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The 11th June 2008 By-Elections in Kenya A Rejoinder

This paper is a reaction to Anne Cussac's article: 'The 11 June 2008 By-Elections' which appeared in Mambo Vol. VII n° 7; 2008. Cussac set out to measure the popularity of PNU and ODM after the post-election conflicts caused by the discredited 27 December, 2007 elections. She uses the June 2008 by-elections to measure the popularity of the two parties not only because they occurred shortly after the political violence, but also because they were the first to be held after the formation of the grand coalition government between PNU and ODM. Focusing on the parliamentary by-election results, the stakes involved in the by-elections, voter turnout, and the role of ethnicity, Cussac concludes that ODM did not win more seats than PNU. However, she falls short of stating what her findings imply for the popularity of the parties, which apparently was her key goal. This article sets the analysis in its right context and questions some of the assumptions underlying Cussac's paper.

The Context of the By-Elections

It is true that the by-elections were held against a background of teething problems in the infant and fragile grand coalition government. It is however, not accurate to argue, as Cussac did, that the decision by ODM and PNU to field candidates in the by-elections is in itself a manifestation of mutual mistrust in the coalition. It should be appreciated that the two parties formed the coalition not because of some shared ideology, but because circumstances forced them to do so. The parties did not dissolve but rather, retained their distinctiveness with a right to field candidates in elections. Coalition governments are generally noisy and fractious—countries where they are regularly formed such as Israel and Germany, know this only too well.

Cussac also argues that most of the parliamentary seats at stake had been won by ODM in the December 2007 polls and hence the pressure was on ODM to recapture the lost seats. It is true that ODM won Ainamoi, Emuhaya, and Embakasi in 2007, but it is

important to understand the circumstances under which they won those seats. Although Mugabe Were of ODM won Embakasi in the 2007 elections, he did so (with a mere 33% of votes cast), because PNU split its votes between Ferdinand Waititu (26%) and John Ndirangu (22%). Given the demographic and geo-political structure of Embakasi and its traditional voting patterns since 1992, Embakasi should have been easily won by PNU. In the by-election, Waititu and Ndirangu joined hands and were supported by ODM-K, whose candidate in the 2007 polls scored 9%. Assuming that there was no shift in voting trends, the PNU candidate should have scored roughly 57% of the votes cast in the by-elections, which is not significantly different from the 56% which Waititu (PNU) received in the by-election. Accordingly, PNU's support remained fairly stable. The ODM candidate, Esther Passaris, only received the support of Sumra Irshadali (CCU) who got 3% in 2007. She therefore should have scored about 36%. However, Passaris scored 42%. Furthermore, in the 2007 poll,

Mwai Kibaki (PNU) received 52% as compared to 36% of Raila Odinga (ODM). Consequently, to suggest that ODM has lost ground or that PNU has gained ground in Embakasi after the violence on the basis of the by-elections is to make a fatally flawed conclusion.

Anne Cussac also observes that voter turnout in the by-elections was very low. In 2007, voter turnout was 74% in Ainamoi, 73% in Wajir North, 55% in Embakasi and 51% in Emuhaya. However, in the 2008 by-elections, the turnout was 48% in Ainamoi, 74% in Wajir North, 27% in Embakasi and 39% in Emuhaya. While the turnout in Embakasi and Emuhaya were low, the story was different in Wajir North where turnout was higher in the by-election than in the General Election. This is unprecedented because by-elections typically attract lower voter turnout than the general elections. During general elections, some voters are mobilized to vote due to their support for a specific presidential candidate, and in the process, they also vote for parliamentary and civic candidates allied to them. Such voters are unlikely to turn out for by-elections. General elections also come with a lot of fanfare and higher stakes. There is also the question of voter fatigue particularly when by-elections are held too close to a general election as happened in June 2008. The causal link that the writer tries to establish between the relatively low voter turnout during the by-elections and the post-election violence does not seem to be well grounded because even in the absence of violence, turnout is usually low during by-elections. In

fact, between April 2003 and December 2007, there were a total of 14 parliamentary by-elections held in Kenya, with an average voter turnout of 41.8%. Some of the lowest by-election turnouts occurred in Naivasha in May 2003 (20.5%), Kisauni in December 2004 (21.2%), Kisumu Town West in December 2004 (23.5%), Saboti in November 2003 (30.0%), and most recently, Magarini in May 2007 (32.3%).

In the case of Wajir North, the stalemate occurring during the General Elections could have mobilized those who did not vote then to participate in the by-election. Their hope was that their single vote would be the magic vote to resolve the impasse. The Wajir North election results and the ensuing by-election is significant for scholars of electoral politics since it squarely confronts the paradox of voting that is at the heart of cognitive thinking on voter behavior. This paradox traces back to the work of Mancur Olson (1965), and questions why a rational man would vote, when he knows that the odds of one vote determining electoral outcome are almost nil (Brunk, 1980; Aldrich, 1993). Brunk for example, argues that people vote not because they are rational but because they are deluded about the usefulness of voting. He hypothesizes that as people become more educated and have a better grasp of the futility and irrationality of voting, turnout will decline. Yet the Wajir tie needed just one vote to break and prove that even in elections with many voters, there are cases when one vote matters. Since we cannot accurately predict when election ties will occur, it is safe to argue that one vote always matters.

