

**INSTITUTE FOR EDUCATION IN DEMOCRACY**

**REGISTRATION OF VOTERS IN 2002**

***AN AUDIT REPORT***

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# TABLE OF CONTENTS

<u>ACKNOWLEDGEMENTS</u> .....	i
<u>PREFACE</u> .....	ii
<u>EXECUTIVE SUMMARY</u> .....	iv
<u>SECTION 1 INTRODUCTION</u> .....	1
<u>1. Background</u> .....	1
<u>2. Legal and Administrative Framework for Elections in Kenya</u> .....	3
<u>3. Historical Overview of Voter Registration in Kenya</u> .....	7
<u>4. Purpose of the Voter Registration Audit</u> .....	9
<u>SECTION 2 RESEARCH DESIGN AND METHODOLOGY</u> .....	11
<u>1. Sampling and Sampling Methodology</u> .....	11
<u>2. Polling Stations</u> .....	11
<u>3. Sample Frame and Size</u> .....	11
<u>4. Data Collection and Sources</u> .....	11
<u>5. List-to-People Interviews</u> .....	12
<u>6. People-to-List Interviews</u> .....	12
<u>7. Focus Group Discussions</u> .....	12
<u>8. Data Collection</u> .....	13
<u>9. Data Treatment and Analysis</u> .....	13
<u>10. Limitations of the Study</u> .....	13
<u>SECTION 3 THE SURVEY FINDINGS</u> .....	15
<u>1. Respondents</u> .....	15
<u>2. Respondents' Characteristics</u> .....	15
<u>3. Residency Requirements</u> .....	16
<u>4. Registered Voters</u> .....	16
<u>5. Verification of Documents</u> .....	16
<u>6. Age at registration</u> .....	17
<u>7. Mode of registration</u> .....	17
<u>8. Reasons for registration</u> .....	17
<u>9. Documents Produced at Registration</u> .....	18
<u>10. Scrutiny of Registers</u> .....	19
<u>11. Multiple Registration</u> .....	20
<u>12. Problems With Voter Registration</u> .....	20
<u>13. Assessment of ECK Performance</u> .....	20
<u>14. Dead Voters</u> .....	21

<u>15. Other Important Issues</u> .....	21
<u>SECTION 4 ASSESSMENT OF THE VOTER REGISTRATION AND RECOMMENDATIONS</u> .....	23
<u>1.Accuracy of the Register</u> .....	23
<u>2.Electoral Environment at Registration</u> .....	24
<u>3.Disenfranchised Voters</u> .....	25
<u>4.Opportunities for Correction of Errors</u> .....	25
<u>5.Management of the Voter Registration Process</u> .....	26
<u>6.Voter Awareness and Interest in the Process</u> .....	26
<u>7.Undue Influence</u> .....	27
<u>8.Gender Perspectives</u> .....	28
<u>9.Registration Requirements</u> .....	28
<u>10. Comparisons With Past Registration Exercises</u> .....	29
<u>11. Other Administrative Action Preceding the Next General Elections</u> .....	30
<u>SECTION 5 APPENDICES</u> .....	31
<u>Appendix 1: List of Constituencies in the Sample</u> .....	31
<u>Appendix 2: Survey Instruments</u> .....	32
<u>22. How many elector's (voter's) cards do you possess?</u> .....	34

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This report is published in memory and honour of Grace Githu, the immediate former Executive Director of IED, who conceptualised the survey and fundraised for it.

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## PREFACE

The freeness and fairness of an election is not just about events that happen on the polling day. It encompasses events that occur before the polling day, on the day itself and the post-election period. Save for constituency delimitation, registration of voters is the first stage in the electoral process. Voter registration should be open, transparent, verifiable and cost effective. In addition it should comply with the following international standards: the right of the individual to vote, the right of the individual to access an effective impartial and non-discriminatory procedure for registration of voters and the right of every eligible citizen to be registered as a voter subject to disqualification in accordance to an established law.

IED conducted a survey to assess the quality and accuracy of the voters register compiled by the Electoral Commission of Kenya (ECK) for the forthcoming general elections. The objectives of the survey were:

- To examine the accuracy of the voter's register;
- Critically examine the process of determining voter eligibility
- Estimate the size of potential voters likely to have been disenfranchised and the number of ineligible voters on the register; and
- Survey citizen's reasons for registering and the value placed on the vote by voters.

The assessment was done in full knowledge that the registration stage is very central to the integrity of an election. If it were inaccurate, or flawed in some other respect, it would seriously dent the credibility of the subsequent election. To determine whether the registration process was done fairly, IED sought to find out (among other things) whether all those who have attained the voting age were provided with identification documents to enable them register and vote; and whether the registration period was sufficient to enable all those qualified and willing to vote to register.

This report of the survey's findings is laced with a suitable background and introduction, which is easy to read. The survey findings are presented in a straight forward, practical, and non-partisan way. The main part of the report is section 3 where statistical data is presented in tables with brief analytical or explanatory texts to assist readers understand the statistical data. Suitable recommendations are made in conclusion to the report.

Publishing this report is part of IED's commitment to securing free and fair elections. In this regard it is incumbent upon the ECK and other government departments mentioned in the recommendations to act swiftly and without delay, in the implementation of proposed measures. In addition this report is intended to serve as a source of information for stakeholders in the political process and the general public.

## EXECUTIVE SUMMARY

The Institute for Education in Democracy (IED) conducted a survey and a scrutiny of the registers of 19 out of the 210 constituencies in Kenya, between July and August 2002. The purpose of the survey was to:

- (i) examine the accuracy of the voter's register;
- (ii) critically examine the process of determining voter eligibility;
- (iii) estimate the size of potential voters likely to have been disenfranchised and the number of ineligible voters on the register; and
- (iv) survey citizens' reasons for registering and the value placed on the vote by voters

This was done against the backdrop of the requirements for free and fair elections and the role that a properly conducted voter registration process and an accurate register of voters would play in that regard. Timely determination of the accuracy or otherwise of the register was also considered useful since there would be time for remedial action by ECK before the next General Elections.

The main findings of the survey were as follows:

- (i) The number one reason for not registering was lack of identification documents. 61% of those that failed to register attributed their failure to the lack of an ID. This represents 11.8% of the total number of people interviewed. These people were essentially disenfranchised despite having attained the legal age for registration and voting. Other people failed to register due to a range of other reasons, such as the short registration period, voter apathy, long distances to the registration centers, lack of information on registration, lack of personnel and insecurity.
- (ii) 14 people whose documents were scrutinized (1.3%) had problems. Problems included misspelled names and differences in ID number on the electors' cards.
- (iii) 8 (0.8%) people were registered without IDs. One of them said they used their birth certificate while the other two said they used school leaving certificates.

- (iv) Of those who claimed to have registered, 752 (67.4%) registered before 2002, 319 (28.6%) were registering for the first time, while 7 and 11 transferred constituencies and polling stations respectively.
- (v) 99.3% of the people who registered did so because they had to exercise their constitutional right (58.9%) or wanted to participate in their own governance (40.4%). Only a small fraction registered in order to vote for their tribes-people or their parties, to make money and as a result of undue influence.
- (vi) By the time of the survey only 415 (37.2%) of the people interviewed had scrutinized the register. 633 (56.7%) had not. Out of the ones who scrutinized the register, 324 (78.1%) found their records on the register and in accurate form while 23 (5.5%) did not.
- (vii) 48.3% of those who did not inspect registers claimed not to have done so because they were unaware of the scrutiny.
- (viii) The greatest number of the problems found on the register by respondents (43.5%) were with regard to misspelled names.
- (ix) Most of the respondents (75.7%) thought ECK performance on the voter registration exercise was satisfactory. This reflected a high degree of confidence in the exercise.

The assessment arrived at by IED is that the last registration exercise was conducted in a manner that most of the respondents found satisfactory. However, errors were detected on the register, ranging from misspelled names to the failure to update the register to take into account deceased voters. The recommendations made on the basis of this assessment are as follows:

- (i) The register reflects a satisfactory degree of accuracy, but needs better verification and updating. There is a lot that needs to be done by ECK and other relevant departments to expand the opportunities for correcting errors on the register.

