

Kenya's 2007 election crisis

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Abstract

On 27 December 2007, the Republic of Kenya held its tenth general election since independence. The ballot-related proceedings went as planned up to and including the vote count, providing grounds for optimism for a largely peaceful transfer of power. However, after the official declaration by the Electoral Commission of Kenya late in the afternoon of 30 December that the presidential election had been won by the incumbent, Mwai Kibaki (from Central Province and a Kikuyu), Kenya entered into a period of deep crisis. How might we best understand this great turbulence, which was unprecedented in post-independence Kenya? Perhaps the answer lies in the sudden defeat of the opposition's presidential candidate, Raila Odinga from Nyanza Province and a Luo, who had been widely expected to win. With the post-election upheaval as the context, and looking at the situation from the standpoint of political history, this paper will offer an analysis of trends in Kenya's politics since 2002.

Keywords: Kenya, election, conflict, ethnicity, democracy, politics

* This paper is a translated and revised version of Tsuda (2008).

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Abstract

On 27 December 2007, the Republic of Kenya held its tenth general election since independence. The ballot-related proceedings went as planned up to and including the vote count, providing grounds for optimism for a largely peaceful transfer of power. However, after the official declaration by the Electoral Commission of Kenya late in the afternoon of 30 December that the presidential election had been won by the incumbent, Mwai Kibaki (from Central Province and a Kikuyu), Kenya entered into a period of deep crisis. How might we best understand this great turbulence, which was unprecedented in post-independence Kenya? Perhaps the answer lies in the sudden defeat of the opposition's presidential candidate, Raila Odinga from Nyanza Province and a Luo, who had been widely expected to win. With the post-election upheaval as the context, and looking at the situation from the standpoint of political history, this paper will offer an analysis of trends in Kenya's politics since 2002.

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Introduction

On 27 December 2007, the Republic of Kenya (hereafter Kenya) held its tenth general election since independence. Since 1991, when the Kenya African National Union (KANU) agreed to end the period of one-party rule in Kenya, a multi-party system has prevailed, supported by successive general elections,² and the 2007 election was the fourth general election to be held under this system. As had been the case in the previous multi-party elections, the 2007 election was concluded peacefully, and in purely administrative terms, the ballot-related proceedings went as planned up to and including the vote count, providing grounds for optimism for a largely peaceful transfer of power.

However, after the official declaration by the Electoral Commission of Kenya (ECK) late in the afternoon of 30 December that the presidential election had been won by the incumbent, Mwai Kibaki (from Central Province and a Kikuyu), Kenya entered into a period of deep crisis. Immediately after the declaration, large-scale riots broke out throughout the country. There were many violent attacks on people belonging to certain communities, and for over a month, there was a severe and very widespread deterioration in law and order.

How might we best understand this great turbulence, which was unprecedented in post-independence Kenya? Perhaps the answer lies in the sudden defeat of the opposition's presidential candidate, Raila Odinga from Nyanza Province and a Luo, who had been widely expected to win. With the post-election upheaval as the context, and looking at the situation from the standpoint of political history, this paper will offer an analysis of trends in Kenya's politics since 2002.

1. The Kibaki Government's Broken Promises and the Politics of Exclusion

First let us look at the Kibaki administration (2002-2007) and the sharp fall in its popularity during its five-year tenure. In fact we need to consider the administration that preceded Kibaki's, namely the government of Daniel arap Moi (of Rift Valley Province, and a Kalenjin) which held power from 1978 to 2002. Despite being the

² Each general election in Kenya consists of three elections, all held at the same time, for President, Parliament, and local councils respectively.

target of sustained accusations of human rights violations, of corruption, and of mismanagement of the economy, Moi succeeded in winning successive elections, even after the revival of the multi-party system, and KANU retained its position as the ruling party. The most important reason for KANU's electoral success was repeated disunity within the most powerful of the opposition parties, and the failure of the opposition to solidify its attacks on Moi and KANU at election time. In due course, however, the opposition learned its lesson on the need for greater unity, while within the ruling party, opposition to Moi began to emerge.

