



**THE COMMISSION ON ADMINISTRATIVE JUSTICE**  
**“Office of The Ombudsman”**

*Hata Mnyonge ana Haki*

Championing  
**Values**  
in Hard Times:

Election Monitoring and  
Observation Report





# **The Office of the Ombudsman**

## ***Hata Mnyonge ana Haki***

### **Vision**

To be an effective overseer of responsiveness and servant-hood in public offices at national and county levels.

### **Mission**

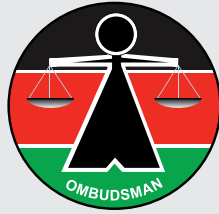
To enforce administrative justice and promote constitutional values by addressing maladministration through effective complaints handling and dispute resolution.

### **Core Values**

Fairness, Accountability and Diversity

Championing  
**Values**  
**in Hard Times:**  
Election Monitoring and  
Observation Report





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**“Office of The Ombudsman”**  
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# Foreword



**The 2013 General Elections in Kenya are perhaps the single most significant Sub-Saharan electoral contest in recent times.**

**This is not only because the elections are the first after widespread post-election violence of 2007-2008 which claimed more than 1,200 lives, displaced 350,000 people, and obliterated more than half of the country's GDP, but more significantly because it was the country's first General Election under a new constitution. The**

**Constitution of Kenya of 2010 is reputed to be among the most progressive in the world, with radical changes in the structure of governance.**

Kenya entered a new political era after August 2010 referendum with an approval of a new constitution that markedly enhanced protection of basic rights, significantly constrained executive power, and provided for devolution to 47 newly created county governments. The Constitution of Kenya 2010 was indeed a lever that held the promises to re-shape institutions and change how the country is governed.

The Constitution set a conducive context for a successful electoral process through the provision of electoral laws critical for the conduct of free and fair elections as well as set guarantees for electoral efficiency and effectiveness. It also set up constitutional

commissions and independent offices with oversight mandates to protect constitutionalism, ensure adherence to democratic values, and protect the sovereignty of the Kenyan people.

The General Election in March 2013 was the first test of the strength of new constitutional institutions—particularly the Independent Electoral and Boundaries Commission (IEBC); and the Judiciary. It also tested the relevance of constitutional commissions

and independent offices in challenging times; in addition to challenging the political will of Kenya's leaders, the elite and the public to respect the new dispensation and the rule of law.

The Commission on Administrative Justice, (Office of the Ombudsman) responded to this challenge by undertaking election monitoring and observation exercise with regard to matters under its mandate. In line with its Constitutional mandate to protect constitutionalism and the sovereignty of the Kenyan people; as well as the mandate to check against abuse of power, improper conduct and misbehaviour in public office derived from both the Constitution and Commission on Administrative Justice (CAJ) Act of 2011, the Commission monitored misuse of state resources during the elections campaigns. The Commission also observed the election and conducted post election monitoring exercise.

The findings in this report is an indictment to both previous and current governments; institutions and officers found to have misused state resources and engaged in electoral malpractices.

Articles 249, 1 (a-c) of the Constitution mandates the commissions and independent offices to protect the sovereignty of the people; secure the observance by all state organs of democratic values and principles; and promote constitutionalism. Any conduct of a public servant that negates the sovereign powers vested in the people of Kenya in Article 1 of the Constitution, and/or the national values and principles of good governance

**... The Commission chose to champion values in hard times. We chose to monitor the use/misuse of state resources as well observe the elections to protect public wealth, promote accountability in public service and make contributions towards protecting the credibility of the electoral process.**

prescribed in Article 10 of the Constitution, is tantamount to improper conduct actionable under the Constitution and the Commission on Administrative Justice Act 2011. As an institution charged with oversight over state and public officers; this is the basis upon which the Office of the Ombudsman conducted elections monitoring and observation exercise. We hereby present our findings to the public for scrutiny and action by the relevant public institutions.

We note that the 2013 elections were conducted under a tense and speculative environment, being the first elections after the 2007/2008 violence. Caution and restraint was necessary. It was crucial that Kenya avoids a repetition of the violence experienced after the 2007 presidential elections. The desire for peace was thus paramount.

The Elections were also conducted under a new constitution, new statutes and a more complex electoral system which, for the first time, included six different posts namely: the presidency; members of the National Assembly; county senators, county governors; members of the newly formed county assemblies and women's representatives. This was bound to create confusion and anxiety.

Under such circumstances, however, it was still necessary for institutions such as the Commission on Administrative Justice (CAJ) not to abdicate the oversight mandate in public administration in the context of elections. The Commission chose to champion values in hard times. We chose to monitor the use/misuse of state resources as well observe the elections to protect public wealth, promote accountability in public service and make contributions towards protecting the credibility of the electoral process.

Through this report, we hope to spur in all Kenyans a civic responsibility to protect, uphold and defend the constitution as well provoke public institutions to embrace accountable governance, and exemplary leadership and integrity in the conduct of government business.

To borrow from renown poet Robert Frost, two roads diverged in a wood, and the Ombudsman took the one less travelled by. We hope this report will make some difference, championing values in hard times.

**Otiende Amollo, EBS,**

*Chairperson, Commission on Administrative Justice*



# Acknowledgements

**The Commission on Administrative Justice (Office of the Ombudsman) acknowledges with gratitude the efforts of the many players who made its 2013 Election Monitoring and Observation process a success.**

Our gratitude goes to the UNDP whose financial and technical support made this intervention possible.

We are indebted to our field monitors and Kenyans of all walks of life who volunteered credible information on misuse of state resources and other elections malpractices.

Special thanks to the National Cohesion and Integration Commission (NCIC) for their valuable support in the field monitoring exercise.

Our sincere gratitude also goes to our Commissioners and staff, led by the Team Leader, Linda Ochiel, Director, Advocacy and Communications, Edward Okello, Special Adviser to the Chair, Phoebe Nadupoi, Senior Manager, Advocacy and Communications, Chizzy Ambala, Legal Assistant and Alex Kimani, IT and Communications Intern. The generous contributions and devoted effort by staff and Commissioners helped to gather accurate and credible information that helped promote political accountability; as well as leadership and integrity in the 2013 General Elections.

# Abbreviations

APK	Alliance Party of Kenya
CAJ	Commission on Administrative Justice
CORD	Coalition for Reform and Democracy
EAC	East African Community
EACC	Ethics and Anti-Corruption Commission
IEBC	Independent Electoral and Boundaries Commission
GK	Government of Kenya
NCIC	National Cohesion and Integration Commission
PSC	Public Service Commission
POEA	Public Officers Ethics Act
TA	Transition Authority
TNA	The National Alliance

# Executive Summary

**The 4<sup>th</sup> March 2013 General Election in Kenya were the first elections held under the new Constitution of Kenya, 2010. The high voter turnout and restraint witnessed during the process, in spite of the challenges experienced, confirmed Kenyans' desire for peaceful co-existence and a representative government.**

As an independent constitutional commission with a mandate to uphold, protect and defend the Constitution, the Commission on Administrative Justice (Office of the Ombudsman) made significant efforts in contributing to the credibility and integrity of the elections.

In line with its Constitutional mandate to protect constitutionalism, ensure adherence to democratic values and principles, and protect the sovereignty of the Kenyan people; as well as the mandate to check against abuse of power and improper conduct derived from both Constitution and Commission on Administrative Justice (CAJ) Act of 2011, the Commission monitored misuse of state resources, observed the elections and conducted post election monitoring exercise. The exercise yielded positive results. The intervention went a long way not only to protect the integrity of the electoral process, but also to protect public wealth.

The findings in this report reveal improper conduct and abuse of office by public officials and institutions during the pre-election and post elections period.

In the pre-election period, the Commission monitored the use/misuse of Government of Kenya (GK) vehicles, government offices and engagement of public servants in partisan politics. The Commission found that at least 15 vehicles assigned to various ministries and departments were spotted at various campaign rallies across the country. Among these included the Office of the President, Office of the Vice President, Ministry of Planning, National Development and Vision 2030, the Office of the Prime Minister, East African Community (EAC), and Ministry of Regional Development Authority.

The Commission verified the ownership of these vehicles with the Registrar of Motor Vehicles and sought explanations from the concerned Ministries and Departments through formal inquiries. Three ministries responded.

In view of these findings, the commission makes strong recommendations to the Registrar of Motor Vehicles to reconsider, tighten, or abolish the assigning of private number plates to GK vehicles as this process is open to abuse.

