The Register of Voters

Where We Are One Week Ahead of Election Day

About us

The Africa Centre for Open Governance (AfriCOG) is an independent, nonprofit organisation that provides cutting edge research and monitoring on governance and public ethics issues in both the public and private sectors so as to address the structural causes of the crisis of governance in Kenya. The overall objectives of our programme activities are: to promote the implementation of the Constitution of Kenya 2010, to strengthen anti-corruption and good governance in Kenya with objective, high-quality research and advocacy and to build citizens' capacity to be permanently vigilant and monitor progress on governance issues in the public and private sectors. We also work at regional and international levels to promote collective efforts towards anti-corruption, accountability, transparency and openness in governance. Our reports, policy briefs and overall work add value to anti-corruption and governance reform processes by stimulating policy discussion and supporting the evidence-based advocacy and the mobilisation of our partners.

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OR NOT?

THE REGISTER OF VOTERS

Where We Are One Week Ahead of Election Day

I. Introduction: How Far Have We Come?

As the gateway to the ballot box, voter registration and the resulting Register of Voters is a highly sensitive and vital part of any electoral process. In Kenya, voter registration has long been the subject of serious, contentious debate. In 2013, there were a series of unresolved questions around the Register, including:

- What explained the *increase* in the number of registered voters (+12,509) between the publication of the provisional figures, after which registration was supposed to be closed, and the publication of the final figures?

- Why were there such stark differences in the changes that had been made in party strongholds (See Table 1)?

Table 1: Strategic Changes to the Register in 2013[1]

Region	Changes Between December 2012 and February 2013
Coast	+901
Nyanza	-15,026
Central	+1,848
Rift Valley	+67,000
North Eastern	+6,604
Western	-2,938
Eastern	+4,222
Nairobi	-50,102

- Given the IEBC's stated commitment to the use of biometric voter registration and identification, why was the so-called "green book"[2] used to identify voters on election day, and how did this green book compare to the biometric register?

- Why were there multiple registers in circulation, each with different totals (See Table 2)?

+12,509 Unexplained increase in the number of registered voters between the publication of the provisional figures, after which registration was supposed to be closed, and the publication of the final figures in 2013.

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[1] AfriCOG and KPTJ. March 2014. "Voter Registration for the 2013 General Elections in Kenya." https://africog.org/wp-content/uploads/2015/10/Voter_Registration_for_the_2013_General_Elections_in_Kenya.pdf

[2] The "black book" was a manually compiled list of registered voters, used by the former electoral management body in Kenya, known as the Electoral Commission of Kenya (ECK). This black book consisted of ordinary notebooks, which were used to create lists of registered voters across the country. Despite the Independent Review Commission's recommendation that the use of the black book be eliminated, it reappeared in 2013 as the "green book."

Table 2: Changes in the Number of Registered Voters in Kenya[3]

Date	Number of Registered Voters	Change from Previous Total
December 18, 2012	14,340,036	N/A
February 24, 2013	14,352,545	+12,509
March 2, 2013	36,236 voters without biometrics	N/A
March 3, 2013	14,336,842	-15,703
March 9, 2013	14,352,533	+15,691
July 18, 2013	14,388,781	+36,248

Together, the issues above left the validity of the Register in serious doubt and decreased public confidence in the IEBC's independence and competence, creating suspicion of partisan bias in the development of the Register and calling into question the Commission's decision to spend millions of shillings on sophisticated voter registration technology.[4]

As the next general election approaches in Kenya, it is of little surprise that the Register of Voters is again in the limelight. Indeed, there are continuing questions around the validity of the current list. These questions relate to the continued use of the green book, the presence of an estimated one million dead voters in the Register, first-time registrants who found their details already in the Register, voters who cast ballots in 2013 but found that they were not registered for this election, unexplained transfers of voters, malfunctioning/non-functioning BVR kits, duplicate registrations, widespread lack of data needed to keep the Register updated, invalid ID and passport numbers and many others.[5] These are explained in the sections below.

In this brief, the Africa Centre for Open Governance (AfriCOG) presents an overview of the state of the Register immediately before the 8 August election. In the spirit of permanent public vigilance and preparedness, this brief aims to provide Kenyans with a sense of what to expect on election day, with a focus on the irregularities that may cause problems with voter identification. At this stage, it is difficult to know the extent of the issues and their specific effects. It is also unclear what the IEBC plans to do to address these various issues at the polling station. It also strives to set the agenda for post-election reform processes through which the Register is updated and the standards by which the validity and reliability of the Register is assessed.

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[3] AfriCOG and KPTJ. March 2014. "Voter Registration for the 2013 General Elections in Kenya."

[4] Ibid.

[5] InformAction. 2016. "ElectionWatch 2: Voter Registration;" InformAction. 2017. "ElectionWatch3: Gateway to the Ballot Box;" IEBC. 2017. "Media Release: Report on Audit of the Register of Voters."

Lessons Left Unlearned: 2013 and 2017

The 2017 Register of Voters contains 19,611,423 voters, representing a 36.6 percent increase in registered voters since 2013. Unfortunately, the state of the new Register suggests that many of the problems that plagued the previous Register remain unresolved.

