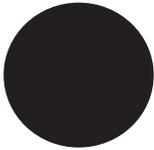


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Violence and Elections: Will Kenya Collapse?

Jacqueline Klopp and Prisca Kamungi

Kenya, the island of peace in the volatile Great Lakes region of Africa, recently experienced violence of alarming proportions. After the contested presidential elections on December 27, 2007, hundreds were killed, thousands wounded, and hundreds of thousands displaced; property and infrastructure worth billions were destroyed. Kenyans, who voted peacefully and in unprecedented large numbers, were shocked and enraged first by the fraudulent election and then by the violence that terrorized large parts of the country. International observers seemed similarly stunned and unsure of how to respond; long considered the stable country in a region wracked by war, Kenya's violence has serious implications for the entire East Africa/Great Lakes region.

Much of the commentary and analysis so far has focused on the fraudulent election and hasty declaration of incumbent Mwai Kibaki as president. Yet, the violent events following the election were by no means necessary or pre-ordained. How do we understand this violence? What does it mean for the future of the country and the region? Will Kenya share the bloody fate of its neighbors?

Kenya is a regional UN hub, home to numerous refugees and an important economic player in East Africa. If it is headed towards war and disintegration, then the entire region, and indeed the world, will be deeply and adversely impacted.

Few dispute that the election was flawed. European Union observers and

Kenyan election monitors reported many anomalies: unusually high voter turn out, lack of access to voting centers, names missing from registers, questionable voting hours, party agents and police officers killed. Most important, the government body tasked with overseeing the election, the Electoral Commission of Kenya (ECK) showed clear signs of manipulating the vote counting with bias towards the government.¹ As a result, the ECK chairman says he does not know who actually won the presidential election. Five ECK commissioners distanced themselves from the announced results. Reportedly, both President Mwai Kibaki's Party of National Unity (PNU) and Raila Odinga's Orange Democratic Movement (ODM) rigged votes in their strongholds. Both parties maintained they won, but under pressure the ECK declared Kibaki winner; on December 30, 2007, he was sworn in as president in a secretive ceremony. Violence followed quickly.

Much analysis has focused on the rigging and the jostling for power between two powerful leaders and their ethnic followers—Mwai Kibaki (Kikuyu) and Raila Odinga (Luo). The Kikuyu are Kenya's largest ethnic community (about 22 percent of the total population). Among many others are the Luhya (14 percent), Luo (13 percent), Kalenjin (12 percent), and Kamba (11 percent). Politicians used ethnicity to mobilize votes and deliberately create divisions between the Kikuyu, who voted largely for the Party for National

Unity, and the Luo and Kalenjin, who voted largely for the Orange Democratic Movement. Some local language radio stations made the situation worse by broadcasting inflammatory or hateful messages.²

Though politicians fanned ethnic animosity, this does not adequately explain the violence. It needs to be disaggregated and analyzed carefully; we need to better understand the various kinds of violence and each side's responsibility. It is also necessary to grasp whether the violence is likely to escalate out of control into civil war or diminish over time.³

Since the election was so clearly fraudulent, a great deal of understandable protest emerged. The anger at the botched election was real and palpable. The opposition ODM capitalized on this, insisting that it had won the election. They organized mass demonstrations demanding Kibaki's resignation. Much of this was initially peaceful but the government responded by using excessive force. In many cases, police used live ammunition and, according to Human Rights Watch, were responsible for the deaths of at least 81 people between December 27, 2007, and January 24, 2008, and many more since then.⁴ Worst hit were the slums of Nairobi and the city of Kisumu, an ODM stronghold in Western Kenya. Complicating the situation in Kisumu, unruly youth used the opportunity to loot and extort money from locals, putting additional strains on the police. As the crisis spun out of control, pro-ODM and pro-PNU gangs added fuel to the fire, clashing with each other and driving tens of thousands from the slums.

