



## **Electoral Politics and Election Outcomes in Kenya**

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### **Abstract**

Kenya has held presidential, parliamentary and local government elections every five years since independence in 1963 in accordance with the country's constitution. For most of the independence period the country operated a one party system of government. This was brought to an end in 1992 when the country reverted to multi party democracy following an amendment to the relevant section of the presidential and National Assembly Elections Act. The change from one party to multi party system affected both the administration and legal environments in which elections occurred. Other factors that affected elections include ethnicity, clanism, nature of political parties, personality of individual politicians and in some cases religion. Voter turn out has been particularly high during multi party era and particularly more during the elections of 2002. This was due to two factors. First was the opposition unity prior to the elections and secondly the fact that Kenyans had the opportunity to elect a new president after 24 years of rule by President Moi. Moi had served his last term in accordance with the changes made to the relevant provisions of the presidential Elections Act in 1992, which for the first time limited presidential term to two five-year terms. Future elections are likely to be influenced by similar complex factors discussed in this paper.

### **Résumé**

Le Kenya a toujours tenu des élections présidentielles, parlementaires ainsi que des élections de renouvellement du gouvernement local tous les cinq ans depuis l'indépendance en 1963, conformément à la constitution du pays. Durant la majeure partie de la période d'indépendance, le pays a adopté un système gouvernemental à parti unique. Cette situation a changé en 1992, lorsque le pays s'est remis à la démocratie multipartite suite à l'amendement de la section concernée de la Loi sur les Elections présidentielles et celles de l'Assemblée

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Nationale (*Presidential and National Assembly Elections Act*). Le passage d'un système à parti unique à un système multipartite a bouleversé l'environnement administratif et juridique au sein duquel se déroulaient les élections. D'autres facteurs ont également exercé une certaine influence sur les élections, tels que le clanisme, la nature des partis politiques, la personnalité des hommes politiques au niveau individuel, et dans certains cas, la religion. La participation aux élections a été particulièrement forte durant la période d'élections multipartites, particulièrement lors des élections de 2002, ce qui s'explique par deux facteurs. Le premier est l'unité de l'opposition avant la période des élections ; le second est le fait que les Kenyans aient eu l'opportunité d'élire un nouveau président après 24 ans de règne du Président Moi. Moi venait d'achever son dernier mandat, conformément aux modifications des dispositions de la Loi sur les élections présidentielles (*Presidential Elections Act*) de 1992, qui, pour la première fois, limitait le mandat présidentiel à deux mandats de cinq ans. Les élections futures risquent fort d'être influencées par les mêmes facteurs complexes précités dans cet article.

### **Introduction**

This paper discusses electoral politics in Kenya with the focus on the factors that have shaped and influenced the country's elections and election outcomes. The discussion is confined to presidential and parliamentary elections and takes into account the wider socio-political environment in which elections have been held. The political environment includes the constitutional and legal framework that governs elections as well as the administrative environment, which includes the rules and regulations governing the management and conduct of elections. These elements in the political environment are bound to impact on the way electoral politics occur (Cowen and Laakso 1997), voter turn out, voter choices, as well as the functions performed by elections. They also shape the forces – the type and quality of actors in the electoral process. The paper examines elections held in the postcolonial period, under both the single party and multiparty regimes. First, I argue that in a political environment where the electoral playing field is even and facilitates free and fair elections the results may be regarded as an expression of the wishes of the voters. Second, when the elections are inefficiently and incompetently managed their validity and credibility are always contested. Indeed poorly managed elections cannot pass the test of being free and fair. Finally, I argue that a combination of factors have shaped electoral politics and election outcomes in Kenya.

### **Elections and democracy: A theoretical framework**

There is considerable body of theoretical and empirical literature on elections (Hogan 1945; Lakeman 1974; Mackenzie and Robinson 1960; Macpherson

1966; Hume 1975; Moyo 1992; Cowen and Laakso 1997; Oyugi 1997; Wanjala 2002; Mittullah 2002; Wanyande 2002) covering elections in both the developed and developing democracies, and which identifies several functions performed by elections in liberal democracies. In general, the literature on elections in Africa pays scanty attention to the factors that influence voter turnout though this is very important for understanding any election. In this section of the paper I sketch the theoretical framework for discussing the functions of elections and the factors that influence voter behaviour and turnout.

