

- iii) The 1st Respondent thereafter never resumed the public display of results at the National Tallying Centre and the Petitioners' agents and other observers have no way or means of auditing, tallying and verifying what was happening at the National Tallying Centre or the results received and/or computed by the 1st and 2nd Respondents.

(ii) Lack of accuracy, verifiability and accountability of the Voter Turnout data/information

Inconsistencies in official reports of the Voter Turnout

43. First, the number of voters who turned out to vote in the General Election held on 09th August 2022 remains indeterminate. The 2nd Respondent has been issuing contradictory figures on the voter turnout.

(i) On 09th August 2022 at or about 1600hrs, one hour before the close of polls, the 1st Respondent reported through various public news media outlets that the voter turnout around the Country was fairly low and was at an average of 52% of the registered number of voters.

(ii) On 10th August 2022 at or about 1300hrs, in his first media briefing to the public following the close of polling, the 2nd Respondent announced that the total voter

turnout in the General Election as captured in the electronic voter identification Kits (KIEMS KITS) was 65.4% equivalent to 14,466,779 voters.

- (iii) The 2nd Respondent however indicated that he expected the above number to rise once the number of votes identified manually was taken into account.
- (iv) Contrary to the above declaration and reasonable legitimate expectation, the final Voter Turnout captured and declared in the final 'results' of the presidential election in Form 34C is stated to be 14,213,137 votes, which is absurdly lower and not higher as anticipated.
- (v) Notwithstanding, a computation using addition of the valid votes in figures for the presidential candidates in the aggregate results shows that the total number of valid votes is 14,213,027.
- (vi) The fact that the chairperson of the commission declared results that were patently inconsistent with his own declaration of voter turnout at 65.4% in and of itself demonstrates that the results transmission and management system for forms 34A, 34B and 34C was tampered with, compromised and/or unable to accurately provide reliable and accountable results as constitutionally required. Going by the chairperson's own representations to the public, the commission is unable to account for over 250,000 votes that were cast in the election excluding votes cast by voters who voted manually.

- (vii) The discrepancy between what is written as the total valid votes and the actual computation cannot be dismissed as a simple mistake or error in the light of the totality of the above evidence; and the effect on the final outcome.
- (viii) Nonetheless, there is a variance/difference of 140,028 votes between the total number of votes as recorded in Form 34C and the total number of voters identified using the KIEMS Kits.
- (ix) The 2nd Respondent cannot and has not accounted for the turnout of voters who were identified using the complementary system of voter identification (commonly referred to as the manual system).

Non-qualification of 50% plus one requirement

44. Based on the scientific and verifiable arithmetic calculations of the Petitioners' witness Dr. Edgar Otumba shown below, it is evident that the 9th Respondent did not garner 50% plus 1 of the total valid votes cast.

% Turnout	Total Registered Voters	Total votes Cast	Valid votes cast	Rejected votes	50% of valid votes cast
0.654	22,120,458	14,466,779.5	14,353,165.53	113,614	7,176,582.77

Candidate	IEBC % Reported	Total Votes Reported	50% of valid votes cast	Deficit to 50% votes	Calculated % votes
Raila Odinga	48.85	6,942,930	7,176,582.766	233,652.766	48.372
William Ruto	50.49	7,176,141	7,176,582.766	441.766	49.997
David Mwaure	0.23	31,987	7,176,582.766	7,144,595.766	0.223
George Wajackoyah	0.44	61,969	7,176,582.766	7,114,613.766	0.432
	100.010	14,213,027			99.024

45. Secondly, the 2nd Respondent was continuously deleting and uploading different result declaration Forms i.e. Forms 34A, 34B and 34C even after the declaration of the final 'outcome' on 15th August 2022.
46. On 17th August 2022, the 2nd Respondent posted a different Form 34C on its website – which was different from the Form 34C that was uploaded on its website and earlier used to declare the 9th Respondent as the 'winner' of the presidential elections.
47. Even based on the disparities in the fraudulently manipulated numbers of the voter turnout, the Petitioners state that the 9th Respondent did not meet the constitutional threshold of 50% plus 1 of the valid votes cast.