- (ii) The implementation of the Statute Law (Miscellaneous Amendments) Act, 2002 and adoption of the proposals in the report of the Constitution of Kenya Review Commission (CKRC) and the Draft Constitution, coupled with a new political dispensation could improve the electoral environment in future registration processes.
- (iii) There is need for the Registrar of Persons to streamline the process of issuing IDs and an expansion of the range of documents required to prove citizenship to include birth certificates.
- (iv) Inter-agency collaboration with other department's such as the Kenya Revenue Authority would also be useful in updating the register. The Registrar of Births and Deaths should also step up efforts to register more births and deaths and design a system of forwarding this information to ECK.
- (v) The public has sufficient confidence in the manner in which ECK has, so far, managed the electoral process and it behoves all the stakeholders to maintain this level of confidence.
- (vi) There is need for ECK to continuously review its information dissemination systems to ensure that it communicates efficiently and effectively regarding all aspects of the electoral process to the voters.
- (vii) There is need to pursue focused strategies to reduce the influence of money and other forms of undue influence in Kenya's elections. This involves bringing offenders to book for appropriate punishment.
- (viii) There is need for a deeper study on the changing trends in the number of women voters to deal with any disadvantages that may have occasioned the same. Additionally, ECK needs to pay closer attention to the specific needs and circumstances of women to ensure that as many of them as possible get to register and vote.
- (ix) There is need for proper planning of housing and addressing systems and collaboration with the relevant local authorities in order to furnish information on voters' residence and increase the accuracy of the register.

- (x) ECK should take advantage of the period before the next General Elections and the various Gazette Notices it will issue in the said period to correct the same. For example, the publication of the list of polling stations should provide an opportunity to correct wrong names and related details. ECK should also publicly issue an assurance that cards with and without logos are both valid, to reduce the anxiety on the part of those with cards that do not bear the ECK logo.

# SECTION 1

## INTRODUCTION

### 1. Background

Elections are an essential part of any democratic society. Through them, citizens choose those who govern on their behalf. Although other elements of democracy can develop before comprehensive elections are held, a country cannot be truly democratic until its citizens have the opportunity to choose their representatives. Put differently, although elections cannot be equated to democracy, they are now widely accepted as the classic *sine qua non* for it. For elections to serve their purposes, they must be conducted freely and fairly. Although what are free and fair elections may sometimes be relative, there are certain basic factors that must, as a minimum, be present to meet this “free and fair” test. These include the following:

- (i) any person who meets the minimum requirements of age, citizenship and residence must be allowed to register and vote;
- (ii) any person who meets the minimum requirements of age, citizenship and residence must be allowed to run for elective office;
- (iii) the votes cast must be accurately and fairly counted and the results announced promptly; and
- (iv) people must be allowed to vote in private using the secret ballot in order to protect them from intimidation or other kinds of influence.

The freeness and fairness of an election is not just about events that happen on the polling day. It encompasses events that occur before the polling day, on the day itself and for quite some time after it. These include constituency delimitation, voter registration, voting, counting of votes, announcement of the results, swearing in of the newly elected leaders and election petitions, among others.

The law, among other factors, plays an important part in guaranteeing free and fair elections. It provides the framework within which the elections are to be held and the rules to govern the entire electoral process. Internationally, the legal framework for the conduct of democratic elections derives from Article 21 of the Universal Declaration of Human Rights. It provides that:

“Everyone has the right to take part in the government of his (or her) country directly or through freely chosen representatives...”

It goes on to state:

“The will of the people shall be the basis of the authority of governance; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

The International Covenant on Civil and Political Rights (Article 25) and the African Charter on Human and Peoples’ Rights (Article 13) also state as much, with specific variations in language. International law therefore recognizes the importance of elections as an avenue for participation in governance.

In Kenya, the electoral process is governed principally by the Constitution, the National Assembly and Presidential Elections Act (Cap. 7 of the Laws of Kenya), the Election Offences Act (Cap. 66 of the Laws of Kenya) and the Local Government Act (Cap. 265 of the Laws of Kenya). Besides these, there are a number of other laws that do not govern elections as such, but nevertheless deal with matters that are incidental to elections. For example, the Penal Code (Cap. 63 of the Laws of Kenya) establishes a general code of legally punishable conduct, including assault and battery, whether this occurs at election time or not<sup>1</sup>.

As mentioned above, the electoral process consists of several stages. This report, however, restricts itself to an analysis of only one of those stages – the voter registration process. The report seeks to assess the quality and accuracy of the voters register for the forthcoming general elections<sup>2</sup>. Such assessment needs to be based on solid theoretical foundations, which are discussed in this section.

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<sup>1</sup> This should be quite evident to every stakeholder in the electoral process but it is not: election time seems to offer a ready licence for all manner of otherwise criminal conduct, including electoral violence, which quite often goes unpunished.

## 2. Legal and Administrative Framework for Elections in Kenya

In Kenya, as in several other countries, voter registration is an essential component of the electoral process. This is a complex and laborious task that requires a lot of skill and resources on the part of the organization with the authority to manage the election, in this case the Electoral Commission of Kenya (ECK).

Although the process of voter registration may not be the same for all countries, it is generally agreed that voter registration should, and does, serve the following purposes:

- (i) guarantees and enables all those legally qualified to vote to do so;
- (ii) prohibits unqualified and ineligible people from voting;
- (iii) prevents people from voting more than once and thus ensures equality of the vote;
- (iv) provides an opportunity for claims and objections on voter eligibility to be made; and
- (v) provides information on the number of eligible voters and their distribution throughout the country.

Through voter registration, those entitled and qualified to vote are identified, their details taken down and entered in a voter's register. They are then issued with voters' cards, which entitle them to vote at the ensuing elections. Voter registration therefore establishes each prospective voter's identity and qualifications and enables every qualified person to vote. The upshot of this is that a flawed voter registration process dents the credibility of the subsequent election.

One of the essences of free and fair elections is that of universal adult suffrage. This ensures that every adult qualified to vote is entitled and allowed to vote and that every vote is counted only once, ensuring that there is equality of votes. Voter registration achieves the purpose of ensuring that qualified voters vote only once in principally two ways. First, a registered

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<sup>2</sup>Although there was doubt regarding the election date at the time of administering the survey, after the recent dissolution of Parliament, it is widely expected that these will be held before the end of 2002. Under the present Constitution, the President can determine the life of Parliament by dissolving it at any time before the end of five years. There is also the requirement that the next Parliament must be sworn in within three months of the dissolution of the current one.

voter's name appears or should appear in only one polling station, so that he/she cannot, at least in theory, vote in any other station. The registration process also entails verification of the voters' identity.

To be able to serve all the above purposes, the rules governing the qualifications for voting, the process of registration and the management of the registration process must be clear, comprehensive and objective.

The legal and administrative framework for voter registration can be viewed in the following distinct parts:

- (i) Rules governing qualifications to vote;
- (ii) Management of the voter registration process;
- (iii) Actual registration of the voters; and
- (iv) Verification of the voters' list.

Although the constitution does not explicitly guarantee citizens the right to vote, it contains provisions that state the qualifications for one to be registered as a voter.<sup>3</sup> To qualify to be registered as a voter in elections to the National Assembly or of the President, one is required by virtue of section 43 of the Constitution to possess the following qualifications:

- (i) Be a citizen of Kenya and be at least eighteen years old;
- (ii) Have been resident in Kenya either for a period of not less than one year immediately before the date for registration or for a period totaling at least four years in the eight years before the date of application for registration;
- (iii) Have for a period(s) totaling at least five months in the last twelve months before the date of registration been resident in the constituency he/she seeks to be registered, or carried on business there or employed or lawfully possessed land or residential buildings there.

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<sup>3</sup> Nevertheless, the right to vote is now recognized universally and cast in stone in such international instruments such as the Universal Declaration of Human Rights, a moral code by which many a democratic state is gauged and, perhaps, gauges itself.

Anyone who does not possess the above qualifications is not entitled to be registered as a voter. Further categories for disqualification include persons who have been declared to be of unsound mind, undischarged bankrupts, those detained in lawful custody, those disqualified for having been convicted of an electoral offence or those reported guilty of the offence by the court trying an election petition. Persons qualified to be registered in more than one place are by law required to be registered only in the first place they apply for registration.

