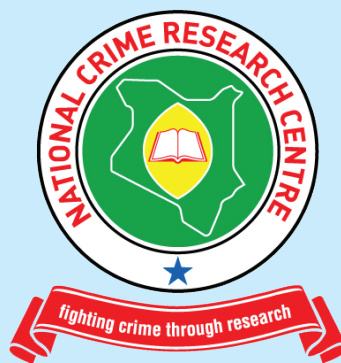


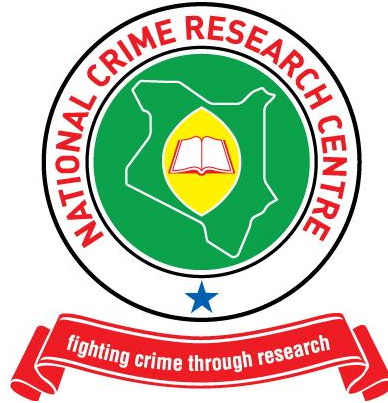
NATIONAL CRIME RESEARCH CENTRE



ELECTION CRIMES AND OFFENCES IN KENYA



NATIONAL CRIME RESEARCH CENTRE



ELECTION CRIMES AND OFFENCES IN KENYA

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FOREWORD

The overall development of any nation is significantly hinged on good political leadership and legitimate governance deriving from good political elections that are seen to be free, fair and credible. Democracy and good governance is both a means for and a product of good political elections, which in turn, play a pivotal role in the development system and infrastructure of a country. The dual role of politics in governance is: first, they are a representation of the people, they oversight governance and they legislate. Secondly, there is a professional face to political leadership which includes policy making, public safety, governance and diplomacy.

To a large extent, the legal and policy framework in the country addresses itself to good political elections. However, election crimes and offences have continued to remain a serious challenge in Kenya's electoral history and processes. The desire for smooth political elections has been elusive in Kenya for some time now owing to the ever recurring election crimes and offences witnessed almost every time the country conducts a General Election or a By-Election. Kenyans appear not to have learnt lessons from the previous elections and the 2013 General Elections were marred with incidents of election crimes and offences as evidenced by, among others, incidents of chaos and rigging during political party nominations and the 188 petition cases that were filed in our law courts.

There is no doubt at all that election crimes and offences have detrimental consequences on our society. These crimes and offences continue to undermine and retard the gains realized and strides made by the Government and its non-state duty bearers in the recent years as far as the realization of socio-economic and political development through electoral reforms is concerned. In Kenya, the crimes and offences continue to have far reaching negative consequences in many spheres of the country's development.

A number of previous studies have focused on election violence. However, there appears to be limited studies on election crimes and offences. This study undertook to: establish the prevalence of election crimes and offences by type; identify the perpetrators of election crimes and offences; examine the factors contributing to election crimes and offences; examine the effects of election crimes and offences; identify existing control measures and their effectiveness in dealing with election crimes and offences; identify players attempting to address election crimes and offences; and establish the challenges faced in the control of election crimes and offences. Therefore, this policy-oriented research report is one among the initiatives that aim to support policymakers and relevant state and non-state institutions in their endeavor to combat and prevent election crimes and offences in Kenya. It provides reliable and useful data and information for effective, evidence-based decisions and policy improvement in delivering good elections and addressing crime in general in the country.

The main area of focus for government is the administration and management of election crimes and offences. It is therefore my sincere hope that there will be a paradigm shift and serious commitment among key election and crime management players going forward in as far as the delivery of smooth political elections in Kenya is concerned.



**PROF. GITHU MUIGAI, EGH, SC.
ATTORNEY GENERAL/CHAIRMAN
GOVERNING COUNCIL
NATIONAL CRIME RESEARCH CENTRE**

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GERARD E. WANDERA
DIRECTOR/CEO
NATIONAL CRIME RESEARCH CENTRE

OPERATIONAL DEFINITION OF TERMS

Challenges faced in the control of election crimes and offences

These were the hindrances/obstacles in the effort to address election crimes and offences. The challenges included: corruption and lack of integrity in the electoral process and inadequate resources to control election crimes and offences.

Control measures to deal with election crimes and offences

These referred to the deliberate efforts put in place by different stakeholders with the aim of preventing and/or addressing election crimes and offences. The efforts included: peace, national unity and anti-election crimes and offences campaigns, civic education by Independent Electoral and Boundaries Commission and Civil Society Organizations, enforcement of law and order and deployment of security personnel and patrols during the election period.

Effects of election crimes and offences

These were the negative consequences or repercussions of election crimes and offences such as destruction and/or loss of property, disturbed peace, fear and tension among voters (that is, persons registered to vote in a particular General Election and/or By-election for political offices) and loss and injury of human life through physical injury, trauma, sickness and deaths.

Election

In this study, election referred to the formal and organized choice by vote of a person (s) for a political office (s) during General Elections and By-elections. It also referred to the process of choosing by vote of a person (s) for a political office (s) during General Elections and/or By-elections (Oxford University Press, 2014).

Election crimes

For purposes of this study, election crimes referred to all the crimes punishable under the Penal Code Cap 63 Laws of Kenya which were committed during the election period of a General Election and/or By-election for political offices and which were directly related to the particular elections (for example arson, injuring, killing or kidnapping of a contestant to lock him/her out of the political race).

Election offences

These were the offences provided for in the Elections Act 2011, a legal framework instrument of the Independent Electoral and Boundaries Commission (IEBC) in Kenya and included: undue influence (that is, the act of voluntary interference or attempts to interfere with the free exercise of the voter's electoral right to vote during the a General Election and/or By-election), bribery (that is, giving or promising or offering money or any other valuable inducement to a voter in order to corruptly induce or influence the latter to vote in a particular way or to abstain from voting), offences relating to elections, use of force or violence, offences relating to voting and treating (that is, directly or indirectly giving or

providing food, drink, entertainment or provision to a voter before and during a General Election and/or By-election to corruptly influence the voter to vote or refrain from voting).

Factors contributing to election crimes and offences

The factors referred to any deficiency, behavior or omission on the part of individuals or institutions that was partly responsible for the occurrence of election crimes and offences.

Perpetrators of election crimes and offences

This referred to categories of individuals and institutions which directly or indirectly committed election crimes and/or offences during the election period.

Players addressing election crimes and offences

These were categories of individuals and institutions that attempted directly or indirectly to deal with the problem of election crimes and/or offences during the election period.

Prevalence of election crimes and offences

This was the proportion of occurrences of a particular election crime or offence. It was arrived at by comparing the number of sample respondents who reported the occurrence of the particular election crime or offence with the total number of sample respondents and it was expressed as a percentage of the total sample respondents.

ABBREVIATIONS AND ACRONYMS

BVR	Biometric Voter Registration
CAPF	Coalition for Accountable Political Financing
CORD	Coalition on Reforms and Democracy
CSOs	Civil Society Organizations
DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
ECK	Electoral Commission of Kenya
EFA	Education For All
EMB	Election Management Body
EYC	Elimu Yetu Coalition
GDP	Gross Domestic Product
GoK	Government of Kenya
ICC	International Criminal Court
ICT	Information Communication Technology
IDP	Internally Displaced Person
IEBC	Independent Electoral and Boundaries Commission
IFES	International Foundation for Electoral Systems
KANU	Kenya African National Union
KLRC	Kenya Law Reform Commission
KNUT	Kenya National Union of Teachers
MDC	Movement for Democratic Change
MRC	Mombasa Republican Council
NCAJ	National Council for the Administration of Justice
NCIC	National Cohesion and Integration Commission
NCRC	National Crime Research Centre
NGOs	Non-Governmental Organizations
ODM	Orange Democratic Movement
ODPP	Office of the Director of Public Prosecutions
OHCHR	Office of the High Commissioner for Human Rights
PEV	Post Election Violence
RPA	Representation of the People Act
SPSS	Statistical Package for Social Sciences
SRIC	Security Research and Information Centre
TIK	Transparency International Kenya
TJRC	Truth, Justice and Reconciliation Commission
TNA	The National Alliance
UK	United Kingdom
UNDP	United Nations Development Programme
UNFPA	UN Population Fund
UNHCR	UN High Commissioner for Refugees
UNICEF	UN Children's Fund
URP	United Republican Party
U.S	United States
WDM	Wiper Democratic Movement

EXECUTIVE SUMMARY

This study sought to address election crimes and offences in Kenya using the 2013 General Elections as a base. Election crimes and offences in Kenya contravene the Elections Act 2011 and other provisions of the Constitution and contribute to social, political and economic problems in society. The importance of crime and offence-free elections cannot be overemphasized. This is because such elections are a reflection of the importance of good political leadership and legitimate governance in the overall development of a country.

The general objective of this study was to establish the nature of election crimes and offences in Kenya. The specific objectives were to: establish the prevalence of election crimes and offences by type; identify the perpetrators of election crimes and offences; examine the factors contributing to election crimes and offences; examine the effects of election crimes and offences; identify existing control measures and their effectiveness in dealing with election crimes and offences; identify players attempting to address election crimes and offences; and establish the challenges faced in the control of election crimes and offences.

The study was anchored on the Rational Choice, Weak States and Social Control which link the phenomena of election crimes, election offences, election violence, economic under-performance and various socio-political ills in Kenya.

The study was carried out in 20 randomly selected counties in Kenya namely, Nairobi, Kirinyaga, Laikipia, Kitui, Nakuru, Kericho, Migori, Siaya, Kisumu, Kakamega, Bungoma, Mombasa, Kwale, Tana River, Marsabit, Isiolo, Uasin Gishu, Bomet, Narok and Garissa. The study was descriptive in nature. Specific sites for the study were selected purposively. Convenience/accidental and availability sampling was used to obtain a sample of members of public while purposive sampling was used to select Key Informants.

Primary data was collected using structured individual face-to-face interviews. A total of 1222 sample respondents who were members of public (53.5% males and 46.5% females) were interviewed using a mixed Interview Schedule (consisting of open and closed ended questions). Interviews with Key Informants drawn from institutions namely, the Interior and Coordination of National Government (formerly, Provincial Administration), National Police Service, Independent Electoral and Boundaries Commission, Judiciary, Probation and Aftercare Service, Civil Society Organizations, Political Parties and the Education sector utilized a Key Informant Guide. The secondary method of data collection was also utilized where mining of statistics and relevant photographs on election crimes and offences was done. Qualitative and quantitative methods of data analysis were utilized. Quantitative data were analysed through descriptive statistics using the Statistical Package for Social Sciences (SPSS). The information was then presented in distribution frequency and percentage tables and figures (bar graphs and pie charts). The qualitative data was analyzed through interpretation of responses of the Key Informants. All information from the analyzed data was presented in themes guided by the research objectives.

Key Findings

i. Prevalence of election crimes and offences

The most prevalent election crimes and offences as analyzed according to the broad IEBC classification included: undue influence, bribery, offences relating to elections, use of force or violence, offences relating to voting and treating. On the hand, the most prevalent specific types of election crimes and offences were: bribery; voter/ballot fraud; hate speech; and

fighting. This indicates a variance between what IEBC considers as election offence and what the public experiences on the ground during elections.

ii. Perpetrators of election crimes and offences

Perpetrators of election crimes and offences were found to be political aspirants/candidates, followed by unemployed youth, supporters of politicians, party officials and agents and voters. This significantly places political leaders and their leadership at the centre of election crimes and offences in Kenya.

iii. Factors contributing to election crimes and offences

Factors contributing to election crimes and offences in the study areas included: ethnic animosity, tribalism and clanism; poverty; unemployment among the youth; illiteracy among the electorate; incitement and use of abusive and derogatory statements by politicians; corruption in politics; and drug and substance abuse.

iv. Effects of election crimes and offences

The effects of election crimes and offences in society included: loss and injury of human life (through physical injury, trauma, sickness and deaths of people); destruction and/or loss of property; violence, disturbed peace, fear and tension among people including voters; ethnic tensions and animosity/hatred/enmity; poor leadership and governance; interruption of businesses; and forced migration, evictions and/or displacement of populations.

v. Election crimes and offences control and effectiveness

Election crimes and offences control measures included: civic education conducted by Independent Electoral and Boundaries Commission and Civil Society Organizations; deployment of security personnel and patrols; peace, national unity and anti-election crimes and offences campaigns; enforcement of applicable laws by Judiciary; and Independent Electoral and Boundaries Commission Code of Conduct. The respondents believed that the current control measures were generally effective.

vi. Players dealing with election crimes and offences

The players who were addressing election crimes and offences in Kenya were the security agencies followed by the Independent Electoral and Boundaries Commission, religious organizations, Interior and Coordination Officials, that is, National Government Administration Officers (former Provincial administration), Non-Governmental Organizations (NGOs), Mass Media, other government agencies (including the Education sector (specifically teachers and KNUT officials), National Crime Research Centre, Probation Service and Prisons Service), Presidential candidates and their running mates and the Judiciary.

vii. Challenges facing control of election crimes and offences

Challenges faced in the control of election crimes and offences in Kenya included: inadequate resources and insufficient networks among security agencies; corruption and lack of integrity in the electoral process; illiteracy and ignorance among the electorate; impunity and selfishness of political leaders; tribalism, nepotism, hatred and hostility; and inadequate cooperation and partisan interests among concerned agencies.

This study concluded that: Kenya's political elections are marred by election crimes and offences; the factors contributing to election crimes and offences in Kenya are social, economic and political in nature; election crimes and offences have serious negative effects on the Kenyan society; there are generally effective control measures to address election crimes and offences in Kenya; and that the control of election crimes and offences in Kenya faces a myriad of challenges.

Key Recommendations

The study makes the following key recommendations:

- i. There is need to improve the investigative capacity of the Directorate of Criminal Investigations (DCI), Ethics and Anti-Corruption Commission (EACC), National Cohesion and Integration Commission (NCIC) and Independent Electoral and Boundaries Commission (IEBC) in emerging reported and unreported crimes and offences related to elections.
- ii. The prosecution and sentencing of election crimes and offences require to be strengthened at the level of point of arrest, gathering of evidence, prosecution and sentencing with the Director of Public Prosecutions and the Judiciary playing a leading role.
- iii. Hate speech and hate crime jurisprudence requires more development through administrative policies, legislations and Court precedents to address the poor record of convictions. Further, the IEBC should profile election offenders irrespective of their roles and status in society.
- iv. Enforcement of zero-tolerance policy on election-related corruption must start with members of public as part of their right and obligation under the Constitution with regard to public participation in good governance.
- v. The use of election campaign money should be regulated and enforced by IEBC as a deliberate measure to deter electoral malpractices including voter bribery during election campaigns. As a further deterrence, it is recommended that a list be generated for those who have not complied and be put to their defence.
- vi. Parliament and County Assemblies need to take lead in legislating stiffer penalties against election malpractices. Such laws could have the capacity to bar individuals convicted of election crimes and offences from contesting future elective positions and holding public office for some time.
- vii. The advance mapping of election crimes and offences in every election cycle (specifically with regard to election risk factors, potential crime and offence types, hotspots and perpetrators) should be prioritized by the IEBC, National Police Service, National Intelligence Service, NCIC and the National Crime Research Centre (NCRC) so as to inform prevention policy and intervention programmes.
- viii. The state and non-state actors under the National Council for the Administration of Justice (NCAJ) should put in place national and county level legislation processes by proposing bills and other forms of legislative amendments to examine and review election practices in the country.
- ix. The Independent Electoral and Boundaries Commission should install adequate and properly functioning electronic voter registration, voting and election results transmission equipment.
- x. There is need for enhanced awareness creation forums for politicians, their supporters, party agents, the youth, voters and the general public on the importance of free, fair, transparent and crime and offence-free elections. Collaborative civic education and sensitization forums for target groups which are organized and

- supported by both public and private organizations to guard against duplication of efforts and waste of resources are recommended.
- xi. Inter-ethnic and inter-clan activities (including exchange programmes) need to be encouraged and supported towards addressing the negative effects of ethnic animosity, tribalism and clanism. The National Cohesion and Integration Commission needs to play a leading role in this aspect.
 - xii. To curb crimes committed especially by the youth, economic programmes aimed at alleviating poverty and empowering all Kenyans in general and the youth in particular (such as the Youth Empowerment Programme popularly known as ‘Kazi Kwa Vijana’) need to be created by way of opening up employment and other economic opportunities in the formal and informal sectors of the economy.
 - xiii. The Government should ensure equitable distribution of national resources and opportunities (envisioned in the principles and foundations of Vision 2030) in all regions to guard against election crimes and offences resulting from the unequal distribution and competition for the same.
 - xiv. Illiteracy was found to contribute to election crimes and offences. Measures should therefore be put in place by the Ministry of Education in partnership with other relevant state and non-state agencies such as Elimu Yetu Coalition (EYC) to ensure that formal education at all levels is affordable and accessible to the majority of the citizenry through literacy promotion initiatives and programmes such as free learning and/or subsidized fees.
 - xv. The Government needs to continue providing avenues for civil society and citizens’ movements to fully participate in voters’ education, poll observation and monitoring of election crimes and offences.
 - xvi. The Independent Electoral and Boundaries Commission should introduce innovative mechanisms of deterring election offences. These could include: partnering with the National Authority for the Campaign Against Alcohol and Drug Abuse to limit liquor consumption around campaign venues and during election day and announcement of results; facilitating political party nominations and dialogues: coming out with peace agreements between rival candidates and political parties to prevent volatile election situations from escalating to election offences and crimes; and taking non-security trained election personnel (such as teachers who are normally involved as election officials) through election crime prevention trainings and seminars.
 - xvii. Security agencies need to pacify all organized criminal gangs operating in the country by among others, dismantling their organizational and operational structures and disrupting their funding sources and networks.
 - xviii. The National Crime Research Centre needs to be adequately facilitated with finances, infrastructure and personnel to continue conducting crime research to inform policy in the effective management of crime and offence free elections in Kenya.

CHAPTER ONE: INTRODUCTION

1.1 Background of the Study

1.1.1 The Context of Election Crimes and Offences

Election crimes and offences are increasingly becoming a common feature of all election processes globally (Fund, 2004). They cause a lot of socio-economic and political challenges and therefore they should be properly planned and organized. This is because elections play a meaningful if not central role in the development of the country. This is based on the recognition of the importance of good political leadership in particular and legitimate governance in general in the overall development of a country (Kühne, 2010).

Many nations are undertaking reforms in their political and governance systems with the aim of attaining acceptable levels of democracy. Where these reforms are not considered or are inadequate, the levels of election crimes and offences tend to be high, disrupting the normal development activities in the country. Some countries have managed their elections relatively successfully (Kadima, 2016) while others have continued to grapple with the problem of bungled elections characterized by chaotic and crime and offence-riddled electoral processes (Labiste, 2001; Khan, 2013).

One cause of failure of electoral processes worldwide has been traced to the influence of election crimes and offences during the whole election period, that is, the period from voter registration to the management of the elections including the events after the announcement of the final election results in a General Election and/or By-election for political offices (IFES, 2012). Among the most reported crimes and offences committed during the election period are bribery of voters, personation, threats, intimidation, terrorism, use of fraudulent device, coercion of election officials and employees, use of undue influence, treating, multiple voting, killings, tampering with nomination and ballot papers, false statements on nomination papers, disregard for the requirement of secrecy on the part of electoral body officials, imitation poll cards, disturbances at election meetings, electoral body officials acting for candidates, illegal canvassing by police officers, false statement of fact as to candidate and corrupt withdrawal from candidature (The Electoral Commission, 2010).

Globally, election crimes and offences are accepted to be a degradation of political democracy and good governance. This is based on the realization that election crimes and offences, in most cases, result in social, economic and political losses. Socially, election crimes and offences may lead to the disintegration of families when contestants who have utilized family resources fail to clinch nominations and the elections after being rigged out. In some countries, money markets have been distorted by money laundering and the huge funds used in election purposes such as voter bribery and campaigns. Politically, some corrupt and weak candidates who have not been accepted by the majority of the citizens have been installed in elective posts through election malpractices leading to dysfunctional systems under their watch (Santolan, 2013).

Election crimes and offences are attributed to a number of contributing factors. The crimes and offences have occurred in situations of weak societal values, legal and operational systems. For instance, where tribalism and nepotism has been extended to elective posts, some citizens may decide to engage in violent protests as a way of rejecting the elected individual (s). Where election managers, who have either been compromised, incompetently recruited or are perceived to be partisan and favour one side of the parties involved, the disadvantaged lot may decide to revenge by attacking the winners and/or their supporters thus causing injuries and deaths and damaging their property such as homes, offices and vehicles. Where election laws are applied selectively to contestants and some people do not believe in the existing judicial mechanisms to provide remedy, the disgruntled contestants and their supporters may take law into their own hands and engage in criminal activities (Gumbel, 2005).

Election crimes and offences have been attributed to economic difficulties such as high poverty, hunger and unemployment levels in society. Economic frustration and inequalities associated with land ownership, together with unkept promises of job opportunities for young people, have been identified as some of the most important contributors to outbreaks of violence during electoral processes. Politicians have capitalized on these factors to influence the electorate using rewards, cash handouts and relief food during the election period (IFES, 2012).

Another key contributing factor to election disorder is the state itself, particularly its police and military apparatus. Some Government agencies have been reported to interfere with political elections by imposing preferred candidates. In Philippines, public trust in the police and military is very low, since they are perceived to be corrupt or even accessories to crimes. News reports indicate that between 1995 and 1998, more than two thousand active or former military and police personnel participated in organized crime. There are persistent suspicions that soldiers and police work for politicians as mercenaries and private security guards. In some areas, partisan behavior of military personnel has also diminished trust in election security (Santolan, 2013).

Addressing election crimes and offences has taken a number of dimensions. There has been enactment and review of election laws thus specifying what constitutes election crimes and offences and the accompanying penalties for the defaulters. Special election disputes resolution courts and tribunals are gaining popularity while the role of security and prosecutorial agencies in the maintenance and enforcement of law and order, detection, investigation and prosecution of election crimes and offences and the general management of elections is increasingly becoming popular. Election management infrastructure (such as voter registration and voting and results conveyance kits) anchored on functional information communication technology are in use as a way of minimizing offences such as multiple voting and results manipulation (The Electoral Commission, 2013).

There are many players in the electoral process and the phases in the election period in any particular country. Election crimes and offences are committed or addressed by some of these players throughout the different phases. The process has a number of real and/or potential

challenges that may affect its credibility. Several control measures are also instituted to address election crimes and offences. It therefore becomes necessary to take stock of the existing control measures and their general effectiveness in dealing with the process of election crimes and offences. Identifying the players and the challenges with a view to designing proper interventions that focus on specific players and the types of the challenges remains paramount in ensuring that elections are conducted transparently, freely and fairly in a crime and offence-free environment (Santolan, 2013).

1.1.2 The Global Perspective

The problem of election crimes and offences continues to be a commonplace phenomenon in many countries of the world. According to Fund (2004), election crime in the United States emerged as an issue in national political campaigns during the 1960s and has continued to be an important part of many presidential campaigns with the election crimes generally falling into: acts of deception (for example possessing an official ballot outside the voting location, unless the person is an election official or other person authorized by law or local ordinance to possess a ballot outside of the polling location); acts of coercion (for example using, threatening to use, or causing to be used force, coercion, violence, restraint, or inflicting, threatening to inflict, or causing to be inflicted damage, harm, or loss, upon or against another person to induce or compel that person to vote or refrain from voting or to register or refrain from registering to vote); acts of damage or destruction (for example destroying completed voter registration applications; and removing, tearing down, or defacing election materials, instructions or ballots); and failures or refusals to act (for example: knowingly permitting, making, or attempting to make a false count of election returns; and knowingly refusing to allow an eligible voter to cast his/her ballot).

In the United Kingdom, bribery, undue influence, personation, treating, false application to vote by post or by proxy and multiple voting, false registration information and false postal or proxy voting application and proxy voting offences are common election offences (The Electoral Commission, 2013).

Election offences are a common feature in Philippines. Private armies, the police and military as well as armed rebel groups are key players in committing election offences. The electoral crime and violence takes the forms of: terrorism; attacks on rallies, headquarters or homes of candidates; clashes between supporters; kidnapping; tearing or seizure of posters; and unauthorized carrying of firearms. Other offences occurring during the election period include attacks on election officials, killing of opponents, vote buying, fraud during vote counting and canvassing, snatching of ballot boxes and clashing of opposing parties, coercion into signing blank tally sheets or surrendering the ballot boxes, coercion and dispersal to disrupt the canvassing or arson to destroy the canvassing results (Meisburger, 2010).

In India, elections are marred with violence. Verma (2005) argues that booth capturing (the forcible casting of votes in favor of a particular candidate) and the use of force to prevent genuine voters from exercising their franchise has become a serious problem in most parts of India, and especially in States like Bihar and Uttar Pradesh.

In Colombia, murders, kidnappings, mass killings and forced displacement of people from their rural homes and land have marred election campaigns, for example, during the 2007 and 2011 elections, in which economic interests have become political spoils. For instance, between 2nd February and 20th October, 2011, 253 violent election-related incidents were registered in 233 municipalities in the country. In addition, the Election Observation Mission in the country reported that there was a risk of fraud in 534 municipalities, and a risk of violent incidents in 447 out of a total of 1,119 municipalities (Martinez, 2011).

1.1.3 The African Perspective

African countries appear to bear the brunt of the election crimes and offences problem. Ivory Coast's former president Laurent Gbagbo was recently arraigned before the International Criminal Court for alleged atrocities committed during post-election violence. Beginning in December 2010, after Gbagbo refused to accept the election results, elite security force units closely linked to Gbagbo abducted neighborhood political leaders from Ouattara's coalition, dragging them away from restaurants or out of their homes into waiting vehicles. Family members later found the victims' bodies in morgues, riddled with bullets. Similar episodes of election crimes and violence have been witnessed in Somalia, Zimbabwe, Guinea-Conakry, Democratic Republic of Congo, the Central African Republic and Mali (Mapuva, 2013).

During Liberia's presidential and legislative elections of 2005, political groups mobilized the young unemployed people in sprees of violence. Acts of violence and intimidation and harassment of voters have been reported in Zimbabwe. Youths from particular parties in the country have been reported to attend campaign rallies with guns and firing in the air and warning people to vote for their parties. During the 2008 Presidential Elections, thousands of people, including women and children, were displaced because of state-sanctioned violence. Some Movement for Democratic Change (MDC) officials were imprisoned on flimsy grounds (Miller, 2013).

According Olawole, Adewunmi and Oluwole (2013), incidents of election crimes and offences have been witnessed in places such as Port-Gentil and Libreville in Gabon; Northern Ghana; Niger Delta in Nigeria; and Lome in Togo. The incidents have included: tailoring of electoral regulation, to de-enfranchise candidates or groups of people, technical disqualifications of candidates through arm stringing the electoral body by the attempt to establish stringent rules, ethnic-cultural and religious manipulations of the selection process, deliberate prevention of independent candidates from contesting, monetization of the electoral procedure before selection of candidates at party and electoral commission level, snatching/stealing of ballot boxes, including the delivering of electoral materials, stuffing of ballot boxes with legal and illegal ballot papers, starving of opposition strong hold with electoral materials with a view to de-enfranchising them their right to choose, under-age voting, encouraging toddler voting, multiple voting and deliberate omission of candidates photograph/names.

The attractiveness of political offices (and especially the presidential position) has been identified as a contributing factor in election crimes and offences in some countries. As is the case in many parts of the world, African presidents are reported to wield substantial power

and the influence that comes with the office makes it very attractive and competitive. The other positions are equally lucrative to the extent that contestants attempt to utilize all means necessary to win the positions. The Rwanda genocide of 1994 which left thousands dead has also been attributed to historical injustices where some communities felt that they had been denied political and economic opportunities (IFES, 2012).

It is noteworthy that successful elections are becoming increasingly evident in Africa. Botswana, Mauritius, Namibia, South Africa, Ghana and Tanzania have all held at least three successive successful national elections. There is therefore need for African countries experiencing chaotic and crime-riddled elections to benchmark from them (Kadima, 2016).

1.1.4 The Kenyan Perspective

Kenya has had an equal share of the problem of election crimes and offences. The period preceding the first Multi-Party elections in 1992 witnessed cases of election crimes and violence where candidates were allegedly intimidated to support the then ruling party KANU. Opposition candidates were roughed up by security agencies while unpopular leaders were imposed and installed through the 1988 voting system of queuing (popularly known in Kenya as “Mlolongo System”) which was characterized by massive rigging. Ethnic flare-ups, violence and crimes such as riggings, killings were again witnessed in several parts of the country including Coast and Rift Valley Provinces during the 1997 and 2002 General Elections. The worst cases of election crimes and offences that were also characterized by a large scale of violence were witnessed during the aftermath of the 27th December 2007 disputed General Elections in what is now called the 2007-2008 Kenyan Crisis. The violence led to the death of over 1,300 Kenyans and the displacement of over 650,000 people, some of who remained unsettled for long in the Internally Displaced Persons (IDP) Camps (Okolloh, 2008).

Election crimes and offences have both positive and negative effects in society (in the perspective of the conflict theory). Sometimes, violence and conflicts emerge when there are allegations and/or commission of election crimes and offences as was the case during the 2007/08 General Elections. Although Kenyans fought after disagreeing on the final presidential results, it has been argued that the loss of lives and property occasioned by the fight taught Kenyans a lesson on the importance of keeping peace with one another. The Peace Accord signed on 28th February, 2008 between former President Mwai Kibaki and Mr. Raila Odinga (which resulted into the Coalition Government where the former retained the presidency and the latter became a Prime Minister) and which was to be known as the National Accord and Reconciliation Act and the many mediation, peace and reconciliation meetings and fora which followed was a positive gesture towards national healing, peace and unity. The establishment of the Truth, Justice and Reconciliation Committee is a case in point (OHCHR, 2008; KLRC, 2010).

Election crimes and offences have negative socio-economic effects. For instance, incidences of sexual and gender based violence were reported during the 2007/08 post election crisis in Kenya. According to Amnesty International, an estimated 300 women (many of them women and girls who had travelled from Rift Valley Province to Nairobi) were treated for rape

caused by post-election violence in the early months of year 2008 (OHCHR, 2008; Save the Children, UNICEF, UNFPA, UNHCR and GoK, 2008). Election crimes and offences also destabilize economies through increased inflation arising from huge uncontrolled campaign monies, irregular financial transactions such as money laundering and pyramid schemes, irregular property acquisition and disposal and destruction of property by political hooligans and disgruntled citizens thus destabilizing the market economy of some goods and services as was witnessed before and after the 2007/2008 General Elections in Kenya. According to Guibert and Perez-Quiros (2012), Kenya's per capita GDP was reduced by an average of 70 USD per year over the period 2007-2011 due to the 2007/2008 Post-Election violence (IFES, 2012).

The widespread political "violence" and "voter intimidation" in the lead-up to the 2007 Kenyan elections led to the fear that the 2013 Kenyan General Elections would be characterized by widespread violence. Lobby groups identified about 27 of the total 47 counties which were potential election violence hotspots ahead of the polls. The National Cohesion and Integration Commission (NCIC) also decried the worrying wave of violence ahead of the polls. IEBC was also cautioned to identify all hotspots and put mechanisms to prevent poll chaos. The increasing cases of hate speech and incitement as the elections approached compelled the NCIC to start monitoring them. During the party nominations, cases of violence and conflicts were reported in parts of Nyanza region with claims of rigging from different contestants (GoK, 2008; Opiyo, 2012; TJRC, 2013).

