From BALLOT to BULLET

An analysis of the underlying and trigger factors to the 2007 post election violence at the Coast of Kenya

Steve Ouma
Hussein Khalid
# Table of Contents

Acknowledgement ........................................................................................................ v

Preface .......................................................................................................................... vii

1. Introduction to MUHURI ................................................................. 1
   1.1 Vision ....................................................................................... 1
   1.2 Goal ....................................................................................... 1
   1.3 Mission ................................................................................... 1
   1.4 Strategic Objectives ............................................................... 1
   1.5 Peace and Security for Development (PSD) Project .......... 2

2. Background of Report .............................................................................. 3

3. Occurrence Analysis between 27th December 2007
   and 25th January 2008 ................................................................. 5
   3.1 Vote Counting ........................................................................ 5
   3.2 Mixed Signals ......................................................................... 6
   3.3 National Trends ....................................................................... 6
   3.4 The Protests ........................................................................... 7
      3.4.1 Mvita ............................................................................... 7
      3.4.2 Changamwe ..................................................................... 8
      3.4.3 Likoni ............................................................................. 10
      3.4.4 Kisauni ........................................................................... 11
      3.4.5 Malindi ........................................................................... 13
      3.4.6 Taita/Taveta ................................................................. 14
      3.4.7 Lamu ............................................................................... 14

4. State’s Response ...................................................................................... 15
5. **So who has been Prosecuted?** ................................................ 17
   Case 1 .......................................................................................... 17
   Case 2 .......................................................................................... 17
   Case 3 .......................................................................................... 18
   Case 4 .......................................................................................... 18

6. **Consequences of the Violence** ....................................... 19
   6.1 Economic Impact ................................................................. 19
   6.1.1 Tourism Industry ............................................................. 19
   6.1.2 Transport Industry ............................................................ 19
   6.1.3 Corporate/Entrepreneurship Sector .................................. 20
   6.1.4 Financial Sector ............................................................... 20
   6.2 Social Impact ....................................................................... 20
   6.3 Cultural Impact .................................................................... 21
   6.3.1 Revival of Illegal Armed Groups ..................................... 21
   6.3.2 Disruption of Cultural Calendar ....................................... 21

7. **Chronology of Events during and after the December 2007**
   **Elections at the Coast** .......................................................... 23

8. **Factors Leading to the 2007 Post Election Violence** .......... 29
   8.1 The Underlying Disquiet ..................................................... 29
   8.2 Relationship between the 1997 Election Violence and the 2007
      Post Election Violence ........................................................... 32
   8.3 The Agenda as Defined by the Situation ............................. 34
   8.4 Crisis of Nationhood ............................................................. 37
   8.5 Politicization of Ethnicity and Ethnicisation of Politics ....... 37
   8.6 Authoritarian Presidency ..................................................... 38
   8.7 Skewed Social and Political Economy ................................. 39
   8.8 Principles and Practices of the Rule of Law ......................... 40

9. **Conclusion** ........................................................................... 43

10 **Endnotes** ............................................................................ 45
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Munir Mazrui
Chairperson
Muslims for Human Rights (MUHURI)
Preface

This report presents the findings of Muslims for Human Rights (MUHURI) into the post 2007 elections violence that rocked the country in 2007-2008. It was commissioned as part of a larger report titled “The Impact of Insecurity on Enjoyment of Human Rights at the Coast of Kenya”. It looks at the events that took place just before polling, during polling (27th December 2007) and what transpired after that.

During the period of elections, MUHURI was accredited by the now defunct Electoral Commission of Kenya (ECK) to monitor the elections. The organisation had monitors who were trained, equipped and facilitated to monitor elections in all the 21 constituencies of Coast province. This report, while giving a detailed account of what the monitors witnessed, also captures the mood of the people at the time and their perception of what was happening in the country. It has adopted the “ecological model” as the major perspective of analysis. The ecological model identifies insecurity at structural, institutional, interpersonal and individual levels and demonstrates that no single level or cause determines or explains violence\(^1\).

For MUHURI, the report presents interesting findings that ought to be taken into account if lasting peace is to be found at the Coast specifically and Kenya in general. The report is clear that the elections were a trigger factor to the social injustice and tension that had been existent in Kenya for decades. This injustice manifested itself in different ways in different parts of the country. At the Coast, while local communities had for years decried marginalization and underdevelopment in the region, no tangible action had been taken by successive governments since independence to remedy the situation. In particular, the land question at the Coast had become a time bomb waiting to explode. Other issues such as poor infrastructure, poor education levels and inequitable distribution of resources had been simmering underneath with no signs of being addressed.

During the post election violence, propelling the situation further was the perceived adamant attitude and arrogance portrayed by the State, in particular the police, in responding to what was obviously a political crisis with legal instrumentalism. The State imagined that releasing instruments of coercion on the opponents would stave off the mayhem but sadly the trigger happy and lethargic police instead of being truly...
the “forces of law and order” chose to themselves engage in acts of violence both on behalf of the leadership and supposedly on their own initiative.

During the post election violence, there was a belief amongst the police in the region (especially the top officers) that in times of chaos and destruction, dialogue and compromise with communities would not help and that the only way to address social ills was by using brute force, threat and intimidation. Clearly, this belief by the police largely contributed to further unrest in the region during the post election violence. While the Provincial Administration, led by the Coast Provincial Commissioner were busy trying to meet local leaders to find ways of restoring peace and using local FM stations to call for calm and order, the police were in the streets shooting, killing, maiming and arresting people. Even where the law was clearly followed and notifications of peaceful processions were presented, the police still violated the democratic rights of citizens to express their dissatisfaction at the turn of events. As a result, police were constantly engaged in the streets and this led to unnecessary death and battering of innocent protestors including those from civil society organizations.

This report was compiled not to vindicate any individual but to help in the reconstruction of our country. This position is evidenced by the fact that this report was first presented to the Commission investigating Post Election Violence (CIPEV) otherwise known as the Waki Commission by the organization’s Executive Director who was Commission Witness number 149 during the hearings. The report was used as a reference point when assessing the violence in the region by the Waki Commission. The issues raised herein and the facts presented are to us an integral part of our history that must be looked at with a view to ensuring such mayhem never recurs. We believe the report will add much value to the efforts being made to ensure a Kenya full of peace, love and unity.

Hussein Khalif
Executive Director
Muslims for Human Rights (MUHURI)
Introduction to MUHURI

Muslims for Human Rights (MUHURI) is a non-governmental organisation based at the Coast of Kenya. It began in 1997 to enhance the struggle for human rights with a view to contributing towards the national and international efforts to promote and protect the enjoyment of human rights and civil liberties by all.

