

BRIEFING ON THE POLITICAL CRISIS IN KENYA

Background

The Kenyan election campaigns which formally began just over three months ago were understood by all to be the most hotly contested ever in the history of multi-partism in the country. The ruling party, National Rainbow Coalition (NARC) which unseated the long reigning former President Moi's regime and his party, Kenya African National Union (KANU) was born as a result of a coalition of many parties. The coalition which had President Kibaki as president collapsed as a result of a breach of a memorandum of understanding reached before the 2002 election.

The said memorandum, we understand, was to share power. Raila Odinga was to be Prime Minister while Kibaki remained President. A constitutional review which incorporated the office of the prime minister was changed by the Kibaki government through the office of the Attorney General and presented to Kenyans in a referendum. Raila Odinga and Kalonzo Musyoka led a group of parliamentarians to campaign against the adoption of the constitution since to them the provision in the constitution virtually nullified the memorandum of understanding reached before the elections. The symbol for Raila and his group for the rejection of the constitution was an orange while the government's symbol for the acceptance was a banana. In the vote the 'no campaign' won and the constitution was therefore rejected.

Angered by the rebellion against the constitution, Kibaki proceeded to sack Raila Odinga, Kalonzo Musyoka, and all cabinet ministers who allied themselves with the 'no campaign.' This created great acrimony among the dismissed cabinet ministers who then transformed themselves into an 'Orange Movement' and eventually into a political party called the 'Orange Democratic Movement of Kenya' (ODM-K) which again split into two - 'Orange Democratic Movement' (ODM) and Orange Democratic Movement of Kenya' (ODM-K). The ODM had its leader as Raila Odinga, while the ODM-K, Kalonzo Musyoka.

The break of the NARC coalition forced the government to pick and choose cabinet ministers from KANU, which it had removed from power.

Political Realignments

When time was rife for Kenyans to go to the polls because the five years mandate of President Kibaki was coming to an end, several political realignments took place. The ODM managed to have a broad based five-man leadership, which they referred to as 'the pentagon' representing the main ethnic and regional groupings around the country. The ODM-K on its part appeared to have been unsuccessful in having broad based leadership around the country except one and therefore had to draw its main leadership from the Kamba ethnic group of eastern Kenya.

President Kibaki on the other hand struggled to unite smaller parties into forming one single party to support his re-election. The original NARC under whose umbrella he assumed power was a shadow of itself because of the breakaway mentioned earlier. The chairperson of NARC, Charity Ngilu, a leading woman politician who was then the

minister of health refused to be part of the Kibaki political formation and moved on to join ODM. Kibaki's move to unite different parties into another coalition received a boost when the leader of the official opposition, Uhuru Kenyatta, son of the first President of Kenya, and former President Moi led a section of the KANU MPs to join Kibaki.

One other section of the KANU MPs led by the KANU Secretary General, William Ruto joined the ODM. With these, President Kibaki eventually formed an umbrella party known as Party of National Unity (PNU) made up of about 10 affiliate parties of various degrees of strengths and weaknesses.

Strengths and Weaknesses of the various Parties during the Campaigns

When political campaigns began in earnest a number of things became very clear.

1. That the race to state house was virtually between two parties – Raila's ODM and Kibaki's PNU.
2. That over 90% of voters who are Kikuyu and Meru ethnic groups, and mostly reside in the Central Province would vote for Kibaki who is a Kikuyu himself.
3. That voters in Nyanza Province who are predominantly Luo would vote for Raila who is himself a Luo, with the Kisii in that region having their votes split between Raila and Kibaki.
4. That the battle for votes in the Rift Valley Province which has the largest number of voters in Kenya would vote for Raila because of William Ruto who is a member of the pentagon or Kibaki because former President Moi supported him. In the middle of the campaign it became increasingly clear that the Kalenjin ethnic group who are the majority in the area, and who both Moi and Ruto belong to had settled to support Ruto arguing that Moi had betrayed their trust. Their major complaint was that when Kibaki removed Moi's KANU from power he sacked most Kalenjins from the civil service and replaced them with his own Kikuyu tribe. The Masai in the Rift Valley also settled for ODM because their oldest statesman, William Ole Ntimama had also gone for ODM. In the Rift Valley, therefore, Kikuyus who are mainly farmers in the area were assumed to be prepared to vote for Kibaki while the Kalenjin and the Masai generally preferred to vote for Raila.
5. Western Province of Kenya who historically are known not to vote as a block seem to have been torn between voting for Raila whose running mate, Musalia Mudavadi is from the area or for Kibaki because the Vice President, Moody Awori hails from the area. Kalonzo Musyoka also hoped to garner the Western Province vote because his running mate, Julia Ojiambo also hailed from the area. The Western Province is predominantly dominated by the Luhya ethnic group.
6. The Eastern Province houses the Kamba and Embu ethnic groups. The Kamba rallied behind Kalonzo Musyoka of ODM-K who belongs to that group while the Embu supported Kibaki.
7. The North Eastern Province which is largely made up of the nomadic groups were said to prefer Raila to Kibaki.