There have long been notorious gangs in Nairobi's sprawling, dense slums. These gangs are products of previous cycles of violence and many members have been recruited from among those traumatized and displaced from clashes ignited by previous elections. They have given themselves names like the Taliban, Baghdad Boys, and Mungiki (Kikuyu for "the multitude of the people"). These gangs are almost entirely di-

vided along ethnic lines and maintain strong links to friendly politicians. Mungiki, in particular, are a much feared group with a large membership and influence in the slums. They are known to have links to Kikuyu politicians in the Kenyan government. But ethnic minority gangs also have links to governmental power. For example, the ODM presidential candidate Raila Odinga has been the member of parliament (MP) for Langata, a division of the Kibera slum. He has a history of stirring up ethnic tensions as part of campaign strategy. In December 2001, when Odinga was a cabinet minister, he demanded that landlords in Kibera (who were predominantly Kikuyu) lower their rates by 50 percent for renters—many of whom were Luo. Machete wielding gangs of Odinga supporters went around enforcing this "policy" and, in the process, 15 people were killed.⁵

Another form of violence involved the targeted ethnic cleansing of Kikuyu by ODM politicians and supporters in the Rift Valley. Sadly, some of this violence—in places like Kuresoi/Molo—appears to have been planned well in advance of elections, and it is unclear whether the killings would have taken place regardless of the election outcome.⁶ Ethnic militias with hundreds of warriors loyal to ODM systematically sought out and killed Kikuyu, burning their homes, businesses, and property, and taking over their land.⁷ In Eldoret, women and children were burned alive in a church and murdered in their homes. Hundreds were killed (we do not yet know the precise number) and tens of thousands displaced. Then, as the displaced from the Rift Valley moved toward the cities of Nakuru and Nairobi with tales of horror, Kikuyu youth, some recruited from the displaced and with help from Mungiki, organized revenge attacks on innocent Luo and Kalenjin civilians.

While the world watched in horror, both sides of the political divide—the incumbent PNU and opposition ODM—tried

to capitalize on the violence and confusion to grab power. The government used ODM-incited violence to justify declaring opposition meetings and protests illegal. They attempted to enforce a silence: placing a ban on the media and instructing the police to harass and kill ODM protestors who were acting well within their democratic rights. For its part, ODM appeared to be using the violence as a bargaining chip, fanning the flames in order to push the government to re-capitulate or, at a minimum, accept a power-sharing agreement.

Historical Legacies

While many were shocked by Kenya's violence, from a historical perspective, it was less surprising. Kenya has been under repressive government since its colonial formation nearly half a century ago. Although Kenya has a parliament, the president's office has enormous concentrated power, including power over land allocations, a key resource in an economy reliant on agriculture and tourism. From independence in 1963 until December 2002, when Kibaki and his National Rainbow Coalition (NARC) came to power, the dominant Kenya African National Union (KANU) ruled the country. When the first KANU president, Jomo Kenyatta, died in 1978, he was succeeded by Daniel arap Moi, who stayed in power, like his predecessor, through a combination of patronage and repression. Both these presidents—the former Kikuyu, the latter Kalenjin—used their power to reward a small group of supporters with business opportunities and, most crucially, land.⁸

Land has been a key issue in Kenyan politics ever since the British colonial government claimed large tracts of fertile land in the Central Province and the Rift Valley for white settlement and abetted grossly unequal property relations between ethnic communities along the coast. At independence—prodded by the 1950's Mau Mau rebellion over land rights and freedom, which claimed as many as 13,000 Kenyan

lives and led to the arrest of an estimated 70,000 Kikuyu tribesmen—President Kenyatta quickly moved to recentralize power in the office of the president. Land owned by displaced white settlers was bought on a “willing buyer, willing seller basis” and turned into settlement schemes. Elites, especially Kenyatta and his family, gained access to large tracts of land and pushed the poorer Kikuyu, many of whom fought in the Mau Mau rebellion, into informal settlements in Nairobi or farther afield in the Rift Valley in search of small pieces of land opened up by the sale of settlers' farms. President Moi, a close associate of Kenyatta, followed the same pattern when in office—accumulating land and businesses through political power and deepening the marginalization of Kalenjin poor.

