BREAK FROM THE PAST?

A MONITORING REPORT OF THE 2013 POLITICAL PARTY NOMINATIONS

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS
BREAK FROM THE PAST?

A MONITORING REPORT OF THE 2013 POLITICAL PARTY NOMINATIONS
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACKNOWLEDGMENT</td>
<td>V</td>
</tr>
<tr>
<td>FOREWORD</td>
<td>VI</td>
</tr>
<tr>
<td>CHAPTER 1: CONTEXT</td>
<td>1</td>
</tr>
<tr>
<td>1.0 Socio-Political Context</td>
<td>1</td>
</tr>
<tr>
<td>1.1 Legal Process</td>
<td>3</td>
</tr>
<tr>
<td>1.2 KNCHR and Political Party Monitoring</td>
<td>6</td>
</tr>
<tr>
<td>CHAPTER 2: METHODOLOGY</td>
<td>7</td>
</tr>
<tr>
<td>Scope</td>
<td>8</td>
</tr>
<tr>
<td>CHAPTER 3: OBSERVATIONS FROM NAKURU COUNTY</td>
<td>9</td>
</tr>
<tr>
<td>3.1 Introduction</td>
<td>9</td>
</tr>
<tr>
<td>3.2 Background</td>
<td>9</td>
</tr>
<tr>
<td>3.3 Areas Monitored</td>
<td>10</td>
</tr>
<tr>
<td>3.4 Findings</td>
<td>10</td>
</tr>
<tr>
<td>3.4.1 Security</td>
<td>10</td>
</tr>
<tr>
<td>3.4.2 Capacity and preparedness by Parties to conduct Nominations</td>
<td>11</td>
</tr>
<tr>
<td>3.4.3 Transparency in the Nomination Process</td>
<td>12</td>
</tr>
<tr>
<td>3.4.4 Accountability for Electoral Related Offences and Malpractices</td>
<td>14</td>
</tr>
<tr>
<td>CHAPTER 4: OBSERVATIONS FROM KISUMU COUNTY</td>
<td>17</td>
</tr>
<tr>
<td>4.1 Introduction</td>
<td>17</td>
</tr>
<tr>
<td>4.2 Background</td>
<td>17</td>
</tr>
<tr>
<td>4.3 Areas Monitored</td>
<td>18</td>
</tr>
<tr>
<td>4.4 Findings</td>
<td>18</td>
</tr>
<tr>
<td>4.4.1 Security</td>
<td>18</td>
</tr>
<tr>
<td>4.4.2 Capacity and preparedness by parties to conduct nominations</td>
<td>22</td>
</tr>
<tr>
<td>4.4.3 Transparency in the Nomination Process</td>
<td>22</td>
</tr>
<tr>
<td>4.4.4 Accountability for Electoral Offences and Malpractice</td>
<td>24</td>
</tr>
<tr>
<td>4.5 Participation by Marginalized Communities and Groups</td>
<td>26</td>
</tr>
<tr>
<td>CHAPTER 5: OBSERVATIONS FROM UASIN GISGHU COUNTY</td>
<td>27</td>
</tr>
<tr>
<td>5.1 Introduction</td>
<td>27</td>
</tr>
<tr>
<td>5.2 Background</td>
<td>27</td>
</tr>
<tr>
<td>5.3 Areas Monitored</td>
<td>28</td>
</tr>
<tr>
<td>5.4 Findings</td>
<td>28</td>
</tr>
<tr>
<td>5.4.1 Security</td>
<td>28</td>
</tr>
<tr>
<td>5.4.2 Capacity and preparedness by Parties to conduct Nominations</td>
<td>29</td>
</tr>
<tr>
<td>5.4.3 Transparency in the Nomination Process</td>
<td>31</td>
</tr>
<tr>
<td>5.4.4 Accountability for Electoral Offences and Malpractices</td>
<td>32</td>
</tr>
<tr>
<td>5.5 Participation by Marginalized Groups and Communities</td>
<td>34</td>
</tr>
<tr>
<td>CHAPTER 6: OBSERVATIONS FROM ISIOLO COUNTY</td>
<td>35</td>
</tr>
<tr>
<td>6.1 Introduction</td>
<td>35</td>
</tr>
<tr>
<td>6.2 Background</td>
<td>35</td>
</tr>
<tr>
<td>6.3 Areas Monitored</td>
<td>36</td>
</tr>
<tr>
<td>6.4 Findings</td>
<td>36</td>
</tr>
</tbody>
</table>
ACKNOWLEDGMENT

The KNCHR wishes to thank all the stakeholders who contributed to the success of this project. We particularly recognize the efforts of the Registrar of Political Parties, Independent Constitutional Commissions including the Commission on the Implementation of the Constitution (CIC), National Gender and Equality Commission (NGEC), Commission on Administrative Justice (CAJ), the Independent Electoral and Boundaries Commission (IEBC) who participated in various stakeholder meetings. KNCHR also appreciates the support received from members of the civil society as well as different political parties at various stages of this project. We also acknowledge the public for supporting and interacting with the project.

KNCHR appreciates the government as well as development partners who provided financial support towards the realization of this project.

Finally, KNCHR acknowledges the efforts of its Commissioner, staff and monitors towards the realization of the objectives of this project.
KNCHR embarked on a year-long election monitoring project whose key objective was to enhance integrity, transparency and accountability among duty bearers including the political class. This project paid particular emphasis to political party nominations and KNCHR set out to monitor this process to ensure its adherence to key human rights principles and standards. In undertaking this work, KNCHR set out to realize three key objectives: to monitor and observe the extent to which the process facilitated participation by the people; to monitor and observe the level of adherence to the rule of law and principles of transparency and accountability during the process; to monitor and observe the extent to which political parties had institutionalized internal party democracy. The emphasis on party nominations was derived from the country's history of political engagement which revealed that the manner in which party primaries were undertaken determined (i) how the election itself would be undertaken, and (ii) the outcome of the election.

The political party primaries held in January 2013 were expected to demonstrate a major shift in electoral conduct given the significant strides that have been made in the recent past towards constitutional, legal and institutional reforms in various sectors. They were supposed to signify a break from the past; a past riddled with lack of adherence to the rule of law and principles of transparency and accountability. However, the party nominations became yet another poignant fleck in our fledgling democracy frustrating the hope for a new dawn and casting serious doubts on the integrity of the upcoming general elections. All the parties and coalitions were unable to run organized, efficient, free and transparent party nominations. The exercise was characterized by massive irregularities and sheer lack of preparedness which resulted in confusion and frustration to voters who had turned out in unprecedented high numbers to participate in the nominations. The culture of cronyism and political patronage continued to manifest itself as some party leaders sought to manipulate the outcome of nominations by imposing candidates who had been rejected by the voters.
There was very little participation of women and other vulnerable groups in the nominations exercise both as aspirants and political party members. The Commission received disturbing information from some areas that male politicians had been campaigning against voting for women and other vulnerable groups in the 'main' elective seats arguing that there were special seats reserved for them by the Constitution. This was particularly so in those heavily patriarchal areas where information and opinion is shaped by men. In relation to voting, in many cases women did not fully participate due to delays, violence and distance. This diminishes the import of the anti-discrimination principle prescribed by the Constitution to mere rhetoric and negates the principles of inclusivity and equality.

The large voter turnout during the nominations was laudable. The Commission is however concerned by the conduct of some Kenyans during the nominations exercise. The behavior of citizens in an electoral process is as essential and critical as the other processes. Kenyans don't seem to have learnt from the events of 2007. The Kriegler report revealed that voters played a key role in “polluting the electoral environment” hence precluding the possibility of free and fair elections.

As we condemn the politicians and criticize other institutions, there can never be free and fair elections as long as voters resort to the kind of unruliness, bad behavior and violence that they exhibited during the nominations. Kenyans must resolve to address whichever grievances that they have through legal, civil and peaceful means. Despite the many shortcomings that encumbered the party primaries, the Commission believes that a free, fair and credible election, is still possible on 4th March but only if all the players and stakeholders in the process take pains to elevate the discourse and practice in the official campaign period.

The Commission notes that what may trigger violence in the phase of campaigns and elections are perceptions about attempts to disenfranchise citizens from fully participating in political processes. These perceptions were fuelled by delays in commencing the nomination exercise and announcing results, as well as failure by party officials to promptly communicate to the public. It is therefore important that IEBC, in recognition of the magnitude of the exercise they are expected to undertake, develops an effective communication strategy aimed at pre-empting similar
perceptions during elections. Further, the role of electoral officers at the grass roots level, in fuelling or mitigating cannot be gainsaid. Therefore IEBC must invest in officers that are thoroughly vetted, mature enough and competent...
CHAPTER 1: CONTEXT

1.0 SOCIO - POLITICAL CONTEXT

The just concluded political party nominations were critical and significant in various respects. Firstly, they were a prelude to the first general elections after the enactment of the new constitution. The coming elections scheduled for March 4, 2013 follow the disputed 2007 elections, which resulted in unprecedented violence that led to the near collapse of the Kenyan state. The new constitution, which was overwhelmingly endorsed by Kenyans in August 2010, seeks to radically transform the country's governance framework and culture. The Constitution vests the exercise of sovereign power on the people either directly or through their democratically elected representatives. To safeguard this sovereignty, the Constitution has established various institutions and stipulated key requirements and guiding principles aimed at reforming our electoral management system. It establishes a new electoral management body, the Independent Electoral and Boundaries Commission (IEBC); radically shifts the system of governance through devolution of power to the counties; and restructures key elective offices in the legislature and executive including the President, Deputy President, Governor, Senator, Member of National Assembly, County Ward Representative and Women Representative. It also establishes standards for the formation and management of political parties. Pursuant to these provisions by the constitution, parliament has also recently passed a raft of laws aimed at improving the legal regime in respect of elections. In addition, other key reforms with a significant bearing on elections have been introduced notably the ongoing reforms in the judiciary, security sector, and the enhanced independence of key state offices such as the Chief Justice, the Attorney General, Inspector General of Police and the Director of Public Prosecutions.

Another key factor in the 2013 elections is the impending trial of four persons at the International Criminal Court (ICC) in relation to the 2007/2008 post election violence. Two of the suspects, Uhuru Kenyatta and William Ruto have come together and formed the Jubilee Coalition, which is a major contender in the elections. Uhuru is running for president with Ruto as his running mate. The two suspects come from the two of the most populous communities; Kikuyu and Kalenjin, which ironically were the main protagonists during 2007/2008 conflict.
The issue of the ICC trials has featured prominently in the political campaigns and has elicited mixed opinions amongst Kenyans. Those supporting the Jubilee coalition argue that Kenya is a sovereign state and Kenyans should decide their destiny irrespective of the happenings at the ICC. Some of their supporters even accuse the ICC and the western nations of meddling in Kenya's internal affairs and that these elections are thus a vote to assert Kenya's sovereignty. Those against the Uhuru and Ruto's candidature argue that if the two are elected, Kenya could face isolation from the international community, which has serious ramifications for Kenya's struggling economy and foreign relations. Among some Jubilee Alliance supporters, there is the perception that their main rivals in the Coalition for Reforms and Democracy (CORD) have played a role in ensuring their candidates are disentitled to participate in the elections through the ICC process.

The elections are also transitory since the incumbent president, Mwai Kibaki, having served two terms, is constitutionally barred from contesting. Unlike his predecessor Daniel Moi who endorsed Uhuru Kenya as his preferred successor in 2002, Kibaki has opted not to openly endorse any candidate asking Kenyans to make their own choice. Opinion polls have so far repeatedly placed the CORD coalition in the lead followed closely by the Jubilee Coalition. Other coalitions/parties have scored dismally in the following order; Amani Coalition, Eagle Coalition, NARC Kenya, Rebuild and Restore Kenya party (RBK) and SAFINA. The CORD coalition is led by Raila Odinga, the Prime Minister, who is the presidential candidate and Kalonzo Musyoka, the Vice President, who is his running mate. Like in past elections, political mobilization remains largely ethnic-based as evidenced by the cobbling of coalitions on the strength of ethnic support enjoyed by the coalition leaders. The main parties in the CORD coalition are the Orange Democratic Movement Party (ODM), Wiper Democratic Movement (WIPER) and Ford Kenya (FORD-K) while The National Alliance (TNA), the United Republican Party (URP), National Rainbow Coalition (NARC) and the Republican Congress (RC) are the main parties that form the Jubilee Alliance.

The nature of Kenyan elections is such that a victory at the nominations stage is almost a guarantee for a win at the main elections depending on the popularity of one's party in
the respective regions. In past elections, political party nominations were conducted without any regulatory framework and were characterized by massive irregularities including voter bribery, voter transportation, manipulative interference, intimidation and violence. These deviances not only yield bad leadership but also scare away vulnerable candidates especially women and persons with disabilities. Ensuring a free and fair nominations process is therefore critical in shaping the final outcome of the elections. With the recently enacted electoral laws, that also cover the party nomination process, it was expected that the political parties would break from the past and conduct their nominations in a more transparent and accountable manner. The political party nominations were therefore an acid test for the various political parties/coalitions to demonstrate their commitment to adhere to the rule of law and respect for the values of the new constitution.

1.1 LEGAL CONTEXT

At the international level, the right to take part in government is recognized under Article 21 of the United Nations Universal Declaration of Human Rights (UDHR). The UDHR further provides for the right to equal access to public service for everyone. Article 21 (3) goes further to provide that: “The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”.

The same rights are provided for under the International Covenant on Civil and Political Rights (ICCPR) which states at Article 25 that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; (c) To have access, on general terms of equality, to public service in his country.”
Regionally, political rights are expressed in the African Charter on Human and People's Rights (ACHPR) which provides at Article 13 that: “1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law. 2. Every citizen shall have the right of equal access to the public service of his country...”