48. A reasonable, calculable, ascertainable and logical imputation of the variance in Voter Turnout in the Form 34C shows that the 9th Respondent could not and did not attain the mandatory constitutional threshold of at least 50% plus 1 of the total valid votes cast in the election. Therefore, the result declared for the 9th Respondent is further inaccurate, illegal, invalid and null and void.

iii) Lack of security of IEBC election materials, systems and devices and interference through foreign nationals

49. The foregoing inconsistencies and variations in the Voter Turnout captured in the KIEMS Kits and the Form 34C generated under conditions and returns that cannot be verified or accounted for, are confirmed by other evidence.

50. By manipulating the Voter Turnout, the 1st and 2nd Respondent were able to alter and/or change the outcome of the presidential election and determine whether or not the constitutional threshold of 50% plus 1 of the total valid votes cast was met.

51. The Petitioners aver that the 2nd Respondent did in fact manipulate and alter the Voter Turnout and the results of the presidential elections to give the 9th Respondent 50.49% of the total valid votes cast when in fact the 9th Respondent did not garner enough votes to meet the said constitutional threshold.

52. The Petitioners aver that the 1st and 2nd Respondents deliberately created and had opportunity to manipulate the Voter Turnout and the KIEMS Kits as set out hereinafter.
53. In contravention of the constitutional law, the electoral process and system did not meet the following five tests of a secure and transparent system and; and, were deliberately and/or negligently set to fail the tests and allow for easy and fraudulent manipulation:
- (i) Confidentiality: this requires that information should only be accessed by those persons that are authorized.
 - (ii) Integrity: Information used should be accurate and complete and protected from malicious modification either by authorized or unauthorized persons.
 - (iii) Availability: Information required must be available as and when required by those authorized to use and access it in compliance with the Constitution and the **Elections Act**.
 - (iv) Non Repudiation: An audit trail must be maintained on activities related to the information. This principle presupposes that if someone or anything has access to or modifies the information or database or system it should leave a footprint; and a log should be maintained in order to trace back sources and actions. There is evidence of abnormal activities on the IEBC public portal during and after official dates for transmission of results from polling stations to the public portal. Some

of the statutory Forms 34A that were transmitted into the portal are different from physical copies of supposedly the same forms that were issued to the Petitioners' agents in substance and form.

(v) Authenticity: The information itself must be established to be genuine and the source must also be established to be genuine. The system was corruptly manipulated to the extent that the result generated and declared on form 34A's is incomplete and provides inaccurate results as to the total number of votes cast and the results obtained by the respective presidential candidates in the election.

54. On 21st July 2022, three foreign nationals from Venezuela, Salvador Javier Sosa Suarez, Jose Gregorio Camarigo Castellanos and Joel Gustavo Rodriguez Garcia, were arrested while entering the Country with IEBC election materials and electronic devices containing crucial and sensitive IEBC election materials and information that ought to have been secure and/or secured.

55. Upon the arrest of the three Venezuelans, the 2nd Respondent issued public statements/press releases on 21st and 22nd July 2022 admitting that the arrested persons were in possession of very sensitive strategic equipment and information, and offering his protection and protest for them, in intemperate and inappropriate terms. The said press releases are annexed to the Supporting Affidavit of the 2nd Petitioner.

56. On 23rd July 2022, the Director of Criminal Investigations also issued a press release detailing the arrest of the three (3) Venezuelans, and the record of sensitive IEBC materials, documents and property found in their possession. The Directorate of Criminal Investigations conducted a Forensic Communication Analysis of the three (3) Venezuelans and the electronic devices and the IEBC election materials that were in their possession; and prepared a Report dated 05th August 2022. The said press release by the Director of Criminal Investigations and the Report is produced in the Supporting Affidavit of the 2nd Petitioner.

