

# CRS Report for Congress

Received through the CRS Web

## Kenya: The Challenges Ahead

Ted Dagne  
Specialist in African Affairs  
Foreign Affairs and National Defense Division

### Summary

In mid-July 1997, President Daniel arap Moi met with religious and opposition party leaders to discuss opposition demands for constitutional reforms prior to presidential and parliamentary elections, expected to take place before the end of the year. The government's refusal earlier to consider these demands resulted in the deaths of over a dozen people in the past several months.

### Background

Kenya, a nation of 28 million people, became independent in December 1963 after a prolonged uprising against Britain. Since independence, the East African country has enjoyed relative stability in a region long marred by civil wars, famine, coups and countercoups. Kenya became a one-party state in 1969 and returned to multi-party rule in the early 1990s largely due to domestic and international pressures.

### POLITICAL CONDITIONS

In early 1990, opposition, religious, and civic society leaders launched a campaign against the one party rule of President Daniel arap Moi. Kenya had been, de facto, a one-party state since 1969; in 1983, President Moi ostensibly legalized that reality by amending the constitution. However, by 1990, domestic and international pressures against authoritarian governments were mounting across Africa. In response to these forces, President Moi initially arrested leading opposition figures and cracked down on the movement in mid-1990, branding proponents of a multiparty system as tribalists and troublemakers. In July 1990, the peaceful multiparty campaign turned into a violent

### Kenya At A Glance

**Population:** 28.1 Million  
(7/1996 est.)

**Comparative Area:** Slightly more than twice the size of Nevada

**Ethnic Divisions:** Kikuyu 22%, Luhya 14%, Luo 13%, Kalenjin 12%, Kamba 11%, Kisii 6%, Meru 6%, Asian, European, and Arab 1%

**Religions:** Protestant 38%,

confrontation between security forces and pro-democracy advocates when police killed 23 and arrested over 1,000 protestors.

In December 1991, President Moi reluctantly agreed to move to multiparty politics. The move came after two years of an anti-government campaign by opposition groups and persistent pressure by donor countries, including the United States. Opposition groups were apparently caught unprepared by the swift move to a multiparty system. A major concern was a snap election without opposition groups being ready for the multiparty challenge. With President Moi holding out on the date for elections, opposition leaders began squabbling among themselves.

In August 1991, former Vice President Oginga Odinga announced the formation of Forum for the Restoration of Democracy (FORD), four months prior to the presidential declaration of a switch to a multiparty system. Security forces arrested some FORD leaders, but released them days later. By mid-1992, FORD began to fragment along ethnic lines in the face of infighting between the two leading opposition leaders, Kenneth Matiba and Odinga. By September 1992, FORD, which was founded by disgruntled former politicians and new generation democrats, officially splintered into two factions: FORD-Kenya (Odinga) and FORD-Asili (Matiba). Intense rivalry within the opposition camp led to rivalry among the major ethnic groups, diminishing the prospects for opposition victory. FORD-Kenya led by Odinga was considered a Luo dominated party, although it had a multi-ethnic representation at the top level of leadership. FORD-Asili became known as a Kikuyu party, while the Democratic Party, led by former Vice President Mwai Kibaki, a Kikuyu, emerged as a new political force.

## **The 1992 Elections**

With opposition groups fighting each other, the ruling party moved to consolidate its power-base and entered the election campaign strong. In late December 1992, Kenyans voted in record numbers in the country's first multi-party election in almost 26 years. President Moi, in power since 1978, defeated opposition candidates by a small margin. His party, the Kenya African National Union (KANU), also won a majority in the 200-seat parliament, despite scores of defeats of senior KANU officials by little known opposition candidates. The three major opposition parties, FORD-Kenya, FORD-Asili, and the Democratic Party (DP), each received substantial votes, but fell short of expectations. Observers attributed the opposition's defeat in the presidential elections to internal bickering in the parties and failure to field a single opposition candidate to challenge the incumbent president.