Similarly, the African Union Declaration on the Principles Governing Democratic Elections in Africa entrenches the universal values and principles of democracy and respect for human rights and the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies. Under Article 17 of the African Charter on Democracy, Elections and Governance (ACDEG), State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa.

Other than the above-mention rights, essential to a free and fair electoral process are the rights to free opinion, free expression, information, assembly and association, independent judicial procedures and protection from non-discrimination.

The international principles discussed above are applicable nationally by virtue of Article 2(6) of the Constitution which makes international treaties part of Kenyan law. At the national level, the Constitution, The Elections Act, the Political Parties Act, the Independent Electoral and Boundaries Commission Act and the Leadership and Integrity Act form the legal framework for the regulation of elections in Kenya. Political parties are responsible for nominating candidates for the general election in accordance with the Elections Act. As such, they are conduits for citizen participation in public affairs. The manner in which they conduct their nominations could facilitate or hinder citizens' political rights.

The Constitution recognizes the fundamental right of citizens to exercise their political rights. Article 38 protects political rights and provides, inter alia, that: “(1) Every citizen is free to make political choices, which includes the right— (a) to form, or participate in forming, a political
party; (b) to participate in the activities of, or recruit members for, a political party; or (c) to campaign for a political party or cause. (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."

The Constitution also sets out certain benchmarks for those offering to be elected to serve the public. They have to meet certain basic qualifications and exhibit the qualities laid down in the Constitution as well as the Leadership and Integrity Act. The Constitution further provides for overall guiding principles of the electoral system, and lays down basic requirements for political parties. Article 81 provides that the electoral system shall comply with the following principles: “a) freedom of citizens to exercise their political rights under Article 38; b) not more than two thirds of the members of elective public bodies shall be of the same gender; c) fair representation of persons with disabilities; d) universal suffrage based on the aspiration for fair representation and equality of vote; and e) free and fair elections, which are— i. by secret ballot; ii. free from violence, intimidation, improper influence or corruption; iii. conducted by an independent body; iv. transparent; and v. administered in an impartial, neutral, efficient, accurate and accountable manner”.

However, despite the good progress made thus far, parliament enacted several amendments to the various electoral laws (Elections Act, Political Parties Act and Leadership and Integrity Act) which amounted to subversion of the values, principles and norms enshrined in our Constitution for selfish political interests. The amendments included; the removal of the requirement that all parliamentary aspirants must possess a university degree, the suspension of the vetting requirement to ensure the candidates comply with the integrity criterion as per Chapter Six of the Constitution; and extension of the deadline for submitting party membership lists and nomination rules. Further parliament amended the law hence allowing party-hopping by politicians and also allowing politicians to interfere with the seats reserved for special categories of persons.
The Supreme Court's advisory opinion on the gender rule in the Constitution (stipulating that neither gender can constitute more than two-thirds of any elective seats) was viewed by many as a major blow to the realization of gender equity in Kenya's body politic. The court indicated that the intended gender equity can be implemented progressively and gave August 2015 as the deadline for full implementation.

These challenges notwithstanding, these legal provisions still provide a framework for regulation of political parties, as well as the conduct of nomination and elections.

1.2 KNCHR AND POLITICAL PARTY MONITORING

In furtherance of its watchdog role, the Kenya National Commission on Human Rights (KNCHR) set out to scrutinize political party nominations to assess their compliance with the standards set in the Constitution and electoral laws. KNCHR's monitoring process was based on three key principles; public participation, internal party democracy and adherence to the rule of law and principles of transparency and accountability.

KNCHR exercised its watchdog role over the nomination exercise because elections (including political party nominations) by their very nature are human rights events; they give voice to the political will of the people and are an enabler to people's participation in public affairs. Through elections, the people choose representatives of their collective will; the people they will trust to protect and promote their rights.

Further, the electoral process in itself embodies a host of human rights. The manner in which elections are conducted could invariably affect fundamental human rights outlined in the legal context above. To be truly free and fair, elections must be conducted in a manner that respects basic human rights and adheres to international, regional and national standards.
CHAPTER 2: METHODOLOGY

With the guiding principles of public participation, internal party democracy and adherence to the rule of law, KNCHR developed a checklist which was used to monitor each political party as it conducted its nominations exercise. The checklist addressed different areas including party-preparedness, the political landscape and the actual nominations. Malpractices such as incitement to violence, hate speech, bribery, transportation of voters, multiple voting and intimidation of voters were also monitored.

The profile of the aspirants was analyzed to gauge compliance with the constitutional guarantees against discrimination, and assess the extent to which vulnerable persons and marginalized groups realized their constitutional right to be considered and participate in electoral processes in Kenya.

Prior to the monitoring exercise, this checklist was discussed on 7th January 2013 with political parties with an invitation to reflect on mechanisms, structures and measures they had put in place in line with the requirements stipulated in the checklist.

KNCHR intended that all parties conducting nominations be monitored using the checklist and those found to have violated the law would be held accountable through the various institutions, in particular, the IEBC, the Directorate of Public Prosecutions, the National Police Service and the Registrar of Political Parties. KNCHR was to provide relevant information to these institutions who in turn were expected to assert their constitutional authority and act decisively within the law against any political party or parties that did not comply with the stipulated nomination and election requirements.

KNCHR deployed teams comprising of staff and monitors to eight regions in the country, earlier mapped out as hotspots based on historical, present and emerging trends in the regions. These counties are: Isiolo, Kilifi, Kisumu, Kwale, Mombasa, Nairobi, Nakuru and Uasin Gishu.
Among the considerations taken into account were: dominance of political groupings or parties within the region, ethnic composition, past history of election related violence and communal conflicts and emerging political and conflict trends. The monitoring was undertaken in three phases: i) Assessment of the level of preparedness of political parties and other stakeholders; ii) Observation of the actual nomination exercise iii) Monitoring the outcome of the nominations including, tallying and announcement of the results and dispute resolution process. The Commission’s teams held formal and informal interviews and administered questionnaires to various stakeholders. They also observed the processes and held meetings with stakeholders including the Police, the Provincial Administration officers, and the IEBC County officers. Further, the team visited the Political Parties (ODM, TNA and the URP) regional offices to assess the level of preparedness for the nominations. The teams also visited various polling stations in the identified hotspots and interviewed presiding officers, clerks, various candidates’ agents and the voters. At the polling stations, the team examined the ballot papers, ballot boxes and registers, and followed through the voting process to the point of announcing the winner/nominee. Finally, the team collected evidence on nominations malpractices.

Scope

The Commission chose to observe nominations that were conducted between 17 and 19 January 2013, since major coalition partners and other parties had planned to hold their nominations on these dates. As such, the primary was focus on the major parties including Orange Democratic Movement (ODM), The National Alliance party (TNA) and United Republican Party (URP) where competition for nomination slots was intense and that the outcome of the process would have greatly impact on what happens as the country marches towards the March 4th Elections. Other parties that were conducting nominations were also monitored.

The observations and findings made in respect of each of the 8 regions are discussed in the following chapters of this report.
CHAPTER 3: OBSERVATIONS FROM NAKURU COUNTY

3.1 INTRODUCTION

Nakuru County has an estimated population of 1,603,325 and the registered number of voters stands at 695,879. The County headquarters are located in Nakuru town and there are 11 constituencies namely Nakuru Town East, Nakuru Town West, Bahati, Rongai, Subukia, Kuresoi North, Kuresoi South, Gilgil, Naivasha, Njoro and Molo. The County borders Baringo and Laikipia counties to the North, Nyandarua County to the North East, Narok County to the South, Bomet and Kericho counties to the South West, and Kiambu and Kajiado counties to the South East. It occupies an area of 7,495 square kilometers.

3.2 BACKGROUND

The County is considered one of the most cosmopolitan in Kenya. The major ethnic communities living in the County are the Kalenjin (Tugen and Kipsigis), Kikuyu and Maasai while other communities include Kisii, Luo and Luhya. Nakuru has witnessed several episodes of election related violence since the advent of multiparty democracy in Kenya with the worst violence being witnessed in 2007. The worst affected areas included Molo, Njoro, Kuresoi, Naivasha and Nakuru town with most of the violence taking an ethnic dimension and pitting the Kalenjin against the Kikuyu. Underlying the violence in this County has been questions about historical injustices relating to land. The County also hosts an unknown number of internally displaced persons (IDPs); victims of 2007 post election violence as well as the 2008/9 evictions from Mau forest. Recently, tension and inter ethnic conflict was reported at Banita settlement scheme in Rongai. It is due to this history that Nakuru is still being regarded as a violence hotspot hence the conduct of the political party nominations would provide a barometer of how things may pan out during the forthcoming elections.

In the forthcoming elections, unlike in 2007 general elections, the political dynamics have significantly shifted. The main protagonists in the county, the Kalenjin and Kikuyu, have since come together under the Jubilee Alliance a development that may lessen the potential for violence. The dominant parties in the county are those allied to the Jubilee Alliance, TNA and URP.
3.3 AREAS MONITORED

KNCHR sent teams to the following constituencies and wards: Nakuru Town West Constituency (Kaptembwa, Kapkures and Rhoda Wards), Rongai Constituency (Soin and Mosop Wards), Njoro Constituency, Kuresoi North Constituency (Kiptororo, Nyota, Sirikwa and Kamara), Kuresoi South Constituency (Amalo, Keringet, Kiptagich and Tinet wards), Naivasha Constituency (Maiela and Olkaria wards) and Gilgil Constituencies. The monitoring was limited to three key political parties namely URP, ODM and TNA as they were the only parties which conducted nominations on the stipulated dates.

3.4 FINDINGS

3.4.1 SECURITY MEASURES

Adequate security measures had been put in place for the nomination process. Each polling station that was visited had at least two police officers with additional security measures in place in areas where complaints of threats of violence had been received by the police. This was the case for instance in Rongai where there were complaints of threats to aspirants. Voters and aspirants who were interviewed were satisfied with the security measures. Security personnel were quick to act on any reported incident of tension and violence. In Kambi Ya Moto tallying centre, a contingent of GSU officers had been deployed on 18th and 19th January owing to tension that arose following failure of URP's nominations to take off on 17th January. In Mauche Ward in Njoro, the Commission received reports that a person posing as a URP agent had threatened to interrupt the nominations on allegations that TNA was gaining popularity there. The incident was reported to the area District Officer and the police.

During the nominations exercise, police officers, candidates’ agents and voters maintained vigilance at the polling and tallying centers throughout the night. For instance, in Kambi Ya Moto URP tallying centre ballot boxes from Solai ward were submitted at about 2.00 am on 19th January and the tallying was completed at 3pm.
3.4.2 CAPACITY AND PREPAREDNESS BY POLITICAL PARTIES TO CONDUCT NOMINATIONS

All the political parties in the areas monitored were ill-equipped to conduct the nominations. The worst affected party was URP. Whereas ODM observed time and commenced its nominations on the officially notified date, 17th January, TNA's nominations failed to take off and the communication from TNA headquarters to postpone the nominations to the next day was only made at around 12.00 noon (on 17th January) when the were already queuing.

The Commission noted that parties had not made adequate provisions to transport nominations materials forcing some aspirants to offer their personal vehicles to transport them thereby occasioning suspicion and protests against attempted rigging. For example, in Nakuru West County Hall the Returning Officer intended to use an aspirant's car to collect ballot boxes from a polling centre leading to protests and allegations of attempted rigging.
Similarly, in By-gum polling station in Sirikwa, an aspirant for the position of Member of National Assembly (MNA), an aspirant was accused of using his car to distribute ballot materials.

It was also evident that there were weak linkages between party structures at the national level and the grassroots. The teams observed that the institutional structures of the political parties monitored at the grassroots were poor and did not inculcate in their members the democratic values that they ought to adhere to. The few party offices in the County lacked proper facilities and were run by officials with inadequate knowledge of the various rules and regulations governing political parties. Constituency branch offices were not fully operational and lacked proper communication channels with the headquarters.

Differences between coalition partners in the Jubilee alliance were evident in some places such as Rongai and Nakuru Town West. Voters were confused as to whether nominations were to be held jointly between the coalition partners or separately. Similarly, voters complained of abrupt change of polling centers during the nominations leading to confusion. Unlike the ODM, and TNA, URP was accused of not publishing the polling stations in advance for ease of identification.

In Rongai, there was no clarity about the tallying centers, and aspirants had to settle for the District Commissioner's office premises as the tallying center.

### 3.4.3 TRANSPARENCY IN THE NOMINATION PROCESS

There were widespread concerns touching on the transparency and integrity of the nomination process affecting all the parties. The inordinate delay in commencing the exercise and delayed publication of list of polling centers created the impression in some voters that there was a ploy to rig the nominations in favour of certain candidates. The poor logistical arrangements that forced aspirants to intervene by offering their personal vehicle further fueled allegations of attempted rigging.

The ability of parties to hold free, transparent and fair nomination was compromised by lack of proper party registers and mechanisms to verify documents presented by voters. The TNA and ODM used the IEBC provisional register.
In order for one to vote in ODM or URP, voters were required to produce their National ID cards only.

Unlike in a general election where campaigns are properly regulated, this was largely lacking in the party nomination process. Various aspirants conducted their campaigns until 16 January, a day to the nominations while in other cases campaigns were going on outside polling stations.

In Kuresoi North constituency, some aspirants conducted last minute campaigns at Kiptaragon Secondary School, Irongo Tea Buying Center and Sotiki Primary School polling stations. There were allegations of voter bribery but the Commission could not verify these allegations as voters were reluctant to divulge details of the aspirants involved.

