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The Experience of the National Rainbow Coalition (NARC): Political Parties in Kenya from 1991 to 2007

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Keywords: Elections - Kenya, Democracy - Kenya, Kenya- Politics and government

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The Experience of the National Rainbow Coalition (NARC): Political Parties in Kenya from 1991 to 2007

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Abstract

This paper first examines splits and mergers among Kenya's political parties (and inner-party factions) from the restoration of a multi-party system in 1991 until 2007, before the turbulent 10th general elections were conducted. It then considers what functions "political parties" have in Kenya with special reference to the period since 2002, the year in which President Moi announced his intention to retire. A look back at NARC's five years of rule reveals that, although it succeeded in changing the government, NARC, as a "political party," remained throughout an organization without any real substance. The paper looks at (1) NARC's *de facto* split after its overwhelming win in the ninth general election, (2) malfunctions of the anti-defection laws that were introduced in the 1960s, and (3) Kenya's election rules that require candidates to be nominated by registered political parties in general elections. The paper proceeds to argue that as a result of the operation of these three elements, Kenya's political parties, and especially the victorious coalition sides, tend to end up being nothing more than temporary vehicles for political elites angling for post-election posts.

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Introduction

Observers of Kenyan politics can still remember the excitement that filled the air at the end of 2002 when the Republic of Kenya (hereafter Kenya) achieved its first radical regime change as a result of its ninth set of general elections¹. As the result of the parliamentary election, the then newly formed political party NARC (National Rainbow Coalition) won 133 parliamentary seats out of 222, becoming the nation's ruling political party. NARC defeated KANU (Kenya African National Union), which had been Kenya's ruling party ever since independence in 1963. At the same time, Uhuru Kenyatta, KANU's candidate for the presidential election, who had been named to succeed the then president Daniel arap Moi (Kenya's second president) lost to NARC's candidate, Mwai Kibaki.

However, not long after it came to power, NARC stopped performing as a consolidated political party. The weakness of NARC as a political party can be seen by looking at the outcome of a 2007 by-election, this being one of the crucial indicators of the party's strength. The result of the by-election for a parliamentary seat held in Kenya's Coast Province in May 2007 showed, somewhat unsurprisingly, that the winner

1 General elections in Kenya, which consist of parliamentary, presidential, and local elections, are held every five years. Parliamentary elections are based on a single-seat constituency system. The President is elected directly. In addition, in a presidential election, a candidate must win a relative majority of the votes, as well as at least 25% of the vote in at least five of Kenya's eight provinces. To stand as a candidate in general elections, a candidate must be nominated by a political party. Until the 2007 general elections, the Registrar of Societies registered political parties in accordance with the Societies Act. In 2008, president Kibaki gave his assent to the Political Parties Act. Under this Act, political parties have been registered afresh by the Registrar of Political Parties (Republic of Kenya, 2007).

was a candidate nominated by the Shirikisho Party of Kenya, to all intents and purposes a regional party that was based in the Coast Province. More telling still was the fact that the NARC candidate did not even come in second. Similarly, in by-elections for local councilors' seats held throughout the country on the same day, none of the NARC candidates won.

Yet, NARC continued to be a registered political party. NARC was also the official ruling party in parliament from 2002 to 2007. Most of the Kibaki government ministers, moreover, officially belonged to NARC.

What happened to NARC after it won the general elections in 2002? Did any change occur in the functions of political parties in Kenya? This paper will examine splits and mergers among Kenya's political parties (and inner-party factions) from the restoration of a multi-party system in 1991 until 2007 before the turbulent 10th general elections were held. The paper will also attempt to identify what functions "political parties" have in Kenya especially with reference to the period following President Moi's declaration of his intention to retire in 2002.