8. The situation in the Coast Province was rather dramatic as it came out that Raila had signed a memorandum of understanding with a section of the Muslim community with the promise that he would work to liberate them from being what was termed ‘an oppressed community.’ Even though it cannot be successfully argued that Muslims necessarily form a greater majority in the coast it was becoming clear that non-Muslims as well preferred Raila to Kibaki because of what is known in Kenya as ‘Majimbo’ (federal) system of government which Raila and his party had advocated.
9. The last but not least of the provinces – Nairobi Province, which is very much cosmopolitan, is known to have a history of voting with the opposition. It therefore was a foregone conclusion that they would vote for Raila.

With the provincial analysis captured above, opinion polls suggested that the elections would be too close to call but were unanimous in predicting that Raila had an edge over Kibaki and would win in 6 out of the 8 provinces in Kenya.

Key Issues in the Campaigns

The three main parties campaigned in basically two areas:

- i. Kibaki campaigned on continuity of his five years success in developing the country with promises of free education, the creation of more districts which he began to implement during the campaigns
- ii. ODM and ODM-K campaigned on the devolution of power and getting rid of corruption which the Kibaki government had been accused of.

The Electoral Commission of Kenya

Barely two months before the elections, Kibaki refused to renew the contracts of key persons in the Electoral Commission of Kenya and instead replaced them with persons he single handedly nominated and appointed. The opposition cried foul demanding that the old hands be retained since the upcoming elections to them were critical. Failure to retain them, they argued, the new commissioners must be people appointed by an inter-party group involving all parties and not the government alone since Kibaki, while in opposition had advocated for that and it was accepted. The opposition’s demands were not accepted and therefore Kibaki’s appointments of the commissioners remained.

Further pressure from the opposition and the international community apparently prevented the government from removing the chairman of the Electoral Commission of Kenya, Samuel Kivuitu.

With these developments confidence in the Electoral Commission of Kenya was low and sometimes fluctuated at the time of going to the polls.

Voting Patterns and the Announcement of the Results

Kenya had a quiet and smooth voting process to the amazement of all local and international observers. There was hardly any violence during the casting of votes. The gradual release of tallied votes in the print media and television created excitement for

ODM supporters and depression for PNU supporters as the ODM presidential candidate appeared to be far ahead (by over a million votes). The excitement heightened further when it became clear that ODM had actually won in 6 of the 8 provinces as predicted by the opinion polls.

A delay in the announcement of results from the Central Province where Kibaki had the strongest support created a lot of anxiety for all the political parties.

Questions were raised with the Electoral Commission of Kenya (ECK) Chairman, Samuel Kivuitu who is known to be astute and frank as to why the delay. He was very anxious and said that perhaps some people were 'cooking the results' and that any falsification would not be accepted. He then went on to give an example of a polling station in Central Province where the number of votes cast were more than the registered voters and how he had to reject such votes from that polling station. He also lamented that the ECK clerks and presiding officers at some constituencies in Central Province who had not brought in their results could not be reached on phone much as he tried.

