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Interview conducted by Robert M. Press (bob.press@usm.edu; press.bob@gmail.com)

Location of interviews: Nairobi, Kenya; in his office

Date of interview: July 28, 2002; and September 30, 2002

Interviewee: Davinder Lamba

Civil society activist; democracy advocate; researcher in Kenya.

Profession: Public policy analyst; environmental planner; professional architect.

Education: Masters Degree equivalent –in architecture, U of Nairobi; Masters at York University, Toronto; with specialization in culture and technology

Ethnicity: Indian/Sikh; Punjabi

Political affiliation. none

The interview was conducted, recorded, and transcribed by Robert Press BP = Bob Press; DL= Davinder Lamba. Interviewer's notes, bold for emphasis and reference, plus tape counter numbers are shown. [Parts are practically inaudible as he sometimes spoke in very soft tones]

BP Given the changes that did occur, say 91-92, going to multiparty and some of the freedoms that came along with that, if you were to look at the factors which – activism (individual and organizations) also international organizations and also donors – what kind of mix or which priority do you think made a difference in terms of achieving more human rights in Kenya between 87-97, looking first at the first period.

DL You said state behavior...can you elaborate what you mean by state?

BP Moi

DL By state I mean more than that (government), but the organs of the state – the executive, legislative, judiciary. So if you talk about state behavior, you are talking about the behavior of all of those three organs. But you are just talking about the behavior of the Executive. Even there when you talk about the Executive in political science you talk about the political executive, that is the incumbent government, and you talk about the permanent executive, that is the Administration, the civil service. So you have to get these different levels clear, otherwise you treat the whole things as an amorphous body. And of course the State, that means civil society – it means political parties. [I disagreed; he clarified] State and civil society relationships. There are external factors and internal factors through the African political transition, documented by political scientists and analysts; there are several that have written on it on the democratization, critical transition to democracy....that deal with external factors.

[External push for change: end of Cold War]

Now external factors in the African situation was the ending of the Cold War in 1989. For Africa the precise moment was when there was a truce reached between the Soviet Union and the United States and South Africa...and the Soviets pulled out their troops [out of Angola] sometime in 1989. So it was the end of the Cold War... [in the Soviet Empire] things began to shift. So in the African situation, we had a whole wave of political pluralism, where country after country wanted multi-partyism because many of these states were single party states. Either they had Executives military or unlimited Presidential executives or were absolutist kinds of arrangements. A lot of the transitions start in 1989 and you can check on the precise transitions that occur...part of that wave of political liberalization. What they call the “second liberation” in Kenya, the transition from dictatorship to democracy – the process to democratize. So prior to the 92 elections you have that history – the struggle by opposition political reformers resulted in the amendment of Section 2A of the constitution that made Kenya a multi-party state. Of course that had to happen in the legislature; to amend the constitution we needed a two-thirds majority [while Kanu was in control of Parliament] And that’s how we went to 92 elections and multi-party regime.

BP One of the key factors I’m hoping to understand better is what tactics were used and whether they had impact.

[Combination of external and internal pressure]

DL There was a **combination of factors**. First, we had **external factors – a sea change: the end of the Cold War**. So the bi-polar system we had – two Super powers and their games in Africa [ended]. Then a combination of factors: the **international capability joining hands with progressive forces or reformers in the country**, and putting pressure jointly [against] the incumbents, in this case, Moi’s government, KANU, the ruling party, to accept the amendment of the constitution, including pressure from international financial institutions as well in terms of freezing aid. So **using international carrot and stick strategy, combining it with the struggle on the ground**, finally forced the incumbents to give in. They didn’t give in voluntarily.

[Reform without change of attitude of State]

There was no real change in terms of attitude or disposition on the part of the incumbents. That disposition remained one of...single party.

BP So how would you describe Kenya, say in the range of usual words from dictatorship to very strong democracy. I suppose fascism or police state would be on the left hand [more right side] side and semi-democracy. In your words how would you describe Kenya today [2002].

