KENYA POST-ELECTION REVIEW ROUNDTABLE REPORT

EXECUTIVE SUMMARY
December 2022

Foreword

Kofi Annan FOUNDATION

Center for Multiparty Democracy Kenya

Amid a global "crisis of democracy", a few countries are emerging as positive examples of the resilience of citizens against democratic backsliding and their desire for free and fair elections. The August 2022 General Elections in Kenya were a defining moment in the country's history when voters and politicians came out and tested the strength of the country's democratic institutions and democratic ethos. Despite a history of fraught elections, these elections went against earlier predictions and were deemed relatively peaceful. A legal dispute over electoral results was settled peacefully through legal channels, and the Supreme Court's judgment was respected, in a move lauded by many as a great example of the determination of Kenyans to preserve hard-earned democratic gains.

The Kofi Annan Foundation and the Centre for Multiparty Democracy co-convene a hybrid post-election review roundtable with local and international election observer missions and key election stakeholders on 10 and 11 November 2022 in Nairobi. The roundtable sought to build consensus on the key issues that arose in the elections and agree on the reforms that may need to be undertaken to reinforce the credibility of the Kenyan electoral system.

As all the election observer missions indicated, the most basic measure of success for an election is a peaceful conclusion and an acceptance of the outcome by all parties involved. However, this election was not one without challenges. Low voter registration and low youth-voter turnout, occasional technological malfunctions of voter machinery, rampant mis- and disinformation, and online gender-based attacks

"THESE ELECTIONS WENT AGAINST EARLIER PREDICTIONS AND WERE DEEMED RELATIVELY PEACEFUL."

aimed at female political candidates were concerns throughout the electoral cycle. In addition, infighting and a late-term split within the Independent Electoral and Boundaries Commission (IEBC) threatened the integrity of the electoral process, adding to frustrations and uncertainties in the days after the polls closed. These issues showed that, even if no election can be perfect, there is need for improvement.

This report summarises the key outcomes of the two-day discussions and provides actionable recommendations targeted at the government, political parties, media, civil society, and the donor community. Key among these recommendations is the need to leverage the political party framework and political class to regulate online and offline conduct during electoral campaigns. The utility of a Digital Pledge for Online Behaviour, as developed by the Kofi Annan Foundation and the Centre for Multiparty Democracy for the Kenyan elections, was also emphasized. Pre-election pledges must incorporate a digital component to promote behaviour change among political actors and their supporters and protect female political candidates.

Kofi Annan once noted with concern that even in democracy's historic heartlands, we are witnessing a shift in the perceptions and practice of democracy, as evidenced by ever-lower levels of voter participation, falling membership of political parties and declining trust in politicians and institutions. The Kenyan elections were no different. Therefore, a unified response among all stakeholders is required moving forward, to ensure the deepening of democratic values, the integrity of future elections, and a transformation of Kenya's political culture so that peaceful and inclusive elections become the expectation and the norm in Kenyan politics.

We would like to thank all roundtable participants and our partners at UNDEF for their support in the lead-up to the Kenyan elections. We sincerely hope that the recommendations and lessons learnt from this election cycle will contribute towards reinforcing Kenya's democratic and electoral processes.

CORINNE MOMAL-VANIAN
Executive Director,
Kofi Annan Foundation

FRANKLINE MUKWANJA
Executive Director,
Centre for Multiparty
Democracy Kenya

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Introduction

On 10th and 11th November, the Kofi Annan Foundation (the Foundation) and the Centre for Multiparty Democracy (CMD-Kenya) co-convened a post-election review roundtable with the support of the United Nations Democracy Fund.

This followed one of Kenya's most competitive general elections which, in respect of the Presidency, culminated in a legal challenge at the Supreme Court of Kenya whose decision has largely been respected. The commitment by candidates to legal dispute resolution mechanisms was laudable and marked a significant step in the consolidation of Kenya's democracy. However, these elections also highlighted numerous threats to Kenya's electoral democracy. For example, voter turnout was the lowest it had been in 15 years. There was also notable decline in the number of registered youth voters. The misuse of digital media to spread harmful content was also reported to have increased significantly, undermining efforts at constructive and informed democratic debate based on common issues facing the electorate. The harmful content shared over digital media was also reported to have been gendered in nature, targeting female political actors, and reducing their civic space.

