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# **Walking Kenya Back from the Brink**

**A Micro-Level Study of Horizontal Inequity and Civil  
Conflict Prevention**

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**CISSM Working Paper**  
**June 2010**

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## **Executive Summary**

In late 2007 and early 2008, Kenya erupted into chaos following its closely contested and flawed general elections. Kenya has long been a key economic and political ally of the United States (U.S.). As such, with the 2012 elections looming, the United States has an important role to play in preventing a repeat of the violence that devastated Kenya and rocked all of East Africa.

## **Underlying Causes of Conflict**

Certain structural weaknesses in Kenya's government have repeatedly turned national elections into flashpoints of conflict. However, the severity of the most recent outbreak of violence suggests that deeper grievances are driving the conflict. At independence, political parties formed along ethnic lines, transforming competition for executive power into ethnopolitical rivalry. Additionally, post-colonial land distribution favored certain tribes over others, thus fostering the rise of inequality between ethnic groups (horizontal inequity), rather than between individuals (vertical inequity), as the main driver of conflict.

## **Analytical Findings**

A vast literature has analyzed how economic inequality and ethnopolitical identity affect conflict independently. However, evidence from Kenya contends that the interplay between the two is far more important. Quantitative analysis reveals that local levels of violence throughout Kenya increased with the severity of horizontal inequity. Furthermore, narratives from the conflict corroborate the statistical results, as symbols of horizontal inequity were key targets of violence. These findings offer a model to predict the locations at greatest risk of violence in 2012 and beyond, thus enabling precise targeting of conflict prevention and management assistance.

## **Recommendations**

Adopting a local-level policy approach will facilitate peace building in a bottom-up process, enhancing its legitimacy to both political elites and the broader Kenyan population. Although Kenya has the ultimate responsibility to prevent, or manage, future civil conflict, the government would benefit from U.S. policy initiatives, such as:

- supporting local mediation strategies by offering financial, training, and logistical assistance to build the rapid response capacity of Kenyan peace organizations;
- increasing foreign assistance for non-agricultural local development projects;
- continuing to support Kenya's constitutional reform process and emphasizing that enhanced accountability will boost U.S. willingness to increase development assistance;
- imposing direct sanctions on the perpetrators of the 2007-08 violence and threatening similar treatment of future instigators of conflict.

## Introduction

Civil conflict had already surfaced in some areas of Kenya in the months leading up to the 2007 general elections, but when the Electoral Commission of Kenya (ECK) announced on December 30 that President Mwai Kibaki had defeated challenger Raila Odinga for re-election, the country exploded. Violence raged throughout the country. According to the Kenya National Commission on Human Rights (KNCHR), 136 of the country's 210 electoral constituencies suffered violence. This scenario was not new to Kenya, as conflict had followed each of the preceding presidential elections in 1992, 1997, and 2002. The scale of bloodshed over only a few months of active conflict in 2007-08, however, was disturbingly unique.<sup>1</sup>

Although not a new development, the overt ethnic antagonism at the core of the conflict was further cause for alarm. Hate rhetoric was widely used to incite violence. One leaflet distributed in the Burnt Forest area of the Rift Valley in early January 2008 warned members of the Kikuyu tribe, "Rift Valley is our land which we were given by god, as you were given Central region. When you come back to Rift-Valley bid your families fare well. We will not fear any Police. DEATH DEATH IS HERE!" Weeks later, in the nearby town of Eldoret, a Kalenjin elder echoed the sentiment. "We will not sit down and see one ethnic group lead Kenya. This is a war, we will start a war."<sup>2</sup>

The rapid eruption of violence and its explicitly ethnic basis were frightening indicators that Kenya was, and may continue to be, on the brink of state collapse. U.S. President George W. Bush and Secretary of State Condoleezza Rice both suggested in early February 2008 that Kenya was displaying the "warning signs" of genocide.<sup>3</sup> Notably, this assessment came only days after Rwandan President Paul Kagame called for military intervention into Kenya to stave off further slaughter and the potential outbreak of genocide:

It starts with five deaths, then 10, then 50, shortly it grows to 100, then it goes to thousands.... By the time you realise [sic], it has a dimension that is wiping out life in villages and communities and is getting out of control.... When you look at the numbers of people that are being killed, how they are being killed... In the wake of such senseless killings with no immediate solution, if anybody suggested that [military] option to me, I would say I agree with it.... It is not too late for Kenyans to look back and see how our country went down the drain in the past.<sup>4</sup>

KNCHR's assessment of the conflict a year and a half later similarly observed, "The threat of genocide taking place in Kenya in [the] future is real. Key characteristics or signals that a society is likely to commit genocide have been present in Kenya for a while now."<sup>5</sup>

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<sup>1</sup> Kenya National Commission on Human Rights (KNCHR), *On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence* (KNCHR, August 2008), 3, 19.

<sup>2</sup> *Ibid.*, 71.

<sup>3</sup> Simon Kasyate, "Bush Warns Leaders on Genocide," *Kenya Today*, 02/19/2008, <http://www.ogiek.org/news-4/news-post-08-02-661.htm> (accessed March 6, 2010).

<sup>4</sup> Arthur Asiimwe, "INTERVIEW-Rwanda Suggests Military Option for Kenya Crisis," *Reuters*, 01/30/2008, <http://www.reuters.com/article/idUSL30119639> (accessed March 6, 2010).

<sup>5</sup> KNCHR, 154.

To clarify these signals and to prevent a return to the brink of genocide, this study explores the micro-level causes and manifestations of Kenya's 2007-08 election violence. The paper will proceed by outlining U.S. interests in Kenyan stability, providing a brief overview of the conflict, and discussing the underlying causes of the violence. From there, quantitative analysis of micro-level conflict data and qualitative evidence from conflict narratives will identify and evaluate the local patterns of violence that emerged and the implications they have for U.S. conflict prevention efforts. The paper will then conclude by reviewing potential policy options and offering recommendations for preventing a repeat of the conflict during the 2012 general elections and beyond.

## U.S. Interests

Beyond the globally shared moral responsibility to prevent future genocide, the United States has clear national interests in controlling the outbreak and escalation of violence in Kenya. Speaking at the Center for Strategic and International Studies (CSIS) only months after the violence in Kenya subsided, defeated candidate Raila Odinga echoed the widely held observation that his country had long been "known as an oasis of peace and stability in a region plagued by a history of conflict."<sup>6</sup> The 2010 Congressional Budget Justification for Foreign Operations highlights Kenya's "role as a stable partner and contributor to regional peace and security."<sup>7</sup> Kenya has indeed been a valuable partner for the United States. In addition to aiding counterterrorism efforts on the Horn of Africa, Kenya has been a regional leader in mediating the Sudanese civil war and reconstructing the Somali state.<sup>8</sup> The 2007-08 election violence, however, undermined confidence in Kenya's ability to maintain its role as a regional stabilizer.

In addition to broadly benefiting from regional stability, the United States also has a direct economic stake in Kenyan security. Ever since the Kenya-Uganda railroad was built in the early 1900s to link the deep-sea port at Mombasa with the Great Lakes interior, Kenya has served as a major regional and international trade hub, described in the 2011 Congressional Budget Justification for Foreign Operations as "the economic powerhouse of East Africa and an important commercial transportation gateway."<sup>9</sup> In recent years, however, the U.S. economic relationship with Kenya has been challenged by the arrival of

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<sup>6</sup> Raila Odinga, "Kenya: A Way Forward," Center for Strategic and International Studies (CSIS), Statesmen's Forum, June 17, 2008; Makau Mutua, *Kenya's Quest for Democracy: Taming Leviathan* (Boulder, CO: Lynne Rienner Publishers, 2008), 5; Mwangi Kimenyi and Njuguna Ndung'u, "Sporadic Ethnic Violence: Why Has Kenya Not Experienced a Full-Blown Civil War?," in *Understanding Civil War: Evidence and Analysis, Vol. 1—Africa*, edited by Paul Collier and Nicholas Sambanis (Washington, DC: World Bank Publications, 2005), 124; Jeffrey Gettleman, "Signs in Kenya of a Land Redrawn by Ethnicity," *The New York Times*, 02/15/2008, [http://www.nytimes.com/2008/02/15/world/africa/15kenya.html?\\_r=1](http://www.nytimes.com/2008/02/15/world/africa/15kenya.html?_r=1) (accessed March 6, 2010); "Why Kenya Went Up in Flames," *Nairobi Star*, 03/06/2008.

<sup>7</sup> U.S. Department of State, "Congressional Budget Justification: Foreign Operations, Fiscal Year 2010, Book II" (CBJ 2010), released May 2009, <http://www.state.gov/documents/organization/124072.pdf> (accessed March 6, 2010), 75.

<sup>8</sup> Mutua, 5.

<sup>9</sup> U.S. Department of State, "Congressional Budget Justification: Foreign Operations, Fiscal Year 2011, Annex: Regional Perspectives" (CBJ 2011), released March 2010, <http://www.state.gov/documents/organization/137937.pdf> (accessed April 23, 2010); for a geographical description of the channeling of regional transportation networks into Mombasa, see Edward Soja, *The Geography of Modernization in Kenya: A Spatial Analysis of Social, Economic, and Political Change*, Syracuse Geographical Series No. 2 (Syracuse, NY: Syracuse University Press, 1968), 27-36.

China. Highlighting China's rising investments and the Kenyan Parliament's public support for China's 2005 anti-secession law, Donovan Chau argues that China is pursuing political warfare in Africa by deliberately attacking U.S. interests.<sup>10</sup> While Chau overstates the case for militant intent, China is challenging U.S. interests. The breadth of Chinese investment and the expected future influx of dollars from growing nations, such as India and Brazil, undermine U.S. influence in Kenya. This new investment comes with fewer political development strings attached, especially related to implementing democratic reforms and fighting rampant corruption.<sup>11</sup> As such, the United States has real stakes, beyond regional security, in preventing future conflict and maintaining close economic ties to Kenya.

## 2007-08 Civil Conflict in Kenya

The foundation for Kenya's 2007-08 election violence is evident in its ethnopolitical history and current landscape. Tribal affiliation is the primary social demarcation between groups in Kenya; and thus, ethnic identity has dictated the composition of political parties since independence.<sup>12</sup> However, Kenya is an ethnically fractured country, with none of its five largest tribes comprising more than a quarter of its population.

**Table 1. Ethnic Composition of Kenya and Presidential Control**

Tribe/Ethnicity	% of Population	Presidents
Kikuyu	21%	Jomo Kenyatta (1964-1978); Mwai Kibaki (2002-Present)
Luhya	14%	
Luo	12%	[ Raila Odinga (Challenger, 2007) ]
Kalenjin	11%	Daniel Arap Moi (1978-2002)
Kamba	11%	
Kisii	6%	
Meru	5%	
Other (33 tribes + foreigners)	18%	

Source: Kenya Central Bureau of Statistics (CBS), "Kenya Population Census 1989: Volume I" (CBS, March 1994, published), 6/2-6/50.

As Table 1 reveals, no single group enjoys a numerical majority. As such, the structure of ethnic alliances has determined political power from independence onward.<sup>13</sup>

Joshua Forrest observes that the patterns of political competition that developed are suggestive of a strongly "subnationalist" environment, characterized by "the creation of alliances among separated communities... multiple identity groups" in order to mobilize for greater autonomy. In an international political system that discourages loyalties below the nation-state level, Kenyan ethnic alliances formed to

<sup>10</sup> Donovan Chau, "Political Warfare in Sub-Saharan Africa: U.S. Capabilities and Chinese Operations in Ethiopia, Kenya, Nigeria, and South Africa" (Strategic Studies Institute, March 2007), 27-34.

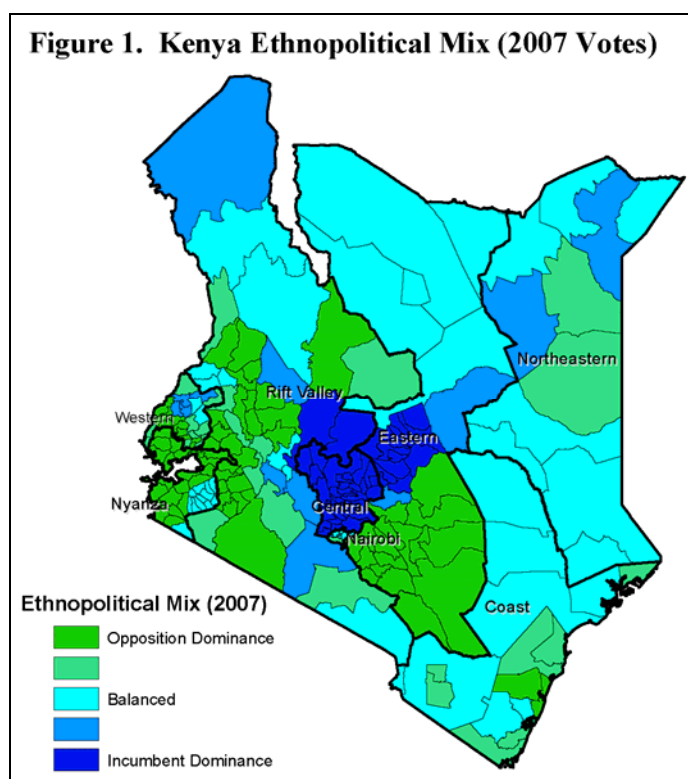
<sup>11</sup> Harold Miller, personal e-mail correspondence, March 16, 2010.

