

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
A) MATTERS ON CROSS-CUTTING ELECTORAL ISSUES						
1.	Constitutional Application No. 1 of 2011	In Re the Matter of Commission for the Implementation of the Constitution	M. K. Ibrahim S. Wanjala(SCJJ)	Whether Supreme court could adopt proceedings of court of appeal	Court could adopt court of appeal proceedings including the pleadings	November 2, 2011
2.	Constitutional Application No. 2 of 2011	In Re the Matter of the Interim Independent Electoral Commission	W.M. Mutunga(CJ), Nancy Baraza (DCJ) Tunoi, Ibrahim, Ojwang, Wanjala& Ndung'u (SCJJ)	Advisory Opinion on Election date	The issues to be litigated and resolved in the High court as the petitions raised issues on constitutional interpretation	December 20, 2011
3.	Advisory Opinion Application No. 2 of 2012	In the Matter of the Principle of Gender Representation in the National Assembly and Senate	W.M. Mutunga(CJ), Nancy Baraza(DCJ) Tunoi, Ibrahim, Ojwang, Wanjala&	Advisory opinion on question of gender representation in Parliament(<i>a third gender rule</i>) and issue of run-off In particular: Whether Article 81(b) as read with Article	Article 81(b) is amenable only to progressive realization even though it is immediately applicable in the case of County Assemblies under Article 177.	December 11, 2012

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			Ndung'u(SCJJ)	<p>27(4), 27(6), 27(8), Article 96, 97, 98, 177(1)(b), 116 and 125 of the Constitution requires progressive realization of the one third gender rule or if it is required to be implemented in the first general elections under the Constitution.</p> <p>Whether an unsuccessful candidate in the first round of presidential election under Article 136 or any other person is entitled to petition the Supreme Court to challenge the outcome of the first round of the said election under Article 140 or any other constitutional provision.</p> <p>Whether the second round of Presidential elections must be held within 30 days regardless of whether there is a justiciable</p>	<p>Unanimously, the Supreme Court opined that in the event of a second round of election, the words “within thirty days after the previous election” should be read to mean thirty days from the date on which disputes in respect of the first round will have been resolved.</p> <p>The validity of the Presidential election is not for determination only <i>after</i> the administrative pronouncement of the final result but at any stage in the critical steps of the electoral process</p>	

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				dispute as to the conduct of the first round.		
4.	PETITION 65/2011	John Harun Mwau & 3 others v Attorney General & 5 others	I. Lenaola, M. Ngugi & D.S. Majanja(JJ)	Date of the First Elections under the New Constitution	Elections could only be held within sixty(60) days from the date of dissolution of the National Coalition or within sixty(60) days from the expiry of the term of the National Assembly in January 15, 2013	January 13, 2012
5.	Civil Appeal 74 & 82 of 2012	Centre for Rights Education and Awareness & another v John Harun Mwau & 6 others	D.K. Maraga J.	Date of first election under the Constitution.	The only body left to fix the date for the first general election under the current constitution is the IEBC and the date of 4 th March 2013 that it has fixed being within sixty days of 14 th January 2013 is lawful and cannot be faulted.”	July 31, 2012
6.	Misc. Appl. 94 of 2012	Republic v IEBC & another <i>ex parte</i> Eliot Lidubwi Kihusa & 5 others	M. Warsame, RN Sitati, HA Omondi, P Nyamweya, D Majanja(JJ)	Whether court exercising jurisdiction under Article 89 as read with section 36 of the IEBC Act and regulation 5 of the Fifth Schedule had	There is no jurisdiction under the provisions of Article 89(11) or 259(9) of the Constitution to extend time limited for filing an application for review.	May 30, 2012

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				jurisdiction to extend time of filing.	The last effective date of filing the application for review was therefore 10 th April 2012. All applications and Petitions filed after 10 th April 2012 were filed out of time	
7.	PETITION 82/2011	Mohamed Abdille & 16 Others V Attorney General & Another (Consolidated)	Lenaola, Mumbi, Githua JJ	Question as to the constitutionality of delimitation of wards and constituencies by the IEBC across the country. Challenge as to the delimitation of Wajir East and Wajir South constituencies in Wajir County.	Delimitation of wards and constituencies in Wajir County was subject of the court's consideration in JR 94 of 2012 in which court gave specific orders concerning delimitation of both Wajir West and Wajir South constituencies. The orders have not been overturned by an appellate process	January 30, 2013
8.	Constitutional Application No. 6 of 2012	Randu Nzai Ruwa & 2 Others V The Secretary, Independent Electoral And Boundaries	Mwera, Muriithi, Nzioka, Tuiyott, Mwongo JJ)	Application on behalf of Mombasa Republican Council ("MRC") seeking court's determination that the rights of the people in the " Coast Region ", to determine their	Neither the Applicants as individuals acting on behalf of MRC, nor the MRC as an unregistered, amorphous body espousing an unconstitutional agenda, has neither the <i>locus</i>	December 20, 2012

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		Commission & 9 Others		political and socio-economic destinies, have been infringed upon in various ways by the Respondents. Challenge on the standing of IEBC as successor of IIBRC. Question as to whether the Applicants, or the MRC entitled to constitutional protections under the Constitution 2010 when such body or person is neither a legal entity or registered or recognised under any law of the land.	<i>standi</i> nor the legal competency to bring the Originating Motion or the Interlocutory Motion, or to be entitled to pursue the reliefs sought. Application struck out, each Party to bear its own costs.	
9.	PETITION 552/2012	International Centre for Policy and Conflict & 5 others v The Hon. Attorney General & 4 others (<i>"Integrity Case"</i>)	M. Mbogholi, L. Kimaru, H.A. Omondi, P. Nyamweya GK Kimondo(JJ)	Exercise of High Court's jurisdiction under Article 165 where there are alternative mechanisms. High Court's jurisdiction in adjudicating matters relating	Any question relating to the qualification or otherwise of a person who has been duly nominated to contest the post of president can only be determined by the Supreme Court. The High court lacks jurisdiction	February 15, 2013

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				to qualification of candidates running for presidential posts.	to entertain questions relating to election of the President. Where there are alternative forms of redress to deal with a specific issue, the jurisdiction of the High Court should not be invoked unless such mechanisms have been exhausted. Petition dismissed.	
10.	PETITION 2/2012	Charles Omanga & another v IEBC & another	I. Lenaola, J.	Whether the provisions of Section 43(5) of the Election Act, 2011 requiring the resignation of State officers seven (7) months prior to the elections while at the same time excluding other categories of State of public officers was discriminatory.	Public officers who may wish to run for elective positions cannot have one leg in public service and another at their elective area. The Law was designed to aid them make up their minds on where they want to maximize their energies. Seven months before the election date was sufficient time for public officers to prepare themselves to meet their fate at the election box. Petition dismissed. Each party to bear own costs.	August 2, 2012