1. From Rifts to a Common Front — Changes in the Strategy of the Opposition Parties

FORD (Forum for Restoration of Democracy) was the cradle of Kenya's democracy movement and provided the basis for the emergence of the first opposition party to be formed following the restoration of a multi-party system. FORD attracted widespread potential support throughout the nation, except in the then president Moi's home district and the region surrounding that district. However, within a short time

following its formation, FORD failed to agree on a candidate to nominate in the presidential election. FORD thereupon split into two parties; FORD-Kenya and FORD-Asili (see Fig. 1). Most of the executive members of FORD-Kenya were ethnic Luos and Luhyas from Nyanza and Western Provinces. By contrast, the executives of FORD-Asili were predominantly ethnic Kikuyus mainly from the southern part of Central Province. Meanwhile, Kibaki (currently the president of Kenya) quitted KANU and formed the DP (Democratic Party of Kenya). Wealthy business persons and well-off farmers mainly from Nairobi and the northern part of Central Province became the core supporters of the DP. Including Kibaki, who was its chairperson, the DP's executives consisted of Kikuyus, Embus, and Merus from the northern part of Central Province and neighboring districts in Eastern Province. This gave the DP an identity as a regional party.

In the seventh general elections in 1992, three regional parties (FORD-Kenya, FORD-Asili, and DP) that had split off from the main parties (FORD and KANU) ended up contesting KANU as opposition parties. The views of the opposition parties were united in that all of them were demanding democratization. However, the opposition being divided into several parties, the vote in the elections was split. As a result, Moi was re-elected as president even though he received only 40% of the vote. In the parliamentary election, KANU also won with 112 seats (out of a total at that time of 200 seats).

As Figure 1 shows, as the eighth general elections drew near, the fragmentation of the opposition parties became even more pronounced. In the parliamentary election of 1997, DP, FORD-Kenya, and the other smaller opposition parties each won from one

to 41 seats respectively (in total, around 40% of the 210 seats). However, they again failed to bring an end to the KANU-Moi regime. KANU won 113 of the 210 seats, or slightly over 50% of the total. Receiving a less than impressive 40% of the presidential vote, Moi also was re-elected. “Had the parties been united, the opposition side would have won” — that must have been the common realization among the leaders of the opposition parties who had undergone the experience of the two general elections of the 1990s.

Then, in October 2002, NARC was formed. NARC started as an umbrella organization bringing together most of the then major opposition parties. These included DP, FORD-Kenya, and a large proportion of the ex-KANU MPs (see the details given in section 2). Forming a coalition for the ninth general elections, NARC not only agreed to nominate Kibaki as its sole candidate in the presidential election but also eventually succeeded in nominating parliamentary candidates of affiliated parties as NARC candidates in most of the constituencies. The result was the massive victory won by NARC and by Kibaki referred to in the introduction of this paper.

2. Collapse of the Umbrella Party

However, a look back at NARC’s five years since it became the ruling party reveals that, although it succeeded in changing the government, NARC as a “political party” continued to remain an organization without any real substance. Let us look more closely at this seeming paradox.

Just before the ninth general elections, a Memorandum of Understanding was exchanged among the leaders of the different parties that belonged to the NARC

grouping. The memorandum played a key role in the formation of NARC. In essence, what the memorandum offered were promises concerning the distribution of political posts in the event of a change of government (Badejo, 2006). According to the memorandum, as soon as NARC became the ruling party, ministerial posts were to be divided equally between the two main factions of NARC (for details about factions within NARC, see below). The memorandum also stipulated that a new constitution would be enacted within 100 days of the group coming to power. The then draft constitution² contained such clauses as the one creating the post of “executive prime minister” and other related executive positions, the objective being to reduce presidential power.

Following its formation, NARC contained two main factions. One was NAK (National Alliance Party of Kenya), which DP, FORD-Kenya, and other opposition parties formed in September 2002 as a means of strengthening mutual cooperation in the then forthcoming general elections. The other faction was the LDP (Liberal Democratic Party), a new party formed by ex-KANU MPs.

The LDP itself was consisted of two wings. One of these consisted of ex- KANU veteran MPs. Dissatisfied by Moi’s decision to nominate Uhuru Kenyatta as KANU’s presidential candidate in the 2002 election, a large number of veteran MPs pulled out of KANU to form the new party. They were led by KANU’s then national secretary general Raila Odinga.

