

The 2013 Kenyan Presidential Election: Lessons Left Unlearned



Introduction

- Two main categories of problems with the Supreme Court's detailed judgment:
 - The judgment did not substantive address the evidence presented to the Court.
 - The judgment relied on sub-standard jurisprudence and did not meet certain legal standards (Detailed explanation to follow)



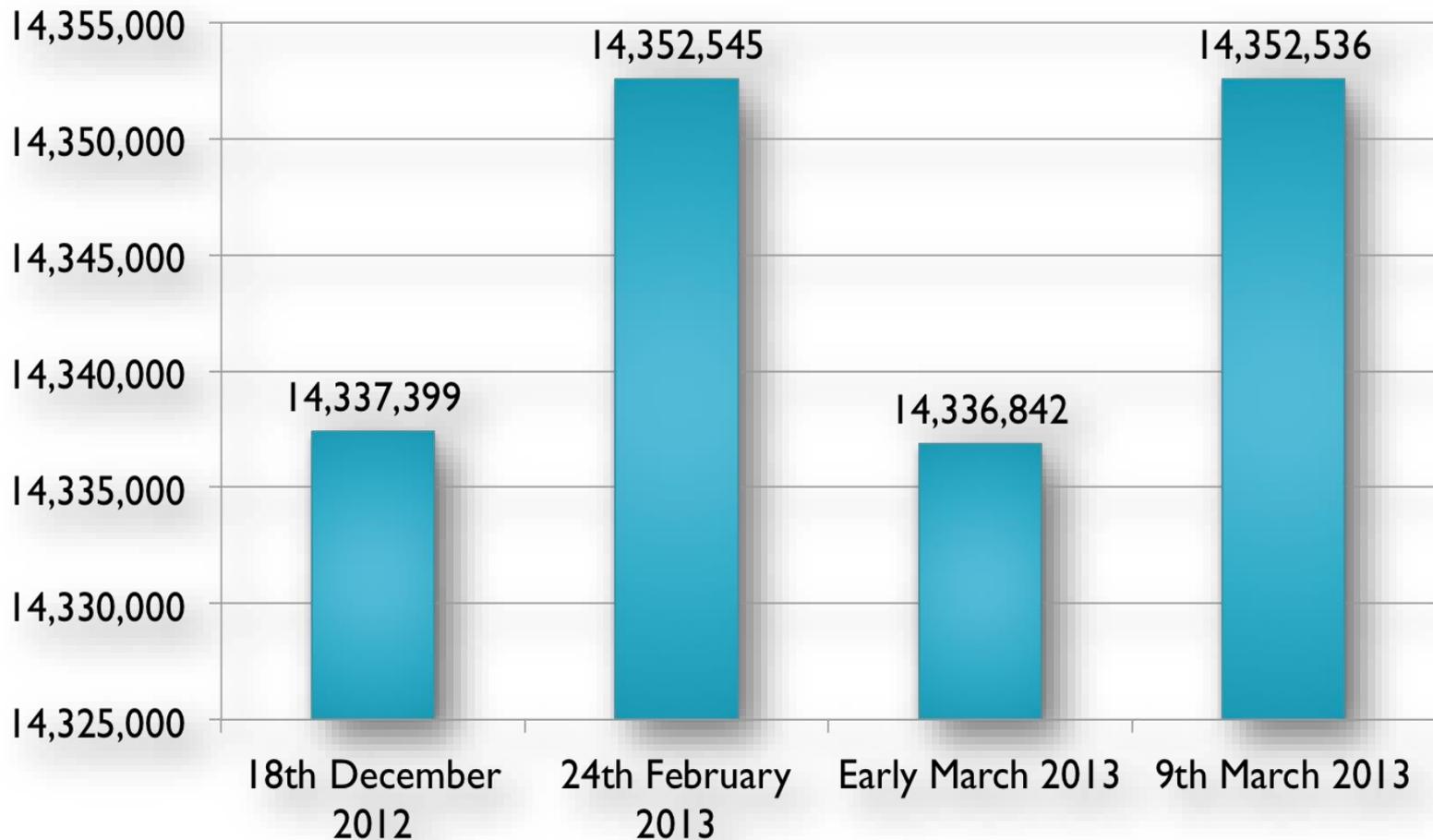


Voter Registries In Use During the March 2013 Kenyan General Election

- **Provisional Register:** December 18, 2012. It contained 14,337,399 voters.
- **Principle Register:** February 18, 2013. It contained 14,352,545 voters.
- **Political Parties' Register:** March 2013. 14,336,842 voters.
- **Results Register:** March 9, 2013. 14,352,536 voters.
- **Special Register:** 36,236 voters.
- **The Green Book:** Allegedly compiled during voter registration. Contains **UNKNOWN** number of voters.
- **Fundamental Question:** Why weren't ***ALL REGISTERED VOTERS***, irrespective of the availability of their biometric details, included in the legally gazetted register?