First, similar to 2013, the post-audit Register shows an increase in the numbers of registered voters at county levels between April/May 2017, when the data was given to KPMG, and June 2017, when the IEBC certified the final Register. Since the data that KPMG used was also certified at the time the firm received it, it is difficult to imagine how voters could have been added to the Register. Although the county-level increases are not extreme (the largest is 4.1 percent), the IEBC has not explained how voters could have been added if registration was closed as of the time of the audit. See Table 3 for a list of the counties in which the number of registered voters increased between April/May and June 2017.

Overall, the IEBC stated that it purged 88,602 dead voters from the Register before final certification. Since the final, certified list of June 2017 is 30,238 voters less than the pre-audited register, that means 58,364 voters were added. The breakdown of the county-level changes between April/May and June 2017 are below.

Table 3: Counties with Increases between the Pre- and Post-Audited Register

County	Number of Voters Added After Audit	Percent Increase between Pre- and Post-Audit
Kilifi	20,181	4.136
Baringo	1,530	0.663
Turkana	869	0.456
Vihiga	624	0.230
Kajiado	533	0.130
Migori	486	0.125
Mandera	408	0.233
West Pokot	370	0.206
Siaya	290	0.063
Kisumu	204	0.038
Meru	149	0.021
Garissa	147	0.090
Lamu	78	0.112
Kisii	16	0.003

19,611,423
Number of voters contained in the 2017 Register of Voters.

36.6%
Percentage increase in registered voters since 2013.

88,602
Number of dead voters purged from the Register before final certification.

Second, there is a lack of clarity surrounding the use of the so-called green book. This record, which was in use during 2016-2017 mass voter registration exercises,[6] is yet to be explained by the IEBC. Why was it used during registration? What purpose did it serve if voters were being registered using biometric technology? Will it be used to identify voters on election day? The re-emergence of the green book, and the IEBC's refusal to acknowledge it and address public concerns about it, demonstrates a worrying lack of commitment to transparency by the IEBC. It also suggests that the IEBC is not committed to one – and only one – Register of Voters. Overall, it calls into question the reliability of the voter registration process and the resulting data.

Third, just like in 2013, this election process is tainted by a lack of clarity around the final number of registered voters. In April and May 2017, the IEBC gave the certified, provisional biographic and certified, provisional biometric Registers of Voters to KPMG for the firm's audit processes. Notably, the biometric list contained 1,162 more records than the biographic list;[7] this difference has not been explained to date. The IEBC has previously explained that some individuals' fingerprints could not be captured, meaning that, if anything, there should be fewer biometric records than biographic records. Why were there 1,162 more biometric records than biographic records? In its own analysis, KPMG uses the number associated with the biographic list as the Register.[8] It is not clear, then, how the two lists were resolved and whether both lists were audited.

Furthermore, the regulations governing voter identification suggest the existence of multiple registers. The new rules state that if a voter cannot be identified in the KIEMS kit on election day, the IEBC may look in the copy register to identify the voter. If the copy register is supposed to be a printed copy of what is in the biometric list,[9] why would a voter appear in one and not the other? This regulation suggests that there are differences between the two lists.

Overall, it seems that little has changed since 2013.

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[6] InformAction. 2017. "ElectionWatch 3: Gateway to the Ballot Box."

[7] IEBC. 2017. "Media Release: Report on Audit of the Register of Voters, page 2.

[8] KPMG. 2017. "Independent Electoral and Boundaries Commission. Independent Audit of the Register of Voters," page 135.

[9] The Elections (General) Regulations, 2012, Part I, Article 2; The Elections (General) (Amendment) Regulations, Article 2(a).

II. Notable Points and Patterns in Changes to the Register: 2013 – 2017

Transparency

It is important to note that many of the findings in this brief are based on KPMG's report of the audit of the Register of Voters. The publicly accessible version of that report was missing one full chapter (Database Controls and Infrastructure Security) as well as at least 160 annexures.

Moreover, Since the KIEMS kits had not yet arrived in Kenya when KPMG was conducting its audit, its procedures covered the technology and procedures in use under the pre-KIEMS set-up (separate BVR, EVID and ERTS systems). This severely limits the utility of the audit, because Kenya now uses a system that is meant to integrate all these systems.

KPMG did not conduct "penetration tests" of the equipment/IT systems because the IEBC never provided authorization to do so. This means that there is no information regarding how secure the systems are against unauthorized access.

Constituency-Level Changes

The growth in the number of registered voters since 2013 has been uneven at the constituency level. Overall, 33 constituencies (11.4 percent) increased by 50 percent or more. On average, constituencies grew in size by 38 percent.

Table 4: Ten Constituencies with the Largest Increases Since 2013[10]

County	Constituency	Percent Increase Since 2013	Winner in 2013
Mandera	Mandera South	144	UK
West Pokot	Kacheliba	75	UK
Garissa	Garissa Township	71	RO
Laikipia	Laikipia North	68	RO
Kwale	Lungalunga	66	RO
Kwale	Kinango	65	RO
Garissa	Lagdera	64	UK
Kwale	Msambweni	63	RO
Mombasa	Kisauni	59	RO
West Pokot	Sigor	59	UK

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[10] IEBC. 2013. "Principal Register of Voters" and IEBC. 2017. "2017 Register of Voters."

Notably, the largest and smallest increases are both in Mandera County. In Mandera South, the number of registered voters is 144 percent higher than it was in 2013, while in Lafey the number of registered voters is a paltry 9 percent bigger.

