



CHATHAM HOUSE

Chatham House, 10 St James's Square, London SW1Y 4LE

T: +44 (0)20 7957 5700 E: [contact@chathamhouse.org](mailto:contact@chathamhouse.org)

F: +44 (0)20 7957 5710 [www.chathamhouse.org](http://www.chathamhouse.org)

Charity Registration Number: 208223

## Africa Programme Meeting Summary

# Kenya's Pre- and Post-Election Challenges: The End of the Kibaki-Raila Decade

Salim Lone

Senior Advisor to the Prime Minister of Kenya

10 July 2012

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## SALIM LONE

The speaker was visiting the United States and the United Kingdom to gather information for his forthcoming book *War and Peace in Kenya*. The book will consider domestic issues in Kenya and their international dimension. The US and UK were instrumental in resolving the violence which followed Kenya's elections in 2007, and the international community's interest in Kenya is growing ahead of the 2013 elections. The international community's involvement is positive for Kenya.

The period before every election is crucial. In the case of Kenya, the next election is very important. There are fears that failure will have long-term implications. In 2002, when Kenyans voted out President Daniel arap Moi's regime, they felt disappointed with the country's politics. Despite the level of democratic openness, Kenyan citizens have felt betrayed for the last ten years. In 2002, the strong national team of President Mwai Kibaki suddenly withdrew into a tribal cocoon, alienating a large part of the Kenyan leadership which had helped Kibaki to win the elections.

Following the democratic elections of 2002, this increased further their expectation of change. Instead, the government became even more distant from the people. In 2007, the campaign was very open and democratic, but the results were disastrous and violence arose around the country. In August 2010, the constitution was passed but efforts continued to undermine reform. In the last ten years, Kenyans have voted for things that they wanted, but have never seen the results. They might lose faith in the next election. At the same time, if the election results in the victory of a group that represents the status quo, this group will have to be much more repressing. After ten years, Kenyans will not accept any more disappointments.

There is a need to go beyond violence and to ensure that the 2013 election will be fair. However, even with a fair election resulting in a democratically elected president, the task ahead will not be easy for the new regime. For fifty years, the same elite have been in power, controlling politics and wealth in the country. So how does change happen in a country if power has stayed on one side for fifty years? Kenya has not had – except for the violence in 2007 and 2008 – a violent trigger of change as in neighbouring countries. Despite the remaining worries, important progress was made under the previous administration, mostly on the economic front – even though poverty has increased in the last ten years.

Since 2007, for the first time, the coalition government represented all the people of Kenya. Kenyans cooperated on a wide variety of fronts. The

government managed to pass numerous clauses and to respond to pressing issues. The peak was the constitution, which was widely consultative. The greatest challenge in Kenya is the division of groups and, if implemented properly, the constitution will allow them to have more control over their destiny. The second improvement is the Bill of Rights, although it is unenforceable under the laws of Kenya. Finally, the Leadership and Integrity Chapter (Chapter 7 of the constitution) is unique in Africa. During the process, there was widespread public involvement. For example, the Chief of Justice was nominated in a process which included NGOs. After the drafting of the constitution, the president decided to nominate a group of senior officials in a manner which was not compatible with the constitution. Most members involved in the constitutional process opposed his behaviour. This was the first time in Kenya that a president was challenged on an issue that was important to him. The people felt that they had achieved something very significant with the constitution.

On the other side, we saw anti-reformers gaining support during the 2005 constitutional referendum, and this continued to grow during the constitutional process. The constitution only passed because of President Kibaki's support. The anti-reform movement had its peak with the International Criminal Court (ICC) ruling. In December 2010, the names of the Kenyans who would be put on trial at The Hague were announced, which immediately brought a dramatic shift in political alliances. Thanks to a clever campaign, anti-reformers managed to convince many Kenyans that the ICC was a foreign-imposed project. That momentum grew when Uhuru Kenyatta, one of the presidential candidates, was also accused. Despite this accusation, he became a leader in Central Province where he had previously struggled to attain more power. This shows the impact of anti-ICC movements amongst the Kenyan population.

The issues surrounding the ICC's decision stoked new tensions between reformers and anti-reformers. This resulted in parts of the constitution being undermined. A key issue regarding the ICC's announcement relates to the Integrity Chapter of the Kenyan constitution. Under the constitution, a person is considered innocent until proven guilty. Previously, Kenyans had believed that individuals indicted by the ICC would not have the right to run for President. However, under the new constitution if an individual has not been convicted he is legally allowed to run in the presidential election. Kenya is still facing difficulties in giving meaning to its new constitution.

