

Ethnicization of Kenyan Presidential Elections in 2017

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1. Introduction

Republic of Kenya is the Eastern-African multicultural and multiethnic country. The demography of Kenya has been influencing its modern development since independence and was especially persuasive election periods. The regular elections has been taking place in Kenya since reintroduction of the multiparty system in the 1992. Country has strong presidential system – on the grounds of Constitution elected President is not only the Head of State, but also the Head of the Government. President is given wide range of the prerogatives, therefore Kenyan presidential elections have always been substantial political event influencing relations in country itself, as well as in the East African region. Due to its multiethnicity, Kenya was facing difficulties in appointing candidate with nation-wide support, even though in 1992 the power-sharing solution – territorial distribution requirement – was introduced in order to secure this. Despite detailed electoral regulations Kenya faced several internal crisis and significant ethnical clashes following presidential election in 2007. Consequently, after two-year reform debate, the new Constitution was introduced in 2012 and further reinforced the centripetalism together with devolution resulting in creating 47 counties that replaced eight provinces. In this article I investigate the efficiency of power-sharing solution and devolution in Kenya and to what extent adapted judicial solutions strengthen the pan-ethnic character of President office. My attempt is to answer, whether introduced solutions failed or succeeded in guaranteeing its neutral character. I conduct the analysis of presidential elections results taking into account administrative, ethnical and geographical divisions of Kenya with particular focus on 2017 elections.

The structure of this article is as followed – firstly I make brief introduction of Kenya, with the emphasis on its social and ethnical structure, later I explain what is the aim of power-sharing solution. Subsequently, I describe each elections since 1992 emphasizing if and how results echoed ethnic partition. I argue, that despite the recent constitutional changes and introducing the power-sharing solutions in Kenya, its citizens continue to vote alongside ethnic lines.

2. Overview of Kenyan ethnic and socio-linguistic situation

In Kenya there live 48 millions people, what makes it 29th biggest country in the world in terms of country's population; in terms of its area it is 50th country in the world (580,367 square km). Kenya is distinguished by its complex social structure. Over 83 %

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of its citizens declare themselves as Christians (Catholics, Evangelicals, Protestants and other), 11,2 % are Muslims, 1,7 % are traditionalists, 1,6 % declare themselves as followers of other religions and 2,4 % of all declare themselves as atheists. The religious diversity exists alongside the ethnic diversity, as Kenya is inhabited by people with multiple ethnic affiliation and nationalities. The biggest among them are Kikuyu (21,6 % of the population), Luhia (51,3 %), Kalenjin (12 %), Kamba (11,7 %), Luo (11 %), Kisii (5,8 %), Meru (5,7 %), Mijikenda (5,3 %), Somalis (2,5 %), Maasai (1,9 %), Turkana (1,2 %), Taita (1 %) and Embu (1 %), with the rest of the ethnic groups constitutes for 4 % of the whole population¹. For centuries Kenya has been home to people of different origins, though its multi-ethnic character has also led to disputes and disagreements in terms of access to public wealth, power and social privileges. Arend Lijphart (1995: 853) define ethnic group as the group of people sharing common cultural values i.e. language, culture, kinship and physical features. Members of this group identifies themselves not only based on shared principles and ideas, but also on shared reluctance towards other group or groups. Coexistence of multiple cultural groups within Kenyan borders led to tensions especially, but not limited to election period. Kenya is characterized as 'deeply divided' (Sisk, 1996: 116), composed from many separate segments (multi-ethnic, multi-religious), and disagreements among those segments result in periodic tensions and clashes.

There are 68 different ethnic languages spoken in Kenya and 60 of them are local ethnic languages, but only Kiswahili (being original name of the language Swahili) and English are official languages, which are widely spoken and understood. Kiswahili language is not a language of a particular ethnic group. It has a special status in Kenya – starting from VIII century it was used for pan-ethnic communication and helped people to create unique identity consisting of Bantu and Arabic components. Language first used as trade tool for costal merchants, later expanded into interior and followed by expansion on then city-states, but most importantly with the growth of economic relations, it has become regional *lingua franca* until the British colonial rules in XIX century. Britons, being aware of its special status, firstly forbidden teaching Kiswahili at school and promoted ethnic languages, but after 1947² they were promoting education of Kenyan people in English. Kenya proclaimed independence in 1963 and initially its linguistic policy was very similar to British one – education was in English, which also served as the only official language in the country, while Kiswahili was used only for broadcasting³. It was not till 1974, when Kiswahili became second official language of the Republic and was later introduced as the working language of the Kenyan Parliament in 1979. Further amendments to the Constitution required the running candidate to prove his or her proficiency in written and spoken both English and Kiswahili. Twenty years after proclaiming the freedom, when Kiswahili was finally introduced into school curriculum basics (Mazrui and Mazrui, 1993: 279-280).

The current status of Kiswahili language is guarantee by Kenyan Constitution adapted in 2010. The 7th states Swahili is not only official language, but also Kenyan national language, while English is described as 'official' language only. Above this, Republic is given the special task in promoting its multilinguistic (and therefore multicultural) character, which is straightforwardly expressed in the same paragraph n.º 7:

¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>. Note that data may vary from Kenyan national census from 2009: <https://www.knbs.or.ke/ethnic-affiliation/>.

² Year when India re-established its independence.

³ Though Kiswahili has not become official language immediately, broadcasting was and is still considered as one of the most important medium used for communication in African countries, therefore presence of an African language in this sector was crucial in the given circumstances.

