

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: cSenate@parliament.go.ke



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842 -00100
Nairobi, Kenya

PARLIAMENT OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./PETITIONS/CORR./2017

27th March, 2017

Mr. David O. Gesicho,
P.O. Box 1838 - 50100,
KAKAMEGA.



Dear Sir,

**RE: PETITION TO THE SENATE ON BUDGETARY ALLOCATION TOWARDS
EXTENSION OF THE MASS VOTER REGISTRATION EXERCISE**

I acknowledge, with thanks, receipt of your Petition on the above subject matter.

Upon reviewing the Petition in light of the Constitution, the Petition to Parliament (Procedure) Act (No. 22 of 2012) and the Senate Standing Orders, it is observed that the substance of the Petition relates to appropriation of revenue projected to be received by the National Government, and allocation of the same to the Electoral and Boundaries Commission towards extension of the mass voter registration exercise.

In terms of Article 221(6) of the Constitution, this would be done by way of an Appropriation Bill which, being a 'Money Bill' as defined under Article 114(3) of the Constitution, may only be introduced in the National Assembly.

Senate Standing Order 220(6) requires the Clerk of the Senate, whenever a petition is received the subject matter of which falls within the mandate of the National Assembly, to refer such a petition to the Clerk of the National Assembly.

In light of the said provisions, this is to advise that we have, by a copy of this letter, referred the Petition to the National Assembly for its consideration.

Yours sincerely,

M. A. MOHAMED
SENIOR DEPUTY CLERK
FOR: CLERK OF THE SENATE

Copy to:-

Mr. Michael R. Sialai, EBS
Clerk of the National Assembly,
Parliament Buildings,
NAIROBI.

Copy of Petition enclosed.

RECEIVED
CLERK OF THE SENATE
27 MARCH 2017
FOR: CLERK OF THE SENATE

PETITION TO PARLIAMENT OF THE REPUBLIC OF KENYA FOR OVERSIGHT IN THE REPATRIATION AND USE OF FUNDS RECOVERED IN THE SAMUEL GICHURU AND CHRIS OKEMO JERSEY ISLAND MONEY LAUNDERING CASE AND THE ANGLO LEASING CASES FOR MASS VOTER REGISTRATION (MVR) III

The Senate
Republic of Kenya

C/o The Clerk
The Senate of the Republic Of Kenya
P O Box 41842 - 00100
NAIROBI, Kenya



① DLBS
Please deal.
Mogor
14/3

RE: PETITION TO PARLIAMENT (PROCEDURES) ACT NO.22 OF 2012 CHAPTER 7C LAWS OF KENYA

I, the undersigned citizen of the Republic of Kenya **DRAW** the attention of the House to the following:-

THAT the mission of the Independent Electoral and Boundaries Commission (IEBC) is to conduct free and fair elections and institutionalize a sustainable electoral process.

THAT the IEBC website states that

IDs issued (as at 30 th November 2016)	28,061,236
Projected dead with IDs (10.57%)	2,965,944
Potential voting population with IDs	25,095,292
Registered voters (As at March 2013)	14,388,781
Additional voters registered (as at December 2016)	1,572,846
Approx. Total Registered (as at December 2016)	15,961,627
Potential voting population with IDs Not registered (as at December 2016)	9,130,269
MVR II Target is 67% those with IDs But not registered	6,117,280

THAT according to the Kenya National Bureau of statistics Kenya's population was 43 million in 2012. It had been projected that persons aged over 18 years will be 25.7 million by 2017 up from 22.5 million in 2012.

