



AFRICA PROGRAM

Center for Strategic and International Studies ■ Washington, D.C.

Breaking the Stalemate in Kenya

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January 8, 2008

The historical origins of the violence that has engulfed Kenya since the discredited election of December 27 run deep, and it will take more than a recount of the vote and/or the formation of a government of national unity to resolve the crisis. Although nearly 9 million Kenyans went to the polls in what was to be the crowning event of the country's two-decade struggle for democratic rule, the ingredients for post-election violence were clear. Public opinion polls conducted before the election indicated that the race between incumbent president Mwai Kibaki and his principal challenger, Raila Odinga, was too close to call. Outbreaks of violence had occurred in the run-up to previous elections in 1992 and 1997. Many Kenyans, especially the leaders of civil society, worried that unless the Election Commission of Kenya (ECK) conducted the December elections in a manner that was scrupulously "free and fair" and regarded as legitimate by all candidates, the losers would not accept the verdict, and violence would ensue.

Sadly, their fears were correct. Despite many warnings and pleas for restraint *before* the election—from Kenyan civil society, the Kenyan press, and the international community, including the United States—an election that started well has ended in crisis. Between 500 and 1,000 people have died in post-election violence, while more than 250,000 Kenyans, mainly Kikuyu settlers in the western Rift Valley, have been displaced from their homes. How and why did this crisis evolve, and how might it be resolved?

The December election was the fourth since the reintroduction of multiparty politics in 1992 and pitted Mwai Kibaki and his Party of National Unity (PNU) against Raila Odinga, the leader of the Orange Democratic Movement (ODM), and Kalonzo Musyoka, head of ODM-Kenya. In addition to the presidential contest, more than 2,500 candidates vied for 210 seats in the National Assembly. Members of local councils were also elected. The turnout was the highest on record, about 70 percent of those registered, and passions ran high.

The election was arguably the "freest and fairest" since independence through all stages except the last. In marked contrast to prior elections, the presidential candidates and those seeking legislative office were unimpeded during the course of their campaigns. The polls opened more or less on time on election day, and most voters who wished to vote cast their ballots by the time the polling stations officially closed. The count at nearly all polling stations viewed by domestic and international observers, including this writer, was slow, but transparent. Agents of the rival candidates signed off on the count and went home thinking that the rest of the process would proceed according to the procedures specified by the ECK.

Unfortunately, they were wrong. As became apparent during the 48 hours following the election, and confirmed by both international and domestic observers, the tallying of the vote reported by the individual polling stations in more than 35 parliamentary constituencies was highly flawed. The result was that Raila Odinga, who had been reported in the Kenyan media to be leading in the presidential contest by more than 370,000 votes with 90 percent of the constituencies reporting, suddenly found himself the loser by nearly 200,000 votes when the ECK announced the winner on December 30. The European Union, the

Commonwealth, and the Kenyan Domestic Observation Forum (KEDOF) all called for an international audit of the count, at which point the chaos began.

As with close elections elsewhere, the vote and the opinion surveys preceding the election revealed the deep fault lines within Kenyan society that now threaten to roll back five years of democratization and economic gain achieved since Kibaki was elected to succeed former president Daniel arap Moi in 2002. Whereas the Moi years were marked by economic stagnation and resistance to democratic reform, Kibaki's administration turned the country around on both fronts. Economic growth hit 6 percent per capita in 2006, the highest rate of growth in more than 30 years. Investment and tourists poured into the country. Civil society, the press, and parliament came alive to advance what had been a tortuous quest for democratization to unprecedented levels. Kenya, it appeared, had been reborn, and Kibaki should have been in position to win reelection handily.

Deep schisms, however, existed within the political elite that reflected persistent divides in Kenyan society. Many attribute Kibaki's victory in 2002 to Odinga, who campaigned tirelessly for Kibaki and swung his political allies and followers in Nyanza Province, the heartland of the Luo people, behind Kibaki to form a broad multiethnic coalition, the National Rainbow Coalition (NARC). The formation of NARC was based on a now-controversial memorandum of understanding between Kibaki and Odinga that ostensibly promised Odinga the position of prime minister with substantial executive power. Odinga's alliance, which included Kalonzo Musyoka and other prominent non-Kikuyu leaders from outside Nyanza, were also promised an "equal" number of posts in Kibaki's cabinet should they win the election. After the election, however, Kibaki reneged on the deal, although he did appoint Odinga minister of works and housing, and Musyoka became Kenya's foreign minister.

