

SPECIAL REPORT SERIES

THE
CARTER CENTER



OBSERVING THE 2002 KENYA ELECTIONS

Waging Peace. Fighting Disease. Building Hope.

THE CARTER CENTER STRIVES TO RELIEVE SUFFERING
BY ADVANCING PEACE AND HEALTH WORLDWIDE;
IT SEEKS TO PREVENT AND RESOLVE CONFLICTS, ENHANCE FREEDOM AND DEMOCRACY,
AND PROTECT AND PROMOTE HUMAN RIGHTS WORLDWIDE.

OBSERVING THE 2002 KENYA ELECTIONS

FINAL REPORT



THE CARTER CENTER
THE DEMOCRACY PROGRAM

ONE COPENHILL
453 FREEDOM PARKWAY
ATLANTA, GA 30307

(404) 420-5188
FAX (404) 420-5196

WWW.CARTERCENTER.ORG

MAY 2003



OBSERVING THE 2002 KENYA ELECTIONS





OBSERVING THE 2002 KENYA ELECTIONS

TABLE OF CONTENTS

Kenya General Elections Delegation and Staff	4
Terms and Abbreviations	6
Foreword	8
Executive Summary	10
Acknowledgments	14
Background.....	15
July-August 2002: Exploratory Assessment	17
December 2002: Pre-election Observation	20
December 2002: Carter Center Observer Mission	25
Delegate Briefings, Observation Methodology, and Deployment	
Leadership Meetings	
Dec. 27 Electoral Process	
Observer Reports and the Dec. 29 Statement	
Announcement of Official Results	
January 2003: Postelection Observation	37
Transfer of Power	
Women's Participation	
Election Petitions	
Conclusions and Recommendations	41
Appendices	48
The Carter Center at a Glance	68



OBSERVING THE 2002 KENYA ELECTIONS

KENYA GENERAL ELECTIONS DELEGATION AND STAFF

Delegation Leadership

The Honorable Dr. Kenneth D. Kaunda, Former President of Zambia and the Balfour African President in Residence at Boston University's African Presidential Archives and Research Center
Ambassador (ret.) Gordon L. Streeb, Ph.D., Former United States Ambassador to Zambia and Associate Executive Director of Peace Programs at The Carter Center

Delegation

Mr. Bodunrin Adebo (Nigeria), Senior Program Associate, National Democratic Institute for International Affairs (NDI), Abuja, Nigeria
Dr. Okon Akiba (Canada), Professor, Department of International Affairs and Development, Clark University, Atlanta, Ga., USA
Mr. Jose Maria Aranaz (Spain), Legal Adviser, International IDEA, Stockholm, Sweden
Mr. Christopher Burke (Australia), Field Representative, Conflict Resolution Program, The Carter Center, Uganda
Mr. Duncan Chaplin (USA), Senior Research Methodologist, Urban Institute, and Adjunct Faculty Member, Georgetown Institute for Public Policy, Washington, D.C., USA
Mr. John Chipeta* (Malawi), Independent Consultant, Blantyre, Malawi
Ms. Denise Dauphinais (USA), Independent Consultant, Washington, D.C., USA
Ms. Annetta Flanagan (UK), Lawyer, Northern Ireland
Mr. Kehleboe Gongloe* (Liberia), MBA Candidate, West Chester University, West Chester, Pa., USA
Ms. Amy Hamelin* (USA), Graduate Student in International Affairs, Yale University, New Haven, Conn., USA
Ms. Grace Kang (USA), Visiting Researcher, Korea Institute for National Unification (KINU), Seoul, Korea
Ms. Shumbana Karume (Tanzania), Researcher, Democracy Development Unit, Electoral Institute of Southern Africa (EISA), Johannesburg, South Africa
Mr. Chad Lipton (USA), Graduate Student, Johns Hopkins University, Baltimore, Md., USA
Ms. Taona Mwanyisa* (Zimbabwe), South African Human Rights Institute (SAHRIT), Harare, Zimbabwe
Mr. Simeon Mawanza* (Zimbabwe), Project Officer, South African Human Rights Institute (SAHRIT), Harare, Zimbabwe
Mr. Wole Olaleye (Nigeria), Researcher, Democracy Development, Electoral Institute of Southern Africa (EISA), Johannesburg, South Africa
Ms. Warda Rajab (Uganda), Economics Research Fellow, Center for Disease Control and Prevention (CDC), Atlanta, Ga., USA
Mr. Nhamo Sithole* (Zimbabwe)
Ms. Chris Stevenson (USA), Independent Consultant, Denver, Colo., USA
Ms. Shani Winterstein* (South Africa), Assistant Program Coordinator, Lawyers for Human Rights, Pretoria, South Africa
Mr. Samuel Kofi Woods II (Liberia), Regional Director, Foundation for International Dignity (FIND), Freetown, South Africa

*Delegates serving as medium-term observers.



OBSERVING THE 2002 KENYA ELECTIONS

Carter Center Staff

Ms. Tynesha Green (USA), Program Assistant, Democracy Program, Atlanta, Ga., USA

Dr. David Pottie (Canada), Senior Program Associate, Democracy Program, Atlanta, Ga., USA

Ms. Janet Tinsley (USA), Coordinator, Peace Programs, Atlanta, Ga., USA



HENRY KIDJAWAI

The Carter Center delegation included members from 13 countries.



OBSERVING THE 2002 KENYA ELECTIONS

TERMS AND ABBREVIATIONS

APP	African People's Party
CDU	Central Depository Unit – network of six organizations that compiles and disseminates information relating to electoral violence
CJPC	Catholic Justice and Peace Commission – consists of 15 groups that work for peace through justice
CKRC	Constitution of Kenya Review Commission
Counting Center	One per constituency. This is where ballots are collected and counted before being sent to the central counting site.
DC	District Commissioner – a representative of the office of the president in each district
DICE-K	Donor Information Center for Elections in Kenya – an information clearinghouse and Web site sponsored by the international donors
DP (K)	Democratic Party (of Kenya)
ECK	Electoral Commission of Kenya – mandated with registering and educating voters and directly supervising elections
EU	European Union
FORD	Forum for the Restoration of Democracy
FORD-A	Forum for the Restoration of Democracy – Asili
FORD-K	Forum for the Restoration of Democracy – Kenya
FORD-P	Forum for the Restoration of Democracy for the People
IED	Institute for Education in Democracy – promotes democracy through programs in electoral processes, voter education, research, and dissemination programs
IRI	International Republican Institute
KANU	Kenya African National Union – the ruling party in Kenya since independence until the 2002 elections



OBSERVING THE 2002 KENYA ELECTIONS

KBC	Kenya Broadcast Corporation
K-DOP	Kenya Domestic Observation Programme – an independent, domestic election observation program consisting of a variety of local organizations
LDP	Liberal Democratic Party
MP	Member of Parliament
Mungiki	Religious sect linked to politically motivated violence
NARC	National Rainbow Coalition – a consortium of parties and the main opposition party in the 2002 elections
NCCK	National Council of Churches in Kenya
NCWK	National Council of Women in Kenya
NDI	National Democratic Institute
Party Agent	Each political party was permitted two agents per polling station to observe the voting process.
PC	Provincial Commissioner – a representative of the office of the president in each province
PO	Presiding Officer – administers the election process within a polling station
Polling Station	A cluster of several polling streams in the same location
Polling Stream	The location of a ballot box within the polling station. Each polling stream accommodated 1,000 voters.
RO	Returning Officer – electoral official who manages one of the 210 constituencies
SDP	Social Democratic Party
SPK	Shirikisho Party of Kenya
Ufungamano Initiative	Civil society movement of religious leaders



OBSERVING THE 2002 KENYA ELECTIONS

FOREWORD

The 2002 Kenya elections marked a milestone for democracy in Africa, as opposition leader Mwai Kibaki defeated Uhuru Kenyatta, the ruling Kenya African National Union's (KANU) presidential candidate, and both accepted the results. Kenya now joins the ranks of African countries where power has changed hands through the conduct of peaceful, democratic, and multiparty elections. The international observation delegation, organized by The Carter Center, praised the electoral process and congratulated Kenyans for managing a democratic and peaceful transfer of power. Like many others, I hoped that Kenya's successful election would serve as a model for other democracies in Africa.

Under longtime President Daniel arap Moi, Kenya returned to multiparty elections in 1992. Unfortunately, optimism about the prospects for genuine democratization faded quickly. Under President Moi's ruling KANU, Kenya came under sharp criticism for its failure to strengthen democratic processes and institutions in the 1992 and 1997 elections.

For these and other reasons, the 2002 elections assumed great importance as another potential turning point. In the run-up to the elections, the constitutional review process dominated Kenyan politics. The debate revitalized Kenyan civil society groups, which mobilized public support for a range of constitutional amendments. The presidential candidate nomination process caused splits within the ruling KANU and defections by high-profile KANU leaders who decided to leave the party to join the recently formed opposition coalition. The coalition came to be known as the National Rainbow Coalition (NARC) and was led by Mwai Kibaki of the Democratic Party (DP).

As detailed in this report, The Carter Center conducted an observation program to assess the 2002 electoral process. In the end, the Center concluded that the government of Kenya and the Electoral Commission of Kenya (ECK) administered a fair and transparent election. The ECK took important steps to enhance its independence as the institution responsible for the conduct of the elections. Although Carter Center observers reported some problems, particularly regarding the voters roll, the electoral process was legitimate.

The 2002 elections produced several other positive outcomes. Most importantly, Kenya's political system moved from one of single-party domination to one where there is strong multiparty representation in Parliament. The new Parliament should provide fertile ground for strengthening Kenya's democratic institutions and practices. President Kibaki already has taken immediate steps to address corruption, and the new administration is moving forward to develop more comprehensive plans.

These are welcome developments. However, to ensure progress over the long term, the new government must confront a series of important challenges. First, the government must complete the constitutional review process and work with civil society, political parties, and other stakeholders to implement necessary changes. The new administration also should work with Kenyans to strengthen democratic institutions, improve governance, and reinforce the rule of law. The Carter Center is willing to assist Kenyans and others in the international community to support efforts in these areas.



OBSERVING THE 2002 KENYA ELECTIONS

Rosalynn and I would like to thank the co-leaders of the Carter Center's Kenya election observer mission, former Zambian President Kenneth Kaunda and former Ambassador Gordon Streeb, associate executive director of the Center's peace programs. We also would like to thank David Pottie for directing the project and all the Carter Center staff and observers for their valuable contributions.

Finally, we want to acknowledge the generous financial support for this project provided by the United States through the U.S. Agency for International Development and The Charles Stewart Mott Foundation. Our work would not have been possible without their support.



OBSERVING THE 2002 KENYA ELECTIONS

EXECUTIVE SUMMARY

Kenya's independence leader, Jomo Kenyatta, of the Kenya African National Union (KANU), held power from independence in June 1963 to the time of his death in August 1978. He was succeeded by then Vice President Daniel arap Moi, who retained the presidency through Kenya's multiparty elections in 1992 and 1997. However, both elections were marred by controversy owing to political violence, widespread voting irregularities, and fraud.

Human rights abuses have long cast a shadow over Kenya. Although the ban on opposition parties was lifted in 1991, government critics charged that KANU embarked on a campaign of electoral-minded ethnic cleansing, favoring loyal tribes over disloyal ones in an attempt to uproot communities perceived to support other parties. Kenya's churches, civil society organizations, and many professional organizations organized to bring attention to these abuses, and a coalition of civil society organizations successfully observed the 1997 elections.

Political debate in the first half of 2002 focused on calls for a possible delay in the election date and even a term extension for President Moi and Parliament. Given the problem of political intimidation and political violence in Kenya's previous elections, civil society organizations were deeply concerned about the prospects for the 2002 elections and the uncertainties around President Moi's succession.

The voter list was closed with 10,576,616 registered voters of an estimated population of 15,354,000 Kenyans over the age of 18. According to the Electoral Commission of Kenya (ECK), 78 percent of Kenyans had national identification, one of the requirements to register as a voter.

In July 2002, The Carter Center sent a small staff mission to Kenya to assess the current context of Kenyan politics and the extent to which the Center

could play a useful role in the elections that were expected in late 2002 or early 2003. At this time there was no certainty as to when the elections would be scheduled or who would lead KANU or the new opposition coalition in the presidential race. President Moi supported Uhuru Kenyatta, the elder Kenyatta's son, as the KANU candidate for the 2002 elections. Although Kenyatta was President Moi's preferred candidate, he faced many challengers from within KANU as a faction known as the Rainbow Coalition emerged. Moreover, the work of the Constitution of Kenya Review Commission (CKRC) was not complete, and many Kenyans wanted to see the constitutional review process concluded prior to the elections. At the same time, few Kenyans wanted to see President Moi and KANU extend their term of office to complete this process. The Carter Center team reported that there was strong interest in Carter Center involvement in the elections, from the major political parties, KANU and the official opposition Democratic Party (DP), the ECK, and civil society organizations.

Even as Moi's support for Kenyatta sparked vigorous debate and conflict within KANU, the party faced a united opposition as more than a dozen parties, led by Mwai Kibaki and the Democratic Party, joined forces in mid-2002 to form the National Rainbow Coalition (NARC). Despite the potential for violence posed by the race between the two main contestants for the presidency, the election campaign period was more peaceful than previous elections. However, the candidate nomination process was frequently marked by administrative chaos, double nominations, and incidents of intraparty violence as well as the intimidation of regional ECK officials.

Carter Center staff and an advance team of seven medium-term observers (MTOs) arrived in Kenya on Dec. 17, 10 days before the elections. While the Atlanta staff began to prepare for the arrival of the



OBSERVING THE 2002 KENYA ELECTIONS

main delegation, the MTOs were deployed to the following areas: Mombassa, Eldoret, Kakamega, Kisumu, Meru, and Embu. The MTOs observed the final days of the election campaigns, met with local election officials, representatives from political parties and civil society, and other domestic and international election observers. They also provided advance reconnaissance on deployment logistics for the main delegation.

Liaison with domestic observers from the Kenya Domestic Observation Programme (K-DOP) was particularly important in this regard.

One issue that dominated the final days before the election was whether or not voters whose name did not appear on the 2002 voter register would be allowed to vote. The ECK released several directives on the issue following discussions with political parties, adding to public confusion about who would be permitted to vote on election day. In the end, only voters whose name appeared on the 2002 register were to be allowed to vote.

The Center organized a 27-person delegation of international observers from 13 countries for the Dec. 27 elections. The delegation was co-led by former Zambia President Kenneth Kaunda and former U.S. Ambassador Gordon Streeb, associate executive director of the Center's peace programs. The delegation leaders met with Uhuru Kenyatta and Mwai Kibaki as well as ECK chair Samuel Kivuitu, Attorney General Amos Wako,



DAVID POTTIE

Kenyan citizens have vigorously asserted their right to vote.

Chief Justice Bernard Chunga, and many other senior political and government officials. Before and after the elections, the delegation leaders met with heads of other election observation missions and representatives from the international community. President Kaunda also met President Moi in a private meeting following the elections.

The main delegation arrived in Nairobi four days before the elections. On Dec. 24, the delegation received a series of briefings on the elections and political developments and was trained on the Center's election observation methodology and the roles and responsibilities of international observers. The day before the election, Carter Center observers in their deployment areas met with provincial-level candidates, local party officials, election officials, Kenyan observers groups, and other civil society representatives.

Delegates were instructed to arrive at their polling station on Dec. 27 to watch the opening procedures at 6 a.m. and ensure that ballot boxes were empty and properly sealed. Throughout the day, observers were to



OBSERVING THE 2002 KENYA ELECTIONS

visit various polling stations to observe the voting process and complete a checklist at each station visited. Observers were to record information about the operation of the polling station, including the presence of polling officials, party agents, and observers, and note whether there were any problems or irregularities.

At the end of the day, observers were to watch a poll closing, noting how ballot boxes were sealed. After observing the vote counting process at one or more polling stations, observers were to record information about the results of those stations and to follow the proceedings at the constituency tabulation centers.

In the postelection delegation debriefings, observers reported overwhelmingly that the voting process at the polls visited was orderly, tranquil, and efficient, with few problems. The initial assessment of the other observer missions was similarly positive.

The observers also noted some general concerns. Many polling stations opened late. In some cases party agents showed up late, whereas in others, deputy presiding officers simply took a long time to organize their polling station layout and materials.

A significant number of voters found that their names were not on the voters roll. In some cases, presiding officers could not say with certainty how to deal with those voters whose names did not appear on the voter register. This led to different responses by presiding officers (and hence unequal treatment across different polling stations). Although it is difficult to quantify how many voters were affected, it appears that a considerable number of Kenyans were unable to cast their ballots. However, Carter Center observers reported that most of these cases appeared to be resolved peacefully at the polling stations.

The delegation widely observed inconsistent application of the rules regarding assisted voters that threatened the secrecy of the vote. According to legislative amendments to the electoral law, the presiding officer may allow only one person of the voter's choice to assist in the ballot booth, and this person must take an oath of secrecy. The escort must

be of the age of majority but need not be a registered voter. In practice it was not uncommon to see several candidate agents as well as the presiding officer crowding around the voting booth to observe the voting process. One Carter Center observer team noted that nearly all women voters at one polling station were claiming illiteracy and received assistance from the presiding officer, who essentially remained behind the voting screen.

An important change in the electoral law was the decision to move the counting process from constituency counting stations to the polling stations, thereby enhancing the transparency and credibility of election results.

Overall, the Center's observers visited 212 polling stations across seven of Kenya's eight provinces, representing about 200,000 voters. The delegation's consensus was that the voting process functioned normally or with only minor problems in the stations visited, with only a few problems of a more serious nature.

On the basis of the debriefings and a meeting of the leaders of the main observer groups, a Carter Center staff team started drafting the preliminary assessment. On Dec. 29, President Kaunda and Ambassador Streeb delivered the preliminary statement on behalf of the full delegation, noting that while voting had ended, the Center would continue to observe the ongoing electoral processes before making a final assessment.

