

REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA
PRESIDENTIAL ELECTION PETITION NO. 1 OF 2017

RAILA ODINGA.....1ST PETITIONER
STEPHEN KALONZO MUSYOKA.....2ND PETITIONER

AND

**THE INDEPENDENT ELECTORAL
AND BOUNDARIES COMMISSION.....1ST RESPONDENT**

**THE CHAIRPERSON OF INDEPENDENT
ELECTORAL AND BOUNDARIES COMMISSION.....2ND RESPONDENT**

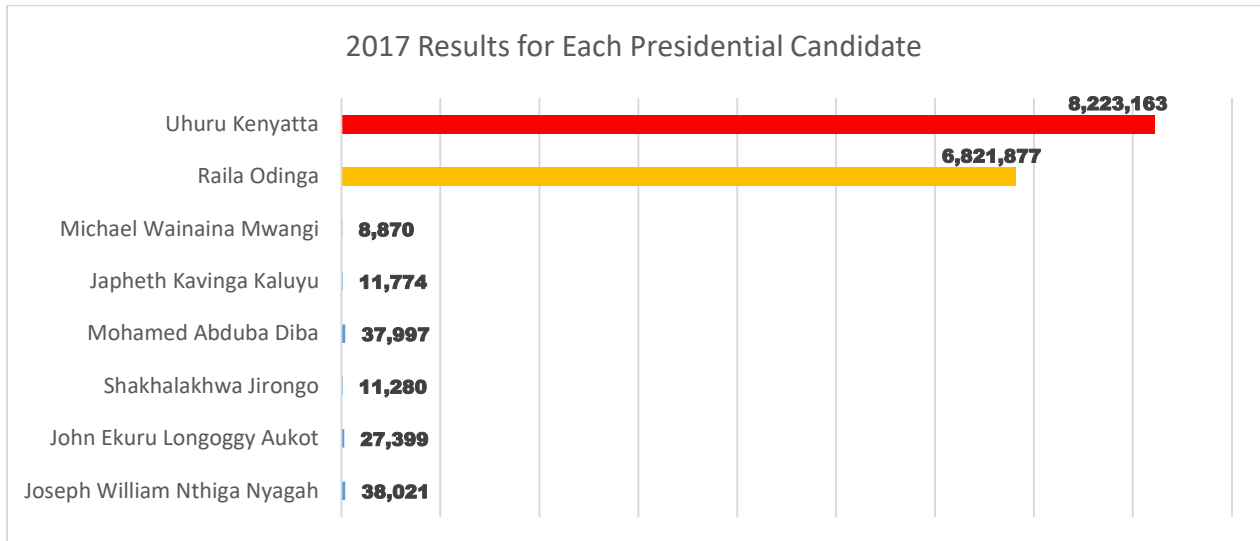
H.E UHURU MUIGAI KENYATTA.....3RD RESPONDENT

3RD RESPONDENT'S REPLYING AFFIDAVIT

I, **UHURU MUIGAI KENYATTA**, a resident of Nairobi and of Post Office Box Number 67498 - 00200 Nairobi make an oath and state as follows;

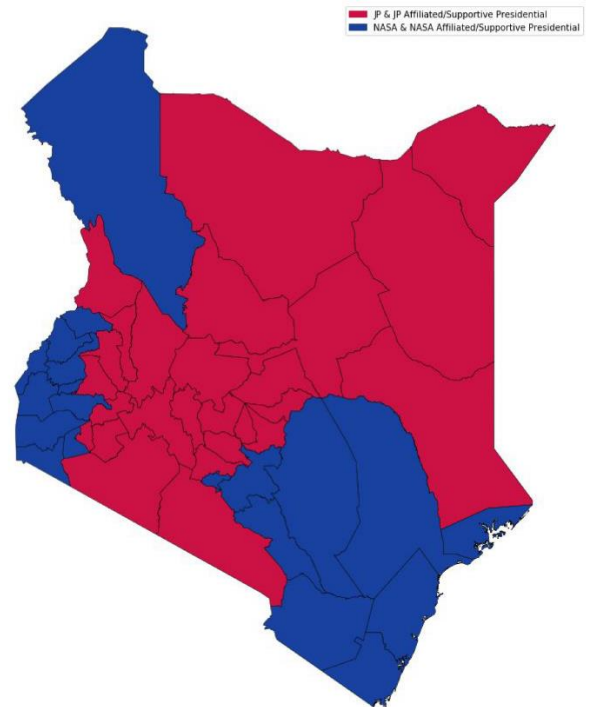
1. I am a citizen of Kenya and a voter in Gatundu South Constituency within Kiambu County. I am the 3rd Respondent in this Petition and thus competent to make this affidavit.
2. I make this affidavit on the basis of matters within my own knowledge and as regards matters of law, on the basis of advice from counsel on record which advice I verily believe to be correct.
3. I was elected President of the Republic of Kenya in 2013 and served my first term having been nominated to contest the election by The National Alliance Party (TNA) which was a member of the Jubilee Coalition (JC).
4. The JC's main objective as captured in the cover of the "Shared Manifesto of the Coalition" was the Transformation of Kenya. JC set out to champion for national healing, reconciliation, inclusiveness and prosperity for the 42 million Kenyans.
5. The JC in the Shared Manifesto made pledges and commitments which have been largely fulfilled. In 2017 the Jubilee Party (JP) nominated me as its Presidential candidate in the recently concluded Presidential elections.
6. During the campaign period the Deputy President and I attended over 600 rallies in practically every part of Kenya to seek a second term. The results at all six elections, which JP won, demonstrates that our JC Agreement of national healing, reconciliation, inclusiveness and prosperity for all Kenyans resonated exceedingly well with the electorate.

