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The opposition Coalition for Reforms and Democracy (CORD) targets the Independent Electoral and Boundaries Commission (IEBC) in a series of protests that turn violent. The National Cohesion and Integration Commission (NCIC) warns that 19 of Kenya's 47 counties are particularly at risk of political violence around the 2017 general election. Parliament begins hearings after a leaked draft KPMG audit into Safaricom Ltd alleges corruption in tendering processes. The government orders closure of Dadaab and Kakuma refugee camps.

Opposition protests target IEBC offices

Opposition pressure on the **Independent Electoral and Boundaries Commission (IEBC)** has increased with a series of weekly protests. The lack of confidence in the IEBC will increase the risk of the losing party rejecting the results of the August 2017 general election, which is likely to trigger political violence. The opposition **Coalition for Reforms and Democracy (CORD)** started the Monday protests on 25 April, when police officers used teargas to disperse an opposition protest targeting the IEBC offices in Nairobi.¹ CORD leader **Raila Odinga** led the demonstrations, which demanded the dissolution of the current “*incompetent and corrupt*”² IEBC commission and the appointment of new commissioners.³ Odinga has previously threatened to boycott the election if the government does not appoint a new IEBC commission (see below).⁴ Opposition protests similarly turned violent on 23 May.⁵ Police forces used teargas and water cannons to disperse CORD supporters targeting IEBC offices in **Nairobi, Mombasa** and **Kisumu**.⁶ CORD has alleged that police forces killed an unspecified number of opposition supporters during running battles with police.⁷ Authorities had prohibited the demonstrations following the violence of the previous protests.⁸

CORD's lack of confidence in the IEBC's integrity goes back to the 2013 election. While the 2013 general election passed peacefully, there was criticism of the IEBC's management of both voter registration and the election day itself. There were several examples of discrepancies between voting numbers and the electoral register.⁹ The IEBC's failure to publish the final tallies for four months encouraged rumours of electoral fraud.

Criticism of the IEBC has increased in recent months. In February 2015, a **United Kingdom (UK)** court convicted **Smith & Ouzman Ltd** executives of bribing officials of the **Interim Independent Electoral Commission (IIEC)**, precursor to the IEBC, to win contracts to supply ballot papers.¹⁰ The prosecution alleged that recipients of illegal payments included former energy cabinet secretary

¹ Daily Nation, 25 Apr 2016.

² Standard, 22 May 2016.

³ Daily Nation, 25 Apr 2016.

⁴ The Star, 26 Apr 2016.

⁵ AFP, 23 May 2016.

⁶ AFP, 23 May 2016.

⁷ AFP, 23 May 2016.

⁸ AFP, 23 May 2016.

⁹ Reuters, 8 March 2013

¹⁰ Bloomberg, 23 May 2016.

Davis Chirchir, who at the time was an IIEC senior manager, and **James Oswago**, head of the IIEC and then the IEBC.¹¹ No election official has faced sanction over the illegal payments.

More recent events have increased tensions over the IEBC. Opposition **Kenya African National Union (KANU)** candidate **Paul Sang** rejected his defeat in the 8 March **Kericho County** senatorial by-election.¹² Sang alleged that the IEBC and the ruling **Jubilee Alliance Party (JAP)** engaged in vote rigging that resulted in victory for JAP candidate **Aaron Cheruiyot**.¹³ In the **Malindi** national assembly by-election held on the same day, the JAP alleged that CORD had benefited from electoral fraud.¹⁴ The deadline for the IEBC to update the electoral register ahead of the 2017 election was 15 March. The IEBC targeted two million new voters but acknowledged that it missed this target.¹⁵

Opposition to the IEBC is not limited to CORD. The **National Council of Churches Kenya** and the **Central Organization of Trade Unions** have both called for new IEBC commissioners to ensure the successful completion of the 2017 general election. A recent poll showed that 44% of Kenyans lack confidence in the IEBC to conduct free and fair elections in 2017, while 43% back the IEBC.¹⁶ The constitution provides for the removal of IEBC commissioners from office through a parliamentary petition, which would then need the support of a majority of members of parliament.

The government's **National Cohesion and Integration Commission (NCIC)** has warned that 19 of Kenya's 47 counties are particularly at risk of political violence around the 2017 general election.¹⁷ The vulnerable counties are:¹⁸

- Nairobi;
- Mombasa;
- **Uasin Gishu**;
- **Kericho**;
- **Homa Bay**;
- **Turkana**;
- **Kiambu**;
- **Kilifi**;
- **Migori**;
- **West Pokot**
- Kisumu;
- **Nakuru**;
- **Narok**;
- **Kisii**;
- **Isiolo**;
- **Bungoma**;
- **Kakamega**;
- **Lamu**;
- **Baringo**;

It is notable that Isiolo, Lamu and Turkana did not experience violence following the 2007 election. The NCIC warned that counties with a history of ethnic tensions and perennial border disputes, and where the governor and state elections are likely to be close, are especially at risk.¹⁹ The NCIC also warned that the presence of criminal networks in major cities including Nairobi, Kisumu, Mombasa, Nakuru, Kisii and Kiambu will increase the risk of violence.