The statement noted the historic importance of the elections, marking the succession to President Moi. The statement cited several positive aspects about the process, including the peaceful atmosphere and the generally well-conducted polls. Several concerns about the voting process were also reported, including the late opening of polls, the high number of voters per polling station, and the inconsistent handling of assisted voters. The statement also noted that the counting and tabulation processes were generally well-administered.



OBSERVING THE 2002 KENYA ELECTIONS

By the afternoon of Dec. 28 it was clear that Mwai Kibaki was headed to victory. As a result, KANU presidential candidate Uhuru Kenyatta conceded defeat early in the afternoon of Dec. 29. Bowing to public pressure to declare a winner, ECK announced that based on unofficial results, Kibaki was president-elect of Kenya. NARC leaders called for the immediate inauguration of Mwai Kibaki the following day.

The hastily organized inauguration ceremony on Dec. 30 attracted a very large crowd, and though somewhat chaotic, the overall mood was joyous and euphoric.

Official results were announced on Jan. 3. According to the electoral law, official results can only be announced upon receipt of completed forms from all 210 returning officers. These results must then be gazetted for 24 hours before the president-elect may be inaugurated. Upon announcing the results, the ECK chair stated, "There was a great deal of pressure from NARC leaders and their supporters that the declaration of the results be made nevertheless. Between the demands of the law and those of the people, the ECK chose to obey the latter. It declared Hon. Mwai Kibaki the new president. It was a political rather than a legal decision. But the final results have confirmed that the decision was, after all, correct in law."

Although the majority of Carter Center delegates left Kenya by Dec. 30, a team of 10 Carter Center staff and MTOs remained on the ground to monitor the postelection situation at selected sites throughout the country and at the national headquarters of ECK in Nairobi. The MTOs noted that both the election officials and the major parties recognized the need to improve future elections and seemed genuinely disposed to work expeditiously to develop and implement recommendations for electoral reforms.

Most respondents indicated general appreciation for the role of the ECK in the conduct of the elections and noted that election officials appeared to be better trained than in the past. However, many Kenyans also called into question the overall independence of the ECK.

In a spirit of mutual respect and recognizing that Kenyans must decide what is best for their country, the Center offers a number of recommendations for improving future elections. The Center's recommendations include, among others:

- The Center urges the government to fulfill its promise to the people of Kenya to complete the constitutional review process and electoral reform.
- Constitutional amendments should be considered to set a specific date or window for elections.
- Following the completion of electoral reforms, the ECK, in coordination with other relevant government agencies, should review Kenya's current electoral boundaries.
- The voter registration process should be reviewed, and clear rules and procedures for all aspects should be established.
- The ECK should build upon the positive experience of the peaceful conduct of the 2002 elections by sustaining and enhancing the operation of the code of conduct for political parties and the activities of the peace committees.

The Center also suggests recommendations regarding the following: timing of elections, recruitment and training of election officials, women's participation, media reform, conflict management, the voting process and ballot paper design, training of party agents, and the election petition process.



OBSERVING THE 2002 KENYA ELECTIONS

ACKNOWLEDGMENTS

The Carter Center is grateful for the support provided by the U.S. Agency for International Development (USAID) through the National Democratic Institute for International Affairs, which enabled the Center to implement the Kenya elections observation project. The Carter Center worked closely with USAID officials throughout the process and would like to extend special thanks to Sheryl Stumbras and others at USAID for their assistance. The Center is grateful for support provided by the Charles Stewart Mott Foundation. The Center also thanks Kelly Callahan and the staff of the Carter Center's Global 2000 office in Nairobi for providing assistance and equipment for our field office.

The Center expresses its appreciation to the government of Kenya and the Electoral Commission of Kenya (ECK) chair Samuel Kivuitu for inviting the Center to observe the elections. ECK is to be commended for its dedicated efforts to organize elections. The Center is also grateful for the collaborative efforts of Kenyan and other international groups, especially the international observer mission from the European Union. Likewise, the Center acknowledges the important work of the Kenyan national observer group, K-DOP, and others, which together deployed thousands of observers to promote free and fair elections. We are also grateful to Simon Osborn and Karuti Kanyinga of the Donor Information Center for Elections in Kenya (DICE-K) for their support. The Center is particularly indebted to the deputy chief observer of the EU, Graham Elson.

Sincere thanks also go to the Carter Center delegates who volunteered their time, expertise, and insights and agreed to join the Center in Kenya at extremely short notice over the December holiday period. The delegates accepted a range of responsibilities without complaint and demonstrated a strong

commitment to supporting the process of democratization in Kenya. In particular, the Center wishes to thank former President Kenneth Kaunda of Zambia, who co-led the election observation delegation. The Center also acknowledges the efforts of the medium-term observers, Amy Hamelin (USA), Shani Winterstein (South Africa), John Chipeta (Malawi), Kehleboe Gongloe (Liberia), Taona Mwanyisa (Zimbabwe), Simeon Mawanza (Zimbabwe), and Nhamo Sithole (Zimbabwe).

The Carter Center field staff in Nairobi did an outstanding job during the election mission. Nairobi office assistants Joyce Masinde and Anjoy Michuki provided useful information about logistical concerns and helped keep the office running smoothly. Edwin Omolo, who worked as a driver, and Michael Kibangendi, who provided essential logistics assistance during the election mission, were especially helpful to the project.

The Carter Center's Democracy Program in Atlanta had overall responsibility for the project, beginning with the initial assessment in July-August 2002 and lasting through the final report. The project was managed and directed by Democracy Program Senior Program Associate Dr. David Pottie, with critical assistance from Tynasha Green and Janet Tinsley. Charles Costello, director of the Democracy Program, provided important advice and guidance throughout the project. Brett Lacy of the Center's Democracy Program provided essential logistics support from Atlanta during the election mission.

Dr. David Pottie drafted this report with contributions from Janet Tinsley and Shani Winterstein. John Chipeta and the other MTOs provided useful postelection reports. Sarah Fedota of the Center's public information office compiled the report into its final version.



OBSERVING THE 2002 KENYA ELECTIONS

BACKGROUND

Kenya's independence leader, Jomo Kenyatta, of the Kenya African National Union (KANU), held power from independence in June 1963 to the time of his death in August 1978. He was succeeded by then Vice President Daniel arap Moi. Moi was re-elected president in 1983, 1988, and under a system of multiparty elections, in 1992 and 1997. The 1997 elections sparked particular controversy owing to claims of widespread voting irregularities and fraud. The runner-up in the presidential election, Democratic Party (DP) candidate Mwai Kibaki, asked the High Court to recount and examine all the rejected, spoiled, and void ballot papers as well as to nullify Moi's victory. The High Court dismissed his suit in July 1999.

The constitution has been amended several times, including the 1991 abolition of the one-party state. Other important amendments include the December 1986 reform that increased the power of the president and the September 1997 amendment that ensured free and fair democratic elections, granted all political parties equal access to the media, and prohibited detention without trial. By September 2002, the Constitution of Kenya Review Commission (CKRC) had completed a national public consultation process and presented a revised draft constitution. However, the review process was halted when President Moi dissolved Parliament and announced elections for Dec. 27, 2002.

Executive power is vested in the president, the vice president, and the cabinet. The president appoints the cabinet and vice president. The president, who also serves as commander in chief of the armed forces, is elected by direct popular vote to a renewable five-year term. A presidential candidate must receive at least 25 percent of the votes in a minimum of five of Kenya's eight provinces to win an election.

The central legislative authority is the unicameral National Assembly. It consists of 210 directly elected representatives, 12 members appointed by the president, and the attorney general and the assembly speaker, who are ex officio members. Unless dissolved before the end of its term, the National Assembly's maximum term lasts five years. It can be dissolved at any time, either by the president or by the body itself on the passage of a no-confidence vote, following which assembly and presidential elections must be held within 90 days.

The judiciary is represented by the High Court of Kenya, which consists of a chief justice, at least 30 High Court judges, and Kenya's Court of Appeal judges, all appointed by the president. The High Court supervises a system of subordinate courts, including provincial and district magistrates' courts as well as Muslim district courts. The Kenya Court of Appeal issues the final verdict in contested civil and criminal cases. The president can dismiss both High Court of Kenya and Court of Appeal judges.

Human rights abuses have long cast a shadow over Kenya. Although the ban on opposition parties was lifted in 1991, government critics charged that KANU embarked on a campaign of electoral-minded ethnic cleansing, favoring loyal tribes over disloyal ones in an attempt to uproot communities perceived to support other parties. The creation of Kalenjin-dominated "KANU zones" and the suppression of opposition support through political intimidation and internal displacement reinforced Moi's control over the KANU patronage machinery.

Due to widespread reports of threats, false accusations, detentions without trial, torture, abductions, and murder, Kenya has received international criticism of its human rights records; Amnesty International listed Kenya as one of five countries where there are



OBSERVING THE 2002 KENYA ELECTIONS

“persistent, severe and systematic violations of human rights.”

The 1992 multiparty elections were held against the immediate backdrop of these widespread human rights abuses. Moreover, the opposition parties split along ethnic and regional lines, leaving KANU and President Moi to secure re-election with only 38 percent of the vote. The 1997 elections ran along similar lines, and once again, KANU and Moi were returned to power. Notably, KANU faced a real opposition for the first time, winning only 107 seats against a combined 103 for the opposition.

Both the 1992 and 1997 elections were marked by extreme violence and political intimidation. Vigilantism and other forms of violence were frequently expressed in terms of ethnic or regional clashes, but for many, these were the products of state-sponsored violence. Prior to the 1997 elections, there were an estimated 2,000 deaths, and thousands were left homeless and displaced from opposition strongholds. These divisive strategies served to undermine opposition support and kept KANU members in line.

Over the course of the 1990s, Kenya’s civil society, churches, and an increasingly bold independent media sought to cast light on these and other abuses. Their combined efforts to secure constitutional reform demonstrated that political change was possible. Following the establishment of the Inter-Parties Parliamentary Group (IPPG), opposition parties received representation on the Electoral Commission of Kenya (ECK), the basis for more equitable media access was introduced, and all parties agreed to abide by a code of conduct for the election campaigns.

However, the 1997 elections, while an improvement over the conduct of the 1992 elections, were undermined by many procedural and administrative

irregularities that necessitated a second day of voting in almost a third of the country. Moi was returned to office with 40 percent of the vote, against 31 percent for Mwai Kibaki and 11 percent for Raila Odinga.

While the KANU political machinery continued to function, even if imperfectly, international criticism of Kenya’s lack of reform increased. Rising concerns over corruption, criminality, and poor economic growth further tarnished Kenya’s international reputation. Nevertheless, Kenya retained admiration for its continued stability in a region where many of its neighbors were embroiled in civil war.

In an apparent effort to confront a united opposition at home, in March 2002, KANU absorbed one of

its major opposition parties, Raila Odinga’s National Development Party (NDP). Odinga became the new secretary general of KANU, with all four of the party vice chair positions occupied by members of KANU’s younger generation, while President Moi remained president of KANU.

Meanwhile, other opposition parties demonstrated that they could mount an effective challenge to Moi’s plans to manage his own succession. Notably, in July 2001 the Democratic Party (DP) gave KANU its first by-election defeat since 1992. Kibaki’s DP positioned itself to lead an opposition coalition against KANU. Other leading members of these discussions included Kijana Wamalwa of FORD-K and Charity Ngilu, formerly the Social Democratic Party (SDP) presidential candidate in 1997, who subsequently left to form the National Party of Kenya (NPK). These and other political actors would eventually join forces to form the National Rainbow Coalition (NARC) in their quest to unseat KANU. The 2002 elections therefore represented the first sustained challenge to KANU since independence.

Prior to the 1997 elections, there were an estimated 2,000 deaths, and thousands were left homeless and displaced from opposition strongholds.



JULY-AUGUST 2002: EXPLORATORY ASSESSMENT

The Carter Center has maintained an active interest and involvement in Kenya for several years. In light of this interest, and because of the challenges facing the democratic consolidation in Kenya, the Center viewed the 2002 general elections with anticipation.

In July 2002, The Carter Center sent a small staff mission to Kenya to assess the current context of Kenyan politics and the extent to which the Center could play a useful role in the elections that were expected in late 2002 or early 2003.¹ Some observers were concerned that President Moi and KANU might seek an extension in his term of office to even later in 2003. To explore this and other issues, the team met with representatives from the main political parties, government officials, electoral authorities, civil society groups, and key members of the international community.

The team reported that there was strong interest in Carter Center involvement in the elections, from the major parties (KANU and the official opposition Democratic Party), the Electoral Commission of Kenya (ECK), and civil society organizations. All sides welcomed the Center's interest in observing the elections but noted that international observers should be sure to arrive well in advance of the election and ensure proper distribution throughout the entire country. It was also made clear that Kenyan civil society organizations were planning on mounting a significant domestic observation effort through the deployment of 20,000 monitors. The international community, while receptive to Center involvement in the election process, indicated that they were concentrating their support on this domestic observation effort.

The political climate in Kenya remained uncertain at the time of the pre-election assessment. Whereas Kenya's previous elections had been marked by widespread political intimidation and violence, the first six months of 2002 were relatively calm. At the time, the opposition political parties were engaged in talks about forming an election coalition behind a single presidential candidate, but it was not clear whether this coalition would succeed. KANU appeared to be on their way to confirming President Moi's designated successor, Uhuru Kenyatta, son of Kenya's founding president, Jomo Kenyatta, and a representative of the new generation of KANU leaders. However, other signs indicated that all was not well within KANU as several other senior party members, including several cabinet ministers and Vice President Saitoti, were interested in challenging for the party's nomination.

The following major themes defined the political landscape as Kenyans prepared for elections:

Constitutional Reform: Constitutional reform and elections remained linked and contributed to the uncertainty of the election date. In late July 2002, a bill was introduced in Parliament seeking an extension of the work of the Constitution of Kenya Review Commission (CKRC). Facing a deadline of Oct. 4, 2002, for submission of a draft constitution, the 27-member CKRC frequently lacked funds and was unable to complete its public hearings until the middle of 2002. Moreover, the CKRC chair, Professor Yash Pal Ghai, clashed with senior KANU party members as well as members of his own commission.

Nevertheless, the public submissions to the CKRC served as an important sounding board for many national concerns, including public sector corruption,

¹ The team included Carter Center staff Dr. David Pottie and Jeffrey Mapendere.



OBSERVING THE 2002 KENYA ELECTIONS

police brutality, and the need for judicial and electoral system reform. (For example, some wanted to see the introduction of an additional 90 seats elected on the basis of proportional representation.)

While the majority of Kenyans were eager to hold general elections, opinion in Kenya remained divided over how best to proceed. One camp, including some senior members of KANU, argued that the constitutional reform process should be unlinked from the elections and completed after the elections. The other camp argued that the constitution must be reformed first, with elections held afterwards.

According to Ghai's interpretation of the constitution, Parliament could sit until Feb. 2, 2003, but a new Parliament must meet within three months or by May 2, 2003. Therefore elections could be held as late as mid-April, allowing civic education and political parties to campaign under the new constitution. While the presidential term would end on Jan. 4, 2003, technically the term continues until a successor is chosen, and the election for the successor must run concurrently with that for Parliament. Despite these arguments, members of opposition parties and civil society organizations were concerned that any delay of the elections beyond the end of December 2002 would be manipulated to KANU's advantage.

Candidate Nominations: By July 2002 President Moi had confirmed that Uhuru Kenyatta was his choice as KANU's presidential candidate. As noted above, Kenyatta, an appointed member of Moi's cabinet, faced several other challengers, including other senior cabinet members, and it was expected that Vice President George Saitoti would also announce his candidacy.

DP leader Mwai Kibaki was also the leading member of the opposition party coalition, National Alliance for Change (NAC). NAC was confident that

a strong united opposition campaign could be launched against KANU. Although NAC still had to decide on the mechanisms to nominate a joint presidential candidate, it had agreed that the constituency-level candidate nominations were to be conducted through secret ballot.

Electoral Preparations: The Electoral Commission of Kenya (ECK) was preparing for the event that elections would be held before the end of 2002. The voters list was closed in March 2002 with 10,576,616 registered voters of an estimated population of

15,354,000 Kenyans over the age of 18. According to the ECK, 78 percent of Kenyans had national identification, one of the requirements to register as a voter. Kenya has moved to a system of continuous voter registration, but this

system was not introduced prior to the 2002 elections.

According to the constitution, the ECK is comprised of between four and 22 members. The 2002 ECK consisted of a chair, vice chair, 10 members appointed by the president, and an additional 10 representing opposition parties and civil society. (Their terms of appointment are not clearly defined in law.) The chair of the ECK, Mr. Samuel Kivuitu, acknowledged that while preparations were underway, the absence of a clearly defined election date made it difficult for the commission to plan adequately. The result was that it was difficult for the ECK to be proactive in such areas as enforcement of a code of conduct for the elections. The ECK acknowledged that the reliance on the police and court system, rather than alternative dispute resolution mechanisms, was a slow, expensive, and cumbersome process. Other proposed reforms to the electoral process, such as the counting of ballots inside the polling stations, had not yet received final parliamentary approval (though this amendment was subsequently approved). The ECK did not undertake a demarcation exercise prior to the 2002

*A new opposition coalition
promised to challenge ruling party
KANU for popular support in
the 2002 elections.*



OBSERVING THE 2002 KENYA ELECTIONS

elections, even though many of Kenya's constituencies are dramatically skewed in terms of population size. The least populous constituency has 8,977 registered voters, and the most populous has 152,906 voters. Fourteen constituencies have fewer than 20,000 registered voters whereas nine have more than 100,000.

Violence and Intimidation: In the context of the violence and intimidation in Kenya's previous elections, public confidence in Kenya's police force remained low. The operation of informal militias and vigilante groups such as the Mungiki sect in Kenya's informal settlements added to this sense of insecurity. Although the police did not appear to have engaged in any special training for election security, they did maintain an ad hoc liaison with the ECK and political parties. On election day, the police were to operate

under the supervision of the presiding officer and provide security for the polling stations and transport of ballot boxes.

