several recommendations, among them; a new or transformed Elections Management Body (EMB) with a reduced number of commissioners to nine from a membership of 22 as at 2007; a review of the entire constitutional and legal framework in line with the political and legal aspirations of Kenyans; a review of the administrative procedures among others with a view to improving future electoral processes. Following these recommendations, Parliament amended Section 41 of the Constitution in 2008, thus disbanding the ECK, and establishing the Interim Independent Electoral Commission (IIEC) under section 41A, and the Interim Independent Boundaries Review Commission (IIBRC), section 41B to review electoral boundaries.

The establishment of the IIEC was buttressed by the political pillar of Kenya's Vision 2030 which envisions a political system that is people-centered and accountable to the people themselves. It also espouses the need to establish structures which will ensure that Kenyans can participate in free, fair and credible elections. The creation of a reliable Electoral Management Body and the institutionalization and strengthening of voter education are also central themes of Vision 2030. Overall, the central strategies of Vision 2030 that relate to the electoral management are the following:

- Introducing laws and regulations to regulate political parties.
- Enhancing the legal and regulatory framework governing the electoral process.
- Conducting civic education programmes to widen participation and knowledge among citizens, leading to an informed and active citizenry.
- Strengthening laws on non-discrimination to promote the inclusion of women and disadvantaged groups into the electoral process and
- Enriching the quality of parliamentary debate by



### *Mandate of the IIEC (Section 41A)*

- a. *To reform the electoral process and the management of elections in order to institutionalize free and fair elections.*
- b. *To establish an efficient and effective secretariat.*
- c. *To promote free and fair elections.*
- d. *To conduct fresh registration of voters and the creation of a new voters' register.*
- e. *To efficiently conduct and supervise the referendum for the new constitution.*
- f. *To develop a modern system for collection, collation, transmission, and tallying of electoral data*
- g. *To facilitate the observation, monitoring and evaluation of elections and referenda.*
- h. *To promote voter education and a culture of democracy.*
- i. *To settle minor electoral disputes during an election as may be provided by law, and*
- j. *To perform such other functions as may be prescribed by law.*



providing members of parliament with relevant information on proposed laws and policies.

### 1.1. Formation and Mandate of the IIEC

The Constitutional amendment of section 41 A of the Constitution of Kenya, 1963, in 2008 vested the IIEC with the main agenda of reforming the electoral process and restoring the confidence of Kenyans in an open, fair and transparent electoral process.

On establishment, the IIEC developed and adopted the following **Vision**, to be *“An independent and credible electoral management body committed to strengthening democracy in Kenya”*.

This Vision informs the Commission’s **Mission** which is; “To conduct free and fair elections and institutionalize sustainable electoral processes”.

The operational environment and behaviour in the Commission are governed by the following set of **values**:

- Independence
- Teamwork
- Innovativeness
- Professionalism
- Integrity
- Accountability
- Respect for the rule of law
- Respect for Diversity

The Kenyan electoral legislation under which the Commission operated provided the basic framework for conducting elections. However, it was observed by IREC that the legal framework had a number of gaps and weaknesses that warranted some radical review if it were to provide a solid foundation for the conduct of free and fair elections. The commission operated under the following legal provisions that were scattered among various statutes which needed consolidation under one statute:

- i. The Constitution of Kenya, 2010.
- ii. The National Assembly and Presidential Elections Act (Cap.7 of the Laws of Kenya).
- iii. The Local Government Act (Cap.265 of the Laws of Kenya).
- iv. The Registration of Persons Act (Cap.107).
- v. The Election Offences Act (Cap.66 of the Laws of Kenya).
- vi. The Kenya Broadcasting Corporation Act (Cap.221 of the Laws of Kenya).
- vii. The Political Parties Act 2007 under which political parties are registered.
- viii. The Public Order Act (Cap.56 of the Laws of Kenya) which regulates public meetings.



- ix. The Societies Act (Cap.108)(this Act provided the regulatory framework for the Political Parties in 2007), and
- x. The Penal Code (Cap.63 of the Laws of Kenya) which generally punishes criminal conduct.

### 1.2. Composition of the IIEC

The Commission comprised of the Chairperson and eight commissioners representing the eight provinces of Kenya. The Commissioners, who were appointed through a competitive process by the Parliamentary Selection Committee and approved by the President, in consultation with the Prime Minister, were sworn into office on May 11th 2009 for a period of two years or three months upon coming into force of a new Constitution, whichever is earlier. The IIEC comprised of the following members:

- i. Ahmed Issack Hassan, Chairperson
- ii. Winnie Guchu,
- iii. Douglas Mwashigadi,
- iv. Ken Nyaundi,
- v. Tiyah Galgalo Ali,
- vi. Yusuf A. Nzibo,
- vii. Simiyu Abiud Wasike,
- viii. Davis Chirchir,
- ix. Hamara Ibrahim Aden

### 1.3. Summary of the IIEC Achievements

Following its establishment, the IIEC can be credited with significant achievements which include the following, among others:

- i. Establishment of a secretariat to implement the Commission’s programmes.
- ii. Establishment of a new National Voter Register which currently contains over 12.4 million registered voters.
- iii. Successful infusion of technology in voter registration and transmission of results.
- iv. Successful conduct of the National Constitutional Referendum and the achievement of a record voter turnout of 72.2 %.
- v. Successful conduct of twelve parliamentary by-elections and 49 civic by-elections.
- vi. Establishment of Political Parties Liaison Committees at national, regional levels.
- vii. Establishment of mechanisms for settling minor electoral disputes during elections – peace committees, conflict management panels, campaign programmes in consultation with the candidates.
- viii. Operationalizing the distribution and management of Fund for Political Parties under the Political Parties Act.



- ix. Creation of a membership register of all registered political parties.
- x. Forging of strategic alliances with key stakeholders.
- xi. Successfully bringing together all core electoral related legislations, initiating discussions with stakeholders on these legislations and drafting of the following legislations-
  - a. The IEBC Act, 2011
  - b. The Elections Act, 2011
  - c. The Political Parties Act, 2011
  - d. The Campaign Financing Bill, 2011
- xii. Actively participating and positively contributing towards the development of the draft EAC Instruments and Frameworks on the Principles for Election Observation, Monitoring and Evaluation.
- xiii. Developing a voter education Curriculum to regulate voter educators and using various platforms to educate voters for the Referendum and the by-elections.
- xiv. Actively participating in the Task Force on the devolved government.
- xv. Successful development of a seven-year Strategic Plan and its operational tools;
- xvi. Introducing the utilization of transparent ballot boxes.
- xvii. Setting registration centres at the polling stations – this brought voting centres closer to the voters.
- xviii. Receipt of several Accolades in recognition of its good performance including
  - a. The Uwiano Platform for peace award – for encouraging national cohesion and peaceful co-existence.
  - b. The UN 2010 Award on successful conduct of constitutional referendum and delivering on electoral reforms.
  - c. The Best Chairperson of the Year (Agricultural Society of Kenya).
  - d. Best Public Awareness Campaign during Voter Registration by Public Relations Society of Kenya (PRSK).



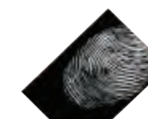
1. The Uwiano Platform for Peace Award.
2. Chairman receives the UN commendation award.
3. IIEC staff with the PRSK award for Best Public Awareness Campaign



# Chapter 2



## REFORMS IN THE ELECTORAL PROCESS AND MANAGEMENT OF ELECTIONS



*"I support electoral reform. It is not simply about making voting fairer. It is about making politics more relevant and creating a healthy democracy."*

**Richard Burden**

The IIEC phased out Black Ballot boxes, replacing them with transparent ones.



## 2.0 Overview

Elections play a central role in the national stability of a country and therefore their management calls for focused attention in order to forestall any possibility of instability or anarchy. The starting point towards ensuring this is to build an effective institutional framework with sufficient capacity to manage the electoral processes. Moreover, the electoral processes themselves should be predictable and governed by laws, rules and regulations that are sufficiently enabling. This calls for the reform of the electoral processes in order to provide the requisite frameworks for effectively delivering credible elections. It is in this light that this Exit Report has found it necessary to provide an evaluative report-card on the performance of the Commission with regard to implementing electoral reforms.

Kenya's Vision 2030 foresees the establishment of a robust democratic society that respects the civil rights of individuals and the rule of law. It also visualizes an enhanced national governance system and the promotion of efficiency in the management of public resources as an outcome of the electoral process. It is in the light of the foregoing that the reform of the electoral process occupies a central position in the mandate assigned to the IIEC; to reform the electoral process and management of elections. While the IIEC has had a key role to play in the electoral reform, it required the support of its key stakeholders, particularly the executive, the Legislature and Political Parties.

## 2.1 Reforms in the Electoral Management Body

Following the 2007 elections, Kenya's Electoral Management Body (EMB) became a keystone of the process of democratization. The EMB's composition, mandate and activities attracted increasing public attention. This necessitated the electoral reforms in Kenya that were considered as the heart of efforts to adopt a new Constitution and give the country a new and more democratic institutional framework.

### 2.1.1 Creation of the IIEC as a new Electoral Body

The creation of the Interim Independent Electoral Commission as the Electoral Management Body was the beginning of major reforms in the electoral process in Kenya. The first departure from the past was that Commissioners to the IIEC were identified through a competitive selection process by Parliament and subsequent appointment by the President in consultation with the Prime Minister. Previously, Commissioners were appointed by the President, and thereafter in accordance with the IPPG Agreement of 1997 (The Constitution of Kenya Review Act, 1997). The IIEC comprised of nine members with a national representation, while its predecessor, the Electoral Commission of Kenya (ECK), was made up of 22 members including the Chairman.

### 2.1.2 Establishment of a Secretariat

One of the most important reforms undertaken by the Commission was the establishment of an effective and efficient Secretariat. In realization of its mandate of fairness and transparency, all the officers and management staff of the IIEC were recruited in an open and competitive manner, with all positions advertised in the local dailies, the IIEC website and interviews undertaken in all regions. Apart from having the CEO, DCEO, Directors and their managers based at the headquarters in Nairobi, the Commission also introduced a devolved structure in which the Regional Electoral Coordinator (RECs) and Constituency Electoral Coordinators (CECs) are permanently based at regional and constituency level. This has brought the election officers closer to the public and hence the voters. The Commission is confident that the team has demonstrated professionalism in the conduct of by- elections and the Referendum.

The new team was inducted using various tools and modules over the ensuing months, which were repeated again before the Referendum in August 2010. The Commission currently has a Secretariat with a staff strength of 398 at the national, regional and constituency levels against an approved establishment of 898.

### 2.1.3. Legal Framework

One other fundamental reform undertaken by the Commission was a review of the legal framework relating to the electoral process. Section 41A of the immediate former Constitution tasked the Commission with the mandate to reform the electoral process and the management of elections in order to institutionalize free and fair elections in Kenya. This mandate was informed by the recommendations arising out of the Independent Review Commission (IREC) Report. The Report recommended that urgent consideration be given to drafting and enacting more detailed provisions on the institutional aspects of the electoral management body, and take into account the relative complexities and responsibilities of the electoral commission.

The legal framework on elections has developed overtime. This was partly the reason for the scattered laws in different statutes that were in force. Apart from the Constitution, some of the statutes governing elections and election management in the country were –

- a) The National Assembly and Presidential Elections Act (Cap. 7 of the Laws of Kenya).
- b) The Election Offences Act (Cap. 66 of the Laws of Kenya).
- c) The Local Government Act (Cap. 265 of the Laws of Kenya).
- d) The Political Parties Act (2007) and
- e) The Kenya Broadcasting Corporation Act.
- f) The Penal Code (Cap. 63 of the Laws of Kenya), which generally punished criminal conduct.





- g) The Public Order Act (Cap. 56 of the Laws of Kenya), which regulated public meetings.

In operationalizing its mandate, the Commission conducted an in-depth analysis of the legal framework for purposes of identifying gaps and loopholes that may have been used to weaken efforts of free and fair elections. These gaps were varied; for instance, some offences were not comprehensive enough to cover “new and ingenious” ways of defeating their purpose. Furthermore, the lack of prosecutorial powers by the Commission in election related offences significantly contributed to the weak enforcement of these laws.

The Commission reviewed, collated and harmonized these laws into a cogent legal framework to align them with the provisions of the Constitution of Kenya 2010. While the legal framework provided for a general guide in the conduct of elections, reform efforts were geared towards having specific laws to guide the electoral process in line with universal democratic principles.

The Commission employed a multi-pronged strategy to achieve the required legal reforms, including research and study tours on best practices, and collaboration and regular consultations with key stakeholders in the electoral process. The resultant laws include –

- The Independent Electoral and Boundaries Commission Act, 2011, a statute intended to govern the operations of the Commission.
- The Elections Act, 2011 aimed at governing the conduct and management of elections in Kenya.
- The Political Parties Act, 2011 aimed at overhauling the current Political Parties Act to take into account the new constitutional dispensation and
- The Campaign Financing Bill, 2011 to regulate the source, spending limits and manner of spending by candidates and parties during nomination and election campaigns.

The first three have been enacted into law while the Campaign Financing Bill 2011, key to the effective implementation of the Commission's mandate, is yet to be presented to parliament for enactment. All Rules and Regulations (subsidiary legislation) that relate to all the Acts need to be developed.

#### 2.1.4 Reforms in the Management of Elections

The management of elections entails the interplay of diverse institutional responsibilities with the common purpose of delivering free and fair elections. It also calls for the effective deployment of staff with the requisite skills and the employment of appropriate technology. In this regard, the Commission placed emphasis on strengthening the institutional and operational capacity of the IIEC. Employees were continuously exposed to hands-on training in real situations such



as by-elections and the national referendum on the constitution, and benchmarked best-practice whenever appropriate.

To enhance the integrity of elections, the Commission adopted a policy of reshuffling election officials during elections. All staff, both permanent and temporary were subjected to re-deployment to any station. Moreover, they were sworn in on oath of secrecy before conduct of elections that required them to adhere to a professional code of conduct.

The delivery of credible elections requires knowledge beyond the reproduction of protocols during election operations. During the period under review the Commission implemented various capacity building programmes such as short term trainings, participation in observer missions, international study tours and other international events. The experiences and the lessons learnt, greatly benefited the Commissioners and staff in designing the commission's own interventions. Training programmes for staff have been undertaken based on the electoral cycle as opposed to a one off episodic event. This has resulted in building a permanent and sustainable professional capacity for elections. Lastly, plans have been finalized to conduct Building Resources in Democracy, Governance and Elections (BRIDGE) training, meant to enhance the skills of staff in elections.

The Commission is, however, cognizant of the need for increased training to fully build the capacities of staff in handling the impending expanded general elections in 2012. In addition, it recognizes the importance of extending the training to other electoral stakeholders in order to establish a national pool of ancillary experts that can support the management of elections. Training for elections in Kenya has in the past suffered from a lack of uniformity, especially with regard to training of temporary poll staff. In order to provide for uniform application of practices and procedures, the Commission created a training unit under the Voter Registration and Elections Operations Directorate to provide specialized training to electoral officials. The unit developed manuals and codified in detail the approved policies and procedures to ensure standardized applications and practices. It is envisaged that through this process, both permanent and temporary poll staff will be exposed to sufficient training.

Related to the foregoing was the issue of poor recruitment of the temporary electoral officers themselves. The Commission noted that deficiencies in the manner in which temporary staff were recruited, trained and deployed undermined the credibility of the electoral process. To address this and to inject transparency into the process, all jobs were advertised and only qualified candidates interviewed and recruited. As a standard practice, clear procedures for the recruitment of temporary staff have been established. Overall, the transparent manner of appointment of the Commissioners themselves and the recruitment of staff has



not only enhanced the credibility of the Commission but also greatly reduced chances of political interference in the process. It has, in addition, positively enhanced public confidence in the IIEC.

Lastly, the Commission injected equity and gender concerns in its recruitment policy. In this regard it balanced the recruitment of people from across the national divide thus embracing the aspirations of the Constitution by providing for the one third threshold of either gender employed in the commission and during employment of temporary staff.

### 2.1.5 Increasing Integration of Technology in Election Processes

As a conscious effort, the Commission increasingly employed technology to enhance efficiency and effectiveness in its operations and in the electoral processes. Technology reform in the management of elections entailed the continual introduction of Information and Communication Technology (ICT) approaches in voter registration and the transmission of election results. To this end, the Electronic Voter Registration (EVR) technology was successfully piloted in eighteen constituencies during the fresh voter registration exercise. Similarly, the Electronic Transmission of Results (ETR) was employed countrywide with resounding success. The Commission has laid a framework for full automation of the electoral process in Kenya.

To enhance its internal business, the Commission introduced a new payroll system and plans are under way to enhance the finance and human resources management systems. It also beefed up the communication mechanisms between the headquarters and field offices through introduction of a virtual private network that established blackberry mobile system availed to all Headquarter managers, Regional Electoral Coordinators (RECs) and Constituency Electoral Coordinators (CECs). The service offered on this platform includes significantly discounted on net phone calls and instant broadcast of mail services within the network. Elections management is information intensive and therefore the establishment of a modern communication infrastructure to support internal and external communication is a prerequisite. Establishment of a Wide Area Network (WAN) which can connect the headquarters with the field offices is currently under installation. Other areas of operation which include procurement and logistics are also targeted for automation. This will not only increase performance but also reduce the amount of paperwork and administrative bottlenecks in operations.

### 2.1.6 Regulating Political Parties

The Register of Political Parties is maintained by the IIEC. Registration of Political Parties is compulsory as it:

- Enables party affiliation details to be included on the ballot papers of endorsed candidates.

- Identifies parties eligible to receive public funding and
- Identifies parties required to submit annual financial returns.

The IIEC receives and processes applications for registration and for changes to the details contained in the register. It also regularly reviews parties' continuing eligibility for registration. The Register of Political Parties is freely available for public inspection on the IIEC website.

Significant reforms have been recorded in the area of regulation of political parties. The starting point was the review of the Political Parties Act aimed at strengthening the role of the Registrar of Political Parties in regulating the activities of parties and candidates. The ultimate objective is to provide a level playing field for political competition. Effective regulation also entails monitoring the sources of funds to political parties and related expenditures, especially following funding from the Government. The reforms also seek to enhance governance and the practice of equity with regard to party nominations of candidates to contest elections. Lastly, the reform efforts seek to regulate the activities of political parties in the country and to enforce the need for parties to submit party lists.

### 2.1.7 Introducing Performance Management in IIEC's Operations

In order to institutionalize performance management as a key reform in its operations, the Commissioners have steered the development of IIEC's seven-year Strategic Plan for 2011-2017. The plan, which outlines the programme of intervention by the Commission over this period, was developed through a participatory approach under the guidance of the Plenary. The seven-year time frame was deliberately selected to accommodate the impending elections in 2012 and subsequently, the normal five-year electoral cycle. The plan articulates the strategies that will be employed to deliver credible expanded elections.

The Commission has established a performance management system that is based on the Strategic Plan, against which the Secretariat staff develop departmental plans of operation and individual work plans. These have been infused into the Performance Appraisal System (PAS). Under this system an outline is developed for every staff member to contribute towards the goal and mission of the Commission. The system will thus facilitate the appraisal of each employee's performance and contribution.

The Strategic Plan has been prepared as a statutory obligation that every public operation which enjoys funding from the Government is required to fulfil. Accordingly, the Strategic Plan has been used as a basis for developing the budget of the Commission in accordance with the requirements of the Medium Term Expenditure Framework (MTEF) of the Treasury. The plan has also provided the Commission with a basis to develop its three-year budget (2011/12 – 2013/14) under programme-based budgeting as required by the Treasury.



# Chapter 3



Decimah Isalano  
M'Mayi, Director



Sellestine Kiuluku,  
Director



Dismas Ong'ondi,  
Director



Praxedes C. Tororey,  
Director



OJH Oswago, CEO



Abdirahman Bilacha,  
Director



Edward Kenga Karisa,  
Director Finance and  
Procurement



Immaculate Kassait,  
Director,  
Voter Registration and  
Electoral Operations

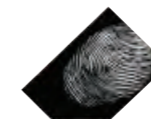


Lucy Ndung'u,  
Director  
Office of the Registrar  
of Political Parties



Dr. Joel Mabonga,  
Director,  
Voter Education and  
Partnerships  
PHD, M.PHIL, B.ED

## ESTABLISHMENT OF AN EFFICIENT AND EFFECTIVE SECRETARIAT



*"Those who expect to reap the blessings of freedom must, like men, undergo the fatigue of supporting it."*

**Thomas Paine**



### 3.0 Overview

Despite the axiom that “you can’t put a price on democracy”, making democratic elections more sustainable is a principle embraced by all Electoral Management Bodies. Based on lessons learned from the 2007 elections, building a credible Electoral Management Body (EMB) was of strategic importance to the country. This entailed the establishment of a sustainable human resource to engage appropriately in the management of elections.

Before the ECK there had been several attempts to build a Secretariat starting from 1963 at independence. In the past the subsequent EMBs had neither operational autonomy from the executive nor did the officers enjoy security of tenure. The lack of permanent staff constrained the EMBs to use commissioners for day-to-day work. During elections most of the staff were on secondment from the government which was not an ideal situation as it jeopardized the desired commitment and confidence on the part of the officers. Efforts to establish a Secretariat bore fruit in July 1998 and by the end of its tenure in 2008 the ECK had a permanent staff of 650.

#### 3.1 IIEC Secretariat

Following the establishment of IIEC and the appointment of the Commissioners on the 8th of May 2009, the Commission embarked on the process of establishing a Secretariat with skilled staff to manage and implement its systems and procedures. This was in accordance with the mandate which enabled the Commission to appoint staff and establish the committees necessary to perform its functions. To administer the mandate on establishment of an efficient and effective Secretariat; the IIEC engaged the services of a consultancy firm (KPMG) to advertise and shortlist the top management team of the Secretariat. In this regard, a Chief Electoral officer (CEO), a Deputy Chief Electoral officer (DCEO) and eight (8) Directors were recruited. All other jobs within the Commission were advertised and thereafter short-listing and interviews were done for Managers, RECs and CECs. The recruitment panellists consisted of Commissioners and Senior IIEC staff seconded from the Government.

##### 3.1.1 The Management Structure

At the apex of the corporate structure of IIEC are the Commissioners (the Plenary), who are responsible for policy direction and oversight. The Plenary is headed by the Commission’s Chairperson and meets twice every month with the Chief Electoral Officer who attends plenary meetings as Secretary.

The CEO and Directors manage the day-to-day operations of the IIEC. However, the CEO has overall responsibility for the performance of the entire Secretariat assisted by two DCEOs; the DCEO- Operations and the DCEO - Support Services.



The Headquarters is organized functionally into the following Directorates, each managed by a Director:

- i. Voter Education and Partnerships.
- ii. Voter Registration and Electoral Operations.
- iii. Finance and Procurement.
- iv. Risk, Audit and Compliance.
- v. Research and Development.
- vi. Human Resource and Administration.
- vii. Political Parties.
- viii. Legal and Public Affairs and
- ix. Information and Communication Technology.

