

# THE IMPACT OF LEGISLATION ON ELECTORAL OPINION POLLS IN KENYA

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## Abstract

This study sought to investigate the impact of legislation on electoral opinion polls in Kenya. It sought to determine the extent to which legislation influences voter's access to credible, reliable and representative polls and the role of communication in creating awareness about electoral opinion polls. The study adopted descriptive survey design. Sampling was done through purposive and systematic random sampling techniques. Data was collected using a self-administered questionnaire and also through Key Informant interviews. Quantitative data was analyzed using descriptive statistics while qualitative data was analyzed thematically. The study found out that legislation on electoral opinion polls influences electoral opinion polling in Kenya. It also found that the major political parties usually influence electoral opinion polls in Kenya; that legislation influences voter's access to credible, reliable and representative polls; and that communication plays a very significant role in electoral opinion polls. The Paper recommends that the current legislation on electoral opinion polls should be evaluated to ensure objectivity and that citizen's rights to access information should not be compromised by law. At the same time, the relevant bodies should educate the public on the role and importance of polls.

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**Keywords:** Legislation, opinion polls, pollsters, Kenya

## **Introduction**

Public opinion polls are regularly conducted and published in many countries. They measure not only support for political parties and candidates, but also public opinion on a wide range of social, economic and political issues. Public opinion is a critical force in shaping and transforming the society.

Opinion polls can exercise particular influence on the outcome of elections and can also be quite distorting. McQuail (2005) noted that by publishing opinion polls or by stating editorially what the public view is on a given topic adds an element of potential influence. He further argued that when public opinion is embodied in media accounts, it acquires certain independence and this becomes an objective “social factor” that has to be taken into account by political and other actors. Therefore, opinion polls are seen as tools providing significant information that may cue undecided voters to formulate vote preferences. This is particularly true of polls and projections commissioned or conducted by a biased source.

Polls and projections may have an effect on the vote itself rather than simply reflecting public sentiment. It follows therefore that polls may not reflect the people’s views but may also shape the views of others. For these reasons, broadcast coverage of opinion polls and projections warrants special attention to ensure balance, fairness and objectivity so that the public is able to accurately assess and understand the poll’s significance. Across the globe, existing laws do not address this issue in uniform fashion but provisions range from bans on the publication of election poll results from a certain date onward to general prohibitions on opinion polls or the use of certain questions in polls.

## **Regulation of Electoral Opinion Polls**

Since the 1930s, public opinion polls had formed an integral part of social and political landscape among many countries around the world. There are few outright bans on opinion polling during election campaigns apart from in the final days. However, Smith (2004) in his research noted that a series of international studies carried out between 1984 and 2003 indicated that pre-election restrictions have become more common. Article 19 Law Programme (2003) and Spangenberg (2003) in their study argued that, about twenty seven (27) European Union (EU) countries have a ban on the publication of electoral opinion polls ranging from twenty four hours (24hrs) to one month prior to voting. For instance, Italy and Slovakia have a ban of fourteen (14) or fifteen (15) days, Luxembourg has a ban of one month, France and Belgium twenty-four hours (24hrs), Portugal forty-eight hours (48hrs) and Greek twenty-four hours (24hrs).

It is worth noting that the Council of Europe (1999) issued recommendations on media coverage of election campaigns in respect to opinion polls. It stated that results of opinion polls being publicized should provide sufficient information to allow the public make a judgment on the value of the poll, including; name of organization that commissioned and paid for the poll, name of organization conducting poll and methodology used, sample and margin of error as well as date when fieldwork was done. The Council recommended that any state forbidding the publication or broadcast of opinion polls should comply with Article 10 of the European Convention on Human Rights as interpreted by the European Court of Human Rights. It states:

“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.” (European Convention on Human Rights, Article 10)

The federal law in Canada prohibits the broadcast, publication or dissemination of the results of conducted opinion surveys that would identify a political party or candidate in the final three days of an election campaign. There are no regulations on the publication of opinion polls in the United States of America (USA). Rather, media coverage of opinion polls is regarded as an integral part of free speech in elections (Claude, 1994).

The proponents of regulation on the publication of electoral opinion polls believe that polls are authoritative presentations and have undue influence on elections. They can be erroneous, misleading and subject to manipulation if they are presented without necessary background information. For instance, if information on how and when interviews took place, the sample size, region covered and sponsorship are not published alongside the polls, the data generated does not meet the standards of scientific survey. On the other hand, those opposed to this ban assert that it is against the rights of free speech. They too argued that there is no evidence that polls have significant or undue influence on voting. They believe polls are reasonably reliable, have a systematized way of gathering information and that the information presented is a true reflection of public opinion.

### **Regulation of Electoral Opinion Polls in Africa**

Public opinion polls are a recent phenomenon in Africa. With the increase in democratization, governance and public participation across Africa, there has been an increase in opinion polls to help guide policy by giving decision makers impartial information about what the public wants.

