

AFRICA RISK CONSULTING**Country briefing – Kenya****21 July 2014**

Summary

The opposition Coalition for Reforms and Democracy (CORD) holds a Saba Saba rally in Nairobi. Leaflets circulating in Naivasha before the rally warn of ethnic violence. Unknown authors distribute similar leaflets in Tana Delta and Lamu counties following attacks on civilian and security targets. A British Gas Group, Pancontinental Oil and Gas and PTT Exploration and Production consortium announces the discovery of oil in Kenya's first deep water find. Canada based oil firm Vanoil Energy says it will seek legal recourse to reverse the termination of its licences in Garissa.

1.1 Leaflets warning of ethnic violence circulate before opposition rally

The opposition **Coalition for Reforms and Democracy (CORD)** rally on 7 July passed without incident but ethnic tensions are increasing in the run up to the scheduled start of president **Uhuru Kenyatta's** (2013-present) trial at the **International Criminal Court (ICC)** in October. CORD held the mass rally in **Uhuru Park** in **Nairobi** on 7 July, a date symbolically important to Kenyan democracy as **Saba Saba** (seven seven in Swahili) marked the beginning of political protests demanding multiparty politics that started in 1990.¹ CORD leader **Raila Odinga**, who returned to Kenya from a three month stay in the **United States** in May, listed the government's alleged failings but provided few concrete solutions or policy alternatives. Odinga condemned Kenya's deteriorating security situation, increasing living costs, corruption and the government's preferential treatment of some ethnic groups over others. Odinga called on the government to withdraw the **Kenya Defence Forces (KDF)** from **Somalia** and cancel **Safaricom's** contract to supply security cameras. Odinga also denied that CORD was responsible for recent violence in **Lamu** (see below).

CORD said that it would continue to hold rallies as the government is not willing to hold national dialogue processes to address these issues. Odinga and CORD leaders **Moses Wetangula** and **Kalonzo Musyoka** also established a national referendum committee to collect signatures in support for a

¹ Daily Nation, 7 Jul 2014.

referendum on the challenges facing Kenya. They launched a movement called **Okoa Kenya** ("Save Kenya") with a vague mandate of upholding the constitution and defending democratic governance.

Odinga is politically astute and a master coalition builder who may appreciate that as opposition leader he can ask questions without providing answers.² However, he is leading a divided party. Odinga's **Orange Democratic Movement (ODM)** remains fractious following aborted party elections at the ODM national delegates' convention to elect a new leadership in February.³ The two ODM factions whose feuding undermined the election are sharing the party's leadership positions on an interim basis. One faction is loyal to **Budalangi (Busia)** member of parliament (MP) **Ababu Namwamba**, and ODM deputy party leader and **Mombasa County** governor **Ali Hassan Joho**. The other faction is loyal to senator **Agnes Zani**. Odinga supports the Zani faction.

The rally took place amid continuing political violence in Kenya but was not itself the source of significant violence. There were limited sporadic clashes as CORD supporters threw stones at the 15,000 soldiers and police officers present who responded with several rounds of tear gas. There were also clashes in Odinga's home town of **Kisumu**.

More concerning for Kenya's stability is an increase in ethnic tensions before the rally. On 7 July, the **Communications Authority of Kenya** published a statement in newspapers calling on broadcasters and journalists to avoid "*incitement to violence and advocacy of hatred*". This followed the circulation of leaflets threatening ethnic violence in separate incidents in Kenya's west and coastal regions. In **Nakuru County**, people in rural areas fled to **Naivasha** after leaflets circulated threatening ethnic violence similar to that which followed the 2007 election violence. Nakuru and Naivasha were at the heart of violence between the **Kikuyu** and Odinga's **Luo**, Kenya's third largest ethnic group that is concentrated in the west of the country. Kenyatta's trial at the ICC, should it begin as scheduled at the ICC in October, may raise ethnic tensions as it rakes up allegations of responsibility for the violence that followed the 2007 election. However, a repeat of the scale and scope of the post-election violence is unlikely. The ICC cases against Kenyatta and deputy president **William Ruto** have had a deterring effect on Kenya's political elite in challenging their perception of themselves as untouchable. Secondly, the international community's response to previous violence was robust with threats of targeted sanctions against the elite that propagate violence.