7. On 11th August, 2017, the 2nd Respondent announced that I won the Presidential election upon a full review of all the relevant data and statutory forms.

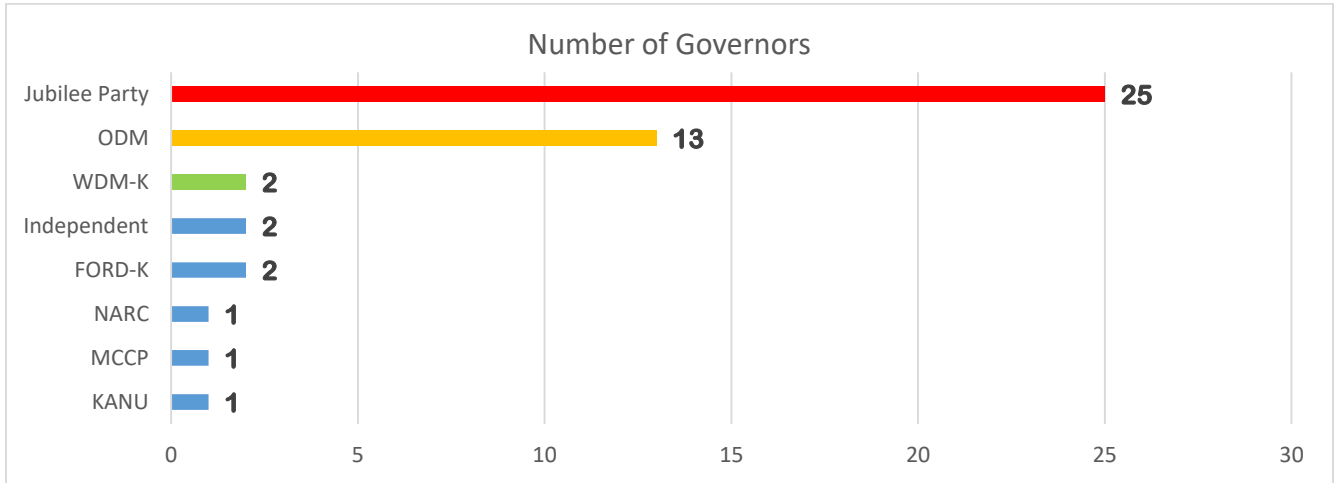


Pictorial Presentation of Presidential Results

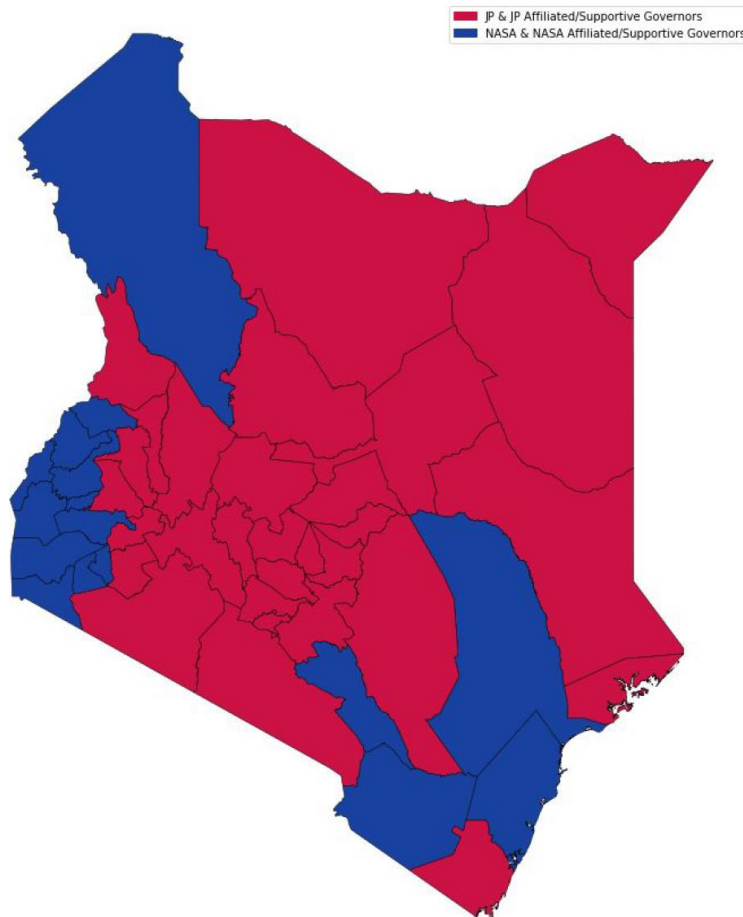
PRESIDENTIAL	Number
Kenyatta Majority Vote Share	26
Odinga Majority Vote Share	21

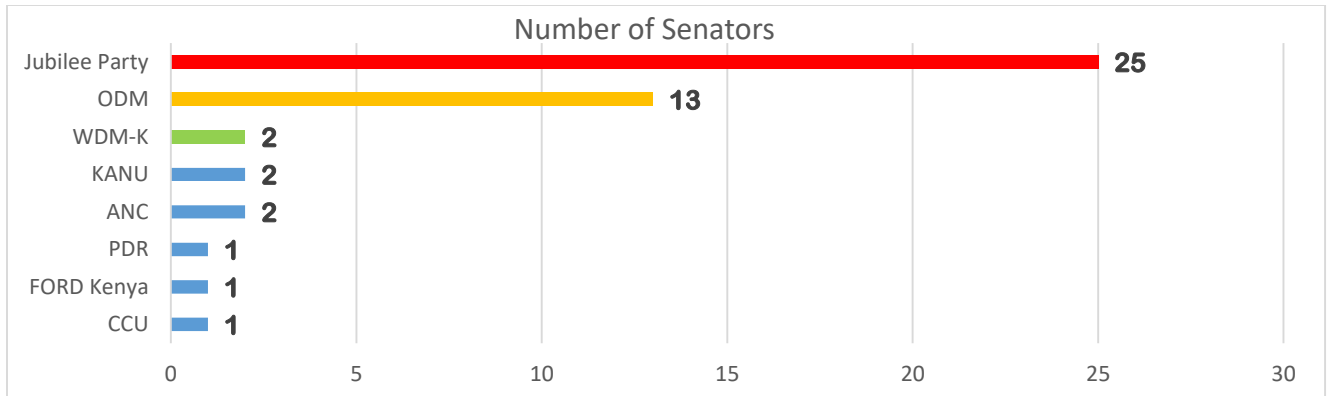


8. JP's victory in the general elections is remarkable, demonstrable and cannot be assailed in any democratic society. JP as a party also won a majority of positions in all the other five elections conducted the same day. The following is a summary of the results in the 5 other elections for Gubernatorial, Senate, Women Representative, National Assembly, and Members of County Assembly:

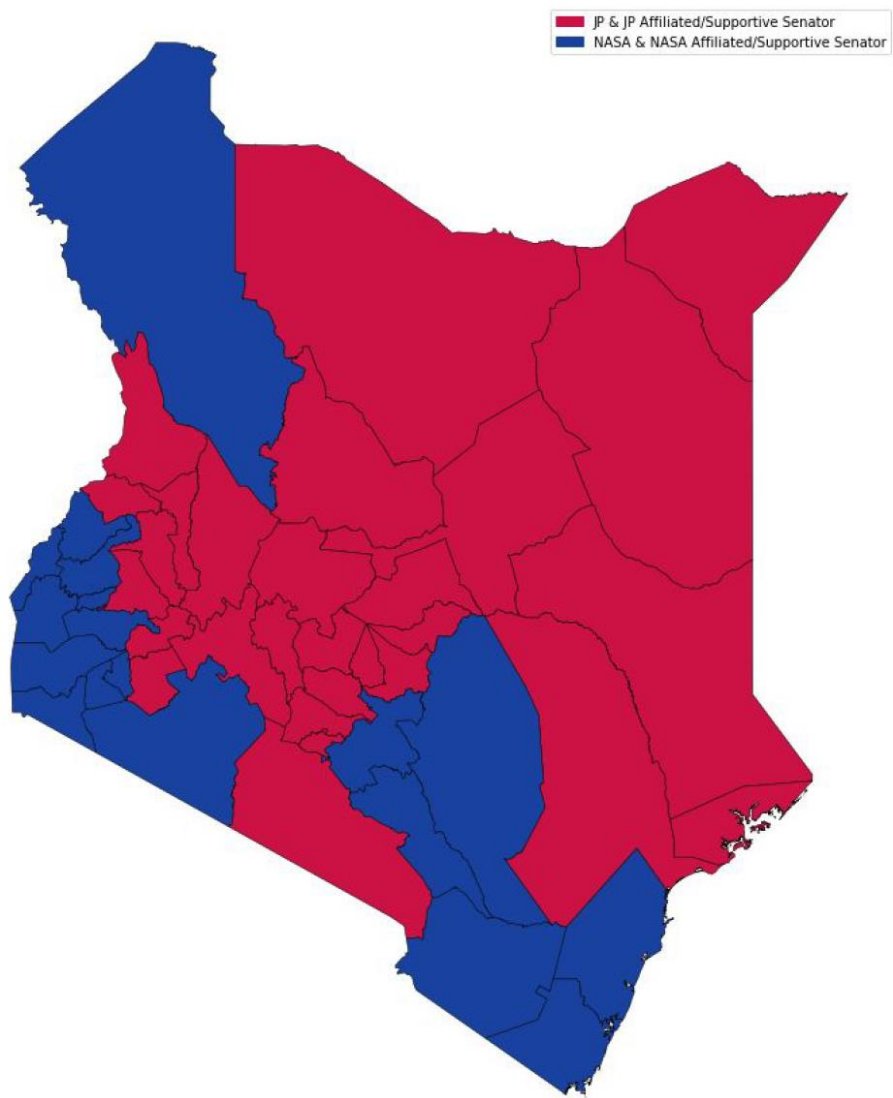


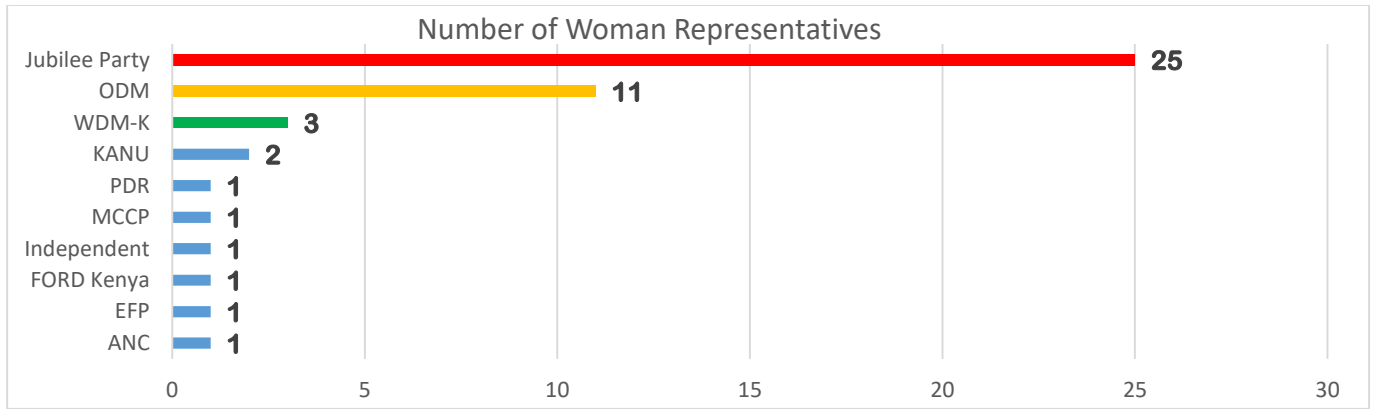
Pictorial Presentation of Elected Governors