<sup>12</sup> Jeni Klugman, "Kenya: Economic Decline and Ethnic Politics," in *War, Hunger, and Displacement: The Origins of Humanitarian Emergencies*, Volume 2: Case Studies, edited by E. Wayne Nafziger, et al. (New York: Oxford University Press, 2000), 296-297.

<sup>13</sup> Klugman, 297-298, 329.

compete for control of the state, as opposed to secession rights.<sup>14</sup> Forrest highlights the minority Maasai's dominance of the Rift Valley in pre-colonial Kenya, as well as Kikuyu recruitment among the Embu, Meru, and Maasai to form an anti-colonial rebellion as early examples of this ethnopolitical alliance structure at work.<sup>15</sup> The shifting nature of these subnationalist ethnic alliances has produced a fluid landscape of group identities and loyalties that enjoy local supremacy and vie for national influence.

As of the 2007 election, Kenyan political geography consisted of 8 provinces, 70 districts, and 210 electoral constituencies, many of which were dominated by a single ethnic group or alliance. Utilizing geographic information system (GIS) software, Figure 1 maps the ethnopolitical landscape of Kenya during the 2007 election season.<sup>16</sup> “Incumbent Dominance” and “Opposition Dominance” portray support for Kibaki's and Odinga's respective ethnic alliances.<sup>17</sup> Notably, the areas of balance in the North and East are only sparsely populated.



This geographical polarization of ethnopolitical groups is evident in voting patterns. In a study on electoral choices in Kenya, Michael Bratton and Mwangi Kimenyi argue that ethnicity is only one factor “among several relevant determinants of partisanship.” They emphasize that 80% of Kenyans self-

<sup>14</sup> Joshua Forrest, *Subnationalism in Africa: Ethnicity, Alliances, and Politics* (Boulder, CO: Lynne Rienner Publishers, 2004), 14, 54.

<sup>15</sup> *Ibid.*, 37, 55.

<sup>16</sup> Based on vote data from Electoral Commission of Kenya (ECK), “Kenya: ECK Official Election Results,” ECK, December 2007, <http://aceproject.org/regions-en/countries-and-territories/KE/reports/> (accessed March 7, 2010).

<sup>17</sup> A 3<sup>rd</sup> party candidate received a majority of votes (over 80% in every case) in the Eastern Province districts of Makeni, Machakos, Kitui, and Mwingi (green areas surrounding Nairobi), and Kacheliba Constituency in West Pokot District, Rift Valley Province.

identify themselves as “non-ethnics” or “Kenyans,” rather than “ethnics.” However, when describing their co-nationals, the results change dramatically. Asked to explain what motivated other Kenyans’ party allegiance entering the 2007 election, 50% of respondents cited the candidate’s ethnic origin. This percentage is higher, by far, than either of the last two elections in 2002 and 1997. Regression analysis bears this out, as respondents’ ethnicities proved to be significant predictors of their support, or lack thereof, for incumbent President Kibaki—even for “non-ethnics” belonging to the ethnic groups of the principal candidates.<sup>18</sup>

### Election

As expected from analyses of ethnopolitical dynamics in Kenya, the 2007 elections unfolded in a torrent of party realignment. Although 118 political parties registered to compete (9 in the presidential election), only 3 had significant followings. Entering 2007, the previous ethnopolitical alliance of incumbent President Kibaki had disintegrated largely due to a fight over constitutional reform. However, by August, President Kibaki had formed a new coalition, the Party of National Unity (PNU), based on Kikuyu loyalty and augmented by regional partners pieced together from the previous incumbent alliance. The opposition coalesced around Luo challenger Raila Odinga and the Orange Democratic Movement (ODM), as well as a splinter group (ODM-K) that enjoyed support exclusively among the Kamba.<sup>19</sup> As Makau Mutua observes, “Odinga assembled... the largest collection of ethnic barons and baronesses in the land” including key representatives from the Kalenjin and Luhya tribes in order to challenge President Kibaki’s realigned incumbency alliance.<sup>20</sup>

The campaign was bitterly contested in mass public rallies and through the media, and each candidate sought to enflame ethnic loyalty among supportive communities.<sup>21</sup> Additionally, opinion polls were utilized to a far greater extent than ever before. They consistently showed Odinga leading President Kibaki, though not always by more than the margin of error. This instilled the belief in many of Odinga’s supporters that victory was inevitable, and would later underscore charges that the ultimately triumphant President Kibaki stole the election.<sup>22</sup> The misuse of state resources by the Kibaki campaign compounded such accusations of misconduct. KNCHR tallied 141 cases of government vehicles and 2 cases of state helicopters being used for campaign purposes. Furthermore, of the airtime devoted to political candidates, the state-owned Kenya Broadcasting Corporation (KBC) allocated 76% of radio coverage and 71% of television coverage to the PNU. By contrast, ODM and ODM-K received only 13% and 6% of radio coverage, and only 11% and 5% of television coverage, respectively.<sup>23</sup>

Despite the clear misconduct and emergence of scattered violence during the campaign, election day proceeded in a manner described by international observers as “generally calm, organized and

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<sup>18</sup> Michael Bratton and Mwangi Kimenyi, “Voting in Kenya: Putting Ethnicity in Perspective,” *Afro Barometer*, Working Paper No. 95 (Afro Barometer, March 2008), 1, 3-13.

<sup>19</sup> European Union Election Observation Mission (EU EOM), “Kenya Final Report: General Elections 27 December 2007” (EU EOM, April 2008), 7-10; Mutua, 248.

<sup>20</sup> Mutua, 241.

<sup>21</sup> EU EOM, 19; Mutua, 242.

<sup>22</sup> International Republican Institute (IRI), “Kenya Presidential, Parliamentary and Local Elections December 27, 2007: Election Observation Mission Final Report” (IRI, 2008), 14; Mutua, 243.

<sup>23</sup> EU EOM, 21, 25.



transparent.”<sup>24</sup> Almost 9.9 million Kenyans voted on December 27 compared to only 5.9 million in 2002, representing a registered voter turnout of 69% compared to 58%.<sup>25</sup> On December 30, however, after almost 3 days of tallying votes, and suspicious delays in reporting constituency returns, the Electoral Commission of Kenya (ECK) announced that President Kibaki had won re-election by a small margin. In only a matter of minutes, President Kibaki was sworn in for his second term, and a few hours later ODM leadership declared the results invalid. Citing the ODM’s clear victory in the parliamentary elections, Odinga refused to concede the presidency and demanded that Kibaki resign.<sup>26</sup> International observers later reported that both sides had been guilty of falsifying constituency returns. Furthermore, the supposedly impartial and independent ECK was found to have rigged the totals, resulting in 325,131 more votes being counted in the presidential poll than in the parliamentary and numerous discrepancies between constituency reports and announced results. This fraud fueled charges that Kibaki controlled the ECK.<sup>27</sup> As the two party leaders faced off amidst cries of foul play, the country exploded.

### Violence

The violence surrounding the 2007 general elections resulted in over 1,000 Kenyans killed and thousands more injured, as well as tens of thousands internally displaced.<sup>28</sup> The violence occurred throughout the country, but began in largely ODM-supporting territory, such as Rift Valley Province, and was aimed at groups that did not support the opposition movement, mainly the Kikuyu. The conflict later spread to PNU-dominated areas, especially Central Province, as the Kikuyu engaged in revenge killings.<sup>29</sup> The KNCHR and the Commission of Inquiry on Post Election Violence (“Waki Report”) have published exhaustive accounts of the violence throughout Kenya, revealing some disturbing common themes.

The suddenness of the eruption and systematic progression of violence in many areas suggests concerted planning and coordination. In Nairobi, gangs used long-established logistics networks to lead much of the violence. In one instance, a Luo businessman transported supplies of fuel and pangas (machetes) to local youths. Coordination also occurred outside of Nairobi. In one area of the Rift Valley, Kalenjin attackers destroyed homes that had not been systematically marked as belonging to their co-ethnics. In many other areas, roadblocks were used to discriminate between allies and ethnic targets.<sup>30</sup>

The financial support and incitement needed for this coordinated violence came from both local business leaders and politicians. Some Kalenjin politicians, for example, referred to Kikuyu and Kisii residents of the Rift Valley as “madoadoa” (stains) during their campaigns. In Nakuru town, former Members of Parliament (MP) held fund raising meetings for revenge attacks against the Luo, Kalenjin, and Luhya.<sup>31</sup> Perhaps most tragically, much of the violence was committed by Kenyan youths manipulated by

<sup>24</sup> IRI, 28; EU EOM, 31.

<sup>25</sup> IRI, 7; David Throup, “Kibaki’s Triumph: The Kenyan General Election of December 2002,” *Elections in Africa Series, Briefing Paper No. 3* (The Royal Institute of International Affairs: Africa Programme, June 2003), 5.

<sup>26</sup> IRI, 30; KNCHR, 23; Mutua, 247.

<sup>27</sup> IRI, 32-33; EU EOM, 15, 34; Ted Dagne, “Kenya: The December 2007 Elections and the Challenges Ahead” (Congressional Research Service, February 2008), 2-3.

<sup>28</sup> Figures corroborated by numerous sources, as well as raw conflict data used in analytical section.

<sup>29</sup> KNCHR, 19.

<sup>30</sup> Commission of Inquiry on Post Election Violence (“Waki Report”), *Report of the Commission of Inquiry into the Post-Election Violence in Kenya*, (CIPEV, 2008), 68; KNCHR, 42-43, 59.

<sup>31</sup> KNCHR, 3, 5, 58, 87

community elders. Youth gangs in Nairobi's Kibera slum burned houses and shops and attacked their neighbors with pangas. According to one NGO, youth planned only 7% of the violence, but committed 55%.<sup>32</sup>

The government response to the conflict was counterproductive, and an extensive record of police violence is testament to the disintegration of rule of law throughout the country. The Independent Medico-Legal Unit conducted 80 post-mortem examinations during the conflict and found that 29% of the victims died from police gunshots.<sup>33</sup> Unfortunately, this record is consistent with how Kenyan police forces have dealt with other security issues. Despite evidence to the contrary, an internal inquiry into alleged police violations in the Mt. Elgon region in March concluded that "the security forces did not commit human rights violations."<sup>34</sup> United Nations (UN) investigator Philip Alston further documented such impunity for unlawful police killings in his examination of government-sponsored attempts to exterminate opposition gangs in Nairobi and Central Province.<sup>35</sup>

### Mediation and Power Sharing

As the violence worsened in January, international pressure to end the standoff increased. Beginning on January 28, ex-UN Secretary-General Kofi Annan brought the PNU and ODM to the negotiating table. Progress was slow, as conflict continued to tear the country apart. Throughout February, Annan engaged the leaders in talks, enlisting the aid of international dignitaries, including Nobel Laureate Desmond Tutu, several former East African presidents, current UN Secretary-General Ban Ki-Moon, and U.S. Secretary of State Condoleezza Rice. Despite the attention, the parties did not reach a power sharing agreement until February 28.

The accord created a coalition government in which Raila Odinga accepted the position of Prime Minister and President Kibaki yielded to him powers to "coordinate and supervise government affairs." Positions in the now vastly expanded Cabinet were also divided evenly between the PNU and ODM.<sup>36</sup> While the agreement did end the worst of the conflict, localized violence continued to smolder in some parts of the country, and it appeared that the impact on the ground would be slow in developing.<sup>37</sup> Furthermore, the hasty construction of the power-sharing agreement and its understandable short-term focus on ending the violence meant that it largely ignored the underlying causes of the conflict. Since enactment, the arrangement has largely failed to check executive power or to alter public perceptions of the government,

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<sup>32</sup> U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on African Affairs, "The Immediate and Underlying Causes and Consequences of Kenya's Flawed Elections," 110<sup>th</sup> Cong., 2<sup>nd</sup> sess. (February 2008), 53; World Bank, *Kenya Poverty and Inequality Assessment: Executive Summary and Synthesis Report*, Report No. 44190-KE, Poverty Reduction and Economic Management Unit, Africa Region (World Bank, April 2009), 10.