Few allegations of engagement of public servants in partisan politics and other electoral malpractices such as voter bribery were also reported in various parts of the country.

The Commission's intervention was premised on the fact that Government resources belong to all citizens and should not be used for private gain, or for undue advantage by political aspirants and/or parties. Past elections in Kenya witnessed a common pattern of abuse of office and improper conduct by public officers engaging in partisan politics and misuse of state resources. The intervention of the Commission was also informed by its oversight mandate on abuse of office and improper conduct stipulated in the Constitution and the Commission on Administrative Justice Act, 2011. The field monitoring exercise was conducted in partnership with the National Cohesion and Integration Commission (NCIC).

The monitoring process significantly stimulated public debate and increased public vigilance on abuse of public office, improper and misbehaviour conduct by state and public officials. As a result, incidences of abuse of office or improper conduct by public officials reduced significantly while a number of officials went to great lengths to camouflage GK number plates.

Additionally, in the pre-election period, in conjunction with other Constitutional Commissions and independent offices, the Commission also engaged the Independent Electoral and Boundaries Commission (IEBC) to enhance election integrity and preparedness. The goal was to make a contribution in ensuring enforcement of the Constitution and the Elections Act, 2011 in order to guarantee free and fair



elections. During the nominations and the campaign period, political parties and politicians flouted new electoral rules prompting the Constitutional Commissions to call on IEBC to ensure stringent adherence to the Electoral Code of Conduct. Additionally, the Commission sensitized Kenyans to participate effectively and act responsibly during the electoral process. The Commissioners and staff of the Commission conducted civic education as well as observed actual elections in various polling stations across the country.

The Elections Act of 2011 provides deterrent measures against electoral malpractices. However, voter bribery, violence, claims of ballot stuffing and other elections malpractices were rampant during the pre-election, elections and post elections period. Stringent enforcement of the electoral laws was a necessary deterrent against electoral malpractices. Additionally, in the absence of a law on campaign funding ceilings, it is difficult to establish the amount of resources received and expended by political parties in conducting their campaigns.

While the conduct of these elections reflected a deepening national consensus and commitment to defend the Constitution, the process was affected by avoidable administrative and logistical irregularities. The controversial procurement of

Biometric Kits by Independent Electoral and Boundaries Commission (IEBC) and the subsequent malfunction of both the Biometric Voter Registration (BVR)

Kits and Electronic Results Transmission and Dissemination System is deemed to have undermined a section of the public's confidence in the electoral system and process. Particularly, the failure of the Voter Identification Kits intended to eliminate human error and seal loopholes likely to be exploited to manipulate the elections results created suspicion of a conspiracy of an electoral fraud.

The post election monitoring exercise on the other hand, revealed a colossal spending by public institutions on congratulatory messages to His Excellency President Uhuru Kenyatta and the Deputy President, Honourable William Ruto on their election. At least 70 public institutions spent approximately KES 25,367,672 to publish congratulatory messages in honour of the President, and his Deputy in the print media. Of the 70 institutions that published the congratulatory messages, 13 spent over KES 500,000.



The Coast Development Authority was the highest spender at approximately KES 1,162,868. Other high spenders included the National Cohesion and Integration Commission (NCIC) at approximately KES 907,668; the Kenya Plant Health Inspectorate Service at approximately KES 906,820 and the National Authority for Campaign against Alcohol and Drug Abuse (NACADA) at KES 539,206. Spending of this kind by public institutions amounts to misuse of state resources and improper conduct. Most of these institutions have constitutional and statutory oversight mandate on the executive and should conduct themselves in manner that inspires public confidence in their neutrality and independence.

Disputes also arose over the nomination of representatives of special interest groups to the county ward assemblies prompting the Gender and Equality Commission (NGEC) to seek the intervention of the court. NGEC questioned the criteria used in nominating candidates to county wards with little regard for community, cultural and gender balance. Nominations to the county assembly are reserved for women, the disabled, marginalized groups, minority groups and other special groups. A negotiated solution requiring fresh publication of the list of nominees that takes into consideration the special interest groups was adopted and delivered as an order of the court.

In view of the findings above, the Commission makes the following recommendations:

### **Recommendations to IEBC**

- IEBC should strictly enforce the electoral law that includes the Elections Act, 2011 to curb electoral malpractices such as the misuse of state resources, voter bribery, violence and hate speech. To win the confidence and support of Kenyans, IEBC must take stern actions against public servants who violate electoral laws and politicians who ignore rules, exploit grievances and stoke divisions through violence and ethnic campaigning in future elections. The institution should also prioritize and allocate sufficient resources for voter education.
- IEBC should conduct an internal evaluation of the entire electoral process to identify and seal loopholes that could compromise the integrity of the elections.

## **Recommendations to Parliament**

- Parliament should pass the Campaigns Funding Bill to introduce campaign-spending thresholds for political parties and candidates, to be monitored and enforced by IEBC, to reduce the monetisation of politics.

## **Recommendation to the Director of Public Prosecutions**

- Take action against public officers responsible for vehicles spotted in campaign rallies as tabulated in this report for contravening the Public Officer Ethics Act, 2003, Anti Corruption and Economic Crimes Act 2003 and the Elections Act of 2011.

## **Recommendations to the Auditor-General**

- Surcharge public officers responsible for vehicles spotted in the rallies tabulated in this report.
- Follow-up and cross check expenditures by public institutions on congratulatory messages and take appropriate action against such institutions in accordance with the law.

## **Recommendations to the Registrar of Motor Vehicles**

- The Registrar of Motor Vehicles should reconsider assigning private number plates to GK vehicles, as clearly from the Commission's findings, the process is open to abuse. The regime should be reconsidered, tightened, or abolished all together.







Courtesy of the Nation Media Group

*Protecting the*  
***sovereignty*** *of the*  
***Kenyan people***

# Introduction

**The Commission on Administrative Justice (Office of the Ombudsman) is a Constitutional Commission established under Article 59 (4) and Chapter Fifteen of the Constitution, and the Commission on Administrative Justice Act, 2011.**

The Commission has a mandate to *inter alia*, investigate any conduct in state affairs or any act or omission in public administration in any sphere of Government and complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct. Further, the Commission has a quasi-judicial mandate to deal with maladministration through conciliation, mediation and negotiation where appropriate.

Pursuant to its mandate under Articles 59(2) and 249 of the Constitution and Section 8 of the Commission on Administrative Justice Act, the Commission undertook an election monitoring exercise to, among other things, protect public wealth by monitoring the use/misuse of public resources in election campaigns as well as contribute to the credibility and integrity of the electoral process. The goal of the monitoring and observation process was to promote accountability within the public service and protect the integrity of the electoral process.

The specific objectives of the process were to:

- i) Expose abuse of public office and improper conduct by State and Public Officials;
- ii) Ensure compliance with the law relating to the use of public resources; and
- iii) Promote constitutionalism by ensuring respect for democratic values and adherence to the rule of law.

The programme focused on the following areas:

- i) Use of public vehicles, aircrafts and equipment
- ii) Use of public facilities such as offices
- iii) Involvement of public officers in political activities
- iv) Conditioning public services on pledges of votes for certain parties or candidates

# Background

**The use or abuse of public resources by parties in Government in their electoral campaigns and in post election congratulatory advertisements has serious fiscal implications on development projects and service delivery in Kenya. The colossal amounts of state resources deployed on elections by political actors has in the past contributed to depriving Kenyans of essential services and development projects. This has also created an uneven playing field for political competition.**

Political aspirants holding public offices have previously had an advantage from their incumbency in many ways including control of state resources, such as communications equipment, vehicles, staff and funds, and have inappropriately used such resources to gain re-election. Such actions have not only undermined the credibility of elections, but also amounted to abuse of office and improper conduct under the Commission on Administrative Justice Act (CAJ) 2011, the Constitution of Kenya 2010 and the Elections Act 2011.

Evidence from the past elections have shown a common pattern of abuse of office and improper conduct by incumbents during elections campaigns. Use of state resources in congratulatory messages in honour of successful candidates have also previously been rampant. As an institution with an oversight mandate on abuse of office, improper conduct and misbehaviour in public service, the CAJ found it prudent to monitor use/misuse of state resource in elections campaigns as well as conduct elections monitoring.

Article 59 (2) (h) of the Constitution and Section 8 (d) of the CAJ Act mandates the Commission to “investigate any conduct in **state affairs** or any **act** or **omission in public administration in any sphere of government**, that is alleged or suspected to be **prejudicial** or **improper** or to result in any impropriety or prejudice.” Articles 59

2 (i) and (j) mandates the CAJ to investigate complaints of **abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct**. Articles 59 (j) of the Constitution and Section 8 (c) of the CAJ Act mandate the Commission to report on complaints investigated under (h) and (i) and take remedial actions. This is the basis upon which the Commission undertook the elections monitoring and observation exercise.