1.1 The Vision
“An equitable society, free from human rights violations.”
Where people of different backgrounds co-exist harmoniously and together promote and protect their rights as enshrined in the laws of the country.

1.2 The Goal
“Promotion of good governance that respects human rights and rule of law.”
This goal seeks the enhancement of a nation that has equitable distribution of national resources, where everyone is involved in the decision making processes and is entitled to earn an honest living without fear of violence or torture and where the law is followed to the letter without discrimination or favouritism.

1.3 The Mission
“To promote the enjoyment of human rights by individuals and social groups.”
This is to say, to entrench the human rights movement within the grassroots and making it part of everyone’s day-to-day life. Ours is to empower communities to own the human rights struggle and to internalize issues as their own.

1.4 Strategic Objectives 2005-2010
In its current Strategic Plan, MUHURI has four strategic objectives:
1. To enhance the capacity of Coastal communities to hold state and non-state actors accountable for human rights violations.
2. To enhance justice, rule of law and respects of human rights by all.
3. To advocate for constitutional and legal reforms to realise a human rights and democratic State.
4. To increase the democratic space within communities by promoting partnership between governance agencies and communities on key Coastal issues.

**1.5 Peace and Security for Development (PSD) Project**

MUHURI’s Peace and Security for Development (PSD) project falls under Strategic Objective 4. The objective of the PSD project is to reduce insecurity by promoting government-community engagement in dealing with the problem. Over the years, the organisation has worked to put the dictatorial and authoritarian Executive in check. As part of the project, MUHURI has found itself dealing with the police and provincial administration. In the beginning of 2006, MUHURI made a shift and adopted a new approach in dealing with the two institutions which represent the excesses of the Executive. This shift is well captured in the peace and security project where MUHURI acts as a platform for engagement between the communities on one side and police on the other. The project views insecurity not as a problem to be dealt with by State apparatus only but a social ill that requires the cooperation of both the police and the communities.

It must be recalled that the vexed relationship between civil society organisations and the State has been due to a history of brutal, oppressive and intolerant State that Kenya had been. This new shift by MUHURI is a move towards appreciating the dialectical relationship that the State has in regard to human rights. At the centre of this relationship is the fact that while the State is the guarantor of human rights on one hand, it also poses a danger to enjoyment of these rights on the other hand. This focus appreciates that engaging with duty bearers and addressing structures that exploit the majority who are weak, marginalized or poor is an important strategy in restructuring governance and reforms.
Background of Report

This report was prepared as part of MUHURI’s Peace and Security for Development (PSD) project. In November 2007, as part of the aforementioned project, MUHURI commissioned a study to review the Phenomenon, Response and Impacts of Insecurity on Enjoyment of Human Rights in the Coastal Region. The December 27th 2007 post elections violence however changed the dynamics and security factors. In the region, violent protests were mainly witnessed in Mombasa and Taita/Taveta with ripple effects being felt all over the region as was the case elsewhere in the country.

Analysts have so far provided numerous and variant explanations in an attempt to explain the causes and the perpetuating factors linked to the heated post elections violence. As is the tradition, most of them have tended to blame ancient tribal rivalry, cynical political calculation, or a combination of the two; with the corrupted electoral process seen as providing the unintended catalyst or worse, the deliberate instigator that awakens latent tribal hostility. But even with such lop-sided view, one underlying consensus is that the 2007 elections were more of a trigger factor rather than a singular cause of the situation.

The Coastal region of which this treatise is about is not new to election related violence. The Likoni and Kwale violence of 1997 are particularly etched indelibly in the minds of Coastal residents. On August 13, 1997, Likoni and Kwale areas erupted in an orgy of violence that targeted Kenyans of upcountry origin. Background studies and other analysis show that the organization of the Likoni violence may have started as early as mid-May 1997. It is alleged that some Coastal Kenyans and some elements that were later alleged to have been Hutu refugees masterminded a senseless protest whose underlying notion was that persons from upcountry had unfairly benefited from Coastal resources. When it finally subsided in November 1997, the violence had left hundreds of people dead or maimed, thousands of others were displaced and homeless, hundreds of businesses and residential buildings destroyed by fire and the economy severely undermined.

Politically there are 21 Constituencies in the Coast Province which are further divided into civic electoral wards. The entire region has 13 Local Authorities. The
population density in 2007 stood at 3,031,879 with a mean inter censal growth rate of 3.4%. Mombasa is the capital of the Coast and more than 70% of the inhabitants are Muslims.

Over the years, there has been a huge immigration of citizens from upcountry areas in search of income generation opportunities and better livelihood. Mombasa for example is a mosaic of various identities. Even the most predominant identities that have had a bearing on the socio, economic and political relations at the Coast can best be understood through the prism of the binary of insiders (predominately the indigenous- Mijikenda, Swahili and Bajun communities) as opposed to the outsiders (predominately the non-indigenous Kamba, Luo and Kikuyu who are from upcountry but reside at the Coast). Apparently, both the indigenous and non-indigenous, have over the years complained of exclusion from the hinterland and exploitation of their resources without due reward. Most volatile though have been the claims of exploitation and exclusion blamed on the so called non-indigenous outsiders commonly referred to as the Watoka Bara. These claims have created polarities and tensions in relations between the so called insiders/locals and outsiders/up-country people. Evidence abounds to confirm that these contradictions played out during the politically instigated 1997 political violence. This analysis is anchored on the foregoing mental note and does illustrate how this historical context has played out in the antecedents that have followed from national politics.

It is in this context that Muslims for Human Rights (MUHURI) undertook an in-depth fact finding mission to document and analyze the way the post 2007 December elections violence was manifested in the Coastal region, its possible causes, impact and implications for civil society (CSO) and people's organizations.
Occurrence Analyses between 27th December 2007 and 25th January 2008

Voting opened to a calm and peaceful start in the entire Coastal region on December 27th, 2007. Although the polling stations were scheduled to open at 6.00am, voters were at the stations as early as 4.00am and waited patiently until the official opening of the stations. Some initial hiccups were witnessed as expected. For instance the new system of using alphabetical arrangement of the voter’s surname was rather confusing since voters were not informed about this earlier. The clerks also looked extremely cautious. These two factors particularly contributed to the long queues and long hours for most voters who were ready to vote.