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11.	PETITION 198/2011	Johnson Muthama v Minister for Justice and Constitutional Affairs & another	N. Mumbi J.	Whether certain sections of Elections Act unconstitutional in as far as they tend to limit by requiring post-secondary qualifications for prospective candidates.	Sections 22(1)(b) and section 24(1)(b) of the Elections Act 2011 which bar persons not holding a post-secondary school qualification from being nominated as candidates for elective office are unconstitutional and in violation of petitioners' rights	June 29, 2012
12.	PETITION 78/2012	Esposito Franco v IEBC & another	I. Lenaola, J.	Whether Article 99(2)(c) of the Constitution has prospective effect and applies only Kenyans who become citizens of Kenya after the effective date. Whether Article 99(2)(c) of the Constitution discriminatory in nature by classifying citizens into categories of sets who are first among equals.	Article 99(2)(c) of the Constitution <u>disqualifies</u> any person who has not been a Kenyan citizen for a period of at least “ <i>ten (10) years immediately preceding the date of election.</i> ” The Submissions by the Petitioner that Article 99(2)(c) has <u>prospective</u> effect and only affects persons who become citizens of Kenya after the effective date of the Constitution cannot be true. Petition lacks merit. Petitioner ordered to pay costs as he had	January 11, 2013

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					sought interpretation of the Article for his own benefit.	
13.	PETITION 288 of 2011	Stephen Asura & Others v. ODM & Others	N. Mumbi, J.	The petitioners sought to restrain the confirmation of grassroot elections of Makadara Constituency held at the City Hall in Starehe Constituency for being unconstitutional. They sought to have the matter referred to arbitration.	The court did not have jurisdiction over the matter in light of the nature of the dispute and the parties involved. It ordered the 1 st Respondent to put in place mechanisms for resolving the petitioners' grievances, failing which the petitioners would have recourse to the PPDT.	December 14, 2011.
14.	PETITION 220 of 2011	Engineer Ephraim Maina v. IEBC	N. Mumbi, J.	Petitioner challenged the constitutionality of the decision by the Safina Party to expel him from the party as it was likely to lead to the loss of his seat as Member of Parliament for Mathira constituency.	The petitioner was under an obligation to exhaust the internal party dispute resolution mechanism. If aggrieved at the party level or if the party refused to activate the party mechanism, the petitioner would have recourse to the PPDT. Preliminary objection upheld and petition dismissed.	January 21, 2013.

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15.	PETITION 398/2012	International Centre for Policy and Conflict v Attorney General & another	D.S. Majanja, J.	<p>IEBC accused of failing to develop compulsory rules and regulations requiring candidates to produce their background information on oath to afford citizens a chance to genuinely scrutinize candidates that may be elected to public offices.</p> <p>IEBC accused of failing to facilitate honest and public disclosure and scrutiny of candidates for elections contrary to the national values and Kenya's international obligations.</p>	<p>The questions raised by parties raise important and fundamental issues about our electoral process but the court cannot act in the absence of a real dispute between the petitioner and the respondents.</p> <p>The petition is premature</p> <p>There is no violation or threatened violation of fundamental rights and under the bill of rights under Article 22 or threat or contravention of the Constitution under Article 258(1)</p>	October 26, 2012
16.	PETITION 356/2012(Consolidated with Petition	Francis Gitau Parsimei v National Party Alliance and others	D.S. Majanja, J.	Jurisdiction of High Court in challenging nomination for election to parliament	Article 88(4) and section 74(1) of the Elections Act, 2011 provide for alternative modes of dispute resolution specific to nomination	August 22, 2012

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	359/2012)				process. The court cannot entertain nomination disputes where such a process has not been invoked or where it has been demonstrated that the process has failed.	
17.	PETITION 327/2012	Evans Misati James v IEBC & another (Consolidated with Petition no. 328 of 2012- Hon John Harun Mwau & 7 Others v IEBC & 2 others)	D.S Majanja, J.	Interpretation and constitutionality of section 26 of the Elections Act, 2011 which provides that a person who directly or indirectly participates in any manner in fundraising or harambee within eight months preceding a general election or during an election period is disqualified from contesting in the election.	Section 26 of the <i>Elections Act</i> does not violate Articles 27, 43 and 44 of the Constitution. The two Petitions namely Petition Nos. 327 of 2012 and 328 of 2012 dismissed	November 5, 2012
18.	PETITION 574/2012	Kituo Cha Sheria v IEBC & another	D.S. Majanja J	Right of prisoners to register as voters and participate in voting in General elections	IEBC directed to put in place measures to ensure that prisoners who are registered to vote are able to vote in first General Election.	January 21, 2013

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					Further, that the electoral body puts in place and implements measures to ensure realization of the right of prisoners to register to vote and vote in future elections and referenda.	
19.	PT 12/2013	Bishop Donald Kisaka Mwawasi v Attorney General & 2 others	D.S. Majanja J.	<p>Whether a person who holds dual citizenship is qualified under the Constitution to contest elective office.</p> <p>Whether there is conflict between Article 99 and interpretation provisions under Article 260.</p> <p>Whether the definition of State officer or State office under Article 260 violates the petitioner's right under Article 10 and 38.</p>	<p>By virtue of Article 78(2), a person who holds dual citizenship cannot run for elective office as a Member of Parliament.</p> <p>The notice issued by IEBC, in so far as it relates to qualification of dual citizens not being able to stand for elections is not <i>ultra vires</i> or illegal.</p> <p>The provision of one part of the Constitution cannot violate another. Article 2(3) clearly stipulates that the validity or legality of the Constitution is not</p>	January 28, 2013

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					subject to challenge by or before any court.	
20.	PETITION 331/2012	New Vision Kenya(NVK Mageuzi) & others v Attorney General & another	D.S Majanja J.	Right of Kenyans living outside Kenya to vote	The right of citizens to vote guaranteed under Article 38(3) is not absolute and may be subject to reasonable restrictions. Such restrictions for citizens residing outside Kenya are that that right is progressively realized.	November 15, 2012
21.	PETITION 268 & 398/2012.	Micah Kigen & 2 others v Attorney General & 2 others	D.S Majanja J.	Meaning of ‘special interests’ under Article 97(1) Whether section 39(4) of the Elections Act is unconstitutional for permitting political parties to include candidates for the position of President and deputy-President in the part nomination list.	‘special interests including’ must have a broad and expanded meaning to cover interests identified by political parties and not restricted to the categories of interest groups identified by the Constitution.’ Section not unconstitutional.	November 15, 2012

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22.	PETITION 549/2012	Michael Wachira Nderitu & 3 others v Mary Wambui Munene & 2 others	D.S Majanja J.	Whether court should grant conservatory orders restraining IEBC and TNA from nominating or registering the 1 st Respondent as candidate for the office of Member of parliament for Othaya constituency	Grant of conservatory orders rejected Court observed that nomination yet to take place and when it does and it infringes on the Constitution, the court can set it aside without difficulty as the matter is really a party matter.	December 5, 2012
23.	PETITION 556/2012	Jeffer Issak Kaur v Ministry of Justice, National Cohesion and Constitutional Affairs and 3 Others	I. Lenaola, J.	Whether Kenyans living in the diaspora can exercise their right to vote in the elections slated for March, 2013.	Right to vote to be progressively achieved. In the circumstances, this is not the situation in which the Court can intervene by way of the orders sought. The law provides for the enactment of law to provide for the 'progressive realization' of the rights if the Kenyans living in the diaspora to vote. Court orders must be issued in a manner that would sustain	January 11, 2013