57. Evidence obtained from the forensic communication analysis of the electronic devices that were in the possession of the three foreigners on the eve of the General Election, contained in the afore said Report dated 05th August 2022 revealed the following serious and alarming facts *inter alia*, that later manifested in the impugned electoral process, system and conduct of the elections and the variance in the Voter Turnout among others:

- (i) the electronic devices which included laptops had sensitive IEBC documents and election related materials and information;
- (ii) The history analysis of one of the laptops indicated the user is able to directly log in remotely using remote desktop tools into IEBC local IP address;
- (iii) The history demonstrates that the remote access to IEBC IP address began in March 2022;

- (iv) The laptop had:
 - (a) IEBC database schematic diagram
 - (b) IEBC network diagram
 - (c) IEBC KIEMS Kit
 - (d) IEBC KIEMS Kit deployment list
 - (e) User name and passwords
 - (f) Local IP address configurations
 - (g) Virtual Private Network (VPN) settings

- (v) The 1-TB hard disc had file folders which had IEBC election system information on:
 - (a) System network details
 - (b) Database development credentials

- (c) KIEMS project schedule
 - (d) Travels details of Jose Gregorio Camarigo Catellanos
 - (e) VPN access credentials
 - (f) Settings for remote access to IEBC server
 - (g) Results Transmission System
 - (h) Dashboard users IEBC system user's access rights
 - (i) Integrated data management system updates development
- (vi) Jose Gregorio Camarigo Catellanos is the super administrator of IEBC IDMs; has all rights using this tool to manage IEBC field staff using KIEMS Kit; can add, remove and delete using the system; and can assign rolls to IEBC staff.
- (vii) It was established that the users who have administrative rights in the system are twenty one (21), nineteen of whom are foreigners. Only two (2) Kenyans have access to the IEBC system.

- (viii) The confiscated exhibits had substantial IEBC data and information on IEBC election systems.
58. The arrest of the said foreign nationals travelling with sensitive IEBC election related materials and information under self evidently questionable circumstances shows incredible, inexcusable and unacceptable violation of the integrity and security of the electoral process and system.
59. Combined with the capability of the foreigners and anyone in possession of the contents and information in the electronic devices to remotely access and manipulate the entire IEBC data; and the manifest discrepancies and irregularities manifest during the General Election and the tallying, verification of count and declaration of the presidential election result; it is the inevitable and inescapable inference and conclusion that not only was the presidential election not secure, it is not verifiable, accountable, neutral or transparent.
60. The Petitioners further contend that the deliberate interference with the integrity, credibility and security of the presidential election was intended to alter and did in fact alter the outcome of the results of the presidential election.
61. The Petitioners shall seek an order of the Court directing the National Police Service, and in particular the Director of Criminal Investigations to produce statements, photographs, reports, equipment, laptops, phones, other gadgets and devices and any other materials

connected or related to the conduct of the elections and found in possession of the Venezuelan nationals.

Evidence of interference and penetration of IEBC systems

- Staging

62. On 12th August 2022 in the evening, a suspicious bag with a black Lenovo laptop model E14 belonging to Koech Geoffrey Kipngosos – an Agent of the United Democratic Alliance (UDA) Party, that was left unattended at the verification auditorium at the National Tallying Centre was confiscated by the Directorate of Criminal Investigations.
63. The Directorate of Criminal Investigations (DCI) conducted an onsite forensic image of the laptop to determine why it was being used at the National Tallying Centre whereas parties had agreed by consensus that no agent would be permitted to use laptops in the verification auditorium.
64. The DCI took and shared a copy of the image of the said laptop with all presidential candidates' agents. A forensic analysis of the said image showed that the said laptop was connected to the IP <http://173.249.40.177/>, which is an external IP that does not belong to IEBC and where Forms 34A were being stored temporarily, downloaded, and then re-uploaded to the IEBC portal through an application for sharing data (SharePoint).