There was however no incident reported in most areas except for those constituencies that were characterized by very high levels of competition. The most notable were Mvita, Msambweni, Bahari and Magarini which experienced verbal scuffles, though these did not escalate to any violence nor affect the voting process. The two places where things turned violent were Garsen and Matuga. In Garsen, amidst unconfirmed rumours that the incumbent Member of Parliament Mr. Danson Mungatana had flown in foreign ballot boxes stuffed with ballot papers in a chopper, voters reacted violently and burnt ballot boxes with ballot papers and threw them all over. Matuga constituency was also singled out as having a serious case of electoral malpractices which led to violence.

3.1 Vote Counting
After the voting exercise, most citizens pitched tent outside polling stations to follow through the process of vote counting. By midnight of the same day, various television and radio stations started relaying the preliminary tallies coming from their agents in constituencies across the country.
3.2 Mixed Signals

There were however mixed signals following reports of trends in four constituencies. In Garsen for instance, the initial reports seemed to imply that the immediate Member of Parliament had been trounced by a new comer. This was later dispelled. In Changamwe, the immediate MP who was defending his ticket on an ODM ticket was accused of being a Party of National Unity (PNU) operative and dimmed to be headed for a loss in the elections.

The same was the case in Matuga constituency where even the local dailies had reported that the immediate MP had lost. Later it was reported that the MP contested the results and asked for a recount after which he emerged a winner. It is worth noting here that most of these were constituencies considered to have vocal point persons of the PNU. These patterns and shrouded operations by the ECK started raising questions on the integrity of the results. Local leaders used them to make a case of untrustworthiness of the government and the Electoral Commission of Kenya (ECK).

3.3 National Trends

At the national level, the relaying of the tallying went on in earnest in the days between 28th and 29th December 2007. Initial tallies indicated a widening gap between President Kibaki and his major challenger Raila Odinga with the latter being in a clear lead. Raila lead with 3,341,116 votes whereas Kibaki had 2,450,871. This trend was celebrated by ODM supporters in the Coast region and majority of them went to bed with belief and hope of victory for their presidential aspirant Raila Odinga. However, tension, anxiety and fear started gripping the region and particularly Mombasa when by Saturday 29th December 2007 the results were not yet finalized and the margin of lead in favour of Raila took a drastic downward trend.

This trend continued in favour of Kibaki when votes from the Eastern parts of the country started trickling in to the ECK tallying centre at the Kenyatta International Conference Centre (KICC). The myriad uncharacteristic and suspicious occurrences that were taking place at the tallying headquarters in KICC - Nairobi, including the delay in announcing the presidential results clearly raised tension among voters at the Coast. Television watching was attentive and crucial in all parts. It was also note
worthy that Danson Mungatana, whose own elections were fairly contested at his home constituency, appeared as one of the most vocal agents of the PNU presidential candidate.

What broke the camel's back was not just the announcement of Kibaki as the President but the manner in which this was done. The unclear circumstances with which the Chairman of the Commission went about his task, his vague utterances, the endless pleas by ODM representatives to the chair that he entertains complaints to the effect that there were glaring anomalies and his adamant refusal to take cognizance of these interventions and finally the decision by the state to use the paramilitary GSU to evacuate the tallying centre off everybody, switching the lights off and retreating to a secluded room with the state broadcaster and declaring Kibaki the winner all contributed to serious tension in the region. This was made worse by the hastily convened swearing-in ceremony at State House, Nairobi minutes later.

3.4 The Violence
3.4.1 Mvita
In Mombasa, the build up of tension and the expression of dissatisfaction with the turn of events was first visible at the junction of Digo Road and Kenyatta Avenue. On 29th December 2007 from about 3.00pm, young men had started gathering at this point chanting slogans and expressing their disquiet. It appears to this study that this was a rather spontaneous action. Information indicated that the group, simply met to evaluate and share on the situation. Our further analysis though, seems to point out that some of them were members who had played very active roles in Orange Democratic Movement (ODM) campaigns and had crafted an identity as “Party Youths”. This group operated between the roundabout and the Mackinnon market (popularly known as markiti).

In the days to follow, violent protests were witnessed all over the island area of Mvita constituency. Demonstrators were seen at various points clashing with police, looting and burning tyres in the middle of roads. Shops were broken into and cars vandalised. Police excesses were also witnessed with at least 6 protestors being shot dead in this area alone by trigger happy police officers. For example, one homeless person who had nothing to do with the protests and was merely sheltering in the alleys was cornered
by police near the Blue Room Hotel and was shot dead in full glare of the public and in broad daylight. His body was later taken to the Coast General Hospital.

3.4.2 Changamwe

The first reported confrontation though was in Changamwe on 30th December 2007. To understand the dynamics of the protest in the constituency, it may be relevant to do an anatomy of the area. First, this is an area where the election of the Member of Parliament was in question. The second attribute is that Changamwe residents are mainly from the up country communities. Most of them had invested heavily in businesses especially small shops, food kiosks and bars. Of the investors, our fact finding confirmed that individuals from the Kikuyu community owned a sizeable number of businesses in the constituency. On the announcement of the winning of Kibaki, a group of youth came out on the streets and declared bitterly “haiwezekani” (it’s impossible). This group of youths seemed not to have been organized prior and attracted more angry youth and in a short while, the slogan was deafening. Shortly afterwards, they invaded a premises which is said to be owned by Kikuyus in the neighbourhood and looted property, destroyed business items and even beat up the owners. Tension became high and by night, houses owned or in which Kikuyus lived in were burned down without caring whether there were people sleeping inside or not.

By Monday (31st December 2007) morning, in Changamwe, about 20 shops had been broken into, 4 houses burned to ashes and some of the residents (mostly from Kikuyu and Meru communities) were fleeing for safety. They sought refuge at the Mombasa International Airport grounds. In general, throughout Mombasa the situation got way out of hand and by the following day (1st January 2008) gangsters were taking advantage looting property all over the place.

Two bars were also broken into and property stolen. Passengers landing at the airport on their way to town had to be escorted by police due to rampaging and violent youth. To sum up the occurrence in Changamwe is a brief of the report of our field coordinator who is also a resident of the area, Mr. Livingstone Nyando who documented his experience of Magongo - a suburb in Changamwe constituency. Below is the narration as extracted from his report:
It’s about 4pm in the evening of 30th December 2007. A sizeable crowd of about 200 people are gathered at Nyachae Haircuts following the presidential election tallying proceedings. For the past three days they’ve been doing the same while sharing jokes on how Raila’s government will be since he has been leading with a margin of nearly a million votes.

