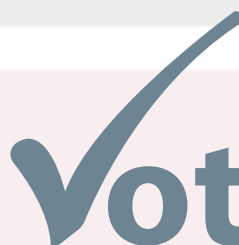


ELECTION AGENTS' MANUAL 2017

 **Vote**

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ELECTION AGENTS'

MANUAL 2017

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Foreword

On 8th August, 2017 Kenyans go to the polls to elect their leaders for the next five years. These are the second elections under the Constitution of Kenya, 2010. The IEBC has put in place necessary preparations to ensure that the elections are conducted smoothly and in accordance with the law. The success of the elections, however, does not depend on IEBC alone. It requires collaboration and inputs by several stakeholders.

Political parties and candidates play a primary role in the electoral process. Through their agents, they observe the manner in which elections are conducted so that at the end they can be satisfied that the results the IEBC announces reflects the will of the electorate. This participatory and collaborative spirit is enshrined in the Constitution.

This Manual was first prepared for use in the 2013 elections. It has been updated to reflect the experience from those elections and changes in the legal framework. The Manual contains a summary of key rules and processes relating to elections. It is synchronised with the information that will be provided to the officials of the Commission who will be conducting elections. The aim is to ensure that all those who play roles at the polling day complement each other.

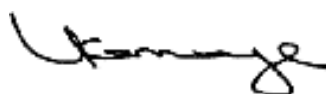
Agents are the watchdogs of their respective political parties and independent candidates who have appointed them. To effectively discharge their responsibilities, it is essential that they are aware of the legal framework governing elections, fully understand the election processes and are aware of their roles and responsibilities.

The Manual has been prepared as a collaboration between The Independent Electoral and Boundaries Commission (IEBC) the Office of the Registrar of Political Parties (ORPP), National Democratic Institute (NDI) and The Oslo Center. Agents are encouraged to familiarize themselves with its contents. Following the training and reading of this Manual, it is imperative that agents put in practice the knowledge they gain by monitoring the work of IEBC. By doing so, election agents will be effectively contributing to the process of delivering free, fair and credible elections.



W. W. Chebukati

Chairperson, IEBC



Lucy Ndung'u, EBS

Registrar of Political Parties

ACKNOWLEDGEMENTS

The process of developing the second edition of the Elections Agents' Manual built on the collaborative work that produced the first edition in the run up to the 2013 elections. We thank all the organisations and individuals who supported that first process. The National Democratic Institute(NDI) took the lead role then. They have been instrumental, together with the Oslo Center, for spearheading the process of developing this manual and partnering with the IEBC and the Office of the Registrar of Political Parties in the process.

We acknowledge the Danish International Development Agency(DANIDA) for their financial support through Uraia Trust that enabled this Manual to be produced and for supporting the training of trainers across the Country. This will ensure that agents of political parties and independents candidates are enlightened on key electoral arrangements thereby equipping them with sufficient knowledge to discharge their role on election day in a satisfactory, manner.

Special gratitude to the technical team that spearheaded the process of amending this Manual. That team comprised staff from NDI, Oslo Centre and the Office of the Registrar of Political Parties.

Anne Nderitu, Manager Electoral training at IEBC provided critical inputs, ensuring that there were linkages between this Manual and training materials used to train election Officials. Lucy Ndung'u the Registrar of political parties also gave guidance on qualities required of agents in light revisions of the legal framework for the 2017elections enabling revision to this Manual.

Dr. Collins Odote, updated this Manual at very short notice. We thank him for his industry and continued support to trainings of agents.

1

INTRODUCTION

1.1 Background

Elections are an important part of the democratic process for any country. Kenya, as a constitutional democracy places a high premium on the conduct of its elections. The Constitution requires that those elections be free and fair. This requirement is also a universal standard for elections. Through free and fair elections, citizens get to exercise their sovereign rights to determine how they would wish to be governed.

On 4th March, 2013 Kenyans went to the polls conducted under a new Constitution that they had adopted in August, 2010. Those elections were largely assessed to be credible. Despite this, several challenges were raised about the manner in which they were conducted. This formed the basis of the Presidential Election Petition at the Supreme Court of Kenya. Following the determination of that Petition, debate continued about requisite reforms to improve the electoral environment, management and conduct of future elections in Kenya.

On 5th and 6th July, 2016, the Senate and the National Assembly adopted a motion that established a Joint Parliamentary Select Committee to propose reforms to the IEBC and electoral reforms. Following the completion of its work and the adoption of its report, Parliament passed the Election Laws Amendment Act and the Election Offences Act. These amended the legal arrangement for the conduct of elections. The aim is to ensure that the country's elections deliver on the constitutional promise of integrity and credibility in the process. The promise includes the independence of the body managing the process, the clarity and objectivity of the procedure for registering voters, fast and efficient voting processes, accurate counting and tabulation of results, prompt announcement of results and quick and fair dispute resolution mechanisms. In addition, the entire electoral process must be open to public scrutiny.

One of the key groups who should have an opportunity to actually verify and observe elections are candidates and participating political parties. By observing the elections, they are able to confirm that the process is free and fair and that the results reflect the will of the people. They consequently enhance credibility and confidence of the public in the conduct of elections and their outcome.

Kenya's electoral history is always considered against the backdrop of the 2007 general elections, the dispute around the presidential elections, the ensuing violence and the recommendations of the Kriegler Commission that investigated the conduct of those elections.

One of the recommendations made by the Kriegler Commission related to public involvement in the electoral process. It underscored the role of political parties and their agents in ensuring integrity and building confidence in the conduct and outcome of elections. However, it decried the lack of systematic training of party agents contributing to a situation where most agents were not aware of their formal roles. To redress this, it recommended a structured training programme supervised by the Electoral Commission and that this training should be similar to that given to poll-workers. It further recommended that only agents that have undergone such training should be allowed in the polling stations.

In 2013, agents underwent a structured training process based on this training Manual. The training was to enable them undertake their roles in the electoral process from an informed perspective.

1.2. Stakeholder Involvement in the Electoral Process

The Constitution identifies public participation as an important national value and principle of governance. It calls for an electoral environment based on integrity, freeness, fairness and that reflects the true will of the people. Public Participation is an ingrained component of the electoral process. Consequently, while the IEBC is the constitutional body responsible for the conduct of free and fair elections in Kenya, the process needs to involve the people. This is underscored by IEBC's Strategic Plan which has one of its pillars as public trust and participation.

There are many stakeholders that have a stake in the conduct of elections in Kenya. Broadly, every Kenyan is interested in and keenly follows election activities and processes. There are key stakeholders that the electoral management body prioritises. These range from voters, to the media, civil society, political parties, religious groups, private sector to government agencies.

A policy and Strategy on Stakeholder Engagement by IEBC identifies critical stakeholders and methodologies for their engagement. One of the main stakeholders are political parties and candidates. They are direct participants in the electoral process. The law recognises their participation and provides for their representation through agents.

Election agents represent either candidates or political parties. Although the bulk of their work takes place on Election Day, successful monitoring of the electoral process requires agents and those they represent to adopt an electoral cycle approach, which requires that they pay attention to and follow events that happen long before Election Day.

1.3 Purpose of the Manual

This Manual has been developed to help agents, their parties, and candidates to understand the electoral process with a particular focus on the practical procedures relating to undertaking successful elections. A lot of attention is paid to Election Day activities. However, since elections are based on a cycle-approach and not an event, the Manual discusses the key stages in the election cycle. It divides the stages in the cycle into three broad categories: pre-election, Election Day and post-election periods. While the election period would typically include the period designated as such by the IEBC, this Manual takes a narrow focus on Election Day related activities. Being a practical document, this Manual does not attempt to cover everything but instead focuses on the key procedures necessary to deliver free and fair elections.

The Manual also provides an overview of the key requirements that parties and candidates need to be aware of in relation to the planning, deployment and implementation of election observation by candidates and parties.

It however does not purport to be a comprehensive coverage of every aspect of the election process and the law. It is therefore important to note that while this Manual was written to help you perform your duties as an election agent, it does not replace the law or the directions of the electoral officials. It is also important that election agents follow the instructions provided by their parties or candidates whom they represent in the observation process.

The checklist attached to this Manual gives Agents a framework for documenting their observations on election Day, communicating to the parties and candidates and eventually acting as an important guarantee to credible elections.

2

BEING AN AGENT

2.1 Who is an Agent?

An Election Agent is an individual who observes the conduct of elections on behalf of an independent candidate or a political party on Election Day. The Elections Act defines an agent as;

“a person duly appointed by a political party or an independent candidate for the purposes of an election...and includes a counting agent and a tallying agent.”

Although election agents are selected to represent their political party or independent candidate on Election Day, their work often begins much earlier, playing a crucial part in monitoring the entire electoral process on behalf of their parties and candidates. Candidates may also deploy agents to monitor the conduct of party primaries on their behalf.

According to The Elections Act, 2011, Political Parties and Independent Candidates are allowed to nominate one election agent per polling station for Election Day. Political parties will have up to six candidates at one particular polling station needing representation. The one agent appointed by the party is required to represent the party and all its candidates, no matter what positions they are vying for. If a political party does not nominate an agent for a polling station, a candidate for that party is allowed in law to do so. The rationale for this is the need to ensure presence of agents at all polling stations countrywide.

Although Election Agents are tasked as the official monitors of their Party or Independent Candidate at the polling station on Election Day, the work of the Election Agent also serves the greater mission of strengthening democracy in Kenya by contributing to the implementation of free, fair and credible elections. Agents should, consequently, balance their role as partisan representatives of their party and candidate with their role as critical players in the process of protecting democracy and integrity of the electoral process.

2.2 Categories of Agents

There are several categories of agents recognised by the Elections Act.

- **National Chief Agent** - Every political party and independent candidate participating in a presidential election is required to appoint one national chief agent.

This agent represents their party and/ or presidential candidate at the national level. They liaise with the IEBC at the national tallying centre. They also liaise with the IEBC at the national level on all aspects of polling, ensuring that the interests of their candidates and party are protected and the process is credible. National Agents are therefore necessary even for parties not having presidential candidates.

- **County Chief Agent** - The county is an important unit of elections in Kenya, owing to devolution. Every political party and independent candidate is required to appoint one county chief agent for each of forty seven counties. With the increase of independent candidates, even though the election regulations do not expressly address itself to it, every independent candidate for governor and senator is also allowed to appoint one chief agent for the county in which they vying.
- **Constituency Chief Agents** - The IEBC also recognizes Chief Agents for every constituency. Every political parties political party or independent candidate is allowed to appoint one chief agent per constituency. The chief Agent is allowed to access all polling stations within the constituency.
- **Polling Station Agent** - Every political party or candidate participating in an election is entitled to one agent per polling station.
- **Counting and tallying Agent** - Every political party or candidate is also entitled to have one counting agent inside the polling station and also one agent at each of the various tallying centres. Nothing precludes the agent who represented the party or candidate at the time of polling to also act as a counting or tallying agent.

2.3. The Rights & Responsibilities of an Agent

2.3.1. Rights of an Agent

The Election Agent has the right to:

- Access polling stations and tallying centres, if they are accredited to the tallying centre and are wearing an accreditation badge
- Obtain official information about the elections from elections officials, including information about voter turnout
- Attend observer briefings
- Speak or communicate with anyone outside the polling station with regard to elections
- Speak to anyone other than a voter inside the polling station

***N.B.** To speak to a voter inside the polling station, they must get approval of the Presiding or Deputy Presiding Officer*

- Attend public election related activities
- Dispute the inclusion of a ballot paper in the count that they believe should be “rejected”
- Object to the rejection of a ballot paper that they believe is “valid”
- Request the Presiding Officer to have the vote recounted/rechecked (provided that this recount does not take place more than twice)

The Election Agent cannot:

- Interfere with the voting process or the authority of the election officials in the polling stations
- Enter or remain in a polling station without an identification badge issued by IEBC
- Interfere with, or attempt to influence any voter
- Disclose any knowledge concerning the vote of a person
- Disclose the name of voter who has or who has not applied for a ballot paper, or voted in a polling station
- Wear a badge or emblem of a political party or candidate within the polling station; or
- Deliberately show or leave a “how-to-vote” card, or any similar directions as to how a voter should vote, in the polling station

2.3.2 Role of Agents

The main role of an agent is to represent their party or candidate in an election to ensure that the elections are free, fair and credible and that the process is transparent. Their presence, observations and interventions are an important check and guarantee of credible polls.

To ensure they serve their purpose, agents should:

- Collect and document information about the process of elections
- Identify and bring to the attention of election officials any errors, irregularities and malpractices
- Sign declaration forms at the end of polling
- Update their party and/or candidates on the overall conduct of the poll at the polling station they are deployed to, and any identified errors, irregularities and malpractices.

2.4. Qualities of Agents

There are no prescribed qualifications for an election agent. However, the kind of agent that one appoints has implications on how well they undertake their tasks. Parties and candidates should take into account the tasks that agents are required to perform on their behalf. An informed agent will be able to ensure that the party or candidate's right to a free and fair election is upheld, and certify that the polling, counting, tallying, declaration and results transmission processes are conducted in a transparent manner and in accordance with laid down procedures.