65. The Petitioners shall seek an order of the Court directing the National Police Service and in particular the Director of Criminal Investigations to produce the laptop(s) retrieved and seized from the said Koech Geoffrey Kipngosos agent of UDA and the report of the Forensic Analysis and Examination of the laptop(s) and its contents.
66. The temporary storage of Forms 34A in an external address not belonging to the IEBC was to allow the interceptor to manipulate the Forms 34A before re-uploading and/or to upload different Forms 34A.
67. The aforesaid evidence is contained in the Further Affidavit of the Petitioners' Witness Benson Wesonga and corroborate the testimony in his principal affidavit that the RTS had a 'staging' platform from where forms were converted, manipulated and unlawfully dumped into the public IEBC portal contrary to law.
68. The evidence of 'staging' above corroborate the evidence inter alia that the IEBC portal and system was not secure; that third parties were able to obtain and did have access to the IEBC portal and system; the results were capable of fraudulent manipulation and were in fact fraudulently manipulated.
69. The 2nd Respondent's admission and vehement defence of the foreign nationals found in possession of sensitive IEBC materials and devices capable of manipulating IEBC returns remotely proves beyond doubt that the conduct of the election was in fact a criminal

enterprise conducted with the knowledge, connivance and collusion of the 2nd Respondent.

Further evidence of staging

70. On 11th August, 2022, two days after close of polling, the 1st Respondent dumped over 11,000 Forms 34A into the public portal between 1101hrs–1109hrs.
71. Dumping of forms in this manner suggests that the system was designed to allow 'staging' which enables any person with access to the RTS to 'detain' the forms for a while before they become visible to the public in order to make changes to them before releasing them to the intended destination.
72. Forms were staged to convert them into PDF and thereafter make such changes on them as anyone with fraudulent intent would want before being released into the public portal. Noting that results from polling stations are final, staging exposes such results to additional human intervention which defeats the verification objective of the RTS and confirms the 1st Respondent's system is not secure.
73. The foregoing is further corroborated by an email from Paul Wachanga Mugo - the IEBC ICT Support Coordinator in charge of Counties, in which he states that as of 11:02am of the day after the election, there were over 7500 KIEMS kits that were yet to transmit data

related to the electronic identification of voters (EVI) yet all EVID tablets closed successfully.

74. All the above data should have been transmitted to the National Tally Centre when voting closed on 09th August, 2022. According to Paul Wachanga Mugo's email, there were 687 kits still reading as open a day after the election, which is evidence that the same were still being actively used to transmit manipulated/unauthorized data from polling stations.
75. The above evidence is contained in the principal affidavit of Benson Wesonga in support of the Petition.

iv) Sabotage, criminal and/or fraudulent interference, deliberate tampering with and/or manipulation of election results and returns

Fraudulent establishment of parallel Form 34A

76. The 1st and 2nd Respondent fraudulently ordered the Ballot Paper printing firm, Inform Lykos Hellas SA, to print a parallel set of Form 34A Result Declaration Forms and declined to make an order for the requisite Forms 34B when printing other election materials. The 1st Respondent stated that Forms 34B shall be self-generated from the KIEMS kits after close of polling.

77. The Petitioners wrote a letter dated 27th July 2022 to the 1st Respondent questioning why there were two booklets of Form 34A and why Forms 34B were not printed by the Ballot Paper printing firm.
78. In response, the 1st and 2nd Respondents invited all Presidential Election stakeholders to a consultative meeting. It was agreed by consent that the 1st Respondent shall print Form 34B and shall not use Form 34A Booklet 2 of 2. The terms of the Consent were gazetted by the 1st and 2nd Respondents vide Gazette notice number 9280.
79. The Tender for printing of ballot papers, Results declaration forms and other election materials prescribes the format and security features of the Results declaration forms. According to the Tender document, Form 34B was to be printed together with other election materials. The Supreme Court in **Raila Odinga 2017** reiterated that results must be recorded in the correct results declaration forms. The 1st Respondent should have instructed the ballot paper printing company to Print Form 34B.
80. In 2017 Presidential Elections, the 1st Respondent stated that they shall use Form 34B that have “ the first page preprinted, with statutory details such as title of the Form, relevant citation from the regulations and heading of the form”