Anger has slowly built up after Kibaki has narrowed the gap to 38,000 in less than 12 hours. People are keenly glued to the television watching the heated exchanges between PNU, ODM, ODM-K and the ECK chairman Samuel Kivuitu. Hell breaks loose when the announcement is eventually made that Kibaki has won the elections. Anger and frustration gets to the crowd who feel that they’re presidential aspirant Raila Odinga has been robbed of election victory. They first vent their anger by pulling down unoccupied loose structures on the road while chanting in praise of ODM and their candidate Raila Odinga. From Soweto Road in Magongo to Mainland, all structures are brought down. Tyres and bonfires are lit on the roads and in the slum there is a state of total lawlessness. Matatus are pulled out of the roads and transport is paralyzed.

At about 9pm things are a bit calm but tension is still high and no one is seen walking around. Everyone stays indoors. The following day i.e. 31st December 2007, things get out of hand when a group of ODM sympathizers consisting of mainly rowdy youth start demonstrations from Magongo Mwisho armed with crude tools of destruction (mainly hammers and iron rods) shouting ODM slogans of Maisha Bora (Better Life) while at the same time chanting “No Raila No Peace”.

Business premises that belong to PNU supporters are broken into and stocks looted. Among the notable premises is Jambo Village Hotel which is razed after excessive looting. Beer and other drinks are taken in a free for all spree after members of the public join the protestors making the numbers swell to thousands. Electronics, chairs and other moveable properties are also looted.
The police patrolling in Land Rovers give the mob the go ahead to loot but not to harm anyone. One looter was shot in the leg by a police officer when, while under the influence of alcohol, he threw a bottle at a policeman. He is recuperating at Coast Provincial Hospital. Appolo Bar which is adjacent was also not spared. The crowd emptied all its alcoholic content as was the same with Mandela café. Baraka Supermarket belonging to an Asian was licked clean and then set on fire. As all this happened, huge born fires were lit on the road and people engaged police in running battles.

The shopping centers in mainland and Soweto areas were also not spared. 4 matatus were burnt; Narok Bar and Lodges were looted too. It was at Narok Bar where one looter was apprehended and set ablaze. The looting was dubbed “Shopping ya ODM” (ODM’s Shopping) and went on for the whole day. The people who escaped the looting were only those smart enough to inscribe on their premises the words “ODM damu” or “ODM pentagon”. The Kambas who own properties came up with the inscription “ODM Ngilu” to distance themselves from Kalonzo Musyoka or “wiper miracle”, who the protestors had come to consider a ‘traitor’.

PNU sympathizers ran to seek refuge at the Moi International Airport where they camped for about three days. In the night, neighbors organized themselves into vigilantes to keep vigil on any impending attack after rumor went round that PNU supporters would retaliate. For much of the following days tension, fear and suspicion remained high.

3.4.3 Likoni
The other area where incidents of violence were reported was Likoni constituency which is one of the two constituencies in Kilindini district that was recently curved out from the larger Mombasa district. It is largely a peri-urban area bordering Kwale district towards the south and the Port Reitz creek towards the West. The people in this area are predominantly Digo’s from the Mijikenda community. It also has a sizeable number of residents from upcountry most predominant being from the Luo
community. Kikuyus and other members from Mt. Kenya region have a stake in the business fraternity. Members of this community are shopkeepers, hawkers and also own real property. It must be recalled that Likoni was hit by elections violence in 1997.

The announcement of election results was met by destruction of property in Likoni which left shops looted and petrol stations burnt. Two petrol stations (Total and Elf) were burnt down to the ground. The most famous club in the area known as “Harambee Bar” was looted and destroyed. Also looted was Mt. Sinai Primary School amongst others. Although this violence is said to have pitted the ODM supporters against perceived PNU sympathizers, most of the properties that were targeted belonged to the Kikuyu community.

Ng’ombeni Chiefs office was torched and the protestors were heard saying they did so because it was a symbol of the rogue State which they did not want. Also affected were the Kenya Ferry Services’ business stalls which were vandalized and looted. Bonfires were lit on the roads which prevented any traffic from moving. For about three days, the south coast, which is linked to Mombasa Island by the ferry, was cut off due to the violence. This affected prices of commodities which shot up by about 300%!

### 3.4.4 Kisauni

The other violence area was Kisauni Constituency which hosts majority of local Coast people. The ownership of business is largely in the hands of a variety of groups i.e. locals, but the control of the main market Kongowea is said to be under the control of persons from the Kikuyu community.

By the time the elections results were announced on 30th December 2007, tension was very high in the area. By the 29th December 2007 youths in the area had contemplated holding public protests against the delay in releasing the results. Few incidents of burning of tyres at the roadside were witnessed at Kisauni Mlaleo area on 30th December 2007 morning. Some resident more so those from communities sympathetic to PNU started moving out of the area as they feared the violence might target them.
On the release of the Presidential results, protests in form of demonstrations erupted in Mlaelo, Mtopanga and Bamburi mwisho. In Bamburi it was reported that those from the Kikuyu community were given warnings to vacate the area. Bars and retail shops owners were the main targets. It is for this reason that in Mshomoroni, Kadongo Bar whose owner is from the Luo community was spared while the neighbouring Machafuko Bar which is owned by an entrepreneur from the Kikuyu community was looted as was the case with Falcon Bar. In Manyani, a group of young unidentified men went from door to door asking everyone to clearly pronounce the word “machungwa” (orange) and not “mashugwa” and since persons from the Kikuyu community are known to pronounce “ch” as “sh” and “ng” as “g” they used this to identify people’s ethnicity. Those who did not pronounce this clearly were either forced to do so or were beaten up. Victims of the violence were forced to seek refuge at the nearby Dog Unit police station in Mishomoroni turning it into an IDP camp.

In the days that followed, there were attacks on various businesses and properties that were associated with Kikuyus. One such incident at the initial stage was the stoning of a matatu that was heading towards Bamburi mwisho whose owner the protestors claimed was a Kikuyu and so viewed as an automatic PNU supporter.

Between 31st December 2007 and 4th January 2008 shops especially furniture shops, supermarkets, select bars in Kisauni were looted. In other cases like the one of a bar known as Masters, the owner responded to the threats to his life by displaying and allowing all his wares for the looters to take. Those who did not follow suit like the case of Turkey Base Restaurant had the properties looted and the premises set ablaze.

Women and children got involved in the looting. At some point women could be seen carrying even sufurias (cooking pots) and spoons looted from the Turkey Base Restaurant. In the night of 30th December 2007, the attackers targeted Mwandoni and went from door to door demanding that occupants identify themselves by saying what their tribe and party was before those viewed to be PNU sympathizers being asked to come out and had their houses looted. In the final analysis one could not tell whether these were actions of political protest or ordinary thuggery.

