

# **REPUBLIC OF KENYA**

## **IN THE SUPREME COURT OF KENYA AT NAIROBI**

*(Coram: Maraga, CJ. & P; Mwili, DCJ & V-P; Ibrahim, Ojwang, Wanjala, Njoki & Lenaola, SCJJ)*

### **PETITION NO. 1 OF 2017**

**– BETWEEN –**

- |                                   |   |                  |
|-----------------------------------|---|------------------|
| <b>1. RAILA AMOLO ODINGA</b>      | } | .....PETITIONERS |
| <b>2. STEPHEN KALONZO MUSYOKA</b> |   |                  |

**– AND –**

- |  |   |                  |
|--|---|------------------|
| <b>1. INDEPENDENT ELECTORAL<br/>AND BOUNDARIES COMMISSION</b>                            | } | .....RESPONDENTS |
| <b>2. THE CHAIRPERSON OF THE<br/>INDEPENDENT ELECTORAL AND<br/>BOUNDARIES COMMISSION</b> |   |                  |
| <b>3. H.E. UHURU MUIGAI KENYATTA</b>   |   |                  |

### **DISSENTING OPINION OF NJOKI S. NDUNGU, SCJ.**

## A. INTRODUCTION

[1] By a Petition dated 18<sup>th</sup> August, 2017, and supported by evidence in the form of twelve Affidavits, the Petitioners alleged that the Presidential election was so badly conducted by the 1<sup>st</sup> Respondent that it failed to comply with the governing principles laid in the Constitution of Kenya, the Elections Act, 2011 and the Regulations made thereunder including the Electoral code of conduct. In summary, the Petitioner's case was that the non-compliance fatally compromised the conduct of the election and consequently, the declaration of the 3<sup>rd</sup> Respondent by the 2<sup>nd</sup> Respondent as the President-elect.

[2] After conclusion of the hearing and in strict conformity with the constitutional 14-day directive, the Court in a summary by the majority (*Maraga CJ & P, Mwilu DCJ & DP, Wanjala & Lenaola, SCJJ*) delivered its decision nullifying the entire Presidential Election in the following terms:

- (i) As to whether the 2017 Presidential Election was conducted in accordance with the principles laid down in the Constitution and the law relating to elections, upon considering *inter alia* Articles 10, 38, 81 and 86 of the Constitution as well as, Sections 39(1C), 44, 44A and 83 of the Elections Act, the decision of the court is that the 1<sup>st</sup> Respondent failed, neglected or refused to conduct the Presidential Election in a manner consistent with the dictates of the Constitution and *inter alia* the Elections Act, Chapter 7 of the Laws of Kenya.
- (ii) As to whether there were irregularities and illegalities committed in the conduct of the 2017 Presidential Election, the court was satisfied that the 1<sup>st</sup> Respondent committed irregularities and illegalities *inter alia*, in the transmission of results, particulars and the substance of which will be given in the detailed and reasoned Judgment of the court. The court however found no evidence of misconduct on the part of the 3<sup>rd</sup> Respondent.

(iii) As to whether the irregularities and illegalities affected the integrity of the election, the court was satisfied that they did and thereby impugning the integrity of the entire Presidential Election.

**[3]** Having carefully evaluated the pleadings and the evidence, and having carefully dissected the submissions of the parties during the hearing, I was of a different conclusion summarized in the form reproduced below:

***[1]** The Court has rendered its Judgement by a majority. I am however, of a different opinion. At the heart of democracy are, the people, whose will constitute the strand of governance that we have chosen as a country. On 8<sup>th</sup> August, 2017, millions of Kenyans from all walks of life yielded to the call of democracy and queued for many hours to fulfill their duty to our Republic by delegating their sovereign power to their democratically elected representatives. This was an exercise that was hailed by many regional and international observers as largely, free, fair, credible and peaceful. That duty stands sacred and is only to be upset if there is any compelling reason to do so. That reason must affect the outcome of the election.*

***[2]** The election was managed by the 1<sup>st</sup> Respondent chaired by the 2<sup>nd</sup> Respondent who were assisted by hundreds of others to execute the mandate of the Commission under Article 88 of the Constitution. At the end of the process, the 2<sup>nd</sup> Respondent, in accordance with Article 138 (10) of the Constitution, declared the result of the election. Having received more than half of all the votes cast in the election and at least twenty-five percent*

*of the votes cast in each of more than half of the Counties, the 3<sup>rd</sup> Respondent was declared President-elect.*

**[3]** *The case revolved around three fundamental questions:*

- (i) whether the election was conducted in accordance with the Constitution and the law?*
- (ii) whether there were irregularities and illegalities committed during the conduct of the election and*
- (iii) if there were irregularities and illegalities, what was the integrity of the election?*

*In answer to these three issues, my opinion is that the election was indeed conducted in accordance with the Constitution and the law. In fact, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to my satisfaction demonstrated that they had adhered to the directions given by the Court of Appeal in the case of **Independent Electoral and Boundaries Commission vs. Maina Kiai & 5 Others**, Civil Appeal No. 105 of 2017 (the **Maina Kiai** case). The Court of Appeal in this case cautioned, and I agree, that the results declared at the polling station are **final**. In fact, the polling station is at the heart of any election. It is what happens there that is to be assessed and that is why its outcome is final.*

**[4]** *In any election, the ordinary Kenyan voter will ask themselves the following questions?*

- (1) Was there a problem with registration of voters?*
- (2) Were voters properly identified at the polling station?*
- (3) Were voters allowed to cast their ballots peacefully and within good time?*
- (4) Were the votes cast-counted, declared and verified at the polling station to the satisfaction of all parties?*

*If the answer to all these questions is in the affirmative, then the election has been conducted properly.*

*[5] The Petitioners in my view did not present material evidence, to the standard required, to upset the results returned to the National Tallying Centre by the presiding officers in Forms 34A. Those results, counted and agreed upon by Agents at the polling station were not challenged. What was fiercely contested was the mode through which those results were transmitted from the polling station to the National Tallying Centre. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents urged that transmission was conducted in line with the directions by the Court of Appeal in the **Maina Kiai** case. This process yielded the results that were streamed onto the portal and which, were not sufficiently impugned during the trial.*

*The decision of the voter at the primary locale of the election, which is the polling station, was unchallenged.*

***How then can a process used to transmit those results for tallying upset the will of the electorate?***

*It was not proved that the voter's will during the conduct of elections, was so affected by any irregularities cited so as to place this Court or the country in doubt as to what the result of the election was. Challenges which are to be expected during the conduct of any election. However, those challenges which occurred, (and in my opinion, none of which occurred deliberately or in bad faith, and which fell particularly outside the remit of the voter and his/her will) – ought not to supplant the voter's exercise of their right of suffrage.*

*[6] In summary, I respectfully disagree with the decision of the majority, and in accordance with Section 26(2) of the Supreme Court Act, 2011, will issue my full dissenting Judgment within 21 days.*

**[4]** I now proceed to give the full rendition of my judgment, bearing the expounded reasons upon which this dissent is founded.

**[5]** I also adopt the comprehensive pillars analyzing the Petition, Supporting evidence, the Responses, and the Parties' submissions, including the opinion of *amici curiae*, contained in the dissenting Judgment of my brother, Justice J.B Ojwang, SCJ.

## **B. OUTLINE**

**[6]** This dissenting Judgment commences with an introduction about the nature of the Petition culminating in my summarised dissenting Judgment delivered on 1<sup>st</sup> September, 2014, exactly 14 days after the Petition challenging the results of the Presidential Petition was initially filed at the Supreme Court Registry.

**[7]** The starting point of my dissent is: (1) The proper context of the jurisdiction of this Court sitting as an Election Court; (2) A thorough analysis of the remit of this jurisdiction leads to the conclusion that election causes are right-centric in nature.

**[8]** In totality, I analyse the Petitioners' case under the following additional considerations: (3) Articles 81 and 86 of the Constitution (4) The process of Transmission (5) Burden and Standard of proof (6) Weighing the Evidence adduced in Affidavits (7) Access to Information Orders by the Court (8) The Evidence Submitted to the court pursuant to Section 12 of the Supreme Act, 2011 (9) Section 83 of the Supreme Court Act and the question of Compliance (10) Preserving Kenya's electoral jurisprudence (11) Conclusion and (12) Determination.

## C. THE SUPREME COURT’S ORIGINAL JURISDICTION: SETTING THE PARAMETERS

### i. *The Supreme Court as an election Court*

[9] The Jurisdiction of the Supreme Court to hear and determine questions as to the validity of a presidential election is set out in **Article 163 (3) (a)** of the Constitution in the following terms:

**163 (3) The Supreme Court shall have-**

**(a) exclusive original jurisdiction to hear and determine disputes relating to the elections to the office of President arising under Article 140;**

In this regard, the Supreme Court constituted in the terms of Article **163(3)(a)** discharges its mandate as an election Court. Section 2 of the Elections Act, 2011 defines an “election court” as follows:

**An “election Court” means the *Supreme Court* in exercise of the jurisdiction conferred upon it by Article 163(3)(a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165(3)(a) of the Constitution or the Resident Magistrate’s Court designated by the Chief Justice in accordance with Section 75 of this Act;**

[10] According to the *Black’s Law Dictionary*, 8<sup>th</sup> ed (2004), “exclusive jurisdiction” means:

*“A court’s power to adjudicate an action or class of actions to the exclusion of all other courts....”*

[11] In the *Raila Odinga* case, this Court clarified the bounds of its exclusive original jurisdiction as follows, at paragraph 208:

*The Dissenting Judgement of Njoki S. Ndungu, SCJ  
Presidential Petition No. 1 of 2017*

**[208] A Petitioner against the declaration of a candidate as President-elect, under Articles 163(3)(a) and 140 of the Constitution as read together with the provisions of the Supreme Court Act, 2011 (Act No. 7 of 2011) and the Supreme Court (Presidential Elections) Rules, 2013 (now 2017), is required to present a specific, concise and focused claim which does not purport to extend the Supreme Court’s jurisdiction beyond the bounds set out in the Constitution. It follows that the Court will only grant orders specific to the Presidential election.** [Emphasis added]

**[12]** The Supreme Court is therefore, the first (original), only (exclusive) and final resort for any party challenging the election of any person to the Office of the President. It determines presidential election petitions to the exclusion of all other Courts. This jurisdiction is also limited in time. The Constitution requires one to petition **quickly** and **particularly**. This restriction, on extent and time, is not without basis. As decided in *Raila Odinga & Others vs. Independent Electoral & Boundaries Commission, Supreme Court Petition No. 5 of 2013 (The Raila 2013 case)*, the parties must present a **clear, concise** case supported by **cogent evidence**. This jurisdiction even though limited in time and scope, revolves around critical constitutional questions. The requirement for particularity is therefore important to ensure that the case presented before the Court is properly proved (in line with the set parameters of the burden and standard of proof).

ii. *Election causes are right-centric and not form-centric*

**[13]** The peculiar nature of the Supreme Court’s finality on interpretation of the Constitution and the law and the central theme in elections, i.e. the right to vote in free and fair elections, presents an inescapable conclusion: the Supreme Court, as an election Court, is engaged by the parties in a *right-centric* cause driven by evidence and in the terms of its decision in the case of *Gatirau Peter Munya vs. Dickson Mwenda Kithinji & 2 Others*, Civil Application No. 5 of 2014 (the *Munya 1*



case), in making its determination, the Court, must not disengage from the Constitution.

[14] It is proper to emphasize that the Supreme Court in discharging its mandate as an election Court, remains the precedent-setting forum in the country and its decisions must be carefully analysed to ensure that a jurisprudential crisis or confusion does not ensue. Were that to happen, the Court would have failed the Constitution and the people. These considerations have been emphasized by this Court before. In the case of *Aramat vs. Lempaka & Others*, Supreme Petition No.5 of 2014, (*the Aramat case*) at paragraphs 88, 101 and 102, the Court held (by a majority):

**[88] The context in which we must address the question of jurisdiction in the instant matter, however, imports special permutations, and a special juridical and historical context that calls for further profiling to the concept. By the Constitution of Kenya, 2010 (Article 163), a Supreme Court, with ultimate constitutional responsibility, and bearing binding authority in questions of law, over all other Courts, has been established. The exclusive, dedicated role of the Supreme Court under the Constitution takes several forms: for example, it has “original jurisdiction to hear and determine disputes relating to the elections to the office of President” [Article 163(3)(a)];**

**[101] We would make it clear in the instant case that, it is a responsibility vested in the Supreme Court to interpret the Constitution with finality: and this remit entails that this Court determines appropriately *those situations in which it ought to resolve questions coming up before it*, in particular, where these have a direct bearing on the *interpretation and application of the Constitution*. Besides, as the Supreme Court**

carries the overall responsibility [*The Constitution of Kenya, 2010, Article 163(7)*] for providing guidance on matters of law for the State's judicial branch, it follows that its jurisdiction is *an enlarged one*, enabling it in all situations in which it has been duly moved, to *settle the law for the guidance of other Courts*.

**[102]** *The Supreme Court's jurisdiction in relation to electoral disputes is, in our opinion, broader than that of the other superior Courts. We note in this regard that while the Court of Appeal's jurisdiction is based on Section 85A of the Elections Act, with its prescribed timelines, that of the Supreme Court is broader and is founded on the generic empowerment of Article 163 of the Constitution, which confers an unlimited competence for the interpretation and application of the Constitution; and this, read alongside the Supreme Court Act, 2011 (Act No. 7 of 2011) illuminates the greater charge that is reposed in the Supreme Court, for determining questions of constitutional character.* [Emphasis added]

**[15]** The thrust of the foregoing paragraphs can be summed up as follows: the Constitution is Kenya's guiding Order. It has organized Kenya's governance character and infused accountable governance, public service and responsible citizenship. The Judiciary bears the enviable, but extremely difficult and rewarding duty of giving the Constitution, comprehensible interpretation that is stable, consistent, predictable, certain and true to the sovereignty of the people. Undergirding this sovereignty is the ability of every Kenyan to enjoy his/her full human-character guaranteed by an elaborate charter on rights. A determination of a dispute akin to the one before us cannot therefore be mechanically disposed of without paying due regard not just to the letter or spirit but also the conception of the Constitution itself. At the core of the Constitution is sovereign will, at the soul of sovereign will are the people, and central to the people are their rights.

[16] What then is the complete description of an election cause within Kenya's constitutional system? An answer lies in the inaugural, elaborate jurisprudence laid by this Court and applied by lower Courts in a number of election cases.

In *Moses Masika Wetangula vs. Musikari Nazi Kombo & 2 Others*, Supreme Court Petition No. 12 of 2014 (*the Wetangula case*), this Court held, at paragraphs 107 and 112:

[107] **The description of election petitions as causes *sui generis*, is in every respect apposite. An election petition is a suit instituted for the purpose of contesting the validity of an election, or disputing the return of a candidate, or claiming that the return of a candidate is vitiated on the grounds of lack of qualification, corrupt practices, irregularity or other factor. Such petitions rest on private political or other motivations, coalescing with broad public and local interests; they teeter in their regulatory framework from the civil to the criminal mechanisms; and they cut across a plurality of dispute-settlement typologies.**

[112] *The overriding objective of the Elections Act is to functionalize and promote the right to vote. This requires a broad and liberal interpretation of the Act, so as to provide citizens with every opportunity to vote, and to resolve any disputes emanating from the electioneering process. The primary duty of the election Court is to give effect to the will of the electorate; and consequently, the Court is to investigate the nature and extent of any election offence alleged in an election petition. Accordingly, the happenings that touch on the due conduct of the election process, come as proper items of agenda in the tasks of an election Court.* [Emphasis supplied]

In *George Mike Wanjohi vs. Steven Kariuki & 2 Others*, Supreme Court Petition No. 217 of 2014, (*the Mike Wanjohi case*) it was held, at paragraph 112:

**112. [A]part from the priority attaching to the political and constitutional scheme for the election of representatives of governance agencies, the weight of the people’s franchise - interest is far too substantial to permit one official, or a couple of them, including the Returning officer, unilaterally to undo the voters’ verdict, without having the matter resolved according to law, by the judicial organ of State. It is manifest to this court that an error regarding the electors’ final choice, if indeed there is one, raises vital issues of justice such as can only be resolved before the courts of law. [Emphasis supplied]**

[17] An election cause is a **right-centric cause**. At the heart of a Petition challenging the results of a presidential election is the right to vote in free and fair elections. This right is at the epicenter of Kenya’s democratic character as a Republican state. Interpretation and application of the Constitutional provisions touching on elections must therefore be read holistically with each provision reinforcing the other. This approach has been consistently applied by other Courts in the region and embedded in the theory of constitutional interpretation in our own jurisdiction. In *Olum vs. The Attorney-General of Uganda* [2002] E.A. 508, this principle was enunciated thus:

***“[T]he entire Constitution has to be read as an integrated whole and no particular provision destroying the other but each sustaining the other. Constitutional provisions must be construed as a whole in harmony with each other without insubordinating any one provision to the other.*”**

In *Re Kenya National Human Rights Commission*, Supreme Court Advisory Opinion Reference No. 1 of 2012, this Court held as follows:

***“It must mean interpreting the Constitution in context. It is the contextual analysis of a constitutional provision, reading it alongside and against other provisions, so as to*”**

*maintain a rational explication of what the Constitution must be taken to mean in light of its history, of the issues in dispute, and of the prevailing circumstances. Such scheme of interpretation does not mean an unbridled extrapolation of discrete constitutional provisions into each other, so as to arrive at a desired result.” [Emphasis supplied]*

iii. *Evidence in an election Court*

[18] What then is the law on evidence to be presented in an Election Court? Evidence is an imperative of the right to fair hearing. **Article 50 (4)** of the

Constitution cautions that:

***50 (4) Evidence obtained in a manner that violates any right or fundamental freedom in the Bill of Rights shall be excluded if the admission of that evidence would render the trial unfair, or would otherwise be detrimental to the administration of justice.***

[19] Evidence is the epicenter of any trial. The nature of a presidential election petition does not displace the basis of the law of evidence outlined in The Law of Evidence Act, Cap 80 of the laws of Kenya. **Section 80** of the Elections Act, 2011 expresses that among the powers of an election Court in exercise of its jurisdiction is: **summoning and swearing in witnesses in the same manner, or as nearly as circumstance admit, as in a trial by a Court in exercise of its civil jurisdiction.** Article 163 (3)(a) proceedings before this Court although regulated by the Supreme Court Act, 2012 and the attendant Presidential Election Petition Rules, 2017, allow reliance on Affidavit evidence. In order for that evidence to bear cogent value, it must meet the demands of proof.

[20] This Court’s role in exercise of its exclusive original jurisdiction ought to be thorough fact-finding and interpretation of the Constitution and the law in the terms

set out in the foregoing paragraphs. In cases of factual prerequisite such as this one, interpretation of the law devoid of complete and exhaustive factual examination is by itself, an insufficient basis upon which to make the final determination contemplated under Article 140(2) of the Constitution. *The evidence adduced must be clear to show that what was declared was not the result.* Electoral processes have assumed a fair presumption of correctness. To rebut this presumption requires proof to a high degree that the resulting declaration is not trustworthy. This is drawn from the democratic legitimacy accorded to elections by the Constitution. The test of invalidating an election must be a clear one. A new election should be conducted only when voters have been completely prevented from accurately registering their intended preference in numbers sufficient to affect the outcome. A determination to hold a fresh election in terms of Article 140(3) should only be made if the following questions are considered, analysed and determined conclusively:

- (i) *Was the final outcome of the election the result of fraud, mistake or omission which precluded the certified vote total from correctly aggregating all voters' independent, non-coerced and non-procured preferences?*
- (ii) *Is the outcome incapable of being trusted to reflect the will of the people?*
- (iii) *Can a reliable outcome be determined in a manner other than holding a fresh election?*

**[21]** An attempt to displace elections without proper recourse to the stated case and evidence amounts to an unfair dislocation of accrued rights under the Constitution to the people and their elected representatives. The Court must protect the rights of the candidate(s) and by the same stroke, ensure that the rights of the electorate are not compromised. Only a clearly pleaded and proved case will warrant voiding of an election.

**[22]** The right to vote in free and fair elections is violated when a Court, without comprehensive understanding and analysis of the evidence displaces the electorate by halting an election and deciding the outcome itself. An election, unless clearly

proven to have been conducted in gross violation of the Constitution and the law, affecting the ultimate outcome, must never be taken away from the voters. The electorate, by dint of Article 1 of the Constitution is entitled to be represented by men and women of their choice. In resolving electoral disputes, the Judiciary must set upon this duty as a judicial, not a political actor. In so doing, its guiding force must be proper exercise of judicial authority granted under Article 159 of the Constitution. It must consider rights, not form.

**[23]** On this basis, I now set upon the legal and factual analysis of my decision with close reference to the pillars set out in the Judgement of my brother, Justice J.B Ojwang, SCJ.

**D. RIGHT-CENTRIC OR FORM-CENTRIC? INTERPRETING AND APPLYING ARTICLE 38 OF THE CONSTITUTION OF KENYA, 2010: WHICH WAY FOR THE SUPREME COURT SITTING AS AN ELECTION COURT?**

**[24]** It is not in doubt that the Majority base their decision on an interpretation of Section 83 of the Elections Act and in doing so they have read-in the provisions of Articles 81 and 86 of the Constitution. They state that the electoral process has not met the requirements as listed in those Articles. In my opinion this is a narrow and restrictive interpretation of the law. I find that the Majority in doing so, limited itself to operational and aspirational constitutional principles but failed to firstly; address the substratum of the issue at hand- the grundnorm of Constitution- the sovereignty of the people and the centrality of the people in the entire architecture of the 2010 Constitution; but secondly used a restrictive test in assessing whether a claim that the right to vote had been violated in any way had been made.

**[25]** Let me set out by reinforcing the essence of the voter, who bears the right of franchise. Justice Albie Sachs aptly captured this essence in the case of ***August and Another v Electoral Commission and Others*** [1999] ZACC 3; 1999 (3) SA 1 (CC); 1999 (4) BCLR 363 (CC) (*August*):

*“Universal adult suffrage on a common voters’ roll is one of the foundational values of our entire constitutional order. The achievement of the franchise has historically been important both for*

*the acquisition of the rights of full and effective citizenship by all South Africans (read, Kenyans) regardless of race, and for the accomplishment of an all embracing nationhood. **The universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and of personhood. Quite literally, it says that everybody counts.***" [Emphasis added]

[26] The interpretation and application of the Bill of Rights must not be mechanical or limited by a Court's interpretation of legislation. To favor legislation over the Constitution would be an affront to the Supremacy of the Constitution, which reads:

**Article 2.**

1. (1) ***This Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of government.***
- (2) ***No person may claim or exercise State authority except as authorised under this Constitution.***
- (3) ***The validity or legality of this Constitution is not subject to challenge by or before any court or other State organ.***
- (4) ***Any law, including customary law that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this Constitution is invalid.***
- (5) ***The general rules of international law shall form part of the law of Kenya.***
- (6) ***Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.***

The correct approach ought to be that espoused in the Canadian case of ***R vs. Big M Drug Mart Ltd*** 1 S.C.R. 295, 18 D.L.R. (4th) 321



*The meaning of a right or freedom guaranteed by the Charter was to be ascertained by an analysis of the purpose of such a guarantee; it was to be understood, in other words, in the light of the interests it was meant to protect.*

*In my view this analysis is to be undertaken, and the purpose of the right or freedom in question is to be sought by reference to the character and larger objects of the Charter itself, to the language chosen to articulate the specific right or freedom, to the historical origins of the concept enshrined, and where applicable, to the meaning and purpose of the other specific rights and freedoms with which it is associated within the text of the Charter. The interpretation should be...a generous rather than legalistic one, aimed at fulfilling the purpose of a guarantee and securing for individuals the full benefit of the Charter's protection.*

[27] The exercise of the sovereign power of the people in relation to the political processes of the State is to be found first in Article 1 which provides that all sovereign power belongs to the people of Kenya who exercise their power directly or through their elected representatives and also delegate it to the three arms of government at both national and county level. The second reference to this sovereign power of the people is to be found in the ***Bill of Rights under Article 38(2) and (3) of the Constitution*** where it is stated that:

***38 (2) Every citizen has the right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for—***

***(a) any elective public body or office established under this Constitution; or***

***(b) any office of any political party of which the citizen is a member.***

***(3) Every adult citizen has the right, without unreasonable restrictions—***

***(a) to be registered as a voter;***

***(b) to vote by secret ballot in any election or referendum; and***

***(c) to be a candidate for public office, or office within a political party of which the citizen is a member and, if elected, to hold office.***

[28] There cannot be any doubt at all that in interpreting and applying any provision of this Constitution, the Elections Act and Regulations there-under, this Court must adopt an interpretation that promotes the grundnorm in Article 1 and the right to vote in Article 38.

[29] Articles 81 and 86 of the Constitution reinforce the right to vote elaborated under Article 38 of the Constitution. These constitutional provisions must therefore be applied to this core right and not vice versa. Articles 81 and 86 are to be facilitative of the fundamental rights under Article 38, in addition to other provisions of the Constitution. In fact, there are many other Articles of the Constitution, Legislation and Regulations whose purpose is intended to give effect to, facilitate and support the right to vote as provided for under Article 38. In the application and implementation of those provisions – the centrality of Article 38 as the primary purpose for their existence must never be lost.

[30] This was the position elaborated in the case of *Evans Kidero & Others vs. Ferdinand Waititu & Others*, Supreme Court Petition No. 20 of 2014, (*The Kidero case*) this Court held, at paragraphs 137 and 138:

[137] Chapter Seven of the Constitution is entitled “**Representation of the People**” and bears the sub-title “**Electoral System and Process**”, with further sub-title “*General Principles of the Electoral System.*” Articles 81, 82, 83, 84, 85, 86 and 87 all fall under this Chapter. It is plain to us that most of the provisions in these Articles are rendered in the form of *principles*—some general, and others not so general. And, thus **expressed, it is unavoidable that most of these**

principles are not self-executing: *which fact moves the judicial forum to centre-stage, as regards interpretation and application.*

[138] These principles **cannot crystallize into deliverables of public goods, such as those in the nature of governance and elections, without further legislative action.**

Thus, Article 82 (1) (d) provides as follows:

*“Parliament shall enact legislation to provide for—*

*.....*

*(a) the conduct of elections and referenda and the regulation and efficient supervision of elections and referenda, including the nomination of candidates for elections*

*(2) Legislation required by clause (1) (d) shall ensure that voting at every election is—*

*(a) simple;*

*(b) transparent and;*

*(c) takes into account the special needs of—*

*(i) persons with disabilities and;*

*(ii) other persons or groups with special needs. [Emphasis added]*

[31] A reading of the majority decision also appears to presume that the only test for ascertaining the credibility of the election process, or more correctly for assessing

any violation of the rights under Article 38, lie in Articles 81 and 86. This is not the case. Articles 82 and 83 also go to the specifics of the electoral process that support the right under Article 38. Article 82 and 83 address the registration of voters and 83 underlines the requirements of the voting exercise itself – as simple, accurate, and taking into account those with special needs. Article 83(3) states clearly that “**administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate and shall not deny, an eligible citizen the rights to vote or stand for election**” The upshot being that the test for assessing a violation claim under Article 38 must be more comprehensive than the aspirational guidelines set under Articles 81 and 86. Cherry-picking constitutional provisions to determine a right-centric cause on the basis of formal considerations - the choice of *form* over *rights* - undermines a purposive approach to the interpretation and application of the Constitution.

[32] The Constitution in **Article 259(1)** also clearly sets out the framework of applicable principles while interpreting the Constitution.

This **Article** provides that;

**259**

***(1) This Constitution shall be interpreted in a manner that—***

***(a) promotes its purposes, values and principles;***

***(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;***

***(c) permits the development of the law; and***

***(d) contributes to good governance.***

***(3) Every provision of this Constitution shall be construed according to the doctrine of interpretation that the law is always speaking....”*** [Emphasis added]

[32A] Further the Constitution provides under Article 20(3):

***20(3) In applying a provision of the Bill of Rights, a***

***Court shall-***

- (a) ***develop the law to the extent that it does not give effect to a right or fundamental freedom; and***
- (b) ***adopt the interpretation that most favours the enforcement of a right or fundamental freedom.*** [Emphasis]

In my opinion, the Majority has not given effect to the people's right to franchise and have not interpreted it broadly and in a manner that most favours its enforcement.

**[33]** The case for the advancement of the Bill of Rights clearly must therefore be at the forefront of any judicial determination under the Constitution of Kenya 2010.

**[34]** There is a more complex issue that must be addressed—Article 19 of the Bill of Rights, Chapter IV of the Constitution states as follows:

***Part 1—General provisions relating to the Bill of Rights***

***Rights and fundamental freedoms***

- 2. (1) ***The Bill of Rights is an integral part of Kenya's democratic state and is the framework for social, economic and cultural policies.***
- (2) ***The purpose of recognising and protecting human rights and fundamental freedoms is to preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings.***
- (3) ***The rights and fundamental freedoms in the Bill of Rights—***
  - (a) ***belong to each individual and are not granted by the State;***
  - (b) ***do not exclude other rights and fundamental freedoms not in the Bill of Rights, but recognised or conferred by***

*law, except to the extent that they are inconsistent with this Chapter; and*

(c) *are subject only to the limitations contemplated in this Constitution.* [Emphasis added]

**[35]** If the rights under Article 38 may not be limited other than by a specific provision of the Constitution, can an interpretation of Articles 81 and 86 purport to take the essence of those rights away from any Kenyan? Where a voter has made his choice known, having been registered in accordance with Articles 82 and 83, 138(3) (a), having voted in accordance with Articles 81, 83 and his vote counted at the polling station (Art 138(3) (c), and the result announced at the polling station in accordance with the Constitution and the law - and the outcome is known and uncontested – then can a general principle non-specific to any precise act – overturn that choice and undermine a fundamental right? Can an operational aspect of an election (read as forming part of Art 81) cancel a result/outcome (read Art 38) that is unchallenged? And further, where in fact the election is not challenged as to the aspect that the result/outcome (Art 38) has been violated? Can a claim that does not plead violation of a fundamental right, extinguish the enjoyment or exercise of that right? Can it be argued that there are two competing provisions of the constitution: one provision guaranteeing the right and the other, burdening the enjoyment of that right? And if this is the case how would one balance to ensure an outcome that does not upset the will of the people?

**[36]** We can draw lessons from the observations of Prof. Rex Martin on the exposition of John Rawls’ Theory of Justice, in his book *Rawls and Rights*, where he states:

*“The weight of a right is a determination, sometimes explicit and sometimes not, sometimes quite exact and sometimes rather imprecise, of how it stands with respect to other normative considerations and whether it would give way to them or they to it, in cases of conflict” .*

[37] Similarly, a scholar, Nur Kayacan, Derya in her paper, “How to resolve Conflicts Between Fundamental Constitutional Rights, (Saar Blueprints) puts across an interesting point, with which I fully agree with, that :

***“The discretion that the judges enjoy when applying the balancing method is a part of their duty as the guardians of law. One general rule, which embraces all of the situations in which a conflict occurs and gives a common technique to resolve them all, cannot possibly be formulated. Even if a single solution was to be formulated, it would not serve justice in each situation, since every case has its own specific circumstances. Also the discretion of the judges is not without any limits; they have to follow the principle of proportionality.***

***The answer to the question, how to resolve conflicts between fundamental constitutional rights, is, at the end quite simple. Balancing ...”***

[38] Thus even if there may appear to be a perception that a competing rights situation exists – that is between Article 38 and 81 and 86 - there must be a balancing and an application of proportionality to effect a judicial outcome that serves the dictates of the Constitution. One must recognize that not all claims will be equal before the law: some claims have been afforded a higher legal status and greater protection than others. While there are many situations in which rights, principles, and values may seem to conflict or compete, when evaluating situations of competing rights, human rights, especially those provided in a Bill of Rights and will usually hold a higher status than principles and values. This rationale is further underlined by the architecture of our Constitution, which actually ring-fences the Bill of Rights from amendment which may be made *only through referendum* by the people of Kenya unlike the principles in Article 81 and 86, which may be amended by elected leaders in Parliament. This plebiscite protection in itself - places the Bill of Rights - higher in the pecking order of competing provisions in the Constitution. The principle therefore should complement the right not vice versa. The principles in

Article 81 and 86 therefore cannot trump the fundamental rights as provided for under Article 38; and certainly they cannot undermine the provisions of Article 1 on the sovereignty of the people. Further they ought not compete with all international treaties that provide and protect the right to vote and to which Kenya is a signatory, and which are part and parcel of our constitutional order under Article 2.

**[39]** We can go further to draw from decisions of the Indian Supreme Court as relates to the conflict between the fundamental freedoms and the Directive principles in the India constitution. Harmony between aspiration, reinforcing or guiding provisions and rights is however critical. In India the Constitution provides for both fundamental rights and directive principles. The Indian Supreme Court has, in a number of judgments, called these principles the “conscience” of the Constitution and also as the core of the Constitution. That Court has held that the courts can look at the Directive Principles for the purpose of interpretation of the fundamental rights and adopt that interpretation which makes the fundamental rights meaningful and efficacious. But more importantly the Indian Supreme Court has pronounced itself on the instances where a conflict between fundamental rights and directive principles should arise. In ***State of Madras v. Champakam Dorairajan*** AIR 1951 SC 226, the Supreme Court held that the directive principles are not enforceable by court stating that the chapter on Fundamental rights in the constitution is sacrosanct and the directive principles have to conform to and run subsidiary to the chapter on Fundamental Rights. Similarly in 1967, a bench of 11 judges of the Supreme Court in ***Golak Nath vs. The State of Punjab*** AIR 1643, 1967 SCR (2) 762 (1967), found that *fundamental Rights cannot be abridged or diluted to implement the directive principles*. This means that Fundamental Rights were given superiority over the Directive principles.

**[40]** The conclusion may therefore be drawn that fundamental rights constitute the foundation of the any Constitution and any accompanying values and principles are to be complementary and not to detract from the Constitution. The rights in Article 38 remain central to any election cause and it is claim of the violation of those rights that ought to take center-stage in such a cause and not the form that accompanies it in the periphery.



[41] Having determined that election causes are right-centric in nature, and having discussed the centrality of every citizen's right to free, fair and regular elections based on universal suffrage and the free expression of the will of the electors for any elective public body or office established under the Constitution, I now evaluate the alleged violation of Articles 81 and 86 of the Constitution of Kenya, 2010 and its effect upon the outcome of the presidential election.

**E. THE ALLEGED VIOLATION OF ARTICLES 81 AND 86 OF THE CONSTITUTION OF KENYA, 2010 AND ITS EFFECT UPON THE OUTCOME OF THE PRESIDENTIAL ELECTION.**

(i) *The Case*

[42] The Petitioners averred that there were massive, systematic, systemic and deliberate non-compliance with the Constitution and the law which contravened the principles of a **free and fair election** under **Article 81(e)** of the Constitution as read together with **Section 39, 44 and 44A** of the Elections Act, 2011 and the Regulations thereunder. The Petitioners asserted that the relay and transmission of results from Polling Stations to the Constituency and the National Tallying Centre was not simple, accurate, verifiable, secure, accountable, transparent and prompt contrary to the provisions of Article 86 of the Constitution. The Petition elaborated that the non-compliance was:

***On Forms 34A and 34B:***

- a) The data and information recorded in Forms 34A at the individual polling stations were not accurately and transparently entered into the KIEMS Kits.
- b) The data entered into the KIEMS Kits ought to have been accompanied by an electronic picture or image of the prescribed Form 34A.
- c) The Practice Manual verbally communicated and publicly demonstrated by the 1<sup>st</sup> Respondent to the parties, stakeholders and observers demonstrated that transmission of any data from the KIEMS kit was only possible if the data was simultaneously accompanied by the image of the Form 34A. That

according to late ICT Manager of the 1<sup>st</sup> Respondent, Mr. Chris Msando, the submit button was programmed to function only when the data was accompanied by the electronic image of Form 34A.

- d) The results from **over 10,000 polling stations** were not accompanied by an electronic image of Form 34A and that the results declared from these polling stations represented **approximately 5 million voters**.
- e) The data being publicly displayed by the 1<sup>st</sup> Respondent was not consistent with the information on Forms 34A.
- f) The 1<sup>st</sup> Respondent received in excess of **14,000** defective returns from polling stations affecting over **7 million votes**.
- g) The information on Forms 34B did not correspond with that in the primary Forms 34A making them inaccurate, unverifiable and invalid.
- h) Inconsistencies in Forms 34B accounted for **at least 7 million votes**.
- i) At the time of declaring the result, the 1<sup>st</sup> Respondent did not have **187 Forms 34B**.
- j) The computation and tabulation of results in a significant number of Forms 34B was not accurate, verifiable and internally consistent.
- k) The purported results in the 1<sup>st</sup> Respondent's Forms 34B were materially different from what the 1<sup>st</sup> Respondent publicly relayed and continued to relay as at the time of filing in its website or portal
- l) That the results in Forms 34B were inaccurate and had mathematical additions in favour of the 3<sup>rd</sup> Respondent.
- m) That some returns in a material number of polling stations were not in the prescribed Forms 34A and 34B contrary to Regulations 79(2)(a) and 87(1)(a).
- n) That Forms 34B bore fatal irregularities affecting **14,078** polling stations.
- o) That a number of forms and returns were not signed, some forms did not indicate names of the Returning Officer, some did not bear the IEBC stamp, some Forms 34A and 34B did not bear the signatures of the candidates' agents nor the reason for refusing to sign, some were signed by the same person presiding in different polling stations.
- p) In more than half of the Constituencies, the Returning Officers failed to indicate the number of Form 34As handed over to them as required under the law and regulations. As such, it was impossible to authenticate and verify the

results given as the integrity of the forms had been put into question and the forms were unknown to the law.

***Alleged Fraud on the part of the 1<sup>st</sup> Respondent:***

- q) In numerous instances, the 1<sup>st</sup> Respondent selectively manipulated, engineered and deliberately distorted the votes cast and counted in favour of the Petitioners and **inflated** those in favour of the 3<sup>rd</sup> Respondent, thereby affecting the final results tallied.
- r) That the Presidential Election was marred and significantly compromised by intimidation and improper influence or corruption contrary to Articles 81(e)(ii) of the Constitution as read together with the Elections Act and Regulations 3 and 6 of the Electoral Code of Conduct.
- s) That the 3<sup>rd</sup> respondent, with impunity, contravened the Rule of Law and the principles of conduct of a free and fair election through the use of intimidation, coercion of public officers and improper influence of voters

***Vote counting***

- t) It was alleged that the votes cast in a significant number of polling stations were not counted, tabulated and accurately collated as required under Article 86(b) and 86(c) of the Constitution as read together with the Elections Act, 2011.

***The transmission process:***

- u) The respondent's process of relaying and transmission of results from polling stations to the Constituency Tallying Centres and National Tallying Centre (NTC) was not simple, accurate, verifiable, secure, accountable, transparent, open and prompt. This substantially compromised and affected the requirement of free and fair elections under Article 81(e) (iv) and (v) of the Constitution

v)The IEBC deliberately and/or negligently compromised the security of the integrated electoral management system (KIEMS) and thereby exposed it to unlawful interference by third parties.

(ii) *The evidence*

**[43]** The Petitioners relied on evidence borne in twelve depositions all sworn on the 18<sup>th</sup> August 2017 by: **(1)** Raila A. Odinga, **(2)** Stephen Kalonzo Musyoka, **(3)** Dr. Nyangasi Oduwo, **(4)** George Kegoro, **(5)** Benson Wasonga, **(6)** Godfrey Osotsi, **(7)** Ibrahim Mohamud, **(8)** Mohamed Noor Barre, **(9)** Moses Wamuru, **(10)** Olga Karani, **(11)** Aprielle Oichoe and **(12)** Koitamet Ole Kina and a certificate by Duncan Nunda certifying the authenticity of video and transcriptions attached to Dr. Nyangasi Oduwo's Affidavit. These depositions collectively support the case of the Petitioner and were filed on time, in line with the dictates of the Constitution and the Supreme Court (Presidential Election) Rules, 2017. This Evidence, together with a complete record of the responses is contained in the dissenting opinion of the Hon. Justice J.B Ojwang, SCJ.

(iii) *Analysis*

**[44]** The pertinent issues for consideration in this regard, in light of the pleadings, the evidence and submissions ought to evaluate the provisions of **Articles 81 and 86** of the Constitution in the broad scheme of electoral prerequisites mandated by the Constitution and in light of Article 38 of the Constitution. Article 81 outlines the General Principles of the electoral system. Kenya's electoral system is instituted on the basis of **multi-party democracy** founded on the National Values and Principles outlined under Article 10 of the Constitution. These values include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people, human dignity, equity, equality, social justice, inclusiveness, human rights, non-discrimination and protection of the marginalized, good governance, integrity, accountability, transparency and sustainable development. Most importantly, the Constitution provides a formula for the election of the President (more than half of all the votes cast and at least twenty-five percent of the votes cast in each of more than half of the Counties) [Art. 138(4)].

For the other five elective positions: Governor, Senator, Member of the National Assembly, Woman Representative to the National Assembly, and Member of the County Assembly, the applicable system is first-past-the post i.e. the person with the most number of votes in the election.

[45] The approach that a Court, keen to develop all the parameter of social order ordained by the Constitution is the one taken by this Court *In the Matter of the Principle of Gender Representation in the National Assembly and the Senate (Re Gender)*, Supreme Court Application No. 2 of 2012, at paragraphs. 26 and 54:

**[26] The forthcoming general elections are not only the most important since independence, but are complex and novel in many ways. The elections come in the context of the first progressive, public-welfare-oriented, historic Constitution which embodies the people’s hopes and aspirations. Not only are these elections one of the vital processes instituted under the Constitution, but they constitute the *first act of establishing a whole set of permanent governance organs*. Clearly, any ambivalence or uncertainty in the path of such crucial elections must, as a matter of public interest, be resolved in time:**

**[54] Certain provisions of the Constitution of Kenya have to be perceived in the context of such variable ground-situations, and of such open texture in the scope for necessary public actions. A consideration of different Constitutions shows that they are often written in different styles and modes of expression. Some Constitutions are highly legalistic and minimalist, as regards *express safeguards and public commitment*. But the *Kenyan Constitution fuses this approach with declarations of general principles and statements of policy*. Such principles or policy declarations signify a *value system, an ethos, a culture, or a political***

*environment within which the citizens aspire to conduct their affairs and to interact among themselves and with their public institutions. Where a Constitution takes such a fused form in its terms, we believe, a Court of law ought to keep an open mind while interpreting its provisions. In such circumstances, we are inclined in favour of an interpretation that contributes to the development of both the prescribed norm and the declared principle or policy; and care should be taken not to substitute one for the other. In our opinion, a norm of the kind in question herein, should be interpreted in such a manner as to contribute to the enhancement and delineation of the relevant principle, while a principle should be so interpreted as to contribute to the clarification of the content and elements of the norm.*

[46] The electoral system and process is therefore discernible from a holistic reading of the Constitution, particularly, Chapters Seven, [Representation of the People], Eight [The Legislature] and Nine [The Executive]. The General Principles under Article 81, which in my view are qualitative, are infused in the entire fabric of these Chapters and their resulting Legislation are concretized by other provisions of the Constitution as follows.

- (a) Freedom of citizens to exercise their political rights is provided under **Article 38 of the Constitution,**
- (b) Not more than two-thirds of the members of elective public bodies shall be of the same gender-**Article 10, 27(8), 38, 56 (a), 82, 90, 91, 100.**
- (c) Fair representation of persons with disabilities- **Article 54, 56, 82**
- (d) Universal Suffrage based on the aspiration for fair representation and equality of the vote-**Article 10 and 38**
- (e) Free and fair elections, which are
  - i. By secret ballot-**Article 38**
  - ii. Conducted by an independent body-**Article 10 and 88**

- iii. Free from violence, intimidation, improper influence or corruption-**Article 10,**
- iv. Transparent-**Article 10**
- v. Administered in an impartial, neutral, efficient, accurate and accountable manner-**Article 10, 82,83, 88**

[47] This collectivity and interlocking nature of constitutional provisions in the scheme of rights, values, principles and administrative directives are then infused into the Elections Act and Regulations there-under and in determining claims of commission or omission in electoral disputes, a Court must consider:

- (a) *The nature of the commission or omission, in general;*
- (b) *The source of such omission or commission;*
- (c) *Foreseeability and mitigation; i.e. could the commission or omission be foretold? Were there steps to avert it?;*
- (d) *The effect of the commission or omission on a right, a duty or the consequence of a duty thereof (such as effect upon the result of an election);*
- (e) *The effect of the commission or omission on the individual and the collective;*
- (f) *Possible remedies and directions.*

[48] The rationale of these considerations may be drawn from the **Mike Wanjohi case** at paragraph 110:

[110] **By the design of the general principles of the electoral system, and of voting, in Articles 81 and 86 the Constitution, it is envisaged that no electoral malpractice or impropriety will occur that impairs the conduct of elections. This is the basis for the public expectation that elections are valid, until the contrary is shown, through a recognized legal mechanism founded in law or the Constitution. Any contests as to the credibility, fairness or integrity of elections, belongs to no other forum than the Courts. The charge of commission of administrative error, fraud, deliberate misconduct, or some element of corrupt**

**practice in elections, are questions that go to the *root of the validity of elections* and which, if apparent subsequent to the declaration of results, are expressly *excluded from the scope of the dispute-resolution powers of the IEBC under Article 88(4)(e).*”**

[Emphasis added]

[49] Article 86 on the other hand bears a strict quantitative language regulating voting at an election. This Article requires the voting method employed to be simple, accurate, verifiable, secure, accountable and transparent. The Petitioners’ claim is that the results from the polling stations, the Constituency Tallying Centres could not be verified by their agents at the National Tallying Centre. The process of verification is not a two-step process. Verification in a Presidential election is a continuous process traceable from the date of registration of voters to the determination of a Presidential election petition in an election court. In other words, the plurality of persons engaged in the conduct of an election, including the ultimate determination of that election’s validity, are all agents of verification in ascertaining the credibility of an election. To examine the integrity of the election, the election Court is obliged to consider all the relevant steps of the verification process. We shall examine the role of each one.

### ***The Agents of Verification***

#### **(i) The IEBC**

[50] The Commission is established under Article 88 of the Constitution and mandated to conduct and supervise elections to any elective office established by the Constitution, including: the continuous registration of voters, the regular revision of the voter’s roll, and facilitation of the observation, monitoring and evaluation of the elections. Section 4 of The Independent Electoral and Boundaries Commission Act, No. 9 of 2011 outlines the powers and functions of the Commission in the language of Article 88, with the addition of deployment of appropriate technology and approaches in the performance of its functions [Sec. 4(m)]. The Commission is bound by the principles of the electoral system as outlined under Article 81 (Sec. 25). The Commission is also mandated to subject the register of voters to an audit at least



six months before a general election (Sec 8A of the Elections Act). It is also mandated to test, verify and deploy technology at least 60 days before a general election. [(Sec. 44(4)(b)]

**(ii) The Public**

**[51]** Section 6 of the Elections Act mandates the Commission to avail the register of voters to be inspected by the public at all times for purposes of rectifying the particulars therein. Verification of one's registration details, including biometric data, is therefore a critical part of verification essential to the conduct of an election and enjoyment of the right to vote. The Commission is also mandated to open the Register for inspection by the public, ninety days from the date of the notice of a general election. This assures the public of the correctness of the registration details entered into the register and guarantees certain key components of the right to vote under Article 38. This process was undertaken in the months of May and June, 2017.

**(iii) Candidates or Agents**

**[52]** Section 30 of the Election's Act empowers a political party, or a nominated agent, and an independent candidate to nominate one agent per polling station. Regulations 69, 70, 73,74,76, 77,79, 80, 83, 85 demonstrate that candidates and/or their agents are an integral part of the electoral process.

**(iv) Political Parties**

**[53]** They are permitted under the regulations to observe the process of registration of voters under the registration of voters regulations

**(v) Constituency Returning Officers**

**[54]** Section 39 of the Elections Act mandates the Commission to appoint Constituency Returning Officers to be responsible for collating and announcing the results from the polling stations in the constituency for the election of the President and submitting the collated results for the election to the national tallying center.

**(vi) Presiding Officers**

**[55]** These officers are appointed subject to Regulation 5 (1A) of the Elections (General) Regulations, 2012. They are in charge of the entire process at the polling stations to ensure voting is done in accordance with the law and to ensure that counting of the votes at closure of polling, is done properly.

**(vii) Representatives of electronic and print media accredited by the Commission**

**[56]** This accreditation is specifically provided for under regulation 95 to allow media access and cover to the electoral process. All accredited observers and media are permitted into the Polling stations on the basis of Regulation 62 (1)(g) of the Elections (General Regulations) 2012. They are allowed to attend the counting of votes pursuant to Regulation 74(4)(f) and the tallying venue (Reg. 83) and Reg. (85)

**(viii) Observers: Local and international representatives accredited by the Commission.**

These persons or organizations are accredited to observe the election under Section 42 of the Elections Act and more importantly are required to submit their official reports to the Commission under regulation 94 (6). *The reports so filed therefore have a formal and official status.*

**[57]** All the international observers who observed the General elections termed it as free and fair. There are fundamental questions to be considered: What was the import of their reports regarding the fairness of the election? What is a free and fair election? What did the election observers consider? International election Observers are bound by **Declaration of Principles for International Election Observation**. Declaration 4 defines International election observation as:

***The systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions***

*related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis. International election observation should, when possible, offer recommendations for improving the integrity and effectiveness of electoral and related processes, while not interfering in and thus hindering such processes. International election observation missions are: organized efforts of intergovernmental and international nongovernmental organizations and associations to conduct international election observation.*

[58] Despite not having a universally acceptable definition of a free and fair election, there are certain common attributes to that description. They were aptly expressed by the Constitutional Court of South Africa in the case of ***Kham and Others v Electoral Commission and Another*** (CCT64/15) [2015] ZACC 37; 2016 (2) BCLR 157 (CC); 2016 (2) SA 338 (CC).

*[34] There is no internationally accepted definition of the term “free and fair elections. Whether any election can be so characterised must always be assessed in context. Ultimately it involves a value judgement. The following elements can be distilled as being of fundamental importance to the conduct of free and fair elections. First, every person who is entitled to vote should, if possible, be registered to do so. Second, no one who is not entitled to vote should be permitted to do so. Third, insofar as elections have a territorial component, as is the case with municipal elections where candidates are in the first instance elected to represent particular wards, the registration of voters must be undertaken in such a way as to ensure that only voters in that particular area (ward) are*

*registered and permitted to vote. Fourth, the Constitution protects not only the act of voting and the outcome of elections, but also the right to participate in elections as a candidate and to seek public office.*

In *New National Party of South Africa vs. Government of the Republic of South Africa and Others* [1999] ZACC 5; 1999 (3) SA 191 (CC); 1999 (5) BCLR 489 (CC) (New National Party) the Court held, at para 12.

*[25] There is even a shift among international observers towards abandoning the “free and fair” standard and to ask instead whether the election is a legitimate expression of the will of the people or properly reflects the wishes of the people. In response to a question from the Swedish Ministry of Foreign Affairs regarding this shift in the public discourse over elections, the ACE Electoral Knowledge Network said:*

*[A] shift has indeed taken place in the discourse of terms used to characterize the conduct of elections, and that consequently there are fewer references to elections as “free and fair”. This shift was seen as a trend which began in the 1990s, when elections that were described as “free and fair” at the same time could be seen by analysts to lack integrity, and it was also predicted to become a more widespread trend in the future. Moreover, one [Practitioners’ Network] member expected that the trend would go further as countries engage with new elections related technologies.*

*Behind the shift in discourse lies a rising awareness among analysts that election observation should be less of a ‘thumbs up/thumbs down’ judgement on an election-day event, and increasingly an effort to monitor and evaluate the process of an election, against international obligations voluntarily undertaken by countries.”*

**(ix) The Election Court**

**[59]** Let me reiterate that Kenya’s electoral system is instituted on the basis of **multi-party democracy** founded on the National Values and Principles outlined under Article 10 of the Constitution. The General principles of the Electoral System therefore and the interlocking constitutional provisions, including Article 81 are engaged in an exercise of sovereign guardianship. Therefore, the Supreme Court by dint of its Jurisdiction is the **final verifying Agency**, if called upon to do so, in a Presidential election petition. This duty is enabled by the Supreme Court’s inherent powers, as an election court, to Order: (a) scrutiny (b) recount (c) re-tally (d) discovery of documents (e) inspection of ballots (f) Orders that facilitate the Court to establish the people’s sovereign will.

**[60]** The Supreme Court as an Election court is empowered by Article 138 (3)(c), 140 and 163 (3)(a) of the Constitution and also under Sections 2, 80, 82 and 85 of the Elections Act, 2011. This is critical to meet the constitutional imperatives set upon the Court and the Electoral body by the Constitution. An election Court must be sure that there is a solid, not imagined; a proved, not alleged; case for invalidating an election. The South African Constitutional Court, in ***Kham and Others v Electoral Commission and Another*** (CCT64/15) [2015] ZACC 37; 2016 (2) BCLR 157 (CC); 2016 (2) SA 338 (CC) remarked, and I am fully persuaded by their opinion:

***[91] It is undesirable to articulate a general test expressed in language different from that of the Constitution, as that may be misleading. The Court must give full weight to the constitutional commitment to free and fair elections and the safeguard it provides of the right and ability of all who so wish to offer themselves for election to public office. It is essential to hold the IEC to the high standards that its constitutional duties impose upon it. It is insufficient for the Court to say that it has a doubt, or a feeling of disquiet, or is uncomfortable about the freedom and fairness of the***

*election. It must be satisfied on all the evidence placed before it that there are real – not speculative or imaginary – grounds for concluding that they were not free and fair.*

***What are the stages in the Process of Verification?***

**[61]** Regulation 68 provides that **ballot papers** shall:

- (a) Contain the name and symbol of the candidate validly elected
- (b) Contain a photograph of the candidate where applicable
- (c) Be capable of being folded up
- (d) Have a serial number, or combination of letter and number, printed on the front and;
- (e) Have attached a counterfoil with the same number or combination printed thereon.

These features allow the candidates or agents present at the polling station to ***inspect*** the ballot papers provided for use at the polling station.

**[62]** The voting procedure outlined under Regulation 69 contains core components of verification which are complemented by the requirements of inspection and verification of the voter's register.

**Regulation 69. Voting Procedure**

**(1) Before issuing a ballot paper to a voter, an election official shall—**

- (a) *require the voter to produce an identification document which shall be the same document used at the time of registration as a voter;*
- (b) *ascertain that the voter has not voted in that election;*

- (c) *call out the number and name of the voter as stated in the polling station register;*
- (d) **require the voter to place his or her fingers on the fingerprint scanner and cross out the name of the voter from the printed copy register once the image has been retrieved;**
- (e) **in case the electronic voter identification device fails to identify a voter the presiding officer shall—**
  - (i) *invite the agents and candidates in the station to witness that the voter cannot be identified using the device;*
  - (ii) *complete verification Form 32A in the presence of agents and candidates;*
  - (iii) **identify the voter using the printed Register of voters; and**
  - (iv) **once identified proceed to issue the voter with the ballot paper to vote;**
- (f) **deleted by L.N. 72/2017, r. 31(c);**
- (g) **deleted by L.N. 72/2017, r. 31(c).**

**(2) A voter shall, in a multiple election, be issued with the ballot papers for all elections therein at the same time and shall after receiving the ballot papers—**

- (a) **cast his or her votes in accordance with regulation 70 without undue delay;**
- (b) **submit to having one finger as prescribed by the Commission immersed, dipped or marked in ink of a distinctive colour which, so far as is possible, is sufficiently indelible to leave a mark for the period of the election;**

- (c) where a voter has no finger, make a mark on the next most suitable part of the body; and**
- (d) upon collecting his or her identification documents, immediately leave the polling station.**

**(3) A person who knowingly fails to place a ballot paper issued to him or her (not being a spoilt ballot paper) into a ballot box before leaving the place where the box is situated commits an offence under the Act.**

**(4) An election officer who deliberately refuses to stamp any ballot paper commits an offence.**

**(5) The presiding officer may, where a voter so requests, explain the voting procedure to such voter. [Emphasis added]**

**[63]** At the close of polling, a presiding officer is supposed to indicate in a polling diary, a written statement of-

- (a) the number of ballot papers issued to him or her under regulation 61;
- (b) the number of ballot papers, other than spoilt ballot papers, issued to voters;
- (c) the number of spoilt ballot papers; and
- (d) the number of ballot papers remaining unused.

Then in the presence of the candidate or agents, seal, in separate tamper proof envelopes-

- (a) the spoilt ballot papers, if any;
- (b) the marked copy register, where necessary;
- (c) the counterfoils of the used ballot papers; and
- (d) the statement specified in sub-regulations



[64] These items are then sealed by the presiding officer with the seal of the Commission and that of the candidate or agent (if they wish to do so) and then delivered together with the ballot boxes, to the returning officer. These items allow the examination of election materials at any stage of the election, permissible by law, for purposes of verification.

[65] The Supreme Court of India has previously laid a basis upon which an election Court may lift the veil of secrecy in a ballot where a case has been made out by the Petitioner to do so. In ***Jitendra Bahadur Singh vs. Krishna Behari and others*** [1969] INSC 176; AIR 1970 SC 276 an elector challenged the validity of the election of the appellant to Lok Sabha. By the order dated May 21, 1968, the High Court permitted the Election Petitioner to inspect the packets of Ballot Papers containing the accepted as well as the rejected votes of the candidates. The said order passed by the High Court was impugned before the Supreme Court. The Supreme Court held, at paragraphs 7 and 8:

7. The importance of maintaining the secrecy of ballot papers and the circumstances under which that secrecy can be violated has been considered by this Court in several cases. In particular we may refer to the decisions of this Court in *Ram Sewak Yadav vs. Hussain Kamil Kidwai*, 1964-6 SCR 238 [1964] INSC 6; (AIR 1964 SC 1249) and *Dr. Jagjit Singh v. Giani Kartar Singh*, AIR 1966 SC 773. These and other decisions of this Court and of the High Courts have laid down certain basic requirements to be satisfied before an election tribunal can permit the inspection of ballot papers. They are: ***(1) that the petition for setting aside the election must contain an adequate statement of the material facts on which the petitioner relies in support of his case and (2) the tribunal must be prima facie satisfied that in order to decide the dispute and to do complete justice between the parties, inspection of the ballot papers is necessary.***

8. The trial court was of the opinion that if an election petitioner in his election petition gives some figures as to the rejection of valid votes and acceptance of invalid votes, the same must not be considered as an adequate statement of material facts. In the instant case apart from giving certain figures whether true or imaginary, the petitioner has not disclosed in the petition the basis on which he arrived at those figures. His bald assertion that he got those figures from the counting agents of the congress nominee cannot afford the necessary basis. He did not say in the petition who those workers were and what is the basis of their information. It is not his case that they maintained any notes or that he examined their notes, if there were any. ***The material facts required to be stated are those facts which can be considered as materials supporting the allegations made.*** In other words, they must be such facts as to afford a basis for the allegations made in the petition. .... This Court in insisting that the election petitioner should state in the petition the material facts was referring to a point ***of substance and not of mere form.*** Unfortunately, the trial court has mistaken the form for the substance. The material facts disclosed by the petitioner must afford an adequate basis for the allegations made. **[Emphasis added]**

**[66]** The preservation of election material for a period of three years is also an enabler of the verification process. In cases where a Court is in grave doubt as to the outcome of the election, as the Majority in this case decided they were, the ballots exist to enable a final inspection/verification process by an election Court. The people speak through the ballot and the ballots, once marked and cast, in turn, speak for themselves anonymous of the voter, preserving the principle of secrecy under Article 38 (3)(b) of the Constitution. India's long constitutional tradition has given the Supreme Court an opportunity to reign in on the importance of ballots in verifying the result of the election when in doubt. In ***Narendra Madivalapa Kheni v. Manikarao Patil and Others***, Supreme Court Civil Appeal No. 1114 of 1976 :

The ballots are alive and available and speak best. Why, then, hazard a verdict on flimsy foundation of oral evidence rendered by interested parties? The vanquished candidate's ipse dixit or the victor's vague expectations of voters' loyalty – the grounds relied on – are shifting sands to build a firm finding upon, knowing how notorious is the cute art of double-crossing and defection in electoral politics and how undependable the testimonial lips of partisans can be unless authenticated by surer corroboration. Chancy credulity must be tempered by critical appraisal, ***especially when the return by the electoral process is to be overturned by unsafe forensic guesses.*** And where the ground for recount has been fairly laid by testimony, ***and the ballot papers, which bear clinching proof on their bosoms, are at hand, they are the best evidence to be looked into.*** No party can run away from their indelible truth and we wonder why the learned Judge avoided the obvious and resorted to the risky. May be, he thought reopening and recount of ballots may undo the secrecy of the poll. We are sure that the correct course in the circumstances of this case is to send for and scrutinize the 16 ballots for the limited purpose of discovering for whom, how many of the invalid sixteen have been cast. ***Secrecy of ballot shall be maintained when scrutiny is conducted and only that part which reveals the vote (not the persons who voted) shall be open for inspection.*** [Emphasis added]

[67] The elaborate process of counting votes outlined under Regulation 76 guarantees several things: **(i)** that vote counting is systematic, transparent (in the presence of candidates or agents), **(ii)** verifiable-the presiding officer maintains a record of the count in a tallying sheet in Form 33.

[68] After completing the count, **Regulation 79** mandates the presiding officer, the candidates or agents to sign the declaration in respect of the elections. Pursuant to **Regulation 79 (2A)**, the presiding officer shall-

The presiding officer shall—

- (a) immediately announce the results of the voting at the polling station before communicating the results to the returning officer;
- (b) request each of the candidates or agents present to append his or her signature;
- (c) **provide each political party, candidate, or their agent with a copy of the declaration of the results;**  
and
- (d) **affix a copy of the declaration of the results at the public entrance to the polling station or at any place convenient and accessible to the public at the polling station.** [Emphasis Added]

This allows candidates or agents to verify the tally of these results at the Constituency Tallying Centre and to raise any objection to any manipulation or change of results. This is in line with the principle in the *Joho case* that results at the polling station are final and any challenge to these results can only be before a Court of law. Signatures by the Candidates or agents are central to the declaration that where not provided, a record of the reasons for failure to sign shall be provided either by the candidate or agent [Reg. 79(3)], or by the presiding officer [Reg. 79 (4)]. Failure by a candidate or agent to sign the declaration, shall not, by itself, invalidate the results announced [Reg. 79(6)]. The presiding officer is also required to record the absence of any candidate or agent [Reg. 79(5)]. The absence of a candidate or agent at the signing of declaration shall also not of itself, invalidate the results announced [Reg. 79 (7)].

**[69]** An added layer of verification is provided under Regulation 80 where a candidate or agent after counting is completed may require the presiding officer to have the votes rechecked and recounted. The presiding officer may also, on their own initiative have the votes recounted. This regulation is couched as a limited right, to be enjoyed by the candidates or agents at most, twice.

[70] The importance of these processes bear credence to a careful consideration of the history of electoral practice in Kenya as was highlighted by Mutunga CJ & P (as he then was) in his concurring opinion in the case of ***Gatirau Peter Munya v. Dickson Mwenda Kithinji & Others***, S.C. Petition No. 2B of 2014; [2014] eKLR [*Munya 2*] at paragraph 235, 247, 248, 249 and 250:

[235] **The emphasis on free and fair elections, through an electoral system that is simple, accurate, verifiable, secure, accountable and transparent, in Articles 81(e) and 86 of the Constitution, has a rich Kenyan historical, economic, social, political, and cultural context. Article 86(b), for example, provides that the votes cast are to be counted, tabulated, and results announced promptly by the presiding officer at each polling station. This is because our electoral history is rife with malpractices that occur during the transportation of ballot boxes from polling stations to constituency counting-centres. It is therefore no coincidence that many of the petitions filed in the High Court, before the promulgation of the 2010 Constitution, gave lurid details of the stuffing of ballot boxes, or discarding of them en route to the constituency counting-centre. At the constituency counting-centre itself, votes disappeared when lights, either by design, negligence, or power-outage, went off. Our elections were therefore not free, fair and peaceful (see Charles Hornsby, *Kenya: A History Since Independence (I.B. Tauris, 2013)*).** [Emphasis added]

[247] **Constitutional provisions are by themselves not enough. The duty-bearers, be they individual voters, political parties, agents, the media, IEBC, the Registrar of Political Parties, the Constitutional Commissions, the arms of the State,** must all invest in emancipating and protecting the vote.

Once the Constitution gives citizens the right to vote, the freedom to choose, ***and conditions are created for the realization of that right, it is not the business of the Court to aid the indolent. If party agents are required to be present, sign statutory forms, and undertake any other legitimate duty that is imposed upon them as part of the political process in an election, then they are under obligation to do it.*** To fail to do so is not only to fail one's party, but also to fail our democracy. ***The Courts must frown upon any such inaction, reluctance, or delay.***

[248] The election is first and foremost the citizen's election. Every Kenyan must protect his or her right to vote—the right to participate in the political affairs of the nation. It is upon exercising all the rights which the Constitution bestows upon the citizen, that she or he can claim the sovereign power that she or he donates to her or his representative.

[249] It is, therefore, time for us to develop our election-petition litigation: we must depart from the current practice in which a petitioner ***pleads 30 grounds for challenging an election, but only proffers cogent evidence for 3.*** A candidate, or her agent, cannot abscond duty from a polling station, and then ask the Court to overturn the election because of her failure to sign a statutory form. ***Every party in an election needs to pull their own weight, to ensure that the ideals in Article 86 are achieved: that we shall once and for all have simple, accurate, verifiable, secure, accountable, transparent elections. The election belongs to everybody, and it is, therefore, in everybody's collective interest, and in everybody's collective and solemn duty, to safeguard it.***

[250] Given the strict electoral timelines in our Constitution, it is clear that this collective constitutional responsibility to ensure free and fair

elections, will result in cogent grounds upon which election results are challenged. We will start seeing candidates conceding defeat in elections because they have been *free and fair*. We will see electoral litigation that may be ended through *consent of the parties* because they agree that the grounds upon which the election results were based, are solid and not frivolous. It is not hard to imagine that one day it will be possible, because of the vigilance of the citizens and all electoral stakeholders, to have elections that will be free and fair, and Courts will no longer be involved in the settlement of electoral disputes. [Emphasis supplied]

**[71]** The next stage of verification is the process of tallying outlined under Regulation 83. The Returning Officer at the Constituency is mandated to collate and publicly announce the results from each polling station in the presence of candidates, agents and observers if present.

**[72]** **Regulation 81** is important because it preserves the election material for reference by an election Court, where applicable and which in my opinion, is the final verification avenue.

**Regulation 81. Sealing of ballot papers by presiding officer**

- (1) Upon completion of a count, including a recount, the presiding officer shall seal in each respective ballot box—**
  - (a) valid votes;*
  - (b) rejected ballots sealed in a tamperproof envelope;**
  - (c) unused ballot papers sealed in a tamperproof envelope;**
  - (d) counterfoils of used ballot papers sealed in a tamperproof envelope;**
  - (e) copy of election results declaration forms; and*
  - (f) stray ballot papers in a tamperproof envelope.**
  
- (2) The presiding officer shall deliver, to the returning officer—**

- (a) **the sealed ballot boxes;**
- (b) *the statements made under regulations 78 and 79;*
- (c) **copy of the Register of Voters; and**
- (d) *Polling station diary.* [Emphasis supplied]

[73] Verification therefore is an exercise that comprises the entire electoral process commencing from registration of voters, inspection of the voters' Register, verification of registration, verification of an elector's details where the electronic identification fails, audit of the Register, identification of voters, presence of candidates, agents, accredited observers and media, the process of counting and the limited right of recount, signing the declaration forms and the entitlement of candidates or agents to a copy, displaying the declaration of results for access by the public, sealing of ballot boxes and handing-over of election materials, the tallying process and the right to challenge the declaration of results in an election Court. All these processes activate several inbuilt principles of the electoral system under Article 81 of the Constitution. They also provide an opportunity for electoral quality assurance, aptly described in the cited excerpt from the concurring opinion of Mutunga CJ & P (as he then was) in the *Kidero* case. The hierarchy is that any shortfalls in the preceding process can be detected in a consequent process forming a basis for a pre-election or post-election dispute.

[74] It is however to be observed that a proper test for verification of an electoral process must always prioritize the primary instrument for Declaration of the result or outcome of the voters choice. The voter is identified at the Polling station; he votes at the polling station, ballots are counted at the polling station. The agents, candidates, observers are allowed access into the polling stations to verify the inner sanctum of the voice of the electorate - the altar of the voter's choice. What happens there is what determines the parameters of verification. Any doubt as to the credibility or integrity of the election must be tested against the various layers of verification, including the election material in the custody of the Returning Officer. A single want of form in this elaborate scheme of verification cannot be a basis for nullifying a Presidential Election.



## F. TRANSMISSION

[75] At the heart of transmission was the application of the directions by the Court of Appeal in the *Maina Kiai case*. Before delving into the primary (Manual) and the complementary (electronic) modes of result transmission, I will revisit this decision and its bearing on the conduct of future elections.

*The case*

### (i) *The Petitioners' Submissions*

[76] At paragraph 67 of the Petitioners' written submissions, it was urged that the determination of the Court of Appeal in *the Maina Kiai case* was that a polling station was the final point of declaration of Presidential Election results. The Petitioners contended that the 1<sup>st</sup> Respondent however, went contrary to this determination by: declaring the final results of the Presidential Election at the County; failing to electronically collate, tally and transmit the results accurately; allowing transmission and display of unverified results not provided for in law; posting contradictory and ever changing results in Forms 34A and 34B in the portal; and declaring final results of the Presidential elections on 11<sup>th</sup> August, 2017 before receiving results from all the polling stations.

[77] According to the Petitioners, the only lawful, credible and secure way to conduct, tally and transmit the 2017 Presidential Election results was as provided under Section 39(1C) of the Elections Act, 2011 i.e. electronic transmission in the prescribed Forms and in a prompt and efficient manner. It was the Petitioners' submission that the Court of Appeal in *the Maina Kiai case* affirmed the use of information technology to guarantee the accuracy and integrity of election results and at pages 70-71 of their judgment, determined thus:

*“We are satisfied that the electronic transmission of the already tabulated results from the polling station is a critical way of safeguarding the accuracy of the outcome of the elections. The electronic transmission of results was intended to cure the mischief that all returning officers from each of the 290 constituencies and 47 county returning officers troop to Nairobi by whatever means of transport, carrying in hard copy the presidential results which they had announced at their respective constituency tallying centres. The other fear was that some returning officer would in the process tamper with the announced result.”*

(ii) *The Responses*

(a) *The 1<sup>st</sup> and 2<sup>nd</sup> Respondents*

**[78]** Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents made concurring arguments on this issue. The written submissions of the 1<sup>st</sup> Respondent, summarized the litigation logic of the ***Maina Kiai*** case as an appeal against the decision by the High Court in Constitutional Petition No. 207 of 2016 seeking the following Orders:

- (a) *A declaratory Order that Sections 39 (2) & (3) of the Elections Act, 2011, are contrary to the provisions of Articles 86 and 138(2) of the Constitution and therefore, null and void;*
- (b) *A declaratory Order that Regulations 83(2), 84(1) and 87(2) of the Elections (General) Regulations, 2012 are unconstitutional and contrary to Articles 86(b)(c) and 138(2) of the Constitution and therefore null and void;*
- (c) *A declaration that respective constituency returning officers are the persons responsible for the conduct and declaration of constituency presidential election results;*
- (d) *A declaration that constituency presidential elections results once declared and announced by respective constituency*

*returning officers are final results for the purposes of that election;*

- (e) *A declaration that constituency returning officers possess a fundamental and an inalienable mandate to announce and declare the final results of a presidential election at constituency level and that such declaration is final and is not subject to alteration, confirmation or adulteration by any person or authority, other than an election Court, pursuant to Articles 86 and 138(2) of the Constitution of Kenya.*

**[79]** The issue for determination was whether results announced by the Constituency Returning Officer in respect the Presidential election were provisional and subject to confirmation by the 1<sup>st</sup> Respondent. The Court of Appeal upheld the determination of the High Court that to the extent that Section 39(2) and (3) of the Elections Act, 2011 and Regulation 87(2)(c) provide that the results declared by the constituency returning officer are provisional, and to the extent that Regulation 83(2) provides that the results of the returning officer are subject to confirmation by the 1<sup>st</sup> Respondent, these provisions are inconsistent with the Constitution and therefore null and void.

**[80]** In his oral submissions, counsel for the 1<sup>st</sup> Respondent Mr. Nyamodi, submitted that the pathway to the final results was demarcated by the Constitution, the Elections Act, 2011 and Regulations thereunder and by judicial directions rendered by Superior Courts in Kenya. To this extent, two critical decisions guided the 1<sup>st</sup> Respondent's electoral returning role; *the Maina Kiai case* and ***National Super Alliance (Nasa) Kenya vs. Independent Electoral & Boundaries Commission & others [2017] eKLR*** Civil Appeal No. 258 of 2017 (*The NASA case*).

**[81]** Counsel's submission was that in reliance to the Constitution, the law and judicial guidance, the 1<sup>st</sup> Respondent used Forms 34B as opposed to Forms 34A as argued by the Petitioners, to declare the final results of the presidential election. He emphasized that at the time the final results of the presidential election were

declared, all Forms 34B had been collated. It was counsel's submission that, by declaring Sections 39 (2) and (3) of the Elections Act, 2011 inconsistent with the Constitution, the 1<sup>st</sup> Respondent's ability to change, amend or alter the results transmitted from the Constituency, was entirely curtailed. According to counsel, the decision of the Court of Appeal in *the Maina Kiai case* extinguished the concept of provisional results. Consequently, the numbers manually entered into the KIEMS kit at the close of polling and transmitted simultaneous to the Constituency Returning Centre and the National Tallying Centre, bore no status in law. They were mere statistics, although the Presiding officer had to show the Agents present the entries made for confirmation before transmission.

**[82]** To buttress his argument, Mr. Nyamodi **traced the process of a vote** as follows (with reference to paragraph 20 of the Response to the Petition):

- a. Upon the close of polling, the votes cast were counted and the results recorded in Forms 34A.
- b. An image of the Form 34A was captured by the Kenya Integrated Election Management System (KIEMS) kit and the statistics in the Form 34A were then entered into the KIEMS kits at all polling stations.
- c. The presiding officer would then simultaneously relay the statistics and the image of the Form 34A to the relevant constituency returning officer and to the National Tallying Centre (NTC).
- d. The completion of the transmission of the image of Forms 34A was dependent on the availability of 3G or 4G network coverage. In respect of areas lacking 3G or 4G network coverage, the Respondents established alternative mechanisms to ensure completion of transmission of the image of the Form 34A. (It was however clarified, during oral submissions, that in such instances, the

statistics could be sent without the accompanying image.)

- e. In accordance with Section 39 (1C) of the Elections Act, the 1<sup>st</sup> Respondent published the images of Forms 34A and 34B in respect of the presidential election on its public portal.
- f. In all polling stations, the presiding officers transmitted the statistics of the results through KIEMS accompanied by the electronic image of Forms 34A.
- g. At the time of the declaration of the results of the presidential election, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents had in their possession all the forms required in law for purposes of a declaration of the results of the presidential election.
- h. The procedure adopted in the transmission and tallying of results of the presidential election was in conformity with the decision of the Court of Appeal in *the Maina Kiai case*. [Emphasis added]

**[83] On the basis of this process**, Counsel submitted that the Petitioners' allegation that the 1<sup>st</sup> Respondent deliberately pre-determined and set itself on a path of subverting the law by being a law unto itself, was unfounded. However, although Section 44A of the Elections Act, 2011 empowers the 1<sup>st</sup> Respondent to set up complementary mechanism for identification of voters and transmission of election results to ensure that it complies with Article 38 of the Constitution, the Court of Appeal directed that the tabulated results electronically transmitted from the polling stations in the prescribed forms was a critical way of safeguarding the accuracy of the outcome of the elections and could not be varied. The rationale for this determination was that there was no need for 290 Constituency returning officers and 47 County returning officers to troop to the NTC with Forms 34B carrying the hard copies of the presidential results which they had announced in their respective tallying centres. It was counsel's submission **that despite this**

**conclusion, the Court of Appeal did not declare Section 44A of the Elections Act, 2011 inconsistent with the Constitution.**

**[84]** In addition, counsel submitted that the determination by the Court of Appeal on the finality of presidential election results declared by the constituency returning officer also changed the structure of Form 34C. Regulation 87(3)(b) provides that: **“upon receipt of Form 34A from the constituency returning officers under sub-regulation (1), the Chairperson of the Commission shall tally and complete Form 34C.”** However, the 1<sup>st</sup> Respondent had to modify Form 34C to reflect the entry of Forms 34B, which was the Form declared by the Court of Appeal to be **the source document** to determine the winner of a Presidential election, in place of Forms 34A.

**[85]** Mr. Nyamodi concluded by reaffirming that the way the 1<sup>st</sup> Respondent structured its transmission system, was largely based on the Court of Appeal’s decision in *the Maina Kiai case* which did not interfere with or negate the will of the people resident in Form 34A.

*(b) The 3<sup>rd</sup> Respondent*

**[86]** Mr. Ngatia, counsel for the 3<sup>rd</sup> Respondent submitted that the Forms 34B produced by the constituency returning officers upon tallying the results from the polling stations as contained in Forms 34A were binding upon the 2<sup>nd</sup> Respondent at the National Tallying Centre. As such, the duty of the 2<sup>nd</sup> Respondent at the National Tallying Centre was to tally the results contained in Forms 34B to produce Form 34C which contained the final results of the Presidential elections; a duty that was properly executed.

**[87]** Counsel further rebutted the Petitioners’ argument that the declaration of results was made at the County. He urged that the declaration of results was done by presiding officers at every polling station, and by the returning officers at the Constituency Tallying Centre and that the role of the 2<sup>nd</sup> Respondent was simply to tally the results obtained from the returning officers in Forms 34B accompanied by Forms 34A before declaring the final results of the election. Due to the County

threshold required by Article 138(4)(b) of the Constitution, it was logical for the 2<sup>nd</sup> Respondent do announce the results County by County.

**[88]** The Petitioners' contention was that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents failed to adhere to the guidelines set by the Court of Appeal in *the Maina Kiai case* during the conduct of the 2017 Presidential elections. The Respondents on the other hand demonstrated that the presidential election was conducted in accordance with those guidelines. However, counsel for the 1<sup>st</sup> Respondent urged this Court to consider the place of the *Maina Kiai* decision rendered by the Court of Appeal, in the conduct of presidential elections in Kenya and to settle the law for future elections. According to the 1<sup>st</sup> Respondent, the role of the 2<sup>nd</sup> Respondent had been reduced by the Court of Appeal to tallying the results in Forms 34B to generate Form 34C.

**[89]** Counsel for the 1<sup>st</sup> Respondent was of the view that this Court does not lose its status to interpret and apply the Constitution while sitting as a Court of original jurisdiction to hear disputes relating to a presidential election. Indeed, I agree with counsel for the 1<sup>st</sup> Respondent that while exercising original jurisdiction as conferred on this Court by Article 163(3)(a) of the Constitution, this Court will resolve both issues of law and fact arising in the course of litigation, and settle any issues of constitutional controversy.

### *Analysis*

**[90]** While it may seem peculiar to delve into analysis of the jurisprudence laid by the Court of Appeal in *the Maina Kiai case*, in a case, other than one on appeal, it is my considered opinion that we can do so through a two-prong approach. Firstly, this is a court of original jurisdiction in presidential petitions under Article 163, and therefore competent to adjudicate upon matters of both law and fact in such a matter, including the interpretation and application of the Constitution. Secondly, this Court's foreboding on circumstances such as present before us, manifests in the decisions of this Court in the cases of **Anami Silverse Lisamula vs. The Independent Electoral and Boundaries Commission and Two Others**, Sup. Ct. Petition No. 9 of 2014, (*the Lisamula case*) Rawal, DCJ, (as she then was), concurring [at paragraph 135]:

*“Therefore, the peculiar nature of the Constitution of Kenya, 2010 informs the peculiarity of the Judiciary in the new dispensation, and more so, that of the Supreme Court. The Constitution progressively broadens the arena of litigation in this country, and the Supreme Court must remain steadfast in its duty to address itself to issues that may properly come [up] before it. The jurisprudence to be developed by the Supreme Court of Kenya may bear differences from that of other jurisdictions in the world, because of the special terms of this country’s charter, which expresses the people’s will, and embodies their mutual agreement. **While most jurisdictions would command a Court to relieve itself of duty by making a prompt finding on jurisdiction, Kenya’s Constitution directs the Supreme Court to take no rest, until all unsettled issues of its interpretation and application are resolved**” [Emphasis supplied].*

In *the Aramat case*, [at paragraphs 101 and 111]:

*[101] We would make it clear in the instant case that, it is a responsibility vested in the Supreme Court to interpret the Constitution with finality: and this remit entails that this Court determines appropriately those situations in which it ought to resolve questions coming up before it, in particular, where these have a direct bearing on the interpretation and application of the Constitution. Besides, as the Supreme Court carries the overall responsibility [The Constitution of Kenya, 2010, Article 163(7)] for providing guidance on matters of law for the State’s judicial branch, it follows that its jurisdiction is an enlarged one, enabling it in all situations in which it has been duly moved, to settle the law for the guidance of other Courts.*

*[111] From the principles thus stated, it is clear to us that this Court ought to maintain constant interest in the scheme and the quality of jurisprudence that it propounds over time, even where it is constrained to decline the jurisdiction to deal with any particular questions.*



*Whatever option it takes, however, this Court ought always to undertake a methodical analysis of any issues it is seized of, and ought always to draw the whole dispute to a meaningful conclusion, bearing directions and final orders, in the broad interests of both the parties, and of due guidance to the judicial process and to the Courts below.*  
[Emphasis added]

***In Re The Matter of the Interim Independent Electoral Commission***, Sup. Ct. Civil Application No. 2 of 2011; [2011] eKLR (**Re IIEC**) this Court has the jurisdiction to interpret any constitutional provisions in the course determining any matter. It held that:

*Indeed, interpretation of the Constitution stands to be conducted, for different purposes and at different stages, by a vast array of constitutional organs: so, for instance, the State Law Office in advising Government Ministries, is entitled to interpret the Constitution as may be necessary; and the several independent Commissions under the Constitution are similarly entitled to interpret the Constitution as part of the performance of their respective mandates. The Supreme Court too, may take its position as guided by its own interpretation of the Constitution.* [Emphasis added]

[91] At the centre of the instant case is the impact of the decision of the Court of Appeal in *the Maina Kiai* case to the Constitutional status of Section 39 (in its entirety) and Section 44A of the Elections Act, 2011; the role of the Chairperson of the Independent Electoral and Boundaries Commission pursuant to Article 138(10) (a) of the Constitution; and the overall mode of transmission of presidential election results from the polling station to the National Tallying Centre as elaborated in the Constitution, the Elections Act, 2011 and Regulations thereunder. It is important to note that no intention of an Appeal from this decision was lodged in the Supreme Court Registry within the statutory 14 days. Bearing in mind the Supreme Court's constant call to interpret the Constitution, these issues still engage this Court's jurisdiction under Article 163(3)(a).

**[92]** This case therefore presents two apposite issues for determination: (i) *whether in conducting the 2017 presidential election, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents adhered to the guidelines set by the Court of Appeal in the **Maina Kiai** case; and (ii) *what is the place of this jurisprudence in the conduct of future presidential elections in Kenya?**

**[93]** The starting point is to place *the Maina Kiai* case in context. This was an appeal against the Judgement of the High Court delivered on 7<sup>th</sup> April, 2017 in which the High Court made the following declarations:

- a. *that to the extent that **section 39(2) and (3) of the Elections Act** provides that the presidential election results declared by the constituency returning officer are provisional (it) is contrary to **Articles 86 and 138(2)** of the Constitution and is therefore null and void;*
- b. *that to the extent that **regulation 87(2)(c) of the Elections (General) Regulations 2012** provides that presidential election results declared by the constituency returning officer are provisional (it) is contrary to **Articles 86 and 138(2)** of the Constitution and is therefore null and void;*
- c. *that to the extent that **regulation 83(2) of the Elections (General) Regulations 2012** provides that presidential election results declared by the constituency returning officers are subject to confirmation by the Commission (it) is contrary to **Articles 86 and 138(2)** of the Constitution and is therefore null and void;*

- d. that the presidential election results declared by the constituency returning officer are final in respect of the constituency, and can only be questioned by the election court;
- e. that to the extent that the 1st respondent interprets **section 39(2) and (3) of the Elections Act and regulations 83(2) and 87(2)(c)** to mean that it can confirm, alter, vary and/or verify the presidential election results declared by the constituency returning officer in the particular constituency (it) is contrary to **Articles 86 and 138(2)** of the Constitution and is therefore null and void.

The Appellant (1<sup>st</sup> Respondent in this case) sought to have the Judgement of the High Court overturned. In arriving at its determination, the Court of Appeal considered the meaning of Section 39(1C) of the Elections Act, 2011 (as amended) and observed that:

*From our own reading of all the provisions under review, the authorities relied on, and bearing in mind the history that we have set out in detail in this judgment, we are convinced that the amendments to the Act were intended to cure the mischief identified by the then former Chairperson of the appellant, and other stakeholders. That mischief was, the spectacle of all the 290 returning officers from each constituency and 47 county returning officers trooping to Nairobi by whatever means of transport, carrying in hard copy the presidential results which they had announced at their respective constituency tallying centres. The other fear was that some returning officer would in the process tamper with the announced results. [Emphasis added]*

**[94]** The Court of Appeal also found that the electoral system reforms which were emphasized in the 2016 and 2017 Amendments to the Elections Act, 2011 was the use of information technology to **guarantee the accuracy and integrity of the election results**. It noted that Section 44(1) required the 1<sup>st</sup> Respondent in this matter to:

**44. (1) ...establish an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.**

...

(3) ...ensure that the technology in use under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.

...

(5) ...in consultation with relevant agencies, institutions and stakeholders, including political parties, make regulations for the implementation of this section...”

...

**44A. Notwithstanding the provisions of section 39 and section 44, the Commission shall put in place a complementary mechanism for identification of voters and transmission of election results that is simple, accurate, verifiable, secure, accountable and transparent to ensure that the Commission complies with the provisions of Article 38 of the Constitution.**

[Emphasis added]

On the basis of these Sections, the Court of Appeal held:

*We are satisfied that with this elaborate system, the electronic transmission of the already tabulated results from the polling stations, contained in the prescribed forms, is a critical way of safeguarding the accuracy of the outcome of elections, and do not see how the appellant or any of its officers can vary or even purport to verify those results, particularly when it is clear that, by Article 86 (d), section 2 of the Act and regulation 93(1), all election materials, including ballot boxes, ballot papers, counterfoils, information technology equipment for voting, seals and other materials, are to be retained in safe custody by the returning officers for a period of three years after the results of the elections have been declared, unless required in proceedings in court.*

*The information contained in Form 34, which has since been replaced following the promulgation of the Elections (General) (Amendment) Regulations, 2017, is primary information that is itself arrived at after an elaborate process at two levels of the electoral system to safeguard the integrity of the outcome before it is transmitted to the national tallying centre. Regulations 73 to 90 enumerate the process of counting of votes, declaration and transmission of results.*

*Once the presiding officer closes the polling station at the end of voting, he is required, in the presence of the candidates or agents to open each ballot box and empty its contents onto the counting table or any other facility provided for the purpose; cause to be counted, the votes received by each candidate by announcing the name of the candidate in whose favour the vote was cast; display to the candidates or agents and observers the ballot paper sufficiently for them to ascertain the vote; and put the ballot paper at the place on the counting table, or other facility provided for this purpose, designated for the candidate in whose favor it was cast. The total number of votes cast in favour of each candidate is then recorded in a tallying sheet in Form 33. [Emphasis supplied]*

The Court of Appeal, emphasizing on the centrality of the activities at the polling station on election day held:

*We bear in mind that presidential election, where two or more candidates are nominated, are held in each constituency and the foregoing process is undertaken at the constituency, the details of which are recorded at the end of the exercise in Form 34. It is inconceivable that those details, arrived at after such an elaborate process can be viewed as provisional, temporary or interim. The inescapable conclusion is that it is final and can only be disturbed by the election court.*

*It is clear beyond peradventure that the polling station is the true locus for the free exercise of the voters' will. The counting of the votes as elaborately set out in the Act and the Regulations, with its open, transparent and participatory character using the ballot as the primary material, means, as it must, that the count there is clothed with a finality not to be exposed to any risk of variation or subversion. It sounds ill that a contrary argument that is so anathema and antithetical to integrity and accuracy should fall from the appellant's mouth.* [Emphasis supplied]

[95] The Appellate Court expansively interrogated the process of voting as enunciated under Article 86 of the Constitution and was of the view that it was an affront to constitutional values and principles to claim that the 2<sup>nd</sup> Respondent in this case, could “*alone, at the national tallying centre or wherever, purport to confirm, vary or verify the results arrived at through an open, transparent and participatory process.*” The Court was of the view that Article 138(3)(c) reinforces the values under Article 86 by requiring the 1<sup>st</sup> Respondent to tally, verify the count and declare the result in a presidential election, after counting the votes in the polling stations. The Court interpreted this Article to mean that the 1<sup>st</sup> Respondent could only declare the result of the presidential vote at the constituency tallying centre after the process of tallying and verification was complete. According to the Appellate Court, the 2<sup>nd</sup> Respondent *has a significant constitutional role under Article 138(10) as the authority with the ultimate mandate of making the declaration that brings finality to the presidential election process.* The Court observed that the 2<sup>nd</sup> Respondent is required to tally all the results exactly as received from the 290 Returning Officers country-wide *without adding, subtracting, multiplying or dividing any number contained in the two forms from the constituency tallying centre* and verification or confirmation related to establishing that the candidate to be declared President-elect had met the threshold set under Article 138(4).

[96] The Court of Appeal was of the view that the introduction of Section 39 (2) and (3) of the Elections Act, 2011 sowed discord, mischief and confusion in this elaborate process, making its retention in the Elections Act, 2011, unnecessary and in fact,

unlawful. It remarked that the Amendment to Section 39 was intended to align it with Articles 81, 82, 86, 101, 136 and 138 of the Constitution to provide for procedure at the general elections and that by dint of Section 39(1) of the Act, required the 1<sup>st</sup> Respondent (through its Returning Officers) to tally, and verify the count and declare the results at the polling stations **immediately after close of polling**. It observed that:

*Article 138 deals with events at the polling stations where votes are counted, tallied, verified and declared. **We hold further that reference to the appellant in Sub Article (3)(c) is not to be construed to mean the Chairperson but rather, the returning officers who are mandated, after counting the votes in the polling stations, to tally and verify the count and declare the result.** The appellant, as opposed to its chairperson, upon receipt of prescribed forms containing tabulated results for election of President electronically transmitted to it from the near 40,000 polling stations, is required to tally and “verify” the results received at the national tallying centre, without interfering with the figures and details of the outcome of the vote as received from the constituency tallying centre. At the very tail end of this process, in Article 138(10) the chairperson then declares the result of the presidential election, and delivers a written notification of the result to the Chief Justice and to the incumbent President. That is how circumscribed and narrow the role of the chairperson of the appellant is.*

[97] The Court also focused on the Amendments to the Elections (General) Regulations 2012 by the 1<sup>st</sup> Respondent through Gazette Supplement, Legal Notice No. 72 of 21<sup>st</sup> April, 2017, replacing the Form titled “Declaration of Presidential Election Results at a Polling Station” with two forms (Forms 34A and 34B) titled **“Presidential Election Results at The Polling Station”** and **“Collation of Presidential Election Results at the Constituency Tallying Centre,”** consecutively. It thus held:

***“It is our firm position that the purpose for which section 39(2) and (3) of the Act and regulations 83(2) and 87(2)(c) were promulgated or made have the effect of infringing constitutional principles of transparency, impartiality, neutrality, efficiency, accuracy and accountability.”***

...