② Mr. Analo
Please process within
the timelines.
Mogor
15-03-17



③ Charles, Mungu
Please review
L Analo
15/3/2017

PETITION TO PARLIAMENT OF THE REPUBLIC OF KENYA FOR OVERSIGHT IN THE REPATRIATION AND USE OF FUNDS RECOVERED IN THE SAMUEL GICHURU AND CHRIS OKEMO JERSEY ISLAND MONEY LAUNDERING CASE AND THE ANGLO LEASING CASES FOR MASS VOTER REGISTRATION (MVR) III

THAT the IEBC had set itself a very soft target of 67% of those with IDs but not registered during Mass Voter Registration (MVR) II which meant leaving out more than three million Kenyans with IDs and also not targeting persons over 18 years that had recently obtained IDs or had the potential of obtaining IDs

THAT according to the IEBC, the approximate total number of voters registered as at December 2016 was 15,961,627. Additional voters registered during the Mass Voter Registration II as by 19th February 2017 was 3,782,089. The total number of voters registered as by 19th February 2017 was 19,743,716. The potential voting population with IDs had been estimated at 25,095,292. That leaves 5,351,576 potential voters with IDs unregistered. That is a whopping 21.3 percent of population with IDs not registered as voters.

THAT the IEBC had in February 2016 asked for Kshs. 2.0 billion from the National Treasury to carry out voter registration. It was subsequently allocated only Kshs.500 million for voter registration.

THAT the IEBC needs to be allocated more funds to carry out comprehensive voter registration.

THAT even with competing priorities and needs, voter education and civic education to the prospective electorate is very important for any democracy and especially in the third world.

THAT rigging of elections starts at the time of allocation of resources for the elections by parliament and the IEBC. It continues at the time of voter registration and voter education.

THAT providing sufficient funds for comprehensive voter registration and civic education is a small price to pay compared to the good that ensuring maximum participation of the citizens of the Republic of Kenya in the electoral process will bring. Decisions made by democratically elected governments are more legitimate when higher proportion of the population participates. Registering as a voter and actually voting has an educational effect upon the citizens. It has also been argued that, if democracy is government by the people, presumably this includes all people, then as many citizens as possible should be facilitated and encouraged to take part in the electoral process.

THAT a comparative study done by the Independent Review of Elections Commission (IREC) also known as the Kriegler Commission shows that Kenya's electoral costs are exorbitant. The costs of elections (without the additional costs from other sources) is thus US\$ 20.4 per registered voter (or US\$ 29 per cast ballot). If we do not consider the whole electoral cycle but limit the calculations to the costs sustained in 2006/7 and 2007/8, in which period the general elections took place the cost per registered voter is US\$ 13.74. In an article "How much do elections cost" in the ACE Encyclopedia (Produced by the Administration and Cost of Elections Electoral Knowledge Network), some comparison is given of several countries.

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“Low electoral costs approximately US\$ 1 to US\$ 3 per elector, tend to manifest in countries with longer electoral experience. The United States and most Western European Countries: Chile (US\$ 1.2), Costa Rica (US\$ 1.8) and Brazil (US\$ 2.3 in Latin America ; Benin (US\$ 1.6), Botswana (US\$ 2.7) Ghana (US\$ 0.7) and Senegal (US\$ 1.2) in Africa. India (US\$ 1) and Pakistan (US\$ 0.5) in Asia and Australia (US\$ 3.2)”.

“In most countries that have less multi-party experience, costs tend to be higher, even taking into consideration elections that have taken place as part of peace keeping operations where the costs per elector is highest: Mexico (US\$ 5.9) , El Salvador (US\$ 4.1) and Paraguay (US\$3.7) can be mentioned in Latin America; Lesotho (US\$ 6.9), Liberia (US\$ 6.1) and Uganda (US\$ 3.7) in Africa; and Russia (US\$ 3.7) in Eastern Europe”.

The costs in Kenya are comparable only to very special cases of post-conflict elections like Angola, Afghanistan or Cambodia.

THAT registration of voters constitutes a significant part of expenses of any Electoral Management Body (EMB). In the case of Kenya, they were estimated at around 30% of the total electoral cost.

THAT although the then electoral Commission of Kenya (ECK) had established a network of 7145 District Offices, only some 2% of voters opted to register there. The remaining 98% did so at the annual registration drives.