The 144 percent increase in Mandera South is surprising, given the security situation in Mandera County. A recent conflict assessment describes long-standing, unresolved grievances between clans in Mandera; these conflicts periodically result in serious inter-clan violence, and Kenyan security forces are often deployed to halt violence without addressing the root causes of conflict.[11] In recent months, the county has also faced attacks from Al Shabab. In fact, two weeks before voter registration ended in February 2017, the IEBC reported that there were no new registered voters in parts of Mandera because of insecurity.[12]

One possibility is that the increase in Mandera South is due to transfers, with certain communities interested in being able to vote in specific locations. Since disaggregated data on registered voters beyond the constituency level is unavailable from 2013, it is not possible to analyze and compare ward-level numbers that could explain the increases. Data regarding transfer applications is also unavailable.

County-Level Changes

Growth has also been uneven at the county level. Kwale and Vihiga both increased the most in size, each by 61.1 percent. Bomet grew the least, expanding by just 4.1 percent. Overall, only three counties (6.4 percent) grew by 50 percent or more; average growth was 38 percent.

Table 5: Ten Counties with the Largest Increases Since 2013

County	Percent Increase Since 2013
Kwale	61
Vihiga	61
Kilifi	51
West Pokot	49
Tana River	49
Siaya	47
Homa Bay	46
Kitui	46
Mandera	45
Meru	44

144% The largest percentage increase in registered voters at the constituency level between 2013 and 2017.

9% The smallest percentage increase in registered voters at the constituency level between 2013 and 2017.

61% The highest percentage increase in registered voters at the county level between 2013 and 2017: Vihiga and Kwale.

4% The smallest percentage increase in registered voters at the county level between 2013 and 2017 was in Bomet County.
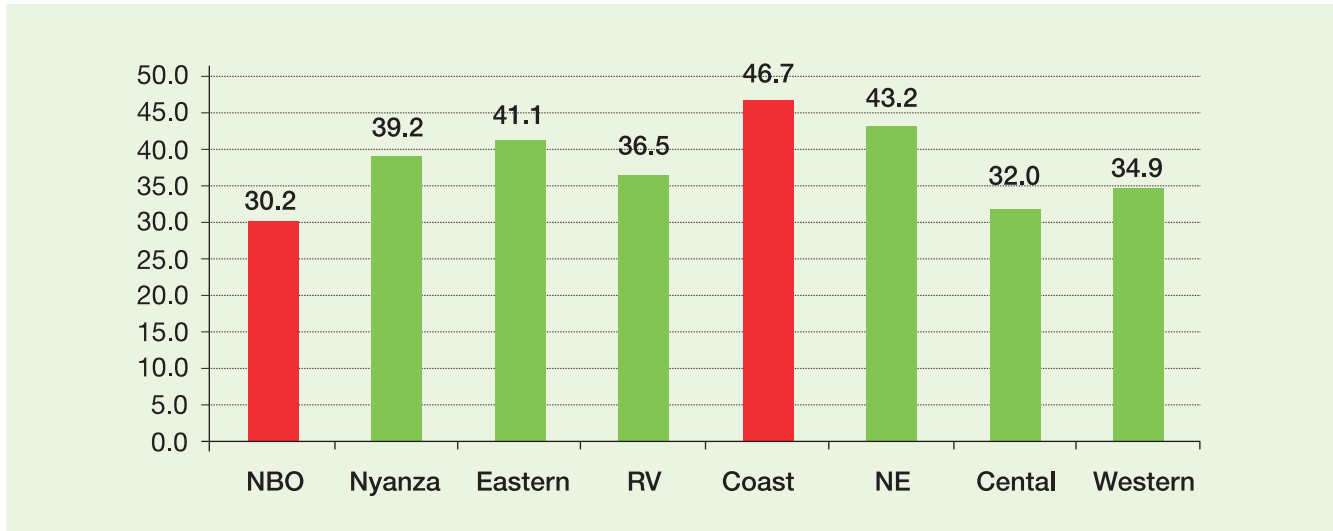
[11] National Cohesion and Integration Commission and Interpeace. 2017. "Voices of the People: Challenges to Peace in Mandera County."[7] IEBC. 2017. "Media Release: Report on Audit of the Register of Voters, page 2.

[12] Manase Otsialo. 1 February 2017. "No new voters registered due to insecurity in parts of Mandera." *Daily Nation.*

Changes at the (former) Province Level

The figure below shows changes at the (former) province level since 2013 (largest and smallest increases depicted in red).

Figure 1: Average Percent Change Since 2013

III. **Mind the Gap:** Potential Pitfalls in Registering to Vote and Why You May Not be in the Register

How do these numerical changes impact voters? As the country prepares for elections, it is important to evaluate the changes in light of the entire process of registering to vote. Recent domestic observer reports and the publication of KPMG' report of its audit of the Register of Voters have shed light on potential vulnerabilities in the process.

There are critical gaps in the voter registration process, starting from the moment a potential voter enters the registration centre. These include inconsistencies related to the IEBC's technical capacity with regard to ICT as well as a lack of clarity around access to registration.