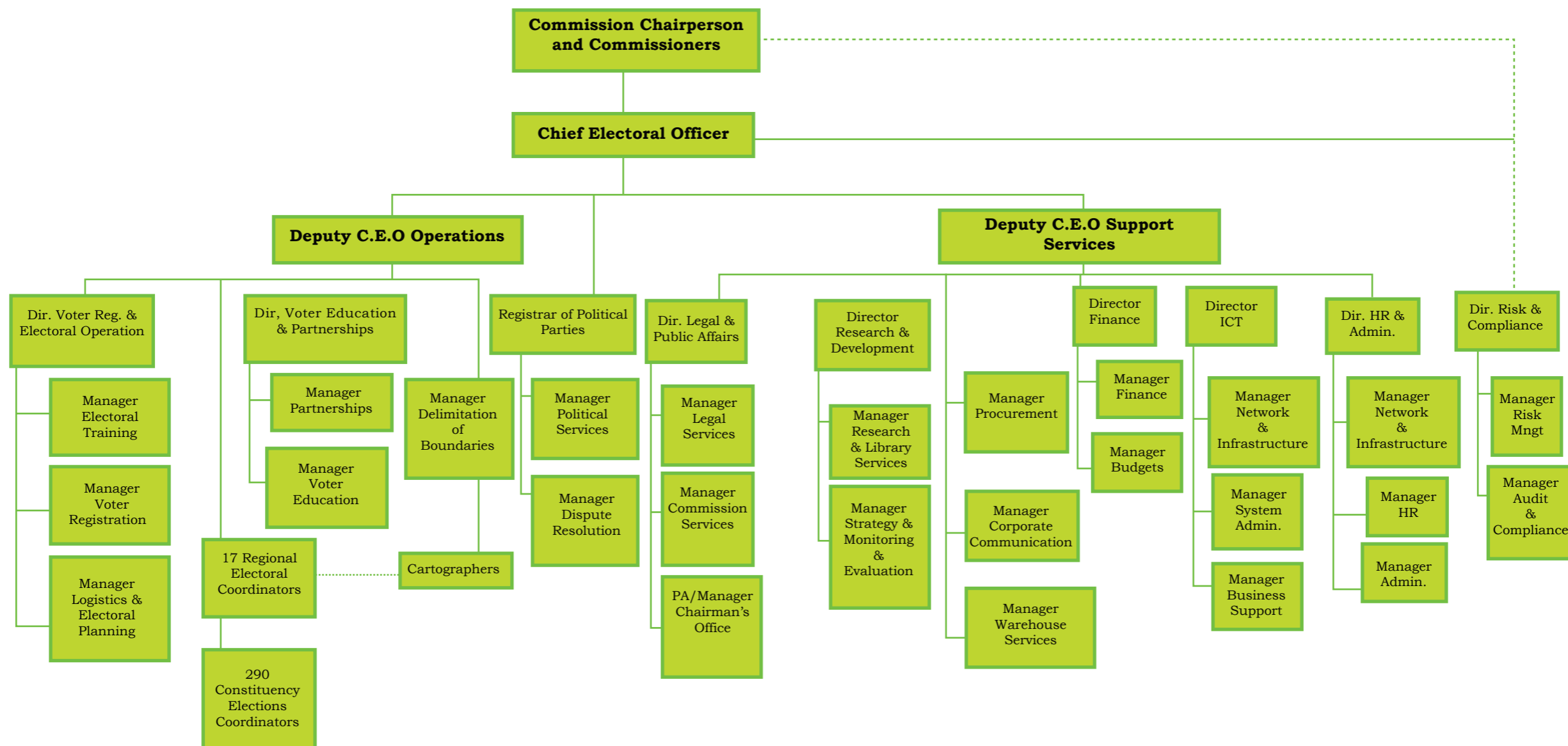
Under the Directors are Managers with specified areas of operation. The RECs are linked to the headquarters through the DCEO-Operations. Each REC oversees the operations of a cluster of CECs. In addition to the general duties of supervising the CECs, the REC is responsible for the management of the electoral processes in the region. Other duties include programme planning, implementation and monitoring. They also provide technical back-stopping to CECs in their day-to-day operations.

The CECs are responsible for the day-to-day management of the electoral processes at the constituency level. Moreover, they are the officially recognized Registration Officers during the registration of voters and Returning Officers with authority to manage the elections. Lastly, they also have authority to declare the verdict in an election contest. Although the current organization structure comprises of 210 CECs, the new Constitution provides for 290 constituencies implying that an additional 80 CECs will have to be recruited. The organogram reflected as Figure 1 presents the current organization structure of the Commission.

The role of the CECs is provided for in pre-election (and non – election year) activities. They have been conspicuous in Election Day activities as they have taken the role of Presiding officers in by-elections conducted and as Returning officers during the Referendum. Subject to the reforms implemented they are tasked to perform functions that were conducted by temporary staff in the past. The CECs have been assigned duties that keep them occupied during non-election period hence justifying employment on permanent terms. They are in charge of the continuous registration of voters and update of the Voters Register through the addition of newly registered voters and the recommendation for removal of deceased voters, ensuring the accuracy of the Voters Register at all times. They are also responsible for voter education, mapping of polling stations and review of the same, collection and collation of Constituency data and supervision of research projects among other functions. This has not only reduced costs but has also lessened the risk associated with malpractices and fraud at the elections.



Figure 1: IIEC ESTABLISHMENT AS AT JUNE 2011





The Commission transacts its business through the following eight committees:

- i. Finance and Procurement.
- ii. Human Resource.
- iii. Elections.
- iv. Legal.
- v. Political Parties Liaison & Media.
- vi. Information Communication Technology.
- vii. Voter Education and
- viii. Audit.

Each of the Committees is chaired by a Commissioner, with membership drawn from Directorates.

The Secretariat has management standing Committees that meet regularly to deliberate on various issues and implement decisions in consultation with commissioners. These are:

- a) The Disciplinary Committee.
- b) The Tender Committee.
- c) The Procurement Committee.
- d) The Disposal Committee.
- e) The Verification and inspection Committee as required by the Procurement Act and
- f) The evaluation committees that are ad hoc.

### 3.1.2 Physical Facilities

The IIEC largely operates from rented premises with its Headquarters located at the Anniversary Towers, University Way, Nairobi. The Commission has approached the Government for allocation of sites in various constituencies for the construction of constituency offices and warehouses. IIEC inherited 85 field offices, 114 vehicles and other assets from the previous Commission. Plans are under way for the Commission Headquarters to be relocated to its own premises where security and convenience in operation can be assured.

### 3.1.3 Establishment of Operational Policies and Systems

The Commission has set up the requisite policies and systems in key areas of operation. In the area of human resources management and administration the following has been achieved:

- a. A Human Resources and Administration Policy and Procedures Manual which outlines the policies and procedures to be followed by the Commission in handling its human resources matters such as recruitment, remuneration, succession, leave, employee allowances, training, and disciplinary policies among others, has been developed and established. The same Manual covers the management of transport in

the Commission.

- b. An automated payroll system has been sourced, enabling the transfer of IIEC staff payments online into their accounts.
- c. Group Medical and Life insurance covers for staff have been established.
- d. The Commission's pension scheme was approved by Treasury and registered with the Retirement Benefits Authority and Income Tax Department in 2010.
- e. Currently, Schemes of Service and the requisite career progression and development pathways are being developed. Other schemes meant to ensure the welfare of staff will also be reviewed and established;
- f. The Commission has conducted various trainings on legal, finance, procurement, corporate governance, and mapping for staff to build staff capacities in electoral management.
- g. It has purchased an additional 114 vehicles and distributed these to Regional and Constituency offices.

In the area of Finance and Procurement the following milestones have been achieved:

- a. A Finance and Procurement procedures policy which seeks to inject efficiency in financial resource management is currently being developed. Upon completion it will ensure that financial resources are focused on the priorities of the Commission and are properly applied and accounted for.
- b. The Finance Manual to guide staff in both Headquarters and field offices has been developed and is under consideration for approval.
- c. In the procurement area, the Commission has implemented the Public Procurement and Disposal Act Regulations of the Government where all issues relating to contracting and purchasing are undertaken within the prescribed guidelines. To further strengthen the procurement function in the Commission, a training programme which will cover the entire staff is already underway.

In the area of Information Technology and Communication (ICT) the Commission is progressively integrating technology in electoral operations. This specifically covers matters relating to technology for voter registration, electronic identification of voters during polling, collection, collation and the transmission of results. The requisite legal framework to legalize use of technology in electoral processes was passed by Parliament. The Commission achieved the following milestones in ICT:

- a. Developed the EVT system that was successfully deployed nationally at the Referendum and in the various By-elections in South Mugirango, Matuga, Juja, Starehe, Makadara, Wajir South, Kirinyaga Central, Ikolomani and Kamukunji.
- b. Installed a server room and the related support ICT infrastructure to support the Commission core functions of voter registration information





management system, collection, collation and transmission of results and internal support systems.

- c. Development of one comprehensive ICT Policy which is in progress. The policy relates to the control and management of assets, application of technology in the internal operations of the Commission and the extent to which aspects such as security of information, levels of access and authorization can be managed.

In the area of Voter Education and Partnerships, the following milestones have been achieved:

- a. Enhancement of the voter registration exercise through application of various platforms, such as media campaigns (print and broadcast), recruitment of Voter Educators, use of bulk SMS, Voter education materials, branding, engagement of Provincial Administration and Consultative Forums to target special groups.
- b. Development of a policy on partnership to regulate engagement with development partners both local and international.
- c. Development of the curriculum on voter education to guide and regulate the information to the electorate. This was done with assistance from the Kenya Institute of Education (KIE) and Friedrich Ebert Stiftung-Kenya (FES).

### 3.1.4 Corporate and Operational Manuals

The Strategic Plan 2011-2017 provides the strategic direction of the Commission. As mentioned, the plan is the basis of establishing a Performance Management System (PMS) in the Commission. Under this system, plans of operation have been developed to support the achievement of outputs by the various Directorates of the Commission. These plans have been developed at the Headquarters, regional, and constituency levels. They detail the activities planned for the period. To support the attainment of the results contained in the Strategic Plan a number of other supporting plans are being developed to address specific areas of operation in the Commission as follows:

- a. A property plan, which will provide for the long term management of the Commission's properties and assets (both owned and leased).
- b. A corporate information technology plan, which outlines the roadmap of the Commission in information technology development.
- c. A strategic internal audit program, which will be updated on an annual basis and which outlines the audit coverage for compliance and performance audits over the financial year.
- d. A corporate fraud control plan which is a three-year plan that identifies areas of corporate risk and contains strategies to prevent or minimize the incidence of corporate fraud within the Commission.
- e. An electoral fraud control plan which will contain strategies to prevent or

minimize the commission of electoral offences that may affect the result of a general election.

- f. A strategic risk-management plan which identifies areas of business risk within the Commission and how risks will be managed.
- g. A security plan, which will protect staff and visitors, security-classified information, equipment and premises, against harm, loss, interference and compromise.
- h. A business continuity plan, which will apply risk management techniques and principles to the planning, administration, and delivery of projects and policies.
- i. A national electoral public awareness strategy and electoral public awareness national action plan that will provide a framework for re-focusing of electoral activities and
- j. A Corporate Communications Policy to manage the relationship with the Commission's stakeholders.

### 3.1.5 The IIEC Customer Service Charter

A draft Customer Service Charter has been developed to declare the quality and standards of service delivery by the Commission. The development of the Charter was considered necessary in the light of the fact that the entire Kenyan public has immense expectations of the Commission in terms of the delivery of credible elections. It is also expected to play a significant role in nurturing the growth of democracy in Kenya. The Charter contains service standards in the core areas of the Commission's business. It is planned that the Charter will be officially launched and published both in print and electronic formats. A poster version will also be produced and displayed in all the Commission's offices. Staff will also be trained on the importance of quality service delivery to the public

### 3.1.6 The Commission Charter

A draft Commission Charter has been developed to guide and aid the Commission and its Secretariat on their respective roles and functions. The Charter outlines the role of the Commission and that of the Secretariat so as to effectively manage the business of the Electoral body. The Charter draws up a schedule of matters reserved for the board in accordance with good corporate governance practice.



# Chapter 4

## A lifetime opportunity

### Presidential decree enables the elderly make history

By MUSEMBI NZENGU

At 70, Ms Mwikali Muthengi had given up all hope of having her name encrypted in the new voters register.

Muthengi from Kitheka, Munyumbuni village holds an old generation identity card and had no reason for acquiring the new one.

The requirement that only those with new generation ID cards be allowed to register certainly barred her from taking up her democratic right.

#### President's directive

However, when President Kibaki announced that people could use the old generation ID cards, she was among the first people to take advantage of the decree and went to register as a voter at Muunguu Primary School in Waita Division, Mwingi Central District.

Were it not for the President's leniency, there was no way she was going to travel to Mwingi to replace her old ID card as it was a torturous exercise considering her age. She also complained about the cost of transport and the KSh100 fee charged to have the ID cards replaced.

The directive by President Mwai Kibaki in late April allowing holders of old generation national IDs to use them to acquire voter's cards was a welcome relief.

Nearly 20,000 people in Mwingi who had been denied the opportunity to register were happy that they could use the old IDs to acquire the new voter's cards.

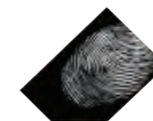
As the President was issuing the directive, already 9,000 would be voters in Vice President Kalonzo Musyoka's Mwingi North constituency had been turned away from registration centres for not having the new generation IDs.

Had the President not issued the directive those persons and 8,500 other residents of Mwingi South constituency represented in Parliament by Assistant Minister for Defence, Mr David Musila, could also have been locked out of the referendum.



Mali Nzioka Katiti, 81, from Kathonzweni in Mwingi District displays her newly acquired voter's card. Due to her old age, the registration clerks visited her home to register her as a voter. Photo: Musembi Nzengu

## PROMOTION OF FREE AND FAIR ELECTIONS



*"I talk democracy to these men and women. I tell them that they have the vote, and that theirs is the kingdom and the power and the glory. I say to them you are supreme: exercise your power. They say, That's right: tell us what to do; and I tell them. I say Exercise your vote intelligently by voting for me. And they do. That's democracy; and a splendid thing it is too for putting the right men in the right place."*

**Shaw, George Bernard**



## 4.0 Overview

Since independence, Kenya has made remarkable gains in building a democratic society that respects individual liberties, freedoms of speech, association and worship, and the rule of law as was provided for in the Constitution. In addition to the provisions of the Constitution, other international instruments that the country has implemented are stipulated in the:

- a) Universal Declaration of Human Rights (art.19 & 20) that include the International Covenant on Civil and Political Rights (ICCPR).
- b) African Union (AU) Charter on Election Governance.
- c) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) prohibits discrimination, on the basis of race, from participating in political processes.
- d) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on its part makes a similar case for women and also provides for affirmative action measures including those that facilitate proportional representation on the basis of gender. This has been achieved through a system of elected representatives.

The existing political system provides for the right of Kenyans to participate in choosing their government. The mandate therefore required that the Commission enhances the promotion of democracy through free and fair elections. The Commission has taken significant steps to strengthen the electoral process. It continues to review its performance with a view to achieving its vision to a level of democratic evolution where every citizen has an equal opportunity to participate in choosing their government.

## 4.1 Marginalization and Inclusion

For the electoral process in Kenya to be free, fair and impartial, it must not exclude any part of the population. Internal studies conducted by the Commission revealed that 92% of Kenyans regarded voter registration important while 85% had at one time registered as voters. Inclusion in the electoral process starts at registration of voters, followed by party nomination processes, Election Body nominations, campaigns and polling, eventually ending with the counting, tallying and declaration of results. The methodology and processes of doing voter education must also be inclusive. Observation and research reports had noted that Kenyans participated poorly in the various steps of the process in the past. This was attributed to various causes enumerated below:

- i. The long distances to voter registration and polling units contributed to poor turnout. A Study by the Institute for Education in Democracy (IED) (2007) revealed that over 35% of the respondents reported travelling over 20 Kilometers to a registration and polling unit. This has not changed much

## IIEC registers 3.6m voters with disabilities

Published on 20/04/2010

By Mutinda Mwanzia

More than 3.6 million Kenyans with intellectual disabilities will participate in the referendum and General Election.

The Interim Independent Electoral Commission (IIEC) and the Kenya Society for the Mentally Handicapped (KSMH) have partnered to ensure people with disabilities are registered as voters during the ongoing exercise.

On Tuesday, IIEC Chief Executive Officer James Oswago and Commissioner Yussuf Nzibo termed the partnership historic; adding persons with mental disabilities had been ignored for long.

Mr Oswago said the partnership would make Kenya the first country to incorporate those with mental disabilities in the electoral process. "Time when the mentally disabled were not part of our electoral process has come to an end. They should use their vote to make a difference to their lives," he said. Collective power

He called for persons with mental disabilities to be recognised and helped to participate in politics. Oswago said the mentally handicapped had the numbers to take part in governance. "Those who are in positions of leadership will notice the mentally disabled if they use their collective voting power to demand for more of their rights in exchange of their vote," he said.

Nzibo said IIEC would ensure persons with disabilities are given a priority during voting to ensure they are not alienated. "We will also ensure we have well trained clerks to guide them during the process," said Nzibo. He said IIEC and other organisations were willing to provide adequate and comfortable means of transport to the disabled to enable them access voter registration centres. Nzibo was speaking at the KSMH headquarters during the symbolic registration of voters with intellectual disabilities. KSMH National Trustees Muljibhai Pindolia and Emeritus Archbishop (Rtd) Ndingi Mwana a'Nzeki, the organisation's goodwill ambassador Zipporah Kitony and CEO Eddah Maina were also present. Ndingi lauded the electoral commission for the move to allow persons with disabilities to access civic and political rights. "This has begun a journey where persons with the disabilities will finally exercise their vote to advance their interests," said Ndingi. Kitony said: "You must not be silenced by stigma associated with intellectual disabilities since you are a huge voting bloc and must unite to make your voices stronger by the day."

[mediadiversityafrica.org/documents](http://mediadiversityafrica.org/documents)



The registration of voters with mental disabilities kicked off yesterday. Mr John Wanyoike, a finger print officer at the National Registration Bureau, took Mr Deban Ndirangu (in wheelchair) through the registration process during the symbolic registration in Nairobi yesterday. Photo/LIZ MUTHONI



during the IIEC's tenure as there has been no time to remap the registration and polling units. This needs to be done after the delineation of the boundaries by the IEBC.

- ii. Research conducted internally on target groups and opinion poll survey findings established that there was a category of citizens who did not effectively participate in the electoral process as a result of the circumstances they lived in. In this category were people with disabilities, nomadic communities, street people, internally displaced persons (IDPs), and groups with special needs such as the Military, election officials, Health officials, and the hospitalized. The commission put in place mechanisms that encouraged these groups to participate in the electoral process, resulting in an increase in their participation.
- iii. The other category of eligible but unregistered voters were those who had reached voting age but did not have a National Identity Card which is one of the requirements for registration.
- iv. There were also cases of citizens with old National Identity Cards that needed to be replaced.
- v. There was also no provision for people with disabilities in the electoral process. The current constitution now provides provision for this. However, more work needs to be done in this area.
- vi. The inclusion of Kenyans in the Diaspora is now required by law. Mechanisms to ensure their smooth participation need to be put in place.

#### 4.1.1 Expanding the Democratic space

Various strategies were used to ensure that voters who traditionally miss out on registration were included. Continuous voter education was encouraged throughout the by-election and referendum processes, thus enhancing citizen participation. The Commission made effort to reach voters at places most convenient to them. These included shopping centres, religious centres and small scale agricultural product delivery centres. Furthermore, the Commission organized forums with various categories of voters including women, youth, members of the private sector alliance and internally displaced persons to motivate them to register as voters.

Registration of citizens who still held old generation National identity Cards was further enhanced. These ID cards had long been de-gazetted as identification documents and hence invalidated for use in registration to vote. At the request of the Commission, the President directed the Ministry of State and immigration to re-gazette these old generation IDs. This ensured that most of the eligible citizens (mainly the old and rural based women) got an opportunity to register to vote. It should be noted that further consultations are on-going to ensure that the Ministry concerned replaces the old generation National identity Cards to ensure harmonized identification of persons for registration and voting.

## IIEC warns men against stopping women from voter registration

By LEONARD KORIR  
and EDWIN CHESEREK

Most women in Kilgoris constituency may not register as voters.

The Interim Independent Electoral Commission (IIEC) has learnt that a section of men keep their wives' identity cards thereby denying them the chance to register as voters.

Trans Mara West DC Mbogo Mathioya warned men who are withholding their wives' IDs, saying it is a criminal offence.

#### COMMON PRACTICE

He said despite being a male dominated constituency, the area is dominated by women. He said despite being a male dominated constituency, the area is dominated by women. He said despite being a male dominated constituency, the area is dominated by women.

"We have a common practice here to keep men are polygamous."



A woman patiently waits to be registered electronically. Electronic voter registration which is a pilot by the IIEC in 18 constituencies continues until May 21. Photo: Reject Correspondent



To further enhance the numbers registered, the Commission approached the Ministry of state and Immigration to facilitate issuance and replacement of identity cards to the youth and communities living in border towns or districts. Other measures taken to enhance efficiency of the voter registration process included mapping of the registration/polling stations to ensure inclusiveness and gazettement of the centres based on the mapping results. This included new centres and those that had been used in previous elections.

## 4.2 Integrity in Conducting Elections

A peaceful and successful electoral process is dependent on the faithful discharge of duties and obligations by all stakeholders. Integrity on the part of the electoral staff is a crucial value to uphold in work ethics as it contributes to the administration of free and fair elections, without which democracy would be compromised. The IIEC in its tenure conducted twelve parliamentary by-elections, 90% of which were as a result of petition cases following the 2007 elections.