On 18 January, during the URP nominations, some voters at By-Gum polling station stole un-used ballot papers. The presiding officer halted the nominations but later continued with the exercise after getting new ballot papers.
3.4.4 ACCOUNTABILITY FOR ELECTION RELATED OFFENCES AND MALPRACTICES

Widespread irregularities and malpractices were reported in Kuresoi South (URP), Kuresoi North (URP) and Rongai constituencies (URP). No major complaints were raised against any nomination process in Nakuru Town West, Naivasha and Njoro constituencies.

_Voter bribery and voter transportation_

Political parties were not able to control the behavior and conduct of their candidates. Additionally, they did not put in place measures to monitor electoral malpractices and offences such as voter transportation, voter bribery and illegal campaigning by candidates. There was little or no intervention by the police and IEBC where such incidents occurred.

Also, a TNA aspirant for the Governor position was alleged to have transported voters to polling stations in Moto Primary School, in Sirikwa ward. Two vehicles associated with the aspirant with registration numbers KBL-346D Toyota DMAX and a Lorry KAW-959Y both white in colour were seen ferrying voters in Sirikwa until 2:00 pm on 17th January. That was before the TNA nominations were postponed to the 18th January 2013.

_A Lorry hired by an aspirant ferrying voters in Sirikwa ward, Kuresoi North Constituency_

_Incitement to violence_

By and large, nominations were peaceful in Nakuru County despite widespread confusion and anxiety due to delays in commencement of voting.
There were however isolated reports of violence and incitement to violence in some places but parties did not come out strongly to monitor, investigate or condemn such actions. In Njoro Constituency, it was alleged that the immediate former MP for Molo, had disrupted a meeting called by his competitor. The former MP who was an aspirant allegedly assaulted and injured a lady supporter of his opponent. The matter was reported to Njoro police station and the victim was issued with a P3 form and treated. Due to perceived police inaction, the complainant reported the matter to the Commission and the issue is being addressed with relevant authorities.

In another incident in the same constituency, the Commission was informed that in Mauche ward, a member of URP party was allegedly planning to disrupt TNA nominations on the grounds that TNA party was gaining popularity in the area at the expense of URP. It was feared that this could trigger violence considering that Mauche is one of the most volatile areas in Njoro. The matter was reported to the area DO and Officer Commanding Police Division (OCPD).

At Kambi ya Moto, Soin ward, in Rongai constituency, the Commission witnessed an exchange between the immediate former MP for Rongai and the area District Commissioner where the MP alleged that the DC was planning to ensure he loses the nomination while the DC alleged receiving death threats from the MP. The DC reported the threats to the OCPD and the matter is being investigated. The police had earlier mapped Rongai as hotspot area and had deployed extra security personnel on the ground a decision that had also irked the former MP. The Commission documented utterances by the former MP, which in the Commission's view amounted to an attempt to incite the public against the area DC. This information was shared with the IEBC and the Inspector General of Police for action.
All the political parties monitored did not make any special arrangement to enable voters from vulnerable groups to participate in the nomination process. There was also no clarity among local officials on how members for the special seats at the ward and national levels were to be nominated. It was hard to decipher the profile of candidates vying for various positions in the county since the party officials and the agents were not ready to provide the information to the Commission.

3.5 PARTICIPATION OF MARGINALIZED AND VULNERABLE GROUPS AND COMMUNITIES

All the political parties monitored did not make any special arrangement to enable voters from vulnerable groups to participate in the nomination process. There was also no clarity among local officials on how members for the special seats at the ward and national levels were to be nominated. It was hard to decipher the profile of candidates vying for various positions in the county since the party officials and the agents were not ready to provide the information to the Commission.
CHAPTER 4: OBSERVATIONS FROM KISUMU COUNTY

4.1 INTRODUCTION

Kisumu County covers an area of about 2,119.20 square kilometers. The estimated population is 968,909 persons and the registered number of voters is 388,729 persons. The county has seven constituencies namely: Kisumu East, Kisumu West, Kisumu Central, Seme, Nyando, Muhoroni and Nyakach. Kisumu County borders Vihiga County to the North, Nandi County to the North East, Kericho County to the East, Nyamira to the South, Homabay to the South West, and Siaya County to the West.

4.2 BACKGROUND

The dominant ethnic group in the County is Luo but there are other ethnic communities including Kisii, Luhyas, Nubians and Asians who form a significant portion of the population. Since independence the region has been politically volatile and the county was one of the worst hit by the post election violence in 2007. Politically motivated violence is common around elections and party nominations with areas around the city being worst hit. In most cases political competition takes clan dimension particularly during party nominations. The ODM party is the dominant party in the county and its neighbouring counties of Siaya and Homabay which share similar political histories and are home to the Luos.

The large mass of unemployed youth has been the main fuelling factor of violence in Kisumu. The changing political dynamics in Kenya have revived border tensions particularly in constituencies bordering counties in the former Rift Valley Province namely Nandi and Kericho counties. The short-lived truce of 2007 which saw the Luos and Kalenjin working in the same political vehicle under ODM ended with the falling out of Raila Odinga and William Ruto and this has brought into sharp focus the tension in Muhoroni and Nyakach constituencies. During the 2010 referendum there was low level tension and displacement in the area. In early 2012, violence erupted in Muhoroni during which several lives were lost, houses torched and thousands displaced. The problem of cattle rustling in Nyakach usually takes a political dimension during elections. During party nominations, intra party violence among aspirants in Kisumu, Siaya, Homabay and Migori is usually common because party nominations in these counties have invariably turned out to be a mini-election with the main election being a mere formality. As they say, nominations are indeed
elections in these counties and whoever secures the ticket of the dominant party in the regions is assured of the seat in the elections.

4.3 AREAS MONITORED

The Commission monitored nominations in Kisumu Central, Kisumu East, Kisumu West, and Nyando (Ahero, Awasi and Muhoroni) constituencies in Kisumu County. Further, following reports of violence in Mbita, the Commission extended its monitoring mission to Homabay County (Karachuonyo, Homabay Town and Mbita). In all these areas only ODM party carried out nominations.

The following polling stations: Kenyatta Sports Ground, Taifa Tent ground, Aga Khan Social Hall, Migosi Primary School, Manyatta Primary School, Kaloleni Social Centre, Victoria Primary School, Worksyard station, Xaverian Primary School, Pandpieri Primary School and Lions High School in Kisumu Central and Kisumu East constituencies were monitored. In Nyando, the following polling stations were assessed: Ahero Multi-Purpose Hall, Ahero Primary School, Karanda Primary School and Chemelil Complex while in Mbita the following polling stations were monitored: Urianda Primary School, God Jope Primary School, Rapora Primary School, Obambo Center and Wasaria Polling Station and Nyamanga Primary school.

4.4 FINDINGS

4.4.1 SECURITY

On 16th January 2013, the Commission participated in a meeting convened by the central Nyanza region IEBC coordinator on behalf of the Registrar of Political Parties at the Tom Mboya Labor College, Kisumu. The meeting was attended by IEBC Commissioner, Kule G. Godana, the Nyanza Provincial Commissioner, the Provincial Police Officer (PPO), the Provincial Criminal Investigation Officer (PCIO), the Provincial Administration Police Commandant (PAPC) and the Provincial Security Intelligence Officer. Others included; the County Commissioners for Homabay, Siaya, Migori, Kisii and Nyamira counties, the Kisumu District Commissioner, representatives of 19 Political parties, the Kisumu branch National
Chamber of Commerce chairman and the Nyanza region IEBC officials. The main aim of the meeting was to discuss the security arrangements put in place for the nominations exercise.

The PC on behalf of the provincial security team assured the meeting that adequate security measures had been put in place for the success of the nomination exercise. He warned political parties that anyone engaging in criminal conduct would face the full force of the law and mentioned an incident in which a supporter of one politician was arrested on suspicion that he purchased 100 machetes with the intention of causing chaos during the nominations and taken to central police station in Kisumu. He was locked up at the police station and released the following day following interventions by local politicians. The Commission visited Kisumu Central Police station to follow up on the issue but the OCPD declined to divulge details about the incident. This is an issue of grave concern to the Commission since it is such arms that could lead the country to the brink during an electioneering period. Indeed, this incident had created a lot of tension in Kisumu as youth and other aspirants had stormed the police station demanding the release of the suspect whom they claimed had been arrested for political reasons. This led to commotion late in the night when the police attempted to disperse the rowdy crowd. One police officer was accidentally shot in the leg by a colleague. The Commission therefore marked this as an area of focus during the campaigns and the elections.

Despite adequate preparation by the police, violent protests erupted in Kisumu and other parts of Nyanza region following the controversy around nomination results. This called into question the ability of the police to handle such incidents in the context of a highly charged general election. Tension had started rising in various counties in Nyanza region as voters in some constituencies were apprehensive that nominations would be rigged in favour of certain candidates.

In Nyando constituency, there was tension due to fears that the outgoing MP could be rigged in. It was alleged that the aspirant had single handedly handpicked nomination officials and manipulated allocation of polling centers in his favour.
Tallying of votes in Ahero happened amidst tension and soon after the incumbent aspirant was declared the winner chaos erupted with supporters of his opponent barricading the road and burning tyres. Traffic was halted for a while as GSU engaged the protesters in running battles.

Similar violent protest was witnessed after the announcement of results for the positions of Governor and Senator for Kisumu County were made even before some polling centers, particularly in Kisumu West, had voted. A similar situation was witnessed in Homabay where the announcement for the position of Governor was made before voting had been concluded in some constituencies such as Mbita. The uncertainty surrounding the manner in which these announcements were made led to apprehension and a feeling of disenfranchisement amongst members of the public and this compromised the security situation in most parts of Kisumu and Homabay counties.

In Kendu Bay, civilians turned up with crude weapons and blocked the Kendu-Bay-Katito road, protesting the announcement of an aspirant as the Governor candidate for ODM. In Muhoroni, a person was stabbed after he was discovered to be in possession of a loaded gun. Police officers confiscated his gun before taking him to hospital. A second person was also found with a loaded gun amongst the crowd and arrested.
Police engage protestors in running battles along Kendu Bay-Katito Road on 20th January 2013

A protestor climbs on top of a vehicle with his machete along Kendu bay-Katito road. Crude weapons in the hands of civilians has become widespread as the country approaches the general elections.
4.4.2 CAPACITY AND PREPAREDNESS BY PARTIES TO CONDUCT NOMINATIONS

It was evident that ODM party, which was the only party conducting nominations in Kisumu and Homabay Counties, lacked the capacity and was ill prepared to undertake the exercise leading to delays in commencing and concluding the exercise. In fact in some areas, voting did not take place until 19\textsuperscript{th} January 2013, one day after the legal deadline for parties to conclude their nominations. In Kisumu East and Kisumu Central constituencies, voting materials arrived at polling centers on 17\textsuperscript{th} January 2013, between 8.00 a.m. – 9.00 a.m. The materials had however to be organized and separated as one ballot paper contained all the aspirants names for various positions; separating the various ballots for distribution led to further delay. In Nyando constituency, the ballot papers arrived at Muhoroni on 17\textsuperscript{th} January 2013 at 12.45 p.m. but they were not adequate. The voting was postponed to 18\textsuperscript{th} January 2013 and again to 19\textsuperscript{th} January 2013 to await the missing voting material. Similarly in Mbita constituency, the voting material arrived at around 1.00 p.m. on 17\textsuperscript{th} January 2013 and the voting could not be carried out as it was already late. These papers were however destroyed, allegedly by an aspirant claiming that her opponents were tampering with the voting material. The party had to send in new ballot papers on 18\textsuperscript{th} January 2013. Voting subsequently took place on 19\textsuperscript{th} January 2013.

In most polling stations in Kisumu County, voting was concluded at around 6:30 p.m on 17\textsuperscript{th} January 2013. In Homabay County, particularly in Mbita, voting went on late into the night, in some polling centers, until past midnight on 19\textsuperscript{th} January 2013. In Ahero, voting started at 3.30 p.m on 19\textsuperscript{th} January in the earliest and in others voting did not start until 6.00 p.m. There was no provision for lighting as voting continued into the night. At Ahero primary, which was merged with Karanda primary school polling station, very few voters were allowed to vote on 19\textsuperscript{th} January as most voters were chased away by GSU who said that the centre had run out of ballot papers.

4.4.3 TRANSPARENCY IN THE NOMINATION PROCESS

The biggest challenge that faced nominations in Kisumu and its environs were the numerous allegations about perceived attempts to manipulate the nomination process in favour of certain aspirants, particularly immediate former MPs and other well connected aspirants. Unfortunately, mounting discontent exploded into violent protests against the perceived manipulation of the process.
Prior to the nominations, there were reports of massive voter bribery involving various aspirants who were the main contestants for the race for MNA for Kisumu Central Constituency. Voter bribery as well as transportation of voters was also witnessed at Migosi primary school in Kisumu Central Constituency while in Mbita Constituency, the bribery extended to the police officers where an aspirant for MNA, was reported to have given a police officer money at a public toilet on the nominations day. He initially denied that he had parted with any money but later admitted to have given the officer money for lunch; he did not indicate why if such intentions were genuine, he had to give the officer money in a toilet. Lack of proper mechanisms for vetting voters at polling station further eroded the integrity of the nominations. In all polling stations visited in Kisumu East, Kisumu Central and Kisumu West constituencies, none had a register to cross check voters who cast their ballots. In some polling centers, voter used IEBC voter registration acknowledgment cards and national ID cards but in most polling centers, only the ID card was used for voting. As a result of this, multiple voting occurred in some polling centres in Kisumu, particularly at the Jomo Kenyatta Sports Ground and Migosi Primary School polling centers. However, in Mbita Constituency the Commission observed that voters' names were being checked against the IEBC register.