Competitive elections are the most democratic means for recruiting leaders to represent the electorate in governance institutions. According to Hogan (1945), Western Europe adopted elections to recruit political leaders in the fourteenth and fifteenth centuries; the method has since been institutionalised as a means to legitimise leaders and governments in liberal democracies (Moyo 1992; Lakeman 1974). Of equal importance is that elections provide the electorate with an opportunity to participate, even if only indirectly, in governance or influence the way they are governed. Dye and Ziegler (1990: 209-211) It is assumed that the mere knowledge that one can be voted out in a future election is enough to make representatives responsive and accountable to the electorate. In countries like Kenya, where the unofficial roles of MPs are accorded greater prominence than their official legislative functions, auditing the performance of an MP becomes quite tricky. Some voters may give priority to subjective and mundane considerations – such as how generous the representative might be – more than substantive issues regarding the MP's representative role. Many others may not even be aware that the effectiveness of a representative may be affected by the political regime in which he or she operates. Surely there are other functions such as facilitating the capture and consolidation of state power (Oyugi 1997: 48), but these are closely related to the legitimation function of elections. Because state power confers many advantages, Kenyan elections even under one party rule were hotly contested and are usually characterised by accusations of rigging and unfairness in the electoral process. The election petitions that are lodged in the courts of law by those who lose the contest (see Table 1) attests to the numerous election petitions that were lodged after elections held between 1969 and 1992 when multiparty politics was re-introduced in Kenya

**Table 1:** Election petitions between 1969 and 1992

Year	Petitions	Allowed	Rejected
1969	6	1	5
1974	21	5	16
1979	7	4	3
1983	11	4	7
1888	20	3	16
1992	40	4	29

Source: IED *Election Data Book*, 1963-92<sup>1</sup>

For elections to serve their democratic functions they must be free and fair. The extent to which elections are free and fair is of central concern particularly to countries struggling to democratise political life and establish multiparty political and electoral systems (Mitullah 2002: 121). Indeed contemporary election observers have the tendency to use the extent to which elections are free and fair as a yardstick for measuring whether or not and the extent to which elections are democratic. Free and fair elections can be achieved in situations in which the various civil liberties commonly associated with liberal democracy are respected and protected (Mackenzie 1958; McPherson 1966). There should also be an independent judiciary, an honest, competent and non-partisan electoral body, a well developed multiparty system, and a general acceptance within the political community of certain rules of the game without which there would be no democratic elections. One of the best ways of creating an efficient administrative system for delivering free and fair elections is to establish an electoral commission that will enjoy a large measure of autonomy and independence from the central government (Mackenzie 1958; Hogan 1945 Lakeman 1974). Of course this is possible only in a conducive legal environment. The cumulative effect of a positive political, institutional and legal environment is manifested by the diligence with which the electorate participate in the electoral process.

### **Elections in Kenya**

Kenya has held nine presidential, parliamentary and local/municipal elections since attaining independence in 1963. In between these elections the country has also held a number of by-elections occasioned by the loss of a seat by a sitting MP or councilor for a variety of reasons. In 1966 for instance, the country went through what is referred to as the 'Little General Election',

which was occasioned by the resignation of several MPs from the then ruling party, the Kenya African National Union (KANU), to form the first opposition party in independent Kenya, the Kenya Peoples Union (KPU). The then vice-president Jaramogi Oginga Odinga led the defections. The 1963, 1969, 1974, 1979, 1984 and 1988 elections were conducted under one party rule. The 1992, 1997 and 2002 elections, on the other hand, were conducted under a multiparty regime.

Under the one party regime, the ruling party sponsored all the candidates. Nomination of candidates was also controlled and conducted by a clique of powerful party politicians who ensured that only those politicians acceptable to the regime were nominated and subsequently elected. Voters therefore did not have much influence on who was nominated and who became a candidate for election to parliament. There was the widespread belief that in some constituencies, the election was rigged in favour of pro-establishment candidates. Consequently elections turned out to be a mere formality conducted periodically to serve basically three functions. First they were instrumental in confirming ruling political elites in power and facilitating their bid to consolidate their power. It must be admitted however that on the whole the nominated candidates always engaged in a fierce electoral contest. The elections were thus mainly a selection exercise in which individuals considered to be politically acceptable to the regime were given the mandate to represent the people. The choice was even more restricted in the case of presidential elections. Only one presidential candidate was presented to the electorate. This was in line with the practice by which the party president would also be the party's presidential candidate. There were no primaries for presidential candidates. No wonder that President Jomo Kenyatta was elected unopposed throughout his presidency and relinquished power only upon death in 1978. Second, one party elections served to legitimise what was to all intents and purposes an authoritarian rule: the leaders used the elections to claim legitimacy. This point ought to be understood against the background that every government irrespective of how it comes to power seeks to gain some legitimacy in the eyes of both the domestic and international community. Third, the regularity with which Kenya held elections was often cited by the pro-establishment politicians as proof of how democratic the country was. It did not matter that the elections were neither free nor fair as they were managed by civil servants on behalf of the government. As the Institute for Education in Democracy (IED) observed:

