

**AN EVALUATION OF THE ELECTORAL COMMISSION OF KENYA'S
IMPLEMENTATION OF ELECTORAL ACTIVITIES PRIOR AND DURING
THE 2007 GENERAL ELECTIONS**

By

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**A Research Project Report submitted in partial fulfillment for the requirement of
the degree of Master of Arts in Project Planning and Management of the University
of Nairobi**

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DECLARATION

I hereby declare that this research is my original work and has not been submitted for a Degree Award in any university.

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DEDICATION

I dedicate this work to my parents for their love, endless support and encouragement and Mr. Samuel Kivuitu who discovered my potential in election matters and mentored me to the level of establishing a career in elections.

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ABBREVIATIONS AND ACRONYMS

BRIDGE	Building Resources in Democracy, Governance and Elections
DEC	District Elections Coordinator
ECK	Electoral Commission of Kenya
EMB	Election Management Body
GPS	Global Positioning Service
ID	Identity Card
IDEA	Institute for Democracy and Electoral Assistance
IED	Institute for Education in Democracy
IIEC	Interim Independent Electoral Commission
IIBRC	Interim Boundaries Commission
IPPG	Inter- Parties Parliamentary Group
IREC	Independent Review Commission on the 2007 Kenya General Elections
KBC	Kenya Broadcasting Cooperation
KEDOF	Kenya Elections Domestic Observers Forum
MP	Member of Parliament
NGO	Non Governmental Organization
PAC	Parliamentary Accounts Committee
PMU	Project Management Unit
RO	Returning Officer
SPSS	Social Science Software Programme
UNDP	United Nations Development Programme

ABSTRACT

It is important to recognize the challenges of elections management. There are underlying factors that affects the process, and in judging the conduct of an election by an Electoral Management Body (EMB), all these factors should be considered. Principles of independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness should be adhered to by EMBs to increase chances of conducting transparent, free and fair elections. The Electoral Commission of Kenya (ECK) was the EMB mandated to conduct and supervise election activities in Kenya until December 2008 when it was disbanded through an Act of Parliament following disputed presidential elections during the 2007 general elections in Kenya.

This research was intended to evaluate to what extent the ECK embraced the said principles and what consequences and challenges it encountered in delivering professionally managed free and fair elections as it was required to. This was done through evaluating the level of independence attained as it implemented its mandate; establishing the level of transparency, impartiality and integrity embraced during the implementation of electoral activities; examining the extend of service-mindedness and professionalism exhibited as they serve the stakeholders and finally evaluating the level of efficiency and effectiveness achieved in delivering its mandate.

The researcher interviewed former ECK employees and other stakeholders who participated in the 2007 general elections. These included the election observers who observed the 2007 general elections, political party representatives, media and Non Governmental Organizations that dealt with Elections and Democracy. This was done by subjecting questionnaires to the identified respondents.

From the findings it was evidenced that the level of independence was influenced by several factors among them political appointment of commissioners and lack of financial autonomy. The level of transparency in recruitment and political party nominations was wanting while the integrity of the electoral process was undermined by the misuse of state resources by the government of the day and electoral malpractices. Through the election officials were seen to be impartial and service minded at the polling stations, the research indicated that the level of professionalism was affected by the fact that some officials lacked the electoral skills. The research recommended that for commissioners to be appointed at the commission they should undergo a competitive recruitment; the commission should conduct its activities transparently, guarantee the voters the right to vote or be candidate, secret ballot have transparent rules of recruitment and always ensure gender equality during recruitment or nominations. There should also be set roles and responsibilities for all the election officials and the commission should set service delivery standards to ensure good performance. All the electoral projects should be monitored and evaluated to ensure efficiency and effectiveness as this would improve on the implementation of the electoral activities. Finally it is evidenced from the research that it is very important for EMBs to embrace project management principles and skills while implementing the electoral activities. This is because the electoral activities are finite and they have a specific start and completion date just like projects.

CHAPTER ONE

INTRODUCTION

1.1 The background of the study

An election is a decision-making process by which a population chooses an individual to hold formal office. The Black Law Dictionary defines elections as the act of choosing or selecting one or more from a greater number of persons, things, courses, or rights. It is an expression of choice by the voters of a public body politic, or as a means by which a choice is made by the electors (Black Law, 7th Ed.). This is the usual mechanism by which modern representative democracy fills offices in the legislature, sometimes in the executive and judiciary, and for regional and local government. Elections are an essential part of any democratic society. This is because through them, citizens choose who governs on their behalf. For elections to serve their purpose, they must be conducted freely and fairly (IED, 2002).

The complexity and specialist skill necessary for electoral management requires that an institution or institutions be responsible for electoral activities. Such a body is known as an Electoral Management Body (EMB). The International IDEA handbook on Electoral Management Designs defines an EMB as an organization or body which has the sole purpose of, and is legally responsible for, managing some or all the elements that are essential for the conduct of elections and of direct democracy instruments such as referendums, citizen's initiatives and recall votes as defined in the legal framework (IDEA, 2006).

It is therefore important for countries to support their EMBs in every way possible so that free and fair professionally conducted elections can be realized. There are underlying factors that affect the performance of the electoral bodies and these should be addressed appropriately to allow independence and professionalism during elections management. A country's electoral management model may result from a holistic design process. Equally, it may be a more or less appropriate graft onto an existing system of state administration. In post colonial environments, it may be strongly influenced by colonial administrative patterns. While there are many variations of details, there are three broad

types of models of EMBs – the Independent, Government and Mixed Models (IDEA, 2006).

The defunct Electoral Commission of Kenya (ECK) was a mixed model EMB since it was not fully independent. It lacked financial autonomy and legal backup on important issues like ruling out on cases of electoral malpractices (Mukele, 2007). The ECK was also located under the direction of the Ministry of Justice and its implementation powers were limited in many of its electoral activities.

The ECK was mandated by the Kenya Constitution to conduct and supervise elections and election activities which included delimitation of constituencies and electoral areas boundaries; registration of voters, maintenance and revision of register of voters; promotion of voter education and carrying out any other function as prescribed by law. The 2007 general elections were the tenth elections since Kenya became independent. The disputed 2007 presidential elections were perceived as a result of an incompetent EMB (Report of the Independent Review Commission, 2008, popularly referred to as the Kriegler Report, named after the Chair to the Commission). The Kriegler Commission stated in its report that ECK lacked functional efficiency and [was] incapable of properly discharging its mandate”. The ECK was disbanded through an amendment to the Constitution (The Constitution of Kenya Amendment Act, 2008). This was followed by creation of an Interim Independent Electoral Commission (IIEC) as the new EMB and the Interim Boundary Commission. The two Commissions were constituted by Parliament and divided between them the core functions of the former ECK, namely, electoral supervision and boundary delimitation. The two Commissions were expected to work for two years, at the end of which they would be dissolved to pave way for a permanent EMB.

This study evaluated the implementation of the electoral process prior and during the 2007 general elections and also identified the challenges faced by the ECK in implementing its mandate. It is important to recognize the challenges of elections management, challenges such as deadlines considering elections often have immutable deadlines and many electoral activities are dependent on each other. If a critical task is

not completed on time, the impact on the others may be detrimental. Incompetence and inefficiency in conducting elections would trigger dissatisfaction and violence and as Kivuitu (2007) would say, these are circumstances which are alien to free and fair elections. It should also be noted that the former ECK was criticized for delimitation of boundaries to create an unfair advantage to one party (gerrymandering); failure to curb or take any action against rampant use of state resources by those in government; failure to handle double voter registration; failure to monitor political parties' nomination and the appointment of its commissioners (CRECO, 2008).

The study was inspired by the inadequacies outlined above. It aimed to evaluate the process of implementation of the electoral activities by the ECK and what difficulties were encountered during the implementation. This would enable the decision makers understand what went wrong and hence use the experience as a lesson learnt which would contribute greatly in improving the electoral reforms being implemented currently by the coalition government.

1.2 Statement of the problem

The violence that followed the 2007 elections in Kenya sent shock waves throughout the country and the world and raised questions about Kenya's democratic landscape and institutional capability. Following the disputed presidential elections it was important to evaluate how the ECK implemented the electoral activities and the challenges faced during the implementation. The study therefore evaluated the political and electoral environment in which the elections were held during the 2007 general elections and also attempted to explore the legal and institutional framework governing elections in Kenya. The research finally made recommendations for electoral reforms.

1.3 Purpose of the study

The purpose of the study was to evaluate the implementation of electoral activities prior and during the 2007 general elections and how it affected the delivery of transparent, free and fair elections by the ECK.

1.4 Objectives of the study

The objectives of this study were to:

1. To evaluate the extent of independence attained by the ECK during the implementation of its mandate and the factors that affected full achievement of its independence.
2. To establish the level of transparency, impartiality and integrity by which the ECK implemented the electoral activities so as to ensure credible elections.
3. To examine the level of service mindedness and professionalism the election officials exhibited as they conducted their duties of implementing electoral activities.
4. To evaluate the level of effectiveness and efficiency attained during the implementation of the electoral activities.

1.5 Research questions

The study was guided by the following research questions:

1. To what extent did the ECK implement its mandate independently without control, influence or reliance and what factors affected full achievements of its independence?
2. To what level did the ECK conduct the elections transparently, impartially and with integrity in order to ensure credible elections?
3. What level of service mindedness and professionalism did the election officials exhibit as they conducted their duties of implementing electoral activities?
4. To what level were the electoral activities implemented effectively and efficiently?

1.6 Justification of the study

It is important that as Kenya undertakes the election reforms and develops a new EMB, lessons are learnt from the previous ECK. Lack of knowledge management at the former Commission and the laying off of all the employees created an institutional gap in the continuity of the election management in Kenya. This research served as a necessary

linkage between the previous commission and IIEC. This research evaluated the implementation of electoral activities prior and during the 2007 general elections. The research would benefit the policy makers and implementers of electoral reforms in Kenya as it would serve as a documentation of the weaknesses experienced by the ECK and hence provide the much needed lessons learnt.

1.7 Significance of the study

This study confirms whether tasks undertaken by different departments at the ECK were interconnected as they were supposed to. This is because electoral activities depend on each other in order to complete the electoral cycle. The electoral cycle consists of pre election, elections and post elections periods. The study also reveals whether the electoral activities were constantly monitored and evaluated as required to avoid slip-ups or being forgotten. The research comes up with an overview of why project management skills are relevant in planning and conducting elections and why it is important for an EMB to be seen to be undertaking its activities in a transparent, free and fair manner. The study also evaluates how far this affected the image of the ECK.

From the findings the stakeholders in the electoral field would find it useful in understanding the underlying factors that would affect the achievement of transparent, free and fair elections. This would enable a better understanding of what enhances the process of conducting free and fair election since stakeholders are key players in the electoral process.

Finally the findings add to the knowledge base of and learning lessons to the IIEC which was constituted to take over the ECK's mandate. It would therefore be of great contribution towards achieving transparent, free and fair elections in Kenya. Policy makers also stand to benefit from the research since it highlights areas of improvement and hence assist in implementing the electoral reforms taking place in Kenya.

1.8 Scope of the study

The scope of the study was to evaluate the implementation of the electoral activities that led to the 2007 general elections. These include all activities in the electoral circle that falls under the pre election period, election period and post election period.

1.9 Delimitation of the Study

The study focused on the policy makers and managers at the ECK who planned and managed the implementation of the electoral activities prior and during the 2007 general elections in Kenya. They were the commissioners, managerial level staff from the nine departments, district election coordinators and the returning officers who were in charge of the temporary staff. It also evaluated the major stakeholders involved who included the political party representatives, observers, media representatives and Non Governmental Organizations that participated in the 2007 general elections.