With this context in mind, the Foundation and CMD-Kenya brought together election observer missions, media practitioners, government representatives, and political parties at the Roundtable with a view to achieving three things. The first was to build consensus among the issues which are facing Kenya's electoral democracy. Second, to agree on the most suitable reforms to implement in response to these issues. Lastly, the Roundtable sought to explore how to leverage existing political goodwill to realize the necessary reforms. While the first and second objectives can, to some extent, be conclusively discussed at such a convening, the final objective requires ongoing dialogue with a much broader grouping of stakeholders. Therefore, the Roundtable primarily focused on the first two objectives.

This report summarizes the discussions which took place, highlighting specific lessons and proposing a way forward in respect to specific stakeholders. Additionally, this report contextualizes the Roundtable by providing a general overview of the activities undertaken by the Foundation and CMD-Kenya in the past two years.

Frankline Mukwanja,
Executive Director,

Centre for Multiparty
Democracy Kenya

"VOTER TURNOUT WAS THE LOWEST IT HAD BEEN IN 15 YEARS. THERE WAS ALSO NOTABLE DECLINE IN THE NUMBER OF REGISTERED YOUTH VOTERS. THE MISUSE OF DIGITAL MEDIA TO SPREAD HARMFUL CONTENT WAS ALSO REPORTED TO HAVE INCREASED SIGNIFICANTLY."

Recommendations

Below are some of the recommendations derived from the workshop, the series of opinion pieces and broader discourse around this issue:

Recommendations for the State

01 The Government should prioritize and engage in electoral law reforms immediately after elections once the Independent Electoral and Boundaries Commission (IEBC) has concluded its post-election evaluation exercise to leverage momentum and political goodwill.

02 The IEBC ought to adapt its voter education program to suit different demographics, such as the youth.

03 When it comes to regulating social media platforms, the legislature should consider abandoning content-specific laws in favour of regulating industry conduct such as transparency and due process in content moderation.

04 The IEBC and the Ethics and Anti-Corruption Commission should explore how to practically ensure that political candidates meet the leadership, ethics, and integrity requirements under the Kenyan Constitution.

05 The IEBC should ensure it meets all legislative timelines and conditions ahead of the elections such as in relation to auditing the voter register.

06 The Office of Registrar of Political Parties (ORPP) should work hand in hand with political parties to build their internal dispute resolution capacities.

07 The ORPP and the IEBC should work hand in hand to sensitize the electorate on the election process. In particular, they should focus on engaging youth groups in value-based leadership training prior to their participation in elections.

08 The IEBC should work with the legislature to enact and enforce campaign financing laws.

Recommendations for Political parties

01 Political parties should include prohibitions on harmful online conduct within the constitutional documents and to encourage their members to commit to voluntary pre-election pledges.

02 Political parties should prioritize inclusion of gender and other minorities in primaries and in other party activities.

03 Political parties are encouraged to work with civil society to build their capacity to handle pre-election disputes.

04 Political parties should commit to electoral processes administered by the Independent Electoral and Boundaries Commission and the Office of Registrar of Political Parties by ensuring that key decision makers within their party structures engage with these statutory bodies.

05 Political parties should ensure their internal procedures are clear, well-articulated and available to all members.

Recommendations for Media

01 Media practitioners are encouraged to collaborate with each other in a sustainable way with a long-term view.

02 Media practitioners should actively seek out ways to ensure their coverage of election and election-related content is inclusive and gender sensitive.

Recommendations

Below are some of the recommendations derived from the workshop, the series of opinion pieces and broader discourse around this issue:

Recommendations for Social Media Platforms

01 Social media platforms are encouraged to increase the level of transparency around their content moderation activities in Kenya and to dedicate more resources to the region.

02 Social media platforms are urged to engage with civil society, regulators, media, and the Independent Electoral and Boundaries Commission a significant amount of time prior to the elections to allow for preparation.

03 Social media platforms should work with fact checkers and prebunking initiatives to amplify their work.

04 Social media platforms should provide academics, civil society, and the government with access to non-proprietary data on their algorithms and content moderation process.

Recommendations for Civil Society

01 Civil society organizations should collaborate more proactively to bring together and harmonize efforts by different electoral stakeholders to develop election related pledges and codes of conduct.

02 Civil society organizations should work with government to incentivize behaviour change and a mind shift in relation to harmful conduct.

03 Faith-based institutions should work with political parties and the Independent Electoral and Boundaries Commission to coordinate voter education at the polling station level owing to the reverence for these institutions in large parts of the country.

04 Faith-based institutions should refrain from being or appearing to be partisan so as to leverage their broad reach to encourage healthy democratic debate.