Transfer of Power: Opposition parties and civil society expressed concern over the likely behavior of the police and senior government officials in the event of an opposition victory, since Kenya lacked clearly defined rules to govern the transfer of power. Although the election outcome could not be predicted at the time, there was already widespread confidence on the part of the opposition that they would defeat the ruling KANU. Thus, as the majority of Kenyans prepared for the elections with eagerness, the relative calm of 2002 continued to operate under the shadow of past troubles.



DECEMBER 2002: PRE-ELECTION OBSERVATION

Carter Center staff and an advance team of seven medium-term observers (MTOs) arrived in Kenya on Dec. 17, 10 days before the elections. While the Atlanta staff began to prepare for the arrival of the main delegation, the MTOs were deployed throughout Kenya.

BRIEFING AND OBSERVATION METHODOLOGY

Prior to deployment, the MTOs received a briefing on the current state of campaigns and election preparations from Dr. Karuti Kanyinga of the Donor Information Center for Elections in Kenya (DICE-K). They also received instructions on logistics and reporting procedures during their pre-election deployment.

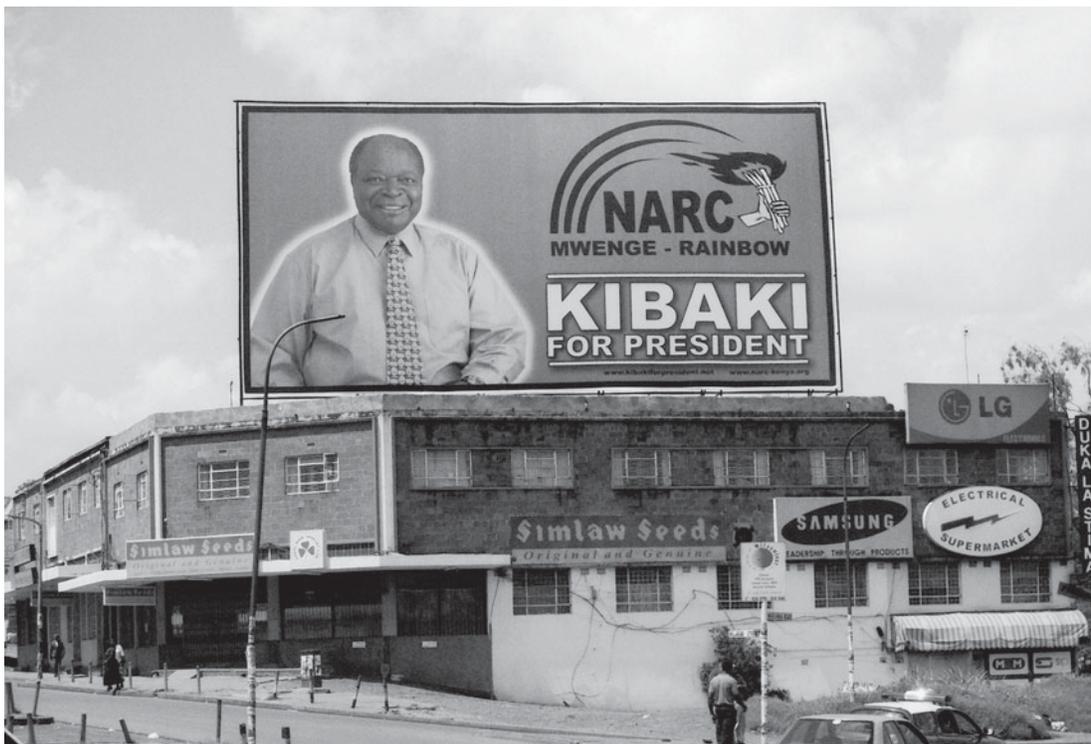
The MTOs were deployed in two-person teams to

the following areas: Mombassa, Eldoret, Kakamega, Kisumu, Meru, and Embu. The purpose of the MTO deployment was twofold. Firstly, the MTOs observed the final days of the election campaigns, met with local election officials, representatives from political parties and civil society, and other domestic and international election observers. Secondly, the MTOs provided advance reconnaissance on deployment logistics for the main delegation. Liaison with domestic observers from the Kenya Domestic Observation Programme (K-DOP) was particularly important in this regard.

Daily reports from the MTOs, as well as their debriefing upon their return to Nairobi on Dec. 23, assisted with the final preparations for observation of the elections themselves. The MTOs conducted more than 50 interviews with election officials, candidates

and representatives from political parties, civil society groups, and others. Their observations covered electoral preparations, campaign funding issues, campaign activities and violence, and media coverage.

The report's conclusion was that the campaign and electoral process were progressing



DAVID PORTER

A campaign billboard for opposition presidential candidate Mwai Kibaki was posted on a street in Nairobi.



OBSERVING THE 2002 KENYA ELECTIONS

satisfactorily, given the context of Kenya’s previous elections. Although several problems were identified as detailed below, the Center’s general assessment was that the electoral process was on track.

ELECTORAL PREPARATIONS

A total of 10.4 million Kenyans were registered to vote in the 2002 elections. (See Appendix 2 for the voter roll.)¹ The 2002 voter registration process was initially slated to end March 5, but ECK extended the voter registration period by two weeks to March 19. A total of 77,862 people were struck from the voters roll for registering more than once. A civil society organization audit of the voter registration process concluded that the voters roll had a “satisfactory degree of accuracy.”

The voters roll became an issue in the week before Dec. 27 when ECK announced that presiding officers would have the discretionary power to allow voters not appearing on the 2002 roll to vote. However, two days before the election ECK reversed this decision and stated that only voters on the 2002 roll would be permitted to cast their ballots, even if their name appeared on an earlier voters roll.

Eligible voters without ID cards complained of difficulties in collecting their cards from district offices. In the week prior to the elections, the ECK appeared to be largely prepared for the conduct of the polls. Following media reports of the possible late delivery of the printed ballot papers from the printing company in the UK, these fears were unrealized even though uncertainty over the final ECK distribution of ballot papers remained until the last days before the elections.

Kenya is divided into eight provinces, 70 districts, 210 constituencies, and 2,112 wards. The ECK established

18, 366 polling streams at more than 14,000 polling stations nationwide. By Dec. 23, ECK had dispatched election materials, including ballot papers, to the district centers for collection by the presiding officers of each polling location. In total, the ECK recruited approximately 145,000 polling staff for the conduct of the elections.

An important change in the electoral law was the decision to move the counting process from constituency counting stations to the polling stations. In the final days before the elections, ECK engaged in a last

Presidential candidate	Political party
Uhuru Kenyatta	Kenya African National Union (KANU)
Mwai Kibaki	National Rainbow Coalition (NARC)
Simeon Nyachae	FORD-People
James A. Orenge	Social Democratic Party (SDP)
David Ng’ethe Waweru	Chama cha Uma Party (CCU)

round of training for polling officials. Carter Center observers reported, however, that officials appeared to be unclear about the exact provisions for counting at the polling stations as well as the procedures for assisted voters. This lack of information was matched by, or helped to fuel, suspicions on the part of opposition supporters that KANU election rigging was likely.

Candidate nominations: The presidential candidate nomination marked the final splintering of KANU prior to the elections. Following Uhuru Kenyatta’s nomination as KANU presidential candidate, leading members of KANU, including former Vice President George Saitoti, Raila Odinga, and Kalonzo Musyoka, left the ruling party to join the opposition National Alliance for Change (NAC). These and other members had formed the Rainbow Alliance, a group within KANU opposed to President Moi’s decision to support Kenyatta as his successor. In order to compete for the

¹ There are an estimated 14.8 million eligible voters but an estimated 2.2 million lack national identity cards and are therefore unable to register as voters.



OBSERVING THE 2002 KENYA ELECTIONS

elections, the NAC members established a new political party known as the National Alliance (Party) of Kenya (NAK). Following a very intense period of intraparty competition and public name-calling throughout the party, during which Moi fired Vice President Saitoti and several other cabinet members, Kenyatta secured the KANU presidential nomination. The Rainbow Alliance members joined NAK on a party-to-party basis by taking over a smaller party, the Liberal Democratic Party. The new alliance was finalized in late October and was subsequently known as the National Rainbow Coalition (NARC).

DP leader Mwai Kibaki emerged as the NARC presidential candidate. Both Kenyatta and Kibaki presented their credentials to ECK on Nov. 18. In total, five presidential candidates qualified to stand for election.

In order to manage its alliance of 14 political parties and two pressure groups, NARC established an 18-member interparty board to guide the conduct of its party primaries for parliamentary candidate nominations. However, NARC and the other parties, including KANU, did not appear to have sufficient resources or a well-planned approach to the party primaries.

The ECK received party nominations for parliamentary and civic candidates on Nov. 24, with formal nominations of candidates presented to returning officers on Nov. 25 and 26. Parliamentary candidates paid a fee of Ksh 30,000, while civic candidates paid Ksh 5,000. Overall, the parliamentary candidate nomination process was marred by intense intraparty competition, defections, complaints, protests, and in some places, violence. The process sometimes resulted in double allocation of nomination certificates. For example, in Meru North, NARC supporters fought

with riot police after the ECK cleared a rival NARC candidate who had failed to be nominated by the party. Elsewhere, a rival group stabbed one aspirant during the nomination process. In other places several rivals for nomination from the same parties raced to hand in their nomination papers, and in one notable incident, attacked the returning officer and destroyed election documents. ECK responded by ruling on a first-come-first-served basis, though this rule does not appear to have been applied uniformly. Missing paperwork and contradictory claims held up many other submissions. In total, 34 political parties nominated candidates for Parliament, ranging from as few as a single candidate each from two parties to 209 for KANU.

In Carter Center pre-election meetings, several respondents complained about the relative exclusion of women aspirants from the candidate nomination

process. Of a total of 1,035 candidates from 34 parties for the 210 seats in Parliament, only 44 were women. A total of 7,009 candidates (but only 381 women) were nominated for election in Kenya's 2,128 elective civic seats.

Election campaigns:

President Moi dissolved

Parliament on Oct. 25, and several days later, the ECK announced that the elections would be held on Dec. 27. While KANU candidate Uhuru Kenyatta said he was happy with the date, NARC candidate Mwai Kibaki described the election date as "most inconvenient" since a majority of Kenyan voters who live in towns would have gone to their rural homes for Christmas holidays. He preferred the date of Dec. 30 as more appropriate. However, ECK chair Samuel Kivuitu stated that the date had been chosen following consultations with religious leaders who accepted the date as convenient.

*Transparency was enhanced
by the decision to conduct
the counting process at
polling stations following
the close of polls.*



OBSERVING THE 2002 KENYA ELECTIONS

Uhuru Kenyatta supporters canvas votes for the ruling KANU presidential candidate.



THE CARTER CENTER

At the national level, the election campaigns focused on the presidential race between Kenyatta and Kibaki. During the KANU campaign, Kenyatta emphasized the party's experience in government and the party's ability to hold the country together. The Kibaki campaign countered with the need for change in Kenya, criticizing KANU's record on fighting corruption, addressing poverty, and efficient management of government. NARC promised reform of government programs, including free primary education.

Perhaps the most notable aspect of the NARC campaign was a Dec. 3 car crash in which two people died and Mwai Kibaki sustained multiple injuries. Kibaki's health during his subsequent recovery remained a topic of widespread speculation throughout the last three weeks of the campaign. At the same time, NARC's spirits were lifted when an opinion poll conducted in early December placed Kibaki in the lead with nearly 70 percent support and the party with 65 percent support in the parliamentary elections.

Partisan and incomplete reporting marked much of the media coverage of the campaign. The high degree of state-owned or -controlled media meant that much

of the Kenya Broadcast Corporation (KBC) coverage favored KANU and Kenyatta. Consequently, the media failed to respect the spirit of the electoral law and/or the norms of rigor and impartiality in their coverage. In early September, the ECK accused KBC of biased political reporting in favor of Kenyatta. Meanwhile the independent Nation Media Group was typically more sympathetic towards the opposition and Mwai Kibaki.

Conflict and political intimidation: Whereas previous elections in Kenya were marked by widespread violence and intimidation, the 2002 elections were relatively calm. A series of small, but related, efforts appeared to have played some role in stemming the violence. For example, the ECK enforced a code of conduct, issuing fines and reprimands to both KANU and NARC candidates for campaign violence. A total of 16 candidates were found guilty of various election offences. The Kenya police, while not engaged in formal conflict management, trained a special election violence unit, and the commissioner of police issued a public appeal to all officers to conduct themselves impartially. Also, civil society engaged in conflict



OBSERVING THE 2002 KENYA ELECTIONS

monitoring and long-term pre-election observation, improving the flow of information on election offenses.

Despite this good news, there were widespread reports of the general use of money in the campaigns, various forms of petty bribery, and most worrying, the purchase of voter cards to disenfranchise voters. However, although domestic observers frequently reported the purchase of voter cards and other forms of petty bribery, these allegations were loosely supported by evidence, and it was not possible to confirm if one party or another was more responsible for these practices. Moreover, neither the police nor the ECK could confirm the extent of this problem.

There were also incidents of political intolerance and violence, such as a group of KANU youth who threw stones at those gathered for a NARC rally, injuring six supporters. This action was apparently in response to NARC disruption of a KANU rally attended by President Moi the previous day.

K-DOP complained to the ECK that it should respond to the ongoing activities of vigilante groups such as the Mungiki sect. K-DOP claimed they were being used by political parties to engage in violence.



DECEMBER 2002: CARTER CENTER OBSERVATION MISSION

DELEGATE BRIEFINGS, OBSERVATION METHODOLOGY, AND DEPLOYMENT

For the December elections, the Center organized a 27-person delegation of international observers from 13 countries. The delegation was co-led by former Zambia President Kenneth Kaunda and former U.S. ambassador and associate executive director of the Center's peace programs, Gordon Streeb.

The main delegation arrived in Nairobi four days before the elections. On Dec. 24, the delegation received a series of briefings on the elections as well as political developments and was trained on the Center's election observation methodology, including the roles and responsibilities of international observers.

The delegation received briefings on electoral preparation from the ECK, on the political campaigns, on the activities of other international observers, and

on the general security situation in Kenya. The delegation also heard presentations by the Kenya Domestic Observation Programme (K-DOP) on their observation efforts and plans.

In addition, the Carter Center's medium-term observers provided regional briefings, summarizing their assessment of the campaign period and their observation experiences in the field.

A final briefing session covered the Center's observation methodology, logistics, and security issues. Observers were also provided with observation forms, or "checklists," which detailed the procedures and/or irregularities that delegates should observe and record. In collaboration with the European Union (EU) and several other delegations, the Center agreed to use common observation forms in order to enhance the combined observation capacity of international observers. (See Appendices 4-8 for sample forms.)



Carter Center delegation co-leader, former Zambia President Kenneth Kaunda, and delegation mission director Dr. David Pottie meet the day before the election.

OKON AKIBA



OBSERVING THE 2002 KENYA ELECTIONS

Delegates were instructed to arrive at their polling station on Dec. 27 to watch the opening procedures at 6 a.m. and ensure that ballot boxes were empty and properly sealed. Throughout the day, observers were asked to visit various polling stations to observe the voting process and complete a checklist at each station visited.

Observers were to record information about the operation of the polling station, including the presence of polling officials, party agents, and observers, and to note whether there were any problems or irregularities.

At the end of the day, observers were to watch a poll closing, noting how ballot boxes were sealed. After observing the vote counting process at one or more polling stations, observers were to record information about the results of those stations.

Following the briefings in Nairobi, Carter Center observers were deployed on Dec. 25 in teams of two to various sites. In total, 12 teams were deployed throughout Kenya. (See Appendix 3.)

The Carter Center consulted with other international observer groups, including the EU and the Commonwealth, to coordinate deployment within and across provinces. This allowed the various missions to maximize their collective coverage of polling stations and ensure that relevant information was shared



A presiding officer collects his polling station materials in the early morning before the opening of polls on Dec. 27.

HENRY KIRIAVAI

among groups. The Donor Information Center for Elections in Kenya (DICE-K) and the EU both played a positive role in serving as effective clearinghouses of information for the various international observer missions.

The day before the election, Carter Center observers met with provincial-level candidates, local party officials, election officials, Kenyan observers groups, and other civil society representatives. These meetings provided information about the political context, the campaign period, the preparedness of parties and party agents, road conditions, and communications in the deployment areas. In addition, the meetings alerted parties and officials and civil society to the presence of international observers, which facilitated observers' work and helped deter any possible wrongdoing.



OBSERVING THE 2002 KENYA ELECTIONS

LEADERSHIP MEETINGS

On Dec. 23, President Kaunda and Ambassador Streeb met with the chairman of the ECK and a representative of DICE-K.

In their meeting with the ECK, Samuel Kivuitu welcomed the Center delegation co-leaders and reported that all training of election officials had been completed and election materials were in the final stages of delivery.

On Dec. 24, leadership met with Lucas Makhubela, South African high commissioner to Kenya; Bethuel Kiplagat, former permanent secretary of the Ministry of Foreign Affairs; Amos Wako, attorney general of Kenya; Commissioner of Police Abongo; Chief Justice Bernard Chunga; and the main opposition presidential candidate, Mwai Kibaki, of the National Rainbow Coalition (NARC).

The attorney general reported that he was pleased with the work of the ECK and that there was no interference in its work either by his office or the police. President Kaunda indicated that The Carter Center had heard concerns about the uncertain arrangements for a transfer of power in the event of an opposition victory. The attorney general responded that the media had incorrectly reported the existence of a transitional committee and that the ECK remained in charge of declaring the winner, who could then be inaugurated as soon as the results were gazetted. The attorney general encouraged President Kaunda to contact President Moi to share his thoughts on the acceptance of results.