1.10 Limitations of the study

The disbandment of the ECK entirely created a disconnection in transition, this was due to lack of knowledge management at the defunct institution and also the loss of important information which was not documented anywhere. These identified limitations were seen as factors that would affect the research. The other foreseen limitation was the readiness and willingness of the former ECK employees to be interviewed.

1.11 Assumptions of the study

The assumption in this study was that the former ECK just like other EMBs abided to the international guiding principles for all EMBs. It was also assumed that the confidence and goodwill of the respondents would be sustained throughout the study.

1.12 Definition of significant terms

Elections are the hallmark of democracy. Through the periodic occurrence of free, fair, transparent, and competitive elections the people express their will on the common issues of their society and select their representatives and officials, who will then administer and exercise the power of government on their behalf with their consent. Elections

enfranchise citizens, linking them to their government and giving them a stake in the fair and appropriate exercise of its power. Since citizens select their representatives, elections help to legitimate government and contribute to societal stability.

Electoral Management Body is an organization or body which has sole purpose of; and is legally responsible for managing some or all of the elements that are essential for conducting elections and of direct democracy instruments such as referendum.

Electoral Commission of Kenya was the electoral management body in Kenya which was mandated by the Kenya Constitution to conduct and supervise presidential, parliamentary and local governmental elections. Its mandate include delimitation of constituencies and electoral Boundaries, registration of voters, promotion of voter education and any other function as may be prescribed by law. The commission was disbanded in 2008 following the disputed outcome of presidential votes in 2007 during the general elections.

Electoral Cycle is the completion of the many phases in the electoral process. These come in three stages, the pre electoral period activities, electoral period activities and post- electoral period activities. After the end of one electoral process, it is desirable for work on the next to begin.

Electoral activities are the activities that are implemented in the electoral cycle. They include design and drafting of legislation, the recruitment and training of electoral staff, electoral planning, voter registration, the registration of political parties, the nomination of political parties and candidates, the electoral campaign, polling, counting, the tabulation of results, the declaration of results, reporting, auditing, and archiving.

Free, transparent and fair election is an election where citizens have the right and opportunity to choose a leader of their choice with freedom of assembly, association, movement, and speech, for candidates, parties, voters, media, observers and others. This should happen without intimidation. The process is seen as fair when balloting and counting is administered without fraud or manipulation by impartial election authorities. Political parties and individuals are also granted reasonable opportunities to stand for

election, and availability of prompt and just resolution of election-related disputes and grievances, before and after the Election Day. Fairness also requires a “level playing field ground” for all participants. Transparency calls for openness at all stages of election organisation, access to relevant information on timely basis and justification or admission of mistakes.

Gerrymandering is a form of boundary delimitation (redistricting) in which electoral district or constituency boundaries are deliberately modified for electoral purposes, thereby producing a contorted or unusual shape. The resulting district is known as a gerrymander; however, that word can also refer to the process. Gerrymandering may be used to achieve desired electoral results for a particular party, or may be used to help or hinder a particular group of constituents, such as a political, racial, linguistic, and religious or class group.

General elections in Kenya are three elections held together, at the same time and on the same day and, and are comprised of the presidential, parliamentary and civic elections.

Guiding Principles for all Electoral Management Bodies are fundamental guiding principles that ensure the legitimacy and credibility of the processes undertaken by Electoral Management Bodies.

1.13 Organization of the Study

Chapter one of this study covers the background to the problem and in this section the writer introduces the topic under investigation covering a global, regional and national overview. The other areas covered include the statement of the problem which describes the background of the problem; the research question; objectives of the study; significance of the study; scope of the study and the conceptual framework.

Chapter two covers the literature review which comprises the historical background of ECK; its mandate; its organizational structure; the kind of management system that was in place its advantages and limitation; major reasons that caused the disbandment of the commission and the significance of professionally managed elections. It also looks at the management skills which were applied by the ECK and the system that was in place.

Chapter three covers the research methodology and design components which include the research purpose; research approach; research strategy; sampling design; data collection methods; sampling selection and data analysis.

Chapter four analyses the data collected reflects the questionnaire return rate, presents and interprets the findings.

Chapter five summarizes the findings, presents a discussion of the findings and conclusions drawn from the research. Finally it presents the recommendations and suggested areas for further research.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This section covers the literature review on election management. In this chapter different models of EMBs are identified and the model existing in Kenya discussed. This section also highlights the formation of the ECK, its mandate and its organizational structure. The guiding principles for all EMBs are also discussed and their importance in ensuring EMBs conduct free, fair and transparent elections would be highlighted. A conceptual framework relating the guiding principles and free, transparent and fair elections has also been developed.

2.2 Elections Management

Management is a process which enables organizations to set and achieve their objectives by planning, organizing and controlling their resources, including gaining commitment of their employees through motivation (Cole, 1996). Project management is the discipline of planning, organizing and managing resources to bring about the successful completion of specific project goals and objectives (David Etal 2006). A project is a finite endeavor (having specific start and completion dates) undertaken to create a unique product or service which brings about beneficial change or added value (Chandra, 2002). The finite characteristic of projects stands in contrast to processes, or operations, which are permanent or semi-permanent functional work to repetitively produce the same product or service. In practice, the management of these two systems is often found to be quite different, and as such requires the development of distinct technical skills and the adoption of separate management (Paul C. Dinsmore et al 2005). This study considers elections as projects since they qualify the description.

The primary challenge of project management is to achieve all of the project goals and objectives while honoring the project constraints. Typical constraints are scope, time and budget. The secondary—and more ambitious—challenge is to optimize the allocation and integration of inputs necessary to meet pre-defined objectives (BRIDGE, 2002).

Election Management is a critical element in maintaining election integrity and it is sound management of elections by a credible EMB. To be credible, the electoral administration has to be impartial and have the institutional capacity to hold free and fair elections. In a well-entrenched democracy, the institution that administers elections is usually taken for granted since it has delivered elections for generations; and in case there are problems, generally the question of credibility or legitimacy of the institution does not arise. In such a country, the EMB often is part of the government, and electoral administrators are civil servants (IDEA 2006).

In a newer democracy, the electoral management body may still be developing and may face severe criticism and close scrutiny. In addition to the problems inherent in organizing an election, the body may have institutional problems—inadequate staffing, funding or experience. A viable solution to ensuring the impartiality required to earn voter trust is the creation of an electoral management body free of any political influence.

An Election or direct democracy poll such as a referendum is often one of the largest single activities that are ever organized in a country. The complexity and specialist skills necessary for electoral management require that an institution or institutions be responsible for electoral activities. Such bodies have a variety of shapes and sizes, with a wide range of titles to match, which includes “Electoral Commission”, ‘Department of elections’, ‘Electoral Council”, or ‘Electoral Boards’. The term ‘electoral management body’ or EMB has been coined as a name to refer to the body or bodies responsible for electoral management whatever wider institutional framework is in place (IDEA, 2006).

There are three models of EMBs: the Independent model, the Government model and the mixed model. The Independent Model of electoral management exist in those countries where elections are organized and managed by an EMB which is institutionally independent and autonomous from executive branch of government, and which has and manages its own budget. Under the Independent Model, and EMB is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary, or the head of state. EMBs under the Independent Model may enjoy varying degrees of financial autonomy and accountability, as well as varying levels of

performance accountability. They are composed of members who are outside the executive while in EMB office. Many new emerging democracies have chosen the Independent Model of electoral management (Koki, 2009). Examples of EMBs under the Independent Model include Armenia, Australia, Bosnia and Herzegovina, Burkina Faso, Canada, Costa Rica, Estonia, Georgia, India, Indonesia, Liberia, Mauritius, Nigeria, Poland, South Africa, Thailand and Uruguay (Allan W. Etal, 2006).

The Government Model of electoral management exists in those countries where elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) and/or through local authorities. Where EMBs under the Governmental Model exist at national level, they are led by a minister or civil servant and are answerable to a Cabinet minister. With very few exceptions they have no 'members'. Their budgets fall within a government ministry and/or under local authorities (IDEA, 2006). Countries whose EMBs falls into this model include Denmark, New Zealand, Singapore, Switzerland, the UK and the USA (Allan W. Etal, 2006). In Sweden, Switzerland, the UK and United States, elections are implemented by local authorities.

In the Mixed Model of electoral management, there are usually two component EMBs, and dual structures exist: a policy, monitoring or supervisory EMB that is independent of the executive branch of government (like an EMB under Independent Model) and an implementation EMB located within a department of state and/or local government (like an EMB under the Governmental Model). Under Mixed Model, elections are organized the component governmental EMB, with some level of oversight provided by the component independent EMB (IDEA, 2006).

There must be administrative accountability measures through which EMBs and other governmental agencies concerned with electoral process account their performance. These measures should address ensuring integrity in the electoral process, which includes administrative actions to provide universal suffrage and accurate records and honor the electors' will (Young, 2009).

Mixed Model is used in France, Japan , Spain and many former French colonies, especially in West Africa for example Mali, Senegal and Togo (Allan W. Etal, 2006). The relationship between the component EMBs in a Mixed Model is not always clearly defined in legislation or interpreted by stakeholders, and friction can result. In 1999 elections in Guinea- Conakry (which used the Mixed Model at that time), the majority representative and the opposition representatives in the component independent EMB had strongly different approaches to its role to supervise and verify the elections, its effectiveness was therefore heavily disputed.

2.3 The Electoral Management Body in Kenya

In 1963, the Constitution of the newly independent Kenya created an autonomous Electoral Commission with a clear mandate to register voters, conduct elections, and delimit parliamentary and electoral districts, among other electoral matters. In 1991 the Constitution was amended to introduce multiparty system and to change the structure and responsibilities of the ECK. During this period the ECK was given exclusive powers to manage its activities. Although the reforms introduced significant change, its members were presidential appointees and it drew its funds from the treasury (ECK Strategic plan, 2004). These factors among others made it difficult for the ECK to be independent and hence qualified for a mixed model.

2.3.1 Organizational Structure of the Electoral Commission of Kenya

The former ECK consisted of a Chairperson and not less than four and not more than twenty-one members appointed by the President. The Chairperson and the Vice Chairperson of the Commission were persons who held or had qualified to hold the office of judge of the High Court or judge of appeal under the Kenya Constitution.

The duties of the Commissioners included setting a policy framework for the organisation, as well as carrying out specific tasks in the various committees or during fieldwork in the provinces. They also represented ECK in various national and international fora, in addition to undertaking any other duties related to elections. For the purpose of administration, there was a Secretariat and district election coordinators. The

secretariat was at the Commission's headquarters in Nairobi, while the latter had offices in seventy one districts. The Secretariat was effectively established in July 1998 and the ECK was given its own Vote R33 by the Treasury (ECK Strategic Plan 2004). They operated through ten departments headed by departmental heads who would report to the Commission Secretary. This kind of organization was purely functional; all the departments ran their own work schedules despite the fact that the activities were meant to be coordinated towards one goal. Decision-making in the Commission was by consensus. In case a decision was not reached consensually, a vote was taken.

The ECK ran its affairs through the following committees: Finance, Planning and Logistics; Registration of voters; Elections and Delimitation of Electoral Districts; Legal and Electoral Reforms; Public Education and Relations; Human Resources and Development; Research and Technical Services; Liaison and General Purposes. These Committees were created by Chapter 7 of the Laws of Kenya. The committees provided policy guidelines, which were submitted to the plenary for decision. They met regularly and each committee had an average of six members. The Commissioners operated principally from the Nairobi headquarters. They were appointed for five years and were eligible for re-appointment.

The role of the ECK was facilitative, coordinative, supervisory, implementation and regulatory. In the management of elections, the ECK acted in all the five roles. Considering the above said roles, project management skills were essential in the proper implementation of the same.