DL You have to take [it state] organ by organ. If you take the relationship between the Executive, judiciary and the Legislature...the Executive, the relationship with the Executive is dominant. And the Executive controls the judiciary and the President appoints the judges. The Executive also controls the Legislature. The reforms have been the establishment of the national assembly. [There has been a] struggle for the autonomy of the national assembly, the budget and so on. The Executive working directly through

its public administration, which is a way that comes under the President, which is not part of the public service as such; they work in parallel. Then the complicity of the Executive in the ethnic clashes, both in 92 and then in 97. In 97 was the Likoni [coastal] one. The Akuwomi [??] report has not been made public [it was later that year] and there was a court decision some weeks ago in Mombasa that the government should make the report public...

[Executive with [practically] unlimited powers]

These are indicators if you are looking at the behavior of the State you find – that is because constitutionally we have an Executive with unlimited Presidential, unlimited Executive powers. And to trim these powers of the Executive has been a struggle.

[From ‘treason’ to discuss constitution, to IPPG – unfulfilled]

The next thing was the IPPG reforms in 1997. And even then the Executive never implemented those reforms [fully] – not adequately and sufficiently for them to have an effect. The President positioning of the Executive to scuttle the constitutional review process, to block the constitutional review process when we started early in 1994 because it was considered treason to talk about changing the constitution. It was considered treason when we first started. And then the acceptance of Moi that it [the constitution] needed review and the agreement, and the [plan to] bring foreigners [to help]...The work started by the National Executive Council which was a movement for political, constitution reforms is still there. It’s the work of that movement which got us as far as the IPPG. And that was again our major struggle. We did get in 97 the act to amend the constitution that was produced by the Executive itself; it was pretty controlling.

[“clamor for a people-driven process”]

The process was in the hands of the Executive and the Parliamentary-Executive control. So then began the **clamor for a people-drive process** to amend that act. [which act??] in 97. [It was amended – after a lot of mass action, the killing of several people by the incumbents. This mass action was 96 [it was actually 97].

[TACTICS/ STRATEGY: Chronology of civil society pressures for change]

The Review Act that was passed in 97 when the IPPG reforms were passed. [Agrees that there were pre-IPPG demonstrations in 97 but points to 96 as well] When the passed the Review Act [year??] that was part of the condition of IPPG that there be a constitution review. The Act passed as part of the IPPG reforms which was passed but that act itself was designed to control the review process by the Executive and [the KANU-dominated] Parliament. Then started the clamor for a people-driven review process. And that’s when the Bomas of Kenya and Safari Park consultations began which went on in 98 resulting in another amendment of the review act which wasn’t again satisfactory...After that [comes] the establishment of Ufungamano and Ufungamano setting up its people’s process and its people’s process. And then negotiating the process again – what they call the “merger” that brought professor [Yash] Ghai in [to head an official constitutional review]. That merger was in principle between Ufungamano and the Parliamentary Select Committee that was set up. NCEC and others, including SDP, particularly Paul Muite, James Orenge, Gibson Kamau Kuria, Pheroze Nowrojee and myself were part of that

process. And both individually and as our movements – we did not endorse the unprincipled merger. And we warned at that time that the unprincipled merger would once again permit the incumbents to play games, which is what the present situation is like. So in retrospect we were probably right. And the constitutional review act is not embedded in the constitution, so if someone goes to court and says it is unconstitutional...

BP Davinder, when you look at these scenarios and this timing, would you say that you are finding certain limits to the power of civil society to effect change?

[Who controls civil society: the struggle in Kenya?]

DL No. The story of civil society – that is the control of the civil society by government, which begins in the 90s. On the one hand there is the whole attempt at political [pluralism] going through the African continent, on the other side the government now wants to control and coerce civil society. This is what you call the ngos, and the introduction of the ngos coordination Act [??] in the early 90s, which in the first place was very coercive.

[Activism to amend civil society act]

So the ngo community –and I was part of that struggle – fought that Act; got it amended...you can't just talk about state, you have to talk about state and civil society relationship...**That took a lot of activism to amend the Act.** So under the Act you have the NGO council...and the NGO coordination board.

BP What was the effective way of getting that Act [changed?]

DL... You had to go back and (pause) I think it was a bill we had to lobby for it to be amended. That was several months of work.