Most countries in Africa have no laws or acts regulating the publication of opinion polls. Article 19 Law Programme (2003) noted that in

South Africa there has been no prohibition on the publication of electoral survey results prior to an election. It further affirmed that prior to the 1999 elections, there existed restriction of publication of opinion polls six (6) weeks before an election. Exit polls, however, are banned by the 1998 *Electoral Act*, whose section 109 states: “During the prescribed hours for an election, no person may print, publish or distribute the result of any exit poll taken in that election.” Compliance with the *Electoral Act* is monitored and enforced by the Independent Electoral Commission (IEC), which has the power to bring proceedings for non-compliance before a specially created Electoral Court. According to WAPOR updates (December, 2012) there exist no embargos in other countries such as Nigeria, Egypt and Tanzania.

Nevertheless, Ireri and Wolf (2010) noted that in spite of these positive predications, pollsters concede that there is mixed reaction towards polls. Supporters believe that they are a critical force in shaping and transforming society while detractors express the view that they are not beneficial to Africa in any way.

### **The Situation in Kenya**

Kenya has a history of opinion polling dating back to the first independence decade when a 261-sample survey of voters in Central Nyanza produced a result reasonably similar in overall terms to the final result (Kiage and Owino, 2010). Political polling continued in Kenya until the 1966 emergence of Oginga Odinga’s opposition Kenya People’s Union party which President Kenyatta proscribed in 1969, sending its entire national leadership into political detention.

Public opinion polling has been characterized by low awareness and lack of appreciation of independent and scientifically conducted research as the basis for sound decision-making. It was apparent that business and policy decisions tended to be driven more by intuition and ‘gut feeling’ than by evidence based, empirical research findings. While it is undoubtedly true that observation, intuition and experience play an important part in the decision – making process at all levels, it is also important to note that for public policy operating in a highly diverse and dynamic environment; listening to the public voice is very important.

With limited appreciation, the use of public opinion polling was virtually unheard of in Kenya for a long time. One or two polls were conducted during the ‘dark ages’ but were not published as pollsters were fearful of releasing results, that may have been interpreted as critical of the incumbent political regime (KANU). As a result, the general population did not have an avenue of participating in governance. The government, legislators and politicians, adopted a dictatorial approach to decision making on issues pertaining to the public welfare.

The 2002 elections marked the end of what was widely considered an intolerant political regime in Kenya. With the dawn of a more democratic regime (NARC) under the leadership of Mwai Kibaki, the sun began to rise and illuminate the landscape for public opinion polling. Opinion polls were conducted on a regular basis with no interference from the government or political leaders. In 2002, at least four (4) opinion polls were conducted and widely publicized by the media. Poll results featured as key news items and spawned a new type of interactive programming on radio, television and on electronic media. Without any doubt, the media in Kenya were instrumental in illuminating the path for opinion polls, supporting the regular practice of opinion polling and providing the platforms for the dissemination of poll results.

Since 2002, opinion polls have been regularly conducted amongst two target groups – the general public and business leaders. The general public opinion poll seeks to provide systematic and representative public perceptions on social, political, economic & cultural (SPEC) issues. These data are then shared with policy-makers, advocacy and interest groups, media practitioners, and groups of citizens to enable them to make more accurate assessments of public opinion. The poll is based on a fully representative sample of randomly selected adults who are interviewed by fully trained interviewers from all regions of the country. Regular content on these polls include politics, crime, consumer confidence and government performance rating have been conducted in Kenya (Ireru and Wolf, 2010).

The second opinion poll conducted on a regular basis is The Business Leaders Confidence Index (BLCI), which collects business leaders' perceptions towards the economy.

Without question in 2002, public opinion surveys came of age and assumed a level of importance and status in Kenya. Notably was the 2005 referendum poll, which was to decide whether or not to adopt a new Constitution. The outcome of the actual poll was that 43% were in support of the proposed constitution with 57% against. The poll outcome was a mirror of the official results by the then Electoral Commission of Kenya (ECK). Thus, polls have not only become a familiar and indispensable news item for the media but also a key aspect of public debate and scrutiny.

Despite a good start in 2002 opinion polling faced a number of challenges between 2003 and 2012. Politicians, journalists and the general public alike did not grasp (perhaps understand) a number of the key technical issues which determine views as to the accuracy of the results, namely – issues pertaining to sample size (how can 2,000 people accurately represent the views of 16 million adults?), representation (maybe the survey is only carried out in areas favorable to individual political leaders) and the interpretation of data. In instances where the survey data did not support

political inclinations, politicians felt that opinion polls were flawed, manipulative and biased exercises - even publicity stunts! Many took every opportunity at public forums to discredit the poll results and the organizations that carry them out. While the media houses continued to publish poll results, very often their interpretations of the data were erroneous – or just down right wrong. The Kriegler Commission (2008) that was established to determine the main causes of the 2007/8 post-election violence pointed out that electoral opinion poll results contributed to the violence. This gave room for esteemed individuals to point out biasness, lack of objectivity and manipulation in electoral opinion polling.

This situation led the parliament to table a Bill on 25<sup>th</sup> October 2011 - seeking to regulate the manner of publication of electoral opinion polls in Kenya. The Bill was passed on May 30, 2012; assented by the president on June 15<sup>th</sup>, 2012 and commenced on November 22<sup>nd</sup>, 2012. It is now an Act of Parliament which reads: “*THE PUBLICATION OF ELECTORAL OPINION POLLS ACT No. 39 of 2012*”. This study therefore seeks to evaluate the effects of this new legislation on the public’s access to credible, reliable and representative electoral opinion polls.