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					<p>democracy rather than stifle it or impede the realization of its gains. It is less than 60 days to the next election and any further delay in the preparation thereof would only lead to a frustration that may implode the Nation. The IEBC needs time to set the stage for a credible election and any setbacks will not assist it in that regard</p> <p>The government and IEBC to put in place concrete, efficient mechanisms to ensure all citizens living abroad take part in the General Elections following the March 2013 elections.</p>	
24.	PETITION 446 of 2012	Isaac Aluoch Polo Aluochier v. A-G	D.S. Majanja J.	The culpability of state officers for contravening the Constitution, and particularly Article 77(2) which provides that 'any appointed state	Article 77(2) cannot be read in isolation but must be read together with Chapter Six of the Constitution. Parliament has enacted the Ethics and Anti-	PETITION 446 of 2012

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				officer shall not hold office in a political party’.	corruption Act and the Leadership and Integrity Act to provide a framework for enforcing Chapter Six. It was neither shown that any body charged with enforcing the chapter had failed, neglected or refused to act nor that any of the petitioner’s fundamental rights had been breached. The petition was dismissed.	

B) MATTERS ARISING FROM POLITICAL PARTIES NOMINATIONS

HIGH COURT AT NAIROBI

25.	JR 452/2012	R v The Commission o Administrative Justice <i>Exparte</i> John Ndirang Kariuki	G.V. Odunga	Application to stop the IEBC from acting on recommendation of the 1 st 1 st Respondent that the applicant be disqualified from running for an elective	At the time these proceedings were instituted there is no evidence that the 2 nd respondent had commenced the process of determining the eligibility of the applicant to hold public office and	January 28, 2013
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				public office.	that there was imminent danger that the <i>ex parte</i> applicant was going to be denied the opportunity of being heard before a determination was made. Courts do not issue orders at large in judicial review applications. Notice of Motion dated 28 th December 2012 which I hereby dismiss with costs to the respondents.	
26.	PETITION 43/2013	Augustine Ogaye Adhola v Hon Nicholas Gumbo & 2 Others	Majanja, Korir, Ogola and Odunga(JJ)	Party nominations for Rarieda Constituency Parliamentary seat for the Orange Democratic Movement Party allegations of irregularities in nomination exercise	The dispute herein was a dispute between members of a political party and the party which ought to have been dealt with in another forum before invoking the jurisdiction of the Court. Petition dismissed with no order as to costs	February 5,2013
27.	PETITION 32/2013	Nicodemus Ochieng v Independent	Majanja, Korir and Odunga(JJ)	ODM nomination contest for the Makongeni Ward County	Petition allowed. Decision of IEBC/NDRC/36/2013 be set	February 5, 2013

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		SElectoral and Boundaries Commission		Assembly Representative Petitioner raised the issue that he was not properly served	aside. IEBC directed to rehear matter. No order as to costs.	
28.	PETITION 40/2013	Erick Okongo Mogeni v Independent Electoral and Boundaries Commission & 2 Others	Majanja, Korir and Odunga(JJ)	ODM senatorial race for Nyamira county.	Petition allowed to the extent that decision made on IEBC/NDRC/205/2013 be and is hereby set aside. The complaint to be heard afresh by IEBC by a panel excluding Ms Betty Nyabuto.	February 5,2013
29.	PETITION 44/2013	Nassir Mohamed Dolal v Independent Electoral and Boundaries Commission & Others	Majanja, Korir and Odunga(JJ)	National Assembly seat for Garissa Township Constituency by the Orange Democratic Movement Question of Citizenship of Petitioner	Petition allowed and the decision of IEBC dated 28 th January 2013 in IEBC/NDRC/41/2013 be and is hereby set aside. The petitioner shall be at liberty to present nomination papers to the respective returning officer. There shall be no order as to costs.	February 5,2013

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30.	Misc. Civil Appl. 41/2013	Julius Chacha Mabanga v. Independent Electoral and Boundaries Commission & Another	Majanja, Korir, Ogola and Odunga(JJ)	candidacy for Member of Parliament for Kuria East Constituency on Orange Democratic Movement Party	The petition is allowed. The order of IEBC in IEBC/NDRC/01/2013 of 28 th January 2013 be and is hereby set aside. IEBC is directed to hear the matter in accordance with law.	February 5,2013
31.	PETITION 39/2013	Janet Ndago Ekumbo Mbete v The Hon Attorney General	Majanja, Korir and Odunga(JJ)	Challenge of nomination of Hon Hassan Ali Joho and/or Hazel Katana to vie for the positions of Governor and Deputy Governor respectively for Mombasa County on ground of educational qualifications	As parties are required by law to qualify for consideration to be nominated, the returning officer receiving the papers will be required to address himself or herself on the issues raised by the petitioners. Petition dismissed with no order as to costs.	February 5,2013
32.	PETITION 24/2013	Daniel Taleng'o Kiptunen v The Attorney General	D.S. Majanja, W. Korir, G.V. Odunga	Whether Commission for Higher Education (CHE) mandated to carry out accreditation of degree qualifications. Petitioner a prospective	The relevant institution charged with recognising degrees is the CHE which conducts this exercise by referent to accreditation. It follows therefore, the decision by the CHE to recognise the degree	February 5,2013

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				candidate for the Narok County Governor's seat.	issued to the petitioner was within its statutory authority. Petition dismissed with no order as to costs.	
33.	JR 25/ 2013	Michael Wachira Nderitu v The Independent Electoral and Boundaries Commission & 2 Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Othaya Parliamentary Seat contest	The dispute herein was a dispute between one political party and another which ought to have been dealt with in another forum before invoking the jurisdiction of the Court. Chamber Summons dated 29 th January 2013 dismissed with no order as to costs.	February 5,2013
34.	JR 27/2013	Maurice M Lishenga v Independent Electoral and Boundaries Commission & 3 Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Nominee for the Lurambi Constituency MP post under the New Ford Kenya political party. Challenge against Manyala Keya as party's nominee.	Applicant did not file a complaint before the Tribunal and the last matter on the record of proceeding was No. 206. The affidavit of the complainant purportedly filed sworn on 27 th	February 5,2013

