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TOWARD CREDIBLE AND LEGITIMATE

ELECTIONS IN KENYA:

RECOMMENDATIONS FOR ACTION

IFES ASSESSMENT REPORT

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I. EXECUTIVE SUMMARY

The International Foundation for Election Systems (IFES) undertook an election assessment mission in Kenya in March 1996. This report is the result of that two-week, three-person visit. The assessment was funded by the United States Agency for International Development (USAID). The objectives of the mission were to assess the current electoral environment, enumerate the constraints to free and fair elections, and to recommend steps to eliminate those constraints. The team also looked at the current status of election preparations by the Electoral Commission and provided recommendations for accomplishment of its many tasks in preparing for the upcoming presidential and parliamentary elections, especially in making reforms to the voter registration system.

In 1991, Kenya began a transition from a single-party state to a multiparty democracy. That transition is still incomplete. The repeal of section 2A of the Kenyan Constitution in December 1991 opened the door to significant changes in the political landscape in Kenya. The euphoria created by the legalization of multipartyism, however, allowed for Kenya's constitutional and legal transformation to be cut short. The victory of KANU in the 1992 elections meant that the ruling party continued to set the pace for legal changes. As a result, many of the problems and weaknesses in Kenya's democracy and electoral processes in 1996 are almost identical to those identified in the pre-election period in 1992. The lack of ability of Kenya's political class, particularly the ruling party, to resolve in the past four years the constraints to free and fair elections that plagued the process in 1992 points to an apparent lack of will on the part of the government to open up the system to truly competitive elections. It points to a failure by the state to carry out some of the fundamental responsibilities incumbent on it in a democracy. And it points to the necessity of a much more rapid pace of change if Kenya is to be prepared for free and fair elections in 1997.

There are many steps to be accomplished if Kenya is to have credible and legitimate parliamentary and presidential elections. (Chapter VIII of this report lists 90 steps.) Responsibility for taking these steps is shared by a number of actors in Kenya, including the Government, the Electoral Commission, political parties, non-governmental organizations (NGOs), individual voters, and donors.

The most important role is played by the **Government**, as they must take critical actions that exhibit their political will to see free and fair elections take place in Kenya. Their actions will set the stage--and set the standards--for effective action by other partners in this shared enterprise. Most important among the steps to be taken by the **President and Parliament** are:

- the reform of the membership of the Electoral Commission through the appointment, at the time of the expiration of the terms of some of the present Commission members, of new members acceptable to political parties and NGOs;

- the provision of adequate financial resources to the Electoral Commission so that the Commission is able to carry out its many responsibilities;
- the registration of all legitimate political parties;
- the prevention of the abuse of State resources, particularly the publicly owned media, by the ruling party for partisan purposes; and
- the removal of all constraints on the freedoms of assembly, association, expression and movement that are not reasonably justifiable in a democratic society, including the repeal of the Public Order Act and the Chiefs Authority Act.

The Electoral Commission has been delegated the responsibility by the Constitution to administer credible and legitimate elections. The Constitution and international standards require it to fulfill this role through actions that exhibit independence, impartiality, competence and transparency. To show that it possesses these characteristics and to lead Kenya toward free and fair elections, IFES recommends that the Commission:

- initiate regular forums with political parties, NGOs, and donors at which issues of election administration and campaign rules of conduct are discussed and, to the degree possible, consensus reached;
- undertake a more vigorous voter education program in collaboration with Kenyan NGOs;
- more actively condemn all infractions of free and fair election practices, and do all within its power to protect the rights of political parties, candidates and voters;
- increase its capacity to act independently and effectively by creating a professional staff;
- plan and carry out reforms to the voter registration system.

The IFES team was asked to look in detail at Kenya's voter registration system, and to recommend changes that will increase participation in registration and improve accuracy in the register, in a cost-effective manner. The Electoral Commission requested that the assessment team look particularly at the feasibility of computerizing the voter register and of instituting a continuous voter registration system. IFES' assessment found that the current system has many shortcomings preventing the accomplishment of the primary objective of voter registration: to produce a register that permits all eligible voters to vote and prevents ineligible voters from voting. Any correction of those shortcomings will require increased effort by the Commission (and NGOs and political parties) and increased costs.

Computerization of the voter registration data prior to the upcoming election will be a difficult and expensive task. It can, however, contribute significantly to the accuracy of the voters register, particularly if the process is monitored by Kenyan NGOs and political parties. It can also facilitate accountability and transparency, and thereby increase trust in the electoral process, particularly if computerization is followed by a polling station-level exhibition of the registry for the review of all voters. The cost of computerization can be reduced through the use of machine-readable (scanned) registration forms, and IFES recommends that the Electoral Commission consider this option.

Continuous voter registration, to be put in place following the upcoming election, would contribute to keeping the register up to date and could reduce the longterm costs of registration. Most scenarios for continuous registration envisioned by the Electoral Commission and by IFES, however, require greater technical capacity than is currently available to the Commission, and also require a higher level of trust in the Commission's appointees (i.e., registration officers) than currently exists in Kenya. IFES recommends that the Commission continue to investigate options for instituting continuous registration over the coming years, but that it not try to institute such a system immediately after these elections. IFES does recommend an annual exhibition and revision of the register at the polling station-level, a step made easier once the register is computerized.

Non-governmental organizations (NGOs) have shown a willingness and capacity to undertake comprehensive programs in voter education and election monitoring. The first future measure of their capacity and effectiveness will be to design and implement a nationwide education program regarding voter registration. At the same time that the NGO community is working with the Electoral Commission to inform the electorate about election issues and events, it should undertake a broad program of monitoring all steps in the electoral process, from the beginning of voter registration to the final counting of votes. Both of these efforts will require effective coordination among a broad range of NGOs, a coordination that is already beginning to be put into place.

Political parties as well should organize monitoring efforts for all major election events, especially voter registration and election day. Parties also have the responsibility to halt election-related violence and to abide by an agreed-upon Code of Conduct.

A useful role in supporting these important actions listed here can be played by **international donors**. Diplomatic persuasion and other tools will need to be applied to encourage that the many constraints on free and fair elections be removed as soon as possible. At the same time, donors can have significant impact on improving the electoral environment and process by providing assistance to the major actors, particularly to NGOs and the Electoral Commission. Donors who have an interest in credible and legitimate elections in Kenya share that interest with the other actors listed above, most obviously with NGOs working in the area of civic education and election monitoring and with political parties. As is the case with NGOs and political parties, that interest will presumably lead donors to action and engagement, rather than inaction or a

“boycott” of the process. As with NGOs and political parties, donors will presumably recognize that, while the democratic environment in Kenya is less than perfect, actions are required to make an imperfect situation better. While a perfect environment may not be attainable, even progress toward minimum conditions will require positive actions by all who have an interest in successful elections. Providing assistance in an imperfect environment in order to effect improvements requires that donors take assistance actions carefully, and in small steps.

For the action of providing assistance to accomplish the goal of promoting and supporting--and creating the possibility of--free and fair elections, assistance must be given with care. The wrong type of assistance, or assistance given at the wrong point in the process, may not result in movement toward that goal. This need to carefully consider the type and timing of assistance is particularly pertinent to the provision of assistance to the Electoral Commission.

IFES proposes the following list of criteria for determining both whether assistance provided to the Electoral Commission will contribute to a credible and legitimate election and, if so, what kind of assistance should be provided. The “test” of applying these criteria should be made continuously through the pre-election period, as the answers may change with time.

- a) Is the Electoral Commission a willing partner in the assistance project?
- b) Will the assistance strengthen democratic practices and institutions in Kenya, in the short-term and the long-term?
- c) Will the assistance strengthen, in the short- and long-term, the competence, impartiality, and independence of the Commission, and its ability to administer elections with an acceptable level of transparency and adherence to the country's and international standards for free and fair elections?
- d) Is the Commission institutionally able to absorb the assistance and politically able to keep the commitments made in assistance agreements such that the assistance is used as intended by the donor?
- e) Will improved election administration significantly contribute to the overall environment of democracy and good governance in Kenya?
- f) Are the Government and the Commission willing and able to protect the rights of political parties, NGOs and citizens, in areas such as freedom of association, access to media and independent monitoring of election processes?

The IFES team is able to give a provisional “Yes” to the first five of these questions regarding a limited set of assistance packages. The answer to the sixth is at best “Maybe.” Actions taken by the Government and the Commission in the coming months will better reveal whether that

question should be answered "Yes" or "No" (even recognizing that in an imperfect and changing situation the answer will always be a qualified and provisional). The types of assistance to the Electoral Commission that fit these criteria (i.e., questions a-d, above) and are recommended by IFES are:

- continued technical assistance to aid the Electoral Commission in designing a reformed voter registration system, including deciding whether or not to computerize the voter register prior to the upcoming elections. The already-signed UNDP project will at least partially fill this need;
- financial and technical assistance to the registration process--because voter registration is the most expensive and more important single step in the electoral process--in areas such as forms design, training of registration officers, and provision of computers and related equipment (if the computerization option is chosen);
- financial and technical support to the Commission for voter education in the periods prior to voter registration, exhibition of the register, and the elections. Ideally, the Commission should undertake these voter education exercises in collaboration with Kenyan NGOs;
- technical and financial assistance to ensure that the Commission is able to fully train all election personnel, including District Electoral Coordinators, Returning Officers, and Presiding Officers.

Related to the questions of whether to provide assistance and what kind of assistance is the question of timing of assistance. Preparing for elections is a process of many steps involving many actors. Many of these steps must follow in a sequence; many steps require that a preceding step be accomplished first. Government, Commission, political party and NGO actions all are part of this complex sequence. Donor assistance actions also have their appropriate place in the sequence if they are to be, as intended, conducive of free and fair elections. While IFES recommends that donors assist the Electoral Commission with some of its many tasks--according to the above criteria--IFES recommends that this assistance be provided only when the necessary preceding steps in the sequence have been taken. The final chapter of this report attempts to place donor actions in their proper points in the context of actions taken by the other relevant actors. Finding the proper timing for assistance will require that donors carefully monitor the ongoing situation and break their assistance programs into as many discrete steps as possible.

Donor assistance provided to NGOs for voter education and election monitoring can be just as important as assistance provided to the election process itself. Because its appropriateness and timing is easier to evaluate in Kenya than assistance to the Electoral Commission, less space is devoted in this report to assistance to NGOs. The kind of comprehensive election monitoring and voter education efforts that are needed from the NGO community is very expensive and challenging. All steps in the election process, including voter registration and the revision of the

voters registers, will need to be monitored by NGOs (and by political parties) in all areas of the country. Voter education, ideally undertaken in collaboration with the Electoral Commission, should also reach all areas of the country and every voter, and should precede each important step in the election process. Financial and technical assistance from the donors for these efforts will be essential.

The IFES team had a very productive and useful visit to Kenya for this assessment. It met several times with the Electoral Commission, and had many meetings with representatives of NGOs, political parties and the donor community. All gave generously of their time. IFES hopes that this report, as the product of the team's visit, also proves to be productive and useful to all the actors in Kenya who share responsibility for taking the country to credible and legitimate elections.

II. INTRODUCTION

A. BACKGROUND OF ASSESSMENT MISSION

Kenya held elections for parliament and president in December 1992. Elections must be held again by the beginning of 1998. Most people assume that these elections will be held sometime in 1997. The government, the Electoral Commission, the political parties, civil society and the public in Kenya are all beginning to prepare themselves for these crucial elections, the second round of general elections in Kenya's on-going transition to multiparty democracy.

In September 1995, the Electoral Commission of Kenya, beginning to think about needed changes in the country's voter registration system, invited IFES to send an assessment team to work with the Commission on designing a new registration system. The U.S. Agency for International Development (USAID) mission in Nairobi and USAID's Center for Democracy and Governance in Washington endorsed the proposed IFES visit, particularly if it would expand its assessment to look more generally at election plans and problems and at potential donor country responses. At last, in March 1996, with funding support from USAID's Global Bureau in Washington, IFES was able to send its assessment team to Kenya. The three-member team, accompanied by a member of USAID's Center for Democracy and Governance, arrived on March 4 and stayed until March 15.

B. OBJECTIVES

In undertaking this assessment mission, IFES was responding to the invitation of the Electoral Commission to assess the feasibility of reforming its voter registration procedures. At the same time, IFES was cognizant of the concerns of Kenyans and of donors, including USAID, regarding the general electoral environment and the impediments, both actual and potential, to free and fair presidential and parliamentary elections; indeed, IFES shared those concerns. IFES thus wished, through this assessment, to contribute to the process of preparing for the upcoming elections by identifying impediments and by making recommendations, to Kenyans and to donors, regarding actions to remove them. The assessment report has a domestic audience: the Electoral Commission and the Government and people of Kenya, and an international audience: the donor community, especially the U.S. Government and USAID.

Specifically, the objectives of this assessment mission were to:

- a) assess the current electoral environment; enumerate current legal and political constraints that might impede legitimate forms of participation by individuals, political parties and other non-governmental groups in all steps leading up to the 1997 elections; and recommend steps to be taken to remove those constraints;

- b) assess the Electoral Commission's plans for preparing for general elections, particularly plans for voter registration and establishing a continuous voter registry;
- c) present a preliminary feasibility study on voter registry computerization and options for accomplishing that task;
- d) provide a work plan with a general timeline of tasks to be undertaken for implementing an effective and credible voter registration process, for establishing an accurate computerized voter register, for establishing the legal and institutional framework for a democratic electoral process, and for administering free and fair general elections;
- e) provide recommendations to the donor community on potential actions to improve the electoral environment and to assist electoral processes in the period preceding the general elections.

C. THE IFES TEAM

The team was led by Keith Klein, IFES' Director of Programs for Africa and the Near East. Since 1991, Mr. Klein has overseen IFES election assistance activities in over 30 countries in Africa and the Near East. Mr. Klein has participated in pre-election assessments in Lesotho, the Seychelles, Yemen, Ethiopia, Malawi, and the West Bank and Gaza. He has observed elections in Angola, Eritrea, Kenya and Tanzania.

Two election specialists participated on the Kenya assessment as IFES consultants, Andrew Scallan and Celio Santos de Assunção. Mr. Scallan is Head of Statutory and Agency Services and Deputy Electoral Registration Officer for the City of Manchester, England. As such, he is responsible for administering City Council, Parliamentary, and European Parliament elections. He is the co-editor of Schofield's Election Law. He was an election observer in Namibia in 1989, a member of the IFES pre-election assessment team in Sierra Leone in 1991, and a member of an ODA-funded team of pollworker trainers in Uganda in 1993-94. Mr. Assunção is the Informatics Secretary of the Regional Electoral Tribunal of Santa Catarina State in Brazil. He has been responsible for installation of computerized voter registration and electronic voting systems in several Brazilian states and on the federal level. He was an election observer in South Africa in 1994 and served as a member of a IFES technical assessment team in Venezuela in 1995.

Nadereh Chahmirzadi, electoral processes specialist at the United States Agency for International Development (USAID)'s Center for Democracy and Governance, accompanied the IFES team in Kenya. She participated in most of the team's meetings, and was a very important contributor to the team's discussions.

Mr. Scallan and Mr. Assuncao contributed portions of this report. Additional portions and general editing were added by Keith Klein. Denise Dauphinais, IFES' Program Officer for Africa, contributed significantly to the chapter on voter registration.

D. METHODOLOGY

IFES is an organization founded with the purpose of providing election assistance in countries seeking to strengthen their multiparty democracy, particularly their electoral systems. IFES' experience around the world over the past nine years had made it very aware that all electoral systems are flawed. All electoral environments are less than perfect. Our orientation toward assistance brings us to focus on needed actions to improve the system rather than on past or current flaws. Improvement is necessary, and improvement is possible, everywhere.

At the same time that we recognize the inevitably flawed nature of election systems, particularly in emerging democracies, we recognize that there are internationally accepted standards for legitimate and credible elections. While no country or election system perfectly meets these standards, the standards are a relevant and legitimate measuring stick for every country aiming for democratic elections. This report takes these standards as a starting point as it examines the current situation in Kenya. Most chapters in this report begin with several internationally accepted standards (most paraphrased from the book Free and Fair Elections: International Law and Practice, written by Guy S. Goodwin-Gill and published by the Inter-Parliamentary Union). The report then assesses the past and current electoral practices in Kenya in light of those standards. The report's final and most important step is to recommend actions to be taken to bring Kenya from its current situation to a point where it is more in line with international standards and more likely to hold credible and legitimate elections.

It is assumed by the IFES team and by this report that the responsibility to take those actions is shared by a wide range of actors in Kenya. These actors include the Government, the Electoral Commission, political parties, NGOs, and foreign donors. The shared responsibility for successful action means that none of the partners can sit on the sidelines and wait. While knowing, to some extent, the past record of the actors, the IFES team went to Kenya assuming, until proven otherwise by future action or inaction, that all actors are willing to play their part in moving Kenya, step by step, toward a stronger democracy and toward free and fair elections.

The IFES team met with the Electoral Commission five times during its stay in Kenya. The Chairman and one other member of the Commission were present at all five of the meetings. Four other members of the Commission, including the Vice Chairman, attended at least one of the meetings. Discussions with the Commissioners were frank, detailed and useful. Their awareness of many of the challenges facing the Commission as it prepares for the upcoming elections was obvious, as was the desire to perform their responsibilities credibly. The IFES team appreciates the time given to it by the Commission.

The team met with leaders and members of Parliament from all three major opposition parties, as well as a representative of the unregistered party Safina, who shared their concerns about the current political environment in Kenya and about the prospects for legitimate and credible elections. The team met with representatives of more than a dozen non-governmental organizations (NGOs) involved in election monitoring and civic and voter education. The team attempted to meet with representatives of KANU and with several branches of the government. The team was particularly interested in meeting with the Attorney-General's office, with the Registrar of Societies (to discuss party registration), and with the Registrar of Persons (to discuss the national identity card distribution), but its requests for meetings were not responded to affirmatively. The team did have a brief but useful meeting with the Deputy Minister of State in the Office of the President, who is also a leader of KANU in Parliament, and had an off-the-record meeting with a KANU party activist.

The team spent one day outside of Nairobi, traveling to Kibwesi constituency in Eastern Province four days before a parliamentary by-election was held there. In addition to getting a welcomed change from the city, the team was warmly welcomed by the returning officer in the constituency who took an hour from his busy schedule to tell the team much about his duties and activities. The team also met with the Democratic Party candidate for Parliament, who was generally satisfied with the run-up to the election.

The team met, either separately or individually, with representatives of most of the major donor countries with embassies in Nairobi and with the UNDP. Meetings with a couple of the diplomats who were present in Kenya at the time of the 1992 elections were particularly useful. The team also met with the Deputy Chief of Mission at the U.S. Embassy at the beginning and end of its stay, and received enlightening briefings from Embassy political officers. Finally, the team was greatly assisted by all the democracy team at the USAID mission, who shared their time, their knowledge and their office space very generously. Special thanks go to Lee Ann Ross, Carlton Terry, Nancy Gitau, Tom Wolfe and Tina West.

III. THE ELECTORAL COMMISSION

This chapter, as well as the next three chapters, make reference to the constitutional and legal framework of elections in Kenya. This framework, comprising the Constitution, various laws, and regulations, is described and analyzed in some detail in Appendix A and Appendix B of this report.

The Constitution has been little changed since the legalization of multipartyism with the repeal of Section 2A in 1991. Some Kenyans have identified many sections of the Constitution that should be repealed or amended to make it more consistent with the needs of a democratic Kenya. There is little in the Constitution, however, that IFES considers a significant constraint on the execution of free and fair elections. The most serious exception to this conclusion is Section 41, which gives the President the unilateral power to appoint members of the Electoral Commission.

The most important laws are the National Assembly and Presidential Elections Act, the Election Offenses Act, the Societies Act (governing the registration of political parties), the Public Order Act, the Preservation of Public Security Act, the Kenya Broadcasting Corporation Act, and the Chiefs Authority Act. The Elections Act is relatively brief and broad. It too presents few significant constraints to free and fair electoral practices. Other laws, however, in their provisions and their enforcement, constitute greater constraints, and require action by Parliament to amend or repeal.

Supplementing the Elections Act are several sets of regulations, including Elections Regulations and Registration Regulations. These regulations describe in detail the responsibilities of the Electoral Commission. Making election procedures more democratic will require amendment to many of these regulations. Regulations can be rewritten by the Electoral Commission, but must be approved by resolution of Parliament.

A. GENERAL PRINCIPLES

The establishment of a trusted, trustworthy and competent body to administer elections is a fundamental responsibility of the State in a democracy. Commonly accepted international standards for States to carry out this responsibility include the following:

States should establish a neutral, impartial, or balanced mechanism for the effective management of elections.

States should endow an election authority with independence, impartiality and competence.

An **impartial** election administration is one that does not care who wins or loses the elections it is administering. Its interest is in establishing a level playing field on which candidates and parties will compete, in giving all voters sufficient information so that they can cast their vote in a reasonably informed manner, and in adding up votes and declaring winners without prejudice.

An **independent** electoral authority is one that is structured so that it is not under the influence, or appears to be under the influence, of individuals, groups or institutions that have an interest in the outcome of the election. In addition, it is structured so that it is protected from the influence if it is applied.

A **competent** election authority has the ability to carry out effectively, efficiently and responsively the many tasks delegated to it by the State. It has adequate resources--human, material and financial--to be able to do its job.

An electoral authority has the general responsibility of ensuring the integrity of the electoral process. All actions which diminish the integrity of the electoral process should be prevented if possible, or punished by the electoral authority. If the authority does not have the power to prevent or jurisdiction to levy punishment, it should use its moral authority to speak out and condemn all actions and behavior which are contrary to free and fair elections.

B. THE ELECTORAL COMMISSION OF KENYA: LEGAL AND INSTITUTIONAL STRUCTURE

The Constitution of Kenya delegates authority for administering elections to an Electoral Commission. Section 41 of the Constitution specifies the procedure for appointing members of the Commission. The Chairman and all members (not less than four) of the Commission are appointed directly by the President. All members have a five year term. Members may be removed from office by the President only on the recommendation of a tribunal. The tribunal is appointed by the President if he considers that the question of removing a Commission member ought to be investigated.

Section 41 also states that the Commission, in the exercise of its functions, shall not be subject to the direction of any person or authority. Decisions of the Commission require the concurrence of a majority of the members.

Section 42A of the Constitution lists the responsibilities of the Commission:

- (a) the registration of voters and maintenance and revision of the register of votes;
- (b) directing and supervising the Presidential, National Assembly and local government elections; and

- (c) such other functions as may be prescribed by law.

Section 42 gives the Commission the responsibility of establishing the boundaries and names of electoral constituencies. Further discussion of this responsibility is found in Chapter V of this report.

The National Assembly and Presidential Elections Act elaborates further on the responsibilities and powers of the Electoral Commission. (See Appendix A.)

The current Commission has eleven members. Its Chairman, Justice Zaccheus Chesoni, and many of the current members were appointed in September 1991 (following the 1990 amendment to the Constitution which re-established some of the Commission's lost authority, but prior to the legalization of multipartyism). The terms of office of these members of the Commission (as many as eight) will expire in September 1996. They will be eligible for re-appointment if the President so chooses.

Section 3 of the Elections Act states that the "Electoral Commission shall appoint a Director of Elections, a Deputy Director of Elections and such other officers" as it deems necessary to assist the Commission carry out its responsibilities. The current Commission has not chosen to do that. Instead, executive responsibilities have been retained by the Commission members, largely the Chairman himself. The Commission occupies offices on two floors of a Nairobi office building. (When appointed in 1991, the Commission met at the National Assembly, since it had no other office space.) The IFES team was told that the Commission's staff numbers between 20 and 30. Many of these personnel are secretaries, drivers and other support staff. The highest ranking member of the staff is an executive secretary.