Although there are no prescribed qualifications, it is important that an agent possesses the following qualities:

- **Ability to read and write** – It is important that an agent be able to read and write. There is no minimum educational requirement necessary to be an agent. What is important is the basic ability to read and write, so that one can observe and document the process accurately.
- **Basic knowledge of ICT**- Changes made to the law in 2016 have enhanced the place of technology in the conduct of elections. Consequently a working knowledge of information, communication and technology (ICT) is necessary for one to be an agent. It will ensure that the agent can interact with the technology deployed to register voters, identify voters, transmit results, and for all other aspects where they are deployed.
- **Integrity** - to be able to carry out their roles in a professional manner, agents should be of high moral character. Agents subscribe to the Electoral Code of Conduct contained in the Second and Third Schedules of the Elections Act respectively. If an election agent has not familiarized himself or herself with this code of conduct, the chances of committing an electoral offence are high, and the agent risks jeopardizing their party/candidate's chances of winning the election by causing their disqualification.
- **Loyalty** - Election agents with strong allegiances and loyal support to the party or candidate will be more likely to protect the rights of the party/independent candidate, and less likely to be bribed or induced by other actors to violate the Electoral Code of Conduct and defect.

-
- **Observant and Focused on Detail** - an election agents should be one who is keen and pays attention to detail.
It takes more than just presence at the polling station to detect and deter any irregularities during polling. It requires attention following of the entire polling, counting, and declaration of results.
 - **Knowledge of the Electoral process** - To be able to represent the interest of one's party or candidate effectively, it is important that an agent has a good understanding of the electoral process. One can only be able to accurately assess whether the elections are being conducted in accordance with the set rules and processes if they have knowledge of those rules and procedures. All agents should read this Manual and attend training organised to provide them with information on the electoral rules and processes, and also their role as agents.

2.5. Recruitment and Training of Agents

2.5.1 Recruitment

Parties and Independent Candidates should develop in good time a criteria and procedure for recruitment of agents. Some may opt for a central recruitment process, while others may adopt a devolved system. In addition, some may give this task to their party officials while others may give it to their Election Board or Committee.

The Terms of Reference on the tasks to be performed by the agents must be developed, discussed and adopted by either the Party or the candidate in good time. These will serve as the guide to the agents on their obligations.

2.5.2 Training

Training enables agents to have a clear and standardized understanding of their roles and an accurate overview of election procedures. Training of the National and County Agents will be undertaken in partnership with the IEBC and the Office of the Registrar of Political Parties (ORPP). Following this, the trained chief agents are expected to assist their party or independent candidate to train the rest of the agents. They will, in this way serve as trainers of trainers (TOTs).

Depending of the numbers of agents the party or candidate has, both a cascade and simultaneous training may be adopted so that all the agents can be trained. This is necessary too because most parties and candidates train their agents very close to election day.

To successfully do so, they will be required to consider and determine the following issues: -

- Identify the total number of agents they will deploy in the elections
- Identify the number of cascade trainings
- Identify and designate master trainers to train during the cascade trainings
- Develop a budget and set aside resources for the cascade training
- Determine and secure venues for training
- Secure materials for the cascade training

2.6. Accreditation

All election agents must be officially accredited by the IEBC. It is the duty of all political parties and independent candidates to forward the names of all election agents that they have appointed to represent them on Election Day at polling stations. The names and addresses of the chief agent, county and constituency agents must be submitted to the IEBC at least fourteen days before the date of elections. The details of the rest of the agents will also have to be submitted before election date, on a date specified and communicated by the IEBC.

Once the IEBC receives the names, addresses and letters of evidence of official appointment of the agents, it will proceed to accredit them and issue them with a serially numbered accreditation badge. This badge will serve as their authorization to participate in the electoral process at their designated polling station. With this, the agent will now be duly ready to represent their candidate or party at the polling station.

To enter the polling station an agent requires:

- A copy of the letter of appointment from their party or candidate
- An accreditation badge supplied by the IEBC; and
- A duly signed Oath of Secrecy

2.7. Deployment plan

It is important that every party and independent candidate develops a deployment plan. This plan should address the following issues:

- The number of polling stations and the electoral areas(wards, constituencies and counties) where they intend to deploy agents
- The number of agents they will deploy per polling station (remember that IEBC will only allow one agent per party or independent candidate at a time).
- The roles of the various agents that they will deploy

-
- Transport arrangements for agents. As a guide, agents should generally be deployed at their own polling station to ensure that they vote and also to reduce transport costs
 - Supply of materials required for carrying out their tasks, including checklists and critical incident forms
 - The process for communicating and reporting findings to their Party and Candidate
 - The amount of money to be paid, if any, to the agents and the process of and timing of any payments

2.8. Do's and Don'ts

- a) ***Be Prepared:*** Before Election Day you should have attended training for election agents, read this Manual and asked any questions you may have.
- b) ***Be prepared for problems on Election Day:*** Nobody is perfect, and honest mistakes happen. If problems arise, stay calm.
- c) ***Be on time:*** on Election Day you must be at the polling station latest by 5:30am so that you are there when the polling station is opening. You should stay until voting and counting is completed. If you do not stay at your polling station, no one will defend your party/candidate's interests.
- d) ***Raise concerns:*** If you do not raise concerns on behalf of your party/candidate no one else will. If you have a question or think that there is a problem, amicably raise the issue with the presiding officer or the deputy presiding officer to solve it.
- e) ***Document concerns:*** write down what you observe at your polling station.
- f) ***Communicate to your party/candidate:*** Remember you are the ear and eye of your candidate. Do note to keep them updated on developments and occurrences within your polling station. Remember, if the problem will have a direct impact on the outcome of the election, make sure you notify your candidate/party immediately.
- g) ***Do not make accusations in bad faith:*** do not let your partisan interests influence your judgment. False accusations might hurt your reputation as well as your candidate or party.
- h) ***Do not intimidate or interfere with any voter:*** On Election Day, do not campaign on behalf of your candidate or party.

-
- i) ***Remember to sign all declarations forms required of you:*** This is particularly for the declaration of results at the polling station and tallying centre (note the importance of this since results declared at the constituency levels are final) and declaration of those that cannot be identified using KIEMS
 - j) Please note that as an agent, you cannot assist a voter.

2.9 Toolkit

On Election Day, you should remember to carry with you to the polling station the following materials:

- a) Your copy of The Election Agents' Manual
- b) An Appointment Letter from the political party or candidate
- c) An IEBC issued Accreditation Badge
- d) An Agent Checklist
- e) A notebook and pen
- f) A torch if possible
- g) The contact information for your national, county and constituency chief agents
- h) Food and water
- i) A small amount of money for transportation
- j) A mobile phone (Agents must however note that they are not allowed to use their mobile phones at the polling station, except to send sms or WhatsApp but not to take photos or make phone calls)

3

LEGAL FRAMEWORK FOR ELECTIONS IN KENYA

3.1. *The Constitution*

Kenya's Constitution is amongst the most progressive and transformative in the world. It was adopted in August, 2010. It is the supreme law of the land, is binding on every person and state organ in Kenya. It is superior to all other laws in the country. It also provides that any treaty or Convention ratified by Kenya shall form part of the laws of Kenya. Consequently the international Conventions that guarantee free and fair elections, and which Kenya is party to, are important part of the legal framework on elections. At the international level, the main instruments that address elections include:

- The Universal Declaration of Human Rights
- The International Convention on Civil and Political Rights
- The African Charter on Human and People's Rights
- The African Charter on Democracy, Governance and Elections

All the above have provisions which seek to expound on free and fair elections. For example, Article 21 (3) of UDHR states that:

Article 21(3) UDHR

"The will of the people shall be the basis of the authority of the Government. This will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures."

The above international prerequisites have been incorporated not just by the application of international law in Kenya but by inclusion of similar principles in Kenya's Constitution.

The Constitution guarantees every citizen the right to free, fair and regular elections as a basis of expressing their will as electors. While the concept of free and fair elections is of universal application, the Constitution at Article 81(e) identifies its indicators to include, an election :

-
- Conducted by secret ballot
 - Free from violence and intimidation
 - Free from improper conduct or corrupt practices
 - Conducted by an independent body
 - Transparent
 - Administered in an impartial, neutral, efficient, accurate and accountable manner

The Right to free and fair elections is guaranteed by the Constitution as part of the Bill of Rights. Article 38 of the Constitution provides that:

- a) Every citizen is free to make political choices, which includes the right to:
 - to form, or participate in forming, a political party;
 - participate in the activities of, or recruit members for a political party; or
 - to campaign for a political party or cause.
- b) Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for
 - any elective public body or office established under this Constitution; or
 - any office of any political party of which the citizen is a member.
- c) Every adult citizen has the right, without unreasonable restrictions to:
 - be registered as a voter;
 - vote by secret ballot in any election or referendum; and
 - to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office

The Constitution creates the IEBC as the body responsible for conducting and supervising elections for all elective bodies and offices created under the Constitution and for the conduct of referenda. The law requires that voting at every election is simple, transparent, and takes into account the needs of special interest groups. The voting method used is also required to conform to the following requirements:

- Voting method should be simple, accurate, verifiable, secure, accountable and transparent
- Votes cast should be counted, tabulated and the results announced at the polling station by the presiding officer promptly. These results should then be tallied in an open and accurate manner and announced by the returning officer promptly

-
- Structures to eliminate electoral malpractices should be put in place
 - Election materials should be kept safely

The country's electoral system is mixed, including both a "First Past the Post" electoral system with elements of proportional representation. The majority of the electoral seats are to be contested through direct elections where the winner will be the one with the most votes from the electorate.

The country also has party list seats for elections at the county assembly, national assembly and senate, mainly for under-represented groups comprising women, youth, persons with disabilities, workers and marginalised groups. These seats are filled from closed party lists compiled by parties and submitted to the IEBC before the election. The allocation of the seats is done by the IEBC based on the proportion of first past the post seats that each party has won in each election. These lists are submitted to IEBC before election day, as provide in the Elections Act. Once submitted the list cannot be changed by the political party

The Constitution also provides qualifications for one to register as a voter and eventually vote. These include:

- Being an adult citizen
- Being of sound mind
- Not having been convicted of an election offence in the previous five years

The Constitution creates and provides for the qualifications for the following elective offices:

- President and Running Mate
- Governor and Running Mate
- Senator
- Member of the National Assembly
- County Woman Member of the National Assembly
- Member of the County Assembly

As the Supreme law of the land, the Constitution provides that all sovereign power belongs to the people, which they may exercise either directly or through their democratically elected representatives. Elections consequently provide an avenue for exercising people's sovereign right and securing representation and are, therefore, an important aspect of democracy.

3.2 The Elections Act and Regulations

The Elections Act, 2011 is the primary law governing the conduct of elections in Kenya. The key issues that the Act provides for are:

- Right to vote
- Registration of voters
- Nomination of candidates
- Qualifications for candidates to elective offices
- Party lists
- Voter education
- Conduct of elections
- Recall of members of parliament
- Dispute resolution
- Electoral Code of Conduct

In 2016 and 2017, amendments were made to the Elections Act to improve the framework for conduct of future elections. These amendments addressed key lessons from the 2013 elections, some of which were identified by agents. First is provisions relating to registration of voters, where the law removed the reference to Principal Register of Voters. Instead the Act now refers to the Register of Voters, to clarify that there is only one Register of Voters. The registrar of votes comprises:

- A Poll Register for every polling station
- A Ward Register for every ward
- A Constituency Register for every constituency
- A County Register for every county
- A Register for every voters residing outside Kenya.

It also clearly stipulates the procedure for registration of a voter, the required qualifications, the process of preparation of the Register, its inspection and verification and its eventual publication. The Act also provides for regular audit of the Register of Voters. It states that registration of voters shall be undertaken using biometric technology.

The second issue that the changes introduced was the use of technology in elections. The Act requires that IEBC puts in place an integrated electronic system for elections. That system is to be used for biometric voter registration, electronic voter identification and electronic transmission of results. In recognition that technology may fail, the law requires IEBC to put in place a complementary system to the integrated electronic system. For the 2017 elections, IEBC has procured the Kenya Integrated Elections Management Systems(KIEMS). Technology is being applied to registration of voters, voter identification, results transmission and candidate nominations.

The third area that requires to be highlighted is the process of nominations. The Law has split this into several steps. First is the process of political parties choosing the candidates to represent them for various elective positions. This is called Party primaries.

The law made changes to the electoral timelines and sought to prevent party hopping. As a consequence the number of independent candidates participating in elections has increased. Secondly, is nominations, which involves the presentation of names by parties to IEBC and documents by candidates before the IEBC returning officer. Political Parties are required to upload the names of their candidates using a system designed for that purpose by IEBC. Parties are also required to submit their party lists to IEBC.

Various regulations have been put in place to operationalise the Act. These provide detailed procedures on various aspects of the election processes.

The current regulations are:

- Elections(General) Regulations, 2012, as amended in 2017
- Elections(Registration of Voters) Regulations, 2012 as amended in 2017
- Elections(Voter Education) Regulations, 2017
- Elections(Technology) Regulations, 2017
- Elections(Party Primaries and Party Lists) Regulations, 2017
- Rules of Procedures on Settlement of Disputes, 2012

In addition, the Act has three schedules that contain;

- Election of County Speaker
- Electoral Code of Conduct
- Oath of Secrecy

The Electoral Code of Conduct seeks to serve two broad functions:

- Promoting an environment conducive to the conduct of free and fair elections
- Promoting tolerance in the conduct of political activity during the election period

The Code is to be subscribed to by the following persons:

- All political parties with candidates in an election
- Candidates
- Leaders, chief agents and agents (including election and referendum committee officials in a referendum)

Once signed, the code binds the following people:

- Government
- Political parties
- Leaders, office bearers, agents and members of political parties
- Persons who support a political party
- Candidates in an election

By signing the Code, all those bound by it as listed above commit to ensuring that campaigns are free and peaceful and that public debate, as part of the electoral process, takes place unhindered. Specifically, they commit to:

- Adhering to the national values and principles of the Constitution
- Publicising the code
- Promoting voter education campaigns
- Condemning, avoiding and preventing violence and intimidation
- Instructing candidates, party officials, members and supporters of parties and candidates to abide by the code
- Promoting gender equality
- Promoting ethnic tolerance
- Promoting cultural diversity
- Promoting fair representation of persons with disabilities
- Affirming the rights of participants in an election to express themselves freely, debate their policies and seek for support from voters.