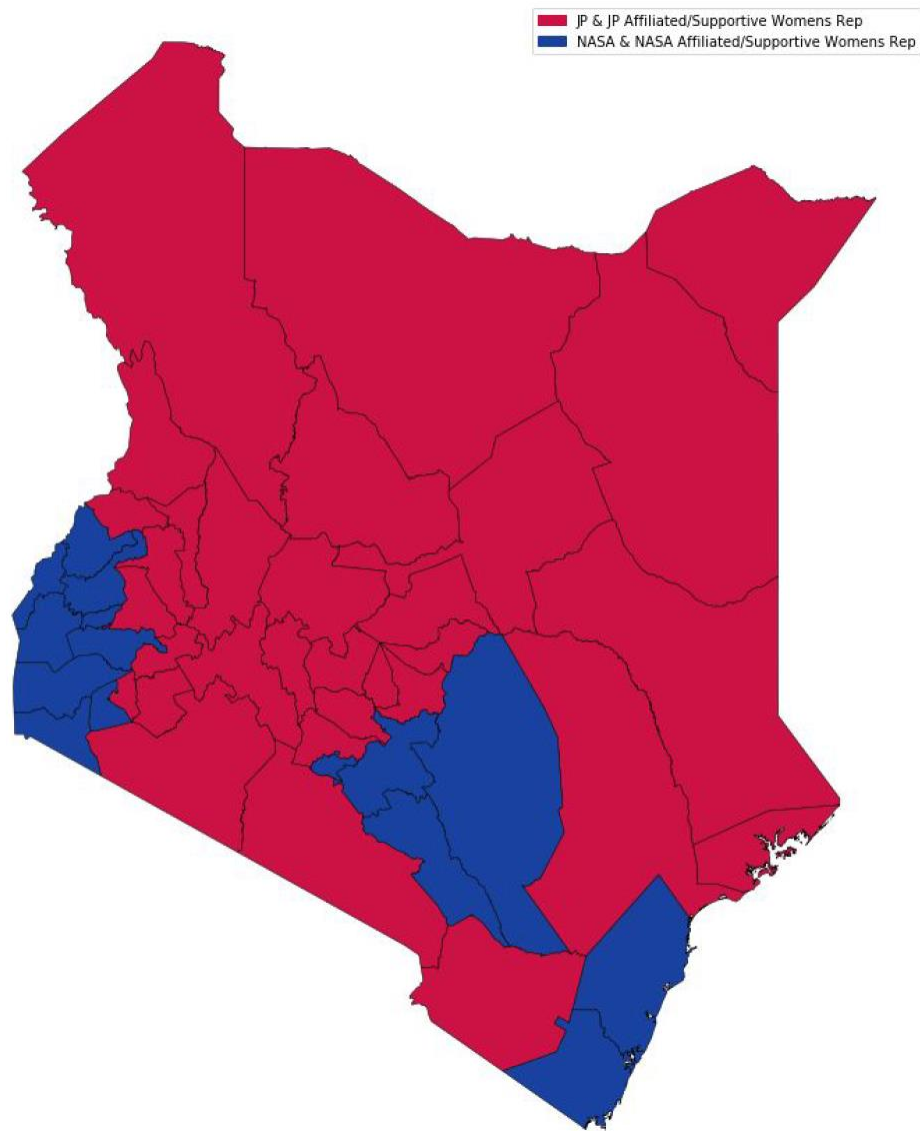


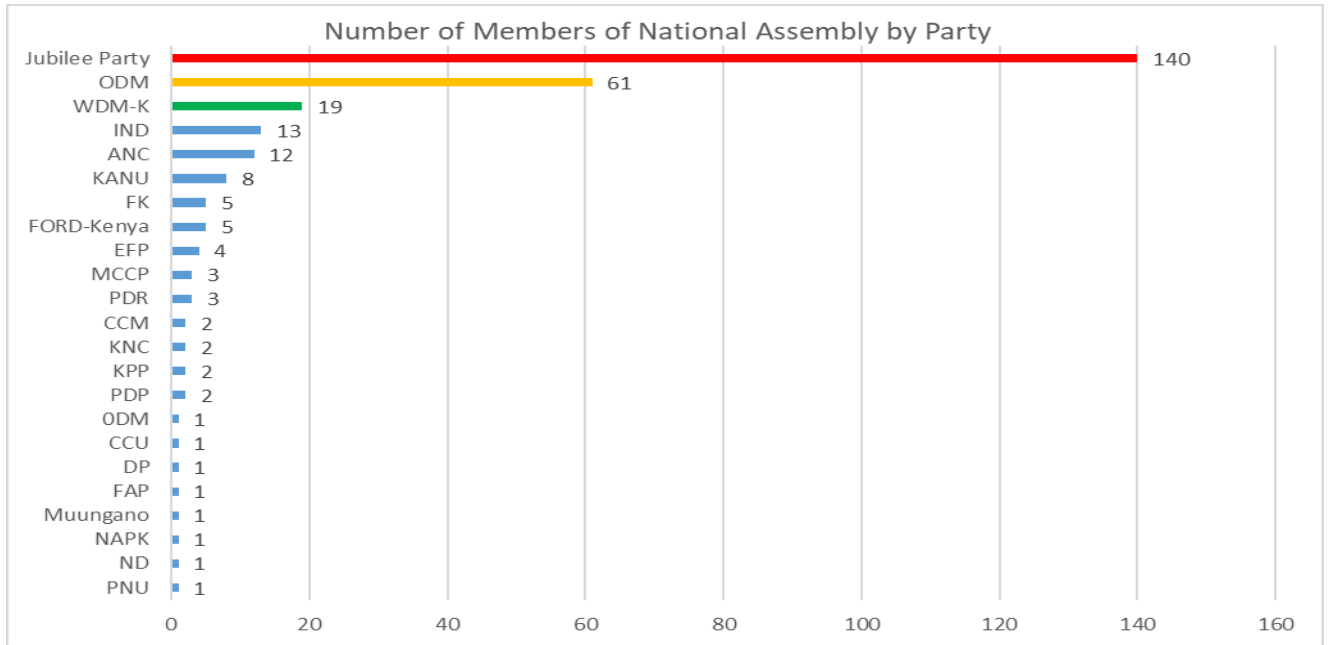
Pictorial Presentation of Elected Senators