Aggregate Changes in the Voter Register

Overall, the March results register contained about 12,500 more voters than the December provisional register.



Internally, there were **153,664 subtractions** and **166,164 additions**.

Patterns

Province	Changes Between December 2012 and March 2013
Coast	+904
Nyanza	-15,026
Central	+1,846
Rift Valley	+66,990
North Eastern	+6,604
Western	-2,938
Eastern	+4,222
Nairobi	-50,102

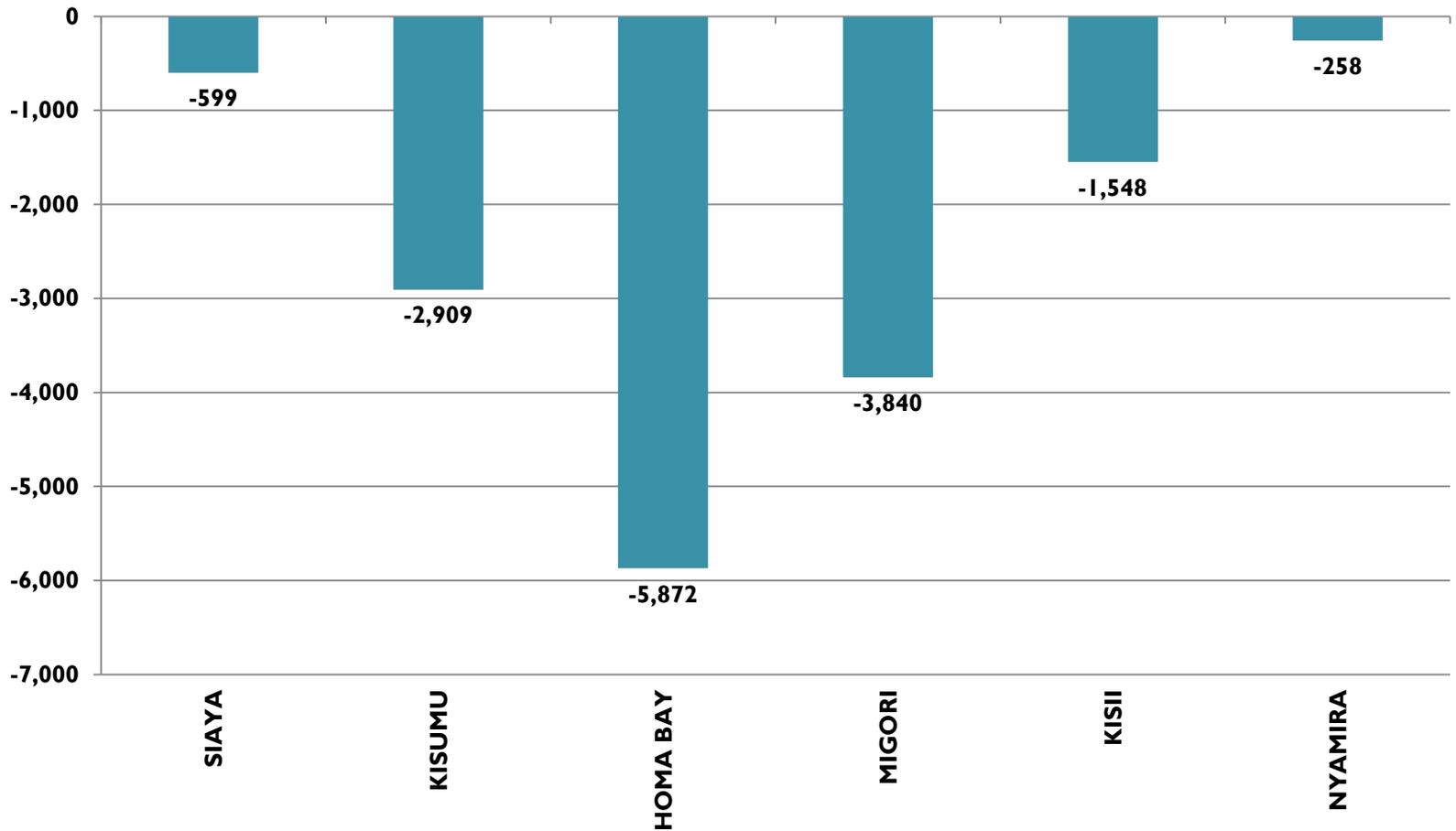




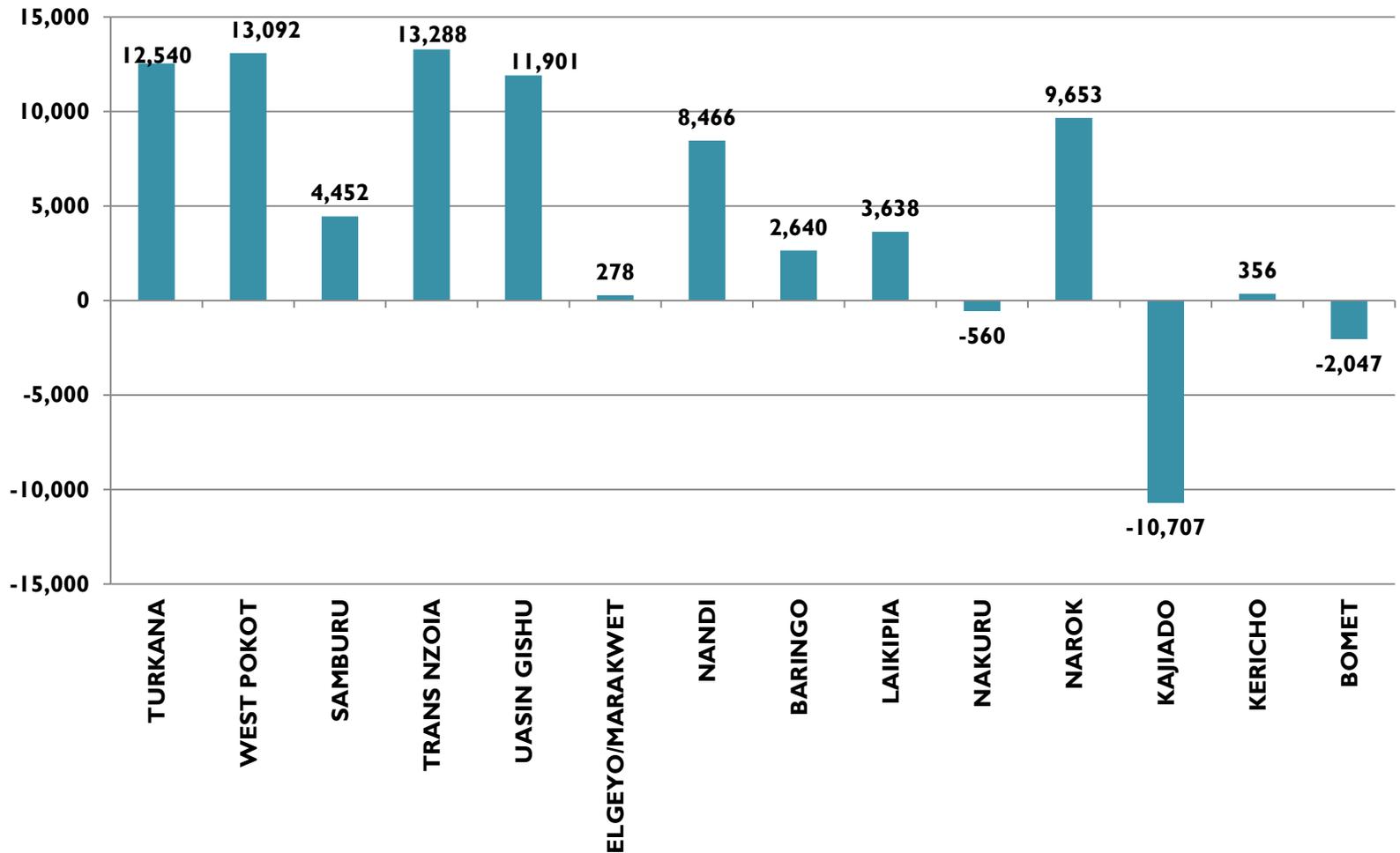
What does this tell us about candidates' strongholds?

- Raila's strongholds: **14,122** subtractions
- Uhuru's strongholds: **68,836** additions

Changes to Nyanza Province: Approximately 14,000 Subtractions



Changes to Rift Valley Province: Approximately 68,000 Additions





Numbers Still Don't Add Up

- The Principal Register + the Special Register + the 12 voters from the test account does not equal the number announced on March 9:

$$14,352,545 + 36,236 + 12 \neq 14,352,536$$

- The Commission claimed that 30,000 names had to be deleted because they represented double-entries. Of those 30,000, 13,237 were then added to the register. The numbers still don't add up:

$$14,337,399 - 30,000 + 13,237 + 36,236 + 12 \neq 14,352,536$$

Does it matter?