Voting took place in small over-crowded rooms, interfering with the secrecy of the ballot. In places of low literacy, the manner of assisting the voters was wanting. In most places, the agents filled in the papers for the voters or read out the many names in the ballot papers and asked the voter to choose one, the result was that voters were exposed as they had to publicly name the persons they were supporting.

There were also reports that some aspirants had manipulated, compromised or colluded with returning officers and presiding officers to rig the nominations in their favour and that they had also tampered with the selection of polling stations to ensure that most of them were located within their strongholds.

The announcement of results was characterized by confusion and controversy. In most constituencies, delay in announcing the nominations results led to anxiety and breakout of violence. In Kisumu Central Constituency it was not clear as to who
actually won the nominations as the results were purportedly announced before all the ballot papers had been counted. Some ballot papers were left at Lions High School, with many still sealed, a day after voting. Apparently the returning officer had agreed with the aspirants that the exercise would be repeated but this did not happen. In Ahero in Nyando Constituency, vote tallying happened amidst tension due to the manner in which the poll results were being released. The total vote tallying for polling stations kept on changing from time to time and as the situation continued to worsen, security was beefed up and voters ordered out of the compound. Soon after, the results were announced and the incumbent was declared the winner. The announcement of results for Governor and Senator positions in Kisumu County were made even before some polling centres had voted. A similar situation was witnessed in Homabay as discussed above.

Since parties did not have proper dispute resolution mechanisms that earned confidence of aggrieved aspirants, most disputes from this region ended up at the IEBC's dispute resolution tribunal in Nairobi. As an indication of lack of faith in the nomination process, it emerged that smaller parties had already issued nomination certificates to some aspirants.

4.4.4 ACCOUNTABILITY FOR ELECTION OFFENCES AND MALPRACTICES

Bribery and voter transportation

Despite widespread allegations of bribery and voter transportation, there were no visible efforts on the ground by either the police, IEBC, or political parties to monitor, investigate or act on such reports in order to discourage such practices. This culture of turning a blind eye to these issues will only encourage such practices during the forthcoming elections.

Violence and destruction of voting materials

Violent protests by supporters of aggrieved candidates were widespread in various parts of Kisumu and neighbouring counties where nominations were perceived to be flawed. There were no attempts by aspirants to dissuade their supporters from going into the streets to disrupt traffic and create chaos giving the police challenges relating
to crowd control. This may be a pointer that some aspirants were complicit in such protests but parties did not take any action against them.

There were also cases of aggrieved aspirants turning violent and destroying ballots materials, and in some cases assaulting clerks and police officers manning polling stations. In Kisumu Central at Migosi Primary School, an aspirant disrupted voting by storming the polling room, kicking the ballot boxes and assaulting the polling clerks and a police officer who was manning the room. Voting later resumed after a security team from Kondele Police station came in and restored calm.

Again in Kisumu, the ODM aspirant for the position of Governor led some youth who stormed Central Police Station to demand the release of a County Ward Representative aspirant who had been arrested for allegedly buying 100 machetes which it was alleged were to be used to create chaos during nominations. The aspirants action contributed to the chaos witnessed in Kisumu.

In Mbita constituency, we received allegations of intimidation, violence, gun shots and destruction of ballot papers. The Commission held interviews with various aspirants, polling officials and the police, with a view to establish the circumstances around the accusations. All the aspirants as well as the police indicated that the ballot papers sent to the constituency on 17th January 2013 had been destroyed and the party had to send in new ballot papers on 18th January 2013. Resultantly, the voting happened on 19th January 2013. Every person interviewed stated the papers were destroyed by an aspirant who had first lay across the ballot papers and later destroyed and defaced them. Upon interviewing her, she admitted that she did actually lie across the papers sent to the constituency on 17th January 2013 as the other aspirants were intent on driving off with them as they were being moved from ODM offices to Mbita Secondary School. She indicated that after this intervention, the ballot papers were driven to Mbita primary school where she personally counted and packaged them for various centers, in the presence of the returning officer. At around 4.00 a.m. she was informed that her opponents had moved the ballot papers from Mbita Primary School to the ODM office. According to her, she went to the ODM office and found the opponents and their agents tampering with the papers, she destroyed them so that they could not be used further. The destruction of the ballot papers amounts to an offence, even if new ones were sent by the party.
The Commission also established that gunshots were fired in the air by a police officer and by a bodyguard to one of the aspirants, as the ballot papers were being moved from ODM office in Mbita to Mbita Primary School.

**Hate speech**

There were no reported cases of hate speech. However, it was reported that some aspirants used propaganda to malign the credentials of other aspirants. For instance, photographs were circulated of Abdulqadir Mohamed, one of the MNA aspirants, depicting him as an Al-Shabab

4.5 **PARTICIPATION OF MARGINALIZED COMMUNITIES AND GROUPS**

Vulnerable groups such as persons with disabilities and women were not accorded a fair chance to participate in the nominations. Women aspirants had to fight more than the men to get recognition and to participate in the nomination. Some women aspirants complained that ODM as a party was anti-women and did not encourage or support women aspirants. Their names were listed at the bottom of the ballot papers in a method only understood by party officials. The listing was not alphabetical and they read ill-intention in this trend.

Eventually only two women were nominated to vie for positions in parliament: Hon Millie Odhiambo (Mbita constituency) and Ms Rozah Buyu (Kisumu Town West constituency). Persons with disabilities were also not given a fair chance to participate in the party nominations and were instead told to await allocation of the special seats. Indeed in all the centers monitored, there were no aspirants with disabilities featuring on the ballot paper.
CHAPTER 5: OBSERVATIONS FROM UASIN GISHU COUNTY

5.1 INTRODUCTION

Uasin Gishu County covers an area of approximately 2,975.80 square kilometers with an estimated population of 894,179 persons of which, 318,717 persons are registered as voters. The County is made up of six constituencies namely: Soy, Turbo, Moiben, Ainabkoi, Kapseret, and Kesses. The County borders Nandi County to the South, Trans Nzoia County to the North, Elgeyo Marakwet County to the East, Kericho County to the South East, and Bungoma County to the West.

5.2 BACKGROUND

The Kalenjin comprising the Nandi, Kipsigis, Keiyo and Marakwet are the dominant ethnic group in the County. Other communities include the Kikuyu, Luhya, Kisii and Luo among others who are found on the outskirts of Eldoret town which is the headquarters of the County. Other important towns include Moi's Bridge, Burnt Forest, and Turbo. The politics in the County are largely defined by the Kalenjin community's taking a position and coalescing under one leader. During former president Moi's rule, the County was largely a KANU zone. After his retirement in 2002, the County still voted for KANU and its then presidential candidate, Uhuru Kenyatta. In 2007, the Kalenjin joined the ODM party and voted overwhelmingly for its presidential candidate Raila Odinga.

The County was badly hit by the post election violence of 2007/2008 leading to loss of life and displacement of people some of who remain in camps to date. The main targets of violence were members of the Kikuyu and Kisii communities who were perceived to have voted for PNU's presidential candidate Mwai Kibaki. Some of the areas most affected by violence include Timboroa, Burnt Forest, Turbo, Langas and Huruma Estates in Eldoret town. These are areas occupied by non-Kalenjin communities especially the Kikuyu. The violence in Uasin Gishu is also associated with historical injustice related to land.

Currently the County is considered the bedrock of support for URP party although TNA party, ODM and KANU enjoy some measure of support in the area.
Like in Nakuru the political dynamics have shifted and brought the Kalenjin and Kikuyu in the same political camp lessening the likelihood of widespread violence as was witnessed in 2007. For purposes of party nominations, it is believed that whoever secures the ticket of the dominant party URP is assured of the seat in the general elections hence the high stake competition for the URP party ticket.

5.3 AREAS MONITORED

The Commission monitored a total of 37 polling stations during both the ODM and the Jubilee Alliance nominations in the following constituencies and wards in the County: Soy Constituency (Moi's bridge, Ziwa and Soy wards), Turbo Constituency (Huruma ward), Ainabkoi constituency (Ainabkoi/Olare wards), Kesses constituency and Kapsaret Constituency. The wards monitored during these nominations were informed by the mapped list of hotspots, information from the county on the political dynamics in specific areas and reports of incidences in those areas.

5.4 FINDINGS

5.4.1 SECURITY

Security personnel in Uasin Gishu had put in place adequate security measures and beefed up security in potential hotspots. During a visit to the deputy OCPD Central Police Station the Commission learnt that a vehicle full of security personnel would be stationed at Huruma estate in view of the 2007/8 election violence and the cosmopolitan nature of the area. However, political parties had not yet submitted their final programs detailing their security needs by the evening of 16 January 2013.

In Langas County Ward in Kapsaret Constituency, the OCS confirmed that they had deployed two armed security personnel for each of the polling stations. He further confirmed that they were working closely with the local population through community policing and other security agencies to ensure that security was guaranteed given the serious lapse of security and violence witnessed in the area during and after the 2007 general elections. The local peace structures such as Uasin Gishu County peace monitors were on site to monitor the situation. He assured the Commission that the nominations would be peaceful.
In Turbo Constituency the area chief and village elders monitored security at the lowest level and were positive that the nominations would proceed peacefully. Two security personnel were posted at every ward to maintain law and order and there were increased patrol on the eve of the nominations with residents being urged to report any incidents.

Despite the delays and haphazard manner in which the nominations were conducted, voters remained peaceful with few isolated protests staged by disgruntled aspirants and their supporters. There was fracas at M.V. Patel polling station during the Jubilee nominations exercise. A female aspirant for the position of county representative for TNA party claimed her agents were denied access to the polling station. This led to commotion occasioning security personnel to intervene and eventually the TNA agents were allowed in. In some polling stations, for instance Hill School in Kesses Constituency there were no security personnel. There was tension among voters who feared that the URP leadership had endorsed certain aspirants.

5.4.2 CAPACITY AND PREPAREDNESS BY PARTIES TO CONDUCT NOMINATIONS

Parties had not put in place adequate logistical arrangements to guarantee success of the nominations. There was confusion particularly within the Jubilee Alliance which had planned joint nominations. This was occasioned by failure by the coalition to publicize the polling and tallying centres, delay in delivery of voting materials, and speculation that the nomination exercise in the County were already compromised in favour of URP aspirants.

The URP County elections coordinator and the chairman of TNA, Uasin Gishu County informed the Commission that the Jubilee Alliance resorted to conduct joint nominations in the County under the coordination of URP on the premise that Uasin Gishu was a URP stronghold. On the TNA side, there were a total of 31 aspirants whereas on the URP side there were 42 aspiring Members of the National Assembly, 3 Senators, 360 County Representatives, 4 Governors, and 8 women representatives. This arrangement was marred by a lot of challenges. Although the two parties appointed a joint nominations board to oversee
the nominations, URP officials were accused of taking over the entire exercise without consulting their TNA partners.

In some cases aspirants complained that their names were missing from the ballot papers. One such case was that of David Oluu, an aspirant for the position of County Ward Representative, who complained that his name was missing despite having paid the nomination fees. At the TNA office, the Commission was informed that at least 6 aspirants in Uasin Gishu County who were expected to participate in the joint nominations with URP had already secured nomination certificates from NARC.

There was poor coordination between party headquarters in Nairobi and their field offices and also between coalition partners on how they would share out the polling stations and tallying centres. ODM party had planned to hold nominations in four out of the six constituencies in Uasin Gishu: Turbo, Moiben, Ainabkoi and Kapsaret constituencies. Whereas ODM nominations were held on 17th January as scheduled, there was confusion occasioned by sudden shift of venues. For instance, voters at MV Patel were on short notice shifted to Uasin Gishu Primary school which resulted in bitter protest from the voters. Earlier, there was confusion where both the ODM party and TNA party had intended to use Uasin Gishu primary as a constituency tallying centre on the same day but fortunately TNA nominations were postponed.

The ODM County chairman and the ODM County Returning Officer reported that the County office was facing some challenges including lack of finances and names of some aspirants missing from the ballots. The party had also not finalized logistical arrangements for polling and tallying centers. Ballot materials arrived at around 10.00 p.m. on the eve of nominations and the party had issued its list of tentative polling and tallying centers to the various OCPDs in the area.

Local TNA officials expressed their dissatisfaction with the zoning of Uasin Gishu as a URP stronghold. This was despite the fact that TNA had majority of its supporters for areas like Munyaka, Langas and Huruma wards.
They felt that the coalition agreement did not apply at the local level since the party officials at the grassroots did not know the terms of the agreement.

The nomination exercise was scheduled to be held at the IEBC registered polling stations while the tallying was to take place at Uasin Gishu Primary School, Municipal Hall, Tax center, Wareng and Cheptiret centers. The ballot papers did not arrive as scheduled on the eve of the nominations until 1.00 pm the following day, 17th of January, 2013. On the nomination day, there was no activity at the designated polling stations and the community was unclear on whether or not the nominations would proceed as planned. Eventually the primaries were conducted on 18th January. As a result of the postponement, many voters declined to turn out to vote on the aforementioned date citing waste of time and lack of organization by the Jubilee Coalition. Even those who turned out to vote expressed their disappointment at the delay in commencement of the exercise and some decided not to vote and went back to their work.

5.4.3 TRANSPARENCY IN THE NOMINATION PROCESS

Political parties in the region delayed publishing their list of nomination centres and providing all information relating to their logistical requirements. This could have compromised the integrity of the process. The last minute decision by Jubilee Coalition to hold joint nominations that were not properly coordinated caused a lot of confusion amongst many voters and aspirants.