BP Did that lobbying include mass action or was it simply negotiations with members of Parliament?

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DL No, there were protests as well [see archives]. It started operations in ...93??

BP So the tactics: there was protest on the streets and the result was

[Civil society: Moi seeks control through coercive means]

DL Lobbying [for] amendments and reviewing the act; discussions, consultations, critiquing it...And after that, cases of de-registered ngos like Clarion , the first ngo to be de-registered, because I was on the ngos coordination board on behalf of the ngo council as one of several board members nominated by the council. They [obtained??] their right to be heard, both in terms of justice and what the act accepts. ..before you deregister you give them the opportunity to [defend themselves]...so there is...intimidation, going beyond the bounds of the Act by creating administrative procedures, of vetting the letter of application for registration to be vetted [approved] by the Special Branch are

visiting...ngos, their premises, sometimes even asking for bribes and checking out who they were. And if they did put in a negative comment it would come to the Board [which would say] for security reasons we don't have a recommendation to register this ngo. If you ask them what is the security reason they say they are not at liberty to disclose it. So **there is an ugly history** on the part of the – if you look at the behavior of the Executive in terms of rewards and punishment, intimidation and so on. You have to look at it on both sides and who are they rewarding. They are rewarding cronies, sycophants, lackeys, systems that are part of the **Moi institutional networks** both in the Executive and in the judiciary...those who are toeing the line are sycophants.

And of course it was early 90s until 96 and so on, labeled as a human rights activist or running a human rights body...was immediately...haunted. The arbitrary arrests, detention – the Executive has not habituated [awkward word] anything to do with human rights. It's lip service. It's a space that has been won by progressive forces over a period of time. The Executive [not sure of previous word??] hasn't actually socialized itself, or internalized or habituated its behavior or procedures in terms of human rights.

BP In terms of that space opening up – winning that space, as you said, what were the tactics that were the most successful? Or strategies.

[Civil society: responding and strategizing against the state]

DL Strategies (pause); I mean responses. [Interesting: indicates like Koome did, that the struggle for human rights in Kenya was more a matter of responding to the crises of the moment than laying out a strategy.] I wouldn't say which of the ones were most successful – you really have to go through and pinpoint what responses or strategies we are thinking of. On the constitutional review side, it was a strategy of the **creation of the NCEC**, the National Convention Executive Council which was the umbrella where progressive forces worked together both from the political side or political parties and from the civic side. Now the design of that strategy was very important because **that was a deliberate strategy, the way it was designed. What preceded that was the creation of groups such as the Citizens Coalition for Constitutional Change. And prior tot that the creation of a model constitution resulting from those earlier attempts ...of NCEC.** So there were some experiments trying to get civil society and critical parties to work together in forming a united front to address the issue of constitutional review because what people realized is that if we really didn't get a new constitutional order [but] just amendments. Section 2A brought about multi-party system. People rejoiced in that but it took people a while to **realize that what was needed was no longer tinkering and we really had to bring a whole new constitution...We needed a complete transition.**

BP So the strategy there was

[Org. strategy: unite civil society forces for a new constitution]

DL [set up] organizations to make constitutional democracy. Then after some attempts came the NCEC proceeding – a year of work; it was called the National Convention Planning Committee to **plan the national convention the whole of '96**, and it produced

its position or its concept or its platform and brought all these forces together. Now the design of that Committee was that it was led by people from the civic sector who can intersect, who represent different sectors: religion, youth, women, ngos, and so on.

BP One criticism is that it was pretty much a middle class elite organization. Do you agree or disagree with that?

DL I don't know where you get that criticism. Can you elaborate by what you mean middle class?

BP Well, I'm using his words, so he wrote it, and I'm sure you've read it –

DL, Oh, Willy [Mutunga]'s book

BP Yeah.

[Begun by urban elites – grassroots came later]

DL Middle class elite – what he means by that is the people who constituted the National Convention Assembly were people from – they weren't peasants from the grass roots, they weren't workers. They were political parties. So it was at that level. They were organizations of civil society. And particularly the core group, that was centrally focusing on constitutional reform. So they would be people like myself and my organization; people like Willy and the Human Rights Organization, people like [Kivutha Kibwana] and Clarion. There were smaller groups: [Kenyan] Union of Journalists, ...some trade unions, and we have to have the record of organizations in it. What he [Mutunga in his book] meant was this originated at the center, this originated in terms of locals here in Nairobi, in the capital.