At long last, and in the run-up to the 2002 general election, the opposition succeeded in establishing a united front, and set up the National Rainbow Coalition (NARC). When NARC was formed, one of its leading lights was Odinga, who agreed that Kibaki should become NARC's sole presidential candidate. Within the united front, a memorandum of understanding was drawn up and circulated within the parties concerned. The essentials of the agreement concerned the distribution of posts in any post-election NARC government (e.g., half the cabinet posts were to go to the Odinga faction and half to the Kibaki faction). It was also agreed that a NARC government should introduce a new constitution incorporating a reduction in presidential power (the intention was to make the position of president a mainly ceremonial one, and for the post of executive prime minister to be created), and that Odinga should be the NARC government's first prime minister. These various undertakings were made public during the election campaign. To the many Kenyans who were tired of the Moi regime, the formation of NARC seemed to promise an election winner.

Encouraged by the success of the efforts to set up the united front, and by the public declaration of the intention to achieve a reduction in the political power of the president that was embodied in the agreement, hopes were concentrated on NARC as "an organization for transcending regional and ethnic divisions". In the end, Kibaki and NARC won 60 percent of the votes cast in the 2002 election, and the Kibaki administration took office. Seen in another light, however, it was not so much that Kibaki had won the presidential election through garnering the support of voters, but that the most powerful of the country's political figures had tacitly agreed that Kibaki should be their presidential candidate.

The problem was that Kibaki and some of his inner circle went back on the promises that they had made during the election campaign, and embarked on a “politics of exclusion” (Kanyinga [2006], Tsuda 2010]). Immediately after taking office, not only did Kibaki form a cabinet over half of whose members belonged to the Kibaki faction, but key posts, including Minister for Finance, Minister for Home Affairs and Internal Security, Governor of the Central Bank, Chief Justice, Head of the Kenya Revenue Authority, and Minister for Justice and Constitutional Affairs, all went to Kikuyus close to the president (some posts went to Merus and Embus, traditionally close to the Kikuyus). As it turned out, the post of prime minister was not created, and Odinga and his followers, who were appointed to the cabinet, had all left the government by the end of 2005, either through resignation or dismissal.

It did not take long for criticisms to emerge, and allegations were soon being made about the president’s “Kikuyu favoritism” and his “going back on his promises”. A sign of disaffection was provided by the constitutional referendum of 2005. The Kibaki faction, who disliked the idea of reducing the president’s power, tore up the former agreement on enacting a new constitution, and forced through a modified version of an existing draft (the “Bomas draft”) concerning the division between presidential and prime ministerial power (NCC [2004]). This prompted a stream of criticism, not only from the already disaffected Odinga faction but also from many NGOs, as well as from the media. In the end, the proposal for introducing a new constitution (the “Wako draft”) left the president with almost as much power as did the existing constitution (Republic of Kenya [2005]). Nevertheless the proposed new constitution was presented to the people for approval in a national referendum.

Strong criticism was directed against political methods that relied on the over-use of state power and against the emasculation of the original “Bomas draft” of the new constitution, with the result that in the referendum, the government’s proposal was voted down.

What needs to be noted here is the geographical distribution of the referendum votes in support of the government’s problematic version of the constitution (Tsuda [2007]). There was an unmistakable concentration of “yes” votes in Central province, in the central districts of Rift Valley province, and in the central parts of Eastern province (for identification of the provinces see the map). These areas

contained a high proportion of Kikuyu voters. In fact, in these areas, the then deputy prime minister, Uhuru Kenyatta (from Central province and a Kikuyu) and other influential parliamentarians had led a campaign of protest against the government's version of the new constitution, a development indicating that among the Kikuyu MPs, support of the government was by no means monolithic. Nevertheless, the pattern of voting implied the existence of support for the president from among his own ethnic group, who were the main supporters of the government's proposal for the new constitution. This tendency was certainly shown in the geographical pattern of the voting, and was widely reported in the Kenyan media, which gave the impression that "the only people supporting the new hard line of the Kibaki regime are the Kikuyu".