The qualifications thus allow any qualified Kenyan citizen who has attained 18 years to register as a voter. The person must also, in addition, possess relevant qualifications allowing him/her to register in some registration area, such as citizenship and residence. These are in line with basic international criteria for eligibility to vote.

The justification for the requirement of citizenship is to ensure that the affairs of the country are determined only by those who owe allegiance to Kenya and not some foreign state. At 18 years such persons have reached the age of majority and are thus adults considered capable of making rational decisions, like choosing who they want to lead them. Residency requirements ensure that one has some connection to the area that they want to register and vote in. This has also been one of the controversial qualifications especially in light of calls for allowing Kenyans living abroad to register and vote. Presently, the law does not allow persons devoid of these residency or ownership qualifications to register and vote.

The task of ensuring that all persons who are eligible to vote are given an opportunity to register and that those who are ineligible are prevented from doing so lies with the ECK. However, in addition to the qualifications in the Constitution, one also needs to possess a national identity card or a valid Kenyan passport for purposes of voting. The lack of these identification documents disqualifies one from registering as a voter. In determining whether a voter registration process has been fairly done, one necessarily has to inquire, firstly, whether all those who have attained the voting age were provided with identification documents to enable them register and vote<sup>4</sup> and, secondly, whether the registration period

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<sup>4</sup> It must, however, be appreciated that the issuance of identification documents is not within the ambit of ECK which may not be able to influence this process even with the best of intentions.

was sufficient to enable all those qualified and willing to vote to register. Of importance is the impartiality and competence of the registering body and personnel.

It is the duty of ECK to register all eligible voters. Once registered the voters' names are then compiled into a list. This list serves to identify all those who are entitled to vote at the subsequent elections and helps in election administration. Conversely, it means that those whose names do not appear in the list are not entitled to vote. The legal regime governing the registration process has its source in the National Assembly and Presidential Elections Act. Upon the commencement of the registration process by ECK, all potential voters, who have attained the age of majority (18 years) are entitled to apply to a particular polling station to be registered as voters. As proof of this entitlement, section 4 of the National Assembly and Presidential Elections Act requires possession of either a national identity card (ID) or a valid Kenyan passport. The law mandates that one may only register once for any particular election. Double or multiple registration is an offence, which attracts a possible jail term not exceeding 6 months or a fine not exceeding 5,000 shillings or both. In addition, such a person is disqualified to vote in any of the places that he/she may have registered.

The registration officers have the duty and power of determining whether one is qualified to be registered or not. One who has applied for registration but whose name does not appear in the electors' register can raise the issue with the registration officer by lodging a claim and, if dissatisfied with the decision of such officer, may appeal to the High Court. Any person whose name appears in the register of voters may object to his registration as such, or the registration of some other person (s). Such objections can, however, only be determined by a magistrate's court.

The regulations under the National Assembly and Presidential Elections Act that govern the voter registration exercise carried out for the forthcoming general elections were those amended by Legal Notice No. 529 of 1997. The highlights of the regulations include the lack of continuous voter registration<sup>5</sup>. Section 4 of the National Assembly and Presidential Elections Act as read together with rule 4(1) of the Presidential and Parliamentary Elections

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<sup>5</sup> This has since been changed with the passing by parliament of Statute Law (Miscellaneous Amendment) Act of 2002 which mandates that the registration of voters be a continuous process.

Regulations provided for periodic registration at such times as ECK designates with each registration period not being less than 30 days. Further subsection 2 of the said rule allowed ECK to stagger registration of voters so that it is done at different times within the country.

At the completion of the registration exercise, the registration officer prepares a register of electors who are qualified to vote. The register is made available for inspection at the office of the District Officer (DO) within whose division the registration centre lies. The purpose of the inspection exercise is to verify the accuracy of the register and to enable those with claims and objections to raise them.

Upon the finalization of the inspection exercise and after the courts have listened to and determined all appeals lodged with respect to claims and objections, the registration officer amends the electors register accordingly.

### **3. Historical Overview of Voter Registration in Kenya**

Traditionally, voter registration has been carried out in Kenya at 5-year intervals. It always started with an announcement, and a legal notice, from the ECK. It was often for a limited time, such as a month or two months, with the possibility of an extension. The general elections followed a short while after that. As such, voter registration came to be seen as the clearest indicator of an impending election.

Since the year 2000, however, ECK has been registering voters on an annual basis. In June 2002, the National Assembly and Presidential Elections Act was amended vide the Statute Law (Miscellaneous Amendments) Act, 2002 to, amongst others, allow for continuous voter registration. The registers are now computerized and electronically updated instead of compiling a completely new register at each election.

Historically, the registration of voters has always attracted substantial public interest. This is due to the importance of the process to the entire electoral process. Unfortunately, during the last two elections since the re-introduction of multiparty politics in 1991 the voter registration exercises have been found to be wanting.

The registration of voters for the 1992 multi-party elections was greatly vilified for lacking in accuracy, impartiality and comprehensiveness.<sup>6</sup> The registration of voters began in June 1992, and was the first to be conducted by the newly created ECK under the chairmanship of the late Retired Justice Chesoni. The registration exercise was slated to last for one month, a period that was considered too short. ECK only bowed under great pressure to calls for the extension of the registration period and extended the period first by ten days and thereafter by a measly three days. The complaints that were leveled against this registration were the disenfranchisement of many young Kenyans due to lack of national IDs, partiality of ECK, voter importation and bribery of voters, last minute changes of registration centers to the disadvantage of potential voters, falsification of voters' cards through wrong entry of electors' particulars in the card or register and registration of fictitious voters, clandestine registration of voters after the close of the registration period among others.

After the close of the registration exercise, the voters' registers were opened for inspection by members of the public as from 15th to 29th September 1992. Despite this period for inspection, few people seemed to have acted. ECK also did not carry out an aggressive campaign to make the citizenry aware of this opportunity. A further hindrance, in addition to the lack of awareness, was the high fees ECK charged for one to obtain the master voters register; a substantial sum of KSh. 600,000. The little monitoring of the process and scrutiny of the register discovered several irregularities. In whole the inescapable conclusion that emerged was that the registration exercise was by and large not truly free, fair and accurate.

The voter registration for the 1997 general elections began on 19th May, 1997 and was initially to end on 22nd June 1997. This deadline was initially extended to 24th June and finally to 30th June to enable more Kenyans register. This registration process also had its shortcomings. A survey carried out by IED observed several problems with the registration process. These included insufficient registration materials, administrative problems and incompetent registration personnel. Complaints with the process related to lack of ID cards preventing eligible persons from registering, inefficiency of the process and incorrect

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<sup>6</sup> For a comprehensive discussion on the process of registering voters for the 1992 General Elections see NEMU, *The Multiparty General Elections in Kenya, 29 December 1992: The Report of the National Election Monitoring Unit*, 1993, Nairobi.

numbers on voters' cards, which forced the registration process to be repeated in almost all constituencies in Nyanza Province. There were also instances of multiple registration and allegations of unlawful and irregular continuation of the registration process after the registration period had expired. The display of registers and their inspection was also far from satisfactory and here again ECK performed below par in informing the public about the inspection process.

There were subsequent registration drives in 2000 and 2001, but these do not raise any peculiar issues for material discussion. The last registration was undertaken from 4th February 2002 to 19th March 2002. This was before the law was changed to allow for continuous voter registration. The registration process was to enable ECK update the voters roll in preparation for the forthcoming general elections. It was also expected to enable young people who had attained the minimum voting age to register as voters and also give ECK opportunity to expunge from its records names of persons who had since died. At the end of the registration process, ECK announced that it had registered close to 1.3 million new voters. This brought the total number of registered voters, according to ECK reports, to 10,495,082. The registers were inspected between 1st and 30th May 2002. This period was to allow people to verify the details in the register and lodge claims and objections if they so wished. On 26th August 2002, the updated registers were unveiled to the public for final inspection to enable voters verify the correctness of information on the voters' register. This was done for 14 days.