...NCEC at the moment is a body with a constitution. It has organs which go all the way down vertically in the country. It has a Council of 50 people which draws membership and representation from these organs around the country. NCEC. But the **design of the National Convention Assembly up to the planning committee – that's what's important in '96; the planning committee worked for a year, then the Assembly was established, NCA, at Limuru in April or '97.** When that was established, then you have the organs of the Assembly established which go all the way down, or at least the organization.

BP So it started at the top or the middle but its gone down to the roots?

DL No, no. That was the planning process. That was the planning committee. And the planning committee was constituted of people that I have characterized. Nation Convention Planning Committee. Then the planning committee was to create a National Convention Assembly, called NCA. The first session of NCA took place in Limuru ['97] And from there, NCA constituted itself [with] resolutions. And then **the NCEC, the executive organ of NCA this time now became broad based** – representation of Provinces...step two, all after the establishment of the Assembly. So at Limuru, the elections were held for NCEC, where you had people representing Provinces, people

representing different groups. Then the establishment or the overall structure. Now, at that point, you can say that it was still ...broadened. But at that point what is important to realize is that it is **not elitist** in the establishment of its structures. You have to separate the period of planning and then actually establishing [this]. And then when the assemblies were heard [at] several sessions of NCEC during that period, they had people ranging up to 4500, those people are drawn from different parts of the country and funded to come – and supported –

[Donor-funding]

BP Funded by the parent organization [which in turn was donor-funded]?

DL Yes. So the membership of people who attend the Assembly (if you look at the records).

BP It seems to be a rather amazing creation. It's very impressive. And yet it hasn't achieved its aims yet. Would you say that its on the right track, or that it should have been formed differently, because a lot of work went into it.

DL **What do you mean it hasn't achieved its aim?**

BP **Well, you don't have a constitution that has reduced the power of the President.**

DL **Yeah, but that's uh – but the link between we don't have a constitution yet and a body like that achieving its aims – because what this body was trying to communicate is that if you want a people-driven process, what kind of mechanism you will have to put into place, and we were not just after a document.** We argued that (1) you needed an enabling environment, so the model of that NCEC about reform was very different than from what it came to be in the end... You need an enabling environment, you need a political and economic enabling environment; you need security...so we had a much **more holistic approach**. And...who is government...will not cooperate like many of the incumbent governments will not cooperate or facilitate that the constitutional review process because it is not in their interest to do it.

[Limits of civil society power?]

BP So does that illustrate the limits of civil society's organizational results, then?

[Civil society reform- not revolution]

DL I wouldn't say...(pause) it's not the (pause) **this movement was not a revolution; this movement is called a reform, trying to create a transition reform by amending unjust laws and by adhering to the rule of law. So its got a triple challenge.** A lot of our laws were unjust. And **the reason we had a lot of opposition and the reason a lot of our people were killed, maimed or injured is because the government wanted us to apply under the law at the time prior to '97 for permission to hold our meetings and assemblies and we said, no, we won't do it, because the whole thing we're after is reforms. And this is an unjust law. So to change the unjust law which is the IPPG [Inter-Party Parliamentary Group] reform, has meant a lot of bloodshed. So we**

paid that price. As far as law is concerned, its positive law: you guys – there is a law, you held a rally, its illegal, you broke the law and you are going to be punished for it.

BP You went out that day [during one of the mass demonstrations in 1997 that ended in bloodshed] with [the Rev. Timothy] Njoya, didn't you?

