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

Interviewee: Oduor Ong'wen

Location of interview: Nairobi, Kenya

Date of interviews: October 10, 2002

I = interviewer (Robert Press); R = respondent (Oduor Ong'wen). Double ?? indicates unclear point. Some explanatory bracketed material was added later; occasional number in parentheses are tape counter numbers; some research comments in bold.

Oduor Ong'wen was chairperson of the National Council of NGO's (non-government organizations) in Kenya. ngocouncil@bidii.com; P.O. Box 48278.

- I Okay, we are doing on well. Aah, which NGOs have done the most to advance core political human rights such as no detention, assembly and speech between 1987 and 1997?
- R Ya, it would be difficult to single out a particular NGO, and more importantly to try and talk of NGOs outside the wider civil society...there are a number of NGOs that you would apportion almost equal contribution to the human rights
- I Could you name some organisations, am curious to know.
- R Yes, I will , but I wanted to say that it is important to look at the contribution of the wider civil society but if you specifically want NGOs in the conventional sense of NGOs, I would right away mention Kenya Human Rights Commission , which was established in 1992, before that there have been NGOs like The Green Belt Movement , aah Public Law Institute, Kituo Cha Sheria. Basically in terms of NGOs, those were the most prominent if you look at NGOs in the conventional sense. Y a, but we will appreciate that the Law Society of Kenya for example , the religious organisations did play a very, very fundamental role during that time, not mentioning the student movement which kind of preceded all these in terms of whistle blowing as far as human rights abuses in the country was concerned.
- I Well, aah, what specifically
- R I will start with Green Belt Movement. Aaah, Green Belt Movement started as an NGO that was encouraging women to protect the environment, or you could say that it started as almost as second generation human rights , the ESC rights. Increasingly as the
- I ESC, Economic?

R Economic Social and Cultural rights [of the United Nations Universal Declaration of Human Rights] . But as repression deepened under one party state, the leadership of Green Belt Movement [headed by Dr. Wangari Maathai] began talking vocally about detentions without trial, aah, issues like torture, almost the whole realm of civil and political rights. Aaah, Kituo Cha Sheria basically used the issue of access to justice entry point where they have been giving legal advice to people who need legal services but do not have the?? to able to pay for them. So they have been giving free legal advice and representation to the poorest of the poor in the community.

Kituo Cha Sheria , aah approached it from that point , they used access to justice as entry point, legal advice, providing legal representation to people who couldn't afford the same

I Ya

R Basically as again the human rights continue to deteriorate in the country, they, progressively shifted from just interventionist approach in terms of advice and representation . Aaah, the other one is the Public Law Institute. Actually you can say it was a pioneer in public interest litigation where they have been taking cases of public interest nature, for example when the ruling party KANU wanted to encroach on Uhuru park to put up a major whatever there [construction of a KANU headquarters, with a tall statue of President Moi in front], they are the ones who took that case on behalf of Green Belt Movement.

I T he [case on behalf of] Wangari Maathai?

R Yes , and there have been a number of such cases like when , cases like when Kenya and Lighting Company wanted to increase tariffs and so on. So those can be said those early years, the early 80s to mid 80s, those are the

I To early 90s ...?

R To early 90s, I would say those are the NGOs that have played a major role. However there are others that did not come up later and have equally played a very important role. Like ICJ Kenya section, aah Federation of Women Lawyers; Release Political Prisoners, People Against Torture but these are latter day entrants.

I Now can you point any specific accomplishments in terms of how you can relate to some of their activities to specific changes in the states behaviour in terms of human rights ?

R It would be difficult to attribute this to any particular individual or any particular organisation or any particular sector because there was a lot of synergy like you find the Law Society [of Kenya: LSK] teaming up with the Public Law Institute and the National Council of Churches to be able to raise this. But I think that particularly around 1988 the first time and would say the last time Kenyans went to a general election using queue voting system.