### **Problem Statement**

Many countries prohibit the publication of opinion polls in the period immediately preceding the vote. The legitimacy for this is to protect the integrity and fairness of electoral process; to safeguard citizens against any excesses of information that might confuse them or interfere with their freedom of choice. This is potential in situations where polls are subject to manipulation or conducted by a biased source hence distortion of poll results. It is well recognized under international law that any limitation placed on freedom of expression must remain within strictly defined parameters. The universally accepted standard for restrictions is set in Article 19(3) of the ICCPR, which states:

The exercise of the rights [to freedom of expression and information] may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a. For respect of the rights or reputations of others;
- b. For the protection of national security or of public order (ordre public), or of public health or morals. (Article 19 Law Programme, 2003, January).

In Kenya, the reporting of electoral opinion poll results have previously failed to indicate which particular regions the surveys were conducted, the kinds of questions displayed on the questionnaire, education level of the participants, the methodology used amongst other tenets. This

made it hard for different classes of individuals to believe in the results. As a result, it is difficult to believe if really the surveys conducted by the pollsters were scientific, non-biased, transparent and reflecting the opinions of all the voters.

In addition, the Kriegler Commission (2008) hearings established that some of the main causes of the 2007/8 post-election violence was electoral opinion poll results hence the need for regulation.

Further, in Kenya, most electoral opinion polls have predicted that particular presidential candidate is on the lead. However, the actual results after vote cast indicate that the candidate who had trailed behind in the electoral opinion poll results wins the presidential election. For instance, the electoral opinion poll results in 2007 indicated that Raila Odinga of ODM party was on the lead. When the actual votes were cast; his close contender, Mwai Kibaki of PNU, emerged the winner (Wolf, 2009). Moreover, in 2013 the last electoral opinion poll results on February 27<sup>th</sup> showed that Raila Odinga of CORD coalition will win the elections but there will be a rerun. On the contrary, Uhuru Kenyatta of Jubilee Coalition won the election (Kenya Forums, February 2013; DN, 2013). This begs the questions whether the surveys conducted by pollsters are scientific? Do they form the actual public opinion? Do they influence voters in any way? Are pollsters biased in publication of the results because the margin between actual results and predicted ones is enormous? Are there other factors that influence the people's voting patterns besides opinion polls?

Thus, the enacted Bill in Kenya was borne of the reality that the publication of the results of electoral opinion polls influences voters to vote in one way or the other. Further, there were claims from the political class that the electoral opinion poll results were biased, manipulative and non-scientific hence they did not give a reflection of the publics.

Whilst there was need for a law that regulated publication of electoral opinion polls, one cannot fail to raise concerns over how much this law would limit or grant the public access to independent, reliable and credible electoral opinion polls results. It is behind this backdrop that this study was undertaken.

## **Literature Review**

Public opinion polls are mirrors, allowing individuals to understand where they fit into the socio – economic and political systems. Media reports of the results of opinion polls inform readers and listeners that their opinions are important, and can even sometimes be more important than the opinions of the elite (opinion leaders). ESOMAR / WAPOR guide to public opinion polls and survey (2009) noted that opinion polls are valuable to democracies, thus those who conduct and report them must be both transparent and

accurate. They must provide their methodology and realistic interpretation of data. On the other hand, polls have become a major source of information and interpretation on the nature of public opinion. Therefore, pollsters frequently work for the media because poll results have become news in themselves.

In many countries, electoral opinion poll results provide the electorate with information about voter preferences in upcoming elections. They inform the voter about the level of support in each candidate in an electioneering process. In contrast, ESOMAR/ WAPOR (2012) noted that about equally many countries prohibit the release of such information in a given period prior to Election Day. In their 2012 worldwide survey of eighty five (85) countries; it indicated that forty five (45) have no embargo on poll releases; thirty eight (38) ban publication of electoral opinion polls in a period ranging from a day to a month before elections and two (2) did not disclose any information. They reported that the main reasons given for such restrictions are: national security; the right of privacy and protecting the democratic process.

In France, the 1992 French referendum on Maastricht Treaty highlighted the dangers of two-speed access to information. ESOMAR / WAPOR (2012) on the same script noted that small investors in France were denied right to monitor and consider the evolution of the views of the electorate, while large financial organisations commissioned daily private polls which enabled them to foresee the ups and downs of the European monetary system. This was the unforeseen result of the French law prohibiting the publication of poll results a week before the referendum. The aim of this law was to protect the citizens against abuses and manipulations in their vote preferences. Thus, voters need a quiet period in which they can reflect for a few days before casting their votes.

Due to these reasons, countries / regions have enforced a law restricting the publication of electoral opinion poll results before and after Election Day. Examples of countries with bans include Canada, Mexico and Switzerland amongst others.

However, Article 19 Law Programme (2012) asserts that it is uncontroversial to state that democracy depends on the fair and equitable communication of all contesting points of view so that the people may make informed choices. As noted by the European Court of Human Rights in the case of *Bowman v. United Kingdom*, the right to free elections (under Article 3 of the European Convention on Human Rights (ECHR)) and freedom of expression (under Article 10 of the ECHR) operate to reinforce one another and “together form the bedrock of any democratic system.” Freedom of expression, the Court continued:



“is one of the “conditions” necessary to “ensure the free expression of the opinion of the people in the choice of the legislature. For this reason, it is particularly important in the period preceding an election that opinions and information of all kinds are permitted to circulate freely” (Bowman v. United Kingdom, decision of 19 February 1998, application No. 24839/94).