Though the police in most cases arrived on time, they allowed people to loot but implored them not to cause any bodily harm to other people. Another area which was
highly affected is Mishomoroni area where Nyali West Bar for instance was looted and burnt down to ashes. It was later claimed that the violence saw the return of gangs like “40 thieves” who were said to have gone underground for the past couple of years due to fears arising from increased activities of vigilante groups.

Due to the prevailing situation of general lawlessness and inter-ethnic conflicts it was not easy to state exactly why the violence was happening. It seemed like others were doing it for fun just to raise tension and confusion. Insecurity in the area resulted in looting and torching of almost all shops owned by Kikuyus and Merus. Shops which belonged to other ethnic communities were marked with abbreviations of the opposition party meaning that the owner of the shop voted for the party.

Belief in superstition played a key role in minimizing the looting and vandalism. Locally, it is believed that the rightful owner of a property can curse anyone who steals his/her property and this may give rise to untold suffering to the person who steals. This belief helped in reducing looting and even where looting was done, property was returned the day after in fear of being cursed. The media was abound with stories of the Coastal region where looters were returning property including furniture, electronics and even money.

3.4.5 Malindi

The district experienced very high tension following the announcement of the controversial presidential results. There were no major incidents of violence reported. However, the consequences of the ongoing violence and fear in major towns, especially Mombasa, had implications for the local residents. Most noticeable was the shortage of basic commodities resulting in the sharp increase of prices. For instance, cabbages were selling at Kshs. 100 per piece; potatoes were sold at Kshs. 150 per kilo whereas the Kshs. 50 Safaricom airtime was selling at Kshs. 120. In brief, more than 70% of basic commodity prices got inflated by more than 200% a situation that bit hard on the socio-economic welfare of the people.

There was general lack of transport outside the district. The tourism industry was hugely affected, and many hotels closed down leading to loss of employment. The District Commissioner Malindi convened a meeting with Civil Society organizations
to discuss the security situation in the district. It was resolved that although the district was not directly affected measures need to be put in place to sustain the calm.

3.4.6 Taita/Taveta

After announcement of presidential results, members of the public affiliated to PNU celebrated the results, while the ODM members were out-rightly angered by the results. In Taveta Town, Voi and Mwatate, several youth went on the rampage. In Taveta town, serious damage was visited on several shops that were burnt or looted; at least 15 shops were broken into and goods worth millions of shillings stolen. One famous and big joint known as Makuti was set ablaze and reduced to ashes. One person was killed in the event and several others were injured occasioning the police to take charge and restore order in the town. In Mwatate and Voi town, tension was high but no incident of violence and killings was reported. Religious leaders, village elders, security committees and civil society groups convened meetings with provincial administration to strategize on the way forward.

3.4.7 Lamu District

After announcement of the disputed presidential results, the people of Lamu district reacted by expressing anger and disappointment. Youth gathered in small groups discussing the announcements in hushed tones but without the threat of violence. The situation impacted negatively on the major source of income for the district - Tourism. Many hotels had to close down because tourists flew back to their countries citing the prevailing situation of insecurity in Kenya. The situation was even made worse by the EU announcement that Kenya is not safe. Several countries followed suit by issuing travel advisories that banned travel to Kenya. This led to loss of jobs and closing down of some hotels in the area where 95% of residents depend on tourism for their livelihood by way of jobs and business opportunities. Religious leaders in the area led by the Council of Imams and Preachers of Kenya (CIPK) held several meetings to discuss the problem. They found it necessary to convene meetings with security agents and under the chairmanship of the District Commissioner. With religious leaders and civil society organizations in attendance, several issues were discussed including insecurity and members agreed to work towards dispelling and discouraging rumour mongering as well as facilitating more interactive sessions between the community members.
State’s Response

State’s response to the violence was at times encouraging and at other times disappointing. While there were no signs to indicate that the violence witnessed was pre-planned, the government agencies did not seem to work in partnership to deal with the situation. Of particular note were operations of the Provincial Administration and the Police.

From the onset of the violence and disquiet, the Provincial Administration organized and undertook several meetings that brought together religious leaders, women leaders, civil society and youth leaders with a view to addressing the heightened temperatures in the region. On the other hand, the police seemed to work in isolation in dealing with the violence that had reached serious levels. The police had decided to deal forcefully with what was going on.

Even where notices were given to police for peaceful processions, they would still use force to disperse protestors who included women and the old. In most cases, they used excessive force including shooting dead and clobbering people to the extent of being admitted in hospitals. In some instances, it is reported that the police stood by as people looted shops and vandalized property. Not only were some of the police actions extra judicial but also did not help in calming the situation.

The police responded by asking those with information to come forward but it was unreasonable to expect a common man to come up and give evidence while there were reports circulating about persons who were actually trying to help in calming the situation or reporting others who were arrested by the police.

The situation was also exacerbated by the media ban on live coverage. This led most people to rely on rumours and hearsay. Reports that were circulated mainly via SMS were of armed militia such as Mungiki planning to attack locals. Such reports were being spread all over and this prompted locals to arm themselves ready to defend their lives and property.
So Who Has Been Prosecuted?

To establish if the police had prosecuted any persons, the research team visited Shimo la Tewa prison in Mombasa and interviewed a range of inmates who had been charged with shop breaking and stealing. A 38 year old woman from Bangladesh who was arrested and charged with buying looted goods was jailed for three months. A lady Carol Ouma from Mikindani was also charged with buying looted goods and was given a three months sentence. A 13-year-old girl was also arrested at Magongo and charged with incitement. Apparently, some of the people who were arrested were those who heeded the message of amnesty if they returned stolen goods but upon doing so they got arrested, charged in court and jailed. Below are selected cases of findings from the Shimo la Tewa women’s prison;

Case 1
Prisca Wavudaa, a 30 year old mother of two was charged with shop breaking and stealing contrary to section 306 (a) of the penal code. She was arrested at Jomvu area within Changamwe constituency where the offence was committed and taken to Changamwe police station. According to Wavudaa, just behind her house is the “Home Pub Bar” which had been looted and some valuable items left out. The owner of the property was her long time friend and so she claims to have decided to keep the plastic chairs that had been left behind in safe custody. In total they were 18 plastic chairs and two tables. Later on that evening the police came doing their rounds and marched right into her house. On finding the furniture, they didn’t want to hear anything. She was arrested and later on charged with breaking and stealing.