THAT among the findings and recommendations of the Independent Review and Elections Commission of 2008 was that the continuous registration of voters introduced in 2002 had not worked, as the numbers of people who registered at the ECK district electoral offices was minimal. The available evidence suggested that the solution was not to be found in increasing the number of offices as the ECK had suggested, but rather in a change of system. The voter register, as it stood then, had a low and biased coverage, as women and youth were heavily under represented. The registration system was outrageously expensive and had very low productivity. The permanent solution was to involve moving to systems based on other population databases, including the transfer of ECK human and financial resources to support the prompt implementation of such solution.

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THAT by 19th February 2017, the Independent Electoral and Boundaries Commission had registered 3,782,089 new voters in the second phase of the mass registration. This translated to 41.4 percent of the potential voting population with IDs not registered (as at December, 2016) of 9,130,269. Thus there was a coverage of only 41.4% which can be even less when the persons who had previously and recently attained the age of 18 years but had not acquired IDs are included.

THAT the IEBC had ambitiously targeted to register 1.4 million voters per week during the Mass Voter Registration phase II. It ended up registering on average about 750,000 voters per week during MVR II.

THAT as at the end of the Mass Voter Registration II that ended on 19th February, 2017, and which had a target of registering 6.1 million voters, the following number of voters had been registered in various regions:-

REGION	No. REGISTERED	MVR II TARGET (IEBC) is 67% those with IDs but not registered	DEMOCRATIC TARGET is 100% those with IDs but not registered	PERCENTAGE MVR II (IEBC) TARGET	PERCENTAGE DEMOCRATIC TARGET
Rift Valley	882626	1208932	1,804,376	73	48.9
Eastern	594,527	955,725	1,426,455	62.2	41.5
Central	510,902	686,947	1,025,294	74.4	49.8
Nairobi	461,346	855,531	1,276,912	53.9	36.1
Nyanza	449740	854,179	1,274,894	52.7	35.3
Coast	404,828	702,047	1,047,831	57.7	38.6
Western	303,711	742,041	1,107,524	40.9	27.4
North Eastern	110,698	111,878	166,982	98.9	66.3
SUB TOTAL	3,718,378				
Huduma Total	29,928				
Universities /Colleges	33,783				
TOTAL	3,782,089	6,117,280	9,130,269	61.8	41.4

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THAT there is a big variation in the voter registration turnout in different regions of the country ranging from a low of 27.4 percent in Western to a high of 66.3 percent in North Eastern. There are known and unknown reasons for such a big variation in the turnout for voter registration during the MVR II. Among the known reasons are the political awareness, motivation and initiative involved in the exercise. This is closely related to the Civic and Voter education that the prospective electorate has access to.

THAT His Excellency President Uhuru Kenyatta's attack on 12th December 2016 on the International Community that fund local civil society groups involved in civic and voter education was apparently a way of trying to ensure that there is no effective civic and voter education across all regions of the Country. The President had talked of a plot by the International Community to rig elections in favour of the opposition through their funding of local civic society groups. A week later, Kenya stopped the International Foundation for Elections systems (IFES), an American Non-Governmental Organization (NGO) from carrying out civic and voter education ahead of the August 8th 2017 general elections.

The more politically aware and politically motivated regions of the Country were then expected to have an advantage over the less politically aware and politically motivated regions. MVR II results from the IEBC have shown that His Excellency President Uhuru Kenyatta succeeded in his apparent mission as evidenced by the wide variation in the turnout for mass voter registration across the various regions of the Republic of Kenya, with a low of 27.4 percent in Western and a high of 66.3 percent in North Eastern and a low of 19.5 percent in Vihiga County and a high of 160.5 percent in Kajiado County. There was also generally a low turnout of about 35 percent on an average of the Democratic Target.

Low participation by the citizenry in the electoral process more often results in a government that is elected being less accountable to the electorate.