While elections in Kenya are supposed to be free from crime and offences during the election period, this has not been the case. The elections have been characterized by incidents such as abduction and/or killing of political contestants and/or competing supporters, bribery of voters, rape, incitement to violence, destruction of property, treating of potential voters, defacing of opponents' campaign posters, multiple voting, rigging and electoral body officials supporting their preferred candidates. During the 2007/08 General Elections in Kenya, cases of corruption, vote buying and voter bribery were reported. Other corruption-related events included corruption and bribery linked to major political parties and players in the elections, misuse of state resources and personnel for campaign purposes and collusion between the government and the private sector, with the latter financing the campaigns in circumstances that warranted public scrutiny. For instance, campaign expenditure during the 2007 Kenyan elections amounted to Kshs. 5.6 billion, while income was pegged at Kshs. 4.8 billion (CAPF, 2008).

After the 4th March, 2013 General Elections, some losers lodged petitions. There were claims of election irregularities, fraud and rigging. For instance, An IEBC official was arraigned in court for conspiring to manipulate tender documents in favour of a particular supplier for the supply of solar lanterns for the March, 2013 General Elections (Agoya, 2013; IFES, 2012). The 188 election petition cases filed in court and the conduct of by-elections confirmed that there were election offences committed during the elections. The effects of these crimes and offences has been a generally slowed national economic growth as a result of un-conducive investment environment and loss of investor confidence, destruction and loss of property,

loss of lives and the installation of incompetent and/or corrupt leaders who do not uphold the tenets of democracy (Gettleman, 2013; Omwenga, 2013).

Institutions and individuals alike have been accused of abetting election crimes and offences during the election period. Politicians, political party agents and supporters, the youth, government and electoral institutions and officials have been cited as the main perpetrators of election crimes and offences. A study by the National Crime Research Centre on organized criminal gangs in Kenya indicated that some politicians in Kenya hired individual goons and members of organized criminal gangs to intimidate their opponents during elections. The youth (especially the unemployed) have specifically been identified as key perpetrators of election crimes and offences due to their vulnerability to strong influences from wealthy politicians. The mass media including ICT-based firms (such as mobile telephony companies) have at times been accused of being unethical and running or failing to prevent partisan advertisements and announcements and propagating hate speech and incitement communication. Other perpetrators include corrupt and compromised staff and/or officials of political parties, public security (especially the National Police Service) and other government agencies such as Interior and Coordination of National Government, formerly, the Provincial Administration (NCRC, 2013; SRIC, 2012; TJRC, 2013).

The perpetrators of election crimes and offences in Kenya appear to ride on a number of factors contributing to crimes and offences. Insecurity in some parts of the country, poverty, poverty and illiteracy among the populace and weak law and order enforcement and legal systems have been identified as the main contributing factors (SRIC, 2013). According to UNDP Kenya (2013), there are very little economic opportunities available to the youth and women. This makes them vulnerable to the dirty tricks of politicians. Unemployed youth have been influenced with cash handouts and drug and substances by politicians in the attempt to influence them to vote for them or not to vote for opponents and to cause chaos in political rallies of opponents (CAPF, 2008).

In Kenya, ethnicity and clanism, that is, ethnic and clan dominance and marginalization has been identified as an important factor. Dr Mzalendo Kibunja, the then chairman of NCIC was once quoted telling the media in an interview that voting patterns in Kenya were predominantly ethnic and so communities with large numbers within the counties could easily lock out the minorities. In that scenario, the minority groups were likely to feel marginalized and this could become a recipe for conflict and political revenge. Such scenarios were reported among the Bukusu, Tachoni and Sabaot of Bungoma County; Somali and Borana in Isiolo; Borana and Gabra in Marsabit and the Orma, Wardei and Pokomo in Tana River (CAPF, 2008).

Historical injustices with regard to unequal distribution of resources such as public positions and other economic opportunities have been a cause for election crimes and offences. The feelings of deprivation of land among some communities in Kenya triggered the post-election violence in during the 1992, 1997 and 2007 General Elections (TJRC, 2013).

Illiteracy among the electorate has been blamed for some election offences. Voters who cannot read and/or write in Kenya have to be assisted by a trusted friend or relative. However, some of the friends and relatives cannot be trusted to faithfully assist the illiterate voters and may end up misguiding the voters into voting for candidates not of their (illiterate voters) choice. Illiterate voters can also be easily deceived by unscrupulous politicians (Lema, 2013).

Negative campaigning (or mudslinging) and the use of hate and incitement language by different political contestants and their supporters has been known to trigger violence. Provocative use of the media by political parties has contributed to election offences. Aggrieved parties may confront the aggressor in campaign rallies with a view to revenging on the derogatory language (Kaberia and Musau, 2013).

Weak election and crime management institutions can contribute to election crimes and offences. Unqualified, inexperienced, compromised, corrupt and partisan staff of an election management body may commit offences related to their work such as manipulation of election-related documents or information, misrepresentation of results, favouring particular political candidates, false statements on nomination papers and disregard for the requirement of secrecy on the part of electoral body officials. For instance, in one of the petitions arising from the 2013 General Elections in Kenya, the petitioner argued that IEBC and its officers, staff and other persons committed criminal offences under section 59 (1) (j), (k), (l) and (m) of the Elections Act for doing acts and things that they were prohibited from doing (Kenya Law Reform Commission (KLRC, 2011).

Measures that seek to strengthen democracy in Africa must consider the knowledge, experience and skills of members of the electoral body. Habel Nyamu, a former Electoral Commissioner in Kenya, once contended that the starting point for creating an objective electoral body lay in the selection of officials who possessed high qualifications and character and who were beyond reproach in relation to their past public life. These criteria, as the Kriegler Commission noted, could promote integrity on the part of the officials as well as a sense of judgment and mettle to referee a political contest without being unduly influenced by political pressure. During the 2007/08 General Elections in Kenya, the police were accused of intimidating voters and failing to prevent crimes during the elections. IFES cites inadequate electoral security arrangements and poor management of election results as factors contributing to election offences and crimes (IFES, 2012).

With the inability of some institutions to effectively manage the Kenyan elections of 2007, Kenyans saw the need to undertake constitutional reforms. There was the enactment, promulgation and the ongoing implementation of the Kenya Constitution 2010, the disbandment of the Electoral Commission of Kenya (ECK) and the establishment of IEBC, establishment of organs such as the Witness Protection Agency, the Truth, Justice and Reconciliation Committee, the National Cohesion and Integration Commission and reforming and strengthening of institutions such as the Police, Judiciary and Office of the Director of Public Prosecutions (KLRC, 2010).

Individual victims of election crimes and offences could be people and/or ordinary voters, who are injured, humiliated, harassed or lose their lives and/or property through violence. Women and children have been identified as the hardest hit during election crimes and offences. Women are sometimes subjected to various forms of gender based violence while children are left injured, may be neglected or orphaned as a result of deaths of their parents. Individual political contestants may become victims in a number of ways. They may be attacked and suffer injury or lose their lives. They also lose socially and economically after being rigged out if they had invested their resources in the elections. Their families may lose their social status or even develop conflicts as a result of the loss of the anticipated political position (OHCHR, 2008).

Institutions also become victims of election crimes and offences. Looted businesses end up collapsing while investors are scared. Losing political parties may become the minority parties and be edged out of key decision making in their assemblies. The Election Management Body (EMB) may become unpopular to powerful forces and be disbanded. A good case was the Election Commission of Kenya (ECK) which was disbanded following the contested 2007/08 Presidential Elections. Security agencies involved in elections also lose credibility if they are found to have perpetrated the crimes and offences through their actions and/or inactions. For example in Kenya, the Police was accused of unjustified shooting of citizens during the 2007/08 General Elections while in some areas they were accused of not protecting the property and lives of people during the chaos that followed the announcement of the results (IFES, 2012).

In an attempt to address the problem of election crimes and offences in Kenya, a number of control measures were instituted by public, private sector and civil society institutions. In the aftermath of the 2007 Kenyan General Elections, the government deployed security personnel and equipment to quell the ensuing violence and stop the wanton destruction of property and loss of life witnessed in areas such as Nairobi, Nyanza and Rift Valley regions. The agencies in the Kenyan Criminal Justice System undertook the arrest, prosecution and trial of the suspects of the crimes and offences committed during and after the disputed elections (TJRC, 2013).

In preparation for the 2013 General Elections, Parliament enacted the Elections Act 2011 which spelt out the commissions and omissions which constituted election offences. The Independent Electoral and Boundaries Commission, Non-Governmental Organizations, the Media and Faith-based organizations mounted civic education and peace campaigns throughout the country in an attempt to inform people of their political rights and obligations, diffuse election tension and preach peace and unity. The Government also put together an inter-agency committee to investigate and prosecute matters related to election offences. The committee composed of officers from IEBC, Criminal Investigations Department, Judiciary, the Police, Office of the Attorney General, and Office of the Office of Director of Public Prosecution. More than 90 Judges and Magistrates across Kenya were involved in handling election petitions arising from the March 4, 2013 General Election. Other election crimes and offences control measures included collection and sharing of intelligence and early warning on threats to security and peace during elections; and the use of electronic equipment for

registration of voters, tallying and transmission of results (Munuhe, 2012; UNDP Kenya, 2013).

1.2 Problem Statement

The problem of election crimes and offences is real and serious in Kenya. The country has continued to witness incidents of crimes and offences committed during General Elections for more than two decades now. Kenyans appear not to have learnt lessons from the previous elections and the 2013 General Elections were marred with incidents of election crimes and offences as evidenced by, among others, incidents of chaos and rigging during political party nominations and the 188 petition cases (that is, 24 petitions challenging the election of Governors; 13 against Senators; 70 against Members of the National Assembly, 9 against County Women Representatives; 67 against County Assembly Representatives and 5 against County Assembly Speakers) filed after the March 4, 2013 General Election (Commonwealth Secretariat, 2013; Gettleman, 2013).

Election crimes and offences mainly have negative socio-economic and political effects. The crimes and offences are considered a serious threat to the democratization process of a country. For instance, the crimes and offences may aid the installation of leaders with unsatisfactory competencies and of questionable integrity and characters leading to poor and/or collapse of governance systems. The legitimacy of a political system may be jeopardized if the electoral process behind the system is riddled with crimes and offences. Anomie and misery in society may also arise in the event of violent riots, protests, demonstrations and negative conflicts between the benefiting and disadvantaged individuals (for example political contestants and their supporters) and institutions (such as political parties). The economy of a country could be destabilized by election crimes and offences through, for example, increased inflation arising from huge uncontrolled campaign monies, irregular financial transactions such as money laundering and pyramid schemes, irregular property acquisition and disposal and destruction of property by political hooligans and disgruntled citizens thus destabilizing the market economy of some goods and services (Guibert and Perez-Quiros, 2012).

The current study therefore set to focus on the issues that have not been addressed in Kenya regarding election crimes and offences with a view to informing policy on crime prevention in the electoral process towards the realization of democratic elections.

The study was guided by the following specific questions:

1. What are the types of election crimes and offences committed in Kenya?
2. Who are the perpetrators of election crimes and offences?
3. What are the factors contributing to election crimes and offences?
4. What are the effects of election crimes and offences?
5. Are there existing control measures to deal with election crimes and offences and how effective are they?
6. Who are the players currently attempting to address election crimes and offences?
7. What are the challenges faced in the control of election crimes and offences and how can they be addressed?

1.3 Objectives of the Study

1.3.1 General Objective

The general objective of this study was to establish the nature of election crimes and offences in Kenya.

1.3.2 Specific Objectives

The specific objectives of the study were to:

1. Establish the prevalence of election crimes and offences by type.
2. To identify the perpetrators of election crimes and offences.
3. Examine the factors contributing to election crimes and offences.
4. Examine the effects of election crimes and offences.
5. Identify existing control measures and their effectiveness in dealing with election crimes and offences.
6. To identify players attempting to address election crimes and offences.
7. Establish the challenges faced in the control of election crimes and offences.

1.4 Justification of the Study

The study sought to establish the nature of election crimes and offences in Kenya. Election crimes and offences undermine the principles of democracy and good governance envisioned in the political pillar of Kenya's Vision 2030. The crimes and offences hinder the smooth achievement of socio-economic benefits that accrue from transparent, free, fair and credible political elections. Hence these crimes and offences must be addressed in the most effective ways.

The mandate of the National Crime Research Centre (NCRC) is to carry out research into the causes of crime and its prevention with a view to assisting agencies in the administration of criminal justice in their policy planning and formulation. With the enactment of the Election Act 2011, election offences are serious offences to be dealt with by the society in general, criminal justice agencies and the Independent Elections and Boundaries Commission (IEBC) in particular. This study is therefore a good reference for issues on election crimes and offences in the country. There is no doubt that the study stimulates thinking among crime prevention and election management agencies on how to deal with the aspects of this type of problem.

There are limited studies that have been carried out before in the subject of election crimes and offences in Kenya despite the country experiencing the crimes and offences in most of the General Elections. This means that reliable statistics in particular and information on the same is lacking. The study therefore provides good information for use by scholars in this field of crime and adds to the existing literature which has gaps.

1.5 Assumptions of the Study

Election crimes and offences is a subject that elicits emotions among politicians, general members of public and the government. Respondents were more likely to shy away from the interviews. It was against this background that the study made the following assumptions.

- i. Individual members of the public would give their views about election crimes and offences despite their emotions.
- ii. Political parties, civil society organizations and government agencies and their members have useful information about the subject, would grant authority for the study and even participate in the interviews freely.
- iii. A combination of different factors and actors are involved in the explanation of election crimes and offences in Kenya; hence information on the same would be established with less difficulty.

1.6 Scope of the Study

The study was confined to election crimes and offences of the 2013 General Elections. The thematic scope was on: the prevalence and types of election crimes and offences committed during election period; who the perpetrators of election crimes and offences are; factors contributing to election crimes and offences; effects of election crimes and offences; existing control measures in place to deal with election crimes and offences; effectiveness of the control measures; players who are currently attempting to address election crimes and offences; challenges faced in the control of election crimes and offences and how the identified challenges could be addressed.

With regard to the geographical scope, the study covered 20 counties namely; Nairobi, Kirinyaga, Laikipia, Kitui, Nakuru, Kericho, Migori, Siaya, Kisumu, Kakamega, Bungoma, Mombasa, Kwale, Tana River, Marsabit, Isiolo, Uasin Gishu, Bomet, Narok and Garissa.

1.7 Theoretical Framework of the Study

1.7.1 Introduction

Several theories appear relevant in the study on election crimes and offences. The subject of election crimes and offences has been viewed differently by different scholars in the field of political science, sociology and criminology. Therefore, a number of theories have been used by scholars in explaining election crimes and offences and other behavior considered against the laws of the land.

1.7.2 Rational Choice Theory

The rational choice theory is based on the principle that all people take calculated moves in their approach to life issues. In other words, people weigh the perceived and likely gains to be made from a particular action against the likely costs to be incurred and when they perceive that the perceived and likely gains outweigh the likely costs they adopt the behaviour. Human beings are seen to calculate the various alternative lines of action. Actors are seen as being purposive or having intentionality and acting purposively towards a goal that is shaped by values and preferences in the society they are living in. A basic form of rational choice theory is the assumption that complex social phenomena can be explained in

terms of the elementary individual action of which they are composed. The elementary unit of social life is the individual human action. Rational choice is both a micro and a macro theory in that even groups and institutions (such as organized criminal groups, political parties, IEBC and the Police in this context) are acting rationally after weighing the options available in either committing election crimes and offences or controlling them (Calhoun 1995).

The approaches used to deal with election crimes and offences (such as sensitizing people through civic education on election issues, arresting, prosecuting and trying election crimes and offences offenders) assumed that such election offenders are irrational and that is the reason why they are committing the crimes and offences when existing laws prohibit such behavior. It is on the same note that when members of the public are given information about the consequences of election crimes and offences, then they are able to make rational choices of whether to obey or to disobey the rules and laws governing elections in the country. Rational groups such as political parties choose the alternative that is likely to give them the greatest satisfaction, in this case, winning an election even if that means by committing election offences (Friendman, Debra and Hechter, Michael, 1988).

There are a number of policy implications of the rational choice theory in the study of election crimes and offences. The theory posits that individuals will find their actions checked from birth to death by rules and laws within the family and other behavior regulatory institutions such as courts, the police and criminal correctional institutions such as prisons. This restriction of feasible sets of courses of action available to individuals affects social action. This institutional constraint provides both positive and negative constraints that serve to encourage certain action and discourage others. This is the reason why IEBC, the mass media and civil society organizations have concentrated on civic education targeting special groups such as the youth who are usually influenced by politicians to commit crimes and offences during elections. The information they give to the youth and other members of the public serves as positive constraints and serves to discourage engaging in election prohibited behavior (UNDP Kenya, 2013).

Scholars like Friedman and Hetcher (1988) have advanced an idea basic to the rational choice theory, which is the growing sense of importance of information given out to people in making rational choices in their actions. It was earlier assumed that different actors had sufficient information to make purposive choices among a wide range of alternatives. There is however a growing recognition that the quality and quantity of available information from the different sources is highly variable and may be contradicting and confusing to the recipient. Members of public have access to election-related information from many sources. For instance, the IEBC and the police on one side would be telling voters to leave venues after voting whereas politicians and their political parties are telling them to remain in the venues until end of voting and tallying of votes. The police may prohibit protest rallies whereas political parties continue calling protest rallies which are breeding grounds for election violence. This variability has profound effects on the actors' choice of the behavior to engage in.

1.7.3 Weak States Theory

According to the weak states theory, weak states include a broad continuum of states that are: inherently weak because of geographical, physical, or fundamental economic constraints; basically strong, but temporarily or situationally weak because of internal antagonisms, management flaws, greed, despotism, or external attacks; and a mixture of the two. Weak states typically harbor ethnic, religious, linguistic, or other intercommunal tensions that have not yet, or not yet thoroughly, become overtly violent. Urban crime rates tend to be higher and increasing. In weak states, the ability to provide adequate measures of other political goods is diminished or diminishing. Physical infrastructural networks have deteriorated (Rotberg, 2003; Christensen, 2010).

Based on the weak state theory, there are four types of states. Of the 193 members of the United Nations, sixty or seventy are strong states. Those are the nation-states that rank highest in the democracy rankings of Freedom House, the human rights reports of the US State Department, the anti-corruption perception indexes of Transparency International, the Human Development Index of the United Nations Development Program, the competitiveness indices of the World Economic Forum, and the Doing Business surveys of the World Bank. Strong states include nations such as Finland, New Zealand, and Singapore, plus Canada, the United States, large portions of Europe, and countries such as Brazil and South Korea. After the strong states come eighty or ninety weak states: some almost strong and some, at the very bottom of the weak listing, tending toward failure and capable of becoming a subtype called “failing.” They are weak because they supply lesser or less-than-adequate quantities of political goods and/or poorer-quality political goods. Failed states (often about twelve worldwide at any one time) and collapsed states (now one), which make up separate categories, follow (Rotberg, 2003).

The weakness of the state creates an environment where centers of power outside the regime pose a threat to authority of the state. These groups may include religious groups, militias, organized criminal gangs, tribal systems, drug lords, smugglers and businesses. Many of these groups enjoy power, wealth, and identification that compete with the state itself. As such, the state is only one actor in a mixture/agglomeration of groups and power structures residing within the territory. What differentiates the state from these other actors is the international recognition it receives (Christensen, 2010).

A failed state is a country with a government that cannot or will not deliver essential political goods (public services) to its citizens. The state, usually not yet a nation-state, may hold a seat in the United Nations and function as a sovereign entity in regional and world politics, but so far as most of its people are concerned, the state fails them by its inability to perform state functions adequately (such as the protection of its citizens). Thus, failed states are those political entities in international politics that supply deficient qualities and quantities of political goods and, simultaneously, no longer exercise a monopoly of violence within their territories (Brooks, 2005).

Kenya has been ranked among the world's 20 most unstable countries and hence categorized as one of the ‘failed states’. Common characteristics of a failing state include a central

government so weak or ineffective that it has little practical control over much of its territory; non-provision of public services; widespread corruption and criminality; refugees and involuntary movement of populations; and sharp economic decline. Although an unfortunate categorization for Kenya after making remarkable progress in some key sectors such as the peaceful elections in March, 2013, these characteristics are evident within institutions such as those tasked with the responsibility of ensuring security and controlling crime (Ombati, 2013).

The implication of the weak state theory in election crimes and offences is that the government needs to strengthen its institutions to be able to effectively manage elections and crime in the country. The security apparatus of the government should be strengthened so that individual and organized criminals do not appear to overwhelm it. Importantly, the problem of lack of basic services and goods which drive people to commit election crimes and offences (such as unequal distribution of resources) needs to be addressed. The government and its partners should focus on reducing the levels of poverty and unemployment in society as a way of minimizing incidences of election crimes and offences.

1.7.4 Social Control Theory

The social control theory was advanced by Travis Hirschi (1969). It gained prominence during the 1960s as sociologists sought differing conceptions of crime. The focus of the theory is on techniques and strategies that regulate human behaviour and lead to conformity. Hirschi's social control theory asserts that ties to family, school and other aspects of society serve to diminish one's propensity for deviant behaviour. As such, social control theory posits that crime occurs when such bonds are weakened or are not well established. Control theorists argue that without such bonds, crime is an inevitable outcome (Lilly, Cullen and Ball, 1995). Unlike other theories that seek to explain why people engage in deviant behaviour, control theories take the opposite approach, questioning why people refrain from offending. As a result, criminality is seen as a possibility for all individuals within society, avoided only by those who seek to maintain familial and social bonds (Akers and Sellars, 2004).

According to Hirschi, these bonds are based on attachment to those both within and outside of the family, including friends, teachers, and co-workers; commitment to activities in which an individual has invested time and energy, such as educational or career goals; involvement in activities that serve to both further bond an individual to others and leave limited time to become involved in deviant activities; and finally, belief in wider social values. These four aspects of social control are thought to interact to insulate an individual from criminal involvement (Siegel and McCormick, 2006).

Attachment is a central component of social control theory, particularly as it relates to parental attachment. Researchers have observed that young people who feel a stronger connection with their parents are less likely to commit violent offences with a weapon. Similarly, young people who exhibit less violent behaviour are more likely to hold stronger attachments to their parents. Chapple and Hope (2003) further found that parental attachment lowered the likelihood of intimate violence. The bond of affection between a parent and child

thus becomes a primary deterrent to criminal activities. The findings of these studies support Hirschi's conception of the role that parental attachments can play in insulating young people from criminal activity (Henrich, Brookmeyer Shahar, 2005).

The second social bond which involves motivation to perform socially approved activities is commitment. According to Hirschi, there are a number of stakes in conformity or commitments: vocational aspirations, educational expectations, and educational aspirations. The greater the aspiration and expectation, the more unlikely delinquency became.

Involvement is the third bond. This refers to preoccupation with activities that promote the interests of the society. The bond is derived from involvement in school activities (such as homework and school games) rather than in working-class adult activities. It is argued that a person who is busy doing conventional things has little time for involvement in deviant or criminal activities. Due to high levels of unemployment, some youth operate in a state of enforced idleness because they have few conventional activities to undertake within their environments. These factors work to encourage men to involve themselves in vices such as election crimes and offences at the slighted provocation or influence by politicians.

The fourth social bond is belief and it consists of assent to the value system of a particular society. Basically, this value system entails respect for its laws and for the people and institutions that enforce them. Based on Hirschi's assertions, it can be concluded that if young people or adults no longer believed that the existing laws towards a particular issue such as elections are fair, their bond to society weakens, and the probability that they would commit criminal acts increases. In conclusion, if the four social bonds of the individual were broken, as could occur the election period, lawbreaking becomes more likely. The specific effects of this tendency would be a generalized disposition to crime and deviance (Conklin, 1995).

The social control theory has some policy implications in the control of election crimes and offences. It is undisputed that the youth are key actors in the commission of crimes and offences. As discussed, social control theory asserts that the role of the parent is paramount to the bonding of young people to the family. This bond is seen as fundamental to diminishing a child's propensity for delinquent involvement. According to social control theorists, there is a strong relationship between parental attachment and lower levels of delinquency. Therefore, providing support to parents in the form of parenting skills training could be an effective step toward addressing youth crime by building strong bonds between parents and children. Beyond the family, schools play a prominent role in the socialization of young people and could also play a key role as an insulating factor against crime. The school can provide support to young people that they may not be receiving elsewhere. This implies that the education programme in Kenya could be used in addressing election crimes and offences.

With regard to the control of election crimes and offences, the Criminal Justice System in Kenya has its own mechanisms of social control which are intended to help in reducing crime and delinquency in general. For example there is the judiciary which consists of courts. The

courts are supposed to enforce laws by imposing penalties to offenders. The police are supposed to be at the forefront in enforcing law and order. However, social control theory appears to have little relevance in dealing with the problem of election crimes and offences. The police have been accused of being unable to effectively investigate and successfully secure the conviction of offenders such as those propagating hate and incitement speech, undue influence and treating of voters during the election period. The courts, which heavily rely on the evidence of prosecution witnesses to prove whether a suspected election offender is guilty or not, have at times let the offender off the hook either through the weaknesses of the prosecution or corruption among officers of the courts.

CHAPTER TWO: METHODOLOGY OF THE STUDY

2.1 Introduction

This chapter dealt with research design, methods and tools of data collection, data collection and management, methods of data analysis and ethical considerations.

2.2 Research Design

The study on election crimes and offences used a descriptive design. This design was chosen because the intention was to comprehensively generate information on the nature of election crimes and offences in Kenya for agencies in the criminal justice system. The descriptive survey approach was instrumental in narrating the prevalence and types of election crimes and offences committed in Kenya; those who commit election crimes and offences; factors contributing to election crimes and offences; effects of election crimes and offences; existing control measures in place to deal with election crimes and offences; effectiveness of the control measures; players who are currently attempting to address election crimes and offences; challenges faced in the control of election crimes and offences and how the identified challenges could be addressed.

The population for the study consisted of adult male and female members of the public who were staying in the selected counties at the time of the study. Such adults were assumed to be knowledgeable on election issues. The study also involved key informants.

The study utilized both probability and non-probability sampling techniques. Selection of the study sites employed simple random sampling and purposive sampling. It was assumed that election crimes and offences were likely to occur in any county. Therefore, 20 counties were selected using simple random sampling of an arbitrary number of 20 of all the 47 counties. Specific sites for the study were selected purposively. Both urban and rural study sites were covered in the selected counties. Convenience/accidental and availability sampling was used to obtain the sample of members of public while key informants were selected purposively. Key informants were drawn from institutions which were stakeholders in criminal justice system, management of elections, Civil Society Organizations, Political Parties and the Education sector.

Key Informants from the Judiciary were magistrates. At a particular Court Station during the study, the Magistrate In charge was requested to identify the right Magistrate to be interviewed on the subject of election crimes and offences. Key Informants from the Ministry of Interior and Coordination of National Government included County Commissioners, Sub-County Commissioners (formerly, District Commissioners), Assistant Sub-County Commissioners (formerly, District Officers), Chiefs and Assistant Chiefs. Informants from the National Police Service included officers drawn from Kenya Police Service, Administration Police Service and Directorate of Criminal Investigation. From the Probation Department, officers included then District and Provincial Probation Officers.

IEBC officers who were interviewed included Presiding Officers, Returning Officers, Constituency Election Coordinators, Regional Election Coordinators, Registration Officers, Logistics and Stores Officers and Clerks.

Key Informants from the Civil Society Organizations were drawn from Faith Based Organizations (such as Catholic Priests and Programme Officers from the Catholic Justice and Peace Commission) and Non-Governmental Organizations (which were Maridhiano Community Based Organization, Safi Trust, Centre for Human Rights and Democracy, Centre for Human Rights and Civic Education, World Vision and Kituo Cha Sheria).

Key Informants from Political Parties who participated in the study included Aspirants, Campaign Agents, and Personal Assistants of Aspirants drawn from the Orange Democratic Movement (ODM), Wiper Democratic Movement (WDM), United Republican Party (URP) and The National Alliance (TNA).

In the education sector, Key Informants were drawn from the Teachers Service Commission (that is, Principals of secondary schools) and officials of the Kenya National Union of Teachers (KNUT).

The study targeted to interview at least 80 members of public (divided equally among males and females) in each of the selected counties to make a total sample of 1600 but managed to cover a total of 1222 as shown in Table 2.1 below.

Table 2.1 Study locations and samples of members of public

County	Male	Female	Total Frequency and Percentage of the total Sample
Nairobi	46 (60.5%)	30 (39.5%)	76 (6.2%)
Kirinyaga	32 (51.6%)	30 (48.4%)	62 (5.1%)
Laikipia	32 (61.5%)	20 (38.5%)	52 (4.3%)
Kitui	38 (52.8%)	34 (47.2%)	72 (5.9%)
Nakuru	42 (57.5%)	31(42.5%)	73 (6.0%)
Kericho	32 (55.2%)	26 (44.8%)	58 (4.7%)
Migori	32 (62.7%)	19 (37.3%)	51 (4.2%)
Siaya	29 (55.8%)	23 (44.2%)	52 (4.3%)
Kisumu	22 (41.5%)	31(58.5%)	53 (4.3%)
Kakamega	39 (54.2%)	33 (45.8%)	72 (5.9%)
Bungoma	38 (64.4%)	21 (35.6%)	59 (4.8%)
Mombasa	30 (50.8%)	29 (49.2%)	59 (4.8%)
Kwale	35 (50.7%)	34 (49.3%)	69 (5.6%)
Tana River	31 (53.4%)	27 (46.6%)	58 (4.7%)
Marsabit	25 (47.2%)	28 (52.8%)	53 (4.3%)
Isiolo	20 (39.2%)	31 (60.8%)	51 (4.2%)
Uasin Gishu (Eldoret)	33 (52.4%)	30 (47.6%)	63 (5.2%)
Bomet	34 (53.1%)	30 (46.9%)	64 (5.2%)
Narok	34 (50.7%)	33 (49.3%)	67 (5.5%)
Garissa	30 (51.7%)	28 (48.3%)	58 (4.7%)
Total	654 (53.5%)	568 (46.5%)	1222 (100.0%)

2.3 Methods and Tools of Data Collection

2.3.1 Data Collection Methods

The study mainly utilized primary sources of data. Primary data was collected from sample respondents (who were members of public) and key informants in the study sites. Data from members of public was collected through structured individual face-to-face interviews in places of their comfort. Key Informant interviews were conducted in offices of the key representatives of the targeted institutions. This approach helped in the creation of rapport, confidentiality and ensured validity of the data collected. The secondary method of data collection was also utilized where mining of statistics and relevant photographs on election crimes and offences was done.

2.3.2 Data Collection Tools

An interview schedule was used to solicit information from the sample respondents. The schedule had both open and closed ended questions. A Key Informant Guide was used to collect information from the Key Informants. Field notebooks, pens, pencils and rubbers were used in recording information.

2.4 Data Collection and Management

The National Crime Research Centre (NCRC) worked closely with institutions such as political parties and government agencies (such as the National Police Service, the Judiciary, Provincial Administration and the IEBC) for support in realizing the objective of the study especially in securing authority for the study and for the institutions to participate in the interviews.