Recommendations for the Donor Community

01 The donor community should support efforts at coordinating far reaching dialogue aimed at sensitizing the electorate on harmful digital conduct and driving the development of value-based election related pledges and codes of conduct.

02 Donors should prioritize funding initiatives which draw on a broad stakeholder base and are based on sustainable collaboration as opposed to one-off engagements.

03 Donors should prioritize funding programs which have reach at grassroots level.

Road to the Roundtable

Contextualising the Kofi Annan Foundation and CMD Kenya's work in Kenya

With each passing election cycle, digital technologies have grown in prominence, serving as both tools of broadcast and civic engagement. They have shifted the dynamics at play in democratic processes. While they have certainly created new and larger spaces for civic engagement, they have also been used to undermine healthy democratic debate by facilitating the dissemination of harmful content which is often false, misleading or inciteful. In recognition of the need to channel the potential of digital technologies towards strengthening electoral democracy, the Foundation established the Kofi Annan Commission on Elections and Democracy in the Digital Age (KACEDDA). In a report published in 2019, the KACEDDA examined four main challenges posed by digital technologies: (i) hate speech; (ii) disinformation; (iii) political advertising; and (iv) foreign interference.[1] The KACEDDA report proposed practical recommendations based on its findings. In view of these recommendations, the Foundation has sought to support democracies around the world such as Kenya which are grappling with the risks posed to their democracies by digital technologies.

In Kenya, the use of digital technologies in electoral contexts has steadily increased. The August 2022 general elections arguably had the highest level of campaigning through social media in the country's history. While this has yielded several benefits in the way of enhanced civic participation and inclusion, the outcome of social media use has not always been positive due to the spread of mis- and disinformation, the incitement to violence and the harassment of women. In the run up to the elections, there had been several reports of organized disinformation for hire campaigns being used in political contexts and numerous stakeholders had begun exploring potential solutions. On this basis, the Foundation and CMD-Kenya supported various activities in the lead up to the elections designed at securing Kenya's electoral integrity in the digital age. The first of these activities was a series of opinion pieces authored by Abdulmalik Sugow and Dr. Isaac Rutenberg which set out some of the key concerns brought about by social media use in electoral contexts.[2] Following these opinion pieces, CMD-Kenya convened its People's Dialogue Festival in September 2021, providing a diverse group of election stakeholders with a forum to discuss the nature of the challenges posed to elections by digital technologies, and the opportunities for collaboration. Shortly after, the Foundation and **>>**

"WHILE [THE INCREASE OF DIGITAL TECHNOLOGY] HAS YIELDED SEVERAL BENEFITS IN THE WAY OF ENHANCED CIVIC PARTICIPATION AND INCLUSION, THE OUTCOME OF SOCIAL MEDIA USE HAS NOT ALWAYS BEEN POSITIVE DUE TO THE SPREAD OF MIS- AND DISINFORMATION, THE INCITEMENT TO VIOLENCE AND THE HARASSMENT OF WOMEN."

Wambui Kimathi, CMD-Kenya Board Member, gives opening remarks of the Kenya Post-Election Review Roundtable, 10 November 2022.

1 https://www.kofiannanfoundation.org/app/uploads/2020/05/85ef4e5d-kaf-kacedda-report_2020_english.pdf

Road to the Roundtable continued...

CMD-Kenya convened a multi-stakeholder workshop in early November 2021 to deliberate on the core issues identified in the opinion pieces and at the People's Dialogue Festival. During the workshop, noting that a significant amount of responsibility lay with political candidates, election stakeholders explored the potential of having a voluntary digital code of conduct for political candidates in relation to their online behavior (the Digital Pledge). The outcome of the convening in November was several practical recommendations for different stakeholder groups as well as the commencement of the process of developing the Digital Pledge.[3]

The Foundation and CMD-Kenya took the conversation further in February 2022 by convening a discussion with political parties to explore the inclusion of prescriptions relating to online conduct by their party members within their party structures. The motivation behind this was the recognition by stakeholders during previous discussions that a voluntary code of conduct may not be entirely effective and some incentive may be required to motivate compliance. Political parties in attendance shared their thoughts and expressed broad support for the development of a Digital Pledge. Following this convening, CMD-Kenya convened its annual People's Dialogue Festival in March 2022, and the Foundation held a discussion with a broad section of the public who were in attendance on the utility of a Digital Pledge and some of the challenges one may face in implementing it in Kenya's context.

Faith Ndanu, Youth Cafe.