Case 2
38 years old Monica Achieng is a farmer by profession and lives in Bangladesh area, Mikindani Location. Knowingly, she bought items from a youth who had looted items from a shop in the area. These were: half a kilogram of cooking fat and a box of steel wool. She claimed that at the time of making the purchases she knew that the items had been looted from Mutomo shop, Brookside and Mutua shop which are the main shops in the area. On 3rd January 2008, police officers patrolled the area and pleaded with those who had looted and bought items to return them with a promise of amnesty for any person who obliged. Monica innocently returned the items but
instead was arrested and taken to Changamwe police station where she was taken to court and charged for being in possession of stolen goods. She pleaded not guilty and was issued with a bond of Kshs 100,000 and a surety of the same.

**Case 3**

A 19 year old girl Caroline Auma pleaded guilty of looting Mikindani Supermarket and also participating in looting different shops in the area. She stole sugar and salt among other items. She was arrested on 3rd January 2008 and charged with stealing. She pleaded guilty and convicted to serve three months in prison.

**Case 4**

A 13 year old girl Florence Wairimu was arrested during the violent period at Magongo area and charged with incitement. Wairimu claims on 3rd January 2008, Florence was left by her mother who is a single parent to take care of her young brother who was playing outside their house. Soon after, there were skirmishes with people running all over. As she went to rescue her brother, the police were already in the area and arrested many people including her and 10 other women. Most of them claim that they were caught up in the process of running away from the violence. They were charged with incitement.

Although the above cases are a random sample and do not represent a total sampling of all the prisons where those charged with offences related to the post elections violence could have been held, they however do illustrate the shoddiness with which the police were making arrests and prosecutions in the aftermath of the elections violence. This comes in the background of credible reports that the police in many instances encouraged citizens to loot. While condemning looting and lawlessness, it is important that the police should have conducted thorough investigations and brought to book those who were part of the violence and locate the problem at its rightful cause.
Consequences of the Violence

Overall, the post 2007 election violence has further torn apart the fibre of the Coastal society and undermined the project of building a Nation. Mombasa and Kilindini witnessed displacement of approximately 70,000 people with 6,000 camping at police stations, mosques and churches for safety. Those who found themselves in the various camping centers which were mainly located at the Agricultural Society of Kenya (ASK) show ground were ill-treated by the Provincial Administration in the wake of shortage of essential supplies like water and other sanitary facilities.

At one time, the camp at the dog section police station had an all time high of 995 internally displaced persons while the St. Patrick’s Catholic Church Bangladesh in Mikindani, the Parish reported having 400-500 persons. Overall the government response was a rush to close the camps so that they put a stop to the “inaccurate” impressions about the country that the camps were sending out to the rest of the world. Although a detailed review shall have to be done to establish the quantitative impacts of post election events, the following are the broad observable aspects within an economic, social and cultural categorization:

6.1 Economic Impact
6.1.1 Tourism Industry
The industry is the country’s largest income earner and the biggest source of livelihood for the Coastal communities. The violence that rocked the region due to the disputed presidential results led to cancellation of visits and immediate departure of tourists which resulted in abrupt closure of many hotels. This led to massive loss of jobs in the sector and affiliated industries. Media reports indicated that more than 20,000 employees in the industry were declared redundant.

6.1.2 Transport Industry
Movement in and out of Coast was affected for sometime due to the fear of vehicles being set ablaze or destroyed by demonstrators. Public transport was also affected severely as prices were hiked due to the risks and high fuel prices coupled with very few vehicles that were in operation and were unable to cope with the high demand. Transit goods vehicles operators were afraid to take the risk of deploying their vehicles
due to lack of security on the highway leading to massive congestion at the Port of Mombasa.

**6.1.3 Corporate/Entrepreneurship Sector**
Local traders were terribly affected e.g. fishermen lacked business due to closure of hotels. Massive looting of shops, hardware, fuel station etc. added to the pressure and increased demand of basic commodities. Economic boycotts of businesses whose tribal orientation was considered opposition were also witnessed. Prices of basic goods such as kerosene, cooking oil amongst other commodities went up due to dwindling supply and increased demand.

**6.1.4 Financial Sector**
The Kenyan shilling sank in value and lost ground to all major currencies leading to high inflation and high cost in the export of goods. There was also an effect on micro-credit organizations and banks as loans went unpaid. The credit institutions had to renegotiate with its customers afresh on how the pending loans would be repaid.

**6.2 Social Impact**
Approximately 2,000 people fled to mosques/churches, ASK grounds and police stations. There was delay in schools reopening. Mixed marriages such as those between Kikuyu and Luo witnessed tension. The same also happened at work places between employers and their employees if they represent communities considered to be on either the PNU or ODM sides. This affected output and performance of the organizations.

Initial reports indicate that there were more children in the camps than adults. The children were reported to constitute 70% followed by adult females at 20% and adult male at 10%. What this means is that it is households with children that primarily sought refuge at the camps. This led to social disruption and strain of the family setting and this trend is likely to start instilling a culture of violence and self preservation in the children.

Civil society groups like MUHURI which took positions on this matter were under threat. The Programmes Coordinator of MUHURI – Mr. Hussein Khalid -
in particular received death threats from unknown people who police suspected to belong to the Mungiki sect. As reported by the media, the home of the MUHURI Coordinator was visited by two men who kept vigil near his home and were seen even late into the night.

The Coordinator himself was away in the field on the actual day but his family (wife and son) were present and spent the night in fear of being attacked. On his return, he reported the matter to the police. The police suspected that had the Coordinator been around, then the men would have attacked his home. As a result of this incident, the Coordinator had to move his family to Tanzania while he kept a low profile.

The religious sector was not left behind either with most of them having to grapple with the question of partisanship and non-partisanship politics they played prior to the elections. The key underlying factor still remains, how religious institutions and formations will speak to the authorities without being drawn into the various interest groups that have overt quest for state power.

6.3 Cultural Impact
6.3.1 Revival of Illegal armed groups
As had been observed in the initial study on the Phenomenon of Insecurity at the Coast, the illegal organizing through groups like Mungiki, Mulungunipa and Kayabombo are rife in our society. The violent post elections reawakened ethnic organizing of militia. All the perceived protagonist communities were willing to organize and revive their ethnic militia for the purpose of self defence and preservation.