Although to some extent they support the ban of publication of electoral opinion poll results, they hold that opinion polls should be accompanied by information to assist viewers / listeners to understand the poll’s significance, such as who conducted, commissioned and paid for the poll, the methodology used, the sample size, the margin of error, and the fieldwork dates. This will help the voters to make informed decisions on their preferred voting choices.

Further, electoral opinion poll results can influence the voter in his or her vote preference. According to Noelle-Neumann's (1984) concept of the spiral of silence, voters move in the direction of perceived leaders in races for social acceptance reasons rather than tactical considerations. Academics in the United States have long been divided over the impact of published polls on the outcome of elections; recent research supports the proposition that their publication can influence a close election, with the most impact occurring late in a campaign. Recent studies in Canada also support the notion that polls published during political campaigns can create the "politics of expectations," a situation that stimulates the bandwagon effect and promotes "strategic voting," in which voting is influenced by the chances of winning. For example, citizens may cast ballots for their second-choice candidate who appears to have a better chance than the first choice of defeating a disliked candidate or party. Such behaviour is said to be increasing in Canada as close three-party races become more common. It is therefore argued that voters making such strategic choices have every right to expect that the results of opinion surveys are scientifically valid.

Polls may have a "demotivating" effect (when voters abstain from voting out of certainty that their candidate or party will win), a "motivating" effect (when individuals who had not intended to vote are persuaded to do so), and a "free-will" effect (when voters cast their ballots to prove the polls wrong).

Therefore, voters may use this information when deciding whether to vote or abstain. For example, if a poll indicates that a vast majority of the electorate supports either of the two candidates, some voters may assume that the outcome of the election is obvious with or without their vote and choose to abstain, as would be predicted by rational choice theory (Downs, 1957). Other voters who support the strong candidate may decide to jump on

the bandwagon and vote where they would otherwise have abstained. Both examples of responses to a poll release show how knowledge about public opinion may influence the decision to vote or abstain.

In Kenya electoral opinion polls are a new phenomenon. Hornsby (2002, as cited by Wolf, 2009) posits that while there was some polling during the period of Kenya's independence transition, it was only with the return to multiparty politics in 1992 that a domestic opinion survey industry gradually emerged. Its full blossoming, however, awaited the departure of the autocratic President Daniel arap Moi. *"At the same time, such activity was an offshoot of Kenya's commercial dominance in East Africa, where market research of various types, drawing on techniques and expertise from many of the multinational corporations represented there, had become established practice. In this less constrained atmosphere, several companies came to prominence: Strategic Public Relations (now Strategic Africa), Infotrak-Harris, Consumer Insight, and, especially, the Steadman Group (now Ipsos - Synovate). The trajectory of the polling industry in Kenya is thus itself a quite precise 'barometer' of the prevailing governance environment."* (Wolf, 2009, p. 281).

Although there has been no much research or study on public opinion polls in Kenya; Wolf (2009) affirms that... *"a poll showing one leader less popular than another, or not appearing at all, or who had lost even a few percentage points over a given period of time was seen, nevertheless, as highly damaging. It was assumed that such results could create a 'bandwagon' effect by depressing further the votes for any candidate whose bid appeared unviable, or who was even just losing ground. Further, a local columnist argues that:*

*It is absolutely unscientific and undemocratic to seek to pinpoint 'majority opinion' by throwing a few leading questions at individuals, chosen at random, who are likely to be totally ignorant of the social implications of the questions facing them. In any case, what exactly is the social value of knowing in advance which candidate a correspondent will vote for? Indeed, isn't it dangerous? In a society where real issues matter so little, figures such as Steadman tosses around can powerfully sway the mass as to whom to vote for (SN, 8 April 2008)"* (Wolf, 2009, p.281).

This is a pointer of how publication of electoral opinion poll results can influence the voters to make undecided choice. Njogu (2008, quoted in 'Polling and the Kenyan media', *Expression Today*, as cited by Wolf, 2009) holds that polls can create a sense of confidence that one candidate is winning and lead to despair on the other side. In places where voters are not sure if their candidate is winning, they can cross over. They shape opinion and that is why we fear manipulation by polling groups.

## **Voter's Access to Credible, Reliable and Representative Polls**

The right to seek, receive or impart information or ideas is constitutionally guaranteed in Kenya under Article 33 of the Constitution of Kenya, 2010. Additionally, Article 34(4) (c) places responsibility on the media to give a fair opportunity for divergent views. Guideline 12 of ARTICLE 19's Guidelines states:

If a broadcaster publishes the result of an opinion poll or election projection, it should strive to report the results fairly and, in particular, to publish all readily available information that would assist the listeners in understanding the poll's significance.

12.1. Opinion polls should be accompanied by information to assist viewers/listeners to understand the poll's significance, such as who conducted, commissioned and paid for the poll, the methodology used, the sample size, the margin of error, and the fieldwork dates (Article 19 Law Programme, 2012).