Kibaki may have attracted much enmity, but so did the Kikuyu who "appeared" to be supporting him. From 2002 until the election in 2007, this was the atmosphere that was present in Kenya, at least in the author's experience. Among the editorial staff of the main Kenyan daily newspapers, among research workers at Nairobi university, and among Kenyan intellectuals as well as the personnel of NGOs, clear-cut confrontations arose between those who were for and those who were against the Kikuyu, to the extent that open discussion of political matters became increasingly difficult (see Tsuda, 2004).

In the days of the Moi administration, when it came to appointing high-ranking cabinet ministers and other leading government officials, the president skillfully maintained an ethnic balance and there were no grounds for allegations that Moi had tried to favor candidates from his own Kalenjin people (or from the Tugen subgroup from which he came) over and above the level indicated by the size of the population of these groups. Nor did the hostility towards Moi carry over in any way into hostility towards the Kalenjin and the Tugen. Thus the emergence of a cleavage between the president's ethnic group and those who were outside that group was a relatively new phenomenon. The NARC administration began governing with the hope of bringing together the ranks of its disparate members regarding political business and dealings within the party, and within NARC Kibaki was nothing more than one of several potential candidates. In choosing him as their candidate in the presidential election, NARC members did not give him support because he was a

Kikuyu, but because they thought he was an appropriate compromise. That is why Kibaki's later renegeing on his promises and his adoption of the politics of exclusion made such a deep impression. Not only did the Kibaki regime lose a lot of support, but "Kikuyu favoritism" became something of a catchphrase throughout Kenyan society.

2. Towards the Odinga Ascendancy

Against the backdrop of the above-described developments, the main issue at stake in the December 2007 election was whether or not Kibaki, then serving as president, would be replaced by someone else. To many people, this was much the same as asking whether or not there would be a continuation of the "Kikuyu-first regime".

Those who publicly stood by Kibaki included MPs from various parties who wished to continue receiving his patronage, and shortly before the election, these members formed the Party of National Union (PNU) . Meanwhile the most powerful of the candidates who opposed Kibaki was, not surprisingly, Raila Odinga, who was running as candidate for the Orange Democratic Movement (ODM), a party that had been formed as part of the movement to press for the introduction of a new constitution.

Encouraged by the "rejection" of the government's line in the national referendum of 2005, those who hoped for an Odinga victory, and Odinga supporters hoping for a change in regime, embarked on a high-profile election campaign. For his part, Kibaki could count on the support of part of Western province, home of the deputy president, but his main region of support remained confined to his home district of Central province, the central part of Rift Valley province, and part of Eastern province.

By contrast, Odinga hoped for support not just from his home territory of Nyanza province, but from all those parts of Kenya, regardless of region, where opposition to the Kibaki regime existed. In specific terms, the ODM's primary targets were most of Western and Rift Valley provinces. Moreover, under the Kibaki administration, the Muslim community had experienced human rights violations in the name of cracking down on terrorism, and areas with large Muslim populations in Eastern

province (particularly in the north of the province), North Eastern province, and Coast province contained scattered but populous concentrations of Odinga supporters. In contrast to the geographical distribution of Kibaki votes, which remained much the same as it had been at the time of the 2005 referendum, Odinga's support had increased in various parts of the country. In Kenyan presidential elections, a candidate must win not only the most votes nationwide, but also a seat in Parliament and at least 25 percent of the votes in five of the country's eight provinces. In geographical terms, Odinga could count on a broad swathe of support stretching from Nyanza and Western Rift Valley in the west to Northeastern and Coast provinces in the east. This zone spanned five provinces in which he could reasonably hope to meet the conditions laid down by the "five provinces 25 percent rule".

Meanwhile, private enterprise opinion poll companies carried out a succession of polls that consistently indicated an Odinga victory. Opinion polls were repeatedly taken in 2007, and although there were variations in the results, all of them showed that Odinga enjoyed a higher proportion of support than Kibaki. The author of this paper was in Kenya for half of December, immediately before the election, and at that stage, intellectuals who supported Odinga, delighted by the results of successive opinion polls, carried with them the air of people who wanted to celebrate in advance.