The IEBC sets a date when all those required to sign the Code will do so at the commencement of the election period. The IEBC also has in place an Electoral Code of Conduct Enforcement Committee to oversee the enforcement of the Code.

Sanctions that may be imposed against a candidate or party include:

- Formal warning
- A fine
- Prohibition from participation in the next elections
- Prohibition from engaging in certain campaign activity including being banned from holding meetings, erecting banners and distributing other literature
- Application to the High Court for an order not to participate in the current election

3.3 *The Election Offences Act*

The Act provides for offences relating to elections and their punishment. It was passed in 2016 as part of the electoral law amendments.

The Act deals with the following broad offences:

- a). Offences relating to register of voters
- b). Offences relating to multiple registration as a voter
- c). Offences relating to voting
- d). Offences by Members and staff of the Commission
- e). Maintenance of secrecy in elections
- f). Personation
- g). Bribery
- h). Undue influence
- i). Use of force or violence during election period
- j). Use of national security organs
- k). Offences relating to elections
- l). Use of public resources
- m). Participation in election by public officers
- n). Unlawful expenditure
- o). Offences relating to the use of technology in elections
- p). Failure by employers to allow employees sufficient time to go and vote
- q). Breach of the electoral code of conduct.

The Act provides for stiff penalties for anybody who is found guilty of any of the above offences. The penalties include fines, being prevented from voting in the subsequent elections and imprisonment. For example, every political party or nominated candidate who participates in an election without subscribing to the Electoral Code of Conduct commits an offence, which attracts a penalty of a fine not exceeding one million or a term not exceeding six years or both.

Violation of the code of conduct on the other hand attracts a general penalty of a fine of up to one million or imprisonment of up to three years or to both fine and imprisonment.

3.4 *The Independent Electoral and Boundaries Commission Act*

The Independent Electoral and Boundaries Commission Act sets out the institutional and legal framework for the operations of the IEBC. The IEBC is responsible for conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament.

The IEBC Act provides the following functions of the IEBC pertinent to the role and functions of agents:

- The regulation of the process by which parties nominate candidates for elections
- The registration of candidates for elections
- The facilitation of the observation, monitoring and evaluation of elections;
- The development and enforcement of a code of conduct for candidates and parties contesting elections

3.5 *The Political Parties Act*

The Political Parties Act provides the institutional, legal and regulatory framework for registration, regulation and funding of political parties in Kenya. The Political Parties Act also provides for the establishment of the Political Parties Liaison Committee (PPLC) at the national and county level. The PPLC is a useful organ before, during and after the election since it provides a framework for liaison between the Registrar of Political Parties (RPP), IEBC and political parties.

This liaison is critical for promoting a culture of dialogue and fostering trust and thus, free and fair elections. The Code of Conduct also addresses the issue of dialogue for Political Parties in detail. As an agent, it is important that you stay informed of all relevant communication within either the National PPLC, or the County PPLC in your County, as these relate to the promotion of free and fair elections and enhancing the integrity of the electoral process.

The Act also creates the office of the Registrar of Political Parties as an independent state office. The office is headed by the Registrar of Political Parties. ORPP is responsible for registration and regulation of political parties in the country. It also confirms whether one is not a member of a political party for purposes of participating in an election as an independent candidate. The Registrar has power to deregister any party that contravenes the Constitution and the Code of Conduct for Political Parties. Other functions of the Registrar include:

- Registering political parties
- Administering the Political Parties Fund, which can be used by a party to cover its election expenses
- Verifying and publicly making available the list of all members of political parties
- Ensuring that no one is a member of more than one party at any one time
- Investigating complaints under the Act.

Every registered political party is expected to subscribe to a Political Parties Code of Conduct. The Political Parties Code of Conduct seeks to regulate the behaviour of members and office holders of political parties, aspiring candidates, candidates and their supporters. The Code is applicable at all times, not just during the election period. It seeks to promote good governance and eradicate malpractices.

The aim of the Code of Conduct is to ensure that political competition is peaceful, compliant with the law and based on issues rather than ethnic and other parochial differences. Towards this end the Code commits parties, candidates and their supporters to:

- Respect the Constitution
- Respect the right of all persons to participate in the political process
- Respect and promote gender equity, equality, human rights and fundamental freedoms
- Be tolerant of divergent or alternative views
- Avoid violence and bribery

The ORPP has appointed monitors in all the forty seven counties and also in all the 290 constituencies. These officers monitor the activities of political parties to ensure that they adhere to the requirements of the Political Parties Act and the Constitution. Agents should be aware of the presence of the monitors in their areas of operations.

3.6 The National Cohesion and Integration Act

The National Cohesion and Integration Act provides for the establishment of the National Cohesion and Integration Commission (NCIC). The Commission was set up to deal with the problem of tribalism, which was identified as one of the root causes of violence following the 2007 elections.

In the discharge of its functions, the NCIC is under a duty to ensure that the actions of all citizens promote national cohesion and do not sow seeds of hatred. This is particularly important during political campaigns. Parties, candidates and their supporters are also under a duty to ensure that they do not engage in actions and speech that amount to hate speech. Hate speech refers to words or actions which incite hatred, disaffection or prejudice based on ethnicity, race, colour or sex.

NCIC has appointed monitors throughout the country who follow up to ensure that political campaigns do not degenerate into hate speech and that those who do as are reported so that they can be prosecuted and if found guilty, punished.

3.7 Leadership and Integrity Act, 2012

Chapter Six of the Constitution outlines the basic principles of leadership and integrity for all state officers in their public and private lives. State officers are to conduct themselves in a manner that:

- Demonstrates respect for the people
- Brings honour to the nation and dignity to the office that they serve; and
- Promotes public confidence in the integrity of the office that they serve

The Leadership and Integrity Act seeks to enforce the provisions of Chapter Six of the Constitution. It requires every candidate contesting an election to complete a Self Declaration Form and submit it to the Independent Electoral and Boundaries Commission (IEBC).

4

THE ELECTORAL PROCESS AND THE ROLE OF AGENTS

4.1 Introduction

This chapter discusses the relevant issues and tasks for agents at all the stages of the electoral process to enable them be prepared for the tasks they will be required to perform on behalf of their parties and/or candidates. The discussion recognises that elections are not an event that happens on election day. It is a process that comprises several interlinked steps, each building onto the other. Agents have to focus on the entire electoral cycle. This chapter highlights the key issues in the electoral circle, focussing on pre-election period, election day and post-election activities.

4.2 Pre-Election Period

4.2.1. Overview of the Pre-election Period and Processes

The pre-election period can be broadly divided into 6 key stages; review and reform of the legal framework for elections, planning and preparations for the elections, training and education of electoral personnel and the electorate, voter registration, party primaries and candidate nominations, and the election campaigns.

(a) Review of legal framework

During this stage, amendments or even total overhaul to the Constitution is carried out and new legislation relating to the conduct of elections is often passed. Regulations to provide detailed procedures and forms for the conduct of elections are also normally passed. The Elections Act require that these regulations be approved by the National Assembly at least four months to the date of the next general elections to which they are required to apply. The legal framework governing the conduct of elections is discussed in Chapter Three. In the run up to the 2017 elections, a review of the legal framework was undertaken resulting in amendments to several laws, enactment of an Election Offences Act and revisions of regulations.

Being aware of, and following the reform of the legal framework is important for agents, if they have been appointed at this stage. The legal framework determines the rules and procedures to be followed in conducting the elections.

(b) Planning and Preparation

This stage involves the IEBC making detailed plans and budgets to govern the electoral process. In January 2016, IEBC launched its Election Operations Plan for 2015-2017 based on an existing Strategic Plan. The preparation of the Plan was necessary since elections is a complex exercise involving several activities. Through the Elections Operational Plan, IEBC identifies the key activities, sequences them, determines the resource needs, stakeholders and risks.

A key aspect of planning is mapping of polling stations and tallying centers. Based on this mapping, the IEBC gazettes the polling stations to be used for voting purposes. Mapping enables a decision to be made on appropriateness, accessibility and suitability of the sites.

Procurement of key equipment and election materials is also undertaken. The Elections Act requires that procurement of technology required for elections be completed and that technology be in place one hundred and twenty days before an elections. In addition to technology procurement, there are numerous equipment and materials that are procured for an election. These are categorised into strategic and non-strategic materials.

Procurement is required to be undertaken in accordance with the Public Procurement and Assets Disposal Act, 2015. In procuring materials, attention should be paid to adhering to the law, value for money, timely delivery, avoiding shortfalls and ensuring that the process is transparent and not shrouded with allegations of impropriety. Once the required materials are procured, the IEBC has to address issues of storage and transportation.

Electoral personnel that will be in charge of the elections are also recruited and trained. Agents have a role in this process, which is to observe whether sufficient materials and personnel have been procured, procurement procedures followed, and adequate resources set aside for the elections. The law requires that the names of personnel being recruited as returning officers, presiding officers and clerks should be sent to political parties at least 14 days before their appointment. This gives parties an opportunity to object to any name they are uncomfortable with on grounds of partiality.

(c) Voter Education

This stage involves creating awareness amongst the populace on the electoral process, including the electoral system, procedures for voting, other relevant laws, and the rights and duties of the holders of various elected offices. The IEBC also typically encourages citizens to participate in the electoral processes.

The Elections (Voter Education) Regulations, 2017 lists the following roles of IEBC in voter education:

- the formulation and review of policy and strategies for voter education;
- the development and review of the voter education curriculum;
- the accreditation and maintenance of a register of voter education providers;
- the carrying out of continuous voter education programmes;
- the development and dissemination of voter education materials;
- the collaboration with stakeholders and partners in voter education; and
- the monitoring and evaluating the voter education programmes.

From the above, it is clear that delivering voter education is a responsibility of IEBC. It requires to collaborate with other organisations and individuals in delivering on this mandate. Agents have a responsibility to observe the levels of voter education within their area of responsibility, whether carried out by IEBC or other actors.

(d) Registration of Voters

Voter registration is key to a free and fair election. Only those who have been registered to vote and whose names appear on the Register of Voters can exercise the right to vote. Consequently, the process of applying for and being registered to vote and compilation of the Register is a key issue that agents should pay attention to.

Registration of voters is a continuous process. It takes place at the IEBC constituency offices. In addition, regularly, IEBC undertakes Mass Voter Registration (MVR) drives to enhance the numbers of those registered to vote.

Registration of voters is one of the processes which is undertaken using technology. Biometric Voter Registration (BVR) devices are used in the process. All those who are eligible and apply to register have both their alphanumeric and biometric features captured. These are then included into a Register of voters.

The accuracy of the Register is an important contributor to credible elections. It is for this reason that the Elections Act has set several steps to ensure that the

Register is up to date and accurately captures information on those who are eligible to vote in the elections. Once people have applied to be registered to vote and the Commission has prepared a preliminary register of voters, the register is opened for public inspection. Inspection of the Register is expected to be at all times and also within ninety days from the date of notice of a general election, for a period of thirty days or such period as the Commission may consider necessary.

Secondly, the Commission also enables eligible voters to verify their details in the Register. This is to happen at the polling station level, at least sixty days to an election for a period of thirty days. Verification offers opportunity for confirmation whether one is on the register and if their details are accurately captured. It happens at the polling station so that one can also confirm their biometric features.

There is an additional requirement for regular revision and update of the register. At least six months to a general election, the Commission may commission an independent audit of the Register of Voters to be undertaken. For the 2017 elections, KPMG was contracted to carry this audit. It made recommendations for enhancing the accuracy of the Register, including deletion of deceased voters, correcting particulars in the Register and enhancing the integrity of both the registration process and the Register of Voters.

Since the Register of Voters determines who will vote in the elections, its accuracy is very important. Every political party and candidate has the right to observe the process of voter registration and revision of Register of Voters. As they do so, political parties and their agents should look out for how the process is being carried out, to determine whether the IEBC is conducting the process efficiently, fairly and transparently. In addition, they should look at how citizens and parties are conducting themselves to ensure there are no irregularities related to registration taking place.

During the pre-election period, as an election agent, it is your role to verify that the registration process is carried out effectively and that the Register is accurate. In order to do this, the agent should confirm that:

- Any person who meets the minimum requirements of age (18 years) and Kenyan citizenship is allowed to register
- Every person intending to be registered presents their identification document either a passport or a national identification card, which will be the same document they will be required to present on Election Day in order to cast their vote

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- The names of persons confirmed to be dead are removed from the register
 - The names of those who have registered twice are removed from the register
 - As far as possible, spelling and other clerical errors are corrected
 - Applications for new registration are carried out in the correct manner
 - The process of transfer of voters complies with the law

(e) Party and IEBC Nominations

Nomination is a two-stage process if one is a party candidate. The first stage is internal to parties and is normally referred to as party primaries. It is undertaken by political parties based on their Party Nomination rules, the Elections Act and the Elections (Party Primaries and Party Lists) Regulations. The Regulations allow an aspiring candidate for a party primary or applicant for a party list to appoint an agent to represent their interests during these internal party processes.