2.3.2 Foundation and Legal Basis of the Electoral Commission of Kenya

The ECK derived its powers to conduct and supervise elections, from the Constitution of Kenya. Before the passing of the Constitution of Kenya (Amendment) Act No. 17 of 1990, constitutional powers relating to the old Commission had been ignored since 1969, in that the ECK had been deprived of all its other constitutional duties except the duty to review constituency boundaries. Even the review of constituency boundaries was so

controlled through parliamentary maneuvers, that the first time the Commission actually undertook this, was in 1986.

An office called “Supervisor of Elections”, which was a department of the Attorney General’s chambers had instead been created, to be in charge of the conduct of elections, including the registration of voters for presidential and parliamentary elections. The “Supervisor of Elections” unconstitutionally ran elections until 1991, assisted by the District Commissioners as returning officers and other public servants as election officials.

Over the years, the Commission’s structure and responsibilities had changed, in order to accommodate the conduct of free and fair elections, undertaken by an independent electoral body (ECK Strategic Plan, 2004).

According to the Constitution, the ECK was responsible for: dividing Kenya into such number of constituencies with such boundaries and names as it may determine; reviewing the numbers, boundaries and names of these constituencies at intervals of between eight years and 10 years, with power to alter the number, the boundaries or the names if it considers that desirable; registering voters, maintenance and revision of voters’ registers; directing and supervising Presidential, National Assembly and Local Government elections; promoting free and fair elections; promoting Voter Education throughout Kenya; determining the ratio of party nominees and eligibility in respect of nominated Members of Parliament and councilors; conducting nomination of party candidates for election on request and performing such other functions as may be prescribed by law.

2.3.3 Administration of Elections

The ECK was mandated by the Constitution to administer elections. It should be noted that, there are many phases to the electoral process; in an election, for example, they include the design and drafting of legislation, the recruitment and training of election staff, electoral planning, voter registration, the registration of political parties, nomination of parties and candidates, the resolution of electoral campaign, polling, counting, the tabulation of results, the declaration of results, the resolution of electoral disputes,

reporting, auditing and archiving. After the end of one electoral process, it is desirable to work on the next to begin: the whole process can be described as the electoral cycle which comes in three stages (ECK Elections Manual, 2007).

The first stage is known as the pre-election period which encompassed of planning, training, information and registration. The activities include budget and funding, electoral calendar and operational work plans, staff recruitment, procurement, develop procedures, operational training for electoral officials, voter education, stakeholder liaison, observer accreditation, party financing, party registration and voter registration. The second stage is the Election period which consists of nomination, campaign, voting and results while the third is the post electoral period includes strategic planning, legal reforms and review of audits and evaluations. All the above electoral activities were conducted by the ECK.

The ECK was funded by the government. It used to submit its budgetary proposals to Parliament for approval through the Ministry of Finance. It had no control over its disbursements and relied on the District Elections Coordinators (DECs) to manage its finances at the district level. Such financial arrangements were unsatisfactory and inefficient, and undermined its independence. In addition, the funding allocated was usually inadequate, and the ECK was treated as a government department, which forced it to rely heavily on donor funding (ECK Strategic plan, 2004).

The ECK's work had also been hampered by delays in funding and irregular remittances. This had severely hindered the planning process, and in some cases disenfranchised some communities as the ECK was unable to reach them and facilitate their participation due to the lack of appropriate funding (ECK Strategic Plan, 2004).

On accountability, the ECK was required to observe all financial regulations and accounting procedures in the management of its funds and the disbursement of funds. It is also subject to the Parliamentary Accounts Committee (PAC) for all accounting queries (ECK Strategic Plan, 2004).

The ECK's professionalism had been criticized in the past. Between 1991 and 1997 in particular, its image was tainted and it suffered from a reputation for incompetence and

unfairness. An improvement was seen during the 2002 elections, and many observers noted the improved professionalism and credibility of the chairman and commissioners compared with the previous elections (ECK General Elections Report, 2002). However, many observers also noted that the ECK lacked the experienced and skilled professionals and needed to adopt a proper human resources development programme. A transparent recruitment and deployment programme was also recommended and by the end of 2005, the ECK's staff did not have proper terms and conditions of employment. Prior to the 2002 elections the ECK made new regulations to enhance the credibility of the electoral process, which were approved by the National Assembly in October 2002. The major changes included an amendment to allow for continuous registration of electors and the counting of ballot papers at the polling stations. Over the years the ECK's ability to manage elections efficiently and its credibility and impartiality had been the subject of never-ending skepticism. Its major obstacle was overcoming this image and winning trust as a commission with the ability and professionalism to conduct credible elections. In order to achieve this, two issues now stand out – control over the recruitment and supervision of its entire election staff, and control over the funding of electoral administration (ECK General Elections Report, 2002).

2.4 Guiding Principles for all the EMBs

As discussed previously the institutions that are charged with the responsibility of managing the electoral process are expected to have a high degree of professional integrity. This shall assist them gain the confidence and trust of key stakeholders in the electoral process (www.bridge-project.org). Generally electoral management is founded on fundamental guiding principles described below:

2.4.1 Independence of the EMB

Okello E. O in his dissertation describes independence of an electoral body as a body established permanently either by national constitution or by legislation which provides for its independence from any party in performance of its functions and exercise of its powers; he also acknowledges that the staff of the EMB should be independent of any

party on the mode of appointment, removal and their conditions of service. He finally notes that the budget of such a body should not be determined by the executive (Okello, 2006). EMBs should be independent from governments and any other party that is interested in the outcome of the elections such as political parties. Some of the factors that can be looked at when evaluating the independence of an EMB include permanency, appointment of commissioners and composition of the EMB, power to hire and fire its staff, operational autonomy and financial autonomy (Kivuitu, 2007).

Carl Dundas (2010) in his report on Electoral Justice, he defines the term independence in the context of EMBs as freedom from influence of any outside individual, authority or political party and especially the incumbent party and government. He further says that failure to manage this relationship well often results in unwelcome consequences for the EMB (Dundas, 2010). This research evaluates the independence of the ECK as it implemented its mandate during the 2007 general elections. The research also tried to find the understanding of how the level of independence attained by the ECK may have affected its ability to delivery free, fair and transparent elections.

2.4.2 Transparency of the implementation of the electoral activities

The Association of Central and Eastern European Election Officials International Foundation for Election Systems Central Election Commission of the Russian Federation on their website www.democracy.ru define transparency as the term used for a clear and open process, which is understandable and accountable to the electorate. They further note that transparency is essential to the electoral process because it eliminates the appearance of impropriety and limits the possibility of electoral fraud. Transparent procedures promote public confidence and trust in the electoral system.

The Association states that, in order for elections to be considered free and fair, transparent procedures should ensure participatory government where persons have the right to elect their representatives; persons are allowed to vote by secret ballot; persons have the opportunity to become a candidate; persons are provided with impartial election information; every citizen of voting age has the right to vote on a non- discriminatory basis, access to effective and impartial procedures for voter registration and equal access

to a polling station in order to vote; voters have the right to exercise his or her vote equally with others and to have his or her vote accorded equivalent weight to all others; citizens have the right of people to join with others to establish a political party or organization to compete in an election; people can express political opinions without interference or intimidation; candidates can move freely within the country in order to campaign; the ability of political parties and candidates to campaign on an equal basis with other parties and candidates - including the incumbent(s) and access to the media for all candidates to put forth their political views (Young, 2009).

The absence of transparency in electoral processes invariably leads to the suspicion that fraudulent activities are taking place. For example, where observers and the public are unable to access progressive vote count and aggregation data, and there are significant delays in announcing and validating election results – as in Belarus and Ukraine in 2004, and in Ethiopia in 2005 – then the credibility of the election suffered (IDEA, 2006). This was also experienced in Kenya during the 2007 general elections (CRECO, 2008).

2.4.2 Impartiality during conduct of elections

To establish the integrity and credibility of electoral processes and promote the widespread acceptance of election results, it is critical that an EMB not only conducts electoral events in a fearlessly independent manner, but that it is impartial in its actions. Without impartiality of electoral management and independence of action, the integrity of the election is likely to fail, and it can be difficult to instill widespread belief in the credibility of electoral processes, especially among the losers (Kivuitu, 2007).

According to Goodwin- Gill (2006), EMBs should ensure that those responsible for administration of elections are trained, and should act impartially. He says that this can be done by ensuring coherent voting procedures are established and made known to the voting public, by ensuring the registration of voters and balloting procedures are accepted and also by adopting a code of conduct to govern the election campaign and the election period.

2.4.4 Integrity of the electoral process

The EMB is the primary guarantor of the integrity and purity of the electoral process and EMB members have the direct responsibility for ensuring this. Integrity may be easier to maintain if the EMB has both full independence of action and full control of all essential electoral processes. Where other bodies have electoral functions, EMBs need to be empowered to monitor their activities closely to ensure that they meet the highest integrity standards (IDEA, 2006).

Electoral law or EMB regulations benefit from incorporating clear powers for the EMB to deal with electoral officials who threaten electoral integrity by acting to benefit political interests or those who are corrupt. Ignoring such problems can create larger public issues of integrity and credibility than the public use of disciplinary powers will. To the extent possible, it is in the EMB's interests to ensure that breaches of the electoral laws, rules and codes of conduct are followed by appropriate sanction (IDEA, 2006).

Goodwill-Gill (2006) states in his book he says that integrity of the ballot can be ensured through appropriate measures taken to prevent double and multiple registration and voting, ensuring the integrity of vote counting and also of the announcement of the elections results. He also includes on the list the facilitation of transfer of authority as important factors that ensure integrity.

Experience from all over the world has also shown that where the composition of electoral commission is generally acceptable to the majority of people and the commission conducts its affairs with integrity and competence, there is bound to be peaceful elections (Kivuitu, 2007).

2.4.5 Service-mindedness as the election officials serve the other stakeholders

EMB's do not only have a responsibility to provide service to their stakeholders – it is the major reason for their existence. Developing and publicizing service delivery standards for all their activities provides both internal motivators for EMB members and staff to provide high quality service and external yardsticks for stakeholders to assess the EMB's performance. Some basic service standards are often included in the electoral legal

framework, as in Canada: these include time-based standards such as deadlines for announcing election results, compiling the electoral registers, distributing voters' identification (ID) cards, or distributing information on voting locations (IDEA, 2006).

Further useful service delivery standards can be adopted by the EMB itself as part of its procedures for each electoral process. These may be time-based service standards such as the average, maximum and minimum time voters spend queuing to receive ballot papers, the time within which an enquiry from a member of the public will be answered, or the average time taken to process voter registration data for an elector. They may be quality-based standards such as the percentage of electors being refused a vote due to errors on the electoral register; the proportion of materials missing or not delivered on time to polling stations; the proportion of polling stations that did not open on time on Election Day; or the accuracy and timely availability of preliminary voting results (IDEA, 2006).

2.4.6 Professionalism in election management

There are a number of elements of professionalism in electoral management. Meticulous and accurate implementation of electoral procedures, and suitable skilled staff, are both key elements for the delivery of credible elections. EMBs need to ensure that all election officials, whether core staff or temporary workers, are well trained and acquainted with the necessary skills to apply high professional standards in the implementation of their technical work (IDEA, 2006).

The ACE encyclopedia describes a professional election administrator as one who is compliant with the legislative framework, including electoral regulations, procedures, and manuals and is a prerequisite for the achievement of professionalism by an EMB. In addition to these, a professional electoral administrator needs also an understanding of strategies for strengthening democratic development; a commitment to the principles that are the foundation of electoral good practice; and a strong commitment to high-quality electoral service to all stakeholders (www.aceproject.org). Professional training prompts public trust that the entire process is 'in good hands'. However, while a continuous training and skill development programme is an essential part of creating and maintaining a professional electoral management body, professionalism depends just as much on the

attitude of every member and secretariat staff person. A personal commitment by each individual in an electoral management body to equity, accuracy, diligence and service in all they do, and to self-improvement, is necessary to maintain professionalism in electoral management (IDEA, 2006).