The commissioner of police noted that the police were committed to peaceful elections and was upset by a widely reported statement by a leading opposition candidate that his supporters would storm State House if they felt the elections were rigged. He felt that the

presence of The Carter Center and President Kaunda sent a strong signal to Kenyans that the elections would be transparent. The chief justice stated that the court played no direct role in the conduct of the elections and that the ECK was responsible for enforcing the code of conduct. The court stood ready to rule in the event of complaints but had thus far not received any. The chief justice stated that he would swear in the newly elected president but otherwise played no role in the transfer of power.

On Dec. 25, meetings were conducted with Johnnie Carson, U.S. ambassador to Kenya; Yash Pal Ghai, chairman of the Constitution of Kenya Review Commission (CKRC); and Enock Chikamba, Zambian ambassador to Kenya.

The U.S. ambassador, Johnnie Carson, expressed his confidence in the people of Kenya to conduct a good election but noted that there were many challenges facing whoever assumed office. Foremost among his concerns was the role of corruption in undermining public confidence in the state and investor confidence

in the economy. Yash Pal Ghai, chairman of the CKRC, raised similar themes. Ghai maintained that the constitutional review process had revealed a public that was widely disenchanted with President Moi and his government and that

corruption was viewed as a major concern. Ghai said that the review process was not supported by KANU and that only a NARC victory would secure the needed constitutional reform.

On Dec. 26, private meetings were held with Uhuru Kenyatta, the KANU presidential candidate, and the British high commissioner, and the Center hosted a dinner meeting with the heads of other international election observation delegations.

Carter Center delegation co-leaders sought assurances that both KANU and NARC supporters would accept the election results.



OBSERVING THE 2002 KENYA ELECTIONS

THE DEC. 27 ELECTORAL PROCESS

On Dec. 27, Kenyans went to the polls to select leaders and representatives at three levels of government: national president, national assembly, and local government councils. The complexities involved in conducting three elections simultaneously posed considerable technical, administrative, and political challenges for the ECK.

Voting was scheduled to take place from 6:00 a.m. to 6:00 p.m. Each polling stream in a polling station provided for a maximum of 1,000 voters. Upon entering the polling stream, voters presented their voter cards and another form of acceptable identification (passport, driver's licence, etc.). Their names were then checked against the voters roll, and their hands

The polling stations were generally well-managed and the election day was peaceful.

were checked for indelible ink. Voters then faced a cumbersome process that required them to complete a separate circuit for each of the three elections unless they requested to receive all three ballot papers at once. This complicated process extended the time it took to complete the voting process.

At the close of balloting, votes were counted at each polling station. Upon completion of the count, poll results were transported to returning officers at each of the 210 constituency centers for tabulation to produce a constituency result. As part of this process, returning officers would review any rejected or disputed ballots from polling streams to confirm or reject the decision of the deputy presiding officers. Upon completion of the tabulation process, the returning officer would declare the winning candidate for the National Assembly and local council elections. The

constituency results for the presidential race were provisional, and though announced, they were subject to confirmation by the ECK. The constituency results were then communicated to electoral commission headquarters in Nairobi where national results would be released.

Party agents from the major political parties were deployed to the polling stations. In addition, K-DOP played a critical monitoring role and ensured that every polling station had civil society monitors present.

The main international observer groups, including diplomatic missions, the EU, the Commonwealth, the African Union (AU), and The Carter Center planned coordinated but independent assessments of the electoral process. Although much smaller in size and scope than the domestic civil society observers, the presence of international observer groups was important because of their international profile and reputation. To the extent that their assessment was consistent with the Kenyan observers, international observers supported the work of Kenyan actors by amplifying and reinforcing their reports. To this end, most of the heads of international delegations met with K-DOP the evening of Dec. 28 to discuss findings and to coordinate press conference times for the following day's release of preliminary statements.

CARTER CENTER OBSERVER REPORTS AND THE DEC. 29 PRELIMINARY STATEMENT

On election day, Carter Center observers moved from poll to poll to monitor the voting process in their deployment area. At every polling station visited, Center observers recorded information on their checklists.

Two initial points emerged from observers' early reporting from the field on election day. The first was that many polling stations opened late although there was no general pattern of reasons. In some cases party



OBSERVING THE 2002 KENYA ELECTIONS

agents showed up late, and in others, deputy presiding officers simply took a long time to organize their polling station layout and materials. The second was that once voting commenced, a significant number of voters found that their names were not on the voters roll. In some cases, presiding officers could not say with certainty how to

deal with those voters whose names did not appear on the voters roll. This led to different responses by presiding officers and unequal treatment across different polling stations. Although it is difficult to quantify how many voters were affected by this decision, it appears that a considerable number of Kenyans were unable to cast their ballots. The last-minute policy changes with regards to the voters roll threatened to undermine the confidence of the electorate in the ECK. However, Carter Center observers reported that most of these cases appeared to be resolved peacefully at the polling stations.

On the evening of Dec. 27, observer teams called into the Carter Center office in Nairobi and reported that most of the day's voting had been orderly, efficient, and peaceful. Carter Center observers noted that each polling stream had to process up to 1,000 voters, and officials had to page through the voters register



HENRY KIMWAI

The Carter Center delegation leaders, Ambassador Gordon Streeb of the Center's peace programs and President Kenneth Kaunda, arrive to observe the opening of the polls.

for the entire center. In places where there were up to 21 polling streams, the result was a very slow process of checking for voters' names.

The delegation widely observed inconsistent application of the rules regarding assisted voters. These violations threatened the secrecy of the vote. According to legislative amendments to the electoral law, the presiding officer may allow only one person of the voter's choice to assist in the ballot booth, and this person must take an oath of secrecy. The escort must be of the age of majority but need not be a registered voter. Unfortunately, a newspaper insert on the voting process quoted an earlier version of an ECK manual in which party agents were permitted to observe the voting process. In practice it was not uncommon to see several party agents as well as the presiding officer crowding around the voting booth to observe the voting process. In one polling station observed by



OBSERVING THE 2002 KENYA ELECTIONS

Carter Center delegates, nearly all women voters claimed illiteracy, requested assistance, and received assistance from the presiding officer.

In the Dec. 28 delegation debriefings, observers reported overwhelmingly that the voting process at the polls visited was orderly, tranquil, and efficient, with few problems. The initial assessment of the other observer missions was similarly positive. For example, K-DOP concluded that “the election process, while fraught with a range of logistical and other hitches, was a process of which the Kenyan people can be proud and which is broadly reflective of their democratic will.” The EU largely concurred and found that the elections marked an important step forward for democracy in Kenya and that problems with the voters roll on election day did not adversely affect the overall election results.

Some of the problems observed by the Center involved the actual voting process. For example, there

was considerable crossing of lines by voters inside the polling stations as they cast their ballots for the various elections. There was also apparent confusion on the part of voters over which ballot paper went to which box. Although each ballot box was marked with a color corresponding to each ballot paper, the potential remained for mistakes and, therefore, a high number of rejected ballots during the counting process.

Moreover, the deputy presiding officers were often distracted by problems with voters whose names did not appear on the voters roll and were, therefore, unable to adequately supervise this aspect of the voting.

Outside the polling stations the peaceful atmosphere was conducive to the free flow of people in the polling streams, and there were only minor instances of intimidation or excessive crowding observed. Carter Center observers were generally positive about the presence and behavior of police at polling stations.

Overall, election day problems did not appear to affect the results adversely.



DAVID POTTIE

Kenyans lined up outside multiple voting stations at many locations such as this Nairobi school.



OBSERVING THE 2002 KENYA ELECTIONS



President Kaunda speaks with voters outside a polling station.

In a limited number of instances, observers felt that the police appeared to do little to control people at crowded polling stations. Of a more serious nature were reports of vote buying at several polling stations, but these incidents could not be adequately investigated.

In accordance with ECK regulations, those stations that opened late remained open to make up the lost time from the morning. The counting process was generally well-conducted and proceeded relatively smoothly, quickly, and transparently, especially considering that this was the first time that the process was conducted at polling stations. In several counting stations it was noted that counting officials had to make many references to their training manuals on the counting procedures. Another notable observation was the absence of calculators from the materials supplied to each polling station; their provision would have expedited the process.

Overall, the Center's observers visited 212 polling stations across seven of Kenya's eight provinces, representing about 200,000 voters. The delegation's

consensus was that the voting process functioned normally or with only minor problems in the stations visited, with only a few problems of a more serious nature. (See Appendix 9 for a summary report of the observer checklists.)

On the basis of the debriefings and a meeting of the leaders of the main observer groups, a Carter Center staff team started drafting the preliminary assessment. On

Dec. 29, President Kaunda and Ambassador Streeb delivered the preliminary statement on behalf of the full delegation, noting that while voting had ended, the Center would continue to observe the ongoing electoral processes before making a final assessment. (See Appendix 10.)

The statement noted the historic importance of the elections, marking the succession to President Moi. The statement noted several positive aspects about the process, including the peaceful atmosphere and the generally well-conducted polls. Several concerns about the voting process were also reported, including the late opening of polls, the high number of voters per polling station, and the inconsistent handling of assisted voters. The statement also noted that the counting and tabulation processes were generally well-administered. The main points in the statement are discussed in more detail below.

Turnout and conduct. The statement commended the people of Kenya for their conduct on election day and the generally calm atmosphere in which polling



OBSERVING THE 2002 KENYA ELECTIONS

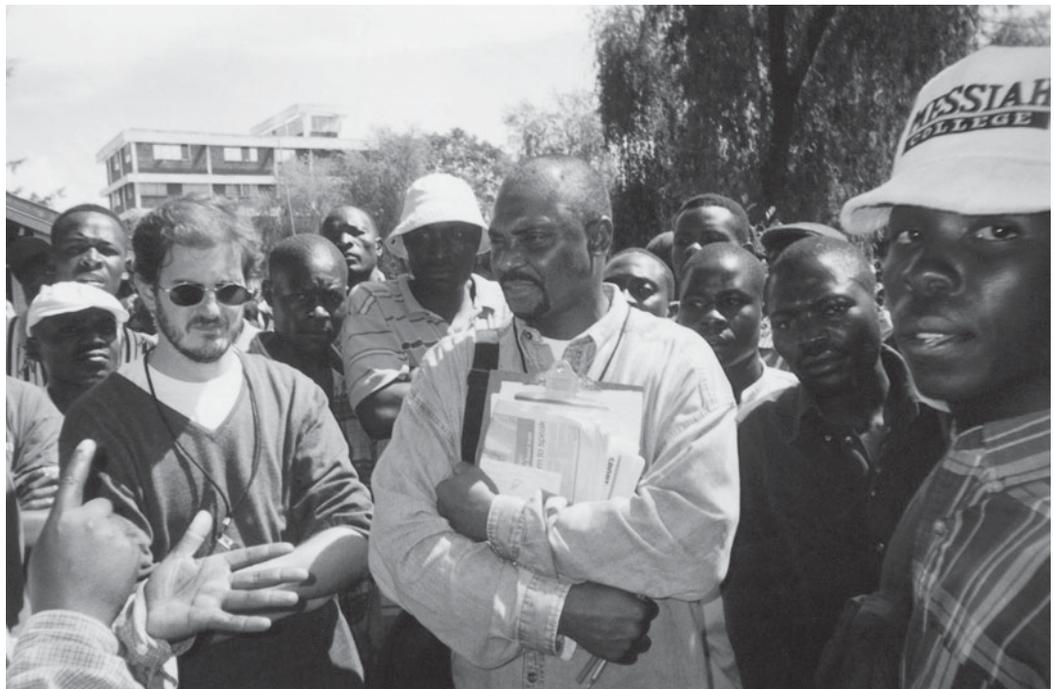
took place. The Center also noted the enthusiastic response of Kenyans and the positive voter turnout (subsequently numbered at 57 percent). The Center praised the professionalism and impartiality displayed by the commission and its staff. Likewise, the Center noted the strong presence of party agents and non-partisan observers at nearly all polling stations, most of whom performed their tasks with careful attention to the voting procedures. The statement also remarked how pleased the Center was with the positive rapport that existed among party agents, observers, election officials, and voters.

The statement also recorded several positive aspects that contributed to peaceful elections, such as the electoral commission's commitment to enforcement of the electoral code of conduct and handing down judgments in several cases involving bribery, attempted rigging, and political intimidation. The Center also recognized that despite the fears of election day violence, security officials maintained a low profile yet helped to facilitate the right to vote without fear of intimidation or harassment. In the end there

were few reported security problems on election day.

Voting process. The statement noted logistical and administrative problems. While many polling stations opened on time, about one-third of the stations visited opened late, even though most of them had their full staff complement and necessary election materials. In addition, although polling officials were generally competent, they had difficulty processing voters quickly. Consequently, many voters were forced to endure long lines and extremely long waits in order to cast their ballots. Once inside the polling station, voters faced a cumbersome voting process, further slowed by the tripartite elections.

The statement suggested that better planning might have helped to avoid some election day problems. For example, it was noted that polling streams at each polling station had to process up to 1,000 voters, and officials had to page through the voters register for the entire center. In places where there were up to 21 polling streams, the result was a very slow process of checking for voters' names. The statement advised the ECK to consider reducing the number of voters per



Carter center observers Jose Maria Aranaz (left) and Okon Akiba (right) listen to voters whose names did not appear on the voters roll.



OBSERVING THE 2002 KENYA ELECTIONS



DAVID POTTIE

Party agents and domestic observers kept watch on the voting process.

polling stream and dividing the voters register into appropriate and manageable segments to enhance the efficiency of the polling process.

An additional example of a failure to plan properly was the ECK's last-minute changes concerning the voters register. While the overall number of affected voters appears to have been minimal and of no consequence to the overall result, more attention to the voter registration process before the elections would have ensured that as few Kenyans as possible were disenfranchised on election day. In a more positive vein, Carter Center observers reported that many presiding officers sought to resolve problems as impartially and efficiently as possible.

Carter Center observers were particularly concerned about the lack of voter secrecy for assisted voters and the inconsistent application of election procedures in this regard. The statement noted that in several cases assisted voting was conducted in full view of party agents, observers, and other voters in the polling station. In other cases, it appears that the provision of assisted voting for illiterate voters may have been abused, with an unusually high number

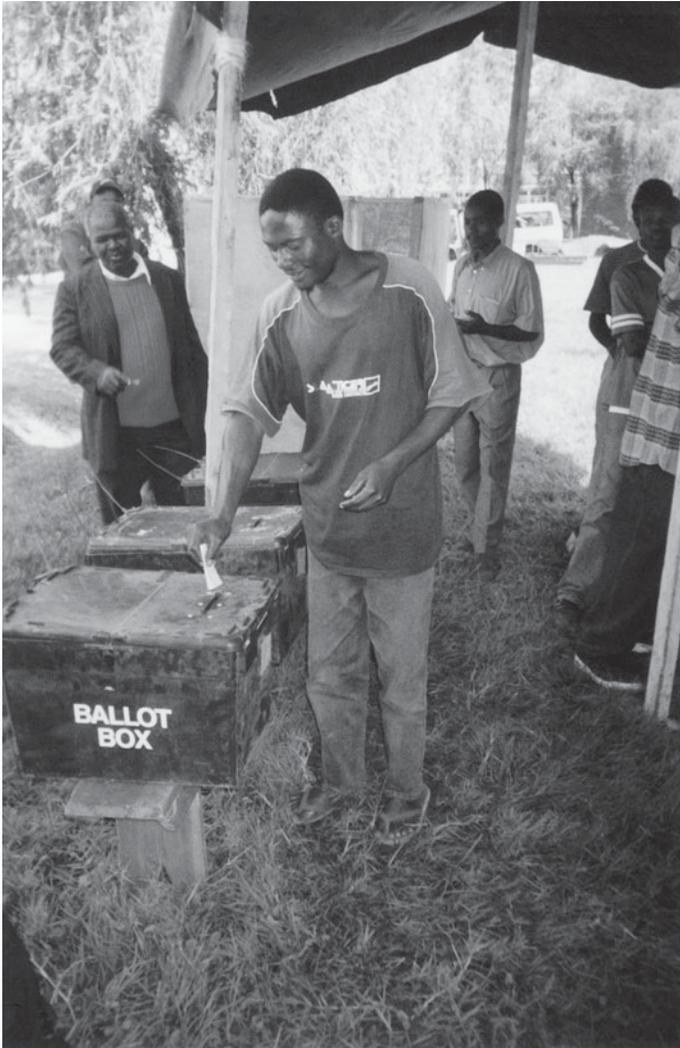
of voters demanding such assistance in some stations and few or none in others. It is not immediately clear if these instances of high numbers of assisted voters reflected an attempt to commit voter fraud. However, the Center advised the electoral commission to review this aspect of the electoral law.

Finally, the statement concluded that more civic education on all aspects of the voting process, as well as more intensive training for polling officials, could improve the overall quality of elections in Kenya.

Counting and tabulation. The statement recorded the Center's approval of the decision to amend the electoral law to enable counting at polling stations and thereby to enhance the transparency of the electoral process. Owing to the late opening of many polling stations, the Center observers indicated that many stations closed later than 6:00 p.m., and counting, therefore, got underway late in the evening. Despite the challenges of fatigue on the part of election officials, party agents, and observers, Carter Center delegates observed only minor irregularities during the counting process. For example, in some places the process did not allow party agents and nonpartisan



OBSERVING THE 2002 KENYA ELECTIONS



THE CARTER CENTER

A Kenyan voter casts his ballot at an outdoor polling station.

observers to inspect the ballot papers adequately. However, these problems did not raise any concerns about the fairness and accuracy of the results, and the statement reported that the counting was conducted in a sufficiently transparent manner. The statement concluded that these difficulties could be avoided with more hands-on training for polling officials and party agents.

The Center's observers reported that the tabulation process was well-managed and conducted in the presence of enthusiastic but disciplined candidates,

party agents, and observers. The statement also noted that the results announced at the constituency tally centers were received without acrimony or violence. However, the transparency of the process could be improved with more visible posting of results in the tally centers and the use of public address systems to ensure that all participants may follow the process accordingly.

