



August 22, 2017

Why are the Kenyan elections in dispute?

The dispute is over presidential results that were verbally announced as final on August 11th, and the numbers and documentation released on the website of the electoral board.

Ten days after the announcement, documentation on the website portal of the IEBC (Independent Electoral and Boundaries Commission) remains incomplete and numbers are wildly contradictory.

The public expectation, created by the IEBC itself, was that presidential results would not and *could not* be announced without supporting documentation displayed on the website.

Ezra Chiloba, the electoral board CEO, said during a simulation exercise of the electronic results transmission on August 2nd, that Kenyans would have real time access and be able to develop real time tallies of the polls. He reassured media and the public in general they would have “unfettered access to all the results from all the polling stations” as the results came in¹. Despite these assurances, parallel tallying efforts experienced severer pressure from the state throughout the election cycle.

According to the IEBC, the electronic transmission system was configured so that the ‘submit’ button could only show after a full entry of data had been made, which included the scanned copy of the declaration form from the polling station. The numbers and the scanned images would be digitally transmitted simultaneously by the electronic system known as the Kenya Integrated Elections Management System, or KIEMS. IEBC Chairman Wafula Chebukati explicitly stated that “the primary document and what [IEBC] will use as the final result- is the scanned document”

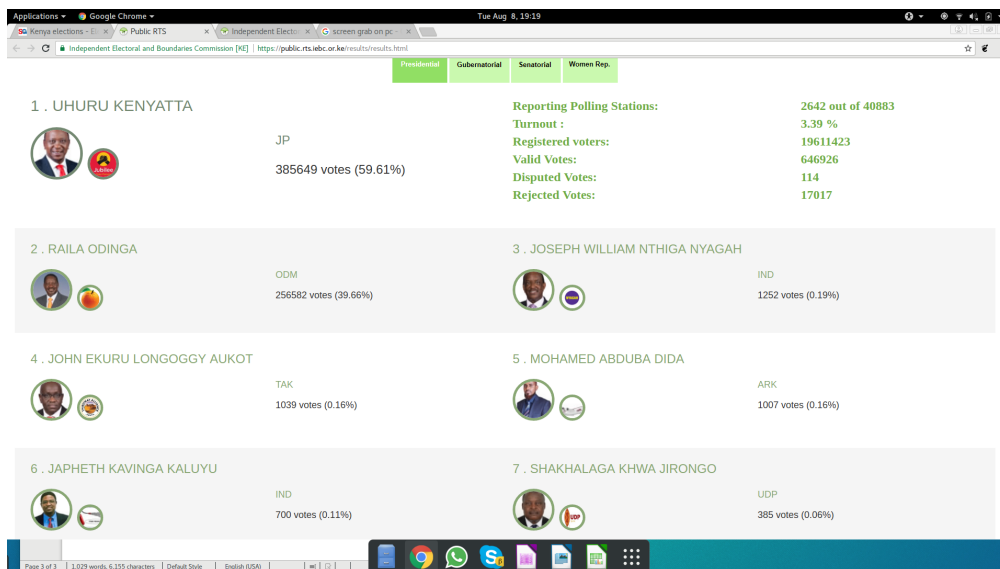
¹ Patrick Lang’at. August 2, 2017. “IEBC tests electronic results transmission from counties.” *Daily Nation*. Available at <<http://www.nation.co.ke/news/politics/IEBC-tests-results-transmission/1064-4042450-lpl4hmz/index.html>>.

The IEBC had continually emphasized the accountability aspect of this transmission system both publicly and privately. With Kenya's history of disputed elections, it was key to confidence. Chris Msando, the murdered former IEBC Technology Manager, headed up the results transmission system. He told KYSY on May 16th, in a public forum, that the electronic system had been set up for **simultaneous transmission in a manner that allowed for public tallying** – numbers could be checked against the scanned images of the forms as the results came in.

Chris Msando's body was found two days before the scheduled dry-run of the results transmission exercise. That the ICT Manager of the Electoral Commission was found dead, tortured and missing an arm is alarming, particularly if IEBC's systems' security requires finger or thumb prints. It seems reasonable to be suspicious that the integrity of the IEBC's systems were compromised.

What went wrong with results transmission?

On August 8th, the IEBC streamed presidential results as numbers and percentages on the website without any publicly available supporting documentation. Presidential results began streaming almost immediately after the polling stations closed at 5pm.



Screen shot of IEBC Results Site on the evening of August 8th poll at 19.19, when no documentation of scanned Forms 34A and B was simultaneously transmitted.

None of the critical Forms 34B – which show constituency presidential results - were posted in the first week following the declaration. Only a limited number of Forms 34A – showing presidential results from the polling station – appeared on the website. The data and documentation remains incomplete.

The static percentage gap from the outset between the two main presidential candidates, Uhuru Kenyatta (incumbent) and Raila Odinga (opposition), also raised eyebrows. How could the gap in the results remain so predictably constant in a country characterized by pronounced ethnic voting patterns?

On August 17, the Opposition filed a challenge of the results at the Supreme Court. The court holds the first sitting eight days after a case has been filed, and the presidential petition has to be determined in 14 days.

How to check what's happening now

Results from Kenya's 2017 General Election are available through two main websites:

- **Results Site:** the IEBC results site is available at <https://public.rts.iebc.or.ke/>. This site allows users to view the final tally at the national level, as well as results at county, constituency, ward and polling station levels.
- **Documentation Site:** the IEBC documentation site is available at <https://forms.iebc.or.ke/>. On the documentation site there two types of forms to be viewed. Forms 34A show results from individual polling stations. Forms 34B show results from constituencies, which are composed of numerous polling stations – they can range from under 10 polling stations in the small constituencies up to hundreds in the large ones.

The Results Site contains data composed of four different categories of votes, all of which are shown;

- **Valid votes** – these are the only votes that count in the tally, because they have been used properly and approved by the IEBC staff in the polling stations, and the agents of the political parties.
- **Rejected votes** – these are votes that were put in the ballot box, but imperfectly done. They are displayed, because it is necessary to know how many people voted.
- **Rejected, objected to** – these are votes that are rejected by the IEBC Presiding Officer (PO) as imperfect, but pronounced acceptable by one of the party agents.
- **Disputed vote** – these votes have been accepted by the IEBC PO, but rejected by a party agent.

The Documentation Site displays the presidential results from polling station and constituency level only, showing scanned images of Forms 34A (the presidential result form from polling station) and Forms 34B (the presidential result form from constituencies).

Looking at the data for Presidential Results

As of August 19, 2017, there are at least three sets of different Kenyan presidential results.