I Ya

R Aaah

I Mlolongo [Swahili term for queue voting in which voters lined up behind their candidate or a name placard for the candidate. The elections were widely condemned as not only a violation of the concept of secret ballots, but because the Administration rigged results. Only this time people could see that candidates favored by the government within the one-party voting – won even when they had shorter lines. A magazine reporting the discrepancies, “*Beyond*,” edited by Bedan Mbugua (see below) was quickly banned.]

R Yes

I Although the National Council of Churches did play a leadership role but you find in terms of documentation of the problems that were associated with that were done by various institutions that were working very closely with this. I know like the Director of Public law Institute the late Dr. Ombaka did play a very important role in first of all sensitisation but using the umbrella of the church.

I What did he do; I am not aware of that

R Yah he went around with religious leaders trying to document aaah ,the flaws in there because

I In the system of queuing

R In the system of queue voting

I In addition to Bedan Mbugua and NCKK , did *Beyond* magazine..?

R Ya, you see what Bedan did was now to report as a journalist to amplify what had already come up as a report of a corporate report of NCKK

I Churches ,clergy men were counting votes in line?

R Yes

I And who asked them to do that?

R There was a lot of sensitisation by organisations like the Public Law institute behind the scene.

I So Ombaka asked the church members to do that

R Yes in fact if you wanted to know the history Public Law Institute was created actually by NCKK and Law Society of Kenya.

I Oh, by which groups? NCKK

R NCKK and LSK

I Oh, okay

R And during that time it was very difficult for a secular organisation to stand on its own and criticise the government. Because of the kind of immunity that the church enjoys, at least the clergy could stand and say we are the ones spearheading this.

I which clergy were spearheading that?

R Aah basically the NCKK and the Catholic church. Suppose there were individuals that were outstanding like the late bishop Muge, the late bishop Okullu, aah,

I Gitari?

R Ya Dr. Gitari ,aah Reverend Njoya ,yes and there were later on former Archbishop Manases Kuria. So those there are new bishops like father Wamugunda who have been very, very vocal on some of these issues.

I For example you have the counting as synergy various people working together?

R Yes

I And they weren't many at that time in terms of institutions and NGOS working openly?

R Basically it was individuals but who are trying to move some people within institutions to take lead.

I Could you?

R Because you can't even say the entire church was very happy with what Muge Okullu, Gitari and the rest were doing.

I Could you come in a little more because it's a particular topic I am interested in the role individuals in sort of getting things moving as opposed to whole organisations moving along. Have you got some more examples of individuals who played a key part in getting human rights advance in Kenya that you are aware ?

R Yes I could mention a number of individuals ,aah for example take Gitobu Imanyara who after a stint in prison and seeing the degree of human rights abuse ,both as a prisoner inside prison reflecting on the trial that sent him to

prison, came out very determined to be able to expose the human rights situation and he founded a paper single handedly.

I *Law Monthly*.(477)

R Yes and began exposing a lot of human rights abuses and providing a platform for those who wanted to speak out to be able to speak , I think that's quite important as an individual's contribution

R I would mention also the work of Dr. Gibson Kamau Kuria. ,aah I remember as a far back as 1992 when some of us were arrested . And later on charged with sedition . Gibson took cases of a number of students, aah, at the trial.

I Including your case?

R He didn't take mine directly; my family had managed to take another lawyer, but I still received a lot of free legal advice from him. But I remember out of the 67 students that had cases he'd almost 30 of them talking. Again in 1986, the time I was arrested and jailed, at the *mwakenya* [an underground movement the government pursued in the 1980s, including detaining and torturing suspected members. It was never clear how big a movement it was.] crackdown; he was one of those who dared to take the *mwakenya* cases because every lawyer was intimidated. So I think that is aah ,those were very important individuals contributions .Aah Dr. John Khaminwa,

I Hmmh.....

R It's a matter of public record that he tried to take a number of cases for the late Jaramogi Oginga Odinga when nobody would touch him. Aah and to the extent that he even dared take the case of the former chief , Mureithi when he was detained .That led to Khaminwa's own detention so aah,

I That's when he challenged the Presidents power to fire somebody?