The voting process was flawed and open to abuse by unscrupulous voters and aspirants. There were serious violations to the secrecy of the ballot. The Commission observed that there were no polling booths and “illiterate” voters were instructed by party agents on who to vote for, while in some instances, the agents marked the ballot papers for the voters. In other cases where names of aspirants were missing from the ballot papers, the presiding officers wrote the names of the candidates on blackboards and issued plain papers to voters to write the names of their preferred candidates. This caused more confusion and controversy as some voters claimed they could not read the writing on the blackboards. Additionally, the writing on some ballot papers was in small print prompting most voters to make inquiries from agents. For this reason, the agents openly took advantage and tried to influence such voters. In some instances,
agents were spotted staring at what some of the voters were writing or marking. The intrusion of the secrecy of the vote could have forced some voters to vote for specific aspirants against their will.

There was poor management in some polling stations where officials failed to control the voters leading to crowding of the station by unauthorized persons. This affected the smooth running of the exercise given that some of the stations were small. For instance one of the polling rooms at Uasin Gishu Primary School at one point had over 30 people most of who were neither polling officials nor agents during the ODM nominations.

The process of verifying eligible voters was also challenging. In the case of the ODM, there was inconsistency with regard to voter eligibility. In some polling stations, voters were asked to produce the IEBC voter registration acknowledgement slip and an identity card, whereas in others they were only required to produce the national identity card. Further, there was also no register and therefore it was difficult to establish the total number of voters or whether there was multiple voting. The Jubilee Coalition used the IEBC voters' register and voters were required to produce their national identity card and an IEBC voter registration acknowledgment slip. The Commission observed that the ink used by both parties during the exercise was not indelible, hence the likelihood of multiple voting.

At the conclusion of the nomination exercise, few disputes were reported. In relation to the URP the disputes centered on tallying, rigging and denial of confirmation letters to particular aspirants. With regard to the ODM, the disputes bordered on suspicion, particularly in relation to the tallying of results; and the alleged influence of other aspirants over the nomination coordination team.

5.4.4 ACCOUNTABILITY FOR ELECTORAL OFFENCES AND MALPRACTICES

Transportation of voters

The Commission received several reports of transportation of voters by aspirants to polling stations. In one incident, the Commission witnessed a confrontation between the Huruma Ward ODM County Assembly aspirant Mr. Tom Odera and a group of
voters who were accusing him of ferrying voters and canvassing for votes at the polling station. The Commission reported the matter to the presiding officer at Uasin Gishu Primary School.

**Multiple voting**

At Hill School polling station, the polling officials did not ensure that all voters had their fingers marked with ink and this encouraged multiple voting. A TNA agent at MV Patel Hall polling station also reported to the Commission that there were no serial numbers on the ballot papers and therefore several copies had been made and could be used to rig the nominations. He also reported that the clerks at the polling stations were colluding to give some voters more than one ballot paper and in some cases the clerks were voting as many times as they wished.

**Misconduct**

At MV Patel polling station, a presiding officer abused a TNA agent when he complained about malpractice in the station. He reported that the presiding officer was partisan and was influencing the voters. In Kesses Constituency, a MNA aspirant was arrested after being found with marked ballot papers at Kerita Kosyin polling station. Shortly after, another aspirant stormed the polling station with a crowd of supporters claiming that he had won the nominations even before the conclusion of the exercise. The crowd demanded that they be addressed by the arrested agent. The agent was whisked away by the police but the Commission later received reports that he had been released under unclear circumstances.

**Voter Bribery**

There were widespread reports of voter bribery, particularly in Langas ward during the Jubilee coalition nominations. However, the Commission was unable to ascertain the allegations given the reluctance of the people to reveal the identity of the culprit for fear of reprisals.

**Hate Speech**

Generally, the Commission did not receive reports of hate speech except in one incident, at Uasin Gishu Primary School during the ODM nominations, where a person was overheard saying “atiriri asikuje hapa kutuharibia kura” (kikuyus should not come to spoil votes).
This comment was made in the presence of the presiding officer and the police on guard but no action was taken despite the Commission raising the issue with the presiding officer.

5.5 PARTICIPATION BY MARGINALIZED COMMUNITIES AND GROUPS

There was low participation by marginalized groups and communities in the nomination exercise. However the Commission noted that the Jubilee Coalition nominated youthful candidates for the positions of Governor and Senator. This is perhaps an indication of increased involvement by the youth from the region in politics and governance. Furthermore, most of the aspirants for the other positions in the county notably the County Assembly and the National Assembly were youth. Women's participation was also noticeable albeit most of them did not get nominated in the sampled wards. There were no candidates with disabilities in all the monitored areas.
CHAPTER 6: OBSERVATIONS FROM ISIOLO COUNTY

6.1 INTRODUCTION
Isiolo County has an estimated population of 143,294 and 52,617 registered voters. It is a vast County, sparsely populated, and arid covering a total of 25,336.10 square kilometers. The County has two constituencies namely: Isiolo North Constituency with a population of 100,176 people and Isiolo South Constituency. The County borders Marsabit County to the North, Samburu County to the West, Mandera, Wajir and Garissa Counties to the East, Tana River, Meru and Laikipia Counties to the South.

6.2 BACKGROUND
The County is mainly inhabited by pastoralist communities who include the Borana, Samburu, Turkana and Somali but there is also a sizable population of Meru, Ndorobo and other communities. The County suffers endemic insecurity caused by various factors. There exist unresolved boundary issues between Isiolo and Wajir counties and Isiolo and Meru counties which have led to intermittent conflicts between Borana and Somali on the one hand and Borana and Meru on the other hand. Due to its arid state, the County experiences frequent droughts that generate conflict over pasture and water between pastoralists and farmers.

Cattle rustling in the County continues to be a major cause of conflict. The proposed upgrading of Isiolo town into a resort city has generated a lot of interest in the County leading to an influx of land speculators. Since most of the land in the County is vested in the community, there are fears amongst the locals that they could be dispossessed of their property which has raised further tensions. Influx of small arms and light weapons associated with the porous borders further aggravates insecurity in the County.

Another major challenge is competition for power amongst the communities with the Borana seeking to exclude other communities from contesting for political power as they deem them to be outsiders. While political competition tends to take an ethnic dimension at the national level, politics in Isiolo County are largely determined by clan dynamics particularly among the Borana community where candidates must be endorsed by elders of their respective clans.
6.3 AREAS MONITORED

There were no nominations carried out in the County despite the fact that TNA and ODM had planned primaries in Wabera and Burat County Wards respectively. Two factors accounted for this: first, most aspirants opted to join different parties from their opponents in order to get direct nomination. Second, owing to the culture of clanism, elders from different clans prevailed upon some candidates to step down in favour of preferred clan candidate in order to avert splitting of clan votes during party nominations. However, some candidates who were dissatisfied by the elders' decision opted to join alternative parties instead of bowing out of the race.

As Garbatulla District Commissioner, Jack Obuo aptly put it: “In the Isiolo region people are first appointed then elected. Anyone who does not get the blessings of the clan elders is destined to lose in the elections”. This approach, in the Commission's view, amounts to violation of the rights of citizens to participate in decision-making processes and is an onslaught to free and fair elections.

6.4 FINDINGS

6.4.1 SECURITY

The Commission noted a high level of preparedness by the County security agencies despite the fact that nominations did not take place. The Commission met with the Isiolo County Commissioner (chairman of County Security Committee), Garbatulla DC, Isiolo North DC, Garbatulla OCPD, Isiolo North OCPD, Isiolo North District Administration Police Commandant (DAPC), among other security stakeholders, all of who confirmed their readiness for the party nomination exercise and preparedness for the entire electoral process. However, they expressed fears of possible eruption of violence during the campaigns and elections due to the pre-existing insecurity factors in the county. There were no major campaign events during the nomination except for a low key rally held by the Narc-Kenya ward representative for Wabera ward which was peaceful.
6.4.2 CAPACITY AND PREPAREDNESS BY PARTIES TO CONDUCT NOMINATIONS

There were weak political party structures at the grassroots level. The Commission observed that whereas the parties had physical offices in the county, they were largely dysfunctional as evidenced by absence of party officials and activity as well as general apathy by locals towards political parties due to overbearing influence of clanism.
CHAPTER 7: OBSERVATIONS FROM MOMBASA COUNTY

7.1 INTRODUCTION

Mombasa County has an estimated population of 939,370 and 412,602 registered voters. It is the smallest county in Kenya covering an area of about 212.48 square kilometers but with a high population density of 4,292 people per square kilometer. The county has six constituencies namely: Changamwe, Jomvu, Kisauni, Nyali, Likoni and Mvita. The county is home to the second largest city in Kenya, Mombasa which comprises Mombasa Island and the surrounding mainland areas. It borders the Indian Ocean to the East and South East, Kilifi County to the North and Kwale County to the West and South West.

7.2 BACKGROUND

Mombasa County is home to Arab and Swahili people who are found mainly within the Island and the Mijikenda who inhabit mainland areas. There are significant populations of communities from upcountry or “wabara” including the Kikuyu, Kamba, Luo and Luhya as well as other communities of Asian descent. Like in other counties in the coastal region, there exists tension and mistrust among communities living in the county. The indigenous communities in coast (mostly Mijikenda) have complained about perceived exclusion by the Arabs on the one hand and domination and marginalization in employment and other social and economic sectors by the wabaras. The land question is at the core of historical grievances which has led to episodes of electoral violence in 1992, 1997 and 2007 and has lately found expression in the latest campaign agitating for secession by the Mombasa Republican Council (MRC). The areas that have been affected by election related violence in the past include Likoni, and Kisauni. In furtherance of their secession campaign, the MRC has appealed to the indigenous coastal communities not to participate in the forthcoming elections. On several occasions, they have mobilized their members to destroy their national identity cards and voters cards and threatened those who have refused to comply.
They have also threatened to disrupt any electoral process in the entire region. Recently the MRC was implicated in violent attacks during the IEBC voter registration exercise at Coast and threats against up country people. This led to a major crackdown against the group by the police. Despite the crackdown, the MRC remains a major security threat as we approach the general elections.

7.3 AREAS MONITORED

The Commission monitored party nominations in the following constituencies: Changamwe, Likoni, Nyali, Kisauni and Mvita. The Commission held meetings with various stakeholders including representatives of political parties, the police and the IEBC. The Commission also attended a stakeholders' workshop convened by IEBC and NCIC on security and the electoral process at the Castle Royale Hotel. In attendance were political party representatives, Civil Society Organisations, and the Coast Provincial Police Officer, Mr. Aggrey Adoli. The meeting discussed among other things security arrangements for the nomination process. Among the parties that were conducting nominations include ODM, TNA, and Wiper.

The Commission decided to focus on monitoring the nominations of the Orange Democratic Movement (ODM) due to the large number of aspirants in addition to being the party perceived as being the most popular within the county.

The Commission made the following key observations:

1. The turnout for the nomination exercise was good and the whole exercise was generally peaceful.
2. The exercise commenced late in a number of polling stations such as Tononoka Social Hall in Mvita constituency which started at about 3.00 p.m. This was reportedly occasioned by delay in receiving the IEBC register of voters.
3. The election officials abandoned the idea of using the IEBC voter register and instead required voters to present their national ID cards and the IEBC voter registration acknowledgement slip as proof of registration. The Commission received various allegations of multiple voting once the voters discovered that no register was being used.
4. The situation was further aggravated by the fact that the ink used by the official was not indelible as such voters could wash it away and engage in repeat voting.

5. There was a strong presence of security officers from both the regular and the administration police who ensured that the process progressed peacefully.

6. On a positive note, the team witnessed the elderly, persons with disabilities and the illiterate being assisted through the whole process.
CHAPTER 8: OBSERVATIONS FROM KWALE COUNTY

8.1 INTRODUCTION

Kwale County has an estimated population of 649,931 and 173,477 registered voters. It covers 8,270.30 square kilometers and it has four constituencies namely: Msambweni, Lunga Lunga, Matuga, and Kinango. The county is situated in the southernmost tip of the country and it borders Tanzania to the South, the Indian Ocean to the East, Taita Taveta, Mombasa and Kilifi counties to the North.

8.2 BACKGROUND

The Mijikenda, particularly the Digos and Durumas are the dominant ethnic communities although other migrant communities primarily Kamba and Kikuyu are found in settlement schemes that were established at independence. The county has been characterised by election-related violence in 1992, 1997 and 2007. During these past conflicts, particularly in 1997, militias largely drawn from the Digo community, with the tacit support of the then KANU regime targeted non-indigenous communities in Likoni and Ukunda for eviction. Kwale County has also been the bedrock of notorious militia groups including Kaya Bombo youths and lately the MRC whose leadership hails from this county. The hotspots of violence in the county include Ukunda and Diani in Matuga constituency and Msambweni constituency.

8.3 AREAS MONITORED

The Commission monitored nominations in Matuga and Msambweni constituencies where only two main parties, ODM and TNA, were conducting nominations. The following were the key observations:

1. ODM party nominations started very late around 12.00 p.m. in most polling centres and generally the parties complied to the political party nomination rules and observed the rule of law.
2. Security was provided in most polling centres. There were no incidents of violence or incitements.
4. There was disorganization and lack of preparation by parties. In some cases no clear information was given to voters. For instance during TNA nominations, some of the voters were misinformed that the exercise was postponed to the next day while others were asked to come back at 2.00pm to vote.

5. Some of the aspirant's names were not on the ballot papers and this created confusion for their supporters and when aspirants realised that their names were not on the ballot paper they immediately moved to other parties. This was specific for national assembly aspirants under ODM in Msambweni constituency.

