Post-Election Crisis in Kenya and Internally Displaced Persons:
A Critical Appraisal

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Abstract

The announcement of the disputed 2007 presidential election results in Kenya on December 27th, 2007 led to what could be described as the worst political crisis in Kenyan post-colonial history. This massacre claimed over 1000 lives of children, men, and women, and left about 600,000 Kenyans internally displaced. The immediate and remote causes of the crisis have been analyzed by different experts. Thus, it is pertinent to note that remote causes of the violence are traceable to the advent of multi-party politics in the 1990s and it was manifested in different forms in different parts of the country. Although exacerbated by political feuds, the violence had its roots in ethnic rivalries and struggle for ancestral lands. The internal feud had been brewing for decades and the election results were the catalyst and immediate cause that finally ignited the conflict. This essay undertakes a cause-effect analysis of the conflict with focus on the internal and global responses to Internally Displaced Persons.

Keywords: Internally Displaced Persons, Violence, Displacements, Kenya, Humanitarian rights violations

1. Historical Overview of The Kenya Violence

Historically, it can be said that violence is entrenched in Kenya due to many factors: the socio-political and economic structure of the country are such that these consequences are inevitable. Social relations between the dominant ethnic groups – the Kalenjis and the Kikuyus had been frosty since pre-colonial days and the demand for, and control of scarce arable land often resulted in conflicts. This acrimonious relationship has constantly undergone generational shifts metamorphosing of course, but never really going away.

The introduction of multi-party politics in the 1990s rekindled this age-old rivalry and provided new frontiers for its manifestations. "Kenya's political landscape is marked by party zones, as each party's support and affiliation tends to be concentrated in particular geographical areas. Such support, especially among opposition parties, is ethnically specific, except in urban areas and other multi-ethnic societies" (Kamungi, 2001). It was observed that the clashes in 1992 for example, affected more than 300,000 people and left thousands of people displaced. Thus, throughout the 1990s, there was recurrent violence traceable to political wrangling, ethnic animosity, unemployment, poverty, illiteracy, ignorance, poor security system and a general lack of political will to address the root causes of the violence and displacement.

It is to be expected that with such violent history in the not too distant past, memories of the 1992 crisis served as a reminder of the ethnic tension underlying Kenya's political process as the 2007 elections drew near. For example, as far back as 1993, it was observed that violent struggles over land characterize Kenya political life (Human Rights Watch, 1997). The announcement of Kenya December, 2007 parliamentary elections immediately brought about disagreements between the parties involved when Kibaki was re-elected as president and this resulted in communal clashes which claimed over 1,000 deaths and over 600,000 Internally Displaced Persons (IDPs). This has been described as the worst political violence in Kenya's history as the 2007. The crisis was characterized by gruesome

killings carried out on the basis of differences in political affiliations and ethnic identities. Groups seeking power abused women and children and perpetrated widespread violations of human rights. This was a period when the rule of law and human rights were seen as alien to the citizens as many Kenyans decided to trample on the fundamental human rights of fellow Kenyans with impunity (Obonyo, 2008).

The pattern of violence was complex and different in different parts of the country. Sporadic and sometimes unprovoked violence characterized this period. An example is the Orange Democratic Movement attacks on Kikuyus and PNU supporters in Rift Valley, Nairobi slums, Nyanza, and Mombasa. Again, organized ethnic attacks were unleashed on the inhabitants of Rift Valley, Nakuru and Naivasha in a clash between Kalenjin warriors and Kikuyus led by Mungiki. Gender-based violence such as rape and forced circumcision of males from Luo and Luhya communities tribes were pervasive (Bayne, 2008).

2. Causes of The Violence

The 2007 post-election violence in Kenya rooted in the inter-ethnic resentments between the Kalejins and Kikuyus and was triggered by results of the December 2007 elections. For one, the Kalenjis believed that the Kikuyus have marginalized them for far too long by dominating the major sectors of the Kenyan economy at the expense of the Kalenjis. Hence though the trigger factor of the violence was the disputed election results other deep-seated causes that exacerbated the violence are discussed below.