R Exactly

I I have that, aah, one thing that's kind of puzzling me is that and am sure you'll get to the emergence of the NGOs later.

R Ya

I But in this period that you're talking about, the late '80s, it was quite dangerous to do anything. There were some organisations up front ,but there were also some individuals up front. It's too dangerous for organisations while it's not dangerous for individuals?

R Ya, but we must appreciate that organisations are moved by individuals ,and therefore the leadership in an organisation would make fundamental difference in organisational behaviour, so, aah in 1982 I was a student leader at the university of Nairobi, and because

I In what capacity?

R 1982, I was a member of the students representative council, I eventually became the Secretary General which was the Student Union.

I What does that stand for ?

R Students organisation of Nairobi University.?

I In what year?

R I was secretary general in 1983-1984

I 1984, okay

R Ya, but at that particular time the country was so terrified but some of us believed that if we don't speak nobody would speak so I remember when the KANU parliamentary group passed a resolution to make Kenya a one party state, nobody dared talk, so it was a few of us and I can mention a handful of students, who decided that the students must speak, and we did a memorandum, which I was one of the three people who walked to State House [President's office] and delivered this, telling [President Daniel arap] Moi that what you're doing is basically pursuing the opposition to the underground, it doesn't mean there won't be opposition. **[Key point]**

R So at the end of the day it was a few of us that did generate this but of course on records it is that SONU [Student Organization of Nairobi University??] did it. So it is very difficult to link

I But the three - did you get into the gate?

R Sorry

I Did you get into the gate?

R Ya we did, and we were stopped at the second gate and then they called the personal assistant to the comptroller state house who took the memorandum

I Okay ,did you have any repercussions because of that?

R Of course yes, aah, from then on I was constantly shadowed , there are a number of occasions I came to my room at the university and found it had been turned upside down. And my arrest in August 1982 immediately after the coup; I was sure it was linked to that because I was questioned about that repeatedly during the interrogation after my arrest.

I You were asked about the coup or you were asked about why you went to State House ?

R All those were asked.

I Okay

R Ya, that ,because the coup happened only two months [before] that, so what they were saying was that I was part of the planning of the coup and even this, that action was basically preparing the ground for revolution as they called it.

I How long were you in detention ?

R It was seven months

I You were tortured or mistreated ?

R Yah, I was ,...but this time there were other forms of torture because we were beaten in 1982.

I Well ,what did happen?

R It was like the denial of food they were kept incommunicado for quite a long time in a military camp because it was a GSU training school in Embakasi.

I In solitary?

R Pardon?

I In solitary confinement?

R It wasn't quite solitary confinement ,aah we were a number of us in a hall

I A hall?

R Yes, it was a dormitory for recruits ,GSU recruits.

I A hall?

R Ya, so you were meant to lie there you don't speak, you can't even talk to anybody although you could see your neighbour there but you're not allowed to speak because the GSU are there. If you want to go to the toilet you just raise your hand, they take you there; you are not supposed to talk ,aah aah when we got sick there was no medical treatment.

I You've raised a very good point I'll go back to the treatment , the earlier conditions were bad.

R Ya

I You've raised a very good point [about] an organisation: it's usually a few individuals that step forward especially when it's dangerous, why did you step forward ?

Motive for activism

R Aah that's a difficult question to answer I believe that as a human being .I deserved better. So it was basically that I wanted better, my freedom and I thought that I couldn't enjoy it in isolation. So it was my every duty to free the society so that when the society is free I would be free. So it was basically that because you if you fly away from taking action and everybody continues to shy away the only thing you succeed in is to continue shrinking the space you are occupying and I wanted to enjoy my space as an individual and to be able to move to associate as I wanted .

I Were you afraid when you went to state house? or were you afraid when you walked at the gate to statehouse?

R Definitely I didn't know what awaited me but I thought that it was something that had to be done...

I Were you afraid?

R Yes

I But you did

R Ya

I Let me go on then aah., Organisations go back to their ...?? led by a few individuals at various times .Were the same individuals at various times, were [they] active, say in the early 90s and late 80s, the ones who went on to create NGOS or public interest groups or was [there a] new cast of characters that came in after things opened up a bit?