By 1969, the role of the Electoral Commission had become blurred. Most of its functions, such as registering voters and supervising the conduct of elections, were placed under the control of the non-constitutional post of

Supervisor of Elections in the office of the Attorney General. The Electoral Commission was renamed the Electoral Boundaries Review Commission and restricted to the role of reviewing electoral boundaries and determining the number of constituencies and their names. It is not clear how these changes emerged, but they had the effect of bringing the supervision of the electoral process under the control of the government.

Because of the undemocratic nature of elections under a one party regime, voters did not use elections to determine the quality of their representatives in terms of their performance. Thus even though several politicians lost their seats in various elections, there is no clear evidence that this was caused by voters' voluntary decision to vote them out. Some of the losers may have been rigged out by the ruling party because they were considered no longer useful. In this regard I find plausible the observation by IED that 'the use of the state's administrative apparatus introduced partiality into the electoral process, especially against those considered by the government to be anti-establishment' (IED 1997: 11). The KANU government's refusal to allow Oginga Odinga and his former KPU colleagues to contest the 1983 and the 1988 elections is a good example of how the voters' right to choose was limited under the single party regime. Yet these politicians were very highly regarded in their constituencies but were barred from contesting the elections on the pretext that they had been disloyal to the Kenyatta regime. This was so despite the fact that Jomo Kenyatta had been replaced in 1978.

### **Voter turnout in Kenyan elections**

Voter behaviour in Kenya has been influenced by a variety of factors. As Table 2 shows, under the one party regime, voter turnout was quite low while it was quite high in the multiparty elections of 1992, 1997 and 2002. Two factors could account for this. First, in the case of the 1992 elections, there was considerable excitement with the return to multiparty elections. The country had just reintroduced multiparty politics after almost 30 years of one party authoritarian rule and after a very intense struggle by pro-democracy forces. Kenyans were thus determined to express their newly won political freedom in a massive turnout at the polls. Second, Kenyans were hopeful that the elections would be free and fair, and that their vote would influence the outcome of the election. In the case of the 1997 elections, however, there was a large voter turnout because the electorate was determined to vote out the KANU regime which they blamed for the worsening economy and poor governance. Furthermore, the constitutional amendments on the conduct of elections that had been successfully negotiated by the Interparties Parliamentary Group (IPPG) in that year assured the electorate that the elections would be free and fair.

**Table 2:** Presidential voter turn-out in the 1992, 1997 & 2002 elections

Province	Year	Reg. Voters	Voted	% Turnout
Nairobi	1992			
	1997	720305	375616	52.1
	2002	884135	371371	42
Rift Valley	1992			
	1997	2145505	1661546	77.4
	2002	2383586	1463597	61.4
Eastern	1992			
	1997	1344511	1065626	79.3
	2002	1642454	1067241	65.0
Coast	1992			
	1997			
	2002	879807	376603	42.8
Nyanza	1992			
	1997	1334827	932990	69.9
	2002	1555986	900621	57.9
Western	1992			
	1997	1019455	721483	70.8
	2002	1202104	695517	57.9
N. Eastern	1992			
	1997	165782	93398	56.3
	2002	216336	125859	58.2
Central	1992			
	1997	1340186	1012551	75.6
	2002	1611590	1033339	64.1
National	1992			
	1997	8773177	6278932	71.6
	2002	10375998	6034148	58.2

Source: Compiled from records of the Electoral Commission of Kenya.