[Taking the “moral position” with civil disobedience]

DL Yes. **[On] many occasions. So that's the strategy – that we would not apply [for a permit to meet] – we would not adhere to an unjust law. So we took the moral position. And as a result you had to pay the price for that risk.**

BP So it's a reform movement which is not completed yet, its still moving –

[Some civil society gains: freedom of assembly]

DL No, I'm just saying when you say the “limits” [of civil society] you have to know what the limits are because first is the limits of unjust laws, which is what the IPPG tried to reform. That was the deal they made. So you no longer had the Chief's Authority Act, you no longer had to ask for permission [to hold a meeting], you just had to notify a police station... You know all that, freedom of assembly and that sort of stuff. So **we won the freedom of assembly. It wasn't given to us. For which we paid a price for agitating and confronting unjust laws.**

BP ...there was definitely gain. For the first time since '92 you really had a real gain, and that was the result of that mass action. But I guess what I'm asking is...

DL What I'm trying to do...**the way I want to frame it is that way. Then its up to you to see how you frame it.**

BP I want to know how you frame it.

DL That's the way I frame it.

[“Successful” civil society action?]

BP But then do your frame it as – I mean I think its [a] pretty impressive amount of work that went into the structure of meetings and – would you say it was successful? In terms of IPPG you mentioned one example but in terms of the constitution you win some and you don't win some.

[‘Costs’ include trauma to families.]

DL Well, I think it's the word “successful” that you have to qualify. We're trying to - our reforms are explicit. That's if you want freedom of assembly, right? So it takes up several years of work, a lot of social and political cost, loss of life, injury, personal costs – cost to our families, intimidation, which is massive. And **some of us have very serious trauma in our families.** It's not – it's not a – and I think people have to appreciate it. Sometimes you get people saying, well, after all, this government did change and this government did also – then asking who paid a price for it and why? Moi had no trauma.

The Provincial Administration had not trauma. KANU had no trauma. **We had very traumatized families.**

BP I hadn't actually thought about that.

DL Yeah, we do. It's not a joke.

BP Wives, children – whether your father is coming home at night –

DL Yeah, this is not a joke. **This is years of adrenalin flowing** and I think it's not a joke.

BP Well, I know; that's what I'm doing this for. I'm fully aware but I hadn't thought about the families –

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DL Yeah; very many traumatized families. And we're paying the price for it.

BP Is it hard to keep people enlisted in that kind of [effort]? Do they get a little worn out after while?

[Civil society gains cut short by political 'deal']

DL **They do.** But you have people coming in. Of course what you have, you have a lot of co-option [by the government]; you have people defecting, politicians cutting deals. And that's what happened in IPPG; the opposition cut a deal and then that means the gains we had made, the potential gains that were there at that point in time, **we got a fraction of what we could have gotten. So we put back the reforms by five years. IPPG was a regression,** although there were some positive things that came out, but overall – as those people who [joined] the IPPG from the opposition have admitted, it was a regression.

[Donors short-sighted]

And this is where the international community is really, really sometimes get very, very annoyed...because those IPPG reforms are positive reforms, things are moving forward, let's not be so critical and so on. Whereas the time is gone: **we put the clock back by five years, and we still don't have a new constitution. We wanted the '97 elections with a new constitution...**

'92 was OK. We knew we were just amending one section [of the constitution] to have a multi-party state. Nobody had at that time any expectations of a new constitutional order. [Muite said he and a few others, like Peter Anyang Nyong'o did] But soon after that, a small group of us, some politicians and some civil society people said what you need is a new constitutional order and you need a transitional constitution to democracy...and that was considered treason. Now we have documents published and signed at that time that it was considered treason.

BP Were you ever in detention?

DL No. I've been arrested and so on, but detention no. It [the arrests] go back to my student days of being suspended...in '69 [at the University of Nairobi] for championing academic freedom, and so on. I was among the first group of people ever suspended there: Myself, Apollo Njonjo, some others. Anyway – we should have had a new constitutional order in '97.

[biographical questions – see above]

BP Lesson in Kenya, if you were to describe in a meeting with people who were in civil society and [concerned] about working in an authoritarian government, and trying to advance human rights. Not necessarily democracy, but just basic human rights – freedom of assembly, freedom of speech, the core political [rights], not economic and social –

[Lessons from Kenya: human rights is risky work]

DL (pause) OK. Historically, the last ten years, when the human rights movement first [began], it is a risk, a personal risk, and it's a risk for family...