<sup>33</sup> KNCHR, 4; Independent Medico-Legal Unit (IMLU), "Forensic Investigations Into Post-Election Violence Related Deaths" (IMLU, February 2008), 5, 8.

<sup>34</sup> Scaver Mbogho, Kenya Police Report and Assessment of the Mt. Elgon Violence (October 2008), <http://www.scribd.com/doc/6337563/Kenya-Police-Inquiry-into-the-Mt-Elgon-violence#about> (accessed March 7, 2010), 3, 45

<sup>35</sup> Philip Alston, "Press Statement by Prof. Philip Alston: UN Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions," Mission to Kenya 16-25 February 2009, 2-3.

<sup>36</sup> KNCHR, 29-33.

<sup>37</sup> Brookings Institution, "Towards a Lasting Peace: Addressing the Political and Humanitarian Situation in Kenya," The Brookings Institution – University of Bern, Project on Internal Displacement (March 2008), 2.

as each principal candidate has used the façade of political cooperation to cover his efforts to reinforce his respective ethnopolitical alliance for the next election.<sup>38</sup>

### **Root Causes of the Conflict**

At his CSIS talk only a few months after signing the accord, Prime Minister Odinga warned of the danger of leaving underlying grievances about “land budgets, regional development disparities, and huge inequalities... simmering.”<sup>39</sup> Merely freezing a conflict in place, without addressing the causes, risks another trigger sparking a resurgence of violence.

### State Impunity

As evident in the ineffective government response to the conflict, as well as police complicity, Kenyan society has been conditioned to accept political violence as standard practice around elections. Leaders have not been held accountable for instigating unrest with hate speech, or for financing attacks. District officers and chiefs that participated in the violence following the 1992 general elections, in fact, were rewarded with positions in the national government.<sup>40</sup> As the Waki Report notes,

The deliberate use of violence by politicians... plus the decision not to punish perpetrators... has led to a culture of impunity and a constant escalation of violence... which is now largely outside of the control of the State and its security agencies. What this means in practice is that violence is widespread and can be tapped for a variety of reasons, including but not exclusively to win elections.<sup>41</sup>

Institutional patterns of violence thus represent significant barriers to long-term peace.<sup>42</sup> Even more significant, however, are the historical roots of the conflict.

### Imperial Presidency

Following independence in 1963, President Jomo Kenyatta led the weak Kenyan African National Union (KANU) as a moderator between two larger parties that opposed each other over the rights of the poor and landless versus those of the large farmers and business class. To sustain this role, Kenyatta kept party and administrative affairs in separate spheres. However, this political set-up was short-lived. By the 1970s, ethnic factions increasingly maneuvered to form dominant coalitions, undermining the importance of political compromise. The distinction between party and administration faded, and Kenyatta regularly

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<sup>38</sup> Friends Committee on National Legislation (FCNL), “Kenya: Temporary Ceasefire or Lasting Peace?” Policy Brief 2009 (FCNL, September 2009), 3-4; Center for Strategic and International Studies (CSIS), “Practical Perspectives on Constitutional Reform in Kenya: A Conversation with Kenyan Members of Parliament” (CSIS Africa Program, February 12, 2010).

<sup>39</sup> Odinga, “Kenya: A Way Forward.”

<sup>40</sup> Human Rights Watch (HRW), “Ballots to Bullets: Organized Political Violence and Kenya’s Crisis of Governance,” Volume 20, No. 1A (HRW, March 2008), 17-20.

<sup>41</sup> Waki Report, 22.

<sup>42</sup> *Ibid.*, 22, 26-27.

used political offices as currency to buy support. According to Jennifer Widner, “By 1989, half the members elected to Parliament occupied ministerial positions [in the administration].”<sup>43</sup> In practice, the legislative branch ceased to function as a check on executive power and the imperial presidency was born.

The concentration of executive power in Kenya’s winner-take-all electoral system caused the emergence of a zero-sum game between ethnic groups fighting for control of the state. Furthermore, as KNCHR observes, “many Kenyans have come to view the ascendancy of ‘one of their own’ ethnic kin to the presidency as the best assurance of ‘benefiting’ as individuals and as communities.”<sup>44</sup> The Waki Report describes this popular identification with the executive as the “personalization of power around the presidency,” essentially creating an ethnicized cult of personality around the figurehead and further undermining administration accountability.<sup>45</sup>

### Horizontal Inequity – Patronage, Resource Conflict, and Land Inequality

The concentration of power in an ethnicized presidency has exacerbated Kenya’s already severe horizontal inequity, or the inequality of resources and power by group, as opposed to vertical inequality, which measures inequality by individual. The roots of this system harken back to the early days of independence when President Kenyatta favored his Kikuyu community in Central Province over other areas and used patronage rewards to solidify Kikuyu political unity and national dominance. Jeni Klugman describes this early Kenyan development in stark terms as “Kikuyuization.”<sup>46</sup> As the World Bank’s *Poverty and Inequality Assessment* for Kenya notes, although the political balance would shift after Kenyatta’s death, this early practice established the trend wherein “the distribution of public goods such as education facilities, health, water and physical infrastructure... follow patterns of access to political power.”<sup>47</sup> This held true during the rule of Kenyatta’s successor, Daniel arap Moi, who reversed existing patterns of ethnic patronage by excluding Kikuyu businesses from investment opportunities and transferring control over 40 of 85 profitable state-owned enterprises to his Kalenjin co-ethnics.<sup>48</sup>

Such patronage has fostered egregious corruption in Kenyan politics and society, from election fixing and pursuing public office for personal gain, to extensive bribery and financial scandals, but perhaps the most detrimental aspect has been the entrenchment of ethnic-based horizontal inequity that favors whichever ethnic group dominates the presidency.<sup>49</sup> Elected by constituencies that coincide with tribal boundaries, Kenya’s patron-client system polarizes competition for resources, already a common driver of conflict, along ethnic lines.<sup>50</sup> According to Bratton and Kimenyi’s polling, 25% of Kenyans have experienced ethnic discrimination, and the perception among disempowered ethnopolitical groups is that “ethnic

<sup>43</sup> Jennifer Widner, *The Rise of a Party-State in Kenya: From “Harambee!” to “Nyayo!”* (Los Angeles: University of California Press, 1992), 31-33.

<sup>44</sup> KNCHR, 18; Gettleman, “Signs in Kenya of a Land Redrawn by Ethnicity.”

<sup>45</sup> Waki Report, 23.

<sup>46</sup> Klugman, 300.

<sup>47</sup> World Bank, *Kenya Poverty and Inequality Assessment*, 8-9.

<sup>48</sup> Klugman, 313.

<sup>49</sup> KNCHR, 21; Klugman, 319; World Bank, *Kenya Poverty and Inequality Assessment*, 127-131.

<sup>50</sup> John Ouko, *Undercurrents of Ethnic Conflict in Kenya* (Boston: Brill, 2002), 44; Angelique Haugerud, *The Culture of Politics in Modern Kenya* (New York: Cambridge University Press, 1995), 46; Jennifer DeMaio, *Confronting Ethnic Conflict: The Role of Third Parties in Managing Africa’s Civil Wars* (New York: Lexington Books, 2009), 29; Branko Milanovic, “Is Inequality in Africa Really Different?” (World Bank, May 2003), 34.

favoritism is the rule.”<sup>51</sup> This horizontal inequity has tangible implications for the construction of roads and physical infrastructure and the allocation of funding for health and education.<sup>52</sup> Alwiya Alwy and Susanne Schech’s study of access to education in Kenya finds that there is severe geographical inequity, epitomized by the complete absence of state secondary schools in Coast and Northeastern provinces.<sup>53</sup> In a recent visit to Washington, Kenyan MPs from the Parliamentary Reform Caucus echoed this finding. One claimed, “Only the area that the president comes from gets the lion’s share of resources.” Another highlighted, “Almost 80% of the country can call itself marginalized” based on resource allocation.<sup>54</sup> Ultimately, as the *Nairobi Star* asserted in March 2008, the reality is that “for any tribe, ‘being in opposition’ (as opposed to ‘being in government’) is a fate dreaded as guaranteeing continued poverty.”<sup>55</sup>

Despite the harmful effects of corruption, patronage, and ethnic conflict over state and natural resources, horizontal inequity in land distribution supersedes all. As Klugman asserts, “Land is the most manifest dimension of unequal access to resources.”<sup>56</sup> This is evident in inequality indices. While Kenya’s Gini Index is 45.2,<sup>57</sup> representing moderately high inequality (U.S. Gini is 40.8), its Gini index isolating land inequality is a staggering 83.2 (landless population included), a value that represents extreme inequality. Furthermore, as shown in Table 1, land inequality has grown considerably since the mid-1990s.<sup>58</sup>

**Table 2. Gini Index of Land Inequality (All Households)**

Province	1997	2006	% Change
Kenya (National)	61.2	83.2	35.9%
Nairobi	75.7	99.3	31.1%
Central	54.6	74.4	36.4%
Coast	50.0	86.5	73.1%
Eastern	60.1	73.1	21.6%
Northeastern	no data	no data	no data
Nyanza	47.5	81.5	71.8%
Rift Valley	64.2	87.0	35.4%
Western	57.9	76.9	32.7%

Source: World Bank, *Kenya Poverty and Inequality Assessment: Executive Summary and Synthesis Report*, Report No. 44190-KE, Poverty Reduction and Economic Management Unit, Afirca Region (World Bank, April 2009), 103.

Exacerbating conflict over this inequity is the fact that, according to the Ndung’u Report, “Land [is] a focal point in Kenya’s history.... It has traditionally dictated the pulse of... nationhood.”<sup>59</sup>

<sup>51</sup> Bratton and Kimenyi, 6-7.

<sup>52</sup> Michael Chege, “Weighed Down by Old Ethnic Baggage, Kenya Races to Another Historic Election,” Africa Policy Forum, 06/22/2007, <http://csis.org/blog/weighed-down-old-ethnic-baggage-kenya-races-another-historic-election> (accessed March 9, 2010).

<sup>53</sup> Alwiya Alwy and Susanne Schech, “Ethnic Inequalities in Education in Kenya,” *International Education Journal* 5, no. 2 (2004), 267-272.

<sup>54</sup> CSIS, “Practical Perspectives on Constitutional Reform in Kenya.”

<sup>55</sup> “Why Kenya Went Up in Flames,” *Nairobi Star*, 03/06/2008.

<sup>56</sup> Klugman, 304.

<sup>57</sup> The Gini Index is a widely used indicator of economic inequality that measures economic power concentration in a given population, from 0 for perfect equality to 100 for perfect inequality.

<sup>58</sup> World Bank, *Kenya Poverty and Inequality Assessment*, 18, 102-104.

<sup>59</sup> Kenya Anti-Corruption Commission (KACC, “Ndung’u Report”), *Report of the Commission of Inquiry Into the*

Similar to other inequities, this contention has broken along ethnic lines. As KNCHR notes, “clan membership [has] remained the only means the poor people... [have to] access land.”<sup>60</sup> European colonizers upset the traditional system of communal land ownership by parceling farm tracts—most significantly, pushing the Kalenjin off of the best farming land in the Rift Valley. At independence, land was then sold on a “willing buyer-willing seller” basis. Though fair by European standards, this free market system heavily favored the Kikuyu. As Mwangi Kimenyi and Njuguna Ndung’u argue, the Kikuyu embraced capitalism before other tribes, and were thus better positioned to raise capital and form cooperatives. Land was also used to appease the Kikuyu Mau Mau rebels. The Kikuyu thus acquired large tracts of land from the departing Europeans, especially ex-Kalenjin property in the Rift Valley.<sup>61</sup>

This land transfer fostered deep resentment among rival ethnic groups, especially the Kalenjin, who viewed the Kikuyu as settling on their ancestral land. Land grievances thus became a key component of ethnopolitical competition. President Moi attempted to marginalize smallholder Kikuyu in order to redistribute their land to political allies. Such efforts turned violent in the 1990s, as the Kalenjin and other ethnopolitical groups attempted to forcibly evict the Kikuyu from their land.<sup>62</sup> Frustration over persistent land conflict figured prominently in President Kibaki’s initial rise to power in 2002, as he made land reform a key plank of his campaign platform in an attempt to sway the opposition. After being elected, President Kibaki launched the Ndung’u Commission to investigate land inequality and corruption. Although the final report focused on corruption more than land distribution, it did present some useful recommendations, such as establishing a land titles tribunal and a land commission, which President Kibaki largely ignored as being too controversial.<sup>63</sup>

During the 2007 general elections, the KNCHR observed that “violence became a strategy for remedying political and resource grievances which the electoral process... [was] unable to resolve.” Such grievances, based on persistent horizontal inequities in land, education, jobs, and political power, stem from long-standing traditions of patronage, corruption, and resource distribution policies.<sup>64</sup> Intuitively, these sources of tension appear to drive conflict throughout Kenya. However, a systematic examination of local data is required to empirically test the impact of these underlying grievances during the 2007-08 violence.