6. In Matuga constituency, the TNA returning officers did not have ballot papers and all voters were provided with a plain paper and asked to write the candidates of their choice and this was specific for county representatives. A similar approach was also used for most county representative aspirants in all the polling centres for Kwale County for TNA/URP.

7. There were no reported cases of bribery and inducement of voters and most voters were determined to elect the candidate of their choice.

8. The tallying of ODM results for Kwale county started late at night and were completed around 4.00 a.m. and the results released in the morning. Those aspirants who lost were contented although some were contemplating moving to other parties.

9. Some of the political leaders continue to demonstrate a dearth of civility and decency through the use of vulgar, uncouth and at times inflammatory language in public. A MNA aspirant for Matuga constituency used foul language against the returning officer. He was furious that those unopposed like himself (he was the ODM candidate for the national assembly), were not announced.

In conclusion, most polling centres opened on time but the voting exercise did not begin on time because of poor logistical coordination from the national level. However, voters behaved maturely and were only concerned about the delay of the exercise and they were eager also to elect the candidates of the choice. Voter bribery and luring was minimal at the polling centres in Kwale. Security was availed at all the polling centres.
CHAPTER 9: OBSERVATIONS FROM KILIFI COUNTY

9.1 INTRODUCTION

Kilifi County has an estimated population of 1,109,735, the highest among all counties in the Coast region, and 340,948 registered voters, the second highest after Mombasa County. It is the third largest County in the Coast after Tana River and Taita Taveta and covers 12,371.40 square kilometers. There are seven constituencies in the County namely: Kilifi North, Kilifi South, Kaloleni, Rabai, Ganze, Malindi and Magarini. The County borders the Indian Ocean to the East, Taita Taveta to the West, Kwale and Mombasa to the South and Tana River County to the North. The main towns are Mtwapa, Kilifi and Malindi. The Southern part of Kilifi that borders Mombasa is densely populated. Other towns are Mazeras and Mariakani in the South Western parts of the County.

9.2 BACKGROUND

The dominant ethnic community is the Mijikenda, particularly, Giriama, Chonyi, Ribe and Rabai. Other smaller Mijikenda ethnic groups include Jibana, Kambe and Kauma. The County has a significant population of non indigenous local populations and foreign migrant communities (mostly Italian) in major tourist towns of Malindi, Mtwapa and Kilifi. Like the neighbouring Mombasa and Kwale counties, Kilifi shares similar grievances on land, political and economic marginalization. However despite its cosmopolitan nature, the County has never witnessed election related violence such as that witnessed in Kwale and Mombasa except during the 2007/8 where violence was concentrated in Mtwapa which borders Mombasa.

However, with the emergence and the spread of the MRC, the County has become a hotspot. Related to this, is the issue of Kayas which are sacred forests used by the Mijikenda communities for spiritual and cultural rites. The Kayas have gained significance in the context of elections because it is believed that during past clashes in 1992 and 1997, militia were oathed, initiated and trained in various kayas in Kwale including Kaya Bombo in Matuga, for the Digo. It is believed that the MRC have spread from Kwale to Kilifi and are believed to be training their militia in Kaya Fungo (a Shrine for Giriamas). In the recent past, there have been several attacks in the
county linked to the movement targeted at the police and IEBC when it was conducting mock elections in Malindi. Leaflets warning non residents to leave the county before elections have also been reported.

9.3 AREAS MONITORED

The Commission monitored the following Constituencies: Kilifi North Constituency (Sokoni, Matsangoni, Tezo wards), Kilifi South Constituency, Kaloleni Constituency (Mariakani ward), Rabai constituency, Ganze constituency (Jaribuni and Ganze wards), Malindi constituency (Malindi town ward) and Magarini constituency (Gongoni and Adu wards).

9.4 FINDINGS

9.4.1 SECURITY

The Commission met with the County Commissioner who reported that although there were intelligence reports of possible violence by the MRC, the security agencies were prepared to ensure the nominations exercise was conducted peacefully. In most of the polling stations visited during the TNA nominations on 19th January, there were at least two security officers manning the stations. However, in polling stations at Marereni and Kurawa primary school, there were no security personnel at the time the Commission visited. In Central Primary School in Malindi, there were no security personnel when vote counting was being conducted.

The Commission observed that there was good security presence at the ODM headquarters in Kilifi town where tallying and announcement of results was carried out. At some point there were contestations of results of the Women Representative position and the police stepped in to quell possible chaos.

9.4.2 CAPACITY AND PREPAREDNESS OF PARTIES TO CONDUCT NOMINATIONS

The Commission observed that the parties had no capacity to conduct the nominations and were generally disorganized. There was a lot of confusion and uncertainty in many polling stations during the nominations. At Kiwandani Primary School voters had turned up as early as 8.00 am but there were no clerks or officials from any parties.
At around 10.00 am clerks from KADU-Asili began conducting their nominations for the County Ward Representative. Apparently they did not have candidates for Governor, Senator, Member of Parliament or Women Representative. By noon ODM nominations had not begun in Magarini Constituency. Nominations at Marereni Primary School had not yet begun by 4.00 pm. Party officials present and the voters were frustrated but hopeful that the exercise would kick off before the day ended. TNA nomination exercise had not yet begun in Magarini Constituency and as late as 3.00 p.m., officials were still waiting for voting materials. They later learnt that the exercise had been postponed to 19th January 2013.

Some polling stations opened for less than two hours. At Central Primary School in Malindi town, voting began at 5.30 pm and by 7.30 pm counting of votes was in progress. Voting only took place for an hour and a half. Even after postponement of TNA nominations, they still did not start on time. On the 18th January 2013, the Commission visited Kiwandani Primary School at 8.00 am and the nominations had not commenced. At Kitsoeni Primary School in Kauma, Ganze Constituency, the TNA clerks and officials were yet to arrive at around 11.00 am. TNA nominations at Mariakani Social Hall begun at around 1.00 pm.

Parties had not made adequate arrangement for tallying of votes. The Commission established that the tallying for ODM nominations was to take place at Kilifi Municipal Hall but the party had not hired the premises leading to confusion and tension amongst aspirants and their supporters. At about 9:45 pm, aspirants, agents and clerks were standing outside the Municipal Hall holding the ballot buckets since they had been denied entry. Tallying eventually proceeded the following day on the 18th January 2013.

9.4.3 TRANSPARENCY IN THE NOMINATION PROCESS

There were no adequate structures in place to ensure a free and fair nomination exercise. Officers manning the nominations were not well identified and trained.

A notable observation by the Commission was that most of the voters across all parties were being guided on how to vote by agents of some of the aspirants which was a serious violation to the secrecy of the ballot. The ODM party used ordinary buckets that were not properly sealed thereby compromising the integrity of the ballot.
9.4.4 ACCOUNTABILITY FOR ELECTORAL OFFENCES AND MALPRACTICES

There were complaints of irregularities that were raised by some aspirants and their supporters. The Commission observed that the parties tried to solve the disputes and where there was likelihood of chaos they sought the involvement of the police. In Malindi Constituency, an agent of an aspirant vying for County Ward Representative who was allegedly caught with a stuffed ballot bucket at Barani, was taken to the police station.

There were no major disputes accompanying announcement of results. In ODM, Amason Kingi was declared the nominee for the governor's seat while Stewart Madzayo won the senatorial position. However, the Women Representative's outcome was contested on the grounds that a female aspirant had allegedly been declared the winner yet she had lost to another female aspirant. Later, at about 6.00 pm, the ODM County coordinator made an announcement declaring the latter the winner. However there was some fracas and the aspirants and the clerks were taken to the police station by the police to solve the disagreements. In the case of Kilifi County Women representative, it was not possible to say who won the seat.

9.4.5 PARTICIPATION BY MARGINALIZED GROUPS AND COMMUNITIES

The Commission observed that those who participated in the party nominations in Kilifi County were mostly the youth and middle aged individuals. The elderly and persons with disability did not participate adequately. The disorganization of the parties in conducting the nominations could have resulted in this.

There was an incident at Mariakani Social Hall during TNA nominations on 19th January 2013 where a voter who had an injured leg had to stand in the queue for a long time. The officials made no effort to assist him to vote and he opted to go home without voting.
CHAPTER 10: OBSERVATIONS FROM NAIROBI COUNTY

10.1 INTRODUCTION

Nairobi County is home to the capital city of Kenya. Measuring only 695 square kilometers, it is the third smallest in size after Mombasa and Vihiga counties. It has the highest population, 3,138,369, making it the most densely populated county in Kenya, with 4,515 people per square kilometer. It is the only County with more than a million registered voters, with the actual figures standing at 1,778,903 voters. It also has highest number of constituencies, seventeen in total: Westlands, Dagoretti North, Dagoretti South, Lang’ata, Kibra, Roysambu, Kasarani, Ruaraka, Embakasi South, Embakasi North, Embakasi Central, Embakasi East, Embakasi West, Makadara, Kamukunji, Starehe and Mathare. Nairobi County borders Kiambu County to the North West, North and North East, Machakos County to the East and South East and Kajiado County to the South, South West and West.

10.2 BACKGROUND

Nairobi is a cosmopolitan County with large informal settlements in almost every constituency where almost two thirds of its population resides. Settlement patterns in most of the informal settlement depict distinct ethnic patterns where certain villages within informal settlements are almost exclusively inhabited by members of particular communities. Nairobi is a political hotbed and has a history of political tension and violence since the advent of multipartyism in Kenya. Youth unemployment has fuelled these tensions and violence as many youth have joined criminal gangs in the informal settlements which are exploited by politicians during elections to unleash terror or intimidate opponents. In recent times, in informal settlements mounting tensions between tenants and landlords have led to violence which also took ethnic angle particularly during the post election violence of 2007/8. Nairobi County was among the worst hit by PEV with violence concentrated in informal settlements of Kibera, Mathare, and Huruma slums. Although most parties have a presence in the county, the two major coalitions: Jubilee and CORD command the largest following.

10.3 AREAS MONITORED

The constituencies that the Commission monitored include Kasarani, Roysambu, Kibra, Lang’ata, Westlands, Dagoretti North, Dagoretti South, Makadara, Embakasi
North, Embakasi Central and Kamukunji Constituencies. The Commission also monitored neighbouring constituencies in Kiambu and Kajiado counties.

10.4 FINDINGS

10.4.1 SECURITY

In all the constituencies visited, the Commission established that, the police and provincial administration had put in place measures to ensure that law and order was maintained throughout the nomination period. Various district and security and intelligence committees had held meetings to prepare for the exercise and they had prepared to deploy at least two police officers in each polling station that were to be used by the parties. In Mathare constituency, six police officers were to be deployed in every polling station. Further there were contingent of police officers who were to be on standby to deal with any scenario that would require their intervention. Heavy police presence was to be deployed in all areas identified as hotspots including Kibra, Mathare, Makongeni, Kaloleni, Viwandani, Jericho, Buruburu shopping centre, Kiambiu slums and other slums within Dandora I and Korogocho.

Voting was largely peaceful due to heavy security presence in most areas. Further, the Local Peace Committees also played a major role in preaching peace to the residents. In all polling centers in Dandora I, II and III, at least two representatives of the Dandora Divisional Peace Committees could be seen wearing maroon sashes written “Dumisha Amani” and controlling the crowds during polling. Further, posters were erected at the polling centers requesting members of the public to leave the premises after voting to avoid crowding. This was the initiative of the local D.O and his efforts are commendable.

However, the police faced challenges because political parties had not made adequate logistical arrangements on security. In Kasarani and Kiambu, no efforts were made by political parties to network with the police on issues of security deployment or provide formal communication about the polling centres to be used. During voting, police officers had a hectic time controlling large numbers of voters who had turned up in some polling centres. For instance, at Embakasi Primary School during the ODM nominations on 17th January 2013, the queues were uncontrollable, and there was a lot
of jostling. In one polling station in Kasarani where security officers got overwhelmed by the large number of voters, the Commission team alerted the Kasarani OCPD who brought the situation under control. In some areas, such as Mowlem in Dandora, the Commission observed huge crowds of rowdy youth along the roadside and bus stops.

There were isolated incidents of violence and demonstrations which the police were eventually able to contain. In Kibra Constituency, there were violent demonstrations as rowdy youth burnt tires protesting at alleged rigging in the ODM primaries following reports that two different persons had been issued with ODM nomination certificate for the position of MNA. In Embakasi, there were reports that an aspirant was allegedly attacked by his opponent's supporters during ODM nominations. During the TNA nominations in Embakasi Central, on 18 January 2013, an AP officer was beaten up by a group of young men who were allegedly displeased by his crowd management style. His colleagues had to fire in the air to disperse the crowd and rescue him. The police subsequently turned violent and several people including women were beaten up. There were reports of unrest and demonstrations at Morison area of Bahati following revelations that an ODM aspirant's name was missing from the ballot paper.

10.4.2 CAPACITY AND PREPAREDNESS BY PARTIES TO CONDUCT NOMINATIONS

The Commission observed that all parties were ill prepared for the nominations. There was no indication of preparedness on the eve of the official day in the polling stations and tallying centers. Further there was confusion as to the centres to be used as most parties had indicated that they would use IEBC gazetted centres but it was not clear how these would be shared out among the parties. Further, management of some institutions that were said to be considered for use as polling centres including schools and churches had not received formal communication from parties. Parties such as ODM and TNA published the list of polling stations to be used in the local dailies one day before the nomination exercise. However in the case of Nairobi County, TNA’s list of polling stations was published on 17th January 2013- the same day nominations were scheduled to take place.