2.4.7 Efficiency and effectiveness in implementation of electoral activities

Governments and the public expect that funds for elections will be used wisely and services delivered efficiently. In the face of expanding and ever more expensive technological solutions, and demands for increased effort in high-cost areas such as voter education and information, EMBs have to be careful that their programmes sustainably serve electoral efficiency, as well as integrity and modernity. A successful EMB is one that has displayed integrity, competence and efficiency. These qualities help to generate public and political party confidence in election processes. The legal framework can assist by defining efficient standards for electoral and financial management (IDEA, 2006).

However, sometimes members of an EMB may be unfamiliar with electoral practices and procedures; at other times they may be unused to dealing with contracting for equipment and materials in a cut-throat corporate environment. The resulting inefficiency in election organization may be confused with corrupt and fraudulent behaviour, leading to more serious challenges to the EMB's credibility (IDEA, 2006).

2.5 Conceptual Framework

The research presented a conceptual framework to describe the interplay between various variables in the study as shown below.

Independent variables

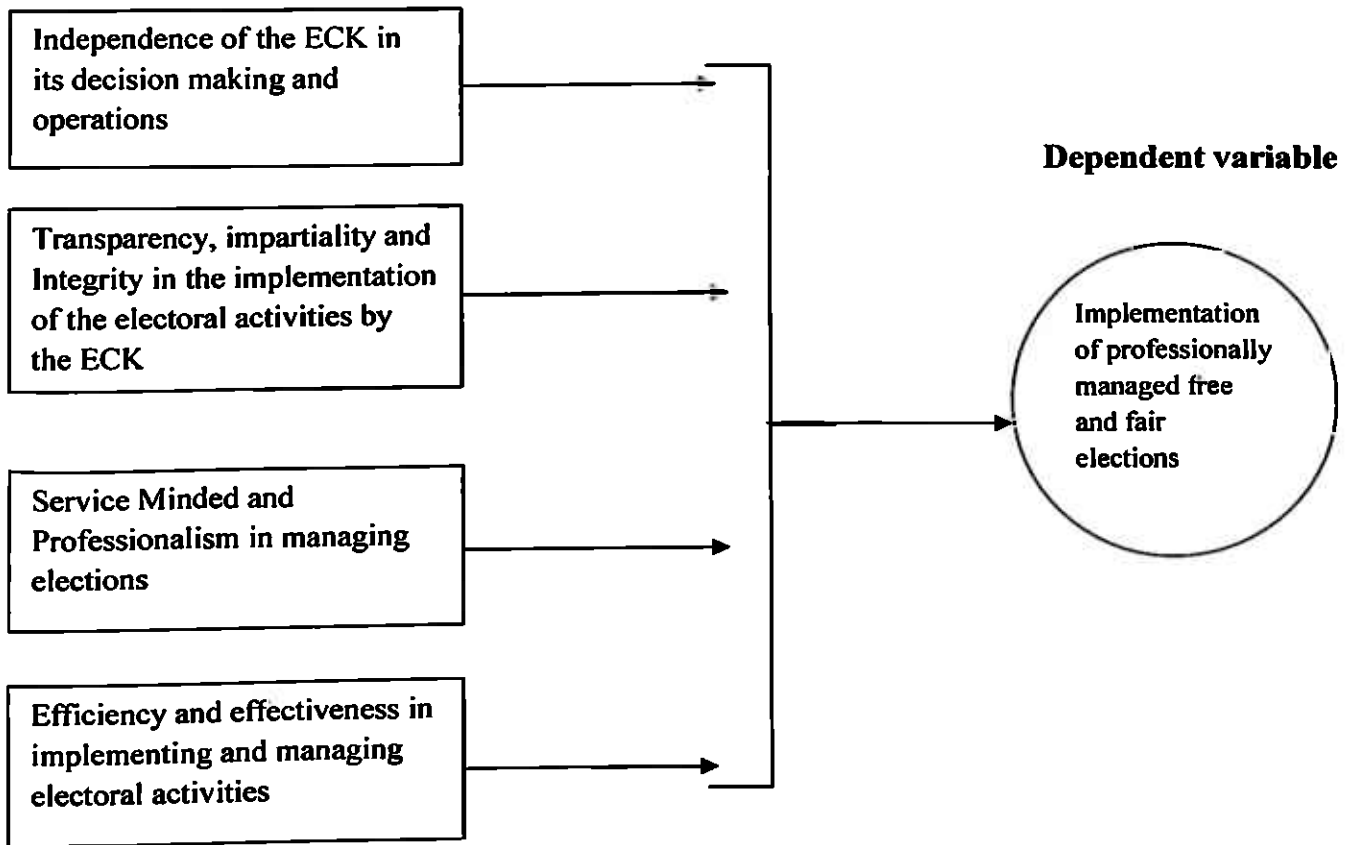


Figure 1: Conceptual Framework

The conceptual framework indicates the relationship between the principles that need to be embraced by EMBs. These principles are the independent variables since they determine to what extent the elections are transparent, free and fair. These principles are achieved through implementation of the electoral activities by an EMB. The dependent variable is the transparent, free and fair elections.

Independence was measured by the following indicators: the appointment of the commissioners, financial autonomy and delimitation of boundaries. These would evaluate whether the ECK acted independently or whether it was influenced by the incumbent government.

Transparency was indicated by how the recruitment of election officials was conducted, the political parties' nomination, the openness of the vote counting process and the transparency of the final tally of the polling results. Transparent procedures promote public confidence and trust and hence transparent elections. The research evaluated if ECK in its implementation of its mandate acted transparently, impartially and with integrity.

Service mindedness would be indicated by how the election officials provided service to their stakeholders and with what level of professionalism specified by electoral skill and training were they able to serve the customers.

Finally the evidence of proper planning, monitoring and evaluation of the implementation of electoral activities would indicate whether the implementation was done effectively and efficiently.

2.6 Summary of Literature Review

Elections are complex and specialized processes which are most effectively managed by a body with specific electoral management responsibilities. An EMB is an institution or body founded for the purpose of managing some or all the essential elements of election management.

There are three models of EMBs which are the Independent Model, Government Model and Mixed model. The Independent Model is independent from the executive branch of government. In the government model the EMB is part of and accountable to the government. A Mixed Model has both components of an Independent and Government Model.

The ECK was the EMB created by the Kenyan Constitution in 1963 to register voters, conduct elections; conduct boundary review; conduct voter education and any other function as directed by government. The ECK was a mixed model EMB since it depended on the government for funding, its commissioners were appointed by the president and the EMB followed government bureaucratic procedures when implementing the electoral activities. No matter what model is used, all EMBs need to follow some guiding principles, which include independence of decision making and

action, impartiality, integrity, transparency, efficiency, professionalism and service mindedness. These principles are sometimes more fully achieved under the independent model than by other models.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

This chapter describes the research design and presents the target population under study, sample and sampling techniques; research tools to be used, validity and the research tools. Data collection procedures, analysis techniques and measurement of variables will also be discussed.

3.2 Research Design

The case study was based on both qualitative and quantitative data due to the fact that the researcher needs both data which could be generalized to the general population and in-depth information to investigate the implementation of electoral activities by the ECK.

The evaluation conducted sought to disclose the factors that affected the ECK in implementing its mandate of free, fair and transparent election. The management team of the ECK and the main stakeholders were interviewed on the process of implementing the electoral activities that led to the 2007 general elections.

The research evaluated level of independence in which the ECK conducted its operations; the extent to which it served the stakeholders transparently, impartially and with integrity; to what extent were the election officials service minded and professionals as they served the stakeholders and whether the electoral activities were implemented effectively and efficiently. To curb biasness from interviewing the implementers alone, the research also interviewed the stakeholders who participated in the 2007 general elections.

Independence, transparency, impartiality, integrity, service mindedness, professionalism, effectiveness and efficiency were the independent variables that would lead to professionally managed free and fair elections which is the dependent variable.

3.3 Target Population

The research targeted thirty seven (37) top management staff of the ECK who was the policy makers, decision makers and implementers of the electoral activities. It also interviewed twenty four (24) stakeholders who played major roles during the 2007 general elections.

The ECK had twenty two (22) commissioners who were headed by the chairman and his deputy; these two were the top representatives of the commission and represented the entire commission in any decision made. There were nine (9) departments which operated at the headquarters and these departments were headed by a manager and deputy. There was a senior official who would stand in at the management level in the absence of a manager or the deputy. The research targeted these three (3) to give the required information since they were the decision makers, planners and team leaders of the departments. The ECK also had district offices in seventy one (71) districts and these were headed by the DEC supported by the Election Officers. The districts were then merged into the eight (8) provinces and in every provincial headquarter there was a district office representing the ECK. The total size of the target population was sixty one (61) respondents who were drawn from the above described strata.

The research targeted the decision making cadre of employees which included two representatives from the commissioners (the Chairman or the vice chairman), two respondents from the election department; one respondent from the voter education department; one respondent from the legal department; two respondents from the voter registration department; one respondent from the public relations department; one respondent from the research department; one respondent from the human resources department; two respondents from the cartography department; two respondents from each Provincial headquarters district office and eight returning officers one from each province. The ECK had about four hundred and fifty (450) employees of all cadres. Among these one hundred (100) served at the management level as commissioners; commission secretary; head of departments (managers)/ deputy managers/ senior officials and DECs.

There were seven (7) identified managers from seven NGOs that dealt with elections; four media representatives from four main media houses; managerial representatives of KEDOF; and nine representatives from the nine political parties that had presidential candidates during the 2007 general elections.

It should be noted that some departments had a manager and a deputy manager while others had only a manager, deputy or senior officer heading the department; this led to the population from the different departments differing.

3.4 Sample and Sampling Procedure

Table 3.1 Stratified sample applied

Job Description	Post held	Population	Sample population
Commissioners	Chairman and Vice	2	1
Elections Dept	Manager and Deputy	2	1
V/Educ Dept	Manager	1	1
Legal Dept	Senior Staff	1	1
Voter Registration	Manager and Deputy	2	1
P/R Dept	Manager	1	1
Research Dept	Senior Staff	1	1
H/R Dept	Manager	1	1
Cartography Dept	Manager and Deputy	2	1
DEC	DEC	16	13
Temporary Staff	Returning Officers	8	8
NGOs	Manager	7	3
Media Rep	Reporters	4	4
Observers	KEDOF	4	4
Political parties	Party Official	9	9
TOTAL		61	50

The sampling design was simple stratified sampling done due to existing structure and availability of respondents.

The stratified sampling was done as shown in table 3.1. The organization's policy making body (commissioners) were headed by the chairman and the vice chairman the researcher sought to interview one of the two representatives.

The nine departments were meant to have three officials at the managerial level, but in some departments there was only one representative at the management level. Where there was one managerial officer then the respondent was identified as sample while where there were two one was interviewed.

There are eight provinces in Kenya and in each province there are provincial headquarters districts which all had ECK district offices, the representatives of the district offices were interviewed, two from each provincial headquarters (these were the managers and election officials in these offices) also there were eight returning officers interviewed each from the eight provinces; seven NGOs that dealt with electoral process all through the whole cycle, these were the only NGOs that were implementing electoral projects. Four managerial representatives of the KEDOF group were also identified as respondents. KEDOF was a group formed to represent all the local observers. Four (4) media representatives from the main media houses, and these were the Kenya Broadcasting Cooperation (KBC), NTV, KTN and Citizen. There were also nine (9) political party representatives from the nine political parties that had a presidential candidate. The total sample consisted of sixty one (61) respondents.