Courageous individual activism followed, when safer, by ambitious & others

R Aah, am afraid to say largely the latter who were active as individuals in various groups at that particular time also did continue, But, yes, after the fruits of struggle of a few began bearing fruit and the space widened ,even those who I can say had been the other side ,began taking advantage of this space ,sometimes in a very positive way but am afraid some of them saw an opportunity for self aggrandisement.

I Hmm....

Others carried on with legitimate activism amidst some seeking mostly money.

R Ya, to the extent that there are some people who saw that now eeh (*tape recording interrupted*) because in early to mid 80s ,when we were taking this race, as you asked if I was afraid, yes I was afraid because you would go there and never came back. Yes, fortunately I delivered this and came back; I was

just arrested 2 months later ,but late '80s and beginning of '90s when the pressure had built sufficiently, it was now very easy for you to go to a donor and get money to do that, because there were these windows of people getting eeh, deriving personal gains out of this. You find that quite a number of players came into the scene. But there are those whom just because the space had widened, moved in and have played even a very prominent role in expanding that space.

I Hmh

R So where there are two kinds of groups that did take advantage of that space, ya.

Activism most individual till early 1980s; then mass participation in 97.

I Organisations that because would you agree that the period of around late 80s and early 90s was more of an individual effort while in 1997 the mass action was more of an organisation effort .

R Ya I would agree

I You seem to be reluctant about this .There s something you might want to comment on that I don't know what your observations were on that difference perhaps.

R No ,because you see even there was mass action at the end of the day ,you'd realise that there was a lot of individuals...

I Okay

R Yes I want to give you an example. Aaah when the entire political involvement was with the civil society, the mass action, you found that it was very easy to call people out and they would come out.

I Hmuh

R But when an individual left and went to the other side - and am talking of Raila Odinga - it became very difficult to mobilise because as an individual he's got some organisational capacity that most of us did lack.

I Ehe

R Ya aah the same way somebody like-

I That move to cross over, an individual to KANU in 2000 [Raila Odinga joined the ruling KANU party to, in his words in a separate interview with this researcher – democratize it or destroy it. He is crediting with weakening it.]

R It came in 1998

I 1998

R 98 immediately after elections it began

I So that took some more energy out of opposition?

R Yes tremendous energy out because there were attempts to organise mass action after that and they weren't as successful as they had been before because somehow Raila is very well connected in the slum areas and so on and they move with him wherever he goes.

I Ehe

R Ya aah same you'll find that somebody like Professor Kivutha Kibwana, he's got a very good rapport with the students community the youth for example

I yes

R So if he's there you'd see at least some degree of mass movement around the student community. So still there's that individual touch.
[Some activist youth leaders later expressed disappointment with Kibwana's performance when elected to Parliament.]

I Ehe

R But I still agree with you to the extent that we can say early '80s to late '80s there was almost ,we were almost creating martyrs in terms of people who are either heroes in the course of the struggle as individuals. But late '80s to early '90s at least people had began now appreciating the importance of mobilising and creating mass movements like [what] did happen around the original Saba Saba [attempted mass rally by the opposition which was broken up by police in 1990] like happened when they clamour for multi partyism caught up [approved by the President in 1991].

I November 1991

R '91 exactly, ya

I I am sorry, Saba Saba was actually 1990?

R Ya in fact its immediately after Saba Saba that I had to go to exile its after that.

I Hmmh

R Yes

I Tell me more about that: why?

R No because the police wanted to take me back to prison. They believed I was behind the mobilisation around that time

I So you went to Uganda?

R Yes so I went to Tanzania for one month then went to Uganda where I stayed virtually for those two years with a three months stay in Sweden.

I It wasn't easy.

R Aah it wasn't.

I You mentioned something I want to go back to and that is that even in mass action periods ,at least early '90s to 1997 that again the role of the individual crops up you mentioned

R Y a

I Could you explain a little about that?

R Y a, let me start aah, perhaps this may be linked to now my own part in this.