The high voter turnout in the 2002 elections may also be explained by the same set of factors. As early as 1992 Kenyans had called for the unity of the opposition as the most effective strategy for removing KANU from power. However, the opposition remained divided until the 2002 elections. The achievement of opposition unity in the run up to the 2002 elections encouraged the electorate to turn out in large numbers. Second, it was clear that the incumbent president was barred from seeking another term by a constitutional amendment in late 1991 which restricted presidential tenure to two five years terms. The voters were thus determined to influence who would become their next president. Third, prior to the 2002 elections, the leading politicians from a number of major ethnic communities had signed a Memorandum of Understanding (MoU) by which they agreed to form a coalition government if they won the elections, and also equally share cabinet positions between the two major political groupings in the coalition, namely the National Alliance Party of Kenya (NAK)<sup>2</sup> and the Liberal Democratic Party (LDP).<sup>3</sup> This is the arrangement that gave birth to the National Rainbow Coalition (NARC) which went on to win the 2002 elections. The MoU also provided that the President, the Vice President, second and third Deputy Prime Ministers would come from NAK, while the LDP was to get the positions of Vice President, the Prime Minister, the first Deputy Prime Minister and Senior-coordinating Minister.<sup>4</sup> This power-sharing arrangement, based on ethno-regional representation, generated considerable excitement and interest among the electorate as it gave each of the major ethnic groups a stake in any future Kenya government. The high voter turnout was to ensure that this arrangement bore results.

A few observations about Table 2 are necessary. First, even though the figures are for presidential elections they also reflect votes cast for the parliamentary and local elections, because presidential, parliamentary and local elections are held simultaneously. The second observation is that even though the turnout for 1997 is higher than that of 2002, the figures for both elections are quite high by international standards.

### **Factors influencing Kenyan elections**

Electoral behaviour is a function of a variety of factors. The factors that influence the electoral process differ from country to country. Voter behaviour in a multiparty environment also differs from voter behaviour in a single party environment. Also the influence of such factors may be more pronounced in some constituencies than the others.

Elections in Kenya are highly politicised. They are the occasion when virtually every adult Kenyan shows keen interest in the country's public affairs, thereby exposing themselves to a wide range of influences. This segment of



the paper focuses on ethnicity, clanism, religion, party affiliation, gender, the management of elections, corruption including the use of money, level of political awareness, and the constitutional and legal environment in which elections are conducted.

### ***Ethnicity and political party support***

There is consensus in the literature on the influence of ethnicity in Kenyan politics. (Oyugi 1997; Jonyo 2002, 2003). According to Jonyo, the reference point in Kenyan politics is ethnicity disguised as party politics (Jonyo 2002: 96). Oyugi (1997) who has conducted several studies on ethnicity and elections in Kenya observes that: 'Many Kenyans believe that tribalism (read: ethnicity) is a canker which is deeply lodged in the Kenyan body politic. Yet the same people are usually reluctant to make it a subject of discussion across ethnic boundaries because of its emotive force: it is always other people's problem and not ours' (Oyugi 1997: 41). The effect of ethnicity on voter behaviour and consequently election outcome is most evident in presidential elections, in parliamentary elections held in constituencies encompassing settled areas,<sup>5</sup> and in urban constituencies. Ever since the restoration of multiparty politics in 1992 virtually every major ethnic group<sup>6</sup> has fielded a presidential candidate and gone on to vote for one of their own. This has been driven mainly by the belief that having one of your own as president increases the community's chances of attracting more public resources for development. As Jonyo (2003) observes:

The ethnic elites from the president's ethnic group are assured of plum jobs from which huge kickbacks are drawn and lucrative government contracts won. Moreover, these elites can borrow big loans from state owned banks and other friendly banks without the threat of penalties for defaulting on the repayment, since they enjoy protection against drastic recovery mechanisms. (Jonyo 2003: 166).

It is important, however, to note that not everybody or even the majority of people from the president's community benefit from the patronage politics associated with the presidency. In most cases it is a few individuals from the community who are appointed to high public offices. Selected elites from other ethnic groups are also given appointments to public positions out of political expediency. Yet each ethnic group tends to vote for one of their own, especially for the office of the president. Significantly, whenever a person from an ethnic group outside the president's own is sacked from public office, the dismissal is interpreted as punishment for the whole ethnic group and a loss of access to development projects or presidential patronage.

The power of ethnicity in Kenyan elections was perhaps best demonstrated in the ethnic clashes that rocked parts of the country in the run up to the 1992 and 1997 elections. In 1992 members of the Kikuyu, Luo and Luhya communities living in some parts of the Rift Valley Province were violently evicted from their settlements by the Kalenjin and Masai communities who claimed to be the indigenous and therefore rightful owners of all lands in the Rift Valley. The rhetoric notwithstanding, that action was a politically strategic move designed to displace the so-called alien communities so that they would not register for the elections scheduled for December 1992. Rift Valley was home of the then President and also a KANU stronghold. By contrast, the target communities were mainly supporters of the opposition parties. They had to be disenfranchised lest they voted against KANU's Daniel Arap Moi to deny him the 25 percent of the votes cast in the Rift Valley province.<sup>7</sup> One report indicates that 'at least 300,000 Kenyans were displaced in the so-called KANU zones in the rift Valley... and that most of them were not able to participate in the elections' (IED Report 1997 Election : 181). The clashes in the Coast province in the run up to the 1997 elections targeted the upcountry people, primarily Kikuyu and Luo residents. These communities were viewed as opposed to KANU, and residing in an area which was then considered a KANU stronghold. As in 1992, the regime hardliners were behind the attacks, a fact that was underscored by orders to the army not to intervene (Chege and Barkan 1999: 189).