Following this discussion, CMD-Kenya and the Foundation consolidated the input received from various stakeholders and prepared a voluntary Digital Pledge to be taken up by political actors and the public as a call for active citizenry. CMD-Kenya and the Foundation ran a social media campaign to popularize the Digital Pledge in the weeks preceding the elections and called upon specific political parties and candidates to publicly commit to the Digital Pledge.

While CMD-Kenya and the Foundation were developing the Digital Pledge, the Foundation also supported the establishment of a collective of media and media related organizations whose aim was to coordinate and amplify efforts at countering

mis- and disinformation. The collective, which is known as Fumbua, comprises of mainstream, alternative and independent media, fact checkers, social media influencers, researchers, civil society, artists, and other stakeholders in the media ecosystem. In the run up to the elections, Fumbua amplified fact checks, conducted media literacy trainings, and convened timely and relevant discussions around media consumption and the nature of mis-and disinformation in Kenya.

Following a largely peaceful election process, CMD-Kenya and the Foundation convened the Roundtable to consolidate these efforts and reflect on some of the key lessons learned by election stakeholders such as observer missions, media organizations, state agencies, political parties, academics, and civil society. This report provides a brief synopsis of the discussions held during the Roundtable and extracts some key recommendations for Kenya's elections going forward.

2 https://www.kofiannanfoundation.org/electoral-integrity/op-ed-kenya-electoral-integrity-digital-age/

3 https://www.kofiannanfoundation.org/app/uploads/2021/12/Safeguarding-Digital-Elections-in-Kenya-%E2%80%93-Executive-Summary-Report_Final.pdf

Highlights from the Panel Discussions

David Onen and Mulle Musau.

The Roundtable was opened by Corinne Momal-Vanian, the Executive Director of the Foundation and Wambui Kimathi, CMD-Kenya Board member. On her part, Ms. Kimathi recognized the importance of the Roundtable as a means of consolidating reforms and improving on existing processes. She specifically highlighted that the voting did not mark the end of the electoral process as persistent and concerted civic engagement is required to ensure future elections reflect the lessons learned from previous ones. Ms. Momal-Vanian shared these sentiments, citing Kofi

Annan in stating that "reform is not an event; it is a process." She highlighted that the Roundtable presented Kenya with an opportunity to look forward with the benefit of hindsight and with a view to deepening democratic values at a time when they are seemingly eroding around the world.

Six different panel topics were discussed during the Roundtable and the highlights from each are set out across the following pages.

Taking stock of the 2022 Kenyan Elections – Discussions of key findings and recommendations by local and international observation missions

Discussants:

- **Mulle Musau** – National Director, Elections Observation Group
- **Abebaw Belachew** – Political Affairs Programme Lead and Coordinator of the IGAD election observation mission
- **David Onen** – Political Affairs Officer, East African Community
- **Dennis Omondi** – Kenya Country Director, National Democratic Institute
- **Ellen Dingan** – Programmes Director, Zimbabwe Elections Support Network & Former AU LTO Mission Team Lead
- **Felix Owuor** – Executive Director, Electoral Law, and Governance Institute for Africa (Moderator)

According to the Independent Electoral and Boundaries Commission (IEBC), approximately 18,000 local and international election observers monitored the August 2022 election. This surpassed the number of candidates participating in the elections. Election observer missions often serve to provide independent oversight over election management bodies. During the Roundtable, a discussion was convened between **>>**

Highlights from the Panel Discussions continued...

local and international observation missions to highlight their key findings and to propose their recommendations. The discussion highlighted that the most basic measure of success for an election is a peaceful conclusion and an acceptance of the outcome by all parties involved. Following the dispute resolution process at the Supreme Court, it can be said that Kenya achieved this with respect to the presidential elections. However, the discussants noted that there is a lot more that goes into the quality of elections other than the outcome.

A focal point for discussion was the preparation for the elections by the IEBC. To their credit, the IEBC and the Office of the Registrar of Political Parties (ORPP) handled pre-election disputes relatively well. The discussants found that voter education could perhaps have been more robust but noted that the IEBC was hamstrung by late disbursements from the exchequer. Efforts to prepare for the election were also hindered by last minute changes to election laws by the National Assembly. On its part, the IEBC could have undertaken an audit and clean-up of the voter register earlier and in a more transparent manner as it subsequently came up as one of the key issues in the presidential election petition. Crucially, the discussants criticized the insufficient communication by the IEBC throughout

the election process in relation to election day conduct as well as the results transmission process. The internal governance issues that led to the splinter between the IEBC commissioners was also criticized as undermining confidence in the elections.