Those who are successful during the party primaries will be required to submit their nomination papers to IEBC on the dates set aside for those nominations. Before then, the names of the candidates will be required to have been uploaded onto the Candidate Registration Management System (CRMS) by the political parties nominating candidates and independent candidates themselves.

Prospective candidates are allowed by law to attend the proceedings during the delivery of nomination papers to the IEBC. The law also allows for a maximum of Two (2) persons to attend the proceedings at any one time on behalf of any one candidate. Again, at this stage, the Election Agent should be concerned with observing any nomination paper delivered in their presence.

Election Agents should look out for the following issues at this stage:

- The particulars of the candidate and their supporters contained in the nomination paper are as required by law and stipulated in the Elections Regulations.
- The candidate is qualified by law to be nominated to the elective post for which they are seeking
- The numbers of supporters and/or proposers and seconder of the candidate required for that specific elective post and that they are actually registered voters
- If an independent candidate, the candidate is not on the list of members of a political party
- Any disputes relating to the candidate's nomination has been disposed of by the relevant dispute resolution body

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- The registration officer confirms that the candidate's name is actually listed in the party membership list submitted by their political party to the IEBC
 - All accepted nomination papers are presented within the prescribed time
 - All nomination papers are accompanied by the prescribed nomination fee
 - No nominated candidate stands nominated as a candidate in another electoral area
 - No nominated candidate is disqualified under any other written law

(f) Campaigns

The Elections Act empowers the IEBC to gazette the campaign period, being the period when official campaigns take place. Although parties popularise their party and policies throughout the electoral cycle, there is importance of the campaign period. Parties and Candidates are required to undertake their campaigns in a manner that is respectful and adheres to the law. This is why they sign the Electoral Code of Conduct so that they are held accountable. In addition, they are required to provide a campaign schedule which helps to ensure that there is no clash between supporters of rival candidates or parties.

For the 2017 General Elections, the IEBC has provided through a gazette notice for the campaign period which starts from 1st June 2017 and ends forty-eight hours to the general election day. In addition campaigns are required to take place during the day from 7.00 am to 6.00 pm during the campaign period.

Agents are expected to be alert during the campaign period to ensure that neither their candidates nor rival candidates commit election offences. Several organisations have monitors on the ground during the campaign period who are on the lookout so as to enhance adherence to the law during campaigns.

4.3. Election Day Activities

Election day or 'Polling day' constitutes the most critical stage in the electoral process. It captures the stage where the agent's work is most critical as a representative of their party or candidate. The activities of Election Day include:

- The actual voting process
- The counting of votes
- The tallying of votes ;
- The transmission of results; and
- The official announcement and declaration of the results

4.3.1. Layout and Personnel

4.3.1.1. Polling Station

For the purposes of polling, IEBC is allowed by law to use any room or rooms in any public schools, or any other facilities belonging to public bodies, as polling stations. Or, in the case where public facilities are unavailable, inadequate or unsuitable, the IEBC may use a private facility as a polling station, with prior agreement from the owner. Although there will be numerous polling stations throughout the country, there will only be one tallying centre per constituency, one tallying centre per county, and one tallying centre at the national level.

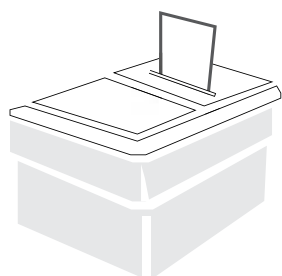
For the sake of maintaining order at the polling station, protecting the secrecy of the vote, and monitoring the electoral process, the number of people allowed in a polling station at any one time must be limited. Only the following persons will be allowed in a polling station:

- Election Officials
 - a. The Presiding Officer
 - b. The Deputy Presiding Officer
 - c. Polling Clerks
 - d. Interpreters
 - e. Security Officers on duty
- The Voters (in small numbers to avoid congesting the polling station)
- Accredited Election Observers
- Accredited Media
- Persons accompanying Assisted Voters
- Candidates
- Duly Appointed Agents
- Members and staff of the Electoral Commission

In the polling station there will be; a presiding and deputy presiding officer, 7 polling clerks, as well as six ballot boxes, for the purposes of electing candidates to the six elective posts of President, Governor, Senator, Member of the National Assembly, Woman Member of the National Assembly, Member of the County Assembly. Each of these ballot box lid will have a different colour as indicated below.

Ballot paper	Description of the ballot paper	Colour of the ballot box lid
Presidential	White	
Senator	Yellow	
Woman Member of the National Assembly	Purple	
National Assembly	Green	
Governor	Blue	
Member of the County Assembly	Beige	

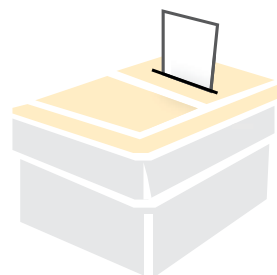
Ballot Boxes



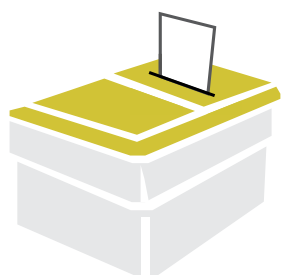
Presidential



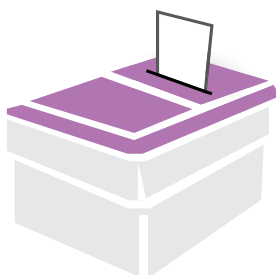
National Assembly



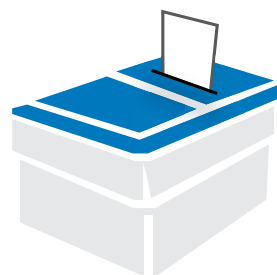
Member of the County Assembly



Senator



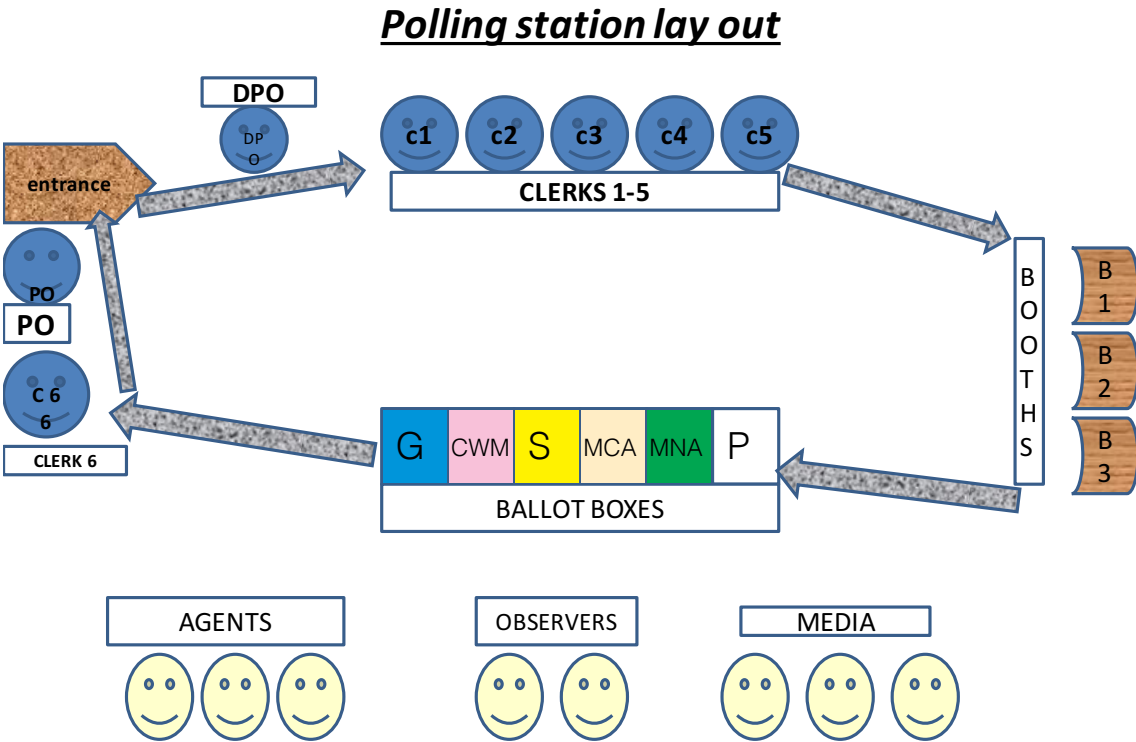
Woman Member of the National Assembly



Governor

In addition, there will be approximately 3 polling booths for the purpose of casting ballots in secret.

Sample layout of a polling station



4.3.1.2. Authorised Personnel in the Polling Station

(a) Returning Officer and Deputy Returning Officer

The Returning Officer is responsible for the conduct of free and fair election in the constituency or county for which they are assigned. The returning officers are at two levels, these include:

- **County Returning Officer** - who is responsible for receiving; final tally and declaration of winner for the election of:
 - i) County governor
 - ii) Senator, and
 - iii) Woman Member of the National Assembly
- **Constituency Returning Officer** – their functions include:
 - i) Ensuring the deputy returning officer and presiding officers serving under them in their constituency conduct elections in a free and fair manner
 - ii) Receiving polling station election results from Presiding Officers
 - iii) Conducting the final tally of votes and declaring the winner for the election of the Member of the National Assembly and Member of the County Assembly
 - iv) Receiving and collate and publicly announce the results of President, Seante, County women members of National Assembly from the Polling station in the Constituency
 - v) Scans and uploads the results forms to the elections public portal maintained by the Commission

If necessary, a Returning Officer may have a Deputy Returning Officer appointed by the IEBC to assist them in the carrying out of their duties.

(b) The Presiding Officer and Deputy Presiding Officer

This is the officer, appointed at each polling station by the IEBC to “preside” or be the overall authority in charge at a polling station. The officer has the responsibility of ensuring that the voting procedure is carried out in an orderly, transparent and efficient manner at their polling station. The polling station, which forms the area of jurisdiction of the Presiding officer, includes a radius of 400 meters around the polling station.

The Presiding Officer’s duties include:

- Presiding at their assigned polling station
- Providing security for election materials and personnel

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- Regulating the flow of voters and other authorized personnel within the polling station.
 - Counting and tallying of votes
 - Declaration and posting of the election results for their polling station at the front door of the polling station

The Deputy Presiding Officer is the assistant to the Presiding officer and helps him/her to ensure that the above tasks are performed.

(c) Polling/Counting Clerks

Polling/Counting Clerks are election officials assigned to every polling station to assist the Presiding Officer to conduct elections at their specific polling station.

The Clerks, located at different tables, perform distinct duties as follows:

i. Queuing Clerks

- Guiding voters to their respective polling stations within the center, giving priority to those with special needs(PWDs, expectant mothers, nursing mothers, elderly and the sick.

ii. Clerk 1

- Welcomes the voter
- Inspect voters for signs to confirm they have not voted at any polling station prior
- Confirm that facial features in ID or valid passport corresponds to owner's face
- Invite voter to place their thumbs on KIEMS and check their biometrics
- Call validate the voter

iii. Clerk 2

- Receives voters ID or passport from Clerk 1
- Checks details of voter whose details are missing in KIEMS from complementary system
- Cancel voters name
- Call out name of voter loudly

iv. Clerk 3

- Stamp face of counterfoil and back of ballot papers with IEBC stamp
- Issue Presidential and Member of National Assembly ballot paper to voters

v. Clerk 4

- Stamp face of counterfoil and back of ballot papers with IEBC stamp
- Issue Member of County Assembly and Senator ballot paper to voters

vi. Clerk 5

- Stamp face of counterfoil and back of ballot papers with IEBC stamp
- Issue County Woman Member of the National Assembly and Governor ballot paper to voters
- Hand over ID/passport to voter
- Guide voter to voting booth

vii. Clerk 6

- Mark left small finger with indelible marker (or middle index finger if voter has coloured nails)
- Mark thumb of person assisting voter with indelible ink (or between index finger and thumb if has coloured nails)
- Guide voter out of polling station
- Assist deputy presiding officer to guide voters within room

(d) Candidates/Running Mates

The law allows for candidates and/or their running mates to attend the proceedings at any polling station in the country on polling day if they wish.

Candidates are allowed to go round and not to overstay at any polling station.

(e) Security/Police Officers

On Election Day there will be police officers at every polling station. These police officers will form part of the security personnel at the disposal of, and responsible to the IEBC on that day. The police officers, under the authority of the IEBC, have the primary duty of maintaining peace and order at the polling station and ensuring that every voter's right to an election free of intimidation, violence and bribery is protected. Their duty also includes protection of the election staff, the polling process, the counting of the votes, and the safe transportation of election materials to the Constituency and County Tallying Centres.

(f) Voters

Voters will be present at the polling station, but must leave as soon as they have cast their vote.

(g) Accredited Media Persons

They are allowed into polling stations but are expected not to overstay at one polling station. They will be going round various polling stations

(h) Accredited observers

Like agents they will be allowed to stay at a polling station. They are also allowed to go round various polling stations.