Training and Capacity of IEBC Staff

Recruitment of the IEBC's ICT operators includes tests, but these tests are not aligned with the tasks expected of the operators. Moreover, the IEBC conducts no evaluations or proficiency exams to ensure that ICT operators understand their jobs and have retained what they have been taught.[13]

Equal Access to Registration

When examining data from the registration process ahead of the 2013 election, which started on 19 November 2012 and ended on 18 December 2012, KPMG found 21,926 records of registration that had been created before 19 November 2012 and 4,033 records that were supposedly created after 8 August 2017.[14] There were also 32,008 records entered into the central database of registered voters before the dates on which those voters applied to register. The largest such variation showed that the record was entered 3,649 days (9.99 years) before that voter applied to be on the register.[15]

The importance of these inconsistencies in access to the registration process is compounded by recent findings related to the serious problems many Kenyans face in obtaining a national ID card. This issue has received increased attention of late, because an ID card is necessary to be able to register to vote, but it has long been a problem. As InformAction observers have noted, the obstacles to obtaining an ID card disproportionately affect marginalized communities, especially those from Kenya's coastal regions and those from "sub border locations," whose identities are difficult to definitively classify.[16]

Indeed, a look at the current Register reveals that the areas with the highest proportion of registered voters, based on the number of IDs issued between 1997 and 2016, are found in the northeast, central and Rift Valley regions of the country. Countrywide, the average rate of registration (based

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[13] KPMG, 74

[14] KPMG, 72

[15] KPMG, 72

[16] InformAction. 2016. "ElectionWatch 2: Voter Registration."

on the number of issued IDs) is 71.1 percent; in central, northeastern and Rift Valley regions, however, the average rate is 77.1 percent.[17] The differences are stark; in fact, the gap between the county with the lowest rate of registration (Vihiga at 54.8 percent) and the highest rate of registration (Kajiado at 97.0) is 42.1 percent. The top ten counties in this regard are listed below.

Surprisingly, of the ten counties that have the highest rates of registration in terms of the IDs issued, five (Mandera, Wajir, Garissa, Narok, Tana River) are considered "sub border locations," meaning that individuals from those areas require enhanced vetting.[18] It is thus surprising that rates are so high here.

Table 6: Top Ten Counties - Rate of Registration Based on IDs Issued

County	Rate of Registration (%)	Winner in 2013
Kajiado	97.0	UK
Mandera	86.8	UK
Wajir	82.7	RO
Narok	81.0	RO
Kirinyaga	80.4	UK
Kiambu	79.9	UK
Murang'a	78.9	UK
Garissa	78.5	RO
Nakuru	78.2	UK
Tana River	76.4	RO

UK stands for Uhuru Kenyatta and RO stands for Raila Odinga

A look at the average rate of registration based on the number of IDs issued at the province level is seen below. Notably, there is a twenty percentage point gap between the regions with the highest and lowest average rates of registration. In the former Western Province, only about 63 percent of people whose IDs have been processed are registered to vote. In the former Northeastern Province, this rate increases to about 83 percent.

21,926

Number of records of registration that had been created before 19 November 2012 according to data examination by KPMG

4,033

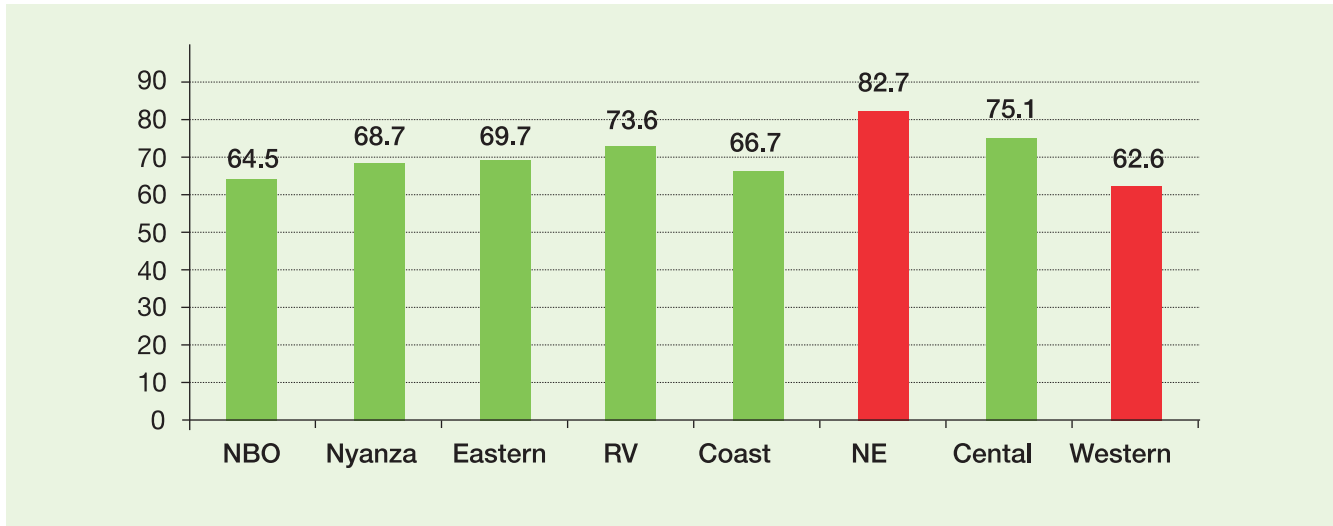Number of records that were supposedly created after 8 August 2017.

