



Library

ELECTION MALPRACTICES



**REPORT OF A TASK TEAM SET UP
TO MONITOR, INVESTIGATE AND
PREVENT CORRUPTION DURING
GENERAL ELECTIONS 2002**

Criminal Investigation Department

ANTI-CORRUPTION POLICE UNIT

January, 2003

KENYA NATIONAL ASSEMBLY

Accession: 10013848

Call No: 364.1324 CID



364.1324 CID

Kenya National Assembly

Parliamentary Library

THE PEOPLE TELEPHONE NUMBERS

249686, 253166, 253423, 253168.
Mobile lines: 0733-833612, 0722-359493

Advertising: E-mail: adverts@people.co.ke

PEOPLE

Fair, Frank and Fearless

Daily

POSTAL
ADDRESS

To Write to
THE PEOPLE DAILY
Please use the following
address
The People Limited
P.O. Box 10296
00100 - Nairobi

Ali appoints first female PPO

By HUDSON GUMBIHI

POLICE Commissioner Major-General Mohammed Hussein Ali has effected a shake-up in the force, the highlights of which is the appointment of a female officer to the post of a Provincial Police boss for the first time in history.

Grace Kahindi is now the new Nyanza police chief, taking over from Jambeni Bakari in a reshuffle that affected 17 officers of the ranks of superintendents, senior superintendents, assistant commissioners of police and senior assistant commissioners of police.

Bakari has been transferred to the Kenya Police Training College (KPC), Kiganjo. Scavier Mbogho is now the new Nyanza Provincial Criminal Investigations Officer (PCIO). John Martim goes to North Eastern as PCIO.

Other notable officers affected include police spokesman Jasper Ombati, his Criminal Investigations Department (CID) counterpart Gideon Kibunja, Nairobi PCIO Sammy Githui, Kenya Airport Police Unit (KAPU) commandant Moses Ombati, and Flying Squad head Sebastian Ndaru.

Jasper Ombati now becomes Kirinyaga Officer Commanding Police Division



Ali

(OCPD). His position has been taken over by Kibunja. Githui moves to Eastern in the same capacity.

Githui's position has been taken over by Isaya Osogo, who until the changes, was his deputy. Patrick Mugo moves to Western as the PCIO.

Moses Ombati has been transferred to the Anti-Stock Theft Unit (ASTU) as the new commandant. His former position has been taken over by Beatrice Nduta who was initially KAPU's deputy commandant.

Special Crime Prevention Unit (SPCU) boss Nyaga Reche, will now head the Flying Squad taking over from Ndaru who becomes PCIO, Central.

Embakasi's long serving OCPD, Gideon Otieno Amala has now been promoted to an

assistant commissioner of police in charge of administrations, Nairobi area.

Christine Mutua formerly at the human resources, Vigilance House, now takes over as the head of the gender and children desk.

Deputy commandant of traffic Francis Changwany goes to the Railway police as commandant. Willy Lugusa is now the OCPD, Central, Nairobi, taking over from Michael Ngugi whom he deputised.

Major-General Ali also appointed Mary Auma to Interpol's Lyon office in France. She will serve there for a three-year period.

While announcing the reshuffles yesterday Ali said the changes were routine with his police that enables officers to serve in specific stations or offices for a period of three years before being transferred.

"The commissioner of police congratulates Grace Kahindi, senior assistant commissioner of police, for becoming the first female officer in the history of Kenya to be appointed PPO. With her vast experience and impeccable service record, she will excel in her new appointment," he noted.



Counsel for the commission of inquiry into the illegal and irregular allocation of public land, Wanyiri Kihoro, gives his recommendations on the implementation of the report at a Nairobi hotel, yesterday - FRANKLIN MACHARIA

Govt reaffirms commitment to prison reforms, says Awori

By VPPS

THE Government is addressing the problem of congestions and other challenges facing the country's penal institutions, Vice-President Moody Awori has said.

Awori pointed out that some of the measures taken towards solving the problem include the use of Community Service Order whereby petty offenders are not subjected to jail terms.

He also stressed the Government's commitment to ensure justice for all exemplified by the recent announcement by President Mwai Kibaki that more judicial officers would be employed from July this year to expedite on court cases.

The Vice-President was speaking yesterday at the Meru CK Prison when he toured the facility. During the occasion the V-P presented Television sets to both female and male prisons.

On education, Awori announced that textbooks worth Shs. 10 million donated by the Jomo Kenyatta Foundation would be distributed throughout the country's prisons to facilitate inmates who

want to pursue their studies while serving their jail terms.

Awori said plans were under way to start day care centres for children accompanying their jailed mothers.

He at the same time said that the ongoing prison reform programme also targets the prison staff by improving their housing condition as well as terms of service.

The vice-president said the recently introduced performance contract aims at enhancing efficiency and effective service delivery to the public.

Responding to requests by HIV positive inmates, Awori assured that the Government would explore better ways of assisting them access the necessary drugs and counselling.

Earlier, while addressing participants of the Youth Sports Day at the Kaaga Primary School grounds, the Vice-President asked the Youth to utilise the newly created Ministry of Youth Affairs, to champion their interests aimed at improving their welfare.

The vice-president later toured the proposed site for the

expansion of the Meru GK prisons at Kang'eta in Maua, where he announced that part of the Shs 500 million set aside for prison's staff housing project would be used to put up 20 housing units at the location.

The Commission of Prison, Gilbert Omondi, said the department welcomes input by the private sector and other well-wishers towards realization of improved conditions in the country's penal institutions.

