INTRODUCTION

Electoral management in Kenya has undergone many changes since the establishment of the first electoral commission in 1963, through the Kenya Independence Order in Council (Kenya Gazette 1963). The country has also experienced a series of changes in its political system, from the multiparty elections in place at independence, to a one-party state in 1982, and reverting to multiparty elections in 1991 following the repeal of section 2(A) of the Constitution. However, it is the disputed 2007 general election, the resultant post-election violence, and the promulgation of the Constitution of Kenya 2010 (Kenya 2010) that led to fundamental changes in the management of elections in Kenya.

The Independent Review Commission (IREC) was established to inquire into the conduct of the disputed 2007 general election. Subsequently, IREC recommended a review of the electoral legal framework and the structure of the electoral commission (IREC 2008). Consequently, the Constitution (Kenya 2010) established the Independent Electoral and Boundaries Commission (IEBC). The Constitution further introduced devolution, creating 47 counties and 6 elective positions. These are: President, Member of National Assembly, Member of the Senate, County Governor, County Woman Member of National Assembly and Member of County Assembly Ward. The six elections are held on the same day. To a large extent, these constitutional provisions affected not only the cost of conducting elections but also the need to re-examine the budgetary support for elections and disbursement of funds to the IEBC.
1. OVERVIEW OF THE ELECTORAL MANAGEMENT FRAMEWORK

The IEBC is one of the commissions and independent offices established under Chapter 15 of the Constitution of Kenya 2010 to protect the sovereignty of the people, secure the observance of democratic values and principles by all state organs, and promote constitutionalism.

The IEBC is established under articles 88 and 248 of the Constitution of Kenya (Kenya 2010). The mandate of the IEBC is to conduct or supervise referendums and elections to any elective body or office established by the Constitution, and any other elections prescribed by an Act of Parliament. In accordance with article 89 of the Constitution, the IEBC is also responsible for delimitation of constituencies and ward boundaries. The specific functions, as stipulated in article 88 of the Constitution and section 4 of the Independent Electoral and Boundaries Commission Act (Kenya 2011), have an impact on not only the budget but also when the funds are available to the IEBC.

The central role that the IEBC occupies in the national development agenda cannot be over-emphasized. In the political arena, Kenya Vision 2030, an economic blueprint for the country, ‘envisions a country with a democratic system reflecting the aspirations and expectations of its people’ (Kenya 2007:22). The constitutional mandate and functions of the IEBC align with this aspiration for a democratic system that is issue-based, people-centred, results-oriented, and accountable to the people of Kenya.

A discussion on the funding of the IEBC cannot be undertaken without examining its institutional structure—comprising the commission and the secretariat. The commission, which is also referred to as the ‘Plenary’, is made up of the chairperson and six members, who are recruited competitively and appointed by the President to serve for one term of six years. The vice-chairperson, who must be of the opposite gender to the chairperson, is elected by the members after they are sworn in. The main function of the commission is policy formulation and oversight of the secretariat. The secretariat is headed by a chief executive officer (CEO), who is also the secretary to the commission and is responsible for supervising all staff and overseeing the day-to-day running of the commission in the execution of its mandate. The CEO is also the accounting officer of the commission appointed by the National Treasury.

The IEBC operates under a three-tier structure: the head office in Nairobi, 47 county offices and 290 constituency offices. At the head office, there are nine directorates: Research, Electoral Boundaries and Risk Management; Voter Education, Partnerships and Corporate Communication; Voter Registration and Electoral Operations; Finance; Internal Audit and Compliance; Human Resources and Administration; Legal and Public Affairs; Information and Communications Technology (ICT); and Supply Chain Management. The directors are assisted by managers who head departments. County offices are headed by county elections managers (CEMs), who are responsible for the implementation of programmes at the county level. Senior election officers oversee implementation of activities at the constituency level.
In accordance with section 25(1) of the Public Finance Management (National) Regulations 2015 (Kenya 2015), the CEO appoints and delegates authority to incur expenditure to directors and the CEMs. However, according to section 25(5) of these Regulations, the responsibility remains with the CEO. The act of delegation is an administrative one, aimed at ensuring that decisions are made quickly, and the necessary action is taken at different levels. The authority to incur expenditure has a financial limit, beyond which directors or CEMs cannot surpass.