² Source, East Africa analyst

³ The Star, 4 March 2014.

Similar leaflets circulated in **Tana Delta** following a series of violent attacks in the Tana Delta and **Lamu** counties.⁴ **Al Shabaab** claimed responsibility after gunmen killed at least 29 people in raids on the towns of **Hindi** in Lamu county and **Gamba** in Tana Delta during the night of 5 July.⁵ A statement on al Shabaab's **Radio Andalus** claimed that an al Shabaab group crossed the border from Somalia to carry out the attack before returning. Lamu county commissioner **Njenga Miiri** said that a total of 15 gunmen attacked Hindi. In Gamba, the gunmen attacked the city's police station. On 7 July, unidentified armed attackers raided the tourist site **Lamu Conservation Trust** in Lamu, setting fire to offices, a **Kenya Police Reservists** camp, and vehicles.⁶ On 11 July, gunmen raided **Pandanguo** village near Lamu, disarming police reservists, burning buildings and seizing weapons.⁷ The **Kenya Defence Forces**, the **General Service Unit**, and the **Administration Police** have launched a major joint operation to secure the coast, detaining approximately 70 people. The situation remains tense with leaflets circulating in Lamu warning of further terror attacks targeting non-Muslims.

1.2 Police blame Mombasa Republican Council for violence

Police have blamed the **Mombasa Republican Council (MRC)** for the attacks in Lamu and Tana Delta despite al Shabaab's claims of responsibility. The MRC desires separatist rule for Kenya's Muslim-dominated **Coast Province** but denies any involvement in the attacks.⁸ Al Shabaab has never claimed responsibility for a large scale attack that it did not carry out.⁹ The operation may have been al Shabaab acting in concert with local groups.

Al Shabaab and the coast-based **al Hijra** group have close links. The September 2013 **Westgate Mall** attack in which at least two al Hijra militants took part underlines the importance to al Shabaab of Kenyan militants.¹⁰ Formerly known as the **Muslim Youth Centre (MYC)**, the group became increasingly radicalised during al Shabaab's bid to overthrow Somalia's transitional government following **Ethiopia's** military withdrawal from Somalia in 2008. The MYC found a role in this struggle providing finance, refuge for injured fighters and broadcasting militant propaganda through a network of radical mosques.¹¹ This gradually turned into a recruiting network providing al Shabaab with a steady supply of Kenyan youths willing to fight in Somalia. In 2012 the MYC declared it was part of **al Qaeda** and subsequently changed its name to al Hijra.

⁴ Daily Nation, 5 Jul 2014.

⁵ Daily Nation, 5 Jul 2014.

⁶ Standard, 7 Jul 2014.

⁷ AFP, 11 Jul 2014.

⁸ The Star, 9 Jul 2014.

⁹ Source, East Africa analyst

¹⁰ Source, East Africa security analyst

¹¹ Source, East Africa security analyst

Al Shabaab's links to the MRC are less clear. During the run up to elections in 2013 MRC militants launched a number of attacks on police posts. In response counter terrorist police carried out a series of raids during which several MRC leaders were killed. Police later claimed elements of the MRC were linked to **al Qaeda in East Africa** and therefore by extension to al Shabaab. No firm evidence has come to light regarding this link, but al Qaeda has a strategy of linking local Islamist struggles with its wider strategy of global Jihad.¹²

1.3 Oil consortium strikes first oil in Kenyan waters

An offshore oil discovery will encourage oil exploration companies to commit greater resources to Kenya but infrastructure uncertainty and practical challenges remain. A consortium of **British Gas Group**, the **Australia-based Pancontinental Oil and Gas** and **Thailand's** state-owned **PTT Exploration and Production** announced the discovery of oil in the **Lamu Basin's Block L10A** in Kenya's first deep water find on 18 June.¹³ The consortium has not yet announced the size of the offshore deposits or their commercial viability. The provisional results of the **Sunbird-1** well drilled in the first quarter of 2014 are apparently promising. Pancontinental said the Sunbird-1 well intersected a gross 29.6 m gas column overlying a gross 14 m oil column in the **Sunbird Reef**. Operator British Gas holds a 50% working interest in the block, PTT a 31.1% stake and Pancontinental an 18.7% stake. **Premier Oil** withdrew a 20% stake in the block in 2013. The consortium is using the Sunbird-1 data to inform its next phase of exploration. In a separate development, **Africa Oil** in partnership with **Tullow Oil** announced a discovery of high quality oil in the **Ngamia-2** well in **Turkana**. Africa Oil also announced a natural gas discovery in **Block 9** at the **Sala-1** well and is discussing an appraisal plan with the Kenyan government.¹⁴