THAT during the proposed MVR III, the President and Head of State of the Republic of Kenya should visit as many regions in the Country as possible to motivate prospective voters to register as voters and not confine his excursions to the so called strongholds of his political party. Particular interest should be placed on regions that performed poorly in the MVR II eg. Western.

THAT any local and International NGOs involved in civic and voter education in the Republic of Kenya that may have been banned or suspended should be reinstated hence forth.

THAT the IEBC should have a target of a minimum of 75 percent of the Democratic Target of persons over 18 years with or without National Identification Cards that are not registered as voters during the proposed MVR III. With a historical turnout on Election Day averaging about 69 percent, that would ensure that the voters on Election Day are a minimum of 51 percent of the

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CASE AND THE ANGLO LEASING CASES FOR MASS VOTER REGISTRATION
(MVR) III**

eligible voters. That would strengthen democracy in the Republic of Kenya. This is possible bearing in mind the directive issued by His Excellency President Uhuru Kenyatta on 20th January, 2017 to the National Registration Bureau for National Identification Cards to be processed within 3 days.

THAT it is logistically possible to have a final Mass Voter Registration III that will realistically target to register on average 800,000 voters per week for five weeks (excluding Easter weekend) or 31 days starting from 27th March to 30th April 2017 and still be timely with regard to the timelines as dictated by the Elections Act No.24 of 2011 as amended by the provisions of the Elections Amendment Act 2017.

THAT cleaning up of the voter register and auditing can be done from 7th March 2017 as proposed by the IEBC but up to 26th March 2017, for 20 days in phase 1 and a final audit and clean up of the register can be done from 1st May to 9th May 2017 for 9 days in phase 2 for a total combined period of 29 days.

THAT the IEBC needs to be more efficient and effective in its operations. In the absence of an efficient system of voter registration, prospective voters should not be denied their right to choose their leaders and representatives by the denial of adequate funds to the IEBC for a final Mass Voter Registration III.

THAT IEBC required a total of Kshs. 27 billion to conduct the August 2017 general elections. The money was to be disbursed in 2016/2017 and 2017/2018 financial years. Kshs.19 billion was budgeted for the 2016/2017 financial year with the balance budgeted for the 2017/2018 financial year. Among the budgeted for activities were:-

General election operations	Kshs. 20 billion
Voter registration	Kshs. 3.3 billion
Voter register inspection	Kshs. 1.2 billion
Hiring Lawyers for post-poll disputes	Kshs. 508 million

THAT the IEBC has indicated that it costs Kshs. 37.3 million per day to conduct mass voter registration. This includes Kshs. 3.1 million to store Biometric Voters Registration (BVR) Kits and charging batteries, Kshs. 15.5 million to transport the Kits across the Country and Kshs. 18.7 million to pay voter registration personnel. It would cost 1.1563 billion to conduct mass voter registration for 31 days. It can cost less with more efficiency.

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THAT the IEBC should try to be more efficient and effective in its operations and reduce on wastage and inflation of costs. Purchase of fuel guzzlers and holding of workshops in expensive five star tourist hotels; especially the Great Rift Valley Lodge and Golf Resort of the Heritage Hotels connected to President Uhuru Kenyatta's family are some of the areas that can be looked into and corrective adjustments made so as to cut on costs that make Kenya's electoral process the most expensive in the world.

THAT from an outsider observation point, the IEBC comes through as one that is more concerned about curtailing the democratic right of Kenyan Citizens to fully participate in the electoral process. It does not seem to be keen on increasing its efficiency and effectiveness regarding the timelines leading up to the 8th August, 2017 general elections.

THAT the IEBC suspended continuous voter registration as from 7th March, 2017 to be reopened on September 6, 2017 in a Kenya Gazette Notice dated February, 23rd 2017. This is despite a Court Order requiring IEBC to continue with registration until May 7th, 2017. The Commission said that the suspension is to enable preparation and compilation of a revised register of voters under section 8 of the Elections Act, 2011 for purposes of Public inspection and verification of biometric data particulars.