The State shall:

- (a) *promote and protect the diversity of language of the people of Kenya; and*
- (b) *promote the development and use of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.*

The policy of promoting English as the main language of communication in Kenya with simultaneous downgrading status and pan-ethnic usefulness of Kiswahili language was decades-long. It led to recognizing English as the empowerment language facilitating success of the individual, suitable not only for administration, but also public debate. Promotion of English without stressing the importance of Swahili, led to fragmentation, reinforced regional identity liaised with ethnic provenience and strengthen tribalism. Kenyan policy after independence was based on notion that access to public wealth and national resources should be granted based on ethnicity, rather than shared on fair, transparent and most importantly inclusive rules. Ethnic division served individual, political interests. At the time of first president Jomo Kenyatta from 1964 till 1978, the benefits were granted mainly to Kikuyus, as he was Kikuyu himself. Same pattern applies during presidency of Daniel arap Moi (1978-2002), when Kalenjin people – same group as the president – were among biggest beneficiaries, and again at the time of presidency of Mwai Kibaki (2002-2013) and Uhuru Kenyatta (2013 until now) Kikuyus has been benefiting from the fact, that president of the state belongs to the this particular ethnic group. Effectively, the political identification in Kenya is based on ethnic provenience, and pragmatic, political agenda is mostly irrelevant for voters.

3. Centripetalism as a power-sharing solution

There are multiple solutions crafted for segmented, multi-ethnic societies in order to help them secure the fair and balanced political representation, one of them being centripetalism. Centripetalism is the democratic instrument designed to serve in the societies that are ‘*conflict-prone*’ (Reilly, 2010: 288). Centripetalism is a form of power-sharing institution and is designed to promote stable democracy in the highly-divided societies and ethnic division. The main goal of centripetalism is not to simply reflect the societies ethnic pluralism in those mentioned institutions, but rather make efforts to reduce the significance of ethnic factor in public life with the emphasis on democratic institutions including political parties, electoral systems, governments, cabinets. Detailed explanation of what is centripetalism could be found in numerous works (i.e. Trzciński, 2016, Dobrzeniecki, 2016, Reilly, 2010).

For instance, rather than focusing on the fair representation of ethnically defined political parties, centripetalists place a premium on promoting multi-ethnic parties and cross-ethnic activity instead. In so doing, they emphasize the importance of institutional designs which encourage co-operation, accommodation and integration across ethnic divides, thus working to break down the salience of ethnicity rather than fostering its representation institutionally. In direct opposition to consociational theory, centripetalism maintains that the best way to manage democracy in divided societies is not to replicate existing ethnic divisions in the legislature and other representative organs, but rather to depoliticize ethnicity by putting in place institutional incentives for cross-ethnic behavior, in order to encourage a degree of accommodation between rival groups (Reilly, 2010: 290).

Centripetalism solutions are designed to push local and national stakeholders to seek alliances and gain support from voters not limited to those with common ethnic origin. The politicians in the country where centripetalism is introduced are given new, special task – they need to search for support outside their own circle, outside their region (which most often is inhabited by people belonging to the given ethnic group), and outside their “comfort zone”. In order to win elections, they need to obtain supra-ethnic support not along, but across ethnic lines.

Reilly (2010: 291), mentions all of the most important components facilitating implementation of this solution: electoral incentives, multi-ethnic arenas of bargaining (parliamentary and executive forums), aggregative and multi-ethnic political parties or coalitions of parties. He argues, that if parties and candidate taking part in the electoral race adopt those positions and are willing to first and foremost compromise, the election result outcome could be to accept to all interested stakeholders. In order to doing so, they need to welcome cross-ethnic cooperation, because only by doing so, they could access the power. Further Reilly (2010: 291-295) comprehensively describes the specific institutional solutions facilitating applying centripetalism principles in countries like Fiji, Indonesia, Nigeria, Lebanon and many others. The Kenyan ethnic mosaic makes this state particularly vulnerable to tensions and therefore specific institutional solutions were implemented. There are different forms of centripetalism solutions – ‘distribution requirement’ introduced in Kenya is only one of them.

The ‘distribution requirement’ applied at presidential elections in Nigeria, Kenya and Indonesia is an example of the first kind of approach, which seeks to encourage cross-regional politics by requiring winning presidential candidates to gain not just a majority of the vote, but a spread of the vote across most parts of the country, in order to be elected (Reilly, 2010: 291).

To the date this solution was introduced only in two other countries – besides Kenya in Those three countries share few characteristic features – they are all multi-ethnic, developing countries, their societies are deeply divided and consequently ethnic-clashes and tensions took place on election occasions. In all cases distribution requirement was implemented in order to avoid internal conflicts. Its goal is to facilitate the victory of those candidates, whose political agenda and deeds are of moderate rather than of radical character, so that their choice accelerate multi or pan-ethnic cooperation. In broader sense distribution requirement is designed to promote combined effort in governing the country not alongside, but across the ethnic lines (Trzciński, 2016: 117).

In Kenya distribution requirement is guaranteed by Constitution. In 1992 the distribution requirement was added to the Constitution adapted in 1969. At that time two amendments were voted in order to change the procedures of voting for the President – this were Act no. 12 from 1991 and Act no. 6 from 1992. According to those amendments, the president of Kenya was elected with the simple majority of votes form any other candidate, but at the same time also at least 25 percent of valid votes from at least five out of eight (at that time) provinces. Additionally, elected president must have been previously elected as a member of National Assembly.

According to current regulations president is elected for five-year term and can serve maximum two terms (art. 136 ([1], [2] [a])). Candidates are appointed by the political parties or they can take part in the presidential elections as the independent candidates, in both cases they must receive the nomination of at least two thousands voters from each of the majority of the counties (art. 137[1] [c] and [d]). The distribution requirement is discussed in article 138[4]:

A candidate shall be declared elected as President if the candidate receives

- (a) more than half of all the votes cast in the election; and
- (b) at least twenty-five per cent of the votes cast in each of more than half of the counties.