2.1 Electoral violence: It is instructive to recall the magnitude of the Kenya violence of 1992 and 1997 multi-party general elections which drew wide national and international attention at the time. In retrospect, the 2007 episode shares many features with the ear incidents. First, they all happened in politically triggered circumstances – after general elections. Thus, it has been observed that Kenya violence has a 5-year life cycle with elections serving as the incubators (Otieno, 2008). For instance, the 2007 cycle was ignited by the disputed re-election of former President Kibaki was which election results were hotly disputed by the opposition party (ODM). The opposition claimed the election was manipulated and thus began a chain of violent reaction from ODM supporters against the Kikuyus and PNU supporters.

There were cases of large-scale torching, looting, killing and maiming in the numerous clashes between supporters of these rival parties. Another defining feature of the pattern of violence is that it happened wherever there was a majority of ODM supporters such as Rift Valley, Nyanza, Nairobi slums and Mombasa.   Further, these attacks were often well directed and coordinated by groups of youth (Bayne, 2008). To this end, it has been argued that the Kenya violence was a struggle for the control of the state (Landau et al , 2009).

2.2 Land disputes: Kenya's land disputes date far back to pre-colonial era when powerful communities acquired the land of the less-privileged through conquests. It was a period like the Hobbesian state of nature where the most powerful takes all (see Thomas Hobbes- Leviathan); the powerful groups dominated the weaker ones and appropriated their resources particularly grazing lands. This system of economic relationship endured colonial rule but the perceived injustices and deprivations manifested themselves in recurring cycles of violence throughout the country. The dispossessed communities continued to exist on the fringe of the economic arrangements even to this day. For example, much of the organised violence at Rift Valley stemmed from the land dispute because Rift Valley was occupied by pastoralists, while the central highlands were occupied by the Kikuyu and other communities involved in agricultural activities.

Further, the allocation of land by the authorities after independence was disproportionate and marginalized certain ethnic groups. The Kalenjins in particular felt that they had been schemed out in the land redistribution exercise and reacted violently displacing many Kikuyus in the process. The Kalenjins were of the view that the Kikuyus were allocated some of the fertile lands originally belonging to the Kalenjins. In search for redress, the Kalenjins then promised to return to the *majimbo* constitution in order to uproot the Kikuyus and reclaim their ancestral lands. However, the above account might seem an oversimplification of the recent crisis. More intrinsically, Kenya's land problem has been politically oriented and exploited for a long time and it again fuelled the 2007 post-election violence because of the competing inter-ethnic interests and claim to land that could not be accommodated or resolved by the political elites. It has been argued that since 1990s 'certain leaders have exploited ethnic grievances over perceived historical injustices' in Kenya and the 2007 incident was just another consequence of such machinations (Bayne, 2008:1). It has also been argued that a struggle over land has always been the characteristic of Kenya political life (Landau et al 2009). The land dispute also reflected in the 1992 and the 1997 violence, this indicates that the quest for land control is central to the political life of Kenya.

2.3 Ethnicity and ethnic animosity: This factor is a corollary of the foregoing and was one of the major causes of the 2007 post-election violence in Kenya. What began as a reaction to a fraudulent election soon transformed into ethnic violence because of perceived discrimination, injustices and inequality in the allocation of resources among the

different ethnic groups. Like is the case in many African countries e.g. Burundi and Rwanda this factor is a simmering danger. The 'demonization of the other' in Kenya often led to vengeful violence between ethnic groups especially the Kalenjins and Kikuyus. Just like the dispute between Tutsis and Hutus in Rwanda and Burundi respectively, politicians in Kenya politicized the existing differences between the ethnic groups rather than emphasizing the areas of common interests as unifying factors between groups in Western, and other Provinces.

