

Public

Annex A

Second proposal of agreed facts – substantive facts

Agreements reached between the Prosecution and the Defence are highlighted in green. Proposals which were not agreed upon are highlighted in purple.

	Proposed stipulation	Defence for Mr RUTO	Defence for Mr SANG
1.	There are about 42 ethnic groups in Kenya.	AGREED (agreement to the fact	AGREED (agreement to the fact
2.	In 2009 the total Kenyan population was of 38,610,097 inhabitants. The Kikuyu population was of 6,622,576 inhabitants (17% of the total population). The Kalenjin population was of 4,967,328 inhabitants (almost 13% of the total population).	AGREED	AGREED
3.	In 2009 the Rift Valley Province was the most populated of Kenya with approximately 10 millions inhabitants.	AGREED	AGREED
4.	At the time of the 2007 Presidential Election the population of Nandi District and Uasin Gishu District was predominantly Kalenjin.	AGREED, independent of the suggested source which is not accepted as reliable	AGREED, independent of the suggested source which is not accepted as reliable
5.	The Rift Valley is considered as the historical homeland of the Kalenjins.	AGREED	AGREED
6.	At the time of the PEV, the Uasin Gishu District comprised three electoral constituencies: Eldoret North, Eldoret East and Eldoret South.	AGREED	AGREED
7.	At the time of the PEV, the Nandi District comprised four electoral constituencies: Mosop, Emgwen, Aldai and Tinderet.	AGREED	AGREED
8.	In 2007, Mr RUTO was one of the five members of the ODM Pentagon.	DO NOT AGREE. Not factually accurate.	DO NOT AGREE. Not factually accurate.
9.	In the context of the 2007 general elections, the PNU was supported by a majority of members of the Kikuyu, Kisii,	DO NOT AGREE Source (Ruto's statement) does not support the proposed	DO NOT AGREE Source (Ruto's statement) does not support the

	Embu and Meru communities.	fact. Check previous agreed facts.	proposed fact. Check previous agreed facts.
10.	In the context of the 2007 general elections, the ODM was supported by a majority of members of the Kalenjin, Luo and Luhya communities.	DO NOT AGREE. Not factually accurate. Check previous agreed facts.	DO NOT AGREE. Not factually accurate. Check previous agreed facts.
11.	On or about 30 December 2007, protests and skirmishes broke out in the Rift Valley.	DO NOT AGREE. We stand by previously agreed fact 99 as stated.	DO NOT AGREE. We stand by previously agreed fact 99 as stated.
12.	In the Rift Valley, during the PEV, the tensions between communities were overlapping with political divisions, the Kikuyus, Kisiis, Merus and Embus (notably) being associated with PNU while the Luos and the Kalenjins were associated with the ODM". The sources for this stipulation are referred to in the chart sent to you yesterday.	DO NOT AGREE	DO NOT AGREE.
13.	Approximately 1000 persons died in Kenya due to the PEV.	AGREED	AGREED
14.	The Rift Valley Province was the province of Kenya with the greatest number of victims during the PEV.	DO NOT AGREE. Unable to confirm or deny.	DO NOT AGREE. Unable to confirm or deny.
15.	According to a list compiled by the CIPEV there were 772 deaths due to the PEV in the Rift Valley Province including 7 for the Nandi District and 272 for the Uasin Gishu District.	DO NOT AGREE	DO NOT AGREE
16.	Over 300 000 persons were displaced in Kenya due to the PEV.	AGREED.	AGREED.
17.	Figures based on an internally displaced persons profiling exercise by the Kenyan Ministry of Special Programmes, UNHCR and Kenya National Bureau of Statistics in June/July 2008 showed a tally of 408 631 internally displaced persons in the Rift Valley.	DO NOT AGREE	DO NOT AGREE
18.	EMO Community Development Society was started in	AGREED.	AGREED.

	September 2001.		
19.	One of the patrons of EMO Community Development Society is Jackson Kipkemoi KOSGEI.	AGREED.	AGREED.
20.	Jackson Kipkemoi KOSGEY became EMO Community Development Society patron in 2005.	AGREED.	AGREED.
21.	Jackson Kipkemoi KOSGEI is one of the Directors of EMO Investments.	AGREED.	AGREED.
22.	Jackson Kipkemoi KOSGEI has carried out programmes through many radio stations including KASS FM.	AGREED.	AGREED.
23.	Jackson Kipkemoi KOSGEI has been interviewed by Joshua Arap SANG in KASS FM studio.	AGREED.	AGREED.
24.	Joshua Arap SANG attended EMO Society event in Leseru on or about 26 October 2008.	AGREED.	AGREED