The NCIC will introduce efforts in July to mitigate the risk of violence.²⁰ This includes the deployment of **National Police Service (NPS)** officers nationwide to record political remarks that might incite ethnic violence, and working with the director of public prosecutions to ensure successful

¹¹ Bloomberg, 23 May 2016.

¹² KBC, 8 Mar 2016.

¹³ KBC, 8 Mar 2016.

¹⁴ KBC, 8 Mar 2016.

¹⁵ www.citizentv.co.ke

¹⁶ Bloomberg, 23 May 2016.

¹⁷ The Star, 26 Apr 2016.

¹⁸ The Star, 26 Apr 2016.

¹⁹ The Star, 26 Apr 2016.

²⁰ The Star, 26 Apr 2016.

prosecutions of hate speech.²¹ The NPS will also double its recruitment drive for 2016 to ensure adequate deployment during the election period.²²

Parliament to discuss Safaricom corruption allegations

The national assembly on 5 May received a petition alleging corruption and corporate malpractice at **Nairobi Securities Exchange**-listed **Safaricom Ltd**.²³ The petition, if substantiated, threatens to embarrass the government, which is a 35% shareholder in Safaricom. It also has potential legal implications for UK-based **Vodafone Plc**, which is a 40% shareholder in Safaricom through **Vodafone Kenya Ltd**. National assembly speaker **Justin Muturi**, on 6 May, confirmed receipt of the petition, and directed the house finance and planning committee to consider the petition and report within 60 days.²⁴

*"The matter has gone to the parliament where senior managers and contractors are set to appear before a committee of the legislative house beginning June."*²⁵

The petition was delivered days before Safaricom CEO **Bob Collymore** revealed that full-year earnings before interest, taxation, depreciation and amortisation (EBITDA) to March increased 17% with net profits of \$381m.²⁶

*"The glory was short-lived as weeks later Collymore is a man under siege with major newspapers and blogs dedicating acres of space on how Safaricom has become susceptible to rampant corruption similar to government ministries."*²⁷

The petition enclosed a copy of a leaked draft KPMG audit dated February 2016 that Safaricom commissioned to investigate business practices at the company between September 2013 and August 2015.²⁸ The petition claims that the KPMG audit reveals systematic malpractice in tendering and in the acquisition of land. The draft audit covers 23 suspect contracts worth \$2.9 billion, some of which adversely mention Safaricom's management team, including CFO **John Tombleson**. Notable deals include a \$12.5m contract to **China**-based information technology conglomerate **Huawei** for the upgrading of Safaricom's mobile money transfer service **M-Pesa** and the purchase of five acres in Nairobi for \$11.5m.²⁹ Collymore has emphasised that the KPMG audit is a draft and that leaking it is a criminal offence.

*"Collymore has belaboured the point that the report is a draft and that it was illegally acquired and leaked to the press and that Safaricom has since reported the incident to the authorities."*³⁰

Collymore has alleged that the instigators of the petition may have lost unspecified tenders at Safaricom.³¹

*"Collymore has stated that the accusations were expected as 'tender barons' fight back after he commissioned the report. Influencers on social media, especially Twitter, are known to be guns for hire and the active campaigns against Safaricom and some of its contractors such as **Scanad**, a publication relations (PR) and marketing company that is partially-owned by **WPP Plc**, of the UK, shows just how big the stakes are in tender."*³²

²¹ The Star, 26 Apr 2016.

²² The Star, 26 Apr 2016.

²³ Sunday Nation, 8 May 2016.

²⁴ Daily Nation

²⁵ Source, journalist, Nairobi

²⁶ Business Daily, 10 May 2016.

²⁷ Source, journalist, Nairobi

²⁸ Sunday Nation, 8 May 2016.

²⁹ Source, journalist, Nairobi

³⁰ Source, journalist, Nairobi

³¹ Sunday Nation, 8 May 2016.

³² Source, journalist, Nairobi

Sources privy to Kenya's PR industry say that the main architects of the campaign are companies that lost out in the bidding of tenders for Safaricom's agency business worth around \$20m. In particular **Transcend Media Group (TMG)**, a company that has been linked with the **National Youth Service** \$7.9m scam, is vocal in its criticism of Safaricom. TMG chairman **Michael Njeru** and CEO **Tony Gatheca** recently sent a letter to the management of Vodafone, disputing Safaricom's award of a contract for its media campaigns to **Saracen**, a subsidiary of **Omnicom Media Group**.³³ The Safaricom call for tenders was issued in January and ended on 15 April. Transcend Media alleges that Saracen won the contract irregularly. Transcend Media has also alleged that some of its staff who worked on its bid left the company to form **Fieldstone Helms** which works under Saracen contract on the Safaricom project.³⁴ Transcend said in its letter to Vodafone that it has deposited its concepts with the **Kenya Copyright Board** and has asked Vodafone to investigate. Vodafone reportedly called Collymore and Safaricom risk assessor **Nicholas Mulila** to **London** in mid-May to provide explanations.³⁵ Local media has also speculated on the involvement of **Ken Kiplagat**, lawyer to late president **Daniel arap Moi** (1978-2002), who is an owner of **Tetra Radio Ltd**, which lost the national police surveillance contract to Safaricom.³⁶

Collymore's position is precarious, as his current contract at Safaricom ends in 2017.

