

Kenya's March 2013 elections: A step forward or a recipe for disaster?

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Introduction

On Monday 4th of March, Kenyans go to the polls in a watershed presidential, parliamentary and county election that could shape the future of this regional hegemon. The elections come in the aftermath of the 2007/8 contested electoral outcome that exploded into a vicious post-election conflict in which more than 1000 people were killed and another 6000 internally displaced in less than one month. A country that had seemed built on a solid foundation and exhibited some degree of modernity and political stability had suddenly degenerated into warring ethnic constituencies, and exposed the tensions and fragile foundations upon which the largest economy in the eastern and central Africa was built. Furthermore, the impact of the conflict was felt throughout the entire region with disruptions in transport, communications and trade throughout East Africa and as far as the eastern Democratic Republic of Congo (DRC).

Thus as the country approaches yet another election, Kenyans as well as observers await with anxiety what will happen in Kenya, and by extension the entire East African region. Is the country likely to take a step forward or is this yet another recipe for a repeat of 2008 political disaster? Quite clearly the outcome of the Monday March 4 elections has wider implications beyond the borders of the country.

A regional hegemon

Kenya is certainly the largest economy in the East African region, essentially a regional economic hegemon. In 2005 it had the highest GDP per capita at US\$530 compared to Tanzania and Uganda at US\$ 280 and US\$ 340 respectively. Notwithstanding the higher growth rates in Tanzania and Uganda over recent years, Kenya still stands out as the economic powerhouse in the region.

The extent of its dominance is reflected in inter-regional trade within the East African Community (EAC). Its surplus with the EAC partners almost doubled from US\$ 500million in 1997 to US\$ 900 million in 2005. More significantly, it is the largest exporter of intermediate and finished goods to all the partner states in the East African Community.

So what is at stake on the Monday 4 March 2013 elections? Just like the 2007 elections, what is at stake on the Monday election is about the dispensation and distribution of power throughout entirety of Kenya's post colony. In other words, this is about the uneven distribution of political and economic power throughout the presidencies of Kenyatta, Moi and now Kibaki. It is about deep-seated frustrations rooted in the authoritarian and predatory character of Kenya's state characterized as it were by socio-economic injustices of landlessness, joblessness, and a generalized poverty and ensconced in politicization of ethnicity.

The authoritarian and predatory state!

The story of Kenya's post colony attests to this. The country became independent in 1963 under a two party system, the ruling Kenya African National Union (KANU) led by the founding fathers, Jomo Kenyatta and Jaramogi Oginga Odinga, and the opposition,

Kenya African Democratic Union (KADU), led by Daniel arap Moi. A year after independence in 1964 the country became a republic and Kenyatta assumed the presidency and Odinga, his deputy. At the same time, the opposition crossed the floor and joined the ruling party, KANU thus making the country a de facto one party state. In 1966, a split in the ruling party saw the first vice-president; Oginga Odinga lead a short-lived Kenya Peoples Union (KPU). Odinga's opposition was however short-lived. KPU was banned in 1969 and its entire leadership detained without trial. Over the next 23 years, notwithstanding regular elections, the country was held together by an autocratic 'imperial' presidency.

Kenyatta died in 1978 and was succeeded by his deputy, Daniel arap Moi who took power via a constitutional succession. Four years later, Moi amended the constitution to make the country a de jure one-party state and the ruling KANU the sole legal party in Kenya. With this, he tightened his grip on power, establishing what for all practical purposes, a dictatorial presidency. In fact, Moi's 24 year rule from 1978 to 2002 marked the darkest chapter in independent Kenya's political history. In 1992 Moi, like his contemporaries in the continent was forced by pressures from within and from international community, to open up democratic space. Accordingly the constitution was amended to facilitate political pluralism, and the presidential reduced to two five-year terms.

The first multi-party elections in almost 30 years were held in December 1992. The ethnically fractured opposition failed to dislodge KANU from power in elections in 1992 and 1997. By the mid-1990s, however, a new force, the civil society, had entered the political ring with a completely new agenda. They argued that substantial revisions to the constitution were required to level the political playing ground. As the country approached the 2002 elections the quest for comprehensive constitutional reforms had become unstoppable.