The Commission also employs District Election Coordinators, one for every administrative district. These DEC's are the Commission's only field staff. Most have held their positions since the 1992 elections. The DEC's have not been fully authorized by Parliament, but the Commission considers them to be very important and has continued to pay them nonetheless.

The Commission receives its funding directly from Parliament. As far as the IFES team could ascertain, it receives an allocation for on-going operational costs, but it must return to Parliament for additional funds for any unexpected expenses, such as for the organization of by-elections.

The IFES team was told that the Electoral Commission had decided not to hire a Director of Elections in 1991/2 because the Commission did not want to establish a competing locus of authority and power, on the grounds that this would be detrimental to the Commission's effectiveness. It was not clear to the IFES team if the Commission's failure to develop a professional staff--some sort of secretariat--was due to the Commission's unwillingness to do so or to fiscal and institutional constraints imposed by Parliament. During the visit of the IFES team in early March 1996, the Commission seemed to be taking steps to change this situation. The

Chairman of the Commission met with the Permanent Secretary to the Treasury to request greater financial autonomy for the Commission. At minimum, this would take the form of allowing the Commission to hire its own accounting officer, rather than remaining under the jurisdiction of the accounting officer of the Clerk of Parliament. The Permanent Secretary agreed in principle to this request. The Chairman of the Commission indicated that this opened the door for the Commission to hire its own staff and to establish a secretariat. The Commission envisions a secretariat that would include:

- a chief administrative officer, with rank of permanent secretary;
- a legal section;
- a research section;
- an accounting section;
- a mapping section;
- an information and public relations section.

C. FINDINGS

1. **Meetings with the Commission.** The IFES team met with the Electoral Commission five times during its two-week stay in Nairobi. The IFES team found the members to be well informed about and engaged in the on-going duties of the Commission. They all appeared to be sincerely intent on carrying out those duties to the best of their ability and on improving the Commission's capacity in preparation for the upcoming elections.
2. **Appointment of the Commission Members.** The members of the Commission, as mandated by the Constitution, have all been appointed by the President. This gives the impression, minimum, of the Commission being inappropriately aligned to the President and the ruling party. The Chairman of the Commission, in particular, appears too compromised by connections to the current government to be a truly independent leader of the Commission. According to members of the Commission themselves, the political leanings of other members vary and are not uniformly pro-ruling party.
3. **The Commission's Record.** The Commission, by its outward behavior in administering elections, even since late 1992, has been able to improve its record and reputation for independence, impartiality and competence, as can be seen in a survey of Kenyan monitors' reports on by-elections. Many Kenyans, however, still point to the Commission as the most important and fundamental flaw in the electoral system.
4. **Constraints on Independence.** There are a number of institutional and bureaucratic constraints on the Commission's independence and appearance of independence from executive and the ruling party. The first of these is an insufficiently revised Elections Act. The Act retains many references to the involvement of a "minister" (in this case, the Attorney-General) in the responsibilities of the Commission. The Commission reported to

the IFES team that they were aware of these inconsistencies and would seek to have them amended as part of the minor review of electoral law which they were proposing.

5. **Financial Dependence.** The second structural constraint on the independence of the Commission is the dependence on Parliament for incremental allocations of funds.
6. **Lack of Secretariat.** A third structural problem is the Commission's current lack of its own professional staff, or secretariat. The staff size is small and most have been seconded from government departments. The most senior is seconded from the Attorney-General's Office. This situation gives rise to questions about the independence of the Commission and creates difficulties in the area of staff discipline/loyalty, etc.
7. **Commission's Role.** The Commission, since 1991, has taken a minimalist view of its role. This is most apparent and problematic in the following areas:
 - The Commission, while lacking legal authority to prosecute election violations itself, has not taken a sufficiently active role in pushing the Attorney-General's office and the police to vigorous prosecution of election offenses.
 - The Commission could use its moral authority more effectively in condemning election abuses, particularly abuses of the ruling party's access to government resources and the government's biased actions in favor of the ruling party.
 - The Commission has not taken a sufficiently active and effective role in voter education, either in 1992 or prior to the many by-elections that have occurred since then.
 - The Commission has not actively reached out to its organizational constituencies, that is, political parties and NGOs active in election monitoring and voter education, to facilitate dialogue and increased understanding.
8. **District Electoral Coordinators.** The IFES team feels that District Election Coordinators (DEC) are key personnel in the election process. The team was told that DEC's are in place in every administrative district, that they have established offices that are physically separate from the offices of the District Commissioners, and that every DEC's office has electricity.

The IFES team had the opportunity to meet only one DEC (Nairobi district) but were impressed by her professionalism and grasp of her duties. We noted with concern, however, that she shared office accommodation with the provincial administration. The Commission's independence from government can only be improved by separating such administrative arrangements.

In visiting Kibwesi constituency prior to the by-election there, the IFES team was informed by the returning officer that communication with the DEC responsible for Kibwesi, based in Wote, was very difficult because of poor phone connections. The team was also told that Wote (and the DEC's office) had no electricity.

The Commission told the IFES team that one of its priorities is to provide additional training to the DECs.

9. **UNDP Assistance Project.** The Commission signed an agreement in September 1995 with the UNDP in Nairobi through which the UNDP was to provide a variety of types of assistance to the Commission. This included:
 - the provision of up to eight computers to the Commission;
 - the provision of a consultant to assist the Commission in designing a system for the computerization of the voter registry;
 - training for Commission staff and for the DECs, including training in the use of computers.

The Commission has not taken the necessary steps (including opening a special account for project funds) to allow this assistance project to get underway.

D. RECOMMENDATIONS

1. **Change in Membership.** At the earliest opportunity the composition of the Electoral Commission should be changed to provide for a membership which is acceptable to political parties and NGOs involved in voter education and election monitoring. In anticipation of the expiration of the terms of many members of the Commission in September, the government of Kenya should soon initiate discussions with political parties and NGOs on an acceptable mechanism for selecting new members of the Commission that will result in a Commission that has the trust of all sectors of Kenya's political class. IFES recommends that the new appointees be made from a panel of nominees agreed by political parties and NGOs of people who are held in high regard and are known to be independent of government and party. Because a significant amount of expertise has been built up on the Commission since their appointment in 1991, IFES does not recommend wholesale replacement of all eight veteran members whose terms expires in September 1996.
2. **Repeal of Minister's Role.** The independence of the Electoral Commission should be strengthened by the repeal of legislation which gives a role to the Attorney-General in the decision-making of the Commission.
3. **Financial Reforms.** New financing arrangements should be approved which give the

Commission power to arrange its own budget and employ staff at appropriate levels to perform professional functions.

4. **Secretariat.** The Electoral Commission should move quickly to establish a secretariat by beginning to hire and train new staff members. New staff should include a chief administrative officer, an accounting officer, a computer specialist, and a voter education specialist.
5. **Activist Role.** The Commission should adopt a more activist role, particularly in defending the integrity of the election process and in designing and executing voter education programs.
6. **Discussion Forums.** The Commission should establish regular forums of discussion with political parties, with NGOs active in voter education and election monitoring, and with donors.
7. **Collaboration with NGOs.** The Commission should actively work with a broad range of NGOs to collaboratively design and implement voter education campaigns prior to the upcoming registration exercise and the elections.
8. **Implementation of UNDP Project.** The role of the District Election Coordinators should be enhanced by the use of UNDP-funded training proposals. The DECs should be recognized as a vital component of the work of the Electoral Commission with potential for outreach work.
9. **Government Funding.** The Government or Parliament should provide the Commission with sufficient funding to enable it to accommodate its staff, including establishing DECs in offices which are not associated with the government or ruling party.

IV. THE RIGHTS OF POLITICAL PARTIES

A. GENERAL PRINCIPLES

In carrying out its responsibilities for conducting free and fair elections, the State's two fundamental responsibilities are to protect the rights of its citizens as individual voters and the rights of its citizens associated together in political parties. The protection of the rights of individual voters is treated in the next chapter. This chapter will discuss some of the primary areas in which the rights of political parties (and candidates) must be protected. Commonly accepted international standards for protecting the rights of political parties include the following:

- States should ensure that freedom of movement, assembly, association and expression are respected, particularly in the context of political rallies and meetings.
- States have the responsibility to ensure the separation of party and State and to guarantee the right of political parties to campaign on an equal basis with other political parties, including the party forming the existing government.
- The State and its organs should ensure that parties and candidates are free to communicate their views to the electorate, and that they enjoy equality of access to State and public service media, which should also provide non-partisan coverage of election campaigns.
- States should encourage parties, candidates and the media to accept and adopt a Code of Conduct to govern the election campaign and the polling period.
- States should take the necessary measures to ensure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence.

B. FINDINGS

Freedom of Movement, Association, and Assembly

1. **Public Order Act.** The State must balance its responsibility to protect the public order with its responsibility to guarantee the rights of expression and assembly of its citizens. The IFES team gathered information on many instances where the government of Kenya has chosen to enforce the Public Order Act arbitrarily to limit the ability of political parties to hold rallies and of political party leaders to address the public. Not only do these actions violate the legitimate exercise of the rights of assembly and expression, but they also put opposition parties at a disadvantage vis-a-vis the ruling party, which rarely faces the same restrictions.

2. **Registration of Political Parties.** The Societies Act requires that all political parties, within 28 days of their formation, register with the Registrar of Societies. (See Appendix A on the Societies Act.) The applications of several political parties for registration are pending with the Registrar of Societies. Most notably, the pending applications include that of Safina, which submitted its application to the Registrar nine months ago. The Registrar has not acted on these applications, nor given any legitimate explanation of the delay, nor indicated any reasons why the applications might be denied. This inaction results in a clear violation of Kenyans' right of association. Continued inaction as the time of the general election approaches will ultimately call into question the legitimacy and credibility of the entire election process.
3. **Constraints on Movement.** All reports indicate there were "no-go" zones in various areas of Kenya in the run-up to the 1992 elections, where it was impossible for certain parties to openly operate and campaign.

Since 1992, several areas of Kenya, particularly in the Rift Valley, have been declared security zones in the wake of ethnic violence. Non-residents of those areas, particularly journalists and opposition politicians, were prohibited from entering those zones. Apparently, there still exist some areas where security zone enforcement continues.

Opposition party leaders still speak of areas of the country where they feel that they cannot travel safely. It appears that the government's security forces in some areas continue to do an inadequate job in protecting citizens' freedom of movement. There are reports of security forces' involvement in harassing opposition politicians' legitimate exercise of their freedom of movement.

Separation of Party and State

4. **Government's Responsibility.** It is incumbent on a government, particularly during a period of transition to multipartyism, to be very vigilant in preventing the use of State resources by the ruling (and former single) party. It is apparent that the government of Kenya has made little or no progress since 1992 in bringing about a clear separation of State resources from KANU resources.
5. **Use of Vehicles.** Government vehicles are one type of State resource that tend to be abused by the party in power. There are many credible reports of members of parliament and of ministers using government vehicles in activities that are clearly KANU partisan activities (campaigning prior to by-elections, for example).
6. **Civil Servants.** There are also many credible reports of civil servants, particularly district commissioners, divisional officers, chiefs and subchiefs, carrying out activities on behalf of the ruling party. According to reports from the many by-elections, these local

administrators are often seen actively publicizing and promoting KANU campaign rallies.

Communicating with the Public and Access to the Media

7. **Government-Owned Media.** A particularly powerful State resource is the government-owned and operated radio and television stations. The Kenyan Broadcasting Corporation (KBC), which operates both the radio and television stations, is overseen by a Board of Directors. According to The Kenya Broadcasting Corporation Act, the Board has the duty to ensure that the KBC "provide independent and impartial broadcasting services of information, education and entertainment" and that it "conduct the broadcasting services with impartial attention to the interests and susceptibilities of the different communities in Kenya." (Sec. 8)

In the period immediately before the 1992 elections, the KBC made an obvious attempt to provide more balanced coverage of all political parties' campaigns. Since that time, however, the tilt toward excessive and positive coverage of the ruling party and limited and largely negative coverage of opposition parties has reportedly persisted or gotten more pronounced.

8. **Licensing of Stations.** A large number of application for licenses for private radio and television stations are pending with the government. Some applications have been pending for years. The government has given no credible explanation for the delay in granting or refusing these applications. One license was recently granted very soon after the application was received, however. The successful applicant was apparently a close associate of the President, leading to the conclusion that decisions on the granting of electronic media licenses are discriminatory to the detriment of those not allied with the government or ruling party.

Private access to the radio and television media, particularly if the licenses are granted to independent entities such as churches, would likely be a very healthy step for the promotion of free expression, civic education and democracy in Kenya. The lack of action on these licenses, therefore, creates an unfortunate and unnecessary constraint on the growth of democracy.

9. **Nomination and Campaign Periods.** Political parties should have adequate opportunity and time to conduct nominations of candidates and to bring the messages of their candidates to the electorate. In 1992, the Attorney-General and the Electoral Commission attempted to shorten the period preceding nomination beyond what was required in the Elections Act. There are reports from many by-elections that the Electoral Commission has often not followed the law in setting the time period between the issuing of a writ for an election and nomination day (not less than 21 days--see Appendix A, The Elections Act, sec. 13) and the time between nomination day and election day (not less than 21

days--see Appendix A, The Elections Regulations, sec. 14). The Commission, including the Chairman, seemed unfamiliar with the specifics of these sections in the law in conversations with the IFES team.

Code of Conduct

10. The Electoral Commission and political parties belatedly developed a Party Code of Conduct prior to the 1992 elections, but only two parties signed it.

Security

11. During the 1992 elections, many complaints were received about difficulties in delivering nomination papers, including deliberate hijacking of candidates who were only released after the closure of nominations.
12. Election-related violence has been much diminished in the past couple years, even with the many by-elections that have been held. Violence during by-election campaigns has persisted, however, and very few cases of election violence have been brought to the courts.

C. RECOMMENDATIONS

Freedom of Movement, Association, and Assembly

1. **Repeal of Public Order Act.** The Public Order Act should be repealed by Parliament. Adequate coordination and control of political rallies can be provided by other means, such as an enforceable Party Code of Conduct.
2. **Registration of Political Parties.** The Registrar of Societies should register the political parties whose applications are pending or the Registrar should announce his reasons for rejecting the applications consistent with section 11 of The Societies Act.
3. **Condemnation of No-Go Zones.** The government should clearly, publicly and repeatedly condemn any party or political militants who declare and attempt to enforce a political no-go zone as a practice that is incompatible with multiparty democracy. All political parties, KANU and opposition, should do the same.
4. **Security of Politicians.** The government should indicate its commitment to the freedoms inherent in a democracy by being especially diligent in protecting the safety and security of opposition party leaders and candidates. The government should clearly direct their security forces of their responsibilities in this area.

5. **Enforcement of Election Offenses Act.** The government should increase its enforcement of the Election Offenses Act by apprehending and prosecuting all those who are guilty of election offenses, particularly election-related violence.

Separation of Party and State

6. **Use of Government Resources.** The government should issue clear guidelines on the permissible use of State resources in the election context and on prohibited use of State resources for partisan KANU purposes. To reinforce those guidelines, the government should issued clear, repeated and public statements regarding the separation of party and State resources.
7. **Partisan Use of Civil Servants.** The government should cease the practice of using local administrators and other civil servants for partisan purposes, such as publicizing KANU events. The government should issue directives to all civil servants, especially local administrators, on what is permissible and impermissible behavior in regards to political, campaign and electoral activities.
8. **Commission's Role.** The Electoral Commission should recognize its responsibility to create and enforce a level playing field for elections through all means available to it. Where its enforcement capacity is lacking, it should use its moral authority to identify and condemn practices that violate fair election practices. For example, it should issue its own policy statement on the use of State resources for partisan purposes, and publicly speak out regarding violations of that policy.
9. **Code of Conduct.** Standards on the partisan use of State resources should be included in the Party Code of Conduct.

Communicating with the Public and Access to the Media

10. **Media Oversight Board.** Following discussions with political parties and NGOs, the government should create an oversight board, with widely acceptable membership, to specifically set rules for balanced coverage by the KBC of partisan and election-related news and for equal access to the public media by all parties. The oversight board would also have the authority to monitor and enforce adherence to the rules. Since the publicly owned media must be equally accessible to all political parties and must not abuse State resources by favoring the ruling party over other parties in news coverage, the government should do all that is necessary to ensure that KANU does not have (or appear to have) undue influence over access or news coverage.
11. **Granting of Licenses.** The government should speed up review and approval of pending applications for private radio and television licenses. Recognizing the importance of

increased diversity in the mass media for the strengthening of democracy, the government should make special effort to facilitate the growth of private radio and television in the period prior the upcoming general elections.

12. **Time Periods.** The Electoral Commission should clearly and publicly commit itself to properly permitting the mandated time period for nominations and for campaigns, both in by-elections and in the upcoming general elections.

Code of Conduct

13. The Electoral Commission should initiate in the near future a regular forum where the Commission as a whole meets with representatives of all political parties. An important item on the agenda of this forum should be the development of a Party Code of Conduct. The Code of Conduct should include mutually acceptable "rules of the game" particularly for the campaign period. To the degree possible, the Code should include enforceable sanctions against violators.
14. All political parties should engage in a good faith discussion with the Electoral Commission to develop the Code of Conduct and should sign it and abide by it when it is finished.

Security

15. **Change in Nomination Day.** To avoid a repeat of the actions in 1992 that prevented some candidates from presenting their nomination papers to returning officers during the five hours of the nomination day, the Electoral Commission should amend the Regulations to increase the length of the period when nomination papers may be presented, to two or perhaps as many as five days.

Monitoring

16. All of the above steps should be closely monitored through a long-term monitoring program organized and implemented by Kenyan NGOs, and supported financially by donors.

V. PROTECTING VOTERS' RIGHTS

A. GENERAL PRINCIPLES

In their essence, elections are the process by which individual citizens are able to express their will regarding representation and leadership in government, and by extension, regarding broad policy directions and distribution of common resources. Voting is an individual act. Because it is an act of critical importance in a democracy, democratic states grant citizens multifold rights in connection with that act. The State has multifold responsibilities to ensure the protection of these rights. Included in these rights and responsibilities are the following:

- Every adult citizen has the right to vote in elections, on a non-discriminatory basis.
- Every voter has the right to equal and effective access to a polling station in order to exercise his or her right to vote.
- Every voter is entitled to exercise his or her right equally with others and to have his or her vote accorded equivalent weight to that of others.
- The right to vote in secret is absolute and shall not be restricted in any manner whatsoever.
- States should ensure the integrity of the process for counting votes.
- The State has the responsibility to ensure, through national programs of civic education, that the population become familiar both with election procedures and issues.

B. FINDINGS

Drawing of Constituency Boundaries

Every voter has the right to have his or her vote given the same weight as others. In a representative democracy, a corollary of this right is the right of each voter to be more or less equally represented in parliament. That is, each voter's vote should be accorded equal weight through his or her representative in parliamentary debates and votes. It is through this extension of the right to equality of vote that the right to equality of representation is derived. The Kenyan Constitution recognizes this right by directing that all parliamentary constituencies should "contain as nearly equal numbers of inhabitants" as is "reasonably practicable." Section 42 of the Constitution, which gives the Electoral Commission the responsibility of drawing constituency boundaries, also gives the Commission the ability to depart from the principle of equal representation "to the extent that it considers expedient" in order to take account of:

- (a) density of population, and in particular the need to ensure adequate representation of urban and sparsely populated rural areas;
- (b) population trends;
- (c) means of communication;
- (d) geographical features;
- (e) community of interest;
- (f) boundaries of existing administrative areas.

Thus, while the principle of equal representation is the preeminent consideration, the Commission is given broad discretion to consider other factors in the drawing of constituency boundaries. The review of constituencies must take place at intervals of not less than 8 nor more than 10 years. The population figures to be used are those which are obtained from the last census. The last census in Kenya was taken in 1989. The Electoral Commission has begun the process of redrawing the constituency boundaries, a process which will be completed prior to the upcoming general elections and which may have an important impact on representation in Parliament.

1. **Increase in Constituencies.** The Constitution permits the Electoral Commission to increase the number of constituencies from the current 188 to as many as 210 without Parliamentary action. The Commission's current plan is to add the maximum of 22 constituencies. The President, among others, have called for increasing the number of parliamentary seats by as many as 40 or 50.
2. **Completion of Boundary Redrawing.** The Electoral Commission has begun the process of convening meetings at the district level to discuss with local inhabitants their views on how the boundaries should be redrawn. In meetings with the IFES team in early March, the Commission stated that it expected to finish this exercise, i.e., publish new constituency maps, by the end of May 1996. The Commission recognizes that it must complete the redrawing of constituency boundaries before it begins voter registration.
3. **Criteria.** The criteria for determining constituency boundaries, as given in Section 42 of the Constitution, appear entirely reasonable and have many similarities with the criteria applied in other countries.
4. **New Administrative Districts.** The Commission's task of redrawing the constituency map is being carried out in the context of another process of redrawing the map of Kenya. Recently, the government has divided a number of administrative districts, increasing the total number of districts from 46 to 59 (as of early March 1996). The process and

rationale for this creation of new districts was unclear to the IFES team; many Kenyans criticized it as an effort by the government to increase patronage positions in areas of KANU strength and to also influence the creation of new constituencies.

5. **Separate Tasks.** The processes of drawing district boundaries and constituency boundaries are bureaucratically distinct and separate. The Commission told the IFES team that it will make decisions on the redrawing of constituency boundaries using only constitutional criteria, and will not be influenced by the recent redrawing of district boundaries.
6. **Districts and Constituencies.** There is a connection, however, between the two types of geographical units. The Electoral Commission interprets the Constitution's directive to consider administrative areas in deciding constituency boundaries to mean that constituencies must be contained within an administrative district. While a district may be divided into more than one constituency, no constituency should cross district boundaries. In other words, a district should have at least one complete constituency, no matter how small its population.

Administrative districts are divided into divisions. According to the Commission, a loose rule of thumb in the past has been to create one constituency for each division. In the government's recent practice of subdividing districts to create new ones, divisions have been subdivided too. Thus, if the Commission follows this rule of thumb, new constituencies will be created where the government has created new districts. This will mean that areas of KANU strength will gain additional representation in Parliament.

7. **Population Variation.** Large variations already exist between population sizes of constituencies. Using provisional 1989 census data, the average population size of a constituency was about 114,000. This varied, however from a population of 27,275 in Lamu West (Coast Province) to 241,589 in Kisumu Town (Nyanza Province). The average size per constituency varies considerably per region as well:

| | |
|-------------|---------|
| Nairobi | 165,571 |
| Central | 129,862 |
| Nyanza | 120,936 |
| Rift Valley | 111,820 |
| Coast | 91,459 |
| North East | 37,139 |

8. **Rationale for Variations.** The Electoral Commission and others in the government defend this wide variation in constituency size by pointing out the wide variation in population density in Kenya. Some constituencies, while geographically large, are so sparsely populated that their population is still below the average. This is how it should

be, according to some. Constituency size must take into consideration ease (or difficulty) of representation as well as equality of representation. Constituencies should be kept to a reasonable geographic size--no matter how small the population--so that the member of parliament can visit all areas of the constituency without undue difficulty. Constituencies in North East Province with small populations are defended with this argument.

9. **Nairobi Constituencies.** At the other extreme, this argument goes, constituencies in Nairobi are relatively "easy" to represent because of their small geographic size. Therefore, their large population size is legitimate. In fact, more than one person argued to the IFES team, Nairobi Province should be represented by only one member of Parliament, rather than its current eight.