Acknowledging greeting by wananchi in Meru Town, Awori urged Kenyans to safeguard the existing peace and unity. He at the same time called on them to support the government of the day as it strives to address the many challenges facing the nation such as unemployment.

The Vice-President was accompanied by Meru Central Acting DC, Fredrick Ndung'a, Meru Mayor, Clr. Andrew Gituma, Eastern Provincial Prison Commandant, Daniel Mutua and the officer in charge of the Station, Senior Superintendent, Henry Kisingu among other senior Government officials.

Kanyingi donates to sick girl

By ANTHONY MWANGI

LIMURU Member of Parliament yesterday became the first well-wisher to donate towards the medical fund of a 17-year-old girl from Kirinyaga District faced with an acute cerebral palsy.

Kanyingi gave Shs 100,000 towards the medical expenses of Dorcas Muthoni as he had earlier promised.

The MP said he was touched by the plight of the girl who hails from Kerugoya-Kutus Constituency. The case was first highlighted by *The People Daily* last week.

Presenting his donation to *The People Daily* managing editor, Mugo Theuri, Kanyingi called on other able Kenyans to donate towards such courses. He said there were many such cases but their

relatives were not bringing them in to the open.

Receiving the donation on behalf of the girl and her mother, Theuri thanked the MP for his kind contribution. He informed the MP that an account had been opened with the Kenya Commercial Bank, Kerugoya branch, for well-wishers to channel their donations.

Others who have pledged to donate towards the medical bill are the Blue Shield Insurance Company who are giving Shs 50,000, the Kenya women parliamentarians, among others.

Blue Shield on Thursday paid the initial cost of the girl's admission as part of their donation.

The girl was on Thursday taken to the Kenyatta National

Hospital where she was admitted for specialised treatment following the recommendations of doctors at the Kirinyaga District Hospital. She was accompanied by her mother Faith Njeri Wachira.

Even though she appeared weak and worn out, doctors at the referral hospital expressed hope that she would get well soon as there were better facilities to cater for her condition.

The medics however expressed concern over her condition which they said needed critical attention.

Muthoni requires urgent occupational, nutritional and neurological therapies which is only available at KNH thus the need to refer her there.

| CONTENT | | Page |
|----------------|--|-------------|
| | APPRECIATION | i |
| | ACRONYMS AND ABBREVIATIONS | ii |
| 1.0 | INTRODUCTION | 1 |
| 2.0 | STATEMENT OF THE PROBLEM | 1 |
| 3.0 | OBJECTIVES | 1 |
| 4.0 | TERMS OF REFERENCE | 2 |
| 5.0 | THE PROCESS | 3 |
| | 5.1 Preparatory stage | 3 |
| | 5.2 Phase 1 | 4 |
| | 5.3 Phase 2 | 5 |
| 6.0 | FINDINGS | 6 |
| | 6.1 Procurement | 6 |
| | 6.1.1 Polling Booths and other elections materials | 6 |
| | 6.1.2 Transport | 7 |
| | 6.1.3 Equipment | 7 |
| | 6.2 Recruitment | 8 |
| | 6.2.1 Recruitment process | 8 |
| | 6.3 Security | 9 |
| | 6.3.1 Polling stations, materials and election officials | 9 |
| | 6.3.2 Deployment of security personnel | 9 |
| | 6.3.3 Complaints | 9 |
| | 6.4 Behaviour | 10 |
| | 6.4.1 Candidates and their agents | 10 |
| | 6.4.2 ECK Officials | 11 |
| | 6.4.3 Voters | 12 |
| | 6.4.4 Security personnel | 12 |
| | 6.4.5 Peace committees | 12 |
| | 6.4.6 Election observers | 13 |
| | 6.5 Polling, counting and tallying of votes | 13 |
| | 6.5.1 Polling process | 13 |
| | 6.6 General observations | 14 |
| | 6.6.1 Irregularities, deficiencies and malpractices | 14 |
| 7.0 | CONCLUSIONS | 16 |
| 8.0 | RECOMMENDATIONS | 17 |
| | Appendices | |
| | i. Task Team Members | |
| | ii. Field Team Members | |

APPRECIATION

The Task Team set up to monitor, investigate and prevent corruption during General Elections 2002 was able to successfully undertake and complete the assigned task within the specified period i.e. 18th November 2002 to 31st January 2003. The Task Team ascribes their success to the co-operation and support that they received from various bodies and individuals, whom the team feels obliged to thank.

As they forward their report, the Task Team therefore wishes to express their sincere appreciation first and foremost to Head ACPU, Mr. Swaleh Slim Khalil, MBS, who set up the Task Team and charged it with the noble task of working out a strategy for enhancing integrity in the general elections, through helping to prevent corruption and enforcing the law against corruption. The Task Team also greatly appreciates the immense support and guidance he gave to them and to the field teams during the exercise.

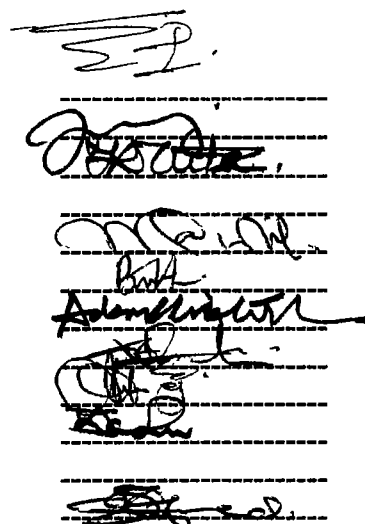
Appreciation also goes to PCs, PPOs, PCIOs, DCs, OCPDs, DCIOs, DECs, ROs, and ECK officials, other government officers and even members of the public that the field teams worked or interacted with. In their varied capacities, most of these people co-operated with and supported the ACPU teams.

