Determinants of Voter Disenfranchisement in Kenya

Edward Andafu
Kenyatta University, Kenya
andafu.edward@ku.ac.ke

https://doi.org/10.62049/jkncu.v5i1.195

Abstract

General elections in Kenya are held after every five years, though, by-elections can be conducted before the end of the electoral term. In both elections a section of the electorate encounter some impediments that hinder them from voting, culminating in voter disenfranchisement. They are hence denied their constitutional right. This study sought to address the problem of voter disenfranchisement in Kenya, based on the following objectives: analyse voter participation in selected types of elections in Kenya; examine factors leading to voter disenfranchisement in Kenya and propose a mechanism to address voter disenfranchisement. Being a conceptual research, the study employed analytical research in terms of conceptual analysis of elections and by-elections in Kenya. It utilized secondary data from documented sources by the media, Election Observation Mission Reports, Independent Electoral and Boundaries Commission's (IEBC) election evaluation report and the statistical data from the Communications Authority of Kenya (CAK). It established insecurity, unfavourable weather conditions and the distant location of polling centres as major impediments to the electorate's participation in elections. The study recommends that the Independent Electoral and Boundaries Commission (IEBC) of Kenya adopts the hybrid system of voting by incorporating e-voting in the electoral processes so as to enable all eligible voters to exercise their civic and democratic rights by voting.

Keywords: E-voting, Hybrid voting system, Voter disenfranchisement, Voter participation

Introduction

Election is the formal process of selecting leaders to either occupy public offices or accepting or rejecting a political position by voting. It is a group decision making process by which a population chooses an individual (s) to occupy public office for a stipulated period of time. Election is the lifeline of democracy, aimed to serve a number of purposes, among them, to choose representatives to serve in the legislature and to check the government and elected leaders, and hold them to account. Elections are fundamental to the democratic societies since they embody the principles of "popular sovereignty," where the legitimacy of the government is derived from the consent of the electorate NEXT IAS (2024). Elections were first used as a means of selecting popes and emperors in ancient Athens and Rome respectively. In the contemporary world, inception of elections coincided with the emergence of representative governments in Europe and North America at the beginning of the 17th Century. In Asia, competitive elections were first held in India, Philippines, Indonesia and Malaysia after the Second World War, as a result of decolonization. In Latin America, competitive elections were introduced in the 19th Century when elections were held in Argentina, Chile, Colombia and Uruguay.

Martinez (2024) explains that the United States of America (USA) elections are held on the first Tuesday of November after a four year electoral term. The electorate vote for the president and the vice president, though there is a provision to vote earlier at the state or local election office, where voters can vote by mail. Senators and representatives are elected by the popular vote while the president and the vice are elected by the Electoral College. Each of the US state has the same number of electors as members of the Congress (one for each member of the House of Representatives and two senators), while Washington DC is assigned three electors, totaling to 538. Winning the presidential election requires a majority of at least 270 Electoral College votes. The Electoral College votes vary from state to another, based on the number of representatives the state has in the Congress. Therefore as the citizens cast their votes, the electors do likewise. The vice president is also elected by the Electoral College. Each elector casts the vote for the president as well as the vice president. If no candidate garners the minimum 270 votes, then the House of Representatives elects the president. Besides the president, voters also elect of the Congress, the legislative arm of the government, consisting the House of Representatives and the Senate (Sky News, 2024).

According to the Office for Democratic Institutions and Human Rights (ODIHR), election administration in the USA is decentralised, with each state responsible for election administration. In some states, the secretary of state is the chief election official while others have an appointed chief election officials and commission. There is a provision of early voting, before the actual voting day where voters can do so in person or via mail. In some states digital (optical) scanners are used in conjunction with paper ballots as a method of voting. In other states, Ballot marking Devices (BMDs) are used to electronically mark the voter's choice on the ballot paper. Electronic books are used to identify and mark voters who cast their votes (ODIHR, 2021).

