

**KENYA:**  
**THE DECEMBER 29, 1992 ELECTIONS**



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This document represents the views and opinions of the IRI and should not be considered the opinion of any single observer.



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## INTRODUCTION

From October 29 through November 6, 1992, a six-person team including International Republican Institute staff and election experts conducted its first comprehensive analysis of the pre-election environment and the feasibility of organizing an international election observation mission in Kenya. The findings were released publicly in late November. From December 4-16, 1992, the IRI deployed several teams of campaign, media, academic, and election law experts throughout the country. The findings of this 20-person assessment team were released in a press conference held on December 16, 1992 in Nairobi. From December 16-28, 1992, the IRI sent small teams to areas of special concern throughout the country. On election day (December 29), the IRI deployed 54 people nationwide to observe the voting and counting. This Final Report synthesizes the findings of these survey teams and covers the period from late October 1992 through early January 1993.

Chapter I is a brief political background of Kenya. Chapter II focuses on the pre-election environment. Chapter III addresses the campaign playing field. Chapter IV covers election day issues. Chapter V includes an update of events after the election and offers recommendations for improvements in the administration of future elections.



## CHAPTER I: POLITICAL BACKGROUND

The modern era in Kenyan politics commenced in 1960 when negotiations began to establish the country's independence from Great Britain. The British had been active in Kenya since 1885 when the country became a British protectorate. By 1920, Kenya became a colony of the British Empire. White settlers occupied most of the country's arable land and later Indian immigrants began to dominate retail trade. During this period, land problems, rising unemployment and lack of a voice in the colonial government led to disaffection among most Kenyans.

In 1944, the Kenya Africa Union (KAU) was established as a means to address the complaints of native Kenyans related particularly to land issues in Kikuyu areas. In 1947, Jomo Kenyatta was chosen president of the KAU. In 1952, as a result of the slow pace of action on land issues, a secret Kikuyu society known as the Mau Mau began a series of terrorist acts against British settlers. The following year, the KAU was banned after it was mistakenly linked to the Mau Mau rebellion; Kenyatta was imprisoned. Following the imposition of a state of emergency, British forces with local support killed 13,000 Kenyans (mostly Kikuyus) before the fighting ended in 1956. A total of 32 Europeans died in the conflict.

As Kenya began its transition to independence, the state of emergency in place since 1956 was lifted and two principle political parties emerged: the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU).

KANU was dominated by the Kikuyu and Luo ethnic groups. KADU included primarily members of various minority ethnic groups. (In an interview in 1964 with *Sunday Nation*, in his capacity as Chairman of KADU, Daniel arap Moi noted that "without opposition, a government goes to sleep.") Kenyatta was released from jail in August 1961 and named President of KANU. KANU easily won national elections against KADU in May 1963. On December 12, 1963, Kenya established its full independence with Kenyatta as Prime Minister.

### The Kenyatta Era

The KADU leadership was given high level positions within the KANU government and, in order to become politically active, Kenyans were obliged to cooperate with the dominant party. As a result, KADU faded into obscurity. The ethnic allegiances of the cadre and the leadership of KADU, however, remained intact, and ties to the former colonial power remained closer than in other countries of post-colonial Africa. Kenya retained a larger proportion of former settlers than did other African countries and the economic, political and military relationship between Kenya and Great Britain remained warm. In March 1964, Kenya signed a formal defense treaty with Britain. British companies and technical experts continued to play an important role in the administration of the government and the management of many large enterprises. The level of education in Kenya was higher than that of other countries in post-colonial Africa and the distribution of large agricultural holdings, immediately after

independence, created opportunities for native Kenyans to participate in the economy. These factors helped to produce a comparatively advanced managerial class.

In 1965, political divisions began to arise within KANU. Conservative forces loyal to Secretary General Tom Mboya began pressuring populist Vice President Jaramogi Oginga Odinga. These men were the two leading Luo politicians. Odinga abandoned KANU and formed the Kenya People's Union (KPU), which accused the government of "promoting vigorously the development of a small privileged class of Africans."

Of the 30 parliamentarians who joined the KPU, only nine were returned in the 1966 by-election. Later that year, the upper and lower houses of parliament were merged into a unicameral house and in January 1967, Minister of Home Affairs Daniel arap Moi (from the minority Kalenjin group) was promoted to Vice President, replacing Odinga. The Kenyatta government moved Kenya into a *de facto* one party state, and as long as the center was not challenged, other aspects of a competitive, democratic system were allowed to function. Ethnic tensions grew, especially among the Luo, who perceived that their power was being usurped by the Kikuyus, headed by Kenyatta. In July 1969, Tom Mboya was assassinated by a Kikuyu, inciting a series of violent Luo-Kikuyu clashes. During the same week, Odinga was arrested and the KPU banned.

In the December 1969 elections almost 65 percent of incumbents were defeated. KANU was the only party allowed to compete in the elections. The following years were relatively peaceful as attentions were focused around the extension of provincial and rural administration. Elections in 1974 resulted in defeat of 88 of the 158 members of Parliament. Kenyatta, running unopposed, won another five-year term as President. Again, only KANU was allowed to contest the elections.

Standards for performance in the Kenyatta government were high, and the high level of turnover in parliament ensured that talented, ambitious leaders were given important opportunities. In the later days of the Kenyatta regime, however, ethnic tensions flared, the state resorted to force to retain rule, and personal and institutional corruption became a growing issue. In 1975, leading politicians were murdered and massive student protests began against the government.

Kenyatta, whose rule had become increasingly autocratic, died on August 22, 1978 at the age of 82. The Kikuyu-Luo domination of Kenyan politics ended when Vice President Moi became President.

### **The Moi Era**

Moi was elected President of KANU on October 14, 1978 to complete Kenyatta's five-year presidential term. In legislative elections the following November, more than 740 candidates stood for parliamentary seats under KANU's one-party system. As with previous contests, almost half the incumbents were defeated. Shortly after the elections, two

developments signaled Moi's desire for closer relations with the United States: the appointment of pragmatic Dr. Robert Ouko as Foreign Minister, and the arrival of a negotiating team from Washington to begin talks on U.S. access to Kenyan military facilities.

In June 1982, following months of political disturbances and attempts to form opposition parties (notably the Kenya African Socialist Union proposed by Oginga Odinga and George Anyona) Parliament voted to amend the constitution making Kenya officially a one-party state. On August 1, a division of the Kenya Air Force attempted a coup against Moi's government. Forces loyal to Moi quickly crushed the rebellion, which lasted only a few hours, but more than 3,000 soldiers and civilians were arrested. The *official* death toll was 159; however, some Kenyan political parties and media accounts indicated thousands were killed.

Following the attempted coup, the climate of fear and suspicion culminated in May 1983 with Moi's declaration that foreign powers had conspired to replace him with the Minister of Constitutional Affairs, Charles Njonjo. Njonjo resigned his cabinet post and seat in Parliament. Moi also called for national elections a year earlier than mandated. Only 48 percent of the eligible voters participated in the September 26, 1983 elections. Moi ran unopposed for the presidency, and was re-elected to another five-year term.

During the following years, Moi was plagued by continuous student opposition and demonstrations. In 1984, Moi met with student leaders in an effort to diffuse tension over a national youth service program and syllabus restructuring. In February 1985, following student clashes with police during which one student was killed and 65 were injured, Nairobi University was closed. Although the school reopened in April, disturbances in early 1986 again forced its closing for two months.

Political unrest escalated again in March 1986 when the government uncovered what it considered to be a political plot by opposition forces. The *Mwakenya* (a kiswahili acronym for the Union of Nationalists to Liberate Kenya) movement encompassed diverse personalities and groups, all opposed to KANU. Moi alleged that members of these groups were of the same "tribalist elite" that had organized the 1982 coup attempt. Within a year, more than 100 suspected members of *Mwakenya* were being detained under the Public Security Act. In anticipation of upcoming elections, KANU's 1986 party conference scrapped the secret ballot and approved a queue voting system<sup>1</sup>, mandating that in the primaries all votes be cast by voters

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<sup>1</sup>A system of voting developed for use in societies where a high percentage of the population is illiterate, or where fraud involving ballots and ballot boxes has become so rampant that no confidence remains for secret ballots. Voters line up for the candidate of their choice at the polling site and are counted by officials. The results are entered onto tally sheets for reporting. What the system gains in simplicity and speed, it loses in privacy. Threats, bribes and post-voting retribution are commonly associated with queue voting.

publicly lining up in support of a candidate.

Early the following year, reports of increasing human rights violations prompted the international community to focus attention on Moi's government. In response, several police officials were dismissed and the Minister of Foreign Affairs was sacked. Neither action swayed Amnesty International from issuing, in July 1987, a harsh attack on the Kenyan government for attempting to silence dissent through detention and torture.

In March 1988, National Assembly election primaries were conducted using the queue system which led to international charges of intimidation and fraud in the process. Shortly thereafter, Moi demoted his popular Vice President, Mwai Kibaki (a Kikuyu), to Minister of Health and replaced him with the relatively unknown Josephat Karanja. In July, the Assembly amended the constitution to extend the period of detention for suspected criminals from 24 hours to two weeks, and to give the President authority to sack judges without reason. These actions increased international human rights groups' condemnation of the Moi government. KANU elections in September saw Moi re-elected President. Just three months later, the Minister of Transport and Communications, Kenneth Matiba, was stripped of all party posts following his criticism of the electoral process, widely viewed by both Kenyans and the international community as blatantly rigged.

The role of ethnicity in the Moi government was clear. The accumulation of administrative power, wielded through the offices of provincial and district commissioners, ensured that Kalenjin dominance in the government was complete. Contracts for government work, licenses for commerce, foreign and domestic trade, university appointments, and much of the social life of the country began to reflect the dominance of the Kalenjin-controlled one-party state.

Until the mid-1980s, the press in Kenya was among the freest in Africa; nevertheless, self-censorship, intimidation and repression by the government curtailed the free flow of information. The penal code allowed the government to ban any publication in the interest of public order, health, morals or national security. The foreign-owned newspapers accommodated the new political realities by engaging in self-censorship in order to avoid potential hostile government actions.

Press freedom began to erode considerably in 1985 with numerous detention of journalists critical of the government. A once-lively press became cautious and self-censoring under threat of impoundment, permanent closure, violence or detention of its publishers and journalists.<sup>2</sup>

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<sup>2</sup>The Kenya Constitution states "No person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive



Media repression included but was not limited to the following incidents: detainment of a reporter from *Kenya Times* for questioning about sources of information concerning a story of corruption (1985); government prohibition of "the importation of any publication depicting or containing any symbol, emblem, device, colors, slogan, motto, words or letters signifying any association with or support for a political object or political organization" (April 1986); seizure of an entire edition of *Weekly Review* (April 1986); numerous arrests of individuals for possession of "subversive" publications (throughout 1986); arrest and detainment of journalists on charges of involvement in *Mwakenya*; barring of Swedish and Norwegian journalists from visiting Kenya after reporting alleged human rights abuses of political prisoners; announcement that work permits for all foreign journalists would be reviewed (September 1987); detention and beating of four Western journalists by police during student unrest at the University of Nairobi (1987), sentencing to prison of an editor of a Christian magazine and a magazine banned for criticizing election procedures (August 1988).

These events had a chilling effect on the country's news media. For example, when a demonstration protesting the government's opposition to multi-party democracy was crushed in July 1990, foreign journalists reporting on the incident were detained for questioning. *Kenya Times* did not report the event. Other media outlets responded to the potential for intimidation and toned down their criticism.

In early 1989, Karanja resigned as Vice President and was replaced by Minister of Finance George Saitoti, who assumed the Vice Presidency and retained both positions. In June, Moi ordered the release of all political prisoners who had been detained without trial. After his return from Washington in February 1990, Minister of Foreign Affairs Ouko was found murdered near his home in western Kenya. Reports that other government officials may have been involved sparked riots in both Ouko's home town and Nairobi. The government requested the assistance of Scotland Yard to investigate Ouko's death. A report was issued to the government in September 1990 but was not released to the public. It was widely believed that Minister of Industry Nicholas Biwott and Internal Security Chief Hezekiah Oyugi were somehow involved in the murder. Biwott is considered Moi's closest ally. Moi reportedly considers him "a son."

In May 1990, a coalition of intellectuals, lawyers and church leaders formed an alliance to challenge KANU's one-party domination. The group was headed by former Minister of Transport and Communications Kenneth Matiba. Moi ordered his detention and that of other group leaders. Riots quickly followed in various parts of the country. In Nairobi alone, 28 people were killed and more than 1,000 arrested during four days of demonstrations and street fighting. The government accused supporters of multi-party politics of being "tribalists" and in

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ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the general public or to any person or class of persons) and freedom from interference in his correspondence."

the pay of "foreign masters." The U.S. Ambassador delivered a strongly-worded speech -- calling for political reforms -- at the local Rotary Club.

In November 1991, Kenya's major foreign donors met in Paris and jointly decided to suspend \$350 million in quick disbursing aid. In addition, they postponed future aid for six months pending Kenya's progress on political and economic reform. The donors outlined four main conditions: privatization of state corporations, reduction of the budget deficit and size of the civil service, accountability and transparency in economic management, and greater adherence to human rights, focusing on civil and political liberties. President Moi's first response to pressure by the international community was to arrest Minister of Industry Biwott and Internal Security Chief Oyugi in connection with Ouko's death.

At the KANU party conference in early December 1991, Moi convinced his colleagues to agree to future multi-party elections. On December 10, 1991 the constitutional clause 2(a) declaring "there shall be in Kenya only one political party, the Kenya African National Union" was officially repealed, signaling an intent to return to multi-party competition for the first time in 26 years. This news was greeted with both joy and skepticism since President Moi refused to suggest a possible election date, referring to his power as President to call elections as his "secret weapon."

Political parties began to emerge immediately. The Democratic Party of Mwai Kibaki was established in early January 1992, as was the Forum for the Restoration of Democratic Party (FORD) under Jaramogi Oginga Odinga. In March a huge rally was held; nearly one million people gathered to hear FORD's message.

Violence accompanied the newly-open political scene. In spring 1992, unprovoked attacks resulted in hundreds of deaths and thousands of displaced persons on the Molo and Kisii-Kericho border of the Rift Valley Province, in the Sondu area of Nyanza Province, and in the Mt. Elgon area in Western Province. Separate investigations into "tribal" unrest by the National Council of Churches and a special parliamentary committee claimed that violent confrontations were instigated by high-ranking government ministers and key figures in the KANU establishment. Many claimed that these crises were staged as tribal clashes in order to prove Moi's contention that Kenya was not yet ready for multi-partyism.

In a September 1992 report to parliament, MP Kennedy Kiliku attempted to uncover government involvement in the unrest. Following a very hostile reception, the report was rejected by parliament. Three of the six committee members voted against their own report. Some still maintain Kiliku is a courageous defender of the displaced, while others maintain he is a scapegoat who "took the heat for Moi." Further investigations were side-tracked by the November 1992 announcement of elections, possibly made by Moi at a strategic time in an attempt to deflect attention from what is now known as "the Kiliku Report."

## CHAPTER II: THE PRE-ELECTION ENVIRONMENT

*Terms of reference for assessment of the pre-election environment are included in Appendix 1. In general, the teams analyzed the following:*

- *The Electoral Framework -- the extent to which the Electoral Commission administered the electoral process under its jurisdiction in an independent, representative and efficient manner.*

- *The Campaign Playing Field -- the extent to which the electoral playing field allowed competing political parties: to have equitable access to material, financial and informational resources; to move and gather freely throughout the campaign, and to operate without fear of violence or intimidation.*

*In this context, the 20 members of the November-December 1992 assessment team divided into four subject groups to comprehensively analyze the electoral framework, political parties, the media and non-governmental organizations.*

### Introduction

On October 28, 1992 President Moi announced dissolution of parliament, fueling speculation that elections would soon be held. Parliament was constitutionally required to reconvene three months after dissolution or by January 28, 1993.

On November 3, Electoral Commission Chairman Zaccheaus R. Chesoni, announced that Kenya's presidential, parliamentary and civic elections would be held December 7 with candidate nominations on November 9. Following the long-awaited announcement of the election date, the IRI team noted a mix of euphoria and fear among Kenyans and their political leaders. The Electoral Commission itself was concerned about administering these historic elections with only 34 days advance notice. Opposition parties angrily complained that the nomination and campaign periods had been illegally cut short by the Attorney General and the Electoral Commission had not intervened to rectify the situation, and concluded that these factors proved the election authorities were merely pawns of the ruling party.

Eight days after the initial announcement, the elections were postponed. A Court of Appeals ruling stated Attorney General Amos Wako had stepped beyond his mandate by changing the wording of electoral law stipulating the amount of time allowed for parties to nominate candidates. The original wording "not less than three weeks" had been changed on October 23, 1992 to read "not more than three weeks" were allowed for parties to nominate candidates. Attorney General Wako noted at the time that the change was simply a "clerical error."

On November 17, the Electoral Commission announced a revised election date of

December 29, 1992, thus allowing exactly three weeks for political parties to nominate candidates, and three additional weeks of official campaigning prior to election day.

## **The Electoral Framework**

*In their review of Kenya's electoral laws and administration, the IRI teams sought to determine the extent to which the basic tenets of a democratic system were promoted and protected, including an independent, transparent, representative and efficient election administration process.*

## **Administrative Structure**

Created in 1963, the governmental administrative structure of Kenya has traditionally served as the structure for election administration. The country is divided into eight provinces and sub-divided into 45 administrative districts and 188 constituencies. Because the centrally-appointed authorities at each level are responsible to the Kenyan government, the basic structure of election administration is particularly problematic.

Kenya's eight provinces are administered by Provincial Commissioners. Provincial lines were drawn in 1963 and are the primary administrative boundaries for organization and governance. The boundaries were originally based on tribal and geographic considerations and, therefore, vary greatly in size and population.

Within the eight provinces is a total of 45 administrative districts. Each district is headed by a government-appointed District Commissioner with primary authority for governing the area. Before the advent of multi-party elections, the District Commissioners were the exclusive election administrators. They were answerable only to the existing government and their election administration was often perceived by Kenyans and alleged by the international community to be biased and abusive.

A constituency is the primary political subdivision, similar to congressional districts in the United States. On average, there are between four and six constituencies within a government district; most contain between 100,000 and 200,000 residents. Each of the 188 constituencies in Kenya has one representative in the National Assembly. The National Assembly consists of 200 members, 12 of which are appointed by the President.

With the establishment of an ostensibly independent Electoral Commission, all authority for election administration was removed from the 45 District Commissioners. Prior to this election, the Electoral Commission had been a relatively powerless body, however, in 1992 it was authorized to establish its own entirely new and independent system for election administration. This responsibility prompted the Commission to completely re-configure election administration and necessitated the hiring of more than 100,000 people nationwide to assist in the election.

In removing all election-related authority from the 45 governmental District Commissioners, the Electoral Commission opted to use the 188 political constituencies as the basis for administering elections. The election process in Kenya is described in detail in the National Assembly and Presidential Elections Act (Cap. 7) as amended in the Presidential and Parliamentary Elections Regulation 1992 (PPER).

### **The Electoral Commission**

The nine Electoral Commission members were appointed by President Moi before the repeal of Section 2(a) in September 1991 and early 1992. Each serves a five-year term. According to Kenya's Constitution, the Electoral Commission is an independent entity with between five and 11 members. Subsection 9 states: "In the exercise of its functions under the Constitution, the Commission shall not be subject to the direction of any other person or authority."<sup>3</sup> A December 17 report issued by the Government of Kenya noted:

"The Commission is not associated with, or affiliated to, any political party. The Electoral Commission is independent of political influence in performing its functions, which must be seen as fair, impartial, and without fear or favour."

Chairman of the Electoral Commission Z.R. Chesoni was appointed by President Moi in October 1991 and was not previously a member of the Commission. The IRI held several productive meetings with Chesoni to discuss the code of conduct for electoral observers, as well as other issues. The IRI was impressed with Chesoni's willingness to revise procedures in response to the IRI concerns. As the campaign period progressed in November and December 1992, the Commission appeared increasingly responsive to the complaints of Kenyan political parties. The Commission also issued directives to the Police Commissioner, the Head of the Civil Service and the Attorney General requesting them to control the Civil Service.

Rumors of conflict of interest, however, plagued Chesoni throughout the election period. News stories in the London *Independent* and the Kenyan press claimed Chairman Chesoni's debts were "written off" by a government-owned bank not long before he was named Chairman of the Commission. If this story were true, serious doubts about Chesoni's loyalties could be raised. Throughout 1992 these doubts contributed to the distrust many Kenyans felt toward the Electoral Commission.

The Electoral Commission's responsibilities include registering voters, appointing and training returning officers in each constituency, dividing the constituencies into polling areas, publishing the appointed polling places in the official gazette, procuring and distributing voting

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<sup>3</sup>The Constitution further states that "the Electoral Commission shall be responsible for the registration of voters and maintenance and revision of the register of voters; directing and supervising the Presidential, National Assembly, and Local Government elections; conducting referenda; and such other functions as may be described by law."

materials and announcing the winners of parliamentary and presidential elections. The Commission played an instrumental role in all aspects of the election. The important dates of activity were as follows:

Voter registration	June 8 - July 20
Announcement of election day	November 3
Announcement of revised election day	November 17
Parliamentary/civic candidate nomination day	December 9
Presidential nomination day	December 14
Election day	December 29
Announcement of results	January 4

### **Voter Registration**

Voter registries provide the means by which voters can participate in elections. The ability of voters to be included accurately in registry lists is central to the entire election process. Fairness in implementing this stage of election administration is paramount to conducting legitimate elections. Therefore, the regulations outlining voter registration procedure must be applied equally to all citizens, and implementation of these regulations must include a wide range of political and civic activists and government workers.

One of the initial duties of the Electoral Commission was that of registering voters. National voter registration was originally expected to require only one month, beginning on June 8, 1992. The closing date was extended by the Electoral Commission twice, and finally closed on July 20, 1992.

In order to register to vote, citizens are required to show a national identity card, which can (in theory) be obtained locally at government administrative offices. According to law, an identity card must be issued when a citizen reaches age 18. In addition, a citizen must prove residency at an address in Kenya for not less than one year prior to the election. Eligible voters must have resided in Kenya for an aggregate of four of the past eight years. Finally, eligible voters must have lived, been employed, conducted business or owned land or buildings in the constituency for at least five months of the preceding year.

Once registered, voters receive an elector card which, according to electoral law, must be presented along with the identity card to the Presiding Officer at the polling site in order to vote. The elector cards issued in 1992 were valid only for the 1992 elections. Kenya's voter registry is not computerized and was last updated prior to the 1988 elections. Since that time, an estimated 3.5 million Kenyans reached the voting age of 18. The Electoral Commission estimated Kenya's population at nearly 24 million; however, the most recent census results

(1989) were never released by the government so actual population numbers were unknown.<sup>4</sup> Nearly eight million voters registered to vote, the highest number in Kenya's history.

The abruptness with which voter registration began and the brief time allowed for its completion were considered by many to be calculated moves on the part of the government to disenfranchise voters. The process was carried out by 30,000 registration clerks in 5,631 centers countrywide and was highly criticized by opposition and church groups. These groups charged, specifically, that newly-eligible youth voters were either unable to register or gave-up trying, given the complications encountered in obtaining valid government-issued national identity cards.

For three weeks, the opposition boycotted the voter registration process. Charging that the composition of the Electoral Commission was unfair, the boycott was meant to send a strong message to the Kenyan government. Rather than achieving its goals, the boycott served to confuse the public and ultimately disenfranchised a large number of eligible voters. Realizing the result of their scheme, the opposition cancelled the boycott in the final week before the deadline and urged their supporters to register. The IRI team noted that during this period Chairman Chesoni extended the deadline several times in order to accommodate logistical problems and other delays.

Registration lists are often organized alphabetically, numerically by address or by identification or elector card number. In Kenya, lists were generally organized alphabetically and typed in the local districts. Lacking the time and resources to conduct a comprehensive analysis of the voter registry, the IRI was unable to assess accuracy. The IRI noted, however, that several independent NGOs and foreign groups examined registries in selected districts and have provided documentation regarding specific irregularities. Many registration problems noted by NGOs to the IRI in the pre-election period were substantiated on election day.

In most cases, domestic monitors appear to have been granted access to voter registries. Anomalies highlighted in the reports of these domestic observers were not verified by the IRI. The accusations, however, mirrored the IRI complaints based on meetings throughout the country. Aside from irregularities which appeared clerical in nature, the most important concerns included inconsistent listing of names, addresses and identification card numbers. In some cases, identity numbers were listed without corresponding names or names were listed with no address or identity number. In several cases, surnames were confused with "other names" making them difficult to locate alphabetically. In the registers examined by the IRI, only the first letter of each name appeared to be organized alphabetically while the second and third letters were not.

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<sup>4</sup>Kenya's estimated 1991 population according to *Encyclopedia Britannica* (1992) was 25.9 million.

## **Availability of Registration Lists for Public Review**

Typically, registration lists are available for review in an accessible public place for a period of several weeks before an election. During this time, registered voters have an opportunity to verify voter registration information and to make any necessary corrections or revisions. Access to voter lists is often an important means by which parties independently verify information in order to develop "get-out-the-vote" campaigns.

On August 12, Electoral Commission Chairman Chesoni announced that voter registries were open for inspection. Any complaints were to be reported within 14 days to the registration officers who, in turn, would respond within seven days by publishing a list of claimants at district headquarters. Actual availability of voter registries for public review varied from district to district, but in all constituencies review began well after August 12. In some locales, such as the Tana River District, registers were not available for inspection until mid-October. In addition, the IRI heard complaints that many Kenyans were unaware of their right to confirm voter registration information. In many instances, the dates for public review did not appear to have been announced publicly.

The Electoral Commission informed the IRI team that anyone was permitted to purchase pages of the current voter registry at a cost of two shillings per page. During the assessment period, only the IRI team in Mombasa was able to purchase a voter registry for review. The IRI team realized that this unavailability was due, at least in part, to lack of time and advance notice. In two separate instances in the Nyanza Province, District Commissioners informed the IRI assessment team that only the Registration Officers had access to the lists. These officials were reportedly not in the area.