The programmes and activities at the county level are aligned with the functions of the directorates at the head office level. Funding for activities at the county level is drawn from the directorate within which a particular programme sits.

2. PUBLIC FINANCIAL MANAGEMENT FRAMEWORK

The IEBC is funded by the government through Parliament. Article 249(3) of the Constitution (Kenya 2010) requires Parliament to allocate adequate funds to enable each commission and independent office, under which category the IEBC falls, to perform set functions. The IEBC draws funding from a consolidated fund that is administered by the National Treasury in accordance with article 206 of the Constitution (Kenya 2010) and section 19 of the Independent Electoral and Boundaries Commission Act (Kenya 2011). Other sources of funding for the IEBC include Appropriation in Aid (AIA). These are funds accrued to the IEBC for performing set functions, such as conducting elections for other bodies, as well as funds collected in the form of nomination fees, fines and court awards, sale of maps and voter registers, and hire of equipment, among others. In the financial year 2021/2022, the IEBC internally generated AIA of KES 143.45 million (IEBC 2022a: 85). The AIA must be declared to the National Treasury, which makes the decision whether to grant the authority to spend the money, or it must be submitted to the Consolidated Fund.

Funding by development partners is also a legally recognized source of funds for the IEBC. Development partners’ funding can be direct to programmes and activities or in the form of technical support. Soliciting development partner funding involves directorates identifying the development partners whose programmes align with the needs or functions of the directorate, and then writing a proposal that is submitted to the development partners through the CEO. Requests from the different directorates to a particular donor are put together and submitted by the CEO for consideration. If considered, the funds from the development partner must be factored into the Medium-Term Expenditure Framework, which is the government budget template. At the county level, a CEM can identify and seek support from development partners operating within their county, but authority must be sought from the CEO.
In preparation for 2017 elections, the IEBC received support from development partners through a basket fund administered by the United Nations Development Programme. The IEBC Annual Report for the financial year 2017/2018 shows that, for the 2017 general and presidential elections, the IEBC received KES 32,655,477,459 from the government and KES 712,210,000 from development partners (IEBC 2018a). However, funding from development partners is not always assured and timely. For example, the development partner funding for the 2022 general election was affected by the government stopping development partners from directly funding elections (Ndungu 2021; Otieno 2021). The Ministry of Foreign and Diaspora Affairs directed development partners to channel their funding through the National Treasury and notify the ministry on the intended purpose of the funds and the desired end results. This was a departure from previous practice where development partners directly funded activities identified by the IEBC. The directive delayed funding to the IEBC, with some donations coming in too close to the date of the election. As a result, the traditional areas of support, such as voter education, started late and were not on the envisioned scale (IEBC 2022b). This was seen by many as a move by the government to stop undue influence on the outcome of the 2022 general election through funding.

3. BUDGET FORMULATION AND APPROVAL MECHANISMS

To access funds, the IEBC is required to develop budgets that are aligned with the government’s strategic needs and priorities. The budget-making process is anchored in the Public Finance Management Act (Kenya 2012).

The IEBC develops a five-year strategic plan that outlines the vision, mission, core values and strategic objectives for the strategic planning period. Based on the strategic plan and guided by the government’s strategic priorities, the IEBC develops an annual work plan. To operationalize the implementation of the strategic plan, an election operations plan is developed. This outlines the key election priorities, timeframes, and inherent risks in the conduct of the elections.

The National Treasury issues guidelines for the preparation of a three-year rolling budget cycle anchored on the Medium-Term Expenditure Framework. In accordance with the budget guidelines, the IEBC secretary prepares estimates of revenue and expenditure for that financial year (Nyakira 2023).