India's multi-phase general election is the world's biggest electoral exercise with approximately 640 million voters. The election is administered by the Elections Commission of India and conducted in 7 phases across 29 states and 7 federal administrative units elect 543 members to the Lower House of parliament (Lok Sabha), over a period of one month (Aljazeera, 2024). The Upper House (Rajya Sabha) comprises 238 elected members (Reuters, 2024). Voting is done by electronic voting machines (EVM), which enables vote counting to be completed within three hours. Voters cast their ballots by pressing a button next to a

candidate name and party symbol. The Voter Verifiable paper Audit Trail (VVPAT) systems are attached to the EVM to confirm the vote. It prints a slip of paper bearing the details of the candidate voted for. Polling stations are located within a radius of not more than 2 kilometres from the voters' residence. Voters in very remote areas are reached out by government official who are deployed to set up polling makeshift polling booths in such areas (Reuters, 2024).

In the Sub-Saharan Africa, competitive elections based on universal suffrage were introduced in the 1950s and 1960s. In the 1970s elections were held in many countries such as Ghana, Nigeria and Angola. Elections contribute to the democratic governance of a country by enabling voters to select leaders and hold them to account for their performance in office. Elections also serve as a forum for the discussion of public issues and facilitate the expression of public opinion (Webb, Eulau and Gibbins, 2023). Elections in Tanzania are conducted by the National electoral commission, whose chairperson and commissioners are presidential appointees. The commission doesn't have decentralized structures at the local level, thus local government officials are deployed to manage elections. Voter identification during voting is done electronically, though there are instances of delays in the commencement of polling due to incompetence of elections personnel. Polling stations are accessible to voters with disabilities and impartial assistance is provided to those who cannot vote independently, though there is no provision for Tanzanians in the diaspora to participate in elections (African Union, 2020).

As it is with Tanzania, the African Union Election Observation Mission (AUEOM) notes that the president of Uganda appoints the chairperson and commissioners of the National Electoral Commission with approval of parliament. The electorate directly elect the president and members of the National Assembly for the 290 constituencies. Voter registration is done using the biometric registration gadgets, while the biometric voter verification system (BVVS) are used to identify voters during polling. After voting, results are electronically transmitted to the national tallying centre using electronic results transmission and dissemination system (AUEOM, 2016). Despite the deployment of technology in Ugandan elections, there are challenges impinging on the seamless flow of the electoral process. As reported by the Intergovernmental Authority on Development (IGAD) and the Uganda Human Rights Commission (UHRC), there are reported cases of delays in the delivery of election material in some polling stations, technical hitches with the electronic gadgets and disruption of polling by bad weather (IGAD, 2021; UHRC, 2021). Additionally, there is no legal provision for voters with disabilities, expectant and lactating mothers and the elderly (AUEOM, 2016; IGAD, 2021 and UHRC, 2021).

Examination of election processes in the selected countries in the preceding paragraphs depict a significant variance in the way elections are conducted in the West, Asia and Africa. Whereas the voting process in India and the USA may have its own challenges, the practice of the president appointing electoral managers in Tanzania and Uganda highly compromises the independence and impartiality of the commission, leading to election results that do not represent the will of the electorate. Furthermore, the deployment of Tanzanian government officials to man elections at the local level, coupled with lack of legal provision for voters in the diaspora to participate in voting denies some citizens their democratic right. It is commendable to note that election technology is utilized in many countries. However, among the African countries, it is mainly applied in the voter registration, identification, tallying and transmission of election results, as opposed to the USA and India, where it is applied in the actual voting process. This explains why elections in many African states are conducted in a highly volatile political environment and the results are highly contestable.

Article 81 of the Constitution of Kenya states the general principles of the electoral system in Kenya. The electoral system should comply with the following principles: freedom of citizens to exercise their political rights under Article 38 of the Constitution (which grants political rights to every Kenyan citizen); not more than two-thirds of the members of elective public bodies shall be of the same gender; fair representation of persons with disabilities; universal suffrage based on the aspiration for fair representation and equality of vote, and free and fair elections. These elections ought to be conducted through secret ballot; should be free from violence, intimidation, improper influence or corruption (Republic of Kenya, 2010).

The constitution further states that elections should be conducted by an independent body, which should conduct the elections in a transparent, impartial, neutral, efficient, accurate and accountable manner (Republic of Kenya, 2010). Article 21 of the *Universal Declaration of Human Rights* (1948) spells the importance of elections in democracy, that the will of the people shall be the basis of the authority of governance; this shall be expressed in periodic democratic elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures (Universal Declaration of Human Rights, 1948). Granted these democratic rights, it is imperative that every eligible citizen exercise their civic and constitutional rights by voting.