The three opposition parties that competed in the elections won a total of 88 parliamentary seats, while the ruling party won 100 seats. According to the Kenyan Constitution, the President has the authority to appoint 12 members of parliament further increased KANU's majority in parliament. But KANU's victory in the parliamentary elections was not easy. Over a dozen prominent KANU politicians, including several cabinet members, were defeated by opposition candidates. Some prominent opposition members were also defeated, including Gitobu Imanyara of FORD-Kenya and John Keen of the Democratic Party. Some opposition leaders rejected the election's result, accusing the Moi government of election rigging. International election observers, while agreeing

that there were some abuses, stated that the election results reflected the wishes of the people of Kenya.

## **Developments since the 1992 Elections**

Since the 1992 multi-party elections, Kenya's political landscape has been unstable. Progress has been made on a number of fronts, despite occasional harassment of opposition politicians and pro-opposition journalists by hardline KANU members. Opposition parties have been actively engaged in the political process inside parliament and outside, but remain divided along ethnic lines. Numerous efforts to bring about reconciliation among opposition groups have not been successful. In April 1995, a new opposition party, Safina, was launched with the objective of bringing other opposition groups under one umbrella organization. Safina has attracted prominent Kenyan politicians, including some white Kenyans who had been strong supporters of the ruling party for many years. Safina's registration application for official recognition is still pending and its leaders have been subjected to occasional harassment and intimidation by government officials.<sup>1</sup> Meanwhile, the extensive attention given to Safina by the west, whose support-base outside the capital has yet to be tested, could cost the new opposition party valuable support among average Kenyans. Some Kenyans are convinced that the sudden rise of Safina is because of the membership of whites in the party and outside support.

Meanwhile, divisions within the opposition camp continue to intensify.<sup>2</sup> In addition to the formation of several other small political parties, a number of factions have emerged within the major opposition groups in recent years. FORD-Kenya currently led by Michael Wamalwa has lost a number of prominent political figures, including Paul Muite. Last year, Raila Odinga, the son of the founding father of FORD, left FORD-Kenya and joined the small National Development Party of Kenya (NDPK). FORD-Asili is also split into two factions, one led by Matiba and another led by the Secretary General of the party, Martin Shikuku. The Democratic Party has also suffered from factional fighting. The Secretary General of the party, John Keen, and the deputy chairman of the party, Agnes Ndeti defected to the ruling party and the latter is now serving as Assistant Education Minister in the Moi government.

The internal bickering within political parties is not limited to opposition parties. The ruling party, KANU, has also been in turmoil in recent months. At the center of this controversy is the issue of succession. The upcoming presidential election, expected before the end of the year, is President Moi's last, according to the constitution, and KANU leaders are trying to position themselves for a post-Moi era. In January 1997, KANU's internal feud came to an end for the time being when President Moi reshuffled his cabinet and brought back his most-trusted political ally, Nicholas Kipyator Biwott, who was forced out of government in 1992 for his alleged role in the killing of former Foreign

---

<sup>1</sup> Wrong, Michela. Kenyan Youths Whip Dissident Conservationist. *Financial Times*, Aug 11, 1995.

<sup>2</sup> *The Weekly Review*. Phenomenal Losses for the DP, March 14, 1997.

Minister Robert Ouko and role in a major corruption scandal.<sup>3</sup> The faction, known as KANU-A, led by Simeon Nyachae, former Agriculture Minister; Kipkalya Kones, former Minister of State; and William Ntimama, former Local Government Minister, sought to oust Vice President George Saitoti and KANU Secretary General Joseph Kamotho, both considered close allies of Biwott and Moi. The Biwott faction, KANU-B, appears to have won the first round against the so-called reformers, who were either demoted or ousted from cabinet posts in the recent reshuffle.

## Sources of Crisis

Kenya's ongoing political crisis has many roots: (a) erosion of checks and balances and Moi's autocratic style of leadership; (b) mistrust and ethnic politics; (c) human rights violations; and (d) intolerance and insecurity.