Registration lists were often kept in the offices of the District Commissioner, rather than in the local polling areas. Therefore, registered voters in remote villages experienced difficulties in checking the lists. The IRI team also noted that many people did not appear to realize the importance of verifying voter information. This problem could have been remedied had the Electoral Commission taken a more active role in voter education.

It is estimated by the opposition that between one and three million eligible voters were disenfranchised as a result of voter registration problems. Although the estimates cannot be verified, this large a number of voters could have significantly affected the outcome of the election. On election day, voter registration problems, described previously, combined with missing registration lists give credence to allegations that the registration process was seriously flawed. It is essential for the integrity of the democratic process that in future elections the registration process be efficiently carried out and proper voter education procedures implemented.

## **The Announcement of Election Day**

In a legitimate electoral process the period between the announcement of elections and



candidate registration is sufficient to allow parties to organize and adapt to the electoral structure. In this case however, the election day announcement exacerbated opposition mistrust regarding both the independence and the possible ill intent of the Electoral Commission.

As noted in the introduction, the period between the announcement of elections (November 3) and the deadline for parties to nominate their candidates (November 9) was impossibly brief. On November 12, the High Court issued a temporary injunction nullifying the eight-day nomination period. Attorney General Wako contended that the wording of Section 13 of the National Assembly and Presidential Elections Act had been changed from "not less" to "not more" than 21 days in accordance with his powers under the Revision of Laws Act.<sup>5</sup> This position was overruled by the High Court. The Judge noted that the change, termed by Wako a clerical error, was "a misuse, if not an abuse, of the powers conferred upon him by his office." Although the election date was subsequently rescheduled, the credibility of both the Attorney General and the Electoral Commission had been damaged by this incident, calling into question their sense of fairness and their intent to abide by the election laws.

### **Selection and Training of Election Personnel**

On October 21, the Electoral Commission announced it expected to hire at least 100,000 election officials nationwide. On election day, administrators included 400 Returning Officers, 10,000 security personnel, 18,000 Presiding Officers and 90,000 clerks. The Commission announced the Returning and Deputy Returning Officers on November 9 and published the names in the official gazette. The responsibilities of Returning Officers are described in Chapter IV.

Given the complexity and magnitude of election administration, adequate training of the newly-hired officials was paramount for successful administration of the election. At the invitation of election authorities, the IRI team attended several workshops for Returning Officers and was given a copy of the Presiding Officer training manual. Generally, both the training sessions and the manual were well organized. Nevertheless, on election day, the IRI observed significant confusion that can be attributed only to insufficient training of election administrators.

### **Nomination of Civic and Parliamentary Candidates**

Candidate nomination day was a critical juncture in the electoral process. The process as manifested on December 9 was very damaging to the integrity of Kenya's electoral process.

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<sup>5</sup> This act allows the Attorney General to correct only printing and clerical errors.

According to electoral law, candidates were to present their papers to the Returning Officer between 8 a.m. and 1 p.m. on a day not less than 21 days before election day. Each candidate was required to be affiliated with a political party and to present nomination papers naming a proposer, a seconder and from seven to 18 additional supporters. The candidate and his or her supporters had to be members of the same political party and had to reside in the constituency for which the candidate was being nominated. Each candidate was required to pay Ksh 5,000 at the time the nomination papers were submitted.

The Returning Officer could reject nomination papers if they were improperly completed or were inconsistent with official procedures; if they were not subscribed as required by the regulations; if the candidate was not qualified for nomination or election to the National Assembly, or if a sufficient number of proposers or other supporters were disqualified such that the number of signatories fell below the required number of seven. The Returning Officer was required, however, to render such a decision immediately upon presentation of the nomination papers. The reason(s) for rejected nominations had to be detailed in writing and signed by the Returning Officer.

At the close of the nomination period, Returning Officers reviewed all nomination papers. For seats where only one candidate had presented valid nomination papers, the Returning Officer had the authority to declare that the candidate had effectively won the seat in Parliament. In such cases, the Returning Officer was required to report the information to the Electoral Commission and the Commission would then announce the results in the gazette.

More than 40 parliamentary and civic candidates alleged that during the period between 8 a.m and 1 p.m. on December 9, they were forcibly prevented by political opponents from presenting their nomination papers to Returning Officers. As a result, their names were not placed on the ballot and their candidacies were effectively nullified.

No independent Election Court existed for the investigation or adjudication of election-related complaints prior to the election. Election cases were tried in court through Kenya's judiciary system. Many cases relating to allegations of election improprieties were heard by the High Court and the Court of Appeals throughout the pre-election period. Immediately after the parliamentary nominations, the Electoral Commission was besieged with more than 70 complaints from civic and parliamentary candidates who had faced various difficulties when trying to present their nomination papers.

One case, known as *Cheboiwo*, was filed in the High Court demanding that candidates be allowed to contest the elections because "felonious means" had been used against them. Arguing against the nine candidates who filed the complaint, counsel for the Electoral Commission stated that the nominations could not be accepted because the decision of the Returning Officer was "irreversible." Furthermore, as reported in *Daily Nation* in late December, the Electoral Commission did not have the power to prevent such "felonious acts." The High Court Judge overruled the Electoral Commission stating that "the Electoral Commission has the power to see that elections are held in accordance with the law, that the

election process is free and fair, and the nominated candidates get access to the Returning Officers."

On December 24, the *Cheboiwo* case was sent to the Kenyan Court of Appeals. As reported in *Daily Nation* in late December, the court ruled that to allow Returning Officers and the Electoral Commission to treat as sole candidates those KANU candidates who presented their nomination papers, while rivals were physically prevented from doing so by KANU supporters, would give a "seal of approval" to the unbridled use of violence and strong-arm tactics in the election process. In essence, the Court of Appeals held that the Electoral Commission *did* have the power to accept the nomination papers.

In an apparent rejection of the Court of Appeals ruling, the Electoral Commission decided that the cases of those candidates abducted on the way to file their papers could be heard only *after* the election by a three-judge tribunal set up specifically to hear election-related cases. The IRI heard that this tribunal would convene after December 29. Chesoni noted at the time that the elections could not be postponed to accommodate these disenfranchised candidates. The IRI learned from Chairman Chesoni on February 26, 1993 that the election tribunal would convene in late March 1993 and that *Cheboiwo* had not bothered to file a petition by the deadline date. (See Appendix 2).

In December, the IRI was invited to a special meeting of the Electoral Commission, at which political party representatives were included, for the purpose of discussing these complaints. At the meeting, the Commission established a three-person subcommittee to hear cases involving claims of harassment and to make recommendations or decisions regarding the placement of candidates' names on ballots. Complaints were organized into three categories: those which were within the jurisdiction of the Electoral Commission because the complaints focused on the Returning Officer; those alleging physical intimidation, abduction or kidnapping, which were within the jurisdiction of the Attorney General and the Commissioner of Police, and those in which candidates had been declared elected and therefore, according to the Constitution, could be reviewed only through the post-election court process.

### **Nomination of Presidential Candidates**

Nomination day for Presidential candidates, December 14, 1992, proceeded without incident and eight candidates were registered. In order to run for President a candidate must be at least 35 years old, be nominated by a registered political party and be nominated as a candidate for the National Assembly.

As amended on August 5, 1992, the Constitution requires that a Presidential candidate obtain at least 25 percent of the votes cast in at least five of the eight provinces. According to Attorney General Wako, this provision assures not only a mandate from the highest number of

voters, but also ensures a wide geographic distribution of the votes.<sup>6</sup>

### **Procurement and Distribution of Voting Materials**

Procurement of voting materials began in late September. At that time the British High Commission announced that 35,000 ballot boxes would be manufactured by a British company and donated to Kenya by the British government. Opposition candidates immediately expressed concern at what they deemed the excessive number of boxes ordered by election authorities. According to the opposition, only 27,000 were needed -- three for each of the 9,000 polling stations -- and 35,000 boxes in circulation would present an opportunity to rig the election as had been accomplished in 1988. Upon arrival, each shipment of ballot boxes was transported to a secure storage area near the airport and remained under guard until distribution began. It is the IRI's opinion that the ballot boxes were well secured during the pre-election period and few, if any, were used to rig the election.

The boxes, however, arrived without serial numbers. Professional international election specialists, including the IRI, urged that serial numbers be required to ensure the integrity of the process. This was paramount as ballots were not counted at the polling sites and often had to be transported several kilometers to the nearest counting center. Serial numbers were ultimately painted onto each box, to the satisfaction of most observers and opposition members.

Each ballot and counterfoil (the stub attached to the ballot) were also marked with the distinctive serial numbers. The IRI noted strong concern to the Electoral Commission about the manner in which counterfoil serial numbers could be linked with an individual voter, thereby jeopardizing the secrecy of the ballot. In Kenya, each voter is assigned a unique elector number, and each ballot (and counterfoil) has a unique number upon which the voter number (elector card number) is recorded. As a result, it is possible to determine how individual citizens have voted by matching numbers after the election. This system obviously undermines the secrecy of the process and the confidence of citizens in the privacy of the vote. The correspondence between the IRI and Chairman Chesoni can be found in Appendix 3.

Other voting materials procured by the Electoral Commission included stamps to be used by Presiding Officers. Rather than order one stamp for each polling stream, the Electoral Commission ordered only one stamp per polling station. (See Chapter IV for a description of polling streams.) The over-used stamp had to be passed from polling stream to polling stream, and, in many cases, the stamp broke before voting was completed. These problems caused huge delays and frustration.

Ballot papers were procured in Great Britain by the Electoral Commission. The brief

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<sup>6</sup>While the new amendment perhaps succeeds in blocking those seeking a tribal majority, it gives sparsely-populated provinces far more influence than the comparative number of registered voters in densely-populated provinces.

period of time between candidate nominations and the election itself led to many problems with the ballots, the foremost of which was the tight schedule that allowed no time for nomination problems to be redressed in time for candidates' names to be printed on the ballots.

At the polling sites on election day numerous mistakes were discovered. These included candidate names missing from ballots, misspellings, candidate names listed without the party logo and constituency names listed above the wrong slate of candidates. The Electoral Commission claimed the inaccuracies were not noted in advance because ballot papers were procured from abroad, and time between receipt and distribution was short. In the future, utmost attention must be given to the accuracy of the ballot papers prior to election day. If necessary, the length of time between candidate nomination and election day should be extended.

Local distribution of voting material was the responsibility of the Returning Officers. In many areas, physical transportation of materials was carried out by police. The distribution procedure was insufficiently described in the electoral law and created massive problems on election day as materials arrived late throughout the country.

### **Conclusions: The Electoral Framework**

In transitional societies, procedural irregularities and administrative confusion can occur as a result of inexperience with multi-party elections. Often, the advantages of incumbency are extreme. However, in transitional elections previously observed by the IRI, the government usually attempts to accommodate the opposition by responding to their ideas and opinions in the development of the election and political party laws, the implementation of the law via the Electoral Commission and the design of safeguards to ensure the integrity of the electoral process.

Kenya's electoral code was revised in March 1992 to accommodate multi-partyism and to establish procedures safeguarding the election process against fraud. The IRI is very concerned that in the ensuing months the Kenya government has made few attempts to accommodate the opposition's demands for access and transparency.

● ***The Electoral Commission lacked political party representation and appeared to lack independence.*** Prior to November 1992, the Electoral Commission did not hold meetings with opposition political parties to accommodate their suggestions in regard to the design of the election law, the procedures for registration and election administration, the development of training materials or the training of election officials.

Despite persistent requests by opposition political parties to participate in these deliberations, President Moi refused. Because the Kenyan President would not agree to include even one opposition voice in the Commission, the IRI believes Moi intended to appoint only electoral commissioners he could influence.

The IRI notes, however, that as the campaign progressed, the Commission as a whole became more responsive and communicative with parties and the general public. Meetings were held with political parties and there was an effort to promote voter education through posters, newspaper inserts and radio and television spots. In addition, the Chairman initiated a daily press conference to respond rapidly to developing issues concerning the election. The Commission never recovered, however, from initial suspicion about its commitment to a transparent and fair election process.

The IRI seriously questions the Commission's independence because it appeared to lack the authority to negotiate without prior consultation with higher authorities. Further, when the nomination period was shortened (to the disadvantage of all parties), the Electoral Commission neither formally nor publicly advised the Attorney General of the consequences of the decision. At this key juncture of the electoral process, the Electoral Commission appeared to side with the Attorney General rather than represent the interests of the political parties and the Kenyan citizens.

In addition, the IRI is concerned that Chairman Chesoni may have had a conflict of interest due to the questions surrounding the resolution of his financial problems. The IRI has received conflicting information concerning the allegations. If it is true that the KANU government played a role in writing off Chesoni's debt or in assisting with the payment thereof, this is a significant concern. If the allegations prove false, the IRI condemns those who would perpetrate lies in an attempt to influence public opinion about the impartiality of Chairman Chesoni and the Commission in general.

● ***The registration process was seriously flawed. As a result, as many as three million voters may have been disenfranchised.*** During the assessment period, the IRI heard many reports that the registration process was inefficient, and that logistical delays were deliberately devised to disenfranchise young voters. After the registries were available for inspection, the IRI heard that the lists were deliberately inaccurate to the point that many voters would be disenfranchised on election day. In response to repeated complaints, the IRI analyzed one voter registry from Kisumu constituency and noted inaccuracies, omissions and inconsistencies. On election day, the IRI observers noted several instances where voters did not appear on lists and therefore could not vote. The IRI was not able to conduct a thorough cross-check to determine whether or not election day problems with registration lists systematically disenfranchised certain ethnic groups, constituencies or political parties. Nevertheless, registration reform is a critical step before future elections.

● ***Insufficient time was allowed to carry out key pre-election activities.*** The timing of the elections and the sporadic interruptions in the process led to

inefficiency and confusion. The voter registration period was too brief to allow potential voters time to resolve problems in obtaining national identity cards. Although the voter registration deadline was extended by the Electoral Commission, general delays and confusion warranted additional extensions.

The candidate nomination period was illegally shortened by Attorney General Wako. The Courts overruled his decision, but not before strong suspicions were reinforced about the government's lack of commitment to a fair and open process. The IRI believes Attorney General Wako's attempt to manipulate the electoral code was an egregious misuse of power and highlighted the Government's lack of commitment to a fair electoral process.

● ***The Electoral Commission and Returning Officers did not efficiently organize distribution of voting materials or funds to pay election personnel.*** Election administration is highly complex, and the Commission should be commended for attempting to orchestrate the complicated logistics. On election day, however, the process was significantly marred by late arrival of materials, inaccurate ballot papers, missing or inaccurate registration lists, unpaid polling clerks and other problems. The Commission is ultimately responsible for all administrative confusion related to election day procedures.

● ***Inadequate means of grievance and redress were offered under the Electoral Code, especially during the nomination and campaign periods.*** The electoral dispute resolution process in Kenya was highly inefficient. By design, most allegations of misconduct were to be presented to the Kenyan judiciary system. The Electoral Commission and the courts were not prepared to respond to the large volume of electoral complaints and court cases which this highly litigious society produced. Whether in the context of registration, nominations, voting, or tabulation, the Commission's responses seemed to be *ad hoc*, contradictory, or a result of inadequate review and comment by relevant authorities. The pace of events did not allow time for all nomination grievances to be addressed and, consequently, many candidates were unable to compete. The IRI notes strong concern that many nomination and election day complaints remain unresolved. As of early March 1993, the tribunal appointed to hear such cases had yet to convene.

● ***District Commissioners discriminated against opposition groups by delaying processing time for key documents.*** One of the most serious problems in the election was chronic and intentional delay in delivering or processing essential documents, including national identification cards in the June registration period, rally and meeting permits throughout 1992, and ballot papers and other voting materials on election day. Of these three key delays, two (national identification cards and rally permits) were the direct responsibility of the civil administration, not the Electoral Commission. Distribution of voting material was, in part, the

responsibility of the local police who serve under the District Commissioner. It is the IRI's opinion that some "inefficiencies" were instead calculated attempts to discourage voting in select areas, silence the opposition in specific constituencies, and otherwise disenfranchise voters who because of ethnic or perceived political affiliation may have voted against the ruling party.

Many procedural revisions under the jurisdiction of the Electoral Commission appeared to safeguard the process against manipulation. However, high level civil servants -- including the Attorney General, Police Commissioner and Head of the Civil Service -- still retained significant enough power to exploit the electoral process. This was a notable problem in past elections. The IRI believes that their blatant misuse of government power impacted the fairness of the entire electoral process. High-level civil servants have the obligation to act and to be seen to act in an impartial manner. This did not appear to be the case during the recent pre-election period.

● *New oversight procedures designed to ensure fairness and transparency led to election day inefficiencies.* The weakness of the election day process appeared to be its newness rather than its design. Returning Officers, Presiding Officers, table personnel and security personnel performed admirably under difficult circumstances. The Kenyan voters, in particular, showed great patience and commitment as they endured various delays. (See Chapter IV).

*In summary*, the IRI notes that the Attorney General and many District Commissioners were responsible for egregious pre-election irregularities related to the electoral framework. An electoral environment seething with mistrust requires an accessible, transparent and representative process. While election day inefficiencies can be attributed to inexperience, shortcomings related to transparency cannot be excused. Before the next elections, significant reforms in this area are needed.

Included in Chapter V are specific recommendations suggesting areas where the electoral law and its administration could be improved.



### CHAPTER III: THE CAMPAIGN PLAYING FIELD

*When evaluating whether an election is free and fair, the campaign period is often far more illustrative than voting day itself. In some elections, the majority of irregularities potentially influencing the outcome take place weeks or even months before election day.*

*When assessing the extent to which opposing political parties are able to compete on a "level playing field" during campaigns, the IRI focuses on three principle areas: equitable access to and legal utilization of financial and material resources; essential freedoms of movement and assembly required for party organization, campaigning, and access to the polls, and balanced coverage in and access to electronic and print media. These criteria share importance in the evaluation but vary in degree depending on the political culture, the type of election and the condition of the physical infrastructure.*

#### **Political Parties**

Political parties are a critical component of any democratic system. The success of a pluralistic democracy hinges on the ability of political groups, with various policy prescriptions, to compete within a framework that allows the freedom to organize and to disseminate their views without undue interference. At the same time, the competing parties must have sufficient vision and organizational and communications skills to convey effectively their campaign messages to voters. Only in this context are citizens genuinely able to select the political party they feel best represents their views and visions for the future. Without an election date toward which to build campaign momentum, unity and organizational strategies, opposition groups in Kenya became fragmented.

Of the ten parties legally registered in the Kenyan elections, only four were considered national forces. The other parties were small, regionally- or ethnically-based and their platforms tended to be ill-defined. Kenya's opposition parties have received great criticism for their inability to make strategic campaign decisions without selfish interest. Throughout the pre-election period, internal ideological and personal differences were not put aside, and ambitious party leaders refused to forge strategic alliances.

Ten political parties registered to contest the December 29 elections: the Democratic Party (DP), the original Forum for the Restoration of Democracy (FORD Asili), the Forum for the Restoration of Democracy (FORD Kenya), the Kenya African National Union (KANU), the Kenya National Congress (KNC), the Kenya National Democratic Party (KENDA), the Kenya Social Congress (KSC), the Labor Party Democracy (LPD), the Party of Independent Candidates of Kenya (PICK) and the Social Democratic Party (SDP). The Islamic Party of Kenya (IPK) was not allowed to register because its platform was based on a religion rather than an ideology.

On the following pages are brief descriptions of the four major parties and their leaders.<sup>7</sup> The extent to which voters were informed or cared about policy positions of the candidates, or the parties they led, is unclear. Voter education problems are discussed in later pages.

### **The Democratic Party**

The Democratic Party was formed in early 1992 by a group of defecting former cabinet ministers and assistant ministers from Central Province. Led by Mwai Kibaki, former Vice President (1978-88), the Democratic Party is largely composed of members of the Kikuyu tribe. A graduate of the London School of Economics, Kibaki is considered an accomplished economist and technocrat. He was a founding member and served as the first National Executive Officer of KANU. In 1960 he left his teaching position at Makerere University to work for independence and remains a political activist. Another central figure in the party is James Njenga Karume, former Assistant Minister for Cooperative Development until his defection from KANU.

### **Forum for the Restoration of Democracy-Asili (FORD Asili)**

FORD Asili chairman, Kenneth Stanley Njindo Matiba, is the former Minister of Communications and Transportation. He entered national politics in 1979 by defeating a long-standing cabinet minister. His slogan in that campaign was *Kugan Gwika* ("Saying and Doing"). Alleging the 1988 election was rigged, Matiba resigned his ministerial post and was subsequently expelled from KANU. He was placed in detention without trial under the Preservation of Public Security Act and was released from prison in June 1991 after suffering a stroke. He recuperated in London for a year and returned to Kenya in May 1992. Matiba is a successful businessman who maintains hotel chains, agricultural interests and highly-respected and profitable private schools; he was for many years the chief executive of Kenya Breweries.

Upon his return to the country in 1992, Matiba initially joined forces with the Forum for the Restoration of Democracy (FORD) but on October 12 the two FORDs officially registered as separate parties. The split was attributed ostensibly to differences of opinion in regard to nomination of parliamentary and local candidates. As a Kikuyu, Matiba's move from FORD was extremely divisive because it split not only the strongest opposition political party but also the Kikuyu vote between FORD Asili and Kibaki's Democratic Party. FORD Asili's slogan for the 1992 campaign was "Let the People Decide."

### **Forum for the Restoration of Democracy-Kenya (FORD Kenya)**

FORD Kenya is led by the country's first Vice President (1963-66) Jaramogi Ajuma Oginga Odinga. In 1991 Oginga Odinga, along with Masinde Muliro and Martin Shikuku

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<sup>7</sup>The platform of each party is summarized in Appendix 4. These summaries, along with a discussion of party leaders, are taken directly from *Daily Nation*, December 28, 1993.

founded the Forum for the Restoration of Democracy (FORD) as a pressure group to lobby for multi-party democracy. Oginga Odinga is known as the father of opposition politics in Kenya. In 1958-59, he was President of the Kenya Independent Movement. From 1960-65 he was Vice President of KANU. In 1966 he resigned the Vice Presidency and left KANU to form the Kenya People's Union, a populist party. The party was banned by the government in 1969 and Oginga Odinga was detained by the Kenyatta regime until 1971. KANU amended the constitution turning Kenya into a *de jure* one-party state, because of Oginga Odinga's attempt with George Anyona, to form the Kenya African Socialist Party.

FORD became the first new registered political party after the December 1991 repeal of Section 2(a). In early 1992 many believed FORD would become a prominent, perhaps unbeatable, voice of the opposition. Although Oginga Odinga is a member of the Luo tribe, FORD Kenya did not align itself with any single ethnic group and was considered to be the most pan-ethnically popular political party. Nearly a million people gathered in early 1992 at FORD's first rally at the Kamukunji grounds in Nairobi. The split with Matiba in the fall of 1992 severely weakened Oginga Odinga's party, and tribal alignments resulted in a large portion of Kikuyu support going to FORD Asili.

### **Kenya African National Union (KANU)**

The Kenya African National Union is led by President Daniel Toroitich arap Moi. Now in his fifteenth year as President, Moi has participated in politics for more than three decades, first as a member of parliament and then as Vice President for 12 years under Jomo Kenyatta, and later as Kenyatta's successor. Under Moi's leadership, Kenya moved from a *de facto* to a *de jure* one-party state and then to a *de jure* multi-party system. His tenure has been marked by increased centralization of power in the office of the President and the encroachment of "the party" on civil society.

### **Access to Resources**

In transition societies, disparities frequently exist in resources available to ruling parties and those available to opposition parties. In Kenya's elections, there were allegations by the opposition, although difficult to independently verify, of improper use of state resources by the ruling party. The interwoven nature of KANU and government linkages were evident throughout the campaign period. For example, the IRI was able to confirm that government properties, including vehicles and printing facilities, were available to KANU candidates and supporters. The IRI delegates frequently observed government vehicles (Ministry of Agriculture and Ministry of Tourism and Wildlife, among others) bearing KANU campaign posters. The IRI also witnessed government officials conducting campaign-related business from their government offices.

Over the years, KANU has amassed considerable real estate holdings. No other party had access to comparable facilities. This situation is similar to other transitional electoral environments and does not automatically disadvantage the opposition, however, in this case the

opposition clearly lacked the organizational infrastructure including offices, equipment and trained staff to compete evenly with KANU. In areas considered "KANU zones" (in the Rift Valley and North Eastern Province) the disparity was especially evident. In these areas opposition parties were not allowed to stage rallies until late in the campaign or to open branch offices. In an environment where access to telephones and transportation is limited, the branch office often assumes great importance by serving as a nexus for party communications and activity in the province. Opposition parties were clearly disadvantaged by this disparity resulting from anti-opposition bias of District Commissioners.

Business enterprises owned, controlled or influenced by the candidates of all parties found dual usage throughout the campaign. The IRI observers witnessed numerous examples of commercial establishments providing services and facilities to the four major parties. The disparity in this area, if any, appeared to be limited to the resourcefulness and contacts of party leaders, and seemed to disadvantage the smaller parties in particular.

Despite the rampant flow of money used both to lure voters and their families and to persuade candidates to defect back and forth from party to party, the main opposition parties expressed to the IRI surprisingly little concern about funding inequities. In its visits throughout the country, the IRI noted that although opposition parties appeared to lack comparable material resources, access to funding did not seem to significantly hinder basic organizational efforts, or to dampen confidence and enthusiasm. In some cities visited by the IRI, the major opposition parties seemed to be able to finance the establishment of "store-front" branch offices. As noted earlier, however, permits for branch offices were often not approved by District Commissioners.

### **The Role of Money**

Kenya's present electoral code and constitution do not provide for public financing of any portion of political campaigns. Recent amendments to the law specifically stipulate that each political party must bear the expense related to the nomination of candidates for contesting parliamentary elections (Section 17 in Cap. 7). The law does not call for public disclosure of the source of campaign funds, making it virtually impossible for the public to learn where parties have obtained funding support.