Contrary to this constitutional requirement, a section of the electorate has been disenfranchised in the recent elections. This paper seeks to examine and subsequently address the challenges associated with voter disenfranchisement in Kenya.

Objectives of the study

The study sought to:

i. Analyse voter participation in selected types of elections in Kenya;
ii. Examine the factors influencing voter disenfranchisement in Kenyan elections
iii. Propose a mechanism to address voter disenfranchisement in Kenya.

Types of Elections in Kenya

Githinji (2022) identifies the types of elections in Kenya as the General Elections, By-Elections, and Referenda. Others are Recall Elections, Runoff Election and Primary Elections. General elections are the first among the major types of elections in Kenya. They comprise of the presidential elections, parliamentary elections, and County elections. Validly registered voters vote for six positions on the same day. The voters elect: the President (and the deputy president) on a single ticket; Parliamentary members (Senate and National Assembly, including Women Representatives); and County officials (Governors and Deputy Governors on a single ticket), and Ward Representatives). General elections take place when the term of parliament expires after five years. General elections can however be conducted before the five-year term elapses, under certain circumstances, such as the ones spelt out in Article 261 (7) of the Constitution. Under this legislation, the Chief Justice can advise the president to dissolve parliament, in the event that parliament fails to enact any particular legislation within the specified time (Republic of Kenya, 2010). The president must in turn declare the parliament dissolved.

By-elections are the second among the major types of elections in Kenya. They can as well be referred to as special elections. They take place before expiry of a parliamentary term. By-elections affect the

Members of Parliament (Senate and National Assembly, including Women Representatives) and the Ward Representatives (MCAs). A by-election can be conducted when the incumbent: dies, resigns in writing addressed to the Speaker, is absent from eight consecutive Assembly sittings without written permission from the Speaker and a satisfactory explanation for the absence, is removed from office in accordance with Article 80 of the Constitution of Kenya (violation of Chapter 6 on leadership and integrity), as a member of a political party, the member resigns from the party or deemed to have resigned from the party, or as an independent candidate, the member joins a political party, is disqualified on elections grounds specified in Article 193 (2) (loss of seat through election petition, the election being invalidated by the High Court or Supreme Court due to factors such as irregularities), is declared to be of unsound mind, declared bankrupt by the court of law, recalled by the electorate, or convicted to imprisonment for more than six months (Republic of Kenya, 2010). However, in case a vacancy occurs in the office of the President or Governor, as a result of any of the reasons stated, their deputies assume office for the remainder of the term.

Referenda, or the ballot question is a form of direct democracy. In referenda, citizens have direct say in matters of public concern. The concerned parties present the people with an issue or proposal. The people have to accept or reject with a majority through the ballot. Ordinarily, the referenda involve a 'yes' or 'no' question. Referenda in Kenya often address issues of amendments to the Constitution. Some of the issues that may warrant referenda in Kenya include constitutional amendment to: change of presidential term limit; review Article 10 on values and principles of governance; review Chapter 4 on the Bill of Rights; review objectives, principles, and structure of devolved government (Republic of Kenya, 2010).

Recall Elections are a special type of elections under Article 104 of the Constitution, which mandates the Kenyan citizens the right to recall their member of parliament before expiry of the parliamentary term (Republic of Kenya, 2010). They take place when the electorate is dissatisfied with their elected representatives. Citizens present a petition to the Independent Electoral and Boundaries Commission when they want to recall their elected representatives. The recall clause applies to elected representatives such as: Members of the National Assembly; Women Representatives; Members of the Senate and Ward Representative (Members of County Assembly). In the event that a member is to be recalled, the Electoral Commission should frame the question to be determined at the recall election. The said question should be framed in such a way as to require the answer "yes" or "no."

Runoff Election takes place after the General election when no presidential candidate: attains the 50 per cent plus 1 vote (50%+1) of the total valid votes cast (more than half); receives more than 25 per cent of valid votes cast in at least half of all the counties. It is a two-round system that voters use to elect a single winner. Only the winner and runners up candidates from the first round of the presidential elections proceed to the second round.