***The lowest voting unit and the first level of declaration of presidential election results is the polling station. The declaration form containing those results is a primary document and all other forms subsequent to it are only tallies of the original and final results recorded at the polling station.***

*... there is no doubt from the architecture of the laws we have considered that **the people of Kenya did not intend to vest or concentrate such sweeping and boundless powers in one individual, the chairperson of the appellant.***

*Ultimately we find no fault in the determination of the High Court that **to the extent that section 39(2) and (3) of the Act and regulation 87(2)(c)** provide that the results declared by the returning officer are provisional, and to the extent that regulation 83(2) provides that the results of the returning officer are subject to confirmation by the appellant, these provisions are inconsistent with the Constitution and therefore null and void.*

*Did the 1<sup>st</sup> and 2<sup>nd</sup> Respondents adhere to the guidelines set by the Court of Appeal in the **Maina Kiai** case?*

**[98]** In my view, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents satisfactorily demonstrated that the electoral process was conducted in accordance with the directions of the Court of Appeal in the **Maina Kiai** case. Processes that had been put in place before the determination by the Court of Appeal declaring Section 39(2) and (3) of the Elections Act, 2011 and Regulation 87 (2)(c) unconstitutional were adjusted to:



(a) eliminate “provisional results” and

(b) adjust Form 34C to reflect a collation of Forms 34B from the Constituency Returning Officers who had verified and tabulated the final results from the polling stations in Forms 34A.

**[99]** The declaration by the 2<sup>nd</sup> Respondent of the results of the election per County was in keeping with the constitutional requirement that the candidate declared elected as President receives at least twenty-five per cent of the votes cast in each of more than half of the Counties (*herein, the County threshold*).

**[100]** I am therefore satisfied with the adherence by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, to the guidelines by the Court of Appeal in *the Maina Kiai case*. This decision, delivered on 23<sup>rd</sup> June, 2017, 35 days prior to the conduct of the Presidential election in August, 2017, was definitive of the status of the law at that time. As such, the 1<sup>st</sup> and 2<sup>nd</sup> Respondent’s adherence to those guidelines was an answer to the duty in Article 10 of the Constitution, binding all State Organs and State Officers to the national values and principles, in this case, **the rule of law**, whenever any of them (such as the 1<sup>st</sup> and 2<sup>nd</sup> Respondents) applies or interprets the Constitution, enacts, applies or interprets any law; or makes or implements public policy decisions. The only challenge was that the system of data transmission system from the polling station to the National Tallying Centre had already been set up.

**[101]** Having so determined, I must now prospectively interrogate, as invited by the Respondents to do, the place of *the Maina Kiai case* in the conduct of future presidential elections in Kenya.

**[102]** This Court is not new to Kenya’s complex electoral history as so aptly considered by the Court of Appeal in its analysis. In fact, one of the issues this Court had to deal with in its maiden election appeals litigation following the March, 2013 General Elections was the **process of declaration of election results** resulting in an outcome after which the parties to the election, or a voter, are at liberty to file an election petition at the High Court. An examination of *Hassan Ali Joho & Another v. Suleiman Said Shahbal and Others*, (the *Joho case*), alongside

that of *Maina Kiai* is necessary because *Joho* was extensively relied on by the parties during the hearing and determination of the appeal forming an integral part of the guiding precedent followed by the Appellate Court.

[103] *The Maina Kiai* case, though in many respects similar to the case of the *Joho* case, Supreme Court Petition No 10 of 2013; [2013] eKLR was a play of different legal and constitutional provisions. While *the Joho* Case interrogated the plurality of declaration processes for a gubernatorial election, a three-tier election with no requirement of a County or national threshold, *the Maina Kiai* case addressed itself to the declaration processes in a Presidential election; a two-tier election process [Article 138 (3)(c)] with a mandatory national and County threshold [Article 138 (4)(a) and (b)], and a defined mode of declaration [Article 138 (10)(a)]. Noteworthy is that these two cases were in different Electoral Law Amendment periods. The foregoing aspects therefore signal an imperative to **distinguish *Joho*** from the *Maina Kiai* case.

[104] The Court of Appeal succinctly framed the controversy before it in the *Maina Kiai* case as follows:

In the end, the learned Judges granted the petition by declaring that;

***“.....to the extent that section 39(2) and (3) of the Elections Act provides that the results declared by the returning officer are provisional, that is contrary to Articles 86 and 138(2) of the Constitution. To the extent that regulation 83(2) of the Elections (General) Regulations 2012 provides that the results of the returning officer are subject to confirmation by the Commission, that is contrary to Articles 86 and 138(2) of the Constitution. To the extent that regulation 87(2)(c) of the Elections (General) Regulations 2012 provides that the results that the returning officer shall transmit electronically to the Commission are provisional, that is contrary to Articles 86 and 138(2) of the Constitution.”***  
(Emphasis supplied)

The highlighted phrase “*subject to confirmation*” and the word “*provisional*” were the main cause of discomfort prompting the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to Petition the High Court for relief. **It is the construction of those very words by the three learned Judges that has now aggrieved the appellant to come to this Court.** [Emphasis added]

**[105]** The question before the Court of Appeal was whether the purpose for which Section 39(2) and (3) of the Elections Act and Regulations 83(2) and 87(2)(c) (**both Regulations now amended**) were promulgated, or the effect of their implementation infringed any provision of the Constitution. In summary, the controversy was: (a) the finality of the declaration (if any) of presidential election results at the polling station, the constituency tallying center and the national tallying centre and (b) the process of transmission of election results from the polling station to the National Tallying Centre and the role of the Chairperson of the Commission in that process.

**[106]** I agree with the determination of the Court of Appeal that *“the polling station is the true locus for the free exercise of the voter’s will and that once the counting of votes as elaborated in the Elections ACT, 2011 and Regulations thereunder, with its open, transparent and participatory character using the ballot as the primary material means, as it must, that the count there is clothed with finality not to be exposed to any risk of variation or subversion.”* Consequently, the concept of ‘provisional results’ does not exist in our Constitutional electoral practice. As such, we uphold the determination by the Court of Appeal that Sections 39(2) and (3) of the Elections Act, 2011 are inconsistent with the Constitution and to that extent, null and void.

**[107]** However, I depart from the decision by the Appellate Court to the extent that:

- (i) it endorses another layer of tallying and verification of the result of the presidential vote in the form of the Constituency tallying centre and
- (ii) incapacitates the Chairperson of the Commission, an integral part of the declaration process in a presidential election, from **verifying** the polling results.

In particular, the determination that:

**Our interpretation of this Article (138 (3)(c) is that the appellant, which is represented at all the polling stations, constituency and county tallying centres can only declare the result of the presidential vote at the constituency tallying centre after the process we have alluded to is complete, that is, after tallying and verification.**

*Article 138 deals with events at the polling stations where votes are counted, tallied, verified and declared. We hold further that reference to the appellant in **Sub Article (3)(c) is not to be construed to mean the chairperson but rather, the returning officers who are mandated, after counting the votes in the polling stations, to tally and verify the count and declare the result.** The appellant, as opposed to its chairperson, upon receipt of prescribed forms containing tabulated results for election of President electronically transmitted to it from the near 40,000 polling stations, is required to tally and “verify” the results received at the national tallying centre, without interfering with the figures and details of the outcome of the vote as received from the constituency tallying centre. **At the very tail end of this process, in Article 138(10) the chairperson then declares the result of the presidential election, and delivers a written notification of the result to the Chief Justice and to the incumbent President. That is how circumscribed and narrow the role of the chairperson of the appellant is.***

**[108]** It is conceded that the Chairperson of the Commission cannot supplant the entries of a presiding officer against any candidate with his own figures, however, an **arithmetic verification** of the correctness of the **summation** in Form 34A and an examination of the authenticity of the instruments of declaration is permitted, nay, required by the Constitution. According to the Constitution, the Chairperson of

the Commission is also the Returning Officer in a Presidential Election and **therefore, ought to receive and preserve electoral material relating to that election in order to aid the election Court in its mandate as the final verifying Agency as elaborated in the foregoing section of this dissenting Judgement.**

[109] To place the role of the Chairperson of the Commission in the scheme of a presidential election, I am guided by the following interrogations:

- (i) **what** is a *declaration* in a presidential election?
- (ii) **who** makes that *declaration* and;
- (iii) **when** is that *declaration* made?

[110] The formula of locating a declaration of the result of a presidential election lies within the Constitution and can be derived by a reading of **Article 138** and **140** of the Constitution, together.

### **Article 138**

**(1).....**

**(2).....**

**(3)** In a presidential election-

**(c)** **After counting the votes in the polling stations**, the independent Electoral and Boundaries Commission shall **tally** and **verify the count and declare the result**. [Emphasis added]

**(4)** A candidate shall be **declared elected as president** if the candidate receives-

(a) more than half of all the votes cast in the election; and

(b) at least twenty-five percent of the votes cast in each of more than half of the Counties.

.....

**(10)** Within seven days after the presidential election, the **Chairperson of the Independent Electoral and Boundaries Commission** shall-

(a) **declare** the result of the election

### **Article 140**

**(1).**A person may file a petition in the Supreme Court to challenge the election of the President-elect within seven days after the date of the **declaration of the results of the presidential election.**

**[111]** Adopting the decision of this Court in *the Joho case*, the word “*declared*” in Article 180 (4) of the Constitution (in this case, Article 138), has been used to depict the *finality* culminating in the *declaration of the winner* of an election. Article 138 (3) (c) of the Constitution is the pace -setter of the declaration process. It calls on the Commission to tally and verify the count before declaring the result. This formula is in terms of Article 86(a), simple, verifiable, transparent and accountable. Article 138(3)(c) eliminates need for the polling results in a presidential election to be tallied at the constituency tallying centre before being declared. Presidential election results are declared at the national tallying centre, by the Chairperson of the Commission. Before that declaration can be made; several things must be done:

- (i) the polling results must be tallied-Art. 138 (3)(c)
- (ii) the count must be verified-(Art. 138 (3)(c)
- (iii) the national threshold must be met-Article 138(4)(a) and
- (iv) the County threshold must be met-Article 138(2)(c).

These prerequisites can only be done at the National Tallying Centre by the Chairperson of the Commission who is also the person who Returns the Results of the Presidential Election in accordance with the Constitution.

**[112]** I am persuaded by the reasoning of the Irish Supreme Court in **Kiely vs. Kerry County Council (Rev 1) [2015] IESC 97**, where Mr. Justice William M. McKechnie writing for the majority, elaborated the role of a returning officer as follows, at paragraph 45:

*Whilst it is undoubtedly the case that the role of the returning officer is indispensable to the election process, it is also evidently the case that he*

*or she, in fulfilling that role, is a creature of statute and is bound by the terms of the express legislative provisions above referred to. Accordingly, in the performance of his (or her, as the case may be) duties and functions he must be guided by the principles so laid down in such legislation, within which is set out the framework where those whose names are validly on the register of electors can give effect to the franchise so vested in them. He must obviously not exceed the limits of the competence so conferred on him: he is therefore confined to what can legitimately be extracted from the provisions in issue, either by way of express conferment or necessary intendment. He cannot operate in excess of these limitations. He cannot, for example, justify any act or action, however desirable his intentions might be, based on any form of inherent power for the simple reason that his office is not amenable to attract competence in this way. When the occasion arises it therefore becomes a matter of statutory interpretation as to whether or not the act or omission complained of is within the competence of his office to perform. [Emphasis added]*

**[113]** The role of the Chairperson of the Commission as the Returning Officer of the result of the presidential election is confined within the four corners of Articles 138 and 140 of the Constitution. The following determination by the Court of Appeal cannot therefore hold.

*Article 138 deals with events at the polling stations where votes are counted, tallied, verified and declared. **We hold further that reference to the appellant in Sub Article (3)(c) is not to be construed to mean the Chairperson but rather, the returning officers who are mandated, after counting the votes in the polling stations, to tally and verify the count and declare the result.***

**[114]** This is the only logical result following a holistic and purposive interpretation of the Constitution. We have previously explicated on the essence of a holistic and purposive interpretation of the Constitution in ***Re Kenya National Human***

**Rights Commission**, Supreme Court Advisory Opinion Reference No. 1 of 2012 as follows:

***“It must mean interpreting the Constitution in context. It is the contextual analysis of a constitutional provision, reading it alongside and against other provisions, so as to maintain a rational explication of what the Constitution must be taken to mean in light of its history, of the issues in dispute, and of the prevailing circumstances. Such scheme of interpretation does not mean an unbridled extrapolation of discrete constitutional provisions into each other, so as to arrive at a desired result.”***

In ***The Speaker of the Senate & Another v. Attorney-General & 4 Others***, Sup Ct. Advisory Opinion No. 2 of 2013; [2013] eKLR, held, with respect to interpretation of the Constitution, as follows-at paragraph 226:

***The Court, in the circumstances, should adopt a holistic approach to interpretation, with a view to protecting and promoting the purpose, effect, intent and principles of the Constitution.***

In his concurring Opinion in the same matter, Mutunga, CJ & P, (as he then was) observed at paragraph 185 that *a Constitution does not subvert itself*. Therefore, no provision should be deemed to strike down another, but rather the provisions must be interpreted in a manner that each supports the other. The Constitution must be interpreted holistically and no provision should be read in isolation.

In ***the Joho*** case, this Court held that:

***Indeed, ordinarily, in our view, a question regarding the interpretation or application of the Constitution may arise from a multiplicity of factors and interrelationships in the various facets of the law. Consequently, the Constitution***



***should be interpreted broadly and liberally, so as to capture the principles and values embodied in it.*** [Emphasis added]

[115] It is therefore my considered view that **Article 138** of the Constitution must be interpreted liberally and in a manner that none of its sub-Articles strikes down the other.

*Electronic and Manual Electoral Processes*

[116] Having determined the place of the **Maina Kiai case** in the 2017 Presidential Elections, and having, by this dissent appealed to the Supreme Court's consideration of that decision in Kenya's electoral practice, noting the unnecessary burden upon the value of simplicity of the electoral process through an added layer of the Constituency, I now turn to the role of electronic results transmission as a complement to the manual transmission of election results (the classical ballot election). Once again, the pillars of this section have been elaborated in the dissenting opinion of my brother, Justice J.B Ojwang, SCJ and I shall restate only in part, where necessary.

[117] The value of transparency underscores a critical component of elections: their public-nature. A voter must be able to verify whether the election act has been conducted and recorded accurately-hence the participatory nature of vote counting and tallying expressed in the Constitution, the Elections Act and Regulations thereunder. The public is represented, at the counting stage by accredited members of the media and international observers. The process of voting and declaration is also public.

[118] History is a great revealer of intent. Events inspire laws and public processes and at the heart of these laws and processes are shortcomings to be remedied, crises to be averted, needs to be met, and a nation to be efficiently and effectively governed. The disputed 2007 Presidential elections marked a turning point in electoral management in Kenya. Describing the political atmosphere during this period, the Committee of Experts on Constitutional Reform noted in their Preliminary Report dated 17<sup>th</sup> November, 2009 that:

***These elections were heavily contested.....The final results were delayed and then announced amidst public tension and accusations that the delay was a sign that the President's party was attempting to rig the elections. Eventually, the results were announced on 30<sup>th</sup> December, 2007 and the President hurriedly sworn in.***

[119] The Report of the Joint Parliamentary Select Committee on matters of the Independent Electoral and Boundaries Commission traces the historical use for deployment of Information Technology in elections. At paragraph 359, the report makes reference to the experience of voter registration and the ills thereof witnessed during the 2007 elections thus:

***359. The Independent Review Commission on the General Elections found that the 2007 disputed General Elections were not credible due to names of deceased voters appearing in the electoral register, impersonation of absent voters and defective planning of voter registration system among other shortcomings in the electoral process. The Commission recommended that – “Use of technology should also be implemented in order to enhance, not only integrity' and accuracy of results, but to increase speed of transmission, storage, and further analysis and audits by the ECK. If the law does not recognize results that are transmitted or tallied electronically, this technical solutions should, at least before the law is amended, be used as a parallel system for providing a backup system for ensuring accuracy of tallies and results, while still using the paper-based system of statutory forms.” [Emphasis supplied]***

[120] Based on the lessons drawn from the 2007 General Elections, technology was introduced to address the dual problem of (a) voter identification and (b) vote transmission. Following this recommendation, the Commission employed technology in the 2013 General Elections in the terms elaborated by the Committee's Report hereunder:

360. The Independent Electoral and Boundaries Commission employed technology in the 2013 General Elections in the following forms-

- (1) The Biometric Voter Registration System (BVR) was used for registering voters. It comprises a laptop, a finger print scanner and a camera. The Biometric Voter Registration System (BVR) captures a voter's facial image, finger prints and civil data or Personally Identifiable Information (PII), that is, the name, gender, identity card or passport number, telephone number among other details.
- (2) The Electronic Voter Identification System (EVID) is an electronic poll book. There are two types of Electronic Voter Identification System (EVID) technology: the laptop with attached finger-print reader and the handheld device with in-built finger print reader. The Electronic Voter Identification System (EVID) verifies and confirms voters electronically as registered by the Biometric Voter Registration System (BVR). They are used to "check-in" voters at polling station on polling day and are helpful in streamlining. Electronic Voter Identification System (EVID) curbs impersonation and ensures that only those who registered to vote are allowed to vote.
- (3) The Political Party Nominations System (PPNS) ensures that primary data on candidates nominated by political parties are entered in a format that makes it easy for the Independent Electoral and Boundaries Commission to verify the accuracy of the candidate details, compliance and generate ballot paper proofs. This is achieved by cross-matching the voters register and the political party register.
- (4) The Results Transmission System (RTS) is a system for transmitting provisional results electronically to an observation centre. At the end of voting and when votes have been counted and tallied, the Presiding Officers enter the data on the signed results sheet (Form 35) into specially configured mobile phones and transmit the results simultaneously to the election results centres

at the constituency, county and national level. The Results Transmission System (RTS) is meant to enhance transparency through electronic transmission of provisional results from polling stations and to also display and visualize provisional results at the tally centers and provide access to provisional elections data to media and other stakeholders in real time.

[121] Several issues referenced in the Report and detailed in the decision of the Court in the *Raila 2013* case emerged from the use of technology in elections. At paragraphs 233-235, the Court observed that:

**[233] We take judicial notice that, as with all technologies, so it is with electoral technology: it is rarely perfect, and those employing it must remain open to the coming of new and improved technologies. Analogy may be drawn with the traditional refereeing methods in football which, as their defects became apparent, were not altogether abandoned, but were complemented with television-monitoring, which enabled watchers to detect errors in the pitch which had occurred too fast for the referees and linesmen and lineswomen to notice.**

**[234] In the instant case, there is evidence that the EVID and RTS technologies were used in the electoral process at the beginning, but they later stalled and crashed. Different reasons explain this failure but, by the depositions of Dismus Ong’ondi, the failure mainly arose from the misunderstandings and squabbles among IEBC members during the procurement process – squabbles which occasioned the failure to assess the integrity of the technologies in good time. It is, indeed, likely that the acquisition process was marked by competing interests involving impropriety, or even criminality: and we recommend that this matter be entrusted to the relevant State**

**agency, for further investigation and possible prosecution of suspects.**

**[235] But as regards the integrity of the election itself, what lawful course could IEBC have taken after the transmission technology failed? There was no option, in our opinion, but to revert to the manual electoral system, as was done.**

**[122]** A stakeholder recommendation of employing an integrated electoral technology was implemented birthing the Kenya Integrated Electoral Management System [KIEMS). The functioning of this system is what has been contested in the Petition and supporting Affidavits. In summary:

[See foregoing paragraphs of this Judgement and the pillars in Justice Ojwang's dissenting Judgement for a full outline]

- (i) That there was system manipulation occasioning unfair advantage to the 3<sup>rd</sup> Respondent and unfair disadvantage to the Petitioners. In particular, that there was a consistent 11% variance between the 1<sup>st</sup> Petitioner and the 3<sup>rd</sup> Respondent in the transmission results displayed on the Commission's portal.
- (ii) That certain results were not transmitted in the form mandated by the Electoral law, fatally compromising the result of the election.
- (iii) That the results transmitted using the KIEMS system were materially different between Forms 34A and B
- (iv) That the election results were pre-determined by the Commission

**[123]** The case on transmission is supported by the Affidavits of Raila Odinga, Aprielle Oichoe, Koitamet Ole-Kina and Godfrey Osotsi.

**[124]** The 1<sup>st</sup> Petitioner's evidence can be summarized as follows:

- (i) That the IEBC deliberately and/or negligently comprised the security of the integrated electoral management system (KIEMS) and thereby exposed it to unlawful interference by third parties.
  
- (ii) Collation, tallying, verification, verification and transmission of the presidential results was riddled with procedural flaws, illegalities of the nature and extent that compromised the credibility of final result.
  
- (iii) That soon after procurement of KIEMS and establishment of ETAC, the IEBC conducted itself in a manner that weakened the security of integrated electronic system and exposed it to risks of interference from third parties that may have compromised the integrity of system. In particular:
  - a. That the Elections Technology Committee (ETAC) was declared unconstitutional in Petition No. 127 of 2017 and the Commission failed to defend the Regulations or inform the stakeholders of the said suit.
  - b. That the Commission filed Petition No. 415 of 2016 to declare section 39(1C) unconstitutional, which section is the basis of electronic transmission of results.
  - c. That the Commission failed to put in place several preparatory measures set up by law to assure the integrity and efficiency of KIEMS such as preparation, development, publication and implementation of a disaster recovery and operations continuity plan in the event KIEMS collapsed.
  - d. That two days to the presidential elections, IEBC announced that over 11,000 polling stations were purportedly out of 3G and 4G network range and results from these locations would therefore be transmitted manually.
  - e. That the Commission commenced the testing, verification and deployment of technology two days to the general elections contrary to requirement of at least 60 days to the election and

therefore denied the public opportunity to verify the efficiency and the security of the same.

- f. That despite clear advice from the Communication Authority of Kenya against hosting a private cloud to supplement the Commission's primary and disaster sites, it contracted OT Morpho SAS (France) thereby compromising the security of the cloud.
- g. That the death of the Commission's ICT Manager in charge of the management of the integrated electronic system was a clear attempt to further weaken the electronic electoral system.
- h. That failure to transmit results from polling stations and constituency electronically together with the prescribed forms exposed the collation and tallying process to manipulation.
- i. That the unreasonable delay in electronically transmitting results together with the prescribed forms grossly affected the credibility and validity of the results. They averred that transmission of results without prescribed forms has no basis in law.

**[125]** Aprielle Oichoe swore an Affidavit on the basis of expertise in cyber security. As such, her deposition was drawn on the basis that her observation of the transmission process, compounded by her 'expertise' (although none was proven in terms of certifications) was useful in evaluating compliance with the six main components or principles which the Commission systems and database ought to have been tested against. The deponent outlined the six principles as follows:

- 1) *Confidentiality*: that information ought to be accessed by authorized persons.
- 2) *Integrity*: Information used should be accurate, complete and protected from malicious modification either by authorised or unauthorized persons. In this regard, she swore that non-authenticated forms and non-prescribed results appeared on the 1<sup>st</sup> Respondent's public portal. No evidence with particulars of these forms was however adduced to support this 'expert opinion.'

- 3) *Availability*: it was her sworn evidence that systems required must be available as and when required by those authorized to use it in accordance with Articles 35 and 47 of the Constitution and Section 44 of the Elections Act as read with Section 4 of the Access to Information Act and Regulation 15 (4) of the Elections (Technology) Regulations, 2017. She swore that during the voting process, some persons could not find their names on the register and the explanation given by the Returning Officer in Upper Hill High School Polling station was that the affected persons either shard identity cards with other persons or their data has been lost by the 1<sup>st</sup> Respondent. Once again, no evidence was adduced, either in the form of affidavits from the affected persons or the Returning Officer in question to support this allegation.
- 4) *Non-repudiation*: An audit trail must be maintained on activities related to the information. Logs are therefore essential to trace actions performed on a computer system. That an entry was made into the system and a strange return made in the system in the form of an exercise book. The non-repudiation principle is supposed to ensure security by the unique identifier, in this case it was the QR code used by presiding officer to map the KIEMS device within the Results Transmission system
- 5) *Authenticity*: the information itself must be proven to be genuine and the source must also be proven to be genuine. In her expert opinion, at the time of declaration of results, there were only **29,000** Forms 34A available and the 1<sup>st</sup> Respondent declared the results with the authenticity of most Forms in dispute. Some of the forms used to declare the results differed with those returned by the Agents from the field. Once again, these forms were not produced as annexures to the Affidavit.
- 6) *Privacy*: IEBC failed to secure its data justifying the conduct of a systems audit.

### ***An Assessment of the ‘Expert Opinion’ of Aprielle Oichoe***

**[126]** Although the deponent claimed cyber security expertise, no certifications were provided to prove the existing expertise to warrant the weight placed on expert



opinions by the Court. Section 48 of the Evidence Act, Cap 80 of the Laws of Kenya is instructive on this point:

**48. Opinions of experts**

**(1) When the court has to form an opinion upon a point of foreign law, or of science or art, or as to identity or genuineness of handwriting or finger or other impressions, opinions upon that point are admissible if made by persons specially skilled in such foreign law, science or art, or in questions as to identity, or genuineness of handwriting or fingerprint or other impressions.**

[127] Although the deponent outlined the six principles which the transmission systems and database ought to have been tested against, the source of that opinion was not provided. Sufficient evidence to prove the link between those principles, the imperatives of electoral conduct and elaborate omission by the 1<sup>st</sup> Respondent, supported by any evidence, was not provided. Experts, when admitted before the Court, in person or by deposition, in the words of Lord Justice Jacob in *Rockwater Ltd vs. Technip France SA (formerly Coflexip SA & Anor)*, Case No. A3/2003/107 have a primary function:

*“their primary function is to educate the court in the technology – they come as teachers, as makers of the mantle for the court to don.”*

Further, as elaborated by Sir Donald Nicholls V-C giving the judgment of the Court of Appeal in *Mölnlycke v Proctor & Gamble* [1994] RPC 49 at p. 113 (although determining a matter of patent):

*As a practical matter a well-constructed expert’s report containing opinion evidence **sets out the opinion and the reasons for it.** If the reasons stand up the opinion does, if not, not.*

□ In my view, this Affidavit does not meet the essential attributes of ‘Expert opinion to guide the resolution of the question of transmission verification in issue.

**[128]** Koitamet Ole Kina deponed that as a duly accredited agent of the Petitioners, he was at the National Tallying Centre and witnessed results streaming into the online portal at 5:15pm, soon after the close of polling. They could not however verify the results of the elections because the same were not accompanied by hard copies of Forms 34A or the soft copies received by the 1<sup>st</sup> Respondent on their servers. They received 23,000 Form 34A on 10<sup>th</sup> August, 2017, and 50 Forms 34B. On 11<sup>th</sup> August, 2017, they were notified that only 29,000 Forms 34A were available with a shortfall of over 11,000 Forms 34A. Further, only 108 Forms 34B were available at the National Tallying Centre. Later that evening, the Commission confirmed that it was in possession of all Forms 34B and was ready to declare the result. In a letter dated 15<sup>th</sup> August, 2017 by the CEO of the 1<sup>st</sup> Respondent, it was indicated that all the Forms 34B had been availed by the Commission and handed to the deponent on 14<sup>th</sup> August, 2017.

**[129]** Godfrey Osotsi, the Secretary General of Amani National Congress Party and a duly accredited Agent nominated by NASA swore an affidavit as an IT expert with over 12 years’ experience. He swore that on the basis of information from Waqo Shuke, a member of the 1<sup>st</sup> Respondent’s ICT staff, the tallying process involved two sets of results, those with Forms 34A and those based on text messages only. The explanation obtained was that these results were coming from areas with no 3G or 4G network coverage. Despite a 10% variance (54 and 44%), the Petitioners' were denied access to the system back-end (servers) to ascertain the source of the variance.

**[130]** He doubted whether each presiding officer used their unique QR code to transmit the results of the election from the various polling stations to the Constituency Tallying Centres and to the National Tallying Centre.

**[131]** He joined Ole Kina in deposing that declaration of election results could only be done when the Commission was in possession of all Forms 34A and B, which was

not the case during this election because at the time of declaration. He emphasized that the results could only be called or declared when the Commission was in possession of all the Form 34A and 34B and at the time of declaration; the Commission had only 29,000 Forms 34A. He asserted that the results transmitted from the 11,000 polling stations out of 3G and 4G network coverage could not be ascertained and compromised up to 7 million votes. In his evidence, vote transmission could only be manual, not both manual and electronic.

**[132]** I must however point out that his evidence cannot be considered as that of an expert witness because he describes himself as part of the Petitioners' party and in my view, supporting the averments in the Petition as opposed to advancing expert opinion to the Court. This evidence must therefore be examined with that caution in mind. Ngaah J, in *Peter Kariuki Njenga v Gabriel P. Muchira & Another* **[2017] eKLR Civil Appeal, No. 188 of 2010**, referred to the following passage on expert evidence:

***In Cross on Evidence 5<sup>th</sup> Edition at page 446, the following passage from the judgment of President Cooper in Davie versus Edinburgh Magistrates (1933) SC 34,40, is set out as stating the functions of expert witnesses:***

***“Their duty is to furnish the judge or jury with the necessary scientific criteria for testing the accuracy of the conclusions, so as to enable the judge or jury to form their own independent judgment by the application of these criteria to the facts put in evidence.”***

***So an expert witness who hopes to carry weight in a court of law, must, before giving his expert opinion:***

- 1. Establish by evidence that he is specially skilled in his science or art.***
- 2. Instruct the court in the criteria of his science or art, so that the court may itself test the accuracy of his opinion and also form its own independent opinion by applying these criteria to the facts proved.***

**3. Give evidence of the facts on which may be facts ascertained by him or facts reported to him by another witness.** [Emphasis supplied]

***In response***

**[133]** The 1<sup>st</sup> and 2<sup>nd</sup> Respondents' averred that:

- (i) Transmission was completed in accordance with the electoral law and Regulations thereunder and in terms of the decision of the Court of Appeal in the ***Maina Kiai case***
- (ii) The completion of the transmission of the image of Forms 34A was dependent on the availability of 3G or 4G network coverage and where this was unavailable, alternative mechanisms to ensure completion in transmission of the image of the Form 34A in areas that lacked 3G or 4G network coverage, was established.

**[134]** The 2<sup>nd</sup> Respondent swore that appropriate training had been completed before the KIEMS kits were deployed for elections.

**[135]** The CEO of the Commission, Mr. Ezra Chiloba reinforced this assertion by deposing that more than 360,000 election officials were recruited and trained across the country to conduct the elections.

- a. It was the deponent's testimony in response to the 1<sup>st</sup> petitioner's Affidavit that that the law was amended vide the Election Laws (Amendment) Act, 2017 to provide for a period of four (4) months within which to procure and put in place the KIEMS. He averred that the 1<sup>st</sup> Petitioner's allegation in his affidavit evidence that electronic electoral system may have been exposed to risk of interference was speculative and untrue.
- b. The cases referenced by the Petitioners were both filed by other parties and the Commission was enjoined to these causes on the basis of its role in electoral preparations. [See: ***Collins Kipchumba Tallam vs. The***

***Attorney General, Petition No. 415 of 2016 and Dr. Kenneth Otieno vs. The AG & IEBC, Petition No. 127 of 2017***

**[136]** James Muhati, the 1<sup>st</sup> Respondent's ICT Director referred to the History of Electronic Transmission in Kenya and swore that section 44 of the Elections Act was amended (by inserting Section 44A to address the concerns raised by failure of technology in the 2013 General Elections.

**[137] Mr. Muhati** deposed that the Commission and ETAC ensured that mechanisms to satisfy the Constitutional and Statutory while using the KIEMS were put in place by the Commission. He also averred that the Commission, pursuant to *section 44(5) of the Elections Act* published the *Elections (Technology) Regulations 2017* on 21<sup>st</sup> April, 2017, 3 months before the general elections. He deposed that the 1<sup>st</sup> respondent developed and implemented a policy to regulate ***the progressive use of technology in the electoral process***.

**[138]** He swore that the transmission required 3G and 4G mobile network which was provided by three Mobile Network Operators (MNOs) i.e. Safaricom Limited, Airtel Kenya Limited and Telkom Kenya Limited. These providers were assigned zones of covered out of the thirteen zones established around the country. Each zone was powered by two providers, one as a primary service provider and the other as back-up. This was done to ensure consistency and accountability in operation and availability of service. It was his testimony that in a zone where an MNO was neither a primary nor secondary service provider, it was not expected to provide any results transmission system since KIEMS could only accommodate two SIM cards. Accordingly, the Commission gave such provider the coordinates of polling stations within the zones to enable the service provider prepare itself for the provision of results transmission services. The zoning was to ensure effective data segmentation into manageable parts.

**[139]** He averred that following a mapping exercise carried out by the Commission and analysis by the service providers, it was ascertained that about 11,155 polling stations within the country were not effectively covered by either 3G or 4G Network and this communication was sent out to the public vide a Notice dated 6<sup>th</sup> August,

2017. As a result, it was averred that presiding officers in these areas were instructed to move to points where there was network coverage or in the alternative go physically to the Constituency Tallying Centres in order to transmit the results. He further swore that the Commission had made all the necessary arrangements to avail all Forms 34A in a public portal.

**[140]** Regarding the security guarantees inbuilt within the KIEMS system, it was Mr. Muhati's evidence that there was:

- (i) *configuration of only pre-determined and authorized tablets for transmission which was under constant round the clock automated monitoring,*
- (ii) *secured network spectrum with a twin high-level perimeter firewall which filtered unauthorized transmission,*
- (iii) *robust database management solution with recommended security options such as pre-encryption or results;*
- (iv) *secure Virtual Private Network (VPN) and a granular role-based access control and user management for the entire Result Transmission System (RTS) and the SIM cards used during the exercise were disabled for voice and text messaging and had unique security features to conduct the exercise. Any attempts to relay data from a SIM card other than those provided by the service providers was easily detectible.*

**[141]** He further averred that the KIEMS kit was configured in such a way that it could not transmit data which bore more registered voters than those specific to a particular polling station.

**[142]** Brian Gichana Omwenga swore an Affidavit in response to the allegations in his capacity as the 3<sup>rd</sup> Respondent's Party Technical Advisor and a software and systems engineer, holding a Masters Degree in Engineering Systems, Technology and Policy from the Massachusetts Institute of Technology (MIT) on the issue of transmission. It was his evidence he elaborated that although the results keyed-into the KIEMS kit would be accompanied by an image of Form 34A, in areas without 3G

or 4G network coverage, transmission of the scanned image of Form 34A would either delay or not be sent at all, prompting the presiding officer to deliver Form 34A physically to the Constituency Tallying Centre. These Forms would thereafter be used to tally the results in Forms 34B.

**[143]** Having laid out critical elements of the petitioners' issue with the transmission of the results of the Presidential election, I now turn to the analysis. The allegations, although in most part, bare of any evidence (e.g. the blanket allegation of 11000 polling stations without proper particulars, and the link of tangential events such as publicly available law suits to the functioning of the system) present certain critical areas for examination:

- (i) *What is the import of Sections 39, 44 and 44A as far as transmission of election results is concerned?*
- (ii) *Is technology a mandatory component of Kenya's electoral transmission process?*
- (iii) *Is the Petitioners' averment that technology was the only acceptable mode of election results transmission accurate and that lack of 3G and 4G coverage in 11,000 polling stations compromised over 7 million votes?*

*What is the complementary mechanism provided under Section 44A of the Elections Act?*

**[144]** The High Court (upheld by the Court of Appeal) has had a chance to consider the use of technology in elections in Kenya and particularly, interpretation of Sections 39, 44 and 44A of the Elections Act in a decision whose final determination I concur with. In ***National Super Alliance (NASA) Kenya vs. The Independent Electoral and Boundaries Commission & 2 Others***, Constitutional Petition No. 328 of 2017 (***The NASA case***), the High Court held that:

**80. A plain interpretation of section 44A shows that the legislature intended the establishment of a mechanism that is complementary to the one set out in section 44 of the Act. The system under section 44 is an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results. It places emphasis on the use of technology.**

**81. In the The Concise Oxford English Dictionary, Oxford University Press, 12<sup>th</sup> Edition 2011, the word complementary “means forming a complement or addition, ... combining in such a way as to form a complete whole or enhance each other” while complement means “a thing that contributes extra features to something else so as to enhance or improve it...”. That being the plain and literal meaning of the word complementary, our view is that section 44A of the Act presupposes a mechanism that will complement, add, enhance or improve the mechanism already set out in section 44 of the Act.**

**82. It follows therefore that the complementary mechanism in section 44A need not be similar, same, akin or parallel to the one set out in section 44 of the Act. All that is required for that mechanism is that it should add to or improve the electronic mechanism in section 44 of the Act. But at the same time, be simple, accurate, verifiable, secure, accountable and transparent. It should allow the citizens to fully exercise their political rights under Article 38 of the Constitution. This complementary mechanism only sets in when the integrated electronic system fails.**

[145] While I find the decision of the High Court quite compelling, I would, with respect, reinforce it by applying the terms of the Constitution. The Honourable



Justices only partially interpreted Section 44A and restricted themselves to the Elections Act without due regard to Articles 38 and 86 of the Constitution. Having referenced the decision of this Court in ***Raila 2013*** case, the High Court rightly observed at paragraph 54:

***54. It is clear from this judgment that when the electronic system fails there should be a fall-back system to avoid the entire election falling into shambles***

A situation not envisaged by Articles 38 and 86 (d) of the Constitution.

[146] Article 86 of the Constitution lays down the parameters of voting in furtherance of the right to vote in free and fair elections pursuant to Article 38 of the Constitution. The system of voting ought to be simple, accurate, verifiable, secure, accountable and transparent. It is peculiar that with regard to voting, Article 86 does not make any direct reference to transmission of the election results. However, transmission, as discussed in the foregoing paragraphs is an integral part of the electoral process. It is the mode through which the results leave the polling station to the Constituency Tallying Centre and the National Tallying Centre. In order to enable voting and give full effect to the right to vote, appropriate structures must be set up. According to Article 86(d) of the Constitution, these structures and mechanisms **ought to eliminate electoral malpractice**. The KIEMS system was one such mechanism. The Constitution goes further and mandates that included in those appropriate structures and mechanisms is the safe-keeping of election materials. This requirement completes the dictates of accuracy, verifiability, security, accountability and transparency of the election process. But why does the Constitution emphasise on the safe-keeping of election materials as part of the appropriate structures and mechanisms to eliminate electoral malpractice and what then ought to be the interpretation of Sections 39(1)(C), 44 and 44A with reference to this provision?

[146A] These provisions provide as follows:

### **39. Determination and declaration of results**

**(1) The Commission shall determine, declare and publish the results of an election immediately after close of polling.**

**(1A) The Commission shall appoint constituency returning officers to be responsible for—**

- (i) tallying, announcement and declaration, in the prescribed form, of the final results from each polling station in a constituency for the election of a member of the National Assembly and members of the county assembly;**
- (ii) collating and announcing the results from each polling station in the constituency for the election of the President, county Governor, Senator and county women representative to the National Assembly; and**
- (iii) submitting, in the prescribed form, the collated results for the election of the President to the national tallying centre and the collated results for the election of the county Governor, Senator and county women representative to the National Assembly to the respective county returning officer.**

**(1B) The Commission shall appoint county returning officers to be responsible for tallying, announcement and declaration, in the prescribed form, of final results from constituencies in the county for purposes of the election of the county Governor, Senator and county women representative to the National Assembly.**

**(1C) For purposes of a presidential election the Commission shall —**

- (a) electronically transmit, in the prescribed form, the tabulated results of an election for the President from a polling station to the constituency tallying centre and to the national tallying centre;**
- (b) tally and verify the results received at the national tallying centre; and**
- (c) publish the polling result forms on an online public portal maintained by the Commission.**

**(1D) The chairperson of the Commission shall declare the results of the election of the President in accordance with Article 138(10) of the Constitution.**

**(2) Before determining and declaring the final results of an election under subsection (1), the Commission may announce the provisional results of an election.**

**(3) The Commission shall announce the provisional and final results in the order in which the tallying of the results is completed.**

#### **44. Use of technology**

- (1) Subject to this section, there is established an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.**
- (2) The Commission shall, for purposes of sub section (1), develop a policy on the progressive use of technology in the electoral process.**
- (3) The Commission shall ensure that the technology in use under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.**
- (4) The Commission shall, in an open and transparent manner —**

- (a) procure and put in place the technology necessary for the conduct of a general election at least one hundred and twenty days before such elections; and
  - (b) test, verify and deploy such technology at least sixty days before a general election.
- (5) The Commission shall, for purposes of this section and in consultation with relevant agencies, institutions and stakeholders, including political parties, make regulations for the implementation of this section and in particular, regulations providing for —
  - (a) the transparent acquisition and disposal of information and communication technology assets and systems;
  - (b) testing and certification of the system;
  - (c) mechanisms for the conduct of a system audit
  - (d) data storage and information security;
  - (e) data retention and disposal;
  - (f) access to electoral system software source codes;
  - (g) capacity building of staff of the Commission and relevant stakeholders on the use of technology in the electoral process;
  - (h) telecommunication network for voter validation and result transmission;
  - (i) development, publication and implementation of a disaster recovery and operations continuity plan; and
  - (j) the operations of the technical committee established under subsection (7). (
- (6) Notwithstanding the provisions of section 109(3) and (4), the Commission shall prepare and submit to Parliament, the regulations required made under subsection (4) within a period of thirty days from the date of commencement of this section.

- (7) The technology used for the purpose of the first general elections upon the commencement of this section shall –
- (a) be restricted to the process of voter registration, identification of voters and results transmission; and
  - (b) be procured at least one hundred and twenty days before the general election.
- (8) For the purposes of giving effect to this section, the Commission shall establish a technical committee of the Commission consisting of such members and officers of the Commission and such other relevant agencies, institutions or stakeholders as the Commission may consider necessary to oversee the adoption of technology in the electoral process and implement the use of such technology.

#### **44A. Complementary mechanism for identification of voters**

**Notwithstanding the provisions of section 39 and section 44, the Commission shall put in place a complementary mechanism for identification of voters and transmission of election results that is simple, accurate, verifiable, secure, accountable and transparent to ensure that the Commission complies with the provisions of Article 38 of the Constitution.**

[Emphasis added]

[147] The High Court kept a consistent eye on the essence of the Elections Act in general and Section 44 and 44A in particular with regard to engaging and protecting the right to vote. Technology is a means to an end (a verifiable election result) not an end in itself. In fact, the Court was aware of the enduring need to always consider Article 38 and its reinforcing provisions while construing provisions in the Elections Act when it referenced the German Federal Constitutional Court's *Judgement of the Second Senate* in part:

*The Dissenting Judgement of Njoki S. Ndungu, SCJ  
Presidential Petition No. 1 of 2017*

***bb) in a republic, elections are a matter for the entire people and a joint concern of all citizens. Consequently, the monitoring of the election procedure must also be a matter for and a task of the citizen.*** Each citizen must be able to comprehend and verify the central steps in the elections reliably and without any special prior technical knowledge.

***cc) The Public nature of the elections is also anchored in the principle of the rule of law. The public nature of the state's exercise of power, which is based on the rule of laws, serves its transparency and controllability. It is contingent on the citizen being able to perceive acts of the state bodies. This also applies as to the activities of the election bodies.***

***b) The principle of the public nature of elections requires that all essential steps in the elections are subject to public examinability unless other constitutional interests justify an exception. Particular significance attaches here to the monitoring of the election act and to the ascertainment of the election result. An election procedure in which the voter cannot reliably comprehend whether his or her vote is unfalsifiably recorded and included in the ascertainment of the election result, and how the total votes cast are assigned and counted, excludes central elements of the election procedure from public monitoring, and hence does not comply with the constitutional requirements.***

***C) Despite the considerable value attaching to the constitutional principle of the public nature of elections, it does not ensue from this principle that all acts in connection with the ascertainment of the election result must take place with the involvement of the public so that a***

*well-founded trust in the correctness of the elections can be created.....*

*It is certainly ensured in these cases that the voters are in charge of their ballot and that the result of the election can be reliably checked by the election authorities or by interested citizens without any special prior technical knowledge.....*

***b) Restrictions on possibilities for citizens to monitor the election events cannot be compensated for by sample devices in the context of the type approval procedure or in the selection of the voting machines specifically used in the elections prior to their deployment being subjected to verification by an official institution as to their technical performance. The monitoring of the essential steps in the election promotes well-founded trust in the correctness of the election certainly in the necessary manner that the citizen himself or herself can reliably verify the election event.***

***For this reason, a comprehensive bundle of other technical and organizational security measures (e.g. monitoring and safekeeping of the voting machines, comparability of the devices used with an officially checked sample at any time, criminal liability in respect of election falsifications and local organization of the elections) is also not suited by itself to compensate for a lack of controllability of the essential steps in the election procedure by the citizen. Accordingly, neither participation by the interested public in procedures of the examination or approval of voting machines, nor a publication of examination reports or construction characteristics (including the source code of the software with computer-controlled voting machines) makes a major contribution towards ensuring the constitutionally required level of controllability and verification of the election events.***

***Technical examinations and official approval procedures, which in any case can only be expertly evaluated by interested specialists, relate to a stage in the proceedings which is far in advance of the ballot. The participation of the public in order to achieve the required reliable monitoring of the election events is hence likely to require other additional precautions.***  
[Emphasis Added]

[145] However, a sharp deviation from this consistence is marked by the Court's opinion at paragraph 72, in part:

***72. Under sections 39 and 44 of the Act, the use of technology in our electoral system is entrenched. Registration of voters, their identification at the point of voting and the transmission of election results is purely electronic. However, the actual voting, tallying and collating of votes is wholly manual.***

I disagree with the High Court's conclusion that transmission of election results is purely electronic. To maintain that standard would be to negate the purport of Section 44A of the Elections Act. A clear understanding ought to be made of the components of our electoral system – whether electronic or manual.

### ***What constitutes the electoral system in Kenya?***

[] **Article 83** of the Constitution provides that:

***(1) ...***

***(2) A citizen who qualifies for registration as a voter shall be registered at only one registration centre.***

***(3) Administrative arrangements for the registration of voters and the conduct of elections shall be designed to facilitate, and shall not deny, an eligible citizen the right to vote or stand for election.***



□ **Section 4** of the Elections Act, 2011 provides that the Independent Electoral and Boundaries Commission (Commission) shall compile and maintain the Register of Voters. **Section 5** of the Elections Act, 2011 provides that:

***(1) Registration of voters and revision of the register of voters under this Act shall be carried out at all times ...***

***(5) The registration officer or any other authorised officer referred to in subsection (3) shall, at such times as the Commission may direct, transmit the information relating to the registration of the voter to the Commission for inclusion in the Register of Voters.***

□ Section 44 of the Elections Act, 2011 provides that:

***(1) Subject to this section, there is established an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.***

□ These provisions are the basis of registration of voters by the Commission.

Registration of voters in Kenya is conducted when the voter physically goes to the registration centre and his details are manually inputted into an electronic system and his biometrics are taken as part of his identification mechanism pursuant to Regulation 8 of the Elections (Registration of Voters) Regulations, 2012. This Regulation provides that:

***A register of voters shall contain biometric data and the particulars set out in Form A in the Schedule.***

Further Regulation 13A provides the process to be followed during the registration of a voter, in the following terms:

**Registration procedure**

- (1) A person who applies to be registered as a voter shall present his or her identification document to the registration officer stationed at a Registration Centre of his or her choice.**
- (2) The registration officer shall, where the applicant is qualified to be registered as a voter, issue the applicant with Form A as set out in the Schedule.**
- (3) The applicant shall return the duly completed Form A to the registration officer and the registration officer shall confirm the details in the form and enter them in the biometric voter registration system and the Voters Record Book. (note the filling of the form is manual)**
- (4) The applicant shall be issued with an acknowledgement slip upon registration.**

[] The details of the voter are thereafter transmitted by the Registration officer to the Commission for compilation, pursuant to the Regulation 12. This Regulation provides as follows:

**12. Certification of Register of Voters**

- (1) Where as a result of operation of section 5 of the Act, the registration of voters has been ceased, the Registration officer shall compile the list of registered persons.**
- (2) The registration officer shall after effecting compilation of the register of voters relating to the constituency submit his or her component for compilation by the Commission.**
- (3) The Commission shall compile the register of voters comprising of components under section 4 of the Act.**
- (4) ...**

[149] Therefore the registration is electronic, but it can only be done manually by the Registration Officer or another officer designated to do the registration, hence a voter must physically present himself at registration centre.

The voter's details and biometrics are then manually inputted into the Register of Voters which by law includes an electronic register. The definition section of the Elections Act, 2011 describes the Register of Voters as:

***“[A] current register of persons entitled to vote at an election prepared in accordance with section 3 and includes a register that is compiled electronically.”***

**[150]** During the elections the voter goes to the polling station and uses his National Identification Card as one means of identification and then undergoes a biometric voter identification process which is electronic. If for any reason the system is not able to identify the voter using the biometrics then a complementary manual system shall be applied in the identification of the voter, pursuant to Section 44A of the Elections Act, 2011.

**[152]** Therefore there is a twin scheme of manual and electronic voter identification at the polling station during the elections. Voting is also manual not electronic as voters mark their ballots and cast them into the ballot boxes. Once the voting process ends at the polling station, the votes are manually counted and the presidential election results recorded manually in the Form 34A by the Presiding Officer.

**[153]** Regulation 5 of the Elections (General) Regulations, 2012 unequivocally sets out the functions of the presiding officer in the following terms:

***(1A) The functions of a presiding officer shall be—***

***(a) presiding over elections at an assigned polling station;***

***(b) tallying, counting and announcement of results at the Polling station;***

***(c) submitting polling station results to the Constituency returning officer; and***

***(d) electronically transmitting presidential results to the constituency, counties and national tallying centers.***

**[154]** Therefore upon signing Form 34A and ensuring the same is signed by the agents of the candidates present in the polling station, the presiding officer manually inputs the results and the scanned Form in the designated electronic kit and electronically transmits the results to the Constituency, County and National Tallying Centres. The Kenya Integrated Election Management System (KIEMS) kit applied for that purpose requires 3G or 4G network, as indicated by Learned counsel for the 1<sup>st</sup> respondent in order to transmit the results. In the areas where that nature of network is not available, the presiding officer will be required to move to an area where that network is available in order to electronically transmit the results. A copy of the Form containing the declared results is also pinned on the door of the polling station.

**[155]** It is clear that the counting of the votes and the declaration of the results at the polling station is manual but the transmission is electronic. Nonetheless, by dint of Section 44A of the Elections Act, 2011 if the electronic transmission of the results fails then the presiding officer will revert back to the manual system of transmission in which case he will have to physically deliver the Form 34A to the Constituency Returning officer.

**[156]** In like manner, the Constituency Returning Officer upon receipt of the Forms 34A from the polling stations in the constituency, will manually tally, collate and verify the results and complete the Form 34B. He will then send those results electronically to the County and National Tallying Centres. If that fails, he will deliver them manually. Similarly, at the National Tallying Center the results are tallied, collated and verified manually and the declaration of the winning presidential candidate is done. The Certificate of Declaration of Results is then manually handed to the President-elect.

**[157]** Kenya's electoral process cannot therefore be said to be purely electronic. It comprises of both manual and electronic components. It is a rather ugly grouchy and reluctant mongrel of two very distinct processes. In fact it is a largely manual system.

It is therefore very distinct from electronic electoral processes exhibited in foreign jurisdictions such as India, Australia, the United States of America, Canada, and Brazil among others.

**[157]** In India, for instance, the process of voter registration is now electronic since a voter is able to register as a voter online by completing a form online and submitting it to the electoral body for registration. The process of voting is done by use of Electoral Voting Machines and the votes are counted and tallied electronically. There are no paper ballots.

**[158]** In Australia the Parliamentary elections are conducted by an electronic voting system which uses standard personal computers as voting terminals. Voters use a barcode to authenticate their votes. The voting terminals are linked to a server in each polling location using a secure local area network. However no votes are transmitted over a public network such as the internet. The votes are then electronically counted and tallied. Again, there are no paper ballots.

**[159]** In the United States of America voting is by way of optical-scan ballots or by direct-recording electronic devices that record votes electronically. The votes are counted and tallied electronically. Dominant in these jurisdictions where the electoral process is electronic is the electronic counting and tallying of the votes -an element which we do not have in our electoral process.

**[160]** The upshot is that in Kenya, the system of voting is partly manual and partly electronic with the option of reverting to the manual processes should the electronic processes fail. However, the counting of votes, tallying, collation and verification of the results is entirely manual.

**[161]** An interpretation of Section 44A of the Elections Act is incomplete without due consideration to Article 38 and 86(d) of the Constitution and Section 39 and 44 of the Elections Act. With respect, the High Court considered it only in light of

Section 44 advancing an incomplete conclusion. At paragraphs 80-87, parts which I would construe differently, the High Court held:

***80. A plain interpretation of section 44A shows that the legislature intended the establishment of a mechanism that is complementary to the one set out in section 44 of the Act. The system under section 44 is an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results. It places emphasis on the use of technology.***

***81. In the The Concise Oxford English Dictionary, Oxford University Press, 12<sup>th</sup> Edition 2011, the word complementary “means forming a complement or addition, ... combining in such a way as to form a complete whole or enhance each other” while complement means “a thing that contributes extra features to something else so as to enhance or improve it...”. That being the plain and literal meaning of the word complementary, our view is that section 44A of the Act presupposes a mechanism that will complement, add, enhance or improve the mechanism already set out in section 44 of the Act.***

***82. It follows therefore that the complementary mechanism in section 44A need not be similar, same, akin or parallel to the one set out in section 44 of the Act. All that is required for that mechanism is that it should add to or improve the electronic mechanism in section 44 of the Act. But at the same time, be simple, accurate, verifiable, secure, accountable and transparent. It should allow the citizens to fully exercise their political rights under Article 38 of the Constitution. This complementary mechanism only sets in when the integrated electronic system fails.***

***83. It was the petitioner’s contention that the mechanism envisaged under section 44A is akin to the one in section 44 of the Act; that the debate in Parliament did not indicate that the complementary mechanism was to be manual. With greatest respect, we do not think that***

*there is any ambiguity in the language used in section 44A to resort to the Hansard of Parliament in order to decipher the true intention of the legislature in this case. The language and meaning in that section is plain and clear. To our mind, what was required of the respondent was to put in place a mechanism that would complement the one set out in section 44 of the Act. The particulars of the mechanism, whether electronic, manual, or any other mode was not expressly provided in section 44A. If that were the intention of Parliament, nothing would have been easier than to specify so.*

*84. One other thing that buttresses our position that the mechanism contemplated in section 44A of the Act is independent of the one set out in section 44 of the Act, is the use of the words ‘Notwithstanding the provisions of section 39 and section 44, ...’. The use of the term ‘notwithstanding’ makes the mechanism in section 44A independent of what is contained in sections 39 and 44. The authors of Stroud’s Judicial Dictionary of Words and Phrases 6<sup>th</sup> Edition, London, Sweet and Maxwell 2000 at page 1732 have defined notwithstanding as follows:*

*“NOTWITHSTANDING: “Anything in this Act to the contrary notwithstanding” is equivalent to saying that the Act shall not be an impediment to the measure, ...”*

*85. On the other hand, the Blacks Law Dictionary, 9<sup>th</sup> edition, Bryan and Garner, 2009, defines the word notwithstanding to mean “despite, in spite of”. In this regard, the use of the term notwithstanding in section 44A means that in spite of what the provisions of section 39 and 44 stipulate as to the mechanism in our electoral system, the respondent is to put in place a mechanism to complement sections 39 and 44 of the Act. All that is required is that the said mechanism be simple, accurate, verifiable, secure, accountable and transparent; and, one which will not disenfranchise the citizens.*

**86. We are fortified in our finding by the decision of the Supreme Court of India in Chandavakar Rao v Ashalata Guram [1986] 4SCC 447. It was held-**

***“A clause beginning with the expression ‘notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force, or in any contract’ is more often than not appended to a section at the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the non-obstante clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the non-obstante clause or any contract or document mentioned the enactment following it will have its full operation or that the provisions embraced in the non-obstante clause would not be an impediment for an operation of the enactment”***

**87. Accordingly, our determination on what constitutes the components of the complementary mechanism to be established under section 44A of the Act is: that the mechanism should be separate but which is meant to improve or augment the mechanism already set out in section 44. That mechanism has to be simple, accurate, verifiable, secure, accountable and transparent. It must also comply with Article 38 of the Constitution, that is, it must ensure that every citizen’s right to register as a voter, vote at an election or vie for political office is safeguarded.**

[161] Article 39(1)(C) mandates that for purposes of a presidential election, the Commission shall electronically transmit, in the prescribed form, the tabulated results of an election for the President from a polling station to the Constituency tallying centre. Technology however, per Section 44, is used SUBJECT to the provisions of the entire section, meaning, that there are prerequisites to be met, before technology can be employed. Parliament was keen to introduce conditions preceding the use of technology in elections. These conditions are in-built in the provision as follows:



- (i) A policy for progressive use of technology in the electoral process (S. 44(2))
- (ii) The technology shall be simple, accurate, verifiable, secure, accountable and transparent (S. 44(3) which is in terms of Art. 86(a) of the Constitution)
- (iii) In an open and transparent manner, procure the technology at least 120 days before such elections
- (iv) Deploy the technology at least sixty days before a general election
- (v) Enact Regulations in consultation with relevant agencies, institutions, stakeholders, including political parties for the aspects listed under Section 44 (5) (a-j)
- (vi) Technology shall be restricted to voter registration, identification and results transmission
- (vii) Establish a technical committee to oversee the adoption of technology and its implementation for the conduct of the General elections.

**[162]** It is imperative at this juncture to highlight that the use of technology is progressive. Kenya’s electoral system is a vivid recollection of progressive improvement. Emerging from the *mlolongo* (queing) system that made no use of paper ballots, to the introduction of paper ballots, the development of statutory transmission Forms and several layers of verification, to the maiden introduction of technology during the 2013 General Elections whose partial failure inspired the introduction of the KIEMS system which returned proper voter registration, identification and sufficient vote transmission with verifiable paper trail. I reiterate the finding of this case in the ***Raila 2013 case***, at paragraph 237:

***[237] From case law, and from Kenya’s electoral history, it is apparent that electronic technology has not provided perfect solutions. Such technology has been inherently undependable, and its adoption and application has been only incremental, over time. It is not surprising that the applicable law has entrusted a discretion to IEBC, on the application of such technology as may be found appropriate. Since such technology has not yet achieved a level of***

*reliability, it cannot as yet be considered a permanent or irreversible foundation for the conduct of the electoral process. This negates the Petitioner's contention that, in the instant case, injustice, or illegality in the conduct of election would result, if IEBC did not consistently employ electronic technology. It follows that the Petitioner's case, insofar as it attributes nullity to the Presidential election on grounds of failed technological devices, is not sustainable.*

[163] The Petitioners and other interested parties sought guidance from the Courts on a significant aspect of these prerequisites, which were all settled in time for the elections.

[164] In light of the provisions relating to the use of technology in elections and in transmission of the results in a presidential election, Parliament introduced a non-obstante clause in the terms of Section 44A mandating the Commission to put in place a complementary mechanism for identification of voters and transmission of election results. **According to Black's Law Dictionary, 9<sup>th</sup> Edition, page 1155, a non-obstante clause is one which gives effect despite any laws to the contrary or which precludes interpretation contrary to the stated object or purpose.**

[165] The Constitution and the entire electoral code enliven this mechanism: the manual identification of voters and manual transmission of results in the prescribed instruments of transmission, verifiable by various agents including an election Court using election material expressly referenced under Article 86 (d) and defined under Section 2 of the Elections Act. The essence of this section was to save the Sovereign will of the people from the unpredictable nature of technology and to introduce a layer of verifiability to the electoral process. Parliament was clear, by the terms of Section 44A that the complementary mechanism (which exists as the manual system of result transmission in the prescribed instruments of declaration and whose finality is only questionable before an election Court) was sufficient to deliver a presidential election, as happened in areas where there was no 3G or 4G network coverage.

[166] I have already laid out the provisions of Article 86(d) of the Constitution which provides for the security of electoral materials. Section 2 of the Elections Act defines Election material to mean ballot boxes, ballot papers, counterfoils, envelopes, packet statements and other documents used in connection with voting and includes **information technology equipment used for voting**, the voting compartments, instruments, seals and other materials and things required for the purpose of conducting an election. These items exist. Their non-utility, compromise, interference or unavailability for purposes of inspection was not challenged. NOTWITHSTANDING the shortcomings of technology in terms of Article 44A, these materials stood as a testament of the election acts exercised by millions of Kenyans—an exercise which the majority has termed, irrelevant.

[167] The Constitution of Kenya is one drawn for efficiency. It communicates purpose with timelines. In the *Mary Wambui case*, this Court held that:

*[75] The electoral history of Kenya is replete with cases of delay in finalizing matters, thereby denying the voters the opportunity to have their chosen representatives in the organs of democratic governance. It is clear that the sovereign power belongs to the people, and is exercised either directly or through their democratically elected representatives in the State Organs, which include Parliament and the Legislative Assemblies in County Governments. The voters' rights in this regard are quite clear, from the terms of the Constitution (Article 1).*

[168] Article 138 of the Constitution is replete with these directives of time: Art. 138 (5); Art. 138(9); and Art 138 (10). The Constitution gives the Chairperson of the Commission a maximum period of **seven days** within which to declare the result of the election and deliver a written notification of the result to the Chief Justice and the incumbent President. This imperative allows enough time for the Commission to

**tally, verify the count of the results from the polling station, and declare the result pursuant to Article 138(4)(b) of the Constitution.**

**[169]** The complementary mechanism referenced in Section 44A of the Elections Act is a function of verification. I am persuaded by the determination of the German Federal Constitutional Court in the *Judgement of the Second Senate* that, the public nature of elections requires that all essential steps in the elections are subject to public examination, unless other constitutional interests justify an exception. This examination must be possible, by the voter/public, without special expert knowledge. Therefore, the voter in Kenya understands the function of the ballot and the critical importance of entries in the statutory Forms 34A, 34B and 34C. Election results are displayed in the relevant forms after the close of polling for all to see and scrutinize. Any mechanism that purports to complicate this simplicity is at variance with the Constitution. Technology reinforces the efficient and fast translation of the will of the people into an ascertainable return. It however does not supplant the critical primary instrument-Form 34A generated at the primary locus of the election and challengeable only in a Court of law.

**[170]** There was lingering doubt, throughout the proceedings on the figures that were being streamed on television. Counsel for the 1<sup>st</sup> Respondent submitted, to my satisfaction, that those figures (he referred to them as statistics) bore no status in law following the decision of the Court in the *Maina Kiai* case. I also note that the decision to stream these statistics was proper to manage public expectation owing to the history of elections in Kenya. The following recommendations from the Krieglar Report are instructive:

*Recommendations*

- ***IREC recommends that the media must have full access to this new system, which will not be a problem if it is properly constructed. This will assist the media in obtaining fully reliable results at high speed from all over the country and will also place the ECK in the***

***driver's seat in relation to providing the media with fast and reliable data.***

- ***IREC recommends that ample time be allowed for verifying provisional results, so that they are declared final/official only once there is no risk that errors may still be found or non-frivolous objections raised. Most countries allow one to two weeks for this – there must be sufficient time to check the provisional results, which are given status as final results only when all objections have been considered, all checks and rechecks conducted and the final verdict issued by the proper authorities. Given a clear explanation of what a provisional result is, there is no problem in making voters understand that election results are so important that they can be declared final only once they have been properly scrutinised and checked.***

**[171]** In my view, the claim of a consistent 11% variance between the results for the 3<sup>rd</sup> Respondent and the 1<sup>st</sup> Petitioner in my view was not proved (reference to hacking is analysed in the part on Orders of Access to Information).

**[172]** Having determined that failure of technology could not supplant the will of the people, recorded in verifiable ballots and other election material and the results declared in (a) available (b) ascertainable (c) unchallenged (d) proper statutory instruments of declaration, it is my opinion that the Petitioners' case to exclude results from 11,000 polling stations which were out of 3G and 4G network would be an affront to the Constitution and the right to franchise.

## **PRESIDENTIAL ELECTION VOTE TALLY: ARE “REJECTED” VOTES RELEVANT IN COMPUTING PERCENTAGES?**

### ***The Legal Importance of Percentages in the presidential vote tally***

[173] The controversy surrounding the Presidential Election 2007 was based on a number of factors including the perception of what constitutes a popular winning candidate. The constitutional framework adopted in August 2010 sought to address this concern by introducing a possible two tier election for the position of President. In accordance with Article 138(4) of the Constitution, “a candidate shall be declared elected as President *if the candidate receives more than half of **all the votes cast in the election; and at least twenty-five per cent of the votes cast in each of more than half of the counties.***” This means that in order for a candidate to be declared President-elect, he/she must receive more than fifty (50) per cent of the votes cast in the election, or what has been commonly referred to as the threshold of 50 plus 1.

[174] If no candidate meets this threshold, then fresh elections must be held at which only the two candidates with the highest number of votes in the first round will participate. In this second round, it is the candidate who receives the largest number of votes or a simple majority, who will be declared President-elect.

[175] Therefore percentage points play a critical role in determining the winner of a presidential election in the first round and whether there will be a second round of elections. Consequently, any factor that would affect the percentage of votes attained by a candidate needs to be addressed.

### ***The Petitioners’ Case***

[176] According to the Petitioners, the number of rejected votes accounted for at **least 2.6%** of the total votes cast and affected the final result of the Presidential election. It was the Petitioners’ averment that the exclusion of spoilt votes from the final percentage computation of the Presidential election results, rendered voting by

a number of voters, irrelevant.

□ In that respect, the Petitioners sought the following reliefs:

- (a) A specific order for scrutiny of the rejected and spoilt votes;
- (b) **A declaration that the rejected and spoilt votes count towards the total votes cast** and in the computation of the final tally of the Presidential election.

### ***The Law***

[177] In their written pleadings the Petitioners refer to the following applicable sections of the law and the Constitution:

- (a) **Article 1**-Sovereignty of the Kenyan people;
- (b) **Article 2**-The Supremacy of the Constitution;
- (c) **Article 4**-Establishment of the Kenyan Republic as a multi-party State founded on the national values and principles of governance referred to in Article 10 of the Constitution;
- (d) **Article 10**-National values and principles of governance
- (e) **Article 38** guaranteeing every citizen the right to exercise their political rights.
- (f) **Article 81 (e)(v)** read together with Section 39 of the Elections Act and Regulations thereunder which undergird the conduct of free and fair elections administered in an impartial, neutral, efficient, accurate and accountable manner.
- (g) **Article 86** which requires that at every election, the Independent Electoral and Boundaries Commission shall ensure that—the voting method is simple, accurate, verifiable, secure, accountable and transparent; votes cast are counted, tabulated and the results announced promptly by the presiding officer at each polling station; the results from the polling stations are openly and accurately collated and promptly announced by the returning officer; and appropriate structures and mechanisms to eliminate electoral malpractice are put in place, including safekeeping of election materials.
- (h) **Article 88** establishing the Independent Electoral and Boundaries

Commission;

- (i) **Article 138** outlining the procedure at an election petition.
- (j) **Article 140**-Questions as to the validity of presidential election
- (k) **Article 163**-The Supreme Court
- (l) **Article 249**-The objects, authority and funding of commissions and independent offices.

### ***Issues for determination***

**[178]** The Petition outlines the following issues for determination:

- (i) whether the colossal 2.6% of the total votes cast (constituting the number of rejected votes) substantially affects and/or invalidates the count and tally of the Presidential election; and
- (ii) whether the total number of rejected votes should be considered in ascertaining whether any candidate met the constitutional threshold.

### ***Analysis***

**[179]** A similar question of “**rejected votes**” arose in *Supreme Court Petition No. 5 of 2013* (See paragraphs 258 to 285). This Court considered the meaning of **all votes cast** and whether these included “rejected votes” or were limited to the properly marked ballots which figured in the vote-tally for the individual candidates. The Court considered the provisions of the Constitution of Kenya, 1969 and the Constitution of Kenya, 2010 specifically, reference to “**valid votes cast**” in determining the winner of an election in the previous constitutional dispensation (Section 5 (5)(e) and “**all votes cast**” in Article 138(4) of the Constitution of Kenya, 2010.

**[180]** The Petitioners’ case is that ‘**all votes cast**’ include “rejected” and “spoilt” votes (sic).



**The ratio in the Raila 2013 case Odinga vs. IEBC & 3 Others  
Supreme Court Petition No. 5 of 2013**

[181] Analysis of this issue ought to commence with the question posed at paragraph 262 of *Supreme Court Petition No 5 of 2013*:

***“Is it intended, in the Constitution of Kenya, 2010 that the expression “more than half of all the votes cast” should mean, literally, all the ballot papers that were marked and cast into the ballot box? Or should it mean only all the valid votes that were cast, and were counted in favour of one candidate or another?”***

***This Court held that:***

***The Elections (General) Regulations 2012 make no provision for “rejected votes,” though they provide for “rejected ballot papers:” absencing a distinction between a vote and a ballot paper. A ballot paper marked and inserted into the ballot-box is perceived as a vote, and becomes either valid or rejected, depending on the elector’s compliance with the applicable standards (see paragraph 281).***

[182] A non-compliant ballot paper yields a rejected vote which is invalid and therefore confers no advantage upon any candidate. Due to its numerical inconsequence on any candidate’s final tally, it should not be considered while computing the final percentage outcomes in a Presidential election.

**Further analysis on the basis of the current Petition**

[183] The Elections (General) Regulations 2012 defines a “rejected ballot paper” as **“a ballot paper rejected in accordance with regulation 78.”**

**Regulation 78**-Rejected ballot papers-provides that:

**(1) Every rejected ballot paper shall be marked with the word “rejected” by the presiding officer, and, if an objection is made by a candidate or an agent to the rejection, the presiding officer shall add the words “rejection objected to” and shall be treated as rejected for the purpose of the declaration of election results at the polling station.**

**(2) The presiding officer shall mark every ballot paper counted but whose validity has been disputed or questioned by a candidate or an agent with the word “disputed” but such ballot paper shall be treated as valid for the purpose of the declaration of election results at the polling station.**

*(2A) The presiding officer shall make a decision on the validity of the disputed ballot paper under sub regulation (2) and award it to a candidate and such decision shall be final.*

**(3) After the counting of votes is concluded, the presiding officer shall draw up a statement in Form 41 set out in the Schedule showing the number of rejected ballot papers under such of the following heads of rejection as may be applicable—**

**(a) want of security feature;**

**(b) voting for more than one candidate;**

**(c) writing or mark by which the voter might be identified;  
or**

**(d) unmarked or void for uncertainty, and any candidate, counting agent or observer shall, if he or she so desires, be allowed to copy that statement.**

*When/how is a ballot rejected?*

**Regulation 77** provides guidance on the **rejection of ballot papers**. It provides that:

- (1) *At the counting of votes at an election*, any ballot paper:
- a. **which does not bear the security features determined by the Commission;**
  - b. **on which votes are marked, or appears to be marked against the names of, more than one candidate;**
  - c. **on which anything is written or so marked as to be uncertain** *for whom the vote has been cast;*
  - d. **which bears a serial number different from the serial number of the respective polling station and which cannot be verified from the counterfoil of ballot papers used at that polling station; or**
  - e. **is unmarked...***shall subject to regulation (2) be void and shall not be counted.*

### ***When is a vote cast?***

[184] As determined in *Supreme Court Petition No. 5 of 2013*, the Regulations make no provision for “rejected votes.” However, they do provide for **rejected ballot papers, spoilt ballot papers, stray ballot papers, and disputed ballot papers**. This classification is consistent on the use of the term “**ballot paper**” and outlines the manner in which these ballots are treated by the presiding officers.

### **Section 2 of the Elections Act;**

**“ballot paper” means a paper used to record the choice made by a voter and shall include an electronic version of a ballot paper or its equivalent for purposes of electronic voting;**

Ballot papers constitute election material and are required for the purpose of conducting an election while “election results” means the declared outcome of ***the casting of votes by voters at*** an election. (Section 2 of the Elections Act). Casting of votes is an integral part of generating election results. In terms of Article 138 (2)(c): In a presidential election- **“after counting the votes in the polling stations, the Independent Electoral and Boundaries**

**Commission shall tally and verify the count and declare the result.**

**[185]** In line with the decision of this Court in *Supreme Court Petition No. 5 of 2013* spoiled ballots are those which are not placed in the ballot box but in fact are cancelled and replaced where necessary **by the Presiding Officer** in a polling station. This is unlike rejected and disputed ballots, which although placed in the ballot box, are declared disputed or invalid by the **Presiding Officer** for a range of reasons as enumerated in Regulations 77 and 78.

**[186]** Regulation 69 (2) provides that: “A voter shall, in a multiple election, be issued with the ballot papers for all elections therein at the same time and shall after receiving the ballot papers— (a) **cast his or her votes in accordance with regulation 70 without undue delay.**

**Regulation 70** outlines the method of voting:

- (1) A voter shall, **upon receiving a ballot paper** under regulation 69(2)—
- (a) go immediately into one of the compartments of the polling station and **secretly mark his or her ballot paper by putting a cross, a tick, thumbprint or any other mark in the box and column provided for that purpose against the name and the symbol of the candidate for whom that voter wishes to vote; and**
- (b) fold it up so as to conceal his or her vote**, and shall **then put the ballot paper into the ballot box** in the presence of the presiding officer and in full view of the candidates or agents.
- (2) The voter shall after following the procedure specified in sub-regulation (1) **put each ballot paper into the ballot box** provided for the election concerned.

*What is a vote?*

**While the term ‘vote’** is neither defined in the Constitution nor the Elections Act, Black’s law dictionary defines it as **“the expression of one’s preference or**

**opinion by ballot, show of hands or other type of communication”.**

*What is to cast?*

Similarly, although the Constitution does not define the term cast, Black’s law dictionary defines ‘cast’ as “**to formally deposit (a ballot) or signal one’s choice.**”

Therefore, the act of a voter **secretly marking** his/her ballot paper by putting a cross, a tick, thumbprint or any other mark in the box and column provided for that purpose against the name and **the symbol of the candidate for whom the voter wishes to vote**, constitutes, a vote. However, that vote only counts to the final computation and is deemed cast, if the elector complies with the applicable standards elaborated under the Constitution, and the electoral law and regulations.

[187] In certain instances, at the time the voter places his/her marked ballot paper in the ballot box, it remains a ballot, that can be rejected, unless, the voter has satisfied the requirements necessary to render their intention, a vote cast. This ballot paper however bears a mark against the name and symbol of the person whom the **voter wishes to vote**. The process of marking the ballot paper is therefore an expression of the voter’s wish/will to elect a particular candidate. This act, alongside other enabling electoral processes such as voter registration comprise the voter’s exercise of his/her political rights in line with Article 38 (2) of the Constitution.

[188] **Regulation 76** clarifies is position more succinctly:

**Regulation 76-Counting of votes:**

- (1) The presiding officer shall, in the presence of the candidates or agents—
  - (a) open each ballot box and empty its contents onto the counting table or any other facility provided for the purpose and, shall cause to be counted the votes received by each candidate; and
  - (b) record the total number of votes cast in favour of each

candidate.

(2) **Each ballot paper shall be counted** as follows—

(a) the presiding officer shall in respect of **every ballot paper, announce the candidate in whose favor the vote was cast;**

(b) display to the candidates or agents the ballot paper sufficiently for them **to ascertain the vote;** and

(c) put the ballot paper at the place on the counting table, or other facility provided for this purpose, set for the candidate in whose favor it was cast.

(3) The presiding officer **shall record the count of the vote** in a tallying sheet in Form 33 set out in the Schedule.

(4) A candidate or an agent shall have a right to—

(a) dispute the inclusion in the **count, of a ballot paper;** or

(b) object to the rejection of a ballot paper, where upon the presiding officer may decide to uphold or reject the complaint and act as provided under regulation 80.

In order for a ballot to translate into **a verifiable vote (a vote cast)**, it **must be clear in whose favour the vote was cast** without identifying the voter. **Meaning, that a vote is cast only when a presiding officer, during counting, declares that the intention of the voter is clear and that the vote is made in favour of a particular candidate.** The **intention of the voter** in a voting process that is by secret ballot is a core component of an individual's political right pursuant to Article 38 of the Constitution.

Therefore:

(i) **Spoilt ballots** do not constitute votes eligible to be included in the tally of the final results in a presidential election. **Regulation 71** which provides for spoilt ballot papers is clear on this position:

**A voter who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on**

**delivering it to the presiding officer and providing to the satisfaction of such officer the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered and the spoilt ballot paper shall be immediately cancelled and the counterfoil thereof marked accordingly.**

- (i) **Rejected ballots** in accordance with Regulations 77 and 78 and are void and not counted unless; in terms of **Regulation 77 (2)**:

“a ballot paper on which a vote is marked—

(a) elsewhere than in the proper place;

(b) by more than one mark; or

(c) which bears marks or writing which may identify the voter, shall not by that reason only be void **if an intention that the vote shall be for one or other of the candidates**, as the case may be, clearly appears, **and the manner in which the paper is marked does not itself identify the voter** and it is not shown that the voter can be identified thereby.

**[189]** Viewed purposively, it can be concluded that Regulations 2, 69, 70, 71, 77 and 78 exclude rejected ballots from the total votes cast; which are considered for purposes of computing the final results in a presidential election.

*Do the Regulations conform to the provisions of the Constitution as set out in Article 86(b) and 138(4) of the Constitution?*

**[190]** Article 86 (b) of the Constitution provides that;

**“At every election, the Independent Electoral and Boundaries Commission shall ensure that**

- (a)...
- (b) **the votes cast are counted, tabulated and the results announced promptly by the presiding officer at each polling station.**

Article 138(4) of the Constitution further provides that;

**“A candidate shall be declared elected as President if the candidate receives**

- (a) **more than half all the votes cast in the election; and**
- (b) **at least twenty-five percent of the votes cast in each of more than half of the counties.”**

**[191]** The Petitioners’ logic collectivizing all votes as cast and therefore applicable in computing the final results of a presidential election, does not distinguish the Presidential election from other elections held on the same day. This reasoning accepts that **stray ballots** also ought to form part of the votes considered in computing the final percentages. A **“stray ballot paper” means ballot a paper cast in the wrong ballot box** (Regulation 2)

**[192]** If any ballot for another election, for instance, Senate or Gubernatorial is placed in the Presidential ballot box, then that vote is not cast in the Presidential election. It is for all intents and purposes, a foreign object that cannot be considered a vote cast in that election. Consequently, it cannot be taken into account when considering the total number of votes cast in that election. Rejected ballots belong to no candidate. This however, is not to understate the statistical need to record rejected ballots. Such statistics may be helpful in assessing voter turnout and also acting as a barometer for evaluating civic education programmes for voters.



## **G. BURDEN OF PROOF**

**[193]** It is trite law that ‘whoever alleges must prove’. **Section 107 of the Evidence Act, Chapter 80 Laws of Kenya** stipulates this in the following terms:

- 1) *Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts, which he asserts, must prove that those facts exist.***
  
- 2) *When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.***

Further **Section 109** in narrowing down to proof of particular facts, stipulates:

***The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.***

**[194]** **Section 110** further provides that:

***The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.***

**[195]** Regarding the incidence of burden, **Section 108** provides that:

***The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.***

[196] This Court had the opportunity of pronouncing itself on the issue of burden of proof in a Presidential election petition in ***Raila 2013***. It held [paragraph 195]:

***“There is, apparently, a common thread in the foregoing comparative jurisprudence on burden of proof in election cases. Its essence is that an electoral cause is established much in the same way as a civil cause: the legal burden rests on the petitioner, but, depending on the effectiveness with which he or she discharges this, the evidential burden keeps shifting. Ultimately, of course, it falls to the Court to determine whether a firm and unanswered case has been made.”***

[197] The Court further held [paragraph 203] that “a petitioner should be under obligation to discharge the initial burden of proof, before the respondents are invited to bear the evidential burden.” The Court cited with affirmation the Canadian case, ***Opitz v. Wrzesnewskij*** 2012 SCC 55-2012-10-256 where it was thus stated in the majority opinion:

***“An applicant who seeks to annul an election bears the legal burden of proof throughout.....”***

However, the Court qualified this position by finding that the burden of proof once discharged by the petitioner, shifts to the respondents to disprove the claims made. It proceeded to specify what exactly the petitioner would be required to do to discharge that legal burden holding [at paragraph 196 & 197]:

***“Where a party alleges non-conformity with the electoral law, the petitioner must not only prove that there has been non-compliance with the law, but that such failure of compliance did affect the validity of the elections. It is on***

*that basis that the respondent bears the burden of proving the contrary. This emerges from a long-standing common law approach in respect of alleged irregularity in the acts of public bodies. Omnia praesumuntur rite et solemniter esse acta: all acts are presumed to have been done rightly and regularly. So, the petitioner must set out by raising firm and credible evidence of the public authority's departures from the prescriptions of the law.*

*[197] IEBC is a constitutional entity entrusted with specified obligations, to organize, manage and conduct elections, designed to give fulfilment to the people's political rights [Article 38 of the Constitution]. The execution of such a mandate is underpinned by specified constitutional principles and mechanisms, and by detailed provisions of the statute law. While it is conceivable that the law of elections can be infringed, especially through incompetence, malpractices or fraud attributable to the responsible agency, it behooves the person who thus alleges, to produce the necessary evidence in the first place – and thereafter, the evidential burden shifts, and keeps shifting.”*

[198] It is therefore clear that in an election petition the burden of proof at the very onset lies on the petitioner to prove the facts that he alleges. Once the petitioner discharges that burden it shifts to the respondent(s) to rebut the claims made. This decision was cited with affirmation in **Munya 2** when the Court stated:

*[178] One of the grounds for impugning the judgment of the Court of Appeal was that the Court shifted the burden of proof from the petitioner to the 2<sup>nd</sup> and 3<sup>rd</sup> respondents, contrary to the holding by this Court in **Raila Odinga and Another v. IEBC**. Regarding the burden of proof, this Court held that:*

***“...a petitioner should be under obligation to discharge the initial burden of proof before the respondents are invited to bear the evidential burden. The threshold of proof should in principle, be above the balance of probabilities, though not as high as beyond-reasonable-doubt. Where a party alleges non-conformity with the electoral law, the petitioner must not only prove that there has been non-compliance with the law, but that such failure of compliance did affect the validity of the elections. It is on that basis that the respondents bear the burden of proving the contrary.”***

*[179] We affirm that this statement represents the legal position regarding the question of burden of proof in election petitions.*

**[199]** This Court elaborated on the distinction between the legal burden and the evidentiary burden, noting that the legal burden is the initial burden on the petitioner to prove the facts pleaded in the petition. Once the petitioner discharges that legal burden to the standard required, then the burden shifts to the respondent to disprove those claims; that being the evidentiary burden. The Court held [paragraph 182]:

*“The allegation that the total number of votes cast exceeds the number of registered voters is such a serious one, that an election court would not treat it lightly. If proved, such an occurrence would call into question the integrity of the electoral process. The person who makes such an allegation must lead evidence to prove the fact. She or he bears the initial legal burden of proof which she or he must discharge. The legal burden in this regard is not just a notion behind which any party can hide. It is a vital requirement of the law. On the other hand, the evidential burden is a shifting one, and is a requisite response to an already-discharged initial burden. **“The evidential burden is the obligation to show, if called upon to do so, that there is sufficient evidence to raise an issue as to the existence or non-existence of a fact in issue”** [Cross and Tapper on Evidence, (Oxford University Press, 12<sup>th</sup>ed, 2010, page 124)]. In the **Raila case**,*

*this Court echoed this trite principle (paragraph 195 of its judgment) when it remarked:*

***“...an electoral cause is established much in the same way as a civil cause: the legal burden rests on the petitioner, but, depending on the effectiveness with which he or she discharges this, the evidential burden keeps shifting. Ultimately, of course, it falls to the Court to determine whether a firm and unanswerable case has been made” [emphasis supplied].***

**[200]** The petitioner must discharge the initial legal burden for the 1<sup>st</sup> Respondent to be under the evidentiary burden with respect to the register and the declared results. In that regard, this Court, in ***Munya*** held that [paragraph 188]:

*[T]he evidential burden regarding the contents of the register and declared results lies on the IEBC; **save that this burden is activated, in an election petition, only when the initial legal burden has been discharged.*** [Emphasis supplied]

**[201]** In ***Vashist Narain Sharma vs. Dev Chandra & Others***, 1954 AIR 513; 1955 SCR 509 (***Vashist Narain***) the Supreme Court of India, with regard to the burden of proving an election should be annulled on the ground that it did not conform with written law, held that ***“the volume of opinion preponderates in favour of the view that the burden lies upon the [petitioner].”***

**[202]** In instances in which the respondent admits certain facts alleged by the petitioner, the burden of proof is deemed to have been discharged by the petitioner but only with respect to the specific facts admitted. The Supreme Court of India has had the opportunity to pronounce itself of this aspect in ***Joshna Gouda vs. Brundaban Gouda & Another***, SC Civil Appeal No. 15174 of 2011. It held [paragraph 18]:

***“An admission must be clear and unambiguous in order that such an admission should relieve the opponent of the burden of proof of the fact said to have been admitted.”***

In the same matter the Court held that since the petitioner at the trial Court had failed to discharge the burden cast upon him the election petition had to fail.

[203] In **Vashist Narain** (above) the Court in emphasizing the grave need for the petitioner to discharge the burden of proof before an election is upset, held:

***“If the petitioner is unable to adduce evidence in a case such as the present, the only inescapable conclusion to which the Tribunal can come is that the burden is not discharged and that the election must stand. Such result may operate harshly upon the petitioner seeking to set aside the election ... but neither the Tribunal, nor this Court is concerned with the inconvenience resulting from the operation of the law. How this state of things can be remedied is a matter entirely for the Legislature to consider. The English Act to which we have referred presents no such conundrum and lays down a perfectly sensible criterion upon which the Tribunal can proceed to declare its opinion. It directs the Tribunal not to set aside the election if it is of opinion that the irregularity has not materially affected the result.”***

[204] The Supreme Court of India shed light on the sacred nature of an election by virtue of the fact that it is the expression of the will of the people which the Court is enjoined to guard jealously and void the declared results only upon proof illegal practices supported by cogent evidence. These principles were thus enunciated in **Rahim Khan vs Khurshid Ahmed & Ors**, 1975 AIR 290, 1975 SCR (1) 643 in which the Supreme Court of India held:

***“We have therefore to insist that corrupt practices, such as are alleged in this case, are examined in the light of the evidence with scrupulous care and merciless severity. However, we have to remember another factor. An election once held is not to be treated in a light-hearted manner and defeated candidates or disgruntled electors should not get***

*away with it by filing election petitions on unsubstantial grounds and irresponsible evidence, thereby introducing a serious element of uncertainty in the verdict already rendered by the electorate. An election is a politically sacred public act, not of one person or of one official, but of the collective will of the whole constituency. Courts naturally must respect this public expression secretly written and show extreme reluctance to set aside or declare void an election which has already been held unless clear and cogent testimony compelling the Court to uphold the corrupt practice alleged against the returned candidate is adduced. Indeed election petitions where corrupt practices are imputed must be regarded as proceedings of a quasi-criminal nature wherein strict proof is necessary. The burden is therefore heavy on him who assails an election which has been concluded.”*

[205] Therefore the petitioner must discharge the burden of proof in order to succeed in their pursuit to invalidate the declared results. The petitioner is not only required to prove that the irregularity was committed but also that the *irregularity materially affected the election result*. Section 83 of the Evidence Act, 2011 specifically requires that no election shall be declared void by reason of non-compliance with written law if it appears that the election was conducted in accordance with the Constitution and with written law or that the non-compliance did not affect the result of the election. The implications of this provision are addressed in detail later on in this opinion.

## H. STANDARD OF PROOF

[206] In electoral offences the standard of proof was held by this Court in ***Raila 2013*** to be higher than ‘balance of probabilities’ by below ‘beyond reasonable doubt’. The Court citing with approval various authorities held [paragraph 203]:

*“The lesson to be drawn from the several authorities is, in our opinion, that this Court should freely determine its standard of proof, on the basis of the principles of the Constitution, and of its concern to give fulfilment to the safeguarded electoral rights. As the public body responsible for elections, like other public agencies, is subject to the “national values and principles of governance” declared in the Constitution [Article 10], judicial practice must not make it burdensome to enforce the principles of properly-conducted elections which give fulfilment to the right of franchise. But at the same time, a petitioner should be under obligation to discharge the initial burden of proof, before the respondents are invited to bear the evidential burden. The threshold of proof should, in principle, be above the balance of probability, though not as high as beyond-reasonable-doubt – save that this would not affect the normal standards where criminal charges linked to an election, are in question. In the case of data-specific electoral requirements (such as those specified in Article 138(4) of the Constitution, for an outright win in the Presidential election), the party bearing the legal burden of proof must discharge it beyond any reasonable doubt.”*



**[207]** More specifically, where a claim of electoral malpractice is made the standard of proof is one above a ‘balance of probabilities’ but below ‘beyond reasonable doubt’. Where a claim of commission of an election offence is made the standard of proof is similar to that in a criminal matter – it is ‘beyond reasonable doubt’. Where the claim relates to data-specific electoral requirements the standard of proof is also ‘beyond reasonable doubt’.

**[208]** Where the petitioner assails the declared results on the allegation that the returned candidate committed election offences it is imperative for the petitioner to prove beyond reasonable doubt that the returned candidate or his agents working under his instructions committed the alleged offence. This Court in the ***Wetangula case*** was categorical that where an election offence is alleged in an election petition the standard of proof is beyond reasonable doubt similar to that in criminal matters due to the quasi-criminal nature of the cause. It held that [paragraph 120]:

*“[120] Now on account of this quasi-criminal aspect of bribery in elections, the offence is to be proved beyond any reasonable doubt. The petitioner has to adduce evidence that is cogent, reliable, precise and unequivocal, in proof of the offence alleged. We may draw analogy with the Supreme Court of India decision in **M. Narayana Rao v. G. Venkata Reddy & Others**, 1977 AIR S.C 208, in which it was thus held:*

*‘. . . The charge of commission of corrupt practice has to be proved and established beyond doubt like a criminal charge or a quasi-criminal charge, but not exactly in the manner of establishment of guilt in the manner of a criminal prosecution giving liberty to the accused to keep mum. The charge has to be proved on appraisal of the*

***evidence adduced by both sides especially by the petitioner. . .”***

**[209]** The petitioners alleged that contrary to Section 2 of the Elections Act, S 14 and 15 of the Election Offences Act, the 3<sup>rd</sup> respondent, Cabinet secretaries and other public officers blatantly misused state resources in favour of specific candidates and the Jubilee party as a whole which as a result unfairly skewed the playing field in favour of the 3<sup>rd</sup> respondent and as such the presidential elections could not be termed as free or fair. These they contended, amounted to gross violations of Articles 81(e), 232 and 73(2) the remedy of which could only be nullification of the said results.

**[210]** Applying the principles espoused above it is clear that the onus is on the petitioners to prove beyond reasonable doubt that the 3<sup>rd</sup> respondent committed the said electoral offences with detailed specificity by way of cogent evidence; bare allegation of commission of the alleged offences would evidently fall short of that standard.