THAT London's Southwark Crown Court on January 8th, 2016 seized the assets of Smith and Ouzman and ordered the British printer to pay a total of \$2.39 million (Kshs.351 million) in fines for bribing Kenyan Electoral and Examinations officials. Kshs. 52 million recovered from Smith and Ouzman following the firm's conviction will be used to buy ambulances for use in Kenya.

THAT the Royal Court of Jersey on 24th February, 2016 made a confiscation order to seize the \$3.26 million and \$540,330.69 (totaling to Kshs. 520 million) held in offshore account of WindWard Trading Limited – the entity Mr. Samuel Gichuru, the former long serving CEO of Kenya Power and Lighting Company Limited (now known as Kenya Power) used to receive kickbacks in exchange for the award of lucrative tenders to foreign firms during his two-decade tenure. The funds were usually disguised as consultancy fees or commissions charged to the companies. Mr. Gichuru's systematic bribery scheme involved energy companies from a dozen countries, forcing Jersey authorities to seek Mutual Legal Assistance from 12 governments in pursuit of the stolen wealth.

Mr. Chris Okemo, a former Energy and Finance Minister had been named as a beneficiary of bribes. Mr. Gichuru and Mr. Okemo, faced 53 counts linked to "Commissions" paid by companies to win Kenya Power tenders and hidden in a Jersey account in foreign currencies: \$4.45 million, \$3.2 million and Kr790,000 (Totalling to Kshs. 1.01 billion at then exchange rates – February 2016), according to Jersey Court papers.

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THAT the Anglo Leasing scandal was a government procurement facilitated corruption scandal in Kenya that came to light in 2004. The Anglo Leasing Finance was just one of the plethora of phantom entities, including some UK companies, used to perpetrate fraud on the Kenyan taxpayer through non-delivery of goods and services and massive overpricing.

The Anglo Leasing scandal involved agreements and authorization of payments for 18 government security projects amounting to Kshs. 56.3 billion without following procedure. It was claimed that the money raised would have funded the then government's forth coming 2005 Constitution Referendum and 2007 election campaign.

United Kingdom's Serious Fraud Office (SFO) began its probe in July 2007 and was investigating offshore accounts in the British tax havens of Jersey and Guernsey, which were used to transfer more than \$30 Million to a company called Apex Finance between April 2002 and February 2004. The SFO said it decided to halt its probe after the Kenyan government failed to produce evidence that would enable prosecution of suspects.

Kenya's Attorney General has been working with the Swiss Authorities to find and freeze the accounts of some of those believed to have been involved in the affair. On 10th March, 2014, the then Swiss Ambassador to Kenya Jacques Pitteloud and Attorney General Githu Muigai revealed that the process was at an advanced stage to return the amount.

THAT the Republic of Kenya and the United Kingdom signed an agreement on March 3, 2017 to secure the return to Kenya of funds confiscated by the Royal Court of Jersey in February, 2016. National Treasury Principal Secretary Kamau Thugge signed the agreement on behalf of the Republic of Kenya. The Chief Minister of State of Jersey, Senator Ian Gorst, represented Jersey. The Senator said that the completion of the agreement was a step towards ensuring that the confiscated funds are returned to the people of Kenya, where they rightfully belong.

THAT the Parliament of the Republic of Kenya consisting of the National Assembly and the Senate are charged with the responsibility of legislation as well as representation and oversight.

THAT the issues in respect of which the petition is made are not pending before any Court of Law or Constitutional or Legal body that is within my knowledge.