Money played an instrumental role in the election campaign as millions of shillings were openly disbursed nationwide to eligible voters, their families and candidates. While money campaigns are not unusual in Kenya, this election saw a vast increase in spending because the formerly fixed spending ceiling of Ksh 40,000 per candidate for parliamentary candidates was amended in October 1992 by Attorney General Wako. There is presently no spending limit. The spending limit had, in previous elections, led to a number of nullifications.

### **Allegations of Currency Infusions**

Members of opposition parties expressed concern to the IRI that the Kenyan Government

was underwriting some costs of KANU campaigns. Related to this, according to the January 11, 1993 edition of *Economic Review*:

"The IMF has noted growth in the monetary sector. Failure by the Central Bank to enforce strict control on commercial bank operations has lent credence to reports that the currency in circulation may have irregularly expanded by over Ksh 11 billion. Unconfirmed reports said that the alleged release of paper money into the economic mainstream and monetary control had already been raised with senior government officials by the World Bank headquarters in Washington. The importation of currency has been vehemently denied by the Central Bank, although its monthly balance sheets show large unmatched direct advances to the central government during the past year."

Throughout the campaign, the IRI heard allegations that the country's money supply may have increased by more than 40 percent in the second half of 1992, and that this infusion may have led to the country's increasing inflation rate.

While requesting not to be quoted or named, at least one local bank executive suggested that the money supply appeared to have increased measurably during the campaign period. In an article in *Daily Nation* (December 17, 1992) the Governor of the Central Bank of Kenya wrote:

"The profits cheque given to the President by the Governor of the Central Bank in October of this year to the tune of Ksh 5.5 billion indicates that direct advances to central government over the period 1991-1992 were in the region of Ksh 30 billion. This far exceeds the statutory minimum based on recurrent revenue estimates for that year of Ksh 44 billion...The government of Central Bank of Kenya appears to be powerless in the face of directives from the executive arm of the government..."

The IRI heard several allegations that the Government increased the money supply in order to finance KANU campaign efforts. FORD Kenya reported to the IRI that they had calculated that the KANU government placed a special order of Ksh 9 billion in new banknotes from the government's customary banknote printer, De la Rue of Britain. (See Appendix 5). Currency is usually sent by sea route. The special order was reportedly sent by air. This order of Ksh 9 billion was reportedly in addition to the Ksh 2 billion, thought to be for routine currency replacement. (It is unknown whether the 2 billion of old notes was taken out of circulation.)

Within the last few months prior the election, therefore, the country's money supply could have increased from the usual Ksh 15 billion to Ksh 26 billion via 11 billion in new

banknotes mostly dated January 2, 1992. This infusion into the money supply remains ungazetted.<sup>8</sup>

### **Cash Handouts to Build Party Support**

KANU leadership was remarkably open about utilizing shillings to build and maintain party membership. One leader in the Coast Province stated that the party budget prior to the announcement of election day was Ksh 3 million per day and, after the announcement, the total daily expenditures would jump to Ksh 5 million. Financial resources were available to the three other major parties and were also used liberally.

The IRI heard scores of rumors regarding exorbitant campaign expenditures in the form of cash disbursements to individuals and parties. The IRI was not in the position to verify most reports, but the following alleged incidents are representative of many stories heard throughout the assessment periods:

- FORD Asili candidate Matiba personally financed more than Ksh 22 million to support grassroots civic and parliamentary nominations, not including printing and distribution costs for written materials.
- Youth for KANU '92 had access to Ksh 1.2 billion through the National Hospital Insurance Fund.
- *Operation Moi Wins* stated at least Ksh 500,000 would be distributed weekly in one constituency alone (Gachoka) to ensure Moi's victory. They reportedly told a crowd at Embu stadium: "There is nothing to hide; we are going to pour an amount of money you have never seen here before to ensure that President Moi is voted in again."

The IRI heard estimates from one KANU official that the party was spending between three and five million shillings daily, and would spend Ksh 1.5 billion by election day to ensure victory. A senior ruling party official in the Coast Province openly stated to the IRI that he was going to pay each family in his constituency between Ksh 2,000 and Ksh 5,000 shillings on election day to support him. The IRI did not hear expenditure estimates from other parties but notes that substantial sums were disbursed by each of the major groups.

The sheer volume of money distributed in the Kenyan elections raises a fundamental question about the campaign. In Kenya, clearly two-thirds of the voters selected someone other than Moi to serve as President. Whether the money distributed by KANU had any purchasing power when it came time to cast a secret ballot is unclear. In transitional societies, this

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<sup>8</sup>Details in this paragraph and accompanying Appendix were provided by FORD Kenya in its Directorate's report on the December 29 elections.

phenomenon is often seen. In the Philippines in 1986, Cardinal Jaime Sin advised Filipinos:

"...to take the money offered by the parties and then vote your conscience. You need the money and it is wrong not to vote as you choose. They who offer you the money are doing wrong."

The observation that elector cards were being purchased by persons with large amounts of cash is another matter. Some discrepancies between anticipated turnout and actual turnout could be explained by the absence of elector cards. The IRI teams witnessed elector cards being purchased for cash at several sites. In Oyugis, local citizens accosted a woman with a purse full of cash and elector cards and demanded to know the source of cash. When the woman refused to talk, the group reportedly placed her in the center of old tires splashed with paraffin and threatened to set her on fire. The police intervened and took her into custody. The IRI sent a team to investigate these allegations but local police said they were not authorized to discuss the case.

In Kisumu, the IRI team saw approximately 200 national identification cards in the office of the ruling party's youth wing. When questioned, the youth official said the cards had been lost and were being held for "safe keeping."

Elector card buying was so widespread that Chairman Chesoni finally responded by lifting the requirement that voters had to show their elector cards in order to vote. While this was an important gesture on the part of the Electoral Commission, many voters and election officials did not learn of the change prior to election day.

### **Party Defections**

Liberal cash disbursements also led to party defections. In the last month of the campaign both voters and candidates began "jumping" from party to party. In many cases, supporters switched party allegiance because Kenya has weak political parties and potential voters have little experience with multi-party options. In many cases prior to December 9, local party leaders failed to be nominated by one party so defected to another.

Defections of candidates who had been officially nominated on December 9 by a party for a civic or parliamentary seat were a significant and serious issue. Electoral law offered no provisions for parties to nominate new candidates when original candidates defected. A party was thus effectively blocked from running a candidate in those constituencies where candidates had defected and citizens were, therefore, deprived of a full slate of choices. It is unknown whether or not post-nomination defectors were planted by KANU, paid off or promised something in the future. In some cases, candidates were clearly coerced into defecting.

Voter defections occurred in both ruling and opposition parties. Most candidate defections, however, were of opposition candidates switching to KANU. Some strategic defections, particularly in the North Eastern Province, crippled opposition efforts to field

candidates and mount a campaign. FORD Kenya provided the IRI with sworn affidavits alleging that several of its candidates had been coerced to defect and to return to KANU. (See Appendix 6). The IRI heard from multiple sources that one candidate was paid up to a million shillings not to stand as an opposition candidate. The IRI heard that in some cases cash was not the only reward for defection. One affidavit received from FORD Kenya alleges that certain candidates were picked up by KANU operatives and driven directly to see President Moi who personally encouraged the candidates to defect.

As of December 28, 49 candidates nominated by opposition parties had withdrawn from their respective races and rejoined KANU -- FORD Asili lost 18 candidates, FORD Kenya 17 candidates, Democratic Party 11 candidates, and the Kenya National Congress three candidates.

### **Freedom of Assembly and Movement**

The ability of all political parties to organize freely, to assemble their supporters and to move their candidates around the country is a fundamental component of any campaign. In Kenya, the opposition parties were frequently denied this vital ability to organize and to disseminate their messages.

Since the repeal of Section 2(a), opposition political parties have been allowed to hold meetings and public rallies. According to Kenyan law, however, the opening of branch offices and meetings of more than nine people can occur only upon issuance of a permit from the local District Commissioner. All applications must be received by the District Commissioner no less than 14 days before the scheduled meeting.

Until mid-December, District Commissioners appeared to discriminate against opposition parties when enforcing the government regulation requiring rally and meeting permits. While opposition parties faced considerable government obstacles limiting their ability to assemble, the IRI team heard of no instance where the ruling party was denied a rally permit. The IRI was given several lists detailing rally rejections in various parts of the country.

To counter complaints voiced by opposition parties, a statement addressing the licensing issue was released on November 17 by the Secretary to the Cabinet and Head of Public Service. The statement noted that in certain areas of the country "opposition parties had held more meetings than the ruling party, KANU." The statement added:

"In Kitui district of Eastern Province, the Government has so far issued 39 licenses to DP for public meetings since December 1991, while both FORD Asili and FORD Kenya have held a total of 91 meetings, and KNC 24 meetings. In Mombasa, during the month of November alone, DP has held a total of 14 meetings. In Nairobi, both FORD Asili and FORD Kenya have been granted 20 licenses to hold public meetings while 10 licenses were approved but the parties concerned did not collect them. And, in Nakuru, both FORD Asili and FORD Kenya have held 42 licensed meetings, while DP has held 25 licensed public



meetings since February this year."

This statement provides evidence that in at least some areas, district officials approved meeting permits. It is unclear how many meetings described in this statement were public rallies. Nevertheless, opposition parties in some areas had opportunities to assemble early in the pre-election period.

In some cases, opposition parties were granted permission to hold a rally one or two days before it was to be held, allowing little time to publicize the event. In other cases, rally permits were revoked at the last minute for "security reasons." Often, permits were rejected without explanation. FORD Kenya provided the IRI with copies of its correspondence with Secretary to the Cabinet and Head of the Civil Service, Professor Phillip Mbithi, regarding specific instances where rally permits had been delayed or denied. (See Appendix 7).

Commencing December 9, the beginning of the official campaign period, Chairman Chesoni announced that parties were not required to apply for permits to hold rallies. From December 9-16, however, parties in many constituencies were still forced to apply to District Commissioners for permits. In the IRI's opinion, it is highly unlikely that District Commissioners did not know this important regulation had been revised.

The IRI team discussed the issue of rally and branch office permits with District Commissioners in several provinces, who in all cases denied delaying permits for political reasons. They assured the IRI team that permits were delayed only for "security reasons," and, in many cases, the opposition had not abided by the 14-day requirement. While the IRI team notes that security was, indeed, an issue at many public rallies, the widespread reports describing situations where permits were withheld or delayed seemed to indicate security was not the only decisive issue in the application process. The IRI heard of no instances where KANU rally permits were rejected, and thus concludes that District Commissioners deliberately hindered opposition efforts to hold rallies. Government intervention clearly tilted the playing field to the strong disadvantage of opposition parties.

The ruling party declared certain constituencies and districts as their exclusive operational zones (known to citizens as "KANU zones"). In many cases, opposition permits were rejected and local candidates were harassed into submission. District officials also failed to allow opposition groups to open branch offices in several areas. Without exception, KANU candidates from KANU zones won handily on election day. The entire North Eastern Province was a *de facto* exclusive zone of the ruling party, and leading opposition figures were rarely allowed in the area by the government. Though this province is a sparsely populated area, its importance increased when the government changed the election law to require that the winning presidential candidate receive at least 25 percent of the total vote in five of the eight provinces. The Rift Valley was another problem area where freedom of movement and assembly were officially or forcibly discouraged. Final election results indicate the success of the "KANU zone" strategy: in the Rift Valley Moi won 67.8 percent of the vote; in North Eastern Province he won 78.1

percent.

### **Transportation Ban**

In the final days before the election, President Moi banned the movement of all lorries (a type of bus). On the evening of December 27, the President stated that lorries could potentially be used to illegally import voters. While lorry service was restored on election morning, the late announcement of the unavailability of transportation could have been a very significant factor. A substantial number of voters spent the holidays at places distant from their registered voting location. They were thus forced to rely on mass transportation to return to polling stations to vote. Concerned in early December about the possible impact of the election date on voter turnout, some church leaders had even urged parishioners not to go home for the holidays unless absolutely sure they would be able to return to their polling site for election day. The IRI heard few complaints, however, about voter transportation problems on election day.

### **Violence and Intimidation**

The Kenyan security apparatus, centered in the Provincial Administration in the Office of the President, is a highly efficient organization. District Commissioners explained to the IRI observers that the District administration office was responsible for all local security matters. District Commissioners refused to estimate the total number of security personnel in their respective districts, citing this was classified information.

The campaign period was marked with violence. Many confrontations were attributed to tribal conflicts. Others were blamed on youth groups affiliated with various parties. Opposition groups alleged that Youth for KANU '92 was a paramilitary support group created by the ruling party to threaten, harass, intimidate and violently attack people involved in the electoral process. FORD Kenya also had a youth wing which was charged with several violent attacks on KANU candidates.

In a December 18 article in *Daily Nation*, Chairman Chesoni expressed concern that parliamentary candidates had not emphasized to their supporters the need to "avoid acts of violence and hooliganism." He also asked that "the new parliament introduce a law empowering the Commission to disqualify candidates who perpetrated violence during the campaign."

It is unlikely that violence during the campaign period would have continued if security forces were committed to preventing it. Similarly, the IRI heard of few cases where perpetrators of election-related violence had been arrested and brought to court. Election-related violence and intimidation is a critical concern. The fact that few perpetrators have been prosecuted indicates a severe lack of respect for the rule of law.

## **Access to the Media**

Despite a well-developed media infrastructure, Kenya suffers from a series of problems inherent to societies in transition from one-party rule to multi-party democracy. While the print media are largely privately-owned and, theoretically, enjoy freedom of the press, Kenya's most influential media -- radio and television -- are still a state-controlled monopoly. During the assessment period in November and early December, the IRI team noted the electronic media was grossly biased in favor of KANU.

### **• Radio and Television**

State-owned Kenya Broadcasting Corp (KBC) controls Kenya's most important medium, radio. KBC's two radio channels -- one English and one Swahili -- broadcast daily from 4 a.m. to midnight. Its 17 relay stations provide 75 percent of Kenya's population access to the radio. Established in 1989, KBC attempts to create nominal distance between the government and broadcasting while attracting commercial advertising.

KBC also owns one of two Kenyan television stations -- the only station with nationwide broadcasting. There are an estimated 400,000 television sets throughout the country, each with approximately five viewers, and most in urban centers. A privately-owned television station, Kenya Television Network (KTN), is controlled by the Kenya Times Media Trust, whose board consists of prominent businessmen with close ties to KANU party and senior KANU officials. Its broadcast range is restricted to Nairobi.

Television and radio coverage provided through the Kenya Broadcasting Corporation (KBC) is estimated to reach 80 percent of the population. Although the print media remains a major source of news for urban Kenyans, government-owned KBC disseminates news (radio and television) to both urban and rural areas. The IRI team noted that KBC's television and radio coverage during most of the assessment period seemed to focus on positive news as related to KANU and negative news as related to opposition parties.

No provisions in the electoral law guaranteed political parties equal access to the broadcast media, although on November 25, 1992 the Ministry of Information pledged "up to 90 seconds" of air time would each day be allocated to all presidential candidates. After discussions with the Ministry, the IRI discovered that this 90-second allotment was for paid advertising. The IRI subsequently learned that the paid prime-time spots were frequently unavailable because they were already committed to KANU advertising.

Without question, KBC consistently slanted its election coverage toward KANU. One member of the assessment team noted that the Swahili-language radio broadcast rarely mentioned the opposition prior to December 21 (eight days before the election). Between December 21 and 29, the opposition was mentioned only briefly. Each broadcast began: "Today, His Excellency President Daniel arap Moi said..." and offered a story lasting at least five minutes in a ten-minute news broadcast. This information added to the IRI belief that KBC was extremely biased.

The Ministry of Information acknowledged that the Kenya Broadcasting Corporation Act must be adjusted to accommodate the needs of a multi-party democracy with full freedom of the press. Toward the end of the campaign period, KBC introduced regular and repeated civic education programs describing voting procedures and regulations as well as the role of the Electoral Commission.

A civil suit against Moi, KBC and KANU filed by FORD Kenya in early November 1992 demanded that KBC be compelled to stop campaigning for KANU and Moi. The suit, filed by FORD Kenya, asked that opposition parties be given the same air time on both KBC radio and television as was given to KANU. The Democratic Party sought to be joined in the suit. Defendants objected to the suit, saying it was frivolous. The case was subsequently dismissed by the judge who expressed regret, stating that the case raised important issues but did not meet technical legal standards.

### ● Daily Newspapers

Kenya has two privately-owned English-language newspapers, an English-language pro-government paper and a number of Swahili-language dailies. The country's English papers -- *Daily Nation*, *Standard* and *Kenya Times* -- are widely seen as influential although overall newspaper circulation is relatively small for a country of 23 million people.

The Lonhro-owned *Standard* and Aga Khan-owned *Daily Nation* each gave KANU and the opposition ample campaign coverage. For the most part, these two papers attempted to maintain an image of neutrality. *Kenya Times* -- founded as a KANU party organ in 1982 -- openly sympathized with the ruling party. Ironically, news coverage in *Standard* of the IRI's December 16 news conference showed far more bias than that of the government-owned *Kenya Times*, which printed the press release in full. *Standard*, on the other hand, buried the story in an inaccurately rendered editorial. *Daily Nation* gave the report exclusive front page coverage.

Journalists noted that the political climate in the country forces them to be cautious in how critically they approach the government. As a result, they said, they sometimes shied away from in-depth reporting of more controversial issues such as government corruption. However, they indicated they would back-off certain stories only when warned or threatened to do so by individuals or institutions.

Editors of all three papers noted that their reporters had been harassed at rallies by people who viewed their publications as hostile to either the government or the opposition. In some instances, reporters were said to have been dragged out of their hotel rooms and beaten. All three papers said they feared for the security of their reporters involved in election coverage and expected increasing violence against local journalists as the elections drew nearer. The IRI election observer team heard no reports, however, of harassment of journalists on election day.

## ● Opinion Weeklies

Kenya's main opinion weeklies -- *Finance*, *Society*, *Nairobi Law Monthly* and *Nairobi Weekly Observer* -- have borne the brunt of government attempts to intimidate publications hostile to KANU and the authorities. Representatives of these weeklies told the IRI that the purpose of their publications was to fill a void in media reporting on the opposition. Their publications emphasize alleged government corruption as well as alleged government and KANU attempts to rig the elections.

While a few of the weeklies did make some outrageous claims and need to adhere to minimum standards of responsible journalism, government response was widely disproportionate to the nature of the presumed transgressions. Using vague and nebulous security considerations as justification, the government seemed determined to drive these weeklies out of business. The government also went to some length to squelch publications that supported the opposition and to prevent the public from freely having access to them. Among the measures to which the government resorted were:

- Frequent impoundment of complete editions of the various weeklies.
- Creation of a climate in which the country's largest printing presses felt the need to discontinue printing of the weeklies. This forced many publications to use the same privately-owned printer whose restricted printing capacity severely limited the number of copies they were able to print.
- Harassment of the weeklies which made businesses reluctant to place advertisements with them. Weeklies have had no choice but to dramatically raise their cover prices.
- Detention of editors who were charged with sedition while at the same time facing a battery of libel suits filed against them.

The atmosphere of intimidation, for example, led at least one editor to seek a protective court injunction ordering his release on bail even though there is currently no warrant of arrest against him. Similarly, unidentified perpetrators earlier this year fire-bombed the offices of *Society*, causing severe damage. A report issued on December 17 by the Kenyan Ministry of Foreign Affairs and International Cooperation noted:

"There is no restriction - other than on direct incitement to violence or laws of libel - on coverage or comments published in Kenya's newspapers or news magazines. Certain magazines are virulent and unrelenting in their attacks on the Government and public figures."

As the editor of *Finance* was arraigned in February 1993 for sedition, the exact meaning of this statement needs clarification.

## **The Role of Local Non-governmental Organizations**

Democracy is preserved by civic institutions and organizations that provide citizens an opportunity to define and pursue their interests and to participate actively in making decisions which affect their lives. Civic organizations, church groups and cultural organizations have never been absent from the struggle for independence and freedom in Kenya, even when their efforts were curtailed or proscribed by the government.

Non-partisan domestic monitoring and voter education programs not only ensure confidence in the electoral process but also encourage participation by those who will ultimately create and sustain a democratic culture -- the citizens of Kenya. The IRI notes that civic groups and churches played an instrumental role in domestic monitoring and civic education prior to the elections.

### **Domestic Election Monitoring**

In Kenya, the principal civic organization involved in the elections was the National Election Monitoring Unit (NEMU). NEMU is a joint effort of the National Ecumenical Civic Education Programme (NECEP), the International Commission of Jurists (ICJ), the International Federation of Women Lawyers (FIDA) and the Professional Committee for Democratic Change (PCDC). This consortium was established specifically to monitor the 1992 elections. Approximately 5,000 domestic monitors and count certifiers participated in election day activities. Monitors were paid approximately 1000 shillings each for their work. On election day, 5,000 domestic monitors were deployed throughout Kenya.

NEMU received substantial funding support from the community of international aid donors, through an informal multilateral consultative mechanism called the Democratic Development and Governance Group (DDGG). The DDGG was chaired by the Canadian High Commission and provided a coordinating mechanism for assistance to NEMU and other organizations. The DDGG also served as a clearing house for the various international election observation groups prior to the agreement by the United Nations to provide a facilitation mechanism for the smaller observer missions. The DDGG channeled the financial resources which allowed NEMU to achieve its national reach by election day.

NEMU experienced several management problems resulting from internal struggles among its member organizations. Organizational disunity resulted in delays in implementing activities. While NEMU originally projected it would field 23,000 monitors on election day, only 5,000 were finally deployed. NEMU was also frequently criticized for being biased against KANU. The IRI heard from KANU supporters that they did not believe NEMU would be objective in its monitoring effort.

During the campaign period, NEMU also administered and published a public opinion poll, on both presidential and party preference, which received front page media coverage. The NEMU leadership received criticism from various political parties claiming the poll was biased

and decided not to conduct further polls. The IRI delegation was generally impressed with the scientific and non-partisan nature of the poll and believes such efforts are a vital part of the democratic process. As part of the campaign monitoring effort, the PCDC, an individual constituent within the NEMU umbrella, also conducted a content analysis of KBC and KTN television and radio news coverage.

### **Religious Organizations**

The churches of Kenya are the preeminent bases of associational life in Kenya, and their reach and influence are vast. Domestic election monitoring efforts outside Nairobi were fundamentally a project of the churches. NEMU, or one of its constituent groups, provided workshops and training, and published material throughout the country; but it was the church leadership and parishioners who were actively engaged on a day-to-day basis in nurturing and implementing citizen involvement in Kenyan politics. The work accomplished by the churches to create an effective and thorough election monitoring effort and to undertake civic education projects was truly impressive.

Church members throughout the country were recruited to serve as election monitors, and most were provided training in poll-watching and count-watching procedures. Although the churches never were able to fully implement the overall election monitoring strategy developed by NEMU, they accomplished a great deal on relatively short notice.

### **Voter Education**

Although various groups were involved in educating Kenyan citizens about the democratic process, most work was carried out by the churches through the Legal Education and Aid Programme of the Kenya Adult Education Association (LEAP) and the National Council of Churches of Kenya (NCCK). LEAP produced and distributed several books and posters describing the electoral process, and conducted several voter education workshops. Given the dearth of civic education in Kenya, the role of LEAP and NCCK was invaluable. The delegation noted that LEAP's posters and publications throughout the country were perhaps the only real education effort other than the obviously biased efforts of the political parties.

Church leaders reported no significant difficulties in civic education activities as long as workshops were held at the churches. However, churches were often the victims of the same fate as opposition politicians when they sought to hold civic education meetings in public places: permits were denied in some cases or were delayed long enough that the proposed meeting had to be cancelled.

The fears expressed by church leaders were not unique. The same serious concerns were raised by opposition politicians and ordinary citizens extremely disturbed by the significant amounts of money being distributed in an effort to shape the outcome of the election. One priest in Coast Province indicated he had been offered money to influence his parishioners in favor of a particular candidate.

Church leaders also made clear their concern for the safety and security of citizens, opposition politicians and domestic election monitors. Most reported incidents of violence and intimidation during the campaign period. They confirmed reports that some areas had been declared KANU zones and that citizens risked their lives by defying this declaration and aligning with a prohibited group. Church leaders noted, in addition, that opposition politicians worked under a severe handicap as they had little success in holding meetings. At the same time, they praised the new opportunities resulting from the transition to multi-partyism and expressed reserved optimism about prospects for democratic elections in future years.

## **Conclusions: The Campaign Playing Field**

The playing field for the pre-campaign and campaign periods was slanted sharply to the benefit of the ruling party. KANU's advantages included access to the resources of the state and control of the media. Other intangible advantages, including political expertise of activists and tactical flexibility, were important components of the elections but did not seem to be utilized by the ruling party beyond normal practices in transitional societies.

Breaches of democratic norms and accepted practices included the use of the state's administrative apparatus in order to deny freedom of assembly and movement, as well as utilization of bribery, violence and intimidation.

## **Political Parties**

*•During the pre-election period there was little separation between the government and KANU.* As was stated in the IRI's December 16 preliminary statement "The electoral process...has been severely damaged by the Government of Kenya's centralized and systematic manipulation of the administrative and security apparatus of the state to the ruling party's advantage...with few exceptions, there is no discernible difference between the Government and the ruling party." This blurring of distinction between the apparatus of the government and the ruling party is a feature of one-party states and becomes more apparent in transitional elections to multi-party government. These formal and informal linkages became of particular concern in Kenya because they offered KANU decisive advantages of incumbency. See conclusions regarding the actions of the District Commissioners in Chapter II.

*•Lack of opposition unity was the single most important factor in the eventual outcome of the elections, despite a playing field highly advantageous to the ruling party.* While each opposition party, as an organization, was young and relatively inexperienced, party leaders were sophisticated political veterans. Despite the stakes involved, it appears that Kibaki, Odinga and Matiba chose to exercise their prerogatives of leadership and contest the election singly. The IRI firmly believes that opposition disunity, more than any other factor or



combination of factors, led to Moi's Presidential victory and KANU's majority in the National Assembly.