**Erosion of Checks and Balances.** Concentration of executive powers at the expense of the legislative branch and the judiciary is seen as one of the major causes of the current crisis. In August 1978, after President Jomo Kenyatta died, Vice President Daniel arap Moi assumed the presidency against a background of intense political infighting and uncertainty within KANU, but in a relatively smooth transition. President Moi, a member of the minority Kalenjin clan, did not seem to pose a serious threat to the political establishment; rather he was seen as a caretaker president. But what evolved over the years since he became president was a stunning surprise. Not only did President Moi remain in power, but he created a much stronger presidency than Kenyatta. A series of constitutional amendments were implemented beginning 1982 that strengthened President Moi's office and weakened both the judiciary and the Kenyan Parliament. In 1982, the Moi government led the parliament to amend the constitution to make Kenya a *de jure* one-party state. A series of electoral laws and presidential decrees ensured presidential supremacy and reduced the once relatively active parliament to an advisory body. Colonial laws stifled political freedom and gave security forces enormous power to crackdown on dissidents.

Analysts assert that it is the concentration of enormous powers in the hands of the President that is at the core of the current political turmoil in Kenya. A number of promises and pledges to repeal these oppressive laws and implement reforms have not materialized. Opposition groups are demanding the repeal of these laws and discussion of constitutional reforms before the upcoming elections. At a minimum, opposition groups are demanding the creation of an independent Electoral Commission; constitutional guarantees for the formation of a coalition government; simple majority requirement to be elected president; constitutional guarantees for independent candidates to run for office without being affiliated to a political party; repeal of colonial laws; and access to government-controlled media.<sup>4</sup>

The government's refusal to consider these opposition demands resulted in the deaths of over a dozen people in clashes between protestors and security forces in the summer

---

<sup>3</sup> *Africa Confidential*. Old Nick's Back, January 31, 1997.

<sup>4</sup> Excerpts from the National Convention Assembly resolutions. April 1997.

of 1997.<sup>5</sup> The violence shook the political establishment of Kenya and eventually led to government concessions. In mid-July, President Moi met with religious and opposition leaders to discuss opposition demands and agreed to consider constitutional reforms before the upcoming presidential and parliamentary elections. President Moi's unexpected move has been well received by some opposition groups and church leaders, although others remain skeptical. However, this move may threaten the unity of the fragile coalition of church groups and opposition parties. At a recent meeting of the National Convention Executive Council (NCEC), a group that has organized recent protests, some opposition leaders lambasted individuals who met with President Moi and rejected the President's proposal for reform. Some members of the NCEC would like negotiations to take place through the NCEC and not with opposition leaders selected by the President. The ruling party for its part argues that the government will not negotiate with non-elected groups like the National Convention Assembly (NCA). In a recent interview, the Secretary General of KANU stated that "the issue of constitutional and legislative reforms cannot be handled haphazardly and KANU will not therefore abdicate its responsibility or delegate it to non-elective bodies like the NCA."<sup>6</sup>

**Ethnic Politics.** Kenya's political system is marred by ethnic divisions. Kenyan political leaders often deny that they are motivated in any way by ethnic concerns, although political parties are largely structured along ethnic lines. Kenya is not unique; ethnicity and politics in many African countries are intertwined, albeit beneath the surface. During the long rule of the late Kenyatta, the Kikuyu, the President's ethnic group, benefitted at the expense of other groups. Almost two decades of rule under Moi brought enormous political and economic clout to the Kalenjin, the president's ethnic group, although some Kalenjins deny that they have benefitted from Moi's presidency. The dominance of the Kalenjin has led to the marginalization of the old political class, the Kikuyu, although they remain dominant in the bureaucracy. The ruling party seems to be inclusive of all groups on the surface, although real political power rests with a small circle of trusted advisors. These advisors appear representative of all groups in Kenya.