### **Quantitative Analysis of Election-Related Violence**

Although an extensive literature on economic inequality and conflict exists, the vast majority of the studies utilize a macro-level approach, reporting contradictory results and debating the general validity of

*Illegal/Irregular Allocation of Public Land* (July 2003), xvii.

<sup>60</sup> KNCHR, 18.

<sup>61</sup> Kimenyi and Ndung’u, 127, 138-141; Kenya Land Alliance, “The National Land Policy in Kenya: Addressing Historical Injustices,” Issues Paper No. 2/2004 (Kenya Land Alliance, 2004), 7; Klugman, 307; Oucho, 135.

<sup>62</sup> Kimenyi and Ndung’u, 139; KNCHR, 17; Forrest, 13, 67; Klugman, 303; Oucho, 104; Senate Subcommittee on African Affairs, “The Immediate and Underlying Causes and Consequences of Kenya’s Flawed Elections,” 53-54.

<sup>63</sup> HRW, 13; KNCHR, 17; “Ndung’u Report,” 188-189; Roger Southall, “The Ndungu Report: Land & Graft in Kenya,” *Review of African Political Economy* 32, no. 103 (March 2005), 150.

<sup>64</sup> KNCHR, 3; Haugerud, 49; World Bank, *Kenya Poverty and Inequality Assessment*, 131.

inequality as a determinant of civil conflict.<sup>65</sup> Macro-level examinations, however, miss the local dynamics that influence the emergence of violence. As a recent analysis by Lars-Erik Cederman et al. notes, “The grievance hypothesis [economic inequity] has not been tested with adequate data; rather, it has been tested with highly aggregated proxies that do not provide a direct measure of political inequality along ethnic lines.” The study goes on to argue that marginalized groups will use violence to remedy such inequity, especially in countries where “the central state is all-decisive.”<sup>66</sup> While this finding does support the grievance narrative in Kenya, its omission of local dynamics leaves it open to critique.

Quantitative analyses that do explore such local dynamics of civil violence are atypical in the global conflict literature, largely due to a scarcity of reliable micro-level data. However, studies conducted by Stathis Kalyvas and Tim Gulden of conflicts in Greece and Guatemala, respectively, provide some useful insights into micro-level determinants. Kalyvas finds that violence during the Greek Civil War (1943-1949) increased significantly in areas where a single ideological group was dominant but lacked complete control, and declined “in areas of parity.”<sup>67</sup> Gulden finds strikingly similar results in his analysis of the Guatemalan Civil War (1977-1986), where a nonlinear relationship emerged between ethnic demography and killing. Again, violence increased significantly in towns dominated by a single ethnic group that lacked complete control, and minimal levels of violence occurred around the 50% split due to the mitigating effects of ethnic balance.<sup>68</sup> While examining different aspects of conflict and focusing on ethnopolitical demographics instead of inequity, both studies reveal the importance of local dynamics.

The few micro-level studies that explore economic inequity reinforce the importance of local dynamics. Klaus Deininger’s work on violence in Uganda (1992-1999) finds that “physical attacks are estimated to increase with levels of... wealth inequality,” implying that inequity becomes more significant as violence becomes more localized, down to individual physical attacks.<sup>69</sup> E. Wayne Nafziger and Juha Auvinen find similar evidence in conflicts in Nigeria, Pakistan, South Africa, and Mexico. They conclude, “The risk of political disintegration increases with a surge of income disparities by class, region, and community, especially when these disparities lack legitimacy among the population.”<sup>70</sup>

Frances Stewart’s paper, “Crisis Prevention: Tackling Horizontal Inequalities,” provides a theoretical foundation for local examinations of ethnic relations and economic inequity. He argues, “The prime cause of conflict arises from inequalities among groups.... What is needed for... analysis is a horizontal

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<sup>65</sup> See Michael Kniss, “Intertwined Inequities: Micro-Level Economic Determinants of Civil Conflict” (Center for International and Security Studies at Maryland (CISSM), November 2009) and Mark Lichbach, “An Evaluation of ‘Does Economic Inequality Breed Political Conflict?’ Studies,” *World Politics* 41, no. 4 (July 1989).

<sup>66</sup> Lars-Erik Cederman, et al., “Why Do Ethnic Groups Rebel?: New Data and Analysis,” *World Politics* 62, no. 1 (January 2010), 89, 95, 106.

<sup>67</sup> Stathis Kalyvas, *The Logic of Violence in Civil War* (New York: Cambridge University Press, 2006), 288-289.

<sup>68</sup> Tim Gulden, “Spatial and Temporal Patterns in Civil Violence: Guatemala 1977-1986,” *Center on Social and Economic Dynamics Working Paper No. 26* (Washington, DC: Brookings Center on Social and Economic Dynamics, 2002), 3-7.

<sup>69</sup> Klaus Deininger, “Causes and Consequences of Civil Strife: Micro-Level Evidence from Uganda,” *Oxford Economic Papers* 55 (2003), 596, 605.

<sup>70</sup> E. Wayne Nafziger and Juha Auvinen, *Economic Development, Inequality, and War* (New York: Palgrave Macmillan, 2003), 91.

measurement of inequality between groups, defined by region/ethnicity/class/religion, according to the most appropriate type of group identification in the particular society.”<sup>71</sup> Havard Hegre et al. concur in a disaggregated study of conflict in Liberia, “Conflicts are often local. Country-level measures of average horizontal inequality... may fail to capture the relevant groups or the relevant dimension of inequality.”<sup>72</sup> Building on these theoretical and methodological bases, a multivariate regression analysis of local violence emerging around Kenya’s 2007-08 general elections can be used to examine the relevance of certain underlying grievances. This empirical foundation will further enable the effective prioritization of policy responses to help Kenya avoid future outbreaks of civil conflict.

### Data Description

Pulling news accounts from Kenyan print and online media outlets, Kevin Jones and Steven Silverstein at Georgetown University have compiled an impressive dataset of incidents of physical violence<sup>73</sup> occurring throughout Kenya before and after the 2007 general elections.<sup>74</sup> Although the data contains entries as far back as April 2007, only incidents occurring after September 1 are included in this analysis. Odinga received the ODM presidential nomination on September 1, and the PNU coalesced officially on September 16.<sup>75</sup> Furthermore, examining the incident descriptions clearly shows that election-related violence began emerging only after September 1. Certain criminal incidents during the relevant time period are also identifiable as non-politically motivated, such as “cattle rustling,” and are thus excluded.<sup>76</sup> The dataset analyzed was thus comprised of 234 incidents of physical violence with 3,520 victims killed or wounded between September 1, 2007 and January 31, 2008. Geographic locations for most incidents were exact enough to manually code their corresponding constituencies.<sup>77</sup>

Ideally, household survey data would be used to detail socioeconomic and polling data by geographic location. Unfortunately, the data from Kenyan household surveys is not publicly available. As such, constituency-level indicators were extracted from various Kenya Central Bureau of Statistics sources, as well as the Electoral Commission of Kenya.<sup>78</sup> This representative data was then merged with the conflict

<sup>71</sup> Frances Stewart, “Crisis Prevention: Tackling Horizontal Inequalities,” *Oxford Development Studies* 28, no. 3 (2000), 248, 253.

<sup>72</sup> Havard Hegre, et al., “Poverty and Civil War Events: A Disaggregated Study of Liberia,” *Journal of Conflict Resolution* 53, no. 4 (August 2009), 599.

<sup>73</sup> Victim(s) either killed or wounded.

<sup>74</sup> Kevin Jones and Steven Silverstein, “Kenya Dataset: April-January, 2008,” Georgetown University, September 2009 (Data obtained through e-mail correspondence with the authors, February 1, 2010).

<sup>75</sup> IRI, 14.

<sup>76</sup> Criminal incidents eliminated to correct for “noise” in data amounted only to 14 incidents with 218 total casualties. As an additional robustness check, running the regression analysis with these observations included yields no substantive change in the results.

<sup>77</sup> The un-edited dataset contains 342 incidents and 4,822 victims (killed or wounded). The following incidents and casualties were removed from the dataset analyzed: 1 incident with 5 casualties that occurred in the United States, 93 incidents with 1,079 casualties that occurred prior to September 2007, 14 incidents with 218 casualties that were clearly identified as non-politically motivated (i.e., “cattle rustling”). Imprecise location identification in source data resulted in 45 incidents with 1,023 casualties not being coded to the constituency level, though 431 of these casualties were accurately coded to the district level.

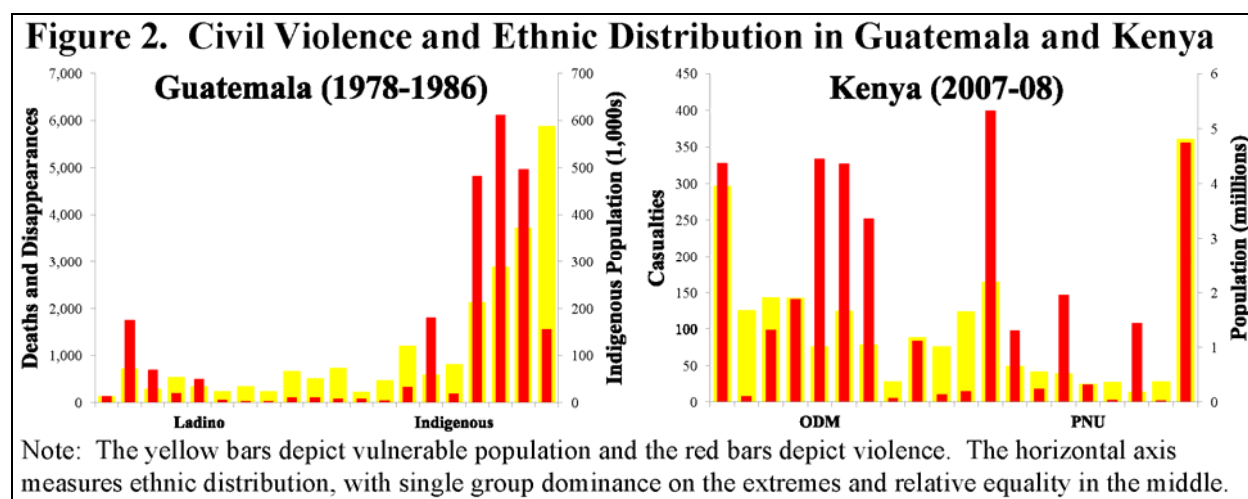
<sup>78</sup> Kenya National Bureau of Statistics (KNBS), “Geographic Dimensions of Well-Being in Kenya, Who and Where are the Poor?: A Constituency Level Profile, Volume II,” *Kenya Poverty Atlas: Volume 2* (KNBS, 2007, published), <http://www.knbs.or.ke/surveys/poverty/pdf/KenyaPovAtlasIIfinal2cl.pdf> (accessed March 11, 2010); CBS, “Kenya Population Census 1989”; Kenya Central Bureau of Statistics (CBS), “1999 Population and



dataset to conduct regression analysis. As previously noted, quantitative analysis of the local conflict data can reveal what micro-level factors drove the election-related violence and continue to represent security threats. Although a comprehensive evaluation of horizontal inequity requires household survey data that identifies inequality by ethnic group, analysis of the separate components can offer meaningful approximations. The multivariate regression used in this analysis thus tests a dependent variable measuring violence (in casualties) against independent variables measuring ethnic demography and economic inequity, while controlling for population, poverty, and geography.

### Regression Methodology

The regression begins by testing the effects of ethnic demography. According to the studies by Gulden and Kalyvas, levels of violence should be lower in areas where ethnopolitical opponents are in relatively equal numbers.<sup>79</sup> A further examination of the Guatemala data shows that violence increases dramatically in a bi-modal fashion when one ethnopolitical group is 70-95% concentrated in an area.<sup>80</sup> Kenyan ethnic data is only available at the district level from 1989,<sup>81</sup> and is thus outdated and overly aggregated. However, the polling results from the 2007 elections serve as a suitable (and current) proxy for ethnic demography.<sup>82</sup> In fact, vote data is likely a better measure than outdated and overly aggregated census counts due to the ethnic homogeneity of Kenyan political alliances. Vote percentages for the two principal parties were thus compared to test the effects of ethnic demography on the violence in Kenya. Figure 2 charts the distributions of violence and ethnicity in Kenya (right) and Guatemala (left).