**[211]** In respect of the allegation that the Cabinet Secretaries committed the alleged electoral offences, the petitioners must show firstly that offences were committed and that secondly, they were acting under the instructions of the 3<sup>rd</sup> respondent – they must show the nexus between the person who is alleged to have committed the offence and the returned candidate and they must have shown the full particulars of the allegation. The Supreme Court of India in making a determination in ***Jagdev Smgli vs. Pratap Singh Daulla***, (A.I.R. 1965. S.C. 18), an election petition, in which it was alleged that the agents of the returned candidate had committed corrupt practices the Court held that it must be proven not only that the offence was committed but that it was committed by the returned candidate or his agents or with the consent of the returned candidate – and the standard applicable is beyond reasonable doubt. It observed:

***“It may be remembered that in the trial of an election petition, the burden of proving that the election of a successful candidate is liable to be set aside on the plea that***

***he was responsible directly or through his agents for corrupt practices at the election, lies heavily upon the applicant to establish his case, and unless it is established in both its branches, i.e. the commission of acts which the law regards as corrupt, and the responsibility of the successful-candidate directly or through his agents or with his consent for its practice not by mere preponderance of probability, but by cogent and reliable evidence beyond any reasonable doubt, the petition must fail."***

[212] A digest of the Election Law Reports Vols. XI to XXII 1955-60 underscores the requirement to furnish full particulars of the alleged offences in the petition noting that where full particulars are not supplied the Court should strike out those alleged offences whose full particulars have not been provided. That has been set out in the following terms:

***"The requirement of full particulars is one that has got to be complied with, with sufficient fullness and clarification so as to enable the opposite party fairly to meet them - and they must be such as not to turn the enquiry before the Tribunal into a rambling and roving inquisition.***

...

***Where the petitioner had ample opportunity to get his petition amended for supplying full particulars of a corrupt practice alleged in the petition and has not taken advantage of that opportunity, the Tribunal would be justified in striking off the allegations relating to such corrupt practice."***

[213] Section 2(c) of the Representation of People Act, 1951 of the Laws of India, defines corrupt practices as any of the practices specified in Section 123 of the Act. The elaborate definition of various corrupt practices under Section 123 are —bribery, undue influence, appeal on the ground of religion, race, caste, community or language and the use of appeal to religions or national symbols, promotion of enmity

or hatred between different classes of citizens on the ground of religion, race, caste, community or language, propagation of sati, publication of false statements, hiring of vehicles or vessels, incurring excessive expenditure, procuring the assistance of government servants, and booth capturing.

**[214]** Where a petitioner imputes electoral offences on the part of the returned candidate the burden of proof lies on the petitioner to prove the commission of the electoral offences by the returned candidate or by his agents or by other persons with his consent, which claim must be supported by cogent evidence – bare allegations, without more, that the offence was committed will not suffice. If the evidence supplied fails to meet the set standard the petition must fail. In ***Jagdev Smgli vs. Pratap Singh Daulla, (1965) AIR 183, 1964 SCR (6) 750*** the Supreme Court of India in dealing with the issue of burden of proof and standard of proof where it was alleged that the winning candidate had committed corrupt practices during the election, held as follows:

***“It may be remembered that in the trial of an election petition, the burden of proving that the election of a successful candidate is liable to be set aside on the plea that he was responsible directly or through his agents for corrupt practices at the election, lies heavily upon the applicant to establish his case, and unless it is established in both its branches i.e. the commission of acts which the law regards as corrupt, and the responsibility of the successful candidate directly or through his agents or with his consent for its practice not by mere preponderance of probability, but by cogent and reliable evidence beyond any reasonable doubt, the petition must fail.”***

**[215]** Akhil Kumar (an Assistant Professor in the University of Rajasthan, Jaipur) in his journal article, Election Laws and Corrupt Practice in India, International Journal of Multidisciplinary Approach and Studies observes that electoral offences are akin to criminal offences and therefore must be proved strictly. He states:

***“[An] election may be avoided if corrupt practices have been committed. Attempts to influence may not be unlawful and not restrained unless corrupt intent or abuses of influence is established against the candidate or his election agent. Therefore, an allegation of undue influence must be proved as strictly as a criminal charge and the principle of preponderance of probabilities would not apply to corrupt practice of undue influence envisaged by the Act. It is settled view that a charge of corrupt practice under the Act of 1951 has to be proved beyond reasonable doubt, because if this test is not applied a very serious prejudice would be caused to the elected candidate who may be disqualified for a period of six years from fighting any election.”***

**[216]** I am persuaded that the petitioners failed to provide full particulars of the electoral offences that they allege had been committed by the 3<sup>rd</sup> respondent. I would therefore have at that instance struck out all the allegations of illegality from their petition for want of full particulars as required by law.

### ***Alleged Electoral Offences***

**[217]** The petitioners alleged that various electoral offences were committed by the 3<sup>rd</sup> respondent in during the electoral process. These are:

- i) Bribery
- ii) Intimidation
- iii) Undue influence

**[218]** I have already addressed these allegations earlier in this opinion however I would like to pay particular attention to the allegation that the Cabinet Secretaries breached the constitutional requirement not to be involved in any political activities as enshrined in Chapter Six of the Constitution relating to Leadership and Integrity, hence the declared results were vitiated.

**[219]** The Leadership and Integrity Chapter of the Constitution provides for the conduct of State Officers. Article 80 of the Constitution mandates Parliament to enact legislation to provide to operationalize that Chapter. It provides:

***“80. Parliament shall enact legislation—***

***(a) establishing procedures and mechanisms for the effective administration of this Chapter;***

***(b) prescribing the penalties, in addition to the penalties referred to in Article 75, that may be imposed for a contravention of this Chapter;***

***(c) providing for the application of this Chapter, with the necessary modifications, to public officers; and***

***(d) making any other provision necessary for ensuring the promotion of the principles of leadership and integrity mentioned in this Chapter, and the enforcement of this Chapter.”***

**[220]** In exercise of this mandate Parliament has enacted the Leadership and Integrity Act, which provides in Section 23 as follows:

***“(1) An appointed State officer, other than a Cabinet Secretary or a member of a County executive committee shall not, in the performance of their duties—***

***(a) act as an agent for, or further the interests of a political party or candidate in an election; or***

***(b) manifest support for or opposition to any political party or candidate in an election.***

***(2) An appointed State Officer or public officer shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.***

*(3) Without prejudice to the generality of subsection (2) a public officer shall not—*

- (a) engage in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election;*
- (b) publicly indicate support for or opposition against any political party or candidate participating in an election.”*

**[221]** The law therefore is clear that Cabinet Secretaries are exempt from the prohibition that public officers should not engage in the activities of a political nature, and for good reason. It is to be observed that Cabinet secretaries and County Executives members do serve at the pleasure of either the President or Governor. They are political appointees with the express purpose of delivering the manifesto of their appointing authority or his or her political party. This is an essential part of a political government in any democracy. A change in the Presidency signals the immediate resignation or replacement of these political appointees; not so with the rest of the civil service whose tenure is protected against the vagaries of politics. This is also the reason why civil servants do not and should not participate in active politics, as they should remain apolitical.

**[222]** It was also alleged that the 3<sup>rd</sup> respondent and the Cabinet Secretaries gave donations to the Internally Displaced Persons with a view to influence them to vote for the 3<sup>rd</sup> respondent. These allegations were fully rebutted by the affidavit of Engineer Karanja Kibicho who produced documents to prove that the assistance given to the Internally Displaced Persons was in line with a work plan of the government with a budget approval by Parliament in the previous financial year and which was not prompted by the aim to influence the voters in favour of the 3<sup>rd</sup> respondent.

**[223]** In the foregoing, I therefore find that the Petitioners' allegations on bribery, intimidation and undue influence are not proven.

## I. AFFIDAVIT EVIDENCE: AN ANALYSIS.

**[224]** The petition sets out the following as the alleged illegalities that were committed by the 1<sup>st</sup> and 2<sup>nd</sup> respondent in conducting the electoral process:

- a) Non-compliance with Articles 1, 2, 4, 10, 38, 81, 82, 86, 138, 140, 163, and 249 of the Constitution.
- b) Non-compliance with the Elections Act.
- c) Non-compliance with the Regulations made under the Elections Act.
- d) Non-compliance with the Electoral Code of Conduct.

**[225]** In summary the particulars of the petitioners' claims are that:

- 1) The 1<sup>st</sup> respondent by failing or neglecting to act in accordance with the Constitution subverted the sovereign will of the people.
- 2) The Presidential Election was so badly done and marred with irregularities that it does not matter who won.
- 3) The nature and extent of the flaws and irregularities significantly affected the results to the extent that the 1<sup>st</sup> respondent cannot accurately and verifiably determine the election results.
- 4) Section 83 of the Elections Act contemplates that where an election is not conducted in accordance with the Constitution and the written law, then that election must be invalidated notwithstanding the fact that the result may not be affected. The non-compliance with the Constitution and the written law is by itself sufficient to invalidate the Presidential Election.
- 5) Number of factors including the registration of voters and the rejected votes which accounted for 2.6% of the total votes cast affected the Presidential Election results.
- 6) This Court in ***Raila 2013*** in determining that spoilt votes cannot be counted in computing the 50% plus 1, relied on the opinion of the



minority yet the majority in that decision held that the total number of votes cast in an election refers to all votes cast whether valid or not.

- 7) The petitioners call upon this Court to reconsider its decision in ***Raila 2013*** and correct itself.
- 8) The transmission of results from polling stations to the Constituency and National Tallying Centre and from the Constituency to the National Tallying Centre was not simple, accurate, verifiable, secure, accountable, transparent, open and prompt which compromised and affected the requirement of free and fair elections under Articles 81 of the Constitution.
- 9) By an internal circular dated 25th July 2017, the 1st Respondent adopted a procedure that was contrary to and did not comply with the law as set out under Regulation 87(3) of the Elections (General) Regulations made pursuant to Sections 39 and 109 of the Elections Act and Article 82 of the Constitution.
- 10) The 1st Respondent declared the result without verification of the results from over 10,000 polling station representing approximately 5 million voters.
- 11) The information in Forms 34A is not consistent with the information recorded in Forms 34B as required and legitimately expected.
- 12) Forms 34B were not accurate and verifiable and consequently invalid.
- 13) The additions and figures do not add up.
- 14) The nature and extent of the inaccuracies and inconsistencies in the tabulations is not clerical but deliberate and calculated.
- 15) The inaccuracies and inconsistencies affect and account for at least 7 million votes.
- 16) At the time of declaration of the result, the 1<sup>st</sup> Respondent did not have 187 Forms 34B nor did it publically display or avail the same for verification. The declaration of the final result was therefore invalid and illegal.
- 17) In numerous instances the 1<sup>st</sup> Respondent selectively manipulated, engineered and/or deliberately distorted the votes cast and counted particularly in favour of the 3<sup>rd</sup> Respondent thereby affecting the final results tallied.

- 18) the 1<sup>st</sup> Respondent grossly inflated the votes cast in favour of the 3<sup>rd</sup> Respondent thereby affecting the final results tallied.
- 19) There was massive and deliberate failure in operational transparency.
- 20) The 1<sup>st</sup> Respondent deliberately and intentionally disregarded the decision of the Court of Appeal rendered in the case of ***Independent and Electoral Boundaries Commission v Maina Kiai***, Court of Appeal Civil No. 105 of 2017 by:
  - a) failing to electronically collate, tally and transmit the results accurately as per the Court decision;
  - b) failing to make the results at the polling stations final as per the decision;
  - c) failing to ensure accurate, verifiable and accountable results by posting varied, contradictory and ever changing results in Forms 34A, 34B and in its portal even at the time of filing this Petition; that without verifiability the purported results are unconstitutional and therefore invalid.
  - d) failing to ensure accurate, verifiable and accountable final result by declaring final results on 11<sup>th</sup> August 2017 before receiving all the results from all polling stations;
  - e) by colluding with the 3<sup>rd</sup> Respondent and ejecting the legitimate agents of the Petitioners from various polling stations in the Central and Rift Valley Regions, the 1st Respondent abdicated its responsibility of ensuring a transparent, impartial process of voting, tallying and transmission of results;
  - f) By allowing in excess of 14,000 fatally defective returns from polling stations representing in excess of 7 million votes, the 1st Respondent abdicated its responsibility of delivering verifiable results;
- 21) The votes cast in a significant number of polling stations were not counted, tabulated and accurately collated as required under Article 86(b) and 86(c) of the Constitution as read together with the Elections Act.

- 22) The results as displayed in the 1<sup>st</sup> Respondent's Forms 34B variously exclude substantial numbers of polling stations within the constituencies and are incorrigibly inaccurate in mathematical additions in favour of the 3<sup>rd</sup> Respondent.
- 23) The results contained in Forms 34B in respect of the Presidential Election are not the results required under Article 86 and are therefore a nullity.
- 24) The Petitioners aver that contrary to Regulation 7(1)(c) of the Elections (General) Regulations the 1<sup>st</sup> Respondent illegally and fraudulently established secret and ungazetted polling stations wherefrom results were added to the final tally thereby undermining the integrity of the Presidential Election.
- 25) A significant number of Forms 34B were executed by persons not gazetted as Returning Officers and not accredited as such by the 1<sup>st</sup> Respondent thereby rendering those results invalid.
- 26) The results from over 10,000 polling stations transmitted to the National Tallying Centre did not comply with the mandatory requirement set since they were not accompanied by the electronic image of Forms 34A.
- 27) Forms 34B are contradictory, defective and bear fatal irregularities affecting 14,078 polling stations out of 25,000 Forms.
- 28) The use of inconsistent and different forms and returns demonstrates lack of consistency, uniformity, neutrality, impartiality and indicates and intention to manipulate the results and the returns.
- 29) The 1<sup>st</sup> respondent is still in the process of altering and tampering with the Forms 34A and is summoning its officers to sign Forms 34A.
- 30) Some of the forms and returns are not signed as required by law and Regulations.
- 31) Some of the Forms 34B do not indicate the names of the Returning Officer.
- 32) A substantial number of Forms 34A and 34B do not bear the IEBC stamp others do not bear the signatures of the candidates agents nor the reason for refusing to sign.

- 33) A number of polling stations in different areas show the same person as presiding in those stations.
- 34) In more than half of the 290 constituencies the returning officers failed to indicate the number of Forms 34A handed over to them as required by the law and the Regulations.

**[226]** The petitioners in their petition made various further allegations upon which certain reliefs were sought which included the nullification of the results declared for the Presidential Election. The following is a summary of the assertions made:

1. By an internal circular dated 25th July 2017, the 1<sup>st</sup> Respondent adopted a procedure that was contrary to and did not comply with the law as set out under Regulation 87(3) of the Elections (General) Regulations made pursuant to Sections 39 and 109 of the Elections Act and Article 82 of the Constitution.
2. The 1<sup>st</sup> Respondent declared the result without verification of the results from over 10,000 polling station representing approximately 5 million voters.
3. The information in Forms 34A is not consistent with the information recorded in Forms 34B as required and legitimately expected.
4. Forms 34B were not accurate and verifiable and consequently invalid.
5. The additions and figures do not add up.
6. The nature and extent of the inaccuracies and inconsistencies in the tabulations is not clerical but deliberate and calculated.
7. The inaccuracies and inconsistencies affect and account for at least 7 million votes.
8. At the time of declaration of the result, the 1<sup>st</sup> Respondent did not have 187 Forms 34B nor did it publically display or avail the same for verification. The declaration of the final result was therefore invalid and illegal.
9. In numerous instances the 1<sup>st</sup> Respondent selectively manipulated, engineered and/or deliberately distorted the votes cast and counted particularly in favour of the 3<sup>rd</sup> Respondent thereby affecting the final results tallied.

10. The 1<sup>st</sup> Respondent grossly inflated the votes cast in favour of the 3<sup>rd</sup> Respondent thereby affecting the final results tallied.
11. There was massive and deliberate failure in operational transparency.
12. The 1<sup>st</sup> Respondent deliberately and intentionally disregarded the decision of the Court of Appeal rendered in the case of ***Independent and Electoral Boundaries Commission v Maina Kiai***, Court of Appeal Civil No. 105 of 2017 by:
  - a) failing to electronically collate, tally and transmit the results accurately as per the Court decision;
    - (i) to make the results at the polling stations final as per the decision;
    - (ii) to ensure accurate, verifiable and accountable results by posting varied, contradictory and ever changing results in Forms 34A, 34B and in its portal even at the time of filing this Petition; that without verifiability the purported results are unconstitutional and therefore invalid.
    - (iii) to ensure accurate, verifiable and accountable final result by declaring final results on 11 August 2017 before receiving all the results from all polling stations;
  - b) By colluding with the 3<sup>rd</sup> Respondent and ejecting the legitimate agents of the Petitioners from various polling stations in the Central and Rift Valley Regions, the 1<sup>st</sup> Respondent abdicated its responsibility of ensuring a transparent, impartial process of voting, tallying and transmission of results;
  - c) By allowing in excess of 14,000 fatally defective returns from polling stations representing in excess of 7 million votes, the 1<sup>st</sup> Respondent abdicated its responsibility of delivering verifiable results;

**[227]** The votes cast in a significant number of polling stations were not counted, tabulated and accurately collated as required under Article 86(b) and 86(c) of the Constitution as read together with the Elections Act.

13. It was averred that the results as displayed in the 1<sup>st</sup> Respondent's Forms 34B variously exclude substantial numbers of polling stations within the constituencies and are incorrigibly inaccurate in mathematical additions in favour of the 3<sup>rd</sup> Respondent.
14. It was also asserted that the results contained in Forms 34B in respect of the Presidential Election are not the results required under Article 86 and are therefore a nullity.
15. The Petitioners aver that contrary to Regulation 7(1)(c) of the Elections (General) Regulations the 1<sup>st</sup> Respondent illegally and 16 fraudulently established secret and ungazetted polling stations wherefrom results were added to the final tally thereby undermining the integrity of the Presidential Election.
16. It was his assertion that a significant number of Forms 34B were executed by persons not gazetted as Returning Officers and not accredited as such by the 1<sup>st</sup> Respondent thereby rendering those results invalid.

**[228]** The petitioners in support of their petition have filed various affidavits and in some of those affidavits are an array of documents and video clips annexed as evidence.

### ***1. The affidavit of the 1<sup>st</sup> Petitioner***

**[229]** The Affidavit of the 1<sup>st</sup> petitioner makes averments on the same claims contained in the petition and an additional deposition that the Presidential Election was compromised by intimidation and improper influence or corruption contrary to Articles 81(e)(ii) of the Constitution as read together with the Elections Act and Regulations 3 and 6 of the Electoral Code of Conduct. Further, that the 3<sup>rd</sup> respondent, with impunity, contravened the Rule of Law and the principles of conduct of a free and fair election through the use of intimidation, coercion of public officers and improper influence of voters.

**[230]** To that affidavit was one document annexed as evidence; a document indicating the areas that were outside the 3G and 4G network coverage. The affidavit

indicates that further evidence in other affidavits serves as evidence in support of the matters deposed therein.

## **2. *The affidavit of the 2<sup>nd</sup> Petitioner***

**[231]** The affidavit of the 2<sup>nd</sup> petitioner briefly reiterates some of the claims contained in the petition. However, it does not adduce any evidence in support of the claims made. The deponent states that he relies fully on the evidence in the affidavit of the 1<sup>st</sup> petitioner and in the affidavit of Dr. Nyangasi Oduwo.

## **3. *The affidavit of Benson Wasonga***

**[232]** The deponent averred that there were irregularities in the declaration of the Presidential results by the Chairperson of the Independent Electoral and Boundaries Commission (IEBC) *vis-a-vis* the Forms 34C. He asserted that the actual summation of the total valid votes from the IEBC portal was 15,179,717, with Raila Odinga having 6,821,505 votes while Uhuru Kenyatta had 8,222,861 votes, and the total rejected votes being 477,195 votes. However, the IEBC portal displayed the results as follows; the total valid votes were 15,180,381, Raila Odinga's votes amounted to 6,821,877 while Uhuru Kenyatta's votes were 8,223,163 and the total number of rejected votes was 403,495. He attached an analysis of the number of rejected votes.

**[233]** He deposed that the declaration of results for the election of the President at the National Tallying Centre as per the Form 34C indicated the results as follows; the total valid votes are 15,114,622, Raila Odinga 6,762,224, Uhuru Kenyatta 8,203,290 and the total rejected votes were 81,685. His assertion was that the actual variation of rejected votes between the actual results and those displayed at the IEBC portal was 73,700 votes. His averment was that this was a violation of clear provisions of electoral laws to the disadvantage of the other presidential candidates.

## **4. *The affidavit of Mohamed Noor Barre***

**[234]** Mohamed Noor Barre who is a resident of Mandera North Constituency, Mandera County swore that he had been appointed as Presiding Officer at Kalicha Primary School in Mandera North Constituency. He averred that on 7<sup>th</sup> August, 2017 at around 5.00 pm, he convened with 70 other people, at the Independent Electoral and Boundaries Commission's Office in Mandera North Constituency. He deposed that they were all informed that their names had been replaced by others for unexplained reasons.

**[235]** It was his testimony that elections proceeded the following day at Kalicha primary school polling station. He averred that the said elections were conducted by strangers who were acting as presiding officers who were untrained and had not taken an oath of secrecy. He asserted that as a consequence, Kalicha Primary School, polling station 2 of 2 polling stations, had a 100% voter turnout as all registered voters numbering 594 voted.

**[236]** Further, he asserted that, these figures were filled in at a tallying Centre at the Sub County Commissioners Block contrary to a Court Order which had directed that the tallying centre should be at Rhamu Arid Zone Primary School. It was his assertion that this kind of rigging happened throughout Mandera County. He gave as evidence, documents to support his averments.

**[237]** I am of the opinion that the evidence in Mr. Mohamed Noor Barre did not meet the standard of proof required since it comprised of bare allegations without any substantiation of the averments made with regard to the fact that he was the appointed presiding officer, that the person who acted as presiding officer was not the one appointed initially, that there was rigging at the polling station and that persons who were not supposed to vote were allowed to vote. This affidavit evidence was rebutted by the affidavit of MaryKaren Kigen Sorobit.

##### **5. *The affidavit of Ibrahim Mohamud Ibrahim***

**[238]** Ibrahim Mohamud Ibrahim a resident of Mandera North Constituency, Mandera County deposed that he was appointed, trained and took oath to serve as a Presiding Officer at Guticha Primary School in Mandera North Constituency. He



asserted that on 7<sup>th</sup> August, 2017 at around 5.00 pm, he as well as 70 other people were summoned to the Independent Electoral and Boundaries Commission's Office in Mandera North and informed that their names had been replaced by others for unexplained reasons. A protest arose and they reported the matter to Rhamu police station.

**[239]** Further he averred that the elections took place on the following day at various polling stations conducted by strangers who were acting as presiding officers. It was his testimony that these strangers had neither been trained nor taken oath of secrecy. It was his testimony that this opened voter numbers to alteration at the Constituency Tallying Centre which was in the Sub County Commissioners office boardroom. He averred the constitution of the tallying centre was against a court order which had directed that the tallying centre should be at Rhamu Arid Zone. He took the stance that this kind of rigging happened throughout Mandera County.

## **6. *The affidavit of Moses Wamuru***

**[240]** The deponent avers that on the 8<sup>th</sup> August, 2017 he arrived at Thigingi Primary School in Kagaari North Ward, Runyenjes Constituency where he found all the NASA agents locked out of the polling station. He asserts that his effort to persuade the Presiding Officer to allow the said agents back into the polling station were unsuccessful. He avers that the NASA agents did not gain access into the polling station until the voters in the queue protested. He further deposes that the said agents were later evicted from the polling station at the time of counting. These averments are incredible given the fact that the Form 34A on record of Thigingi Primary School, polling station 01 bears the signature of an agent of the Orange Democratic Movement affiliated to the NASA coalition. The authenticity of that Form 34A has not been challenged by the petitioners.

**[241]** Similar, averments have been made with respect to the NASA agents at Gichera Primary School polling station, Kagaari South Ward, Runyenjes Constituency, Embu County. Likewise, it is evident from the Form 34A on record that the NASA agents signed the Forms 34A for both polling stations at Gichera Primary School, as required by law. The authenticity of those forms was not

challenged. In respect of Siakago Girls Secondary School which was the Tallying Centre for Mbeere North Constituency Mr. Wamuru averred that tallying was conducted in the absence of the NASA agents and that he was coerced into signing the Form 34A in order to get a copy. These averments are not supported by any evidence.

**[242]** Further the deponent states that in Mbeere South Tallying Centre at Nyangwa Secondary School the Chief Agent, one Mr. Donald Muchembi registered several complaints that included harassment by Jubilee and Provincial Administration Officers. It is also averred that the County Commissioner was acting as the Jubilee Chief Agent. It is unfortunate, that the deponent did not in any way attempt to support these claims with any form of evidence. The statement that Mr. Muchembi was harassed is hearsay and therefore inadmissible in its entirety.

**[243]** It was further asserted that at Mbeere South Tallying Centre the Returning Officer informed the persons present in the hall that she would wait for the County Commissioner to return before concluding the tallying process. It was also averred that in Gichera Primary, Runyenjes Central, Ngurweri: the indelible ink was not used and voters confessed to have voted more than once; the agents were sitted too far from where identification of voters was taking place hence they could not ascertain whether identification had happened; the presiding officers and the Polling Clerks were assisting those who were unable to vote; the Presiding Officers were counting rejected ballots in favour of the 3<sup>rd</sup> Respondent without any explanation; there were reports that NASA agents were compromised by the County Commissioner and the Head of Police; and, the conduct of the IEBC officials and the County Commissioner were repeated in all areas in Embu County. These statements are unsupported by any evidence and remain as bare allegations.

**[244]** Other averments in this affidavit were with regard to the following:

- a) Late commencement of the voting process at Karago Primary School in Kieni North Constituency.
- b) The use of the manual identification of voters and abandonment of the electronic system of identification without justification, at Kathungu Primary School in Kagaari South.

c)The assertion that one of the NASA agents witnessed voters issued with two presidential ballot papers in the same polling station.

**[245]** No evidence was adduced in support of these allegations. The allegation that some voters were issued with two presidential ballot papers is unsupported by any evidence. It would be expected that the deponent would have adduced more credible evidence in support of that claim. The mere statement of an account supposedly witnessed by some other persons – in this case some NASA agents – is hearsay evidence which is inadmissible.

**[246]** The affidavit of Moses Wamuru in support of the petition makes bare averments which have not been supported by cogent evidence.

### ***7. The Affidavit of Godfrey Osotsi in support of the Petition***

**[247]** Mr. Godfrey Osotsi deposed that he is the Secretary General of the Amani National Congress Party and was accredited as the Chief agent nominated by the ANC Party affiliated to the NASA coalition. In respect of the time of streaming of the results, he averred at 1715hrs the presidential results had started streaming in. He explained that upon enquiry with one official of the 1<sup>st</sup> respondent by the name Waqo Shuke, he was informed that there were two sets of results; those with Forms 34A and those without Forms 34A which were based on the text messages only. He asserts that the 1<sup>st</sup> respondent had all along represented to them that all text results would be accompanied by scanned Forms 34A simultaneously. In evidence he annexed a transcript of video clips of the officers of the 1<sup>st</sup> respondents making statements on that issue.

**[248]** It was his assertion that upon consultation the 1<sup>st</sup> respondent's Information Technology consultants from Saffron (which supplied the KIEMS gadgets) they confirmed that they were receiving results without Forms 34A for the reason that some areas lacked 3G and 4G network and could not, therefore, transmit the images. It is to be noted that this assertion is a bare allegation without supporting documents for the same rendering the statement as hearsay.

**[249]** He admits that the 1<sup>st</sup> respondent availed 29,000 Forms 34A on the deponent's external drives. He however, emphasized that they did not get over 11,000 forms. He added that by the time the results were being announced, there were 10,480 Forms 34A outstanding and that upon request to get the outstanding forms Mr. Waqo an official of the 1<sup>st</sup> respondent sent him an email with the results from 10056 Polling Stations. He avers that out of those Polling Stations 100 of them had more than 700 registered voters. He annexes a copy of the said email and what is stated to be the accompanying data file containing the text only results.

**[250]** It should be noted here that the said accompanying document contains data on the number of Polling Stations that were out indicated to be outside network coverage. Indeed, that document bears the title "Analysis of network coverage in relation to IEBC Public Notice." That document is of no probative in respect of the claim that there were text-only results of 10,056 Polling stations or in respect of the allegation that there were polling stations with more than 700 registered voters.

**[251]** Annexed to the same affidavit is another document that is lacking in clarity. It bears some data categorized in three columns indicating the county name and the number of Polling Stations. However, since its contents are vague and it is not possible to decipher the details contained in the document. It is therefore of no evidentiary value. Even if the contents of the document were clear it would only serve as evidence of the number of Polling Stations in specific Counties that is assuming that it is proven to be an authentic document from the 1<sup>st</sup> respondent, which thus far it has not.

## **8. *The Affidavit of Olga Karani***

**[252]** Olga Karani deposed that she was one of the duly accredited agents nominated by the National Super Alliance (NASA) for the 8<sup>th</sup> August 2017 general elections as the Deputy Chief Agent. She asserted that there were irregularities and anomalies in the tallying process at the tallying center which were expressed by the members of public, NASA agents and candidates in several media platforms; details of which were set out in the affidavit of Dr. Nyangasi Oduwo.

**[253]** She averred that the prescribed forms which were manually transmitted to the National Tallying Center or otherwise deposited in the IEBC website were impossible to verify as the same forms filled in by the presiding officers and the Returning Officers in the presence of the agents as prescribed by law. She asserted that she made a request for the 1<sup>st</sup> respondent to clarify why the forms were not processed in accordance with KIEMs procedure provided but it declined to disclose the source of the forms or make clarifications on the same. It was her assertion that by the time the results were announced by the Chairperson of the 1<sup>st</sup> Respondent, the Commission had neither collated or availed any Forms 34B and had not addressed any issues relating to the Forms 34A or the results published in its website which evidenced a lack of transparency on the part of the 1<sup>st</sup> Respondent. The affidavit has no documentary evidence annexed which are relevant in support of the averments made.

#### **9. Dr. Nyangasi Oduwo's Affidavits**

**[254]** Dr. Oduwo deposed that he is a medical doctor with a Post-Graduate Diploma in Research Methods, a Masters in Project Management and Planning, a Second Masters in Economic Policy and Analysis and is the economic advisor to the current Governor of Mombasa County Government. He asserted that on 8<sup>th</sup> August, 2017 at around 5.07 pm, barely 10 minutes after the closure of the polling stations, the Commission started streaming in results of the presidential vote in the media. He averred that from the very start of the results broadcast to the end, a constant percentage difference of about 11% was maintained between the 1<sup>st</sup> petitioner and the 3<sup>rd</sup> respondent despite the fact that the results were coming in a random manner.

**[255]** He averred that the Chairperson of the Commission addressed the media and indicated that the 1<sup>st</sup> Respondent was yet to receive all the statutory Forms 34As in respect of the Presidential results it was streaming through the 1<sup>st</sup> Respondent's online web Portal and that the said results were provisional.

**[256]** In line with the grounds in the petition he reiterated that in many polling stations within Central Kenya and the Rift Valley region, agents of the petitioner

were chased away from the stations and replaced by imposters who were caused to create fictitious names and sign blank Form 34As. It was his averment that the Presiding Officers were caused to fill in such fictitious results as they desired in favour of the 3<sup>rd</sup> respondent, and that they were filled by one person on the particulars of all 7 agents. In evidence he annexed a copy of a blank Form 34 A for Ruai Girls Secondary School polling in Kasarani Constituency.

**[257]** I have found that that blank Form 34A has no probative value in respect of the assertions made in the Petition (in fact I have checked this allegation alongside the certified copy of the particular polling station and found it not to be correct), and those deposed to in the affidavit of Dr. Nyangasi. He makes a further assertion that upon analyzing the turn out in the presidential results *vis-a-vis* the gubernatorial results and the Parliamentary results *vis-a-vis* the registered voters and the votes cast he discovered that the total votes cast for the President are 15,588,038 while those cast for the Governors are 15,098,646 demonstrating that of 482,202 voted for the President and not for the Governor. Further, the same examination discloses that 15,008,818 people voted for MPs only demonstrating that 567,517 voted only for the President and not MPs. He posits that the foregoing disclosure is a factual and legal impossibility and shows that the presidential votes were inflated by these number of votes. He attached his analysis in support of that claim.

**[258]** It is also averred that Forms 34A submitted by the petitioner's agent in respect of Igembe South, URA Tea Buying Centre Polling Station number 2 of 2, Amwamba Primary School Polling Station in Igembe South, Meru County, Tonye Primary Polling Station, North Kamagambo and Memba Primary School Polling Station Number 1, West Asembo Ward indicated results that differed from those in the respective Forms 34B.

#### **10. Affidavit of George Kegoro in support of the Petition**

**[259]** Mr. George Kegoro the Executive Director of Kenya Human Rights Commission deposed that Kura Yangu Sauti Yangu which is a coalition of like-minded civil society organisations deployed 500 monitors in all the constituencies to monitor and observe the elections. He averred that Kura Yangu Sauti Yangu

revealed contradictions and anomalies in the final presidential results announced by the 2<sup>nd</sup> respondent and those displayed on the 1<sup>st</sup> respondent's website portal. He asserts that in Kisumu the verbal announcement was 60,000 votes less than what is in the portal. To the affidavit a report of Kura Yangu Sauti Yangu is annexed in evidence. That report comprises of an analysis that juxtaposes the number of valid votes in Nyanza on 11<sup>th</sup> August, 2017 against those in the portal on 18<sup>th</sup> August, 2017 and it indicates the variance as 63,368 votes less.

**[260]** It is worthy of note that the report was prepared by Kura Yangu Sauti Yangu which is a project of Kenya Human Rights Commission where the deponent is the Executive Director. Therefore, its veracity without additional corroboration from an independent third party is questionable.

#### **11. The affidavit of Apprielle Oichoe**

**[261]** Apprielle Oichoe deposes that she is a cyber-security expert. She avers that she is a PhD candidate on cyber security and is a consultant on cyber-security matters.

**[262]** She avers that the 1<sup>st</sup> respondent's systems and database ought to have been tested on the following components and principles:

- (i) *Confidentiality* – the information should only be accessed by authorized persons only.
- (ii) *Integrity* – the information used should be accurate and complete and protected from malicious modification.
- (iii) *Availability* – the information and systems required must be available as and when require,
- (iv) *Non-repudiation* – the audit trail must be maintained; and,
- (v) *Authenticity* – the information and the source must be proven to be genuine.
- (vi) *Privacy* – where the deponent avers that, on the basis of advice by her advocates on record Section 55A of the Elections Act read with section 44 B (5) contemplates privacy and security of data.

**[263]** It was her testimony that if it is proven as alleged in the petition that the 1<sup>st</sup> respondent failed to secure its data and public maintained portal there would be need and justification for an audit of all its systems.

## **12. *The affidavit of Koitamet Ole Kina***

**[264]** Mr. Ole Kina who averred that he was a duly accredited agent nominated by the National Super Alliance (NASA) for the 8<sup>th</sup> of August 2017 general elections swore that he arrived at Bomas of Kenya 8<sup>th</sup> August 2017 at 1630hrs to activate his access card which took him about one hour. He asserts that he converged with fellow agents and at about 5.15pm the results started streaming in at the IEBC portal.

**[265]** It was his testimony that his team realized that there was no way to verify the results as they were not accompanied by the hard copies of Forms 34A or the soft copies that IEBC was receiving from their server. They approached Commissioners Professor Guliye, Roselyn Akombe and the CEO Ezra Chiloba and requested them to avail the Forms 34B for purposes of verification of the results.

**[266]** He avers that they waited for the response which was not forthcoming. As a result they requested for a meeting with the Commission. At the meeting, they raised their issues regarding the results. He averred that Professor Guliye asked Saffron consultants to access the document which they stated they could not. He asserted that Prof. Guliye explained that while the data had arrived, it was unaccompanied by the required image. Therefore, the deponent asserted, they had to wait to upload as soon as the KIEMS kit was taken to a physical location with either 3G or 4G. He averred that the consultant stated that there was a possibility that the data would not come at all.

**[267]** He asserted that they pressed on for a solution to the problem, and agreed that an access point in form of an email would be created. Further, he added that the link provided was not working and the IT team took the whole night trying to access



it but was only able to access one Form 34A on the morning of 9<sup>th</sup> of August 2017 but eventually, the credentials granting them access was revoked.

**[268]** It was his testimony that on the 9<sup>th</sup> of August 2017, they approached the issue of verification and challenges in accessing forms again with the Chief Executive Officer of the 1<sup>st</sup> Respondent and were promised that they would be able to have access to 11,000 Forms 34A by the Commissions Director of ICT Mr. Muhati. They were asked to provide a two-terabyte external hard disk for the copies to be availed which they did but they only received 6,000 of the anticipated 11,000 soft copies.

**[269]** He asserted further, that on the 10<sup>th</sup> of August 2017, the Commission continued to transmit unverifiable results implying that the same was verified. He indicated that this was pointed out to them, and they arranged for a meeting the next morning. It was his testimony that by the end of that day, the Commission was only able to supply 23,000 Forms 34A and about 50 Forms 34B.

**[270]** In respect of the same, he averred, that his team officially wrote to the Commission highlighting their issues but no response was received. Further, he asserts that they agreed to an informal meeting, in which the NASA deputy Chief Agent Ms. Ogla Karani outlined discrepancies and inconsistencies in the results that were live streaming as well as those in the Forms received, and it was agreed that the Commission would respond immediately. It was further agreed that only those results with verifiable Forms 34A and 34B would be declared.

**[271]** It was his testimony that on the 11<sup>th</sup> of August 2017, when all indications were that the Commission was ready to declare the results, he approached the Commission on request for the remaining 34As and was told that as at that moment there were only 29,000 available forms putting those pending at over 11,000. They were assured that the declaration could not be made without the remaining forms.

**[272]** He swore that the Petitioners and the Chief Agent approached the Commission on the same issues and were reassured that results would not be transmitted until they were verified; that the commission would follow the law.

**[273]** He deposed that his team was approached by Commissioner Lucy Ndung'u the Registrar of Political Parties to sign the Forms 34As, implying that despite assertion by the Chairman that he would not announce unverifiable results there was a possibility that he would do so. It was his assertion that the Registrar could not deny or confirm this. It was also averred that the Commission was not able to supply the remaining Form 34As and that although the chairman had at that time claimed that 288 Forms 34B had arrived, there were only 108 available at the tallying center.

**[274]** It was his testimony that at 8:00 p.m. the Commission summoned them to a meeting where they were informed that they had received all the requisite Forms 34B and verified them and that the chairman was going to make a declaration. He deposed that the NASA team was asked if they were ready to sign the results which it declined to do on the basis that their request to be supplied with the forms had gone unheeded.

**[275]** It was asserted further that on the 14<sup>th</sup> of August 2017 Ms. Ogla Karani formally wrote to the Commission requesting for the remaining forms and the 1<sup>st</sup> respondent replied indicating that the Forms 34B were available immediately but the Forms 34A were not available but would be availed as soon as it was possible to do so.

**[276]** He averred that on 15<sup>th</sup> of August at around 1630hrs he received a phone call from a Mr. Abednego Ominde, Ezra Chiloba's personal assistant requesting him to go and collect 5,150 scanned copies of Form 34A that were now available. In addition he stated that Ezra Chiloba did so in response to pressure from the public and the Petitioners on the non-availability of Forms 34A therefore questioning the authenticity of the results; especially seeing that the results were announced without 10,000 Forms 34A and 187 Forms 34B. He stated that there was still a balance of more 5,000 forms to be supplied by the Commission. Mr. Ole Kina also attached Mr. Chiloba's letter dated 15th August, 2017, addressed to Ms. Ogla Karani and reads as follows:

***“Reference is made to your letter dated 10th August, 2017 and 14th August, 2017...***

***...On 11th August 2017, the Commission supplied you with 29,000 Form 34As and 103 Form 34Bs as stated in your letter dated 14th August, 2017. On 14th August, 2017, you were supplied with the balance of 187 Form 34Bs which were collected by one Mr. Ole Kina.***

***The CEO advised Mr. Ole Kina to visit our offices today, Tuesday 15th August, 2017 to collect additional Forms. Enclosed herein are 5,015 Form 34As part of those that had not been scanned. Please note that all the 40,883 Form 34As shall be made available at [www.forms.iebc.or.ke](http://www.forms.iebc.or.ke) So far, up to 35,314 Forms 34As can be found on the public portal....”***

**[277]** Mr. Ole Kina averred that the chronology of the events pointed to the fact that the determination on the part of the 1<sup>st</sup> respondent to declare results that could not be verified as required by law. It was his evidence that 1<sup>st</sup> respondent is on record confirming the non-availability of a substantial number of Forms 34A and 34B hence calling into question the authenticity of the results that were declared on the 11<sup>th</sup> of August 2017.

**[278]** In conclusion he averred that the massive irregularities, discrepancies and anomalies contained in the Affidavit of Dr. Nyagasi Oduwo show that the 1<sup>st</sup> respondent’s decisions were misinformed and are based on information incapable of verification as to their accuracy, transparency and credibility.

**[279]** The letters annexed in evidence indicate that there was a delay in availing copies of the prescribed forms to the petitioners. However, it is evident from the letter by the 1<sup>st</sup> respondent to Ms. Olga Karani dated 15<sup>th</sup> August, 2017 that 29,000 Forms 34A had already been availed to the petitioners on 11<sup>th</sup> August, 2017 together with 103 Forms 34B. On 15<sup>th</sup> August, 2017, additional Forms 34A which were 5,015 in number were supplied enclosed with the said letter. It is also clear that the petitioners were informed that 35,314 Forms 34A were already available on the

public portal and that all the 40,833 Forms 34A would be available on the said portal.

**[280]** Mr. Ezra Chiloba in his affidavit controverts the allegation that the said forms were not supplied to the petitioners. He avers that the forms were supplied and attaches the said letters in evidence.

**[281]** The allegation made by the petitioners is that since the Forms were not availed to them promptly then the 1<sup>st</sup> and 2<sup>nd</sup> respondents' decisions were misinformed and were based on information that was incapable of verification. This is intended to advance the claim of the petitioners that the election did not comply with Article 81 and 86 of the Constitution.

**[282]** I am conscious of the need by major stakeholders, in a process such as the one forming the subject matter of the present petition (the Presidential election), to gain access to all the relevant documents containing all the material facts relating to the process. Therefore the need for the petitioners to get all the relevant forms from the 1<sup>st</sup> respondent was completely justifiable. However, I am alive to the fact that the 1<sup>st</sup> respondents have been tasked with an immense constitutional mandate to conduct six elections on the same day which run concurrently. Though that is humanly possible it is a daunting task to count, tally and verify the results of all the six elections and more specifically the Presidential election within the Constitutional timeline of seven (7) days from the date of the election.

**[283]** One cannot lose sight of the fact that the 1<sup>st</sup> respondent's officials had been working round the clock during the election period, therefore the reduced efficiency that ordinarily comes with long working hours and lethargy are inevitable irrespective of a person's will power to efficiently accomplish such a sacrosanct process that normally comes once in every five years. In my opinion the performance by the 1<sup>st</sup> respondent and availing all the Forms 34B to the public and to the petitioners within 4 days of the declaration is commendable in view of the fact that the KIEMS system was being used by the 1<sup>st</sup> respondent for the first time. The delay by the 1<sup>st</sup> respondent of about four days to supply the petitioners with the

Forms 34A cannot be construed to be completely unwarranted under the circumstances.

[284] It is imperative to state that after the Commission has declared the election results it becomes *functus officio* and it has nothing more to do with the concluded election. It was so held by this Court in **Joho** that [paragraph 65]:

***“The jurisdiction to handle disputes relating to the electoral process shifts from the Commission to the Judiciary upon the execution of the required mandate by the returning officer. Once the returning officer makes a decision regarding the validity of a ballot or a vote, this decision becomes final, and only challengeable in an election petition. The mandate of the returning officer, according to Regulation 83(3), terminates upon the return of names of the persons-elected to the Commission. The issuance of the certificate in Form 38 to the persons-elected indicates the termination of the returning officer’s mandate, thus shifting any issue as to validity, to the election Court. Based on the principle of efficiency and expediency, therefore, the time within which a party can challenge the outcome of the election starts to run upon this final discharge of duty by the returning officer.”***

[285] This was reinforced by the Court in **George Mike Wanjohi** in which this Court held that once a declaration of results is made by the returning officer the Commission becomes *functus officio* and any alteration of the declared result has to be by an Order of the Court. The Court held that [paragraph 111]:

***“The Returning Officer having declared the 1<sup>st</sup> respondent as the winning candidate, and duly issued the Form 38, became functus officio. There is neither scope for the Returning Officer to withdraw a declaration of the election result once made, and to cancel the certificate issued in favour of the winning candidate, nor is there a mandate to rectify the***

***Form 38. Once the votes are polled, counted and results declared, it would be perilous to allow the Returning Officer to nullify the result, purportedly in rectification of some error. This would not only affect the very sanctity of the election process, but also encroach on the powers of the Election Court.”***

[286] Having said that, it is necessary to state that going forward, if after the Presidential election results have been declared, a person is desirous of accessing the prescribed declaration forms relating to the Presidential election which the law does not expressly stipulate are to be availed to a party, such a party should seek access to such forms through the Court.

### ***13. The Replying Affidavit of Immaculate Kassait***

[287] Ms. Immaculate Kassait deposed that she is the Director Voter Registration and Electoral Operations of the 1<sup>st</sup> Respondent. She averred that her duties included the management of electoral processes, voter registration processes (voter registration strategies and inspection of voters’ register), electoral operations among others.

[288] In response to Dr. Nyangasi’s supporting affidavit she deposed that in most polling stations voting commenced at 6.00am and ended at 5.00pm after which the counting of votes began. Further, she averred that there were a number of polling stations in which voting process was delayed for some reasons and cited Turkana County as one of the Counties affected by floods and the voting materials had to be airlifted which in turn delayed the voting process.

[289] She asserted that it was erroneous to state that Forms 34A from the polling station were the final results. She deposed that the Court of Appeal in the ***Maina Kiai*** case ruled that the electronically transmitted image of Form 34B is the final result for the Presidential Election with respect to each Constituency.

**[290]** In response to the aspersions cast on the practicality of streaming results shortly after close of polling stations she averred that it was possible to count and tally votes in polling stations which had between 1-10 registered voters. She pin-pointed polling stations such as Boyani Primary School in Matuga Constituency, Arabrow in Wajir South Constituency, Ya algana in North Horr Constituency which all had 3 registered voters, and Lowangina Primary School, in Tigania East Constituency which had one registered voter.

**[291]** In respect of the constant 11% difference as alleged in the affidavits in support of the petition the deponent denied the same. She displayed a table in her affidavit based on thirty-minute interval analysis of the data which showed that the percentage ranged from 9.095 to 25.573.

**[292]** She averred that the 2<sup>nd</sup> Respondent clarified that the statistics not backed by Forms 34A or 34B, including the statistics that were being projected on the National Tallying Centre's Television screens were not the final result.

**[293]** She deposed that the 1<sup>st</sup> respondent did not chase away the agents of the petitioner in central Kenya and Rift Valley asserting that there was no evidence to substantiate that claim. Further, she averred that contrary to the claims in Dr. Nyangasi's affidavit, Ruai Girls Secondary School was a polling centre in Kasarani Constituency of Nairobi County with 13 polling stations and not a polling station. In addition, she deposed that in the said polling centre, the petitioners' agents duly executed Forms 34A in all polling stations.

**[294]** She averred that the tallied votes for the 1<sup>st</sup> petitioner that were transmitted from the KIEMS kit in terms of text and image of the Form 34A URA Tea buying polling station 2 of 2 was 56 votes and not 66 votes as alleged in the supporting affidavit.

**[295]** She denied Dr. Nyangasi's assertion that in Amwamba Primary School Polling Station in Igembe South, Meru County, the total tally for Odinga Raila was 323, while Form 34B in respect of the same polling station indicated 325 votes. She averred that Amwamba Primary School had two polling stations; in polling station 01, the 1<sup>st</sup> petitioner had an agent. She deposed that the total tally for the 1<sup>st</sup> petitioner in polling station number 1 was 51 votes. Further, she asserted that neither the 1<sup>st</sup> petitioner nor the 3<sup>rd</sup> respondent had agents in polling station 02. She added that the 1<sup>st</sup> petitioner's tally in polling station 02 was 32 votes. In support of those assertions is a copy of the Form 34B annexed as evidence.

**[296]** She admitted there was a data entry error leading to the 1<sup>st</sup> Petitioner who garnered 561 votes being shown as having received only 2 votes. She cited in support of these assertions the affidavit of John Ole Taiswa which set out the particulars of the circumstances under which the error occurred. It was also admitted that there was a data entry error leading to the 1<sup>st</sup> petitioner who garnered 437 votes being shown as having received only 4 votes. She deposed that the full circumstances as to how those errors occurred were set out in the affidavit of Rebecca Abwaku.

**[297]** She denied the allegation that a partial form 34B was uploaded in respect of Karachuonyo Constituency. Instead, she asserted that the whole Form 34B was uploaded and was available online and she annexed a copy of the said Form 34B.

**[298]** She denied the allegation that in Kilome Constituency, Makeni County, the original IEBC Form 34B reflected 38,269 votes while that uploaded in Commission's portal showed 33,757 thereby creating a variance of 4,512 votes. It was here assertion that the Form 34B as uploaded onto the online portal and the original Form 34B indicated a figure of 38,285 as valid



votes cast. Further, she deposed that the reference to 33,757 votes in the said Form referred to the votes cast for the 1<sup>st</sup> petitioner.

**[299]** The deponent refuted the allegations that in Igembe South, Meru County, the total number of votes in Forms 34As for the 1<sup>st</sup> petitioner was 41,834 yet according to Form 34B in the Commission's portal his total votes were 43, 209. She deposed that the accurate figure which was reflected in the uploaded Form 34B was 50,931 votes as opposed to the figures alleged.

**[300]** She admitted that there was a clerical error in Form 34A submitted by the Petitioner's agent in respect of Mungoye Primary School Polling Station Number 1, West Bunyore, Emuhaya Constituency, Vihiga County where a variation of -10 votes against the entry made on Form 34B.

**[301]** She denied the allegation that the Form 34A in respect of St. John's Primary School Polling Station, Makongeni Ward, Makadara Constituency, Nairobi County, indicated the total number of valid votes casts as 468 against the entry on Form 34B which was stated to be 467.

**[302]** Likewise, she denied the allegation that there was a variance in the Form 34B keyed in the KIEMS kit and that projected at the National Tallying Centre in of Morrison Primary School Polling Station Number 6 of 9 as alleged. She admitted that there was a clerical error which created a discrepancy in Form 34A of 6 votes.

**[303]** It was admitted that there was a discrepancy in Forms 34A and 34B in respect of Rabai Road Primary School Polling Station Number 1 of 4, Harambee Ward, Makadara Constituency, Nairobi County due to a transcription error. She deposed that this had no material effect on the results, adding that the circumstances were explained in the affidavit of Moses Nyongesa Simiyu.

**[304]** The deponent admitted that the Form 34A submitted by the Petitioner's agent in respect of Kaloleni Primary School Polling Station

Number 8 of 10, Makongeni Ward, Makadara Constituency, Nairobi County, which indicated that the total number of rejected votes to be 4 while Form 34B in the portal did not indicate any rejected votes, had a transposition error.

**[305]** The deponent averred that there were no discrepancies between Form 34B for Embakasi South Constituency and Form 34A for Jobenpha Community School Polling Station Number 17 of 21, Kware Ward, polling station.

**[306]** She admitted that there was a discrepancy between Form 34 A and Form 34B regarding the votes for the 3<sup>rd</sup> respondent in respect of Kewi – South C Polling Station Number 3 of 8, South C Ward, Langata Constituency, Nairobi County. However, she denied that there was a discrepancy between Form 34A and Form 34B in respect of both Nyandiwa Primary School Polling Station Number 2 of 2, Bogetenya Ward, South Mugirango Constituency, Kisii County and Omgogwa Primary School Polling Station Number 1 of 1, Bosetenya Ward, South Mugirango, Constituency, Kisii County.

**[307]** It was admitted that there was an arithmetic error in Form 34A and Form 34B in respect of Manywand ‘A’ Primary School Polling Station Number 2 of 2, Boikanya Ward, South Mugirango Constituency, Kisii County. However, she deposed that the aggregate votes cast for each candidate in Form 34A showed that there were 300 valid votes cast which was reflected in Form 34B. She annexed as evidence the relevant Forms 34A and Form 34B.

**[308]** It was denied that there were any discrepancies in Forms 34B and 34A in respect of Kiru Primary School Polling Station Number 1 of 2, Bokimonye Ward, Bomachoge, Borabu Kisii County. She asserted that Form 34B and the result keyed in the KEIMS kit and projected at the National Tallying Centre tally all matched showing 338 total votes. She however admitted that there was a computation error in Form 34A.

**[309]** The deponent denied that there was a variance in Form 34B that indicated 4 rejected votes and Form 34A that did not indicate any rejected votes in respect of Nyanturago Tea Buying Centre Polling Station Number 2 of 2, Beno Ward, Nyaribare Chache, Kisii County. She however admitted that there was a clerical error in that Form 34A indicated 4 rejected votes, while Form 34B indicated 5 rejected votes.

**[310]** It was denied that in Kiogoro Tea Buying Centre Polling Station Number 2 of 3, Kiogoro Ward, Nyaribari Chache-Kisii County, the Form 34As had a total of 516 votes compared to Form 34B which indicated 561 votes, thereby having an increased variation of 45 votes. She however indicated that Form 34A of this polling station indicated no rejected votes, while Form 34B indicated 2 rejected votes revealing a variance of 1 rejected vote.

**[311]** She admitted that the Form 34A submitted by the Petitioner's agent in respect of Keoke Primary School Polling Station Number 1 of 2, Bironyo Ward, Nyaribari Chache, Kisii County, indicated 4 rejected votes while the IEBC Form 34B did not indicate any rejected votes which according to her was a transposition error.

**[312]** In respect of the allegation that the Form 34A submitted by the petitioners' agent in Irondi Primary School Polling Station Number 1 of 1, Birongo Ward, Nyaribari Chache, Kisii County, indicated 3 rejected votes while Form 34B of the IEBC had no rejected votes and the allegation that there was a discrepancy as the total number of votes in Form 34A was 410 and Form 34B recorded 413, she averred that the valid votes cast in respect to the candidates when tabulated was 410. She deposed that the minor variance between the Form 34A and Form 34B was occasioned by a clerical error.

**[313]** The deponent admitted that the Form 34A submitted by the petitioners' agent on Amabiria Primary Polling Station Number 1 of 1, Keumbu Ward, Nyaribari Chache Constituency, Kisii County indicated the total votes at 273 against 377 votes in Form 34B in the uploaded Commission's portal. She also admitted that the 3<sup>rd</sup> respondent's votes recorded in Form 34A were 138 while

those recorded in Form 34B were 238, thus creating 100 extra votes in his favour. She deposed that the circumstances leading to the variance were set out in the affidavit of Julius Meja Okeyo.

**[314]** It was admitted that the Form 34A submitted by the petitioners' agent in respect of Sosera Primary School Polling Station Number 1 of 2, Nyamasibi Ward, Nyaribari Masaba Constituency, Kisii County, recorded 386 total votes while those in the IEBC's Form 34B were 383. She deposed that it was a transposition error.

**[315]** In response to the allegation that there was a discrepancy in the recorded votes in the Form 34A submitted by the petitioner's agent which recorded 273 votes in respect of Ibacho Tea Buying Centre Polling Station Number 2 of 2, in Kiamokama Ward, Nyaribari Masaba Constituency, Kisii County, while the Form 34B indicated 272 votes, it was deposed that the correct number was 272 votes and 273 votes was an erroneous record.

**[316]** She denied that there were any discrepancies in Form 34B, which was alleged to record 340 votes, and Form 34A, which was alleged to indicate 343 votes, in respect of Ekemuga Primary School Polling Station Number 1 of 1, Ichuni Ward, Nyaribari Masaba Constituency, Kisii County. She asserted that the valid votes cast were 340 and the 3 extra votes were rejected votes.

**[317]** The allegation that the Form 34B, recorded 260 votes, and Form 34A, indicated 261 votes, in respect of Kiamokama Township Primary School Polling Station Number 1 of 2, Gesusu Ward, Nyaribari Masaba, Kisii County, was denied. She swore that the total number of votes recorded and transmitted were 260.

**[318]** The deponent admitted that there was a variance in the Forms 34A and 34B as alleged with regards to Kiomiti Primary School Polling Station Number 2 of 2, Gesusu Ward, Nyaribari Masaba Constituency, Kisii County. She deposed that while it was alleged that Form 34A recorded 356 votes, the

correct number of votes was 354 and the variance occurred due to a transposition error.

**[319]** The deponent averred that in respect of Riasongoro Tea Buying Centre Polling Station Number 1 of 1, Kiamokama Ward, Nyaribari Masaba Constituency, Kisii County there were only data entry errors. She asserted that Kaluyu Japheth Kavinga was recorded as having 1 vote in Form 34B while Form 34A indicated that he received 2 votes.

**[320]** She denied the allegation that the Form 34B was missing in respect to Getare Tea Buying Centre Polling Station Number 10 2, Ichuni Ward, Nyari Bari Masaba, Kisii County. It was her assertion that both Forms 34A and 34B indicated a similar record of votes.

**[321]** Ms. Kassait also denied the allegations that there was a variance in Forms 34A and 34B in respect of Suguta Primary School Polling Station Number 1 of 1, Baasi Central Ward, Bobas Constituency. She swore that contrary to the allegations in the supporting affidavit of Dr. Nyangusi, the recorded votes in both forms were 508.

**[322]** Similarly, she disputed the assertion that there was a discrepancy in the recorded votes in both Forms 34A and 34B in Bokinibanto Primary School Polling Station Number 1 of 1, Masige East Ward, Boasi Constituency, Kisii County. She deposed that both forms indicated 483 votes.

**[323]** She refuted the allegation that there was a variance in Forms 34A and 34B in respect of Rusinga Primary Polling Station Number 1 of 2, Bobasi Constituency adding that the alleged votes received were false.

**[324]** It was admitted that the Form 34A submitted by the petitioner's agent with respect to Nyabieyo Primary School Polling Station Number 1 of 1, Bomariba Ward, Bonchari Constituency, Kisii County, recorded the 1<sup>st</sup> petitioner as having 228 votes as compared to Form 34B where he was

recorded to have 0 votes. She referred to the affidavit of David Kipkemoi Cherop to provide the relevant explanations.

**[325]** The deponent admitted to a clerical error in Forms 34A and 34B in respect to Nyamiobo S.D.A. Primary School Polling Station Number 1 of 1 Majoye Ward, Bomache Chache Constituency, Kisii County. She swore that that the correct number of votes cast was 405 as opposed to the 407 that was recorded in error.

**[326]** It was admitted that there were arithmetic errors in Musunji primary School Polling Station Number 2 of 2, Shiru Ward, Hamisi Constituency, Vihiga County in the statutory Forms in respect of the 1<sup>st</sup> petitioner's votes. Form 34A indicated that he had 357 and 34B indicated 356 votes. She similarly admitted to such error in Nyalendaa Community Hall Policing Station Number 5 of 6, Kisumu County where she deposed that the 3<sup>rd</sup> respondent was denied 12 votes. Similarly, she admitted to a variance of 1 vote in Wandiege Primary School polling stations where Form 34A indicated 503 against Form 34B' 504.

**[327]** She refuted that there was any variance in the total number of votes recorded in the statutory forms in respect of both Angira Primary School Polling Station Number 2 of 2, Kajuu Ward, Kisumu East Constituency, Kisumu County and Nyanchange Primary polling station number 1 of 2 in Bobasi Constituency in Kisii County.

**[328]** She admitted to minor variances the Statutory Forms in Rusinga Primary polling station number 1 of 2 within Bobasi Constituency in Kisii County due to a mathematical error and in respect of Amabiria Polling Primary number 1 of 1, Nyaribari Chache Constituency Kisii where the votes for 3<sup>rd</sup> respondent were increased by 100 votes. She deposed that the variance was explained in Julius Meja Okeyo's affidavit.

**[329]** She refuted that the petitioners' votes in Nyabieyo Primary Polling Station 1 of 1 Nyaribari Chache Constituency Kisii were deducted by 228 votes.

**[330]** Dr. Nyangasi's allegation that there was any variance in the number of votes recorded in the statutory forms in respect of: Maturu Primary Polling station 2 of 2 in Lugari Constituency Kakamega; Cheptoroi Polling station 2 of 3 in Njoro Constituency Nakuru and Kapkures Health Polling Station number 7 of 7 Nakuru county, was denied.

**[331]** The deponent admitted that there was data entry error in Form 34A in respect of Kiptembwo Primary Polling number 4 of 8, Nakuru Town West Constituency where the votes for petitioner were deducted by 229, while 288 votes were added to the 3<sup>rd</sup> respondent. She averred that the circumstances leading to the variance were explained in the affidavit of Gilbert Serem.

**[332]** The deponent denied that the 3<sup>rd</sup> respondent's votes in Ilomotioo Primary Polling Station number 1 of 1 in Kajiado Central Constituency were increased by 10 votes. She confirmed that the 3<sup>rd</sup> respondent garnered 234 votes from the said station as reflected in both Form 34A and 34B and not 224 votes as alleged Dr Nyangasi.

**[333]** She refuted Dr. Nyangasi's allegations that there was any variance in the number of votes recorded in the statutory forms in respect of: URA Tea Polling Station number 2 of 2 Igembe South Constituency; Kiyanka Primary polling station number 2 of 2 Igembe South Constituency in Meru County; Kiegoi Primary polling station 2 of 2 in Igembe South Constituency and Nkiriana polling station number 1 of 2 in Igembe South Constituency in Meru.

**[334]** The deponent admitted that there was a clerical error in Dandora III City Council Hall polling station number 9 of 9 in Embakasi North Constituency Nairobi where 2 votes were deducted from the petitioner's tally from 214 votes to 212.

**[335]** The deponent admitted that there was a clerical error of wrong entry in Migori Main Prison polling station 1 of 1, Suna Central Ward, Suna East Constituency where the 1<sup>st</sup> petitioner's 12 votes were wrongly entered as votes for Nyagah Joseph.

**[336]** Also admitted was the fact that there was a clerical error of wrong entry in Waitharaga Primary School polling station number 1 of 1 Suna Central, Suna East Migori county where petitioners 359 votes were wrongly entered as votes for Nyagah Joseph.

**[337]** The deponent denied Dr. Nyangasi's allegation that the 1<sup>st</sup> petitioner garnered 663 votes from Nyarongi Primary School polling station number 1 of 2 Kakrao Ward, Suna East, Migori County and that his votes were reduced by 331 to 332 votes. She averred that registered voters in that station were 382 and thus it was impossible for the petitioner to garner 663 which was more than the registered voters.

**[338]** Ms. Kassait denied Dr. Nyangasi's allegations that there were instances of different presiding officer signing for another or voting presided over by ungazetted presiding officers.

**[339]** It was denied that the 3<sup>rd</sup> respondent's votes from Isiolo North Constituency were inflated by 5,422 votes or that there were inconsistencies between forms 34As and 34Bs. She added that there was no evidence of such variance, noting that Form 34B was duly filled. She deposed that handover section could not be filled because the Forms had to be sent to NTC electronically and not physically by returning officers. In support of her claim she attached the Form 34B.

**[340]** The deponent denied that the 3<sup>rd</sup> respondent's votes from Loima Constituency Turkana County were inflated by 7,934. She refuted the allegation that the Form 34B was blank asserting that it was filled, signed and stamped by the returning officer and agents as required by the law.



**[341]** She refuted the allegation that there was a polling station named Nyakwara Primary School in Funyula Constituency which had 339 votes cast therefrom or that the candidates were only apportioned 13 votes. She was emphatic that polling station non-existent, hence no results could originate from a non-existent polling station.

**[342]** The deponent refuted that in Busijo Primary School in Funyula Constituency total rejected votes exceeded the registered votes or that the hand over section of Form 34B was not filled as required by law. It was her testimony that the handover notes were not a legal requirement. She was emphatic that the Court of Appeal had held that the Forms 34B were to be sent electronically to the NTC. Further she deposed that it was not conceivable that the Returning Officer could have physically handed over and signed the section to the 2<sup>nd</sup> respondent at the NTC.

**[343]** The deponent denied the allegations that the 3<sup>rd</sup> respondent's results from Rabai Constituency, Kilifi were inflated by 83 votes and there was lack of handover notes. Similarly, she denied the allegations that in Maara Constituency, Tharaka Nithi, that the Statutory Forms were signed by a stranger and not the presiding officer and that there were no handover notes. She deposed that Obadiah Kariuki Gacoki who signed form 34B was a duly gazetted returning officer. However, she deposes that the statistics projected in the online portal at the NTC were not a representation of the results.

**[344]** The deponent denied that results posted in the online portal from Kipipiri Constituency, Nyandarua County were different from those in Form 34As, or that there was inflation of rejected votes from 92 to 1087, with lack of handover notes. In response she stated that the results projected in the online portal was not representation of the results.

**[345]** The deponent denied the allegations that there were inflated votes in Ndaragwa Constituency, Nyandarua County by 153 in the online portal, inflation of rejected votes in the portal from 477 in Form 34B to 1,031 or that results for the 2<sup>nd</sup> respondent in Form 34B were 45,197. She deposed that 2<sup>nd</sup>

respondent was not a candidate so results could not be allocated to him in form 34B, but that in any event the figure in the Form 34B was 44,595 votes not as alleged.

**[346]** The deponent admitted that the rejected votes in respect to Ol-jorok Constituency, Nyandarua County were 121 and that the 1<sup>st</sup> petitioner garnered 515 votes. However, she denied that there were discrepancies of the rejected votes as reflected in the portal at 1, 233 and that announced at 121. She further denied that the 1<sup>st</sup> Petitioner was denied 2 votes as alleged.

**[347]** She refuted the allegations in Doctor Nyangasi's Supporting Affidavit that there was variance in respect to total rejected votes in Tarbaj Constituency, Wajir County where the portal indicated total of 475 rejected votes whilst Form 34B indicate a mere 31 rejected vote. It was further alleged that the said Form 34B lacked evidence of hand over notes. She deposed that the total rejected votes indicated in Form 34B were 31 as was tallied from Form 34S. She deposed that handing over notes are not a requirement in law and were not applicable to the 2017 presidential election.

**[348]** She denied allegations in the Supporting Affidavit that FORM 34B in respect to Uriri Constituency, Homabay County did not indicate the final tally of the presidential candidate and that the results in the Commission portal indicated 1078 rejected votes whilst the FORM 34B indicated 125 rejected votes. She averred that the correct results are the ones indicated in FORM 34B at a total of 125 as the total rejected votes.

**[349]** The deponent rejected the allegations that there were discrepancies in rejected votes as indicated in the portal as 860 as against the Form 34B which indicated 114 rejected votes in respect of Baringo Central Constituency, Baringo County. On the contrary, she averred that the correct number of total rejected votes was 121 as reflected in Form 34B and that the said figure matched the ones reflected in Form 34A.

**[350]** The deponent denied that Forms 34A and 34B in respect to Kathiani Constituency, Machakos County; Chepalungu Constituency, Bomet County; Marakwet Constituency, Elgeyo/Marakwet; Sigowet/Soin Constituency, Kericho County; Changanwe Constituency, Mombasa County; Wajir North Constituency, Wajir County; Dagoretti Constituency, Nairobi County; Kericho County Yatta Constituency, Machakos County; Mwatate Constituency, Taita Taveta County; Voi Constituency, Taita Taveta County; Lamu East Constituency, Lamu County; Malindi Constituency, Kilifi County; Yatta Constituency, Machakos County; Eldas Constituency, Wajir County; Kuresoi Constituency, Nakuru County; Likoni Constituency, Mombasa County; Sigor Constituency, West Pokot County; Ndhiwa Constituency Homabay County; Kieni Constituency, Nyeri County; Kajiado Central Constituency Kajiado County; Belgut Constituency lacked handing over notes and bore no indication of date and time for handing over of the forms contrary to law. She deposed that the handing over notes are not a requirement in law and were not applicable in the 2017 presidential election as Form 34B was sent electronically and not physically taken to the National Tallying Centre physically.

**[351]** In response to unstamped Form 34B's such as that alleged in Changanwe Constituency, Mombasa County, and Form 34As in Sigowet/Soin Constituency, Kericho County; Wajir North Constituency, Wajir County; Mukarara and Waithaka polling stations in Dagoretti Couth Constituency; Malindi Constituency, Kilifi County; Likoni Constituency, Mombasa County; Ms. Kassait deposed that while it was procedural to stamp an unstamped form could not be a basis for disenfranchising voters.

**[352]** The deponent denied the allegations in the Supporting Affidavit that in Mwala Constituency Machakos County that there was a variance in the total rejected votes indicated in the portal and the Statutory Form 34B. She annexed the Form 34B marked as evidence.

**[353]** She refuted the allegation that in Bureti Constituency, Kericho County, the summation of votes for the 3<sup>rd</sup> Respondent in the portal were 65,284

whilst those for the 1<sup>st</sup> petitioners were 3,106 yet in the Form 34B the 3<sup>rd</sup> respondent was indicated to have garnered 56, 259 votes and the petitioner 3,106 votes. It was her assertion that the correct results were the ones indicated in Form 34B. She attached as evidence the Form 34B marked.

**[354]** She denied that the 3<sup>rd</sup> respondent's votes were inflated in: Marakwet Constituency, Elgeyo/Marakwet by 93 and Sigowet/Soin Constituency, Kericho County by 100 votes.

**[355]** It was denied that in Wajir North Constituency, Wajir County the 3<sup>rd</sup> Respondent's votes were inflated by 282 votes. She disputed the allegation that there was a variance in the rejected votes in the portal and those Form 34B. She deposed that the correct number of the rejected votes were those found in Form 34B.

**[356]** She also denied the allegation that there were discrepancies in the number of rejected votes in Voi Constituency, Taita Taveta County as recorded in the portal against the Form 34B. She deposed that the corrected number of rejected votes was 260 as indicated in Form 34B.

**[357]** In respect of the allegations that in Mavoko Constituency, Machakos County, Jetview polling station, there was a variance in the number of votes recorded in the Statutory forms favouring the 3<sup>rd</sup> Respondent to the detriment of the 1<sup>st</sup> petitioner she denied the allegation and refuted that no Form 34A was submitted in respect of Githunguri polling station.

**[358]** The deponent denied the allegations that the stamp used in Eldas Constituency, Wajir County was not the official IEBC Returning Officer's stamp and that the Returning Officer did not indicate his/her name on the Form. She deposed that an authentic stamp was utilized and there was no basis for invalidating Form 34 for Eldas Constituency.

**[359]** The deponent rejected the allegation in the Supporting Affidavit that in Embakasi Central Constituency, Nairobi County there was a discrepancy in the columns of valid votes and valid votes tally in the following polling stations: Kayole North, Imara Primary, Bondeni Primary, Thwabu Primary and Mwangaza Primary. She deposed that the total votes with respect to Mwangaza Primary for each candidate were captured correctly as they were indicated in Forms 34A and 34B. She also denied the allegation that the official IEBC stamp was not used.

**[360]** The deponent admitted that there was a variance in votes in Gem Constituency, Siaya County. She averred that there was a variance between the total votes tallied and the total valid votes that led to 461 unaccounted votes. She stated that this was a data entry error. She deposed that this did not mean the votes were deducted from the 1<sup>st</sup> Petitioner. She stated that the 1<sup>st</sup> petitioner's votes were correctly reflected and remain unaltered and it was the other candidates whose votes were affected.

**[361]** She denied the allegations in the supporting affidavit that in Sigor Constituency, West Pokot County, that Form 34B was signed by unknown persons whose name was not stated. It was her evidence that the form was signed by the gazetted Returning Officer for Sigor Constituency.

**[362]** The deponent refuted the allegation that in Starehe Constituency, Parkroad Primary School, there was 1 rejected vote not captured in Form 34B and that the stamp used in the Form did not match the IEBC Returning Officer's stamp. She also denied allegations that the Form was unsigned and gave no reasons for absence of signatures. She averred that the Form 34B indicated the number of rejected votes as 24, and that the stamp used on the form was that of the Returning Officer issued by the 1<sup>st</sup> Respondent. She swore that the agent duly appended his signature to the form including his name, ID number and Contact.

**[363]** With regards to the allegations made in Turbo Constituency, Uasin Gishu County that there were discrepancies in the votes cast and tallied, she

admitted that there was a computation error in respect to the votes cast. She deposed however, that the valid votes for each of the Presidential candidates was accurate. She attached as evidence the Form 34B for Turbo Constituency marked as EC.10. The deponent further denied that unsigned and undated Forms in that Constituency were not handed over in the prescribed manner, had discrepancies in the tally of votes, and that the handover was done by an ungazetted person.

**[364]** She denied the allegation that in Turkana Central Constituency, Turkana County, the Forms did not indicate a date or time and was not handed over in the prescribed manner. She further denied that the portal indicated 1,393 rejected votes while the petitioner's votes were reduced by 7 votes. She asserted that the rejected votes were 156 and not 1,393 as alleged and tendered in as evidence the relevant Form 34B as an annexure marked "EC.11."

**[365]** She refuted the allegation that in Kipkelion West Constituency, Kericho County, Kipkelion Primary School polling station had discrepancies in Form 34A and 34B decreasing the Petitioners votes. It was her evidence that Kipkelion Primary School had two polling station where Raila Odinga had 61 votes and the same is reflected in 34B while the 3<sup>rd</sup> Respondent garnered 269 votes as indicated on Form 34A properly reflected in Form 34B.

**[366]** She denied the allegation that in Kipsigei Primary School, Simotwet Pry School, Kaula Nursery School, Kimologit Pry School, Lelechwet Primary School, Siret Pry. School, Kapkese Pry School, Kaplelit Pry School, Murgut Pry. School, Chilchila Pry School, Bararget Cooperative, Tunnel Pry. School, Boror Nursery School, Koisagat Pry School, Smolel Pry School, Magire Pry School, Cheborus Nursery School, the requisite Forms were unstamped.

**[367]** The deponent refuted allegations that in Emurua Dikir Constituency, Narok County that Forms were not handed over in the prescribed manner and that Form 34B indicated the 3<sup>rd</sup> respondent garnered 22,213 votes while the portal indicated 21,910 votes. She averred that the total number of votes

garnered by the 3<sup>rd</sup> Respondent was 22,313 and the same was confirmed by both Form 34A and 34B.

**[368]** The deponent denied the allegations that in both Bahati Constituency Nakuru County at Dundori Primary School and Dundori Youth Polytechnic there were discrepancies in Forms 34A and 34B in the votes for the 3<sup>rd</sup> Respondent.

**[369]** The deponent admitted that in Ndia Constituency, Kiangai Primary School Form 34A indicated that the 3<sup>rd</sup> Respondent got 461 votes while Form 34B indicated he got 467. She attributed this to data entry error. She denied the allegations that the Forms were not handed over in the prescribed manner and that they were not stamped.

**[370]** She denied the allegation that in Othaya Constituency, Nyeri County the Forms lacked handing over notes and that Form 34B indicated the 3<sup>rd</sup> Respondent garnered 51,186 votes while the portal indicated he had 51,184 votes. It was further alleged that the rejected votes were at 72 while the portal indicated 124. It was her evidence that the 3<sup>rd</sup> Respondent garnered 51,186 votes and that the rejected votes are 74 and not 124 as alleged.

**[371]** The deponent admitted that in Naivasha Constituency, Nakuru County, there were some arithmetic errors in completing Forms in Bishop Ndingi Sec School, Unity Farm Nursery, Manera Pry School, Lakeview Pry School, Kihoto Trading Centre, Ngeya Pry School, Shermoi Pry School, Sher Social Hall, Rev. Jeremiah Primary School and Mununga Primary School. She denied all other allegations alluding to lack of signed forms and lack of handover notes. She averred that the number of votes cast in favor of each candidate was clearly indicated and that the forms were signed by the Presiding Officer and Party agent.

**[372]** The deponent denied allegations that in Wajir South Constituency, in Wajir County the Form 34B lacked a bar code, and that in Serif Dispensary

Polling Station the total valid votes indicated 113 votes but the vote tally was more than the total valid votes.

**[373]** She denied allegations that in Mandera East Constituency the IEBC stamp used was rectangular and different from the circular stamp used on other forms, and that only two agents signed the forms while one did not indicate the date, as well as his/her name.

**[374]** The deponent refuted the allegation that in Lamu West Constituency not all pages and sheets were signed. It was her evidence that there was no requirement in law for signing all pages.

**[375]** The deponent rejected the allegations that in Turkana South Constituency there were discrepancies in the number of valid votes and the summation of votes. She also denied that some Forms were neither stamped or signed in this constituency.

**[376]** She disputed the allegation that Trans Nzoia Constituency had a table format in its Form 34B that included a column reading 'rejected', 'objected to' and 'disputed' not the norm in any other form. She averred that Trans Nzoia is a County and not a constituency therefore there cannot have been a Form 34B in respect to it.

**[377]** The deponent rejected the allegation that in Malava Constituency in Bulupi Pry School, Imbiakalo Pry School, Mukhone Pry School, Chimoroni Pry School, Isanjiro Pry School, Machemo Pry School, Lwanda Kabras Pry School, Shianda Pry School and Ikoli Pry School; the handing over sections on the forms were not signed and that not all sheets/pages of form 34B were stamped.

**[378]** She admitted that there were discrepancies in Form 34B in Bomet Central Constituency but only to the extent that in Bomet Primary School, the Form did not show any rejected votes although there was 1 rejected vote. She attributed this to a transposition error. All other allegations of use of excessive



whiteout and corrected figures as well as those of missing data from 63 polling stations were denied. She also denied that there were discrepancies in the votes recorded in the Statutory Forms in Kabusare Primary School.

**[379]** She denied the allegations that in Kitui South Constituency there were unstamped pages in the Forms, the number of Forms 34As submitted were not indicated, the Returning officer signed the form but did not indicate his name and that no agent of the Petitioner signed the Forms.

**[380]** The deponent denied the allegations that in Elda Constituency the stamp used was not the official IEBC Returning Officer Stamp and the Returning Officer neither indicated his name nor signed the form. It was her evidence that the stamp used was the official IEBC stamp.

**[381]** The deponent disputed the allegation that in Kuresoi North Constituency, no agents signed Form 34B, and that the Form had no indication of receipt/submission of Form 34A and did not have an aggregate. She deposed that the Returning Officer signed, dated and stamped the form and the total number of votes for each candidate were clearly indicated on the Form. She averred that only agents who are present sign forms and that there was no evidence that the Petitioners agents were present.

**[382]** She denied the allegation that there was a discrepancy in the vote tallies in Garsen Constituency in Wardei Primary School. She averred that the actual vote tally was 159 and not 169 as alleged. It was her testimony that the votes garnered by each candidate were entered correctly in Form 34B.

**[383]** It was deposed that there was a variance of 40 votes in Wajir South Constituency (IEBC NTC/o80) in terms of the total valid votes. It was averred that this variance was due to a computation error. The deponent denied the allegation that the stamp was not authentic.

**[384]** The deponent admitted that although there was a computation error in both Turbo constituency (IEBC NTC/190) Kapkoross Primary school and Turbo Constituency (IEBC NTC/190) Kapsaos Primary school the total votes cast in respect to every candidate was accurately tallied.

**[385]** She rejected the allegation that in Likoni Constituency (IEBC/NTC/208), Form 34A of Mirima Primary school did not bear any official stamp; an unstamped Form 34A was transferred to Form 34B; Ushindi Baptist primary school results did not have an official stamp and data of unstamped Form 34A was transferred to Form 34B. She deposed that the Forms 34A of Mirima Primary School and Ushindi Baptist Primary School were duly stamped before the results were transferred to Form 34B.

**[386]** The deponent denied the allegation that in Embakasi Central (IEBC/NTC/176) there were discrepancies in the number of valid votes and valid votes tallyin: Kayole North (18), Imara Primary (18), Bondeni (1), Thwatu (19) and Mwangaza (19). She deposed that the total votes for each respective candidate was captured correctly as they were indicated in Forms 34 A and 34B.

**[387]** The deponent denied the allegations that in Gem constituency, no agent signed Forms 34B; the stamp on the Form 34B was inconsistent with the Returning Officer's official stamp; the final tally was inconsistent with the stated constituency tally of 65,128 valid votes, thus 461 votes not accounted for. She also denied that in Makadara Constituency (IEBC/NTC/186) there was no proper identification of the Petitioners' agent and that not all sheet/pages were stamped with the official IEBC Returning Officers stamp.

**[388]** She admitted there was a computation error in Dagoreti North Constituency where the total valid votes were indicated as 104,789 while a summation indicated 105,840. She agreed with the petitioner that the total number of valid votes received by the candidates was 105,840. She further responded that the Returning Officer's Stamp was authentic and the allegations that the Form did not have a bar code was denied.

**[389]** She rejected the allegation that in Sigor Constituency (IEBC/NTC/044) the name of the Returning Officer was not indicated in the statutory form. She further disputed the allegations that in Starehe Constituency (IEBC/NTC/195) in Park Road primary school, there were vote discrepancies in the Statutory Forms, not all the pages were signed; the stamp used was suspect and only Petitioners' agents appended her signature. She deposed that Park road was polling centre with three polling stations and these allegations were not specific to allow for a response.

**[390]** She averred that on the 5<sup>th</sup> August 2017 the Chief Executive of the 1<sup>st</sup> Respondent issued a directive invalidating any ballot paper that was not stamped and directing that the same to be marked as rejected. She stated that the said directive was limited to ballot papers and did not extend to Forms 34A. She deposed that if the intention was for the directive to extend to Forms 34A as alleged in the supporting affidavit, then the directive would have specifically provided so.

**[391]** She rejected *in toto* the allegation that in the following polling stations, the Form 34A as uploaded in the Commission's portal, were not clear/illegible: Chaani primary school; Miritini World Bank; Jomvuu Kuu primary school 2; Taratibu Social Hall 3; Miririni primary school 4; Aldinnah nursery 5; Jomvuu nursery 6; Swaleh Khalid Social Hall 7; Nuru CBR 001 8; Nuru Community based Rehabilitation 8; Abu-Ubaida primary 9; Miritim primary school 10; Miritim primary school 11; Railways Station hall 12; Mwamlai primary school 13; Ministry of Water Tanks 14; Mikindani Social Hall 15; Owino Uhuru nursery 16; Kiembeni Baptist primary 21; Mtopanga primary 22; Concordia primary 23; St Joseph Herman primary 25; Kiranzoini primary, Mwamanga; Jogoo; Football Ground; Mbuwani primary; Emgwen primary; Kamkunji Market; Chemalal primary school; Chepkemel primary school; Maraba primary school; Maraba primary school; Union primary school, Railways Dispensary; St Andrews primary school; Railways Dispensary; Radar Station; Lelboinet primary school; Tarus primary school;

and Kiptarusu primary. She deposed that all these forms were clear and legible.

**[392]** It was denied that in Kiptendon primary school, Form 34As had not been signed by the Petitioner's agent and the Returning Officer had not indicated the reason for the failure. She deposed that the 1<sup>st</sup> Respondent did not gazette any polling station or centre known as Kiptendon primary school as alleged. Further, only agents present could sign the relevant forms and no evidence was provided that the petitioners' agent was present and was denied the opportunity to sign the form or refused to sign the same for a valid reason.

**[393]** It was denied that the allegation that in the following polling stations, Forms 34A had been filed by the same person as evidenced in handwriting: Kipkongen primary 48; Bemja primary; Chepsioch 57; Kabusagawat 87; Timbilil primary school 13; Kitum nursery; Cheptabach primary; Siwo Health Centre Taboinyat primary 60; Tartar nursery 62; President 63; Chepngetuni primary 65; Keben primary; Koilot primary school; Kepkechui primary school; Kapsabet Boys primary school; AIC Kosira estate; AIC Baraton; Nandi primary school; Kamurguywo primary; Chenare primary; Kaptildil primary; Kamonjil primary; Kapkimbimbir; Segut primary; Chepterit primary; and Belekenya 001. She deposed that no report by a handwriting expert was produced to substantiate the allegation that the same person filled or completed Forms 34A.

**[394]** She countered the allegation that in Tikiyo primary school, the name of the Deputy Presiding Officer was not given to aid verification. She also refuted the allegation that Form 34A in Kilingile and Kataingo primary school had not been signed by the presiding officer or the deputy presiding officer. She further denied that in Njoguini primary school 6 Form 34As were unclear and unreadable. The allegation that in Shimo La Tewa Forms 34As as uploaded in the portal had been severally repeated was denied by the deponent.

**[395]** She rejected the allegation that in Wareng High School, Kapsaret constituency, Ngesia Ward, Kiambaa primary school the Forms had been

crossed and did not indicate the candidates' results. She asserted that the Forms from the referenced centre had not been crossed as alleged and they indicated the votes the candidates garnered.

**[396]** Further, she rejected the allegation that in Chebirir primary school only one agent signed form 34A and that no reason was given as to why the others did not sign. In addition, she denied the allegation that in Chepsioch primary no NASA agent signed Form 34A and no reason was given for this. She asserted no evidence had been provided to show that there was any agent who was denied an opportunity to sign the forms or that they refused to sign and provided reasons.

**[397]** She denied the allegation that the Forms 34As were illegible and the photos incomplete in the following polling stations: Lakole North Centre; Waso girls; Matho Dam; Kanjara Centre Dandu primary school; Huruma primary school. She deposed that the referenced places were not polling stations. She also denied the allegation that Form 34A was not signed by any agent in Bargugue Dam and Mathah Boqay. She deposed that there was no mandatory legal requirement for agents to sign Form 34A and that only agents who were present could sign. Further, there was no allegation that the Petitioners' agents were present or were refused the opportunity to sign.

**[398]** The existence of a polling station by the name Habasein Boys primary school was denied along with the allegation that only one party agent signed form 34A in that polling station and no reason was given as to why the other agents did not sign. She further noted that there was no polling station by the name Kisina primary school and contested the allegation that the stream had been changed from 1 of 2 to 2 of 2 using a pen.

**[399]** She refuted the allegation that in Nunguni primary school the Form 34A was signed by one person and was similar to that of Nunguni primary school in Kitui East. She however admitted that Form 34A belonging to Maluma primary school was erroneously uploaded as being for Kalivu primary school.

**[400]** She refuted the allegations that in Mitalani primary the handwriting in the form 34A was altered; that in Makueni primary school the handwriting and signatures on the Form 34A appeared made up. She deposed that other than the relevant forms having been signed and witnessed by agents, no evidence had been provided to prove the allegation on the alteration of handwriting and further that the forms referenced to were not annexed to the supporting affidavit.

**[401]** The deponent refuted the allegation that in Kanziko Cotton Stores the Forms were unclear and illegible; in Tetu primary school; Mugumo primary school; Kivumbuni primary school; Kisayani primary school; Kunguluni primary the tallying is incorrect. She averred that the specific form that is alleged to be unclear was not identified and the tallying alleged to be incorrect was not specified.

**[402]** She refuted the assertion that: the statutory form of YKivuti primary school was unclear, Kalima Kio primary school had no code and the stream was indicated in the uploaded picture. Further that in Molemuni primary school, the Form did not indicate the total results and was incomplete and that Form 34As were not clear in Ta Farmer and Kitoroch 135. She averred that there were no polling stations known as “Ykivuti primary school”, “Molemuni primary school” and “Ta Farmers School”.

**[403]** She countered the allegation that in respect of; Mikimbi Full Gospel Grounds; Full Gospel Church Ground Njukikiri; Teachers Advisory Centre Hall; Nembure polytechnic; ACK Muchonoke Church Grounds; Faithful Church of Christ Makumbiri; Kwa Douglas Bus Stage; Full Gospel Churches Grounds Ndunduri; Full Gospel Churches Grounds-Gitururu; Ngurueri Coffee factory; Nguire primary school; Muchangor primary school; Kavutiri primary school; Gatura Tea Buyng Centre; Gichera primary school; Kangondi primary school; Kanduri primary school; Ugweri primary school; Kithunguthia primary school; Gikuuri primary school; Ndamunge Tea Buying Centre; Kirimiri Coffee Factory; Thigingi primary school; Magara Tea school; Mugaari

Tea Buyng Centre; Kanyaueri Tea Buying Centre; Kiameceru Tea Buying Centre; Kiandongó Tea Buying Centre; Kathari primary school; Kathageri Youth Polytechnic; Muhanda primary school; Ramula primary school; Burlwolo primary school; Nyangunda primary school; Tambach prison; Kapsabet prison; Eldama Ravine prison; Nanyuki prison; Nanyuk prison; Vihiga prison; Kanoth primary school Kiritiri primary school; Kauraciri market; Kanduku primary school; Marimari primary school; Ndithini primary school; Raciina primary school and Kariari primary school the respective Form 34As had been filed with the same handwriting. She averred that no evidence had been provided to support the allegation.

**[404]** She further contended, in relation to the allegation that there were no agents in Taveta prison; Moyale prison; Embu Women prison; Kitui Women Prison; Kitui Prison; Machakos Main prison; Machakos prison; Makueni prison; Nyeri Medium prison; Mwea prison; Kerugoya prison; Muranga prison; Muranga Women prison; Maranjau prison; Kiambu prison; Wapenguria prison; Kitale medium; Kitale women prison; Kitale main prison; Eldoret prison; Tambach prison; Kapsabet prison; Kabarnet prison; Eldama Ravine prison; Rumuruti prison; Naivasha medium; Nakuru women prison; Kericho main; Sotik prison; Bomet prison; Shikusa Farm prison; Busia women prison; Busia prison; Kisumu women prison; Kibos main prison; Kibos medium; Homa Bay prison; Kehancha prison; Kisii women prison; Nairobi Remand and Kilgoris prison, she was aware that the 1<sup>st</sup> respondent did not receive and therefore did not reject any application from a candidate seeking to appoint agents in the abovementioned polling stations or centres. She further stated that it had not been demonstrated how the absence of agents had affected voting or tallying in the said places and/or how it had affected the petitioners.

**[405]** Ms Kassait denied the allegation that in Kinyaga primary school; Nyambori primary school; SDA Mariari primary school; Kwa-Andu-Ambogo primary school; Mwondu primary school; Siakago Hall; Itiira primary school; Ndutori primary school; Gangara primary school; Gatakari primary school; Kathigagaceru primary school and Karauri primary school, the Form 34As had

been filed with the same handwriting. She stated that no evidence had been provided to support the claim.

**[406]** The deponent, in response to the claim that in Uruku Primary School the number of registered voters was not indicated, stated that the number of registered voters in that station was 12, which number was gazetted.

**[407]** She deposed that: the 1<sup>st</sup> respondent did not gazette any polling station known as “Gatinja primary school” and therefore could not comment on the claim that the Form 34A in respect of that station was only signed by the 3<sup>rd</sup> respondent’s agents and that no reason had been given as to why other agents did not sign. In response to the claim that the form 34A was not clear in Runyenjes Municipal Hall, she averred that all the forms for the three (3) polling stations were legible and that copies of the said forms had been provided to the Court.

**[408]** In response to the assertion that in Nduuri primary school the total number of registered voters and total number of votes cast was not indicated and that the polling station was not legible, Ms. Kassait averred that the said forms were legible. She further remarked that the total number of registered voters and total numbers of votes cast was clear as were the polling station names. She stated that copies of the said forms had been provided to the Court.

**[409]** In response to the assertion that the form 34A in Kathungu Primary indicated the party agent to be the petitioner and the 3<sup>rd</sup> respondent being shown as the candidate, she deposed that she noted that instead of indicating their names, the agents for the respective parties simply indicated the names of their principals. She further stated that this did not affect the results and that the petitioners did not demonstrate how the indication of the principals’ names materially affected the result of the presidential election.