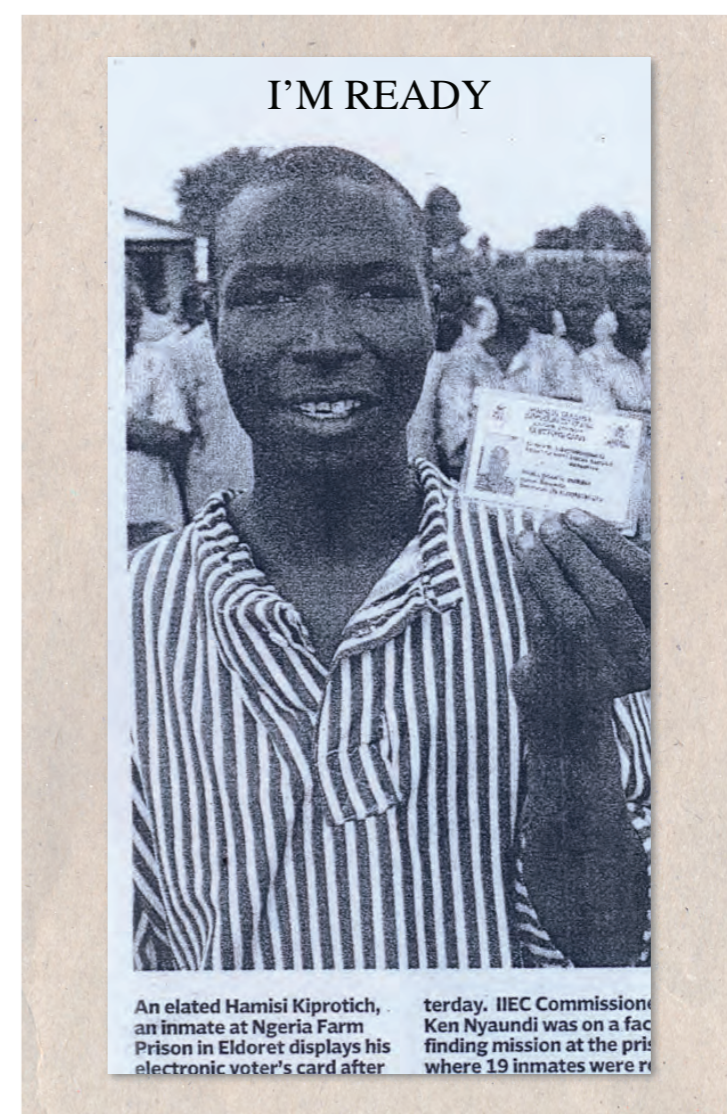
To up hold its integrity in elections, the Commission in its tenure established the following:

- a. A set of core values that have guided staff in their day-to-day operations and conduct of elections.
- b. The monitoring of internal electoral processes prior to and during elections, whereby internal evaluative reports are produced at the end of each election. Lessons learnt are used to improve on the electoral processes for more efficiency.
- c. Guaranteed electoral transparency by facilitation of observation to other Government sectors or agencies, international observers, civil society and the media. These are expected to adhere to regulations put in place.
- d. Participation in formulating appropriate measures to arrest electoral malpractices such as violence and bribery by both the political parties, politicians and electorate. These have been included in the laws on elections so as to ensure that in future the EMB will have prosecutorial powers and more stringent punishments to deter election offences.
- e. Streamlining of the nomination process by developing and enforcing a code of conduct. Voters who registered more than once were given amnesty by the Commission and in cases where this was not heeded, some were arrested and fined.
- f. Enhancement of the voter education programmes to encourage larger participation by the eligible voters.
- g. Development of the campaign timetable together with the candidates.
- h. Holding of security meetings with the Provincial Administration and the Party Agents prior to all elections.
- i. Inviting party agents to jointly tally results with the IIEC election officials during the by-elections and referendum.



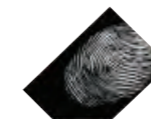
The Human Resource Staff manual and the Staff Code of Conduct enforce principles of integrity. Prior to every election the election officials take an oath of secrecy not to breach election legislation. This is essential in combating corruption and anyone breaching election legislation will be stopped and prosecuted in a timely, professional and non-partisan manner. Effective law enforcement will not only help to maintain the integrity of the process but also to prevent future problems.

Ensuring free and fair elections is a continuous process that an EMB must work at. This warrants systematic intervention by the Electoral Commission in its quest to achieve a democratic evolution in Kenya where every citizen has an equal opportunity to participate in choosing the government.



# Chapter 5

## FRESH REGISTRATION OF VOTERS AND THE CREATION OF A NEW VOTERS' REGISTER



*"Ballots are the rightful and peaceful successors to bullets."* -  
Abraham Lincoln

Citizens queue to register electronically



## 5.0 Overview

Voter registration is one of the most important steps towards free and fair elections. It is critical to the election process in that it is the exercise that determines whether eligible citizens will be able to exercise their right to vote, thus attracting more than its fair share of attention and scrutiny from the politicians. One element that measures the credibility of an election is an accurate register that voters trust.

The major purpose of a voter registration exercise is to ensure that citizens who meet the legal requirements are able to participate in the electoral process. The Voters' Register provides a credible mechanism for verifying the eligibility of voters which in turn, confers legitimacy on the electoral process. For the first multiparty elections in 1992 a national registration drive was conducted and the data entered in "black books". The registers were computerized using Optical Mark Recognition (OMR) forms and the black books were kept as a back-up. The 1997 register was updated through continuous registration (introduced in 2002) and yearly registration drives. Before 1997, registration of voters was not a continuous process.

Fresh registration of voters and the creation of a new Voters' Register was one of the mandates of the IIEC. A fresh Voters' Register was necessitated by the fact that the 2007 register was invalidated by parliament as it was found to contain names of deceased persons, double or multiple registrations and other anomalies. In other instances, some rolls had voters' names missing even though they had their voter's cards. Human errors such as misspelled names, wrong birth dates and incompatible Identity Card numbers were also detected. The development of a new Voters' Register was therefore a prerequisite if the Commission was to restore the confidence of the Kenyan voter in the electoral process. This was against a backdrop of a notably high voter apathy among Kenyans and a short registration period in view of the impending 2010 referendum.

### 5.1 Voter Registration

In line with the Commission's mandate to register voters afresh and create a new Voters Register, fresh registration of voters commenced on 22nd March 2010 and continued for a total of 49 days.

#### 5.1.1 OMR and EVR Registration

In 192 constituencies registration was done using the Manual and Electronic scanning system, a type of registration system that converts data marked manually on paper into electronic form (Optical Marker Recognition – OMR). A form that captures the details of the voter is filled manually. It is then scanned to capture the data for further processing and integration into the voter registration data base. Thereafter, the information is printed as a register of voters and sent



back to the registration centre for verification by voters to ensure that the details are correct. Corrections are made on OMR form and sent back for scanning to enter the corrections. This process takes a long time to ensure a correct register is produced. While this system was used by the former Commission, the IIEC enhanced the voter registration technology through the use of direct data capture.

#### 5.1.2 EVR Pilot Project

The EVR technology has internal checks that identify an individual through the biometric data such as thumb prints and photographs, thereby providing a more reliable system of curbing multiple registrations. In recognition of the need to introduce modern technology in the electoral process, a pilot project to register voters electronically was carried out from 12th April to 21st May 2010 in a sample of 18 constituencies. These were Kikuyu and Nyeri Towns in Central Province, Langata and Kamukunji in Nairobi, Mvita and Malindi in Coast province, Dujis and Wajir East in North Eastern, Isiolo South and Imenti Central, Mbooni in Eastern, Eldoret North, Nakuru Town, Ainamoi in Rift Valley, Ikolomani, Webuye in Western, Kisumu Town West and Bonchari in Nyanza.

The pilot-testing of the technology was meant to determine its accuracy, ability to ease the compilation of the Voters' Register as compared to manual compilation, as well as to identify voters during voting thus reducing or curbing anomalies such as double registration of voters. The pilot Electronic Voter Registration (EVR) further informed policy in terms of efficiency, and viability of use in the different regions in the country. In this system of voter registration, data was recorded in a stand-alone computer.

The EVR technology employed captured voter registration data, issuance of voters' cards, verification of the correctness of voter details, storage of voter biometrics and the identification of voters on the polling day. Results from the 18 pilot constituencies revealed that EVR was an efficient way of registering voters. In comparison to the manual system, EVR enhanced the speed at which data was consolidated to build a register. This is because on registration, the kit provides the voter's database immediately, allowing the voter to immediately verify their details and make corrections before the registration process is complete. By the time the voter is issued her voter's card, her details are correct. This led to a more accurate register compared to the manual one that needed a lot of cleaning-up before it could be used.

#### 5.1.3 Registration of Prisoners

The old Constitution did not provide for prisoners to vote in General Elections or participate in Referenda. In a bid to promote the rights of prisoners to vote, the legal Aid centre (Kituo Cha Sheria) took IIEC to court. The courts ruled that the prisoners be allowed to participate in the 2010 Referendum. The Commission in abiding by the court ruling placed adverts in the papers asking relatives of in-



1. His Excellency Honourable Mwai Kibaki registers as a voter
2. The Right Honourable Prime Minister Raila Odinga registering as a voter
3. Registration of in-mates
4. Citizens queue to register as voters



mates to provide in-mate Identity Cards so as to enable them get registered and vote in the referendum. This incident, a first for the Commission and the country allowed the in-mates to participate in such an important activity. Electronic Voter Registration was carried out in all 90 penal institutions in the country. Prisons were gazetted as registration/polling centres and prison warders trained and commissioned as registration officers. The Commission was only able to register a total of 5,605 prisoners out of the potential population of 50,000 inmates countrywide. The main reason for the low registration was the lack of the legally required identification documents such as National Identity Cards because in-mates concealed their particulars for various reasons.

#### 5.1.4 Continuous Voter Registration

The IREC Report indicated that continuous voter registration was expensive due to low person productivity as few people turned out to register, mainly due to the long distances to the registration centres. In line with reforms IIEC made, continuous voter registration has been moved from 72 districts to 210 constituencies. CECs double as registration officers thus moving registration closer to the people.

To further address this gap in voter registration and to institute continuous registration of voters, the Commission has considered cost-effective measures to put in place that may be applied in future, vis-à-vis the continuous voter registration. One such measure is to move to systems based on other population data bases in collaboration with the National Bureau of Statistics, Ministry of State for Immigration. This is meant to enable the Commission to track the issuance of Identity cards while awaiting use of Integrated Population Registration Systems (IPRS) and also to keep updated with projections on the number of youth attaining the voting age.



## 5.2 Electronic Data Transmission

To further improve voter compilation and a clean voters' register, the Commission also adopted Very Small Aperture Terminals (VSAT) Connections for data transmissions. This allowed access of the data forms through VSAT technology and provided the Commission the ability to upload the data at the Headquarters once it had been scanned at the 17 Regional Scanning Centres spread countrywide. This immediate transmission provided an opportunity to communicate with the Scanning Centres for instant clarifications. This channel ensures that data comes from only one source and therefore enhances credibility of the data.

The gathered data was placed in electronic files and transferred in a format that could be securely reviewed and uploaded directly through the VSAT into the National Registration database systems. The system captured the finger print impression, digital photography that was included in the voter's records and in the voter's identification card.

## 5.3 Inspection of Registers

It is a legal requirement that at any time and after completion of the voter registration exercise, the Register of Voters is opened for inspection by members of the public. Inspection of the Register entails ascertaining that all names and particulars of qualified persons have been correctly entered. The Institute of Education in Democracy (IED) Study also revealed that in 2007, only 47% of those registered inspected the Register. The inspection of registers was even lower in 2004 with only 34% inspecting the registers. Of those who carried out the inspection, 2% found their details incorrectly entered. Some of the reasons for failure to inspect include the lack of awareness on the part of the voters, and illiteracy. Some respondents also cited the long distances to the registration centres as the reason for failure to inspect.

## 5.4 Challenges

Systemic gaps experienced during the use of the OMR technology include the limited technical capacity to track actual workload done at any one given time. Moreover, internal edits of errors were ineffective and the situation was compounded by the lack of a clear system of verification of quality and quantity of forms in the field. The requirement of daily updates further put pressure to give registration counts without verifying the correctness of captured data and the number of forms. The forms themselves were not pre-coded to identify with the respective Constituency and polling centre. The scanning equipment was unable to produce the daily capacity indicated by the supplier. Some of these problems arose due to the fact that the management of OMR system was concentrated at the Headquarters instead of the regions which were the source of data.



During the fresh voter registration and creation of a new Voters' Register several challenges were encountered in Arid areas whereby registration centres were under trees and the Commission had made no alternative provisions for accommodation. In addition, the time in which to register voters for the Referendum was too short to create a fresh register.

## 5.5 Achievements

Despite the challenges, IIEC was able to score positively on the following issues:

- The personnel that carried out the voter registration were drawn from respective villages where the registration was done. The recruitment was competitive and this not only earned IIEC credibility but also enhanced its efforts to identify voters within villages who had not been registered through outreach programmes.
- The registration was successfully carried out and there was a credible register. EVR was finally institutionalized and found to be adequate in the registration of voters.
- The use of SMS's to verify the status of one's registration status was found to be useful to those members of the public that had no time to go back to their registration centres.
- Voters were able to inspect registers at the registration centres rather than the traditional procedure where they had to visit their district headquarters to do this.
- The monitoring of weekly returns and paper trail in tracing the number of voters registered on a weekly basis determined the integrity of the register.
- Verification and removal of double registered voters was smoothly done and those found to have double registered were singled out and listed in several areas. Double registration was easily detected by use of biometric identification. The use of the electronic poll book to identify the voters during the referendum showed that the time spent by a voter during polling was significantly reduced in the EVR constituencies.
- The Post-Referendum Evaluation revealed that Electronic Voter Registration (EVR) enhanced the efficiency of the electoral process in the 18 Constituencies where it was pilot-tested, compared to those that used manual registration. The pilot constituencies' polling stations handled 1,000 voters as compared to 300 for those using manual. Based on these findings, the Commission begun the process of establishing ways and means of institutionalizing the use of EVR in the entire country in preparation for 2012 general elections.

At the end of the registration period, a total of 12.4 million voters were registered against the set target of 10 million, which represented 62% of the total eligible population.

## VOTER REGISTRATION

# Voters on a roll

## Country faces numerous challenges as election body embarks on a new process



6

Unfiltered, uninhibited.... just the gruesome truth

## VOTER REGISTRATION

# Migingo residents demand voter rights



The busy Migingo island in Lake Victoria. Kenyan fishermen and traders operating in the area want to be registered as voters so they can participate in the referendum.  
Photo: Odhiambo Odhiambo

By ODHIAMBO ODHIAMBO

Fishermen have expressed fears that they could miss out on the referendum unless they are registered in the new voters' roll.

Fishermen and traders on the dispopulated Migingo Island in Lake Victoria want the Interim Independent Electoral Commission (IIEC) to send voter registration clerks to the area.

The Chairman of the Management Unit is appealing to the government to deny the registration of the islanders.

"As an immediate measure before the referendum, the government should involve, Kenya's two main political parties in the registration process."

"We welcome the government's decision to register the islanders as voters."

# Halt disarmament so we can register, say Pokots

By GEORGE OMONSO

The Pokot Community has asked the Government to lift the ultimatum on arms surrender in the area until the end of voters registration exercise is over to pave way for the locals to register as voters.

A former assistant minister Samuel Moroto and a church leader Bishop John Londinyo said, over 30,000 Pokots had gone to hide in the neighbouring Uganda for fear of being harassed by the security personnel and may, therefore, not register as voters if the search for arms persist.

"In spite of our people cooperating with the security forces and surrendering the only arms that exist in our midst, the security forces have been adamant in their use of force," said Bishop Londinyo. He added: "A DC was captured on camera saying that our people must be subjected to excess force, leaving the residents wondering as to whether this is another operation of the 1984."

Moroto, who spoke at a separate function, said the Minister for Internal Security should halt the disarmament exercise that the entire Pokot community is protesting.

He said the Pokots are in the Pokot region.



Administration police officers display guns recovered from disarmament exercise to stop the disarmament exercise.

ISSUE 017, May 16-31, 2010

4

Unfiltered, uninhibited.... just the gruesome truth

## VOTER REGISTRATION

# Bandits scare off villagers from registration

By MUSEMBI NZENGU

Insecurity in the periphery of Kyuso and Tseikuru districts' common border with Bura has affected the voter registration exercise due to the fear of bandits.

was a big threat to the voter registration exercise.

Speaking from Ngomeni trading centre, Mr Mulu Nding'uri, who runs a retail shop at Kasiluni market said many people will not be able to register as voters as they had gone into hiding.

It is not reasonable for anyone to risk his life to acquire a voter's card.



Angela Ngutu, a registration clerk attends to a man seeking to register as a voter at Mbondoni in Mwingi. Photo: Musembi Nzengu

Angela Ngutu, a registration clerk attends to a man seeking to register as a voter at Mbondoni in Mwingi. Photo: Musembi Nzengu

trader

# Chapter 6

THE NATION  
Tuesday May 18, 2010

CONSTITUTION DEBATE

## It's different colours, one people

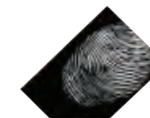
Electoral team calls  
for tolerance amid  
fear of full-scale  
propaganda wars

By MUCHIRI KARANJA

After sifting through more than 350 proposed symbols submitted by Kenyans – including forks, spoons, trees and even the moon – the poll managers finally gave their verdict: the word YES on a green background for those supporting the proposed constitution, and the word NO on a red background for those opposing it.



## EFFICIENT CONDUCT AND SUPERVISION OF ELECTIONS AND REFERENDA



*"The devil is in the detail."*  
Gustave Faubert

The Referendum symbols: Colours red for "No" and green for "Yes."



## 6.0 Overview

The planning and conduct of elections is a highly complex and demanding process with a number of practical and political features that need to be well managed. Election management involves meeting a series of set deadlines, and ensuring the credibility of the process, governed by laws and rules that are both commonly understood and universally applied. The process entails training election officials, mapping polling stations, constructing essential infrastructure at the polling stations such as polling booths, recruiting and deploying polling staff, securing ballot papers, ballot boxes, seals and other essential materials, ensuring the safety and security of the materials and of the election process, conducting the vote and tabulating and transmitting results.

### 6.1 Parliamentary and Civic By-Elections

During 2009 – 2011 the IIEC conducted 11 parliamentary by-elections and 49 Civic by-elections in accordance with the requirements of the old constitution. The Commission within its first three months in office conducted the Shinyalu and Bomachoge parliamentary by-elections on 27th August 2009. This was the first time in independent Kenya that elections were held using transparent ballot boxes. In preparation for these events, all systems, procedures and guidelines were reviewed and enhanced. In-house procedures were developed, documented and used to guide and train the Secretariat during the conduct of by-elections and the referendum. Through benchmarking, study visits and electoral observations, the commission adopted some of the best practices in conducting subsequent elections. The Commission also invested in procedures that ensure long term and operational planning for elections, efficient and effective execution of tasks in the electoral process and a strong system of inter-agency coordination with other Government bodies whose support it requires to fully discharge its mandate.

### 6.2 The 2010 National Constitutional Referendum

One of the IIEC mandates was to conduct the National Referendum on the Constitution. In preparation for the Referendum the Commission had to develop symbols that were acceptable to all Kenyans, formulate the Referendum question, and develop regulations to guide the Referendum process. The colours red for 'NO' and green for 'YES' were chosen as symbols. The Commission allowed the public to participate in the development of the symbols and this enabled it avoid the use of emotive symbols. Before the campaigns took off, the Commission had registered eight (8) committees in total, both for and against the proposed Constitution. It also published the Referendum question on 10th May 2010 and the Referendum symbols on 17th May 2010. Three meetings were held at the national level between IIEC and the eight Referendum Committees. Two of the meetings were mainly consultative, to agree on the rules of engagement and

mode of training. The third meeting aimed at training of the chief agents for the eight committees and their deputies. This was followed by training of the chief agents for the "Yes" and "No" committees at the constituency level. One agent on each side per constituency was trained who in turn trained the others in all 17 electoral regions.



Page 6 / NATIONAL

## IIEC register referendum campaign teams

By Athman Amran

The Interim Independent Electoral Commission has registered seven referendum campaign committees for and against the Proposed Constitution.

IIEC chairman Issack Hassan said four of the committees have registered to campaign for 'Yes' while three for 'No'.

The 'Yes' teams are the Multi-Sectoral Salvation Front led by the chairman of the Centre for Multi-Party Democracy Prof Larry Gumbe and the YES Green-Katiba For Change led by Energy Minister Kiraitu Murungi. Gumbe and Cyprian Namwamu are the chief agents while Murungi and Medical Services Minister Peter Anyang' Nyong'o lead the Greens team.

Others are One Kenya 'Yes' Secretariat led by Danson Mungatana with Chugu MP as chief agent and Urban Volunteers Organisation, which is led by Margaret Mliwa with Stephen Nyagah as chief agent.

#### REGISTERED TEAMS

The 'No' committees are 'No' Red National Referendum led by Dr Tom Namwamba with Mosop MP David Koech as the chief agent and Muungano Wa Katiba Kombozi led by Njeru Kathangu with Jane Njiru as chief agent. There is also the Independence of Democratic Evolution Alliance of Kenya led by Patrick Mogambi with Bernard Nyakundi Machira as chief agent.

Hassan said the registration follows a gazette notice requiring those wishing to campaign to form referendum committees.

## 6.3 Achievements

The following were accomplished under this mandate.

### 6.3.1 Development of acceptable Referendum symbols

The choice of colours, red for 'NO' and green for "YES" was commendable as all the different referendum divides unanimously accepted the symbols. As a result, it was easier to have the referendum divides form their committees for the purposes of carrying out campaigns for the proposed constitution. Similarly, it was easier to have the committees registered.

### 6.3.2 Consultations with the Referendum committees

Being the first assignment for the Commission nationwide, it was imperative that the conduct of the referendum be acceptable to the competing sides. Hence during the preparation for the referendum that the Commission was able to bring together the competing sides on a round table to talk and agree on a code of conduct acceptable to Kenyans. This was accomplished through referendum Committees on the "Yes" and "No" sides

### 6.3.3 Acceptance of application of technology

Through training and consultation with the Referendum Committees, the Commission managed to build understanding on the electoral processes and in particular the use of technology during the referendum. This helped to minimize misunderstanding during polling and tallying. The consultative meetings between IIEC and the referendum committees were also used to resolve disputes between the two opposing sides.

The Referendum further provided a chance for the Commission to test the systems it had put in place for effective management and conduct of elections and accuracy of the voters' register which could only be tested during the actual polling. In 192 constituencies, a manual register was used while the electronic register (poll book) was used in 18 constituencies to identify voters.

### 6.3.4 Staff capacity building in efficient conduct of elections

Although the RECs and CECs had participated in the management of the South Mugirango and Matuga by-elections, it was during the referendum that they were to be individually responsible for the management and conduct of elections in their regions and constituencies. The CECs served as Returning Officers in the referendum while other Secretariat staff and Commissioners provided logistical arrangements. The staff at the headquarters was tasked with the management of the national tallying centre at the Bomas of Kenya, tallying of results, resolution of disputes among the referendum committees and monitoring of the referendum process on the polling day through a National Communication Centre that had been set up. The post-referendum evaluation revealed that the secretariat staff



Members of the 'Yes' and 'No' teams in a consultative meeting.





was up to the task in the management of the Referendum. This included the staff that the Commission hired on a part-time basis. The successful conduct of the Referendum was attributed to the systems put in place and training that the staff underwent in preparation for the by-elections and the referendum.

