KENYA VIRTUAL ISSUE

INTRODUCTION

The Kenyan Elections of 2007 and their violent aftermath inspired a burst of academic productivity, including a number of articles that have informed the pages of *African Affairs* over the past five years. Having told us much about the causes and consequences of what has become known as the ‘Kenya crisis’, this work also has a great deal to say about the dynamics of Kenyan politics today and the prospects for conflict and instability around the next general elections, scheduled for 4 March 2013. It is because these articles remain so relevant – for policy makers and Kenyan political leaders as much as for the academic community – that we decided to collate the best of our recent publications on Kenya into an open-access Virtual Issue.

It is hard to overestimate the impact of the 2007 elections on Kenya. Following largely peaceful voting on 27 December, the counting process descended into farce, sparking accusations of malpractice by the opposition and European Union election observers. Against this backdrop, the controversial announcement on 30 December that President Kibaki had won a second term in office, coupled with a hastily arranged swearing-in ceremony, sparked a wave of violence in which over 1,000 people lost their lives and 600,000 more were displaced. There were multiple sites of conflict. Some ethnic communities supportive of the main opposition candidate, Raila Odinga, rioted and attacked communities assumed to have supported Kibaki, most notably in the Rift Valley. In response, the police violently repressed the protests, while militias aligned with the ruling party carried out ‘revenge attacks’. In the space of just a few weeks, public trust in political leaders and institutions, which had been building gradually since Kenya’s first democratic transfer of power in 2002, was shattered. Inter-communal relations also rapidly deteriorated as violence hardened identities and made it easier for extremists on both sides to justify ethnic chauvinism. In the years since the elections, the number of guns and weapons in circulation has increased, especially in the sites of conflict, as fearful citizens hope for the best, but prepare for the worst.

Regionally and internationally, the impact of the ‘Kenya crisis’ was also significant. The violence closed the port of Mombasa, which neighbouring East African countries rely on to import and export their goods. As a
result, the price of fuel increased dramatically in Uganda, while the whole East African region, including Kenya, suffered a costly slowdown in economic growth. The international community also got sucked into the crisis: first, when Western donors eviscerated themselves for not having anticipated the violence; then again, as a number of regional and international governments threw their support behind Kofi Annan’s efforts to mediate a power-sharing agreement between the rival parties; and finally, as a result of the intervention of the International Criminal Court, which launched proceedings against six of the high-profile figures alleged to have committed ‘crimes against humanity’ during the post-election violence. The Court ultimately pressed charges against four of the men, including prominent opposition leader, William Ruto, and the Deputy Prime Minister, Uhuru Kenyatta.

The impact of the 2013 elections may prove to be just as profound and far-reaching. Although Kenya passed a new constitution that has devolved some power away from the President and created 47 counties as part of an effort to decentralize power, many of the drivers of the 2008 conflict remain. The power-sharing government will be dissolved ahead of the elections and although the new constitution has introduced a run-off to ensure that the winning candidate receives 50 + 1 percent of the vote, the electoral system remains highly majoritarian: the post of Prime Minister has been scrapped, and whoever loses has no safeguard that they will be offered any government concessions. Although the electoral commission has been reformed, it is already behind in preparations for 2013. And despite its good intentions, the impact of the new constitution has been blunted by the fact that many provisions will only come into effect after the next elections, which means that whoever wins will be able to shape their implementation.

Perhaps even more significantly, little has been done to disarm militias or to reform the police. This is particularly worrying, because the stakes in the 2013 elections are just as high as in the 2007 polls. The ICC’s intervention led to the formation of a new alliance between Kenyatta and Ruto, who, despite having fought on different sides last time, are now united by their fierce hostility to the main opposition leader, Raila Odinga, who is said to have supported the international prosecutions.

