

# After previous controversial elections, could Kenya's electoral commission make amends this year?

Blog post by Associate Ed King, 19 August 2022

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Kenyan elections have a troublesome past. In 2007, post-election violence saw over 1,200 people killed and triggered a new constitution which introduced the Independent Electoral and Boundaries Commission (IEBC). But violence again marred elections in 2013 and 2017, with the latter declared "invalid, null and void" by the Supreme Court following technological failures and the IEBC's refusal to cooperate with the investigation. This brought the IEBC into disrepute and dented public confidence. Could the IEBC make amends this time around?

The presidential race on August 9th was always tipped to be a close contest between the current Deputy President, William Ruto, and Former Prime Minister, Raila Odinga. This intensified when Kenya's incumbent President, Uhuru Kenyatta, who has reached his constitutional two-term limit, chose to back his former opponent Odinga rather than his estranged deputy, Ruto. This made a credible electoral process even more critical.

The IEBC responded to the 2017 court ruling by making two significant changes to the electoral process. Firstly, it boosted transparency to mitigate the risk of a legal challenge. This involved uploading all result forms to a public online portal and increasing public engagement, urging people to do their own tallying of votes. Secondly, it addressed technological shortcomings by bringing in high-tech election management systems. But these improvements did not come cheaply. The IEBC spent \$374m on printing ballots, information technology and biometric checks on voters. This equates to \$17 per voter - nearly double the cost of India's last election and Nigeria's elections next year.

Although expensive, the changes appeared to make a difference. Prior to the election, there was increased confidence among the Kenyan public, with 58% reportedly having "a lot of confidence" in the IEBC. The IEBC successfully uploaded 46,201 digital scans onto a public portal within days - a logistical feat that many elections in more established democracies do not even attempt. Clearer instructions around election day also led to "generally peaceful" conduct and received praise from observers.

But issues soon emerged when it came to vote tallying. Major discrepancies saw TV channels halt their own counts on August 11th without explanation, fuelling uncertainty. A tense six day wait for the official results exacerbated this uncertainty and triggered the spread of disinformation on social media. Supporters of both sides declared victory at various points and made claims of election rigging, none of which could be verified.

Chaos ensued on August 15th, when moments before Wafula Chebukati, the IEBC chair, was set to announce the winner at the Bomas election centre, four of the seven IEBC commissioners held a rival press conference at the Serena Hotel. The four commissioners (now known as the Serena 4) had only been appointed by Kenyatta in September 2021. Without providing evidence, the Serena 4 disowned the results, saying that the last phase of the electoral process had been “opaque”. Almost simultaneously, Odinga’s allies stormed the podium at Bomas and prevented Chebukati from announcing the results. The unsavoury scenes included lecterns and chairs being thrown, as well as punches, and required police to intervene. When things had calmed down, Chebukati announced Ruto as Kenya’s new president with 50.49% of the vote, compared to Odinga’s 48.85%. While international leaders were quick to congratulate Ruto, Odinga rejected the results, citing “many flaws” in the election and claiming that Chebukati had acted alone. The synchronisation of the rival press conference and the chaos in Bomas fuelled suspicions that the four IEBC commissioners were coordinating with the Odinga campaign and were politically motivated. This is conceivable, given their appointment followed Kenyatta’s rapprochement with Odinga. Odinga is now set to challenge the election at the Supreme Court.

The IEBC certainly performed better than in 2017. But it must take responsibility for yet another divisive outcome. No matter how technically sophisticated an election management system is, it will not produce a nationally credible result without accountability, transparency, and political will. Whatever the Supreme Court rules, this latest dispute should trigger a considered review of governance at the IEBC. And the IEBC will have its work cut out to rebuild public confidence all over again.