First, there is IEBC Chairman Wafula Chebukati's verbally announced result on August 11, which include county-level valid votes cast for each presidential candidate, along with county-level numbers of registered voters.

Second, there are the results displayed on the IEBC website, which include valid votes, rejected votes, rejected-objected-to votes, and disputed votes for each presidential candidate. These results are available at the polling station, constituency and county levels.

Third, there are the scanned results documented in Forms 34B, which started to appear on the website a week after the announcement had been made. Two are missing entirely. Not all forms are complete. They are formatted to include specific information, including polling station-level valid votes cast for each presidential candidates. Most – but not all – include information on rejected votes for each candidate, total valid and rejected votes for the entire constituency, and total registered voters for the constituency. A few forms contain a count of rejected-objected-to and disputed votes.

All three sources for presidential results – the announced result; the website results; and the information in the result forms - include significant and unexplained differences.

Data Differences and contradictions

Verbally announced results do not match the data in the IEBC website (as of August 19, 2017) in any single county.

When comparing what was verbally announced with an aggregation of constituency-level Forms 34B at county levels, the two sets of results match in only four counties.

When results on the website are compared with the information in Forms 34B (constituency level), they match in only one county.²

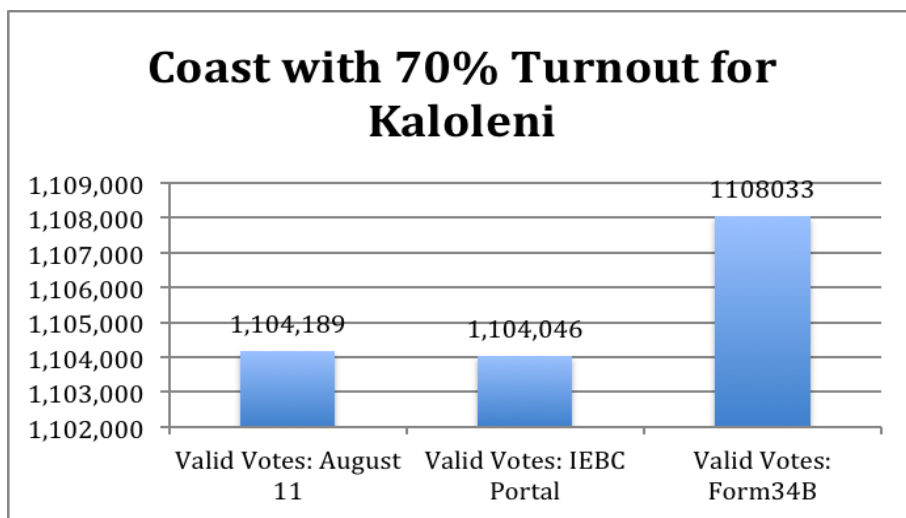
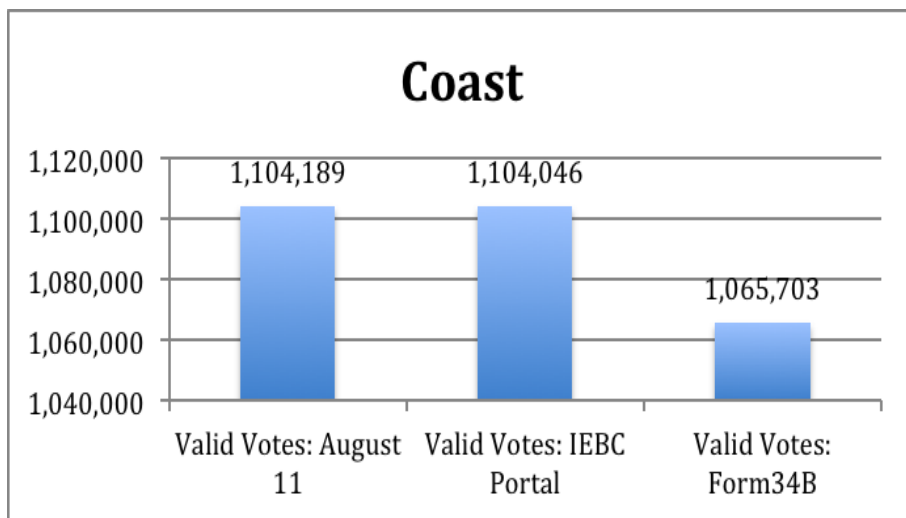
Overall, then, there is a serious discrepancy between the officially announced presidential results and all other sources purporting to contain those results. To date, the source of the numbers in the website and in the announced results has not been explained.

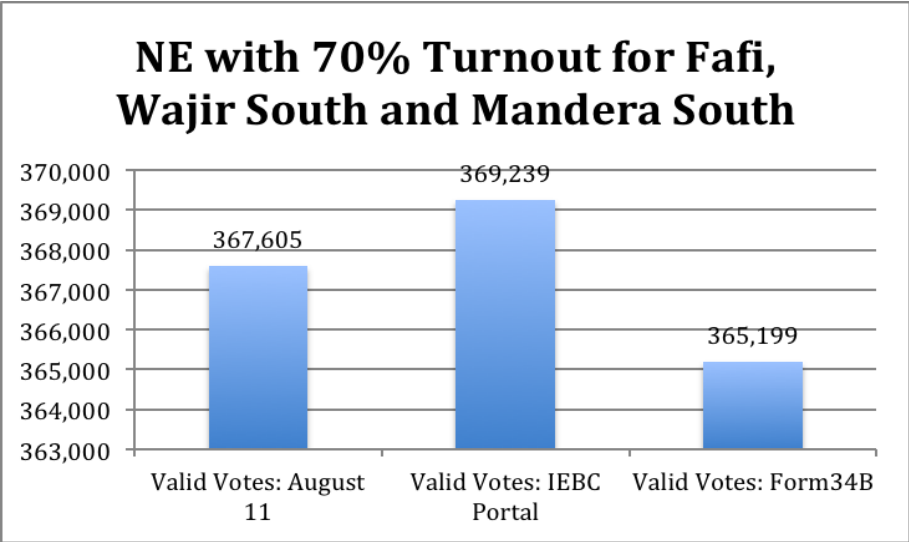
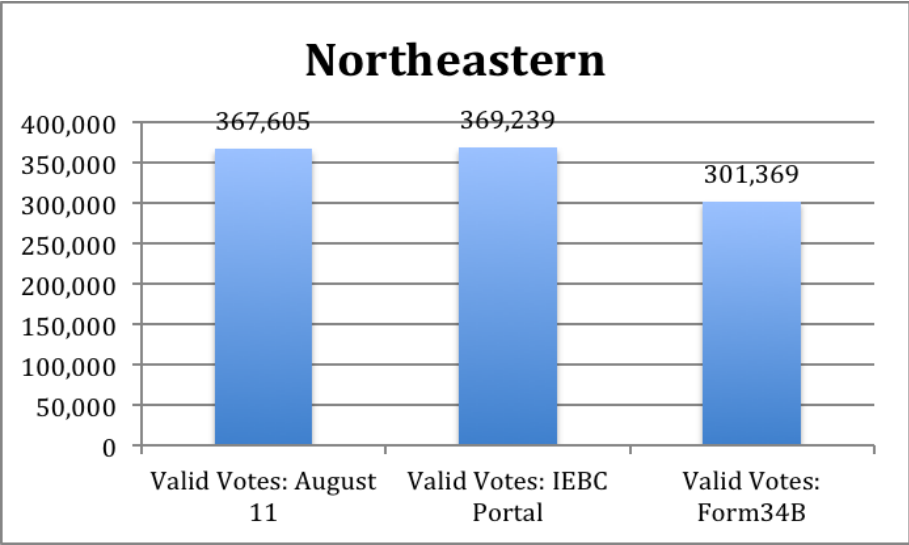
² This comparison is incomplete, because two Forms 34B are completely missing from the IEBC's portal and because 12 of the available Forms 34B are missing totals of valid votes.