Further, the new legislation requires any initial publisher of the results of an electoral opinion poll to provide sufficient information to the public. This means that by providing the voter (public) with sufficient information it will assist them to make a judgement on the value of polls and thus make an informed voting decision. On the other hand, the pollster and medium used to communicate the polls results will earn credibility.

## **Methodology**

This study was set in the period when Kenya was adopting the new legislation on regulation on publication of electoral opinion polls results – 2011 / 2013. During this period the Kenyan parliament passed a law to regulate the publication of electoral opinion poll results in Kenya. The focus of this paper was to determine the extent to which legislation influenced voter's access to credible, reliable and representative polls.

This paper targeted pollsters within Kenya. The number of the registered research companies in Kenya is twelve (12) and among these only four (4) deals with electoral opinion polls (MSRA, 2013). The four pollsters' and their internal employees formed the targeted population. The four (4) pollsters have a total of a hundred and sixty (160) internal employees. These are: Ipsos – Synovate (50), Strategic Africa (30), Consumer Insight (35) and Infotrack Harris (45) (Pollsters Kenya, 2013).

The sample size for this paper was forty-eight (48). This comprised of eight (8) respondents for qualitative data and forty (40) respondents for quantitative data.

This paper used purposive sampling and systematic random sampling techniques for its sample size. From the twelve (12) registered research

companies by Market and Social Research Association (MSRA), the four (4) main known research companies dealing with electoral opinion polls were purposively picked as the representative sample. Further, the researcher purposively picked two respondents from each opinion-polling agency for interview schedule. The two respondents included the General Manager and Research Manager.

The sample size of forty (40) was obtained using systematic random sampling. This technique consists of selecting every  $K^{\text{th}}$  case from a population. Thus,

$$\begin{aligned} \text{Sampling constant, } K &= \text{Population} \div \text{Sample size} \\ &= 160 \div 40 \\ &= 4^{\text{th}} \end{aligned}$$

From a target population of 160, a number between 4 and 160 was selected at random. Sudman (1976, as cited by Orodho, 2009) notes that this procedure has two requirements: a sampling interval and a random start. The sampling interval is merely the ratio of the number of cases in the population in the desired sample size. Random start refers to the process of using a table of random numbers or some other device to select at random the initial case between 1 and K. Mugenda and Mugenda (2003) argues that to obtain a truly random sample using this method, the list of all members in the sampling frame must be randomized and then decide on the sampling interval. The purpose of this is to avoid systematic error in sampling.

Quantitative data was collected using self-administered questionnaires. The questionnaires were structured and they had closed ended questions. The closed – ended questions were used to gain specific information.

Oso and Onen (2009) note that questionnaires are judged as most appropriate since they allow easy collection of data within a short period of time and within the limited financial capacity. Borg et al (1983, as cited in Orodho, 2009) asserts that questionnaire is feasible because it facilitates quick data collection. The questionnaire as data collection tool ensured anonymity of the respondents and the absence of the researcher guaranteed the respondents comfort.

Qualitative data was collected through key informant interviews. According to Mugenda and Mugenda (2003), an interview is an oral administration of a questionnaire or an interview schedule. It is a face – to – face encounters. The purpose of using interviews is to provide in – depth data that is not possible to get using questionnaires, to obtain data required to meet specific objectives of the study and to get more information by using probing questions. In addition interviews yield higher response rates because it is difficult for a subject to completely refuse to answer questions or to ignore the interviewer.

This paper used an interview schedule as an instrument for collecting data in the interviews. Mugenda and Mugenda (2003) and Orodho (2009) describe an interview schedule as a set of questions that the interviewer asks when interviewing. They further affirm that interview schedules makes it possible to obtain data required to meet specific objectives of the study and it is used to standardize the interview situation so that interviewers can ask the same questions in the same manner. Thus, this study adopted semi – structured interviews.

Note taking during the interviews was used as the method of recording data. This facilitated data analysis since the information is readily accessible and already classified into appropriate categories by the interviewer.

### Demographic data

The paper categorized the respondents into gender, age, marital status and education level. The demographic characteristics of the participants were as follows:

Table 1: Descriptive Statistics of the Respondents

Statistics		Gender	Age	Marital Status	Education
N	Valid	40	40	40	40
	Missing	0	0	0	0
Mean		1.3250	1.8250	1.2250	3.9750
Median		1.0000	2.0000	1.0000	4.0000
Std. Deviation		.47434	.38481	.42290	.57679
Skewness		.777	-1.778	1.369	-3.379
Std. Error of Skewness		.374	.374	.374	.374
Kurtosis		-1.473	1.220	-.135	19.060
Std. Error of Kurtosis		.733	.733	.733	.733
Minimum		1.00	1.00	1.00	1.00
Maximum		2.00	2.00	2.00	5.00