The Task Team is compelled to express their appreciation of the devotion, zeal and determination demonstrated by their Chairman, the late Dr. John O. Orora, as he steered the Team's activities. Sadly and ironically, Dr. Orora collapsed and died on the day the field teams completed their field activities.

Finally, the Task Team wishes to especially thank the ECK Chairman and Commissioners, the Commissioner of Police, the Director Criminal Investigation Department, the Director of Internal Audit and the Director of Public Procurement, without whose support and good will the assignment would have been incredibly difficult.

Signed

- | | | | |
|-----|--------------------------|---|----------------|
| 1. | Mr G. M. Muketha | - | Vice-Chairman |
| 2. | Mr Jesse Wachanga | - | Secretary |
| 3. | Mr John K. Tuta | - | Vice-Secretary |
| 4. | Mr Joseph O. Omollo | - | Member |
| 5. | Mrs Leah W. Kariuki | - | Member |
| 6. | Mr Kaplich Barsito | - | Member |
| 7. | Mr Christopher A. Opondo | - | Member |
| 8. | Eng. Michael Muchiri | - | Member |
| 9. | Mr John K. Mulinge | - | Member |
| 10. | Mr Jackson Mue | - | Member |
| 11. | Mr Samuel G. Mng'ong'o | - | Member |
| 12. | Mr Hamisi Mwarua | - | Member |



ACRONYMS AND ABBREVIATIONS

| | |
|--------------|---|
| ACPU | Anti-Corruption Police Unit |
| CID | Criminal Investigation Department |
| DEB | District Education Board |
| DEC | District Elections Coordinator |
| DC | District Commissioner |
| DCIO | District Criminal Investigation Officer |
| DO | District Officer |
| ECK | Electoral Commission of Kenya |
| FORD | Forum for Restoration of Democracy |
| IEC | Information, Education, Communication |
| KANU | Kenya African National Union |
| KBC | Kenya Broadcasting Corporation |
| K-DOP | Kenya Domestic Observer Programme |
| KNA | Kenya News Agency |
| NARC | National Rainbow Coalition |
| NSIS | National Security Intelligence Service |
| OCPD | Officer Commanding Police Division |
| OCS | Officer Commanding Police Station |
| PC | Provincial Commissioner |
| PCIO | Provincial Criminal Investigation Officer |
| PO | Presiding Officer |
| PPO | Provincial Police Officer |
| RO | Returning Officer |
| RC | Regional Coordinator |
| SRC | Sub-Regional Coordinator |

1.0 INTRODUCTION

By the time of the General Elections 2002, the Anti-Corruption Police Unit was the principal anti-corruption agency in Kenya mandated to fight and prevent all forms of corruption and corruption related offences.

In the other past elections, many corruption related malpractices were reported. The Anti-Corruption Police Unit, by virtue of its mandate, was duty bound to fully participate and help ensure that the General Elections 2002 were-corruption free to the highest possible degree.

2.0 STATEMENT OF THE PROBLEM

In the previous two general elections 1992 and 1997, both the Electoral Commission of Kenya (ECK) and observer groups acknowledged in their reports the occurrence of various forms of malpractices during the elections. The malpractices included bribery and lack of transparency in the recruitment of election officials, in procurement of goods and services, and in financial administration; inadequate compliance with legal provisions; inadequate preparations; lack of awareness of election process arrangements; misuse of resources; inadequate definition of roles for participating agencies; and inadequate monitoring of performance of roles of election officials and other relevant government agencies.

3.0 OBJECTIVES

General Objective

The general intention of the Task Team assignment was to enhance integrity of the General Elections 2002 through promoting the prevention of corruption and sensitising enforcement agencies and election officials on ways to prevent corruption and other malpractices.

Specific Objectives

1. To set up and operationalize Field Teams and a Report Centre at ACPU Headquarters.

2. To help prevent corruption and corruption related malpractices during the elections.
3. To set up liaison mechanisms and Report Desks operated by DCIOs in every district.
4. To publicize widely and effectively the measures to curb corruption, including how and where reports can be made.
5. To receive and process reports on corruption and corruption-related matters during the elections.
6. To observe the supervisory policies, procedures and practices during the electoral process.
7. To examine the mechanisms for intervention and remedial action with regard to corruption related malpractices.
8. To assess the management of information to and from stakeholders, especially reporting channels for malpractices.

4.0 TERMS OF REFERENCE FOR THE FIELD TEAMS

The terms of reference for the field teams were as follows:

1. To identify the areas that are prone to corruption.
2. To assist to prevent corruption in the electoral process.
3. To evaluate existing supervisory mechanisms for ensuring free, fair and corruption free elections.
4. To examine the extent to which various stakeholders comply with election laws.
5. To examine the degree of officials' and voters' awareness of the election process.
6. To evaluate the role of stakeholders in promoting corruption-free elections.
7. To examine the mechanisms and facilities available for reporting complaints and taking remedial action.
8. To ensure that all reported corruption and corruption related matters are efficiently and effectively investigated.
9. To ensure that all reports on corruption are properly analysed and stored at a central data bank.
10. To assess people's perception on the conduct and management of the elections.
11. To make recommendations.

5.0 THE PROCESS

The assignment was carried out in three stages

- Preparatory stage
- Phase one
- Phase Two

5.1 Preparatory Stage

The Head of ACPU appointed a Task Team for monitoring, investigating and preventing corruption during the General Elections 2002.