#### **4. Purpose of the Voter Registration Audit**

IED conducted an audit of the 2002 voter registration process. The objectives of the audit were as follows:

- (i) examine the accuracy of the voter's register;
- (ii) critically examine the process of determining voter eligibility;
- (iii) estimate the size of potential voters likely to have been disenfranchised and the number of ineligible voters on the register; and
- (iv) survey citizens' reasons for registering and the value placed on the vote by voters

This report contains the findings of the audit. The registration of voters and the subsequent preparation of voters' registers is a critical component of any electoral process. By auditing the process of the last registration before the next general elections and making a determination on the accuracy of the register, it was expected to safeguard the integrity of the electoral process.

To arrive at the determination that the voters list was accurate and that the registration process was carried out fairly, freely, impartially and accurately, the following benchmarks as a minimum should have been met:

- (i) The legal framework governing registration should be enabling and not prohibitive. In essence the legal framework should not disenfranchise potential eligible voters;
- (ii) ECK should have the necessary competence, capacity and skills to carry out the exercise;
- (iii) The voters' list should be readily available for public inspection.
- (iv) There should be adequate opportunity and access for all potential eligible voters to register;
- (v) The procedures for registration should be uniformly applied to all;
- (vi) The voters' register compiled at the end of the registration exercise should contain all and only the names of people who are eligible to vote;
- (vii) The information about each and every potential voter as appears on the voters' list should be accurate and up to date;
- (viii) Citizens should be sufficiently aware of, not only the importance of registering to vote but also of the registration process and period to enable them participate in the process; and
- (ix) There is adequate machinery for resolving disputes that arise out of the registration exercise.

In auditing the voters' register, this survey and report sought to gauge the extent to which these benchmarks were met.

## **SECTION 2 RESEARCH DESIGN AND METHODOLOGY**

### **1. Sampling and Sampling Methodology**

The study was undertaken in 19 of the country's 210 constituencies. To ensure geographical spread of the constituencies, during the selection the constituencies were clustered under their respective provinces and then listed alphabetically. Depending on the total number of constituencies in each province, 2-3 constituencies were randomly selected for the study. However, it was not possible to cover North Eastern province as anticipated due to logistical problems. A list of all the constituencies under the study is attached at the end of this report.

### **2. Polling Stations**

In each of the 19 constituencies, 5 polling stations were randomly sampled for the study. However, in order to ease the data collection process, but without necessarily interfering with the representativeness of the sample, 3 out of the 5 polling stations were finally selected on the basis of geographical spread, accessibility and population settlement patterns. The supervisors played an important role in determining which polling stations to target.

### **3. Sample Frame and Size**

The study was designed to cover both registered voters and those unregistered but eligible to register as voters. Among the registered voters, the study sought to verify the accuracy of their details on the voters' register *vis-à-vis* the information on their national IDs/Kenyan passports, and electors' cards. In addition, the study also sought their views/opinions on the voter registration process. For the latter group, the study also focused on the reasons for their non-registration.

In each constituency, the study targeted an average of 150 respondents evenly distributed among the three polling stations. In all, the study was designed to cover approximately 2,850 respondents.

### **4. Data Collection and Sources**

The study utilised both primary and secondary data. Primary data was collected through structured questionnaires and Focus Group Discussions (FGDs). The questionnaires were

administered by trained enumerators through people-to-list and list-to-people field interviews. Secondary data was collected primarily from news reports (both print and electronic), the Hansard, as well as the works of other distinguished authors.

### **5. List-to-People Interviews**

In each polling station, 100 names were randomly selected from the voters' register. The enumerators, with the help of local guides, located the bearers of the names for interview. After each interview, the information on the respondent's ID /passport and elector's card was crosschecked against the information provided in the voters' register to establish the accuracy of the register.

### **6. People-to-List Interviews**

In the people-to-list interviews, 50 homesteads around the sampled polling stations were selected. In each homestead, the enumerators were instructed to interview not more than two respondents while maintaining age and sex balance in the selection of respondents. This methodology targeted both registered voters and those who had not registered but were 18 years and above at the time of the 2002 voter registration exercise. For the registered voters, the information obtained from their elector's cards and ID cards was crosschecked against the voters' register to establish whether the information was indeed accurately presented in the voters' register.

### **7. Focus Group Discussions**

FGDs involving key informants from the area around the polling stations were held to not only to illuminate on the voter registration exercise but also help in scrutinising the voter registers for their respective polling stations. Names in the voters' register for each polling station were called out to the FGD participants for confirmation. A total of 49 FGDs, involving 500 discussants in all were held and notes emanating from the discussions summarised. In addition to the notes, the register of electors was used to mark the names of voters who could not be positively identified by those present, and also those reported by the attendees as being deceased. The FGDs also provided an opportunity, though totally unrelated to the research, for those present, and who may not have been interviewed to verify their details in the register.

## **8. Data Collection**

Two weeks before the start of the collection of primary data, all the supervisors for all the constituencies underwent training on the objective of the research and the research methodology. In view of the nature of the research, all the supervisors were selected from the local areas concerned. After the training, the supervisors were assigned the task of recruiting and mobilising the enumerators (who also had to come from those areas) and then training them on the questionnaire, mobilising the guides (where necessary), determining the centres within their constituencies from which the research team could operate from, and organizing for the FGDs.

The administration of the questionnaires itself was done by five enumerators in each constituency. The first day of contact between the enumerators and the research team was spent on taking the enumerators through the questionnaire again so that it was clearly understood by all. This was a deliberate measure to ensure that the information collected was accurate. At the end of each day, the supervisor checked each returned questionnaire with each enumerator. After this exercise, all the questionnaires were re-checked by the research team for further quality control.

## **9. Data Treatment and Analysis**

The questionnaires were serially numbered and coded on the basis of a data dictionary designed for the purpose. The data was keyed into a database and analyzed using SPSS for Windows. The main feature of analysis is frequency tabulations. In instances where it was necessary, data has been crosstabulated to depict relevant characteristics.

## **10. Limitations of the Study**

This research had a number of limitations and difficulties, both conceptual and administrative. In the former category, at least one stands out. The first is that although the list-to-people interviews were meant to be used across the board, the methodology could not sufficiently and efficiently cover metropolitan constituencies. Principally, this was because of the inherent nature of towns which does not lend itself to easy location of people on the register. The fact that one is registered in one particular polling station does not necessarily mean that he/she lives close to that station. For this reason, the list-to-people interviews were restricted to the rural constituencies.

There were more difficulties than limitations. For one, there was the problem of long distances in tracing the respondents in the list-to-people category. It was discovered that in some constituencies, the enumerators had to travel on foot for a total of about 25 to 30 kilometres. This normally left the enumerators too tired to engage in any serious quality control work with their supervisors. Concomitant with this was the problem of not finding the respondents. This could be for various reasons- some of the people had gone to the farms, markets, relocated or gone on *safari*. The overall effect was that a number of questionnaires were returned with only the names of the would-be- respondents and the reasons for non-interview. The probative value of such information was thereby reduced.

In some cases, cultural practices handicapped the research. There were instances where female respondents, although located, could not be interviewed because their spouses kept their IDs and electors' cards. On a few occasions, some women felt that they needed the permission of their spouses to consent to the interviews.

Another problem was the misconception about the objectives of the research. There were cases where some people felt that the research was probably at the behest of some politicians or parties. Indeed, such was the seriousness with which it was viewed that in one station, those selected for the FGDs refused to take the transport reimbursement offered, alleging that the money was meant to oath them.

Despite the elaborate training that was offered to the enumerators, there were still occasions manifesting the incompetence of some of them. Examples of these were improperly filled questionnaires, and incomplete ones. Subsequently, there were questionnaires, though few, that were discarded – a wasted opportunity for richer information. The other example was failure of some supervisors to arrange for FGDs in time leading to a skewed attendance - in one case, only a youthful presence could be achieved. Last, but not least, among these problems was gender disparity in the FGDs despite the intention to achieve a gender balance.

## SECTION 3 THE SURVEY FINDINGS

### 1. Respondents

A total of 2,609 respondents were interviewed in the survey. 1,432 people were interviewed on the basis of the People to List survey, while 1,177 were interviewed on the basis of the List to People.

