

REPUBLIC OF KENYA



**THE INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION**

**FINAL REPORT ON THE FIRST REVIEW
RELATING TO THE DELIMITATION OF
BOUNDARIES OF CONSTITUENCIES AND
WARDS**

Volume I

THE REPORT

6TH March 2012

FOREWORD

The members of the Independent Electoral and Boundaries Commission (IEBC) were appointed on November 8, 2011, vide Gazette Notices No. 14091 and 14094 of November 9, 2011, to exercise the powers conferred by Articles 88 and 89 of the Constitution and the IEBC Act. Pursuant to Paragraph 1 of the Fifth Schedule of the IEBC Act, the Commission is mandated to resolve all issues arising from the First Review relating to the delimitation of boundaries of constituencies and wards and publish its final report within four months of its appointment.

On January 9, 2012, the Commission published its Preliminary Report in accordance with the Fifth Schedule of the IEBC Act. The Commission proceeded to undertake public consultations and considered written memoranda. In exercise of its constitutional and statutory mandate, the Commission has undertaken this task with due diligence and in accordance with the law.

On February 9, 2012, the Commission submitted its Revised Preliminary Report in accordance with Paragraph 3(3) of the Fifth Schedule of the IEBC Act to the Parliamentary Departmental Committee on Justice and Legal Affairs (JLA). The Commission also held consultations with the Committee on the Report on February 19, 2012 at Serena Hotel in Mombasa.

The Committee discussed the Revised Preliminary Report from February 10 to 23, 2012, and made recommendations for parliamentary deliberations and approval. Subsequently, Parliament discussed the Report and the recommendations of the Committee for seven days and made resolutions thereto. On March 1, 2012, Parliament forwarded its resolutions to the Commission in accordance with Paragraph 3(5) of the Fifth Schedule of the Act.

In considering the resolutions of Parliament in the preparation of this Report, the Commission was guided by the provisions of Article 89(5) and (6) of the Constitution.

The Commission will now embark on public sensitisation on the new boundaries of constituencies and wards for a period of 30 days. We therefore urge Kenyans to continue engaging in the exercise as we prepare for the first General Election under the new Constitution.

.....

Ahmed Issack Hassan, EBS

Chairperson

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ACRONYMS AND ABBREVIATIONS

ECK	Electoral Commission of Kenya
GIS	Geographical Information System
IEBC	Independent Electoral and Boundaries Commission
IFES	International Foundation for Electoral Systems
IIBRC	Interim Independent Boundaries Review Commission
IIEC	Interim Independent Electoral Commission
IREC	Independent Review Commission
JLA	The Departmental Committee on Justice and Legal Affairs
KNDR	Kenya National Dialogue and Reconciliation
TFDG	Task Force on Implementation of Devolved Government

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EXECUTIVE SUMMARY

This Final Report of the Commission was gazetted on March 7, 2012 in accordance with Paragraph 3(6) of the Fifth Schedule of the IEBC Act. The Report outlines the delimitation of boundaries for constituencies and wards and the specific geographical and demographical details relating to such delimitation. The Final Report is a culmination of parliamentary deliberations and recommendations on the Revised Preliminary Report.

The Final Report is a culmination of intensive public consultations and parliamentary deliberations; public consultations undertaken by the Commission after the publication of the Preliminary Report, and parliamentary deliberations on the Revised Preliminary Report.

The Final Report is divided into three volumes:-

Volume I is divided into four chapters as follows:

Chapter I – Covers background information on the boundaries delimitation process: This chapter takes account of the significance of the First Review, the work undertaken by the IIBRC and parliamentary consideration of this work.

Chapter II – Outlines the legal framework governing the Commission in the delimitation process with particular reference to salient issues relating to the First Review. This chapter restates the definition of the First Review in accordance with Section 2 of the IEBC Act as “the review conducted by the former Boundaries Commission taking into account any outstanding work of that Commission and issues arising from that review.” The chapter then outlines the mandate of the IIBRC in accordance with Articles 41B and 41C of the former Constitution, the implications of the current Constitution, and the mandate of the IEBC in concluding the First Review in accordance with the IEBC Act.

Chapter III – Sets out the methodology that the Commission employed in the performance of its mandate. In this chapter, the Commission defines the criteria for boundaries delimitation as stipulated under Article 89 of the Constitution. The chapter discusses the salient issues relevant to application of the criteria including: factors outlined under Article 89(5), variations from the population quota under Article 89(6), while ensuring the principle of progressive attainment of the quota, and the implication of Section 27(4) of the Sixth Schedule which seeks to protect the existing constituencies during the First Review. The Chapter also outlines the process undertaken by the Commission in making its proposals which include advanced statistical analysis, integration of GIS technology and extensive public consultations.

Chapter IV – This Chapter contains observations, conclusions and recommendations of the Commission.

Volume II contains the boundaries of constituencies and wards as delimited.

Volume III contains the Atlas of the maps of the boundaries of constituencies and wards.

CHAPTER ONE

BACKGROUND INFORMATION

INTRODUCTION

The Commission gazetted the Final Report on March 7, 2012 in accordance with Paragraph 3(6) of the Fifth Schedule of the IEBC Act outlining the delimitation of boundaries for constituencies and wards and the specific geographical and demographical details relating to such delimitation. The Final Report is a culmination of parliamentary deliberations and recommendations on the Revised Preliminary Report.

The Commission submitted the Revised Preliminary Report to the Parliamentary Departmental Committee on Justice and Legal Affairs on February 9, 2012 in accordance with Paragraph 3(3) of the Fifth Schedule of the Act. The Report incorporated public consultations held between January 9 and 30, 2012. During this period, the Commission also received and considered oral and written memoranda based on the published Preliminary Report.

The Commission published the Preliminary Report on January 9, 2012, in accordance with Paragraph 3(2) of the Fifth Schedule of the Act proposing boundaries of constituencies and wards.

This Final Report takes into account the following considerations:

the scope of the mandate of the IEBC to complete the First Review in accordance with the IEBC Act;

that the work of the IEBC is cumulative to the work of the IIBRC; and,

the understanding that the successful and timely conclusion of the First Review will facilitate necessary planning for the forthcoming General Election.

Boundary Delimitation In Kenya: Background

Kenya undertook the last boundaries delimitation in 1996. Whereas boundaries delimitation was constitutionally due in 2005, the Electoral Commission of Kenya (ECK) initiated the processes for review but did not alter the boundaries prior to the 2007 General Election. The Commission was effectively restricted by limits in the former Constitution, which provided for a maximum of 210 (two hundred and ten) constituencies.

The frequency of boundaries review ensures that electoral boundaries are adjusted to account for population dynamics and to align representation to changes in demographic patterns. International standards invariably provide for opportunities for adjustments of electoral areas between eight and 12 years.

In electoral systems based on the first-past-the-post model and single-member constituencies such as Kenya's, the scope of representativeness of electoral boundaries is of fundamental importance. The Independent Review Commission (The Justice Johann Kreigler Commission) established after the disputed 2007 presidential election found that the current constituencies are unrepresentative and therefore made far-reaching recommendations in the legal and institutional framework for boundaries delimitation. The Kreigler Report recommended that the first boundaries delimitation prior to the next General Election should be undertaken immediately by an independent electoral commission. It also recommended that the process be based on objective criteria and be insulated from political processes.

Following the adoption of the Kreigler Report, Parliament enacted the Constitution of Kenya (Amendment) Act, 2008 to establish the Interim Independent Boundaries Review Commission (IIBRC) and provided the legal framework for boundaries delimitation. After the enactment of the Constitution the mandate of the IIBRC was recast by the transitional provisions to provide the framework for concluding the boundaries delimitation initiated by the IIBRC. The IIBRC's tenure lapsed on November 27, 2011.

Before its tenure lapsed, the IIBRC presented its report to Parliament which adopted it. However, due to legal challenges, the IIBRC did not publish its report in accordance with Section 27 of the Sixth Schedule of the Constitution. The issues surrounding the work of the IIBRC were also compounded by the ruling in the *Maingi Case*¹ where the High Court held that the Commission did not fully discharge its mandate.

