

Presentation by

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A POLITICAL PERSPECTIVE FOCUSING ON THE ROLE OF POLITICAL PARTIES, POLITICIANS & THE ECK:

1. HOW CAN THE CURRENT POLITICAL SITUATION BE EXPLAINED:

Power of the ballot!

When Kenyans went to the polls last year on the 27th of December, 2008, there was a lot of hope, enthusiasm and excitement. Since realizing the real power of the ballot in the 2002 General elections, Kenyans were keen to see their vote count once more. Kenyans had realized that the vote can free a people and once more they were **voting for that freedom**; Freedom to choose who will lead them in the next five years.

It has been proven in Kenya and other countries time and again, from one election to another that the **“ballot” is the ultimate expression of “people power.”** The power of the ballot is the most peaceful and most powerful expression of a people in a democracy and overtime it strengthens a country’s democratic pillars.

For the first time in the Kenyan history the **largest ‘tribe’** to vote was going to be the youth, whose population is 72% of the Kenyan population and were equally the largest registered voters.

Political Parties:

Despite the work done with political parties since 2004 through the Centre for Multi-Party Democracy which I work for; towards capacity development and institutional building of political parties; most parties crumbled with the entry of the three main ‘pre-election coalitions’ ODM, PNU and ODM-Kenya, confirming that politics of personality coupled with selfish interest are still the main criteria of the political leadership. Political aspirants abandoned their political parties to rally around the three likely presidential winners; Mwai Kibaki, Raila Odinga and Kalonzo Musyoka.

Style of the 2007 campaigns:

Distortion, lies and propaganda continued to be the chosen style of this year's general election campaigns.

Since independence when **Central-Kikuyu and Luo-Nyanza** have voted as a block, they have succeeded in winning an election. However it is also true that Kenya has been ruled and elections won without the two political blocks. The results of the 1997 general election and 1992 indicate that it is very possible to rule the country without the two strong political blocks votes and former president Moi did it twice.

It is also a mammoth task to get the 25% popularity vote in at least five provinces and in 1997, only Moi managed that in Rift valley, North Eastern, Western, Eastern and Coast Provinces, while Kibaki managed only three of the provinces, namely Central, Eastern and Nairobi. All other presidential candidates only satisfied the 25% rule in their home provinces, including Raila who managed that in Nyanza.

So the possibilities of the presidency in Kenya are not as easy as most people seemed to think, it is not enough to be popular in your home province or even two provinces. The challenge to master a national vote through the 25% rule is the key to the presidency even before we discuss the plurality vote.

The possibilities for a runoff in Kenya were very rife.

The last week before elections, I wrote that 'The propaganda that therefore Kenya and Kenyans will plunge into **chaos** following a possible regime change is far fetched and 'un-Kenyan' as history has shown we have more resilience as a nation'. I still believe that if the election had not been rigged the propagandists would have been proven wrong.

I had noted that what the country required were institutions, systems and mechanisms in place to oversee a smooth transition as had happened in the past.

Violence and Intimidation:

The rate of violence witnessed in the pre-election period and others in the past, the fear instilled through intimidation by politicians and their supporters was a clear sign that many were not willing to let go and it was as it, there is no life after the elections or after losing political office. The acknowledgement that 'anything won can be lost' is not part of our political vocabulary.

There is a tendency at election time for politicians to instill fear on the voters by using threatening and negative propaganda on their opponents rather than offering any ideological or any other substantive difference to allow the people to vote has continued to be a problem.

The rate of violence and high levels of intimidation we witnessed prior to the 2007 general election instilled fear in people and in a sense impeded with the process being totally free and fair. Women were grossly affected. Kenyans had been forced to listen to primitive and brutal ethnic prejudiced language in the political campaigns and debates prior to the elections.

The warning signs were there; the electoral commission of Kenya or the police did not deal decisively with electoral violence despite a lot of media coverage and appeals from many individuals and organizations.

Ethnic propaganda:

Politicians without a national agenda or any serious political ideology used ethnic propaganda instead to appeal to voters. The ideals of equal rights for all with the rider that all human beings are born free and equal in dignity and rights do not exist in our political agenda. Of critical concern is that as the 'big five' ethnic groups plan how to share political power, no one discusses the whither of the obviously marginalized smaller ethnic groups, let alone the Kenyan 'super minorities'.

There is no culture where political leadership or the voter seriously seeks a political leader that does not just want to share the cake among the 'big five' but one who seeks to make all Kenyans including the Surjis, the El molo, the Njemps, the Nubians, the Yiaku, the Ogieks, Sekuye, Baajun, Orma, Suba feel part of the country and to continue to live freely without fear.

Samuel Kivuitu; the Electoral Commission of Kenya chair:

Mr. Samuel Kivuitu, chair of the Electoral Commission of Kenya(ECK); once respected and admired by many, literally turned against the very nation that held him high. Samuel Kivuitu was a hero to many who referred to him as an accomplished individual. He was thought to have exhibited a character of high independence, high intelligence, high integrity and seemed to be a man of courage.