4.3.1.3 Voting Materials

Every Presiding Officer will be provided with the following materials by the IEBC in order to effectively conduct elections at their polling station:

- An electronic Poll Book/KIEMS containing the names of the voters entitled to vote at that particular polling station
- Printed Register of Voters containing the names of the voters entitled to vote at that particular polling station
- Transparent and colour coded ballot boxes that identify the respective elective positions and identifying serial numbers
- Sufficient ballot papers colour coded in similar colours that correspond with those of the respective ballot boxes for each elective position
- Stationery materials to enable voters to mark their ballot papers
- Instruments for stamping the official mark of the IEBC on ballot papers
- Indelible pens for marking voters fingers, indicating they have voted
- IEBC official Seals
- A sufficient number of enclosed polling booths in which voters can mark their votes in privacy
- Statutory forms refer to the annex page.
 - i. Form 32(Oath of Secrecy by Persons assisting a Voter)
 - ii. Form 32 A(Voters identification and verification form)
 - iii. Form 33 (Candidates' Tally Sheet)

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- iv. Form 34A(Presidential results)
 - v. Form 35A(Member of National Assembly Results)
 - vi. Form 36A (Member of County Assembly results)
 - vii. Form 37 A(Governor Results)
 - viii. Form 38A (Senator results)
 - ix. Form 39A(County Woman Member of the National Assembly)
- Polling station Diary
 - Any other relevant materials

4.3.2 Voting Process

4.3.2.1. *Opening of the polling station*

All polling stations are obligated by law to commence the voting process at 6 o'clock in the morning and to end at 5 o'clock in the afternoon. Despite this, any voter who is still in the queue at 5 o'clock on polling day will still be allowed to cast their vote.

Election Agents should arrive at the polling station an hour earlier than the official opening time (5am) to ensure the effective carrying out of their pre-opening duties. Prior to carrying out their duties on Election Day, Election Agents must officially:

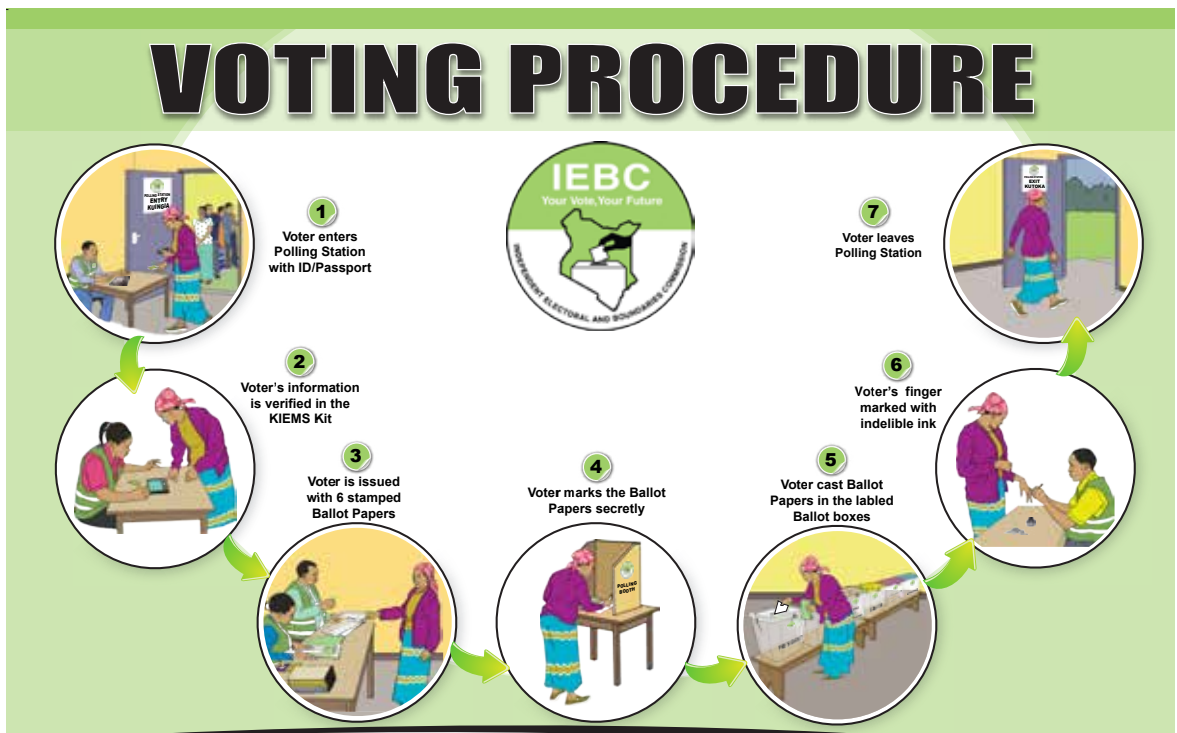
- Obtain their appointment letter and identification badge which are required for access to the polling station
- Obtain training via their party/candidate
- Obtain and read a copy of this Manual
- Obtain and understand their observation checklist
- Obtain instructions from their party/candidate as to how and when they will communicate/report back during election day
- Ensure that they have suitable means of communication, such as a mobile phone with sufficient credit
- Ensure that they have the contact details of all those with whom they may need to communicate
- Take an oath of secrecy

The Presiding Officer will:

- Verify accreditation of agents and observers
- Open the Polling station at exactly 6.00 a.m., whether or not agents are present
- Show the ballot boxes to all those present at the station, so that agents and observers can ascertain for themselves that they are empty
- Close the ballot boxes with the official seals of the IEBC and allow each election agent to record the serial numbers of the security seals
- Place the ballot boxes in an area in the polling station that will allow them to be in full view of him or herself, the deputy presiding officer and all election agents

In addition, before polling commences, the Presiding Officer is obligated to allow election agents to inspect the ballot papers provided for use at that polling station and to note their respective serial numbers.

4.3.3. Voting Procedure



- Once the voters enter the polling centre, they will meet a queuing clerk whose duties includes ensuring orderly queues outside the polling station and directing voters to the respective polling station
- the voter's is checked for any signs that they have not voted at any polling station elsewhere
- Identify the voter using KIEMS and their national identify card or valid Kenyan passport
- A duly registered voter who is not identified using KIEMS will be identified alphanumerically using their ID or passport number. If their name pops up in KIEMS, they proceed to the next stage.

A duly registered voter who cannot be identified either biometrically or alphanumerically using KIEMS, will be identified using a complementary mechanism by confirming their registration details, in the printed Register of Voters. All voters who have been identified will have their names crossed out from the Register of Voters.

- If found on the printed register, FORM 32A, the voter identification form is filled and witnessed by agents. Details to be marked /crossed out in the register and presiding officer makes a note in the Polling station Diary
- Voter is issued with ballot papers and guided to the polling booth to mark. Each clerk issuing ballot papers will detach it from the booklet, stamp at the back and on the face of the counterfoil with the official IEBC mark.
- The voter is given back their ID or passport
- The voter will proceed to the ballot booth and mark their vote on each of the ballot papers. The voter then folds up the ballot papers to conceal their vote, and exits the enclosed polling booth.
- The voter inserts each ballot paper in the respective ballot box.
- The voter is then marked with the indelible marker
- The voter is guided out of the polling station

During the polling process several scenarios could arise.

(a) Assisted Voters

Voters who are unable to vote on their own either because they are disabled or any other cause are allowed to have someone assist them. There are two categories of people who can assist them.

First, they are allowed to come with a voter assistant. The Voter assistant is required to:

- Be an adult citizen
- Sign an oath of secrecy before helping the voter
- Only assist one voter during the election.

Once the voter who requires assistance arrives at the polling station, the presiding officer is to verify whether the voter actually requires assistance. The person who will assist needs to take an Oath of Secrecy before the presiding officer at the polling station. They will then be allowed to accompany the voter to the booth and help mark the ballot papers in accordance with the voter's instructions. No agent, observer or election official will observe this process.

In cases where a voter requiring assistance is not accompanied by a person who is qualified to assist them, they shall be assisted by the presiding officer in the presence of agents. Thereafter both the voter assistant and the voter who has assisted them will have their fingers marked. The voter assistant will be marked with indelible marker on the thumb nail or between the thumb and index finger of the left hand; while the assisted voter is marked on the nail of the small finger or between the index finger and middle finger of the left hand in case the small finger nail has cutex or henna.

NOTE: No agent can assist a voter to vote under any circumstance.

(b) Spoiling a ballot paper

It is possible that while recording their vote, a voter may do so incorrectly. This will lead to the ballot paper being “spoilt.” In such a case, the voter must present this spoilt ballot paper to the Presiding Officer, who will give them another ballot paper in place of the one that was originally delivered. The spoilt ballot paper shall be stamped spoilt and placed in an envelope marked “SPOILT BALLOTS”. The counterfoil of the spoilt ballot should not be detached. It should be left intact. It is important to note that no voter will be issued a replacement of a ballot paper more than twice.

(c) Adjournment of elections

In consultation with the Returning Officer, the Presiding Officer may also adjourn or postpone elections for specified reasons. The elections can be postponed or adjourned if proceedings at the polling station are interrupted by:

- Riot
- Open violence
- Flood, or any other natural catastrophe
- Administrative difficulty

If this happens, the Presiding Officer must explain the circumstances to the voters and the candidates. Party agents have the right to be informed in sufficient time. The presiding officer will be required to make a record in the Polling Station Diary.

If the voting is postponed, you, as an election agent, should be present as the ballot boxes are sealed and note the serial number of the seal.

During the voting process, Election Agents should monitor that:

- No voter applies for a ballot paper in the name of another person or a fictitious person
- No voter is allowed to vote twice whether in the same name or a different name
- No person who is not eligible to vote in that particular election or station is allowed to vote
- No person is transporting voters into the polling station to go and vote
- The manner in which the KIEMS is working in identification of voters
- No person falsely presents themselves as an election official
- No candidate or election agent promises to reward a voter for refraining from voting
- No candidate or agent pays or promises to pay wholly or in part for any voter's expenses
- No person uses or threatens to use any form of force or violence to compel the person to vote or not vote for a particular candidate or a particular political party
- No person induces or influences any other person to vote in an election knowing that they are not entitled to vote
- No person compels any voter who has already voted to inform that person of the candidate or political party for whom they have voted or to display the ballot paper on which the voter has marked his or her vote

4.3.4 Closing of the polling station

The Presiding Officer is required by law to officially close the polling station at 5.00 p.m. However, voters who are still in the queue at 5.00 p.m. will still be allowed to cast their vote. At five pm the presiding officer will instruct the security officer to stand at the end of the line so that nobody joins the queues after 5.00 p.m.

Once all voters in the queue have voted, the Presiding Officer shall seal the aperture of all ballot boxes and affix the seal of the IEBC to prevent any further ballot papers from being added to the ballot boxes..

Immediately following the sealing of the aperture of the ballot boxes, the Presiding Officer shall make a written statement in the Polling Station Diary with the following details:

- The number of ballot papers issued to him/her
- The number of ballot papers (excluding spoilt ballot papers) issued to voters
- The number of spoilt ballot papers
- The number of unused ballot papers.

The Presiding Officer must then, in the presence of all election agents and other accredited observers, enclose in separate tamper proof envelopes, the following documents:

- Any spoilt ballot papers
- A marked copy of the Register of voters for his/her polling station
- The counterfoils of the used and spoilt ballot papers
- The statement included in the Polling Station Diary

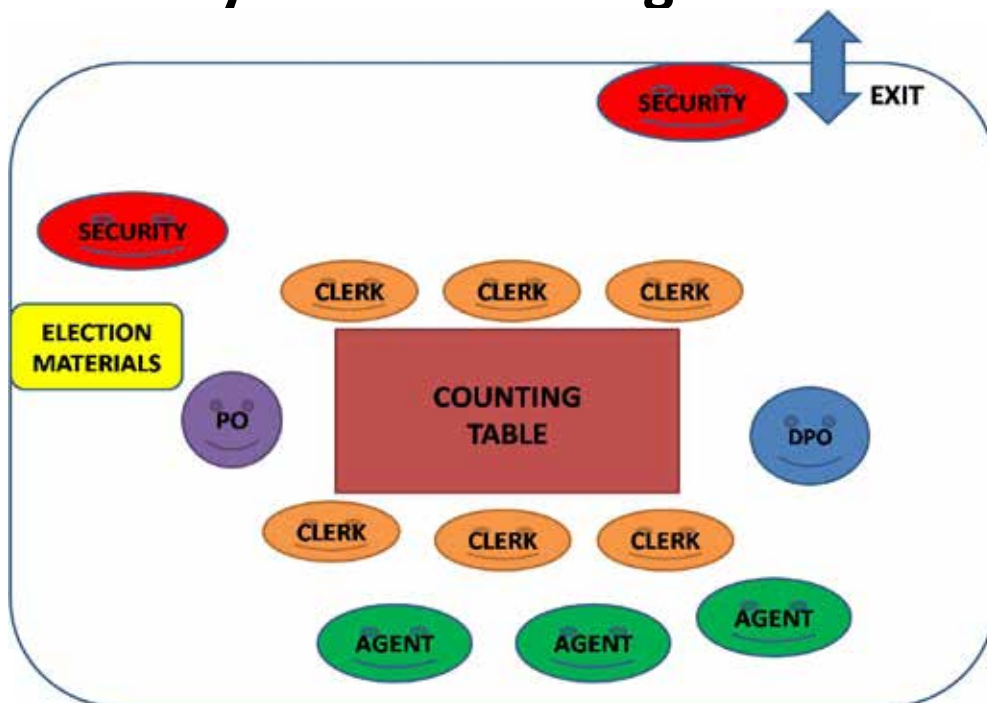
4.3.5 Counting Process

Once the voting process is complete, the official counting of the votes at the polling station can begin. It is important to note that according to the law, no election agent will be permitted to attend the counting of the votes if the candidate or political party did not submit their name appointing them as counting agent, to the Presiding Officer at least 48 hours before the close of the poll.