It has been argued that "ethnic loyalty and coherence has been a central feature to Kenyan politics since independence. Control of the state is core to political competition because it means access to and disposal of resources, and patronage through which ethnic elites can remain in power" (Kamungi, 2001:3). This is evidenced in the differences between different ethnic groups where the Gikuyu Embu Meru Association (GEMA) tribes occupy the most productive areas of the country during the Kenyatta regime while the Kalenjin Maasai Turkana Samburu Association (KAMATUSA) occupied the less productive area. Also, the Kalenjin tribe consolidated themselves in power during the reign of Arap Moi. Kenyans were made to grow accustomed to a fact of their national life – that some ethnic groups were superior to others and thus should be entitled to better social, economic and political benefits in the national equation. The resulting inequity and injustice, frustration and animosity are what have haunted Kenya every other few years in the form of violent conflicts.

2.4 Economic and political inequality: In Kenya, belonging to the superior and government-favoured ethnic tribes gives one an edge over the less privileged tribes in accessing the political and economic resources of the country. Economic and political inequalities were some of the major causes of the 2007 post-election violence in Kenya. It was generally perceived that Kikuyu and Central Province had been enjoying more of the economic and political resources of Kenya before and after independence at the expense of other regions or tribes (Stewart, 2008). The attempt to correct the economic and political imbalances in these arrangements between Kikuyu and the Kalenjin and Luo resulted in violence. Since economic and political dominance of one group over others often results in violence because of feelings of marginalization by the less-privileged group, Kenya had at all material time been a time bomb waiting to explode and had only had, what may at best be described as a lull or an uneasy peace.

2.5 Impunity & media: It is widely believed that impunity characterize the political life of most African countries (Landau et al 2009; Ellis, 1994). This is even more true in the case of Kenya just as many other African countries experiencing political transition from authoritarian regimes to multi-party democracy. Impunity has characterized the political scene of Kenya since the emergence of multi-party democracy in the 1990s and this has encouraged violence during elections. The inability of the government to hold the perpetrators of the 1990s violence accountable under the regime of president Moi despite the indictment of many senior politicians has bred a culture of impunity in Kenya's political history.

This seeming immunity has encouraged some politicians to incite violence, manipulate electoral process without ever being prosecuted. Hence a recurring cycle of violence has continued to dog Kenya's electioneering. Though there few moderate media houses, there were indigenous and vernacular media houses that fuelled the ethnic tensions by encouraging violent acts especially at the height of the violence.

2.6 Class war: The level of vandalism that occurred during 2007 violence could be described as class war. In a society where the gap between the rich and the poor is very wide like Kenya, situations of chaos and anarchy often present people to unleash their economic and social grievances. Unemployment, illiteracy, and impoverishment drove many youth to crime and violence. The active participation of youth could in the violence is a reflection of the harsh socio-economic conditions of many youths in Kenya. They were thus amenable to incitement to violence by unscrupulous politicians and perpetrated violent acts of vandalism and looting in urban areas and even slums.

3. Effects of The Violence

The consequences of 2007 Kenya post-election violence cannot be overemphasized. It is estimated that the violence claimed more than 1000 lives. However the magnitude of internally displaced persons a direct consequence of the violence is far larger than those of the 1990s. We shall briefly discuss those visible consequences but we will focus on the case of internally displaced persons (IDPs).

3.1 Population displacement: The violence left hundreds of thousands of people displaced or uprooted from their home or place of habitual residence. Due to the ethnic dimension of the violence, persons of certain tribes fearing attacks or reprisals were forced to flee thus culminating in massive removal of tribes. For instance, the Kalenjins attack on Kikuyus and PNU supporters at the Rift Valley and other places forced members of the attacked group to move. This kind of displacement also occurred in the violent clashes of the 1990s and not all the displaced persons have been able return to this day.

3.2 Development: There cannot be meaningful development where insecurity is the order of the day. Chaos and anarchy and insecurity and the widespread nature of the violence have had a debilitating effect on the Kenyan

economy which depends heavily on its tourist industry. It is inconceivable that tourism would flourish in an atmosphere of violence and insecurity. The financial loss is evidence of the price the Kenyan economy has to pay in terms of development. This is not only one-off effect, but in turn becomes a causative factor in the continuing cycle of chaos and anarchy.

3.3 Militarization of society: One effect of the violence is that a lot of firearms were surreptitiously released into the society and with the end of the crisis these arms are bound to find their way into the hands of unscrupulous persons who might engage in nefarious activities. It will not be out of place to expect that there could be an increase in crime-wave as a result of the proliferation of these firearms and other dangerous weapons. This raises new security challenges for the Kenyan authorities.

