

## Acknowledgements

We wish to record our deep appreciation to a number of persons and institutions who in a variety of ways assisted us in carrying out our mandate.

Initially, we would like to thank His Excellency President Daniel arap Moi who found time to personally welcome and exchange views with us. To Justice Chesoni and the members of the Electoral Commission our particular thanks for the readiness with which they were always available and the full co-operation which they granted us at a time when they were under continuous pressure. Our work would have been made much more difficult but for the comprehensive assistance given to us by the Liaison Team of the Ministry of Foreign Affairs and we would here like to acknowledge the roles of Permanent Secretary Dr Sally Kosgei and of Ambassador Joseph Sefu.

Our warm thanks go out to the members of the Commonwealth diplomatic community for their supportive interest in our work and the many courtesies which they provided us.

Special words of appreciation must be extended to the network of local observer groups represented by the National Election Monitoring Unit (NEMU) whose sterling contribution we have already mentioned in the report but whose comradely co-operation was invaluable. We must also note here the ready co-operation and goodwill shared with other international monitoring groups.

As citizens of the Commonwealth we would in particular like to acknowledge the pivotal role of Commonwealth Secretary-General Chief Emeka Anyaoku whose perceptive guidance enhanced our efforts, and who provided us with a support team from the Secretariat whose professional skills were fundamental to the success of our Mission.

Finally, we express sincere gratitude to the people of Kenya who welcomed us as partners in this most important phase of their political development and whose goodwill and hospitality encouraged us in our task. We would like to wish them every success as they go forward in this promising new stage of democratic development.

# Annexes

## **ANNEX I**

### **Composition of the Commonwealth Observer Group**

#### **The Rt Hon Mr Justice Telford Georges (Trinidad and Tobago – Chairman)**

The Rt Hon Mr Justice Telford Georges, who was born in Dominica, is a national of Trinidad and Tobago where he was a judge of the High Court before going on to be Chief Justice in Tanzania, Zimbabwe and the Bahamas in that order. He has held many high public offices in the Caribbean and other parts of the Commonwealth including most recently that of Chairman, Regional Constituent Assembly of the Windward Islands. Justice Georges is a member of the International Commission of Jurists and a Privy Councillor. He continues to work as part-time Appellate Judge and freelance consultant. His higher education was at the University of Toronto and the Middle Temple, London. He headed the Commonwealth Observer Group to the 1991 Zambian elections.

#### **The Hon Lionel Bowen (Australia – Deputy Chairman)**

Formerly in practice as a solicitor, The Hon Lionel Bowen's public service career started in local government, then the New South Wales Parliament in 1962. In 1969, he was elected to the Federal Parliament of Australia. He was a Minister in the Whitlam Government in 1977. He was appointed Deputy Leader of the Opposition in 1983. He became Deputy Prime Minister, Minister for Trade and Minister assisting the Prime Minister and Attorney-General in 1984. He retired from Parliament in 1990.

#### **Dame Josephine Maria Abaijah (Papua New Guinea)**

Dame Josephine Abaijah is a former Member of Parliament having been elected the first woman MP in Papua New Guinea. She is a businesswoman, President of the Papua Women's Council and a former Chairperson of the National Capital District Commission. Her higher education was at the Institute of Health Education in Port Moresby, the London Institute of Education and the Institute of Health Education at the University of the Philippines.

#### **The Hon Victoria Fikile Chitepo (Zimbabwe)**

The Hon Victoria Chitepo is a Member of Parliament and for 10 years was a member of the cabinet, first as Minister of Natural Resources and Tourism from 1982-1990 and later as Minister of Information, Posts and Telecommunications until she retired voluntarily at the end of June 1992. Between 1980-82, she was Deputy Minister of Education and Culture and Deputy Minister of Information. Prior to her involvement in politics, Mrs Chitepo was a teacher and social worker. She has also been active in the environment movement and in women's development issues. She holds a degree in Social Science.

**Mr Alan Clark (Canada)**

Mr Alan Clark is the Chief Returning Officer for the Federal Electoral Riding of Yellowhead in Alberta, Canada.

**Mr Rudolph A Collins (Guyana)**

Mr Rudolph Collins is the Director of General Services and Administration of the Caribbean Community Secretariat. From June 1991 to November 1992, he was Chairman of the Elections Commission where he presided over Guyana's recently concluded multi-party elections. He was formerly Guyana's Ambassador to Venezuela and Permanent Secretary of the Ministry of Foreign Affairs. He was educated at Carleton University, Ottawa, and the University of the West Indies.

**Mr Michael Cox (New Zealand)**

Mr Michael Cox served in the British Merchant Navy between 1956-1965 after which he became an industrial accountant and went into accountancy practice. He was elected as National Party Member of Parliament for Manawatu in 1978 and between 1978 and 1987 he was Government and Opposition Whip and Opposition Spokesman on Finance. He is currently National Treasurer for the National Party and a Member of the Casino Control Authority. Mr Cox was educated at Magdalen College, Oxford.

**Shri V Kishore Chandra Deo (India)**

Shri Kishore Chandra Deo's long public service career commenced when he was elected to the Lok Sabha from the No. 2 Parvatipuram (ST) Constituency, Andhra Pradesh, in 1977. He served as a Member in the Sixth, Seventh and Eighth Lok Sabhas from 1977-1989. He served as Union Minister from 1979-80. He became Deputy Chief Whip and General Secretary of the Congress Party in 1979 and became Chief Whip and Deputy Leader of Congress in 1985. He has served as a Member of many and various Parliamentary Committees including the All Party Committee of Electoral Reform and the High Powered Expert Committee on Electoral Reforms. Shri Deo was educated at the Madras Christian College and has a Bachelor of Arts Degree in Economics and a Master of Arts Degree in Political Science.

**Mr Ron Gould (Canada)**

Mr Ron Gould is Assistant Chief Electoral Officer, Elections Canada. He has served in the public service of Canada in various capacities since graduating from the University of Toronto in 1955. During the past three decades, he has worked in many government departments, including being responsible for Canadian citizenship and management of national social programmes. He has extensive experience as an observer or technical adviser for elections involving over 20 missions in 12 countries including most Central American countries, Bulgaria, Mongolia, Albania and Zambia. Mr Gould was also leader of the United Nations Mission in 1991 to design the electoral plan for Cambodia.

