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Conclusion

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On 29 December 1997, Kenyans went to the polls to choose their presidential, parliamentary and civic representations. These multi-party elections offered an opportunity for the Kenyan voters to choose between candidates from different political parties. However, the Kenyan 1997 general elections were a knockout in which the counting exercise was a crucial part. *Out for the Count!* the title of this book describes its contents. Notwithstanding other shortcomings, it was the flawed ballot count of the parliamentary votes in at least three constituencies (Westlands, Changamwe, Kitui West), that enabled KANU to secure a majority in parliament. In other words, the 107-103 KANU majority should have been at least a 106-104 victory for the opposition, notwithstanding its own sometimes shady victories (i.e., Fafi). Indeed, in the end it was through the counting exercise that the opposition was denied a majority.

This book is somehow the story of how KANU manipulated the 1997 general elections. This may have been in many ways, but three of them stand out above the rest. First, through the government, KANU enjoyed total control on the issuance of ID cards which enabled the party to exercise extensive influence on voter registrations. Secondly, the use of the same black ballot boxes as in 1992, including the 150 which were never recovered by the Electoral Commission of Kenya in 1993 was open to abuse by the party. Thirdly, KANU party agents were not only able to intimidate some voters, but they also manipulated the law by 'helping' the illiterate voters to mark the ballot papers. Needless to say, this was the highest violation of the rule of 'secret ballot' and put the electors at the mercy of the violence so systematically deployed by foremost, though not solely, the KANU youth surrounding the polling stations.

The book gives a far broader list of the necessary changes in the electoral system for it to become genuinely 'free and fair'. It also gives a number of other highlights on Kenya's electoral politics, which are revealing of its culture of politics.

Like justice in the courts of law, elections are a democratic exercise that must not only be done, but must also be seen to be done. But the sample of serious flaws in the electoral process which has been described in this book –

from the initial phases of constituency determination to the later phases of actual voting and vote counting – did little to accord it even a modicum of legitimacy in the eyes of the Kenyan public. In spite of all these flaws and irregularities, however, election observers concluded that, on the whole, the results of the elections reflected the wishes of Kenyan voters. But how were these wishes of Kenyan voters determined in the first place? The logic adopted was that even after statistically factoring in all the irregularities – often a cover-up term for rigging – into the counting of the votes, the election results would still favour Moi and KANU. This is a logic that essentially views democratic elections as outcome rather than process. And it is precisely the logic that lent political legitimacy to the 'Out for the Count' culture in electoral politics. Nothing else really matters beyond the final numbers of votes, no matter how those numbers were eventually arrived at. Are observers, therefore, contributing, even if unwittingly, to the entrenchment of the prevailing mood of satisfaction with the appearance of democracy devoid of any real substance?

Sometimes, there have also been the patronising sentiments expressed by sections of the foreign diplomatic establishment that in spite of the serious lapses in the process, its results should stand because it constitutes a major step towards democracy. A relativist twist is thus invoked to justify the acceptance, in the African context, of what would otherwise have been totally unacceptable in Europe and America as part of the liberal democratic package. Moreover, some diplomats in need of influence, usually competing for the marketing of their institutional set-ups, are often hit by a strange kind of amnesia and oversized self-confidence in the superiority of their own political system.

Ask them about election rigging, campaign violence, corruption and they will half-heartedly admit that, indeed, in certain circumstances these unfortunate irregularities occur in their respective polities, but they cannot seriously be compared with what happens in Africa. Their polities are mature, complex, based on ideological debates nurtured by the class and religious divides of the Western societies, not on 'primary' or utilitarian patterns of identification such as ethnicity.

Learning from the 1992 and 1997 general elections, it is easy to draw the conclusion that the principle of 'free and fair elections' will be better upheld by solving the myriad of technical and logistical problems associated with administrative corruption and inefficiency come the next round of elections. Important and necessary as these changes are, however, they will amount to little if the entirety of the process continues to be seen by the electorate as less than 'free and fair'. No amount of administrative efficiency, for example, would have convinced the majority of Kenyans of the fairness of the process as long as its administration (the electoral commission) was directed by a person

(Z. Chesoni) who, in their eyes, lacked both independence and the will to be independent, as well as political credibility.