The historical misallocation of property through the executive branch helps explain the salience of land issues as a focus of presidential campaigns, especially in the Rift Valley and along the coast. The legacy of ill-begotten wealth that President Kenyatta bestowed upon his family and cronies is still existent, generating land inequities and tensions that informed the unofficial ODM campaign strategy of rhetorical attacks on “Kikuyu domination” and greed. ODM promised that, if elected, they would ensure that marginalized groups were given rights to land. This made the contest for the presidency a particularly high stakes game.

Kenya's countervailing institutions to entrench the rule of law and protect human rights are weak and efforts at reform still nascent. Kenya's police, for example, have always been notorious for their brutality. Before the botched election, the Kenyan National Human Rights Commission had linked them to many recent extra-judicial killings of innocent Kikuyu youth in the slums as part of the fight against Mungiki.⁹ Corruption within the police force has long been a problem: protection-for-pay rackets

were widespread in the wake of the election. In some cases, wealthy families paid police officers substantial sums to protect relatives targeted by militias. The police are also fractured along ethnic lines; in the recent violence, while many worked hard to protect innocents, others took sides, following ethnic allegiances and abetting killings of civilians in Kisumu, Nairobi, and the Rift Valley. Unfortunately, this partisan behavior is near universal; it extends throughout the bureaucracy, down to the civil servants in the provincial administrations that interact most regularly with average Kenyans.

Another key legacy of the violence can be traced back to the 1990s. When multi-party politics was reintroduced in December 1991, politicians in the then-dominant KANU Party whipped up ethnic hatred, and displaced and disenfranchised members of rival communities as a means to hold onto power. In the 1990s, KANU politicians who took a hard line against giving up a monopoly on power also revitalized the notion of *majimbo* federalism, which implied a devolution of power but was widely understood to mean the creation of ethnic enclaves to allow the repossession of land from “outside” communities through intimidation. Promising land in the Rift Valley, in particular, became a key part of KANU electoral campaigns. Gerrymandering became pervasive and occasionally violent: unwanted “spots” of Kikuyu and Luo voters were cleansed from key KANU constituencies which helped win the elections of 1992 and 1997. Despite official recognition of this orchestrated violence by two government commissions and numerous international and national human rights reports, known perpetrators and the leaders who sponsored this ethnic violence have escaped prosecution.¹⁰ In fact, some perpetrators still hold powerful positions in both PNU and ODM—the latter has sadly adopted the *majimbo* platform and its corollary practice of ethnic cleansing.

In 2002, Mwai Kibaki and Raila Odinga joined forces, forming the National Rainbow Coalition and defeating Uhuru Kenyatta, Jomo Kenyatta’s son and Moi’s chosen successor in KANU. Kibaki became president, inheriting the centralized and opaque power of the executive, and promised constitutional reforms that would make Odinga prime minister in a power-sharing arrangement. But, though Kenyans enjoyed the unprecedented freedoms of speech and assembly and high economic growth during the early years of the Kibaki presidency, many, especially the young and poor, remained excluded from the benefits of these changes. Worse, Kibaki eventually reneged on his promise of badly needed constitutional reform and dithered rather than truly fight corruption.

Squabbles over power and the rise of an ethnic chauvinist clique around Kibaki isolated Odinga, who never rose above the post of cabinet minister during Kibaki’s reign. This slight helped push him into the opposition, and he quickly drew his supporters to the cause. The fall-out from the failed power-sharing government was acrimonious: leaders on both sides reverted to base ethnic stereotyping as the political row developed.

As the campaign heated up for last year’s presidential and parliamentary elections in Kenya, animosity persisted and ethnic slurs intensified. Kikuyu PNU politicians who supported Kibaki ran on his record of economic growth and reform. They consolidated their base on a platform of continued reform but also appealed to Kikuyu nationalism. Some made disparaging comments about Luo beliefs and cultural practices with the aim of raising doubts about Odinga’s fitness to take the presidential post.