**Mrs Sylvia Heal (Britain)**

Mrs Sylvia Heal is a former Labour Member of Parliament. She was born and educated in Wales and attended University College, Swansea, where she gained an Economics degree in 1968. She has worked as a social worker and in the health service as well as in the Department of Employment. While in Parliament, she was a member of the Select Committee on Education, Science and Arts and front bench shadow spokesperson on health and women's affairs. She is a member of the Council of the Advertising Standards Authority and was appointed Justice of the Peace in 1973.

**Mr Rashleigh Jackson (Guyana)**

Mr Rashleigh Jackson's long public service career commenced in 1948. He was appointed as Master, Queen's College in 1957 and he then moved on to the Ministry of Foreign Affairs in 1965 as Principal Assistant Secretary. He became Permanent Secretary in 1969 and was posted as Guyana's Permanent Representative to the United Nations from 1973-1978, during which time he was appointed President of the UN Council for Namibia. He returned to Guyana as Minister of Foreign Affairs in 1978 and held the post until 1990. Mr Jackson was educated at Queen's College, Georgetown, University College, Leicester, and Columbia University, New York.

**The Hon Zephania Kameeta (Namibia)**

The Hon Zephania Kameeta is the Deputy Speaker of Parliament since 1990 when Namibia gained its independence. He was first elected to the Constituent Assembly in 1989 before winning a seat in Parliament the following year. He was a teacher in the Theological Seminary from 1978-81 and from 1982-89 was a church leader. He is a member of the SWAPO central committee and is also vice-president of the Commonwealth Parliamentary Association, Namibia branch. He graduated with a PhD in Divinity from Wartburg Theological Seminary, USA.

**Dr Paul J F Lusaka (Zambia)**

Dr Paul Lusaka, who has recently retired from the Zambian Foreign Service, holds a consultative position with the firm of Reichler & Soble, Attorneys at Law in Washington, DC. He previously served Zambia in several ambassadorial posts – in the USA, USSR, and at the United Nations in New York for two separate terms. While at the United Nations, he was elected President of the 39th Regular Session of the General Assembly (1984-1985); he was President of the Security Council and of the Economic and Social Council and President of the UN Council for Namibia. He served in London as Deputy and Acting High Commissioner and was Zambia's Chief of Mission on a non-resident basis in the following countries: Romania, Yugoslavia, Canada, Jamaica, Guyana, Trinidad and Tobago, Barbados, Argentina, Brazil, Colombia, Cuba and Venezuela. He was a nominated Member of Parliament from 1973-1978 and served at various times as Minister of Rural Development, Power, Transport and Communications and Health, as well as acting in other key ministries including Foreign Affairs and Finance. He was also Roving Ambassador and Special Assistant to the President on Political Affairs. He was educated at University College, Lesotho, University of Minnesota, USA, and McGill University, Montreal, Canada.

### **HE Ambassador Vijay Singh Makhan (Mauritius)**

HE Ambassador Vijay Singh Makhan is Mauritius' Permanent Representative to the Food and Agriculture Organisation, Unesco, the UN Office in Nairobi and the Organisation of African Unity. He is also concurrently Head of Multilateral Division, Ministry of External Affairs. He has represented Mauritius at various UN, OAU, Non-Aligned Movement, Indian Ocean Commission meetings and other international conferences as leader or member of delegation. Ambassador Makhan has served on OAU observer missions to elections in Zambia in 1991 and Mali in April 1992. He is also Roving Ambassador of Mauritius.

### **Mr Athanasios (Thasos) Michaelides (Cyprus)**

Mr Athanasios Michaelides was first elected to Parliament in 1991 as the Member for Larnaca Constituency. He is a Member of the House Standing Committee on Communication and Works, the Committee on Education, the Committee on Commerce and Industry and the Rule Defining Committee. Prior to his parliamentary career he was a Lecturer at the Higher Technical Institute and an Instructor in Mechanical Engineering subjects in various technical schools. Mr Michaelides was educated at the American Academy, Larnaca and gained a Mechanical Engineering MSc (Technical) from the University of Prague.

### **The Hon Colin Moynihan (Britain)**

The Hon Colin Moynihan's public service career commenced in 1983 when he was elected as Member of Parliament for Lewisham East Constituency and was appointed Political Assistant to the Foreign Secretary. He then moved on as Parliamentary Private Secretary to the Minister of Health, 1985, to the Paymaster-General, 1985-1987. He was appointed Parliamentary Under Secretary of State (Minister for Sport) in the Department of the Environment and became Minister for Sport, 1987-1990, and Parliamentary Under Secretary of State at the Department of Energy, 1990-1992. Prior to his public service career he held several senior posts in Tate & Lyle plc, and was Chairman of Ridgways Tea and Coffee Merchants. Mr Moynihan was educated at Monmouth School and University College, Oxford.

### **Dr Bojosi Otlhogile (Botswana)**

Dr Bojosi Otlhogile is a law lecturer at the University of Botswana in Gaborone. He has written extensively on a wide range of legal issues, including on free and fair elections, free speech, right to legal representation and the rights of children. He is also an attorney in the High Court of Botswana and a member of the Democracy Research Project based at the University of Botswana. He was educated at the University of Cambridge in Britain.

### **Mr Alfred Parsons, AO (Australia)**

Mr Alfred Parsons was a career diplomat. He served in Indonesia (twice), Burma, Berlin, at the United Nations, New York and in a number of very senior positions in

the Department of Foreign Affairs and Trade. He also held appointments as Australian High Commissioner to Singapore, to Malaysia and to Britain. He was chairman of the Commonwealth Committee on Southern Africa and of the Commonwealth Observer Group to the Preparations for Elections in Namibia.

#### **Justice Mohammad Abdur Rouf (Bangladesh)**

Justice Mohammad Abdur Rouf is the sitting judge of the Supreme Court of Bangladesh and has been the Chief Election Commissioner of Bangladesh since December 1990 when he presided over the first multi-party elections in Bangladesh after 15 years of military rule. He had been for four years the Chairman of the Advisory Council, a constitutional forum for reviewing cases of detention on political charges.

#### **Mr Nawabzada Salahuddin Saeed (Pakistan)**

Mr Nawabzada Salahuddin Saeed is a member of the National Assembly of Pakistan and was first elected to the Lower House of Parliament as independent member from Mansehra NWFP Constituency in 1985. He was returned to Parliament in 1988 and 1990 and was Minister of Forests in the NWFP in 1988 under the then caretaker government. He was a member of Pakistan's delegation to the United Nations General Assembly in 1985 and 1991 and also participated in other international conferences as an official delegate including the IPU Conference. In 1990 he won a seat as representative of the Pakistan Muslim League.