The distribution requirement is mandatory only in case of the first round of presidential elections, when no candidate receives the mandatory support. If so, 'fresh elections' must take place within 30 days after the first round and only two candidates with the highest support can run (art. 138[5]). The winner must obtain simple majority in the second round. The law seems to guarantee the solid pan-ethnic character of the presidential mandate. In following paragraphs I analyze results of the elections from the first period of political pluralism (1992-2007) and the second period (2013-till today), with special focus on territorial distribution requirement.

4. Kenyan elections between 1992-2007

The Republic of Kenya after proclaiming its independence in 1963 was relatively calm and peaceful country, especially after violent Mau Mau Uprising in the 1950s. Yet, quickly after independence the internal conflicts emerged and political scene was dominated by two main parties: Kenyan African National Union run by Jomo Kenyatta (KANU) and Kenya Peoples Union (KPU), formed by his former Luo ally, Oginga Odinga. The latter was dissolved by state in 1969 and since then Kenya has become *de facto* one party state. After Kenyatta's death in 1978 Daniel arap Moi became president and held the office until 2002.

Daniel arap Moi due to the external and internal pressure for democratic changes in the beginning of 1990s agreed to reintroduce multiparty system and run elections.



Ilustração 02 – Administration division in Kenya in 1992.⁴

⁴ <https://pasaporteelectoral.com/wp-content/uploads/2013/03/kenya-map-tribes.gif>.

The presidential election in December 1992 took place in highly divided political environment, but with opposition incapable of cooperation. The political dominance of Daniel arap Moi was limited mainly to Rift Valley, but due to fragmentation of the opposition he won by getting 36 percent of the votes. The opposition, unable to build consolidated block lost the first ‘democratic’ popular vote, though they could have altered the regime. The results of this elections are presented also in the form of graphic below (Ilustração 03):

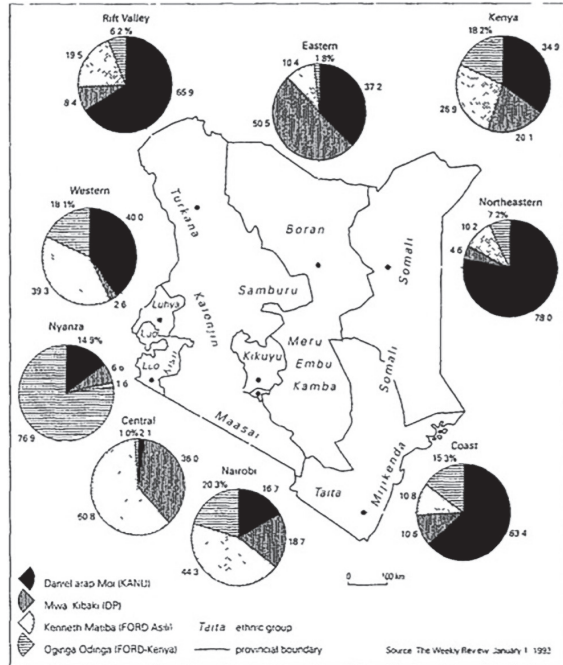


Ilustração 03⁵ – Results of the presidential election.

In their analysis of Kenyan election in 1992 Foeken and Dietz (2000), point multiple abnormalities, that influenced the outcome of elections, including ‘gerrymandering’, locally called ‘*Moimanderring*’. Effectively, in KANU’s and incumbent president’s strongholds, even with smaller number of voters, they obtained higher number of seats (Foeken and Dietz, 2000: 131). Also, KANU and arap Moi had strong influence on state and private media, consequently they effortlessly shaped the public discourse in their favor. This election was marked by the large-scale intimidation of opponents, as well as harassment of electoral officials and was criticized by different observation groups, both local and international (Foeken and Dietz, 2000: 135-141). Though Moi retained the power, election was a turning point in Kenyan politics and marked the beginning of the end of Moi’s era, though it was not until 2002 he finished his 24-year old presidency.

In 1997 presidential elections division of the opposition was even more profound – there were 14 opponent candidates for the seat of the president. The pre-election period was marked by massive irregularities, bribery, vote buying, chaos, although the election day

⁵ Foeken and Dietz, 2000: 128.

itself was relatively calm and voting was conducted in a satisfactory way, despite the bribes occurred also during so called 'e-day'. There were two major ethnic conflicts in the electoral time-spam: one took place right after the 1992 election in Rift Valley Province and the second took place shortly before election in 1997 in the Coast – both resulted in hundreds of death, they both seemed well organized, having similar pattern, though the cases were never solved and the public opinion has never learned who was responsible for organizing the riots.

President Moi received 40 % of the votes and was for the second time the only candidate who received minimum 25 % support in five out of eight provinces – 63,09 % Coast, 72,96 % North Eastern, 35,4 % Eastern, 69,37 % Rift Valley, 44,67 % Western. The second best candidate Mwai Kibaki received 30 % of the votes with the required 25 % endorsement in only three out of eight provinces – Nairobi, Central and Eastern. In case of both elections in 1992 and 1997 (especially the latter), the result of the elections was easily predicted before the votes were counted. Not only the shape of the provinces, but also the shape of the constituencies enabled voting alongside ethnic lines. The overwhelming support for Daniel arap Moi in Rift Valley and Western provinces both in 1992 and 1997 elections was attainable mainly due to the fact that those provinces are dominated by the ethnic groups supporting the incumbent president – Kalenjin. Elections both in 1992 and in 1997 had ethnic character and centripetalism solution has not help elect pan-ethnic President.