Draft interview schedule and a Key Informant Guide based on the objectives of the study were prepared. The Researchers in the Centre conducted a pre test of the draft tools in Machakos (in Machakos town) and Kajiado County (in Kajiado town). The purpose was to identify any bias and ambiguities in the tools. Respondents in the pre test were requested to highlight any ambiguous or biased questions and to point out if the questions would be able to measure the key issues of the study's objectives. This enabled the preparation of the final instruments prior to administration to the actual sample respondents and Key Informants.

Qualified Research Assistants were identified and trained. They were then allocated study sites and facilitated with required resources for the exercise (that is, funds, data collection tools and authority letters). Supervision of the Research Assistants and quality control of the exercise was done by the Centre's researchers. After collecting data within the time allocated for fieldwork, interviews were stopped to enable the commencement of data organization and analysis.

All data collected from the field was then organized and analyzed at the NCRC offices. A draft report of the study was compiled by NCRC's researchers for review by NCRC's Research and Development Committee of the Governing Council, the full Governing Council and later for stakeholder validation before the final dissemination to the relevant agencies and the public.

2.5 Methods of Data Analysis

This study utilized both qualitative and quantitative data analysis methods. The filled interview schedules were first coded and the Statistical Package for Social Sciences was used to analyze the data. Quantitative data were analysed through descriptive statistics and the information presented in distribution frequency and percentage tables and figures (bar graphs and pie charts) in order to give a clear picture of the findings at a glance. Answers which were recorded from about 10.0% and above of the respondents in multiple response questions were assumed to be important for interpretation. The qualitative data was analyzed through interpretation of responses of the Key Informants. All information from the analyzed data was presented in themes guided by the research objectives.

2.6 Ethical Considerations

The study observed the following ethical considerations:

- i. Authority to collect data was sought from the relevant institutions before commencement of interviews.
- ii. Consent of the respondents was sought before commencement of interviews.
- iii. Interviews were conducted using a language respectful to the socio-cultural, economic, and political beliefs of the respondents. Only the language of communication the respondents understood well was used.
- iv. Confidentiality of respondents' identity and information was safeguarded.
- v. The comfort of the respondents with regard to convenient interview venues was ensured.
- vi. Researchers recorded only answers coming from the respondents.
- vii. Adequate orientation of Research Assistants was undertaken.

CHAPTER THREE: RESULTS AND DISCUSSIONS

3.1 Introduction

This chapter is organized into sections. The first section addresses socio-demographic characteristics of respondents; the second section addresses types of election crimes and offences; the third section deals with factors contributing to election crimes and offences; the fourth section tackles effects of election crimes and offences; the fifth section examines existing control measures and their effectiveness in dealing with election crime and offences while the last section captures the challenges facing control of election crimes and offences in Kenya.

3.2 Socio-demographic Characteristics of Respondents

This study interviewed a total of 1222 sample respondents of whom 53.5% (n= 654) were males and 46.5% (n=568) were females. This generally compares with the Kenya National Bureau of Statistics 2009 Census report, where the population of male and female stood almost at same level (that is, 48.8% for males and 51.2% for females).

The survey found that the majority (70.5%) of the respondents were aged between 18-41 years, with most (28.4%) of them being aged between 26-33 years. These findings therefore point to the youthful population in Kenya and their probable interest in election and governance. This could also be attributed to efforts on youth empowerment by various actors and response to the provision of the Kenya Constitution 2010 on youth representation in all spheres of life.

The majority (64.6%) of the respondents were married implying that most respondents were family members who were likely to influence one another in the family setting in decisions on election issues. The Kenyan society is predominantly paternalistic and married women more often follow the decisions and directions taken by their men. Decisions on matters touching on elections are no exception.

The survey established that majority of the respondents were literate. Most (34.7%) of them had attained Secondary education, 26.8% had attained Middle Level College education (with majority of them having attained post secondary certificate and diploma college education in areas such as P1 Teachers Education, Early Childhood Education, Community Development and Social Work, Information Technology and Computer Literacy) and 26.8% had attained University education. This was an indication that the level of literacy was high and that most of the respondents were knowledgeable on election issues. In fact, the findings showed that the majority (94.3%) were registered as voters for the 2013 General Elections. The majority (64.6%) of them had also stayed in the localities for more than 10 years and this implied that they had knowledge and experience on issues of election crimes and offences in these localities. The distribution of the sample across the various categories of the socio-demographic variables is shown in Table 3.1 below.

Table 3.1 Socio-demographic characteristics of Respondents

Variable	Category	Males	Females	Total
Age	18-25	118 (18.0%)	129 (22.7%)	247 (20.2%)
	26-33	182 (27.8%)	165 (29.0%)	347 (28.4%)
	34-41	136 (20.8%)	132 (23.2%)	268 (21.9%)
	42-49	111 (17.0%)	85 (15.0%)	196 (16.0%)
	50-57	70 (10.7%)	32 (5.6%)	102 (8.3%)
	58-65	20 (3.1%)	10 (1.8%)	30 (2.5%)
	66-73	13 (2.0%)	9 (1.6%)	22 (1.8%)
	74 and above	4 (0.6%)	6 (1.1%)	10 (0.8%)
	Total		654 (100.0%)	568 (100.0%)
Marital Status	Single	182 (27.8%)	176 (31.0%)	358 (29.3%)
	Married	450 (68.8%)	339 (59.7%)	789 (64.6%)
	Divorced	7 (1.1%)	13 (2.3%)	20 (1.6%)
	Separated	7 (1.1%)	18 (3.2%)	25 (2.0%)
	Widowed	8 (1.2%)	22 (3.9%)	30 (2.5%)
	Total		654 (100.0%)	568 (100.0%)
Highest Level of Education	None	15 (2.3%)	41 (7.2%)	56 (4.6%)
	Primary	92 (14.1%)	91 (16.0%)	183 (15.0%)
	Secondary	255 (39.0%)	169 (29.8%)	424 (34.7%)
	Middle Level College	171 (26.1%)	156 (27.5%)	327 (26.8%)
	University	111 (17.0%)	106 (18.7%)	217 (17.8%)
	Adult literacy	10 (1.5%)	5 (0.9%)	15 (1.2%)
	Total		654 (100.0%)	568 (100.0%)
Length of stay in the locality	Below 1 year	29 (4.4%)	22 (3.9%)	51 (4.2%)
	1-3 Years	104 (15.9%)	79 (13.9%)	183 (15.0%)
	4-6 Years	63 (9.6%)	70 (12.3%)	133 (10.9%)
	7-9 Years	33 (5.0%)	33 (5.8%)	66 (5.4%)
	10-12 Years	57 (8.7%)	66 (11.6%)	123 (10.1%)
	13+	368 (56.3%)	298 (52.5%)	666 (54.5%)
	Total		654 (100.0%)	568 (100.0%)
Voter Registration Status	Registered as a voter	622 (95.1%)	530 (93.3%)	1152 (94.3%)
	Not registered as a voter	32 (4.9%)	38 (6.7%)	70 (5.7%)
Total		654 (100.0%)	568 (100.0%)	1222 (100.0%)

3.3 Prevalence and Types of Election Crimes and Offences

3.3.1 Occurrence of election crimes and offences

The study established that election crimes and offences occurred in all the counties where the study took place as indicated in Table 3.2 below. This was confirmed by the majority 1050 (85.9%) of the sample respondents who reported that they were aware of the occurrence of election crimes and offences in their localities. These results were likely to be true as an

almost equal percentage (that is, 85.8%) of the respondents had stayed in the localities for over 1 year (with 80.8% having stayed in the locality for more than 4 years) and were likely to be aware of election happenings of the time they had been in the localities.

Table 3.2 Cross-tabulation of county and occurrence of election crimes and offences

County	Occurrence of election crimes and offences			Total
	Yes	No	I don't know	
Nairobi	73 (96.1%)	3 (3.9%)	0 (0.0%)	76 (100.0%)
Kirinyaga	40 (64.5%)	17 (27.4%)	5(8.1%)	62 (100.0%)
Laikipia	43 (82.7%)	7(13.5%)	2 (3.8%)	52 (100.0%)
Kitui	59(81.9%)	12 (16.7%)	1 (1.4%)	72 (100.0%)
Nakuru	56 (76.7%)	13 (17.8%)	4 (5.5%)	73 (100.0%)
Kericho	52 (89.7%)	6 (10.3%)	0 (0.0%)	58 (100.0%)
Migori	40 (78.4%)	7 (13.7%)	4 (7.8%)	51 (100.0%)
Siaya	49 (94.2%)	2 (3.8%)	1 (1.9%)	52 (100.0%)
Kisumu	49 (92.5%)	4 (7.5%)	0 (0.0%)	53 (100.0%)
Kakamega	65 (90.3%)	7 (9.7%)	0 (0.0%)	72 (100.0%)
Bungoma	53 (89.8%)	5 (8.5%)	1 (1.7%)	59 (100.0%)
Mombasa	56 (94.9%)	2 (3.4%)	1 (1.7%)	59 (100.0%)
Kwale	48 (69.6%)	14 (20.3%)	7 (10.1%)	69 (100.0%)
Tana River	47 (81.0%)	11 (19.0%)	0 (0.0%)	58 (100.0%)
Marsabit	41 (77.4%)	9 (17.0%)	3 (5.7%)	53 (100.0%)
Isiolo	40 (78.4%)	10 (19.6%)	1 (2.0%)	51 (100.0%)
Uasin Gishu (Eldoret)	56 (88.9%)	4 (6.3%)	3 (4.8%)	63 (100.0%)
Bomet	63 (98.4%)	1 (1.6%)	0 (0.0%)	64 (100.0%)
Narok	67 (100.0%)	0 (0.0%)	0 (0.0%)	67 (100.0%)
Garissa	53 (91.4%)	4 (6.9%)	1 (1.7%)	58 (100.0%)
	1050 (85.9%)	138 (11.3%)	34 (2.8%)	1222 (100.0%)

These findings provide overwhelming evidence that many parts of Kenya experience election crimes and offences (Gettleman, 2013; IEBC, 2014). Opiyo (2012) indicates that some potential violence hotspots had been identified during the 2013 General Elections.

3.3.2 Types of election crimes and offences

All the 1050 sample respondents who confirmed that there were election crimes and offences occurring in their localities were further asked to list the crimes and offences. The study established that there were at least 27 individual types of election crimes and offences committed in most of the localities of the study. Bribery, voter/ballot fraud, hate speech and fighting were the most prevalent types of election crimes and offences. As indicated in Table 3.3 below, the least prevalent election crimes and offences were; unjustified use of national security organs (for instance, unjustified police shootings and arrests) and use of weapons by opponents.

Table 3.3 Types of election crimes and offences

Types of election crimes and offences	Frequency	Percentage
Bribery	426	40.6
Voter/ballot fraud	174	16.6
Hate speech	162	15.4
Fighting	124	11.8
Voter intimidation	97	9.2
Rigging of candidates during nominations	95	9.0
Defacing of posters	72	6.9
Provision of food, refreshments, fare reimbursement and rewards to supporters	63	6.0
Destruction of property	62	5.9
Use of violence	54	5.1
Killings/murder	49	4.7
Discrimination and/or being denied to vote (voter rights violations)	49	4.7
Stealing of property	41	3.9
Looting of property	37	3.5
Compromised election officials (such as Presiding Officers favouring some candidates)	34	3.2
Assault	32	3.0
Campaigning beyond IEBC given time	30	2.9
Forceful displacement of populations (evictions)	20	1.9
Giving of alcoholic drinks to people to interrupt campaigns	17	1.6
Rape	16	1.5
Character assassination	14	1.3
Robbery	13	1.2
Arson	12	1.1
Burglary	8	0.8
Unjustified use of public resources in campaigns (e.g, politicians' use of public resources in campaigns)	7	0.7
Unjustified use of national security organs (e.g, unjustified police shootings and arrests)	1	0.1
Use of weapons by opponents	1	0.1

The above findings relate to an evaluation conducted by the IEBC which highlighted other issues pertaining to the political parties' nomination process and which included: multiple voting; incitement of party members by politicians; withdrawal of candidates from the nomination process; cases of bribery; and violence and disruption of the nomination processes (IEBC, 2014). The types of election crimes and offences indicated in Table 3.3 above are not unique to Kenya only. They have been reported in countries such as the US (Gumbel, 2005), UK (The Electoral Commission, 2013), Colombia (Martinez, 2011) and the Philippines (Labiste, 2001).

The crimes and offences listed in Table 3.3 above were further broadly classified following the categorization by the Elections Act 2011. The findings showed that undue influence was the most prevalent followed by bribery, offences relating to elections, use of force or violence and offences relating to voting. The least prevalent election offences were offences by members and staff of the Commission, unjustified use of public resources in campaigns and unjustified use of national security organs as indicated in Figure 1 below.

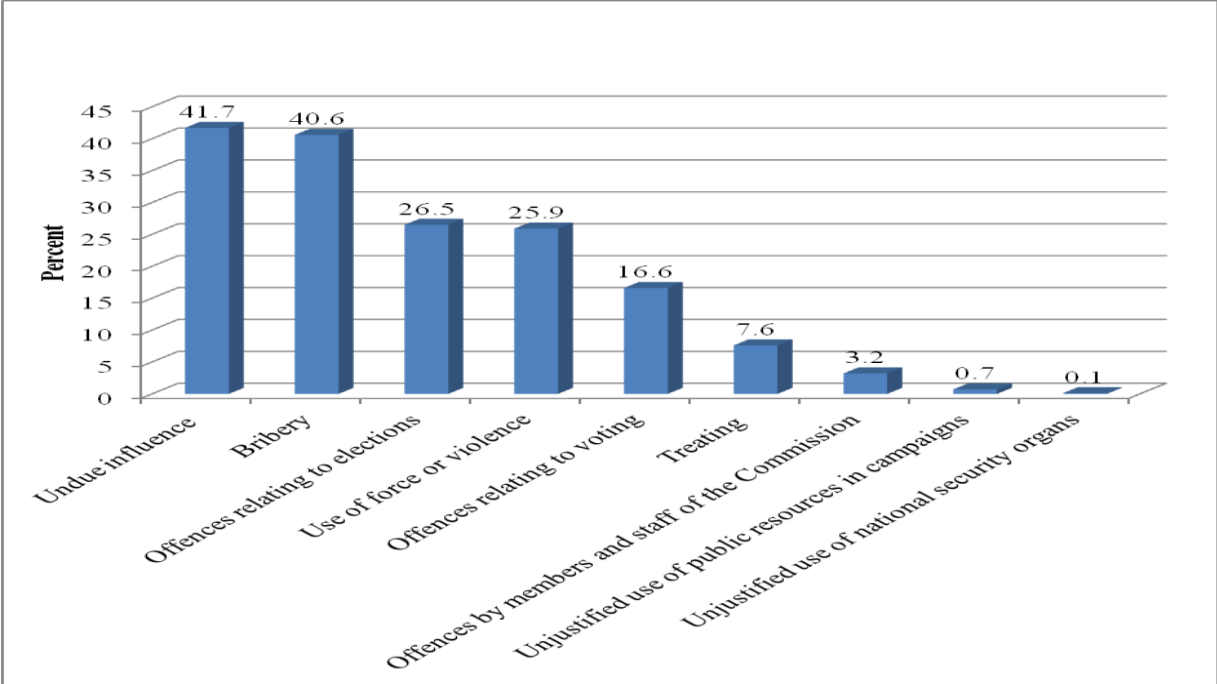


Figure 1- Classification of election crimes and offences

Undue influence involved offences such as: voter intimidation; discrimination and/or being denied to vote (voter rights violations); rigging of candidates during nominations; forceful displacement of populations (evictions); use of weapons by opponents; rape; arson; destruction of property; looting of property; burglary; and stealing of property.

Offences relating to elections were: hate speech; character assassination; defacing of posters; and campaigning beyond IEBC given time. Use of force or violence involved offences such as use of violence, fighting, assault, killings/murder and robbery. Treating involved offences such as giving of alcoholic drinks to people to interrupt campaigns and provision of food, refreshments, fare reimbursement and rewards to supporters.

This study further examined the types of election crimes and offences to establish their prevalence in each of the 20 counties. The prevalence of the crimes and offences was as captured in Table 3.4 below.

Table 3.4 Types of election crimes and offences as per county

Types of election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Bribery	25.0	27.4	34.6	31.9	19.2	31.0	33.3	53.8	41.5	33.3	30.5	18.6	8.7	24.1	17.0	31.4	38.1	56.3	77.6	69.0
Voter/ballot fraud	6.6	1.6	5.8	9.7	15.1	0.0	0.0	19.2	30.2	19.4	0.0	39.0	13.0	20.7	13.2	15.7	7.9	4.7	10.4	56.9
Hate speech	23.7	14.5	7.7	19.4	11.0	6.9	3.9	19.2	26.4	11.1	6.8	8.5	4.3	6.9	15.1	3.9	12.7	14.1	38.8	3.4
Fighting	27.6	3.2	3.8	11.1	5.5	12.1	3.9	21.2	1.9	5.6	11.9	5.1	0.0	17.2	9.4	15.7	3.2	25.0	13.4	3.4
Voter intimidation	7.9	3.2	1.9	8.3	2.7	13.8	15.7	7.7	5.7	5.6	5.1	8.5	4.3	5.2	1.9	11.8	14.3	9.4	6.0	22.4
Rigging of candidates during nominations	9.2	1.6	3.8	6.9	6.8	0.0	5.9	26.9	11.3	5.6	0.0	3.4	1.4	8.6	1.9	7.8	11.1	12.5	20.9	10.3
Defacing of posters	0.0	8.1	0.0	26.4	0.0	0.0	0.0	1.9	3.8	1.4	0.0	10.2	2.9	1.7	1.9	5.9	0.0	17.2	25.4	5.2
Provision of food, refreshments, fare reimbursement and rewards to supporters	0.0	0.0	0.0	5.6	0.0	1.7	0.0	1.9	0.0	8.3	0.0	16.9	4.3	5.2	0.0	5.9	0.0	7.8	40.3	0.0
Destruction of property	3.9	0.0	11.5	0.0	9.6	19.0	3.9	1.9	9.4	1.4	3.4	8.5	0.0	0.0	3.8	2.0	1.6	17.2	6.0	0.0
Use of violence	1.3	0.0	1.9	2.8	2.7	1.7	2.0	15.4	20.8	4.2	5.1	3.4	0.0	10.3	7.5	2.0	0.0	4.7	6.0	1.7
Killings/murder	5.3	0.0	3.8	0.0	9.6	3.4	9.8	1.9	1.9	2.8	6.8	5.1	0.0	1.7	0.0	3.9	3.2	6.3	10.4	3.4
Discrimination and/or being denied to vote (voter rights violations)	2.6	0.0	1.9	0.0	6.8	5.2	5.9	3.8	0.0	2.8	5.1	0.0	0.0	19.0	3.8	2.0	0.0	3.1	13.4	5.2
Stealing of property	3.9	4.8	1.9	0.0	6.8	6.9	2.0	1.9	3.8	6.9	3.4	5.1	0.0	1.7	0.0	2.0	4.8	6.3	3.0	0.0
Looting of property	0.0	0.0	0.0	0.0	4.1	8.6	7.8	5.8	11.3	0.0	6.8	1.7	0.0	0.0	5.7	0.0	0.0	3.1	9.0	0.0

Types of election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Compromised election officials (mainly Presiding and Deputy Presiding Officers)	1.3	1.6	1.9	0.0	6.8	3.4	7.8	5.8	1.9	0.0	1.7	0.0	4.3	8.6	1.9	3.9	0.0	1.6	4.5	0.0
Assault	0.0	0.0	0.0	1.4	0.0	1.7	2.0	0.0	1.9	2.8	6.8	3.4	0.0	0.0	3.8	2.0	1.6	4.7	17.9	1.7
Campaigning beyond IEBC given time	1.3	12.9	9.6	0.0	2.7	0.0	0.0	5.8	3.8	2.8	0.0	0.0	2.9	0.0	1.9	3.9	1.6	1.6	0.0	0.0
Forceful displacement of populations (evictions)	6.6	0.0	0.0	0.0	1.4	0.0	0.0	1.9	0.0	0.0	0.0	5.1	0.0	1.7	0.0	5.9	3.2	6.3	0.0	0.0
Giving of alcoholic drinks to people to interrupt campaigns	1.3	0.0	1.9	2.8	2.7	1.7	2.0	5.8	0.0	0.0	5.1	3.4	0.0	0.0	0.0	0.0	0.0	1.6	0.0	0.0
Rape	2.6	0.0	0.0	0.0	4.1	0.0	2.0	0.0	1.9	0.0	1.7	0.0	0.0	0.0	0.0	5.9	0.0	4.7	3.0	0.0
Character assassination	1.3	3.2	0.0	0.0	2.7	0.0	0.0	5.8	1.9	0.0	0.0	0.0	0.0	1.7	0.0	0.0	0.0	3.1	3.0	0.0
Robbery	1.3	0.0	1.9	0.0	0.0	0.0	5.9	0.0	1.9	1.4	3.4	1.7	1.4	0.0	0.0	0.0	0.0	3.1	0.0	0.0
Arson	1.3	0.0	0.0	0.0	0.0	1.7	0.0	0.0	9.4	0.0	0.0	3.4	0.0	0.0	1.9	0.0	0.0	1.6	1.5	0.0
Burglary	1.3	1.6	0.0	0.0	0.0	0.0	0.0	0.0	1.9	0.0	0.0	6.8	0.0	0.0	0.0	2.0	0.0	0.0	0.0	0.0
Unjustified use of public resources in campaigns (e.g, politicians' use of public resources in campaigns)	0.0	0.0	0.0	1.4	0.0	0.0	0.0	0.0	0.0	1.4	0.0	0.0	0.0	1.7	1.9	0.0	0.0	0.0	1.5	3.4
Unjustified use of national security organs (e.g, unjustified police shootings and arrests)	1.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Use of weapons by opponents	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.5	0.0
	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

The findings on types of election crimes and offences are clearly captured by Key Informants in most of the counties. One Informant from the Probation and Aftercare Service Department in Eldoret West, Uasin Gishu County said:

“Election crimes and offences in this area are numerous. However, a few of them which are committed by supporters of all political parties and unemployed youth include: Assault Causing Bodily Harm; Grievous Harm; Arson; House Breaking and Stealing; Rape and Defilement; Murder; and Stealing Stock (19/2/2013)”

An official of the Interior and Coordination of National Government (formerly, Provincial Administration) in Bondo, Siaya County observed:

“Aspirants and their supporters in this locality engage in voter bribery, negative clanism, hate speech and other crimes and offences I would describe as activities of political gangs(20/2/2013)”

A Coordinator with the Catholic Justice and Peace Commission in Kitui Central, Kitui County had this to say:

“There is a lot of wooing of voters with money during campaigns going on at this time in this area. This is being done by aspiring candidates and their campaigners (18/2/2013)”

The above statements of Key Informants confirm that election crimes and offences occur in the counties.

From the findings of this study, bribery emerged as one of the most prevalent election offences. The findings showed that all counties experienced the offence of bribery but it was most prevalent in counties such as Narok (77.6%), Garissa (69.0%), Bomet (56.3%), Siaya (53.8%) and Kisumu (41.5%) as indicated in Table 3.4 above. Bribery can be committed by voters, political candidates or their agents. In Kenya, bribery is mainly orchestrated by politicians and their agents to gain advantage over their opponents. They normally use cash money to buy support from potential registered voters who are usually financially unstable. Perceived supporters of opponents are bribed to vote for the bribing candidate or bribed so as not to vote for the opponent (IFES, 2012; Makabila, 2013).



Figure 2 – A politician being roughed up after he was allegedly caught bribing voters

Voter/ballot fraud is an offence relating to voting (Fund, 2004) and was second in prevalence as indicated in Table 3.3. The offence may be committed by voters, IEBC officers, candidates, agents or any other person. The offence of voter/ballot fraud was most prevalent in counties of Garissa (56.9%), Mombasa (39.0%) and Kisumu (30.2%). It was however not reported in Kericho, Migori and Bungoma.

Hate speech involves the use of derogative statements against opponents and inciting messages which could trigger hatred and/or violence between individuals, parties, or ethnic groups. During the 2007 General Elections, hate speech was blamed for the intolerance and violence that occurred before and after announcement of Presidential results (GoK, 2008). From the findings of this study, hate speech occurred in all counties but it was most prevalent in counties of Narok (38.8%), Kisumu (26.4%) and Nairobi (23.7%). As competition for support intensified just before the 2013 elections, there was a lot of fall out among politicians in the different political parties. Others also left their initial parties to join new ones on sensing strong competition or resistance within the initial parties. The National Cohesion and Integration Commission is mandated to deal with hate speech as it strives to ensure that the country is cohesive and integrated.

As indicated in Table 3.4 above, the offence of fighting was reported in all counties except in Kwale but happened mostly in Nairobi (27.6%), Bomet (25.0%) and Siaya (21.2%). Although fighting is prohibited in the Kenyan laws, it still occurs even during the election period. Fighting between opposing political groups and individuals over election differences has been witnessed during political campaigns. This has occurred especially with provocation from one side. Supporters of some candidates or parties have also fought one another after disagreeing on the mode of sharing goodies given to them by their candidates (IEBC, 2014). Fighting causes injury and could also lead to deaths of voters, candidates and members of the general public thus rendering an election not credible.



Figure 3 – Violent confrontations during a past election campaign

Burglary is the criminal offence of breaking and entering into a building illegally with the intention of committing a crime. Results indicated that burglary was committed only in the counties of Mombasa (6.8%), Isiolo (2.0%), Kisumu (1.9%), Kirinyaga (1.6%) and Nairobi (1.3%) implying that it was a rare election crime and offence during the 2013 General Elections. When burglary is committed against a candidate and he/she loses information and/or money required by the electoral body and other agencies to be able to contest, this means that the candidate is technically disadvantaged and the election may not be fair to all the candidates. Although the offence was rare as it was reported by only 0.8% of the respondents (see Table 3.3), cases of political party offices and residential houses of candidates being broken into and computers and other documents being stolen are not new in Kenya. This may be because most politicians employ extra security measures on their offices and houses during election period (NCRC, 2013). As indicated elsewhere in this report on measures to deal with election crimes and offences, the deployment of security officers and the fact that it is not committed by large groups of people could have contributed to the few incidents of burglary (Commonwealth Secretariat, 2013; IEBC, 2014).

The offence of unjustified use of public resources in campaigns occurs especially when contesting politicians use public resources such as government vehicles and funds in campaigns. This has mainly occurred in previous elections when some politicians who had been appointed as Ministers and Assistant Ministers remained in their positions and campaigned in the 2013 elections using government resources in the guise of discharging their ministerial duties (CAPF, 2008). Unjustified use of public resources in campaigns was found to be less prevalent. It was reported by a few respondents in only six counties as indicated in Table 3.4 above implying that it was not a prevalent election crime and offence in 2013. This offence might have been underreported because most members of the public would not be in a good position to know whether or not candidates were utilizing public resources for campaigns. According to Transparency International Kenya (TIK), the electoral law should not only bar the participation of public servants in political activity, including elections, but also barring the use of any public financial and material resources (TIK, 2013).

The offence of unjustified use of national security organs was not prevalent as it was reported by a few respondents in Nairobi County only implying that it was not a major problem in Kenya's elections. Respondents who reported about unjustified use of national security organs indicated that during election period, there were unjustified police shootings and arrests of some politicians and their supporters mostly during campaign period and more so if they were not pro-government. This would then make people shy away from election campaigns and even voting (CAPF, 2008; SRIC, 2012).

Use of weapons by opponents was a very rare phenomenon in Kenya's 2013 elections as it was only reported by a few respondents in Narok County. Use of weapons by opponents was reported by only 0.1% of the respondents (see Table 3.3) implying that it was not a major election crime and offence. It is important to note that during the 2013 General Elections, there were allegations of possible occurrence of violence and therefore most campaign forums, party nominations and voting were monitored by uniformed and undercover security officers (IEBC, 2014). This might have made it difficult for contestants and their supporters

to openly use their weapons even if they were in possession of the same. Again, the Government controls issuance of licenses and possession of weapons and it was likely that only a few politicians were licensed to possess and carry weapons such as guns.

Generally, the above findings are an indication that elections in many parts of Kenya are marred by different types of crimes and offences. The IEBC, in collaboration with the Office of the Director of Public Prosecutions (ODPP) handled a total of 86 cases of election offences arising from the 2013 General Elections (IEBC, 2014).

3.4 Perpetrators of Election Crimes and Offences

The study sought to establish those who commit election crimes and offences. As indicated in Figure 4 below, political aspirants/candidates topped the list followed by unemployed youth. Those who were unlikely perpetrators of election crimes and offences were Faith Based Organizations, the media and business people.

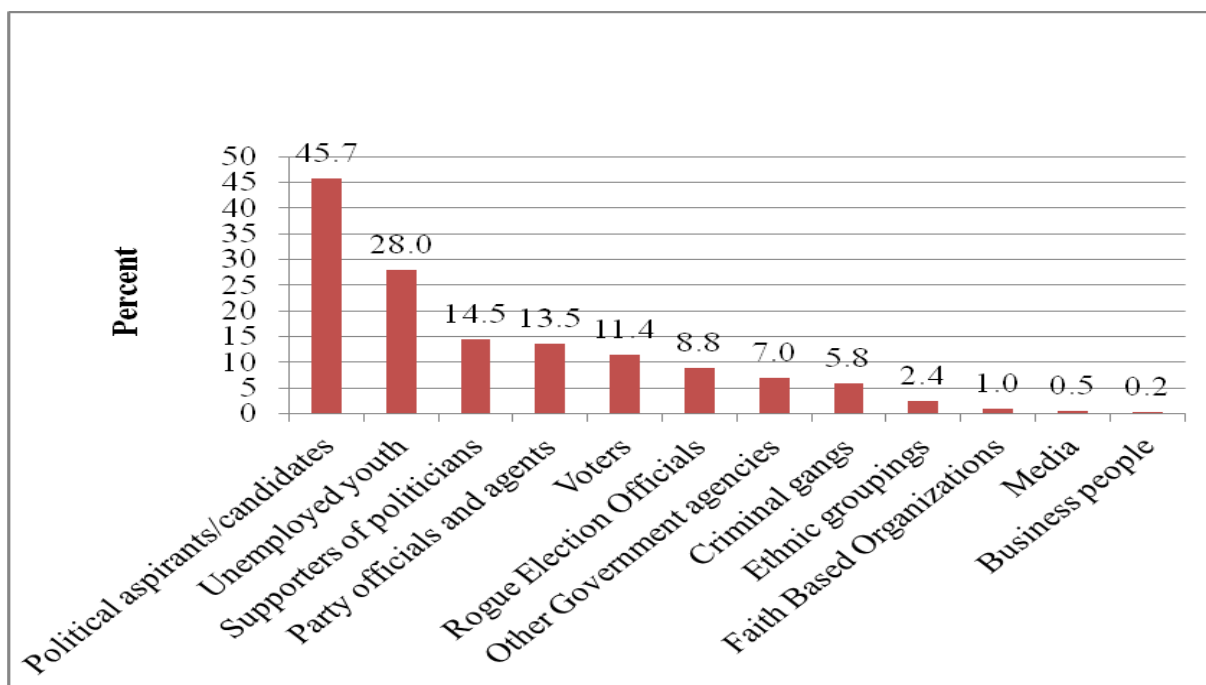


Figure 4 - Perpetrators of election crimes and offences

This study established that the perpetrators of election crimes and offences were predominantly political aspirants/candidates, their supporters, party officials and agents. The finding relates closely with the most prevalent types of election crimes and offences. It is politicians and their allies who for instance bribe the poor (and sometimes illiterate) electorate for votes and propagate hate speech against opponents (Lema, 2013).