The IEBC budget-making process is participatory. The technical directorates and county managers prepare programme-based budgets, which are submitted to the budget office for consolidation. The consolidated budget is presented in a meeting attended by directors and managers at the head office and county levels. The budget is scrutinized to ensure that all strategic activities in the annual work plan are factored in. In addition to ensuring participation, this activity also creates ownership of the budget and budget-making process.
The next stage in the budget-making process is the presentation of the budget to the Finance and Procurement Committee of the IEBC for consideration and adoption. Upon adoption, the chairperson of the committee presents the budget to the Plenary for discussion, adoption and approval. In the next step, the CEO submits the approved budget to the relevant National Treasury budget sector working group. The IEBC is placed in the governance, justice, law and order sector. This sector includes the IEBC, other government agencies such as all security-related agencies, the judiciary, state law office, office of the registrar of political parties, state department of internal security and the department of immigration, among others. This means the IEBC competes for resources with all agencies in this sector and within the ceilings provided for the sector. Placement of the IEBC within this broad sector is seen to limit its bargaining power for resources, especially outside an election year, thus limiting funding to being based on the electoral cycle. If the maximum funds provided under the ceiling are inadequate, the accounting officer can appeal or request additional funding; however, there is never an assurance that the extra funding will be provided.

After the budgetary vote has been finalized, the Cabinet Secretary responsible for Finance presents the consolidated budget to Parliament for approval, in accordance with section 21(2) of the Independent Electoral and Boundaries Commission Act (Kenya 2011). The Justice and Legal Affairs Committee (JLAC), one of the parliamentary committees the IEBC reports to, can invite the IEBC to present and defend the budget. The IEBC can also initiate a meeting with the JLAC to explain the budget and answer any questions that the members may have, as well as solicit support for the budget when it is tabled in Parliament. Prior discussions with the committee members create ownership. With this understanding, they are likely to support and defend the budget when it is tabled in Parliament. Once tabled and discussed in Parliament, the IEBC budget becomes part of the consolidated national budget that forms the basis for the Finance Budget Appropriation Bill. For enactment into law, the Finance Bill is submitted to the President of Kenya for assent and signing into law.

Once resources are allocated, and to execute the budget, the CEO communicates the budget ceilings to directors and CEMs, who hold the delegated authority to incur expenditure.

4. ACCOUNTABILITY AND TRANSPARENCY

The IEBC is legally bound to account and report on all funding received from the government and any other sources. In this regard, the IEBC manages the funds provided by the government and any other sources to execute its constitutional mandate in line with Chapter 15 of the Constitution of Kenya (Kenya 2010).
Sections 23 and 24 of the Independent Electoral and Boundaries Commission Act (Kenya 2011) stipulate the procedure for accounting and reporting. The IEBC submits financial reports to the National Treasury with a copy to the office of the Controller of Budget. The Controller of Budget monitors expenditure and absorption on a quarterly basis and links outputs with resources. For instance, on voter registration, how many voters were registered against the resources provided? This approach does not consider the time when the disbursement of the funds took place and hence may not reflect the actual performance of the commission (Nyakira 2023).

Like all other institutions that draw funding from the government, the IEBC is required to keep records and accounts for its income, expenditure and assets. The IEBC accounts are audited by the Auditor General once every financial year. For this purpose, and within three months of the end of the financial year, the IEBC submits a statement of income and expenditure during that financial year and a statement of assets and liabilities as at the last day of the financial year, according to the Public Finance Management Act, section 81(1) (Kenya 2012).

The IEBC is required to publish an annual report within three months of the end of the financial year. The report includes financial statements and details of activities undertaken, as well as any other additional information that the IEBC considers relevant. The report is presented to the President and submitted to the speakers of the National Assembly and the Senate. As a good practice, although not legally bound, the IEBC shares the annual reports with other state and non-state institutions it collaborates with. Section 24(3) of the Independent Electoral and Boundaries Commission Act (Kenya 2011) stipulates that the annual report should be published in the Kenya Gazette and at least one newspaper of wide circulation. However, this has never been done since the establishment of the IEBC. According to the IEBC, the requirement to publish is for purposes of dissemination and is mitigated by posting the annual report on its website (Makuthu 2023).