3.5 Research Instruments

The instrument adopted in this research was a questionnaire, this was administered to the respondents who filled it in and turned them back to the researcher. The questionnaire had different parts to target the different stakeholders targeted in the research. It was specific to the role played by each stakeholder during the 2007 general elections.

Section A of the questionnaire covered the demographic information of the respondents which helped the researcher identify in what group of the stakeholders the respondent belongs. This section also captured the gender information about the respondents.

Section B was drawn to be filled by the former ECK staff and the details were meant to reflect the management level they served at before and during the 2007 general election. This part also sought to evaluate how the ECK implemented their activities. It evaluated the planning, implementing evaluating and monitoring of the electoral activities implemented by ECK and how the ECK was facilitated in doing so.

Section C was to be filled by the other stakeholders who participated in the 2007 general election as political party members, media, observers or NGO implementing activities in the electoral field.

3.6 Instrument Reliability

In this research, reliability was established by grouping different questions that measure the same concept. This enabled the respondents answer different questions which were then analyzed for one concept. This was evidenced when the researcher analyzed once concept with many questions for example the value of how independent the ECK was is measured by considering the questions dealing with the appointment of the commissioners; financial anatomy of the commission; lack of political alignment among other factors. All these were used to measure the independence of the commission.

The questionnaire was discussed by elections experts and secondary data provided to back up the variables identified in this research. This ensured that both the independent and dependent variables were identified indicators in the elections field.

3.7 Instrument Validity

Validity is the accuracy and meaningfulness of inferences, which are based on the research results (Mugenda, 2003). Validity is therefore the degree to which results obtained from the analysis of data actually represents the phenomenon under study. Validity was ensured by utilizing a sample population that had the exact required

information. In this research the respondents were persons who served at different capacities during the 2007 general elections, these persons served at the top managerial positions which renders them part of the decision making process. They were therefore expected to give first hand information which they experienced during their serving period in the 2007 general elections.

3.8 Data Collection Methods

This was done by administering questionnaires to the identified respondents whose addresses are with the researcher. There were sixty one questionnaires that were administered to the identified target group. Out of the sixty one, fifty were able to fill them in and return to the researcher.

The administering of the questionnaire was done either through hard or soft copy. This was through email or self interview. The questionnaire had two sections which were to be filled by former ECK employees and the stakeholders of the electoral process.

The researcher had contacts of all the identified respondents, the respondents were called by telephone or an email was sent to them informing them about the research. The researcher then requested them to participate in the research as respondents and they agreed. The researcher delivered questionnaires to the respondents who were based in Nairobi while those who were far were emailed the questionnaire. The respondents filled in the questionnaires and sent them back to the researcher.

3.9 Data Analysis

Data analysis involves the interpretation of the meaning and functions that may be assigned to the data. In this study, qualitative and quantitative measures required different forms of analysis. In qualitative analysis detailed description was done as the research unfolded. Secondary data was also helpful in providing vital information about the issues at hand. Observation and analysis of responses from the questionnaires created the discussions.

The quantitative data was generated after the respondents' feedback was converted into data to seek precise measurement and analysis of the target concept. Data collected was

analyzed using Statistical Package for the Social Sciences (SPSS) Software Programme (Version 9.0). With the help of this package, the relationship between the variables was established. The data collected was coded and entered into the software which is a statistical analysis tool. This was shown in the percentages of how the respondents answered back the questions administered and how strongly the inquired ideas were believed by the majority or the minority of the respondents. From the data conclusions was drawn and recommendations put forward.

3.10 Table of Operationalization of Variables

Table 3.2 defines how the indicators relate to the independent variables, the measuring scale used, data collection method used and the type of analysis done.

Table 3.2 Table of Operationalization of Variables

Variable (Independent)	Measurements/Indicator	Measuring Scale	Data Collection Method	Type of analysis
Independence of the ECK	-Appointment of commissioners -Financial autonomy	Ordinal	Structured Questionnaire	Descriptive Statistics
Transparency, Impartiality and Integrity in implementation of the electoral activities	-Transparency of the recruitment, training process, nominations, vote counting and vote tallying -equal chance for voters to register as voters, vote and or participate -mechanism of conflict management, embracing technology and gender	Ordinal	Structured Questionnaire	Descriptive Statistics
Service Mindedness and professionalism during service provision	-availability of effective voter education materials, monitoring and evaluation and electoral skill - was training and capacity building done in a professional manner	Ordinal	Structured Questionnaire	Descriptive statistics
Efficiency and effectiveness in implementing and managing electoral activities	-availability of procurement plan, strategic plan and service charter -bureaucratic procedure affect efficiency -were the election officials aware of their roles and responsibilities	Ordinal	Structured Questionnaire	Descriptive Statistics

3.11 Summary

This chapter outlines the research methodology adopted in the study. The research design was a case study conducted as an evaluation of the ECK's implementation of the electoral activities prior and during the 2007 general elections. The research had both qualitative and quantitative data and it targeted the top management staff who were policy makers and implementers of the electoral activities. It also interviewed stakeholders involved in the electoral process during the 2007 general elections. The research instrument used was the questionnaire and data analyzed by descriptive statistics. Data analysis tools used was the SPSS version 9.

CHAPTER FOUR

DATA ANALYSIS, INTERPRETATION AND PRESENTATION

4.1 Introduction

This chapter presents the results and findings of the study. The chapter presents and explains the data. The first part summarizes the sample population of the respondent by job description and gender. There after the data collected to measured the level of Independence that the ECK acquired. It also presented an evaluation on how transparent, impartial and with integrity the ECK served its stakeholders. The chapter also presents results on the extent the election officials were service minded and if they served their customers with professionalism. Finally the findings evaluated the level of effectiveness and efficiency that the ECK acquired as they implemented the electoral activities.

4.2 Questionnaire Return Rate

Table 4.1 illustrates the target population according to the groups identified, position held, population and the sample population. It also shows the percentage rate of the questionnaire return rate.

Table 4.1 Respondents by job description

Job Description	Post held	Population	Sample	
			population	Percentage
Commissioners	Chairman & Vice c	2	1	50%
Elections Dept	Manager & Deputy	2	1	50%
V/Educ Dept	Manager	1	1	100%
Legal Dept	Senior Staff	1	1	100%
Voter Registration /IT	Manager &Deputy	2	1	50%
P/R Dept	Manager	1	1	100%
Research Dept	Senior Staff	1	1	100%
H/R Dept	Manager	1	1	100%
Cartography Dept	Manager & Deputy	2	1	50%
DEC	DEC and EOs	16	13	81%
Temporary Staff	Returning Officers	8	8	100%
NGOs	Manager	7	3	43%
Media Rep	Reporters	4	4	100%
Observers	KEDOF	4	4	100%
Political parties	Party Official	9	9	100%
Total Average		61	50	82%

From Table 4.1, data was obtained from questionnaires distributed to sixty one (61) respondents. Out of the sixty one, fifty (50) respondents successfully filled and returned, placing a response rate of eighty seven percent (82%). The research objective was to analyze the collected data critically and make deduction in relation to the research objectives.

The respondent were also required to identify themselves by gender, this was to capture the level of gender consideration during hiring of the management staff at the ECK. Table 4.2 shows the respondents by gender.

Table 4.2 Respondents by Gender

Gender of the Respondents	Number of respondents	Percentage
Female	18	36%
Male	32	64%
Total	50	100%

From Table 4.2 eighteen (18) respondents were female and thirty two (32) were male which represented thirty six percent (36%) and sixty four (64%) respectively. This indicated that there were more men than women serving at the ECK policy and management level and also as stakeholders. EMBs have a responsibility to ensure that their internal and external activities reflect gender composition of society.

4.3 Independence of the ECK during the implementation of its mandate

The independence of an EMB is important, all EMBs no matter what model should not bend to governmental, political or other partisan influence on their decisions. Table 4.3 reflects the respondents' response to issues that affect ECKs' independence. These include political alignment, gender equality, financial autonomy and ownership of the projects implemented by donors.

Table 4.3: Independence of the ECK

Indicator	Question asked	Yes	No
Lack of political alignment	Do you think the appointments were politically aligned?	87%	13%
Gender Equality during recruitment	Do you think gender was not considered during appointments?	87%	13%
Independent funding	Were the electoral activities not adequately funded?	71%	29%
Authority over funding	Was the ECK not in charge of the donor funding?	79%	21%
Ownership of the funded projects	Did the ECK own the projects funded by donors?	43%	57%
Average score		73%	27%

Table 4.3 shows Eighty Seven percent (87%) of the respondents did not think that gender was considered during the appointment of the commissioners and that the appointments were politically aligned.

Seventy nine percent (79%) respondent believed that the ECK was not in charge of the donor funds it received. They indicated that the funding was controlled by either the donors or donor agencies that also were in charge of the monitoring and evaluation of the projects implemented on the donors' behalf. The respondents also indicated that the donors dictated which projects to be implemented using their funds. Fifty seven percent (57%) of the respondents believed that this affected ownership of the projects.

Seventy one percent (71%) of the respondents agreed that the ECK was not allocated enough funds and that this lead to delayed services and procurement that caused inefficiency and ineffectiveness and hence overall general poor performance.

From the above analysis, the respondents indicated that the independence of the ECK was not fully attained. Its operations were therefore affected or influenced by factors beyond their control. These included lack of financial autonomy, appointees who are politically aligned, gender inequality, lack of adequate funding and lack of ownership of projects implemented by donors.

4.4 The extent of transparency, impartiality and integrity embrace by the ECK staff as they implement the electoral activities.

Under this section, the findings were grouped under the assessment of transparency, impartiality and integrity so as to evaluate and identify factors that affected the transparency, impartiality and integrity of the ECK as they implemented the electoral activities.

4.4.1 Transparency exhibited during implementation of electoral activities.

Transparency is a confidence-building measure which has the ability to pave way for acceptance of election results and hence play a key role in the legitimization of the political administration that comes after. Openness at all stages of the electoral process

including recruitment, nominations, voting, vote counting and vote tallying have a positive effect on the general perception of transparency. Table 4.4 introduces the measures of transparency and how the respondents responded. The indicators included the transparency of the recruitment process and political parties' nomination; the openness of the vote counting process at the polling centers and the transparency of the final national results tally.

Table 4.4: Transparency of the recruitment, political parties nominations and results tallying process

Indicator	Question asked	Yes	No
Recruitment of Returning Officers	Was the recruitment of ROs transparent?	13%	87%
Recruitment of the other temporary staff	Was the recruitment of the other temporary staff transparent?	22%	78%
Recruitment of the Permanent Staff	Was the recruitment of the Permanent staff transparent?	50%	50%
Transparency of the Political Party Nominations	Were the party nominations fairly conducted?	11%	89%
Vote counting at the polling station	Was the process of vote counting transparent at the polling center?	87%	13%
Final Tally at the National Tally hall	Was the tallying at national level seen to be transparent?	22%	78%
Average score		34%	66%

When asked about how the recruitment of the Returning Officers was done, eighty seven percent (87%) of the respondent indicated that the process was not transparent. They further explained the reasons as to the commissioners having preferred persons to serve as returning officers and also the process of recruitment was not inclusive, in that, the human resources department was not involved and that recruitment of the returning officers was done at the plenary during a commissioners closed door meeting. The other temporary staff who served as election officials were recruited by the human resources

department, returning officers, district elections coordinators all under the supervision of the commissioners.