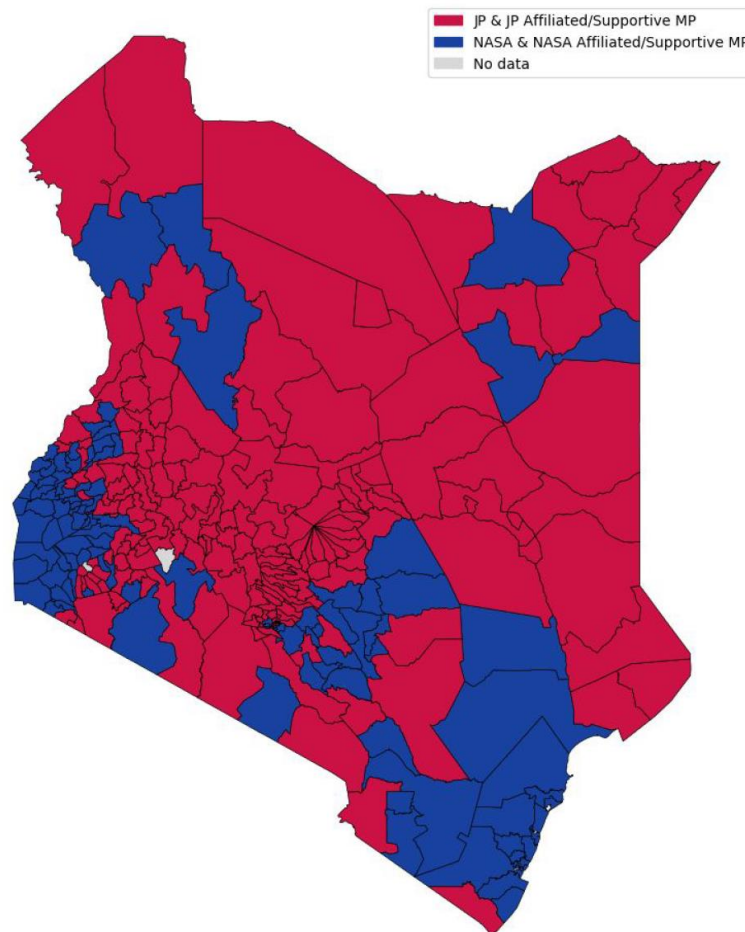


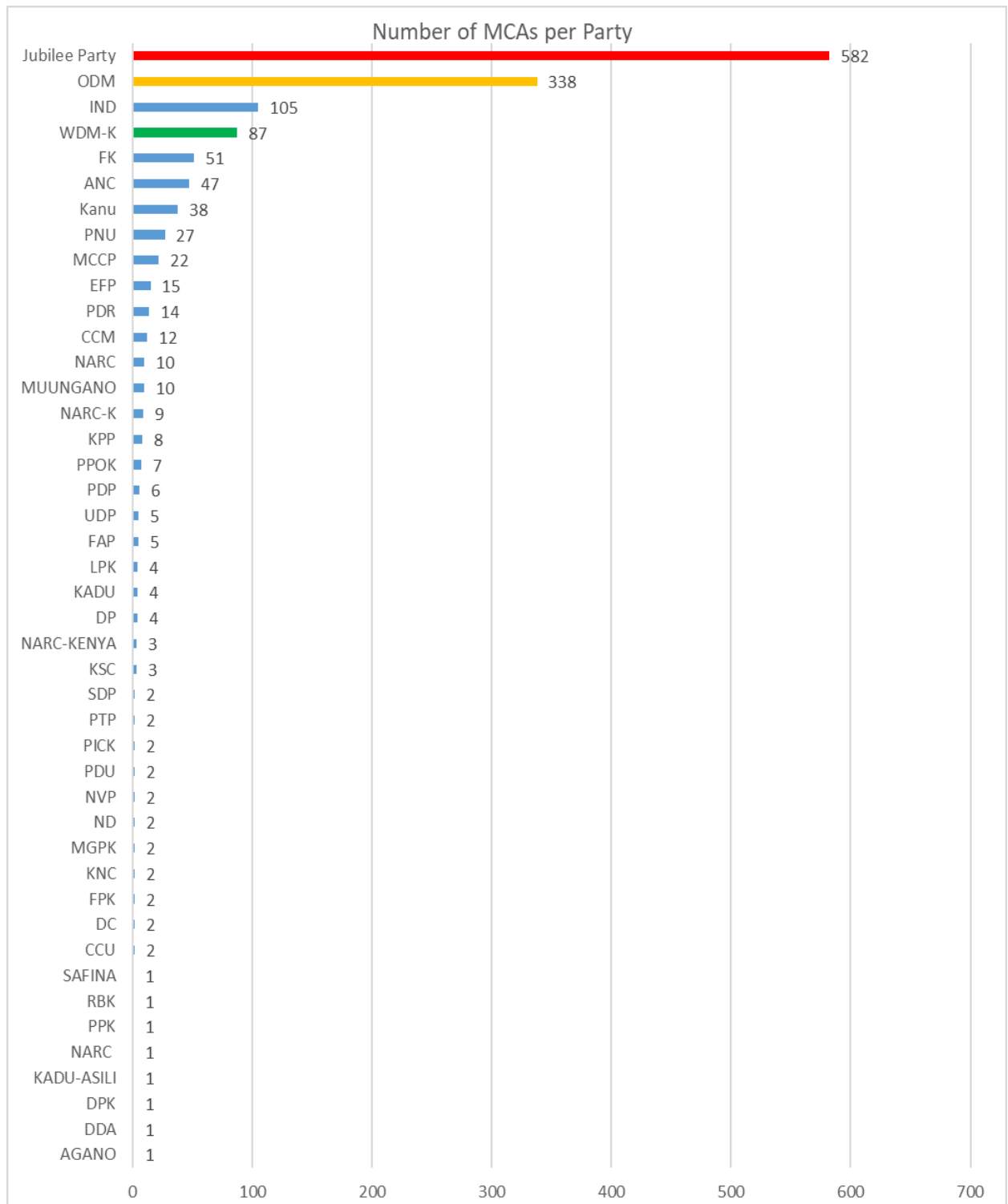
Pictorial Presentation of Elected Woman Representatives





Pictorial Presentation of Elected Members of National Assembly





9. The difference between the votes cast in my favour and those cast in favour of the 1st Petitioner is 1,401,286. Such a margin is significant and emphatically demonstrates the sovereign will of the people of Kenya.