¹ John Kimanti Maingi v. Andrew Ligale and Others, High Court Petition No. 72 of 2010

For purposes of completing the First Review,² the IEBC is mandated to resolve issues arising therein and specifically the distribution of such wards and administrative units as may be appropriate. It is also required to address the issues of new constituencies falling outside the population quota while ensuring that the process takes into account the constitutional provision that requires progressive efforts and not instant demographic equality.

In fulfilling its mandate, the Commission is required to use the IIBRC and JLA reports as its primary and secondary reference materials respectively.

The Commission published its Preliminary Report and invited public representations on the proposals therein. After considering the views of the public, the Commission submitted its Revised Preliminary Report to the JLA on February 9, 2012.

The Parliamentary Committee had 14 days to discuss the Revised Preliminary Report. It invited public presentations on the Report. It also held consultations with the Commission with the aim of understanding the Report better. The Committee consequently forwarded the Report and recommendations to Parliament for further deliberation. Parliament had 7 days to discuss the Report and the recommendations of the Committee. Subsequently, Parliament forwarded its resolutions on the Revised Preliminary Report to the Commission on March 1, 2012 to prepare the Final Report.

The Commission gazetted the Final Report on March 7, 2012 in accordance with Paragraph 3(6) of the Fifth Schedule of the Act; outlining the delimitation of boundaries for constituencies and wards and the specific geographical and demographical details relating to such delimitation.

² IIBRC Review of Boundaries of Constituencies and Wards as mandated by Article 41C of the former Constitution and as later modified by Section 27 of the Sixth Schedule of the Constitution of Kenya, 2010

CHAPTER TWO

THE LEGAL FRAMEWORK FOR THE DELIMITATION OF BOUNDARIES

2.1 INTRODUCTION

The legal framework for delimitation of boundaries is provided under the former Constitution as amended by the Constitution of Kenya (Amendment) Act, 2008, the Constitution of Kenya 2010, and the Independent Electoral and Boundaries Commission Act, 2011. According to international standards, the legal framework regulating drawing of boundaries for electoral units is expected to make provisions for:

the frequency of such boundaries delimitation;

criteria for such determination;

framework for public participation in the process;

institutional framework, including the ultimate authority, for the final determination of the electoral units; and,

resolution of disputes including the role, if any, of the Judiciary.

2.2 THE CONSTITUTION OF KENYA (REPEALED)

The former Constitution, as amended by the Constitution of Kenya (Amendment) Act, 2008 established an interim framework for delimitation of boundaries following the disbandment of the Electoral Commission of Kenya. Article 41C provided for the establishment and composition of the Interim Independent Boundaries Review Commission (IIBRC). Article 41(11) provided that the IIBRC *“shall stand dissolved twenty four months after the commencement of this section or three months after the promulgation of a new Constitution, whichever is the earlier.”*

The functions of the IIBRC were provided, under Article 41C, to include:

making recommendations to Parliament on the delimitation of constituencies and local authority electoral units and the optimal number of constituencies on the basis of equality of votes taking into account:

- (i) density of population, and in particular the need to ensure adequate representation of urban and sparsely-populated rural areas;
- (ii) population trends;
- (iii) means of communication;
- (iv) community interests;

making recommendations to Parliament on administrative boundaries, including the fixing, reviewing and variation of boundaries of districts and other units; and,

performance of such other functions as may be prescribed by Parliament.

The mandate of the IIBRC was therefore restricted to making recommendations to Parliament in accordance with specified criteria. It also included making recommendations on administrative boundaries.

2.3 THE CONSTITUTION OF KENYA, 2010

The Constitution of Kenya makes fundamental changes to the legal framework for delimitation of boundaries as undertaken by IIBRC. It establishes the Independent Electoral and Boundaries Commission which is mandated to conduct and manage elections and referenda and undertake boundaries delimitation. Article 89 of the Constitution provides the criteria for delimitation of the boundaries of constituencies and wards, obligation for consultation of all interested persons, and provisions on the judicial review of the decisions of the Commission.

The transitional provisions set out under Section 27 of the Sixth Schedule saved the tenure of the IIBRC established under Section 41C of the former Constitution to conclude the First Review in accordance with the criteria provided by the current Constitution. Section 27 of the Sixth Schedule of the Constitution obligated the IIBRC to conform to the provisions of the new Constitution, which provides as follows:

The Boundaries Commission established under the former Constitution shall continue to function as constituted under that Constitution and in terms of sections 41B and 41C but—

it shall not determine the boundaries of the counties established under this Constitution;

it shall determine the boundaries of constituencies and wards using the criteria mentioned in this Constitution; and,

members of the Commission shall be subject to Chapter Seven of this Constitution.

The requirement in Article 89(2) that a review of constituency and ward boundaries shall be completed at least 12 months before a general election does not apply to the review of boundaries preceding the first elections under this Constitution.

The Boundaries Commission shall ensure that the First Review of constituencies undertaken in terms of this Constitution shall not result in the loss of a constituency existing on the effective date.

Consequently, Parliament adopted the IIBRC Report and enacted the IEBC Act to provide for the finalisation on the First Review.

Article 89 of the Constitution caps the number of constituencies at 290 and stipulates the frequency, manner and criteria for the delimitation of boundaries of constituencies and wards. Article 89(5) specifically states that the “boundaries of each constituency shall be such that the number of inhabitants in the constituency is as nearly as possible equal to the population quota”. Article 89(6) provides variations around this quota, not greater than or lesser than:

forty per cent (40%) in the case of cities and sparsely populated areas; and,

thirty per cent (30%) for other areas.

Article 89(5) further mandates the Commission to take into account other factors such as:

geographical features and urban centres;

community interest, historical, economic and cultural ties; and,

means of communication.

In reviewing constituency and wards boundaries, the Commission shall consult all interested parties and work towards progressively ensuring that the number of inhabitants in each constituency and ward is as nearly as possible equal to the population quota³.

Article 89(9) of the Constitution provides that the Commission shall publish the names and details of such boundaries in the Kenya Gazette. These boundaries, other than the first one under the new Constitution,⁴ shall come into effect on dissolution of Parliament first following its publication. Once published, any person aggrieved by the decision of the Commission in terms of the names and details of such boundaries, may apply to the High Court within 30 days for a review of such a decision. The High Court will have to determine the matter within three months of such application.⁵

2.4 THE IEBC MANDATE TO FINALISE THE FIRST REVIEW UNDER THE FIFTH SCHEDULE OF THE IEBC ACT, 2011

The IEBC Act was enacted on July 5, 2011 and commenced on July 18, 2011. The Act provides for the appointment of members and effective operation of the Commission. The Act further provides

³ Article 89(7) (b) of the Constitution and Paragraph 2(c) of the Fifth Schedule of the IEBC Act, 2011

⁴ *ibid*

⁵ Article 89(10) and (11) of the Constitution

under the Fifth Schedule for a detailed mechanism and procedure for the finalisation of the First Review. The Fifth Schedule of the IEBC Act is Annex I of the Report.

According to the Fifth Schedule of the IEBC Act 2011, IEBC is mandated to ‘resolve all issues arising from the First Review relating to the delimitation of boundaries of constituencies and wards and publish its final report within four months of the date of its appointment. It is predetermined that the Commission shall, in addressing the issues arising out of the First Review:

use as its primary reference material the report of the former Boundaries Commission on the First Review as adopted by Parliament; and,

use as its secondary reference material the report of the Parliamentary committee on the report of the former Boundaries Commission.

The issues arising out of the First Review are:

re-distribution of such wards or administrative units in the affected constituencies as may be appropriate;

subject to the Constitution, addressing issues of new constituencies falling outside the population quota as provided for by Article 89(6) of the Constitution but at the same time ensuring that such a process shall:

take into account the provisions of Article 89(7)(b) of the Constitution that requires progressive efforts and not instant demographic equality of all towards attaining the population quota in each constituency and ward for the purposes of the First Review;

not be subject to new definitions of cities, urban areas and sparsely populated areas or to new population figures; and,

be subject to the use of enumerated national census figures and not projected figures;

addressing the issue of progressively advancing towards the population quota in protected constituencies in relation to neighbouring constituencies where appropriate.