In 2002 Daniel arap Moi resigned from running for the third term, accordingly to the Kenyan Constitution. Two main candidates were of Kikuyu origin – designated by KANU Moi's successor Uhuru Kenyatta and the leader of National Rainbow Coalition – Mwai Kibaki. The latter was well known public figure who entered into politics in 1961, later becoming Member of Parliament and Kenya's finance minister between 1968 and 1983 in the Moi's cabinet. He was later marginalized by the ruling party, so that since 1988 he has started building the multi-party opposition. Despite close cooperation with arap Moi, he gained reputation of efficient and integrated politician (Anderson, 2003: 334). The second candidate had limited experience and his nomination came as surprise even to KANU politicians. His biggest assets were Moi's support and family lineage – he was son of Jomo Kenyatt and his fourth wife, Mama Ngina.

Unsurprisingly, Mwai Kibaki won the 2002 elections with '*remarkable, crushing victory*' (Anderson, 2003: 335). He obtained 62,3 % general support, with more than 35 % of the support in all of eight provinces. His strongest support was noted in Nairobi (76,6 %), Western (74,9 %), Eastern (73,4 %), Central (69,25 %), Coast (64 %). Only in Nyanza and KANU's strongholds he received less than 60 % of support. In Nyanza he noted 58,9 % of support. He lost to Kenyatta only two provinces, which are traditional not only Kikuyu, but also KANU strongholds – he got 43 % in Rift Valley, while Kenyatta got 53 % there and 37,1 % in North Eastern, where his opponent got 61,8 %. The Kenyatta's results were considered low – he got 1,7 million votes (30,6 %), while the winner received 3,5 million. The third candidate Simeon Nyache managed to gather 6,5 % of overall support, what gave him 374,730 votes, yet following candidates managed to obtain less than 0,5 %.

Kibaki's victory was possible not only due to KANU's internal issues, but also due to building strong coalition. He created National Rainbow Coalition (NaRC) with his former opponents – it was composed from politicians from Liberal Democratic Party (LDP) – rebelled fraction of KANU, and National Alliance Party of Kenya (NAK) composed from different opposition politicians, including Raila Odinga. In memorandum signed in October 2002 Odinga and Kibaki agreed their parties would run for Parliament separately, but they decided to propose common candidate for the presidential office and

this strategy brought them undisputed success. Nonetheless, the post-election disputes over the composition of Kibaki's cabinet ruined pre-election agreement (Anderson, 2003: 339-342).

The failed review process had three significant consequences. Firstly, the election of 2007 was contested under the highly centralized constitution inherited from the one-party era. Secondly, Kibaki's manipulation of the process undermined what little trust had developed between the Kenyan political elite. Finally, many of the key members of the NaRC coalition, including Odinga, Ngilu, and Kalonzo Musyoka, moved into opposition to campaign against the government in the constitutional referendum (Cheeseman, 2008: 173).

At this point main political stakeholders in the country managed to discontinue disagreement, yet after the elections in 2007 it magnified and emerged as the most devastating internal crisis in Kenya since proclamation of independence.

5. Kenyan elections between 2007-2017

5.1. Presidential Elections in 2007 and its consequences

Mwai Kibaki was reelected as the president of the Republic in Kenya in December 2007. In the post-election period his former ally Raila Odinga (who initiated Orange Democratic Movement, ODM) accused him of fraud. Two months of violence erupted in Kenya, resulted in as many as 1500 people killed and estimated 600,000 turning into Internally Displaced People (IDPs).

The post-election violence was proceeded by unique campaign – citizens were using new technologies to gather information about i.e. candidates, process, results. Also, the ethnicity was not solely decisive factor in establishing the results – Raila Odinga's memorandum signed with the representatives of Muslim community is seen as the triggering event that activated open presence of religious leaders on political scene. This highly competitive race seen two candidates addressing first-time voters. The campaign was present in media, two main candidates were seen campaigning in every district, fighting for the best score of numerous elections pools, showing 'head-to-head' character of this race. Political scene has changed – former allies in 2002 election were now opponents – Mwai Kibaki was now afresh supported not only by KNAU and the former president Daniel arap Moi, but also by his future-to-be successor Uhuru Kenyatta, while Raila Odinga, opposition leader represented Orange Democratic Movement supported by combination of former Kibaki's allies including Orange Charity Ngilu, Najib Balal and Musalia Mudavadi, while the third visible candidate was Kalonzo Musyoka (Cheeseman, 2008: 331-333).

Mwai Kibaki received 46,52 % of the votes, second best Raila Odinga got 44,07 % of the votes and third Kalonzo Musyoka 8,91 % (Ilustração 04), and Odinga contested those results. The map (Ilustração 05), shows the presidential results from the counties (results are applied into current counties borders). Figures shows that Mwai Kibaki won in Central (97,4 % over Odinga's 1,9 %), Eastern (54,7 % vs. 6,4 %), both had similar results in North Eastern (Kibaki 47,9 % vs 49,6 %) and Nairobi (Kibaki 41,5 % vs. Odinga's 53,3 %), while Odinga had major victory in Nynza (85 % vs. 14,6 %), Western (69,2 % vs. 30 %), Coast (58,95 % vs. 34,4 %). Musyoka noted high score only in Eastern with 38,8 % of the votes.

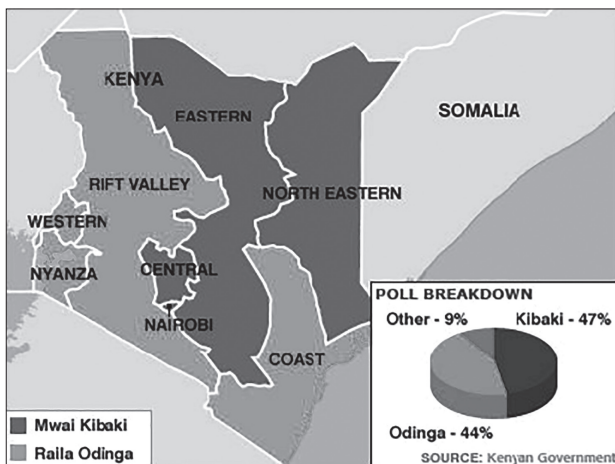


Ilustração 04⁶ – Poll breakdown – Kibaki vs Odinga.