I Okay

R In 1992 after section 2A had been removed and now we had multipartyism, some of us did try to tell the political players that it is important that we address the whole issue of constitutional review before they went for elections. And that almost caught up [on] until some politicians said let us get power and then we will change the constitution later. I don't want to name the politicians because some of them are my still my friends (laughs) They kind of associated with the demand for constitutional review until the whistle was blown.

I Ya

R But in 1992, they told us point blank. So what happened is that a few of us who were committed to seeing fundamental change insisted that we must have, aah, we are not going to go anywhere without changing, eeh, revising the constitution. So we were less than 15 who continued meeting on a weekly basis and we called ourselves Coalition for National Convention. In fact I am happy you have that book here [*Constitution-Making from the Middle: Civil Society and Transition Politics in Kenya 1992-1997*; Willy Mutunga; SARET: Nairobi, Kenya. 1999.], Willy has documented part of that.

I Hmmh

R And for two years, we constantly engaged ourselves in this, trying to popularize the demand for a new constitution. And that is what led in mid-1994 to the coming together of what we call like-minded individuals to see how to give this an organisational and institutional phase. I think we were

about 10 people that met at Safari Park [a hotel at the edge of Nairobi] and discussed this and the way to take it forward.

I In 1994?

R Ya, and that included Dr. William Mutunga, aah , Professor Anyang' Nyong'o [member of Parliament and later a Cabinet member under the new Kibaki government after 2002]; Maina Kiai [former Amnesty International official who later headed up a national human rights commission under the new government of Mwai Kibaki].

I Excuse me , William Mutunga ?

R Maina Kiai, Anyang, Njeri Kabeberi [activist, later joined an opposition party]; Odenda?? Lumumba, who others? Odenda Lumumba , the late Chris Mulei ?? and a few other people

I Okay

R But I remember we were about 10 or 11 people. And that is when we decided that we should give this institutional anchor that would push it forward.

I Was human rights part of the agenda?

R Pardon?

I Was human rights part of the agenda that time? Political human rights?

R Basically we were focussing on the constitution which would definitely in our view address fundamental human rights

I Okay

R And that is when we identified three institutions to spearhead this, and that was the Kenya Human Rights Commission [private NGO], because Maina was a part of us. Willy was then the chair of Law society of Kenya and the late Mulei was the Director of the International Commission of Jurists.

I Kenya section?

R Ya. So that is how the whole idea of producing a model constitution came, that is what gave birth to the 4 Cs, the Citizens Coalition for Constitutional Change

I If you had then to look back at the various efforts that you have been involved in or that you are aware of, which tactics, which strategies actually were the most successful in changes in human rights ? Which ones would they be ?

R Ya, that would be difficult because I would look at it from a very narrow and individualistic point of view because, you see, sometimes you think that the village you live in constitutes the whole world. Aaah, because I remember

I Say that again, I'm sorry; it is an important point: I missed it

R Ya, what I was saying is that sometimes you take your village to mean your whole world to you because that is what you are familiar with

I Ya

Documenting torture and other rights abuses for international community: key tactic.

R So what I'm saying is, when I was arrested and imprisoned in 1986, with a number of others, and I met people there who had been there like before, Maina wa Kiai and others, we took it upon ourselves to try to make sure that the international community was aware of the human rights situation in Kenya. So we began documenting what, like the torture we had undergone at Nyayo House [a government high rise office downtown where much of the torture of political prisoners took place in the late 1980s and sometimes beyond]. Documenting like my situation: I knew exactly what was going on with the movement, having been a student leader, and documenting this. And from prison we opened communication with Amnesty International, Africa Watch, then which was part of Human Rights Watch [U.S.-based ngo].

I Hmmmh

R And there was constant communication where we were exposing what was happening, aah, both what we had undergone through, but also what was happening in prison, both to us as political prisoners and also the ordinary prison was highlighted a great deal because Amnesty International made very good use of this information

I Was it helpful, was it useful?

R Yes, it was

I In bringing about change?