Figure 5–Armed supporters of a Presidential candidate protest alleged corrupt elections in 2007/2008

Kenya’s population is mainly youthful and unemployed and therefore a good proportion is idle. Politicians take advantage of this circumstance and lure youth with cash hand outs and promises of other rewards towards achieving their (politicians) selfish interests. Some youth is sometimes paid and/or given alcohol and drugs and become intoxicated and end up causing havoc in political rallies of opponents (CAPF, 2008).



Figure 6 –Youth carrying crude weapons ready to fight during a past General Election

Although the media was found to be among the least perpetrators of election crimes and offences during the 2013 General Elections, some respondents argued that media, through its reporters, committed these crimes and offences by way of unprofessional reporting of inflammatory statements of politicians in newspapers, television and radio. The media

appeared to have been more cautious in reporting in the 2013 elections probably after a reporter was charged at the International Criminal Court (ICC) in the Hague for the 2007/2008 Post Election Violence (PEV). Other findings indicated that the media was actually in the frontline in addressing election crimes and offences in the 2013 elections through its civic education and patriotism messages. As indicated by Commonwealth Secretariat (2013), the media in Kenya planned coverage of the election process for the 2013 polls conscious of the bitter criticism of their performance during the 2007 elections.



Figure 7 -Trial at the ICC of a journalist accused of alleged perpetration of Kenya’s Post Election Violence of 2007/2008

Business people were found to be among the least perpetrators. Election crimes and offences hurt the economy in general and businesses in particular. This has been witnessed in previous chaotic elections. Therefore, it would have been unwise for business people to perpetrate the vice. However, business people have been reported to support criminals who are engaged by some politicians during elections (NCRC, 2013).

This study went further and established the various perpetrators in each of the counties that were studied. As indicated in Table 3.5 below, political aspirants/candidates were the leading perpetrators in almost all the counties. However, they were the most prominent perpetrators in Narok (91.0%), Garissa (72.4%), Siaya (55.8%) and Bomet (51.6%). One Key Informant who was a Provincial Administrator in Narok County had this to say:

“Our Security Committee received information that a senior politician in the area was recruiting youth to attack his opponents. We have already summoned and warned the individual against such intentions. With regard to offences, I have heard reports of stealing of votes during party nominations for General elections (18/2/2013)”.

Table 3.5 Perpetrators of election crimes and offences as per county

Perpetrators of election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Political aspirants/candidates	32.9	33.9	36.5	29.2	30.1	24.1	21.6	55.8	45.3	40.3	30.5	37.3	14.5	39.7	28.3	37.3	34.9	51.6	91.0	72.4
Unemployed youth	36.8	11.3	19.2	34.7	19.2	29.3	19.6	40.4	49.1	19.4	20.3	22.0	7.2	8.6	20.8	15.7	12.7	29.7	56.7	5.2
Supporters of politicians	5.3	4.8	5.8	29.2	4.1	6.9	5.9	13.5	7.5	18.1	8.5	15.3	5.8	6.9	13.2	7.8	14.3	35.9	17.9	17.2
Party officials and agents	2.6	17.7	15.4	8.3	5.5	12.1	19.6	23.1	17.0	19.4	13.6	5.1	2.9	20.7	5.7	11.8	14.3	6.3	10.4	8.6
Voters	5.3	8.1	7.7	1.4	11.0	3.4	13.7	25.0	15.1	11.1	3.4	3.4	0.0	1.7	3.8	13.7	7.9	14.1	19.4	32.8
Wayward Election Officials	7.9	0.0	3.8	4.2	9.6	3.4	5.9	21.2	13.2	1.4	1.7	6.8	4.3	20.7	9.4	7.8	1.6	15.6	6.0	10.3
Other Government agencies	15.8	0.0	0.0	5.6	1.4	0.0	7.8	17.3	15.1	8.3	0.0	0.0	1.4	0.0	0.0	3.9	1.6	9.4	14.9	5.2
Criminal gangs	7.9	0.0	1.9	1.4	1.4	0.0	0.0	0.0	3.8	1.4	5.1	27.1	8.7	1.7	0.0	3.9	6.3	3.1	11.9	13.8
Ethnic groupings	2.6	0.0	0.0	1.4	1.4	1.7	3.9	1.9	0.0	1.4	1.7	1.7	1.4	3.4	0.0	5.9	1.6	1.6	7.5	0.0
Faith Based Organizations	10.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.8	0.0	0.0	0.0	1.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Media	1.3	0.0	0.0	1.4	0.0	1.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.5	1.7
Business people	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Some of the findings captured above were highlighted by a Key Informant who was a Personal Assistant to one of the aspirants for position of Member of Parliament in Garsen Constituency in Tana River who said:

“This area has experienced pre-election clashes in 2002, 2007 and 2012/13. A dissatisfied candidate who happens to be indisciplined recently incited his followers to cause violence (18/2/2013)”

This finding emphasizes the need to specifically target political aspirants/candidates in anti-election crimes and offences campaigns.

This study also revealed that unemployed youth were perpetrators in all counties in Kenya. These were mainly male youths who had acquired formal education of Secondary School and above. Counties that were leading in this aspect were Narok (56.7%), Kisumu (49.1%), Siaya (40.4%) and Nairobi (36.8%) while Garissa was the only county where unemployed youth were the least reported perpetrators at 5.2%. Therefore, youth unemployment in all counties has to be addressed if this trend is to be reversed. The finding on unemployed youth as perpetrators of election crimes and offences is not unique to Kenya only. In Liberia and Zimbabwe, political groups have been reported to mobilize the young unemployed people in sprees of election violence (Miller, 2013).

Counties that were leading in supporters of politicians as perpetrators of election crimes and offences were Bomet (35.9%), Kitui (29.2%), Kakamega (18.1%), Narok (17.9%) and Garissa (17.2%). Among all counties, Nakuru (4.1%) and Kirinyaga (4.8%) were tailing in this aspect implying that supporters of politicians in these counties were restrained. Therefore, initiatives aimed at dealing with election crimes and offences in all counties must therefore involve this category of perpetrators (Makabila, 2013).

Party officials and agents support their candidates in ways such as mobilizing resources and supporters, facilitating campaigns, managing party secretariats, organizing and supervising party nominations and representing candidates in voting and poll counting venues. Some party officials have been accused of rigging some candidates during party nominations. Due to their touch with the grassroots, others are used in bribing of voters while others are spokespersons of political parties and candidates where they issue offensive statements. This category of perpetrators was found to commit election crimes and offences in all counties with Siaya (23.1%), Tana River (20.7%), Migori (19.6%) and Kakamega (19.4%) being the leading counties. Further probing revealed that no political party was exempted as far as perpetrators who were party officials and agents were concerned. This related to the findings which indicated that election crimes and offences occurred in all counties, some of which were predominantly CORD, Amani and Jubilee coalitions regions (Omwenga, , 2013).

Both young and old voters have an equal share of the blame in perpetrating election crimes and offences as was reported in all counties except in Kwale where no respondent mentioned voters to be perpetrators. Counties that were leading were Garissa (32.8%), Siaya (25.0%) and Narok (19.4%). It is the voters who are involved in double registration, voting more than once, accepting bribes or to be treated by politicians and even fighting one another. In hunger-stricken counties, old voters were treated with food stuffs. In most counties, young voters were given cash hand outs and alcohol (CAPF, 2008). The number of voters is usually bigger than any of the other players in an election. They therefore become an important category to target in addressing election crimes and offences.

Elections are run by election officials. In Kenya, these are officers of IEBC (for example, Election Coordinators and Returning Officers) and other personnel from outside the

Commission recruited on short term assignments (such as Voter Registration and Polling Clerks, Presiding and Deputy Presiding Officers and Security Officers from the National Police Service). The findings of this study showed that some election offences were perpetrated by wayward election officials (that is, offences by members and staff of the Commission) in all the counties except in Kirinyaga County. Those who were mentioned by most respondents were: Voter Registration Clerks who allowed double registration; Polling Clerks who allowed persons not in the Poll Register to vote or directed undecided voters to vote for some candidates; Presiding and Deputy Presiding Officers who campaigned for some candidates and participated in the manipulation of poll results in favour of some candidates or failed to maintain election secrets as demanded of them. In some election petitions, these officials of IEBC were apportioned some blame for bungled elections in some counties. The counties that were leading with wayward election officials were Siaya (21.2%), Tana River (20.7%) and Bomet (15.6%). Agoya (2013) cites a case of an election official who was charged with altering tender rules. The implication of these results was that the electoral body needed to put strict measures in place for vetting applicants for such positions and recruiting staff of unquestionable integrity, qualifications and experience if elections were to be credible.



Figure 8 – IEBC officials during an election in Kenya

Security-related officials in the public sector have been reported to perpetrate election offences in some countries. For instance, Labiste (2001) indicates that the key perpetrators of election offences in the Philippines include the police and military. Although the Government of Kenya issues circulars to civil servants during elections warning them against committing election offences, being partisan or campaigning for candidates and political parties, other Government agencies were reported to be perpetrators of election crimes and offences in all except seven counties as indicated in Table 3.5 above. Agencies that were mentioned included the National Police Service and Interior and Coordination of National Government (former Provincial Administration). Officers from these other Government agencies were mainly accused of intimidation of voters appearing to support candidates not favourable to the officers, failing to take action against politicians campaigning beyond the time allowed by IEBC and failing to prevent violence during political party nominations and campaigns. Counties that were leading in this category of perpetrators were Siaya (17.3%), Nairobi (15.8%) and Kisumu (15.1%). These findings are a call to the government to ensure

that its officers adhere to the provisions of relevant legislations such as the Elections Act and the Code of Conduct for Public Servants (SRIC, 2012; TJRC, 2013).

Criminal gangs were reported to commit election crimes and offences in all counties except in Kirinyaga, Kericho, Migori, Siaya and Marsabit. Some of these gangs were the Mombasa Republican Council (MRC) in the Coast, Al-Shabaab in North Eastern, Mungiki in Nairobi and Central Kenya. The MRC was for instance accused of intimidating voters in the Coast region not to vote during the 2013 General Elections. Politicians were reported to hire the criminal gangs to intimidate opponents and their supporters during campaigns. The gangs also committed killings, kidnappings and attempted murders of some candidates and election officials. Some burglary cases were committed by the gangs. The elimination of criminal gang activities in elections would therefore contribute to free, fair and credible elections in Kenya. A study by the National Crime Research Centre (NCRC) on organized criminal gangs in Kenya indicated that politicians engaged criminal gangs for various purposes during elections. In fact, some members of organized criminal gangs were elected into positions (Labiste, 2001; NCRC, 2013).



Figure 9 –Section of MRC (on the left) and Mungiki members (on the right)

Kenya appears divided along ethnic lines with ethnicity/tribalism and clanism becoming a major problem in the country's development. The stiff competition for elective posts in Kenya's politics and the dwindling national unity has seen the emergency of ethnic groupings out to support their candidates during elections (TJRC, 2013). During the 2013 elections, these groupings, and which did not have distinct names, were formed and helped in mobilizing resources and support for particular candidates in some regions (IEBC, 2014). Some of these funds were used for treating and bribing voters as confirmed by a respondent in Narok County who said:

“There are two main ethnic groups here. One group has candidates in both CORD and Jubilee coalitions and the other has candidates only in Jubilee coalition. Each group has mobilized funds which are being given to supporters by point men of the groups. Yesterday evening I attended a meeting of one of the politicians and we left with Kshs. 200 each (22/2/2013)”

This statement links with other findings of the study which indicate that tribalism is a factor contributing to election crimes and offences in Kenya (Okolloh, 2008). This finding is important in that it emphasizes the need to de-ethnicize Kenya's elections and promote national cohesion and integration. The National Cohesion and Integration Commission, together with other relevant partners, have the task of addressing this issue.

Faith Based Organizations were not found to be major perpetrators of election crimes and offences (IEBC, 2014). They were mentioned by a few respondents in only three counties of Nairobi (10.5%), Kisumu (3.8%) and Kwale (1.4%). Most of these organizations are founded on principles of harmonious coexistence among individuals and groups and the avoidance of wrong and hence the probable reason they were not key perpetrators. In other findings, the organizations were found to be effectively participating in election crimes and offences control measures and as key players in addressing the crimes and offences.

The Media was reported to be a perpetrator by a few respondents only in counties of Nairobi, Kitui, Kericho, Narok and Garissa. This was an indication that it was not a major perpetrator, a finding which related to the one showing that Media was a key player in addressing election crimes and offences and was involved in civic education of the electorate as a control measure (Commonwealth Secretariat, 2013; TIK, 2013).

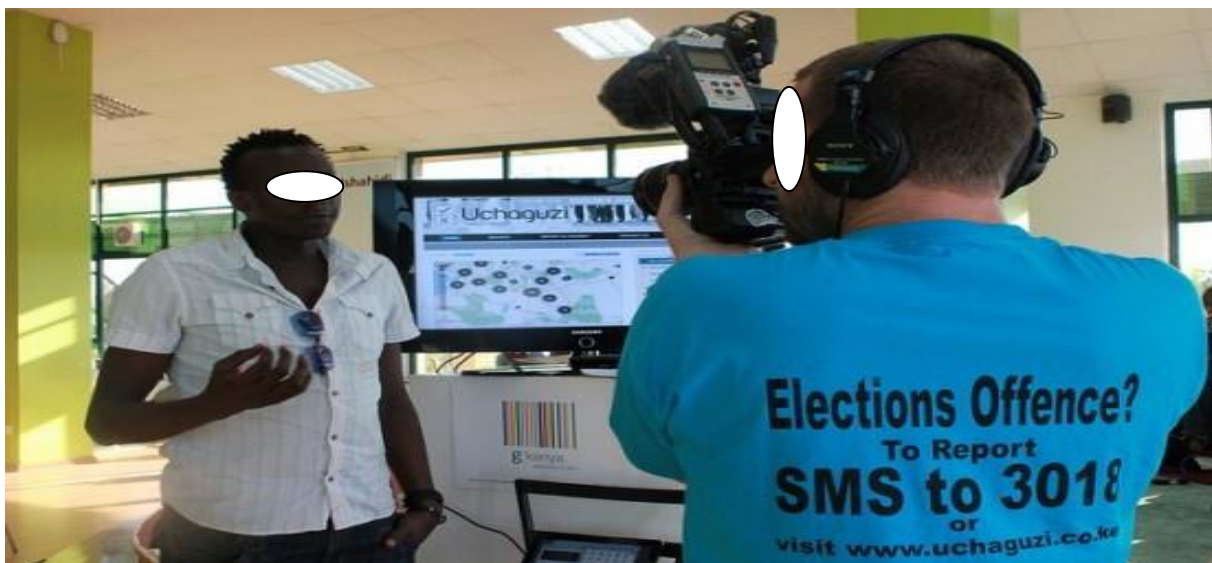


Figure 10 - Elections media-designer personality being-interviewed on the March 4, 2013 elections

Business people were mentioned as perpetrators of election crimes and offences only in Kisumu and Narok counties implying that they never supported election crimes and offences, possibly for reasons of protecting their businesses. The reporting of sample respondents on this aspect could be explained by the fact that many voters (noting that majority of the sample respondents were registered voters) may not understand the dynamics of campaign financing. The finding that business people are not main perpetrators of election crimes and offences contradicts other reports indicating that some business people were financiers of criminals in general and some politicians in particular. Some unscrupulous business people support politicians because they want to be protected by the politicians on capturing political

power (NCRC, 2013). A Key Informant in the Probation and Aftercare Service Department in Mombasa County observed that:

“Some interested tycoons in this region are election financiers because they secretly finance politicians who commit election offences such as bribing voters. Whoever finances a criminal is also one. Other perpetrators of election crime in this area are aspirants, campaigners and hired youthful gangs (20/2/2013)”

This statement illustrates a case of discrete perpetrators of election crimes and offences who are least known by majority of the general public. The finding emphasizes the need to conduct thorough investigations to establish the extent of participation of business people in election offences in Kenya.

3.5 Factors Contributing to Election Crimes and Offences

This survey established that a number of factors were contributing to election crimes and offences. As shown in Table 3.6 below, Ethnic animosity, tribalism and clanism was the main factor reported by 27.6% of the respondents, followed by poverty (26.4%) and unemployment among the youth (20.4%). The least factors were Government interference in local politics and gender discrimination.

Table 3.6 Factors contributing to election crimes and offences

Factors contributing to election crimes and offences	Frequency	Percentage
Ethnic animosity, tribalism and clanism	290	27.6
Poverty	277	26.4
Unemployment among the youth	214	20.4
Illiteracy among the electorate	193	18.4
Incitement and use of abusive and derogatory statements by politicians	165	15.7
Corruption in politics	132	12.6
Drug and substance abuse	118	11.2
Selfishness in political leadership	94	9.0
Lack of proper civic education and public awareness on civil rights	90	8.6
Use of cash money in campaigns	83	7.9
Poor electoral process	64	6.1
Political fanaticism	63	6.0
Competition for resources	46	4.4
Insecurity and inadequate national security apparatus	43	4.1
Unequal distribution of national resources	36	3.4
Perceptions of a stolen election	35	3.3
Impunity among politicians	32	3.0
Greed for power and large pay in political offices	27	2.6
Poor governance	23	2.2
Government interference in local politics	5	0.5
Gender discrimination	3	0.3

This study went factor to establish factors contributing to election crimes and offences in specific counties. The factors are as shown in Table 3.7 below.

Table 3.7 Factors contributing to election crimes and offences as per county

Factors contributing to election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Ethnic animosity, tribalism and clanism	28.9	0.0	9.6	5.6	27.4	22.4	17.6	11.5	15.1	26.4	32.2	20.3	10.1	39.7	52.8	39.2	27.0	18.8	32.8	41.4
Poverty	26.3	19.4	34.6	23.6	9.6	24.1	25.5	38.5	18.9	31.9	30.5	22.0	7.2	3.4	11.3	19.6	28.6	28.1	35.8	15.5
Unemployment among the youth	18.4	19.4	25.0	12.5	19.2	17.2	7.8	15.4	11.3	9.7	27.1	35.6	17.4	1.7	5.7	13.7	22.2	21.9	37.3	6.9
Illiteracy among the electorate	17.1	14.5	21.2	5.6	6.8	10.3	13.7	26.9	9.4	27.8	25.4	15.3	10.1	3.4	9.4	27.5	9.5	29.7	11.9	24.1
Incitement and use of abusive and derogatory statements by politicians	22.4	9.7	9.6	18.1	16.4	13.8	7.8	5.8	18.9	11.1	8.5	15.3	18.8	13.8	7.5	17.6	6.3	25.0	11.9	5.2
Corruption in politics	5.3	1.6	1.9	12.5	4.1	1.7	7.8	26.9	7.5	30.6	5.1	16.9	13.0	15.5	7.5	11.8	11.1	4.7	3.0	27.6
Drug and substance abuse	19.7	6.5	3.8	4.2	2.7	8.6	2.0	9.6	15.1	11.1	18.6	22.0	8.7	0.0	1.9	2.0	4.8	15.6	29.9	0.0
Selfishness in political leadership	1.3	1.6	1.9	2.8	2.7	6.9	11.8	7.7	7.5	5.6	8.5	6.8	0.0	15.5	5.7	0.0	9.5	3.1	29.9	27.6
Lack of proper civic education and public awareness on civil rights	5.3	0.0	1.9	9.7	9.6	5.2	9.8	15.4	13.2	15.3	13.6	1.7	2.9	5.2	3.8	11.8	0.0	14.1	1.5	8.6
Use of cash money in campaigns	7.9	9.7	1.9	12.5	5.5	1.7	9.8	3.8	18.9	0.0	6.8	10.2	2.9	1.7	3.8	3.9	0.0	17.2	13.4	3.4
Poor electoral process	3.9	1.6	0.0	5.6	11.0	5.2	9.8	3.8	22.6	0.0	5.1	8.5	0.0	6.9	1.9	2.0	7.9	4.7	0.0	6.9
Political fanaticism	3.9	3.2	0.0	8.3	0.0	8.6	5.9	7.7	5.7	4.2	3.4	0.0	2.9	1.7	1.9	3.9	1.6	9.4	17.9	12.1
Competition for resources	2.6	0.0	0.0	0.0	19.2	3.4	2.0	1.9	0.0	0.0	3.4	5.1	2.9	6.9	3.8	2.0	0.0	4.7	13.4	0.0

Factors contributing to election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Insecurity and inadequate national security apparatus	1.3	1.6	1.9	0.0	0.0	3.4	0.0	7.7	7.5	4.2	6.8	6.8	2.9	6.9	5.7	3.9	3.2	4.7	1.5	3.4
Unequal distribution of national resources	1.3	0.0	0.0	0.0	1.4	0.0	0.0	0.0	3.8	1.4	3.4	15.3	10.1	0.0	1.9	11.8	7.9	1.6	0.0	0.0
Perceptions of a stolen election	6.6	0.0	0.0	5.6	4.1	8.6	2.0	3.8	5.7	0.0	3.4	3.4	4.3	1.7	0.0	2.0	0.0	4.7	0.0	0.0
Impunity among politicians	6.6	3.2	1.9	4.2	1.4	3.4	2.0	3.8	3.8	1.4	1.7	1.7	2.9	1.7	1.9	0.0	1.6	3.1	3.0	1.7
Greed for large pay in political offices	3.9	1.6	11.5	1.4	0.0	0.0	3.9	3.8	3.8	1.4	1.7	1.7	4.3	0.0	0.0	0.0	0.0	0.0	4.5	1.7
Poor governance	1.3	0.0	0.0	2.8	0.0	0.0	0.0	5.8	1.9	0.0	3.4	6.8	1.4	1.7	0.0	3.9	0.0	3.1	4.5	1.7
Government interference in local politics	0.0	0.0	0.0	0.0	0.0	0.0	2.0	1.9	1.9	0.0	0.0	0.0	2.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Gender discrimination	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.7	0.0	0.0	1.6	0.0	1.5	0.0

The results in Table 3.7 above showed that ethnic animosity, tribalism and clanism contributed to election crimes and offences in all counties except in Kirinyaga confirming that it was a major social problem in Kenya. Counties that were leading in this factor were Marsabit (52.8%), Garissa (41.4%) and Tana River (39.7%). A Personal Assistant to an aspiring candidate with the Orange Democratic Movement in Tana River County retorted:

“Ethnicity and tribalism among the Orma who are Cushites and pastoralist and the Pokomo who are Bantu and farmers is a factor contributing to election crimes and offences in this county. Supporters who have indiscipline and questionable character and party hopping where people move to register in other political parties after the official closure period are other factors (18/2/2013)”

Okolloh (2008) reports that ethnic animosity, tribalism and clanism were partly responsible for the 2007/08 Post-Election Violence in Kenya. The finding that ethnic animosity, tribalism and clanism is a key factor contributing to election crimes and offences is important especially in implementing civic education and awareness programmes focusing on building

cohesion and integration among Kenyans as a long term strategy towards addressing the crimes and offences.



Figure 11-Security officers deployed during ethnic tensions in Tana River ahead of 2013 General Elections

Poverty was reported to be a factor contributing to election crimes and offences in all counties implying that it was major economic problem in most counties. Counties that were leading were Siaya (38.5%), Narok (35.8%) and Laikipia (34.6%). Unemployment among the youth was another economic factor contributing to election crimes and offences in all counties. It was more prevalent in Narok (37.3%), Mombasa (35.6%) and Bungoma (27.1%). This finding was supported by a Key Informant who was a Coordinator with The National Alliance (TNA) Party in Nakuru County who said that:

“Although there are many factors responsible for election crimes and offences in this county, poverty and unemployment among the youth are some of the key ones. These must be addressed by the Government if criminality in general is to be controlled here in Nakuru and other places in Kenya (18/2/2013)”

Poverty contributes significantly in the commission of crimes and offences. A poor voter who does not have resources to meet basic needs may not resist the temptation of accepting bribes from politicians and/or being treated with foods, drinks and other rewards in exchange for his/her vote during elections. In such a case, poverty contributes to the election of some leaders who would not have been elected were it not for prevailing poverty in society. Addressing any form of crimes and offences will require the government and other stakeholders to put in place poverty alleviation programmes and measures (TIK, 2013).



Figure 12 - A poverty stricken slum area in Nairobi, Kenya

Unemployment among the youth was found to be one of the key factors contributing to election crimes and offences. This finding is consistent with the assertion by Miller (2013) who has indicated that unemployed youth are a prey of most politicians. This youth occupies the largest proportion of the population and is mostly idle. Any enticement with benefits from politicians would drive them to engage in unacceptable behavior to gain from their masters. Some unemployed youth has been hired as gangs to attack and disrupt campaign of political opponents. The finding therefore calls for youth empowerment programmes (SRIC, 2012).

Illiteracy among the electorate was found to be a factor contributing to election offences and crimes in all counties. It however featured more prominently in Bomet (29.7%), Kakamega (27.8%) and Isiolo (27.5%) counties. Lema (2013) and Khan (2013) indicate that illiteracy is a factor which contributes to election offences. The inability of some voters to read and write has been abused by some political agents and unscrupulous election officials who misdirect the voters into voting candidates not of their (voters) choice. In other areas, the voters are guided into making mistakes in the ballot paper so that some candidates lose through the ballots. The government's commitment in the Education For All (EFA) is a step towards the right direction in addressing problems such as election crimes and offences. Appropriate civic education programmes for the electorate are equally important as a short term intervention during election period.

Incitement and use of abusive and derogatory statements by politicians was reported in all counties as a factor contributing to election offences and crimes in Kenya. However, it was reported by more respondents in Bomet (25.0%), Nairobi (22.4%) and Kisumu (18.9%). Kaberia and Musau (2013) have shown that the use of derogatory language in election campaign rallies has helped to fuel election offences and crimes such as violence and fighting. Therefore, incitement and use of abusive and derogatory statements by politicians is a factor that needs to be addressed. The sensitization and prosecution of politicians to avoid

hate speech and inciting people to violence and other crimes needs to be stepped up because this will significantly reduce the offence of hate speech which was third in prevalence.



Figure 13 - A politician in the dock in a Kenyan Law Court over alleged incitement statements

Corruption in politics was a factor contributing to election offences and crimes in all counties. It was however reported by most respondents in Kakamega (30.6%), Garissa (27.6%) and Siaya (26.9%) counties. Corruption in politics affects the credibility of elections. Bribery of voters makes them unable to decide independently in electing their leaders. The abuse of office of wayward election officials who for example manipulate results change the will of the people and contribute to the election of poor leaders leading to poor governance. The procurement of sub-standard and dysfunctional electronic election equipment through corrupt deals could be a recipe for court battles as losers file unnecessarily expensive petitions (Agoya, 2013; TIK, 2013).

Drug and substance abuse was reported to be a factor contributing to election offences and crimes in all counties except Garissa and Tana River. However, this finding was contradictory because the two areas are known for Miraa (Khat) use and abuse. Counties that were leading in the factor were Narok (29.9%), Mombasa (22.0%) and Nairobi (19.7%). Bhang has been confiscated in Narok region in many instances on its way from Isebania border in Migori County to Nairobi. Mombasa is a hub for hard drugs with huge consignments being seized and hosting many youth who are injecting drug users. Drug and substance abuse leads to other crimes and offences. Intoxicated youth may end up being rowdy and disturb what would otherwise have been peaceful political rallies and campaigns. Their violent behavior could turn injurious to life and property (CAPF, 2008).



Figures 14 – Kenyan Police Officers carry away a drunken youth after he attempted to disrupt elections

Selfishness of some political leaders who seek to protect their own interests contributes to election crimes and offences. This factor was reported in all counties except in Isiolo and Kwale. It was reported prominently in Narok (29.9%), Garissa (27.6%) and Tana River (15.5%). Driven by selfishness, some leaders who have lost elections refuse to concede defeat and incite their supporters into violence in their efforts to clinch or remain in political power (TIK, 2013).



Figure 15 - Peaceful election initiative urging acceptance of final election outcomes in Kenya

Election crimes and offences can also be precipitated by the lack of proper civic education and public awareness on civil rights (Khan, 2013). Lack of proper civic education and public awareness on civil rights was a factor contributing to election offences and crimes in all counties except in Kirinyaga and Uasin Gishu (Eldoret). Counties that were leading in this factor were Siaya (15.4%), Kakamega (15.3%) and Bomet (14.1%). This finding related to the finding which showed that illiteracy among the electorate was a prominent factor contributing to election crimes and offences in Bomet (29.7%) and Kakamega (27.8%) counties. Some civic education has been wrongly packaged and ended up being equated to

campaigning for some candidates at the expense of others. It has also led to undue influence of supporters. A public that is not aware of its civil rights is not able to prevent election crimes and offences therefore contributing to continued perpetration of the crimes and offences. However, an informed electorate is able to make the right choices and shape its political destiny.

The findings of this study showed that the use of cash money in campaigns contributes to election offences. Use of cash money in campaigns was reported in all counties except in Uasin Gishu (Eldoret) and Kakamega. This could be interpreted to mean that respondents in the areas did not see it as a problem in as far as election crimes and offences were concerned. However, counties that were leading in the reporting of the use of cash money in campaigns as a factor contributing to election crimes and offences were Kisumu (18.9%), Bomet (17.2%) and Narok (13.4%). Supporters of some politicians have fought one another during sharing of cash money given to them. Some politicians give money to voters to surrender before elections (to agents of the politicians) their Voters Cards and National Identity Cards in areas dominated by opponents (CAPF, 2008).

Poor electoral process contributes to election crimes and offences. This factor was reported in all counties except in Laikipia, Kakamega, Kwale and Narok. Kisumu (22.6%), Nakuru (11.0%) and Migori (9.8%) were the leading counties in the factor. Poorly conducted voter registration could lead to double registration and voting which are election offences. Election officials who are not properly trained may mismanage elections by committing many election errors (such as wrong entries in different election forms) which make results contestable. Reforms in and facilitation of the electoral process are inevitable if the electoral body is to continue delivering credible elections (UNDP Kenya, 2013).



Figure 16 – Kenyans registering as voters for a political election

Political fanaticism was a factor contributing to election crimes and offences in all counties except in Laikipia, Nakuru and Mombasa. However, the counties that were leading in this factor were Narok (17.9%), Garissa (12.1%) and Bomet (9.4%). Credible and democratic

elections are a result of objective decision making and reasoning on the part of the voter. However, some politicians propagate ideologies which make some supporters fanatical in their support for the concerned politicians. This has led to the irrational endorsement of some leaders (and sometimes tribal leaders) who do not meet the threshold of good leadership (SRIC, 2012).

Competition for resources such as land and finances could lead to election crimes and offences. Competition for resources was a factor responsible for election crimes and offences in 13 counties but the leading counties were Nakuru (19.2%), Narok (13.4%) and Tana River (6.9%). Respondents in Kirinyaga, Laikipia, Kitui, Kisumu, Kakamega, Uasin Gishu (Eldoret) and Garissa did not report it to be one of the factors. Political power influences economic opportunities. Therefore, some people would go to extents of using illegal means (such as eliminating opponents) to clinch political power. Competition for land resources have been blamed for leadership conflicts in some areas of North Eastern Kenya (Commonwealth Secretariat, 2013; TJRC, 2013).