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				Application for leave to file judicial review application	January 2013 which was after the Tribunal had completed its hearings. Notice of Motion dated 29 th January 2013 be and is hereby dismissed with no order as to costs.	
35.	PETITION 46/2013	Stanley Kihiko Mutungu v The National Alliance Party & 2 Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Nominations for Kipipiri Constituency for The National Alliance (TNA) party parliamentary candidate, allegations of election irregularities, challenge against nomination of Amos Kimunya	With respect to commission of offences, the same ought to be dealt by the criminal court Further, there was no allegation of procedural improprieties on the part of the Commission which dealt with the matter. Petition dismissed with no order as to costs.	February 5,2013
36.	JR MISC. 28/2013	Gideon Kaumbuthu Meenye v Independent Electoral and	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Application relating to Sen candidate for Meru County f National Alliance Party.	It is only errors of procedure that are capable of constituting infringement to the rights protection and no mere	February 5,2013

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		Boundaries Commission & 2 Others		Complaint that Committee's decision based on the erroneous view that applicant had been a member of party for less than one month. Applicant complains that there was no proper hearing and the rules of natural justice were flouted.	irregularity in procedure is enough, even though it goes to jurisdiction; the error must amount to failure to observe one of the fundamental rules of natural justice. The concept of fair trial is not an abstraction; it is contextual. Notice of Motion dated 31 st January 2013 is dismissed with no order as to costs.	
37.	JR 35/2013	Kelvin Lunani Kwena v Suleiman Shabhal & 3 Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Allegation of the dual nomination, 1 st Respondent allegedly secured two nomination tickets from United Democratic Forum Party nomination for the Governorship of Mombasa County candidate allegedly seeking to contest on Wiper Democratic Movement Party. Allegation that Committee	Chamber summons dated 30 th January 2013 is dismissed with no order as to costs. Leave to institute judicial proceedings is rejected. Reasons for the decision to be given on 5 th February 2013 at 2.30 pm	February 5,2013

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				failed to consider evidence.		
38.	PETITION 45/2013	Peter Edick Omondi Anyango v Independent Electoral and Boundaries Commission & 2 Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Party nomination for Orange Democratic Movement (ODM) for Nyatike Constituency in Migori County.	Petition dismissed on the basis that Mr Tom Mboya Ndege, the party alleged to be on the list was not joined to the proceedings nor served with court process. He had acquired a right and as, his right could not taken away arbitrarily, Petition dismissed with no order as to costs.	February 5,2013
39.	PETITION 47/2013	Hon Edwin O Yinda v Independent Electoral and Boundaries Commission	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Nomination froeru m the United Democratic Forum (UDF) to contest the Alego Usonga Constituency seat	Petition dismissed with no orders as to costs. .	February 5,2013
40.	Misc. 55/2013	Jackson Kyalo Itule v Wilson Mutunga Wambua & Others	D.S. Majanja, W. Korir, G.V. Odunga(JJ)	Applicant's complaint is that he was denied the right to contest the Ndithini/Mananja Ward in Masinga Constituency on a Kenya National Congress	That the applicant was given a fair hearing at the Tribunal and that the IEBC came to the conclusion it was entitled to.	February 5,2013

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				Party on account of the 1 st respondent being given a direct ticket.	Notice of Motion dated 30 th January 2013 is dismissed. Reasons to be given on 5 th February 2013. There shall be no order as to costs.	
41.	PETITION 48/2013	Orange Democratic Movement Party v The Independent Electoral and Boundaries Commission	D.S. Majanja, W. Korir, G.V. Odunga	Correction of errors and omissions on party lists submitted to Electoral body in view of section 13 of Elections Act	Petition is dismissed with no order as to costs save that IEBC is directed to correct spelling mistakes or minor errors in respect of the names present in the list by the petitioner. For avoidance, there should be no replacement or addition of names to be submitted.	February 5,2013
42.	PETITION 49/2013	Philemon Donny Opar v Orange Democratic Movement Party & 2 Others	Majanja, Korir and Odunga(JJ)	Applicant seeking court order to restrain the IEBC from receiving any purported nomination papers relating to the Office of member of Parliament, Karachuonyo Constituency from the 2 nd	There was an alternative mode of redress available on discovery of new evidence. The issues of the commission of election offences ought to be dealt by the criminal court since in these proceedings	February 5,2013

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				Respondent, one Hon. James Rege Allegation that party had refused to issue Applicant with nomination certificate instead issuing the 2 nd Respondent who was a member of another Party.	we are not sitting as a criminal court Petition dismissed with no order as to costs.	
43.	PETITION 55/2013	Kajiado County Council v Independent Electoral and Boundaries Commission & Another	Majanja, Korir, Odunga(JJ)	-	Petition marked as withdrawn with no order as to costs.	February 5,2013
44.	PETITION 53/2013	Moses Kauni Masaki v IEBC & Another			Petition dismissed with no order as to costs.	February 5,2013
45.	Misc. 53/2013	Michael Mungai v Ford Kenya Election Nominations Board & Others			Application dated 20 th January 2013 is dismissed with no order as to costs.	February 5,2013