The democratic credentials of opposition parties are also tarnished in large part by strong ethnic divisions. Some observers assert that ethnic politics has emerged as one of the major obstacles to the democratization process in Kenya. Recent attempts by the ruling party to lure the Kikuyu are seen by other groups as an attempt to marginalize them and secure continued Kalenjin dominance. In 1992, the two major ethnic groups, the Kikuyu and Luo, voted in large numbers for opposition candidates, and help defeat Kikuyu and Luo candidates in the ruling party. Not a single Luo or Kikuyu was elected to parliament from the ruling party in the 1992 elections. Public disenchantment with both the opposition and the ruling party has in recent years led to the growth of a strong civil society. This movement could become an important third force with better chances of success in bringing change where opposition groups and the ruling party apparently failed.

---

<sup>5</sup> *The Christian Science Monitor*. Moi Ducks and Weaves in Bid to Rule Kenya, July 22, 1997. p.6.

<sup>6</sup> Reuters. Kenya-Reforms. July 24, 1997.

**Human Rights Violations.** Another source of tension is the abuse of power by security forces and violations of basic human rights. Indeed, human rights conditions have improved over the past years in Kenya, but serious problems remain. Opposition party officials and journalists continue to be harassed and intimidated by government officials, even though the government claims to have no political prisoners. Meanwhile, numerous sedition laws, many from the colonial era, continue to encroach upon the fundamental liberties of Kenyans. These laws, which include the Chiefs' Authority Act, the Police Act, the Society Act, the Public Order Act and the Preservation of Public Security Act, are used systematically to suppress opposition groups. Most of these laws do not require a constitutional amendment for repeal, but the Preservation of Public Security Act requires a constitutional amendment since it is referred to in the constitution.

**Intolerance and Insecurity.** Another contributing factor to the current political crisis is intolerance by both sides. The culture of intolerance has dominated Kenya's political scene, especially since the late 1980s. The ruling party, according to Kenya watchers, is quick to use violence to suppress dissent. Some ruling party officials have not yet fully accepted the concept of multiparty politics. Opposition politicians also do not understand or are not accustomed to an opposition role. Electoral defeat is seen as the end of their political career. Some in the ruling party are concerned that if the opposition gets to power minority groups will find themselves dominated by the majority and thus the return of the old political order. It is this sense of insecurity that has been the core of contention in recent years. For democracy to succeed in Kenya, political leaders on both sides must find a middle ground and build the level of trust across party and ethnic lines, in the view of Kenya watchers. The upcoming elections, if judged free and fair, could pave the way for a more stable and democratic Kenya.

**U.S.-Kenya Relations.** Kenya has been a valuable U.S. ally since independence, providing the United States access to its military facilities and political support in the United Nations. Washington once considered Kenya a model developing country with shared democratic values in a continent where civil wars raged and military and authoritarian governments reigned. With the end of the Cold War, U.S. interests began to shift from containing Soviet expansion in Africa to human rights and democracy. In the late 1980s and early 1990s, human rights issues emerged as one of the leading U.S. foreign policy concerns in Kenya. The promotion of democracy also surfaced as an important element of U.S. policy towards Kenya.

In the early 1990s, relations between Kenya and the United States became strained due to deteriorating human rights conditions and the government's refusal to introduce a multi-party system. Relations began to improve slightly after the December 1992 multi-party elections in which the ruling party won. The United States and Kenya in mid-1997 renegotiated the Facilities Access Agreement which was first signed in 1980. The Agreement allows the United States to use Kenya's ports and airport facilities for military purposes. Despite some concerns, Washington continues to see Kenya as a stabilizing force in a region still marred by civil war and political instability. Washington, for example, monitors events in Somalia from its embassy in Nairobi and moved the operation of its Sudan embassy to Nairobi in January 1996 because of safety concerns. Kenya is also an important U.S. trading partner, the 8th largest in sub-Saharan Africa. U.S. investment in Kenya is estimated at \$300 million.