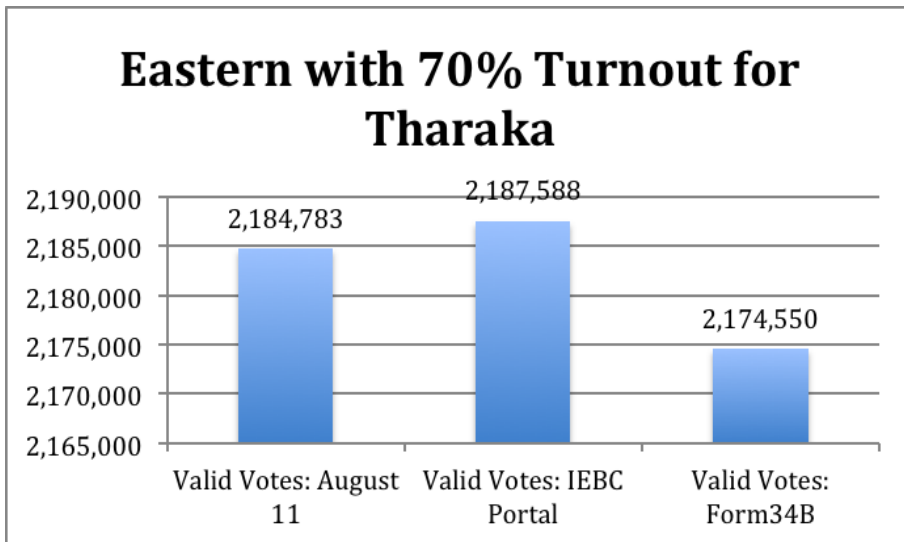
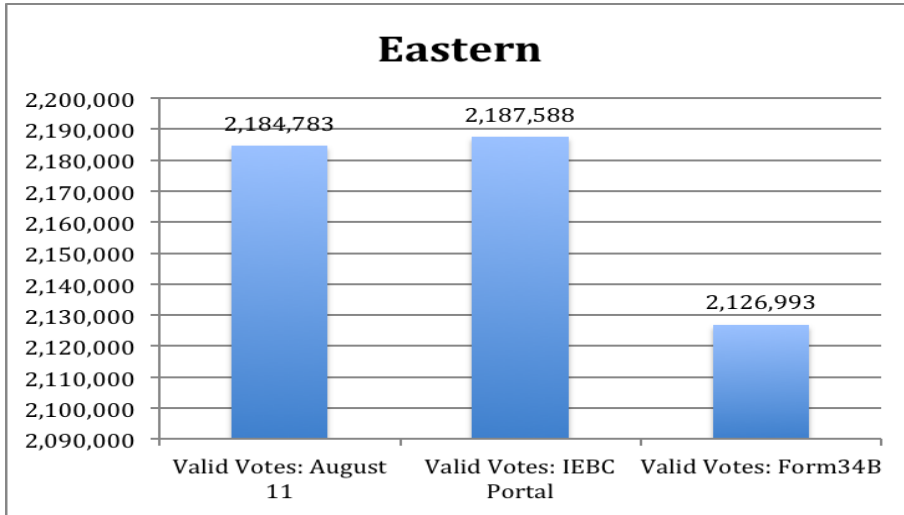
Finally, multiple copies of Form 34B have emerged recently at constituency level, each with different totals. These multiples bear IEBC stamps and signatures. It is impossible for KYSY to determine which version is original and true