Other observer statements from the EU, the Commonwealth, and K-DOP generally concurred with the Carter Center's preliminary statement. K-DOP deplored the role of violence during the party primaries and the use of state resources, such as KBC, to the advantage of KANU. However, the domestic monitors praised the generally peaceful and well-organized conduct of the elections.

ANNOUNCEMENT OF OFFICIAL RESULTS

Subsequent to the release of the Center's preliminary statement, events surrounding the final results moved very rapidly. Charter Hall in downtown Nairobi was to serve as a centralized ECK results center, but in practice this did not happen, as events overtook the results process. The Kenyan media tracked results as they were tabulated at the constituency tally centers and reported these to the public. By the afternoon of Dec. 28, it was already clear that Mwai Kibaki was headed to victory. As a result, KANU presidential candidate Uhuru Kenyatta conceded defeat early in the afternoon of Dec. 29 and publicly accepted the role as leader of the official opposition.

However, when ECK called a press conference on the afternoon of Dec. 29 to announce that it did not yet have sufficient official results, the commission was pressured by the large crowd of NARC supporters to declare Mwai Kibaki as president. Bowing to this public pressure, several hours later ECK announced that based on unofficial results, Kibaki was indeed the winner and president-elect of Kenya. NARC leaders



OBSERVING THE 2002 KENYA ELECTIONS

Political party	No. of seats	No. of women elected MPs
National Rainbow Coalition (NARC)	125	8
Kenya African National Union (KANU)	64	1
FORD-People	14	0
Safina	2	0
FORD-Asili	2	0
Sisi Kwa Sisi	2	0
Shirikisho	1	0

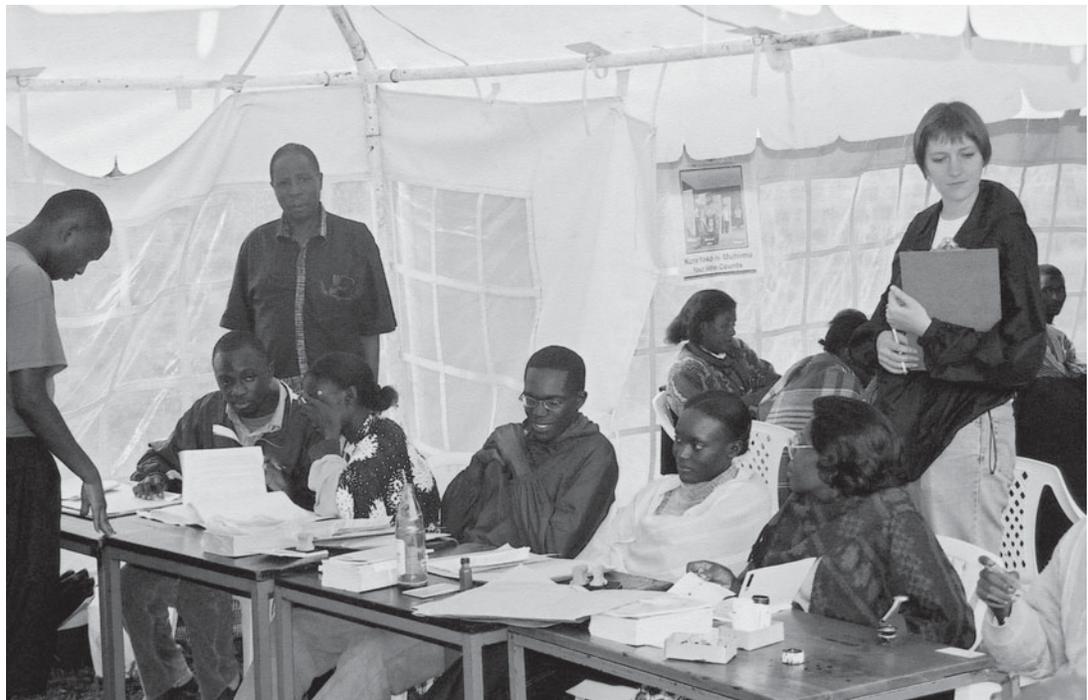
Source: Electoral Commission of Kenya

Official results were announced on Jan. 3. According to the electoral law, official results can only be announced upon receipt of completed forms from all 210 returning officers. These results must then be gazetted for 24 hours before

called for the immediate inauguration of Mwai Kibaki the following day.

On Dec. 30, President Kaunda paid a private courtesy call on President Moi prior to Mwai Kibaki's inauguration. Carter Center observers attending the inauguration reported that the very large crowd assembled was joyous and euphoric. The ceremony was quite chaotic and disorganized, owing to the decision to hold the event at such short notice.

the president-elect may be inaugurated. Upon announcing the results, the ECK chair stated, "There was a great deal of pressure from NARC leaders and their supporters that the declaration of the results be made nevertheless. Between the demands of the law and those of the people, the ECK chose to obey the latter. It declared Hon. Mwai Kibaki the new president. It was a political rather than a legal decision. But the final results have confirmed that the decision was, after all, correct in law."



Carter Center observer Amy Hamelin takes note of the voting process in a tent serving as a polling station.

DAVID POTTIE



OBSERVING THE 2002 KENYA ELECTIONS

According to official results, Kibaki received 3,646,277 votes to Kenyatta's 1,835,890. Kibaki received the necessary 25 percent of the vote in all eight provinces. (A minimum of five is required. See Appendix 11 for full results.) Voter turnout for the presidential election was 57 percent.

In the parliamentary elections, NARC won 125 seats against KANU's 64, and other parties shared the remaining 21 seats. The LDP won the largest share of NARC seats with 59, followed by the DP with 39, FORD-Kenya with 21, and National Party of Kenya (NPK) with six. While this distribution of seats gave former KANU members the largest single share of seats, National Alliance of Kenya members (NAK – the original opposition coalition) still total more with 66.

A total of nine women were elected to Parliament, the most ever for Kenya. (See Appendix 12 for full results.)

Presidential candidate	Total votes received
Mwai Kibaki	3,646,277
Uhuru Kenyatta	1,835,890
Simeon Nyachae	345,152
James A. Orengo	24,524
David N. Waweru	10,061
Total valid votes	5,975,809
Voter turnout	57.178%

Source: Electoral Commission of Kenya



OBSERVING THE 2002 KENYA ELECTIONS

JANUARY 2003: POSTELECTION OBSERVATION

Although the majority of Carter Center delegates left Kenya by Dec. 30, a team of 10 Carter Center staff and MTOs remained on the ground to monitor the postelection situation at selected sites throughout the country and at the national headquarters of the ECK in Nairobi. The MTOs were coordinated initially by the Center's mission director in Nairobi, David Pottie, with assistance from Tynesha Green and Janet Tinsley of the Center, Amy Hamelin, and later by John Chipeta, a former electoral commissioner from Malawi.

John Chipeta and four other MTOs remained in Kenya until the end of January 2003. The MTOs were deployed to Nairobi, Embu, Nanyuki, Nakuru, Mombassa, Kwale, Eldoret, Kitale, Nyanza, Kisii, and Kakamega for varying lengths of time.

Prior to the elections it was feared that a close election result or a contested process might erupt in postelection conflict. Therefore, the Center planned

to retain a presence in Kenya until well after the conclusion of the polling process. As it happened, the immediate postelection period in Kenya was peaceful, and all contestants accepted the overall results.

Many Kenyans also called into question the overall independence of the ECK.

Over the course of January, the MTOs reviewed issues that had been prominent throughout the entire electoral process. The MTOs noted that both the election officials and the major parties recognized the need to improve future elections, and both seemed genuinely disposed to work expeditiously to develop and implement recommendations for electoral reforms.



DAVID POTTIE

Delegation co-leader Gordon Streeb shared the Center's preliminary observations with the media on election day.



OBSERVING THE 2002 KENYA ELECTIONS

Most respondents indicated general appreciation for the role of the ECK in the conduct of the elections and noted that election officials appeared to be better trained than in the past. However, some women candidates and civil society organizations indicated that men had been favored in ECK recruitment of election officials and called for improved recruitment guidelines.

Many Kenyans also called into question the overall independence of the ECK. For example, the commission had relied on the district commissioners (DCs) to disburse commission funds because the ECK lacked capacity at district level. Since the president of Kenya appointed the DCs, the ECK recognized that this arrangement potentially undermines the independence of the ECK. However, until the ECK budget is increased to enhance its capacity, ECK officials felt they had no alternative but to rely on the DCs.

A number of other recommendations suggested to the Center MTOs are included in a subsequent section of this report.

TRANSFER OF POWER

Overall, the transfer of power in Kenya was conducted peacefully, and on balance, cautiously, with President Kibaki seeking to mix old and new faces.

Mwai Kibaki named his new Cabinet on Jan. 3, just days after his inauguration. He reduced the overall size of the Cabinet from Moi's 39 to 24. In another significant departure from past practices, Kibaki announced his Cabinet at an open press conference on the State House grounds, rather than having his appointments announced on the KBC news.

The Cabinet is comprised of 12 members of Kibaki's Democratic Party (DP), nine from the Liberal Democratic Party (LDP), three from FORD Kenya, and one from the National Party of Kenya (NPK).

The Cabinet included several former senior KANU members who held Cabinet positions in President Moi's government. Former Vice President George Saitoti became minister of education, Kalonzo Musyoka was appointed minister of foreign affairs, and Raila Odinga was assigned to roads and public works. FORD Kenya leader Kijana Walmalwa was appointed vice president. Three women, including 1997 SDP presidential candidate Charity Ngilu appointed as minister of health, were appointed to Cabinet as full ministers, and an additional three women were named deputy ministers. In regional terms, Cabinet members were appointed from all eight provinces.

Despite this balancing act, several members of the LDP publicly expressed their dissatisfaction about their party not receiving more Cabinet positions. Within his first two months in office, Kibaki's new government established a steady pace of reform, with significant changes in senior positions in government, military, and the judiciary.

By the end of February, Kibaki had replaced the head of the public service and 10 other permanent secretaries; the head of the army had resigned; a new police commissioner was appointed; and 37 district commissioners were transferred or redeployed.

Pressure also mounted over the course of January for the resignation of Chief Justice Bernard Chunga for his failure to fight corruption in the judiciary. The Law Society of Kenya and others led a public campaign for his resignation. They petitioned President Kibaki under sec. 62 of the constitution that calls for the appointment of a tribunal if a question arises over the conduct of the chief justice. Finally, on Feb. 25, President Kibaki formally accepted the chief justice's resignation.

In policy terms, the new government moved rapidly to fulfill its promise of free primary education,

Women candidates routinely faced harassment from male counterparts during campaigning.



OBSERVING THE 2002 KENYA ELECTIONS

attention to anti-graft and anti-corruption initiatives, and the revival of the constitutional review process.

WOMEN'S PARTICIPATION

The representation of women in the political arena is consistently low in Kenya. It took six years after independence for the first woman to break into the national political arena and become a member of Parliament. With the introduction of multiparty democracy in 1992, women had great hopes of securing political positions. However, between 1992 and 2002, there were never more than eight women MPs out of 220 total.

The 2002 elections marginally advanced women's participation in the political arena, but women's experiences from past elections were not significantly different in this election. It was not uncommon to hear Kenyans comment during this election period that female candidates had little support from either women or men. Reasons given for this included attitudes that women are not able to lead, women cannot maintain their families and hold public office simultaneously, and some women candidates come from troubled families, which reflected poorly on their reputation. At

the same time, women candidates routinely faced harassment from male counterparts during campaigning. Although the media reported no substantial incidents of mudslinging, women candidates in fact reported this as being a problem, although mudslinging was never officially recognized in relation to female candidates. This led to some women dropping out of races altogether.

The participation of women voters was said to be encouraging; however, it was observed in some areas that a significant number of these women were assisted voters. Since assistance of voters was problematic due to compromised voter secrecy, women's privacy may have been disproportionately breached in some parts of the country. In some polling stations, assistance to women voters was overwhelming, and observers suspected that parties might have preyed upon illiterate female populations by persuading them to sell their votes.

The positive impact that this election had on women's participation was a marked increase in the



Ambassador Streeb, President Kaunda, and David Pottie present the delegation's preliminary statement to the media at a Dec. 29 press conference.

HENRY KIRAWA



OBSERVING THE 2002 KENYA ELECTIONS

number of women in Parliament and women appointed to ministerial positions. Despite the unique challenges that female candidates faced, a total of nine women were elected to Parliament (4.5 percent). Although women enjoy only a small percentage of the seats in Parliament, their showing in 2002 is a record in Kenya. Additionally, the new president appointed an unprecedented number of female ministers (six). Political parties responded to calls for more women in Parliament by assigning seven of the 12 nominated seats to women (five from NARC, two from KANU). These appointments bring the total number of women in Parliament to 16, the highest ever for Kenya. At the local level, 97 women were elected to civic seats, only 4.6 percent of the total 2,093 seats.

ELECTION PETITIONS

In the days following the elections, the Kenyan media reported a significant number of potential election petitions, most of them from NARC.

Any elector or candidate can file an election petition if he or she thinks there has been malpractice during the election. An election petition is not an ordinary civil suit, but rather treated as a contest in which the whole constituency is involved. Election petitions are tried by the High Court of the state

involved and, if upheld, may lead to the restaging of the election in that constituency. Election petitions must be filed within 28 days of the publication of final results. The deadline for submission of election petitions was Jan. 31, 2003, with a total of 27 election petition cases filed in the courts. Of these 27 cases, NARC has initiated 15; KANU six; Umma Patriotic Party of Kenya one; FORD People one; and private individuals four.

While it is notable that the complainants have sought to use the proper channel of the courts to address their concerns, there are several areas of concern with regards to Kenya's petition process. First, election petitions impose a very high financial threshold, with petitioners facing a security charge for costs of Ksh 250,000. Second, the MTOs reported that they lacked confidence in the ability of most party agents to present systematic and tangible evidence to strengthen the grounds for election petitions. Third, the courts have taken a very long time to rule on previous election petitions. Following the 1997 elections, many of the 27 election petitions lingered in the courts until late 1998, and at least five did not receive rulings until late 1999. Mwai Kibaki's own petition against Daniel arap Moi's election as president was among the last to receive a ruling and was dismissed in December 1999.



CONCLUSIONS AND RECOMMENDATIONS

A key challenge of democratization in Kenya is to balance the ongoing need for political reconciliation and accommodation with the divisive tendencies of electoral competition. The 2002 elections were an important benchmark in Kenya's political history, and the country showed positive signs of a maturing political system. These elections were the first time that a united opposition mounted a successful campaign in support of a single presidential candidate. Although there were problems during the campaign period, the political parties campaigned widely, and largely peacefully. The elections were also generally well-conducted, and with voter turnout of 57 percent, the majority of Kenyans demonstrated their confidence in the process through their participation.

Although Center observers did not report any major systematic irregularities, there were technical problems with preparations for the elections, including confusion over the regulations for the voter registration requirements on election day. Election day itself was peaceful and orderly.

The Center was also impressed with the efforts of the domestic observers, particularly the Kenya Domestic Observers Programme (K-DOP) that deployed 19,000 observers, enough to cover all 18,000 stations. K-DOP was able to assign three observers per constituency in the months before the elections and maintained these observers in the postelection period. K-DOP was an impressive faith-based and NGO effort, calling on Catholic and Protestant churches and Muslim and Hindu associations. The presence of international observers from the EU, the Commonwealth, and the African Union demonstrated

international interest in and support for Kenya's democratic process.

While there were concerns about how the transfer of power would be handled, as Kenya had never had to do so before, in the end there was no crisis and all government activities were handed over smoothly. Despite this relatively smooth succession, there are many challenging issues facing President Kibaki and his new government. The Center's MTOs were alerted to some of the following concerns:

Constitutional reform. The constitutional review

process was stalled by the dissolution of Parliament prior to the elections. The NARC government has pledged to continue the constitutional review process, chaired by Professor Yash Pal Ghai of the

Constitution of Kenya Review Commission (CKRC). However, the review process was plagued by controversy and frequent infighting among the commissioners, and it now must be handled by a new coalition government.

Election promises. The new government must also find the means to satisfy the raised expectations of Kenyans that the election promises of free primary education, judicial reform, and tough anti-corruption legislation will be enacted. Although NARC delivered on its education promises immediately in January 2003, paying for them over the long run will require the committed reform of the public service and receiver of revenue. With many members of the former ruling KANU now in the new NARC government, it may not be easy to deliver on the anti-corruption promises. However, if NARC fails to deliver on this broad anti-corruption and public sector reform agenda, then

*The people of Kenya clearly voted
for change in 2002.*



OBSERVING THE 2002 KENYA ELECTIONS



DUNCAN CHAPLIN

Kenyans celebrate at President Kibaki's inauguration ceremony in Nairobi.

Kenyans may turn their frustration not only against the coalition government but also against electoral participation itself.

Political parties. The Kenyan party system has been dramatically reshaped by the 2002 elections. Uhuru Kenyatta and KANU find themselves in opposition after 40 years in power. While the NARC coalition has arrived in office with great promise, maintaining a coalition, especially in the context of a very high rate of party defections during the 2002 party primaries, will be very difficult for President Kibaki. Kenyan voters expressed their will for change, and this should be respected. The parties themselves have much work to do in the coming years if they are to redress the weaknesses observed during the candidate nomination process. Kenyan political parties can meet the needs of their supporters if they commit themselves to improved intraparty democracy and party primaries and enhance the opportunity for the participation of women in elections.

Economic development. Poverty alleviation remains Kenya's primary challenge as the country faces a high level of total external debt, low rate of GDP growth, and a lack of international donor support. Delivery on the domestic agenda may improve relations on the international front, and both the international community and Kenyans appear to have a renewed sense of confidence that political change can lead to national renewal.