10. Despite such clear poll victory, the 1st Petitioner has continuously disparaged the electoral win and coined such demeaning remarks as computer generated leaders.
11. The Deputy President and I are not computer generated leaders (“vifaranga vya computer”). The electoral victory was effected by the Kenyan voters.
12. The electoral victory was consequent to the great efforts made to transform the country; delivery of the promises in the JC’s “Shared Manifesto of The Coalition” and the inclusive government that I have presided over. In addition, during the campaign period the Deputy President and I made significant inroads in areas hitherto regarded as opposition zones
13. Our strategy succeeded as demonstrated by the electoral results in all the six elections as depicted by the various graphs in paragraph 7 and 8 above.
14. The Presidential Election was conducted peacefully and in accordance with the law and international practice.
15. I deny that I contravened the Rule of law and the Principles of the Conduct of a free and fair election through the use of intimidation, coercion of Public Officers and improper influence of voters as pleaded in paragraph 32 of the Petition or at all. The allegations are devoid of any evidentiary or legal basis.
16. I am informed by the advocates on record and verily believe it to be true that the vague and general accusations in the Petition and depositions in the affidavits are imprecise; without particulars and incapable of direct rejoinder due to their generality.
17. I have read and understood the contents of paragraphs 234 to 240 inclusive of the affidavit of Dr. Nyangasi Oduwo sworn on 18th August, 2017 in support of the Petition. In answer to the generalised allegations, I respond seriatim as follows;
 - (a) I deny that I corruptly influenced voters in the run up to the 8th August, 2017 elections as deponed in paragraph 234 or at all.
 - (b) I am advised by my counsel on record and verily believe it to be true that the deposition in paragraph 234 is vague and generalised due to want of material particulars.
 - (c) I am further advised by the said counsel and I believe it to be true that the same deposition is a violation of the Deputy President’s right to natural justice as it charges him with an offence or offences when he is not a party to the Petition and, accordingly, has no opportunity to respond to the allegation.
 - (d) I deny that while addressing campaign rallies in Makueni, I threatened the local Chiefs who were allegedly not campaigning for me. My remarks on that occasion were reported out of context. The true position is that I was cautioning chiefs not to depart from their obligation to maintain political neutrality.

- (e) In reply to paragraph 236, I am not aware of any Cabinet Secretaries who actively and openly abused their offices and state resources to advance my political interests. No such act was done with my knowledge.
 - (f) In further reply to paragraph 236, I state that I am advised by counsel on record and verily believe to be true, that the said paragraph is imprecise and incapable of a response due to want of particulars.
 - (g) In further reply to the same paragraph, I am also advised by counsel on record and verily believe the same to be true that Section 23 of the Leadership and Integrity Act No. 19/2012 exempts Cabinet Secretaries from the requirement of political neutrality.
 - (h) In reply to paragraph 237 of the said affidavit, I am aware that the work of Government including launching of projects and compensation of citizens affected by the 2007-2008 post-election violence is continuous and not suspended during the election period.
28. In reply to paragraph 27 of the said affidavit, I state that I am advised by the advocate on record, and I verily believe the same to be true that to the extent that Section 14 of the Elections Act criminalizes the publication of Government information, the section may arguably be considered unconstitutional as it is inconsistent with;
- a. Freedom of expression as articulated in Article 33(1)(a) of the Constitution;
 - b. Citizens right to access of information as pursuant to Article 35(1)(a) of the Constitution; and,
 - c. The values and principles of public service including transparency and provision to the public of timely and accurate information as per Article 232(1)(f) of the Constitution.
29. Any additional response related to the accusation made against me are contained in the affidavits made by Dr. Eng Karanja Kibicho and Mr. Andrew Wakahiu. I adopt and repeat their depositions herein.
30. As regards the various other allegations relating to the conduct of the Presidential election a cogent response has been made in the affidavits made by Mr. Davis Chirchir and Ms. Winnie Guchu among others.

31. Unless otherwise stated and the source of information clearly identified, the facts deponed to herein are within my knowledge and are true.

SWORN at **NAIROBI** by the said]
UHURU MUIGAI KENYATTA]
This ____ day of _____ 2017] **DEPONENT**
BEFORE ME:]
]]
]]
]]
]]
COMMISSIONER FOR OATHS]

DRAWN AND FILED BY:
OGETTO, OTACHI & COMPANY ADVOCATES
SIFA TOWERS, 7TH FLOOR, LENANA/RING ROAD KILIMANI JUNCTION
P.O. BOX. 79438-00200
NAIROBI
CELL:-020-02309060

- TO BE SERVED UPON:**
1. MURUMBA & AWELE ADVOCATES
MIRAGE PLAZA, MEZZANINE 1,
UNIT 7 WESTLANDS, CHIROMO ROAD
P.O. BOX 222505-00200
NAIROBI
Cell- 020-2004420
Email: legal@maadvocates.co.ke
 2. V.A NYAMODI & CO. ADVOCATES
LOWERHILL DUPLEX, APT HSE 7
LOWERHILL ROAD
P.O. BOX 51432,00200
NAIROBI
 3. ISEME, KAMAU & MAEMA ADVOCATES
IKM PLACE
5TH FLOOR, TOWER A
5TH NGONG AVENUE
NAIROBI