In terms of specific reforms, the discussants proposed that the IEBC work with the media to build the capacity of their election coverage desks to mitigate the impact of mis- and disinformation. They also proposed the enhancement of the IEBC's vetting process to ensure political candidates meet the requirements of Kenya's constitution in

relation to ethics and integrity. The discussants also suggested that the election timelines are also considerably short and ought to be increased, especially the Supreme Court's timelines to hear and determine the presidential election petition.

As a broader point, the discussion highlighted the markedly low voter turnout specifically in relation to the youth and the need to address it. Overall, the panel indicated that the IEBC is yet to fully secure the trust and confidence it requires to manage Kenya's elections, and the challenges it faced during the August elections only served to undermine this trust.

Left to right: Lilian Mahiri-Zaja, Lamin Lighe, John Walubengo, Wafula Wakoko.

"THE DISCUSSANTS ALSO SUGGESTED THAT THE ELECTION TIMELINES ARE ALSO CONSIDERABLY SHORT AND OUGHT TO BE INCREASED ESPECIALLY THE SUPREME COURT'S TIMELINES TO HEAR AND DETERMINE THE PRESIDENTIAL ELECTION PETITION"

Highlights from the Panel Discussions continued...

The electoral framework, administration, and managing electoral disputes

Discussants:

- **Lilian Mahiri-Zaja** – Former Vice Chairperson, IEBC
- **Lamin Lighe** – Senior Elections Advisor, International Foundation for Electoral Systems (IFES)
- **John Walubengo** – Trustee, KICTANET
- **Wafula Wakoko** – Legal Officer, Office of the Registrar of Political Parties (Moderator)

Left to right: Anne Okutoyi, Mildred Nzau, WIllice Onyango.

This discussion focused on the IEBC and the ORPP's roles in managing electoral disputes. An overarching theme that was made prominent during discussions was the IEBC and ORPP's enforcement of the Constitution of Kenya's prescriptions on leadership and integrity standards. The discussants noted that political parties play an indispensable role in sifting suitable candidates from undesirable ones and the citizenry ought to take an active role in holding their parties accountable. In relation to election related disputes, political parties often have internal mechanisms which must be exhausted prior to any appeals to the Political Parties Disputes Tribunal. While the IEBC may get involved in disputes related to nominations, their role is limited by the fact that exhaustion of internal mechanisms must first take place. The discussants therefore highlighted that stakeholders should work to build political parties' capacity to handle pre-election disputes considering the IEBC cannot act as a referee and be involved in party-level disputes.

In relation to the use of technology in elections administration, the discussants cautioned against techno-solutionism and highlighted that the use of technology does not automatically translate to success. In the IEBC's context, the discussants made it clear that it was facing a trust deficit, and the use of technology in low trust contexts may pose risks given the likelihood of technical difficulties. To build the trust necessary, the IEBC would need to engage the electorate in forums that suit them such as on social media for the youth. Otherwise, the IEBC would be unable to conduct the necessary level of voter education to ensure the electorate is adequately informed of the processes involved in running an election.

The 2022 Kenyan elections from a human rights and inclusion perspective

Discussants:

- **Anne Okutoyi** – Director, Election Monitoring and Reporting, Kenya National Commission on Human Rights
- **Mildred Nzau** – UN Women
- **Willice Onyango** – Executive Director, The Youth Cafe
- **Faith Odidi** – Lead, Kenya Inclusive Political Parties Programme, Westminster Foundation for Democracy
- **Wambui Kimathi** – Board Member, CMD-Kenya (Moderator)

The discussants began by affirming civic engagement as a human right under Kenya's constitutional framework. Against this basis, the >>

Highlights from the Panel Discussions continued...

panel sought to explore the extent to which the campaigns and elections were inclusive. The scope of inclusion discussed factored in women, youth, persons with disabilities, and ethnic minorities. In relation to women, the panel noted that younger women were far less active in the recently concluded elections, alluding to some level of apathy. However, on a more positive note, nearly 50% of registered voters were women. Additionally, there was also a notable increase towards equalization of media coverage between male and female candidates.

For persons with disabilities, the IEBC, for the first time, indicated the nature of disability in the register, providing its officers with adequate information to prepare and host voters who were disabled in a manner that is accommodative of their specific needs. However, the IEBC's ability to offer inclusive infrastructure was limited by the fact that it makes use of existing public facilities as voting centres.