It is therefore as important as ever to understand what went wrong in 2007 and what has happened since. The articles collected here make a significant contribution to this effort. Branch and Cheeseman show how the Kenya crisis can be understood as the product of four long-term trends: the creation of rigid communal identities, the informalization of state institutions, the evolution of a deeply divided political elite, and the gradual
diffusion of capacity for violence to non-state actors. Whereas Kenyan politicians colluded to demobilize popular pressure from below during the one-party era, the onset of political competition and the repeated abuse of office by those in power provided leaders of all stripes with incentives to mobilize their supporters – whether voluntary ethnic communities or paid militias – to challenge the status quo. As senior political actors with links to different election gangs drifted in and out of power, taking their militias with them, the state lost its monopoly over the means of coercion. It was this decentralization of violence, combined with a particularly tense and close election between Kibaki and Odinga, that pushed Kenya towards civil conflict. Sadly, there is little evidence that any of these trends have been reversed over the last four years; if anything, they have intensified.

But while the violence often manifested itself along ethnic lines, subsequent research has demonstrated that it is a mistake to see the Kenya crisis as simply being the result of ancient ethnic animosities. For one thing, about a third of those who died appear to have been killed by the police, rather than by fellow citizens. Indeed, the vast majority of Kenyans remained peaceful throughout the troubles. The dynamics of the ethnic violence that did occur were also more complex than they appear in many accounts. As Sarah Jenkins shows, the Kenya crisis was not simply the product of poor leadership; rather, it was driven by both both top-down and bottom-up factors: ‘autochthonous discourses of belonging and exclusion engendered an understanding of ethnic others as “immigrants” and “guests”, and these narratives of territorialized identity both reinforced elite manipulation and operated independently of it.’ Significantly, Jenkins argues that in many cases ‘immigrant’ communities live, and politically participate, in peaceful coexistence with their neighbours. Violence is not the norm, but becomes more likely when communities seen to be ‘settlers’ or ‘guests’ wish to support a candidate or party not favoured by self-proclaimed ‘indigenes’. It was precisely the refusal of many Kikuyu voters in the Rift Valley to join their Kalenjin neighbours in support of the opposition Orange Democratic Movement (ODM) that laid the foundations for the worst of the violence in the Rift Valley in early 2008.

A similarly complex story emerges from Clemence Greiner’s analysis of livestock raiding among northern Kenyan pastoralists. Greiner suggests that the dynamics of violence are changing, with raiding becoming ‘increasingly enmeshed in politicized claims over administrative boundaries, struggles for exclusive access to land, and attempts to establish or

safeguard an ethnically homogeneous electoral base’. On the basis of ethnographic fieldwork in East Pokot, Greiner argues that the political landscape identified by Branch and Cheeseman has transformed livestock raiding into a ‘specific form of violent regulation, a well-adapted, dangerous, and powerful political weapon’. The importance of Greiner’s work is that it demonstrates the way in which political competition can play into, sustain, and magnify local tensions and disputes. Worryingly, Greiner suggests that this insidious process has become more pronounced in the last decade, particularly in the years following the Kenya crisis. Unfortunately, the conflation of local, regional, and national disputes is likely to continue apace as leaders seek to mobilize support for important new positions created under the new ‘decentralized’ constitution, such as the powerful post of county governor.

But although such processes may have intensified following the introduction of multi-partyism, it is also important to recognize that the Kenyan state has played divide-and-rule politics in both the colonial and post-colonial eras. Emma Lochery’s perceptive analysis demonstrates this point well with regards to the government’s treatment of its Somali citizens. Analysing a state screening process organized in 1989 to differentiate citizens from non-citizens, Lochery shows that ‘public debates about citizenship in Kenya have not just been about drawing lines between insiders and outsiders, but about which insiders belong to which territorial spaces’. More specifically, Lochery argues that ‘the precarious citizenship status of Kenyan Somalis is rooted in the institutionalization of state power in Kenya and the ways in which social relations have mediated that power’. What is remarkable about the story she tells is that to a certain extent it is timeless: the screening process undertaken by the government of Daniel arap Moi is inscribed with elements of colonial practice, while similar strategies were subsequently pursued by the Kibaki government following Kenya’s invasion of Somalia and the onset of retaliatory attacks by al-Shabaab.