Paragraph 1 of the Schedule gives the Commission strict timelines within which to operationalise this limited mandate. It allowed a maximum of four months for the IEBC to resolve all the issues arising out of the First Review and publish its Final Report with boundaries of constituencies and wards. Below is a chronology of events that the Commission was expected to carry out within this period:

to prepare and publish a Preliminary Report outlining the proposed delimitation of boundaries of constituencies and wards, with specific geographical and demographical details. In giving effect to this provision, the Commission launched and published the Preliminary Report with the required details on January 9, 2012;

to make available the report to the general public for a period of 21 (twenty one) days and invite representations from the public on the proposals. The Commission provided different avenues through which the public could make their presentations. These included public hearing meetings organised in every county, submission of memoranda by e-mail or through the Commission's constituency offices or through post. This exercise ran for 21 days, from January 9 to 30, 2012;

to review public representations received within 14 (fourteen) days after receipt of recommendations. As the Commission received feedback from the public, it was required to consider and incorporate such proposals within the confines of the law and prepare a Revised Preliminary Report. The Commission prepared the Revised Preliminary Report taking views from the public and in accordance with its mandate;

to forward the Revised Preliminary Report to Parliament. The Departmental Parliamentary Committee on Justice and Legal Affairs was required to deliberate on the Revised Preliminary Report within 14 (fourteen) days and make their recommendations to Parliament. The Committee deliberated on the Report from February 9 to 23, 2012 and tabled its recommendations before Parliament for discussion. Parliament discussed the Report and the Committee's recommendations within seven days and forwarded their resolutions to the Commission on March 1, 2012; and,

to consider views received from Parliament and review the Revised Preliminary Report accordingly and prepare and publish a Final Report for publication and gazettment. In this regard, the Commission considered the resolutions of Parliament against its mandate and gazetted the Final Report outlining the boundaries of constituencies and wards on March 7, 2012.


2.5 JUDICIAL REVIEW OF IEBC BOUNDARIES REPORT

Paragraph 4 of the Fifth Schedule of the IEBC Act, 2011 provides that any person dissatisfied with the outcome of the Final Report of the Commission on Boundaries Delimitation may apply to the High Court for a review of its decision. Such application shall be filed within 30 days of the publication of the Commission's decision in the Gazette and shall be heard and determined within 30 days of the date on which it is filed. Any person aggrieved therefore has between March 8 and April 6, 2012 to make an application to the High Court.

2.6 PUBLIC SENSITISATION

The principle of public participation and involvement is a running thread throughout the Constitution. The Commission is required by the Constitution and the IEBC Act to observe the principle of public participation and consultation with stakeholders in its processes. Article 89(7)(a)

requires that IEBC conducts consultations with interested parties. Paragraph 6 of the Fifth Schedule of the IEBC Act requires the Commission to conduct public sensitisation on the proposed boundaries for a period of 30 days after its publication.



CHAPTER THREE

METHODOLOGY AND CRITERIA FOR BOUNDARIES DELIMITATION

3.1 INTRODUCTION

The Constitution envisages that boundaries delimitation is based on definite criteria which should be applied in a manner that entrenches objectivity and consistency. The criteria are set out under Article 89 of the Constitution. It provides that delimitation shall be primarily based on the population quota taking into account specified criteria which may necessitate departure from the quota, and margins by which an electoral unit may fall outside the quota.

Article 89(3) and (8) of the Constitution mandate the Commission to alter the names and boundaries of constituencies, and the number, names and boundaries of wards. The Constitution also provides for public consultation in the process and the progressive attainment of the population quota. Section 27(4) of the Constitution guarantees that no constituency existing on the effective date is lost during the First Review.

The process of boundaries delimitation requires detailed analysis of population, geographical features and urban centres, community of interest, historical, economic and cultural ties and means of communication. In undertaking the process, the Commission employed statistical and Geographic Information Systems (GIS) modeling to come up with proposals for resolving the issues arising out of the First Review.

This process involved collection and analysis of the 2009 Kenya National Population and Housing Census⁶, geographical details from the Survey of Kenya, Kenya Forestry Services, Kenya Wildlife Service, Water Resources Management Authority, Kenya Roads Board, Communication Commission of Kenya and other Government departments.

Pursuant to Article 89(7)(a) of the Constitution and Paragraph 3(2) of the Fifth Schedule of the IEBC Act, the Commission invited public representations on the Preliminary Report published on January 9, 2012. Following publication of the Preliminary Report, the Commission created public awareness through various media to enhance the public's participation in the delimitation process.

In accordance with legal requirements, the Commission held county public forums between January 16 and January 26, 2012 to receive feedback on the proposals in the Preliminary Report. The Schedule of the forums is in Annex II of the Report. There were 69 county meetings held in which

⁶As released by the Ministry of Planning, National Development and Vision 2030

over 15,000 members of the public attended⁷. The Commission used Hansard and visual recording to capture oral views received from the public during the forums. Over 1,970 memoranda from individuals, interest groups and communities were collected, recorded and archived. The Commission analysed and considered all the views received in accordance with constitutional parameters.

Pursuant to Paragraph 3(5) of the Fifth Schedule of the IEBC Act, the Commission revised the Preliminary Report incorporating input from the public and submitted the Revised Preliminary Report to the Parliamentary Departmental Committee on Justice and Legal Affairs for deliberation. The Committee deliberated the Report and tabled its recommendations before Parliament for consideration. The Committee's and parliamentary discussions were held between February 9 and March 29, 2012. Parliament forwarded their resolutions to the Commission on March 1, 2012.

The Commission was required by the provisions of Paragraph 3(6) of the Fifth Schedule of the IEBC Act to take into account the resolutions of Parliament in preparing the Final Report. In doing so, the Commission was guided by the constitutional and statutory provisions related to this mandate. Pursuant to the provisions of Article 89(3) of the Constitution which vests the mandate to review the names, number and boundaries of wards to the Commission, the Commission opted to maintain a cap of 1,450⁸ County Assembly Wards for purposes of the First Review. This decision is consistent with the public desire to keep the cost of governance at a minimum.

3.2 METHODOLOGY FOR DETERMINATION OF 290 CONSTITUENCIES

Article 81 of the Constitution defines the principles upon which the Kenyan electoral system is anchored. Under Article 81(d), the electoral system shall comply with the principle of “universal suffrage based on the aspiration for fair representation and equality of vote.” Article 89(5) provides that “the boundaries of each constituency shall be such that the number of inhabitants in the constituency is, as nearly as possible, equal to the population quota, but the number of inhabitants of a constituency may be greater or lesser than the population quota in the manner specified in clause (6).”

Pursuant to the provisions of Paragraph 2 of the Fifth Schedule of the IEBC Act, the Commission analysed the IIBRC and JLA Reports with a view to resolving issues arising out of the First Review.

⁷See annex on participant list and submission of memorandum

⁸ Which limit was proposed by the TFDG and passed by Parliament in the County Government Bill, 2012.

In doing so, the Commission upheld the determination of the 290 constituencies. The IEBC ratified the methodology adopted by the IIBRC for delimitation of constituencies and made adjustment to the wards in the determined constituencies as per the Act.

Paragraph 2(2)(b) of the IEBC Act provides that the Commission shall not be subject to new definitions of cities, urban areas and sparsely populated areas or to new population figures. Pursuant to this provision, the Commission was obligated to follow the determination of the IIBRC in recognising Nairobi as the only city.

3.3 DETERMINATION OF POPULATION QUOTA

The population quota is obtained in accordance with Article 89(12) of the Constitution by dividing the national population by the number of constituencies or wards as applicable.

