

Citizens Pathway Group scenarios for Kenya

Part I: Kenya Comparisons – 2008 and 2012

The 2007/8 post-election violence (PEV) cost Kenya dearly in terms of lives lost and people maimed or scarred by the trauma of the horrendous crimes. In addition, property was lost, livelihoods disrupted and hundreds of thousands of people displaced from their homes; the economy took a nosedive. Kenya was on the brink of collapse and degeneration into tribal Bantustans.

As the magnitude of the crisis dawned on Kenyans and the international community, the Citizens Pathway Group, a group of independent Kenyan professionals and business leaders came together to provide some objective analysis and chart a way out of the crisis. The result was the "*Citizens' agenda for lasting peace and human dignity*" which recommended the formation of a Government of National Unity and specified the agenda that needed to be addressed by the new Government.

As we head into the elections that are part of the transition into the new constitutional dispensation, Citizens Pathway has once again come together to carry out some objective analysis. About this time in 2007, most Kenyans were caught up in election activities and euphoria without a sense of the impending disaster. At this point in time Citizens Pathway considers it prudent to make an assessment of the country and its preparedness for the election. This document makes comparisons between 2008 and 2012 of Kenyans, leaders, institutions and the international community. This comparative analysis will be used to derive possible scenarios for 2013 and to recommend appropriate citizen actions.

Kenyans

Kenyans remain with tribe as their main source of identity, especially in regard to politics and elections. It starts with tribe and could come down to clan and also religion. In 2007 Kenyans were conditioned to believe if their man did not win, all was lost. In 2012, the race is tight, and from our assessment it is unlikely that any one leader can win this coming election in the first round.

Although the economy recovered after 2008, poverty levels continue to be high. High populations of disenfranchised people can be found in all parts of the country. In urban areas, the poor have increased and represent a tinderbox. Economic vulnerabilities render poor people across the country susceptible to incitement to violence. In particular, the youth are easily incited to violence and are available for hire for elections related crime.

Additionally, a whole new bunch of voters who were not eligible in 2007 will now be voting for the first time. They could be a significant swing vote. They have access to information, but their main source of political information is still politicians.

Leaders

The current President is not a candidate and represents a great opportunity to use the state machinery to keep the peace and steward the country towards a path of positive change. The ability of the incumbent to act as a force for peace will be

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determined by his conduct, including the maintenance of political neutrality, between now and the election.

The defining characteristic of leaders in Kenya continues to be pursuit of power at any cost. Impunity remains alive and well amongst our leaders. The investigations on the 2008 violent crimes, including by the ICC, while important, may have made politicians seek to be cleverer on how to cover their tracks in inciting people and organising militia. The strong rivalry between Raila Odinga and Uhuru Kenyatta is of particular source for concern.

This election will be particularly competitive with more elective seats to view for. It is also more complicated and leaders seem determined to form winning pre-election coalitions no matter the integrity, reform credentials or past political difference. The object appears simply to win power.

The Constitution provided some opportunities to transform our leadership through the requirements set out in Chapter 6 as well as greater opportunities for citizen participation in the appointment or election of leaders as well as holding them to account. However, we have seen attempts to claw back these gains through legislation as well as conduct of our leaders. The question remains: who will prevail? Is leaders or citizens?

Institutions

(1) The Disciplined Forces

The country lacks the capacity to contain widespread violence. The police experienced difficulties in handling the recent Mombasa riots and the extended Tana River killings and pillaging. A nationwide crisis would almost certainly overwhelm the police. The delay in the reform of the police means that we don't have a trusted police force. The typical police officer reflects the face of Kenya: corrupt and tribalised. However, there is an evident sense of restraint in the handling of rioters.

Although the Constitution provides for internal military engagement, with parliamentary approval, the military is also at war in Somalia. The ability of the military to overcome ethnic bias and generally act effectively to quell any internal strife is unclear. With its revamped image after the gains in Somalia, the Military could very well win the trust of Kenyans in efforts to restore order in case of a crisis.