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46.	PETITION 58/2013	Attas Sheriff Ali v IEBC Dispute Resolution Committee & 2 Others	Majanja, Korir, Odunga(JJ)	Question as to the qualification of Deputy Governor for TNA Nairobi County within the meaning of Article 180(2)(5) of the Whether a person registered as a voter in Nyamira County is qualified to contest for the post of Governor or Deputy Governor of Nairobi County within the meaning of Article 180(2) of the Constitution.	The issue herein was a party issue that ought to have been dealt with at the party level before the court's jurisdiction could be invoked. Petition dismissed with no order as to costs.	February 5,2013
47.	JR 29/2013	Samuel Arama v Independent Electoral and Boundaries Commission	Majanja, Korir, Odunga(JJ)	Applicant a prospective candidate for the seat of National Assembly for Malindi Constituency on The National Alliance Party. Applicant allegedly not afforded an opportunity to be heard before the NDRC arrived at its decision allowing the	IEBC is directed to comply with the decision in IEBC/NDRC/95/2013	February 5,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				Interested Party's complaint.		
48.	JR 38/2013	Republic v Independent Electoral and Boundaries Commission	Majanja, Korir and Odunga(JJ)	Application for judicial review application to quash the decision of the Committee issued on dismissing the complaint of the ex parte applicant and effectively confirming the nomination of the 1 st interested party to contest for the seat of Member of Parliament of Marakwet East constituency under The National Alliance Party.	Chamber Summons dated 31 st January 2013 is dismissed and leave to commence judicial review proceedings refused with no order as to costs.	February 5,2013
49.	JR 39/2012	Steve Mutuku Mutua v James Mutiso Mutua & 2 Others	Majanja, Korir and Odunga(JJ)	Dispute over Member of the National Assembly seat for the Yatta Constituency TNA ticket. Application that nomination of the 1 st respondent by TNA and subsequent certificate of nomination issued to the 1 st	The Applicant's case was in the nature of an appeal. Court did not detect any error in the Tribunal's proceedings as to entitle it to interfere. Court satisfied the Applicant given sufficient opportunity to present his case. Notice of Motion filed on 1 st	February 5,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				respondent be cancelled and be issued to the complainant.	February 2013 is dismissed with no order as to costs.	
50.	JR 40/2013	James Odhiambo Oyolo v National Disputes Resolution Committee & 2 Others	Majanja, Korir and Odunga(JJ)	Dispute over nomination to the seat of County Assembly representative for Railway Ward in Kisumu Central and Kisumu County on the Orange Democratic Movement Party. Applicant's claim that he won the nominations and was declared the winner thereof. However, the name that was forwarded to the 1 st respondent was that of one Isaiah Onyango.	A fair trial in the Constitutional context does not refer to the merits or <i>bona fides</i> of the process case but deals with trial process; the decision making process sometimes referred to as "due process". Chamber summons dated 30 th January 2013 dismissed. Leave to commence judicial review proceedings rejected. No order as to costs.	February 5,2013
51.	PETITION 57/2013	John Wanyonyi Wenyaa v Nicholas T T Simuyu & 2 Others	Majanja, Korir and Odunga(JJ)	-	Petition is marked as withdrawn with no order as to costs.	February 5,2013
52.	Misc. 60/2013	Isaiah Sammy Songwa v Independent	Majanja, Korir, Ogola and Odunga(JJ)	-	Petition withdrawn with no order as to costs.	February 5,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
		Electoral and Boundaries Commission				
53.	PETITION 58/2013	Sikudhani Ajwang Rumanywa v Pius Owino Otieno & 2 Others	Majanja, Korir and Odunga(JJ)	Contest for the position of County Representative for Sarang’ombe Ward, Kibra Constituency, Nairobi County. Complaint by petitioner against move to issue an ODM party certificate to the 1 st respondent . Where the 1 st respondent nomination certificate had already been presented and accepted by the Returning officer.	Court satisfied that under Article 88(4)(e) , the petitioner had an opportunity to appeal the returning officer’s decision. Petition dismissed with no order as to costs.	February 5,2013
54.	PETITION 54/2013	Hope Sanguli Mwakio v Orange Democratic Movement & 3 Others	Majanja, Korir and Odunga(JJ)	Petitioner, being a Life Member of ODM Party she participated in the nomination exercise for the party held on 17 th January 2013 for the position of Women	That a fair trial in the Constitutional context does not refer to the merits or <i>bona fides</i> of the process case but deals with trial process; the decision making process sometimes referred to as	February 5,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				Representative for Taita-Taveta County on the said Party ticket. According to her the election in the entire county was conducted without following the Party Election and Nomination Rules.	“due process”. The petition was dismissed with no order as to costs.	
55.	JR 61/2013	Robert Akumu Asembo v The Political Parties Tribunal & 3 Others	Majanja, Korir and Odunga(JJ)	Complaint by one Mr Robert Asembo who had been nominated by the Orange Democratic Movement to contest the position of member of National Assembly for Embakasi Central Constituency, Nairobi County was. Allegation that he was not a party to the dispute and was not served with proceedings.	The fact that the party which represented Applicant was party to the case and was heard does not diminish Mr. Asembo’s right to be heard nor does it entitle counsel for the party to appropriate the right of Mr Asembo to represent himself The political parties Tribunal shall hear the parties to Dispute No. 5 of 2013 de novo in the presence of the applicant, Robert Asembo forthwith. The IEBC shall comply with the decision of the Political Parties	February 1,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					<p>Tribunal on the proper nominee of the Orange Democratic Movement.</p> <p>The Political Parties tribunal shall complete its determination by close of business on 4th February 2012.</p> <p>The IEBC/Returning officer entitled to receive the nomination papers for the ODM candidate for Embakasi Central Constituency by the close of business on 5th February 2013.</p>	
56.	JR Misc. 41/2013	Michael Francis Chemonges Kitiyo v The Independent Electoral and Boundaries Commission	Majanja, Korir Odunga(JJ)	Application related to Kuria East Constituency, Migori County. Applicant argued that he won candidacy on an ODM ticket and issued with provisional certificate. Allegations Applicant was unaware of the proceedings by the Committee in which it was	Where a party has not been afforded an opportunity of being heard the process cannot be said to have been fair and the High Court has jurisdiction to reverse the decision of the Committee since that amounts to a defect in the process as opposed to the merits.	February 5,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				determined that the Interested Party be awarded the Party's nomination certificate.	The petition allowed with no order as to costs.	
57.	PETITION 32/2013	Nicodemus Ochieng v The Independent Electoral and Boundaries Commission	Majanja, Korir, Ogola and Odunga(JJ)	ODM nomination contest for the Makongeni Ward County Assembly Representative Petitioner raised the issue that he was not properly served	Petition allowed. Decision of IEBC/NDRC/36/2013 set aside. IEBC directed to rehear matter. No order as to costs.	February 5,2013
58.	PETITION 57/2013	George Wanyonyi Wenyaa v Nicholas T T Simiyu & Others	Majanja, Korir, Ogola and Odunga(JJ)	-	Petition is marked as withdrawn with no order as to costs.	
59.	JR 20/2013	Samuel Otieno Otaja v IEBC & Another	D.S. Majanja	-	the complaint relating to the nomination can be dealt with by the Independent Electoral and Boundaries Commission in terms of the provisions of Article 88(4)(e) of the Constitution and section 74 of the <i>Elections Act</i> . There is no evidence on record that complaint was lodged and rejected.	February 5, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					Notice of motion dated 4 th February 2013 dismissed with no order as to costs.	
60.	JR 42/2013	Joanes Boy Okoba v IEBC	-	-	Marked as withdrawn with no order as to costs.	
61.	JR 43/2013	Stephen K Ndungu v TNA & Others	-	-	Marked as withdrawn with no order as to costs.	
62.	JR 44/2013	Lupesia A Bakari v Godfrey Owino & Others	-	-	Marked as withdrawn with no order as to costs.	
63.	PETITION 60/2013	Franco Esposito v IEBC	Majanja, Korir, Ogola and Odunga(JJ)	Extent of Application of Article 99(3) . Petitioner having been nominated by Narc-Kenya to contest the Magarini Constituency Parliamentary seat in Kilifi County presented his nomination papers to the returning officer on 1 st February 2013 were rejected. Issue of citizenship of not less than 10 years. Whether	The provisions of Article 99(3) apply only to proceedings contemplated under Article 99(2)(g) and (h). In the circumstances, the petition must fail and it is dismissed with no order as to costs.	February 5, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				Petitioner entitled to vie as a candidate in the forthcoming election in light of the provisions of Article 99(3) . Argument that petitioner not disqualified until all possibility of appeal is exhausted.		
64.	PETITION 62/2013	Julius Chacha v IEBC & Another	D.S. Majanja, E Ogola, G V Odunga(JJ)	Allegation that Applicant not afforded a fair hearing by the NDRC as earlier ordered by court in petition no. 41 of 2013.	Petition allowed. Court not satisfied that the decision reached at by committee free from error. Committee directed to conduct a proper hearing of the dispute <i>de novo</i> as provided by law to determine who is the proper party nominee for the contested seat.	February 6, 2013
65.	PETITION 63/2013	Tom M Odege v IEBC & Others	-	-	Marked as withdrawn with no order as to costs.	
66.	PETITION 65/2013	Musa Tipape v Tom Mboya & Another	Ogola J.	Application seeking that pending the hearing and determination of the appeal of the judgment of the court	To grant a stay of execution in this matter will in effect mean that the Court has reneged from its Judgment delivered on 7 th	

