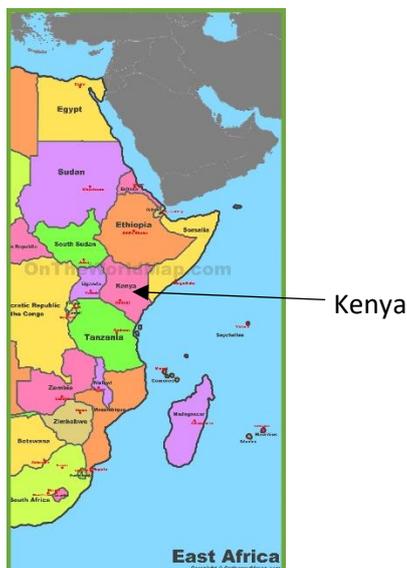


### Kenyan Elections: Corruption, Violence, and the Dangers of Tribal Politics

Once again, Kenya faces a tense election crisis. In a stunning decision, the country's Supreme Court declared the August reelection of President Uhuru Kenyatta to be invalid. The country plans to hold a second election in October. The court's invalidation of the results stunned observers, not because of the lack of historical precedent just in Kenya, but since no court in any African country had ever nullified the reelection of a sitting president. Logistical questions still remain as to how a second vote will be held, but court's decision demonstrated a healthy divide between the executive and judiciary branches of Kenya's government. Issues with election-fixing are nothing new to Kenya. The country's electoral history is riddled with vote manipulation, but allegations of corruption in the 2007 reelection of President Mwai Kibaki resulted in chaos. The government fixed the election just like in 2017, but the opposition declined to challenge the electoral commission's decision in court, and protests and violence soon swept through the country. The conflict surprised many observers since Kenya had been one of the most stable countries in East Africa. Since gaining independence from Britain in 1963, Kenya morphed into the economic powerhouse of the region. The country boasts a diverse economy as well as commercial hubs in cities like Nairobi, the capital, and Mombasa, situated on the coast. Politically, Kenya always maintained more stability than that of its neighbors, having escaped costly wars in surrounding countries. The 2007 election revealed that, contrary to popular belief, Kenya had not moved on from issues of corruption and tribal animosity, and thus did not deserve its global image as the ideal of stable democracy of East Africa. In addition, the 2017 election affirmed the continuity of corruption and tribal politics but demonstrated the government's commitment to reform with an independent judiciary.

Kenya's geographic situation placed the country in a unique position—the tumultuous history of the country's neighbors made the nation an unexpected victim of post-election

violence in 2007. Situated in the middle of the East Africa, Kenya lies along the Indian Ocean coast while the western half of the country forms part of the Great Lakes region of Africa. Africa faces countless problems as a developing continent, but East Africa in particular includes more than a few nations with troubled pasts and futures. Nearby Rwanda, for example, made global headlines in the 1990s for a war of ethnic cleaning by two tribal groups. Sudan, which borders Kenya to the West, faced terrorism, political turmoil, and a genocide in 2003 that resulted in “the worst humanitarian disaster on the planet.” Somalia, which borders the country to the East, has long been a failed state, as the government has mostly failed to exercise control outside of its capital Mogadishu. The struggles of nations such as these in East Africa contributed to Kenya’s assumption of the role of the stable democracy and economic leader in the region, perhaps more so than the country deserved off its own merits. (Straus)

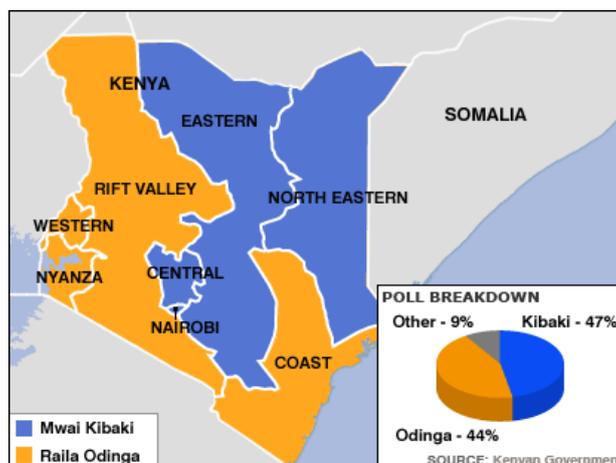


The Kenyan government restricted civil liberties during the post-independence period, yet these limitations on democracy enabled a new regime to maintain stable control of the country for thirty years. In the two years after independence, the Kenyan African National Union (KANU) consolidated rule over the country. What was originally a two party system with KANU and the Kenyan African Democratic Union (KADU) turned into a one-party

state after the 1963 elections. KANU won a majority, and KADU dissolved shortly thereafter when most of the party's leaders flocked to the other side. KANU maintained stable control of the country from 1964 through 1993. Since KANU managed to preserve a one-party state, elections were effectively predetermined, and no opposition candidate could round up enough support to contest the party. Intra-party competition existed, but not to the extent of a multi-party system. Although KANU restricted democracy during this time period, the party's domination of government rule maintained stability in a country surrounded by tumultuous neighbors. (Anderson)