TABLE 1: SURVEY SAMPLE					
People to List		%	List to People		%
Alego Usonga	46	3.2%	Alego Usonga	77	6.5%
Bahari	13	0.9%	Bahari	59	5.0%
Baringo	58	4.1%	Baringo	40	3.4%
Butula	102	7.1%	Butula	85	7.2%
Central Imenti	43	3.0%	Central Imenti	179	15.2%
Gatanga	64	4.5%	Gatanga	70	5.9%
Kacheliba	142	9.9%	Kacheliba	36	3.1%
Kanduyi	81	5.7%	Kanduyi	27	2.3%
Kerugoya Kutus	86	6.0%	Kerugoya Kutus	141	12.0%
Kilome	79	5.5%	Kilome	46	3.9%
Kisauni	108	7.5%	Kisauni	0	0.0%
Kitutu Masaba	11	0.8%	Kitutu Masaba	30	2.5%
Kwanza	81	5.7%	Kwanza	23	2.0%
Langata	140	9.8%	Langata	0	0.0%
Maragwa	151	10.5%	Maragwa	139	11.8%
Narok North	57	4.0%	Narok North	29	2.5%
Nithi	134	9.4%	Nithi	127	10.8%
Nyatike	25	1.7%	Nyatike	54	4.6%
Voi	11	0.8%	Voi	15	1.3%
<b>Total</b>	<b>1,432</b>	<b>100.0%</b>	<b>Total</b>	<b>1,177</b>	<b>100.0%</b>

### 2. Respondents' Characteristics

There were 652 women and 768 men in the final sample. Most of the respondents were between the ages of 18 and 45. The rest were in the 46 and above category.

<b>Sex</b>			<b>Age</b>		
Male	768	53.6%	18-30	541	37.8%
Female	652	45.5%	31-45	423	29.5%
Missing	12	0.8%	46 and above	420	29.3%
			Missing	48	3.4%
<b>Total</b>	<b>1,432</b>	<b>100.0%</b>		<b>1,432</b>	<b>100.0%</b>

### 3. Residency Requirements

1,290 (90.1%) of the respondents had lived in the registration area for over 5 years. Only 88 (6.1%) had not. 54 people (3.8%) did not respond to this question.

### 4. Registered Voters

1,116 (77.9%) of the respondents claimed to have registered as voters. 277 (19.4%) did not register. The number one reason for not registering is lack of identification documents. 61% of those that failed to register attributed their failure to the lack of an ID. This represents 11.8% of the total number of people interviewed. These people were essentially disenfranchised despite having attained the legal age for registration and voting. Other people failed to register due to a range of other reasons, such as the short registration period, voter apathy, long distances to the registration centers, lack of information on registration, lack of personnel and insecurity.

Lack of ID	169	61.0
Short registration period	76	27.4
Lack of information	24	8.7
Long distance	23	8.3
Voter apathy	17	6.1
Others	12	4.3
Lack of personnel	8	2.9
Insecurity	1	0.4

### 5. Verification of Documents

1,312 people (91.6%) people said they had IDs while 105 (7.4%) said they did not. Out of the 1,116 people who claimed to have registered, 1108 (99.3%) people allowed scrutiny of their documents. Out of these 1094(98.7%) were in order, while 14 (1.3%) had problems.

Problems included misspelled names and differences in ID number on the electors' cards. Approximately 97% of the list-to-people respondents had documents that were in order.

Accurate	1,094	98.7%
Inaccurate	14	1.3%
<b>Total</b>	<b>1,108</b>	<b>100.0%</b>

3 (0.3%) people were registered without IDs. One of them said they used their birth certificate while the other two said they used school leaving certificates.

### 6. Age at registration

Most people were of age when they registered. Only 5 (0.4%) were under-age at the time of registration.

18 and above	1,096	98.2%
Below 18	5	0.4%
Missing	15	1.3%
<b>Total</b>	<b>1,116</b>	<b>100.0%</b>

### 7. Mode of registration

Of those who claimed to have registered, 319 (28.6%) were registering for the first time, 752 registered before (67.4%), while 7 and 11 transferred constituencies and polling stations respectively.

Old entry	752	67.4%
New entry	319	28.6%
Missing	27	2.4%
Polling station transfer	11	1.0%
Constituency transfer	7	0.6%
<b>Totals</b>	<b>1,116</b>	<b>100.0%</b>

### 8. Reasons for registration

The reasons for registration were varied. By far, the most common was the feeling that they had to exercise their constitutional right (58.9%). Other people registered because they

wanted to participate in their own governance (40.4%), vote for their tribespeople (3%), vote for their party (2.7%), make money (0.9%) and as the result of undue influence (0.9%).

Reason	Count	Percentage
Constitutional right	657	58.9
Participate in governance	451	40.4
Other	57	5.1
Vote for tribesperson	33	3.0
Vote for party	30	2.7
Make money	10	0.9
Induced to register	5	0.4

When asked why they chose to register at a particular polling station 1,052 (94.3%) people said it was because of the proximity to their place of residence. The others stated their reasons as proximity to their place of employment and undue influence.

Reason	Count	Percentage
Area of residence	1,052	94.3
Missing	46	4.1
Employment/business	15	1.3
Influenced	2	0.2
Other	1	0.1

### 9. Documents Produced at Registration

Documents produced at registration included IDs or passports, birth certificates and school leaving certificates. Of these, the ID was the most prevalent, produced by 1,068 (95.7%) people. One person claimed to have produced no document at all.

Document Type	Count	Percentage
National ID/passport	1,068	95.7
Old voters card	26	2.3
Birth certificate	7	0.6
School leaving certificate	1	0.1
None	1	0.1

The few people who did not produce IDs/passports said the reasons for not producing them were loss, failure to acquire the same at the time of registration.

## 10. Scrutiny of Registers

By the time of the survey only 415 (37.2%) of the people interviewed had scrutinized the register. 633 (56.7%) had not.

Scrutinized	415	37.2%
Did not scrutinize	633	56.7%
Missing	68	6.1%
<b>Total</b>	<b>1,116</b>	<b>100.0%</b>

Out of the ones who scrutinized the register, 324 (78.1%) found their records on the register and in accurate form while 23 (5.5%) did not.

Of the ones who had not scrutinized the registers, distances to inspection sites, lack of information on inspection, illiteracy and assumption that details were correct were cited as the reasons.

Unaware of inspection	306	48.3
Assumed accuracy of details	281	44.4
Illiteracy	46	7.3
Other	36	5.7
Long distance	24	3.8

Errors found at this stage included misspelled names, wrong ID/Passport numbers, incorrect sex, elector's numbers and constituency details. The greatest number of people had errors with the spelling of their names.

Misspelled name	10	43.5
Other	5	21.7
Wrong ID/Passport number	2	8.7
Elector's number	2	8.7
Missing	2	8.7
Sex	1	4.3
Constituency details	1	4.3
<b>Total</b>	<b>23</b>	<b>100.0</b>

Of the ones who found errors on their records, 12 took remedial action. Of these, 19 confirmed that the information had since been corrected.

### 11. Multiple Registration

8 out of 1,116 (0.7%) people claimed to have more than one voter’s card. The vast majority 1,051 (94.2%) had only one card. This does not necessarily mean that the number of multiple registrations was low; it is merely an indication of the number of people that voluntarily admitted the offence.

### 12. Problems With Voter Registration

Most of the people cited lack of IDs, followed by a short registration period as the main problem with voter registration in their areas. Lack of information, long distances, apathy, lack of registration personnel and insecurity were also cited.

Problem	Count	Percentage
Lack of ID	549	38.3
Short registration period	528	36.9
Lack of information on registration	205	14.3
Long distance	177	12.4
Voter apathy	154	10.8
Lack of registration personnel	74	5.2
Other	29	2.0
Insecurity	4	0.3

### 13. Assessment of ECK Performance

Most of the respondents thought ECK performance on the voter registration exercise was very efficient. A similar number thought that the performance was efficient but needed improvement. Only 4.7% of the respondents thought the performance was inefficient.