#### **Mr Clyde Sanger (Canada)**

Mr Clyde Sanger has been a journalist since 1952, having been Editor of the *Central African Examiner* and editorial adviser to *Drum Magazine* in Lagos; he was Africa correspondent of *The Guardian* based in Nairobi, and United Nations correspondent covering Latin America and the Caribbean for *The Guardian* and editorial writer on international affairs for *The Globe and Mail*, Toronto and then one of its parliamentary reporters. He was Special Assistant to the President of the Canadian International Development Agency from 1970-1972 and Associate Director, Communications, in the International Development Research Centre from 1972-1977. Mr Sanger served as Director of the Information Division in the Commonwealth Secretariat, 1977-1979, and has been Director of Communications, North-South Institute, Ottawa, since 1989. He has been Canada correspondent for *The Economist* since 1967. He is active in several Canadian NGOs and was a member of the Canadian Council for International Co-operation Mission to Namibia in 1989. Mr Sanger was a classical scholar at Shrewsbury School and holds an MA (Modern History and Political Science) from Oxford University.

#### **Mr S K Singh (India)**

Mr S K Singh entered the Indian Foreign Service in 1954 and having worked his way through various posts in the Ministry of External Affairs was appointed Ambassador to Lebanon concurrently accredited to Jordan and Cyprus from 1974-1977, and then

moved on as Ambassador to Afghanistan until 1979. He was Ambassador to Austria and India's Permanent Representative to the United Nations in Vienna and also Governor for India on the Board of Governors of the International Atomic Energy Agency from 1982-1985 from where he was posted as Ambassador to Pakistan until 1989. He returned to India and held the post of Foreign Secretary until 1990. Mr Singh holds an MA and an LLB from Agra University.

#### **The Hon Anthony Isidore Smart (Trinidad and Tobago)**

The Hon Anthony Smart is a practising lawyer in Trinidad. His public service career commenced when he was appointed Deputy Speaker of the House of Representatives in 1987, after which he was appointed Minister of State in the Ministry of Legal Affairs. He served as Minister of State in the Office of the Prime Minister from 1988-1989 and was then appointed Attorney-General. He was also Chief Whip in the House of Representatives from 1987-1989 and has served on the Standing Orders Committee of the House of Representatives and the Joint Select Committee of Parliament on Television Broadcasting. Mr Smart holds a BA in Economics from the University of Toronto and Professional Law Qualifications (Solicitors Exams), England.

#### **HE Mr Dudley Thompson, OJ, QC (Jamaica)**

HE Mr Dudley Thompson has had a distinguished career as a barrister and statesman, and served his country in several ministerial posts, including Minister of National Security and Foreign Minister. After serving in the Royal Air Force in the Second World War, Mr Thompson was awarded the Rhodes Scholarship in 1947 which took him to Oxford University. He qualified for the Bar at Gray's Inn and then went to East Africa where he served on the defence team at the trial of Jomo Kenyatta in the early 1950s, before returning to Jamaica to practise as a lawyer and be active in politics. Mr Thompson was a member of the Commonwealth Observer Group in Namibia in 1989 and chaired the Commonwealth Observer Group to the parliamentary elections in Malaysia in 1990. He is now High Commissioner for Jamaica to Nigeria and some other African countries.

#### **Lord Tordoff (Britain)**

Lord Tordoff, the Chief Whip of the Liberal Democratic Party, House of Lords since 1988, is a former President of the Liberal Party and has also served as Chief Whip of that party. He was a marketing executive at Shell International for 30 years. In 1990 he served as a member of an Observer Team to the elections in Bulgaria and in the same year accompanied the Archbishop of Canterbury's team to Iran. He was also a member of the Commonwealth Observer Group to Zambia. In 1991 he accompanied Sir David Steel, former leader of the Liberal Party, to Jordan, the West Bank and Gaza, and visited the Iran/Iraq border to investigate the refugee situation. He has been Chairman of the Middle East Committee of the British Refugee Council since 1989. Lord Tordoff was educated at the University of Manchester.

## **SECRETARIAT SUPPORT STAFF**

Mr Carl Dundas (Jamaica – Team Leader)  
Mr Max Gaylard (Australia – Deputy Team Leader)  
Mrs Patsy Robertson (Jamaica – Media Adviser)

### **Assistants to Observers**

Mr Chris Bowman  
Dr Ursula Barrow  
Dr Chi Amako  
Mr Terrence Dormer  
Ms Brenda Vomwo  
Dr Samura Kamara  
Ms Zainah Anwar  
Ms Madhuri Bose

### **Consultant**

Dr Neville Linton

### **Administrative Officer**

Mr P Morawaka

### **Secretaries**

Ms Lilibet Nyasunu  
Ms Charlene Lee Ling

## ANNEX II

### Statement Urging Action on Nominations



## Commonwealth News Release

92/46

13 December 1992

#### COMMONWEALTH TEAM URGES ACTION ON NOMINATIONS FOR KENYAN ELECTIONS

The advance team of the Commonwealth Observer Group to the Kenyan elections has called for a speedy and satisfactory completion of the examination into what went wrong on nomination day. Commenting on the sitting today of the special committee appointed to look into alleged irregularities in the nomination of parliamentary and civic candidates for the forthcoming elections, the advance team said it would consider this part of the election process to be severely compromised if the end result was that a substantial number of prospective candidates would be unable to contest the elections.

Announcing this today, the team's spokeswoman Mrs Patsy Robertson said: "We are deeply concerned by the extent of the reports we have been receiving about allegations of violence, misconduct and intimidation apart from general impropriety on the part of officials. These have led some opposition parties to threaten to boycott the elections and we are concerned that the elections may now be at risk."

Continuing, Mrs Robertson said that the Commonwealth team had noted the opposition parties' affirmation that they were prevented from nominating candidates in as many as 45 parliamentary seats. "In our view, there is an urgent need for a satisfactory investigation of these figures as well as the other reports received by us to date, which suggest that a substantial number of opposition candidates failed to secure nomination because they were forcibly prevented from doing so. The need for such investigation is made all the stronger by the fact that reports also show that all the seats in which there will be no contest have been declared for the ruling party.

A proper and efficient nomination process is fundamental to the conduct of a free and fair election in a multi-party democracy. Other key issues are the registration of voters, conduct of the campaign, access to the media and arrangements for polling day. These are among the crucial processes in which both the advance and full group of Commonwealth observers will continue to monitor keenly", said Mrs Robertson.