6.3.2 Disruption of cultural calendar
Some cultural activities such as the new-year celebrations, the opening of schools were all hindered. Cultural centers such as Bombolulu cultural center, Ngomongo villages and Akamba handicrafts and Mombasa annual cultural carnival were all hit as none of them held any activity.
Cronology of Events during and after the December 2007 Elections at the Coast

27th December 2007
- Voters went out to cast their votes as early as 4am. in most polling stations in the region.
- A large voter turn out was realized by end of the day.
- The situation was very calm in most polling stations except for major scuffles in Garsen and Matuga.
- The police were vigilant and security was good.
- ECK appeared not very well organized in some polling stations as was the case at Public Health (Mvita) and Lamu Boys (Lamu West) polling stations.
- People went to bed awaiting results.

28th December 2007
- Civic results were ready and had been announced by midnight of 27th December 2007 in most parts of the Coast region.
- Most parliamentary results were also out and celebrations took place in some constituencies like Mvita and Likoni.
- The presidential results trend was quickly moving in favour of ODM.
- In Garsen Constituency a helicopter carrying ballot boxes and papers crashed in Gamosa and the ballot papers were strewn all over the Constituency.
- In Garsen, ballot boxes and papers were detained at Gamba, Minjila and Oda Police posts rather than being transported to ECK tallying centres.

29th December 2007
- Most constituencies had forwarded their tallies to the tallying headquarters at KICC in Nairobi.
- There was anxiety, rumours, speculations and tension as people awaited presidential results.

30th December 2007
- Tension was very high and the rumour that the Presidential results would be
rigged was all over.

- People were glued to their television sets and small groups of people could be seen assembling in various parts discussing their fears.
- At about 5.30pm the ECK Chairman announced the presidential poll results declaring Kibaki the winner.
- Immediately, in Mombasa, particularly Changamwe, Maweni, Mshomoroni, Likoni, Bamburi, Bombolulu, Kisauni, Kwale, youth took to the streets and declared rejection slogans: Haiwezekani (impossible), Hatutaki (we reject), Waizi (thieves) etc.
- There was looting of property, destruction of business premises, torching of houses and killing of people.
- The victims targeted were people from Mount Kenya region.
- The anti-riot police came in to disperse the youth and try to restore order.
- People fled for safety to open grounds e.g. schools, mosques, churches, showground and the airport.

31st December 2007

- A gang of angry youth attacked shops, torched houses and injured people in Changamwe, Likoni and Kisauni.
- The police used tear gas canisters and bullets to restore order and in the process also hurt people.
- All over, there was panic, fear, mistrust and animosity.

1st January 2008

- In Mshomoroni, Changamwe, Likoni and Kisauni there was massive looting, destruction of property in form of burning houses and kiosks, burning tyres on the streets as a way of expressing dissatisfaction with the results.
- In Changamwe, 20 shops were looted and 4 houses burned. In Mshomoroni, some shops were broken into, a three year old boy was injured by a stray bullet.
- Amidst protests in Mvita, police rushed in to restore order by lodging tear gas canisters and using bullets to disperse people.
- People fled for safety to open grounds and a large number sought refuge amongst relatives in town.
2\textsuperscript{nd} January 2008

- In Taveta town, 15 shops were broken into and goods worth millions of shillings stolen. One big chain store was set ablaze by rowdy youth reducing the building and goods to ashes. Police took charge and restored order in the town. One person was killed in the event and several others were injured.
- In nearby towns of Malindi, Kwale and Lamu tension was high but no violent incidents was reported.
- In Likoni, two petrol stations were burnt down including Total and Elf filling stations.

3\textsuperscript{rd} January 2008

- In Maweni, Kisauni, Bombolulu and Changamwe, rowdy youth were gathering to march to Makadara grounds for demonstrations.
- Kiosks were destroyed and used to block the roads.
- Police dispersed the youth by shooting in the air and lobbing tear gas canisters all over the place.
- One man was shot in the head and scores injured as gunshots rent the air.
- The victims had to seek refuge in open grounds and the number of IDPs was soaring by the day.

5\textsuperscript{th} January 2008

- In Mvita there were demonstrations organized by youth leaders.
- Shops closed down, markets closed, matatu transport was paralysed and normal operations were interfered with.
- In Matuga division, Ng’ombeni - an area which hosted the Kayabombo youth, the chief’s office was raided and burnt down to ashes.
- In Ukunda, shops were burnt and others were marked with ‘X’ as a sign that they were on the ‘wanted’ list. Roadside hotels e.g. Wangai Bar - a property belonging to a non-indigenous was burnt to ashes. Youth stopped cars and identified occupants on the basis of their ethnicity and stole from those they viewed as “enemies”. There was confrontation with the police shooting in the air.
- In Diani, which is famous for Mulungunipa activities, two Germans were killed. One was a Kenyan citizen of German origin.
Mwamanga, a house belonging to a family from Mount Kenya region was burnt, the family was attacked with the father killed and his arms severed and hanged on a tree with an engraved message. The wife and children also suffered panga injuries.

- Basic commodities like food, airtime, and hospital services were scarce hence their prices sky rocketed.
- There were meetings and discussions between leaders and the security personnel all over to try and restore order.
- There were calls and appeals from religious leaders to people to refrain from violence.

10th January 2008

- In Mvita, there were demonstrations after Friday prayers.
- Shops had to close, business was affected and the normal town life was full of tension, fear and uncertainty.
- The residents, business people and the demonstrators endured long hours of hide and seek with the police.
- Very long queues were witnessed at supermarkets as people rushed to buy stock.

18th January 2008

- In Mvita there were demonstrations organized by the youth and civil society activists.
- Gun shots reigned in the air and tear gas canisters were thrown all over to disperse demonstrators.
- One youth was shot dead, scores injured and rushed to the hospital. Shops closed down and business was thoroughly affected.
- Civil society organizations and other religious leaders called for peace as they also extended relief aid to the IDPs.

22nd January 2008

- IDPs were ordered to return home although majority did not have homes to return to. They were engulfed in fear and mistrust.
- The largest source of livelihood in the region and a significant foreign
exchange earner for the country (tourism) experienced a big loss when more than 90% of expected tourists cancelled their trips to Kenya.

- More than 20,000 people lost their source of income directly and indirectly due to abrupt hotel closures.

25th January 2008

- Reasonable calm was returning to most parts that experienced skirmishes.
- The mediation process led by Kofi Annan gave people a reason to be patient.
- People were eagerly awaiting the outcome of the mediation talks.
Factors Leading to the 2007 Post Election Violence

8.1 The Underlying Disquiet
Before the elections, the Coastal region had demonstrated steady recovery especially in the tourism sector that had previously suffered a major beating following the Likoni clashes of 1997. In order to understand the nature of the 2007 post election violence in the region, one needs to review the possible reasons why the Coast by and large voted for the opposition while the incumbent President Kibaki and his party had invested heavily in luring Coastal residents and Muslims in particular to vote for him and his party.