The relative under-representation of Nairobi is further defended by some Kenyans on the grounds that "no one" really has his/her home in Nairobi; "everyone" in Nairobi actually comes from someplace else, a place to which he/she returns to register and to vote. If this argument were true, then the registration figures for Nairobi constituencies would be low relative to other constituencies, even if the population figures are relatively high. But 1992 registration figures show that the average number of registered voters in Nairobi constituencies was approximately 84,000, compared to 48,000 per constituency in Central Province and 43,000 in Rift Valley Province.

10. **Partisan Impact.** The extreme variance in the population sizes of constituencies probably violates the Kenyan Constitution's first principle of determining constituency boundaries, that is, equality of representation. This variance has significant political implications as well, given the current political/partisan map of Kenya, in which there is a strong correlation between region and party affiliation. There is also a correlation between overrepresentation (or underrepresentation) and region's voting patterns. For example, the relatively overrepresented provinces of Coast and North East voted heavily for KANU in 1992. The underrepresented provinces of Nairobi, Central and Nyanza cast a majority of their votes for opposition parties.

Voting and Counting Procedures

11. **Equal Access.** Guaranteeing the right to vote on a non-discriminatory basis means, among other things, guaranteeing adequate and equal access to voter registration. Voter registration issues are addressed at length in Chapter VI of this report. Some points should be briefly noted here. In 1992, there was reliable evidence that many people, mostly young people who had recently attained the age of 18, were disenfranchised because they were not able to obtain a national identity card. The identity card was required to prove one's eligibility to register. It is evident that, in 1992, the government fell short in its responsibility to provide for non-discriminatory access to registration and thus to voting.

12. **National Identity Cards.** New national identity cards are being issued to all Kenyans in early 1996. Many people are concerned that this process will not be completed before the voter registration exercise, and are thus concerned that many Kenyans again will not have the required ID card in order to be able to register. The Electoral Commission told the IFES team that it intends to again require a person to show a national ID card in order to register, but it will not require that it be a new ID card. Either the old or the new card will be honored.
13. **Registration Location.** There was also considerable concern among Kenyans at the time of the IFES visit that people will not be allowed to register to vote at the place where they are entitled by the Constitution (where they live, work, or own property), but rather that they will be forced to register in their home constituency (where their family originally came from). The basis of this concern is largely the fact that Kenyans must give their home region when they are applying for their new national ID card. People fear that this information will be used when they want to register to vote (although this information does not appear on the ID card itself). The government has issued assurances that this will not be done, and government spokesmen and the Electoral Commission have denounced these concerns as a "false issue" being used by opposition politicians.
14. **Vote Fraud.** Guaranteeing every vote equal weight obliges the government and the Electoral Commission to guard against vote fraud. A person's right to equal vote is violated if his or her vote is "diluted" by votes fraudulently cast or incorrectly counted. Therefore, ensuring ballot security, guarding against vote fraud, and facilitating an accurate vote count and tabulation are important responsibilities of the Electoral Commission. Voting and counting procedures used in 1992 did not provide adequate checks on vote fraud at the various steps in the voting and counting process.
15. **Counting at Constituency Level.** The current Election Regulations state that vote counting takes place at the constituency level. The dozens or hundreds of ballot boxes from each of a constituency's polling stations are therefore brought to the constituency center for the counting of the ballots. It was generally the case in 1992 that returning officers did not begin counting ballots until all ballot boxes from the constituency had arrived.
16. **Problems with Centralized Counting.** Centralized counting presents a number of problems. Moving ballot boxes before the ballots are counted makes them susceptible to being stuffed, lost or replaced. The counting of ballots at the constituency generally begins very late at night or in the morning of the day following election day. Counting can (and did, in 1992) take twelve hours or more. Keeping the hundreds of ballot boxes organized and secure at the constituency center, particularly late at night after a long day, is a tremendous challenge. Many observers reported in 1992 a chaotic counting process and a lapse in adequate ballot security. Maintaining adequate transparency and effective

monitoring of the process of counting hundreds of thousands of votes over the course of many hours is also difficult.

17. **Counting at Polling Stations.** In a majority of countries in Africa, ballots are counted at the polling station. This can usually be done in a matter of a few hours in the evening following the closing of the polls. Party agents and monitors can easily observe the count, and can record the vote totals before the ballot boxes are moved anywhere. Guaranteeing ballot security and an accurate count is generally easier using this system.
18. **Security Concerns.** Some members of the Kenyan Electoral Commission argue that voting at the polling stations will add to the likelihood of electoral violence and that security against violence at the time when voting results are announced is easier to assure at a single central location. Other Kenyans (and at least one member of the Commission) did not find this to be a convincing counter-argument to the advantages of counting at the polling stations.
19. **Blind and Illiterate Voting.** The IFES team heard two principle complaints about the secrecy of the ballot. The first is about the infringement of secrecy in connection with the voting of blind or illiterate voters. The Regulations provide that the Presiding Officer may mark the ballot on behalf of the voter with the voter's assent and the presiding officer must allow one representative of each candidate to witness the marking of the ballot.
20. **Counterfoils.** The second complaint concerns the requirement to include on the counterfoil of the ballot paper the elector's number from the voters register. The counterfoil and ballot paper both bear the same serial number for audit purposes. The use of a counterfoil and the marking of a voter's number on it arises from one of the methods used in Kenya (and many Commonwealth countries) to determine election petitions. Section 26 of the Electoral Act provides for votes to be struck off at scrutiny. Under certain circumstances votes given by people not entitled to vote are discounted. The only way such votes can be traced is by checking the counterfoils to ascertain which ballot paper was issued to the offending person. This is the purpose of the counterfoil numbering system and as long as the power to strike off votes is given to the Court in settling election disputes, there are few other options available to provide the necessary information.
21. **Destruction of Election Documents.** The reasons to be concerned that the counterfoil numbering system will lead to violations of the secrecy of the ballot are minimized by provisions in the Election Regulations. Section 34 directs the presiding officer, after the close of the polls, to immediately seal the counterfoils of used ballots into a packet. The seal on this packet is not to be broken unless there is a relevant election petition. Section 41 provides that all documentation relating to the election must be retained for six months after the declaration of the result. At the end of six months, these documents, including

the counterfoils of used ballots, must, unless the Electoral Commission or an election court otherwise directs, be destroyed. Failure to destroy the documents without such a direction is an election offence.

In IFES' experience with elections in Kenya and elsewhere, presiding officers are often inadequately trained about the importance of sealing the counterfoils and other election documents immediately after the close to the polls, and this task is often not done.

During the IFES team's stay in Nairobi, it visited the Electoral Commission's warehouse and discovered a well-equipped, ample facility under good security. The team discovered, however, that all the documentation returned after the 1992 election were still in store, even though most election petitions had been resolved and the six month waiting period had long since elapsed.

Voter Education

22. All reports indicate that inadequate voter education was provided to Kenyan voters in the period prior to the 1992 elections.
23. The IFES team has read and heard reliable reports that little or no voter education has reached voters in regard to by-elections since 1992.
24. The responsibility for inadequate voter education programs, both in 1992 and in the years since, must be shared by the Electoral Commission, by NGOs who have taken on the task of implementing voter education programs, and by donors who have provided support to voter education programs.

C. RECOMMENDATIONS

Constituencies

1. **Redrawing Boundaries.** The Electoral Commission should, as it told the IFES team it would, carry out its responsibility of redrawing constituency boundaries without influence from the government or the government's creation of new administrative districts.
2. **Equal Population Size.** The Electoral Commission should respect the preeminence given by the Constitution to the criterion of equal population size in redrawing constituency boundaries. The principle of equality of representation should be mitigated only when the objective and verifiable weight of other criteria is clearly offsetting. The Commission should endeavor to reduce population size disparities through the current redrawing of boundaries. IFES recommends that a maximum variance from the average size (e.g., 25%) be set by the Commission to guide it as it makes its final decisions on the

boundaries.

3. **Transparency.** The Commission should carry out its discussions and deliberations in the drawing of boundaries with as much transparency as practicable. Publicizing its decision-making criteria, including the target maximum variance for population size, before the final decisions are announced is recommended.
4. **Monitoring.** Political parties, NGOs and donors should all monitor this process as closely as possible, and should engage the Commission in discussion on the process.

Voting and Counting Procedures

5. **National Identity Card.** The government of Kenya should do all in its power to ensure that all Kenyans are able to acquire a national identity card as soon as possible.
6. **Requirements for Registration.** The Electoral Commission should not initiate voter registration until it is assured that all eligible voters have had adequate opportunity to acquire the required identification documents. If the Commission decides again to require the national identity card to prove one's eligibility to vote, the Commission should postpone registration until all Kenyans above the age of 17 have been given the opportunity to obtain an ID card. If the Commission is not confident that this is the case, and if it can not postpone voter registration, then the Commission should amend the Election Regulations to define alternative methods for Kenyan citizens to prove their eligibility to register.
7. **Monitoring by NGOs.** Kenyan NGOs should closely monitor the issuance of new national identity cards, so as to give the government, the Electoral Commission, the political parties, and the donors objective information about the progress of this exercise.
8. **Registration Locale.** The government of Kenya and the Electoral Commission should continue to commit themselves publicly to defend citizens' constitutional right to register where they live, work or own property. All reports of citizens being forced to obtain a national ID card in their home region rather than where they live should be investigated and condemned. The Electoral Commission should make sure that registration officers and citizens are fully aware of appropriate places of registration.
9. **Counting at Polling Stations.** The Electoral Commission should amend the Election Regulations to require that ballots be counted at polling stations rather than at the constituency level for the upcoming presidential and parliamentary elections.
10. **Posting of Results.** The results of counting at polling stations should be posted publicly at the polling stations. The tabulation of results at the constituency level should also be

posted at the returning officer's headquarters. The Electoral Commission should publish constituency level results for the presidential voting as soon as they are received in Nairobi.

11. **Blind and Illiterate Voting.** The Electoral Commission should amend the Election Regulations to entitle blind, illiterate and handicapped voters to bring an assistant of their own choice to the polling station to help them to vote. Blind and illiterate voters should cast their ballots behind the voting screen (like all other voters), with only the assistant of their choice with them.
12. **Voter Education.** The Electoral Commission and NGOs should carry out a voter education targeted at illiterate voters, giving them sufficient information about party symbols and the design of the ballot so that as many illiterate voters as possible are able to vote in secret without assistance. The ballot should be designed to make it as clear and "legible" as possible for illiterate voters.
13. **Destroy Old Documents.** With monitoring by political parties, the Electoral Commission should immediately destroy all election documentation (including marked ballots and counterfoils) from the 1992 election, except for documentation from constituencies still under review by the Courts.
14. **Election Official Training.** Increased emphasis in the training of returning officers and presiding officers should be placed on polling station closing and vote counting procedures.
15. **Monitor Training.** Candidates' agents and non-partisan domestic monitors should be trained to monitor ballot security procedures. Increased emphasis in training should be placed on polling station closing and vote counting procedures.

Voter Education

16. **Voter Education.** The Electoral Commission should increase its commitment to playing a significant role in designing and implementing a voter education program designed to inform all Kenyans about registration and voting processes, and to inform them of their rights and obligations in a multiparty electoral process.
17. **Voter Education Specialist.** The Electoral Commission should hire, as a member of its secretariat, a voter education specialist to design and implement the Commission's voter education program.
18. **Collaboration with NGOs.** The Commission should initiate, as soon as possible, regular meetings with Kenyan NGOs working in voter/civic education. The Commission's voter

education program should be implemented in collaboration with Kenyan NGOs, to take advantage of NGOs' access to the grassroots.

19. **No NGO Licensing.** The Commission should not attempt to license NGOs involved in civic/voter education. Control of disinformation and partisan information should be accomplished through the regular Commission/NGO meetings.
20. **Donor Assistance.** Following sufficient progress on the above actions by the Commission, donors should provide longterm technical and financial assistance to the Commission's and NGOs' voter education program. Initial emphasis, by donors, the Commission and NGOs, should be placed on a pre-registration voter education program.
21. **DECs' Roles.** The District Election Coordinators should have voter and civic education among their responsibilities. The DECs should be charged with collaborating with NGOs in their districts to carry out voter education campaigns before registration and election events. They should also initiate long-term civic education programs, in collaboration with local NGOs, churches, and schools.

VI. VOTER REGISTRATION

A. GENERAL PRINCIPLES

While there is no precise description of an internationally acceptable voter registration process, there are recognized standards that are relevant to the design and implementation of a voter registration system. Within these basic requirements, the State has wide discretion to fashion a system to give practical effect to the rights of those eligible to vote. The State, if it wishes to comply with minimum international standards, has an obligation, in its law and practice, to recognize and make provision for:

- ▶ the right of the individual to vote, on a non-discriminatory basis;
- ▶ the right of the individual to access an effective, impartial and non-discriminatory procedure for the registration of voters;
- ▶ the right of every eligible citizen to be registered as a voter, subject only to disqualification in accordance with clear criteria established by law, that are objectively verifiable and not subject to arbitrary decision; and
- ▶ the right of the individual whose right to vote or to be registered is negatively affected by an action or omission of the State or its officials to have access to a procedure competent to review such measures or to correct such errors promptly and effectively.

The State also has an obligation to carry out voter registration in a transparent manner, giving voters and political parties the opportunity to verify the validity and accuracy of each step in the process.

Since the primary function of voter registration is to provide a list of eligible voters to facilitate efficient voting on election day, the critical objectives of a registration system are that it result in a voters list that includes as many eligible voters as possible and that it result in an accurate list. The components of any voter registration system should be built with the two objectives of wide participation and accuracy in mind.

A registration system can attain wide participation through ease of participation, accessibility, and awareness on the part of the electorate. Accuracy can be enhanced by reducing opportunities for inadvertent mistakes, inserting checks on possible fraudulent manipulation of voter data, and increasing transparency and opportunities for monitoring and public review of all steps in the process.

There are two important but secondary functions of voter registration: to assist in logistical planning of elections, and to assist in preventing vote fraud (e.g., personation and double voting). Tertiary functions include civic education, and a providing a "dry run" for election administration. Thus the important purposes of voter education can be listed, in descending order of importance, as:

- 1) to pre-identify eligible voters;
- 2) to connect eligible voters to the place (polling station or constituency) at which they are entitled to vote, in order to help prevent electoral fraud;
- 3) to amass information on the number and location of eligible voters, in order to facilitate the efficient distribution of electoral materials;
- 4) to raise eligible voters' awareness of an upcoming electoral event, and to inform them of where they should go to vote;
- 5) to test and improve an electoral authority's election administration capacity.

The registration of voters in an open, transparent, verifiable and cost-effective manner is perhaps the most time consuming and financially costly activity undertaken by an electoral authority. In the context of emerging democracies, registration is frequently the most contentious and problematic activity in the long march towards free and fair elections.

If registration goes well-- if large numbers of citizens are able to register and are then able to verify prior to election day that their names do indeed appear on the appropriate voters list--the credibility of the electoral authority and in turn the credibility of the entire election process are greatly enhanced in the run-up to election day. If, on the other hand, voter registration is plagued with charges of fraud, mismanagement and a lack of control by the electoral authorities, it is doubtful that the impact upon confidence can be recuperated in the near term.

Because of the importance of voter registration to the success of an electoral process, and because the IFES team was asked to put particular attention on the Election Commission's plans for reforming the registration process in Kenya, this report goes on in some detail about past and current practices and issues, and recommendations for improving the system prior to and beyond the upcoming elections. A description of the legal framework for registration is found in Appendix B of this report. A summary of the registration process as practiced in 1992 is found in Appendix C.

B. VOTER REGISTRATION IN 1996

The Electoral Commission told the IFES team that it would like to begin the voter registration

exercise in June 1996. Presumably, this will be a complete redrawing of the register of electors, rather than a revision. In other words, all those who wish to vote in the upcoming parliamentary and presidential elections will need to register, even if they registered in 1992. Nothing in the law and regulations prohibits the Electoral Commission from beginning the registration exercise at any time. As a practical matter, however, the Commission should not begin registration before it completes its task of redrawing the boundaries of electoral constituencies. The Commission hoped that this latter task would be finished by the end of May.

The other practical constraint on the Commission beginning voter registration is the availability of the required identity documents for voters to prove their eligibility to register to Registration Officers. If a significant number of Kenyans do not have the required document(s), the Electoral Commission would presumably not begin voter registration until everyone had reasonable opportunity to acquire the needed document(s).

Neither the Constitution nor the Elections Act specify any required means by which a person proves his or her eligibility to register to vote. The past practice in Kenya, however, is to require that potential voters show their National Identity Card at the time of application to register. At the time of the IFES team's visit to Kenya, all Kenyans, including the Electoral Commission, assumed that the National Identity Card would again be the required proof of eligibility to register.

It is entirely reasonable to require some form of confirmation of citizenship in order to register to vote. Not to do so would leave any system open to challenge on the grounds of inaccuracy and potential fraud. Such a requirement, however, should be structured so as not to be overly restrictive and thereby disenfranchise large numbers of qualified persons. It would therefore be equally reasonable to allow the use of a number of forms of documentation to prove citizenship when registering to vote. For example, presentation of a birth certificate, passport or other legal documents containing the pertinent information could also be allowed.

When this question was raised by IFES team members, Commission representatives stated that other documents, particularly birth certificates, are easily forged and allowing them to be used to prove eligibility would facilitate fraudulent registrations. When questioned further regarding the documentation necessary to obtain a National Identity Card, team members were told that birth certificates were required.

It is difficult to understand the logic which accepts birth certificates as legitimate proof of age and citizenship to obtain a National ID Card, but maintains that such certificates are so unreliable as to preclude their use in regards to voter registration. Although the Team was consistently told that the exclusive use of the National ID Card was constitutionally or otherwise legally mandated, a close examination of the Constitution and the Elections Act reveals no such requirement. (See Appendix A). Indeed the only reference to the use of the National Identity Card appears in the Registration Regulations, which are appended as a supplement to the Elections Act.

While in Kenya, the IFES team was informed that the government was in the process of issuing new National Identity Cards. The team attempted to meet with any officials in a position to supply information regarding the National ID Cards but were denied access, despite the intervention of the Chairman of the Electoral Commission and the United States Embassy. The team was told that the government expected to complete distribution of the new ID Cards to all adult Kenyans by June 1996. Many people expressed doubt that the distribution exercise would be finished by that time. The government has not publicized a deadline after which the old ID Cards would no longer be valid. If the government follows its practice in the previous issuance of new ID Cards in 1978, it will eventually set a date when only the new ID Card will be considered a valid identification.

The Chairman of the Electoral Commission assured the IFES team that its Registration Officers will honor both the old and the new Identity Cards as valid proof of eligibility to register to vote.

The Electoral Commission thus faces a practical and political problem of unknown dimensions as it prepares for the upcoming voter registration exercise. If the National Identity Card is required in order to register, and if either the old or new card is honored, then only those Kenyans not in possession of an ID Card are potentially disenfranchised. The number of adult Kenyans, however, who do not have an ID Card, for whatever reason, is estimated by some to be well over a million.

If, by decision of the government or the Commission, only the new Identity Card is considered a valid proof of citizenship for registration, then the number of potentially disenfranchised Kenyans reaches many millions. This would present a political problem of great importance, particularly since many Kenyans claim that the distribution of new ID Cards has been noticeably faster and more efficient in areas that are KANU strongholds.

It is not within the power of the Electoral Commission to speed up the distribution of new Identity Cards, or to ensure that every Kenyan who wants an Identity Card is able to get one. It is, however, within the Commission's power to alter the Regulations so that other forms of identification can be used to prove a voter's eligibility to register.

The current distribution of new National Identity Cards presents another practical and political problem for the Electoral Commission. On the application form for the new ID Cards, Kenyans are required to enter their home district or constituency (that is, the area where their family originally came from) in addition to their current address. Many people interviewed by the IFES team are concerned that Kenyans will be encouraged or forced to register to vote in their home constituencies, even if their present residence is elsewhere. The Electoral Commission assured the IFES team, and has stated publicly, that this will not be the case.

C. FINDINGS

The Constitution and Elections Act

1. Neither the Constitution nor the Elections Act specifies how a voter in Kenya is to prove his/her eligibility to be registered to vote.
2. The Constitution is clear regarding where a person is allowed to register to vote: where he/she lives, is employed, has a business, or owns land or a house. A voter cannot be required to register in his home constituency if he lives, works or owns property elsewhere. In fact, a voter is prohibited from registering in the home constituency of his family unless he meets one of those requirements.
3. The Elections Act does not specify any period for updating the register, or require that a register should be updated prior to an election.
4. Little or nothing in the Constitution or the Act needs to be amended in order to institute a continuous registration or a computerized system.

The Election Regulations

5. Voters registration or revision of the register of voters may be undertaken at any time at the direction of the Electoral Commission. The Commission is not required, however, to organize a new registration or revision prior to the upcoming general elections. Nor is it prohibited from reopening the registers for revision in any constituency (prior to a by-election, for example).
6. The Elections Act and Regulations give wide authority and discretion to the Registration Officer. For example, the Registration Officer, is authorized to register all applicants who "appear to him to be entitled to be registered"

The authority given is not in and of itself excessive or inappropriate. Particularly given the present degree of political polarization and suspicion in Kenya, it does necessitate that checks and balances be built into the system so that abuses of this authority are limited and so that public confidence in the registration process remains high.

The Registration Process

7. **Susceptibility to Error.** The current process of establishing the register of electors is susceptible to errors. (See Appendix C: The Registration Process in 1992.) A manually prepared register is bound to create a number of mistakes which may be due to human error. The process used at present which requires the copying of information from

application forms to blackbooks to voter's cards and finally to a voter's list is an invitation to the introduction of errors -- both inadvertent and purposeful -- at each step of the way. The fact that portions of this process take place with no provision for monitoring by political parties and others leaves additional opportunity for malfeasance.

8. **Inadequate Review and Revision Procedure.** The process which is described in the Regulations (see Appendix B) and used in practice for exhibiting and verifying the accuracy of the register provides insufficient access to voters. By using nearly 6,000 registration units for the initial registration, there is a clear appreciation of the principle that the process should reach as many people as possible. The manner in which the registers are then exhibited for public comment goes directly against this principle because the registers are only available at district offices. This necessarily means that many voters will have difficulty gaining access to the register in order to verify their registration due to distance and transportation constraints. In addition, the fact that there is no provision for advance notice that the register will be available for inspection is also a problem.
9. **Problems of Monitoring.** The registration process as carried out in 1992 gives little or no opportunity for monitoring by political parties or civic organizations. To ensure a degree of transparency, some consideration should be given to facilitating the observation of this process by political parties and other interested representatives of civil society and the international community.

It is difficult to imagine how a truly "continuous" voter registration system could be monitored in Kenya. Alternatively, a regularly scheduled, periodic up-dating of the register would allow for independent monitoring of the process and be cost-effective.

10. **Five-Year Intervals.** The current practice in Kenya is for the Electoral Commission to direct that a registration of voters takes place every five years, prior to parliamentary and presidential elections. At that time, voters are registered in thousands of registration units around the country and issued new voters cards. This is an expensive method of establishing up-to-date registers of electors. More importantly, this practice results in disenfranchising all unregistered eligible voters should elections (such as by-elections) occur in the five-year interval between registration exercises.
11. **Double Registration.** The current system provides no effective means to identify or prevent double registration. (It should be recognized that double registration presents little threat of significant fraud on election day. If a voter is marked with indelible ink, then he or she is not able to vote a second time even if he/she has more than one voter's card. That additional voter's card might be used by a non-registered voter, but if a picture ID card (such as the national identity card) is required in order to vote as has been the practice in the past, then the opportunity for personation is greatly diminished as well. The most significant threat to the integrity of the voting process posed by double

registration is the person (or group of people) who is registered in more than one place choosing (or being induced) to vote in a "swing" constituency rather than in his/her home constituency.)

D. RECOMMENDATIONS: VOTER REGISTRATION

The entire voter registration system can be divided into four steps. These four steps are implemented separately and sequentially by the Electoral Commission, and they are discussed separately here. They must, however, be considered as a whole when the Kenyan Electoral Commission makes design decisions about the short- and long-term reform of Kenya's registration system.