Performance Category	Count	Percentage
Very Efficient	544	38.0
Efficient but needs improvement	540	37.7
Missing	160	11.2
Don't know	121	8.4
Inefficient	63	4.4
Others	4	0.3
Total	1,432	100.0

#### 14. Dead Voters

Out of the 1,177 people targeted by the list-to-people survey, 957 (81.3%) of the people were located. 202 (17.4%) were not located. Though the vast majority of those not located were due to absence from the home (whereupon their existence was verified from next of kin), the list-to-people survey and the FGDs revealed a statistically high number of voters that were dead and should not be on the register. In the list-to-people survey alone, 15.8% of the voters on the register could not be traced because they were dead. The FGDs also added to this number.

Reason	Count	Percentage
Absence from home	106	52.5%
Deceased	32	15.8%
Others	14	6.9%
Migrated	12	5.9%
Refusal to answer/cooperate	9	4.5%
No response	6	3.0%
Non-existent at address	2	1.0%
Missing	20	9.9%
Temporarily out of the country	1	0.5%
<b>Total</b>	<b>202</b>	<b>100.0%</b>

#### 15. Other Important Issues

There were also a number of other issues that emerged, especially from the FGDs. In Kitutu Chache and Kitutu Masaba, there was confusion over the names of two registration centres/polling stations, with records showing a mix-up between the two. Nyankongo in Kitutu Chache and Nyakongo in Kitutu Masaba were interchanged in the respective registers. This, and similar errors, could be the source of unnecessary confusion if it is not corrected early. This confusion in the names of polling stations was also found in Gatanga, where some records referred to Paul Mbiyu Primary School as Paul Mbiu Primary School.

In Kisauni and Langata, the research teams found voters with voters' cards bearing the ECK logo, unlike the case in other constituencies visited by IED. In view of the sensitivity that accompanies elections in Kenya, there may be doubts regarding the legality or otherwise of the cards. ECK needs to explain ahead of the elections which of these cards are valid. If both are, it would also be appropriate to give voters reassurances to that effect. Otherwise, they

may fall victim to last-minute interpretations on polling day, and be disenfranchised as a result.

There were voters who had cards but who were not on the register. There is also potential here for disenfranchisement: in the past, such voters have sometimes been barred from voting by election officials, upon finding such voters' names missing in both the register and the Black Book. Section 15 of the National Assembly and Presidential Elections Act also states that only voters who have voters' cards and whose names appear on the register will be allowed to vote.

## SECTION 4

# ASSESSMENT OF THE VOTER REGISTRATION AND RECOMMENDATIONS

Assessment of the voter registration process was done on the basis of established benchmarks. These have been discussed in section 1 above. This section therefore merely relates the data to the benchmarks. However, this relationship must be nuanced by the circumstances surrounding the voter registration exercise, the enabling constitutional and legal framework and the political environment obtaining in the country at the time. Eventually a determination as to whether the voter registration (or the elections) was conducted in a free and fair manner is based on a number of interrelated factors: seemingly innocuous happenings or situations at one time or another may end up affecting elections in more ways that were unanticipated at some material point in time.

### 1. Accuracy of the Register

A fair and accurate register of voters ultimately forms a large part of the content of a free and fair election. One of the key results of this audit, therefore, is a determination of how accurate the register is. In this regard, the survey sought to obtain information not only on what was on the register, but also what **ought** to have been on it and/or what **ought not** to have been on it. The first task, then, was to peruse the registers to see what they contained. A list-to-people survey was then undertaken. This obtained information on whether those who were on the register ought to have been on it; whether their details were accurately captured; and whether there were any people on the register that did not deserve to be on it. FGDs aided this process. The people-to-list survey established, on the basis of a random selection, whether those who ought to have been on the register were actually on it and whether their details were captured accurately.

Overall, the vast majority of the respondents' details were not only on the register but were captured accurately as well. On the basis of the people to list survey, it was determined that 78.1% of those who had scrutinized the register had their details accurately captured on it. It is essential to point out, though, that the bulk of those interviewed had not scrutinized the register. Nevertheless, it was possible for the survey team, to scrutinize the register and make a determination with similar effect. The list-to-people survey had even more remarkable findings. Out of the total number surveyed, 15.8% had died and should not be on the register. **By and large, the determination is that the register has a satisfactory degree of accuracy, but needs more timely verification and updating.**

## 2. Electoral Environment at Registration

An enabling legal and constitutional framework is essential to the success of any part of the electoral process. And not just that: there is need for an equally supportive political environment as well. As aforesaid, the voter registration period is invariably punctuated by controversy, accusations and counter-accusations of electoral fraud; it is essentially the period when the complaints about the process begin in earnest. The major complaints are about the duration provided by the Electoral Commission of Kenya (ECK) for the registration of voters, the lack of national IDs, importation of voters and the performance of the ECK. It is important to remember that these things happen against a certain backdrop, which is not viewed through the same lenses by all the stakeholders.

36.9% of the people interviewed identified the short registration period as a hindrance to registration. During the registration process itself, there were numerous complaints that the period was not sufficient. Indeed, even ECK extended registration after the initial deadline expired. Yet it cannot be denied that the period of registration that ECK sets is directly proportional to the resources the Exchequer had authorized for election expenditure this year. Secondly, the law has previously only allowed for periodic registration of voters – ECK could only register voters for a maximum of 30 days at a time. It did not help that all this was happening within a political environment that was poisoned by mistrust and political manoeuvring. Although the Statute Law (Miscellaneous Amendments) Act, 2002 has since made ample provision for continuous voter registration, this came after the registration period had ended. ECK has also stated that the provision will most probably not be implemented before the next General Election<sup>7</sup>. **The legal, constitutional, institutional and political environment was not 100% conducive to holding a successful voter registration drive, but the passing of the Statute Law (Miscellaneous Amendments) Act, 2002, the possible adoption of the proposals in the report of the Constitution of Kenya Review Commission (CKRC) and the Draft Constitution, coupled with a new political dispensation should improve the electoral environment in future voter registration drives.**

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<sup>7</sup> *Daily Nation*, Thursday, August 15, 2002, p. 11.

### 3. Disenfranchised Voters

11.8% of the respondents did not register due to lack of IDs and were, therefore, disenfranchised. 38.3% of the respondents complained about lack of national IDs as one of the problems with voter registration in Kenya. This has been a perennial problem with the registration process in Kenya. The problem mainly affects young people who, having reached the legal voting age, cannot register as voters because they have not acquired a national ID card. The oft-cited reasons for this are many, but chief amongst them is bureaucratic delays and corruption. National IDs are issued by the Registrar of Persons while ECK registers voters. The institutional collaboration between the two agencies cries out for improvement. There have been assurances of improvement by the Registrar of Persons, but so far not much change has been seen. The results of this survey bear this point out. Yet it must be mentioned that quite a number of people have not collected their national ID cards at various registration centres<sup>8</sup>. **This points to the need for the Registrar of Persons to streamline the process of issuing IDs and an expansion of the range of documents required to prove citizenship to include birth certificates.**

### 4. Opportunities for Correction of Errors

An accurate voter registration process is not one in which there are no errors, but one in which there is sufficient opportunity for detection and speedy correction of errors. Common errors include misspelled names, incorrect details, deceased and/or otherwise absent voters, missing names, multiple registration, and importation of voters. The vast majority of these could be corrected if the scrutiny of the registers was undertaken well: this means proper and widespread notification of voters as well as accessibility of the registers. The survey reveals that only 30.8% of those interviewed scrutinized the register. The rest did not, for a whole range of reasons, but principally lack of knowledge of the inspection exercise and assumption that the details were correct. Either way, this shows the need for vigorous awareness campaigns, principally by the ECK, on the inspection process and its importance.

However, there are those errors that arise by virtue of failure to update the register as quickly and efficiently as possible. These include deceased voters and those who have otherwise left

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<sup>8</sup> *Daily Nation*, Wednesday march 20, 2002 p. 44; *Saturday Nation*, Saturday April 6, 2002 at p. 4; *East African Standard*, Thursday, April 11, p. 5; *Daily Nation*, Thursday, April 11, p. 4; *Daily Nation*, Thursday, February 14, 2002, p. 7.