While there are positive trends to note, the discussants emphasized the importance of political parties in enhancing inclusion at an early stage by putting in place the necessary infrastructure to give aspirants an equal opportunity. Currently, political parties are yet to successfully do so.

The roles and responsibilities of political parties and the efficacy of pre-election pledges

Discussants:

- **Patrick Egloff** – Deputy Amb. Swiss Embassy to Kenya
- **Ann Nderitu** – Registrar, Office of the Registrar of Political Parties (ORPP)
- **Gachuhi Kariuki** – NARC Kenya Youth
- **Dr. Bishop John Wararia** – Secretary General, Inter-religious Council of Kenya
- **Frankline Mukwanja** – Executive Director, CMD-Kenya (Moderator)

Owing to Kenya's unique history with election related incitement to violence, there are several laws prohibiting the dissemination of certain content within electoral contexts. However, these are primarily punitive in nature and seek to limit the freedom of expression. While the objective in favor of which the freedom of expression is limited may be legitimate, the enforcement of these laws may sometimes be excessive and motivated by political ends, and as such, may contribute to stifling political participation.

Against this context, the panel sought to explore other approaches at achieving the desired outcome such as leveraging the political party framework to regulate the online and offline conduct of political actors and developing voluntary pre-election pledges for political actors to commit and be held accountable to.


Left to right: Gachuhi Kariuki, Ann Nderitu, Youla Nzale.

Highlights from the Panel Discussions continued...

In relation to pre-election pledges, the discussants noted that the concept was not novel and had been in use in other jurisdictions. For example, the Transatlantic Commission on Election Integrity's Election Pledge has been adopted by candidates in several countries across Europe and North America. In Kenya, the National Cohesion and Integration Commission developed a Political Decency and Accountability Charter which was signed by the representatives of the presidential election candidates. The panel highlighted that in developing such voluntary pledges, the process matters just as much as the eventual wording of the pledges. For a chance at success, such pledges ought to be developed after broad and robust engagement and should be based on shared values and open communication between election stakeholders. If done well, voluntary pledges have the potential to drive character transformation which, in turn, will drive social transformation. The desired outcome of such pledges is to nurture active citizenry by ensuring each stakeholder has a vested interest in the conduct of elections and political campaigning. To this end, the discussants cautioned against the use of punitive measures to incentivize good conduct. Instead, they urged stakeholders to focus on effecting behavior change. However, the panel made it clear that peace ought not to be achieved at the cost of justice, therefore punitive measures ought not be dispensed with entirely, but should be measured and proportionate.

> **"IF DONE WELL, VOLUNTARY PLEDGES HAVE THE POTENTIAL TO DRIVE CHARACTER TRANSFORMATION WHICH, IN TURN, WILL DRIVE SOCIAL TRANSFORMATION."**
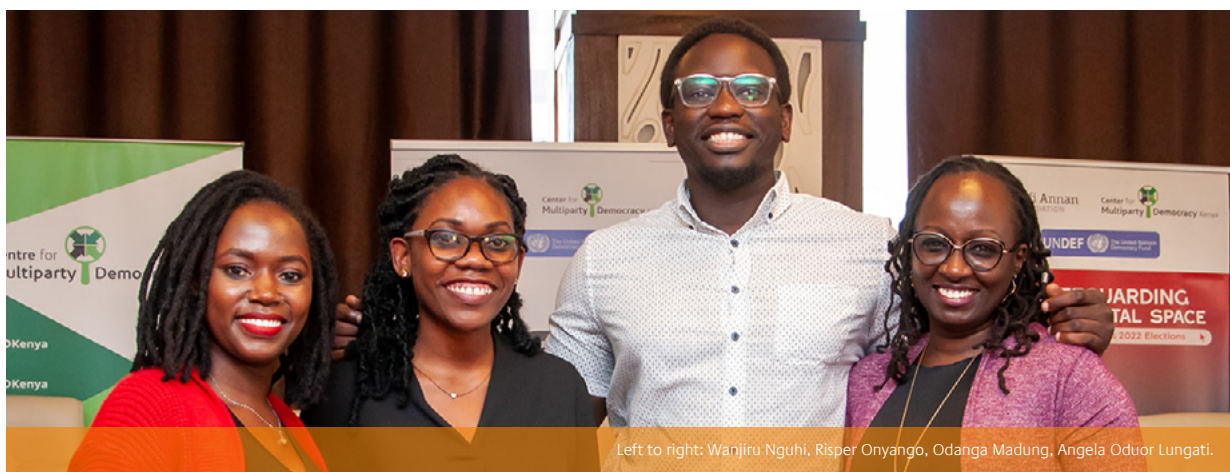
Left to right: Wanjiru Nguhi, Risper Onyango, Odanga Madung, Angela Oduor Lungati.