The first multi-party election in 1993 enhanced democratic freedoms in Kenya, but the influx of political parties that followed opened the door for violence and contentious elections. After thirty years of stable government, the country was ready to take the next step toward greater democracy. The government faced internal pressure, but global events keyed this shift as well, as the end of one-party states in Eastern Europe put pressure on other nations. Ultimately, the suspension of US\$350 million of foreign aid by the Paris Club of donors forced KANU President Daniel arap Moi's hand. Moi introduced a constitutional amendment in 1991 that abolished the one-party system—a move that both strengthened and hurt democracy. The introduction of multiparty politics transformed the Kenyan political system from single-party domination to a host of parties vying for control. The competitiveness of Kenyan politics that naturally followed led to rampant corruption by Kenyan politicians and political parties. Campaign financing in particular grew into a major issue with politicians seeking illicit funds for their campaigns. Political parties faced few restrictions on how they could raise funds, and they could accept donations from businesses and foreigners and could even own their own businesses. Corruption did exist during the previous administrations, but in different forms. Jomo Kenyatta, the first KANU president after independence, ensured loyalist candidates were nominated, and the state often fixed

general election results. His successor President Moi employed similar practices to ensure KANU remained effectively the state. In the 1992 and 1997 elections, KANU and Moi engaged in practices such as ballot stuffing and harassment of opposing candidates, leading to successive victories by Moi and other KANU candidates. Still, KANU's increasing reliance on corruption to sustain its control over the government demonstrated the party's waning influence. KANU claimed 107 of 210 seats in parliament in the 1997, but it did so with only 38 percent of the vote. KANU excelled at playing the mass of other parties off each other, but it could not do so forever, as the opposition began to better organize itself. The National Rainbow Coalition (NaRC) emerged as the main opposition party and devastated KANU in the 2002 elections, both in parliament and with party leader Mwai Kibaki's victory in the presidential election. Although the party fell from power, KANU left a legacy of corrupt but effective practices to maintain control—a legacy that would continue in Kibaki's government. KANU's defeat still meant a victory for Kenya's democratic reform and pointed to evidence that the country's electoral process was finally equitable. The emergence of a new party, with a fresh president and parliament, gave the country hope of democratic progress. Further, the nationalism of the "National" Rainbow Coalition evoked optimism of Kenyan unity and an end to tribal politics. (Holmquist, Lynch, Mwangi)



Rather than espouse nationalism, candidates for the 2007 election attempted to appeal to ethnic groups which created a society further divided by tribal ethnicity. Opposition

candidate Raila Odinga and his Orange Democratic Movement (ODM) party emphasized *majimboism* in their campaigns, a system where local governments exercised more control and the central government was weakened. *Majimboism* appealed to certain tribal groups but not to others. Tribes such as the Kikuyu which had benefited under previous national governments, such as during the administrations of Kikuyu presidents like Kenyatta and Kibaki, opposed *majimboism* while marginalized groups such as the Kalenjin embraced the ODM. These tactics caused the Kikuyu to turn in mass to the Party of National Unity (PNU) led by the incumbent Kibaki which other Kenyans soon derided as the “Kikuyu party.” The map above, which depicts regions won by Kibaki and Odinga, shows how regionalized the vote was along tribal territory. Odinga won the West, particularly in the Kalenjin-inhabited Rift Valley, while Kibaki mostly dominated the Central Province, Nairobi, and the Northeast. Kalenjin fears that Kikuyu would attempt to seize their land with a victory further exacerbated tensions between the two groups. Kikuyus already inhabited some historically Kalenjin land since the 1980s, and Kalenjin leaders dreaded further territorial loss. While the country does contain urban centers like Mombasa and Nairobi, most of the terrain remains rural. Kenyan farmers and herders place supreme importance on their land, so tribes take seriously threats from other groups to their territory. The Kalenjin inhabited the Rift Valley in particular, a fertile region in western Kenya, and anger and fear over Kikuyu incursions opened up a path to violence. Thus, the 2007 election assumed critical importance for tribal groups. Protecting tribal land interests meant ensuring victory for a certain candidate, and tribal leaders knew defeat could prove costly to their economic well-being. Still, Kenyans took to the polls peacefully on Election Day, unaware of impending violence. (Harneit-Sievers, Lynch)