A real challenge in the consolidation of democratic elections in Kenya, therefore, lies partly in greater transparency and accountability of the process in a way that will foster public perceptions, trust and confidence that the elections were truly 'free and fair'.

The verdict that the results of the elections were a fair reflection of the wishes of Kenyans, the many flaws notwithstanding, brings us directly to the question of election observation. The end of the Cold War precipitated major changes in the global political arena which led to the emergence of an 'international consensus that assistance in the organisation of free elections is a new phase in state-building' (Gershman 1993:10).

In addition to economic liberalisation and performance, therefore, the political performance of countries receiving aid from the West now became a condition for continued support. And, as a result, international monitoring and observation of elections in these countries assumed new importance in evaluating the degree of compliance by recipient nations with the political conditionality that was demanded by international donors for the disbursement of aid. International observation and monitoring thus became part of the new agenda of globalisation of Western forms of democratic electoral practice.

Earlier international observation attempts, however, soon revealed a number of problems. Most international governments and agencies could not afford to send more than a limited number of observers to the election and most of these tended to establish a presence for only a few days before and after elections. Their small numerical size imposed limitations on the size of the terrain they could cover and on how closely they could observe the process. Lack of proficiency in the local languages and lack of familiarity with local cultures also impacted on how well they could comprehend what they observed. Finally, the observers' task was too narrowly focussed on the election process to the exclusion of the wider political context and process within which the elections were taking place.

To remedy some of these problems, international organisations sought to support and encourage the complementation of international observation with the more extensive network of domestic observation through co-ordination with local non-governmental organisations. In Kenya, this collaborative venture was first attempted in 1992, and as explained in the introduction, it was tremendously improved upon in the 1997 general elections through a number of innovative strategies. In a country like Kenya where the regime has been openly hostile to election observation, the relationship between international and local observers proved to be particularly useful and symbiotic.

The institutionalisation of domestic observation holds some promise for democratisation in Kenya. At the very minimum, its active presence reaffirms

local commitment, among the elite as well as the general citizenry, to the principle of free and fair elections, democratic procedure and due process. This affirmation, in turn, has the potential of galvanising the society, leading it eventually towards a new electoral culture of greater transparency and accountability. This potential development is particularly feasible in contexts like Kenya, where domestic observation is becoming an accepted feature of electoral politics.

But to what extent are local observers seen to be neutral enough to gain legitimacy in the eyes of the electorate? Unlike international observers, domestic observers are often considered to be vulnerable to local political pressures from various interest groups. The fact that the local observer group rushed to give its stamp of approval to the results of flawed 1997 general elections raised serious questions about its non-partisanship in carrying out its mission. But how realistic would the quest be for total political neutrality on the part of local observers? Would it not make better sense to strive for greater representation in the domestic observation machinery of different stakeholders who can then act as checks and balances in relation to each other?

But, if domestic observers are seen to represent particular interest groups in the political process, international observers are often suspected of harbouring a hidden agenda on behalf of their respective countries. And because the sincerity of the Western nations' own commitment to genuine democratisation in Kenya is deemed suspect, international observers are often regarded as 'imperialist' pawns who have come to endorse a pre-determined outcome of the election exercise. Commenting on the 1992 general elections, for example, Emeka Nwokedi has noted that 'despite the criticism of the flawed election in Kenya, especially by the United States, the unanimous opinion expressed by the international observers that the results should stand, set the tone for western policy towards democratization in Kenya' (1995:203). To the extent that the objective assessment of elections is not seen to be genuinely a part of the agenda of donor countries, their representatives are not likely to be seen as credible observers and monitors of the election process.