The drama at the ECK offices on Sunday, 30 December, i.e. three days after the elections was beyond what many Kenyans had experienced before. There were shouts all over indicating that votes declared in favour of President Kibaki in a number of constituencies were at variance with a 'form 16' tallied votes which all political parties agents' had signed. The confusion that ensued pushed the ECK chairman to (under security escort) move into a separate location outside the glare of private and international media and political parties, and activists to announce the results only to the government media, particularly the Kenya Broadcasting Corporation (KBC).

Immediately the announcement was made, the swearing in of President Kibaki was done at State House just before darkness fell with a handful of his ministers. This was at variance with the last time he was sworn in at a sports stadium in bright daylight. It thus increased the anxiety.

Political Drama and Violence after the Declaration of the Results and the Swearing in of the President

Following the declaration of the results and the subsequent swearing in of President Kibaki, hell broke loose and violence erupted in virtually all the provinces except the Central and Eastern provinces, which are the strongholds of Kibaki and Kalonzo. Protesters cried foul describing the results as fraudulent and a stolen verdict.

The ODM leadership then held several press conferences and produced what they called inflated tallied votes in 42 constituencies in favour of President Kibaki. The PNU on its part argued that the elections were free and fair, and that if ODM was not satisfied with the results they should send their grievances to court of law.

Further drama ensued when 4 members of the ECK called a press conference to inform the nation that the tallying of the votes were flawed and that there was a need for re-tallying and recounting of votes in some constituencies.

The ECK chairman, Samuel Kivuitu then broke his silence and came out to indicate that he released the results under duress. He said that PNU and ODM-K forced him to release the results. Asked whether he was convinced that Kibaki won the election, he responded: 'I do not know.'

The international observers (especially the European Union observer team) came out to declare that the process of voting was free and fair but that the tallying of the votes was full of fraud and gave examples of places where the vote tallying was inflated and figures changed in favour of Kibaki.

At the time of writing this brief, it is estimated that about 600 people lost their lives and several commercial properties and homes have been burnt down mostly in the 6 provinces where ODM had majority votes. The violent attacks have polarised Kenyan society and entrenched ethnic divisions as generally people voted along ethnic lines. For example, ODM has no winning parliamentary candidate in Central Province just as PNU has no winning parliamentary candidate in Luo-Nyanza.

About 22 cabinet ministers and assistant ministers of the Kibaki administration lost their parliamentary seats to newcomers. These and many more issues form part of the confusion in Kenya as a result of the elections.

PROCMURA's Staff Caught in the Conflict

Before the elections we held a meeting and resolved to be in contact with one another to ensure that all of us were safe. Joy and I were the link persons in constant contact with staff and shared any information with all others about our safety. In all, four of our staff did have some difficulties, which we briefly describe to you.

The Role of the Churches and Religious Organisations During and After the Elections

The months preceding the elections and during the elections experienced a divided Church. In the just concluded elections the polarisation of Kenyan society along ethnic and regional lines penetrated the churches. Some of the leaders of the churches, unfortunately, danced to their tribal affiliations and failed rather miserably to provide neutral and objective guidance to their membership to vote according to their conscience and on issues presented by the different political parties.

There were open overt and covert directions in congregations indicating which party their members should vote for or against, and open condemnations of one political party or the other. Public statements to the media by some church leaders that they support one or the other party became so glaring and caused much pain to some of us who felt that the church leaders should assume a position that is embracing to all instead of taking sides.

The situation became worse when the ODM introduced the 'Majimbo' (federal) system into the political debate and worse still when it came into the open that ODM had signed a memorandum of understanding with the Muslim community.

Majimbo (literally, "group of regions") is a Swahili term that is commonly used in Kenya to refer to the idea of political devolution of power to the country's regions. It is alleged by critics, including former vice-president Oginga Odinga in his book Not Yet Uhuru, to have been coined by European settlers in Kenya's White Highlands region, around the time of independence in 1963, who preferred to retain an autonomous, ethnically-based governance over the region. Source: <http://en.wikipedia.org/wiki/Majimbo>

From the Muslim side they were equally divided as some of them disowned the memorandum of understanding arguing that they were not consulted or otherwise felt that there was no need for a memorandum of understanding by any political party with any religious group – this was the stand of the churches as well.