National Population as at the 2009 Census

290 constituencies⁹

National population = 38,610,097

Population Quota = $\frac{38,610,097}{290} = 133,138.26$

290

40% greater than population quota for cities = 186,393.6

30% greater than population quota for other areas = 173,079.4

30% less than population quota for other areas = 93,196.6

40% less than population quota for sparsely populated areas = 79,882.8

Nairobi Province Population = 3,138,369

No. of constituencies for Nairobi (40% limit) = $\frac{3,138,369}{186,393} = 16.84 = 17$

186,393

⁹Article 89(1) of the Constitution of Kenya, 2010

No. of existing constituencies = 8

No. of additional constituencies = $17 - 8 = 9$

Coast Province Population = 3,325,307

No. of constituencies for Coast = $\frac{3,325,307}{133,138} = 24.98 = 25$

133,138

No. of existing constituencies = 21

No. of additional constituencies = $25 - 21 = 4$

North Eastern Province Population = 2,310,757

No. of constituencies for North Eastern = $\frac{2,310,757}{133,138} = 17.36 = 17$

133,138

No. of existing constituencies = 11

No. of additional constituencies = $17 - 11 = 6$

Eastern Province Population = 5,668,123

No. of constituencies for Eastern = $\frac{5,668,123}{133,138} = 42.57 = 43$

133,138

No. of existing constituencies = 36

No. of additional constituencies = $43 - 36 = 7$

Central Province Population = 4,383,743

No. of constituencies for Central = $\frac{4,383,743}{133,138} = 32.93 = 33$

133,138

No. of existing constituencies = 29

No. of additional constituencies = $33 - 29 = 4$

Rift Valley Province Population = 10,006,805

No. of constituencies for Rift Valley = $\frac{10,006,805}{133,138} = 75.16 = 75$

No. of existing constituencies = 49

No. of additional constituencies = $75 - 49 = 26$

Western Province Population = 4,334,282

No. of constituencies for Western = $\frac{4,334,282}{133,138} = 32.56 = 33$

No. of existing constituencies = 24

No. of additional constituencies = $33 - 24 = 9$

Nyanza Province Population = 5,442,711

No. of constituencies for Nyanza = $\frac{5,442,711}{133,138} = 40.88 = 41$

No. of existing constituencies = 32

No. of additional constituencies = $41 - 32 = 9$

The above computations are reflected in Table 1 below, which apportions 284 out of the total 290 constituencies. The remaining six constituencies have been redistributed to Coast, North Eastern, Eastern, Central, Western and Nyanza following the above calculations. The result of this is reflected in Table 2.

Table 1: Determination of 210 Constituencies Using Population Quota

S/NO	PROVINCE	CONSTITUENCIES		
		Current No.	Additional	Total
1	Coast	21	4	25
2	Central	29	4	33
3	North Eastern	11	6	17
4	Eastern	36	7	43
5	Nairobi	8	9	17
6	Western	24	9	33
7	Nyanza	32	9	41
8	Rift Valley	49	26	75
	TOTAL	210	74	284

Table 2: Distribution of Additional Six Constituencies Using the Scientific Mathematical Formulae

S/NO	PROVINCE	CONSTITUENCIES		
		Current No.	Additional	Total
1	Coast	21	5	26
2	Central	29	5	34
3	North Eastern	11	7	18
4	Eastern	36	8	44
5	Nairobi	8	9	17
6	Western	24	9	33
7	Nyanza	32	10	42
8	Rift Valley	49	27	76
	TOTAL	210	80	290

The distribution of the additional six constituencies which is reflected in Table 2 above has been subjected to the Scientific Mathematical Formula below, whose result is shown in Table 3.

Scientific Mathematical Formula

Nairobi being the only city, its population was subjected to its population quota as follows:

$$(40\% \times 133,138) + 133,138 = 186,393$$

Subjecting the population of Nairobi to the population quota for cities then:

$$= (3,138,369/186,393) = 17 \text{ constituencies}$$

Subtracting the population of Nairobi from the national population:

$$= (38,610,097 - 3,138,369) = 35,471,728$$

Subtracting the 17 constituencies given to Nairobi from the 290 constituencies:

$$= (290-17) = 273$$

Dividing the remaining population by remaining constituencies

$$= (35,471,728/273) = 129,933$$

Subjecting the remaining provinces to this quota:

$$= \text{Province population (X)}/129,933$$

This gives a total of 291 constituencies. The allocation of constituencies in the Rift Valley was reduced by 1 because of its large number of constituencies.

Table 3: Scientific Mathematical Formula on which Table 2 is based

	Population	Area (Sq. Km)
KENYA	38,610,097	581,315.9
Constituencies	290	581,315.9
Average per constituency	133,138.27	2,004.54
Average -30%	93,196.79	
Average +30%	173,079.75	
Average -40%	79,882.96	
Average +40%	186,393.57	

National population
(less population of Nairobi Province) = 35,471,728

Total area of Kenya (less area of Nairobi Province) = 580,620.80

290 constituencies (less constiencies of Nairobi Province) = 273

Average population per constituency = 129,933.07

Average area per constituency = 2,126.82

Serial Number	Province	Population	Area in sq km	Population/sq. km	Total - Current Constituencies	Constituencies as calculated	Constituencies as whole number	Constituencies as adopted	Population/Constituency	Population as Constituency whole number	Population as Constituency adopted	Regional Av National Av	Deviation wrt Av less Nairobi	Deviation from National Av	Deviation from National Av in %	
1	Nairobi	3,138,369	695.1	4,515.0	8	16.84	17	17	186,394	184,610	184,610	-1784	-1.0%	51,472	38.7%	
2	Central	4,383,743	13,165.4	333.0	29	33.738	34	34	129,933	128,934	128,934	-999	-0.8%	-4205	-3.2%	
3	Coast	3,325,307	82,892.8	40.1	21	25.592	26	26	129,933	127,896	127,896	-2037	-1.6%	-5242	-3.9%	
4	Eastern	5,668,123	153,404.2	36.9	36	43.623	44	44	129,933	128,821	128,821	-1112	-0.9%	-4317	-3.2%	
5	North - Eastern	2,310,757	126,852.4	18.2	11	17.784	18	18	129,933	128,375	128,375	-1558	-1.2%	-4763	-3.6%	
7	Nyanza	5,442,711	12,613.0	431.5	32	41.889	42	42	129,933	129,588	129,588	-345	-0.3%	-3550	-2.7%	
8	Rift Valley	10,006,805	183,383.5	54.6	49	77.015	77	76	129,933	129,959	131,668	1735	1.3%	-1470	-1.1%	
9	Western	4,334,282	8,309.5	521.6	24	33.358	33	33	129,933	131,342	131,342	1409	1.1%	1796	-1.4%	
Total - 1																
	35,471,728	580,620.8	61.1	202	273.00	274	27	129,933	129,459	129,933	0	0.0%	-3205	-2.4%		

Following the computations in Table 3 above, Table 4 below gives the final determination of the 290 constituencies.

Table 4: Determination of 290 Constituencies

Province	Population	Constituencies Fraction	Constituencies Rounded	IIBRC Delimitation	Current Constituencies	Additional Constituencies
Nairobi	3,138,369	16.84	17	17	8	9
Coast	3,325,307	25.59	26	26	21	5
Central	4,383,743	33.74	34	34	29	5
N. Eastern	2,310,757	17.78	18	18	11	7
Eastern	5,668,123	43.62	44	44	36	8
R. Valley	10,006,805	77.02	77*	76	49	27
Western	4,334,282	33.36	33	33	24	9
Nyanza	5,442,711	41.89	42	42	32	10
			291	290	210	80

Protected Constituencies under Section 27(4) of the Sixth Schedule

Section 27(4) the Sixth Schedule provides that the Boundaries Commission shall ensure that the First Review of constituencies undertaken in terms of the current Constitution shall not result in the loss of a constituency existing on the effective date. This provision has direct a implication on the strict application of the population quota in the First Review. By saving the current constituencies, the section ensures that they are maintained in areas where strict application of the population principle would necessarily result in loss of a constituency. The Commission has upheld the determination of constituencies which require protection under section 27(4) of the Sixth Schedule of the Constitution as shown in Table 5 below.