Figure 17 - Competition for resources as a factor in election crimes and offences

Insecurity in some parts of the country coupled with inadequate national security apparatus poses serious challenges of monitoring elections in these areas making it easy for commission of election offences by different perpetrators. Insecurity and inadequate national security apparatus was a factor contributing to election crimes and offences in all counties except in Kitui, Nakuru and Migori. Counties that were leading in the factor were Siaya (7.7%), Kisumu (7.5%) and Tana River (6.9%). These findings were interesting to note in that the other counties which would have been leading were Garissa, Isiolo, Marsabit and Mombasa because they experienced incidents of insecurity very frequently. The implication of these findings is that solving insecurity in the latter counties as a measure towards solving election crimes and offences may not be a priority. Police Officers and election officials managing elections have been killed and grenades hurled into Tallying Centres by criminals. This finding is important because it highlights the need to adequately facilitate security organs in the country (IEBC, 2014).

Some areas and communities in Kenya have felt disadvantaged due to the unequal distribution of national resources (TJRC, 2013). One such resource is land which makes some people fight for political power to be able to correct injustices in the distribution of the resource. When other communities dominate most political positions, the disadvantaged lot could protest in many ways including physical attacks on the dominant groups. Unequal distribution of national resources (land being one of them) was a factor contributing to election crimes and offences in 11 counties. The leading counties in this factor were Mombasa (15.3%), Isiolo (11.8%) and Kwale (10.1%). A Key Informant in Golini Location, Matuga Division in Kwale County observed as follows:

“People here in Coast especially in Mombasa, Kwale and Lamu say that they are landless because their land has been acquired by people from upcountry. Very few residents of this region occupy senior positions in government. MRC members do not want people to vote because they are against this unequal distribution of national resources and alienation of resources in their region (21/3/2013)”

Equitable distribution of national resources in all counties could therefore assist in addressing election woos in Kenya.

Perceptions of a stolen election as a factor contributing to election crimes and offences was reported in 13 counties. Counties that were leading in this factor were Kericho (8.6%), Nairobi (6.6%) and Kisumu (5.7%). For example, there was an Election Petition 1 of 2013 filed in Kisumu between Jared Okello versus IEBC and 3 others. In Nairobi, Mr. Fredrick Waitutu challenged the election of Governor Evans Kidero. In Kericho, one of the petitions was for Nicholas Arap Salat versus IEBC and 7 others. The petitioners believed that their victory had been stolen (Omwenga, 2013).



Figure 18 -Voters cast their ballots in Kibera, Nairobi during the March 4, 2013 General Elections

Despite the laws to govern elections being in place, some politicians disobey the laws with impunity. The electorate may resort to taking the law into its hands when it feels that the political leadership in place is getting away with election offences in the judicial system.

Impunity among politicians was reported in all counties except in Isiolo to be a factor responsible for election crimes and offences in Kenya. Leading counties were Nairobi (6.6%), Kitui (4.2%), Siaya (3.8%) and Kisumu (3.8%). This explains why politicians were the main perpetrators of election crimes and offences in all counties yet they understood the laws governing elections. A reformed and impartial judicial system could help in addressing election crimes and offences (SRIC, 2012).

Of late, political offices have become very competitive because they are rewarding in terms of power, large pay and other benefits to the extent that they have become a lure to many people. The political arena has become crowded with many contestants who, in one way or the other must outdo opponents to satisfy their greed for the positions (IEBC, 2014). This finding is supported by observations of a Returning Officer of the IEBC in Nairobi who said:

“Most political aspirants in Kenya are greedy for power and this drives them to commit election offences. They take advantage of our vulnerable youths (especially males) who are unemployed and idle. These politicians engage in vote buying and incite the youth to cause chaos (20/2/2013)”

Poor governance (that is, the inability of a public institution to manage public affairs and public resources) is a recipe for election crimes and offences (Rotberg, 2003). Respondents in 12 counties reported that poor governance contributed to election crimes and offences. However, the counties that were leading were Mombasa (6.8%), Siaya (5.8%) and Narok (4.5%). Good governance requires that institutions foster partnerships and share ways to promote participation, accountability and effectiveness at all levels. While one player might do their part in ensuring that elections are free from crimes and offences, if this is not shared among other partners, the good efforts could easily be negated. The formation of an Inter-agency Committee on Investigations and Prosecution of Electoral Offences was a move in the positive direction (Munuhe, 2012).



Figure 19 – Kenya’s Chief Justice Dr. Willy Mutunga launching Governance and Human Rights Programme that promotes justice and democracy

The study established that Government interference in local politics was not a major factor contributing to election crimes and offences in most counties. It was reported by a few respondents in Migori, Siaya, Kisumu and Kwale. Gender discrimination was found to be a minor factor as it was only reported in Tana River, Uasin Gishu (Eldoret) and Narok counties. This was an indication that the Government was committed to free and fair elections. This finding tied with other findings on measures to control election crimes and offences where most of the measures were found to be government-driven and supported. Gender discrimination was found to be a minor factor contributing to election crimes and offences. This finding was important because it helped to confirm Government's commitment and affirmative action on gender equality and non-discrimination. Issues of gender equality have been mainstreamed in a number of public affairs (TIK, 2013).

3.6 Effects of Election Crimes and Offences

This study sought to establish the effects of election crimes and offences. From the results shown in Table 3.8 below, the most common effects were: loss and injury of human life through physical injury, trauma, sickness and deaths of people (33.2%); destruction and/or loss of property (30.9%); violence, disturbed peace, fear and tension among people including voters (26.3%); ethnic tensions and animosity/hatred/enmity (23.8%); poor leadership and governance when wrong leaders are elected (23.0%); interruption of businesses (21.4%); forced migration, evictions and/or displacement of populations (20.6%); and poverty and hunger. The least common effects were lack of support to elected leaders (0.9%) and damage of infrastructure (0.4%).

Table 3.8 Effects of election crimes and offences

Effects of election crimes and offences	Frequency	Percentage
Loss and injury of human life	406	33.2
Destruction and/or loss of property	377	30.9
Violence, disturbed peace and fear among people	321	26.3
Ethnic tensions and animosity/hatred/enmity	291	23.8
Poor leadership and governance	281	23.0
Interruption of businesses	262	21.4
Forced migration, evictions and/or displacement of populations	252	20.6
Poverty and hunger	121	9.9
Increased criminal activities and insecurity (e.g, rape cases)	91	7.4
Loss of faith in electoral process leading to voter apathy and not voting	66	5.4
High cost of living	47	3.8
Psycho-social problems (e.g, emotional torture)	44	3.6
Disrupted education programmes	43	3.5
Hatred among politicians	38	3.1
Lack of trust and confidence in leaders	35	2.9
Unemployment	29	2.4
Civil/political rights violations	24	2.0
Loss of land	15	1.2
Lack of support to elected leaders	11	0.9
Damage to infrastructure	5	0.4

Some people have been physically injured during election violence. Members of public and especially supporters of politicians and political parties have been killed following clashes between opponents. For instance, 19 people were killed during the March 4, 2013 General Elections. Four policemen were hacked to death by machete-wielding MRC separatists while police retaliated and shot dead some suspected members of the group in Mombasa during the March 4, 2013 General Elections (The Associated Press, 2013). In many instances, the families of those injured or killed suffer from psychological trauma (OHCHR, 2008). One Key Informant who was a security officer in Narok County observed:

“This year’s elections are very delicate. An aspirant was attacked this week and seriously injured by a criminal group. The aspirant managed to grab one of the men and shouted until people came to his rescue. The rest of the hit men managed to escape. The captured man revealed that they were hired from Nakuru to come and kill this particular aspirant because he appeared to be a strong candidate. The group is being pursued (22/2/2013)”

This statement brings to fore the reality of the effects of election crimes and offences on lives of politicians, their supporters and the general public. Security agencies should therefore put in sound measures to minimize incidents of injuries and loss of lives occurring as a result of election offences.



Figure 20 -MRC group member shot dead in Mishomoroni, Mombasa on March 4, 2013 after the group attempted to disrupt elections

IFES (2012) confirms that election crimes and offences affect the economy in profound ways. Destruction and/or loss of property have occurred as a result of election crimes and offences. Houses may be razed down, vehicles may be burnt and cash stolen during election conflicts. A case in point was the burning of a vehicle of one of the aspirants by supporters of an opponent in Kakamega County during the 2013 General Elections. The aspirant challenged the elections on this basis. As noted by one male respondent aged 37 years and living in Kakamega County; *“Imagine, youth following of one aspirant burnt the vehicle of*

their opponent just before elections. This was so bad and should not have happened had police acted in good time (22/2/2013)". Addressing election offences will therefore help in preventing loss and destruction of property.



Figure 21 – Property razed down during a General Election in Kenya

Businesses may be closed or interrupted, property may be stolen or destroyed by agitated or excited supporters of political candidates, and farms could be left unattended leading to hunger in the event of movement of populations and violence emanating from elections (Guibert and Perez-Quiros, 2012). On effects of election offences in the economy, the following was a comment from a Police Officer in Bomet County:

“A long time friend mechanic who is not from the ethnic groups around and who operates here in Bomet town near the main road as you leave Bomet towards Sotik has temporarily closed his business and forced to leave the town because of rumours of incitements going round that his community is being targeted for eviction for not supporting the predominant party in this area (21/2/2013)”

Another sample respondent who was a Motor Cycle dealer in Mulot trading Centre in Bomet County observed:

“I have been keeping in this store more than 20 motor cycles of different models with a stock value of about 1.5 Million Kenya Shillings every day until last month because bodaboda (motor cycle transport) business is good here. However, I was forced to scale down the number to 5 because I feared looting of the same during the elections. My customers got frustrated when they realized my stock was dwindling and I fear the customers will soon leave me (07/03/2013)”

These statements indicate that election crimes and offences have serious negative economic effects in Kenya. The findings emphasize the need to address election crimes and offences.

Election crimes and offences could breed violence, disturb peace and cause fear among people (voters included). Supporters of aggrieved candidates may decide to revenge by unleashing violence on their opponents. In such instances, targeted people live under fear and are not able to go about their normal business in a peaceful environment. The offences could also lead to ethnic/tribal and clan hatred and tensions (OHCHR, 2008). This is clearly captured in the statements of a Field Manager with SAFI Trust in Laikipia County when the official said:

“Election offences are sometimes responsible for the violence we blame our youth for. Some politicians who are selfish or who refuse to concede defeat incite their supporters who are mostly youth to cause violence as revenge for being rigged out of elections or for losing. These incidents are rare in Laikipia but I have heard of them in other counties in Nyanza. Hatred between different tribes and clans like what happened in parts of Rift Valley in 2007/08 and what we see in Moyale, poverty as a result of looting of property and deaths are other serious effects that need to be addressed by way of good elections (13/3/2013)”

There is therefore need to ensure that election crimes and offences are addressed because they breed other social problems in society.



Figure 22 - IDP Camp tents arising from contested elections in Kenya

Election crimes and offences have negative effects on education. School programmes may be interrupted as a result of movement of pupils and teachers from areas feared to experience

fighting between different ethnic groups during elections (GoK, 2008). Teachers also apply to become Presiding and Deputy Presiding Officers. In case violence erupts in polling venues and they are injured, this could also interrupt education. Stakeholders in the election issue need to keep in mind the negative effects of election crimes and offences in the realization of the Government's commitment towards universal education and Education For All (EFA).



Figure 23 - Effects of election crimes and offences on education

Political leaders who are elected through elections riddled with offences and crimes contribute to poor leadership and governance of a country (Santolan, 2013). This could also have the multiple effect of lack of trust and confidence on the leaders and consequently, lack of support to these elected leaders. As articulated in the words of a Returning Officer of the IEBC in Nairobi;

“In elections that are riddled with election crimes and offences, democracy is subverted and people may also become hostile to those in authority and institutions involved in elections such as IEBC and Provincial Administration. This time IEBC was extra keen on such issues though not without challenges and isolated cases of election offences committed by different players in the election game in several parts of the country (13/3/2013)”

However, this study found out that lack of support to elected leaders was not a major effect of election crimes and offences. This finding implies that any public participation awareness programmes on control of election crimes and offences need to remind people on the impact of the crimes and offences on leadership and governance. Generally, these findings are

significant because they highlight the contribution of offence-free elections in the good leadership and smooth governance of a country (TIK, 2013).

This study found that damage to infrastructure (such as smashing and setting vehicles and buildings on fire, cutting of roads by digging trenches and removing rail lines) was not a major effect of election crimes and offences. This finding suggested that people had learnt the importance of safeguarding infrastructure after the experience of the 2007/08 elections when wanton destruction and damage to infrastructure was witnessed (GoK, 2008).

3.7 Election Crimes and Offences Control Measures

3.7.1 Existence of election crimes and offences control measures

This study sought to establish respondents' awareness of the existence of election crimes and offences control measures in the counties of the study. The respondents were asked to indicate their responses with either a 'Yes', 'No' or 'I don't know'. From the results, the majority (95.3%) of the respondents were aware, 1.7% were not aware while 2.9% did not know as shown in Figure 24 below.

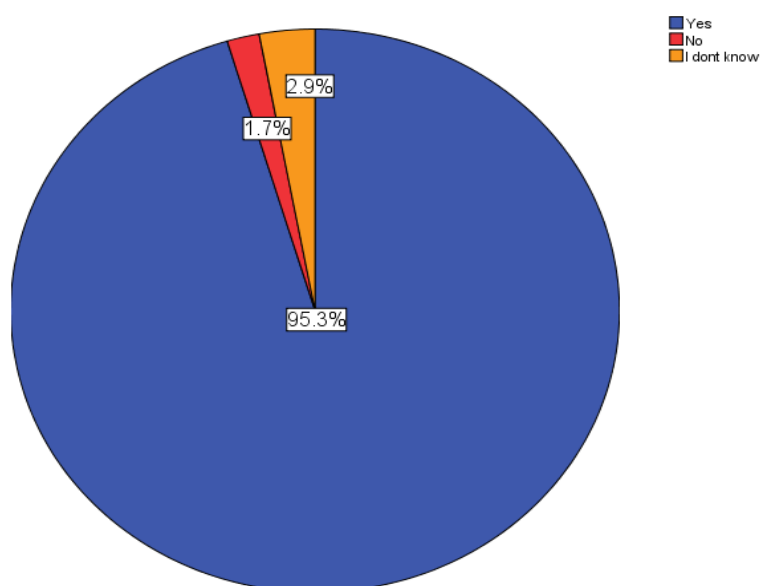


Figure 24- Awareness of the existence of control measures

The above finding was important because it implied that awareness of the control measures was high, pointing to a possibility of interaction of members of the public with some of the control measures.

Awareness of the existence of election crimes and offences control measures was cross-tabulated with counties of the study. As shown in Table 3.9 below, the majority of the respondents in all the counties were aware of the existence of measures to control election crimes and offences. All the respondents in Nakuru, Kericho, Migori, Siaya and Kwale were aware of the existence of election crimes and offences control measures. This suggested that the residents of these counties were keen on matters of election crimes and offences.

Table 3.9 Cross-tab of county and awareness of control measures

County	Yes	No	I don't know	Total Frequency and Percentage of the total Sample
Nairobi	75 (98.7%)	1 (1.3%)	0 (0.0%)	76 (100.0%)
Kirinyaga	52 (83.9%)	0 (0.0%)	10 (16.1%)	62 (100.0%)
Laikipia	50 (96.2%)	0 (0.0%)	2 (3.8%)	52 (100.0%)
Kitui	71 (98.6%)	0 (0.0%)	1 (1.4%)	72 (100.0%)
Nakuru	73 (100.0%)	0 (0.0%)	0 (0.0%)	73 (100.0%)
Kericho	58 (100.0%)	0 (0.0%)	0 (0.0%)	58 (100.0%)
Migori	51 (100.0%)	0 (0.0%)	0 (0.0%)	51 (100.0%)
Siaya	52 (100.0%)	0 (0.0%)	0 (0.0%)	52 (100.0%)
Kisumu	47 (88.7%)	3 (5.7%)	3 (5.7%)	53 (100.0%)
Kakamega	71 (98.6%)	0 (0.0%)	1 (1.4%)	72 (100.0%)
Bungoma	57 (96.6%)	1(1.7%)	1 (1.7%)	59 (100.0%)
Mombasa	56 (94.9%)	0 (0.0%)	3 (5.1%)	59 (100.0%)
Kwale	69 (100.0%)	0 (0.0%)	0 (0.0%)	69 (100.0%)
Tana River	52 (89.7%)	0 (0.0%)	6 (10.3%)	58 (100.0%)
Marsabit	44 (83.0%)	8 (15.1%)	1 (1.9%)	53 (100.0%)
Isiolo	49 (96.1%)	0 (0.0%)	2 (3.9%)	51 (100.0%)
Uasin Gishu (Eldoret)	61 (96.8%)	0 (0.0%)	2 (3.2%)	63 (100.0%)
Bomet	63 (98.4%)	0 (0.0%)	1 (1.6%)	64 (100.0%)
Narok	62 (92.5%)	4 (6.0%)	1 (1.5%)	67 (100.0%)
Garissa	52 (89.7%)	4 (6.9%)	2 (3.4%)	58 (100.0%)
Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)

Awareness of the existence of election crimes and offences control measures was further cross-tabulated with socio-demographic characteristics as shown in Table 3.10 below. In all the age groups, those aged 26-33 years were found to be more aware than the rest followed by those aged 34-41 years. These two groups fall within the youthful age bracket associated with aggressiveness in seeking for and keeping abreast with information touching on their lives. Youth empowerment programmes have also targeted these age categories.

Those who are married were found to be more aware than the others. This could be attributed to the sharing of information between spouses within the family setting.

Respondents who had attained Secondary school level education were found to be more aware than the rest. This is explained by the fact that most Kenyans belong to this education category. As shown in Table 3.10 below, most (45.4%) of respondents with University and Middle Level College education combined were aware of election crimes and offences control measures. This could be interpreted that those with higher education are more aware and knowledgeable on issues of election crimes and offences. The implication of this finding is that emphasis needs to be put on secondary and higher education if the level of awareness of citizens on issues affecting them is to be improved.

Respondents who had stayed in the localities of the study for more than 13 years were found to be more aware of the existence of election crimes and offences control measures. The

reason for this could be because of their experience and interaction with election issues in previous General Elections.

Majority of respondents who were registered voters for the 2013 General Elections were also aware of control measures implying a direct relationship between awareness and voter registration status.

Table 3.10 Cross-tab of awareness of control measures and socio-demographic variables

Variable	Category	Yes	No	I don't know	Total
Age	18-25	241 (20.7%)	1 (4.8%)	5 (13.9%)	247 (20.2%)
	26-33	332 (28.5%)	6 (28.6%)	9 (25.0%)	347 (28.4%)
	34-41	254 (21.8%)	7 (33.3%)	7 (19.4%)	268 (21.9%)
	42-49	185 (15.9%)	5 (23.8%)	6 (16.7%)	196 (16.0%)
	50-57	95 (8.2%)	2 (9.5%)	5 (13.9%)	102 (8.3%)
	58-65	29 (2.5%)	0 (0.0%)	1 (2.8%)	30 (2.5%)
	66-73	20 (1.7%)	0 (0.0%)	2 (5.6%)	22 (1.8%)
	74 and above	9 (0.8%)	0 (0.0%)	1 (2.8%)	10 (0.8%)
	Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)
Marital Status	Single	343 (29.4%)	4 (19.0%)	11 (30.6%)	358 (29.3%)
	Married	750 (64.4%)	16 (76.2%)	23 (63.9%)	789 (64.6%)
	Divorced	19 (1.6%)	1 (4.8%)	0 (0.0%)	20 (1.6%)
	Separated	25 (2.1%)	0 (0.0%)	0 (0.0%)	25 (2.0%)
	Widowed	28 (2.4%)	0 (0.0%)	2 (5.6%)	30 (2.5%)
	Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)
Highest Level of Education	None	48 (4.1%)	2 (9.5%)	6 (16.7%)	56 (4.6%)
	Primary	173 (14.8%)	1 (4.8%)	9 (25.0%)	183 (15.0%)
	Secondary	403 (34.6%)	8 (38.1%)	13 (36.1%)	424 (34.7%)
	Middle Level College	318 (27.3%)	5 (23.8%)	4 (11.1%)	327 (26.8%)
	University	211 (18.1%)	3 (14.3%)	3 (8.3%)	217 (17.8%)
	Adult literacy	12 (1.0%)	2 (9.5%)	1 (2.8%)	15 (1.2%)
	Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)
Length of stay in the locality	Below 1 year	50 (4.3%)	0 (0.0%)	1 (2.8%)	51 (4.2%)
	1-3 Years	173 (14.8%)	9 (42.9%)	1 (2.8%)	183 (15.0%)
	4-6 Years	129 (11.1%)	0 (0.0%)	4 (11.1%)	133 (10.9%)
	7-9 Years	63 (5.4%)	1 (4.8%)	2 (5.6%)	66 (5.4%)
	10-12 Years	121 (10.4%)	1 (4.8%)	1 (2.8%)	123 (10.1%)
	13+	629 (54.0%)	10 (47.6%)	27 (75.0%)	666 (54.5%)
	Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)
Voter Registration Status	Registered as a voter	1101 (94.5%)	21 (100.0%)	30 (83.3%)	1152 (94.3%)
	Not registered as a voter	64 (5.5%)	0 (0.0%)	6 (16.7%)	70 (5.7%)
	Total	1165 (95.3%)	21 (1.7%)	36 (2.9%)	1222 (100.0%)

The above findings suggest that agencies concerned with the management of elections and crimes and offences were making some deliberate efforts to address election crimes and offences. These efforts were visible to members of the public and hence the reason why most respondents indicated that they were aware of the control measures.

3.7.2 Election crimes and offences control measures

A number of measures aimed at controlling election crimes and offences were established. As indicated in Figure 25 below, the most common measures were: civic education conducted by IEBC and Civil Society Organizations (CSOs) reported by 30.5% of the respondents; deployment of security personnel and patrols during election period (27.5%); peace, national unity and anti-election crimes and offences campaigns conducted for example, by the media and religious organizations (27.0%); and enforcement of applicable laws such as the Election Act No. 24 of 2011, Public Order Act 10 Cap 56 Laws of Kenya and National Cohesion and Integration Act No. 12 of 2008 (20.8%). Other measures included: IEBC Code of Conduct which emphasizes on the conduct of free, fair and transparent elections; employment of the youth; implementation of the Constitution; use of electronic voting equipment; proper selection and training of election officials; establishment of the Truth, Justice and Reconciliation Commission (TJRC) and the National Cohesion and Integration Commission (NCIC); intelligence gathering; deployment of election observers for monitoring; deployment of party agents in polling stations and increased number of Voting and Registration Centres. The last three were the least common measures.

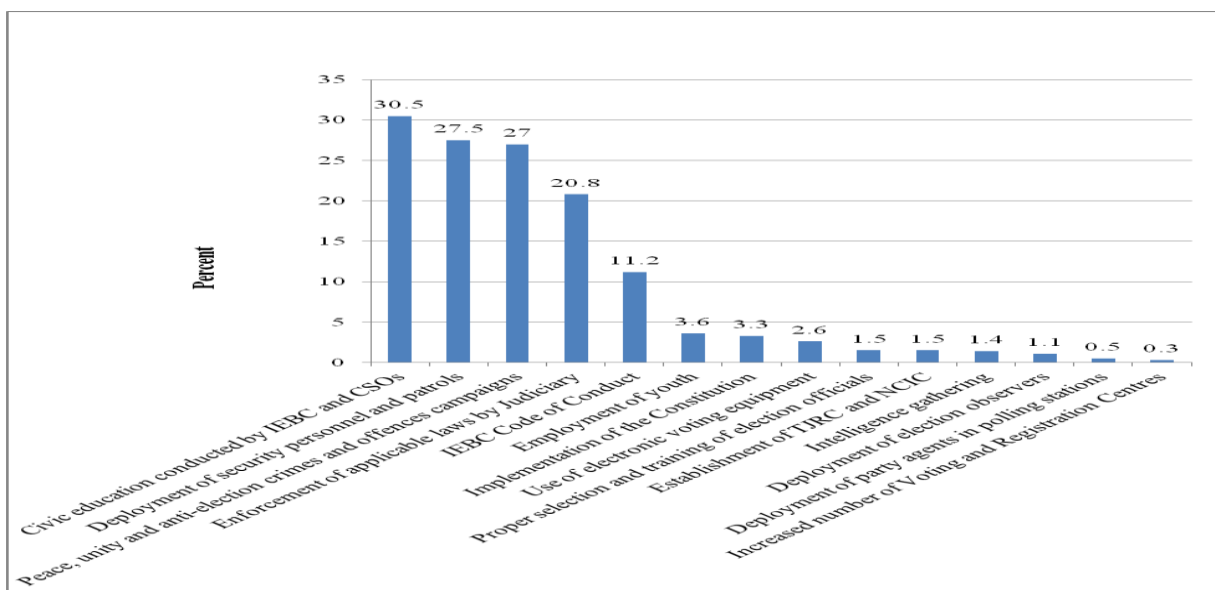


Figure 25 - Election crimes and offences control measures

The election crimes and offences control measures were further analyzed as per county as indicated in Table 3.11 below. Control measures such as civic education conducted by IEBC and CSOs; deployment of security personnel and patrols; peace, national unity and anti-election crimes and offences campaigns; and IEBC Code of Conduct were reported in all counties thus confirming that they were the main control measures. Enforcement of applicable laws by Judiciary was reported in 19 counties thus confirming it was also a key control measure.

Table 3.11 Election crimes and offences control measures as per county

Election crimes and offences Control measures	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Civic education conducted by IEBC and CSOs	28.9	19.4	13.5	16.7	27.4	50.0	29.4	53.8	32.1	29.2	44.1	18.6	23.2	29.3	15.1	37.3	14.3	50.0	16.4	39.7
Deployment of security personnel and patrols	38.2	40.3	34.6	33.3	13.7	15.5	15.7	11.5	18.9	9.7	32.2	49.2	39.1	24.1	24.5	25.5	25.4	39.1	16.4	12.1
Peace, national unity and anti-election crimes and offences campaigns	26.3	6.5	17.3	34.7	16.4	24.1	17.6	30.8	32.1	18.1	22.0	37.3	24.6	24.1	9.4	25.5	23.8	23.4	64.2	20.7
Enforcement of applicable laws by Judiciary	28.9	17.7	28.8	18.1	16.4	12.1	9.8	42.3	22.6	37.5	23.7	8.5	5.8	8.6	13.2	35.3	23.8	0.0	4.5	17.2
IEBC Code of Conduct	9.2	6.5	9.6	13.9	9.6	5.2	19.6	21.2	24.5	5.6	11.9	8.5	5.8	15.5	7.5	7.8	12.7	10.9	10.4	1.7
Employment of youth	1.3	6.5	15.4	0.0	2.7	3.4	2.0	0.0	0.0	1.4	5.1	3.4	1.4	1.7	1.9	3.9	0.0	4.7	14.9	0.0
Implementation of the Constitution	14.5	1.6	0.0	1.4	1.4	3.4	0.0	1.9	0.0	6.9	0.0	0.0	0.0	0.0	0.0	2.0	3.2	3.1	1.5	17.2
Use of electronic voting equipment	1.3	0.0	3.8	1.4	1.4	5.2	9.8	5	1.9	0.0	0.0	0.0	0.0	0.0	1.9	5.9	0.0	3.1	1.5	5.2
Proper selection and training of election officials	1.3	1.6	0.0	2.8	2.7	1.7	2.0	5.8	5.7	0.0	0.0	0.0	0.0	3.4	0.0	0.0	0.0	3.1	0.0	0.0
Establishment of TJRC and NCIC	1.3	0.0	0.0	1.4	1.4	3.4	2.0	1.9	0.0	0.0	6.8	1.7	0.0	1.7	0.0	2.0	1.6	0.0	0.0	3.4
Intelligence gathering	3.9	0.0	0.0	0.0	0.0	1.7	0.0	1.9	1.9	0.0	3.4	0.0	4.3	1.7	1.9	3.9	0.0	1.6	0.0	0.0
Deployment of election observers	1.3	0.0	0.0	1.4	0.0	3.4	0.0	0.0	1.9	0.0	0.0	3.4	1.4	0.0	3.8	2.0	1.6	1.6	0.0	0.0
Deployment of party agents in polling stations	0.0	1.6	1.9	0.0	0.0	0.0	0.0	0.0	1.9	1.4	0.0	0.0	0.0	0.0	0.0	2.0	0.0	1.6	0.0	0.0
Increased number of Voting and Registration Centres	0.0	0.0	0.0	0.0	0.0	0.0	2.0	3.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

The findings of sample respondents on control measures were reinforced by those of Key Informants. An officer of the Interior and Coordination of National Government in Marsabit town, Marsabit County said:

“There were no taking chances with regard to preventing election offences and other crimes associated with election period. First and foremost, a lot of civic education was conducted by several public and civil society organizations. Secondly, we emphasized on serious alertness, patrols and vigilance by our security officers (15/3/2013)”

A Police Officer in Tana Delta, Tana River County said:

“The Government has deployed adequate security personnel within the Constituency. These officers are drawn from General Service, Special Administration Police Unit and Regular Police. NGOs are engaged in resettlement of Internally Displaced Persons, those who were affected by the Orma-Pokomo conflicts. The District Commissioner’s office and the Network of NGOs are fostering peace building initiatives among the warring communities. Generally, I think these measures are effective in addressing the problem but more needs to be done (11/3/2013)”

These statements illustrate deliberate efforts by different stakeholders in addressing election crimes and offences.

This study established that civic education conducted by IEBC and CSOs was the major control measure in Siaya (53.8%), Kericho (50.0%), Bomet (50.0%) and Bungoma (44.1%) counties. The same counties were also leading other counties in this control measure suggesting that these areas were unique in some ways with regard to election issue. These findings were related with other findings in numerous ways. For example, some of these counties were leading in bribery offences, illiteracy among the electorate and lack of proper civic education and public awareness on civil rights. Civic education on election issues raises the awareness of people about their political rights and obligations therefore helping to shape their thinking and actions especially on matters of control of election crimes and offences. The finding that civic education was conducted by IEBC and Civil Society Organizations is vital because it emphasizes on the importance of public-private partnership and multi-stakeholder participation and inclusiveness in addressing societal problems (IEBC, 2014).