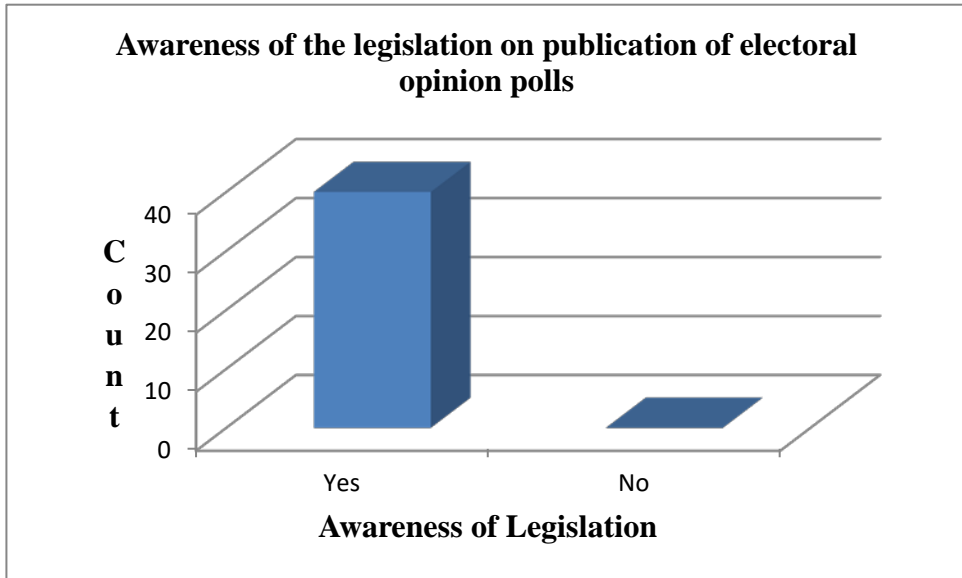
As it can be seen, the demographic aspects of the respondents, for instance, age, gender, marital status, and education differ across the board. The mean and standard deviations are not equal and this shows that the four demographic aspects were statistically significantly different from each other.

### Findings and discussion

This paper aimed to determine the extent to which legislation influences voter's access to credible, reliable and representative polls. In this survey, the study first sought to understand whether the respondents were

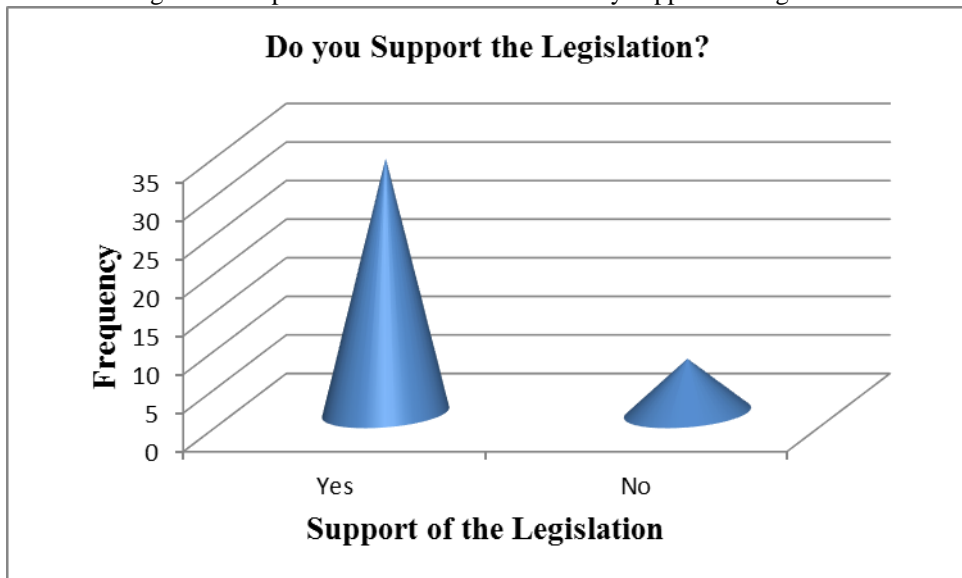
aware of the legislation on publication of electoral opinion poll results. Figure 1 below illustrates the same data using a pie chart.

Figure 1: Awareness of the legislation on publication of electoral opinion polls



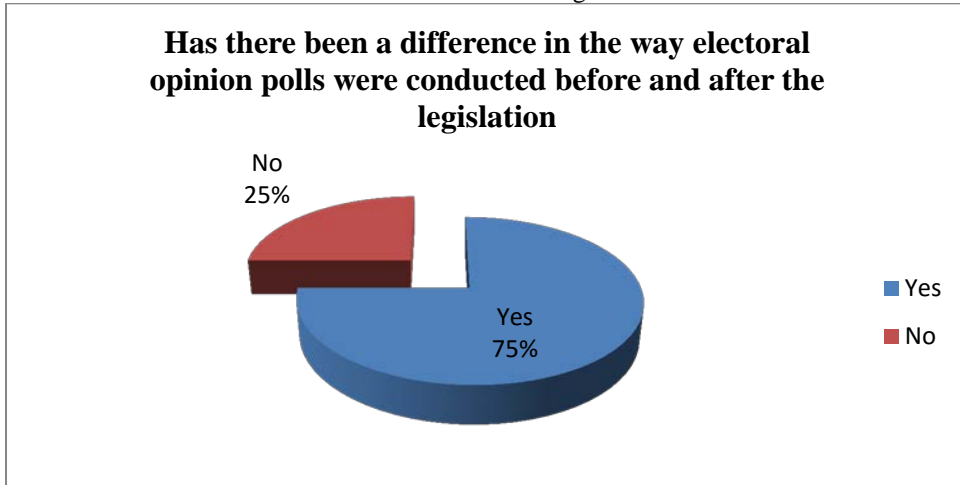
Overall, it can be seen that all the respondents were aware of the legislation on publication of electoral opinion poll results. Further, it was essential to establish whether the respondents supported the legislation. The results have been demonstrated in figure 2 below.