Regarding its budget, according to article 226(2) of the Constitution (Kenya 2010), the IEBC reports to Parliament through the respective committees. The Parliamentary Accounts Committee (PAC) is one such committee; it can invite the IEBC to explain and answer any questions related to audit reports by the office of the Auditor General. Similarly, on matters related to budget proposals, the Budget and Appropriations Committee (BAC) of Parliament discusses and reviews the IEBC’s budget proposals and makes funding recommendations to Parliament. While these procedures are good for accountability, sometimes they may work against the IEBC. The former chairperson of the IEBC recorded in his memoir instances where the IEBC has experienced budget cuts by parliamentary committees because some members were not pleased by certain outcomes from the electoral boundaries’ delimitation conducted in 2012 (Hassan 2023).

Internally, the IEBC has put in place mechanisms for accountability and transparency. These are:

---

**The Budget and Appropriations Committee (BAC) of Parliament**

Discusses and reviews the IEBC’s budget proposals and makes funding recommendations to Parliament.
1. **Finance and supply chain management committee.** This comprises at least three commissioners and is chaired by a commissioner. The committee oversees budget preparation, expenditure and compliance with the Public Finance and Management Act (Kenya 2012), the Public Procurement and Asset Disposal Act 2015 (Kenya 2022) and related regulations.

2. **Audit committee.** This is an independent committee comprising three members. Two members are external, and one is internal. It is chaired by a non-executive member. The committee oversees the activities of internal audit and reviews the IEBC’s governance, risk and control mechanisms. The committee reports directly to the commission.

3. **Internal audit department.** This oversees compliance with relevant financial and procurement laws, internal control, risk management and governance advisory. The department reports directly to the commission with a dotted line to the CEO, meaning they can report to the CEO on some specific matters. The reporting line is a measure meant to strengthen the oversight role of the commission.

4. **Budget implementation committee.** This operates at the secretariat level. It advises the management on budget implementation, monitors absorption rates and identifies financial gaps. It also advises on reallocation of funds from one vote head to another whenever there is need.

5. **Authority to incur expenditure.** The CEO who is the accounting officer for the IEBC delegates authority to incur expenditure to directors and CEMs. This is done to ensure quick decision making and the seamless implementation of programmes. However, approvals of funds for various activities are delegated to the director of finance and other directors in respect to activities being implemented in their directorates at the headquarter and the county level with a cap on the amounts they can approve.

6. **Policies and Procedures Manual.** This provides an overall budgeting, financial management and accounting framework in the day-to-day financial and accounting operations of the IEBC (IEBC 2019). The manual promotes transparency in expenditure and accountability.

Externally, the National Treasury, the Office of the Auditor General and Parliament through the relevant committees are institutions that IEBC reports to regarding budget and expenditure.

## 5. BUDGETARY AND FUNDING CHALLENGES

The IEBC post-evaluation reports of the 2013, 2017 and 2022 general elections reveal budgetary and funding challenges that recur during each electoral cycle (IEBC 2013, 2018b, 2022b). The main ones are:
1. **Lack of operational IEBC Fund.** Section 18 of the Independent Electoral and Boundaries Commission Act 2011 establishes the IEBC Fund to be administered on behalf of IEBC by its secretary. Although this fund exists in law, it has not been operationalized to date. If it was in operation, the budget allocated for the financial year would be deposited in the fund. This means that the IEBC would not be requesting quarterly disbursements of funds from the National Treasury, and the IEBC could plan and implement programmes and activities in a timely manner. In addition, the IEBC could rearrange its priorities if the situation changed. Currently, the IEBC must request funds from the National Treasury or seek approval for reallocation, a process that causes delays in the implementation of activities that are time bound.