R Yes, it was. I think this began in the international community, some of them, some of the people who had not known [what the] Moi regime was like, to be able to do that

I When was this then, when were you doing this?

R That was between 1986 and 1989 when I left.

I Oooh, okay

R So, I do believe that did play a very important role in terms of exposing the degree of human rights abuse, coupled with the clampdown the state itself was [making] on the press; the kind of various repressive legislation and practices that were going on.

I At the same time.

R Yes, I think all these coalesced to be able to expose the Moi government for what it was. Aah, at least be able to mobilise international outcry on the human rights situation in Kenya.

I And the International group in turn produced a report: I think in '87 by Amnesty [International, in London] which was kind of a ground breaking report?

R Exactly.

I I don't know Africa Watch in 1990 came in ?

R Ya, in 1990, in fact the first appendix there is my story.

I In the 1990-

R Ya, the 1990 report

I That is yours?

R Ya, they reproduced my experience there as a case study

I Of Embakasi [prison]?

R No, ya, a bit of Embakasi and what I went through in prison in 1986-89 , so it is documented there if you can get it

I I didn't know it is you

R Ya

I So , that was one tactic: international exposure?

R Ya

I And appealing to the groups [for] international to help?

R Ya, I think also sensitisation of the religious leadership , aah, was important because you see our society the way it is organised , the religious leaders have - they capture a lot of; our community has a lot of faith in religious leaders. So, whatever they are told in church, they take it very ,very seriously. So when the catholic church began using its vast infrastructure to begin with-

passing out sermons that were exposing the ordinary person to the degree of lack of freedom that they did have and therefore it began giving a number of people a lot of courage

I Hmmmh. Is that an important element- getting the ordinary person aware and feeling a bit braver in bringing about change?

Change came to Kenya because of a convergence of internal and external pressure

R Yes, because I do believe it was as a result of internal and external pressure converging. At the time there was internal pressure; but they were seeing this as isolated. In fact, for a long time they [the regime] believed those were a few radicals within the university making a lot of noise. But when ordinary persons began demanding freedom like this so called Saitoti committee in 1990 that went around the country to ask people what they wanted [after the fiasco of queue voting in 1988 President Moi sent his Vice President Saitoti out to hear what reforms people wanted; nothing came of it except people spoke out against the government] and people told them on to faces we want to be able to belong to different political parties; we don't want the kind of repression we are getting from local chiefs and that kind of thing. Even though they pretended that they didn't take it seriously, I think that jolted them [the regime] to realise the country was not [happy] with the status [quo].

I Let me spend some little time on your time and strength given to the NGO period and the relationship between '97 [and 2002]/ That was sort of the next big thing that happened, the mass action [in 1997]. Was that organised by individuals or by the organisations?

R Aaah, that was again, individuals [who] did play a very important role but I think we should give the organisations the credit they deserve

I Which ones?

R There were a number of organisations. I know like the NGO Council was quite involved, The religious community was highly-involved; The Law Society , [of Kenya was] very involved, The Kenya Human Rights Commission, aah , Women's organisations, so it was a conglomeration of organisations [and] political parties; political parties were very highly involved

I Hmmmh

Mass public involvement in 1997 protests

R Actually it was almost every democratic institution outside KANU . I t was both the politicians and the civil society.

Limits of mass action protests: objective not reached

I Does the very fact that the main goal of your group of 15 then 10 , and later the main goal of the push in '97 to have a new constitution, still the main goal, was not achieved, does that indicate that there are limits the civil society can obtain in an authoritarian state?

R Ya, definitely, there is because first of all the civil society organisations have got a very limited mandate. And the fact that some of these organisations could come out and overtly spearhead manifestly political enterprise was actually going beyond narrow minded as defined. For example if you look at the constitutional Law Society of Kenya, mobilisation of the population for political change does not fall within that. So because NGOs and other organisations of civil society have got a very limited mandate, yah, there is only a limited extent to which they can go. Ordinarily, it is confined to analysis and exposure. But **when it comes to mobilisation for political action, that requires now, at least some degree of individual political motivation rather than organisational energy.**

I So

R And that is why, that is why it was very strong as long as the political players in the name of political parties were with us, but when they decided to go to IPPG [Inter-Party Parliamentary Group, formed after the 1997 repressed protests to map out compromises with the regime in Parliament] (laughs) , you saw what happened [some small reforms].