End of side A, tape one of one

Start side B, tape one

[Individual and organizational human rights activists]

DL (continuing lessons from Kenya) ...If you are a human rights activist, chances are you will have an organizational base, which is human rights group of some sort, or you are a human rights activists and you are by yourself, you are independent...

BP So there are both. How would you describe yourself?

[Civil Society identified]

DL Well, **I'm a human rights activist based in a group, an organization, based in a network of human rights activists...we actually have a human rights network.** But this has taken time. So if you look at strictly speaking people working as human rights groups, of course you have CCCC Citizens Coalition for Constitutional Change, you have Kenya Human Rights Commission, you have Mazingira, you have People Against Torture, you have a medical legal body that looks after [torture cases], so you have a coalition of women [??], you have legal bodies, FIDA, defending the rights. Law Society of Kenya and so on.

[Small activist community]

So **the number of human rights activist was small** [in the late 1980s and early 1990s]. It's always been small. Unlike human rights groups elsewhere which are monitoring violations of human rights and so on, here it is a struggle, a constant struggle [with many] risks. If you are in a group such as Mazingira [Lambda's organization] which is in its outlook is about the ...issue of human dignity...and human rights as a means to achieve human dignity...that's what human rights are, although they are good things in themselves...as far as the system is concerned, we are an unfriendly NGO, an unfriendly

group, a group that is anti-government and therefore that's how we are perceived and that's how we are dealt with....

[INGOs too close to government; ignored political issues]

The contrast to this is international NGOs based in this country who have one leg in State House and one leg in the slums, sometimes championing those rights. So those are the ones that governments are comfortable with. So you have these contrasts. So we are the bad guys. But for every bad guy you have ten good guys that the government has to talk to and practically all the international ngos based here, they need the good offices of government to do their work, whatever it is, and they've got to be close to ...poor people, using 'slums' metaphorically. [??] They are specialized groups. They won't deal with the common group, public interest; that's what we deal with...Then you have these special interest groups who need the good offices of government for their own work and their own survival.

['Governance' label put political issues on government agendas]

So in a situation like this where the government is not confronted by human rights groups, these violations constantly causing pressure, demanding change, it opens up the space for governments to interact with groups that purely remain technocratic in their relationship [with government] and managerialist in the same way that the [World] Bank, the IMF are always managerialist, technocratic and won't want to approach the area of politics. So mixing politics and government, according to this government, has been a dirty thing to do. It's not permitted; ngos mustn't do that. That's what [led to] the NGOs coordination board. This is something we've always defied. We will not entertain any such dichotomy, and that's how we used the term 'governance' in the early '90s, to put critical issues on many agendas to deal with public policy. I would say a meeting with some government department on some problem, we'd like to put some governance issues on the agenda for discussion. So the use of the term 'governance'...meant we wanted to [discuss] some issues dealing with our power relations on the agenda dealing with politics. But when we first began to use it [the term 'governance'] it was to say now – but until then, you're sitting in a meeting and we'd try to say we want to put certain issues [on the table] that were political and they [donors and ngos] would look down and they wouldn't know what to do with it; more so on the government side.

If that characterizes – and helps you to see on a day-to-day basis what life has been like here.

BP And you would say that the tactics and strategies are multiple?

[3 TACTICS/STRATEGIES]

DL (sighs) You see, I gave you one deliberate strategy which is very complex which is NCEC and its multiple (pause) activities, from mass action to mobilizing grass roots, building structures, and so on: [establishing a] solidarity base, which is still continuing. But that's a wholesome strategy. That was...deliberated...

BP And the strategy was to involve a broad base of people, eventually at some point –

DL That's what it did.

BP – and to confront? And to demand?

DL And to propose.

BP And to use Parliament

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DL To use deliberation. That's what I'm saying.

BP I'm beginning to understand it better: it's a multi-faceted approach.

[Civil society: multi-dimensional strategy (planning), not just tactics (short-term methods)]

DL It's multi-dimensional. So it's not tactic, it's a multi-dimensional strategy. There are many dimensions to it. It had to be multi-dimensional. And it wasn't a revolutionary group; it was clearly a reform group because it wanted to change unjust laws, and not to comply with them. [I think he mentioned, again, that they had to pay a price??] and then tell the government to adhere to the rule of law. And then, like amend section 47 [??] of the constitution to create all these organs and act to repeal the constitution and [have] a peaceful transition ...