● *Ethnic sensitivities were heightened during the pre-election period.* Whether or not the multi-party transition or government-instigated clashes raised ethnic sensitivities in Kenya is a question that lies beyond the scope of this report. The IRI is strongly concerned that there appears to have been government involvement in the instigation of ethnic clashes. Certainly, the campaign period and election outcome reflected a strong ethnic component. The IRI notes concern that the tensions among Kenyans of different ethnic origins can serve only to inhibit the emergence of a new political order based on the rule of law, tolerance and respect for the civil and political liberties of all Kenyans.

● *Acts of violence and threats of violence by political pressure groups create an atmosphere of intimidation which undermines full participation and open competition.* The full weight of Kenyan law should be brought to bear on the perpetrators of violence or those who would seek to intimidate public adversaries. The IRI observers heard credible evidence that the youth wings of various parties were involved in violent activities during the campaign. If these allegations are true, it is a troubling indication that the leadership of at least two of the major parties was willing to encourage young people to resort to criminal means to ensure party victory. Further, the unresolved allegations of government involvement in the ethnic clashes throughout 1992 are very disturbing and deserve further investigation. The future of multi-party democracy in Kenya depends on leaders with the vision to learn and widely disseminate their commitment to peaceful conflict resolution.

#### Access to Resources

● *The IRI is gravely concerned about allegations that the Moi government put at risk Kenya's economic stability by introducing billions of shillings into the monetary system in order to finance the KANU campaign.* If the allegations are true, Moi's reckless disregard for the health of Kenya's economy seriously underscores widespread foreign criticism concerning his commitment to multi-party democracy. While linkages between these cash disbursements and the electoral outcome are tenuous, the judgement of the international financial community vis-a-vis Kenya's fiscal health should inform bilateral policy judgements for other governments.

● *Widespread cash disbursements by political parties in order to garner votes damaged the integrity of the electoral process.* The IRI heard about the disbursement of millions of Kenya shillings to buy party loyalties and votes. The IRI assessment teams directly observed several transactions. As Kenya's political parties become more sophisticated, financial resources can be more efficiently

used to establish and nurture grassroots organizations, to reinforce constituency services and to develop programs that more accurately reflect the interests and aspirations of Kenyan voters.

● *KANU, and to a lesser extent the major opposition parties, intentionally disenfranchised thousands of voters by purchasing their elector cards.* A strategy designed to keep voters from voting is antithetical to the principles of democracy. Deliberate disenfranchisement by political parties preys on economic vulnerability, undermines faith in a democratic system and significantly weakens the formation of democratic beliefs. Although Chairman Chesoni made an important and timely revision of procedures enabling voters to cast ballots without electors' cards, a majority of voters did not seem to learn of this revision.

● *Opposition candidates were bribed by KANU to defect or to drop out after they were nominated.* The time-honored influencing of candidates, which sometimes occurs in parliamentary systems, was exceeded in these elections. Cash disbursements and other methods of coercion were used by KANU to convince opposition candidates to withdraw after their names had been formally registered. As a result, voters in several constituencies did not have the opportunity to choose between a variety of ideologies and candidates. The resulting impact so seriously damaged public confidence in the integrity of this electoral process that severe legal sanctions should be developed to discourage these practices in the future.

### **Freedom of Assembly and Movement**

● *Delays in granting rally permits to opposition parties and the capricious use of public security regulations to deny rally permits represent intentional skewing of the electoral playing field by District Commissioners.* The Moi government's refusal to enforce equitable administrative practices by District Commissioners and other high-level civil servants underscored the darkest suspicions of the opposition and the international community about the government's commitment to an open and competitive democratic process. Despite revisions in the electoral law, and repeated requests by opposition parties, observers and even the Electoral Commission for equal treatment under the law, District Commissioners continued to abuse their authority.

● *Opposition parties were denied access to provinces and regions known as "KANU zones."* A deliberate strategy to block the access of Kenyan citizens to competitive political messages through violence, intimidation and the use of the state's administrative apparatus reinforced the mistrust and suspicion with which the government's commitment to multi-party democracy was viewed by Kenyan citizens. Full and open access to information about various candidates is vital to the democratic process.

## Access to the Media

● *The electronic media in Kenya showed significant bias in favor of KANU.* KBC and KNA seemed both influenced by the KANU government and encouraged to provide such unbalanced news coverage. Full access to balanced information is critical in the campaign process. In this election, KBC and KNA failed to provide adequate information to the Kenyan people. The IRI is hopeful, however, that both KBC and KNA will realize their new role in a multi-party system and will soon address this issue. In actuality, near the end of the campaign period improvements were already apparent.

● *Continued intimidation and threats on the print media indicate the Moi government fears the impact of alternative viewpoints.* The IRI learned recently that the editor of *Finance* was arraigned again on February 3, 1993 for a January 31, 1993 cover article entitled "Moi Family has 150 Billion Shillings Abroad." According to a BBC report, the editor was charged because publication of the story "was calculated to bring into hatred or contempt or to excite disaffection against the person of the President of the Republic of Kenya." The IRI realizes the need to enforce libel laws when necessary, however, utilizing repression or intimidation to silence information is never acceptable. Enacting the Preservation of Public Security Act to detain those who express negative opinions is an extreme reaction of a paranoid government. Freedom of expression is an inalienable right in a democratic system. Enduring media scrutiny, and even attack, is the price of democratic freedoms. Those who cannot endure criticism should not participate in public life. At the same time, Kenyan journalists need to adhere to a professional code of conduct that does not include exaggerated or libelous allegations.

## The Role Of NGOs

● *NEMU and the churches of Kenya played an exemplary role in the campaign and election process.* Despite internal conflicts which decreased their effectiveness, these civic groups offered an invaluable service to the Kenyan people and should be highly commended. The IRI believes that in some instances domestic monitors were biased in favor of the opposition, but noted no indication of biased monitoring on election day. The IRI cautions, however, that objectivity is a key component of election observation. Domestic monitoring and voter education efforts were impressive examples of the Kenyan people's persistent and courageous commitment to democracy.

Included in Chapter V are specific recommendations suggesting areas where the campaign playing field could be improved.



## CHAPTER IV: ELECTION DAY

*The following chapter presents the findings of the IRI election day mission. The delegation was composed of observers from 13 countries including Australia, Botswana, Eritrea, Ethiopia, Ghana, Germany, Italy, Malawi, Namibia, Nigeria, South Africa, the United Kingdom and the United States. (See Appendix 8).*

*On election day, the delegation, composed of political, academic and democratic development specialists, was divided into 25 teams to observe voting and counting activities in 46 constituencies. The IRI delegation observed election day voting in more than 230 stations throughout Kenya. The teams spoke with more than 100 Presiding Officers, 68 Returning Officers, thousands of party agents and 438 domestic election observers.*

*The objectives of the Kenya election observer mission were:*

- *to provide some deterrence to election day fraud;*
- *to offer international moral and political support for those engaged in the process, and*
- *to report to the international community on the conduct of the elections.*

*Observers remained at each polling site an average of 15 minutes but no longer than an hour. During this period, observers usually interviewed the Presiding Officer, deputies, clerks staffing the table, party agents, domestic observers and security personnel. When appropriate, the observers spoke with citizens who had completed voting.*

### **Introduction**

Approximately 5.5 million voters (more than 65 percent of the registered voters) cast ballots for civic, parliamentary and presidential candidates on December 29 or soon thereafter. There were 713 candidates for the 188 seats in parliament. Seventeen seats were uncontested. (Election results are reported in Appendix 9). There were more than 7,000 polling stations, many of which were located in rural areas, particularly in schools, community centers, church halls, outdoor soccer fields and village centers. Most polling stations were the same as those utilized in previous elections. Polling site locations were published in local newspapers well before election day, as required by the electoral laws.

The Electoral Commission had primary responsibility for the overall administration of the election. The March 1992 Election Laws (Amendment) Act revised the National Assembly and Presidential Elections Regulations (PPER) to accommodate the repeal of Section 2(a) of the Constitution. The revisions were designed to establish the Electoral Commission's independence and to enable it to perform its constitutional functions in a multi-party system.

The revised administrative structure for the December 29, 1992 elections was designed largely in response to the irregularities and outright fraud experienced during the 1988 elections when blatant theft and switching of ballot boxes were common. The IRI heard accusations throughout the assessment period that the primary perpetrators in 1988 were civil servants, particularly Provincial and District Commissioners. Throughout the 1992 campaign there was pervasive fear that high-level civil servants would again misuse the administrative apparatus of the government to benefit the ruling party's favorite candidates. Despite the newly-mandated independence of the Electoral Commission, opposition parties remained skeptical because their pleas for representation on the Commission were ignored.

In response to the dramatic increase in voters registered at some stations, "voter streams" were established in order to process voters more expeditiously. These streams allowed many more voters to cast ballots at each polling station than would normally be accommodated by a single line. Some polling stations had as many as 20 streams; nationwide, the Electoral Commission established 10,449 streams. The Electoral Commission allotted one stream for every 800 voters assigned to a polling station. In theory, streams were to be organized alphabetically with each stream serving as a complete polling station, including its own voter list, voting booths and ballot boxes.

On election day, actual implementation seemed to be decentralized. Returning Officers had numerous responsibilities, including serving as liaisons between the Electoral Commission and the local voting sites. Presiding Officers and Deputy Presiding Officers were responsible for polling station activity. The counting phase was also under the jurisdiction of the Returning Officers of each constituency. The duties of Returning Officers and Presiding Officers, mandated in the Presidential and Parliamentary Elections Regulations (PPER), are described in the following pages.

**Returning Officers:** The Electoral Commission selected Returning Officers from lists provided by District Commissioners. Returning Officers were responsible for local voting activities in each of the 188 constituencies, including distribution of materials before the election and counting afterwards. All election materials, including used and unused ballots, were to be given to Returning Officers at the counting centers.

Other responsibilities of the Returning Officer included:

- organizing and managing the counting of the votes, including settlement of disputes and challenges to the count, on-site if possible, or through referrals to higher authorities, if required, and
- releasing results to the local public and formally to Nairobi.

Generally, Returning Officers were older, well-educated males. They were not allowed to be current members of the civil service. Most were retired school teachers or retired civil service employees.

**Presiding Officers:** Presiding Officers were responsible for activities at their assigned polling station. Their duties included:

- regulating the number of voters admitted to the polling station at a given time;
- excluding all persons from the polling station except the candidates and their agents (a limit of two per candidate), election officers on duty, police officers on duty, persons assisting blind or incapacitated voters, accredited election observers and voters;
- keeping order at the polling station;
- postponing or adjourning the proceedings at a polling station if interrupted by riot, open violence or natural catastrophe;
- resuming the proceedings as early as possible, or extending the hours of polling, when interruptions resulted in delays if the polling station opened late, the Presiding Officer was authorized to extend the hours of polling by the same amount of time, and
- enforcing the regulation stipulating that, without the Presiding Officer's permission, no one other than an election officer or police officer on duty could communicate with a voter in the immediate vicinity of the polling station for the purpose of voting.

### **General Voting Procedures**

On election day, polling stations were to receive registration lists, writing materials, ballot boxes and papers, official stamps, security seals and indelible ink. These were distributed from Nairobi by the Electoral Commission before election day, in most cases. Returning Officers, with the aid of local police, were charged with distribution of voter material.

Voting procedures were detailed in the Electoral Code. Briefly summarized, procedures were as follows:

- Immediately before voting commenced, the Presiding Officer was required to allow the candidates and their agents to inspect the ballot box to ensure it was empty.
- The box was then to be sealed and placed in the polling station in view of the Presiding Officer and candidates or party agents at all times.

Ballot papers for the Presidential election were to be a different color than those for use in the parliamentary and local elections. Only persons validly nominated were allowed to have their names placed on the ballot papers.

According to the PPER, each ballot should:

- contain the candidates' names and party symbols;
- be able to be folded, and
- reflect identical numbers or combinations of letters and numbers on both the front and counterfoil.

The Presiding Officer was also required by electoral law to allow candidates or their agents to inspect the ballot papers and serial numbers. Before a voter was given the ballot paper to complete, the following procedures were to take place:

- The paper was to be stamped with the official Electoral Commission mark;
- The number and name of the voter was to be called out as stated in the register and marked on the ballot paper counterfoil;
- A mark was to be placed in the register next to the electoral number;
- The elector card was to be stamped, and
- The voter was to dip his or her finger in indelible ink (as proof of having voted) and then submit his or her identity card to be imprinted with a seal.

Following completion of these steps, the voter was to be given the ballot papers. Upon receiving the ballot papers, the voter was to proceed to a voting compartment, secretly mark the ballot, fold it to conceal the vote, and then place the ballot paper in the ballot box in the presence of the Presiding Officer. The voter was then required to immediately leave the voting station.



## Summary List of Election Day Irregularities

The IRI issued a preliminary statement of findings on December 31, 1992. After most of the counting process had been completed on January 4, the IRI released a follow-up statement. (See Appendices 10 and 11). The IRI observers saw and heard about many irregularities, resulting primarily from lack of familiarity with the new procedures and lack of experience in administering multi-party elections. The following list includes the most commonly-observed irregularities:

- Late delivery of voting materials
- Late opening of polling stations
- Boycott by polling clerks
- Insufficient voting materials (especially ballots and stamps)
- Errors on ballot papers (missing names, symbols, etc.)
- Ballot boxes with lids which could not be closed properly
- Storage of surplus boxes in areas accessible to voters
- Non-representation of smaller parties among party agents
- General confusion resulting from large numbers of people in a polling station
- Crowded access to polling stations
- Confusion as to whether or not elector cards were required to vote
- Armed police officers walking around inside stations (usually in a non-menacing manner)
- Registration lists with voters' names missing
- Registration lists with pages missing
- "Imported" voters
- Lack of secret ballot for illiterate voters

The following sections address in greater detail the most problematic areas.

**Late Delivery of Voting Materials:** Responsibility for distribution of voting materials lay with the Returning Officer. Local police could assist if authorized by the Returning Officer. Electoral law does not address delivery of materials other than to assign responsibility to the Returning Officer. This phase of the electoral process was highly inefficient. The IRI observers were unable to determine what factors led to the chronic delays in the distribution process, however, the IRI did not detect a systematic attempt to delay delivery of materials to targeted polling stations or constituencies.

**Late Opening of Polling Stations:** Election day, December 29, 1992, began late throughout the country. Polls generally opened two to three hours late. In some instances, no voting at all occurred on the 29th. Some polling stations were unable to procure materials until December 30th, 31st, or even January 1, 1993. Despite such long delays, the majority of voters were remarkably enthusiastic, patient and peaceful. For the most part, election day violence was far more isolated than expected.

Presiding Officers and Deputy Presiding Officers told the IRI the late starts were caused by difficulties in polling station set-up or by the late delivery or unavailability of voting materials. According to the Training Manual for Presiding Officers, "The Presiding Officer will receive *from the Returning Officer* the following equipment for use at the polling station...." It is unclear at what time before the election Returning Officers actually received voting materials or where, within the elaborate procedures, the distribution system failed.

Some polling stations opened late because locations were changed without prior announcement just before election day. In the Mvita constituency in Mombasa, the original site was changed to a larger one across the street from KANU headquarters. Opposition candidates voiced strong complaint and, ultimately, the location was moved back to the original site, but by that time many voters had abandoned efforts to vote. The local KANU chairman had contested a seat in the Mvita constituency, and it was likely no accident that the polling station was moved across the street from his office.

Polling stations also opened late because Presiding Officers had difficulty managing the numbers of official observers who were permitted to check the ballot box before it was sealed. Furthermore, the Presiding Officer was legally obligated to allow candidates or their agents to inspect the ballot papers and serial numbers. These initial safeguards in the process caused many delays.

The IRI notes that polling delays may have resulted in disenfranchising thousands of voters, particularly women who were forced to return home to care for children. The IRI obtained no evidence, however, that the late opening of polls was a systematic attempt to decrease voter turn out in affected polling stations.

**Boycott by polling clerks:** The IRI heard of several instances throughout the country where poll openings were delayed because polling clerks were not paid as promised. Many clerks decided to boycott until they were paid. In several polling stations, considerable delays resulted from this administrative oversight.

**Insufficient voting materials:** The Electoral Commission clearly underestimated the number of Presiding Officer stamps needed to process voters efficiently. This oversight resulted in long delays and confusion, as did a more serious error which occurred in some constituencies where polling stations were provided with insufficient ballot papers. The latter oversight led to increased suspicion that shortages in certain areas had been systematically planned. The IRI obtained no evidence, however, that ballot shortages were intentional.

**Errors on ballot papers:** Serious ballot paper errors created chaos in some polling stations. Ballot papers for civic candidates in particular, often contained incorrect names or were missing names or party symbols. Many voters suspected that the Electoral Commission had made a systematic attempt to delay voting or disadvantage certain candidates. The IRI found no evidence to support these concerns. The Electoral Commission explained that it did not have time to review each set of ballots to ensure accuracy.

**Confusion regarding documents necessary to vote:** As a result of widespread concern about the buying of elector cards, Chairman Chesoni announced shortly before the election that registered voters could cast ballots without presenting their elector cards, as long as their national identification card number matched the register.

Voters whose names did not appear on the register were to be allowed to vote if the files containing their original registration form showed they were indeed registered. Such files were to accompany the voting materials to the polling station. Voting would not be allowed for those without national identification cards, or for those with temporary cards. The IRI witnessed two instances where Presiding Officers did not allow voters without elector cards to vote.

While the IRI commends the Electoral Commission for revising regulations to address the problem of elector card buying, this information did not appear to be widely known on election day. As a result, inconsistent procedures led to confusion and mistrust of both electoral officials and the integrity of the process.

**Voters' names missing from registration lists:** The IRI observers witnessed more than 1,000 voters who were disenfranchised on election day because their names did not appear on a registration list. As noted in Chapter II, in several polling stations voters' names did not appear on lists or entire pages were missing. While in some cases the voters were able to prove they were registered, this was not the rule. The IRI was unable to verify the number of voters disenfranchised by registration list inaccuracies and omissions.

**"Imported voters":** Several weeks before the election, various opposition parties in Mombasa told the IRI that arrangements were being made to "import" voters to selected constituencies in Coast Province. These voters were allegedly Somali refugees. On election day, opposition groups (in particular the IPK) stopped a bus alleging that passengers were being illegally transported to polling stations. Several members of the IPK group involved in the roadblock were stoned by local youth groups. The IRI heard reports that security personnel shot two people who were trying to block the bus. The IRI also heard that in various other border areas voters were imported, but the IRI teams were not in a position to verify this information.

**Lack of secret ballot for illiterate voters:** The Presiding Officer had the authority to help illiterate voters read and mark their ballot papers. On election day, the IRI observed Presiding Officers or their Deputies marking the ballot paper for voters--in the presence of all party agents. The IRI observers also noted that this completely compromised the secrecy of the ballot for illiterate voters (the 1990 estimate for illiteracy is 40.8%). In at least one constituency, this abuse by KANU enabled its party agents to make sure paid voters actually voted "properly". In another constituency, the IRI heard reports that literate voters were told by KANU to declare they were illiterate in order for their votes to be checked by KANU party agents. While this may have occurred in isolated polling stations, the IRI did not hear reports that it was a widespread occurrence.

## Case Analysis: Starehe 26, Nairobi

While few polling stations observed by the IRI team saw as much drama and near tragedy as Starehe 26 in Nairobi, the same types of delays and procedural irregularities, while more serious there than in other locations, were encountered nationwide.

At the Starehe 26 polling station on Moi Avenue in Nairobi, late poll openings appeared to be caused by the inexperience of the Presiding Officers. Their lack of familiarity with new polling station layout led to frustration and chaos.

The voting lines were located in a playing field below the main buildings of the Moi School. The view of the actual polling site was obstructed. Voters stood in line for more than two hours beyond the scheduled opening of the polls without information about the nature, cause or likely extent of delay. Rumors began to circulate that "rigging" of the election was underway. The crowd of approximately 2,000 surged past the small complement of security personnel and rushed to the voting streams which were not yet ready to receive voters. Police equipped with riot gear were called in to restore order. They remained -- equipped with helmets, shields and truncheons -- through the end of the day, and patrolled the entire area.

The heavy police presence at Starehe 26 was exceptional. Importantly, there was no evidence of partisan intimidation on the part of the police there, or at most other sites across the country. By most accounts, police conduct in maintaining or restoring order in the voting lines was exemplary.

Voting began at approximately 7:30 a.m. As the voting progressed, it became apparent that serious gaps appeared in the voter registry for polling streams 1, 7, 14 and 17. Voters' names in these streams had been deleted from the lists provided by the Electoral Commission. (See the following chart). Voters, party agents and foreign and domestic observers noted with concern that otherwise accredited voters were turned away in significant numbers. A series of protests was lodged with the increasingly harried Presiding Officer.

By mid-afternoon, the Presiding Officer had taken steps to supplement the missing pages from the Registry with the original registration forms. This was a reasonable solution for the voters who were in line after the original lists arrived. Voters previously turned away, however, had effectively been disenfranchised. Some voters returned to the polling station late in the day but the party agents believed large numbers simply gave up or could not be contacted. On analysis of the voting turnout, it appears that approximately 700 voters were disenfranchised as a result of this administrative error.

Approximately 800 voters had been assigned to each voting stream, but in the 17 streams at Starehe 26 the average turnout was 428 persons per stream--already a low number. The average turnout in streams 1, 7, 14 and 17 was only 255 per stream. The IRI team was able to confirm with the party agents that the problems were localized only with streams 1, 7, 14 and

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17. By these calculations, of the 6,589 votes cast at Starehe 26, more than 10 percent of the voters registered at that polling station were disenfranchised.

**Starehe 26 Presidential Vote  
Total Returns by Polling Stream**

Stream Number	Location in Alphabet	Votes by Stream
1	<b>*A, B, C, (1-120)</b>	292
2	C (121) D,E, F, G, (1-600)	449
3	G (601)H,I,J,K (1-270)	420
4	K(271-1,140)	376
5	K(1,110-2,039)	528
6	K (2,040), M (1-480)	594
7	<b>*M (481-1,321)</b>	219
8	M (1,322-2,190)	444
9	M (2,191-3,090)	440
10	M (3,091-3,960)	411
11	M (3,961), N (1-420)	303
12	N (421-1,290)	434
13	N (1,291) O,(1-59)	423
14	<b>*O (60-930)</b>	270
15	O(931), T (1-55)	314
16	T (56), W (1-720)	448
17	<b>*W (721), Z (1-17)</b>	242
		=====
<b>Total</b>		<b>15,556</b>

\*It is assumed the number of citizens assigned to each polling stream is approximately 800. Polling stream #1, for example, contains all the registered voters in Starehe 26 whose names begin with letters A, B and C, up to 120 in the alphabetical list of voters.

\*\*The IRI team was able to confirm with party agents that the registration list problems in Starehe 26 were localized within polling streams 1, 7, 14 and 17, all having fewer than 300 voters actually turn out to vote in the Presidential contest.

Heated discussions throughout the day with increasingly frustrated party agents came to a close as the polling station completed the initial accounting of the ballots and sealing of the boxes. The movement of the boxes to Jamhuri High School was uneventful. However, the Presiding Officer broke procedure by securing the unused ballots, counterfoils and other paraphernalia in the trunk of his private vehicle. These materials should have been transported immediately, along with the voting materials, to the counting center. While attempting to return the unused materials to the counting center on December 31, the Presiding Officer was attacked by a crowd of citizens who had gathered outside Jamhuri High School. The outraged citizens set upon him because they perceived the presence of voting paraphernalia in his car as evidence of election "rigging."

This attack on the Presiding Officer, the destruction of his vehicle, the scattering to the wind of the materials in question and the ensuing rescue by police firing tear gas and wielding truncheons, was witnessed directly by the IRI team co-leaders.

Any anomalous behavior whatsoever by election authorities was perceived evidence of "rigging" and contributed to opposition suspicions. In conclusion, it is important to note that the returns from Starahé 26 were not challenged, even though FORD Kenya presented the counterfoils and the unused ballots (scattered during the attack on the Presiding Officer) as evidence of "rigging".

### **Counting Procedures**

Counting centers were located in each constituency. When the polling stations closed, voting materials were to be transported to counting centers by caravans composed of election officials, party agents and observers. This entourage was to remain constantly with the voting materials. Electoral law stipulated that all boxes were to be received by the Returning Officer before counting could begin. Since the polls opened late, counting also began much later than expected.

Counting did not begin until after midnight at most stations visited by the IRI. Observers noted that widespread delays in arrival of the ballot boxes often created tension, confusion and suspicion. In some cases, Returning Officers began counting ballots even though all boxes had been received. Results in some constituencies were announced within two days, though, in most cases, results were not known for three or four days.

The following irregularities were noted by the IRI observers or substantiated from news and political party reports:

- Inefficient management of the counting process by exhausted election officials
- Party agents being forced out of counting centers
- Arrival of ballot boxes at counting centers unaccompanied by party agents or with broken seals
- Transport of voting materials to counting centers in private vehicles and separate from ballot boxes
- The ignoring of party agent concerns during the counting process
- Counting taking place with only one lamp, thus diminishing the ability of monitors and party agents to see the process

The IRI noted in its pre-election assessment report (available separately from the IRI) that



the electoral law did not provide for a "second-shift" of counting agents and Returning Officers and urged that such a contingency be planned for. It was not. As a result, many of these electoral officials worked around-the-clock for several days. In some cases, alternate counting agents were recruited. The IRI heard from one opposition party that many of the replacement counting agents were from Youth for KANU '92, were KANU operatives or relatives of candidates. Questions about the neutrality of these new counting clerks were raised by the opposition but the IRI observers saw no first-hand evidence of this problem.

### **Case Analysis: Meru, North Imenti Constituency**

In Meru, the IRI observers were present at the polling station as the ballot boxes were sealed (under lamps and in the presence of agents, NEMU officials and other interested individuals). The assembled group watched the boxes "with the alacrity of a mother watching her newborn being moved," according to one observer.