His careless and reckless handling of the 2007 election results process, pushed the country into the chaos we found ourselves in. In my opinion, he should be held solely responsible and accountable to every loss of life, loss of property and any political and other crimes that were witnessed in Kenya.

He led an institution that is a constitutional office; the Electoral Commission of Kenya (ECK) is created pursuant to Section 41 of the Constitution and thus has security of tenure and independence.

On receiving the election results from the Returning Officer who is obliged in law to complete forms 16, 16A and 17A, the ECK should give all parliamentary and presidential candidates 24 hours to lodge complaints, if any, including demanding a recount or re-tallying. The ECK is obliged to, within 48 hours, allow the recount or re-tallying. All candidates and the ECK

therefore have 72 hours to resolve any disputes. It is only after the period that the ECK can announce the winners of each of the 210 parliamentary seats and issue a certificate known as Form 17 to each elected MP and Form 18 to the elected president. The results are then gazetted.

Instead the chair of the ECK, told the world that his returning officers had gone underground, and that he did not have powers to order re-tallying. He was later to admit that he was under pressure to announce the results by two of the parties and told the media that he could not ascertain or confirm who had won the presidential elections.

2. WHAT ARE THE MAIN CHALLENGES IN RESTORING STABLE DEMOCRATIC DEVELOPMENT? CHALLENGES?

Many African citizens have realized that the weakness of most of the state institutions lay in the foundations of the country's constitutions and as such have continued to demand for new constitutions that represent the aspirations of the citizen. In addition they are also demanding for strengthening of institutional safeguards that would in turn deliver on these aspirations.

Newer constitutions of Africa reflect modern trends that centralize human rights and are being developed through participatory processes. They also incorporate new processes in governance, justifiable economic rights, minority rights and new models of devolution.

For Kenyans, we can finally breathe a sigh of relief that political tension has eased off, thanks to the enactment of the National Accord and Reconciliation Bill, 2008, and the Constitution of Kenya (Amendment) Bill, 2008. But the country has been handed a mongrel political system that is neither presidential nor parliamentary — one that says power, real power, is shared equally by both sides of the political divide. As to which comes first between developing the economy and liberal democracy is a chicken-and-egg question. Our leaders need now to establish the fundamentals that the economy will be built on.

- It is sad that 45 years after independence, our tarmacked 5,000km road network is badly potholed, the railway line is still the one built by the British colonialists, 90 per cent of the population have no access to clean tap water and the power grid is 800 megawatts.
- The challenge for Kenyans is to be extremely vigilant as regards the implementation of the National Peace Accord to the extent that for the first time in history, the governance structures have been accorded an opportunity to rebuild all the failed or collapsed institutions both political, economic and others. The vigilance and demands to higher levels of accountability and democratic governance by the civil society groups and other non-state actors in the absence of an official opposition will push the agenda of the

people and hold the leadership into account as the social contract is peculiarly defined for the moment.

- A rigged election, ethnic violence, police clampdown on freedom of expression and association, economic dysfunction, threats to human rights defenders and semblances of political assassinations, all within a month caused the crisis in Kenya to near rock-bottom. Worse was watching 'live' the collapse of nearly all institutions that the citizens would have turned to for salvation. And '...the politicians who loosed these forces didn't look capable of reining them back in'ⁱ.
- With the opportunity for a new constitution within the year, it will be interesting to watch how most of the institutions in question i.e the Electoral Commissions, The Judiciary; Political parties as institutions and their role in democratization; The police as a service provider rather than an instrument of oppression; The independence of the legislature and the total separation of powers of the three arms of government will be firmly entrenched within a new constitution and how the process unfold and be effected.

3. WHAT CONCRETE ACTIONS SHOULD BE UNDERTAKEN BY POLITICAL & CIVIL SOCIETY? HOW CAN THEY EFFECTIVELY COOPERATE? SOLUTIONS?

Kenyans for Peace Truth and Justice, National Civil Society Congress, Multi-Sectoral Salvation Forum, Third Chamber.....

4. WHAT ROLE CAN OUTSIDE ACTORS PLAY IN POST ELECTION DEMOCRATIC DEVELOPMENT? INTERNATIONAL COMMUNITY?

The international community in Kenya spoke in one voice and supported the citizens in calls for electoral truth and justice. They further influenced work towards the now Grand Coalition. Speaking with most ambassadors, they admit that the civil society and the business community kept them on their toes and they had no choice but to maintain a firm position.

We now have however a cabinet that Kenya cannot afford to pay and feed! We would request the international community to continue with humanitarian aid and support towards continued development of democracy, but TO PARTICIPATE in the funding of a bloated cabinet will be tantamount to betraying the people of Kenya whose priorities are Reform; Reconstruction and Reconciliation. With over 400,000 thousand IDPs and a whole range of destruction as part of the post election violence, Kenyans want the resettling of people and a new constitutional

order to be the priority of the new government. We are however doubtful that this will be possible with the expenditure being concentrated on a few individuals.

The FUTURE lies in development of strong institutions of governance (including political parties), respect for human rights and economic empowerment of the people of Kenya!

¹ Wall street journal, Europe; Kenya's collapse –January 31st 2008