Articles 249, 1 (a-c) mandates CAJ, just like other Constitutional Commissions and independent offices, to protect the sovereignty of the people, secure the observance by all state organs of democratic values and principles; and promote constitutionalism. Among the values in Article 10 (2) include democracy and participation of the people, and transparency and accountability. The national values and principles of governance are binding to all state organs, state officers, public officers and Kenyans in general.

In keeping with the above legal provisions, the Commission deployed its staff to conduct an observation of the 2013 general elections in different polling stations across the country. Below is a list of strategies deployed by the Commission in the pre and post elections monitoring as well as the elections observation.

*Ensuring* **respect**  
**values**

*for* **democratic**  
*and* **principles**

# Strategies

## Campaigns Monitoring

### (i) Field Monitors

**The Commission entered into a partnership with the National Cohesion and Integration Commission (NCIC) for joint monitoring of the 2013 General Elections. The Commission focused on misuse of state resources during the campaigns and in the immediate period after the elections. 47 monitors, (each per county) were recruited, trained and deployed to monitor the use of GK vehicles, Government aircrafts such as police helicopters, and use of government offices. They also monitored participation of public officers in partisan politics among other electoral malpractices.**

Equipped with high-tech digital cameras and audio recording devices, the monitors deployed to the 47 counties submitted reports to CAJ on a weekly basis. The data was analyzed and entered into a database. The Commission provided two hotlines for direct feedback as well as utilized the NCIC's toll-free number for real-time feedback. Civil servants were encouraged to report misuse of public resources by politicians and political parties during the electioneering period.



**The Table below lists CAJ's focus on misuse of state resources.**

Category	Item/Documentation
1. Logistics	GK Vehicles /state owned helicopters and aircrafts such as the Police helicopters. Other vehicles used by aspirants for further verification of the number plates
2. Human resources	Engagement of public servants in partisan politics/ use of public servants for advancement of a politician's or political party's agenda e.g. use of Provincial Administration and public officials to organize for rallies and other political events on behalf of political parties.
3. Infrastructural facilities	Use of state owned enterprises/offices/communications facilities in addition to use of government offices or buildings /website/phones for campaign purposes.
4. Administrative fairness and responsiveness	Conduct of public officials during elections: (patronage, unfair/partisan behaviour/ political discrimination in providing campaign permits or discourtesy.

## **(ii) Strategic Political Rallies**

The Commission staff were deployed to monitor misuse of state resources in strategic rallies across the country for a period of two weeks. The strategic rallies focused on campaigns conducted by four political coalitions namely: the Coalition for Reforms and Democracy (CORD), Jubilee Coalition, Amani Coalition and Eagle Alliance.

## **Election Observation**

The Commission conducted a monitoring of the campaigns process as well as observed the elections. Staff and Commissioners were accredited by the IEBC to observe the elections on 4th March 2013 in various parts of the country.

## **Post Election Monitoring**

The Commission conducted a content analysis of congratulatory messages published in the print media following the swearing in of the His Excellency President Uhuru Kenyatta and his Deputy H.E. William Ruto. The exercise sought to establish the amounts of state resources used by public institutions to publish these messages in the print media. The Commission has made recommendations to relevant government bodies for action.

*Monitoring misuse*  
to **protect**

*of state resources*  
***public wealth***

# Findings

The Table 1 below provides a summary of the political rallies and issues observed

Date	Political Party/ Coalition	County	Venue	Nature of alleged malpractice(s)
19 <sup>th</sup> February 2013	Jubilee	Kisii	Nyakoe Hotel	Use of Provincial Administration to mobilize the public for campaign rallies
22 <sup>nd</sup> February 2013	KNC	Meru	Nkubu Market	Use of Government vehicles
23 <sup>rd</sup> February 2013	Amani	Kakamega	Shinyalu Market	Use of Government vehicles
28 <sup>th</sup> February 2013	CORD	Nakuru	Various locations	Use of Government vehicles
17 <sup>th</sup> -24 <sup>th</sup> February 2013	TNA	Tharaka Nithi	Various markets and schools	Allegations of voter bribery
17 <sup>th</sup> -24 <sup>th</sup> February 2013	APK	Tharaka Nithi	Various markets and schools	Allegations of voter bribery
1 <sup>st</sup> March 2013	CORD	Vihiga	ODM offices	Use of Government vehicle
1 <sup>st</sup> March 2013	CORD	Kakamega	Muliro Gardens	Use of Government vehicles
28 <sup>th</sup> February 2013	Jubilee	Mombasa	Khadija Primary School	Use of Government vehicles
28 <sup>th</sup> February 2013	CORD	Samburu	Maralal, Samburu Teachers Sacco	Allegations of voter bribery
27 <sup>th</sup> February 2013	CORD	Garissa	Garissa Stadium	Use of Government Vehicles
1 <sup>st</sup> March 2013	CORD	Kisumu	Kisumu stadium	Use of Government Vehicles
1 <sup>st</sup> March 2013	Jubilee	Meru	Kinoru Stadium, Meru Town	Use of Government vehicles
1st March 2013	Jubilee	Taita Taveta	Taita Taveta	Use of Government Vehicles

## (i) Monitoring Misuse of State Resources During Election Campaigns

A number of vehicles suspected to belong to Government of Kenya (GK) were spotted at various campaign rallies, while few allegations of engagement of public servants in partisan politics were reported.

**Table 2 below lists details of vehicles spotted at various rallies across the country.**

Date	Reg No.	Political Party / Coalition	Location
<b>Eagle Alliance</b>			
27 <sup>th</sup> Feb 2013	GKA 150U (White Passat)	Eagle Alliance	Ainamoi, Kericho
22 <sup>th</sup> Feb 2013	GKA 150U (White Passat)	Eagle Alliance	Nkubu Market, Meru
<b>CORC Alliance</b>			
23 <sup>rd</sup> Feb 2013	GKA925U, GKA 328H, GKA 738N, GK 853X	CORD	Afraha Stadium, Nakuru
1 <sup>st</sup> March 2013	GK A 859U, Nissan X-Trail, white, camouflaged as KAV 686V	CORD	Muliro Gardens, Kakamega/Kisumu Rally
1 <sup>st</sup> March 2013	Nissan Double Cabin (White) Registration Number GKA 603R; GKA 040U and GKA 900U	CORD	Kisumu Rally
<b>Jubilee Coalition and Alliance Party of Kenya</b>			
1 <sup>st</sup> March 2013	TCD, 385, EAC	Alliance Party of Kenya (Jubilee Coalition)	Kinoru Stadium, Meru Town
1 <sup>st</sup> March 2013	GK A 444M Nissan X-Trail, Silver	Jubilee	Kapkatet Stadium, Kericho
3 <sup>rd</sup> March 2013	GK 911 U	Jubilee	Taveta Constituency

The Commission verified the ownership of the vehicles with the Registrar of Motor Vehicles and sought an explanation from the concerned Ministries and Departments through formal inquiries.

**Table 3 below provides a summary of vehicles spotted in various rallies and responses from various ministries.**

Vehicle details	Ministry/Department	Response
GKA 150U	Ministry of Planning, National Development and Vision 2030	Vehicle assigned to Former Assistant Minister, Hon. Peter Kenneth
GKA925U	Office of the Vice President	No response
GKA 328H	Office of the President	The vehicle does not belong to this office
GKA 738N	Office of the Vice President	No response

Vehicle details	Ministry/Department	Response
GK 853X	Awaiting response from Registrar of Motor Vehicles	The Commission is yet to receive a response from the Registrar of Motor Vehicles on ownership details of this vehicle.
GK859U/KAL 686V	Office of the Prime Minister	No response
GK 129P	Ministry of Regional Development Authority	Awaiting response
GK 900U	Provincial Administration, Office of the President	No response
GK 686V	Provincial Administration, Office of the President	No response
GKA 1040U	Ministry of Finance and Planning	No response
GKA 040U	Awaiting response from Registrar of Motor Vehicles	The Commission is yet to receive a response from the Registrar of Motor Vehicles to confirm ownership details of this vehicle.
GK 603 R	Awaiting response from Registrar of Motor Vehicles	The Commission is yet to receive information from the Registrar of Motor Vehicles on which Ministry this vehicle is assigned.
T CD 385 EAC	East African Community, assigned to Hon Peter Munya	The Ministry of the East African Community confirmed that there is no government vehicle bearing this registration number. The Ministry further asserted that the EAC Secretariat did not provide a Community vehicle to the then Minister, nor any other Partner State Minister as a matter of policy.
GK A 444M	Ministry of Planning, National Development and Vision 2030	Vehicle belongs to Ministry of Planning, National Development and Vision 2030, but was previously attached to the Deputy Prime Minister's Press Service Unit whose mandate was to cover his official functions

## Analysis of Sample Cases

### 1. Eagle Alliance Coalition

#### *Kenya National Congress Party (KNC)*

A silver VW Passat Registration Number GKA 150 U, was part of the motorcade of the Eagle Coalition Presidential aspirant Hon. Peter Kenneth during his rally on 22<sup>nd</sup> February at Nkubu Market in Meru County. A report from the Registrar of Motor Vehicles revealed that the vehicle was assigned to the Ministry of Planning, National Development and Vision 2030.