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				<p>delivered on 7th February 2013, that court do order stay of execution together with the consequential decree and</p>	<p>February 2013. That although Court not privy to the grounds of appeal advanced by the applicant, if any, it is apparent that CHE's position on the non-recognition of the degree of Bachelor of Business Administration will not change.</p> <p>(i) The certificate of the retuning officer dated 1st February 2013 be and is hereby quashed forthwith.</p> <p>(ii) The Returning Officer to reconsider whether to accept or reject the 4th respondent's nomination papers in light of the Letter of Recognition issued to Joash T O Kores dated 22nd January 2013 by the Commission for Higher Education.</p> <p>(iii) The 4th respondent to pay the 3rd respondent's costs.</p>	

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
67.	PETITION 66/2013	Nicholas Maluki Kyunuve v IEBC & Another	-	-	Marked as withdrawn with no order as to costs.	
68.	PETITION 68/2013	Peter Kamau Nyutu v IEBC & Others	D.S. Majanja	Petitioner contends that he was the bona fide nominee of the County Representative Seat, Woodley Ward Kibra Constituency by virtue of the National Alliance Party Nomination Appeal Tribunal decision dated 21 st January 2013. Unfortunately, the party did not comply with its Appeal Tribunal directive.	Court took judicial notice of the fact that the nomination was then complete and the law permits the retuning officer's decision to be dialogued. Because there existed an efficacious alternative remedy, the court disallowed the petition.	February 5, 2013
69.	PETITION 69/2013	Pius Odero Okech v ODM & Others	-	-	Marked as withdrawn with no order as to costs.	
70.	PETITION 70/2013	Anthony Kimemia Gathumbi v TNA & 2 Others	Majanja, Korir and Odunga(JJ)	Petitioner moved the court for orders that he be cleared to contest the Harambee County Assembly Ward Seat, Nairobi	The petitioner was not privy to the concession upon which the decision was made. The NDRC decision set aside. The IEBC	February 6, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				County on the National Alliance Party ticket. Petitioner's complaint that his evidence challenging the 3 rd respondent's case before the Committee that he was a member of another party not taken into account.	Nomination Disputes Committee directed to rehear the matter taking into account the circumstances of the case.	
71.	PETITION 73/2013	Samuel Kurenta Nairoshi alias Samuel Katangie Kurenta v IEBC & Another			The complaint raised by the petitioner is about the rejection of identity papers. The rejection is subject to an appeal to the IEBC complaint/Dispute Resolution Mechanism under Article 88(4)(e) of the Constitution and Section 74 of the Election Act. Accordingly, the petition is dismissed on that basis with no order as to costs.	
72.	JR 20/2013	Samuel Otieno Otaja v IEBC & Another	D.S. Majanja J.		The complaint relating to the nomination can be dealt with by the IEBC in terms of the provisions of Article 88(4)(e) of the Constitution and section 74	February 5, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					of the <i>Elections Act</i> . There is no evidence on record that complaint was lodged and rejected. Notice of motion dated 4 th February 2013 dismissed with no order as to costs.	
73.	PETITION 90/2013	Charles John Otete & another v IEBC and Johannes Boy Okoba	E.K.O Ogola J.	Petition to quash decision of IEBC to accept nomination of 2 nd Respondent as candidate for Bunyala Central Ward in Budalangi Constituency on an Orange Democratic Party(ODM) Ticket.	This court finds that the decision taken by the IEBC to delete the name of the Petitioner and replace it with that of the 2 nd Respondent was a reckless and unlawful act which has no basis and violated the constitutional rights of the Petitioner.	February 13, 2013
74.	PETITION 93/2013	Mable Muruli v IEBC	E.K.O Ogola J.	Candidature of the Governorship of Kakamega County. Whether after a person has successfully gone through the process leading to the	A declaration that the Petitioner is a Degree holder within the meaning of Section 22 (2) of the Elections Act 2012 No. 24 A mandatory injunction compelling the Commissioner to accept the Petitioner's nomination	February 13, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				acquisition of a degree, he is qualified under Seciton22 (2) of the Act even when no physical certificate has been conferred.	papers and issue a clearance certificate to her for her to contest the seat of County Governor, Kakamega County A mandatory injunction compelling the Commission to accept and incorporate the Petitioners' name in the list of candidates and ballot papers as an independent candidate for the County Governors' seat, Kakamega County	
75.	J.R. 49/2013	R v IEBC & another <i>ex parte</i> Yussuf Ooro Odongo	E.K.O. Ogola	The Applicant, a member of The National Alliance Party (TNA) alleges that he was nominated to vie for the seat of Senator by TNA party in Siaya County on the 18 th January 2013. The IEBC declined to give the Applicant Form 16	The decision of the Committee quashed. IEBC directed the IEBC to put the name of the Petitioner/Applicant in the ballot papers as an aspirant for the Senate seat for Siaya County on a TAN	February 15, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					<p>Ticket for the 4th march General Elections.</p> <p>No order on costs.</p>	
76.	J.R. 52/2013	R v IEBC and another	E.K.O Ogola(J)	<p>Right of Applicant where the Committee reneges on its position/ruling. Where Committee having upheld the party position as the ODM nominee –that the IEBC had no option but to honour its own Ruling.</p>	<p>The decision of the IEBC accept the nomination papers of the Interested Party Patrick Ouma Odwalo quashed.</p> <p>IEBC ordered to forthwith receive and accept the nomination certificate of the Applicant Mr. Pius Odero Okech as the sole nominee of the Orange Democratic Movement (ODM) to vie for Kagan Ward as Country Assembly Representative and to print ballot paper in his name.</p> <p>IEBC ordered to pay the costs of this application.</p>	February 15, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
77.	Misc. Appl. No. 53 of 2013	Anthony Kimemia Gathumbi v IEBC and another	Ogola J.	Applicant's complaint that despite being a party to the dispute he was neither served with the complaint nor invited to state his case. Harambe County Assembly Ward member seat on National Party ticket	IEBC ordered to receive the Applicant as the nominee of the 2 nd Respondent (TNA) for the position of County Assembly Representative for the Harambee County Assembly ward of Nairobi County and issue him with the relevant clearance certificate. IEBC to substitute in its records and in the ballot papers for the 2013 general elections, the name of Johnson Maina Mwai – and replace it with Anthony Kimemia Gathumbi – the Applicant – as the TNA candidate.	February 18, 2013
78.	Misc. Appl. No. 55 of 2013	R V IEBC	Ogola J.	Application seeking to quash the decision of Returning Officer Trans Nzoia County in enlisting Edward Katama Ngeiywa as the nominee of the	IEBC is the innocent party in this matter. It has not made any decision which has been placed before the court for scrutiny	February 19, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				United Republic Party(URP) for the position of Senate member for Trans Nzoia County	Mr. Edward Katama Ngeiywa, the Party to be dispossessed of his nomination if this application were to succeed has not been joined to these proceedings and is unaware of the same. He is on the IEBC list and has acquired a right that cannot be taken away arbitrarily.	
79.	PETITION 65/2013	Musa Tipape Naini v Tom Mboya and 3 others	Ogola J.	Application seeking an Order that pending the hearing and determination of the appeal, the court do order stay of execution of the judgment of the court delivered on 7 th February 2013 together with the consequential decree and orders.	Applicant's application dated 12 th February 2013 dismissed. There is no evidence by correspondence or otherwise that the said Respondents have refused to honour the Petitioner's request for information	February 15, 2013
80.	PETITION no. 78 of 2013	Evans M. Swanya v IEBC & 3 others	Ogola J.	Application seeking to compel the Commission for Higher Education (CHE) academic	The presidential candidates have been cleared by the 1 st Respondent to run for can only	February 15,2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				credentials of all the presidential candidates in the March 2013 Election.	mean, <i>prima facie</i> , that they have met the stipulated requirements to run for presidency including the academic qualifications. Petition was premature as Petitioner did not give the Respondents adequate time to respond to his request. Petitioner's Notice of Motion dated 6 th February 2013 dismissed.	
HIGH COURT AT NAKURU						
81.	J R No. 3 of 2013	Republic v IEBC <i>ex parte</i> Charles Olari Chebet	M. J. Anyara Emukule	Application for leave to file judicial review proceedings against IEBC to compel it clear Applicant to vie for the County Representative seat of Solai Ward, Nakuru County.	The <i>ex parte</i> Applicant's Notice of Motion dated 4 th February 2013 and filed on 5 th February 2013 struck out with costs to the Respondent.	February 14, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