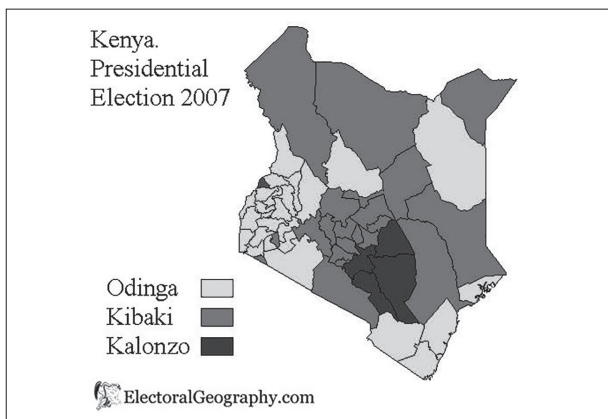


Ilustração 05⁷ – Kenya presidential election 2007.

Both international and national observers noted massive irregularities in this elections, in some constituencies turnout reached 115 %, discrepancy in presidential and parliamentary elections reached in some of the constituencies up to 2 %⁸ and frauds were observed in both blocks. Due to major procedural errors during counting and tallying, recount to establish accurate result was impossible⁹. Event that triggered post-election violence was time-frame of Kibaki’s swearing to the office – it took place approximately one hour after the preliminary results were announced and it was not broadcasted by media – only state Kenya Broadcasting Corporation got permission to broadcast it (Cheeseman, 2008: 166-167). Two-month riots ended mainly due to the international mediation. African Union

⁶ <http://www.kenya-advisor.com/kenya-election-results.html> (access 15.06.2019).

⁷ <https://www.electoralgeography.com/new/en/countries/k/kenya/kenya-presidential-election-2007.html> (access 10.06.2019).

⁸ In December 2007 Kenyans were voting in two types of election – parliamentary and presidential, yet in this article I analyze only presidential results, as in all cases.

⁹ 2007 election was criticized by European Union Election Observation Mission, see: *EU EOM Kenya 2007 Final Report*, 2008.

sponsored mediation led by former UN Secretary General Kofi Annan in late February 2008. This intervention resulted in power-sharing accord bringing Odinga into the government as prime minister. This dispute had longstanding aftermath that influenced the political scene in Kenya: William Ruto and Uhuru Kenyatta were prosecuted for crimes against humanity for their alleged role in post-election violence by International Criminal Court¹⁰, they allied and initiated new political party 'Jubilee Alliance'.

5.2. Kenyan election in 2013

General election in Kenya in 2013 took place in entirely different legal environment. The power sharing accord from 2008 included constitutional reform. In August 2010 Kenyans adopted a new constitution in a national referendum. The new constitution introduced additional checks and balances to executive power, devolution of power to 47 newly created counties (Ilustração 06) and position of Deputy President, and eliminated the position of prime minister.

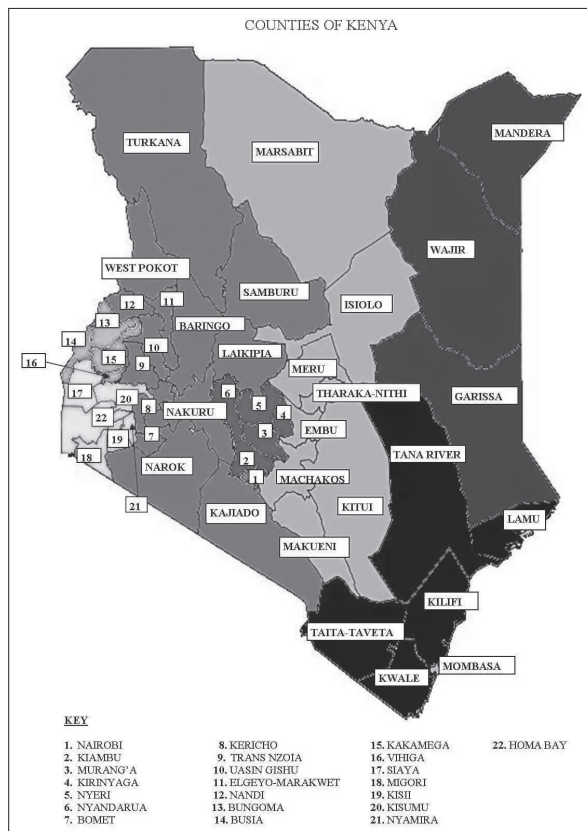


Ilustração 06¹¹ – Counties of Kenya.

¹⁰ In case of both politicians charges were withdrawn in 2014 by the prosecutor based on lack of evidence to hold a trial.

¹¹ <https://www.tuko.co.ke/277256-list-county-numbers-kenya.html#277256> (access 10.06.2019).

2013 general elections were run by Independent Electoral and Boundaries Commission (IEBC), also created under the 2010 Constitution. In December 2013 voters elected the President, members of National Assembly and new Senate, as well as County Governors, members of County Assemblies and Women Representatives. The presidential election was a contest between Uhuru Kenyatta (National Alliance Party) and Raila Odinga (Orange Democratic Movement). It was first elections, when candidates had their ‘running-mates’, candidates for Deputy President post. William Ruto from Kalenjin run with Kenyatta and Odinga with Kalonzo Musyoka from Kamba group.

