

## Preview of Kenya's December 27 National Elections

*The CSIS Africa Program has prepared the following status report on the eve of Kenya's historic elections. On December 27, the twenty-four year reign of President Daniel arap Moi will end, as Kenyans elect the next president and the next national parliament.*

### "Project Uhuru", the KANU Split, and the National Rainbow Coalition

At the last general election in 1997, Kenya's ruling party under President Moi, the Kenya Africa National Union (KANU), was the sole national party able to field and support candidates in all 210 National Assembly constituencies. By contrast, the main opposition parties drew their support overwhelmingly from their leaders' respective ethno-regional bases which predictably fragmented opposition returns. Mwai Kibaki's Democratic Party (DP) polled well in Central Province, among the Kikuyu Diaspora in the Rift Valley, and in neighboring Embu and Meru. FORD-Kenya won all its seats in Western Province and in Trans Nzoia, which is settled by the Abaluhya. Charity Ngilu's Social Democratic Party (SDP) was centered on Ukambani and Thika District, while Raila Odinga's National Development Party (NDP) won all but two seats in Luo-Nyanza. Fragmentation was actually worse in 1997 than in 1992 when the three main opposition leaders—Kenneth Matiba, Oginga Odinga, and Mwai Kibaki—made a serious effort to build interethnic alliances. That experiment failed, with the result that the opposition was completely fragmented in the December 1997 elections.

As the run-up to the 2002 national elections began, opposition leaders took to heart the hard lesson of 1997. In early 2002, prior to President Moi's announcement that the KANU candidate would be Uhuru Kenyatta, Kibaki,

Wamalwa, and Ngilu formed the National Alliance for Change (NAC), later registered as the National Alliance Party for Kenya (NAK), stark proof of their belief that the only hope of defeating KANU was through a united opposition. Many commentators openly questioned whether Kibaki, Wamalwa, and Ngilu, along with smaller parties, could agree on a single presidential candidate and, if they did, mobilize their respective party activists and voters on his behalf. That skepticism, however, did not deter the three from moving ahead with alliance plans.

But KANU too, as of early 2002, seemed well positioned to win the presidential election. The Luo-based National Development Party merged in March 2002 with KANU, significantly enhancing the ruling-party's electoral prospects and dispiriting the opposition. 'New KANU', as the merger was popularly called, had four identifiable factions: the old-guard led, by then Vice-President Saitoti and ministers William ole Ntimama and Joseph Kamotho; reformist new-guard parliamentarians, most elected in 1992 or 1997, who worked with opposition MPs on the newly created Parliamentary Standing Committees, which sought for first time in Kenyan history to exercise real legislative oversight of executive ministries; a 'soft middle ground' of KANU moderates, including one-time presidential front runner Musalia Mudavadi; and Raila Odinga's former NDP cohort which delivered 20 parliamentary seats from Luo-Nyanza to the ruling party. Immediately after the merger, as he ascended to become KANU's new secretary-general, Raila Odinga swiftly established an alliance with both KANU radicals and moderates in hopes of enlarging his influence within the party.

Miscalculation by President Moi, the self-proclaimed "professor of politics," disrupted and eventually ruined KANU's enlargement.

Moi's "Project Uhuru", whereby Moi, on July 30, 2002, endorsed as his successor the 41 year-old, politically inexperienced son of his predecessor, Uhuru Kenyatta,

threw KANU into upheaval and confusion. Embarrassingly, in 1997 Kenyatta failed in his bid to win a KANU seat in the Gatundu South constituency, his home area. Elected KANU chairman for Thika District in 1996, he had served as chairman of the Kenya Tourist Board before being appointed a nominated MP in October 2001 and subsequently appointed Minister of Local Government.

Moi's unilateral selection of Kenyatta as the KANU presidential candidate deeply antagonized Vice-President Saitoti, Kamba boss Kalonzo Musyoka, Maasai leader William ole Ntimama, the party's long-time Kikuyu standard-bearer Joseph Kamotho, as well as Raila Odinga. Carefully shepherded by Odinga, these individuals, drawn mainly from KANU's old-guard, openly revolted by forming the Rainbow Alliance, what became, in effect, an intra-KANU opposition grouping that demanded a secret ballot election of KANU delegates during the party conference held in mid-October. When President Moi refused to permit free elections of party delegates at grassroots branches and instead packed the conference with pro-Uhuru delegates, Rainbow Alliance members in unison abandoned KANU and joined the opposition Liberal Democratic Party (LDP).