### 6.3.5 Electronic Transmission of Results (ETR)

The other notable achievement during the Referendum was the pilot testing of the Electronic Transmission of Results (ETR) direct from the polling stations to the constituency and national tallying centres simultaneously. The transmission of provisional results was successfully done in majority of the constituencies, except for a few where network coverage was a challenge. This system was successful because the results were announced within twenty six (26) hours after the completion of voting. This provided useful lessons that were put in place in the subsequent by-elections.

### 6.3.6 Virtual Tallying Centre

Other than the display of results at the constituency and national tallying Centre, the results were also received in real-time through the Commission's website. This enabled Kenyans worldwide to follow the results as they came in. All the media houses were also allowed to plug into the Commission's portal to be able to transmit through their various TV stations. This ensured that what was being transmitted by the various media houses was uniform and accurately reflected the results as received by the Commission.

The Commission allowed the media access to its server to get the results especially when the display was interrupted due to the backlog. The regular meetings and open approach that the Commission adopted in turn led to positive coverage of the Commission's activities by the media. The media also ensured that whatever was published or aired on elections did not have a negative effect, such as was witnessed after the 2007 general elections.

Even though the law allowed for declaration of results within 48 hours, the Commission was able to announce in 26 hours after the count. Use of helicopters to airlift the Returning Officers who were in far areas with difficult terrain enhanced the quick delivery of results.

### 6.3.7 Online Call Centres

In planning for the 2010 Constitutional Referendum, the IIEC undertook a substantial re-development of the results transmission system. The public face of this activity was an online call centre established purposely to receive feedback and complaints from the electorate or the general public over the conduct of the referendum. The objective of a call centre was to establish effective communication with the public in order to get an understanding of what was happening and be able to respond in real-time. This worked well, since the Commission was able to



get information on all aspects that transpired all over the country prior to, during voting and after voting and acted responsively. Based on the issues raised by the public, the Commission was able to intervene faster and avert anticipated problems. Through the call centre, the Commission was able to tackle logistical problems that would have delayed the announcement of results as well as tracking the where about of its officers as they prepared to travel and hand in hard copies of the results.





## 6.4 Challenges

Although the referendum was successfully conducted, the Commission faced a number of challenges were experienced. Of note were the challenges in the interpretation and use of symbols by the voters. The other challenge concerned the funding of the Referendum Agents as this had not been budgeted for.

During polling, an unusually large number of assisted voters was noted. The occurrence of this challenge was attributed to the fact that unlike the other elections, the referendum ballot paper was different since it had only two choices. This is a pointer to the need for continuous voter education. Another challenge that was revealed during counting was the number of rejected votes which was high by any standard. This also is an issue that can be addressed by intensive voter education focusing in particular on how to mark ballot papers. The need for this kind of education is even more apparent now, given the many ballot papers that voters have to mark in 2012.

It should be noted that all new technologies come with several challenges. This was the case with the EVT. Not all referendum Committee members were able to understand its operations. As a matter of urgency, the Commission constituted a Committee that was to induct the referendum "No" and "YES" teams on how EVT worked. This was part of building their capacity and acceptance of the outcome of the results. This worked well because they were able to appreciate how the system worked.

Another challenge experienced in transmission of results was the overflow of the results at the National Tallying Centre. The delay was attributed to the jam in the system as it could not handle the speed at which the results from the various Presiding Officers were coming in. There is need therefore for an upgrade of the system in preparation for the 2012 general elections.

The Commission also experienced challenges in conducting polls in the semi-arid region as there was lack of ideal structures for an election. Unlike most parts of the country where the term "polling station" can be a primary school or some government institution, in Wajir and most of the North-Eastern region where permanent structures are lacking, it could mean the serenity of an acacia tree or some makeshift shelter or a tent brought all the way from Nairobi.

## 6.5 Elections within other Institutions

The transparent manner in which the Commission has conducted its work has enabled it built trust among Kenyans. This has resulted in government and industrial organizations within Kenya requesting that the Commission preside over their elections. For a fee, the IIEC has conducted elections and ballots, for government authorities and other organizations. During the reporting period the



IIEC conducted 8 elections for various registered organizations. These institutions are the Law Society of Kenya (LSK), African Independent Pentecostal Church of Africa, Federation of Women Lawyers (FIDA), the Judges and Magistrates Association, the Student of Nairobi University Union (SONU), Independent Football Elections Board, Ford People and Kenya Sugar Board (KSB).

All elections were conducted in accordance with legislation and the rules of the organizations concerned. The Commission developed rules, regulations and procedures that all institutions requesting for services had to adhere to prior to conducting the elections. This was yet another opportunity for the electoral management body to gain experience in conducting various types of elections as well as share experience gained from overseeing parliamentary By-elections and the Referendum.

Given the acceptance of ETR by the Kenyan public, the Commission has identified key strategic issues that are addressed in the Commission's 2010- 2017 strategic plan. The Commission is continuing to address the key issues in preparation for the 2012 general elections.

## Code of conduct to fight thuggery in campains

BY MOSOKU GEOFFREY

ALL campaign committees will be required to sign a code of conduct.

The Interim Independent Electoral Commission has introduced this regulation to ensure peaceful referendum campaigns.

The code will commit the Yes and No camps to ensure peaceful conduct during the campaigns ahead of the forthcoming referendum.

IIEC chairman Isaack Hassan on Monday said the committees will take full responsibility for any breach of the laid down rules by their supporters.

The two camps must ensure those in their teams follow campaign rules.

"Violence and incite-

ment are things which we cannot tolerate as a commission and cannot be tolerated by Kenyans.

"People should be able to exercise their democratic right to vote without any form of intimidation or violence," said Hassan.

Those found to break the law will be punished.

The IIEC and the National Cohesion and Integration Commission have vowed to stamp out thuggery during the campaigns.

The two teams have incorporated the police in their efforts to reign in goons who may take advantage to create chaos.

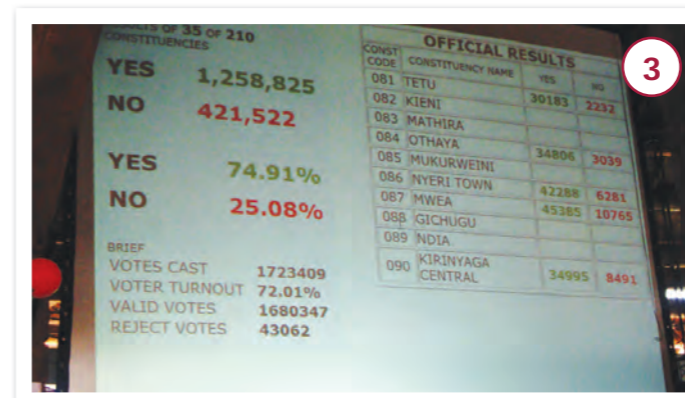
The chairman called on the two camps to forward names of their respective representatives.

"The two names will act as chief agents for the Yes and No teams during the referendum day," he said.

Yes and No teams have formally constituted their teams but have not forwarded the names to

the IIEC.

Yes secretariat is jointly led by ODM's Janet Ong'era and Peter Kagwanja of PNU while No is led by Kenyatta University lecturer Tom Namwamba.



1. A section of observers at the National Tallying Centre at the Bomas of Kenya.
2. A group of International observers
3. The vote tallying displayed on a giant backlit screen at The Bomas of Kenya
4. The Chairman and IIEC Commissioners and Secretariat staff announce the results
5. The 'No' team concede defeat 18 hours after close of poll

INTERIM  
INDEPENDENT  
ELECTORAL  
COMMISSION

COUNTERFOIL  
00000001


THE REFERENDUM  
ON PROPOSED NEW  
CONSTITUTION OF  
KENYA

4th AUGUST 2010

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FORM R5

20 (2)

  
your vote, your future

INTERIM INDEPENDENT  
ELECTORAL COMMISSION

THE REFERENDUM ON THE PROPOSED  
NEW CONSTITUTION OF KENYA

4th AUGUST 2010

BALLOT PAPER 00000001

QUESTION/SWALI

DO YOU APPROVE THE PROPOSED  
NEW CONSTITUTION?

JE UNA KUBALI KATIBA MPYA  
INAYOPENDEKEZWA?

ANSWER/JIBU	SYMBOL/ALAMA	VOTER'S MARK/ ALAMA YA MPIGAJI KURA
YES/NDIYO	YES	
NO/LA	NO	

INSTRUCTIONS TO VOTER

1. Mark the box beside the Symbol of your choice with any mark.

2. Fold the paper through the centre, left to right, so as to conceal your vote.

3. Make no other mark whatsoever on the paper.

4. Put the ballot into the ballot box.

# Most Happy With Vote Results

Daily Nation, 11 August 2010

Nine in every 10 Kenyans are satisfied with the outcome of the referendum, with which ushered in a new Constitution.

According to the latest opinion poll conducted by Synovate, between August 7 and 9, a majority of the 9.1 million people who voted for or against the draft constitution, are of the view that the results were a true reflection of what Kenyans wanted. Many will welcome the results as it shows Kenyans are ready to put their referendum differences behind them and focus on the implementation of the document. The poll

which interviewed 1,012 people countrywide, will also be a big boost to the Interim Independent Electoral Commission (IIEC), which conducted the peaceful exercise, using technology to speed up the relaying of results.

The election body, was rated highly with 99 percent of Kenyans saying they either “fully trust or somehow trust” the Isaac Hassan-led team. The results is a complete shift from the past, where the disbanded Electoral Commission of Kenya (ECK) that handled the 2007 general election fiasco, was ranked as one of the most hated government bodies. The body was accused of various ills including infighting and delaying the announcement of the presidential results.

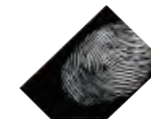
The draft constitution was endorsed, after 6,092,593 Kenyans voted for the document, representing 66.9 percent, while 2,795,059 million, or 30.1 percent, rejected it. The average turnout was 72.17 percent representing 9.1 million out the 12.6 million registered voters.

# Chapter 7



Voters following election results on a giant screen

## DEVELOPMENT OF A MODERN SYSTEM FOR COLLECTION, COLLATION, TRANSMISSION AND TALLYING OF ELECTORAL DATA



*"The spirit of democracy is not a mechanical thing to be adjusted by abolition of forms. It requires change of heart."*

**Mahatma Gandii**



## 7.0 Overview

The acceptability of an election depends very considerably on the extent to which the public feels that the officially announced election results accurately reflect the votes cast for candidates and parties. Although it also depends on factors such as the character of the electoral campaign and the quality of the Voter Register, reliable counting and tallying is a sine qua non if an election is to be considered legitimate by its key assessors – the voters.

Whereas integrity is necessary at all stages of the electoral process, nowhere is it more important than in counting and tallying. To maintain integrity, vote counting must produce results that are seen to be valid and accurate, and therefore acceptable to all stakeholders. The use of ICT in elections had been contemplated by the ECK. According to ECK's Report on the National Referendum Evaluation Workshop of March 2006, computerization of the counting and tallying of votes was considered. The United Nations Development Programme (UNDP), while giving expert advice, emphasized the importance of improving the process of transmitting and counting/tallying of results and transmitting results directly from polling stations. A decision was then made to aggressively pursue the computerization process and to procure computers for each of the 210 constituencies.

### 7.1 Integration of Technology in Electoral Processes

One of the mandates of the IIEC was to develop a modern system for collection, collation, transmission and tallying of electoral data. Based on this mandate, the Commission saw the integration of technology in the management of elections as an imperative rather than an alternative. The Commission procured ten (10) OMR/ICR scanners with annual licenses in addition to the existing 17 scanners. This was to facilitate the scanning of OMR registration forms in the voter registration exercise in the 17 IIEC Regional offices ahead of the August 4th 2010 Referendum on the new constitution.

Towards integration of technology, computerization of the voter registration process for more accuracy and elimination of multiple registrations of voters was deployed using the OMR technology, which is essentially a manual system to develop the register and to maintain the voter registration database. The OMR was deployed to scan, verify and upload registration data.

### 7.2 Electronic Transmission of Provisional Results (ETR)

Electronic transmission of results is perhaps one of the most popular technological integration in election management in Kenya. In the 2007 general elections, results were transmitted by the media long before the Commission verified



In preparation for the August 4th Referendum, the IIEC hired over 300 university students to assist in the configuration and logistics preparation of over 21,000 results transmission mobile telephone handsets at the Multi-media University –Mbagathi. The exercise took Seven days and seven nights.

- 1,2. Configuration of handsets
3. Handsets packed and ready for dispatch
4. Handsets loaded for delivery to the respective tallying centres





them. The Commission had to therefore find ways and means of ensuring that results are announced by the Commission before anybody else therefore ensuring only verified results are released. To address this, IIEC carried out testing of an Electoral Results Management System to allow simultaneous transmission of results from the polling centres to the constituency and national tallying centres. Application of this technology reduced the time taken to release the results thus reducing tension. In previous elections, Presiding Officers (POs) were reported to have disappeared with results with the Commission unable to trace where these POs were therefore heightening suspicion and tension.

The ETR guarantees transparency and speed in the transmission of the results by the Presiding Officers from every polling station to both the Constituency Tallying Centres and National Results Centre simultaneously. The system uses laptops and a mobile telephone network (GPRS). The display of results as they are sent is a further show of transparency. The ETR system was first tested during the South Mugirango by-elections where laptops were used as a mode of transmission. In subsequent by-elections in Matuga, 40% transmission was through laptops while 60% was through mobile phones. In Starehe, Makadara, Juja, Wajir South Kirinyaga Central, and Ikolomani, only telephones were used and 100% transmission was achieved. This facility enhanced transparency in the vote-counting process as the agents were able to verify at the polling station that the transmitted results were the actual results.

### 7.3 Modernization of Internal Processes

Efficient Internal communication in an organization cannot be overstated. To enhance communication among the IIEC staff at the Headquarters, Regional and Constituency levels, communication was enhanced by the Blackberry Connectivity Service. This was a USAID funded initiative intended to ease email and phone communication amongst IIEC staff. All the regional and constituency coordinators were issued with a Blackberry mobile phone especially configured for internal communication. ICT can transform the working of the Commission through the networking of all the Commission's offices, the establishment of an Intranet, Local Area Network (LAN) and Wide Area Network (WAN) and increased use of the internet for efficient communication.

The progressive use of technology in the electoral process needs to be enhanced and institutionalized. Certain laws, policies, structures and guidelines to make it effective should be among the Commission's priorities. Issues relating to compatibility, security, sustainability and appropriateness of the selected technology are a major consideration.

## Kenya marks a first with electronic vote tallying

By JOY WANJA

Daily Nation Friday, June 11 2010

As Africa welcomed the 2010 Fifa World Cup on her soil, Kenya marked the maiden use of an electronic tallying system for elections. The South Mugirango by-election was the first time e-tallying was being used in a bid to restore confidence and ensure transparency. The new system, known as Parallel Vote Tabulation (PVT), is an election observation method.

"The system marks yet another milestone in speeding up the electoral process and making it more transparent," Interim Independent Electoral Commission deputy chief executive Gladys Boss Shollei told Saturday Nation. Dressed in warm clothing, IIEC officials, political party representatives and journalists sipped hot beverages to keep the cold at bay as they witnessed the system in action at Nairobi Safari Club at Lilian Towers at 6.30pm on Thursday night. IIEC chairman Ahmed Issack Hassan and his commissioners wore big grins as the results streamed in, proving the system was a success on its pilot run. The system uses a computer or a GSM-enabled mobile phone. As the votes are being counted at the polling stations, the presiding officer is able to transmit the results simultaneously to the returning officer at the constituency level, South Mugirango in this case, and to the headquarters in Nairobi. "Each laptop has an electronic Form 16A that is relayed to the returning officer and to us, making it harder to falsify results," Ms Boss Shollei said. She said in case of disputed results at the constituency level, the new system makes it easier to monitor changes made on Form 16A at the constituency level.

The returning officer is allowed to make necessary adjustments on Form 16A in

case of disputed votes although he will have to give reasons for doing so. "The returning officer is the only person who can audit Form 16A though he or she is expected to give reasons for the difference in figures between the form he has and the electronic one," she said. The results are filled in at the same time and the party representatives asked to sign the physical Form 16A before the electronic one is sent to Nairobi, she said. The main polling station was at Nduru Secondary School where the returning officer was stationed and would later receive the hard copy Form 16A from presiding officers. According to Ms Boss Shollei, the use of computers was adopted in South Mugirango because all the 110 polling stations are well covered by cellular telephony. Ms Boss Shollei said she was optimistic that with the success of the system in the by-elections, it could be adopted for the August referendum in the 21,668 polling stations countrywide. She allayed fears that the system could not be used in areas that had no electricity. "The batteries can last up to eight hours by which time we expect the results to have been sent from the polling centres," she said.

The PVT is expected to prevent a recurrence of events after the 2007 General Elections where former Electoral Commission of Kenya chairman Samuel Kivuitu declared President Kibaki the winner but later said he was not sure who won the election.

## IIEC leads the pack in adopting m-Government



Tallying officers receive results from Matuga polling stations via mobile phone at the tallying station in Nairobi.

By Harry Hare Thursday, July 15 2010 at 00:00

The Interim Independent Electoral Commission (IIEC) has done it. They have effectively applied mobile technology in public service delivery, simply called m- Government.

This is what this column has in the past advocated as the best way forward for an inclusive public- focused service delivery. Just over five hours after the closure of 101 polling stations in Matuga constituency, the tallying centre at Matuga Government Training Institute had already received about 50 per cent of the results thanks to the newly implemented National Election Management System, which allows for electronic transmission of polling station results.

This to me is a sign of maturity, with mobile technologies being used in handling sensitive national tasks.

One interesting fact about the system used by the IIEC is that its locally developed and, therefore, customized to the requirements of the IIEC.

Unfortunately, this technological innovation is a stranger to the existing election laws, which require that the results have to be confirmed by the submission of the infamous Form 16A.

This means that the results that have been received will only be provisional until the forms are submitted and approved by the Commission. Wako's last act leaves MPs in a tight financial corner. So, we still have some work to do.

With this success, its time for the law to be changed to allow for the submission of an electronic version of Form 16A so that the Commission can declare results freely.

When that happens then we can expect instant official election results as they stream into big screen TVs at tallying centres. The application used to transmit the results is actually a digital Form 16A.

It has all the details that are required by law to be included in the form. Like in many other jurisdictions, the acceptability of electronic records as authentic documents that can stand the test of time has been growing. We have seen, the admissibility of electronic records in court as evidence.

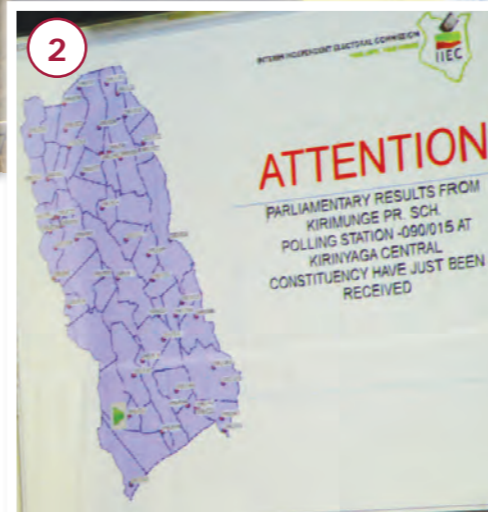


1. The new look upgraded IIEC headquarters computer room with modern computer equipment
2. Packed EVR kits
3. Overnight distribution of EVR kits from KIE control centre
4. EVR registration in progress in Mbooni constituency





1. Early preparation of a giant screen
2. A clip of results coming in with incorporated digital maps- Kirinyaga Central
3. Voters following election results on a giant screen in Kirinyaga Central constituency



## Digital shift transforms Kenya's electoral process into an efficient exercise



A clerk examines a voter's identification documents on the electronic register at Railway Station polling centre, Eldoret Town on Wednesday.  
Photo/FREDRICK ONYANGO

By Kui Kinyanjui  
Daily Nation Friday, August 6 2010

The technological revolution in Kenya's electoral process became abundantly clear as the final numbers came in from Wednesday's referendum. Analysts said the digital shift contributed to making the referendum a more transparent affair, with citizens emerging as a vital tool in ensuring the process remained free and fair.

The biggest beneficiary from the transformation is likely to be the Interim Independent Electoral Commission (IIEC), that effectively received the mandate to fully digitise the elections process. "We have learned that the use of technology has greatly enhanced the process and sped up the gathering of results," said Isaak Hassan, IIEC Chairman. More than 27,000 GPRS-enabled mobile phones were used to send results from polling stations to the main tallying centre at Bomas of Kenya in Nairobi. "Using mobile phones, SMS and some software we got results securely checked into a central server, tallied and instantly relayed to the public ... this is eGovernance without the usual big budgets and failure that often accompanies ICT projects," said industry analyst John Walubengo, on an online forum.

As part of its reforms, the IIEC – which was set up to replace the Electoral Commission of Kenya after disputed presidential elections in 2007 – has outlined a raft of initiatives it would undertake in order to reform the electoral process and the management of elections in order to institutionalize free and fair elections. Two of its immediate objectives were to conduct a fresh registration of voters and the create of a new voters' register as well as development a modern system for collection, collation, transmission, and tallying of electoral data.

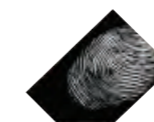
### Objectives completed

Both objectives were largely completed in time for Wednesday's referendum, and will be improved upon as the country gears up for its next elections process. "We are exploring some of the best practices globally and locally. In future, a voter should be able to walk into a polling station and place the fingerprint on a machine and all his or her details are conjured up instantly. With improved connectivity country-wide, this is not a wild dream," said Andrew Limo of the IIEC.

# Chapter 8



## FACILITATION OF THE OBSERVATION, MONITORING AND EVALUATION OF ELECTIONS AND REFERENDA



*“The highest measure of democracy is neither the ‘extent of freedom’ nor the ‘extent of equality’, but rather the highest measure of participation”*

A. d. Benoist

The Danish Ambassador, who is also the Head of European Union Ambassador Observation missions hands over the observation report on the Referendum to Chairman Issack Hassan



## 8.0 Overview

Observation and monitoring of election and election-related activities such as voter registration is an internationally recognized means of providing integrity to an election process. Whether by individuals, organizations or governments, local or international, observers and monitors provide an independent assessment of whether electoral process reflects best practices of genuine freedom, fairness and opportunities for citizens to exercise their political rights. The presence of observers and monitors can help deter electoral fraud and other irregularities. They help strengthen the electoral process by providing useful proposals that can build public confidence, and thereby, enhancing participation in the electoral process and broad acceptance of subsequent electoral outcomes.

Historically, elections monitoring and observation evolved as an organized practice after the World War II in Europe. This was underpinned by the rationale of the natural relationship between honesty and transparency; that those with nothing to hide have no fear of witnesses. Although initially the focus for monitoring elections was on emerging and weak democracies, this has since expanded to embrace election processes even in advanced democracies such as the United States and the United Kingdom.