Uhuru Kenyatta won in the first round with 50.5 % of the votes and Odinga received 43.7 %. The graphic below shows the territorial distribution of support for two main candidates (Ilustração 07). Uhuru Kenyatta met the territorial requirement – he received not only minimum 50 % of the overall support, but also in 20 out of 47 counties he got minimum 50 % support. Kenyatta and Ruto recorded crushing victory over their opponents in many counties. In Nandi, Uasin Gishu, Keiyo-Marakwet, Kericho, Baringo, Bomet and West Pokot they received accordingly 81.52 %, 74.26 %, 90.07 %, 90.74 %, 87.93 %, 92.68 % and 73.33 % – all counties are dominated by Kalenjin ethnic group. In Kikuyu dominated counties Mandera, Nakuru, Laikipia, Embu, Kirinyanga, Kiambu, Nyeri, Murang’a, Nyandarua, Tahraka and Meru they received accordingly 92.93 %, 80.19 %, 85.49 %, 89.00 %, 95.99 %, 90.21 %, 96.33 %, 95.92 %, 97.11 %, 92.38 % and 89.41 %. Odinga’s support varied from 22.95 % to 4.6 % in Kalenjin dominated provinces, whist in Kikuyu dominated provinces his support ranged from 1.21 % up to only 17.14 %. In Luo dominated provinces Kisumu and Siya Odinga got accordingly 96.64 % and 98.47 % of the support, in Kamba dominated provinces like Machakos, Makeni, Kitui he received respectively 85.89 %, 90.73 % and 79.53 % of the votes, he also noted high support in Mijikenda dominated provinces – Taita Taveta (81.56 %), Kwale (80.74 %), Kilifi (83.74 %).

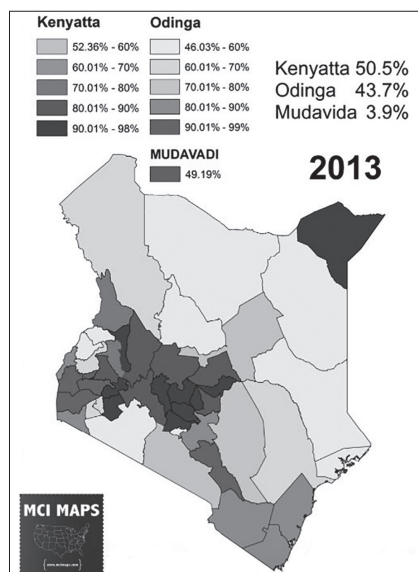


Ilustração 07¹² – Kenya's presidential results 2013.

¹² <https://mcimaps.com/kenyas-presidential-results-were-fair-but-its-ethnic-divide-is-concerning/> (access 05.06.2019).

Kenyatta's triumph in this elections, though he met all the formal requirements, was heavily influenced by the 'ethnic' support he managed to acquire from his alliance with William Ruto. Their opponents implemented similar tactics – they merged into the alliance hoping to get the support from the largest number of counties by drilling and instrumentalising ethnic sentiment, instead of seeking for genuine pan-ethnic support. This elections were called peaceful and calm, despite numerous technical shortcuts and failures in results transmission and general delays. Cheeseman (2013: 1-2) suggests, there are four main factors procuring this peaceful environment: Ruto's and Kenyatta's alliance prevented potential clashes between Kalenjins and Kikuyus, 'peace narrative' omnipresent in discourse, implementation of democratic reforms and creation of 47 counties with their own regional assemblies. Those elements helped decentralized tension coming from largely unexpected result, that left country extremely lopsided.

5.3. Kenyan elections in 2017

Kenya held its General Elections on 8th August 2017 with national-level elections of president, members of the National Assembly and the Senate and county-level races for governors, members of County Assemblies and women representatives. Not only elections took place under new constitution introduced in 2010 and they were also "(...) *the first to take place in a context in which politicians and voters had practical experience of the powers of the new devolved elected posts and operations of the new political dispensation*" (Cheeseman *et al.*, 2019: 215).

It was mainly 'two-horse race' between incumbent president Uhuru Kenyatta with William Ruto as his running mate and Raila Odinga with running mate Kalonzo Musyoka. Musalia Mudavadi joined forces with Odinga that time and they formed National Supreme Alliance (NASA). Mudavadi was expected to bring much-needed support in Western Kenya as well as in Rift Valley, traditional Kikuyu strongholds.

The electoral campaign was highly competitive with its biggest focus on presidential race, though other elections stayed in the center of the public interest. According to European Union Election Observation Mission, candidates could generally campaign freely, including in the strongholds of their opponents, freely exercising their freedoms of association, assembly and movement, though overall assessment of the campaign period indicated tensions, mutual accusations, violent incidents (including brutal murder of IEBC IT manager Chris Msando¹³) and misuse of state resources¹⁴.

Election results announced 11th August gave victory to Uhuru Kenyatta, who received 8 203 290 votes (54.27 %). Raila Odinga got 6 762 224 votes (44.74 %), what gave him second best position. Turnout reached 77.48 %. Odinga questioned results and challenged them at the Supreme Court. He especially criticized transparency of the transmission procedures from polling stations to the regional tally center (from form 34A into 34B), that were later sent to national tally center. After the trial Supreme Court nullified elections – this was first ruling of this kind not only in Kenya, but also in Sub-Saharan Africa. Fresh elections were set for 26th October. Period in between those two events was marked by uncertainty, hate speech, mutual accusation, protests and most importantly undermining IEBC capability to conduct fresh elections. NASA politicians launched "no reforms, no elections" campaign and threatened to boycott the elections, what eventually took place when Odinga withdrew his candidacy days before 26th October. Kenyatta won

¹³ <https://www.bbc.com/news/world-africa-40807425> (access 25.06.2019, published 02.08.2017).