The four steps are:

1. gathering of baseline data (i.e, voter information)
2. processing of data
3. review and revision of data
4. on-going gathering and updating of data

When looking at the registration system as a whole, and when looking at changes to these four steps, it is important to keep in mind the two primary objectives of voter registration: wide participation and accuracy (or trustworthiness). Kenya's registration system has in the past had major shortcomings in attaining both those objectives. The recommendations made by the IFES team focus on addressing those shortcomings. Cost effectiveness has also been an important consideration, as well as an awareness of the available time frame for carrying out the changes and for completing the registration process itself.

IFES is recommending new procedures for all four steps. The most radical and elaborated new procedures are in step 2. IFES recommends that the Electoral Commission move from a manual system of processing the data to a computerized system. The IFES team's recommendations for computerization are found in section E below. Recommendations for step 4, on-going gathering and updating of data, are found in section F.

This section will cover general issues and steps 1 and 3, gathering and revision of data. In improving the system for accomplishing these two steps, IFES is recommending relatively minor changes. An effort was made to fit proposed changes as far as possible into the current legal structure for registration. Changes in the Registration Regulations will be required to implement the proposed changes. The recommendations in regard to steps 1 and 3 assume that the Commission will be accomplishing step 2 through computerized processing of data. For the most part, however, the recommendations in this section do not require that the Commission adopt computerization.

System Design Process

1. **System Design Process.** The introduction of computers to Kenya's voter registration process will require a complete review and substantial revision of the Electoral Commission's regulations and procedures and may also call for Parliamentary action. An essential element in any effort to redesign voter registration in a politically charged atmosphere such as Kenya is the inclusion in the redesign of the various actors external to the Electoral Commission who have an interest in the electoral process. In general, these stakeholders would be representatives from the political parties, non-governmental organizations, religious groups and others representing civil society.

Recommendations have been made in previous chapters for the initiation of regular forums involving the Electoral Commission, the political parties, NGOs and donors. Such forums have been used with success in other countries such as Ghana where political polarization and mistrust of the government and the Electoral Commission were high. The redesign of the voter registration system (and computerization of the register of voters) should be one of the first items on the agendas of these forums.

2. **Review of Regulations.** The recommendations which follow are, for the most part, procedural and therefore subject to the provisions of the National Assembly Elections (Registration of Voters) Regulations. Some changes will have to be made in the Regulations. Since changes in the Regulations require ratification by Parliament, the Electoral Commission should begin a thorough review of the Registration Regulations as soon as possible.
3. **Voter Registration Procedure.** Much of the current registration system would be retained in the redesign envisioned by the IFES team. Eligible Kenyan citizens would present themselves at a registration unit/center and, with the assistance of a Registration Officer or Registration Assistant, complete a registration application form. Each individual completing an application would be required to supply documentary proof of their eligibility (citizenship and age) and would be issued a uniquely numbered elector's card.

The information collected would then be transported to a central processing location and compiled into a list of electors for each registration unit/center. Once the lists are completed, they would be distributed to the District Electoral Coordinators and from there to the appropriate Registration Officers for exhibition at the registration unit/center for a fixed period of time. During the exhibition, voters would be encouraged to personally verify their registration and to make claims and objections. Registration officers would collect and adjudicate claims, and forward objections and appeals to the Court per the existing regulations. Upon the determination of all claims and objections, a list of amendments to the preliminary register would be sent to the central processing center and

a final list would be produced for use during the elections. The preliminary list used for the exhibition and a copy of amendments would be retained by the District Electoral Coordinator.

4. **Number of Registration Units.** As mentioned above, the IFES team recommends that the system of self-registration at registration units or centers be maintained and the number of such units, or streams within units, be expanded so that each stream would serve approximately 750 voters. If one accepts an estimated voting age population of 13 million, this will require 17,333 registration units or registration streams. While this represents a three-fold increase over the number used in 1992, such an increase will provide the following benefits:
 - ▶ increased accessibility to the public;
 - ▶ increased efficiency of registration personnel related to the distribution of workload;
 - ▶ increased transparency due to the greater decentralization of data collection and the ability of local representatives to monitor the process.
5. **Length of Open Registration.** While the length of registration was heavily criticized in 1992 for being too short, the IFES team recommends that if the number of registration units is increased as recommended above and an aggressive publicity campaign with considerable advance notice is undertaken as detailed below, open registration be limited to two weeks. A shorter period of time is necessary to facilitate thorough monitoring of the process.
6. **Registration Education Campaign.** The Electoral Commission, in collaboration with interested NGOs, should develop a comprehensive campaign to publicize voter registration stressing the following points:
 - ▶ who is eligible to register;
 - ▶ where and when registration will take place;
 - ▶ what documentation is required to register;
 - ▶ what are the individual's rights should he/she be denied registration;
 - ▶ informing all Kenyans that the registration will be monitored by political parties and others.

- ▶ the importance of registration and the role it plays in the electoral process;
 - ▶ the rights of individuals to register in the constituency of their choice subject to the fulfillment of the necessary requirements and stressing that voters must only register in one location.
7. **Monitoring by Political Parties and NGOs.** Special consideration must be given to provisions for monitoring by political parties and other interested organizations throughout the registration process. This should include the following:
- ▶ development, by political parties and interested NGOs, in cooperation with the Electoral Commission, of guidelines for monitoring of the entire registration process. This should include party and other monitors at each registration unit/stream and at each step of the process thereafter;
 - ▶ provision to political parties and interested NGOs of training materials developed by the Electoral Commission for training of registrars, and access to the training sessions.
8. **Training of Commission Personnel and Monitors.** All Commission personnel (both permanent and temporary) must be trained in registration procedures. Consideration should also be given to having accredited monitors attend training with Commission personnel. All training should include:
- ▶ information regarding the Constitutional rights of Kenyans to vote and the role of registration in the electoral processes;
 - ▶ thorough discussion of the registration process, the role and responsibilities of the Electoral Commission, Registration Officers and monitors;
 - ▶ complete training in registration procedures including mock registration exercises;
 - ▶ discussion of methods for resolving disputes.
9. **ID Requirements.** As mentioned elsewhere, the Commission should make clear public statements well in advance of open registration regarding what types of documentation will be required by registration officers in order to register. Serious thought should be given by the Commission into the question of expanding the types of documentation which can be used to prove qualifications. While this will make the detection of duplicate registration more difficult, the need for an inclusive registration should be an overriding priority. The use of indelible ink to mark individuals who have registered should provide safeguards against multiple registration.

Should the Commission hold with its existing policy of requiring a National Identity Card, clear public statements regarding the use of old and new cards must be made and widely publicized.

10. **Use of Indelible Ink.** All persons should be marked with indelible ink after registering and no person bearing such a mark should be eligible for registration. The use of such ink, or electoral stain as it is sometimes called, is not foolproof in preventing duplicate registrations. There are, however, inks available which have proven successful in providing an easily detectable and long-lasting (up to two weeks) mark.
11. **Redesign of Registration Forms and Lists.** All forms used in the registration process should be redesigned. For example:
 - ▶ the transcription of information from one form to another should be eliminated to the degree possible;
 - ▶ pre-numbered application forms with tear-off voters cards should be used;
 - ▶ information collected from each registrant should be kept to the minimum required for the purpose of voter registration;
 - ▶ the "black book" format of quasi-alphabetical organization of the voter list should be eliminated and registration lists should be organized according to a unique elector's number;
 - ▶ all registration forms and cards should be strictly accounted for on a daily basis and all such accounting should be monitored.
12. **Voters Card.** The Commission should investigate cost-effective alternatives for enhancing the voters card to provide for protection from wear and tear and security, such as cold lamination. Cold lamination could provide a tamper-evident voters card on which any attempt to "open" the lamination would result in severe and obvious damage to the card. This need for protection should not be confused with provisions for a tamper-proof or high-security card, the production of which is both very costly and technically complicated.
13. **Review and Revision of Voter Register.** IFES strongly recommends a relatively major change in the process whereby preliminary registers are reviewed by voters and revised. This step follows the "processing" of voter data, whether manually as done in the past or by computerization, after the completion of the open registration period. Preliminary registers should be prepared for each registration unit. Rather than merely being "published" at the district level for inspection, the Electoral Commission should institute a

review period when the registers are exhibited at the registration unit level. For a period of perhaps a week, the registration officer should return to the site where registration took place, and allow citizens to examine the register, to ensure that their names are listed consistent with their application. The registration officer accepts and decides claims to correct mistakes in the register, and gathers objections and appeals to claims for delivery to the Court. (See Appendix B: Registration Regulations: Appeals and Objections.)

14. **Voter Education.** The Electoral Commission, in collaboration with interested NGOs, should design and implement a comprehensive program of voter education to inform the electorate about the review period. This program should include the following information:

- ▶ where, when, to whom and why the register is available during the exhibition period;
- ▶ the importance of verifying registration data;
- ▶ the right to file claims and objections and the process for adjudicating them.

E. RECOMMENDATIONS: COMPUTERIZED VOTER REGISTRATION SYSTEM

The terms of reference for the IFES team's visit to Kenya specifically included the investigation of possibilities for the computerization of voter registration in advance of upcoming elections as well as options for a continuous registration system. While the IFES team was in Kenya, its members heard a great deal of talk about computerization. While much of this discussion was well informed, some disclosed unrealistic expectations regarding the use of computers. In this regard, a brief discussion of the pros and cons of computerization is in order.

In its simplest form, any computer system can be broken down into three components: input, processing and output. Computerization is not a "foolproof" solution to the systemic problems with voter registration Kenya experienced in 1992. Computers are a tool to facilitate the processing of information and the production of voter lists and as such must be viewed as one part of the overall voter registration system. The introduction of computers cannot, in and of itself, resolve issues of transparency or the lack of accountability and credibility of Kenya Electoral Commission. However, the decision to computerize should be seen as a significant first step in an overall redesign of Kenya's voter registration system which appropriately can and should deal with issues of the political environment within which registration is conducted.

The IFES team is convinced that the effective implementation of a redesigned computerized voter registration system can provide credible and cost effective solutions to many of the problems identified during the 1992 exercise as previously discussed. Computerization of the voter

registration data prior to the upcoming election will be a difficult and expensive task. It can, however, contribute significantly to the accuracy of the voters register, particularly if the process is monitored by Kenyan NGOs and political parties. It can also facilitate accountability and transparency, and thereby increase trust in the electoral process, particularly if computerization is followed by a polling station-level exhibition of the registry for the review of all voters. The cost of computerization can be reduced through the use of machine-readable (scanned) registration forms, and IFES recommends that the Electoral Commission consider this option.

1. **Technical Assistance.** No matter what type of hardware and software are eventually selected, the computerization of voter registration will require a substantial commitment by the Commission to the hiring of qualified, specialized computer professionals to develop and maintain their computer system and voter registration database. IFES recommends that the Commission engage a reputable firm with solid experience in computerized voter registration systems design to provide technical advice throughout all aspects of the redesign of data collection, data capture and computerization.
2. The Team also believes that computerization of Kenya's voter registration system should be viewed as two separate, but potentially interconnected activities:
 - ▶ *Design and Implementation of a Baseline Registration System.* This involves a nation-wide mass registration exercise prior to the conduct of the upcoming presidential and parliamentary elections. The data collected would be computerized and provisional voters lists generated for exhibition at each registration unit/center. After the adjudication of claims and objections, lists of corrections would be issued. Corrected "official" lists would be printed for use on election day.
 - ▶ *Design and Implementation of a Periodically Updated Voter Registration System.* This would build on the database created during the baseline registration exercise and will necessarily depend on the Electoral Commission's success in implementing the baseline registration.
3. **Choice of Data Entry System.** Once open registration is complete and the raw data for the list of electors has been collected, a process for the compilation of the raw data into usable lists must take place. Under the existing manual system, this consists of transcribing data from the voter's application into the "black book", then on to the voter's card and finally, on to typed lists at the District level. Each of these steps allows for the introduction of inadvertent errors as well as purposeful manipulation.

A major consideration in the selection of a method of data capture is the elimination of the need to transcribe information and thereby reduce opportunities for the introduction of inadvertent errors and purposeful misinformation. There are three methods for

“capturing” raw data which has been collected on paper for use in compiling computer generated lists : manual data entry and two forms of document scanning. Only two of these methods are currently in large-scale use in Kenya:

- ▶ *Manual Data Entry.* Computerization of voter registration data is typically accomplished through the use of data entry clerks who enter each registration application individually using a computer terminal. Once entered, the data is selectively verified against the paper record to eliminate misspellings and other data entry errors.

Keyboard data entry technology in Kenya is usually a redundant process of keying-in the information by two different clerks. The results are compared by the computer, which prints a report of the differences found. Corrections are made by retrieving the original documents to verify the correct information. There are several computer bureaus in Kenya which provide private and government sectors with data input and processing.

- ▶ *Optical Mark Recognition (OMR)* has been used by educational institutions and market research firms worldwide to capture billions of pages of data in machine readable form. OMR requires the use of specially designed forms on which information is first written and then “marked” by shading in specific cells on a corresponding grid. The computer then translates these marks into meaningful data, based upon which cells were marked. OMR scanners can also provide for “exception-handling” capabilities, whereby a computer program can validate data as it is scanned and all forms which do not meet pre-defined conditions specified in the computer software are rejected.

The Kenya National Examination Council (KNEC) has used OMR technology for the past 30 years to capture school registration and examination data.

- ▶ *Optical Character Recognition (OCR)* converts standardized characters into computerized data. In relation to voter registration, it would be necessary to apply OCR to hand written information. Again, using specially designed forms, the computer “reads” the handwriting on the paper form and converts it to meaningful computerized data. A much newer application of computer technology, OCR is also significantly less reliable than OMR as it relies on sets of standard assumptions regarding handwriting which allows the computer to recognize and convert handwritten information into data which is meaningful to the computer.

The IFES Team could find no large-scale applications of OCR in Kenya, nor is IFES aware of the application of OCR to voter registration.

Each of these methods has serious technological, financial and time implications for the overall registration process and the selection of the most appropriate method will depend on a combination of overall system factors. Based on an analysis of the current situation and in view of cost and time considerations as well as the need for transparency and accountability, IFES recommends the introduction of **Optical Mark Recognition (OMR) technology**. As recent experience in Ghana and Sierra Leone supports, the use of OMR scannable forms for data collection and OMR scanning equipment can provide a reliable, cost-effective and easily implementable system for data collection and data capture in large-scale voter registration exercises.

4. **Design of Registration Forms.** While OMR forms must be specially designed, this can be accomplished on a personal computer using relatively inexpensive computer software. Forms can be designed using standard A4 size paper or foolscap and, depending on the configuration of the scanning equipment, data can be collected on both sides of the form. Critical decisions related to the design of OMR registration forms include:
 - ▶ what types of information are to be collected;
 - ▶ how each piece of information is going to be used.

There is no requirement that all information on the registration form be OMR readable. Some information may be collected for verification purposes which is not captured by the computer. Since objections normally require the inspection of the original registration document, non-scannable information which does not appear on a list of electors is ideal for settling disputes.

5. **Production of OMR Forms.** Special printing procedures are required for the production of large quantities of OMR forms. There is particular need for quality assurance related to the alignment of printing on the page and the use of special drop-out ink. The use of a detachable voter card will also require the use of heavier near-card stock paper. KNEC, for example, uses forms printed in Britain. Smaller quantities of forms for testing can be produced on a laser jet printer.

As described below, each registration form should be printed sequentially with a unique serial number. Forms should also be bundled, boxed and shipped in sequential order. Boxes and pallets should be clearly marked to indicate the sequence of the contents.

6. **Unique Voter Identification Number.** Each OMR form should be pre-printed with a unique, sequential voter identification number. This number is essential for the computerized validation process as it will be used as a key element in a computerized audit trail which connects each individual registration form to the registration unit/center where it is assigned and used.

7. **Detachable Elector's Card.** Each registration form should be printed with a tear-off elector's card at the bottom of the form. This card will be pre-printed with the unique voter identification number of the application form.
8. **Training of Registration Workers.** In Kenya, OMR data capture is already well established in education where it is used for the processing of student registration information and standardized achievement tests. Since the use of these materials is nationwide, there are, according to KNEC, approximately 230,000 Kenyan school teachers and administrators who are already familiar with the use and handling of OMR forms. In Kenya, as in many countries, school teachers serve as the core of temporary election personnel hired for mass activities such as registration and polling day. Familiarity with OMR data collection obviously makes training a good deal simpler; however, literate individuals with no previous experience are able to gain basic competence with the forms in a short period of time.
9. **Handling of OMR Forms.** Because completed forms will be fed through the scanner, the forms themselves require special handling. Registration officers must not make extraneous marks, corners must not be torn, forms must not be folded or get wet, care should be given to avoid excessive dust and moisture. While these cautions may sound prohibitive, in practice this has not been the case. In Ghana, for example, cardboard "document transfer cases" were used to store and move forms. These boxes were designed to fit 750 pre-printed forms. Blank forms were distributed to the registration centers in sealed transport cases and completed forms were stored in a second case which was securely sealed at the end of each work day. Once scanned, the forms were again placed in a document case for long-term storage.
10. **Centralized Computer Processing of Registration Data.** The Electoral Commission expressed strong desire for the computerization and the decentralization of voter registration. Both of these goals are commendable and may prove feasible in the future. However, the time frame for upcoming elections, the availability of financial and human resources, nor the existing political environment would justify both measures at this time. Considering all of these factors, IFES believes that, at least for the baseline registration, data should be processed and registers produced at a central location. Depending on the outcome of the baseline registration, a re-evaluation of the situation with a view towards a decentralized system could be considered.
11. **Technology Platforms.** The Kenya Electoral Commission does not currently have a substantial computing infrastructure, thus decisions regarding the appropriate configuration of hardware and software are not dependent upon compatibility with existing equipment. There are a variety of options which can be used in the computerization of voter registration lists. The most appropriate configuration of hardware and software will depend on a variety of factors, including:

- the overall registration process (data collection methodology);
- legal and procedural requirements;
- concerns for transparency, accountability, security;
- the need to facilitate independent monitoring of the process;
- the physical environment the equipment will be used in;
- skill level of Commission personnel;
- local availability of parts and service;
- availability and quality of communications facilities, etc.

The IFES team has made some general recommendations, based on the team's assessment of the physical and technological environment in Kenya and prevailing trends in cost-performance, and using the methodology outlined above as the framework for a data collection.

12. **OMR Scanners.** There are several manufacturers of high-speed OMR equipment in the United States and Europe. While it is not in the scope of this assessment to recommend a specific model of OMR scanner, providing two examples which demonstrate the functionality of OMR in such applications is useful.

In Kenya, KNEC has, over its 30 years of experience with OMR, used scanners from three different manufacturers. KNEC currently uses five Data & Research Services (DRS) CD400S (reads up to 5,000 A4 size sheets per hour) and three CD350 (up to 4,000 sheets per hour) machines to scan an average of approximately 4.5 million forms per year. With an average of 3-5 percent rejection rate, KNEC officials report that their heaviest workload comes during November when they normally process 3.5 million forms during a two week period.

In Ghana, the only other comparable nation-wide mass voter registration exercise undertaken using OMR, seven OpScan 10 machines from National Computer Systems International (NCSi) were used. Each of these has an input tray capacity of 500 sheets and a maximum processing speed of 6,500 sheets per hour. Some 9.1 million registration documents were processed using 4 scanners running simultaneously, at an average processing rate of 4,000-4,500 sheets per hour each, in 80 days.

Costs for such equipment ranges from approximately \$16,000 to \$57,000 US per machine, not including installation and maintenance contracts.

Given the experience of KNEC, serious consideration should be given to utilizing what appears to be an excess of scanning capacity already available in Kenya at KNEC. An agreement to lease scanners from the Examination Council for use at Electoral Commission facilities could provide real benefits to both organizations.

While such an arrangement could provide the most cost-effective use of resources for the Commission and the generation of income for the KNEC, IFES would like to stress that such use should take place in Commission facilities and not at KNEC. This would require that the scanners be moved from KNEC to the Commission offices during the scanning period. Considerations of transparency and accountability, the need for ongoing monitoring of the process by political party and NGO representatives, and the independence of the Electoral Commission are primary factors in this recommendation.

The Commission should also consider the purchase of at least two smaller, less costly OMR scanners for testing and system updating purposes.

13. **Hardware Platform.** A personal computer based local area network (PC-LAN) is the preferred hardware for this application based on cost-performance and availability of local support and service criteria. The exact specifications of any system configuration will necessarily be the product of a detailed requirements analysis which can only take place in conjunction with the development of specific data requirements. Both of these tasks were beyond the scope of this assessment. However, a general description of the basic components of such a system is appropriate at this time:

Fileservers: Redundant Pentium processor-based micro-computers with sufficient hard disk space for storage and use of database information. Example system specifications can be found in Appendix D of this report. Tables relating data requirements to storage capacity can be found in Appendix E.

Developer's Desktop Computer: High-end Pentium processor-based PCs with adequate RAM and hard disk capacity to run a variety of database development software. The quantity of developer's computers will depend on the overall scope of the project.

Network Hardware: To connect the file servers to the scanners and the developers' computers.

- 14 **Software Platforms.** The purchase of relatively low cost commercially available system and database software using client/server architecture is strongly recommended. The client/server model splits the data management processes into "back-end" functions which store and retrieve data, and "front-end" tools which provide the interface with the user. In practice, this provides for the central storage of data on the file servers and the ability of others on the network to use their PCs to simultaneously access stored data depending on pre-determined levels of security.

Cost, flexibility and the availability of trained personnel are some of the factors underlying this recommendation. "Off-the-shelf" software as opposed to proprietary or specifically

designed programs provides a degree of flexibility not available in "ready-made" software. This flexibility would at a later date enable the Commission to expand its LAN to accommodate a broad range of management information functions while maintaining adequate security for the voter registration database.

The IFES team's survey of the computing environment in Kenya confirms that there are a number of software vendors with qualified local support to Commission staff. Selection of specific programs is beyond the scope of this assessment; however, IFES strongly recommends that the local availability of trained computer professionals and manufacturer service and support be key criteria for the selection of all software components.

Network Operating System (OS): There are a variety of network operating systems designed to support client/server architecture, the most widely used are Novell NetWare, Windows NT and UNIX. Ease of use and system maintenance, along with local service, should be key considerations in selection of a network operating system.

Database Software: There are a variety of commercially available programs (Oracle, Microsoft SQL Server, Sybase, etc.) suitable for this type of application. Full advantage should be taken of client/server technology and fourth generation object-oriented relational database management systems (RDBMS) programs.

While all of the database programs mentioned above are capable of handling databases of the size and complexity necessary for Kenya, there are substantial issues of cost, complexity, the need for simultaneous users, and security which must be considered. Oracle, for example, while perhaps the most powerful RDBMS commercially available today, it is also extremely complex to use and maintain and expensive to purchase.

As with the other technical elements of computerization, cost, availability of trained personnel and local service should be key criteria in selecting a database management program. To this list, the IFES team would add ease of use and ability to rapidly train personnel.

In addition to the RDBMS, a number of other database development tool software packages will be needed. In Ghana, for example, Oracle RDBMS was used as the "database engine" running on the file servers to store data, while Microsoft Access was extensively used to design user interfaces through which the voter registration database can be accessed. This complimentary use of software -- the "easily" mastered MS Access as a means of submitting queries to the much more complex Oracle -- provided for an impressive level of productivity from the Electoral Commission's programmers who had no previous experience with either program.

F. RECOMMENDATIONS: CONTINUOUS VOTERS REGISTRATION

The fourth step in the proposed reforms of Kenya's voter registration system is the institution of a continuous registration process. This step presumably will not be taken until after the upcoming presidential and parliamentary elections.