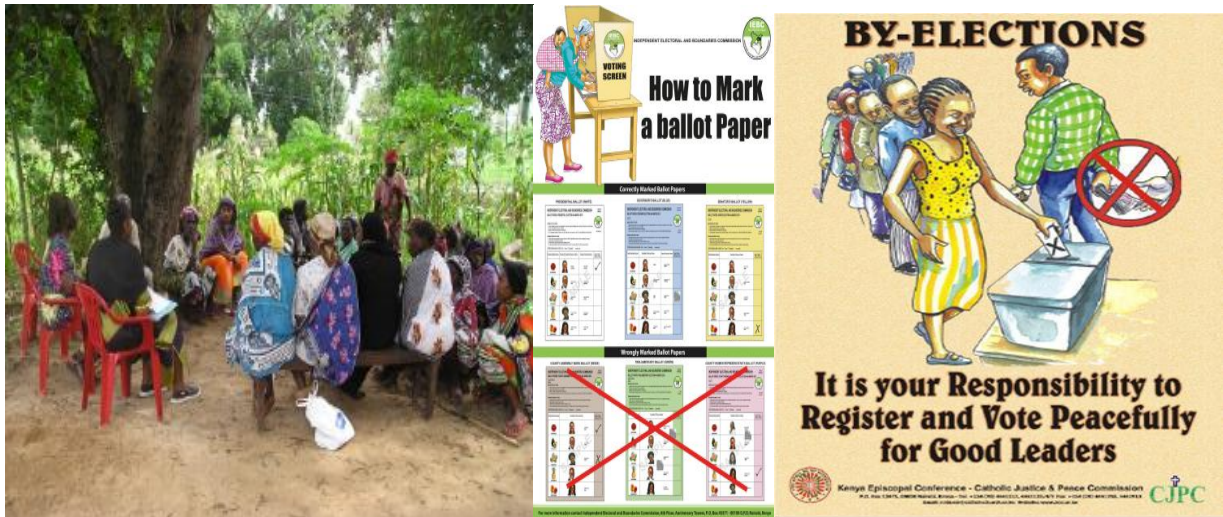


Figure 26 - Civic Education Initiatives during the 2013 General Elections period

With regard to deployment of security personnel and patrols, counties that were leading in this factor were Mombasa (49.2%), Kirinyaga (40.3%), Kwale (39.1%) and Bomet (39.1%). This finding is related to earlier reports which had identified these counties (apart from Kirinyaga) as potential hotspots during the 2013 elections. Mombasa, Kirinyaga and Kwale have experienced incidents of criminal gang activities in the recent past. The maintenance of law and order is a security function and therefore, the control of any form of crime and offence is majorly a docket of security agencies in a country. This explains why deployment of security agencies was among the key control measures. The 2007/08 elections were riddled with widespread violence and crime which left many people killed and others displaced, with security agencies being partly blamed for not taking stern measures to curb the violence and other crimes. The finding is therefore important because it showed that security agencies had in the 2013 elections taken a more pro-active role in dealing with election crime and offences. The finding relates with other findings which showed that the election offence of unjustified use of national security organs was minimal and that security agencies were among the key players addressing election crimes and offences (IEBC, 2014).



Figure 27 – Uniformed Security Officers deployed at a Polling Station

The study found that peace, national unity and anti-election crimes and offences campaigns was a key control measure during the 2013 elections. Counties that were leading in this control measure were Narok (64.2%), Mombasa (37.3%) and Kitui (34.7%). These campaigns were conducted by different players who included the Media and Faith-based Organizations. The finding is important for it highlights the importance of national harmony and unity in the realization of good elections (Commonwealth Secretariat, 2013).

With regard to enforcement of applicable laws by Judiciary, counties that leading were Siaya (42.3%), Kakamega (37.5%) and Isiolo (35.3%). The Judiciary plays an important role of administering justice and arbitrating disputes through the enforcement of applicable laws. Following the 2013 elections, the Judiciary was able to handle 188 election petitions, some of which were as a result of election offences and malpractices. This finding emphasizes the need to adequately facilitate the institution to continue discharging this election function effectively (Commonwealth Secretariat, 2013; IEBC, 2014; Makabila, 2013).



Figure 28 - Supreme Court of Kenya Judges during ruling on the presidential election petition on March 30, 2013

The IEBC Code of Conduct was found to be an important control measure in addressing election crimes and offences. This was because the Code set of rules outlining the responsibilities of, and proper practices for an individual political aspirant, political party and organizations involved in elections. This finding is important for it showed that IEBC was committed in delivering free and fair elections devoid of offences and crime. The continued commission of election crimes and offences despite the availability of the Code of Conduct signified the level of impunity among the perpetrators of the crimes and offences. This finding also links with other findings which showed that election offences committed by staff and members of IEBC were minimal and also that IEBC was one of the key players addressing election offences (Makabila, 2013).

Deployment of party agents in polling stations was found to be an insignificant control measure. The offences and crimes were committed despite their deployment. This finding links with another finding which indicated that party agents were among the key perpetrators of election crimes and offences (CAPF, 2008; Lema, 2013).

The increase in the number of Voting and Registration Centres was found not to be a key measure for controlling election crimes and offences. This was possibly true because there were no reported crimes and offences that were closely linked to the number of voting and registration venues.



Figure 29 – Some Registration/Polling Stations in Kericho County

In general, key control measures were those instituted by government-related agencies. The overall conclusion of the above findings was that the government in general was proactive and in the forefront in addressing election crimes and offences in Kenya thus signifying its commitment to addressing the crimes and offences (IEBC, 2014).

3.7.3 Effectiveness of election crimes and offences control measures

All the respondents were asked to rate the election crimes and offences control measures in terms of effectiveness. From the results shown in Figure 30 below, election crimes and offences control measures were generally effective as was reported by the majority (54.3%) of the respondents. However, 41.1% said the measures were generally not effective, 2.9% did not know how effective the measures were (since they did not know in the first place if there were existing control measures) and 1.7% said that the question did not apply since they had earlier reported that there were no control measures and therefore they could not rate what was not existing.

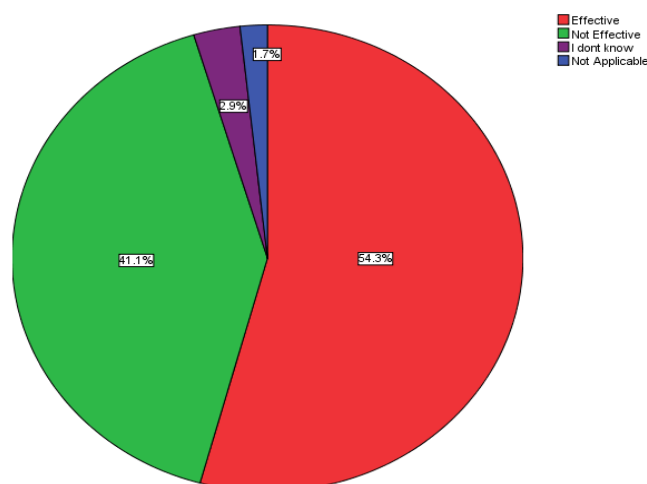


Figure 30 - Effectiveness of control measures

The finding that the control measures were generally effective showed a positive rating of the measures by members of public and hence general satisfaction with the measures. However, crime is a serious problem and therefore the rate of ineffectiveness of the measures (41.1%) was high and should be addressed with the correct interventions.

The variable on effectiveness of election crimes and offences control measures was further cross-tabulated with that of county. The results in Table 3.12 and Figure 31 below indicated that election crimes and offences control measures in 70.0% of the counties studied (that is, 14 counties) were generally effective.

Table 3.12 Cross-tab of county and effectiveness of control measures

County	Frequency and Percentage				Total Frequency and Percentage
	Effective	Not Effective	I don't know	Not Applicable	
Nairobi	38 (50.0%)	37 (48.7%)	0 (0.0%)	1 (1.3%)	76 (100.0%)
Kirinyaga	37 (59.7%)	15 (24.2%)	10 (16.1%)	0 (0.0%)	62 (100.0%)
Laikipia	39 (75.0%)	11 (21.2%)	2 (3.8%)	0 (0.0%)	52 (100.0%)
Kitui	52 (72.2%)	19 (26.4%)	1 (1.4%)	0 (0.0%)	72 (100.0%)
Nakuru	41 (56.2%)	32 (43.8%)	0 (0.0%)	0 (0.0%)	73 (100.0%)
Kericho	44 (75.9%)	14 (24.1%)	0 (0.0%)	0 (0.0%)	58 (100.0%)
Migori	26 (51.0%)	25 (49.0%)	0 (0.0%)	0 (0.0%)	51 (100.0%)
Siaya	20 (38.5%)	32 (61.5%)	0 (0.0%)	0 (0.0%)	52 (100.0%)
Kisumu	15 (28.3%)	32 (60.4%)	3 (5.7%)	3 (5.7%)	53 (100.0%)
Kakamega	32 (44.4%)	39 (54.2%)	1 (1.4%)	0 (0.0%)	72 (100.0%)
Bungoma	32 (54.2%)	25 (42.4%)	1 (1.7%)	1 (1.7%)	59 (100.0%)
Mombasa	23 (39.0%)	33 (55.9%)	3 (5.1%)	0 (0.0%)	59 (100.0%)
Kwale	31 (44.9%)	38 (55.1%)	0 (0.0%)	0 (0.0%)	69 (100.0%)
Tana River	22 (37.9%)	30 (51.7%)	6 (10.3%)	0 (0.0%)	58 (100.0%)
Marsabit	24 (45.3%)	20 (37.7%)	1 (1.9%)	8 (15.1%)	53 (100.0%)
Isiolo	30 (58.8%)	19 (37.3%)	2 (3.9%)	0 (0.0%)	51 (100.0%)
Uasin Gishu (Eldoret)	42 (66.7%)	19 (30.2%)	2 (3.2%)	0 (0.0%)	63 (100.0%)
Bomet	36 (56.3%)	27 (42.2%)	1 (1.6%)	0 (0.0%)	64 (100.0%)
Narok	51 (76.1%)	11 (16.4%)	1 (1.5%)	4 (6.0%)	67 (100.0%)
Garissa	28 (48.3%)	24 (41.4%)	2 (3.4%)	4 (6.9%)	58 (100.0%)
Total	663 (54.3%)	502 (41.1%)	36 (2.9%)	21 (1.7%)	1222(100.0%)

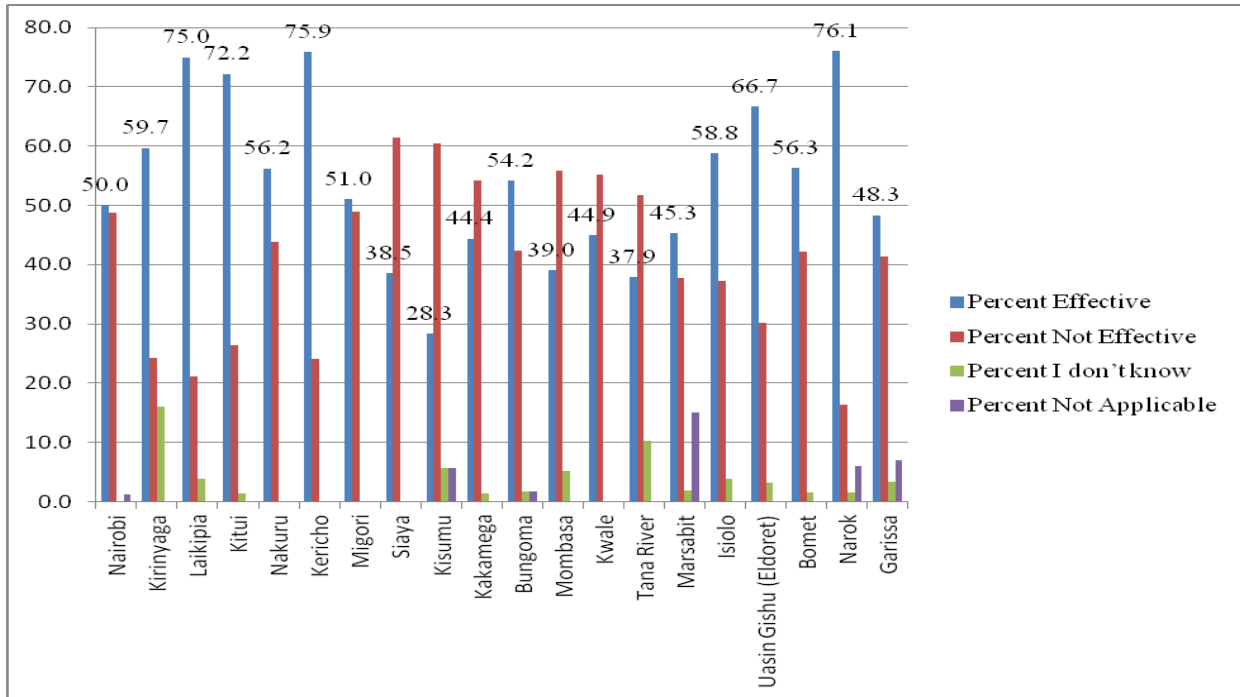


Figure 31 - Cross-tab of county and effectiveness of control measures

Respondents were probed for reasons for their different ratings of the control measures. The respondents who reported that election crimes and offences control measures were generally effective argued that: there was peace and no violence during and after the 2013 General Elections; security agencies and IEBC were in control; incidences of election deaths, crimes and insecurity had reduced because IEBC was effective; religious institutions had cooled down tempers through prayers and peace campaigns; the youth had been educated on elections through the media; legal apparatus in the country had tamed law breakers; and that those who tried to vote more than once were detected early enough. According to Commonwealth Secretariat (2013), transformation of key institutions after the promulgation of the new Constitution in 2010 appeared to have rekindled public trust on institutions such as the IEBC and the Judiciary with regard to how the 2013 General Elections were managed.

The respondents who reported that the measures were generally not effective argued that: there still occurred election violence and crimes (such as bribing of voters); the failure of election electronic system and the delay in the announcement of election results and poor tallying annoyed people; IEBC does not conduct free, fair and transparent elections because of corruption; control measures are slow in addressing election crimes and offences; most control measures are not on the ground and do not involve most citizens; control measures have not been applied effectively; there is lack of proper training and policy measures to address election crimes and offences; there is tribalism in Kenya's elections; political leaders are tribalistic and act with impunity; most people have no faith in the control measures; the Government does not support effectively the bodies offering control measures; there was inadequate security personnel and equipment in some areas during the elections; and the ratio of election crimes and offences control players to citizens is very low. According to IEBC, the prosecution of the 2013 General Elections' offences nationwide was not effective (IEBC, 2014).

It is important to note that the 14 counties in which the measures were reported to be generally effective were perceived strongholds of the Jubilee Coalition (except Migori and Kitui) which won the 2013 Presidential Elections and this could have influenced the perceptions of the respondents in giving a positive rating. Control measures in Siaya, Kisumu, Kakamega, Mombasa, Kwale and Tana River were rated as generally not effective. These counties were perceived strongholds of the Coalition on Reforms and Democracy (CORD) which lost the Presidential Elections. Prior to the elections, Tana River County had experienced tribal clashes in 2012 which were associated with politics and competition for other resources (CAPF, 2008; TJRC, 2013).

3.8 Players Addressing Election Crimes and Offences

Respondents were asked to indicate the players who were attempting to address election crimes and offences at the time of the interviews of this study. As shown in Figure 32 below, security agencies were in the forefront of addressing election crimes and offences (23.2%) followed by IEBC (21.6%) and religious organizations (20.9%). The least players were Business Community, Truth, Justice and Reconciliation Commission and Election Observers.

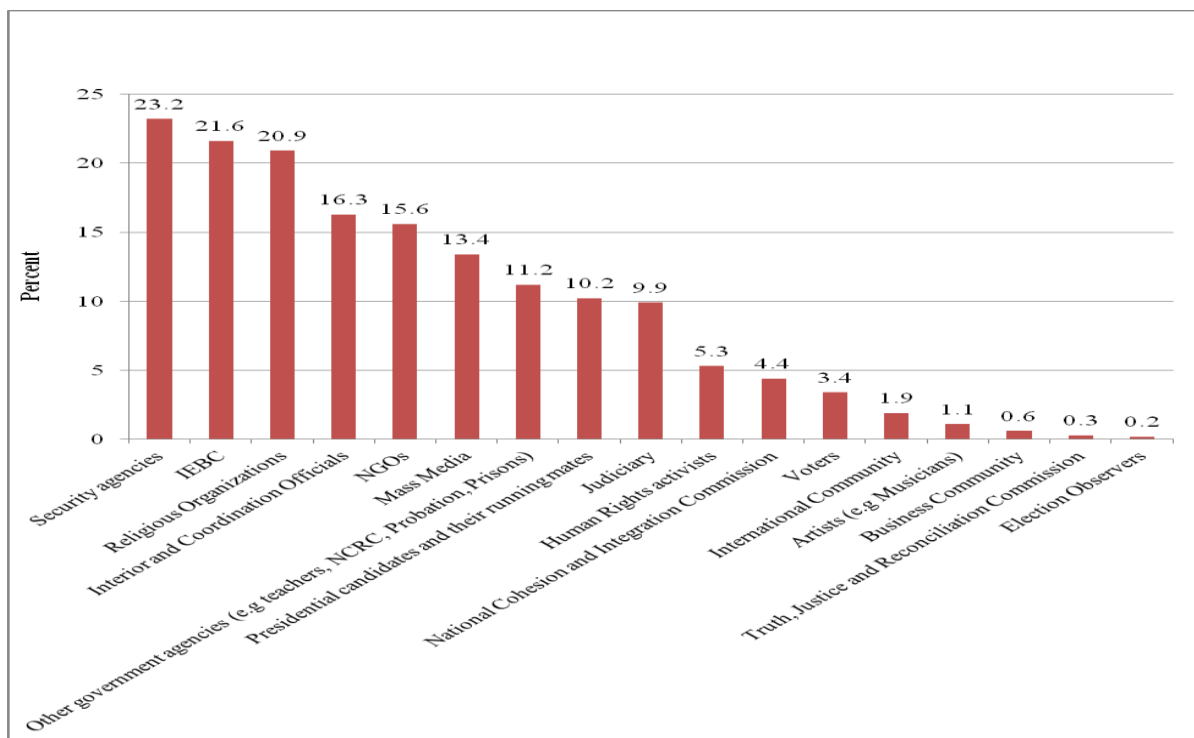


Figure 32 - Players addressing election crimes and offences

This study went further to establish the players in each of the counties that were studied. The findings were as presented in Table 3.13 below.

Table 3.13 Players addressing election crimes and offences as per county

Players addressing election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Security agencies	13.2	21.0	36.5	48.6	6.8	6.9	17.6	30.8	26.4	29.2	28.8	25.4	33.3	13.8	30.2	19.6	22.2	26.6	11.9	15.5
IEBC	11.8	19.4	26.9	11.1	19.2	20.7	13.7	42.3	20.8	29.2	23.7	13.6	14.5	12.1	11.3	41.2	30.2	32.8	11.9	39.7
Religious Organizations	40.8	1.6	1.9	5.6	9.6	15.5	13.7	42.3	22.6	16.7	28.8	23.7	11.6	13.8	5.7	21.6	15.9	39.1	62.7	19.0
Interior and Coordination Officials (former Provincial administration)	3.9	11.3	11.5	54.2	11.0	29.3	5.9	17.3	9.4	9.7	22.0	16.9	11.6	8.6	7.5	11.8	11.1	23.4	31.3	10.3
NGOs	40.8	0.0	1.9	5.6	23.3	27.6	7.8	13.5	15.1	13.9	16.9	20.3	7.2	17.2	3.8	27.5	1.6	12.5	32.8	15.5
Mass Media	36.8	11.3	7.7	5.6	23.3	10.3	13.7	23.1	20.8	11.1	23.7	6.8	5.8	5.2	5.7	9.8	12.7	9.4	14.9	5.2
Other government agencies (e.g Education sector (Teachers and KNUT officials), NCRC, Probation, Prisons)	2.6	1.6	1.9	9.7	6.8	6.9	3.9	21.2	24.5	9.7	5.1	27.1	18.8	15.5	1.9	21.6	4.8	18.8	3.0	24.1
Presidential candidates and their running mates	23.7	8.1	13.5	11.1	1.4	6.9	15.7	7.7	3.8	5.6	8.5	6.8	8.7	12.1	18.9	7.8	7.9	26.6	1.5	8.6
Judiciary	9.2	14.5	21.2	8.3	0.0	17.2	11.8	13.5	20.8	16.7	10.2	6.8	2.9	1.7	5.7	9.8	27.0	1.6	1.5	3.4
Human Rights activists	3.9	0.0	0.0	13.9	8.2	3.4	7.8	7.7	9.4	1.4	10.2	3.4	4.3	0.0	1.9	13.7	1.6	3.1	7.5	5.2
National Cohesion and Integration Commission	5.3	0.0	0.0	5.6	2.7	6.9	3.9	0.0	11.3	5.6	11.9	3.4	0.0	0.0	3.8	2.0	15.9	7.8	1.5	0.0
Voters	9.2	0.0	0.0	0.0	1.4	0.0	0.0	1.9	5.7	0.0	0.0	0.0	5.8	1.7	3.8	5.9	4.8	14.1	7.5	3.4
International Community	1.3	0.0	0.0	0.0	0.0	5.2	2.0	1.9	5.7	2.8	1.7	0.0	1.4	5.2	1.9	2.0	3.2	1.6	0.0	3.4

Players addressing election crimes and offences	Responses in Percentages																			
	Nairobi	Kirinyaga	Laikipia	Kitui	Nakuru	Kericho	Migori	Siaya	Kisumu	Kakamega	Bungoma	Mombasa	Kwale	Tana River	Marsabit	Isiolo	Uasin Gishu (Eldoret)	Bomet	Narok	Garissa
Artists Musicians) (e.g	10.5	0.0	0.0	0.0	1.4	0.0	0.0	1.9	0.0	1.4	0.0	0.0	2.9	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Business Community	0.0	0.0	0.0	0.0	2.7	1.7	0.0	0.0	3.8	0.0	0.0	0.0	0.0	0.0	3.8	0.0	0.0	0.0	0.0	0.0
Truth, Justice and Reconciliation Commission	0.0	0.0	0.0	1.4	0.0	0.0	0.0	1.9	3.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Election Observers	0.0	0.0	0.0	1.4	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	2.0	0.0	0.0	0.0	1.7

The above findings were complimented by Key Informants. A Deputy Returning Officer in Narok County reported:

“Elections are a concern of everybody. Therefore, addressing election offences in this area has been a concern of Provincial Administration, IEBC, NGOs and Faith-Based Organizations. The measures put in place include provision of adequate security, awareness creation through voter education and strict adherence to electoral laws and/or Code of Conduct. The efforts of these institutions can be judged as generally effective as we have had increased level of awareness and reduced incidents of election crimes (19/2/2013)”

With regard to other players addressing election crimes and offences, a Magistrate in Central Division, Isiolo Sub-County, Isiolo County observed:

“Tribal and village elders and religious leaders are preaching the message of peace to help cool down the tempers that have always led to conflicts in this County. I am also aware that routine District Security and Intelligence Committee meetings are conducted by those in the security sector towards controlling election and any other crime. I however think that these measures are not yet effective mainly because of the serious challenge of lack of required resources such as adequate security vehicles and personnel and inadequate civic education (22/2/2013)”

The findings indicate that addressing election crimes and offences is a concern of both public and private players (both individuals and institutions/organizations) as they play different roles in addressing the problem. However, government-related institutions are in the forefront since management of elections and crime in Kenya is mainly a government function (IEBC, 2014; TIK, 2013).

In Kenya, security and crime management is the core function of security agencies and officers of the Ministry of Interior and Coordination of National Government (formerly, the Provincial Administration) who chair divisional level to county level security committees. This reason makes them the forefront players in addressing election crimes and offences. The National Intelligence Service (formerly, the National Security Intelligence Service) collects and shares intelligence and early warning on threats to security and peace during elections; the Police has been involved in detecting, arresting, investigating and charging offenders committing election crimes and offences; the Prosecution has prosecuted election crimes and offences while the Judiciary has conducted the trials of election crimes and offences above deciding election petitions arising from possible election malpractices. This explains why unjustified use of national security organs was found to be one of the least common types of election offences and the deployment of security personnel and patrols during election period and enforcement of applicable laws by the Judiciary were prominent election crimes and offences control measures. According to TIK (2013), the government owes the electorate a duty to put in place adequate mechanisms for free and fair elections.



Figure 33 - A Police Officer secures one of the IEBC offices in Kenya

The IEBC is a key player by virtue of its role in the management of elections ensuring the enforcement of the Elections Act 2011 in Kenya (Commonwealth Secretariat, 2013; Makabila, 2013). The organization has, among other functions, tried to enforce the Elections Act, has conducted civic education on the electoral process, has adopted the use of electronic equipment (such as the Biometric Voter Registration (BVR) equipment) for registration of voters, tallying and transmission of results and developed the IEBC Code of Conduct which

emphasizes on the conduct of free, fair and transparent elections with a view to ensuring free and fair elections in the country (see Figure 4).



Figure 34 - Voter registration by IEBC officials using BVR equipment

The Civil Society organizations (both Faith Based Organizations such as Christian, Hindu and Muslim groups and Non-Governmental Organizations such as Amani Kenya) and the mass media have also played an important role in addressing election crimes and offences. Earlier findings indicated that they were the least perpetrators of election crimes and offences in the counties. Other findings on election crimes and offences control measures showed that the most common measures were: civic education conducted by IEBC and Civil Society Organizations (CSOs); and peace, national unity and anti-election crimes and offences campaigns conducted by the media and religious organizations (IEBC, 2014).



Figure 35 – Members of Civil Society organizations in peace campaigns

The finding that the Business Community, the Truth, Justice and Reconciliation Commission and the Election Observers were the least common players in addressing election crimes and offences is significant. Some of the most serious effects of election crimes and offences were found to be destruction and/or loss of property and interruption of businesses. Although business people were found to be the least perpetrators of the election crimes and offences, they should not take a back seat in issues which would negatively affect their businesses.

The TJRC was created to help the country heal from the injustices and conflicts some of which were as a result of mismanaged elections. These findings are therefore a wakeup call to the Commission’s successor agencies to sensitize the public on harmonious co-existence of Kenya’s diverse ethnic groups. The agencies should also take pro-active roles in addressing election crimes through the promotion of reconciliation because these crimes and offences perpetuate conflicts and injustices (TJRC, 2013).



Figure 36 - TJRC members in public hearings (on the left) and TJRC Chairman handing over their report to the President of the Republic of Kenya (on the right)

Election Observers are deployed as independent and objective election monitors to monitor the whole process of elections as a way of ensuring that the elections are conducted freely and transparently. When these observers do not take an active role in addressing election crimes and offences through early detection of election offences and malpractices and reporting of the same to relevant authorities, it raises serious concern about their usefulness. The role of this category of players with regard to addressing election offences therefore needs to be clarified and/or redefined to make them more useful in contributing to crime and offence-free elections in Kenya (Commonwealth Secretariat, 2013).



Figure 37 - Election Observers during the 2013 General Elections in Kenya

3.9 Challenges faced in the Control of Election Crimes and Offences

3.9.1 Challenges faced in the control of election crimes and offences

The survey established a number of challenges faced in the control of election crimes and offences. As shown in Figure 38 below, inadequate resources and insufficient networks among security agencies was the main challenge reported by most (29.1%) of the respondents. The inadequate resources had to do with shortage of funds (for instance, for purchase of fuel for vehicles), equipment (such as patrol and response vehicles and police frequency radios) and inadequate personnel trained adequately to deal with election crimes and offences. Respondents also reported about insufficient networking and communication between the Kenya Police Service, Administration Police Service and the National Intelligence Service. Poor remuneration of Police Officers handling elections was also cited as an aspect of inadequate resources. Other challenges included: corruption and lack of integrity in the electoral process; illiteracy and ignorance among the electorate; impunity and selfishness of political leaders; and tribalism, nepotism, hatred and hostility among some voters, ethnic groups, political parties and political contestants. Interference from foreign countries and bias of the Media were some of the minor challenges.

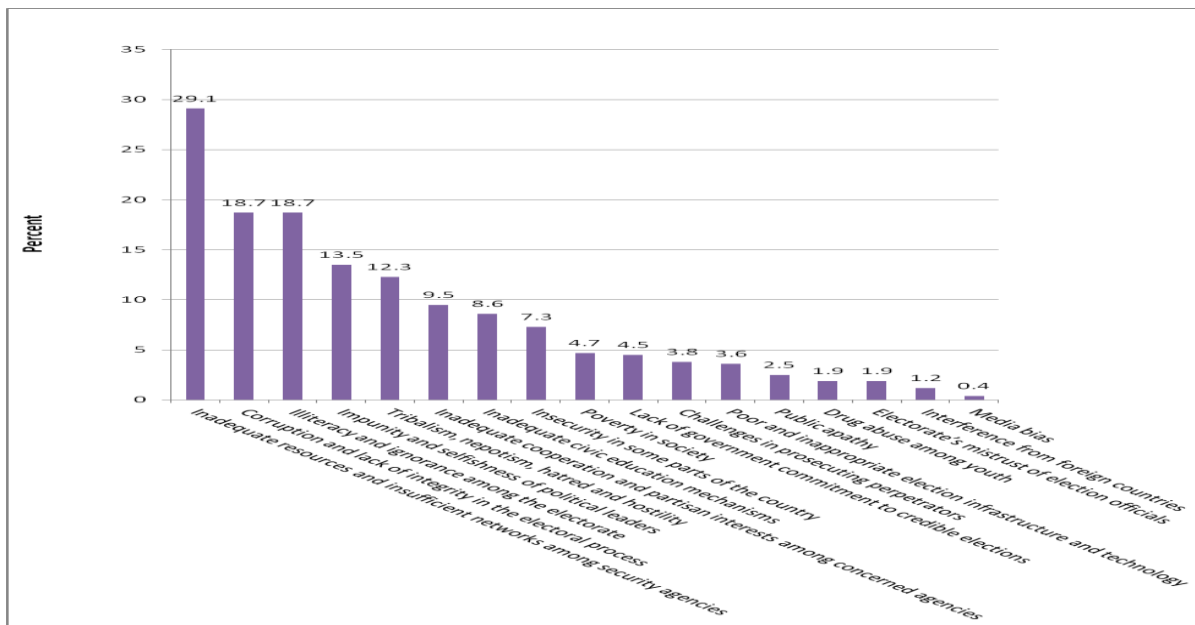


Figure 38 - Challenges faced in the control of election crimes and offences

The report of the sample respondents on inadequate resources and insufficient networks among security agencies was reinforced by that of a Magistrate based in Bomet County who observed that:

“One of the greatest challenges in controlling election crime and offences is that of inadequate law enforcers during the election period. Again, I don’t think our security officers in the different formations are well coordinated, networked, receiving and acting swiftly on intelligence reports. Security agencies should not look like they have been caught off guard when election crimes and offences occur (18/2/2013)”.

Another Key Informant who was a Deputy Returning Officer of IEBC in Narok County had this to say:

“Challenges in dealing with election crimes and offences include logistical challenges especially of needed resources such as transport and equipment for instance of recording hate speech, there is also the problem of geographical vastness of the county, there is high illiteracy level among the locals and a lot of fear to report election crimes and offences by those affected (19/2/2013)”

These findings confirm that dealing with election crimes and offences encounters serious logistical and institutional challenges which affect effectiveness of control measures.

Security agencies which lack necessary resources cannot respond effectively to incidents of election crimes and offences. With inadequate Police Officers, law and order cannot be maintained satisfactorily in and around Polling Stations especially in the event of outbreaks of violence between huge crowds of opponents’ supporters. For instance, during the 2007/08 General Elections, some police stations were attacked and officers overpowered and killed by rioting mobs. During the March, 2013 elections, six police officers were killed after being overpowered by about 200 suspected Mombasa Republican Council (MRC) members. Adequate gadgets to record hate and incitement speech are necessary for collection of water-tight evidence needed in prosecuting such offences (Commonwealth Secretariat, 2013).

Where intelligence on election crimes and offences is not sufficiently and honestly shared and communicated among different security organs, dealing with the menace becomes a tall order. Poorly remunerated security officers make them susceptible to compromise and bribery by cash-wielding political contestants. These findings relate with the findings by IEBC which indicated that the investigation and prosecution of election offences arising from the 2013 General Elections encountered challenges such as lack of admissible evidence to allow for prosecution of the election offenders; poor enforcement of laws; and insufficient training of investigators and prosecutors (GoK, 2008; IEBC, 2014). The Kenya National Commission on Human Rights (2014) identifies lack of coordination among the different security agencies as one of the drivers of insecurity in Kenya.