The counting began late in a large counting hall. Box seals were cut in front of counting agents and NEMU monitors. The emptied box was flipped upside-down to demonstrate that no ballots remained. The counting agents unfolded the ballots and then separated them according to the candidates selected. The ballots were counted, bundled into stacks of 50 and given to the Returning Officer.

This system of checks and balances created a probationary environment as each agent watched: party agents observed other agents; NEMU watched both agents and boxes, and Presiding Officers watched both boxes and agents. "To slip in ballots in this atmosphere seemed near impossible," according to the Meru observer team.

By 9 a.m. on December 30, approximately 80 of 185 boxes had been counted. The counting had ceased at 7 a.m. when counters walked away complaining they had "no food, no tea and no one had been paid." The IRI observers talked with the counters as they rested on the curb outside the counting hall. They told the IRI there was no problem with the ballots themselves.

The Returning Officer told the IRI observers that he didn't expect a final tally until late on December 30 or on December 31. Contrary to what observers had been told, the Returning Officer said he would not announce the results locally, instead, he would call-in the results to Nairobi headquarters and let the Commission make any announcements. He did, however, make a few announcements of local returns.

### **Conclusions: Election Day**

● *The IRI found no evidence to indicate widespread "rigging" on election day itself.* It is the IRI's considered judgement that the combined impact of administrative inefficiencies did not affect the overall outcome of the elections. Campaign irregularities described in Chapter Three, however, may have significantly influenced the results in

selected parliamentary and civic contests.

● *Returning Officers, Presiding Officers and other election personnel appeared to administer the election procedures with honest intentions, but insufficient preparation and training.*

● *The IRI did not note a systematic pattern of late poll openings.* It is the considered judgement of the IRI that the majority of delays resulted from lack of experience, training, and inadequate logistical preparation. Although a thorough analysis was not conducted, the IRI found no evidence to indicate that delays were systematic or deliberate.

● *Transparency of the counting and initial tabulations appeared adequate, with isolated exceptions.*

Included in Chapter V are specific recommendations suggesting areas where election day procedures can be improved.

## CHAPTER V: POST-ELECTION UPDATE AND RECOMMENDATIONS

### Post-Election Update

President Moi won 36.45 percent of the votes cast. The other seven contenders won 63.55 percent. Three of the Presidential candidates did not even win seats in Parliament. President Moi was sworn in on January 4, 1993.

On January 19, President Moi announced his new cabinet, a disheartening mix of defeated ministers and KANU loyalists, not at all representative of Kenya's ethnic majorities. Cabinet ministers include five Kalenjin, four Luhya, four Kamba, two Maasai, two Kisii, two Meru, one Somali, one Embu, one Mijikenda, one Taita, one Kikuyu and one Luo. The only Kikuyu and Luo nominated were two defeated ministers from Moi's previous government, Dalmas Otieno (who won only one percent of the vote in his South Nyanza constituency) and KANU Secretary General Joseph Kamotho. Many believe these appointments were retaliations against Luoland and Central Province for failing to elect a single KANU candidate. Illustrating the strong and troubling ethnic divisions that characterized these elections, KANU has no elected members of Parliament or ministers from the Kikuyu and Luo ethnic groups.

Despite campaign promises, few women were named by Moi to positions of power. As in the past, only one assistant minister (in the Ministry of Culture and Social Services) is a woman. Two women retained their seats as permanent secretaries. Not a single woman was nominated to Parliament although six from various opposition parties had been elected.

## RECOMMENDATIONS

### Introduction

The December 1992 elections moved Kenya in the direction of multi-party democracy. With the exception of the Constitution, however, few institutions of governance in Kenya have been transformed into multi-party entities. Kenya has made steps toward representative government but has not yet achieved it. The following recommendations address important areas of reform necessary before truly transparent and representative elections are possible in Kenya.

The recommendations below are offered in the hope that Kenyans of all political persuasions will work together to build an electoral system which will produce future representative governments, and will stand as a model of multi-party democracy for transitional societies across Africa and the world.

### The Electoral Law

The new Parliament, scheduled to convene in March 1993, will confront the challenges of a pluralistic political system in Kenya. Among these challenges will be electoral law reform. The new Parliament should undertake a comprehensive review of the Presidential and Parliamentary Elections Act. While the March 1992 amendments moved Kenya's laws toward a multi-party framework, the current code remains vague in some areas and inappropriate in others.

1. The composition of the Electoral Commission should reflect the new multi-party character of the Constitution.
2. Given the problems with civil service bias in favor of KANU during the campaign, the civil service, especially the Provincial Administration, should be subject to greater supervision from Parliament in order to insure that all parties are treated equally.
3. Voter registration responsibilities must lie with the Electoral Commission until the civil service is sufficiently de-politicized. Oversight of the registration process should be multi-partisan.
4. An on-going voter registration process is necessary. The IRI strongly urges that a new voter registration process be conducted well before the next election.
5. Under-age voting must be eliminated. Standards for eligibility to register and to vote should be understood by those responsible for the registration process.
6. Voter rolls must be published in a timely manner. The process of correcting voter rolls needs to be reviewed.

7. Intermediate and final registration totals for public viewing should be published by province, district and polling station.
8. Voters must vote either where they live or where they work. Other options, though important, open the process to manipulation and abuse. Coordinating registration with place of residence is the most preferable means, since it can ease the technical administration of preparing voter lists.
9. A clearer Electoral Code (in regard to political party formation) will lead to coalition-building and less factionalism. Minimum requirements should be specified in order for a party to be officially registered.
10. New and efficient procedures need to be designed that will safeguard the transparency of election day procedures without introducing confusing and time-consuming redundancies.
11. Timely dispute resolution of all alleged electoral offenses is essential. Parliament should consider the creation of an independent mechanism whereby election-related cases are heard both before and after elections.
12. Increased campaign time between nomination and election day is essential. Citizens need access to information; the Electoral Commission needs time for planning and organization; political parties need time to disseminate their messages; suppliers of voting materials need time to make their deliveries; and those alleging pre-election irregularities need time for resolution and redress of grievances.
13. Rather than three separate ballots, one ballot with all election races listed together will simplify the counting process.
14. The authority to issue rally permits must be reconsidered by the Parliament as a result of recent problems with District Commissioners.
15. Specific standards are needed for challenging ballots at the counting stations.
16. Revised counting methods, in an effort to streamline the process, would save time and could add safeguards against fraud.
17. Revised campaign finance regulations are needed to ensure a more level playing field and to discourage exorbitant or illegal use of funds. The Parliament could take many different approaches to these issues, but it is important that an equitable solution involving all the parties in Parliament be chosen. The Parliament should codify these decisions to ensure implementation.
18. A system for absentee balloting should be considered.

## **The Campaign Playing Field**

### **Political Parties**

1. KANU should make a significant effort to separate its identity from that of the government.
2. KANU should reconfigure its youth organizations in order to offer genuine opportunities for leadership training.
3. Pressure groups intending to become political parties need to develop the organizational infrastructure, established leadership, trained cadre, and the discipline required of Parliamentary parties in order to function effectively.
4. The international community should support various democratic development programs including leadership training, policy research and development, coalition building, grassroots communications methods, campaign strategy and general organizational development.

### **Access to Resources**

1. Allegations regarding the infusion of unbacked currency into the Kenyan monetary system for election-related purposes should be investigated immediately.

### **Freedom of Assembly and Movement**

1. Responsibility for granting rally permits should be transferred to a more independent body until the civil service is de-politicized.
2. Civil servants should be made aware and should communicate to citizens that intimidation and harassment of persons stating political beliefs is unacceptable behavior in a society that guarantees freedom of movement and assembly.
3. There should be a complete end to politically-motivated violence. The security apparatus is in a unique position to assist in implementing this critical reform.

### **Access to the Media**

1. As Kenyan society moves in the direction of multi-partyism, laws should ensure a non-partisan broadcast media.
2. The new electoral law should provide specific allocations of time on electronic media for each registered political party.

3. Fundamental changes in sedition and treason laws should be considered by the new Parliament.

## **ELECTION DAY**

1. Voter materials must be distributed more effectively.
2. When using numbered ballots, the elector's identity card number should not be recorded on the ballot stub.
3. The polling station clerk selection process must be standardized to avoid partisan polling station staff.
4. The roles and responsibilities of each local election official should be redefined, and the decision-making hierarchy among poll-workers clarified.
5. A limit on the number of voters allowed inside the immediate polling area should be established.
6. A ballot counting form must be designed and utilized. The form (in duplicate and triplicate) would record the ballots received at the beginning of the day, their serial numbers, and their status at the end of the day (i.e., "x" left over, "x" spoiled, "x" deposited). Recorded on the same form should be the serial numbers of the ballot boxes and seals. The form should be signed by poll-workers, delegates and domestic monitors. The Presiding Officer would carry this sheet, along with the boxes, to the counting center. He would keep one copy and give the original to the counting center supervisor.
7. Standards should be developed for the mobile polling stations. The implementation of mobile stations could be based on population density, registration figures or areas of recent population movement. Their locations and routes should be communicated to the general public, observers and to all political parties.





# APPENDIX 1





INTERNATIONAL  
REPUBLICAN  
INSTITUTE

1212 New York Avenue, N.W.  
Suite 900  
Washington, D.C. 20005  
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Telex: 5106000161 (IRI)  
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*Program Director*

### IRI Kenya Pre-Election Assessment Team TERMS OF REFERENCE

The IRI assessment team will conduct an in-depth analysis of the campaign environment of Kenya's first multi-party elections in nearly three decades. At stake in the December 29 general elections are the presidency, 188 seats in parliament, and council seats. The various manifestations of a competitive campaign environment are only now emerging and are the focus of this comprehensive assessment.

The effectiveness of IRI's assessment depends on its credibility and objectivity. Any public statements or private observations will be intensely scrutinized for lack of neutrality. Consequently, we maintain that we are advocates of a transparent, free and fair democratic process, not a particular outcome. It remains to the Kenyans themselves to determine the electoral winners and losers in this election. Any breach of complete neutrality undermines the credibility of the assessment and subsequent election observation.

#### Methodology

The IRI assessment team will be tasked with examining in detail the circumstances and conditions surrounding four issue areas:

- Electoral Law and Administration
- Political Parties
- Media Balance and Access
- NGO and Civil Society

Team members will be assigned to the above subject areas. Each subject team will be responsible for preparing: (1) a brief summary of findings suitable for release on December 16 before departure from Kenya (a collaborative document which represents the consensus of the assessment team); and (2) a longer, more comprehensive report (10-20 pages each) which will be incorporated into the Final Report, to be released around January 31, 1993.

The assessment team serves a number of purposes in addition to the gathering of information. The presence of credentialed foreign observers underscores the seriousness with which the international community views these elections and their administrative preparations. As observers, we also buttress those elements in Kenyan society seeking a representative, pluralistic, political order and potentially deter those who would undermine the electoral process.

For the purposes of logistics (set up of meetings) in Nairobi, the four groups will divide into two teams: 1) Electoral Law and Administration and the NGO/Civil Society groups and 2) The Role of Political Parties and Media Balance and Access. (Because each group will likely need to meet with many of the same people, this will eliminate the need for some Kenyan individuals and groups to meet separately with several IRI teams.)

## TOPICS FOR ANALYSIS

### Electoral Law and Administration

An evaluation of the law in the context of its application during the pre-campaign and campaign period with an emphasis on the role and impartiality of the Electoral Commission. Among other issues, the team will examine:

- the grievance and redress provisions for political parties and candidates;
- the selection, training and independence of Returning and Presiding Officers;
- communication between the Electoral Commission and political parties, NGOs and observers; and
- transparency in pre-election administration.

The team will place special emphasis on the administrative structure for implementation of the election. Was the process open and administered equitably? How were complaints handled? Was the Electoral Commission sensitive to the actual and perceived transparency of its actions?

This team will also investigate concerns raised and described in the IRI November assessment report, particularly the election law as it relates to the implementation of election day procedures. The Electoral Law and Administration team will produce a not more than 20 page report on the role of the Electoral Commission in the design and administration of these elections.

### Role of Parties

This team will evaluate each of the major political parties during the candidate selection process and during the campaign period, focusing on:

- the effectiveness of party organization (communication between national leadership and grassroots);
- theme and message development and presentation;

- the role of ethnicity in the campaign;
- method of candidate selection at presidential, parliamentary, and local levels; and
- presentation of the candidate and party to the public.

An individual or team will be assigned to each of the major parties (KANU, FORD-Kenya, FORD Asili, and the Democratic Party) and one to the minor parties. Individual political party assessments will address the following:

- How did the parties respond to the challenge which they set for themselves in terms of their national effort?
- Was an appeal developed across ethnic lines?
- Were grievance and redress procedures through the Electoral Commission or the Courts available and used in the primary and campaign period?
- Were party organizational and campaign priorities set and resources allocated accordingly?
- Were party resources sufficient to accomplish minimum objectives in communications, mobilization, and organization?
- Were areas of anticipated electoral strengths and weaknesses identified?
- How were anticipated election day problems identified and addressed?

Each sub-group will produce a standardized report of not more than 10 pages on their party which will be included in the Final Report, and components of which will be included in the December 16 statement.

### **Media Balance and Access**

This team will examine the press laws, campaign coverage in the print and electronic media, regional variations in the national media coverage and use of political advertising. The team will lay the groundwork for a rudimentary content analysis of the media with a focus on the balance or lack thereof. The roles of private versus government-owned media outlets will be reviewed, with a focus on the density and depth of coverage for a given campaign. The team will evaluate the extent to which parties developed regional and national media strategies and whether resources were allocated appropriately in campaigning and advertising within these strategies. The team will also note the extent to which there emerged a national versus regional focus for political advertising.

## Civil Society and NGO Community

This team will evaluate the role and effectiveness of non-governmental organizations in educating the public about the rights and responsibilities of citizens in a multi-party democracy. The teams will also evaluate the capacity of the NGO community to remain non-partisan while engaged in civic education and mobilization efforts for poll watcher training.

The National Election Monitoring Unit (NEMU) is a domestic group representing a coalition of NGOs. NEMU has prepared a comprehensive handbook which it has utilized in pollwatcher training nationwide. The IRI team will evaluate the effectiveness and scope of NEMU's civic education training, as well as its use of substantial international resources.

The evaluation of the effectiveness of NEMU and other groups such as FIDA/ICJ in preparing of the elections will include meetings with representatives of the NGO community throughout Kenya.

## Integrated and Collaborative Approach

Thematic issues will cut across the work of each team. The exploitation of ethnic identity and the use of violence and intimidation, for example, will be analyzed by each team in different contexts. The framework of this analysis as described in this document will evolve according to information and leads gathered. The assessment team members will be allowed a degree of autonomy in researching the topics above, but are requested to consult with IRI lead staff regarding any substantive programmatic changes.

## Time Line

Assessment team members will arrive the evening of December 5. A draft time line will be distributed upon arrival of the assessment team. The general schedule will begin with two days meetings and briefings in Nairobi. Beginning December 8 through December 14, teams will deploy as required by their subject areas. The IRI advance team will prepare preliminary contact lists, local information and logistical arrangements in advance of the arrival of the assessment team. All teams should be back in Nairobi by December 15 when the day will be devoted to de-briefing and drafting the press statement, to be released December 16. The preliminary statement will reflect the consensus of the group. Draft copies of comprehensive reports should also be completed by departure date of December 16 if possible.

*No statements to the press by individuals will be made, either in Kenya or the U.S. Materials produced for the assessment mission will remain the property of the IRI. Any public pronouncements or positions must be within the framework established by these terms of reference.*

## **APPENDIX 2**







## ELECTORAL COMMISSION

Telephone: Nairobi 222072

When replying please quote

Ref. No. ECK/IRI/83  
and date

FAX.071-480-5453

ELECTORAL COMMISSION

ANNIVERSARY TOWERS

6TH FLOOR

UNIVERSITY WAY

P.O. Box 45371

NAIROBI

26th February... 1993.

His Excellency Ambassador D.D. Afande,  
Embassy of the Republic of Kenya,  
2249 R Street, N.W.  
WASHINGTON, D.C. 20008,  
U. S. A.

Dear *Dennis,*

Please refer to your letter of the 23rd instant seeking certain information required by the International Republican Institute. The following are the answers:-

1. There is no special Electoral Court in Kenya. This is because cases relating to elections come during and after elections only. The Chief Justice sets up an election court for each petition. An election court is presided over by three High Court Judges for Presidential and Parliamentary petitions. No appeal lies from its decision to any other Court. The procedure of an election Court is stipulated by Section 23 of the National Assembly and Presidential Elections Act (Cap.7, Laws of Kenya). The Court has wide powers including barring a guilty party from standing for an election for five years if the court finds that he/she has committed an election offence.

Section 19 of the National Assembly and Presidential Elections Act specifically provides that an application to the High Court under the Constitution to hear and determine a question whether:

- (a) a person has been validly elected as President; or
- (b) a person has been validly elected as a member of the National Assembly; or

.... /2



## ELECTORAL COMMISSION

Telephone: Nairobi 222072

When replying please quote

Ref. No. ECK/IRI/83  
and date

ELECTORAL COMMISSION

ANNIVERSARY TOWERS

6TH FLOOR

UNIVERSITY WAY

P.O. Box 45371

NAIROBI

...26th February, 1993

- 2 -

(c) the seat in the National Assembly of a member thereof has become vacant, shall be made by way of petition, and shall be tried by an election court consisting of three judges.

2. During the nomination certain prospective candidates failed to present their papers for one reason or other. Most of them were just late and so time barred, but they had to put up excuses e.g. being prevented forcefully etc. None of those advised to report their cases to the Attorney-General and record statements so that investigation could be ordered did so, even after urging them to do so at the joint meetings between the Electoral Commission and party representatives. Those who went to court sought injunctions to block the publication of the names of those nominated as having been elected unopposed. One Democratic Party Candidate Mr. Cheboiwo from Baringo District has since discontinued his application and not even filed a petition to challenge the validity of the election. Eleven applicants in Nakuru (all KANU) have since discontinued their case as has another DP candidate in Elgeyo Marakwet District. We are not aware of anyone pursuing a court action against the Commission for his/her failure to present their papers and I do not think any of the candidates would succeed in establishing a case against the Commission as the latter was never at fault for any failure. For example in Turkana District the Commission allowed a DP candidate who had failed to present his papers and who the Commission had evidence his papers were snatched, but he defected back to KANU. Remember the game being played was political.

3. Ninety (90) Petitions have been filed. Of these seven are against one respondent besides the Electoral Commission/Returning Officer, and two or three cases have more than one petition against the same successful candidate. A rough breakdown shows the following data:-

.... /3



# ELECTORAL COMMISSION

Telephone: Nairobi 222072

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6TH FLOOR

UNIVERSITY WAY

P.O. Box 45371

NAIROBI

26th February 1983

- 3 -

<u>NAME OF PETITIONING PARTY</u>	<u>NO. OF PETITIONS</u>
1. Kenya African National Union (KANU)	30 (Thirty)
2. Forum for Restoration of Democracy-Kenya (FORD-KENYA)	16 (Sixteen)
3. Forum for Restoration of Democracy-Asili (FORD-ASILI)	13 (Thirteen)
4. Democratic Party (D.P)	26 (Twenty Six)
5. Others	5 (Five)
<b>TOTAL</b>	<b>90 (Ninety)</b>

All petitions will be heard by an election court in accordance with election rules as already stated above.

The Electoral Commission is through its Returning Officer a respondent in all petitions and the Attorney-General is required by law to attend at the trial of each petition.

Yours *Sincerely,*  
*Z.R. Cheson*

JUSTICE Z.R. CHESONI  
CHAIRMAN

ELECTORAL COMMISSION OF KENYA

C.C.

Hon. S. A. Wako, EBS, MP,  
Attorney-General,  
Attorney-General's Chambers,  
NAIROBI.

Prof. Philip M. Mbithi, EBS.,  
Permanent Secretary/Secretary to the Cabinet  
and Head of Public Service,  
Office of the President,  
NAIROBI.

Dr. S.J. Kosgei,  
Permanent Secretary,  
Ministry of Foreign Affairs &  
International Co-operation,  
NAIROBI.



## APPENDIX 3





INTERNATIONAL  
REPUBLICAN  
INSTITUTE

1212 New York Avenue, N.W.  
Suite 900  
Washington, D.C. 20005  
Telephone: (202) 408-9450  
Telex: 510600X161 (IRI)  
FAX: (202) 408-9462

11 December 1992

Chairman Z. R. Chesoni  
Kenya Electoral Commission  
Anniversary Towers 6th floor  
Nairobi, Kenya

Hand Delivered

Dear Chairman Chesoni:

Thank you for the materials you have given the International Republican Institute in preparation for your upcoming elections.

In my review of those materials, I have one specific concern. Sections 28(2)(c) and (d) of the Presidential and Parliamentary Regulations, 1992, provide that ballot papers have a number, or combination of letter and number, printed on the front and an attached counterfoil with the same number printed thereon. Section 29(1)(c) requires the electoral number of the elector shall be marked on the counterfoil of the ballot paper.

Because each elector in Kenya is assigned a unique elector number, and because each ballot (and counterfoil) has a unique number upon which the elector's number is recorded, the ability exists after the election to determine how specific citizens have voted in each particular election. This obviously undermines the secrecy of the process and the confidence each citizen will have that his vote is private and not attributable to him.

I understand the need to ensure that only the proper number of ballots are used, and that they are completely accounted for. This concern does not, however, require the polling clerks and presiding officer to directly record the elector's number on the counterfoil of the ballot. Instead, it would be sufficient to simply place a tick-mark on the counterfoil indicating the ballot paper has been given to an elector, or to have the appropriate polling clerk place his initials on the counterfoil attesting that the ballot has been properly issued.

This is a fundamental concern I have with your process, and needs to be addressed before the elections take place.

Sincerely,

  
Craig M. Engle, Esq.  
Int. Republican Inst.

cc: Attorney General Amos Wako



## ELECTORAL COMMISSION

Telephone: Nairobi 222072  
When replying please quote  
Ref. No. EC/IRI/83  
and date

ELECTORAL COMMISSION  
ANNIVERSARY TOWERS  
6TH FLOOR  
UNIVERSITY WAY  
P.O. Box 45971  
NAIROBI

16th December, 1992.

Mr. Craig M. Engle, Esq.,  
International Republican Institute,  
1212 New York Avenue, N.W.  
Suite 900  
WASHINGTON, D.C. 20005

Dear Mr. Engle,

Thank you for your letter of the 11th instant.

It is true Regulation 29(1)(c) of the Presidential and Parliamentary Regulations, 1992 provides that the electoral number of the elector shall be marked on the counterfoil of the ballot paper. The combination of the number and letter in Regulation 28(2)(c)(d) refers to the number and letter which is on the elector's card. The ballot paper used by the elector for voting purposes is, however, not marked with the elector's number. There is, therefore, no indication as to who the elector has voted for. The counterfoil would show that a particular elector voted at the polling station where the ballot paper for the counterfoil was issued and used, but that is all. There is no record that would reveal the identity of the person for whom the elector voted. There is therefore no risk as to the secrecy of the electoral process as a result of Regulation 29(1)(c).

You may however, wish to discuss this matter with the writer at your convenience. If so, please let me know the time you would like to come to our offices.

Yours sincerely,

JUSTICE Z.R. CHESONI  
CHAIRMAN

cc.

Hon. S.A. Wako, E.B.S., M.P.,  
Attorney-General,  
Attorney General's Chambers





INTERNATIONAL  
REPUBLICAN  
INSTITUTE

1212 New York Avenue, N.W.  
Suite 900  
Washington, D.C. 20005  
Telephone: (202) 408-9450  
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FAX: (202) 408-9462

21 December 1992

Justice Z. R. Chesoni  
Chairman  
Kenya Electoral Commission  
Anniversary Towers, 6th floor  
P.O. Box 45371  
Nairobi, Kenya

RE: EC/IRI/83

Dear Justice Chesoni:

Thank you for your letter of December 16, 1992. I am sorry that I am unable to come to your office to discuss this matter with you, as I have returned to the United States for the rest of the year.

I agree with your statement that the ballot paper used by the elector for voting purposes is not marked with the elector's number. But I also understand from reading your laws that the ballot paper and the counterfoil each bear a unique number (see, for example, Presidential and Parliamentary Elections Regulations, 1992, Forms 14 and 15). This numbering of ballots (and counterfoils) is understandable, as it allows you to keep control over the inventory and location of ballots.

My problem arises when an elector's number is recorded on a counterfoil in accordance with Section 29(1)(c) of your laws. That counterfoil can later be re-matched with its corresponding used ballot paper by number. Therefore, the combination of the marked ballot, the counterfoil with elector's number written on it, and the list of elector's numbers will enable someone to determine how each person voted.

So while you are correct that it is not possible to just look at the ballot to see how a particular elector voted, it is possible to look at the ballot and the counterfoil to see how a particular elector voted. Therefore, I respectfully disagree with your statement that there is no indication or record as to who the elector has voted for, or no risk to the secrecy of the voting process.

I understand the origins of your election law, and know that many of your provisions are similar to the British system where ballots and counterfoils are individually numbered. The British use this numbering system to ensure that no elector votes twice or impersonates another voter at a different polling station.

In Kenya, however, you have already instituted many other safeguards (ruling out the elector's name after voting, embossing the elector's National ID card, stamping the elector's Voter Registration Card, and inking the elector's finger after voting) to ensure that electors are who they say they are, and that they only vote once. Therefore, in my opinion, the marking of the elector's number on the counterfoil offers you no additional means of election security, and in fact, undermines the secrecy of the process by allowing someone to piece together how each person has voted by comparing the ballots, counterfoils and list of electors.

In my opinion, you have three options available to correct this situation: you could either not mark the elector's number on the counterfoil; you could destroy all the counterfoils immediately after the vote counting is completed or, you could separate the counterfoils from the other election papers after voting.

The first option was spelled out in my letter to you of 11 December 1992. In short, I feel it would be sufficient for your polling clerks to simply enter their own initials (plus the number of their polling station or stream) on the counterfoil when a ballot is issued to an elector. This practice would give you adequate ballot security, yet not compromise the secrecy of the election.