Nairobi, Kenya  
13 December 1992

*Issued by the Information Division, Commonwealth Secretariat, Marlborough House,  
Pall Mall, London SW1Y 5HX, Britain. Tel: 071-839 3411; Fax: 071-930 0827; Telex: 27678*

## ANNEX III

### Statement on Arrival



Kenya Elections

## Commonwealth Observer Group

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### *News Release*

#### STATEMENT ON ARRIVAL

We are here in Kenya to observe the 29 December elections at the request of the Commonwealth Secretary-General, Chief Emeka Anyaoku. This follows an invitation for a Commonwealth Observer Group from the Government of Kenya which was supported by all parties involved in the elections.

All of us will serve as Observers in our personal capacities and not as representatives of our countries, governments or organisations to which we may belong. Our broad task will be to observe every relevant aspect of the organisation and conduct of the elections in accordance with the laws of Kenya. To this end, in the last eight months, Commonwealth planning and technical missions have already visited Kenya at the various stages of preparing for these elections.

We have come to observe the process as a whole and to form a judgment based upon these observations. As part of our work, we will meet all the contending political parties and other groups who wish to meet with us and we will be based in all the eight provinces of the country both before and on election day.

It is our belief that the presence of observer groups will contribute to the transparency of the process. Our conclusions will reflect our independent and collective judgment. We are delighted to be here in Kenya at this historic time and it is our sincere hope that events during the next two weeks will ensure that the electoral process will be peaceful and orderly and will enable the people of Kenya to participate fully in this crucial election.

16 December 1992

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## ANNEX IV

### Schedule of Engagements

#### **Wednesday, 16 December**

- 0630 Arrival of Commonwealth Observer Group (COG)
- 1445 COG Briefing
- 1700 Meeting with Permanent Secretary, Ministry of Foreign Affairs

#### **Thursday, 17 December**

- 0845 Meeting with Kenya National Congress
- 1000 Press Conference
- 1145 Meeting with National Election Monitoring Unit
- 1500 Meeting with Attorney-General

#### **Friday, 18 December**

- 0900 Meeting with President Daniel arap Moi
- 1400 Meeting with Electoral Commission
- 1500 Meeting with Democratic Party of Kenya
- 1800 Deployment Briefing

#### **Saturday, 19 December**

- 0900 Meeting with FORD-Asili
- 1030 Meeting with FORD-Kenya

#### **Sunday, 20 December**

- 0600 17 teams of observers deployed to cover all eight provinces. Teams to attend political rallies, meet with party leaders and supporters, Electoral Commission officials, provincial and district officials, the police and general public. Two teams, including Chairman and Mr Dundas based in Nairobi. Daily reports to be submitted to headquarters
- 1100 Meeting between Chairman and a delegation from Rift Valley representing FORD-Asili and Democratic Party

#### **Monday, 21 December**

- 0930 Chairman and Mr Dundas meet with Returning Officers for Nairobi Province
- 1500 Meeting with Mr Mwai Kibaki, Democratic Party

#### **Tuesday, 22 December**

- 0900 Chairman and Mr Dundas visit Eldoret, Rift Valley

#### **Wednesday, 23 December**

- 0900 Chairman and Mr Dundas meet with the Executive Board of Bishops of the Catholic Church
- 1000 Meeting with Mr Oginga Odinga, FORD-Kenya
- 1430 Meeting with the Chief Justice

**Thursday, 24 December**

1000 Chairman and Mr Dundas meet with Permanent Secretary,  
Ministry of Information

**24–26 December**

Christmas Break

**Sunday, 27 December**

0600 Redeployment of observers. Teams to meet with party leaders  
and candidates, other election observers, attend rallies,  
check on preparations for the polls, identify polling  
stations and counting centres. Daily reports to be  
submitted

**Monday, 28 December**

0900 As above

**Tuesday, 29 December**

**POLLING DAY**

0500 Observer teams visit selected polling stations to  
observe opening of the polls  
Observe polling throughout the day  
PM Return to selected polling stations to observe  
closing of the polls  
Observe count at selected counting centres

**Wednesday, 30 December**

AM Observe count at selected counting centres  
PM All teams return to Nairobi  
1700 COG consultations. Oral presentation from all teams

**Thursday, 31 December**

0900 Discussion on first draft of Final Report  
1230 Interim statement issued. Press Conference by Chairman

**Friday, 1 January**

0900 Discussion and approval of Final Report  
1800 Final statement issued

**Saturday, 2 January**

1045 Departure from Nairobi

## **ANNEX V**

### **Check List for Polling Stations and Counting Centres**

#### **NOTES FOR OBSERVERS Some of the things to look for**

#### **PART A**

The Observers may focus particular attention on the following aspects of the conduct of the elections:

#### **POLITICAL CAMPAIGN**

1. The nature of access to the electronic media (TV and radio) available to the opposition parties.
2. The procedure for the allocation of time for political broadcasts and advertisements (free or on payment), on the radio and television as provided in the guidelines of the Electoral Commission and the extent of their observance.
3. The nature of access enjoyed by the political parties to the print media; allegations of misreporting and how the complaints were dealt with.
4. The tone and contents of political broadcasts, advertisements and posters put out by the political parties.
5. The conduct of political meetings.
6. The conduct of house-to-house canvassing of voters.
7. The voter-education programme on radio and television conducted by the Electoral Commission, parties and other organisations.
8. Permits for public meetings.
9. Role of police at public meetings.
10. Access to printing facilities.
11. Access to funds and sources of funds.
12. Access to state services; instances of misuse of state resources.

#### **Questions that may be put before polling day:**

1. Is electoral register full and correct? People missed off? Are there names of dead people/people who have moved away included?
2. Are election officials confident about arrangements? Are political parties and local notables (priests, lawyers, etc.) satisfied?
3. Is the man in the street satisfied with arrangements? Will he vote? If not, is he afraid to do so? Why?

4. Has the campaign been free of intimidation, etc? Have all parties had full access to the media?
5. Is advertising (posters, leaflets, etc.) free?
6. How will voters' IDs be checked? Will it be possible to vote twice?
7. How will those away from home or ill in bed be able to vote?