(2) Media

Media is still one of the most influential institutions with radio being rated as the most impactful on citizens. Local language media, and its ethnic audiences, has grown while English media has declined. Of note is the growth of Kiswahili media. Since 2008, various conflict mitigation initiatives have been conducted with reporters, editors and media owners. There is some effort to self-regulate and editors are accessible on conflict related matters.

However, reporting on elections remains sensationalist and corruption is significant. Media owners, boards and management rarely have aligned interests unless they comprise the same person(s). Some leading media houses are overtly partisan. It should be noted that young people don't read newspapers, but listen to radio and consume other electronic media. Mobile phone companies could be

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particularly useful in keeping the peace as traffic is recorded and can be monitored.

The integrity of the Media and the role it plays in the transition process could turn out to be a defining factor. The choices that Media owners, senior leadership, editors and reporters make could very well be the main determinant of Kenya's future.

(3) Judiciary

The judiciary is now perceived as an institution spearheading reform. Now there is no excuse to turn one's back on the courts on an elections dispute and go to the streets. Judiciary officers should also desist from speaking on matters before courts or risk a dangerous perception of bias (an example is Chief Justice Willy Mutunga's meeting with Hillary Clinton).

These are early days yet and the ordinary person on the street continues to have difficulty assessing the justice system as a whole. Other institutions such as the police are critical to the chain of justice. The failure to prosecute PEV cases, partly due to weak police investigative capacity and partly due to lack of political will, is a pointer in this regard and has perpetuated impunity at the grassroots.

The Judiciary has however delivered a number of gains that if well harnessed, could propel greater reforms in other institutions.

(4) IEBC

There are important changes within the IEBC especially the independent recruitment of commissioners. The IEBC has restored much of the credibility that was lost through the ineptitude demonstrated by the defunct ECK. The conduct of by-elections, the constitutional referendum, electoral reforms including determination to use Biometric Voter Registers have all gone to enhance IEBC's standing in the eyes of the public.

However, the IEBC is not administratively ready for the election and is experiencing external influence and attack. Whether the IEBC is able to weather these attacks and Kenyans rally behind it, or whether the merchants of impunity carry the day will determine which path Kenya takes.

The International Community

A critical difference in this relationship between now and 2008 is the presence of commercially viable oil. In 2008 western countries acted primarily in the interest of regional security. In 2012, with the oil prospects, foreign national interests will be higher and potentially problematic vis à vis Kenya's interests. Many western governments are in financial straits and their commercial interests are particularly strong. China's interests in Kenya have increased greatly but their direct involvement in Kenya's politics continues to be unlikely. It is unclear what China could do if Western powers threaten its resource and other economic interests in Kenya.

Perceptions of corruption and drug trafficking involvement in Government have resulted in the international community having less respect for both Coalition partners. Foreign relations are further complicated by potential sanctions with the election of an ICC accused person. However, these morality questions are

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subsidiary to these nations' self-interest especially around oil and other resources. Security concerns especially in regard to Somalia and terrorism will continue to be paramount especially for the Americans.

The behaviour of western governments in the Arab world – particularly Syria – should provide important lessons in judging potential reactions to Kenya in 2013. The outcome of the US election could also impact significantly on how the US responds to Kenya in the lead up to the election and thereafter.

The state of Kenya today

A hard and honest look at Kenya today, demonstrates that a positive future outcome is anything but assured. This snapshot highlights the status of citizens, leadership and institutions, as well as the international community's interest in Kenya. The resulting image is the paradoxical dichotomy that Kenya is today: a country full of hope and promise and yet facing risks that threaten our social fabric, political stability and economic fortunes.

How might events unfold in the transition and beyond?

Citizens Pathway has spent some time assessing the outlook: Will Kenyans recognize the challenge and rise to meet it? Will they resort to the usual methods for winning political power in spite of attempts at reform? Will they elect capable leaders with the integrity required to focus on the desired positive future? Will Kenyans spend the next decade or two in a tumultuous transition? Will the same old leaders hold the country hostage for the next 10 years? Or will Kenyans deliver the leadership and transformation that Kenya has been crying for over the last four decades?

In Part II of this write-up, alternative stories of the outcomes that might play out will be described and more importantly, what citizens can do about them.