Kenya – maybe to take up citizenship elsewhere. The survey reveals 19.3% of voters not located were deceased but are still on the register. Proper collaboration in obtaining the relevant information would be one of the ways to cure this problem, that is, between the Registrar of Births and Deaths and the ECK. **Overall, there is a lot that needs to be done by ECK and other relevant departments to expand the opportunities for correcting errors on the register.**

### 5. Management of the Voter Registration Process

By law, the task of managing the electoral process is the task of the ECK. It is a constitutional duty that ECK should jealously guard and discharge to the best of its ability throughout the entire electoral process. The upshot of this is that the manner in which ECK manages the voter registration exercise will to a large extent set the stage for safeguarding the election that relies upon the information obtained, processed and stored by the ECK. There is both an objective and subjective element to this. It is important to obtain information on the objective accuracy of the register, and this has been done. There is also need to keep an eye on the perception of the public. Fortunately, in the latter regards, the surveyed public rated ECK quite highly: 38.0% regarded ECK as a very efficient manager of the process, while 37.7% saw ECK as an efficient manager that could do with some improvement. Only 4.4% per cent thought that ECK was inefficient. What this seems to suggest is that the public has confidence and trust in ECK as currently constituted. This trust needs to be maintained right through the electoral process. **The necessary conclusion here is that the public has sufficient confidence in the manner in which ECK has, so far, managed the electoral process. This trust needs to be nurtured and maintained by ECK and other stakeholders throughout the electoral process**

### 6. Voter Awareness and Interest in the Process

Elections are principally about the participation of citizens in their own governance<sup>9</sup>. The necessary corollary for this is that the selfsame citizens must be fully aware of all the important details pertaining to participation processes, such as elections. Needless to state, this information includes details on the voter registration process. This is not only important

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<sup>9</sup> Article 21 of the Universal Declaration of Human Rights, Article 25 of the International Covenant on Civil and Political Rights and Article 13 of the African Charter on Human and Peoples' Rights capture this aptly.

in terms of getting people to register, but also “brings out the vote” by reducing apathy. It also allows people to assist ECK to correct errors on the register: more informed people will scrutinize and verify the register, bringing claims and objections where necessary, leading to improvements in the accuracy of the register. The number of people who singled out lack of information as a hindrance to registration together with those who were apathetic to the process constitutes 25.1% of the sample surveyed. Even the press is replete with instances where Kenyans display lack of information on seemingly simple processes such as voter registration. For example, on February 21, the *Daily Nation* published the following plea by one such Kenyan:

“Is the Electoral Commission of Kenya assuming too much? First it allocates a single month to register, then it does not bother to tell Kenyans where to register. Do we wait to be registered in our houses? Do we go to the chief, the District Officer or the District Commissioner? Come on, ECK, tell the voters where to go.”<sup>10</sup>

There is need for ECK to continuously review its information dissemination systems to ensure that it communicates efficiently and effectively regarding all aspects of the electoral process to the voters – and the voter registration process is a key component of that communication strategy. **If the percentage of those either unaware or apathetic to the process is anything to go by, then the performance of ECK in voter awareness is not satisfactory.**

## 7. Undue Influence

It has been said before that in Kenya, “election time is eating time”. This may not be entirely true, but it is symptomatic of a country where bribery and other forms of undue influence at election time cannot be divorced from the wider corruption matrix. Consequently, the effect of undue influence on the registration process is an important indicator of how the phenomenon will affect polling and other aspects of the electoral process. Of the people who responded to the question why they registered to vote, 1.3% admitted they did so for, among other reasons, undue influence. It is important to note that this is criminal activity and there are therefore people who will not readily admit it. 0.3% even admitted being similarly influenced to register in particular registration centres/polling stations. Seen against the high number of multiple registrations reported in constituencies like Embakasi, Westlands and

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<sup>10</sup> FN Karanja, as reported in *Daily Nation*, Thursday February 21, 2002, p. 10.

Langata<sup>11</sup>, there is certainly a political angle to the problem. **There is need to pursue focused strategies to reduce the influence of money and other forms of undue influence in Kenya's elections.**

## 8. Gender Perspectives

It is now trite to balance gender concerns in any public undertaking and/or discourse. In the past, the number of women registering has been higher than that of men. In the last voter registration exercise, however, more men than women registered. It is not easy to discern the reason for this change in trend, but there are other gender-related issues that are evident. For instance, many women still entrust their voters' cards to their husbands for safekeeping. A good proportion of the women interviewed could not produce their documents for verification, stating that these were in the possession of their husbands, who were not in the vicinity. For this reason, an accurate gender analysis of the verification of the documents was not possible. **There is need for a deeper study on the changing trends in the number of women voters to deal with any disadvantages that may have occasioned the same. Additionally, ECK needs to pay closer attention to the specific needs and circumstances of women to ensure that as many of them as possible get to register and vote.**

## 9. Registration Requirements

Despite the fact that the law only allows holders of valid Kenyan IDs or passports to register as voters, there are instances when 0.7% of the people interviewed managed to register with either birth certificates or school leaving certificates instead – in breach of the existing law. This may be a statistically insignificant percentage for the sample used in the survey, but on a larger scale it is worrisome. The reasons for this lapse in judgment on the part of the registration officials is not easy to discern (is it poor training or outright disregard for the law?), but it certainly needs to be addressed if the law remains as it is. However, the above statistic, when seen against the backdrop of the difficulties in obtaining a Kenyan ID, leads to another issue: whether it is possible to expand the range of required documents for proving citizenship. **At least in the case of a Kenyan birth certificate, there is little reason why it should not be allowed as such proof. If anything registration requirements are there to ensure the integrity of the electoral process rather than be an undue hindrance to the**

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<sup>11</sup> *Daily Nation*, Monday, April 22, 2002, p. 40.

**exercise of the right to vote. Such expansion of registration requirements should go hand in hand with measures by ECK to ensure that the law is followed to the letter by its registration officials.**

Registration requirements were easier to verify in rural than urban areas. This is largely due to the nature of settlements in urban areas (especially in the informal settlements), the comparatively higher population and the lack of a properly designed addressing system. ECK does not also obtain information on the residence of applicants for inclusion on the register, relying solely on the applicant's own claim to such status and/or the absence of objections to their registration. With proper planning of housing and addressing systems and collaboration with the relevant local authorities, it should be possible to obtain this information and therefore increase the accuracy of the register. Applicants would then, in addition to the usual information, also have to supply information on their exact physical address, including for example the house or plot number.

#### **10. Comparisons With Past Registration Exercises**

In the last registration, just like the previous ones, complaints about lack of IDs, importation of voters and the length of the registration period recurred. However, in the last registration, unlike the 1997 and 1992 elections, this survey finds that the public had greater confidence in the capacity of ECK to manage the registration of voters. There is need for all the relevant agencies, such as the Registrar of Persons, ECK and the police to work together to remedy these problems. The fact that there is no longer a requirement to register afresh for each election means that the work of ECK will now mainly be the updating of registers, in addition to registering new voters who attain the age of 18. ECK should use this updating period to collect more relevant data on residence and other requirements in order to improve the accuracy of the register.