The current prime minister and presidential candidate, Raila Odinga, is famous for having fought for reforms and has begun to reach out to some

who were non-reformers. He realised that unless he makes alliances with non-reformers, he has no chance of winning the next election. This shows how complicated the Kenyan situation is. Ethnic identity has been manipulated so strongly by politicians that it has undermined reform efforts. How can you bring change when there is such a strong elite still in power? President Kibaki's slogan in the last elections said that no fundamental changes were needed for Kenya. There are others who wrongly agree with Kibaki that reforms are not necessary. The West does not have much influence over Kenya, but it still plays a role which needs to be used judiciously. The West needs to support the overall reform process.

## Q&A

### Question:

Kenyans will be voting for eight seats in one day. Electing eight people makes corruption easier and lengthens the voting process, which could lead to election failure. What do you think about the process?

### Salim Lone:

We will have a complicated election this time, but it will not automatically lead to violence.

### Question:

Kenya has achieved a wonderful legacy but at the same time it does not work well in practice. Could you elaborate on the country's economic achievements?

### Question:

You mentioned that the West has a role to play in supporting the reform processes, but at the same time it seems that when the West has tried to support reformers, it strengthened non-reformers. Have you got some concrete suggestions about how to achieve this?

### Question:

What are your thoughts about Raila Odinga if he loses the elections? Would he keep his appetite for reform?

### Salim Lone:

[The speaker made it clear once again that he no longer advises Mr Odinga]. If Mr Odinga loses this election, he will probably not run for elections anymore. He has also reached out to non-reformers, which created tensions amongst the reformers. However, he will certainly remain committed to reform, and he will continue to fight for change in Kenya, but not as another presidential candidate.

Looking at economic developments, there are elements of growth. With the exception of 2007, there has been a high level of democratisation under Kibaki and real economic achievements. However, only a few enjoyed the benefits of this growth. You cannot alleviate poverty if there is no economic development, but the fruits of development have not been equitably passed on to poor people.

On the issue of Western support, the West should not support one party or the other; it should support a process that will leave the choice of the expected results to Kenyans.

**Question:**

Kenya's devolution ambitions are among the most ambitious processes worldwide in terms of transferring resources and creating new political entities. What vested interest is this process up against? In theory, how powerful is the Executive Office and other ministries installing this process and what kind of checks and balances are in place?

**Question:**

Do you think that the post-election violence and other tensions have been transformative for Kenya and necessary for its political development?

**Question:**

What do you see as the specific impact of challenges in the electoral process on the current formation of the East Africa trade bloc and the promotion of regional growth?

**Salim Lone:**

One of the great problems in Kenya has been the control of the executive over every aspect of Kenyan life. Kenya holds the record for the highest number of prospective presidential candidates who have been assassinated. That is why devolution is so popular. There is resistance to devolution, which undermines the constitution. However, even with devolution, problems could remain in the country.

The experience of the coalition has not been transformative, but it has been a sort of glue to pass the laws. It is a nuanced situation, but the coalition kept peace and allowed the adoption of the new constitution.

**Question:**

What are your insights into the candidate factions?

**Question:**

Is there a transitional roadmap?

**Question:**

How do you include the power of the 42 different tribes in the government?

**Salim Lone:**

It is not true that only a few tribes are in charge of ministries. Having said this, it is not because there is a government coalition that communities are no longer marginalised. In most provinces it is clear that the elite is often opposed to marginalised groups. Therefore, it is not because the coalition government represents different communities that all the communities are satisfied. For example, the Central Province has the most representatives in the government and the most wealth, yet it has more internal unrest than any other province because of the contrast between the elite and poor communities. Political factions have been the same for years. Rivalries surfaced after the previous elections too, but this was not entirely unexpected.

Kofi Annan has been instrumental in helping to end the crisis. People wanted the violence to continue and Kofi Annan was a brilliant choice to stop this, as Kenyans trust him.

**Question:**

How much police reform has taken place?

**Question:**

Raila Odinga is a reformer, how is he going to support the previous victims of the violence?

**Question:**

Ethnic politics is one of the main problems in Kenya. Are political parties going to be stronger since the Political Party Act was passed last year?

**Salim Lone:**

Political parties belong to individuals and there is no prospect for the political party to become very strong. The constitution is clear that if someone leaves a political party, that person will have to resign from parliament and seek a new mandate.

Corruption in parliament takes place in public. There have been cases of cash being distributed in the parliament building. This is a very bad phenomenon, and is now being carried out openly.

We talk about addressing those problems in the international community. The greatest problem is that there is no vision - issues are only addressed when a crisis arises. In addition, corruption and violent elections are huge issues and yet there are not considered as international crimes. There should be an international mechanism which is globally accepted to help countries such as Kenya.