**[410]** She denied the assertion that in Kithangari Tea Buying Centre the Presiding Officer and the Deputy Presiding Officer had the same handwriting.



She also denied Dr. Nyangasi's allegation that in Kithagutari primary school the same handwriting had been used to fill and sign the form 34A and that the form was a photocopy. She averred that the 1<sup>st</sup> respondent did not gazette any polling station by the name "Kithagutari primary school."

**[411]** The deponent denied the allegation that the form 34A was not clear for Ciangera primary school. She swore that the respective forms 34As for both polling stations at Ciangera primary school polling station centre were clear and legible and that copies of the said forms had been provided to the Court. She contested the allegation that the Form 34As for Kiathambu primary school, Kamwaa primary school and Gwakathi primary school were not stamped.

**[412]** She countered the deposition that in Gwakathi primary school the tally results had been cut off and that the agent signed off as a NASA agent. She also denied the allegation the Presiding Officer in Qvaaine also signed Gwakathi primary school's Form 34A. She stated that the 1<sup>st</sup> respondent did not have a polling station under the name "Qvaaine". She further denied the assertion that in St. Peters primary school and Itururi primary school were not stamped.

**[413]** She denied the allegation that in Mugwanjogu primary school and Mbaci primary school the handwriting in the two forms was similar and that the form 34A for Kamarindo primary school was illegible. It was her testimony that no expert evidence had been provided to demonstrate the similarity of handwriting and that such similarity did not mean that the same person signed the forms in the 2 polling centres.

**[414]** Ms Kassait denied the allegation that in Muruaki secondary school; Kahuru primary school; Matundura primary school; Muthoni primary school; Munyaka primary school; Kaimba primary nursery school; Kanyungi primary school Vijiweni Grounds; Likoni Muslim primary school; Consolata nursery school; Mirima primary school Ngurubani primary school; Kamuchege primary school; Karuangi primary school; Defathas; Karoti girls and Ciagini

the same handwriting had been used for all the Form 34As. She further denied the assertion that in Likoni primary school the Form 34A did not indicate the name of the Presiding Officer.

**[415]** She also denied the assertion that the Forms 34A were not stamped in Thome primary school; Gakuo primary school; Kutus primary school; Karoti girls; Murinouko; Musinduko; Ichangi; Tongoye; Karuangi primary school; Kamuchege primary school; Murubara Social Hall; Wanguru County Council; Ngurubani primary; Wanguru secondary school; Samburu primary school; Mwambani primary school; Chituoni nursery; Matumbi primary school; Mivirivirini primary school; Mlola nursery; Vikolani primary school and Kipni.

**[416]** The deponent denied the averments that the Deputy Presiding Officer did not sign the Form 34A in Mwambani primary school and that an evidently fake IEBC stamp was used in Chituoni nursery and in Mugamba Ciura primary school. It was her testimony that the 1<sup>st</sup> respondent's stamp was authentic.

**[417]** She further denied the assertion that both the Deputy Presiding Officer and the Presiding Officer did not sign the Form 34A in Kafuduni primary school while in Mazerus primary the Deputy Presiding Officer did not sign the Form 34A.

**[418]** Further she rebutted the following allegations:

- (i) In Tarasaa Secondary the Form 34A had been filed using the same handwriting and signatures.
- (ii) In Ngao Social Hall the Deputy Presiding Officer did not sign the Form 34A.
- (iii) In Onwadei primary school and Tanan nursery the same handwriting had been used but there were no signatures in the Form 34A.
- (iv) In Imani Primary, Mswakini primary and Maua primary the same handwriting had been used to fill the Form 34As.
- (v) In Walkon, the Deputy Presiding Officer did not sign and in Maua Primary the Form 34A was not signed at all.

- (vi) In Konkon the same handwriting had been used but no signatures had been appended, in Gatuto primary, Kirinyaga Tech the Deputy Presiding Officer did not sign and the Form was not stamped.
- (vii) In Kaitheri primary, Kaitheri youth polytechnic, Kiabarikire primary, Kianderi primary, Karitha, Kirugoya coffee factory, Kirigo primary, Valley road primary, Gakararu; Amani gardens; Kiamuruga primary; Karaini primary; Holly Rosery primary and Karuri primary the Form 34As were not stamped.
- (viii) In Iego primary the same handwriting had been used to write and sign for agents.
- (ix) In Mukarara primary and Kiawambogo primary the Forms had been filed using the same handwriting.
- (x) In Laciathuriu primary the Form had been signed by three Jubilee candidates and no reason was given as to why the other candidates did not sign.
- (xi) In Kisorngot primary the signatures were similar for all the agents.

**[419]** Her averment was that in Pangani Girls Secondary there was no number of total votes cast or registered voters indicated in the Form 34A. In addition she averred that Pangani Secondary polling centre had several polling stations, all of which had the total number of votes cast and registered voters indicated on the respective Form 34A and that copies of the said forms had been provided.

**[420]** In respect of the allegation that the code was unclear or illegible in Kuni Primary, she swore that there was no polling station with the name “Kuni Primary”.

**[421]** In her deposition she denied the following allegations:

- (i) In Empaash primary the Form had been signed by the same person and no record of the registered voters was recorded.
- (ii) In Kimulot primary the agents’ signatures were similar.

- (iii) In Murguiwet primary the agents' signatures were similar.
- (iv) In Mugenyi primary two jubilee agents signed the Form and it was not indicated why other agents had not signed.
- (v) In Kapkweni primary school the agents had similar handwritings.
- (vi) In Meru primary school all agents signed using one handwriting and no results were given.
- (vii) In Mosque Road Hall and Nteere Park all agents had a similar handwriting.
- (viii) In Kokoin Constituency, polling stations number Kimulot primary school, Murguiwet primary school, the agents had a similar signature and handwriting.

**[422]** She based her averment on the fact that no evidence had been provided to back up the claims nor had it been demonstrated how similarity of signatures, if any, affected the results.

**[423]** The deponent, in response to the allegation that in Pimbiniyet primary there was no agent's signature in the posted Form 34A, stated that only agents who were present signed the relevant Form 34A and that no evidence had been provided to show that there were agents who were present but failed or refused to sign the relevant forms.

**[424]** She refuted the assertions that the information in the uploaded form had been cut out in Ololchurra Centre and that in Nkosuash nursery, there was no entry for all the Presidential candidates in the uploaded Form 34A. it was her testimony that the relevant forms for the abovementioned centres were clear and legible and copies of the same had been supplied to the Court.

**[425]** in denying the assertion that in Teldet primary school the Form 34A was illegible and unverifiable and that in Kiplegut primary school, the number

of valid votes as well as the rejected votes were not specified. Ms. Kassait swore that there were no polling stations known as “Teldet primary school” and “Kiplegut primary” that were used in the 2017 Presidential Election.

**[426]** The allegation that in Kapkilaibei primary school only independent candidates’ agents signed the form and no reasons were given as to why the other agents did not sign. She asserted that only agents who were present signed the relevant forms and that no evidence had been provided to show that the petitioners’ agents were present but failed or refused to sign the relevant forms. It was also denied that whiteout had been used to alter Form 34A in ‘Masset’, stating that ‘Masset’ was a non-existent polling station.

**[427]** The allegation that there were discrepancies in figures in Makutano Market was denied on the basis that the allegation had neither been substantiated nor particulars of the same provided. She also rejected the assertion in respect to Miriga, that Form 34A had not been stamped or signed.

**[428]** She refuted the averments that the Forms 34A in Njukinjiru, Tinderet, Kalyet Primary School and Gakoromone Market were illegible and unverified. She also denied that the form in Kathurini Coffee was only signed by the 3<sup>rd</sup> respondent agent and that in Keses, the picture form was incomplete and in Kilelgut. She rejected the allegation that valid votes and rejected votes had not been specified. She averred that there were no polling stations with the names Njikinjiru, Kathurini Cofee, Keses, Kilelgut, Kalyet Primary School or Gakoromone Market used in the 2017 Presidential election.

**[429]** While denying the allegation that there was a discrepancy in figures on form 34A in Makutano Market polling station, North Imenti, the deponent contended that the allegation was not substantiated and that no particulars had been furnished. Further, she denied that Form 34A in Masste Pry. polling station, Bomet Central Constituency, had been erased using a white out and averred that the allegation had not been proved and further, but most importantly, there was no polling station with the name Masste Pry.

**[430]** She refuted the allegations that Form 34A had no signature of agents in St Patrick Primary in Gilgil Constituency. Further, she denied that form 34As in Ole Sultan Pry, Muricucuria ECD Primary, Ndibai Primary and St Barnabas Trading had only been signed by the 3<sup>rd</sup> Petitioner's agents. Discrepancies in the addition of figures in Munanda Primary, Gitare Primary and Nyondia Primary were also denied.

**[431]** In addition, she refuted that form 34A for Kahuhu Primary, Kamathat Primary, Echacharia Primary and Loldia Primary polling stations were illegible. The deponent also denied that Forms 34A in Ndogo Primary, Itherero Primary and Kiunguria Primary were filled by the same person. Allegations that no summations were made in Nuthu Primary and that the Deputy Presiding Officer did not sign the form for Komothat Primary were contested.

**[432]** It was the deponent's averment that there were no polling stations with the names St. Patrick Pry, Ole Sultan Pry, Muricucuria ECD Pry, Ndibai Pry School, St Barnabas Trading, Munanda Primary, Gitare Primary and Nyondia Primary. Further, she refuted the allegation that form 34A were illegible for Kahuhu Primary, Kamathat, Echacharia Primary, Loldia Primary, Itherero Primary, Kiunguria and Komothat Primary.

**[433]** The deponent asserted that allegations of discrepancies in Bishop Ndungi Primary were not substantiated. Further, she denied that only the 3<sup>rd</sup> respondent's agents signed in Milimani Primary, Naivasha Constituency and averred that no evidence had been furnished to show that the petitioners agents were present and denied the opportunity to sign the relevant form or that they refused to sign the form for valid reasons.

**[434]** She denied the allegations that the presiding officers: Isaac M Omari Jeremiah Kumutai, Judy Doreen Chelegat and Deputy Presiding Officer sDerrick Ngetich and signed Form 34A in more than one polling station.

**[435]** Further she rejected the allegations that in the following polling stations the result did not tally mathematically N. Chebelyon Pry; Murunga; Kapkagogoron Pry; Chepsumei; Kapkatoi; Madaraka School; Rise And Shine; Birongo Pri; Ibeno Sec School; Matieko Dok Pry; Muramati Pry; Westlands Pry; Hospital Hill; North Highridge Pry; Karura Forest Pry; Cheleta Pry; Mji Wa Huruma Pry; Kttc ; Hospital Hill High; Kianjagi Pry; Seretut Pry; Bishop Ndingi School; Nyakinyua Pry; Rev Jeremiah; Chekeliek Nursery; Cheplelakbei Pry; Muruguyu Woo Pry; Kwangoly Pry; Athi River; Sirimon; Kithithi Pry; Kombe Pry. She averred that no evidence was provided to show or substantiate the claim that the result in the mentioned places did not tally mathematically moreover, she deposed some of the places mentioned were not polling stations.

**[436]** She denied the allegations that the defects and irregularities outlined in Dr. Nyangasi's affidavits render the Statutory Forms invalid, null and void. She contested the allegations as unverified and incapable of being relied upon as the basis upon which to nullify the declared results. It was her evidence that the Presidential Election was conducted in accordance with the requirements of the Constitution, the Election Act and regulations thereunder as well as all relevant applicable laws and regulations as demonstrated in the 1<sup>st</sup> and 2<sup>nd</sup> Respondents response to the Petition.

**[437]** The deponent denied the allegation that there were persons other than the gazetted County Returning Officers, Constituency Returning Officers and Returning Officer for citizen residing outside the country who signed statutory forms.

**[438]** She deposed that that no elections were conducted in ungazetted polling stations/tallying Centres and further that the alleged ungazetted polling stations/tallying Centres do not exist.

**[439]** In relation to the variance in the total number of votes cast been the Presidential and county level elections, she deposed that the said variance was not of 482,202 votes as alleged and is in any event within acceptable statistical limits. She tendered in as evidence of this a document marked Ec.12.

**[440]** In reply to the further affidavit, Ms. Kassait deposed that the annexures marked as DNO-2A and DNO-2-2A to the said further affidavit were not supplied to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

**[441]** On the security features of the Statutory Forms, the deponent averred that the Commission developed standards for its electoral goods prior to their procurement. The standards included specific security features for each ballot paper and statutory form in order to prevent duplication, misuse, piracy, fraud, counterfeiting and to improve controls. She deposed that all the ballot papers and statutory forms used in the 8<sup>th</sup> August 2017 election contained these security features.

**[442]** Some of the features employed on the result declaration forms 34A and 34B were averred to include: guilloche patterns against which all background colours on the declaration forms were printed, anti-copy patterns, watermarks, micro text, tapered serialization, invisible UV printing, polling station data personalization, self-carbonating element, barcodes.

**[443]** It was her testimony that each ballot paper included different colour coding of the background. She averred that the security measures were to ensure that the Commission detects counterfeit statutory forms or ballot papers and discharge its constitutional mandate of conducting secure and



verifiable elections. In addition, she asserted that all ballot papers were to be stamped before issuance to a registered voter to cast the vote. She deposed that this was an extra measure initiated by the 1<sup>st</sup> respondent to ensure that the electoral process was secure. She added that lack of the stamp did not invalidate or by itself speak to the authenticity of the ballot paper.

**[444]** She concluded by confirming that all the Form 34A's received by the Commission at the National Tally Center had all the above-mentioned security features.

**[445]** I am convinced that, apart from the specific admissions made, the affidavit of Immaculate Kassait rebutted all the allegations made in the affidavits of Dr. Nyangasi, in support of the Petition and supplied evidence in support of the averments made by the deponent and where the evidence was contained in the affidavit of another deponent reference was made to that other affidavit. I have taken into consideration the effect, on the declared results, of the admitted administrative errors appearing on the Forms 34A and 34B, and I have arrived at the conclusion that the said administrative errors do not taint the declared results.

**14.        *The affidavit of the 2<sup>nd</sup> respondent - Wanyonyi Wafula Chebukati***

**[446]** The 2<sup>nd</sup> respondent filed a replying affidavit sworn and dated 24<sup>th</sup> August, 2017. He deposed to being the returning officer for the 8<sup>th</sup> August 2017 presidential election.

**[447]** He averred that both he and the 1<sup>st</sup> respondent had no stake in the outcome of the 8<sup>th</sup> August 2017 elections and that throughout the election cycle, they were neutral referees; their resolute mandate being to provide the electoral infrastructure for the people of Kenya to exercise their sovereign will to elect leaders of their choice.

**[448]** He averred that after tallying all the votes, the presidential candidate who emerged the winner was Uhuru Kenyatta, having garnered 8,203,290 votes; followed by Raila Odinga, who garnered 6,762,224 votes. He swore that this declaration was based on the contents of the Form 34C prepared from forms 34B forwarded to the NTC from the constituency tallying centres plus the tally of the diaspora votes.

**[449]** It was his assertion that given the election management infrastructure that was deployed, the primary results declaration forms (Forms 34A and Forms 34B) could not possibly have been interfered with at all. He added that the forms were transmitted through the KIEMS system in the scanned format and they had special security features that could not be replicated. Further that the security features included anti-photocopy and self-carbonated copies upto a depth of six (copies).

**[450]** He averred that the presiding officers at the 40,883 polling stations were required to scan and electronically transmit the original Forms 34A to both the constituency and NTC. In turn, the constituency returning officers were required to electronically submit to the NTC the Forms 34B for purposes of tallying and declaring the results of the presidential election and therefore, the outcome of the election could easily be verified by reconciling the figures in Forms 34A.

**[451]** He swore that upon his assumption to office, on 20<sup>th</sup> January, 2017, together with fellow commissioners, they embarked on a process of managing the remaining part of the election cycle to ensure that the 8<sup>th</sup> August 2017 election met all the

constitutional and statutory ingredients of a free and fair election. Specifically, his task as the Chairperson was to provide policy leadership and strategic direction to the Commission to ensure that the entire electoral infrastructure for elections management was accountable, efficient, systematic and methodical.

**[452]** He deposed that despite the numerous challenges arising from litigation against the Commission; the commissioners ensured that the procurement of strategic electoral materials by the Commission's secretariat was done in a transparent and timely manner; that the other electoral cycle processes including the supporting technology were deployed in a manner that was congruent with the constitutional and legal requirements of simplicity, accuracy, verifiability, security, accountability, and transparency.

**[453]** He deposed that in compliance with the law, all the required steps and processes were firmly in place for a free and fair election. He precedes to enumerate the steps that were taken to ensure compliance with the Constitutional principles.

**[454]** He deposed that it is neither true that the Commission presided over a shambolic presidential election nor that the entire electoral processes had failed before and during the 8<sup>th</sup> August 2017 elections or that they were riddled with grave breaches of the Constitution and applicable laws during the tallying and transmission of results.

**[455]** He averred that the presidential election met all the requirements of free and fair elections: they were conducted through secret ballot; they were free from violence, improper influence or corruption; the entire electoral cycle was exclusively

administered by the Commission; they were transparently conducted; and they were administered in an impartial, neutral, efficient, accurate and accountable manner.

**[456]** Invoking *Article 138(10)* of the Constitution, he deponed that he is mandated, within seven (7) days after the presidential election, to declare the result of the election as set out in Form 34C and deliver a written notification of the result to the Chief Justice and the incumbent President which he did. It was his testimony that throughout the electoral cycle, he discharged his mandate in full compliance with the Constitution, electoral laws and the applicable regulations and oversaw the conduct of the election in compliance with *Article 81(e)* of the Constitution. He deposed that he was not influenced by anyone at all and maintained high levels of professionalism.

**[457]** As regards the Commission as a body, he swore that it conducted and supervised the election in accordance with *Article 81(e)* of the Constitution. Particularly, that:

- (a) *every registered voter who participated in the General Election cast their vote by way of secret ballot;*
- (b) *polling stations were adequately secured by the police to ensure the electoral process was free from violence, intimidation, improper influence and corruption;*
- (c) *the election was independently conducted by the Commission;*
- (d) *candidates and various observers were allowed to have their appointed agents present at the various polling stations to observe the voting process to ensure transparency;*

- (e) *the said agents observed the closure of the voting process and were involved in counting of the votes at the various polling stations to ensure that the administration of the electoral process was done in a transparent, impartial, neutral, efficient, accurate, and accountable manner; and*
- (f) *the presidential candidates' agents/representatives were given access to the various Forms including Forms 34A and 34B thereby increasing the 1<sup>st</sup> Respondent's transparency and accountability during the electoral process.*

**[458]** It was the 2<sup>nd</sup> respondent's deposition that the Commission staff that operated the KIEMS gadgets was trained in good time, and the gadgets were configured with the register of voters. He deposed that the KIEMS sought to ensure a transparent, secure, verifiable, reliable and accurate framework for elections management. It was his testimony that the system allowed for integration of the biometric voter registration, biometric voter identification, electronic results transmission and the political party and candidate registration systems. He averred that it was successfully deployed on 8<sup>th</sup> August 2017 and significantly helped to increase efficiency, effectiveness and accuracy of the electoral process. He deposed that the system never failed.

**[459]** He avers that the relaying and transmission of the results was done in compliance with *section 39 of the Elections Act Regulation 87 of the Elections (General) Regulations 2012*, and the Court of Appeal's decision in the ***Maina Kiai*** case.

**[460]** The deponent states that he was present at the NTC between 8<sup>th</sup> and 11<sup>th</sup> August 2017, tallying and validating Forms 34B that were being electronically transmitted by the constituency returning officers. He attached as evidence copies of the Form 34Bs marked WWC-3. He averred that upon receipt of these Forms 34B, he proceeded to collate and confirm the consistency of the results and availed the Forms 34B to the presidential candidates through their agents for confirmation and verification. He thereafter used the same results to tally and complete Form 34C in compliance with *section 39(3)(b)* of the Elections Act. He tendered in as evidence a copy of the Form 34C marked WWC-4.

**[461]** He avers that on 11<sup>th</sup> August 2017, upon receipt of the 290 Forms 34B from the constituencies and also the tally of the diaspora, the presidential election results were confirmed by the presidential candidates through their agents present as follows:

**[462]** On the basis of these results, he avers that in compliance with *Articles 138(4)* and *138(10)* of the Constitution, he publicly declared the presidential results on 11<sup>th</sup> August 2017.

**[463]** He testified that there were inadvertent and/or arithmetic human errors in a few of the Forms, which errors were minor and did not have any effect on the outcome of the presidential election. In this regard he tendered in as evidence a document marked WWC-5 and also referred to the affidavit of Immaculate Kassait, the 1<sup>st</sup> respondent's Director Voter Registration and Electoral Operations.

**[463]** Responding to the affidavit sworn by Godfrey Osotsi in support of the petition, he deposed that throughout the electoral cycle, the Commission variously engaged the petitioners (in person and through their representatives), the 3<sup>rd</sup> respondent through his agents, the public and other interested stakeholders in conformity to best electoral practices including the reform of electoral laws. He deposed that there was no engagement in any partisan drive howsoever for the reform of electoral laws or at all.

**[464]** He swore that the Commission fully complied with the law guiding the transmission of presidential results, including through its website, which access was granted to the general public to download Forms 34A, 34B and 34C.

**[465]** In response to Godfrey Osotsi's allegation that the commission did not have all the Form 34B's at the time of declaration of results, he deposed that the Commission had received all Forms 34B. It was his testimony that to ensure the transparency of the process, all the Forms 34B and 34C were availed to all presidential candidates and their agents for verification before declaration of the results. They were all allowed to attend to the NTC at BOMAS to verify the said tally of the presidential votes, from commencement to declaration.

**[466]** In response to Godfrey Osotsi's evidence that the petitioners were sidelined during the tallying process, he deposed that no one was side-lined during the tallying process. He averred that he personally chaired numerous consultative meetings with the petitioners' agents to consider their concerns. He testified that prior to the

declaration of the final result the petitioners' agents decided to leave the NTC for unexplained reasons.

**[467]** In response to the 2<sup>nd</sup> petitioner's affidavit sworn on 18<sup>th</sup> August, 2017 disparaging the credibility of the final outcome of the presidential election, he deposed that the declaration and announcement of the Presidential Election results on 11<sup>th</sup> August 2017 was done strictly and fully in compliance with the Constitution of Kenya and electoral laws.

**[468]** In response to the 1<sup>st</sup> petitioner's affidavit sworn on 18<sup>th</sup> August, 2017, he stated that the commission notified the public throughout the electoral cycle of the anticipated challenges and demonstrated the alternative mitigation measures which included the confirmation of the petitioners' agents in verification of voters in the polling stations, tallying of results and transmission of the results.

**[469]** In further response to the 1<sup>st</sup> petitioner's affidavit allegation that there were procedural flaws, illegalities and/or irregularities in the collation, tallying, verification and transmission of presidential election results, the deponent stated that the tallying process carried out by the Commission was in compliance with Article 81(e) and 86 of the Constitution as read together with Section 39 of the Election Act. He also deposed that at every result management level, the petitioners were allowed to have their agents present to confirm the tallying, announcement and declaration of the results. He emphasized that the electronic transmission of the results by the Commission was secure, prompt, accurate, verifiable, accountable and efficient. Further that all the results declaration Forms were subject to verification by



the candidates' agents/representative and immediately thereafter forwarded to the National Tallying Centre.

**[470]** In further response to the 1<sup>st</sup> petitioner's affidavit evidence that there was a variance between the declared result and the actual results as tallied by the petitioners the deponent averred that the Court should take cognizance that the 1<sup>st</sup> petitioner deposed that they were given access to the Forms 34B through their agents thus the issue of lack of transparency and accountability in the tallying process did not arise at all.

**[471]** The deponent denied the 1<sup>st</sup> petitioner's allegation that the 1<sup>st</sup> respondent condoned voter intimidation, undue influence, bribery and/or flagrant commission of Electoral offences by the 3<sup>rd</sup> respondent. He denied Dr. Nyangasi's allegation that the 3<sup>rd</sup> respondent was declared winner without verification of all the requisite documents. He deposed that all presidential candidates and their agents or representatives were invited to verify the results before the declaration. He averred that he did not announce the final results of the presidential election until he received and validated the Forms 34B from the constituency tallying centers.

**[472]** He deposed that on 10<sup>th</sup> August, 2017 the Commission received a letter dated 10<sup>th</sup> August 2017 from the Petitioners' Deputy Chief Agent, James Orengo raising concerns over the presidential election results. It was his testimony that upon receipt of the letter, the Commission internally considered all the issues and communicated its response via a letter dated 10<sup>th</sup> August 2017. He tendered as evidence copies of this communication marked.

[473] He swore that the declaration and announcement of the presidential election results on 11<sup>th</sup> August 2017 was done strictly and fully in compliance with the Constitution of Kenya and electoral laws, contrary to the averments of the 2<sup>nd</sup> petitioner.

[474] In conclusion, he deponed that the allegation in the petition that the Commission failed to take steps against the 3<sup>rd</sup> respondent for alleged breach of the provisions of *Section 14* of the *Election Offenses Act* was untrue. He stated that on 21<sup>st</sup> June 2017, he wrote a letter to the Director of Public Prosecutions (DPP) informing him of the alleged breach for his action. The DPP responded via a letter dated 6<sup>th</sup> July 2017 informing him that he had directed the Director of Criminal investigations to take action. He tendered in as evidence, copies of the communication.

### ***15. Replying affidavit by Ezra Chiloba***

[475] The 1<sup>st</sup> respondent's replying affidavit was sworn by Ezra Chiloba, its Chief Executive Officer on 24<sup>th</sup> August, 2017. He averred that the 1<sup>st</sup> respondent conducted the presidential election on 8<sup>th</sup> August 2017 in accordance with the provisions of *Articles 81, 83 and 86* of the Constitution, the Elections Act and the Regulations thereunder.

[476] It was his deposition that there were key milestones achieved in the lead up to the presidential election. He annexed the Elections Operations Plan (**EOP**) as the roadmap towards free, fair and credible 2017 General Election. He asserted that the EOP was formally and publicly launched in January 2016.

Also annexed to the affidavit as evidence was a copy of the audit report of the registered voters. Copies of Gazette Notices were annexed to prove:

(i) Closing the registration of voters pursuant to section 5(1) of the Elections Act as read together with Regulation 12 of the Elections (Registration of Voters) Regulations on 7<sup>th</sup> March 2017.

(ii) Opening the register of voters for verification of biometric data by members of the public between 10<sup>th</sup> May and 9<sup>th</sup> June 2017.

(iii) Certification of the register of voters in accordance with Section 6A (3) (a) of the Elections Act.

(iv) Publication of the timetable and roadmap for the party primaries and General Election.

(v) Gazettement of 40,883 polling stations and 338 tallying centres across the country including the prisons and for the Diaspora. Annexed was a copy of the relevant Gazette Notice.

(vi) Gazettement of County Returning Officers, Deputy County Returning Officers, Constituency Returning Officers and Deputy Constituency Returning Officers through various Gazette Notices, Addenda and Corrigenda, copies of which were annexed and marked “EC-11”.

[477] Among other milestones deposed to were that the Commission acquired and deployed an integrated electoral management system for voter registration, voter identification, candidates’ registration and results transmission. Further, there was recruitment, training and deployment of over 360,000 election officials across the country; and continuous voter education programmes undertaken across the country using different strategies and platforms.

[478] In addition it was deposed that there were over 15,000 individual observers, 105 international observer institutions, 254 local institutions and more than 7,000 journalists from over 30 local and international media houses were accredited to participate in the general election.

[479] It was his testimony that despite the complex political and legal environment in the lead up to the 2017 General Election, the 1<sup>st</sup> respondent put in place mechanisms and infrastructure towards what has been lauded as the most free, fair and credible election in Kenya's history.

[480] Responding to the affidavit by the 1<sup>st</sup> petitioner, the deponent stated that the general election was conducted in a transparent, open and accountable manner. He averred that the process was peaceful and credible, a fact confirmed by both local and international observers. He attached as evidence a copy of various observer reports.

[481] He deposed that the tallying and transmission of results was undertaken at the polling stations, collated and declared at the constituency tallying centers and at the NTC, hence the results declared were credible and represent the will of the Kenyan people. It was his testimony that the system used was credible, transparent and accountable. Further, that there was no compromise or interference with the system for results transmission before, during or after the declaration of the outcome of the presidential outcome. He reiterated that the collation, tallying and transmission of the results were in accordance with the Constitution, the Elections Act and the Court of Appeal decision and the *Maina Kiai* decision.

[482] Referring to the documentary evidence on record, he deposed that the results declared were substantially consistent with and a true reflection of the actual results tallied and declared at the gazetted polling stations with the consequence that the finality of the results declared by the 1<sup>st</sup> Respondent could be faulted.

[483] It was the deponent's testimony in response to the 1<sup>st</sup> petitioner's affidavit that that the law was amended vide the Election Laws (Amendment) Act, 2017 to provide for a period of four (4) months within which to procure and put in place the KIEMS. He averred that the 1<sup>st</sup> petitioner's allegation in his affidavit evidence that electronic electoral system may have been exposed to risk of interference was speculative and untrue.

[484] He deposed that the 1<sup>st</sup> petitioner's allegation in his affidavit that **Petition No. 127 of 2017, Dr. Kenneth Otieno v The AG & IEBC**, that sought and got orders declaring the Elections Technology Advisory Committee (ETAC) unconstitutional, was not defended by the 1<sup>st</sup> respondent was true. He averred that the Commission filed a defense and advanced arguments in the matter. He stated that the fact that the Court ruled against it does not mean that it did not oppose the petition.

[485] He further averred that the 1<sup>st</sup> petitioner's allegation in his affidavit falsely accused the 1<sup>st</sup> respondent of filing **Petition No. 415 of 2016, Collins Kipchumba Tallam v The AG**. This petition sought to declare section 39(1C) of the Elections Act unconstitutional. The deponent denied this allegation and stated

that it was unfair and malicious to accuse the 1<sup>st</sup> respondent of filing the case as it was not a party to it.

**[486]** He denied the 1<sup>st</sup> Petitioner's allegation that the 1<sup>st</sup> Respondent failed to put in place several preparatory measures to assure the credibility of the KIEMS system. He deponed that the KIEMS system performed exceptionally well in identification of voters and results transmission. He averred that where there were anticipated challenges in voter identification and transmission, the legal complementary mechanism was invoked. He termed the allegation of failure in transmission and that of breach of security as unfounded and untrue.

**[487]** He denied the petitioner's allegation that they were ambushed two days to the election date when they were informed by the 1<sup>st</sup> respondent that over 11000 polling stations were out of range for the 3G and 4G network and were expected to transmit election results from locations other than gazetted polling stations and/or manually is false.

**[488]** He averred that the petitioners were not ambushed as alleged since in a workshop held on 22<sup>nd</sup> May 2017, representatives of the petitioners were informed of the mapping of network coverage and how the same had been shared by the mobile network operators. He deposed that the Communication Authority of Kenya (CAK) at no time advised the 1<sup>st</sup> respondent against hosting a private cloud to supplement the 1<sup>st</sup> respondent's primary as it was satisfied with the Commission's arrangements.

**[489]** The deponent denied the petitioner's allegation that the 1<sup>st</sup> respondent delayed in carrying out testing verification and deployment of technology. He

deposed that the 1<sup>st</sup> respondent tested the KIEMS system on 9th June 2017 as required by law. He averred that the 1<sup>st</sup> respondent also conducted other tests, verified and deployed the KIEMS system.

**[490]** It was the deponent's testimony that the 1<sup>st</sup> petitioner made reference to an affidavit of one Professor Kaloki, which affidavit was not served on the 1<sup>st</sup> and 2<sup>nd</sup> respondents. The 1<sup>st</sup> respondent reserved its right in respect of what it termed a false allegation that Professor Kaloki had sworn an affidavit in support of the petition. He deposed, without prejudice to the preceding averment, that the allegation that the CAK advised the 1<sup>st</sup> respondent against hosting a private cloud to supplement the 1<sup>st</sup> respondent's primary and disaster recovery sites was untrue. He deposed that on the contrary, the CAK was satisfied with the arrangements put in place by the 1<sup>st</sup> Respondent.

**[491]** He attached a copy of a letter dated 31<sup>st</sup> July 2017 from the CAK marked "EC-14" as evidence. Accordingly, he averred that the allegation, by the 1<sup>st</sup> petitioner in his affidavit that the KIEMS system was compromised and that the presidential election was substantially conducted using manual processes, lacked merit.

**[492]** He disputed the petitioner's allegation that the voting process was not conducted in accordance with Article 86 of the Constitution. He deposed that the results were transmitted from polling stations and constituency tallying centres as by law required. He denied the petitioners' allegation they had not been supplied with all Forms 34B and all Forms 34A. He deposed that they were supplied with all the Forms 34B all the Forms 34A's were available on the public portal. He averred that by their own letter dated 14<sup>th</sup> August 2017 the petitioners acknowledged having been

provided with access to all the requested forms. He attached copies of the relevant correspondence marked “EC-15”.

**[493]** The deponent denied petitioners’ allegations that the Form 34As and 34Bs had substantial, systemic, glaring, qualitative anomalies that put to question the credibility of the presidential election. It was his testimony that the petitioners did not dispute the presidential election results as declared but only alleged unsubstantiated qualitative anomalies.

**[494]** Mr. Chiloba averred that the petitioners’ deposition that they had compared Forms 34A and 34B supplied by the 1<sup>st</sup> Respondent was a tacit admission that the Petitioners had received Forms 34A and 34B from the 1<sup>st</sup> Respondent. He deposed that there were no massive numerical discrepancies as alleged by the petitioners that affected the results declared by the 2<sup>nd</sup> Respondent.

**[495]** The deponent denied any partiality on the part of the 1<sup>st</sup> respondent as alleged by the petitioners. He deposed that he was aware that the 1<sup>st</sup> Respondent wrote to the Director of Public Prosecutions to discharge his constitutional mandate. He attached, as evidence, a copy of the said letter marked “EC-16”. It was further deposed that voting was conducted only in gazetted polling stations and only results for the gazetted polling stations were tallied and ultimately declared. He adopted the averments in the affidavit of Immaculate Kassait on these allegations.

**[496]** Responding to the affidavit of Apprielle Oichoe, he reiterated and adopted the responses in the replying affidavit sworn by James Muhati. In addition, he deposed that it was not true that the 1<sup>st</sup> respondent replaced Forms 34A and entered results in



Forms not provided for. He deposed that results in all polling stations were entered in the statutory Forms 34A.

**[497]** He further deponed that although all presiding officers had been trained and instructed to take an image of the Forms 34A for transmission through the KIEMS, in some instances, they decided to take images of other documents for purposes of testing the kits. Consequently, given that one of the security features of the system was for the system to capture and transmit one image only for each of the six (6) elections and thereafter lock itself, the test documents were transmitted instead of the Forms 34A.

**[498]** He averred that upon noting this error, the 1<sup>st</sup> respondent uploaded the Form 34A for the said polling stations on the public portal. He deposed that this inadvertent transmission of wrong images did not affect the results as contained in Forms 34A. As example, he annexed a letter dated 16<sup>th</sup> August 2017 from the Presiding Officer Bulla Dadacha Stream 02 polling station explaining the erroneous uploading of an exercise book page marked “EC-17”. He deposed that upon noting this error, the 1<sup>st</sup> respondent uploaded the Form 34A for the said polling stations on the public portal. He annexed said Form 34A marked “EC-18” as evidence.

**[499]** He termed the report in Aprielle’s affidavit titled “*The Travesty that was the electoral process Kenya 2017*” as untrue. He deposed that the alleged report was not dated or signed and neither was the source or author indicated. He averred that it was a document with no probative or evidentiary value. He reiterated that the system deployed by the 1<sup>st</sup> respondent was not compromised and that the allegations contained in the said report were without basis.

**[500]** In response to the affidavit of Mohamed Noor Barre and Ibrahim Mohamud Ibrahim, he reiterated and adopted the responses contained in the Replying Affidavit of Abdibashir Alinoor. In response to the affidavit of Benson Wasonga, Mr. Chiloba averred that the result of the election from each polling station was contained in Forms 34A, the declaration of the results of the presidential election was on the basis of the results contained in Forms 34B from the 290 constituencies and the diaspora. He also swore that the total number of rejected ballots as declared in Form 34C was 81,685 and not 477,195 as alleged. He stated that Mr. Wasonga had misconstrued the statistics published on the public display mode of KIEMS which was not a result within the meaning of the law. He deponed that the cause of the variance between the actual number of rejected ballots and the public website were as a result of human error.

**[501]** In response to affidavits of Moses Wamuru, Koitamet Ole Kina and supporting affidavit and 2nd affidavit of Godfrey Osotsi, he reiterated and adopted the responses contained in the Replying Affidavits of Amina Shaku and James Muhati respectively.

**[502]** In response to affidavit of George Kegoro, he reiterated and adopted the averments in the affidavit sworn by Immaculate Kassait. He responded that the statistics displayed electronically did not constitute and were not the results of the presidential election. He deposed that the final result of the presidential election is verifiable and certifiable from an inspection of Forms 34A and 34B.

**[503]** He denied Mr. Kegoro's allegation that IEBC's portal showed varying levels of votes cast for the different elective offices. It was his testimony that upon closer inspection of the subject Supporting Affidavit of George Kegoro, it was evident that it was not underpinned in the petition. He deposed that it lacked foundation in the pleadings and or primary affidavits of the petitioners and could only be described as an attempt to litigate a substantive presidential petition under the guise of presenting a Supporting Affidavit to the Petition herein. He averred that since it was filed out of time, the affidavit suffered the fatal defect for being time barred and in blatant defiance and abuse of this Honourable Court's process and the law and ought to accordingly be struck out.

**[504]** In response to the affidavit of Olga Karani, he reiterated and adopted the averments in the affidavits sworn by Immaculate Kassait and James Muhati. In addition, he stated that the allegations in Ms. Karani's affidavit lacked proper specifics and were untrue. He deposed that in instances where a voter could not be identified biometrically, the said voter would still be identified by keying in the KIEMS system their alpha numeric details. Contrary to her allegations, he averred that agents at the National Tallying Centre were provided with access to the Forms 34A and 34B and given an opportunity to verify the results before declaration.

**[505]** He emphasized that the presidential election held on 8<sup>th</sup> August 2017 was conducted in accordance with the Constitution and the Electoral laws and that the same was free, fair and credible.

## **16. James Muhati's affidavit evidence sworn on 24<sup>th</sup> August 2017**

**[506]** He swore that he was the Director in charge of Information Communication and Technology (ICT) for 1<sup>st</sup> respondent. His deposition was in response to matters touching on ICT in the petition and affidavits of Raila Odinga, Apprielle Oichoe and Godfrey Osotsi.

**[507]** He deponed that consequent to the 2007 General elections, a number of concerns were raised relating to human intervention and how it affected the credibility and integrity of the results. He deposed that the concerns were addressed in the Independent Review Commission also known as the Kriegler report. It was his testimony that the 1<sup>st</sup> respondent took on board the recommendations of the Kriegler Report to utilize ICT in future elections to improve their accuracy, transparency and verifiability. In this regard, the 1<sup>st</sup> respondent deployed use of ICT in the following: Biometric Voter Registration (BVR), Electronic Voter Identification Device (EVD), Candidate Nomination System and Result Transmission System (RTS).

**[508]** It was his testimony that when the 1<sup>st</sup> respondent utilized ICT as forestated in the 2013 General Election, the system experienced technical challenges. He deponed that these were addressed by amending Section 44 of the Elections Act. The amendment mandated the Commission to establish an integrated electronic electoral system which would enable biometric voter registration, electronic voter identification and electronic results transmission and thus the Kenya Integrated Elections Management System (KIEMS) was born.

**[509]** He swore that the system was put in place and successfully deployed in the 2017 elections. He deponed that it enabled the 1<sup>st</sup> respondent to successfully verify the biometric data by the public during the May 10th – June 9th verification exercise as required by law, successfully verify voters on polling day and successfully transmit the results of the election results from polling station to constituency and to the National Tallying Centre.

**[510]** He deponed that he was aware that the legislative framework was the Constitution, Statutory Provisions and Regulations. He cited Articles 81 and 86 of the Constitution as read with section 4(m) of the IEBC Act which obligates the voting system used to be simple, accurate, verifiable, secure, accountable and transparent. He averred that the KIEMS was established with the approval of the Elections Technology Advisory Committee (ETAC) established under section 44(8) of the Elections Act and comprising relevant agencies and institutions including political parties. He annexed minutes marked JM-1 of ETC to this effect.

**[511]** He deposed that the Commission and ETAC ensured that the ICT put in place satisfied the Constitutional and Statutory threshold required under *section 44(1) of the Election Act*, and had capabilities pursuant to *section 44 of the Elections Act*. He also averred that the Commission, pursuant to *section 44(5) of the Elections Act* published the *Elections (Technology) Regulations 2017* on 21<sup>st</sup> April, 2017, 3 months before the general elections. He deponed that the 1<sup>st</sup> respondent developed and implemented a policy to regulate the progressive use of technology in the electoral process as required and annexed as evidence a copy of the said policy marked JM-2.

He also annexed copies of the public notices on the testing of the technology to be deployed and the minutes of the simulation carried out at Bomas of Kenya marked JM-3A and JM-3B.

**[512]** On statutory compliance and implementation, he averred that at the time of carrying out the general election, the Commission had fully and successfully deployed the use of ICT in the following manner: First, the Commission had developed and implemented a policy to regulate the progressive use of technology in the process as required under *section 44(2) of the Election Act*. Secondly, prior to deployment of KIEMS, the commission undertook a series of tests on the KIEMS including public test carried out on 9<sup>th</sup> June 2017, (60 days before the elections) and a simulation done on 2<sup>nd</sup> August 2017. Lastly, as part of preparations for the deployment and use of ICT in the elections the Commission developed a robust training manual and schedule aimed at building the capacity and competence of all its staff members and included training of candidate agents on the KIEMS systems.

**[513]** On the implementation of ICT in the 8<sup>th</sup> August general election, he averred that the use of technology comprised voter identification and result transmission system. The transmission component in KIEMS enabled the Commission to relay the presidential election results and the statistics from the said results from the polling stations to the constituency tallying centre and the NTC in respect of the presidential election.

**[514]** He deposed that during the transmission of election results through KIEMS the Presiding Officer would complete Form 34A as required by law then input into the KIEMS the statistics of the results as captured on Form 34A. The Presiding

Officer would then take the image of Form 34A. Before sending the data, the Presiding Officer would first show the entries made to agents of the candidates and political parties for confirmation. He annexed as evidence, copies of the directions that were issued to the Presiding Officers, the Training Manual and a transmission flow chat marked JM-5A, JM-5B and JM-5C respectively.

**[515]** He averred that the allegations in the petition that the relay and transmission was not simple, accurate, verifiable, secure, accountable, transparent, open and prompt and that Article 81 e(iv) and (v) of the Constitution were contravened was inaccurate and misleading and no evidence had been adduced to buttress the allegation.

**[516]** On transmission, he swore that the transmission required 3G and 4G mobile network which was provided by three Mobile Network Operators (MNOs) being Safaricom Limited, Airtel Kenya Limited and Telkom Kenya Limited for whom the Commission entered into contracts with MNOs for a secured transmission of the results. He referred to a meeting held on the 22<sup>nd</sup> day of May 2017, minutes (marked JM-6) of which he annexed, between the Commission and MNOs who had been identified by the Commission.

**[517]** He deponed that for purposes of offering election results transmission services, the country was zoned into thirteen (13) Zones with two (2) MNOs providing election results transmission services for each zone. He averred that, of the two MNOs in every zone, one MNO was the primary service provider and the other MNO was the secondary service provider. The MNOs were assigned zones to ensure consistency and accountability in operation and availability of service.

**[518]** It was his testimony that in a zone where an MNO was neither a primary nor secondary service provider, it was not expected to provide any results transmission system since KIEMS could only accommodate two SIM cards. Accordingly, the Commission gave such provider the coordinates of polling stations within the zones to enable the service provider prepare itself for the provision of results transmission services. The zoning was to ensure effective data segmentation into manageable parts.

**[519]** He averred that following a mapping exercise carried out by the Commission and analysis by MNOs, it was ascertained that about 11,155 polling stations within the country were not effectively covered by either 3G or 4G Network and this communication was sent out to the public vide a notice dated 6<sup>th</sup> August, 2017. He annexed a copy marked JM-7 of the said notice. He averred that it became apparent to instruct presiding officers to ensure that they move to points where there was network coverage or in the alternative to constituency tallying centres in order to transmit results. He further states that the Commission was nevertheless able to avail all form 34As in a public portal through <https://forms.iebc.or.ke>

**[520]** On security and verifiability and in response to allegations on the compromise of KIEMS and access by unauthorized third parties, the deponent averred that the allegations are misleading and unsupported by evidence or explanation. He deposed that the Commission engaged a highly qualified team and eventually partnered with internationally recognized and accredited institutions to provide top of the range government-grade information security system. He annexed copie of certification



and accreditation documents from the providers with a guaranteed 99.99% security service to the whole system.

**[521]** It was his testimony that the architecture of the KIEMS has in-built as well as process related features aimed at guaranteeing the integrity and security of the system. He annexed as evidence the architecture index and flow chart marked JM-9. He also averred that the Communication Authority granted approval contrary to the allegation that the Commission disregarded the advise of the Communication Authority as evidenced by the letter dated 31<sup>st</sup> July 2017 a copy of which was annexed as evidence.

**[523]** The deponent listed some of the security parameters entailed in the KIEMS system and information management environment. These include configuration of only pre-determined and authorized tablets for transmission of which transmission was under constant round the clock automated monitoring, secured network spectrum with a twin high-level perimeter firewall which filters unauthorized transmission, robust database management solution with recommended security options such as pre-encryption or results and secure Virtual Private Network (VPN) and fourth tier security measure, a granular role-based access control and user management for the entire RTS.

**[524]** It was his testimony that this fourth-tier security measure meant that: (i) only authorised users could access the system through randomly issued credentials none of which was biometric (ii) the permitted users had distinct but interdependent roles at different levels, such that not a single person could perform an end to end operation in the system (iii) no password was issued to any of these users of the

system until the eve of the election.

**[525]** He averred that technical safeguards were introduced as the Commission had outsourced the network provision services from the MNOs. These safeguards included use of unique specialized SIM cards configured on secured APN for result transmission from KIEMS devices; Static Internet Protocol addresses for use in specific gadgets where the SIM Cards could only be used within the Commission's Access Point Network (APN); the use of specialized SIM Cards MSISDN which should not allow any duplication and was disabled for any SIM Card cloning; the SIM Cards were disabled for voice or text messaging; and a unique internet mobile subscriber identity (IMSI) a unique identifying number within the network which is the primary identifier of the subscriber.

**[527]** He deponed that all the SIM cards used for transmission were placed under monitoring and periodic reports generated confirming that the cards were transmitting data. It was his testimony that that no intrusion or compromise was noted in the system.

**[527]** He averred that the electronic result transmission system was configured in a way that enabled it to detect any SIM card which was not in the list of those assigned by the MNOs. The SIM cards transmitted the results in the form of Hyper Text Transfer Protocol (HTTP) packets encrypted with Secure Socket Layer (SSL) technology. He deposed that this is a concealed protocol used by the internet to define how messages are formatted and transmitted. The link was meant to secure all the data by securing it with a code which was not availed to any of the MNOs. He

averred that the sole duty and obligation of the MNOs was to transmit the data and monitor the continuous flow of such data.

**[528]** He swore that the election results data were all transmitted wirelessly across the 3G & 4G network installed and secured by the Commission with controlled access with a clear trail and event logs that capture log-on and log-off data according to time and user name.

**[529]** It was his testimony that as a monitoring and control tool, the MNOs generated and provided Call Data Records commonly referred to as “CDRs” which were forwarded to the Commission at intervals. He averred that studied and ascertained that the CDRs showed no stoppage in transmission of data or intrusion by any strange unidentified number. He deposed that the cyber security procedures and safeguards protected against any possibility of intrusion by an unauthorized third party and no evidence had been adduced to demonstrate any compromise, intrusion or unauthorized access/ entry by any party

**[530]** He confirmed the position set out by the 2<sup>nd</sup> affidavit of Godfrey Osotsi sworn on 18<sup>th</sup> August that the Presiding Officer was required to input the QR code into the KIEMS upon which the machine became polling station specific in terms of data and usage. He deposed that the KIEMS cannot allow more voters than those provided for in the polling station and cannot therefore transmit results where there are more votes cast than the number of registered voters at the particular polling station. As such, he disputed the allegation that in some stations more voters than those registered were recorded.

**[531]** On the implementation of the complementary system, the deponent reiterated the need to comply with Article 38 of the Constitution. He deposed that where a voter cannot be identified by the device the Presiding Officer shall invite the agents in the station to witness that the voter cannot be identified using the device, complete verification Form 32A in the presence of the agents and candidates, identify the voter using the printed Register of voters, and once identified proceed to issue the voter with the ballot paper to vote.

**[532]** The deponent referred to *Regulation 83 of the Elections (General) Regulations 2012* as the complementary system of result transmission envisaged by law. He averred that the complementary mechanism for failure to transmit results involves physical delivery of forms 34A by the Presiding Officers to the Returning Officers in the respective constituencies. The deponent referred to the Court of Appeal decision Civil Appeal No.258 of 2017 which involved the petitioners, where the Appellate Court directed the Commission to comply with its internal memorandum issued on 27<sup>th</sup> July 2017.

**[533]** With respect to issue of access to the back end of the system, the deponent alleged that it was erroneous for the Petitioners to claim that they demanded that access. On the contrary, he averred that the petitioners had demanded that since the Forms 34A were not being displayed on the screen, the entire system should be switched off. He deposed that as a way of enhancing transparency, the Commission volunteered to provide secure dedicated links to agents of the presidential

candidates to have access to the forms 34A being transmitted from polling stations. He asserted that the petitioners' claim that facilitating the access took more than eight (8) hours and that the same access was not available outside the auditorium underscores the fact that the Petitioners did not appreciate the importance of guaranteeing security of the system.

**[534]** Based on the totality of the foregoing responses, the deponent averred that the Commission conducted the election in accordance with the Constitution the applicable law and regulations in relation to the use of technology.

***17. Affidavit by Davis Kimutai Chirchir in response to the Petitioners Affidavit***

**[535]** Mr. Chirchir deponed that he was the Chief Presidential Agent of JP for the 2017 General Elections. He averred that he was conversant with the conduct of elections including voting, counting, tallying and transmission of results from the training given by IEBC to party agents and others, his own knowledge and from his role as the Chief Presidential Agent.

**[536]** He denied Petitioner's allegations that the elections were not free, fair, transparent, accountable, credible or verifiable. He deponed the on the contrary, they were conducted in accordance with the Constitution and the Election Act. It was his testimony that a comparison of Form 34A and the actual results announced together with the text transmitted results confirms that there was no interference.

□ He deposed that on or about May 2016 the Coalition for Reforms and Democracy (CORD), the predecessor of the National Super Alliance (NASA), held a series of nationwide protest rallies to agitate for electoral reforms which included: use of

technology in elections, legal framework for verification of the principal register of voters and removal of the IEBC Commissioners.

**[537]** He deposed that as a result, a joint parliamentary select committee was established to *inter alia* agree on electoral reforms that had to be undertaken before the general election of August 2017. He averred that the Election Laws (Amendment) Act, 2016 (the Amendment Act) made provision for *inter alia*: the resignation from office of the Chairperson and Commissioners of the IEBC; the Audit of the Register of Voters by a reputable professional firm; the establishment of an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results; and opening of the Register of Voters for verification of biometric data by members of the public.

**[538]** It was deposed that the current IEBC was reconstituted in January 2017 following a bipartisan process where the candidates were vetted through a special sitting of Parliament. The deponent also averred that at least 41 cases were filed challenging the implementation of the amended Act by the IEBC within the past twelve months, majority of which were filed by NASA or persons affiliated to NASA.

**[539]** The subject matter of the cases included *inter alia*, the procurement processes of the technology and voting materials that were used in the 2017 general elections, the complementary mechanism set up by IEBC for identification of voters and transmission of election results and the finality of results declared at the constituency level by the Constituency Returning Officer.

**[540]** He stated that all this litigation demonstrates NASA's habit of constantly filing cases challenging the decision of the IEBC and revealed their intention to

ensure that IEBC conducted the 2017 elections on NASA's terms. He deposed that from his observation and the communications from IEBC to all parties, the 2017 general elections were conducted in compliance with the various decisions of the Courts with regard to the various aspects of the elections.

**[541]** On the conduct of elections, Mr. Chirchir averred that election materials and ballot papers were received in all polling stations across the country. He deposed that there was no incident of lack of ballot papers and only insignificant cases of malfunctioning of the electronic voter identification devices were reported. It was his testimony that the conduct of 2017 elections was an improvement from the 2013 elections in that the Commission had deployed the use of technology to enhance transparent, accountable, and credible and verifiable elections. To buttress this assertion, he annexed observer reports.

**[542]** It was Mr. Chirchir's testimony that the voting process was a marriage of electronic and manual processes. He deposed that the elections process was neither wholly and exclusively manual nor electronic. He averred that it was a hybrid complementary process in that technology was incorporated into a manual process to enhance accountability and transparency

**[543]** He swore that the 1<sup>st</sup> respondent informed all the agents and representatives of political parties at the National Tallying Centre that the final results would be ultimately declared based on Form 34B. As such, it was his testimony that the results that were being transmitted were provisional based on the text message transmissions (the alpha numeric). In addition, the screened results were provisional subject to confirmation of the Form 34B from the respective constituencies. He deposed that in the event of any discrepancy between the

televised data (based on the alpha-numeric data) and Form 34B, the latter would prevail.

**[544]** Mr. Chirchir deponed that candidates or their agents were allowed to be present when the votes for each polling station were being counted and tallied. He averred that the election process complied with the provisions of Regulation 79(1) of the Elections (General) Regulations, 2012 which requires a presiding officer of every polling station, the candidates or their agents to sign Form 34A which contains the presidential election results. He deposed that in the event that the candidate or agent fails to sign Form 34A, the candidate or agent is required to record the reasons for refusal or failure to sign.

**[545]** He averred that the IEBC acted in a transparent manner during the entire vote counting, tallying and transmission exercise. He stated that all Forms 34A were made accessible to all parties at the polling stations while all Forms 34B were given to candidates or their agents at the constituency tallying centres and a print copy was availed at the National Tallying Centre. He further deposed that the IEBC was in constant communication with agents of the candidates at the National Tallying Centre updating them when Forms 34As and Forms 34B were received from the presiding and returning officers. He denies the averments that the petitioners' agents were ejected from polling stations in central and rift valley regions or elsewhere.

**[546]** It was his averment that the petitioners were making sensational statements without providing any evidence to support their claims. These statements include that there were 14,000 fatally defective results that affected over 7 million votes; that



in more than half of the 290 constituencies the Returning Officers failed to indicate the number of Forms 34A; that the IEBC is yet to receive 5,015 Form 34As which represent in excess of 3.5 million votes; that the Form 34As the Petitioners have received from IEBC showed “fatal and irredeemable irregularities”; that the votes cast as captured in Forms 34A differ from results as captured in Forms 34B and that the rejected votes/ballots were unlawfully deducted from the petitioners and added to the 3<sup>rd</sup> respondent.

**[547]** As part of his evidence, he relied on an analysis marked “DKC6” showing that the total voters in areas gazetted by IEBC as not having the 3G or 4G network was 4,433,652 and not the 7,700,000 as stated by the petitioners. Out of these 4,433,652 voters, a sum of 3,506,558 voters representing 79 % of the registered number of voters turned up to vote and their votes were tallied. It was his testimony that election observers monitoring the gave the process a general clean bill of health save for a few isolated incidents. He relied on reports from the African Electoral Observation Group, the Elections Observation Group (ELOG), EAC Observer Mission, ICGLR Observer Mission, AU Mission, and Commonwealth Mission. He also tendered them in as evidence as well as an audio/video recording by John Kerry.

**[548]** Mr. Chirchir deposed that JP won a majority of the seats in all other elective positions, retaining their popularity and it to new frontiers. He averred that this was an indication that the Jubilee Party was the preferred party across the country. He tendered in as evidence graphical representations of the deposed numeric strength.

**[549]** He denied the allegation that the 1<sup>st</sup> respondent illegally streamed results not verified by Forms 34A to create an impression that the 3<sup>rd</sup> respondent was winning.

He deposed that: the streaming of the results by the IEBC was intended to ensure that the tallying process was open and transparent; the IEBC was not prohibited from streaming the electronically transmitted results provided the same was verified using the forms before the declaration of the results; the streaming of results electronically could not, in any event, have affected the results finally declared. The final results were based on Forms 34B obtained from the constituency tallying centres.

**[550]** The deponent averred the petitioners approached the Court in a deprecatory and contemptuous manner aimed at bullying and intimidating the Court to find in their favour. As evidence, he cited various statements made by the petitioners or their representatives.

**[551]** He deposed that the petitioners' unfortunate rhetoric about the death of Mr Musando, the Deputy ICT director was reckless, irresponsible and sensational and was aimed at distracting from the real issues in the instant dispute in that: the said death was under investigations and the petitioners were free to avail the investigative agencies whatever evidence in their possession; the KIEMS was not handed over to IEBC but remained in the hands and management of the contracted consultant, a French firm, Safran; and, the IEBC had well-established structures including sufficient well-trained ICT personnel capable of handling the electoral process.

**[552]** Mr. Chirchir denied petitioners' allegation that the presidential election results were computer generated. He deposed that that the electronically submitted data, with timestamps, had been analyzed against the results of accumulated votes for the 3rd respondent and the 1<sup>st</sup> petitioner accumulated for the span of

transmission so as to plot a graph of the 3<sup>rd</sup> respondent's votes minus the 1<sup>st</sup> petitioner's votes as a percentage against the timestamps of submission.

**[553]** He deposed that from what was observed from the graphs, the data showed that the lead oscillated between the two at the start of transmission. Splitting the transmission times into time sections, the first hour showed oscillations between the two ranging between 42.6% and 3.2% percentage difference which were observed to be very random. In support of this averment Mr. Chirchir, relied on copies of data from IEBC showing timings at which results arrived and an analysis of the matrix showing how the computer maintained the data with percentages. He also tendered in these as evidence showed the time stamp sheet for the first presidential results which streamed in and this were from Narok Women Prison received at 17:07hrs indicating that 10 out of the 20 registered voters had voted.

**[554]** In response to the petitioners' allegations that the rejected votes were substantial, Mr. Chirchir averred that none of the candidates were in any way deprived of their legitimate votes in the postings of the rejected votes. He deposed that the rejected votes were erroneously entered on the text transmissions of votes that were provisional. In the end they did not count as the rejected votes were properly captured in Forms 34A and Form 34B. He averred that correct rejected votes eventually went into Form 34C and informed the final declaration of the results. He deposed that the rejected votes did not exceed 90,000 votes.

**17. Affidavit by Davis Kimutai Chirchir in response to the Affidavits of George Kegoro**

**[555]** The deponent, in his sworn testimony averred that Mr. Kegoro had exaggerated facts, peddled outright falsehood and suppressed material facts in a bid to mislead this Court and obtain an unjust advantage in favour of the petitioners. He asserted that Mr. Kegoro's averments were vague and unspecific.

**[556]** He added that the process of voting, collating, tallying and declaration of results was conducted and done in full or substantial compliance with the provisions of the Constitution and all electoral laws; that the presidential results announced by the 2<sup>nd</sup> respondent on 11<sup>th</sup> August 2017, were accurate and verifiable in accordance with the standards established by law and were announced in a transparent and lawful manner as contemplated by Article 86 of the Constitution and the Elections (General) Regulations, 2012; that most local and international observers accredited by the 1<sup>st</sup> respondent have issued preliminary reports terming the election substantially free, fair and credible notwithstanding the minor transmission problems experienced during the election process and lastly, that the 1<sup>st</sup> respondent has posted on its website scanned copies of each and every Form 34B received in its servers, which upon collation and tallying into Form 34C, demonstrates that the election results announced on 11<sup>th</sup> August 2017 were accurate, verifiable, transparent and lawful.

**[557]** It was his testimony that as at the time the 2<sup>nd</sup> respondent announced the presidential results, the 1<sup>st</sup> respondent's online portal had not yet transmitted all the presidential results. These results were being retrieved from the Form 34As received from the polling stations, which results had already been transmitted to the constituency level. He explained that the contradiction in the data displayed was as a result of Forms 34A, 34B and 34c that had not been transmitted to the online portal. He stated that as at 21<sup>st</sup> August 2017, at approximately 8:14am (10 days after the general election), the transmission rate was at 99.99% meaning that the reported valid votes of 15,180,381 at the portal did not include valid votes from all the 40883 polling stations.

**[558]** He further stated that the presidential results were based on Form 34C which form, did not contain results from Nyando Constituency which is made up of 60,370 valid votes as captured in Nyando Constituency's Form 34B, as such there is no significant differences in the number of valid votes reported in Forms 34Bs and Form 34C.

**[559]** While responding to the averment that there is evidence of turnout in excess of 100 per cent, Mr. Chirchir stated that no prison station had a voter turnout in excess of 100%. He noted that the total number of registered voters in Moyale prison, Kitale Medium prison and Manyani Prison were erroneously entered as rejected votes in the KIEMS kit. He also stated that the rejected votes as seen in the 1<sup>st</sup> respondent's online portal is due to erroneously keying in the value of the valid votes in the rejected votes column of the KIEMS kit which explains why the rejected

votes equals the valid votes. In giving an explanation to the averments that the valid votes in different elective position in Igembe Central Constituency Mr. Chirchir stated that the figures are close to one another making them even more reliable.

**[560]** Mr. Chirchir averred that the violence that was witnessed a few days after declaration was occasioned by the demands by of the 1<sup>st</sup> and 2<sup>nd</sup> petitioners who sought to be declared the President and Deputy President elect respectively even before collation of results in Form 34C on the basis that the petitioners were in possession of what they termed actual results as contained in the 1<sup>st</sup> respondent's servers. He deposed that the situation was worsened by the Petitioners holding a press conference at Caramel Restaurant in Nairobi at which the Petitioners urged their supporters not to accept the results that were about to be announced and ominously to await further instructions. He observed that as the Kreigler report noted, the use of such coded and/or ambiguous language in highly charged and polarised political environment more often than not lead to violence.

**[561]** My opinion is that this affidavit fully rebutted the averments in the affidavit of Mr. Kegoro notwithstanding that the burden of proof had not shifted to the respondent in respect of the allegations made in the affidavit and the fact that the affidavit introduced new issues which were not pleaded in the petition.

**18. Affidavit of Brian Gichana Omwenga in reply to Koitamet Ole Kina**

**[562]** The deponent swore his affidavit in the capacity of Technology Advisor employed by Jubilee Party. He deposed that he is a software and systems engineer, holding a Masters Degree in Engineering Systems, Technology and Policy from the Massachusetts Institute of Technology (MIT). He averred that Mr. Ole Kina erroneously stated that Form 34As were used to declare the presidential results, yet it is the Forms 34B that forms the basis for declaring the presidential results. He deposed that in some cases, at the time of electronically transmitting the results, the scanned image would either fail to load or delay especially in areas lacking 3G or 4G network coverage.

**[563]** He clarified that such network challenges had been anticipated and the 1<sup>st</sup> respondent had issued a prior communication to that effect. However, regardless of whether or not the electronic transmission effectively worked, Form 34A would still be physically delivered at the Constituency tallying centre. Accordingly, the Form 34As would then be used to tally the constituency votes and thereafter results would be entered in Form 34B. The Form 34B would then be transmitted to the National Tallying Centre, wherein the Commission would sum them up in a Form 34C which would then be the basis for declaring the results. Consequently, he averred that it was not necessary to have in possession Form 34A during summation of the presidential results.

[564] Accordingly, he deposed that the results transmitted on the television screens were only provisional since the final results were to be based on the constituency tally in Form 34B. This affidavit controverts all the allegations made in the affidavit of Mr. Koitamet Ole kina. Therefore the allegations that there was deliberate non-compliance with constitutional principles cannot stand.

**19. Affidavit of Dr. Karanja Kibicho sworn on 24<sup>th</sup> August, 2017 in reply to the affidavit of Dr. Nyangasi Oduwo**

[565] In his sworn affidavit, Mr. Kibicho averred that he is the Principal Secretary, Ministry of Interior & Co-ordination of National Government. He swore his affidavit in response to the averments made concerning the payments made to the Internally Displaced Persons (IDP).

[566] He stated that following the post-election violence in 2007, several persons were displaced from their homes and thereafter the Government embarked on a settlement programme. Soon after, it was realized that due to the complexity and the magnitude of the IDP problem, there was need to formulate an appropriate legal framework to strengthen the Government's effort. He averred that, it was against that background that Parliament enacted the ***Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012.***



**[567]** He stated that the IDP Act established a National Consultative Coordination Committee (Committee) which is tasked with the obligation to manage the IDP affairs on behalf of the Government. In his sworn testimony, the deponent averred that in the 2016/2017 Development Budget for the State Department of Interior, there was an allocation of kshs. 6 Billion. On the basis of the said budgetary provision, the Committee prepared a detailed work plan which they submitted to the Accounting Officer for approval to enable them undertake the necessary processes towards achieving the resettlement of the IDPs. The said funds were however reduced by the National Treasury to Kshs. 2 Billion which was the amount disbursed to the Integrated IDPs across the 17 counties.

**[568]** Mr. Kibicho further averred that the said funds were disbursed through the beneficiaries' Bank accounts and it is upon that background that the 3<sup>rd</sup> respondent witnessed the announcement regarding the said disbursements being made in Kisii and Nyamira counties. Consequently, the deponent denied that the 3<sup>rd</sup> respondent made any payments to the IDPs as stated by the petitioners.

**[569]** He further averred that as the Principal Secretary of Ministry of Interior & Coordination of National Government, it is within his docket to oversee all field National Government Administrative Officers that include Regional Commissioners, County Commissioners, Deputy County Commissioners among others. In line with his scope of work, he averred that in the month of July, he received information that

some chiefs in Makueni County were unlawfully using their positions and government motor cycles to campaign for the petitioners. In his sworn testimony, he provided the names of the chiefs whom he avers that were implicated in the said allegation of misuse of office.

**[570]** He depose that, upon receipt of the said intelligence report on the conduct of the chiefs, he reported the same to the 3<sup>rd</sup> respondent and it is against that background that the 3<sup>rd</sup> respondent made the impugned remarks during a campaign rally at Makueni. According to him, the 3<sup>rd</sup> respondent's statement was meant to ensure that no Chief takes any political side or use public resource to campaign for anyone.

**[571]** I find that this is a complete rebuttal of the allegation and the video transcripts adduced to prove that the 3<sup>rd</sup> respondent had committed election offences and that the principles in Article 81 and 86 of the constitution were violated since the Cabinet Secretaries expended government funds in campaigning for the 3<sup>rd</sup> respondent.

***20. Affidavit by Marykaren Kigen-Sorobit in response to Moses Wamuru***

**[572]** The deponent, Ms. Kigen, averred that she is an advocate of over 20 years' experience and is the Jubilee Party, Deputy Chief Executive Officer and Director of Legal affairs & Compliance. It was her averments that it was her responsibility to oversee and supervise all party agents retained at various counties, sub-counties,

wards and polling stations. In addition to this, she trained the party agents on their expected roles in consultations with the Chief Party Agents.

**[573]** She stated that the 3<sup>rd</sup> respondent had agents deployed in all the polling stations across the country and such agents were assigned their respective stations at each county, constituency and wards with a chief agent to report to. She averred that the roles of the chief party agents includes—acting as the chief agent for the 3<sup>rd</sup> respondent in their respective stations; mobilizing the 3<sup>rd</sup> respondent’s agents; monitoring and advising the party agents on the progress of the elections; liaising with the 2<sup>nd</sup> respondent’s officials conducting the election and reporting any incidences likely to negatively affect the interests of the 3<sup>rd</sup> respondent.

**[574]** In her sworn testimony, Ms. Kigen averred that, contrary to the position taken by the petitioner’s witness, Mr. Wamuru, there was a NASA agent at Gichera primary school, Thिंगingi primary school, Karurumo primary school and Kiangongi primary school by the names of Josphat Nyaga, Martin Thati Njeru, Eunice Muthoni Ndwiga and Eliud Gitari respectively.

**[575]** Furthermore, she stated that Mr. Wamuru has misled the Court as to the existence of polling stations called Ngurweri primary school and Kiangongi primary school when in fact no such polling stations exist. She also stated that there was no NASA agent called Donald Muchemi at the Nyangwa secondary school which was the tallying centre for Mbeere South Constituency. In addition, she attached Form 34A of Gichera primary school which shows that, unlike what has been averred by Mr. Wamuru, a person by the name of Josphat Nyaga, being a NASA agent signed Form 34A belonging to that polling station.

**[576]** Further, she impugned the deposition by Mr. Wamuru that as at 12.30 am, voting was still on-going at Thिंगи primary school. In doing so, she attached a copy of Form 34A and the transmission report for that polling station which indicates that the transmission was done at 23.31 hours. She also stated that the 3<sup>rd</sup> respondent's agent, by the name of Martin Thati Njeru was present all through yet he signed Form 34A without any reservations or adverse comments.

**[577]** With regard to allegations that voting began at 2.00 pm at Karago primary school, the deponent averred that she has sought information from the 3<sup>rd</sup> respondent's agent at the polling station who stated that voting begun at 8.00am. Ms. Kigen, also questioned why the NASA agent, by the name of Juliet Wamburu, who indeed signed the Form 34A, did not mention that there was delay in opening the polling station.

**[578]** With regard to allegations that NASA agents were kicked out of Karurumo youth polytechnic polling centre, the deponent attached Form 34A which showed that a person by the name of Eunice Muthoni Ndwiga, a NASA agent signed Form 34A without any reservations. She stated that even Kyeni Girls secondary school polling station, NASA agents signed Form 34A hence they could not have been kicked out as alleged. Further Ms. Kigen stated that according to the information received from the 3<sup>rd</sup> respondent's agent deployed at New Farmers Hall polling station, there was no NASA agent present at that polling station hence the allegations that the agents were threatened are untrue.

**[579]** The deponent's concluded by stating that no County Commissioner acted as the 3<sup>rd</sup> respondent's agent as alleged.

I wish to state that the allegations made in the affidavit of Mr. Moses Wamuru and the evidence adduce in support of those claims did not shift the burden of proof to the respondents. More specifically the claim that the NASA agents were kicked out of the polling stations during the counting of the votes and that the County Commissioner was the chief agent of Jubilee Party. No evidence was adduced in support of this claim hence the respondents were under no evidentiary burden to disprove the allegations since they had not been proven in the first instance. Nonetheless, the affidavit of Ms. Marykaren Kigen-Sorobit sufficiently counters those allegations.

***21. Affidavit by Marykaren Kigen- Sorobit in response to the affidavit of Benson Wasonga***

**[580]** The deponent, Ms. Kigen stated that no proof has been availed of the alleged anomalies with regard to the declaration of the presidential results by the 2<sup>nd</sup> respondent, thus the averments contained in the affidavit of Benson Wasonga are unsubstantiated and do not raise any factual issues.

**[581]** She asserted that the actual summation of the total valid votes under the portal is 15,180,381. Further, that according to Form 34C, the 1<sup>st</sup> petitioner's votes were 6,762,244 and the 3<sup>rd</sup> respondent's votes were 8,203,290 and hence the

assertion that the 1<sup>st</sup> petitioner's votes were 6,821,505 while the 3<sup>rd</sup> respondent votes were 8,223,163 is false.

**[582]** It was her assertion that the Form 34C, upon which the results were declared by the 2<sup>nd</sup> respondent pursuant to the provisions of Regulation 87(3)(e) of Elections (General) Regulations, 2012 does not include the results for Nyando constituency where the Petitioner had 60,715 votes against the 3<sup>rd</sup> Respondent's 214 votes. She stated that those votes would not have made any material difference within the contemplation of the proviso to Regulation 87(3). I find that the issue as to the results of Nyando constituency being left out in the declaration of the presidential election results is fully supported by the proviso to Regulation 87 (3) of the Elections (General) Regulations, 2012. In the constituency the petitioner had 60,715 votes while the 3<sup>rd</sup> respondent had 214 votes. The justification for the results being declared without those from Nyando is that the results from the constituency could not have materially affected the result.

***22. Affidavit by Marykaren Kigen - Sorobit in response to the affidavit of Ibrahim Muhamud Ibrahim***

**[583]** In her sworn statement, Ms. Kigen averred that the 1<sup>st</sup> respondent vide an email dated 21<sup>st</sup> July, 2017, forwarded to all Political Parties and Independent Candidates a list of presiding officers for Mandera North Constituency which indicates the presiding officer at Guticha primary school as Isaak Alasow Abdi.

**[584]** She asserted that Guticha primary school has only one polling station and the registered number of voters is 660. In that polling station the total number of valid

votes cast were 581 representing a percentage of 88% voter turnout. She compared the voter turnout at Kiatine primary school in Mbooni Constituency, Makueni County wherein the registered number of voters was 2 and the voter turnout was 100% same as Kwataruk Water Point polling station in Loima Constituency, Turkana County where the registered number of voters was 5 and the number of valid votes was 5 which indicates 100% voter turnout. Accordingly, she averred that it is not unusual to have record of 100% voters' turnout.

**[585]** In response to the averment that figures were filled in at the tallying centre which was done at the Sub County Commissioners Block, against a court order which had directed that the tallying centre be at Rhamu Arid Zone Primary School, she explained that the Decree attached was served in Mandera North Constituency on 3<sup>rd</sup> August 2017 which was a Thursday and four days to the elections hence, the practicability of the execution of the Decree became impossible.

I find that the this affidavit controverted all the allegations contained in the affidavit of Ibrahim Muhamud Ibrahim.

***23. Affidavit by Marykaren Kigen- Sorobit in response to the affidavit of Mohamed Noor Barre***

**[586]** In response to the averments made on Mr. Barre's affidavit, Ms. Kigen stated that the 1<sup>st</sup> respondent vided an email dated 21<sup>st</sup> July, 2017 forwarded to all Political Parties and Independent Candidates a list of all presiding officers for Mandera North Constituency which indicated that the presiding officer at Kalicha Primary School was Mohamed Abass.

**[587]** She averred that Kalicha Primary School has two polling station and the registered number of voters at polling station 2 is 594; and the voter turnout was 100%. She avers that there is nothing unusual in having a voter turn -out of 100%. I find that the allegations of rigging and replacement of presiding officers with untrained officers has not been proved at all. These were bare allegations in the affidavit of Mohamud Noor Barre in respect of which the petitioners did not discharge their burden of proof. Nonetheless, the respondents adduced evidence to controvert those allegations which evidence I find was a complete rebuttal of the claims made in the said affidavit.

***24. Affidavit by Andrew Wakahiu in response to the affidavit of Dr. Nyangasi Oduwo & Olga Karani***

**[588]** Andrew Wakahui, swore his affidavit dated 23<sup>th</sup> August 2016, in his capacity as the Secretary of Delivery and Head of the Presidential Delivery Unit (PDU) which is a functional office in the Executive Office of the President.

**[589]** He averred that the 3<sup>rd</sup> respondent did not violate the provision of Section 14 of the Election Offences Act by sponsoring or causing sponsorship of advertisement in printed electronic media, business and billboards of the government achievements during the election period. He stated that the work of the Presidential Delivery Unit is to enhance the accountability of a government to its citizens through making information relating to ongoing projects available. He went on to explain the roles and function of the PDU which includes accountability.



**[590]** He deposed further, that the web portal is one of the tools the PDU uses to enhance accountability as it is the easiest ways of making information on government projects available. According to his averments, it was necessary to sensitize Kenyans on its existence by way of *inter alia* advertisements through the electronic and print media.

**[591]** It was his deposition that this was necessitated by the numerous efforts by the general public inquiring information from the various state departments of the Government of Kenya especially on all ongoing projects undertaken from April, 2013 onwards and especially after the launch of the Jubilee Coalition and shared manifesto which outlined the coalition's vision, pledges and agenda from 2013 to 2017.

**[592]** Mr. Wakahui stated that the purpose of setting up the president's delivery unit and specifically the delivery portal was to ensure that the members of the general public are informed and are able to track projects undertaken by the government and which is an obligation under Article 35 and Article 201 of the Constitution which requires that there be openness, accountability and public participation in financial matters. Further that since the web portal was set up there have been over 6 million impressions (visits) which shows it is a very useful tool for monitoring government projects and the feedback from the members of the public.

**[593]** In addition he stated that there is pending litigation before the High Court which seeks to determine *inter alia* the constitutionality of Section 14 of the

Elections Act. The cases are ***Constitutional Petition 162 of 2017 Apollo Mboya vs Attorney General and 3 others*** and ***Constitutional Petition 182 of 2017 Jack Munialo & 12 others -vs- Attorney General***. Moreover, there was a bill which was introduced to the National Assembly seeking to repeal Section 14 of the Elections Offences Act in order to ensure that it confirms to Article 35 of the Constitution, unfortunately the National Assembly was adjourned *sine die* before the bill was passed.

**[594]** This affidavit offered a full explanation as to the functions of the President’s Delivery Unit which was set up to ensure that the members of the general public are informed and are able to track projects undertaken by the government and which is an obligation under Article 35 and Article 201 of the Constitution. I find that this fully rebuts the imputations of electoral offences on the part of the 3<sup>rd</sup> respondent.

**[595]** On the issue of the pending Constitutional matters pending in other Court it is imperative to note that this Court will respect the hierarchy of Courts and will not usurp the jurisdiction reposed in another Court. This Court will allow other Court below it to exercise their jurisdiction in accordance with the law and will allow a matter to come before it in the ordinary course of appeal. In Re ***the Matter of the Interim Independent Electoral Commission***, Sup. Ct. Civil Application No. 2 of 2011 this Court held [paragraph 45]:

***“In this instance similar questions, entailing constitutional interpretation, have been brought simultaneously before the High Court and the Supreme Court; and, as already noted,***

*such a move by parties is apt to precipitate contretemps in resolving the question of jurisdiction. In principle, the Supreme Court commits itself to order and efficacy in the administration of justice, and to that end it may require that the process of litigation commenced in the High Court, and entailing constitutional interpretation, be exhausted and, if need be, followed by appellate procedures. In such circumstances, this Court will be cautious in considering a request for an opinion, to ensure the two jurisdictions do not come into conflict; and each case will be carefully considered on its merits.”*

Similarly with respect to allowing other Courts to exercise their jurisdiction, this court held, in *Peter Ngoge v Hon. Ole Kaparo* that [paragraph 30]:

*“In the interpretation of any law touching on the Supreme Court’s appellate jurisdiction, the guiding principle is to be that the chain of Courts in the constitutional set-up, running up to the Court of Appeal, have the professional competence, and proper safety designs, to resolve all matters turning on the technical complexity of the law; and only cardinal issues of law or of jurisprudential moment, will deserve the further input of the Supreme Court.”*

It is my considered view that this Court should not delve into any matter pending before another Court; instead this Court will give room to the High Court to hear and determine any matter or matters pending before it including that relating to the constitutionality of any provisions in the Election Offences Act.

**25. Winifred Waceke Guchu Affidavit sworn on 24th August, 2017,  
in Reply to Dr. Nyangasi Oduwo**

**[596]** The deponent, Ms. Guchu averred that she is the Executive Director of Jubilee Party and was the Deputy Chief Presidential Agent for the 3<sup>rd</sup> respondent during general elections held on 8<sup>th</sup> August, 2017.

**[597]** She averred that the difference of 1,441, 066/- between the votes cast in favour of the 3<sup>rd</sup> respondent and the 1<sup>st</sup> petitioner was very significant and demonstrated the resolve of the people of Kenya to exercise their free and sovereign will. In addition, the Jubilee Party had won a majority of positions in the other five elections of Governor, Senate, National Assembly, Women Representative and Members of County Assembly conducted on the same day.

**[598]** Ms. Guchu averred that, the petitioners wrote a letter to the 1<sup>st</sup> respondent on 10<sup>th</sup> August, 2017, claiming to have in their possession presidential results which were different from the results being displayed in the IEBC portal at the time. Before the issuance of the said letter, Ms. Guchu averred that the petitioners had made widely publicized claims stating that the results transmission system of the 2<sup>nd</sup> respondent had been hacked.

**[599]** It was therefore, surprising that the petitioners had now abandoned that argument in favour of other averments which according to her, were never an issue when the results were being tallied, collated and verified. She further stated that she was aware of the 1<sup>st</sup> petitioner's attempt to coerce candidates nominated by NASA affiliate parties to reject their positions in order to strengthen the petitioners' position.

**[600]** Ms. Guchu further averred that the Constitution does not impose any duty on the 1<sup>st</sup> respondent to exclusively use electronic systems to transmit the results. She deponed that the only mandate imposed on the 1<sup>st</sup> respondent was to ensure that the system used is simple, accurate, verifiable, accountable and transparent. It was her testimony that Section 44A of the Elections Act grants the 1<sup>st</sup> respondent a statutory discretion to use a complementary mechanism where technology either fails or is unable to meet the constitutional threshold of a free and fair election. She further deposed that the streamed results were not the basis on which the winner of the election was declared. She swore that there was no legal requirement obliging the 1<sup>st</sup> Respondent to avail Form 34A to any of the presidential candidates for verification.

**[601]** Ms. Guchu asserted that upon the conclusion of voting, the counting exercise commenced in the presence of all agents present, observers, police officers and all other authorized persons. She averred that according to ELOG, an observer group which deployed one of the largest observer delegates, the petitioners had very good

representation of agents and even where the agents failed to sign the prescribed forms, such failure does not of itself invalidate the results as provided for under Regulations 62(3) and 79(6) of the Elections (General) Regulations, 2012. Furthermore, in accordance with Regulation 79(2)(A)(a), a copy of Form 34A was affixed at the polling station.

**[602]** She averred that once the process of counting at the polling station was concluded, the results were simultaneously sent electronically to the constituency tallying centre and the national tallying centre. She deposed that those were the results that were thereafter streamed into the public portal at the Bomas of Kenya.

**[603]** It was her testimony that since the 1<sup>st</sup> respondent did not own telecommunication network facilities, it relied on duly licensed service providers to provide the service. She deposed that by virtue of Regulation 20 of the Elections (Technology) Regulations, 2017, the said service providers are under an obligation to provide and deliver services as may be requested by the 1<sup>st</sup> respondent. She averred that the 1<sup>st</sup> respondent in consultation with the service providers, was required by virtue of Regulation 21 of the “Technology Regulations”, to identify and communicate, in a timely manner, to all stakeholders about the network service available at different polling stations and in areas where there was no telecommunication network. Aware of such complexities, Ms.Guchu avers that Parliament introduced Section 44A in order to provide a complementary mechanism for the identification of voters and transmission of results.

**[604]** It was her testimony that the petitioners, through their umbrella political movement had written a letter to the 1<sup>st</sup> respondent enquiring on how the IEBC intended to implement Section 44A of the Elections Act. In response, by a letter

dated 28<sup>th</sup> February, 2017, the 2<sup>nd</sup> respondent informed the Petitioners that the complementary system envisaged under Section 44A of the Elections Act would be effected through *inter alia* an amendment to Regulation 69 of the draft Elections (General) Regulations that the 1<sup>st</sup> respondent was developing in consultation with stakeholders including NASA.

**[605]** She indicated that following the Court of Appeal decision in the *Maina Kiai* case, it was confirmed that Regulation 83 would be the complementary system applicable in respect of transmission of results in the event that the technology failed. Such complementary mechanism would be effected through the physical delivery of Form 34As from the polling stations to the returning officers at the constituency tallying centre while constituency returning officers would deliver Forms 34B to the National Tallying Centre in Nairobi

**[606]** She further averred that on 6<sup>th</sup> August, 2017, the 1<sup>st</sup> respondent, by virtue of Regulation 21 of the “Technology Regulations” published a list of approximately 11,000 polling stations that lacked 3G network coverage. Consequently, the electronic transmission of results would be generally poor in those stations.

**[607]** Regarding the irregularities set out in Dr. Nyangasi’s affidavit, Ms. Guchu responded that in an overwhelming number of cases cited therein, the evidence produced did not reveal the said irregularities as alleged. In particular she deposed that neither the Elections Act nor the Election (General) Regulations require that

Form 34A bears the 1<sup>st</sup> respondent's stamp. Further, the failure of an agent to sign the Forms or attend his/her duties at the counting hall did not invalidate the results.

**[608]** In addition, she averred that Dr. Nyangasi had made an 'expert' opinion on handwriting even though he is not a forensic document examiner. She referred to Section 50 of the Evidence Act which provides circumstances under which the court can admit an opinion about a person's handwriting. She deposed that Dr. Nyangasi's opinion is of no probative value for lack of legal basis.

**[609]** In response to allegations on discrepancies of returns in forms 34A and 34Bs, Ms. Guchu stated that there were no significant discrepancies between Form 34A and Form 34B. She has produced a report, marked as Exhibit WG 13, which demonstrated that after reconciling the discrepancies in the Forms attached to Dr. Nyangasi's affidavit, the net effect is that the petitioner's tally improves by 595 votes while that of the 3<sup>rd</sup> respondent decreases by 1199 votes. She observed that it is incomprehensible for the petitioners to allege that the IEBC systems had been hacked and at the same time persist the argument that electronic transmission of results was the only acceptable mode of transmitting results.

**[610]** She further deposed that contrary to Dr. Nyangasi's assertions, an analysis of all the 290 Form 34Bs reveals that NASA agents signed the vast majority of the said Forms. In addition, she stated that an overwhelming majority of the allegations set



out in Dr. Nyangasi's affidavit are false, erroneous, predicated on fictitious documents and that he lacks competence to give an opinion on some of the claims.

**[611]** Ms. Guchu acknowledged that according to Form 34C downloaded from the 1<sup>st</sup> respondent's website, the rejected votes were 81,685 while the public portal on which the electronic results were posted showed that the rejected votes were 403,495. She explained that, she undertook an analysis which revealed that in 688 polling stations accounting for 229,869 out of 294,271 registered voters, the number of reported rejected votes was equal to the number of registered voters in those affected polling stations.

**[612]** According to the Ms.Guchu, the presiding officers in the affected stations inserted the registered number of voters in the field reserved for rejected voters in the KIEMS kits since the slot for registered voters was already pre-filled. She averred that such an error or mistake was quite easy to make since in the physical Form 34A, the number of registered voters in a polling station was the first slot that an electoral officer fills. She deposed that this explained the discrepancy between the number of rejected votes displayed in the portal and the ones indicated in Form 34C. It was her testimony that in any case, since the official results were declared on the basis of the 290 Form 34B which had been compiled from the physical Form 34A, the said transmission error did not occur

**[613]** In response to the allegation of failure to include results of Nyando Constituency in the final tally, Ms. Guchu averred that such failure was not fatal for the reason that even if the results declared did not include the results from Nyando constituency wherein the 1<sup>st</sup> petitioner had 60,715 votes as compared to the 3<sup>rd</sup> respondent who had 214 votes, under Regulation 87 of the General Regulations, the 2<sup>nd</sup> respondent can declare results of the presidential election, where in the opinion of the Commission the results that have not yet been received would not make a difference in the final results.

**[614]** Responding to the alleged disparity between presidential votes and results of the other elective posts, Ms. Guchu attaches an analysis of results from 94 constituencies showing that that votes cast in one or more of the other 5 elections, were more than the votes cast for the presidential candidates. She denied the allegation that the streamed results showed a static 11% margin between the 1st petitioner and the 3rd respondent, noting that the gap in percentage between votes cast with respect to the petitioner and the 3<sup>rd</sup> respondent kept on shifting throughout.

**[615]** On the allegation of undue influence and intimidation, she states that there is no provision in the Constitution that requires ongoing government programs to be suspended during the election period. Furthermore, Article 35 guarantees the right to information hence in openness and transparency such information was made

available to the members of public, through the various available channels. In addition, she stated that there are two pending cases in the High Court namely; ***Apollo Mboya v. Attorney General & 3 Others* Petition No. 162 of 2017** and ***Jack Munialo & 12 Others v. Attorney General, Petition 182 of 2017*** which challenges the constitutionality of Section 14 of the Election Offences Act which prohibits advertisements on government achievements during the election period. She deposed that a Bill had been introduced in the National Assembly with a view to repealing this provision to ensure conformity with Article 35 of the Constitution.

**[616]** In conclusion, she averred that the petitioners had consistently undermined the electoral process by way of their public utterances in various forums. Specifically, she deposed that the 1<sup>st</sup> petitioner stated that the 3<sup>rd</sup> respondent is a ‘*computer generated*’ leader and that it does not matter who won the election. She further states that the petitioners had, by their conduct and actions, shown their resolve to compromise the fair adjudication of this petition.

**[617]** I do not hesitate to find that this affidavit offers a complete rebuttal to the allegations made in the affidavit of Dr. Nyangasi which now stands controverted.

**26. Winifred Waceke Guchu Affidavit sworn on 24th August, 2017,  
in Reply to Olga Karani**

**[618]** The deponent stated that the averments made by Ms. Karani in her affidavit were of such generalized nature that it is impossible to respond to them with any

specificity. She averred that the IEBC Commissioners referred to were not identified and neither were the presiding officers named nor their polling stations identified. She swore that Ms. Karani did not specify occurrences and events that allegedly happened in Migori, Homabay and Kisumu County. Moreover, she did not state the names of persons missing from the voters' register. Further, she disputed Ms. Karani's testimony that as at 10<sup>th</sup> August, 2017, very few Form 34As were available. On the contrary, the deponent stated that as at midnight of 9<sup>th</sup> August, 2017, the information availed to political parties through IEBC Application Program Interface showed that 39,426 Forms 34As results had been received.

**[619]** Ms. Guchu concluded by testifying that she was not aware of any law that requires presidential agents to be given any roles at the National Tallying Centre.

This affidavit rebutted the affidavit evidence of Olga Karani with the effect that the claim that the petitioners were not given the Forms 34A.

***27. Affidavit of Brian Gichana Omwenga in reply to the affidavit sworn by Apprielle Oichoe***

**[620]** The deponent, Mr. Omwenga, in his affidavit sworn on 24<sup>th</sup> August, 2017, averred that the opinion of Ms. Oichoe on how the IEBC's system should have been, is purely subjective and lacked scientific basis. He stated that Ms. Oichoe made generalized allegations without producing any evidence to support her assertions failed to show how, when and by whom the IEBC website was compromised as alleged. He deposed that she also failed to support with any evidence the assertion

that non-authenticated and non-prescribed results through use of unknown form and format found their way into the IEBC portal.

**[621]** On the questions raised on the voters' register, Mr. Omwenga testified that the IEBC complied with the Elections Act and the Elections (Registration of Voters) Regulations, 2012. With regard to allegations of non-availability of the register, Mr. Omwenga responded that the IEBC issued a press statement on 18<sup>th</sup> May, 2017, urging all Kenyans to inspect the voters register and confirm their biometric details.

**[622]** It was his deposition that on 9<sup>th</sup> June, 2017, 60 days before the general elections, the IEBC informed the public that it would be revising the register as guided by the findings of the verification exercise. Further that on this date, the IEBC also issued a media releasing on the audit report on the register of voters. Subsequently, the IEBC established a portal on their website which enabled voters to access and inspect the voters' register at their convenience. He added that the 1<sup>st</sup> respondent posted into the portal further information including an audit report, the 2017 register of voters which included statistics per polling station, statistics per county assembly ward, statistics per constituency, diaspora statistics and prison statistics and informed members of the public to verify their registration details online or by sending an SMS to 70000 with their Identity Card Number or Passport number.

**[623]** Mr. Omwenga questioned the authenticity of the averments made by Ms. Oichoe to the effect that voters at Upper Hill Primary polling station were turned

away since their names were missing from the register. It was his testimony that Ms. Oichoe has no capacity to make such an averment because she was neither the allegedly affected voter nor the presiding officer and hence the veracity of the said allegation cannot be validated.