Closely related to ethnicity in shaping electoral behaviour and election outcomes is party politics. The importance of political parties in Kenya's electoral process is underscored first by the fact that to be a candidate for elections one has to be a member of a political party. The current constitution has strengthened the role of political parties by not recognising independent election candidates. Nationwide political parties were first formed in Kenya during the dying years of colonial rule.<sup>8</sup> The dominant parties were KANU and KADU. In the first elections held in 1963, KANU won and was able to retain power until 2002, when it was voted out by a coalition of parties known as the National Rainbow Coalition (NARC). The colonial political movements that later transformed themselves into political parties were ethnic-based, at least at two levels. First the political parties were conglomerates of district-based political and welfare parties and associations, each of which had a tribal membership. It was these ethnic associations and organisations that came together to form the then two dominant political parties, namely KANU and KADU in 1960. As a consequence, KANU drew the bulk of its support from the Luo, Kikuyu and Kamba tribal political organisations. KADU on the other hand drew most of its support from the Luhya, Kalenjin and Maasai tribal political organisations or welfare associations. The ethnic character of

political associations in the pre-independence period has continued to influence party politics even after independence. This influence is very visible during election time when each party enjoys open support from members of a particular ethnic group, usually the group whose son or daughter leads the party or founded it.

Ethnic-based party formations have often been employed as a strategy to bargain for power. In the run up to the 2002 elections, for example, ethnic groups used their parties to bargain with regard to the power-sharing formula that led to the signing of the now infamous Memorandum<sup>9</sup> of Understanding (MoU) among the different political parties that make up the National Rainbow Coalition. The Luo community used the LDP to bargain with the other NARC member parties while the Luhya used Ford Kenya. The Kalenjin have recently stated publicly that they wish to form a party of their own in readiness for the next general elections scheduled for 2007, having concluded that their political fortunes would be enhanced if they had a party of their own. Other regional politicians appear to have been inspired by this bold declaration by the Kalenjin to give serious consideration to the possibility of forming their own political parties in readiness for the 2007 elections.<sup>10</sup>

There is clear evidence, especially since the restoration of multiparty elections, that Kenyans vote along ethnic lines – that Kenya's ethnic communities tend to vote for the political party they consider their own. This was evident in the 1992 and the 1997 elections. In the 1992 elections all Luo MPs won on the ticket of FORD Kenya, a party that was then led by Oginga Odinga, a Luo. In 1997 all but two<sup>11</sup> Luo MPs won on the ticket of the National Development Party (NDP) led by Raila Odinga, also a Luo. By this time Oginga Odinga had died and the leadership of FORD Kenya had gone to Michael Wamalwa, a Bukusu, after a fierce leadership struggle with Odinga's son, Raila. The Bukusu occupy Bungoma. As a result of this most MPs from Bungoma district were elected on a FORD Kenya ticket while, as already mentioned, the Luo had shifted their support to the NDP led by one of their own. KANU obtained most of its support from the Rift valley province where Moi, its chairman, originated. The Democratic Party (DP) led by Kibaki on the other hand, got most of its support from Central Province, Kibaki's home province.<sup>12</sup> The ethnicisation of party support is due partly to the fact that elections in Kenya have, on the whole, not been issue-based.