Housing Census: Volume I” (CBS, January 2001, published); Kenya Central Bureau of Statistics (CBS), “1999 Population and Housing Census: Volume II” (CBS, January 2001, published); Kenya Central Bureau of Statistics (CBS), “Welfare Monitoring Survey II, 1994: Basic Report” (CBS, May 1996, published), 135-139, 170-171; ECK, “Kenya: ECK Official Election Results.”

<sup>79</sup> Kalyvas, 288-289; Gulden, 3-7.

<sup>80</sup> Michael Kniss, “Violence and Ethnic Identity: Quantitative Analysis of Killing in Guatemala 1978-1986” (December 2008), unpublished ms.

<sup>81</sup> The 1989 Kenyan census was the last to release data on ethnic distribution throughout the country. See “Kenya Holds First Census In A Decade, Causes Outcry Over Ethnic Identity,” *The Huffington Post*, [http://www.huffingtonpost.com/2009/08/25/kenya-holds-first-census\\_n\\_268076.html](http://www.huffingtonpost.com/2009/08/25/kenya-holds-first-census_n_268076.html) (accessed March 13, 2010).

<sup>82</sup> ECK, “Kenya: ECK Official Election Results.” District level vote percentages were used for the 5 constituencies that did not report their 2007 returns.

While violence in Kenya is lower when ethnic concentrations are relatively equal, controlling for population, corroborating both Gulden's and Kalyvas' findings,<sup>83</sup> Figure 2 reveals that unlike both, ethnopolitical demography is unable to explain overall levels of violence in Kenya.<sup>84</sup> This suggestion is tested in the multivariate regression with variables structured to measure the percentage point difference between ethnic alliances in a constituency, as well as the square of this term to test for the bimodal relationship found in Guatemala. A dummy variable for relative balance is also included where the ethnic alliances comprise 45-55% of the local population.

As an alternative to the seemingly insufficient ethnopolitical landscape, testing economic inequity indicators may offer a more complete explanation of the outbreak of violence. In its 2007 report, *Geographic Dimensions of Well-Being in Kenya*, the Central Bureau of Statistics details rural and urban Gini values by constituency. Although the data come from the "1997 Welfare Monitoring Survey," the Gini values represent reasonably current indicators of local economic inequality in Kenya.<sup>85</sup> The urban Gini index for constituencies was used in this analysis, as it was more relevant than the rural index to the outbreak of conflict. Violence would most likely have occurred in the urban epicenters of the constituencies, as that is where the local population would have regularly encountered people from opposing ethnopolitical groups. Inequality is also felt more acutely in urban areas, as people reside in closer proximity and thus have a heightened awareness of their socioeconomic status. A different measure of inequity that more fully captures rural grievances was included elsewhere in the regression.

Of the 210 constituencies in Kenya, 32 had an urban Gini value of zero because they had no urban population within their borders. Although the Gini values of zero imply perfect urban equality, this does not present a problem of empirics, but rather one of scale. If no urban center exists, violence should be lower due to the lack of a geographic focal point for violence and lower perceived inequality. Furthermore, if no urban center exists, a constituency's inequality indicator should be weighted to its rural measure, which is captured elsewhere. However, the difference in scale between the constituencies with and without urban populations is too great. Thus, the regression employs an indexed version of the urban Gini, coding all constituencies that have an urban population of less than 1,000 as having a Gini of 24, or one point less than the minimum qualifying Gini. This indexing minimizes the impact of Gini values that are based on insubstantial urban population, but still captures the importance of urban inequality as representative of constituency-level perceived inequity and geographic opportunity for violence.

Rural inequity in Kenya is embodied in unbalanced land allocation. Kenya's 1994 "Welfare Monitoring Survey II: Basic Report" details the distribution of households by landholding at the district level. Assuming that district figures are a fair representation of constituency-level perceptions, the imbalance between large farmholdings and landlessness can be used to create an index of land inequity. According to the report, the national mean holding size was 2.59 hectares and 59% of Kenyan households held between 0.01 and 2.99 hectares of land.<sup>86</sup> As such, holdings of greater than 3 hectares were considered "large farmholdings" in this analysis. Districts were coded on separate 1-5 scales based on their

<sup>83</sup> Kalyvas, 288-289; Gulden, 3-7.

<sup>84</sup> The difference in distribution of violence between Guatemala and Kenya may be the result of the varying natures of the conflicts. Violence in Guatemala was almost solely perpetrated by the state as top-down repression, while violence in Kenya was perpetrated by multiple ethnic alliances and emerged more as a bottom-up civil conflict.

<sup>85</sup> KNBS, "Geographic Dimensions of Well-Being in Kenya."

<sup>86</sup> CBS, "Welfare Monitoring Survey II, 1994," 169-171.

percentile locations for both large farmholdings and landlessness.<sup>87</sup> These two scales were then combined to create an index of perceived land inequity, ranging from 1=egregious inequity to 5=mild inequity, with 3 being the overall national average for Kenya. Constituencies took on the index values of their corresponding districts.<sup>88</sup> Land inequity was then tested in the regression analysis as a series of dummy variables compared against the national average. Using GIS software, Figure 3 maps land inequity throughout Kenya, along with levels of violence experienced on the ground.

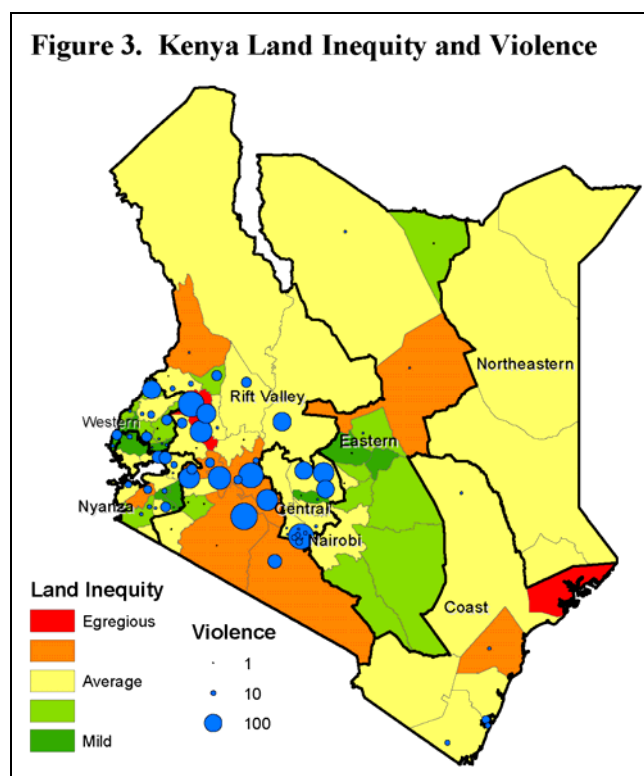


Figure 3 reveals that violence was more prevalent in areas where land inequity was starkest, especially the areas of more egregious land inequity located in Rift Valley Province. Perhaps surprisingly, Lamu District in Coast Province has egregious land inequity, but suffered no violence. Of the two constituencies comprising Lamu District, one is the smallest in Kenya and houses no urban population, but the other, while small, is not insignificant. This suggests that factors other than land inequity may be responsible for the outbreak of violence. As such, the regression also controls for constituency populations and poverty rates (as of 1999), and includes a dummy variable indicating if the constituency was part of a large city (defined as having an urban population greater than 50,000). Finally, provincial dummy variables were included to control for regional characteristics not captured by the principal variables.<sup>89</sup>

<sup>87</sup> Uneven quantile splits were used in order to highlight differentiation between extreme land inequity and the national average. Percentiles 0-15, 15-35, 35-65, 65-85, 85-100 yielded coding of 1, 2, 3, 4, and 5, respectively.

<sup>88</sup> Provincial level percentages were used in cases where district land distribution data was missing.

<sup>89</sup> Unemployment levels might seemingly offer a better measure of absolute economic levels, but according to discussion present in Kenya's 1999 census, Kenyan unemployment figures are chronically under-estimated. The unreliability of the data is largely the result of people who should be counted as unemployed reporting themselves as working on family farms or as homemakers. Using provincial dummy variables controls

## Regression Results

The statistical model performs well as an analysis of the impact of economic inequality on the severity of civil violence and further offers important suggestions about the impact of horizontal inequity. Table 3 summarizes the results of the multivariate regression in six iterations to present the consistency of the coefficients leading up to the complete model 5.<sup>90</sup>

	Model Iteration					
	(1)	(2)	(3)	(4)	(5)	(6)
% Difference Measure	Votes	Votes			Votes	Ethnicity
% Difference	-4.687	0.473			2.004	36.043
PNU-ODM	(3.68)	(4.33)			(4.52)	(27.40)
Squared % Difference	-15.255 **	-13.283			-6.320	-4.932
PNU-ODM	(7.55)	(8.73)			(7.98)	(36.03)
% Difference	-20.399 ***	-12.468			-8.958	
PNU-ODM (45-55)	(6.93)	(8.34)			(8.80)	
Population	0.00010	0.00007	0.00010 **	0.00006	0.00006	0.00018 **
	(0.00005)	(0.00005)	(0.00005)	(0.00005)	(0.00005)	(0.00007)
Poverty Rate	-60.965 ***	-28.733	-31.173 **	-21.278	-20.635	-114.052
	(21.10)	(21.26)	(14.81)	(19.52)	(20.05)	(93.74)
City	21.209	37.462 **	17.354	30.427 **	29.145 **	
	(14.23)	(15.29)	(12.09)	(12.67)	(13.01)	
Urban Gini Index			0.247	0.528 *	0.527 *	
			(0.28)	(0.28)	(0.29)	
Egregious			77.513 ***	74.553 ***	72.958 ***	221.047 *
Land Inequity			(29.58)	(21.96)	(22.97)	(131.60)
Critical			33.360 **	25.244 **	24.447 **	87.448 **
Land Inequity			(13.32)	(12.28)	(12.11)	(36.73)
Below Average			1.470	0.729	1.704	6.663
Land Inequity			(3.89)	(3.69)	(3.84)	(21.75)
Mild			-1.367	-3.216	-4.121	-24.970
Land Inequity			(2.94)	(2.96)	(3.18)	(23.15)
Provincial Dummies	No	Yes	No	Yes	Yes	Yes
Included						
Constant	38.529 ***	18.201	1.031	-7.734	-4.447	77.634
	(13.23)	(14.24)	(10.13)	(14.71)	(16.25)	(76.78)
Observations	210	210	210	210	210	70
R-squared	0.16	0.24	0.29	0.34	0.35	0.61

Notes: Estimations performed using Stata 9.2.  
Observations in Model 6 represent Kenya's 70 districts, as opposed to its 210 constituencies in Models 1-5.

\* Significant at 10% ( $p < .10$ )  
\*\* Significant at 5% ( $p < .05$ )  
\*\*\* Significant at 1% ( $p < .01$ )  
Robust Standard Errors are in parentheses.

Although two of the three measures of ethnopolitical distribution emerge as significant in model 1, the strength of each as predictors of violence erodes steadily as more control variables are added to the regression. Both terms already lose significance at even the 10% level when provincial controls are included in model 2. This suggests that the early significance of ethnopolitical distribution is being

somewhat for potential error due to spatial autocorrelation. CBS, "1999 Population and Housing Census: Volume II," x, xii; KNBS, "Geographic Dimensions of Well-Being in Kenya."

<sup>90</sup> Robust standard errors are used to correct for heteroskedasticity.

captured elsewhere in the regression, perhaps either in the controlled provincial characteristics, or in the independent variables testing economic inequity.

While the sign and magnitude of the coefficients on population unsurprisingly indicate that as population increases substantially, violence will increase slightly, the control variable has weak explanatory power. The city indicator is far more important, emerging as significant at the 5% level in each model that contains provincial controls. This reveals that constituencies within large cities are far more likely to experience increased violence by about an estimated 30 casualties. This result reinforces the belief that urban centers are more vulnerable to violence, as they are places where diverse groups encounter each other and inequity is felt more intensely. The urban Gini index further corroborates this finding. Significant at the 10% level in models that include provincial controls, the coefficients estimate that for every 2-point increase in a constituency's urban Gini coefficient, an additional casualty will occur. Though this increase in casualties is minimal, it still contributes to overall vulnerability to violence, even after accounting for rural inequity as measured by land distribution.