82.	Petition 85 of 2013	Julius Chacha Mabanga v. IEBC	Ogola J.	Petitioner challenged decision by IEBC to accept the nomination of the 1 st Interested Party for the Kuria East Constituency under the ODM party ticket despite the issuance of a nomination certificate to the petitioner and evidence of malpractices on the part of the 1 st interested party. Court had ordered the matter to be re-heard by the IEBC three times.	The IEBC cannot nominate a candidate for the party and disregard the position and views of the party. The decision of the IEBC nominating, permitting, or otherwise installing the 2 nd Interested Party as ODM's candidate for the elections quashed with costs to the petitioner.	February 14, 2013
83.	Petition 86 of 2013	Tom Mboya Odege v. IEBC & Another	Ogola J.	The applicant had challenged the decision of the IEBC to accept the nomination of the 2 nd Interested Party to contest the Nyatike Constituency National Assembly seat and sought to bar the IEBC from accept the nomination of the	In order for this court to exercise its jurisdiction over IEBC the proceedings before IEBC must be brought to the court for scrutiny. The proceedings were not before the court. The court could not investigate the merits of the IEBC decisions. Moreover, the ODM	Feb 19, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				2 nd Interested Party.	party was very clear that the 2 nd Interested Party was their only nominated candidate. The application was dismissed with costs.	
84.	Petition 88 of 2013	Omar Sheikh Ali v. IEBC	Ogola J.	The applicant had challenged the decision of the IEBC to accept the nomination of the 1 st Interested Party who he alleged did not meet the qualification requirements under Article 78 to contest the Garissa Township parliamentary seat and who had been cleared on an ODM ticket to contest the seat.	The court had dealt with the issue of Article 78 for the Constitution and declared that the 1 st Interested Party was qualified to contest the seat. The jurisdiction of the High Court was limited to looking at the process leading to those decisions, and not the merits thereof. There were no proceedings of IEBC put before the court to enable it to determine the fairness of the process. Application dismissed.	Feb 19, 2013
85.	Petition 90 of 2013	Charles John Otete v. IEBC & Another	Ogola J.	The petition sought to quash the decision of the IEBC to accept the nomination of the	The right of the petitioner to a fair hearing had been violated by IEBC. IEBC has no mandate to	February 13, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				2 nd Respondent as the ODM candidate for Bunyala Central Ward in Budalangi Constituency. The IEBC was alleged to have conducted a hearing on the nomination of the petitioner without according him the right to be heard.	nominate candidates on behalf of political parties. The decision of the IEBC to cancel the nomination of the petitioner was done in bad faith and was therefore quashed by the court.	
86.	Petition 91 of 2013	John Wanyonyi Wenyaa vs. Nicholas Simiyu & 3 Others	Ogola J.	The petition sought to have the consent entered into between the IEBC and PPDT in PPDT No 181 of 2013 stayed and revoked.	IEBC Tribunal and the Political Parties Disputes Tribunal are quasi-judicial bodies which have specific mandate under the various authorizing Acts. The court respects their decisions when made in good faith.	February 14, 2013
87.	Petition 92 of 2103	John Mbugua & Another vs. A-G & 3 Others	Ogola J	The petitioners sought to compel the IEBC to allow them to contest the Embakasi West and North parliamentary seats	That the petitioners had not invoked the jurisdiction of the IEBC established under Article 88 (4) (e) of the Constitution and	February 19, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				as independent candidates.	section 74 of the Elections Act, therefore the proceedings were premature. In any event, they had failed to submit the symbols they intended to use at least 21 days before the elections as required by law. The petition was therefore dismissed.	
88.	Petition 93 of 2013	Mable Muruli v. IEBC	Ogola J.	The petitioner sought a mandatory injunction to compel the IEBC to accept her nomination papers and issue her with a clearance certificate to contest the Kakamega County Governor’s position as an independent candidate. IEBC had declined to accept her papers on the basis that she did not possess a degree certificate as required by section 22 of the Elections Act. She also sought to have the	The petitioner had gone through the process leading to the acquisition of qualifications under the Act. A certificate was merely evidence of a process that had already taken place. IEBC compelled to accept the nomination papers of the petitioner and added to the ballot papers as an independent candidate.	February 13, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				printing of ballot papers halted pending the hearing and determination of the petition.		
89.	Petition 95 of 2013	William Kabogo Gitau v. James Karanja Nyoro & IEBC	Ogola J.	The petitioner, who is vying for the Kiambu gubernatorial seat on a TNA ticket, sought to restrain the 1 st respondent, who is vying on a NARC ticket, from using the TNA name, colours and symbols in his campaign material as it was misleading to the voters of Kiambu county.	The dispute in this case went to the root of the relationship of parties within the Jubilee coalition. As such, the petitioner should have invoked the Coalition Dispute Resolution Council as provided for in the Coalition Agreement to settle the dispute in the first instance and have recourse to the PPDT should the dispute not be satisfactorily resolved.	February 19, 2013
90.	Petition 101 of 2013	Zaddock A. Kisienya v. IEBC	Ogola J.	The applicant sought to have the IEBC's decision dismissing the nomination of the applicant for Maendeleo Democratic Party (MDP) in Shinoyi/ Shikomari/ Esumeya Ward of Navakholo	The Court cannot compel the IEBC to accept a nomination presented out of time. The applicant had not challenged the dispute resolution procedure of the IEBC but the merits of its decision. The application	February 18, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				Constituency set aside. The petitioner/applicant also sought to restrain the IEBC from printing ballot papers for the said ward. Though the petitioner had won the nomination, they had failed to present their papers to the IEBC in time due to illness.	therefore failed and was dismissed with costs.	
91.	Petition 103 of 2013	Jacqueline Nziva Munyao v. IEBC & 2 Others	Ogola J.	The applicant/petitioner sought to revoke the decision of the IEBC to accept the nomination papers of the 3 rd Respondent and also an order to compel the IEBC to remove the name of the 3 rd respondent from the ballot papers for the Ikombe Ward seat in Yatta Constituency.	The proceedings which led to the decision of the IEBC were not within the court. Since the court was only entitled to conduct a procedural review of the decision of the IEBC and not make a finding on its merits, the court ordered that the matter be re-heard by the IEBC.	February 19, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
92.	Misc. Appl. No. 10/2013	In the matter of Independent Electoral and Boundaries Commission, Nomination Disputes Resolution Committee, dispute no. 197 of 2013 (Franklin Bett & 3 others as Interested parties)	H.K. Chemitei	Orange Democratic Party (ODM) party's nomination for the Kasipul parliamentary seat. Applicant complaint that he was not with a hearing notice. Applicant notified of hearing via short text message (SMS)	The applicant was duly served via short message to attend commission by the process server but he chooses not do. I do not find that the rules of natural justice were breached by the Commission or at all. Application disallowed and each party ordered to bear their respective costs.	February 12, 2013
93.	Civil Appeal No. 3 of 2013	Republic v IEBC & another	H.K. Chemitei	County Representation South East Alego-Application for leave to institute judicial review	That the applicant should have sought redress with the commission which is mandated with the duty of resolving nominations disputes before invoking the jurisdiction of the Court Application disallowed for want of jurisdiction. Each party shall bear their respective costs.	February 11, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
94.	Civil suit no. 4 of 2013	Nicholas Oyoo Omolo V Leonard Otieno Oriaro & 3 others	H.K. Chemitei	ODM party nominations in Central Alego. allegation that defendants presented certificates from different party(United Democratic Party And Ford Kenya) yet participated in ODM party primaries	Application dismissed with no order as to costs. It does not meet the threshold of a temporary injunction. I shall thus dismiss the same with no orders as to costs.	February 11, 2013
HIGH COURT AT KISII						
95.	Kisii Petition No. 5 of 2012	John Pesa Dache v. IEBC & Another	Sitati, J.	The petitioner sought to compel the IEBC to accept the nomination certificate issued to him to contest the Suna East Constituency National Assembly seat on an ODM ticket.	The petitioner had not exhausted the internal party mechanism therefore the petition was premature. Once a list of nominated candidates had been submitted to IEBC, it could only be altered in the event of death, incapacitation, resignation or violation of electoral code of conduct, which had not been demonstrated by the petitioner. Petition dismissed.	February 8, 2013.
96.	Kisii High Court	Patrick Aran Aran &	Sitati, J	Petitioners sought to restrain	Petitioners had not exhausted all	February 8, 2013.