² This Draft is usually referred to as “Ghai Draft” (n.a. 2002). The Ghai Draft, published in 2002, was adopted with some minor amendments by the NCC (National Constitutional Conference) on 23 March 2004. The final adopted version of the Draft is known as the “Bomas Draft” (NCC 2004).

However, Odinga (the eventual leader of the other faction in the LDP) himself was very new to KANU. Odinga was a party leader of the NDP (National Development Party) up to March 2002. The NDP was the third largest party in the eighth parliament (from 1997- 2002). The NDP was in essence a Luo political party, and most of its MPs were individuals from Nyanza Province who had left FORD-Kenya when FORD-Kenya split apart. After the eighth general elections in 1997, the NDP decided to merge with KANU and Odinga, leader of the NDP, became KANU's national secretary general. Odinga and the ex-NDP MPs in KANU pulled out of KANU to join NARC in 2002 and formed the other main faction within the LDP. It was obvious that other than their dissatisfaction with the nomination of Uhuru Kenyatta, both of the two main LDP factions (ex- KANU veteran MPs and ex- NDP MPs) did not share many other common interests³ .

The weakness of NARC as a united entity quickly began to surface. As early as January 2003, Kibaki broke his promise regarding the memorandum of agreement which, as we saw above, stipulated that "cabinet posts shall be divided evenly between

³ What made these shifting alliances and changes in party affiliation possible was the malfunctioning of the anti-defection laws (Ghai and MacAuslan, 1970, Tsuda, 2005). For example, the Constitution of Kenya rules that if an MP leaves the party that nominated him or her at the election, the MP loses his or her seat. However, after 2001, there was an increasing number of cases of MPs in reality defecting to other parties while keeping their seats, without submitting an official letter to the Speaker of the parliament. For example, Raila Odinga, who was officially nominated by NARC to stand in the ninth election, held at least three political party memberships in quick succession: of NARC, of the LDP, and of a new party (referred to later) formed in 2006, all the while without losing the seat that he had won as a NARC MP. Other MPs had similar multi-party affiliations. For more details on the anti-defection laws, see Tsuda, 2005.

NAK and the LDP”. Instead, in the newly formed Kibaki government, NAK members greatly outnumbered members of the LDP. Kibaki also gave influential posts such as Minister for Justice, Minister for Internal Security, and Minister for Finance to his fellow DP members⁴.

The decisive factor in the actual breakup of NARC was backtracking on the undertaking to enact the new constitution that was called for in the memorandum of agreement. By the end of 2002, a draft of a new constitution for Kenya was already practically complete (see footnote2). However, the NARC cabinet, and especially members from the DP, signaled their disapproval of devolution of power from the president. As early as February 2003, the then Minister for Justice, Kiraitu Murungi (DP/ NAK), remarked that “the NARC government did not promise to enact a new constitution within 100 days.” Ex-KANU veteran MPs of the LDP (officially affiliated with NARC) sided with Kibaki. The Kibaki-led NAK faction and the ex- KANU veteran MPs of the LDP faction formed a common front to fight against the rising pressure for democratization through the enactment of a new constitution that was designed to reduce presidential power. Let us hereafter call this side the “anti-reform forces”.

Ex-NDP MPs of the LDP reacted sharply to these moves. They supported Odinga, who in the memorandum of agreement had been promised the post of prime minister. Moreover, KANU, which was by then an opposition party, strongly pushed for the enactment of a new constitution. KANU MPs ended up aligning themselves with

⁴ As we saw above, the DP was the forerunner of NAK and was also officially affiliated with NARC.

ex-NDP MPs of the LDP. Let us call this side the “pro-reform forces.”