Primary elections, also known as party primaries in Kenya, are conducted by political parties to identify aspiring candidates to contest for election in specific areas. The candidates to be nominated for these positions must be members of the respective political party. The "party primary" is the process through which a political party selects its candidates for an election. The candidate who obtains the highest number of votes should be declared the party nominee for the position. With all these forms of elections, there has been a section of Kenyans who have not been able to participate in the voting exercise especially in the General elections and by-elections, owing to a number of unforeseen circumstances beyond their control.

Impingement on Voter Participation in Elections in Kenya

Ordinarily, voter participation in elections in Kenya is marked by unprecedented impediments that interfere with its smooth flow of the exercise. In the 2017 General election for instance, voting was delayed for hours in 18 polling stations in Turkana County as a result of heavy downpour that posed logistical challenges for the exercise. In Nyali constituency of Mombasa County, the delay in polling in several polling stations was occasioned by poor lighting, confusion in voter register and a stand-off between party agents (Ndonga, 2017). The said delays resulted in low voter turnout.

The October 26th 2017 repeat presidential election was characterized by low voter turnout. This was attributed to the poor road network occasioned by heavy downpour that had delayed distribution of polling materials in sections of the country. Some voters in parts of the North Eastern region did not take part in elections as they had moved away from their homes in search of pasture and water (Nation Media Group, 2017). The IEBC put the turnout at the repeat presidential election at 35 percent, with only 6 million voters out of the registered 19.6 million turning out to vote (Oluoch, 2017).

The European Union Election Observation Mission (EUEOM) reported that insecurity marred the repeat presidential election following the call by the opposition coalition for its members to boycott the exercise. In the Nyanza region and sections of Nairobi, election officials were barred from accessing their work stations by angry mobs that disrupted the exercise and engaged the police in daylong running battles (EUEOM, 2018). The boycott was occasioned by the view by the opposition that issues that led to the nullification of the August 2017 presidential election had not been addressed. Security concerns compelled the electoral commission to postpone the election in 25 constituencies, impeding the citizens' right to exercise their democracy and in turn undermining the credibility of the election (Carter center, 2018).

Just 48 hours before the commencement of the 2022 General election, there were reported cases of insecurity in Turkana and Mandera Counties. In Turkana, bandits attacked and razed down homes in Kapedo and Napeitom Wards, displacing a population that was expected to vote in three polling stations. In Mandera County, two classrooms in Hareri Primary School, which was a gazetted polling station were burnt down by suspected terrorists on the eve of the General Elections (Musau, 2022).

In the diaspora, voter turnout in the 2022 General election was generally low. This was attributed to the fact that most Kenyan voters in the diaspora reside far away from the polling stations, making it difficult for them to travel in order to cast their votes, due to sparsely located polling stations. In the United States of America for instance, it may be inconveniencing for a voter residing in Seattle to travel all the way to Washington DC, an approximately two hour drive, to cast their vote. By the year 2022, there were approximately 2 million Kenyans residing abroad, out of which a paltry 10, 444 had registered as voters who were eligible to vote for their preferred presidential candidate. Only Kenyans residing in Qatar, Tanzania, Uganda, Rwanda, Burundi, South Africa, South Sudan, Germany, United Kingdom, United Arab Emirates, Canada and United States of America can register as voters (Ochomo, 2022). The highlighted challenges greatly impede the voter's participation in elections, contrary to Article 21 of the Universal Declaration of Human Rights and articles 38 and 81 of the Constitution of Kenya. Based on the identified impediments, it is imperative that the electoral commission considers employing electoral technology in all its election processes so as to increase voter participation in the voting process.

Elections and Technology

Electoral management bodies all over the world have employed new technologies aimed at improving and speeding their electoral processes. Such technologies include the use of basic office automation tools such as word processing and spreadsheets, data processing tools such as database management systems, optical scanners and geographic information systems (Ace project, 2023a). However, the most important application of technology to election is electronic voting (e-voting).

Historical Development of Electronic voting

The conception of the incorporating technology in voting dates back to the 19th Century when mechanical voting machines were developed in Europe. This technology was further developed in the United States of America (USA). Morris Williams and Steuben Bacon invented transparent ballot boxes made of glass (Jones, 2009). Jacob Myers invented a pull-lever machine in 1889, which was first used in a legally binding election in 1892 (Zukerman, 1925). These machines were used in the United States of America for over a century to facilitate fast and accurate counting of votes (Arnold, 1999).