While I agree it is important for you to know if a particular elector voted at a particular polling station, it is not necessary to know which ballot paper that elector actually used. By ruling out the elector's name on the registered list at the polling station, you will know that he or she voted at that particular station. By entering a clerk's initials (and station number) on the counterfoil, you will know that the ballot was properly issued and used at that station. But by marking the elector's number on the counterfoil, you have created a link between the actual ballot and the elector, which places the secrecy of the electoral process at risk.

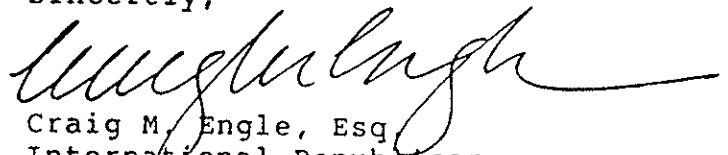
As a second option, you could arrange to have the counterfoils destroyed after the counting is completed. That would prevent using them to piece together how electors have voted. This is a drastic option, however, and permanently erases any record you may need to resolve challenges after the election has been held.

Your third option is to make arrangements for the counterfoils to be removed from the custody of the returning officer immediately after the counting has been completed. I realize that your Regulation 41(1) requires all documents relating to an election be retained in the safe custody of the returning officer for a period of six months. But again, the presence of the counterfoils (with the elector's number), the used ballots, and a list of elector's numbers in the same location allow them to be pieced-together to see how each person voted. Therefore, you might consider having all the counterfoils shipped to your office immediately after the counting is completed. These counterfoils could be secured in your office for the six month period after the election, and only used to verify that the ballots were properly issued and counted, but not used to see how particular electors voted.

I recommend you use option one and immediately send instructions to your presiding officers that polling clerk's should not enter the elector's number on the counterfoil of the ballot. Any decision you make should be in consultation with the Attorney General, since it involves you instructing individuals to not comply with either sections 29(1)(c) or 41(1) of your election law.

Chairman Chesoni, I have enjoyed our times together and appreciate the enormous task your Commission is undertaking. I know we can resolve this last difference and I look forward to hearing from you on this matter. Please contact me at the above address if you would like to discuss this matter further.

Sincerely,

  
Craig M. Engle, Esq.  
International Republican  
Institute

cc: Hon. S.A. Wako, B.B.S., M.P., Attorney General  
Ambassador Mageto



## **APPENDIX 4**



## PLATFORM OF THE DEMOCRATIC PARTY

National Government: will abolish rule by decree and ad hoc constitutional change; will amend constitution to provide for impeachment of erring President and review excessive powers vested in the presidency.

Local Government: will ensure local authorities regularly hold free and fair elections and will minimize powers of Minister for Local Government.

Human Rights: will repeal all repressive laws and erect legal barriers against future abuses; will set up Bureau of Human Rights and ensure Kenyans are educated as to their rights.

Civil Service: will develop a civil service independent of government and political parties and revitalize service to restore morale and discipline.

Economy: liberalizing programme will encourage exports, eliminate bureaucracy and excessive paperwork, encourage investment and reduce external debt; will specially address outflow of hard currency through illegal land deals; will seek to restore Kenya as principal economic hub of region.

Agriculture: will reduce role of government to facilitator, decontrolling and liberalizing all production and marketing and placing distribution of farm produce in hands of private sector.

Land: will develop policies reflecting need for integrated government/private sector approach; commitments include promoting farming of cash crops and traditional cereals, speeding up issuance of title deeds, and legislating to protect reserve and trust lands.

Industry: will minimize government controls and end direct tax free imports; committed to provision of all necessary support for industrial development including training, education, and financial and management support of new industries.

Education: will review 8-4-4, improve technical education and strengthen university system by means of a realistic student loans scheme; universities will be made independent of political meddling and private investment in education will be encouraged.

Health: hospital boards will oversee operations at grass roots level; Kenyatta hospital will be decentralized; program will be set in place to upgrade hospital equipment nationwide; priority commitment of funds and personnel to anti-AIDS information program.

Social Welfare: street children issue will receive special attention and moves made to increase low cost housing availability; mortgage tax relief will be reviewed, especially for the lower paid.

Environment: will work with people, local government and private sector and NGOs to halt deterioration and will enact legislation to make environmental impact assessment mandatory; will

require annual environmental status report.

Tourism: will develop new areas of recreation, particularly in the north, and will encourage the private sector to address problems of beaches and mass charter tourism.

Women: interests of women will be represented in National Assembly through direct nomination; laws will be reviewed to be brought into line with internationally accepted standards.

Culture and Sports: will provide funds for arts and will encourage private sector and international donors to assist; will encourage sport at all levels including schools, colleges, and association and will welcome involvement of the private sector.

### **PLATFORM OF FORD Asili Party**

National Government: will seek to become implementor of wishes of the people and facilitator of progress, creating atmosphere in which Kenyans can discuss problems without fear of intimidation; president must be committed to facilitate responsible allocation of the nation's resources.

Human Rights: will develop a culture of honesty and accountability; there should be no return to terror, harassment, pre-empting of parliamentary and public debate and the extending of government fingers into all aspects of national life.

Civil Service: priority will be to use people in the jobs they are trained for; trained civil servants must be persuaded to stay in service and must all take responsibility for their actions; employment must be on basis of ability, not membership of a particular group.

Economy: will rejuvenate agriculture and industry and reconstruct communications infrastructure, social and health services; corporations, governments and NGOs must mobilize to recreate employment opportunities, creation of rural access roads will rank high on national agenda; parastatals will be seriously appraised before being offered to the private sector.

Agriculture: will look at food security (availability of water for irrigation, compensation to farmers, storage facilities) as top priority; will review question of fertilizers, including organic farming and possibility of indigenous fertilizer plan and revival of work by agricultural officers; will seek to develop marine products.

Education: aims to design an education system that meets the needs of all children following thorough national debate; may be necessary to improve facilities and standards in less developed areas instead of lowering standards in good schools; 8-4-4 need overhauling since it was not objectively discussed before implementation.

Social Welfare: strengthening of family unit and encouraging members to function formally as a social and economic organization (regular family meetings, joint savings programme, family



education tours) will play a critical role in achieving social, moral, economic, and spiritual objectives.

Environment: Kenyans and NGOs can team up to repair environmental degradation.

## **PLATFORM OF FORD Kenya**

National Government: will introduce parliamentary government under new Constitution with prime minister as head of government; president will be elected by direct vote for five years but eligible for re-election only once and not a member of the National Assembly.

Local Government: will dismantle provincial administration and expand duties of elective local authorities and establish councils at district and location level; revenue base will be expanded. in part by changes in the rating system.

Human Rights: 14-point programme including abolition of detention without trial and the death penalty, appointment of Commissioner for Human Rights, disbanding and punishing of Special Branch torture squads.

Civil Service: law breaking by police and other civil servants will be severely punished; training in law and ethics will be enhanced; independent inspector general will be appointed to monitor serve and handle public complaints.

Economy: project economic growth of eight percent per annum with particular reference to rural areas and informal sector by restoring confidence and boosting administrative infrastructure; will reduce government expenditure, cut red tape and consolidate fiscal reforms.

Agriculture: free market policy will involve dismantling almost all controls and restrictions; most produce would be sold to private purchasers who would pay farmers directly; will establish improved season credit scheme; Grain Growers cooperative will be handed back to farmers.

Land: beneficiaries of illegal acquisition of public property will be made to pay state at market rates, whether or not land has since been disposed of, failed or unused state farms will be converted to settlement schemes for landless people.

Industry: industry will be locomotive of revived economy; incentives will facilitate growth of manufacturing industries; will promote greater efficiency through exposure to international competition.

Education: will stress technical and professional training at non-university level and weed out excesses of present system. aim is to return to skill-based learning.

Health: will emphasize preventative and promotive aspects and decentralize management of health services. Kenyatta National Hospital will be transformed into tertiary referral hospital;

will intensify AIDS control through outspoken information programme.

Social Welfare: policy to be centered on proper administration of social welfare funds and targeting of benefits; tax incentives will encourage developers to build more houses for low and middle income groups.

Environment: will strengthen monitoring of manufacturing projects and introduce legislation to end unsustainable land use practices.

Tourism: will establish a Kenya Tourism Council to oversee the industry and will encourage upgrading of Kenya as a tourist destination.

Women: will review all discriminatory laws and assure women of full and equal rights and foster their participation in national life.

Culture and Sport: policy will emphasize promotion of cultural life from grassroots to national level and village cultural centers will be encouraged.

## PLATFORM OF KANU

National Government: promises to uphold rule of law and liberties guaranteed under the bill of rights; supports independent judiciary, establishment of supreme court and increase of judges.

Local Government: will reconsider structure, powers and staffing of local authorities at all levels; city status for Mombasa, Kisumu, Eldoret, Nairobi to be divided into boroughs.

Human rights: supports freedom of belief, expression, and association with policies based on democracy, social justice and sanctity of human life.

Civil Service: will root out corruption and align salaries and benefits with those of the private sector; will back police in maintaining law and order.

Economy: will privatize all non-strategic parastatals, prune government expenditure, and instil financial discipline, transparency and accountability at all levels; financial incentives to encourage investments; unnecessary regulations eliminated and taxes reduced.

Agriculture: will improve productivity, liberalize pricing and marketing policies, utilize marginal land, make inputs available at reasonable prices; Coffee Board will be restricted to policy and research and 39 new tea factories will be built while KTDA will be divested to farmers.

Land: will establish a commission to review land tenure law and practices.

Industry: 600,000 more jobs over the next 10 years; remaining parastatals to be restructured;

committed to helping private sector expand into export markets and to the removal of all unnecessary regulations that hinder commerce; will establish export credit insurance and guarantee scheme.

Education 8-4-4 will be subject to continuing review; committed to adult education for all and improvement of university education' supports absolute necessity of research.

Health: policy emphasis on community primary health care with local community boards responsible for administration of hospitals and health centers, including procurement of equipment and drugs; population policies must be implemented, committed to protection of sanctity of life.

Social Welfare: will ease housing situation by providing more accessible finance develop low cost housing technology and testing of new building materials and press for immediate review of building and planning by-laws.

Environment: recognizes preservation of environment as critical and will support environmental education as subject for study at all levels.

Tourism: National Tourist Board will be run as autonomous commercial body responsible for marketing of Kenya overseas and for monitoring of standards locally.

Women: will give higher proportion of nominated seats to women in Parliament and local authorities; supports increase of women in key civil service and government positions.

Culture and Sport: will establish independent Kenya Arts Council, financed by business and government, which will distribute funds to nourish artistic talent; supports Kenya Sports Foundation to administer pension fund for former champions.

The accuracy of *Daily Nation's* version of each party's platform was confirmed by available documentation and through observation and is provided in this report as part of the historical record of these elections.



## **APPENDIX 5**



KENYA: NEW CURRENCY NOTES ARRIVING FROM THE PRINTERS -  
OF 1A FOR THE NOTIFICATION IN OCTOBER-NOVEMBER  
1992 OF SHIPMENTS ARRIVING

METHOD	ORDER	DENOMINATION KSHS NOTES	QUANTITY MILLIONS	VALUE KSHS MILLIONS
Sea freight	existing	10	5	50
Sea freight	existing	100	15	1500
Sea freight	existing	100	8	800
Air freight	supplementary	200	10	2000
Air freight	supplementary	500	10	5000
(f) Air freight	supplementary	100	25	2500
TOTAL				11850 KSHS MILLION

(b) CENTRAL BANK OF KENYA MONETARY AGGREGATES	
Monetary Survey data as end of September 1992	Kshs million
Currency in circulation	15856
Total Domestic credit	96331
of which:	
Domestic credit to the private sector	59024
Domestic credit to Government and other public sector	37307
Total Money and Quasi-Money	88472

(c) NEW NOTES ARRIVING IN OCTOBER-NOVEMBER 1992 AS PERCENTAGE OF MONETARY AGGREGATES END OF SEPTEMBER 1992	
	percent
currency in circulation	75
Total Domestic credit	12
of which:	
Domestic credit to the private sector	20
Domestic credit to Government and other public sector	32
Total Money and Quasi-Money	13





## **APPENDIX 6**



From: FORUM FOR THE RESTORATION OF DEMOCRACY - KENYA  
To: ALL INTERNATIONAL OBSERVERS AND LOCAL MONITORING GROUPS  
cc: ELECTORAL COMMISSION, ATTORNEY-GENERAL

December 28 1992

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Coercion, Bribery, Intimidation and Obstruction of Opposition Candidates  
and Agents

Our agents and candidates and various people on the ground have reported to us a number of cases of electoral malpractice and rigging of the electoral process. These reports continue to come in by telephone from all parts of the Republic throughout the day and night.

GARISSA - It was reported to us today that the returning officers had already been transported to their respective polling stations, leaving all the opposition party agents stranded. The chairman of the Electoral Commission had assured the opposition parties that their agents would be transported to the various polling stations with the other officers from 4 a.m. on Tuesday. They have now been told to look for their own transport. Such transport is not available.

At 12.30 p.m. today, we received a telephone report from Mr. George Opendi, one of the agents we had despatched from Nairobi to look after our interests in Garissa District. Mr. Opendi was calling from Garissa town, where he was stranded with all the FORD-KENYA agents and civic candidates for IJARA constituency, despite their having paid some shs. 8,000 to hire a green Toyota Land Cruiser locally. Mr. Opendi informed us that Kanu agents had subsequently visited the hirer of the vehicle and paid him a larger sum of money NOT to hire the vehicle out to the FORD-KENYA team, despite the fact that they had already paid for the vehicle. As Mr. Opendi spoke to us on the telephone, the vehicle was being guarded by officers of the Administration Police.

Mr. Opendi and his team had made every effort to hire alternative vehicles to ferry the FORD-KENYA people to their respective areas of operation. (Ijara is some 120 kms. from Garissa.) All these efforts had been thwarted by CID officers and Kanu agents, who have been tailing our men wherever they go, intimidating or bribing people to prevent their hiring out any vehicle whatsoever to our people.

Other agents have reported that they are being trailed everywhere by Special Branch operatives and are being harassed by General Service Unit (paramilitary) personnel.

The only petrol station in Garissa is owned by the Mohammed family, which has two brothers in the Kanu hierarchy - as a minister of state in the president's office, and the Army Chief of Staff - and no petrol is available to any opposition member or agent.

MANDERA - Our candidate in Mandera West, Mr. Abdirahaman Abbas, was picked up by police and the Provincial Commissioner, Mr. Amos Bore, on December 23, and taken away by aircraft. His whereabouts are unknown to date.

Our candidate for Mandera Central, Mr. Ali Abdi Baricha, has already sworn an affidavit detailing his experiences, and this has been forwarded to you.

Our candidate for Mandera East, Mr. Ismael Aden Yusuf, has also been harassed and followed wherever he has tried to move.

NAKURU - Our candidate for Nakuru Town, Mr. John Kamangara, has reported that yesterday, FORD-KENYA in Nakuru held a meeting and then staged a peaceful procession whose route took them past State House Nakuru. The authorities ordered personnel of the General Service Unit to attack the procession. People were severely beaten up, many were injured and a number were admitted to various hospitals in Nakuru, particularly the district hospital.

Besides those injured, 500 were arrested and are being held in police custody. It is doubtless the intention to keep them in custody at least until the voting period is over, since they are FORD-KENYA supporters and will thus be unable to vote. It is imperative that they be released today.

Nakuru Town is now extremely tense, with GSU and police and army patrols in evidence and military planes and helicopters flying over the area.

In addition, many voters are being transported into Nakuru from those areas where Kanu has already been declared the unopposed winner of the parliamentary seat. From Baringo, President Moi's home area, for example, some 30,000 people have already been transported into Nakuru, where they are camped at the Rift Valley Institute of Science and Technology. It is intended that these voters will vote in Molo and Nakuru districts where Kanu candidates are weak. Since these areas are all within Rift Valley Province, they can cast their presidential vote anywhere without making any difference to the overall provincial picture.

KAJIADO - In Kajiado North, our candidate, Mrs. Wambui Otieno, has been harassed and intimidated since the very beginning of the move towards elections. She has been physically assaulted and hospitalised. Pictures of her in her hospital bed appeared in the local press.

Mrs. Otieno is standing in the same constituency as Vice-President George Saitoti and DP Secretary-General John Keen.

Mrs. Otieno has reported to us today that she was harassed and physically assaulted once again over the Christmas weekend. Mrs. Otieno was supposed to hold a rally in Kiserian on the 25th. She was prevented from doing so by Yourth for Kanu '92 operatives. She was supposed to hold a rally in Ngong on the 26th. She was told to go and hold it in Kiserian, where she had previously been attacked.

Mrs. Otieno has also reported to us today that the polling station listed at Kiserian Market has been moved to Kisaju Primary School on Pipeline Road, which is at a far distance and to which place there is no public transport. There is no possibility that FORD-KENYA agents will be able to reach this polling station.

Mrs. Otieno has given us the following list of polling stations that she feels FORD-KENYA agents are unlikely to be able to reach, due to obstruction and harassment:

Kekonyokie South	KAJ/13 - 14
Kekonyokie North	KAJ/20 - 24
Shompole	KAJ/25 - 26
Olkiramatian	KAJ/29 - 32
Kitengela	KAJ/34 - 36
Isinya	KAJ/37 - 38
Kekonyokie Central	KAJ/16

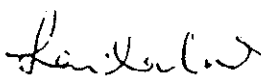
Kanu and its agents have not yet given up trying to entice our candidates away from FORD-KENYA. Mrs. Beatrice Kanini of Gachoka in Embu district was offered money in the past few days, which she refused.

We understand from today's newspapers that our candidate in Kachileba has also defected to Kanu. We do not know the details of his case.

Our candidate in Runyenjes, Mrs. Margaret Weveti, has been harassed and intimidated by the Kanu group Operation Moi Wins. She was involved later in a head-on collision and is still in hospital.

In KISII, our Kitutu Chache candidate Mr. Chris Bichage, is virtually besieged. He cannot return to his home or enter the town. He is powerless as he is being threatened by thugs, and this is being tolerated by the administration.

Our candidate in Kitutu Masabe, Mr. Isaac Obino Nyamwange, has had his vehicles impounded by the Kanu government, for unknown reasons.

  
WILA A. ODUNGA  
DEPUTY DIRECTOR OF ELECTIONS



## **APPENDIX 7**





(FORD)

(REF. 2 32)  
Agip House  
5th Floor  
P.O. Box 6075  
NAIROBI, KENYA  
Tel: 216446/21677

Our Ref:

Your Ref:

15th October, 1992

Prof. Philip Mbithi  
Secretary to the Cabinet and Head of the Civil Service  
P O Box  
Nairobi

Dear Sir:

It is with great concern that we bring to your attention the continuing reluctance of the relevant authorities to grant licences for our campaign rallies. We have taken every necessary step to comply with the rules of operation laid down by your office, but we have encountered only difficulty and harassment. In fact, we have been faced not only with delays and reluctance but with outright refusal by certain district officials even to accept our licence applications. This has happened most recently in Kisii District, where a rally long planned for this weekend has had to be postponed because the authorities have refused even to accept our application for a licence. Many other rallies have had to be similarly cancelled at the last minute.

The Public Order Act is regulatory and cannot be invoked to derogate or remove the fundamental rights and freedoms of the individual - including the freedom of public assembly - which are protected and guaranteed in the Constitution. It is therefore unlawful and immoral for the provincial administration to use this Statute in order to frustrate the efforts of FORD KENYA and the opposition parties generally to hold public meetings.

What we are seeing here is the implementation of the recent presidential instruction to the civil servants that they must support Kanu - or lose their jobs.

This is a complete negation of pledges of commitment by the government to free and fair elections. No election can be free and fair where one party has blanket authority to campaign freely, while the others must face obstacles mounted by that same party at every turn. We note that Kanu is scheduled to hold 16 rallies in various parts of the country this weekend, and we wonder how and when the applications for these rallies were made and approved.

With the general election apparently imminent, we are no longer in a position to wait endless weeks while Kanu-instructed officials all over the country delay and withhold permission for our rallies. We therefore request that you issue us and other opposition parties with blanket permission to stage rallies in various parts of the country, just as Kanu is doing.



## **APPENDIX 8**



## **KENYA ASSESSMENT TEAM**

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United States

**Mr. Robert Henderson**  
Senior Consultant for Africa  
International Republican Institute  
United States

**Mr. Shawn McCormick**  
Assistant Director for African Studies  
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**Mr. Wayne Millsap**  
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**Mr. Edward Stewart**  
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**Mr. Vincent Woolcock**  
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**INTERNATIONAL REPUBLICAN INSTITUTE  
KENYA ELECTION OBSERVATION MISSION**  
*December 29, 1992*

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Chairman, Board of Directors  
International Republican Institute  
U.S.A.

The Honorable Moses Katjiuangua, MP  
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Chief Justice  
Supreme Court of Missouri  
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Chairman  
Center for Democratic Studies  
Nigeria

## **APPENDIX 9**

# Final Elections Results

## Presidential Votes

D. Moi	1,962,866
K. Matiba	1,404,266
M. Kibaki	1,050,617
O. Odinga	944,197
G. Anyona	14,273
C. Tsuma	10,221
H. Mwau	8,118
M. Ng'ang'a	5,766

Total Constituencies: 188

## Parliamentary Seats

Party	No. of seats
Kanu	100
Ford Kenya	31
Ford Asili	31
DP	23
Kenda	0
KNC	1
KSC	1
Pick	1
<b>TOTAL</b>	<b>188</b>

With the 12 members to be nominated by President Moi, Kanu will have a total of 112 seats in Parliament

## Parties' Parliamentary Strength

PROVINCE	NO. OF SEATS	KANU	FORD-K	FORD-A	DP	OTHERS
RIFT VALLEY	44	36	2	4	2	-
NAIROBI	8	1	1	6	-	-
CENTRAL	25	-	1	14	10	-
EASTERN	32	21	1	-	9	1 (KNC)
NORTH EASTERN	10	8	1	-	-	1 (PICK)
NYANZA	29	7	20	-	1	1 (KSC)
COAST	20	17	2	-	1	--
WESTERN	20	10	3	7	-	-
<b>TOTAL</b>	<b>188</b>	<b>100</b>				

## PRESIDENTIAL ELECTIONS: RETURNS FROM THE PROVINCES

PROVINCE	REG. VOTERS	VOTED	D T MOI	%	K MATIBA	%	M KIBAKI	%	O ODINGA	%
Nairobi	673,814	375,574	62,402	16.6	165,533	44.1	69,715	18.6	75,898	20.2
Coast	661,427	312,993	200,596	64.1	35,598	11.4	23,766	7.6	50,516	16.1
N Eastern	141,088	73,460	57,400	78.1	7,440	10.1	3,297	4.5	5,237	7.1
Eastern	1,221,196	789,232	290,494	36.8	80,515	10.2	398,727	50.5	13,064	1.7
Central	1,224,981	1,094,016	21,882	2.1	621,368	60.1	372,937	36.1	10,765	1.0
Rift Valley	1,919,712	1,467,503	994,844	67.8	274,011	18.7	111,098	7.6	83,945	5.7
Western	851,191	531,159	217,375	40.9	192,859	36.3	19,115	3.6	94,851	17.9
Nyanza	1,205,132	816,387	117,873	14.4	26,922	3.3	51,962	6.4	609,921	74.7
National	7,898,541	5,400,324	1,962,866	36.3	1,404,266	26.0	1,050,617	19.5	944,197	17.5

Calculated on returns from 188 constituencies

## **APPENDIX 10**

## PRELIMINARY STATEMENT OF FINDINGS

### INTERNATIONAL REPUBLICAN INSTITUTE OBSERVATION OF THE CAMPAIGN AND NOMINATION PROCESS

16 December 1992

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The International Republican Institute (IRI), following a two-week election campaign observation mission to Kenya, is encouraged by recent actions of the Electoral Commission to promote greater transparency in the administration of the upcoming elections, but fears that the overall process has been significantly compromised by the Government of Kenya on behalf of the ruling party.

In recent weeks the Election Commission has gone to great lengths to open its administrative and decision making processes to political parties, including consultation with and scrutiny by those registered to participate in the December 29 elections. The IRI team was impressed by the willingness of the Commission to hear party complaints regarding the candidate nomination process, hold scheduled news conferences, and conduct regular and substantive meetings with political party representatives. The IRI team was also impressed with the Commission's ability to develop a structure to organize the challenging administrative aspects of the elections.

The electoral process, however, has been severely damaged by the Government of Kenya's centralized and systematic manipulation of the administrative and security structure of the state to the ruling party's advantage. We note with concern that with few exceptions there is no discernable distinction between the government and the ruling party. The biased influence of the government, therefore, goes well beyond the normal advantages of incumbency.

The IRI team heard credible reports of, and witnessed incidents of, harassment of candidates and supporters; the official misuse of police forces; and in general the use of the state's physical, human, and substantial monetary resources to the benefit of the ruling party. Especially disturbing are incidents discovered by IRI teams regarding the purchase of national identification and voter cards, and the liberal disbursement of money to influence candidates and voters.

During its assessment, the IRI teams were given documented evidence about shortcomings in voter registration lists. It also heard reports that an estimated one million eligible voters were disenfranchised due to problems obtaining national identity cards, or displacement due to violence. Of immediate concern is evidence that in several instances, identical voters' names and elector

numbers appeared on the registration lists of more than one constituency. This leaves open the possibility that some voters could cross constituency lines and cast more than one vote.

The IRI team is troubled by the continued restrictions placed on opposition parties and candidates with respect to the holding of public meetings. The discretion and selectivity with which local administrative officials have granted licenses has severely hampered the ability of opposition parties to communicate their messages to the people of Kenya. Though the government has recently indicated that licenses are no longer required for political events, the IRI has found that this message has not been fully conveyed to local officials and party representatives. Further, the IRI team notes that opposition candidates have not been granted access to the North East province, an issue which must be resolved given the 25 percent requirement.