Figure 2: Respondents' views on whether they support the legislation



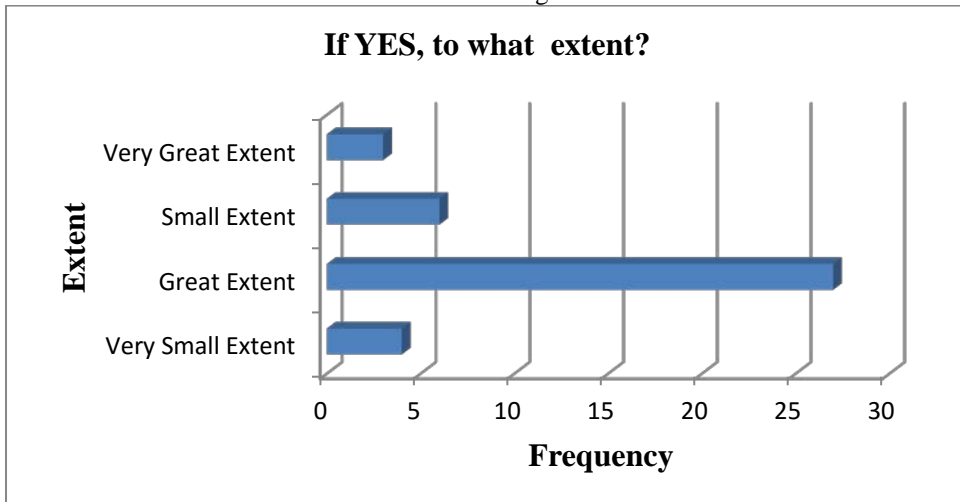
In line with the survey results above, the researchers further sought to establish from the respondents whether there has been a difference in the way electoral opinion polls were conducted before and after the legislation. Additionally, the other investigation was the extent of the difference. This was demonstrated in figure 3 below.

Figure 3: Whether there is difference in the way electoral opinion polls were conducted before and after the legislation



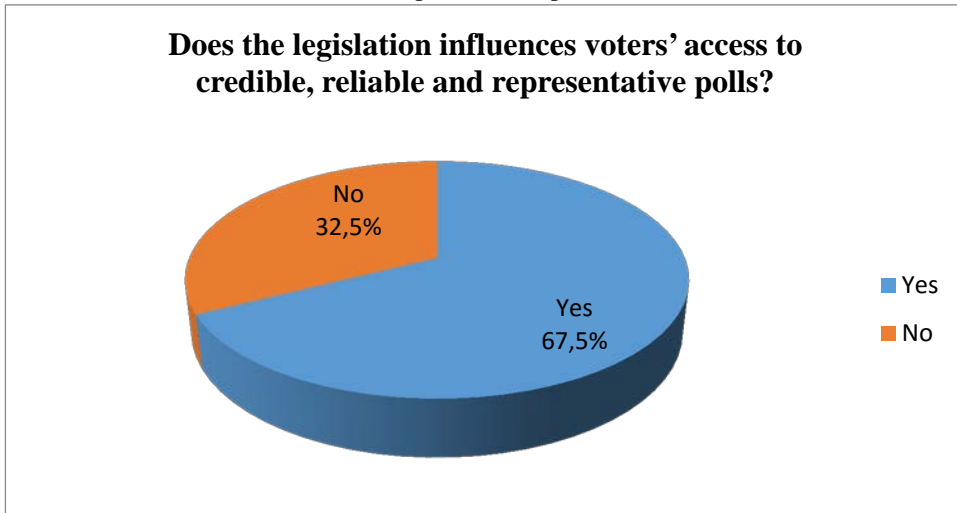
The other part of the data analysis was to demonstrate the degree to which if the legislation influences voter’s access to credible, reliable and representative polls and to what extent that might have been. This was illustrated in figure 4 using a bar graph below.

Figure 4: Extent of the difference in the way electoral opinion polls were conducted before and after the legislation



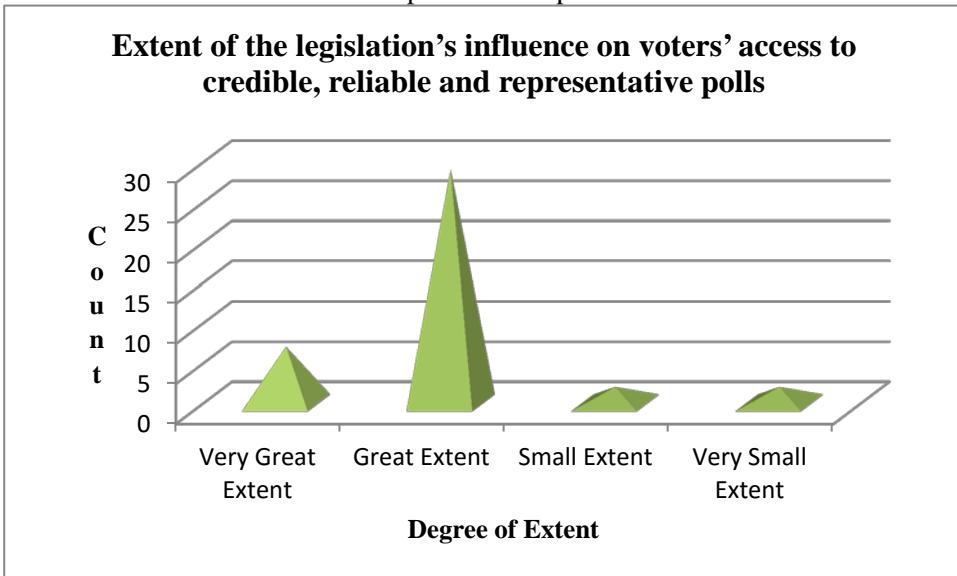
The most fundamental result was the opinion of the respondents on what they thought about the legislation and whether it influenced voter’s access to credible, reliable and representative polls. This was in tandem with the objective of this study. This is demonstrated in figure 5 below.