- The Presiding Officer proceeds to rearrange the venue for the counting of votes, and assign duties to the clerks for the counting procedure
- Presiding officer briefs the agents on what constitutes valid, rejected and disputed votes as per law
- The Presiding Officer allows election agents and accredited observers to confirm that the ballot boxes have not been tampered with and that their seals are still intact
- The Presiding Officer and polling clerks, in the presence of election agents and accredited observers, then proceed to count the votes for that polling station. The counting for the respective elective positions is carried out in the following order:

- (a) President
- (b) Member of the National Assembly
- (c) Member of the County Assembly
- (d) Senator
- (e) County Woman Member to the National Assembly
- (f) Governor

Layout of Counting Room



Counting Procedure:

- The security seals are recorded and then broken, one elective position at a time
- The ballot boxes at the polling station are emptied one at a time in the area designated for counting
- The ballot papers are then unfolded according to their respective elective positions, and placed facing down. No attempt is made to look at the ballot papers at this time
- Each ballot paper is inspected to determine whether or not it is valid
- Every ballot paper is displayed and announced to determine the candidate in whose favour it has been cast
- The ballot paper is placed at the spot designated for each candidate
- The votes for each candidate are counted
- Mark every vote counted on the Tallying sheet(Form 33),
- Tally the bundles for each candidate
- As part of the process, the presiding officer establishes the rejected ballots, and those awarded to a particular candidate but disputed and stray ballots
- Stray ballots, rejected ballots and disputed votes are each kept in separate envelopes and recorded

-
- Disputed ballots are finally determined by the presiding officer and awarded but kept in a separate envelope and then put in the ballot box
 - The results are recorded in the relevant forms
 - The results are announced
 - The results are transmitted (electronically for the presidential elections, and the PO will transmit results for other elective positions as provided for)
 - A copy of the results is posted at the polling station

The Presiding Officer and the election agents present are required to sign the declaration of election results form known as Form 34 A, 35A, 36A, 37A, 38A, and 39A . These forms are carbonated to eradicate to avoid errors during filing the copies of the forms.

The declaration forms also declare that the tabulated results are accurate. While it is not mandatory for election agents to sign the declaration of results, it is good practice to do so. Should an agent not agree with the results or feel that they do not want to sign the form, they are required to record on the form, the reasons for their refusal to sign. The Presiding Officer must then provide each election agent with a copy of the declaration of the results and affix one copy at the public entrance to the polling station.

Once this procedure is complete, the Presiding Officer must seal in separate tamper proof envelopes election materials as follows:

- Marked copy of the Register of Voters
- Spoilt Ballot papers
- Unused ballot papers
- Counter foils of used ballot papers
- Stray ballots, which are considered as rejected but packed separately
- The rejected ballot papers
- The disputed ballot votes
- The “rejection objected to” ballot papers
- Statement of rejected ballot forms
- Voter identification forms
- Oaths of Secrecy Forms administered to voter assistants

The Presiding Officer must then demonstrate to election agents and other accredited observers present, that the ballot box used to carry the election results is empty before putting separate tamper proof envelopes inside the box, each envelope containing:

- Any spoilt ballot papers
- Unused ballot papers
- The counterfoils of the used ballot papers, and
- Stray ballot papers
- The rejected ballot papers
- The “rejection objected to” ballot papers
- Votes cast and counted for different candidates with respective form 33
- Original copies of forms 34A, 35A, 36A, 37A, 38 A and 39 A.

Once this process is complete, the Presiding Officer seals the ballot box with the official seal of the IEBC, records the ballot box seal serial numbers in the Polling Station Diary. The Presiding officer will also allow the agents to note and record the seals. and allows other Election Agents to affix their own seals should they wish to do so.

The Presiding Officer then delivers the following election materials to the Returning Officer

- The ballot boxes
- Forms 34A, 35A, 36A, 37A, 38A and 39 A in tamper proof envelopes
- Polling Station Diary (separate from sealed ballot box)
- Marked Register of Voters in tamper proof envelope
- Only filled form 32
- Only filled form 32A

(a) Types of Ballots During Counting

There are five types of ballot papers when counting:

1. ***A valid vote***, which is marked correctly and can be counted.

It is important to note that a voter is allowed to make the following marks to the ballot paper as a sign of their voting intention or preference for a particular candidate against the name and symbol of that candidate:

- A cross
- A tick
- A thumbprint
- Any other mark

2. ***A rejected ballot paper***, which cannot be counted. The Presiding Officer may reject any ballot paper which:

- It is not an official ballot paper, i.e., it bears a serial number which differs from those on the ballot papers in that polling station and the relevant counterfoil
- Is of a different size than the official IEBC ballot papers
- Is of a different colour than the official IEBC ballot papers
- Is printed on a different paper than the official IEBC ballot papers
- Displays candidates/instructions different from the official IEBC ballot papers
- Lacks an official stamp from the IEBC
- Lacks a serial number
- Is unmarked
- Has marks for more than one candidate
- Is a marked ballot paper that can identify the voter; and
- Does not clearly indicate the choice of the voter

Every rejected ballot shall be marked with the words “rejected” by the Presiding Officer.

3. ***Rejection objected to ballot***, which is one that is rejected by the Presiding Officer, but the agents have objected to the rejection. Every rejected ballot paper shall be marked with the word “rejected” by the Presiding Officer, and if an objection is made by a candidate or counting agent to the rejection, the Presiding Officer shall add the words “rejection objected to”. A rejected ballot shall not be counted with valid ballots.

4. ***A disputed ballot***, is one that the Presiding Officer considers valid but a candidate or an election agent questions. The Presiding officer is to make a decision on the validity of a disputed ballot paper and award it to a candidate which decision shall be final. The ballot will be taken into consideration for counting.

5. **A stray ballot**, is a ballot paper which has been cast in the wrong ballot. It will be treated as rejected for reasoning of having been cast in the wrong ballot box. It is not taken into account for purposes of counting purposes to determine the winner.

(b) Recount of votes

Following the counting process, it is the right of any election agent present to require the Presiding Officer to re-count the votes if they feel that the count was not carried out accurately. According to the law, the re-count of the vote for any elective position is only allowed to take place twice.

4.3.6 Transmission of Results

The Presiding officer shall ensure that all election results and logs are transmitted from the KIEMS electronically to the Tallying centres. The presiding officer is required to show the tabulated results to agents before they are transmitted. The results are to be transmitted in the following sequence:

- Presidential results
- National assembly results
- County assembly results
- Senate results
- County Woman Member to national assembly results
- County Governor results

4.4. Tallying and Announcement of Results

4.4.1 The Constituency Tallying Centre

The Returning Officer at the Constituency level is responsible for the verification of the election results for all polling stations within that constituency and for the tallying of these results. The Returning Officer will also be responsible for the final tally and declaration of winner for position of :

- Member of the National Assembly
- Member of County Assembly.

The returning officer will also collate and publicly announce the results from each polling station for position of:

- President
- Governor
- Senator
- Woman County Member of the National Assembly

In tallying the Returning officer will undertake the following steps

- i. Receives the Polling Station Diary and statutory results forms for each election per polling station
- ii. Signs the Polling Station Diary and allows chief agents to sign the same
- iii. Announces results from respective elections statutory forms in the order they are received from polling stations
- iv. Hands over soft statutory forms to tallying centre teams to key into soft copy of forms 34B, 35B, 36B, 38B and 39B.
- v. Gives chief agents to confirm tallied results and sign
- vi. Scans and uploads the results forms to the elections public portal, maintained by the Commission
- vii. Announces the results for Woman County Member to the National Assembly, Senator, Governor and President
- viii. Declares results of Member of the National Assembly and Member of the County Assembly and issues certificates to those validly elected
- ix. Seals in separate tamper proof envelope:
 - Forms 34A, 35A, 36A, 37A, 38A and 39A
 - Signed Forms 34B, 35B, 36B, 37B, 38B and 39 B
 - Copies of certificate of winner of Member of County Assembly and Member of National Assembly
- x. Ensures safe storage of ballot boxes and Poling Station Diary
- xi. Hands over results to Constituency Returning Officer and Chairperson of Commission

4.4.2. Tallying at the County level

The Constituency Returning Officer conducts final tally and declare results for the position of County Governor, Senator and County Women Member of the National Assembly. The process involves the following tasks:

- Returning officers hands over the collation results forms (37B,38B and 39B) and the respective collated results declaration forms (37A,38A and 39A) to the County Returning Officer
- The County Returning Officer results to clerks to enter into form 37C(Governor), 38C(Senator) and 39C (County Woman Member of the National Assembly
- After receiving all the results from the Constituencies and confirming the tallied results the County Returning Officer prints, signs and stamps results declaration forms 37C, 38C and 39C for the various elective positions
- The County Returning Officer asks the agents or candidates present to sign the forms

-
- The County Returning Officer then announces and declares the results in the following order
 1. Senator
 2. County Woman Member of the National Assembly
 3. County Governor
 - Issues certificates to the winners
 - Uploads results onto the elections document management system
 - Submits results to the Commission

4.4.3. Announcement

The IEBC is responsible for the final tally and announcement of the election results at the National Tallying Centre. It is here that the final tally for the Presidential election is conducted, and the final election results for all elective positions are announced. The Court of Appeal confirmed in a judgement issued in 2017 that the results of the Presidential election declared at the constituency level are final and cannot be altered at the National tallying centre during the tallying process.

Once the tallies have been finalised the Commission shall then declare the winner of the Presidential election and issue them with certificate.

4.5 Complaints Management During Polling and Counting

A registered voter, party, independent candidate's agent, a candidate or a registered political party participating in the election can file a complaint, that an offence defined in the election law or violation of a guideline, regulation or a code of conduct approved by the Commission has occurred.

- a) The complaint must be filed in writing and signed by the complainant,
- b) The complaint must be presented to the Presiding Officer during hours of polling or counting, or
- c) The complaint can be delivered to the Commission dispute resolution committee within 48 hours
- d) Disputes relating to election results will be handled in accordance with election petition procedures.

4.6 Post-Election Period

4.6.1. Swearing in of President

The President-elect will be sworn in on the first Tuesday following the fourteen days after the declaration of the results of the presidential election, or in the case of a filed election petition, the seventh day following the decision of the Supreme Court that the election is valid.

4.6.2 Petitions

Election disputes arising from the declaration of results are known as petitions and can only be determined by a court of law. Petitions will be filed as follows: -

- Presidential elections to the Supreme Court
- Senator, Governor, Women Members of the National Assembly and Members of the National Assembly to the High Court
- County Assembly to the Magistrate Courts.

An elections court can make the following determinations with respect to an election petition:

- Whether or not the candidate who was elected for the particular elective post in dispute was validly elected;
- A declaration of which candidate was validly elected; and
- An order on whether or not a fresh election needs to be held.

The Presidential election petition is to be finalised within 14 days, while the rest of the petitions are to be heard and determined within six months. The following rules provide for detailed procedures for the hearing of election petitions

- The Elections (Parliamentary and County Elections) Petition Rules, 2017
- The Supreme Court (Presidential Election Petition) Rules, 2017
- The Court of Appeal (Election Petition) Rules, 2017

The success or otherwise of a petition depends not just on the law but also the evidence presented in Court. Whether your candidate or party is the one filing the petition or responding to it, they will require information on what transpired throughout the electoral process. The quality of information collected by agents plays a crucial, role in the election petition process.

4.6.3. Evaluation of the Elections

This involves carrying out an assessment of the conduct of the just concluded elections so as to learn lessons and ensure the next elections do not suffer from any shortcomings that may have arisen. The Constitution gives the IEBC the power to carry out evaluations of previous elections. In addition to the IEBC, all stakeholders should also carry out evaluations at their level.

Election agents should sit down together with their candidates and parties and, based on their observation reports, draw lessons from the concluded elections. When IEBC calls stakeholders to evaluate the elections, as they did at the end of the 2013 elections, the lessons that agents share with their candidates and parties will be an important contribution to those evaluation sessions.

5

COMMUNICATION AND REPORTING

5.1. Introduction

This section discusses processes that parties, independent candidates and agents should put in place to enhance communication and reporting during the process of agents undertaking their assignment. This structure may build on existing party structures, or it may be an entirely new structure that is added in the campaign structure of the party or an ad hoc structure.