After the Second World War, Europe developed interest in United States of America's mechanical machines that were used in elections. The world exhibition in Liege in 1930 propelled the German company, Maschinenfabrik Eller, to design and manufacture mechanical voting machines. These machines were deployed in the municipal elections in 1961 in Dortmund, Duisburg, Oberhausen and Dusseldorf in German. The machines greatly reduced the administrative work in comparison to the polling stations that utilized the traditional paper ballot (Amt fur Statistik und Wahlen der Stadt Dortmund, 1961). Later, several other machines were developed and used in the new millennium (Schreiber, 2009).

Invention of voting machines led to the rapid development in electrical engineering. In most countries, inventors sought tenders from their respective parliaments to supply voting machines. Martin de Brettes for instance, sought a tender from the French Senate to supply a machine that would electronically record votes in parliament (de Brettes, 1875). Other proposals were from Clerac and Guichenot in 1870, Jacquin in 1874 and Morin as well as Laloy (Clerac, 1875; Morin, 1875 and Laloy, 1875).

Given the increased mobility of voters, there was need to create opportunity for the voters to participate in election from wherever location they were. Thus in Switzerland, voters in the canton of St Gallen could vote via mail as early as 1673 (Braun, 2006). In the United Kingdom, military personnel abroad would also vote via mail. In Germany, postal voting began in 1957 (Stainer-Hammerrle, 2009).

By mid-twentieth Century governments began to utilize voting technology that used electric power. In Los Angeles, USA, a private company was contracted to develop a machine that could count ballots (Krimmer, 2012). In 1959 the Norden Division of United Aircrafts developed an optical mark-sense scanner for counting ballots. With this system, voters could mark on the ballots with a pencil, then the ballots get scanned (Arnold, 1999). In 1965, the punch card system of voting was developed in the United States of America. It consisted card (ballot), which the voter was required to punch holes at pre-defined positions to indicate their choices. The votes were in turn to be electronically tallied (Jones and Simons, 2012). This system was also used in the municipality elections in the Netherlands between the 1970's and 1980's (Hermans and van Twist, 2007; Leyenaar, 2010).

In 1974, the first direct-recording electronic (DRE) voting machine was invented in the USA (McKay et al., 1974). DRE e-voting machines were also developed in Europe and Asia. In the Netherlands, a company called NEDAP, developed its own device in 1989, which was used till 2006 (Hermans and van Twist, 2007). Belgium developed its own version of a DRE machine in 1994, which consisted of a vote-casting computer that stored the vote on a magnetic card and a computer serving as an electronic ballot box (OSCE/ODIHR, 2006). E-voting machines were introduced in Brazil in 1998 (Superior Electoral Court, 2012), while India began using them in 1999 (Indian Electoral Commission, 2012; Sen, 2011).

Following a series of development and improvements on voting technology, there was an invention of an integrated electronic election comprising all the stages of an election: eligibility checks, vote casting, counting and tallying. This culminated in a complex form of e-voting known as internet voting (Krimmer, 2012). In the current millennium, the first legally binding election to utilize internet voting was in Germany during the student parliament election in Osnabruk in 2000 (Otten, 2001) and in the USA during the Arizona Democratic primaries in 2000 (Solop, 2004). In the 2004 and 2006 parliamentary elections in the Netherlands, citizens living in the diaspora used internet voting (OSCE/ODIHR, 2007). The same was applied in Switzerland to her citizens residing abroad, during the federal election in 2011 (OSCE/ODIHR, 2011). Norway piloted internet voting during her municipal elections in 2011 (OSCE/ODIHR, 2012). However, it was Estonia that took the lead as the first state in the world to enable all voters to cast their ballots online in the 2005 municipal election (Drechsler and Madise, 2004; Maaten, 2004; Madise and Martens, 2006). Other states that deployed remote internet voting in legally binding elections were in Ontario, Canada in 2003 and the national referendum of Switzerland in 2004 (Aceproject, 2023c). These inventions laid a foundation upon which the modern election technology was developed.

Modern Electronic Voting

Modern electronic voting came into existence at the beginning of the 21st Century. It refers to the utilization of a digital system in the process of voting. The International Institute for Democracy and Electoral Assistance (IIDEA) identifies a number of end-user functionalities of the e-voting such as electronic voter lists and voter authentication, poll worker interfaces and special interfaces for the handicapped voters. Others are interfaces for results output, results transmission system and results tabulation systems (IIDEA, 2011). Electronic voting in a controlled environment comprises a kiosk hardware introduced into the polling station. The machine include an interactive touch screen interface through which voters cast their ballots (Rouse, 2016).