In the end, under the leadership of the Justice Minister, a number of revisions were added to the then draft so that the new constitution would not significantly reduce the power of the president. In 2005, a draft of a new constitution for Kenya (called the Wako Draft) was put to a national referendum (Republic of Kenya, 2005). However, the draft, which contained almost no provisions relating to the curtailing of presidential power, had been already changed into a document favoring only the “anti-reform forces”. Kibaki immediately expressed his approval of the Wako Draft, and NAK MPs and ex-KANU veteran MPs of the LDP joined Kibaki in launching a campaign for the approval of the Wako Draft. By contrast, the ex-NDP MPs of the LDP and KANU MPs took up positions against the Wako Draft (for more details see Tsuda, 2007a, 2007b).

In the referendum, “No” votes exceeded “Yes” votes by 16 percentage points and the Wako Draft was rejected. The referendum, in short, ended in a victory for the “pro-reform forces.” The difference between NARC and KANU as far as official party identification was concerned was rendered almost meaningless through the heated competition over the Wako Draft.

3. Continuing Realignment of Political Parties

With the national referendum as a springboard, MPs within NARC (and other political elites) started forming new political organizations, and the split between those who were for the Wako Draft and those who were against became entrenched. Because NARC was badly fractured as a political party, its candidate was unable to win in the aforementioned 2007 by-elections.

As an outcome of the national referendum campaign, the groups opposing the Wako Draft, the “pro-reform forces,” started calling themselves the Orange Democratic Movement (ODM). The name “orange” originated from the orange symbol mark designated by ECK (Electoral Commission of Kenya) to denote a “No” vote in the national referendum on the Wako Draft. Since an unrelated group registered itself first as a political party just after the referendum using the same name, the issuance of certification as a political party to the ODM was delayed. However finally, in September 2006, the ODM was registered under the name Orange Democratic Movement of Kenya. The ODM aimed to nominate a sole candidate in the 10th presidential election that was expected to be held in December 2007. In early 2007, the main political elites joining the ODM consisted of both LDP MPs and some KANU MPs.⁵ The leadership of ODM does not appear to have any definite ethnic leanings.

Meanwhile, in March 2006, the groups supporting the Wako Draft, the “anti-reform forces,” formed a new party called NARC-Kenya. Although Kibaki did not publicly comment, NARC-Kenya, in effect, decided on Kibaki as its candidate in the 2007 presidential election. Almost all of the then ministers joined NARC-Kenya. However, even then, the MPs who belonged to smaller political parties (for example, FORD-Kenya) and who had joined the pro-Wako Draft side in the national referendum, had no intention of scrapping their own respective parties and showed no sign of defecting to NARC-Kenya.

A highly accurate indicator of the way this re-alignment of political parties has

⁵ KANU was unable to reach a unified intra-party agreement on whether to align itself as a party with ODM with the result that some KANU members joined the party on an individual basis.

taken shape was the pattern revealed in the parliamentary by-elections referred to in the introduction. During the five years of the ninth parliament, which was formed out the parliamentary election in 2002, 13 seats fell vacant (Four KANU MPs and nine NARC MPs have died because of illness or accidents). To fill these vacancies, by-elections were held three times in 2003 and twice each in 2004 and 2006. By April 2004, NARC candidates had won all the contested seats⁶.

However, in the latter half of 2004, the political situation changed completely. That was when the “anti-reform forces” started rendering the Bomas Draft toothless by eliminating articles curtailing presidential power (for the Bomas Draft, see footnote 2). In 2004, a by-election was held to find a successor to an MP⁷ who had joined the “anti-reform forces”. In the lead-up to this by-election, a “pro-reform” LDP candidate received NARC’s nomination by way of an in-party preliminary primary election. The “anti-reform” side within NARC thereupon fielded another candidate by allowing a new party, the National Labour Party (NLP), to nominate their “anti-reform” candidate under the NLP banner. This parliamentary by-election, which was outwardly a contest between NARC and NLP, ended in a victory for the NLP candidate. However in reality, this election saw the “anti-reform forces” succeeding in maintaining what they saw as “their” seat.

In a March 3 by-election held in Nyanza Province, where “pro-reform” ex- NDP

⁶ There were six seats, all of them having fallen vacant because of the deaths of NARC MPs. Except for a few exceptions, the elections were head-to-head contests between NARC and KANU candidates.