Table 5: Table of Protected Constituencies

27 PROTECTED CONTITUENCIES				
		Constituency No.	Area km. Sq.	Population
NAIROBI (NONE)				
COAST (9/27)				
1.	Mvita	006	7	74,735
2.	Galole	019	9,657	60,866
3.	Bura	020	12,796	82,545
4.	Lamu East	021	1,663	18,841
5.	Lamu West	022	4,504	82,698
6.	Taveta	023	4,205	67,665
7.	Wundanyi	024	702	56,021
8.	Mwatate	025	1,873	71,513
9.	Voi	026	10,348	89,458

27 PROTECTED CONTITUENCIES				
		Constituency No.	Area km. Sq.	Population
NORTH EASTERN (NONE)				
EASTERN (6/27)				
10.	North Horr	046	38,953	75,196
11.	Saku	047	2,078	46,502
12.	Laisamis	048	20,266	65,669
13.	Isiolo South	059	9,817	43,118
14.	Siakago	066	777	89,035
15.	Kilome	084	630	87,864
CENTRAL (6/27)				
16.	Ndaragwa	093	934	92,626
17.	Tetu	094	418	78,320
18.	Othaya	097	600	87,374
19.	Mukurweini	098	180	83,932
20.	Kangema	104	260	76,988
21.	Mathioya	105	262	88,219
RIFT VALLEY (4/27)				
22.	Samburu East	135	10,142	59,094
23.	Marakwet East	147	783	78,749
24.	Keiyo North	149	541	73,715
25.	Mogotio	161	1,364	60,959
WESTERN (2/27)				
26.	Vihiga	211	90	91,616
27.	Budalang'i	231	187	66,723
NYANZA (NONE)				

Table 6: 210 Constituency Populations (2009 National Census) and Classification of Constituencies¹⁰

National Population - 38,610,097

Total Surface Area for the country (Sq Km) - 581,313.20

Constituency	Constituency Area	Population Density	Population	Classification
Makadara	20	10,878	218,641	City
Kamukunji	12	22,381	261,855	City
Starehe	11	25,906	274,607	City
Langata	223	1,590	355,188	City
Dagoretti	39	8,516	329,577	City
Westlands	98	2,532	247,102	City
Kasarani	86	6,133	525,624	City
Embakasi	208	4,434	925,775	City

¹⁰ Article 89(6) of the Constitution

Constituency	Constituency Area	Population Density	Population	Classification
North Horr	38,953	2	75,196	Sparsely populated
Laisamis	20,266	3	65,669	Sparsely populated
Isiolo South	9,817	4	43,118	Sparsely populated
Samburu East	10,142	6	59,094	Sparsely populated
Fafi	15,974	6	95,212	Sparsely populated
Garsen	16,013	6	96,664	Sparsely populated
Wajir South	21,424	6	130,070	Sparsely populated
Galole	9,657	6	60,866	Sparsely populated
Isiolo North	15,881	6	100,176	Sparsely populated
Bura	12,796	6	82,545	Sparsely populated
Voi	10,348	9	89,458	Sparsely populated
Ijara	9,994	9	92,663	Sparsely populated
Turkana North	35,000	11	374,414	Sparsely populated
Moyale	9,390	11	103,799	Sparsely populated
Lamu East	1,663	11	18,841	Sparsely populated
Turkana South	18,622	12	226,379	Sparsely populated
Kitui South	12,544	13	166,050	Sparsely populated
Wajir West	12,800	13	171,948	Sparsely populated
Wajir North	9,493	14	135,505	Sparsely populated
Samburu West	10,985	15	164,853	Sparsely populated
Taveta	4,205	16	67,665	Sparsely populated
Turkana Central	14,766	17	254,606	Sparsely populated
Wajir East	12,979	17	224,418	Sparsely populated
Lamu West	4,504	18	82,698	Sparsely populated
Lagdera	13,297	18	245,123	Sparsely populated
Kajiado Central	8,142	20	162,278	Sparsely populated
Kajiado South	6,356	22	137,496	Sparsely populated
Saku	2,078	22	46,502	Sparsely populated
Mutito	5,037	25	126,711	Sparsely populated
Baringo East	4,525	29	133,189	Sparsely populated
Narok South	10,444	30	317,844	Sparsely populated
Dujis	5,688	33	190,062	Sparsely populated
Mwingi North	5,773	35	204,932	Sparsely populated
Mandera Central	11,648	36	417,294	Sparsely populated
Mandera West	8,631	37	319,775	Sparsely populated
Mwatate	1,873	38	71,513	Sparsely populated
Laikipia East	4,460	39	174,796	Sparsely populated
Kacheliba	3,856	40	156,011	Sparsely populated
Mwingi South	4,258	42	180,016	Sparsely populated
Mogotio	1,364	45	60,959	Sparsely populated
Ganze	2,902	46	132,688	Sparsely populated

Constituency	Constituency Area	Population Density	Population	Classification
Mandera East	6,195	47	288,687	Sparsely populated
Malindi	5,334	47	249,355	Sparsely populated
Laikipia West	4,769	47	224,431	Sparsely populated
Kinango	4,008	52	209,560	Sparsely populated
Kajiado North	7,405	52	387,538	Sparsely populated
Baringo North	1,695	55	93,789	Sparsely populated
Narok North	4,654	56	258,544	Sparsely populated
Sigor	2,902	61	175,616	Sparsely populated
Magarini	2,417	63	151,159	Sparsely populated
Kibwezi	3,955	63	248,704	Sparsely populated
Baringo Central	2,426	67	162,351	Other areas
Kapenguria	2,306	79	181,063	Other areas
Wundanyi	702	80	56,021	Other areas
Tharaka	1,570	83	130,098	Other areas
Kitui West	1,843	86	159,367	Other areas
Msambweni	3,235	89	288,393	Other areas
Masinga	1,411	89	125,940	Other areas
Kilgoris	2,846	96	274,532	Other areas
Gachoka	1,315	99	130,185	Other areas
Ndaragwa	934	99	92,626	Other areas
Marakwet East	783	101	78,749	Other areas
Eldama Ravine	942	112	105,273	Other areas
Kieni	1,556	113	175,812	Other areas
Siakago	777	115	89,035	Other areas
Makueni	2,011	121	243,219	Other areas
Keiyo South	898	122	109,160	Other areas
Naivasha	2,837	133	376,243	Other areas
Rongai	1,222	134	163,864	Other areas
Marakwet West	805	135	108,374	Other areas
Keiyo North	541	136	73,715	Other areas
Yatta	1,059	139	147,579	Other areas
Kilome	630	139	87,864	Other areas
Matuga	1,052	144	151,978	Other areas
Othaya	600	146	87,374	Other areas
Kuresoi	1,596	150	239,485	Other areas
Mwala	1,015	161	163,032	Other areas
Gwasi	640	161	103,054	Other areas
Igembe South	1,489	170	252,885	Other areas
Igembe North	1,327	173	229,871	Other areas
North Imenti	1,484	174	258,947	Other areas
Kipipiri	544	175	95,338	Other areas
Kitui Central	979	179	175,633	Other areas

Constituency	Constituency Area	Population Density	Population	Classification
Mt. Elgon	944	183	172,377	Other areas
Central Imenti	761	186	141,768	Other areas
Kipkelion	1,103	187	206,590	Other areas
Tetu	418	187	78,320	Other areas
Eldoret East	1,251	193	241,451	Other areas
Mbooni	951	194	184,624	Other areas
Kathiani	1,163	210	243,719	Other areas
Kwanza	1,119	211	236,218	Other areas
Tinderet	938	213	199,514	Other areas
Nyatike	676	214	144,625	Other areas
Nithi	1,093	215	235,232	Other areas
Tigania East	723	217	157,246	Other areas
Muhoroni	666	219	145,764	Other areas
Ol-Kalou	974	222	215,925	Other areas
Mosop	736	223	164,430	Other areas
Kinangop	853	226	192,379	Other areas
Machakos Town	822	242	199,211	Other areas
Ndhiwa	709	243	172,212	Other areas
South Imenti	737	244	179,604	Other areas
Molo	1,198	253	302,618	Other areas
Eldoret South	989	264	261,073	Other areas
Mbita	416	268	111,409	Other areas
Bondo	587	268	157,522	Other areas
Kangundo	813	269	219,103	Other areas
Gatanga	603	271	163,597	Other areas
Kaloleni	909	278	252,924	Other areas
Lari	441	281	123,895	Other areas
Kaiti	418	287	120,116	Other areas
Kangema	260	296	76,988	Other areas
Aldai	524	301	157,967	Other areas
Uriri	380	304	115,751	Other areas
Chepalungu	537	305	163,833	Other areas
Gichugu	405	308	124,672	Other areas
Cherangany	627	311	195,173	Other areas
Alego	599	313	187,243	Other areas
Maragwa	468	326	152,272	Other areas
Emgwen	702	329	231,054	Other areas
Runyenjes	430	331	142,360	Other areas
Bahari	968	334	323,609	Other areas
Konoin	414	336	139,114	Other areas
Mathioya	262	336	88,219	Other areas
Rarieda	400	337	134,558	Other areas

