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The 25 September 2008 by-elections a test for ODM?

After the general elections held on 27 December 2007 and the by-elections of 11 June 2008, Kenyans were again called to the ballot on 25 September 2008 in Bomet and Sotik constituencies in the Rift Valley. The parliamentary seats fell vacant after the death of the former Minister for Roads, Kipkalya Kiprono Kones, and the Assistant Minister of Internal Affairs, Lorna Laboso, MPs for Bomet and Sotik respectively. The two died in a plane crash on 10 June 2008, the eve of the by-elections, as they were on their way to Ainamoi to support the Orange Democratic Movement (ODM) candidate.

Depicted by the Kenyan media as a test for Raila Odinga and the Orange Democratic Movement, the by-elections in Sotik and Bomet were closely followed.

The unity and popularity of ODM put to the test in the Rift Valley

Bomet and Sotik constituencies are situated in a relatively fertile zone which has abundant rainfall throughout the year. Subsistence and dairy farming are the main economic activities. The northern parts of the two constituencies, which are higher in altitude, are equally favourable to tea-growing. The southern part is more arid and densely populated especially in Sotik where the majority of inhabitants only live with the assistance of food aid from the Kenyan government.

Largely populated by the Kipisigis, a Kalenjin group, the two constituencies have for a long time remained faithful to KANU, the Kenya African National Union. This is the party of the former president, Daniel arap Moi, who led the country from 1978 to 2002. The two parliamentary seats at stake on 25th September had, however, been won by ODM in the December 2007 elections. Lorna Laboso was elected with 36,508 votes, beating the second placed candidate from the United

Democratic Movement (UDM) by more than 25,000 votes. On his part, Kipkalya Kiprono Kones won the Bomet seat by about 30,000 votes over Nicholas Salat, the KANU candidate. The two constituencies, in which the land question is crucial due to the large number of squatters, was greatly affected by the post-electoral violence of January 2008. From the moment the presidential election results were announced, members of the Kipsigis community, in their demand for exclusive control over what they considered as 'Kalenjin territory', attempted to evict the Kikuyu families living in the region. These acts of violence then spread to the Kisii and Maasai communities.

The by-elections of 25 September, resulting from the death of two MPs elected in December 2007, were generally regarded as a test for ODM, whose ambition was to regain the two lost seats. An ODM victory would in fact allow Raila Odinga to have a larger margin of manipulation concerning the nomination of Cabinet Members to the posts left vacant by Kipkalya Kones

(Minister for Roads) and Lorna Laboso (Minister for Internal Affairs). But these elections were mainly an opportunity to measure ODM's popularity in the Rift Valley, eight months after the General Elections of December 2007. At this time, Raila Odinga was increasingly under criticism within his own camp. A handful of 'rebel' parliamentarians and local politicians,¹ led by the Chepalangu MP, Isaac Ruto, advocated abandoning ODM in favour of a new Kalenjin

ODM ministerial positions.

As a sign of their protest, these rebel MPs campaigned against their own party, thus arousing doubts on



Two subjects of discontent were forwarded: the position of the Prime Minister on Mau Forest, and the distribution of ministerial post during the formation of the Grand Coalition government. During the campaign period for the 25 September by-elections, Raila Odinga had actually made statements to the effect that he favoured the eviction of 15,000 families living in the Mau Forest, in order to put an end to the over-population and severe deforestation that threatened this major forest and water reserve of East Africa. To settle the protests elicited by this announcement, William Ruto—Minister for Agriculture and a powerful MP in the Rift Valley—added that the legally installed squatters would not be evicted without compensation.² The ODM dissidents led by Isaac Ruto were clearly opposed to this eviction policy, accusing Raila of having betrayed his voters. They further claimed that they had been cheated in the distribution of

the outcome of the vote although the two ODM candidates, Beatrice Kones (widow of the former MP), and Joyce Laboso, Lorna's elder sister, were the favourites. In Sotik where there were 12 candidates in competition, the contest was tight between Joyce Laboso (ODM) and Moi's former aide-de-camp, Alexander Sitienny (UDM). This latter had earlier tried to contest under the ODM banner but he only finished in fourth position in the party primaries. Nevertheless, he had the active support of Isaac Ruto throughout his campaign. Nicholas Salat, the KANU candidate campaigning for the Bomet seat, received support from five local counsellors affiliated to ODM and from Gideon Moi, the son of the former president. Gideon Moi resurfaced with the ambition of giving



a new lease of life to KANU and to show that the former single party was still a force to be reckoned with in the Rift

Valley. Another decisive stake in the by-elections was therefore the possible return of KANU in its former bastion. N. Salat (KANU), who had been elected MP of the constituency in 2002 before the loss of the seat in the 2007 elections, appeared to be more popular than Beatrice Kones (ODM). But results from a survey carried out by the Institute for Education in Democracy (IED) during the electoral campaign revealed that Salat was perceived as being from the 'wrong party' and most voters were not inclined to vote for KANU.