On October 14, 2002, the same day that Uhuru Kenyatta was named KANU presidential candidate, the LDP announced that it would forge a "super-alliance" with the National Alliance of Kenya (NAK), which had already selected DP leader Mwai Kibaki as its Presidential candidate. On October 21, the parties officially merged into the National Rainbow Coalition (NARC), an unprecedented assembly of all the main opposition parties and several prominent KANU defectors. Odinga was the predominant tactician who drove NARC forward. He personally endorsed Kibaki's candidacy at a meeting at Uhuru Park to the dismay of key his colleagues, most notably former Vice-President Saitoti (newly dismissed from government by Moi) and Kalonzo Musyoka, each of who had presidential ambitions. The crowd's effusive support of Odinga's announcement effectively pre-empted further discussions; having just abandoned KANU for the LDP, Saitoti and Musyoka had little choice but to acquiesce to the *fait accompli*.

NARC would not exist but for Odinga's skillful machinations. Indeed, President Moi grossly underestimated Odinga's genius as a political tactician. Were it not for Odinga, most of the KANU old-guard

would have reluctantly accepted Uhuru Kenyatta's imposition, most would never have walked out of KANU, and virtually none would have endorsed Kibaki as their leader and presidential candidate. If Kibaki wins the presidency, he will be deeply indebted to Odinga for his tactical skills and his tireless campaigning on Kibaki's behalf as well as NARC candidates across Kenya.

## The Presidential Election and Opinion Polls

Just a few days before December 27, KANU is at serious risk of losing State House. Recent opinion polls show Kenyatta lagging far behind Kibaki. An opinion poll conducted in late November on behalf of the International Republican Institute showed Kibaki defeating Kenyatta by 68 percent to 22 percent, though some independent experts have suggested the figures may be exaggerated, due to unreliable sampling procedures. Yet even KANU's own polls, conducted by the Central Bureau of Statistics, show Kenyatta running far behind. A confidential KANU poll conducted in mid-November gave Kenyatta 31 percent of the presidential vote, compared to 52 percent for Kibaki. A more recent KANU poll has 40 percent supporting Kenyatta, 10 points behind Kibaki. Unless KANU can shift voters' opinions dramatically in the final days of the campaign—or rig the election on a massive scale—it seems likely that Mwai Kibaki will be Kenya's next president.

Moi is still campaigning energetically for Kenyatta and KANU parliamentary candidates, following his return from a December 5 visit to Washington, D.C. Nonetheless the president has also signaled growing doubt that Kenyatta can be elected. In an unprecedented move, Moi visited Kibaki while he was hospitalized in London. Reportedly, he gave the NARC leader a full account of his conversations with President Bush and Secretary of State Powell, and outlined Kenya's evolving role as an ally in future U.S.-led military operations in Iraq or against *al-Qaeda* terrorists in Yemen and elsewhere in the Horn of Africa. Later during his December 12 *Jamhuri Day* speech, the President asked for forgiveness from anyone he may have hurt during his tenure. He has also publicly (and in private conversation with President Bush and Secretary Powell) promised to respect the voters' verdict, saying that he will hand over power to whoever wins the general election. His remarks were welcomed by the

opposition, and were interpreted by many Kenyans as evidence that Moi did not expect KANU to win the presidential election.

## The Parliamentary Election

While NARC is likely to win the presidency, KANU quite possibly will remain the biggest party in Parliament. The struggle for control of Parliament is much more closely contested than the presidency. KANU, which is strongest in the remote, semi-arid, pastoralist constituencies with small populations, has an in-built advantage in winning seats in the National Assembly. In effect, Kibaki will have to defeat Kenyatta by approximately 20 percent for NARC to be the largest single party in the new National Assembly. Any margin less than that would almost certainly leave KANU as the largest party. Political analysts in Kenya predict that KANU will win between 98 and 100 seats, compared to NARC's 95 to 96, while FORD-People will take between 8 and 11, and the minor parties—especially the SDP and Safina—between 2 and 5 seats. FORD-People leader Simeon Nyachae may find his power in the National Assembly greatly enhanced by this outcome, thanks to his solid block of Gusii seats.