## **PART B**

### **CONDUCT OF THE POLLS ON POLLING DAY**

1. The siting of polling stations.
2. Seating arrangements in the polling stations.
3. The accuracy of the list of electors at the polling stations.
4. Distances travelled by voters to polling stations in rural areas.
5. The length of time voters waited to cast their votes.
6. The state of readiness of polling stations.
7. Availability of adequate supplies, e.g. ballot papers, sealing wax, etc.
8. Security of ballot papers prior to elections.
9. The steps (if any) taken to ensure that the secrecy of the ballot is assured.
10. The performance of the elections officers at the polling station visited.
11. The procedure followed at the opening of the polls.
12. The adequacy or otherwise of polling stations' facilities.
13. Comments of party agents on the arrangements.
14. The procedure for use of indelible ink.
15. The incidence of loss of voters' cards.
16. The number (if any) of persons without identity cards but with other evidence of identity who were not allowed to vote.
17. The procedures in place to ensure the proper security of ballot papers, ballot boxes and official seals.
18. The general electoral environment that prevailed at the polling stations visited.
19. Intimidation of voters by security officers and others, if any.
20. Procedures for voters to challenge their exclusion from the rolls.

## THE COUNT

1. The process of reconciling the number of ballots in the box with the number of ballots cast as reported by the Presiding Officers.
2. The determination of invalid ballots.
3. The conduct of Returning Officers and their counting assistants at counting.
4. Inspection of seals.
5. The facilities for candidates and their representatives to witness and verify the count.

### Questions that may be put on the polling day:

1. Were all procedures agreed beforehand being adhered to?
2. Before polling starts, were the ballot boxes empty? Were they properly sealed?
3. Were all parties represented at polling stations? Were they satisfied with the process?
4. Were ids being properly checked? In the absence of id cards, was other evidence of identity taken into account and voters allowed to vote?
5. Were voters apparently voting freely? Were they enthusiastic? Did they talk freely? Did they exhibit signs of fear or intimidation?
6. Did voters understand procedures properly? If not, were they being explained fully and impartially? Were attempts being made to suggest how people should vote?
7. Was only one person at a time allowed into the voting booth? Did their ballot papers go straight into the ballot box?
8. How long were voters waiting to vote? If a long time, were some being put off?
9. Who were the elections officers? How were they chosen?
10. Were all parties present at polling stations throughout voting and at counting centres during counting?
11. Did foreign observers have free access to all stages of the process?
12. Were voters asked suspicious questions after leaving the ballot box?

### After voting:

1. Were all parties/observers present at opening of the boxes?
2. Did the number of used ballot papers tally with the record of those who had voted?
3. Were the ballot papers counted properly? Were any valid ones spoiled during counting, intentionally or otherwise?

## ANNEX VI

### Deployment of Commonwealth Observers

<b>Province</b>	<b>Station</b>	<b>Names</b>	<b>Accommodation</b>
1. Coast	Mombasa	Jackson/Zainah	Mombasa B. Hotel
	Malindi	Parsons/ Chandra Deo	Eden Rock Hotel
2. Western	Kakamega	Makhan/Moynihan	Gulf Hotel
	Kakamega	Sanger/Linton	Gulf Hotel
3. Nyanza	Kisumu	Singh/Vomwo	Sunset Hotel
4. Central	Thika	Bowen/Barrow	Blue Posts Hotel
	Nyeri	Cox/Bose	Outspan Hotel
5. Eastern	Meru	Chitepo/Kamara	Pig & Whistle
	Embu	Heal/Amako	Isaac Walton
6. N Eastern	Garissa	Kameeta/Gould	Marsabit Lodge
7. R Valley	Kericho	Smart/Michaelides	Tea Hotel
	Eldoret	Tordoff/Saeed/ Clarke	Sirikwa Hotel
	Nakuru	Collins/Lusaka	Kunste Hotel
	Kitale	Thompson/Dormer	Alakara Hotel
	Naivasha	Abaijah/Bowman	Safariland Club
8. Nairobi	-	Georges/Dundas/ Robertson	Intercontinental
		Rouf/Otlhogile	Intercontinental

## ANNEX VII

### Interim Statement



Kenya Elections

## Commonwealth Observer Group

### *News Release*

31 December 1992

The announcement that the final results of the elections would not be immediately available will undoubtedly heighten the tension which has been evident in Kenya ever since the decision to move to a multiparty system. The Chairman of the Electoral Commission had confidently predicted at our meeting with him that the results would have been available by today at the latest.

The apprehensions created by the early scenes of disorganisation which led to the late start of polling all over the country had to some extent been dissipated by the calm and comparative orderliness which marked the late afternoon. There were complaints of irregularities but reports from agents of all political parties at the great majority of the polling stations we had visited were that on the whole, the polling had been conducted to their satisfaction. Reports of polling taking place in some places as late as tomorrow and the delay in completing the count can only cause resurgence of these early apprehensions.

This must be viewed against the widespread perception of a lack of real commitment on the part of the Government to the process of multiparty democracy. There was little evidence that serious efforts had been made to accomplish the difficult task delinking the institutions and resources of the State from the ruling party. There appeared to be a reluctance to permit any real challenge in districts which the ruling party considered to be its strongholds - a factor which contributed to the violence and dislocation of many people which marred the period immediately preceding the elections and exacerbated the distrust. The complaints in certain areas of harassment and intimidation of candidates and voters right up to polling day cannot be ignored. We sincerely hope that now that voting has almost been completed, the thousands of displaced citizens will quickly be returned to their homes and given all the available help to enable them to resume their normal lives.

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On election day, millions waited for hours in hot sunshine and in rain, determined to play their part in the process of selecting their government. Despite the incidence of delays, disorganisation and irregularities, the voters had the patience and commitment to remain in line and cast their vote. They have demonstrated a commitment to the democratic process which was outstanding and which we hope will be respected and nurtured by their leaders.

We have to base our judgement of this election on the entire process which began before we arrived in Kenya. We also have to judge it by standards which are acceptable internationally. Kenya is a respected and important member of the Commonwealth and the international community and the people of Kenya would expect no less of us.

## ANNEX VIII

### Concluding Statement



Kenya Elections

## Commonwealth Observer Group

### *News Release*

1 January 1993

#### CONCLUSIONS ON THE DECEMBER 1992 KENYA ELECTIONS

On the eve of its departure, the Commonwealth Observer Group has issued the following statement of its conclusions:

This was an election which proved difficult to evaluate in terms of freeness and fairness. It was evident to us from the start that some aspects of the election were not fair. These included:

- the registration process in many parts of the country
- the nomination process - particularly in the Rift Valley resulting in the unopposed return of 16 KANU parliamentary candidates
- the lack of transparency on the part of the Electoral Commission
- the intimidation, administrative obstacles and violence that marked the political campaign
- the partisanship of the state-owned radio and television
- the reluctance of the Government to delink itself from the KANU Party.