Kenya is preparing to issue an international tender for the construction of a crude oil pipeline to connect the Turkana oil field with the **Lamu Port**.¹⁵ The government expects the pipeline to be completed in 2016. However, in July parliament suspended the **Kenya Pipeline Company's (KPC)** award of a \$490m contract to **Lebanon-based** construction company **Zakhem International Construction** for the 450km **Mombasa** to Nairobi pipeline and fibre optic cable project on 3 July.¹⁶ The KPC awarded the contract to Zakhem International on 1 July saying it was the lowest of the

¹² Source, East Africa security analyst

¹³ Daily Nation, 17 Jun 2014.

¹⁴ Daily Oil Bulletin, 24 Jun 2014.

¹⁵ Daily Nation, 20 Jun 2014.

¹⁶ The Star, 3 Jul 2014.

tenders received and achieved the highest results in the technical evaluation stage. Other bidders petitioned the **Public Procurement Oversight Authority (PPOA)** to investigate the awarding of the contract. The PPOA rejected the petitions but two separate parliamentary committees have launched investigations into irregularities into the awarding of the contract.¹⁷ The energy committee and the public investments committee have requested that the auditor general conduct a forensic audit of the award and the PPOA release all relevant information.¹⁸

In a separate example of contract frustration in the oil sector, **Canada**-based oil firm **Vanoil Energy** says it will seek legal recourse to reverse the termination of its licences in **Garissa**.¹⁹ Energy secretary **Davis Chirchir** revoked Vanoil's licence for Blocks 3A and 3B in February 2013 claiming that the company had violated its production sharing contract. Vanoil will seek legal redress for investments made and profits lost. This could amount to 8.6 billion shillings (KSh) (\$98.6m).²⁰ Vanoil will also seek arbitration at the **United Nations Commission on International Trade Law** over the termination of its licences. Vanoil has been in dispute with the energy ministry since December when the ministry refused to renew the firm's initial exploration licence, with the government claiming that Vanoil had been on the site longer than the two years specified in its initial exploration licence. Vanoil denies the charges, claiming that factors beyond its control including poor weather and insecurity explain its presence beyond the terms of its licence. In June 2014, the parliamentary energy committee backed the energy ministry noting that Vanoil had acted as a speculator in the upstream energy in an alleged breach of contract.

2 Implications

The leaflets circulating before the Saba Saba rally are indicative of Kenya's latent ethnic tensions. The politicisation of security incidents will increase the risk of relatively localised violence spreading. The ongoing ICC trials will act as a deterrent to the risk of widespread ethnic violence. Al Shabaab is, however, adept at stoking inter-communal rivalries raising the risk of continued attacks in Kenya's coastal regions.

The oil find offshore will encourage more exploration companies to start drilling, especially in adjacent blocks. It will also increase international interests in the seven blocks that Kenya will make

¹⁷ The Standard, 2 Jul 2014.

¹⁸ The Standard, 2 Jul 2014.

¹⁹ Business Daily, 8 Jul 2014.

²⁰ www.gasoil.steelguru.com/global/3982/vanoil_to_sue_kenya_govt_over_licences



available in the next licensing round but the timing of this depends on the passage of new oil and gas legislation which will also set out the regulatory and taxation regime. Kenya will need to move to allay investor fears over the potential issue of double taxation which could see both central and county governments levying taxes. This could be of particular concern to oil and gas operators whose licences may straddle several counties. International oil companies will remain wary of the lack of infrastructure which will increase development costs. The investigation into the Mombasa-Nairobi pipeline and the possible cancellation of the contract will raise concerns about delays to the necessary development of oil related infrastructure. Ongoing arbitration with Vanoil may undermine confidence about contract sanctity in Kenya.