In a letter dated 3<sup>rd</sup> May 2013, the Ministry confirmed that the GKA 150U, was assigned to former Assistant Minister Honourable Peter Kenneth. A work ticket supplied by the Ministry confirms that the vehicle was indeed in Meru on this date. The Ministry has however indicated in its letter to the CAJ that it had advised all public servants within the Ministry to ensure vehicles and facilities under the ministry are not used for political campaigns.

## **2. CORD Coalition**

### ***(i) Motor Vehicles***

Vehicles with the following registration numbers were spotted during a rally organized by the CORD Coalition at Afraha Stadium on 23<sup>rd</sup> February 2013 in Nakuru: GKA 925U, GKA 328H, GKA 738N, GKA 853X. The Commission submitted the details of the vehicles for verification by the Registrar of Motor vehicles and following feedback from the Registrar, wrote to the concerned ministries to seek for a right of reply. The Ministries in question included: Office of the Vice President (GKA925U, and GKA 738N) and the Office of the President and Ministry of Home Affairs (GKA 328H). The Registrar of Motor







Vehicles could not establish from his records the ownership details of vehicle number GKA 853X. The Commission has sought feedback on why the details of the vehicles are not available in the system.

A white Nissan X-Trail bearing two registration numbers KAL 686V and GK A 859U (on the windscreen and the side mirror) was spotted at a Rally organized by the CORD Coalition in Kisumu on Friday, 1<sup>st</sup> March 2013. The same vehicle was spotted at Muliro Gardens during CORD Coalition Rally in Kakamega on 1<sup>st</sup> March 2013. This vehicle had two loud speakers on its roof, which were used during the Rally. The Registrar of Motor vehicles confirmed that the vehicle was assigned to the Office of the Prime Minister. The Commission is yet to receive feedback on why this vehicle bears two registration numbers and was used in these campaigns.



*A Nissan Xtrail with two different registration numbers, GKA 859 on the windscreen and KAL 686V on the number plate spotted at CORD rally in Kisumu on 1st March 2013.*

A Nissan Double Cabin (White) Registration Number GKA 603R was spotted at a CORD rally in Kisumu on 1<sup>st</sup> March 2013.

Two white Land Rovers bearing the registration numbers GKA 040U and GKA 900U were spotted at a Cord Rally that was held in Kisumu on the 1<sup>st</sup> of March 2013. The Registrar of Motor vehicles has confirmed that the two vehicles were assigned to the Ministry of Finance and Planning and the Provincial Administration, Office of the President respectively.



### ***(ii) Voter Bribery***

A senatorial candidate was reported to have given Laikipia University students Kshs. 100,000 to conduct campaigns for him in Samburu County. The alleged bribery took place at Cheers Restaurant, Maralal on the 28<sup>th</sup> of February 2013. An audio recording of the meeting is available. In addition, it was reported that police officers had sought bribes from the candidate and that officials of the Samburu Teachers' Sacco assisted in giving out the money.

## **3. JUBILEE Coalition**

### ***(i) Motor Vehicles***

A member of East African Parliament, Mr. Peter Munya, was spotted using a vehicle number TCD, 385, EAC at a Jubilee Coalition Rally Kinoru Stadium, Meru County on 1<sup>st</sup> March 2013. The Commission sought for feedback from Ministry of the East African Community that clarified that the vehicle does not belong to the Ministry. The Ministry further argued that the EAC Secretariat did not provide an EAC vehicle to the then Assistant Minister and would not provide a vehicle to any other Partner State Minister as a matter of policy.





*Members of the public block a GK vehicle assigned to the Taita Taveta Constituency Development Fund (CDF) office. The vehicle was reported to have been used to distribute foodstuff to woo potential voters. The matter is under investigation by the Taita Taveta police.*



It was reported that residents intercepted a Government vehicle, registration number, GK 911 U belonging to the Taveta Constituency Development Fund (CDF) office as it was distributing foodstuff to woo potential voters. The vehicle was impounded and taken to Taveta Police Station. The incident was recorded in the Station's Occurrence Book (OB). These allegations were also published in a section of the media (Daily Nation of Tuesday 5th March, 2013, and The Standard of Tuesday 5th March, 2013). The incident is under investigation.

### ***(ii) Voter Bribery***

Party agents of The National Alliance Party (TNA) and The Alliance Party of Kenya (APK) were reported to have been involved in voter bribery (kivunjambavu) during Jubilee Rallies held on the following dates: 17<sup>th</sup> February 2013 - Chuka Town, Mugwe, and Miriani; 18<sup>th</sup> February 2013 - Igamba, Ngombe and Mitheru; 19<sup>th</sup> February 2013 - Chogoria and Majira Gianchuku; 21<sup>st</sup> February 2013 - Pole Pole, and Kienganguru Primary School; 23<sup>rd</sup> February 2013 - Turima Tweru Primary School, and Miomponi; and 24<sup>th</sup> February 2013 - Mukothima, Nkondi Markets and Karwamba Primary School.

### ***(iii) Partisan Public Officials***

A meeting between the local Provincial Administration and Jubilee Coalition Officials to drum up support for the Jubilee Presidential aspirant Honourable Uhuru Kenyatta was reported to have taken place on 19<sup>th</sup> February 2013 at Nyakoe Hotel in Kisii. The Jubilee officials in collaboration with the Provincial Administration reportedly convened the meeting. The Provincial Administration is reported to have mobilized and encouraged the Chiefs and Assistant Chiefs to support Hon. Kenyatta and help mobilize people to attend the Jubilee Rally. It was also reported that the Provincial Administration was used to mobilise rallies for the Jubilee Coalition on 18<sup>th</sup> February in Nyamira. Due to stringent security, the monitors were unable to access the venues of the meetings to take pictures or public servants to verify the claims.

# Election Observation

The Commission monitored the campaigns process as well as observed the elections. Staff and Commissioners were accredited by the IEBC to observe the elections on 4th March 2013 in various parts of the country. The list of the polling stations where staff observed elections is annexed.

The following were the findings:

## **a) Election Campaigns Monitoring**

### ***(i) Party Nominations***

Notwithstanding the number of incidents of violence and intimidation, especially during the nomination exercise, the electoral campaign and polling day were generally conducted in a peaceful manner. Restraint in campaign rhetoric contributed to an improved campaign environment though there were a few incidences of hate speech. These were brought to the attention of the Commission mandated to handle these matters; the National Cohesion and Integration Commission (NCIC).

### ***(ii) Campaigns***

The official campaign period was conducted in an atmosphere in which the freedoms of assembly and association were generally respected. Presidential candidates campaigned intensively in different parts of the country with the exception of one incident in Eastern Province where one candidate was attacked by a hostile crowd. The candidates were able to move freely throughout the country. However, the increase in campaign spending and “monetisation” of the election were major concerns. The distribution of money and gifts by candidates on both sides, an offence and a practice inconsistent with democratic principles, was rampant in many parts of the country.

## **b) Election Observation**

The credibility of the 2013 electoral process as well as that of future elections depended to a great degree on the pilot biometric registry and electronic results transmission and dissemination system, aside from other measures. In the lead up to the March



*Voting process at Jamburi High School Polling Station in Nairobi*

2013 General Elections, the IEBC conducted a rigorous BVR exercise that was hoped would significantly improve the process and consequently, increase the acceptance of the results. The failure of the BVR Kits created suspicions of electoral fraud and raised questions regarding credibility of the results. The following are the findings on voting and the tallying processes.