Seventy eight percent (78%) of the respondent believed that the recruitment of the other temporary staff was also not transparent either. The human resources department was in charge of the ECK permanent staff. Recruitment was done under the supervision of the commissioners through a committee which was in charge of human resources. Fifty percent (50%) of the respondents believed that the recruitment of the other staff members was transparent. Eighty nine (89%) of the respondents said that party nominations were not conducted well. It was also believed by a majority eighty seven percent (87%) that vote counting at the polling station was transparent while twenty two percent (22%) believed that tallying at the national level was seen to be fair.

The ECK's transparency was affected by biased recruitment, political party nominations that were marred by violence and election malpractices and finally a result tallying process that was not open for all the stakeholders to accept the final results. This rated the overall transparency below the required level therefore the ECK was not open for public scrutiny and this led to the suspicion that fraudulent activities were taking place and this dented the ECK's credibility.

4.4.2 Impartiality of the election official as they served the stakeholders

Eighty percent (80%) of the respondents believed that eligible voters were granted equal chance to register. Others thought that it would be fair if all Kenyans living abroad and prisoners were given a chance to vote. Delayed distribution of identity cards and lack of funds were identified obstruction of voter registration. Ninety five percent (95%) of the respondents confirmed that election officials at the polling stations did not seem partisan and that they served all equally without favor. According to these findings, the ECK is seen to serve its customers impartially.

4.4.3 Integrity of the electoral process

Integrity and the legitimacy of every aspect of the electoral process lie at the core of electoral justice. It encompasses ethical conduct, accuracy, inclusivity and transparency in the conduct of elections. Table 4.5 introduces the indicators that were used in the research to measure whether the ECK embraced integrity during its service.

Table 4.5: Integrity of the electoral process

Indicator	Question asked	Yes	No
Accessibility of voter registration to all eligible voters	Was there ample time for voter registration?	71%	29%
Mechanism of dispute resolution and management	Were there mechanisms of conflict management?	71%	29%
Conduct of the Political Party Nominations	Was the political party nomination process transparent?	15%	85%
Gender equality during party nomination	Was there gender equality during political parties' nomination?	5%	95%
Implementation of the Code of Conduct	Did the media adhere to the code of conduct?	24%	76%
Equal treatment for all political parties	Did the incumbent use public resources to their advantage during campaigns?	95%	5%
Security	Was the security service biased?	90%	10%
Credibility and cleanliness of voters' register	Was there only one voter register used during the election day?	34%	66%
Technology Embraced in the Electoral Process	Was there technology embraced in the electoral process?	80%	20%
Final results accepted	Was the final tally accepted by all	15%	85%
Average Score		50%	50%

The voter registration process was continuous and majority of the respondents believed that the registration services were accessible during the massive registration exercise which was conducted once a year. Seventy one percent (71%) confirmed that there was

sufficient time for inspection of the voters registers and that lack of funds could not allow the exercise be carried out in all polling stations.

The low turnout during the voter register inspection was related to the lack of publicity of the exercise; lack of funding to cover all the polling stations; hurried voter registration drives during the general elections year and voter apathy. This led to many deceased voter's names remaining in the register.

The process of deleting the names of the dead voters was stipulated as follows: the deceased voters' names would only be deleted if a relative reported to the ECK with a document confirming the relative death. This would then be confirmed by a government official and then is when the ECK would go ahead and remove the name from the voters register.

Seventy one percent (71%) of the respondents indicated that there were mechanisms of conflict management in the Constitution. They also confirmed that there were legal provisions that dealt specifically with electoral cases and that this included the right of appeal for aggrieved persons.

All political parties who participated in the 2007 general elections subscribed to the code of conduct. Eighty five percent (85%) of the respondents believed that the nomination process was not transparent. They identified the following reasons as those that made the process not transparent: chaos and malpractices that marred the nomination exercise; political parties not adhering to the code of conduct they subscribed to; political wrangles that were the order of the day within the political parties; issuance of nomination certificates by party officials to the wrong candidates; revocation of nominations by party officials without transparency; political parties officials imposing candidates of their choice to the party members; poor organization and alleged rigging among political parties.

The ECK did not supervise the political /party nomination process because the law did not allow that. After the formal submission of nomination documents to the ECK there was no sufficient time for objections to be lodged and disputes managed. Ninety five

percent (95%) of the respondents believed that political parties did not ensure equal gender representation during the party nominations and that the code of conduct was never adhered to.

The media too was subjected to a code of conduct to guide their coverage of the electoral activities seventy six percent (76%) of the respondents indicated that the code was not adhered to. Ninety five (95%) of the respondents believed that public resources were used by the party of the government of the day during campaigns and that the ECK was not able to effectively manage that. Ninety percent (90%) of the respondent stated that the security force during the 2007 general election was biased.

Sixty six percent (66%) of the respondents agreed that there were more than one voter registers used on the polling day and that the tallying process at the end of the polling day was not transparent. Eighty percent (80%) believed that technology was embraced but not to the desired level.

Eighty five percent (85%) of the respondents indicated that the final results announced by the ECK were not accepted by all stakeholders. This they said was because there were claims of rigging; complaints were not addressed adequately; disputed presidential results; preliminary results differed from the final results and that tallying not transparently done.

From the above analysis it is clear that though the ECK did not implement some of its electoral activities transparently, it served its customers impartially and with an average level of integrity. The ECK granted equal rights to all persons to register as voters, participate as voters and candidates. The transparency was affected by recruitment that was not transparent, political party nominations that were fraudulent and a final presidential result tally that was not accepted by all. The integrity was affected by the fact that the ECK was not involved in the party nominations and that it also did not have the powers to prosecute those who flouted the electoral codes that were in place.

4.5 The extent of service mindedness and professionalism demonstrated by the election officials

This section evaluated the level of service mindedness and professionalism achieved by the ECK as they implemented the electoral activities prior and during the 2007 general elections.

4.5.1 Service mindedness of the ECK Staff

Table 4.6 covers the indicators that measure the service mindedness of the ECK staff.

Table 4.6: Service Mindedness of ECK Staff

Indicator	Question asked	Yes	No
Informative voter education materials	Was the process of developing the materials inclusive?	22%	78%
Effectiveness of the voter education materials	Were the voter education materials pretested?	40%	60%
Voter education being conducted by other stakeholders	Was the voter education conducted by other stakeholders monitored by the ECK?	40%	60%
Competent training of election officials	Was the training done in a professional manner?	21%	79%

Voter Education materials were prepared by the elections and training department while others were prepared by NGO involved in implementing the electoral activities. This process was indicated by seventy eight percent (78%) of the respondents as not inclusive and forty percent (40%) of the respondents believed that the prepared materials were pre-tested before use in order to evaluate and see their effect. Sixty percent (60%) of the respondents also believed that voter education implementation by other stakeholders was not monitored by the ECK. The reasons identified for this were lack of manpower and funding; poor planning and lack of a project management office. The respondents indicated that the ECK did not have a service delivery charter but had a strategic plan which was not well implemented.

4.5.2 Professionalism of the ECK staff

Table 4.7 stipulates the indicators that measured whether the ECK had skilled staff and if they build capacity effectively in order to maintain professionalism.

Table 4.7: Professionalism of the ECK staff

Indicator	Question asked	Yes	No
Appointment and recruitment of election officials with electoral skill	Were the appointed commissioners with Electoral Skill?	40%	60%
Competent training of election officials	Was the training done in a professional manner?	21%	79%
Average Score		30%	70%

According to the research most of the appointments were done during the elections year and sixty percent (60%) the respondents indicated that the appointed commissioners did not have electoral skill while only forty percent (40%) believed that the commissioners had electoral skill.

Majority of the respondents indicated that there was no clear cut management style at the former ECK. They explained that the management was bureaucratic and this was because the management style was not participatory; communication was one way from top to bottom and without feedback; there was government interference in the management of the commission; the ECK followed the bureaucratic government procedures and finally lack of consultation led to a dictatorship kind of management.

Training sessions conducted for electoral activities such as voter registration, voter education and elections were conducted at different levels with different cadres of trainers. According to the respondents some training was conducted through media, trainers of trainers (TOT) cascading downwards, elections officials from the ECK, NGOs and interested other stakeholders.

Seventy nine percent (79%) of the respondents indicated that the training system was not competent and that it did not ensure that information reached the intended person without being tempered with. They identified reasons that affected the trickle down of the information as : distortion of information due to the many levels of training which caused the clarity to fade off downwards; some of the trainers recruited were incompetent and lacked experience in training and finally lack of political good will was also identified as a pull back.

Service mindedness is a commitment to provide service to the stakeholders. Voter Education is important for it informs the voters and hence makes them make informed choices and also understand the electoral process. The ECK did not have an inclusive process of developing voter education materials; this affected their level of distributing information on the electoral process. The materials developed were not pretested and therefore the ECK lacked feedback from the stakeholders on whether the materials were effective or not. Respondents affirmed that training on the electoral process was not conducted professionally and that the some appointed commissioners lacked electoral skill. It was evidenced that the service mindedness and professionalism was wanting at the ECK.

4.6 Effectiveness and efficiency attained during the implementation of electoral activities

The role of the ECK was to facilitate, coordinate, supervise and implement electoral activities; this section presents the findings collected for the ECK's efficiency and effectiveness in the implementation of the electoral activities.

4.6.1 Efficiency and effectiveness

Table 4.8 introduces the measures of efficiency and effectiveness. It shows whether there was evidence of proper planning by the ECK. It will also evaluate if there were monitoring and evaluation procedures put in place for the electoral activities implemented. The table also indicates the clarity of roles and responsibility of the ECK staff.

Table 4.8: Efficiency and Effectiveness attained during implementation of the electoral activities

Indicator	Question asked	Yes	No
Evidence of Proper Planning	Did the ECK have a procurement plan	87%	13%
Inclusive planning whereby all departments participate	Were all departments involved in planning the procurement plan?	79%	21%
Exemption from Lengthy government procurement procedures	Was the ECK affected by the government lengthy procedures?	93%	17%
Monitoring and evaluation of the electoral activities	Was the implementation of the plan monitored?	14%	86%
Monitoring tools available for the activities implemented	Did the ECK have internal monitoring tools?	29%	71%
Clear cut Roles and responsibilities for the election officials	Were all the election officials aware of their roles and responsibilities?	29%	71%
Cleaning of the register to enhance accuracy	Was the process of removing deceased voters from the register effective?	20%	80%
Average score		50%	50%

Table 4.8 reflects that eighty seven percent (87%) of the respondents agreed that the ECK had a procurement plan. Seventy nine percent (79%) indicated that all departments were involved in the development of the procurement plan. Respondents explained that the process was done by all departments preparing their own plan which would later be forwarded to the procurement and supplies department for implementation.

Ninety three percent (93%) respondents reflected that the ECK was not exempted from the lengthy government procurement procedures. This they said affected the process by causing delayed deliveries, lengthy procurement procedures that were not well understood by all participants and also negatively affecting the spontaneous electoral

activities that were not planned for example the by elections which required a flexible procurement plan to be adjusted when need be and this was not the case.

Eight six percent (86%) respondents believed that the procurement plan implementation was not monitored. The other noted issue is that since electoral activities are sometimes not predictable these include activities like by elections which arise due to different reasons such as death of the incumbent, nullification of the position held by the court through petitions, resigning of a member of parliament among others, respondents identified the following as some of the outcomes caused by delayed adjustment of the procurement plan in the event of these unplanned activities: implementation of the procurement being done by the procurement and supplies department who were not end users of the goods and services at hand; delayed delivery which was done after or just when the deadline was about to reach and hence the procured items were rendered useless; materials needed were not delivered in time and hence delayed implementation; lack of adequate training on how to use or operate some procured machines and equipments and also the procurement manager was said to too rigid and hence affected the implementation of the activities.