For their part, some opposition politicians openly and covertly stoked ethnic hatred against the Kikuyu, citing the political behavior of Kibaki and his clique as arrogant and greedy. Indeed, the Kenya National Human Rights Commission censured a top ODM politician, William Ruto,

for hate speech during his campaign for parliament and many witnesses allege that, following the elections, he was a key architect of the orchestrated violence against Kikuyu in the Rift Valley.¹¹ While Kenyans overwhelmingly followed legal procedure and voted peacefully in large numbers, the aftermath of the botched election was terribly violent.

Immediate Consequences

Violence on both sides remains a key issue and has altered the political landscape and thus options for a resolution to the disputed elections. How do you hold an election re-run—as the opposition originally demanded—when so many are dead and displaced? Hundreds of thousands of voters have been displaced and effectively disenfranchised. This is the electoral fraud technique that KANU perfected: gerrymandering by moving people instead of boundaries. Given the political bickering and counter-accusations of rigging, it is impossible to revert to the previous political conditions. Thousands of voters cannot travel to vote due to insecurity, and even if they did, intimidation and the threat of violence would surely play a factor in the voting process. More critically, Kenya imminently requires peace-building efforts and reconciliation. But this takes time, and even this is no guarantee that violence would not follow another attempt at fair elections.

Another key issue, of course, is that key PNU and ODM politicians may now be guilty of inciting atrocities that should, if Kenya follows a path of reform, exclude them from power. Yet, Kenya is unlikely to walk this road. In any political pact that might be attempted, strong interests on both sides may once again sweep under the rug a thorough investigation into the violence, a necessary step towards truth, justice, and reconciliation. Already the moral debate is ethnicized; ODM politicians and supporters point to the victims of police killings in Kisumu or Kibera as evidence of a renewed cycle of the re-

pressive politics of the past. PNU supporters point to the victims of ethnic cleansing as evidence that ODM has a propensity to violence and destruction, reflected in the party's embrace of recycled KANU perpetrators of violence in the 1990s. Not until a clear accounting is there for all to see will a united moral dialogue emerge that might begin to heal some of deep wounds in Kenya's social fabric.

This reconciliation and healing may not soon happen, however, as violence has exacerbated the problems that may be Kenya's ultimate unraveling. There are now millions of idle, poor, jobless, and angry youths, many of whom have seen their loved ones killed by the police or ethnic rogues, and who listen to local language radio stations, like KASS FM, that have been implicated in spreading hate messages and encouraging violence. According to the Kenya Red Cross and government sources, 290,000 persons have been forcibly displaced from their homes in the post-election violence. To this figure we must add the approximately 350,000 who remain internally displaced from violence following Kenya's elections in the 1990s.¹² Once a refugee of security in the eastern Great Lakes region, Kenya now has a burgeoning humanitarian crisis on its hands. Worse, it is nearly impossible to adequately address the problems of this mass population of traumatized, displaced people until violence subsides. These poor and newly displaced are a ready reservoir for recruitment into organized underground groups similar to those that caused much violence in Burundi and Rwanda. Already, we have seen a resurgence of the shadowy, murderous Mungiki, which has gained support from victims of the ethnic clashes and has put its swelled ranks to nefarious use, attacking Luos in the towns of Naivasha and Nakuru.

The economy is also in tatters, compounding the distress of millions. Kenya's key industries, agriculture and tourism, have been hit hard.¹³ As in previous spates

of rural violence, agricultural production has declined and the transportation of vital goods has been disrupted by roadblocks and destroyed rail lines. PNU Finance Minister Amos Kimunya suggests that, as of January 7, damage from the violence totals \$1 billion.¹⁴ Investor confidence is clearly eroded: total equity market values on the Nairobi Stock Exchange dropped by about \$600 million on December 28, and continued to lose value over the next two weeks. The Kenyan shilling hit an 8-month low against the U.S. dollar. Some suggest that even if calm is restored, Kenya may lose two to three percentage points of gross domestic product growth over the next couple of years.¹⁵

Regional and Global Implications

Beyond Kenyan borders, the violence has impacted a region suffering from low economic development and civil wars. And, as the island of stability among its neighbors, Kenya's pains are acutely felt nearby. As one respected analyst suggested, "If Kenya's got a cold, neighboring countries get pneumonia."¹⁶ The land-locked countries of Burundi, Rwanda, and Uganda (as well as eastern Congo) depend on Kenya's road and rail lines to deliver essential goods, especially fuel. Uganda already has experienced fuel shortages and substantial fuel price hikes that have had ripple effects on the rest of the economy.¹⁷ If Kenya, the most industrialized country in the region with the largest port on the eastern coast of Africa, continues on its path of violence and economic disruption, we will likely see widespread food shortages, inflation, job loss, and increased poverty and instability across the region.