As envisioned by the Electoral Commission, continuous registration would mean that Kenyan citizens, upon turning 18 or when wishing to change the location of their voter registration, could go to a registration officer at any time and submit an application to be registered. The voters register would thus be updated with this new information on an ongoing basis. At the same time, the registration officer would receive information about people who have died from local administrative officers and delete those names from the register. In this way, the register would always be accurate and up-to-date. No one would be disenfranchised in the event of a by-election or an early general election. No expensive periodic mass registration exercise would be necessary.

The Electoral Commission further envisioned that the permanent registration officer would be the District Election Coordinator. Voter registration would take place at his/her office at the district level. The DEC would have a computer at his office, and a computerized database of the voters registers for all the registration units in the constituencies in his/her district. New entries on the register would be immediately entered into the computerized database by the DEC.

This system proposed by the Electoral Commission would seem to address many of the objectives of an improved registration system for Kenya. It would be relatively inexpensive; it would presumably facilitate participation since people could register at any time between elections; and it would enhance the accuracy of the register since it would be updated on an on-going basis rather than once every five years.

The proposed system also presents lots of questions. The importance of some of these questions is difficult to judge at this time by the IFES team. Some of them, particularly those having to do with the general trustworthiness of the system, will be easier to judge after the success (or failure) of the upcoming registration and election exercises.

A key to the proposed continuous system is providing computers to each of the DEC's. There are currently approximately sixty districts in Kenya, and thus sixty DEC's. The Commission would like each of these DEC's to have an office, one that is not connected to the office of the District Commissioner. The DEC should have some form of transport, so as to be mobile and be able to effectively perform his job of outreach and supervision. These are laudable goals, and should be strived for in the coming years. During that period, it may also be possible to provide each DEC with a computer, along with reliable electricity, adequate computer repair and maintenance services, and extensive training in database management. Because of the realities of infrastructure

and financial constraints, however, these goals cannot be attained in the near-term.

As the Commission works toward the goal of providing DEC's with computers and the capacity to maintain the district's voters registers, it should search for a solution to the question of data security. How can the Commission guarantee that the DEC is maintaining and updating the registers reliably and accurately? How can it prevent the inputting of false data, or the removal of legitimate data from the computerized registers? How can it provide adequate transparency and accountability to political parties, to NGO monitors, and to individual citizens?

It will certainly be possible to find solutions to these questions, as well as to the financial and infrastructure constraints, in the coming years. In the near term, however, they loom as fatal flaws in the Commission's proposed decentralized and continuous system. It will be necessary to search for second-best solutions in the period immediately following the upcoming elections.

Assuming that the registration data gathered in the 1996/7 registration process proves to be a reliable baseline, it may be possible to update that data through a continuous but more centralized process. In such a scenario, the DEC does become the permanent registration officer. He receives applications for registration on an on-going basis. He keeps a manual (typed) preliminary list of additions and deletions to the district's registries. Periodically (perhaps once a month), he forwards the applications (and deletions) to Nairobi, where they are scanned into the national registry database. Periodically (perhaps once or twice a year) the Electoral Commission prints a new register and distributes it (sorted by registration unit) back to the DEC. These new registers are then available for public review and correction by political parties, NGOs and individuals on an ongoing basis.

The computerized database in Nairobi could be programmed to search for apparently duplicate entries, which would facilitate the correction of the register.

This system still gives only limited oversight on the actions of the DEC. He could still send in false applications to Nairobi, or delete voters without cause. Even the most diligent monitoring by NGOs and political parties would not be likely to totally prevent manipulation of this sort. As long as the present level of mistrust and suspicion of the Electoral Commission and the DEC's persists, this system would probably not provide sufficient transparency and accountability.

At least two variations on this system can be seen, both of which partially address the transparency and accountability concerns, and both of which add costs to the system. If, instead of a continuously open registration at the DEC's office, there was a limited period--perhaps two weeks twice a year--when people could come to the DEC to register, then NGOs and political parties would be able to monitor the receipt of applications and review the lists of additions and deletions before they are sent to Nairobi.

The second variation is to give voters increased access to the registers so that they can periodically check to see if they are accurate. This would require periodically distributing the registers to the level of the registration unit. As with the revision period recommended above, perhaps once a year a registration officer (or assistant registration officer) would sit with the list for a period of perhaps a week for review and revision. With adequate voter education, this should give voters sufficient assurance that the voters lists are being kept in an accurate manner, and that they are ready for any necessary by-election.

Exhibitions of the registers at the level of the registration unit are an expensive undertaking, and remove part of the incentive of the continuous registration system. Indeed, if there was an annual updating of the registers at the registration unit, it might not be advantageous to maintain the continuous system at the district level at all.

These questions deserve greater investigation by the Electoral Commission. With time, and with input from political parties and NGOs, satisfactory solutions can no doubt be found.

VII. SUMMARY OF ROLES

One of the fundamental assumptions of the writers of this report is that credible and legitimate elections are a shared responsibility. The primary responsibility belongs to the State, as elections are a State-organized function. In Kenya, as in most countries, much of the responsibility for administering elections has been delegated to the Electoral Commission, and so, much of the blame for bad elections (and less obviously, the credit for good elections) is directed to the Commission. The third primary actor in elections is the political parties. Their participation is, of course, crucial; no less critical is their behavior. Special responsibility goes to the ruling party to behave in a way that does not abuse its inherent advantages. All parties, however, contribute to the credible and legitimate elections by abiding by a minimal standard of conduct. Organized civil society, particularly non-governmental organizations involved in election monitoring and in voter and civic education, also plays a very important role. Through facilitating the flow of communication and information, and their advocacy of fair play, they contribute to the necessary leveling of the playing field. Individual voters, too, are not merely passive recipients (or victims) of this process. Their participation, in voting but also in informing themselves about candidates, issues and the election process itself, is the ultimate determinant of an election's credibility and legitimacy. In a country such as Kenya, donor countries also share in the responsibility for good elections, through financial, material and moral support and through diligent monitoring.

A. THE ROLE OF THE ELECTORAL COMMISSION

The Electoral Commission plays the central role in leading Kenya toward credible and legitimate parliamentary and presidential elections. To be sure, the Commission shares responsibility with other actors: the political parties, NGOs, the donors, and most importantly, the State. But the Commission is the frontline actor--it sets the tone and it takes the heat. The role it needs to play is to act like it has the characteristics that all Electoral Commissions must have: independence, impartiality, and competence. The undeniable constraints put upon the Commission by the State notwithstanding, acting as if it is independent, impartial and competent will go a long way in making it so. It is the actions that are important.

1. The Commission should exhibit its independence and enhance its competence by establishing a secretariat of professional staff members who will take on the operational role of administering registration and elections. New and professional staff members are needed especially in the areas where the Commission has undeniable weakness: accounting and budgeting, public relations and information, voter education, and computerization.
2. The Commission should act quickly to enhance the information it receives from all its interested partners by initiating monthly forums with political parties, with NGOs involved in election monitoring and voter education, and with donors.

3. The Commission should immediately undertake a thorough review of the Electoral Act and Regulations and submit all needed revisions to the Attorney-General for approval by Parliament.
4. The Commission should recognize that all violations of the law and of ethical election practices diminish the integrity of the system which it is responsible for. It should energetically condemn all behavior, wherever it comes from, that is not conducive to a level playing field and free and fair elections.
5. The Commission should act in the recognition that it is overseeing one of the most publicly oriented of all government functions. Elections are a process that touch all Kenyans. The Commission should reach out to all Kenyans with information and consultation, and should create a climate of transparency where all interested Kenyans can monitor its actions.

B. THE ROLE OF THE STATE

The State, as embodied in Kenya by the President and his government, Parliament, and the ruling party, has delegated much of the responsibility for elections to the Electoral Commission. In preparing Kenya for free and fair elections, however, the actions of the State will be the most crucial in determining success or failure. Its most important role is setting the stage--creating a conducive environment--for democratic elections by exhibiting its political will that the goal of credible and legitimate elections be attained.

Since 1991, several giant steps forward have been taken by the State toward reaching that goal, most particularly the repeal of Section 2A of the Constitution. The past five years, however, have largely been characterized by steps not taken by the State that are needed to move the democratic transition in Kenya forward to completion. Many steps left undone in 1992 remain undone in 1996. In the relatively few months remaining before the next general elections, the State must radically change its behavior so that the pace of change is sufficiently rapid to attain the goal of free and fair elections.

Some of the necessary changes are legal and require action by Parliament. Most are administrative or procedural, and require action that is within the power of the President and the government acting unilaterally. All of these changes will require a commitment to democratic practices that the State has rarely exhibited in the past five years.

1. Parliament should remove the legal constraints on constitutionally guaranteed freedoms that are not reasonably justifiable in a democratic society. Specifically, Parliament should repeal the Public Order Act and the Chiefs Act.
2. The President should restore confidence in the electoral process by appointing new

members to the Electoral Commission at the expiration of the terms of current members. The President should choose the new members from a pool of candidates who are generally acceptable to political actors across the spectrum.

3. The President and his government should take explicit steps to separate the resources of the State from those of the ruling party. Resources of the State should cease being used for the political advantage of KANU. Most importantly, the President should institute measures to make the publicly owned radio and television stations accessible to people of all legitimate political persuasions, and, particularly in the context of the upcoming elections, shield the KBC from undue influence by KANU.
4. The President should direct the Registrar of Societies to register all political parties whose applications are pending, or to quickly issue explanations as to why the applications have been refused.

C. THE ROLE OF POLITICAL PARTIES

Political parties should act with the recognition that they too have significant responsibility for leading Kenya toward legitimate and credible elections. Some important actions for both the opposition and ruling parties to take include the following.

1. The political parties should respond affirmatively when the Electoral Commission invites them to a discussion forum. They should use these regular meetings as a means of airing their concerns and of acquiring useful information about the election process.
2. The parties should quickly engage, in collaboration with the Electoral Commission, in the drawing up of a Party Code of Conduct.
3. The parties should commit themselves to renouncing the use of violence and should do all in their power to prevent any of their supporters from resorting to violence.
4. KANU has a particular role in working with the State, perhaps in collaboration with the Electoral Commission and other parties, to develop rules and practices consistent with international standards for the separation of State and ruling party resources.
5. The political parties should work with the Electoral Commission and the government to develop rules and procedures for equitable access to the government-owned mass media and guidelines for the unbiased reporting of political news.
6. The political parties should prepare themselves to undertake an effective monitoring of the voter registration period. They should discuss collaborating with the Electoral Commission in the training of party monitors and registration and poll workers.

D. THE ROLE OF NGOS

Organized civil society, in the form of non-governmental organizations, also has a crucial role to play in preparing for legitimate and credible elections. Their roles are primarily in the areas of advocacy and information dissemination.

NGOs have a proper and important role in vocalizing the minimum standards for free and fair elections in the context of Kenya's ongoing transition to democracy. They should find and use all available means of pressing the government, the Electoral Commission and the political parties to recognize and meet these minimum standards.

NGOs' information dissemination role leads them to both voter education and election monitoring. There is an enormous need for election-related non-partisan information to reach all members of the Kenya electorate in the period prior to the voter registration exercise, the register revision exercise and elections themselves. Ideally, the program for voter education in these three periods should be a coordinated effort by a broad range of Kenyan NGOs, and designed and implemented in collaboration with the Electoral Commission. A successful program will reach rural voters and illiterate voters, and will result in high participation rates in registration and voting.

Election monitoring is essentially an information dissemination task as well. Monitors gather information from the field and pass it on to those who are interested in it or will benefit by it. The information gathering should have both geographical and temporal breadth. All areas of the country need to be covered, including isolated rural areas. This will require a coordinated program that will involve many NGOs, with strong reach to the grassroots. All significant events in the election calendar will need to be covered as well, from beginning to end, including voter registration, processing of voter registration data, the exhibition and revision of registration data, campaigning, voting, and vote counting and tabulating.

Just as important and challenging as the information gathering step is the synthesizing and distribution of the information. Effective observation requires that a massive amount of information be gathered, synthesized and distributed rapidly and efficiently. This can be difficult in a country where the communication infrastructure is weak, but it is a difficulty that must be overcome. To a large degree, information must be timely (and accurate) to be useful. The gathered information is generally distributed to other NGOs (for use in their advocacy role), the Electoral Commission, the Government, political parties, the media (for redistribution to the electorate) and to donors.

E. THE ROLE OF DONORS

Donors have a variety of important roles to play in supporting Kenya in the completion of its democratic transition. Diplomatic dialogue, public statements, and assistance to the major

Kenyan actors will all come into play. Because all donors have limited resources, all are presumably asking: What actions will have the most impact on strengthening the process?

In the area of assistance, donors should strongly consider providing further financial and technical support to the NGOs that are undertaking programs of election monitoring and voter education. The donors should also consider providing assistance to the Electoral Commission in its many difficult and costly responsibilities. In examining the question of whether to provide assistance to the Commission (and if so, what kind), IFES proposes the following criteria for assistance:

- a) Is the Electoral Commission a willing partner in the assistance project?
- b) Will the assistance strengthen democratic practices and institutions in Kenya, in the short-term and the long-term?
- c) Will the assistance strengthen, in the short- and long-term, the competence, impartiality, and independence of the Commission, and its ability to administer elections with an acceptable level of transparency and adherence to the country's and international standards for free and fair elections?
- d) Is the Commission institutionally able to absorb the assistance and politically able to keep the commitments made in assistance agreements such that the assistance is used as intended by the donor?
- e) Will improved election administration significantly contribute to the overall environment of democracy and good governance in Kenya?
- f) Is the government willing and able to protect the rights of political parties, NGOs and citizens, in areas such as access to media and independent monitoring of election processes?

These are questions that should be asked not once but continually throughout the period of preparations for elections, for the answers may change over time.

Assistance should be offered and delivered to recipients in Kenya in awareness of and association with actions that the recipients themselves are taking. Preparing for elections is a multi-step process. Many steps should be taken only after a prior step is accomplished. For example, the Electoral Commission should begin voter registration only after the Government has provided all eligible voters reasonable opportunity to acquire the required identity documents. Actions taken by donors--e.g., making a commitment to provide assistance or actual delivery of the assistance--also will often require prior actions. Sometimes these prior actions must be taken by the recipients themselves (e.g., donors should provide assistance to NGOs for election monitoring only after the NGOs prepare a general strategy and budget for their monitoring program).

Sometimes the prior action must be taken by another actor. For example, IFES would recommend that donors not provide major financial and material assistance to the Electoral Commission for election day needs unless the Government has made acceptable changes in the membership of the Commission. In other words, the provision of assistance should be incremental to the extent possible, and "sequenced," that is, given its appropriate timing and place in the sequence of election preparation steps. The final chapter of this report provides a suggested timeline for election-related actions, and recommends donor actions in the context of that timeline.

Assistance to NGOs working in voter education and election monitoring should be largely in the form of financial assistance. Kenyan NGOs working in this area already have good experience, and the need for technical assistance is small.

Assistance provided to the Electoral Commission, on the other hand, should be accompanied to the greatest extent possible by technical assistance. There are two reasons for this. The Commission has relatively little experience in the areas where it needs the most assistance (registration system design, computerization, voter education, training). Secondly, tying financial and material assistance to technical assistance gives the donor more control of the use of the assistance and over the direction of the process in general.

Areas where assistance to the Electoral Commission is recommended are:

- design and implementation of voter education programs in the periods prior to voter registration, register revision, and elections. Providing a voter education consultant is recommended along with financial and material assistance;
- technical, financial and material assistance for the processing of registration data, particularly if the Commission chooses to computerize registration data prior to the elections;
- financial, material and technical assistance for pre-election activities, particularly training of District Electoral Coordinators, and training of returning and presiding officers.

Additional details on recommended equipment used in computerization of the registry are found in Appendix D of this report.

VIII. TOWARD CREDIBLE AND LEGITIMATE ELECTIONS: A SHARED TIMELINE

This final chapter of the IFES report attempts to summarize the recommended actions needed to take Kenya from where it was in March 1996 to where it needs to be in order for its elections to be credible and legitimate. This timeline includes political/electoral environment actions and election administration actions. Some actions are obviously more critical than others in preparing for credible and legitimate elections. But just as there is shared responsibility by the actors, there is also interconnected "responsibility" of these many actions in establishing the legitimacy and credibility of the upcoming elections. Effective registration and election administration by the Electoral Commission are just as important in leveling the playing field as legal reforms and other governmental actions in preparing for free and fair elections. Timely advocacy and support by donors may be just as essential as the advocacy and support provided by Kenyan NGOs.

This timeline assumes a twelve-month period between the first actions being taken and the date of elections. The activities listed here could certainly take place in a longer time period; they cannot take place in a much shorter period. The timeline also assumes that the Electoral Commission will choose to computerize the register of voters in the period between the voter registration exercise and the general elections. That is not a crucial assumption, however, for most of the actions listed below.

Month 1

1. The Electoral Commission establishes a support secretariat by hiring, at minimum, a chief administrative officer, an accounting officer, a voter education officer, and a computer specialist.
2. The Electoral Commission and UNDP begin to implement the UNDP assistance project. The computer consultancy component is used to provide detailed options to the Electoral Commission on accomplishing the computerization of the register of electors.
3. The Electoral Commission convenes a roundtable discussion with representatives of registered political parties, to discuss current issues regarding constituencies, registration and election preparation. A schedule of monthly EC-party meetings is established.
4. The Electoral Commission convenes a meeting with representatives of Kenyan NGOs interested in election monitoring and voter education, to discuss the electoral calendar and modalities of collaboration between the Commission and NGOs on voter education. A schedule of monthly EC-NGO meetings is established.

5. The Electoral Commission convenes a meeting with representatives of donors countries to discuss the electoral calendar, resource needs of the Commission and other political/electoral issues. The Commission provides donors with a timeline for developing a electoral budget and presenting the donors with detailed assistance requests. A schedule of monthly EC-donor meetings is established.

Month 2

6. Electoral Commission completes task of redrawing constituency boundaries in a manner that gives priority to equality of representation while also considering ease of representation and other factors.
7. Implementation of UNDP assistance project continues, with installation of computers at Electoral Commission Offices. The Commission's computer specialist develops a training program in computer applications for members of the Commission's secretariat.
8. In the second meetings of the EC-NGO forum, the EC-party forum, and the EC-donor forum, the Electoral Commission discusses the recommendations of the UNDP consultancy on electoral register computerization and design of a continuous registration system, and presents its preferred option.
9. On the basis of the UNDP consultant's recommendations and feedback from NGOs, political parties and donors, the Electoral Commission adopts a longterm voter registration strategy, possibly to include a plan for computerization of the register and a continuous registration system.
10. The Electoral Commission submits to the Government of Kenya (GOK) and donors a comprehensive budget for all registration and election needs through the completion of the election process.
11. The Government of Kenya initiates discussion with political parties on a mutually acceptable method of naming new members to the Electoral Commission at the time of expiration of the terms of several current members of the Commission.
12. The Electoral Commission submits to the Attorney-General recommended amendments to the Elections Act, for action by Parliament, to make the Act (and Regulations if parliamentary action is require to amend regulations) more consistent with multiparty practices. Areas for amendment would include:
 - ▶ authority of the minister (The Elections Act, e.g., Sections 4, 34; see discussion on page 16)

- ▶ registry review and appeal process (Registration Regulations; see p. 44)
- ▶ candidate nomination process (Elections Regulations, Sections 12, 15; see p. 23)
- ▶ site for counting of ballots (Elections Regulations, Sections 34,36; see page 31).

13. The Attorney-General submits to Parliament bills calling for the repeals of the Public Order Act and the Chiefs Authority Act. The Government makes public commitment to suspend enforcement of these two Acts insofar as they constrain political parties' legitimate rights of assembly and expression.

Month 3

14. The Electoral Commission, in the third round of meetings with NGOs, political parties, and donors, introduces its recommendations for required documents with which prospective voters prove their eligibility to register to vote.
15. Following input from the donors, NGOs and political parties, the Electoral Commission announces its policy on what documents may be used to prove a voter's eligibility to register, and amends the Regulations (if necessary). If the National Identity Card is retained as the sole required document, the Electoral Commission and the Government of Kenya make clear, public and repeated policy statements on this requirement and on the definition of what constitutes a valid ID card.
16. The donors make commitments on their level of assistance (technical, material and financial) to the Electoral Commission in carrying out the voter registration process and the computerization of the register of voters. *IFES recommends that donor commitment to registration assistance be contingent on successful accomplishment of steps # 1- 15 above.*
17. The Electoral Commission and Kenyan NGOs, in their monthly meeting, come to preliminary agreement on modalities for collaboration in carrying out a pre-registration voter education program.
18. Kenyan NGOs, on the basis of the Commission's announced plan for voter registration (step #9), agree on a collaborative program for comprehensive monitoring of the voter registration process (including the exhibition and revision process). Political parties also begin to plan their monitoring effort.
19. Donors make commitments to assist the Electoral Commission and NGOs in designing and implementing a comprehensive voter education program prior to the voter registration exercise. *IFES recommends that commitment of donor assistance to the Electoral*

Commission's voter education program be contingent on successful accomplishment of steps # 1, 4, 8-11, 13, 17, and that assistance to NGOs be contingent on successful accomplishment of steps # 4, 8, 13, 17. Donor assistance to the Electoral Commission and the NGOs in voter education may include the provision of an international consultant in design and implementation of voter education.

20. Donors make commitments to assist Kenyan NGOs in designing and carrying out a comprehensive program of monitoring the voter registration exercise. *IFES recommends that donor commitment of assistance to NGOs' registration monitoring efforts be contingent on successful accomplishment of step # 18.*
21. The Government of Kenya speeds up the processing of applications for radio and television licenses currently with Attorney General.
22. The Registrar of Societies registers Safina and other political parties whose applications are currently pending with the Registrar, or announces his reasons for rejecting the applications consistent with section 11 of the Societies Act.
23. The Electoral Commission and UNDP provide training for District Election Coordinators.

Month 4

24. International voter education consultant arrives in Kenya to assist the Electoral Commission and NGOs in design and implementation of a comprehensive voter education program.
25. In the fourth round of meetings with NGOs, political parties and donors, the Electoral Commission discusses in detail its plans for carrying out the voter registration exercise.
26. A joint EC/NGO voter education program regarding voter registration is designed.
27. The Electoral Commission designs the voter registration form and voters card (possibly, with assistance from international consultant), and places orders with printers. Other materials needed for registration are ordered from vendors. *If donor financial or technical assistance is provided for the designing and/or purchasing of registration materials, IFES recommends that the disbursement of this assistance be contingent on the successful completion of steps #21 and 22.*
28. The Electoral Commission designs a training program for registration officers. Based on input from NGOs, political parties and donors, and on revised Election Regulations, a training manual and guide for registration officers is designed.

Month 5

29. In Round 5 of the Electoral Commission's monthly meetings with NGOs, political parties and donors, the Electoral Commission presents its plan for division of all constituencies into registration units and for the identification of registration sites for review and input. The Electoral Commission also presents its plan for the recruitment of registration officers.
30. If the National Identity Card is to be the required document for proving a person's eligibility to register to vote, the Government of Kenya gives credible assurance, validated by the Electoral Commission, NGOs and political parties, that an acceptable percentage of voting age population has had reasonable opportunity to acquire a valid National Identity Card.
31. Based on input from NGOs and political parties, the Electoral Commission recruits registration officers and assistant registration officers:
32. Trainers for registration officers are recruited and trained by the Electoral Commission, possibly with the assistance of international consultant(s). *If donor financial or technical assistance is provided for the training of registration officers, IFES recommends that the disbursement of this assistance be contingent on the successful accomplishment of steps # 21, 22, and 30.*
33. The Electoral Commission selects and publicizes the registration sites for all registration units.
34. Registration officers and assistant registration officers are trained.
35. Using the manual for registration officers, NGO (and political party) monitors of the registration exercise are trained.
36. Registration forms, voters cards and all other materials for registration are delivered to the Electoral Commission and prepared for distribution.
37. The Electoral Commission and the NGOs jointly implement the voter education program.
38. Based on on-going discussions between the Government of Kenya and political parties, mutually acceptable new members are appointed to the Electoral Commission on the expiration of the terms of some of the current members.