Constituency	Constituency Area	Population Density	Population	Classification
Tigania West	402	338	135,980	Other areas
Nyando	412	342	141,037	Other areas
Mathira	434	343	148,847	Other areas
Gatundu North	289	348	100,611	Other areas
Ainamoi	520	349	181,509	Other areas
Mwea	541	352	190,512	Other areas
Funyula	264	354	93,500	Other areas
Budalang'i	187	358	66,723	Other areas
Eldoret North	1,088	360	391,655	Other areas
Belgut	560	362	202,591	Other areas
Ndia	270	369	99,515	Other areas
Karachuonyo	438	370	162,045	Other areas
Nyakach	359	371	133,041	Other areas
Subukia	570	371	211,691	Other areas
Shinyalu	410	389	159,475	Other areas
Ugenya	518	390	202,306	Other areas
Migori	481	398	191,248	Other areas
Gem	403	399	160,675	Other areas
Kisumu Rural	361	402	144,907	Other areas
Kigumo	293	422	123,766	Other areas
Rangwe	451	431	194,408	Other areas
Kirinyaga Central	263	432	113,355	Other areas
Kasipul Kabondo	507	435	220,666	Other areas
Lugari	670	436	292,151	Other areas
Kuria	581	441	256,086	Other areas
Kiharu	407	445	181,076	Other areas
Rongo	468	447	209,460	Other areas
Bomet	514	454	233,271	Other areas
Amagoro	559	458	255,871	Other areas
Mukurwe-ini	180	466	83,932	Other areas
Limuru	281	467	131,132	Other areas
Nambale	428	481	205,982	Other areas
Malava	424	484	205,166	Other areas
Butula	245	497	121,870	Other areas
North Mugirango Borabu	464	517	239,443	Other areas
Manyatta	299	518	154,632	Other areas
Bumula	345	519	178,897	Other areas
Saboti	741	523	387,366	Other areas
Buret	320	524	167,649	Other areas

Constituency	Constituency Area	Population Density	Population	Classification
Sirisia	447	545	243,535	Other areas
Matungu	260	564	146,563	Other areas
Webuye	401	574	230,253	Other areas
Kimilili	556	576	320,300	Other areas
Gatundu South	192	594	114,180	Other areas
Juja	747	651	486,121	Other areas
Mumias	326	652	212,818	Other areas
Kandara	237	661	156,663	Other areas
Butere	210	666	139,780	Other areas
Nyeri Town	168	710	119,273	Other areas
Lurambi	417	713	297,394	Other areas
Khwisero	143	716	102,635	Other areas
Kanduyi	319	720	229,701	Other areas
Ikolomani	143	732	104,669	Other areas
Nyaribari Masaba	162	756	122,070	Other areas
Hamisi	189	784	148,259	Other areas
Kitutu Masaba	253	788	199,136	Other areas
Bobasi	239	794	190,074	Other areas
South Mugirango	200	794	159,049	Other areas
Githunguri	175	843	147,763	Other areas
West Mugirango	180	887	159,673	Other areas
Bonchari	126	907	114,615	Other areas
Bomachoge	221	907	200,729	Other areas
Kisumu Town West	144	972	139,933	Other areas
Kitutu Chache	229	977	223,356	Other areas
Vihiga	90	1,018	91,616	Other areas
Emuhaya	173	1,070	185,069	Other areas
Nyaribari Chache	132	1,076	142,389	Other areas
Kabete	236	1,124	265,829	Other areas
Nakuru Town	263	1,179	309,424	Other areas
Sabatia	110	1,179	129,678	Other areas
Kiambaa	191	1,332	253,751	Other areas
Kisumu Town East	146	1,810	264,227	Other areas
Likoni	53	3,304	176,426	Other areas
Kisauni	113	3,602	405,930	Other areas
Sotik	555	4,444	187,968	Other areas
Changamwe	57	4,987	282,279	Other areas
Mvita	7	10,831	74,735	Other areas

3.4 Methodology for Determination of 1,450 County Assembly Wards¹¹

Article 89 as read together with Article 179 emphasises the principle of equitable representation under the devolved structure of government. The Commission has to determine the number of County Assembly Wards into which the country shall be divided. In this respect, the Report of the Task Force on Devolved Government (TFDG) determined 1,450 as the optimal number of elective County Assembly Wards in the country.¹² This proposal found its way into the County Government Bill, 2012 passed by Parliament on [date].

According to the Report of the TFDG, each of the 290 constituencies will have a minimum of three and a maximum of five wards. The number of wards was determined using the number of constituencies in each county with the primary consideration for equity in representation in the county. The TFDG in effect proposed to reduce ward representatives from the current 3,465, including nominated councillors, to about 2,000. The IEBC considered this national limit plausible as it enables a county to effectively fulfil its representation and oversight functions.

Article 89(3) of the Constitution gives the Commission power to periodically review the number, names and boundaries of wards. Unlike the constituencies, the number of County Assembly Wards is not prescribed by the Constitution. The Commission is expected to determine the number of these wards.

The Commission took into consideration the principle of equitable representation under the devolved structure of Government and adopted the recommendations of the TFDG Report capping the number of County Assembly Wards at 1,450 as the optimal number for the country. The Commission considers this national limit plausible, as it will enable the respective counties to effectively fulfil their representation and oversight functions.

The Commission computed the population quota for County Assembly Wards as follows:

Population Quota for County Assembly Wards =

National Population as at 2009 Census = 38,610,097 = 26,628

¹¹ For purposes of the delimitation of County Assembly Wards, the Commission has construed the term ‘ward’ to mean “County Assembly Ward” envisaged under Article 177 of the Constitution, and not the local authority wards.

¹² Final Report of the Task Force on Devolved Government, Volume I

Total Number of Wards 1,450

Step I – Determine the number of constituencies in a county;

Step II – Multiply the number of constituencies in a county x 5;

Step III – Determine population quota for the county by dividing county population by total number of Assembly Wards in the county;

Step IV – Determine the number of County Assembly Wards per constituency by dividing specific constituency population by county population quota.

According to the recommendations of the TFDG, each of the 290 constituencies should have between three and five County Assembly Wards. Using this proposal, the IEBC obtained the number of County Assembly Wards applicable to each constituency by computing the proportion of the population of the constituency in relation to the total population of the county and multiplying by the number of County Assembly Wards which the county is entitled to (the Commission set this at a maximum of five). This computation is based on a formula, which serves to maintain equality between wards and the number of voters.

$$\left[\frac{\text{Total Population of Constituency}}{\text{Total Population of each County}} \right] \times \text{Number of County Assembly Wards allocated to each County}$$

Applying the above formula ensures that even the smallest county has an adequate number of County Assembly Members to perform its functions. This approach takes cognisance of the inherent inequities in the populations of various counties and the imbalances in each constituency. This is because counties were created by the Constitution without regard to their populations.

The number of County Assembly Wards per county is obtained by multiplying the number of constituencies in a county by the maximum number of County Assembly Wards in a constituency (5), i.e.

Number of County Assembly Wards in a County = Number of Constituencies in a County x 5

Using the above computation results in the allocation of the number of County Assembly Wards in each county in the table below:

Table 7: Distribution of County Assembly Wards Per County

S/NO	COUNTY	POPULATION	TOTAL (CONSTITUENCIES)	COUNTY ASSEMBLY WARDS
1	MOMBASA	939,370	6	30

S/NO	COUNTY	POPULATION	TOTAL (CONSTITUENCIES)	COUNTY ASSEMBLY WARDS
2	KWALE	649,931	4	20
3	KILIFI	1,109,735	7	35
4	TANA RIVER	240,075	3	15
5	LAMU	101,539	2	10
6	TAITA/TAVETA	284,657	4	20
7	GARISSA	623,060	6	30
8	WAJIR	661,941	6	30
9	MANDERA	1,025,756	6	30
10	MARSABIT	291,166	4	20
11	ISIOLO	143,294	2	10
12	MERU	1,356,301	9	45
13	THARAKA-NITHI	365,330	3	15
14	EMBU	516,212	4	20
15	KITUI	1,012,709	8	40
16	MACHAKOS	1,098,584	8	40
17	MAKUENI	884,527	6	30
18	NYANDARUA	596,268	5	25
19	NYERI	693,558	6	30
20	KIRINYAGA	528,054	4	20
21	MURANG'A	942,581	7	35
22	KIAMBU	1,623,282	12	60
23	TURKANA	855,399	6	30
24	WEST POKOT	512,690	4	20
25	SAMBURU	223,947	3	15
26	TRANS NZOIA	818,757	5	25
27	UASIN GISHU	894,179	6	30
28	ELGEYO/MARAKWET	369,998	4	20
29	NANDI	752,965	6	30
30	BARINGO	555,561	6	30
31	LAIKIPIA	399,227	3	15
32	NAKURU	1,603,325	11	55
33	NAROK	850,920	6	30
34	KAJIADO	687,312	5	25
35	KERICHO	891,835	6	30
36	BOMET	590,690	5	25
37	KAKAMEGA	1,660,651	12	60
38	VIHIGA	554,622	5	25
39	BUNGOMA	1,375,063	9	45
40	BUSIA	743,946	7	35
41	SIAYA	707,746	6	30
42	KISUMU	968,909	7	35
43	HOMA BAY	963,794	8	40