The mood of optimism was reinforced by recent changes in the mechanism for voting and counting votes, as well as by developments in the media (EU EOM [2008]). In the years preceding the election, to guard against accidents and the possibility of ballot boxes being substituted and otherwise interfered with while in transit, it was decided to count the votes at the polling stations (of which there were 27,000 in Kenya) immediately after the end of voting. The media were allowed entry to the polling stations, and on election day, reporters from the main radio and television stations constantly gave reports throughout the day on the progress of the voting, and frequent news flashes enabled Kenyans to judge who was likely to be the winner at quite an early stage in the proceedings.

Vote counting went ahead first at the polling stations, and then at stations where the votes were aggregated for each constituency (there were 210 constituency

stations for this purpose throughout the country). For the parliamentary elections, the first-past-the-post system was used, with victory going to the candidate with the largest number of votes. The media reported on the results of vote counting at constituency level, making it unnecessary to wait for formal declarations from the ECK and the likely post-election strengths of the parties in parliament was widely reported.

Similar procedures were followed with respect to the presidential election. At constituency level, the votes cast for each candidate were reported upon, and hour by hour, national news broadcasts displayed the “national trend”. Ultimately it was the responsibility of the ECK to formally declare the results of the voting in the presidential election in each constituency, but well before that stage was reached, identifiable trends became clear – or so the people thought.

In the 2007 election, the trend revealed by the early returns indicated an “Odinga ascendancy”. In the parliamentary election, the estimated outcome following successive announcements of constituency results from the evening of 27 December “suggested” that Odinga’s ODM had beaten Kibaki’s PNU by a large margin. On 28 December, the main national daily newspapers, reporting on the results available, predicted a large-scale electoral defeat for Kibaki and the ministers belonging to his faction and a runaway victory for Odinga’s ODM, and the same estimate was reported on the following day, 29 December. Endorsing the trends evident in the parliamentary election, the ECK announced at 2 p.m. on 29 December that the interim total of votes showed that Odinga was in the lead.

3. Kibaki’s “Reverse Victory”

An abrupt change in the overall picture of an “Odinga ascendancy”, a trend that had begun during the election campaign and that had continued into the vote-counting stage, came immediately afterwards. Just past 5 p.m. on 30 December, the chairman of the ECK Committee (an office holder nominated by Kibaki) announced that the presidential election had resulted in the “re-election” of Kibaki who, he said, had won 4,584,721 votes against 4,352,993 for Odinga. The turn-out rate had been a high one, with 70 percent voting (10 million out of 14 million registered voters).

Kibaki had come from behind, said the chairman, and had seized victory by a mere 200,000 votes, a result arrived at on the afternoon of the fourth day after the election was held.

At the initial press conference held to hear the results of the presidential election, pandemonium broke out. Amidst uproar from those attending, the ECK chairman hastily suspended the proceedings and fled, anxious to protect himself from physical harm. Instead of making a formal declaration at a press conference, and unusually for Kenya, the result was announced later, in a broadcast of the state-owned Kenya Broadcasting Corporation.

Another unusual development followed, this time at State House, the official residence of the President of Kenya. The president, who was staying at the residence, in a dramatic departure from precedent took part in a swearing-in ceremony, at 6 o'clock in the evening at State House. This was a sudden affair, attended by a few invited guests. It was a hasty, rushed ceremony, quite unlike the usual swearing-in ritual held in a big venue in front of a crowd of tens of thousands of people. This highly anomalous event was broadcast nationwide on radio and television.

In the short time span of 24 hours, an unthinkable change had occurred. To Odinga supporters, buoyed up by the latest news of the "Odinga ascendancy", the announcement of Kibaki's victory came as a bolt out of the blue. It was natural that many people should begin to suspect that there had been interference with the vote tallying.

For those already angry with the Kibaki regime, the 2007 election provided an extremely important opportunity to change the government. When the author visited Kenya in mid-December, an impoverished and unemployed father carrying a sick child spoke to her as follows. "I detest Kibaki, who went back on his promises, and I have been waiting five years for this election. It will be good if the election leads to a change in government. For people like me, the vote is a weapon." As a matter of fact, ever since the time of the change in power from the Moi administration in 2002, most of the evidence suggested that faith among Kenyans in the efficacy of elections was quite strong.