Month 6

39. The registration of voters takes place in every registration unit throughout the country, monitored by NGOs and political parties.
40. Round six of meetings between the Electoral Commission and the NGOs, the political parties and the donors takes place. At these meetings, the on-going registration exercise is reviewed, as well as the Electoral Commission's plans and budget for the remaining steps in the election process.
41. Computers and scanners are delivered to the Electoral Commission. *If donor funds are used to purchase this equipment, IFES recommends that delivery be contingent on successful accomplishment of steps # 21, 22, 30, 38 above.*
42. The Electoral Commission submits a revised and detailed budget for all remaining steps in the election process to the Government of Kenya and donors.
43. Donors commit to providing technical, material and/or financial assistance to the Electoral Commission, if needed and requested for the election period, especially in areas of training and voter education. *IFES recommends that this commitment be contingent on successful accomplishment of steps # 1-42 above, particularly steps # 21, 22, 30, 38, 39 and 42.*

Month 7

44. Registration forms are delivered from all registration units to the Electoral Commission in Nairobi, and computerization of registration data begins, with continued monitoring by NGOs.
45. Round seven of meetings between the Electoral Commission and the NGOs, the political parties and donors takes place. A Political Party Code of Conduct is discussed, as well as plans for voter education on and monitoring of the register exhibition and review process.
46. NGOs develop a collaborative plan for monitoring the campaign and election period and present a request for assistance to donors.
47. The Electoral Commission and the NGOs agree on general modalities for a collaborative program of voter education to be carried out prior to election day.
48. Political parties develop a plan for monitoring election day and the counting process.

49. Donors make commitment to provide assistance to NGOs for monitoring of the campaign and election period. *IFES recommends that this commitment be contingent on successful accomplishment of the NGO monitoring program during the registration period and step #46 above.*
50. Donors make commitment to assist the Electoral Commission and the NGOs with technical, material and financial assistance in designing and carrying out a comprehensive program of pre-election voter education. *IFES recommends that voter education assistance to the Electoral Commission be contingent on successful accomplishment of steps #37, 38, 39, and 47 above, and that assistance to NGOs be contingent on successful accomplishment of steps #37 and 47.*

Month 8

51. A voter education program regarding the register exhibition and revision process is designed and implemented by the Electoral Commission and the NGOs.
52. Computerization of registration data continues at the Electoral Commission.
53. Round eight of the meetings between the Electoral Commission and the NGOs, the political parties and the donors takes place. Status of on-going computerization and of the Party Code of Conduct is discussed.
54. Registration officers are re-hired for exhibition period.

Month 9

55. Computerization of registration data is complete, and copies of the national register of electors are printed.
56. Registration officers are trained for exhibition period.
57. Registers of electors are distributed throughout the country, and a period of exhibition of the registers is conducted at every registration unit.
58. Round nine of meetings between the Electoral Commission and NGOs, political parties and donors takes place. Issues regarding the register exhibition period are discussed. The Electoral Commission reviews its plans regarding the recruitment of returning officers and assistant returning officers.
59. A Party Code of Conduct is agreed upon between the Electoral Commission and the political parties.

60. Parliament, at the request of the government, repeals the Public Order Act and Chiefs Authority Act, with regulation of political rallies being outlined in the Party Code of Conduct.
61. With guidance provided by the EC-NGO, EC-party and EC-donor forums, the Government of Kenya announces the formation of an ad hoc Commission to monitor use of KBC (radio and television) during the campaign period, to establish rules of equal access to KBC by all political parties, and to establish guidelines for news and political advertising on other (private) radio and television outlets.
62. The Electoral Commission designs a training program for returning officers, assistant returning officers, presiding officers and clerks. Manuals for returning officers and presiding officers are designed and printed.
63. The Electoral Commission and NGOs begin design of a comprehensive voter education program for the pre-electoral period. *If donor financial and/or technical assistance is provided for the design and/or implementation of the voter education program, IFES recommends that disbursement of the assistance to the Electoral Commission be contingent on successful accomplishment of steps # 59, 60, and 61.*
64. The Electoral Commission completes design of all nomination, campaign and election forms, and places orders with printers. The Commission places orders for all other needed election day materials with vendors.

Month 10

65. Registration objections and appeals to claims are forwarded by the registration officers to the courts, and are decided by the courts.
66. Formal announcement of presidential and parliamentary election day is made by the government of Kenya.
67. Round ten of meetings between the Electoral Commission and the NGOs, political parties and donors takes place. The Commission discusses, among other things, the role of District Electoral Coordinators and its proposed list of returning officers.
68. The Electoral Commission issues regulations regarding the role and responsibilities of District Electoral Coordinators, especially during the campaign period, and especially vis-a-vis district commissioners, divisional officers, and chiefs.

69. The Electoral Commission conducts training for the trainers of returning officers and presiding officers.
70. The Electoral Commission recruits returning officers and assistant returning officers.
71. The Electoral Commission, with assistance from international consultant(s) if necessary, designs a computerized program for the tabulation of presidential and parliamentary voting results, using the Commission's computer system and computer specialist. *If international assistance is provided for this activity, IFES recommends that it be contingent on successful accomplishment of all of the above steps, particularly steps # 59, 60, and 61.*

Month 11

72. Returning Officers are trained by the Electoral Commission and deployed to their constituencies.
73. International election observers arrive to supplement the monitoring efforts of Kenyan NGOs, to remain until election day and the announcement of final results. *IFES recommends that the sending of international observers be contingent on successful completion of the registration and revision exercises, and of steps # 22, 38, 59, 60 and 61.*
74. The registers of electors for each registration unit are revised in the computer database, based on resolution of claims, objections and appeals. New registers are printed.
75. The government of Kenya and the Electoral Commission issue clear, public and repeated statements regarding the right of all political parties and candidates to campaign in all areas of the country, and the responsibility of security forces to protect that right.
76. Political parties recruit their election day monitors and submit the names of the monitors to the Electoral Commission for credentialing.
77. Nomination day(s) takes place.
78. The Electoral Commission designs the ballot papers and sends them to the printer.
79. The Electoral Commission and NGOs begin implementation of their collaborative program of voter education regarding the campaign period and election day issues and procedures.
80. All election day materials except ballots are delivered by vendors to the Electoral Commission in Nairobi, and the Commission begins organization of materials for

distribution to the districts.

Month 12

81. NGOs, political parties and donors continue their monthly meetings with the Electoral Commission.
82. The campaign period for presidential and parliamentary candidates begins and ends.
83. The voter education program continues.
84. The Electoral Commission, primarily through the returning officers, recruit presiding officers and clerks and organizes a comprehensive training for them.
85. Political parties, possibly with donor and NGO assistance, conduct training for their election monitors.
86. The government of Kenya, in collaboration with the Electoral Commission, conducts training for election day security personnel.
87. Election day materials are distributed to districts and then to returning officers in each constituency.
88. Ballots are delivered by the printer to Nairobi and distributed to returning officers in each constituency, with monitoring by political parties and NGOs.
89. Election day. Vote counting and tabulation. International and domestic election monitoring continues through the vote counting and tabulation process.

Month 13

90. The Electoral Commission announces the results of the presidential and parliamentary elections.

APPENDICES

APPENDIX A

THE CONSTITUTIONAL AND LEGAL FRAMEWORK OF ELECTIONS

As is the case in most countries, the Kenyan Constitution lays out broad principles and requirements, which are then amplified on by legal acts passed by Parliament. Further operational details are often provided by regulations promulgated by the government. The electoral framework in Kenya is given by just such a hierarchical structure: constitutional principles, laws, and regulations. The relevant provisions of each level in this framework are briefly summarized here.

The Constitution

The Constitution of Kenya provides for a government headed by a directly elected president and a single legislative chamber called the National Assembly or Parliament. The judiciary is the third branch of government. Each branch provides some checks and balances on the powers of the other two branches, but this Constitution places a relatively high proportion of power into the executive branch and specifically into the hands of the president.

The 126 sections of the Constitution are divided into nine chapters. The Executive, Parliament, and the Judicature are covered in Chapters II, III and IV respectively. The rights and freedoms of the individual are listed in Chapter V. These four chapters are the ones of relevance to this report.

In late 1991, the Constitution was amended to repeal Section 2A which had named KANU as the sole legal political party. This action marked the beginning of Kenya's current and on-going transition to multiparty democracy.

Section 5 This section describes the requirements for the election of the president of Kenya. Whenever Parliament is dissolved the election of the President must be held. Each political party taking part in a general election must nominate a candidate for election to the presidency. Each nomination must be supported by the signatures of 1000 voters. If only one candidate is nominated that person is declared to be elected if s/he is also successful in being elected to the National Assembly. Where more than one candidate is nominated a poll is held. The candidate who receives the most valid votes and who receives a minimum of 25% of the valid votes cast in at least 5 of the 8 provinces is declared elected.

Section 7 This section states that the President "shall form the Government of the political party which nominated him as candidate for President," which makes a government of national unity or a coalition government constitutionally

questionable.

- Section 9** The term of office of the President (and National Assembly members) is five years. The President may serve for no more than two terms.
- Section 10** Questions on whether the President was qualified to be nominated for election as President, or was validly elected as President, or was validly elected as member of the National Assembly are determined by the High Court.
- Section 32** A members of the National Assembly is elected from each of Kenya's constituencies. Only registered voters in a constituency are entitled to vote in that constituency.
- Section 34** To be qualified for election to the National Assembly, a person must:
- (a) be a citizen of Kenya and 21 years old;
 - (b) be registered as a voter;
 - (c) be able to read English and Swahili;
 - (d) be nominated by a political party.
- Section 40** A member of the National Assembly must resign his seat when he resigns from his party.
- Section 41** This section provides for the establishment of an Electoral Commission. These provisions are examined in detail in Chapter III of this report.
- Section 42** Parliament may prescribe the number of electoral constituencies, which must be not less than 188 (the current number). Parliament may also prescribe the maximum number of constituencies. The Constitution sets the current maximum at 210, but this may be changed by act of Parliament.
- Section 42(a)** This section lists the responsibilities of the Electoral Commission (see Chapter III).
- Section 44** The High Court is given jurisdiction for determining questions on the validity of National Assembly elections. The High Court's decision are not subject to appeal.
- Section 61** The Chief Justice of the High Court is appointed by the President. The other judges of the High Court (not less than eleven) are appointed by the President with the advice of the Judicial Services Commission.
- Section 79** Kenyans' freedom of expression is guaranteed, limited by laws providing for reasonable requirements of defense, public order, confidentiality, etc.

- Section 80 Freedom of assembly and association are guaranteed, limited by (among others) any legal provision requiring the registration of associations (as long as those provisions are "reasonably justifiable in a democratic society").
- Section 81 Freedom of movement is guaranteed. An individual's or a class of persons' movement may be restricted by law in the interests of defense, public order, public morality, etc.

The National Assembly and Presidential Elections Act

The National Assembly and Presidential Elections Act (Revised 1992) expands on the constitutional election provisions by specifying the steps for the election of president and members of parliament. The Act itself is relatively brief, and leaves many electoral details to be defined in the Regulations.

- Section 3 The Electoral Commission is directed to appoint a Director of Elections and other officers to assist the Commission in the discharge of its functions.
- Sections 4-11 These sections provide for the method of registration of voters, and are discussed in detail in Chapter VI and Appendix B of this report.
- Section 12 When the presidential elections are to be held, the President must within 90 days direct the Speaker of Parliament to publish the notice of the election as nearly as possible at the same time as the writs for the parliamentary election are issued. The Electoral Commission then publishes a notice setting the day of nomination for presidential candidates at least ten days after the publication of the Commission's notice.
- Section 13 Elections to the National Assembly must be held within a three month period between the dissolution of Parliament and the first session of the new Parliament. Elections to the National Assembly following its dissolution are triggered by the issue of a writ by the Speaker to Returning Officers. The writ must be issued within 14 days of the date of the dissolution. The Electoral Commission is responsible for transmitting the writs to the Returning Officers. On receipt of the writ, the Electoral Commission must publish the date for nomination of candidates which must be not less than 21 days after the date of the publication of the notice.

(This provision was the center of considerable controversy in 1992. When the amended Elections Act was published, this section had been changed to state that nominations for candidates must take place not more than 21 days after publication of the notice. This was challenged in court and the judge ruled that the Attorney-General had misused his general powers to correct clerical errors in statutes. The

court's ruling resulted in a postponement of the date of the 1992 general elections.)

- Section 14** After publication of the writs described in sections 12 and 13, Returning Officers in each constituency proceed to hold elections in accordance with the Regulations.
- Section 15** All people who have been registered in a constituency and who produce an elector's card are entitled to vote in that constituency.
- Secs. 19-31** These sections elaborate on Section 44 of the Constitution, regarding petitions questioning the validity of presidential and parliamentary elections, to be determined by the High Court.
- Section 34** The final section of the Elections Act gives authority to "the Minister" to make regulations for better carrying the provisions of the Act. While the regulations may be drafted by the Minister, they must be approved by resolution of Parliament.

Election Regulations

Under the authority given in section 34 of the Elections Act, a set of Election Regulations has been promulgated (The Presidential and Parliamentary Elections Regulations (Rev. 1992)). Appended to these Regulations is a Schedule specifying the procedure for giving language tests to parliamentary candidates, and a set of forms used for nominations and elections.

Under authority given in section 27 (now repealed) of the Elections Act, a second set of regulations has been written regarding election petitions (The National Assembly Elections (Election Petition) Rules).

A third set of regulations has been written that specifically deals with voter registration (The National Assembly Elections (Registration of Voters) Regulations). These regulations are described in some detail in Appendix B of this report.

The sections of the Elections Regulations that are relevant to discussions found elsewhere in this report are briefly summarized below.

- Sec. 3** Returning Officers, who oversee elections in each constituency, are appointed directly by the Electoral Commission.
- Sec. 6** The Electoral Commission divides each constituency into polling areas, specifies the location of the polling station for each polling area, and publicizes these decisions in the Gazette.

- Sec. 10 **The Returning Officer, in consultation with the Electoral Commission, appoints Presiding Officers for each polling station in a constituency. Presiding Officers must not have assisted or been employed by a candidate for election.**
- Sec. 10(5) **Candidates' agents, when carrying out duties on behalf of their candidates, must wear an identifying badge or uniform.**
- Sec. 12 **Nomination papers for presidential candidates must be delivered to the Electoral Commission between 8:00 a.m. and 1:00 p.m. on nomination day.**
- Sec. 15 **Nomination papers for parliamentary candidates must be delivered to the Returning Officer in the constituency during the same 5-hour interval.**
- Sec. 14 **The Electoral Commission sets the day of election of parliamentary candidates for a date not less than 21 days after nomination day.**
- Sec. 17(3) **The Electoral Commission may authorize the presence of accredited non-partisan observers to attend nomination proceedings.**
- Sec. 21 **No person may vote anywhere other than in the constituency where he is registered. No person may vote more than once in an election.**
- Sec. 22 **There must be separate ballot boxes for the presidential election and the parliamentary election. Every polling place must have sufficient number of voting compartments where a voter can mark his ballot unobserved.**
- Sec. 28 **Ballots must contain the names and party symbols of all candidates. They also must be marked with a serial number, and be attached to a counterfoil which is marked with the same number.**
- Sec. 29 **The voter's electoral number (from the register) is marked on the counterfoil of his ballot paper. The voter's finger is marked with indelible ink. The voter's identity card is impressed with a seal.**
- Sec. 30 **The voter marks his ballot in the designated voting compartment.**
- Sec. 31 **The presiding officer may mark ballots on behalf of blind, illiterate or otherwise handicapped voters. Candidates' agents may witness the marking of the ballot by the presiding officer.**
- Sec. 33(1) **Voters are required to show the presiding officer their elector's card and national identity card before being allowed to vote.**

- Sec. 33(2) A voter who has an elector's card but whose name was omitted from the register by mistake may be allowed to vote by the presiding officer. A person may vote without an elector's card or identity card if he produces a written declaration that establishes his identity to the satisfaction of the presiding officer.
- Sec. 34 After the close of the poll, the presiding officer delivers the sealed ballot boxes and polling station materials as soon as possible to the returning officer.
- Sec. 35 Observers, candidates and candidates agents are permitted to observe the counting of the ballots by the returning officer and the counting agents.
- Sec. 36 The counting of ballots is carried out at the constituency level. Ballots from each polling station are counted separately.
- Sec. 40(1) When the count is completed, the returning officer announces the results to the persons present. Results, on the appropriate forms, are forwarded as soon as possible to the Electoral Commission.
- Sec. 40(2) The Electoral Commission need not publish the results of a presidential election until the results are received from every constituency. Presidential and parliamentary results are published by the Commission in the Gazette.
- Sec. 41 All election documents are kept for six months after the declaration of results, and then destroyed. The public may inspect election documents during those six months upon request made to the returning officer.

The Election Offenses Act

There is an Election Offenses Act (Rev. 1992) which defines a wide range of election offenses--by election officers, candidates and their agents, and voters--and the punishment for each. The Electoral Commission is not given any authority to enforce the provisions of this Act or to prosecute offenders. Prosecution for all offenses and corrupt and illegal practices specified in this Act may not be instituted without the sanction of the Attorney-General.

The Societies Act

Some of the limitations on a citizen's freedom of association and assembly, as guaranteed in Section 80 of the Constitution, are specified in The Societies Act (Rev. 1970). Political parties are included among the many types of associations that must be registered under the provisions of this Act, and therefore this legislation has some relevance to the electoral process in Kenya. The sections of this Act that are relevant to issues discussed in this report (primarily in Chapter VI) include the following:

- Section 2** A society is defined as any club, company, partnership or other association of ten or more persons having its headquarters or a branch in Kenya. This section also lists the types of organizations that are not covered by this Act.
- Section 4** Every society that is not registered (or exempted from registration or has its application pending with the Registrar of Societies) is an unlawful society. While an application is pending, people are prohibited from taking part in any activity of that society (except to correspond with the Registrar).
- Section 4-5** Stiff fines and prison sentences are prescribed for participation in an unlawful society.
- Section 8** A Registrar of Societies is appointed by “the Minister.”
- Section 9** Societies must apply for registration within 28 days of their formation.
- Section 10** If a properly prepared application for registration is received by the Registrar, the Registrar shall register the society, except in cases specified by the Act. No time frame is given for the Registrar’s action on an application.
- Section 11** The specific instances where the Registrar may or shall refuse to register a society are listed in this section.

Much of the remaining sections of the Act give the Registrar extremely close oversight on the administration, management and activities of registered societies.

The Preservation of Public Security Act

The Preservation Public Security Act gives the President, in accordance with Section 85 of the Constitution, extraordinary powers to take measures deemed by him to be necessary for the preservation of public security. This includes:

- the detention of persons;
- the registration or restriction of movement of persons;
- censorship or control of any information;
- the control or prohibition of any society, meeting or assembly;
- amendment or suspension of any law other than this Act and the Constitution.

APPENDIX B

THE CONSTITUTIONAL AND LEGAL FRAMEWORK OF VOTER REGISTRATION

Legal requirements related to the registration of voters in Kenya are contained in three main documents:

- ▶ The Constitution of Kenya, 1987 (Revised 1992), Section 43;
- ▶ The National Assembly and Presidential Elections Act, Chapter 7, Revised Edition 1992 (1983), and
- ▶ The Presidential and Parliamentary Elections Regulations, 1992

Constitution

The only registration-related provisions in the Kenyan Constitution, in Section 43, specify the requirements to be qualified and grounds to be unqualified to register to vote in presidential and parliamentary elections. To be qualified to vote in these elections, a person must:

- ▶ be a citizen of Kenya;
- ▶ have attained the age of 18 years;
- ▶ be ordinarily resident in Kenya either
 - ▶ for a period of not less than one year immediately preceding the date of the application; or
 - ▶ for a period of four years in the eight years immediately preceding the date of the application; and
- ▶ be resident in the constituency in which he applies to be registered, or
 - ▶ carry on a business there;
 - ▶ be employed there; or
 - ▶ lawfully possess land or residential buildings there.

Where a person is qualified to be registered in more than one constituency, he/she is entitled to be registered only in the first of the places for which he/she applies.

A person is disqualified from registering as a voter if:

- ▶ a person is judged to be of unsound mind;
- ▶ a person is an undischarged bankrupt;
- ▶ a person is detained in lawful custody; or
- ▶ a person has been convicted of an election offence.

The right of the individual to appeal disqualification is also guaranteed in the Constitution.

The Constitution, in section 42A, specifies that the registration of voters and the maintenance and revision of the register of voters is the responsibility of the Electoral Commission.

The Elections Act

The Elections Act (The National Assembly and Presidential Elections Act [Rev. 1992]) amplifies the constitutional provisions in four areas: establishment of a voter register, prohibition against multiple registration, disqualification and appeals to disqualification, and claims and objections. Beyond these four areas, very little pertaining to voter registration is specified in the Elections Act.

Section 4 The Electoral Commission is given authority to direct that a register of voters be established for any or all constituencies.

Section 5 A person may not register in more than one constituency or in more than one register. The act of applying for registration on two or more registers is punishable by a fine or a prison term.

Sections 6-7 Being convicted of an election offence is added to the constitutional list of reasons for a person to be disqualified from registration. a decision to disqualify someone from registration takes effect only after thirty days, in order to enable the person to appeal the decision.

Sections 9-10 A person who has applied to be registered but whose name does not appear on the register may submit a *claim* to the registration officer. An unfavorable decision by the registration officer on the claim may be appealed to the High Court.

A person may submit an *objection* to his registration or to the registration or claim of any other person to a court of the first class in the constituency concerned.

Election (Registration) Regulations

The operational details of establishing and maintaining a register of voters are not contained in the Constitution or the Elections Act, but rather in The National Assembly Elections (Registration of Voters) Regulations [Rev. 1992]).

Registration Officers. The Regulations give the Electoral Commission authority to appoint registration officers and assistant registration officers, and give the registration officers (and assistants) the authority to carry out most of the tasks involved in establishing and maintaining a voter register for each registration unit. A registration unit is defined as an area into which a constituency is divided by the Electoral Commission for the purpose of preparing registers. A registration officer may be responsible for one or more registration unit.

Registration of Voters. Sections 4-7 of the Regulations describe the process of registering voters. A specified period of registration, of not less than thirty days, is announced by the Electoral Commission for one or any number of registration units in the country. The registration officer registers all applicants “who appear to him to be entitled to be registered [in that registration unit] as an elector,” and issues that person an elector’s card. Neither the Act nor the Regulations specifies the forms of identification required for convincing the registration officer of an elector’s eligibility. The application form, however, asks for the applicant’s national identity card number.

The registration officer may issue a replacement card to electors who have lost their elector’s card.

When registration is completed for the registration unit, the register of voters is “published” by making it available at the District Officer’s office. A register of voters for each constituency is then compiled by the Electoral Commission from the registers of the registration units.

Revision of Register of Voters. Sections 15-21 describes a similar process for the revision of the register of voters. Again, the Electoral Commission publishes a notice in the Gazette that a thirty day period is given for voters from a registration unit to make application to the registration officer to have their name added to the register. This revision period is specifically for those persons who wish to be registered in a registration unit but currently are not registered there (because, for example, they have recently turned 18, or they want to move their registration from another registration unit). If someone is registered elsewhere, he provides that information to the registration officer, who notifies the registration officer of the unit where the voter is already registered, and the voter’s name is deleted from his previous register.

