

# Beyond Smoke and Mirrors: Why Kenyans Need to Pay Closer Attention to the IEBC, Census 2019 and the Building Bridges Initiative

Even as the state-controlled media holds us in thrall to the charade that is the war on corruption, preparations are underway to fundamentally change Kenya's political system. The weekly reports of corruption are overwhelming and it is a challenge to keep track of who has said what and who has allegedly been grilled by investigators. What is clear is that a game of politics is being played, a game that is likely to go on until it is time to hold elections or a referendum to entrench vested interests. This is why I will instead focus on the self-congratulatory [post-election evaluation report](#) issued by the Independent Electoral and Boundaries Commission (IEBC), the preparations for the population census and demarcation of electoral boundaries, and what the so-called Building Bridges Initiative has up its sleeve. These three issues will have a more profound effect on our lives beyond the game of smoke and mirrors that is the war on corruption.

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Let us turn to IEBC Chairman Wafula Chebukati's 280-page report. If you have the patience to read through the 186 pages (the rest are annexes), you will be struck by how tone-deaf and dry it is. It describes an election process that was almost flawless and fails to capture the toll, both financial

and emotional, that it took on the Kenyan people. Reading the report alongside that of the [Parliamentary Accounts Committee \(PAC\)](#), which basically indicts the entire IEBC leadership, is astounding. It reads even more bizarrely in the light of the [end of assignment report](#) submitted by former Commissioner Roselyn Akombe upon her resignation from the IEBC.

One would have expected that, during an election year in which election officials were murdered, the Chairman would pay tribute to his staff. The Chebukati report makes no reference to the murder of Chris Msando, a senior IEBC manager, or to any of the staff killed or injured, particularly in the period preceding the 26 October 2017 repeat presidential election. It is as though the murder, intimidation and threats against staff, [including against the Chairman himself](#), did not take place.

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In a chapter dedicated to electoral security, there is no reference to the threats and intimidation visited upon IEBC staff by both Jubilee and NASA. The report instead dwells on details of a project funded by the United Nations (UN) to support police deployment, the very forces accused of violence against voters. The IEBC postponed and eventually never held presidential polls in Homa Bay, Migori, Kisumu and Siaya counties, citing insecurity. There were numerous reports of polling officials in these counties having been threatened and even seriously injured.

If the Commission can sweep under the carpet issues of safety and security, why should we believe anything else it says in

the report?

The report's section on the use of information technology is even more disturbing. The Commission paints a picture of full compliance with the law in this area and identifies only two challenges: "inadequate time to procure, install, test, and commission technology due to late enactment of laws by parliament" and "lack of regulations to govern the scrutiny of election technology during petition proceedings." The PAC report is much more detailed and transparent in its evaluation of the Commission's performance on ICT. It shows, as does former Commissioner Akombe's report, the intrigues behind the procurement of the Kenya Integrated Elections Management System (KIEMS). The technology was deliberately sabotaged to benefit one party with the full knowledge and connivance of the IEBC and the selection of OT-Morpho to supply the technology was orchestrated by powerful state actors while some of the consultants provided by the UN to work with OT-Morpho were affiliated to the Jubilee Party. The murder of Chris Msando was pre-meditated and it had the desired effect. That the Chebukati report completely avoids reference to these issues – among many others – while presenting the IEBC as the victim, only serves to remind us of the wrongs committed by the IEBC against this country.

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The forward by the Chairman is even more revealing of the inability of the Commission to honestly reflect upon its failures. The Chairman describes the 8 August 2017 election thus: "the Commission eventually conducted the August 8th General Election within the prescribed legal framework." This

is despite the fact that the Supreme Court annulled the presidential result, which Chebukati describes as “a season of mixed fortunes.”

It is difficult to comprehend how a person qualified to serve as a judge of the Supreme Court could refer to a historic annulment of a presidential vote as “mixed fortunes.” This is the same person who agonised over the release of the election results after informing the press that he could neither confirm nor deny reports that IEBC servers had been hacked. The entire report reads in the same flat manner, mechanically detailing tasks undertaken by each directorate and – with the exception of legal reforms – putting forward underwhelming recommendations.

One may wonder why we should pay attention to the Chebukati report but it is precisely because of its links to the population census/electoral boundary demarcations exercise and the Building Bridges Initiative that we should.

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Despite the questions raised regarding the legitimacy of the Commission (only three of the requisite seven members remain and it is without gender parity, a constitutional requirement), it is business as usual over at the IEBC. The report is an affirmation that the ‘system’ is intact and ready to move on, that the IEBC has evaluated itself and found itself worthy of undertaking any major task placed before it. Chebukati says that the “Commission will also engrain the successes of the 8th August General Election and the 26th October Fresh Presidential Election.” The Commission seems to

exist in a different universe where it alone could consider the 2017 General Election to have been successful. The Commission has signaled that it is ready to bury the past, together with all the questions that remain unanswered, and develop “concrete strategies that will assuage, if not cure, the missteps that may have been evident in the grand march towards a widely accepted election outcome.” This means that the Commission can now tackle the next item on the electoral calendar, the border demarcation process.