The difficulties experienced by opposition parties in communicating and disseminating their respective messages have been compounded by the lack of equal access to state-owned and government-influenced electronic media outlets. Offering advertising air time to political parties does not constitute equal access. To date, there have been repeated calls on the government from various quarters to provide fair and equitable access to and coverage by KBC radio and television, to little avail.

While some daily newspapers are balanced in their reporting and editorial policies, the political climate in the country forces the print media to be cautious in how critically they report on government policies and actions, and has resulted in self-censorship.

Many weekly and monthly news magazines sympathetic to opposition viewpoints have been charged with libel. The government response, including impoundment of entire editions, has been widely out of proportion to the nature of the presumed transgressions. Using vague and nebulous security considerations as justification, the government seems determined to drive these publications out of business. The IRI team also notes with concern the harassment and bribing of journalists, as well as the lack of complete guarantees for freedom of the press.

The IRI team finds laudable the accomplishments and efforts of various churches and civic groups to educate the populace on the opportunities and responsibilities afforded them in a democratic society, especially given the severe shortage of time and resources. We commend and encourage all groups involved in the domestic election monitoring effort to continue their diligent work to safeguard the democratic process; the IRI team is troubled, however, that domestic monitors are still operating without official credentials.

The IRI team was deployed throughout the country during candidate nomination day. In many areas nominations were conducted

with efficiency and good faith. In others, candidates were forcibly delayed by their political opponents from reaching nomination centers, or were faced with logistical bottlenecks that prohibited their ability to be officially nominated. The IRI strongly urges that this issue be immediately resolved.

Finally, the IRI team is gravely concerned about the frequency with which various political participants have promised wide-scale, violent confrontation before, during, and after election day. We appeal to all Kenyans to refrain from such pronouncements, stop harassment of candidates and their supporters, and seek non-violent resolutions of perceived campaign and election day irregularities. Domestic and international observers should be contacted directly, with documented evidence if possible, regarding perceived problems. No matter what the outcome of the elections, a violent course will be of no benefit to Kenya's long-term stability and prosperity.

These elections offer an historic opportunity for Kenyans to select their leadership from an array of political parties. Each vote cast will make a difference. Voters must be given the opportunity to get to the polls, without intimidation or systematic logistical delays.

The IRI team suggests several policies that should be undertaken in the next two weeks to enhance the credibility of the process. Among our recommendations are:

1. The Government of Kenya should issue clear orders to all local administrative officials to guarantee the free movement, assembly, and security of all political parties and candidates.
2. To ensure the secrecy of the ballot, the placement of the polling clerk's initials, or a tick, rather than the elector's number on the ballot counterfoil will provide adequate ballot security.
3. KBC and KNA should immediately redefine their news criteria to ensure evenhanded and balanced coverage of the election campaigns of all parties, thus contributing to a more level playing field. In addition, the Ministry of Information and Broadcasting, in consultation with representatives of political parties, should immediately establish an acceptable framework which will grant all political parties free and equal air time on radio and television between now and election day.
4. The Electoral Commission should expedite the issuance of credentials to domestic election monitors. These credentials should be issued through the national Electoral Commission and the parent organizations, not through local presiding officers.

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**PRELIMINARY STATEMENT OF FINDINGS  
KENYANS GENERAL ELECTIONS  
DECEMBER 29, 1992**

Good afternoon Ladies and Gentlemen. My name is Moses Katjiuongua. I am a Member of Parliament from Namibia and I am joined on the platform with my delegation Co-Chairman, Robert J. Lagormarsino, a member of the U.S. Congress.

The International Republican Institute (IRI) has sponsored a 54-person delegation from 13 countries, including Australia, Botswana, Eritrea, Ethiopia, Ghana, Germany, Italy, Malawi, Namibia, Nigeria, South Africa, the United Kingdom, the United States, and Zimbabwe. This group of political, academic and democratic development specialists deployed in more than 25 teams to over 46 constituencies, for the period of the election. On election day we visited 229 polling stations and spoke with as many presiding officers. We also spoke to 68 returning officers, thousands of party agents and 438 domestic election observers.

This preliminary statement of first hand findings will summarize the conclusions we have reached to date and attempt to place it in the larger democratization context. I stress this is not a completed observation process for the IRI, as a final results are known and there has been a chance to analyze in depth the findings of our entire team.

In our December 16 statement we noted that the Kenyan government's manipulation of the administrative and security structure of the state to the ruling party's advantage had damaged the electoral environment. We furthermore pointed out the harassment of candidates and their supporters, the alleged disenfranchisement of a significant number of Kenyans by preventing them from registering, as well as efforts to hinder the holding of public rallies by opposition parties. We have not changed this assessment.

We were, however, impressed by the election day enthusiasm of Kenyans. They displayed heroic patience in the face of monumental delays. They demonstrated their commitment to a democratic transition, particularly against the backdrop of deep-seated suspicion toward the government because of past election experiences and the government's reluctance to move from a one-party to a multi-party state. We believe that the electoral environment was flawed, but we witnessed balloting that allowed most Kenyans to actively participate in the political process. Yet, as imperfect as these elections may have been, they constitute a significant and early step on Kenya's road back to democracy. To what degree the flaws shaped the outcome of the election can only be determined once a definitive election result becomes available.

With few exceptions voting was delayed throughout the country. In various places late starts were caused by difficulty in the delivery set-up; unavailability of election materials; late



changes in polling place locations, and transportation and inexperienced and/or insufficiently trained personnel.

There were also administrative irregularities throughout the country. Many ballot boxes, for example, were not properly sealed with the retaining bolt as required by electoral law. Party seals were only intermittently used while Election Commission seals appeared to have been more frequently applied. Some irregularities constituted an ad hoc attempt to cope with unforeseen problems.

Security of ballot boxes in a troubling number of cases was compromised. Ballot secrecy was not maintained in polling stations because of the high rate of illiteracy as well as the placing of voting booths in a fashion that did not allow voters to isolate themselves fully from others in the room.

Registration problems were evident. Some citizens were disenfranchised through lapses in the reproduction of the registration books used by the polling clerks. Some were able to document their registration, but in a number of instances witnessed by our team these original registration forms were not available. We are also concerned about major fluctuations in voter turnout on various parts of the country.

We note that improprieties related to registration lists may have also occurred. We observed the purchase of voters' cards in Mombasa. We discovered evidence to support complaints that registration lists were manufactured to allow for the importation of voters in Molo Constituency.

The slow start, the administrative irregularities, the lapses in provision of materials for the conduct of the voting and registration problems, all contributed to frustration for voters and election officials. There remains a question whether these delays and lapses were systematic or indicative of a focused effort to disadvantage a specific region, constituency or candidate.

Delays in counting and reporting the vote have undermined confidence in the overall process. There were administrative difficulties stemming in part from time-consuming procedures. These procedures were a necessary cost to ensure transparency. For example, involving the party agents so deeply in the process of monitoring and verifying the count slowed the tabulation.

We note, however, that there may have been efforts to manipulate the process. We will conduct a thorough analysis of these delays and the administrative and materials election irregularities to determine whether, in light of subsequent information and the election results, there were efforts by individuals or groups to target regions, candidates or parties.

The observation of these elections caps a two-month effort to monitor the development of the environment in which they were held. Two formal assessment missions to Kenya were mounted in late October and early December. IRI has had a continuous presence in Kenya since late November. These missions examined the ability of the competing parties to have equal

access to the voting public, to enjoy freedom of movement, to exercise freedom of speech and assembly, and to obtain due process under law.

We draw attention to these reports because they provide the basis on which to assess an improvement in the transparency and openness of the Kenyan electoral environment. Nevertheless, we believe these elections are the achievement of the average Kenyans voter, poll workers and election officials who persevered in an environment not always conducive to the conduct of competitive and free democratic politics.

In early November, political parties were not allowed access to the proceedings of the Election Commission. But by mid-December campaign procedures and election day practices were worked out in close consultation with the parties.

Our pre-campaign assessment teams found a pronounced bias in the media, particularly by the broadcast media, in favor of the ruling party. Self-censorship by Kenyan print journalists remains a concern. Even more troubling was active government pressure on independent journals and newspapers. This appeared to lessen during the closing days of the campaign as opposition parties were granted greater access, but it must be noted that complete freedom of the press was not allowed in the run-up to the election. As late as November entire issues of pro-opposition weeklies were seized on security grounds.

Harassment of candidates of all parties continued throughout the pre-campaign and campaign periods. Although KANU candidates and their supporters were also harassed, we note that credible complaints of harassment from opposition parties were more numerous.

We would like to note with satisfaction the restraint and professionalism, which with a few exceptions, were demonstrated by the law enforcement officials in fulfilling their responsibilities on election day and during the counting process. This has not always been the case and we trust this marks a new beginning.

On the other hand, the lack of restraint characterized by expressions of intolerance and vitriolic language by politicians across the political spectrum undermines the commitment to democracy demonstrated by the people of Kenya on December 29, 1992.

We commend the tireless dedication of the thousands of people involved in the election administration, the party agents and domestic observers.

We would like to commend the Election Commission of Kenya, the Office of the Attorney General, the Foreign Ministry, and especially the international observer liaison unit for their commitment to opening Kenya to those observers allowed to witness these remarkable events of the last few days. Without the Commission's commitment to transparency this mission's work would have been considerably more difficult if not impossible.

We urge the international community to maintain active support for the continuing transition to a multi-party democracy in Kenya. The first steps in that direction have been taken.

But old habits of intolerance, curtailment of the civil and political liberties necessary for democratic life; and the disregard for internationally accepted standards for the rule of law, the sanctity of the individual and due process can re-emerge. We wait the definitive election results with great anticipation, but recognize that the people of Kenya will be the final arbiters of whether this process has produced a free and fair result.

While great progress has been achieved much work has yet to be done. There is room for extensive civic education programs, the deepening and broadening of the roots of political parties in the country as well as the move from state-run to impartial public broadcasting. The incoming government, whoever that may be, will have to win the confidence of those segments of the population that would have wanted to see others in power. Greater transparency and accountability as well as the addressing of needs in those parts of the country that have until now lagged behind will go along way in enabling multi-party democracy to take root in Kenya and restore national harmony. In conclusion, we hope and trust that Kenya has embarked on an irreversible journey toward the establishment of a sound and democratic political order.

- END -

## **APPENDIX 11**

JANUARY 4, 1993 FOLLOW-UP STATEMENT IRI OBSERVER MISSION  
KENYA GENERAL ELECTION 29-12-1992

Confusion and irregularities in the counting of the votes for the December 29, 1992 general elections have put Kenya at a crossroads. Breakdowns in ballot security at various counting stations, coupled with an electoral environment favouring the government, and ingrained suspicions because of Kenya's past election experience have raised questions about the validity of the election.

The International Republican Institute (IRI) observation mission began assessing the Kenyan electoral process in October. Since the December 29 elections it has focussed on the counting and reporting of the vote as well as the investigation of charges of electoral fraud.

After investigation, we could not find a pattern in the counting irregularities that has disadvantaged a specific region or constituency. We have concluded that problems were local and isolated.

Nevertheless, particular counting centers were so mismanaged that further investigation by competent authorities is warranted.

In Kuria, ballot boxes were not accompanied by party agents from the polling station to the counting center and on arrival at the centers seals were found to have been broken. At Lamu West and Westlands, for example, authorities forced party agents out of the counting hall for significant periods of time. In other instances, the counting is being called into question after party agents withdrew because of perceived irregularities. As a result, the monitoring of proceedings by competing political party agents broke down.

In other areas as Embakasi, Returning Officers failed to honor what appear to be legitimate requests for a recount by party agents and did not reseal counted ballots in ballot boxes. Violations of established procedures, for example, the transport of unused ballots and other voting materials in private vehicles resulted in attacks on electoral officials. Other incidents raised public apprehension.

In future elections, we urge Kenyans to seek ways to improve these counting procedures and other electoral practices.

One way to move forward may be the creation of a multi-party commission to analyze the causes of disputes in constituencies where substantiated complaints have been lodged and make recommendations to improve Kenya's electoral system.

We believe that the electoral environment was unfair and the electoral process seriously flawed. We question whether all Kenyans were able to freely express their will -- although millions did -- but from our perspective we feel that this process is a significant step in Kenya's

transition to genuine multi-party democracy. To ensure that democracy takes root, parties will have to create mechanisms to resolve their disputes. Kenya's democratic aspirations put heavy responsibility on both the governing and the opposition parties. Restoring national harmony and the avoidance of further ethnic and political polarization and violence is a shared responsibility.

For further information contact:

Ed Stewart  
IRI Washington Office  
(202) 408-9450

## **APPENDIX 12**

Ethnic Distribution of Kenya's Population

<u>GROUP</u>	<u>PROPORTION</u>
Kikuyu-related groups, which include:	28%
Kikuyu	
Embu	
Meru	
Mbere	
Tharaka	
Kamba	13.8%
Coast Bantu	6.4%
Northeastern	2.9%
Kalenjin-related, which include:	14.4%
Kipsigis	
Nandi	
Maasai	
Pokot	
Keiyo	
Marakwet	
Samburu	
Turkana	
Luhya	13.8%
Luo	13.2%
Kisii/Kuria	6.7%
Other	2.8%



## **APPENDIX 13**

(Ref. P. 51)

Aqip House  
5th Floor  
P.O. Box 29692  
NAIROBI KENYA  
Tel: 216446/216447

Your Ref

10th December 1992

Mr . Justice Zaccheus Chesoni  
Electoral Commission  
Anniversary Towers  
Nairobi

Dear Justice Chesoni,

I wish to bring to your notice for consideration the following cases of FORD-KENYA candidates who were barred from presenting themselves for nomination for parliamentary/civic elections for reasons that are unjustified and/or unlawful.

FORD-KENYA wishes you to take prompt action to remedy the situation, as the party stands to forfeit representation in the respective constituencies and wards. This would amount to a denial of constitutional rights.

#### MUMIAS CONSTITUENCY

1. Mr. David Muyando  
FORD-KENYA parliamentary nominee for MUMIAS constituency.

He was denied nomination because one of his proposers, Mr. Paul Odembo Ofula, had also been the proposer of a FORD-KENYA South Wanga Ward candidate for civil elections.

2. KANGUNDO CONSTITUENCY

Our parliamentary candidate Mr. Patrick K. Mbondo, was time-barred from presenting his papers to the returning officer. Mr. Mbondo left for the nomination centre at 9 a.m., but was prevented from reaching the centre by Kanu agents, who blocked him from moving his car until three minutes after the nomination closure deadline.

3. ALDAI CONSTITUENCY

Our parliamentary candidate, Mr. John Birgen, was ambushed by KANU supporters who beat him up and tore up his nomination papers. In the event, he was unable to present himself for nomination. The matter was reported to the local police station.

4. KAJIADO CENTRAL CONSTITUENCY

Civic candidates Peter Ndungu of Ward 41 and Nelson Oyugi Omolo of Ward 39 were purportedly "time-barred", although they had been standing in the queue from about 10 a.m. As they stood in the queue, policemen kept pushing them aside to make way for Kanu candidates.

Eventually the Returning Officer received their papers at 12.15 p.m.

It would appear the nomination station was crowded and the officials were unable to process the candidates as efficiently as they would have wished to. This could hardly be said to be the fault of the candidates.

5. KALOLENI CONSTITUENCY

FORD-KENYA's parliamentary candidate, Prof. Katama Mkangi, was waylaid by Youth for Kanu '92 operatives, after which he was detained for several hours and his nomination papers taken away from him. He therefore was unable to present them.

6. GANZE CONSTITUENCY

FORD-KENYA's parliamentary candidate, Mr. Maurice Mboja, was detained by force at his own home by persons singing the praises of Kanu. These people made sure Mr. Mboja was not released until 2 p.m., after the nomination deadline.

7. TURKANA SOUTH CONSTITUENCY

FORD-KENYA's parliamentary candidate, Drake Kundu, was "time-barred", while all the time he was standing in the queue. The returning officer, having been unwilling to deal with Mr. Kundu's papers all along, decided eventually to rule him out of the nomination.

8. WAJIR EAST CONSTITUENCY

FORD-KENYA's parliamentary candidate, Mr. Abdi Chachane Mohamed, was disqualified for being "time-barred", despite the fact that he was in the queue at the nomination spot from 11 a.m.

It would appear that similar tactics have been used to bar FORD-KENYA candidates throughout the country. Obviously, this is an organised and well-executed pattern of rigging.

It was always our opinion that we were not competing on a level playing field. This would appear to be yet one other area where the odds are stacked against us.

For a start, we have attached a list of rallies already planned. Others will be added in due course. We regret to say that, should we fail to receive your assent to this request by the end of Monday, October 18th, we shall have no option but to go ahead and hold these rallies with or without licences.

It is not our wish to do other than comply with the laid-down regulations, but when your officers do not themselves similarly comply, and when they have, in fact, been specifically instructed not to do so, we are left with no alternative than to adopt the course of action described above.

We look forward to your positive response.

Yours faithfully

WARURU KANJA  
DIRECTOR OF ELECTIONS.

KENYA

(FORD) - K

116

(K. C. S.)

Anip House

5th Floor

P.O. Box 7200

NAIROBI, KENYA

Tel 216446/216779

Your Ref

11th December 1992

Mr. Justice Zaccheus Chesoni  
Electoral Commission  
Anniversary Towers  
NAIROBI

Dear Justice Chesoni,

Further to our letter dated yesterday, we bring to your notice additional constituencies where our FORD-KENYA candidates were barred from presenting themselves for nomination for parliamentary/civic elections to reasons we stated earlier.

KERIO EAST Our parliamentary candidate nominee Mr. Kibor Arap Talai was blocked by the police, 'YK youth in the presence of the area D.O twenty metres from the returning officers office. KANU candidates were allowed to present their papers while those from the opposition parties were not. Mr. Talai was eventually allowed to go away when the KANU candidate was announced elected unopposed. Mr. Talai has a detailed account of the event that took place on the nomination day.

KERIO WEST Our parliamentary candidate nominee Mr. Francis Kadenge Gahole was abducted forced into a matatu maned by KANU youth and driven to Chebulubai forest six kilometers from the centre where he was to present his papers. He was released at 6.30 p.m.

SAMBURU EAST Our parliamentary candidate nominee Mr. Jackson K. Lesaigor was disqualified for being time-barred after he was blocked by the local D.O and provincial administration police from 9.30 a.m. to 1.30 when they released him.

BARINGO NORTH Our parliamentary candidate nominee Mr. Eric Kiptoon was abducted to prevent him from presenting his papers. He was released at 6.30. p.m. and warned not to go any where near to the returning officer or report to the commission.

KAJIADO SOUTH Our parliamentary candidate nominee has not been heard of since his collected his papers and travelled to Loitoktok to present the papers.

NAROK WEST Our parliamentary candidate nominee and all civic candidates were barred from presenting their papers to the returning officer by KANU T-shirt clad Maasai morans who had erected a road block on the way using a felled tree. They were thus "time-barred".

NAROK SOUTH Our parliamentary candidate nominee Mr. Ole Nkanai has not been heard of since collecting his papers for presentation to the returning officer in the Narok South constituency.

WAJIR EAST Our parliamentary candidates nominee have not been heard of despite their taking precautions and flying to Wajir, using four wheel drive vehicles to enable them present their papers.

ISIOLO SOUTH Our parliamentary candidate nominee Mr. Abdi Nassir Ibrahim has not been heard of since travelling to Garbatula to present his papers.

MOLO Our parliamentary candidate nominee Mr. Fred Ouma Mhando was barred from presenting his papers by the returning officer who informed him that there was another FORD-KENYA nominee which was not the case. And so our candidate was "time-barred"

IGEMBE Our parliamentary candidate nominee Mr. Joseph K. Kumari was time-barred after being sent away to make corrections on his nomination papers which were said to be defective.

KAPENGURIA Our parliamentary candidate nominee Mr. Gregory Pogisho was "time-barred" after being detained for more than four hours making it impossible for him to present the papers which were also said to be defective.

MAKUYU Our parliamentary candidate nominee Mr. Joseph Ndungu Nduati was "time barred" at 12.30 p.m. and so were all his civic candidates.

BELGUT Our parliamentary candidate Mr. Rotich has disappeared since collecting his papers.

RAILA A. ODINGA  
DEPUTY DIRECTOR OF ELECTIONS  
FORD - KENYA

notice prior to travel and disclosure of reasons for travel! All this is aimed at obstructing FORD KENYA from effectively campaigning in North Eastern Province.

PAUL K. MUTE

FIRST VICE CHAIRMAN



# ELECTORAL COMMISSION

Telephone: Nairobi 222072  
When replying please quote

Ref. No. EC/NCC/B6  
and date

ELECTORAL COMMISSION  
ANNIVERSARY TOWERS  
6TH FLOOR  
UNIVERSITY WAY  
P.O. Box 45371  
NAIROBI

15th December 1992.

Mr. Raila A. Odinga,  
Deputy Director of Elections,  
Forum for the Restoration of Democracy - Kenya (FORD Kenya),  
Agip House,  
NAIROBI.

Dear *Mr. Odinga,*

We refer to your letters dated 10th and 11th December, 1992.

The Commission's Committee that was appointed to study the complaints concerning the recent nominations has fully considered those contained in your said two letters along with others raised by other political parties and individuals and issued a general press statement in that regard.

So as to ensure that you are clear of the Commission's stand, we wish to advise you as follows:

## Letter of 10.12.92

- (a) The Commission thinks that the issues raised in the cases below require investigation and should consequently be reported to the Attorney General who under Section 26(4) of the Constitution has powers to cause investigation to be made:

- Kangundo Constituency -
- \* - Aldai Constituency
- Kaloleni Constituency -
- Ganza Constituency

These cases allege violation of the general criminal law and Section 9(d) of the Election Offences Act (Cap.66).

- (b) As for Kajiado Central, Turkana South and Wajir East Constituencies the Commission would be prepared to rescind or vary the decisions made upon satisfactory proof of the allegations.



The Commission, therefore, requires your candidates to submit to its Head Offices in Nairobi the nomination documents previously submitted, their full statements of the events complained of in affidavit form including those from (if possible) any impartial person. The documents asked for should be submitted before the end of today's working hours.

*Int* (c) For the Mumias Constituency case, it has been accepted and that the nomination papers of the candidate be processed by the Returning Officer.

2. Letter of 11.12.92.

The Commission holds the following position:-

*Int* (a) The Kerio East, Kerio West, Samburu West, Baringo North, Kajiado South, Narok West, Narok South, Wajir South, Isiolo South and Belgut Constituencies' cases do not fall within the Commission's ambit, as they fall under Section 44 of the Constitution, election in those Constituencies can best be dealt with by the Attorney-General.

*Int* (b) As for the cases of Samburu West, Kajiado South, Narok West, Wajir South and Isiolo South Constituencies these should be reported to the Attorney-General for his necessary action.

*Int* (c) For Wajir East - this seems to differ from your complaint in your earlier letter of 10.12.92. Again this is a matter for the Attorney-General to deal with as it is not within the ambit of the Commission.

*Int* (d) For Kapenguria, your candidate admits he arrived later and so he was time barred. He does not say when he arrived before the Returning Officer. Please let us have his nomination documents in order to ascertain the alleged defects.

*Int* (e) For Moin Constituency, please let us have the nomination documents presented by your candidate, the names of the other Ford Kenya candidate allegedly nominated and an affidavit from a responsible person who might have witnessed the instance. The last requirement is not mandatory.

*Int* (f) In the Igembe Constituency case, please let us have the candidate's nomination papers and a full statement (or preferably an affidavit) outlining the incident, before and after the working hours today.

In coming to the foregoing conclusions, the Commission considered the constitutional functions and powers of all the constitutional institutions involved, i.e. the Commission itself, the Attorney-General and the Courts, and the need to avoid unconstitutional conflicts amongst them and the regard for the Rule of Law. We condemn unreservedly any acts of thuggery, lawlessness, illegal obstruction of candidates, robbery of nomination papers and the like irrespective of the perpetrators and victims and strongly urge those empowered to deal with these instances to proceed with despatch to investigate them and take appropriate action.

Because of the nature of the matter at hand, the Commission cannot take viva voce evidence especially as time is up for any further consideration of new cases. This is because no more names can be accepted by the printers for inclusion in the ballot papers.

Yours sincerely,



JUSTICE Z. R. CHESONI  
CHAIRMAN  
ELECTORAL COMMISSION OF KENYA

For the Commission  
Justice Z. R. Chesoni  
Chairman  
Electoral Commission of Kenya

## **APPENDIX 14**



# ELECTORAL COMMISSION

Telephone: Nairobi 22272  
Within Nairobi please specify

Ext. No. **HC/PR/3**  
and 200

ELECTORAL COMMISSION  
ANNIVERSARY TOWERS  
6th FLOOR  
UNIVERSITY WAY  
P.O. Box 4371  
NAIROBI

20th JANUARY, 1993

## PRESS RELEASE

My attention has been drawn to allegations made in articles published in two British daily newspapers, the Financial Times and The Independent, and subsequently reported in the Daily Nation on 12th January, 1993. Apart from substantial inaccuracies, the articles repeated the entirely false suggestion that the Kenya Government ordered the Kenya Commercial Finance Company Limited, a subsidiary of the Kenya Commercial Bank, to write off debts allegedly owed by me of Shs.50 million. This particular allegation is attributed to anonymous legal sources in Nairobi "familiar with the case" and is a repetition of similar claims made some months ago in an attempt to undermine my position then in view of the approaching election.

The facts of the matter are as follows: a plaint was filed against me on the 24th April, 1984 claiming against me the sum of Shs.18 million as well as interest and costs under a guarantee I had given for the debts of Tawai Limited which was also a defendant. I instructed my advocates to file no defence at the time as I considered it inappropriate for a judge still on the Bench to contest such a case through the courts. Nonetheless, I had been advised by my advocates that I had a good defence to offer.