The conclusions and recommendations below are not comprehensive but reflect observations made during the Center's engagement with the 2002 elections during December 2002 and January 2003. In order to facilitate electoral reform, the Center offers the following conclusions and recommendations:

CONSTITUTIONAL REFORM AND ELECTORAL FRAMEWORK

Constitutional review remains a key priority for the new government of Kenya. The Center urges the government to fulfill its promise to the people of Kenya to complete this process that was begun by the



OBSERVING THE 2002 KENYA ELECTIONS

previous KANU administration. A change of electoral system from the current single-member constituency to a multimember proportional system has been proposed by the CKRC. Whatever the choice of electoral system, it is the responsibility of the government of Kenya and the electoral authorities to communicate adequately this system and its operation to the people of Kenya.

DEMARICATION

The constitution of Kenya has set the minimum number of constituencies between 188 and 210. A common concern expressed during Kenya's 2002 constitutional review process is that constituencies are excessively varied in size and population, often to the advantage of the then ruling party. Moreover, the current constituency demarcation has tended to exacerbate the politics of region and ethnicity, such that the political parties now seek to mobilize voters in these terms. The ECK, in coordination with other relevant government agencies, should initiate a thorough review of the legislative basis for demarcation and establish the appropriate structures for a reassessment of Kenya's current electoral boundaries.

INDEPENDENCE OF ECK

Many Kenyans felt that the ECK performed its responsibilities in a more nonpartisan manner than in previous elections. However, some feel that with more than 20 members the ECK is too large and that not all of the members behaved in a nonpartisan manner. At present, the system of presidential appointment to the ECK leaves out key stakeholders in the election process, such as members of civil society and the private sector. The terms of appointment should be clarified, and a consultative mechanism that enables Parliament to play a meaningful role in the nomination process should be considered.

ECK administrative independence would be further enhanced were it to report directly to Parliament for budget support. Moreover, the current ECK

administration relies on the district commissioner offices to manage its finances at the district level rather than the offices of its own returning officers. It is particularly worrisome to have such an arrangement in a country where public administrators at the provincial and district levels are appointees of the president and commonly involved in partisan activities favoring the president's political party. ECK capacity should be built to ensure that the commission may fulfill its constitutional mandate in an impartial and independent manner.

TIMING OF ELECTIONS

Many Kenyans expressed the view that December is inappropriate for holding elections since the country experiences one of its rainy seasons at this time. The rains present logistical challenges to the ECK, limit accessibility to remote areas, and may negatively affect voter turnout.

A number of alternatives may be considered. The mandate to determine the date for polling could rest with the ECK or be incorporated in the constitution. In any case, the election date should be outside the rainy season.

RECRUITMENT AND TRAINING OF ELECTION OFFICIALS

The recruitment of poll workers is the responsibility of district-level ECK personnel. The Center heard reports from across the country alleging that in some districts the recruitment was seriously affected by bribery and corruption to the extent that trained officials in some cases were dropped in favor of those who bribed those conducting the recruitment.

The ECK is commended for the training manuals it produced for the elections. However, the training of presiding officers and their deputies at the district level was reportedly a cause for concern. The training rooms were overcrowded, with poor or no public address facilities and little or no individual attention paid to participants.



OBSERVING THE 2002 KENYA ELECTIONS

Furthermore, following the elections there were complaints by many ad hoc staff of late payment or nonpayment of their wages for work completed before, during, and after election day. Most election officials worked many long and hard hours, often under difficult circumstances, and are to be congratulated for their efforts. The ECK should review its arrangements to ensure efficient disbursement of payments to ad hoc officials.

The ECK should review its recruitment and training procedures to ensure that its staff is recruited through a transparent, accountable, and nonpartisan process and that they receive timely and adequate training. Special consideration should be given to ensuring that women are adequately represented as election officials.

CANDIDATE NOMINATIONS

The Center heard several reports about the often chaotic, and sometimes conflictive, nature of the party primaries. The process was also characterized by party defections and double nominations. While the Center recognizes the unique character of aspects of Kenya's 2002 elections, particularly the challenges posed by the formation of a multiparty coalition, the principles of intraparty democracy must also be maintained. All parties should review their internal candidate nomination procedures to ensure maximum opportunity for competitive and fair intraparty democracy.

VOTER REGISTRATION

The Center is encouraged that the electoral law has been amended to allow for continuous registration of voters. In order to facilitate this process, the government of Kenya must ensure that all Kenyan citizens are able to acquire a national identity card. Moreover, the ECK must be adequately funded in order to implement continuous voter registration.

VOTER EDUCATION

The ECK should be properly funded in order to implement voter education. Where possible, ECK should examine how it may work in partnership with civil society organizations and political parties interested in undertaking voter education.

WOMEN'S PARTICIPATION

The participation of women in all aspects of the polling process is an important goal of all democracies. Some countries have introduced special thresholds or quotas to encourage more women candidates to come forward or to raise the overall number of women in elected office. The current level of women's participation in Kenya's electoral process is poor, and measures should be taken to build on the efforts of those women who have succeeded in winning elected office.

These measures should include provision of campaign training to aspiring and elected women; inclusion of gender dynamics in general civic education to raise awareness of the barriers to women's participation and the means to overcome them; creation of a women's caucus in Parliament to raise awareness of women's issues among elected members; encouragement of media institutions to raise the profile of women's issues during elections; and increased reporting on women candidates and their platforms.

CORRUPTION IN THE ELECTORAL PROCESS

The Center heard many reports of the misuse of state resources during the election campaigns as well as the general use of money to solicit votes and/or to purchase voter cards. While the electoral law currently prohibits these and other forms of electoral misconduct, all parties and candidates must work with the electoral authorities to ensure the effective enforcement of these prohibitions.



OBSERVING THE 2002 KENYA ELECTIONS

At present, political parties do not receive public funding nor is party finance in general subject to regulation. As in other countries, regulation of party finance through clearly articulated regulations on campaign spending limits, disclosure of campaign contributions, and proper accounting of party and candidate expenditure helps to build confidence in the integrity of political parties and the electoral process. Kenya should undertake a legislative review to redress these inadequacies.

MEDIA REFORM

Balanced media coverage and equitable access for political party advertisements are important aspects of a level playing field during election campaigns. Media monitor reports indicate that news coverage was strongly biased in favor of the ruling KANU. Although current regulations seek to balance the coverage of contesting parties on the public electronic media such as the Kenya Broadcasting Corporation, the ECK is unable to adequately rule on the content of news broadcasts that may be of a partisan nature. A thorough review of the broadcast regulations during elections as well as the introduction of an independent broadcast authority would lay the foundation for more equitable and nonpartisan election coverage.

CONFLICT MANAGEMENT

The Carter Center was pleased to note that for the first time the ECK enforced a code of conduct for the political parties during the 2002 elections. Several candidates from the ruling party and the opposition were publicly reprimanded, and fines were handed down for violations of the electoral law. This experience should serve as the basis for more systematic and earlier monitoring and intervention by ECK in future elections.

The Center also commends the ECK's introduction of "peace committees" to serve as conflict management bodies. Although the Center was unable to evaluate the functioning of these bodies, they are a welcome

beginning and they should be introduced nationwide in subsequent elections. There is growing experience in several African countries with similar bodies comprised of trained representatives from the electoral authorities, civil society, police, and political parties who serve to enhance communication and conflict management.

The ECK should also improve liaison and communication with political parties, police, and civil society through the establishment of committees that meet regularly at the national, provincial, and district levels during the election period.

OBSERVERS AND PARTY AGENTS

The Center commends the efforts of all Kenyan civil society organizations that participated in the 2002 elections. In particular, the Center was impressed by the level of effort and organization of those groups involved in the Kenya Domestic Observers Programme (K-DOP). This capacity should be sustained so that civil society may continue to play an active role in Kenyan political life.

The recruitment and training of party agents to monitor the polls are the responsibility of political parties and candidates. However, the uneven caliber of those deployed to conduct this most important job undermines the ability of parties to make a comprehensive assessment of polling day. Political parties should take advantage of the opportunity to identify and train agents well in advance of the elections and ensure that they have the appropriate reference materials on hand. While the parties should retain the responsibility to recruit their agents, the ECK should assist parties to train the agents and provide them with reference materials.

VOTING PROCESS

Ballot paper design – The differently colored ballot papers for the presidential and parliamentary ballot should clearly match the colors on the corresponding ballot boxes to avoid confusion for the voters and



OBSERVING THE 2002 KENYA ELECTIONS

reduce the potential number of spoiled ballots. The symbols and overall size of the ballot paper should be reviewed to ensure maximum comprehension for all voters, including the illiterate. Ballot papers should also include the name of the political party.

Ballot boxes – The use of transparent ballot boxes would increase confidence in the electoral process.

Voters roll– There were many observed cases of people being turned away at a polling station on polling day because their names were not on the roll. Although the Center was unable to determine how many voters were affected, these problems do not appear to have adversely affected the overall election result. The ECK must ensure that its voter registration procedures are clearly communicated to voters, parties, and election officials well in advance of election day so as to avoid possible disenfranchisement of voters or possible election day conflicts. A copy of the voters roll should be posted at each polling station to enable voters to determine if they are at the correct polling location. A well-publicized period of public inspection of the voters roll and consistent regulations for the admission of eligible voters on election day are necessary steps to achieve this goal.

Voters per station – With 1,000 voters per polling station, and often with multiple stations per location, the potential number of people at some places could be very large, creating potential queues, bottlenecks, and a slow voting process. The voters roll should be divided into the relevant segments of 1,000 voters to enable polling officials to quickly identify each voter on the roll.

Assisted voting – Carter Center observers were concerned about the large number of voters, particularly women in some places, who received assisted voting. Also, in some cases, voters received assistance from party agents while in other cases, due to mistrust for those chosen to assist, voters were made to announce their choice in the presence of party agents. These practices failed to protect the secrecy of the ballot.

The electoral law should be amended to allow only the physically impaired to seek assistance during voting. ECK should ensure that all election officials and party agents understand that in accordance with the current regulations, only one person of the voter's choice, who is of the age of majority, may assist the voter upon swearing an oath.

COUNTING, TABULATION, AND ANNOUNCEMENT OF RESULTS

In a significant improvement, ECK officials counted ballot papers in the polling stations following the completion of polling, thereby enhancing confidence in the overall process. In an additional measure that boosted confidence in the results, all party agents were able to sign and receive a copy of the preliminary results from the polling station. These results were also posted outside the station. However, although judged not to have affected the overall results, the Center observed considerable variation in the overall handling of the counting process and therefore recommends that the ECK place renewed emphasis on the counting process in its training of election officials.

The tabulation process at constituency level was also handled efficiently. But while conducted in the full view of party agents, candidates, other observers, and security forces, this aspect of the process remains insufficiently transparent. The tabulation process typically occurred in large halls where it was difficult for candidates, agents, or observers to review adequately those ballots marked disputed or rejected for consideration by the returning officer. Even though a public announcement of the results was made following completion of the process, greater opportunity could be afforded to those gathered. All results should be posted at the tabulation centers.

The ECK should also establish a process for the fastest possible delivery of the declaration of results from returning officers. In 2002 the president was inaugurated prior to ECK receipt of all constituency results, in clear contravention of the electoral law.



OBSERVING THE 2002 KENYA ELECTIONS

PETITIONS

The Center is pleased that those political parties with concerns about the electoral process have taken their concerns to the properly constituted authorities in the form of election petitions. However, the election petition process in Kenya is marked by a high threshold that may pose excessive barriers to an accessible review process that is conducted in a timely manner. Security costs remain high, and previous election petitions have taken years to work their way through the courts. Kenya should review how to improve the access and speed with which it deals with election petitions and other forms of electoral disputes.



OBSERVING THE 2002 KENYA ELECTIONS

APPENDICES

1. ECK Invitation to Observe Elections
2. Voter Registration Roll
3. Election Deployment Plan
4. Observation of Opening Form
5. Observation of Polling Form
6. Observation of Closing/Counting Form
7. Observation of Tally Form
8. Special Report Form
9. Summary of Carter Center Observations
10. December 29 Statement
11. Presidential Election Results
12. Parliamentary Election Results
13. Selected News Articles



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 1



ELECTORAL COMMISSION OF KENYA

Telephone: Nairobi 222072
When replying please address the
Chairman, Electoral Commission
of Kenya

Ref. No. ECK/QR/23A/2
and date

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

....., 2002

Mr. David Pottie,
Senior Programme Associate,
The Carter Center,
Fax: 404-420-5196.

Dear Sir,

RE: ACCREDITATION FOR ELECTION OBSERVATION

I am please to inform you that your application for accreditation as an election observer for the 2002 General Elections has been accepted. There will be an accreditation fee of US\$ 20 per person.

Please complete the issued forms and fax the same to ECK.

Yours Sincerely,

M. Lemayian
PRM



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 2

EAST AFRICAN STANDARD, Friday, August 2, 2002

11

VOTER REGISTRATION ROLL

Districts	Constituency	Registered Voters	Districts	Constituency	Registered Voters	Districts	Constituency	Registered Voters	Districts	Constituency	Registered Voters
NAIROBI			MERU SOUTH			WEST POKOT			BUTERE/MUMIAS		
001	Makadara	108,542	054	Nithi	91,915	109	Kacheliba	17,050	157	Mumias	59,780
002	Kamukuni	84,048	District Total			110	Kapenguria	41,687	158	Matungu	39,526
003	Starehe	116,284	THARAKA			111	Sigor	35,014	162	Bulera	42,572
004	Langata	114,384	055	Tharaka	33,852	District Total			163	Khwisero	33,275
005	Dagoretti	82,830	District Total			SAMBURU			District Total		
006	Westlands	131,123	EMBU			112	Samburu West	36,924	LUGARI		
007	Kasarani	117,484	056	Manyatta	60,238	District Total			155	Malava	15,260
008	Embakasi	155,394	057	Runyenjes	57,085	District Total			156	Lugari	63,404
District Total			District Total			TRANS NZOIA			District Total		
909,889			117,323			MBEERE			VIHIGA		
MOMBASA			MBEERE			UASIN GISHU			MT. ELGON		
009	Changamwe	86,582	058	Gachoka	40,867	114	Kwanza	55,818	164	Emuhaya	66,636
010	Kisauini	92,367	059	Siakago	28,606	115	Saboti	91,875	165	Sabaila	52,844
011	Likoni	48,111	District Total			116	Cherangany	43,191	166	Vihiga	35,988
012	Mvita	73,103	District Total			MARAKWET			167	Hamisi	56,275
District Total			District Total			District Total			District Total		
300,163			69,473			190,884			211,743		
KWALE			KITUI			MAKUU			BUNYONYI		
013	Msambweni	64,713	062	Kitui West	53,964	117	Eldoret North	101,098	168	Mt. Elgon	44,220
014	Matuga	40,388	063	Kitui Central	58,584	118	Eldoret East	57,549	District Total		
015	Kinango	41,702	064	Mutito	34,825	119	Eldoret South	58,110	44,220		
District Total			065	Kitui South	39,295	District Total			BUNGOMA		
146,803			District Total			District Total			District Total		
146,803			186,668			216,757			67,884		
KILIFI			MWINGI			MARAKWET			169		
016	Bahari	73,103	060	Mwingi North	53,088	120	Marakwet East	23,243	170	Webuye	60,489
017	Kaloleni	59,577	061	Mwingi South	51,790	121	Marakwet West	31,090	171	Sirisia	58,771
018	Ganze	31,320	District Total			District Total			172	Kanduyi	46,861
District Total			District Total			District Total			173	Burnula	46,150
164,100			104,876			54,333			District Total		
164,100			104,876			54,333			278,185		
MALINDI			MACHAKOS			KEIYO			TESO		
019	Malindi	59,029	066	Masinga	38,369	122	Keiyo North	24,526	174	Amagoro	61,970
020	Magarini	31,952	067	Yatta	44,824	123	Keiyo South	37,052	District Total		
District Total			068	Kangundo	73,510	District Total			61,970		
90,981			069	Kathiani	69,249	NANDI			BUSIA		
TANA RIVER			070	Machakos Town	74,923	124	Mosop	44,292	175	Nambale	55,814
021	Garsen	26,263	071	Mwala	58,127	125	Aldai	45,588	176	Butula	33,349
022	Galole	18,030	District Total			126	Emgwen	56,954	177	Funyula	30,905
023	Bura	18,183	District Total			127	Tinderet	58,811	178	Budalangi	23,648
District Total			District Total			District Total			District Total		
62,476			359,002			205,645			143,716		
LAMU			MAKUENI			BARINGO			SIAYA		
024	Lamu East	11,094	072	Mbooni	57,739	128	Baringo East	17,179	179	Ugenya	66,612
025	Lamu West	26,763	073	Kilome	31,611	129	Baringo North	32,037	180	Alego	65,697
District Total			074	Kali	39,817	130	Baringo Central	48,977	181	Gem	50,564
37,857			075	Makueni	69,699	District Total			District Total		
37,857			076	Kibwezi	60,658	District Total			182,873		
37,857			District Total			District Total			182,873		
37,857			259,524			98,193			BONDO		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			44,938		
37,857			259,524			98,193			39,985		
37,857			259,524			98,193			84,824		
37,857			259,524			98,193			KISUMU		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			42,078		
37,857			259,524			98,193			69,448		
37,857			259,524			98,193			69,448		
37,857			259,524			98,193			42,624		
37,857			259,524			98,193			154,150		
37,857			259,524			98,193			43,039		
37,857			259,524			98,193			47,302		
37,857			259,524			98,193			43,366		
37,857			259,524			98,193			134,707		
37,857			259,524			98,193			RACHUONYO		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			61,820		
37,857			259,524			98,193			50,834		
37,857			259,524			98,193			112,654		
37,857			259,524			98,193			HOMA BAY		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			59,700		
37,857			259,524			98,193			49,369		
37,857			259,524			98,193			109,069		
37,857			259,524			98,193			MIGORI		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			56,901		
37,857			259,524			98,193			50,523		
37,857			259,524			98,193			32,174		
37,857			259,524			98,193			41,581		
37,857			259,524			98,193			181,179		
37,857			259,524			98,193			SUBA		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			29,662		
37,857			259,524			98,193			26,534		
37,857			259,524			98,193			56,296		
37,857			259,524			98,193			KURIA		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			41,533		
37,857			259,524			98,193			41,533		
37,857			259,524			98,193			KISII CENTRAL		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			32,512		
37,857			259,524			98,193			44,255		
37,857			259,524			98,193			48,872		
37,857			259,524			98,193			63,292		
37,857			259,524			98,193			188,931		
37,857			259,524			98,193			KISII SOUTH (GUCHA)		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			43,552		
37,857			259,524			98,193			54,803		
37,857			259,524			98,193			59,726		
37,857			259,524			98,193			158,081		
37,857			259,524			98,193			KISII NORTH (NYAMIRA)		
37,857			259,524			98,193			District Total		
37,857			259,524			98,193			60,870		
37,857			259,524			98,193			50,703		
37,857			259,524			98,193			63,967		
37,857			259,524			98,193			175,540		

NB: Some constituencies have two sets of results because they spill over two districts.