For people who had waited patiently for five years to cast their votes against Kibaki, news of the president's "reverse victory" seemed to cause deep disillusionment and a feeling of hopelessness. On 30 December, the day of the ECK announcement, the author, albeit via an international telephone call, spoke with Odinga supporters almost all of whom had reacted to the news of Kibaki's victory with anger and surprise, and who were convinced that the publicly declared election results were fraudulent. Soon after, assaults on people broke out in many parts of the country.

Needless to say, street violence nearly always has multiple causes, and on this occasion, there was a strong possibility that some of the disturbances had been incited by politicians, and that the violence was of an organized kind³. But that on its own cannot provide a full explanation of the events that took place.

It could well be the case that some of those who felt that their peaceful protests made via the ballot box had been rendered meaningless by manipulation turned to violence as a last resort, demanding that the "real election results be revealed". The key to understanding the transition from the peaceful and orderly vote counting to the extreme turmoil after the night of 30 December lies in this demand for a "properly conducted election".

On the question of whether or not illegal methods were in fact employed to secure Kibaki his electoral victory, an independent committee is at present in the midst of conducting an enquiry, and the truth of the matter is as yet unclear. But if the Kibaki side did indeed resort to illegal behavior in order to secure victory, they would be guilty of perpetrating an extremely dangerous act sufficient to threaten the stability of the country. Very many hopes were harbored, especially among the poor, of using the elections, held once every five years, to express their hostility toward the current regime, and to the people who held these hopes, the idea that the election had been made meaningless by behind-the-scenes manipulation was entirely unacceptable. As it happened, the violence that erupted immediately after the official announcement was directed not against the official residence of the State

³ Especially important in this regard was the possibility in Rift Valley province of organized violence aimed at the expulsion of "outsiders" (mainly Kikuyu) who have settled there since independence. Rift Valley province has a history of ethnic tension going back to settlement policy conflicts in the 1960s, and violence associated with elections occurred during the 1990s. Organized violence in the province is an extremely serious issue, latent with important problems, that cannot be fully discussed within the confines of this paper, and that needs further academic discussion. See, for example, Kanyinga (2006) and Klopp (2001)

House, or against members of the Kibaki cabinet, but against the Kikuyu people in general, the Kikuyu being deemed to be “Kibaki supporters”.

4. The Crisis and Its Aftermath

From the night of 30 December, fierce protests were launched simultaneously in many parts of the country, mainly among young people who were on their way to celebrate an Odinga victory, and the demonstrations, demanding the installation of Odinga as president, spread like wildfire under the slogan “No Raila, No Peace”. Serious riots occurred in Nairobi slum areas such as Kibera and Mathare, as well as in Nyanza and Coast provinces. The main targets of the beatings and murders were Kikuyus, and many Kikuyu homes and shops were looted and set ablaze. According to subsequent enquiries, many victims swore that they had been set on fire by their neighbors who were at the time singing with joy on hearing the news of the “Kibaki election”. In Rift Valley province, makeshift checkpoints were set up on a motorway, and there were many instances of Kikuyu travelers being dragged from their vehicles and killed. Before long, groups claiming to be organized by the Kikuyu began to attack Luo and Kalenjin people, causing a complete breakdown of law and order. Conditions were such that for a brief while the centre of Nairobi was closed by the authorities.

Acts of violence and attacks on citizens died down somewhat during the first half of January 2008, but nevertheless attacks in which over ten people were involved continued through to the end of the month and into the beginning of February. There was also a considerable number of cases in which people were fired on and killed by the police and the riot control forces. Altogether over a thousand people were killed in riots and other civil disturbances, and between 350,000 and 600,000 were displaced from their homes and became refugees in their own country.

Thereafter, at the end of February negotiations culminated in an agreement to form a coalition government, with Odinga as prime minister and Kibaki as president, and from that time onward large-scale violence died down substantially. At the time of the drafting of the present paper in July, the political crisis could be said to be over.

