



The Broader Implications of the Kibra By-Election

By Miriam Abraham



Now that the dust has somewhat settled after the Kibra parliamentary seat by-election, let us reflect on its broader implications.

There are some outcomes that stand out as positive. The vigilance of the political parties at polling stations was impressive, despite the violent tactics employed. This was a major improvement on 2017 when most political parties did not have agents present at the polling stations. As [confirmed](#) by the High Court, the election results announced at the polling station are final, and the electoral regulations of the Independent Electoral and Boundaries Commission (IEBC) require that these results, signed by the agents, must be posted at polling stations.

Technically, if a candidate has agents at each polling station, he or she should be able to have a sense of their performance even before the IEBC Returning Officer. This is because the Returning Officer has to await the physical delivery of results by the Presiding Officers before embarking on the tallying. It was probably data from his agents which led the Jubilee candidate, McDonald Mariga, to make his call conceding defeat to Bernard (Imran) Okoth long before the official results were announced. For Mariga to concede defeat and accept the results early is indeed commendable and should be the norm. But this is only possible when candidates perceive the electoral process to be fair.

It also requires that stakeholders have reliable information, which appears to have been the case in Kibra. This cannot be said of the 2017 General Election, where the IEBC gave candidates reason to doubt the results it was releasing. In Kibra, the IEBC did not use its electronic results transmission system (although it did use the biometric voter identification system). Does this confirm that technology is not a panacea for the lack of transparency and confidence in electoral results? Indeed, Kibra opens the door for us to engage with the ideas put forward by former IEBC Commissioner Roselyn Akombe in her [end of assignment](#) report on the use of technology in elections.

Yet, despite some of these positive outcomes, I would argue that the negative aspects of the process far outweigh the positive ones, for four main reasons.

First, the process confirmed that the IEBC has not learned any lessons from its recent dismal failures. It continues to flaunt clearly laid out electoral laws and acts with impunity in the knowledge that the state—which it has been totally captured by—will protect it.

Take, for instance, the issue of the voters register. The Elections Act requires that the Commission avail a register of voters to ensure transparency, verifiability and accountability. Yet, once again, the Commission failed to make the register available to stakeholders and nor did it make one available online. It only complied with the law once the Orange Democratic Party (ODM) [sought relief](#) from the courts.

You will recall that during the 2017 elections, every aspect of the electoral process, from registration of voters to procurement of electoral materials, was subject to litigation. Why is it so difficult for the Commission to comply with electoral laws and with its own procedures? In its own [review](#) of the 2017 General Election, the Commission identified over 500 legal cases against it, including Presidential, County and National Assembly petitions. It is important that an independent audit of the 2017 electoral process is undertaken if we are to hold on to the hope of electoral justice. Otherwise, we risk having the same issues repeated in the next electoral cycle.

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What the “handshake” did was shift the political alliances. We still have two political coalitions, just as we did in 2017. Only that the “dynasties” camp in the Kibra campaign was led by Rt. Hon. Raila Odinga, with the President’s acquiescence, and the “hustlers” team by the Deputy President. Kibra laid bare the fractures within the ruling Jubilee Party and confirmed the collapse of NASA. Rather than bridging the political differences in the country, the “handshake” has deepened them. This does not augur well for the country, particularly in these difficult economic times.

Third, state capture—which many observers including [Wachira Maina](#) and [David Ndi](#) have written about—is very much alive. For many months now, close aides of Rt. Hon. Odinga have been boisterous about how the “system” has, since the handshake, switched its “loyalty” from the Deputy President to their *Baba*. They point out that with the “system” or the “deep state” solidly behind *Baba*, he is the “President-in-waiting” and the *de facto* co-Principal to the President.

One could argue that the “men in the shadows”, as John Githongo calls them in his article [One Week](#)

[*in March: Was the Handshake Triggered by the IMF?*](#), are keen to show that the handshake is working. With the Deputy President's power withdrawn, he did not stand a chance of imposing his candidate in Kibra, as he is alleged to have done for most of the key positions in the 2017 election. His recent pronouncements are of a bitter man, spoilt by the ease with which he previously wielded power and now finding himself bereft. It is the anger of a man who has been betrayed by the same President whom he helped bring to power.

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I can imagine his frustration as he watched the security system tacitly approve the violence meted out against his candidate and his confidantes. A man who is alleged to have used the government machinery to terrorise dissenting voices, now watching from the periphery as they worked for his arch-rival. A man who is reported to have made cold, menacing telephone calls, leading senior officials to resign from their positions rather than wait for his threats to materialise, was now seeing these tactics used against his cronies.

In light of this, Rt. Hon. Odinga's supporters may be tempted to celebrate their ability to benefit from state capture today. However, they should be wary of how the tables may be turned should *Baba* fall out with Kenyatta. They surely must know the volatility of alliances in this country. There are still many factors that could come into play in the coming months. In cheering on state capture for short-term gain, we have sunk to our lowest level and history will judge us harshly for our acquiescence.

Fourth, Kibra confirmed that women continue to face insurmountable challenges when seeking political office. The two main political coalitions did not consider any female candidate in their "nominations". Despite the odds, there were three formidable women in the race: Editar Ochieng (Ukweli Party); Hamida Musa (United Green Movement) and Fridah Kerubo (Independent).

Unlike most of the other 21 candidates, these three women live in Kibra and have been involved in community organising. Yet their voices were drowned out as Kibra became the arena for a national supremacy challenge between two men who do not even reside there. Men who visit the constituency for its political symbolism and have done nothing during their time in power to make even minimalist changes to improve the lives of Kibra's inhabitants.

The sexist undertones of the campaigning were repulsive; the labeling of an entire constituency as one man's "bedroom", with another man retorting that he was within sight of invading it, should have been strongly condemned yet even the various organisations and groups purporting to defend women's rights were eerily silent. They dared not hold either Rt. Hon. Odinga or the Deputy President accountable for their insensitive sexist innuendoes, which continue to undermine the participation of women in politics. The mainstream unfortunately joined the bandwagon, using the same "bedroom" analogy without interrogating how this undermines their own mantras on the use of gender-sensitive language. Sadly, Kibra is a reminder that if we do not change the environment around our electoral process, the gender parity provisions in our constitution will remain a mirage.

Beneath the gender-insensitive use of the "bedroom" analogy in Kibra, is the underlying message of patronage. It trivialises the lives of the residents as dispensable political pawns. It promotes the erroneous perception that one man can own the thousands of residents of Kibra. This is the same

outrageous mindset which led Johnstone Kamau to appropriate a country's name and present himself as it's light (thus Kenyatta), as he describes this re-naming in his book *Facing Mount Kenya*. No wonder his descendants see the country as their personal property to plunder.

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Kibra reminds us that we have failed to address the root causes behind the current political polarisation. We have failed to make the changes necessary to end the ongoing state capture of independent institutions such as the IEBC. We pay lip service to the participation of women in politics and marginalise large swathes of our population. We have failed to address the economic policies that have led to our people living in difficult conditions, including in places such as Kibra. We have squandered the future of the youth and left many of them unemployed and disillusioned. It is time that we made serious attempts at addressing these issues. Otherwise, as we have seen in recent months from Algeria to Zimbabwe, the streets will take care of the situation. And the outcome of such popular protests may not be what the political elite might expect.

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