

# Insights and Commentary from Dentons

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# THE LEGAL CONNECTION WITH **HH&M**

ISSUE: 04  
AUG 2017



*HERE IS WHAT YOU NEED TO KNOW ABOUT: THE UPCOMING KENYAN ELECTIONS ON THE 8TH AUGUST*

## **A. THE KENYAN ELECTION PROCESS**

1. On Tuesday, 8 August 2017, the Kenyan general elections will be held in accordance with the provisions of Chapter 7 of the Constitution of Kenya.
2. There are different elective posts, which will be under the jurisdiction of different courts as follows:
  - a. The Supreme Court**
    - The Supreme Court has exclusive jurisdiction to hear and determine issues related to the Presidential election.
    - Any person may file a petition in the Supreme Court to challenge the election of the President-elect within seven days after the date of the declaration of the results of the election.
    - The Supreme Court shall hear and make a final determination of the petition within fourteen days, and no right of appeal is available to any party.If the Supreme Court annuls the election of the President-elect, a fresh election shall be held within sixty days after the determination.
  - b. The High Court**
    - The High Court has the jurisdiction to determine disputes in relation to:
      - i. Governors
      - ii. Speaker
      - iii. The National Assembly
  - c. Designated Magistrate Courts**
    - MCAs -The CJ will gazette magistrates who will have the jurisdiction to hear and determine MCA related disputes

### **Nairobi**

1<sup>st</sup> Floor, Delta Office Suites,  
P.O. Box 30333-00100,  
Waiyaki Way,  
Nairobi, Kenya

T: + 254 20 325 8000  
M: +254 703 068 000  
+254 720 213 400  
+254 733 382 341  
F: +254 20 325 8222

### **Mombasa**

2<sup>nd</sup> Floor, Sea View Plaza,  
Mama Ngina Drive,  
P.O. Box 84759-80100,  
Mombasa, Kenya

T: +254 772 446 446  
M: + 254 703 068 000  
F: +254 203 258222

## B. THE NEWS UPDATES

### [1. Court orders IEBC to make public register of voters within 48 hours](#)

The High Court in Nairobi has ordered the electoral commission to make public the voter register within 48 hours.

Justice George Odunga directed the Independent Electoral and Boundaries Commission (IEBC) to post the register either in a public portal or at polling stations within 48 hours.

### [2. CJ Maraga: We are ready for poll cases](#)

The Judiciary is ready and willing to resolve all disputes arising from next week's general election, Chief Justice David Maraga has said.

He urged anyone dissatisfied with the conduct of the Independent Electoral and Boundaries Commission (IEBC) during the August 8 elections to go to court instead of resorting to extra-judicial means as happened in 2007.

### [3. IPOA to monitor police conduct during General election](#)

The Independent Policing Oversight Authority (IPOA) has called on the public to report any cases of police misconduct during the election period.

Besides monitoring the conduct of the police during the Tuesday general elections, the authority will also monitor how the police control crowds.

The police will also be tasked with maintaining security during the polls.

### [4. NASA suits mischievous, Jubilee and IEBC tell court](#)

Jubilee Party and the electoral agency claim the Opposition is using the courts to play politics and sabotage elections. The ruling coalition questioned why the National Super Alliance (NASA) filed a case about the elections manual back-up system late.

They accused NASA of filing the petition as late as June, yet regulations governing the voter information system were made public in April. Lawyers Ahmednassir Abdullahi and Tom Macharia said the Independent Electoral and Boundaries Commission (IEBC) informed the Opposition leaders after it published the regulations.

### [5. Push for peace at tail end of poll campaigns](#)

With three days to the polls, pressure piled on politicians, elections managers, security chiefs and judges to ensure a successful general election.

On Thursday two developments appeared to calm rising tensions

on a day President Uhuru Kenyatta and his main rival Raila Odinga retreated to their perceived strongholds to plead for high voter turnout with campaigns closing tomorrow.

### [6. Do not flee, we'll protect you, says PS](#)

The government on Thursday sought to assure Kenyans of security ahead of Tuesday's elections as it fought to stop the mass exodus of people from urban centres to their rural homes for fear of a possible outbreak of violence. Interior Affairs Principal Secretary Karanja Kibicho and Inspector-General of Police Joseph Boinnet asked Kenyans to stay put where they live and vote without fear because security agents will be on the lookout for anyone intent on causing trouble.

### [7. IEBC conduct will determine aftermath of Tuesday's elections](#)

The contested atmosphere and seeming organisational deficiencies of the polls raises significant concerns over the potential conduct of the election, and the reaction to its result. To date, the elections lead-up has been characterised by conflicting opinion polls, leaked documents, debate no-shows, enforced disappearances and desperate political manoeuvres. In perhaps the most dramatic development

to date, Chris Msando, an IEBC ICT official was found murdered on July 31. Msando's death is the latest sign of the raised tensions and risk of volatility ahead of the elections.

## 8. It's critical to defend authority of the courts

Chief Justice David Maraga has in the past made it clear that judicial appointments are no longer a favour from the Executive. He was reacting to the impression created by President Uhuru Kenyatta at a rally in Kisii that his appointment as head of the Judiciary was a favour by the Jubilee administration. Mr Maraga has come out again to dismiss attempts by politicians to give directives to judges and other judicial appointees on the way to discharge their duties. The CJ's firm position is a crucial blow in support of democracy, especially after the 2010 constitution clearly separated the roles of the three arms of Government.

## 9. Protests before, after polls banned in Kisumu

The public will not be allowed to conduct any protests in Kisumu during and after elections. Kisumu County Commissioner Mohammed Maalim banned any protests citing security breach witnessed in the past. Mr Maalim said the move is part of the security preparedness his team had put in place ahead of the next week's elections.

## **C. CONFIRM YOUR VOTING DETAILS**

Incase you have not confirmed your voting details, please send a text message to 70000 with your ID number to receive the required information.

We wish you a peaceful election, stay safe and do not forget your vote is your voice.

Your HH&M contacts for additional information with respect to The Legal Connection are:



**Adil Khawaja**  
Managing Partner  
akhawaja@hbm.co.ke



**Kiragu Kimani**  
Partner  
kkoffice@hbm.co.ke

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1. The Business Daily
2. The Daily Nation
3. The Standard Newspaper