This state of affairs subsisted despite assurances given to the Commission by most parties that they adequately prepared for the nominations.
The Commission visited the following party headquarters: The National Alliance (TNA), United Republican Party (URP), Wiper Democratic Party (WIPER), Forum for Restoration of Democracy in Kenya (FORD Kenya), Orange Democratic Movement (ODM), United Democratic Forum Party (UDF), New Ford Kenya (NFK), Grand National Union (GNU), Kenya African National Union (KANU), and Narc Kenya. All except ODM and URP welcomed the Commission observers to their headquarters.

During the nominations there was a huge turnout of voters notwithstanding the widespread confusion about where and how the process would be conducted. Despite the fact that most parties have their headquarters in Nairobi, most polling stations in the County experienced similar delay in delivery of voting materials as was the case in other counties.

On the nomination day, most parties did not commence the exercise on time with some polling stations in Nairobi beginning the process as late as 4.00 p.m. This was the case during ODM nominations at St Livingstone Primary School and Bidii Primary School in Buruburu where voting started at 3.15 p.m. and 5.45 p.m. respectively despite the fact that political parties had committed to carry out the exercise within a specific time frame following which their members had began queuing from 6.00 a.m. There was no communication forthcoming from party officials as to the cause of delay. Parties blamed for the delay on the failure by the Independent Electoral and Boundary Commission (IEBC) to provide them with the voter register which they had intended to use for the exercise. Only ODM conducted the exercise on the 17th January 2013 while TNA and URP postponed the exercise in the County and adjacent regions to 18th January 2013. However, Jubilee Alliance nominations for Kajiado County proceeded on the 17th January as planned. However, even after the postponement, nominations exercise in some TNA polling stations in Nairobi began late on 18th January.

10.4.3 TRANSPARENCY OF THE NOMINATION PROCESS

The transparency of the nomination process was compromised by first, the failure by all parties involved to notify voters of the polling stations to be used or to release in good time the final list of aspirants contesting for various seats.
In some cases, aspirants found out later in the day that they were not cleared by their party to contest for the nominations. Others, particularly those vying for the seats of County Ward Representatives found that their names, were either by design or inadvertently, omitted from the ballot papers prompting protests and demonstrations.

Due to the delays, there was very limited voting period forcing some areas to extend the voting time. A voter in Buruburu complained that in one polling station, voting commenced after 5.00 p.m. and in less than two hours the exercise was closed denying political party members the opportunity to vote. Voting and counting went late into the night and since most polling stations did not have electricity party officials had to make plans for alternative lighting.

The voting materials used and voting centres were not up to acceptable standards. The ballot materials used were either inadequate, of poor quality or lacked consistency. For instance, parties did not use indelible ink thus exposing the process to manipulation through multiple voting. Some polling stations ran out of ballot papers forcing polling official to improvise by writing names of candidates on plain paper. There were also inconsistencies in some ballot papers. In Roysambu constituency, at Zimmerman Ward the ballot papers for the ODM party had two names for the position of senator whereas in some parts of the County this was not the case.

In the absence party membership registers, most parties opened up the nominations to everyone (including non-members). Some political parties used the IEBC register to identify voters. However the ODM lowered this requirement and allowed anyone who produced their national identity card or the IEBC voter registration acknowledgement slip to vote thus exposing the process to rigging by multiple voting.

The setting of the voting room did not allow for the secrecy of the ballot. This observation cut across all the political parties that were monitored. Polling rooms were crowded with voters, agents and clerks and there was little effort to ensure restricted access. There were no voting booths in most areas. At Kiambu Social Hall and Rabai coffee factory, voters could be seen crowding together consulting each other as they voted and the polling officials either deliberately ignored these or were totally overwhelmed. Due to the delays, there were long queues outside many polling stations and most people left without voting.
10.4.5 ACCOUNTABILITY FOR ELECTORAL OFFENCES AND MALPRACTICES

Voter bribery, transportation of voters and multiple voting

In Nairobi and Kajiado County, the commission was able to document and receive cases of voter bribery and transportation of voters in Kayole, Kitengela and other parts of the Counties. There were also cases of multiple voting. In Kitengela in Kajiado County, TNA aspirants as well as their ODM counterparts were engaged in open vote buying at the EPZ premise's exit gates and transported EPZ workers in hired buses to various polling stations to vote. The workers would be taken to more than one polling station to vote. Each worker would be paid between 100-200 shillings upon proof that they were voters at either Nonkopir Primary School or St. Monica Primary School in Kitengela. Parties did not put in place proper measures to ensure that such incidences were addressed immediately and most perpetrators of such incidences went unpunished.

Violence

There were isolated incidences of violence. In Embakasi for instance, an aspirant was allegedly assaulted by his opponent's supporters while a police officer manning a polling station was allegedly assault by some voters in Embakasi Central but was rescued following intervention by his colleagues.

10.4.6 PARTICIPATION BY MARGINALIZED GROUPS AND COMMUNITIES

Whereas there was little evidence of deliberate attempts by parties to facilitate voting by special interest groups, the Commission observed commendable efforts by some polling officials and voters to ensure that vulnerable groups including persons with disabilities, expectant women and older persons were accorded the necessary support. In Kasarani, the Commission witnessed a high turnout of persons with visual and hearing disabilities being assisted by the presiding officer using sign language.
SUMMARY OF KEY FINDINGS

SECURITY

The KNCHR generally observed a high level of preparedness by the police and related agencies to provide security throughout the nomination process. Security was heightened during the period through means including beefing up security personnel in hotspots areas. However, the Commission obtained worrying information about individuals planning to disrupt the nominations. Interviews with police in certain parts of the country confirmed the arrests of persons accused of engaging in electoral offences.

The Commission is concerned that communities are still being mobilized for electoral violence. There was also an alarming trend of aspirants who, in expressing dissatisfaction about the process and its outcome, resorted to uncivil conduct which in some cases had the effect of inciting their supporters to violence. The Commission is concerned that in most cases, aspirants were not ready to concede defeat even where the contest had been fair.

CAPACITY AND PREPAREDNESS BY PARTIES TO CONDUCT NOMINATIONS

The Commission observed that on the eve of the nomination day all political parties were inadequately prepared to conduct the exercise. Most parties identified their polling centres on 16th January 2013 and the public was only informed through print media. In the case of TNA, the party published the list of polling stations to be used in Nairobi on 17th January 2013. In all the areas that our teams visited there were no party nomination officials preparing venues and logistics for the exercise. Nomination materials had not been delivered to their respective centres.

On the day of nomination, many polling centres opened late with some opening after 4 p.m. due to the logistical challenges at party headquarters. The delays associated with delivery of ballot papers and other materials, including IEBC provisional register forced parties such as TNA, URP and in some cases ODM to postpone their nominations exercise to 18th January 2013. Most parties failed to communicate changes in their schedule to their nomination officials, the IEBC and their supporters occasioning a lot of confusion and anxiety.
It is the Commission's considered view that all the shortcomings noted above were avoidable and that political parties should strive to effectively conduct credible party primaries. For instance NARC Kenya was able to conduct its primaries without any hitch. Additionally political parties in other democracies including South Africa have over the years conducted primaries. We are convinced that the challenges experienced by political parties are attributable to their deliberate procrastination on nominations and tampering of legal timelines relating to elections for purposes of political expediency.

**NOMINATION MATERIALS AND VOTING**

The KNCHR observed that the nomination process was marred by a lot of irregularities due to lack of standard rules of engagement and/or flouting existing rules. For instance, it was not clear what register parties were to use. In some cases, parties used the IEBC provisional register or their register of members while in extreme cases no register was used. KNCHR observed people voting without producing any form of identification. Ballot materials were inadequate and where they were available they were substandard to the extent that they could not guarantee integrity of the ballot. For instance, ballot papers of all political parties did not have security features including serial numbers, some ballot boxes were not properly secured with seals, some ballot papers were blank and in some cases nomination officials improvised by using exercise books. Indelible ink was not used. The foregoing challenges contributed to malpractices related to multiple voting and fraud.

Other shortfalls that were observed include delays in opening polling centres. For instance, one polling station in Nairobi opened from 6.00 p.m. till 8.00 p.m. The set up of some polling stations did not allow for privacy, and where parties held joint nominations, aspirants and voters in some areas were not aware of that arrangement. In other cases, aspirants disrupted voting and destroyed ballot materials. From our observations, it is possible that if there were standard rules of engagement for political parties in relation to the issues above, the nomination process would have been orderly.

**ROLE OF IEBC**

Prior to the nomination process, there were all indications by IEBC that they would not engage in the nomination process despite clear provisions of article 88(4) (d) and (e) of the Constitution which mandates IEBC to regulate the exercise.
IEBC limited its role to monitoring the process and issuing notices reminding parties of legal deadlines as well as resolving disputes emanating from nominations. At the national level, it is the Commission's considered view that IEBC's conduct during the nomination process contributed significantly to the confusion that accompanied the nomination process. For instance, two days prior to the nomination exercise IEBC firmly advised that it would not extend the deadline for parties to submit their list of nominated candidates. On the eve of that deadline, IEBC issued a contradictory statement extending the deadline from 18th January to 21st January 2013. Subsequently politicians and political parties interpreted this to mean that party hopping had been extended to 21st January 2013. Later, IEBC issued a clarification on the actual position regarding party hopping deadline. However, on 24th January 2013, it was reported in the media that IEBC was considering bending backwards to accommodate aspirants who switched parties past the deadline citing that these were transition elections. This observation was made in some constituencies in Nairobi.

Our observations, is that if there were standard rules of engagement for political parties in relation to the above issues, the nomination process would have been orderly.

**ROLE OF THE MEDIA**

The Commission commends the media for the role it played in creating awareness on the party nomination exercise as well as highlighting various malpractices. When reporting conflict however, the Commission observed attempts by the media to sensationalize issues. For instance, although there was violent demonstration in parts of Nyanza, the media amplified the matter and created an impression of complete anarchy in the area. For example, the Standard of 18th January 2013 and the Saturday Nation of 19th January 2013 dedicated multiple pages to stories and pictures depicting on chaos and violence. Words such as “violence”, “chaos”, and “bloodbath” featured prominently in the media throughout the exercise.

**ROLE OF PARLIAMENT**

The Commission noted that the amendments by parliament to the legal timelines set out in law created confusion in the party nomination process thereby undermining its credibility.
COUNTING, TALLYING AND ISSUANCE OF NOMINATION CERTIFICATES

The Commission observed lack of transparency in counting and tallying of votes and issuance of nomination certificates to winners in most centres. Our team observed cases of presiding officers declaring losers as winners while in some cases parties handed nomination certificates to losers without any justifiable reasons.

In other instances, the commission noted that although some aspirants participated in the nomination exercise of parties when they lost they were able to secure predated nomination certificates from other parties. Usually as a direct nominee. This put to question issues of party membership in particular whether they formally resigned from the other parties and joined the parties issuing the certificates etc. This amounted to abuse of the process of direct nomination and lays basis for our recommendations in the Draft Nomination Rules.

The Commission is concerned that there appeared to be a deliberate attempt by parties to manipulate voters' choices in favour of preferred candidates. This provoked demonstrations and chaos in some parts of the country where such incidences were recorded.

Parties lacked effective internal mechanisms to resolve complaints arising from nominations prompting dissatisfied aspirants to file their complaints with IEBC dispute resolution process, which resultantlly had to deal with more than 120 complaints. The IEBC's dispute resolution process is a commendable first step towards restoring transparency and accountability in the nomination process. The Dispute Resolution Tribunal was able to overturn decisions where parties had issued on certificates irregularly.

ELECTORAL MALPRACTICES AND OFFENCES

The Commission noted various incidences where voters, aspirants and members of the public participated in various election related malpractices and offences. Voter bribery was rife particularly in Nairobi, Nakuru, Uasin Gishu and Kisumu. In Kitengela, agents of aspirants for county ward hired buses to ferry workers from EPZ factories to various polling stations in the area after paying each voter Kshs. 200.

56

Aspirants directly or covertly manipulated or intimidated party nomination officials including polling clerks and returning officers in Kisumu and Nakuru. In one glaring incident, an aspirant was caught publicly issuing threats towards a member of the provincial administration to the effect that he would kill him. The Commission received reports of violence against women but when the cases were reported to the police, no action was taken.

The Commission's main concern is that whereas there were numerous glaring malpractices and offences there was no firm action from the parties and other authorities to deal firmly with such cases. While these offences should result in disqualification of candidates, parties went ahead to nominate such aspirants.

**PARTICIPATION BY THE PEOPLE**

The Commission notes the commendable huge turnout by Kenyans during the nominations exercise which is an indicator of increasing people's participation in the governance processes right from the political party level. However, the commission is concerned by the overbearing effect of ethnicity in influencing political activity in the country. A deeper scrutiny of voter participation reveals that for most voters, their interest in the process is not borne out of an informed choice but rather the voters' ethnicity. For instance, in counties in Luo Nyanza, only ODM conducted nominations since this is its bedrock of support while TNA held sway in counties in Central region and URP in the Rift region. In cosmopolitan counties all parties were able to conduct their nominations. Even in regions like Nairobi, a party's influence seemed to be determined by ethnic dynamics in various localities.

Participation by the people was further hampered by lack of proper party structures. Although it is required by law that parties should open county offices in at least 24 counties, it appears that for most parties this requirement was complied with on paper but there had been no deliberate effort to strengthen or coordinate grassroots party structures.