BP Complicated by a judiciary which is, as you mentioned, totally under the executive; complicated by something you never mentioned but ..

DL Well, the legislature, which of course you have to know what happened; the political landscape, fragmentation of the opposition, the merger of the NDP moving over to KANU because KANU had only a majority of eleven seats in Parliament, which meant that they were on thin ground most of the time. But then you had NDP that made a coalition with KANU. So after '97 because of shifting alliances, which meant motions...important motions would get defeated because a section of the opposition made an alliance with [the government].

BP So as the dynamics and as the alliances changed your strategies have to adjust.

DL Yeah.

BP You don't just stay static and keep trying one thing.

DL Yeah. It's the same people. You had NDP busting NCEC rallies in Kisumu, not permitting them to have them; the police helping their thugs and goons. This is when we set up provincial [citizen] assemblies in 19- the last two years. Provincial assemblies; there are fifty constituency assemblies; this is in accordance with our constitution [of NCEC??]

BP Fifty? They actually exist? Was there a lot of resistance met in the rural areas [setting up the assemblies]?

[State tactics – also multiple]

DL Yeah. These people were interfering, intimidating, busting us, arresting us – this is all recent stuff. Put or murder charges in land grabbing cases who are now rotting in prison in Machakos [cite case??], their trial being stretched out. All these things are there.

BP Those are the State tactics.

DL Yeah.

BP And they are multiple also?

DL Yes.

[Chess game between State and opposition]

BP So as they move left, you move right, to block. It was like a chess game...

DL Yeah. Right. So what we had was a political movement called the National Convention Assembly, with a constitution which is adopted with...accounts which are publicly presented an audited, which the ruling party has never done, with a leadership that is elected, with a spokesperson that is elected by the Convention itself, [Kivutha] Kibwana; with a Council of 50 reps of the Provinces with [unclear??] assemblies which have met and produced their visions on how they want to transform the country and the constitutional order, which exists in published material which are available. And it is the same body that has been doing bridge-building with bringing the political parties together. You see the chair of the NCA [??] who was Willy Mutunga is not affiliated with any political party. It is exactly the same idea that worked before that the civic guys who lead the NCEC. And we have a standing rule that is, if you are contesting for an elected office you have to resign your position. All the people who led the leadership of NCEC were not any threat [to the ruling party??] All the people who led the leadership of NCEC weren't any threat, so the formula that glued everybody together was that leadership is in the hands of the conveners who represent different sectors ...but they themselves have no aspiration to hold political office or go into Parliament. If they do, they have to resign. [note: in the 2002 campaign, a number of NCEC activists ran for Parliament.] So that meant we were able to pull together for the first time the progressive forces. Now there was a setback with IPPG, but after that, the coalition went on, building it. So today the coalition has these structures...

BP So it's recovered from that?

[A political "movement," not a party]

DL Yeah. This time with the trade union movement that's co-opted - unlike South Africa where you have all these...strong trade unions and the parties are compelled to talk to them without, to respect them, to negotiate conditions, and so on. But here we don't have

that. So what we did was, we tried to do the bridge building these last few months [2002]. And the position of NCEC and NAC [??] a fact. And NCEC is one of the earlier members of NAC [??] And NCEC has the status of an unregistered political parties and can nominate candidates to contest for the next election. So they are not a political party by its constitution, but that doesn't mean to say we're not a political movement, we can not say we put forward so and so.

BP You can endorse.

DL Yeah. That's what we're doing at the moment.

[Disdain for Ufungamano process as ad hoc, “autocratic” process]

BP So is the presence of Ufungamano or the resurrection or continuation of Ufungamano [leading up to the 2002 elections] a positive thing at this point or not, given this structure that you already have in place.