Manipulation and/or deliberate tampering with Forms 34A

81. There was wilful, deliberate and criminal tampering and/or manipulation of the results of the presidential election as demonstrated in the facts herein.
82. The facts and evidence obtained by the Petitioners show a systematic pattern of criminal and fraudulent interference with the electronically transmitted results in Forms 34A in the IEBC portal after declaration of results at the polling stations.
83. The Forms 34A issued to the Petitioners' agents at the polling stations and electronically transmitted through the KIEMS Kits to the National Tallying Centre vary from the Forms 34A displayed in the IEBC portal.
84. Evidence from a sample of forty one (41) Forms 34A from the following polling stations in Bomet and Kiambu Counties show the following facts and evidence:
 - 1) Chepalungu Borut Pry. School polling station 1 of 1
 - 2) Chepalungu Cheserton Pry. School polling station 1 of 1
 - 3) Chepalungu Kiplombe Pry. School polling station 1 of 1
 - 4) Chepalungu Chebunyo Pry. School polling station 1 of 2
 - 5) Chepalungu Kimindilil Pry. School polling station 1 of 1
 - 6) Sotik Gorgor Pry. School polling station 2 of 2
 - 7) Chepalungu St. Joseph's Kapsirich Pry. School polling station 1 of 1
 - 8) Chepalungu Saunet Pry. School polling station 1 of 1
 - 9) Sotik Kagasik Pry. School polling station 1 of 1

- 10) Chepalungu Kapchumbe Pry. School polling station 1 of 1
- 11) Chepalungu Kiboson Pry. School polling station 1 of 1
- 12) Chepalungu Sing'oiwek Pry. School polling station 1 of 1
- 13) Sotik Chepkawal Pry. School polling station 1 of 1
- 14) Konoin Boito polling station 2 of 2.
- 15) Konoin Boito polling station 1 of 2.
- 16) Konoin Besiobei Pry. School polling station 1 of 1.
- 17) Konoin Tuiyobei Pry. School polling station 1 of 1.
- 18) Kiambaa Kawaida Pry. School polling station 1 of 6
- 19) Kiambaa Kawaida Pry. School polling station 4 of 6
- 20) Kiambaa Kawaida Pry. School polling station 5 of 6
- 21) Kiambaa Kawaida Pry. School polling station 1 of 6
- 22) Kiambaa Kawaida Nursery School polling station 1 of 5
- 23) Kiambaa Kawaida Nursery School polling station 2 of 5
- 24) Gatundu North Kanjuku Pry School polling station 1 of 3
- 25) Gatundu North Kanjuku Pry School polling station 2 of 3
- 26) Gatundu North Kanjuku Pry School polling station 3 of 3
- 27) Gatundu North Kangaita Pry School polling station 1 of 2
- 28) Gatundu North Kangaita Pry School polling station 2 of 2
- 29) Gatundu North Kamwangi Pry School polling station 2 of 6
- 30) Gatundu North Kamwangi Pry School polling station 3 of 6
- 31) Gatundu North Kamwangi Pry School polling station 4 of 6
- 32) Gatundu North Kamwangi Pry School polling station 5 of 6

- 33) Gatundu North Kamwangi Pry School polling station 6 of 6
- 34) Gatundu North Kairi Pry School polling station 1 of 2
- 35) Gatundu North Kairi Pry School polling station 2 of 2
- 36) Gatundu North Igegania Pry School polling station 4 of 4.
- 37) Gatundu North Igegania Pry School polling station 3 of 4.
- 38) Gatundu North St. Anne's Mariaini Pry. School polling station 1 of 2
- 39) Kiambaa Gatono Nursing School polling station 1 of 1.
- 40) Kiambaa Gacharage School polling station 2 of 5.
- 41) Kiambaa Gacharage School polling station 1 of 5.
- 42) Lurambi Constituency Kakamega High School polling station 1 of 2.