S/NO	COUNTY	POPULATION	TOTAL (CONSTITUENCIES)	COUNTY ASSEMBLY WARDS
44	MIGORI	917,170	8	40
45	KISII	1,152,282	9	45
46	NYAMIRA	598,252	4	20
47	NAIROBI CITY	3,138,369	17	85
	TOTALS		290	1,450

3.5 Other Constitutional Criteria in the Delimitation of Boundaries

Article 89(5) of the Constitution stipulates other criteria in the delimitation process to include geographical features and urban centres, community of interest, historical and historical ties and means of communication.

3.5.1 *Geographical Features, Urban Centres and Means of Communication*

The IIBRC and IEBC considered natural geographical features to include bodies of water, topographical characteristics such as valleys, mountains, cliffs and such other elevations that hinder human communication and other activities. Urban areas were analysed on the basis of the classification of the 2009 Kenya National Bureau of Statistics (KNBS) and night-light satellite visualisation to ascertain densities of human settlement and activities.

Communication was analysed using infrastructure such as roads, railways, airports and lake and sea port systems. Services such as postal and courier, access to and presence of fibre optic, TV and radio masts and landline and mobile telephony were analysed and factored in the final delimitation exercise. The IEBC considered that electoral areas should be accessible and unbroken and allow for ease of interaction and ability to conduct political processes.


The boundaries, as far as possible, were drawn in order to bring together geographically congruent zones that are able to facilitate communication, political activity and administration of elections in addition to ensuring that they meet the principles of elections as set out in Article 82 of the Constitution.

3.5.2 *Community of Interest, Historical, Economic and Cultural Ties*

Delimitation of electoral constituencies takes into account the importance of creating constituencies or electoral areas that correspond as closely as possible to community of interest. Community of interest assures that electoral units are cohesive with common interests related to representation in the county and national governments.

In the delimitation, the Commission analysed community of interest using the public forums and memorandum triangulated on literature review on the economic activities prevalent in the electoral area. This included socio-economic infrastructure such as schools, hospitals and clinics, recreational areas, agro-processing factories, plants, economic installations, abattoirs, water infrastructure and reservoirs, grazing lands and market centres.

Historical ties analysis was centred on the history of the particular electoral unit and the area, the origins and names of the area under which an electoral unit falls, as well as cultural hegemony of the residents and the presence of significant cultural heritage sites and monuments.



CHAPTER FOUR

OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

4.1 OBSERVATIONS

The IEBC presented its Preliminary Report to the public between January 9 and January 30, 2012 in accordance with Paragraph 3(2) of the Fifth Schedule. During this period, the Commission facilitated public consultations at constituency and county levels. The Commission subsequently submitted the Revised Preliminary Report taking into account public input. Throughout this exercise the Commission observed the following:

That many Kenyans needed greater awareness and understanding of the constitutional parameters for delimitation and the special circumstances of the First Review.

Redistricting: Members of the public were critical of the alteration of constituency and ward boundaries even where the primary objective was to ensure compliance with constitutional parameters. This explains the trend in public presentations and memorandum that reflect what are largely ethnic and clan ties. In many cases the public were unwilling to accept alteration of boundaries based on constitutional parameters.

Implications of electoral boundaries on allocation of resources: Electoral boundaries are delimited for the primary purpose of ensuring effective representation. However, there is a general perception that delimitation of electoral boundaries is linked to resource allocation.

Non-alignment of electoral boundaries to administrative units: Although the Constitution does not expressly provide for alignment of electoral boundaries to administrative units, Kenyans did not note the distinction that the scope of the current review was limited to delimitation of boundaries of constituencies and wards. This was influenced by the general perception that resource allocation and access to government services are linked to administrative and electoral boundaries.

The implication of constituencies and County Assembly Wards to the allocation of proportional representation seats based on Party Lists under Article 90 of the Constitution led to heightened interest in additional seats.

4.2 CONCLUSIONS

The Revised Preliminary Report presented to the National Assembly in accordance with Article 89(7) of the Constitution and section 3(d) of the IEBC Act, provides a mechanism for a structured consultation with the National Assembly. In its deliberations, the National Assembly may be guided by the following considerations:

The limited mandate of the IEBC in concluding the First Review in accordance with the IEBC Act;

Through many presentations and memoranda Kenyans expressed the need to have more constituencies and wards but this could not be granted due to the limited numbers of constituencies and County Assembly Wards;

The limited statutory time frame does not allow for further consultations to achieve broader consensus on the process; and,

The protected constituencies in the First Review does not allow for strict compliance with constitutional criteria for delimiting constituency boundaries.

4.3 RECOMMENDATIONS

County Boundaries

In the course of its work, the Commission was faced with disputes on county boundaries. The Commission recommends that Parliament sets up a legal framework for resolution of such disputes as provided for under Article 188 of the Constitution.

Administrative Boundaries and Local Authority Electoral Units

Although the Constitution does not expressly stipulate that electoral boundaries are aligned to administrative units, Parliament should establish a framework to align administrative boundaries to electoral units as was the case in the former Constitution.

County Assembly Wards

The Commission is mandated by Article 89(3) of the Constitution to periodically review the number, names and boundaries of wards. It is therefore recommended that any Government agency desiring to determine the number of wards consults the Commission.

Representation of Marginalised Groups

Boundaries delimitation does not resolve issues regarding representation of marginalised groups. Parliament should, in considering this Report, address ways of ensuring conformity with the principles of representation as envisaged under Article 100, of the Constitution by enacting legislation that promotes representation of ethnic and other minorities and marginalised communities in Parliament and County Assemblies.

Geographical Limits

Parliament should consider setting minimum and maximum limits for geographical areas for constituencies to allow for effective representation.

Enumeration Areas

The KNBS should, where possible, align the enumeration units used during the national census to the IEBC polling centres for effective representation.

National Data

IEBC recommends that Parliament sets up a mechanism to allow for a national database and data sharing for all Government agencies.

FIFTH SCHEDULE

(s. 36)

PROVISIONS RELATING TO THE FIRST REVIEW

Resolution of issues arising from the first review.

1. The Commission shall resolve all issues arising from the first review relating to the delimitation of boundaries of constituencies and wards and publish its final report within a period of four months of the date of its appointment under this Act.

Reference materials.

2. (1) The Commission shall, in addressing the issues arising out of the first review –

(a) use as its primary reference material the report of the former Boundaries Commission on the first review as adopted by the National Assembly; and

(b) use as its secondary reference material the report of the Parliamentary Committee on the report of the former Boundaries Commission on the first review.

(2) The issues arising out of the first review are -

(a) re-distribution of such wards or administrative units in the affected constituencies as may be appropriate;

(b) subject to the Constitution, addressing issues of new constituencies falling outside the population quota as provided for by Article 89(6) of the Constitution but at the same time ensuring that such a process shall:

(i) take into account the provisions of Article 89(7)(b) of the Constitution that requires progressive efforts and not instant demographic equality of all towards attaining the population quota in each constituency and ward for the purposes of the first review;

(ii) not be subject to new definitions of cities, urban areas and sparsely populated areas or to new population figures;

(iii) be subject to the use of enumerated national census figures and not projected figures.

(c) addressing the issue of progressively advancing towards the population quota in protected constituencies in relation to neighbouring constituencies where appropriate.

Delimitation of electoral units.