Challenging the assumptions of the paper

One of the assumptions that seems to drive Cussac's paper is that votes received by candidates in elections can be attributed to the sponsoring party. Consequently, a candidate's performance reflects the popularity of the sponsoring party. If a by-election is held and the candidate of the party that held the seat loses, this translates to a loss of that party's popularity in the area. Party popularity certainly raises the probability of their candidates winning. In Emuhaya for example, Wilber Ottichillo came third with 4980 votes on NAP ticket behind the winner, Kenneth Marende of ODM (5313) and Julius Sikalo of PNU (5017) in the 2007 polls. However in the June 2008 by-elections, caused by the election of Marende as Speaker of the National Assembly, Ottichillo not only won on the popular ODM ticket, but defeated Sikalo who had also defected from PNU to a slightly more voter-friendly KADU. Indeed, Kenneth Sande, the PNU candidate in the by-elections, polled a paltry 1.4% of votes cast. However, there are copious instances when a party can actually be a liability for a candidate. In the June by-elections, some candidates won despite the political tide, most likely due to their own and not the party's popularity. For example, Richard Runguma (FORD-K) won Tunyai ward (Tharaka) against candidates of popular parties in the area like DP and NARC-K; Samuel Kamanu (PPK) won Kijabe (Lari) against candidates of KANU and NARC-K; and John Sitienei of KADU won Simotwa (Eldoret

South) against an ODM candidate.

Relatedly, Cussac's paper seems to be driven by the assumption that parliamentary elections are better indicators of party popularity and therefore downplays the outcome of the civic elections. Take the case of Kilgoris for example, where Gideon Konchella (PNU) won the by-elections with 33,236 (54%) against Johanna Ng'eno (ODM) who got 28,210 votes (46%). However, of the 13 civic wards where by-elections were held at the same time, ODM won eight against PNU's two and the remaining three seats were won by candidates of UDM, SDP (ODM affiliates) and KANU (PNU affiliate). Similarly, in the 2007 presidential elections, Raila Odinga (ODM) got 71% and Mwai Kibaki (PNU) got 27% of the votes. It would therefore be inaccurate to argue that since PNU won the parliamentary seat, it is more popular than ODM which lost the parliamentary seat marginally but decisively won both the presidential and civic elections in the constituency. It is in the public domain that the Kilgoris battle was skewed through synthetically engineered ethnic rivalry and narrowed down to a fight between the majority Maasai supporting a Maasai candidate in PNU, while the minority Kalenjin supported a Kalenjin candidate in ODM. That is the context within which some ODM MPs, for example Joseph Nkaissey campaigned for the PNU candidate. The remarkably high turnout in Kilgoris (85%) is also questionable since it does not fit into the normal distribution curve of voter turnouts in parliamentary by-elections in Kenya. In all the 14

parliamentary by-elections held in Kenya between April 2003 and December 2007, the highest turnout ever was 72.5% in Nakuru Town.

Besides the Kilgoris civic polls, there were elections in 32 other civic wards. Out of this, ODM lost four seats on its turf—Simotwa ward (Eldoret South) to KADU; Central Butso was won by New FORD-K; Ingotse/Matiha by ARDK; and Budonga, won by PNU all in Lurambi. Relatedly, PNU lost six seats in its stomping grounds—Kijabe (Lari) won by PPK; Tunyai (Tharaka) won by FORD-K; Mitheru (Nithi) won by FORD-P; Igembe South (Igembe South) won by CCM; Lenginet (Rongai) won by DP; and Kiamaina (Subukia) won by RAP-K. PNU did not field candidates in Kijabe and Tunyai, while its candidates were trounced in the other four wards.

Between ODM and PNU, who won the by-elections?

Although ODM had candidates in all five constituencies, PNU did not have candidates in Ainamoi and Wajir North. This alone portrays ODM as more popular than PNU. Of the three constituencies where both had candidates, PNU won two (Embakasi and Kilgoris), while ODM won one (Emuhaya). However, although ODM had a fighting chance for the two seats it lost, PNU performed very poorly in Emuhaya. In the final analysis, ODM had a mean of 41% of votes cast in the three constituencies, compared to PNU's 37%. On that account, ODM won. In terms of civic elections, ODM won more seats although that does not necessarily indicate its popularity

because it all depends on where the by-elections occurred. However, PNU suffered a greater loss than ODM, losing six seats compared to ODM's four in areas generally supportive of the party, in view of Kenya's ethno-regional voting patterns.

Although Cussac's approach is not the best measure of party popularity, a proper analysis of the by-election results show that ODM performed better than PNU in the by-elections. However, this does not necessarily mean it became or is more popular after the post-election chaos. People vote for parties and candidates not necessarily because they like them, but quite often, because they dislike the other options available. Party popularity therefore cannot be measured in terms of votes received. Instead, the best approach in determining which party is more popular is to conduct primary surveys¹ on voter preference.

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Notes

- 1 For further information on opinion polls, refer to the paper by Patrick Mutahi published in *Les Cahiers d'Afrique de l'Est*, n° 37.

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