Ace project (2023a) explains that e-voting encompasses a variety of voting systems that apply electronic elements in the various stages of the electoral cycle including casting, recording and counting of votes. E-voting can either be implemented in controlled or in uncontrolled environment. In the controlled environment, polling takes place in a designated place such as a polling station, using gadgets such as punch-cards, optical scans and electronic voting machine. In uncontrolled environment, voting can take place outside the polling station, using electronic gadgets such as smartphones or personal computer. The vote is then transmitted over the internet, television, telephone or mobile phone network.

There exist different modes of e-voting, as explained by Ace project (2023b). These include the punch-card voting system where the voter uses a punch device to punch holes in a ballot card. The ballot is then fed into an electronic vote tabulating device. The two types of punch-card voting systems are the votomatic

card and the datavote systems. With the votomatic card, the locations to be punched on the card are indicated using numbers. The list of candidates provide choices for punching the corresponding holes. With the datavote card, the name of the candidate or description of the choice is printed on the ballot, next to the location of the hole to be punched.

The optical scan voting system utilizes an optical scanner to read and count marked ballot papers. This system comprises: a marksense system in which an optical mark made with a pencil on the ballot paper is recognized by a scanner; electronic ballot markers that fills out optical scan ballots and digital pens. A small camera fitted on the pen recognizes where the voter marks on the digital ballot paper.

The National Democratic Institute (NDI) (2013) explains that the Direct Recording Electronic (DRE) system uses a keyboard, touchscreen, mouse, a pen to enable the voter record their vote electronically. When using the DRE voting machines, the voter pushes a button next to the image or name of their preferred candidate on the screen. The machine captures the voter's choices and stores an electronic record of the vote in the machine. The data captured is tabulated then transmitted through the internet, cellular network or memory card to a central tallying centre.

Voter-verified paper audit trail (VVPAT) is a type of e-voting is a component that can be combined with various forms of non-document voting system. A paper ballot is printed by the electronic device that is used to cast the vote. Internet voting is the use of internet to cast and transmit the vote. This kind of voting can be done remotely or in controlled environment, in polling stations. Upon casting the vote, it is transmitted over the internet.

The optical mark recognition (OMR) machines combine manual voting and electronic counting. The voter uses a pen to mark their preferred candidates on a special machine readable paper ballot. The paper is then read by the OMR machine that tallies the votes using the marks made by the voter (NDI, 2013). The electronic ballot printers (EBPs) uses interface for making voting choices, though it does not store data. It instead prints out a paper token containing the voting choices. The voter then places the token into a ballot box, which electronically counts the votes. The ballot printer marks the voters' choices while the electronic ballot box records and tallies the votes (NDI, 2013). The next section examines how technology is applied in Kenya's electoral process.

Election Technology in Kenya

Githinji (2021) identifies four varieties of election technology deployed by the Kenya's electoral commission in a bid to enhance efficiency and effectiveness of the electoral process. This is in compliance with Section 44 of the Elections Act, which permits the commission to use technology as it considers appropriate in the electoral process (Republic of Kenya, 2011). The first variety is the Biometric Voter Registration (BVR), which is a kit used to register voters. It comprises a laptop, a fingerprint scanner and a camera. It captures a voter's facial image, fingerprints and civil data and personally identifiable information. The captured information is then transmitted to a centralized storage server.

The candidates Registration System (CRS) is an election technology that IEBC uses to capture primary data of candidates nominated by political parties to enable it easily verify the accuracy of the candidate's details. The system strives to improve data exchange between political parties and independent candidates and the IEBC. This in turn improves the accuracy of processing the ballot papers.

The electronic Voter Identification System (EVID) is an electronic poll book used to verify and confirm voters electronically as registered by the BVR kit. It is used to check in voters at the polling station on the polling day (IEBC, n.d.). It curbs impersonation and multiple voting.