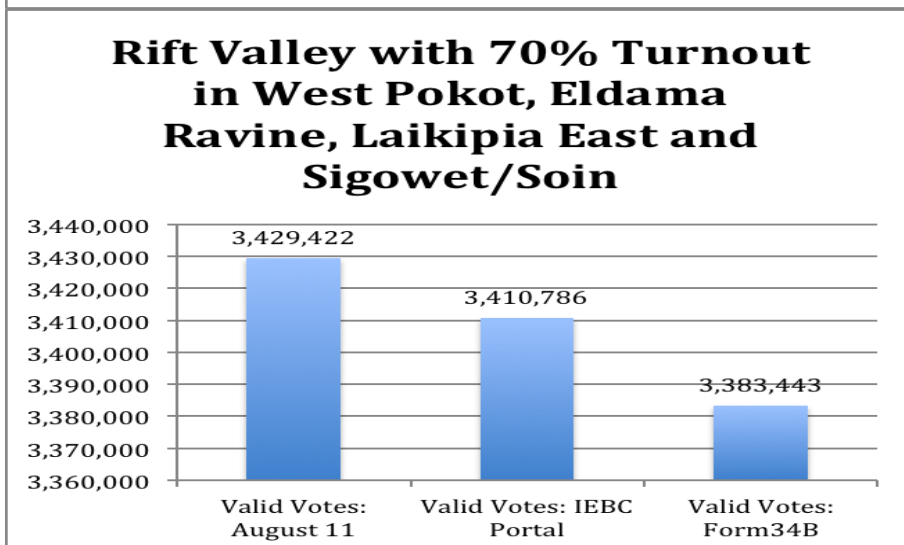
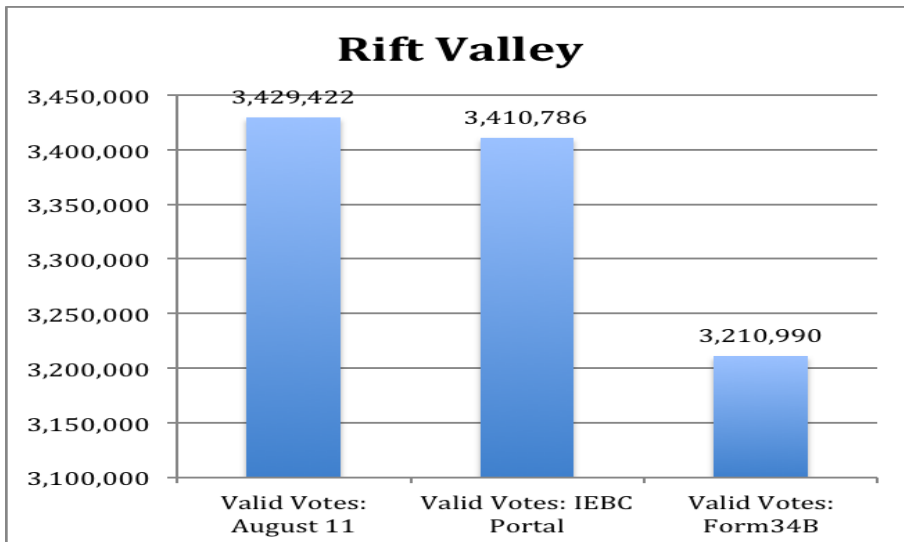
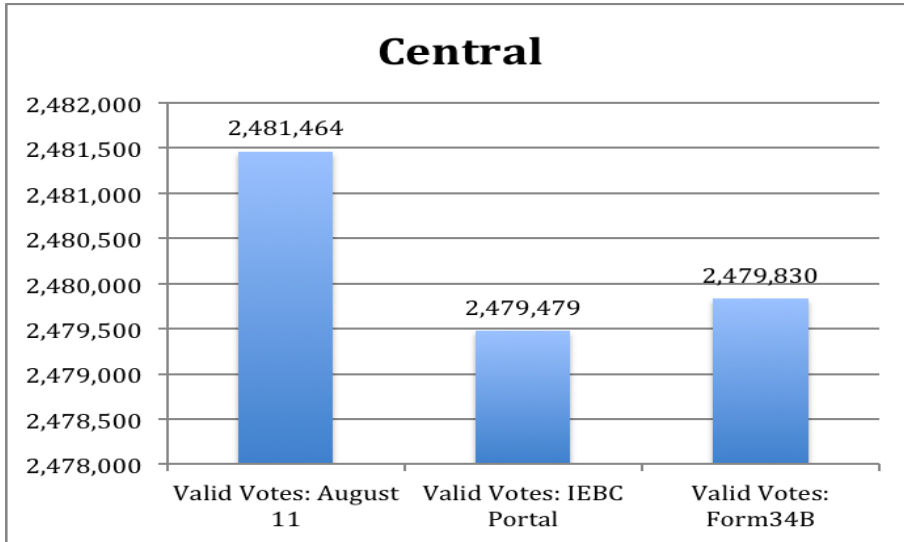
Regional Differences

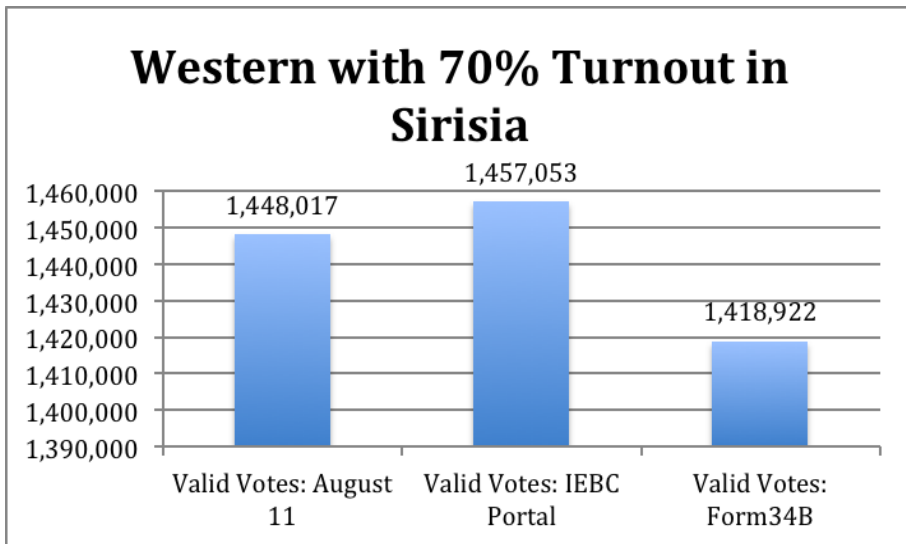
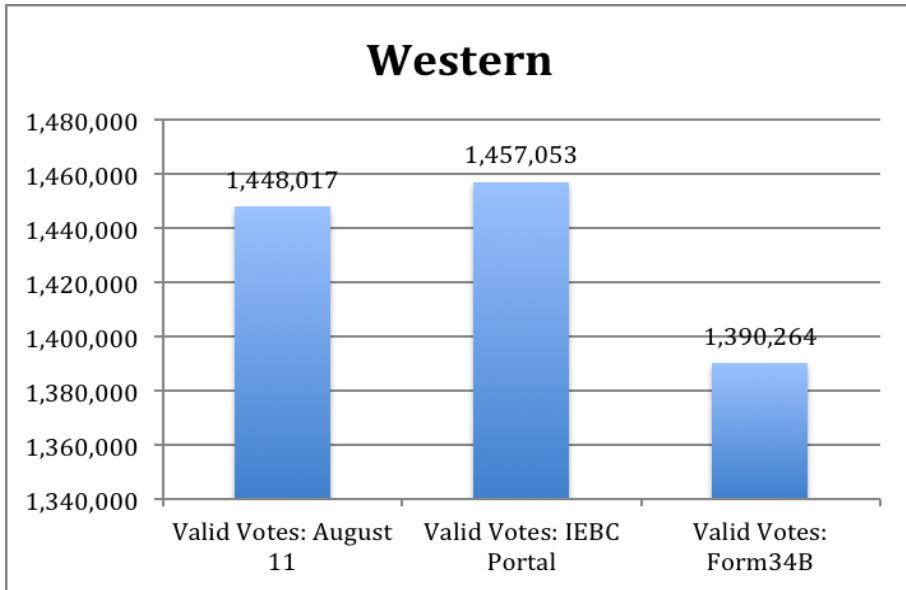
The following charts demonstrate regional differences, using Kenya’s regions, based on the former provinces. The difference in valid votes per region is depicted in two charts. One shows the data as it currently stands. The second chart accounts for missing results in Forms 34B by assuming 70 percent turnout for constituencies where data from Forms 34B is not available:

