



API Research Note

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Opposition's election discontent threatens Institutionalism and Democracy

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The 2017 opposition strategy is simply a forcible or violent overthrow of a social order established by law, with the intention of effectively decapitation of democracy resulting to a civilian coup d'état or force for an Inter-Parties Parliamentary Group

Hence, the ongoing opposition protest strategy targeting the Independent Electoral and Boundaries Commission (IEBC) — and likely to turn to other institutions like the courts, seriously threatens Kenya's nascent democracy.

Be worried, be very worried! Kenya's embryonic democracy is no longer safe, and a new wave of political extremism is to blame.

Order, noted the French political thinker and historian, Alexis de Tocqueville, is "the sine qua non (precondition) for the conduct of serious politics".

A new opposition "protest strategy" targeting the current establishment of the Independent Electoral and Boundaries Commission (IEBC) — and likely to turn to other institutions like the courts — heralds the return of the divisive protest politics that pushed Kenya to the brink in 2007. It also poses the latest challenge to the conduct of serious politics.

Ideologically, the strategy is stridently reorienting politics from deepening democratic institutions to a revolutionary rhetoric likely to spawn a fresh political crisis.

A case in point is the opposition's April 25, 2016 attempt to storm the offices of the IEBC and forcibly eject its officials.

The logic of these protests is revolution — a forcible or violent overthrow of a social order established by law. Its endgame is the effective decapitation of democracy — potentially leading to a civilian coup d'état.

The anti-IEBC protest is the direct opposite of a “democratic revolution” — the benign idea of instituting democracy by replacing a previous non-democratic government through peaceful and democratic means. Internationally, Kenya's new Constitution has been rightly hailed as a “quiet revolution”.

Notably, the “protest strategy” has come in the wake of Jubilee's “70 pc-plus strategy” that President Uhuru Kenyatta unfurled in January.

Jubilee's strategy resembles “the Southern Strategy” that President J.F. Kennedy devised during his presidential campaign (1956-1960) to secure a strong base of support in the traditional white South — and the Republicans used in 1960s and 1970s to win over white democratic voters.

The logic of Jubilee's strategy is stability. It is a carefully conceived plan to appeal to voters in regions that voted for the opposition in 2013 at the Coast, Lower Eastern, Western and Nyanza.

As the pivot of its 2017 campaign, Jubilee seeks to transform the 2013 “tyranny of numbers” based on a narrow ethnic pier into a much broader and inclusive multi-ethnic support base.

This will spare the country a closely contested election widely blamed for Africa's post-election violence. With a landslide victory, who needs courts, anyway?

Aiding Jubilee's strategy are serious schisms and supremacy wars within the opposition – the “discord in Cord”.

But Raila Odinga's “protest strategy” is more than a mere panic reaction. It is a reloading of the mass protests of 2014, styled along the lines of the June 2013 Egyptian protests – the June 30 Revolution – that removed President Mohamed Morsi from power.

The Egyptian model, however, failed in Kenya. No millions of protesters poured into the streets, and Cord's Saba Saba rally faded, giving rise to the Okoa Kenya referendum push that has recently gone awry.

Ahead of 2017, Odinga is looking west, to the model provided by the electoral crisis in Ivory Coast in 2010-2011 – which he also helped mediate.

Lesson one is how the Ivorian Independent Electoral Commission declared the incumbent, President Laurent Gbagbo, the victor in the 2010 election, but the opposition candidate, Alassane Ouattara, claimed victory.

Lesson two is the axial role of Western powers and international organizations in shaping the outcome of election disputes. The US, UN, EU, the Economic Community of West African States (Ecowas) and former colonial power France threw their diplomatic and

military weight behind Ouattara's claim. Gbagbo was vanquished and indicted by the ICC.

The Ivorian crisis also has profound lessons for Jubilee. Gbagbo was his own best enemy. One, Gbagbo should have been rock-firm on anchoring the electoral commission on the rule of law and rejecting efforts to politicize it. Instead, he signed the 2003 Accords, which allowed opposition parties to nominate the majority of the commission members.

Lesson two, Gbagbo allowed two centres of power to emerge within the electoral system: the Electoral Commission and the Constitutional Council. The crisis started when each of the two centres announced both Gbagbo and Ouattara as winners, fueling a double victory claim.

On December 2, 2010, Youssouf Bakayoko, head of CEI, declared Ouattara winner. On December 3, the President of the Constitutional Council, Paul Yao N'Dre, declared Gbagbo winner, and disputed the authority of CEI to announce electoral results.

This confusion within the Ivorian electoral system provided external actors like France with the subterfuge they badly needed to effect regime change and shape the future of power in Ivory Coast.

Be that it may, ODM's anti-IEBC protest campaign is gaining supporters and ideologues from the most unusual and surreal of actors and institutions. "Mass movements are the inevitable people's resistance to powerlessness, inequalities, injustice, exploitation, and causes of poverty", tweeted Kenya's 13th Chief Justice, Dr Willy Mutunga, on April 18, 2016.

The aim of Cord's protests is to compel the Jubilee Government to share positions in the IEBC among the main parliamentary parties: TNA, URP (Jubilee), ODM, Ford-Kenya, Wiper (Cord) and Kanu. Besides creating an intensely politicized, internally divided and non-independent electoral commission, this move would give the opposition the lion's share of positions in the IEBC and sway to shape the future of power after 2017 Cote d'Ivoire.

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