The influence of ethnicity was again evident in the 2002 elections, but in a different manner from the dimension it had taken in the previous elections. As explained above, the MoU was the framework for ethnic bargaining. On the basis of the agreements reached between leaders of the various ethnic-based political parties, and spelt out in the MoU, the electorate was willing to vote for the presidential candidate chosen to lead the NARC of the united

opposition irrespective of the candidate's ethnic background. It was on the basis of this that Kibaki was able to get overwhelming support as the opposition presidential candidate. It is also significant that the Kalenjin voted overwhelmingly for Moi's proxy candidate, Uhuru Kenyatta, who contested the elections as the KANU presidential candidate. The Kalenjin must have hoped that they would be able to control Uhuru Kenyatta should he win the elections. Also, the Kikuyu from Kiambu district voted overwhelmingly for Uhuru Kenyatta precisely because he was a Kikuyu from that district. All the MPs from Kiambu, except one, also stood on a KANU ticket. Furthermore, all the Kisii MPs, for example, were from FORD PEOPLE; a party led by Simeon Nyachae, himself a Kisii. Nyachae was a presidential candidate and the Kisii had hoped that he would win the presidency; hence their solid support for him and the candidates on his party ticket. They must have considered that he would mobilise enough political leverage for bargaining even if he lost the polls. The ethnicisation of party politics explains why candidates sponsored by the Liberal Democratic Party (LDP) led by Raila Odinga, a Luo, represent all the 18 parliamentary constituencies in Luo Nyanza. Odinga is regarded as a champion of Luo interests at the national level. The Abagusii too have all their MPs from the Ford People's Party. Similarly virtually all the Kalenjin MPs are from KANU, the party that ruled the country for almost forty years, twenty four of which were under Moi, himself a Kalenjin.

In very rural constituencies a combination of ethnicity, clanism, religion and the influence of individual politicians shapes the choices made by the electorate. A candidate from a particular clan will tend to get votes from his or her clan. In some constituencies members of a particular religious group or sect tend to support the candidate who belongs to their group. Although the influence of such factors is not easy to determine, it is an open secret that some candidates base their decision to contest particular seats on the prospect of securing the support of members of their clan, religious group or sect, etc. This is usually the case where a candidate hails from a large or the largest clan in the constituency. In the run up to the 2002 elections, for example, the mainstream daily newspapers in Kenya gave such primordial identities as a major factor that would favour or disadvantage certain candidates in particular constituencies.<sup>13</sup> In Ugenya constituency, the current MP enjoys almost total support from members of the Legio Maria sect of which he is the Archbishop.

In many cases other factors combine with religion, clanism and ethnicity. In Luoland many MPs were elected mainly because of the support from the influential Raila Odinga, who is highly respected in the Luo community. He has been able to use this support to sponsor candidates in different constituencies in Luoland just as his late father Jaramogi Odinga did.

The MP for Ugenya, for example, won the election due largely to the perception that Raila supported him. The alternative candidate, Nyamodi, has had a history of false starts and so would not be trusted. Personality is however not a major factor in many constituencies or regions of the country.

### **Gender and elections**

Gender did not become a significant factor in Kenyan elections until the 1990s. Up to that time it was probably assumed by all and sundry that politics was an exclusive male domain. Many considered the few women that ventured into politics in the 1960s and even 1970s as an aberration. Also, there is no evidence that such women engaged in electoral politics on a gender platform: they simply considered themselves as politicians like their male counterparts. Since the late 1990s however, a combination of factors has brought gender to the forefront of Kenya's electoral politics.

One of the factors that brought gender to the fore of electoral politics is the activities of women's organisations that became prominent following the opening up of the political space in the early 1990s. Maria Nzomo has argued that until then 'Kenyan women's struggle for... empowerment has (been)... constrained by the absence of a strong women's movement... Women should therefore, strengthen their organizations and intensify their effort to bring about substantial changes'. (Nzomo 1993: 14-15) The women's organisations that have effected changes in Kenyan politics include the National Commission on the Status of Women, (NCSW), the Women Political Caucus, and the Gender Forum. They sensitised women to the need to participate in electoral politics as a way of enhancing their influence on public affairs. Through their effort women demanded affirmative action. For example, they demanded that 30 percent or one-third of all parliamentary seats be reserved for women, which has now been incorporated in the draft constitution that is being debated at the National Constitutional Conference. As a result of these efforts gender has become a major electoral issue since the 1980s, with many more women venturing into electoral politics. Further, many women have been attracted to local government elections. Table 3 shows the number of women who have vied for parliamentary elections and those who have been elected to parliament since independence in 1963.

A few observations must be made about these data. First, apart from the sudden drop in 1983 and 1988, the number of women candidates elected to parliament has generally been on the increase since 1969, when the first woman parliamentarian was elected. The number of successful women candidates picked up again in 1992 and has continued to rise since then, reaching its peak in the 2002 elections when eight women were elected to parliament from among the forty-four who contested. Their ranks increased by one in

January 2003 when another woman was elected in a by-election in Naivasha constituency, following the death of the incumbent MP who was her husband.