### ***Failure of BVR Kits***

The electronic voting machines malfunctioned in most polling stations across the country causing the polling clerks to revert to manual registers. In a number of polling stations where the electronic voting machines were operational, the IEBC Clerks seemed not to be conversant with the kits leading to slow voting process. Some took over five (5) minutes to search for a voter's name. It was apparent that some of the officers were not properly trained on the use of the machines.

In Turkana County for instance, the IEBC officers had challenges operating the kits and called on voters for assistance before resorting to use the manual register. The failure of the BVR Kits created suspicions of electoral fraud and raised concern over the credibility of the results. Additionally, some polling stations such as Machakos University College were not issued with BVR kits. In other polling stations such as Langata Constituency, the presiding officers were unable to relay the outcome of the presidential results to the IEBC's National Tallying Centre at the Bomas of Kenya due to network congestion. The CORD Coalition agents raised questions about the credibility of presidential results due to the failure of the BVR kits and electronic results transmission system.

### ***Missing Details***

A number of voters found their names missing in the voter registers. In Busara and Unity Primary Schools in Umoja, Nairobi County for instance, violence almost broke out as a number of voters found their names missing in the voter register.

### ***Delays***

In a number of polling stations, the voting process started late. The delays were attributable to, among other things, perceived lack of preparedness and disorganization on the part of the IEBC officials. A number of polling stations did not open on time causing confusion, anxiety and delays in the commencement of the voting process. Among the polling stations that did not open on time include Kileleshwa Primary School where officials claimed not have the Polling Station Number hence had to obtain it from the Head Office. In polling stations such as Mukuyuni Primary School in Kaiti Constituency, Makeni County, the polling clerks arrived after 7.28a.m. At Mlolongo Primary School in Nairobi County, voting commenced late since the IEBC officials lacked a stamp to validate the votes.

### ***Unpreparedness***

General lack of preparedness by the IEBC officials was witnessed in various polling stations across the country. Aside from not being IT savvy, the polling clerks were not adequately prepared in terms of ensuring that the voting process ran smoothly. In a number of polling stations, IEBC released materials late from the Distribution Centre. For instance, at Mlolongo Primary School, there was no IEBC stamp to validate the ballot papers. The IEBC officials resorted to using a stamp meant for rejected votes by concealing the word 'rejected' to proceed with the voting process. Security agents had to use force to contain an agitated crowd protesting about the lack of efficiency in the



voting process. School property was destroyed in the process. In Ntoroni Secondary School, a polling station in Meru County, senatorial ballot papers ran out.

Incidents of un-charged laptops, lack of power back up and use of incorrect passwords among others were rampant across various polling stations. In Kileleshwa Polling Station, for instance, an official had to be called from the Main Tallying Centre in Dagoretti to go and input the Serial Code thereby delaying the process by two hours.

A number of stations lacked direction signs to lead voters to the correct streams. Lack of uniformity on whether surnames or first names were to be used to identify voters and voting streams also contributed to confusion and delays in the voting process. Whereas some voters thought they were to use their surnames to locate the streams, they later learnt they were to use their first name. Labeling of voting

At the Ndaragwa Polling Station in Ndaragwa Constituency, a number of voters went home without indelible ink due to poor organization of IEBC officials.

### ***Slow Voting Process and Long Queues***

In most polling stations, the voting process was relatively slow and the queues were long. The polling clerks were not adequately prepared in terms of the voting materials. The failure of the BVR Kits compounded the problem. Unfriendly classification of names also caused confusion. In Rongai and Mlolongo in Nairobi County for instance, the security agents were overwhelmed as the IEBC officials were not able to provide guidance to create order and avoid a stampede. At Bidii Primary School Polling Station in Nairobi County, voters resorted to violence after many hours of queuing to cast their votes.

### ***Improper Conduct/Lack of Integrity***

A few irregularities were witnessed during the collation of votes from a few polling stations. In Kileleshwa Primary Polling Station, for instance, an IEBC official attempted to hide votes of one of the presidential candidates, in favour of another. In Njoro Constituency Tallying Centre, a suspicious incident was observed. Claims that a Presiding Officer, from Sinendet Primary School Polling Station in Lare, Njoro Division made various alterations to election results/forms in one of the waiting tents were reported. The official is reported to have erased the original figures and inserted new ones.

### ***Vote Buying***

Incidents of vote buying were reported across the country. At Nkubu Social Hall in Meru County, an incident of voter buying took place, but the police took control of the situation and arrested the culprit. Two agents of the Governor aspirant, Kilemi Mwiria, were arrested at South Imenti Tallying Centre for vote buying and breach of peace. In Taita Taveta, the exercise was marked by allegations of voter bribery. Allegations on the misuse of Government vehicles on the eve of the elections were also raised. It was reported that residents intercepted a Government vehicle, registration number, GK 911 U belonging to the Taveta Constituency Development Funds (CDF) office as it was distributing foodstuff to woo potential voters. The vehicle was impounded and taken to Taveta Police Station and the incident recorded in the Station's Occurrence Book (OB). These allegations have also appeared in a section of the media (Daily Nation of Tuesday 5th March, 2013, on national news; and The Standard of Tuesday 5th March, 2013). The incident is under investigation.

### ***Spoilt/Rejected Votes***

In a number of polling stations, there was no clarity as to which votes would be considered spoilt/rejected ballots. It took an inordinate amount of time for IEBC officials, party agents and observers to reach a consensus on spoilt/rejected votes in a couple of polling stations. At the Mlolongo Primary School Polling Station, for instance, contrary to IEBC guidelines, an agreement was reached between the Presiding Officer and the party agents with regard to admitting spoilt votes upon their assessment of voter's intention.

### ***Violence and Security Threats***

Security forces played a positive role in the 2013 election. Apart from a few incidents in Mombasa and Garissa Counties, CAJ noted no major security concerns. Violence and security threats were reported in Yathrib and Tetu Primary School Polling Stations in Garissa County, but there were no casualties. In Mombasa County, two senior police officers, the Officer Commanding Police Division Changamwe; and the Officer Commanding Station Bamburi were killed in separate incidences resulting from skirmishes in the two areas. In Matsangoni area in Kilifi County, it was reported that armed gangs raided the area causing fear and tension. In Shinyalu, the former MP, Justus Kizito's car was set on fire on claims of voter bribery. No casualties were witnessed.

In Nyeri, a confrontation arose between the supporters of two candidates over allegations of bribery were witnessed outside the County Council Grounds Polling Station. However, even the accuser could not substantiate these claims. The Presiding officers and security personnel restored calm.

### ***Treatment of People with Special Needs***

Persons with special needs such as the elderly, expectant women and persons with disabilities were given special consideration during the voting process with the exception of a few polling stations such as Dohnholm and Talent Academy in Nairobi. In the two stations, the people with special needs had to bear the scorching sun in long queues in spite of their condition/situation.

### ***Vote Counting and Tallying***

The Commission confirms that several key areas related to the tabulation of results did not receive sufficient attention. The new electronic results transmission and dissemination system was intended to enable swift results transmission and to guarantee the credibility of the results. However, with the collapse of the system, the IEBC reverted to manual voting.

The voting and counting process was perceived not to be as efficient and transparent as was anticipated. Delays in the submission of results occasioned by the collapse of the electronic voter transmission system made it mandatory for Returning Officers to travel long distances to physically submit results at the National Tallying Centre at Bomas of Kenya in Nairobi. The data entry process took six days amid tensions, suspicions of fraud and apparent irregularities.