**[624]** He deposed that if indeed she was an observer in that station, she ought to have been accredited by the 1<sup>st</sup> respondent in accordance with Regulations 62 and 94 of the Elections (General) Regulations, 2012. Furthermore, the particulars of the voters allegedly affected were not provided by Ms. Oichoe. The deponent further states that Regulation 69 of the Elections (General) Regulations stipulates how the complementary mechanism should be applied in instances where the electronic voter identification device fails to identify a voter.

**[625]** Responding to the assertion that results were transmitted by use of a document that was not prescribed by law, Mr. Omwenga stated that under Regulation 82, Elections (General) Regulations, 2012 the Commission may direct any other manner in which the results could be transmitted. Relying on Section 72 of the Interpretation and General Provision Act, Cap 2 Laws of Kenya, which provides, ***“...whenever a form is prescribed by a written law, an instrument or document which purports to be in that form shall not be void by reason of a deviation therefrom which does not affect the substance of the instrument or document, or which is not calculated to mislead.”***, he averred that the Commission was free to prescribe any other Form through which the results could be transmitted.

**[626]** Mr. Omwenga further stated that there is no legal requirement obliging the 1<sup>st</sup> respondent to avail Form 34A to any of the presidential candidates for verification and that the role of the 2<sup>nd</sup> respondent at the National Tallying Centre was limited to collating the results recorded in the 290 Form 34Bs and in the terms proscribed by the Court of Appeal decision in *the Maina Kiai case*. He also pointed out that Ms Oichoi had relied on a non-existent Section 44B of the Election Act. The deponent also attached as evidence, a certificate of extraction of the video transcripts attached to Davis Chirchir's affidavit pursuant to Section 106(4)(B) of the Evidence Act.

It is clear that there are no express statutory requirements imposing an obligation on the 1<sup>st</sup> respondent to avail the Forms 34A and 34B to the respondents. Therefore it cannot be a basis for making a claim of non-compliance with the constitutional principles or written law.

***28. Affidavit by Davis Kimutai Chirchir in response to the 2<sup>nd</sup> affidavit of Godfrey Osotsi***

**[627]** Mr. Davis Kimutai Chirchir, in his affidavit dated 24<sup>th</sup> August 2017 swore this affidavit in his capacity as the 3<sup>rd</sup> respondent's chief agent in response to and in opposition of the supporting affidavit of Godfrey Osotsi.

**[628]** It was his sworn statement that the affidavit of Mr. Osotsi was exaggerated, peddled with outright falsehoods and has suppressed material facts in a bid to mislead this Court. He deposed that the process of voting, collating, tallying and declaration of results was conducted in full and or substantial compliance with the provisions of the Constitution and all electoral laws. Further that the presidential results announced by the 2<sup>nd</sup> respondent on 11<sup>th</sup> August 2017 were accurate, verifiable and in accordance with the standards established by law.

**[629]** He emphasised that the results were announced in a transparent and lawful manner as contemplated by Article 86 of the Constitution and the Elections (General) Regulations, 2012. In support of his averments he made reference to reports by local and international observers accredited by the 1<sup>st</sup> respondent terming the election as being substantially free, fair and credible.

**[630]** In addition, he deposed that the collation of results to Form 34C and the announcement of the presidential results were done after all Forms 34B, with the exception of Nyando Constituency, had been electronically transmitted to the National Tallying Centre. He deposed that the results for Nyando Constituency which had not been collated at the time of declaration did not affect the outcome of the results. He testified that the petitioners have a culture of disputing an election outcome whenever they lose. He further denied that the IEBC failed to produce



election materials in the 2013 presidential election petition, adding that the court had held that the petitioners then had not laid basis for the demand.

**[631]** He averred that the issue of transmission of results was conclusively settled by the High Court in the *Nasa* case and later affirmed by the Court of Appeal in **Civil Appeal No.258 of 2017** where the Court held that the 1<sup>st</sup> respondent had put in place a complimentary mechanism in terms of Section 44A of the Elections Act 2011 and that it had, with public participation, set up regulations to operationalize section 44A. He testified that any failure of technological devices should not invalidate the results.

**[632]** Responding to the allegation that the security of the integrated electoral management system (KIEMS) was compromised, Mr. Chirchir deposed that many allegations contained in the petition and supporting affidavits were unsubstantiated since no transcripts of the alleged video clips nor the MS Excel data has been provided.

**[633]** Mr. Chirchir deposed that the 1<sup>st</sup> respondent had full control of its system at all times and that there was no evidence of it having ceded its authority to third parties. It is therefore not true that the transmission of results from 11,000 polling stations was jeopardized as none of the petitioners' agents challenged the contents of Forms 34A from these polling stations. Further, he stated that it was not accurate to state that 11,000 polling stations would represent 7, 700,000 voters since the number of registered voters per polling stations varied from 1 voter per polling station to a maximum of 700 voters per station.

**[634]** He denied that the results continued streaming in a constant percentage of 54% and 44% for the 3<sup>rd</sup> respondent and the 1<sup>st</sup> respondent respectively with a constant difference of 11% in favour of the 3<sup>rd</sup> respondent. According to Mr. Chirchir, the difference between the petitioner and the 3<sup>rd</sup> respondent oscillated between 27.06% and 9.22% in favour of the 3<sup>rd</sup> respondent. He explained that as accumulative results retain high figures, it requires a high number to dilute its percentage i.e. if 700 represent 50%, an addition of another 700 to it, will increase the percentage by 16.7% making it 66.7%. However, if 3,000,000 represent 54% an addition of 700 to it, will increase the percentage by 0.00580066% making it 54.00580066%. It would therefore require a change of 130,000 in that number and no change at all in the corresponding number to attain a 1% increase.

**[635]** Mr. Chirchir concluded by stating that this Court should protect the constitutional democracy and find that the 3<sup>rd</sup> respondent was duly elected in a free, fair, credible and valid election conducted on 8<sup>th</sup> August 2017.

**[636]** The petitioner failed to prove that the percentages between the votes garnered by the petitioners and those of the 3<sup>rd</sup> respondents had a constant difference of 11%. This Court held in *Raila 2013* that for data-specific allegations the standard of proof is beyond reasonable doubt. This the petitioner was unable to discharge hence there burden did not shift to the respondents. That notwithstanding the all the respondents have adduced evidence in rebuttal showing an analysis of the various

differences in percentages at various intervals from the time the results started streaming into the National Tallying Centre to the time of declaration of results indicating that the difference kept varying.

**[637]** Consequently, I find that the petitioner in most of the allegations made did not discharge the onus of proof on them. In that regard the burden did not shift to the respondent to counter the allegations since they bore reinforcement by cogent evidence. In the instances in which the petitioners did discharge the burden, the respondents sufficiently supplied cogent evidence in rebuttal. On the other hand where the respondents admitted the allegations such as those of administrative errors credible evidence was supplied to prove that the said errors did not materially affect the results and they were not in favour of any particular candidate.

## **J. ORDERS ON ACCESS TO INFORMATION**

**[638]** By a Ruling delivered on 28<sup>th</sup> August, 2017, this Court considered a Notice of Motion Application dated 25<sup>th</sup> August, 2017 seeking the following Orders:

- 1. *This application be certified as extremely urgent, heard and orders given before the hearing of the substantive Petition.***
- 2. *The application be heard and determined expeditiously and in priority to the petition but in any event before 25th August 2017.***
- 3. *This honourable court be pleased to order the 1<sup>st</sup> Respondent to give access to the petitioner/applicant to the following:***
  - a. *Direct, unfettered access to relevant persons and systems at Safran in order for the forensic***

- information technology experts to fully understand the KIEMS system.*
- b. Full and unfettered physical and remote access to each biometric electronic appliance used at each voting/polling station location used to verify voters IP voters' identification against the list of registered voters and for the appliances to be forensically imaged to capture, inter alia, metadata such as data files, creation times and dates, device IDs MAC addresses, IP.*
  - c. Addresses, geographic and local communications mast information.*
  - d. Full and unfettered physical and remote access to any local server(s) connected to the electronic device(s) used to verify voters' identification against the list of registered voters at each polling station, from which a forensic image will be taken.*
  - e. Electronic device(s) used to capture Form 34A's and Form 34B's onto the KIEMS system and transmitted to a) the CTNs and b) the NTC.*
  - f. Full and unfettered access to any form of scanning device which saved images onto access to any form of scanning device which saved images onto a access local server(s) for onward transmission.*
  - g. Access to any scanning device which would serve to establish whether the Form 34A was captured, stored and forwarded in the expected timeframes.*
  - h. Full and unfettered physical and remote access to any server(s) at the CTNs for storing and transmitting voting information.*
  - i. Full and unfettered physical and remote access to any servers at the NTC for storing and transmitting voting information.*

- j. Addresses, source and destination IP Addresses, server details and user details.*
- k. Full and unfettered to access to all source codes, including all programming codes, pursuant to The Election Regulation Technology, 2017,*
- 4. *This honourable court be pleased to order the 1<sup>st</sup> Respondent to give access to all Parties, the following information and data that is in the exclusive possession;*
  - a. *The IEBC Election Technology System Network Architecture for the period of 30 days before the elections to the date of the Order of this Court comprising but not limited to:*
    - i. All the servers used during the Elections;*
    - ii. number of servers;*
    - iii. location of servers;*
    - iv. firewalls;*
    - v. IP addresses;*
    - vi. Operating systems;*
    - vii. Software running applications*
  - b. *The IEBC Election Technology System Redundancy Plan comprising but not limited to:*
    - i. Password policy;*
    - ii. Password matrix;*
    - iii. Owners of system administration password(s)*
    - iv. System users and levels of access*
  - c. *The IEBC Election Technology System Redundancy Plan comprising:*
    - i. Business continuity plan*
    - ii. Disaster recovery plan.*
  - d. *Certified copies of certificates of Penetration Tests conducted on the IEBC Election Technology System prior to and during the 2017 General and Presidential Election including:*

- i. ***Certified copies of all reports prepared pursuant to Regulation 10 of the Elections (Technology) Regulations, 2017; and***
  - ii. ***Certified copies of certificate(s) by a professional(s) prepared pursuant to Regulation Presidential Petition No.1 of 2017 -7- 10(2) of the Elections (Technology) Regulations, 2017.***
- e. ***In relation to KIEMS Kits:***
  - i. ***Import testing certification in relation to all KIEMS Kits;***
  - ii. ***Static IP addresses of each KIEMS Kit used during the Presidential Election;***
  - iii. ***Specific GPRS location of each KIEMS Kit used during the Presidential Election for the period between and including 05th August 2017 and 11th August 2017;***
  - iv. ***Certified list of all KIEMS Kits procured but not used and/or deployed during the Election;***
  - v. ***Polling station allocation for each KIEMS Kit used during the Presidential Election;***
  - vi. ***Audit log of what each KIEMS Kit used during the Presidential Election transmitted from Polling Stations to Constituency Tallying Centres and to IEBC National Tallying Centre; and from IEBC Result Transmission Database to Media Houses Application Protocol Interface (API)(logs of media data update). Log must also show:***
    - a. ***Time of transmission from KIEMS Kit to the IEBC Result Transmission Database; and***

- b. Time of transmission from IEBC Result Transmission Database to the Media Houses API;**
- c. Count of Identified Voters by each KIEMS Kit;**
- d. Soft copy of Ids captured in each KIEMS Kit;**
- e. (e) Audit log of transmission of scanned Forms 34A from each of the KIEMS Kits.**
- f. Technical Partnership Agreement(s) for the IEBC Election Technology System including but not limited to:
 
  - i. List of the technical partners;**
  - ii. Kind of access they had;**
  - iii. List APIs for exchange of data with the partners.****
- g. Log in for the period of 30 days before the elections to the date of the order of this court of trails of showing the trail of users and equipments into all the IEBC Servers.**
- h. Log in for the period of 30 days before the elections to the date of the order of this court of trails of users and trails of users and equipments into the KIEMS Database Management Systems.**
- i. Administrative access log into the IEBC public portal between 5<sup>th</sup> August 2017 to date.**

**5. The 1st Respondent be compelled to give access to and supply to the court and to the Petitioners for scrutiny, certified photocopies of the original Forms 34A's 34B's and**

***34Cs prepared at and obtained from the polling stations by Presiding Officers and used to generate the final tally of the Presidential election, and pursuant to such production leave be granted for the use of an aid or reading device to assist in distinguishing the fake forms from the genuine ones.***

***6. The 1<sup>st</sup> Respondent be compelled to give the Petitioners access Form 34A's 34B's and 34 C's from all 40,800 polling stations.***

***7. This honourable court be pleased to grant leave to the Petitioner/Applicants TO:***

***(a) Rely on and or file further affidavits in support of the petition and or the affidavits of (i) Rt. Hon. Raila Amolo Odinga, Omar Yusuf Mohamed, (ii) Omar Yusuf Mohamed, (iii) Dr. Edga Ouko Otumbo, Nyangusi Oduwo and (iv) Norman Magaya dated 24/8/2017 be admitted on record and or be deemed to have been properly filed.***

***(b) File such other affidavits in response to or reply to any responses filed by the respondents***

***8. This Honourable Court be pleased to grant any other reliefs that become just and fit to grant.***

**[639]** The anchor of the Application was that the electronic system of transmission had been deliberately compromised in a manner not intended by law so as to interfere with and affect the result of the Presidential election. It was also contended that the election results from individual polling stations were not verifiable. Further, that 395,510 rejected/spoilt votes were unaccounted for and that the KIEMS system was designed to only transmit the results if the data entered was accompanied by an image of the prescribed form. This allegation was satisfactorily controverted by the



1<sup>st</sup> and 2<sup>nd</sup> Respondents who explained that because of the size of the image, in certain polling stations out of 3G or 4G network range, the data was sent before the image of the prescribed Form could also be sent.

**[640]** In the analysis the Court summarized the prayers sought by the Petitioner in the Application in the following three limbs:

- (i) Access to information relating to the hardware and software used in the conduct of the Presidential Election and particularly, transmission of results;
- (ii) Access to and scrutiny of certified copied of Forms 34A, 34B and 34C
- (iii) Leave to file further Affidavits.

**[641]** Regarding prayer (ii), having set out the law and jurisprudence regarding scrutiny, the Court determined that the Petitioners had signaled their intention to seek scrutiny of (a) all rejected and spoilt votes (sic), the returns of the Presidential Election Results including but not limited to Forms 34A, 34B and 34C and the KIEMS kit, the servers and website/portal.

**[642]** The 1<sup>st</sup> and 2<sup>nd</sup> Respondent, in response, particularly registered their concern regarding the practicality of some of the Orders being sought, such as access to the KIEMS kits, the security of the system of transmission and the necessity to set up appropriate back up mechanism in case the Orders were granted, which process, they stated would take upto at least 3 weeks.

**[643]** The Court was cognizant of the security system concerns raised by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents, particularly, the absolute confidentiality of passwords and usernames, locations of servers, identity of password holders, IP addresses and software running applications, among others. Therefore none of the requests relating to these specifics were granted.

**[644]** The Court disallowed prayer 3(a) in which the Petitioners were seeking direct, unfettered access to relevant persons and systems at Safran, being cognizant of the

jurisdictional difficulties of granting access to an entity based in France that was also not party to these proceedings.

**[645]** Having evaluated the evidence and analysed the arguments by counsel, the Court made the following orders, **distinct and modified from the prayers originally sought by the Petitioners in the Application:**

“**[72]** Having so held, the final Orders we make are that the Petitioners as well as the 3<sup>rd</sup> Respondent shall be granted a read only access, which includes copying (if necessary) to –

*(a) Information relating to the number of servers in the exclusive possession of the 1<sup>st</sup> Respondent.*

*(b) Firewalls without disclosure of the software version.*

*(c) Operating systems without releasing the software version.*

*(d) Password policy.*

*(e) Password matrix.*

*(f) System user types and levels of access.*

*(g) The IEBC Election Technology System Redundancy Plan comprising of its business continuity plan and disaster recovery plan.*

*(h) Certified copies of certificates of Penetration Tests conducted on the IEBC Election Technology System prior to and during the 2017 General and Presidential Election including:*

*(i) Certified copies of all reports prepared pursuant to Regulation 10 of the Elections (Technology) Regulations , 2017; and*

*(ii) Certified copies of certificate(s) by a professional(s) prepared pursuant to Regulation 10(2) of the Elections (Technology) Regulations, 2017*

*(i) Specific GPRS location of each KIEMS Kit used during the Presidential Election for the period between and including 5<sup>th</sup> August, 2017 and 11<sup>th</sup> August, 2017.*

- (j) Certified list of all KIEMS Kits procured but not used and/or deployed during the Election;**
- (k) Polling station allocation for each KIEMS Kit used during the Presidential Election;**
- (l) Technical Partnership Agreement(s) for the IEBC Election Technology System including but not limited to:
 
  - a. List of the technical partners;**
  - b. Kind of access they had; and**
  - c. List of APIs for exchange of data with the partners****
- (m) Log in trail of users and equipments into the IEBC Servers.**
- (n) Log in trails of users and equipments into the KIEMS Database Management Systems.**
- (o) Administrative access log into the IEBC public portal between 5<sup>th</sup> August 2017 to date.**
- (p) The information listed in (m), (n) and (o) above shall be issued in soft copy to the petitioners and 3<sup>rd</sup> respondent.**
- (q) Certified photocopies of the original Forms 34A's 34B's and 34Cs prepared at and obtained from the polling stations by Presiding Officers and used to generate the final tally of the Presidential election, and pursuant to such production leave be granted for the use of an aid or reading device to assist in distinguishing the fake forms from the genuine ones.**
- (r) Forms 34A 34B and 34 C from all 40,800 polling stations.**
- (s) Scanned and transmitted copies of all Forms 34A and 34B.**

**[73]** Consequent upon the said Orders, we hereby make the following further Orders:

- (i) The Registrar of this court assisted by a number of judicial officers and staff as she may determine shall supervise access to the certified copies of original Forms 34A and Forms 34B by the petitioners and 3<sup>rd</sup> Respondents at such a venue as she shall determine in consultation with the**

***parties. A report on that exercise and related issues shall be filed by the Registrar by Tuesday, 29<sup>th</sup> August 2017 at 5.00 p.m. and parties are at liberty to submit on it at the end of the hearing.***

***(ii) In the exercise set out in (a) – (p) above, priority shall be given to the;***

***(1) 292 Polling stations as deponed to at paragraph 12 of Norman Magaya Affidavit sworn on 23<sup>rd</sup> of August 2017;***

***(2) 688 polling stations as deponed to at paragraph 15 of Omar Yusuf Mohammed affidavit sworn on 24<sup>th</sup> August 2017;***

***(3) 14,078 polling stations as deponed at paragraph 70 of Dr. Nyangasi Oduwo's affidavit dated 18<sup>th</sup> August 2017***

***(iii) An ICT officer designated by this court from among its ICT staff and two independent IT experts appointed by the court shall supervise access to the technology in paragraph 72 above at such a venue as they may determine in consultation with the parties. A report on that exercise and related issues shall be filed by the said officer and experts by 5.00 p.m. on Tuesday, 29<sup>th</sup> August 2017 and parties are at liberty to submit on it at the end of the hearing.***

***(iv) The parties to the petition are entitled to have a maximum of two agents/experts in each of the exercises above. The agents shall at all times comply with the directions of the Registrar and the ICT officer to ensure expeditious conclusion of the above exercise.***

***(v) There shall be no order as to costs.***

***(vi) It is so ordered.***

**[646]** The Court then set the parameters for the exercise and mandated the Registrar to supervise access to the certified copies of the Original Forms 34A and Forms 34B by the Petitioners and 3<sup>rd</sup> Respondent and due to the constraints of time, to file a Report on that exercise by Tuesday 29<sup>th</sup> August, 2017 at 5.00pm. In addition, an ICT officer designated by the Court from among its ICT Officers and two independent IT experts appointed by the Court were tasked to supervise access to

Orders on Technology and to file a report on that exercise at the same time as the Registrar. Each party to the Petition was allowed a maximum of two agents in each of the Forms and ICT exercises.

***Submissions by the parties***

**[647]** At the end of this exercise, the parties were each allowed to submit on the reports filed by the ICT experts and the Registrar.

**[648]** Counsel for the Petitioner, Mr. Orengo referred the Court to paragraph 13 of the Report where the number of Forms 34A, 34B and 34C availed by the 1<sup>st</sup> Respondent had been indicated. One (1) Form 34C, 292 Forms 34B and 41,451 Forms 34A. Counsel pointed out some of the remarks that had been made by the Registrar on the process:

- (a) *Forms 34A for Mandera West were not among the forms submitted*
- (b) *There were illegible Forms*
- (c) *Certain Forms 34A appeared to have been duplicates*
- (d) *Certain Forms 34A and 34B appeared to have been carbon copies*
- (e) *Certain Forms 34A and 34B appeared to have been photocopies*
- (f) *Some of the Forms were neither stamped nor signed.*

**[649]** Counsel took issue with Forms that did not bear any security features or serialization. Counsel also cautioned that certain Forms 34B were neither signed by the Returning Officer nor by the Agents, 56 Forms did not have a watermark and 31 Forms did not have serial numbers, 32 Forms were not signed by the Agents and 189 where the handover notes had not been filled. Counsel also expressed dissatisfaction with non-compliance with a segment of the Orders of the Court on ICT access. He also contended that most of the Forms were not in the standardized format.

**[650]** Mr. Muite, Counsel for the 1<sup>st</sup> Respondent commenced by urging the Court to compare the contents of the Registrar's Report using the Forms that were deposited in Court pursuant to Section 12 of the Supreme Court Act. Counsel also urged that contrary to the allegations by counsel for the Petitioners, the statutory Forms

matched with the format in the Regulations (Reg. 79 and 83). He stated that although security features were not a legal requirement of the Forms, the Commission, out of abundance of caution, designed security features for the

**[651]** Forms. Counsel also submitted that the 1<sup>st</sup> Respondent had complied with all the Orders of the Court, including availing soft-copy access of the logs to the Petitioners who declined to accept them. **This is also indicated in the Experts Report.** The Petitioners wanted to have the log in trails loaded from the servers as they observed. It was Counsel's submission that with regard to some of the Orders, the limited time available to conduct the exercise precluded its completion because of the time difference between Europe and the United States where the Principal service Provider (Safron) and the company subcontracted by Safron, resided.

**[652]** Counsel revisited the entire issue of transmission and clarified the difference between the data that was being broadcast on screen and the results in the portal. He elaborated that following the decision of the Court of Appeal in the *Maina Kiai case* on the eve of the elections, the 1<sup>st</sup> Respondent had to reconfigure the way it displayed information being sent from the Constituency and Polling centres. He explained that sometimes, the data arrived without the accompanying image of the statutory Form, hence the discrepancy. Counsel however urged that the 1<sup>st</sup> Respondent took every measure to align its processes to the directions of the Court of Appeal which directions came literally, on the eve of the elections.

**[653]** Justice Lenaola, SCJ, queried the lack of a serial number on the statutory Form 34B used to declare the results of Nyali Constituency, Mombasa County.

**[654]** Mr. Ngatia, counsel for the 3<sup>rd</sup> Respondent commenced his submissions with reference to Kisauni Constituency. He noted that although it had been indicated that the Form 34B was not signed by the Returning Officer, the Form in his possession, which was supplied by the 1<sup>st</sup> Respondent indicated that the same was indeed signed. Counsel also urged the Court to compare the Report on Nyali Constituency with the Form 34B deposited in Court.

**[655]** Counsel indicated that in some areas, lapses were occasioned by difficulties such as broken down printers as was the case in Isiolo South. Overall, counsel submitted that the numbers in these Forms were not challenged and there was no discrepancy between the entry in Forms 34A and 34B.

**[656]** After the bench retired to assess the evidence and make findings on this exercise supervised by the Registrar, I undertook a comparison of the complaints and allegations made by the Petitioner in both reports - with the Forms 34A, and 34Bs that had been submitted to this Court under Section 12 of the Supreme Court Ac. In doing so I have made a number of findings:

1. On the query raised by Justice Lenaola, SCJ, on the lack of a serial number on the statutory Form 34B used to declare the results of Nyali Constituency, Mombasa County, I pulled the Form out of the bundle of certified Forms provided to the Court by the 1<sup>st</sup> Respondent and noted the following:

- (i) *The Form has 4 pages that bears serial numbers - PR001004-5, PR001004-6, PR001004-7, PR001004-8*
- (ii) *It is stamped;*
- (iii) *The name and Identity number of the Constituency Returning Officer is indicated;*
- (iv) *It is signed by the Returning Officer;*
- (v) *It is also signed by Agents for Uhuru Kenyatta and Raila Odinga;*
- (vi) *The Statutory Form was printed in landscape as opposed to portrait format as most of the forms are. The serial number therefore was at the bottom left corner of the paper.*

2. As regards the complaint regarding Kisauni, once again, I took the liberty to retrieve this Form from the evidence deposited in Court by the 1<sup>st</sup> Respondent and note:

- (i) *The Form has 4 pages that bears serial numbers PR001003-7, PR001003-8, PR001003-9, PR001003-10.*
- (ii) *The Form 34B is signed by the Returning Officer; It is stamped;*
- (iii) *Signed by 6 agents;*
- (iv) *The handing over section has also been duly filled.*

Regarding Likoni, which was also flagged by counsel as being marked as unsigned, I examined the certified copy of the Form 34B and noted:

- (1) *It is signed by the Returning Officer whose name and ID number are indicated;*
- (2) *It bears a serial number;*
- (3) *It has an anti-copying feature;*
- (4) *It is stamped and was signed by 8 Agents;*

Thus I was able as a Judge sitting on an election cause to verify the issue in question.

**[657]** Regarding the ICT Report, counsel submitted that the 3<sup>rd</sup> Respondent accepted the pre-downloaded log trails as compliance with the Orders of the Court. It was submitted that according to the Conclusion in the ICT Report, the 3<sup>rd</sup> Respondent submitted that the 1<sup>st</sup> Respondent indicated that the read-only access would be available at 11am on 29<sup>th</sup> August, 2017. However, the Petitioners asked for administrator rights which were beyond the purview of the Order of the Court.

In summary, and according to the ICT Report:

1. Information relating to the number of servers in possession of the 1<sup>st</sup> Respondent was provided;
2. Information regarding Firewalls without disclosure of software version was not fully provided because disclosing the internal and external firewall configurations would affect the security of the systems. However, schematic diagram and hardware models were provided;
3. Operating systems without the software version was supplied;
4. Password policy was provided;
5. Password Matrix was provided;



6. System user types and levels of access was also provided;
7. The Disaster recovery plan was also provided;
8. Certified copies of Penetration Tests conducted on the IEBC Election Technology System prior to and during the elections were provided, together with the certificates;
9. GPS locations for the polling stations were provided. The Specific GPRS Locations for each KIEMS kit was not provided;
10. Certified list of all KIEMS kits procured, provided;
11. Polling Station allocation for each KIEMS kit provided;
12. Technical Partnership Agreement(s) for the IEBC Election Technology System provided;
13. Pre-downloaded Log-Trails provided, but rejected by the Petitioners;
14. In conclusion the Report indicated that the 1<sup>st</sup> Respondent faced a number of challenges in complying with the server Read only access order including:
  - a. Set up of the VPN Tunnel to the server
  - b. Connectivity challenges when accessing the cloud
  - c. Security protection measures that need to be upheld for elections.

**[658]** I am satisfied that the terms of the Court’s Orders were met to the best extent possible. Although the parties seem to have differed on the interpretation of the Orders, I find that they were very clear and free from misconstruction. The Orders were of Access to Information and read-only access which included copying (if necessary). The Court’s Orders were very clear. They were also very distinct from the prayers originally sought in the Application. The Court took the concerns of all the parties into consideration before making a determination on the Application. Any inference into the intent or assumed Order of the Court cannot therefore be left to flourish. For avoidance of doubt, I am in agreement with the Constitutional Court of South Africa in *Firestone South Africa (Pty) Ltd v Genticuro A.G.* 1977 (4) SA 298 (A) at 304 D-F on the interpretation of Court Orders:

*[33] On interpreting court orders, authority tells us:*

*“The basic principles applicable to construing documents also apply to the construction of a court’s judgment or order: the court’s intention is to be ascertained primarily from the language of the judgment or*

*order as construed according to the usual, well-known rules. [A]s in the case of a document, the judgment or order and the **court's reasons for giving it must be read as a whole in order to ascertain its intention. If, on such a reading, the meaning of the judgment or order is clear and unambiguous, no extrinsic fact or evidence is admissible to contradict, vary, qualify, or supplement it.***"[Emphasis added]

**[659]** On this, the 1<sup>st</sup> Respondent expressed real threats with regard to exposing the inner workings of their technology to external supervision or influence owing to numerous considerations of a public nature. We must acknowledge that the Commission is an independent Constitutional body with the powers to regulate vital procedures such as the deployment of technology in elections. Although the Petitioners prayed for *unfettered access into the servers*, the Court, in consideration of the security concerns and in line with principles of justice and equity **did not grant this** but granted only specific limited orders to information, which in my opinion were met. For the avoidance of doubt, this court did not give orders for the Petitioner to access the Servers of the 1<sup>st</sup> Respondent, what was given was access to particular **read only** information. The location of servers, the entry and penetration into the servers, were not part of the orders given. It would be dangerous to expose the Commission to any administrative incapacity in the future. The court has a responsibility to preserve the working systems of the IEBC for future elections. I acknowledge and approve the following reasoning by the Constitutional Court of South Africa in *Electoral Commission v Mhlope and Others* (CCT55/16) [2016] ZACC 15; 2016 (8) BCLR 987 (CC); 2016 (5) SA 1 (CC). In this case, the constitutional Electoral commission of South Africa approached the Constitutional Court with prayers to condone certain shortcomings it had in the face of an approaching by-election. The Constitutional Court considered the remedies available stating:

***[84] I have spelt out the difficult position in which the IEC finds itself. Ordinarily, it would be easy to dismiss its request on the basis that the situation in which it finds itself is of its own making. But the reality is that –***

*unlike litigation between private individuals where a party's fault would affect it and it alone – here if something were to go wrong, the implications are serious and likely consequences dire. To put it bluntly, the IEC would not be able to certify the voters' roll for want of the 12.2 million addresses. Without a certified voters' roll, there can be no elections. In terms of section 159(2) of the Constitution it is obligatory that the elections must take place, and must do so not later than 16 August 2016. Indeed, the need for the regularity of elections in the Constitution's founding values underscores the importance of this obligation. Unsurprisingly, section 19(2) provides that "[e]very citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution".*

*[85] A threat of a possibility of the elections not taking place is a threat to our democracy itself. An order that does not extricate the IEC from the impossible situation it is in may create a constitutional crisis affecting the rights to vote and stand for political office protected by section 19 of the Bill of Rights. As we are also bound by the Bill of Rights, we must be careful – as far as possible – to prevent that from happening. We cannot – in a Pilatian manner – throw our hands up in the air and say, "If the crisis happens, so be it; the root cause is the IEC, not us". The reality is facing us. What may we do, if anything?*

**[660]** Consequently, I do not find the 1<sup>st</sup> and 2<sup>nd</sup> Respondents in contempt of this Court's Orders and also find no basis to nullify the presidential election on the basis of any information revealed or otherwise in the Report. I find that the allegations of inconsistency in Forms 34A and 34B is verifiable using the existing paper-trail which was also in the possession of the Petitioner having requested the Court vide a letter

dated 23<sup>rd</sup> August, 2017 and the entire set of primary records provided in scanned form on 24<sup>th</sup> August, 2017.

**[661]** Regarding lack of security features on the Forms 34A and B, it is imperative to first contextualize the exercise that gave rise to these conclusions:

- (i) *It was a party-led process not a court-led process*
- (ii) *It was a technical process that is usually the preserve of an election Court. As was elaborated by the Court in its Ruling on access to information, scrutiny encompasses an examination of the entire electoral material related to the election in a disputed polling station. This was not the case in this instance.*
- (iii) *Some of the findings are negated by reference to the statutory Forms deposited in Court pursuant to Section 12 of the Supreme Court Act.*
- (iv) *It was submitted that the presence of one security feature is sufficient to insulate the statutory Form from unauthorized reproduction. I find that this is a sufficient measure in the general scheme of other tools of verification guaranteed by the Constitution and electoral law, including ballots and other election materials.*
- (v) *The presence of security features is neither statutory nor legal. It is administrative and therefore one of the components of verification in the electoral process. (I have earlier in this Judgment addressed the entire verification process in depth).*

**[662]** The Majority admits that security features are not provided for under any legal provision. The basis of their determination is that there was no plausible explanation when Immaculate Kassait had indicated that all Forms 34A and 34B bore these features. The Court however had the option to personally examine the original Forms deposited in the Registry; the majority did not do so.

**[663]** As such an Order for nullification based on this exercise that was merely based on controvertible and speculative grounds, and is well below the standards set for nullifying an election, especially, where other remedies, such as inspection of ballots, exist. The Majority, did not address themselves to any other evidence in

arriving at their determination. Had they systematically analysed the evidence, they would not have determined the election on a tangential issue whose determination could easily have been settled through reference, by the Court itself, to the evidence deposited by the 1<sup>st</sup> Respondent 48 hours after filing the Petition.

**[664]** It is important to appreciate the circumstances under which the 1<sup>st</sup> Respondent was operating immediately before the elections where they were dogged with Court cases which slowed down their operations and their normal cohesive preparedness to conduct the elections was hindered. Elections are public in nature. The actors and stakeholders involved in the electoral process ought to fully support the 1<sup>st</sup> Respondent in the execution of its mandate. In instances of lapse, how is the Court to apportion blame particularly in instances of active distraction from duty, by other actors and stakeholders?

#### **K. EVIDENCE SUBMITTED UNDER SECTION 12 OF THE SUPREME COURT ACT**

**[665]** The material deposited by the Commission pursuant to **Section 12 (2) of the Supreme Court Act, 2011** enable the essence of the Supreme Court to discharge its mandate as the final election verifying avenue. It is imperative to mention that the Commission fully complied with this imperative. At the time of determining this matter, all the material use to declare the results of the presidential election, including Forms 34A and 34B had been deposited at the Supreme Court Registry by the Commission. In furtherance of my duty as a Judge hearing a matter falling under the exclusive original jurisdiction of this Court, I have considered all the allegations in the pleadings and supported evidence and responses thereof, against this material.

**[666]** Following the exercise Ordered by the Court on production of Forms 34A and 34B after which the parties undertook a partial scrutiny of the Forms, Counsel for the Respondents urged the Court to consider the Report in light of the Forms 34A and 34B that had been deposited in Court by the Respondents as part of the mandatory discovery under Section 12 of the Supreme Court. I have already analysed

the Report based on the contents provided by the Registrar and the ICT experts in a foregoing section. This section however follows the determination that an election Court, as the final verifying agency must employ the tools granted by the Constitution and Electoral law to enjoy that the ends of justice are met and that the right of the electorate to vote and the candidates to vie for any position is protected from illegal, or irregular practice, and electoral offence on the one hand or unfair exclusion of votes on the other.

**[667]** In the Registrar’s Report, it was noted that five (5) Constituencies were in serious contention for want of Form. The report indicated:

- (i) That Forms 34B in Kisauni, Nyali, Likoni, Mandera South and Isiolo South Constituencies were not signed by the Returning Officer.
- (ii) That Nyali Constituency Form 34B lacked a water mark.
- (iii) That Form 34B in Isiolo South was not signed by the party agents.

**[668]** The evidence deposited in Court by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents revealed that the disputed Forms were proper in Form and bore all the relevant features. The observations are summarized hereunder:

Constituency	No. of Pages	Serial No.	Signed by the Returning Officer	Official IEBC Stamp	Signed by the Party Agents
<b>Kisauni</b>	4	PR001003-7 PR001003-8 PR001003-9 PR001003-10	Signed	Stamped	Signed
<b>Nyali</b>	4	PR001004-5 PR001004-6 PR001004-7 PR001004-8	Signed	Stamped	Signed
<b>Likoni</b>	3	PR001005-8 PR001005-9 PR001005-10	Signed	Stamped	Signed
<b>Mandera South</b>	2	PR009042-3 Not legible	Signed	Stamped	Signed
<b>Isiolo South</b>	2	PR011050-8 PR011050-10	Signed	Stamped	Signed

**[669]** The legality of Forms 34A and 34B was heavily contested by the Petitioners and evidence adduced on the same. In the interest of justice, I set out to examine each of the Forms that had been disputed (with particularity) in the detailed

Affidavit of Dr. Nyangasi Oduwo in support of the Petitionand examined whether the Forms met the test of verification set out on this Judgement.

***Preliminary Observations***

- (i) 1640 Forms 34A and 34B in total were disputed with particularity*
- (ii) 1349 Forms 34A were disputed, with particularity*
- (iii) All 291 Forms 34B were also disputed*
- (iv) Having looked at all the Forms 34A and 34B (290 constituencies, 1 diaspora), I am satisfied that all the Forms met the required threshold in Form and content. The findings are summarized below:*

AN ANALYSIS OF ALL FORMS 34B

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
1	Changamwe	4	PR001001-1,2,3,4	Yes	Stamped	Signed	3 ODM, 1 WIPER,	Aisha Abubakar
2	Jomvu	3	PR00102-2, 1,2,3	Yes	Stamped	Signed	1 JP, 1 ODM, 1 IND	Nuru Faraj Mafra
3	Kisauuni	4	PR001003-8,9,10,7	Yes	Stamped	Signed	,1 ODM, 2 WIPER, 1 ANC, 1 KADU ASILI, 1 IND	Mohammed Bahero Aboud
4	Nyali	4	PR001004-5,6,7,8	Yes	Stamped	Signed	1 JP, 1 NASA,	Mwanajuma A Gandani
5	Likoni	3	PR001005-9,7,8	Yes	Stamped	Signed	,4 ODM, 4 IND	Luciana Sanzua
6	Mvita	2	PR001006-1,2	Yes	Stamped	Signed	1 JP, 1 ODM, 1 FDk,	Nsogomca Mbizi
7	Msambeni	2	PR002007-7,9	Yes	Stamped	Signed	2 JP, 2 ODM, 1 ANC,	Yusuf Abubakar Mohammed
8	Luungalunga	6	-	No	Stamped	Signed	2 JP, 1 NASA, 1 IND	Isaiah Madzungu Saha
9	Matuga	3	PR002009-15,16,17	Yes	Stamped	Signed	2 JP, 1 ODM,	Kassim Kaema
10	Kinango	2	PR002010-7,8,	Yes	Stamped	Signed	1 JP, 1 NASA, 1 ODM 1 FDk,	Charo Kalume Charo
11	Kilifi North	3	PR003011-5,6,7	Yes	Stamped	Signed	,2 ODM, 1 WIPER, 1 IND	Abdiwahid Hussein
12	Kilifi South	2	PR003012-4	Yes	Stamped	Signed	,1 ODM, 1 IND, 1 KADU, 1 OBSERVER	Nema Karisa
13	Kaloleni	1	PR003013-2	Yes	Stamped	Signed	1 JP, 1 ODM, 1 FORD K,	Shida. Alphonse
14	Rabai	1	PR003014-9	Yes	Stamped	Signed	,1 ODM,	Jumaa Musa Jumaa
15	Ganze	2	PR003015-7	Yes	Stamped	Signed	,4 ODM, 1 SPK, 1 DPK, 1 KADU ASILI	Hillary K A Kombe



Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
16	Malindi	3	PR003016-2,3	Yes	Stamped	Signed		Masha Sudi Mwakulonda
17	Magarini	2	PR003017-10	Yes	Stamped	Signed	,1 ODM, 1 WDMK,1 MDG, 1 IND, 1 OBSERVER	Raymond Makazi
18	Garsen	3	PR004018-4	Yes	Stamped	Signed	1 JP,1 ODM, 1 WIPER, 1 ANCG,1 DP, 1 KANU, 1 KPP, 1 KADU ASILI	Stephen Kitsao Karani
19	Galole	1	PR004019-1	Yes	Stamped	Signed		Frank Nyambu Mwalenga
20	Bura	2	PR004020-4,3	Yes	Stamped	Signed	1 JP,1 ODM, 1 WDMK,	Mohamed Yarrow Aress
21	Lamu East	2	PR005021-10	Yes	Stamped	Signed	1 JP,1 WIPER,	Japhet Omara
22	Lamu West	2	PR005022-4	Yes	Stamped	Signed	1 JP,1 NASA, 1 WIPER,	Abdallah Mwarua Chikophe
23	Taveta	1	PR006023-7	Yes	Stamped	Signed	1 JP,1 NASA,	Abdul Swaleh Jamanda
24	Wundanyi	2	PR006024-4	Yes	Stamped	Signed	1 JP,1 ODM, 1 WIPER,1 IND	Hamsi H. Tsumo
25	Mwatate	3	PR006025-8,9,10	Yes	Stamped	Signed	2 JP	Joseph B. Mwatendo
26	Voi	1	PR006026-1	Yes	Stamped	Signed	1 JP,1 ODM,	Swalha Ibrahim Yusuf
27	Garissa Township	2	PR007027-3,5	Yes	Stamped	Signed		Boru D Duba
28	Balambala	1	PR007028-4	Yes	Stamped	Signed	1 JP	Adan Abdullahi Haji
29	Lagdera	1	PR007029-10	Yes	Stamped	Signed		Ali Nur Hussein
30	Dadaab	1	PR007030-2	Yes	Stamped	Signed		Issack M Muhammad
31	Fafi	3	PR007031-1,2,3	Yes	Stamped	Signed	1 JP	Mohamedrashid Maalim Ahmed
32	Ijara	2	PR007032-4,5	Yes	Stamped	Signed		Ibrahim Farah

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
33	Wajir North	4	-	No	Stamped	Signed	1 JP, 1 ODM, 1 FK, 1 WIPER, 2 PNU,	Noor Gedi
34	Wajir East	1	PR008034-9	Yes	Stamped	Signed	1 JP1 IND	Abdikadir Sheikh Abdi
35	Tarbaaj	1	PR008035-4	Yes	Stamped	Signed	2 PDR	Siyat Mahat Sabul
36	Wajir West	2	PR008036-7,8	Yes	Stamped	Not Legible	1 JP1 UNNAMED	Not Included In The Form
37	Eldas	1	PR008037-10	Yes	Stamped	Signed	1 JP, 1 FK, 1 AGANO	Id- 11250529
38	Wajir South	3	PR008038-1	No	Stamped	Signed	1 JP	Anthony Kimani
39	Mandera West	2	PR009039-4	Yes	Stamped	Signed	EFPP	Mohamud Mohamed Olow
40	Banissa	2	PR009040-5	Yes	Stamped	Signed	2 JP	Musdaj A Ahmed
41	Mandera North	1	PR009041-2	Yes	Stamped	Signed	3 JP	Abdibashik Almor
42	Mandera South	2	PR009042-3	Yes	Stamped	Signed	3 JP, 1 CCM, 1 PDR, 1 EFP	Hashima Ismail
43	Mandera East	2	PR009043-8, 3	Yes	Stamped	Signed	1 JP, 1 ODM,	No Name
44	Lafey	2		No	Stamped	Signed	1 JP1 EFP	Abdi Yunis Mohamed
45	Moyale	3	PR010045-1,2,3	Yes	Stamped	Signed	2 JP, 1 NASA,	Kurria J Mbugua
46	North Horr	2	PR010046-9	Yes	Stamped	Signed	1 JP, 1 KANU, 1 NASA,	Evanson G Ngomano
47	Saku	2	PR010047-1,2	Yes	Stamped	Signed	1 JP	Justus Nzomo
48	Laisamis	2	PR010045-4,5	Yes	Stamped	Signed	1 JP, 1 NASA,	Jaffar Galgalo
49	Isiolo North	5	PR01049-14,15,16,17,9	Yes	Stamped	Signed	1 JP1 KPP, 1 PDR, 1 PNU, 3 IND	Abdikadir Abdullahi
50	Isiolo South	2	PR011050-8,10	Yes	Stamped	Signed	1 JP1 KPP	Mamo Elema Adano
51	Igembe South	3	PR012051-4,3,5	Yes	Stamped	Signed	1 JP1 KPP	Elijah Mugo Ngunjiri
52	Igembe Central	4	PR012052-16,15	Yes	Stamped	Signed	1 JP1 PNU, 1 KPP	Francis M. Njeru
53	Igembe North	3	PR012053-8,7	Yes	Stamped	Signed		Charles Maina
54	Tykania West	2	PR012054-9	Yes	Stamped	Signed	1 JP, 1 NASA, 1 PNU	Josphine Kinya

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
55	Tigania East	3	PRO12055-12,10,13	Yes	Stamped	Signed	1 JP1 PNU	Anthony Njiraini
56	North Inmenti	2	PRO12056-(5,7),(6,8)	Yes	Stamped	Signed		Abdi Sheikh Mohamed
57	Buuri	5	PRO12057-3,4,5,6,7	Yes	Stamped	Signed	2 JP, 1 ODM,	Warrio Ibrahim Ali
58	Central Inmenti	3	PRO12058-16,17,18	Yes	Stamped	Signed	3 JP1 IND	Habiba Godana Hilama
59	South Inmenti	3	PRO12059-14,13	Yes	Stamped	Signed	1 JP, 1 NASA, 1 IND	Linnah Kilonzi
60	Maara	2	PRO13060-20	Yes	Stamped	Signed	2 JP	Obadiah Kariki Gacoki
61	Chuka/Igambang'ombe	5	-	No	Stamped	Signed	3 JP, 2 ODM, 1 IND	Wilfred N. Wainaina
62	Tharaka	6	PRO13062-20,(18,15),(19,12),14	Yes	Stamped	Signed	1 JP, 1 NASA,	Caleb S. Gekonde
63	Manyatta	5	PRO14063-3,4,2,1,5	Yes	Stamped	Signed	2 JP, 1 ODM,	Faith W. Mugo
64	Runyenjes	4	PRO14064-13,11	Yes	Stamped	Signed	2 JP	Amina Shaku J.
65	Mbeere South	4	PRO14065-(9,5),(10,6),(11,7),(12,8)	Yes	Stamped	Signed	2 JP1 IND	Consolata Muthoni
66	Mbeere North	3	PRO14066-8,9,10	Yes	Stamped	Signed	1 JP, 1 NASA, 1 MCC	Pamela Karimi
67	Mwingi North	3	PRO15067-1,2,3	Yes	Stamped	Signed	1 JP1 NARC, 1 MCC, 1WDM-K	Maureen Kerobi Oyaro
68	Mwingi West	3	PRO15068-3,9,11	Yes	Stamped	Signed	,2 NASA, 2 WIPER,	Jane Wasilwa
69	Mwingi Central	4	PRO15069-1,2,3,4	Yes	Stamped	Signed	,1 WIPER, 1 ODM, 1 NARC	John K Mwawasi
70	Kitui West	4	PRO15070-12	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 NASA,	Mutua Mbai James
71	Kitui Rural	3	PRO15071-1,2,12	Yes	Stamped	Signed	1 JP, 1 NASA, 1 WIPER, 1 IND	Sahara Ibrahim
72	Kitui Central	4	PRO15073-14,10,16,9	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 NARC	Maurice K Raria Mparo

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
73	Kitui East	4	PRO15072-5,7,8,10	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 PDU	Stanley Mwangi Kanyoria
74	Kitui South	7	PRO15074-1,2,3,4,5,6,8	Yes	Stamped	Signed	2 JP1 IND, 1 NARC, 1 MCC	Pamela Awuor Wandeu
75	Masinga	2	PRO16075-7	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 ODM,	Lucy Mbithe
76	Yatta	3	PRO16076-5,6,7	Yes	Stamped	Signed	2 IND, 1 NARC	Nicholas Kalimi
77	Kangundo	2	PRO16077-7,9	Yes	Stamped	Signed	,1 FK,2 MUUNGANO PARTY	Rosaline Kasale
78	Matungulu	4	PRO16078-1,2,4,3	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 MCC	Jacob K. M
79	Kathiani	2	PRO16079-4,	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 IND, 1 MUUNGANO	Vincent Saruni Satibau
80	Mavoko	4	PRO16080-2,3,1,4	Yes	Stamped	Signed	1 JP, 1 WIPER, 1 CCM,	Samuel N Chacha
81	Machakos Town	3	PRO16081-8,9,10	Yes	Stamped	Signed	1 JP1 MCCP, 1 WDMK	Marvin Mungah
82	Mwala	3	PRO16082-1,2,3	Yes	Stamped	Signed	1 CCU, 2 MCCP	Leonard Njenga
83	Mbooni	3	PRO17083-12,13,14	Yes	Not Stamped	Signed	,1 WIPER, 1 CCU, 1 NARC	Salim Bilali
84	Kilome	2	PRO17084-6	Yes	Not Stamped	Signed	1 JP, 1 ODM, 1 WDMK, 1 IND	Peter Mahui Anthony
85	Kaiti	3	PRO17085-18,4	Yes	Stamped	Signed	1 JP, 1 WDM, 1 NASA,	Bernard Mwangi Kimani
86	Makueni	5		No	Stamped	Signed	1 JP, 1 WIPER,	Lango Ibrahim G
87	Kilwezi West	5	PRO17087-1,2,3,4,5	Yes	Stamped	Signed	1 JP, 1 NASA, 1 WIPER	Peter K Muigai
88	Kilwezi East	2	PRO17088-8,9	Yes	Stamped	Signed	1 JP, 1 WDMK, 1 NASA, 1 NARC	Francis Waitah

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
89	Kinangop	4	PRO18089-2,3,4,10	Yes	Stamped	Signed	1 JP, 2 ODM,	Agnes Marete
90	Kipipiri	2	PRO18090-(6,1)	Yes	Stamped	Signed	1 OBSERVER	Festus M Ngeerah
91	Ol Kalou	2	PRO18091-9,10	Yes	Stamped	Signed	NOT INDICATED	Mauta Gitonga
92	Ol Jorok	2	PRO18092-4	Yes	Stamped	Signed	2 JP, 2 NASA,	Simon Kamangaru
93	Ndaragwa	2	PRO18093-4	Yes	Stamped	Signed	3 JP, 1 NASA,	Nelson Njiru Namu
94	Tetu	2	PRO19094-4,	Yes	Stamped	Signed	2 JP, 1 NASA,	Agnes Wanjiku Muriuki
95	Kieni	3	PRO19095-20,19	Yes	Stamped	Signed	3 JP	Rebecca M Damiano
96	Mathira	3	PRO19096-12,9	Yes	Stamped	Signed	4 JP, 1 NASA, 2 PNU	Kanua J Kahura
97	Othaya	1	PRO19097-2	Yes	Stamped	Signed	1 JP, 1 NASA,	Anancieta K Musali
98	Mukurweini	2	PRO19098-1	Yes	Stamped	Signed	1 JP, 1 NASA, 1 PDP	Esther Wanjiku Wanjohi
99	Nyeri Town	2	PRO19099-2	Yes	Stamped	Signed	3 JP	Jeniffer Mugambi
100	Mwea	3	PRO20100-1,2,3	Yes	Stamped	Signed	1 JP, 3 NASA,	Julius Maini
101	Gichugu	3	PRO20101-3,4,5	Yes	Stamped	Signed	6 UNSPECIFIED	Not Indicated But Id No 7814721
102	Ndia	2	PRO20102-6	Yes	Stamped	Signed	4 UNSPECIFIED	Millicent Wanjiru Mbuti
103	Kirinyaga Central	2	PRO20103-10	Yes	Stamped	Signed	1 JP, 1 NASA,	Dominic Lebararai
104	Kangema	2	PRO21104-1,2	Yes	Stamped	Signed	2 JP, 2 ODM,	Arnold Soita Wekesa
105	Mathioya	2	PRO21105-4	Yes	Stamped	Signed	3 JP, 1 DP	Reuben M Mbuu
106	Kiharu	2	PRO21106-4,5	Yes	Stamped	Signed	1 JP, 1 ODM, 1 IND	Janet Ndanu Mutia
107	Kigumo	2	PRO21107-6	Yes	Stamped	Signed	2 JP, 1 NASA,	Mauta Kaindio
108	Maragwa	3	PRO21108-4,3,2	Yes	Stamped	Signed	2 JP, 1 NASA,	Emmah Gitau
109	Kandara	3	PRO21109-3,2,1	Yes	Stamped	Signed	2 IND	Malonza M Mule
110	Galanga	5	PRO21110-8,19,2,9,16	Yes	Stamped	Signed	1 JP, 1 NASA,	Lekopole Veronica
111	Gatundu South	3	PRO22111-5,6,7	Yes	Stamped	Signed	3 JP	Hellen Mutuya

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
112	Gatundu North	3	PRO22112-10,7	Yes	Stamped	Signed	3 JP, 1 NASA, 1 IND, KANU	P Muthée Gakuru
113	Juja	5	PRO22113-10,9,8	Yes	Stamped	Signed	1 JP	Justus M Mbithi
114	Thika Town	3	PRO22114-3,2,1	Yes	Stamped	Signed	1 JP, 1 NASA,	Geoffrey Gitobu Muthuria
115	Ruiru	3	PRO22115-5	Yes	Stamped	Signed	1 JP, 1 NASA, 1 IND, 1 KANU	Kwanusu Dickson Simiyu
116	Githunguri	3	PRO22116-1,2,3	Yes	Stamped	Signed		Hanson Mulo
117	Kiambu	2	PRO22117-3	Yes	Stamped	Signed	2 JP, 1 ODM,	Teresia Wanjiru Mithamo
118	Kiambaa	3	PRO22118-8,9,10	Yes	Stamped	Signed	3 JP, 1 DP, 1 IND	F Kitili Kavaya
119	Kabete	2	PRO22119-6,	Yes	Stamped	Signed	1 JP, 1 KANU, 1 IND	Rosemary Njoki Njeru
120	Kikuyu	2	PRO22119-4,	Yes	Stamped	Signed	1 JP, 1 NASA,	Tabitha W Mullu
121	Limuru	3	PRO22121-4,2,6	Yes	Stamped	Signed	1 JP, 1 NASA, 1 IND	Lucy Munyiri
122	Lari	2	PRO22122-7	Yes	Stamped	Signed	1 JP, 1 DP, 1 IND	Joseph Gitagama
123	Turkana North	4	PRO23123-8	No	Stamped	Signed	, 1 ODM,	Danson Ngitelejo
124	Turkana West	4	PRO23124-5,2,3,4	Yes	Stamped	Signed	1 JP, 1 ODM,	Patrick O. Wanyama
125	Turkana Central	2	PRO23125-2	Yes	Stamped	Signed	2 JP, 1 ODM, 1 IND	Marine Mutahi Bernard
126	Loima	2	-	No	Stamped	Signed	, 1 NASA,	Locha Erukudi (23359095)
127	Turkana South	4	PRO23127-4,5,2,7	Yes	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Joseph A. Lotukoi
128	Turkana East	4	-	No	Stamped	Signed	1 JP, 1 ODM, 1 KANU	Alfred K. Ronoh
129	Kapenguria	3	PRO24129-4,3	Yes	Stamped	Signed	1 JP, 1 NASA, 1 KANU	Kennedy K. Kibet
130	Sigor	1	PRO24130-9	Yes	Stamped	Signed	1 JP, 1 CCM, 1 KANU	Not Indicated
131	Kacheliba	4	PRO24131-10,9	Yes	Stamped	Signed	1 JP, 1 KANU, 1 PDR	Bonventure Obongoya

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
132	Pokot South	4	-	No	Not Stamped	Signed	1 JP, 1 ODM, 1 KANU	Mugwanga Junnah
133	Samburu West	2	PRO25133-7	Yes	Stamped	Signed	1 JP, 1 NASA, 2 KANU	Joshua Tulwo
134	Samburu North	1	PRO25134-10	Yes	Stamped	Signed	1 JP, 1 ODM,	Samuel Kiplimo Kurui
135	Samburu East	3	NO SERIAL	No	Stamped	Signed		Timothy Kirui
136	Kwanza	2	PRO26136-7	Yes	Stamped	Signed	, 2 ODM,	Sella Malamba
137	Endebess	2	PRO26137-10	Yes	Stamped	Signed	1 JP, 1 FK, 1NASA, 1ANC, 1 KANU, 1 IND	Agnes Warjala
138	Saboti	3	PRO26138-10	No	Stamped	Signed	NO AGENT	Stanley Kipkosgei Kiplkore
139	Kimini	2	PRO26139-7,8	Yes	Stamped	Signed	1 JP, 1 ODM, 2 FK,	Onditi Kennedy
140	Cherangany	2	PRO26140-1	Yes	Stamped	Signed	1 JP, 1 ODM,	Lazarus Chebii
141	Soy	3	PRO27141-3,4	Yes	Stamped	Signed	1 JP, 1 IND	Cheptot K. Daniel
142	Turbo	3	-	No	Stamped	Signed	3 JP	Michael Mwese
143	Moiben	4	-	No	Stamped	Signed	2 JP, 1 ODM,	Not Indicated
144	Ainabkoi	2	PRO27144-10	Yes	Stamped	Signed	, 1 ODM,	Selly Chesang
145	Kapseret	3	PRO27145-3,2,1	Yes	Stamped	Signed	1 JP, 1 ODM,	Jackton Okubasu
146	Kesses	2	PRO27146-1,5	Yes	Stamped	Signed	1 JP, 1 ODM,	Justus Naliakho Simali
147	Marakwet East	2	PRO28147-1	Yes	Stamped	Signed	1 JP, 1 ODM,	Martin Wekesa
148	Marakwet West	2	PRO28148-11	Yes	Stamped	Signed	1 JP, 1 ODM,	Michael Muchangi
149	Keiyo North	2	PRO28149-2	Yes	Stamped	Signed	5 JP	Mathew K. Kipchenger
150	Keiyo South	3	PRO281150-8,7	Yes	Not Stamped	Signed	2 JP, 1 KANU, 1 IND	Samwel K. Kenboi
151	Tinderet	2	PRO29151-7,8	Yes	Stamped	Signed	5 JP, 1 ODM,	Edward Kitum
152	Aldai	4	PRO29152-7,8,9,10	Yes	Stamped	Signed	1 JP, 1 ODM, 1	Doreen Wawire

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
153	Nandi Hills	2	PRO29153-3	Yes	Stamped	Signed	KANU 1 IND, 1 PK, 1 CONSTITUENCY CHIEF AGENT	Nanjakululu Peter Resa
154	Chesumei	4	-	No	Stamped	Signed	1 JP, 1 ODM,	Mildred Naswa Wanyonyi Wachiyè
155	Emgwen	2	PRO29155-5	Yes	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 IND	Rajab Barasa
156	Mosop	2	PRO29156-19	Yes	Stamped	Signed	3 JP, 1 CCM, 1 IND	Maximilla Langatt
157	Tiaty	2	PRO30157-12	Yes	Stamped	Signed	1 JP, 1 ODM, 1 THIRDWAY	Moses Ahete
158	Baringo North	4	PRO30158-16,17,18,(20,5)	Yes	Stamped	Signed	1 JP, 1 ODM,	Joseph Leboo Masindet
159	Baringo Central	2	PRO30159-10	Yes	Stamped	Signed	1 JP, 1 ODM, 2 KANU, 2 MCC, 2 IND	Dr. Erastus Orwa
160	Baringo South	2	PRO30159-20,20	Yes	Stamped	Signed	1 JP, 2 ODM,	Paul C. Kones
161	Mogotio	4	PRO30161-6,5	Yes	Stamped	Signed	1 JP, 1 NASA,	Leksat Seina
162	Eldama Ravine	3	PRO30162-17,16	Yes	Stamped	Signed	1 JP, 1 NASA, 1 KANU	Peter Ndirangu
163	Laikipia West	5	PRO31163-1,2,3,4,5	Yes	Stamped	Signed	2 JP, 1 NASA,	John Kinyua
164	Laikipia East	4	PRO31164-4,5,9,6	Yes	Stamped	Signed	1 JP, 2 NASA, 3 IND, 1 MCA	Acenia Wacera Njoroge
165	Laikipia North	2	PRO31165-9	Yes	Stamped	Signed	2 JP, 1 IND	Mbogo Njeru
166	Molo	3	PRO32166-4,10,3	Yes	Stamped	Signed	2 JP, 1 KANU, 1 ODM,	Kamau Wainaina Anthony
167	Njoro	3	PRO32167-1,2,8	Yes	Stamped	Signed	4 JP, 1 NASA, 2 IND	Samson O. Oriedo
168	Naivasha	4	PRO32168-3,4,5	Yes	Stamped	Signed	1 JP	Mbui David Muthuri
169	Gilgil	2	PRO32169-1	Yes	Stamped	Signed	1 JP, 1 NASA, 1 IND	Jeremiah Nguthu
170	Kuresoi South	3	PRO32170-8,6,7	Yes	Stamped	Signed	2 JP, 1 ODM,	George G. Chege
171	Kuresoi North	2	PRO32171-5	Yes	Stamped	Signed	, 1 ODM,	George Karani



Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
172	Subukia	2	PRO32172-8	Yes	Stamped	Signed	1 JP, 1 NASA,	Esborne Baraza
173	Rongai	5	PRO32173-16,17,18,19,20	Yes	Stamped	Signed	1 JP, 2 ODM,	Chelangat Rono Daisy
174	Bahati	2	PRO32174-4	Yes	Stamped	Signed	3 JP	Milliam Wanjiru Gachhi
175	Nakuru Town West	3	PRO32175-10,9,8	Yes	Stamped	Signed	1 JP, 1 ODM,	Gilbert K Serem
176	Nakuru Town East	3	PRO32176-1,2	Yes	Stamped	Signed	1 JP, 1 ODM, 1 IND	Haron Gathiru Njuguna
177	Kilgoris	3	PRO33177-12,11,10	Yes	Stamped	Signed	1 JP, 1 CCM, 1 ODM,	Elijah O. Mboggo
178	Emurua Dikirr	3	PRO33178-4,3,2	Yes	Stamped	Signed	1 JP, 1 NASA,	Lillian Okoth
179	Narok North	3	PRO33179-7,5,1	Yes	Stamped	Signed	2 JP, 1 ODM,	Mark M. Lempaka
180	Narok East	2	PRO33180-2,3	Yes	Stamped	Signed	3 JP, 1 NASA, 1 ODM, 2 IND	Christine Oieno
181	Narok South	3	PRO33181-3,2,1	Yes	Stamped	Signed	2 JP, 2 ODM,	Grace Atieno Owino
182	Narok West	2	PRO33182-4	Yes	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 IND	Noah Kiplagat Biamah
183	Kajiado North	3	PRO34183-8,7	Yes	Stamped	Signed		Agnes Siyiatu Nankeyai
184	Kajiado Central	2	PRO34184-6,7	Yes	Stamped	Signed	1 JP, 1 ODM,	Alice Ndunge Kimani
185	Kajiado East	6	PRO34185-4,5,6	Yes	Stamped	Signed	1 JP, 1 ODM,	Sylvia Maritim
186	Kajiado West	3	PRO34184-4,5, PRO34186-19	Yes	Stamped	Signed	NOT CLEAR	Id No: 9929799
187	Kajiado South	2	PRO34187-16,15	Yes	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Daniel Mbolu Musyoka
188	Kipkelion East	2	PRO35188-7,8	Yes	Stamped	Signed		Id No: 9100546
189	Kipkelion West	2	PRO35189	Yes	Stamped	Signed	1 JP, 1 IND	Lydia Chepkemni Rotich
190	Ainamoi	2	PRO35190-9,10	Yes	Stamped	Signed	4 JP, 1 ODM, 1 IND	Fredrick Hezekiah Owino Odenge
191	Bureti	3	PRO35191-14,15,16	Yes	Stamped	Signed	2 JP, 1 ODM,	Onyango Peter Ouma

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
192	Belgut	2	PRO35192-3	Yes	Stamped	Signed	1 JP, 1 NASA,	Lilian Vugutsa Ambatsa Liluma
193	Sigowet/Soin	2	PRO35193-6	Yes	Stamped	Signed	1 JP, 1 ODM,	Benard E. Mukaya
194	Sotik	2	PRO36194-8,	Yes	Stamped	Signed	6 JP	Vincent Kimeili
195	Chepalungu	4	-	No	Stamped	Signed	1 JP, 1 ODM, 1 UDP	Paul Mbugua
196	Bomet East	2	PRO36196-1,2	Yes	Stamped	Signed	1 JP, 1 ODM,	Jepchumba Sylvia
197	Bomet Central	3	PRO36197-2,9	Yes	Stamped	Signed	1 JP, 1 ODM, 2 KANU	James Mainigi Mwangi
198	Konoin	4	PRO36198-5,8	Yes	Stamped	Signed	NOT INDICATED	Chepkirui Catherine
199	Lugari	2	PRO37199-5	Yes	Stamped	Signed	NOT INDICATED	Id No: 13415722
200	Likuyani	2	PRO37200-3,4	Yes	Stamped	Signed	NOT INDICATED	Enock Gichaba Otara
201	Malava	3	PRO37201-3,4	Yes	Stamped	Signed	NOT INDICATED	Isaac Kiplagat Rutto
202	Lurambi	6	PRO37202-5,	Yes	Stamped	Signed	1 JP, 1 NASA,	Elida A Ochieng
203	Navakholo	3	PRO37203-1,	Yes	Stamped	Signed	1 JP, 1 ANC, 1 ODM, 1 PPK	Joyce Namunyak
204	Mumias West	1	PRO37204-6	Yes	Stamped	Signed	1 JP, 2 ANC,	Peres C Maiyo
205	Mumias East	3	PRO37205-2,3,1	Yes	Stamped	Signed	, 1 ODM,	Lazarus Edonga
206	Matungu	3	PRO37206-4,5,6	Yes	Stamped	Signed	1 JP, 1 ANC, 1 ODM,	John Kirui
207	Butere	4	PRO37207-1,2,3,4	Yes	Stamped	Signed	1 JP, 1 ANC,	Nancy Iyadi
208	Khwisero	3	-	No	Stamped	Signed	NOT INDICATED	Omondi George Eric
209	Shinyalu	2	-	No	Stamped	Signed	NOT INDICATED,	Henry Bahati L.

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
210	Ikolomani	2	PRO37210-7,8	Yes	Stamped	Signed	1 KANU, 1 ODM	Hudson Salenoi
211	Vihiga	2	PRO38211-1,	Yes	Stamped	Signed	,1 ANC,1 FORD K, 1 UDP, 1 PPK	Isaac Ruto
212	Sabatia	3	PRO38212-3,2,5	Yes	Stamped	Signed	,2 ODM,1 IND, 1 FORD K	Mark Ouma Owiso
213	Hamisi	2	PRO38213-8	Yes	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 FPK, 1 PPK, 1 FORD K	Thomas Kipkemboi Ngetich
214	Luanda	4	PRO38214-1,2,5,6	Yes	Stamped	Signed	1 JP, 1 ODM, 1 UDP	Sylvester Ouma Omolo
215	Emuhaya	2	PRO38215-2,3	Yes	Stamped	Signed	,2 ODM, 1 UDP, 1 KADU	Salim Abdullah
216	Mt. Elgon	2	CA0392161077-5,	Yes	Stamped	Signed	1 JP, 3 ODM,	Juma Joseph Odhior
217	Sirisia	3	PRO39217-10,1,2	Yes	Stamped	Signed	FORD K	Kenneth Ocharyo
218	Kabuchai	2	-	No	Stamped	Signed	1 JP, 1 ODM,	Benson Esuza Lunwagi
219	Bumula	3	PRO39219-7,8,9	Yes	Stamped	Signed	1 JP, 2 ODM, 1 FORD K,	Nobert Kemei
220	Kanduyi	4	PRO39220-9,10,11,12	Yes	Stamped	Signed	UNSPECIFIED	Gregory Odhiambo Ouko
221	Webuye East	3	-	No	Stamped	Signed	,1 ODM, 1 ANC, 1 IND	Peris Saina
222	Webuye West	3	-	No	Stamped	Signed	2 JP1 UNSPECIFIED	Cyril Esurumait Ehang'
223	Kimilili	4	PRO39217-4,3	Yes	Stamped	Signed	,1 FORD K,	Moses Lokuwom Munyes
224	Tongaren	3	PRO39224-4,5,6	Yes	Stamped	Signed	1 JP, 1 FORD K, 1 ODM,	Kaburia Edwin
225	Teso North	2	PRO40225-2	Yes	Stamped	Signed	1 JP, 1 ODM,	Juliar Auma Gomity
226	Teso South	2	PRO40226-4,5	Yes	Stamped	Signed	NO AGENTS	Roselyne A. Onyango

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
227	Nambale	2	PR040227-9	Yes	Stamped	Signed	2 JP, 1 ODM, 1 ANC, 1 WIPER, 1 IND	Kipkogei Bowen Noah
228	Matayos	2	PR040228-8,9	Yes	Stamped	Signed	5 UNSPECIFIED	Jremiah Kerich
229	Butula	4	PR040229-2	No	Stamped	Signed	,1 WIPER, 1 ODM, ,1 PPK, 2 IND	Jackson Limaris
230	Funyula	3	PR040230-1,2,3	Yes	Stamped	Signed	1 JP, 3 ODM, 1 NASA, 1 LPK, 1 LABOUR	Godfrey Engor
231	Budalangi	3	-	No	Stamped	Signed	3 UNSPECIFIED	Peter Tiyo
232	Ugenya	2	PR041232-8	Yes	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 FORD	Isaiah Nabukayo
233	Ugunja	1	PR041233-2	Yes	Stamped	Signed	1 JP, 1 ODM,	Rose Obari
234	Alego Usonga	2	PR041234-2	Yes	Stamped	Signed	1 JP	Simiyu Nandokia Maurice
235	Gem	2	PR041235-20,19	Yes	Stamped	Signed	,1 ODM,	Martin Omolo
236	Bondo	2	PR041236-5	Yes	Stamped	Signed	1 JP, 1 ODM, 5 UNSPECIFIED	John K Matekwa
237	Rarieda	3	PR041237-10	Yes	Stamped	Signed	3 UNSPECIFIED	Rebecca Abwaku
238	Kisumu East	2	PR042238-5	Yes	Stamped	Signed	,2 ODM,	Yvonne Okeyo
239	Kisumu West	3	PR042239-8,9,10	Yes	Stamped	Signed	1 JP, 1 ODM,	Not Indicated
240	Kisumu Central	2	PR042240-9	Yes	Stamped	Signed	,1 ODM, 1 IND	John Ngutai Muyekho
241	Seme	2	PR042241-5,6	Yes	Stamped	Signed	,2 ODM,	Evalyn Asiko
242	Nyando	4	PR042242-3,4,5,6	Yes	Stamped	Signed	1 JP, 1 ODM,	Carol Okky
243	Muhoroni	2	PR042243-5,8	Yes	Stamped	Signed	2 JP, 1 ODM,	Alice Cheruiyot
244	Nyakach	2	PR042244-18,17	Yes	Stamped	Signed	1 JP, 2 ODM,	George Jobando
245	Kasipul	4	PR043245-9,10	Yes	Stamped	Signed	1 JP, 1 ODM,	Clement Ositemo
246	Kabondo Kasipul	2	PR033181-6,5	Yes	Stamped	Signed	2 IND	Moses Sarara
247	Karachuonyo	3	PR043247-9,10,8	Yes	Stamped	Signed	1 JP, 2 ODM, 1 WIPER,	Jacqueline Ositemo

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
248	Rangwe	3	PR043248-9,8,7	Yes	Stamped	Signed	,4 ODM,1 IND	Ezekiel Otieno Juma
249	Homa Bay Town	2	PR043249-2	Yes	Stamped	Signed	1 GCK, 1 IND	Kipruto K. Yegon
250	Ndhiwa	3	PR043250-6,7,8	Yes	Stamped	Signed	1 JP,1 ODM,	Yusuf Wasike
251	Suba North	2	PR043251-4	Yes	Stamped	Signed	,3 ODM,	Bernard O. Chienga
252	Suba South	2	PR043252-2,10	Yes	Not Stamped	Not Signed	1 JP,1 ODM,1 THIRD WAY	Not Indicated
253	Rongo	2	PR044253-4,5	Yes	Stamped	Signed	1 JP,2 ODM,	Ole Taiswa John
254	Awendo	2	PR044254-3	Yes	Stamped	Signed	1 JP,1 ODM,	Lazarus Megei Miruka
255	Suna East	2	PR044255-7	Yes	Stamped	Signed	,5 ODM,	Leonard Ameyya Okenwa
256	Suna West	2	PR044256-5	Yes	Stamped	Signed	1 JP,1 IND,	Mwita Julius Chacha
257	Uiri	2	PR044257-10	Yes	Stamped	Signed	1 JP,1 ODM,2 IND	Benson Ambuko
258	Nyatike	3	PR044258-14,15,16	Yes	Stamped	Signed	1 JP,1 CCM,1 IND	Ruttoh Kipyegon Wesley
259	Kuria West	1	PR044259-1	Yes	Stamped	Signed	1 JP,1 ODM,1 PDP	Joseph Ngeno
260	Kuria East	1	PR044260-3	Yes	Stamped	Signed		Joel Omae Okiabera
261	Bonchari	2	PR045261-4,8	Yes	Stamped	Signed	2 JP,1 ODM,	K. Cherop
262	South Mugirango	2	PR045262-1,2	Yes	Stamped	Signed		Wilson K. Kipchumba
263	Bomachoge Borabu	2	PR045263-5,	Yes	Stamped	Signed	,1 ODM,1 PDP, 1 IND	Odul Bernard Arwings
264	Bobasi	4	PR045264-10,14,11,5	Yes	Stamped	Signed	1 JP, 1 ODM,1 KNC	Moses Daula
265	Bomachoge Chache	3	PR045265-7,8	Yes	Stamped	Signed	5 UNSPECIFIED	Amosi Chilai
266	Nyaribari Masaba	4	PR045266-1,2,3,4,10	Yes	Stamped	Signed	1 JP,1 ODM,	Mark Manco
267	Nyaribari Chache	3	PR045267-6,8	Yes	Stamped	Signed	1 JP,1 ODM, 1 CCM,	Julius Meja Okeyo
268	Kitutu Chache North	3	PR045268-6,1,9	Yes	Stamped	Signed	,1 ODM,	Eunice Jelagat Maru

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
269	Kitutu Chache South	2	PRO45269-4	Yes	Stamped	Signed	,3 ODM,	Hilda Imbo
270	Kitutu Masaba	2	PRO46270-14	Yes	Stamped	Signed	2 JP2 DDA,1 IND, 1 WDM	Ngeny Robert K
271	West Mugirango	3	PRO46271-10,1,3,	Yes	Stamped	Signed	1 JP,1 NASA,	Samson O Mayo
272	North Mugirango	3	PRO46272-8,2,1	Yes	Stamped	Signed	2 JP, 1 ODM,	Marjorie P Owino
273	Borabu	2	PO46273-3	Yes	Stamped	Signed	NOT INDICATED	Not Indicated
274	Westlands	6	PR047274-8,9,10	Yes	Stamped	Signed	1 JP,1 ODM, 1 NASA,	Catherine Kithinji
275	Dagoretti North	3	PR047275-8,7	Yes	Stamped	Signed	2 JP, 1 ODM,	Maina J. Mungai
276	Dagoretti South	2	PR047276-9	Yes	Stamped	Signed	1 JP1 IND	Maurice Owino Lignlu
277	Langata	3	PR047277-3	Yes	Stamped	Signed	1 JP, 1 ODM (REFUSED TO SIGN),	Sukuku Martin Simotwo
278	Kibra	3	PR047278-9,6,5	Yes	Stamped	Signed	2 JP, 2 ODM, 1 PDU	Beatrice Saki Muli
279	Royasambu	3	PR047279-9,10,7	Yes	Stamped	Signed		None
280	Kasarani	3	PR047080-1,2,3	Yes	Stamped	Signed	3 JP	Bernard Musee
281	Ruaraka	5	PR047281-3,4	Yes	Stamped	Signed		Karen W. Mwangi
282	Embakasi South	4	PR047282-3	Yes	Stamped	Signed	2 JP, 2 ODM,	Charles Kakundi Kyavoa
283	Embakasi North	4	PR047283-4,3	Yes	Stamped	Signed	1 JP, 1 NASA,	Frank Boinett
284	Embakasi Central	6	PR047284-1,2,4,3,5,6	Yes	Stamped	Signed	2 JP1 OBSERVER, 1 IND	Fridah Chebet
285	Embakasi East	3	PR047285-9,10	Yes	Stamped	Signed	1 JP, 1 ODM,	Nicholas K. Buttuk
286	Embakasi West	3	PR047286-3,1,2	Yes	Stamped	Signed		Andrew Njoroge
287	Makadara	5	PR047287-7,8,9,10,1	Yes	Stamped	Signed	2 JP, 1 ODM, 1	Moses Simiyu

Const. Code	Constituency	No. of Pages	Serial Number.	Barcode	Stamped By IEBC	Signed By Returning Officer	Party Agents	Name of the Returning Officer
288	Kamukunji	4	PRO47288-4,9,6,10	Yes	Stamped	Signed	IND 5 JP, 1 ODM, 1 IND	Mary Ndungu
289	Starehe	3	PRO47289-2,4,3	Yes	Stamped	Signed	, 1 NASA,	Philice Kayiamba
290	Mathare	8	PRO47290-1,2,3,4,5,7,8	Yes	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Josephat Mwololo
291	Diaspora	1	PRO48291-2	Yes	Stamped	Signed		Abdidahir Maalim Abdi

**ANALYSIS OF FORMS 34A DISPUTED IN THE AFFIDAVIT OF DR. NYANGASI ODUWO IN SUPPORT OF THE PETITION**

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
1	223	Baringo	Baringo Central	Kaptimbor Pri. Sch.	1	PR263191	Stamped	Signed	1 JP, 2 IND	Samwel Kiprono Boswony
2	223	Baringo	Baringo Central	Kaptimbor Pri. Sch.	2	PR263203	Stamped	Signed	,1 KANU, 1 MCC, 2 IND	Kibet Kiplagat Victor
3	223	Baringo	Eldama Ravine	Kimulwa Nursery Sch.	1	PR268795	Stamped	Signed	1 JP, 1 NASA, 1 KANU, 1 IND	Isaac Chepkok
4	195	Bomet	Konoin	Kimulot Pri. Sch.	1	PR333199	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 GW, 1 UDP	Wycliffe K Maritim
5	195	Bomet	Konoin	Kimulot Pri. Sch.	2	PR333211	Stamped	Signed	1 JP, 1 ODM,	Japheth Ageno
6	195	Bomet	Konoin	Kimulot Pri. Sch.	3	PR333217	Stamped	Signed	1 JP, 1 ODM, 1 UDP	Patrick Dasino
7	197	Bomet	Konoin	Mugenyi Pri. Sch.	1	PR333145	Stamped	Signed	3 JP, 1 ODM, 1 THIRDWAY, 1 CCM	Diana Sang
8	197	Bomet	Konoin	Mugenyi Pri. Sch.	2	PR333157	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 UDP, 1 LAK	Ruto Julius Cherviyot
9	198	Bomet	Konoin	Kapkilabei Pri. Sch.	1	PR333109	Stamped	Signed	1 JP, 1 ODM, 3 IND, 1 UDP, 1 KANU, 1 CCM	Kirui Simon
10	198	Bomet	Konoin	Kapkilabei Pri. Sch.	2	PR333127	Stamped	Signed	1 JP, 1 ODM, 1 TAK, 1 KANU, 2 IND, 1 UDP, 1 CCM	Robert Maritim
11	209	Bomet	Konoin	Kimulot Primary	1	PR333199	Stamped	Signed	1 JP, 1 ODM, 1 THIRDWAY, 1 UDP, 1 IND	Wycliffe K. Maritim
12	209	Bomet	Konoin	Kimulot Primary	2	PR333211	Stamped	Signed	1 JP, 1 ODM,	Japhet Kiprono Ngeno
13	209	Bomet	Konoin	Kimulot	3	PR333217	Stamped	Signed	1 JP, 1 ODM, 1 UDP	Patrick

***The Dissenting Judgement of Njoki S. Ndungu, SCJ***  
***Presidential Petition No. 1 of 2017***



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
				Primary						Mathigwony Dasino
				Murguiywet Nursery School						Fridah Chepkemoi Korir
14	209	Bomet	Konoin	Chekeliek Nursery Sch.	1	PR333235	Stamped	Signed	2 JP, 1 ODM, 1 KANU, 1 IND	Chemunyan Kipngetich Ibrahim
15	213	Bomet	Konoin	Aregeriot Pri.	1	PR333631	Not Stamped	Signed	2 JP, 1 NASA,	Koskey Bernard Kiproitch
16	217	Bomet	Konoin	Kabomo Tbc	1	PR334423	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 KANU, 3 IND	Kiproitch Gilbert Cheriuyot
17	217	Bomet	Konoin	Kigonor Tbc	1	PR334591	Stamped	Signed	1 JP, 1 ODM, 1 TWP, 2 IND	Raymond Ngetich
18	217	Bomet	Konoin	Kimaech Pri.	1	PR334525	Stamped	Signed	3 JP, 1 CCM, 1 ODM, 1 TAK, 1 UDP, 1 KANU, 2 IND	Mutai John Janneth C Rotich
19	217	Bomet	Konoin	Kipsigiirio Tbc	1	PR334573	Stamped	Signed	1 JP, 1 ODM, 1 UDP, 1 IND	
20	217	Bomet	Konoin	Kirimose Pri.	1	PR334309	Stamped	Signed	3 JP, 1 ODM, 1 CCM, 1 THIRDWAY, 1 KANU, 2 IND	Kirui Kiplangat
21	217	Bomet	Konoin	Kirimose Pri.	1	PR334309	Stamped	Signed	3 JP, 1 ODM, 1 CCM, 1 THIRDWAY, 1 KANU, 2 IND	Kirui Kiplangat
22	217	Bomet	Konoin	Kirimose Pri.	1	PR334309	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 UDP, 1 THIRDWAY, 3 IND	Festus Cheriuyot
23	217	Bomet	Konoin	Kirimose Pri.	2	PR334327	Stamped	Signed		

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
24	217	Bomet	Bomet Central	Kiriswo Pri.	1	PR332174	Not Stamped	Signed	2 JP, 2 NASA, 1 CCM, 1 THIRDWAY, 1 KANU, 1 UDP	Chemutai Ngetich Everlyn
25	217	Bomet	Konoin	Komirir Pri.	1	PR334519	Not Stamped	Signed	2 JP, 1 CCM, 1 UDP, 1 THIRDWAY, 3 IND	Chepkwony Samuel K
26	217	Bomet	Bomet Central	Kopkoros Health Centre	1	PR332329	Stamped	Signed	1 JP, 1 ODM, 1 KANU, 1 IND	Agnes C. Ngeno
27	217	Bomet	Bomet Central	Kopkoros Health Centre	2	PR332342	Stamped	Signed	3 JP, 1 CCM, 1 UNDP, 1 THIRDWAY ALLIANCE	Jackine Chepogeno Langat
28	217	Bomet	Konoin	Muramet Pri.	1	PR334471	Stamped	Signed	2 JP, 1 CCM, 1 KANU, 1 IND	Daisy Chepkemnoi
29	217	Bomet	Konoin	Sinendoik Pri.	1	PR334495	Stamped	Signed	1 JP, 1 ODM, 1 CCM,	Dennis T Koeh
30	218	Bomet	Konoin	Kugerwet Pri.	1	PR334458	Stamped	Signed	1 JP, ,	Chirchir Wilson
31	218	Bomet	Konoin	Sitonik Primary School		PR334663	Stamped	Signed	1 JP, 1 ODM, 1 UDP, 1 3 WAY ALLIANCE	Emmy Cherotich Langat
32	218	Bomet	Konoin	Sotit Pri.	1	PR334333	Stamped	Signed	3 JP, 1 ODM, 1 TAK, 1 UDP, 1 KANU, 4 IND	Mwema Wyclif
33	218	Bomet	Konoin	Taboino Pri.	1	PR334357	Stamped	Signed	1 JP, 1 ODM, 1 TAK, 1 IND	Soi Kiplagat Erick
34	218	Bomet	Konoin	Taboino Pri.	2	PR364369	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 UDP, 1 TAK, 2 IND	Erick Rotich
35	222	Bomet	Konoin	Chekeliek Nursery	1	PR33631	Stamped	Signed	2 JP, 1 ODM,	Chemunyan Kipngetut Ibrahim

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
36	222	Bomet	Konoin	N. Chebelyon Pri	1	PR333751	Stamped	Signed	2 JP, 1 ODM, 1 THIRD WAY ALLIANCE	Chepkemoi Margaret
37	223	Bomet	Belgut	Chemamul Pri.	1	PR323755	Stamped	Signed	1 JP, 1 NASA, 1 INDEPENDENT	Caroline Koech
38	223	Bomet	Belgut	Chemamul Pri.	2	PR323761	Stamped	Signed	1 JP, 2 INDEPENDENT, 1 KANU	Charles Kiprono Cherritot
39	223	Bomet	Konoin	Kitumbe Pri. Sch.	1	PR332851	Stamped	Signed	2 JP, 1 ODM, 1 UDP, 1 THIRD PARTY, 1 IND	Suzan C. Mitei
40	223	Bomet	Konoin	Kitumbe Pri. Sch.	2	PR332857	Stamped	Signed	2 ODM, 1 CCM, 1 KANU, 1 THIRD WAY	David K. Koech
41	123	Bomet	Bomet Central	Bomet Priy School	1	PR331399	Not Stamped	Signed	1 JP, 1 ODM, 1 IND	Bett Joseph Kiplangat
42	123	Bomet	Bomet Central	Bomet Priy School	4	PR331435	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 CCM, 1 KANU	Chelule Jeremiah
43	123	Bomet	Bomet Central	Kabusare Priy	1	PR331681	Stamped	Signed	1 JP, 1 NASA, 1 IND	Kurgat Leonard Cherruyot
44	198	Bomet	Konoin	Kapklalbei Pri. Sch.	3	PR333142	Stamped	Signed	1 ODM, 1 IND	Kiplangat D.A Koech
45	223	Bomet	Bomet Central	Chepkongony Pri		PR331531	Stamped	Signed	1 JP, 1 ODM, 1 UDP, 1 KANU, 1 TAK	Wesley Kipkoech
46	200	Bomet	Bomet Central	Maaset Primary School	1	PR332545	Stamped	Not Signed	5 JP, 1 CCM, 1 UDP, 1 ARK, 1 THIRDWAY, 1 IND	None
47	73	Busia	Funyula	Nyakwaka Primary	1	PR380738	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC, 1 FK, 1 FPK	Luvaga K Dalala

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
48	73	Busia	Funyula	Nyakwaka Primary	2	PR380749	Not Stamped	Signed	1 JP, 1 WIPER, 1 KNC 1 NS 2 IND	Magoye N Bonventure
49	74	Busia	Funyula	Busijo Primary	2	PR381373	Stamped	Signed	1 JP, 2 ODM, 1 CCU 2 IND	Fredrick B Mulumia
50	223	Elgeyo/Marakwe	Keiyo South	Kapkitony		PR249451	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 KANU	Caroline Jeruto Lagat
51	223	Elgeyo/Marakwe	Keiyo South	Kapkitony		PR249463	Stamped	Signed	1 JP, 2 IND	Kapakai Moses
52	223	Elgeyo/Marakwe	Keiyo North	Kipchawat Pri.		PR247129	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 2 IND, 2 KANU	David Kiplimo Kiyeng
53	158	Embu	Manyatta	Ack Mehonoke Church Grounds	1	PR089605	Stamped	Signed	1 JP, 1 MCC, 1 DP, 2 PNU, 1 INDEPENDENT	Consolata Mueni Kinyili
54	158	Embu	Manyatta	Faithful Church Of Christ Makubiri	1	PR089617	Stamped	Signed	1 JP, 1 DP, 1 INDEPENDENT	Mwaniki Eustace Njagi
55	158	Embu	Manyatta	Full Gospel Church Ground Njikiri	1	PR089461	Stamped	Signed	3 JP, 1 PNU, 1 MCC, 2 INDEPENDENT	Samson Murithi Njiru
56	158	Embu	Manyatta	Full Gospel Church Grounds Gitturi	1	PR089767	Not Stamped	Signed	1 JP, 1 NARC, 1 MCC, 1 PNU, 1 SAFINA, 4 INDEPENDENT, 2 DP	Titus Muchira Njiru
57	158	Embu	Manyatta	Full Gospel Church Grounds Ndundur	1	PR089713	Stamped	Signed	1 JP, 1 DPK, 1 NARC	Isaac Munga

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
58	158	Embu	Runyenjes	Gatura Tea Buying Center	1	PR090145	Not Stamped	Signed	,2 IND	Hellen Wanja
59	158	Embu	Runyenjes	Gichera Pri.	1	PR090187	Stamped	Signed	1 JP, 1 NASA, 1 IND	Henry Njue K
60	158	Embu	Runyenjes	Gichera Pri.	2	PR090199	Stamped	Signed	1 JP, 1 NASA, 1 MCC	Kelvin Gitonga
61	158	Embu	Runyenjes	Gikuuri Pri.	1	PR090619	Not Stamped	Signed	1 JP, 1 NASA, 1 NARC-K, 2 MCC, 1 DPK, 2 IND	Cathrine M, Uthoni
62	158	Embu	Runyenjes	Gikuuri Pri.	2	PR090625	Stamped	Signed	2 JP, 1 PNU, 1 DP, 1 NARC -K, 1 MCC, 1 DPK	Nelson Karanja Njeru
63	158	Embu	Runyenjes	Gikuuri Pri.	3	PR090643	Stamped	Signed	2 JP, 1 ODM, 1 DP, 1 IND	David Kariki Kanyungi
64	158	Embu	Runyenjes	Gikuuri Pri.	4	PR090655	Stamped	Signed	1 JP, 1 PNU, 1 NARC-K, 1 DP, 2 IND	Rosemilia M Njeru
65	158	Embu	Mbeere South	Kanduku Pri. Sch.	1	PR093799	Stamped	Signed	1 JP, 1 PNU, 1 IND, 1 MCC, 1 DPK	Daniel Mbogoh Veronica Wawira
66	158	Embu	Runyenjes	Kanduri Pri.	1	PR090289	Stamped	Signed	1 JP, 1 ODM, 1 IND	Veronica Wawira
67	158	Embu	Runyenjes	Kanduri Pri.	2	PR090307	Stamped	Signed	1 JP, 1 DP, 1 MCC, 1 DPK, 1 NARC-K, 1 IND	Augustine Njeru Njiru
68	158	Embu	Runyenjes	Kangondi Pri. Sch.	1	PR090279	Not Stamped	Signed	1 JP, 1 MCC, 1 IND	Moses Mwaniki
69	158	Embu	Mbeere South	Kanothi Pri. Sch.	1	PR093541	Stamped	Signed	1 JP, 1 MCC, 1 IND	Catherine Mwanzia
70	158	Embu	Mbeere South	Kanothi Pri. Sch.	2	PR093553	Stamped	Signed	1 JP, 6 IND, 1 PNU, 1 KANU, 1 NARC, 1 FORD PARTY	Hesbon Njeru
71	158	Embu	Runyenjes	Kanyayveri Tea Buying Center	1	PR091195	Not Stamped	Signed	1 JP, 1 MCC, 1 DPK	Betty Muthoni Mbogo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
72	158	Embu	Mbeere South	Kariari Pri. Sch.	1	PR094004	Stamped	Signed	NOT LEGIBLE	Elijah Nzioka Kathambu
73	158	Embu	Runyenjes	Kathageri Youth Polytechnic	1	PR091371	Stamped	Signed	1 JP, 2 NASA, 1 MCC, 1 NARK, 1 PNU, 2 IND	John Nyaga Simon
74	158	Embu	Runyenjes	Kathageri Youth Polytechnic	2	PR091392	Stamped	Signed	NO AGENT	Joseph Njeru
75	158	Embu	Runyenjes	Kathari Pri. Sch.	1	PR091279	Stamped	Signed	2 JP, 1 MCC, 1 PNU, 4 IND	James N Murithi
76	158	Embu	Runyenjes	Kathari Pri. Sch.	2	PR091285	Stamped	Signed	1 JP, 1 PNU, 1 DPK	Emilio Nyaga
77	158	Embu	Runyenjes	Kavutiri Pri.	1	PR090055	Not Stamped	Signed	1 JP, 1 NASA,	Jeremiah Nyaga
78	158	Embu	Runyenjes	Kavutiri Pri.	2	PR090067	Not Stamped	Signed	1 JP, 1 PNU, 1 MCC	Martin Mbogo Gakono
79	158	Embu	Runyenjes	Kiamuceru Tea Buying Centre	1	PR091231	Not Stamped	Signed	1 JP, 1 PNU, 1 DPK, 2 MCC, 4 IND	Sharon Njeru
80	158	Embu	Runyenjes	Kiandong'o Tea Buying Centre	1	PR091247	Not Stamped	Signed	NOT LEGIBLE	Lewis Nyaga
81	158	Embu	Runyenjes	Kiandong'o Tea Buying Centre	2	PR091255	Stamped	Signed	, 1 ODM, 1 PNU	Jeremiah Nthiga
82	158	Embu	Runyenjes	Kiandong'o Tea Buying Centre	3	PR091261	Stamped	Signed	1 JP, NASA, 1 DPK, 1 MCC, 1 IND	Betha Guri Njiru
83	158	Embu	Runyenjes	Kirimiri Coffee Factory	1	PR090997	Stamped	Signed	1 JP, 1 PNU, 1 IND	Daisy Mukami Ngondi
84	158	Embu	Mbeere South	Kiritiri Pri. Sch.	4	PR093685	Stamped	Signed	1 JP, 3 IND, 2 MCC, 1 PNU, 1 DPK, 1 DP	Rahab Nyambura Kamau