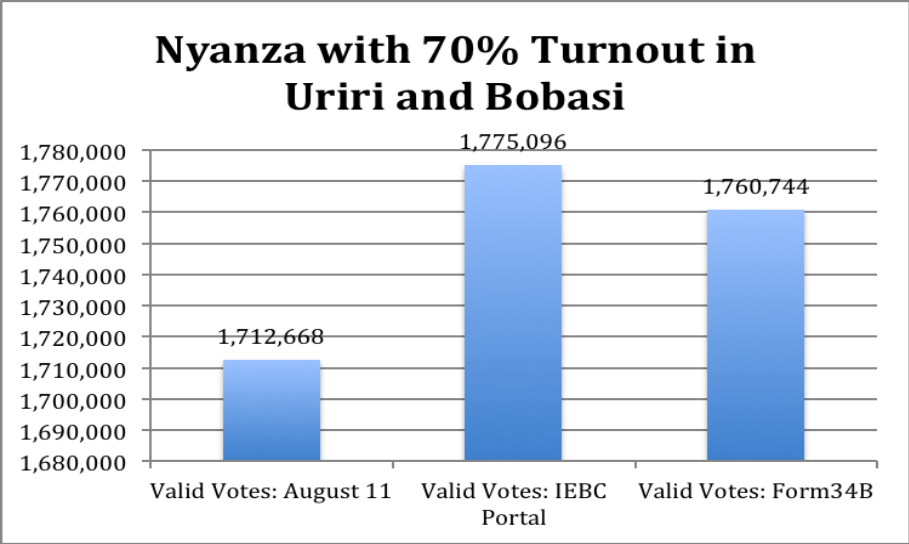
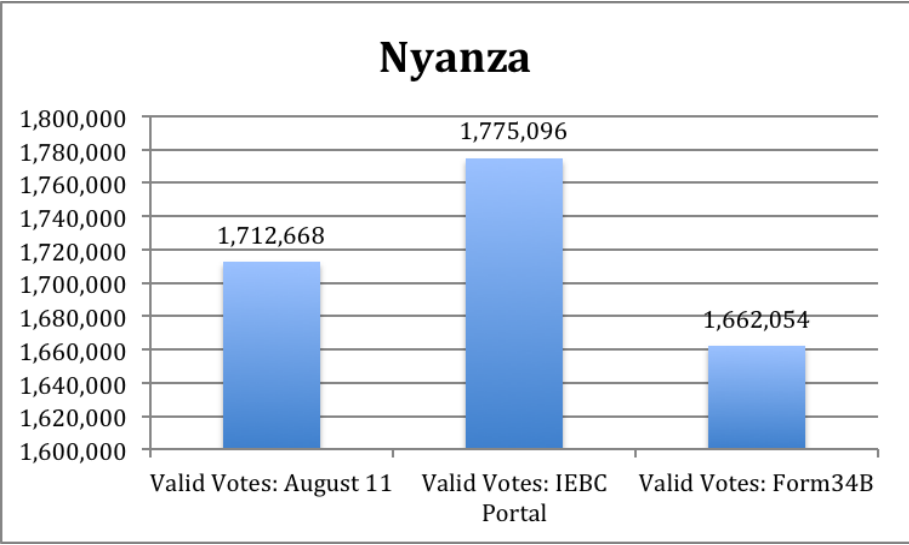