In the ensuing 2002 elections, the multi-ethnic National Rainbow Coalition (NARC) between Kibaki's Democratic Party (DP), Raila Odinga's Liberal Democratic Party (LDP), and Wamalwa's Ford Kenya, finally removed KANU from power. Mwai Kibaki assumed office with a promise to deliver comprehensive constitutional reforms "within 100 days". Constitutional reforms, it was anticipated, would curb a hitherto 'imperial presidency', restore confidence in the Kenyan body politics, root out corruption and the channels through which public

financial mismanagement had thrived, and introduce a climate of certainty and predictability in economic and political governance.

Once in power, Kibaki proved reluctant to institute constitutional reforms. But at the same time, pressure for reforms were not about to go away. Kibaki's regime did everything to resist the introduction of a thoroughgoing constitutional reform. When he could no longer resist, he presented the country which was to prove his Achilles heel. The November 2005 constitutional referendum divided the ruling NARC coalition into two camps – the supporters, the Banana camp (Kibaki), and their opponents, the Orange camp (Raila Odinga LDP grouping).

To the extent that President Kibaki had vigorously supported the new Constitution and was perceived to be attempting to entrench an authoritarian presidency, many voters used the referendum as a vote of no confidence in the president. It was the beginning of the end for the NARC regime. The victory of the LDP faction and their expulsion from government for all practical purposes signalled the end of the Kibaki regime. As the infighting continued, political patrons retreated into their ethnic cocoons in readiness for the 2007 general elections. This was indeed the background to the 2007 elections.

While Kenya's 2007/8 post-election violence surprised a number of observers, seasoned Kenya watchers were not altogether surprised. The 2005 constitutional referendum was effectively a vote of no confidence on Kibaki. As the 2007 election approached the indications were that they would do so again. Confronted with overwhelming rejection, Kibaki basically did what successive Kenya presidents had always done, that is, ignore the will of the people and hang on to power.

For years Kenyans had become used to rigged elections, and had for all practical purposes lost faith in electoral politics. The removal of Moi and KANU from power through the ballot box in 2002 was an important step in breaking this tradition of fear. Thus Kenyan electorate increasingly became more confident as they advance to the 2007 elections. The Kenyan constitutional referendum of 2005 which handed Kibaki a humiliating 'No' vote seemed to have reinforced the newly found confidence in the ballot box – the belief that the people could actually vote out unwanted leaders. And with the renewed confidence, the hope that popularly elected leaders could indeed address the historical injustices revolving around ethnic tensions fostered by regional

inequalities, economic marginalization and unmitigated poverty.

It is the accumulation of all these issues which have once again been assembled on the agenda of the Kenya 2013 election. The poignant question is whether the Kenyan electorate will be able to freely elect leaders who could indeed begin to address this backlog of historical injustices or we will once again descend into the quagmire of ethnicized political conflict. Most political observers seem to suggest that the playing field has changed and that Kenya is likely to witness free and fair elections. It is suggested that the elaborate constitutional reform which was finally completed in 2011 is more likely to ensure that electoral process is conducted fairly.

Constitutional reforms

There is a great deal of optimism that Kenya has turned the corner and is entering a new era of constitutionalism, good governance and accountability to the electorate. The new constitution does provide the basis for a new beginning in Kenya, an opportunity to strengthen economic and political institutions, and establish a strong basis for the rule of law.

By drastically reducing the powers of the president, the nucleus of power has shifted to Parliament, and prospects of abuse of power and arbitrary rule will have been substantially reduced. It is fair to conclude from these developments that Kenya is indeed going through substantial renewal of its institutions, political and economic governance.

Kenya's new constitution represents a total overhaul of the independence constitution. It has gone to great lengths to address a sustainable separation of powers between the Legislature, Executive and Judiciary. More importantly it has addressed the most remarkable feature of governance in Kenya, 'imperial presidency', the over-concentration of power in the office of the president. The old Constitution bestowed on the president the exclusive power to constitute and abolish public offices, unilaterally appoint all service commanders (armed forces, police, prisons, etc.), all permanent secretaries, all chairs and board members of state corporations as well as their executive heads, the Chief Justice who chairs the Judicial Service Commission responsible for employment in the Judiciary, and all judges of the High Court and Court of Appeal, the chair, board members and executives of the Public Service Commission which is responsible for all civil service

employment, promotions and disciplinary matters, including interdiction, suspension and dismissal.