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
85	158	Embu	Runyenjes	Kithunguthia Pri.	1	PR090421	Stamped	Signed	1 JP, 1 IND	John Munyi
86	158	Embu	Runyenjes	Kithunguthia Pri.	1	PR090409	Stamped	Signed	1 JP, 1 MCC, 1 DPK, 1 NARC-K, 4 IND	Philip Kizito Njeru
87	158	Embu	Manyatta	Kwa Douglas Bus Stage	1	PR089666	Stamped	Signed	2 JP, 1 PNU, 1 SAFINA, 1 MCC, 3 IND	Caroline Mutisya
88	158	Embu	Runyenjes	Maciara Tea Sch.	1	PR091153	Stamped	Signed	1 JP, 2 NASA, 1 MCC, 1 NARC, 1 DPK, 1 PNU, 1 DP, 1 IND	Martin Njeru
89	158	Embu	Mbeere South	Marimari Pri. Sch.	1	PR093848	Not Stamped	Signed	1 JP, 1 PNU, 1 MCC	Not Legible
90	158	Embu	Manyatta	Mikimbi Full Gospel Grounds	1	PR089455	Not Stamped	Signed	1 JP,	Juliet Kanini
91	158	Embu	Runyenjes	Muchangori Pri.	1	PR090025	Stamped	Signed	1 JP, 1 NARC-K, MCC, 1 PNU, 1 DPK, 1 IND	Cathrine Ruth Wawira
92	158	Embu	Runyenjes	Muchangori Pri.	2	PR090043	Stamped	Signed	1 JP, 1 PNU, 1 NARC-K, 1 DP, 1 DPK, 1 MCC	Moses Mukundi Njeru
93	158	Embu	Runyenjes	Mugaari Tea Buying Center	1	PR091165	Stamped	Signed	2 JP, 1 NARC, 1 PNU, 2 IND	Michael Mthiga Gitau
94	158	Embu	Runyenjes	Ndamunge Tea Buying Center	1	PR090961	Stamped	Signed	1 JP, 1 NASA, 1 MCC	Josphat Ndwigga Njiru
95	158	Embu	Manyatta	Nembure Polytechnic	1	PR089533	Stamped	Signed	1 JP, 1 MCC, 1 NARC, 1 PNU, 1 INDEPENDENT	Wilson Mutege Njeru
96	158	Embu	Manyatta	Nembure Polytechnic	2	PR089545	Stamped	Signed	2 JP, 2 MCC, 1 PNU, 1 INDEPENDENT	Christine F. Njeri
97	158	Embu	Runyenjes	Nguire Pri.	1	PR089845	Stamped	Signed	1 JP, 1 NARC-K, 1 MCC, 1 PNU, 1	Paul Musyoki Nzomo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									DEVOLUTION PART, 1 IND	
98	158	Embu	Runyenjes	Nguire Pri.	2	PR089845	Stamped	Signed	1 JP, 1 PNU, MCC, 1 NARC -K, 3 IND	Emilio Kathuri Njeru
99	158	Embu	Runyenjes	Ngurueri Coffee Factory	1	PR089821	Stamped	Signed	1 JP, 1 ODM,	Robert Kinyua Peter
100	158	Embu	Mbeere South	Raciina Pri. Sch.	1	PR093937	Stamped	Signed	1 JP, 1 PNU, 1 IND	Lole Mathew Mwikya
101	158	Embu	Manyatta	Teacher Advisory Center Hall	1	PR089479	Stamped	Signed	1 JP, 1 PNU	Consolata Njeri Rutere
102	158	Embu	Runyenjes	Thigingi Pri. Sch.	1	PR091027	Stamped	Signed	,1 PNU, 1 MCC, 1 NPK	Daniel Mammu Njagi
103	158	Embu	Runyenjes	Ugweri Pri.	1	PR090325	Not Stamped	Signed	1 JP, 1 DEVOLUTION, 1 IND	Stephen Njeru Nyagah
104	158	Embu	Runyenjes	Ugweri Pri.	2	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM, 1 DC, 1 PNU	David Munene Nyaga
105	158	Embu	Runyenjes	Ugweri Pri.	3	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM, 2 DC, 1 PNU	David Munene Nyaga
106	160	Embu	Mbeere North	Gangara Pri. Sch.	1	PR094591	Stamped	Signed	1 JP,	Dorcas Gatwiri Kirimi
107	160	Embu	Mbeere North	Gangara Pri. Sch.	2	PR094598	Stamped	Signed	1 JP, 1 ODM,	Nicholas Njeru
108	160	Embu	Mbeere North	Gatakari Pri. Sch.	1	PR094819	Stamped	Signed	1 JP, 1 MCC, 2 INDEPENDENT	Lawrence Njagi Mugo
109	160	Embu	Mbeere North	Itira Pri. Sch.	2	PR094555	Stamped	Signed	1 JP, 1 MCC, 1 PNU, 1 INDEPENDENT, 1 KENDA	Dorothy W. Marondo
110	160	Embu	Mbeere North	Kathigagaceru Pri. Sch.	1	PR094951	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Lucy Rutunyiri Njiru
111	160	Embu	Mbeere	Kwa-Andu-	1	PR094123	Stamped	Signed	1 JP, 1 MCC, 1	Millicent



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			North	Ambogo Pri. Sch.					NARC, 1 PNU, 3 INDEPENDENT	Muthoni John
112	160	Embu	Mbeere North	Mwonda Pri. Sch.	1	PR094135	Stamped	Signed	1 JP, 1 MCC, 1 DP, 6 INDEPENDENT	Abigail Ndegi Kithaka
113	160	Embu	Mbeere North	Mwonda Pri. Sch.	2	PR094147	Stamped	Signed	2 JP,	Abisang Wanjeru Ndwiiga
114	160	Embu	Mbeere North	Ndutori Pri. Sch.	1	PR094573	Stamped	Signed	1 MCC, 1 KENDA, 1 DPK, 1 NARC, 2 INDEPENDENT	Catherine Wangari Njeru
115	160	Embu	Mbeere South	Nyambori Pri. Sch.	1	PR094099	Not Stamped	Signed	1 MCC	Nthei Pius
116	160	Embu	Mbeere South	Sda Mariari Pri. Sch.	1	PR094111	Stamped	Signed	1 JP, 4 IND, 1 MCC, 1 PNU	Sammy Munyao Muia
117	160	Embu	Mbeere North	Siakago Hall	1	PR094495	Stamped	Signed	1 JP, 1 NARC, 1 INDEPENDENT	Catherine W. Ndwiiga
118	160	Embu	Mbeere North	Siakago Hall	2	PR094507	Stamped	Signed	1 JP, 1 ODM, 1 NPK, 1 INDEPENDENT	Scolastica K. Nthiga
119	160	Embu	Mbeere North	Siakago Hall	3	PR094513	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 1 NARC	John N. Njuki Stella Wanjiku Njeru
120	162	Embu	Runyenjes	Gatinda Pri. Sch.	1	PR090715	Stamped	Signed	1 JP,	Johnfred Njeru
121	162	Embu	Runyenjes	Nduuri Pri. Sch.	1	PR090841	Stamped	Signed	1 JP, 1 PNU, 1 MCC	Johnfred Nyaga
122	162	Embu	Runyenjes	Nduuri Pri. Sch.	2	PR090853	Stamped	Signed	3 JP, 1 PNU, 1 MCC, 1 NARC, 1 IND	Teresa Wanja
123	162	Embu	Runyenjes	Runyenjes Municipal Hall	1	PR090805	Stamped	Signed	NO AGENT	David N. Wanugu
124	162	Embu	Runyenjes	Runyenjes Municipal Hall	2	PR090823	Not Stamped	Signed	1 NASA, 1 DPK, 3 IND, 1 PNU	Daniel Murangiri Ndwiiga
125	162	Embu	Runyenjes	Runyenjes Municipal Hall	3	PR090839	Stamped	Signed	1 JP, 1 ODM, 1 MCC	Perninus M. Mutuanga

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126	163	Embu	Runyenjes	Kathugu Pri.	1	PR090445	Stamped	Signed	1 JP, 1 ODM,	Ezekiel Mugendhi Ireri
127	164	Embu	Runyenjes	Kithangari Tea Buying Centre	1	PR090127	Stamped	Signed	1 JP, 1 DP, 1 IND, 1 DPK, 1 PNU, 1 NARK-K, 1 MCC	Caroline Nyakio
128	165	Embu	Mbeere North	Kathagutari Pri. Sch.	1	PR094963	Stamped	Signed	1 JP, 4 IND, 1 PNU, 1 MCC	Peter Nyaga Ngaih
129	165	Embu	Mbeere North	Kathagutari Pri. Sch.	2	PR094969	Not Stamped	Signed	1 JP, 1 DPK, 1 IND	Miriam Ngina Mwenga
130	166	Embu	Mbeere North	Changera Pri. Sch.	2	PR095162	Stamped	Signed	1 JP, 1 DPK	Fredrick Munyi
131	167	Embu	Mbeere North	Gwakaiti Pri. Sch.	1	PR095300	Stamped	Signed	1 JP, 1 MCC, 1 IND, 1 DPK, 1 PNU	Irene Muthoni Niaga
132	167	Embu	Mbeere North	Gwakaiti Pri. Sch.	2	PR095311	Stamped	Signed	1 JP, 1 NASA, 1 IND	David Njiru Njagi
133	167	Embu	Mbeere North	Kamwaa Pri. Sch.	1	PR095275	Stamped	Signed	1 JP, 1 MCC, 2 IND	Priscilla Wambui Mutei
134	167	Embu	Mbeere North	Kiathambu Pri. Sch.	1	PR095257	Stamped	Signed	1 JP, 2 IND, 1 MCC	Joseph Githinji
135	168	Embu	Mbeere North	Gwakaiti Pri. Sch.	1	PR095300	Stamped	Signed	1 JP, 1 MCC, 1 IND, 1 DPK, 1 PNU	Irene Muthoni Niaga
136	168	Embu	Mbeere North	Gwakaiti Pri. Sch.	2	PR095311	Stamped	Signed	1 JP, 1 NASA, 1 IND	David Njiru Njagi
137	169	Embu	Mbeere North	Gwakaiti Pri. Sch.	1	PR095300	Stamped	Signed	1 JP, 1 MCC, 1 IND, 1 DPK, 1 PNU	Irene Muthoni Niaga
138	169	Embu	Mbeere North	Gwakaiti Pri. Sch.	2	PR095311	Stamped	Signed	1 JP, 1 NASA, 1 IND	David Njiru Njagi
139	169	Embu	Mbeere North	Ovarire	1	PR095351	Stamped	Signed	NO AGENT	David Nyaga Njiru
140	171	Embu	Mbeere North	Kamarindo Pri. Sch.	1	PR095479	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 1 PNU, 5 IND	Zarbanon Mwaniki

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
141	171	Embu	Mbeere North	Mbaci Pri. Sch.	1	PR095462	Stamped	Signed	1 JP, 1 MCC, 1 KPP	Wilson Njeru Nyaga
142	171	Embu	Mbeere North	Mugwanjogu Pri. Sch.	1	PR095455	Stamped	Signed	1 JP, 1 PNU, 3 IND, 1 MCC, 1 KPP	Peter Njiru Nyaga
143	182	Embu	Mbeere North	Kirigo Pri. Sch.	1	PR095095	Stamped	Signed	1 JP, 1 PNU, 1 MCC, 3 IND	Simon Munyi Njuki
144	223	Embu	Manyatta	Ack Muchonoke Church Grounds	1	PR089605	Stamped	Signed	1 JP, 1 MCC, 1 PNN, 1 PNU, 1 DP, 1 IND	Consolata Mueni Kinyili
145	223	Embu	Manyatta	Faithfull Church Of Christ- Makumbiri	1	PR089617	Stamped	Signed	1 JP, 1 IND, 1 DEVOLUTION PARTY	Mwaniki Eustance Njagi
146	223	Embu	Manyatta	Full Gospel Church Ground- Gicegeri	1	PR089647	Stamped	Signed	1 JP, 1 MCC	John Njue
147	223	Embu	Manyatta	Full Gospel Church Ground- Njiki	1	PR089461	Stamped	Signed	3 JP, 2 IND, 1 MCC, 1 PNU	Samson Muriithi Njiru
148	223	Embu	Manyatta	Full Gospel Churches Grounds - Githuri	1	PR089767	Not Stamped	Signed	1 JP, 1 NARCK, 1 MCC, 4 IND, 1 PNU, 1 SAFINA, 1 DP	Titus Muchira Njiru
149	223	Embu	Manyatta	Full Gospel Churches Grounds - Ndunduri	1	PR089713	Stamped	Signed	1 JP, 1 NARCK, 1 DPK	Isaac Munga
150	223	Embu	Runyenjes	Kavutiri Pri. Sch.	1	PR090055	Not Stamped	Signed	1 JP, 1 PNU, 1 MCC	Martin Mboogo Gakono
151	223	Embu	Manyatta	Kwa Douglas	1	PR089666	Stamped	Signed	2JP, 1PNU, 1	Caroline

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
				Bus Stage					SAFINA, 1 MCC, 3 IND	Mutisya
				Mikimbi Full Gospel Churches Grounds						
152	223	Embu	Manyatta	Muchagori Pri. Sch.	1	PR089455	Not Stamped	Signed	1 JP,	Juliet Kamini
153	223	Embu	Runyenjes	Nembure Polytechnic Sch.	2	PR090043	Stamped	Signed	1 JP, 1 NARC KENYA, 1 MCC, 1 PNU 1 DPK 1 IND	Moses Mukundi Njeru
154	223	Embu	Manyatta	Nembure Polytechnic Sch.	2	PR089545	Stamped	Signed	2 JP, 2 MCC, 1 PNU, 1 IND	Christine F. Njeri
155	223	Embu	Runyenjes	Nguire Pri. Sch.	2	PR089863	Stamped	Signed	1 JP, 3 IND, 1 MCC, 1 NARC KENYA, 1 PNU	Emilio Kathuri Njeru
156	223	Embu	Runyenjes	Ngururi Coffee Factory	1	PR089821	Stamped	Signed	1 JP, 1 ODM,	Robert Kinyua
157	223	Embu	Manyatta	Teachers Advisory Centre Hall - Majengo	1	PR089479	Stamped	Signed	1 JP, 1 PNU	Consolata Njeri Rutere
158	158	Embu	Mbeere South	Kauraciri Market	1	PR093715	Stamped	Signed	1 JP, 3 IND	Mercy Muringo
159	158	Embu	Mbeere South	Kauraciri Market	2	PR093727	Stamped	Signed	1 PNU, 2 IND, 1 KANU	Esther Muthoni Njiru
160	158	Embu	Mbeere South	Kiritiri Pri. Sch.	1	PR093655	Stamped	Signed	1 JP, 1 DPK, 1 DP	Simonieya Calvine
161	158	Embu	Mbeere South	Kiritiri Pri. Sch.	2	PR093664	Stamped	Signed	1 MCC, 1 IND	Michael Ngugi
162	158	Embu	Mbeere South	Kiritiri Pri. Sch.	3	PR093673	Stamped	Signed	2 JP, 4 IND, 2 DP	Silas Mbogo
163	160	Embu	Mbeere South	Kinyaga Pri. Sch.	1	PR094087	Stamped	Signed	1 IND, 1 PNU, 1 MCC, 1 DP	Solomon Kililu Musomba
164	166	Embu	Mbeere North	Ciagera Pri. Sch.	1	PR095160	Stamped	Not Signed	NO AGENT	None

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
165	170	Embu	Mbeere North	Itururi Pri. Sch.	1	PR095429	Stamped	Signed	1 JP	Gladys Wawira
166	160	Embu	Mbeere North	Itira Pri. Sch.	1	PR094546	Stamped	Signed	1JP, 1 NARC, 1 IND	Peterson Njue Mwaniki
167	223	Garissa	Garissa Township	Kefri Centre	1	PR040765	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 PNU, 1 KPP	Abdi Mohamed Farah
168	223	Garissa	Garissa Township	Kefri Centre	2	PR040783	Stamped	Signed	1 JP, 1 KANU, 1 WIPER, 1 ODM, 1 PNU	Ameera Abdiwahab Abdulahi
169	223	Garissa	Garissa Township	Kefri Centre	3	PR040789	Stamped	Signed	1 ODM, 1 FORD-K, 1 ANC, 1 PNU	Jehow Abad
170	139	Kajiado	Kajiado South	St Andrews Pri.	1	PR316345	Stamped	Signed	2 JP, 1 NASA, 1 PNU, 4 IND, 1 NARC-K	Matidei Lesikar
171	61	Kajiado	Kajiado Central	Ilmotioo Primary	1	PR310399	Stamped	Signed	1JP, 1 ODM,	Gilbert K.Serem
172	222	Kakameg	Mumias East	Birongo Pri	1	PR434485	Stamped	Signed	2 JP, 2 PDP	Nicholus N Shem
173	222	Kakameg	Mumias East	Rise And Shine	1	PR345496	Stamped	Signed	1JP, 1ANC, 1ODM, 1 IND	Francis K Odongo
174	222	Kakameg	Mumias East	Rise And Shine	2	PR345512	Not Stamped	Signed	NOT LEGIBLE	Julia Akumu
175	122	Kakameg	Malava	Bulupi Pry School	1	PR338169	Stamped	Signed	1 ANC, 1 FDK, 1 UDP	Judith W Kajando
176	122	Kakameg	Malava	Bulupi Pry School	2	PR338182	Stamped	Signed	1JP, 2 ODM, 1 ANC 2 FDK,	Simon Kakai
177	122	Kakameg	Malava	Chimoroni Pry School	2	PR338420	Not Stamped	Signed	1 JP, 2 ODM,	Not Legible
178	122	Kakameg	Malava	Ikoii Phy School	1	PR336653	Stamped	Signed	1JP, 2 ODM 1 FDK ,1 UDP 1 KANU	Ben Wafula Sagata

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
179	122	Kakameg	Malava	Imbiahalo Pny	1	PR338263	Stamped	Signed	,1 ODM,1 MDP	Indumwa A William
180	122	Kakameg	Malava	Imbiahalo Pny	2	PR338275	Stamped	Signed	,1 ODM, 1 FDK, 1 ANC,1 IND, 1 MDP, 1 UDP, 1 MDP	Paul Chilaya Wafula
181	122	Kakameg	Malava	Isanjiro Pny School	1	PR338545	Stamped	Signed	1 JP, 2 ANC 1 FDK ,1 IND 1 PPK	Anekeya Jeremiah
182	122	Kakameg	Malava	Isanjiro Pny School	2	PR338521	Stamped	Signed	1 JP, 1 ANC 1 ODM 1 WIPER, 1 PPK 1 FDK 1 KANU UDP 1 IND	Pauline Natula Kimawachi
183	122	Kakameg	Malava	Lwanda	1	PR338563	Stamped	Signed	1J,2 ODM 2 FDK,1 KANU 1 IND	Masinde Phelistus
184	122	Kakameg	Malava	Lwanda	2	PR338575	Stamped	Signed	1 JP, 1 NASA, 1 IND	Benard Angainmwo
185	122	Kakameg	Malava	Machemo Pny	1	PR338551	Stamped	Signed	1 JP, 1 ODM 1 ANC 1 WIPER, 1 PPK	Masindet Simon
186	122	Kakameg	Malava	Mukhone Pny School	2	PR338317	Stamped	Signed	1 JP, 1 ODM 2 FDK, 1 WIPER, 1 FOR, 1 IND 1 PPK	Clarence Wanjala Simiyu
187	122	Kakameg	Malava	Shianda Pny	1	PR338587	Stamped	Signed	1JP, 1 ODM 2 FDK, 1 PPK	Philip L Mukhwawa
188	122	Kakameg	Malava	Shianda Pny	2	PR338593	Stamped	Signed	1 JP, 1 ODM 1 ANC 1 FDK, 1 KANU 1 PPK	Isayah Musungu
189	122	Kakameg	Malava	Shianda Pny	3	PR338612	Stamped	Signed	1JP, 1ODM, 1 IND	Patrick Ngome Shitkho
190	122	Kakameg	Malava	Bulupi Pny School	3	PR338191	Stamped	Signed	1 JP, 2 ODM 1 ANC, 1 PPK, 1 IND	Shalo Moses Masinde
191	122	Kakameg	Malava	Mukhone Pny School	1	PR338405	Stamped	Not Signed	1 JP, 1 ODM, FDK, 1 IND	None

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192	122	Kakamega	Malava	Isanjiro Phy School	3	PR338521	Not Stamped	Signed	1JP, 1 KANU, 1 ODM, 1 WIPER, 1 PPK, 1 IND	Peter S Liru
193	57	Kakamega	Lugari	Maturu Primary	2	PR336356	Stamped	Signed	1JP, 1ODM, 1 FORD-K, 1 PPK, 1ANC, 1MDP, 2 IND	Kalamu Ambunya Joan
194	122	Kakamega	Malava	Chimoroni Pry School	1	PR338405	Not Stamped	Signed	1JP, 1 WIPER, 1 ANC, 1 ODM	Paul Masinde Chigaya
195	141	Kericho	Kipkelion West	Timbilil Pri. Sch.	1	PR318229	Stamped	Signed	1 JP, 1 IND, 1 KANU, 1 PDR	Philiomona Kipkurui Rotich
196	148	Kericho	Sigowet/Soi	Chebirir Pri. Sch.	1	PR325897	Stamped	Signed	2 JP, 2 IND, 1 KANU, 1 PDF	Langat Beatrice Chepngeno
197	217	Kericho	Ainamoi	Chepkurbet Pri.	1	PR319297	Stamped	Signed	1 JP, 1 NASA, 1 IND	Kipyegon Winstone
198	217	Kericho	Ainamoi	Chepkurbet Pri.	2	PR319309	Stamped	Signed	1 JP, 1 ODM,	Kiptoo Raphael Korir Yegon
199	221	Kericho	Belgut	Cheptenye	1	PR323293	Not Stamped	Signed	1 JB, 1 ODM, 1 IND	Vincent Cherviyot Kirui
200	221	Kericho	Belgut	Kiptule Tea Buying Centre	1	PR323569	Stamped	Signed	1 JP, 1 PDU, 1 IND	Jeremiah Kimutai Kipkorir
201	221	Kericho	Bureti	Sebetet	2	PR322789	Stamped	Signed	1 JP, 3 IND, 1 KANU, 1 MCC	Richard Kiprono
202	222	Kericho	Belgut	Seretut Pri	1	PR324079	Stamped	Signed	1 JP, 1 NASA, 3 IND, 1 PDR, 1 KANU	Japhet Kipngewo
203	223	Kericho	Belgut	Barnet Pri. Sch.	1	PR323581	Stamped	Signed	1 JP, 4 INDEPENDENT, 1 MCC, 1 KANU	Amos

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204	223	Kericho	Belgut	Barnet Pri. Sch.	2	PR323569	Stamped	Signed	1 JP, 1 CCM, 3 INDEPENDENT, 1 MCC, 2 PDU, 1 KANU, 1 PDR	Mutai Andrew Kiprono
205	223	Kericho	Buret	Centre Pilis T.B.C		PR322629	Not Stamped	Signed	1 JP, 1 ODM, 1 KANU, 1 IND, 1 DDR	Hillary Chirchir
206	223	Kericho	Belgut	Chepkoin Pri.	1	PR323485	Stamped	Signed	1 JP, 1 INDEPENDENT 1 PDR	Doreen Chelangat
207	223	Kericho	Buret	Cheplanget Pri.	1	PR322735	Stamped	Signed	1 JP,	Baigoi Franklin Vincent Cheruitot Kirui
208	223	Kericho	Belgut	Cheptenye Pri.	1	PR323293	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Marther Cheronyo Masai
209	223	Kericho	Belgut	Cheptenye Pri.	2	PR323312	Stamped	Signed	2 JP, 1 ODM, 2 INDEPENDENT, 1 KANU, 1 PDR, 1 KPP	
210	223	Kericho	Buret	Chepterwo Dispensary		PR322585	Not Stamped	Signed	4 JP, 2 ODM, 1 PDR, 1 KANU, 1 IND, 1 MCC	Derrick Ngetich
211	223	Kericho	Belgut	Cheribo Pri.	1	PR323464	Stamped	Signed	1 JP, 1 NASA	Sally Tannui
212	223	Kericho	Belgut	Cheribo Pri.	2	PR323473	Stamped	Signed	1 JP, 1 NASA,	Bett Chepkemni Rosaline
213	223	Kericho	Belgut	Cheronget Pri.	1	PR323209	Stamped	Signed	2 JP, 1 ODM, 2 INDEPENDENT, 1 PDR	Richard K Rotich
214	223	Kericho	Belgut	Cheronget Pri.	2	PR323227	Stamped	Signed	1 JP, 1 ODM, 3 INDEPENDENT, 1 KANU	Robert Kipkoeh Korir
215	223	Kericho	Belgut	Cheyemen T.B.C	2	PR323565	Stamped	Signed	NOT VISIBLE, NOT VISIBLE, NOT VISIBLE	Not Visible



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
216	223	Kericho	Bureti	Itoik Pri.	2	PR323035	Stamped	Signed	3 JP, 1 CCM, 2 INDEPENDENT, 1 KANU	Chelangat Jāneth
217	223	Kericho	Belgut	Kapchebet Pri.	1	PR323659	Stamped	Signed	1 JP, 1 KANU, 2 INDEPENDENT, 1 PDR	David Rotich
218	223	Kericho	Belgut	Kapchebet Pri.	2	PR323671	Stamped	Signed	1 JP, 1 NASA, 1 PDU, 1 PDR, 3 INDEPENDENT, 1 KANU	David Kiptanoi Rotich
219	223	Kericho	Belgut	Kapmaso Milimani Pri.	1	PR323629	Not Stamped	Signed	1 JP, 2 KANU, 1 MCC, 1 PDU, 1 PDR, 2 INDEPENDENT	Ngetich Geoffrey
220	223	Kericho	Belgut	Kapmaso Milimani Pri.	2	PR323641	Stamped	Signed	1 JAP, 1 NASA, 3 INDEPENDENT, 1 MCC, 1 PDU, 1 PDR, 1 KANU	Limbo K Geoffrey
221	223	Kericho	Belgut	Kapsisiywo T.B.C	1	PR323701	Stamped	Signed	2 JP, 1 NASA, 2 INDEPENDENT, 1 DPR	Hope Cheruiyot Rotich
222	223	Kericho	Belgut	Kaptoboiti Pri.	1	PR323233	Stamped	Signed	2 JP, 1 KANU, 3 INDEPENDENT	Robert Kipkoach Sum
223	223	Kericho	Belgut	Kaptoboiti Pri.	2	PR323251	Stamped	Signed	2 JP, 1 ODM, 3 INDEPENDENT, 1 PDR, 1 KANU	Leonard Kidet Ngetich
224	223	Kericho	Belgut	Kaptoboiti Pri.	3	PR323257	Stamped	Signed	, 1 KANU, 1 PDR, 2 INDEPENDENT	Nicholus Kipkoach Langat
225	223	Kericho	Belgut	Kaptoboiti Pri.	4	PR323275	Stamped	Signed	1 JP, 1 INDEPENDENT	Ngetich Robert
226	223	Kericho	Belgut	Keben Pri.	1	PR323323	Stamped	Signed	1 JP, 1 CCM, 1 KANU	Korr Dennis Kiplangat
227	223	Kericho	Belgut	Keben Pri.	2	PR323330	Stamped	Signed	2 JP, 1 CCM, 1 KPP,	Chelangat

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									1 PDR	
228	223	Kericho	Belgut	Kiptome Pri.	1	PR323677	Stamped	Signed	1 JP, 2 INDEPENDENT, 1 MCC, 1 PDR, 1 KANU	James K Mutai
229	223	Kericho	Belgut	Kiptome Pri.	2	PR323689	Stamped	Signed	1 JP, 3 INDEPENDENT, 1 KANU, 1 PDR, 1 PDU	Judith Chelangat
230	223	Kericho	Belgut	Kiptule T.B.C	1	PR323569	Stamped	Signed	1 JP, 1 INDEPENDENT, 1 PDU	Jeremiah Kimutai Kipkorir
231	223	Kericho	Belgut	Koiwalelach		PR323839	Stamped	Signed	1 JP, 1 NASA, 1 KANU, 2 INDEPENDENT, 1 MCC, 1 PEF	Jeremiah Kipkemoi Siele
232	223	Kericho	Belgut	Koiwalelach		PR323851	Stamped	Signed	1 JP, 1 NASA, 3 INDEPENDENT, 1 KANU, 1 MCC, 1 PDR	Joseph Emodia
233	223	Kericho	Belgut	Machorwa Pri.	1	PR323281	Stamped	Signed	1 JP, 1 NASA, 3 INDEPENDENT, 1 PDR, 1 UDM, 1 KPP	Neldon K Kirui
234	223	Kericho	Bureti	Masubeti Pri.	1	PR322831	Stamped	Signed	4 JP, 1 KANU, 1 INDEPENDENT, 1 MCC, 1 PDR	Mutai Bethwel
235	223	Kericho	Belgut	Nyabangi T.B.C	1	PR323611	Stamped	Signed	1 NASA, 2 INDEPENDENT, 1 PDR, 1 KANU	Rono Joseph Kipkorir
236	223	Kericho	Belgut	Nyabangi T.B.C	2	PR323623	Stamped	Signed	1 JP, 1 NASA,	Joyce Chemutai Rotich
237	223	Kericho	Bureti	Samugett.B.C	1	PR322465	Not Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT, 1	Carolynne Bett

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									FORD DEVELOPMENT AND FREEDOM, 1 KANU	
238	223	Kericho	Ainamoi	Sebetet	1	PR320689	Stamped	Signed	1 JP,2 NASA,3 INDEPENDENT, 1 KANU	Charles Chepkwony
239	223	Kericho	Belgut	Sosiot Social Hall	1	PR323371	Stamped	Signed	1 JP,1 NASA,1 INDEPENDENT	Mutai Reuben
240	223	Kericho	Belgut	Sosiot Social Hall	2	PR323383	Stamped	Signed	1 JP,1 NASA,2 INDEPENDENT, 1 PDR, 1 KANU	Kipkemoi Ngeno
241	223	Kericho	Belgut	Sosiot Social Hall	3	PR323389	Stamped	Signed	1 JP,1 INDEPENDENT, 1 KPP	Kipkurui Korir
242	223	Kericho	Belgut	Sosiot Social Hall	4	PR323402	Stamped	Signed	3 JP, 1 ODM, 1 KANU, 1 KPP, 2 IND	Weldon Langat
243	223	Kericho	Kipkelion West	Timbilil Pri. Sch.	1	PR318229	Stamped	Signed	1 JP,1 KANU, 1 PDR, 1 IND	Philimona Kipkurui Rotich
244	223	Kericho	Sigowet/Soi	Simbi Pri. Sch.	1	PR3225699	Not Stamped	Signed	1 JP,1 ODM,	Kibt Sang David
245	224	Kericho	Bureti	Masubeti Pri.	2	PR322837	Not Stamped	Signed	1 JP,1 ODM,	Kipkoech Chirchir
246	109	Kericho	Kipkelion West	Baraget Cooperative	1	PR319009	Stamped	Signed	1 JP,1 ODM,1 PDR,1 IND	Kipngeno Chirchir Fred
247	109	Kericho	Kipkelion West	Baraget Cooperative	2	PR319027	Stamped	Signed	1 JP,1 ODM,1 MCCP, 1 IND	Fredrick Kipngeno Bil
248	109	Kericho	Kipkelion West	Barsiele Primary	1	PR318653	Stamped	Signed	1 JP,1 ODM,1 IND	Andrew Jelgo
249	223	Kericho	Bureti	Chebagal T.B.C		PR322501	Stamped	Signed	1 JP,1 ODM,	Christine Chelangat

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250	109	Kericho	Kipkelion West	Boror Nursery School	1	PR319075	Not Stamped	Signed	1 JP, 1 ODM, 1 MCCP, 1 PDR, 1 IND	Alfred K Koech
251	109	Kericho	Kipkelion West	Chebokus Nursery School	1	PR319261	Stamped	Signed	1 JP, 2 KANU, 1 PDR, 1 MCC, 1 IND	Mingo Kibet William
252	109	Kericho	Kipkelion West	Chilchila Primary School	1	PR318991	Stamped	Signed	1 JP, 1 MCCP, 1 PDR, 1 KANU, 1 IND	David K. Tomui
253	109	Kericho	Kipkelion West	Chilchila Primary School	2	PR319004	Stamped	Signed	2 JP, 1 PDR, 2 IND	Samwel Kimutai Ruto
254	109	Kericho	Kipkelion West	Kapkesa Primary School	1	PR318883	Stamped	Signed	1 JP, 1 PDR, 1 IND	Ernest O Malenya
255	109	Kericho	Kipkelion West	Kaplelit Primary School	2	PR318919	Stamped	Signed	1 JP, 1 PDR, 1 IND	Linet Achieng Okungu
256	109	Kericho	Kipkelion West	Kaula Nursery School	1	PR318607	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 PFDD, 1 KANU	Mose Maroline
257	109	Kericho	Kipkelion West	Kimolgit Primary School	2	PR318625	Stamped	Signed	1 JP, 1 ODM, 1 PDR, 1 IND	Langat C Victor
258	109	Kericho	Kipkelion West	Kipkelion Primary	1	PR318746	Stamped	Signed	NOT LEGIBLE	Simon Kiplangat Too
259	109	Kericho	Kipkelion West	Kipkelion Primary	2	PR318757	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 PDR, 1 KANU,	Caleb Momanyi
260	109	Kericho	Kipkelion West	Kipsigei Primary School	1	PR318515	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 KANU, 1 PDR	Risph Cherotich
261	109	Kericho	Kipkelion West	Koisagat Primary School	1	PR319093	Stamped	Signed	1 JP, 1 IND	Lelgo Wilson Kiprono

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262	109	Kericho	Kipkelion West	Koisagat Primary School	2	PR319105	Stamped	Signed	1 JP, 3 IND	Gitau Duncan Macharia
263	109	Kericho	Kipkelion West	Lelechwet Primary School	1	PR318685	Not Stamped	Signed	1 JP, 1 KANU, 1 PDR, 2 IND	Kiprotich Kurgat Leonard
264	109	Kericho	Kipkelion West	Magire Primary School	1	PR319213	Not Stamped	Signed	1 JP, 1 PDR, 1 IND	Rodgers Ngetich
265	109	Kericho	Kipkelion West	Magire Primary School	2	PR319231	Stamped	Signed	1 JP, 1 PDR, 1 KANU, 1 IND	Thomas Kipchirchir Tarus
266	109	Kericho	Kipkelion West	Murgut Primary School	1	PR318973	Stamped	Signed	1 JP, 1 ODM, 1 MCCP, 1 PDR, 1 KANU, 1 IND	Rop John Franklyn
267	109	Kericho	Kipkelion West	Simotwet Primary School	1	PR318577	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 PDR, 1 KANU	Philiph Langat
268	109	Kericho	Kipkelion West	Siret Primary School	1	PR318841	Stamped	Signed	2 JP, 2 ODM, 2 IND	Langat Philip
269	109	Kericho	Kipkelion West	Smolel Primary School	1	PR319165	Stamped	Signed	1 JP, 1 PDR, 1 IND	Timothy Kirui
270	109	Kericho	Kipkelion West	Tunnel Primary School	1	PR319039	Stamped	Signed	1 JP, 1 ODM, 1 PDR, 1 MCC, ODM	Erick Kipkorir Murei
271	109	Kericho	Kipkelion West	Tunnel Primary School	2	PR319051	Stamped	Signed	1 JP, 1 NASA,	Cyrus T. Tareh
272	223	Kericho	Belgut	Teldet T.B.C	1	PR323341	Stamped	Signed	1 JP, 1 KANU, 1 IDR	Tony K Martin
273	223	Kericho	Belgut	Teldet T.B.C	2	PR323353	Stamped	Signed	1 JP, 2 IND, 1 PDR, 1 KANU, 1 KPP	Kipkemoi Gilbert Kigen

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274	109	Kericho	Kipkelion West	Barsiele Primary	1	PR318667	Stamped	Signed	1 JP, 1 ODM,	Hillary Siegei
275	109	Kericho	Kipkelion West	Kimlogit Primary School	1	PR318615	Stamped	Signed	1 JP, 1 ODM,	Not Legible
276	221	Kericho	Bureti	Cheptterwo Dispensary	1	PR322585	Not Stamped	Not Signed	4 JP, 2 ODM, 1 PDR, 1 KANU, 1 MCC, 1 IND	Derrick Ngetich
277	109	Kericho	Kipkelion West	Kaplelit Primary School	1	PR318910	Stamped	Signed	1JP, 1MCC, 1 IND	Emmy Chesane Chumo
278	223	Kericho	Bureti	Itoik Pri.	1	PR323019	Not Stamped	Signed	1JP	Daisy Cherono
279	172	Kiambu	Juja	Mirimaini Pri. Sch. Stream 1/4	1	PR186091	Stamped	Signed	1 JP, 1 MCC, 4 IND, 1 PMU	Mwangi Esther Njambi
280	172	Kiambu	Juja	Mirimaini Pri. Sch. Stream 2/4	2	PR186103	Not Stamped	Signed	2 JP, 4 IND, 1 PNU, 1 NARC	Chira Joseph Muchiri
281	172	Kiambu	Juja	Mirimaini Pri. Sch. Stream 3/4	3	PR186115	Stamped	Signed	1 JP, 1 PNU, 1 MCC, 1 FP	Pauline Wanjohi Andrew
282	172	Kiambu	Juja	Mirimaini Pri. Sch. Stream 4/4	4	PR186127	Stamped	Signed	2 JP, 1 KANU, 1 IND	Munyao Maingi
283	211	Kiambu	Githunguri	Komothai Primary	1	PR194929	Stamped	Signed	2 KANU, 1 IND, 1 CHAP, 1 PNU	Njire Alex Mugambi
284	211	Kiambu	Githunguri	Komothai Primary	2	PR194947	Stamped	Signed	3 JP, 4 IND, 1 PNU, 1 CHAP, 1 NARC	Peninah Wanjiku Kamita
285	174	Kilifi	Kaloleni	Mwambani Pri. Sch.	1	PR023533	Stamped	Signed	1 KANU, 1 MDG, 1 MCC	Karani Salim Wilson

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
286	175	Kilifi	Kaloleni	Mwambani Pri. Sch.	1	PR023533	Stamped	Signed	,1 KANU, 1 MDG, 1 MCC	Karani Salim Wilson
287	179	Kilifi	Kaloleni	Imani Pri. Sch.	1	PR023366	Stamped	Signed	NOT LEGIBLE, 1 ODM, NOT LEGIBLE	Charlotte Rehema Juma
288	223	Kilifi	Koleni	Mwembe Tavari P.H.D		PR023737	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORD K,	Esther Kwekwe Faki
289	182	Kirinyag	Kirinyaga Central	Valley Road Pri. Sch.	1	PR168031	Stamped	Signed	1 JP, 1 ODM,	Peter Macharia
290	172	Kirinyag	Mwea	Chiagini Primary School	1	PR161557	Stamped	Signed	NO AGENT	James Kariuki Njuni
291	172	Kirinyag	Mwea	Chiagini Primary School	2	PR161569	Stamped	Signed	1 JP,	Jacquileen W Gichamba
292	172	Kirinyag	Mwea	Chiagini Primary School	3	PR161587	Stamped	Signed	1 JP,	Angela Wanjiru Maina
293	172	Kirinyag	Mwea	Chiagini Primary School	4	PR161593	Stamped	Signed	4 JP, 1 IND, NARC	Elijah Mwangi Njiguna
294	172	Kirinyag	Mwea	Difathas Pri. Sch.	1	PR162361	Stamped	Signed	2 JP, 2 IND, 1 MCCP, 1 NARC	Joseph Mwangi Ngochi
295	172	Kirinyag	Mwea	Difathas Pri. Sch.	2	PR162373	Stamped	Signed	1 JP, 3 IND	Margaret Wanjiku Thuo
296	172	Kirinyag	Mwea	Difathas Pri. Sch.	3	PR162385	Stamped	Signed	1 JP,	Alice Mukam
297	172	Kirinyag	Mwea	Kamuchege Pri. Sch.	1	PR162589	Stamped	Signed	2 JP, 1 ODM,	Pauli Manna Njeru
298	172	Kirinyag	Mwea	Kamuchege Pri. Sch.	2	PR162607	Stamped	Signed	1 JP, 1 MCC, 1 NARC, 5 IND	James Kamuto
299	172	Kirinyag	Mwea	Karoti Girls Secondary Sch.	1	PR162043	Stamped	Signed	4 JP, 1 NARC, 1 IND, 1 PNU	Veronica Wairumu

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
										Kimani
300	172	Kirinyag	Mwea	Karoti Girls Secondary Sch.	2	PR162049	Stamped	Signed	4 JP, 6 IND, 1 NARC	Cicily Wakathare Kamara
301	172	Kirinyag	Mwea	Karoti Girls Secondary Sch.	3	PR162067	Stamped	Signed	2 JP, 2 IND, 1 NARC	Francis Karituki Mugo
302	172	Kirinyag	Mwea	Karoti Girls Secondary Sch.	4	PR162079	Stamped	Signed	1 JP, 1 IND	Johnson Karimi
303	172	Kirinyag	Mwea	Karurangi Pri. Sch.	1	PR162421	Stamped	Signed	2 JP,	Jecinta Wawira Murithi
304	172	Kirinyag	Mwea	Karurangi Pri. Sch.	2	PR162433	Stamped	Signed	1 JP,	Teresiah Kuhara
305	172	Kirinyag	Mwea	Karurangi Pri. Sch.	3	PR162445	Stamped	Signed	3 JP, 1 IND	Christine Mabut
306	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP, 1 MCC	Hildah Wawira
307	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	2	PR162961	Stamped	Signed	2 JP, 6 IND, 1 NARC, 1 PNU	Michael Gatho Ndungu
308	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	3	PR162973	Stamped	Signed	2 JP,	Zipporah Kagendo
309	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	4	PR162991	Stamped	Signed	1 JP, 2 IND, 1 PNU, 1 NARC	Jane Wawiru Karangu
310	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	5	PR163003	Stamped	Signed	,3 IND	Racheal Njeri
311	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	6	PR163015	Stamped	Signed	2 JP, 1 ODM, 3 IND	Benson Wachira Muchiri
312	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	7	PR163021	Stamped	Signed	1 JP,	Esther W. Ndambiri
313	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	8	PR163033	Stamped	Signed	3 JP, 4 IND	Joseph Gitau Mburu
314	172	Kirinyag	Mwea	Ngurubani Pri. Sch.	9	PR163051	Stamped	Signed	2 JP, 1 NASA, 5 IND, 1 PNU	Margate Wambui Koori



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
315	172	Kirinyag a	Mwea	Ngurubani Pri. Sch.	10	PR163057	Stamped	Signed	3 JP, 1 NASA, 6 IND	Samuel Muchira Nyaga
316	174	Kirinyag a	Mwea	Gakuo Pri. Sch.	1	PR161947	Stamped	Signed	1 JP,	Gathimba Purity Wambui
317	174	Kirinyag a	Mwea	Tehangi Pri. Sch.	1	PR162253	Stamped	Signed	1 JP, 1 NARC, 2 IND	Hellen W Wambugu
318	174	Kirinyag a	Mwea	Kamuchege Pri. Sch.	1	PR162589	Stamped	Signed	2 JP, 1 ODM,	Paul Maina Njeru
319	174	Kirinyag a	Mwea	Karoti Girls Secondary Sch.	1	NOT LEGIBLE	Stamped	Signed	4 JP, 1 PNU, 1 NARC KENYA, 1 IND	Veronicah Waitimu Kimani
320	174	Kirinyag a	Mwea	Karurangi Pri. Sch.	1	PR162421	Stamped	Signed	2 JP,	Teresiah Kihara
321	174	Kirinyag a	Mwea	Kutus Pri. Sch.	1	PR161989	Stamped	Signed	1 JP, 8 IND	Elias Munene Kiura
322	174	Kirinyag a	Mwea	Murinduko Pri. Sch.	1	PR162163	Stamped	Signed	1 JP, 1 ARK	Amos Gakuya Njiri
323	174	Kirinyag a	Mwea	Murubara Social Hall	1	PR162781	Stamped	Signed	1 JP, 1 NARC KENYA, 1 PNU, 2 IND	J.M. Murithi
324	174	Kirinyag a	Mwea	Ngurubani Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP, 1 MCC	Hildah Wawira Dickson Gatimu Muchiri
325	174	Kirinyag a	Mwea	Togonye Coffee Factory	1	PR162211	Stamped	Signed	1 JP, 1 IND	Susan Wangui Ndege
326	174	Kirinyag a	Mwea	Wang'uru County Council Hall.	1	PR162859	Stamped	Signed	2 JP, 1 NARC KENYA, 1 IND	Susan Wangui Ndege
327	175	Kirinyag a	Mwea	Mugamba-Cura Pri. Sch.	1	PR162133	Stamped	Signed	2 JP, 2 INDEPENDENT	Peris Wachira
328	175	Kirinyag a	Mwea	Mugamba-Cura Pri. Sch.	2	PR162151	Stamped	Signed	1 JP, 1 INDEPENDENT	Stanley Mahna Macharia
329	181	Kirinyag a	Kirinyaga Central	Gatuto Pri. Sch.	1	PR167461	Stamped	Signed	1 JP, 4 IND, 1 NARC K, 1 MCC	Josephine Wambura

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
										Gakuo
330	181	Kirinyaga	Kirinyaga Central	Gatuto Pri. Sch.	2	PR167479	Stamped	Signed	1 JP, 1 IND	Maoko Alice Kawira
331	181	Kirinyaga	Kirinyaga Central	Kirinyaga Technical Institute	1	PR167522	Stamped	Signed	1JP, 2 IND	Kennedy Nunene Wachira
332	181	Kirinyaga	Kirinyaga Central	Kirinyaga Technical Institute	2	PR167533	Stamped	Signed	2 JP, 1 NASA, 1 NARC K	Moses Muriigi Mwangi
333	181	Kirinyaga	Kirinyaga Central	Kirinyaga Technical Institute	3	PR167551	Stamped	Signed	1 JP, 1 NASA,	Nancy Waguthi Muchira
334	182	Kirinyaga	Kirinyaga Central	Amani Gardens	1	PR168085	Stamped	Signed	2JP, 1 NASA, 1 IND 1 NARC K	Seralilly W Njagi
335	182	Kirinyaga	Kirinyaga Central	Gakararu		PR168061	Stamped	Signed	1 JP, 1 IND, 1 NARC K	Ruth Karimi
336	182	Kirinyaga	Kirinyaga Central	Kaitheri Pri. Sch.	1	PR167617	Stamped	Signed	4 JP, 1 NARC K, 1 MCC, 4 IND	Patrick Bundi Miriti
337	182	Kirinyaga	Kirinyaga Central	Kaitheri Pri. Sch.	2	PR167629	Stamped	Signed	2 JP, 1 MCC, 1 IND	John Mwangi Githaka
338	182	Kirinyaga	Kirinyaga Central	Kaitheri Youth Poly-Technic	1	PR167713	Stamped	Signed	2 JP, 1 NARC K	Abel G Mararo
339	182	Kirinyaga	Kirinyaga Central	Kaitheri Youth Poly-Technic	2	PR167725	Stamped	Signed	3 JP,	Mukunga M Peter
340	182	Kirinyaga	Kirinyaga Central	Kaitheri Youth Poly-Technic	3	PR167737	Stamped	Signed	NO AGENT	Mariam Kamau
341	182	Kirinyaga	Kirinyaga Central	Kaitheri Youth Poly-Technic	4	PR167749	Stamped	Signed	1 JP, 1 NARC K, 1 IND, 1 MCC	Mercy Kaywanja
342	182	Kirinyaga	Kirinyaga Central	Kaitheri Youth Poly-Technic	5	PR167761	Stamped	Signed	1 JP, 1 NASA, 2 IND, 1 MCC, 1 NARC K	Daniel Karimi Mugo
343	182	Kirinyaga	Kirinyaga	Kaitheri Youth	6	PR167773	Stamped	Signed	2 JP, 1 MCC, 3 IND, 1	Mberi Karimi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		a	Central	Poly-Technic					NARC-K	Maina
344	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	1	PR168301	Stamped	Signed	1 JP, 1 NASA,	David Kihara Kirongo
345	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	2	PR168187	Stamped	Signed	1 JP,	Nicholas Mwangi
346	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	2	PR168319	Stamped	Signed	1 JP, 1 ODM, 1 PNU, 2 IND	Stephen Lichia Mureithi
347	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	3	PR168331	Stamped	Signed	2 JP, 3 IND	Paul Karituki Wambugu
348	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	4	PR168337	Stamped	Signed	1 JP, 5 IND	Damaris Waigondi Karituki
349	182	Kirinyaga a	Kirinyaga Central	Karaini Pri. Sch.	5	PR168349	Stamped	Signed	2 JP, 1 NASA, 4 IND	Mugo Francis Mutugi
350	182	Kirinyaga a	Kirinyaga Central	Kerugoya Coffee Factory	1	PR167977	Stamped	Signed	2 JP,	Monica Nyawira Wanjohi
351	182	Kirinyaga a	Kirinyaga Central	Kiabariki Pri. Sch.	1	PR167833	Stamped	Signed	1 JP,	Julia Mwangi
352	182	Kirinyaga a	Kirinyaga Central	Kiamuruga Pri. Sch.	1	PR168169	Stamped	Signed	1 JP, 4 IND	Ksrini Kenedy Macharia
353	182	Kirinyaga a	Kirinyaga Central	Kiamuruga Pri. Sch.	1	PR16163	Stamped	Signed	2 JP, 1 IND	Pouline Wanjiru Mugo
354	182	Kirinyaga a	Kirinyaga Central	Valley Road Pri. Sch.	1	PR168013	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 3 IND, 1 NARC KENYA	Judy Wangu Maina
355	182	Kirinyaga a	Kirinyaga Central	Valley Road Pri. Sch.	1	PR168031	Stamped	Signed	1 JP,	William Karituki
356	113	Kirinyaga a	Ndia	Kiangai Primary School	1	PR165817	Stamped	Signed	2 JP, 5 IND, 1 NARC K	Daniel Muriuki Muraga

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
357	113	Kirinyaga	Ndia	Kiangai Primary School	2	PR165829	Stamped	Signed	4 JP, 6 IND, 1 NARC K	David Munene
358	113	Kirinyaga	Ndia	Kiangai Primary School	3	PR165847	Stamped	Signed	1 JP, 1 IND, 1 NARC K	Faith Wangari Maina
359	113	Kirinyaga	Ndia	Kiangai Primary School	4	PR165859	Stamped	Signed	1 JP, 3 IND, 1 NARC K	Noel Njeri
360	223	Kisii	Bonchari	Igonga Pri. Sch.	2	PR428618	Stamped	Signed	1 JP, 1 ODM,	Julius Nyata Nyandika
361	223	Kisii	Kitutu Chache South	Mariba Dok Pri. Sch.	1	PR440971	Stamped	Signed	1 JP, 1 ODM,	Hamelyn N. Motika
362	223	Kisii	Nyaribari Chache	Nyakebako Pri. Sch.	1	PR430329	Stamped	Signed	1 JP, 1 ODM,	Not Legible
363	223	Kisii	Kitutu Chache North	Nyakome Pri. Sch.	1	PR440391	Stamped	Signed	1 JP, 1 ODM,	Biliah Ochengi
364	222	Kisii	Nyaribari Chache	Ibena Sec School	1	PR439219	Stamped	Signed	1 JP, 1 ODM, 1 CCU, 1 BRK, 1 IND	Adelbert Ragira
365	222	Kisii	Nyaribari Chache	Ibena Sec School	2	PR439225	Stamped	Signed	2 JP, 1 ODM,	Clive Nyambane
366	222	Kisii	Kitutu Chache South	Matioko Dok Pri	1	PR440875	Stamped	Signed	1 JP, 2 ODM,	Michael Oyugi Mekenye
367	222	Kisii	Kitutu Chache South	Matioko Dok Pri	2	PR440888	Stamped	Signed	NOT LEGIBLE	Not Legible
368	222	Kisii	Kitutu Chache South	Matioko Dok Pri	3	PR440899	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 3 PDP, 1 KNC,	Linnet Maranga

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
369	223	Kisii	Nyaribari Chache	Esamba Pri. Sch.	1	PR437887	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 CCM, 1 KNC	Onchera Stephen
370	223	Kisii	Bonchari	Igonga Pri. Sch.	1	PR428607	Stamped	Signed	1JP, 1 ODM, 1 WIPER	Richard Miruka
371	223	Kisii	Kitutu Chache South	Ititi Pri. Sch.	1	PR441019	Stamped	Signed	2 JP, 1 WIPER, 1 FORD-K, 1 IND, 1 KNC, 1 KSC	Peter O Mose
372	223	Kisii	Kitutu Chache South	Ititi Pri. Sch.	2	PR441031	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 KNC	Walter Morara Onguti
373	223	Kisii	Kitutu Chache South	Maritba Dok Pri. Sch.	2	PR440983	Stamped	Signed	1 JP, 1 NASA, 1 WIPER, 1 MCC, 1 IND	Felix Nyamari
374	223	Kisii	Kitutu Chache South	Matioko Dok Pri. Sch.	1	PR440875	Stamped	Signed	1 JP, 2 ODM,	Michael Oyugi Mekenye
375	223	Kisii	Kitutu Chache South	Matioko Dok Pri. Sch.	2	PR440888	Stamped	Signed	NOT LEGIBLE	Not Legible
376	223	Kisii	Kitutu Chache South	Matioko Dok Pri. Sch.	3	PR440899	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 ANC, 1 KNC, 2 PDP	Linnet Maranga
377	223	Kisii	Kitutu Chache North	Nyakome Pri. Sch.	2	PR440391	Stamped	Signed	1 JP, 1 ODM, 1 PCK	Samuel N Mageto
378	223	Kisii	Nyaribari Chache	Nyanguru Pri. Sch.	1	PR437858	Stamped	Signed	1 JP, 1 KANU, 1 ANC, 1 ODM, NOT LEGIBLE	Not Legible
379	223	Kisii	Nyaribari Chache	Nyanguru Pri. Sch.	2	PR437876	Stamped	Signed	2 JP, 2 ANC, 1 WIPER, 2 PDP, 1	Robert Oendo Moogi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									KSC, 1 IND	
380	223	Kisii	Nyaribari Chache	Nyansira Pri. Sch.	1	PR438973	Stamped	Signed	1 JP, 1 FORK-K, 1 ODM, 1 KSC	Nyangau Johnson
381	223	Kisii	Kitutu Chache South	Nyaore Pri. Sch.	1	PR440989	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 PPD, 1 KMC	Ombari Rasigu
382	223	Kisii	Kitutu Chache North	Rioma Dok Pri. Sch.	1	PR439903	Stamped	Signed	1 JP, 1 MCC, 3 INDP	Jared Karani Nyakundi
383	27	Kisii	South Mugirango	Nyandiwa Primary	1	PR430609	Stamped	Signed	2 JP, 1 ODM, 1 WIPER, 1 FORDK, 1 RBK, 1 KNC, 1 PDP	Dominic O. Kabaka
384	28	Kisii	South Mugirango	Omogwa Primary	1	PR430417	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Maganga M. Dennis
385	29	Kisii	South Mugirango	Manywand 'A' Primary School	1	PR430279	Stamped	Signed	1 JP, 1 WIPER, 1 RBK, 1 PDP, 1 DDA, 1 KANU	Monicah A. Atieno
386	31	Kisii	Nyaribari Chache	Nyanturago Tea Buying Centre	2	PR439387	Stamped	Signed	1 JP, 1 KNC, 1 IND, 1, PDP	Elishaba Omari
387	32	Kisii	Nyaribari Chache	Kiogoro Tea Buying Centre	2	PR438799	Stamped	Signed	1 JP, 1 ODM, 1 IND	Ratemo John Momanayi
388	33	Kisii	Nyaribari Chache	Keoke Primary	1	PR439003	Stamped	Signed	1 JP AGENT, 1 ODM, 1 WIPER,	Jackson N Omoi
389	34	Kisii	Nyaribari Chache	Irondi Primary	1	PR439007	Stamped	Signed	1 JP AGENT, 1 ODM, 1 WIPER, 1 NARC, 1 KNC	Calvin Onchiri Iteba
390	35	Kisii	Nyaribari Chache	Amabiria Primary	1	PR438625	Stamped	Signed	1 JP AGENT, 1 ODM,	Omari David
391	37	Kisii	Nyaribari	Ibacho Tbc	2	PR437413	Not Stamped	Signed	1 JP AGENT, 2	Ong'ondi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			Masaba				Stamped		ODM 1 FK,1 KSC,1 NAP, 1 KNC, 1 KANU, 1 NAPK, 1 IND, 1 PICK	Opande Benedict
392	38	Kisii	Nyaribari Masaba	Ekemuga Primary	1	PR436146	Stamped	Signed	1JP, 1 ODM	Erick Matoke
393	39	Kisii	Nyaribari Masaba	Kiamokama Pri.	1	PR437178	Stamped	Signed	1 JP, 1 ODM, 2 IND	Omweri Outko Antony
394	40	Kisii	Nyaribari Masaba	Kioniti Primary	2	PR437107	Stamped	Signed	, 1 NASA,	Geoffrey N. Ratemo
395	41	Kisii	Nyaribari Masaba	Riasongoro Tea Buying Centre	1	PR437593	Stamped	Signed	1 JP, 1 ODM, 1 KNC	Elkana Momanyi
396	42	Kisii	Nyaribari Masaba	Getare Tea Buying Centre	1	PR436387	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 ANC, 1 FORD KENYA, 1 NARC KENYA, 1KANU, 1PDR, 1 PDP, 1 RLP, 1 IND	Joseph Tom Nyaramba
397	43	Kisii	Bobasi	Suguta Primary School	1	PR433283	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 ANC, 1 KSC, 2 IND	Jeriah Kerubo Maaka
398	44	Kisii	Bobasi	Bokinbanto	1	PR045264	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1IND	Sophy Momanyi
399	45	Kisii	Bobasi	Rusinga Primary	1	PR434809	Stamped	Signed	2 JP, 1 ODM, 1 DPD	Irene Bonareri Ombati
400	46	Kisii	Bonchari	Nyabieyo Primary	1	PR428601	Stamped	Signed	2 JP, 1 ODM, 1 WIPER, 2 JP, 1 ODM, 1 AMANI, 1 WIPER, 1 FORD-K, 1 AMANI, 1 KNC, 1 KENYA SOCIAL CONGRESS, 1 PDP	Amos Mochama
401	47	Kisii	Bomachoge Chache	Nyamibobo S.D.A Primary	1	PR429457	Stamped	Signed		Gedeon Obiri Omari

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
402	53	Kisii	Bobasi	Nyachenge	1	PR432823	Stamped	Signed	1 JP, 1 ODM, 1 F-KENYA, 1 SAFINA, 1 KANU, 1 MCC, 1 PDP, 1 KANU, 1 INDEPENDENT	Bonface O. Sunda
403	54	Kisii	Bobasi	Rusinga Primary	1	PR434809	Stamped	Signed	2JP, 1 ODM, 1 DPP	Irene Bonareri
404	55	Kisii	Nyaribari Chache	Amabiria Primary	1	PR438625	Stamped	Signed	1, 1ODM,	Omari David
405	56	Kisii	Bonchari	Nyabieyo Primary	1	PR428581	Stamped	Signed	2 JP, 1ODM, 1 WIPER,	Amos Mochama
406	30	Kisii	Bomachoge Chache	Kiru Primary School	1	PR432211	Stamped	Signed	1 JP, 1 ODM,	Omwambia M Duke
407	221	Kisii	Kitutu Chache South	Nyaore Primary	2	PR441005	Stamped	Signed	SIGNED	Isaac
408	223	Kisii	Kitutu Chache South	Nyaore Pri. Sch.	2	PR441005	Stamped	Not Signed	NO AGENT	Not Legible
409	223	Kisii	Nyaribari Chache	Nyansira Pri. Sch.	2	PR438986	Stamped	Signed	1 JP, 1 ODM,	Florence Nyaboke
410	36	Kisii	Nyaribari Masaba	Sosera Primary	1	PR436479	Stamped	Signed	1JP, 1KNC, 1MCC, 1 MDP, 1KSC, 1PDP, 1 PPK	Haron Aminga Nyasani
411	139	Kisumu	Kisumu Central	Railways Dispensary	1	PR398557	Stamped	Signed	1 JP, 1 ODM,	Rachel Adhiambo
412	139	Kisumu	Kisumu Central	Railways Dispensary	2	PR398575	Stamped	Signed	1 JP, 1 ODM, 1 IND	Raymond Oyare
413	217	Kisumu	Kisumu East	Burkna Pri.	1	PR393901	Stamped	Signed	1 JP, 4 ODM, 1 FORD-K, 3 IND	Rabugi Agnes M Aluoch



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414	217	Kisumu	Kisumu East	Burkna Pri.	2	PR393920	Not Stamped	Signed	1 JP,4 ODM,2 IND	Edith P.N Akoch
415	217	Kisumu	Kisumu East	Burkna Pri.	3	PR393933	Stamped	Signed	1 JP,2 ODM,1 FORD-K,2 IND	Not Legible
416	217	Kisumu	Kisumu East	Kianja Pri.	1	PR393667	Stamped	Signed	,1 ODM, 1 FK, 1 ANC,1 IND	Celestine Alouch Alouc
417	217	Kisumu	Kisumu East	Kianja Pri.	2	PR393673	Stamped	Signed	1 JP,2 ODM,	Henry Gode
418	217	Kisumu	Kisumu East	Kianja Pri.	3	PR393691	Stamped	Signed	1 JP,4 ODM, 2 RBK, 1 CCP,3 IND	Jacinta Oyoo Onyango
419	217	Kisumu	Kisumu East	Kianja Pri.	4	PR393700	Stamped	Signed	NOT LEGIBLE	Peter Opiyo Kwaka
420	217	Kisumu	Kisumu East	Okok Pri.	1	PR393715	Stamped	Signed	1 JP,1 FORD, 1 ODM,1 RBK,1 CCP, 4 IND	Ruth Anyango Osodo
421	217	Kisumu	Kisumu East	Okok Pri.	2	PR393721	Stamped	Signed	,1 ODM, 1 ANC, 1 FORD,1 CCP	Elizabeth Atieno Agola
422	217	Kisumu	Kisumu East	Okok Pri.	3	PR393739	Stamped	Signed	,1 ODM,1 IND	Peter Ogwell
423	218	Kisumu	Kisumu East	Burkna Pri.	2	PR393920	Not Stamped	Signed	1 JP,4 ODM,3 INDEPENDENT	Edith P. N. Akoth
424	218	Kisumu	Kisumu East	Chiga Pri.	2	PR394165	Stamped	Signed	,1 ODM,	Jacqueline Akinyi Juma
425	218	Kisumu	Kisumu East	Got Nyabondo Pri.	2	PR393589	Stamped	Signed	2 JP,3 ODM,	Julius Otieno Odongo
426	218	Kisumu	Kisumu East	Kianja Pri.	2	PR393673	Stamped	Signed	1 JP,2 ODM,	Henry Gode
427	218	Kisumu	Kisumu East	Kianja Pri.	3	PR393691	Stamped	Signed	1 JP,4 ODM,3 INDEPENDENT, 2 RBK, 1 CCP	Jacinta Oyoo Onyango

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
428	218	Kisumu	Kisumu East	Kianja Pri.	4	PR393700	Stamped	Signed	NOT LEGIBLE	Peter Opiyo Kwaka
429	218	Kisumu	Kisumu East	Koyango Pri.	2	PR394474	Stamped	Signed	<sup>3</sup> ODM, <sup>1</sup> INDEPENDENT	Elsa Awino Ojuok
430	218	Kisumu	Kisumu East	Koyango Pri.	3	PR394485	Stamped	Signed	NOT LEGIBLE	Not Legible
431	218	Kisumu	Kisumu East	Koyango Pri.	4	PR394495	Stamped	Signed	<sup>1</sup> JP, <sup>1</sup> ODM, <sup>2</sup> INDEPENDENT	Josephine Omollo
432	218	Kisumu	Kisumu East	Koyango Pri.	5	PR394511	Stamped	Signed	NOT LEGIBLE	Daniel Otieno Omenda
433	218	Kisumu	Kisumu East	Koyango Pri.	8	PR394544	Stamped	Signed	<sup>3</sup> ODM, <sup>3</sup> INDEPENDENT	Emily Atheno Onyango
434	218	Kisumu	Kisumu East	Manyatta 'B' Centre	1	PR394549	Stamped	Signed	<sup>4</sup> ODM, <sup>1</sup> WIPER, <sup>2</sup> INDEPENDENT	Immaculate Achieng Owoko
435	218	Kisumu	Kisumu East	Manyatta 'B' Centre	3	PR394579	Stamped	Signed	<sup>2</sup> ODM, <sup>2</sup> INDEPENDENT	Felix V. Ochieng Ogutu
436	218	Kisumu	Kisumu East	Manyatta 'B' Centre	5	PR394603	Stamped	Signed	<sup>2</sup> JP, <sup>1</sup> NASA, <sup>1</sup> ODM, <sup>2</sup> INDEPENDENT	Munyane Violet Nanjeko
437	218	Kisumu	Kisumu East	Nyaimbo Pri.	1	PR394333	Stamped	Signed	<sup>1</sup> JP, <sup>4</sup> ODM, <sup>1</sup> CCP, <sup>4</sup> INDEPENDENT	Irene Ogonda
438	218	Kisumu	Kisumu East	Obino Pri.	1	PR394231	Stamped	Signed	<sup>1</sup> ODM, <sup>1</sup> INDEPENDENT	Lilian Nyaidho
439	218	Kisumu	Kisumu East	Obino Pri.	2	PR394237	Stamped	Signed	<sup>4</sup> ODM, <sup>1</sup> ANC, <sup>4</sup> INDEPENDENT, <sup>1</sup> CCP	Oduor Boniface Odhiambo
440	218	Kisumu	Kisumu East	Okok Pri.	1	PR393715	Stamped	Signed	<sup>1</sup> JP, <sup>1</sup> ODM, <sup>1</sup> FORD-K, <sup>4</sup> INDEPENDENT, <sup>1</sup> CCP, <sup>1</sup> RBK	Ruth Anyango Osodo

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441	218	Kisumu	Kisumu East	Okok Pri.	2	PR393721	Stamped	Signed	,1 ODM, 1 ANC, 1 FORD-K,1 INDEPENDENT, 1 CCP	Eucabeth Atieno Agola
442	218	Kisumu	Kisumu East	Okok Pri.	3	PR393739	Stamped	Signed	,1 ODM,1 INDEPENDENT	Peter Ogwell
443	218	Kisumu	Kisumu East	Orongo Pri.	1	PR394309	Stamped	Signed	,1 ODM,	Martin Opondo Obwar
444	218	Kisumu	Kisumu East	Orongo Pri.	2	PR394327	Stamped	Signed	1 JP, 2 ODM,1 INDEPENDENT	Herbert Otieno Ogada
445	218	Kisumu	Kisumu East	Wandiege Pri.	1	PR394375	Stamped	Signed	,1 NASA, 1 ODM,1 SAFINA, 1 CCP, 1 INDEPENDENT	Adhiambo Judith
446	218	Kisumu	Kisumu East	Wathorego Market	1	PR394035	Stamped	Signed	,1 ODM,	Millicent A. Owiti
447	218	Kisumu	Kisumu East	Wathorego Market	2	PR394045	Stamped	Signed	,1 ODM,	Vincent Oyugi
448	218	Kisumu	Kisumu East	Wathorego Market	3	PR394057	Stamped	Signed	,1 ODM,2 INDEPENDENT	John Ayieta
449	49	Kisumu	Kisumu East	Nyalenda 'A' Community Hall	5	PR394789	Stamped	Signed	,1 ODM,	Caroline A. Odhiambo
450	51	Kisumu	Kisumu East	Angira Primary School	2	PR394027	Stamped	Signed	,3 ODM,1 ANC,1 FORD K,1 INDEPENDENT	Brigit Were Abayo
451	218	Kisumu	Kisumu East	Wandiege Pri.	4	PR394409	Stamped	Not Signed	NO AGENT	Erick Omondi Yogo
452	218	Kisumu	Kisumu East	Koyango Pri.	6	PR394522	Stamped	Signed	1 ODM	John Nyanducha Guto
453	218	Kisumu	Kisumu East	Koyango Pri.	7	PR394533	Stamped	Signed	2 ODM	Agin Jemaiyo Sarah
454	50	Kisumu	Kisumu	Wandiege	7	PR394448	Stamped	Signed	1 ODM	Joseph Otieno

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			East	Primary						Okoth
455	218	Kisumu	Kisumu East	Chiga Pri.	1	PR394453	Stamped	Signed	1 JP, 2 ODM, 1 CCP, 2 IND	Pamela Achieng
456	218	Kisumu	Kisumu East	Koyango Pri.	1	PR394453	Stamped	Signed	2JP, 4 ODM, 3 IND	Esther Aoko Ogolla
457	218	Kisumu	Kisumu East	Mamboleo Market	3	PR393858	Stamped	Not Signed	NO AGENT	Not Indicated
458	218	Kisumu	Kisumu East	Wandiege Pri.	7	PR394448	Stamped	Signed	1 ODM	Joseph Otieno Okoth
459	143	Kitui	Kitui Central	Kilingile Pri. Sch.	1	PR106099	Stamped	Signed	,4 IND	Grace Rael Munyao
460	153	Kitui	Kitui East	Ngunji Pri. Sch.	1	PR108139	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 PPK, 1 NARC, 2 INP, 1 MUUNGANO, 1 NPK	Justina M Mutio
461	154	Kitui	Kitui South	Kaliyu Pri. Sch.	1	PR112957	Stamped	Signed	1 JP, 2 WIPER, 1 PTP, 4 IND, 1 NARC, 1 CCU	Timothy Ndivo Nyamai
462	154	Kitui	Kitui South	Maluma Pri. Sch.	1	PR112939	Stamped	Signed	1 JP, 1 NASA, 1 WIPER, 2 IND, 1 CCU, 1 NARC, 1 MUUGANO, 1 PTP	Martha Kimuli
463	155	Kitui	Kitui South	Kiawa Pri. Sch.	1	PR112465	Stamped	Signed	,1 IND	Jacqueline Mutinda
464	155	Kitui	Kitui South	Makueni Pri. Sch.	1	PR112556	Stamped	Signed	1 JP, 1 WIPER, 1 NARC, 1 PTP, 1 CCU, 1 IND, 1 MUUNGANO, 1 MCC	Magdalene Kaviti Kilonzo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
465	155	Kitui	Kitui South	Mitalami Pri. Sch.	1	PR112874	Stamped	Signed	1 JP, 1 WIPER,	Anastasia Kalondu Musyoka
466	155	Kitui	Kitui South	Uimi Nursery Sch.	1	PR112533	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 CCU, 1 NARC, 1 CCU	Lucy Kasyoaka Chapa
467	156	Kitui	Kitui Rural	Kisayani Pri Sch.	1	PR105769	Stamped	Signed	1 ODM, 1 WIPER, 1 CCU, 1 IND, 1 MCCP, 1 NARC, 1 MUNGANO	Mweu Nguta
468	156	Kitui	Kitui East	Kiyumbuni Pri. Sch.	1	PR109051	Stamped	Signed	1 JP, 2 WIPER, 1 FK, 1 NASA, 2 IND, 1 MUNGANO, 1 MCC, 1 NPK	Henry M Muasya
469	156	Kitui	Kitui East	Kunguluni Pri. Sch.	1	PR108799	Stamped	Signed	1 JP, 3 WIPER, 2 NARC, 2 IND, 1 MCCP, 1 MUNGANO	Benedict Nyayo Mathitu
470	158	Kitui	Kitui Central	Ndithini Pri. School	1	PR106081	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Philip Museve
471	174	Kitui	Kitui South	Thome Pri. Sch.	1	PR105427	Stamped	Signed	1 JP, 1 WIPER,	Martha Kioko
472	188	Kitui	Kitui East	Kyukuni Pri. Sch.	1	PR109226	Stamped	Signed	1 JP, 4 WIPER, 1 NARC, 1 NPK, 2 IND	Charles Kimanzi Wambua
473	203	Kitui	Kitui Central	Makutano Market	1	PR107857	Stamped	Signed	1 ODM, 1 MUNGANO, 1 IND	Jacob Kyalo Titus
474	208	Kitui	Kitui Central	Makutano Market	1	PR107857	Stamped	Signed	1 ODM, 1 IND, 1 MUNGANO	Jacob Kyalo Titus
475	223	Kitui	Kitui South	Yolomuni Pri. Sch.	1	PR112778	Stamped	Signed	1 JP, 3 IND, 1 CCU, 2 WDM-K, 1 NARC, 1 PTP	Jacinta V Kasimu

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
476	139	Kwale	Msamabweni	Jogoo Football Grounds	4	PR011431	Stamped	Signed	1 JP, 1 ODM,	Peter K. Nyamawi
477	139	Kwale	Msamabweni	Jogoo Football Grounds	9	PR011485	Stamped	Signed	1 JP, 1 ODM,	Hamisi Hamisi Mazuri
478	139	Kwale	Msamabweni	Mwamanga Pri.	1	PR011293	Stamped	Signed	1 JP, 1 ODM,	A. M. Mwazondo
479	139	Kwale	Msamabweni	Jogoo Football Grounds	1	PR011389	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 3 INDEPENDENT, 1 NEW DEMOCRAT, 1 DPK, 1 MCC, 1 KADU ASILI	Mankini S. Mwambeya
480	139	Kwale	Msamabweni	Jogoo Football Grounds	2	PR011407	Stamped	Signed	1 JP, 1 WIPER, 1 ODM, 1 MCC, 6 INDEPENDENT	Jacinta Ayugi Ochuka
481	139	Kwale	Msamabweni	Jogoo Football Grounds	3	PR011416	Stamped	Signed	NOT VISIBLE	Not Visible
482	139	Kwale	Msamabweni	Jogoo Football Grounds	5	PR011443	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 3 INDEPENDENT, 1 PPK, 1 MCC, 1 NEW DEMOCRAT, 1 NVP	Bwaka Mwalasha Sefu
483	139	Kwale	Msamabweni	Jogoo Football Grounds	7	PR011461	Stamped	Signed	3 JP, 2 ODM, 1 WIPER, 3 INDEPENDENT, 1 MCC, 1 NATIONAL PARTY	Richard Wabwile
484	139	Kwale	Msamabweni	Jogoo Football Grounds	8	PR011479	Stamped	Signed	1 JP, 2 ODM, 2 INDEPENDENT	Kassim Said Zondo
485	139	Kwale	Msamabweni	Jogoo Football Grounds	10	PR011497	Stamped	Signed	1 JP, 3 ODM,	Lusina Graphally
486	139	Kwale	Msamabweni	Mbuwani Pri.	1	PR011359	Not	Signed	2 JP, 3 ODM, 1	Hamad Hamisi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
							Stamped		WIPER,1 ANC, 1 FORD-K,1 PPK, 1 MCC, 1 INDEPENDENT	Kagima
487	139	Kwale	Msambweni	Mwamanga Pri.	2	PR011306	Not Stamped	Signed	NOT VISIBLE	Mutinda B. Mui
488	174	Kwale	Kinango	Chituoni Nursery Sch.	1	PR017755	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 NASA, 1 FORD-K, 1 KADU ASILI, 1 MCC	Loice Knekewe Mwavita
489	174	Kwale	Kinango	Matumbi Pri. Sch.	1	PR017785	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 MDG, 1 DP, 1 KADU ASILI, 1 INDEPENDENT, 1 KANU, 1 NARC	Michael M. Kupulo
490	174	Kwale	Kinango	Maviriviri Pri. Sch.	1	PR017851	Stamped	Signed	3 JP, 1 ODM, 1 WIPER, 1 KADU ASILI, 1 SDP, 1 NASA, 1 NARC	Khamisi Ndilo Mrabu
491	174	Kwale	Kinango	Mlola Nursery Sch.	1	PR018151	Stamped	Signed	1 JP, 1 NASA, 1 SDP, 1 NARC, 2 INDEPENDENT	Mwarandu Yeya Jeffa
492	174	Kwale	Kinango	Samburu Pri. Sch.	1	PR017600	Stamped	Signed	1 KANU, 1 MCCP, 1 ODM, 1 WP	Salome Munga Ngolo
493	174	Kwale	Kinango	Vikolani Pri. Sch.	1	PR018355	Stamped	Signed	1 JP, 2 NASA,	L. Kombo
494	175	Kwale	Kinango	Chituoni Nursery Sch.	1	PR017755	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 NASA, 1 FORD-K, 1 KADU ASILI, 1 MCC	Loice Knekewe Mwavita
495	176	Kwale	Kinango	Kafuduni Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	2 JP, 2 ODM, 1 CCU, 1 INDEPENDENT	Khalifa Charo Mwando

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496	176	Kwale	Kinango	Kafuduni Pri. Sch.	2	NOT LEGIBLE	Stamped	Signed	1 JP, 1 NASA, 1 WIPER,	Charo Katana Mzungu
497	176	Kwale	Kinango	Mazeras Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 KADU ASILI, 2 INDEPENDENT	Juliana Sidi Katana
498	176	Kwale	Kinango	Mazeras Pri. Sch.	2	PR018283	Stamped	Signed	2 JP, 3 ODM, 1 WIPER, 1 FORD-K, 1 KADU, 1 INDEPENDENT	Patience Kavuti Maundu
499	223	Kwale	Lungalunga	Kiranze Pri. Sch.	1	PR013369	Stamped	Signed	2 JP, 1 ODM, 1 ANC, 1 NASA, 1 WIPER, 1 PPK, 1 KADU ASILI, 1 IND,	Nelson Mwagiri
500	223	Kwale	Kinango	Nunguni Pri. Sch.	1	PR018199	Stamped	Signed	2 JP, 4 ODM, 1 MCC	Mandara Swaleh
501	139	Kwale	Msamuwani	Jogoo Football Grounds	6	PR011455	Not Stamped	Not Signed	1 JP, 1 ODM,	Not Indicated
502	145	Laikipia	Laikipia East	Njoguini Pri. Sch.	1	PR273781	Stamped	Signed	1 JP,	Everyne Guantai
503	155	Laikipia	Laikipia East	Bingwa Pri. Sch.	1	PR274717	Stamped	Signed	1 JP,	J.G Wahome
504	156	Laikipia	Laikipia East	Mugumo Pri. Sch.	1	PR274681	Stamped	Signed	2 JP, 1 IND	Ann Wairimu
505	156	Laikipia	Laikipia East	Mugumo Pri. Sch.	2	PR274693	Stamped	Signed	1 JP, 1 NASA, 1 IND, 1 CMD	Ratemo Nyamechi Everhine
506	156	Laikipia	Laikipia East	Tetu Pri. Sch.	1	PR273457	Stamped	Signed	3 JP, 2 IND, 1 KANU	Florence Wachira
507	222	Laikipia	Laikipia North	Muramati Pri	1	PR275413	Not Stamped	Signed	2 JP, 4 IND, 1 MCC, 1 NARC	Reuben Thuku



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508	222	Laikipia	Laikipia North	Muramati Pri	2	PR275425	Not Stamped	Signed	1 JP,	Joan Waitimu Wamugunda
509	222	Laikipia	Laikipia North	Sirimon Pri	1	PR276271	Not Stamped	Signed	1 JP, 1 ODM, 1 IND	Robert Githui Kagambi
510	223	Laikipia	Laikipia North	Lentile Farm	1	PR275137	Not Stamped	Signed	1 PNU, 3 INDEPENDENT	Molok Julius Kipchumba
511	223	Laikipia	Laikipia North	Muramati Pri. Sch.	1	PR275413	Not Stamped	Signed	2 JP, 4 INDEPENDENT, 1 MCC, 1 NARC	Reuben Thuku
512	223	Laikipia	Laikipia North	Muramati Pri. Sch.	2	PR275425	Stamped	Signed	1 JP,	Joan Waitima Wamugunda
513	222	Machakos	Mavoko	Athi River Pri	6	PR121699	Stamped	Signed	1 JP, 1 ODM,	R. Mutyao Kioko
514	222	Machakos	Mavoko	Athi River Pri	7	PR121711	Stamped	Signed	1 JP, 1 ODM,	Musunza
515	222	Machakos	Mavoko	Athi River Pri	1	PR121633	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORD-K, 1 CCM, 1 NARC, 1 IND	Joel M. Maeka
516	222	Machakos	Mavoko	Athi River Pri	2	PR121645	Stamped	Signed	1 ODM, 1 CCM, 1 MCC, 1 NARC, 1 IND	Benjamin Sowek
517	222	Machakos	Mavoko	Athi River Pri	3	PR121657	Stamped	Signed	1 JP, 1 ODM, 1 PTP, 2 MCC, 1 MAZINGIRA GREEN PARTY	Victoria Mumbua
518	222	Machakos	Mavoko	Athi River Pri	4	PR121669	Stamped	Signed	1 JP, 1 ODM, 2 MCC	Stephen Maingi
519	222	Machakos	Mavoko	Athi River Pri	5	PR121687	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 1 WIPER, 2 MCC, 1 GREEN PARTY, 1	Nicholas Okwach

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									IND	
520	222	Machakos	Mavoko	Athi River Pri	8	PR121717	Stamped	Signed	,1 ODM, 1 CCM,1 NARC, 1 MCC, 2 IND	Mary Njeri Kabue
521	222	Machakos	Mavoko	Athi River Pri	9	PR121729	Stamped	Signed	1 JP,1 ODM, 1 WIPER,1 MCC	Joseph Kimani Mutua
522	222	Machakos	Mavoko	Athi River Pri	10	PR121747	Stamped	Signed	1 JP,1 ODM, 1 CCM, 1 WIPER, 1 CCM,2 IND, 2 MCC, 1 NARC, 1 MASHINGIRA, 1 PICK	Charles Kyalo Munywoki
523	222	Machakos	Mavoko	Athi River Pri	11	PR121759	Stamped	Signed	1 JP,1 ODM, 1 CCM, 1 WIPER,1 IND, 1 MAZINGIRA GREENEEN PARTY, 1 MCC	Alphonse K. Mutisya
524	222	Machakos	Kathiani	Kwangolya Pri	1	PR121280	Stamped	Signed	2 JP, 3 WIPER,4 MCC, 4 IND	Emmanuel Mutua
525	95	Machakos	Mavoko	Githunguri Jetview Primary School	1	PR122809	Stamped	Signed	1 JP,1 ODM, 1 WIPER, 2 IND, 1 MCC	Deborah Kithuga
526	95	Machakos	Mavoko	Githunguri Jetview Primary School	2	PR122827	Stamped	Signed	1 JP,1 ODM, 1 ANC, 1 WIPER,1 MAZ, 2 IND, 1 CCU,1 MCC	Bosco Kalungu
527	95	Machakos	Mavoko	Githunguri Jetview Primary School	3	PR122833	Stamped	Signed	1 JP, 1 ANC, 1 WIPER,1 IND	Ruth Wayua Nthome

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
528	95	Machakos	Mavoko	Githunguri Jetview Primary School	4	PR122851	Stamped	Signed	,1 ODM, 1 WIPER,4 IND	Benson Nzuki Munyao
529	95	Machakos	Mavoko	Githunguri Jetview Primary School	6	PR122877	Stamped	Signed	NOT LEGIBLE	Gladys Kalekye Muange
530	95	Machakos	Mavoko	Githunguri Jetview Primary School	8	PR122893	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 2 WIPER,4 IND, 1 MCC	Jacom Seko Lonzi
531	95	Machakos	Mavoko	Githunguri Jetview Primary School	10	PR122917	Stamped	Signed	1 JP, 1 ODM, 1 IND	Ann Mbula Matuya
532	95	Machakos	Mavoko	Mulolongo Primary School	4	PR123139	Stamped	Signed	1 JP, 2 ODM, 1 WIPER, 2 IND, 1 MCC, 1 NARC	Regina Gitagu
533	95	Machakos	Mavoko	Mulolongo Primary School	43	PR123601	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Francis Wambua
534	95	Machakos	Mavoko	Githunguri Jetview Primary School	7	PR122887	Stamped	Signed	1 JP, 1 ODM,	Catherine Nduku Muthini
535	95	Machakos	Mavoko	Githunguri Jetview Primary School	5	PR122858	Stamped	Signed	1JP, 1 ODM, 1 WIPER, 1 MCCP	Nicodemus Nyangaka
536	95	Machakos	Mavoko	Githunguri Jetview Primary School	9	PR122913	Stamped	Signed	1 JP, 1 ODM	Everlyne Ndunge

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
537	144	Makueni	Kilome	Kitaingo Pri. Sch.	1	PR132523	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 MUUNGANO, 1 NARC, 1 PTP	Charles M. Musyoka
538	144	Makueni	Kilome	Kitaingo Pri. Sch.	2	PR132535	Stamped	Signed	1 JP, 3 WIPER, 1 ODM, 1 MUUNGANO, 1 IND, 1 MCC	Asepath Mulumba
539	157	Makueni	Kibwezi East	Kalima Koi Pri. Sch.	1	PR140215	Stamped	Signed	1 JP, 1 WIPER, 1 MUUNGANO, 1 NEW DEMOCRATES, 1 MCC	Peter Mwan Ndiyo
540	157	Makueni	Kibwezi East	Molemmuni Pri. Sch.	1	PR140389	Stamped	Signed	2 JP, 1 NASA, 1 WIPER, 1 NPK, 2 IND, 1 NEW DEMOCRATS 1 MCC, 1 MUUNGANO	Lawrence M Yambu
541	157	Makueni	Kibwezi East	Yikivuthi Pri. Sch.	1	PR140143	Stamped	Signed	1 JP, 1 WIPER, 1 MUUNGANO, 1 PTP, 1 NEW DEMOCRACY	Nicholas M Muendo
542	223	Makueni	Mbooni	Kalingile Market	1	PR130646	Stamped	Signed	1 JP, 1 ODM	James Muli Kieti
543	223	Makueni	Kilome	Kitaingo Pri. Sch.	2	PR132535	Stamped	Signed	1 JP, 3 WIPER, 1 ODM, 1 IND, 1 MAENDELLEO, 1 DEMOCRACY, 1 MUUNGANO	Asepath Mulumba
544	149	Mandera	Mandera West	Dandu Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP,	Nurou Adan Hussein
545	179	Meru	Igembe South	Maau Pri. Sch.	2	PR061897	Stamped	Signed	1 JP, 1 ODM,	Purity Muthoni

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
546	179	Meru	Igembe South	Mauna Pri. Sch.	3	PR061911	Stamped	Signed	1 JP, 1 ODM,	John Ikuthi Mlingera
547	202	Meru	North Imenti	Mosque Road Hall (Mkt)	1	PR071317	Stamped	Signed	1 JP, 1 ODM,	Lilian Gakii Miriti
548	209	Meru	North Imenti	Mosque Road Hall (Mkt)	1	PR071317	Stamped	Signed	1 JP, 1 ODM,	Lilian Gakii Miriti
549	223	Meru	South Imenti	Kithangari Pri. Sch.	1	PR078733	Stamped	Signed	1 JP, 1 ODM,	Douglas Mwti
550	179	Meru	Igembe South	Mauna Pri. Sch.	1	PR061891	Stamped	Signed	1 JP, 1 NASA,	Robert Mujuri
551	180	Meru	Igembe South	Mauna Pri. Sch.	1	PR061891	Stamped	Signed	1 JP, 1 NASA,	Robert Mujuri
552	201	Meru	North Imenti	Meru Pri. Sch.	1	PR071257	Stamped	Signed	1 JP, 3 IND, 1 NARK KENYA, 1 MAZINGIRA, 1 MCC	Mercy K Kaburu
553	202	Meru	North Imenti	Nteere Park	1	PR071377	Stamped	Signed	1 JP, 1 IND, 1 MAZINGIRA, 1 DP, 1 PNU	Jason Kinyua
554	205	Meru	North Imenti	Njuki Njiru Pri. Sch.	1	PR071671	Stamped	Signed	2 JP, 1 ODM, 1 DP, 2 IND, 1NVP	Harriet Kaguiria
555	206	Meru	North Imenti	Kahurine Coffee Factory	1	PR071689	Stamped	Signed	1 JP,	Tony Gitonga
556	207	Meru	North Imenti	Gakoromone Open Air Market	1	PR071761	Stamped	Signed	1 JP, 1 ODM, 1 NATIONAL VISION PARTY	James Gitau
557	209	Meru	North Imenti	Meru Pri. Sch.	1	PR071257	Stamped	Signed	1 JP, 3 INDEPENDENT, 1 MAZINGIRA, 1 NARK KENYA, 1 M.C.C	Mercy Karwitha Kaburu
558	209	Meru	North Imenti	Meru Pri. Sch.	2	PR071269	Stamped	Signed	2 JP, 1 ODM, 1 MAZINGIRA	Era Kairuthi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
559	209	Meru	North Imenti	Meru Pri. Sch.	3	PRO71287	Stamped	Signed	2 JP, 1 ODM, 1 CCM, 1 MAZINGIRA, 1 M.C.C	Doris Gatwiri
560	209	Meru	North Imenti	Mosque Road Hall (Mkt)	2	PRO71329	Stamped	Signed	1 JP, 1 ODM, 1 MAZINGIRA, 1 INDEPENDENT	Amos Muguna
561	209	Meru	North Imenti	Mosque Road Hall (Mkt)	3	PRO71341	Stamped	Signed	3 JP, 1 ODM,	Edwin Murithi Kaai
562	209	Meru	North Imenti	Mosque Road Hall (Mkt)	4	PRO71359	Stamped	Signed	1 JP, 1 NASA, 1 PNU, 6 INDEPENDENT, 1 MAZINGIRA, 1 MCC	Haran Kaumbuthu
563	209	Meru	North Imenti	Nteere Park		PRO71377	Stamped	Signed	1 JP, 2 INDEPENDENT, 1 MAZINGIRA GREEN PARTY, 1 DP, 1 INDEPENDENT, 1 PNU	Jason Kinyua
564	210	Meru	Bomet Central	Maset Pry		PR332545	Stamped	Signed	5 JP, 1 CCM, 1 UDP, 1 ARK, 3 INDEPENDENT	Not Indicated But Deputy Indicated As Juliana Cherotich Terer
565	211	Meru	Buuri	Mumanda Primary	1	PR012545	Stamped	Signed	NO AGENT	Jacob Mwonjera Igweta
566	213	Meru	North Imenti	Gakoromone Open Air Market	4	PRO71807	Stamped	Signed	NOT LEGIBLE	Not Legible
567	217	Meru	North Imenti	Ciothirai Pri.	1	PRO73015	Stamped	Signed	, 1 MGPK, 1 IND	Caroline Kamuri