The IIEC is conscious of the value of observation and monitoring the electoral process. It appreciated that facilitating observation was necessary in securing local and international credence. Indeed, in appreciating that successful undertaking of elections and referenda is a complex activity that involves many players, the IIEC facilitated observer missions for both Parliamentary and civic by-elections in Bomachoge, Shinyalu, South Mugirango, Matuga, Juja, Makadara, Starehe, Kirinyaga, Wajir East, Ikolomani and Kamukunji constituency by-elections.

### 8.1 Elections Monitoring and Observation

The composition of observer teams to IIEC-managed electoral processes was diverse as it ranged from local elections interest groups, the civil society, religious organizations, media and other organized teams and individuals to international delegations from the Intergovernmental Authority on Development (IGAD), Great Lakes, the African Union, the Commonwealth, the European Union, Embassies and the International Republican Institute. Briefings were provided immediately before all by-elections and the 2010 Referendum.

The standard practice is for observer teams to provide IIEC with a copy of their post-observation report. Subsequently, the IIEC carefully studied the reports submitted by observers with a view to noting the negative and positive highlights therein that could help promote greater efficiency in the management of the electoral process if acted upon. Indeed, from such reports, the IIEC was able to gain valuable feedback on its activities. Analysis from these reports isolated areas requiring improvement/strengthening that the Commission, where possible, acted on.



### 8.1.1 Referendum Observer Missions

Several diplomatic partners were invited and accredited to observe the referendum on the draft Constitution. The Commission received over 250 applications from interested organizations including foreign missions, civil society, faith-based organizations and professional bodies to observe the by-elections as well as the referendum exercise. The process of accreditation was professionally carried out and a desk was established for receiving applications, accreditation and issuing of observer identity cards. Those accredited were issued with election kits which included Media Guidelines. In addition, they were briefed and trained on what was expected of them during the election. There is however, need to improve on the election kit to include maps for observer missions in 2012.

### 8.1.2 Commission Observation Missions and other Activities

The IIEC continued to strengthen its international links through participation in election observation, conferences, briefings and work exchanges. Senior IIEC officers took part in observation of elections in Sudan, Burundi, Ethiopia, Australia, Brazil, Tanzania, Uganda, Nigeria and Sweden. The Commission took part in a conference in India on Best Electoral Practices. At the invitation of the Electoral Commission of India during its Diamond Jubilee celebration, the IIEC Chairperson attended and presented a paper on "The Role of Technology in Election Management in Kenya". Other conferences, workshops, and presentations are summarized in Annex B.

The Commission received requests for technical support and benchmarking from Sudan, which held its Referendum in 2011. At various times briefings were provided for visiting delegations who requested to learn about IIEC processes from other EMBs of Zambia, Malawi, Sierra Leone, Namibia, Ghana, Liberia, and Nigeria.

The 2011 benchmarking program is part of IIEC's ongoing commitment to encouraging communication and cooperation with other international electoral bodies. This was informed by an appreciation that a practical exposure to how other EMBs managed multiple elections could provide information on best practices that, if replicated with relevant modifications, could yield greater competences in the management of the electoral process in 2012. The program covers all aspects of the IIEC's administration and conduct of elections. IIEC Commissioners and staff have been programmed to participate in benchmark visits to EMBs in Brazil, United Kingdom, India, Philippines, Nigeria, South Africa, Ghana, Australia, and Sweden.



The IIEC continued to strengthen its international links through participation in election observation, conferences, briefings and work exchanges.

1. IIEC Chairman Issack Hassan, then Chairman AU observation mission to 2011 Nigeria elections with former Ghanaian President John Kufuor and other AU mission delegates.
2. IIEC team led by Comm. W. Guchu, Comm. Hamara Ibraim & D. Chirchir, Registrar of Political Parties L. Ndungu, Director of Voter Registration & Electoral Operations I. Kassait at the National Tallying Centre in Dar e Salaam.
3. A team from IFES during a courtesy call at the IIEC Chairman's office
4. Nerbaska delegates from left: Anthony Njoroge, Comm. D. Chirchir, Comm. K. Nyaundi, CEO. J. OSwago, Hon. Eng. James Rege, Brain Brucker, Bildad Kagai, Chairman Issack Hassan, Aldo Tesi President ES&S, Matt Nelson Vice President ES&S, Amb. P.N. Ogego, George Njoroge.





## 8.2 Relations with Stakeholders

The success of an election process, notwithstanding the efforts of an EMB, is to a significant extent dependent on the support of many other players. In recognizing the crucial part that different players in the electoral process play, the Kriegler Commission observed that the conduct of the electoral process was hampered and the electoral environment was polluted by the conduct of many public participants, especially political parties and the media. It is in this recognition that early in its operations, the Commission realized and identified the need to create collaboration with key stakeholders. It was therefore necessary for the Commission to carefully develop the support of the many partners whose input and goodwill was essential in ensuring a credible election process. The IIEC therefore worked alongside other partners in administering its mandate. One such measure was the structured engagements with key players in the electoral process. These included the political parties, media, development partners, observers (local and international) and security organs.

### Management of Partnerships

The commitment of the Commission to engaging different stakeholders is demonstrated by having a fully-fledged Directorate (Directorate of Voter Education and Partnerships) charged with the responsibility of managing the Commission's partnerships with relevant stakeholders. The Commission also institutionalized mechanisms and forums for engaging all the relevant stakeholders.

### Political Parties Partnership

To restore the confidence of Political Parties' in the electoral system, the relationship between the Commission and Political Parties is important and requires to be nurtured. Whereas the Commission has responsibility to regulate political parties, it is imperative that in the process, it shows maximum openness on its part while demanding accountability from the parties.

### Review of the Political Parties Act 2008

In line with the new Constitution, and to address the gaps that existed in 2008, the enactment of the Political Parties Act (PPA) in July 2008 was meant to strengthen the regulatory function by bringing PPA under the jurisdiction of the Commission as an indicator of the importance of the relationship between the Commission and political parties. This Act was reviewed to realign with the new Constitution, and now there is a new Political Parties Act 2011, which provides for the registration, regulation and funding of political parties. The office of the Registrar of Political Parties has now been separated from IIEC.

### Political Parties Liaison Committee

Under the Political Parties' Partnerships, the Commission through the Registrar of Political Parties engaged the registered political parties to establish a Political



Comm. Davis Chirchir, Winnie Guchu and the South African Electoral Commission CEO Ms Pansy Tlakula and other mission delegates during the 2010 Brazil election





Parties Liaison Committee (PPLC). The PPLC acts as a link between Political Parties and the Commission. The PPLC was also intended to create understanding of the responsibilities of the Commission and to ensure party compliance to the electoral Code of Conduct. It is also through this committee that the Referendum Regulations were enforced to ensure fairness and order.

In March 2010, the Commission held a consultative meeting with the 47 registered political parties during which the idea of establishing the PPLC was ratified by all the parties. The overall purpose of the PPLC was to sustain structured dialogue between political parties and the Commission. It is through the PPLC that the political parties signed the “Nakuru Resolution” (March 2010) which spelt out the principles and values that parties have to abide with. The structure of the PPLC is comprised of the National Political Parties Liaison Committee (NPPLC), 17 Regional Political Parties Liaison Committees (RPPLC) and one committee in each constituency (CPPLC). The membership of the liaison committee at all levels is comprised of representatives of registered political parties and the Commission. The PPLC meetings address issues on the role of polling agents, their conduct, training, and the election process. This engagement has born fruit in terms of flow of communication and coordination of activities with political parties. The Commission has also encouraged the inclusion of women representation in political parties.

### Funding of Political Parties

The PPA places certain obligations on political parties including the requirement for them to submit a written declaration of their assets and expenditures and information on contributions and donations. They are also obliged to submit themselves for annual audit by the Auditor General. Under the PPA, political parties draw some funding from the Political Parties Fund. Due to the fact that parties enjoy public funding, their activities, such as expenditure on election campaigns, contributions, donations, campaign spending, accountability and reporting, require deliberation. The aim is to promote governance and accountability in parties, and to encourage those who may not be endowed with huge resources to participate in the electoral process. Most of these issues could be covered under a robust Code of Conduct which will also provide the basis for engagement and deliberation between the Commission and political parties.

### 8.2.2 Partnership with Media

Engagement with the media as key stakeholders is equally critical. The objective of the Commission in this area is to ensure that freedom of information is secured. During past elections, the Commission has accredited a large number of local and international journalists to cover elections. The role of media can either be positive or negative. Indeed, the Kriegler Commission noted that media played a negative role in the disputed 2007 general election through partisanship, bias, factual incorrectness, false reporting, communication of unsubstantiated and unverified



1. Comm.D.Chirchir, Dr.Namulonga and Dr Joel Mabonga and other high commission staff during a courtesy call to the Kenyan High Commission Nigeria.
2. Chairman Issack Hassan with Prof. Jega Attahiru -chairman INEC during a courtesy call at the Chairman's office (April 2011).
- 3,4. Observation delegates on election-day in Nigeria





results, allowing parties to announce winners and losers, and propagation of hate campaigns and messages. To address some of these practices, the Commission developed guidelines for the media during elections.

### Regulation of the Media

The Commission is aware of the Media Act of 2007 that attempts to provide for self-regulation for the media and establishes a Code of Conduct with the basic tenets being, accuracy, fairness, independence, integrity and accountability. The Commission's media guidelines however exhort media to provide fair and impartial coverage to all contestants and to uphold media standards.

The Commission continuously engaged with the media as a key stakeholder. This was in recognition of the important role that the media plays in informing and disseminating information. The media were trained effectively on matters related to voter registration, the choosing of the Referendum symbols, and dissemination of information during voting, counting, collating, tallying and announcement of results. In addition, the Commission has continuously enhanced its relationship with the media by holding several meetings, both formal and informal. These meetings were particularly heightened during the preparations for the by-elections and referendum.

The strength of the Commission's media partnership was evident during the National Constitutional referendum and in the various by-elections. The media made significant contributions towards voter education. To attest to the improved role of the media in the electoral process, independent observers of past by-elections and the referendum elections reported high levels of neutral and positive media coverage of elections. This in essence points to the Commission's achievement of ensuring that freedom of information is secured without jeopardizing the electoral process.

### 8.2.3 Partnership with other Electoral Institutions

The UNDP Support Programme encompasses various development partners; Embassy of Sweden, Netherlands Embassy, Norwegian Embassy and European Union. Funds are channeled through the basket fund. Technical assistance projects have been initiated in IIEC in all the functional areas as a supplement to funds provided by the Treasury.

The International Foundation for Electoral Systems (IFES) in Africa offered technical assistance in the ICT area on voter registration and electronic transmission of results for the 2010 Referendum. They have indicated their willingness to offer technical support in preparation for 2012 general elections as well.

IIEC Partners with International Institute for Democracy and Electoral Assistance (IDEA). The IIEC entered into an agreement with IDEA on 16th August 2011 to



The commission continuously engaged with the media, a key stakeholder.

1. Comm. Ken. Nyaundi during a press briefing at the National Vote Tallying Centre at the Bomas of Kenya
2. Media attention and coverage of Juja by-election
- 3,4. The IIEC hosts a media breakfast





establish a general framework in which both parties will cooperate on issues of common interest the Development Partners supplement the funding from treasury. They also give technical support for selected projects. The two parties agreed to cooperate in the following areas:

- a. Assistance with capacity development of the IIEC/IEBC using the bridge curriculum and other mechanisms. IDEA in collaboration with the African Union is conducting a training program targeting 42 Election Management Bodies (EMBs) in Africa.
- b. Assistance with technical areas of electoral preparations for 2012 elections such as advisory services on technology for electronic registration, e-voting and results transmission and the piloting of early warning systems for conflict resolution.
- c. Assistance to the office of the Registrar of Political Parties and
- d. Any additional areas of operation that both parties may agree on in writing.

### 8.3 Monitoring and Evaluation of Elections

Scientific data that is collected through research or systematic investigation provides the basis upon which informed decisions are made in the conduct of elections. It also forms the basis for assessment of infrastructural programmes that need to be put in place in support of efficient and effective delivery of elections.

The seriousness by which the Commission holds the role of research in elections is demonstrated by having a fully fledged Directorate of Research and Development. The Directorate is responsible for overseeing the coordination of research in the electoral process, electoral reform, technology integration and operational support. An additional key role of the directorate is the identification of research areas in collaboration with other directorates and overseeing the planning and execution of research activities. The directorate is also responsible for development of the Commission's strategy and the monitoring and evaluation of the processes.

During the Commission's tenure, major decisions have been made based on research findings. Research activities during the period under review included:

- a. Needs-assessment surveys on voter education to inform voter registration. The surveys brought out the knowledge gaps in voter registration as well as the preferred channels of getting information. This greatly informed the packaging of the voter education content and the mode of delivery of the content leading to voter education messages that were specific to different groups.
- b. The need to address those voters who are usually disenfranchised in electoral processes such as people with special needs, street families, women in the low income bracket, youth and nomadic communities



1. A study tour to Nebraska, Omaha, ES & S to study various electoral automation solutions. The tour was led IIEC Chairman Issack Hassan and CEO J. Oswago and accompanied by Member of Parliament(Karachuonyo) Hon. Eng. James Rege, Comm. K. Nyaundi, Comm. D. Chirchir and other civil society delegates.
2. Kenyan Ambassador to the USA Amb. Ogego, Aldo Tess, President & CEO ES & S and his executive management team.





formed the basis for a study on factors that influence their decision to register as voters. This study revealed a lack of national identity cards, a lack of knowledge on registration, long distances to registration centers and a lack of interest being the main reasons for not registering among this group. Informed by these findings, the Commission made deliberate efforts to reach out to these groups by pro-actively connecting with them, through provincial administration as well as the general voter education programs.

Monitoring and evaluation of programs and processes is an integral part of good planning. The Commission through the Directorate of Research and Development carried out monitoring and evaluation of the electoral processes during the voter education, voter registration, polling process and post polling period. The recommendations made were implemented to improve on the internal operational processes. Evaluation workshops were carried out after the South Mugirango, Matuga, Juja, Starehe and Makadara by-elections and also after the National Constitutional Referendum that was carried out on 4th August 2010. These evaluations were conducted with the purpose of discussing what worked and what did not work so as to identify gaps and make decisions for best practices. These evaluations and in particular the post-referendum evaluation formed the basis as well as provided the need for the Commission to develop a strategic plan to guide its activities and operations for the next seven years (2011 – 2017).

Observation, monitoring and evaluation of the electoral processes is an important component of the Commission's activities that should be further enhanced so as to sustain its efficiency in conducting elections and Referenda.



## **IIEC lauded over referendum process**

By DAVE OPIYO

Friday, October 8 2010

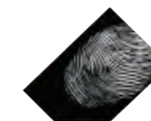
The Independent Interim Electoral Commission (IIEC) chairman Ahmed Isaack Hassan. The IIEC has been praised for its handling of the referendum that ushered a new constitutional dispensation. Kenya's electoral body has been praised for its handling of the referendum that ushered a new constitutional dispensation.

In their latest observation report, 15 diplomatic missions described the process as free and fair saying they were particularly impressed by the electronic vote transmission of the provisional results by the Interim Independent Electoral Commission (IIEC). They said the e-tallying reduced possible incidences of fraud. "This was a bold initiative by the IIEC and a remarkable improvement in reducing fraud," said Danish High Commissioner Geert Aagaard Andersen during a breakfast meeting at Serena Hotel, Nairobi Friday.

The report was endorsed by the European Union delegation in Nairobi, the embassies of US, Germany, Japan, Finland, France, Czech Republic, Sweden, Netherlands, Australia and Norway. It was also supported by the Canadian High Commission, the Canadian International Development Agency, the United States Agency for International development and the African Union panel of Eminent African Personalities.

# Chapter 9

## PROMOTION OF VOTER EDUCATION AND A CULTURE OF DEMOCRACY



*“Politics is the gentle art of getting votes from the poor and campaign funds from the rich, by promising to protect each from the other”.*

**Oscar Ameringer**

A road show truck carrying voter educators



## 9.0 Overview

The Commission is mandated under Article 88 of the Constitution to promote voter education in Kenya. Informed voters are an important ingredient for fair and free elections. This encompasses the provision of information and voter education, with the aim of equipping eligible voters with essential knowledge regarding elections, as well as educating them about their obligations and voting rights. The Institute of Education in Democracy (IED) Study Report notes that voter education in the past received lower ratings (24%) compared to other responsibilities (The IED Audit Report-2007 page 47). Inadequate voter education programmes, uncoordinated voter education providers, inadequate time resources allocated to the process, lack of voter education programmes targeting the special needs of specific groups of voters such as the illiterate and those with language challenges and inappropriate channels for voter education were cited as causes of poor voter education.

## 9.1 Promoting Voter Education

In developing democracies, bodies charged with election management often find that not only are voters unfamiliar with the mechanics of the voting process, but they may not feel moved to exercise the right to vote because they do not fully understand the significance and value of the vote in a democracy. Consequently, IIEC engaged with the voter more intimately through voter education programmes so as to discharge its primary responsibility of delivering a free and credible election. Even though responsibility for voter education should in theory involve partnerships between various public bodies, Non- Governmental Organizations (NGOs) and political parties, in practice it was largely shouldered by the IIEC.

To establish the voter education needs, a survey was conducted and results used to prepare appropriate voter education materials. A Handbook on voter education based on the needs of the voters was developed and used during the countrywide voter education exercise in preparation for the referendum. A strategy to work with other partners to create public awareness on the importance of voter registration and voting was developed and used. Such partners included professional bodies, women, and organizations of people with disabilities, youth, political parties, faith based leaders and the media.

Joint forums with distinct groups were organized to get their support in dissemination of voter education in their groups. These included Professional Associations, Diplomatic Corps, Civil Society, Media, Faith groups, Women and Youth groups, Trade unions, the disabled, IDPs and Observers groups. This was done in the period of February to August 2010, which resulted in bringing together and investing in the goodwill of players integral to the success of the referendum and generation of useful ideas in holding a successful referendum.



Several shortcomings such as lack of financial resources to extend to some partners not only generated hostility and protest but also resulted in the Commission not being able to reach some groups.

## 9.2 Voter Education Platforms

The Commission conducted voter education in series, depending on the stages of the electoral cycle. In the period prior to the start of voter registration and also during the registration period, the Commission used different communication channels to create awareness on voter registration.

### 9.2.1 Voter Education through Media

The voter education content through media, created awareness about who was eligible to register, where to register, the registration period and why it is important to register. Awareness programs on voter registration were aired on the print and electronic media, including radio skits, TV and Radio infomercials in Kiswahili, English and local languages. For the Referendum the Commission engaged 61 FM radio stations including community radios, six TV stations and seven newspapers. These included Radio talk-shows, Presenter mentions, one minute adverts, value addition guest appearances in talk shows and live and pre-recorded discussion sessions on the referendum. The TV stations also carried one and a half minute infomercials on the referendum date, questions and symbols, polling stations, peaceful campaigns and voting. In addition there were one and a half minute adverts featuring prominent personalities urging voters to vote in large numbers. The newspapers ran advertorials on the importance of the referendum and voting process. The Commission through its Commissioners and Secretariat staff made guest appearances on TV and radio stations to further educate the voters on the electoral processes.

To further enhance awareness and voter education, materials with tailored messages were developed and distributed to the public countrywide. These included branded items such as T-shirts, caps and bags. Assorted posters such as '*kupiga kura ni wajibu wangu*', '*Katiba ya Kenya itaamuliwa na kura yangu na yako*', '*Red or Green, we are Kenyans*', were produced. Each polling station and tallying centre was provided with banners and this raised awareness of both polling and tallying centres. Delays in the procurement and delivery of goods was quite a challenge not to mention an inadequate budget that saw procurement of fewer materials.

### 9.2.2 Voter Educators

The Commission engaged 420 voter educators to disseminate information on the importance of participating in the Referendum electoral process. To ensure quality standards and uniform messaging, the voter educators were trained at the Regional and Constituency levels. In addition to the educators, about 60



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1,2,3,4: Road show caravans visited various parts of the country.

5. The Commission participated in Trade fairs with the aim of enhancing the public's awareness of the IIEC and its mandate

6,7,8: The Commission engaged 420 voter educators to disseminate information on the importance of participating in the Referendum electoral process

9. To further enhance awareness and voter education, materials with tailored messages were developed and distributed to the public countrywide



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9



peace committees were formed throughout the country to facilitate and mobilize the public to register as voters and to vote in the referendum. These efforts to mobilize the public were also supplemented by the Provincial Administration.

### 9.2.3 Use of Mobile Technology

The use of mobile telephones to encourage people to register was of significance. Short Messaging Service (SMS) alerts were sent to citizens urging them to register as voters within the given period of time. This increased the pace of voter registration. However, the challenge of this method was the fact that only one mobile phone provider accepted to partner with the Commission. Other providers cited the privacy policy that did not allow them to disclose their clients' telephone numbers.

### 9.2.4 Civic Education

To increase awareness among voters on the need to participate in the referendum, voter education focused on the purpose of a referendum, why there was need for a referendum, why it was important to vote during the referendum, the documents one needed in order to vote and where one should cast their vote. The symbols used during the referendum and how to mark the ballot were among the other issues emphasized during voter registration.

### 9.2.5 Voter Education Curriculum

IIEC commissioned the Kenya Institute of Education (KIE) to develop a National Voter Education curriculum that will be a reference text for all organizations involved in voter education in the country. The development process involved extensive consultation within the commission and with relevant government ministries and non state actors in voter/civic education. The curriculum was developed in line with the new constitution and is intended for use in schools. It will serve as a quality check mechanism.

### 9.2.6 Participation in National Music festivals and Trade Fairs

During the 2010 National Music Festival the commission sponsored composition of three classes. In 2011 the Commission sponsored a total of nine classes on the theme: "electing leaders of integrity". Participation in the music festivals seeks to raise awareness and understanding of nationhood and virtues of the electoral processes to the public and specifically to those in the school going age.

The Commission has also participated in the Nairobi International Trade Fair and Provincial Trade Fair with the aim of enhancing the public's awareness of IIEC and its mandate. The use of technology in the management of elections continues to win public praise and awards for IIEC. The Commission has won awards at several Agricultural Show of Kenyan (ASK) shows on the application and integration of ICT in the electoral processes, thanks to the now popular Electronic Voter Registration (EVR) and Electronic Vote Transmission (EVT) systems.

## 9.3 Voter Education for Prisoners

Following a court ruling that gave prisoners the right to participate in the 2010 Constitutional referendum, the Commission developed a programme targeted for in-mates. Audio visuals were prepared and sent to all prisons in the country. Prison wardens were also trained as voter educators for the inmates. This voter education was carried out to ensure in-mates understood what it entailed to vote in a referendum.

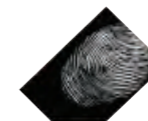
There is a lot more to be done on civic education and targeted voter education for people with special needs such as the young, blind and deaf. Emphasis on targeting particular groups will increasingly impact on the development of new resources to service these target groups. The EMB has put in place long term investments in voter/civic education/information campaigns. The CECs will be used for civic education having been provided with the requisite knowledge capacities and complimentary resources, such as mobility. This activity will occur not only during an election period or year but also on a consistent basis every year as a best practice.