Incontestable results: popular support for ODM and the failure of KANU's return

Despite the non-negligible risk of a split within ODM and the return of KANU, ODM easily won the elections in the two constituencies. In Bomet, Beatrice Kones (ODM) was elected with 30,210 votes compared with 15,015 votes garnered by her main rival, Nicholas Salat of KANU. On her part, Joyce Laboso (ODM) won the Sotik seat with 24,267 votes with a huge margin against the UDM candidate, Alexander Sitienny who only garnered 13,973 votes.³ One must note, however, that A. Sitienny had a much larger number of votes than in the primary elections of ODM where he only had 2708 votes against Joyce Laboso's 17,045. This improved result was certainly linked to the support that the ODM dissidents accorded him.

In both constituencies, the electoral campaign and the voting were carried out in an orderly and calm fashion. According to the observers⁴ present at the voting, officials of the Electoral

Commission of Kenya (ECK) took their duties seriously and carried them out with discipline. On the other hand, a rather mediocre knowledge of voting procedures was observed, especially in the farthest removed rural areas of the two constituencies. Several voters came to the polls without their voter cards or without having been earlier registered on the electoral rolls. Many of these turned to the ECK officials or a member of their family for help.

Additionally, the rate of participation was seen to be quite disappointing considering the stakes of the election and the increase in the number of registered voters. Bomet recorded a 58.3% participation rate and Sotik 62.8%, which was the lowest rate since 1997. In comparison, the rate of participation in the Presidential elections of December 2007 increased to 81% and 85.44% respectively for Bomet and Sotik.⁵ One would have expected that the controversy on the expulsion of squatters from Mau Forest would prove a greater mobilisation during this new round of voting. The fact that the voting process was held on a weekday (Thursday) and that no measures were taken to allow employees to participate in the process might also explain the low turnout as had also been the case with the 11 June 2008 by-elections. The non-participation observed could also be interpreted as a relative disinterest for the polls as the voters expected an ODM victory. The issue of electoral fraud and corruption was also one of the contentious subjects for the voters and candidates. Even

if the voters did not raise any concerns on fraud, Samuel Maina (UDPI) and Lilah Sieley (ODM-K), both in competition for the Bomet seat, denounced vote-buying that some candidates had resorted to.⁶



Observers from IED noted some cases of corruption in Bomet during the campaign, but according to them, it was minimal and did not really have an influence on the outcome of the vote, in view of the massive advantage Beatrice Kones had over Nicholas Salat. Nevertheless, it is interesting to note that one of the incidents mentioned by IED rightly implicated Lilah Sieley. She was caught in the act of handing out bank notes to some young people, ostensibly with the intention of buying their vote.

Finally, despite no incident being pointed out during the actual voting, the counting of the votes was done



in a tense atmosphere, particularly in Sotik where the results seemed to be very close. The local police, relying on rumours that had been circulating throughout the evening, warned the observation teams that certain incidents aimed at communities considered as strangers in Bomet District could break out in the event of an ODM victory. These rumours were quickly refuted but the anxiety that they had aroused within the local communities indicated that the persistent intercommunity tension could one day resurface.

ODM thus clearly emerged victor in this fresh electoral contest that confirmed its popularity and its hold over the southern part of the Rift Valley, former fiefdom of KANU. This distinct victory in Bomet and Sotik was a vote of confidence in favour of ODM and Raila Odinga. The voters had chosen a party rather than a personality. Beatrice Kones and Joyce Laboso had in fact won the elections with a huge margin despite their weak popularity in the region and largely due to the support accorded them by Raila Odinga and William Ruto. The latter two traversed Bomet District to drum up support for the electoral campaign. In the end, the debate on the Mau Forest did not prejudice voters against the two ODM candidates and implies that voters were ready to give *carte blanche* to ODM, no matter who the candidate was. In this regard, a the weak knowledge on voting procedures and the persistence of family or clan voting testifies to a deficit in a democratic culture. The efforts made in civic education should be continued in order to improve the operations of

universal suffrage and guarantee a true democratic transition.

In other respects, the fact that ODM's popularity in the region is no longer in doubt could incite the dissidents to win over the direction of the party. Isaac Ruto immediately accepted the defeat of Alexander Siteny and agreed not to leave ODM, but rather, to cooperate with Joyce Laboso. This seems to show a change in strategy by the dissident parliamentarians. Nevertheless, the issue of ministerial posts and that of the designation of ODM Vice President has still not been resolved. This risks provoking new divisions. Indeed, the MPs from Rift Valley support the candidature of Isaac Ruto while Musalia Mudavadi, the

Vice Prime Minister, seems to be the favourite due to his position and the support that the leaders from Western and Nyanza provinces accord him. The



main question today is on the manner in which Raila Odinga will reconcile these expectations and diverse interests in order to maintain the unity of ODM.

Notes

- 1 *Daily Nation*, 24/09/2008, p. 9: 'By-elections an acid test for Raila'.
- 2 *The Standard*, 23/09/2008, p. 4: 'Ruto: no one leaves Mau until State compensates'.
- 3 *Daily Nation*, 27/09/2008, p. 4: 'ODM defies odds to retain seats in by-elections'.
- 4 Apart from IED which recruited 300 local observers, and the International Republican Institute (IRI), two other missions of foreign observers (European and American) were present.
- 5 The Electoral Commission of Kenya's website, <http://www.eck.or.ke>.
- 6 *The Standard*, 26/09/2008.

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Photos taken by IED officials in Bomet, September 2008