Like domestic observers in the local context, however, it would probably be naive to expect foreign observers to act in a manner that is unmediated by the politico-economic interests of the Western world. At the same time, however, one notices greater intra-EU competition, on the one hand, and competition between the USA and other EU allies, on the other. In this respect, the USA stood on their own throughout the election observation exercise and only came back actively within the DDDG Election Observation Centre in the end, in support of the British, the Japanese and the Canadians in order to block the 'undiplomatic' proposition to reveal immediately and publicly

the findings on the most blatant frauds and instead produce more of a government-to-government document (*Economic Review* 23/02-02/03/98).

But let us assume for the moment that the election observers were right that, everything else being equal – which it certainly was not – the election results were indeed stacked against the opposition. How, then, can we explain the election outcome in favour of a regime that is decidedly unpopular? The chapters in this volume have provided several explanations for this seeming anomaly, some of which are shared by the Kenyan public at large. Prominent among these is the thesis of a divided opposition. There were indeed several attempts behind the scenes – all of which came to nought – to get various opposition parties to field one presidential candidate against KANU's Daniel arap Moi.

Even when this initiative did not succeed, however, it was anticipated that, with strong presidential contenders in Central, Eastern, Nyanza and Western provinces, Moi was unlikely to garner the required minimum of 25 per cent of the votes in at least five provinces. This indeterminate outcome would have forced a run-off election between Moi and one candidate from the opposition. Indeed an opinion poll on presidential popularity conducted in June and July of 1997 among some 1,600 Kenyans covering all eight provinces concluded that the only likely candidate to beat Daniel arap Moi in a run-off would be Charity Ngilu. All other aspirants would not receive the much-needed support from other opposition zones. In a run-off against Wamalwa, Matiba, Raila or Kibaki, Moi would score from 60 to 64 per cent, whereas versus Ngilu he would lose, gaining no more than 35 per cent of the votes (see ACCORD 1997). The voting pattern in both Eastern and Western provinces, however, failed to meet this expectation of the opposition.

For whatever it is worth as a 'strategy' for ousting Moi, however, the electoral politics of a united/divided opposition essentially betrayed the narrow vision of democracy prevalent in much of the country. Generally, there was much less concern with democratic practices and processes than with blocking Moi and KANU from winning the elections. Sections of the opposition were often willing to accept blatant flaws in the election process well before the polling day as long as it appeared to them that they stood some chance of being the eventual victors – a status, which they have always been in a hurry to attain. Well before the elections, the 25 per cent rule was repeatedly attacked not because it was undemocratic in any principled manner, but only because it was seen to favour Moi. Moi and KANU, rather than democracy, turned out to be the real issue: and because it was simply 'Out for the Count', the opposition became a cause for its own undoing. It is, nonetheless, true that by reason of internal divisions within the opposition, the (illegitimate) narrow win for KANU became possible. Had there been better co-ordination between the opposition parties in the fielding of their candidates, the fraudulent counts would not have been able to make up for the loss of some 15 seats where the combined opposition gathered more votes than KANU. The constituencies where much of this fraud took place are mainly to be found in the Coast, Eastern and Western provinces.

Then there was KANU's own capacity to reinvent itself. In its bid to ensure its own survival as a ruling party, KANU has incorporated into its organism a blend of new politicians – some well educated and highly motivated – who, as long as they support Moi, have had the space to demonstrate their leadership potential. Even once avowed enemies of KANU and the establishment, like Jembe Mwakalu of Bahari constituency, have not only been accommodated in the party and allowed to pursue their own brand of politics, but they have actually been rewarded by their landslide victories in their respective constituencies. In other words, KANU has allowed its own political face to change in conformity with the changing political reality.

And the fact that the leading opposition parties were not at all different from KANU in ideological orientation, made its transformation that much easier: opposition parties seemed to provide the promise of new leadership without the potential of new direction. Its new guise, after all, need not be substantially different from the old one in order to be at par with opposition parties in offering a 'new kind' of leadership.