I Ya, so , aah, was the whole effort to write a constitution so to speak from the middle as Mutunga says, was that a good tactic?

R Aaah, it might have not been the best tactic but I think under the circumstances it was like the only option available. Because you see articulation of why the societal interest inevitably
(interruption-end of side A of tape)

Attempted reform from the 'middle'

R Ya, what I was saying was that articulation of society, inevitably has its genesis from the middle class. So it is from there that it either goes up or goes down and that is invariably or even under , even if you look at communism which was ostensibly based on working class ideology and so on. If you look at the movers in socialist or communist states, they were middle class, whether it is Marx, or Lenin (laughs) or Castro-

I Ya, true

R So, I think that given the circumstances, this had to begin from the middle class.

I But it didn't succeed and maybe that does, as you said, show the limitation of the civil society.

R And if you say it didn't succeed, because you see success is important that we put it in context-

I Yes, how do you measure success?

A culture of resistance grows

R I think in movement building. I said in 1992 we were about 15 and there was a time when only about 10 people took this idea. In 1997, tens of thousands could come out on the streets and say we demand constitutional review,

I Hmmh

R Yes, to a great extent it is a success. I think it was how to sustain that, and this normally occurs because you have tactical mistakes made on the way and even though there was a lull after the IPPG , you can see that almost immediately , by 1998, again it had picked up. We had the discussions at Bomas of Kenya [at the edge of Nairobi], Safari Park and these acts which were revised so many times, aah , until the Ghai [constitutional reform] commission came in place so the pressure has been sustained over a period of time and I would not say there was a failure there. There have been setbacks but to a large extent there has been success because we are now talking of at least we have a draft; we don't know what we will do with it . But we have a draft (laughs).

I Bomas of Kenya. Tell me what that was; I wasn't here

R No, it was when, now the government itself came to realise that it has to talk with people who needed change

I It was KANU and the opposition?

R KANU , opposition, civil society organisations

I What year?

R That was 1998

I And Safari Park?

R It started early 1998, the first two major meetings were held at Bomas of Kenya and then people moved to Safari Park

I Okay, out of that came, is it Ufungamano house [site in Nairobi of many key political opposition gatherings]?

R Out of that came the Constitutional Review Act of 1998. [But the constitution was not revised until by a referendum in 2010.]

I Where is Ufungamano house related to that process; I'm a little confused?

R Ufungamano house came later when, after people had agreed and the Act had been put in place at the time of nomination of Commissioners, KANU again wanted to scuttle the process in terms of arguing about numbers and so on and refusing to proceed and then went and said that you can't call people from the streets to-

I But I had the impression that citizen groups started the constitution review by itself and that Moi said okay, we'll get Ghai .

R No, no, no. There was an Act in 1998

I Parliamentary act?

[Role of Ufungamano talks not fully explained here]

R Yes, where the civil society was supposed to nominate it's Commissioners, the religious leaders were supposed to nominate their commissioners, and each party was given a slot. KANU wanted to have more than they had been agreed to have and then the process from March 1999 up to December 1999, there was a stalemate. Then, eeh , using Raila, [Moi??] decided to start another process where they say it would be driven by Parliament, so that is when Ufungamano said we are going ahead and implement the act as it was and that is how Ufungamano initiative came about.

I (458) Let me ask you a clarification on a point that you have not had a chance to respond to. It is why people get involved in the human rights struggle. Some politicians, obviously, some professionals not politicians, some coming through say the NGO world for political freedom. But in a sense, three streams and then try to kind of summarise something you said earlier. But you have politicians , you have professionals-

R Ya

I In terms of professionals, lawyers and [people] like that. I'm not quite sure where you place NGOs in terms of this; in terms of some of those people pushing for, with the individual aspect. Here you'd have for example [Kenneth]Matiba [presidential candidate in 1992 and 1997]...some of the professionals like Mirugi Kariuki, I mean Kariuki Mirugi , moved from professionals into politics. So you have a movement in. Where do these NGOs fit into these? Some of those NGOs , the Mutungas, yourself and others?