Highly significant at the 1% level, land inequity emerges as the dominant finding in the analysis. Egregious land inequity (e.g., the district percentages of both landless population and large farmholdings are in the top 15th percentile nationwide) estimates an increase of roughly 73 casualties against constituencies with land inequity comparable to the national average. The next step down, or critical land inequity (e.g., the district percentage of either landless population or large farmholdings is in the top 15th percentile nationwide with the opposite not in the lowest 15<sup>th</sup> percentile), similarly estimates an increase of roughly 24 casualties against constituencies with land inequity comparable to the national average. Furthermore, while not quite significant at the 10% level, the coefficient on mild land inequity (e.g., the district percentages of both landless population and large farm holdings are in the bottom 15th percentile nationwide) estimates a decrease in violence by roughly 4 casualties against constituencies with land inequity comparable to the national average.<sup>91</sup> Land inequity thus emerges as a strong predictor of violence and equality as a suggested negative predictor.

The coefficients on the poverty control variable further reinforce the importance of inequity as a relational concept. The significance of a constituency's poverty rate is inconsistent and dependent on the inclusion of provincial controls. However, the coefficients estimate, perhaps counter-intuitively, that violence decreases as poverty increases, or that wealthier constituencies experience more violence. This result perhaps suggests that the presence of substantial wealth in an area exacerbates perceptions of inequity among the poor population.

The overall explanatory power of the regression, expressed in its  $R^2$  value of 0.35 (model 5), is relatively robust when compared to other related analyses of civil conflict. Various analyses by Ted Gurr on ethnopolitical conflict have yielded  $R^2$  values ranging from 0.05 to 0.41. Similarly, Kalyvas' examination of the Greek Civil War resulted in  $R^2$  values ranging from 0.27 to 0.54, and an extension of Gulden's work on Guatemala yielded  $R^2$  values ranging from 0.12 to 0.41.<sup>92</sup> As a further robustness check, model

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<sup>91</sup> Actual p-value returned in model 5 is 0.19.

<sup>92</sup> Ted Gurr, *Cross-National Studies of Civil Violence* (Washington, DC: American University, Center for Research in Social Systems, 1969), 76; Ted Gurr and Will Moore, "Ethnopolitical Rebellion: A Cross-Sectional Analysis of the 1980s with Risk Assessments for the 1990s," *American Journal of Political Science* 41, no. 4 (October

6 tests ethnicity data from the 1989 census, as opposed to the 2007 vote returns. Although the ethnicity data is outdated and only available at the district level (thereby decreasing the number of observations to 70), the high significance of the land inequity variables remains consistent. Certain implications can be drawn from the results.

### Regression Implications

The regression results show that ethnic demography is insufficient to explain the outbreak of violence surrounding the 2007 elections. Alternatively, the economic inequity variables emerge as highly significant. However, it is quite possible that the inequity indicators are in fact capturing an ethnic demography component. Although it is impossible to prove conclusively without household survey data detailing ethnicity, land inequity is likely an effective proxy for horizontal inequity, especially when controlling for provincial characteristics. For instance, two province dummy variables emerged as especially significant when compared against the others. Rift Valley and Coast provinces consistently estimated higher and lower levels of violence, respectively, suggesting that some uncontrolled-for characteristic makes them especially more or less likely to experience violence.

As previously discussed, the Kikuyu benefitted disproportionately from post-colonial land sales in the Rift Valley, which the majority Kalenjin population views as an unjust acquisition of their own tribal land. However, inequity in Coast Province is not drawn along the ethnic cleavages that were most relevant during the 2007-08 conflict. Dominated by the Mijikenda, Coast Province has only small populations of Kikuyu, Kalenjin, Luo, and Luhya. Thus, the victory of the Kikuyu candidate over the Luo/Luhya/Kalenjin opposition coalition did not represent as great a defeat for the local populations in that region as elsewhere. Intuitively and empirically, violence occurred at lower levels in these areas, even where horizontal inequity was more severe. Recalling Figure 3, the severe inequity in parts of Coast Province may signify a future risk of violence, such as that experienced elsewhere in Kenya in 2007-08. According to the International Crisis Group, Mijikenda militias have begun forming out of frustration that the wealth from coastal tourism has been funneled into the hands of “Kikuyu middlemen.” If the already severe inequity in parts of Coast Province is increasingly identified with salient ethnic cleavages, and if the local landless population perceives economic opportunity in the tourism industry as diminishing, these areas might be the next to explode into mass conflict.<sup>93</sup>

### **Qualitative Corroboration of Quantitative Findings**

The lack of precise household-level data prevents irrefutable conclusions, but the statistical analysis clearly suggests that horizontal inequity is the primary cause of civil violence in Kenya. Personal accounts of motivations and targeting further corroborate this finding.

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1997), 1091; Kalyvas, 289; Kniss, 2008.

<sup>93</sup> International Crisis Group (ICG), “Kenya in Crisis,” Africa Report No. 137 (ICG, February 2008), 15-16; KNCHR, 17, 118; Kimenyi and Ndung’u, 127, 138-141; Klugman, 303, 307; Oucho, 104, 135; Forrest 13, 67; CBS, “Kenya Population Census 1989.”

### Perceived Inequity in Nairobi's Slums

Perceived inequity in Nairobi's slums spurred intense violence during the 2007-08 conflict. Reflecting on a visit to Nairobi during a February 2008 congressional hearing on the Kenyan crisis, Representative Donald Payne highlighted this effect in Nairobi's Kibera neighborhood, one of the largest urban slums in Africa. "This inequity, this dollar a day when you have such affluence in other parts, I am sure that... added to the tension in... Kibera."<sup>94</sup> The slum's proximity to Nairobi's burgeoning business communities and wealthy residential sections exacerbate perceptions of poor living conditions. According to an inventory of Nairobi's slums, Kibera is located in the same electoral constituency as the Karen and Langata neighborhoods, "some of the most affluent suburbs in Nairobi."<sup>95</sup> During the 2007-08 conflict, these poor areas experienced severe violence, as frustration over such inequities transformed into what the African Population and Health Research Center described as "ethnic animosity."<sup>96</sup>

The horizontal nature of economic splits within Kibera, and other similar Nairobi neighborhoods, is also destructive. As the Waki Report notes, many slums "are now informally divided into ethnically homogeneous zones."<sup>97</sup> Many landlords discriminate along ethnic lines when choosing tenants and most are "absentee," living in other parts of Nairobi. As such, they have few incentives to invest in the housing, or improve the local infrastructure, especially since they have imposed strong barriers to entry, based on class and ethnicity; over 90% of the landlords in Nairobi's Mathare North neighborhood are Kikuyu. Furthermore, landlords have little contact with residents, as they employ agents to collect rents, and most rental contracts are merely verbal agreements. Half of rental households are thus vulnerable to arbitrary eviction.<sup>98</sup> KNCHR interviews from Kibera reveal how these horizontal divisions sparked local conflict:

Once the violence broke out, tenants from some ethnic communities forcibly evicted landlords and... tenants from other communities and took over the houses, and... started charging reduced rents.... This situation precipitated another round of violence as the owners hired [ethnic] gangs to reclaim their property.<sup>99</sup>

KNCHR estimates that 5,000 people in Kibera alone were displaced in this cyclical violence aimed at the tangible symbols of horizontal inequity in Nairobi's poor neighborhoods.<sup>100</sup>

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<sup>94</sup> U.S. Congress, House Committee on Foreign Affairs, Subcommittee on Africa and Global Health, "The Political Crisis in Kenya: A Call for Justice and Peaceful Resolution," 110<sup>th</sup> Cong., 2<sup>nd</sup> sess. (February 2008), 26.

<sup>95</sup> Pamoja Trust, *An Inventory of the Slums in Nairobi* [Draft] (Pamoja Trust, 2008), [http://www.irinnews.org/pdf/nairobi\\_inventory.pdf](http://www.irinnews.org/pdf/nairobi_inventory.pdf) (accessed March 13, 2010), 93; Pamoja Trust, *An Inventory of the Slums in Nairobi* (Pamoja Trust, April 2009) [http://www.homeless-international.org/client\\_files/doc\\_docs/repNairobiSlumInventory\\_Final\\_Apr09.pdf](http://www.homeless-international.org/client_files/doc_docs/repNairobiSlumInventory_Final_Apr09.pdf) (accessed March 13, 2010), 59.

<sup>96</sup> African Population and Health Research Center (APHRC), "Poor People Bore the Brunt of Post-Election Violence in Kenya" (APHRC, January 2008).

<sup>97</sup> Waki Report, 31.

<sup>98</sup> World Bank, *Kenya Inside Informality: Poverty, Jobs, Housing and Services in Nairobi's Slums*, Report No. 36347-KE, Water and Urban Unit 1, Africa Region (World Bank, May 2006), 34-37; KNCHR, 40-42.

<sup>99</sup> KNCHR, 41.

<sup>100</sup> *Ibid.*, 40.

## Conflict Narratives

Personal accounts of the conflict from outside of Nairobi similarly reveal the impact of horizontal inequities on the emergence of violence. In Eldoret, a meeting was held at the Assis Hotel on December 1, more than 3 weeks before the elections, to prepare the community for war. According to KNCHR, at this meeting, elders decided “that all lands belonging to the Kikuyu [would] become communal land after eviction.” One victim recalled to the Waki Commission the result of a similar campaign in the Rift Valley. “The Kalenjin were outside the house. They taunted us and told us goodbye. They told us that our magnificent house was theirs now.... I recognized some of them as the sons of our neighbor.”<sup>101</sup>

The eviction of farmers coincides with previous findings, but this was not the only instance of economic targeting. Violence was commonly directed at commercial symbols. Ethnic-owned businesses were vandalized and destroyed in many areas of Kenya, including Makutano, Molo, Kuresoi, and Nakuru, where youths threw stones at the urging of an MP. In Tinderet, Kikuyu workers were attacked while on the job at a tea factory. In Naivasha, the Kikuyu took revenge on the Luo by forcing youth to burn businesses belonging to ODM supporters. The youths also attacked Luo workers on a Kabati agricultural estate, and as KNCHR reports, “forcefully circumcised them before brutally hacking them to death.” The tragic accounts of the violence distract from the distinctly economic objectives of the perpetrators. However, such targeted economic destruction had not occurred during past outbreaks of election violence in Kenya.<sup>102</sup>

The admitted motivations of the perpetrators of violence leave little doubt that frustration over persistent horizontal inequities was at the heart of their actions. As one Kalenjin youth from Kiambaa proclaimed, “We want to send a very strong message to Kibaki. Because we cannot get him, we are going to work on his ethnic group, the Kikuyu.”<sup>103</sup> In conjunction with the statistical findings, these clear accounts of economics-driven violence demand that responses work to redress the underlying sources of such deeply felt horizontal inequity.

## **Ongoing U.S. Efforts in Kenya**

U.S. and international mediation efforts were vital to ending the 2007-08 conflict in Kenya. In addition to the leadership of Kofi Annan, a visit by Secretary of State Condoleezza Rice, and public pressure from President Bush, Assistant Secretary of State for African Affairs Jendayi Fraser met with Kibaki and Odinga to urge mediation.<sup>104</sup> Despite this attention, international involvement in Kenya has tended to be temporary, most often focusing on emergency humanitarian assistance. During the ethnic violence of the early 1990s, the United Nations Development Programme (UNDP) recommended a series of policy adjustments that focused on relief instead of long-term social and political reform. According to congressional testimony by a USAID Deputy Assistant Administrator in February 2008, the United States has not done much better. “When it comes to emergency assistance to Kenya... the focus has historically

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<sup>101</sup> KNCHR, 70; Waki Report, 137.

<sup>102</sup> KNCHR, 69, 76, 81, 86.

<sup>103</sup> KNCHR, 67.