As of December 20, the campaign has been surprisingly quiet. Following fiercely contested and much disputed party primaries in mid-November, most Parliamentary and local government candidates suspended active campaigning for two weeks in late November/early December to conserve funds. Most only began seriously to campaign after *Jamhuri Day*, December 12.

## Kibaki's Accident

Kibaki's injury in a car crash on December 3 and his subsequent departure to London for medical treatment, accompanied by NARC vice-presidential candidate Wamalwa, appears not to have seriously disrupted the NARC campaign. Raila Odinga, Kalonzo Musyoka, Charity Ngilu, and other NARC leaders stepped into the breach and sustained intensive campaign appearances. Kibaki's return on December 14 effectively scotched KANU-sponsored rumors that his injuries were more serious than originally reported. Kibaki's return, however, was not a blanket success. His tumultuous cavalcade from Jomo Kenyatta International Airport

through the working-class Nairobi suburbs, up Moi and Kenyatta Avenues to Uhuru Park, was consciously modeled on Kenneth Matiba's return from hospital in London in 1992. But whereas Matiba had appeared robust, Kibaki was exhausted and barely able to move, with his right ankle in a cast, his right arm in a sling, and his neck in a protective brace. The crowd at Uhuru Park, estimated by the police to number 120,000, was surprised by Kibaki's condition as his wheelchair was lifted onto the dais. Although he spoke forcefully, his remarks lasted no more than three minutes. He criticized KANU's mismanagement of the economy and called for peaceful elections, without stirring the anxious crowd. Suddenly, he seemed to lose energy, abruptly ended his speech, throwing the crowd and NARC officials into confusion.

NARC continues to rebut renewed rumors about Kibaki's injuries. Kenya's independent media have also helped. The *Daily Nation*, the *East African Standard*, and *The People* on December 19 each carried photographs of Kibaki addressing journalists at his Muthaiga home. The neck-brace was gone and he appeared lively. Meanwhile, NARC leaders, led by Odinga, continue to address rallies throughout the country on his behalf. If anything, the impetus of the NARC campaign has increased, following Kibaki's accident, as senior NARC politicians have fanned out across the country to address presidential rallies and rally local NARC supporters.

## Campaign Expenditure

KANU's campaign budget in this electoral cycle is far less than 1992 and 1997. It is still able to outspend the opposition by at least fivefold.

In 1992, KANU was estimated to have spent 30 billion Kenyan Shillings (\$377 million), inflating the money supply by 76 percent to finance its campaign, and in 1997, it spent Ksh 15 billion. In 2002, the ruling-party seems unlikely to spend more than Ksh 10 billion. The IMF and World Bank have put in place much more stringent controls over the Central Bank, the National Social Security Fund, and expenditure by government ministries than existed in 1992 and 1997. Loopholes do remain, however. The press reports that Ksh 4.6 billion has just been released to pay for unspecified government projects. No details have been provided as to what the money was

spent on or who performed the contracts, and there is widespread suspicion that much of the money is going to finance KANU's election campaign.

Most KANU candidates for the National Assembly have been allocated between Ksh 10-15 million, although candidates in more fiercely contested constituencies may spend two or three times that amount. William arap Ruto, minister of state in the office of the President and Kenyatta's presidential campaign director, for example, is rumored to be spending Ksh 30 million in Eldoret North to fend off wealthy NARC candidate Reuben Cheshire, the former chair of the once powerful but now defunct Kenya Farmers' Association. Cheshire, ironically, is not only a former KANU assistant minister but is also President Moi's cousin.

None of the opposition parties, not even NARC, has the money to fund their local candidates, who must use their own money, borrow from friends, or hold *harambee* meetings to finance their campaigns. Few NARC parliamentary candidates have the financial resources to spend more than Ksh 2-3 million on their campaigns. Most funds are spent on renting four-wheel-drive vehicles and paying of party agents to monitor polling stations and the ballot count. With an average of nearly 100 polling stations in each constituency, each requiring two agents, opposition candidates must spend Ksh 400,000 simply to field party agents at each polling station. Some opposition candidates are attempting to run a campaign on as little as Ksh 100,000, while their KANU opponent is spending Ksh 10 million, and has almost unlimited use of free government vehicles.