Kibaki also miscalculated by relying heavily on a small group of ministers from his own Kikuyu tribe, as well as ministers from the culturally related Meru and Embu communities. Known as the Mt. Kenya Mafia, because the three groups inhabit the foothills around Mt. Kenya, the group, and hence Kibaki's administration, was regarded by most members of Kenya's other 41 ethnic groups as a government that favored the Kikuyu at the expense of their communities. As the largest (22 percent), most educated, and most prosperous ethnic group in Kenya, the Kikuyu have long held a disproportionate number of positions in the civil service and Kenya's professions. Kikuyu are also overrepresented in the business community, which has prospered greatly as the economy has regained its position as the dominant economy of eastern Africa. By the end of Kibaki's term, Kikuyus controlled the key ministries of finance, defense, information, and internal security.

The result was that while Kibaki campaigned for reelection on the theme that the country never had it so good, the opposition, led by Odinga, mobilized the electorate with appeals for change, arguing that it would do a better job at distributing the fruits of Kenya's economic and political resurgence more equally across Kenya's 42 ethnic groups. The implicit anti-Kikuyu message in this appeal was clear. Odinga and the ODM also called for the establishment of a federal form of government that would protect the interests of the other ethnic groups.

This appeal, in addition to a well-organized, well-financed, and colorful campaign by ODM, enabled Odinga and other prominent non-Kikuyu leaders to rally a majority of Kenyans against Kibaki. Inevitably, the campaign also polarized the country along ethnic lines. While over 90 percent of the Kikuyu and Meru residents around Mt. Kenya voted for Kibaki, a similar percentage of Luos in Nyanza voted for Odinga. Odinga also rolled up large majorities of between 55 and 70 percent of the vote in Western Province, the home of the Luhya people; in the Rift Valley Province, the homeland of the Kalinjin and a half dozen other small tribes; in Coast Province, which is also inhabited by smaller ethnic groups, as well as most of Kenya's Muslim population; and in North-Eastern Province. Odinga also obtained a narrow majority in Nairobi.

In the process, ODM won 99 seats in the National Assembly to 43 for Kibaki's PNU. While most, but not all, of the 35 members of parliament from smaller parties support Kibaki, Odinga and the ODM will control a majority of seats in the legislature. The election reflected dissatisfaction with Kibaki's government across Kenya. Even within the Kikuyu community, especially among younger Kikuyu unhappy with Kibaki's exclusivist approach to governance, there were signs of revolt. Eighteen ministers, more than half of Kibaki's cabinet, were defeated, as were a substantial number of Kikuyu incumbents, including two members of the old guard: Njenga Karume, the minister of defense, and David Mwiria, the former minister of finance.

Resentment against Kikuyus runs particularly deep in the area of the northern Rift Valley between Nakuru and Eldoret and Kericho. It is in this triangle, inhabited by the Kenya's white settler community before independence, that most of the killing has occurred in the week following the election. Land vacated by the former settlers during the 1960s and early 1970s was purchased by Kikuyu with assistance of the Kenyan government, then led by Jomo Kenyatta, himself a Kikuyu, instead of being returned to the communities from which the land was taken during colonial rule. This created a domestic Kikuyu diaspora 100 miles west of the Kikuyu homeland around Mt. Kenya, and it is this group that has suffered the most during the past week.

Kikuyu business has suffered too. Although Kibaki retained the presidency through questionable means, events following the election make it clear he cannot govern the country, despite being sworn in for a second term. Although the unrest may subside, a negotiated deal between the two protagonists is essential for long-term stability and to overcome the losses to the Kenyan economy, which are approaching \$500 million.

To this end, Kibaki announced on Monday, January 7 that he is prepared to form a government of national unity that will presumably give the ODM a large proportion of seats in the cabinet. But on January 8 he greatly complicated the prospects for a settlement by appointing Kilonzo Musyoka, the candidate who finished third in the presidential race, to be his vice president, and 16 others to serve in what he described as "part" of his cabinet. The appointments also include the ministries of finance, internal security, justice, local government, education, information, and defense, leaving only minor posts to be filled in the future by Odinga and his colleagues in ODM. Although this move is intended to send a signal to Odinga that the ethnic constituencies behind ODM do not command a majority of Kenyans, it is also a continuation of the self-isolating policy of his presidency as it now means that the new government rests on a central-eastern Kenyan alliance of the Kikuyu, Embu, Meru, and Kamba peoples versus everybody else. Of the 17 positions, 8 are held by the members of these groups.