*"The well-choreographed online campaigns and stories, both in mainstream and online media, suggest that more is to come, with companies that have lost out on contracts betting that Collymore will be replaced."*³⁷

The exit of Collymore under pressure from 'tender barons' would undermine the credibility of President **Uhuru Kenyatta's** (2013-present) anti-corruption efforts. Collymore presented the private sector-drafted anti-corruption bill to Kenyatta in November 2015.³⁸ In December, Collymore was the first Kenya-based private sector executive to publish a declaration of wealth, including details of pay, interest, and dividends as well as property and shares.³⁹

*"At the helm of a company that spends billions of dollars in a market where tender fraud, kickbacks and other malpractices are common, his exit would be welcome to a cartel of businesses that are now aiming their guns at corporations, as slowed payments in government ministries and more openness makes it harder to steal from government. Corporations guard their reputations jealously and are in most cases unlikely to report corruption cases. Safaricom has however been an exception and as part of its sustainability reporting annually states how many employees it lets go and for what offences."*⁴⁰

Government orders closure of Dadaab and Kakuma refugee camps

The government, on 6 May, ordered the closure of the **Dadaab** and **Kakuma** refugee camps.⁴¹ The government has failed to carry out previous plans to close the camps in the face of international condemnation and domestic legal challenges. The government cited security and economic concerns for the closure of the camps which house 300,000 mainly **Somali** and **South Sudan** refugees.⁴² Non-governmental organisations (NGO) including **Médecins Sans Frontières** and **Amnesty International**, have criticised the closure order and said the government has failed to present evidence linking refugees to insecurity.⁴³

³³ Africa Intelligence, 20 May 2016.

³⁴ Africa Intelligence, 20 May 2016.

³⁵ Africa Intelligence, 20 May 2016.

³⁶ Business Today, 20 May 2016.

³⁷ Source, journalist, Nairobi

³⁸ Indian Ocean Newsletter, 4 Dec 2015.

³⁹ Daily Nation, 9 Dec 2015.

⁴⁰ Source, journalist, Nairobi

⁴¹ AFP, 6 May 2016.

⁴² AFP, 6 May 2016.

⁴³ AFP, 6 May 2016.

*“My understanding is that this is the government attempting to extort money from international donors. Practically, the closure of the camps is a logistical nightmare. Legally it’s a minefield, as under international law, you would have to prove that Somalia is a safe destination for refugees. Currently, **European Union** governments are struggling to prove that **Turkey** is safe for refugees as a solution to the **Mediterranean** crisis, and Turkey is considerably easier to sell than Somalia. It’s a good issue for the Kenyans to make a noise about, secure greater funding, and then back down in the face of insurmountable obstacles they can blame on others.”⁴⁴*

Interior ministry permanent secretary **Karanja Kibicho** acknowledged that the closure would have a negative impact on the refugees, but called on the international community to take collective responsibility for their humanitarian needs.⁴⁵ The government additionally confirmed it is disbanding the **Department of Refugee Affairs**.⁴⁶ In 2013, Kenya, Somalia and the **United Nations High Commissioner for Refugees (UNHCR)** signed a tripartite agreement to encourage voluntary repatriation to Somalia but continued insecurity has deterred returns.

Implications

Ethnic political loyalty persists in Kenya ahead of the 2017 election. This increases the importance of all parties viewing the IEBC as an independent and neutral arbiter. Kenyatta may encourage the appointment of new commissioners knowing that his parliamentary majority means the Jubilee Alliance Party could control the nomination process. An unreformed IEBC will not deliver undisputed results and increases the risk of political violence either side of the election. Additionally, the much criticised IEBC is contributing to a political apathy in Kenya that will encourage political tribalism and disbursal of funds to favoured constituencies to continue.

The Safaricom allegations have the potential to prove embarrassing for Kenyatta. The government will manage this risk by ensuring that the parliamentary committee produces a not-overly critical report into the KPMG allegations. The government will also accelerate the passage of the **Bribery Bill 2016** to shore up its credibility.

The Kenyan government has made previous populist announcements about the closure of the refugee camps that it has failed to act on. The latest order to close the Dadaab and Kakuma refugee camps is probably similar, due to the prohibitive costs of moving hundreds of thousands of people, and international and domestic legal challenges to the move. Despite what the government says, the closure of the camps would do little to improve security in Kenya as the majority of participants in terrorist attacks over the past few years were Kenyan nationals.

⁴⁴ Source, senior INGO official, East Africa

⁴⁵ AFP, 6 May 2016.

⁴⁶ AFP, 6 May 2016.

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