32,008

Number of records entered into the central database of registered voters before the dates on which those voters applied to register.

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[17] IEBC. 2017. "Mass Voter Registration II Baseline Data" and IEBC. 2017. "2017 Register of Voters."
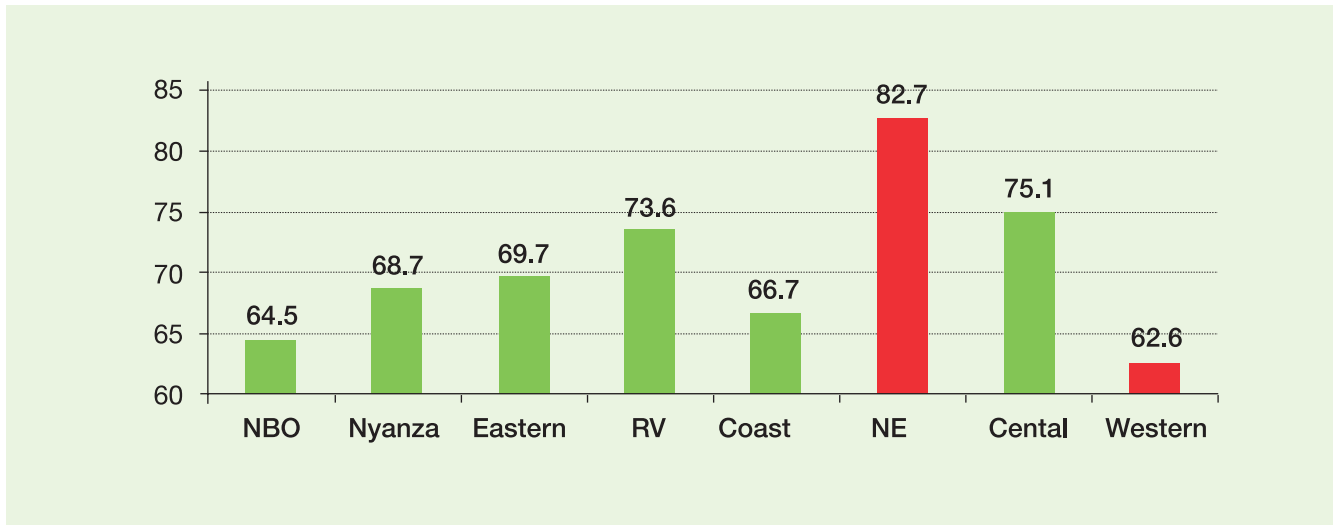
[18] InformAction. 2016. "ElectionWatch 2: Voter Registration."

Figure 2: Average Percent Registered out of IDs Issued

The difference can be seen more clearly in the below graph, which uses a magnified scale:

Figure 3: Average Percent Registered out of IDs Issued (Magnified Scale)

- What are the ramifications of potentially incompetent ICT operators for the efficacy of biometric registration as well as for voter identification and results transmission?

- What is being done to ensure that there isn't privileged access to registration for some?

- If the dates above are the result of human error, is there a system in place to ensure that dates are automated and not inputted through manual processes?

- What measures are in place to ensure that there are no opportunities for inputting invalid records into the Register?

- Domestic and international experts have recommended that Kenya's voter registration processes and ID application procedures be merged. What is the status of implementation of this recommendation? Why has there been so little movement on this issue, and what can stakeholders do to drive this reform forward?

- What are the standards for the vetting procedures used in the processing of ID applications, and what can be done to bring transparency to this process and to ensure that it is applied fairly and equally to all?

IV. **Upholding the Right to Vote:** Maintenance of Data in the Register

Once the IEBC collects data from applicants at registration centres, the Commission must consolidate the information at a central level. Current processes, however, do not sufficiently protect against the loss of data. In fact, after the second round of mass voter registration (MVR II), KPMG examined records from 19 constituencies and found that 16,177 applications were missing in constituency registers (about 851 missing records per constituency on average), and 4,209 records were missing from the central database.[19] Using the average figure of 851 and applying it to all 290 constituencies results in 246,790 missing records across the country. This means that 6.5 percent of the approximately 3.8 million people who attempted to register during MVRII potentially were never added to the constituency registers.

The loss of data is partly attributable to the IEBC's procedures for transporting data and to the Commission's poor internal communication.[20]

Transport of Data

The IEBC collects applicants' data in manual form (on forms and in the registration centre reference book) and in electronic form.

- In order to consolidate this data at regional levels, the IEBC relies on receipt of the data via flash drives, which are collected on a weekly basis.[21]

- To gather the data at the national level, the IEBC transfers it via secure file transfer protocol or offline, via "hard discs."[22]

- A reliance on the manual transfer of data is dangerous; flash drives can get lost, they can be damaged by accident, and they can be willfully ruined. Relying on multiple individuals to carry them is also risky, because it means that the data is open to theft or other security breaches.

Internal Communication

Ensuring that registration data gets onto the Register at regional levels can be a difficult task, because there is no system to guarantee that constituency-level ROs know about changes that affect their areas, including transfers from one constituency to another. When ROs are attempting to reconcile their constituency lists with the national list, there is no way for them to know if missing voters have been transferred, if their data never made it or if unauthorized changes were made.[23]

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[19] KPMG, 76.

[20] KPMG, 86-90.