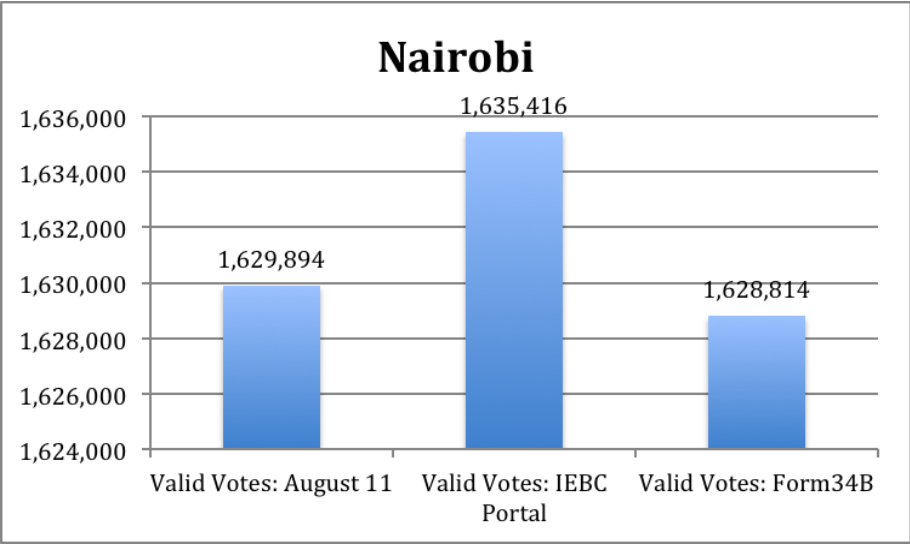




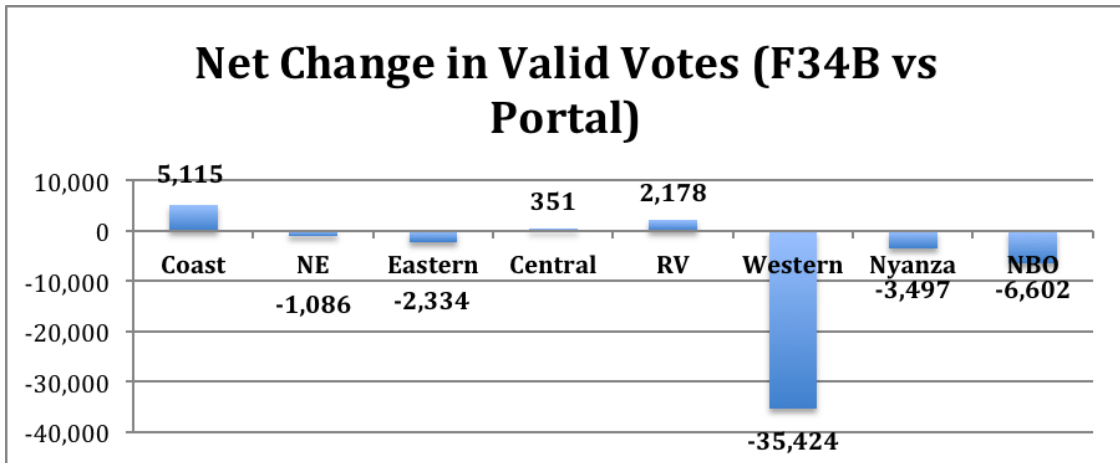




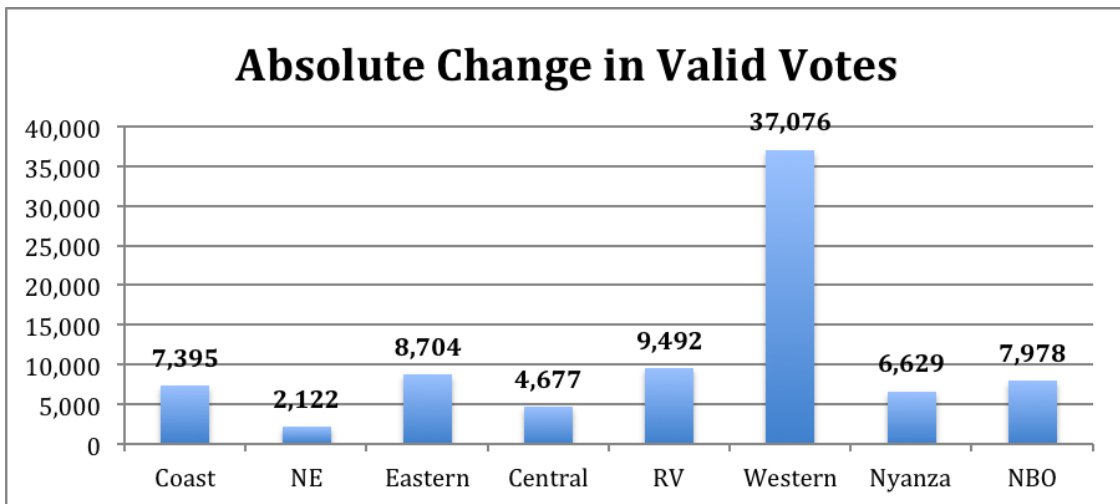




On a national level, it is useful to see the differences in valid votes between Forms 34B and the IEBC website because it provides an overall, comparative sense of the scale of the differences.



The figure below shows absolute differences in valid votes at regional levels, demonstrating how many votes differ between the portal and the forms, regardless of the direction in which the difference is.



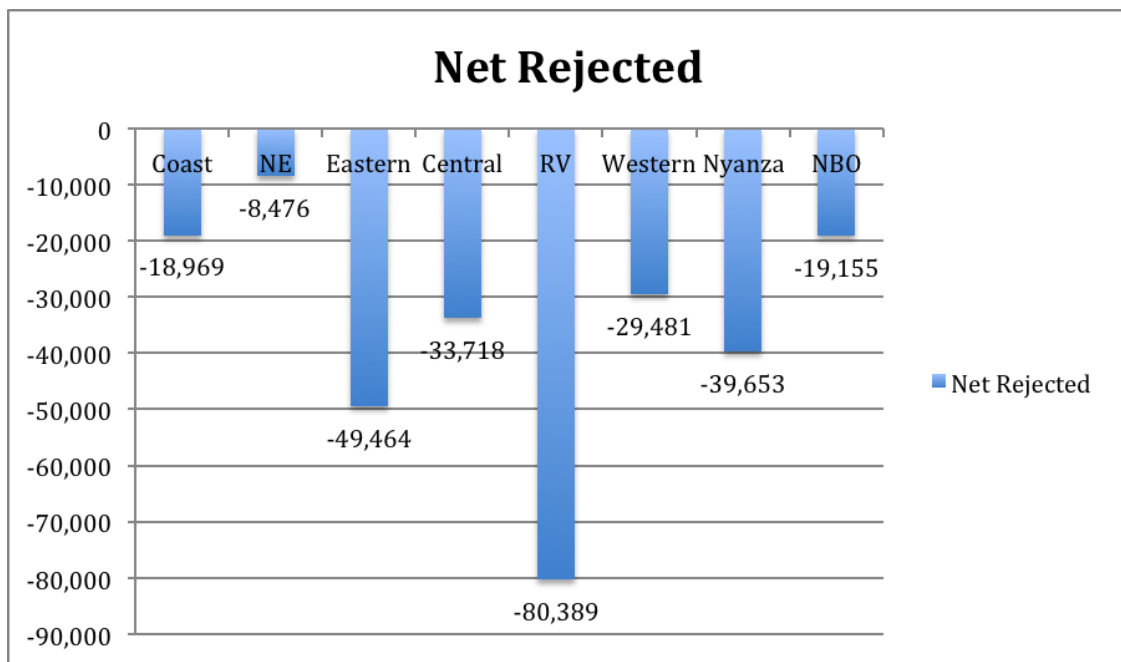
Presidential Results: Rejected Votes

The election was marked by concerns around the number of rejected votes.

A comparison of Forms 34B and the data on the IEBC website reveals significant differences in the numbers of rejected votes – they do not match in 99.3 percent of constituencies.³

