



منظمة الموفقين والوسطاء والرقابيين الأفارقة

African Ombudsman and Mediators Association
Association des Ombudsman et Médiateurs Africains
Associação dos Ombudsman e Mediadores Africanos

PRELIMINARY FINDINGS OF THE KENYA GENERAL ELECTIONS 2022 BY THE AFRICAN OMBUDSMAN AND MEDIATORS ASSOCIATION OBSERVER MISSION

Introduction: The AFRICAN OMBUDSMAN AND MEDIATORS ASSOCIATION (AOMA) is an umbrella body for Ombudsman Institutions in Africa, established with a mandate to support the contribution of Ombudsman Institutions in the promotion of good governance, rule of law and human rights. Kenya's Ombudsman, the Commission on Administrative Justice, is a member of AOMA, with the Chairperson of the Commission, Hon. Florence Kajuju, serving as the Secretary General of AOMA and Regional President of the International Ombudsman Institute (IOI).

AOMA deployed five teams of observers to the Kenya General Election of 2022. The AOMA Election Observer Mission was charged with the responsibility of observing, assessing and reporting on the electoral process in line with applicable regional and international principles for democratic elections and the national legal framework governing elections in Kenya. The Mission was led by Hon. Grace Malera, Ombudsman of the Republic of Malawi, and comprised of Hon. Antonia Araújo, Ombudsman of Angola, Hon. Pascal Essou, Ombudsman of Benin, Hon. Rtd. Judge Mathew Mwaimu, Chairperson of the Commission for Human Rights and Good Governance (CHRAGG) of Tanzania and staff of the AOMA secretariat. These teams were supported by staff of the Office of the Ombudsman of Kenya who also played a complementary role to the teams by serving as long term observers.

The AOMA observers arrived in the country on 5th and 6th August 2022. Following a briefing on the political environment and legal framework for the Election, the Mission was deployed to the counties of Nairobi, Kajiado, Machakos, Uasin Gishu, Kakamega, Mombasa, Kilifi, Kisumu, Homa Bay, Nyeri and Kirinyaga. Prior to the deployment on 8th August, 2022, the Mission, held consultative meetings with the Independent Electoral and Boundaries Commission (IEBC) and other stakeholders on the state of preparedness. On Election Day, the Mission visited a total of 59 polling stations and observed the opening of polls, the voting, closing, and counting of ballot papers at the polling stations. The Mission also observed the tabulation of results at various Tallying Centres, namely Machakos University,

Homecraft Training Centre, Eldoret County Hall, Eldoret Polytechnic, Kisumu Polytechnic, Allidina Visram and Nyeri National Polytechnic.

This statement presents AOMA Observer Mission's preliminary findings of the 2022 General Elections up to the close of polling on 9 August 2022 and the immediate post-election period. A final and comprehensive report bearing recommendations will be released within a month from the official announcement of the final results of the Election.

General Political Context: On 9th August, Kenya held its 12th General Election since independence and its 7th since the reintroduction of multiparty democracy in 1992. This is the third General Election to be held under the 2010 constitutional dispensation. Through this election, Kenya is also on the verge of transitioning power to its fifth President. Four candidates are contesting for the presidency, with the two main contenders being Raila Odinga of the Azimio Coalition and William Ruto of the United Democratic Alliance (UDA). Besides the presidential election, the General Election will also see Kenyans elect Governors, Members of National Assembly, Senators, Women Representatives and Members of the County Assemblies. There are 16,105 candidates in total, vying for 1,879 elective positions. Kenyans turned up to vote for these candidates in a generally peaceful and orderly manner that characterized the Election Day. A few days after voting, they still await the results. The country has remained relatively calm and peaceful despite preliminary results of the presidential vote showing a tight contest.

Preliminary Findings: Having taken into consideration the relevant legislation, statements by electoral stakeholders, media reports, and observations made by the five teams deployed on the ground, and also taking into consideration the guidelines contained in the Declaration of Principles for International Election Observation, the AOMA Observer Mission has arrived at the following preliminary findings:

Opening of Polling Stations

It was observed that the polling stations across the 11 counties visited generally opened on time and all the requisite procedures were observed by the IEBC officials. There were a few polling stations that opened slightly later than the scheduled time, due to minor logistical challenges that were encountered, but such delays were not for a period of more than 15 minutes.

Accessibility and Layout

The observed stations were easily accessible as they were located within public spaces. Buildings that were used as polling stations were largely on the ground floor, hence accessible. Moi University Law School Annex was the only exception with polling stations on the first and second floors of the building. There was presence of security agents that were stationed outside the polling stations who carried out their duties effectively. With the exception of a polling station in Homa Bay County, there were no cases of harassment or intimidation observed as the security officers ensured that law and order was kept. Our team of observers in Homa Bay reported that supporters of a gubernatorial candidate stormed a polling station, demanding ejection of agents of a rival candidate. The situation was however quickly contained by the security officers.