Corruption within some state agencies has hindered efforts to deal with election crimes and offences. For instance, some corrupt officials of electoral bodies participate in voter fraud with the intentions of giving their preferred political contestants in elections undue advantage over others through the manipulation of vote results. In Kenya, members of the former Provincial Administration have previously been accused of corruptly assisting some candidates who are deemed pro-government to clinch political positions (TIK, 2013).

Low literacy levels among the electorate in some regions will continue to be a major challenge in addressing election crimes and offences. Illiterate people are easily influenced and/or hoodwinked by cunning politicians into buying and acting into their (politicians’) ideas, some of which are not allowed by the laws of the land. In Pakistan, illiteracy plays into the hands of corrupt politicians who try to win votes on the basis of affiliations and

patrilineage systems, rather than on their contributions to the nation (Labiste, 2001; Lema, 2013).

Impunity and selfishness of political leaders is a major challenge in Kenya. Although there are laws governing elections in the country, some politicians disregard them and use unacceptable means to clinch power for their selfish interests. Election results have been nullified on account of some politicians bribing voters and inciting their supporters into violence against opponents. Other politicians have been arraigned in court to answer to charges of hate speech (Commonwealth Secretariat, 2013).

In Kenya, ethnicity and clanism is a serious problem hindering development in all spheres. Ethnic and clan animosity/hatred arises as different ethnic communities and clans struggle and/or compete for limited political power and resources. According to TJRC (2013), the struggle and competition has in the past fuelled election violence in parts of Coast Province (such as Tana River), Rift Valley, the Upper Eastern (such as Isiolo and Marsabit) and North Eastern regions of Kenya (in Mandera and Wajir).

The management of elections and the control of election crimes and offences is a multi-stakeholder task. This explains the rationale for the formation of the Inter Agency Committee on Investigation and Prosecution of Electoral Offences in Kenya. Unfortunately, some of these stakeholders do not collaborate and cooperate effectively and some exhibit partisan interests. Agencies such as the IEBC, the National Police Service, the Office of the Director of Public Prosecutions, the Ethics and Anti-Corruption Commission and the Judiciary must work closely in dealing with election offences (Munuhe, 2012; UNDP Kenya, 2013).

Delivering crime and offence-free elections in Kenya requires adequate civic education of members of public with regard to rights of voting and the election process. Civic education has mainly been done through the mass media in Radios, Newspapers and Televisions. Unfortunately, many Kenyans especially in the rural areas and informal settlements in urban areas still do not have access to these sources of information and necessary communication technology. Where public forums have been used for civic education, cases of language and communication barriers have been reported. In some instances, there has been a thin difference between civic education and political campaigning when essentially they are supposed to be very different. According to IEBC (2014), there were misconceptions regarding the Biometric Voter Registration kits during the 2013 General Elections which could be attributed to inadequate voter education.

According to Commonwealth Secretariat (2013), as Kenya prepared for the March 2013 General Election, there was concern about insecurity in some parts of the country. Insecurity in some parts of the country coupled with underdeveloped transport and communication infrastructure has been a hindrance to addressing election crimes and offences especially in the Arid and Semi-Arid areas of coast, northern and north eastern Kenya. Monitoring of elections and controlling of election crimes and offences in violence hit and militia infested areas has been a tall order. Real time monitoring and supervision of elections in rough terrains remains a serious challenge. An officer of the Interior and Coordination of National

Government in Galbet Location, Central Division of Garissa Sub-County in Garissa County said:

“Our main challenge here is the insurgence by Al-Shabaab which causes fear and could scare voters and hence tilt the political landscape in favour of some candidates. The involvement of refugees in local politics complicates the matter. There are again few security personnel and vehicles to monitor elections and any related crimes and offences. I recommend that adequate weapons be availed and also funding be availed for purchase of vehicles (19/2/2013)”

This finding expresses the need to tackle problems of insecurity as an integral part in the control of election crimes and offences.

Poverty in society remains a threat to the effective control of election crimes and offences. A youth that continues to remain economically disadvantaged will continue to hinder efforts aimed at addressing election crimes and offences. The high levels of youth unemployment imply that unscrupulous politicians will always have around them people who can easily be enticed with a few goodies to engage in prohibited activities during elections (such as interrupting opponents’ rallies) for the politicians’ benefits (IEBC, 2014; GoK, 2008).

The lack of commitment to credible elections and interference of the election and crime management agencies by powerful personalities and other government agencies results in lack of independence making them weak to discharge their mandate of ensuring a free, fair, transparent and crime and offence-free elections. Some officials of electoral bodies are influenced by senior government officers who have played a role in their (election officials) appointment. When this happens, it becomes difficult to resist the influences of such government officers in deciding who wins and who does not win in a particular election. Impunity of some politicians who are well connected in top government and security system makes it even harder for election officials and junior security officers to enforce the Election Code of the country in the effort to deal with election crimes and offences (SRIC, 2012; TJRC, 2013; TIK, 2013).

Challenges in prosecuting perpetrators of election crimes and offences hinder efforts in dealing with the problem. The absence of or inadequate investigation and prosecution of election crimes and offences gives perpetrators the advantage to continue committing the crimes and offences without deterrence. Competent collection, preservation and presentation of evidence and facts in Law Courts are key in this aspect to avoid dismissal of such cases by the Courts. The development of an “Elections Handbook for Security Personnel” and that of “A Guide for Investigation and Prosecution of Election Offences” was a milestone in addressing election offences in the country (Makabila, 2013).

HANDBOOK ON KENYA'S ELECTORAL LAWS AND SYSTEM

ONGORA, Z. ELSHA
&
WILLIS E. OTENO



Figure 39 – Handbook on Kenya's Electoral Laws and System

Poor and inappropriate election infrastructure and technology is a serious challenge as far as dealing with election crimes and offences is concerned. During the March, 2013 Kenyan General Elections, IEBC was accused of inadequate and malfunctioning electronic election equipment and technology which was blamed for the alleged errors that were raised by some of the political parties that lost in the elections. It was argued that the electronic voter identification, biometric voter registration, results transmission system, results presentation system and other electronic systems had failed (IEBC, 2014).



Figure 40 - Some of the BVR kits used in the March 4, 2013 General Elections

The role of the members of public in addressing election crimes and offences cannot be downplayed. Some of these members are the perpetrators acting in different capacities (such as unemployed youth, voters and supporters of politicians). Some of them have apathy towards election issues and have mistrust on election officials and therefore fail to participate in voting and/or reporting election offences and malpractices after their expectations of good elections are frustrated. It is therefore necessary that ways be found to positively involve

locals in issues affecting elections. According to TIK (2013), challenges and gaps in public participation in the electoral process and the electoral environment had been identified during the 2007/08 General Elections and needed to be addressed during future elections.



Figure 41 - A woman is robbed of her items in Nairobi's Kibera slum during post-election riots

Drug abuse among the youth continues to be a problem in Kenya. Earlier findings showed that one of the individual types of election crimes and offences was giving of alcoholic drinks to the youth to disrupt campaigns of opponents. A good proportion of crimes committed in the country are committed by an intoxicated youth that is not in good senses to reason well (CAPF, 2008).

Interference from foreign countries in Kenya's elections was reported by a few respondents. This could be attributed to the fact that interference by foreigners is not exerted in the grassroots level of Kenya's politics and local members of public may not have the information on whether or not this happens. Although there were reports of some Western countries trying to discourage the election of some candidates during the 2013 General Elections, Kenyans exercised their free will and elected some of the leaders who were opposed by the foreign quarters. The Government had earlier cautioned foreigners against interfering with the 2013 General Elections (Mutai, 2013).

Media bias came up as one of the minor challenges faced in addressing election crimes and offences. This finding agreed with earlier ones which showed that Media was one of the least perpetrators of election crimes and offences and one of the major players trying to address the crimes and offences (Commonwealth Secretariat, 2013).

3.9.2 Respondents' suggested solutions to challenges

The respondents of this study suggested numerous possible solutions to the challenges faced in the control of election crimes and offences. The most prominent solution which was reported by 32.1 % of the respondents was conducting timely and effective civic education of members of public on the constitution, their rights and election issues. The other key possible

solutions were: provision of adequate and quality resources towards the control of election crimes and offences for example by increasing security personnel and appropriate equipment (26.3%) and instituting stiff penalties for election crimes and offences (12.2%). Undertaking thorough vetting of political candidates (0.8%), involving external agencies and individuals to run elections (0.7%), addressing the land issue in Kenya (0.2%) and ensuring witness protection in election crimes and offences (0.2%) were the least reported solutions to the challenges faced as shown in Table 3.14 below.

Table 3.14 Respondents’ suggested solutions to challenges

Suggested solutions	Frequency	Percentage
Conducting timely and effective civic education	392	32.1
Provision of adequate and quality resources towards the control of election crimes and offences	321	26.3
Instituting stiff penalties for election crimes and offences	149	12.2
Creation of more economic opportunities (e.g. loans and infrastructure)	97	7.9
Advocating for national peace and unity	94	7.7
Instituting reforms in IEBC to be able to conduct free, fair and transparent elections.	89	7.3
Elimination of corruption in the electoral process	81	6.6
Strengthening and reforming the judicial system to effectively handle election crimes and offences	56	4.6
Sensitizations on the respect and adherence to the rule of law	50	4.1
Stakeholder cooperation in election management	50	4.1
Sensitization of politicians to accept defeat in fair, free and transparent elections	31	2.5
Strengthening intelligence gathering on security threats to elections	22	1.8
Increased involvement of opinion leaders and the public/community in the control of election crimes and offences	21	1.7
Use of appropriate language and communication in engaging citizens in election issues	21	1.7
Free formal education for the Kenyan child (since most crimes are committed by school drop-outs)	14	1.1
Mass media be allowed to announce only signed and proven results and avoid inciting people	13	1.1
Undertaking thorough vetting of political candidates	10	0.8
Involving foreign agencies and individuals to run elections	8	0.7
Addressing the land issue in Kenya	3	0.2
Ensuring witness protection in election crimes and offences	2	0.2

An electorate that is ignorant of its political rights and the election process of a country in general is not able to make sound decisions with regard to issues affecting elections. A Secretary of the Kenya National Union of Teachers in Tana River County argued that:

“There is need to conduct civic education so as to create awareness for Kenyans to be able to accept and adopt change, embrace patriotism and shun ethnical differences (22/2/2013)”

Conducting timely and effective civic education of members of public on such issues as electing good leaders, voters' rights and the provisions of the Constitution and other legal instruments/frameworks touching on elections is mandatory (UNDP Kenya, 2013).

Efforts to deal with election crimes and offences need to be supported with the necessary financial, infrastructural and human resources. An adequate security personnel needs to be recruited, trained on relevant election issues and deployed during election period to maintain law and order. The officers need to be provided with the necessary and appropriate equipment such as vehicles, communication gadgets and evidence collection, storage and transmission to respond to any incidences of election crimes and offences (TIK, 2013).

Election crimes and offences have serious negative socio-economic and political effects in society. Sometimes, they cause loss and destruction of lives and property. Therefore, perpetrators and would-be perpetrators of election crimes and offences need to be countered and deterred with the full force of the law. In this respect, stiff penalties argued for by the Prosecution and meted out by the Judiciary are inevitable (IEBC, 2014).

Only a few respondents believed undertaking thorough vetting of political candidates, involving foreign agencies and individuals to run elections, addressing the land issue in Kenya and ensuring witness protection in election crimes and offences were possible solutions to the challenges of controlling election crimes and offences. Political candidates may be vetted at the initial stages of the elections but this does not stop them from engaging in election offences soon after as they compete to outdo their opponents.

Interference in elections by foreigners was not reported as a major challenge and hence the reason why it did not feature as a possible solution. Again, the country has never been at war for its elections to be superintended over by foreign agencies and individuals. Kenya boasts of qualified personnel who can be trusted to run elections with the necessary systems in place. According to TIK (2013), the credibility and functionality of the IEBC had been bolstered by transparent and competitive recruitment.

While the competition for resources such as land was reported by 4.4% of the respondents as contributing to election crimes and offences in some places, addressing the land issue was reported by a paltry 0.2% as a possible solution to the challenges faced in controlling the crimes and offences. It therefore implies that other more serious solutions beyond the land issue must be sought for election crimes and offences (SRIC, 2012).

Considering the main types of election crimes and offences that are committed in Kenya (for example, undue influence), protecting the witnesses in such cases would not be viable and practical because of the non-seriousness of the offences (as judged by the penalty for each) and the magnitude of resources that would be needed to protect a magnitude of low profile witnesses.

3.9.3 Hindrances to a free and fair election

This study established a number of hindrances to a free and fair election. The main hindrance was entrenched corruption among politicians reported by 33.8% of the respondents. As indicated in Figure 42 below, other major hindrances were: tribalism (22.7%), lack of transparency and accountability among responsible agencies (21.4%) and the use of cash handouts to voters (13.8%). However, the least common hindrances were: greed for money by the electorate (0.9%); interference of electoral process by foreigners (0.7%); poor remuneration of election officials; and Government interference on elections (0.7%).

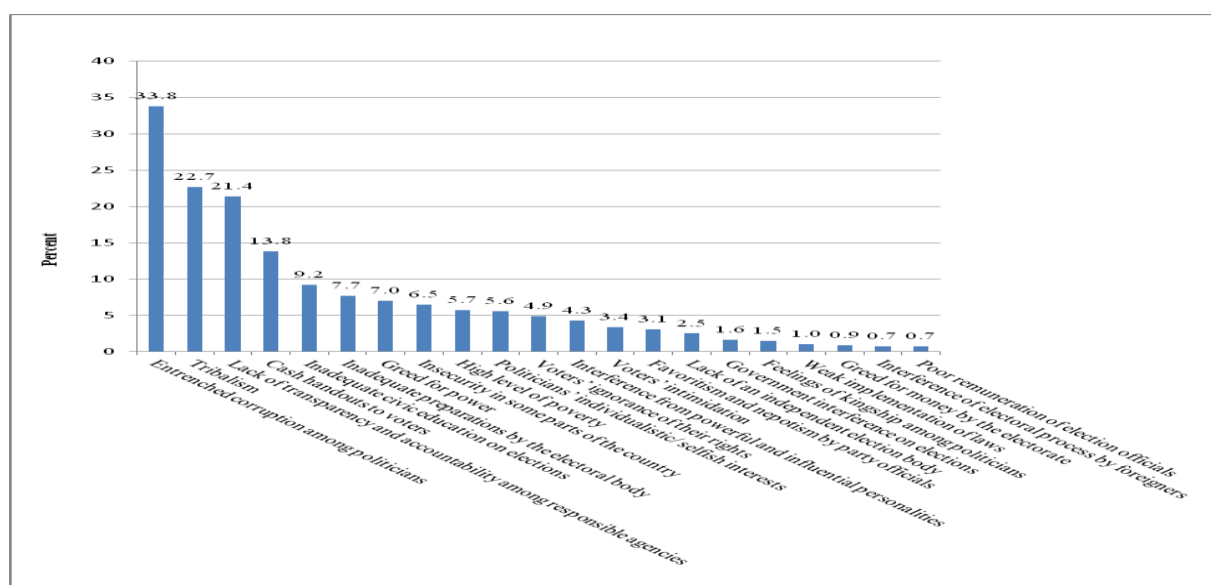


Figure 42 - Hindrances to a free and fair election

The findings above illustrate the role of different parties in impeding free and fair elections and relate with earlier findings in a number of ways. Politicians' corruption was the main hindrance, politicians were the main perpetrators of election crimes and offences and posed one of the main challenges to the control of election crimes and offences, that of impunity and selfish interests. Except for the Presidential candidates and their running mates, they were also not among the players who were attempting to address election crimes and offences. This called for politicians to assume a new and positive role in addressing most election woes in the country.

Tribalism continues to play out in Kenya's elections. Ethnic groups struggle to front and support one of their own for political positions irrespective of the credibility of the candidate. This has sometimes led to the election of questionable leaders and even generated conflicts between different ethnic groups during and after elections (TJRC, 2013). The findings from sample respondents on tribalism were reinforced by those of some Key Informants. For instance, a Deputy Returning Officer of IEBC in Kirinyaga County shared that:

"Tribalism is a big hindrance to free and fair elections in Kenya. Most politicians hide in their ethnic cocoons while tribes are interested in having one of their own in positions of power at the expense of good leadership (18/3/2013)"

This finding highlights the need for strategies towards addressing tribalism in Kenya as a measure to achieving free and fair elections.

Lack of transparency and accountability among responsible agencies hinders free and fair elections. Some Political Party nomination processes have not been transparent and accountable with unfit candidates being given direct nominations or nominated through rigging against the wishes of the majority. This has sometimes resulted in violence between supporters of different candidates and parties and the nullification of poll results (IEBC, 2014).

Cash handouts given by politicians to voters distort the will of the people in elections. The electorate in Kenya is predominantly poor and sometimes illiterate and any enticement with cash handouts changes their voting patterns. The election offence of treating has basically been orchestrated through the use of cash handouts in campaigns (CAPF, 2008).



Figure 43 - Money and election offences

Interference of the electoral process by foreigners is not a major hindrance to free and fair elections in Kenya (Mutai, 2013). This is because foreigners have not participated in running Kenya's elections. Interference by foreigners was also not found to be a major challenge faced in the control of election crimes and offences.

Poor remuneration of election officials was not found to be a major hindrance to free and fair elections in Kenya. This finding links with earlier findings where election officials were not found to be among the perpetrators of election crimes and offences but were found to be among the key players attempting to address the crimes and offences. According to Commonwealth Secretariat (2013), electoral activities across the country must be adequately resourced to ensure inadequacies do not affect the process.

Respondents were further asked to suggest ways of addressing the hindrances to free and fair elections. As indicated in Table 3.15 below, the main ways of addressing the hindrances was by: conducting civic education on voters' rights and good leadership (25.7%); strict maintenance of law and order by security agencies (11.2%); instituting stiff penalties on

those who violate electoral laws (10.8%); promotion of patriotism and national unity (10.5%); facilitating the electoral body to deliver free and fair to all political parties (9.6%); promotion of transparency and accountability (9.2%); elimination of corruption in elections (7.9%); and strict adherence to election rules (7.6%). However, only a small number of respondents believed the hindrances could be solved by ensuring that: voting was based on party manifestos; poverty levels in society were reduced; international personnel is used to run General elections; Government avoids using resources to campaign for election candidates; elective posts were not so lucrative; Presidential position was rotational based on agreed regions to avoid ethnic struggles; and elections are conducted in different counties in different dates.

Table 3.15 Respondents’ suggested solutions to hindrances

Suggested solutions	Frequency	Percentage
Conducting civic education on voters’ rights and good leadership	314	25.7
Strict maintenance of law and order	137	11.2
Stiff penalties on those who violate electoral laws	132	10.8
Promotion of patriotism and national unity	128	10.5
Facilitating the electoral body to deliver free and fair to all political parties	117	9.6
Promotion of transparency and accountability	113	9.2
Elimination of corruption in elections	97	7.9
Strict adherence to election rules	93	7.6
Devolve resources to all Kenya’s regions and ethnic groups equally	52	4.3
Engage qualified staff for the electoral body	43	3.5
Adequate preparations for General Elections	41	3.4
Use of functional electronic equipment in elections	29	2.4
Amendment of election offences laws	27	2.2
Undertake proper vetting/screening of contestants and party officials	19	1.6
Voting be based on party manifestos	11	0.9
Reduction of poverty levels	7	0.6
Use of international personnel to run General elections	8	0.7
Government to avoid using resources to campaign for any election candidate	7	0.6
Ensuring elective posts are not so lucrative	6	0.5
Presidential position be rotational based on agreed regions to avoid ethnic struggles	6	0.5
Conducting elections in different counties in different dates	2	0.2

Key Informants proposed some possible solutions to the hindrances to a free and fair election. For instance, with regard to reduction of poverty levels and civic education, a Regional Elections Coordinator in Garissa County said that:

“Hindrances to free and fair elections can be addressed through economic empowerment of people so that they are not manipulated by these wealthy politicians. There is also need for relevant and intensive voter education for people to be aware of election issues affecting them. Political inclusiveness and tolerance is an ingredient of good elections (25/2/2013)”

Stiff penalties on those who violate electoral laws were suggested as possible solution to hindrances to a free and fair election (TIK, 2013). A Deputy Returning Officer in Nyando, Kisumu County observed that:

“There is need to crack the whip on election offenders by punishing them severely. This would serve as a deterrence measure to other would-be election offenders (14/3/2013)”

The main suggested solutions to the hindrances appeared to be linked to the major hindrances. For instance, conducting civic education on voters’ rights and good leadership would address the hindrance on inadequate civic education on elections; promotion of patriotism and national unity would address tribalism; promotion of transparency and accountability would address lack of transparency and accountability among responsible agencies while elimination of corruption in elections would address the hindrance of entrenched corruption among politicians. The solutions were also related to the challenges faced in controlling election crimes and offences in Kenya and the main measures of controlling election crimes and offences (Commonwealth Secretariat, 2013; GoK, 2008; IEBC, 2014).

3.9.4 Respondents’ suggestions on managing election crimes and offences

3.9.4.1 Voter registration stage

In order to manage election crimes and offences at voter registration phase, the survey established that the main action needed was to sensitize the public on the importance of voter registration and maintaining peace and cultivating democracy (23.2%). Other needed actions included educating/sensitizing the public on the dangers of election crimes and offences (18.8%) and engaging qualified and empowering election and/or voter registration clerks (17.0%). The least mentioned action was to bar from registering as voters and/or candidates who have previously committed election offences (0.4%) as indicated in Table 3.16 below.

Table 3.16 Respondents’ suggested actions during voter registration

Suggested action	Frequency	Percentage
Sensitize the public on the importance of voter registration and maintaining peace and cultivating democracy	284	23.2
Educate/sensitize the public on the dangers of election crimes and offences	230	18.8
Engage qualified and empower election and/or voter registration clerks to prevent election crimes and offences	208	17.0
Install and use an effective electronic voter registration system	170	13.9
Engage crime investigators and intelligence gathering to detect crimes and offences at voter registration phase	146	11.9
Allocate ample time for registration	136	11.1
Mete out serious punishment to voter registration offenders	72	5.9
Bar from registering as voters and/or candidates who have previously committed election offences	5	0.4

Findings from sample respondents on actions needed at the voter registration phase were complimented by sentiments from Key Informants. A Magistrate in Maranda, Bondo Sub-County in Siaya County said:

“It is necessary that members of public are made aware of consequences of double voter registration and other offences. Voter education is therefore necessary. Voter Registration Clerks should be able to explain to people as the register (21/2/2013)”

This sentiment was also echoed by an Acting Deputy County Commissioner in Migori County who argued that:

“Sustained civic education for voter registration was essential in addressing election crimes and offences occurring at voter registration stage (13/3/2013)”

The above findings illustrate the importance of taking action at the early stages of the electoral process in order to have credible elections free from crime and offences. Civic education remained a core activity in the process. Failure to register as a voter and failure to maintain peace and cultivate democracy are ingredients of a poor election and cause for poor governance in a country. Sensitizing the public to avoid election crimes and offences contributes to credible elections (IEBC, 2014).

Election offences may be committed right from the early stage of registration of voters. This may take the form of double registration. The action and/or inaction of Voter Registration Clerks may contribute to hinder or perpetrate election offences at this stage. It is therefore necessary to ensure that qualified Clerks of acceptable integrity are engaged and empowered to prevent election offences. According to TIK (2013), there should be a proper vetting process to ensure that non-partisan staff of the IEBC is recruited.



Figure 44 – IEBC Voter Registration Clerks at work

Barring people who have previously committed election offences from registering as voters and/or candidates was not a popular proposal among the sample respondents. The possible explanation for this is that they were against any attempts to curtail political rights of voters. It was also possible that they were against the provision of the election law allowing such an action.

3.9.4.2 Political Party nominations stage

At this stage, the survey established that the main actions to be taken were: political parties to build consensus on the best times for their nominations and methods to be used in the nomination (16.9%); using Government electoral body to oversee party nominations (14.6%); providing adequate security during party nominations (14.5%); and empowering people to nominate leaders of their choice (13.6%). As indicated in Table 3.17 below, reducing the number of party aspirants was not popular in managing election crimes and offences occurring at the political party nomination stage.

Table 3.17 Respondents’ suggested actions during Political Party nominations

Suggested action	Frequency	Percentage
Political parties to build consensus on the best times for their nominations and methods to be used in the nomination	206	16.9
Using Government electoral body to oversee party nominations	179	14.6
Providing adequate security during party nominations	177	14.5
Empowering people to nominate leaders of their choice	166	13.6
Conducting civic education on elections, democracy and peace	121	9.9
Conducting effective vetting of party nominees who advocate for peace and transparent, free and fair elections	83	6.8
Curtailing voter bribery by aspirants at nomination stage	64	5.2
Meting out serious punishment to party nominations’ offenders	64	5.2
Establishing a special body to oversee political party nominations	62	5.1
Political party officials should train their agents on how to handle their supporters during nominations	41	3.4
Discouraging constant switching of parties (party hopping)	39	3.2
Engage qualified personnel to conduct party nominations	35	2.9
Use BVR electronic system during party nominations	20	1.6
Use of intelligence officials to report nomination offences to relevant bodies	13	1.1
Reducing the number of party aspirants	8	0.7

Key Informants made recommendations with regard to actions to be taken at political party nominations stage. A Chief in Ainamoi Division, Kericho East Sub-County in Kericho County said:

“Addressing election offences at party nomination stage could utilize IEBC workforce to assist on standardizing the exercise because nominations equal to elections. IEBC machines and machineries could also be used to avoid party rigging (21/2/2013)”

This finding indicates that a leaf and assistance could be borrowed from IEBC in addressing election offences happening at the party nominations stage.

Incidents of violence have been witnessed during political party nominations (Makabila, 2013). Different camps in the same parties fail to agree on the methods of selecting their candidates who would be in the final ballot paper to contest against candidates from other political parties. In some instances, some candidates are rigged in while others are rigged out in nomination systems that lack transparency and accountability. It is therefore important that cases of election crimes and offences happening at the party nomination staged be checked by way of political parties building consensus on the best times for their nominations and methods to be used in the nominations.

IEBC was not found to be a key perpetrator of election crimes and offences in Kenya. In fact, the agency was in the forefront of addressing the crimes and offences (Commonwealth Secretariat, 2013). This could therefore have led to the suggestion that IEBC be used to oversee party nominations.

Providing adequate security during party nominations remains central in ensuring the safety and security of life and property at the party nominations stage. Venues for nominations, nomination papers, candidates and all other persons involved in the nominations must be protected in a bid to ensure free and fair nominations which would translate to free and fair final elections (IEBC, 2013; TIK, 2013).

Democracy demands that all people be allowed to exercise their freedom and enjoy their political rights of contesting in elections. Therefore, reducing the number of party aspirants would not be a popular action since it would trigger dissent from those interested in contesting and could lead other election problems.

3.9.4.3 Campaign period

In order to manage election crimes and offences at the campaign stage, this survey found out that the main actions needed were: campaigners and party agents to be sensitized and stopped from maligning their political opponents (22.6%); politicians to engage in transparent campaigns and advocate for democratic elections, peace and national unity (22.1%); deploying adequate security and intelligence measures (20.0%); meting out serious punishment to election offenders during campaigns (17.3%); and curtailing voter bribery (13.3%) as shown in Table 3.18 below. Discouraging the use of drugs and alcohol among

youths during campaigns was not a major action needed to be taken as was reported by 0.7% of the respondents.

Table 3.18 Respondents’ suggested actions during campaign period

Suggested action	Frequency	Percentage
Campaigners and party agents to be sensitized and stopped from maligning their political opponents	276	22.6
Politicians to engage in transparent campaigns and advocate for democratic elections, peace and national unity	270	22.1
Deploying adequate security and intelligence measures	245	20.0
Meting out serious punishment to election offenders during campaigns	211	17.3
Curtailling voter bribery	163	13.3
Promoting joint peaceful campaigns of different political parties	82	6.7
Basing campaigns on party manifestos and not personalities	76	6.2
Advocating for neutral mass media reporting and civic education	53	4.3
Discouraging the use of drugs and alcohol among youths	8	0.7

Meting serious punishment to offenders committing election offences during campaigns was supported by several Key Informants. One such Key Informant was a Catholic Parish Priest in Doho East Location, Ukwala Division in Ugenya Sub-County, Siaya County who said:

“We need serious penalties for those engaging in bribery. Security officers must not spare politicians who engage in election offences during campaigns. In addition, the specified campaign time and period must be adhered to by all parties involved (13/3/2013)”

Campaign period is a time of intense activity during which those who have secured nominations aggressively lobby for votes from the electorate. During this time, some politicians engage in hate speech, falsehoods against their opponents and even maligning of names of the opponents (that is, mudslinging) in campaign rallies and media platforms. These statements confuse and distort the thinking of voters, some of who resort to animosity and hatred of some candidates and their supporters or ethnic groups which may finally result to divisions along candidate, political party, clan, ethnic and cultural lines and crime in the end. Politicians should therefore be implored to engage in transparent campaigns and advocate for democratic elections, peace and national unity (Commonwealth Secretariat, 2013).

Incidents of supporters of different candidates and parties clashing and attacking one another are not new in Kenya. The provision of security during campaigns is therefore necessary to prevent injury and/or loss of lives and destruction of property. As deterrence to perpetrators and would-be perpetrators of election crimes and offences during campaign periods, it is necessary to mete out serious punishments to those found breaking the law. Voter bribery is

also rife during campaigns as politicians try to woo supporters and the respective agencies need to detect, investigate and prosecute this major type of election offence (IEBC, 2014).

Giving of alcoholic drinks to people to interrupt campaigns had been reported by 1.6% of the respondents as a type of election crime and offence. This indicated that it was not a major problem in elections and this was probably the reason why discouraging the use of drugs and alcohol among youths was not reported to be a key action. However, it must be noted that isolated incidents of some campaign activities being interrupted by drug and alcohol intoxicated youths have been reported during elections (CAPF, 2008).

3.9.4.4 Election/voting day and announcement of poll results

Findings of the study showed that the main actions to be taken on the election/voting day and announcement of poll results were: provision of tight and adequate security (30.4%); timely announcement of election results (25.9%); professional and transparent handling of voting process and election results by IEBC (20.4%); and undertaking advocacy targeting to achieve the integrity of all players during the election day and announcement of results (16.3%). Separating Presidential elections from elections of other positions was the least proposed as indicated in Table 3.19 below.

Table 3.19 Respondents’ suggested actions on election/voting day and announcement of poll results

Suggested Action	Frequency	Percentage
Provision of tight and adequate security	372	30.4
Timely announcement of election results	316	25.9
Professional and transparent handling of voting process and election results by IEBC	249	20.4
Undertaking advocacy targeting to achieve the integrity of all players during the election day and announcement of results	199	16.3
Immediate clearance of voters from voting venues after they have voted	110	9.0
Meting out serious punishment to election offenders	81	6.6
Undertaking peace campaigns during and after voting and announcement of election results	65	5.3
Use of proper voting and tallying equipment	55	4.5
Extending voting time in light of the many elective positions	52	4.3
Allowing Media to report results of Presidential elections as they are submitted in the Tallying Centres	31	2.5
Separating Presidential elections from elections of other positions	11	0.9

The role of security in elections cannot be overemphasized. An Advocate with the Kituo Cha Sheria in Mombasa County observed that:

“On the Election/voting day and announcement of results, the Police Department should be specifically tasked to handle any incidents of crime that might occur. The number of Police Officers should be made to march the number of Polling Stations (20/2/2013)”

Previously, violence and other election offences and crimes such as killings have happened during and after voting and announcement of Presidential results. It therefore becomes necessary that tight and adequate security is provided especially in all offices of the electoral body, voting and tallying centres. Other strategic points such as financial and key security and information centres and installations also need to be secured by well trained and an adequate number of security officers. This explains the rationale for the Election Security Arrangement Project (ESAP) which was implemented during the 2013 General Elections (Munuhe, 2012; UNDP Kenya, 2013).