¹⁴ European Union Election Observation Final Report, 2018.

fresh elections with 98,3 % support and 39 % national turnout. In the turmoil period between August and October, despite the violence and tensions, there were no major security breakdowns and the overall performance of most crucial stakeholders (including institutions) in this highly demanding period was evaluated with careful optimism:

The aftermath of the polls demonstrated that devolution has also generated new political structures that can be used to channel dissent against the state, most notably when some opposition governors raised the prospect of their counties seceding from Kenya.11 Finally, the Supreme Court demonstrated its capacity to act as an independent institution to defend the quality of democracy when it became only the third court ever to annul the election of a sitting president. However, this ultimately did little to sustain the legitimacy of the election because the court immediately faced criticism from the government and was unable to ensure the implementation of much needed reforms ahead of the ‘fresh’ poll (Cheeseman et al., 2019: 217).

This analysis of annulled results can still provide a meaningful data in terms of researching voting patterns and assessing the efficiency of Kenyan power-sharing solution, especially that no major misconduct was noted during election day, but rather during transmitting the results. Map (Ilustração 08), shows the regional distribution of votes during the first elections for Raila Odinga and Uhuru Kenyatta.

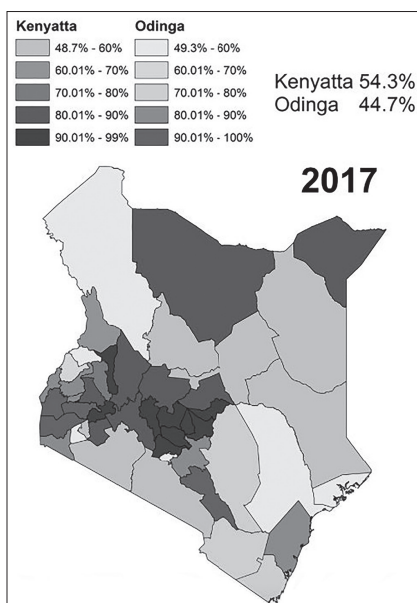


Ilustração 08¹⁵ – Kenya's presidential results 2017.

Uhuru Kenyatta again would effortlessly meet territorial requirement and voting pattern was largely repeated from previous elections. Kenyatta noted crushing victory in both Kikuyu and Kalenjin dominated provinces – Nandi (86.80 %), Uasin Gishu (78.20 %), Keiyo-Marakwet (94.70 %), Kericho (92.90 %), Baringo (84.905 %), Bomet (87.00 %). Odinga's support in those provinces ranged from 4.80 % up to 34.60 %. Similar pattern

¹⁵ <https://mcimaps.com/kenyas-presidential-results-were-fair-but-its-ethnic-divide-is-concerning/>.

is noted in other KANU / Jubilee Alliance strongholds where Kenyatta noted impressive score – Nakuru (84,70 %) Laikipia (89,10 %), Embu (92,20 %), Kirinyaga (98,60 %), Kiambu (92,70 %), Nyeri (98,50 %), Murang'a (97,90 %), Nyandarua (98,90 %), Tharaka (93,30 %) and Meru (88,90 %). In thirteen out of mentioned provinces Kenyatta noted increasing support in relation to his result from 2013, In Marsabit Kenyatta managed to almost double his result and got 83,60 %, while in 2013 48,78 %. The same territorial support scheme is noticeable in case of Odinga– he noted highest rates in his own strongholds, as well as at those 'brought' by his running mate, Musyoka. In Kamba dominated counties like Machakos, Makueni, Kitui he got respectively 80,90 %, 91,00 %, 79,90 %, while in Luo, Kisii and Luhya dominated provinces Kisumu, Siya, Migori, Homa Bay, Bungoma, Kakamega and Busia he received accordingly 97,90 %, 99,10 %, 85,30 %, 99,30 %, 68,10 %, 87,40 % and 86,80 %. In relation to 2013 elections Kenyatta noted drop in only six out of 47 provinces – Baringo, Bomet, West Pokot (Kalenjin), Mandera (Kenya Somali), Meru (Kikuyu) and Isiolo. Repeatedly, in 2017 Kenyans voted alongside, not across ethnic lines. Political alliances were carefully designed, so that they can bring support of precise ethnic groups. There was no single political power in Kenya seeking for pan-ethnic leadership, therefore elected candidate despite meeting constitutional conditions will doubtfully introduce pan-Kenyan governing policy. Events that took place in after fresh elections provide observers with evidence to support this thesis.

'Fresh elections' results were upheld by Supreme Court and Uhuru Kenyatta was sworn into office on 28th November 2017. Pre- and post-ceremony period was filled with tensions, protests, riots and violent engagements in Nairobi and other major cities especially in the west regions. European Union Election Observation Mission reported election violence in Kawangware (NASA stronghold), Kibera slum, but also in Kondole, Muhuroni, Nyalneda, Namasraia, Bugoma, Busia, Machakos, Migoria and Vihuga counties as well as in Mbuta in Homa Bay and there were 30 casualties reported (EU EOM Final Report, 2018: 35-36). NASA and Odinga were continuously calling repeated election 'sham election', undermining its legitimacy. Jubilee argued, that even with alarmingly low turnout in October elections, Uhuru Kenyatta managed to obtain 7,4 millions votes (comparing to 8,5 million in August) – result exceeding Odinga's score from August – 6,8 million. Government craved with all costs to stop manifestations and support for Odinga. During his return from high-profile tour to United States, police banned gathering in Nairobi to greet opposition leader – event ended with larger turmoil and victims. Despite the general circumstances, Raila Odinga organized 30th January 2018 his own mock presidential inauguration. The event was highly anticipated in the capital and in the province and private TV stations planned to live broadcast this uncommon event. Yet, Kenya's Communication Authority (and allegedly Kenyatta personally¹⁶), threatened them to block broadcasting license of four TV channels – Citizen TV, Inooro TV, NTV and KTN News and ten radio stations¹⁷. This deed was highly criticized by international public opinion. Kenyatta was accused of disrespecting basic human rights and democratic standards including media freedom of expression, freedom of speech and right of access to information and this incident dangerously reminded media censorship after 2007 elections. Lingering crisis ended unexpectedly 9th March 2018, when president Uhuru Kenyatta and Raila Odinga appeared together at the stairs of Harambee House (Kenyan Parliament in Nairobi) shaking hands as a sign of termination of their political disagreement.