⁷ The MP concerned was Emmanuel Karisa Maitha (DP/ NAK), member for Kisauni constituency in the Coast Province. He died of an illness in August 2004.

MPs of LDP have their stronghold, the LDP finally nominated its own candidate in a move to “maintain their seat”: a seat that had been made vacant by the death of a “pro-reform” MP. NARC also fielded a candidate, but the LDP-nominated candidate won an overwhelming victory with 90% of the vote. In five by-elections held in July 2006, NARC-Kenya, which had only just completed its registration as a new party, nominated its own candidates and won in three constituencies. KANU took the remaining two seats. On top of that, ODM, which struggled to be registered as a political party in September 2006, as expected fielded its own candidate for the by-election held in May 2007 (in fact he lost, coming in second).

Thereafter, *de facto* defections of MPs became common. No MP has ever lost his or her seat since 2002 because of his or her “defection.” Reflecting the sharp conflicts among NARC MPs in the ninth parliament, not a few MPs sit on either ruling or opposition party benches according to the issues being debated. Though the Speaker of the parliament has strongly criticized this trend, calling it a form of “political nomadism,” there were no signs of it weakening (*Daily Nation*, June 24, 2005). Only Kibaki did not openly declare a willingness to join NARC-Kenya, and steadfastly maintained that he was a “NARC MP.” Yet he showed only a tentative interest in acting as a fully committed member of NARC, a party that nominated him at the 2002 presidential election. In fact, before the parliamentary by-elections held in July 2006, Kibaki made a campaign speech supporting the NARC-Kenya candidate in his home district. NARC was the “ruling party,” holding 130 parliamentary seats, but the preponderance had already become only a façade with no reality behind it.

4. Lessons from the experience of NARC

We have looked at (1) NARC's *de facto* split after its overwhelming win in the ninth general election, (2) malfunctions of the anti-defection laws that began in early 2000, and (3) Kenya's election rules that require candidates to be nominated by registered political parties in general elections. As a result of these elements Kenya's political parties, and especially the winning coalition sides, tend to end up being nothing more than temporary vehicles for political elites angling for post-election government posts.

At least two lessons can be learned from the experience of NARC's formation and subsequent quick division. First, even though promises may be made before an election concerning the later distribution of posts, the same promises can be easily ignored after the election. Second, if major opposition parties do not succeed in supporting a single candidate, especially in the presidential election, they will never win. So every time a general election draws near, we can expect to see the political elites of both the ruling and the opposition parties accelerate their political realignments as they aim for more reliable promises and the formation of a more certain majority under current constitutional set-ups⁸.

When MPs and other political elites are trying to build a majority coalition, it makes no sense to form a coalition with a narrow regional and/or ethnic background. Within such limitations, it should be possible for a long lasting and regionally cross-cutting political organization to emerge. In fact, the axis of conflict between NAK

⁸ Whether or not this tendency will persist after the enforcement of the Political Parties Act, 2007 is a question that will merit very close attention, especially when 2012 draws near.

and LDP/ KANU that prevailed from 2003 to 2005 centered not only on the power struggles among the political elites but also on the state of progress of democratization, which was essentially a debate over whether or not presidential power should be significantly reduced.

Eventually the 10th general elections were fought mainly between ODM and another newly formed “political party” PNU (Party of National Unity). The year 2007 was very important for ascertaining what form of political system, multi-party politics being finally restored in the 1990s, would emerge in Kenya. The outcome was “The Post- Election Violence.” Yet, it is still meaningful to closely monitor (1) the political parties that are formed during the run-up to general elections and (2) the political parties that grow during the same period by absorbing and merging with other parties. It is always possible that these “political parties” will end up being nothing more than temporary vehicles for the leaders of regional parties angling for post-election posts. These are in fact “political parties” designed exclusively for winning the election, but that manage to replicate, albeit faithfully, only the form of a substantive “political party” such as NARC.