What began as a normal election quickly turned violent, as blatant rigging by Kibaki’s government angered non-Kikuyu tribes and stoked nationwide violence. The first few

elections in the multiparty system witnessed a multitude of political parties vying for power. Thus, when KANU fabricated vote counts, the party lacked concentrated opposition to denounce the results. The 2007 vote was different. Other parties participated, but Kibaki and Odinga both dominated the polls and left no other candidate anywhere close to them. ODM likely attempted to fix the election in their favor, but PNU held the obvious advantage with control of the government. Odinga still appeared to have a convincing victory when the election results first came in on December 28th. However, Kibaki strongholds withheld their vote counts, presumably to ensure a victory for the PNU candidate. Odinga declared victory on the 29th, but as the rest of the results came in, Kibaki emerged with a small margin of victory on the 30<sup>th</sup> and was sworn in as president, three days after the vote happened. Notably, ODM won 56 more parliamentary seats than PNU. International observers slammed the lack of transparency in the process, and most Kenyans cast doubt on the results. A post-election opinion poll revealed that 25% of Kenyans actually believed Kibaki won the election. The manner in which the results were counted and broadcast created the widespread impression PNU stole the election; thus, with no peaceful alternative, angry Kenyans resorted to violence. (Lynch)

Although the violence that followed the election was widespread throughout Kenya, it was not entirely spontaneous, as politicians and local elders played a large role in perpetuating the conflict. Kibaki and Odinga's strategy of winning the votes of specific tribal groups succeeded in alienating the Kalenjin and other groups from the Kikuyu. Over a thousand people were killed and hundreds of thousands were displaced, and many of these casualties took place in the Rift Valley. The Kalenjin, furious at the Kikuyu for their support of Kibaki, attacked them and other non-native groups and evicted them from the region. Thus, Odinga and Kibaki effectively turned the election into a conflict between two races, and Kalenjin fury over land ownership spurred violence just as much as PNU corruption.

Kibaki and Odinga indirectly caused the violence, but other politicians, particularly in the ODM, specifically called for ethnic war against the Kikuyu. The conflict revealed the dangers inherent in politicians setting expectations to the electorate. Regardless of whether Kibaki actually rigged the election or not, the Kalenjin would likely have committed acts of violence if he won, since both local and ODM leaders told their populations to reject a Kibaki victory as unfair. Indeed, ODM leaders were correct in their prediction that Kibaki would attempt to fix the election. However, the results revealed that when a political party sets up expectations that a candidate cannot in any way lose in a fair election, violence is the natural response from the candidate's supporters after defeat. (Lynch)

The election demonstrated obvious corruption by Kenya's government and political parties, but aftereffects revealed a disturbing lack of competence in the country's democratic institutions. ODM's decision to not challenge the results in the courts system carried enormous ramifications. Had the party believed the courts were independent, ODM surely would have sought a second election. Instead, ODM showed the courts had no distinction between the executive branch—they were completely under Kibaki's control. Given Kibaki's actions in the days leading up to the election, ODM likely made the right decision. Kibaki appointed by himself five new High Court justices just two days before the election which put the court right under his control. The Electoral Commission of Kenya made questionable decisions as well in certifying Kibaki's victory. First off, the commission broadcast the results over the radio from a closed-door meeting, suggesting the commission perhaps knew the Kenyan electorate would not react kindly to the decision. Second, the ODM as well as foreign and international observers charged the commission with ignoring obvious irregularities in the vote counts. Even the chairman of the commission lacked faith in the decision, as he claimed two days after the announcement he had no idea who won the election. The failure of the electoral commission and courts system to confront corruption in

the election process and prevent violence marked a step back for Kenya's democracy and did not bode well for future elections. The government that formed after the dispute ended produced mixed results. Eventually, Kibaki and Odinga agreed to form a coalition government in which Kibaki was president and Odinga served as prime minister, a newly-created position. The new government struggled at times since ODM and PNU had difficulty working together, but the coalition did pass a new constitution in 2010. No other government since independence had been able to pass a new constitution, including Kibaki in 2005, so the success provided some hope of improved elections and better governance from the president in the future. (Kanyinga, Lynch)