[21] KPMG, 83.

[22] KPMG, 83.

[23] KPMG, 86-90.

External Communication

The problems with internal communication are compounded by gaps in communication with the public. In fact, returning officers do not acknowledge receipt of requests for changes, nor do they notify voters about the status of requested changes. The IEBC's silence is especially worrying, given that the Commission's own regulations require it to prepare and post a list of changes at the constituency level every six months. There is no evidence that this is done.[24]

Questions to consider include:

- What stopgaps are in place to ensure that constituency-level data is accurate?
- What can voters do if they registered to vote but find that their details never made it onto the central database of voters?
- Is there a process through which this lost data is retrieved?
- If so, how is it then incorporated into the Register?
- If not, what is done to mitigate this risk of lost data, and what reforms should be considered to address this problem?
- What, if anything, is the IEBC doing to update its approach to data transfers?
- What is the registration centre reference book? What purpose does this serve if applicants fill out the same information in forms?

16,177
Number of applications missing in constituency registers after the second round of mass voter registration (MVR II), from 19 constituencies that KPMG examined.

246,790
Potential average number of missing records in constituency registers, based on results from investigation of missing records in 19 constituencies.

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[24] KPMG, 90.

IV. So Who is in the Register? The Register of Voters Now

As we prepare for election day, there is utility in setting realistic expectations, especially with regard to the Register. Missing data is not the only problem. In fact, the current Register's reliability is also marred by the information that is in the list.

Dead Voters

The first category of problematic records is dead voters. KPMG estimates that the Register of Voters potentially contains 1,037,260[25] dead voters' records, representing approximately 5 percent of the total number of registered voters. Given that the margin of victory in the last presidential contest was 832,887 votes, it is easy to see why the public would worry about the chance that more than 1 million dead voters' records could be misused.

- KPMG compared the 223,807 records of dead Kenyans that included ID numbers (including 196,988 aged 18 and up) from the Principal Registrar of Births and Deaths with the Register and confirmed that 92,277 belong to dead voters and can immediately be removed.[26] Since the completion of the audit, KPMG revised its figure of dead voters who can be immediately purged to 88,602; the IEBC reported that it expunged those records from the Register.[27]

- There is no way to know exactly how many other dead voters may still be in the Register. If technology malfunctions or fails on election day, there is a risk that people could use dead voters' IDs to cast ballots. Based on KPMG's estimate and the IEBC's purge of 88,602 records, there could still be at least 948,658 dead voters in the Register.

While the presence of deceased voters does not pose a problem in and of itself, the risk that those records could be misused or manipulated to alter results raises suspicion and fears ahead of election day. For instance, if technology fails and a copy register is the only way to identify voters, it makes it easier for people to use dead voters' IDs to cast fraudulent votes. The existence of those records in the Register also makes it difficult to calculate accurate figures for the number of registered voters and voter turnout.

- What measures are in place to protect against the possibility that individuals may try and impersonate dead voters, in the case that technology fails?

- What is the long-term plan to purge dead voters from the Register?

1,037,260

Potential number of dead voters in the Register, according to KPMG estimates. This represents approximately 5 percent of all voters in the Register.

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[25] IEBC, 6.

[26] KPMG, 101.

[27] IEBC. 2017. "Press Statement on the Certification of the Register of Voters."

Biometrics

People's biometric data is also problematic. KPMG's analysis of biometric information, which was based on a sample of the data, found the following gaps in the existence of biometric data:

- There are 5,247 records without any fingerprints. These individuals will therefore be identified via photographs and biographical details only.[28] In 2013, the number of voters without biometric details numbered 36,236 – almost seven times the current such list. This large discrepancy raises questions about the validity of the 2013 list. What happened to all those whose fingerprints could not be captured in the last election?

- There are 254,514 total records that contain less than ten fingerprints.[29]

There are also duplicate biometric records:[30]

- Out of KPMG's random sample of 1.4 million, there were 3 confirmed duplicate records.

- Out of KPMG's targeted sample of 411,503, there were 89 confirmed duplicates.

Finally, the quality of the fingerprint data falls between 0 and 70,[31] but there is no explanation regarding what those scores stand for and how they were calculated.

Questions to consider include:

- o If there are duplicate biometric records in the Register, what prevents double voting?

- o How does the quality of fingerprints in the Register compare to the quality of other biometric registers around the world?

- o What is the implication of using records that contain less than ten fingerprints – how does this potentially impact the likelihood of multiple voting?

Other Duplicates

Despite an existing "deduplication" process, the Register of Voters also contains duplicate voters' records; some records were replicated more than five times. These instances are worrying, because they could open the door to multiple voting. KPMG found 93,548 duplicate IDs and/or passports; these were shared across 197,677 records.[32]

5,247
Number of records without any fingerprints according to KPMG.

254,514
Number of total records that contain less than ten fingerprints.

93,548
Number of duplicate IDs and/or passports; these were shared across 197,677 records.

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[28] KPMG, 136.

[29] KPMG, 137.

[30] KPMG, 138.

[31] KPMG, 140.

[32] KPMG, 86.

Table 7: Duplicated ID/Passport Numbers in the Preliminary Register of Voters[33]

Replication Factor	Number of Instances	Number of records
2	89,864	179,728
3	1,656	4,968
4	502	2,008
More than 5	1,526	10,973
Total records	93,548	197,677

- Out of these, 14,986 records contained shared ID/passport numbers and names.[34]

- A further 182,691 records included shared ID/passport numbers but did not have shared names.