Figure 5: Whether legislation influences voters’ access to credible, reliable and representative polls



The other analysis was to establish the extent to which the respondents agreed regarding whether legislation influences voters’ access to credible, reliable and representative polls. This was captured as illustrated in figure 6 below.

Figure 6: Extent of legislation’s influence on voters’ access to credible, reliable and representative polls





## **Findings from the Key Informant Interviews**

The interviewees were general and research managers of various pollsters in Nairobi, Kenya. The main pollsters that the interviewees worked for were namely: IPSOS – Synovate, Infotrack Haris and Strategic Africa. Consumer Insight did not participate in this study. Therefore, two of the interviewees were from Strategic Africa, one from IPSOS-Synovate and the other Infotrack Haris. The interviewees indicated to have worked for their respective pollsters for a number of years. For instance, both the General Manager and Research Manager at Strategic Africa indicated to have worked there for a period eight and seven years respectively. The Research Managers at Infotrack Haris and IPSOS - Synovate failed to disclose their period of service in the Company.

All the interviewees indicated that their work environment was good and they have been at home with it. This is what one of them had to say:

“Indeed, having worked at IPSOS-Synovate for a long time I appreciate the appreciation around this place. I am sure this has not only benefited me but even other staff members.”

The other interview captured the opinion of the respondents on what they thought were the functions of opinion polls. In general, they all expressed that they act as intermediate channels where the public get to know and anticipate the future. These were some of their views:

Interviewee 1: “Well, am reminded of the time when Kenya never used to have pollsters. Therefore, the citizens did not have a way to predict current pressing issues politics, economic and social matters. However, this has changed since in our company we have succeeded to capitalize on current issues or affairs and relate them to the future of Kenyans. This way they have been able to make informed decisions like in choosing candidates during elections.”

Another interviewee stated:

“Opinion polls simply put Kenyans in an interactive forum where they get to express their most heartfelt views on issues pressing them. Then, through adequate sampling and forecasting the opinion polls present a scenario that may help to inform policy in the country”.

The issues above also featured in the responses of the other interviewees. When asked about the factors they consider when conducting polls they unanimously settled for the following issues. Truth, validity and reliability of data and the relevance the issue at hand would add value to the society. They stated that the motivation for conducting opinion polls is the degree to which would add value to Kenya as a country. They also noted

challenges faced when conducting opinion polls, which appeared similar across.

However, most of the interviewees did not comment much about the weaknesses of the legislation but they all indicated to worry more about the possibility for the legislation to censor polling and in a way make it not pass critical information. For instance, one of the interviewees said that the pollsters should have equal rights with media companies and their freedom should never be interfered with.

The interviewees indicated the measures they have put in place to ensure compliance to the legislation including developing policy to ensure guidance in polling. Others contemplated inviting legal experts to help in legal analysis in a bid to ensure goals and policies are in tandem with the legislation.

Most of the interviewees indicated that electoral opinion polling in Kenya is influenced by a number of factors such as ethnicity, preference for a candidate, political parties, personal beliefs, and euphoria. In the same vein, most of the interviewees also indicated that same factors influencing electoral opinion polling in Kenya equally impacted on factors influencing the people's voting patterns in Kenya.

Turning to the extent to which the legislation influenced voter's access to credible, reliable and representative polls one of the interviewees expressed as follows:

“For me the current legislation risks preventing voter's to access, credible, reliable and representative polls. This is because there is tendency to deny pollsters freedom to present facts as they are on the ground”

In terms of implications of electoral opinion polls regulation to voters, pollsters and media the same issue of suppression and tendency to prevent 100% presentation of facts as they are on the ground came out for most of the interviewees. They somewhat perceived the problem to be what may be termed as a suppression of freedom of expression.

There was general agreement from the interviewees that the polls reported in a way that enabled the audience to judge the quality of the poll and the interpretation derived from it.

## **Conclusion**

There were gaps in the literature review in showing the extent to which legislation influences voter's access to credible, reliable and representative polls. However, in the primary findings it was seen that majority of the respondents (72.5%) indicated that to a great extent legislation influenced voters' access to credible, reliable, and representative polls. Government should ensure voter's access to credible, reliable and

representative polls at all times as an election policy. This should be a function of the electoral body in charge of elections. Therefore, pollsters and media fraternity need to work closely to ensure there are adequate communication channels in creating awareness on electoral opinion polls.

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