5.2. Communication

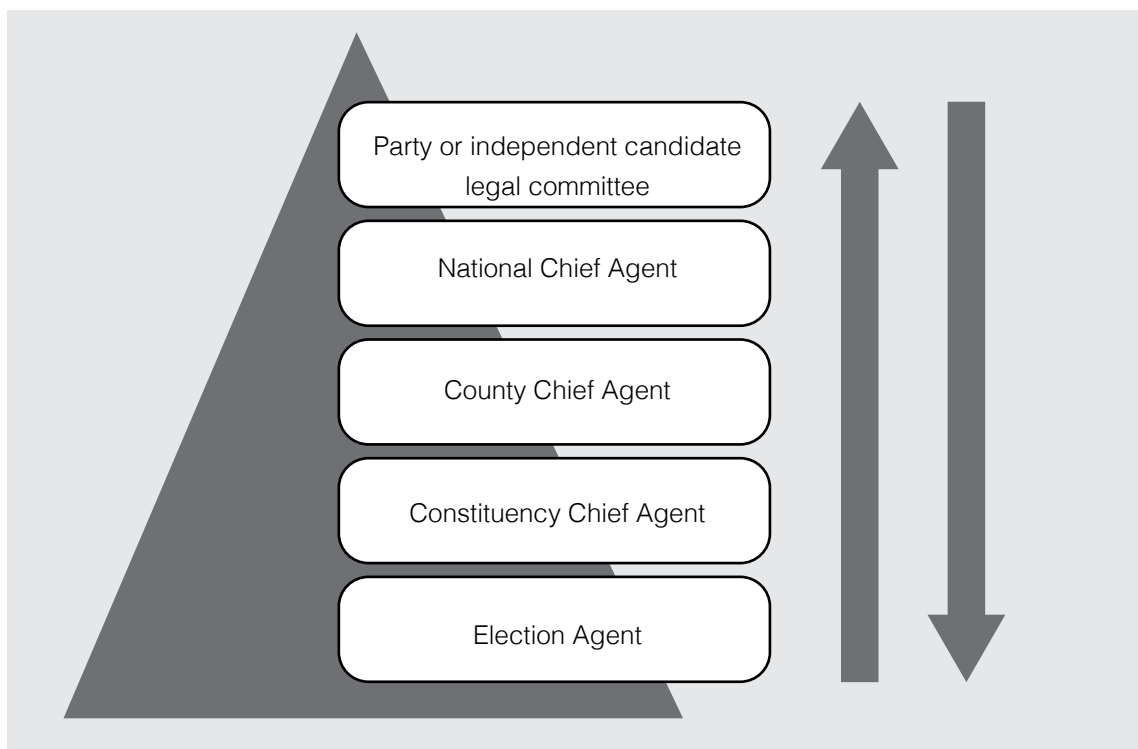
Political parties and independent candidates need a communication structure and a plan that is hierarchical and has a clear bottom – top and top -bottom communication process. For instance, the national chief agents will communicate clear instructions from the headquarters down to the county chief agents and to the polling agents as well as ensure that the polling agents have received the information. Equally, each polling agent will need to be able to communicate up the chain. This is especially important in case of critical incidents or other types of emergencies.

5.2.1. Communication Chain

The election agent is the eyes and the ears of the political party or independent candidate in the polling station. Her/his role is to observe, report and communicate any irregularities during voting and counting.

Every election agent has a responsibility to report to the constituency chief agent, or the county chief agent (depending on the choice the party makes) if there are issues that need to be reported upward the communication chain depending on what the party or the independent candidate has developed. Every county chief agent will report to the national chief agent who has the overall responsibility for managing the entire election day operations for all polling agents on behalf of their political party or independent candidate.

The relationship between the different agents in a political party or for an independent candidate can be illustrated as below. Also note that communication between the different agents is both bottom-up and top-down.



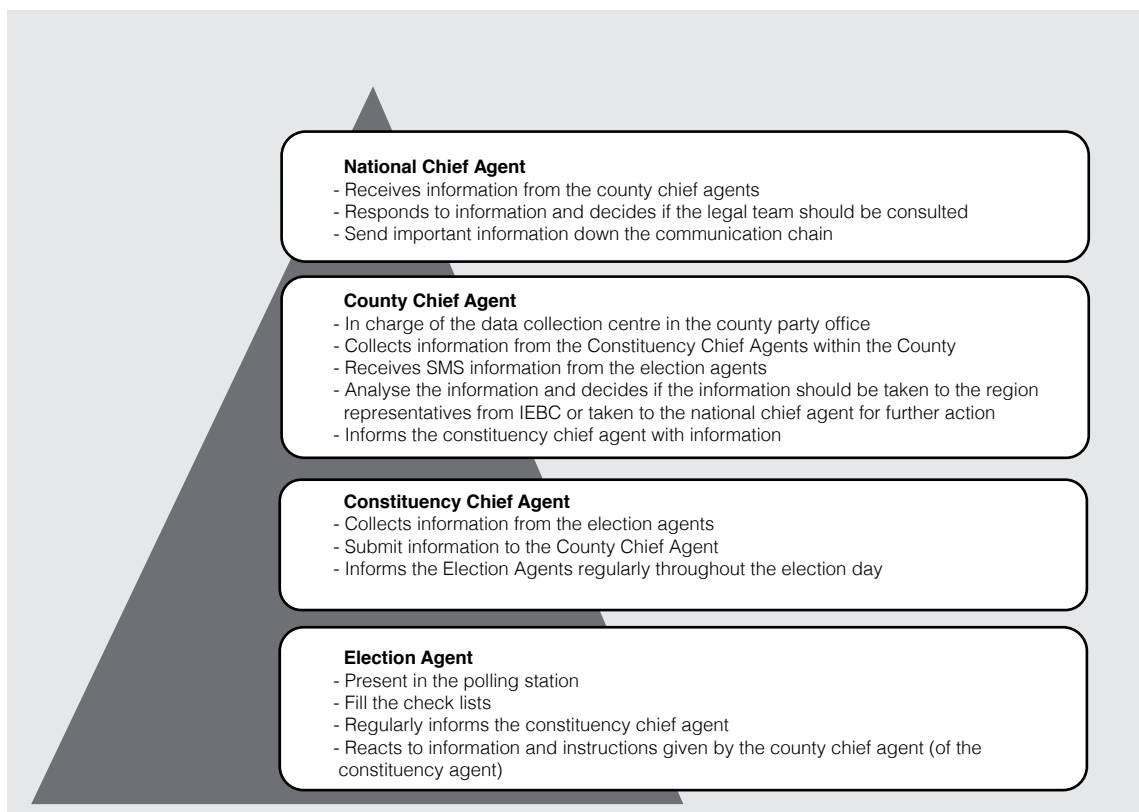
=5.2.2. *What to communicate?*

Information during the voting process is important for the party or the independent candidate to make decisions and raise immediate complaints about the process should the need arise.

It is important to have an agreed communication and reporting schedule from the election agent all the way to the national agent. Such a system could comprise of the following:

- Report on the opening of the polling station
- Report on the voting progress
- Report on turn-out
- Report on the closing
- Report on the start of the counting process
- Report on progress on the counting
- Report on signing the correct forms
- Report on Election results from the polling station transmitted according to rules to IEBC tallying centres

The reporting should be short and concise so that the county chief agent and the national chief agent can easily make an accurate and quick assessment and raise concerns where necessary.



5.2.3 Tools for Communication

1) Database of Contacts of Chief Agents and Key officials

Every election agent should be supplied with the contacts of the constituency chief agent, the county chief agent and the national chief agent. In addition, if the party desires can provide contacts of key campaign officials. In addition, the party or independent candidate should develop a central database with the contacts of all agents deployed, key officials of the campaign, key election officials, security personnel, media and other relevant contacts that they may require at short notice.

2) Checklist and Critical Incidents Form

A checklist (sample attached) will be filled out by every election agent on election day. Once the checklist or reports are filled they should be handed to the county or constituency chief agents who will transmit them to the national chief agent.

In addition, agents should fill in a critical incident form (sample attached) detailing any irregularities or problems at the polling stations. These may include;

- Violence in or near polling station
 - Intimidation or harassment of voters
 - Restricting voters' rights
 - Polling station closed during voting hours
 - Vote buying
 - Ballot box stuffing or multiple voting
 - Stealing or damaging ballot box or ballots
 - Chaos in the polling centre
 - Limiting the rights of observers
- **Problems during counting**

3) Mobile Phones

Although IEBC may not allow the use of mobile phones in the polling station, the political parties or independent candidates should devise a mechanism of sending and receiving updates in a fast and frequent manner. This could be a role either for the constituency chief agent or alternate agents who are able to use a mobile phone outside the polling station or for the principal agent who may have to leave the polling station to send and receive messages.

A political party or independent candidate may require polling agents to make three to four calls or send several short messaging service (SMS) to a designated supervisor (preferably the constituency or county chief agent) at pre-agreed times during election day. In order to send succinct information whether by call or SMS, the party may need to convert key parts of the checklist into a format that is suitable for this type of communication.

4) Back-Up Plan

All agents should be aware that technology might not always work. A back-up system should be developed to cater for this occurrence on election day. Back-up systems may include: -

- Having at least two mobile phone lines (preferably from different service providers)
- Assigning a roving agent who can collect information to and fro. This may be the role for the chief agent in some cases.

5.3. Data Storage and Processing

The party or candidate should file complaints with the election authorities for any incident or pattern of incidents that they determine warrant such complaints. Records by agents can also make the basis for challenging election results through a petition. Accurate records by agents are, therefore important.

The political party or the independent candidate should establish data collection centre at the national and county level. The data centre at the national level could be in the national head office where the national chief agent has his/her office. At the county level it could be in the county office where the county chief agent is located.

The county data centre

During the Election Day the County data centre will be the main place where the regular reports transmitted by the election agents via SMS. The data centre could hire data entry clerks to key in information from the election agents in a database or a simple spreadsheet.

Polling station	Opening of the polling station	Conduct of the voting (12.00noon)	Voter turnout (04.00 pm)	Closing of polling station (06.30am)
Polling station x	OK all material in place	Voting is going on well	High turnout	OK
Polling station Y	Open late	Going on well (Started at 07.00pm)	Low turn out	Closed (06.00am)
Polling station Z				
Etc.				
Etc.				
Etc.				

The county chief agent will regularly analyse these databases/spreadsheets and report critical information on a regular basis to the national chief agent.

A spreadsheet can look like this and the spreadsheet should be the same for all counties:

Such a form can give the county chief agent an indication on how the voting is being conducted in his/her county. If the county chief agent gets information that raises his/her concern, she/he can raise this issue with the Regional IEBC representative or inform the National Chief Agent for further action depending on the seriousness of the issue.

After the Election Day the data centre in the County should analyse and key in information from the check lists submitted by the polling agents and submit them to the National Chief Agent.

National Data Centre

A data centre should also be established at the national level. The political party or independent candidate could hire data clerks to assist the national chief agent to be able to collect and key in data collection form the counties.

At the national level a spreadsheet with all the counties and the polling stations within the counties should be developed. This will help identify areas where problems have been reported during the Election Day.

During Election Day, information received from the county agents by the national chief agents should be stored in the spread sheets developed. The national chief agent should regularly inspect the spreadsheets to identify if there are counties and polling stations where problems have arisen. This would help the national chief agent to either consult the party's or independent candidate's legal team, or contact IEBC directly to raise concerns or file a complaint.

Similar with the county data centre, the national data centre should also, after the Election Day, compile the information collected from the county data centres. A full overview from the counties can be a good source for the political party's or independent candidate's legal team to decide if action should be taken law for filing an election petition.

5.4 Link to the Legal Committee

The political parties and independent candidates will need to have a legal team for purposes of quick analyses and response.

It will be the national chief agent to provide the legal committee with facts and information that can be used to build a legal case for the political party or independent candidate.

In addition to the data collection during the election (both SMS reports and the check list and critical incidents form) the following additional information could be part of the documentations the national chief agent would provide to the legal committee:

- The contact information of the complainant, including their name, address, and phone number
- The position and, if possible, the name of the person responsible for the alleged abuse
- A brief description of the complaint, including the circumstances of what happened, where the incident took place, who was involved, and any resolutions
- The contact information of any witnesses, including their names and what they saw
- The status of the complaint, including any responses by election officials or security personnel

5.5 Conclusion

This manual has discussed the importance and roles of an election agent during the electoral process. All election agents should remember that at the end of the day it is their commitment, vigilance, cooperation with election officials and other players and timely reporting that will make their work a success and help the party or independent candidates have their interest protected. It will also help in defending the vote of the party and independent candidate by legal means.

Checklist For Election Agents In Kenya

1	Agents Name:	2	Phone Number:
3	Constituency:	4	Polling Station Name & Number :
5	Party/ Independent candidates name:		

A. CHECKLIST

1.0 Opening of the Polling Station

1.1 Was the agent's letter of appointment from the political party / candidate shown to the Presiding/Deputy presiding Officer by the agent?