3. (1) The Commission shall prepare and publish a preliminary report outlining –
 - (a) the proposed delimitation of boundaries for constituencies and wards; and
 - (b) the specific geographical and demographical details relating to such delimitation.
- (2) The Commission shall ensure that the preliminary report is made available to the public for a period of twenty-one days and invite representations from the public on the proposals contained in the report during that period.
- (3) Upon the expiry of the period provided in sub-paragraph (2), the Commission shall, within fourteen days, review the proposed delimitation of boundaries considering the views received under that sub-paragraph and submit the revised preliminary report of proposed boundaries to the Parliamentary Committee.
- (4) The Parliamentary Committee shall, within fourteen days of receipt of the revised preliminary report under sub-paragraph (3), table the revised preliminary report to the National Assembly together with its recommendations.
- (5) The National Assembly shall, within seven days of the tabling of the revised preliminary report, consider the revised report and forward its resolutions to the Commission.
- (6) Within fourteen days of the expiry of the period provided for in subparagraph (5), the Commission shall, taking into account the resolutions of the National Assembly under subparagraph (5), prepare and submit its final report outlining the matters set out in subparagraph (1)(a) for publication in the Gazette.
- (7) Where the National Assembly fails to make a resolution within the period specified in subparagraph (5), the Commission shall proceed to publish its report in accordance with subparagraph (6).
- (8) Any person who, being responsible for the publication in the Gazette of the final report submitted under this paragraph fails to publish the report within the time required by the Commission after the report has been submitted to that person, commits an offence and is liable to imprisonment for a term of one year.
- (9) Notwithstanding any other written law, where the final report is not published in accordance with the provisions of sub-paragraph (6) the Commission shall, within seven days of the submission of the said report, cause the report to be published in at least two dailies of national circulation and such publication shall have effect as if it were done in the Gazette.

Review of a decision of the Commission.

4. A person may apply to the High Court for review of a decision of the Commission made under the Constitution and this Act.

Application for review.

5. An application for the review of the decision made under paragraph 4 shall be made within thirty days of the publication of the decision in the Gazette and shall be heard and determined within thirty days of the date on which it is filed.

Sensitisation on the proposed boundaries.

6. The Commission shall, upon publication of the boundaries referred to in paragraph 3 facilitate sensitisation of the public on the boundaries for a period of thirty days.

Maintenance of records.

7. The Commission shall ensure that all documents, materials, publications, reports and recommendations arising from the delimitation process are maintained in a form that is accessible and usable by members of the public.

ANNEX II: MEDIA OUTLETS USED FOR PUBLIC AWARENESS

A. RADIO STATIONS:

Nairobi/ National

Citizen Radio
Radio Waumini
Kiss FM
Classic FM
Radio Jambo
East FM
Hope FM
Milele FM
Capital FM
KBC Nosim FM
KBC Kiswahili (Radio Taifa)
KBC Regional Services (15)
KBC English
Radio Maisha
Radio Umoja
One FM
Q FM
Easy FM
Bibilia Husema
Radio 316
Ghetto
Home Boyz Radio

Coast

Baraka FM
Bahari FM
Radio Kaya
Radio Rahma
Pwani FM
Sheki FM
Mwanedu
Sifa FM's four stations of Voi, Maata, Garissa and Marsabit FM
Radio Salaam
Anguo FM

Mt. Kenya

Inooro FM
Coro FM
Wimwaro FM
Muuga FM
Mwariama FM
Kameme FM

Lower Eastern

Musyi FM
Mbaitu
Syokimau FM
ATG Radio

Upper/North

Frontier FM

Eastern

Wajir Community Radio

IQRA FM

Star FM Somali

Star FM Borana

Risala FM

Rift Valley

Sauti ya Mwananchi

Changei FM

KBC Kitwek

KBC Mayenga

Kass FM

Sayare FM

Radio Akitcha

Western

Mulembe FM

Radio Mambo

West FM

Kisima FM

Nyanza

Ramogi

KBC Minto

Radio Nam Lolwe

Radio Sahara

Egesa FM

Radio Lake Victoria

B. TV STATIONS:

KTN

CITIZEN

KBC

K24

KISS

C. PRINT MEDIA

NATION

STANDARD

STAR

THE PEOPLE

ANNEX III: SCHEDULE OF COUNTY PUBLIC FORUMS

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

REPRESENTATIONS ON THE IEBC PRELIMINARY REPORT OF THE FIRST REVIEW OF BOUNDARIES.

SCHEDULE OF COUNTY PUBLIC HEARINGS

Pursuant to IEBC Act 2011, the Commission (IEBC) is mandated to resolve issues arising from the First Review relating to the delimitation of constituencies and wards and to publish a preliminary report. Upon publishing of the preliminary report, IEBC is expected to make the report available to the public for twenty one (21) days and invite public views on the proposals. The Commission released the preliminary report on 9th January, 2012. The preliminary report is available on www.iebc.or.ke. It will also be printed in the main dailies and copies made available at IEBC constituency offices. Subsequently IEBC invites public views on the preliminary report in each county at venues and on dates specified below:

DATE	TEAM 1	TEAM 2	TEAM 3	TEAM 4	TEAM 5	TEAM 6	TEAM 7	TEAM 8
Monday 16th Jan, 2012	Tana River County - Hola Municipal Hall	Isiolo County - Agriculture Training Institute, Isiolo	Garissa County - Garissa County Council Hall	Turkana County - St. . . Teresa Nanjala Hall, Lodwar	Homa Bay County - Homa Bay Municipal Hall	Machakos County - Machakos Municipal Hall	Busia County - Busia County Council Hall	ElgeyoMarak wet - IEBC Office Hall, Iten
Tuesday 17th Jan, 2012	Lamu County - Lamu County Council Hall	Laikipia County - Nanyuki Municipal Hall	Wajir County - Wajir County Council Hall	-	Homa Bay County - Homa Bay Municipal Hall	Machakos County - Machakos Municipal Hall	Bungoma County - Bungoma County Council Hall	Nandi County - Kapsabet Municipal Hall
Wednesday	Kilifi County -	Nyeri County	Mandera	West Pokot	Migori County	Kitui County -	Bungoma	Nakuru

18th Jan, 2012	Kilifi County Council Hall	- Provincial Social Hall	County Mandera County Council Hall	- County Matelo Hall, Kapenguria	- Maranatha Hall	Kitui Multi-Purpose Hall	County Bungoma County Council Hall	County Nakuru Municipal Hall
Thursday 19th Jan, 2012	Mombasa County-Mombasa Municipal Hall	Kirinyaga County - Kerugoya Catholic Hall	Marsabit County - Members' Club, Marsabit	Trans Nzoia County - Kitale County Council Hall	Migori County - Maranatha Hall	Kitui County - Kitui Multi-Purpose Hall	Kakamega County - Kakamega County Council Hall	Nakuru County - Nakuru Municipal Hall
Friday 20th Jan, 2012	Kwale County - Kwale Town Hall	Murang'a County - Murang'a County Council Hall	-	Uasin Gishu County - Eldoret Municipal Hall	Siaya County - Siaya Municipal Hall	Makueni County - Makueni County Council Hall	Kakamega County - Kakamega County Council Hall	Baringo County - Kabarnet GTI
Saturday 21st Jan, 2012	Kwale County - Kwale Town Hall	-	-	-	-	-	-	-
Monday 23rd Jan, 2012	Taita Taveta County - Wundanyi Municipal Hall	Nyandarua County - CK Hall Olkalou Town	Kisumu County - Kisumu Council Hall	Nairobi County - City Hall	Kisii County - Gusii Township Hall	Embu County - Embu County Council Chambers	Vihiga County - Mbale High School Hall	Samburu County - Allamano Catholic Hall, Maralal
Tuesday 24th Jan, 2012	-	Kiambu County - Kiambu	Kericho County - Kipsigis	Nairobi County - City	Kisii County - Gusii Township	Tharaka/Nithi County - Kaiampau	Bomet County - Bomet	-

		County Council Hall	County Council Hall	Hall	Hall	Youth Polytechnic Hall	County Council Hall	
Wednesday 25th Jan, 2012	-	Kiambu County Thika Municipal Hall	-	Kajiado County Maasai Technical Training Institute	Nyamira County IFAD Hall	Meru County - Gitooro Conference Centre	-	-
Thursday 26th Jan, 2012	-	-	-	-	-	Meru County - Gitooro Conference Centre	Narok County - Narok County Council Hall	-