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HEREFORE your humble **PETITIONER** prays that Parliament:-

1. In its oversight role, coordinates and ensures that the confiscated funds in the Samuel Gichuru and Chris Okemo case at the Royal Court of Jersey are repatriated back to Kenya for use in the proposed Mass Voter Registration III exercise that is proposed to commence on 27th March 2017 and end on 30th April, 2017.
2. In its oversight role, coordinates and ensures that confiscated funds in the Anglo Leasing Scandal cases are repatriated back to Kenya part of which should be used in the Mass Voter Registration III exercise that is proposed to commence on 27th March 2017 and end on 30th April 2017.
3. In its oversight role and as representatives of the people of Kenya, coordinates and ensures that a Mass Voter Registration III takes place so as to involve as many eligible Kenyans as possible in the electoral process. In the event that repatriated confiscated funds will not be availed in time for MVR III, to ensure that some funds from the Consolidated Account are made available for the very crucial exercise of the proposed Mass Voter Registration III.
4. In its oversight role and as representatives of the people of Kenya, engages the IEBC to seek a way of ensuring more Kenyans are registered as voters within the timelines as set or dictated by the Elections Act No.24 of 2011 as amended by the Provisions of the Elections Amendment Act 2017.

PETITION TO PARLIAMENT OF THE REPUBLIC OF KENYA FOR OVERSIGHT IN THE REPATRIATION AND USE OF FUNDS RECOVERED IN THE SAMUEL GICHURU AND CHRIS OKEMO JERSEY ISLAND MONEY LAUNDERING CASE AND THE ANGLO LEASING CASES FOR MASS VOTER REGISTRATION (MVR) III

5. Fast tracks this petition for it to have any relevancy otherwise it will be overtaken by the passage of time. A possible scenario will be such that it is reported on/ presented , considered, deliberated on and a report tabled in the House within seven (7) days because the timelines leading up to the August 8th 2017 elections have very little leeway . An example of such fast tracking is the petition to the National Assembly of Kenya by one ,Emmanuel Mwagambo Mwagonah seeking the removal of the Auditor General of the Republic of Kenya from office that was presented /conveyed on 16th February 2017 and the due date was 2nd March 2017 i.e. (14 days). For this petition concerning a proposed Mass Voter Registration III to have any relevancy, it will have to be presented by 16th March 2017 and the due date should be not later than the 23rd March 2017.

Even with the exceedingly busy schedule of Parliament, the Petitioner humbly prays that Parliament finds the time to fast track this petition.

And your **PETITIONER** will ever pray.

Name	Full Address	National ID/NO.	Signature
David O.Gesicho	P O Box 1838 – 50100 KAKAMEGA, Kenya Email:mjadalaafrikakenya@gmail.com Tel.:0722552191	5617488	

Dated this 7th day of MARCH 2017

**PETITION TO PARLIAMENT OF THE REPUBLIC OF KENYA FOR OVERSIGHT IN
THE REPATRIATION AND USE OF FUNDS RECOVERED IN THE SAMUEL
GICHURU AND CHRIS OKEMO JERSEY ISLAND MONEY LAUNDERING CASE
AND THE ANGLO LEASING CASES FOR MASS VOTER REGISTRATION (MVR) III**

Cc. H.E The British High Commissioner to Kenya
The High Commission of United Kingdom in Nairobi, Kenya
P O Box 30465 – 00100
NAIROBI, Kenya

H.E. The Ambassador of Switzerland to Kenya
Embassy of Switzerland in Nairobi, Kenya
General Mathenge Drive 89, Spring Valley Westlands
P O Box 2600 – 00200
NAIROBI, Kenya

The Chairman
Ethics and Anti-Corruption Commission
Republic of Kenya
P O Box 61130 – 00200
NAIROBI, Kenya

The Chairman
Independent Electoral and Boundaries Commission
Republic of Kenya
P O Box 45371 – 00100
NAIROBI, Kenya

The Head of Public Service and Chief of Staff of the President
Republic of Kenya
P O Box 40530 – 00100
State House
NAIROBI, Kenya

The Cabinet Secretary
The National Treasury
Republic of Kenya
P O Box 30007 – 00100
NAIROBI, Kenya