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
										Riungu
568	217	Meru	North Imeni	Ciothirai Pri.	2	PRO73027	Stamped	Signed	1 JP, 1 NASA, 1 PNU, 1 MAZINGIRA, 1 DP, 1 IND	Caroline Gakii
569	217	Meru	Buuri	Sirimon Centre	1	PRO73513	Stamped	Signed	1 JP, 1 PNU	Gathbu Kinoti
570	217	Meru	Buuri	Sirimon Centre	2	PRO73531	Stamped	Signed	1 JP, 1 MCC, 1 PNU, 1 JP, 1 ODM, 1 PNU, 1 MCC, 1 INDEPENDENT	George Kinoti Gikunda
571	222	Meru	Buuri	Kithithina		PRO73387	Stamped	Signed	1 ODM, 3 INDEPENDENT, 1 AGANO	Erancisco Mwenda
572	222	Meru	Buuri	Kithithina		PRO73369	Stamped	Signed		Ruth Gatwiri
573	223	Meru	Igembe Central	Kanjoo Pri. Sch.		PRO64575	Stamped	Signed	1 JP, 1 NASA,	Elias Murunki Mujuri
574	223	Meru	Tigania East	Ncuui Pri. Sch.		PRO70651	Stamped	Signed	1 JP, 1 NASA,	Sarah Kaari
575	223	Meru	Tigania East	Ncuui Pri. Sch.		PRO70665	Stamped	Signed	2 JP, 1 ODM,	Stephen Harriet Kinya
576	223	Meru	Igembe Central	Nkanga Pri. Sch.		PRO64317	Stamped	Signed	1 JP, 1 PNU, 2 IND	Nitika Jadhel Gionga
577	13	Meru	Igembe South	Ura Tea Buying Polling Station	2	PRO83247	Not Stamped	Signed	1 PNU, 2 IND	Sofia Gakii Mbae
578	14	Meru	Igembe South	Anwamba Primary School	1	PRO83009	Not Stamped	Signed	1 JP, 1 ODM	Not Legible
579	62	Meru	Igembe South	Ura Tea Buying Polling Station	2	PRO63247	Not Stamped	Signed	1 PNU, 2 IND	Sofia Gakii Mbae

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
580	63	Meru	Igembe South	Kiyanka Primary Polling Station	2	PR062443	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 DIP, 1 KANU, 1 PNU	Phyllis Naitore Mbaya
581	64	Meru	Igembe South	Kiegoti Primary Polling Station	2	PR062373	Stamped	Signed	NO AGENT	Njagi Joseph
582	65	Meru	Igembe North	Nkiriama Primary Polling Station	1	PR065980	Stamped	Signed	1 JP, 1 CHAP CHAP, 1 IND	Ikamati Selina Naome
583	185	Meru	Tigania West	Laciathuriu Pri. Sch.	1	PR067735	Stamped	Signed	3 JP,	Elijah Mwenda Taati
584	204	Meru	North Imeni	Miriga Mieru Society Offices	1	PR071621	Stamped	Not Legible	NOT LEGIBLE	Not Legible
585	207	Meru	North Imeni	Miriga Mieru Society Offices	1	PR071621	Stamped	Signed	NO AGENT	Silas Kimani Fredrick N Otieno
586	15	Migori	Rongo	Tonye Primary	1	PR418658	Stamped	Signed	1 JP, 1 ODM,	
587	67	Migori	Suna East Constituency	Migori Main Prison Polling Station	1	PR421567	Stamped	Signed	, 1 ODM, 1 ANC, 1 IND	Sarah Achieng Oremo
588	68	Migori	Suna East	Witharaga Primary School	1	PR421375	Stamped	Signed	, 2 ODM, 1 ANC, 7 IND	Charles Ooko Ochieng
589	69	Migori	Suna East	Nyarongi Primary School	1	PR421710	Not Stamped	Signed	NOT LEGIBLE	John Alumasa Akoto
590	139	Mombasa	Jomvu	Mikindani Social Hall	4	PR002503	Stamped	Signed	1 JP, 1 ODM,	Samuel Wasonga
591	139	Mombasa	Jomvu	Mikindani Social Hall	7	PR002533	Stamped	Signed	1 JP, 1 ODM,	Carolyne Anyango
592	139	Mombasa	Jomvu	Miritoni Pri. Sch. 4	4	PR001843	Stamped	Signed	1 JP, 1 ODM,	Amna Hassan Musyoka
593	140	Mombasa	Jomvu	Miritini World Bank	2	PR001651	Stamped	Signed	1 JP, 1 ODM,	Roselyne Ayieko



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
594	140	Mombasa	Jomvu	Tarathbu Social Hall 3s	2	PR001825	Stamped	Signed	1 JP,1 ODM,	Swaleh Mohamed Swaleh
595	143	Mombasa	Jomvu	Mirithni World Bank	5	PR001681	Stamped	Signed	1 JP,1 ODM,	Christine Walegywa Orandi
596	139	Mombasa	Jomvu	Abu-Ubaida Pri. 9	1	PR002065	Stamped	Signed	1 JP,1 ODM,1 FORD-K,1 IND,1 KANU	Mary Mliku Catherine K. Mutua
597	139	Mombasa	Jomvu	Abu-Ubaida Pri. 9	2	PR002083	Stamped	Signed	1 JP,1 WIPER,	
598	139	Mombasa	Jomvu	Abu-Ubaida Pri. 9	3	PR002095	Not Stamped	Signed	1 JP,1 NASA,1 IND,1 KANU,1 FRONTIER	David Oruya
599	139	Mombasa	Jomvu	Abu-Ubaida Pri. 9	4	PR002107	Not Stamped	Signed	1 JP,1 ODM,1 ANC,1 FORD K,1 WIPER,1 IND,1 FRONTIER,	Stellah Ann Njeri Kibe
600	139	Mombasa	Jomvu	Abu-Ubaida Pri. 9	5	PR002113	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 ANC,1 IND,1 UDP,1 FRONTIER,1 KANU	Catherine Musimbi Egunza
601	139	Mombasa	Jomvu	Aldinnah Nursery 5	1	PR001855	Not Stamped	Signed	2 JP,1 ODM,1 WIPER,1 ANC,4 IND	Jane Kerubo Arama
602	139	Mombasa	Changamwe	Chani Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP,1 WIPER,1 FORD K,1 IND	Dickson Boraya
603	139	Mombasa	Kisauni	Concordia Pri.	1	PR004429	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 KANU,1 KADU,1 UDP,2 IND	Dullu Amos Dambala
604	139	Mombasa	Kisauni	Concordia Pri.	2	PR004447	Not Stamped	Signed	1 JP,1 ODM,1 WIPER,1 KANU,2	Priscilla Opiyo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									INDEPENDENT, 1 NEW DEMOCRAT, 1 KADU ASILI, 1 UDP, 1 VDP	
605	139	Mombasa	Jomvu	Jomvu Kuu Pri.	1	PR001723	Stamped	Signed	,1 UDP,1 SHIRIKISHO 2 JP,2 ODM,1 ANC,1 FD KENYA,5 IND	Edward Maganga Mwandotu
606	139	Mombasa	Jomvu	Jomvu Narcol Nursery 6	1	PR001933	Stamped	Signed	1 JP,2 ODM, 1 ANC, 1 WIPER,1 KADU ASILI, 1 NEW DEMOCRAT, 1 IND, 2 KANU,	Anthony Ochieng Omondi
607	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	1	PR004237	Not Stamped	Signed	1 JP,1 ODM, 1 WIPER,1 IND, 1 KANU, 1 DVP	Constate Akoth Okoth
608	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	2	PR004249	Not Stamped	Signed	1 JP,2 ODM, 1 ANC, 1 WIPER,1 KANU, 1 ELOG, 1	Kendi Juliah
609	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	3	PR004267	Not Stamped	Signed	UNSPECIFIED	Norah Anyango Otunga
610	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	4	PR004273	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Fredrick Ouma Joseph
611	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	5	PR004285	Stamped	Signed	1 JP,1 NASA,	Jackson Leparmarai
612	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	6	PR004297	Not Stamped	Signed	1 JP,1 ODM, 1 ANC, 1 WIPER,1 KANU, 1 KADU	Mavin Ageng'o Omondi
613	139	Mombasa	Kisauni	Kiembeni Baptist Pri.	7	PR004309	Stamped	Signed	1 JP,1 ODM, 1 WIPER,1 KANU	Joyce Kasoyoka Mwadime
614	139	Mombasa	Jomvu	Mikindani Social Hall	1	PR002461	Stamped	Signed	1 JP,1 ODM, 1 ANC, 1 WIPER,2 IND	

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
615	139	Mombasa	Jomvu	Mitkindani Social Hall	2	PR002473	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 AMANI, 2 IND, 1 AGANO	Dennis Orina Larani
616	139	Mombasa	Jomvu	Mitkindani Social Hall	3	PR002491	Stamped	Signed	1 JP, 1 ANC, 1 IND	Lucas Malembi Ali Msanifu Kombo
617	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	6	PR008107	Stamped	Signed	1 JP, 1 ODM,	Biasha Nyamvula K
618	139	Mombasa	Jomvu	Mitkindani Social Hall	5	PR002509	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 3 IND	Richard Motaroki Ondiaki
619	139	Mombasa	Jomvu	Mitkindani Social Hall	6	PR002521	Stamped	Signed	1 JP, 1 ODM, 1 FORD K, 2 IND, 1 WDPR	Irene M. Mwikya
620	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	9	PR008143	Stamped	Signed	1 JP, 1 ODM,	Shem Mwaazoya Mwaazoya
621	139	Mombasa	Jomvu	Mitkindani Social Hall	8	PR002545	Stamped	Signed	1 JP, 1 ODM, 1 IND	Emmanuel Otieno Juma
622	139	Mombasa	Jomvu	Mitkindani Social Hall	9	PR002563	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 FORD K, 1 WIPER, 1 IND	
623	139	Mombasa	Jomvu	Mitkindani Social Hall	10	PR002569	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 FORD K, 2 IND	Leah Anyango
624	139	Mombasa	Jomvu	Ministry Of Water Tanks	1	PR002395	Stamped	Signed	1 JP, 1 ODM, 1 IND	Betty Wanyonyi
625	139	Mombasa	Jomvu	Ministry Of Water Tanks	2	PR002401	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORD K, 3 IND	Faith Muthina Ndolo
626	139	Mombasa	Jomvu	Ministry Of Water Tanks	3	PR002423	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 FORD K, 1 WIPER, 1 IND	Mruche Ndungo
627	139	Mombasa	Jomvu	Ministry Of Water Tanks	4	PR002425	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORD K, 2 IND	David Nyaga Kithaka

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
628	139	Mombasa	Jomvu	Ministry Of Water Tanks	5	PR002437	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 IND	Benjamin Tsuma Mbura
629	139	Mombasa	Jomvu	Ministry Of Water Tanks	6	PR002455	Not Stamped	Signed	1 JP, 1 ODM, 1 FORD K, 2 IND, 1 AMANI, 1 VDP	Umikwithum Naski Siro
630	173	Mombasa	Likoni	Likoni Pri. Sch.	2	PR008179	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC, 1 IND	Rehema S Ngoma
631	139	Mombasa	Jomvu	Miritini Pri. Sch.	1	PR002137	Stamped	Signed	1 JP, 1 NASA, 1 WIPER, 1 ANC, 1 MCC, 1 UDP, 1 KANU, 2 IND, 1 NEW DEMOCRATS	Fred Oseko Nyambariga
632	139	Mombasa	Jomvu	Miritini Pri. Sch.	2	PR002155	Stamped	Signed	2 JP, 3 FORD K, 1 ODM, 1 ANC, 3 IND, 1 KANU	Catherine Nekesa Onginjo
633	139	Mombasa	Jomvu	Miritini Pri. Sch.	3	PR002161	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 2 FORD K, 3 IND, 1 UDP, 1 FAP, 1 MCC	Lumumba Nyairo
634	139	Mombasa	Jomvu	Miritini Pri. Sch.	4	PR002179	Stamped	Signed	1 JP, 1 FORD K, 1 ODM, 1 KANU, 1 MCCP, 1 FAP, 4 IND	Emmanuel Mwachia Moka
635	139	Mombasa	Jomvu	Miritini Pri. Sch.	5	PR002191	Stamped	Signed	1 JP, 1 ODM, 1 FORD K, 1 KANU, 2 IND	Victor Obunga Nyigilo
636	139	Mombasa	Jomvu	Miritini Pri. Sch.	6	PR002197	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 2 IND	Michael Brendan Buoro
637	139	Mombasa	Jomvu	Miritini World Bank	1	PR001633	Not Stamped	Signed		

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
638	139	Mombasa	Kisumu	Mtopanga Pri.	1	PR004321	Stamped	Signed	1 JP, 1 ODM, 1 ANCG, 1 WIPER, 1 KANU, 1 IND	Mr. Tsuma Mbura
639	139	Mombasa	Kisumu	Mtopanga Pri.	2	PR004333	Stamped	Signed	1 JP, 1 ODM, 1 WIPER,	Florence Mwendu Kavata
640	139	Mombasa	Kisumu	Mtopanga Pri.	4	PR004357	Stamped	Signed	, 1 ODM,	Abeyd Abdurahman
641	139	Mombasa	Kisumu	Mtopanga Pri.	5	PR004375	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 IND	Julius Maundu Nzyoka
642	139	Mombasa	Kisumu	Mtopanga Pri.	6	PR004387	Stamped	Signed	1 JP, 1 ODM, 1 IND	Fredrick Ng'ang'a Kamau
643	139	Mombasa	Kisumu	Mtopanga Pri.	7	PR004399	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 2 UDP, 1 KADU ASILL, 1 CJPC	Kaingu Peter Kahindi
644	139	Mombasa	Kisumu	Mtopanga Pri.	8	PR004411	Stamped	Signed	1 JP, 1 ODM, 1 IND	Lucy Manga Masinde
645	139	Mombasa	Kisumu	Mtopanga Pri.	9	PR004417	Not Stamped	Signed	, 1 ODM,	Joseph Kaloki Mwangangi
646	139	Mombasa	Jomvu	Mwanlai Pri Sch.	1	PR002359	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 3 IND, 1 KANU, 1 UDP, 1 CHAPCHAP	Sylvester Ojambo Okello
647	139	Mombasa	Jomvu	Mwanlai Pri Sch.	2	PR002371	Stamped	Signed	1 JP, 1 WIPER, 1 FORD K, 1 IND	Silvester Mogere
648	139	Mombasa	Jomvu	Mwanlai Pri Sch.	3	PR002383	Not Stamped	Signed	1 JP, 1 ODM, 1 ANCG, 1 FORD K, 1 UDP, 3 IND, 1 MCC, 1 FAP, 1 KANU	Robinson E K Ngoka
649	139	Mombasa	Jomvu	Nuru Cbr 001	1	PR002005	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANCG, 1 FORD K, 2 IND, 1	John Waweru

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									UDP,	
650	139	Mombasa	Jomvu	Nuru Cbr 0018	5	PR002059	Not Stamped	Signed	1 JP,1 ODM,1 WIPER,3 IND,1 SHIRIKISHO,	Edward M. Athumba
651	139	Mombasa	Jomvu	Railways Station Hall	1	PR002245	Stamped	Signed	1 JP,1 ODM,1 WIPER, 1 FORD K,1 VDP, 1 IND	Walker Ajinja Ambido
652	139	Mombasa	Jomvu	Railways Station Hall	2	PR002257	Stamped	Signed	1 JP,1 ODM, 1 FORD K,	Purity Mukami Karuki
653	139	Mombasa	Jomvu	Railways Station Hall	3	PR002275	Stamped	Signed	1 JP,1 ODM, 1 FORD K,1 IND,1 UDP, 1 FAP, 1 KANU, 1 MCC, 1 FORD ASILI	Philip M Kitutu
654	139	Mombasa	Jomvu	Railways Station Hall	4	NOT LEGIBLE	Not Stamped	Signed	1 JP,1 ODM, 1 WIPER, 1 ANC,1 IND, 1 KANU, 1 FAP	Josephat Macwetta
655	139	Mombasa	Jomvu	Railways Station Hall	5	PR002299	Not Stamped	Signed	1 JP,1 NASA,	Franklin Sanga
656	139	Mombasa	Jomvu	Railways Station Hall	6	PR002305	Stamped	Signed	1 JP,1 ODM,1 UDP	Charles O. Airo
657	139	Mombasa	Jomvu	Railways Station Hall	7	PR002323	Stamped	Signed	1 JP,1 NASA, 1 ODM, 1 FORD K, 1 ANC,1 UDP, 1 KANU, 1 IP	Obino Jones
658	139	Mombasa	Jomvu	Railways Station Hall	8	PR002335	Stamped	Signed	1 JP,1 NASA, 1 ANC,	Walwanda Wanjala Noor
659	139	Mombasa	Jomvu	Railways Station Hall	9	PR002341	Stamped	Signed	1 JP,1 ODM,1 FORD, 1 IND, 1 TAP	Saumu Beya Mahaja
660	139	Mombasa	Kisumu	St Joseph Hermany Pri.	1	PR004489	Stamped	Signed	1 JP,1 ODM, 1 WIPER, 1 ANC,1	Celestine A. Ochung

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									KANU, 1 INDEPENDENT, 1 NEW DEMOCRAT, 1 KADU ASILI	
661	139	Mombasa	Kisumu	St. Joseph Hermann Pri.	2	PR004507	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, , 1 ODM, 1 WIPER, 1 ANC, 1 INDEPENDENT, 1 KANU, 1 NEW DEMOCRAT	Mwero Kaema Hamadi
662	139	Mombasa	Kisumu	St. Joseph Hermann Pri.	3	PR004513	Stamped	Signed	1 JP, 1 ANC, 1 WIPER, 1 ODM, 1 INDEPENDENT, 1 KANU, 1 NEW DEMOCRAT	Dennis Festo Wesonga Solika
663	139	Mombasa	Kisumu	St. Joseph Hermann Pri.	4	PR004531	Stamped	Signed	1 JP, 1 ANC, 1 WIPER, 1 ODM, 1 INDEPENDENT, 1 KANU, 1 NEW DEMOCRAT, 1 KADU ASILI	Benjamin Macharia
664	139	Mombasa	Jomvu	Swaleh Khalid Social Hall 7	1	PR001969	Stamped	Signed	1 JP, 1 ANC, 1 FORD K, 1 ODM, 1 WIPER, 4 IND, 1 FRONTIER, 1 CHAP CHAP	Victor Kivisu Kithome
665	139	Mombasa	Jomvu	Taratibu Social Hall 3s	1	PR001819	Not Stamped	Signed	, 1 ODM, 1 WIPER, 1 IND	Nahashon Nyok Woyo
666	140	Mombasa	Jomvu	Aldinnah Nursery 5	2	PR001867	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC, 1 FORD K, 3 IND	Denis Kirimi
667	140	Mombasa	Changamwe	Chani Pri. Sch.	2	PR001543	Not Stamped	Signed	3 JP, 1 ODM, 1 WIPER,	Everhne Oduor
668	140	Mombasa	Jomvu	Jomvu Kuu Pri.	2	PR001735	Stamped	Signed	2 JP, 1 ODM, 1 WIPER, 3 IND, 1 MCC,	Athumani Kuzikanza
669	140	Mombasa	Jomvu	Jomvu Narcol	2	PR001945	Stamped	Signed	1 JP, 1 ODM, 1	Musebe

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		a		Nursery 6					WIPER,2 IND,1 MCC	Mukanda Cecil
670	140	Mombasa	Jomvu	Swaleh Khalid Social Hall 7	2	PR001981	Stamped	Signed	2.JP,1 ODM,1 ANC,1 WIPER,1 FORD K,4 IND	Damian Mwashighadi
671	141	Mombasa	Jomvu	Aldinnah Nursery 5	3	PR001873	Not Stamped	Signed	1.JP,1 ODM,1 WIPER,1 IND	James Joel Onyango Ogot
672	141	Mombasa	Changamwe	Chaani Pri. Sch.	3	PR001549	Stamped	Signed	2.JP,1 WIPER,1 ODM,1 FORD K,4 IND,1 MCC	Titus Musya
673	141	Mombasa	Jomvu	Jomvu Kuu Pri.	3	PR001741	Stamped	Signed	1.JP,1 ODM,1 WIPER,1 NASA,1 FORD K,4 IND,1 MCC,1 VDP	Peter W Kiarie
674	141	Mombasa	Jomvu	Jomvu Narcol Nursery 6	3	PR001963	Not Stamped	Signed	,1 IND	Tubman Shipwoli Shitsama
675	141	Mombasa	Jomvu	Miritini World Bank	3	PR001657	Stamped	Signed	2.JP,1 ODM,1 WIPER,1 ANC,1 FORD K,4 IND,1 FRONTIER	Simon Peter Munyua Mwangi
676	141	Mombasa	Jomvu	Nuru Cbr 001 8	3	PR002035	Stamped	Signed	1.JP,1 ODM,1 FORD K,3 IND,1 MCC,1 SHIRIKISHO,	Husein Juma Sackin
677	141	Mombasa	Jomvu	Swaleh Khalid Social Hall 7	3	PR001993	Stamped	Signed	1.JP,1 NASA,1 ANC,1 WIPER,2 IND,1 FRONTIER	Amuhaya Stanley
678	142	Mombasa	Jomvu	Aldinnah Nursery 5	4	PR001885	Stamped	Signed	2.JP,1 ODM,1 ANC,1 WIPER,1 MCC,1 SHIRIKISHO,3 IND	Catherine Wambui M
679	142	Mombasa	Changamwe	Chaani Pri.	4	PR001567	Stamped	Signed	2.JP,1 ODM,1	Titus Machuki



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		a		Sch.					WIPER, 1 FORD K,5 IND,1 MCC	Omanbia
680	142	Mombasa	Jomvu	Jomvu Kuu Pri.	4	PR0017453	Stamped	Signed	2 JP,1 ODM,1 ANC,1 FORD K,1 SHIRIKISHO,2 IND,1 MCC,	Abdallah Salim Kombo
681	142	Mombasa	Jomvu	Miritini World Bank	4	PR001669	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 ANC,1 FORD K,5 IND,1 FAP	Rashid Faki Salim
682	142	Mombasa	Jomvu	Nuru Chr 0018	4	PR002041	Stamped	Signed	1 JP,1 ODM,1 FORD K,1 IND,1 UDP,1 SHIRIKISHO	Thomas Munga
683	143	Mombasa	Jomvu	Aldinnah Nursery 5	5	PR001903	Stamped	Signed	2 JP,1 ODM,1 IND	Musa Mzee
684	143	Mombasa	Changamwe	Chani Pri. Sch.	5	PR001573	Not Stamped	Signed	1 JP,1 ODM,1 IND	Musa
685	143	Mombasa	Jomvu	Jomvu Kuu Pri.	5	PR001765	Not Stamped	Signed	1 JP,1 ODM,1 WIPER, 1 ANC,1 FORD K,2 IND	Grace Anyango Owino
686	144	Mombasa	Jomvu	Aldinnah Nursery 5	6	PR001915	Stamped	Signed	2 JP,1 ODM,2 IND	Michael Suja
687	144	Mombasa	Changamwe	Chani Pri. Sch.	6	PR001585	Stamped	Signed	1 JP,1 ODM,1 IND	Michael Kalume Ponda
688	144	Mombasa	Jomvu	Jomvu Kuu Pri.	6	PR001783	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 ANC,1 FORD K,3 IND,1 MCC,1 SPK,	Victor Otieno Abongo
689	144	Mombasa	Jomvu	Miritini World Bank	6	PR001700	Not Stamped	Signed	,1 ANC,1 IND	Gaudencia Otieno
690	145	Mombasa	Jomvu	Aldinnah Nursery 5	7	PR001921	Not Stamped	Signed	1 JP,1 ODM,1 WIPER,1 FORD,1 IND,1 MCC	Agendo Silas Omoto

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
691	145	Mombasa	Changamwe	Chaani Pri. Sch.	7	PR001608	Not Stamped	Signed	,1 WIPER,2 UDP	Doris Mutinda Makuthi
692	145	Mombasa	Jomvu	Jomvu Kuu Pri.	7	PR001789	Stamped	Signed	1 JP,1 ODM,1 WIPER,7 IND	Kevin Ochieng Okeyo
693	145	Mombasa	Jomvu	Mirithi World Bank	7	PR001705	Not Stamped	Signed	1 JP,1 ODM,1 WIPER,1 ANC,	Millicent Moinani
694	146	Mombasa	Changamwe	Chaani Pri. Sch.	8	PR001615	Stamped	Signed	2 JP,1 ODM,1 WIPER,1 FORD K,4 IND,1 PPP,1 MCC	Issa Mohammed Yunus
695	146	Mombasa	Jomvu	Jomvu Kuu Pri.	8	PR001801	Stamped	Signed	1 JP,1 ODM,1 ANC,1 WIPER,3 IND,1 SHIRIKISHO	Jamlick Bosire
696	147	Mombasa	Changamwe	Chaani Pri. Sch.	9	PR001621	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 FORD K,2 IND,1 ELP	John Oduori Ndallo
697	172	Mombasa	Likoni	Consolata Nursery Sch.	1	PR008413	Stamped	Signed	,1 ODM,1 ANC,1 FK,1 PDD,1 VDP,1 IND	Godwin M. Wafula
698	172	Mombasa	Likoni	Consolata Nursery Sch.	2	PR008425	Stamped	Signed	NOT VISIBLE	John B. Kirubi
699	172	Mombasa	Likoni	Consolata Nursery Sch.	3	PR008443	Stamped	Signed	1 JP,2 ODM,1 WIPER,1 ANC,1 ELP,3 IND	Teresa Kavuvu Kitana
700	172	Mombasa	Likoni	Consolata Nursery Sch.	4	PR008449	Stamped	Signed	1 JP,1 ODM,1 WIPER,1 FK,1 VDP,1 PDP,1 CMD	Bidala Abdalla Mohamed
701	172	Mombasa	Likoni	Consolata Nursery Sch.	5	PR008461	Stamped	Signed	,1 ODM,	Celestine Akinyi
702	172	Mombasa	Likoni	Consolata Nursery Sch.	6	PR008479	Stamped	Signed	,1 WIPER, 2 ODM, 1 FK,1 VDP, 1 CMD, 1 PDP, 1 MCC	Said Ali Masemo
703	172	Mombasa	Likoni	Consolata Nursery Sch.	7	PR008485	Stamped	Signed	,1 ANC, 1 ODM, 1 CMD, 1 PDP, 1	Mary Khamala Omwaka

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									MCC, 3 IND	
704	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	1	PR008041	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 FK, 1 KADU ASILI, 4 IND	Isaiah Ondiek
705	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	2	PR008053	Stamped	Signed	1 JP, 1 ANC, 1 ODM, 1 FK, 1 CCP, 3 IND	Mohammed Penny
706	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	3	PR008065	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FK, 1 ANC, 1 CCP, 1 KADU ASILI, 3 IND	Christine Ndoti Musyimi
707	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	4	PR008083	Stamped	Signed	1 JP, 1 ODM, 1 ANC,	Ali Abdul Chapwi
708	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	5	PR008095	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC, 1 FK, 4 IND	Juma Hamisi Keya
709	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	7	PR008113	Stamped	Signed	1 JP, 1 WIPER, 1 NASA,	Angella Mwikali Mulaki
710	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	8	PR008125	Stamped	Signed	1 JP, 1 ODM, 1 FK, 1 ANC, 1 WIPER, 5 IND	Saumu Ali Ngare
711	172	Mombasa	Likoni	Likoni Muslim Pri. Sch.	10	PR008155	Stamped	Signed	1 JP, 1 ODM, 1 FK, 1 WIPER, 1 KADU ASILI, 3 IND	Eva Mulhiri Kobia
712	172	Mombasa	Likoni	Vijiweni Pri. Sch.	2	PR007453	Stamped	Signed	1 FK, 1 ODM, 1 WIPER, 1 SHIRIKISHO, 1 VDP, 1 WIPER	Virginia Waitimu
713	172	Mombasa	Likoni	Vijiweni Pri. Sch.	3	PR007471	Stamped	Signed	2 JP, 1 WIPER, 2 ODM, 1 NDP, 3 IND, 1 SHIRIKISHO	Juma Karisa Charo
714	173	Mombasa	Likoni	Likoni Pri. Sch.	1	PR008161	Stamped	Signed	2 JP, 1 NASA, 2 ODM, 1 ANC, 4	Mwalimu A Ganamlungu

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									IND, 1 MUNGANO	
715	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	3	PR008191	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 MUNGANO, 1 SAFINA	Hassan Gotwa Mazera
716	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	5	PR008209	Stamped	Signed	2 ODM, 1 WIPER, 1 IND	Amos M Chivumbe
717	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	6	PR008228	Stamped	Signed	1 JP, 1 ODM, 1 IND	Julius Mvurya Maurice
718	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	7	PR008239	Not Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORK-K, 2 IND, 1 SAFINA	Ali Swaelh Makusany
719	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	8	PR008251	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC, 2 IND, 1 MUNGANO	Ibrahim Mekidadi Abdala
720	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	9	PR008263	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 1 IND	Suleiman Rashid Juma
721	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	10	PR008275	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 WIPER, 1 ODM, 1 ANC, 2 IND, 2 SAFINA	Elizabeth Muenikiema
722	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	11	PR008287	Stamped	Signed	1 JP, 1 ODM, 1 NASA, 1 ANC, 1 FORD-K, 1 WIPER, 1 UDP, 4 IND	Asha Mbaruku Tsungulah
723	173	Mombasa <sup>a</sup>	Likoni	Likoni Pri. Sch.	12	PR008299	Stamped	Signed		Mwanajuma Mwitaka Mwasarima
724	140	Mombasa <sup>a</sup>	Jomvu	Nuru Cbr 001	2	PR002017	Not Stamped	Signed	1 JP, 1 ODM,	Nyakundi Joshua Arimba
725	131	Mombasa <sup>a</sup>	Likoni	Mrima Primary	10	PR008629	Not Legible	Signed	1 WIPER,	Vincent Paul Omondi Okal

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
				School						
726	131	Mombasa	Likoni	Ushindi Baptist Primary School	11	PR008791	Stamped	Signed	2 JP, 1 ANC, 1 ODM, 1 WIPER, 1 PDP, EMPOWERMENT	Habel Festus
727	139	Mombasa	Kisumu	Mtopanga Pri.	3	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM, 1 KANU, 1 WIPER, 1 UDP, 1 ND, 2 IND	Wilson Nyange
728	172	Mombasa	Likoni	Vijiweni Pri. Sch.	1	FORM NOT IN THE CERTIFIED COPIES	Form Not In The Certified Copies	Form Not In The Certified Copies	FORM NOT IN THE CERTIFIED COPIES	Form Not In The Certified Copies
729	182	Murang'	Kangema	Holy Rosary Pri.	1	PR168775	Not Stamped	Signed	1 JP, 1 ODM, 1 IND	Helius H Karuki
730	182	Murang'	Kiharu	Karitha		PR167965	Stamped	Signed	4 JP, 1 MCC, 1 NARC K 4 IND	Edward Muriuki Kirimi
731	182	Murang'	Kiharu	Kianderi Pri. Sch.	1	PR170989	Stamped	Signed	1 JP, 3 IND, 1 PNU	Duncan Mwangi Kiragu
732	184	Murang'	Kangema	Kiawambogo Pr. Sch.	1	PR169424	Stamped	Signed	1 JP, 2 IND, 1 NARC K, 1 MCC	Susan Nyambura Karuki
733	184	Murang'	Kangema	Kiawambogo Pr. Sch.	2	PR169435	Stamped	Signed	1 JP, 4 IND	Bernard G Kibunja
734	184	Murang'	Kangema	Kiawambogo Pr. Sch.	3	PR169447	Stamped	Signed	1 JP, 4 IND	Mary Muthoni Kuria
735	182	Murang'	Kangema	Holy Rosary Pri.	2	PR168781	Stamped	Signed	1 JP, 1 ODM,	Jane M Njoroge
736	218	Nairobi	Embakasi West	Tumaini Pri.	1	PR478627	Stamped	Signed	, 1 PNU, 1 UKWELI	Brian Vincent Otieno
737	222	Nairobi	Westlands	Cheleta Pri	1	PR449959	Stamped	Signed	2 JP,	Barasa John Keyah
738	222	Nairobi	Westlands	Cheleta Pri	2	PR449965	Not	Signed	1 JP, 1 ODM, 3 IND	Boaz N Onsare

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
							Stamped			
739	222	Nairobi	Westlands	Hospita Hill High	1	PR450247	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 4 IND, 1 NEW DEMOCRAT 1 UDP	Zipporah Wanjiru M
740	222	Nairobi	Westlands	Hospita Hill High	2	PR450254	Stamped	Signed	NOT LEGIBLE	Not Legible
741	222	Nairobi	Westlands	Hospital Hill	1	PR449593	Stamped	Signed	1 JP, 1 FK, 1 ANC, 2 NASA, 1 WIPER, 3 IND, 1 MCC	Hilda Iminza Mbaya
742	222	Nairobi	Westlands	Hospital Hill	2	PR449605	Stamped	Signed	1 JP, 2 ODM, 1 MCC, 1 IND	Dorke, Nelima Magaya
743	222	Nairobi	Westlands	Karura Forest Pri	1	PR449917	Not Stamped	Signed	, 1 NASA, 2 IND	Antony Mechuli
744	222	Nairobi	Westlands	Ktte	2	PR450163	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 UDP	Patricia Mawia Mukungi
745	222	Nairobi	Westlands	Ktte	4	PR450187	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 KANU	Veronicah
746	222	Nairobi	Westlands	Mji Wa Huruma Pri	1	PR450104	Stamped	Signed	, 1 ODM, 3 IND	Teddy Chivakoh
747	222	Nairobi	Westlands	Mji Wa Huruma Pri	2	PR450117	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 ANC, 2 IND	Erick Thiongo Rachael
748	222	Nairobi	Westlands	North Highridge Pri	2	PR449845	Not Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 WIPER, 1 ANC, 1 FK,	Bright Makenzi
749	222	Nairobi	Westlands	Westlands Pri	1	PR449341	Stamped	Signed	1 JP, 3 NASA, 1 FK,	Ruth Kemunyo Omosa
750	222	Nairobi	Westlands	Westlands Pri	2	PR449353	Stamped	Signed	1 JP, 1 ODM, 1 FK, 1 IND	Winnie Kwamboka Ogutu
751	21	Nairobi	Makadara	St John's Primary	2	PR481801	Stamped	Signed	1 JP, 1 NASA,	Kizito Odhiambo
752	22	Nairobi	Makadara	Morrison Primary	6	PR480259	Stamped	Signed	1 JP, 2 NASA, 3 IND, 1 UNSPECIFIED	

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
				School						Mutula
753	24	Nairobi	Makadara	Kaloleni Primary School	4	PR481903	Stamped	Signed	2 JP AGENTS,1 ODM,1 NARC, 1 INDEPENDENT	Justus Kioko Kamwela
754	25	Nairobi	Embakasi South	Jobenpha Community School	17	PR470503	Not Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 2 INDEPENDENT	Mellen N. Nyaronda
755	26	Nairobi	Langata	Kewi South C Polling Station	1	PR457829	Stamped	Signed	NO AGENT	Ibrahim Ochenje Mumani
756	91	Nairobi	Dagoretti South	Mukaara Primary School	1	PR455983	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 4 IND	Pauline Muiruri
757	91	Nairobi	Dagoretti South	Mukaara Primary School	2	PR455995	Stamped	Signed	2 JP, 2 IND	Antony Njiru Nyara
758	91	Nairobi	Dagoretti South	Mukaara Primary School	3	PR456009	Not Stamped	Signed	, 2 ODM, 4 IND	James Thande
759	91	Nairobi	Dagoretti South	Mukaara Primary School	4	PR456013	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 4 IND	David G Kimani
760	91	Nairobi	Dagoretti South	Mukaara Primary School	5	PR456031	Stamped	Signed	1 JP, 1 ODM, 1 IND	Josephat Onsongo
761	91	Nairobi	Dagoretti South	Mukaara Primary School	6	PR456037	Stamped	Signed	1 JP, 1 OBSERVER	Beatrice Wambui Harun
762	91	Nairobi	Dagoretti South	Waihaka Polling Station	2	PR456061	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 MCC, 5 IND	Kanga Elias Mwitii
763	91	Nairobi	Dagoretti South	Waihaka Polling Station	3	PR456079	Stamped	Signed	2 JP, 1 ODM, 1 MCC, 4 IND, 1 NARC, 1 PK	Kirathe P Karani

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
764	91	Nairobi	Dagoretti South	Waihaka Polling Station	4	PR456085	Stamped	Signed	1 JP, 1 NASA, 4 IND, 1 MCC	Karanja Grace Nduta
765	91	Nairobi	Dagoretti South	Waihaka Polling Station	5	PR456103	Stamped	Signed	3 IND	Stephen Wainaina
766	91	Nairobi	Dagoretti South	Waihaka Polling Station	6	PR456115	Stamped	Signed	1 JP, 1 ODM, 1 PK, 1 MCC, 5 IND	Anderson Mwangi
767	99	Nairobi	Embakasi Central	Bondeni Primary	1	PR473365	Stamped	Signed	2 ODM, 1 IND	Caroline Kosgei
768	99	Nairobi	Embakasi Central	Bondeni Primary	2	PR473388	Stamped	Signed	2 JP, 2 ODM, 1 PNU	Eunice Nguigi Elizabeth Ndinda
769	99	Nairobi	Embakasi Central	Bondeni Primary	3	PR473391	Stamped	Signed	1 JP, 1 ODM, 1 IND	Lilian Akoth Ogalo
770	99	Nairobi	Embakasi Central	Bondeni Primary	4	PR473409	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 3 IND, 1 PNU, 1 MCC	Catherine Adagara
771	99	Nairobi	Embakasi Central	Bondeni Primary	5	PR473413	Stamped	Signed	1 JP, 1 ANC, 1 JK	Joseph Magu
772	99	Nairobi	Embakasi Central	Bondeni Primary	6	PR473425	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 3 IND	Redemta F.A.Oduor
773	99	Nairobi	Embakasi Central	Bondeni Primary	7	PR473437	Stamped	Signed	2 JP, 2 ODM,	Atika Geoffrey Namoya
774	99	Nairobi	Embakasi Central	Bondeni Primary	8	PR473449	Not Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 PK, 2 IND,	Rose Mumbo
775	99	Nairobi	Embakasi Central	Bondeni Primary	9	PR473461	Not Stamped	Signed	3 JP, 4 ODM, 1 ANC, 1 PNU, 1 IND	Beatrice Mwangi
776	99	Nairobi	Embakasi Central	Bondeni Primary	10	PR473521	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 4 IND, 1 PNU	Anthony Oachi
777	99	Nairobi	Embakasi Central	Bondeni Primary	11	PR473490	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 WTPER, 3 IND, 1 PNU	Wycliffe Morang'a
778	99	Nairobi	Embakasi Central	Bondeni Primary	12	PR473497	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WTPER, 1 KSC, 1 IND	



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
779	99	Nairobi	Embakasi Central	Bondeni Primary	13	PR4473965	Stamped	Signed	1 JP, 2 ODM, 3 IND, 1 UDP, 1 KSC	Emilly Awino James
780	99	Nairobi	Embakasi Central	Imara Primary	1	PR473065	Stamped	Signed	2 JP, 1 NASA, 1 ANC,	Beatrice W Wambugu
781	99	Nairobi	Embakasi Central	Imara Primary	2	PR473077	Stamped	Signed	1 JP, 3 ODM, 1 ANC, 2 INDEPENDENT	Emily K Obara
782	99	Nairobi	Embakasi Central	Imara Primary	3	PR473089	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 ANC, 1 PNU, 3 INDEPENDENT	Millicent Aluoch Ochieng
783	99	Nairobi	Embakasi Central	Imara Primary	5	PR473113	Stamped	Signed	1 JP, 1 ODM, 1 PNI	Charles Omosa Jeremiah
784	99	Nairobi	Embakasi Central	Imara Primary	6	PR473131	Stamped	Signed	1JP, 1 NASA,	Evans Immo Okissai
785	99	Nairobi	Embakasi Central	Imara Primary	7	PR473137	Stamped	Signed	1JP, 1 ODM,	Sebastian Murori
786	99	Nairobi	Embakasi Central	Imara Primary	8	PR473055	Stamped	Signed	1 JP, 1 ANC, 2 INDEPENDENT, 1 PNU	Olipher N Nyera
787	99	Nairobi	Embakasi Central	Imara Primary	9	PR473166	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 ANC, 4 INDEPENDENT, 1 PNU	Justus Nyaemo
788	99	Nairobi	Embakasi Central	Imara Primary	10	PR473181	Not Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 NASA, 1 INDEPENDENT	Janet Moruri
789	99	Nairobi	Embakasi Central	Imara Primary	11	PR473185	Stamped	Signed	2 JP, 1 NASA, 1 RUU	Moses Nderitu Wanjohi
790	99	Nairobi	Embakasi Central	Imara Primary	12	NOT LEGIBLE	Stamped	Signed	2JP, 2 ODM, 1 ANC, 2 INDEPENDENT, 1 PNU	Bernard Araka
791	99	Nairobi	Embakasi Central	Imara Primary	13	PR473209	Stamped	Signed	1 JP, 1 ANC, 3 INDEPENDENT,	Solomon N Mwangi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									1PNU	
792	99	Nairobi	Embakasi Central	Imara Primary	14	PR473227	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 NASA, 3 INDEPENDENT	John Weru Nyatha
793	99	Nairobi	Embakasi Central	Imara Primary	15	PR473233	Stamped	Signed	2 INDEPENDENT	Anthony Wambugu
794	99	Nairobi	Embakasi Central	Imara Primary	16	PR473245	Stamped	Signed	1 JP, 1 NASA,	Thomas Isaac Makokha
795	99	Nairobi	Embakasi Central	Imara Primary	17	PR473257	Stamped	Signed	1 JP, 1 ODM, 1 ANC,	Agnes Wanjiru M Nyaga
796	99	Nairobi	Embakasi Central	Imara Primary	18	PR473275	Stamped	Signed	4 JP, 1 ANC, 3 NASA, 1 INDEPENDENT	Christopher Muiruri
797	99	Nairobi	Embakasi Central	Imara Primary	19	PR473281	Stamped	Signed	1 JP, 1 ODM, 1 PNU	Pamela Atieno Ondongo
798	99	Nairobi	Embakasi Central	Imara Primary	20	PR473293	Not Stamped	Signed	1 JP, 1 ODM, 1 ANC, 3 INDEPENDENT, 1 PNU	John Onami
799	99	Nairobi	Embakasi Central	Imara Primary	21	PR473311	Stamped	Signed	2 JP, 1 ODM, 1 ANC, 2 PNU, 2 INDEPENDENT	Antunex M Bwana
800	99	Nairobi	Embakasi Central	Imara Primary	22	PR473323	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 3 INDEPENDENT	Cuileta Rayota
801	99	Nairobi	Embakasi Central	Imara Primary	23	PR473335	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 PNU	Dennis M Muli
802	99	Nairobi	Embakasi Central	Imara Primary	24	PR473352	Not Stamped	Signed	NO AGENT	Mido Elyiso
803	99	Nairobi	Embakasi Central	Imara Primary	25	PR473359	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Dorothy Chepkoech Kosgei
804	99	Nairobi	Embakasi	Mwangaza	1	PR473826	Stamped	Signed	1 JP, 1 ODM, 1	Joan Achieng

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			Central	Primary					NASA,2 IND, 1 UDP, 1 KSC, 1 PNU	Ochieng
805	99	Nairobi	Embakasi Central	Mwangaza Primary	2	PR473834	Stamped	Signed	2 JP, 1 NASA, 1 ANC, 2 ODM, 1 INDEPENDENT	Benjamin Oduor
806	99	Nairobi	Embakasi Central	Mwangaza Primary	3	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 UDP, 1 INDEPENDENT	Elizabeth Syokau
807	99	Nairobi	Embakasi Central	Mwangaza Primary	4	PR473857	Stamped	Signed	1 JP, 1 ANC, 1 WIPER, 1 ODM, 1 UDP, 2 INDEPENDENT	Dickens O Okello
808	99	Nairobi	Embakasi Central	Mwangaza Primary	5	PR473875	Stamped	Signed	2 JP, 1 ODM, 1 NASA, 1 WIPER, 1 ANC, 1 PNU, 2 INDEPENDENT, 1 KSC	Wycliffe O Aloyo
809	99	Nairobi	Embakasi Central	Mwangaza Primary	6	PR473881	Stamped	Signed	,2 NASA,	Melisa Mudola Mawanda
810	99	Nairobi	Embakasi Central	Mwangaza Primary	7	PR473893	Stamped	Signed	1 JP, 1 ODM, 1 UDP	Eliud H Mitoga Ochola
811	99	Nairobi	Embakasi Central	Mwangaza Primary	11	PR473947	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 WIPER, 1 KSC, 1 UDP, 1 PK	Edgar Sifuna
812	99	Nairobi	Embakasi Central	Mwangaza Primary	12	PR473953	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 1 UDP, 1 KSC, 1 IND	Wycliffe Morang'a
813	99	Nairobi	Embakasi Central	Mwangaza Primary	13	PR473965	Stamped	Signed	1 JP, 1 ODM, 1 NASA, 3 IND, 1 UDP, 1 KSC	Emilly Awino James
814	99	Nairobi	Embakasi Central	Thawabu Primary	1	PR473515	Stamped	Signed	1 JP, 1 ODM, 1 A.N.C, 1 PNU, 3 IND	Dennis Mwiti
815	99	Nairobi	Embakasi Central	Thawabu Primary	2	PR473521	Stamped	Signed	2 JP, 2 ODM, 1 IND	Dennis

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			Central	Primary					A.N.C,1 PNU, 2 IND	Murithi
816	99	Nairobi	Embakasi Central	Thawabu Primary	3	PR473539	Stamped	Signed	1 JP,1 ODM,1 PNU, 2 IND, 1 K.S.C, 1 WDMK, 1 D.P	Piatah Mueni
817	99	Nairobi	Embakasi Central	Thawabu Primary	4	PR473551	Stamped	Signed	2 JP,1 ODM, 1 A.N.C,1 W.D.M, 1 K.S.C, 1 U.D.P, 2 IND	Justus M Munyoki
818	99	Nairobi	Embakasi Central	Thawabu Primary	5	PR473557	Stamped	Signed	2 JP,1 A.N.C, 1 WIPER,	Diana N Wangendu
819	99	Nairobi	Embakasi Central	Thawabu Primary	6	PR473569	Not Legible	Signed	1 JP,1 ODM, 1 A.N.C, 1 WIPER,1 UDP, 3 IND	Gilbert Riober
820	99	Nairobi	Embakasi Central	Thawabu Primary	7	PR473592	Stamped	Signed	1 JP,1 A.N.C,1 UDP	Silas Owiti
821	99	Nairobi	Embakasi Central	Thawabu Primary	8	PR473593	Stamped	Signed	1 JP,1 NASA, 1 A.N.C,2 IND, 1 K.S.C, 1 UDP	Judith Achieng
822	99	Nairobi	Embakasi Central	Thawabu Primary	9	PR473611	Stamped	Signed	1 JP,3 ODM, 1 A.N.C, 1 WIPER,1 UDP, 2 IND, 1 KSC	Peter Orina
823	99	Nairobi	Embakasi Central	Thawabu Primary	11	PR473635	Stamped	Signed	1 JP,3 ODM,1 PNU 1 IND	Samuel Kimanthi
824	99	Nairobi	Embakasi Central	Thawabu Primary	12	PR473641	Stamped	Signed	1 JP,2 ODM, 1 WIPER, 1 ANC,2 IND, 1 PNU, 1 EYE	Alice Ngoge
825	99	Nairobi	Embakasi Central	Thawabu Primary	13	PR473659	Stamped	Signed	1 JP,1 KSC	Hilary Nganga Ruo
826	99	Nairobi	Embakasi Central	Thawabu Primary	14	PR473671	Stamped	Signed	2 JP,2 NASA, 2 ODM, 2 ANC,1 PNU, 1 INDEPENDENT, 1 UDP	Philip Mugambi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
827	99	Nairobi	Embakasi Central	Thawabu Primary	15	PR473682	Stamped	Signed	2JP,2 ODM, 1 ANC,1 INDEPENDENT	Lucy Ndunge Nzimbi
828	99	Nairobi	Embakasi Central	Thawabu Primary	16	PR473700	Stamped	Signed	1JP,1 ODM,1 UDP, 1 INDEPENDENT	Kennedy Juma
829	99	Nairobi	Embakasi Central	Thawabu Primary	17	PR473707	Stamped	Signed	1JP,1 ODM,1 PNU	Evans O Ndege
830	99	Nairobi	Embakasi Central	Thawabu Primary	18	PR473714	Stamped	Signed	1JP, 3 ODM	Joseph Maina
831	99	Nairobi	Embakasi Central	Thawabu Primary	19	PR473725	Not Stamped	Signed	1JP,1 ODM, 1 ANC,1 PNU, 1 INDEPENDENT	Siprosier Atieno Onyango
832	99	Nairobi	Embakasi Central	Thawabu Primary	20	PR473743	Stamped	Signed	1JP,1 ODM, 1 NASA, 1 WIPER,2 INDEPENDENT	Tabitha E. Njeri Karuki
833	99	Nairobi	Embakasi Central	Thawabu Primary	21	PR473755	Not Stamped	Signed	1JP,1 ODM,3 INDEPENDENT	Stephen Omondi Ochieng
834	99	Nairobi	Embakasi Central	Thawabu Primary	22	PR473761	Stamped	Signed	1JP,1 ODM, 1 ANC, 1 WIPER,2 INDEPENDENT	Joyce A. Omolo
835	99	Nairobi	Embakasi Central	Thawabu Primary	25	PR473806	Stamped	Signed	NOT VISIBLE	Joyce Njoki Munge
836	99	Nairobi	Embakasi Central	Thawabu Primary	26	PR473812	Stamped	Signed	NOT VISIBLE	Esther Muringo Njeru
837	104	Nairobi	Starehe	Parkroad Primary School	1	PR485317	Stamped	Signed	1JP,1 MCCP, 1 PNU	Nancy Kuria
838	104	Nairobi	Starehe	Parkroad Primary School	2	PR485337	Stamped	Signed	2 ODM, 1 WIPER, 1 IND	Esther Muthini
839	104	Nairobi	Starehe	Parkroad Primary School	3	PR485347	Stamped	Signed	1JP,1 ODM,1 MCCP, 1 LDP, 1 PNU, 1	Wilson Bandi Omollo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									INDEPENDENT	
840	104	Nairobi	Starehe	Parkroad Primary School	4	PR485359	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT, 1 MCCP, 1 PNU, 1 UKWELI PARTY	Rachel Njue
841	104	Nairobi	Starehe	Parkroad Primary School	5	PR485365	Stamped	Signed	1 JP, 1 ODM, 2 MCC, 1 PNU, 1 INDEPENDENT	Mitei Chepkorir
842	104	Nairobi	Starehe	Parkroad Primary School	8	PR485407	Not Stamped	Signed	1 JP, 1 ODM, 1 ANCG,	Jacqueline Githui
843	104	Nairobi	Starehe	Parkroad Primary School	9	PR485419	Stamped	Signed	1 JP, 1 WIPER, 1 PNU	Ondigi Makora Christopher
844	137	Nairobi	Starehe	Park Road Pry	1	PR485317	Stamped	Signed	1 JP, 1 MCCP, 1 PNU	Nancy Kuria
845	137	Nairobi	Starehe	Park Road Pry	2	PR485337	Stamped	Signed	NOT VISIBLE	Not Visible
846	137	Nairobi	Starehe	Park Road Pry	3	PR485347	Stamped	Signed	1 JP, 1 ODM, 1 MCCP, 1 LDP, 1 PNU, 1 INDEPENDENT	Wilson Bandi Omollo
847	137	Nairobi	Starehe	Park Road Pry	4	PR485359	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT, 1 MCCP, 1 PNU, 1 UKWELI PARTY	Rachel Njue
848	137	Nairobi	Starehe	Park Road Pry	5	PR485365	Stamped	Signed	1 JP, 1 ODM, 2 MCC, 1 PNU, 1 INDEPENDENT	Mitei Chepkorir
849	137	Nairobi	Starehe	Park Road Pry	8	PR485407	Not Stamped	Signed	1 JP, 1 ODM, 1 ANCG,	Jacqueline Githui
850	137	Nairobi	Starehe	Park Road Pry	9	PR485419	Stamped	Signed	1 JP, 1 WIPER, 1 PNU	Ondigi Makora Christopher
851	99	Nairobi	Embakasi	Mwangaza	10	PR473935	Stamped	Signed	1 JP, 1 ODM,	Grace Oyugi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
			Central	Primary						
852	99	Nairobi	Embakasi Central	Thawabu Primary	10	PR473617	Stamped	Signed	1 JP, 1 ODM,	John Maundu
853	99	Nairobi	Embakasi Central	Thawabu Primary	24	PR473791	Stamped	Signed	1 JP, 1 ODM,	Antony Kinyua Kirimi
854	104	Nairobi	Starehe	Parkroad Primary School	7	PR485395	Stamped	Signed	1 JP, 1 ODM,	Charles Mwangi Karimi
855	137	Nairobi	Starehe	Park Road Pry	7	PR485395	Stamped	Signed	1 JP, 1 ODM,	Charles Mwangi Karimi
856	99	Nairobi	Embakasi Central	Mwangaza Primary	8	NOT LEGIBLE	Not Stamped	Signed	1 JP, 1 ODM,	Jackton Otieno
857	99	Nairobi	Embakasi Central	Mwangaza Primary	9	PR473923	Not Stamped	Signed	1 JP, 1 ODM,	Gladys Gatwiri Mugambi
858	99	Nairobi	Embakasi Central	Thawabu Primary	23	PR473782	Not Stamped	Not Visible	NOT VISIBLE	Not Visible
859	66	Nairobi	Embakasi North	Dandora Iii City Council Hall	9	PR472181	Stamped	Not Signed	NO AGENT	Brian
860	99	Nairobi	Embakasi Central	Imara Primary	4	PR473103	Not Stamped	Not Signed	NO AGENT	Not Indicated
861	91	Nairobi	Dagoretti South	Waihaka Polling Station	1	PR456051	Stamped	Signed	1 JP, 1 ODM, 1 MCCP, 2 IND	Eunice Nyawira Mureithi
862	222	Nairobi	Westlands	North Highridge Pri	1	PR449834	Stamped	Signed	2 JP, 4 ODM, 1 WIPER, 1 MDP, 1 IND	Austine Odhiambo Omungo
863	22	Nairobi	Makadara	Morrison Primary School	1	PR480193	Stamped	Signed	1 JP, 2 ODM, 1 WIPER, 1 MGP, 1 ELP, 2 IND	John Mwangi
864	104	Nairobi	Starehe	Parkroad Primary	6	FORM NOT IN	Form Not In The	Form Not In	FORM NOT IN THE CERTIFIED	Form Not In The Certified

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
				School		THE CERTIFIED COPIES	Certified Copies	The Certified Copies	COPIES	Copies
865	137	Nairobi	Starehe	Park Road Priy	6	FORM NOT IN THE CERTIFIED COPIES	Form Not In The Certified Copies	Form Not In The Certified Copies	FORM NOT IN THE CERTIFIED COPIES	Form Not In The Certified Copies
866	187	Nairobi	Starehe	Pangani Girls High Sch.	16	PR485773	Stamped	Signed	1 JP, 1 ODM,	Violet G
867	223	Nairobi	Westlands	Highbridge Pri. Sch.	3	PR449731	Stamped	Signed	1 JP, 1 ODM,	Pauline Njeri
868	149	Nairobi	Mathare	Huruma Pri. Sch.	1	PR487730	Stamped	Signed	1 JP, 2 ODM, 3 IND	Simon Wachira
869	149	Nairobi	Mathare	Huruma Pri. Sch.	2	PR487741	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 IND, 1 NARC K, 1 PK	Calistus M Gathekia
870	149	Nairobi	Mathare	Huruma Pri. Sch.	3	PR487754	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 3 IND	Hellen Rebecca Wasonga
871	149	Nairobi	Mathare	Huruma Pri. Sch.	4	PR487771	Stamped	Signed	1 JP, 1 NASA, 2 ODM, 2 IND	Joseph Ogutu
872	149	Nairobi	Mathare	Huruma Pri. Sch.	5	PR487777	Stamped	Signed	1 JP, 2 ODM, 2 IND	Joseph Wanichwe Karuki
873	149	Nairobi	Mathare	Huruma Pri. Sch.	6	PR487793	Stamped	Signed	, 1 ODM, 1 IND	Martha Mwaura
874	149	Nairobi	Mathare	Huruma Pri. Sch.	7	PR487801	Stamped	Signed	1 JP, 2 ODM, 2 IND	Reginalda Olukho
875	149	Nairobi	Mathare	Huruma Pri. Sch.	8	PR487816	Stamped	Signed	2 ODM	Benard Amugo
876	149	Nairobi	Mathare	Huruma Pri. Sch.	9	PR487831	Stamped	Signed	1 JP, 1 ODM, 2 IND 1 ELOG	Rael Osino
877	149	Nairobi	Mathare	Huruma Pri. Sch.	10	PR487837	Stamped	Signed	1 JP, 2 ODM, 1 ANC,	Joan M Matiai



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		City		Sch.					2 IND	
878	149	Nairobi City	Mathare	Huruma Pri. Sch.	11	PR487849	Stamped	Signed	1JP, 1NASA, 1ANC 1ODM, 1IND	Jacob Odongo Otuoma
879	149	Nairobi City	Mathare	Huruma Pri. Sch.	12	PR487861	Stamped	Signed	1JP, 2ODM, 2IND	Alex Nyabwengi Omanga
880	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	1	PR455983	Stamped	Signed	1JP, 1ODM, 4IND, 1MCC	Pauline Mwiruri
881	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	2	PR455995	Stamped	Signed	2JP, 2IND	Anthony Njiru
882	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	3	PR456009	Not Stamped	Signed	NOT LEGIBLE, 2ODM, 4IND, 1MCC	James Thande
883	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	4	PR456013	Stamped	Signed	1JP, 1ODM, 4IND, 1MCC	David G Kimani
884	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	5	PR456031	Stamped	Signed	1JP, 1ODM, 1IND	Josephat Onsongo
885	184	Nairobi City	Dagoretti South	Mukarara Pri. Sch.	6	PR456037	Stamped	Signed	1JP, 1IND	Beatrice Wambui
886	187	Nairobi City	Starehe	Pangani Girls High Sch.	1	PR485593	Stamped	Signed	1JP, 1ODM, 1KANTU, 2IND, 1MCC	Rose Ayieko
887	187	Nairobi City	Starehe	Pangani Girls High Sch.	2	PR485611	Stamped	Signed	1JP, 1ODM, 1IND, 1KANTU, 1UKWELI	Carolyne Butuk
888	187	Nairobi City	Starehe	Pangani Girls High Sch.	3	PR485623	Stamped	Signed	1ODM, 1ANC, 1DAP, 1KANTU, 1MCC	Aldrinah Shella
889	187	Nairobi City	Starehe	Pangani Girls High Sch.	4	PR485635	Stamped	Signed	1JP, 1ODM, 1KANTU, 1PK, 1APK, 1MCC, 1IND	James Karekei
890	187	Nairobi City	Starehe	Pangani Girls High Sch.	5	PR485647	Stamped	Signed	1JP, 1ODM, 1KANTU, 1MCC, 2IND	Margaret M Kibera
891	187	Nairobi	Starehe	Pangani Girls	6	PR485653	Stamped	Signed	1JP, 1ODM, 1	Kizito Makhuyi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		City		High Sch.					KANU, 1 MCC, 2 IND	
892	187	Nairobi City	Starehe	Pangani Girls High Sch.	9	PR485689	Stamped	Signed	1 JP, 1 ODM, 3 IND, 1 MCC	Josephine Muinde
893	187	Nairobi City	Starehe	Pangani Girls High Sch.	10	PR485707	Stamped	Signed	, 1 ODM, 1 NCKK, 2 MCC, 1 IND, 1 UKWELI	Jackline Tabitha Musembi
894	187	Nairobi City	Starehe	Pangani Girls High Sch.	11	PR485713	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 2 IND	Millicent Mary Mwene
895	187	Nairobi City	Starehe	Pangani Girls High Sch.	13	PR485743	Stamped	Signed	2 JP, 1 ODM, 1 MCC, 2 IND, 1 UKWELI	Charity Nyaga
896	187	Nairobi City	Starehe	Pangani Girls High Sch.	14	PR485755	Stamped	Signed	3 JP, 1 ODM, 1 MCC, 2 IND	Junna Ali
897	187	Nairobi City	Starehe	Pangani Girls High Sch.	15	PR485761	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 1 KANU, 2 IND	Benard Otieno Martin
898	187	Nairobi City	Starehe	Pangani Girls High Sch.	17	PR485785	Stamped	Signed	2 JP, 2 ODM, 1 KANU, 1 MCC	Ruper Chepkemoi
899	187	Nairobi City	Starehe	Pangani Girls High Sch.	18	PR485797	Stamped	Signed	1 JP, 1 ODM, 1 KANU, 1 MCC	Davis Wachira
900	187	Nairobi City	Starehe	Pangani Girls High Sch.	19	PR485809	Stamped	Signed	1 JP, 1 ODM, 1 IND	Julia Abuso
901	223	Nairobi City	Westlands	Bhora Pri. Sch.	1	PR449311	Stamped	Signed	, 1 ODM, 1 NASA, 1 ANC, 1 FORD-K, 1 INDEPENDENT	Patrick Dalzou Lwangu
902	223	Nairobi City	Westlands	Bhora Pri. Sch.	2	PR449323	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Esther Wairimu
903	223	Nairobi City	Westlands	Bhora Pri. Sch.	3	PR449337	Stamped	Signed	NOT LEGIBLE	Not Legible
904	223	Nairobi City	Westlands	Highbidge Pri. Sch.	1	PR449707	Stamped	Signed	1 JP, 1 WIPER, 1 ANC, 1 MCC, 1 IND	Washington Otieno
905	223	Nairobi City	Westlands	Highbidge Pri. Sch.	2	PR449713	Stamped	Signed	1 JP, 1 ANC, 1	Phillip Onyono

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
		City		Sch.					FORD-K, 1 WIPER, 1 ODM, 1 MCC, 2 IND	Nyakego
906	223	Nairobi City	Westlands	Highridge Pri. Sch.	4	PR449737	Stamped	Signed	1 JP, 1 ODM, 1 MDP, 1 AGANO	Khadija Mohamed
907	223	Nairobi City	Westlands	Highridge Pri. Sch.	5	PR449755	Stamped	Signed	1 JP, 1 FORD-K, 1 WIPER, 1 ANC, 2 ODM, 1 KANU, 1 IND	Ochien'g Pauline Atieno
908	223	Nairobi City	Westlands	Highridge Pri. Sch.	6	PR449761	Stamped	Signed	, 2 NASA, 1 WIPER, 1 IND	Abraham Mokaya
909	223	Nairobi City	Westlands	Highridge Pri. Sch.	7	PR449779	Stamped	Signed	NO AGENT	Maina Margaret
910	223	Nairobi City	Westlands	Highridge Pri. Sch.	8	PR449791	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 NASA, 1 WIPER, 1 FORD-K, 2 IND	Omunia Atako Gaudencia
911	223	Nairobi City	Westlands	Highridge Pri. Sch.	11	PR449827	Stamped	Signed	1 JP, 1 ANC, 1 NASA, 1 ODM, 1 WIPER, 1 IND, 1 MCC	Atuya Polycap
912	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	1	PR449593	Stamped	Signed	1 JP, 2 NASA, 1 FORD-K, 1 ANC, 1 WIPER, 3 IND, 1 MCC	Hilda Iminza Mbaya
913	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	2	PR449605	Stamped	Signed	1 JP, 2 ODM, 1 MCC, 1 IND	D. Nelima Magana
914	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	3	PR449617	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 WIPER, 1 KANU, 1 IND	Joyce Gyntthiah Acheng
915	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	4	PR449629	Stamped	Signed	1 JP, 2 NASA, 2 IND	Geoffrey Nyakundi Mirambo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
916	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	5	PR449641	Stamped	Signed	1 JP, 2 ODM, 1 ANC, 1 FORD-K, 1 MDP	Fridah Karinthoni Mbababu
917	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	6	PR449659	Stamped	Signed	NO AGENT	Ingati Irene Aseyo
918	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	7	PR449662	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 FORD-K, 1 MCC, 1 IND	Mercy W. Wanyoike
919	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	8	PR449677	Stamped	Signed	1 JP, 1 WIPER, 2 ODM, 1 NASA, 2 IND	Vincent Okusimba Makokha
920	223	Nairobi City	Westlands	Hospital Hill Pri. Sch.	9	PR449695	Stamped	Signed	1 JP, 2 NASA, 1 ANC, 1 FORD-K, 1 JP, 4 NASA, 1 FORD-K, 1 MCC	Jane Kamanda Ruth Kemunto Omosa
921	223	Nairobi City	Westlands	Westlands Pri. Sch.	1	PR449341	Stamped	Signed	1 JP, 1 ODM, 1 FORD-K, 1 IND	Newton I. Jumba
922	223	Nairobi City	Westlands	Westlands Pri. Sch.	2	PR449353	Stamped	Signed	2 JP, 2 ODM, 1 ANC, 1 JP, 1 ODM, 1 FORD-K, 1 MDP, 1 IND	Esther Ateka Omolily Nelly A.
923	223	Nairobi City	Westlands	Westlands Pri. Sch.	3	PR449365	Stamped	Signed	1 JP, 2 ANC, 1 ODM, 1 WIPER, 1 MDP, 1 IND	Sidney A. Brenda A. Kwach
924	223	Nairobi City	Westlands	Westlands Pri. Sch.	4	PR449377	Stamped	Signed	1 JP, 3 ODM, 1 MCC	
925	223	Nairobi City	Westlands	Westlands Pri. Sch.	5	PR449389	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 IND	
926	223	Nairobi City	Westlands	Westlands Pri. Sch.	6	PR449401	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 IND	
927	223	Nairobi City	Westlands	Westlands Pri. Sch.	7	PR449419	Stamped	Signed		Martin Muriigi
928	223	Nairobi City	Westlands	Westlands Pri. Sch.	8	PR449425	Stamped	Signed	1 JP, 1 NASA,	Daniel Maragia Mogire

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
929	223	Nairobi City	Westlands	Westlands Pri. Sch.	9	PR449437	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 MCC, 1 MDP	Charana Wilkuta
930	223	Nairobi City	Westlands	Westlands Pri. Sch.	10	PR449449	Not Stamped	Signed	1 JP, 2 NASA, 1 MCC, 1 IND	Rozalia Nduku Muasya
931	223	Nairobi City	Westlands	Westlands Pri. Sch.	11	PR449467	Stamped	Signed	2 JP, 1 ODM, 1 ANC, 1 MDP, 1 IND	Christine Kikombo
932	223	Nairobi City	Westlands	Westlands Pri. Sch.	12	PR449479	Stamped	Signed	1 JP, 4 NASA, 1 IND	Mang'era Abel
933	223	Nairobi City	Westlands	Westlands Pri. Sch.	13	PR449491	Stamped	Signed	1 JP, 3 ODM, 2 IND	Caroline I. Lusige
934	223	Nairobi City	Westlands	Westlands Pri. Sch.	15	PR449509	Stamped	Signed	1 JP, 2 NASA, 4 IND	Fridah Njega
935	132	Nairobi City	Embakasi Central	Bondeni	1	PR473365	Not Legible	Signed	1 ODM, 1 IND, 1 WDMP	Caroline Kosgei
936	132	Nairobi City	Embakasi Central	Imara Primary School	18	PR473257	Stamped	Signed	1 JP, 1 ODM, 1 ANC,	Agnes Wanjiru M Nyaga
937	132	Nairobi City	Embakasi Central	Kayole North Primary School	3	PR474421	Stamped	Signed	1 JP, 1 NASA, 1 ODM, 1 NASA,	Caroline Thigia M
938	132	Nairobi City	Embakasi Central	Komarocks Primary School	4	PR474439	Stamped	Signed	1 JP, 1 WIPER, 1 ANC, 1 IND, 1 PNU	Theresia Mueni Muthama
939	132	Nairobi City	Embakasi Central	Komarocks Primary School	5	PR474451	Stamped	Signed	3 JP, 2 ODM, 1 WIPER, 1 ANC, 1 PNU, 1 SAFINA	Jane Pauline Adhiambo
940	132	Nairobi City	Embakasi Central	Komarocks Primary School	6	PR474217	Not Legible	Signed	1 JP, 1 ODM, 1 SIFUNA	Immaculate Akinyi
941	132	Nairobi City	Embakasi Central	Komarocks Primary School	7	PR474475	Stamped	Signed	1 JP, 2 ODM, 1 NARC KENYA	Millcent A Oguthi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
942	132	Nairobi City	Embakasi Central	Komarocks Primary School	9	PR474499	Stamped	Signed	1 JP, 1 WIPER, 1 ANC, 1 FK, 1 SAFINA, 1 INP, 2 JP, 1 WIPER, 1 ANC, 2 ODM, 2 INP, 1 PNU	Ann Wangechi
943	132	Nairobi City	Embakasi Central	Komarocks Primary School	22	PR474655	Stamped	Signed	1 JP, 1 ODM, 1 PNU, 1 SAFINA	Hilary Nzaywa Liboyi
944	132	Nairobi City	Embakasi Central	Komarocks Primary School	24	PR474681	Stamped	Signed	1 JP, 1 ODM, 1 PNU, 1 SAFINA	Duncan Ochieng Nyakako
945	132	Nairobi City	Embakasi Central	Mwangaza Secondary School	11	PR473947	Not Legible	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER, 1 KSC,	Edgar Sifuna
946	132	Nairobi City	Embakasi Central	Thawabu Primary	19	PR473707	Stamped	Signed	1 JP, 1 ODM, 1 PNU	Evans O Ndege
947	187	Nairobi City	Starehe	Pangani Girls High Sch.	12	PR485731	Stamped	Signed	1 JP, 1 KANU, 1 MCC, 1 IND	Neto Raymond Augustine
948	187	Nairobi City	Starehe	Pangani Girls High Sch.	7	PR485671	Not Stamped	Signed	2 JP, 1 ODM, 2 IND, 1 KANU, 1 MCC	Esther Maluki
949	187	Nairobi City	Starehe	Pangani Girls High Sch.	8	PR485683	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 1 IND, 1 ARK	Anastacia Mbindyo
950	132	Nairobi City	Embakasi Central	Komarocks Primary School	17	PR474596	Stamped	Not Legible	NOT LEGIBLE	Not Legible
951	223	Nairobi City	Westlands	Highbidge Pri. Sch.	9	PR449806	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 ANC	Job Omambia
952	223	Nairobi City	Westlands	Highbidge Pri. Sch.	10	PR449811	Stamped	Signed	1 JP, 2 NASA, 1 ANC, 1 MDP	Cherotich Irene Terer
953	223	Nairobi City	Westlands	Westlands Pri. Sch.	14	PR449505	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 WIPER	Kevin
954	211	Nakuru	Gilgil	Kiungururia Primary	3	PR284587	Stamped	Signed	1 JP, 1 ODM,	Godfrey Karuki Kamotho

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
955	211	Nakuru	Gilgil	Nyondia	1	PR284983	Stamped	Signed	1 JP, 1 ODM,	Stacey Auma John
956	140	Nakuru	Kuresoi South	Kiptenden Pri. Sch.	1	PR285331	Stamped	Signed	2 JP, 1 ODM, 1 ANC, 1 CCM, 3 IND, 1 KANU	Alan Oleve
957	199	Nakuru	Kuresoi South	Kapikwen Pri. Sch.	1	PR285637	Not Stamped	Signed	1 JP, 1 IND, 1 CCM	Audrey Chepkirui
958	211	Nakuru	Gilgil	Echariria Primary	1	PR284533	Stamped	Signed	1 JP, 1 IND, 1 KANU	Cecilia Magiri Mwangi
959	211	Nakuru	Gilgil	Echariria Primary	1	PR284521	Not Stamped	Signed	1 JP, 1 IND	Samuel Mwaura Wamai
960	211	Nakuru	Gilgil	Echariria Primary	1	PR284551	Not Stamped	Signed	1 JP, 3 IND	Zakayo Gitau Kiarie
961	211	Nakuru	Gilgil	Itherero Primary	1	PR284665	Stamped	Signed	1 JP, 3 IND	Sophia Galgalo Halakhe
962	211	Nakuru	Gilgil	Itherero Primary	2	PR284677	Stamped	Signed	2 JP, 2 IND, 1 CHAPCHAP	Hosea Kamau Chege
963	211	Nakuru	Gilgil	Kahubo Primary	1	PR285241	Not Stamped	Signed	1 JP, 2 IND, 1 CHAPCHAP	Abner Kemunto Linet
964	211	Nakuru	Gilgil	Kamathatha Primary	1	PR284431	Stamped	Signed	2 JP, 1 ODM, 1 MCC, 1 IND	Gerald Wamburu Maina
965	211	Nakuru	Gilgil	Kamathatha Primary	2	PR284437	Not Stamped	Signed	1 JP, 1 NASA,	Alice Gathoni Ndai
966	211	Nakuru	Gilgil	Kamathatha Primary	3	PR284455	Stamped	Signed	1 JP, 1 ODM, 1 UNSPECIFIED	David Waweru
967	211	Nakuru	Gilgil	Kungururia Primary	1	PR284563	Stamped	Signed	1 JP,	Josephine Waiyogo Mwangi
968	211	Nakuru	Gilgil	Kiungururia Primary	2	PR284569	Stamped	Signed	1 JP, 2 IND, 1 CHAPCHAP	Fridah Makena Muriungi

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
969	211	Nakuru	Gilgil	Loldia Primary	1	PR284863	Not Stamped	Signed	1 JP, 1 NASA,	Benjamin Karituki Muya
970	211	Nakuru	Gilgil	Loldia Primary	2	PR284875	Not Stamped	Signed	2 JP, 2 NASA, 1 IND	Benson N Okumu
971	211	Nakuru	Gilgil	Loldia Primary	3	PR284881	Not Stamped	Signed	1 JP, 1 NASA, 1 MCC, 1 IND	Mary Nienga
972	211	Nakuru	Gilgil	Muricucuria Ecd Primary	1	PR284167	Stamped	Signed	1 JP,	Teresiah Njoki Karituki
973	211	Nakuru	Gilgil	Muricucuria Ecd Primary		PR284179	Stamped	Signed	1 JP, 2 INDEPENDENT, 1 MCC	Gabriel Ng'ang'a Mungai
974	211	Nakuru	Gilgil	Ndibai Primary	1	PR283951	Not Stamped	Signed	1 JP, 1 MCC, 2 INDEPENDENT	Raphael Ngetich Chepkener
975	211	Nakuru	Gilgil	Ndibai Primary	2	PR283957	Stamped	Signed	1 JP, 1 INDEPENDENT, 1 DP, 1 DS	Edwin Leteipa Kamwaro
976	211	Nakuru	Gilgil	Ndogo Primary	1	PR284413	Not Stamped	Signed	1 JP, 2 IND	Odhiambo George Yugi
977	211	Nakuru	Gilgil	Nuthu	1	PR285236	Not Stamped	Signed	1 JP, 2 INDEPENDENT	Kaman Joseph Gathiru
978	211	Nakuru	Gilgil	Ole Sultan Primary	1	PR283939	Not Stamped	Signed	1 JP,	Sharon Khevali Wafula
979	211	Nakuru	Gilgil	St Barnabas Trading	1	PR284605	Stamped	Signed	2 JP,	John Karituki
980	211	Nakuru	Gilgil	St Barnabas Trading	2	PR284623	Stamped	Signed	1 JP, 5 INDEPENDENT	Jackson Kateri Nabiki
981	211	Nakuru	Gilgil	St Barnabas Trading	3	PR284635	Stamped	Signed	1 JP,	Karoki Frances Kagombe
982	211	Nakuru	Gilgil	St Barnabas Trading	4	PR284647	Stamped	Signed	2 JP, 1 MCC	Haron Karanja Thuo
983	211	Nakuru	Gilgil	St Patrick Primary	1	PR283627	Stamped	Signed	3 JP, 2 ODM, 1 CCM, 3 INDEPENDENT, 2	Alfred Maragia



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									MCC	
984	211	Nakuru	Gilgil	St Patrick Primary	2	PR283627	Stamped	Signed	1 JP, 1 NASA,	Keziah Wangari Karega
985	211	Nakuru	Gilgil	St Patrick Primary	3	PR283633	Stamped	Signed	1 JP, 1 NASA,	Samuel Kuria Wainaina
986	212	Nakuru	Naivasha	Bishop Ndingi Secondary School	1	PR281077	Stamped	Signed	1 JP, 1 NASA, 1 MCCP	Judy Wanjiku Karituki
987	212	Nakuru	Naivasha	Bishop Ndingi Secondary School	2	PR281095	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 4 IND	Tabitha Wambui Ribiro
988	212	Nakuru	Naivasha	Bishop Ndingi Secondary School	3	PR281101	Not Stamped	Signed	1 JP, 1 NASA,	Walter K Kiptanui
989	212	Nakuru	Naivasha	Huruma Nursery	1	PR282007	Stamped	Signed	1 JP, 1 ODM, 4 IND	Peter Karituki Kagema
990	212	Nakuru	Naivasha	Huruma Nursery	2	PR282019	Stamped	Signed	1 JP, 1 NASA, 1 IND	Raphael Owino Eden
991	212	Nakuru	Naivasha	Maiella Polytechnic	1	PR282073	Stamped	Signed	1 JP, 1 ODM, 1 CMD	Raphael Njgunna
992	212	Nakuru	Naivasha	Maiella Polytechnic	2	PR282085	Stamped	Signed	1 JP, 2 IND	Charles M Githaga
993	212	Nakuru	Naivasha	Milimani Pri. Sch.	4	PR281071	Stamped	Signed	2 JP,	Peter M Njgunna
994	212	Nakuru	Naivasha	Unity Farm Nursery Sch.	1	PR281114	Stamped	Signed	NOT LEGIBLE	Henry N Mwangi
995	212	Nakuru	Naivasha	Unity Farm Nursery Sch.	2	PR281125	Stamped	Signed	1 JP, 1 NASA,	Isaac Nyongesa Waswa
996	212	Nakuru	Naivasha	Unity Farm Nursery Sch.	3	PR281137	Stamped	Signed	, 1 KANU, 5 IND	Lydia Isaiah Stanley Ngethe
997	212	Nakuru	Naivasha	Unity Farm Nursery Sch.	4	PR281155	Stamped	Signed	1 JP, 5 IND	Stanley Ngethe Wanjiru

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998	213	Nakuru	Gilgil	Gilgil Township Pri. Sch.	2	PR283585	Stamped	Signed	1 JP, 1 ODM, 3 CCM, 2 MCC, 5 IND	Samuel Mwigigi Murira
999	213	Nakuru	Gilgil	Kahubo Secondary	3	PR284149	Stamped	Signed	2 JP, 1 MCCP, 2 IND	Francis Karanja Lesomo
1000	213	Nakuru	Naivasha	Maiella Polytechnic	1	PR280073	Stamped	Signed	1 JP, 1 ODM, 1 CMD	Raphael Njuguna
1001	213	Nakuru	Naivasha	Maiella Polytechnic	2	PR282085	Stamped	Signed	1 JP, 2 IND	Charles M Githaiga
1002	213	Nakuru	Gilgil	Maritica Eccl	1	PR284167	Not Stamped	Signed	1 JP,	Terestiah Njoki Karuki
1003	213	Nakuru	Gilgil	Munanda Pri. Sch.	1	PR284022	Stamped	Signed	1 JP,	John K Gichumu
1004	213	Nakuru	Gilgil	Munanda Pri. Sch.	2	PR284029	Not Stamped	Signed	1 JP, 1 DP, 1 IND	Florence Nyogabi
1005	213	Nakuru	Gilgil	Munanda Pri. Sch.	2	PR284029	Not Stamped	Signed	1 JP, 1 DP, 1 IND	Florence Nyogabi
1006	213	Nakuru	Gilgil	Munanda Pri. Sch.	3	PR284041	Not Stamped	Signed	2 JP, 1 MCC, 1 IND	Josphine Wanjiru Gachahi
1007	213	Nakuru	Gilgil	Nuthu Nursery Sch.	1	PR285236	Not Stamped	Signed	1 JP, 2 IND	Kamanu Joseph Gathiru
1008	213	Nakuru	Gilgil	Ole Sultan Pri.	1	PR283939	Not Stamped	Signed	1 JP,	Sharon Khevali Wahula
1009	213	Nakuru	Gilgil	St. Patricks Pri. Sch.	2	PR283627	Not Stamped	Signed	1 JP, 1 NASA,	Keziah Wangari Karega
1010	213	Nakuru	Naivasha	Unity Farm Nursery Sch.	1	PR281114	Stamped	Signed	NOT LEGIBLE	Henry N Mwangi
1011	213	Nakuru	Naivasha	Unity Farm Nursery Sch.	2	PR281125	Stamped	Signed	1 JP, 1 NASA,	Isaac Nyongesa Waswa

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
101	213	Nakuru	Naivasha	Unity Farm Nursery Sch.	3	PR281137	Stamped	Signed	,1 KANU,5 IND	Lydiah Isaiah
101	213	Nakuru	Naivasha	Unity Farm Nursery Sch.	4	PR281155	Stamped	Signed	1 JP,5 IND	Stanley Ngethe Wanjiru
101	218	Nakuru	Molo	Michina Nursery	1	PR277789	Stamped	Signed	1 JP,1 ODM, 1 CCM,2 INDEPENDENTS	Wycliffe Makori
101	218	Nakuru	Molo	Michina Nursery	2	PR277807	Stamped	Signed	1 JP,1 CCM, 1 ANC,2 INDEPENDENT	Rani Betty Kemunto
101	218	Nakuru	Molo	Njenga Karume Secondary	1	PR277765	Stamped	Signed	1 JP,1 ODM, 1 ANC,2 INDEPENDENT, 1 KANU	Mercy Kamonya Mutende
1017	218	Nakuru	Molo	Njenga Karume Secondary	2	PR277783	Stamped	Signed		Henry Nyabosi
101	222	Nakuru	Naivasha	Bishop Ndigi Secondary School	1	PR281077	Stamped	Signed	1 JP,1 NASA,1 MCCP	Judy Wanjiku Karuki
101	222	Nakuru	Naivasha	Bishop Ndigi Secondary School	2	PR281095	Stamped	Signed	1 JP,1 NASA,4 IND, 1 MCC, 1 KSC	Tabitha Wambui Ribiro
102	222	Nakuru	Naivasha	Rev Jeremiah	1	PR281725	Stamped	Signed	3 JP,3 INDEPENDENT	Simon Githua
102	222	Nakuru	Naivasha	Rev Jeremiah	2	PR281737	Stamped	Signed	1 JP,1 NASA,2 INDEPENDENT	Joan Wangui Karanja
102	222	Nakuru	Naivasha	Rev Jeremiah	3	PR281755	Stamped	Signed	3 JP,1 PPK, 3 INDEPENDENT	Teresiah Wanjiru Kiarie
102	222	Nakuru	Naivasha	Rev Jeremiah	4	PR281767	Not Stamped	Signed	2 JP,2 INDEPENDENT, 1 PPK	Bernard Muiruri Nyoro
102	222	Nakuru	Naivasha	Rev Jeremiah	5	PR281779	Stamped	Signed	2 JP,4 INDEPENDENT, 1	Solomon Kanyoro

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
102	222	Nakuru	Naivasha	Rev Jeremiah	6	PR281791	Stamped	Signed	1 JP,1 INDEPENDENT	Sammy Kihara
102	222	Nakuru	Naivasha	Rev Jeremiah	7	PR281797	Stamped	Signed	1 JP,1 NASA,1 INDEPENDENT	Leah Njeri Mwangi
102	223	Nakuru	Njoro	Kimugul Pri. Sch.	1	PR278696	Stamped	Signed	1 JP,1 NASA,3 IND,1 CCM	Wilson Wachira
102	58	Nakuru	Njoro	Cheptoroi Polling Station	2	PR280026	Stamped	Signed	1JP,	John Nyoro Muthama
102	59	Nakuru	Nakuru Town West	Kapkures Health Polling Station	7	PR295135	Stamped	Signed	1 JP,1 ODM,1 FK,1 KANU,1 IND	Bosuben Chepkosgei Janet
103	60	Nakuru	Nakuru Town West	Kaptembwo Primary	4	PR294661	Stamped	Signed	1 JP,1 ODM,1 ANC,1CCM,3 IND,1 KANU,1 KNC	Samuel Ngaira Agaga
103	111	Nakuru	Bahati	Dundori Primary School	1	PR291938	Stamped	Signed	1JP	Bilha Muiru
103	111	Nakuru	Bahati	Dundori Primary School	2	PR291949	Stamped	Signed	2 JP,1 KANU,4 INDEPENDENTS	Isaac Simon Kihara
103	115	Nakuru	Naivasha	Kihoto Trading Centre	1	PR281299	Stamped	Signed	1 JP,1 NASA,4 INDEPENDENTS,1 MCC,	Charles Gichina
103	115	Nakuru	Naivasha	Lake View Primary School	2	PR281227	Stamped	Signed	2 JP,1 NASA,4 INDEPENDENTS,1 KSC,1 MCCP	Eunice Wanjeri Ng'anga
103	115	Nakuru	Naivasha	Manera Primary School	3	PR281185	Stamped	Signed	2 JP,3 INDEPENDENTS	Hannah Njeri Ngigi
103	115	Nakuru	Naivasha	Mununga Primary School	2	PR280285	Not Stamped	Signed	1 JP,5 INDEPENDENTS	Beatrice Njeri Waweru

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1037	115	Nakuru	Naivasha	Ngeya Primary School	1	PR281569	Stamped	Signed	,1 ODM,3 INDEPENDENTS	Charles N. Njoroge
1038	115	Nakuru	Naivasha	Rev Jeremiah Primary School	1	PR281725	Stamped	Signed	3 JP,3 INDEPENDENTS	Simon Githua
1039	115	Nakuru	Naivasha	Rev Jeremiah Primary School	2	PR281737	Stamped	Signed	1 JP,1 NASA,2 INDEPENDENTS	Joan Wangui Karanja
1040	115	Nakuru	Naivasha	Rev Jeremiah Primary School	3	PR281755	Stamped	Signed	3 JP,1 PPK, 3 INDEPENDENTS	Teresiah Wanjiku Kiarie
1041	115	Nakuru	Naivasha	Rev Jeremiah Primary School	5	PR281779	Stamped	Signed	2 JP,4 INDEPENDENTS, 1 PPK	Solomon Kanyoro
1042	115	Nakuru	Naivasha	Rev Jeremiah Primary School	6	PR281791	Stamped	Signed	1 JP,1 INDEPENDENT	Sammy Kihara Ng'anga
1043	115	Nakuru	Naivasha	Rev Jeremiah Primary School	7	PR281797	Not Stamped	Signed	1 JP,1 NASA,1 INDEPENDENT	Leah Njeri Mwangi
1044	115	Nakuru	Naivasha	Sher Social Hall	1	PR282433	Not Stamped	Signed	2 JP,1 NASA,3 INDEPENDENTS, 1 KANU	John Manyara Maingi
1045	115	Nakuru	Naivasha	Sher Social Hall	2	PR282451	Stamped	Signed	1 JP,2 NASA,	Anne Wanjiru Mbugua
1046	115	Nakuru	Naivasha	Shermoi Primary School	1	PR282193	Not Stamped	Signed	5 JP,5 NASA,1 INDEPENDENT	Ibrahim Ng'anga Kamau
1047	115	Nakuru	Naivasha	Unity Farm Nursery	4	PR281155	Stamped	Signed	1 JP,5 INDEPENDENTS	Stanley Ngethe Wanjiru
1048	115	Nakuru	Naivasha	Bishop Ndingi Secondary School	3	PR281101	Not Stamped	Signed	1 JP,1 ODM,	Walker K. Kiptanui

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104	115	Nakuru	Naivasha	Rev Jeremiah Primary School	4	PR281767	Not Stamped	Not Signed	2 JP, 1 NASA, 1 PPK, 2 INDEPENDENTS	Bernard Mwiruri Nyoro
105	111	Nakuru	Bahati	Dundori Youth Polytechnic	1	PR292013	Stamped	Signed	1 JP, 2 IND, 1 PNU	John Mungai
105	211	Nakuru	Gilgil	Kungururia Primary	4	PR284600	Not Stamped	Signed	2 JP, 1 MCC, 4 IND	Jackline Chelangat
105	142	Nandi	Nandi Hills	Tikiyo Pri. Sch.	1	PR254035	Stamped	Signed	1 JP, 1 ODM,	Jelagat Isabella
105	186	Nandi	Aldai	Kisorng'ot Pri. Sch.	1	PR253033	Stamped	Signed	1 JP, 1 ODM,	Linus K Keino
105	218	Nandi	Mosop	Kamotong Pri.	1	PR258781	Stamped	Signed	1 JP, 1 ODM,	Kemboi Dickson Kipkogei
105	223	Nandi	Nandi Hills	Taboiyat Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP, 1 ODM,	Rotich Gorrety Jesang
105	223	Nandi	Aldai	Tendwet Pri.		PR252511	Stamped	Signed	1 JP, 1 ODM,	Pauline Jemutai
105	139	Nandi	Aldai	Maraba Pri.	1	PR252355	Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Jackline Cheruto Kosgei
105	141	Nandi	Chesumei	Aic Baraton Pri. Sch.	2	PR254786	Stamped	Signed	1 JP, 2 KANU, 2 IND	Chelagat Carolynne
105	141	Nandi	Chesumei	Aic Kosirai Estate Church	1	PR254755	Stamped	Signed	2 JP, 1 PPK, 3 IND	Kipkorir Kevin
106	141	Nandi	Chesumei	Aic Kosirai Estate Church	2	PR254768	Stamped	Signed	1 JP, 1 IND	Solomon Mano Kibet
106	141	Nandi	Chesumei	Belekenya Pri. Sch.	1	PR255063	Stamped	Signed	NOT VISIBLE	Not Visible
106	141	Nandi	Chesumei	Belekenya Pri. Sch.	2	PR255080	Stamped	Signed	1 JP, 1 ODM, 1 NVP	Robert Bungei