Finally, there was the ethnic factor. Chapter after chapter in this book has demonstrated how much force ethnicity has in electoral politics, sometimes, as in the case of the Rift Valley and the Coast, with tragic and bloody consequences. KANU as much as the opposition parties has continued to gravitate around the ethnic pole. It continued to play on the fears of the so-called ethnic minorities in places like the Coast and North-Eastern Province. And even in Western Province Moi's success was perhaps partly attributable to the 'ethnic minority card' to the extent that the region's ethnic profile is a lot more heterogeneous than it is often presumed to be. On the other hand, despite the millions of shillings that were poured into the Central Province by the Central Province Development Support Group of tycoons like Stanley Githunguri and S.K. Macharia in support of KANU, the party lost miserably to the seemingly Kikuyu-based party, the DP.

But as indicated in the introduction and demonstrated in several of the chapters, it would be naïve to interpret these results simply as manifestations of an uncompromising ethnic consciousness on the part of the Kenyan electorate. At the bottom of it all is a struggle for the distribution of power and resources in a political system which, over the decades, has been designed to thrive on the politics of inclusion and exclusion. Voters, therefore, see elections as a way of attracting resources to their own communities but, in a multi-

party context, they often do so '... by voting for the party that most community members believe represents the interests of the geographic region in which they reside. Because geographical attachments and considerations of ethnicity are the defining attributes of voters' interests, political parties invariably emerge that purposely appeal to the inhabitants of some region more than others' (Barkan 1997:14). The pursuit of multi-party elections in Kenya, in other words, has taken place in a context where ethnicity has either been exploited for political gain or is a manifestation of underlying struggles between communities based on material interests necessary for collective survival. The regional distribution of the support for political parties also reflects this factor. Extreme caution must be exercised, however, when making general statements on the interplay between ethnicity and party politics. There is currently no real sociology of political parties in Kenya. How KANU, DP or FORD-Kenya really interact with their electorate is still, to a great extent, an enigma. It is only when politicians and their audiences will be recorded and understood when expressing themselves in their mother tongues, that it will be possible to establish a credible pattern of data analysis and have a clear picture of the actual changes within Kenya's culture of politics (see an attempt in Grignon 1998a and 1998b).

An adjustment of the 'winner-take-all' constituency system is called for. Proportional representation seems to be able to prevent some of the disadvantages of the constituency system as it has developed in the Kenyan setting. As for now, losing an election is economically a disadvantage. Politicians thus have an interest in igniting mistrust or reverting to violence to reach their goals and stay, or get into, power.

What seems to be needed most is to de-link the narrow interests of politicians from those of their respective regions. Moreover, the current system is blocking a voter from choosing the party he or she wants to support in the parliamentary or presidential contest since not every party is able to field a candidate in each constituency.

In a proportional electoral system KANU would have won 93 parliamentary seats in the 1997 general elections, i.e, without an absolute majority (see Table A2.1 page 629). This would have allowed KANU, with the largest number of parliamentary seats, to try to form a coalition government, for example, with DP, NDP, FORD-Kenya or any other combination resulting in a majority of MPs supporting the cabinet. This way a government would have been formed backed by a real majority of the Kenyan electorate; a government, moreover, forced to deliver to more, if not all, Kenyans.

The argument that minorities' interests are not taken care of in a proportional system is false. On the contrary, the proportional system favours

the minorities since by combining efforts they can make a major player and, as KANU showed, could easily win the elections. The price to pay, some argue, is political instability characterised by frequent collapses of the cabinet. But coalition governments exist all over the world and, in general, it seems many Kenyans would prefer this road towards greater democracy, especially as it is more likely to prevent a future scenario of all open violence. Otherwise, several elections recently conducted in Africa, e.g., South Africa in 1999, illustrate that violence and corruption do not necessarily come with voting. No single election is worth the loss of human lives, anywhere. As long as Kenyans die simply because of state-organised or 'spontaneous' violence, basic democratic rights are still at peril.