# Chapter 10



## SETTLEMENT OF MINOR ELECTORAL DISPUTES DURING AN ELECTION AS MAY BE PROVIDED BY LAW



*"We may never be strong enough to be entirely nonviolent in thought, word and deed. But we must keep nonviolence as our goal and make strong progress towards it".*

**Mahatma Gandhi**

Commissioner Chirchir and CEO James Oswago chairing a high-level dispute resolution meeting during the Juja by-election.



## 10.0 Overview

Part of the Interim Independent Electoral Commission's mandate was to "settle minor disputes during an election as may be provided by law". Disputes arise at every stage in every election. An effective Electoral Dispute Resolution (EDR) mechanism is a prerequisite to a properly functioning electoral process. EDR mechanisms can be formal or informal. It is the responsibility of the Election Management Body (EMB) to put in place certain principles and procedures to enable it deal with these disputes as they occur. These procedures should be known, rule-based and predictable. They should be designed and maintained to anticipate, manage and resolve election disputes. Effective EDR mechanisms should operate before, during and after and also between elections, as it is an essential element of good electoral management practice. These mechanisms may consist of various models such as:

- a. Constitutional Courts or Constitutional Councils.
- b. Specialized Electoral Courts - courts with a specific mandate to resolve electoral disputes.
- c. Judicial EDR Systems - where complaints and appeals are handled by ordinary courts of law.
- d. Administrative EDR Systems; disputes are handled by administrative bodies (usually EMBs) with final election decision powers and
- e. Ad Hoc Provincial Bodies; established domestically or by the international community to resolve a specific electoral conflict or deal with transitional elections.

The importance of an effective EDR mechanism is recognized by the Constitution which at Article 87 (1) creates an obligation on Parliament to enact legislation for timely settlement of electoral disputes. The Independent Electoral and Boundaries Commission Act, 2011 establishes the EMB and at Section 4 (e) states that the EMB is responsible for "the 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." This provision is restated in Section 74 of the Elections Act 2011 which empowers the EMB to make Regulations to "provide for complaints resolution mechanisms and for the manner of settlement of electoral disputes."

Kenya has chosen a hybrid of the Judicial and Administrative EDR model. Under the new constitutional dispensation the EMB is empowered to deal with all electoral disputes up to and until a result is declared (Administrative) and the ordinary courts of justice (Judicial) are empowered to handle disputes once a declaration has been made.



## 10.1 Specific Initiatives in Electoral dispute Resolution by the IIEC

Whereas the IIEC was mandated to resolve minor disputes according to the law, no legislation existed to govern this process. However, the Commission Elections Committee during elections transformed into a Dispute Resolution Committee. The above mentioned constitutional and legislative provisions have come into being after the promulgation of the Constitution on the 27th August 2010. Even in the absence of cogent legislation, the IIEC put in place the following initiatives to resolve electoral disputes:

### 10.1.1 Conflict Management Panels

The program on establishing the Conflict Management Panels (CMPs) in Kenya was conceived following consultations with key partners and was informed by lessons learnt from the Political and Electoral environment in Kenya, and in particular, the 2007/2008 post-election violence. Since the reintroduction of multi-party politics in Kenya in 1991, the country has witnessed a charged electoral environment usually characterized by tensions, suspicions and polarization. The rationale underpinning the establishment of these panels therefore is premised on the need to establish mitigating mechanisms, both at the national and the regional levels to pre-empt incidences of violence and to promote tolerance and co-existence.

The establishment of these panels is further premised on the fact that in Kenya and other parts of Africa, electoral conflicts are fast emerging as a new kind of conflict that merits special attention and in particular review of alternative dispute resolution mechanisms.

The various subsequent consultative meetings held between the Electoral Institute for Sustainability of Democracy in Africa (EISA) and the IIEC recommended that the Conflict Management Panels in Kenya should embrace a two pronged approach. The first approach entailed the convening of Regional Conflict Management Panels in the 8 regions (Provinces) in Kenya and the second entailed the convening of a National CMP comprising of leading eminent personalities in Kenya with a mandate at the national level and at the same time overseeing the work of the Regional Panels.

The programme commenced with an induction workshop for the IIEC. Given the fact that the concept of conflict management panels was new to Kenya, the induction workshop accorded both EISA and the IIEC the opportunity to develop clarity on the concept of conflict management as well as develop a strategy for establishing the national and regional mediation panels.



### 10.1.2 Launching the Regional Conflict Management Panels

Acting upon the foregoing recommendation, EISA in conjunction with the IIEC therefore convened nine (9) Conflict Management Panels in the eight regions. These were in Nairobi, Coast (Mombasa), Rift Valley (Nakuru and Eldoret), Western (Kakamega), Nyanza (Kisumu), Eastern (Embu), Central (Nyeri) and North Eastern (Garissa).

Launch Participants were carefully selected from a broad sector of the society, a move that was meant to ensure that the process was inclusive and participatory. Likewise, by extending invitation to the multi-sectoral group, IIEC and EISA ensured that the necessary support required for the operation of the CMPs was achieved. The multi-sectoral group comprised participants from the Provincial administration, police department, respective County Councils, Political Parties Liaison Committee members, key Non- Governmental Organizations (NGOs), business community, IIEC and EISA staff. Various interest groups including the youth, women, political parties as well as religious organizations were also represented. The launches exposed participants to the concept of conflict management and also provided an important forum for establishing linkages and networks as a strategy for initiating collaborative approaches on conflict management.

At the end of the launching workshops 13-15 representatives were elected from the multi-sectoral group to serve in the panels as mediators. The larger multi-sectoral group formed the Conflict Management Forum (CMF) to which the CMPs should report. EISA and the IIEC were retained as the focal point for the operations of the Panel.

### 10.1.3 Training of the Panelists

Following the launching of the forums for the establishment of the conflict panels, EISA, in partnership with the IIEC, conducted training for the mediators drawn from all nine regions (Nairobi, Mombasa, Nakuru, Embu, Nyeri, Kakamega, Kisumu, Eldoret and Garissa) who were selected to constitute the conflict panels. This was intended to equip them with the requisite skills and expertise needed for mediation and dispute resolution. In this regard, a total of 139 mediators were trained. Participants were taken through political and electoral conflicts and how they could employ alternative dispute strategies to mitigate certain incidences of electoral and political conflicts. Through practical simulation exercises, participants were able to envisage practical scenarios on how issues could degenerate into conflict.



### 10.2 Political Parties Liaison Committee (PPLC)

The aftermath of the 2007 General Elections created disintegration of trust between political parties and the Election Management Body. The Independent Commission on the 2007 General Elections recommended that the Electoral Commission and political parties should:

- a. Establish a standing Liaison Committee comprising of the Commission and political parties as a first step towards the enactment of nomination rules that must be strictly adhered to.
- b. Define the campaign period.
- c. Develop an Electoral Code of Conduct and ensure that all parties comply with it.
- d. Ensure that where a party violates its constitution and regulations on nominations, the Commission can invoke and enforce its powers to deny it the opportunity to nominate candidates to compete in elective politics.

One of the functions of IIEC under Article 41 of the former Constitution was to, among other things, reform the electoral processes and management of elections in order to institutionalize free and fair elections. This could not be achieved without the involvement of political parties who are the main stakeholders in the electoral process. The implementation of the afore-mentioned Kriegler recommendation was therefore mandatory.

The Political Parties Liaison committees were formed as a result of the Kriegler Report recommendations and enactment of the Political Parties Act, 2007. Discussions between IIEC and the 47 registered Political Parties in March 2010 led to the adoption of the "Nakuru Resolutions". Launching of the Liaison Committees was in partnership with National Democratic Institute (NDI) and was concluded on 21st October, 2010 with Nairobi Region being the last to be launched. Prior to the formation of PPLCs, IIEC conducted benchmarking with countries which had liaison committees in operation.

Some of the disputes that have been handled by the Registrar of Political Parties include:

- i. NARC Kenya and other PNU affiliates over the sharing of the PNUs share of the Political Parties Funding.
- ii. FORD Kenya Dispute over grassroots elections.
- iii. Federal Party of Kenya Dispute over leadership.
- iv. Social Democratic Party Dispute over leadership.
- v. United Democratic Movement Party Dispute over implementation of the Constitution.



### 10.3 Achievements

The Commission has made the following achievements in minor dispute resolution:

- a. Working in collaboration with the EISA, IIEC and NDI the Commission succeeded in introducing the Conflict Management Panels within the Elections Body, whereby it has taken ownership of the process.
- b. Equipping the selected panellists with the requisite skills for conflict management thus preparing them for the mediation work.
- c. The multi-sectoral forums convened in these areas have not only build the requisite consensus and support for the work of the CMPs, but have also identified a total of 131 key stakeholders to serve as mediators in the panels. The mediators represent the various interest groups including the business sector, religious groups, NGOs, and local au–thorities, Political Parties, and Youth and Women groups.
- d. Capacity building on conflict management of the IIEC Commission and staff thus providing better clarity on political conflict and the need to convene Conflict Management Panels as a strategy of resolving electoral conflict.

A process of structured, continuous dialogue between the parties and electoral administration enables both stakeholders to consult each other as electoral reforms are discussed and introduced, and ensure that both sides have better understanding of each other's needs and concerns. This is important especially at a time when extensive constitutional reforms affecting the electoral body are underway. Formation of a structured dialogue process between the political parties and IIEC will remain important as the reforms are being implemented and a permanent election body is appointed.



# Chapter *11*

## Treasury to release Sh2 billion for referendum

BY ISAAC ONGIRI

THE treasury yesterday agreed to pay out Sh2 billion to finance the referendum. Deputy Prime Minister Uhuru Kenyatta and his permanent secretary Joseph Kinyua gave assurances that the money will be released to the Interim Independent Electoral Commission.



**FUNDING  
COMMISSION  
ACTIVITIES  
AND FUTURE  
OPERATIONS**



## 11.0 Overview

The funding mode for the Electoral Management Body in Kenya has been in place since 1998 when the Commission enjoyed some semi-autonomy in regard to its funding. The IIEC was provided finances to establish its own secretariat and was also allocated its own vote (Vote R33) in accordance with the Government Financial Regulations and procedures. Salaries and allowances of Commissioners are directly charged on the Consolidated Fund under the Constitutional Offices Remuneration Act. The other costs regarding staff remuneration and operational expenses are funded by Treasury and Development Partners.

### 11.1 IIEC Funding Modalities

It is a requirement that public entities develop their Medium Term Expenditure Framework (MTEF) budgets based on programmed priorities. The current practice in acquiring funds for operations starts with the Commission submitting its annual budgetary proposals to Treasury for consideration. The Commission, just like all other MDAs, then engages Treasury in lengthy and protracted negotiations and if the budget is found acceptable, the funding requirement is included in the Treasury's estimates and submitted to Parliament for scrutiny and approval. At a glance these arrangements may appear to be smooth and would not merit further representation for greater financial independence if it worked well. However, financing elections warrants extraordinary arrangements for the flow of funds different from those for programmes in other public entities or commissions. Moreover, any arbitrary slashing of the Commission's budget by Treasury causes severe operational limitations and could throw the electoral calendar into disarray.

#### 11.1.1 Financial Management System

The management of the Commission's finances is governed by the Financial Management Act, 2009, the Exchequer and Audit Act, Cap412, the Paymaster-General's Act and Regulations (Cap 413), and the relevant circulars that are issued by Treasury from time to time.

Accounting for the funds of the Commission is done using the government IFMIS system. This system is connected on line to Treasury. The system has a vote book and general ledger modules. Appropriation accounts are produced from the system. Payments are done electronically through bank transfers by the use of a government system called G-Pay.

The Commission has its main bank account at the Central Bank of Kenya. Exchequer releases are paid directly into this account by the Treasury. All payments are made out of this account. The Commission has an imprest account at Kenya Commercial Bank, University Way Branch. Bank accounts were also opened with Kenya Commercial Bank for all the seventeen regions. The CEO, as the Accounting



Officer has delegated to the RECs the Authority to Incur Expenditure (AIE). The RECs are responsible for the expenditure incurred at the Regions and are, in this respect, accountable to the CEO. They have to ensure that funds are used for approved expenditure only, and that the Commission gets value for money in all respects. Financial management in the regions is done at the regional offices. Procurement and payment for goods and services is also done at the Regional Office. Only minor expenses are incurred at the constituency level through imprest issued to the CECs. CECs have to account for their imprest before a new imprest is issued to them. Currently an accountant assists the REC in the management of the finances of the region.

AIEs are issued and funds for operations are transferred to the regions on a quarterly basis. Since its inception, the Commission has progressively improved its financial management system. When the secretariat was established in early 2010, the Commission had a one line budget which was driven by the Commission's activities. Since then, improvements have been made; the budget for 2010/11 was properly itemized and there is an elaborate bottom up and participatory approach to budgeting which takes on board the requirements of all the units of the Commission. The financial needs of the regions can now be determined with ease and their requirements met.

A number of audits have been undertaken and improvements recommended which have been implemented thereby greatly improving the management of funds across the entire organization.

It must be mentioned here that the government accounting system used by the Commission is on cash basis as opposed to the conventional accrual accounting. The Independent Electoral and Boundaries Commission Act, 2011 has created a fund for the Commission and therefore accrual basis of accounting must now be used going forward.

#### 11.1.2 Financial Provisions

The Independent Electoral and Boundaries Commission Act, 2011 provides in section 18(1) that the funds of the Commission shall be held in a fund to be known as the Independent Electoral and Boundaries Commission Fund. This means that the Commission will prepare fund accounts at the end of every financial year. Fund accounting requires the use of accrual basis accounting as opposed to cash basis accounting used by government. The government IFMIS system that is currently used by the Finance department is not amenable to keeping books of accounts on an accrual basis. Hence there is need to acquire an Enterprise Resource Planning (ERP) software to enable the Commission to prepare its accounts on an accrual basis. It is proposed the procurement of ERP software be brought forward to the current financial year 2011/12. Procurement and implementation of ERP software is expensive and takes time. As a short term measure, it is proposed that in the



meantime a stand-alone accounting package be procured to enable the accounting department to start using accrual basis accounting.

Section 24(1) of the Act states that, "Within three months after the end of each financial year, the Commission shall present its annual report to the President and submit the same to Parliament". Section 24(2) goes on to state that, "The annual report shall in respect of the year to which it relates contain:

- a) The financial statement of the Commission.
- b) The activities the Commission has undertaken and
- c) Any other information the Commission may consider relevant.

The accounts of the Commission are given in section 23 (a) and (b) as "a statement of the income and expenditure of the Commission during that year; and a statement of the assets and liabilities of the Commission on the last day of the year".

It is important to note that government cash basis accounting "expenses" all expenditure and does not accrue income or expenses. Income is recognized when **received** and not when it is **earned**. Expenses are recognized when **paid** and not when they are **incurred**. The opposite is the case with accrual accounting. Accrual basis accounting to capture assets and liabilities requires appropriate accounting software.

The procurement of ERP software was factored in the budget for the year 2012/13. The current budget had not factored in the procurement of an ERP software. Development parties have been contacted with a view to financing its procurement.

## 11.2 Strengthening the Financial Function

The existing system for management of funds requires strengthening. The Commission is in the process of strengthening its financial function. This entails establishing the requisite financial systems and building the financial skills of staff (particularly those of the electoral officials). The bottom-up budgeting approach has been adopted to allow for the increased participation of the RECs and CECs in the process.

Similarly, systems and guidelines for disbursing and accounting for funds at the Regional and Constituency levels have been reviewed to ensure that adequate funds are disbursed on time to finance field operations. Agitation for expenses to be a charge on the consolidated fund has borne fruit in the new constitution whereby all the Commission's expenses are charged on the consolidated fund – a radical departure from the conventional mode of financing semi-autonomous government agencies.



## 11.3 IIEC Financial Performance

The Commission's budget for the financial year 2009/2010 was a one line item budget. The total budget was **KES 6.851 billion** and the actual expenditure was **KES 6.78 billion**. The net surplus therefore was **KES 78.5 million**. The major expenditure items in this financial year were personnel emoluments, parliamentary and civic by-elections and materials for the Referendum which was held on the 4th of August 2010.

For the period 1st July 2010 to 30th June 2011, the Commission received exchequer releases amounting to **KES 7.096 billion**.

**Table I: Exchequer Releases – 2010-2011**

Item	KES
<b>TOTAL GROSS EXPENDITURE VOTE R33</b>	<b>7,103,333,000</b>
Appropriation in Aid	
Receipts from Administrative Fees and Charges - Collected as Appropriation IN Aid (AIA)	225,000
Receipts from Sale of Incidental Goods	6,700,200
<b>TOTAL APPROPRIATION IN AID</b>	<b>6,925,200</b>
<b>TOTAL NET EXPENDITURE VOTE R33</b>	<b>7,096,407,800</b>

### 11.3.1 Contributions from Development Partners

Development Partners, International and National Electoral NGOs contribute to a basket fund to give support to electoral and constitutional reforms. These partners are UNDP, UNEAD, Norway, Sida, Finland, DFID, CIDA, USAID and Denmark.

## 11.4 Ensuring Value for Money

The cost of elections varies significantly around the world. In countries with well established electoral systems and developed administrative and communications infrastructure, the cost averages between US\$ 1 and \$ 3 per voter. In countries that are still establishing basic electoral processes, costs are significantly higher – for example, \$6.90 per voter in Lesotho and \$7.50 per post-transition elections in Russia <sup>2</sup>.

Following the establishment of IIEC through a constitution of Kenya amendment Act, 2008, one of the core mandates of the new body was to conduct fresh voter registration and establish a new voter's register. IIEC conducted this exercise between March and May 2010. At the end of the exercise over **12.4 million**

<sup>2</sup> " How much do elections cost?" in the ACE Encyclopedia



voters were registered surpassing a set target of **10 million**, this being 125% of the target and 87% of the registered voters as per ECK register of 2007 which had **14,202,613** voters.

The cost of registering the 12.4 million voters in the registration drive of 2010 was KES 6.627 billion. A comparison of this cost against the total voters gives an average of KES 528.17 (US\$ 6.21) as the cost incurred to register a single voter during the exercise. This cost is expected to reduce in future as the Commission continuously incorporates best practices and as it progresses along the learning curve.

#### 11.4.1 Cost of Voter Registration, Referendum and By-elections

The actual cost of the referendum, voter registration and the by-elections was **16.88 billion**, covering three financial years of 2009/2010, 2010/2011 and 2011/2012. The breakdown is as indicated below:

**Table II: Summary of cost of the 2010 Constitution Referandum**

CATEGORY	TOTAL AMOUNT
International Merchants	872,122,195.09
Local Merchants (incl. Media)	7,716,165,254.28
Regions	8,174,104,252.75
Staff Payments	65,073,069
KRA Customs Duty & VAT	53,369,484.70
<b>TOTAL</b>	<b>16,880,834,255.82</b>

#### 11.5 IIEC Budgetary Provisions

The provisional budget (by Development Partners) expenditure report as at 30 January 2011 is as follows:

**Table III: IIEC Provisional Budget - 30th January 2011**

		Budget Allocated (KES)	Committed/ Expenditure Total cost (KES)	Balance KES
<b>A) Strengthening capacity of IIEC</b>				
1	Contracting of HR consultancy firm to recruit and review HR Policies	10,200,000	7,646,685	2,553,315



		Budget Allocated (KES)	Committed/ Expenditure Total cost (KES)	Balance KES
2	Facilitation of international study tours	2,550,000	2,580,000	0
3	Procuring of consultant /software for fleet management/payroll	1,700,000	1,124,131	615,873.00
4	Hiring of consultants to support finance and procurement	3,400,000	1,232,000	2,288,000
<b>Sub-total</b>		<b>17,850,000</b>	<b>12,582,816</b>	<b>5,457,188</b>

#### **B) Improving voter identification and registration mechanisms**

1	Contracting Bridge trainers	1,020,000	1,207,000	-187,000
2	Reviewing and Printing Training Manuals	2,550,000	2,628,285	-78,285
3	Reviewing and Printing Training Manuals	33,055,480	52,806,250	-19,750,770
4	Procurement of 100 desktop	9,444,435	7,806,579	1,637,865
5	Procurement of Server processing/Matching software for captured EVR data	13,770,000	8,675,695	5,094,305
6	Electronic voter identifier kits	51,000,000	51,000,000	-
7	Contract VR Operations Expert	4,505,000	4,505,000	-
8	Establishing field coordination unit	1,275,000	-	1,275,000
<b>Sub-total</b>		<b>113,049,915</b>	<b>124,793,524</b>	<b>-11,743,600</b>

#### **C) Strengthening Legal Electoral Framework**

1	Facilitating stakeholders consultations	1,700,000	850,000	850,000
<b>Sub-total</b>		<b>1,700,000</b>	<b>850,000</b>	<b>850,000</b>

	Budget Allocated (KES)	Committed/ Expenditure Total cost (KES)	Balance KES
<b>D) Enhancing civic awareness on voter registration and referendum</b>			
1 Development and distribution of VE Materials	106,993,750	92,733,640	14,260,110
2 Implementation of TV/ Newspaper / radio ads and appearances	329,895,115	288,391,655	41,503,460
4 Packaging and distribution	1,214,225	-	1,214,225
5 Installation of bulk SMS sms software	12,142,845	4,632,500	7,510,345
6 Consultative forums for civic and voter education campaign coordinators	-	3,355,263	-3,355,290
7 Peace committees	17,000,000	16,776,316	223,720
8 Training and deployment of Voter Education volunteers	12,628,535	13,387,500	-758,965
<b>Sub-total</b>	<b>479,874,470</b>	<b>419,276,874</b>	<b>60,597,605</b>
<b>E) Establishing observation mechanisms</b>			
1 Consultant to review and update codes of conduct/ procedures	680,000	-	680,000
<b>Sub-total</b>	<b>1,700,000</b>	<b>552,545</b>	<b>1,147,415</b>
2 Development and printing of observer ID's	1,020,000	552,545	467,415
<b>F) Enhancing the capacity of the IIEC to manage a free and fair referendum</b>			
1 Assembly line equipment	212,500	-	212,500
2 Provision of technical assistance to warehouse and logistics	5,270,000	5,079,869	190,131
3 Communication devices (smart phones) 450 pieces	9,746,695	-	9,746,695
4 Electronic Results Transmission system	59,500,000	62,050,000	-2,550,000
5 Training of Referendum/ Polling Personnel	264,853,370	264,853,370	-
<b>Sub-total</b>	<b>339,582,565</b>	<b>331,983,239</b>	<b>7,599,326</b>

	Budget Allocated (KES)	Committed/ Expenditure Total cost (KES)	Balance KES
<b>G) Strengthening capacity of the RPP</b>			
1 Hire consultant to develop communication strategy	1,700,000	-	1,700,000
2 Roll out of essential newspaper ads	2,550,000	-	2,550,000
3 Develop IEC materials	850,000	-	
4 Technical assistance on Political Party Fund management	1,700,000	-	1,700,000
5 Technical assistance on operationalization plan for PPA	1,700,000	-	1,700,000
<b>Sub-total</b>	<b>8,500,000</b>	<b>-</b>	<b>8,500,000</b>
<b>H) Enhancing leadership and coordination</b>			
1 Staff for project management and coordination	44,931,000	13,038,915	31,892,085
<b>Sub-total</b>	<b>44,931,000</b>	<b>13,038,915</b>	<b>31,892,085</b>
<b>I) Project monitoring, evaluating and auditing</b>			
1 Post-referendum review	-	9,843,340	- 9,843,340
2 Project evaluators and auditors	5,100,000	170,000 4	930,000
<b>Sub-total</b>	<b>5,100,000</b>	<b>10,013,340</b>	<b>-4,913,340</b>
<b>Sub-total</b>	<b>1,015,857,950</b>	<b>915,808,700</b>	<b>99,029,250</b>
<b>GMS</b>	<b>71,110,065</b>	<b>64,106,609</b>	<b>6,932,090</b>
<b>GRAND TOTAL</b>	<b>1,086,968,015</b>	<b>979,915,306</b>	<b>107,052,740</b>
<b>Against Total Pledges</b>	<b>1,059,351,515</b>	<b>979,915,306</b>	<b>79,436,240</b>



### 11.5.1 Financial Year 2010/2011 – Expenditure report

The Commission spent **KES 7.102 billion** for the period ending 30 June, 2011 which was 100% absorption of the approved budget. The referendum and the several by-elections that were undertaken in the first half of the financial year accounted for the huge expenditure.