Team Composition

The Task Team comprised of the following members;

ACPU

Directorate of Internal Audit

Directorate of Public Procurement

Police Headquarters and CID Headquarters

Chairman, Dr. John O. Orora - ACPU

Vice Chairman, Mr. G. M. Muketha - ACPU

The Task Team came up with an action plan for the period between 18th November 2002 to 31st January 2003, to complete the assignment and compile the report.

Officers at the Report Centre in ACPU were given the specific assignment of receiving reports of any corruption or corruption related malpractices from the field.

A Rapid Response Task Team was set up to handle corruption related incidents during the election period. The team was stationed at ACPU.

The Task Team incorporated other officers from within the Unit and from Directorate of Public Procurement and Directorate of Internal Audit to form 8 field teams that covered all the 8 provinces - each one per province. Their task was to monitor, investigate and prevent corruption during the election period.

5.2 Phase 1

In this phase, the Head ACPU dispatched the teams to Coast, Eastern, North Eastern, Central, Rift Valley, Nyanza, Western and Nairobi provinces. Each team was multi-disciplinary, comprising of investigators, lawyers, researchers, educationists etc. The teams carried out the following activities:

- i. Paid courtesy calls on various officers, e.g. the Provincial Commissioners, Provincial Police Officers, Provincial Criminal Investigation Officers, District Commissioners in as many districts as possible and District Election Co-ordinators.
- ii. Generally created a presence of Anti-Corruption Police Unit in the provinces. This was meant to discourage and prevent corrupt activities.
- iii. Distributed IEC materials:
 - General anti-corruption brochures, posters, stickers
 - Copies of ECK Guidelines for Security officials (Police)
 - Summarized version of Election Offences Act. Cap 66 of the Laws of Kenya.
 - A handbill describing some election offences and corruption related offences, encouraging the public to report election offences and giving the telephone numbers that could be used for that purpose in each district.
- iv. Asked PPOs, PCIOs and DCIOs to ensure that there is a corruption report desk at each DCIOs office.
- v. Established contacts and working relations with District Election Coordinators, District Treasury and District Auditors.
- vi. Captured any existing information on election malpractices (e.g. from provincial and district information offices or from KNA)
- vii. Took immediate action on matters noted or reported to them.

Daily NATION

A publication of
Nation Media Group
No.13744

Nairobi, Thursday, May 6, 2004

KSh35/00 (TSh600/00 : US\$800/00)

Horizontal Farmers grow new malaria drug Initiative to challenge Government dependence on foreign technologies



57 police chiefs removed as Brig Ali strikes again

Commissioner moves to give force new face

By LUCAS BARASA

Fifty seven high-ranking police officers have been retired and others moved in the biggest shake-up of the force since independence.

The top level policemen sent home include deputy police commissioners, unit commanders and high ranking CID officers in different parts of the country.

Among those retired were North-eastern provincial police officer Tobias Senyei, director of planning Zebeko Onguti and Nairobi deputy provincial police boss Nicodemus Diffo.

Transferred in the changes were Mr David Kimani, director of operations, and Mr Peter Eregai, who was in charge of administration at police headquarters. Mr Kimani moves to the Office of Small

| RETIREMENT OR REORGANISATION | |
|------------------------------|--|
| No. | Name |
| 1. | 212370 S/DCP H Zebeko Onguti |
| 2. | 212690 DCP Toluwa Sanyal |
| 3. | 215636 DCP Nelson Holt Dipova |
| 4. | 212047 DCP George O Wieragi |
| 5. | 209712 DCP Peter Kimani |
| 6. | 211522 S/ACP Justice H Nyaga |
| 7. | 212098 S/ACP Stanley T Ndirangu |
| 8. | 214100 S/ACP Daniel Kimani Serem |
| 9. | 213565 S/ACP Samuel Sisi |
| 10. | 214004 Ag S/ACP Nicodemus Diffo |
| 11. | 214803 ACP Johnson Mburu Karari |
| 12. | 213943 S/CP Peter Shindoo |
| 13. | 213372 ACP Frederick Roshoo |
| 14. | 216223 SSP Daniel Chagoo |
| 15. | 211682 ACP Wilfred Kararia |
| 16. | 217437 SSP David Buzi |
| 17. | 214432 Ag ACP Peter Chavua |
| 18. | 215293 SSP Jonathan Cheuko |
| 19. | 211211 SSP Reuben Karari |
| 20. | 214852 SSP David Mwangi |
| 21. | 214918 SSP David Ngugi |
| 22. | 214099 SSP Wilfred Nduku |
| 23. | 213983 SSP Charles Mwanjui |
| 24. | 211537 SSP John Homari |
| 25. | 210907 SSP Joel Langat |
| 26. | 213727 SSP Charles Corio |
| 27. | SSP Christopher Hagee |
| 28. | 214902 SSP Titus Kariuki Mungu |
| 29. | 214101 SSP Joseph Mutuu Muryoo |
| 30. | 213788 SSP Yuhua Gadi |
| 31. | 217978 SSP Ronald Mwangi |
| 32. | 212028 SSP Benjamin Kusa |
| 33. | 213288 SSP Geoffrey Ngunjiri |
| 34. | 213222 SSP Peter Mwangi |
| 35. | 214210 SSP Hwangi Kimani |
| 36. | 213323 SSP Mwangi Adu. <i>Complete list inside</i> |
| 37. | 217184 AD SP Dundas Home |



INSIDE NATIONAL
Ministries owe KPLC Sh1.5b in power bills

BUSINESS
Financial Times business conference

| | |
|--------------------|-----------------|
| General News | 1-7,19,20, Back |
| Opinion | 8,9 |
| Letters | 10 |
| Goldenberg inquiry | 12-14 |
| World | 15-17 |
| Business | 21-24 |
| Sport | 48-51 |

INVESTIGATION Graft probe: Minister halts Sh2.7b contract

By MURIITHI MURIUKI

The Government has stopped the controversial Sh2.7 billion passports contract pending the outcome of investigations into the deal.