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 3

**Carter Center Election Deployment Plan
Kenya, December 25-28, 2003**

Site	Team
Nairobi	Kenneth Kaunda David Pottie Edward Chanda
Nairobi	Gordon Streeb Amy Hamelin
Kajiado Rift Valley Province	Denise Dauphinais Bod Adebo
Machakos Eastern Province	Annetta Flanigan Kofi Woods
Malindi Coast Province	Shani Winterstein Mummy Rajab
Kwale Coast Province	Simeon Mawanza, Shumbana Karume
Meru Eastern Province	John Chipeta Chad Lipton
Nanyuki Central Province	Kehleboe Gongloe Wole Olaleye
Nakuru Rift Valley Province	Chris Burke Grace Kang
Eldoret Rift Valley Province	Taona Mwanyisa Duncan Chaplin
Kakamega Western Province	Jose Maria Aranaz Okon Akiba
Kisumu Nyanza Province	Nhamo Sithole Chris Stevenson



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 4

FORM A	OBSERVATION OF OPENING <small>(Only to be used at first polling station)</small>	FORM NUMBER	
-----------	--	----------------	--

A DETAILS

Team Number Arrival Time hh:mm (24hr) Departure Time hh:mm (24hr)

Polling Centre Number / Polling Station Urban Rural

Province		District		Constituency	
----------	--	----------	--	--------------	--

1. Number of voters registered in polling centre?

2. Number of polling stations within the polling centre?

3. Number of ballots received in polling station?

B OPENING yes no n/a

4. Were all election officials present for opening? 4

5. Was all required material available? (If no, please give details below) 5

6. Were polling agents/candidates present? 6
If yes, of which parties? *FORD-P* *KANU* *NARC* *SAFINA* *SDP* *OTHER*

7. Were domestic observers/poll watchers present? 7

8. Were polling agents/candidates shown that the ballot box was empty before sealing? 8

9. Were ballot boxes sealed by Presiding Officer? 9

10. Were ballot boxes sealed by party agents/candidates? 10

11. Did Presiding Officer allow party agents/candidates to inspect and record serial numbers of ballot papers? 11

12. Did polling start at 0600? (if not, write opening time below) 12

C ASSESSMENT

13. Is there any cause for complaint or any complaint registered? (if yes, details below) 13

13. Overall assessment of process (A=EXCELLENT, B=GOOD, C=FAIR, D=POOR)
A B C D

D COMMENTS

FAX THIS FORM BY 1500 WITH FIRST POLLING FORMS



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 5

Carter Center Election Observation Mission
Kenya General Elections 2002

FORM B	OBSERVATION OF POLLING	FORM NUMBER	
-----------	-------------------------------	----------------	--

Team Number	5	Arrival Time hh:mm (24hr)		Departure Time hh:mm (24hr)	
Polling Centre Number		Polling Station		Urban	Rural

Province		District		Constituency	
----------	--	----------	--	--------------	--

A ENVIRONMENT

	yes	no	n/a
1. Did you see campaign activities/material within 400m of polling centre?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Was there any tension in or around the polling centre or station? (if yes, please give details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Was there a police presence in the polling centre? (any comment below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Did you observe unauthorised people in the polling centre or station? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B VOTER DETAILS

5. Number of voters registered in polling centre?	5			
6. Number of polling stations within the polling centre?		6		
7. Number of people voted in the polling station thus far?	7			

C VOTING PROCEDURE

	yes	no	n/a
8. Was any required material missing? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Did every observed voter present an original national ID card or a valid Kenya passport?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Did you witness any person voting without a voter/elector's card? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Was any person with ID and voter card but not appearing on the voters' register, able to vote?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Did you witness any misuse of voter/elector's cards? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Did the clerk responsible check voters' hands for dye?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Were voters' names checked against the register of voters and read out loudly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Did voters have their voter/elector's cards stamped/impressed by the clerk responsible?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Were voters' names crossed out from the register before they voted?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Did the clerk responsible mark the voters' index finger with dye?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Was the secrecy of the vote respected?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Did you witness any cases of proxy voting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. Did you witness any cases of group/family voting?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Were voters requiring assistance aided by the person of their choice?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Did any person other than Presiding Officer assist more than 3 voters? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23. Did any voters claiming to be illiterate have their illiteracy challenged? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D POLLING STATION

24. Was the ballot box sealed?	<input type="checkbox"/>	<input type="checkbox"/>
25. Does the layout of polling station allow the easy flow of voters?	<input type="checkbox"/>	<input type="checkbox"/>
26. Were all election officials present?	<input type="checkbox"/>	<input type="checkbox"/>
27. Were election officials performing their duties in an impartial manner? (If no, comment below)	<input type="checkbox"/>	<input type="checkbox"/>
28. Were party agents/candidates present in polling station? If yes, agents of which party? FORD-P <input type="checkbox"/> KANU <input type="checkbox"/> NARC <input type="checkbox"/> SAFINA <input type="checkbox"/> SDP <input type="checkbox"/> OTHER <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Were domestic observers present in polling station?	<input type="checkbox"/>	<input type="checkbox"/>
30. Was any person in the polling station disrupting voting? (if yes, details below)	<input type="checkbox"/>	<input type="checkbox"/>

E ASSESSMENT (A=EXCELLENT, B=GOOD, C=FAIR, D=POOR)

31. Evaluate election officials' understanding of procedures	A <input type="checkbox"/>	B <input type="checkbox"/>	C <input type="checkbox"/>	D <input type="checkbox"/>
32. Evaluate voters' understanding of procedures	A <input type="checkbox"/>	B <input type="checkbox"/>	C <input type="checkbox"/>	D <input type="checkbox"/>
33. Your overall assessment of polling process	A <input type="checkbox"/>	B <input type="checkbox"/>	C <input type="checkbox"/>	D <input type="checkbox"/>

F COMMENTS (use separate sheet if necessary)



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 6

Kenya General Elections 2002

FORM C	OBSERVATION OF CLOSING/COUNTING <small>(Only to be used at last polling station)</small>		FORM NUMBER	
Team Number	5	Arrival Time hh:mm (24hr)	Departure Time hh:mm (24hr)	
Polling Centre Number		Polling Station	Urban	Rural
Province		District		Constituency
A VOTER DETAILS				
1. Number of voters registered at polling centre?				
2. How many polling stations within the polling centre?				
3. How many people voted in the polling station?				
B CLOSING				
4. Did the Presiding Officer (PO) extend the hours of polling? <i>(if yes, please give details below)</i>	4	yes	no	n/a
5. Were all voters queuing at 1800 allowed to vote?	5			
6. Did PO make a written statement of number of issued ballots, used ballots, spoiled ballots and number of ballots remaining unused? <i>(if no, details below)</i>	6			
7. Did PO make up separate packets of spoiled ballots, marked copy register, counterfoils of used ballots, and written statement mentioned in Question 5?	7			
8. Were party agents/candidates given opportunity to submit written opinions or complaints regarding polling?	8			
9. Were there any written complaints? <i>(if yes, details below)</i>	9			
10. If so, were they noted in polling station field note book?	10			
C COUNTING				
11. Did PO seal aperture of ballot box after closing?	11			
12. Did PO show party agents/candidates each ballot paper?	12			
13. Were any ballots without official ECK mark counted?	13			
14. Did any party agent/candidate seek a recount or a recheck of the ballots? <i>(if yes, details below)</i>	14			
15. Were party agents/candidates given opportunity to check and sign Form 16A?	15			
16. Were party agents/candidates given a completed copy of Form 16A? <i>(if no, details below)</i>	16			
17. Was a copy of Form 16A posted at a public place at the polling station?	17			
18. Did PO put all packages in ballot box and then seal ballot box?	18			
19. Were domestic observers present for the duration of the count?	19			
20. Were party agents/candidates present? If yes, from which party? FORD-P <input type="checkbox"/> KANU <input type="checkbox"/> NARC <input type="checkbox"/> SAFINA <input type="checkbox"/> SDP <input type="checkbox"/> OTHER <input type="checkbox"/>	20			
21. Did any person disrupt the counting process? <i>(if yes, details below)</i>	21			
D ASSESSMENT <small>(A=EXCELLENT, B=GOOD, C=FAIR, D=POOR)</small>				
22. Evaluate election officials' understanding of procedures	A	B	C	D
23. Evaluate party agents'/candidates' understanding of procedures	A	B	C	D
24. Your overall assessment of closing/counting process	A	B	C	D
E COMMENTS <i>(use separate sheet if necessary)</i>				



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 7

Carter Center Election Observation Mission
Kenya General Elections 2002

FORM D	OBSERVATION OF TALLY <small>(Only to be used at Returning Officer, constituency level)</small>			FORM NUMBER	
Team Number	5	Arrival Time hh:mm (24hr)		Departure Time hh:mm (24hr)	
Province		District		Constituency	
Constituency Number			Urban		Rural

- A PROCEDURE** yes no n/a
1. Did Returning Officer (RO) check that the seals on ballot boxes were intact? 1
 2. Did RO invite party agents/candidates to ascertain the state of ballot boxes? 2
 3. Did RO decide on validity of disputed ballot papers in the presence of party agents/candidates? 3
 4. Were valid votes added to the score of candidates on Form 16A? 4
 5. Did RO complete Form 17A? 5
 6. Did party agents/candidates receive a copy of completed Form 17A? 6
 7. Were Form 16, Form 16A, Form 17 and Form 17A transmitted to ECK Nairobi? 7

- C VENUE**
8. Was venue suitable for tally of results? *(if no, please give details below)* 8
 9. Were party agents/candidates present at venue? 9
 10. If yes, of which parties? 10
FORD-P KANU NARC SAFINA SDP OTHER
 11. Were domestic observers present at venue? 11
 12. Were police present at venue? 12
 13. Were there any unauthorised persons at venue? 13
 14. Did any person disrupt process at venue *(if yes, details below)* 14

- D ASSESSMENT** *(A=EXCELLENT, B=GOOD, C=FAIR, D=POOR)*
15. Assess RO's understanding of procedures? A B C D
 16. Assess polling agents/candidates understanding of procedures? A B C D
 17. Overall assessment of process A B C D

E COMMENTS *(use separate sheet if necessary)*



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 9

Summary of Carter Center Polling Station Observations

1. Total number of polling locations visited	157
2. Total number of polling stations visited	212

Outside the polling station

3. Security forces were present.	178
4. Polling location easily identified by voters.	185

Inside the polling station

5. All designated polling officials present in the polling stations	181
6. Candidate agents from at least two parties present in the polling stations	187
7. Domestic observers present in the polling stations	184

Operation of the polling process

8. Polling station opened on time (within one hour)	138
9. All registered voters able to vote	173
10. Ineligible voters denied access to vote	169
11. All election materials present	177
12. Party agents/observers able to observe freely	184
13. Voter secrecy assured	136
14. Indelible ink applied	187
15. Voting process free of disruption	171
16. Polling station closed on time	18
17. Counting process correctly administered	36
18. Ballot boxes sealed prior to transfer to counting station	26
19. Candidate agents able to travel with ballot boxes	22
20. Tabulation process correctly administered.	24

Overall impression of the polling station

21. Station functioned well, no problems	93
22. Some minor problems that will not affect results	102
23. Serious problems potential for significant impact on results	6
24. Grave violations, results of poll should be invalidated	0



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 10

NEWS FROM
THE  CARTER
CENTER

ONE COPENHILL, ATLANTA, GA 30307

FOR IMMEDIATE RELEASE

CONTACT:

In Nairobi: Janet Tinsley
0721-225580
In Atlanta: Kay Torrance
(404)-420-5129.

Sunday, December 29, 2002

**The Carter Center
Kenya Election Observation Mission 2002
Preliminary Statement**

The Carter Center is pleased to have observed Kenya's presidential, parliamentary, and civic elections on 27 December. The Center commends the people of Kenya for their conduct on election day and the generally calm atmosphere in which polling took place. Overall, the 2002 elections were conducted in a peaceful and tolerant manner. Thousands of Kenyans responded enthusiastically, often forming long lines at the opening of polls.

Kenya's 2002 elections mark the historic succession to President Daniel Arap Moi and stand as an example to the region and Africa as a whole. The Electoral Commission of Kenya (ECK) is commended for its role in the conduct of the elections and the Carter Center welcomes the degree of professionalism and impartiality displayed by the Commission and its staff.

Former Zambia President Kenneth Kaunda and former U.S. Ambassador Gordon Streeb, associate executive director of the Center's peace programs, led the Center's delegation of 25 observers. Several days before the elections, Center observers were deployed to the Nairobi area and six provinces, visiting more than 200 polling stations on election day.

The people of Kenya have voted for change, and though the voting is now over, the processes of tabulation and verification of final results are ongoing. The Center will continue to observe these processes in the days ahead. It is too early to evaluate the election as a whole, but after the process has concluded the Center will issue a more comprehensive report.

Peaceful Voting

The Carter Center commends Kenyans for the peaceful conduct of the elections and the determination shown by election staff and voters alike on what was a very long election day. While the 2002 election campaigns were marked by several incidents of violence and political intimidation, they were very much improved from those of previous elections in 1992 and 1997.



OBSERVING THE 2002 KENYA ELECTIONS

The fact that the polling process transpired peacefully is a testament to the Kenyan people.

Prior to the elections, the Center received reports of inequitable media access for Kenya's opposition parties, and also noted with concern the highly unequal distribution of voting population among Kenya's 210 parliamentary constituencies. These and other factors contribute to an unequal playing field and should be reviewed.

The Center is pleased that the ECK enforced the Electoral Code of Conduct and handed down judgements in several cases involving bribery, attempted rigging and political intimidation. This approach to conflict resolution as well as the introduction of community-based peace committees designed to facilitate tolerance and political dialogue should be retained and intensified for future elections.

On election day, the Center observed many dedicated polling officials who executed their responsibilities in a professional and impartial manner. We also note the strong presence of many party agents and observers. For the most part, party agents and observers performed their tasks with careful attention to all aspects of the polling process. The Center is particularly impressed by the long-term and intensive efforts of domestic election observers. At most polling stations, there was good communication between electoral officials and party agents and observers.

Despite the fears of election day violence, security officials maintained a low profile, and, in some cases, appeared to be too few in number to deal with the large crowds that gathered in the vicinity of some polling stations. In the end there were few reported security problems on election day.

Finally, we applaud the transparent counting of ballots in the polling station and the tabulation process at constituency tally centers, which reduced opportunities for manipulation of the count.

The Voting Process

While many polling stations opened on time, it is important to note that about one third of the stations visited opened late, even though their full staff complement and necessary election materials were generally present.

In addition, although polling officials were generally competent, they had difficulty processing voters quickly. Consequently, many voters were forced to endure long lines and extremely long waits in order to cast their ballots. Once inside the polling station, voters faced a cumbersome voting process, further slowed by the tripartite elections.

Some of these election day problems could have been avoided with better planning. Polling stations at each polling center had to process up to 1,000 voters, and officials had to page through the voters register for the entire center. In places where there were up to 21 polling stations (or streams), the result was a very slow process of checking for voters' names. The ECK might consider reducing the number of voters per polling station and dividing the voters register into appropriate and manageable segments in order to enhance the efficiency of the polling process.

In the days leading up to the elections the ECK announced several last minute changes concerning the voters register. In the end, only voters with the appropriate identification whose



OBSERVING THE 2002 KENYA ELECTIONS

names appeared on the 2002 voters register were to be allowed to vote. Without adequate communication of this decision by the ECK to the local electoral officers, few presiding officers could say with certainty how to deal with voters whose name did not appear on the voter register. This led to different responses by presiding officers (and hence unequal treatment across different polling stations). Although it is difficult to quantify how many voters were affected by this decision, it appears that a considerable number of Kenyans were unable to cast their ballots. These last minute changes were confusing and threatened to undermine the confidence of the electorate in the ECK. Clearer and more consistent communication from the ECK on this matter might have avoided these problems.

Carter Center observers reported that many presiding officers sought to resolve problems as impartially and efficiently as possible.

Voter secrecy was not always assured, particularly in the case of disabled or illiterate voters who required assistance. In several cases, assisted voting was conducted in full view of party agents, observers, and other voters in the polling station. In other cases, it appears that the provision of assisted voting for illiterate voters may have been abused with an unusually high number of voters demanding such assistance in some stations with few or none in others. It is not immediately clear if these instances of high numbers of assisted voters reflected an attempt to commit voter fraud. The ECK should review the operation of this aspect of the electoral law. In addition, more civic education on all aspects of the voting process, enhanced ballot paper design, as well as more intensive training for polling officials could minimize the instances of assisted voters.

Counting and Tabulation

Despite the late opening of many polling stations, the counting process was generally efficient. The decision to amend the electoral law to enable counting at polling stations has greatly enhanced the transparency of this aspect of the process. Although Carter Center delegates observed some irregularities during the counting process, they were typically of a minor nature and do not appear to have affected the overall results. The difficulties could be avoided with more hands-on training for polling officials and party agents.

In general, the tabulation process was well-managed, and conducted in the presence of enthusiastic, but disciplined candidates, party agents, and observers. Thus far, results announced at the constituency tally centers have been received without acrimony or violence. However the transparency of the process could be improved with more visible posting of results in the tally centers and the use of public address systems to ensure that all participants may follow the process accordingly.