☐

Yes

☐

No

1.2 Are there other party/ independent candidates' agents present?

☐

Yes

☐

No

If yes write down the total number of agents present

1.3. Was the polling station properly set up?

☐

Yes

☐

No

1.4 Were all required election materials available before the opening of the polling station?

☐

Yes

☐

No

1.5. Tick the material available:

a. Ballot papers for the entire election

☐

b. Ballot boxes for each election

☐

c. Voting booths

☐

d. Voters register

☐

e. IEBC stamps

☐

f. Indelible ink

☐

g. IEBC and political parties / independent candidate seals

☐

h. Stationery

☐

i. KIEMS KIT

☐

If NO, list the materials that were missing and reasons, if any, given

1.6. How many voting booths are in the polling station?

☐

One

☐

Two

☐

Three

☐

More than three

1.7 Was the voting booths set up in a manner that preserves the secrecy of the ballot?

☐

Yes

☐

No

1.8 Tick the Election Officials present at the time of opening?

a. Presiding officer /Deputy Presiding officer:

☐

b. Queuing Clerk:

☐

c. Voter identification (Clerk 1):

☐

d. Voter register (Clerk 2):

☐

e. Ballot issuing (Clerk 3):

☐

f. Ballot issuing (Clerk 4):

☐

g. Ballot issuing (Clerk 5):

☐

h. Ballot control and inking (clerk 6):

☐

i. Police Officers

☐

1.9. Tick the accredited and or authorized persons present:

- a. Political party & candidate agents ☐ b. Independent candidate ☐ c. Observers ☐
d. Media ☐ e. IEBC officials ☐ f. Security officials ☐
f. Candidate/Running mate ☐ g. If any other please indicate _____

1.10. Did the PO/DPO display the ballot boxes before they were sealed?

- ☐ Yes ☐ No

1.11. Were they empty?

- ☐ Yes ☐ No

1.12. Did the PO/DPO affix IEBC seals to the ballot boxes?

- ☐ Yes ☐ No

If yes record the serial numbers

1.13 Are all the ballot papers received for the correct electoral area?

- ☐ Yes ☐ No

1.14 Record the ballot paper serial numbers by ballot book

BALLOT BOOK		PRESIDENTIAL	NATIONAL ASSEMBLY	SENATOR	COUNTY WOMEN MEMBER OF THE NATIONAL ASSEMBLY	GOVERNOR	MEMBER OF THE COUNTY ASSEMBLY
BOOK 1	First						
	Last						
BOOK 2	First						
	Last						
BOOK 3	First						
	Last						
BOOK 4	First						
	Last						
BOOK 5	First						
	Last						
BOOK 6	First						
	Last						
BOOK 7	First						
	Last						
BOOK 8	First						
	Last						
BOOK 9	First						
	Last						
BOOK 10	First						
	Last						

1.15 Did the polling station open at 6am?

☐ Yes

☐ No

If NO what time did it open and what were the reasons for late opening?

1.16 Who witnessed the opening of the polling station?

2.0 Polling

2.1. Is the queue for voters orderly and is there a queuing clerk?

☐ Yes

☐ No

2.2. Are sick, elderly, women with children and expectant women given priority to vote

☐ Yes

☐ No

2.3. Do the ballot papers issued have the IEBC stamp at the back?

☐ Yes

☐ No

If no, what is the reason for issuing a ballot paper without a stamp?

2.4. Is the voter issued with only one ballot for each election?

☐ Yes

☐ No

2.5 Did anyone vote without an identification card or valid passport?

☐ Yes

☐ No

2.6 Did a everyone vote who was not in KIEMS but was in the hardcopy of the register or voters?

☐ Yes

☐ No

If yes, how many

2.7 Are eligible voters denied ballot papers?

☐ Yes

☐ No

If not say why

2.8 Each voter's left hand index finger was marked with the indelible marker after voting

☐ Yes

☐ No

2.9 A voter places only one ballot paper in each ballot box

☐ Yes

☐ No

If no, explain

2.10 Voters who have cast their ballots and who are not authorized by the IEBC to stay inside the polling station leave after voting;

☐ Yes

☐ No

2.11 Indicate the number of assisted voters who come with their own person to assist them _____

2.12 Indicate the number of assisted voters who receive assistance from the PO/ DPO while agents witness

2.13 A voter who has marked a ballot wrongly is issued another ballot;

☐ Yes ☐ No

If no, why? If yes, indicate number

2.14 Voter requesting a second ballot hands back the spoilt one

☐ Yes ☐ No

3.0 Closing of the Polling

3.1. Was the polling station closed at 5pm?

☐ Yes ☐ No

If no, explain why?

3.2 Were there voters on the queue at the time of closing?

☐ Yes ☐ No

3.3 And if so were they allowed to vote?

☐ Yes ☐ No

3.4 Were the seal(s) placed on each ballot box at the start of the poll intact at the time of closing?

☐ Yes ☐ No

3.5 The aperture of the ballot boxes is closed and a seal(s) affixed in the hole beside it.

☐ Yes ☐ No

If yes, record the serial number(s) of the seals?

4.0 Counting and Tallying of Votes

4.1 Tick who was present at the counting hall

a. Election Officials	<input type="checkbox"/>	b. Candidates	<input type="checkbox"/>	c. Political party or candidates agents	<input type="checkbox"/>
d. Observers	<input type="checkbox"/>	e. Media	<input type="checkbox"/>	f. Security agents	<input type="checkbox"/>
g. If any other please indicate _____					

4.2 The PO/DPO show all present in the polling station that the ballot boxes were sealed and the content was intact?

☐ Yes ☐ No

4.3 The PO/DPO/Counting Clerk examines each ballot to determine its validity, shows it to the candidates or their agents and calls out loud the name of the candidate to whom the vote is awarded or rejects it by stating the reason why

4.4 The valid ballots are placed on a pile for each candidate?

☐ Yes

☐ No

4.5 The Rejected, Rejection objected to, stray and the disputed ballots are placed on separate piles?

☐ Yes

☐ No

4.6 Did the PO / DPO counts and announce the unused ballot papers?

☐ Yes

☐ No

4.7 The PO/DPO explains why a ballot is rejected.

☐ Yes

☐ No

Record the cases

4.8 The PO announces loudly the results of the count of the valid ballots cast for each candidate

☐ Yes

☐ No

4.9 Did the presiding officer satisfactorily resolve any objections about rejected and disputed ballots?

☐ Yes

☐ No

If no state the reason?

4.10 The PO/DPO completes and enters the results of the count in the tallying sheet form

☐ Yes

☐ No

4.11 Did PO/DPO and agents sign what was recorded for the presidential results in the result declaration form 34A?

☐ Yes

☐ No

4.12 Did PO/DPO and agents sign what was recorded for the other election in the result declaration form 35A, 36A, 37A, 38A & 39A

☐ Yes

☐ No

4.13 Summary of the counting/ tallying

	Total number of valid votes cast	Total number of rejected ballots	Total number of disputed ballots	Total number of stray ballots	Total number of votes cast for your parties/ independent candidate
Presidential					
Senator					
County women member of national assembly					
Member of Parliament					
Governor					
County assembly representative					

4.14 Did all the agents present agree to the totals announced at the polling station and were copies of results given to them?

☐ Yes

☐ No

If no state the reason?

4.15 Did KIEMS function in the transmission of results?

YES ☐ NO ☐

B. Critical Incidents

Time of Incident: _____ : _____

1. Did any of the following incidents occur during the polling?

- | | | | |
|--|--------------------------|---|--------------------------|
| a) Violence in or near polling station | <input type="checkbox"/> | b) Intimidation or harassment of voters | <input type="checkbox"/> |
| c) Restricting voters' rights to vote | <input type="checkbox"/> | d) Polling station closed during voting hours | <input type="checkbox"/> |
| e) Vote buying | <input type="checkbox"/> | f) Ballot box stuffing or multiple voting | <input type="checkbox"/> |
| g) Chaos in or around the polling centre | <input type="checkbox"/> | h) Limiting the rights of observers | <input type="checkbox"/> |
| i) Problems during counting | <input type="checkbox"/> | j) Stealing or damaging ballot box or ballots | <input type="checkbox"/> |
| k) Were there suspicious numbers of assisted voters? | <input type="checkbox"/> | | |
| l) Significant problems or disagreements about the count | <input type="checkbox"/> | | |
| m) Failure of technology during voting or counting | <input type="checkbox"/> | | |
| n) Other (Explain) _____ | | | |

2. Did anyone Witness the incident:

- A) I witnessed the incident ☐
- B) I arrived just after the incident happened ☐
- C) The incident was reported to me by someone else ☐

3. In your opinion, how many votes/voters were influenced/ affected by this incident?

4. Detailed explanation

Please indicate concrete facts regarding each of the incidents described in the form, including: who participated in it (their position and affiliation) and the sequence of events. Indicate any other local or international observers, representatives of election subjects, commission members or voters that also witnessed the incident. If more space is needed, please continue writing on the back of this form.

5. Leave the polling station so that you can call (the chief agents– depending on reporting plan) and report the incident.

I affirm, to the best of my ability, that all of the information recorded on this form is accurate and truthful.

Name: _____

Signature: _____



Form 34 A

(r.79(2)(a))

PRESIDENTIAL ELECTION RESULTS AT THE POLLING STATION

S/Number.....

Name of Polling Station: Code.....

Ward..... Code.....

Constituency..... Code.....

County..... Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
Total number of valid votes cast	

Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station;	
2.	Total Number of Rejected Ballot Papers;	
3.	Total Number of Rejection Objected To Ballot Papers;	
4.	Total Number of Disputed Votes;	
5.	Total Number of Valid Votes Cast;	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots

in.....Polling Station..... Constituency.

Presiding Officer:Signature.....Date.....

Deputy Presiding Officer:Signature.....Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						
3.						

Reasons for Refusal to Sign (if any)

.....

Presiding Officer's Comments:

.....

**Form 35 A****(r.79(2)(b))****MEMBER OF NATIONAL ASSEMBLY ELECTION RESULTS AT THE POLLING STATION**

S/Number.....

Name of Polling English:Code.....

Ward.....Code.....

Constituency.....Code.....

County.....Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
AKILI REMBO	
BOLEA VUMILIA	
MEMA MBELENI	
PANDA NDOTO	
UZA SERA	
Total number of Valid Votes cast	

Polling Station Counts:

1.	Total Number of Registered Voters in the Polling Station;	
2.	Total Number of Rejected Ballot Papers;	
3.	Total Number of Rejection Objected To Ballot Papers;	
4.	Total Number of Disputed Votes;	
5.	Total Number of Valid Votes Cast;	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots

in.....polling station..... constituency.

Presiding Officer:Signature.....Date.....

Deputy Presiding Officer:Signature.....Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						

Reasons for Refusal to Sign (if any)

.....

.....

Presiding Officer's Comments:

.....

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FORM 36 A

(r.79(2)(b))

MEMBER OF COUNTY ASSEMBLY ELECTION RESULTS AT THE POLLING STATION

S/Number.....

Name of Polling Station:Code.....

Ward.....Code.....

Constituency.....Code.....

County.....Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
ENEO BORA	
HEWA SAFI	
PATI MOJA	
SAUTI KALI	
ZOTE ZANGU	
Total valid votes cast	

Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station	
2.	Total Number of Rejected Ballot Papers	
3.	Total Number of Rejection Objected to Ballot Papers	
4.	Total Number of Disputed Votes	
5.	Total Number of Valid Votes Cast	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots

in.....Polling Station..... Constituency.

Presiding Officer:Signature..... Date.....

Deputy Presiding Officer:Signature..... Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						

Reasons for Refusal to Sign (if any)

.....

.....

Presiding Officer's Comments:

.....

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FORM 37 A

(r.79(2)(b))

COUNTY GOVERNOR ELECTION RESULTS AT THE POLLING STATION

S/Number.....

Name of Polling Station:Code.....

Ward.....Code.....

Constituency.....Code.....

County.....Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
IBADA KESHO	
FRUITS TAMU MATUNDA	
SASA BORA	
ULEZI NCHI	
VIVIA WEMA	
Total valid votes cast	

Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station;	
2.	Total Number of Rejected Ballot Papers;	
3.	Total Number of Rejection Objected To Ballot Papers;	
4.	Total Number of Disputed Votes;	
5.	Total Number of Valid Votes Cast;	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots

in.....Polling Station..... Constituency.

Presiding Officer:Signature..... Date.....

Deputy Presiding Officer:Signature..... Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						

Reasons for Refusal to Sign (if any)

.....

Presiding Officer's Comments:

.....



FORM 38 A

(r.79(2)(b))

SENATE ELECTION RESULTS AT THE POLLING STATION

S/Number.....

Name of Polling Station:Code.....

Ward.....Code.....

Constituency.....Code.....

County.....Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
KAULI NJEMA	
MBELE JUU	
MUST UPITE	
WHISTLE LOUD	
TUNZA ZAIDI	
Total valid votes cast	

Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station	
2.	Total Number of Rejected Ballot Papers	
3.	Total Number of Rejection Objected To Ballot Papers	
4.	Total Number of Disputed Votes	
5.	Total Number of Valid Votes Cast	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots in.....Polling Station..... Constituency.

Presiding Officer:Signature.....Date.....

Deputy Presiding Officer:Signature.....Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						
3.						

Reasons for Refusal to Sign (if any)

.....

Presiding Officer's Comments:

.....

.....



Form 39 A

(r.79(2)(b))

COUNTY WOMAN MEMBER TO THE NATIONAL ASSEMBLY ELECTION RESULTS AT THE POLLING STATION

S/Number.....

Name of Polling Centre:Code.....

Polling Station No:

Ward.....Code.....

Constituency.....Code.....

County.....Code.....

Number of votes cast in favour of each candidate:

Name of Candidate	No. of Valid Votes Obtained
ENDA MBELE SERANI	
JAZA KIBABA	
SOTE TUWENI	
TUMA BARAKA	
WEKA AKIBA	
Total valid votes cast	

Polling Station Counts

1.	Total Number of Registered Voters in the Polling Station	
2.	Total Number of Rejected Ballot Papers	
3.	Total Number of Rejection Objected to Ballot Papers	
4.	Total Number of Disputed Votes	
5.	Total Number of Valid Votes Cast	

Decision(s) on disputed votes if any

Serial Number of Ballot Paper (s) with disputed vote	Name of Candidate assigned the vote

Declaration

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots

in.....Polling Station..... Constituency.

Presiding Officer:Signature.....Date.....

Deputy Presiding Officer:Signature.....Date.....

Agents or Candidates (if present)

No.	Name of Candidate or Agent	ID/Passport No.	Party Name/ Independent Candidate	Tel. Contact	Signature	Date
1.						
2.						

Reasons for Refusal to Sign (if any)

.....

Presiding Officer's Comments:

.....