DL What do you mean, “positive?” Do you know the history of Ufungamano? You have to know what Ufungamano is. It's been a dead body – they wound themselves up after they made that **unprincipled merger** [in '97]. Now they've just started to hold ad hoc meetings. That's why in the last meeting it wasn't very clear. And who is Ufungamano? There is no disclosure [of] who is Ufungamano. So people walk in and out [as I did]. **It has an autocratic leadership.**

BP Do you sense another 'sellout' [as with IPPG] in the making?

DL I have no idea. I have no idea. I'm not a great fan of the religious sector. I think they've been disappointing; I think they've been part of the problem and not a part of the solution.

BP If Parliament is dissolved and no constitution is passed [which is what happened], then this [the people-driven constitutional reform process] will continue?

DL This thing is not established. It's not a question of not continuing or continuing. The movement is now going through an evolution phase. And that's why it is a unique movement, very different from what's happening in neighboring countries.

BP I was going to ask you if there was something like this in Africa elsewhere.

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[Kenya's “unique” civil society reform drive] – really??

DL The Zimbabweans tried to – we've had exchange visits with them when they formed NPC [??], when they formed a constituent assembly to do the similar thing we are doing, out of the same movement. They are trying to do something very similar. So this movement is – its unique to this place; it has a richness all to its own history.

BP It's not exactly what you'd call a 'shadow' government, but it's almost like that, in a sense. You have all the structures of what you hope a democratic regime would be doing. They're not doing it, so you are doing it.

DL Right. And it's got a reform agenda on top of that. It has got the intellectual firepower.

BP Is mass action to continue [as] one of the elements?

DL Yes. Its your right. Direct action is your right. As long as its peaceful.

BP Backed up by a fairly – at this point – representative organization. It's really unusual. I haven't come across anything like that. I used to go back and forth across Africa.

DL A lot of people don't have it sunk in their heads [what we have done in Kenya].

BP There were a few national conferences I attended.

[Movement, not an ngo]

DL So we are a movement; we are not an ngo. I want to distinguish ourselves.

[Civil society – more than ngos]

We don't want to confuse civil society with just ngos. So the term civil society is sometimes like a sheet of rubber because it is always stretched...So it is a movement. And some of the other things that we're doing as a movement, like self-organizing, self-directing groups like Operation FRIMBI [Swahili for ??], blowing the whistle against land grabbing, which is a self-organizing movement. ...we're trying to set up

[A non-elected leadership??]

BP It's a non-elected movement. I mean you don't have any –

DL [sharply] They are self-organizing. This is a civic –

BP Within the structure, are people chosen by other people or nominated by other people?

DL There are certain principles you have to adhere [to] – how you constitute a group and how you self organize yourself [according to] a set of principles.

BP But are there elections?

DL [sharply] How the groups do it is their business.

BP Well, can you give me any examples of any that have done elections?

DL [sharply] Well, **they have to be participatory**; you know. You have to look at the operation within the structure. Take some provinces. You start off with eight [the number of provinces]. You follow certain principles: what are the issues you are working on, and you work toward the common good. And now we have a lot of chapters throughout the country. We have regional forums and the campaign – you just have to stand with a whistle and a red ribbon in any part of the country and blow it and they know what that stands for.

BP Some of you know better than I. What's the umbrella name out in the village

DL You just call yourself Operation [FRIMBI Swahili term meaning?]; the anti-land grabbing operation], local chapter. You give a name like – there are hundreds of them. You can give them any name, like the name of your location.

BP But the overall umbrella name?

DL It's called Operation FRIMBI?

BP No, I don't mean just the land-grabbing. I mean the whole thing.

DL That's what it is. The Operation to Fight Land Grabbing and Corruption

BP But I mean everyone who is in the whole organization, not just land-grabbing-

DL No, there's just one. I'm giving you an example of a movement type. A movement type, group, as opposed to an ngo type, or even a cpo [??] type group.

BP If I ask someone – are you familiar with...the whole structure of which Kibwana is the Spokesman, what is it called.

DL That is called NCEC Provincial Assembly and NCEC constituent assembly; they call it NCA – National Convention Assembly, popularly-known as NCEC throughout the country – National Convention Executive Council.

End of interview.

Because of a tight time schedule he had, I was not able to ask the “motivation” question. I could follow up with an email on this.