National Security minister Chris Murunguru said yesterday investigations into the project would be completed by the end of the week and the outcome would be made public "at the earliest possible time".

It moved to stem mounting public criticism of a contract for the purchase of passport issuing equipment, which was expanded from a Sh800 million project to one costing Sh2.7 billion then awarded to a French firm without competitive tender.

MPs have cast the deal as corrupt, with one suggesting "someone pocketed \$1 billion". Yesterday, Dr Murunguru said legal action would be taken against any Government official found to have been involved in improprieties in the contract.

"Let me assure this House that the Government is committed 100 per cent in the fight



Dr Murunguru

against corruption, and will not be involved in any cover-up," he said.

The minister, however, cautioned back-bench MPs, who heckled him as he responded on behalf of the Government, against imposing guilt on individuals until investigations were complete.

He said: "I know that there are some MPs who will always think that others are guilty. A thief usually thinks that everybody else is a thief like himself."

The matter of the passport came up immediately after question time, when leader of the Official Opposition Uhuru Kenyatta rose on a point of order to suggest that Parliament

Kizuri Chajiuza

Galsheet Dumbo Resincoat is 10% more expensive than ordinary colour coated mabat.

However, Galsheet Dumbo Resincoat lasts 2 times longer than ordinary colour coated mabat, hence it works out less expensive in the long run.

DUMBO RESINCOAT

The New Force in Coloured Flooring

Sales Office: (020) 32827000

6.1.2 Transport

Procurement procedures for hire of transport started late in most areas visited. In some cases, the required number of vehicles had not been obtained two or so days before polling day. According to some DEC's, this made them obtain vehicles without due regard to the laid down procedures. For instance, in at least one district visited, the DEC waived the Kshs. 1,000 non-refundable fee that was supposed to be paid for the application form. In Nyando, it was difficult to establish which method was used for procurement of vehicles. Other anomalies noted included:

- i. Use of vehicles not in the list of successful tenders
- ii. Payment of vehicle owners in cash, contrary to tender regulations which require tenderers to have bank accounts.
- iii. Non- formalization of contracts in respect of vehicles to be used during elections.

6.1.3 Equipment

- i. The ACPU teams observed excessive procurement of materials and equipment. In Kajiado for instance, there were 3 fax machines when only one telephone line was available. In some places visited, there were many computers that were not in use.
- ii. Lamps used in certain parts of the country were defective. This caused a lot of anxiety.

6.2 Recruitment

6.2.1 Recruitment process

Visits, discussions and enquiries made regarding the process and system of recruiting Returning Officers, Presiding Officers and polling clerks revealed the following:

- i. There appeared to be no checks and balances in the recruitment exercise. This was more evident in the recruitment of presiding officers and clerks.
- ii. There were no adequate arrangements to replace clerks who failed to take up their jobs.
- iii. In some places, the DEC's were responsible for recruitment while in other areas visited, it was done by Returning Officers.
- iv. There were allegations of bribery, favouritism, nepotism and interference by DEC's and RO's in recruitment. Some of these allegations were made in Kisumu Rural, Sabot, Chepalungu, Kericho, Mogotio, Garissa and Funyula. In certain areas, untrained clerks and presiding officers replaced trained ones even after the trained ones had been sworn in.
- v. In some cases where successful applicants failed to report, Returning Officers replaced them with hitherto unsuccessful but qualified applicants who were around, by asking them to choose from among themselves appropriate persons to fill the positions.
- vi. It was noticed that sometimes RO's failed to locally advertise recruitment of election officials.
- vii. It was alleged that in Kuria, the DEC was recruiting ex soldiers as polling clerks and security officers without

involving the OCPD. The ACPU team was able to intervene in time and advise against it.

6.3 Security

6.3.1 Polling stations, materials and election officials

Security personnel were posted to the polling centres together with the polling officials. In many parts of the country, police officers were on a 24-hour guard over the material delivered from ECK headquarters. From ACPU teams' observation and from what they themselves confessed, the ECK officials deployed for the exercise were provided with reasonable security throughout the exercise.

6.3.2 Deployment of security personnel

Meetings and interactions with PPOs indicated that they were prepared to do their best to provide adequate security for the polling officials, materials, observers and voters themselves.

On polling day, the security personnel were drawn from the Kenya Police, Kenya Prisons, Administration Police, National Youth Service and Kenya Wildlife Services. In most of the polling stations visited, there was, in the opinion of ACPU teams, adequate security to manage the queues.

In many polling stations, the requirement by ECK that the police remain unseen could not be implemented because the security officers felt the necessity for the visible presence to deter misconduct around the polling station. From what members of the public confessed, they greatly appreciated the presence of the visible and helpful security officers. On their part, the citizens were peaceful and orderly.

6.3.3 Complaints

There was a general complaint from the police officers on the number of officers that were to be paid for election duties.

The ECK indicated that they would pay only two officers per stream. The police however argued that there were other officers on standby duty e.g. in the radio room, anti-riot and patrol squads whom they claimed also provided security during the electoral process.

Some PPOs also felt that they were not consulted in determining the level of security necessary or involved in good time to enable them provide adequate security arrangements during the polling period especially in areas prone to banditry.