However, the disturbances inevitably brought down the economic growth rate which had been running at over 6 percent per annum. The Finance Ministry revised downwards its growth estimates for the year, and some forecasting agencies even predicted an unusually low annual growth rate of 1.5 percent. The losses to the manufacturing industry were very substantial. The Kenya Association of Manufacturers estimated losses at over 100 billion Kenya shillings (150 billion yen) in the month of January 2008 alone. Predictably, considerable damage was done to the tourist industry, affecting the livelihoods of at least 120,000 workers employed in the sector. Although rains after the crisis brought some relief, a food shortage threatened, and the future of the entire economy became unpredictable.

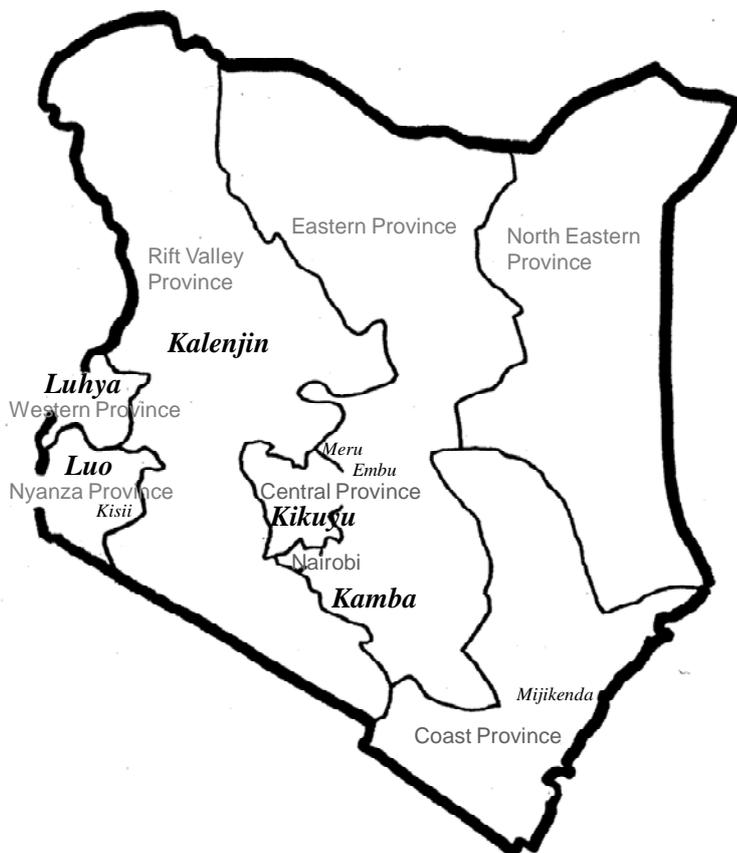
In the political sphere, a new and unstable factor was introduced. Insofar as the questionable outcome of the December 2007 election suggested to some Kenyans that little hope could be held for the future of democracy in their country, in the post-election circumstances, the possibility of a military coup d'état became far from unthinkable. In short, faith in the neutrality and non-political character of the armed forces and the forces of law and order, hitherto one of the central elements of Kenya's political stability, has possibly been lost – or if not yet lost, it could be lost in the future.

Finally, the aspect of the crisis that gives the greatest cause for concern is the emergence of social instability. At the height of the crisis, the simple ethnic distinction of being a Kikuyu, or a Luo, or a member of any other ethnic group, was reason enough to be attacked by one's neighbors and have one's property looted or destroyed by fire. Excesses such as these will linger for a long time in the collective memory of the Kenyan people, and their impact will not disappear quickly. Today Kenya is a country riven by ethnic fissures to an unprecedented degree and extent. Whether or not the crisis can be somehow sealed off as a unique and unrepeatable event in Kenya's history, and whether Kenya really has returned to the order that it once enjoyed, are questions that have to be taken very seriously indeed.

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Kenya: Provinces and Main Ethnic Groups



Note: The map shows ethnic groups that make up more than 10 percent of the national population. These comprise the Kikuyu, Luhya, Luo, Kamba, and Kalenjin (shown in bold type on the map). Some of the smaller groups are also shown (names given in normal italic type). These are the Kisii, Meru, Embu, and Mijikenka.