In the event, the principal debtor, Tawai Limited repaid the sum of just under Shs.17 million, even before judgement



# ELECTORAL COMMISSION

Telephone: Nairobi 28073  
 When required please call  
 Ext. No. ... 28/28/3  
 and 28/28/4

ELECTORAL COMMISSION  
 ANNIVERSARY TOWERS  
 6th Floor  
 UNIVERSITY WAY  
 P.O. Box 45371  
 NAIROBI

20th January, 1993

was entered on 8th June, 1984, and a final schedule of repayments was agreed.

The situation I have described was by no means exceptional. Many small companies incurred large loans for development and business during the period consequent upon the coffee boom in Kenya and many were secured by personal guarantees. When times became less propitious many of the creditors called in their loans, causing acute financial cash flow problems.

I must repeat that it is absolutely untrue to suggest that the Government played any part in resolving the dispute between the two parties. Indeed the Court records are freely available for inspection. Furthermore, the events leading to the settlement were afoot five months before my appointment as Chairman of the Electoral Commission and could therefore hardly raise "serious doubts", if any, about my impartiality.

Prior to April 1990 execution proceedings had been taken against me and as a result an order was made that I pay Shs.3.5 million and the balance to be agreed. My advocates then took out proceedings to have the matter reviewed and a stay of execution was granted. Thereafter my advocates negotiated a full and final settlement of my liability and



## ELECTORAL COMMISSION

Telephone: Nairobi 25773  
When making phone calls

Ext. No. ... EC/PE/1  
and 244

ELECTORAL COMMISSION  
ANNIVERSARY TOWERS  
SIX FLOOR  
UNIVERSITY WAY  
P.O. Box 48971  
NAIROBI

10th JANUARY 1993

- 3 -

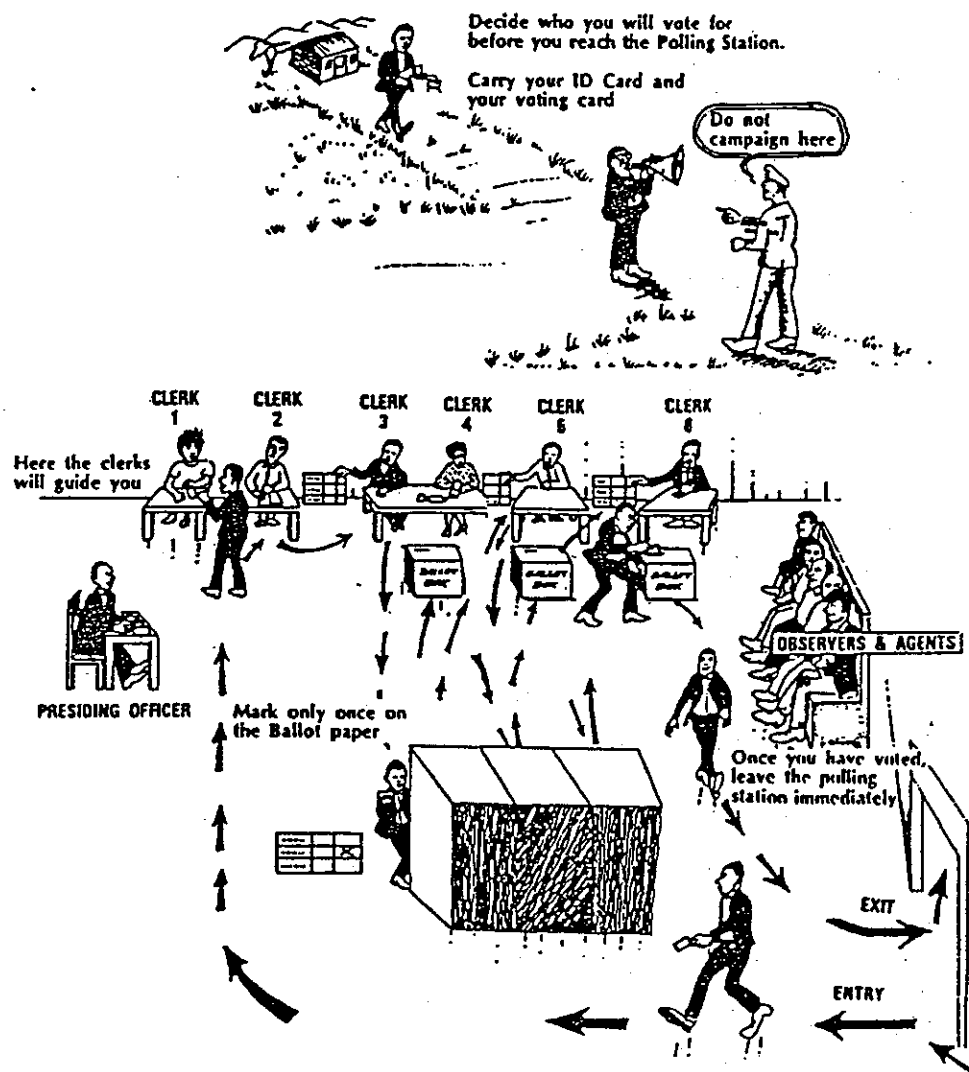
I paid Shs.3 million for the same from a sale of family property and I am now no longer indebted to the Bank. This sum is in addition to the Shs.17 million paid by the Principal Debtor, Tawai Ltd., prior to the Judgement in 1984.

I take grave exception to these attacks on my reputation which are made with the sole motive of influencing international opinion on the election which, as international observer groups agreed, reflected the democratic will of the people of Kenya. The Chairman of the Commonwealth Observers had indeed expressed satisfaction with the impartial manner in which the Electoral Commission had accomplished its difficult and exacting task.

JUSTICE J. R. CHENE  
CHAIRMAN  
ELECTORAL COMMISSION OF KENYA

## **APPENDIX 15**

# HOW TO VOTE ON 29th December 1992



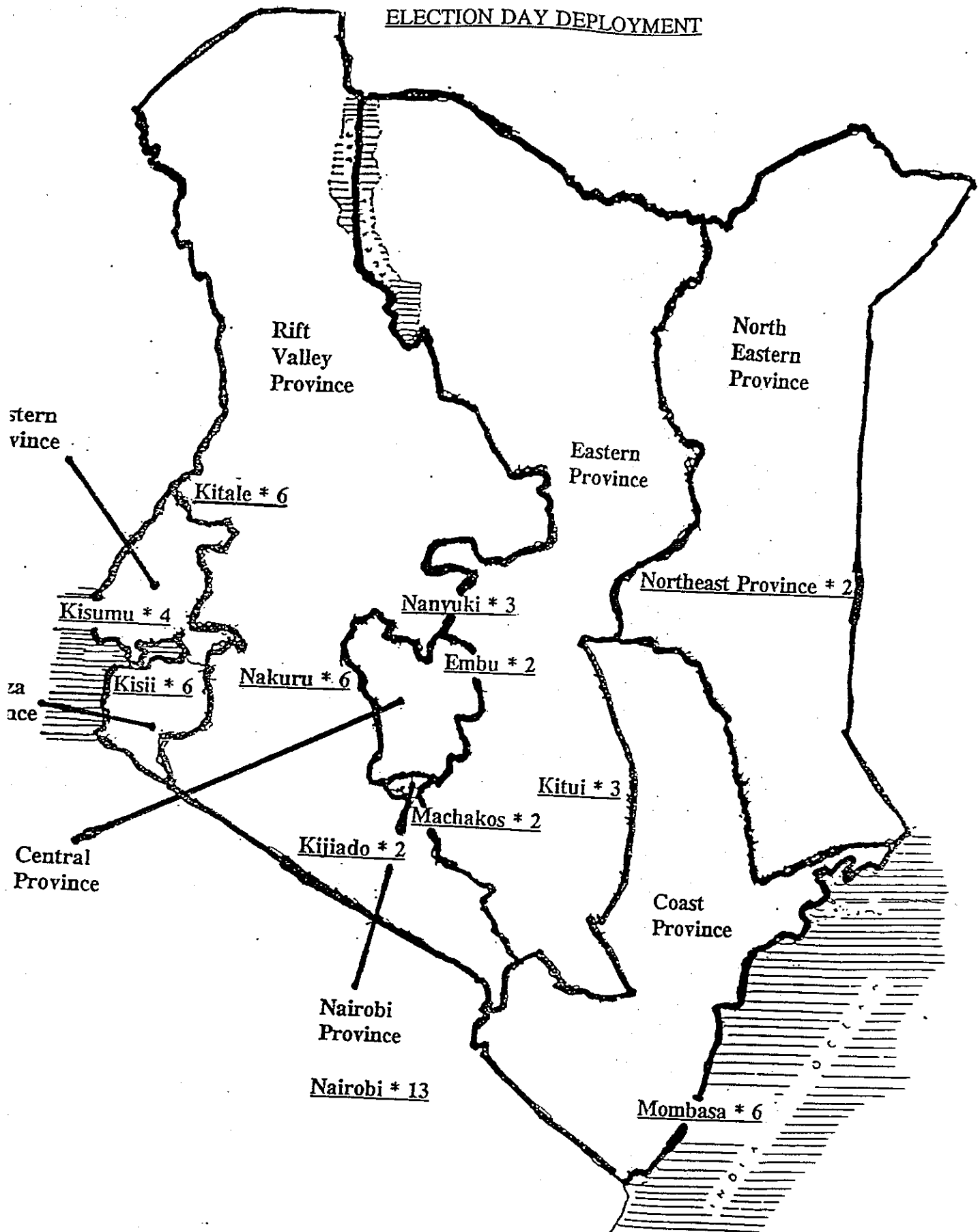
**Electoral Commission of Kenya**

Anniversary Towers 8th Floor  
P.O. Box 45371  
Nairobi



## **APPENDIX 16**

ELECTION DAY DEPLOYMENT



## **APPENDIX 17**

POLLING SITE OBSERVATION RECORD

DATE \_\_\_\_\_ TIME \_\_\_\_\_

POLLING SITE NAME \_\_\_\_\_

POLLING SITE NUMBER \_\_\_\_\_

TIME POLLING SITE OPENED \_\_\_\_\_

NUMBER OF REGISTERED VOTERS \_\_\_\_\_

APPROXIMATE TIME FOR EACH VOTE TO BE CAST \_\_\_\_\_

NUMBER THAT HAVE VOTED \_\_\_\_\_

ANY PROBLEMS WITH THE DELIVERY OF MATERIALS OR OPENING OF THE POLL?

ANY PROBLEMS WITH NUMBERS OF BALLOTS RECEIVED VERSUS NUMBER OF VOTERS REGISTERED; VOTER REGISTRATION LIST; OR OTHER MATERIALS REQUIRED FOR OPERATION OF THE POLLS?

COMMENTS ON VOTING PROCEDURE, MANAGEMENT, AND PHYSICAL LAYOUT OF POLL. IS BALLOT SECRECY ENFORCED?

IS TABLE FULLY STAFFED? ARE PARTY REPRESENTATIVES SERVING ON THE PANEL? OBSERVING THE PROCEEDINGS?

WHICH PARTIES ARE PRESENT AND WHAT IS THEIR IMPRESSION OF THE PROCEEDINGS?

POLICE OR UNIFORMED MILITARY PRESENT? SERVING IN WHAT CAPACITY?

GENERAL COMMENTS:

## **APPENDIX 18**

## MEMBERS OF THE SEVENTH PARLIAMENT

### KANU

1. Amin Walji (Westlands)
2. Shariff Nassir (Mvita)
3. Kassim Mwamzandi (Msambweni)
4. Boy Juma Boy (Matuga)
5. Ngoizi Rai (Kinango)
6. Mathias Keah (Kaloeni)
7. Katana Ngala (Ganze)
8. Abubakar Badawy (Malindi)
9. Katana Ndzai (Magarini)
10. John Mumba (Bahari)
11. Yuda Komora (Garsen)
12. Tolla Mugava (Galole)
13. Abu Mohammed (Lamu West)
14. Karim Mohammed (Lamu West)
15. Basil Criticos (Taveta)
16. Darius Mbela (Wundanyi)
17. Eliud Mcharo (Mwatate)
18. Douglas Mbela (Voi)
19. Maalim Mohammed (Wajir West)
20. Ibrahim Salat (Fafi)
21. Nassir Arte (Ijara)
22. Abdi Dheikh (Wajir West)
23. Hassan Ahmed (Wajir South)
24. Khalif Mohammed (Wajir West)
25. Adan Abdullahi (Mandera West)
26. Mohammed Noor (Mandera Central)
27. Mohammed Galgalo (Moyale)
28. Bonaya Godana (North Horr)
29. Jillo Falana (Saku)
30. C.G. Mokku (Isolo North)
31. Robert Kochale (Laisamis)
32. Haji Wako (Osiolo South)
33. Jackson Kalweo (Igamba)
34. Kirugi M'Mukindia (Central Imenti)
35. Kalonzo Musyoka (Kitui North)
36. Nyiva Mwendwa (Kitui West)
37. Mutinda Ndambuki (Mutito)
38. Isaac Mouki (Mutomo)
39. John Kiluta (Masinga)
40. Gideon Mutiso (Yatta)
41. Jackson Mulinge (Kathiani)
43. Johnstone Makau (Mboni)
44. Peter Kavisi (Mwala)
45. Anthony Ndilinge (Kilome)
46. Peter Maundu (Makueni)
47. Japhet Ekidor (Turkana North)
48. Patrick Ejore (Turkana Central)
49. Igwaton Achuka (Turkana Couth)
50. Peter Nanag'ole (Kapenguria)
51. Francis Lotodo (Kapenguria)
52. Philip Rurino (Sigor)
53. Peter Lengees (Samburu West)
54. Sammy Leshoreun (Samuburu East)
55. Kipruto Kirwa (Cherangani)
56. William Saina (Eldoret North)
57. Joel Barmasai (Eldoret East)
58. Joseph Misoi (Eldoret South)
59. Paul Chepkok (Kerio Central)
60. Nicholas Biwott (Kerio South)
61. John Sambu (Mosop)
62. Paul Titi (Aldai)
63. Willy Kamuren (Baringo North)
64. Daniel arap Moi (Baringo Central)
65. William Moroge (Baringo South)
66. Willy Komen (Rongai)
67. Julius Sunkuli (Narok West)
68. William ode Ntimama (Narok North)
69. Samson ole Tuya (Narok South)
70. George Saitoti (Kajiado North)
71. David ole Sankori (Kajiado Central)
72. Philip Singaru (Kajiado South)
73. Kipkalya Kones (Bomet)
74. John Koech (Chepalungu)
75. Nathaniel Cheblyon (Konoin)
76. Jonathan Ng'eno (Duret)
77. Daniel Tanui (Kipkelion)
78. Kiptarus Kirior (Belgut)
79. Joshua Angatia (Malava)
80. Elon Wameyo (Mumias)
81. Sheldon Muchilwa (Emuhaya)
82. Musalia Mudavadi (Sabatia)
83. Andrew Ligala (Vihiga)

42. John Kyalo (Machakos Town)
85. Oduya Oprong (Amagoro)
86. Philip Masinde (Nambale)
87. James Osogo (Bunyala)
88. Shadrack Manga (Kuria)
89. Ruben Oyondi (South Mugirango)
90. Stephen Manoti (Bobasi)

84. Wilberforce Kisiero (Mt. Elgon)
91. Hezron Manduku (Nyaribari Masaba)
92. Simeon Nyacbae (Nyaribari Chache)
93. Zachary Onyonka (Kitui Chache)
94. Atebe Marita (North Mugirango)

#### FORD ASII

1. John Omutere (Makadara)
2. George Nthenge (Kamukunji)
3. Kiruhi Kimondo (Starehe)
4. Chris Kamuyu (Dagoretti)
5. G.M. Macharia (Mathare)
6. Henry Ruhui (Embakasi)
7. Mary Wanjiru (Kinangop)
8. Laban Muchemi (Kipipiri)
9. John Michuki (Kangema)
10. Kenneth Matiba (Kiharu)
11. Kirore Mwaura (Kigumo)
12. Njuguna Njoroge (Makuyu)
13. Karengi Mugo (Kandara)
14. Mburu Nyoike (Gatanga)
15. Kamuiru Gitau (Gatundu)
16. Stephen Ndichu (Juja)

17. Josephat Karanja (Githunguri)
18. Icharia Kamau (Kiambaa)
19. George Nyanja (Limuru)
20. Philip Gitonga (Lari)
21. John Wanyange (Nakuru East)
22. Lwali Oyondi (Nakuru Town)
23. Njenga Munhai (Molo)
24. Joseph Kimani (Nakuru North)
25. Apili Sifuna (Lugari)
26. Javan Omani (Lurambi)
27. Japheth Shamalla (Shinyalu)
28. Ben Magwaka (Ikolomani)
29. Martin Shikuku (Butere)
30. N.W. Khaniri (Hamisi)
31. Lawrence Sifuna (Kanduyi)

#### FORD KENYA

1. Raila Odinga (Langata)
2. Rashid Mzee (Kisauni)
3. Khalif Mwavumo (Likoni)
4. Farah Mohammed (Lagdera)
5. Kiraitu Murungi (South Imenti)
6. Paul Muite (Kikuyu)
7. George Kapten (Kwanza)
8. Wamalwa Kijana (Saboti)
9. Mukhisa Kituyi (Kimilili)
10. Musikari Kombo (Webuye)
11. John Munyasia (Sirisia)
12. James Orendo (Ugenya)
13. Otieno Mak'Onyango (Alego)
14. Ooko Ombaka (Gem)
15. Oginga Odinga (Bondo)

16. Achineg' Onoko (Rarieda)
17. Joab Omino (Kisumu Town)
18. Anyang' Nyong'o (Kisumu Rural)
19. Clarkson Otieno (Nyando)
20. Justus Ogeka (Muhoroni)
21. Otieno K'Opiyo (Kasipul Kabondo)
22. Phoebe Asiyo (Karachuonyo)
23. Ouma Muga (Rangwe)
24. Valentine Opere (Mbita)
25. Tom Obondo (Ndhiwa)
26. Linus Aluoch (Rongo)
27. Charles Owino (Migori)
28. Ochola Ogur (Nyatike)
29. Ferdinand Obure (Bomachoge)
30. Henry Obwocha (West Mugirango)

D.P.

1. Kennedy Kiliku (Changamwe)
2. Maoko Maore (Ntonyiri)
3. Benjamin Ndubai (Tigania)
4. David Mwiraria (North Imenti)
5. Bernard Mutani (Nithi)
6. Peter Ndwiga (Runyenjes)
7. Norman Nyagah (Gachoka)
8. Kaluki Mwendawa (Kitui Central)
9. Joseph Mulusya (Kangundo)
10. Agnes Ndeti (Kibwezi)
11. Mwangi Gichuki (Ndaragwa)
12. Joseph Gethenji (Tetu)

13. Munene Kairo (Kieni)
14. Matu Wamae (Mathira)
15. Mwai Kibaki (Othaya)
16. David Mutahi (Mukurweini)
17. Isaiah Muathenge (Nyeri Town)
18. Allan Murigu (Mwea)
19. Martha Njoka (Gichugu)
20. Kinyua Mbui (Ndia)
21. Kihika Kimani (Laikipia West)
22. Charles Mukora (Laikipia East)
23. Protus Momanyi (Bonchari)

PICK

1. Abdullahi Ahmed (Mandera East)

KSC

1. Ileri Ndwiga (Siakago)

KNC

1. George Anyona (Kitutu Masaba)



## **APPENDIX 19**

# Parliament: The Regional Spread

## NAIROBI

1. MAKADARA
2. KAMUKUNJI
3. STAREHE
4. LANGATA
5. DAGORETTI
6. WESTLANDS
7. MATHARE
8. EMBAKASI

## COAST PROVINCE

9. CHANGAMWE
10. KISAUNI
11. LIKONI
12. MVITA
13. MSAMBWENI
14. MATUGA
15. KINANGO
16. BAHARI
17. KALOLENI
18. GANZE
19. MALINDI
20. MAGARINI
21. GARSEN
22. GALOLE
23. LAMU EAST
24. LAMU WEST
25. TAVETA
26. WUNDANYI
27. MWATATE
28. VOI

## NORTH-EASTERN PROVINCE

29. DUJIS
30. LAGDERA
31. FAFI
32. UARA
33. WAJIR EAST
34. WAJIR SOUTH
35. WAJIR WEST
36. MANDERA WEST
37. MANDERA CENTRAL
38. MANDERA EAST
39. MOYALE
40. NORTH HERR
41. SAKU
42. LAISAMIS
43. ISIOLO NORTH
44. ISIOLO SOUTH

## EASTERN PROVINCE

45. IGEMBE
46. NTONYIRI
47. TIGANIA
48. NORTH IMENTI
49. CENTRAL IMENTI
50. SOUTH IMENTI
51. MITHI
52. THARAKA
53. RUNYENJES
54. SLAKAGO
55. GACHOKA
56. KITUI NORTH
57. KITUI CENTRAL
58. KITUI WEST
59. MUTITO
60. MUTOMO

61. MASINGA
62. YATTA
63. KANGUNDO
64. KATHIANI
65. MACHAKOS TOWN
66. MBOONI
67. MWALA
68. KILOME
69. MAKUENI
70. KIBWEZI

## CENTRAL PROVINCE

71. KINANGOP
72. KIPKIRI
73. NDARAGWA
74. TETU
75. KIENI
76. MATHIRA
77. OTHAYA
78. MUKURWEINI
79. NYERI TOWN
80. MWEA
81. GICHUGU
82. NDIA
83. KANGEMA
84. KIHARU
85. KIGUMO
86. MAKUYU
87. KANDARA
88. GATANGA
89. GATUNDU
90. JUJA
91. GITHUNGURI
92. KIAMBAA
93. KIKUYU
94. LIMURU
95. LARI

## RIFT VALLEY PROVINCE

96. TURKANA NORTH
97. TURKANA CENTRAL
98. TURKANA SOUTH
99. KACHELIBA
100. KAPENGURIA
101. SIGOR
102. SAMBURU WEST
103. SAMBURU EAST
104. KWANZA
105. SABOTI
106. CHERANGANI
107. ELDORET NORTH
108. ELDORET EAST
109. ELDORET SOUTH
110. KERIO EAST
111. KERIO WEST
112. KERIO CENTRAL
113. KERIO SOUTH
114. MOSOP
115. ALDAI
116. TINDERET
117. BARINGO EAST
118. BARINGO NORTH
119. BARINGO CENTRAL
120. BARINGO SOUTH
121. LAKEPIA WEST
122. LAKEPIA EAST
123. NAKURU EAST
124. NAKURU TOWN
125. MOLO

126. RONGAI
127. NAKURU NORTH
128. NAROK WEST
129. NAROK NORTH
130. NAROK SOUTH
131. KAJIADO NORTH
132. KAJIADO CENTRAL
133. KAJIADO SOUTH
134. BOMET
135. CHEPALUNGU
136. KONOI
137. BURET
138. BELGUT
139. KIPKELION

## WESTERN PROVINCE

140. MALAVA
141. LUGARI
142. MUMIAS
143. LURAMBI
144. EMUHAYA
145. SHINYALU
146. IKOLOMANI
147. SABATIA
148. VIHIGA
149. BUTERE
150. HAMISI
151. MT. ELGON
152. KIMILILI
153. WEBUYE
154. SIRISIA
155. KANDUYI
156. AMAGORO
157. NAMBALE
158. SAMIA
159. BUNYALA

## NYANZA PROVINCE

160. UGENYA
161. ALEGO
162. GEM
163. BONDO
164. RARIEDA
165. KISUMU TOWN
166. KISUMU RURAL
167. NYANDO
168. MUHORONI
169. NYAKACH
170. KASIPUL-KABONDO
171. KARACHUONYO
172. RONGO
173. RANGWE
174. MBITA
175. NDHIWA
176. MIGORI
177. NYATIKE
178. KURIA
179. BONCHARI
180. SOUTH MUGIRANGO
181. BOMACHOGE
182. BOBASI
183. NYARIBARI MASABA
184. NYARIBARI CHACHE
185. KITUTU MASABA
186. KITUTU CHACHE
187. WEST MUGIRANGO
188. NORTH MUGIRANGO/BORABU

## **APPENDIX 20**

# ETHNIC BREAKDOWN OF THE PARLIAMENT

<u>KANU</u>		<u>FORD K</u>		<u>D.P.</u>		<u>FORD A</u>
Kalenjin	10 (20%)	Luo	19 (61%)	Kikuyu	12 (52%)	Kikuyu 21 (67%)
Kamba	12	Luhya	5	Meru	4	Luhya 9
Somali	9	Kisii	2	Kamba	4	Kamba 4
Luhya	6	Digo	2	Embu	2	
Kisii	6	Meru	1	Kisii	1	
Maasai	6	Kikuyu	1			
Boran	6	Somali	1			
Giriama	4					
Taita	3					
Pokot	3					
Turkana	3					
Arab	2					
Pokomo	2					
Samburu	2					
Digo	2					
Meru	2					
Asian	1					
Duruma	1					
Bohra	1					
Kuria	1					
Greek	1					

## **APPENDIX 21**

## SELECTED IRI PUBLICATIONS

- *The 1991 Elections in Albania*
- *Angola: Entering the 1992 Elections; January 1992*
- *The June 1990 Elections in Bulgaria*
- *The October 13, 1991 Legislative and Municipal Elections in Bulgaria*
- *The 1991 Elections in El Salvador (English and Spanish)*
- *An IRI Assessment on the Guinea Legislative Elections; October 1992*
- *The 1990 Elections in Haiti*
- *The November 26, 1989 Honduran Elections (English and Spanish)*
- *Colloquium on Hungarian Electoral Law (February 8 and 9, 1990) (co-sponsored with the National Election Committee and the Hungarian Lawyers Association)*
- *Democracy in Kazakhstan: a 1992 IRI Assessment*
- *Political Participation and Constitutional Democracy in Kuwait (April 29, 1991)*
- *Pre-Election Assessment of the 1992 National Elections in the Republic of Mongolia; June 1992*
- *The May 7, 1989 Panama Elections (English and Spanish)*
- *The May 1990 Elections in Romania*
- *The 1992 Local and Parliamentary Elections in Romania*
- *An IRI Assessment for the 1993 National Elections in the Republic of Yemen; January 1993*
- *The 1990 Elections in the Republics of Yugoslavia*