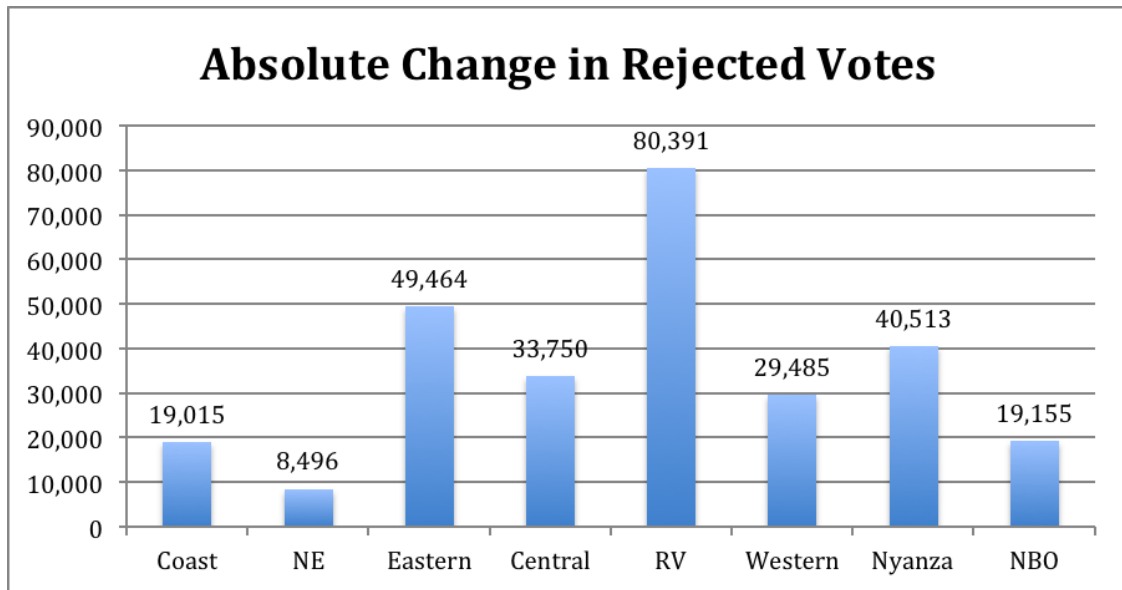
The number of rejected votes as recorded in Form 34B and in the website are the same in only two constituencies. Some of the differences are very high. In Narok North, for example, the Form 34B on the documentation site shows 7,568 less rejected votes than what the results site shows. This is because the Form 34B shows 0 total rejected votes. Similarly, in Nyatike, the Form 34B in the documentation site shows 6,250 less votes than the results site.

The figure below shows the net differences in the numbers of rejected votes. As is evident, the forms displayed in the IEBC documentation site suggest that the numbers of rejected votes are much lower than what has been reported on the Results Site.



The figure below shows absolute differences in rejected votes at regional levels, demonstrating how votes differ between the results site and the documentation site, regardless of the direction in which the difference is.

³ The available Forms 34B do not all include the total number of rejected votes. This analysis is based on the available data.



What is the significance of the multiple copies of Forms 34B?

KYSY is unable to verify which version of the multiple copies is genuine.

The following table shows the differences reflected in a multiple copy of Forms 34B from KYSY monitoring in Subukia.

The existence of multiple Forms 34B casts doubt on the validity and reliability of the forms being used to compute results.

Subukia	IEBC Form 34B	Other Form 34B
Valid Votes for Raila Odinga	1,273	426

Turnout

KYSY has shown evidence of turnout in excess of 100 percent, as recorded on the IEBC website. Further examination of Forms 34B, it is now evident that there are cases in which the number of valid votes *exceeds* the number of people who turned out to vote. According to IEBC regulations, all results from such a polling station should be cancelled.

Likoni	Form 34B
Total Valid Votes	49,606
Total Rejected Vote	290
Total Rejected Objected Votes	Not Listed
Total Disputed Votes	Not Listed
Total Number of People who Voted	46,809
Gap Between Number of Votes Cast and Number of People who Turned out to Vote	3,087
Total Registered Voters	87,326

According to the data on Form 34B for Likoni, there were 3,087 more votes than there were people who turned up to vote.
Errors in Calculations and Other Mistakes

Errors in Calculations and Other Mistakes

Examination of Forms 34B also reveals serious mistakes in the IEBC's calculations and inconsistencies between certified numbers of registered voters and the numbers of registered voters recorded on the forms. Below are selected examples.

Matuga	Form 34B	IEBC Results Site
Total Valid Votes	45,968	46,430
Rejected Votes	402	1,403
Total Rejected-Objected Votes	Unlisted	1
Total Disputed Votes	Unlisted	1
Total Number of People who Voted	46,370	47,835
Total Registered Voters	70,686	Unlisted
Correct Number of Registered Voters	70,366	

Kinango	Form 34B	IEBC Portal
Total Valid Votes	58,227	58,205
Rejected Votes	336	1,767
Total Rejected-Objected Votes	Unlisted	2
Total Disputed Votes	Unlisted	3
Total Number of People who Voted	58,563	59,977
Total Registered Voters	85,106	Unlisted

Garsen	Form 34B	IEBC Portal
Total Valid Votes	34,423	34,389
Rejected Votes	394	720
Total Rejected-Objected Votes	Unlisted	7
Total Disputed Votes	Unlisted	8
Total Number of People who Voted	34,423	35,124
Total Registered Voters	46,819	Unlisted

Isiolo North	Form 34B	IEBC Portal
Total Valid Votes	39,606	39,593
Rejected Votes	217	3,239
Total Rejected-Objected Votes	Unlisted	19
Total Disputed Votes	Unlisted	1
Total Number of People who Voted	39,606	42,852
Total Registered Voters	56,270	Unlisted
Certified Registered Voters	56,253	

Runyenjes	Form 34B	IEBC Portal
Total Valid Votes	70,928	70,894
Total Rejected Votes	519	1,639
Total Rejected-Objected Votes	Unlisted	0
Total Disputed Votes	Unlisted	12
Total Votes Cast	71,447	72,545
Registered Voters	86,977	Unlisted

Mwingi North	Form 34B	IEBC Portal
Total Valid Votes	47,054	47,060
Total Rejected Votes	337	777
Total Rejected-Objected Votes	Unlisted	3
Total Disputed Votes	Unlisted	4
Total Number of People who Voted	47,391	47,844
Registered Voters	61,491	

Kisumu Central	Form 34B	IEBC Portal
Total Valid Votes	92,950	92,938
Total Rejected Votes	425	440
Total Rejected-Objected Votes	Unlisted	18
Total Disputed Votes	Unlisted	3
Total Votes Cast/Number of People who Voted	93,375	93,399
Registered Voters	120,023	Unlisted

In many of the above cases, it is clear that IEBC officials miscalculated the total number of people who voted in a particular station. This number is the sum total of all valid votes, rejected votes, rejected-objected-to votes and disputed votes. In many of the examples above, the IEBC simply totaled valid and rejected votes and used that as the number of people who voted. If there were no rejected-objected-to nor disputed votes, that would be an accurate calculation. It is not always clear, however, if that is the case because those totals are not consistently recorded in the forms. In other cases, the IEBC used valid votes to (incorrectly) reflect the total number of people who voted.

These mistakes are cause for concern, because they cast doubt on the IEBC's understanding of basic results calculations and because it is unclear if and how errors are addressed before final declarations of results.