R I think it is very difficult to draw a line between the professionals and NGOs

I Okay

**KEY POINT>Activists – mostly professionals.
NGOs mostly led by professionals: lawyers; academics, etc.**

R Because you will find that the leading lights in these NGOs that they have got engaged are also professionals. For example if you take Kenya Human Rights

Commission, the Director has always been a lawyer: [Maina] Kiai and then now Mutunga.

I Ya

R Yes, if you take Public Law Institute, Ombaka was a lawyer; Kituo Cha Sheria; it is always lawyers leading them and some other professionals like you will find some historians leading NGOs , some psychologists, some sociologists, ya

I Oyugi is a psychologist, Edward Oyugi?

R Yes, like Edward Oyugi is a psychologist, like Anyang' [Nyong'o] who is both a politician and somebody from the civil society.

I Okay

R He is a political scientist. So ya, it is still professionals , ya.

I Hmmh. So there are in there as professionals and they are also in the NGO, I mean it is one and the same.

R Ya

I And some of them drift off to here and some-

R Yes, exactly

(475)

I So it is a two way street..??

R Sure.

I I wanted to ask you because if you -it is an important point

R Ya, and I will beg to leave at this stage. So I will tell him [??] that you are a very well respected crusader for human rights, that is happening in our institutions of higher learning , the students are being expelled on very flimsy grounds, there is a lot of torture taking place, certain courses being disrupted because even the textbooks are being removed from the libraries and so on

I In 1993, 1994?

R No, that was slightly earlier.

I 1992?

R 1989; 1990

I Okay

R But 1993, 1994, that was when we were now thinking of how to find a way out of the impending constitutional crisis.

I Ya

R So, Anyang' Nyong'o, Edward Oyugi and myself and a few other people convinced the church leaders, because we knew that there is the kind of recognition that they get from the ordinary person, that a process they lead would have a lot of credibility. So we started something called Friends of Democracy, which was to be spearheaded by them. We included Bishop Okullu, we included Bishop Ndingi, we included Reverend Njoya and this Bishop Ndamburi??, I think was also there.

[researcher note: importance of knowing your historical facts before key interviews – or at least the key players. Here, with the passage of time, some key names were left out until the interviewer asked about them.]

I Gitari, Gitari?

R No, I don't think Gitari was in that.

I Ndingi, the archbishop now?

R Yes

I Njoya; Okullu?

R Yes

I And they were the Friends of Democracy or you were the Friends of Democracy ?

R They were the Friends of Democracy but we were giving them the back up.

I And the idea behind an entity like that or a signal like that , what is the message?

R No, it was about, actually what we wanted to sell - the whole idea of putting in place a government of national unity in which [we] would prepare for constitutional changes to level the playing ground for all political actors. [A key reform sought was reduction of the immense, colonial-era powers of the President still in the constitution.]

I Yes, they did?

R Ya, they did

I A national unity government means the incoming government steps out and a constitutional , I mean citizens assembly steps in and it becomes a citizen's government for a while alright?

- R Ya, now the way we were thinking of it is, a government steps aside, we have an interim arrangement where all political actors would be part of the government. [This occurred as 'national conferences' in several West African countries in the early 1990s; it never happened in Kenya.]
- I Like a national conference ?
- R Ya. And preparing the ground for an agreed period of time to put in place systems and institutions that would make every player able to compete equally
- I Well, I mean you have been a prisoner of Moi's government: did you expect him to step down?
- R Aah, that one. I didn't have very high expectations but I have also learnt Moi over a period of time, Moi can do anything under pressure.
- I What makes Moi move? What makes him change?
- R That one I won't be able to know.
- I But you mentioned
- R But I know that sufficient pressure aah , from citizens makes him think twice
- I Okay , I will let you go.

[End of interview]