**Table IV: Analysis of the Vote Book status report - for the period July 2010 to June 2011 (in KES)**

HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
<b>330101</b>	<b>Secretariat</b>			
	Basic Salaries - Civil Service	5,187,360	5,187,360	0
	Basic Salaries - Electoral Commission Of Kenya	163,770,300	163,770,300	0
	Contractual Employees	206,000,000	205,982,493	17,507
	Casual Labour	3,002,533,500	3,002,533,500	0
	House Allowance	72,036,000	72,036,000	0
	Acting Allowance	2,000,000	2,000,000	0
	Responsibility Allowance	7,740,000	7,740,000	0
	Entertainment Allowance	7,740,000	7,740,000	0
	Extraneous Allowance	10,416,474	10,416,474	0
	Domestic Servant Allowance	660,000	660,000	0
	Leave Allowance	37,242,040	37,242,036	4
	Employer Contributions to NSSF	1,900,800	1,900,800	
	Employer Contribution to Staff Pensions Scheme	52,977,333	52,977,325	8
	Electricity	1,800,000	1,800,000	0
	Water and Sewerage Charges	1,000,000	1,000,000	0
	Telephone, Telex, Facsimile & Mobile Phone Services	17,471,330	17,449,169	22,161
	Courier & Postal Services	1,600,000	1,600,000	0
	Satellite Access Services	4,226,600	4,226,395	205
	Travel Costs (Airline, Bus, Railway, Mileage Allowances, etc.)	6,478,210	6,461,607	16,603
	Accommodation - Domestic Travel	109,941,000	109,939,017	1,983
	Daily Subsistence Allowance	24,461,000	24,460,994	6
	Sundry Items (e.g. Airport tax, taxis, etc)	100,000	99,996	4
	Travel Costs (airlines, bus, railway, etc.)	2,146,000	2,146,000	0
	Accommodation	11,562,000	11,562,000	0
	Daily Subsistence Allowance	3,809,000	3,808,998	2

HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
	Sundry Items (e.g. airport tax, taxis, etc...)	470,000	469,998	2
	Publishing & Printing Services	53,110,500	53,107,824	2,676
	Subscription to News Papers, Magazines & Periodicals	6,058,500	6,058,500	0
	Advertisement, Awareness & Public Campaigns	310,690,000	310,679,301	10,700
	Trade Shows and Exhibitions	1,000,000	999,635	365
	Rents & Rates - Non-Residential	63,900,000	63,899,996	4
	Hire of Transport, Equipment	734,965,000	734,803,551	161,450
	Hire of Equipment, Plant and Machinery	1,200,000	1,200,000	0
	Travel Allowance	348,307,717	348,303,533	4,184
	Remuneration of Instructors & Contract Based Training Services	3,608,000	3,608,000	0
	Production & Printing of Training Materials	3,066,000	3,066,000	0
	Hire of Training Facilities & Equipment	18,290,000	18,286,907	3,093
	Book Allowance	500,000	500,000	0
	Project Allowance	500,000	500,000	0
	Trainer Allowance	3,350,000	3,350,000	0
	Accommodation Allowance	38,350,000	38,350,000	0
	Tuition Fees Allowance	3,010,000	3,009,993	8
	Catering Services (receptions), Accommodation, Gifts, Food & Drinks	6,575,000	6,575,000	0
	Boards, Committees, Conferences and Seminars	5,660,000	5,656,279	3,722
	Purchase of Coffin	378,000	378,000	0
	Group Personal Insurance	4,000,000	4,000,000	0
	Medical Insurance	41,500,000	41,500,000	0
	Education & Library Supplies	2,000,000	2,000,000	0
	Purchase of Uniforms and Clothing - Staff	2,000,000	2,000,000	0
	Purchase of Election materials- Ballot Boxes, Polling Booths, etc	405,250,785	405,213,085	37,700
	Purchase of Safety Gear	500,000	498,200	1,800
	General Office Supplies (papers, pencils, etc)	1,500,000	1,498,502	1,498
	Supplies & Accessories for Computers & Services	3,097,000	3,096,957	43
	Sanitary and Cleansing Materials, Supplies and Services	6,300,000	6,300,001	-1
	Refined Fuel and Lubricants for Transport	221,000	219,817	1,183
	Other Fuel (Wood, Charcoal, etc...)	300,000	300,000	0





HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
	Bank Services Commission and Charges	100,000	100,000	0
	Contracted Guards and Cleaning Services	20,000,000	20,000,000	0
	Membership Fees, Dues & Subscriptions to Professional & Trade bodies	2,500,000	2,396,435	103,566
	Transport Costs & Charges (freight, shipping charges)	1,350,000	1,350,000	0
	Legal Dues, Arbitration & Compensation Payments	40,000,000	39,999,313	687
	Contracted Professional Services	45,500,000	45,499,700	300
	Contracted Technical Services	8,000,000	8,000,000	0
	Witness Expenses	1,500,000	1,498,216	1,784
	Parking charges	5,760,000	5,760,000	0
	Payment of Duty	5,000,000	5,000,000	0
	Maintenance Expenses - Motor Vehicles	8,000,000	7,999,996	4
	Maintenance of Plant, Machinery & Equipment	600,000	600,000	0
	Maintenance of Office Furniture & Equipment	720,000	720,000	0
	Maintenance of Buildings and Stations - Non-Resident	1,800,000	1,799,997	3
	Minor Alterations to Building and Civil Works	2,880,000	2,879,356	644
	Maintenance of Civil Works Equipment	3,000,000	2,999,714	286
	Refurbishment of Non-Residential Buildings	5,000,000	4,999,963	37
	Purchase of Motor Vehicles	15,000,000	15,000,000	0
	Purchase of Office Furniture and Fittings	500,000	500,000	0
	Purchase of Computers, Printers and other IT Equip	2,000,000	2,000,000	0
	Purchase of Air conditioners, Fans & Heating Appl.	500,000	500,000	0
	Purchase of Photocopiers and other Office Equip.	1,000,000	999,997	3
	Purchase of other Office Equipment	200,000	200,000	0
	Purchase of ICT Networking and Communications Equipment	1,500,000	1,499,995	5
	Purchase of Software	15,000,000	15,000,000	0
	Pre-feasibility, Feasibility and Appraisal Studies	1,000,000	999,941	60
	Research	2,000,000	2,000,000	
	<b>SECRETARIAT SUB-TOTAL</b>	<b>6,014,866,449</b>	<b>6,014,472,166</b>	<b>394,290</b>



HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
<b>330102</b>	<b>Registrar of Political Parties</b>			
	Basic Salaries - Electoral Commission Of Kenya	27,220,260	27,219,991	270
	House Allowance	13,140,000	13,140,000	0
	Leave Allowance	4,413,651	4,413,651	0
	Telephone, Telex, Facsimile & Mobile Phone Services	315,000	315,000	0
	Internet Connections	100,000	100,000	0
	Courier & Postal Services	210,000	210,000	0
	Travel Costs (Airline, Bus, Railway, Mileage Allowances, etc.) - Domestic Travel	737,060	737,060	0
	Accommodation - Domestic Travel	2,050,000	2,050,000	0
	Daily Subsistence Allowance - Domestic Travel	1,945,000	1,945,000	0
	Sundry Items (e.g. Airport tax, taxis, etc.)- Domestic Travel	315,000	315,000	0
	Travel Costs (airlines, bus, railway, etc.)- Foreign Travel	750,000	749,427	573
	Daily Subsistence Allowance - Foreign Travel	640,000	639,366	634
	Sundry Items (e.g. airport tax, taxis, etc...)- Foreign Travel	110,000	110,000	0
	Publishing & Printing Services	525,000	525,000	0
	Advertisement, Awareness & Public Campaigns	525,000	525,000	0
	Travel Allowance	700,000	700,000	0
	Remuneration of Instructors & Contract Based Training	226,000	226,000	0
	Production & Printing of Training Materials	420,000	420,000	0
	Hire of Training Facilities & Equipment	320,000	320,000	0
	Trainer Allowance	320,000	320,000	0
	Accommodation Allowance	320,000	320,000	0
	Catering Services (receptions), Accommodation, Gifts, Food & Drinks	780,000	780,000	0
	Boards, Committees, Conferences and Seminars	470,000	470,000	0
	Medical Insurance	210,000	210,000	0
	Education & Library Supplies	1,050,000	1,050,000	0
	Purchase of Uniforms and Clothing - Staff	110,000	110,000	
	General Office Supplies (papers, pencils, etc)	310,000	310,000	0



HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
	Supplies & Accessories for Computers & Services	110,000	110,000	0
	Refined Fuel and Lubricants for Transport	500,000	500,000	0
	Membership Fees, Dues & Subscriptions to Professional & Trade bodies	105,000	105,000	0
	Legal Dues, Arbitration & Compensation Payments	200,000	200,000	0
	Contracted Professional Services	200,000	199,810	190
	Maintenance Expenses - Motor Vehicles	840,000	818,109	21,891
	Maintenance of Computers, Software & Networks	100,000	100,000	0
	Current Grants to Semi-Autonomous Govt. Agencies	200,000,000	200,000,000	0
	Purchase of Computers, Printers and other IT Equipment	300,000	292,543	7,457
	Purchase of Photocopiers and other Office Equipment	500,000	499,525	475
	Pre-feasibility, Feasibility and Appraisal Studies	105,000	105,000	0
	Research	105,000	105,000	0
	<b>POLITICAL PARTIES SUB-TOTAL</b>	<b>261,296,971</b>	<b>261,265,482</b>	<b>31,490</b>
<b>330201</b>	<b>Regional Election Co-ordinators' Offices</b>			
	Basic Salaries - Electoral Commission Of Kenya	398,516,760	398,516,727	33
	Contractual Employees	8,800,900	8,800,900	0
	House Allowance	171,240,000	171,239,999	2
	Electricity	5,369,920	5,369,920	0
	Water and Sewerage Charges	2,369,900	2,369,900	0
	Telephone, Telex, Facsimile & Mobile Phone Services	10,055,000	10,055,000	0
	Courier & Postal Services	1,091,500	1,091,500	0
	Travel Costs (Airline, Bus, Railway, Mileage Allowances, etc.)	3,000,000	3,000,000	0
	Accommodation - Domestic Travel	3,000,000	2,998,340	1,660
	Daily Subsistence Allowance	7,000,000	6,999,973	27
	Sundry Items (e.g. Airport tax, taxis, etc)	3,000,000	3,000,000	0
	Trade Shows and Exhibitions	6,000,000	6,000,000	0
	Rents & Rates - Non-Residential	50,000,000	50,000,000	0
	Hire of Transport, Equipment	2,000,000	2,000,000	0
	Hire of Training Facilities & Equipment	2,850,000	2,838,785	11,215
	Accommodation Allowance	3,250,000	3,271,000	-21,000



HEAD	TITLE AND DETAILS	APPROVED ESTIMATES	TOTAL PAYMENT	BALANCE
	Catering Services (receptions), Accommodation, Gifts, Food & Drinks	3,000,000	2,999,964	36
	Boards, Committees, Conferences and Seminars	5,000,000	5,000,000	0
	General Office Supplies (papers, pencils, etc)	2,500,000	2,500,000	0
	Supplies & Accessories for Computers & Services	2,500,000	2,500,000	0
	Sanitary and Cleansing Materials, Supplies and Services	5,448,000	5,448,000	0
	Refined Fuel and Lubricants for Transport	5,657,600	5,657,600	0
	Contracted Guards and Cleaning Services	100,000,000	99,999,990	10
	Maintenance Expenses - Motor Vehicles	6,120,000	6,120,000	0
	Maintenance Expenses - Boats and Ferries	900,000	900,000	0
	Maintenance of Buildings and Stations - Non-Resident	3,000,000	3,000,000	0
	Purchase of Office Furniture and Fittings	10,000,000	10,000,000	0
	Purchase of Air conditioners, Fans & Heating Appliances	1,000,000	1,000,000	0
	Purchase of Photocopiers and other Office Equipment	4,500,000	4,216,944	283,056
	<b>REGIONS SUB-TOTAL</b>	<b>827,169,580</b>	<b>826,894,542</b>	<b>275,039</b>
	<b>GRAND TOTAL VOTE R33</b>	<b>7,103,333,000</b>	<b>7,102,632,190</b>	<b>700,819</b>



## 11.6 Procurement

The procurement function of the Commission is regulated by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006. The main thrust of the Act and the Regulations is to ensure that the procurement function is not done by one person, but rather corporately, and that transparency, competition, and value for money are engendered. In accordance with the Act and the Regulations, the Commission established a number of committees at the headquarters and the regions. These committees are: the Tender Committee, the Receiving and Inspection Committee, the Disposal Committee, and the Procurement Committee. Ad hoc evaluation committees are normally appointed to evaluate tenders and quotations.

The procurement function superintended over the procurement of goods and services for voter registration, referendum, and by-elections worth billions of shillings for the two years the Commission has been in existence. To do this the various committees of the procurement function were used to ensure fairness, transparency, competition, and value for money. The committees have enhanced the checks and balances to ensure that the all procurement is above board.

## 11.7 Challenges

The finance and procurement functions have experienced a number of challenges. These include problems associated with the government IFMIS system. The system breaks down many times, sometimes for weeks on end. This unfortunately happens rather frequently and has the effect of slowing down processes thereby frustrating both the users of the system and the external and internal customers the department is required to serve. In addition, the system is configured to operate as if expenditure is incurred on a uniform basis. The activities of the Commission, however, are quite irregular. For example, 80% of the 2010/11 budget was spent in the first quarter of the year. This of course was due to the referendum held on the 4th of August 2010. IFMIS could not, however, allow us to post in the system expenditure in excess of 50% of the budget for the year. This forced the accounts officers to input the figures "below the line," something that entails extra work later when the other 50% of the budget is loaded by Treasury.

The other challenge faced by Finance and Procurement is the lack of staff. The Directorate is seriously understaffed and this has negatively impacted on its operations. The Directorate therefore resorted to working with casuals, interns, and officers on short-term contracts. The Commission has now an approved establishment and recruitment will soon be undertaken through a competitive process.

A number of trainings in finance and procurement have been undertaken to address the lack of capacity in the directorate. In particular, a number of the officers were recruited from the private sector and are not conversant with government financial and procurement policies and procedure. Capacity building will continue to be undertaken to ensure the continuous improvement of finance and procurement officers.



# Chapter *12*

THE STAR ★ Friday August 2011



## Kenyans hope for peaceful 2012 elections

BY HENRY WANYAMA

MAJORITY of Kenyans believe that next year's general election will be free from violence, this is according to Brand Kenya perception survey report. The 2011 report released yesterday by Brand Kenya Board indicates that 79 percent of Kenyans believe the elections in 2012 would be free from violence. "This is due to a perception that Kenyans have learnt from what happened in 2007/2008 post-election violence," Mary Kimonye Brand Kenya CEO said.

Matuga landscape – Viuga area

WAY FORWARD



## 12.0 Conclusion

During the brief period of its existence, the IIEC can be credited with significant achievements that have contributed to the restoration of the credibility of the electoral process in Kenya. However, it is also evident that some work that the Commission started has not been completed. Consequently, it is important that the opportunity provided by the law should enable its successor to fulfill the outstanding tasks.

### 12.1 Changes in the Governing Legislation

The 2010 Constitution introduced four major pieces of legislation. These were:

- a) The Independent Electoral and Boundaries Commission (IEBC) Act 2011, the substantive provisions of which came into force on 5 July 2011.
- b) The Elections Act, most provisions of which came into force on the 5th of September 2011
- c) The Political Parties Act.
- d) The Campaign Financing Bill Act.

The IEBC will enact the new electoral laws in line with the Constitution. Further to this IEBC will create a number of instruments to enact the electoral laws as well as develop internal policies and procedures to ensure compliance with its new operations.

### 12.2 Establishment of a functional Secretariat

IIEC has established a professional secretariat which has been given the responsibility of the day-to-day running of operations. The full capacity of 898 staff establishment is gradually being implemented and is expected to be finalized up to the Constituency level.

The Commission recruited the secretariat staff from different professional fields. Whereas the current crop of staff have impeccable basic qualifications in their respective areas of discipline, few have acquired the requisite technical competencies in electoral processes. Plans have been put into place to further build the capacity of the Secretariat in management of elections and make it the repository of the institutional memory of the Elections Management Body. In this respect, a comprehensive human resource development plan to facilitate the structured training of staff is in progress.

Operational and management systems are currently being developed for a permanent EMB structure. Towards this end, policy and procedures manuals are being developed for all operational areas. The Commission's Charters are also being developed for better governance of the Organization.



Following the formulation of the Commission Strategic Plan, its implementation is in progress and a performance evaluation system has been put in place whereby staff productivity will be monitored and measured.

### 12.3 Voter Registers Management and Election Systems

The Commission has progressively introduced technology in its processes. The current voter registration and election management systems will be re-engineered to meet the emerging demands of the information technology environment to support and streamline the registration function in the future. The registration of voters electronically is expected to be fully implemented.

Although the Commission managed to register 12.4 million Kenyans within a span of 49 days, based on the census result of 2009, the Commission notes that a lot needs to be done to ensure that the more than 8 million currently eligible voters who are not registered are registered as provided for in the Constitution. These include the estimated two million in the Diaspora as well as those Kenyans with special needs. This has been effectively addressed in the Commission's strategic plan for the period 2010- 2017.

The legal framework and provisions for EVR registration has been put in place and elaborate plans are underway to continuously register voters. The pilot-test for EVR (Electronic Voter Registration) in the 18 constituencies was a success and it is expected that the EMB will use this technology in the whole country and progressively apply technology in other electoral processes.

It is also envisaged that more efficiency in the registration of voters will be gained if the Commission links up with the Ministry of State Immigration department's Integrated Population Registration System (IPRS).

### 12.4 Enhancement of free and fair elections

Some measures have been put in place to guarantee free and fair elections, whereby efforts were made to minimize cases of electoral fraud and corruption. To maintain integrity in the electoral process the following should prevail:

- a) A set of standards based on generally accepted democratic principles.
- b) Firmly entrenched protection mechanisms, including oversight of the election by independent observers, civil society and free media and
- c) Enforcement measures.
- d) Expansion of the democratic space by making provisions for the following groups to participate in the electoral process:
  - An estimated 3 million Kenyans in the Diaspora.
  - Marginalized communities such as pastoralists, nomads, border-



communities and people in special circumstances including those with disabilities.

To comprehensively improve on the democratic space, the following areas of research are in progress to inform on the progressive facilitation of special groups participating in the electoral process:

- a) Targeted voter registration.
- b) Needs assessment for voter education.
- c) Study on best practices in conduct of multiple elections.
- d) E-Voting in Kenya.
- e) Baseline surveys on Political parties and
- f) Baseline survey pilot on conflict and electoral violence identification tool.

## 12.5 Integration of Technology

Use of technology in the electoral process needs to be enhanced and institutionalized given its successful use. In this regard, certain laws, policies, structures and guidelines to make it effective are priority. Issues relating to compatibility, security, sustainability and appropriateness of the selected technology are, therefore, a major consideration.

While the EVR system will be adopted in future for registration of voters, there is need to implement various improvements to the system to accommodate the following:

- a) The requirements introduced by the new Constitution specifically to accommodate the seats of Senator, Governor, and County Woman Representative.
- b) The system will be improved from one that just reports results (EVT) to one that reports other important activities and thus qualify as a Vote Reporting System (VRS). These activities include improvements to address reporting requirements from time of opening of the polling station and hourly or bi-hourly reporting of voter turnout.
- c) Improvements necessary to ensure timely and structured transmission and screening of result needs to be put in place. This will address the challenge experienced by the Commission during the August 4th Referendum Transmission. A well considered and logical framework will be built into the system (The system will be upgraded) to transmit over 20,000 results in 2 to 3 hours for 6 different ballots, tallying, collating, and screening for public viewing needs.

## 12.6 Observer Missions

The provision for observation of elections increased the transparency of the



Commission. Management of observers needs to be further enhanced by carrying out the following:

- a) Monitoring of the state media.
- b) Development of a Professional Accreditation System.
- c) Provision of Geographic Information System (GIS) for observers.
- d) Partnering with Research Institute to monitor the electoral processes and
- e) Having evaluation workshops with relevant stakeholders.
- f) Improving on the observers' training and kit.

## 12.7 Settlement of Minor Electoral Disputes

The Commission's efforts at settling minor electoral disputes will be enhanced by taking the following planned steps:

- a) Establishment of Commission Nomination Boards to manage this process nationwide.
- b) Completion and implementation of the Campaign Finance Bill.
- c) Implementation of the code of conduct as a tool to handle disputes and
- d) Development of mechanisms to enforce the code of conduct.

PPLCs initially had no legal basis, but are now provided for in the reviewed Political Parties Act 2011 giving them legitimacy. The Commission will come in when there are disputes between Political parties, the Commission with Political Parties, and the Commission.

Plans to cascade the training on management of conflict resolution by EISA to Commission staff are under way.

## 12.8 Corporate Governance

The IIEC supported the delivery of its outputs through a structured corporate governance framework that ensured the effective management of business initiatives and other strategic activities. Creation of a specialized Governance and Assurance section is planned. Emphasis should continue to be placed on stakeholder management, leadership, values and behaviours, organizational improvement and the development of skills capabilities during the year, in line with priorities identified in the Commission's Strategic plan 2011 – 2017.

