

Kenya Post-2008: The calm before a storm?

Gabrielle Lynch

17 July 2009

Nineteen months have passed since Kenya's contested 2007 election, when the rapid re-inauguration of President Mwai Kibaki heralded an outburst of post-election violence – characterised by targeted attacks on ethnic 'others', an overzealous state security response, and retaliatory attacks on 'aggressor' communities – which left over 1,000 people dead and more than 350,000 displaced. The violence ended in February 2008, when a coalition government was formed, but 'deep peace' remains elusive and reforms unlikely. What is left is only rhetoric differentiating this administration from post-Mau Mau amnesia and investigative committees without reforms, as after the 'ethnic clashes' of 1991-1993.

Bloated, divided, racked by corruption scandals and lacking a clear policy agenda, the coalition's response to the immediate humanitarian crisis was inadequate. IDPs were moved to unmanned 'satellite camps' without concerted efforts to reconcile them with former neighbours, amid threats of violence and corrupt distribution of a paltry KSHS 10,000 'compensation'.

The government has responded to underlying causes by establishing four commissions: an Independent Review Commission to examine the electoral process (Kriegler Commission); a Commission of Inquiry into Post-Election Violence (Waki Commission); a Constitutional Review Commission (CRC); and Truth, Justice and Reconciliation Commission (TJRC).

In theory, such inquiries can play an important role, providing a public account and acknowledgement of the past, which may be cathartic and provide some solace. Thus, the Waki Commission has been commended for its criticism of state security services and politicians, and attention to underlying issues of impunity, poverty, underemployment and the 'land issue'. Much more importantly, commissions can make recommendations – yet, while Kenya has held many commissions, successive governments have usually failed to introduce any suggested reforms. Unfortunately, this record continues. The most notable absence is of a Special Tribunal – recommended by the Waki Commission to investigate 10 individuals who may have incited, organised and/or financed the violence – with the threat that the 'list' would go to the International Criminal Court (ICC). However, in June 2009 the government agreed to a tribunal by July 2010, which renders any high-level prosecutions prior to the 2012 election campaigns extremely unlikely, while few citizens or police officers have been charged or even investigated.

Unfortunately, the CRC seems set to suffer a similar fate to its predecessor; especially its continued unwillingness to address why Kenyans are divided on certain issues, such as the benefits, dangers and meaning of devolution. Consequently, there is heavy reliance on the TJRC to solve underlying issues. However, the TJRC suffers from a paucity of resources and a massive mandate, which includes the need to establish an accurate, complete and historical record of violations of human and economic rights inflicted by the state between December 1963 and February 2008, a picture of possible causes, and investigate corruption and irregular acquisitions of land. The Oxford Transitional Justice Research Working Paper Series

danger is thus that the TJRC will add little to the ‘truths’ established by earlier commissions, while their collective recommendations are delayed until after the next election or indefinitely. Added to this is a deteriorating security situation – with the police and military increasingly acting as a law unto themselves and spread of the *mungiki* model of gang crime and terror – while politicians seem blissfully unaware of seething resentments or, more likely, believe that they can use them to their own advantage.

The unfortunate consequence is that violence, while far from inevitable, seems increasingly likely. At the heart of the problem lies a corrupt and tarnished political system characterised by an ‘ethnic logic’ of political mobilisation and support. To understand local potential for violence one must recognise the interplay between: a highly centralised system in which real power lies with the Office of the President; a lack of faith in key institutions (such as the anti-corruption and electoral commissions, parliament, judiciary and security services); a perception that the post-colonial state is (and has been) ethnically biased; communal discourses of past injustice and marginalisation regarding ‘lost lands’ and political patronage; pressure on elites to present and further ethnic claims; the use of inflammatory and chauvinistic or defensive ethnic language by political candidates and local opinion formers; the use of violence as a political and economic strategy; a culture of impunity for corruption, ethnic incitement and organisation of violence; the subsequent normalisation of violence; and finally, but not least, high levels of poverty, inequality, and un (and under) employment especially among the youth.

Given this litany of interwoven factors and long-standing issues it is clear that far-reaching reforms are required. The most important of these are:

1) Institutional and constitutional reforms to reduce presidential powers and increase faith in key institutions. The colonial administration bequeathed a highly centralised system, which respective presidents have used in the name of unity and development. This has encouraged an obsession with personalities as the problem and potential salvation, and created a zero-sum game with all eyes on the presidency.

2) The government needs to end the culture of impunity for participation in violence by police and citizens, and the use of violence as a political strategy. Despite evidence that KANU politicians incited, organised and financed ‘ethnic clashes’ in the early 1990s, no investigations took place. This history has encouraged a normalisation of violence, such that it is increasingly part of political and socio-economic strategies, and has spiralled out of control – as the growth of ethnic militias (such as *mungiki*) prompts an increasingly violent state security response, and yet more militia activity.

3) Finally, the government must look beyond economic growth to realities of poverty and inequality along with perceptions of state bias and historical injustice. This requires much more than donor rhetoric of ‘poverty reduction’ and praise for impressive growth rates without noticeable trickle-down, but also a deep understanding of the link between perceptions of past and present injustice and the politicisation of ethnicity and the ethnicisation of politics. At present, there is a tendency to explain African politics by a simple ‘politics of patronage’, or the notion that politicians use ethnicity to mobilise support and reward supporters with state largesse. While important, this narrative ignores bottom-up pressures and the broader

base of political accountability, and encourages a simplistic dichotomy between ‘bad’ politicians and ‘good’ citizens. More specifically, this approach ignores ways in which narratives of ‘shared pasts’ – of displacement, injustice, marginalisation and/or achievement – provide people with a means to lay claims to ownership and control of space, and rights to assistance. Too often ignored, this dynamic produces a complex political terrain in which politicians use ethnicity to mobilise support, and ordinary citizens use communal discourses to further claims to rights and resources.

To tackle all of these areas in a coherent and aggressive manner is clearly no small task, especially given the unwieldy coalition government, the worldwide recession, and competing claims to resources and representation. Nevertheless, the urgency for reform renders the government’s lacklustre performance in all these areas a source of considerable concern, as failing to deal with underlying problems and new layers of grievance raises numerous reasons to worry about future electoral cycles.

*Gabrielle Lynch is a Lecturer in Africa and the Politics of Development in the School of Politics and International Studies, University of Leeds, and has been conducting research on politics and ethnicity in Kenya since 2003.