Under the circumstances and limitations of interpretation described above, what conclusion can be drawn on the prospects of democracy in Kenya? How far have Kenyans liberated themselves from the peculiar 'mindset' and social relations precipitated by decades of a system of corruption and brutal dictatorship? The opinion of many observers of the political scene in Kenya, in particular, and in Africa in general, has been one of discouragement and frustration. In the words of Lemarchand (1995:1) 'After raising hopes of a major political renewal, Africa's "second wave" of democratisation seems to be running out of steam. Afro-pessimism is again in fashion and many feel that the emergent trends are better captured by the incessant bloodshed in Liberia, Somalia, and Burundi than by the few success stories represented by South Africa, Botswana and Benin.'

The seeming failure of the transition to democracy has been attributed to many factors, including an opportunistic opposition whose only objective is to capture the state to promote its own interests, the divisive and disintegrative effects of multi-partyism in an ethnicised political context, and the continuing state of underdevelopment in the economy and the infrastructure. And, above all, there have been the international forces which, in a hurry to globalise democracy in the post-Cold War period, have reduced it '. . . to the crude simplicity of multiparty elections to the benefit of some of the world's most notorious autocrats, such as Daniel arap Moi of Kenya and Paul Biya of Cameroon, who are now able to parade democratic credentials without reforming their repressive regimes' (Ake 1996:130).

Of course, there are many other factors that can be cited as possible explanations for this seeming growth of electoral systems without democratic foundations. In spite of this gloomy political picture, however, the wave of political liberalisation that has come with the struggle for political pluralism has led to certain developments whose combined effect on the direction of politics in Kenya promises to be positive. Of greatest significance, of course, has been the end of the culture of fear and silence which has forced open the

political space and created the possibility for the expression of alternative political voices and for the articulation of different interests as well as individual and collective anger.

Regime autocracy has never experienced a more resolute challenge to its legitimacy than in the recent years of multi-party politics, its many flaws notwithstanding. While it is true that the political positions expressed in this new dispensation have not been as ideologically distinct (and polarised) as they were in the earlier phase of multi-partyism in Kenya, a wide range of hitherto marginalised groups, including women, the unemployed, ethnic and religious 'minorities', have become relatively more visible.

In the meantime, more traditional bodies, like trade unions, that were either muzzled or co-opted, have now found room for recomposition and self-rejuvenation. And organisations that were once pro-establishment or claimed to be apolitical, like the Supreme Council of Kenya Muslims (Supkem), have been politicised in a new direction, often being forced to participate in challenging authoritarian and repressive rule. This is a conquered space that Kenyans are unlikely to ever surrender again, at least not without a major political battle.

An accompanying attribute of this reconfigured political arena has been the destruction of the wall of invincibility of Daniel arap Moi, in particular, and of the Kenyan presidency, at large. At one time, it was virtually unthinkable to imagine the president facing opposition on an election platform or serving a term that is not life-long. In 1997 as in 1992 he was not only challenged by several presidential candidates, but was actually forced to go around the country begging for votes from the electorate to allow him complete his final term of office. The president is attacked and ridiculed at public platforms, is made a subject of litigation, and is routinely challenged and contradicted in many of his pronouncements. Even when it has sometimes assumed a crude form, this process is giving rise to the kind of political psychology that is unlikely to accommodate a rebirth of the political strongman syndrome that had bedevilled the nation since independence

For these gains to be consolidated and deepened and for new ones to be won, however, there is much more that needs to be done as part of the process of establishing a democratic system and culture in the country above and beyond the periodic elections. Both the legislature and the judiciary need to be strengthened and institutions for the articulation of collective interests must be developed. There needs to be a shift of emphasis in the struggle for rights, from individual to collective. The very scope of rights must itself be expanded to include not only rights of a political nature, but also economic, social and cultural rights, and in a manner that is integrative. Without paying greater attention to its socio-economic content, democracy is not likely to find root and become sustainable in Kenya.

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