The role and responsibilities of social media platforms

Discussants:

- **Odanga Madung** – Mozilla Fellow
- **Angela Oduor Lungati** – Executive Director, Ushahidi
- **Wanjiru Nguhi** – Programme Manager, Fumbua KE
- **Risper Onyango** – Policy Lead, Digital Economy, Lawyers' Hub (Moderator)

The overarching theme of this discussion was the multifaceted nature of social media in Kenya's electoral context. On the one hand, social media has been lauded as furthering inclusion and expanding space for civic engagement. On the other, social media platforms have been accused of failing to safeguard developing democracies against harms such as the spread of mis- and disinformation. The peer-to-peer nature of social media coupled with the absence of editorial gatekeeping mean that content which is shared must actively be moderated to avoid the spread of false, misleading or inciteful content. In Kenya's context, the panel noted that content moderation >>

Highlights from the Panel Discussions continued...

efforts were insufficient due, in part, to a lack of context on the moderators' part, insufficient resources allocated to content moderation in developing economies, the absence of transparency in the content moderation process, and the lack of consistency in content moderation decisions. Coupled with the fact that social media platforms are profit-driven, the discussants emphasized the need for broad reform.

In terms of reform, the panel highlighted the need for a shift by Kenyan legislators from regulating content to regulating industry practices. Practically, this would mean ceasing to control the content shared by individuals and instead focusing on the conduct of platforms in relation to their content moderation practices such as mandating transparency and due process. The discussants suggested that legislators may need capacity building to fully understand content moderation practices.

The role and responsibilities of media and fact checkers

Discussants:

- **Wanjiru Nguhi** – Programme Manager, Fumbua KE
- **Amos Rono** – Strategic Content Lead, US Embassy to Kenya
- **Abdulmalik Sugow** – Consultant, Kofi Annan Foundation (Moderator)

The responses by media practitioners to the spread of mis- and disinformation can largely be categorized into pre-emptive and reactive measures. In anticipation of the spread of such misleading content, numerous stakeholders and practitioners have sought to conduct media

literacy trainings and to also educate the publicon how to identify misleading content (these have been referred to as prebunking exercises).

Additionally, once false and misleading content has been shared, media practitioners have engaged in fact checking to debunk these narratives and set the record straight. In both instances, media practitioners have had to overcome audience biases to get their messages across. Due to the laborious nature of both prebunking and fact checking, and the often-non-glamorous nature of the truth, media practitioners have not always been able to succeed in changing an audience's perception of basic facts once they have been exposed to false content.

In this discussion, the panel explored some of the difficulties facing media practitioners in election coverage. The discussants highlighted the positive trend towards collaboration on key issues such as the election debates and in forums such as Fumbua. However, they also noted that such collaboration could be more robust and sustainable.

> "THE PANEL EMPHASIZED THE IMPORTANCE OF COLLABORATION BETWEEN MEDIA PRACTITIONERS PERSISTING BEYOND ELECTORAL CYCLES."


Left to right: Abdulmalik Sugow, Wanjiru Nguhi, Amos Rono

Highlights from the Panel Discussions continued...

This collaboration would also benefit from input by state agencies who sometimes contributed to the information disorder by insufficiently communicating with the electorate.

The discussants appreciated that fact checking may sometimes serve to amplify false or misleading content by directing new audiences to it. However, they reiterated its importance given the fact that false or misleading content often outstrips objective reporting in terms of reach.