During this revision period, the registration officer is also directed to delete from the register the names of any person “who he is satisfied” has died or become disqualified from registration.

At the end of the revision period, the revised register is completed and certified by the registration officer and is published at the office of the District Officer.

Claims. During the fourteen days following the publishing of the register of voters, any person who has applied to be registered and whose name is not included in the register may submit a claim to be registered to the Registration Officer. All such claims must be filed in writing and accompanied by a new registration application and a 10/- fee.

At the end of seven days following claims period, the Registration Officer publishes at the district office a notice of the names of those who have submitted a claim. The Registration Officer then decides on the validity of the claims.

Appeals and Objections. A claimant may file an appeal of the Registration Officer’s decision to

the subordinate court of the first class having jurisdiction in the constituency concerned.

The same court also receives objections. Any person who is registered may file an objection to the inclusion in the register of his name or that of any other person. The period for submitting objections is the month following the publication of the notice that the register is available for inspection.

Any registered person can also file an objection to the registration of a person who has made a claim. This objection must be submitted to the registration officer in the fifteen days after the list of claimants has been published. The claimant is then notified that his claim has been objected to.

Objections to claims and entries in the register are forwarded by the Registration Officer to the court. The court determines all objections "as soon as practicable." To discourage frivolous and unreasonable objections, the court can fine persons it determines have filed such objections a sum up to 100/-.

Certification of the Register. When all claims and objections to the register have been determined, the court sends the appropriate Registration Officer a statement of its decisions. Upon receipt of this statement, the Registration Officer amends the register accordingly, certifies it, and "publishes" the revised register at the office of the District Officer. The register is then made available for inspection *in the registration unit* at times specified by the Registration Officer.

The Regulations give the Registration Officer the authority to correct any obvious mistakes or anomalies at any time.

APPENDIX C

THE REGISTRATION PROCESS IN 1992

Voter registration in Kenya has been traditionally been conducted every five years in preparation for general elections. The last such national registration exercise was scheduled for a 31-day period beginning June 8, 1992. Low turn-out, related to a boycott announced by the opposition parties and little advance notice, led the Commission to extend the registration period through July 20, 1992. During that time, the 188 constituencies were divided into 5,631 registration units located throughout the country. These centers, staffed by 30,000 Registration Officers and Assistant Registration Officers, were open for Kenyans aged 18 or older and in possession of a National Identity Card to appear and be registered to vote.

As specified in the Regulations, the act of registering to vote in Kenya is relatively simple. Individuals wishing to register present themselves at a designated registration center during the open registration period. The citizen completes an application form, and presents his/her national ID card as proof of identity.

In 1992, the requirement that all Kenyans wishing to register had to produce their National Identity Card proved particularly problematic as many young adults were unable to obtain a National ID Card due to a shortage of cards. Opposition parties and others in civil society complained that the issuance of ID Cards was deliberately being delayed by the government in order to prevent those people who had turned 18 since the previous voter registration activity in 1988 from registering, and who, it was assumed, were more likely to be opposition supporters.

After a preliminary inspection of the application by the registration official, information on the form is entered into a registration or "black book." The black book is a lined exercise book which is divided into alphabetical sections. The name, sex and address code of the registrant are then entered into the appropriate section of the registration book according to first letter of the applicant's surname. As the voter's name is entered into the black book, it is assigned an electoral number. The elector's number is in four parts: the first two or three letters denote the district; the second part of the number designates the registration unit; the third part is the initial of the voter's surname; and the fourth is the serial number from a list of consecutive numbers.

For example, the registration number of a person whose surname begins with the letter K who was the tenth applicant whose name began with K at the registration unit denoted by the number 29, in the district denoted by the letters ABC would be ABC/29/K/10. (It should be noted that while names are entered into the section of the registration book corresponding with the first letter of the registrant's surname, the registration list is not, strictly speaking, alphabetical.)

When the forms have been completed, the voter is issued an Elector's Card which bears the

voter's name, elector's number and National ID Card number. The Elector's Card is made of pink card stock and is not laminated or otherwise protected from the elements and normal wear and tear.

At the end of the open registration period, the black books are sent to the appropriate District Electoral Office where the registration information is typed into a voters register on a master stencil by Elector's Card number. Once completed, the voters registers are verified against the black book and five or more copies of the register for each registration center are then made by mimeograph.

Once the voters registers are completed, Registration Officers are required to publish a notice informing citizens that the register is available for inspection at the appropriate District Election Office. During this 14 day period, voters can verify that their names appear on the list and can file objections to other names on the list. It was observed during the 1992 election process by International Republican Institute that "... many people did not appear to realize the importance of verifying voter information. This problem could have been remedied had the Electoral Commission taken a more active role in voter education." (IRI Final Report, p. 13).

According to the Electoral Commission, some 7,956,354 Kenyans, or approximately 76 percent of the more than 10 million estimated voting age population (VAP), actually registered to vote. According to estimates developed by the 1992 IFES Pre-Election Assessment Team in their analysis of the Commission's budget for voter registration, the total cost of registration was estimated to have been \$12, 236,752 (including the extension of the registration period). On a per capita basis, this comes to \$1.53 per registered voter.

It is important to note that the percentage of voters registered compared to the total VAP is a matter of some discussion as census figures regarding the age distribution of the Kenyan population are far from certain. Opposition political parties and NGOs claimed that a significant number of eligible Kenyans (estimates ranged from two to three million people) were unable to register in 1992 due to a lack of national ID cards and other logistical and organizational problems related both to the Kenyan government and to the operations of the Electoral Commission.

Since the 1992 general elections, Kenya has held at least 150 parliamentary and local council by-elections. During that same period, the voters register has not been re-opened in order to extend the franchise to citizens who have turned 18 since June 1, 1992. Estimates as to the number of young Kenyans who have obtained the age of majority but who have not had an opportunity to register to vote are as high as 3 million.

APPENDIX D

COMPUTERIZATION OF REGISTRATION DATA: EQUIPMENT AND COST ESTIMATES

OMR SCANNING TIME ESTIMATES

| PROD. HRS./ DAY | # SCANNERS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS COMPLETE |
|-----------------------|---------------|-------------------------|---------------------------|---------------------------|--------------|-------------------|
| 24 | 7 | 1,008 | 7,000 | 7,056,000 | 13,000,000 | 2 |
| 21 | 7 | 882 | 6,000 | 5,292,000 | 13,000,000 | 2 |
| 18 | 7 | 756 | 5,000 | 3,780,000 | 13,000,000 | 3 |
| 15 | 7 | 630 | 4,000 | 2,520,000 | 13,000,000 | 5 |
| 24 | 6 | 864 | 7,000 | 6,048,000 | 13,000,000 | 2 |
| 21 | 6 | 756 | 6,000 | 4,536,000 | 13,000,000 | 3 |
| 18 | 6 | 648 | 5,000 | 3,240,000 | 13,000,000 | 4 |
| 15 | 6 | 540 | 4,000 | 2,160,000 | 13,000,000 | 6 |
| 24 | 5 | 720 | 7,000 | 5,040,000 | 13,000,000 | 3 |
| 21 | 5 | 630 | 6,000 | 3,780,000 | 13,000,000 | 3 |
| 18 | 5 | 540 | 5,000 | 2,700,000 | 13,000,000 | 5 |
| 15 | 5 | 450 | 4,000 | 1,800,000 | 13,000,000 | 7 |
| 24 | 4 | 576 | 7,000 | 4,032,000 | 13,000,000 | 3 |
| 21 | 4 | 504 | 6,000 | 3,024,000 | 13,000,000 | 4 |
| 18 | 4 | 432 | 5,000 | 2,160,000 | 13,000,000 | 6 |
| 15 | 4 | 360 | 4,000 | 1,440,000 | 13,000,000 | 9 |
| 24 | 3 | 1,296 | 7,000 | 9,072,000 | 13,000,000 | 1 |
| 21 | 3 | 1,134 | 6,000 | 6,804,000 | 13,000,000 | 2 |
| 18 | 3 | 972 | 5,000 | 4,860,000 | 13,000,000 | 3 |
| 15 | 3 | 810 | 4,000 | 3,240,000 | 13,000,000 | 4 |
| 24 | 2 | 288 | 7,000 | 2,016,000 | 13,000,000 | 6 |
| 21 | 2 | 252 | 6,000 | 1,512,000 | 13,000,000 | 9 |
| 18 | 2 | 216 | 5,000 | 1,080,000 | 13,000,000 | 12 |
| 15 | 2 | 180 | 4,000 | 720,000 | 13,000,000 | 18 |
| 24 | 1 | 144 | 7,000 | 1,008,000 | 13,000,000 | 13 |
| 21 | 1 | 126 | 6,000 | 756,000 | 13,000,000 | 17 |
| 18 | 1 | 108 | 5,000 | 540,000 | 13,000,000 | 24 |
| 15 | 1 | 90 | 4,000 | 360,000 | 13,000,000 | 36 |

NOTES ON TIME ESTIMATES FOR DATA CAPTURE

SCANNING ESTIMATES:

Forms Scanned Per Hour: Although OMR scanners are rated by their manufacturers for a maximum number of documents which can be processed in one hour, in practice these maximum rates are rarely sustainable over a long period of time. In processing a total of 9.1 million voter registration documents in Ghana, using 4 NCSi OpScan 10 (with a maximum processing rate of 6,000 forms per hour) scanners simultaneously, the actual average hourly rate was 4,000 to 4,500 forms per hour. The difference between the manufacturer's speed rating and actual production is limited by a variety of factors including the size of the input and output hoppers. The typical capacity of these hoppers is 500 - 600 sheets. Filling and emptying hoppers reduces throughput as do environmental considerations such as the build-up of dust on forms and static electricity due to the movement of documents through the scanner.

Productive Hours Per Day: Estimates show variation in number of productive hours for workers which impacts scanner output. Depending on how equipment operation is organized, impact on productivity could be minimal.

Days Per Week: A six-day work week is assumed.

Number of Scanners: While budget estimates indicate the purchase of eight scanners, experience in Ghana with the processing of large numbers of documents suggests that at least one scanner should be held in reserve at all times. Therefore, estimates presented here are based on a maximum of 7 scanners used simultaneously.

Days Needed to Enter All Data: The estimated voting age population of 13 million divided by the total daily production.

DATA CAPTURE ESTIMATES FOR OMR 1 BUDGET CONFIGURATION

| PROD. HRS./ DAY | # SCANNERS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS TO COMPLETE |
|-----------------------|---------------|-------------------------|---------------------------|---------------------------|--------------|-------------------------|
| 24 | 7 | 1,008 | 7,000 | 7,056,000 | 13,000,000 | 2 |
| 21 | 7 | 882 | 6,000 | 5,292,000 | 13,000,000 | 2 |
| 18 | 7 | 756 | 5,000 | 3,780,000 | 13,000,000 | 3 |
| 15 | 7 | 630 | 4,000 | 2,520,000 | 13,000,000 | 5 |

OMR DATA ENTRY OPTION #1 BUDGET ESTIMATE

| ITEM DESCRIPTION | # UNITS | TYPE UNIT | UNIT COST | ITEM COST | TOTALS |
|----------------------------------|------------|--------------|--------------|--------------|---------------------|
| <i>Computer Network Hardware</i> | | | | | |
| Fileservers | 2 | each | 15,000.00 | 30,000.00 | |
| Developer's Computers | 6 | each | 3,000.00 | 18,000.00 | |
| Laser Jet Printers | 2 | each | 2,000.00 | 4,000.00 | |
| Line Printers | 4 | each | 5,000.00 | 20,000.00 | |
| UPS | 8 | each | 750.00 | 6,000.00 | |
| Network Cabling + Installation | 1 | unit | 25,000.00 | 25,000.00 | |
| Shipping | 1 | unit | 10,000.00 | 10,000.00 | |
| | | | | | 113,000.00 |
| <i>Computer Network Software</i> | | | | | |
| Windows NT Server | 2 | each | 1,300.00 | 2,600.00 | |
| Windows NT Client | 6 | each | 63.00 | 378.00 | |
| MS SQL Server | 1 | each | 1,000.00 | 1,000.00 | |
| MS SQL Server - Client | 6 | each | 265.00 | 1,590.00 | |
| FLIPs-OMR | 1 | each | 1,650.00 | 1,650.00 | |
| MS Office Professional | 6 | each | 350.00 | 2,100.00 | |
| Turbo C++ | 1 | each | 250.00 | 250.00 | |
| Visual Basic | 1 | each | 250.00 | 250.00 | |
| Norton Utilities + Anti-Virus | 6 | each | 250.00 | 1,500.00 | |
| CASE Tools | 1 | each | 250.00 | 250.00 | |
| | | | | | 11,568.00 |
| <i>OMR Scanning Equipment</i> | | | | | |
| Max. 7,000 Forms/Hr. | 8 | each | 35,000.00 | 280,000.00 | |
| Maintenance Contract | 12 | months | 500.00 | 6,000.00 | |
| Shipping | 8 | unit | 7,000.00 | 56,000.00 | |
| | | | | | 342,000.00 |
| <i>OMR Forms</i> | | | | | |
| A4 w/Tear-off Card | 15,600,000 | each | 0.05 | 780,000.00 | |
| Shipping | 15,600,000 | unit | 0.0025 | 39,000.00 | |
| | | | | | 819,000.00 |
| <i>Personnel</i> | | | | | |
| Data Processing Manager (1) | 12 | months | 2,000.00 | 24,000.00 | |
| System Analyst (1) | 12 | months | 1,750.00 | 21,000.00 | |
| Database Programmers (4) | 48 | months | 1,500.00 | 72,000.00 | |
| Forms Designer | 1 | months | 1,500.00 | 1,500.00 | |
| Scanner Operators (21 X 3 mos) | 63 | months | 600.00 | 37,800.00 | |
| Warehouse Workers (6 X 3 mos) | 18 | months | 500.00 | 9,000.00 | |
| Scan Ctr. Workers (14 X 3 mos) | 42 | months | 500.00 | 21,000.00 | |
| Drivers (2 X 3 mos) | 6 | months | 400.00 | 2,400.00 | |
| | | | | | 188,700.00 |
| TOTAL | | | | | 1,474,268.00 |

DATA CAPTURE ESTIMATES FOR OMR 2 BUDGET CONFIGURATION

| PROD. HRS./ DAY | # SCANNERS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS TO COMPLETE |
|-----------------------|---------------|-------------------------|---------------------------|---------------------------|--------------|-------------------------|
| 21 | 5 | 630 | 4,000 | 2,520,000 | 13,000,000 | |
| 21 | 4 | 504 | 2,500 | 1,260,000 | 13,000,000 | |
| 42 | 9 | 1,134 | 6,500 | 3,780,000 | 13,000,000 | 3.4 |

OMR DATA ENTRY OPTION #2 BUDGET ESTIMATE

| ITEM DESCRIPTION | # UNITS | TYPE UNIT | UNIT COST | ITEM COST | TOTALS |
|----------------------------------|------------|--------------|--------------|--------------|---------------------|
| <i>Computer Network Hardware</i> | | | | | |
| Fileservers | 2 | each | 15,000.00 | 30,000.00 | |
| Developer's Computers | 6 | each | 3,000.00 | 18,000.00 | |
| Laser Jet Printers | 2 | each | 2,000.00 | 4,000.00 | |
| Line Printers | 4 | each | 5,000.00 | 20,000.00 | |
| UPS | 8 | each | 750.00 | 6,000.00 | |
| Network Cabling + Installation | 1 | unit | 25,000.00 | 25,000.00 | |
| Shipping | 1 | unit | 10,000.00 | 10,000.00 | |
| | | | | | 113,000.00 |
| <i>Computer Network Software</i> | | | | | |
| Windows NT Server | 2 | each | 1,300.00 | 2,600.00 | |
| Windows NT Client | 6 | each | 63.00 | 378.00 | |
| MS SQL Server | 1 | each | 1,000.00 | 1,000.00 | |
| MS SQL Server - Client | 6 | each | 265.00 | 1,590.00 | |
| FLIPs-OMR | 1 | each | 1,650.00 | 1,650.00 | |
| MS Office Professional | 6 | each | 350.00 | 2,100.00 | |
| Turbo C++ | 1 | each | 250.00 | 250.00 | |
| Visual Basic | 1 | each | 250.00 | 250.00 | |
| Norton Utilities + Anti-Virus | 6 | each | 250.00 | 1,500.00 | |
| CASE Tools | 1 | each | 250.00 | 250.00 | |
| | | | | | 11,568.00 |
| <i>OMR Scanning Equipment</i> | | | | | |
| <i>Lease Estimate (2 months)</i> | | | | | |
| Max. Forms/Hr. 5,000 | 5 | each | 10,000.00 | 50,000.00 | |
| Max. Forms/Hr. 4,000 | 3 | each | 9,000.00 | 27,000.00 | |
| Maintenance Contract | 2 | months | 1,600.00 | 3,200.00 | |
| <i>Purchase</i> | | | | | |
| Max. Forms/Hr. 4,000 | 2 | each | 15,000.00 | 30,000.00 | |
| Maintenance Contract | 12 | months | 300.00 | 3,600.00 | |
| | | | | | 113,800.00 |
| <i>OMR Forms</i> | | | | | |
| A4 w/Tear-off Card | 15,600,000 | each | 0.05 | 780,000.00 | |
| Shipping | 15,600,000 | unit | 0.0025 | 39,000.00 | |
| | | | | | 819,000.00 |
| <i>Personnel</i> | | | | | |
| Data Processing Manager (1) | 12 | months | 2,000.00 | 24,000.00 | |
| System Analyst (1) | 12 | months | 1,750.00 | 21,000.00 | |
| Database Programmers (4) | 48 | months | 1,500.00 | 72,000.00 | |
| Forms Designer | 1 | months | 1,500.00 | 1,500.00 | |
| Scanner Operators (21X 3 mos) | 63 | months | 600.00 | 37,800.00 | |
| Warehouse Workers (6 X 3 mos) | 18 | months | 500.00 | 9,000.00 | |
| Scan Ctr. Workers (14 X 3 mos) | 42 | months | 500.00 | 21,000.00 | |
| Drivers (2 X 3 mos) | 6 | months | 400.00 | 2,400.00 | |
| | | | | | 188,700.00 |
| TOTAL | | | | | 1,246,068.00 |

NOTES ON OMR DATA ENTRY OPTIONS BUDGET ESTIMATES

Computer Network Hardware

Fileservers two each minicomputers with dual 166 MHZ Pentium processors; 100 Base TX LAN, SCSI-2 RAID interface, 128 MB RAM; 4 X CD ROM; 6 - 2 GB hard drives each with a separate controller; 1 - 4GB DAT unit; EISA/PCI bus; color SVGA console.

Developer's Computers 133 MHZ Pentium PCS; 1 GB SCSI-2 hard drive; 16 MB RAM; 14" SVGA color monitor; 10 Base T Ethernet LAN card.

Laser Jet Printers 12 pages per minute; 300 dpi.

Line Printers 1400 line per minute; shuttle line matrix; wide carriage, network capable.

Uninterrupted Power Supply 7.5 KVA UPS

Network Cabling + Installation Ethernet LAN with structured 10 Base T cabling and equipment. Network hardware specifications should be developed locally with a vendor capable of providing all cables, hubs and connectors and doing the installation. Exact quantities/cost will vary depending on location of the LAN and other factors.

Shipping calculated at 20% of cost of shipped items.

Computer Software

Network Operating System Windows NT or Novell NetWare

Database Microsoft SQL Server or equivalent; Visual Basic.

Other Microsoft Office Pro (Word, Excel, Access, Power Point) or equivalent.

OMR Scanning Equipment

Estimate 1: eight each OMR system reading up to 6,000 forms per hour; automatic feed, input hopper capacity of 500 sheets; output stacker capacity of 500 sheets; 16-level mark discrimination, self-calibrating read head, two-sided reflective read; 486DX processor, minimum 64 KB ROM, 1 MB RAM (NCSi OpScan 10 System or equivalent).

Estimate 2: Estimates costs/time factors for lease use of scanners from KNEC (5 each DRS CD400S with a maximum scanning speed of 5,000 forms per hour and 3 each DRS

CD350 with a maximum rate of approximately 4,000 sheets per hour) and Electoral Commission purchase of two additional scanners (specifications essentially the same as above, but with maximum hourly rate of 3,500). Costs of leasing equipment are approximate. If this option was to be implemented, the cost of leasing equipment would be negotiated with KNEC. Additional scanners purchased by the Commission would provide additional back-up as well as provide the Commission with the independent ability to conduct periodic updates.

OMR Forms A4 size OMR readable forms with color printing using drop-out ink on 120 GSM paper with perforated "tear-off" voter card on the bottom of the page. Quantity equals estimated voting age population of 13,000,000 plus an overage of 20 %, which totals 15,600,000 forms.

Personnel Personnel for both options are identical. Needed personnel include "permanent" staff who will be needed for the ongoing upkeep of the voter registry: Data Processing Manager, System Analyst, Data Base Programmers.

Temporary personnel required for the massive data capture effort are: a Forms Designer, Scanner Operations Crews (3 people per crew to feed forms to the input hopper, remove scanned forms from output hopper, deal with rejected forms), Warehouse Workers (6 people to control and record movement of forms in and out of the warehouse and to load vehicles), Scanner Center Workers (14 laborers to receive and unload forms and to load and dispatch forms), Drivers (2 light truck operators to transport forms to/from warehouse facility to scanning center).

MANUAL DATA ENTRY TIME ESTIMATES

| HRS./ DAY | # CLERKS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS NEEDED |
|--------------|-------------|-------------------------|---------------------------|---------------------------|--------------|-----------------|
| 24 | 1 | 144 | 40 | 5,760 | 13,000,000 | 2,257 |
| 24 | 305 | 43,920 | 40 | 1,756,800 | 13,000,000 | 7 |
| 21 | 305 | 38,430 | 40 | 1,537,200 | 13,000,000 | 8 |
| 18 | 305 | 32,940 | 40 | 1,317,600 | 13,000,000 | 10 |
| 15 | 305 | 27,450 | 40 | 1,098,000 | 13,000,000 | 12 |
| 24 | 305 | 43,920 | 30 | 1,317,600 | 13,000,000 | 10 |
| 21 | 305 | 38,430 | 30 | 1,152,900 | 13,000,000 | 11 |
| 18 | 305 | 32,940 | 30 | 988,200 | 13,000,000 | 13 |
| 15 | 305 | 27,450 | 30 | 823,500 | 13,000,000 | 16 |
| 24 | 200 | 28,800 | 40 | 1,152,000 | 13,000,000 | 11 |
| 21 | 200 | 25,200 | 40 | 1,008,000 | 13,000,000 | 13 |
| 18 | 200 | 21,600 | 35 | 756,000 | 13,000,000 | 17 |
| 15 | 200 | 18,000 | 35 | 630,000 | 13,000,000 | 21 |
| 24 | 200 | 28,800 | 30 | 864,000 | 13,000,000 | 15 |
| 21 | 200 | 25,200 | 30 | 756,000 | 13,000,000 | 17 |
| 18 | 200 | 21,600 | 25 | 540,000 | 13,000,000 | 24 |
| 15 | 200 | 18,000 | 25 | 450,000 | 13,000,000 | 29 |
| 24 | 100 | 14,400 | 40 | 576,000 | 13,000,000 | 23 |
| 21 | 100 | 12,600 | 40 | 504,000 | 13,000,000 | 26 |
| 18 | 100 | 10,800 | 35 | 378,000 | 13,000,000 | 34 |
| 15 | 100 | 9,000 | 35 | 315,000 | 13,000,000 | 41 |
| 24 | 100 | 14,400 | 30 | 432,000 | 13,000,000 | 30 |
| 21 | 100 | 12,600 | 30 | 378,000 | 13,000,000 | 34 |
| 18 | 100 | 10,800 | 25 | 270,000 | 13,000,000 | 48 |
| 15 | 100 | 9,000 | 25 | 225,000 | 13,000,000 | 58 |
| 24 | 50 | 7,200 | 40 | 288,000 | 13,000,000 | 45 |
| 21 | 50 | 6,300 | 40 | 252,000 | 13,000,000 | 52 |
| 18 | 50 | 5,400 | 35 | 189,000 | 13,000,000 | 69 |
| 15 | 50 | 4,500 | 35 | 157,500 | 13,000,000 | 83 |
| 24 | 50 | 7,200 | 30 | 216,000 | 13,000,000 | 60 |
| 21 | 50 | 6,300 | 30 | 189,000 | 13,000,000 | 69 |
| 18 | 50 | 5,400 | 25 | 135,000 | 13,000,000 | 96 |
| 15 | 50 | 4,500 | 25 | 112,500 | 13,000,000 | 116 |
| 24 | 25 | 3,600 | 40 | 144,000 | 13,000,000 | 90 |
| 21 | 25 | 3,150 | 40 | 126,000 | 13,000,000 | 103 |
| 18 | 25 | 2,700 | 35 | 94,500 | 13,000,000 | 138 |
| 15 | 25 | 2,250 | 35 | 78,750 | 13,000,000 | 165 |
| 24 | 25 | 3,600 | 30 | 108,000 | 13,000,000 | 120 |
| 21 | 25 | 3,150 | 30 | 94,500 | 13,000,000 | 138 |
| 18 | 25 | 2,700 | 25 | 67,500 | 13,000,000 | 193 |
| 15 | 25 | 2,250 | 25 | 56,250 | 13,000,000 | 231 |

NOTES ON TIME ESTIMATES FOR DATA CAPTURE

MANUAL DATA ENTRY ESTIMATES:

Forms Entered Per Hour: This is based on information gathered from data entry services operating in Kenya which estimate an average keyboard speed of 40 to 50 characters per minute, 86 characters per registration. The average time for data entry per registration form is therefore 1.5 minutes or 40 forms per hour.