2. **Inadequate funding.** In the financial year 2021/2022, the IEBC’s budgetary allocation for the 2022 general election was KES 18,640,799,999 against the required KES 22,022,053,418. Similarly, in the 2022/2023 financial year, the IEBC was allocated KES 17,265,163,437 against KES 18,895,535,675 requested (IEBC 2022b). This means that the IEBC either scales down some programmes and activities or, in some cases, incurs debts in the form of pending bills. Crucial activities—such as voter registration, voter education, maintenance of electoral technology—have far-reaching effects on the conduct of an election and in particular its credibility, if not carried out at the right time and scale.

3. **Funding not aligned with the electoral cycle.** Considering that the conduct of an election is a process and not an event, the ideal funding model is for the IEBC to receive funding for election-related activities throughout the electoral cycle. However, most of the funds for elections are released in the last two years before the election date, sometimes even later. As a result, the IEBC is under pressure to carry out activities that should have been carried out early in the electoral cycle. For instance, financing electoral technology in the last year of the election cycle poses a challenge in terms of inadequate time to test, customize, train staff and deploy, therefore creating a crisis. In 2020, the IEBC reported that it could not carry out key activities—such as an audit of electoral technology and voter registers in preparation for the 2022 general election, or voter education—which is likely to impact negatively on an election (IEBC 2022b). The disbursement of funds on a quarterly basis also does not augur well with the management of electoral-related activities.

4. **Time-specific election operations plan and work plan.** The late disbursement of funds, which often occurs, means that activities either commence without funding or are delayed, hence affecting electoral timelines. In addition, money disbursed late into the quarter means that it may not be fully utilized and must be surrendered back to the National Treasury. When this happens, it indicates that the IEBC is an institution with a low capacity to utilize funds (Nyakira 2023). The absorption of funds is a performance indicator in government-funded institutions and can affect the allocation of funds in the next budgeting cycle.
5. **Vendors lacking faith in the IEBC’s capacity to make timely payment for goods and services rendered.** To compensate for delayed payments, vendors usually inflate prices. Inflated prices have an impact on the cost of an election. When an audit is done and the price of goods and services is way beyond the market price, an audit query arises. Until the query is cleared, such bills cannot be paid thus becoming pending bills. Some can remain so for a long time. In the Annual Report for the 2021/2022 financial year, the IEBC reported that it continued to settle pending bills amounting to KES 429,611,000 accrued in the conduct of the 2017 general election (IEBC 2022a). Due to budgetary constraints, pending bills of KES 2.05 billion remained unsettled as of 30 June 2022 (IEBC 2022a). Pending bills often lead to a loss of confidence in the IEBC.

6. **Gaps in electoral budget.** Gaps arising in the electoral budget from unforeseen circumstances, such as price variations, can occur after the budget has been approved and concluded. Budgetary deficits lead to either late commencement of activities or downscaling to fit the available budget. Some activities, such as registration of voters and voter education, if not carried out effectively, have the potential to affect the credibility of an election.

6. **RISKS ASSOCIATED WITH THE FUNDING SYSTEM**

One of the biggest assets for an electoral management body is public confidence. Based on the funding-related challenges that the IEBC faces, the associated risks can be summed up as credibility and reputational integrity, leading to the likelihood of low or a lack of confidence in the IEBC. As a result of late disbursement of funds, inadequate funding and the non-alignment of funding with the electoral cycle, key activities such as maintenance and audit of technology and voter register audit during the 2017 and 2022 general elections were not carried out in a timely fashion. This therefore exposes the IEBC to the risk of being non-compliant with the law (IEBC 2018b, 2022b). The 2022 post-election evaluation report and the IEBC’s annual reports reveal that the IEBC continuously experiences the challenge of pending bills for services and goods consumed yet not paid for. This problem arises from the timing of disbursement of funds and, in some cases, from inadequate funding. The lack of trust from service providers in the IEBC exposes it to the risk of not getting goods and services at the right time and procuring them at inflated prices, thus escalating the cost of elections.