These negative aspects were compounded by the numerous administrative problems which can be directly attributed to the inability of the Electoral Commission to plan ahead and pay adequate attention to the many basic and essential elements of the electoral process. This resulted in late delivery of materials, polls with too many voters, lack of adequate training of officials and non-effective public education programme.

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At the same time we believe that at least in the last weeks of the election the Electoral Commission made every effort to act responsibly, impartially, and openly. We would attribute many of the Commission's problems at that stage to inexperience, a weakness in planning and administrative ability, and certain aspects of the electoral law and regulations which contributed to the difficulties which arose.

On the positive side, notwithstanding all of the problems described above, it was encouraging to find that on polling day, with few exceptions millions of enthusiastic people cast their votes in a general atmosphere of calm throughout the country. We were extremely impressed with the dedication and persistence of the voters, many of whom waited long hours in uncomfortable situations to exercise their right to vote. Much praise is also due to so many of the Presiding Officers, election officials at the polls, and at the counting centres for their commitment and tenacity, given all of the problems they had to overcome.

Special mention again must be made of the substantial contribution of candidates, their agents, party agents and national observers. The fact that so many people made an impressive transition from a violent and confrontational pre-election period to a vigilant partnership as poll observers was a hopeful indication of the effective application of multi-party democracy for the future.

This election was an important turning point in Kenya's history and for Kenya's future. Despite the fact that the whole electoral process cannot be given an unqualified rating as free and fair, the evolution of the process to polling day and the subsequent count was increasingly positive to a degree that we believe that the results in many instances directly reflect, however imperfectly, the expression of the will of the people. It constitutes a giant step on the road to multiparty democracy.

## ANNEX IX

### Circumstances Surrounding Justice Chesoni's Removal as Acting Justice of Appeal

In 1984 Justice Chesoni held the office of judge of the High Court of Kenya. His business involvements caused him severe financial embarrassment and bankruptcy proceedings were filed against him personally and winding up proceedings against the company through which he operated his business. An arrangement was reached under which he was allowed to retire with a pension and his principal creditor, a bank controlled by the Government, was directed not to press on with the bankruptcy proceedings.

In February 1990 Justice Chesoni was reappointed an acting Justice of Appeal presumably on the basis that his financial affairs had been brought to order. In fact that was not so. An application to commit him to prison in High Court Case 1234 of 1984 was listed for hearing on 18 May 1990. He was asked to resign but did not do so.

Thereafter a hearing was arranged before the Judicial Service Commission, which Justice Chesoni attended and at which he was legally represented. The Commission found that Justice Chesoni's conduct had been 'inconsistent with the position, dignity and judicial integrity of a Justice of these Honourable Courts'. This recommendation was forwarded to the President who duly signed an instrument revoking his appointment.

The Commonwealth Observer Group has in its files copies of the following documents substantiating the account which were made available to the Chairman, who obtained permission to use them:

- (1) Letter dated 13 December 1984 from the Attorney-General to Justice Chesoni
- (2) Letter dated 7 May 1990 from the Chief Justice to Justice Chesoni
- (3) Gazette Notice revoking the appointment of Justice Chesoni as a Justice of Appeal
- (4) Letter dated 15 May 1990 from the Chief Justice to Justice Chesoni
- (5) Letter dated 30 May 1990 from Justice Chesoni to the Chief Justice.

## ANNEX X

### Organisation of the Electoral Commission

The Commission is empowered to appoint a Director of Elections, a Deputy Director of Elections and other staff necessary to assist it in the discharge of its functions. These officers undertake their duties under the direction of the Commission.

District (Supplies) Co-ordinators are appointed by the Commission to deal with the practical operational aspects of the elections and to communicate with the Commission regarding transport and supplies. The District Co-ordinators receive reports from Returning Officers on their transport and supplies needs, and generally play an important role in ensuring that adequate supplies and transportation are provided to constituencies for polling day.

Returning Officers are appointed by the Electoral Commission for the purpose of conducting elections within constituencies. Theirs is the broad responsibility of organising and conducting free and fair elections in the constituency to which each is appointed. Returning Officers are required to be of impeccable character so as to portray the integrity and impartiality of the Electoral Commission (see Training Manual for Election Officials).

The Returning Officer for a constituency appoints, in consultation with the Electoral Commission, the Presiding Officers and Deputy Presiding Officers for that constituency. He/she also appoints polling clerks and counting assistants and is primarily responsible for the proper training of all of these officials. The other critical functions of a Returning Officer include conducting the nomination proceedings, selecting polling stations and arranging their layout, providing adequate equipment and supplies (including ballot papers and boxes for polling stations) and ensuring the delivery of quality election services at the polls and at the counting centres.

The Presiding Officer is responsible for the proper management of the polling station on polling day. The duties of the Presiding Officer include ensuring the proper care of equipment and supplies at polling stations, and the security, peace and good order of the polling station and its environs. It is the duty of the Presiding Officer to observe and enforce the election procedures governing the polling stations proceedings. Presiding Officers should be impartial and be able to display good human relations in enforcing the elections rules (see Training Manual). Each Presiding Officer is assisted by a Deputy Presiding Officer and six Poll Clerks.