- a. The votes recorded for the 1st Petitioner and the 9th Respondent in the physical copies of Forms 34A issued to the Petitioners' agents at the polling stations, differ from the Forms 34A in the IEBC portal;
- b. In all the 41 Forms 34A in the IEBC portal, the votes of the 1st Petitioner have been reduced and the votes for the 9th Respondent have been increased by the same number of votes deducted from the 1st Petitioner, so that the total vote remains the same while camouflaging the alterations.
- c. The serial numbers in the altered Forms 34A in the IEBC portal are exactly the same as copies of Forms 34A issued to the Petitioners' agents at the polling stations. It therefore shows an ability or possibility of selective interference with

the data only, while giving the impression of non-interference at all. Other details including serial numbers of the Forms 34A apart from the 1st Petitioner's and 9th Respondent's votes, would be kept the same, so that the total number of valid votes would show to be the same.

d. In Lurambi Constituency Kakamega High School polling station 1 of 2, the 1st Petitioner's votes were reduced by 100 but not accounted for or added to any candidate. The total number of valid votes cast in the return does not add up with what is declared. The Petitioner contends that in his strongholds, his votes would simply be reduced without adding them to any candidate.

85. The facts and evidence show that the fraudulent interference with the electronic copies of the results declared in Forms 34A were fraudulently altered *after* the transmission of Forms 34A from the polling station.

86. The facts and evidence show that the interference with the Forms 34A transmitted to the National Tallying Centre was deliberate and done with criminal intent to alter and reduce the votes cast for the Petitioner; and increase the 9th Respondent's votes without interfering with the total valid votes cast.

87. The manipulation of the transmitted results could only be done by somebody with access to the IEBC portal; someone with the opportunity and someone with the capability to interfere with the results remotely and electronically.

88. The evidence collected from the sample of 41 Forms 34A in just two constituencies – Bomet and Kiambu – indicate a widespread pattern that would significantly alter the results of the presidential election.

89. Therefore, based on the unearthed evidence already obtained in the sample of the 41 Forms 34A out of only two constituencies, the Petitioners shall seek 1) a scrutiny; and 2) a forensic audit of all the Forms 34A from Bomet and Kiambu counties and constituencies and the results of the election on the following basis:

- (i) The fact that there are 41 Forms 34A with the same serial number but different results is an anomaly and/or aberration that necessitate a scrutiny, forensic audit and investigation of the Forms 34A. This evidence is set out in the affidavits of Celestine Anyango and Arnold Ochieng Oginga.
- (ii) The sophisticated tampering or interference with the Forms 34A appearing in the IEBC portal demonstrates that the electoral process and system is not secure; which the Court has a duty to inquire into.
- (iii) The arrest of the foreigners with means and opportunity to remotely manipulate, delete, change and interfere with the information in the IEBC portal and KIEMS Kits points to fraud and criminal acts that warrant scrutiny, forensic audit and investigation of those involved including the 2nd Respondent and the CEO of the

1st Respondent who rushed to the defence of the arrested foreigners and publicly declared that they are/were persons authorised by the of the 1st Respondent.

(iv) There is software that can allow one to alter or change the contents of a PDF.

90. Out of the sample of 41 Forms 34A above, the total number of votes reduced from the 1st Petitioner and added to the 9th Respondent is 2,793.

91. The Petitioners contend that the fraudulent manipulation of the 1st Petitioner's votes to increase the 9th Respondent's votes was done with the knowledge, connivance and collusion of the 9th Respondent.