**Table 3:** Number of women candidates and those elected to parliament since 1963

Year	No of candidates	No Elected
1963	0	-
1969	6	1
1974	13	2
1979	15	3
1983	7	2
1988	6	2
1992	18	6
1997	48	5
2002	44	8

Source: Adopted from IED National Elections Data Book 1963-1997 and 2002 Electoral Commission records.

The first woman to be elected to parliament was from an urban constituency. In that year (1969) only one out of the six women candidates contested in a rural constituency. This may be due to the dominant patriarchal values in the rural areas that regard politics and public life in general as a male domain. Voters may also have found it difficult to vote for women candidates on the same grounds. By 1997 the participation of women in electoral politics had gained momentum: one woman, who is currently the Minister for Health, contested the presidency in that year and came fifth out of ten presidential candidates.

The following factors account for the increase in women parliamentarians. First, the success of the first candidate in the 1969 elections encouraged and inspired other women to contest subsequent elections. Second, many more women had been sensitised about their capacity to engage in public affairs equally with men. The restoration of multiparty politics gave them additional impetus. Civic education about gender equality was especially effective during the 2002 elections due largely to the work of NGOs such as the National Commission on the Status of Women (NCSW), faith-based organisations such

as the Catholic Church, and the National Council of Christians of Kenya (NCCCK) which began in earnest in the 1990s. Political programmes such as Engendering the Political Process (EPP) were also sponsored by a number of donors including DFID under its political empowerment programme just prior to the 2002 elections. This led to a fairly high level of voter awareness in the general public and particularly among women, and considerably influenced many women to contest the 2002 parliamentary elections.<sup>14</sup>

The greater involvement of women in elections is also the result of the aggressive media campaigns that supported civic and voter education. The media contributed to civic education in at least three ways. First, they disseminated information and sensitised the public about their political and civil rights as well as civic duties, including the need to contest elections and vote a party of their choice into power. Second, the media exposed the weaknesses and failures of the incumbent party, and enabled the electorate to make judgments about the performance of their government. Finally, the media helped foster the growth of a discursive realm in which issues of national and local concerns were debated in an open and free manner (Hyden and Leslie 2003: 12).

### **Management of elections**

The quality and outcome of Kenyan elections have been influenced greatly by the manner in which the entire electoral process was managed. The management of Kenya's elections is the responsibility of the Electoral Commission of Kenya (ECK). The establishment of the ECK as a statutory body was premised on the assumption that an independent electoral body would ensure the conduct of free and fair elections. This assumption has, however, turned out to be false as complaints about election irregularities have continued under its aegis. The major complaint was that the election playing field was tilted in favour of the ruling party KANU and its candidates. Reports of administrative incompetence in the conduct of elections have also been common. In short, an independent electoral body is crucial for the conduct of free and fair elections; but it does not guarantee that the elections will at any cost be fairly managed.

An equally critical factor is the administrative competence of the electoral body itself. Competence is a function of several factors, including the level of training of election officials, adequate financial resources for the electoral body, and adequate administrative arrangements for handling elections. In short, for the ECK to be efficient it must have adequate human and financial capacity.

Administrative inefficiency in elections have taken the following forms: late opening of polling stations, late commencement of actual balloting, mix up of ballot papers, insufficiency of ballot papers at some polling stations,

missing names from the voters' register on election day, and mismanagement of election results (see various IED and ECK reports). Part of the ECK's problem stems from the fact that it relies heavily on the state to facilitate its work. It relies on the government to transport both election materials and some of the election officials. The Treasury funds its operations, including the conduct of elections and by-elections. The perennial complaint is that the government does not give the ECK adequate funds, and that it has to rely on the staff of the provincial administrations to carry out some of its duties. This has often raised doubts about the independence of the ECK, because the loyalty of such officials goes first to the president or government, and only secondly to the ECK. The ECK's reliance on the state police to maintain law and order and prevent election-related violence has also raised concerns about its neutrality. As evidenced by the numerous elections-related violent incidents and the failure by the police to take action either to prevent the occurrence of violence or punish those who engage in violence, the police have not always been able to sustain the confidence of the public regarding the maintenance of law and order during elections.

### **Constitutional and legal framework of elections**

A number of scholars (Mwagiru 2002; Mulei n.d.; Wanjala 2002) have argued that most of the laws governing elections in Kenya do not facilitate free and fair elections. According to Wanjala (2002), the law cannot provide the normative and procedural framework for conducting democratic elections, because the concept of free and fair elections has never been part of the country's electoral jurisprudence. The current constitution gives the incumbent president too much power, which has been used to frustrate the opposition. Second, the constitution, from which the electoral laws are derived, is best suited to a one party system of government. There is therefore a need for far-reaching reforms of the electoral laws (Wanjala 2002: 115).