- There were also 13,969 records that included shared ID/passport numbers, names and dates of birth.

- There is no process through which voters are notified if their records have been identified as duplicates.

- There are cases where people are registered in the Register of Voters but have the same ID numbers as people who are "suspended." These are duplicate records.[35]

  o How will the IEBC handle cases in which ID and/or passport numbers are shared? Since these numbers are supposed to be unique to individuals, it will be difficult to know if these cases indicate fraud or if they were simply a result of human error.

  o If technology fails, what is being done to ensure that people who have registered more than once in different polling stations are not allowed to vote more than once?

Entries with incomplete or erroneous data

There are also other problems with the data in the Register of Voters:

Names:

- Even though first name and surname fields are mandatory, 11 records had no first name and 128 had no surname.[36]

- Out of 77 fields, ten had nulls, blanks or 1 unique value.[37]

- 755 records contained only alpha characters in the ID/passport number field.[38]

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[33] KPMG, 86.

[34] KPMG, 87.

[35] KPMG, 115.

[36] KPMG, 77.

[37] KPMG, 109.

[38] KPMG, 109.

- There were 69 records in which people's names were listed as numbers.[39]

- 5,632 records contained out of range first names, and 5,969 records contained out of range surnames.[40]
- 8,124 records included out of range dates of birth.[41]
- 9,405 out of range polling stations.[42]

Age:

- There are 110 records in which the dates of birth in the NRB and IEBC databases differ. If using the NRB date, these people were registered when they were below 18 years of age.[43]

- Overall, there were 29,199 records containing inaccurate names and particulars.[44]

  o If people's details are incorrectly recorded in the Register, will they be barred from voting?

  o What are the criteria for determining the validity of such cases?

  o What explains out of range polling stations? Are these stations that were incorrectly listed, or are they stations that were unable to be matched with existing stations for some other reason?

11

Number of records that had no first name, even though first name and surname fields are mandatory, according to KPMG.

128

Number of records that had no surname

110

Number of records in which the dates of birth in the NRB and IEBC databases differ according to KPMG.

29,199

Number of records containing inaccurate names and particulars according to KPMG.

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[39] KPMG, 109.

[40] KPMG, 119.

[41] KPMG, 119.

[42] KPMG, 119.

[43] KPMG, 120.

[44] KPMG, 118

V. **Keeping it Clean:** Updating the Register

Data Sources

The validity of the Register depends wholly upon data from several sources external to the IEBC. People's national IDs and passports, for example, come from the Principal Registrar of Persons and the Director of Immigration, respectively. Data on deceased Kenyans come from the Principal Registrar of Births and Deaths. KPMG's audit revealed that there is serious deficiency in these institutions' records.

- First, there are no updated, definite numbers on the voting age population (VAP)(Kenyans age 18 and above). Projections vary from 22,882,601 (KPMG) to 25,323,059 (NRB).[45] Projections are also used for the total population; these range from 45,392,695 to 46,974,055.[46] Without a credible VAP, and one that is disaggregated to at least the constituency level, it is impossible to accurately report voter turnout.

- Second, no centralized lists exist for information on persons with disabilities (PWDs). Since PWDs require special assistance and the law guarantees that right, a reliable number of this population is critical.

- Third, there is no central database of information on Kenyans who have been declared to be of unsound mind.[47] In fact, no one has been removed from the Register for the latter and there are no procedural guidelines for the collection of this data.[48] Since they are not legally eligible to vote, a credible database of these individuals is an important prerequisite for a credible register. The IEBC sent a letter to the Director of Medical Services for this information, but there was no response.[49] It is important to note that it is difficult to create and maintain such a database, because it risks infringing upon patient confidentiality and has the potential to unfairly discriminate against certain individuals. Going forward, stakeholders must consider a fair way to access this data.

- Fourth, there is no centralized, complete list of deceased persons in Kenya. Existing data, which represents 41 percent of expected deaths in Kenya over the last five years, is collected and kept in hard copy only – booklets of 250 registers each.[50] The existing data is also riddled with errors, inconsistencies and missing information.

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[45] KPMG, 164 and 166.

[46] KPMG, 166.

[47] KPMG, 104 and 180.

[48] KPMG, 105.

[49] KPMG, 117.

[50] KPMG, 94.

- Fifth, KPMG estimated the total number of expected deaths of Kenyans aged 18 and above between 2012 and 2016 to be 1,534,009. The Civil Registration Bureau possessed records for 621,832 (41%) of those, and it gave KPMG 332,551 (53%) of those. Out of the records KPMG had to work with, it was only able to analyze 196,988 (59%) of those because the rest lacked ID numbers.[51] Overall, then, KPMG's analysis of dead voters was based on approximately 13% of all expected deaths of those aged 18 and above. Clearly, deeper and more representative analysis is necessary for more definitive results.