7. **RECOMMENDATIONS FOR IMPROVEMENT**

To mitigate funding challenges and risks, Parliament needs to develop the necessary regulations to operationalize the IEBC Fund. With this fund in place, the IEBC would be able to implement its activities as planned.
and also reorganize priorities to deal with emerging issues as needed. Sensitization of stakeholders, especially the National Treasury and Parliament, on the importance of electoral cycle funding is a measure that the IEBC should consider. The IEBC is different from other public institutions, so its funding should be treated differently in terms of adequacy, timeliness and disbursement cycle. Taking this into consideration will go a long way in supporting the IEBC to execute its constitutional mandate and, by so doing, enhance the credibility of elections in the country.

8. CONCLUSIONS

The independence of an electoral management body is an important factor in shaping citizens' perception of elections. Although the independence of the IEBC is laid down in law, this does not necessarily give the IEBC the envisaged independence. The IEBC operates under the independent electoral management body model, but the extent of its independence is limited by the funding system. While the IEBC is independent in terms of its decision making, near-total independence will only be realized fully with a change in the funding arrangements, through the operationalization of the IEBC Fund and the timing of disbursements based on the electoral cycle.

REFERENCES

Hassan, A. I., *Referee of a Dirty Ugly Game: In the Theatre of Kenya's Elections – An Insider’s Account* (Dubai, UAE: Big Books, 2023)


—, *Annual Report 2017/2018* (Nairobi: IEBC, 2018a)


—, *Annual Report 2021/2022* (Nairobi: IEBC, 2022a)

—, *The Post-Election Evaluation Report for the 9th August 2022 General Election* (Nairobi: IEBC, 2022b)


Makuthu, R., Acting Manager Legal Reforms, Party Liaison and Campaign Financing at Independent Electoral and Boundaries Commission, author’s interview, Nairobi, August 2023


Nyakira, P., Financial Accountant at Independent Electoral and Boundaries Commission, author’s interview, Nairobi, August 2023


ABBREVIATIONS

AIA Appropriation in Aid
CEM County election manager
CEO Chief executive officer
IEBC Independent Electoral and Boundaries Commission
JLAC Justice and Legal Affairs Committee

ABOUT THE AUTHOR

Catherine M. Kamindo is a former Director of Research, Electoral Boundaries and Risk Management at the Independent Electoral and Boundaries Commission, Kenya, with over 13 years of experience in electoral management. She has extensive experience in election observation, and pre- and post-election assessments in many African countries. She holds a PhD in Policy and Management from the University of Durham, United Kingdom. She is currently a private consultant based in Nairobi. Areas of interest include governance, elections, strategic planning, electoral boundaries delimitation, policy analysis and research.
ABOUT INTERNATIONAL IDEA

The International Institute for Democracy and Electoral Assistance (International IDEA) is an intergovernmental organization with 35 Member States founded in 1995, with a mandate to support sustainable democracy worldwide.

**What we do**
We develop policy-friendly research related to elections, parliaments, constitutions, digitalization, climate change, inclusion and political representation, all under the umbrella of the UN Sustainable Development Goals. We assess the performance of democracies around the world through our unique Global State of Democracy Indices and Democracy Tracker.

We provide capacity development and expert advice to democratic actors including governments, parliaments, election officials and civil society. We develop tools and publish databases, books and primers in several languages on topics ranging from voter turnout to gender quotas.

We bring states and non-state actors together for dialogues and lesson sharing. We stand up and speak out to promote and protect democracy worldwide.

**Where we work**
Our headquarters is in Stockholm, and we have regional and country offices in Africa, Asia and the Pacific, Europe, and Latin America and the Caribbean.

International IDEA is a Permanent Observer to the United Nations and is accredited to European Union institutions.

**Our publications and databases**
We have a catalogue with more than 1,000 publications and over 25 databases on our website. Most of our publications can be downloaded free of charge.

<https://www.idea.int>