The agitation against laws governing elections reached their peak when in 1996 Kenya's civil society resorted to mass action to force the government to reform the constitution as a condition for supporting the 1997 elections. The government yielded by establishing the IPPG after persuading some members of the opposition to work with their KANU counterparts to institute minimum constitutional reforms. The reforms focused mainly on the provisions affecting elections. Despite these reforms KANU retained power in the 1997 elections albeit with a much smaller margin than was the case in 1992. The country is currently debating a new constitution, which, it is hoped, will be an improvement on the existing one and the source of electoral laws that will create an environment conducive to free and fair elections.



## Conclusion

Kenya has come a long way in its efforts to institutionalise democracy and good governance. Elections have played an important role in this process. They have, at least, provided the masses with the opportunity to freely choose their representatives. Hence, since 1992 Kenyans have voted in large numbers in the hope that their vote would make a difference. This was not possible in elections held under the single party regime. The factors that influence voters' behaviour and electoral outcomes are varied and complex. Gender has become part of this complexity, and is bound to have a greater impact on future elections, especially with the incorporation of affirmative action in the proposed constitution (Wanyande 2003).

## Notes

1. The discrepancy in the numbers in the Table is due to the fact that some petitions were withdrawn before they were heard. Secondly it is significant that mass petitions against KANU in 1992 were rejected.
2. NAK was made up of about 13 different political opposition parties and had settled on Kibaki, Wamalwa and Ngilu as their opposition presidential, Vice-President and Prime Minister respectively.
3. LDP was made up of KANU members of parliament including some cabinet ministers who abandoned the party to join the opposition NAK. The two parties teamed up to form NARC.
4. The MoU stipulated that these positions would go to the politicians named below in the order in which they appear: Mwai Kibaki, Kijana Wamalwa, Charity Ngilu, Kipruto Arap Kirwa, Kalonzo Musyoka, Raila Odinga, George Saitoti and Moody Awori.
5. Settled areas are those areas formerly occupied by Europeans who upon independence sold their farms to the government. The government in turn subdivided these farms and sold them to Africans from different ethnic groups. The settled areas are therefore multiethnic in composition.
6. These are the numerically large ethnic groups such as the Kikuyu, the Luo, the Kalenjin the Luhya and the Kamba, etc.
7. The current constitution requires that to be elected president, a candidate must obtain 25 percent of the votes cast in five of the eight administrative provinces into which the country is divided.
8. From about 1952, following the proscription of KAU, which was a nationwide political party, nationwide parties were illegal. No political party formation was allowed until 1955 and even then only at the level of the district. This obtained until the state of emergency was lifted after which countrywide formations were allowed. This is when KANU and KADU were formed in 1960. Central province was however not allowed to have district political parties even after 1955. The MoU was not honoured after the new government came to power, leading to current mistrust among the coalition partners.

9. Failure to honour the MoU has since caused a lot of tension suspicion and mistrust among the different parties that make up the coalition NARC.
10. In a conversation between the present author and a cabinet minister from the Coast province, the latter hinted that the people of the Coast region were also considering the formation of their own party to give them a strong bargaining power in national politics. This conversation took place on 6 February, 2004 as the minister and the present author were traveling from a retreat of the ruling NARC held at Mount Kenya Safari Club in Nanyuki. The minister was convinced that each region needed its own party.
11. Only James Orenge of Ugenya constituency and Joe Donde of Gem constituency were elected on a party ticket other than NDP. Orenge was elected because he, like Raila, was highly regarded by the Luo as a brave and courageous politician who could assist Raila at the national level. Donde on the other hand won due to a technical mistake made by NDP during nominations.
12. For details of how ethnic the voting for presidential candidates was, see reports of the 1997 elections by the IED, Catholic Justice and Peace Commission and the NCKK.
13. For detailed discussion on the factors that may influence elections in different constituencies see *The Standard* and *Daily Nation* newspapers. The discussion began in August 2002 up to the time of elections in December. The role of clanism was also given prominence by *The People* newspaper of 11/2/2004 in reference to the by-election in Kisumu West constituency to fill the vacancy left by the death of their MP Job Omino early in 2004.
14. This was the conclusion of an evaluation of the programme. The present author was also able to discuss the effects of the programme with the managers of the EPP.

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