Constructive engagement of government departments that can supply more information to ECK would also aid the process of updating registers. For instance, tax and/or other forms could be designed to collect useful residence information that could be detached and sent to ECK on a regular basis. **The Registrar of Births and Deaths should also step up efforts to register more births and deaths and design a system of forwarding this information to ECK.**

### **11. Other Administrative Action Preceding the Next General Elections**

The various errors found on the register and other issues that emerged regarding, for instance, the ECK logo on some cards, require minimal administrative action to remedy the problems anticipated therewith. **ECK should take advantage of the period before the next General Elections and the various Gazette Notices it will issue in the said period to correct the same. For example, the publication of the list of polling stations should provide an opportunity to correct wrong names and related details. ECK should also publicly issue an assurance that cards with and without logos are both valid, to reduce the anxiety on the part of those with cards that do not bear the ECK logo.**

## **SECTION 5 APPENDICES**

### Appendix 1: List of Constituencies in the Sample

1. Alego Usonga
2. Bahari
3. Baringo
4. Butula
5. Central Imenti
6. Gatanga
7. Kacheliba
8. Kanduyi
9. Kerugoya Kutus
10. Kilome
11. Kisauni
12. Kitutu Masaba
13. Kwanza
14. Langata
15. Maragwa
16. Narok North
17. Nithi
18. Nyatike
19. Voi

**Institute for Education in Democracy (IED)**  
**AUDIT OF THE VOTERS' REGISTER**  
**Questionnaire for List-to-People and People-to List interviews**

**SECTION I**

1. What is your name? \_\_\_\_\_

2. Sex            Male [ ]      Female            [ ]

3. How old are you? 18-30 [ ]      31-45 [ ]      45 and above [ ]

4. What is your physical address? \_\_\_\_\_

5. How long have you lived at the physical address provided above? \_\_\_\_\_

6. Do you possess a national ID card/valid Kenyan passport?

Yes            [ ]                      No            [ ]

7. Are you a registered voter?

Yes            [ ]                      No            [ ]

*If the answer in 7 above is NO and the respondent is above 18 years of age, go to Section II.*

*If the answer to question 7 above is YES, record the information on the elector's card, voters' register and ID card in the table below.*

	On elector's card	On voters' register	ID Card	Corresponding
ID Number				
Passport number	Yes [ ] No [ ]			
Voters' Name				
Date of birth				
Electors' Number				
Elector's gender				
Date of registration				
Existence of the ECK logo	Yes [ ] No [ ]			

8. Age at time of registration (Year 2002) \_\_\_\_\_

*18 yrs and above* [ ] *Below 18 yrs* [ ]

9. In which polling station did you register as a voter for the forthcoming general elections?

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10. Are you registered in the polling station in 9 above
- As a new entry on the register** [ ]
- As old entry (please indicate when your name first appeared in this register)** [ ] \_\_\_\_\_
- Due to a transfer from a different constituency** [ ]
- Due to a transfer from a different polling station in same constituency** [ ]

11. Why did you choose to register in the polling station stated in 9 above?

Area of residence [ ] Employment/business [ ] Influenced [ ]

Others (specify) \_\_\_\_\_

12. What document (s) did you produce at the registration centre?

- National ID card/Passport* [ ]
- Birth certificate* [ ]
- Old voters' card* [ ]
- School leaving certificate* [ ]
- Letter from chief* [ ]
- Police abstract* [ ]
- Driving license* [ ]
- Affidavit* [ ]
- Baptismal certificate* [ ]
- Marriage certificate* [ ]
- None* [ ]

13. If you did not produce National ID card or a valid Kenyan Passport, why did you fail to do so?

I had lost my ID card/passport [ ]

I had not acquired one at the time of voter registration [ ]

Others (specify) \_\_\_\_\_

14. How did you manage to register without national ID card/Kenyan passport?

- Registration officials knew me** [ ]
- I had a letter from the chief** [ ]
- I had birth certificate** [ ]
- I had school leaving certificate** [ ]
- I was introduced by a politician** [ ]

**Others**

**(specify)**

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15. Have you since acquired national ID card/Kenyan passport?

**Yes** [ ]      **No** [ ]

16. Did you check and confirm the existence of your name and other information on the voter's register?

Yes [ ]      No [ ]

17. If the answer to Q 16 above is NO, why didn't you inspect the voters' register?

I was not aware of the inspection exercise [ ]

I assumed my details on the register were accurate [ ]

The inspection site (station) was very far [ ]

I did not because I am illiterate [ ]

Others, specify \_\_\_\_\_

18. If the answer to Q 16 above is YES, did you find your name and other details to be correctly recorded on the register?

Yes [ ]      No. [ ]

19. If answer to Q 18 above is NO, what information was entered wrongly?

**Name** [ ]

**ID/passport number** [ ]

**Date of birth** [ ]

**Sex** [ ]

**Elector's number** [ ]

**Polling station** [ ]

**My constituency** [ ]

**Other,** **Specify**

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20. If you confirmed wrong entries of your details on the voters' register, what did you do about it?

Reported the case to ECK [ ]

Did nothing about it [ ]

Others (specify) \_\_\_\_\_

21. If the case was reported to ECK, has the information been corrected?

Yes [ ]      No [ ]      Don't know [ ]

22. *How many elector's (voter's) cards do you possess?*

One [ ]      More than one [ ]

If the answer above is more than one, ask for the rest of the cards and take all the details \_\_\_\_\_

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23. Why have you registered as a voter for the forthcoming general elections?

- |                             |       |                              |     |
|-----------------------------|-------|------------------------------|-----|
| My constitutional right     | [ ]   | To participate in governance | [ ] |
| To make money               | [ ]   | Induced to register          | [ ] |
| Vote my tribesman           | [ ]   | To be elected                | [ ] |
| Vote for my party           | [ ]   |                              |     |
| Any other reasons (specify) | _____ |                              |     |

**SECTION II**

(For the unregistered but over 18 years)

24. Why did you fail to register as a voter for the forthcoming general elections?

- Short registration period [ ]
- Lack of ID card [ ]
- Lack of information on registration [ ]
- Lack of registration personnel [ ]
- Long distance [ ]
- Voter apathy (not interested) [ ]
- Insecurity [ ]
- Lack of inducement [ ]
- Others, specify \_\_\_\_\_

25. Should ECK call for another voter registration exercise before the forthcoming general elections, would you be interested in registering as a voter?

- Yes [ ] No [ ]

26. If the answer to Q 25 above is YES, why would you register as a voter?

- My constitutional right [ ] To participate in governance [ ]
- To make money [ ] Induced to register [ ]
- Vote my tribesman [ ] To elect and be elected [ ]
- Vote for my party [ ]
- Any other reasons (specify) \_\_\_\_\_

**SECTION III**

(For all respondents)

27. What are some of the problems facing voter registration exercise in this area?

- Short registration period [ ]
- Lack of ID cards [ ]
- Lack of information on registration [ ]
- Lack of registration personnel [ ]
- Long distance [ ]
- Voter apathy (not interested) [ ]
- Insecurity [ ]
- Others,specify \_\_\_\_\_

28. How would you rate ECK performance in the management of voter registration exercise?

- Very efficient [ ]
- Efficient, but needs improvements [ ]
- Inefficient [ ]
- Don't know [ ]
- Others, specify \_\_\_\_\_

## Summary of findings for List-to-People field interviews

### Validation of the Voters List

Name of the enumerator \_\_\_\_\_

Date of the interview \_\_\_\_\_

Sample Number \_\_\_\_\_

Constituency \_\_\_\_\_

Registration Centre \_\_\_\_\_

### Information from the voters' list

Name of the voter \_\_\_\_\_

Address of the voter \_\_\_\_\_

ID number \_\_\_\_\_

Date of birth \_\_\_\_\_

Elector's card number \_\_\_\_\_

*Was the person located?*    Yes            [ ]            No    [ ]

#### a) If was located, complete the following :

Name of the voter \_\_\_\_\_

Address of the voter \_\_\_\_\_

ID number \_\_\_\_\_

Date of birth \_\_\_\_\_

Elector's card number \_\_\_\_\_

#### b) If the person was not located, tick the reason(s) why

1. No reply at the address [ ]
2. Person not at home [ ]
3. No such person ever existed at such address [ ]
4. Person has migrated [ ]
5. Person temporarily out of the country [ ]
6. Person is dead [ ]
7. Person refused to answer or cooperate [ ]
8. Other reasons \_\_\_\_\_

How did you get the above information? \_\_\_\_\_

How did you verify the information? \_\_\_\_\_

Name and signature of the enumerator \_\_\_\_\_

## **INSTITUTE FOR EDUCATION IN DEMOCRACY (IED)**

### **AUDIT OF THE VOTERS' REGISTER**

#### **A Draft Guide for Focus Group Discussions**

1. Have you registered as voters? Why did you register as voters? What are the requirements for voter registration?
2. What are some of the problems that the people in this area face during voter registration?
3. What would you say about ECK's management of the past voter registration exercises? Why do you say so? Would you say that everybody who was qualified and interested in registering as a voter was duly registered? Were there any case(s) where those not eligible were registered?
4. Did you inspect the voters' register? Was the register accurate? Why
5. What do you think should be done to improve the voter registration exercise?
6. Confirm the existence and validity of these names of the voter on the voters' register for this area (The group is taken through voters list)