In summary, the panel emphasized the importance of collaboration between media practitioners persisting beyond electoral cycles to ensure lasting structures are put in place before subsequent election cycles. This view was informed by the appreciation of the insufficient resources most individual media organizations must undertake fact checking and prebunking at scale. Leveraging on each organization's competitive advantages would be a more pragmatic approach.
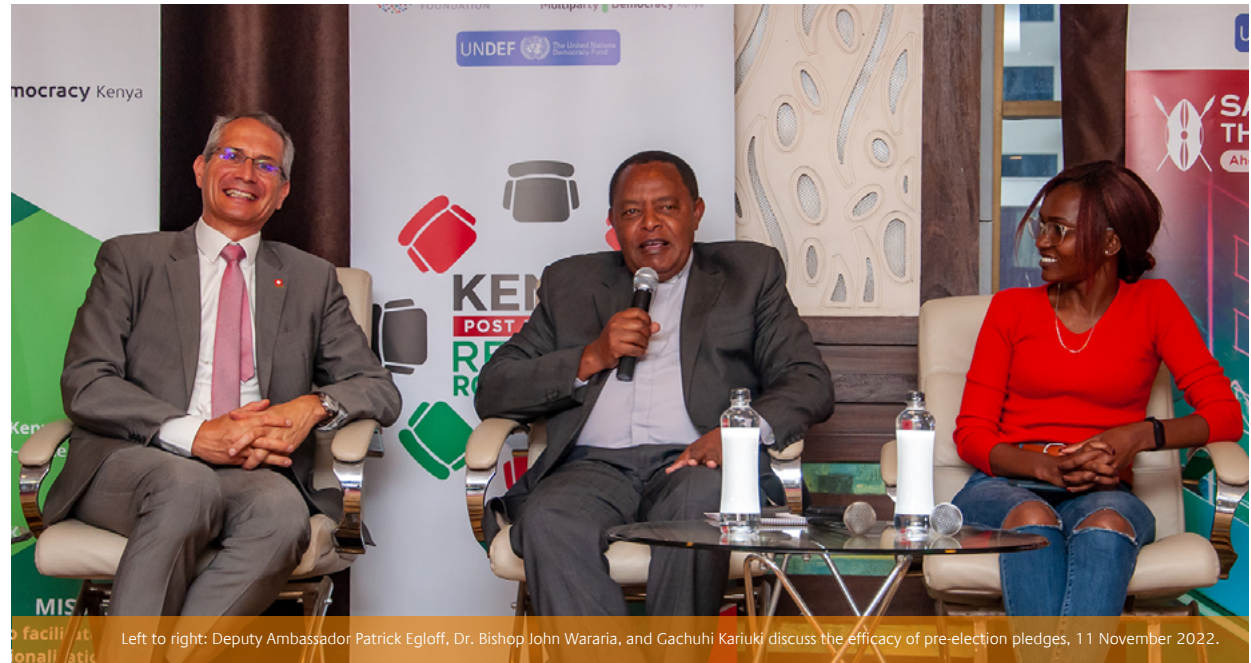
Left to right: Deputy Ambassador Patrick Egloff, Dr. Bishop John Wararia, and Gachuhi Kariuki discuss the efficacy of pre-election pledges, 11 November 2022.

Conclusion

Kenya has made significant steps towards consolidating its democracy. With each passing election cycle, the vigilance by the citizenry serves as a testament of their commitment to safeguarding Kenya's electoral democracy. While progress has been made, much remains to be done in the way of enhancing the quality of political campaigning and elections administration. Some of what needs to be done has been discussed in this report and summarized in previous sections. However, at a broad level, election stakeholders must actively collaborate based on open communication, political goodwill, and shared values. Only through such collaboration would Kenya unlock its potential for far reaching reforms that will increase trust in its democracy and nurture inclusion.

"WHILE PROGRESS HAS BEEN MADE, MUCH REMAINS TO BE DONE IN THE WAY OF ENHANCING THE QUALITY OF POLITICAL CAMPAIGNING AND ELECTIONS ADMINISTRATION."

Lead Author

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About the organisers

Kofi Annan FOUNDATION

The Kofi Annan Foundation is an independent not-for-profit organization, established in Geneva, Switzerland in 2007 by former UN Secretary-General and Nobel Peace Prize laureate, the late Kofi Annan. Our board is composed of prominent personalities from the public and private sectors around the world. We work to build a fairer and more peaceful world, where no one is left behind, democratic principles and the rule of law are upheld, and divides are bridged through dialogue and international cooperation. To help build peaceful, democratic, and resilient societies, we convene stakeholders around the table, forge coalitions of trusted influence, channel expertise, champion ethical leadership, and amplify Kofi Annan's legacy.

Follow on:

Center for Multiparty Democracy Kenya

The Centre for Multiparty Democracy, CMD-Kenya is a political parties-based membership organization established in March 2004. The mandate is to enhance multiparty democracy and strengthen the institutional capacity of political parties in Kenya through policy influence and capacity building. The organization provides a platform for political parties, political actors, and policy makers to engage in dialogue and cooperate in strengthening multiparty democracy. CMD-Kenya works closely with political parties, political actors, strategic partners, and key stakeholders in promoting social justice, political governance best practices, respect for human rights and fundamental freedoms.

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