



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

RESPONSE TO NASA CLAIMS ON THE RECENT PRESIDENTIAL ELECTIONS: THE FACTS

1. The August 8th 2017 Presidential Election was concluded and the outcome published several months ago. However, the enduring claims by the National Super Alliance (NASA) coalition and the recent release of falsified results compels the Commission to restate the real facts. This is because Kenyans are entitled to the truth. The Commission will continue to defend the truth on the recent elections for the sake of protecting our democracy.

I. August 8th 2017 Presidential RESULTS Tally

2. The Commission tallied the presidential results and declared Mr. Uhuru Kenyatta as the winner with 8,203,290 (54.27%) votes while Mr. Raila Odinga came second with 6,762,224 (44.74%) votes. The Commission arrived at these figures after receiving ALL the Form 34Bs from the Constituency Returning Officers (CROs) from 290 constituencies and the diaspora. This was based on the interpretation of the Maina Kiai Case Civil Appeal No. 105 of 2017 which ruled that the presidential results declared at the constituency level are final. Subsequently, the Commission sought clarification on this procedure and the same was provided by the Supreme Court. The procedure, as clarified, was later applied in the October 26th 2017 fresh presidential election.

II. Opening of the Results Transmission Server

3. The facts around access to Results Transmission Server (RTS) has been the subject of misinformation. During the August 8th 2017 presidential election, the Commission provided a secure access to the RTS server to all agents of presidential/political parties upon their request. This enabled them to view the results as they were being received from polling stations across the country. The table below shows party personnel who were given access to the RTS and their level of interaction with the server:

PRESIDENTIAL/ PARTY AGENT	EMAIL ADDRESS USED	PARTY	ATTEMPTED LOG IN	SUCCESSFUL LOG IN	FAILED LOG IN
John Walubengo	walu@gmail.com	NASA	54	34	20
Davis Chirchir	dkchirchir@gmail.com	Jubilee Party	24	10	14
Collins Ndindi	collinsndindi@gmail.com	Independent Candidate	46	6	40
Jappheth Kaluyu's agent	rowa.juls@gmail.com	Independent Candidate	6	3	3
Bern Wafukho	bernwafukho@gmail.com	UDP	8	6	2
Bildad Kagai	billkagai@gmail.com	Thirdway Alliance	5	5	0

4. It is very clear from the table above that NASA agent had the highest number of successful "log-ins." This is a fact that NASA has always deliberately avoided to inform Kenyans. Instead, NASA continuously mentions the names of the agents of their political opponents to give an impression that only their opponents were given this access.
5. Based on the lessons learnt in the August 8th election, in the October 26th election, the Commission developed and shared with stakeholders an even better mechanism of accessing the servers which resulted in enhanced transparency.

III. Compliance with Supreme Court Order to Access the Servers

6. When the Supreme Court ordered the Commission to provide petitioners and the third respondent access to the servers in the first 2017 presidential petition, the Commission made efforts to expedite the order as soon as it was practically possible. It should be noted that opening a server entails establishment of a secure link, defining user accounts and assigning permissions to a highly secure environment. It required collaboration by different experts, some of whom were based in Europe where the Commission's cloud servers were hosted. This process took time and the 48 hours given to comply with the order were certainly not adequate. By the time the secure link was established, there was little time left for the Court experts to report back to the Registrar and then the Supreme Court. It is a fact that access was provided to both NASA and Jubilee Party agents, though for a shorter period of time than anticipated.
7. At no time did the Commission deliberately prevent access to the server. Indeed, once a secure connection was established, the server continued to be available and accessible until mid-October 2017 when the facility was redirected for use in the fresh presidential election.

IV. Claims on Hacking

8. Allegations of hacking of the Results Transmission System (RTS) emerged during the 8th August 2017 election which the Commission denounced after establishing the evidence being relied on were fake logs from a Microsoft platform as opposed to the Commission's Oracle database. An independent audit conducted on behalf of OT-Morpho by Verizon, a reputable international telecommunication company, showed that there was no evidence of hacking of the RTS as used for the August 8th elections. The ICT infrastructure deployed in the August 8th election met high international standards in terms of security.

V. Claims of Results Forms being deleted from the Server

9. First, Kenyans should know that there were two different pathways of submitting result forms to the National Tallying Centre (NTC). Form 34As were transmitted from the polling stations to the NTC and uploaded to the public portal. This was done directly through the Kenya Integrated Election Management System (KIEMS) kit. Agents who were given access to the RTS at the NTC were able to view the forms that were successfully transmitted from the polling stations.
10. Second, the Form 34Bs were transmitted to the NTC through a secure File Transfer Protocol server (SFTP). The SFTP server was developed to enable the Commission to comply with the ruling in the Maina Kiai case which required to electronically transmit Form 34Bs to the NTC. It is a fact that some of the files sent by the Returning Officers (ROs) were of poor quality and had to be resent by the ROs to allow for quality printouts. There was no relationship between the SFTP server and the Cloud-based RTS server, contrary to assertions by NASA.

VI. The Missing 11,000 Form 34As

11. The claims that the Commission had not received all the forms before declaring the 8th August presidential election winner is unfounded. Our interpretation of the Maina Kiai case was such that once the Constituency Returning Officer (RO) received all the Form 34As from the polling stations within their respective constituency, they would prepare the final results in Form 34B which is then scanned and sent via SFTP to the NTC at Bomas of Kenya for verification and declaration of final results. At the time, the Commission's interpretation was such that it was not mandatory to receive Form 34As at the NTC once they had been received by the CROs and Form 34B prepared.
12. It is therefore not true that the Commission never received 11,000 Form 34As. All the said forms were received, scanned and published on the online public portal (forms.iebc.or.ke). In addition, the PROVISIONAL results relayed via KIEMS RTS as extracted from the servers with TimeStamp are also available in MS Excel for anyone to carry out independent analysis of the results. It will be recalled that the forms from areas with network challenges were eventually availed at the NTC and then uploaded on the public portal.

VII. Conclusion and Way Forward

13. The Commission is committed to strengthening democracy in Kenya. While it invites criticisms, such arguments must be based on facts and goodwill to improve the electoral process. Access to the servers was granted to parties even before the declaration of the August 8th results; and after the Supreme Court direction, albeit with delays. All the August 8th presidential polls results are available and accessible at: forms.iebc.or.ke.
14. The Commission is currently undertaking a post-election evaluation exercise and soon stakeholders will be invited to make their contributions on lessons learnt for better management of future elections in Kenya. In the meantime, we will not hesitate to provide clarification on any issue about the recently held elections.

Connie Maina Nkatha
Acting Chairperson
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