During nominations, all parties failed their supporters by failing to provide them with basic information to enable them participate in the nomination process including list of eligible aspirants as well as list of polling stations to be used.
PARTICIPATION BY MARGINALIZED GROUPS AND COMMUNITIES

The Commission observed that in all counties monitored, it was almost impossible to profile the candidates from special interest groups including women, the youth, and persons with disabilities. While parties claimed to have put in place measures to encourage candidates from special interest groups to contest, the reality was that in the eight counties monitored, the nominees for the position of Governors, Senators and Members for the National Assembly were mainly men. During campaigns for nominations women were victims of violence, abuse and intimidation in various parts of the country including Migori and Kajiado. In Kisumu, women complained that in most ballot papers their names were at the bottom of the list of aspirants. Currently only one party has nominated a female presidential candidate.
RECOMMENDATIONS

To Political Parties

1. This report established that the ability of parties to hold free, transparent and fair nomination was compromised by lack of proper party registers and mechanisms to verify documents presented by voters. It is therefore recommended that political parties should have all their members registered and issued with membership cards. A list of these members should be deposited with the registrar of political parties and this is the list which should be used when conducting nominations.

2. Parties should make adequate preparations well in advance of the nominations date to avoid the disorganization witnessed during the January primaries. They should ensure that the nominations are conducted at least one month before the submission deadline to the IEBC.

3. KNCHR urges political parties to discourage office bearers and particularly members of political party Election Management Boards from seeking party nominations. This is because of the evident conflict of interest and/or potential of such officials abusing their positions to influence the result.

4. Parties should put in place effective internal oversight mechanisms to redress grievances and hold to account members and politicians who violate the party's regulations.

5. Parties should conduct an audit on representation of vulnerable groups within their respective parties and put in place measures to ensure women and vulnerable groups are not disadvantaged in exercising their right to participate in the elections.

6. Party leadership should respect the will of voters and avoid imposing unpopular leaders on the people. Direct nominations should be disallowed except in those circumstances where there is only one candidate for a particular position.
7. In conducting nominations, the secrecy of the ballot should be strictly complied with.

8. To ensure realization of gender parity in our politics, political parties must give special attention to women candidates in their party lists.

9. The Commission recommends that political parties strengthen the capacity of their local branches in the counties and empower them to conduct party functions including nominations at the local level. Most party offices had to wait for voting materials from Nairobi a function which could have been

To the Registrar of Political Parties

10. The Registrar should take firm action against parties which do not comply with the provisions of the Political Parties Act, including their de-registration. For instance, in January 2013 nominations exercise, none of the parties had a proper membership list, which by law should have been submitted by parties 90 days before the nominations and validated by the Registrar.

To the IEBC

11. In the January 2013 nominations, IEBC adopted hands-off approach in contradiction of its expected role under the constitution. It should take up its constitutional role under Article 88(4) (d) which requires it to regulate party nominations.

12. IEBC must ensure compliance with the law by the political parties and take firm action against people who violate the relevant legal provisions during party nominations.

13. IEBC should safeguard the principles of free and fair elections and decline to accept party nomination certificates issued in direct contravention of the legal and regulatory provisions governing party nominations.

To the Police

14. The National Police Service should expeditiously investigate and prosecute all criminal offences which take place in the context of the nominations.
15. The National Police Service should thoroughly investigate allegations of civilians arming themselves in the run-up to the elections and to deal decisively with the spiraling insecurity in various parts of the country such as Baringo, Tana River and Garissa.

16. The National Police Service is also urged to exercise zero-tolerance on violence and ensure there are adequate security measures to contain any outbreak of violence or disturbances during the campaigns and elections.

On Amendment of the Law

17. There should be clear laws which define and provide sanctions for various offences during party nominations. The law should provide that the offenses listed under Part V of the Elections Act apply with equal force during party nominations.

18. The nominations exercise is a precursor to the main elections. From the monitoring process, it is evident that the parties are incapable and unwilling to effectively conduct nominations. For this reason, the nominations should be conducted by IEBC, whose major responsibility is the conduct of elections hence is more experienced and better equipped to conduct party primaries. The Elections Act should therefore be amended to vest the conduct of party primaries to the IEBC.

19. Political Party nominations rules should be standardized to ensure compliance with constitutional provisions. It should not be left to the discretion of each political party to develop its nomination rules.

To the Public

20. KNCHR urges the public to desist from resorting to violence where they feel aggrieved but instead pursue appropriate redress mechanisms as provided by law.

21. The public is also urged to stop cheering on politicians who incite ethnic tensions, use hate speech and unsavoury language.
22. KNCHR encourages the public to stop demanding for or receiving bribes from politicians

23. To ensure realization of gender parity in our politics, deliberate efforts must be made to change societal attitude towards women and leadership. In that regard therefore, the national Gender & Equality Commission is encouraged to commence interventions geared at enhancing women’s participation in political leadership. Additionally, women are encouraged to come out in large numbers and compete for nomination slots in order to boost their numbers in parliament and county assemblies.
ANNEX: DRAFT GUIDELINES FOR POLITICAL PARTY NOMINATION RULES (REGULATIONS)

PART 1: INTRODUCTION

Political parties in Kenya are required by law to have nomination rules that should be submitted to the Independent Electoral and Boundaries Commission (IEBC) at least three months before party nominations (section 27 of Elections Act). Further political parties are required to nominate candidates for an election at least forty-five days before a general election and in accordance with its constitution and nomination rules. Therefore no political party can operate without nomination rules or conduct nominations in contravention of its own rules.

For an election to be free and fair elections it is important to ensure that pre-election processes (including nominations) are also free and fair as this will also determine the legitimacy of the outcome of the electoral process itself. Therefore political parties should ensure that their party nomination rules promote free and fair intra-party political competition, uphold human rights and principles of democracy and rule of law.

These model party nomination rules have been developed by the Kenya National Commission of Human Rights in order to support political parties in Kenya to conduct their nominations in a manner that uphold human rights and principles of democracy and rule of law. It is hoped that parties will find them useful and apply them with appropriate adjustment to their unique party structures.

PART II: OBJECTIVES

- To ensure that political party nominations promote internal party democracy, empower citizen participation and promote adherence to the rule of law and principles of transparency and accountability and engender participation by vulnerable and marginalized sections of the society.
- To support political parties in Kenya to conduct free, fair and credible party nomination that promotes freedom of citizens to exercise their political rights under article 38 of the Constitution of Kenya 2010.
- To promote political party nomination process that are in line with principles of the electoral system under article 81 of the Constitution of Kenya 2010 and are in line with the Elections Act 2011
- To promote decentralization of political party nomination process by empowering grass roots party organs
- To enhance effective internal party dispute resolution process
PART III: PARTY NOMINATION RULES

1. NOMINATIONS BOARDS

1.1. Election Management Boards

a) The Political Party shall establish a standing National Elections Management Board (NEMB) and Local Elections Coordination Committees (LECC) not less than 12 months before the date of the next general election.

b) The Political party shall lay out the procedure for appointment, composition, and term of office of members of the National Elections Management Board and Local Elections Coordination Committees in the party constitution. Provided that membership of NEMB and LECC shall meet requirements of section 7 (2) (c), (d) and (e) of Political Parties Act and shall be approved by the National delegates' conference (NDC).

c) Party constitutions will provide for the functions of the Election Management Boards which will include conducting, supervising and coordinating nomination of candidates for all elective seats at the national, county, and constituency and ward electoral units in general elections and all by-elections as appropriate.

1.2. Eligibility of Members of Election Management Boards for Nomination in Elective Seats at National and County Levels

Members of the Electoral Board shall not be eligible to stand or be nominated for any party post or elective post at the national, county, constituency or ward level.

2. NOMINATION PROCESS

2.1 Nomination Method

a) Political parties shall encourage the use of open, transparent and competitive nomination methods, preferably through, voting through the secret ballot.

b) The Party constitution shall prescribe and restrict circumstances under which under alternative non competitive nomination methods, including direct nominations and consensus shall be employed.
2.2 Nomination Date

a) The national party executive organ shall set dates when nominations period shall open and close.

b) The nomination period shall not be more than three months. In the event of general elections, all nominations shall close 90 days before the general elections and in case of by elections, nominations shall close 30 days before the date set for the by elections.

c) The national party executive organ will give notice that the nomination period at least fourteen days before the date when nominations shall open.

d) The NEMB shall in consultation with each county LECC set nomination date for each county on any date after the start of the nomination period provided that all counties shall complete their nominations by the closing date set by the party national executive organ.

e) Subject to rule 2.2(d) above, the SNEC may conduct all nominations on the same day or it may stagger the nominations.

2.3 Applications for Nominations and Vetting of Candidates

a) Not later than 21 days after the start of the nomination period, prospective contestants shall submit applications for nominations to the respective elections offices.

b) Party nomination rules shall outline the mode of processing applications for nominations and vetting of candidates at the national and county levels.

c) If only one candidate has been cleared to contest, the candidate shall be declared the nominee for the respective seat.

d) Party nomination rules shall outline the mode of processing applications for nominations to the party list.
2.4 Nomination Campaigns

The campaign period shall commence a day after publication of nominees list and end 24 hours before the official nomination date for each county.

2.5 Voting

a) Subject to rule 2.1. above, voting for all seats shall be by secret ballot.

b) All register and fully paid up party members shall be eligible to vote in the nominations. The party membership register should be available for inspection at the principal office of the party (and regional offices) at no cost or minimal cost.

c) At least fourteen days before the nomination, NEMB shall publish the list of all polling stations and tallying centres to be used, method of voting and identification documents required for one to participate in the nomination.

2.6 Ballot Materials

a) The SNEC shall prepare separate pre-printed ballot papers for each contested position.

b) The ballot papers shall contain names of all nomination contestants in alphabetical order by their first names.

c) All ballot materials shall be delivered to their respective polling stations not later than 24 hours before the nomination day.

d) The materials shall include clearly labeled, transparent ballot boxes with proper seals as well as indelible ink.

e) NEMB shall publish a list of all returning officers at the national and county levels fourteen days before the nomination date.

f) Where appropriate the NEMB, with the approval of the national party executive organ, shall invite the Independent Electoral and Boundaries Commission (IEBC) to assist in conducting the whole or part of the party nomination process.
2.7 Counting, Tallying and Announcement of Results

a) Voting, counting, tallying and announcement of results shall be conducted in the manner prescribed by IEBC in the conduct of elections in Kenya and must be concluded within a reasonable time, but not later than 48 hours.

b) The declarations forms shall be signed by the returning officer and the respective candidates’ agents. Copy of the forms shall be issued to all the candidates or their respective agents.

2.8 Party Voters Roll

a) At least 30 days before the date set for nominations, the NEMB shall cause to be published the roll of all eligible party voters and the polling stations to be used in the respective counties.

b) No party membership registration shall take place in any county during the official nomination period.

c) The NEMB shall publish the list of all eligible candidates in the media, party offices and in conspicuous places in all counties.

3. DISPUTE RESOLUTION

a) At least 30 days before the nomination period, the national party executive organ shall establish a nomination dispute resolution panel comprising of 5 members. The panel shall establish dispute resolution panels at the county, constituency and county ward levels. The panel shall be responsible for determine any dispute arising out of the nomination process.

b) The dispute resolution shall determine disputes relating to the nomination process including but not limited to application for nomination and vetting of candidates, conduct and outcome of the nomination process.

c) The Party shall prescribe rules for the dispute resolution process which shall require that all disputes shall be submitted to the internal party dispute resolution process before being submitted to other external dispute resolution organs.

d) The certified copies of the rulings of the party dispute resolution organ shall be filed with the IEBC, Registrar of Political Parties, and the Political Parties Dispute Tribunal within seven days.

e) Any person aggrieved by the decision of the decision of NEMB has a right of appeal to any other external dispute resolution organ.
f) The certified copies of the rulings of the party dispute resolution organ shall be filed with the IEBC, Registrar of Political Parties, and the Political Parties Dispute Tribunal within seven days.

g) Where the dispute is referred to the IEBC, IEBC shall require the petitioner to present certified copies of rulings of the internal party dispute resolution mechanisms. Where there is no evidence that internal party dispute resolution processes have been exhausted, the IEBC may refer the dispute back to the party to be handled in accordance with party rules.

4. PRESENTATION OF NOMINATION CERTIFICATES

a) The authorized party official shall issue nomination certificate to all nominees for onward presentation to IEBC after the conclusion of the nomination or dispute resolution process.

5. NON COMPLIANCE WITH NOMINATION RULES AND ELECTORAL LAWS

a) Party nominations rules shall proscribe offences that are outlawed during party nomination and the prescribed penalty for each offence. The NEMB shall be responsible for enforcing these rules. The rules shall also prescribe the procedure for disciplinary hearings by the disciplinary committee.

b) The IEBC shall prescribe the offences that amount to electoral offences during party nomination processes. The IEBC shall proscribe the procedure for enforcing code of conduct during party nominations.
Head Office
1st Floor CVS Plaza, Kasuku Rd, Off Lenana Rd,
P.O. Box 74359-00200 Nairobi, Kenya
Tel: +254-20-2717908/928/900
Fax: +254-20-271610
Mobile: +254-722-256448, +254 733-780000
Email: haki@knchr.org
Twitter: @hakiKNCHR
Facebook: KNCHR
Website: www.knchr.org

Coast Regional Office
Panal lane, off Haile Selassie Avenue
40 Metres from Royal Court Hotel
P.O. Box 90171-80100, Mombasa
Telephone: 041 2220468

North Rift Regional Office - Kitale
Ambwere Plaza, Ground Floor
P.O. Box 2999-30200 Kitale
Tel: +254-054-31773
Email: northrift@knchr.org

North Eastern Regional Office - Wajir
Airstrip Road/Public Works
P.O. Box 363-70200 Wajir
Tel: +254-046-421512
Fax: +254-046-421085
Email: northernkenya@knchr.org
Website: www.knchr.org