6.4 Behaviour

6.4.1 Candidates and their agents

- i. Discussions held with ROs, DECAs, PPOs, DCIOs and observation made by ACPU teams indicated that generally, candidates conducted themselves maturely. However, bribery by party candidates and their agents was alleged in many places. For example in Bungoma, it was alleged that a candidate was seen dishing out cash to a large group. Voter bribery was also alleged in other places in all the provinces.
- ii. There were cases of interference by some candidates and agents. Some of them were summoned to ECK in Nairobi for discipline.
- iii. In one constituency, ECK summoned all 3 parliamentary candidates for discipline.
- iv. In some instances, candidates were accused of violence and were also summoned by ECK for discipline in Nairobi.
- v. There were allegations of some parliamentary candidates who were engaged in violence in some areas. Innocent people caught in the process were seriously

injured. Fortunately, incidents of this nature were not very many.

- vi. Some of the underlying causes of violence that was reported appeared to have been a result of existence of some malpractices such as dissatisfaction with, or conflict of interests on, money offered for distribution by candidates and their agents.
- vii. Some agents in some areas arrived late and the voting process therefore started late. This might have affected the voter responses.
- viii. The open campaigns generally were low key and in Rift Valley it was attributed to the door-to-door method of campaigning that had been adopted.

6.4.2 ECK Officials

- i. Many of the DECs and other ECK officials acted professionally and gave useful information to the ACPU teams. Many demonstrated keenness for the desired peaceful, free and fair general elections. However, there were some ECK officials who did not appear to measure up to the required level of competence.
- ii. In some cases, it was observed that some ECK officials were slow in processing the voting activities.
- iii. Some DECS started using hired vehicles earlier than recommended and had already prepared payments for the vehicle owners even before the elections.
- iv. There were incidents where a few election officials demonstrated ignorance and lack of professionalism when they stuffed election materials such as lamps and rubber stamps into ballot boxes after the polls. Some ballot boxes were opened after being sealed. It was

alleged that the officials had not been properly trained. This was noted in Mogotio. A similar incident occurred in Nambale constituency and caused serious allegations of rigging.

6.4.3 Voters

- i. Voters were generally calm, mature and conducted their affairs peacefully. However, expectations of free money seemed high among some voters.
- ii. Where there were problems e.g. long queues, voters were generally patient.
- iii. Some voters waited calmly and patiently until the results were announced.
- iv. Many voters were given time off by their employers to go and cast their votes on polling day.

6.4.4 Security personnel

- i. In general, the teams observed that security agents conducted themselves maturely. They treated voters with courtesy. This was confirmed by intelligence gathered and the responses from the Post Elections Survey. Incidents of violence were few and far between.
- ii. In many places where intelligence was gathered on the possibility of heckling and violence, adequate security measures were put in place.

6.4.5 Peace committees

The peace committees comprised the DEC, OCPD and representatives from religious, women and youth organizations. Where the committees were active, it is believed that they generally contributed to the peace of the

area. In case of any conflicts, they encouraged dialogue to resolve the conflicts.

6.4.6 Elections observers

Some of the election observers encountered were from the European Union and Kenya Domestic Observer Programme. There was also a heavy presence of local and international media.

The teams observed that the election observers performed their role without apparent interference with the polling process. There were no complaints about their behaviour from members of the public.

6.5 Polling, counting and tallying of votes.

6.5.1 Polling process

- i. Provincial reports indicate that the polling process appeared peaceful and orderly. In many stations, queuing started as early as 5.30 a.m. Many stations however opened late due to heavy rains. In some areas the Presiding Officers also cited problems with lamps and lack of some materials e.g. fuel to transport materials.
- ii. In areas where the majority of voters were illiterate and needed assistance, the process was sometimes subject to abuse, intimidation and lack of confidentiality especially in the manner in which voters were asked to loudly declare their candidates.
- iii. There were many incidents where registered voters' names would not be found in the voters' register. This was noted in virtually all the places visited. However there was no arrangement to verify from the original registration document i.e. "The Black Book"

- iv. Some polling agents claimed to have registers that contained the “missing ” names. These registers were also supposed to have been obtained from ECK. This was reported in Garissa.

6.6 General observations

Irregularities, deficiencies and malpractices.

- i. There was deliberate flouting of regulations in application of procedures in tendering systems by some DEC's. This happened although ECK had provided clear guidelines.
- ii. In some areas, District Commissioners continued to chair District Tender Boards, which is contrary to the new regulations which require them to appoint a departmental head to chair the Board.
- iii. ECK procured excess materials and equipment in many districts.
- iv. Despite the numerous number of booths constructed with a massive amount of timber, there seemed to be no clear guideline on what was going to be done with the booths materials after the elections.
- v. Some registered voters' names were missing from voters register and some voters were therefore unable to vote. This was observed on polling day in many areas. The numbers were, however, not significant.

According to some DEC's, it appeared that the voters had not taken trouble to check and confirm that their names were included in the voters register prior to polling day.

- vi. In some of the polling centres, there was insufficient lighting in the early morning hours on polling day. The poor lighting made writing cumbersome for voters as they

filled the ballot forms. In one polling centre, there was a lot of anxiety when lamps were found to be defective after the area experienced a blackout at 6.00 p.m.

- vii. The importance of report desks seemed to have been down - played by some DCIOs. Not all areas visited had set up the desks. Neither had the information on their existence been well publicized as advised by ACPU teams. This could have attributed to the few number of matters reported to some DCIOs.

Some desks were set up hastily and late at the insistence of the ACPU teams.