Productive Hours Per Day: While estimates assume four eight-hour shifts per day, in practice each data entry clerk will not be fully productive throughout their entire work shift. Meals and other breaks must be taken into consideration. Physical and mental fatigue due to the highly repetitive nature of data entry, and the design of the form from which the data is being transcribed are also important factors which reduce worker productivity. Various hourly production rates are shown. These rates are based on conversations with data entry service operators in Kenya regarding production rates, and estimates for the number of characters to be entered for each registration document (see Data Base Tables).

Days Per Week: A six-day work week is assumed.

Number of Clerks: Estimates start with 305 data entry clerks working simultaneously per shift. This is the number of clerks working at maximum production needed to complete processing in approximately the same amount of time as the most optimistic estimate for scanning. Estimates have also been provided at less optimistic production rates and numbers of data entry terminals.

Number of Shifts: Three 8-hour shifts are assumed.

Days Needed to Enter All Data: The estimated voting age population of 13 million divided by the total daily production.

DATA CAPTURE ESTIMATES FOR MANUAL ENTRY BUDGET ESTIMATE #1

| PRODUCTIVE HRS./ DAY | # CLERKS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS NEEDED |
|----------------------------|-------------|-------------------------|---------------------------|---------------------------|--------------|-----------------|
| 24 | 305 | 43,920 | 40 | 1,756,800 | 13,000,000 | 7 |
| 21 | 305 | 38,430 | 40 | 1,537,200 | 13,000,000 | 8 |
| 18 | 305 | 32,940 | 40 | 1,317,600 | 13,000,000 | 10 |
| 15 | 305 | 27,450 | 40 | 1,098,000 | 13,000,000 | 12 |
| 24 | 305 | 43,920 | 30 | 1,317,600 | 13,000,000 | 10 |
| 21 | 305 | 38,430 | 30 | 1,152,900 | 13,000,000 | 11 |
| 18 | 305 | 32,940 | 30 | 988,200 | 13,000,000 | 13 |
| 15 | 305 | 27,450 | 30 | 823,500 | 13,000,000 | 16 |

MANUAL DATA ENTRY COST BUDGET ESTIMATE #1

| ITEM DESCRIPTION | # UNITS | TYPE UNIT | UNIT COST | ITEM COST | TOTALS |
|--------------------------------------|------------|--------------|--------------|--------------|---------------------|
| <i>Computer Network Hardware</i> | | | | | |
| Fileservers | 2 | each | 15,000.00 | 30,000.00 | |
| Developer's Computers | 6 | each | 3,000.00 | 18,000.00 | |
| Workstations | 305 | each | 800.00 | 244,000.00 | |
| Laser Jet Printers | 2 | each | 2,000.00 | 4,000.00 | |
| Line Printers | 4 | each | 5,000.00 | 20,000.00 | |
| UPS | 8 | each | 750.00 | 6,000.00 | |
| Network Cabling + Installation | 1 | unit | 50,000.00 | 50,000.00 | |
| Shipping | 1 | unit | 10,000.00 | 10,000.00 | |
| | | | | | 382,000.00 |
| <i>Computer Network Software</i> | | | | | |
| Windows NT Server | 2 | each | 1,300.00 | 2,600.00 | |
| Windows NT Client | 311 | each | 63.00 | 19,593.00 | |
| MS SQL Server | 2 | each | 1,000.00 | 2,000.00 | |
| MS SQL Server - Client | 311 | each | 265.00 | 82,415.00 | |
| MS Office Professional | 6 | each | 350.00 | 2,100.00 | |
| Turbo C++ | 1 | each | 250.00 | 250.00 | |
| Visual Basic | 1 | each | 250.00 | 250.00 | |
| Norton Utilities + Anti-Virus | 6 | each | 250.00 | 1,500.00 | |
| CASE Tools | 1 | each | 250.00 | 250.00 | |
| <i>Data Entry Registration Forms</i> | | | | | |
| A4 w/Tear-off Card | 15,600,000 | each | 0.05 | 780,000.00 | |
| | | | | | 780,000.00 |
| <i>Personnel</i> | | | | | |
| Data Processing Manager (1) | 12 | months | 2,000.00 | 24,000.00 | |
| System Analyst (1) | 12 | months | 1,750.00 | 21,000.00 | |
| Database Programmers (4) | 48 | months | 1,500.00 | 72,000.00 | |
| Forms Designer | 1 | months | 1,500.00 | 1,500.00 | |
| Director of Data Entry Services (1) | 12 | months | 1,750.00 | 21,000.00 | |
| Data Entry Lead Shift Supervisors | 48 | months | 1,250.00 | 60,000.00 | |
| Data Entry Shift Supervisors (16) | 144 | months | 600.00 | 86,400.00 | |
| Data Entry Clerks (305 x 3 x3) | 2,745 | months | 530.00 | 1,454,850.00 | |
| Warehouse Workers (12) | 108 | months | 500.00 | 54,000.00 | |
| Drivers (3) | 18 | months | 500.00 | 9,000.00 | |
| | | | | | 1,803,750.00 |
| TOTAL | | | | | 2,965,750.00 |

DATA CAPTURE ESTIMATES FOR MANUAL ENTRY BUDGET ESTIMATE #2

| PRODUCTIVE HRS./ DAY | # CLERKS | TOTAL HOURS /WEEK | FORMS ENTERED /HOUR | FORMS ENTERED /WEEK | TOTAL VAP | WEEKS NEEDED |
|----------------------------|-------------|-------------------------|---------------------------|---------------------------|--------------|-----------------|
| 24 | 50 | 7,200 | 40 | 288,000 | 13,000,000 | 45 |
| 21 | 50 | 6,300 | 40 | 252,000 | 13,000,000 | 52 |
| 18 | 50 | 5,400 | 35 | 189,000 | 13,000,000 | 69 |
| 15 | 50 | 4,500 | 35 | 157,500 | 13,000,000 | 83 |
| 24 | 50 | 7,200 | 30 | 216,000 | 13,000,000 | 60 |
| 21 | 50 | 6,300 | 30 | 189,000 | 13,000,000 | 69 |
| 18 | 50 | 5,400 | 25 | 135,000 | 13,000,000 | 96 |
| 15 | 50 | 4,500 | 25 | 112,500 | 13,000,000 | 116 |

MANUAL DATA ENTRY COST BUDGET ESTIMATE #2

| ITEM DESCRIPTION | # UNITS | TYPE UNIT | UNIT COST | ITEM COST | TOTALS |
|---------------------------------------|------------|--------------|--------------|--------------|---------------------|
| <i>Computer Network Hardware</i> | | | | | |
| Fileservers | 2 | each | 15,000.00 | 30,000.00 | |
| Developer's Computers | 6 | each | 3,000.00 | 18,000.00 | |
| Workstations | 50 | each | 800.00 | 40,000.00 | |
| Laser Jet Printers | 2 | each | 2,000.00 | 4,000.00 | |
| Line Printers | 4 | each | 5,000.00 | 20,000.00 | |
| UPS | 8 | each | 750.00 | 6,000.00 | |
| Network Cabling + Installation | 1 | unit | 50,000.00 | 50,000.00 | |
| Shipping | 1 | unit | 10,000.00 | 10,000.00 | |
| | | | | | 178,000.00 |
| <i>Computer Network Software</i> | | | | | |
| Windows NT Server | 2 | each | 1,300.00 | 2,600.00 | |
| Windows NT Client | 61 | each | 63.00 | 3,843.00 | |
| MS SQL Server | 2 | each | 1,000.00 | 2,000.00 | |
| MS SQL Server - Client | 61 | each | 265.00 | 16,165.00 | |
| MS Office Professional | 6 | each | 350.00 | 2,100.00 | |
| Turbo C++ | 1 | each | 250.00 | 250.00 | |
| Visual Basic | 1 | each | 250.00 | 250.00 | |
| Norton Utilities + Anti-Virus | 6 | each | 250.00 | 1,500.00 | |
| CASE Tools | 1 | each | 250.00 | 250.00 | |
| <i>Data Entry Registration Forms</i> | | | | | |
| A4 w/Tear-off Card | 15,600,000 | each | 0.05 | 780,000.00 | |
| | | | | | 780,000.00 |
| <i>Personnel</i> | | | | | |
| Data Processing Manager (1) | 18 | months | 2,000.00 | 36,000.00 | |
| System Analyst (1) | 18 | months | 1,750.00 | 31,500.00 | |
| Database Programmers (4) | 72 | months | 1,500.00 | 108,000.00 | |
| Forms Designer | 1 | months | 1,500.00 | 1,500.00 | |
| Director of Data Entry Services (1) | 12 | months | 1,750.00 | 21,000.00 | |
| Data Entry Lead Shift Supervisors (4) | 48 | months | 1,250.00 | 60,000.00 | |
| Data Entry Shift Supervisors (16) | 192 | months | 600.00 | 115,200.00 | |
| Data Entry Clerks (50 x 3 x12) | 1,800 | months | 530.00 | 954,000.00 | |
| Warehouse Workers (12) | 672 | months | 500.00 | 336,000.00 | |
| Drivers (3) | 108 | months | 500.00 | 54,000.00 | |
| | | | | | 1,717,200.00 |
| TOTAL | | | | | 2,675,200.00 |

NOTES ON MANUAL DATA ENTRY BUDGET ESTIMATES

Computer Network Hardware

Fileservers Two each minicomputers with dual 166 MHZ Pentium processors; 100 Base TX LAN, SCSI-2 RAID interface, 128 MB RAM; 4 X CD ROM; 6 - 2 GB hard drives each with a separate controller; 1 - 4GB DAT unit; EISA/PCI bus; color SVGA console.

Developer's Computers 133 MHZ Pentium PCS; 1 GB SCSI-2 hard drive; 16 MB RAM; 14" SVGA color monitor; 10 Base T Ethernet LAN card.

Workstations 486DX 90 MHZ processor; 12 MB RAM; 840 MB SCSI1 hard drive; 14" SVGA color monitor.

Laser Jet Printers 12 pages per minute; 300 dpi.

Line Printers 1400 line per minute; shuttle line matrix; wide carriage, network capable.

Uninterrupted Power Supply 7.5 KVA UPS

Network Cabling + Installation Ethernet LAN with structured 10 Base T cabling and equipment. Network hardware specifications should be developed locally with a vendor capable of providing all cables, hubs and connectors and doing the installation. Exact quantities/cost will vary depending on location of the LAN and other factors.

Shipping Calculated at 20% of cost of shipped items.

Computer Software

Network Operating System Windows NT or Novell NetWare

Database Microsoft SQL Server or equivalent; Visual Basic.

Other Microsoft Office Pro (Word, Excel, Access, Power Point) or equivalent.

Registration Forms A4 size with a tear-off voter card at the bottom of the form. All forms are pre-printed with the unique voter ID number and require the minimum necessary information for voter registration purposes: name, sex, date of birth, location codes.

Personnel Both options include the same categories of personnel to manage the computerization of registration information and to the degree possible, these are the same categories of workers as are described in the notes for the OMR options. The number of workers

for each category varies depending on the number of data entry stations/operators being used. The amount of time budgeted for each worker category also varies depending on the estimate of the amount of time required to complete data entry.

APPENDIX E

COMPUTERIZATION: ESTIMATED DATA STORAGE REQUIREMENTS

These tables are shown here to illustrate the assumed structure of the computerized voter voter registration data base described in this document.

SUMMARY OF TABLES

| TABLE/FILE | SIZE OF RECORD | # RECORDS | TOTAL |
|-------------------------|----------------|------------|----------------------|
| Voter Information | 86 | 13,000,000 | 1,118,000,000 |
| Registrar | 51 | 86,665 | 4,419,915 |
| Registration Unit | 91 | 17,333 | 1,577,303 |
| Election Reg. Districts | 88 | 70 | 6,160 |
| Province | 42 | 8 | 336 |
| Constituency | 52 | 250 | 13,000 |
| Occurances | 22 | 1,300,000 | 28,600,000 |
| Log | 256 | 13,000,000 | 3,328,000,000 |
| Operating System | | | 2,000,000,000 |
| Database Manager | | | 1,000,000,000 |
| Voter Index Files | 60 | 13,000,000 | 780,000,000 |
| Other Index Files | | | 20,000,000 |
| TOTAL | | | 8,280,616,714 |

DATABASE TABLES:**1. TABLE OF ELECTORS**

| TYPE OF DATA | # CHARACTERS | TOTAL |
|-----------------------|---------------------|--------------|
| Elector's Number | 8 | |
| Elector's Name | 35 | |
| Registration Unit Cod | 5 | |
| National ID Card No. | 12 | |
| Date of Birth | 6 | |
| Postal Address | 12 | |
| Registraton Date | 6 | |
| Sex | 1 | |
| Type of Election | 1 | |
| TOTAL | | 86 |

2. TABLE OF REGISTRARS

| TYPE OF DATA | # CHARACTERS | TOTAL |
|------------------------|---------------------|--------------|
| Registrar's Code | 6 | |
| Registrar's Name | 35 | |
| Registration Unit Code | 5 | |
| TOTAL | | 46 |

3. TABLE OF REGISTRATION UNITS

| TYPE OF DATA | # CHARACTERS | TOTAL |
|---------------------------|---------------------|--------------|
| Registration Unit Name | 40 | |
| Registration Unit Code | 5 | |
| Registration Unit Address | 40 | |
| Electoral District Code | 6 | |
| TOTAL | | 91 |

DATABASE TABLES CONTINUED:**4. TABLE OF ELECTORAL DISTRICTS**

| TYPE OF DATA | # CHARACTERS | TOTAL |
|---------------------|---------------------|--------------|
| Name of District | 40 | |
| District Code | 6 | |
| District Address | 40 | |
| Provincial Code | 2 | |
| TOTAL | | 88 |

5. TABLE OF PROVINCES

| TYPE OF DATA | # CHARACTERS | TOTAL |
|---------------------|---------------------|--------------|
| Name of Province | 40 | |
| Provincial Code | 2 | |
| TOTAL | | 42 |

6. TABLE OF CONSTITUENCIES

| TYPE OF DATA | # CHARACTERS | TOTAL |
|---------------------|---------------------|--------------|
| Name of Consituency | 6 | |
| Constituency Code | 40 | |
| District Code | 2 | |
| TOTAL | | 48 |

7. TABLE OF OCCURANCES

| TYPE OF DATA | # CHARACTERS | TOTAL |
|---------------------|---------------------|--------------|
| Elector's Number | 15 | |
| Code Status | 1 | |
| Date of Occurance | 6 | |
| TOTAL | | 22 |

APPENDIX F

TECHNOLOGICAL AND COMPUTER RESOURCES IN KENYA

Technological Resources

Kenya's banking sector is considered, apart from certain government facilities, the most developed in the area computer technology. They have on-line and off-line systems. There is a reasonable cadre of skilled manpower in all levels of computer technology, largely produced by the University of Nairobi, which graduates students with computer science degrees, as well as four other university-level schools. There are also secondary-level technical schools.

Many of the world's prominent computer companies have dealerships in Nairobi.

The local communications provider is the Kenya Posts and Telecommunications Corporation (KPTC). The available services are a telephone network and a X.25 data network for data communication. The modes of access are either dial-up or leased lines. The cost of a dial-up line is equivalent to a phone call, while a leased line gets fixed charge per month. A leased line from Nairobi to Mombassa - 500 km away - costs US\$ 10,000 per month approximately.

The packet switching network (KENPAC) consists of 5 nodes distributed around the country. The nodes are in the major towns viz.: Nairobi, Mombassa, Kisumu, Nakuru and Nyeri. They are interconnected via microwave links running up to 19.2 kpbs. Subscribers are connected to the net via underground copper cables, the same cables used in the telephone network.

The maximum network access speed available at the moment is 9600 bps. The usage charges are in terms of kilosegments. Each kilosegment is equal to 64 Kb bytes/characters. The cost per kilosegment of data transferred is US\$ 0.50 approximately. The installation cost per line is US\$ 300 approximately.

The use of this network is growing rapidly and KPTC has promised to provide higher access speeds, i.e. 64 Kbps, with installation of fiber optic cables to the potential customer sites in the near future.

Main Computer Firms in Kenya

A member of the IFES team met with several major computer vendors and providers of consulting, development, installations and maintenance of local area networks (LANs), wide area networks (WANs), computers, peripherals, application packages, and office automation

software. A sampling of the computer resources and services provided in Nairobi are listed below.

STL - Software Technologies Limited specializes in information technologies and is vendor of DBMS Oracle, regional re-seller for Ethiopia, Tanzania and Uganda, as well as Kenya. It is also used by both private and public sectors in Kenya as an outsourcing development company. It also re-sells Novell products. Other activities include support and training. The most common operational systems used are UNIX, Windows NT and Novell. STL has provided a list of 40 companies that have purchased DBMS Oracle packages and are currently running the software, including the ones below:

| Client | # Simultaneous users of the on-line information system |
|-------------------------|---|
| Kenya Airways | 32 |
| Pan African Paper Mills | 40 |
| US AID | 16 |
| IT | 140 |
| Kenya Ports Authority | 24 |
| Bank of Uganda | 32 |
| Nairobi Stock Exchange | 16 |
| East Africa Industry | 16 |

Phone: (254 2) 44-8352
 Fax: (2542) 44-8353
 Contact: Jyoti Mukherjee, Managing Director

Data Center is a major computer bureau, founded in 1973. Its clients include international organizations, and are located in the major cities of the country. Though the company started initially as a computer bureau, it has expanded to provided other computer-related services such as computer software and hardware packages, software development and support, data preparation, data center training and technical support. It also sells IBM computers and office automation packages, as well as desktop publishing software and operating systems. This firm is responsible for the data entry of UNHCR, and the Barclays Bank, among various others.

Phone: (254 2) 33-3491
Fax: (254 2) 21-9400
Contact: Aunally G. Maloo, Marketing and Technical Director

ICL Kenya Limited, established in Kenya since 1930, is responsible for 30% of the computer market in Kenya, in terms of installed equipment. It provided a long portfolio of services including equipment maintenance, training, systems and technical support, and media supply, focusing in systems integration. It has full service centers in Nairobi, Mombassa, Kisumu, Eldoret and Nyeri. Its technical support department provides systems and programming support and consultancy, as well as software design, implementation and maintenance of packaged software, project management and consultancy. A large vendor, it has a respectable customer services, with about 40 million Kenya Shillings of spare parts in inventory, available 24 hours a day, 365 days a year, delivering spares from overseas in less than 72 hours. It re-sells for Fujitsu, Okidata, Panasonic, Dell Computers and ICL. Their list of clients includes many Kenyan public and private companies. Over the last few years ICL has installed over 100 distributed and networked systems. Notable customers include Standard Chartered Bank, Barclays Bank, United Nations, Bamburi Portland Cement Company, Cooper Motor Corporation, East African Building society and Kenya Power & Lighting Company (KLPC). Current database applications use ORACLE, MS SQL*Server, Ingres, under UNIX, Windows NT and Novell operating systems.

Phone: (254 2) 53-2698
Fax: (254 2) 53-3655
E-Mail: G.Dhall@ken0101.wins.icl.co.uk
Contact: Patrick Kiriinya Mathiu, pre-sales support executive

CBS - Circuit Business System Ltd. specializes in networking and is nine years old. Business ranges from shipment of goods to large scale network (LAN and WAN) planning, installation and consultancy. Installations include Novell Netware, UNIX OS, Windows for Workgroups, Windows NT, TCP/IP, NFS, IPX/SPX connectivity; Data Cabling in Ethernet; WAN using communicating link X.25 connectivity, PSTN dial-up, E-mail, modem configuration and installation, remote printing and support. The major clients are USAID Kenya Mission, Kenya Finance Bank, Stanbic Bank (K) Ltd., Citibank N.A., Plan International, East Africa Re-Insurance, Mercantile Finance Co. Ltd., NSSF, Coca Cola Africa, British High Commission, Rank Xerox Kenya Ltd., Argentine and Norwegian, and Moi University.

Phone: (254 2) 33-1794
Fax: (254 2) 21-6024
Contact: John Kuria, Sales and Marketing Department

Other Important Computer Enterprises Operating in Kenya

| Computer Enterprise | Main products | Telephone/Fax E- mail |
|--|---|---|
| DRS-Data & Research Services plc | high speed OMR scanners | 44(0)19086076 88 P 44(0)19086076 68 F JohnG@drs.co.uk |
| Compton Technologies Ltd. | Computer, Peripherals & Accessories Computer hire, training, Consultancy, Computer service | (2542) 72-4707 P (2542) 72-4708 F |
| CAL - Computer Applications Limited | IBM re-re-sellers | (2542) 74-8300 P (2542) 75-0131 F |
| Computer Masters (K) Ltd. - Compaq, Hewlett Packard, | EPSON, Compaq, Hewlett Packard re-re-sellers. Service, maintenance of these products | (2542) 25-0983 P (2542) 22-6029 F |
| Kenya Micro Computers Ltd. | Manufacturer of Harvard computers, Compaq Dealers | (2542) 74-0081 P (2542) 74-0319 F |
| Olivetti Equatorial Ltd. | Office equipment, printers, software | (2542) 44-4810 P (2542) 44-4307 F |
| Kenya Modern Digitals Ltd. | UPS, Network & Cabling | (2542) 21-0541 P (2542) 24-3303 F |

| | | |
|-------------------------|--|--|
| Computer Technics Ltd. | UPS | (2542) 55-5008 P (2542) 54-3340 F |
| Taws Limited | Security printer documents | (2542) 53-1364 P (2542) 54-5560 F |
| Katestai Marketing Ltd. | computer media, computer stationery, computer peripherals, computer accessories | (2542) 21-8444 P (2542) 21-7769 F |