## The Provincial Administration and Police

As the December election has neared, reports have proliferated that the Provincial Administration and the police are bolstering KANU's campaign. Before December 12, the Provincial Administration seemed to remain neutral, and left the organization of the election entirely to the district election coordinators and the Electoral Commission's officers, leaving control over political meetings to the police. The November 1997 Inter-Party Parliamentary Group (IPPG) reforms and subsequent legislation made interference by the Provincial Administration a serious election violation. By contrast, in 1992, district commissioners and local chiefs

masterminded the ruling-party's campaign in many constituencies. Despite the IPPG legislation, there were many instances of intervention by officials in 1997 although the political playing-field was undoubtedly much more level than five years before.

Until mid-December, the situation in 2002 appeared even better. A few notorious district commissioners, in Mombasa and Marakwet, for instance, were clearly campaigning actively for KANU, but in most areas, even in the ruling-party's Kalenjin heartlands where it is proving difficult to build popular support for Kenyatta, the Provincial Administration seemed to adopt a neutral stance.

This has changed dramatically in the final run-up to December 27. The local Kenya Domestic Observer Project (K-DOP) is reporting more and more cases of blatant intervention by district commissioners and by local chiefs and sub-chiefs. In Uasin Gishu, there are credible allegations that the district commissioner presented the district election coordinator with a KANU-approved list of electoral officers. The Nandi district commissioner is helping to ensure that the 18,000 Luo and 10,000 Abaluhya migrant workers on the tea estates, who are registered in Tinderet constituency, go on "holiday" between December 23 and January 2, which will prevent them from voting against Minister of Education Henry Kosgey. In KANU's Rift Valley strongholds in the Kalenjin areas, K-DOP and opposition parties claim that KANU, often through the local district commissioners or through local KANU contacts, has selected known KANU supporters to serve as district electoral officers. These officials have considerable discretion to control voting in the polling stations, and under the new rules will count ballots at each polling station and then take the paperwork and the ballot papers to constituency coordinating centers. If these reports are true and this type of manipulation intensifies, the validity of elections in the central Rift Valley and other traditional KANU strongholds may be cast into doubt.

In more isolated districts, chiefs are playing a key role in KANU's campaign. Reports from Marakwet District, and many parts of Coast Province suggest that location chiefs and their assistants are intimidating opposition supporters, and going house-to-house with money from KANU candidates. Some are allegedly saying that development schemes will be stopped if the opposition wins the election, and that NARC's symbol—a flaming torch—

indicates what will happen to their homes if Kibaki wins.

## The Electoral Commission

The Electoral Commission of Kenya (ECK) has learned from mistakes made in 1997 and made a serious attempt to distribute voting materials well in advance. Ballot boxes arrived at most district headquarters in mid-November, the selection and training of presiding and deputy presiding officers is nearly finished, and the training of polling clerks will be completed before December 27.

ECK Chair Samuel Kivuitu aroused concern when he suggested that ballot papers might not arrive from the printer in the United Kingdom on December 20, as planned, and that the election might have to be delayed. The printer had apparently complained that last minute changes in the party's selection of parliamentary and local government candidates, which occurred long after the formal closing of candidate nominations on November 26, had created delays. Kivuitu subsequently confirmed that the ballot papers will arrive on December 20, allowing enough time for the ECK to examine the packages and ensure delivery to the right constituencies and polling stations.

According to the Institute for Education in Democracy, a local NGO, an estimated 5,000 deceased people per constituency have not been removed from the registers. This could amount to more than one million voters. The opposition fears that KANU will issue voter cards in their names and that ruling-party activists will vote on their behalf.

## The Changing Politics of Ethnicity

The battle in Eldoret North between Minister of State William arap Ruto and President Moi's cousin Reuben Cheshire reflects the breakdown of ethnic politics that largely determined voters' decisions in 1992 and 1997. In the Eldoret North race, two political heavyweights from the Kalenjin community are on opposite sides. This suggests that Kenya's tradition of political competition along ethnic lines is being replaced by a more complex political dynamic in which KANU and NARC, each increasingly broad-based, ethnically heterogeneous coalitions, now compete fiercely for support across a

broad range of constituencies.