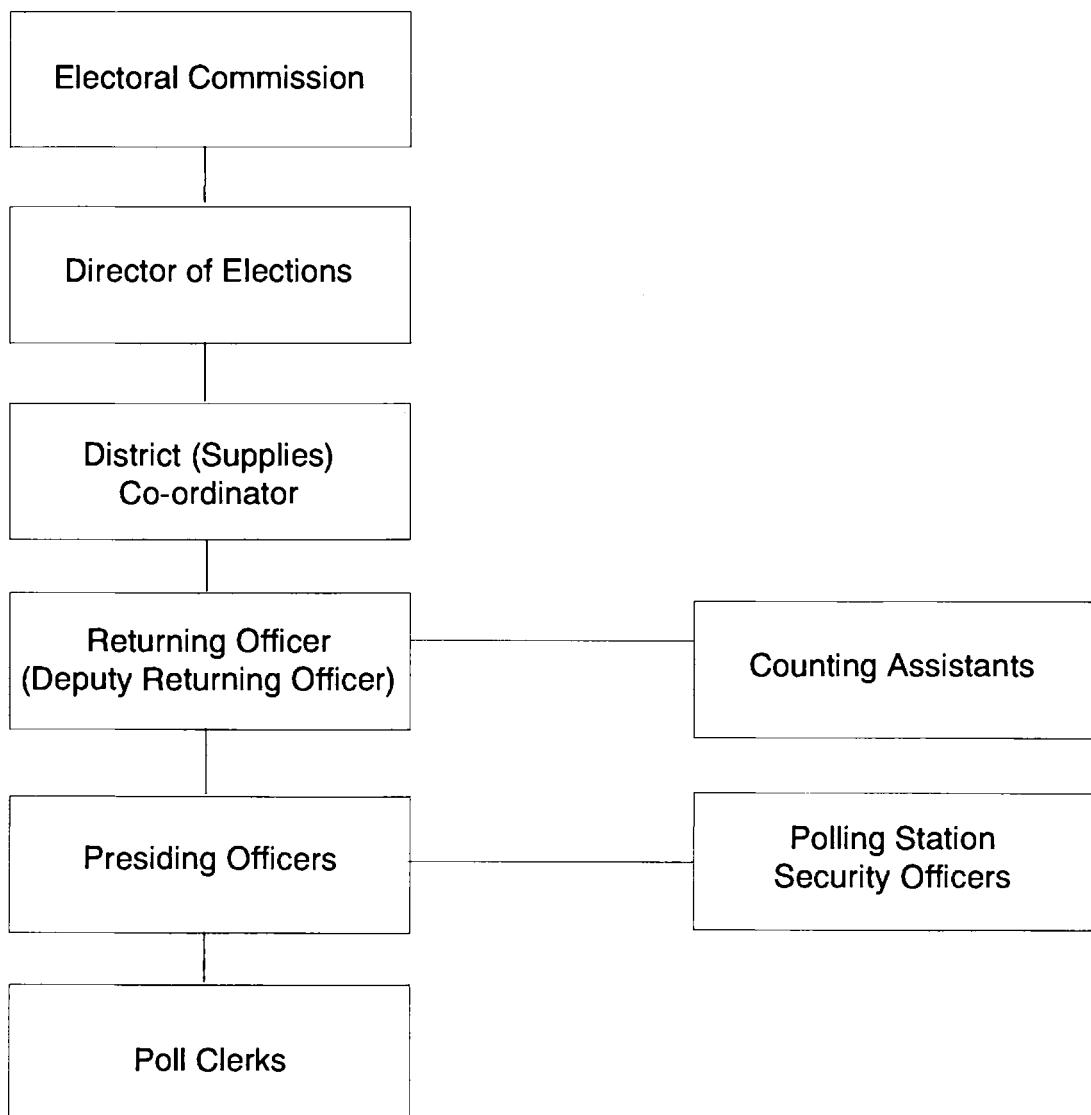
Since three elections were being held simultaneously, each of the six clerks was assigned a specific task on polling day itself. Clerk No. 1 checked fingers for voting ink, inspected the national identity card and the voter's card, and stamped the voter's card with the official stamp. Clerk No. 2 checked the elector's name and number in the register. Clerk No. 3 stamped the back of the Presidential ballot paper with the official stamp, stamped the face of the ballot paper counterfoil with an official stamp provided for that purpose, entered on the ballot paper counterfoil the electoral number of the elector and issued the Presidential ballot paper to the elector. Clerk No. 4 dipped the elector's left little finger in the indelible voters' ink, embossed the voter's national identity card and directed the voter to the polling booth. Clerk No. 5 witnessed the voter depositing the Presidential ballot paper into the Presidential ballot box, stamped the back of the Parliamentary ballot paper with the official stamp, and then the face of the ballot paper counterfoil, entered on the ballot paper counterfoil the electoral number of the elector, issued the Parliamentary ballot paper

to the elector and directed the elector to the polling booth. Clerk No. 6 observed the voter putting the Parliamentary ballot paper into the Parliamentary ballot box, stamped the face of the Civic election ballot paper with the official stamp, stamped the face of the ballot paper counterfoil, entered the electoral number of the elector on the ballot paper counterfoil, issued the Civic election ballot paper to the elector and directed him/her to the polling booth and witnessed the voter placing the Civic election ballot paper into the Civic election ballot box.

Counting Assistants are assigned duties to assist the Returning Officer with the counting of the ballots at the counting centre within the constituency.

Polling Station Security Officers operate under the general direction of the Presiding Officer in ensuring that peace and good order is kept within the precincts of the polling station. They are drawn from the Kenyan security forces.

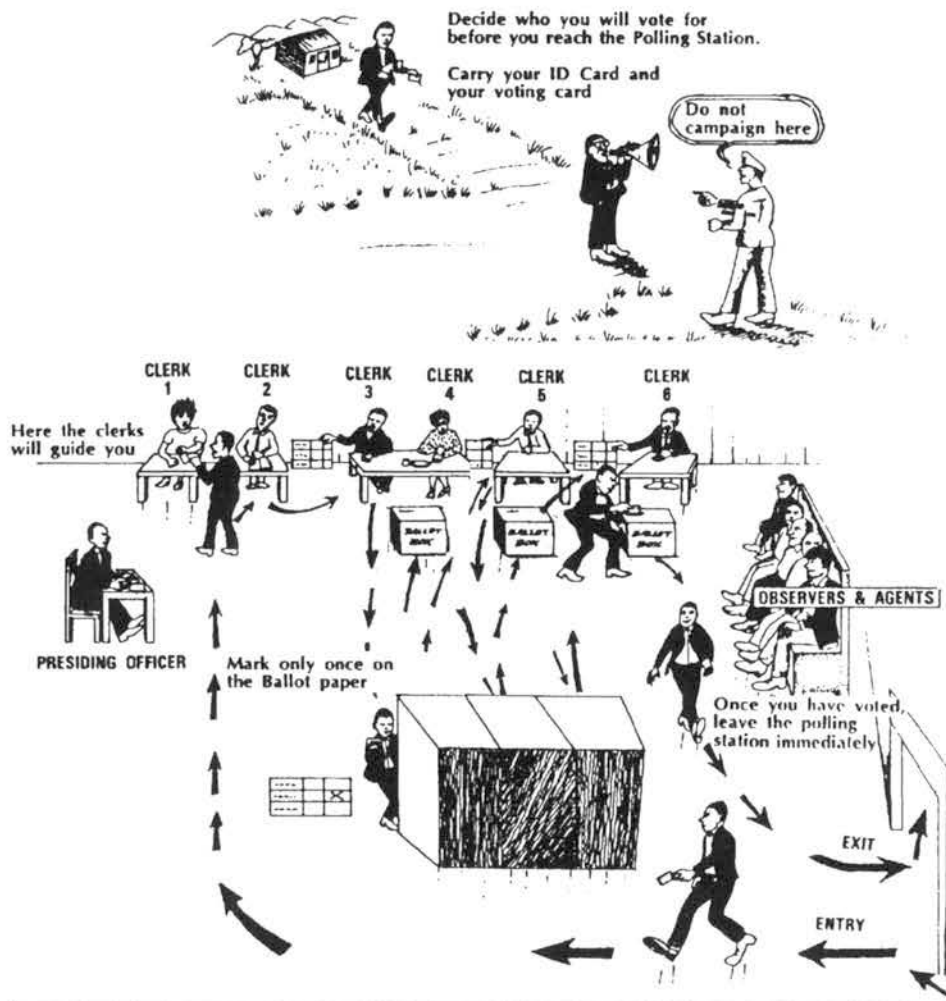
### **Electoral Administrative Framework**