Kenya's fragile neighbors, Sudan and Somalia, are engulfed in violence. Likewise, Uganda and Ethiopia are still unstable, suffering from years of civil war. As the regional hub for all relief operations, Kenya is also home to large numbers of refugees from these nearby countries. Now, as a result of violence at home, fleeing Kenyans

are becoming refugees in Uganda and Tanzania. Worse, Tanzania, the last stable country in the region, already has large numbers of refugees and may end up with many more—putting great strains on this desperately poor state.

Kenya's descent into violence has upset regional diplomatic efforts to find peace and stability. The Great Lakes Process and similar efforts by the African Union to address regional problems will be put on hold until Kenya stabilizes. If Kenya fails to recover quickly, efforts to stabilize the entire region will be less likely to succeed. As Paul Collier of the World Bank notes, continued violent conflict will lead to accelerated brain drain, capital flight, poverty, increased transmission of HIV/AIDS, illegal arms trafficking, and crime. And, one dimension that seriously concerns security analysts in Washington is that increased instability in Kenya might allow al Qaeda or another terrorist organization to again operate against U.S. interests in the region. Certainly, tensions are higher now than in 1998 when the U.S. Embassy in Nairobi was bombed.

The Way Forward

Regionally and globally, virtually every nation has a strong interest in a stable, peaceful, and prosperous Kenya. Stability will depend not only on quelling the immediate violence, but in uncovering the roots of these unfortunate events, which are deeply grounded in historical patterns of injustice. In the near term, however, no peace is sustainable unless the violence perpetrated by both sides is subjected to an independent investigation. Such an independent investigation might be spearheaded by the United Nations, but must involve respected Kenyans. Its aim should be to find out the truth behind the police killings and the ethnic cleansing. Laying shared responsibility for Kenya's recent horrors on both sides may reduce the polarization that now exists and allow for a unified, national

accounting and mourning. Ideally, a rejuvenated parliament should now demand that a commission of justice and reconciliation be constituted. A new election may need to be held in the not-too-distant future, but right now it is impossible to guarantee the safety of voters, let alone the security of 290,000 displaced people.

Kenya must set up a mechanism to respond to the current crisis of internal displacement. While the Kenyan government has not passed legislation to make the UN's Guiding Principles on Internal Displacement national law, it has signed with ten other regional governments the Security, Stability and Development Pact of the Great Lakes Region, which contains the Protocol on the Protection and Assistance to Internally Displaced Persons. This document is legally binding and should form the basis for the formulation of a national policy on displaced persons and aid the development of an institutional response mechanism. The thousands displaced from past violence have languished, but the greater visibility of the current plight may translate into stronger action and pressures upon the government to protect these vulnerable victims.

Finally, despite decades of violence and simmering ethnic resentment, international actors have neglected peace-building and post-conflict work in Kenya. This needs to change. Although fractured itself, civil society must play a key role in these efforts. Average Kenyans must be encouraged to engage in a frank public dialogue about the fraying of the nation's worn social fabric since the election and the long lingering injustices about land, political power, and past violence. If they are not, Kenya's future is likely to follow the alarming trend of its neighbors in the Great Lakes region, widening the already great misery of a long suffering part of the world. ●

—February 16, 2008

Notes

1. Kenyan Elections Observers Log: December 29–30, 2007, available at www.knchr.org/dm/documents/KPTJ_Press_Release.pdf. See also the testimony of Election Observer Joel Barkan at www.senate.gov/%7Eforeign/testimony/2008/BarkanTestimony080207a.pdf.