Significantly, it is not just Somali Kenyans who have had reason to complain of marginalization. Gabrielle Lynch’s work on the Endorois people, and on the African Commission on Human and Peoples’ Rights decision that the Kenyan government violated their rights, demonstrates the breadth and depth of grievances among the country’s myriad communities. This article is important not just for the abuses that it documents,

but also because it demonstrates the way in which struggles for resources, and for justice, can help to define, and redefine, communal identities. As Lynch argues, ‘by accepting the Endorois as an indigenous community the decision completes a process of ethnic invention that began in the 1990s, and has seen Endorois assert ethnic difference from their Kalenjin neighbours as a strategy of legal argument’. In other words, much like the Kalenjin themselves, a stronger Endorois identity has been created both from above, by political leaders purposefully playing on the language of indigeneity to create a stronger legal basis on which to assert their rights, and from below, as ordinary Endorois embraced this stance and in doing so gave substance to a new communal identity. Lynch’s work thus reminds us that while identities may be hardened by political competition and violence, they continue to evolve. Most notably, since the beginning of the ICC proceedings against Kenyatta and Ruto, there has been a change in the attitudes of their respective Kikuyu and Kalenjin supporters. Some members of both communities have argued that their interests would be best served if those accused of crimes against humanity stood down in favour of less controversial candidates in the 2013 elections. However, the propagation of an ‘us against the world’ siege mentality by Kenyatta and Ruto appears to have persuaded many more to line up behind their Big Men even more fervently and passionately than before.

Another excellent example of the plasticity of memory and identity is provided by Justin Willis and George Gona’s analysis of secessionist feeling on the Kenyan coast, recently impelled into headlines by the activities of the outlawed Mombasa Republic Council (MRC). Willis and Gona trace the language of secession from its origins in the late 1950s onwards, revealing ‘a profound fault line within “secessionist” opinion, which separates those who claim political primacy on the basis of autochthony from those who locate their claim to independence in the language of colonial-era treaties’. Such divisions may sound semantic, but their importance is considerable ‘because they shape the way that secessionist arguments are framed, and the potential for secessionist politics to undermine the unity of the Kenyan state’.6 Put simply, the deep tensions within the secessionist camp, both between Arabs and Africans but also between different visions of what an independent Coast would look like, mean that despite the historical marginalization of the region, a unified movement is unlikely to emerge. But this does not mean that the MRC, and its early threat to boycott the elections, will not play a significant part in the way that the elections play out.

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It is striking that five of the six articles previewed so far (Greiner, Jenkins, Lochery, Lynch, and Willis and Gona) concern conflicts or ethnic/regional grievances that have retained their intensity, or worsened, since 2007. This suggests that levels of anger, fear, and frustration are higher than ever, which indicates that political leaders might find it easier to mobilize militias than during the last elections, should they choose to do so.\(^7\) This begs the question of whether anything has happened to end the culture of impunity that has characterized the Kenyan political landscape over the last thirty years, and so disincentivize leaders from helping to sponsor and organize political violence. Has the decision to launch ICC prosecutions had any discernible impact on elite behaviour, and is there political will to reform? This is the question asked by Stephen Brown and Chandra Lekha Sriram in their article on accountability for the post-election violence. Their answer is that the failure of the Kenyan government to establish credible domestic prosecutions – which directly precipitated the intervention of the ICC – demonstrates the lack of domestic political will to punish those responsible for plunging the country into civil conflict. On the basis of this assessment, they conclude that ‘only international justice, which is beyond the government’s reach, can achieve a breakthrough in criminal accountability, albeit in a very limited way’. Given the high burden of proof required, the lack of effective protection for witnesses, and the ability of some of the accused to fund vastly experienced defence teams, international justice may not even achieve this. The fact that two of the accused, Kenyatta and Ruto, are contesting the elections is a further indication that the culture of impunity persists.

But if the depiction of the state of Kenya in 2013 in this Virtual Issue seems somewhat gloomy, it is important to remember that electoral violence is not inevitable. Kenyans do not want violence and much will depend on how their leaders and institutions perform between now and March. It was just ten years ago that Kenya enjoyed a peaceful transition of power, and just over three years ago that the new constitution passed by a large majority in a referendum held largely without incident. Credible and peaceful polls would go a long way towards rebuilding the trust, national identity, and sense of purpose that were so dangerously undermined in 2007.

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