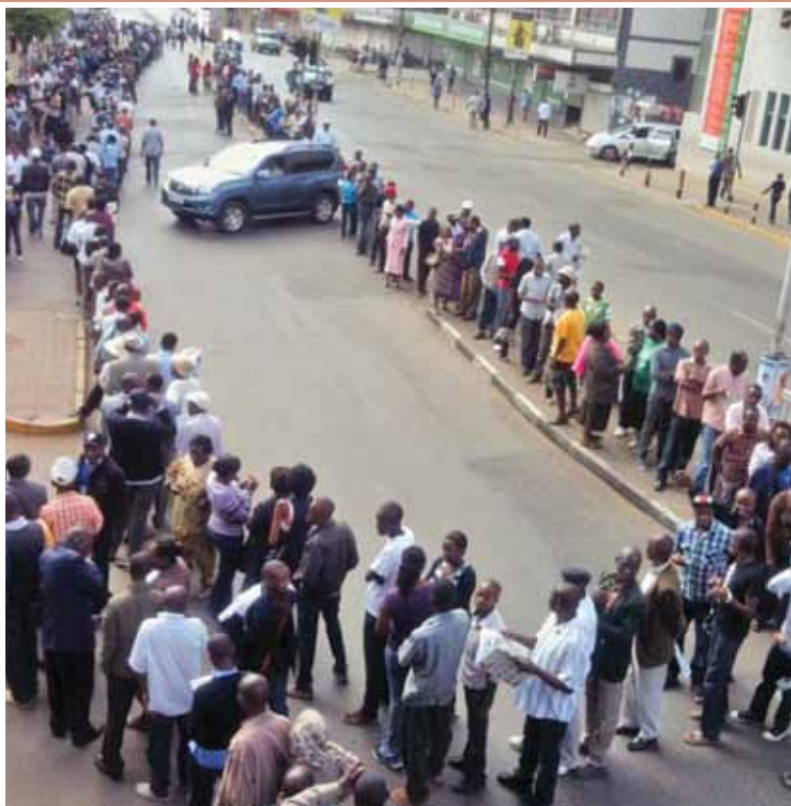
The initial release of inaccurate figures transmitted by electronic means challenged citizen confidence in the IEBC. A lack of transparency in the national tally marred the final stages of the process. Party agents and observers were unable to observe these proceedings adequately, as they could not access the tallying room to verify the results. The Commission also observed a high number of rejected votes.

In most polling stations across the country however, the counting and collation of results was conducted in full view of party agents and observers. However, a few incidents of irregularities were observed, for example, in Kileleshwa Primary School in Nairobi where an incident of dishonesty on the part of a Polling Clerk was witnessed. The

Polling Clerk made attempts to reduce votes of one of the presidential candidates and add to another

In Taita Taveta, a disagreement over who actually won the elections, between a former MP and the outgoing MP arose; with the later being declared the winner. This prompted the candidate who lost to dispute the results, and threaten to take legal action to petition the results.

Additionally, the tallying process started late in most counties and went on for hours, and in some instances, for days. This was primarily due to the slow transmission of results from the Constituencies. At the Multi Media University College, the Tallying Centre for the Langata Constituency, violence broke out when a returning officer



*Voters queue at the Moi Avenue Primary School Polling Station in Nairobi County*

missed a digit during the counting process. An agitated crowd forced him to start the recount of the votes.

### **Voter Education**

Voters appeared generally uninformed/not familiar with the voting process in most polling stations across the country. A considerable number of voters cast ballot papers in the wrong ballot boxes, perhaps, indicative of the need for a more comprehensive voter education in future elections. At Gwakungu Polling Station in Ndaragwa Constituency for instance, a dispute arose between IEBC officials and political party agents when a voter cast a vote in wrong ballot box and immediately removed. The vote was declared rejected.

### **(III) Post Elections Monitoring**

#### **Congratulatory Message Advertisements in Honour of President and Deputy President Published in the Print Media**

Public institutions spent about KES 25,367,672 to publish congratulatory messages for the President and his Deputy in the print media. Of the 70 institutions that published the congratulatory messages, 13 spent over KES 500,000. The Coast Development Authority used the highest amount of money at KES 1,162,868. Other high spenders include the National Cohesion and Integration Commission at about KES 907,668; the Kenya Plant Health Inspectorate Service KES 906,820 and the National Authority for Campaign against Alcohol and Drug Abuse (NACADA) at KES 539,206.

Tables 4, 5, 6, and 7 below provide a summary of expenditures in the Nation, Standard, Star and People Daily Newspapers.

**Table 4: The Nation Newspaper**

<b>Date</b>	<b>Name of Institution</b>	<b>Size of page</b>	<b>Page No.</b>	<b>Colour/ Black &amp; White</b>	<b>Cost (KES)</b>
Tuesday, 9 <sup>th</sup> April	Meru University of Science and Technology	Quarter	23	Colour	150,800
Tuesday, 9 <sup>th</sup> April	Jomo Kenyatta University of Agriculture and Technology	(16.6 X 3)	8	Colour	208,761
Tuesday, 9 <sup>th</sup> April	Meru County Government	One eighth	24	Color	75,000

Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Thursday, 11 <sup>th</sup> April	Coast Development Authority	Half	32	Colour	295,800
Wednesday, 10 <sup>th</sup> April	Kenya Accountants and Secretaries National Examination Board (KASNEB)	Half	4	Colour	324,823
Wednesday, 10 <sup>th</sup> April	National Authority for Campaign against Alcohol and Drug Abuse (NACADA)	(16.6 X 6)	6	Colour	539,206
Wednesday, 10 <sup>th</sup> April	National Irrigation Board	(16.6 X 6)	8	Colour	418,522
Wednesday, 10 <sup>th</sup> April	Chuka University	(16.6 X 3)	8	Colour	209,261
Wednesday, 10 <sup>th</sup> April	Kwale International Sugar Company	Half	10	Colour	295,800
Wednesday, 10 <sup>th</sup> April	Kenyatta University	Quarter	10	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Forest Service	Quarter	10	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Communication Commission of Kenya	Quarter	12	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Ethics and Anti-Corruption Commission	Quarter	13	Colour	150,800
Wednesday, 10 <sup>th</sup> April	University of Nairobi	Quarter	13	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Power	Half	14	Colour	295,800
Wednesday, 10 <sup>th</sup> April	The Ministry of Co-operative Development and Marketing	Quarter	15	Colour	150,800
Wednesday, 10 <sup>th</sup> April	The Technical University of Kenya	Quarter	15	Colour	150,800
Wednesday, 10 <sup>th</sup> April	National Cohesion and Integration Commission	Half	16	Colour	295,800
Wednesday, 10 <sup>th</sup> April	Horticultural Crops Development Authority	Quarter	16	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Electricity Transmission Co. Ltd	Quarter	16	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Revenue Authority	Half	17	Colour	295,800

<b>Date</b>	<b>Name of Institution</b>	<b>Size of page</b>	<b>Page No.</b>	<b>Colour/ Black &amp; White</b>	<b>Cost (KES)</b>
Wednesday, 10 <sup>th</sup> April	Kiambu County Government	Quarter	18	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Literature Bureau	Quarter	18	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Kenya Pipeline Company Limited (KPC)	Junior page	19	Colour	432,216
Wednesday, 10 <sup>th</sup> April	Moi Technical and Referral Hospital	One eighth	19	Colour	75,000
Wednesday, 10 <sup>th</sup> April	Kenya Forest Service	Quarter	20	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Local Authorities Provident Fund (Lapfund)	Quarter	20	Colour	150,800
Wednesday, 10 <sup>th</sup> April	National Transport and Safety Authority	Quarter	22	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Posta	Quarter	22	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Ministry of Housing	Quarter	24	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Ministry of East African Community	Quarter	24	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Rural Electrification Authority	Quarter	34	Colour	150,800
Wednesday, 10 <sup>th</sup> April	Public Service Commission	Half	33	Colour	295,800
Wednesday, 10 <sup>th</sup> April	Kenya Tourism Board	Junior page	32	Colour	432,216
Wednesday, 10 <sup>th</sup> April	National Social Security Fund (NSSF)	Junior page	31	Color	432,216
Friday, 12 <sup>th</sup> April	Moi University	Half	29	Colour	358,000
Friday, 12 <sup>th</sup> April	East African Portland Cement Co. Ltd	Quarter	29	Colour	179,800
Friday, 12 <sup>th</sup> April	Lake Basin Development Authority	Half	36	Colour	358,000
Friday, 12 <sup>th</sup> April	Public Procurement Oversight Authority	Quarter	36	Colour	179,800
Friday, 12 <sup>th</sup> April	Postbank	Quarter	37	Colour	179,800
Friday, 12 <sup>th</sup> April	Ministry of Public Works	Junior page	34	Colour	461,030
Friday, 12 <sup>th</sup> April	Ewaso Nyiro South River Basin Development Authority	Half	39	Colour	358,000

Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Tuesday, 16 <sup>th</sup> April	Kenya Sugar Board	Quarter	21	Colour	150,800
Wednesday, 17 <sup>th</sup> April	Kenya Industrial Estates Ltd	(16.6 x 3)	5	Colour	221,977
Wednesday, 17 <sup>th</sup> April	Kenya National Examination Council	Quarter	37	Colour	150,800
Wednesday, 17 <sup>th</sup> April	Murang'a University College	Quarter	37	Colour	150,800
Thursday, 18 <sup>th</sup> April	Kenya Plant Health Inspectorate Service	(16.6 x 3)	8	Colour	209,261
Friday, 19 <sup>th</sup> April	South Nyanza Sugar Company Ltd	Half	8	Colour	431,346
Friday, 19 <sup>th</sup> April	Kenya Petroleum refineries Ltd (Incorporated in Kenya)	Quarter	40	Colour	179,800
Friday, 19 <sup>th</sup> April	National Anti-Corruption Campaign Steering Committee	Quarter	43	Colour	179,800
Saturday, 20 <sup>th</sup> April	Agricultural Finance Corporation	(16.6 x 3)	5	Colour	221,977
Monday, 22 <sup>nd</sup> April	Kenya Bureau of Standards	Half	21	Colour	295,800
Monday, 22 <sup>nd</sup> April	Local Authorities Pension Trust (Laptrust)	Quarter	21	Colour	150,800
Tuesday, 23 <sup>rd</sup> April	Nzoia Sugar Company Ltd		9	Colour	216,549
Wednesday, 24 <sup>th</sup> April	Gatundu South Water and Sanitation Company	One eighth	9	Colour	75,400
Wednesday, 24 <sup>th</sup> April	Athi Water	Junior page	27	Colour	432,216
Thursday, 25 <sup>th</sup> April	Chemelil Sugar Company	Quarter	57	Colour	150,800
<b>TOTAL</b>					<b>13,079,777</b>

**Table 5: The Standard Newspaper**

Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Tuesday, 9 <sup>th</sup> April	The Technical University of Kenya	Quarter	Pullout p2	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Kenyatta University	Quarter	Pullout p2	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Posta	Quarter	Pullout p4	Colour	174,000



Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Tuesday, 9 <sup>th</sup> April	National Cohesion and Integration Commission	Junior page	Pullout p5	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Kenya Accountants and Secretaries National Examination Board (KASNEB)	Half	Pullout p6	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Kenya Power	Half	Pullout p7	Colour	348,780
Tuesday, 9 <sup>th</sup> April	The Competition Authority of Kenya	Quarter	Pullout p8	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Kenya Forest Service	Quarter	Pullout p8	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Ethics and Anti-Corruption Commission	Quarter	Pullout p9	Colour	174,000
Tuesday, 9 <sup>th</sup> April	National Authority for Campaign against Alcohol and Drug Abuse (NACADA)	Half	Pullout p10	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Kenya Pipeline Company Limited (KPC)	Junior page	Pullout p13	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Kenya Plant Health Inspectorate Service	Full page	Pullout p12	Colour	697,559
Tuesday, 9 <sup>th</sup> April	National Council for Science and Technology (Ministry of Higher Education, Science and Technology)	Junior page	Pullout p15	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Kenya Forest Service	Quarter	Pullout p16	Colour	174,000
Tuesday, 9 <sup>th</sup> April	University of Eldoret	Quarter	Pullout p16	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Jomo Kenyatta University of Agriculture and Technology	Quarter	19	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Local Authorities Provident Fund (Lapfund)	Quarter	27	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Public Service Commission	Half	28	Colour	348,780
Tuesday, 9 <sup>th</sup> April	Rural Electrification Authority	Quarter	28	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Kenya Literature Bureau	Quarter	28	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Chuka University	Quarter	29	Colour	174,000
Tuesday, 9 <sup>th</sup> April	Water Resources Management Authority	Quarter	29	Colour	174,000
Saturday, 14 <sup>th</sup> April	Technical University of Mombasa	Quarter	8	Colour	174,000
Thursday, 11 <sup>th</sup> April	Coast Development Authority	Half	8	Colour	348,780
Thursday, 11 <sup>th</sup> April	National Transport and Safety Authority	Quarter	10	Colour	174,000
Wednesday, 10 <sup>th</sup> April	National Social Security Fund (NSSF)	Junior page	9	Colour	348,780

Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Wednesday, 10 <sup>th</sup> April	University of Nairobi	Quarter	8	Colour	174,000
Monday, 15 <sup>th</sup> April	Kenya Sugar Board	Quarter	19	Colour	174,000
Monday, 15 <sup>th</sup> April	Wareng' High School	Quarter	21	Colour	174,000
Friday, 12 <sup>th</sup> April	Egerton University	Quarter	5	Colour	174,000
Friday, 12 <sup>th</sup> April	Public Procurement Oversight Authority	Quarter	21	Colour	174,000
Friday, 12 <sup>th</sup> April	Ministry of Public Works	Junior page	20	Colour	348,780
Friday, 12 <sup>th</sup> April	Moi University	Half	9	Colour	348,780
Saturday, 13 <sup>th</sup> April	University of Kabianga	Quarter	9	Colour	174,000
Friday, 19 <sup>th</sup> April	National Anti-Corruption Campaign Steering Committee	Quarter	24	Colour	174,000
Saturday, 20 <sup>th</sup> April	Kenya Bureau of Standards	Half	9	Colour	348,780
Sunday, 21 <sup>st</sup> April	Kenya Ports Authority	Quarter	8	Colour	174,000
<b>TOTAL</b>					9,058,919

**Table 6: The Star Newspaper**

Date	Name of Institution	Size of page	Page No.	Colour/ Black & White	Cost (KES)
Tuesday, 9 <sup>th</sup> April	Kenya Power	Half	9	Colour	131,544
Tuesday, 9 <sup>th</sup> April	The Technical University of Kenya	Quarter	11	Colour	131,544
Tuesday, 9 <sup>th</sup> April	National Cohesion and Integration Commission	Half	13	Colour	263,088
Tuesday, 9 <sup>th</sup> April	Kenya Revenue Authority	Half	15	Colour	263,088
Tuesday, 9 <sup>th</sup> April	Ethics and Anti-Corruption Commission	Quarter	17	Colour	131,544
Friday, 12 <sup>th</sup> April	East African Portland Cement Co. Ltd	Quarter	15	Colour	131,544
Friday, 12 <sup>th</sup> April	Coast Development Authority	Half	19	Colour	263,088
Friday, 12 <sup>th</sup> April	Technical University of Mombasa	Quarter	8	Colour	131,544
Monday, 15 <sup>th</sup> April	Dedan Kimathi University of Technology	Quarter	13	Colour	131,544
Thursday, 18 <sup>th</sup> April	Kenya Ports Authority	Junior page	5	Colour	350,784

Date	Name of Institution	Size of page	Page No.	Colour/ Black 7 White	Cost (KES)
Thursday, 18 <sup>th</sup> April	National Land Commission	Quarter	17	Colour	131,544
Friday, 19 <sup>th</sup> April	Jaramogi Oginga Odinga University of Science and Technology	Quarter	15	Colour	131,544
Friday, 19 <sup>th</sup> April	Dedan Kimathi University of Technology	Quarter	19	Colour	131,544
Friday, 26 <sup>th</sup> April	Kenya Medical Training College	Quarter	20	Colour	131,544
<b>TOTAL</b>					2,718,576

**Table 7: The People Newspaper**

Date	Name of Institution	Size	Page No.	Colour/ Black & White	Cost (KES)
Friday, 12 <sup>th</sup> April	Coast Development Authority	Junior page	3	Colour	255,200
Thursday, 18 <sup>th</sup> April	Kenya Ports Authority	Junior page	18	Colour	255,200
<b>TOTAL</b>					510,400

**Table 8: Provides an analysis of the expenditures per institutions**

No.	Name of Institution	No. of Advertisements	Approximate Cost (KES)
1.	Meru University of Science and Technology	1	150,800
2.	Jomo Kenyatta University of Agriculture and Technology	2	382,761
3.	Meru County Government	1	75,000
4.	Coast Development Authority	4	1,162,868
5.	Kenya Accountants and Secretaries National Examination Board (KASNEB)	2	673,603
6.	National Authority for Campaign against Alcohol and Drug Abuse (NACADA)	2	887,986
7.	National Irrigation Board	1	418,522
8.	Chuka University	2	383,261
9.	Kwale International Sugar Company	1	295,800
10.	Kenyatta University	2	324,800
11.	Kenya Forest Service	4	649,600
12.	Communication Commission of Kenya	1	150,800