Most of the visited stations had all requisite election material with the exception of stations in Kakamega and Mombasa that had five instead of six ballot boxes for reasons earlier explained by the Independent Electoral and Boundaries Commission (IEBC). Voters were peaceful and were guided to the right queues by queuing clerks and displayed signage within the polling centres. The elderly, persons with disabilities and nursing mothers were given priority on the queues.

There was however a challenge of poor lighting in some stations at the start of the polls. The solar light bulbs used in these stations lit the rooms dimly and some stations delayed the start of voting due to poor lighting. Similarly, poor signage at some polling stations was witnessed. This led to some voters queuing at the wrong streams. Some polling staff remedied this challenge by redirecting the voters to the correct streams and allowing them to take priority on the right queue if the mistake was discovered at the point of voter verification.

Voter Turnout

In most of the polling stations visited, voter turnout was noticeably low in the afternoon hours but higher in the morning hours.

Polling Staff

Polling staff seemed to be well trained and were observed to respond to emerging challenges competently. They were courteous and provided observers with unrestricted access to the polling stations. Gender balance was also observed in the composition of the polling staff.

Voter Verification

We observed that the KIEMS kits generally worked well. However, in few instances, the kits malfunctioned. This challenge was urgently rectified by the presiding officers by restarting the KIEMS machines. Another challenge noted with the KIEMS is that in some instances the fingerprint identification of some voters failed. In such instances, the polling staff used the alternative mode of verification, which was alphanumeric identification and a validation form. Thus, we did not observe any legitimate voters being turned away for failure of fingerprint identification.

Secrecy of the Ballot

Secrecy of the ballot was generally observed. However, there was no secrecy for voters with disabilities that needed assistance to vote. The positioning of polling booths was also in some instances not adequately spaced to guarantee secrecy.

Closing of Polls

The closing of polling stations was done procedurally. Voters on the queue past 5.00pm were allowed to vote. At closing time, most stations had manageable queues hence they were able to observe closing time. The counting of votes was done in accordance with the procedures that were put in place.

Counting

The Mission observed counting at the respective polling stations in which they observed closing of polls. The counting of votes was done in a transparent manner in the presence of political party agents, media and observers.

Transmission of Results

At the time of drafting this statement, the tabulation and announcement of results were still in progress. We will continue to observe the transmission of results and report our findings in the final report.

Conclusion:

1. The election process in the 11 counties from poll opening to closing and vote counting, observed was conducted in line with relevant laws and procedures. It was generally transparent and efficiently conducted.

2. The preparedness of the IEBC was noticeably sufficient in the manner that the polling staff carried out the exercise, save for the few challenges highlighted in this preliminary report. In particular, the absence of gubernatorial elections in Kakamega and Mombasa counties due to errors on the ballot papers was a serious flaw on the state of preparedness. Similar postponements of elections for Member of National Assembly in Kacheliba, Pokot South, Kitui Rural and Rongai constituencies were a further indictment on the state of preparedness.
3. The representation of women and the youth as polling staff was sufficient, with young people remarkably handling the KIEMS kit technology well.
4. There is need to provide adequate space in the polling stations, some of which were too cramped to guarantee secrecy of the ballot. Secrecy of the ballot for citizens with special needs should also be guaranteed.
5. There is also need to improve on quality assurance to pre-empt the situation witnessed in Kakamega and Mombasa where gubernatorial elections were postponed due to errors on the ballot papers. The same obtains for Kacheliba, Pokot South, Kitui Rural and Rongai constituencies where elections for Member of National Assembly were postponed for similar reasons.
6. The relaying of Form 34As which entail the presidential results announced at the polling station on a public portal for the information of the public is highly commendable.
7. The counting and tallying process could be reviewed with the aim of expediting it whilst maintaining accuracy, to allow for more efficiency and promptitude in order to counter disinformation. The media could also coordinate their tallying of results to dispel disinformation and misinformation on social media.
8. There is need to synchronize information among the polling staff. In some polling stations, the polling staff used the manual register for identification as necessary while in others some polling staff informed that the manual register was not even available as an election material.
9. Proactive voter information and signage at the gates of voting centers could be improved and queuing clerks could do more to direct voters to the right streams and answer some of their questions in order to simplify the process.
10. Continuous voter education is necessary to complement the efforts of the IEBC and its staff in simplifying the voting process for the citizens.

On behalf of AOMA Election Observer Mission, we take this opportunity to extend our gratitude to the people of Kenya and the electoral stakeholders for the warm welcome and hospitality given to us. We also congratulate the people of Kenya for their political maturity and the peaceful manner and atmosphere in which the elections were conducted. We acknowledge and appreciate the transparency and high level of access to information within which the Independent Electoral and Boundaries Commission of Kenya has conducted this election.

Our gratitude is also extended to the Chairperson of the Commission on Administrative Justice, Hon. Florence Kajuju, Vice Chairperson, Mr. Washington Sati, Commissioner Lucy Ndung'u and staff of Office of the Ombudsman of Kenya for coordinating the logistics of the AOMA Observer Mission.

**HON. GRACE MALERA
OMBUDSMAN OF MALAWI &
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