- viii. Inadequacies were noted in the provision of reasonable security in some places. In such places the minimum requirement of two police officers per polling station could not be met.
- ix. It was observed that there were allegations of incidents of voter bribery and vote buying by candidates and their agents across the provinces. Media reports also indicated that some people supporting one of the presidential candidates dished out money in full view of journalists and T.V. cameras.
- x. There were allegations that in one constituency, a party agent was taking the names of voters together with the national ID and voting card numbers. It was alleged that such individuals were given Kshs.500 each.
- xi. In the same constituency it was also alleged that some people were being carried away in minibuses and pickups and taken to a place where they were given Kshs.500 each in exchange for their voting cards.
- xii. There were allegations that some government departments withheld voters' IDs as security for unpaid hospital bills

thus denying the voters a chance to vote. This was alleged in Manyatta constituency.

- xiii. Some polling clerks did not appear competent in their work.

7.0 CONCLUSIONS

ACPU's main objective was to play its part in enhancing integrity in the general elections by helping prevent corruption and enforcing the law against corruption. Arising from this assignment, the following conclusion are made:

1. ECK appeared generally well prepared for the elections.
2. Law enforcement agents were ready and able to ensure security during the election process.
3. The joint consultative meetings that the ACPU multi-disciplinary teams held with security personnel and DEC's increased their preparedness to act professionally to prevent corruption and other malpractices during the elections.
4. ACPU's presence and advice may have deterred some official malpractices.
5. ACPU's encouragement to the public to report any corruption or corruption related election malpractices might have discouraged at least some would be offenders.
6. The high number of illiterate voters as was observed in some areas may have contributed to irregularities as the voters could have been led to vote for a candidate who was not of their choice.
7. The teams took corrective action on noted or reported malpractices by reporting the anomalies and allegations to the

DCIOs for follow up action. Some cases were taken up by OCPDs for further investigation and others ended up in court.

8. The teams were able to cover all the districts and constituencies they intended to cover. This was possible despite the bad weather experienced and difficult terrain some parts of the country.
9. Judging by the high voter turn out, it seemed that awareness of, and commitment to the elections was very high.
10. From the teams' observation, the elections were generally peaceful, free and fair. The counting and announcing of votes at the polling centres increased transparency and reduced chances of rigging.

8.0 RECOMMENDATIONS

Following the visits, deliberations, enquiries and observations by the ACPU teams during the entire exercise, the Task Team would like to make the following recommendations:

Electoral Commission of Kenya

1. ECK can in future ensure that guidelines on procurement are well understood by their officers on the ground. They should also ensure that the guidelines and directives are obeyed to avoid the irregularities that were observed. The processes should also be initiated early enough to avoid contravention of the laid down regulations and procedures.
2. ECK should find ways and means of preserving the booths (or the materials used to make them) so that they can be used again in future general elections. They should further consider use of booth material that is reliable and easier to transport and store. A proper inventory of all election equipment and election materials held in all offices should be ensured.

3. Recruitment of presiding officers, their deputies and polling clerks should be done in a transparent manner to avoid bribery and abuse of office by returning officers.
4. ECK should broaden their recruitment base by hiring new Returning Officers and Presiding Officers to avoid using the same individuals over the years.
5. Proper guidelines on recruitment and payment of election and security personnel should be provided and strictly enforced before the elections process.
6. The issue of missing voter's names in the voters' register is critical and should be adequately addressed. It is thus recommended that ECK harmonizes their register with the Black Book and other registers used at polling stations to prevent voter disenfranchisement and discontent.
7. By capturing information directly from the births and deaths register, the updating of voters register can be continuous.
8. With adequate computerization, it is possible for people to vote from anywhere. This would enable even the security personnel to vote.
9. ECK and other stakeholders, especially the education system, should find ways of enhancing civic and voter education for the public so that they can appreciate the importance of the electoral process.
10. It is imperative that ECK considers more involvement of security personnel in the electoral process. Their involvement can greatly contribute to collecting useful intelligence for carrying out investigations for the purpose of preventing and acting on any malpractices.

Anti-Corruption Police Unit

11. There is urgent need for the national anti-corruption agency to form a team to carry out a post audit exercise to confirm usage of allocated resources in all districts, particularly in areas where anomalies were noted to be likely to occur.
12. The exercise of enhancing integrity of the elections, including setting up the physical monitoring machinery should start early enough, possibly at the nominations stage or earlier.
13. ACPU needs to make a follow up with DCIOs to ensure that action is taken on reported matters from each district.

Treasury

14. Treasury should set up an audit team to conduct pre-auditing and post-auditing to avoid massive loss of resources.
15. Treasury should urgently check to confirm that all field officers are complying with current regulations especially in regard to composition of Tender Boards and their operations.

Commissioner of Police

16. Security personnel should be sensitised on relevant statutes and compelled to obey the statutes regarding electoral malpractices.