No.	Name of Institution	No. of Advertisements	Approximate Cost (KES)
13.	Ethics and Anti-Corruption Commission	3	456,344
14.	University of Nairobi	2	324,800
15.	Kenya Power	3	776,124
16.	The Ministry of Co-operative Development and Marketing	1	150,800
17.	The Technical University of Kenya	3	456,344
18.	National Cohesion and Integration Commission	3	907,668
19.	Horticultural Crops Development Authority	1	150,800
20.	Kenya Electricity Transmission Co. Ltd	1	150,800
21.	Kenya Revenue Authority	2	558,888
22.	Kiambu County Government	1	150,800
23.	Kenya Literature Bureau	2	324,800
24.	Kenya Pipeline Company Limited (KPC)	2	780,996
25.	Moi Technical and Referral Hospital	1	75,000
26.	Local Authorities Provident Fund (Lapfund)	2	324,800
27.	National Transport and Safety Authority	2	324,800
28.	Posta	2	324,800
29.	Ministry of Housing	1	150,800
30.	Ministry of East African Community	1	150,800
31.	Rural Electrification Authority	2	324,800
32.	Public Service Commission	2	644,580
33.	Kenya Tourism Board	1	432,216
34.	National Social Security Fund (NSSF)	2	780,996
35.	Moi University	2	706,780
36.	East African Portland Cement Co. Ltd	2	311,344
37.	Lake Basin Development Authority	1	358,000
38.	Public Procurement Oversight	2	353,800
39.	Postbank	1	179,800
40.	Ministry of Public Works	2	809,810
41.	Ewaso Ngiro South River Basin Development Authority	1	358,000
42.	Kenya Sugar Board	2	324,800

No.	Name of Institution	No. of Advertisements	Approximate Cost (KES)
43.	Kenya Industrial Estates Ltd	1	221,977
44.	Kenya National Examination Council	1	150,800
45.	Murang'a University College	1	150,800
46.	Kenya Plant Health Inspectorate Service	2	906,820
47.	South Nyanza Sugar Company Ltd	1	431,346
48.	Kenya Petroleum refineries Ltd (Incorporated in Kenya)	1	179,800
49.	National Anti-Corruption Campaign Steering Committee	2	353,800
50.	Agricultural Finance Corporation	1	221,977
51.	Laptrust	1	150,800
52.	Nzoia Sugar Company Ltd	1	216,549
53.	Gatundu South Water and Sanitation Company	1	75,000
54.	Athi Water	1	432,216
55.	Chemelil Sugar Company	1	150,800
56.	The Competition Authority of Kenya	1	174,000
57.	National Council for Science and Technology (Ministry of Higher Education, Science and Technology)	1	348,780
58.	University of Eldoret	1	174,000
59.	Rural Electrification Authority	1	174,000
60.	Water Resources Management Authority	1	174,000
61.	Technical University of Mombasa	2	305,544
62.	Wareng' High School	1	174,000
63.	Egerton University	1	174,000
64.	Public Procurement Oversight Authority	2	353,800
65.	University of Kabianga	1	174,000
66.	Kenya Ports Authority	2	605,984
67.	National Land Commission	1	131,544
68.	Kenya Medical Training College	1	131,544
69.	Jaramogi Oginga Odinga University of Science and Technology	1	131,544
70.	Dedan Kimathi University of Technology	2	263,088

*Weeding out*  
***improper conduct*** *in*  
*the* ***public service***

# Recommendations

## Recommendations to IEBC

- IEBC should strictly enforce the electoral law that includes Elections Act and the Elections Code of Conduct to curb electoral malpractices such as the use of state resources, voter bribery, violence and hate speech. To win the confidence and support of Kenyans, IEBC must take stern actions against public servants who violate electoral laws and politicians who ignore rules, exploit grievances and stoke divisions through violence and ethnic campaigning in future elections.
- IEBC should conduct an internal evaluation of the entire electoral process to identify and seal loopholes that would compromise electoral outcome in future elections.
- IEBC needs to put in place adequate safeguards against fraud. To do so, the Commission must keep a tight focus on operational planning, acquire more efficient equipment and strengthen staff capacity, and conduct elections in an efficient and credible manner. Functional state of the art equipment, adequate preparations and rigorous training is required to guarantee the credibility and acceptance of elections results. IEBC should also make results available to the public and disaggregate them by polling streams to allow for their verification by citizens, observers and party agents. The numbers of staff handling elections should also be increased to enhance capacity and reduce instances of disorganization and confusion.
- IEBC should reduce the number of registered voters per polling station to ensure efficiency in voting. The high volume of registered voters per polling station, particularly, in densely populated areas resulted in long queues, with some voters waiting for five to six hours before casting their votes. To prevent such delays in future elections, IEBC should either reduce the number of registered voters per polling station by establishing more polling stations or increase the number of streams to facilitate a quick and efficient voting process.

- IEBC should prioritise and allocate sufficient resources for voter education. Due to the significant number of problems observed arising from inadequate voter education, voter and civic education initiatives should be made a priority and conducted on a more regular basis and as widely as possible throughout the country, especially targeting the more rural and remote areas.
- IEBC should work closely with Constitutional Commissions and Independent Offices, civil society groups and other Government agencies to scale up civic education in the lead up to an election. Rigorous civic education would significantly reduce the number of spoilt/rejected votes and time spent on casting votes.
- The ballot boxes should have distinct colours to avoid confusion and reduce the number of spoilt votes. The labelling of the various elective positions should also be consistent with terms that voters are already familiar with.
- IEBC should conduct adequate training for its elections officials in future on the use of technological devices in elections as well as customer care.
- IEBC should in future reduce reliance on the Manual Register as this is prone to abuse especially in the strongholds of political parties and candidates.
- IEBC should conduct a proper verification exercise of the Voters' Register to eradicate instances of missing names or misplacement of polling stations for some voters.
- IEBC should improve outreach and communication with stakeholders, including political parties, candidates, media and, in particular, civil society, with which a strong alliance is especially important to resist political pressure; and provide citizen observer groups with the information they need in a timely manner.

## **Recommendation to Parliament**

- Parliament should pass the Campaigns Funding Bill to introduce campaign-spending caps on individual candidates, to be monitored and enforced by IEBC to reduce the monetisation of politics.



## **Recommendations to Political Parties and Candidates**

- Desist from misuse of public resources during political campaigns.
- Adhere stringently to the Constitution, the Elections Act and the Electoral Code of Conduct and publicly commit to respect rules, campaign peacefully, avoid hate speech and divisive mobilization; and pursue any petitions or other election grievances only through the legal channels.
- Conduct a rigorous briefing of party agents to ensure they understand their role and follow the rules in the polling centres.
- Consider engaging IEBC to assist in conducting party nominations to guarantee credibility of the process.

## **Recommendations to the Director of Public Prosecutions**

- Take action against public officers responsible for vehicles spotted in campaign rallies tabulated in this report for contravening the Public Officer Ethics Act, 2003, Anti Corruption and Economic Crimes Act 2003 and the Elections Act of 2011.

## **Recommendations to the Auditor-General**

- Surcharge public officials responsible for vehicles spotted in the rallies tabulated above.
- Follow-up and cross check expenditures by public institutions on congratulatory messages and take appropriate action against such institutions in accordance with the law.

# Conclusion

The use or abuse of public resources by parties in Government in their electoral campaigns and in post elections either congratulatory advertisements or otherwise amounts to improper conduct and abuse. Such spending have serious fiscal implications on development projects and service delivery in the country and amounts to impunity. The Commission on Administrative Justice calls on the relevant bodies to take firm action deterrent enough against such practices in future.

While the 2013 elections were peaceful and generally free of intimidation and other threats, questions have been raised about the management of the elections. In particular, the failure of the BVR system and the results transmission system raised concerns on the integrity and credibility of the results leading to two election petitions challenging the results. The biometric voter registration system together with the electronic results transmission system were meant to eliminate voting and tallying problems that led to the 2008 violence. The BVR kits and electronic transmission of results system were a recommendation of the Independent Review Commission led by Retired Justice Johan Kriegler (commonly known as the Kriegler Commission), a commission of inquiry established by the Government of Kenya following the bungled 2007 General Election, subsequent violence and political negotiation. The Kriegler Commission made a raft of recommendations including the need for biometric voter registration system and the electronic results system to reduce suspicions of electoral fraud.

Coupled with other anomalies such as the apparent poor preparation of election officers, limited voter education and lack of enforcement of the Elections Act 2011, the management of the future elections need to significantly improve to weed out possible suspicions of electoral fraud and guarantee acceptability of the elections results.

# Annex

## List of Counties Observed by CAJ

1. Garissa
2. Isiolo
3. Kajiado
4. Kiambu
5. Kirinyaga
6. Kisumu
7. Kitui
8. Machakos
9. Makueni
10. Murang'a
11. Nairobi City
12. Nyandarua
13. Nyeri
14. Siaya
15. Taita Taveta
16. Turkana
17. Vihiga

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