The ethnic divide among religious leaders became so bad that if religious leaders from Central Province (Kibaki's stronghold) issued a statement that appeared to be supporting Kibaki, religious leaders in Nyanza of the same church would also issue a statement that would seem to support Raila.

The consequence of a divided church, and a divided Muslim community, was that when electoral stimulated violence came to the fore it became virtually impossible for each religious group to issue a unified statement calling for peace that would be respected by all Kenyans. The churches then began to suffer as a result of their own self-inflicted divisions prior to the elections.

The National Council of Churches of Kenya (NCCCK) maintained a certain amount of neutrality in their pronouncements before the elections and consistently maintained that after the elections.

The Supreme Council of Kenya Muslims (SUPKEM) also maintained such a neutral position throughout.

These two bodies continue to drum up peace in the midst of the violence.

The International Input in the Quest for Peace in Kenya

Following the political impasse and its attendant loss of lives, the All Africa Conference of Churches (AACC) under the leadership of Bishop Mvume Dandala facilitated a visit of Archbishop Desmond Tutu and Dr. Abam, one-time president of the South Africa Council of Churches and currently the chairman of the Independent Electoral Commission of South Africa. This visit in all intent and purposes was timely and relevant as it opened the way for the ecumenical body and the churches in Kenya to have access to the corridors of power and an opportunity to meet all political leaders concerned.

Meetings with the European Union election observers, the NCCCK, and Christian religious leaders were arranged to enable all of us to have first hand information on the elections, the critical issues that created the impasse, and the churches' position. Room was created for Archbishop Tutu, Dr. Abam, and Professor Wangari Maathai, a Kenyan nobel peace prize winner to provide some input on the way forward to restoring peace in the land.

The delegation led by Desmond Tutu sought audience with President Kibaki and PNU leaders, Mr. Raila Odinga and ODM leaders, and Mr. Kalonzo Musyoka and ODM-K leaders. The discussions were constructive and arguably paved the way for further consultations. Desmond Tutu was spot-on when he proverbially said to the political leaders that when elephants fight among themselves they trample on the grass and in the end it is the ground that suffers, and therefore appealed to Kibaki and Raila to make peace arguing that once the two of them were at peace after a negotiated settlement of the political impasse then sanity would prevail in the land.

Desmond Tutu's visit, as it were, prepared the ground for other high profile political peace brokers from the USA and UK. The Canadians, Germans, and Australians have also added their voices for peace in Kenya. The African continent initiative is spearheaded by the President of Ghana, John Kufuor who is also the current chairman of the African Union. He is, as I write, in discussion with President Kibaki and Raila Odinga.

The Political Stalemate

The biggest bone of contention between Raila Odinga (ODM) and President Kibaki (PNU) are the following:

A. President Kibaki

1. That he won the elections, has been sworn in as President, and will not relinquish that position.
2. That if Raila and ODM are aggrieved they should take the matter to court.
3. That he has gone ahead to appoint a partial cabinet where all the key positions are given out.
4. That he has appointed Kalonzo Musyoka of ODM-K as Vice President.
5. That he will form a government of national unity that could incorporate members of ODM.

B. Raila Odinga

1. That he won the elections and Kibaki stole it from him and must return it to him.
2. That he will not go to the courts because just before the elections Kibaki appointed new judges and increased the pay of existing judges, and that most of the judges are Kibaki's agents' and he will therefore not receive justice in the courts.
3. That he will settle in for an interim government that will prepare for a fresh run for presidential elections in three months.
4. That he will not participate in a government of national unity because that experiment failed when he was with Kibaki as part of the NARC government.
5. That when parliament opens on Tuesday, 15 January he will ask all his members of parliament to sit on the government side and not on the opposition side because they are the winners of the elections.

National Negotiations

The President has invited top religious leaders of the country, members of ODM and PNU for a national mediation meeting tomorrow (11 January 2008). We implore all of you to remember this crucial meeting in your prayers so that good may come out of it.

Conclusion

We do have reasonable hope that in the end of all these, good will triumph over evil but are at pains to say that such good should come rather more quickly to avoid human suffering.

In faith we look forward to better times for Kenya and for the African continent.

Humbly submitted