The game of politics has many tricks the most common of which is gerrymandering, the act of manipulating boundaries to benefit a political party or politician. Chebukati is now perceived as the safe pair of hands that can handle the gerrymandering. If he ever did have a moral compass, he lost it when he presided over the 26 October 2017 presidential election. He and his team are now fully initiated members of the system. Once an outsider, he has now joined the camp of Commissioners Molu Boya and Abdi Yakub Guliye and as one official who has witnessed the contempt with which both Guliye and Boya previously held Chebukati remarked, “they seem to have found a formula which works for them.”

The formula in question is the willingness to serve the system and the whims of those in power. The boundary demarcation exercise will predictably be used as another tool to manage the new bogeyman, the Deputy President. With the population census fully in the hands of the three Commissioners, we should expect the return of the ‘tyranny of numbers’ narrative. We should expect that those parts of the country with a historically low birth rate will experience miraculous increases in their population while others will magically have higher death rates and lower numbers of new births since the last census. The ‘system’ will work closely with the Chebukati team to manipulate the boundaries to benefit those who have a vested interest in maintaining their political and economic hold on the country.

The second significance of the Chebukati report lies in the ongoing debate on constitutional and legal reforms. Anybody who has followed political processes in Africa knows that these documents come in handy when one wants to change the constitution. Chebukati has served his masters well once again by providing in his report arguments which could be used to amend certain laws. The report is likely to be used as a source of inspiration by the Building Bridges Initiative. The report even provides a timeline for legal reforms which "... should be carried out at least two years to the election", meaning that those planning a referendum need to hold it now or next year at the very latest.

The legal reforms proposed by the Commission go beyond electoral law amendments to include constitutional issues such as the electoral cycle. The report attempts to disingenuously insinuate itself into the debate on whether there are too many electoral positions without providing sufficient argument or data. It suggests that the electoral law should be amended to allow the holding of county and national elections on different dates, without providing any explanations beyond citing the fatigue of poll workers.

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All these are deliberate ploys by the Commission to anchor the report of the Building Bridges Initiative team to this "broadly consulted" post-election review. There are reports that the Building Bridges Initiative team is also finalising consultations. We have all too often seen predetermined recommendations emerge from purported view seeking exercises among Kenyans. At any rate, Rt. Hon. Raila Odinga has already outlined the key elements to be expected in that report, as a precursor to the referendum. The ground is being prepared for

the dynasties to protect their economic and political interests and for the hustlers to defend their loot.

The big question is what the rest of the population will do. Will we tug along and play victim later? Will we try to avoid treading on the path laid out before us by 'the men from the shadows' as John Githongo calls them? This is still unclear.

There are initiatives by members of parliament which could scuttle the processes set up so far by the 'system' but it is unclear if there is sufficient parliamentary momentum for their success. Hon. Peter Kaluma has proposed reverting to the 1997 Inter-Parties Parliamentary Group (IPPG) model where political parties nominate Commissioners. This would mean changing the current composition of the IEBC, potentially delaying a referendum or even the boundary demarcation exercise if the selection process is protracted. Senate Majority Leader Kipchumba Murkomen is proposing changes to the Elections Act where parliament, rather than the IEBC, would have the final say on boundaries. Meanwhile, the cross-party PAC report recommends the immediate departure and prosecution of the current Commissioners.

However, all these processes would require parliamentary approval, not an easy task in the current political climate. With the Jubilee Party infighting, it is not clear if it will be possible to marshal enough votes and the situation is no clearer in the NASA camp although it is difficult to imagine ODM party members defying Rt. Hon. Raila Odinga, lest they face his wrath as Malindi Member of Parliament, Hon. Aisha Jumwa recently did. As one friend remarked, "Baba is confident that Chebukati will deliver the referendum and presidential election for him." It is also unlikely that the cross-party PAC report will have its day in parliament unless, of course, those at the helm of the Building Bridges Initiative determine that it is in their interest to implement the recommended changes.

The solution could be found away from parliament. There are media reports of civilians organising themselves around the Red Vests Revolution, Beyond Zero Corruption and Kenya Tuitakayo movements. Many of these groups appear to have been inspired by the French Yellow Vests protests and the ongoing protests in Algeria and Sudan. These faceless movements, if they are to have any impact, need to organise differently and focus on the issues that will galvanise the population. There is the likelihood that the State will find a way to silence these voices, but this should only serve to strengthen the resolve of those involved.

If both Parliament and these nascent movements fail to forestall the efforts of the 'system', it is certain to use the Chebukati report, the boundary demarcation process, the population census and the Building Bridges Initiative to entrench itself and it will be interesting to see how the 'hustlers' respond to this direct challenge to their 'turn to eat'. Until then we can only expect another post-election or post-referendum report that glosses over issues and presents the illusion of a flawless electoral process that is unrecognisable to the country's citizens.