Conclusion

The Center will continue to monitor the tabulation process, as well as any forthcoming deliberations concerning complaints or protests. Now that Kenyans have voted for change they must remain as vigilant and demanding of accountability from their new leaders as they were in exercising their right to choose them. The constitutional reform process must be renewed, with special attention directed to electoral reform and the establishment of a level playing field for all political actors. Kenya's important role as a leading African nation has been enhanced by these elections and the country's newly elected leaders should take immediate steps in the fight against corruption, the consolidation of democracy, and the respect for the rule of law to lay the groundwork for Kenya's economic and political development.



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 11

2002 PRESIDENTIAL ELECTION RESULTS SUMMARY PER PROVINCE - PRELIMINARY

PROVINCE	REGISTERED VOTERS	KENYATA UHURU MUGAI (KANU)	KEBAKIMWAI (NAARC)	NYACHAE SIMEON (FORD-P)	ORENGO JAMES AGGREY (SDP)	WAMWERU DAVID NGETHE (CCU)	TOTAL VOTES CAST	TOTAL REJECTED VOTES	TOTAL VALID VOTES	% VOTER TURNOUT
NAIROBI	884,135	76,001	279,705	8,775	891	301	371,374	5,701	365,673	42.004%
COAST	879,741	20,784%	76,490%	2,400%	0,244%	0,082%	370,611	5,973	364,638	42.127%
		121,645	228,915	1,716	1,539	823				
		33,360%	62,779%	3,213%	0,422%	0,228%				
NORTH EASERN	216,336	83,358	34,916	5,660	297	73	125,090	786	124,304	57.822%
		67,060%	28,099%	4,553%	0,239%	0,059%				
		1,734,209	749,654	7,863	3,509	2,216	1,055,736	22,269	1,033,467	60.877%
		26,147%	72,538%	0,761%	0,340%	0,214%				
CENTRAL	1,563,084	308,012	701,916	4,441	1,443	2,053	1,033,456	15,591	1,017,865	66.116%
		30,267%	68,960%	0,436%	0,142%	0,202%				
		2,415,555	769,242	624,501	45,145	3,826	1,469,351	25,013	1,444,338	60.829%
		53,259%	43,238%	3,126%	0,265%	0,112%				
RIFT VALLEY	1,202,104	143,101	506,999	9,073	3,443	1,325	686,601	22,160	664,441	57.117%
		11,851%	42,183%	0,754%	0,286%	0,110%				
		143,101	506,999	9,073	3,443	1,325	686,601	22,160	664,441	57.117%
		11,851%	42,183%	0,754%	0,286%	0,110%				
WESTERN	1,202,104	143,101	506,999	9,073	3,443	1,325	686,601	22,160	664,441	57.117%
		11,851%	42,183%	0,754%	0,286%	0,110%				
		143,101	506,999	9,073	3,443	1,325	686,601	22,160	664,441	57.117%
		11,851%	42,183%	0,754%	0,286%	0,110%				
NYANZA	1,555,986	64,471	521,052	252,488	1,115	865,158	16,412	848,746	55.602%	
		4,147%	33,542%	16,228%	0,007%	5,548%				
		64,471	521,052	252,488	1,115	865,158	16,412	848,746	55.602%	
		4,147%	33,542%	16,228%	0,007%	5,548%				
		7,596%	61,391%	29,748%	1,133%	0,131%				
NATIONAL TOTAL	10,451,150	1,836,055	3,647,658	345,161	24,568	10,030	5,977,377	113,905	5,863,472	57.193%
% VOTES SCORED		31.313%	62.210%	5.887%	0.419%	0.171%				



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 12

ELECTORAL COMMISSION OF KENYA
27TH DECEMBER 2002 GENERAL ELECTION RESULTS
ELECTED MEMBERS OF PARLIAMENT PER POLITICAL PARTY
(PRELIMINARY)

Political Party	Number of Candidates			Number of Elected MPs			
	Total	Female	Male	Total	Female	Male	% Rep.
1 NATIONAL RAINBOW COALITION	208	13	195	125	8	117	59.524
2 KENYA AFRICAN NATIONAL UNION	209	2	207	64	1	63	30.476
3 FORUM FOR THE RESTORATION OF DEMOCRACY FOR THE PEOPLE	185	7	178	14	0	14	6.667
4 SAFINA PARTY	59	3	56	2	0	2	0.952
5 FORUM FOR THE RESTORATION OF DEMOCRACY - ASILI	41	4	37	2	0	2	0.952
6 SISI KWA SISI PARTY OF KENYA	11	1	10	2	0	2	0.952
7 SHIRIKISHO PARTY OF KENYA	17	1	16	1	0	1	0.476
8 PEOPLES PARTY OF KENYA	6	0	6	0	0	0	0.000
9 SOCIAL DEMOCRATIC PARTY OF KENYA	96	5	91	0	0	0	0.000
10 KENYA NATIONAL DEMOCRATIC ALLIANCE	4	1	3	0	0	0	0.000
11 KENYA NATIONAL CONGRESS	10	1	9	0	0	0	0.000
12 DEMOCRATIC ASSISTANCE PARTY	1	0	1	0	0	0	0.000
13 FEDERAL PARTY OF KENYA	14	0	14	0	0	0	0.000
14 UNITED PATRIOTIC PARTY OF KENYA	5	0	5	0	0	0	0.000
15 UMMA PATRIOTIC PARTY OF KENYA	3	0	3	0	0	0	0.000
16 GREEN AFRICAN PARTY	4	0	4	0	0	0	0.000
17 ECONOMIC INDEPENDENCE PARTY	4	2	2	0	0	0	0.000
18 KENYA SOCIAL CONGRESS	10	0	10	0	0	0	0.000
19 CHAMA CHA MAJIMBO NA MWANGAZA	3	0	3	0	0	0	0.000
20 NATIONAL LABOUR PARTY	18	0	18	0	0	0	0.000
21 CHAMA CHA UMA PARTY	11	0	11	0	0	0	0.000
22 REPUBLICAN REFORMATION PARTY	3	0	3	0	0	0	0.000
23 THE LABOUR PARTY OF KENYA	5	1	4	0	0	0	0.000
24 NATIONAL ALLIANCE PARTY	19	0	19	0	0	0	0.000
25 UNITED DEMOCRATS OF PEACE AND INTEGRITY IN KENYA	6	0	6	0	0	0	0.000
26 KENYA AFRICAN DEMOCRATIC DEVELOPMENT UNION	16	0	16	0	0	0	0.000
27 NATIONAL PROGRESSIVE PARTY	12	0	12	0	0	0	0.000
28 KENYA CITIZENS CONGRESS	4	0	4	0	0	0	0.000
29 THE PEOPLES' SOLIDARITY UNION OF KENYA	1	0	1	0	0	0	0.000
30 MASS PARTY OF KENYA	3	0	3	0	0	0	0.000



OBSERVING THE 2002 KENYA ELECTIONS

ELECTORAL COMMISSION OF KENYA
27TH DECEMBER 2002 GENERAL ELECTION RESULTS
ELECTED MEMBERS OF PARLIAMENT PER POLITICAL PARTY
(PRELIMINARY)

Political Party	Number of Candidates			Number of Elected MPs			% Rep.
	Total	Female	Male	Total	Female	Male	
31 UNITED AGRI PARTY	10	2	8	0	0	0	0.000
32 REPUBLICAN PARTY OF KENYA	2	0	2	0	0	0	0.000
33 KENYA PEOPLE'S PARTY	26	1	25	0	0	0	0.000
34 KENYA PATRIOTIC TRUST PARTY	9	0	9	0	0	0	0.000
National Total:	1,035	44	991	210	9	201	



OBSERVING THE 2002 KENYA ELECTIONS

APPENDIX 13

ISSUE NO. 1473 People Daily Wednesday, December 25, 2002

Ex-Zambian president visits Kibaki, consoles him

By MONICA MUTHWII Muthaiga residence. Kaunda arrived at Kibaki's home shortly after 2pm and held consultations with his host for almost one hour. But when asked about the visit, Kibaki maintained that he and the former Zambian president were good, old friends and "it was only a friendly visit".

Kibaki said Kaunda, his collegemate at the London School of Economics had come to see him as a friend and wish him well as he goes for the Friday general election and a quick recovery following last month's road accident that left his right leg with a fracture.

Kaunda is part of a team from the James Carter Centre that has been deployed in the country to monitor this year's general election.

Kibaki described him as a freedom fighter who fought fearlessly for democracy in Africa and the release of the late founding Father Mzee Jomo Kenyatta.

And speaking during a Christmas Eve special mass held at his residence, Kibaki said he was confident that his party would triumph in the Friday general election. He said he was satisfied

Turn to Page 2

Kaunda and Kibaki meet

From Page 1

with the way the presidential, parliamentary and civic campaigns have been handled across the country.

The frontrunner in the presidential elections defended Narc Summit member Raila Odinga's remarks that Kenyans would storm State House if Kanu rigs the elections, saying the move was an effort by Kenyans to protect themselves.

"As Kenyans, we shall take any action to defend ourselves," he said, adding, *Raila alisema ukweli na ukweli haubadiliki.*" (Raila said the truth and the truth does not change).

He said his party was not taking anything for granted and was confident that the majority of Kenyans who have been supporting it overwhelmingly will vote for it.

Kibaki at the same time cautioned the Electoral Commission of Kenya (ECK) against imposing new rules that do not exist in the electoral law.

"The chairman should outline clearly, that any unregistered voter is not eligible to vote. He should not open a Pandora's box to purport that certain things exist when they do not," he said, noting that, the rule of law should prevail during the elections.

Kibaki said he would be travelling to his rural home in Othaya where he is registered as a voter to cast his vote before the voting day. He said he was now feeling better and that the condition of his fractured foot was improving.

The presidential hopeful called on Kenyans to vote peacefully and

wisely, saying violence will not only result to hatred but leave wounds that cannot be healed after the elections.

"Baada ya uchaguzi, ndugu yako atakuwa bado ni ndugu yako na jirani yako pia atakuwa ni yule yule tu. Kwa hivyo kupigana hakutasaidia," he said.

The special mass, which was graced by Nairobi University chaplain Father Dominic Wamugunda, was also attended by children from Nyumbani Children's Home, Kibaki's family and friends, among others.

Kibaki promised to implement the provisions of the Children's Act that was passed by the Eighth parliament. "The future of our country is in our children and we must safeguard it. A Narc government will therefore fulfil this by implementing fully the Children's Act which enshrines all these requirements," he said.



OBSERVING THE 2002 KENYA ELECTIONS

ELECTION 2002

4 • EAST AFRICAN STANDARD, Thursday, December 26, 2002

Kaunda advises Kenyans

By **Silvia Njeri**

FORMER Zambian President Kenneth Kaunda has asked Kenyans to borrow a leaf from his country's political transition process and accept the people's verdict.

Kaunda who readily handed over power to his successor, former President Frederick Chiluba, following transitional elections, 11 years ago, urged Kenyans to accept whoever is elected to carry the mantle after President Moi.

"Talking from experience, I know how difficult this period is, but I must urge you all to accept whoever emerges victorious after Friday's election exercise," the former head of state said.

Kaunda was speaking during a Christmas Service at Nairobi's St. Andrews Presbyterian Church of East Africa (PCEA).

The former president, currently in the country as an election observer with the Jimmy Carter Centre, Atlanta,

was accompanied by fellow observers, Gordon Streeb and Amy Hamlin.

"For the first time the ruling party Kanu has had a real challenge from the Opposition, the process will be tough, but I urge all of you to accept whoever is elected," he said.

Kaunda who had been invited to greet the faithful, touched hearts when he humbly sang the Christian hymn, *To keep us step with Jesus every day.*

Likening the importance of the elections to the birth of Christ, Kaunda said, "We need Jesus to guide us through our daily life, even politically."

The Church's new Youth Hall, where the service was held was thronged by hundreds of faithful who excitedly shook hands and took photographs with the former Zambian leader.

Kaunda used his characteristic white handkerchief to bless children who also jostled to have a closer view of him.



PICTURE: ROBERT GICHERU

GOD BLESS YOU: Former Zambian president Kenneth Kaunda blesses 9-year-old Wangu Gichuki (centre) as Grace Ngina leaves after her memorable encounter with the African statesman. The former president had attended a service at St Andrews PCEA church Nairobi yesterday. Kaunda is in the country as an election observer.



OBSERVING THE 2002 KENYA ELECTIONS

2 THE PEOPLE DAILY, Monday, December 30, 2002
NATIONAL RECORD

Observers commend ECK

By CAROLINE WAFULA
GENERAL election observers have commended Electoral Commission of Kenya and its staff for being well equipped and generally prepared for the exercise.

"The staff recruited for the exercise were generally competent, well trained and understood and performed their task in a responsible and impartial manner," the European Union and Carter Center observers said in separate preliminary statements.

The Carter Centre commended ECK for enforcing its electoral code of conduct during the electoral process. The commission was also commended for conducting a widespread voter education programme prior to the elections.

at polling stations rather than the constituency centre had improved the transparency of the electoral process.

The team, however, said the introduction of the continuous voter registration legislation prior to the elections had come a little too late to be implemented for the just concluded elections.

The observers said valuable time was lost between the proposal to introduce continuous voter registration and its adoption by parliament resulting in its delayed introduction until after the elections. They, however, said the legislation has improved the openness and transparency of the democratic process.

The main problems noted by the EU election observers mission were deficiencies in the voters registers; confusing and inconsistent approach

adopted by ECK and its polling station officials dealing with the issue.

The Carter Centre team of observers shared the observation, on their part noting that ECK had caused a lot of confusion by making last minute changes and adjustments in the electoral laws.

The observers also took note of the exclusion of Kenyan citizens in the army, police and a number of election officials from the voting exercise noting that this had deprived them the chance to exercise their democratic right to cast their votes.

Generally, the observers said the 2002 Kenya elections marked an important step forward in the process of democratic development of Kenya.

The EU team has been in the country since November 19 upon at the invitation the outgoing government.



OBSERVING THE 2002 KENYA ELECTIONS

THE PEOPLE DAILY, Monday, December 30, 2002 3

NATIONAL RECORD

Kaunda commends Kenya on polls



Kaunda: Lauded Kenyans

By CAROLINE WAFULA
FORMER Zambia president Kenneth Kaunda has commended Kenyans, the Electoral Commission of Kenya (ECK) and outgoing head of state Daniel arap Moi for conducting the 2002 general elections in a peaceful and transparent manner.

He at the same time called on the donor community to come to the aid of Kenyans and help them come out of economic doldrums.

The African statesman particularly called on the Europe to change the patterns and conditions of trade in favour of Kenya and other countries in the African region so they

can also benefit and develop economically.
"Running up and down for donor aid is not all that is needed to change the African region, change of trade patterns is the only major thing that will change the problem in the continent," he said.

He was speaking to a battery of local and international journalists at Serena Hotel in Nairobi where the Carter Centre released a statement on their observation of the just concluded elections.

Accompanying him were former diplomat Gordon Streeb who is the associate executive director of the Center's peace programmes, and David Pottie the director of the Carter Center Kenya election observers' mission.

The former president said no particular country should be penalised because of its poor leadership. "Bad and good leadership exists in every country, in Africa, like elsewhere in the world," he said.

At a regional level, he said the globalisation concept should not work against the developing world. "Globalisation should not mean slave trade or sluggish trade patterns," he said.

"Buying and selling should be in favour of developing countries, we need good trading conditions," he said. Kaunda led a team of 25 observers from the centre to more than 200 polling stations in Nairobi area and six provinces.

He said the 2002 Kenya elections should serve as an example to other countries in the region.
"The importance of these

experience cannot be underestimated," he said. "I thank God for what is happening, I thank president Moi for deciding to leave active politics and I thank Kenyans for having been peaceful during the elections," he added.

He pointed to the few cases of violence and irregularities during the elections insisting that he had not taken note of any

deliberate attempt to rig the elections.

Moi he said, has quit power peacefully and has equally played an active role in organising peaceful elections. "It is a good example and good job and other countries should learn from this," he said.

Given the wide and clear margin of the winning team, Kaunda said he does not expect many losers to move

to courts to challenge the results.

He later attended a press conference addressed by Uhuru Kenyatta, the Kanu candidate for presidency in the recent elections, who conceded defeat to the National Rainbow Coalition in the December 27 general election.

The two informally exchanged some few words after the press conference.



THE CARTER CENTER AT A GLANCE



MARTIN FRANK

Overview: The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A nongovernmental organization, the Center has helped to improve life for people in more than 65 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; improving mental health care; and teaching farmers to increase crop production.

Accomplishments: The Center has observed 45 elections in 23 countries; helped farmers double or triple grain production in 15 African countries; mediated or worked to prevent civil and international conflicts worldwide; intervened to prevent unnecessary diseases in Latin America and Africa, including the near eradication of Guinea worm disease; and strived to diminish the stigma against mental illness.

Budget: \$33.9 million 2001-2002 operating budget.

Donations: The Center is a 501 (c)(3) charitable organization, financed by private donations from individuals, foundations, corporations, and international development assistance agencies. Contributions by U.S. citizens and companies are tax-deductible as allowed by law.

Facilities: The nondenominational Cecil B. Day Chapel and other facilities are available for weddings, corporate retreats and meetings, and other special events. For information, (404) 420-5112.

Internships: The Center's internship program has been rated one of America's best by the Princeton Review.

Location: In a 35-acre park, about 1.5 miles east of downtown Atlanta. The Jimmy Carter Library and Museum, which adjoins the Center, is owned and operated by the National Archives and Records Administration and is open to the public. (404) 331-3942.

Staff: 150 employees, based primarily in Atlanta.

THE
CARTER CENTER



ONE COPENHILL
453 FREEDOM PARKWAY
ATLANTA, GA 30307
(404) 420-5100 ♦ FAX (404) 420-5145
WWW.CARTERCENTER.ORG