3.4 Increased poverty and crime: Although crime, poverty, prostitution and other forms of social malaise had always been a part of the Kenyan society like most African societies, but there was a surge in the number of beggars, thieves, prostitutes and other destitute . No doubt the violence increased the economic strains on citizens' welfare and the impact of this will be felt in years to come.

We now turn to the humanitarian responses and human rights violations that accompanied the violence

4. Humanitarian Responses to Internally Displaced People in Kenya

The displacement of hundreds of thousands of Kenyans in the wake of the violence was a serious challenge to the disaster management capacity of the Kenyan Government and other humanitarian agencies. The violence left about 600,000 people displaced across the country. The issue of the resettlement of the displaced brought a heated debate between the government, civil societies and the victims. Unlike the 1990s when the responsiveness of agencies was lackluster, this time the government of Kenya responded to the 2007 crisis through her Ministry of Special Programmes with Kenya Red Cross Society (KRCS) as partners. Though, there were some faith-based and other relief organizations ready to assist the IDPs the sheer number of the IDPs was overwhelming.

The government of Kenya and KRCS were supported by some NGOs and international organizations in order to meet the needs of the displaced and to plan their resettlement after the violence. The Kenyan government asked the displaced persons to return to their homes and they were at some point given 100 days ultimatum to return to their homes and farms. This forced order given by the government needs further clarification and it has been argued that "given the complex issues surrounding IDPs such an arbitrary deadline is unproductive and could potentially lead to pressure for involuntary return, raising protection concerns, and may even re-ignite localized violence" (Bayne, 2008). The implication of this is that the Kenyan government attempted to compel victims to return without due regard to the safety of the IDPs. In the first place, the movement was involuntary and if the people were to return, it should have been voluntary and government should encourage rather than coerce the victims. For instance, there was a report that each time the Kikuyus at Rift Valley advanced back to their homes, the Kalenjin youths did tell them to go back and threaten to kill them (Kamugi, 2008).

It is our view that the government ought to address the causes of the violence and ensure the security of those displaced before trying to bring the IDPs back. With the research conducted, it was discovered that many displaced persons still fear to return home because of the insincerity of the government in providing adequate security for them (Refugee Review Tribunal, 2008). Despite the programmes put in place by government, resettlement of the IDPs did not work because the government failed to recognize the underlying causes of the violence e.g. the inequality and mutual antagonism amongst the ethnic groups. The failure of government to reconcile the ethnic groups still threatens the voluntary resettlement of the IDPs till date.

The Kenyan government's announcement concerning the closure of IDP camps also made these people especially women and children vulnerable to all kinds of abuses. It was on this note that the UN emergency Relief Coordinator, John Holmes maintained that the situation in Kenya has turned into a humanitarian crisis because Kenya's Minister for Special Programmes ordered the closure of IDP camps with offer of food for the IDPs but without assurance on their security. Similarly, Walter Kalin, the UN Secretary-General's Representative on the Human Rights of IDPs expressed concerns over the inability of the international community and national authorities to give effect to the choice of IDPs to freely choose where they wished to live (Otieno, 2008).

4.1 Violation of Rights of IDPS during The Kenya Crisis
Majority of the IDPs had relocated to the homes or communities where they had ethnic or political affinity, while some are still wandering around despite the resettlement plans of the government. This casts a shadow over the government's claim that it has made provisions for the needs of the IDPs before the order to close the IDP camps. This point is important because it despite the plans of Kenyan government to resettle the IDPs, the widespread human rights violations that characterized the violence both before and after should not be ignored.

Although, there is no international legal regime regulating the affairs of internally displaced persons, but the Guiding Principles on Internal Displacement identify rights and guarantees rights of IDPs during displacement and resettlement (OCHA, 1998). Just like every other human being, internally displaced people have fundamental human rights and besides, it is the responsibility of the Kenyan government to take care of her citizens. However, it is obvious that these rights were violated by Kenyan authorities after losing control of parts of the territory to militia groups (e.g. Kalenjin warriors) where part of the population was being victimized and the people were treated as enemy of the state (Bayne, 2008; Kamunji, 2000).