Seventy one percent (71%) indicated that the ECK had no internal monitoring unit to monitor the implementation of the different electoral activities while twenty nine (29%) stated that monitoring of the activities were done by the committees and auditing unit and that these monitoring units did not consist of representatives from all the departments. Deliberations were not communicated to all the departments involved and most of the times they were discussed at the managers' meeting which would not be trickled down to the rest of the staff members. This means that there was no feedback to the implementers.

Seventy one percent (71%) of the respondents believed that there were no clear cut roles and responsibilities assigned to the employees. These always brought about conflict between departments, commissioners and technical staff.

When interviewed about voter registration, eight percent (80%) of the respondents believed that cleaning of the voters' register to remove deceased voters was not effective

and that it lead to the Voters Register having many dead voters which lead to ‘dead voters’ voting on the voting day in some cases of results analysis. Other factors identified were, information on the deceased voters was never delivered on time and hence slow capturing, relatives of the deceased persons never reported the deaths and finally lack of skill by those capturing this information.

Seventy one percent (71%) of the respondents believed that the ECK did not have internal monitoring mechanisms for the registration process. They also believed that the voter registration process was done using the new technology which was computerized and used scanners in data capture. The detailed website and email enquiries were cited as use of technology in the registration process.

From the findings the respondents indicated that the ECK had attained some level of efficiency and effectiveness. It is evidenced that the ECK scored high on issues of planning since they had a procurement plan in place and that this plan was developed by all departments. The implementation was affected by the lengthy government procurement procedures that the ECK subscribed to. The effectiveness and efficiency was affected by the lack of monitoring tolls and also by the fact that there were no clear roles and responsibilities for the elections staff. The voters register also lacked a clear and defines way of removing the deceased voters and this also affected the effectiveness and efficiency.

4.7 Summary

From the above analysis it is evidenced that the Independence of the ECK was influence by several factors among them political appointment of the commissioners and lack of financial autonomy. This in turn affected the delivery of free and fair elections.

The level of transparency in recruitment of the election officials was wanting; respondents indicated that Returning Officers were not recruited transparently. The election Officials served the stakeholders impartially at the polling stations. The incumbent political party took advantage of their statues and used the public resources

during campaigns. Political party nominations were not transparent and hence affecting the integrity of the elections.

The Election Officials were not service minded and did not show professionalism. The implementation of the electoral activities was also not done effectively and efficiently.

CHAPTER FIVE

SUMMARY OF FINDINGS DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter addresses the research questions and objectives outlined in chapter one. This section includes the summary of the findings, discussion, conclusions, recommendations and suggestions for further research and study limitations.

5.2 Summary of the Findings

The findings show that, it is evident that the ECK's did not implement its mandate independently. Its independence was influenced by underlying factors such as political appointment of the commissioners and lack of financial autonomy.

Transparency of the ECK's operation was attained to a certain level but when it came to the final tallying of the election results, the openness and access to relevant information was wanting. This had a negative effect on the general perception of transparency. Impartiality was attained, looking at the manner in which the election officials served the stakeholders at the polling station on the Election Day but on the other hand the incumbent party was seen to be taking advantage of their position and hence use the state resources in their campaigns. The Integrity of the process was affected by the political party nominations which lacked transparency, lack of adherence of the code of conduct by the political parties and lack of the use of the available mechanisms of conflict and dispute resolution.

The ECK was service minded since they related well with the stakeholders but professionalism lacked because the recruitment, appointment and training was not well done. According to the respondents, it is noted that the appointment of the ECK commissioners was single handedly done by the President not considering the ability of the appointed people to handle electoral matters. Recruitment was also cited as not

openly done. The ECK did not have a service charter but did have a strategic plan which from the findings; the implementation was not well done.

Implementation of electoral activities was done uncoordinatedly without effective outlined of the monitoring and evaluation procedures; this affected the efficiency and effectiveness of the process. From the research it is evident that the factors that affected the ECK were both internal and external and that some were to be rectified through legal reforms and that only parliament would assist in undertaking the reforms. It is every stakeholder's responsibility to work hand in hand with the EMB in delivering transparent, free and fair elections.

5.3 Discussion

The findings of the research would be discussed under this section; the main focus would be the major findings of the study. The section would then provide interpretation of the results by comparing them to the background presented in the literature review.

5.3.1 ECK, a mixed model EMB

From the findings it was concluded that the ECK was a mixed model EMB. Mixed model EMBs usually have two components whereby they have both characteristics of an independent model and a government model (IDEA, 2006). The ECK's independence was guaranteed in the Constitution and this gave it exclusive power to manage its electoral activities. From the findings it is evidenced that the ECK drew its funding from the treasury and not the consolidated fund like the parliament does. This denied them financial autonomy.

It should be noted that the ECK was for a long time faced with challenges in a bid to seek autonomy from the government. The ECK had faced numerous political and legal obstacles in its operations. Since its establishment in 1963, the ECK had been criticized by the government in power and opposition parties, international institutions, media houses and the general public at large. This according to the Evaluation report of the 2002 general elections was because the ECK had never been given a chance to operate independently which could cause a lot of influence and hence failed in becoming the

independent institution that ensured that the rule of law is abided to and the constitution is upheld (ECK, 2003).

5.3.2 The Guiding Principles of all EMBs

Under this section, the findings would be discussed in relation to the guiding principles of all EMBs.

5.3.2.1 Independence of the EMB

Shambana Karume (2006) in his case study titled Kenya: Compromised Independence of the EMB stated that the ECK is funded by the government and that it has no control over its disbursement. He also says that such arrangements are unsatisfactorily and inefficient, and that they undermine the ECK's independence.

The independence of the body responsible for conducting an election from the pressure and influence of the incumbent party and government, as well as any other outside authority is essential to free and fair elections. The ECK operated under the Government of Kenya Budgetary System alongside all other ministries and constitutional bodies. Although ECK had its own budget, the bureaucracies involved in application and securing funds from the Treasury were hampering its effectiveness in carrying out its constitutional functions. This was because the funds allocated were inadequate and not timely dispatched. Cumbersome procurement procedures and donor funding came in too late to make an effective impact.

The independence of the electoral body was also somewhat affected by the political appointment of the commissioners. This led to the appointed commissioners being viewed as biased during their serving term. In 2002, appointments to the ECK were endorsed by a multi-party process with representation coming from a range of political parties. In 2005 this informal agreement was overturned with new appointees being made by the president alone without recourse to multi-party consultative process (CRECO 2008).

5.3.2.2 Transparency, impartiality and integrity of the ECK in conducting free and fair elections

To establish the integrity and credibility of the electoral process and promote the wide spread acceptance of elections results, it is important that an EMB not only conducts electoral activities in a fearless independent manner, but that it is impartial and transparent in its actions (IDEA, 2006). The ECK had worked hard in implementing transparency in their operations, from the research, it was noted that the right to elect representatives was guaranteed and also the right to secret balloting. Citizens were also given an opportunity to become candidates in the elections. Vote counting at the polling station was seen as transparent by the majority respondent where else tallying was seen not to be transparent. It should also be noted that the recruitment process at the ECK left a lot to be desired, it was not done in a transparent manner and also the political party nominations was full of fraud and corruption. For example it was noted that some returning officers were none performers and yet they were always recruited to serve. It was found out that most recruitment was based on nepotism, corruption and tribalism since recruitment was purely done by the commissioners and it was never competitive.

Integrity encompasses ethical conduct, accuracy and transparency in conduct of the elections. The ECK was not able to ensure that the code of conduct for political parties and the media was adhered to. It was evidenced that the electoral law was breeched and the code of conduct was not followed during campaigns. The ECK never took appropriate sanction to punish the law breakers. The ECK did not have any significant quasi-judicial powers, with the adjudication of complains regarding election results being handled exclusively by the judiciary (both first instance and appeals) (IREC, 2008).

5.3.2.3 Service mindedness and professionalism exhibited by the ECK

The ECK's professionalism has been criticized in the past. Between 1991 and 1997 in particular, its image was tainted and it suffered from a reputation for incompetence and unfairness. An improvement was seen during the 2002 elections, and many observers noted the improved professionalism and credibility. However, many observers also noted

that ECK lacked the experience and skilled professionals and needed to adopt a proper human resources development programme. (Shambana, 2006)

In the research conducted, professionalism was affected by the bureaucratic management which led to top bottom management that lacked feedback and team work spirit. Training was not effectively conducted to improve on the capacity of the election officials. A transparent recruitment and deployment programme was lacking. The late appointment and renewals of employment was also problematic.

Service mindedness is important to all organizations, this is because the customer is key and organizations should work towards ensuring that the customers' needs are catered for.

EMBs have a responsibility to provide service to their stakeholders; it is the main reason for existence. Service standards are often included in the legal framework. Every EMB is expected to manage elections impartially irrespective of the model under which it exists. To establish the integrity and credibility of the electoral process and promote acceptance of election results, it is critical that an EMB not only conducts electoral events in fearless, independent manner, but that it impartially does so.

5.3.2.4 Efficiency and effectiveness of electoral activities implementation

This research has prescribed to the idea that an election is a project. This is because a project has a beginning and an end and it's unique and temporary. Electoral activities are as such, for example voter registration has a beginning and an end; it also produces a unique product (a list of voters) (BRIDGE, 2002). The research shows that the ECK had a strategic plan and a procurement plan which was never implemented as planned. This caused ineffectiveness and inefficiency and hence affected the outcome. There also lacked project monitoring and evaluation department, and during the 2007 general elections the United Nations Development Programme (UNDP), a donor funding agency sponsored a Project Management Unit (PMU) which was not embraced by the ECK since it was controlled by the donors. Challenges like deadlines also affected the

implementation of the electoral activities, for example during polling day more than one voter registers were used because the main register had many missing names. This affected the ECK credibility because the process opened a window for malpractices. Generally it was concluded that the implementation of the electoral activities was not done efficiently and effectively because of poor planning, lack of monitoring and evaluation mechanisms and lengthy government procurement procedures.

5.4 Conclusions

From the analysis made, the ECK was not fully independent and hence did not have full control of its implementation of the electoral activities. The lack of financial autonomy made them rely on funding from the donor to complement the little funding they got from the government. The single handedly appointment of commissioners brought a lot of hue and cry from the opposition parties and this also affected the transparency of the ECK.

Lack of transparency in recruitment of the returning officers and the incumbent party using the state resources in campaigns remained a thorn in the flesh in the embracing of integrity during the conduct of election by the ECK.

Lack of proper terms of employment, training and electoral skill interfered with the professionalism. Finally the implementation of the activities lacked monitoring and evaluation hence was not effective and efficient.

All the above affected its delivery of a free, fair, credible, transparent and professionally managed elections. The ECK was then disbanded in 2008 due to the disputed presidential elections and consequently the IIEC established within 24- month mandate to establish a secretariat, reform the electoral process and spearhead other electoral reforms. IIEC was also expected to function as an independent EMB pending adoption of the proposed new constitution in a Referendum conducted in August, 2010. This would then see the IIEC disbanded and a permanent EMB re-constructed. The recommendations from the research would highlight some of the underlying factors that affect the proper functioning of an EMB and this would help in undertaking the electoral reforms that are currently being implemented in Kenya.

5.5 Recommendations

The following are recommendations to be considered in future to ensure that the EMB of the day is able to deliver its mandate as desired.