<sup>104</sup> KNCHR, 28.



been on short-term response to incidents of drought and floods, as well as episodes of civil unrest.” As a key regional U.S. ally, Kenya remains a major recipient of foreign assistance aimed at fostering good governance, economic development, education, health care, and rural income generation. However, as evident by the outbreak of violence in 2007-08, such foreign assistance efforts have been ineffective at stanching Kenya’s cyclical patterns of civil conflict.<sup>105</sup>

The 2011 Congressional Budget Justification for Foreign Operations (CBJ) highlights how U.S. foreign assistance is attempting to address the underlying causes of conflict in Kenya: “The program focuses on health and advancing key political and governance reforms, including fighting corruption and impunity, which are needed to address the root causes of the 2007-08 post-election violence.” Despite this recognition, programming requests do not align effectively with the stated justification. Excluding global health funds, which are largely tied up in presidential initiatives and represent 86% of the budget, the FY 2011 request totaled \$98 million. Although this figure represents a 12% increase over the FY 2010 request, this financial commitment is insufficient to address the underlying causes of civil conflict in Kenya.<sup>106</sup>

Examining individual programs reveals further prioritization weaknesses. Funding requests for democratic development programs grew 35% between FY 2010 and FY 2011. This increased support is critical for reducing the tendency of elections to be flashpoints of conflict. While this emphasis on political reform addresses the three goals cited in the budget justification, namely governance, corruption, and impunity, it overlooks the centrality of horizontal inequity. Even more worrisome are “peace and security” program priorities. Although the total request for this category remained constant from FY 2010 to FY 2011, the line item for “conflict mitigation and reconciliation” was zeroed out. In FY 2011, the category consists solely of security sector reform and counterterrorism. The request justification suggests that conflict mitigation efforts have been folded into continuing programs, but identifies internal instability as more of a distraction from counterterror efforts than as a primary focus. “Post-election violence, ongoing chronic insecurity in several regions, and significant refugee flows from Somalia place competing demands on Kenya’s national security resources, and on Kenya’s ability to focus on specific counterterrorism initiatives.”<sup>107</sup>

Although the justification is likely a product of the continuing counterterrorism-heavy U.S. political environment, this rationalization risks having conflict mitigation programs subsumed completely by this overarching mandate. During congressional testimony in 2008, a USAID representative described efforts aimed at incorporating marginalized areas in northeastern Kenya into national peace-building as concentrating more on border security and preventing the influx of Islamic extremists from Somalia, than on local reconciliation. The testimony continued, “Our ongoing conflict prevention and mitigation program, as currently designed, is not the right vehicle to respond to the conflict related to the political crisis.” A fellow panelist echoed the sentiment. “My sense is that we devote all our counterterror efforts to... the Kenyan Coast, and here we have this other, very real threat to Kenyan society and... we pay

<sup>105</sup> Robert Pollin, et al., United Nations Development Programme (UNDP), *An Employment-Targeted Economic Program for Kenya* (Northampton, MA: Edward Elgar Publishing, 2008), 169-170; Oucho, 203; House Subcommittee on Africa and Global Health, “The Political Crisis in Kenya,” 15; Dagne, 10.

<sup>106</sup> U.S. Department of State, CBJ 2011, 79; U.S. Department of State, CBJ 2010, 75.

<sup>107</sup> U.S. Department of State, CBJ 2011, 79-81; U.S. Department of State, CBJ 2010, 75.

insufficient attention to it.”<sup>108</sup> Failing to devote enough attention and resources to conflict mitigation leaves Kenya ill prepared to face the potential resurgence of grievance-driven violence.

U.S. economic development has similarly proven ineffective at alleviating horizontal inequity and thus addressing the underlying causes of conflict in Kenya. Although the FY 2011 CBJ highlights the need to promote “equitable economic growth,” the vast majority of economic development funding goes to the agricultural sector (85% of the non-environmental protection FY 2011 request). The FY 2010 CBJ similarly emphasized enhancing “the productivity and competitiveness of key agricultural commodities... linking the rural poor to growing markets.”<sup>109</sup> Although supporting agricultural development seems a worthy goal, especially given the dominance of agriculture in Kenya’s economy, it will likely worsen the economic gap between landholding and landless populations, already a source of ethnic conflict. Furthermore, funding for programs to improve Kenyan private sector competitiveness and broad economic opportunities have been consistently under-prioritized, representing only 15% and 9% of the non-environmental protection FY 2011 and FY 2010 requests, respectively.<sup>110</sup> Unfortunately, this programming likely has the greatest potential to ease horizontal inequity by providing investment and employment opportunities for landless and unemployed Kenyans.

### **Evaluating Options for Future U.S. Action**

Kenya is ultimately responsible for preventing a rekindling of widespread domestic civil conflict. However, the United States can contribute significantly to the effort by realigning its assistance and program priorities with its stated foreign policy objectives, and by reducing horizontal inequity within Kenya at the local level. Jennifer DeMaio’s review of third party intervention in African civil wars, *Confronting Ethnic Conflict*, presents a useful rubric for assessing policy options. Recognizing that “external actors are not likely to be able to address all the underlying causes of the conflict,” she focuses on “conflict management,” or whether “violence is prevented from breaking out or from escalating.” She then suggests four criteria to evaluate success: (1) sustaining the cessation of violence, (2) reducing human suffering, (3) limiting regional spillover effects of the conflict, and (4) promoting stable governance.<sup>111</sup> Recognizing that the first two measures are preeminent, especially in the long run, as their failure precludes the remaining criteria, this rubric is applicable to conflict management options in Kenya.

### Short-Term Options for Conflict Prevention

Many of the short-term U.S. policy options that surfaced during, and immediately after, the 2007-08 election conflict focused on accountability. International election observers offered a plethora of recommendations for improving the fairness of the electoral process, including ensuring the independence of the ECK, better monitoring and regulation of media coverage, and the consolidation of electoral law

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<sup>108</sup> Senate Subcommittee on African Affairs, “The Immediate and Underlying Causes and Consequences of Kenya’s Flawed Elections,” 15-16, 18, 63.

<sup>109</sup> U.S. Department of State, CBJ 2011, 80, 83; U.S. Department of State, CBJ 2010, 76, 79-81.

<sup>110</sup> U.S. Department of State, CBJ 2011, 80; U.S. Department of State, CBJ 2010, 76.

<sup>111</sup> DeMaio, 11, 71.

and codes of conduct into one Elections Act.<sup>112</sup> While U.S. electoral best practices are quite applicable to Kenya, the election process was not the primary cause of the conflict. The election processing and vote manipulation did serve as triggers for the violence, but polling generally went smoothly. Kenyans need to have confidence in their electoral system in order to accept election outcomes. However, structures to validate votes and monitor elections already exist—though they might benefit from increased external support. As such, while tangentially aimed at promoting stable governance, reforming the electoral process does not directly fulfill any of DeMaio’s four requirements for third-party involvement.

Process-related condemnation should rather be directed at politicians who incited their constituents to violence with hate speech and calls for vengeance against opponents who stole the election. To this end, concerned groups have offered numerous proposals, including prohibiting politicians guilty of inciting conflict from being appointed to cabinet positions, making campaign hate speech illegal, improving police vetting, and more aggressively trying police and government officials who committed acts of violence. More applicable to the United States are recommendations stipulating that future foreign assistance be conditional on holding perpetrators accountable, or imposing targeted sanctions on the instigators of violence, including asset freezes and visa bans.<sup>113</sup> Cutting off foreign assistance is undesirable, as U.S. funding is vital to Kenyan development. Financially punishing those responsible for the conflict, however, may offer disincentives for repeating their actions in the next election. Although Kenya is already over two years removed from the election, it is not too late to prosecute the perpetrators. Examples need to be made of those who incited the bloodshed to begin to challenge decades of impunity for political violence. Furthermore, the same perpetrators from 2007-08 are those most likely to instigate conflict in the future.<sup>114</sup> As such, shaping this effort proactively, as well as reactively, is critical. In the run up to the 2012 general elections, the United States could announce its intention to sanction misconduct, and follow up by assisting with rigorous monitoring and investigation, as well as by mustering global support and partners. Financial sanctions support DeMaio’s most important precondition, sustaining the cessation of violence, by weakening the institutionalized political violence structures that have been built on historical impunity.

Another conflict prevention option facing the United States is to encourage the deployment of stability forces in the run-up to the 2012 general elections. Opposition leaders requested peacekeepers to end the violence and enforce the peace agreement in early 2008.<sup>115</sup> Although none were deployed, there is convincing evidence that the visible presence of authority figures on the ground could help prevent the outbreak and escalation of violence in the future. According to the KNCHR, violence was averted in one Nairobi neighborhood when an officer in the General Service Unit, a joint military and policing outfit, negotiated with demonstrators to remain peaceful. In similar instances in Narok and Mombasa, elders and religious leaders convinced agitated members of their communities not to resort to violence.<sup>116</sup> Although the U.S. Civilian Response Corps (CRC) is trained at “engaging in peace-building activities and

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<sup>112</sup> EU EOM, 4, 14, 21, 23, 41-42; IRI, 35-38; for an interesting discussion of how election reform has helped Ghana, see Clement Aapengnuo, “Misinterpreting Ethnic Conflicts in Africa,” *Africa Security Brief*, no. 4 (April 2010), 3.

<sup>113</sup> Senate Subcommittee on African Affairs, “The Immediate and Underlying Causes and Consequences of Kenya’s Flawed Elections,” 30, 39, 46; HRW, 8-9; IRI, 38; Alston, 6-8; ICG, ii.

<sup>114</sup> CSIS, “Practical Perspectives on Constitutional Reform in Kenya.”

<sup>115</sup> Dagne, 6.

<sup>116</sup> KNCHR, 4, 6.

negotiations,”<sup>117</sup> and could thus deploy to at-risk locations to deter or restrain the use of violence, this would likely leave too large a footprint and could backfire by delegitimizing the political process as externally controlled. Furthermore, it is improbable that the United States would assume such an active role in guaranteeing security during the 2012 elections, especially without extensive precedent of CRC effectiveness in such deployments.

An alternative U.S. approach could be to devote resources, perhaps under CRC direction, toward similar Kenyan efforts. The recorded past success of community elders in preventing the outbreak of violence suggests that U.S. financial and training support for indigenous organizations could be an effective response. In a 2009 paper detailing the efforts of one Kenyan peace group, George Wachira emphasizes the need to encourage grassroots leadership by tapping an “inclusive web of improbable, strategic actors,” such as university faculty and vice-chancellors.<sup>118</sup> Community and religious elders also offer such “improbable” strategic leadership. Providing civil society grants to improve local reconciliation and negotiation capacity could prevent conflict from emerging in the future.<sup>119</sup> Regional security personnel could also ensure the presence of an impartial rapid response force capable of preventing the escalation of conflict if it emerged—thus reducing human suffering. Providing this clear deterrent to instigators of violence would further sustain peace and limit spillover effects.

### Long-Term Options for Structural Change

Perhaps the loudest call for change in the wake of the 2007-08 conflict has come from the coalition of voices demanding constitutional reform. Makau Mutua’s extensive study of Kenyan constitutionalism argues that “the state cannot be reconstructed without a new constitutional dispensation.... Citizens regard a new constitution as the central tool for regaining political order.”<sup>120</sup> This belief is widespread among the growing Kenyan reform movement and has also gained significant traction in the United States. In early February 2010, Kenyan MPs from the Reform Caucus visited Washington in an attempt to build U.S. support for a new Kenyan constitution. Speaking at CSIS on February 12, members of the delegation explained that the proposed constitution seeks primarily to weaken executive power by prohibiting MPs from serving in the cabinet, creating a Senate with the power to impeach the president, and endowing parliament with the power to approve presidential appointments. Other groups have also expressed the hope that the reform process will improve the Kenyan system of checks and balances, especially by strengthening the Kenyan courts through independence from the executive.<sup>121</sup> Although this

<sup>117</sup> U.S. Department of State, Office of the Coordinator for Reconstruction and Stabilization (S/CRS), “Active Component, Civilian Response Corps,” <http://www.crs.state.gov/index.cfm?fuseaction=public.display&shortcut=4F2H> (accessed March 14, 2010).

<sup>118</sup> George Wachira, “A Model Citizens’ Response to National Political-Ethnic Conflict: Kenya’s 2008 Post-Election Violence” (Kenya’s Concerned Citizens for Peace, CCP, December 2009), 12, 50-51, 61-62.

<sup>119</sup> Agbonkhanmeghe Orobator, “A Tale of Two Elephants: Overcoming the Postelection Crisis in Kenya,” *America Magazine*, 03/10/2008, 16; for a fuller discussion of Kikuyu elders as community leaders, see Harold Miller, “Exploring the Wisdom of Africa: Kikuyu Elderhood as African Oracle,” Mennonite Central Committee Occasional Papers (Paper obtained through e-mail correspondence with the author, March 16, 2010).

<sup>120</sup> Mutua, 12, 17.

<sup>121</sup> CSIS, “Practical Perspectives on Constitutional Reform in Kenya,” Senate Subcommittee on African Affairs, “The Immediate and Underlying Causes and Consequences of Kenya’s Flawed Elections,” 10, 45; Peter Kagwanja, “Breaking Kenya’s Impasse: Chaos or Courts?,” *Africa Policy Brief No. 1* (Africa Policy Institute, January 2008), 11; KNCHR, 22.

would not immediately impact underlying horizontal inequities, it would weaken the major political barriers preventing issues, such as land distribution, from being addressed.