# ANNEX XI

## Poster on How to Vote

# HOW TO VOTE ON 29th December 1992



**Electoral Commission of Kenya**

Anniversary Towers 6th Floor  
P.O. Box 45371  
Nairobi

## ANNEX XII

### Statement on Violence and Media Access



Kenya Elections

## Commonwealth Observer Group

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### *News Release*

#### GROUP VOICES CONCERN ABOUT VIOLENCE AND MEDIA ACCESS

The Commonwealth Observer Group has expressed strong concern at the reports it has been receiving of numerous cases of violence and "land-clashes" which have resulted in the death of hundreds of people, the destruction of houses and other property with the result that thousands have had to flee their homes and are now refugees in their own country.

Speaking today on behalf of the Group, the Chairman Mr Justice Telford Georges said: "We appeal to all Kenyans, particularly leaders and influential party officials, to call on their supporters to do everything possible to reduce this violence which is marring this historic election. We also urge the law enforcement authorities to take more effective action to put an end to this situation."

#### Access to the Media

The Group has also received complaints from the opposition parties about the denial of access to the media. The difficulties which opposition parties are facing in getting access to the publicly-owned media have been brought to the attention of the Group. Complaints have been made by independent groups, which have been monitoring election coverage by the electronic media in particular, that there has been a systematic imbalance in the coverage of the election campaign.

Mr Georges said: "We would wish to see greater exposure given in the public media to the activities of the opposition parties. The situation has improved somewhat but there is still a noticeable imbalance in the reporting of the election particularly by radio and television. The result of this imbalance is that ordinary voters are being denied the opportunity to be informed about the programmes and policies of all political parties. This is a serious matter in a multi-party election where voters expect to be given enough information about the contending parties to enable them to choose their leaders. We urge the Government to take immediate steps to allow all parties equitable access to radio and television."

Before the full Group arrived on Wednesday (16 December), a statement was issued by its advance team which warned that irregularities in the nomination process had "severely compromised" the election.

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During the past few days, the Observers have been getting first-hand information from political leaders, candidates and witnesses about what went wrong on nomination day. In several meetings with Justice Zachaeus Chesoni, Chairman of the Electoral Commission, the Group has discussed the allegations which have been made and sought explanations. He has told them that 72 complaints at parliamentary and civic level came before the Commission. Of these, nine have been allowed and six are going to the High Court. Twenty-four are being investigated by the police, and in another 13 cases, the Commission has upheld the decisions of returning officers. The other ten cases were found to be complaints internal to political parties. The Group was informed that further action would have been initiated by election petitions.

During the weekend the Commonwealth Group divided into 17 teams and left Nairobi for the eight regions where they will be stationed until after polling day. The Chairman is remaining in the Nairobi area. The group has now completed most of its meetings with government and election officials, and with representatives of political parties and monitoring organisations.

20 December 1992

## ANNEX XIII

### The General Voting Procedure

*Extract from the Training Manual for Election Officers issued by the Electoral Commission of Kenya, November 1992:*

#### The General Voting Procedure

- (i) Before the delivery of a ballot paper to an elector, the Presiding Officer must ensure that the following sequence of activities is strictly adhered to:
  - (a) **Stamping of the ballot paper** with the official mark of the electoral commission.
  - (b) **Calling out the number and name** of the elector. This information is contained in the voter's card, the voter's national identity card and the copy register of electors.
  - (c) **Marking the counterfoil** of the ballot paper with the electoral number of elector.
  - (d) **Marking on voters register** against the electoral number of the elector to denote that a ballot paper has been delivered but without showing any particulars of the paper.
  - (e) **Stamping of elector's card** to denote that a ballot paper has been delivered to the elector.
  
- (ii) Upon receiving a ballot paper, an elector is required to do the following:
  - (a) Submit a particular finger for immersion in indelible ink.
  - (b) Submit his/her national identity card to be impressed with the seal of the Electoral Commission.
  - (c) Proceed to the polling booth and secretly place an 'X' mark on the appropriate column of the ballot paper, indicating his/her choice of candidate.
  - (d) Fold up the ballot paper to conceal his/her vote.
  - (e) Put the ballot paper into the ballot box in the presence of the Presiding Officer.
  
- (iii) Since we shall have three elections i.e. presidential, parliamentary and civic, the elector will be required to receive relevant ballot papers and perform activities (ii)(c) to (e) three times.
  
- (iv) After thus casting his/her vote, the elector will be required to quietly leave the polling station so as to give room to other electors who will be eager to exercise their democratic right to vote.

- (v) Incapacitated voters must be assisted by the Presiding Officer as laid down in Regulation 31.

#### **Votes marked by Presiding Officer**

These are votes marked by the Presiding Officer himself with the assent of the elector in the process of assisting the following persons:

- (a) a blind voter, or voter incapacitated by any other physical cause.
- (b) an elector who declares orally that he is unable to read or otherwise requests the assistance of the Presiding Officer.

Such marking will be witnessed by one representative of each candidate. The Presiding Officer shall ensure that a record is made in the register of electors against the name of the elector who is so assisted. The reason for the assistance must be indicated.

#### **Spoilt ballot papers**

If an elector inadvertently spoils a ballot paper, such that it cannot be conveniently used as a ballot paper, it is the duty of the Presiding Officer to issue to the elector a replacement of the ballot paper.

The spoilt ballot paper will be immediately cancelled and the counterfoil thereof marked accordingly.

#### **Evidence of identity**

All electors shall be identified by both the national identification card and the voter's card.