This kind of situation invariably led to abuse of power and arbitrary rule. The new constitution does away with all this, and in so doing reinstates the supremacy of parliament and through it, the people. The new provisions include:

- bill of rights, rights and fundamental freedom,
- the Independent Electoral and Boundary Commission (IEBC)
- chapter six on leadership and integrity,
- composition and membership of the parliament,
- devolution of government,
- chapter 10 on judiciary and the legal system, and
- chapter 13 on the values and principles of public service

These and other new provisions outlined below have engendered optimism that such reforms would go a long way in for instance rationalizing the appointing powers of the President *vis a vis* those of Parliament thereby broadening accountability of public officers, and would therefore make a great contribution to the rationalisation of state institutions at all levels and thus improving political and economic governance. This is at the heart of contestation at the next week's elections.

The Players

As the country prepares for the next the Monday elections, it is quite clear that whoever is elected president will preside over a totally different country. But much will depend on the coalition that moves to the state house. As it is, the real context is between two groupings around the Prime Minister, Raila Odinga and his first deputy, Uhuru Kenyatta. All others can be considered as 'also run'. Uhuru Kenyatta, the son of the founding president Kenyatta, leads the Jubilee Coalition, a grouping of what might be termed the 'wounded coalition' as Uhuru and his running mate, Ruto are the central figures in the forthcoming International Criminal Court (ICC) in the Hague over the 2008 post-electoral conflict. More importantly, Uhuru hails from the numerically dominant Kikuyu ethnic group and is perceived to represent the narrow interests of the Central Province, and the Kikuyu diaspora, a political grouping now referred to as the Mt. Kenya Mafia. This group remains the most powerful economic class in the country, Kenya's indigenous bourgeoisie par

excellence. While it suffered considerable setbacks under the Moi regime, it was not completely wiped out. The Kikuyu political and economic dominance is very much resented across other ethnic groups, and it feared that if he were to win the Monday, the continued Kikuyu dominance may create further tensions and resentment.

According to recent opinion polls, the front-runner at the moment remains Raila Odinga, the incumbent Prime Minister and the son of the founding vice-President, Jaramogi Oginga Odinga. He is the presidential candidate for CORD (Coalition for Reform and Democracy) Alliance. His running mate is the current Vice President; Kalonzo Musyoka. CORD is perceived to have a broad footprint throughout the country. Odinga's CORD is therefore perceived to represent a much broader coalition of Kenya's traditional petty-bourgeois opposition. In the presidential elections in 2007, he won in the eight of the nine Kenya provinces. His presidency is therefore perceived to be much more inclusive. Traditionally, the Odinga wing of the opposition has never been in the good books of the west and it is not quite clear how the west might react to his victory and the implications for continued relations Kenya. Over the last week however, Uhuru has however made determined come back in the opinion polls, the race therefore remains rather tight to call. It is quite likely that victory might not come in the first round.

Implications for Kenya and the region

So what does all this have in store for Kenya and the region? Kenya as we have pointed out above is the largest and most sophisticated economy with a huge actual and potential market in the region. Despite economic mismanagement, lack of an enabling regulatory environment, predictability and uncertainty in implementation of existing legal provision on competition, trade and financial regulations, the economy has remained resilient. Financial sector - banking, money market, and insurance, continue to play a pivotal role in the entire East African economy. While the manufacturing sector has declined largely due to deindustrialization, the tourism sector appears to have recovered after the 2007/8 debacle. Recent massive investments in infrastructure, particularly on road and railway network - the refurbishing old lines to

Uganda and Tanzania, and the new line to Southern Sudan and Ethiopia - are set to kick-start economic recovery not only in Kenya but throughout the region. But in the final analysis, the key to future prosperity and economic growth lies in renewal of institutions of political and economic governance. There are signs that for the first time the government is confronting the issues of economic mismanagement with a clear determination. The broadening of democratic space which has allowed an array of players into the political ring has forced a reluctant government to confront these issues. Recent revival of Kenya Anti-Corruption Authority and the streamlining of procurement regulations do indicate possible directions. A post-election government, it is hoped, will have a clear mandate and legitimacy to pursue these issues more robustly.

But the biggest threat to Kenya's stability remains the absence of sustainable economic growth able to root out poverty and address social injustice and regional imbalances. As I have suggested, the spiral of violence that erupted in response to the contested 2007 election was a symptom of a much deeper crisis in Kenya's political economy. While the fundamental overhaul of the constitution has provided a platform for resolving the underlying tensions between ethnic coalitions at the political level, much still has to be done by way of economic reforms to create jobs, reduce poverty and inequalities which is probably the second highest in sub-Saharan Africa.

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