1. The process of appointing the commissioners should be transparent and competitive. This will allow the most competent applicants to be shortlisted and the process will also be seen as fair by all the stakeholders. The conduct of an EMB is a reflection of the entire election process; transparent rules of administration, recruitment should also be implemented. All stakeholders should comment and hold open discussions on matters concerning elections to foster transparency.
2. The EMB should be accountable to parliament and it should be allowed to draw its funds from the consolidated fund so as to attain financial autonomy.
3. Transparent procedures contribute to a “free and fair” electoral process, a goal of governments, the electorate, political parties and non-governmental organizations (Kaplan, 2009). As the electoral reforms are being undertaken it should be considered with great interest that all activities being undertaken are transparent and inclusive. This will enable acceptability of the end result and hence free and fair elections.
4. Citizens should always be guaranteed the rights to vote and participate as candidates; the right to secret ballot; access to impartial election information; access to effective and impartial procedures for voter registration; the right to join and establish political parties; freedom to express political opinions without interference or intimidation and equal access to media by all candidates.
5. Parliament should enact laws to deal with dispute resolution and election malpractices. The EMB should have powers to enforce these laws and other orders such as barring candidates who defy the orders. These laws should also prohibit hate speech and electoral malpractices. An electoral court should be established to deal with disputes arising from party primaries.

6. Gender should always be considered during nomination and recruitment. It should be noted that the ECK had three quarters of the management posts held by men and this caused gender imbalance.
7. There should be a level playing ground for all political parties participating in the elections this should see to it that the incumbent does not have an advantage over the other parties.
8. The EMB should set rules and procedures stipulating the recruitment procedures and qualifications required. These rules should be followed during recruitment of the election officials.
9. In managing the above an EMB should set realistic expectations with colleagues, customers and managers. This will involve all the stakeholders and hence all will feel to be part of the project. There should be Inter Party Provincial Committees like there were during the 2002 general elections. These were meant to ensure smooth and bloodless elections in different parts of the country. These were forums between the ECK and political parties at the national and provincial levels which facilitated dialogue on election matters.
10. Bureaucratic management procedures and poor communication affects the implementation of electoral activities. There is need for any EMB to have effective communication and training to ensure the goals intended are achieved.
11. Project management skills should be embarrassed in managing electoral activities. The electoral activities should be well defined to establish the objectives and assign responsibilities. This should then be followed by proper planning to come up with the sequence of work, develop milestones, budget estimates and identify risks or weaknesses that may affect the planned activities. Implementation and monitoring should be done to ensure that the planned outputs are delivered. The final stage should be the review agenda which assesses the client's satisfaction and feedback for future improvement.

12. EMBs should always develop publicizing service delivery standards for all activities implemented to enhance quality service. All political parties should be treated equally to create a level playing ground.

5.6 Suggestion for further research

More researcher should be carried out on the possibility of an Electoral Management Body acquiring full independence in its operations.

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Appendix A: Letter of Introduction

Joan Mudindi Vwamu,
P.O Box 101303,
NAIROBI.
E-Mail: jmudindi@yahoo.co.uk

Dear respondent,

RE: REQUEST TO RESPOND TO RESEARCH QUESTIONS

I am a postgraduate student at the University of Nairobi pursuing a Masters in Project Planning and Management. In partial fulfillment of the degree course, I am undertaking a research on the above named issue.

This questionnaire is used to collect data that will be used to highlight areas of improvement in embarking on implementing electoral reforms in Kenya. The questionnaire is in three parts section one is to be filled by all. The former employees of the Electoral Commission will fill section two while the other stakeholders will fill in section three. The findings from this research can be shared with participant upon request. The researcher will be at hand to clarify any issues during the data collection process. Thank you.

Yours Sincerely,

Joan Mudindi Vwamu
L50/7161/2006

Appendix B: Questionnaire for the Evaluation of the ECK'S Implementation of the Electoral activities prior and during the 2007 General Elections and why the elections were not free, fair and transparent.

INSTRUCTIONS:

All respondents should fill in Section A. Section B should be filled by the former ECK employees and Section C to be filled by the other stakeholders.

Please tick in the space provided or give a small explanation where required.

SECTION A: Demographic Information

a. Name..... (Optional)

b. Job Title.....

c. Gender Male Female

d. Nationality

e. If Kenyan are you registered voter Yes No

Please fill in the section covering your duties prior and during the 2007 general elections

FORMER MEMBERS AND STAFF OF THE ELECTORAL COMMISSION OF KENYA

Please indicate what level of the staff you served

- a. Terms of employment
 - i. Commissioner
 - ii. Permanent
 - iii. Temporary

- b. Management level
 - i. Commissioner
 - ii. Manager
 - iii. Deputy Manager
 - iv. Senior Staff

SECTION B: To be filled by the Former ECK Staff

Composition of the Commission

1. How were the commissioners appointed to the Electoral Commission of Kenya (ECK)?

.....
.....

2. Were the appointments politically aligned?

- yes no don't know

3. Please explain your answer?

.....
.....
.....

4. Were the Commissioners on permanent or temporary basis?

Permanent

Part-time

5. Do you think during the appointments gender was considered?

yes no

Please explain your answer?

.....
.....

6. Were the last appointments made during the election year?

yes no

7. Did the appointed members have security of tenure?

yes no

8. Did the appointed members have any expertise or skill in electoral management?

yes no I don't know

9. Did the management style open or bureaucratic? Briefly

explain.....

Planning and funding the electoral activities

10. From where did the Electoral Commission draw its funding?

Consolidated fund

Treasury

Other (specify).....

11. Apart from the government funding did the organization get donor funding?

yes no

12. If yes, was the Electoral Commission in-charge of the donor funds?

yes no

13. If no, who was in charge of the finance disbursement?

.....
.....

14. Apart from funding, what other role did donor agencies play in the electoral activities?.....

.....

15. Did this affect the ownership of projects run by the donor agencies by the ECK?

yes no

16. Did the ECK have a Strategic Plan?

yes no

17. Did the ECK have a procurement plan?

yes no

18. If yes, were all departments involved in planning?

yes no

19. Briefly explain how this was done.....

20. Was the Electoral Commission exempted from the procurement rules that govern the government institutions?

yes no

21. Did this affect the delivery of the required items? Please explain

.....

22. Did you participate in the budgeting for the procurement plan?

yes no

23. If yes, were funds availed for everything that was requested for in the procurement plan?

yes no

24. Please explain the outcome

.....

25. Was the procurement plan implementation monitored?

yes no

26. Were there provisions for adjustments when need arose?

yes no

27. Did the Electoral Commission have an internal monitoring unit to monitor how the implementation of different activities is being done?

yes no

28. if yes what was the unit?.....

29. Did this monitoring unit consist of personnel from all the departments?

yes no

30. If yes were the deliberations communicated to the rest of the department members?

yes no

Information and Training

31. Recruitment for Returning Officers was done by.....

32. According to your judgment was the process transparent?

yes no

33. If no, why please

explain.....

34. How was the recruitment of the other temporary staff done? Please explain
.....

35. According to your judgment was the process transparent? yes no

36. Who was in charge of the permanent staff and was the recruitment process transparent?
.....

37. Were there set rules and policies that guided the recruitment of the staff?
 yes no

38. Did everyone have roles and responsibilities specifically assigned to them?
 yes no

39. How was training conducted during electoral activities such as registration of voters and elections? Please explain

40. Was the system in place competent enough to ensure information was not tampered with before it reached the intended person?
 yes no

41. If not, what affected the trickle down of information?
.....

42. Who conducted the preparation of training and voter education materials
.....

43. Was the process inclusive of all the departments?
 yes no

44. Were the voter education Materials developed pre-tested before use?
 yes no

45. Was the department in charge of voter education able to conduct an evaluation on the effect of the developed materials?

yes no

46. If yes, how was it done?

.....

47. Voter Education was also conducted by the civil societies, was the electoral commission in charge of these organizations since it was their mandate to conduct voter education?

yes no

Voter Registration

48. Were all the eligible voters granted equal chance to register as voters?

yes no

49. If no, what obstructed the effort, please briefly explain

.....

50. Are the registration requirements difficult for the eligible voters to attain?

yes no

51. If no, why

52. Were the voter registration facilities easily accessible by voters?

yes no

53. If no, what effort was put in place to address this problem?

.....

54. Was there sufficient time for eligible voters to register, for the public to inspect the voters register, for objection to be raised and adjudication of appeals be done?

yes no

55. If no please explain why

.....

56. How were the deceased voters deleted from the register briefly explain

.....

57. Was the process of cleaning the register efficient and effective?

yes no

58. If no please explain

.....

Did the commission have internal mechanism of monitoring the voter registration process? yes no

59. If yes, how was it done?

.....

60. Was technology embraced in voter registration process? yes no

61. If yes, explain briefly.....

Boundary Review

62. Did the commission conduct Boundary review prior to the 2007 general election?

yes no

63. If yes, was technology used in carrying out the exercise?

yes no

64. If yes, what kind of technology?

.....

65. Which areas were reviewed during the exercise?

.....

66. Were all the recommendations implemented by the commission prior to the 2007 general elections?

yes no

67. If no why.....

The Constitutional and Legal framework

68. Are there mechanisms in the constitution that address conflict management in the electoral process? yes no

69. Please outline in which legal instrument they are

.....

70. Does the Constitution provide a regular scheduling of elections?

yes no

71. If no who is in charge of the electoral calendar?.....

72. Does the Constitution establish the independence of the electoral commission?

yes no

73. Are there legal provisions that deal specifically with electoral issues and include a right of appeal for aggrieved person?

yes no

74. Are there any proposed legal reforms proposed to improve the electoral system in Kenya?

yes no

SECTION C: Other Stakeholders

To be filled by political parties representatives, observers, NGOs that deal with election related matters, and media representatives.

75. Did the electoral commission consult regularly/frequently before taking major decisions which affect elections? yes no

76. Did all the political parties that participated in the 2007 general elections subscribe to the code of conduct? yes no

77. According to you, was the process of nomination transparent?

yes no

78. If no, what made it not transparent?

.....

79. Did the electoral commission supervise the party nominations?

yes no I don't know

80. After the formal submission of the nomination papers to the electoral commission was there sufficient time for objections to be lodged and disputes resolved?

yes no I don't know

81. Did the political parties ensure equal gender representation in there nomination?

yes no I don't know

82. During campaigns did the political parties adhere to the code of conduct?

yes no I don't know

83. If no, what punishment was applied by the electoral commission? Briefly explain

.....

84. Did all the political parties have equal access to media coverage by the state media?

yes no I don't know

85. Was the media subjected to a code that ensured fair reporting?

yes no I don't know

86. Do you think this code was adhered to?

yes no

87. Who monitored the implementation of this code?

88. Was there use of public resources during campaigns? yes no

I don't know

89. If, yes did the electoral commission effectively manage to stop that?

yes no

90. Was the voter education activities monitored by the electoral commission?

yes no I don't know

Polling day

91. Were there election materials that were designed for the disadvantaged voters such as the blind and deaf?

yes no

92. Where there applicable, special arrangement made to allow special categories of voters such as voters living abroad and prisoners to vote?

yes no

93. Were the polling stations easily accessible to the voters?

yes no

94. According to you, did the election officials at the polling station seem partisan?

yes no

95. According to your judgment was the voting and counting process transparent at the polling stations?

yes no

96. Was there more than one voters' registers were used during the voting day?

yes no I don't know

97. According to you were the security biased?

yes no

98. Does the legislation specify a timeframe in which results should be announced?

yes no I don't know

99. Were the final results announced by electoral commission accepted by all the stakeholders?

yes no

100. If no, why

.....

101. Is there clear provision for the appeal against the results and any other matter related to the conduct of the elections?

yes no I don't know

102. Was there any conflict management structures established in addition to recourse to the appropriate jurisdiction which operated in the post election period in order to facilitate the settlement of disputes?

yes no I don't know

103. If no how were the disputes settled? Briefly explain

.....
.....
.....

THANK YOU FOR YOUR TIME

THE END