

The logo for 'Kura Yangu Sauti Yangu' features a red rounded rectangle containing the text 'Kura Yangu' and 'Sauti Yangu' in white. To the right of the rectangle is a stylized graphic of a hand holding a green checkmark, with several colorful dots (red, green, black) above the hand.

**Kura Yangu
Sauti Yangu**

How legitimate is the October 26 election? This is the main question preoccupying Kenyans today, as the electoral body streams results for an election marred by low turnout and an opposition boycott.

On November 1st, the constitutional period declared by the Supreme Court for a fresh election and a caretaker president, ends. Incumbent Uhuru Kenyatta faces a crisis over his caretaker presidency if no legitimate election has taken place, and no alternative mechanism has been put in place. The Independent Electoral and Boundaries Commission, the IEBC, is under increasing pressure to account for results being released, which are marred by many of the same issues that led to the annulment of the August 8th poll.

The boycott affected significant areas of western Kenya, as well as constituencies in Coast and Nairobi. Protests were handled brutally by security forces. The IEBC immediately ordered a repeat of the election on Saturday October 28 in areas affected by the boycott, saying order would be 'restored'. Security forces have occupied the areas affected today, and protests and violence continue.

Technical legitimacy

The election lacks technical legitimacy. The IEBC largely failed to implement any of the reforms necessary to comply with the Supreme Court judgment, which have led to similar errors and contradictions encountered in August 8th election.

KYSY analysis of the October 26th election is based on the findings of some 2,000 observers deployed in 44 of the 47 counties around the country to observe the election. The observers are responsible for monitoring Election Day processes, and transmitting photos of posted Forms 34A and Forms 34B.

KYSY finds the repeat election has been marred by many of the same issues that affected the legitimacy of the August poll, including:

- A changing Register of Voters
- Multiple copies of Forms 34A with different results in circulation
- Failure of electronic results transmission
- Failure of IEBC officials to properly and fully complete Forms 34B

IEBC does not seem to have a clear idea of what data is in its possession at any time. On the evening of October 26, IEBC Chair Chebukati announced that the Commission had 27,134 Forms 34A. At that time, the portal showed that the Commission only had 18,090 forms. Today, Chebukati announced that the

Commission had results from 15 constituencies. The portal showed, however, that the IEBC had posted over 100 Forms 34B at that time.

Process Observations

These are examples of some of the most significant findings to date:

- Teso South, Mombasa: KIEMS kits, IEBC officials' reflectors, ballot boxes and ballot papers were burned.
- Kesses, Uasin Gishu: In Chepkoiya Polling Station, the KIEMS failed to transmit the Forms 34A. The PO asked the agent to accompany him to the tallying centre.
- Kilome, Makueni: IEBC officers were not in the tallying centre from 2:00 am onwards and they took Forms 34B and Forms 34A with them. These forms were not duly signed by agents nor by returning officers.
- Samburu: In Lorukoti, observers were not allowed to take photos. IEBC said that it did not want to be seen in the media.
- Manyatta, Embu: At Manyatta tallying centre, 4 presiding officers locked up the KIEMS kit and the ballot papers. Agents were called as the boxes were being unlocked eventually.
- Tana River: At Dayate Nursery, results transmission via the KIEMS kit failed.
- Kisumu: Security forces coerced residents to give them their ID cards.
- Several instances of security forces shooting citizens, including in Nairobi, Athi River, Siaya, Kisumu, and Nandi.
- Nakuru: In Njoro, KYSY observers found leaflets warning NASA supporters to stay home. The leaflet reads: "All NASA followers are expected to be indoors and asleep on this day of 26th Oct 2017 since they decided to boycott the presidential election. Please be advised that the total number of votes cast in favour of NASA in this region will be the determinant of how many heads will be chopped off."



Forms 34B

Since the IEBC postponed elections in Migori, Siaya, Kisumu and Homa Bay until Saturday, it is unclear how Forms 34B for Kisumu West, Kisumu and Kuria East, Migori have been published.

In Kisumu West, Form 34B shows that Uhuru Kenyatta won 50 votes, all of which came from polling stations in the same ward (North West Kisumu). This form also shows that the RO received only 9 Forms 34A (out of 142 gazetted polling stations). The “takeover” section was not completed.

In Kuria West, neither the handing over nor taking over sections was completed.

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Forms 34A

There appear to be multiple, different copies of Forms 34A in circulation.

Nanighi Primary School, Stream 3, Garissa

	Form 34A from KYSY Observers	Form 34A from IEBC Portal
Aukot	0	0
Dida	3	3
Jirongo	Illegible	0
Kaluyu	0	0
Kenyatta	56	427
Wainana	0	0
Nyagah	0	0
Odinga	0	0
Total Valid Votes	60	430

Bashaal Market Centre, Stream 1, Garissa

	Form 34A from KYSY Observers	Form 34A from IEBC Portal
Aukot	Blank	0
Dida	5	5
Jirongo	0	0
Kaluyu	0	0
Kenyatta	133	433
Wainana	0	0

Nyagah	0	0
Odinga	2	2
Total Valid Votes	140	440

Moreover, the IEBC reported that 35,564 stations sent signals indicating that they had opened; 5,319 stations did not send signals. As of 1pm on October 27, however, the IEBC's portal indicates that 37,045 forms have been uploaded. This means that the IEBC has posted forms from 1,481 more stations. Where did those forms come from? How will the IEBC resolve any differences that arise between the forms that they have already posted from these areas and new forms that may come tomorrow?

Turnout

Overall, turnout has been unusually low in most areas. Approximately 36 percent of KYSY observations note low turnout. Based on a sample of 339 forms collected and scrutinized thus far, average turnout is 38 percent. There is tremendous variation, ranging from .5 percent (in Vihiga) to 90 percent (in Nakuru).

While politicians debate degrees of legitimacy, citizens have lost lives, property and hope for the future. How possible is it to force people who boycotted an election to vote in Kisumu, Homa Bay, Migori and Siaya? Security forces have moved into these areas today, pursuing protesters and innocents house to house, with live bullets and tear gas.

Given that these are opposition stronghold areas, it is reasonable to assume that voters here will be largely committed to NASA's call for a boycott. Even if a few polling stations manage to open on Saturday, it is unlikely that a handful of votes will be able to meaningfully addition to legitimacy.

27th October 2017