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
106	141	Nandi	Aldai	Bemja Pri. Sch.	1	PR251803	Stamped	Signed	1 JP, 1 ODM, 1 IND	Robert Murgor
106	141	Nandi	Chesumei	Chemare Pri. Sch.	1	PR254863	Stamped	Signed	1 JP, 1 NASA, 1 IND	Everyn Jepngetich
106	141	Nandi	Nandi Hills	Chepng'etuny Pri. Sch.	1	PR254047	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 2 IND	Noadiah Cheronno Chege
106	141	Nandi	Aldai	Chepsioch Pri. Sch.	1	PR251833	Stamped	Signed	1 JP, 5 IND	Getrude Jerotich
106	141	Nandi	Nandi Hills	Cheptabach Pri. Sch.	1	PR253928	Stamped	Signed	NOT LEGIBLE	Daniel K Kettel
106	141	Nandi	Chesumei	Chepterit Pri. Sch.	1	PR254971	Stamped	Signed	1 JP,	Cleophas Bett
106	141	Nandi	Chesumei	Chepterit Pri. Sch.	3	PR254989	Stamped	Signed	1 JP,	Betrice J. Rotich
107	141	Nandi	Chesumei	Kamonjil Pri. Sch.	1	PR254911	Stamped	Signed	2 JP, 1 IND	Christine Komen
107	141	Nandi	Chesumei	Kamonjil Pri. Sch.	2	PR254923	Stamped	Signed	1 JP, 1 VISION PARTY	Tirop Kipkorir Bella
107	141	Nandi	Chesumei	Kamurguywo Pri. Sch.	1	PR254833	Stamped	Signed	2 JP, 1 CCM, 2 IND	Edwin Maiyo
107	141	Nandi	Chesumei	Kamurguywo Pri. Sch.	2	PR254845	Stamped	Signed	1 JP, 2 IND	Kipchir Chir. Benedict
107	141	Nandi	Chesumei	Kapkechui Pri. Sch.	1	PR254713	Stamped	Signed	1 JP, 1 ODM, 3 IND	Ruth J. Kerich
107	141	Nandi	Chesumei	Kapkechui Pri. Sch.	2	PR254725	Stamped	Signed	2 JP, 1 ODM, 1 KANTU, 1 IND	Cheruyot Ezekiel

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
107	141	Nandi	Chesumei	Kapkbimbir Pri. Sch.	1	PR254929	Stamped	Signed	2 JP, 1 NASA, 2 IND	Nancy Jebet
107	141	Nandi	Chesumei	Kaptidili Pri. Sch.	1	PR254869	Not Stamped	Signed	2JP,1 ODM,1 NVP,2 IND	Rodah Jelagat
107	141	Nandi	Chesumei	Kaptidili Pri. Sch.	2	PR254881	Stamped	Signed	2 JP, 1 CCM, 2 IND	Alfred Korir
107	141	Nandi	Nandi Hills	Keben Pri. Sch.	1	PR254077	Not Stamped	Signed	1 JP, 1 NASA, 1 IND	Eunice Jelimo
108	141	Nandi	Aldai	Kipkongen Pri. Sch.	1	PR251707	Stamped	Signed	,1 IND	Hoglah Jepkemei
108	141	Nandi	Aldai	Kipkongen Pri. Sch.	2	PR251719	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 PPK	Jacob Korir
108	141	Nandi	Nandi Hills	Koilot Pri. Sch.	1	PR254119	Stamped	Signed	1 JP, 1 NASA, 2 IND	Janet Chepkemoi
108	141	Nandi	Nandi Hills	Koilot Pri. Sch.	2	PR254133	Stamped	Signed	NOT LEGIBLE, 1 NASA, NOT LEGIBLE	Not Legible
108	141	Nandi	Chesumei	Nandi Pri. Sch.	1	PR254803	Stamped	Signed	1 JP, 1 NASA, 1 IND	Julius K. Letting
108	141	Nandi	Chesumei	Nandi Pri. Sch.	2	PR254809	Not Stamped	Signed	3 JP, 1 NASA, 3 IND	Mark Lelei
108	141	Nandi	Chesumei	Nandi Pri. Sch.	3	PR254821	Stamped	Signed	1 JP, 1 NASA,	Simon Sang
108	141	Nandi	Chesumei	Segut Pri. Sch.	1	PR254950	Stamped	Signed	1 JP, 1 CCM,	Bernard Bwambok
108	141	Nandi	Chesumei	Segut Pri. Sch.	2	PR254960	Stamped	Signed	1JP	Gideon Maiyo
108	141	Nandi	Nandi Hills	Siwo Health Centre	1	PR253945	Stamped	Signed	1 JP, 1 ODM, 2 IND	William Kiprop Kemei
109	141	Nandi	Nandi Hills	Taboiyat Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 JP, 1 NASA,	Rotich Gorrety Jesang



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
109	141	Nandi	Nandi Hills	Tartar Nursery Sch.	1	PR254005	Stamped	Signed	1 JP, 1 IND	Patrick Kimaru Kosgei
109	148	Nandi	Aldai	Chepsioch Pri. Sch.	1	PR251833	Stamped	Signed	1 JP, 4 IND	Getrude Jeritich
109	194	Nandi	Tinderet	Kiplegut Pri. Sch.	1	PR250171	Not Stamped	Signed	2 JP, 1 ODM, 1 IND, 1 KANU	Cyrus Kiplagat
109	207	Nandi	Tinderet	Kiplegut Pri. Sch.	1	PR250171	Not Stamped	Signed	2 JP, 1 NASA, 1 KANU, 1 IND	Cyrus Kiplagat
109	207	Nandi	Tinderet	Tinderet Tea Pri. Sch.	1	PR250214	Stamped	Signed	1 JP, 1 ODM	Musa Kiptoo Lagat
109	218	Nandi	Mosop	Kabiyet Township Pri.	3	PR258541	Stamped	Signed	1 JP,	Eliud Kimeli
109	218	Nandi	Mosop	St Marys Sisiot Pri.	1	PR257725	Stamped	Signed	1 JP, 1 INDEPENDENT	Ernest Kiptoo
109	218	Nandi	Mosop	Tuktuk Pri.	1	PR257857	Stamped	Signed	1 JP, 2 INDEPENDENT	Fabiano Kipchirchir Keny
109	218	Nandi	Mosop	Tuktuk Pri.	2	PR257869	Stamped	Signed	1 JP, 1 ODM, 2 INDEPENDENT, 1 MCC	Eli ezer Kiplimo Too
110	222	Nandi	Emgwen	Kapkatoi	1	PR256322	Stamped	Signed	1 JP, 1 NASA, 4 IND, 1 KANU, 1 PPK	Lelei Joan Jepchumba
110	223	Nandi	Chesumei	Aic Baraton Pri. Sch.	2	PR254786	Stamped	Signed	1 JP, 2 KANU, 2 IND	Chelagat Carolyne
110	223	Nandi	Chesumei	Aic Kosirai Estate Church	1	PR254755	Stamped	Signed	2 JP, 1 PPK, 3 IND	Kipkorir Kevin Solomon Mano
110	223	Nandi	Chesumei	Aic Kosirai Estate Church	2	PR254768	Stamped	Signed	1 JP, 1 IND	Kibet
110	223	Nandi	Chesumei	Belekenya Pri. Sch.	1	PR255063	Stamped	Signed	NOT LEGIBLE	Not Legible
110	223	Nandi	Chesumei	Belekenya Pri. Sch.	2	PR255080	Stamped	Signed	1 JP, 1 ODM, 1 NVP, 3 IND	Bungei Robert

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
110	223	Nandi	Aldai	Bemja Pri. Sch.	1	PR251803	Stamped	Signed	1 JP, 1 NASA,	Murgor Robert Kipchirchir
1107	223	Nandi	Chesumei	Chemare Pri. Sch.	1	PR254863	Stamped	Signed	1 JP, 1 NASA, 1 IND	Everlyn Jepngetch
110	223	Nandi	Tinderet	Chematic Pry	1	PR250808	Stamped	Signed	2 JP, 1 INDEPENDENT	Julius Kiptum Sawe
110	223	Nandi	Chesumei	Chemundu Pri. Sch.	1	PR254545	Stamped	Signed	1 JP, 1 IND, 1 KANU	Emmanuel Mayo
110	223	Nandi	Nandi Hills	Chepng'etuny Pri. Sch.	1	PR254047	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 2 IND	Noadiah Cheronno Choge
1111	223	Nandi	Aldai	Chepsioch Pri. Sch.	1	PR251833	Stamped	Signed	1 JP, 1 MCCP, 5 IND	Getrude Jerotich
1112	223	Nandi	Nandi Hills	Cheptabach Pri. Sch.	1	PR253928	Stamped	Signed	1 JP, 1 ODM, 2 IND	Daniel
1113	223	Nandi	Chesumei	Cheperit Pri. Sch.	1	PR254971	Stamped	Signed	1 JP, 1 IND	Cleophas Bett
1114	223	Nandi	Chesumei	Cheperit Pri. Sch.	3	PR254989	Stamped	Signed	1 JP, 1 IND	Beatrice J. Rotich
1115	223	Nandi	Aldai	Ibanja		PR252607	Stamped	Signed	1 JP, 3 IND	Korir Joan Jerotich
1116	223	Nandi	Aldai	Ibanja		PR252613	Stamped	Signed	1 JP, 1 NASA, 2 IND, 1 KANU	Lagat T Kennedy
1117	223	Nandi	Aldai	Kaboi Pri. Sch.		PR252445	Stamped	Signed	1 JP, 1 NASA 1 CCM, 2 IND	Nancy Segon
1118	223	Nandi	Aldai	Kamarich		PR251767	Stamped	Signed	1 JP, ODM,	Tuweï Kipkoëch Julius
1119	223	Nandi	Chesumei	Kamonjil Pri. Sch.	1	PR254911	Not Stamped	Signed	2 JP, 1 IND	Christine . Komen
1120	223	Nandi	Chesumei	Kamonjil Pri. Sch.	2	PR254923	Stamped	Signed	1 JP, 1 VISION PARTY	Tirop Kippkorir Bella
1121	223	Nandi	Chesumei	Kamunguwo Pri. Sch.	1	PR254833	Stamped	Signed	2 JP, 1 CCM, 2 IND	Edwin Maiyo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
1122	223	Nandi	Chesumei	Kamurygywo Pri. Sch.	2	PR2544845	Stamped	Signed	1 JP, 2 IND	Kipchirchir Benedict
1123	223	Nandi	Mosop	Kapkgaron Pri. Sch.	2	PR2583668	Stamped	Signed	2 JP, 1 JP, 1 NASA, 4 IND, 1 KANU, 1 PPK	Jacob Korir Lelei Joan Jepchumba
1124	223	Nandi	Emgwen	Kapkatoi Pri. Sch.	1	PR2563222	Stamped	Signed	1 JP, 1 ODM, 3 IND	Ruth J Kerich
1125	223	Nandi	Chesumei	Kapkechui Pri. Sch.	1	PR254713	Stamped	Signed	2 JP, 1 ODM, 1 KANU, 1 IND	Cheruiyot Ezekiel
1126	223	Nandi	Chesumei	Kapkechui Pri. Sch.	2	PR2547225	Stamped	Signed	2 JP, 1 ODM, 1 KANU, 1 IND	Cheruiyot Ezekiel
1127	223	Nandi	Chesumei	Kapkihimbir Pri. Sch.	1	PR254929	Stamped	Signed	2 JP, 1 NASA, 2 IND	Nancy Jebet
1128	223	Nandi	Aldai	Kapkoiei Dispensary	1	PR252775	Stamped	Signed	1 JP, 1 NASA, 2 IND, 1 KANU	Simon Cheruiyot Rono
1129	223	Nandi	Mosop	Kapnganio Pri. Sch.	1	PR258025	Stamped	Signed	1 JP, 1 NASA,	Linus Chirchir
1130	223	Nandi	Aldai	Kapsagawat Pri. Sch.	1	PR252241	Stamped	Signed	1 JP, 1 ODM, 1 CCM	Abigaël Jebichiy Ng'etich
1131	223	Nandi	Chesumei	Kaptilidi Pri. Sch.	1	PR254869	Not Stamped	Signed	2 JP, 1 ODM, 2 IND, 1 NVP	Rodah Jelagat
1132	223	Nandi	Chesumei	Kaptilidi Pri. Sch.	2	PR2544881	Stamped	Signed	2 JP, 1 CCM, 2 IND	Alfred Korir
1133	223	Nandi	Nandi Hills	Keben Pri. Sch.	1	PR254077	Not Stamped	Signed	1 JP, 1 NASA, 1 IND	Eunice Jelimo
1134	223	Nandi	Aldai	Kipkongen Pri. Sch.	1	PR251707	Stamped	Signed	1 IND	Hoglah Jepkemei
1135	223	Nandi	Aldai	Kipkongen Pri. Sch.	2	PR251719	Stamped	Signed	1 JP, 1 NASA, 1 PPK, 2 IND	Jacob Korir
1136	223	Nandi	Nandi Hills	Kipkorom Pri. Sch.	1	PR254401	Stamped	Signed	1 JP, 1 ODM, 2 IND	Theophilus Kipruto

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										Yammah
1137	223	Nandi	Aldai	Kipsiorori Pri. Sch.		PR252469	Stamped	Signed	1 JP, 1 NASA, 2 IND	Nancy Abwogi
1138	223	Nandi	Aldai	Kiptaruswo Salvation Army	1	PR252415	Stamped	Signed	1 JP, 1 CCM	John Kipleting Maswai
1139	223	Nandi	Aldai	Kitapko Pri. Sch.	1	PR252751	Stamped	Signed	1 JP, 1 ODM, 3 IND, 1 KANU	Kibet Cleophas
1140	223	Nandi	Nandi Hills	Koilot Pri. Sch.	1	PR254119	Stamped	Signed	1 JP, 1 NASA, 2 IND	Janet Chepkemoi
1141	223	Nandi	Nandi Hills	Koilot Pri. Sch.	2	PR254133	Stamped	Signed	1 JP, 1 IND, 1 NASA,	Kirwa Shadrack Kiprotich
1142	223	Nandi	Mosop	Kolonget Pri. Sch.	1	PR257822	Stamped	Signed	1 JP, 1 ODM, 2 INDEPENDENT	Robert Tanui
1143	223	Nandi	Nandi Hills	Mogobich Pri. Sch.	1	PR254389	Stamped	Signed	1 JP, 2 NASA, 2 IND	Carolyn Chelagat Yeko
1144	223	Nandi	Aldai	Mombor Pri. Sch.		P252529	Stamped	Signed	1 JP, 1 CCM, 1 KANU	Pius Cheruiyot
1145	223	Nandi	Chesumei	Nandi Pri. Sch.	2	PR254809	Not Stamped	Signed	3 JP, 1 NASA, 3 IND	Mark Lelei
1146	223	Nandi	Chesumei	Ndapatabwa Pri. Sch.	1	PR255085	Stamped	Signed	1 JP, 1 CCM,	George K. Bett
1147	223	Nandi	Chesumei	Ndapatabwa Pri. Sch.	2	PR255103	Stamped	Signed	1 JP, 1 NASA, 1 NVP	Christopher S. Kiptui
1148	223	Nandi	Chesumei	Samoo Pri. Sch.	2	PR254606	Stamped	Signed	NOT LEGIBLE	Not Legible
1149	223	Nandi	Aldai	Sarna Centre		PR252439	Stamped	Signed	1 JP, 1 ODM, 1 CCM, 2 IND	Julius Tamui
1150	223	Nandi	Chesumei	Segut Pri. Sch.	1	PR254950	Stamped	Signed	1 JP, 1 CCM,	Bernard Bwambok

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
1151	223	Nandi	Chesumei	Segut Pri. Sch.	2	PR254961	Stamped	Signed	1JP	Gideon Maiyo
1152	223	Nandi	Mosop	Singlet Pri. Sch.	1	PR257701	Stamped	Signed	1 JP, 1 ODM, 2 IND	Patrick Leloi
1153	223	Nandi	Nandi Hills	Siwo Health Centre	1	PR253945	Stamped	Signed	1 JP, 1 ODM, 2 IND	William Kiprop Kamen
1154	223	Nandi	Mosop	St.Pauls Kapkechui Pri. Sch.	1	PR258835	Stamped	Signed	1 JP, 2 IND	Naphthali Kipkurir Sirma
1155	223	Nandi	Nandi Hills	Tereno Pri. Sch.	1	PR254503	Stamped	Signed	1 JP, 2 ODM,	Henry Kipngeich
1156	223	Nandi	Nandi Hills	Tikiyo Pri. Sch.	1	PR254035	Stamped	Signed	1 JP, 1 ODM,	Jelagat Isabella
1157	141	Nandi	Chesumei	Kapsabet Boys Pri. Sch.	1	PR254743	Not Stamped	Signed	1 JP, 1 ODM,	Missoy J Gladys
1158	223	Nandi	Chesumei	Kapsabet Boys Pri. Sch.	1	PR254743	Not Stamped	Signed	1 JP, 1 ODM,	Mission J Gladys
1159	223	Nandi	Aldai	Kamarini Primary	1	PR252679	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 KANU	Katam Peter Kiptum
1160	223	Nandi	Aldai	Kamarini Primary	2	PR252691	Stamped	Signed	1 JP, 2 IND	Elphas Lagat
1161	141	Nandi	Chesumei	Aic Baraton Pri. Sch.	1	PR254776	Stamped	Signed	1JP, 1 IND	Patrick Kerich
1162	222	Nandi	Chesumei	Chepsui	1	PR256076	Stamped	Not Signed	NOT LEGIBLE	Not Legible
1163	223	Nandi	Chesumei	Aic Baraton Pri. Sch.	1	PR254776	Stamped	Signed	1JP, 1 IND	Patrick Kerich
1164	223	Nandi	Chesumei	Mugoon Pri. Sch.	1	PR254627	Stamped	Signed	1 ODM, 1 KANU, 1 ANC	Kageha Mercy
1165	223	Nandi	Chesumei	Chepterit Pri. Sch.	2	PR254980	Stamped	Signed	1JP, 1 NVP, 2 IND	Nancy Cherotich Sheilla

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1166	141	Nandi	Chesumei	Chepterit Pri. Sch.	2	PR254981	Stamped	Signed	1JP, 1NVP, 2IND	Nancy Cherotich Shella
1167	140	Narok	Emurua Dikir	Kiptenden Pri. Sch.	1	PR300140	Stamped	Signed	1JP, 1ODM, 1IND	Cherotich Victoria
1168	170	Narok	Narok North	St Peters Pri. Sch.	1	NOT LEGIBLE	Stamped	Signed	1 ODM,	Elias Sakau
1169	170	Narok	Narok North	St Peters Pri. Sch.	2	NOT LEGIBLE	Stamped	Signed	2 JP, 1 ODM, 1 WIPER, 1 FA	David Ratia
1170	170	Narok	Narok North	St Peters Pri. Sch.	3	NOT LEGIBLE	Stamped	Signed	2 JP, 1 ODM, 2 IND	Stephen Maskonte
1171	170	Narok	Narok North	St Peters Pri. Sch.	4	PR301567	Not Stamped	Signed	6 JP, 2 ODM, 2 CCM, 1 IND	Agnes Masieku Nteka
1172	170	Narok	Narok North	St Peters Pri. Sch.	5	PR301573	Stamped	Signed	1 JP, 2 ODM, 1 CCM	Edward L. Timisieki
1173	170	Narok	Narok North	St Peters Pri. Sch.	6	PR301585	Stamped	Signed	2 JP, 1 ODM, 1 CCM, 1 IND	Isaac D. Kilesi
1174	170	Narok	Narok North	St Peters Pri. Sch.	7	PR301603	Stamped	Signed	1 JP, 1 NASA, 1 CCM	Abubakar Sago
1175	170	Narok	Narok North	St Peters Pri. Sch.	8	PR301609	Stamped	Signed	4 JP, 2 ODM, 1 CCM	Richard Mpaera
1176	189	Narok	Kilgoris	Empaash Pri. Sch.	1	PR299263	Stamped	Signed	2 JP, 3 ODM, 1 IND	Siparo Abuya
1177	191	Narok	Narok West	Ololchurra Tr Ctr	1	PR306702	Stamped	Signed	2 JP, 1 ODM, 1 WIPER, 2 CCM, 1 VISION, 2 FORD KENYA, 1 IND	Matiko Ole Nkoyo
1178	190	Narok	Narok West	Pimbiniet Pry Sch	2	PR0306133	Stamped	Signed	1 CCM, 1 IND	Nehemah Rono
1179	192	Narok	Narok West	Nkosuash Nur Sch	1	PR306748	Stamped	Signed	1 JP, 1 CCN, 1 KANU	Benjamin Lepere

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1180	190	Narok	Narok West	Pimbiniet Pry Sch	1	PR306123	Stamped	Signed	1 JP, 2 KANU, 1 CCM,	Langat Daniel
1181	183	Nyamira	Borabu	Biego Pri. Sch.	1	PR447781	Stamped	Signed	1 JP, 1 NASA, 1 FDK, 2 IND, 1 SAFINA	Josphat Osebe Maroko
1182	172	Nyandarua	Kinangop	Kahuru Pri. Sch..	1	PR141787	Stamped	Signed	1 JP, 2 IND, 1 MCC	Karuga Danson Karanja
1183	172	Nyandarua	Kinangop	Kahuru Pri. Sch..	2	PR141799	Stamped	Signed	1 JP,	Esther Ngina Kambutu
1184	172	Nyandarua	Kinangop	Kamba Nursey Sch.	1	PR141991	Stamped	Signed	1 JP, 2 IND	Stephen Nguku Muigai
1185	172	Nyandarua	Kinangop	Kanyugi Pri. Sch.	1	PR142000	Not Stamped	Signed	NOT VISIBLE	Not Visible
1186	172	Nyandarua	Kinangop	Kanyugi Pri. Sch.	2	PR142009	Not Stamped	Signed	3 JP, 1 MCC, 1 PNU, 3 IND	Nancy Wangari Gitau
1187	172	Nyandarua	Kinangop	Kanyugi Pri. Sch.	3	PR142021	Stamped	Signed	1 JP, 1 PNU, 1 IND	Francis Kiiru Kungu
1188	172	Nyandarua	Kinangop	Kanyugi Pri. Sch.	4	PR142039	Not Stamped	Signed	2 JP, 1 NASA, 1 MCC, 1 PNU, 1 IND	Joan Muthoni Wachira
1189	172	Nyandarua	Kinangop	Matundura Pri. Sch..	1	PR141805	Stamped	Signed	1 JP, 1 MCC, 1 IND	James Wanjohi Kiricu
1190	172	Nyandarua	Kinangop	Matundura Pri. Sch..	2	PR141817	Stamped	Signed	1 JP, 2 IND	John Kiraki Nienga
1191	172	Nyandarua	Kinangop	Munyaka Pri. Sch..	1	PR141859	Stamped	Signed	2 JP, 1 MCC	Mary Kimani
1192	172	Nyandarua	Kinangop	Munyaka Pri. Sch..	2	PR141866	Stamped	Signed	1 JP, 1 MCC, 3 IND	Nicholas Kuria
1193	172	Nyandarua	Kinangop	Muruaki Secondary Sch.	1	PR141739	Not Stamped	Signed	1 JP, 1 MCC, 1 IND	Stanley Ngunji Anne Wanjiku
1194	172	Nyandarua	Kinangop	Muruaki Secondary Sch.	2	PR141745	Stamped	Signed	, 2 IND	Nganga

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1195	172	Nyandarua	Kinangop	Muthomi Pri. Sch..	1	PR141835	Not Stamped	Signed	1 JP, 1 MCC, 1 PNU, 2 IND	John Maina Kamau
1196	172	Nyandarua	Kinangop	Muthomi Pri. Sch..	2	PR141845	Stamped	Signed	1 JP, 2 IND	Not Visible
1197	182	Nyandarua	Kipipiri	Karuri Pri. Sch.	1	PR145939	Stamped	Signed	1 JP, 1 MCC, 1 IND	Joseph Gachuru Gacheru
1198	213	Nyandarua	Ndaragwa	Huruma Nursery	1	PR148399	Stamped	Signed	1 JP, 2 IND	Joseph Murithi Njiguna
1199	145	Nyeri	Tetu	Njoguini Pri. Sch.	1	PR149809	Stamped	Signed	3 JP, 2 IND, 1 NARC	Amos Githaiga Mururi
1200	174	Nyeri	Mukurweini	Wanguru Pri. Sch.	1	PR157705	Not Stamped	Signed	1 JP,	Elias Maina Waweru
1201	223	Nyeri	Nyeri Town	St Marys Boys Secondary	1	PR159655	Stamped	Signed	1 JP, 3 INDEPENDENT	Robert Mathenge Gichuki
1202	223	Nyeri	Nyeri Town	St Marys Boys Secondary	2	PR159661	Stamped	Signed	4 JP, 7 INDEPENDENT	Mary Wangui Wachira
1203	158	Prisons	Prisons	Kapsabet Prison	1	PR490069	Stamped	Signed	, 1 ANC,	Alex Asiye Siasi
1204	158	Prisons	Prisons	Tambach Prison	1	PR490057	Stamped	Signed	, 2 OTHERS	Lynnda Jerono Kemboi
1205	158	Prisons	Prisons	Vhiga Prison	1	PR490333	Stamped	Signed	, 1 ODM,	Kidiya Patricia Kedogo
1206	152	Samburu	Samburu West	Kisima Pri. Sch.	1	PR221971	Stamped	Signed	1 JP, 1 KANU, 1 ODM, 1 ANC, 1 WIPER, 1 IND	Ibrahim Abdillahi
1207	158	Siaya	Gem	Ramula Pri. Sch.	1	PR388897	Stamped	Signed	, 1 ODM,	Benta Monica Owor
1208	158	Siaya	Gem	Ramula Pri. Sch.	2	PR388909	Stamped	Signed	, 1 ODM, 1 IND	Doreen Awuor Otieno



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1209	158	Siaya	Gem	Ramula Pri. Sch.	3	PR388921	Stamped	Signed	,1 ODM, 1 WIPER, 1 CCM,	Joseph Magero
1210	16	Siaya	Rarieda	Memba Primary	1	PR392191	Stamped	Signed	1 JP, 2 ODM,	George Ochieng Abidha
1211	174	Tana River	Garsen	Kipini Pri Sch	1	PR030415	Stamped	Signed	,1 ODM, 1 ANC, 1 CCM,	Msamabala S. Katana
1212	174	Tana River	Garsen	Kipini Pri Sch	2	PR030421	Stamped	Signed	1 JP, 1 WIPER, 1 NASA, 1 ODM, 1 ANC, 1 DPK, 1 PBR, 1 KPP	Mohamed B. Suleiman
1213	174	Tana River	Garsen	Kipini Pri Sch	3	PR030433	Stamped	Signed	,1 ODM, 1 NASA, 1 DPK, 1 KPP, 1 DP, 1 PARTY OF DEVELOPMENT	Awadh Mluwa
1214	177	Tana River	Garsen	Ngao Social Hall	1	PR030763	Stamped	Signed	1 JP, 2 FORD-K, 1 WIPER, 1 CMC, 1 KPP, 1 KADU ASILI	Silyano Babo
1215	177	Tana River	Garsen	Tarasaa Secondary Sch.	1	PR030703	Stamped	Signed	1 JP, 1 ODM, 1 WIPER, 1 NASA, 1 CND, 1 CMP, 1 KANU, 1 KADU ASILI, 1 DPK, 1 KPP	Sarah Kombo
1216	178	Tana River	Garsen	On-Wardei Pri. Sch.	1	PR030617	Stamped	Signed	1 JP, 1 WIPER, 2 ODM, 1 KANU, 1 KPP	Abdiwahab Sugow Aden
1217	178	Tana River	Garsen	Tana Salt Nursery Sch.	1	PR030985	Stamped	Signed	,1 CCM, 1 ANC, 1 NARC, 1 KPP, 1 KANU	Immaculate Hadida Kidada
1218	179	Tana River	Garsen	Mswakini Nursery Sch.	1	PR031225	Stamped	Signed	1 JP, 1 WIPER, 1 ANC, 1 DP, 1 PDR, 1 KANU	Ibrahim Abadada Boba

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1219	180	Tana River	Garsen	Walkon Village	1	PR031237	Stamped	Signed	1 JP, 1 WIPER, 1 OCM, 1 ARK, 1 KANU	Farhiya Hadija Abdi
1220	181	Tana River	Garsen	Konkona Nursery Sch. On Wardai Primary School	1	PR031375	Stamped	Signed	1 JP, 1 KANU, KADU ASILI	Zahra Hassan
1221	127	Tana River	Garsen	Gitare Primary	1	PR030817	Stamped	Signed	1 JP, 2 ODM, 1 WIPER, 1 KANU, 1 KPP	Abdiwahab Sugow Aden
1222	211	Tharaka - Nithi	Maara	Enego	1	PR081523	Stamped	Signed	1 JP, 1 NASA, 1 NARC-K, 1 MCC, 1 INDEPENDENT	Caroline Kainda
1223	223	Tharaka Nithi	Maara	Majira T.B.C	1	PR252733	Stamped	Signed	1 JP, 1 ODM,	Chepkogei Miriam
1224	223	Tharaka Nithi	Maara	Marimanti Ma Youth Polytechnic	1	PR081301	Stamped	Signed	1 JP, 1 ODM,	Silvana Gaiti
1225	223	Tharaka Nithi	Marimanti	Mwerera Pri.		PR086779	Stamped	Signed	1 JP, 1 ODM,	Joyce Kabaara
1226	223	Tharaka Nithi	Tharaka	Chogoria Complex		PR086521	Stamped	Signed	1 JP, 1 ODM,	James Muriithi Nienu
1227	223	Tharaka Nithi	Maara	Chogoria Complex		PR081313	Stamped	Signed	3 JP, 1 NASA, 4 INDEPENDENT, 2 MCC, NARC KENYA	Rautleen Makenya
1228	223	Tharaka Nithi	Maara	Chogoria Complex		PR081331	Stamped	Signed	1 JP, 2 NASA, 1 MCC, 3 INDEPENDENT	Rhoda Gature
1229	223	Tharaka Nithi	Maara	Kairuni Coffee Factory	1	PR081211	Stamped	Signed	1 JP, 1 ODM, 1 KANU	Benjamin Malavi
1230	223	Tharaka Nithi	Maara	Kairuni Pri.	1	PR081145	Stamped	Signed	3 JP, 1 NASA, 1 MCC, 1 NARC, 5 INDEPENDENT	Lucy Karimi
1231	223	Tharaka	Maara	Kairuni Pri.	2	PR081163	Stamped	Signed	2 JP, 1 NARC, 2	Dickson M.

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		Nithi							INDEPENDENT	Nyaga
123	223	Tharaka Nithi	Maara	Kajithetu Pri	1	PR080965	Stamped	Signed	2 JP, 1 NASA, 1 NARC, 1 INDEPENDENT	Jackson Koome K.
123	223	Tharaka Nithi	Maara	Karumbi Pri.	1	PR080551	Stamped	Signed	1 JP, 1 MCC, 1 NARC, 1 INDEPENDENT	Plus Gitonga
123	223	Tharaka Nithi	Maara	Kathereni	1	PR080941	Stamped	Signed	4 JP, 1 NASA, 1 INDEPENDENT, 1 NARC	Josphine Kathoni
5	223	Tharaka Nithi	Maara	Kathereni Pefa Nursery	1	PR080731	Stamped	Signed	1 JP, 1 NASA, 1 NARC, 1 INDEPENDENT, 1 JUSTICE & FREEDOM	Clement Mukuru Njeru
123	223	Tharaka Nithi	Maara	Kauri Pri.	1	PR080821	Stamped	Signed	2 JP, 1 ODM, 1 MCC, 1 NARC, 2 INDEPENDENT	Cecilia Mukiri Mutwiri
7	223	Tharaka Nithi	Maara	Kiamaogo Pri.	1	PR081007	Stamped	Signed	2 JP, 1 INDEPENDENT, 1 NARC	Alfred Micheni M'rama
123	223	Tharaka Nithi	Maara	Kiamaogo Pri.	2	PR081013	Stamped	Signed	2 JP, 1 NASA, 1 INDEPENDENT, 1 NARC	Wilfred Mati James
123	223	Tharaka Nithi	Maara	Kiraro Pri.	1	PR081079	Stamped	Signed	2 JP, 1 MCC, 1 NARC, 3 INDEPENDENT	Dominic Mwirigi N.
124	223	Tharaka Nithi	Maara	Kirumi Pri.	1	PR080797	Stamped	Signed	1 JP, 1 NASA, 2 INDEPENDENT, 1 NARC	Purity Gatwiri
1241	223	Tharaka Nithi	Maara	Kirumi Pri.	2	PR080815	Stamped	Signed	1 JP, 1 NASA, 1 INDEPENDENT	Lucy Kaari
124	223	Tharaka Nithi	Maara	Mbironi	1	PR080929	Stamped	Signed	1 JP, 1 NASA,	Kimathi Miriti

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
124	223	Tharaka Nithi	Maara	Murunga	1	PR080923	Stamped	Signed	1 JP, 6 INDEPENDENT	Humphrey Kinya
124	223	Tharaka Nithi	Maara	Ngaita	2	PR080953	Stamped	Signed	,1 INDEPENDENT, 1 NARC	Millcent Micheni
124	223	Tharaka Nithi	Maara	Nguruki Pri.	1	PR080677	Stamped	Signed	3 JP, 2 ODM, 1 MCC, 1 NARC, 2 INDEPENDENT	Peter Kimathi Riungu
124	223	Tharaka Nithi	Maara	Nguruki Pri.	2	PR080696	Stamped	Signed	1 JP, 1 NASA, 1 NARC, 1 INDEPENDENT	Ashford Karani
124	223	Tharaka Nithi	Maara	Polepole Market Grounds	1	PR081193	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 1 NARC, 1 INDEPENDENT	Harriet K. Munyua
124	223	Tharaka Nithi	Maara	Ukuruni Pri.	1	PR080857	Stamped	Signed	1 JP, 1 NASA, 1 MCC, 1 INDEPENDENT	Meshack Ambani
124	223	Tharaka Nithi	Tharaka	Gatunga		PR084649	Stamped	Signed	1 JP, 1 ODM,	Reuben Suleiman
125	223	Tharaka Nithi	Maara	Chogoria Complex	1	PR081313	Stamped	Signed	3 JP, 1 ODM, 4 IND, 2 MCC, 1 NARC K,	Benson D
125	223	Tharaka Nithi	Maara	Chogoria Complex	2	PR081331	Stamped	Signed	1 JP, 2 ODM, 3 IND, 1 MCC, 1 NARC K	Rhoda Gatune
125	223	Tharaka Nithi	Maara	Chogoria Girls B	1	PR081247	Stamped	Signed	1 JP, 1 ODM, 3 IND, 1 MCC	Catherine Nkanga
125	223	Tharaka Nithi	Maara	Chogoria Girls B	2	PR081259	Stamped	Signed	,1 ODM, 1 MCC, 1 IND	Lilian Igoki
125	223	Tharaka Nithi	Tharaka	Gikuu Kia Ndia		PR086707	Stamped	Signed	2 JP, 1 NARC K, 2 IND, 1 MCC	Johnson Mwangi
125	223	Tharaka Nithi	Maara	Girira T.B.C		PR081349	Stamped	Signed	3 JP, 1 ODM, 4 IND, 1 NARC K, 1 MCC	Gerrard Murithi
125	223	Tharaka Nithi	Tharaka	Iruruma Pri.		PR086563	Stamped	Signed	1 JP, 1 ODM, 1 DP, 1 NARC K, 1 MCC, 6 IND	Bornface Munene

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
125	223	Tharaka Nithi	Tharaka	Kaiga Kamwe		PR086647	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 NARC K	Virginia K Zavelo
125	223	Tharaka Nithi	Maara	Kalewa Pri.		PR081421	Stamped	Signed	3 JP, 2 IND	Benson Murithi R.
125	223	Tharaka Nithi	Tharaka	Kathihini		PR086290	Stamped	Signed	NOT LEGIBLE	Wilfred Mugambi
126	223	Tharaka Nithi	Maara	Kianjagi Pri.	1	PR081475	Stamped	Signed	2 JP, 1 ODM, 2 IND, 1 NARC, 1 KANU, 1 MCC	Alex Mwiti Nyaga
126	223	Tharaka Nithi	Maara	Kianjagi Pri.	2	PR081481	Stamped	Signed	1 JP,	Lumani Peter
126	223	Tharaka Nithi	Maara	Kiego Tea Banda		PR081451	Stamped	Signed	1 JP, 1 MCC	Mike Murithi
126	223	Tharaka Nithi	Maara	Kieni Tea Banda		PR081493	Stamped	Signed	4 JP, 2 ODM, 2 IND, 1 MCC, 1 KANU, 1 NARC K,	Erick Karuki
126	223	Tharaka Nithi	Maara	Kimoro Tea T.B.C		PR081397	Stamped	Signed	2 IND, 1 NARC K,	Joyce Kangai Kaburu
126	223	Tharaka Nithi	Maara	Kimuchia Pri.		PR081289	Stamped	Signed	2 JP, 2 ODM, 4 IND, 1 MCC, 1 NARC	Idah Micheni
126	223	Tharaka Nithi	Tharaka	Kiumbe Pri.		PR084919	Stamped	Signed	1 JP, 1 ODM, 1 MCC, 1 KANU	Peterson Mutembei
126	223	Tharaka Nithi	Marimanti	Marimanti Girls		PR086797	Stamped	Signed	1 JP, 1 ODM, 1 IND, 1 NARC	Dennis Murimi
126	223	Tharaka Nithi	Tharaka	Marimanti Market		PR086737	Stamped	Signed	3 JP, 1 ODM, 1 DP, 1 MCCP, 4 IND	Phyllis Kawira
126	223	Tharaka Nithi	Tharaka	Marimanti Market		PR086755	Stamped	Signed	2 JP, 2 IND, 1 DP, 1 MCC, 1 NARC K	Rosemary Karenmu
127	223	Tharaka Nithi	Tharaka	Nthaara Pri.		PR086695	Stamped	Signed	2 JP, 1 NARC K, 2 IND, 1 MCC	Purity Kathambi
127	223	Tharaka Nithi	Tharaka	Riakangi Nursery		PR086606	Stamped	Signed	1 JP, 1 ODM, 1 DP, 6 IND, 1 MCC	William Kituka Kibaara

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
127	223	Tharaka Nithi	Tharaka	Gacigongoni Pri.	1	PR086541	Stamped	Not Signed	1 JP, 1 ODM,	Kithetu Benjamin Njeru
127	222	Tharaka-Nithi	Maara	Kianjagi Pri	1	PR081475	Stamped	Signed	2 JP, 1 NASA, 1 NARC, 1 KANU, 1 IND, 1 MCC	Alex Mwiti Nyaga
127	222	Tharaka-Nithi	Maara	Kianjagi Pri	2	PR081481	Stamped	Signed	1 JP,	Lumani Peter
127	222	Tharaka-Nithi	Maara	Murunga	1	PR080923	Stamped	Signed	1 JP, 6 IND	Humphrey Kinyua
127	146	Trans Nzoia	Kimimini	Shimo La Tewa Pri. Sch.	1	PR230401	Stamped	Signed	1 JP, 1 NASA,	Mathews Maggero
1277	146	Trans Nzoia	Kimimini	Shimo La Tewa Pri. Sch.	3	PR230425	Not Stamped	Signed	1 JP, 1 ODM, 1 FDK, 1 UDP	Rogers Momany
127	193	Trans Nzoia	Saboti	Teldet Pri. Sch.	1	PR227851	Stamped	Signed	3 JP, 1 ODM, 5 IND, 1 CDM	Evela Antony
127	223	Trans Nzoia	Cherangany	Kongasis		PR232633	Stamped	Signed	1 JP, 1 FORDK, 1 IND	Naomi Kolongei
128	146	Trans Nzoia	Kimimini	Shimo La Tewa Pri. Sch.	2	PR230415	Not Stamped	Signed	1 JP, 1 ODM, 6 IND,	David Wafula
128	147	Uasin Gishu	Kapseret	Wareng High Sch.	3	PR241687	Stamped	Signed	1 JP, 1 ODM,	Geoffrey K Kimutai
128	223	Uasin Gishu	Ainakoi	Kipsinende Pri.		PR239635	Stamped	Signed	1 JP, 1 ODM,	Mathew Kipkoeh
128	139	Uasin Gishu	Turbo	Chemalal Pri.	1	PR235735	Stamped	Signed	1 JP, 1 NASA, 2 INDEPENDENT	Emmah Jeptanui
128	139	Uasin Gishu	Turbo	Chepkemel Pri. Sch.	1	PR234991	Not Stamped	Signed	2 JP, 1 NASA, 2 INDEPENDENT	Betty Nyambura
128	139	Uasin Gishu	Turbo	Chepkemel Pri. Sch.	2	PR234997	Not Stamped	Signed	1 JP, 1 ODM, 1 INDEPENDENT	Cosmas Onyango
128	139	Uasin Gishu	Soy	Kamukunji Market	1	PR234811	Stamped	Signed	2 JP, 1 ANC, 1 PNU, 1 KANU, 4	John Amimo

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
									INDEPENDENT	
128	139	Uasin Gishu	Soy	Kamukunji Market	2	PR234817	Stamped	Signed	1 JP, 1 ODM, 1 ANC, 1 KANU, 2 INDEPENDENT	Joshua M. Jalenga
128	139	Uasin Gishu	Soy	Kamukunji Market	3	PR234830	Stamped	Signed	, 1 NASA, , 1 ODM, 1 INDEPENDENT	Muresia W. Benedict
128	139	Uasin Gishu	Soy	Kamukunji Market	4	PR234847	Stamped	Signed	, 1 ODM, 1 INDEPENDENT	Micah K. Kosgei
129	139	Uasin Gishu	Soy	Leboinet Pri.	1	PR234781	Stamped	Signed	1 JP, 2 ODM,	Abigael Rotich
129	139	Uasin Gishu	Soy	Radar Station	1	PR234697	Stamped	Signed	1 JP, 1 ODM, 2 IND, 1 KANU, 1 BUZEKI	Euglyne Andoli
129	139	Uasin Gishu	Soy	Radar Station	2	PR234709	Stamped	Signed	1 JP,	Elvis Barasa Yego Jepkorir
129	139	Uasin Gishu	Turbo	Tarus Pri. Sch.	1	PR235441	Stamped	Signed	1 JP,	Irene
129	139	Uasin Gishu	Turbo	Union Pri. Sch.	1	PR236233	Stamped	Signed	1 JP, 1 ODM, 1 FORD KENYA	Paul Yego
129	139	Uasin Gishu	Turbo	Union Pri. Sch.	2	PR236251	Stamped	Signed	3 JP, 2 ODM, 1 ANC, 1 FORD KENYA, 2 IND, 1 NEW DEMOCRACY	Nelly Marita
129	139	Uasin Gishu	Turbo	Union Pri. Sch.	3	PR236263	Stamped	Signed	1 JP, 1 ODM, 1 ANC,	Jeremiah Sang
129	147	Uasin Gishu	Kapseret	Kiambaa Pri. Sch.	1	PR240883	Stamped	Signed	1 JP, 1 ODM,	Janet Toroitich
129	147	Uasin Gishu	Kapseret	Kiambaa Pri. Sch.	1	PR240865	Stamped	Signed	1 JP, 1 NASA, 1 LABOUR	Richard Kemboi
129	147	Uasin Gishu	Kapseret	Wareng High Sch.	1	PR241663	Stamped	Signed	2 JP, 1 ODM, 1 IND, 1 KANU	Chepkemboi Naum
130	147	Uasin Gishu	Kapseret	Wareng High Sch.	2	PR241669	Stamped	Signed	2 JP, 1 ODM, 1 KANU, 1 IND	Lelan Sostien Kibet

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
130	147	Uasin Gishu	Kapseret	Wareng High Sch.	4	PR241699	Not Stamped	Signed	1 JP, 1 ODM,	Celestine Cheptolo
130	147	Uasin Gishu	Kapseret	Wareng High Sch.	5	PR241705	Stamped	Signed	1 JP, 1 NASA, 1 IND	Lucy Jelagat
130	157	Uasin Gishu	Ainabkoi	Kitoroch Nursery Sch.	1	PR240199	Not Stamped	Signed	2 JP, 1 NASA, 4 INDEPENDENT	Ronald Kiprotich Leitch
130	207	Uasin Gishu	Kesses	Teldet Pri. Sch.	2	PR243025	Stamped	Signed	1 JP,	Meshack Kipngetich
130	222	Uasin Gishu	Soy	Cheplelachbei Pri	1	PR234205	Stamped	Signed	1 JP, 1 ODM, 1 KANU	Nehemiah Kipkorir
130	222	Uasin Gishu	Soy	Cheplelachbei Pri	2	PR234223	Stamped	Signed	1 JP, 1 ODM, 1 KANU, 2 IND	Evan K Yego
130	222	Uasin Gishu	Soy	Cheplelachbei Pri	3	PR234235	Stamped	Signed	1 JP, 1 ODM, 1 KANU, 2 IND	Mutai Lilian Jebichii
130	222	Uasin Gishu	Kapseret	KapKagaron Pri	1	PR240557	Stamped	Signed	1 JP, 1 NASA,	George Mwaura
130	222	Uasin Gishu	Turbo	Cheramei Pri. Sch.	3	PR235645	Stamped	Signed	3 JP, 3 NASA, 3 IND, 1 KANU	Michael Kiprothich
131	223	Uasin Gishu	Ainabkoi	Kapsemwo		PR239551	Stamped	Signed	1 JP, 1 ODM, 1 IND	Joseph Omollo
1311	207	Uasin Gishu	MoiBen	Kalyet Pri. Sch.	1	PR256226	Not Stamped	Signed	1 JP, 1 ODM,	Not Legible
1312	223	Uasin Gishu	Kesses	Mugundoi Pri.		PR242053	Stamped	Signed	2 JP, ODM, 1 IND	David Muhia
1313	105	Uasin Gishu	Turbo	Kapkoros Primary School	1	PR236503	Stamped	Signed	1 JP, 1 ODM,	David K. Tarus
1314	223	Uasin Gishu	Ainabkoi	Kiluka Pri.		PR239587	Stamped	Signed	1 JP, 1 ODM,	Wesley Kimutai
1315	105	Uasin Gishu	Turbo	Kapkoros Primary School	2	PR236509	Stamped	Signed	NO AGENT	Fellystus Tuwei



No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
1316	105	Uasin Gishu	Turbo	Kapkoros Primary School	3	PR236524	Stamped	Signed	NOT LEGIBLE	Not Legible
1317	105	Uasin Gishu	Turbo	Kapkoros Primary School	4	PR236533	Stamped	Signed	2 JP, 1 ODM, 1ANC, 1 FORD K, 1 INDEPENDENT, VI SSION PARTY	Ruth Samoei
1318	105	Uasin Gishu	Turbo	Kapkoros Primary School	5	PR236545	Stamped	Signed	2 JP, 1 ANC,	Loice C. Boen
1319	105	Uasin Gishu	Turbo	Kapkoros Primary School	6	PR236557	Stamped	Signed	1 JP, 1 FORD K,	Too Richard Kipkoech
1320	105	Uasin Gishu	Turbo	Kapkoros Primary School	8	PR236581	Stamped	Signed	2 JP, 1 ODM, 2 ANC, 1 FORD K, 2 INDEPENDENT, 1M VD, 1 KANU	Joyellen Chelulei
1321	105	Uasin Gishu	Turbo	Kapkoros Primary School	9	PR236593	Stamped	Signed	1 JP, 1 NASA, 2 IND	Judith Barasa
1322	105	Uasin Gishu	Turbo	Kapsaas Primary School	2	PR236491	Stamped	Signed	1 JP, 1 NASA, 1 FORD K, 2 ANC,	Rutto K. Silas
1323	105	Uasin Gishu	Turbo	Kipkeino Primary School	1	PR235807	Stamped	Signed	2 JP, 2 ODM,	Kennedy Malel
1324	105	Uasin Gishu	Turbo	Kipkeino Primary School	2	PR235819	Stamped	Signed	1 JP, 1 ODM, 1 IND	Mark Romo
1325	105	Uasin Gishu	Turbo	Township Primary School	1	PR235987	Stamped	Signed	1 JP, 2 NASA, 1 FORD KENYA, 5 INDEPENDENT, 1 KANU, 1 NEW DEMOCRATS,	Monica Jebet

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
132	105	Uasin Gishu	Turbo	Township Primary School	2	PR235993	Stamped	Signed	1 JP, 1 NASA, 3 INDEPENDENT	Hellen Biwott
132	105	Uasin Gishu	Turbo	Township Primary School	3	PR236007	Stamped	Signed	1 JP, 1 NASA,	David Kipyego Serem Judith N Barasa
132	129	Uasin Gishu	Turbo	Kapkoross	9	PR236593	Stamped	Signed	1 JP, 1 NASA, 2 IND	Barasa
132	130	Uasin Gishu	Turbo	Kipkeino Primary School	1	PR235807	Not Stamped	Signed	2 JP, 1 NASA, 1 ODM,	Kennedy Malal
133	223	Uasin Gishu	Ainabkoi	Kapsirwo Pri.		PR239749	Stamped	Signed	1 JP, 2 ODM, 1 IND	Frank Kombo
1331	223	Uasin Gishu	Ainabkoi	Songich Pri.		PR239623	Stamped	Signed	1 JP, 1 ODM, 1 IND	Alex Kirwa
133	139	Uasin Gishu	Turbo	Emgwen Pri.	1	PR236194	Stamped	Signed	2 JP, 1 NASA, 3 IND	Evans Kenny
133	105	Uasin Gishu	Turbo	Kapkoros Primary School	7	PR236578	Stamped	Signed	1 JP	Kipruto
133	105	Uasin Gishu	Turbo	Kapsaos Primary School	1	PR236477	Not Stamped	Signed	1JP, 1 NASA	Wangari
133	130	Uasin Gishu	Turbo	Kapsaos Primary School	1	PR236477	Not Stamped	Signed	1JP, 1 NASA	Wangari
133	130	Uasin Gishu	Turbo	Township Primary School	3	PR236007	Stamped	Not Legible	NOT LEGIBLE,	Not Legible
133	158	Vihiga	Vihiga	Muhanda Pri. Sch.	1	PR352783	Stamped	Signed	, 1 ODM,	Christine Masinde
133	158	Vihiga	Vihiga	Muhanda Pri. Sch.	2	PR352795	Stamped	Signed	1 JP, 1 ODM, 1 FPK, 1 IND	John Kidiya

No.	Paragraph in the Affidavit	County	Constituency	Station Name	Stream	Serial No.	Stamped By IEBC	Signed By Presiding Officer	Party Agents	Name of the Presiding Officer
133	20	Vihiga	Emuhaya	Mungoye Primary	1	PR359107	Stamped	Signed	,2 ODM, 1 FORD KENYA,	Fannuel Okonsi
134	48	Vihiga	Hannisi	Musunji Primary	2	PR355363	Stamped	Signed	1 JP,3 ODM,1 FORD K,1 PPK,2 ANC,1 CCM,	Munali Linet Gwambenza
1341	149	Wajir	Wajir South	Kanjara Centre	1	PR487153	Stamped	Signed	2 JP,1 KANU, 1 IND 1 ARK	Fatumabishar Gedi
134	149	Wajir	Wajir North	Lakole North Centre	1	PR045181	Stamped	Signed	1 JP,	Joyce Jelagat Korir
134	149	Wajir	Eldas	Matho Dam	1	PR048507	Stamped	Signed	2 JP,2 ODM,1 AGANO	Khasim M. Omar
134	149	Wajir	Wajir West	Waso Girls Pri.	1	PR047707	Stamped	Signed	1 JP,1 ODM, 1 FDK,1 KANU, 1 MCC	Abdi Kadir Nur Omar
134	150	Wajir	Eldas	Barguque Dam	1	PR048242	Stamped	Signed	NO AGENT	Hassan Osman
134	150	Wajir	Wajir South	Mathah Bagay	1	PR048940	Stamped	Signed	NO AGENT	Ibrahim Dugas
134	151	Wajir	Wajir South	Habaswein Pri. Sch. Stream 1	1	PRO49255	Stamped	Signed	1 JP,1 WIPER,1 PDR	Nyae N Ngao
134	151	Wajir	Wajir South	Habaswein Pri. Sch. Stream 2	1	PRO49261	Stamped	Signed	2 JP ,1 ODM, 1 NASA, 1 PDR	Nancy Malia
134	223	West Pokot	Kapenguria	Tartar Pri. Sch.	1	PR254005	Stamped	Signed	1 JP, 1 IND	Patrick Kimaru Kosgei

## L. COMPLIANCE

[670] Section 83 of the Elections Act, 2011 stipulates:

***“No election shall be declared to be void by reason of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the principles laid down in the Constitution and in that written law or that the non-compliance did not affect the result of the election.”***

[671] Before this Court settled the meaning of Section 83 of the Elections Act in 2014, the Court of Appeal had dealt with its interpretation in several cases:

- (i) ***Dr. Thuo Mathenge & Another v Nderitu Gachagua & 2 Others*** Civil Appeal 29 of 2013; [2013] eKLR

In this case, the irregularity was with regard to misprinting the name of the running mate to the 1<sup>st</sup> appellant. The name of the running mate was misprinted as ‘Geoffrey Kamau Kibui’ instead of ‘Geoffrey Gitonga Ndegwa’. As a result of this, the Appellants alleged that the supporters of the 1<sup>st</sup> appellant voted against him because they felt that they had been misled. The Court of Appeal concurred with the trial Court’s finding and declined to nullify the elections. The Court held that the elections were substantially in conformity with the law and the error on the ballot papers did not affect the gubernatorial election results. The Court of Appeal reiterated that the election could not be nullified as Section 83 of the Election’s Act

prohibits an election from being declared a nullity on the grounds of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the law; or if there is non-compliance, the same did not affect the results.

- (ii) ***James Omingo Magara v. Manson Onyongo Nyamweya & 2 others***, Civil Appeal No. 8 of 2010, (*Omolo, Tunoi, Githinji JJA*) the Court of Appeal reaffirmed **that Courts can preserve an election conducted in accordance with the law**. In this case, it was held:

***“The courts will strive to preserve an election as being in accordance with the law, even where there have been significant breaches of official duties and election rules, provided the results of the election was unaffected.”***

In its conclusion, the Court of Appeal referred to the binding decision of the Supreme Court in the ***Raila 2013 case*** in which the Court held that since the election results reflected the electoral intent of the people, the Court had a duty to uphold the same.

- (iii) ***Peter Gichuki King’ara v Independent Electoral and Boundaries Commission & 2 others Civil Appeal No. 31 of 2013; [2014] eKLR-(Re-considered by the Supreme Court and proceedings set aside for breach of time)***

The Court of Appeal analysed the evidence regarding errors that were admitted by the respondents in their pleadings and the 2<sup>nd</sup> respondents during cross-examination. Based on these reasons, the Court of Appeal held that the totality of

these irregularities, which were unverifiable most probably affected the result and the ultimate will of the Othaya constituents. Consequently, the Court nullified the election.

(iv) ***Dickson Mwenda Githinji v Gatirau Peter Munya & 2 Others*** Civil Appeal no. 38 of 2013; [2014] eKLR (*Overtured by the Supreme Court for deviation from the materiality test (S. 83)*)

In this case, the vote margin between the appellant and the 1<sup>st</sup> respondent was 3,436 votes. This according to the Court of Appeal translated to a 0.819 per cent margin of the total votes cast (423, 247). The crux of this appeal was whether the errors and irregularities disclosed by the evidence on record materially affected the quantitative margin and the qualitative aspects of the Meru gubernatorial election. Counsel for the appellant provided extensive arguments on the application of the principles in the case ***Morgan v Simpson***. The Court of Appeal also held as follows [at paras. 91 and 92]:

***“....The margin between the winning and losing candidate is a factor in determining whether the irregularity affected the results of the election. In deciding whether to annul an election, an important consideration is whether the number of impugned votes is sufficient to cast doubt on the true winner of the election or whether the irregularities are such as to call into question the integrity of the electoral process. If a court is satisfied that, because of irregularities, the winner is in doubt, it would be unreasonable for the court not to annul the election. Before annulling an election based on irregularity, the magic number test has to be considered. This means that the contested or***

***irregular votes casts when set aside must exceed the margin between the winner and the runner up.”***

***“[92]...If after an arithmetical calculation has been made and the returned candidate still maintains a lead over his nearest rival, the results of the election has not been materially affected...”*** (Emphasis added)

Additionally, the Court of Appeal analysed the qualitative and quantitative tests in order to determine whether the non-compliance affected the result. It referred to two cases in which the Court in Uganda and the Supreme Court in Kenya referred to the qualitative and quantitative tests. In the Ugandan case of ***Winnie Babihuga v. Masiko Winnie Komuhangi & Others*** HCT-00-CV-EP.0004-2001, it was stated that the quantitative test is the most relevant where the numbers and figures are in question whereas the qualitative test is most suitable where the quality of the entire election process is questioned and the court has to determine whether or not the election was free and fair.

This principle was reiterated here in the Supreme Court in the case of ***Ali Hassan Joho & another v. Suleiman Said Shahbal & 2 Others***, Supreme Court Petition No. 10 of 2013, in which the Court held:

***“Bearing in mind the nature of election petitions, the declared election results, enumerated in the Forms provided, are quantitative, and involve a numerical composition. It would be safe to assume, therefore, that where a candidate was challenging the declared results of an election, a quantitative breakdown would be a key component in the cause. It must also be ascertainable who the winner, and the loser (s) in an election, are.”*** (Emphasis added)

[672] From the foregoing, the Court of Appeal held that the trial Judge erred and misdirected himself in finding that a margin of 0.819 per cent which is less than 1 per cent could be described as wide. The Court of Appeal held that the margin of 3,436 votes between the winner and runner up was statistically small and that if the trial judge adjustment due to the proved errors and irregularities as disclosed in the evidence of DW 10, the margin between the returned candidate and the runner up would be significantly impacted and the election result materially affected.

***In Moses Masika Wetangula v Musikari Nazi Kombo & 2 others Civil Appeal 43 of 2013; [2014] eKLR***

In this case the Appellant was declared the winner of the election after garnering 154, 469 votes whereas the runner up, the 1<sup>st</sup> respondent, garnered 125, 853 votes. The trial Court nullified the election on the ground that the irregularities allegedly committed in the conduct of the elections affected the results of the election. The Court of Appeal relied on the ***Raila 2013 case*** to the extent that a petition must prove that the non-compliance with the election law impugned the integrity of that election.

The Court of Appeal also cited the three principles of ***Morgan v Simpson*** and held that the principle that Section 83 of the Elections Act did not protect any election not conducted substantially in accordance with the electoral law of that election and the same, would be null and void.

The finding of the Majority mirrors that of the Court of Appeal in this case. The conclusion is that, an election that is not conducted substantially in accordance with



the law relating to that election is null and void regardless of the effect of that irregularity on the result of the election. The Court of Appeal held that according to Section 83 of the Elections Act, 2011 the term used to demarcate the governing principles in that provision was ‘or’ not ‘and’ which means that the violation of either and not the two aspects, together, would void an election.

[673] Interpretation of Section 83 of the Elections Act is not a new matter to this Court. In the *Raila 2013 case*, this Court engaged the import of this section in determining the principles of the Burden of proof. Four impetrative principles emerged:

- (i) *Where a party alleges non-conformity with the electoral law, the Petitioner must not only prove that there has been non-compliance with the law, but that such failure of compliance did affect the validity of the elections.*
- (ii) *It is on that basis that the respondent bears the burden of proving the contrary. This emerges from a long-standing common law approach in respect of alleged irregularity in the acts of public bodies. Omnia praesumuntur rite et solemniter esse acta: all acts are presumed to have been done rightly and regularly-This finding is similar to that by Justice Kimondo in **Steven Kariuki v. George Mike Wanjohi & Others** Nairobi Election Petition No. 2 of 2013, in which he held that: **Section 83 of the Elections Act** is coached in the *negative language* introducing **a rebuttable presumption in favour of the respondents, that the election was conducted properly and in accordance with the law.***
- (iii) *So, the petitioner must set out by raising firm and credible evidence of the public authority’s departures from the prescriptions of the law.*

[674] Consequently, following a successful Appeal by Hon. Peter Munya [*Munya 2*], to reconsider the vitiation of his Gubernatorial election by the Appellate Court following the 2013 General elections, we considered the application of Section 83 of the Elections Act in determining election causes. By a unanimous decision of the Court, we cited with approval Lord Denning’s dictum in *Morgan v. Simpson (1975) 1 Q.B 151*, and held as follows:

[210B] In this case, as in other election matters coming up before the Courts, the question as to the nature or extent of electoral irregularities, and as to their legal effect, repeatedly arises. The crisp issue is: *how do irregularities and related malfunctions affect the integrity of an election?*

[211] In *Morgan v. Simpson (1975) 1 Q.B 151*,

Lord Denning evaluated cases that had been cited by counsel and that had impacted upon the duty of Courts in making declarations upon hearing election petitions. He summarized the law in three ***propositions***:

1. ***If the election was conducted so badly that it was not substantially in accordance with the law as to elections, the election is vitiated, irrespective of whether the result was affected or not.*** This proposition came out of a case where 2 out of 19 polling stations were closed all day thereby disenfranchising more than 5000 voters

*(re Hackney Election Petition, Gill v. Reed (1874) 2 O'M & H.77)*

2. *If the election was so conducted that it was substantially in accordance with the law as to elections, it is not vitiated by a breach of the rules or a mistake at the polls-provided that it did not affect the results of the election.*
3. *But even though the election was conducted substantially in accordance with the law as to elections, nevertheless if there was a breach of the rules or a mistake at the polls-and it did affect the result-then the election is vitiated.*

[675] Although the Majority claims the maiden privilege of interpreting the provisions of Section 83 of the Elections Act, this Court in the Munya case had already settled this issue in 2014. The ultimate decision of this Court in the **Peter Munya (2B) Case** was summarized in four paragraphs:

*[213] The Court observed that the practical realities of election administration are such that imperfections in the electoral process are inevitable; and on this account, elections should not be lightly overturned, especially where neither a candidate nor the voters have engaged in any wrongdoing.*

*[216] It is clear to us that an election should be conducted substantially in accordance with the principles of the Constitution, as set out in Article 81*

*(e). Voting is to be conducted in accordance with the principles set out in Article 86. The Elections Act, and the Regulations thereunder, constitute the substantive and procedural law for the conduct of elections.*

*[217] If it should be shown that an election was conducted substantially in accordance with the principles of the Constitution and the Election Act, then such election is not to be invalidated only on ground of irregularities.*

*[218] Where, however, it is shown that the irregularities were of such magnitude that they affected the election result, then such an election stands to be invalidated. Otherwise, procedural or administrative irregularities and other errors occasioned by human imperfection, are not enough, by and of themselves, to vitiate an election.*

[676] This interpretation was upheld in **subsequent consistent** decisions of the Supreme Court thus:

*In Nathif Jama Adam v. Abdikhan Osman Mohamed & 3 Others, Supreme Court Petition No. 13 of 2014,*

*[85] Section 83 of the Elections Act is the definitive statement of the **standard that an election Court must apply**, in verifying the election results. That Section is, at the same*

*time, a statement of the burden of proof resting upon the petitioner, in an election petition.*

*[87] As to the effect of irregularities, and the point at which a Court should overturn an election, we stated that Courts must only act on ascertained facts, not conjecture, and must demonstrate how the final statistical outcome has been compromised.*

**[677]** In my concurring opinion in *Evans Odhiambo Kidero v. Ferdinand Waititu & 4 Others, Pet. No. 18 of 2014*:

**[348]** Having examined the electoral code, and the emerging jurisprudence on elections, it is my considered opinion that when a court of law is faced with the question whether or not to annul an election the following are the fundamentals as can be deduced from *Munya*:

- 1. If it is demonstrated that an election was conducted substantially in accordance with the principles of the Constitution and the Election Act, then such an election is not to be invalidated **only** on ground of **irregularities**.*
- 2. Where, however, it is shown that the **irregularities were of such magnitude that they affected the election result**, then such an election stands to be invalidated.*

**3. Mere allegations of procedural or administrative irregularities and other errors occasioned by human imperfection are not enough, by and of themselves, to vitiate an election.** [Emphasis added]

[678] The Supreme Court has consistently applied the test in Section 83 with the result of the election in mind. The qualitative component (the result of an election) is an integral element of election causes. In a Presidential election Petition, the Petitioner challenges the election of the President-elect (Art. 140(1)). The result of the election of the President by Constitutional requirement is only ascertained when the formula under Art. 138(4) of the Constitution has been met. Anyone challenging an election must therefore challenge both the quantitative and qualitative aspects of the election.

[679] Unlike the situation in *Morgan v. Simpson* (which was a municipal election) or a Gubernatorial election (as was the case in the *Peter Munya (2B) case*, the constitutional threshold in a Presidential election is anchored on the numbers, the formula. The drafters of the Constitution were very clear that Kenyans ought to elect, as President, a person who was acceptable to more than half of the voters in Kenya and one supported by at least 25% of the votes cast in each of more than half the Counties. It is only such a person who has garnered that percentage threshold in terms of popular support that is to be declared elected as President. This was one of the irreducible minimums for a transformative change in Kenya's electoral architecture. There was a purpose to this formula, the need for national cohesion, a unifying personality and a nationally popular individual. In a petition relating to such an election, an election Court must therefore ascertain that any question as to the quality of the election has affected the constitutional quantitative threshold.

**[680]** Let us put this in context in a hypothetical situation: assuming there is a Constituency with 55,000 registered voters. On Election Day, two candidates supporters in that Constituency create a violent atmosphere where voters are intimidated, pulled out from stations, agents' vehicles torched and election officials harassed. The situation is such that there can be no elections in that constituency. But in all other Constituencies nationwide, the election has proceeded properly, with the fore-running presidential candidate obtaining more than half of all the votes cast in the election and at least twenty-five of the votes cast in each of more than half of the Counties. The votes from that Constituency, even if cast, would not affect the constitutional threshold necessary to declare the results of the election. Can we nullify that entire election because there was violence, intimidation and voters in that Constituency did not vote? That is the test the Court should apply and it would consider the following questions:

- (i) Did the irregularities or illegalities affect the result? Would the results of the election have reduced from more than half of the votes cast in the election? Would it have affected at least twenty five per cent of the votes cast in each of more than half of the Counties?
- (ii) Should the Court assess this test in the affirmative, then it should nullify the election. However, if the constitutional mathematical threshold is not affected, nullifying the entire election would have the effect of disenfranchising voters who did not vote in that constituency. What ought the court do?

**[681]** According to Barry H. Weinberg in his book *The Resolution of Election Disputes: Legal Principles that Control Election Challenges*, 2<sup>nd</sup> Edition, pg. 103,

the legal position is that election results will be upheld unless it has been proved in Court that the irregularities or illegalities changed the result of an election or made it impossible to determine the will of the electorate. He observes:

***“Where the courts can determine which ballots were illegal but had been counted, those ballots are subtracted from the candidates’ totals. Where the courts can determine which ballots were legal but had not been counted, those ballots were added to the candidates’ totals. After the illegal votes have been subtracted from the candidates’ totals and the legal votes have been added, the candidates with the most votes will be the victor.”***

[682] The upshot is that the alleged illegalities or irregularities ought to have a nexus with the declared result.



**M. PRESERVING KENYA’S ELECTORAL JURISPRUDENCE:  
CONSTRUING THE PRINCIPLE OF PRECEDENT IN ELECTORAL  
MATTERS**

**[683]** Having set out my reasons for dissenting with the decision of the Majority, and having espoused an interpretation of Section 83 of the elections Act in line with the standards laid out in the *Raila 2013 case*, with the conclusion that any deviation from written law must be evaluated in terms of the Constitution due to the *sui generis* and rights-centric nature of election causes, I note, with great concern the disregard by the Majority of clear-set and settled principles of electoral dispute resolution in the following terms:

- (a) The majority has reversed the interpretation of Section 83 laid out in the *Peter Munya (2B) case* and affirmed by the Supreme Court in numerous cases by setting a standard for the conduct of elections that is impossible to meet and that completely exposes the rights of the voter to judicial trump. The will of the little man, walking to the little booth, marking his ballot with a little mark, in secret and in free and fair elections has now been burdened with a standard that does not take into account the existing environment within which elections are conducted globally. The practice has been to check any errors (which are to be expected) against their effect on the declared result of the elections.
  - i. The Constitution itself makes it imperative for the quantitative and qualitative elements of declaration to be pleaded and proved to the required burden and standard before an election can be set aside. Article 138(4) of the elections provides the numerical consideration that must be satisfied before one can be declared to have been elected as president.

ii. This numerical standard, ought to be checked against the terms of Article 38-did every person have the freedom to vote? Article 81(e)-were the elections free and fair? Article 83- did every person have an opportunity to be registered as a voter? Article 86, was the voting method used simple, accurate, verifiable, secure, accountable and transparent? Did the counting, tabulation and collation of votes announced promptly by the presiding and returning officers? Were there mechanisms to eliminate electoral malpractice and was the election material safely stored? Article 88, were the elections conducted by an independent electoral body and Article 82, was the conduct of the election in line with legislation on elections-as read with the Constitution?

**[684]** I now turn to examine the effect of reversing the electoral jurisprudence already settled by the Court and applied across the country at all levels of Kenya's Judicial system. I shall address the following questions in my analysis:

- (i) ***When can or should this Court depart or reverse itself from any of its previous decisions?***
- (ii) ***What is the effect of wholesale reversal of electoral jurisprudence by the Supreme Court?***
- (iii) ***What avenues exist for lower Courts?***

**[685]** This Court can depart from its previous decisions. Article 163(7) of the Constitution of Kenya 2010 thus stipulates:

***“All courts, other than the Supreme Court, are bound by the decisions of the Supreme Court.”***

[686] In the case of ***Jasbir Singh Rai & 3 Others v. Tarlochan Singh Rai & 4 Others, Supreme Court Petition No. 4 of 2012***, this Court had the occasion to consider instances when it can depart from its previous decisions. Several principles to guide this matter emerged. This Court can depart from its previous decisions:

(i) *In special circumstances*

At Paragraph 40, the Court held:

***.....As a matter of consistent practice, the decisions of the higher Courts are to be maintained as precedent; and the foundation laid by such Courts is in principle, to be sustained. This, of course, leaves an opening for the special circumstances which may occasionally dictate a departure from previous decisions.***

(ii) *For good cause after taking into account legal considerations of significant weight:*

**At paragraph 43, the Court held:**

**In principle therefore, it follows that this Court, an apex Court, can indeed depart from its previous decision, for good cause, and after taking into account legal considerations of significant weight.**

(iii) *Where the impugned decision was obiter dictum (side-remark)*

(iv) *Where the impugned decision was given per incuriam*

**At paragraphs 50 and 51, the Court held:**

**For the special role of precedent in the certainty and predictability of the law as it plays out in daily transactions, any departure is to be guided by rules well recognized. It is a general rule that the Court is not bound to follow its previous decision where such decision was an *obiter dictum* (side-remark), or was given *per incuriam* (through inattention to vital, applicable instruments or authority). A statement *obiter dictum* is one made on an issue that did not strictly and ordinarily, call for a decision: **and so it was not vital to the outcome set out in the final decision of the case. And a decision *per incuriam* is mistaken, as it is not founded on the valid and governing pillars of law.****

**“ the test of *per incuriam* is a strict one – the relevant decision having not taken into account some *specific* applicable instrument, rule or authority.”**

**[8]** The consideration in this case in light of the Petitioners' claim is: *was the Judgement by this Court in the Peter Munya (2B) case obiter dictum or delivered per incuriam?* The issue of Section 83 was settled as follows in that case, at paragraphs 216-218:

**[216]** *It is clear to us that an election should be conducted substantially in accordance with the principles of the Constitution, as set out in Article 81 (e). Voting is to be conducted in accordance with the principles set out in Article 86. The Elections Act, and the Regulations thereunder, constitute the substantive and procedural law for the conduct of elections.*

**[217]** *If it should be shown that an election was conducted substantially in accordance with the principles of the Constitution and the Election Act, then such election is not to be invalidated only on ground of irregularities.*

**[218]** *Where, however, it is shown that the irregularities were of such magnitude that they affected the election result, then such an election stands to be invalidated. Otherwise, procedural or administrative irregularities and other errors occasioned by human imperfection, are not enough, by and of themselves, to vitiate an election*

This determination proceeded on a full evaluation of pleadings, submissions and legal analysis. In essence, it was not a side-remark. The analysis by the Court took into account all the applicable laws, *instruments and rules*.

**[688]** *Have the circumstances in which the decision in Supreme Court Petition No. 5 of 2013 changed so as to warrant departure on the basis of special circumstances?* It is important to note that the decisions of this Court trigger various processes in legal reform or the constitutional performance of institutional mandate. Therefore, a critical aspect of precedent is to preserve the certainty and predictability of the law. In the ***Practice Statement (Judicial Precedent) [1966] 1WLR 1234 (HL)*** (*Practice Statement*) (cited in **George Mike Wanjohi v. Steven Kariuki & 2 Others**, Supreme Court Petition No. 2A of 2014 (*The George Mike Wanjohi case*)), the Lord Chancellor extolled the virtues of precedent-law, thus:

***“Their Lordships regard the use of precedent as an indispensable foundation upon which to decide what is the law and its application to individual cases. It provides at least some degree of certainty upon which individuals can rely in the conduct of their affairs, as well as a basis for orderly development of legal rules.”***

[10] The circumstances that triggered this question in the *Peter Munya (2B) case* were that the Court of Appeal had upset an election on the basis of extrapolation of possible numerical errors in the conduct of the Meru Gubernatorial elections. On Appeal, this Court reversed the Appellate Court on the following basis:

***[205] The appellate Court had been content to conclude that the “statistically small margin” would have been “significantly impacted”, but without taking into account the numerical alignment of votes. It would have been necessary for the appellate Court to demonstrate how a figure of 3,436 win-votes would have so diminished as to reverse the victory-outcome in favour of the petitioner. Without such a demonstration, the scenario is one in which an election was annulled on the ground of “what might have been” and not necessarily, “what was”. This, in truth, amounts to invalidating an election on speculative grounds, rather than proven facts.***

***[205A] We would state as a principle of electoral law, that an election is not to be annulled except on cogent and ascertained factual premises. This principle flows from the recurrent democratic theme of the Constitution, which safeguards for citizens the freedom “to make political choices” [Article 38 (1)]. [Emphasis Added]***

[689] This decision has guided the execution of the mandate entrusted by the Constitution onto the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

*Are the circumstances in this instance different?*

[690] Although the doctrine of precedent does not stand in the way of progressive interpretation of the law, this power must be used in a sparing and cautious manner to guarantee continuity, certainty and adaptability. These three aspects must however be balanced with the requirement that justice be done. Judicial guidance is an integral part of directing people's relations. It follows that this critical aspect is wasted if it becomes impossible to direct actions appropriately when similar facts and circumstances are subjected to different standards of the law.

In the *Mike Wanjohi case*, this Court expounded on this question thus: At **paragraph 83**:

**Different sets of facts present themselves in the adjudication of disputes before the Courts. These varying facts fall for evaluation, interpretation and analysis, outcomes of which are then weighed, in a process of judicial reasoning, against some defined principles of law, so as to determine the respective rights of parties. Indubitably, the differing fact-**



situations **make every given case peculiar, and quite apart from the other. Bearing in mind that ascertained legal principles of binding precedent are applied to ascertained factual situations, regard should be had, in the course of identifying an applicable rule, to the principle that similar fact-situations should be treated in a similar fashion. Where facts are materially dissimilar, or the case is not analogous to the previous decision, this Court will always distinguish the rule and may, in the interest of justice, choose not to apply its previous decision. This is the guiding principle to be applied by this Court in distinguishing its decisions.** [Emphasis Added]

It follows that:

- (i) The facts in this case are not materially dissimilar to those in the ***Peter Munya (2B) case***, on this question save on the consideration of percentages in the declaration of presidential election results. This distinction, only on purport of the numerical threshold and not the effect of irregularities and illegalities in the conduct of an election and the effect of this on the final outcome of the result is evident at paragraphs 201 and 202 of the Judgement thus:

***[201] It is clear that the Constitution requires that for one to be declared a winner in a gubernatorial election, he or she needs to garner a majority of the votes.***

*This is the logical meaning to be attributed to the words “greatest number of votes”. It matters not how wide or small the margin of victory is. Indeed, this is the requirement in all the elections other than a Presidential election, where specific percentages are prescribed by the Constitution.*

*[202] The issue of margins in an election other than a Presidential election, can bear only transient relevance and only where it is alleged that there were counting, and tallying errors or other irregularities that affected the final result. A narrow margin between the declared winner and the runner-up beckons as a red flag where the results are contested on allegations of counting and tallying errors at specified polling stations. Where a re-count, re-tally or scrutiny does not change the final result as to the gaining of votes by candidates, the percentage or margin of victory however narrow, is immaterial as a factor in the proper election-outcome. To nullify an election in such a context would fly in the face of Article 180 (4) of the Constitution.*

- (ii) *Similar fact situations ought to be treated in a similar fashion.*
- (iii) *This Court cannot therefore reverse, or distinguish its decision in Peter Munya (2B) on material effect to the result of the election on the basis of special circumstances.*

[691] Recognizable political rights have vested in the parties concerned in this petition, and in the electorate. The Petitioners would have to show that new circumstances, so grave and critical now exist to warrant a departure from previous decisions of this Court displacing those political rights and public-interest expectations on the part of the electorate. (See ***Mable Muruli vs. Wycliffe Oparanya***, Supreme Court Petition No. 11 of 2014).

[692] In the ***Kidero case***, I held, in a concurring opinion, and in line with the consistent thread of authorities set by this Court, set several distinctive principles on the critical place of precedent in our jurisdiction: **at paragraphs 236, 240 and 242:**

***[236] The principle of stare decisis in Kenya unlike other jurisdictions is a constitutional requirement aimed at enhancing certainty and predictability in the legal system. The Articles of establishment and jurisdiction reveal the Court's vital essence and the decisions of this Court protect settled anticipations by ensuring that the Constitution is upheld and enforced and that the aspirations of the Kenyan people embodied in a system of constitutional governance are legitimized.....***

*[240] As already noted, the significance of Article 163(7) is to regulate the development and settlement of our jurisprudence through the Supreme Court as the forum entrusted with the final mandate to interpret Kenya's transformative charter. This Court for instance bears the final responsibility of interpreting the constitutional propriety of Acts of Parliament as demonstrated in the Joho case. Constitutional interpretation allows the country's constitutive charter to effectively guide the conduct of activities within the Republic..... This doctrine of precedent liberates Courts from considering every disputable issue as if it were being raised for the first time. This Court constantly examines its own previous decisions where similar facts abide as can be demonstrated in our consideration of election appeals. Under our mandate to develop the law, we endeavour to expand pre-set principles when the circumstances of the case permit.*

*[242] .....In applying case-law, one must consider the material conditions of the issue in question. One must then assign the question to its proper class or consideration and observe the right points of likeness in the cases under consideration .....*

**[15]** *Have the Petitioners adduced legal reasons of significant weight as to persuade this Court to depart from its previous electoral jurisprudence?*

**[693]** Section 3 of the Supreme Court Act and the body of jurisprudence from this Court is central on the preservation, protection and affirmation of the Constitution. The framers of the Constitution were fully aware that this is the only Court that can reverse itself as it is not bound by its own decisions. However, considerations for reversal or departure must be carefully weighed against various considerations. Departure from electoral jurisprudence is in my view inviting of an even firmer and higher restraint from departure of well-settled principles. The Judiciary is one of several critical institutions that act as anchors to the constitution. The others are: the People, the Executive, the Legislature, Independent Commissions, State Offices and Officers. All these institutions interact with the law and with each other in a manner that is clear, certain, stable and predictable. A different approach would threaten the fabric of institutional legal interaction. The law is a primary limb of the body politic.

**[694]** I am persuaded by the opinion of Justice Aharon Barak, Former Chief Justice and President of the Israeli Supreme Court in his book, “The Judiciary in A Democracy,” Princeton University Press, at page 158 that on the full scope of precedent and the need to balance the interests of justice by following precedent or by deviating from it :

***A judge stands before a dilemma: to follow precedent previously determined by his Court, or deviate from it? The Judge must use his discretion reasonably. What should the Judge do? The***

*reasonableness test requires the Judge to consider on the one hand all considerations supporting the honouring and following of the precedent. On the other hand, the judge must consider the full scope of considerations pointing toward deviation from precedent and choosing new law. The Judge must assign each one of these systems of considerations its proper weight. Having done that, the judge must place both on the scale. The Judge must choose the prevailing ruling; the judge must choose the Ruling whose utility is greater than the damage caused by it. The guiding principle should be this: it is appropriate to deviate from a previous precedent if the new precedent's contribution to the bridging of the gap between law and society and to the protection of the Constitution and its values after setting off the damage caused by the change, is greater than the contribution of the previous precedent to the realisation of those goals.*

**Deviation from precedent, particularly precedent of the highest Court is a serious matter, great sensitivity is needed to weigh all the considerations.**  
[Emphasis added]

[695] The doctrine of *stare decisis* is a critical element of our legal system, providing certainty and predictability in the law as consistently guided by this Court. Aptly put in the case of *Peter Gatirau Munya v. IEBC & 2 Others*,

*Supreme Court Petition No.2B of 2014*. in a concurring opinion by Mutunga CJ (as he was then) at (paragraph 228):

***“Under Article 163(7) of the Constitution, all Courts, other than the Supreme Court, are bound by the decisions of the Supreme Court. Thus, the adopted theory of interpretation of the Constitution will bind all Courts, other than the Supreme Court. It will also undergird various streams and strands of our jurisprudence that represent the holistic interpretation of the Constitution.”***

[696] Although this Court is not bound by its decisions and can review or depart from them, such considerations only ought to be in the clearest of cases, and distinguishable in fact, circumstances and relevance as elaborated in the foregoing paragraphs. The majority has failed this critical test. I must add that the value of their deviation from precedent damages more than it offers utility. It will cause damage to the legal system because it turns the entire electoral jurisprudence on its head.

[697] Every arm of Government has the unique role of defending the Constitution, the Bill of Rights and the Sovereignty of the people. The essence of a system of checks and balances is to ensure that when one constitutional branch threatens the entire schematic ordering of the Constitution and the State, the other is ready to check these actions. Having been part of the inaugural Supreme Court and having steadily and consistently settled the law on elections, the interpretation of Section 83 by the Majority will unleash jurisprudential confusion never before witnessed. Unfortunately, we are part of the common law

system, encumbered by rules requiring lower Courts to pay due deference to the Courts above. **Parliament must therefore untie the hands of Courts below by clarifying the meaning of Section 83 of the Elections Act.** That is the only way that we can avert a crisis of jurisprudence in such a sensitive area of law, as elections.

[697A] However, in the meantime, lower Courts are not without an option. The decision by the Majority is one given in a presidential election and which does not usurp the jurisdiction of the lower Courts in electoral disputes. At paragraph 207 of the *Raila 2013 case*, we held:

*[207] The Supreme Court cannot roll over the defined range of the electoral process like a colossus. The Court must take care not to usurp the jurisdiction of the lower Courts in electoral disputes. It follows that the annulment of a Presidential election will not necessarily vitiate the entire general election. And the annulment of a Presidential election need not occasion a constitutional crisis, as the authority to declare a Presidential election invalid is granted by the Constitution itself.* [Emphasis added]



## N. CONCLUSION

**[698]** Having now looked at the full reasons of the majority judgment, I briefly make the following initial observations:

- (I) The Petition contained numerous allegations of irregularity, illegality and electoral offences, enough, if proved to the required burden and standard, and if it affected the result, to void the Presidential election. The allegations were however not proved and where evidence was adduced, there was sufficient evidence to rebut the allegations. [Paragraph 42 of this dissenting judgment sets out those allegations]
- (II) According to the Majority, the determination of nullity turns only on one limb: **verification**. The Majority espouses the following conclusions:
  - i. That the election declaration path set by the Constitution and the electoral law was not verifiable.
  - ii. There was lack of security features on the Statutory Forms 34A and 34B sampled by the parties during the Access to Information Exercise supervised by the Registrar of this Court.
  - iii. There was failure by the 1<sup>st</sup> Respondent to comply with the Orders of the Court as commanded in the Ruling dated 28<sup>th</sup> August, 2017 on the Notice of Motion dated 25<sup>th</sup> August, 2017. The Majority in fact acquiesces to the Petitioners' allegations that the Information Technology system was

infiltrated and compromised solely on a misplaced notion that the 1<sup>st</sup> Respondent withheld the information required. Reference to the ICT expert's Report will however show that the information was provided in soft copy but rejected by the Petitioners who demanded physical witnessing of log-trail harvesting.

- iv. The Majority also makes an assumption, that the votes cast for the President were different (by a small margin I might add) from those cast in favour of Governors and Members of Parliament. They disregard the perfect choice of a voter to only cast preferred ballots and turn in unused ballots as spoilt (and which in turn are stored in tamper proof packets). It appears that the Majority expected that the voters were obliged to cast all six ballots provided.
- v. The Majority focused on a narrow inference of verification and placed this obligation solely at the door of the 1<sup>st</sup> Respondent ignoring the agents, candidates and other agents of verification present, including the Court itself as the final verifying agency. Nothing would have been easier than to call for the election material, which is available and not tampered with, to ascertain the number of spoilt ballots to explain the discrepancy between the votes cast for the President and other candidates. Was this unknown and dangerous standard to be applied elsewhere, some of the candidates who garnered more votes than the President in their electoral units would suffer the same fate.
- vi. The grave allegations made were not considered deeply or at all. The Majority went straight for the technical/formalistic

issues and reversed the precedent in *Munya 2* on Section 83 to justify their conclusion.

[699] Election causes ought to be determined in light of the highest consideration of the right of the electorate to vote in free and fair elections.

[700] This Court must never abdicate its duty as an election Court exercising exclusive original jurisdiction to hear and determine disputes relating to the elections relating to the elections to the office of president arising under Article 140 of the Constitution. As an election Court, the Court must not narrow the scope of its remedies nor delegate its powers to the parties. The zeal of the voter to participate in elections and the overwhelming responsibility of every State Organ and stakeholders to conduct free, fair and peaceful elections must be matched by equal zeal from the Court. The Majority nullified the conduct of the Presidential elections solely on the basis that some Forms 34A and 34B lacked security features which are elected by the Commission and spread in different versions across most Forms. The Majority, in the aftermath of the Registrar's report did not even attempt to peruse the enormous evidence deposited by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents bearing certified copies of Forms 34A and 34B of the Constitution and against which they ought to have checked the alleged irregularities. By subjecting the integrity of the election to considerations of design, that are neither statutory nor regulatory, the Majority has not only threatened the people's belief in the electoral system, it has overburdened and in fact, negated the electorate's right to franchise.

[701] Mr. Slobodan Milacic a Professor Emeritus at Montesquieu University, in "Justice Coming face to face with electoral norms" a Chapter in the Book, *The Cancellation of Election results The Science and Technique of Democracy* No. 46; (2010) Council of Europe pages 25-67, states that ***the will of the***

***electorate is ultimately the core of any electoral process and it should be jealously guarded by the Courts in order to maintain public confidence in the electoral process.*** In that regard he makes the following remarks, which I cite with approval:

***“The importance, in a democracy, of a transparent and fair electoral process for both individual and collective rights to be respected immediately takes on real shape if one but thinks of electoral crises. The guiding principle in the exercise of a constitutional jurisdiction is that the function of the court is ultimately to ensure the prevalence of the will of the electorate. If this were not so, public confidence in the election process would be heavily compromised. It is important that the public perception remains throughout that it is the decision of the electorate that has prevailed.”*** [Emphasis added]

[702] In election causes, the Majority ought to have to disengage the mechanical gear of Appellate Jurisdiction and fully considered the evidence against the dictates of burden and standard of proof. The absence of time is not a sufficient excuse. The Court has a competent institution of research and is well facilitated to be able to perform the role of an election Court as a final verifying agent in cases of monumental importance such as the present Petition.

[703] I wish to make a short observation on the following paragraph in the conclusion in the decision of the Majority, where they said:

***“Let this Judgement then be read in its proper context; the electoral system in Kenya today was designed to be simple and verifiable. Between 8<sup>th</sup>***

*August, 2017 and 11<sup>th</sup> August, 2017, it cannot be said to have been so. The petition before us was however simple and to the point. It was obvious to us, that IEBC misunderstood it, hence its jumbled-up responses and submissions. Our Judgement is also simple, and in our view clear and understandable. It ought to lead IEBC to a soul-searching and to go back to the drawing board. If not, this Court, whenever called upon to adjudicate on a similar dispute will reach the same decision if the anomalies remain the same, irrespective of who the aspirants may be. Consistency and fidelity to the Constitution is a non-wavering commitment this Court makes.*”

[704] This paragraph, to my mind is unfortunate – it is injudicious and imprudent. I reiterate, in the strongest terms, the following observation obtaining from my dissenting Judgement in *Speaker of the Senate & Another v. Attorney-General & 4 Others*, Supreme Court Advisory Opinion No. 2 of 2013; [2013] eKLR

*[249] Just as Parliament is expected to operate within its constitutional powers as an arm of government so must the Judiciary. The system of checks and balances that prevents autocracy, restrains institutional excesses and prevents abuse of power apply equally to the Executive, the Legislature and the Judiciary. No one arm of government is infallible and all are equally vulnerable to the dangers of acting ultra vires the Constitution. Whereas, the Executive and the*

*Legislature are regularly tempered and safeguarded through the process of regular direct elections by the people, the discipline of an appointed and unelected Judicial arm of Government is largely self-regulatory. The parameters of encroachment on the powers of other arms of government must be therefore clearly delineated, limits acknowledged and restraint fully exercised. It is only through practice of such cautionary measures that the remotest possibility of judicial tyranny can be avoided.*

[705] Having evaluated the entire bundles of evidence submitted by the parties, and having checked the allegations made by the Petitioner against that evidence, it is clear to me that, had the Majority been engaged in the mode of a Court of exclusive original jurisdiction, it would have found that each and every allegation in the Petition was addressed to a satisfactory standard and where and if, the burden of proof shifted, the Commission discharged it satisfactorily.

[706] In light of the foregoing, had I been in command of the Majority (and I am not), this would have been my determination:

## A. DETERMINATION :

[707] Having analysed the various sections laid out in the Rubric, having disagreed with the decision of the Majority and having consistently interpreted the Constitution to reflect the call in the Constitution's preambular paragraph: ***the people of Kenya, exercising their sovereign and inalienable right to determine the form of governance of our country***, I hereby set down the Orders that flow from the *ratio*:

1. *As to whether the 2017 Presidential Election was conducted in accordance with the principles laid down in the Constitution and the law relating to elections, I find it was so properly conducted and in particular with reference to Articles 1 and 38 of the Constitution of Kenya, and supported by Articles 2, 10, 81, 82, 83, 86 and 138.*
2. *As to whether there were illegalities committed in the conduct of the said election, I am satisfied that there was no instance of fraud or illegality found or proven.*
3. *As to whether there were irregularities committed in the conduct of the said election, I am satisfied that any irregularities that were found did not favour any particular candidate and could not have impacted in any way, on the result of the election.*
4. *As to whether the election was properly conducted by the 1<sup>st</sup> Respondent in accordance with the Constitution and the laws relating to elections, I am satisfied that with all the attendant*

*challenges of conducting a national election, that it was so properly conducted.*

*5. As to whether the 2<sup>nd</sup> Respondent properly declared the 3<sup>rd</sup> Respondent as President-elect in accordance with Article 138(4) and 138(10) the Constitution, I am satisfied that indeed he did so.*

*6. As to whether the 3<sup>rd</sup> Respondent was validly and properly elected to the office of President of the Republic of Kenya, I am satisfied from all the evidence assessed that he indeed was.*

*7. Petition No. 1 of 2017 is hereby dismissed.*

*8. Each party shall bear their own costs.*

**DATED and ISSUED at NAIROBI this 20<sup>th</sup> day of September 2017.**

.....  
**NJOKI. S. NDUNGU**  
**JUSTICE OF THE SUPREME COURT**

**I certify that this is a true copy  
of the original**

**REGISTRAR**  
**SUPREME COURT OF KENYA**