Delay in announcing the final results raises curiosity and anxiety of contestants and their supporters. The delay, coupled with lack of professionalism and transparency on the part of the electoral body in the handling of the voting process and election results leads to suspicions of foul play which could be a fertile ground for election crimes and offences being committed by interested parties. During the 2007/2008 General Elections, violence and crimes occurred following delay in announcement and suspicion of foul play in the final Presidential election results. Real time announcement of final results is therefore necessary (GoK, 2008).

Numerous stakeholders are involved in elections. Some of them such as some officials of political parties and government have been accused of lacking integrity in their involvement with elections. Undertaking advocacy targeting to achieve the integrity of all players during the Election Day and announcement of results is therefore of utmost importance (TIK, 2013).

Separating Presidential elections from elections of other positions was reported by only a few of the respondents thus implying that conducting Presidential elections on the same day with other elections was not a major contributor of election crimes and offences in Kenya.



Figure 45 – The 2013 Kenyan Elections Presidential Debate

CHAPTER FOUR: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

This study sought to: establish the prevalence of election crimes and offences by type; identify the perpetrators of election crimes and offences; examine the factors contributing to election crimes and offences; examine the effects of election crimes and offences; identify existing control measures and their effectiveness in dealing with election crimes and offences; identify the players attempting to address election crimes and offences; and establish the challenges faced in the control of election crimes and offences.

4.2 Summary of Major Findings

Findings of this study indicated that there were election crimes and offences committed during the election period in all the counties where the study was carried. The most prevalent election crimes and offences by type, following the categorization by the Elections Act 2011 were: undue influence, bribery, offences relating to elections, use of force or violence, offences relating to voting, treating, offences by members and staff of the Commission, unjustified use of public resources in campaigns, and unjustified use of national security organs. Twenty seven (27) specific types of election crimes and offences were identified. Some of the most prevalent ones (with a score of about 10.0% and above) were: bribery (40.6%), voter/ballot fraud (16.6%), hate speech (15.4%) and fighting (11.8%). The main perpetrators of election crimes and offences included Political aspirants/candidates (45.7%), unemployed youth (28.0%), supporters of politicians (14.5%), party officials and agents (13.5%) and voters (11.4%).

Factors contributing to election crimes and offences in the study areas were many. The key ones were: Ethnic animosity, tribalism and clanism (27.6%); poverty (26.4%); unemployment among the youth (20.4%); illiteracy among the electorate (18.4%); incitement and use of abusive and derogatory statements by politicians (15.7%); corruption in politics (12.6%); and drug and substance abuse (11.2%).

The study found that the major effects of election crimes and offences in society were: Loss and injury of human life through physical injury, trauma, sickness and deaths of people (33.2%); destruction and/or loss of property (30.9%); violence, disturbed peace, fear and tension among people including voters (26.3%); ethnic tensions and animosity/hatred/enmity (23.8%); poor leadership and governance when wrong leaders are elected (23.0%); interruption of businesses (21.4%); and forced migration, evictions and/or displacement of populations (20.6%).

According to findings of the study, there were election crimes and offences control measures in all the counties and which were generally effective as was reported by the majority (54.3%) of the respondents. These key measures included: civic education conducted by Independent Electoral and Boundaries Commission and Civil Society Organizations (30.5%); deployment of security personnel and patrols (27.5%); peace, national unity and anti-election

crimes and offences campaigns (27.0%); enforcement of applicable laws by Judiciary (20.8%); and Independent Electoral and Boundaries Commission Code of Conduct (11.2%).

The study established that there were numerous players who were addressing election crimes and offences in Kenya. The key players were: security agencies (23.2%); Independent Electoral and Boundaries Commission (21.6%); religious organizations (20.9%); interior and Coordination Officials, that is, former Provincial administration (16.3%); Non-Governmental Organizations (15.6%); Mass Media (13.4%); other government agencies including the Education sector (specifically the teachers and KNUT officials), National Crime Research Centre, Probation Service and Prisons Service (11.2%); Presidential candidates and their running mates (10.2%); and the Judiciary (9.9%).

The major challenges faced in the control of election crimes and offences in Kenya included: inadequate resources and insufficient networks among security agencies (29.1%); corruption and lack of integrity in the electoral process (18.7%); illiteracy and ignorance among the electorate (18.7%); impunity and selfishness of political leaders (13.5%); tribalism, nepotism, hatred and hostility (12.3%); and inadequate cooperation and partisan interests among concerned agencies (9.5%). The key possible solutions to the challenges were: conducting timely and effective civic education (32.1%); provision of adequate and quality resources towards the control of election crimes and offences (26.3%); and instituting stiff penalties for election crimes and offences (12.2%).

The major hindrances to free and fair elections were found to be: entrenched corruption among politicians (33.8%); tribalism (22.7%); lack of transparency and accountability among responsible agencies (21.4%); and cash handouts to voters (13.8%). Possible solutions to the hindrances included: conducting civic education on voters' rights and good leadership (25.7%); strict maintenance of law and order (11.2%); stiff penalties on those who violate electoral laws (10.8%); promotion of patriotism and national unity (10.5%); and facilitating the electoral body to deliver free and fair to all political parties (9.6%).

In order to control election crimes and offences at the different stages/phases of the election process and period, a number of key actions needed to be undertaken. At the voter registration stage, there was need to: sensitize the public on the importance of voter registration and maintaining peace and cultivating democracy (23.2%); educate/sensitize the public on the dangers of election crimes and offences (18.8%); engage qualified and empower election and/or voter registration clerks to prevent election crimes and offences (17.0%); install and use an effective electronic voter registration system (13.9%); engage crime investigators and intelligence gathering to detect crimes and offences at voter registration phase (11.9%); and allocate ample time for registration (11.1%).

At the Political Party nominations stage, there was need for the following actions: political parties to build consensus on the best times for their nominations and methods to be used in the nomination (16.9%); using Government electoral body to oversee party nominations (14.6%); providing adequate security during party nominations (14.5%); empowering people

to nominate leaders of their choice (13.6%); and conducting civic education on elections, democracy and peace (9.9%).

During campaign period, there was need for: campaigners and party agents to be sensitized and stopped from maligning their political opponents (22.6%); politicians to engage in transparent campaigns and advocate for democratic elections, peace and national unity (22.1%); deploying adequate security and intelligence measures (20.0%); meting out serious punishment to election offenders during campaigns (17.3%); and curtailing voter bribery (13.3%).

On Election/voting day and announcement of poll results, requirements for controlling election crimes and offences included: provision of tight and adequate security (30.4%); timely announcement of election results (25.9%); professional and transparent handling of voting process and election results by Independent Electoral and Boundaries Commission (20.4%); and undertaking advocacy targeting to achieve the integrity of all players during the election day and announcement of results (16.3%).

4.3 Conclusions

Based on the findings, this study concludes that:

1. Kenya's elections are marred by election crimes and offences. Broadly categorized, the election crimes and offences are: undue influence, bribery, offences relating to elections, use of force or violence, offences relating to voting, treating, offences by members and staff of the Commission, unjustified use of public resources in campaigns, and unjustified use of national security organs. Based on specific types, there are twenty seven types, the most prevalent ones (with a score of about 10.0% and above) being bribery, voter/ballot fraud, hate speech and fighting.
2. Election crimes and offences are perpetrated by a cross-section of individuals and groups. The main perpetrators of election crimes and offences include political aspirants/candidates, unemployed youth, supporters of politicians, party officials and agents and voters.
3. There are key factors contributing to election crimes and offences in Kenya. In order of prominence, these are: ethnic animosity, tribalism and clanism; poverty; unemployment among the youth; illiteracy among the electorate; incitement and use of abusive and derogatory statements by politicians; corruption in politics; and drug and substance abuse.
4. Election crimes and offences have serious negative effects on Kenya's society. The major effects are: loss and injury of human life through physical injury, trauma, sickness and deaths of people; destruction and/or loss of property; violence, disturbed peace, fear and tension among people including voters; ethnic tensions and animosity/hatred/enmity; poor leadership and governance when wrong leaders are elected; interruption of businesses; and forced migration, evictions and/or displacement of populations.

5. There are control measures to address election crimes and offences in Kenya and which are generally effective. The key ones are: civic education conducted by Independent Electoral and Boundaries Commission and Civil Society Organizations; deployment of security personnel and patrols; peace, national unity and anti-election crimes and offences campaigns; enforcement of applicable laws by Judiciary; and Independent Electoral and Boundaries Commission Code of Conduct.
6. A number of players were trying to address election crimes and offences in Kenya. The key ones were: security agencies, Independent Electoral and Boundaries Commission, religious organizations, interior and Coordination Officials (that is, former Provincial administration), Non-Governmental Organizations, Mass Media, other government agencies including the Education sector (specifically the teachers and KNUST officials), National Crime Research Centre, Probation Service and Prisons Service, Presidential candidates and their running mates and the Judiciary.
7. The control of election crimes and offences in Kenya faces a myriad of challenges with the major ones being: inadequate resources and insufficient networks among security agencies; corruption and lack of integrity in the electoral process; illiteracy and ignorance among the electorate; impunity and selfishness of political leaders; tribalism, nepotism, hatred and hostility; and inadequate cooperation and partisan interests among concerned agencies.

4.4 Recommendations

In view of the findings and conclusions of this study, the following policy recommendations and areas for further research are recommended.

4.4.1 Key Policy Recommendations

- i. There is need to improve the investigative capacity of the Directorate of Criminal Investigations (DCI), Ethics and Anti-Corruption Commission (EACC), National Cohesion and Integration Commission (NCIC) and Independent Electoral and Boundaries Commission (IEBC) in emerging reported and unreported crimes and offences related to elections.
- ii. The prosecution and sentencing of election crimes and offences require to be strengthened at the level of point of arrest, gathering of evidence, prosecution and sentencing with the Director of Public Prosecutions and the Judiciary playing a leading role.
- iii. Hate speech and hate crime jurisprudence requires more development through administrative policies, legislations and Court precedents to address the poor record of convictions. Further, the IEBC should profile election offenders irrespective of their roles and status in society.
- iv. Enforcement of zero-tolerance policy on election-related corruption must start with members of public as part of their right and obligation under the Constitution with regard to public participation in good governance.

- v. The use of election campaign money should be regulated and enforced by IEBC as a deliberate measure to deter electoral malpractices including voter bribery during election campaigns. As a further deterrence, it is recommended that a list be generated for those who have not complied and be put to their defence.
- vi. Parliament and County Assemblies need to take lead in legislating stiffer penalties against election malpractices. Such laws could have the capacity to bar individuals convicted of election crimes and offences from contesting future elective positions and holding public office for some time.
- vii. The advance mapping of election crimes and offences in every election cycle (specifically with regard to election risk factors, potential crime and offence types, hotspots and perpetrators) should be prioritized by the IEBC, National Police Service, National Intelligence Service, NCIC and the National Crime Research Centre (NCRC) so as to inform prevention policy and intervention programmes.
- viii. The state and non-state actors under the National Council for the Administration of Justice (NCAJ) should put in place national and county level legislation processes by proposing bills and other forms of legislative amendments to examine and review election practices in the country.
- ix. The Independent Electoral and Boundaries Commission should install adequate and properly functioning electronic voter registration, voting and election results transmission equipment.
- x. There is need for enhanced awareness creation forums for politicians, their supporters, party agents, the youth, voters and the general public on the importance of free, fair, transparent and crime and offence-free elections. Collaborative civic education and sensitization forums for target groups which are organized and supported by both public and private organizations to guard against duplication of efforts and waste of resources are recommended.
- xi. Inter-ethnic and inter-clan activities (including exchange programmes) need to be encouraged and supported towards addressing the negative effects of ethnic animosity, tribalism and clanism. The National Cohesion and Integration Commission needs to play a leading role in this aspect.
- xii. To curb crimes committed especially by the youth, economic programmes aimed at alleviating poverty and empowering all Kenyans in general and the youth in particular (such as the Youth Empowerment Programme popularly known as ‘Kazi Kwa Vijana’) need to be created by way of opening up employment and other economic opportunities in the formal and informal sectors of the economy.
- xiii. The Government should ensure equitable distribution of national resources and opportunities (envisioned in the principles and foundations of Vision 2030) in all regions to guard against election crimes and offences resulting from the unequal distribution and competition for the same.
- xiv. Illiteracy was found to contribute to election crimes and offences. Measures should therefore be put in place by the Ministry of Education in partnership with other relevant state and non-state agencies such as Elimu Yetu Coalition (EYC) to ensure that formal education at all levels is affordable and accessible to the majority of the

citizenry through literacy promotion initiatives and programmes such as free learning and/or subsidized fees.

- xv. The Government needs to continue providing avenues for civil society and citizens' movements to fully participate in voters' education, poll observation and monitoring of election crimes and offences.
- xvi. The Independent Electoral and Boundaries Commission should introduce innovative mechanisms of deterring election offences. These could include: partnering with the National Authority for the Campaign Against Alcohol and Drug Abuse to limit liquor consumption around campaign venues and during election day and announcement of results; facilitating political party nominations and dialogues: coming out with peace agreements between rival candidates and political parties to prevent volatile election situations from escalating to election offences and crimes; and taking non-security trained election personnel (such as teachers who are normally involved as election officials) through election crime prevention trainings and seminars.
- xvii. Security agencies need to pacify all organized criminal gangs operating in the country by among others, dismantling their organizational and operational structures and disrupting their funding sources and networks.
- xviii. The National Crime Research Centre needs to be adequately facilitated with finances, infrastructure and personnel to continue conducting crime research to inform policy in the effective management of crime and offence free elections in Kenya.

4.4.2 Recommendations for Further Research

Further and in-depth research is needed to cover the counties and sub-counties that were not reached by this study.

Specific studies aimed at assessing the capacity and effectiveness of the institutions responsible for political elections in preventing and managing election crimes and offences in Kenya are recommended.

A study on the role played by the private and civil society sector in the prevention of election crimes and offences would inform policy and programmes as far as election crimes and offences management in the country is concerned.

REFERENCES

- Agoya, V. (2013, November 22). Election Official charged with altering Tender rules. *Daily Nation Newspaper*, p 15.
- Akers, R.L. & Sellers, C.S. (2004). *Criminological Theories: Introduction, Evaluation, and Application* (4th Edition). Los Angeles: Roxbury Publishing.
- Calhoun, C., Light, D. & Keller, S. (1995). *Understanding Sociology*. Glenoe: McGraw – Hill.
- Chapple, C.L. & Hope, T.L. (2003). An analysis of the self-control and criminal versatility of gang and dating violence offenders. *Violence and Victims*, 18(6), 671–690.
- Coalition for Accountable Political Financing (CAPF). (2008). *The Money Factor in Poll Race. A Monitoring Report of the 2007 General Election*. Nairobi: CAPF.
- Conklin, J. E. (1995). *Criminology* (5th Edition). London: Allyn and Bacon.
- Friendman, D. & Hechter, M. (1988). *The Contribution of Rational Choice Theory to Macropsychological Logical Research*. New York: Columbia University Press.
- Fund, J. (2004). *Stealing Elections: How Voting Fraud Threatens Our Democracy*. New York: Encounter Books.
- Government of Kenya. (2008). *The Waki Report on Post-election Violence, 2008*, Nairobi: Government Printer.
- Gumbel, A. (2005). *Steal this Vote: Dirty Elections and the Rotten History of Democracy in America*. New York: Nation Books.
- Henrich, C.C., Brookmeyer, K.A. & Shahar, G. (2005). Weapon violence in adolescence: Parent and school connectedness as protective factors. *Journal of Adolescent Health*, 37(4), 306–312.
- Independent Electoral and Boundaries Commission. (2014). *Post-Election Evaluation Report on the March 4th 2013 General Elections*. Nairobi: IEBC.
- Independent Electoral and Boundaries Commission. (2013). *Elections Handbook for Security Personnel*. Nairobi: IEBC.
- International Foundation for Electoral Systems. (2012). *Assessing Electoral Fraud in New Democracies: Refining the Vocabulary*. Washington, DC: IFES.
- Kenya Law Reform Commission. (2010). *The Constitution of Kenya*. Nairobi: National Council for Law Reporting.
- Kenya Law Reform Commission. (2012). *Elections Act 2011*. Nairobi: National Council for Law Reporting.

- Kenya National Commission on Human Rights. (2014). *Are We Under Siege? The State of Security in Kenya: An Occasional Report (2010–2014)*. Nairobi: KNCHR.
- Kühne, W. (2010). *The Role of Elections in Emerging Democracies and Post-Conflict Countries: Key Issues, Lessons Learned and Dilemmas*. Berlin: Friedrich-Ebert-Stiftung. I International Policy Analysis Department for Global Policy and Development.
- Labiste M. (2001). “Killings, bombings, abductions, ballot snatchings continue,” *Philippines Daily Inquirer*, p.1.
- Lilly, J.R., Cullen, F.T. & Ball, R.A. (1995). *Criminological Theory: Context and Consequences* (2nd Edition.). Thousand Oaks, Ca: Sage Publications.
- Mapuva, J. (2013). Elections and electoral processes in Africa: A gimmick or a curse? *African Journal of History and Culture*. Vol. 5(5), pp. 87-95, July, 2013.
- Miller, D. (2013). *The Future of Democracy in Africa*. Washington, DC: Woodrow Wilson International Center for Scholars.
- National Crime Research Centre. (2013). *A Study of Organized Criminal Gangs in Kenya*. Nairobi (unpublished report).
- Office of the High Commissioner for Human Rights. (2008). *Fact-Finding Mission to Kenya on Post Election Violence, 6-28 February 2008*.
- Olawole, O., Adewunmi, E. F. & Oluwole, E. (2013). Electoral Malpractices and Problems in Africa: A Critical Analysis. *Journal of Research and Development* Vol. 1, No.6, 2013.
- Save the Children/UNICEF/UNFPA/UNHCR/GoK), 2008. *Inter-Agency Rapid Assessment on Child Protection and Gender-Based Violence. Nairobi IDP Sites*. January 10-11, 2008.
- Security Research and Information Centre. (2012). *The Reform Process in Kenya: A Survey of Citizens Knowledge, Attitude and Perceptions of the Reform Process-Bi-Annual Survey Report*. Nairobi: SRIC.
- Security Research and Information Centre. (2013). *Nairobi Region Annual Crime Observatory Report 2011/2012*. Nairobi: SRIC.
- Siegel, L.J. & McCormick, C. (2006). *Criminology in Canada: Theories, Patterns, and Typologies* (3rd Edition). Toronto: Thompson.
- Truth, Justice and Reconciliation Commission. (2013). *Report of the Truth, Justice and Reconciliation Commission*. Nairobi: TJRC.
- Verma, A. (2005). Policing Elections in India. *India Review* 4(3-4): 354-376, 2005.

Internet Sources

Brooks, R. (2005). Failed States, or the State as Failure.

Retrieved 22/1/2013 from:

www.rosabrooks.squarespace.com/failed-states-or-the-states-as

Christensen, S. (2010, March 5). Weak State Theory and Democracy Assistance.

Retrieved 27/1/2013 from:

<http://oliveandarrow.com/intelect/?p=187>

Commonwealth Secretariat. (2013, March 6). Report of the Commonwealth Observer Group: Kenya General Elections, 4 March 2013.

Retrieved 17/1/2014 from:

<http://thecommonwealth.org/sites/default/files/news-items/documents/130411.pdf>

Gettleman, J. (2013, March 29). Voting Irregularities in Kenya Election are Confirmed, Adding Fuel to Dispute.

Retrieved 15/4/2013 from:

www.nytimes.com/2013/03/30/world/africa/voting-irregularities-in-kenya-election-are-confirmed.html?_r=0

Guibert, L. & Perez-Quiros, G. (2012). Measuring the Economic Cost of the 2007/08 Post-Election Violence in Kenya.

Retrieved 22/11/2013 from:

https://editorialexpress.com/cgi-bin/conference/download.cgi?db_name=CSAE2013&paper_id=75

Kaberia, J. & Musau, N. (2013, May 3). Kenyan Authorities in the Dock over Hate Speech.

Retrieved 7/5/2013 from:

<http://iwpr.net/report-news/Kenyan-authorities-dock-over-hate-speech>

Kadima, D. K. (2016). Successful Elections in Africa.

Retrieved 15/4/2016 from:

<http://www.eldis.org/go/topics/insights/2008/elections-and-the-democracy-challenge/successful-elections-in-africa#.VxIfWUBnBo8>

Khan, A. S. (2013). Article on: Elections in an uneducated Pakistan.

Retrieved 23/11/2013 from:

<http://tribune.com.pk/story/536790/elections-in-an-uneducated-pakistan/>

Lema, J. (2013, February 20). IEBC and the Assisted Voter (Illiterate) Question. Retrieved 23/2/2013 from:

<http://northkenya.com/2013/02/iebc-and-the-assisted-voter-illiterate-question/#sthash.Son1HzsD.dpbs>

Makabila, S. (2013, January 27). IEBC at pains to crack whip on poll offenders.

Retrieved 17/7/2013 from:

<http://www.standardmedia.co.ke/m/story.php?articleID=2000075955>

Martinez, H. (2011, October 24). Colombia: Election Campaign Marred by Violence.

Retrieved 3/2/2013 from:

<http://www.ipsnews.net/2011/10/colombia-election-campaign-marred-by-violence/>

Meisburger, T. (2010, May 5). Will Automated Elections in the Philippines Increase Public Confidence?

Retrieved 16/2/2014 from:

<http://asiafoundation.org/in-asia/2010/05/05/will-automated-elections-in-the-philippines-increase-public-confidence/>

Munuhe, M. (2012, November 4). Committee to Monitor 56 Electoral Offences.

Retrieved 6/2/2013 from:

<http://www.standardmedia.co.ke/?articleID=2000069886>

Mutai, B. (2013, February 12). Kenya cautions foreigners against interfering with elections.

Retrieved 12/7/2013 from:

<http://www.africareview.com/News/Kenya-cautions-foreigners-against-interfering-with-elections/-/979180/1691878/-/wa3uejz/-/index.html>

Okolloh, Ory (2008, August 27). Report on the Kriegler Commission.

Retrieved 13/1/2013 from:

www.uslaw.com/library/Legal_Commentary/Report_Kriegler_Commission.php?item=222476

Ombati, C. (2013, June 24). Kenya Ranked 17th Failed State Worldwide.

Retrieved 24/11/2013 from:

http://www.standardmedia.co.ke/?articleID=2000086689&story_title=kenya-ranked-17th-failed-state-worldwide

Omwenga, S. N. (2013, March 18). How Jubilee Shamelessly and Recklessly Rigged Elections of March 4th 2013 in Kenya.

Retrieved 23/5/2013 from:

<http://omwenga.com/2013/03/18/how-jubilee-rigged-elections/>

Opiyo, D. (2012, May 2). Lobbies raise red flag over hotspot counties.

Retrieved 3/1/2013 from:

www.nationmedia.com

Oxford University Press. (2014). Oxford Dictionaries.

Retrieved 3/4/2014 from:

<http://www.oxforddictionaries.com/definition/english/election>

Rotberg, R. (2003). Failed States, Collapsed States, Weak States: Causes and Indicators.

Retrieved 3/3/2013 from:

http://www.brookings.edu/press/books/chapter_1/statefailureandstateweaknessinatimeofterror

Santolan, J. (2013, May 4). Violence in the Phillipines as election approaches.

Retrieved 8/8/2013 from:

www.wsws.org/en/articles/2013/05/04/phil-m04.html

The Associated Press (2013, March 4). Kenya's presidential election draws millions of voters but is marred by bloodshed, at least 19 dead.

Retrieved 23/3/2013 from:

<http://www.nydailynews.com/news/world/19-killed-kenya-presidential-election-day-article-1.1279171>

The Electoral Commission. (2010). The Electoral Commission.
Retrieved 19/8/2013 from:

<http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-reviews-and-research/report-on-2010-electoral-malpractice-cases-published>

The Electoral Commission. (2013). The Electoral Commission.
Retrieved 7/8/2013 from:

www.electoralcommission.org.uk

Transparency International Kenya. (2013). Kriegler Commission Report: An Audit of its Implementation.

Retrieved 8/12/2013 from:

<http://tikenya.org/phocadownload/kriegler%20commission%20report%20an%20audit%20of%20its%20implementation.pdf>

UNDP Kenya. (2013). Support to Electoral Reforms and Processes 2012-2013.

Retrieved 27/7/2014 from:

www.ke.undp.org/content/kenya/en/home/operations/projects/democratic_governance/electoralreforms

APPENDICES

Appendix 1: Letter of Introduction to Sample respondents

NATIONAL CRIME RESEARCH CENTRE

A STUDY OF ELECTION CRIMES AND OFFENCES IN KENYA

County: _____
District: _____
Division: _____
Location: _____
Village/Estate: _____
Date of Interview: _____
Time of Interview: _____

INTRODUCTION

How are you today? The National Crime Research Centre (NCRC), which is a state corporation established by the National Crime Research Centre Act (CAP 62, Laws of Kenya) and which is mandated to carry out research into the causes of crime and its prevention with a view to informing policy planning and implementation in the management of election crime in Kenya. Currently, NCRC is undertaking “**A Study of Election Crimes and Offences in Kenya**”. We would like to ask you some questions related to the subject. All the information you give will be treated in utmost confidence and your identity will not be revealed. We would highly appreciate if you spared some time to respond to the following questions.

Thank you in advance.

Signature of interviewer: _____ Date: _____

RESPONDENT AGREES TO BE INTERVIEWED

RESPONDENT DOES NOT AGREE TO BE INTERVIEWED → **END**

Appendix 2: Interview schedule for sample respondents

RESPONDENT'S BACKGROUND INFORMATION

1. Gender

- 1. Male
- 2. Female

2. Age of Respondent in years.

- 1. 18-25
- 2. 26-33
- 3. 34-41
- 4. 42-49
- 5. 50-57
- 6. 58-65
- 7. 66-73
- 8. 74+

3. Marital Status:

- 1. Single/Never Married
- 2. Married
- 3. Divorced
- 4. Separated
- 5. Widowed

4. Highest Level of Education:

- 1. None
- 2. Primary
- 3. Secondary
- 4. Middle Level
- 5. University
- 6. Adult Literacy
- 7. Other (Specify) _____

5. (a) Length of stay in the locality (study site) _____

(b) Are you a registered voter for the 2013 General Elections? 1. Yes 2. No

6. (a) Based on your own knowledge and/or experience, are there election crimes and offences committed during the election period in your locality?

- 1. Yes
- 2. No.
- 3. I don't know

(b) If Yes in Q 6 (a) above, please list down the types of election crimes and offences committed in your locality?

(c) If Yes in Q 6 (a), please list those who commit election crimes and offences during the election period in your locality?

7. If there are election crimes and offences committed in this locality, what are the contributing factors? _____

8. In your opinion, what are the effects of election crimes and offences? _____

9. (a) In your opinion, are there election crimes and offences control measures?

1. Yes 2. No. 3. I don't know

(b) If Yes in Q 9 (a) above, what are the control measures? _____

(c) Please indicate the players who are addressing election crimes and offences? (Please probe) _____

10. (a) Generally, how effective are the measures in the control of election crimes and offences?

1. Effective
2. Not effective
3. I don't know
4. Not Applicable

Please explain your answer? _____

(b) In your opinion, what challenges are faced in the control of election crimes and offences? _____

(c) Please suggest how the above identified challenges can be addressed? _____

11. What would you suggest be done as a way forward in managing election crimes and offences?

(i) At the voter registration phase/stage? _____

(ii) At the Party nominations phase/stage? _____

(iii) At campaign period? _____

(iv) On the Election day/Voting day and announcement of results? _____

12. (a) In your opinion, what hinders a free and fair election?

(b) How can the hindrances be addressed? _____

13. Please give any other relevant comments? _____

Thank you and stay well.

Appendix 3: Introduction Letter to Key Informants

NATIONAL CRIME RESEARCH CENTRE

A STUDY OF ELECTION CRIMES AND OFFENCES IN KENYA

County: _____
District: _____
Division: _____
Location: _____
Date of Interview: _____
Time of Interview: _____

INTRODUCTION

How are you today? We are from the National Crime Research Centre (NCRC), a state corporation established by the National Crime Research Centre Act (CAP 62, Laws of Kenya) mandated to carry out research into the causes of crime and its prevention with a view to informing criminal justice agencies in their policy planning, formulation and implementation in the management of crime in Kenya. Currently, NCRC is undertaking “**A Study of Election Crimes and Offences in Kenya**”. We would like to ask you some questions related to the subject. All the information you give will be treated in utmost confidence and your identity will not be revealed. We would highly appreciate if you spared some time to respond to the following questions.

Thank you in advance.

Signature of interviewer: _____ Date: _____

RESPONDENT AGREES TO BE INTERVIEWED

RESPONDENT DOES NOT AGREE TO BE INTERVIEWED → **END**

Appendix 4: Interview guide for Key Informants

Preliminary Information

Name of Organization you serve _____

Position/Title of officer responding to interview _____

Length of stay in the locality (study site) _____

First I would like to discuss about election crimes and offences in this locality.

1. Are there election crimes and offences committed during the election period in this locality? Probe for types of election crimes and offences committed and those who commit them.

Next, I would like to discuss about factors contributing to election crimes and offences.

2. What do you think are the factors contributing to election crimes and offences in this locality?

Next, I am interested in knowing about the effects of election crimes and offences.

3. In your opinion, what are the effects of election crimes and offences?

Next, I would like to know about existing election crimes and offences control measures.

4. In your opinion, are there existing election crimes and offences control measures? Probe for the measures and their effectiveness.

Next, I am interested in finding out from you about the players who are currently attempting to address election crimes and offences.

5. Are there players who are currently attempting to address election crimes and offences?

Next, let us to talk about challenges faced in the control of election crimes and offences.

6. In your opinion, what challenges are faced in the control of election crimes and offences and how can they be addressed?

Now let us talk about managing election crimes and offences at different stages in the election process and period.

7. What would you suggest be done as a way forward in managing election crimes and offences:
 - (i) At the voter registration phase/stage?
 - (ii) At the Party nominations phase/stage?
 - (iii) At campaign period?
 - (iv) On the Election day/Voting day and announcement of results?

Finally, let me know something from you about hindrances to a free and fair election.

8. In your opinion, what hinders a free and fair election and how can the hindrances be addressed?
9. Please give any other relevant comments

Thank you and stay well.



NATIONAL CRIME RESEARCH CENTRE
ACK Garden Annex - Ground Floor
1st Ngong Avenue, Off Bishop's Road
P.O. Box 21180-00100
Nairobi, Kenya
Tel: +254-20-2714735
Email: director@crimeresearch.go.ke
Website: www.crimeresearch.go.ke

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