## 12.9 Financial Management

To further improve the integrity of the electoral process, funding and financial returns disclosure will be availed for public inspection on the Commission's website. This will include disclosures made by political parties and associated entities.

## 12.10 Commission Strategic Plan 2011-2017

The Strategic Plan will continue to be an integral part of the Commission's planning process, providing high-level guidance on strategic direction and promoting the alignment of all aspects of the Commission management practices with organizational goals. The focus of the current activities is the period between August 2010 and August 2012. The successful delivery of the scheduled 2012 elections is, therefore, a paramount goal of the Strategic Plan. The Strategic Plan is intended to act as a baseline for a subsequent 5-year plan which will cover the electoral cycle 2013 – 2017.



2



1

1. Information on Brazil electoral regions displayed electronically at the registration desk
2. Brazil ICT support centre on election-day
3. Collapsible ballot boxes deployed in the INEC elections – Nigeria



3



# ANNEXES



# DRAFT PLENARY CHARTER



## A. Introduction

This paper seeks to formally introduce and set out a clear understanding of the Commissioners responsibilities, that of strategy development, policy making, governance, advising on electoral law reform and performance oversight while that of Secretariat will be for the execution of strategic initiatives and operations. No matter how effective the Chairman and Commissioners (the Commission) may be, it is not possible for it to have hands on involvement in every area of the Commission's business. An effective commission controls the business but delegate's day-to-day responsibility to the executive management. That said, there are a number of matters, which are required to be or, in the interests of the Commission, should only be decided by the Chair and Commissioners as a whole. It is incumbent upon the Commission to make it clear what are these matters reserved for the Plenary.

The Commission role is to provide corporate leadership within a framework of prudent and effective controls, which enables risk to be assessed and managed. The Plenary set the strategic aims, ensure that the necessary financial and qualified and well-trained human resources are in place for the commission to meet its objectives and review management performance. The Plenary should set the Commission's values and standards and ensure that its obligations to all the stakeholders are understood and achieved.

This framework seeks to guide and aid the Commission and Secretariat in drawing up such a schedule of Matters Reserved for the Plenary.

The relative importance of some matters included in this guidance paper will comparatively vary with other electoral commissions due to the size and state of the Commissions' maturity in electoral management.

In drawing up a schedule of matters reserved for the Plenary, the Commission will clarify which transactions require multiple commission signatures on the relevant documentation.

Certain of the matters included in this paper should, be the subject of recommendations by the various committees. However, full delegation is not normally permitted in these cases, as the final decision on the matter is required to be taken by full Plenary.

In drawing up a schedule of matters reserved for the Plenary it is important to establish procedures for dealing with matters, which need to be dealt with urgently between regular Commissions' meetings. In these circumstances, it is recommended that a telephone or videoconference (to be established) meeting



should be held in which as many commissioners as possible participate. This allows commissioners the opportunity to discuss the matter and ask questions. Any commissioner who cannot attend should still be sent the relevant papers and have the opportunity to give their views to the Chairman, another commissioner or the Commission Secretary before the meeting. If the matter is routine and discussion is not necessary the approval of the entire commissioner may be obtained by means of a written resolution. In all cases, however, the procedures should balance the need for urgency with the overriding principle that each commissioner should be given as much information as possible, the time to consider it properly and an opportunity to discuss the matter prior to the commitment of the Commission.

#### Commission Reserved Matters

The following schedule has therefore been discussed and drafted by the legal committee and is being submitted to the full plenary for consideration and adaption. This will assist the Commission, Commission Secretary and Directors to understand and appreciate the schedule of matters reserved for the Plenary in accordance with good corporate governance practice.

It is proposed that items marked \* are not considered suitable for delegation to a committee of the Plenary, and require to be taken by the Plenary as a whole. However a specific committee may be given responsibility for that item although the Plenary as a whole should take the final decision.



## B. Schedule of matters reserved for the Plenary

### 1. Strategy and Management

- a. Confirmation of Commission Vision, Mission and Values and any changes thereto.
- b. Responsibility for the over-all management of the Commission.
- c. Approval of the Commission's long term objectives and electoral strategy including voting system and boundary delimitation.
- d. Approval of the annual operating and capital expenditure budgets and any material changes to them.
- e. Approval of ICT solution for electoral solution delivery.
- f. Oversight of the Commission's election operations ensuring:
  - competent and prudent management
  - sound planning
  - an adequate system of internal control
  - adequate accounting and other records
  - compliance with statutory and regulatory obligations
- g. Review of performance in the light of the Commission's strategy, objectives, business plans and budgets and ensuring that any necessary corrective action is taken.
- h. Extension of the Commission's activities into new electoral or geographic areas nationally and internationally.

### 2. Financial Reporting and Controls

- a. Approve the Finance Policy
- b. Approval of the annual budget, report and accounts, including the corporate governance statement.
- c. Approval of material deviations from budgets
- d. Approval of any significant changes in accounting policies or practices.
- e. Approval of treasury policies including foreign currency exposure when dealing with other currencies.
- f. Contracts which are material strategically or by reason of size, entered into by the Commission in the ordinary course of business,

### 3. Internal Controls

Ensuring maintenance of a sound system of internal control and risk management including:

- a. Receiving reports on, and reviewing the effectiveness of, the Commission's risk and control processes to support its strategy and objectives
- b. Ensuring the maintenance of an effective risk management system which both identifies and, where feasible seeks to mitigate risks to the Commission statutory objectives



c. Regularly review the potential implications of legal action being taken against the Commission
d. Undertaking an annual assessment of these processes
e. Approving an appropriate statement for inclusion in the annual report.
<b>4. Communication</b>
a. *Approval of resolutions, draft legislation, regulations and corresponding documentations to be put forward to government or parliament
b. * Approval of press releases concerning matters decided by the Plenary
<b>5. Commission Membership and other Appointments</b>
a. *Selection of the Deputy Chair of the Plenary, the Chief Executive Officer, the Deputy Chief Executive Officer and the Directors.
b. *Ensuring adequate succession planning for senior management.
c. *Membership and Chairmanship of Plenary committees.
d. *Appointment or removal of the Commission Secretary.
e. Continuation in office of any Director at any time, including the suspension or termination of service of any Director as an employee of the Commission, subject to the law and their service contract.
<b>6. Human Resources</b>
a. Approval of material human resource policies
b. Determination and approval of performance criteria of Commission Secretary and the Directors
c. *Determining the remuneration policy for the Commission Secretary, Directors and other senior executives.
d. Changes to the Commission's management structure
e. Approval of general salary and wage adjustments
f. Approval and removal of management staff
g. Recruitment to any vacant employment opportunity, which has not been publicly advertised through the media.
<b>7. Delegation of Authority</b>
a. *The division of responsibilities between the Chairman, the Commissioners, Commission Secretary the Directors, which should be in writing
b. *Approval of Plenary Charter and terms of reference of Plenary committees.
c. * Receiving reports from Commission committees on their activities.
<b>8. Corporate Governance Matters</b>
a. *Undertaking a formal and rigorous review [bi-annually] of its own performance, that of its committees and the Commission Secretary and Directors.
b. *Determining the independence of Commissioners.
c. *Considering the balance of interests between stakeholders, employees, customers and the community.



d. Review of the Commission's overall corporate governance arrangements.
e. *Receiving reports on the views of the government or parliament
<b>9. Policies</b>
Approval of policies, including: <ul style="list-style-type: none"> <li>• Code of Conduct</li> <li>• Compliance with statutory obligations.</li> <li>• Health and safety policy</li> <li>• Environmental policy</li> <li>• Communications policy [including procedures for the release of price sensitive information]</li> <li>• Corporate Social Responsibility policy</li> <li>• Charitable donations policy</li> </ul>
<b>10. Other</b>
a. Approval of the appointment of the Commission's Principal Professional Advisers.
b. Prosecution, defense or settlement of litigation [involving above KShs. million or being otherwise material to the interests of the Commission].
c. Approval of the overall levels of insurance for the Commission including Directors' & officers' liability insurance [and indemnification of Directors].
d. Major changes to the rules of the Commission's pension scheme, or changes of trustees or when this is subject to the approval of Commission changes in the fund management arrangements
e. This schedule of matters reserved for Plenary decisions.

In addition, the Plenary will receive reports and recommendations from time to time on any matter, which it considers significant to the Commission.

The paper has been deliberated by legal committee and is being submitted to full plenary for consideration and adoption.

November 2010

## Annex A

### IIEC Staffing Complement 2010/2011



The following tables provide details of the IIEC's staffing complement in 2010–11. To assist comparisons, the figures in brackets show the totals for 2009–10.

**Staff employed, by classification, gender and location, as at 30 June 2011.**

Location and classification	Female		Male		Total
	Part-Time	Full - Time	Part-Time	Full - Time	
<b>IIEC Headquarters - Nairobi</b>	-	<b>55(11)</b>	-	<b>111(41)</b>	<b>166(62)</b>
Chairman	-	-	-	1(1)	1(1)
Commissioners		3(3)	-	5(5)	8(8)
Executive Level 1	-	-	-	1(0)	1(0)
Executive Level 2	-	1(0)	-	-	1(0)
Executive Level 3	-	5(0)	-	4(0)	9(0)
Managerial Level 4	-	6(0)	-	13(0)	18(0)
Managerial Level 5	-	2(0)	-	1(0)	3(0)
Support Level 6	-	13(0)	-	8(0)	21(0)
Support Level 7	-	7(0)	-	4(0)	11(0)
Support Level 8	-	2(2)	-	6(6)	8(8)
Support Level 9	-	10(10)	-	48(48)	58(58)
Support Level 10	12	5(4)	13	21(21)	26(4)
<b>Nairobi Region</b>	<b>1(0)</b>	<b>4(4)</b>	<b>1(0)</b>	<b>9(9)</b>	<b>14(12)</b>
REC Managerial Level 4	-	1(1)	-	-	1(1)
CEC Managerial Level 5	-	3(3)	-	9(9)	11(11)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Central (Nyeri) Region</b>	<b>1(0)</b>	<b>2(2)</b>	<b>1(0)</b>	<b>14(14)</b>	<b>18(16)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	2(2)	-	12(12)	15(15)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Central (Thika) Region</b>	<b>1(0)</b>	<b>1(1)</b>	<b>1(0)</b>	<b>14(14)</b>	<b>17(15)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	3(3)	-	12(112)	14(14)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>North Eastern (Garissa)</b>	<b>1(0)</b>	<b>-</b>	<b>1(0)</b>	<b>-</b>	<b>7(5)</b>
REC Managerial Level 4	-	-	1(1)	-	1(1)
CEC Managerial Level 5	-	-	4(4)	-	4(4)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Location and classification</b>	<b>Female</b>		<b>Male</b>		<b>Total</b>



	Part-Time	Full - Time	Part-Time	Full - Time	
<b>Upper Eastern</b>	<b>1(0)</b>	<b>-</b>	<b>1(0)</b>	<b>7(7)</b>	<b>9(7)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	-	-	6(6)	6(6)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Lower Eastern</b>	<b>1(0)</b>	<b>6(6)</b>	<b>1(0)</b>	<b>13(13)</b>	<b>21(19)</b>
REC Managerial Level 4	-	1(1)	-	-	1(1)
CEC Managerial Level 5	-	6(6)	-	13(13)	19(19)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>North Eastern</b>	<b>1(0)</b>	<b>-</b>	<b>1(0)</b>	<b>12(12)</b>	<b>14(12)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	-	-	11(11)	11(11)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Central Eastern</b>	<b>1(0)</b>	<b>4(4)</b>	<b>1(0)</b>	<b>9(9)</b>	<b>15(13)</b>
REC Managerial Level 4	-	1(1)	-	-	1(1)
CEC Managerial Level 5	-	4(4)	-	7(7)	11(11)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Coast (Mombasa)</b>	<b>1(0)</b>	<b>3(3)</b>	<b>1(0)</b>	<b>9(9)</b>	<b>15(13)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	3(3)	-	9(9)	12(12)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Coast (Malindi)</b>	<b>1(0)</b>	<b>1(1)</b>	<b>1(0)</b>	<b>9(9)</b>	<b>12(10)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	-	-	9(9)	9(9)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>North Rift</b>	<b>1(0)</b>	<b>4(4)</b>	<b>1(0)</b>	<b>16(16)</b>	<b>24(22)</b>
REC Managerial Level 4	-	1(1)	-	-	1(1)
CEC Managerial Level 5	-	2(2)	-	19(19)	21(21)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Central Rift</b>	<b>1(0)</b>	<b>3(3)</b>	<b>1(0)</b>	<b>13(13)</b>	<b>18(16)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	3(3)	-	12(12)	15(15)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Location and classification</b>	<b>Female</b>		<b>Male</b>		<b>Total</b>



	Part-Time	Full - Time	Part-Time	Full - Time	
<b>South Rift</b>	<b>1(0)</b>	<b>4(4)</b>	<b>1(0)</b>	<b>10(10)</b>	<b>13(11)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	1(1)	-	10(10)	10(10)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	
<b>Central Nyanza</b>	<b>1(0)</b>	<b>4(4)</b>	<b>1(0)</b>	<b>12(12)</b>	<b>18(16)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	4(4)	-	12(12)	16(16)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>South Nyanza</b>	<b>1(0)</b>	<b>1(1)</b>	<b>1(0)</b>	<b>16(16)</b>	<b>18(18)</b>
REC Managerial Level 4	-	1(1)	-	-	1(1)
CEC Managerial Level 5	-	-	-	16(16)	16(16)
Support Level 8	-	1(0)	-	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Western (Bungoma)</b>	<b>1(0)</b>	<b>-</b>	<b>1(0)</b>	<b>13(13)</b>	<b>15(13)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	-	-	12(12)	12(12)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)
<b>Western (Kakamega)</b>	<b>1(0)</b>	<b>3(3)</b>	<b>1(0)</b>	<b>11(11)</b>	<b>14(14)</b>
REC Managerial Level 4	-	-	-	1(1)	1(1)
CEC Managerial Level 5	-	3(3)	-	10(10)	12(12)
Support Level 8	-	-	1(0)	-	1(0)
Support Level 10	1(0)	-	-	-	1(0)

## Annex B

### International Interactions



Date	Organization (s)	Purpose
September 2011	Observer Mission to Zambia	Invitation by the Zambia Electoral Commission.
February – September 2011	Electoral Commission of South Africa	Study Tour – Electronic Voter Registration processes (intensive voter registration), role of Political Parties in mobilizing voters to register, and Organizational structure.
	Brazil	Study Tour – Multiple elections and technology
	India Electoral Commission	Study Tour – emphasize was on integration of technology in the electoral process
	United Kingdom	Study Tour – Multiple Elections
	Philippines	Study Tour - with special emphasize on multiple elections, mock elections and integration of technology
2011	Nigeria	Part of AU observer mission to Nigeria General Elections.
20th – 23rd June, 2011	The 2011 United Nations and Africa Public Service Day	Organized by the UN every two years - Member states share knowledge on public governance and help them adopt practices that make public service more effective and responsive to the citizens
2011	Sweden	Observation of elections - IIEC Chairman will be part of a team of 16 election management bodies from Africa that will join the European Union observers
30th May to 2nd June 2011	(IDEA) Senior Programme Officer, Electoral Processes, Mr. Rushdi Nackerdien, visited IIEC	The purpose of his visit was to discuss areas of mutual interest and possible co-operation between IDEA and IIEC in preparation for the 2012 General Elections.
2011	Ghana	BRIDGE training on Voter Registration in Accra, Ghana - Two other RECS attended the training
2011	South Africa	IIEC collaboration with IDEA on BRIDGE Program (2011/2013) – IIEC officials provided technical expertise and also shares with other participants, Kenya's experience in voter registration and election management. IDEA, in collaboration with the African Union is conducting a training program targeting 42 Election Management Bodies (EMBs) in Africa.
10th -25th May 2011	Electoral Commission of Namibia (NCA)	To observe Kamukunji and Ikolomani by-elections - A study tour on IIEC voter education approaches, electoral management technology systems, training of electoral officials, election material packaging and distribution, deployment of polling officials and polling day activities. They also observed stakeholders' forums like training of political party agents, observers' brief and candidates meeting.
May 2011	IFES Team	A courtesy call to the Interim Independent Electoral Commission (IIEC) - To have an understanding of IIEC's priority areas to offer technical support in preparation for 2012 general elections



Date	Organization (s)	Purpose
9th – 16th February 2011	Electoral Commission of Namibia (NCA)	Study tour to observe the upcoming parliamentary by-election in Kirinyaga Central. Specifically, the team observed the practical implementation of the Commission's legal framework, from the preparatory process of training election officials and agents, packaging and distribution of election materials, deployment of polling officials, polling day activities, counting, tallying and announcement of results.
17th February 2011	Constitutional and Parliamentary Affairs of Zimbabwe Delegation	To learn about the referendum experience and the factors that ensured its success - The delegation was taken through some of the key prerequisites, which include among others a sound legal framework (constitutional mandate and the referendum regulations), structured engagements with strategic partners including government agencies, development partners, the referendum committees and effective voter education.
19th Jan 2011	National Elections Commission of Liberia delegation	To study the electoral system and process – specifically on the national referendum held on 4th August last year as well as meet officials from the Ministry of Justice and Constitutional Affairs, the 2010 Referendum Committees and civil society organizations on democracy and governance.
2011	Tanzania General Elections	Observation of Tanzania 2010 General Elections - invitation of IIEC officials by EAC, AU, National Electoral Commission of Tanzania.
2011	Mauritius	IIEC Chairperson invited to give a paper on the role of electoral technology in raising electoral standards titled: "Technology in context: Case study of Technology in Voter Registration in Kenya.
2011	Uganda General Elections	Observation of Uganda General Elections – Invitation by IGAD observer mission.
	Brazil	Observer mission to Brazil General Elections
2010	Burundi	Observer mission to Burundi General Elections
2010	Ethiopia	Observer mission to Ethiopia General Elections
January 2011	Sudan 2011 Referendum	Technical assistance to Referendum on independence
January 2011	Southern Sudan	Observation of Sudan 2011 Referendum on cessation from North Sudan – invitation by IGAD observer mission.
November 2010	Sweden	IIEC team study visit to Sweden - Benchmark on administration and management of the Political Parties Funds.
2010	Nigeria - under the auspices of the Friedrich Ebert Stiftung (FES).	Forum on security challenges in elections management
2009	International Foundation for Electoral Systems (IFES)	IFES Sponsored three IIEC officials to attend United States Congressional Mid-Term elections - an organization that promotes democratic stability by providing technical assistance to electoral management bodies worldwide.
2009	Sudan General Elections	Sudan General Elections 2009 – IIEC official IGAD

## Annex C

### Litigation Cases 2009-2011

	CASE	By-Election	Status	Total Fees (Kshs.)
1.	William Kabogo Gitau – Vs- George Thuo	Juja	Finalized – Juja By-election	
2.	Dickson Karaba – Vs – John Ngata Kariuki	Kirinyaga Central	Finalized – Kirinyaga Central By-election	102,074
3.	Margaret Wanjiru Kariuki – Vs- Maina Kamanda	Starehe	Finalized – Starehe By-election	1,463,490
4.	Reuben Ndolo – Vs- Dick Wathika	Makadara	Finalized – Makadara By-Election	8,749,412
5.	Muhammed Sirat – Vs- Abdulai Abdi	Wajir	Finalized – Wajir By-Election	1,450,273
6.	Simon Ongari – Vs- Joel Onyancha			
7.	Chirau Makwere– Vs- Ayub Juma Mwakesi	Matuga	Finalized – Matuga By-Election	
8.	Manson Nyamwea – Vs- James Omingo Magara	South Mugirango	Finalized – South Mugirango By- election	750,000
9.	Stanley Livondo – Vs- Raila Amollo Odinga	Langata	Finalized	477,755
10.	John Kiarie – Vs- Beth Mugo	Dagorreti	Finalized	
11.	Ibrahim Ahmed – Vs- Simon Nganga Mbugua, RO Kamukunji & IIEC	Kamukunji	Finalized – Kamukunji By-election	
12.	Bernard Shinali Masaka – Vs- Bonny Khalwale & 2 Others.	Ikolomani	Finalized – Ikolomani By-election	
13.	Justus Omiti – Vs- Enock Nyambati		Pending	
14.	John Koyi Waluke – Vs- Moses Wetangula		Finalized	564,160
15.	Am Ahmed – Vs – HM Abdikadir		Finalized	
16.	AH Halkano – Vs – AN Nuli		Finalized	393,360
17.	A Waithera & 4 Others - Vs- The COE & 2 Others		Finalized	1,740,000
18.	AO Okoiti & 5 Others – Vs- The AG & 2 Others		Finalized	1,188,800
19.	AO Okoiti & 5 Others – Vs- The AG & 2 Others		Finalized	1,276,000
20.	JW Muriithi – Vs – The ECK & 2 Others		Finalized	116,000
21.	JK Kibue –Vs- Macharia & 2 Others	Election Inquiry	Finalized	348,000
22.	CO Ayuma – Vs- P Siro & 2 Others	Election Inquiry	Finalized	150,000
23.	NP Njuki – Vs – The Returning Officer & 2 Others	Election Inquiry	Finalized	280,305
24.	AM Muia – Vs- AK Mule & 2 Others	Election Inquiry	Finalized	58,075
25.	PK Njane & Another – Vs – JM Muiruri & 2 Others	Election Inquiry	Pending	58,143

## Constituency By-Elections

	By - Election	Reason	Notification	Poll date	Elected
1	Shinyalu	Demise of Hon. Lilechi	29.05.2009	27th August 2009	Hon. Justus Kizito
2	Bomachoge	Petition	27.05.2009	27th August 2009	Hon. Simon Ogari
3	South Mugirango	Petition	16.03.2010	10th June 2010	Hon. Manson O. Nyamweya
4	Matuga	Petition	06.05.2010	12th July 2010	Hon. Chirau Makwere
5	Starehe	Petition - due to poll irregularities	13.08.2010	20th September 2010	Hon. Margaret Wanjiru
6	Makadara	Petition - due to poll irregularities	30.07.2010	20th September 2010	Hon. Kioko Mbuvi Gideon
7	Juja	Petition	16.07.2010	20th September 2010	Hon. W. Kabogo
8	Wajir South	Petition	13.08.2010	13th October 2010	Hon. Mohamed Sirat
9	Kirinyaga Central	Petition – due to electoral malpractices	18.11.2010	16th February 2011	Hon. Joseph Gitari
10	Ikolomani	Petition – Seats nullified by the courts on grounds of malpractices.		23rd May 2011	Hon. Bonny Khalwale
11	Kamukunji	Petition - due to electoral malpractices	25.02.2011	18th August 2011	Mr. Yusuf Hassan Abdi

## Annex D By- Elections 2009-2011