The Results Transmission and Presentation system transmits provisional results electronically to the IEBC public portal. At the close of polling, counting and tallying, presiding officers at the polling centres feed the election results data into specially configured mobile phones and transmit the results to the elections results centre at the constituency, county and national tallying centres respectively. It can be observed that the IEBC only utilizes elections technology in the voter registration, verification and elections results transmission exercise, with the real voting exercise being purely manual. This is in spite of its capacity to automate the entire electoral process. There is need to automate the entire electoral system incompliance with Section 44 of the Elections Act of 2011.

Discussion

The findings of the study reveal that not all registered voters have equal opportunity to participate in elections. This owes to impediments ranging from insecurity, distant polling stations, especially among voters in the diaspora, adverse weather conditions that renders some roads impassable among others. In order to provide equal opportunity for all the voters to participate in elections, IEBC should incorporate e-voting. With other procedures such as voter registration, identification and vote tallying being done electronically, even vote casting should also be automated to complement manual voting. This calls for the use of hybrid voting system. This is a voting system that combines both e-voting and manual voting. With this kind of voting, voters have an alternative to cast their ballots either manually or electronically, based on their convenience (ElectionBuddy, 2022). Hybrid voting can be convenient to voters located far away from their polling centres, especially in the diaspora and to those who are fully engaged with their businesses such that they cannot have time to visit the polling stations. This mode of election would further reduce the cost on logistics of printing and ferrying of ballot papers to polling centres.

Nevertheless, IEBC has the capacity to fully adopt and utilize elections technology in entirety. This owes to the fact that in the run up to the 2022 general elections, the commission successfully employed technology in the voter verification exercise by use of either the IEBC portal or the short message service (SMS) (Muriuki, 2022). Given that a large population of Kenyans own smartphones, it is possible for the commission to take advantage and employ internet voting.

By the year 2021, out of two Kenyans, owns a smartphone. The Communications authority of Kenya (CAK) statistics for the first quarter of 2021/2022 financial year reveals. In the said period, the number of active mobile phone subscriptions in Kenya stood at 64.9 million while the number of mobile phones accessing networks stood at 59 million. 33 million of these were feature phones while 26 million were smartphones. The penetration rate of smartphones was 67.9 percent while that of feature phones was 53.4 percent (Sunday, 2021). Mobile phone penetration is a way of measuring mobile phone usage in a given country. It is expressed as the ratio of Subscriber Identity Module (SIM) cards to the total human population in that particular country. This information is expressed as a percentage and can exceed 100 percent if the number of SIM cards supersedes the actual human population (infobip, 2024).

CAK's (2023) fourth quarter statistics for the financial year 2022/2023 indicate that the total number of mobile phone devices connected to the mobile networks in Kenya was 62.9 million, with a penetration rate

of 124.4 percent. The penetration rate for feature phones and smartphones were 63.5 percent and 60.9 percent respectively, translating to a total penetration rate increase from 121percent in 2022 to 124.4 percent in 2023. The penetration rate of feature phones dropped from 67 percent in 2022 to 64 percent in 2023, while that of smartphones increased from 54 percent in 2022 to 61 percent in 2023. In total, the number of Kenyans who own feature phones was 32.1 million, while those who with smartphones was 30.8 million.

The CAK second quarter of the 2023/2024 financial year indicate that by December 2023, there were 65,454,426 mobile phone subscribed devices, translating to a penetration rate of 129.4 percent. There were 33,613,828 smartphones and 31,840,598 feature phones, translating to a penetration rate of 66.4 and 62.9 percent respectively (CAK, 2023). Granted the large number of mobile phone subscribers in Kenya, it is possible for the IEBC to collaborate with the CAK and develop a platform to facilitate e-voting through the electoral commission's website. Alternatively the electoral commission should develop an application (APP), which can be downloaded by smartphone subscribers to facilitate e-voting. The use of hybrid method would ease voter participation in the election.

Recommendations

Based on the findings of the study, this paper recommends that:

i. IEBC to enhance voter sensitization and registration exercise.
ii. IEBC should review its voter education programme to incorporate e-voting, in order to facilitate the hybrid voting system.

Conclusion

It is common knowledge that elections is a crucial exercise that determines the future of a country and the well-being of her people. Therefore, disenfranchisement of the electorate denies them their constitutional and civic rights to decide their destiny. However, granted the electoral technology, the electoral commission can achieve equal participation in elections by adopting the hybrid system of voting that combines the manual and the electronic voting. To achieve this, the commission should review its voter education curriculum to incorporate e-voting.

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