Unlike the refugees that have fundamental rights guaranteed under international law under the 1951 Convention, 1967 Protocols and OAU 1969 Convention, there is no regime or Convention such legal regime protecting IDPs. The closest they come to that is the United Nations High Commissioner for Refugees (UNHCR) which has been given the mandate to extend humanitarian assistance to IDPs mostly on request of the country involved. But the intervention from international community could be less or absent where political violence is the cause of displacement in the country. This is due to the principle of non-intervention in Article 2(7) of the UN Charter that upholds the principle of territorial integrity of countries over human rights concerns (Barnett, 2002; Mackintosh, 2000). As a result the rights of IDPs can be subjected or open to abuse since there is no law or convention binding on the government or any institution involved in the case of IDPs. Hence, it has been stated that:

"The importance of rapid and timely action by the government to reduce vulnerability of IDPs to rape and other forms of sexual and gender-based violence cannot be overstated. A June 2007 report by the Internal Displacement Monitoring Centre of the Norwegian Refugee Council to the Committee on the Elimination of Discrimination against Women had noted that the rights of Kenya's women and girl IDPs were being violated, although they are protected under CEDAW- which Kenya ratified in 1984. And a UN-NGO report released in March 2008 highlighted the dramatic increase in rape and sexual abuse during and since post-election violence" (Otieno, 2008:1).

The above statement shows that IDPs suffer the kind of human right abuses that refugees suffer. The forced displacement of Kenya IDPs pose human rights questions as to the free movement of internally displaced and their liberty to choose where they want to live or reside.

There were many other rights that were infringed by forced displacement in Kenya (Refugee Review Tribunal, 2008; IRIN, 2008; Chicago Tribune, 2008; Bayne, 2008; Otieono, 2008; Kamungi, 2000&2001).

4.1 Violation of security rights: There was a general sense of insecurity (Landau et al 2009; Ellis, 1994).

4.2 Violation of right to education: The violence disrupted the education of students and students. In North Rift, 35 primary schools closed as people moved from one place to another due to the violence and the schools in South Rift refused to take the children of IDPs.

4.3 Violation of right to adequate housing: People were forced to move out of their habitual residence due to the violence and this led to the encampment of large number of people in small structures. Congestions, overcrowding with the potential danger of outbreak of and spread of diseases were all common features.

4.4 Violation of property rights: Many houses were burnt, looted and vandalized during the violence and left so many people homeless. Many people lost their valuables and many were rendered homeless.

4.5 Lack of access to legal aid: Victims of abuses had no access to justice and their rights were abused with impunity without any hope of redress or compensation.

4.6 The ill treatment of IDPs: The rights of displaced people were not respected especially by the police because they were often arrested and tortured due to their present status.

4.7 Discrimination: Some of the displaced people were discriminated against on the basis of their political beliefs or affiliations of their communities. The mere fact that certain tribes were associated with particular political parties was enough grounds for discrimination against them.

4.8 Child labour: IDPs and their children were used as source of cheap labour by agricultural companies.

Conclusion

This paper has attempted to survey the 2007 Kenya post-election violence by situating it in its proper historical context as a basis for understanding the causes and effects of the crisis. It adopted a historical perspective in its analysis and drew on contemporary evidence and experiences of victims of the crisis. It highlighted the root causes of crisis tracing the roots to pre-colonial contest for arable land and post-colonial power struggle among political elites of different ethnic loyalties.

The consequences were far reaching leading to the displacement of children and women without proper resettlement arrangement for these people. The inability of the government to address key issues such as security, and the threat posed by tribal militias has continued to keep these people from returning home. This is a violation of their right to return. Besides, the response of the government to the plight of the displaced was grossly inadequate and did not meet

the minimum standards of internally displaced persons. Finally, the gross violations of human rights of the Internally Displaced Persons have not been addressed and it is yet to be seen whether the cycle of violence spurred by impunity will be broken this time.

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