Kenya's parliament passed the proposed constitution on April 1, 2010, but the document must still face a popular referendum. During the national debate, strong opposition is expected from entrenched political dynasties, such as pro-strong-presidency factions, the perpetrators of the 2007-08 violence, and potentially the heirs apparent of the principal ethnopolitical parties. These opposition forces have vast resources at their disposal and may choose to manipulate ethnic tensions to defeat the constitution, or use fringe issues, such as the legitimacy of the Kadhi (Muslim) courts, to turn religious groups against the reform process. As such, parliamentary leadership has requested U.S. support to protect the national debate in summer 2010 from being hijacked by ethnic radicals, or external religious groups. To this end, threatening to impose sanctions on reform opponents espousing tactics that incite civil conflict, similar to proposals for punishing past perpetrators, could ensure sincere public deliberations.<sup>122</sup> Constitutional reform has been a top U.S. policy priority and should continue to be so based on DeMaio's rubric, as it both promotes stable governance by increasing legislative oversight capability, and sustains the cessation of violence by reducing the zero-sum nature of the imperial presidency and thus alleviating horizontal inequity.

In addition to transferring authority from the executive to the legislative branch, devolution of power from the central government to local districts is at the core of democratic reform, as it would ideally make local development less contingent on ethnopolitical control of the presidency.<sup>123</sup> The Constituency Development Fund (CDF) represents one attempt to meet this goal. Created by President Kibaki in 2003, the CDF allocates funds from the national treasury to each electoral constituency for local projects. Though it should mitigate the power of ethnic coalitions to monopolize development funding, as each constituency benefits equally, the CDF is susceptible to corruption. Nevertheless, Prime Minister Odinga deems the CDF a notable success, as it now comprises about 2.5% of Kenya's total development budget.<sup>124</sup>

Building local infrastructure through such programs has the potential to reduce conflict both by raising perceptions of local economic status and by providing jobs. According to the UNDP study, a 40 billion Kenyan shilling increase in spending on physical infrastructure could create 333,000 jobs nationwide. Boosting wage labor would also shrink unemployment, because much of the agriculture sector consists of self-reliant small farms that employ only family members. The World Bank echoes this assessment, arguing that "off-farm income... [is] an escape route from poverty." By improving the investment climate, wage labor opportunities will grow.<sup>125</sup> The United States has line items in its foreign assistance

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<sup>122</sup> CSIS, "Practical Perspectives on Constitutional Reform in Kenya;" "New Kenyan Constitution Nearing Majority," *Afrol News*, 03/11/2010, <http://www.afrol.com/articles/35610> (accessed March 14, 2010); Alphonse Shiundu and Njeri Rugene, "Kenya Parliament Passes New Law Without Amendments," *Daily Nation*, 04/01/2010, <http://www.nation.co.ke/News/politics/Kenya%20Parliament%20passes%20new%20law/-/1064/891336/-/n6nauw/-/> (accessed April 19, 2010); Mutua, 12, 273; Senate Subcommittee on African Affairs, "The Immediate and Underlying Causes and Consequences of Kenya's Flawed Elections," 18; KNCHR, 7.

<sup>123</sup> Mutua, 271.

<sup>124</sup> Senate Subcommittee on African Affairs, "The Immediate and Underlying Causes and Consequences of Kenya's Flawed Elections," 8; Odinga, "Kenya: A Way Forward."

<sup>125</sup> Deininger, 603; Pollin, et al. (UNDP), 144; Ocho, 159; World Bank, *Kenya Poverty and Inequality Assessment*,

budget directed at local development and improving private-sector investment. Fostering the growth of a non-farming working class by providing economic opportunities for landless Kenyans will diminish the importance of ethnic group control over land, thus easing horizontal inequity. By mitigating tension over land, this U.S. policy approach clearly meets DeMaio's goal of sustaining the cessation of conflict.

Another long-term option that has received broad support in the United States is increasing anti-corruption efforts. In a speech in Nairobi on January 26, 2010, the U.S. Ambassador to Kenya underlined the need to crack down on the corruption that has cost Kenyans billions of dollars (i.e., the Goldenberg and Anglo leasing schemes, the Triton oil scam, and the maize scandal).<sup>126</sup> Prior remarks by the Assistant Secretary for African Affairs similarly stressed the pervasiveness of corporate fraud. He lamented that "most people do not even bother to report corruption because they know no action will be taken."<sup>127</sup> Although this assessment reinforces the sense of impunity for political misconduct, it also indicates that corruption is not driving local conflict. Proceeds from Kenyan corruption may be financing the political violence that preserves the institutional infrastructure behind such misconduct, yet U.S. assistance to fight corruption is an indirect means to promote stable governance and sustain the cessation of conflict. As such, the fight against corruption should not receive priority over other more direct policy initiatives.

Encouraging land reform and extensive redistricting to cultivate Kenyan federalism have also received some policy attention, but they similarly fail to qualify as U.S. priorities. The 210 electoral constituencies in 2007 varied in size from roughly 13,000 to 250,000 voters. While this imbalance has been used to justify recent redistricting proposals, *majimboism* undergirds much of the impetus. *Majimboism*, or ethnic federalism, has existed in Kenya since at least 1991, when Kalenjin politicians sought to reclaim the Rift Valley. According to Bratton and Kimenyi's public opinion polling, about half of adult Kenyans view *majimboism* "as a code word for redistributive politics," and about a quarter feel that such a policy would result in forced migration back to their homelands. During the 2007-08 conflict, such flight to traditional ethnic territories was common. In its worst manifestation, this forced geographical concentration has fueled ethnic cleansing. Although some land-reform proposals reject ethnic federalism, and instead focus on communal land-use policies, most call for some sort of widespread redistribution, which would be controversial and could potentially incite a new wave of civil violence.<sup>128</sup> U.S. support for such policies would ultimately only aggravate the winner-take-all nature of the presidency as state resources would likely be allocated, or redistributed, based on what ethnopolitical alliance controlled executive power.

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135, 139.

<sup>126</sup> U.S. Department of State, Embassy of the United States of America, Nairobi, Kenya, "Reform, Partnership, and the Future of Kenya," Speech by U.S. Ambassador Michael Ranneberger (U.S. Embassy, Nairobi, January 26, 2010).

<sup>127</sup> U.S. Department of State, Bureau of African Affairs, "Kenya and the U.S. – Meeting the Growing Challenge in East Africa," Remarks by Assistant Secretary Johnnie Carson (National Endowment for Democracy, Washington, DC, July 22, 2009).

<sup>128</sup> EU EOM, 13, 39; KNCHR, 24; Oucho, 112; Gettleman, "Signs in Kenya of a Land Redrawn by Ethnicity;" Bratton and Kimenyi, 10-11; Senate Subcommittee on African Affairs, "The Immediate and Underlying Causes and Consequences of Kenya's Flawed Elections," 9, 12, 18, 45; Kenya Land Alliance, 8, 14; Odinga, "Kenya: A Way Forward."

## Recommendations

The key recommendations that should emerge as top priorities for U.S. foreign policy toward Kenya focus on preventing future outbreaks of violence, which is a necessary condition for continued regional stability and ongoing development efforts.

Recommendation 1: Support local mediation strategies to prevent conflict by offering financial, training, and logistical assistance to build the non-violent rapid response capacity of Kenyan peace organizations and community leadership.

Jennifer DeMaio observes that “reliable early warnings provide the time necessary to prepare for short-term containment [of violence]... and [to] implement longer-term proactive strategies [to prevent violence].”<sup>129</sup> This analysis’s quantitative and qualitative findings that violence worsens with increasing levels of horizontal inequity should enhance U.S. early warning capabilities and improve efforts to predict areas at risk of civil conflict. The United States can use these tools to support indigenous organizations able to intercede in at-risk locations to prevent the outbreak of violence by developing early warning networks that monitor indicators of horizontal inequity and that are on alert for conflict triggers. In anticipation of the 2012 elections, the United States should offer CRC resources to train community elders in conflict transformation and provide logistical support to transport Kenyan negotiators to at-risk locations determined by early warning models. This non-violent rapid response mechanism could further prevent the escalation of ethnic strife by empowering local community leadership as an alternative to national institutions that have a legacy of supporting political violence.

Recommendation 2: Increase foreign assistance for non-agricultural local development projects.

As evident in this study’s analytical findings, alleviating local horizontal inequity is the most important long-term component of preventing future outbreaks of civil conflict. As previously discussed, current U.S. foreign assistance programming has prioritized agricultural competitiveness, which if sustained will likely lead to increased horizontal inequity due to existing ethnic-based imbalances in land distribution.<sup>130</sup> Alternatively, giving precedence to non-farming development will provide landless Kenyans with a way to escape poverty, thus diminishing the importance of land ownership and alleviating horizontal inequity. As such, the United States should restructure its foreign assistance budget to support this more effective route to peace building and target new non-agriculture program funding toward predicted at-risk locations.

Recommendation 3: Continue to support Kenya’s constitutional reform process and emphasize that enhanced accountability will boost U.S. willingness to increase development assistance.

Alleviating the inflammatory effect presidential competition has on Kenyan civil conflict requires an infusion of compromise into the political system. Prior to the 2007 general elections, Secretary of State Rice spoke to both principal candidates, stressing that they must be ready and willing to accept defeat.<sup>131</sup>

<sup>129</sup> DeMaio, 52.

<sup>130</sup> U.S. Department of State, CBJ 2010, 76, 79-81.

<sup>131</sup> Senate Subcommittee on African Affairs, “The Immediate and Underlying Causes and Consequences of Kenya’s

This cautionary advice proved useless largely because the power of the Kenyan executive is too great to encourage concessions. To remedy this, the United States has already devoted funds and legal expertise to support constitutional reform. Additionally, the United States should incentivize elite support by conveying its willingness to increase foreign assistance to Kenya as a reward for enhanced democratic accountability. Furthermore, ensuring that defeated presidential candidates will still have a meaningful role in state governance will go far in minimizing the winner-take-all nature of electoral politics. However, to prove it is worthy of increased authority, parliament must improve its legislative oversight structures and mature beyond the corruption and ethnic divisiveness that have historically plagued many of its members.<sup>132</sup> As such, the United States should continue to hold MPs accountable to good governance practices and expand its already active role in improving the functionality of Kenya's democratic institutions.

Recommendation 4: Impose direct sanctions on the perpetrators of the 2007-08 violence and threaten similar treatment of future instigators of conflict during the summer 2010 constitutional referendum, the 2012 general elections, and beyond.

Imposing direct sanctions, such as asset freezes and visa bans, on the instigators and perpetrators of violence during past and future elections and referendums will weaken the national legacy of impunity. Economic penalties will present clear disincentives for employing ethnic hate speech, manipulating perceptions of horizontal inequity, and using fringe issues that cut along ethnopolitical cleavages to tamper with popular reform movements. Due to the importance of foreign assistance to development, the United States possesses significant leverage over Kenyan officials, and can thus proactively ensure politicians do not incite future conflict.

Recommendation 5: Support Kenyan monitoring and evaluation efforts.

As a corollary recommendation, the United States should devote funding and expertise to help develop Kenyan monitoring and evaluation (M&E) programs. Although Kenya has been proactive in developing its M&E infrastructure, including beginning to collect district-level M&E data in 2005 and granting its national statistics bureau semi-autonomy in 2007, further improvement is needed.<sup>133</sup> Aiding Kenyan M&E will enhance U.S. ability to regularly assess the impact of U.S. foreign policy on the underlying causes of conflict in Kenya. Such information is crucial for identifying any future course corrections that may be needed.

## Conclusion

After analyzing numerous third party interventions in African civil wars, Jennifer DeMaio concludes, "Peace cannot be externally imposed on groups in conflict: it must be fomented from the bottom-up."<sup>134</sup>

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Flawed Elections," 21.

<sup>132</sup> Mutua, 268; U.S. Department of State, "Reform, Partnership, and the Future of Kenya;" KNCHR, 167; World Bank, *Kenya Poverty and Inequality Assessment*, 9.

<sup>133</sup> World Bank, *Kenya Poverty and Inequality Assessment*, 177-181.

<sup>134</sup> DeMaio, 195.



This is an important lesson for U.S. foreign policy toward Kenya. Both quantitative and qualitative analysis of Kenya's recent history of civil conflict reveals that deeply rooted, localized horizontal inequities along ethnic lines represent the primary determinants of the emergence of violence. This micro-level reality requires that the United States pursue the bottom-up policy approach DeMaio identifies. As such, focusing U.S. efforts on conflict management by aiding local mediation strategies, increasing non-agricultural foreign assistance, supporting constitutional reform, and punishing conflict agitators will advance the U.S. interest in preventing future outbreaks of violence in Kenya. In early 2008, Kenya looked to be on the brink of state collapse. However, determined international mediation efforts, and what Makau Mutua describes as Kenyans' commitment to "the idea of a viable country,"<sup>135</sup> halted the downfall. Now, moving ever closer to the next political flashpoint in the forthcoming 2012 general elections, the United States has a responsibility to intensify its efforts to minimize Kenyan horizontal inequity and head off a return to the brink of disaster.

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<sup>135</sup> Mutua, 10.

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