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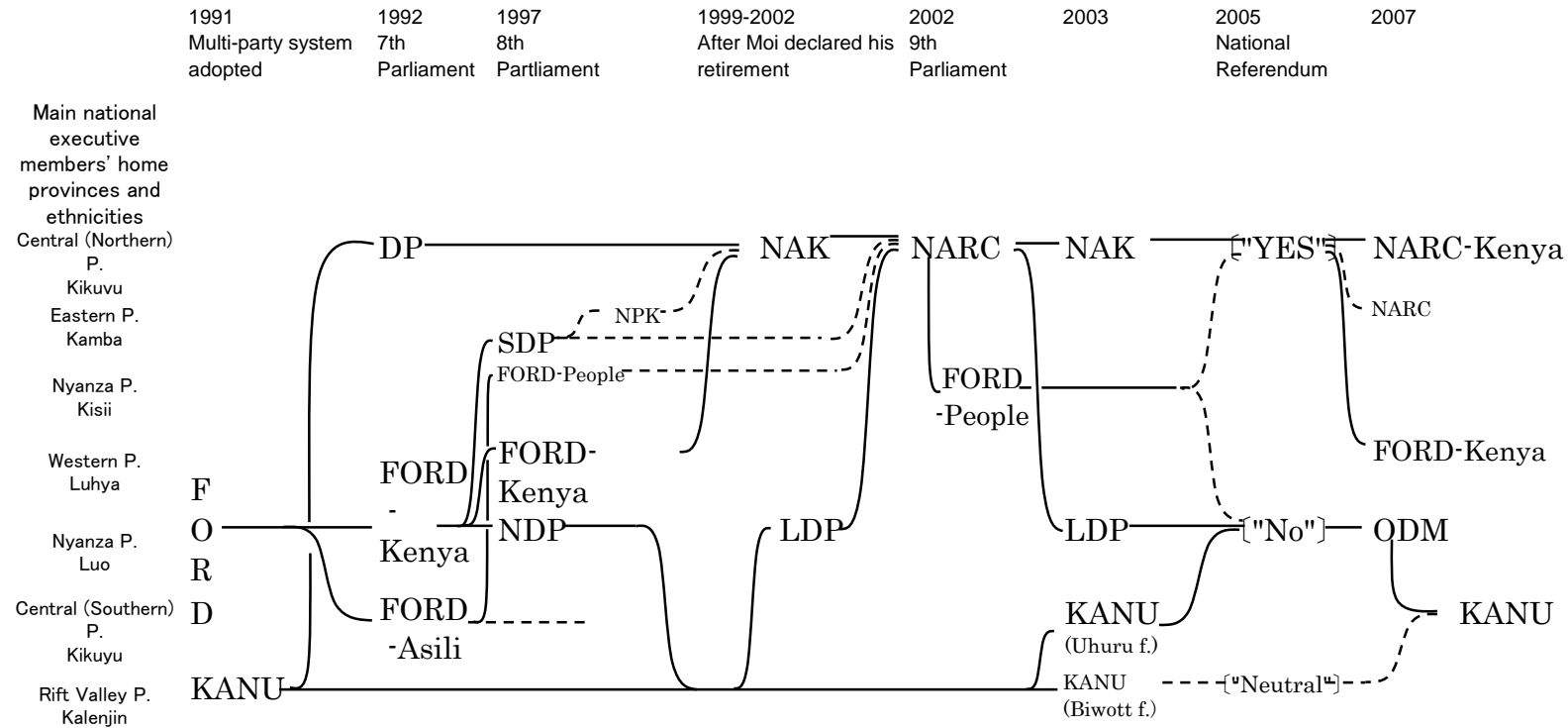
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Figure 1 Political Parties in Kenya 1991-2007



 : Splits/ Mergers of political parties.

ABC : Names of political parties with more than nine MPs in the then parliament. MPs' positions after 2002 have been determined by the author on the basis of each MP's attendance at political rallies, and by the MP's speeches as reported in the media.

ABCDE : Names of political parties with less than 10 MPs in the then parliament

(Uhuru f.) : Factions within a political party

(source) Tsuda (2007a), *Daily Nation*.