- With different versions of the register around, there were many opportunities for mischief.
 - With so many different registers, how could polling clerks know what to do with people that didn't appear on whatever list they had?
 - Compounded by failure of EVID
 - Green Book did not contain biometric information
 - This could explain the 28 stations we have found with over 100 percent turnout
 - The 2013 election turnout is 30 percentage points higher than turnout in 2002



Voter Turnout



Constituency Name	Voter Turnout Using December 2012 (Provisional) Register	Voter Turnout Using February 2013 (Final) Register	Difference between 2013 Turnout and Average	Average Turn-out of 1997 and 2002 presidential elections
POKOT SOUTH	109%	93%	25%	68%
LOIMA	106%	80%	33%	47%
SAMBURU NORTH	105%	88%	19%	69%
KAJIADO SOUTH	103%	91%	24%	67%
SIGOR	102%	92%	24%	68%

Voter Turnout in Turkana

Turkana Central Polling Station	Votes Cast	Registered Voters (as published by IEBC)	Voter Turnout	Registered Voters (on Form 34)	Voter Turnout
PS 49	134	66	203.0%	165	81.2%
PS 82	1019	1010	100.9%	1515	67.3%
PS 91	269	161	167.1%	300	89.7%



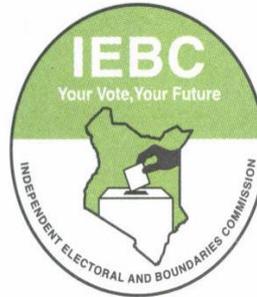
Voter Turnout in Tharaka

Tharaka Polling Station	Votes Cast	Registered Voters (on Form 34) ORIGINAL	Voter Turnout	Registered Voters on Form 34 CHANGED	Voter Turnout
PS 72 Stream I	149	126?	118.2%	166	89.8%



FORM 34

34 PR 00028253



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

DECLARATION OF PRESIDENTIAL ELECTION RESULTS AT A POLLING STATION

POLLING STATION: NTHANJENI MARKET (072)

STREAM: 1

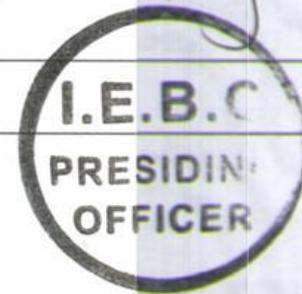
CONSTITUENCY: THARAKA (062)

1.	Total number of registered voters for the polling station	166
2.	Number of spoilt ballot papers	0
3.	Total number of votes cast	149
4.	Number of rejected votes	3
5.	Number of disputed votes	0
6.	Number of rejected objected to votes	0
7.	Total number of valid votes cast (in figures and words)	146 one hundred and forty six



9. Presiding Officer's Statutory Comments:

The number of voters was higher than the the registered voters. This was authorised by the RO as he argued that they were registered at Constituency level.



“The number of voters was higher than the the [sic] registered voters. This was authorised by the RO as he argued that they were registered at Constituency level.”

Effects of Enlarged Register

- If we remove the changes made to the register and take reported voter turnout into account, we find:
 - Uhuru received ~21,978 more votes than he would have
 - Raila received ~11,201 less votes than he would have
 - This would have meant that Uhuru won 49.93 percent of the vote and Raila won 43.44 percent of the vote. A run-off would have been held.
 - As it stands, Uhuru crossed the 50% threshold with approximately 8500 votes.



ERT vs. Manual Results

Polling Station Name	Form 34 Result	ERT Result	Difference
Wamboo Primary School	380	280	-100
Muthesya Primary School	419	420	+1
Muthamwaki Primary School	279	275	-4

The results for Uhuru Kenyatta, as transmitted via the ERT system, showed that he had won 98 more votes in Masinga than what was recorded in the final result. How could results that only represented PART of Masinga have been HIGHER than the final result? What happened to those 98 votes?



Judicial Scrutiny

- The Court's report did not point out:
 - At least 83 missing Forms 34
 - Between 16 and 18 stations showing over 100 percent turnout (About 9,000 votes should have been cancelled)
 - Even using the Green Book, 2 (out of 22) stations showed more than 100 percent turnout
 - Some forms were incomplete (number of registered voters missing, etc)
 - There was only 1 polling station in which the number of voters in the principal and special registered added up to the Green Book number
 - There were 2 polling stations (out of 22) for which there was no Green Book



Ongoing Problems

- At least **60** of the IEBC-uploaded Forms 34 are different from the forms used in the judicial scrutiny.
- At least **34** of the Forms 34 used in the scrutiny have not been uploaded.
- As of the end of the trial, at least **83** Forms 34 were still missing.



Thank You