Kenyan tribes are portrayed as homogenous groups, but blanket tribal names can sometimes obscure a lack of historical unity and assume too much importance. One can easily point to the 2007 violence as simple conflict between two distinct tribes, the Kikuyu and Kalenjin, and that the natural solution was to grant both ethnicities representation in national government. The Kalenjin formed from the union of several smaller tribes into a political force while other groups like the Kikuyu and Maasai trace their tribal distinctions back to British rule. Kenya contains too many tribes for any one of them to assume power on its own. Rather, tribes form alliances with one another—deals that often do not last long. The rapid rise and decline of NaRC is just one example of a short lived political party. However, alliances between tribes are more than just political bonds; Kenyans in different tribes have long intermarried with each other. Further, this mistaken tribalism continues to be a detriment to Kenyan political stability. The power-sharing agreement in the wake of the 2007 election violence attempted to bring all ethnic groups into the government. This system propagates ethnic politics, as Kenyans cling to the notion that their welfare depends on tribal representation. Kenyan democracy will only take a step forward when voters elect candidates

based off of ideology rather than ethnicity. Tribes undoubtedly make up an integral part of Kenyan culture, but they hold too much influence in politics (Robertson).

Hacking of the vote collection system in the 2017 election demonstrated that ten years later, corruption still proliferates through Kenyan politics. Still, the reaction from the courts revealed an increased judicial independence and the success of the 2010 constitution. As part of a broader goal of decreasing presidential authority, the constitution succeeded in transforming the court from a conservative institution to one committed to human rights. This judicial reform, which increased the branch's independence from the executive, would prove crucial in 2017. Raila Odinga finished second in the 2017 election for the third time in a row, this round to incumbent Uhuru Kenyatta. Kenyatta won by eleven percent of the vote, but Odinga challenged the result in court. The court's decision shocked but delighted the country—the verdict stated the election results were hacked to fabricate a Kenyatta victory and blamed the electoral commission for failing to recognize the fraud. Odinga challenged the validity of his defeat in 2012 in court and lost, so while circumstances in 2017 were different, the court's decision affirmed the success of reform efforts. Reaction to the election from the international community also made the court's decision a surprise. Among others, former U.S. Secretary of State John Kerry deemed the election to be fair and credible. Resistant to both internal and external pressure, the court demonstrated impressive resolve with its decision. (Gathii, Harneit-Sievers, Kanyinga)

Kenyatta and Odinga's success in preventing most violence contrasts with the aftermath in 2007 and suggests Kenya can solve a second election crisis through democratic means. Voters went to the polls peacefully and largely abstained from violence in the wake of Kenyatta's original victory. Kenyatta's actions contributed to the peace, as the president urged Odinga and his supporters to utilize the court system, rather than violence, to protest the election results. Still, police have killed a few protesters in recent days, as uncertainty

regarding the second election pervades the country. Odinga wants the election commission to change its staff and use different electronic systems for ballot collecting. Kenyatta and his Jubilee Party denied this request in favor of effectively putting the electoral commission under its own control. Odinga even threatened to boycott the election should his proposed changes not be met. The threat of instability has damaged the economy and stunted growth in the country. In order for the country to hold successful election, both Odinga and Kenyatta will likely need to make concessions. (Gebre, Mbaku)

Kenya might be known for wildlife and tourism, but the country has a fascinating political history. Ever since independence, the nation witnessed the rapid rise and fall of political parties and alliances, highly contested presidential elections, and corrupt presidents. Like most other African countries, every Kenyan president and his ministers have been tainted by scandals. Whether they manipulated votes or harassed opposing candidates, parties like KANU and PNU resorted to inglorious methods to secure victory. Still, the government managed to maintain much more stability in the country than any of Kenya's neighbors. Kenya's economy remains prosperous while the country has managed to avoid civil war since the fight to secure independence. The election of 2007 marked the greatest period of instability in the country and still carries relevant lessons today. The vote brought out tribal animosities that led to widespread violence and displacement. In order to move on to a more stable democracy, Kenyan voters must look past ethnicity when choosing their candidates. The persistence of tribal voting—where groups of people of the same ethnicity vote for one candidate—only fosters division within an already diverse nation. Ultimately, corrupt politicians who exploit tribal differences to secure a political base pose a greater problem to Kenyan society than the tribes themselves. These politicians are no better than the British, who artificially created many of the tribes to divide the Kenyan people. In addition, the country must confront corruption head-on, particularly with regard to vote

manipulation. Kenya appeared to have fixed this issue in the 2002 election, only to face allegations of fraud in each of the three next contests. Still, the nullification of the 2017 vote suggests the country's judicial system has reformed to the point where it will be able to fight this practice. The vote later in October carries enormous consequences and puts the nation at a crossroads. If the candidates fail to work out their differences and the second election fails, the country could easily face violence like it did in 2007 again. On the other hand if Odinga and Kenyatta can participate in an equitable election as planned, Kenya could enter a new world of peaceful, just elections.

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