- It is also difficult for the IEBC to ascertain this data for purposes of updating the Register in a timely way, because the system depends on sub chiefs physically ferrying the data to sub county offices. Those offices then carry the data to regional offices on a monthly basis.[52] In some cases, IEBC officers go out into the field to try and find this information themselves. It is hardly surprising, then, that the IEBC managed to eliminate only 11,104 records of deceased voters since 2012, only 30 of which were done after 2013.[53]

- The large majority of Kenyans who register to vote do so with their national ID cards (as opposed to their passports). Problematic data on the ID card is therefore transferred to the Register. In fact,

   o   Although ID numbers are supposed to be a maximum of eight digits, 60,583 records contain ID numbers that are nine or more digits.[54]

   o   One record contains no ID number.[55]

   o   There are 171,476 ID numbers in the Register that do not match with ID numbers in the national ID database.[56] After the release of the audit findings, the IEBC said that it will leave these records in the Register in order to "minimize chances of disenfranchisement."[57]

   o   All together, there were 68,480 records with "out of range" ID numbers (numeric names, non-numeric IDs, etc).[58]

   o   There are 2,078 IDs that have expiration dates.[59]

171,476

Number of ID numbers in the Register that do not match with ID numbers in the national ID database., according to KPMG.

68,480

Number of records records with "out of range" ID numbers (numeric names, non-numeric IDs, etc), according to KPMG.

2,078

Number of IDs that have expiration dates, according to KPMG.

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[51] KPMG, 101.

[52] KPMG, 94.

[53] IEBC. 2017. "Media Release: Report on Audit of the Register of Voters, page 5.

[54] KPMG, 77.

[55] KPMG, 77.

[56] KPMG, 78.

[57] IEBC. 2017. "Press Release on the Register of Voters."

[58] KPMG, 119.

[59] KPMG, 109.

- The passport data that KPMG used contained information going only as far back as 2008.[60] Moreover, some passport details are erroneous as recorded in the Register, potentially disenfranchising voters and/or allowing ineligible voters to cast ballots:

  o Out of the 70,600 passport records in the Register, 17,523 (25%) are invalid passport references, meaning that they did not match passport references in the immigration database. 98 of these are diplomatic passports.[61]

  o A further 8,568 (12%) have inaccuracies related to names, dates of birth, gender, or a combination of these.[62]

  o There were 6,554 passports without expiry dates.[63]

- Finally, it is unclear what information exists, if anything, related to people who are guilty of having committed electoral offences. The IEBC sent letters to the Directorate of Criminal Investigations for this information, but no response was received.[64] KPMG's own research found that only two people have been found guilty of having committed electoral offences since the Electoral Offences Act was passed in 2016; both of them remain on the Register.[65]

Questions to consider include:

- Given that the data that the IEBC relies on to keep the Register updated is so flawed, what assurance does the public have that the Register of Voters is a reliable and accurate document?

- What reforms will the IEBC and other stakeholders undertake to create a more efficient and reliable process for updating the Register?

- How will the IEBC handle cases in which records contain non-sensical or out of range data? Have the cases identified by KPMG been marked as such, or will IEBC have to decide how to handle these on election day? If the latter, what are the criteria for these decisions?

- What is the process through which the errors and inconsistencies in the data can be addressed in the long term – how can voters whose information is misrepresented in the Register make sure it is corrected?

- If people's fingerprints are valid but the information on their ID cards is not, what does that mean for election day – will they be allowed to vote?

- How will the IEBC handle records in which ID/passport numbers are invalid? Will people with these IDs be allowed to vote?

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[60] KPMG, 122.

[61] KPMG, 123.

[62] KPMG, 123.

[63] KPMG, 109.

[64] KPMG, 117.

[65] KPMG, 104.

VI. Record Keeping

Tracking Technology

In 2012, the IEBC used 16,800 BVR kits to register voters, but records show that there were only 16,593 unique 6-digit identification numbers for the kits.[66] Time stamps in the BVR kits were also nonsensical, including 10,028 cases in which times were recorded after 23:59:59.[67]

- o   What happened to the 203 BVR kits whose serial numbers were not found?

- o   What is the system for keeping track of the new technology that is now being used?

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[65] KPMG, 71.

[66] KPMG, 109.

VII. Conclusion

One week before elections, there is reason to worry about the Register of Voters. First, it appears that few lessons have been learned since 2013. Once again, there are unexplained increases in the number of registered voters after the process was closed, there is evidence of the use of the green book and there are unexplained discrepancies between the biometric and biographic lists. Moreover, it is clear that the Register is bloated by the presence of dead voters' records, duplicate entries and inconsistent/erroneous data. These problems, which have either been only partially addressed or completely disregarded, leave voters wondering how the IEBC will guarantee the integrity of the one (wo)man, one vote principle on election day. The issues also raise questions about how voters will be impacted by errors in the Register – will people be disenfranchised if, through no fault of their own, their information is misrepresented in the Register?

With one week remaining before elections, the IEBC must immediately explain the continued presence of the green book and its intended use on election day. A clear explanation will help Kenyans prepare for what to expect, especially if technology fails, and will help mitigate suspicion.

In the long run, it is clear that the processes through which the IEBC updates the Register require serious overhaul. This must involve reform of the ways in which other state agencies collect their data, including records of deaths, lists of those who have been convicted of committing electoral offences and records of those who have been declared to be of unsound mind. It will also be imperative for the IEBC to work closely with the Registrar of Persons/Department of Immigration to address errors related to people's IDs.

Kenyans must demand a higher standard of electoral integrity, and the Register of Voters is a critical place to start.

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