Other Errors

There are also multiple other mistakes and inconsistencies on Forms 34B. Some examples include:

Embakasi Central

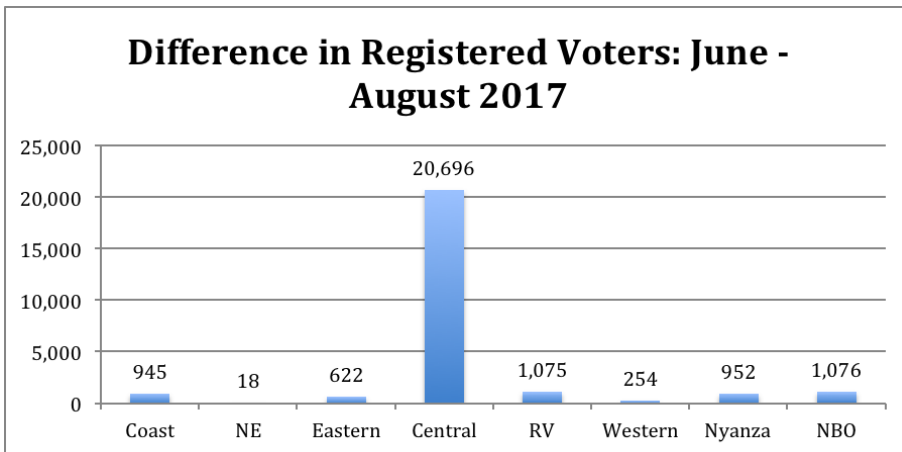
There are two figures for valid votes cast: 96,575 and 96,638. It is unclear which total is accurate.

Msambweni IEBC Form 34B

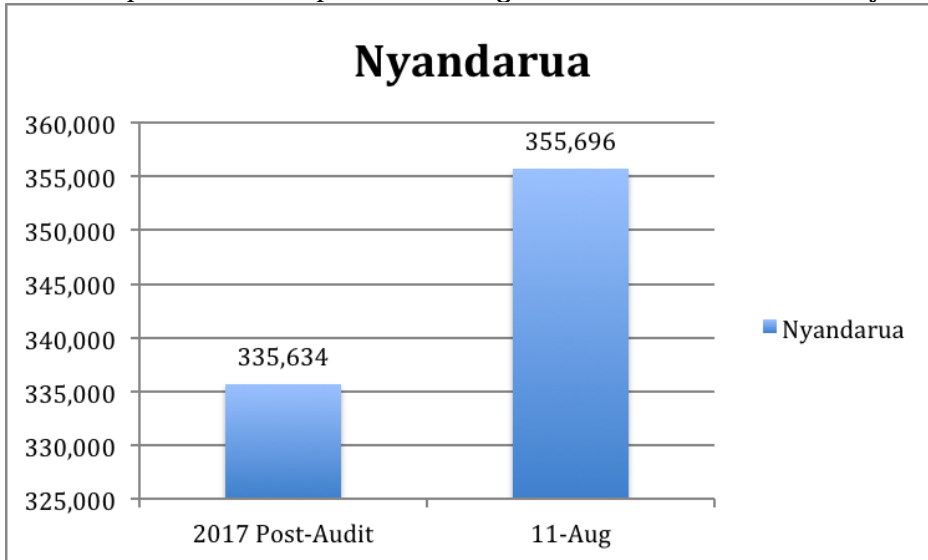
The Form 34B for Msambweni includes two columns at the end which are not legibly titled. One of these columns includes a single entry of “5.” The total at the bottom reads 0. The other column is made up of only entries of 0.

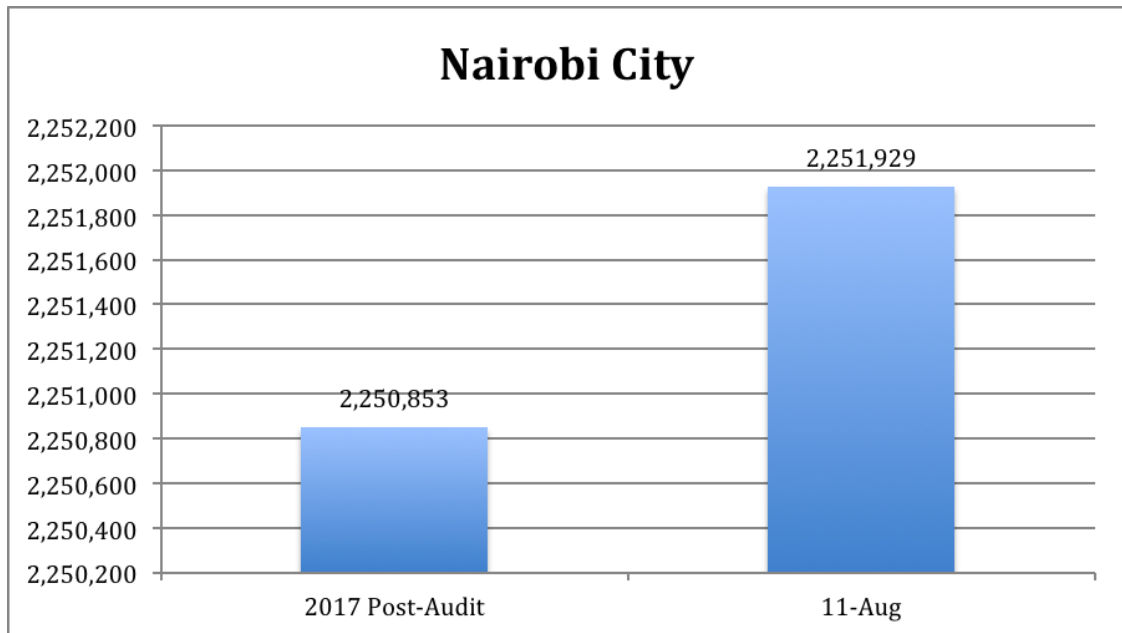
Registered Voters

KYSY has already demonstrated the ways in which the numbers of registered voters has changed since the certification of the final Register of Voters. Overall, the number of registered voters has increased by 25,638 votes since certification.



Here are pictorial examples of the largest differences at the county level:





Takeaways

- Almost two weeks after elections, the three sets of presidential results remain unverifiable.
- Images of Forms 34B (constituency level results) and data in the IEBC Results Site do not fully match the results as announced by the IEBC on August 11. The source of the announced presidential result continues to be unknown.
- The IEBC has not acknowledged the miscalculations and errors in the scanned forms on its website, or explained how it is handling them. Does that mean the errors are reflected in the final results calculations?
- There has been no explanation by the electoral board regarding shifting and contradictory figures of the Register of Voters. There are significant differences between the numbers of registered voters, as announced by the IEBC on August 11, and the numbers in the certified Register of Voters.
- The IEBC has not nullified results from any polling stations where turnout was more than 100 percent.
- The IEBC has not nullified results from any polling stations in which the number of valid votes cast exceeded the number of people who voted.