In the past, it was reasonably easy to predict voting patterns: most Kikuyu would vote for Kibaki and the DP; the Abaluhya would support Wamalwa and FORD-Kenya; the Kamba would back Charity Ngilu and the SDP; the Luo would vote for Raila Odinga and the NDP; and KANU would draw support from Kalenjin areas in the Rift Valley, the Somali, Boran, Turkana, Samburu and Maasai in the semi-arid frontier zones, and the rural Coast Province. Today, it is less easy and less accurate to use these past patterns as predictors of voting outcomes.

Only Simeon Nyachae, FORD-People's presidential contender, draws most of his support from his own ethnic community, the Gusii. As a result, Nyachae is unlikely to gain more than five or six percent of the presidential vote, but since the Parliamentary contest is so close, the 10 Gusii seats may well give him tremendous power in the next National Assembly. James Orenge, the SDP candidate, has even less support. KANU's confidential poll gave him 0.9 percent of the vote, compared to Nyachae's 8 percent. The SDP and Paul Muite's Safina, which is not sponsoring a presidential candidate, may win a handful of seats where they have attracted popular parliamentary candidates, following disputed NARC nominations, as in Nairobi-Starehe, Emgwen, Uriri, and Rachuonyo. These members will later have to come to terms with the two dominant political blocs.

The election of parliamentarians on December 27 will be based on local, micro-ethnic political calculations. Outcomes will hinge on the ethnic background of specific candidates in particular seats, rather than a broad macro-ethnic party identification. Despite some disputed nominations, NARC has the added advantage that Kibaki is much more popular than Kenyatta, that after 24 years of rule by Moi most people—even (perhaps especially) in the Kalenjin heartlands—want a change, and that most Kenyans believe that their country cannot be worse governed by NARC than it has been for the last two decades by KANU. Uhuru Kenyatta may be an attractive, intelligent young candidate, who has begun to build his political credentials, but most Kenyans do not want to “buy one, get three free”, i.e. vote for Kenyatta, but also get KANU *eminence grise* Nicholas Biwott, President Moi, and his son Gideon Moi as well.

## Election rigging and violence

There have been troubling reports of bribery of polling agents, and the Democratic Development Group, a consortium of international donors, has claimed that “election rigging, including the buying of voters’ cards, appears to be taking place.” The NARC leadership maintains that KANU plans to rig votes during the forthcoming elections. The Electoral Commission recently interrogated 16 parliamentary candidates for electoral malpractices. Cabinet Ministers Julius Sunkuli and William Ruto were reprimanded for electoral malpractices; KANU was found guilty of failing to stop violence in Gachoka constituency and fined Ksh 100,000 while NARC candidate Raphael Wanjala was fined Ksh 50,000 for assaulting a returning officer.

The possibility of violent confrontation is not far from the surface, and militant supporters in both parties appear ready to exploit opportunities to incite conflict. Raila Odinga has called for a rally of one million NARC supporters in Uhuru Park on December 28, to await the election results. “If the results are announced in favor of KANU and we feel that they have been rigged,” claimed Odinga, “we shall storm State House.” President Moi’s replied “let him try,” warning that such action “will be met with the necessary force.” Kenyan police refused to issue a permit for the rally. Last week, leaflets circulating in Nairobi, purportedly authored by Odinga, warned landlords in the Kibera, Korogocho, and Mukuru slums to reduce their rents before the election or have NARC repossess their houses on coming to office. One year ago, tensions over housing rents in Kibera slum led to weeks of violent clashes and killings, and the leaflets were an apparent ploy to exploit latent hostilities. Odinga vehemently denied any association with the leaflets, and police have reportedly arrested 10 suspects. This weekend, NARC members, including Raila Odinga and Joseph Kamotho, were manhandled and stoned during campaign stops in Kisii and Gatundu.

The impetus for change in Kenya is real. The forthcoming election may well pave the way for a new political dispensation that is reform-oriented and that moderates somewhat the ethnic divisiveness that has undermined political and economic progress. The next president, whether Uhuru Kenyatta or Mwai Kibaki, if fairly elected, will have an opportunity to focus the country’s attention on the difficult issues of constitutional reform, economic revitalization, eliminating corruption, and combating the scourge of HIV/AIDS. A deeply flawed election, on the other hand, in which rigging, vote-buying, and

intimidation are rampant, will likely lead to a volatile situation, with possibly dire consequences.

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