This is precisely the type of governance Raila Odinga and his colleagues want to break. They will not settle for mere posts in an expanded cabinet but want an arrangement of genuine power sharing: the position of prime minister with real executive power for Raila, at least half the positions in the cabinet, and even more important, a new constitution for Kenya that will guarantee non-Kikuyu an equitable slice of the pie. The key to this is some form of federalism, perhaps the devolution of power to 13 regions to replace Kenya's current eight provinces that are controlled by the office of the president via the provincial administration. The call for federalism, or *Majimbo*, by Kenya's smaller and poorer ethnic groups—the so-called have-nots compared to the Kikuyu—has been on the agenda of the political leaders of these groups for nearly 50 years. Long resisted by Kikuyu leaders, it is an idea whose time may have come. Like India in the 1950s or Nigeria in the 1980s, the mechanism for diffusing linguistic strife and ethnic issues may be the restructuring of the basic rules of the political game. Given the reality of African politics, democratization across the continent requires more than the expansion of individual rights, both political and economic. Group rights to address the "ethnic factor" must be afforded too.

Whether Kenya's two principal leaders can broker such a deal remains to be seen and the prospects look much dimmer than before Kibaki made his appointments. It has taken a week for both to realize that a bloody and hurtful stalemate has emerged, from which neither can emerge victorious. While Kibaki cannot

govern Kenya from the narrow base of Central and Eastern Provinces, Odinga and ODM would be well advised not to repeat the mistake of former president Daniel arap Moi, who tried to run Kenya without support from the Kikuyu community, and especially its members of Kenya's business and professional class. That strategy doomed Kenya economically throughout the 1980s and early 1990s and must not be repeated if Kenya is to build on its economic performance of the past five years. Kikuyu have also been prominent within those civil society organizations that have advanced and consolidated the process of democratization in Kenya.

Whether and how Kibaki and Odinga negotiate a power-sharing deal will require sustained pressure on the principals from both within and outside Kenya. Pressure must especially be applied on the hard-liners who surround both principals—old guard Kikuyus, such as John Michuki, George Saitoti, Stanley Murage, and Njenga Karume, who have undercut Kibaki's authority to govern by pushing him into the Mt. Kenya strategy of governance; and Kalenjins, such as William Ruto, a supporter of former president Moi, who is reported to be behind some of the atrocities occurring in the northern Rift.

If there is an encouraging aspect to Kenya's post-election week of agony, it is that civil society—the churches, the organizations that fought for democratization throughout the 1990s, and the press, and even Kenya's singers and music entertainers—has stepped forward to plea for negotiations to occur. The international community, especially the United States, the United Kingdom, and the European Union, have also done their part. British prime minister Gordon Brown, U.S. secretary of state Condoleezza Rice, and EU secretary-general Javier Solana have leaned on both principals. South African prelate Desmond Tutu spent part of last week in Kenya urging both principals to exercise restraint. The IMF has also issued a statement detailing the mounting economic costs of the stalemate. Last but not least, the Kenyan diaspora in North America and the United Kingdom, a small but prosperous community of professionals and business people that maintain close ties with their homeland, and which is an important source of remittances and investment, has called for a negotiated settlement.

After initially praising the election in a premature statement on December 29, the United States sent Assistant Secretary of State Frazier to Kenya on January 4. Since her arrival, Frazer has suggested that real power sharing is required, including, perhaps, some measure of "devolution" that would address the long-simmering issue of group rights noted above. The United States is also rightly backing the initiative by the current president of the African Union and Ghanaian president John Kufour, who arrives in Kenya today.

The way out of the crisis will ultimately depend on Kenya's political class recognizing what civil society and the diplomatic community has made clear: that Kenya is indeed at the proverbial fork in the road. One fork leads to continued chaos and the loss of much of what the country has gained since the reintroduction of multiparty politics in 1992, and especially since the end of the Moi regime in 2002. The other fork leads to the consolidation of democracy, renewed economic development, and the continued emergence of Kenya as arguably the most significant country in Africa after South Africa and possibly Nigeria. As the anchor state of the region of greater eastern Africa, Kenya matters. A stable and prosperous Kenya raises the prospects for peace and development in Uganda, Rwanda, eastern Congo, and southern Sudan. Kenyans are being tested to the limit by the current crisis, yet if a deal can be reached, including with minimal constitutional reforms, Kenyans may in 10 years look back on the events of the first week of January 2008 as the time when their country turned the corner and became an example for the rest of Africa.

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