2. "Kenya: Spreading the Word of Hate," IRIN, February 11, 2008, available at www.irinnews.org/Report.aspx?ReportId=76346.

3. Jacqueline M. Klopp and Elke Zuern, "The Politics of Violence in Democratization: Lessons from Kenya and South Africa," *Comparative Politics*, January 2007, pp. 127–46.

4. Human Rights Watch, "Kenya: Opposition Officials Helped Plan Rift Valley Violence," January 24, 2008, available at <http://hrw.org/english/docs/2008/01/23/kenya17859.htm>.

5. "The Quest for Human Dignity: Kibera Violence" by Peace-net and Kibera Youth Program for Development, 2001. Also see Tom McKinley, "Kenya's Slum War," BBC News, December 7, 2001.

6. Kuresoi Report for the IDP Network of Kenya, unpublished manuscript. Also see C. Bryson Hall, "Ghost of Moi Surfaces in Kenya's Violence," Reuters, January 11, 2008, available at www.reuters.com/article/worldNews/idUSHUL0814202008011.

7. Human Rights Watch, "Kenya: Opposition Officials Helped Plan Rift Valley Violence."

8. Republic of Kenya, *The Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Land* (Nairobi: Government Printers, 2004), available at www.marsgroupkenya.org/pages/stories/Ndungu_Report/index.php. See also Jacqueline M. Klopp, "Pilfering the Public: The Problem of Land-grabbing in Contemporary Kenya," *Africa Today*, vol. 47, no. 1 (2000), pp. 7–26.

9. Kenya National Commission on Human Rights, Commission Report on Extra Judicial Killings, November 2007, available at www.marsgroupkenya.org/pages/stories/KNCHR_Report. See also *Mission to Repress: Torture, Illegal Detentions, and Extra-judicial Killings by the Kenyan Police* (Nairobi: Kenya Human Rights Commission, 1998).

10. Republic of Kenya, *Report Of the Judicial Commission Appointed to Inquire into Tribal Clashes in*

Kenya, 1999, available at www.marsgroupkenya.org/pages/stories/Akiwumi_Report.

11. C. Bryson Hall, "Ghost of Moi Surfaces in Kenya's Violence." See also Nick Wadhams, "Kenya Killings Raise Specter of Wider Ethnic Bloodbath," *Cox News*, January 13, 2008, available at www.statesman.com/news/content/news/stories/world/01/13/0113kenyaunrest.html. Kenya National Commission on Human Rights, "Still Behaving Badly," Second Periodic Report of the Election-Monitoring Project, December 2007.

12. Prisca Kamungi and Jacqueline M. Klopp, "Failure to Protect: Lessons from Kenya's IDP network," *Forced Migration Review*, vol. 28, 2007, pp. 52–53. See also "'I am a Refugee in My Own Country': Conflict-Induced Internal Displacement in Kenya," Internal Displacement Monitoring Center, December 19, 2006, available at [www.internal-displacement.org/.../\\$file/Kenya%20Special%20Report%20Dec06.pdf](http://www.internal-displacement.org/.../$file/Kenya%20Special%20Report%20Dec06.pdf).

13. "Economy, Tourism Hurt by Kenya Chaos," Associated Press, January 11, 2008, available at http://ap.google.com/article/ALeqM5h9saG-9XKgTerSb_vV48N—yfcXAD8U3H5R80.

14. Cedric Lumiti, "Kenya: Heavy Revenue Loses Begin to Hurt," *East African Standard*, January 14, 2008.

15. Washington Gikunju, "Stock Exchange Closes Early Amid Fear of Violence," *Business Daily*, January 4, 2008, available at www.bdafrica.com/index.php?option=com_content&task=view&id=5111&Itemid=5812.

16. Katie Nguyen, "Kenya Economy Sifts through Post-Election Wreckage," Reuters, January 11, 2008, available at www.reuters.com/article/worldNews/idUSL1139195020080111.

17. Alex Halperin, "Kenya's Violence Chokes Flow of Goods to the Region," *Christian Science Monitor*, January 24, 2008, available at www.csmonitor.com/2008/0124/p04s01-woaf.html.