¹⁶ <https://fr.africanews.com/2018/01/31/kenya-le-bloquage-de-chaines-de-tv-a-viole-le-droit-a-l-information-hrw/> (access 30.06.2018, published 31.01.2018).

¹⁷ <https://rsf.org/en/news/rsf-urges-kenya-end-broadcast-ban-four-tv-channels> (access 20.06.2019, published 01.02.2018).

6. Conclusion

Power-sharing solution was introduced in Kenya to address particular needs of multi-ethnic and highly divided country in the time of establishing multi-party system. It was carefully designed to help elect candidate capable of gaining pan-ethnic support and consequently serve as the country's highest official in possibly most ethnically unbiased and inclusive manner.

The analysis of the election results from different periods between 1992 till 2017 proved, that despite detailed regulations in two Constitutions from 1969 and 2010 (the latter introduced jointly with devolution reform), the territorial distribution requirement failed to enable electing impartial leader, although in each of the polls winning candidate met the prerequisite. After each elections tension, mutual accusations and severe discontent and even rejection of the results were noted. In order to sustain peace and stability, other requirements must be fulfilled by all political stakeholders. Especially after 2007 elections it was palpable, that other factors led to the clashes. Hate speech spread by local media and Kibaki's failure to comply with his own terms of political agreement with Odinga, led to severe internal crisis. Cheeseman (2008: 170) claims, that Kenyan apprehensions from that time must be seen in the broader framework and territorial distribution of voted was not sufficient to sufficiently address social expectations:

It is important to underline that, though political violence was triggered by the election, the spread of the conflict reflects long-term popular frustrations. The Kenya crisis needs to be placed in the context of local understandings of citizenship, belonging, and exclusion. The anger of ODM supporters at the perceived theft of the 2007 election cannot be separated from their perception that they have been excluded from the political process for many years; the declaration of Kibaki as president was such a powerful trigger for the violence precisely because it tapped into a rich mine of strong historical grievances.

My further analysis proved, that implementation of reforms started in in 2010 – reinforcement of territorial distribution requirement and devolution – have not led to election of pan-ethnic president. Uhuru Kenyatta, the winner from 2013 and 2017 met the constitutional prerequisite, but the majority of his support came from constituencies dominated by Kikuyu or Kalenjin – this own and his political ally ethnic groups. Similarly, Odinga's and Musyoka's support was from Luo or Kamba dominated constituencies. Moreover, political polarization within multiple constituency is remarkably high and disproportion in support are colossal – for one candidate it can exceed 95 %, while for the opponent in the same constituency it can be 1 to 3 %. This can be only explained and understood by comparison counties' boundaries ethnical with ethnic layout – first roughly accords with the latter. The alteration of voting pattern from 'ethnic' into 'pan-ethnic' is principally impossible with this administrative conversion Devolution itself might be perceived as the reform softening and diffusing tensions in the country through creation of entirely new space of political competition – national losers might become local winners (see more Cheeseman, 2019: 224). Survey conducted by Cheeseman and co-authors indicates, that the office of Member of the County Assembly is second important elected post in the country (Cheeseman *et al.*, 2019: 226).

The Kenyan politics are shaped by 'winner-takes-all' rule and lack of rotation above two political, each ethnically united blocks. Constitutional territorial distribution requirement failed to transform this over last 27 years of multi-party system. Different solutions could be proposed to terminate this impasse i.e. reorganization of constituency borders and proposed in 2017 reestablishment of Prime Minister boycotted by Jubilee politicians

(EU EOM Final Report, 2018: 37). The recent years have also seen Kenyans initiating the debate on the essence and meaning of the ethnicity in their country. There are journalists and academics undertaking the subject of 'tribes', its colonial character and the role of independent government in bolstering the ethnic division of Kenya in 1960s and 1970s. Patrick Gathara discusses the politicization of ethnicity in Kenya¹⁸, Philip Ochieng claims that '(...) *ethnic debris choke [Kenyan] minds*¹⁹', while Ndiu depicts Kenya as '*cruel marriage*' that reached divorce moment, by what he understand splitting Kenya into several ethnic sub-countries.

At the time of writing this article the Kenyan media discourse is already dominated by the discussion about presidential election in 2022 and debating who would be Uhuru Kenyatta's successor. Kenyans on a daily basis hear information about William Ruto searching for running mates in Kikuyu dominated counties, as well Raila Odinga seeking for his own successor capable of bearing his political heritage. Kenyan politics are noticeably still focused on ethnic alliances enabling meeting territorial distribution requirement, rather than cross-ethnic interests.

Throughout the decades Kenyan governments and judicial powers were taking actions in order to secure the ethnically unbiased positions of the president of the Republic with centripetalism solutions and devolution as the most important instruments reinforcing it. Despite those efforts, presidential elections in Kenya are represented in the discourse and comprehended by observers and analysts as a race between two major, affronted political forces associated with particular ethnic groups or alliances of the ethnic groups. Recent events in Kenya and carefully observed public discourse allow to make cautious presupposition, that no radical changes will be observed in the overall electoral approach and performance neither at the politician side, nor at the civic one.

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¹⁸ <https://www.theelephant.info/features/2018/03/05/what-is-your-tribe-the-invention-of-kenyas-ethnic-communities/> (access 30.06.2019, date of publishing 05.03.2018).

¹⁹ <https://www.nation.co.ke/oped/Opinion/Objectivity-can-help-clear-ethnic-debris-/-/440808-3944392-aqfgax/index.html> (access 30.06.2019, date of publishing 28.05.2017).

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