Further evidence of fraudulent digital manipulation of Forms 34A

92. The Petitioners' witness John Mark Githongo, contains direct incriminating evidence from a hacker contracted by the 9th Respondent's agent Dennis Itumbi, detailing how he and others were tasked to intercept and manipulate Forms 34A transmitted from the KIEMS Kit and thereafter transmit the altered Forms to the IEBC public portal.

93. John Mark Githongo's testimony proves how the hackers effectively stole thousands of votes from the 1st Petitioner and exaggerating the votes of the 9th Respondent, with the knowledge, connivance, collusion and full sanction of the 2nd Respondent and other officials of the 1st Respondent.

94. The testimony of John Mark Githongo proves the criminal conspiracy between the 2nd Respondent and some officials of the 1st Respondent and the 9th Respondent to affect and alter the outcome of the presidential election.

v) **Vote differentials**

95. The Petitioners aver that there was systemic voter suppression and ballot stuffing in the Petitioners' strongholds and in certain counties in the Rift Valley and Central parts of Kenya respectively.

96. The Petitioners analyzed Forms 34C alongside Forms 37C, 38C and 39C from various counties in which there were variances between the total number of votes cast for the presidential position and the other three elective positions namely Governor, Senator and Women Representative. The said variances are summarized in the table below.

S/NO.	COUNTY	PRESIDENTIAL 2	GOVERNOR	SENATOR	WOMAN REPRESENTATIVE	DIFFERENCE
2	KWALE	180,368	180,304			64
18	NYANDARUA	242,238	241,402	242,846	242,029	608
19	NYERI	326,880	335,709			6,541
20	KIRINYAGA	260,900	237,183			23,550
23	TURKANA	144,531	144,705	147,760	144,516	74
24	WEST POKOT	174,963	174,775			188
38	VIHIGA	186,448	184,974	187,545		1,097
44	MIGORI	349,384	348,298			1,086
	TOTAL	1,865,812				
						33208

97. The above evidence shows the number of voters who purportedly voted for the President only but did not vote for the other elective positions. It also shows counties where voters voted for the other elective positions but did not vote for the president, which is a practically improbable scenario.
98. Results from the 8 counties presented above show that over 33,208 voters were supposedly not given the 6 ballots, which represents more than 21% of the counties, a statistically significant number. Extrapolated across the remaining 39 Counties, the number could be much higher.
99. The Results Declaration Forms in Othaya Constituency in Nyeri show that the number of registered voters for Senate is 61,879, for member of National Assembly is 62,492 while the registered number for the President is 44,205. There are 18,287 voters who are unaccounted for in respect to the President in Othaya Constituency.
100. In North Imenti Constituency in Meru County, the number of registered voters for the National Assembly is 96,241 yet the number of registered voters for the President is 96,623. Registered voters for the President exceeds the registered voters for the National Assembly by 382.
101. The total number of valid votes and rejected votes in North Imenti Constituency for the National Assembly is 62,196, and the number of valid votes and rejected votes for the

President in the same constituency is 62,258. Therefore an additional 62 more people voted in favour of the President in North Imenti than the National Assembly.

102. The above evidence is contained and further elaborated in the affidavits of the Petitioners' witnesses, Celestine Anyango and Arnold Ochieng Oginga.

Cancellation of gubernatorial elections for ulterior motives

103. Article 101(1), 136(2), 180(1) and 171(1)(a) provide for the election of Members of Parliament, President, Governor and Members of County Assembly at a general election, being the second Tuesday in August in every fifth year in which registered voters in the Republic of Kenya exercise their franchise in one single day their political rights under Article 38 of the Constitution.

104. The 2nd Respondent with the knowledge, connivance and collusion of the 9th Respondent arbitrarily postponed and staggered the election of Governor for the populous counties of Kakamega and Mombasa without any constitutional authority, legal justification or reasonable excuse.

105. The said counties are electoral areas where the 1st Petitioner has a strong base and support of the voters and the general populace and the postponement was to the disadvantage of the 1st Petitioner and for the benefit of the Respondents.