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
	Petition 6 of 2012	4 Others v. IEBC		the IEBC from accepting the nomination of the 2 nd -5 th interested parties.	dispute resolution channels before coming to the court. Preliminary objection upheld and petition dismissed	
HIGH COURT AT MOMBASA						
97.	Misc. J.R. No. 8 of 2012	R v. IEBC & 2 Others ex-parte Ibrahim Hussein Washenga	Muriithi J.	The applicant sought leave to commence judicial review proceedings to challenge the decision of the IEBC to accept the nomination papers of the 1 st Interested Party in respect of Jomvu Constituency and to compel the IEBC to accept the nomination papers of the applicant.	There were gaps and inconsistencies in the applicant's application. The court is entitled to take into account the nature of the process against which judicial review is sought to be initiated. The general election is a matter of great public interest to voters of Jomvu constituency and the country as a whole and it may not be allowed to be derailed. Application dismissed	Misc. J.R. No. 8 of 2012
98.	Malindi H.C. Petition No. 16 of 2012	Ali Bakari Mohammed v. IEBC & Anor	Muriithi J.	The petitioner, who had sat the KCSE exams in 2012, sought a declaration that he had a constitutional right to vie in	The petition was not premature as the fears by the petitioner that he would be locked out in view of the provisions of the Elections Act	Malindi H.C. Petition No. 16 of 2012

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
				the March 2013 elections.	cannot be unfounded and speculative. The petitioner had a constitutional right to vie subject to meeting other qualifications.	
99.	Mombasa Petition No. 8 of 2013	Roseline Achieng Mulaha Randa v IEBC and 2 others	Mwongo J.	Complaint against issuance of clearance certificate by IEBC to Mflaume Bakari, 3 rd respondent for the election of Member of Parliament on TNA ticket in Likoni Constituency. Allegation that Petitioner discriminated against as a Luo,	The complaint is genuine. However, the same should have been addressed to 1st Respondent pursuant to the <i>Elections (General) Regulations Rules of Procedure on Settlement of disputes</i> . When statutory processes for alternative, out of court dispute resolution are in existence, it is not for this Court to intermeddle. Second limb on allegations of discrimination fixed for full hearing following court's finding that such matters cannot be determined solely on affidavit evidence particularly when no	

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					documents had been produced to show whether the 1st Respondent was served with the complaint.	
HIGH COURT AT KAKAMEGA						
100.	Kakamega Petition 3/2013	Everlyne Nakhungu Juma v FORD Kenya Party & 3 Others	Said J. Chitembwe	Applicant/Petitioner seeking injunctive orders to restrain gazettement of the Interested Party, Nkalos Shiuma as the duly nominated county representative for Manda/Shivanga Ward, Malava Constituency. Applicant's contention that she was issued with a nomination certificate to represent the ward and presented her nomination papers to IEBC. Allegation that the Interested Party subsequently cleared to vie for the concerned Ward.	It is clear that there were no Ford Kenya Party elections for Manda/Shivanga Ward in Malava Constituency; the Party opted to give direct nominations. It is evident from the pleadings that the applicant's name was replaced with that of the Interested Party. The Applicant ought to seek recourse from her party and if she believes that her nomination was correct and the Interested Party is an imposter, it is up to the party to nullify the nomination of the Interested Party and correct the situation Notice of Motion dated 5 th February 2013 dismissed. The 1 st	February 18, 2013

SYNOPSIS OF SELECT ELECTORAL-RELATED CASES (2012/2013)

S/N	CASE NO.	PARTIES	CORAM	ISSUE(S)	HOLDING/ORDER	DATE DELIVERED
					respondent (Ford Kenya Party) to bear costs of the application.	