Appendix i

TASK TEAM MEMBERS

1. Dr. John H. O. Orora - Chairman, ACPU
2. Mr. G. M. Muketha - Vice Chairman, ACPU
3. Mr. J. O. Omollo - ACPU
4. Mrs. L. W. Kariuki - ACPU
5. Mr. J. K. Barsito - ACPU
6. Mr. C. A. Opondo - ACPU
7. Engineer M. Muchiri - ACPU
8. Mr. J. K. Mulinge - ACPU
9. Mr. J. Mue - ACPU
10. Mr. S. G. Mng'ong'o - ACPU
11. Mr. J. Wachanga - Secretary, ACPU
12. Mr. S. J. Tuta - Assistant Secretary, ACPU
13. Mr. Hamisi Mwarua - CID Headquarters

Appendix ii

FIELD TEAM MEMBERS

I. North Eastern

1. Engineer N. N. Gekonge - ACPU, Team Leader
2. Mr. Ezekiel Maru - ACPU
3. Mr. Carey Nyawinda - ACPU
4. Mr. Jimmy Mwithi - ACPU
5. Mr. A Odino - Treasury
6. Mr. M. Abdile - ACPU, Driver

II. Nairobi

1. Mr. Kairichi Marimba - ACPU, Team Leader
2. Mr. George Makembo - ACPU
3. Mrs. Scholastica Muriithi - ACPU
4. Mrs. Emily Chege - ACPU
5. Mr. R. Birir - ACPU
6. Mr. J. K. Tuta - ACPU
7. Mr. Muthama - ACPU, Driver

III. Coast

1. Mr. Micah Nguli - ACPU, Team Leader
2. Engineer M. Muchiri - ACPU
3. Mr. Peter Ogega - ACPU
4. Mr. P. C. Opiyo - ACPU
5. Mr. Ruchu - Treasury

IV. Eastern

1. Mr. Christopher Opondo - ACPU, Team Leader
2. Mr. John Mulinge - ACPU
3. Mr. Samuel Bwana - ACPU
4. Mr. Gideon Musya - ACPU
5. Mr. Joseph Gikonyo - ACPU
6. Mr. John Njagi - Treasury

7. Mrs. Stella Mativo - Treasury

V. Rift Valley

1. Mr. G. M. Muketha - ACPU, Team leader
2. Mr. Hussein Were - ACPU
3. Ms. Faith Basiye - ACPU
4. Mr. J. Mworia - ACPU
5. Mr. M. Kiboro - ACPU
6. Mr. M. Muhia - Treasury
7. Mr. M. Ochwando - Treasury

VI. Central

1. Mrs. Leah Kariuki - ACPU, Team Leader
2. Mr. Joseph Gitonga - ACPU
3. Mr. Andrew Soi - ACPU
4. Mr. John Imanene - ACPU
5. Mr. Stephen Mureithi - ACPU
6. Mrs. Esther Ngeru - Treasury

VII. Western

1. Mr. John Mwachai - ACPU, Team Leader
2. Mrs. Winnie Ogunde - ACPU
3. Mr. Tom Mecha - ACPU
4. Mr. Fuad Mbarak - ACPU
5. Mrs. Mary Nthuku - Treasury

VIII. Nyanza

1. Mr. Sam Karianjahi - ACPU, Team Leader
2. Mrs. Mary Kąbaru - ACPU
3. Mr. J. O. Omollo - ACPU
4. Mr. S. Munguti - ACPU
5. Mrs. Eunice Hinga - ACPU
6. Mr. Kipruto Rono - Treasury
7. Mr. J. Orina - Ministry of Lands

IX. Public Relations

1. Mrs. Veronica Kingoina - ACPU, Team Leader
2. Mr. Kaplich Barsito - ACPU
3. Mr. John Munga - ACPU
4. Mr. Michael Mwaniki - ACPU, Driver

The team compositions above refer to Phase Two of the exercise although majority of the officers had also participated in Phase One.

The following officers participated in Phase one only:

1. Mr. Daniel T. Ndungu - Team Leader, Central
2. Dr. J. H. O. Orora - Team Leader, Nairobi
3. Mr. Alphonse Bulinda - Team Leader, Nyanza

- viii. Conducted joint consultative meetings with PPOs, PCIOs, DCIOs, OCPDs, RCs, SRCs, and District Election Coordinators in each province.

In the meetings there were presentations and discussions on the following 3 topics:

- a) What counts as malpractices in the electoral process
- b) Review of prevention and enforcement strategies
- c) Way forward

The aim of the meetings was to sharpen the officers' sensitivity to, and recognition of, election offences and to encourage them to do their part in preventing malpractices from taking place and to effectively deal with any offences.

5.3 Phase 2

It was during this phase, that the teams were further enriched and strengthened by the inclusion of officers from Directorate of Internal Audit and from Directorate of Public Procurement.

The officers were able to:

- i. check and ensure that the corruption report desks were in place at DCIOs offices and that appropriate officers had been assigned the duty of manning each of them.
- ii. gather intelligence through interaction with various people including PPOs, PCIOs, DCIOs, OCPDs, and other senior police officers, DEC, ROs and members of the public.
- iii. gather data before and after the elections for analysis of people's perceptions on the conduct of the elections.

6.0 FINDINGS

The findings in this report are based on interviews, observation and intelligence gathering through interaction with security personnel, ECK officials and members of the public.

Some further information also emerged as the teams gathered survey data. (The full analysis of the data collection forms a separate report.)

The following are some of the general and specific findings from the different provinces.

6.1 Procurement

There were a number of goods and services that had already been procured for the general elections. These included polling booths, transport, equipment and other materials. In many districts, it was observed that there was lack of harmony between the District Commissioners, Procurement Officers, District Treasury and DEC's on procurement matters. In some areas such as Nyandarua and parts of Rift Valley, District Commissioners were still chairing District Tender Boards, contrary to current procurement regulations. Below are some irregularities that were noted in procurement:

6.1.1 Polling booths and other elections materials

- i. There were instances where pricing and submission of quotations for booths exceeded the ECK ceiling of kshs.1000.
- ii. There was a case where minutes awarding tenders were falsified. The District Internal Auditor from the concerned district confirmed the irregularities and promised he would avail a post audit report to ACPU.
- iii. There was excess supply of heisan cloth and complete polling booths in some areas.