Overall, of the 20 expert informants that the audit team spoke to, 90% were categorical that none of the revival initiatives had focused on the underlying issues that have impoverished and excluded the poor in the region. In the land redistribution programme for instance, the residents contested that the so called issuance of titles, avoided the deep seated issues of who owns land and how they had acquired it. In this context, issuance of titles to a few people was seen as an effort by the State to appease a few squatters and gloss over the fundamental issues of skewed land distribution. One informant for instance posed; “why can’t they implement the Ndung’u land report or national land reforms? They simply want our votes for them to protect their interests”. Similar sentiments were aired on the re-opening of the Kenya Meat Commission factory at Kibarani. The question that was raised by residents once more was “Who supplies meat there and yet Coastal people do not keep livestock?”

The tourism sector is another flagship sector that has been used to make a case for the State’s support for the region. Once more the question that has been brought to the table is who owns and runs the sector. The general impression is that the sector is owned by foreigners and their local acolytes who are close to the State. The final thorn was the manner in which the government undertook its operations on the war against terror. Kenyans and more so those from the Islamic faith while condemning the unwarranted violence and destruction by terrorists, registered disaffection with
the onslaught on civil liberties manifested in the State operation. The police have frequently seized, detained and even undertaken rendition of Kenyans under the guise of war on terror. The vote against government was to that extent a vote against the perception of undermining of civil liberties of Kenyans and more so the Costal people.

Under these circumstances, the post December 2007 protests although may at some point have been captured by opportunists, must be seen and understood as a reaction and expression of the deep seated sentiments and disquiet with the establishment. This explains why voter turnout was at an all time high. The Costal region has since independence been suspicious of the over centralized system of government. Learning from the Colonial rule, Ronald Ngala argued during the Lancaster debate that the post colonial government would only succeed if the State ceded space and allowed the citizens more say and earnings from their local resources. It is this position of the right to self determination that was at the heart of the formation of opposition party Kenya African Development Union (KADU). Ethnic identities had also started playing out then in politics prompting KADU to further argue that any such over centralized system would facilitate the big ethnic groups to disenfranchise the small ethnic groups. It is for this reason that KADU attracted the so called small ethnic groups under the banner of Majimbo (Decentralized governance system). Perhaps this second element of Majimbo is what has given the term a connotation of self preservation very much associated with the binary of the insiders versus the outsiders. At independence the Kenya Africa National Union (KANU) won the elections and implemented a centralized system of government.

The new African led government took over the seat of power and within two years, abandoned the vision of nation building and concentrated on a centralized government. Instead, the county’s political system degenerated into a patrimonial political system which was characterized by the personalisation of power and the politics of patronage, and the ethnicisation of politics, which sustained it⁹. This is further sustained by the authoritarian presidency and the fact that the State has retained monopoly as the sole agency by which citizens could aspire to climb the commanding heights of the economy against racially and ethnic entrenched interests in land, commerce and finance. After the merger of KANU and KADU, Kenyatta’s
From Ballot to presidency had the political realm dominated by small elite from his community and home district - the so-called “Kiambu Mafia”. This group undermined Kenyatta’s nationalist and populist background, alienating other ethnic groups, as well as many non-conforming Kikuyus. Essentially then, the Kenyan politics were reduced into those of “eating the national cake”. It was assumed that when a person of your ethnic group ascends to presidency (which was and is still omniscient and omnipotent), then your ethnic community would gain from state largesse.

Analysts have been very candid on how this administration curved way for exploitation of the region. To start with, the land and property from the Coast region was acquired by a few powerful and mighty individuals just in similar fashion as had been used by the colonizers to take over land and property in the hinterland. These were rationalized by the stereotypes of the Coastal people being slow and lazy and so the argument went that for the region to develop, communities from the hinterland needed to get down there and engage in farming, invest and manage the resources like the port to benefit the country and create a trickle down effect to the Coastal communities.

It is this reasoning that explains why the cashew nut factory in Kilifi was neglected and collapsed just as was the Ramisi sugar company and the Mnazi industry. On employment, prime sectors like the port were reserved for the urbanites and to perpetuate this, investment in education was marginal with no public university in the region or national secondary school. The tale of tourism and the potential extractive industry is even deeper as it demonstrates exploitation by both the central government and international investors. At independence, the Coastal region can by and large be said to have shifted from a colonial state to condominium.

It is this background that galvanized the National Rainbow Coalition (NARC) dream. The Coastal people wanted a democracy where the governed had more control over the governors - a dream that was somehow captured by the theme of the 2002 NARC manifesto of “Towards Democracy and Empowerment”. It is perhaps the betrayal of this dream that made elections 2007 very competitive. As Gitau Warigi notes “… (After the 2002 elections) President Kibaki’s fundamental mistake was to imagine that life could go on like it was before 1978 without taking into account that he
was in office not entirely because of his national popularity but because he was put at the head of a coalition whose partners had a different motivation. The issue in contest therefore boils down to the nature of the presidency. It all lies in the imperial presidency where the winner takes it all. And there is abundant evidence that in the Coast, just as is the case throughout the country, it is those who are close to power who do benefit from the State.

8.2 Relationship between 1997 Elections Violence and 2007 Post Elections Violence

As has been noted earlier, the Coastal region has experienced politically related violence before i.e. the Kayabombo skirmishes of 1997. This report contends that there are commonalities but also fundamental differences in these two incidents. Both incidents share the foundational cause which is inequality and inequity. In 1997, it is believed that president Moi used his political allies to instigate and cause the violence - the involvement of the late Karisa Maitha has for instance been well documented by the Kenya Human Rights Commission (KHRC: 2000).

But the premises that were used to organize this state sponsored terror, was that the Coastal people had lost out their resources and income from economic activities to the Watoka Bara (upcountry residents). The violence was therefore used to kick off these ‘outsiders’ and supposedly pave way for the Coastal people to benefit. Kenyans were killed in this period through violence that was evoked for political purposes. Many were murdered while hundreds others were displaced with the approval or complicity of the State.

While there is real inequality within the region, the inequality is also pronounced when looked at in relation to the entire country. The then President Moi and his allies were using this situation (which is a creation of not only their governance system but also history) to disenfranchise people who Moi believed would have voted for the opposition. Worth noting also is that at that time, the identity of the so called Coastal struggle was mainly seen in the context of the Coastal community (wenyeji) against the rest of the Kenyan citizens (watoka bara).

It is this very claim of inequality and inequity that lies underneath the post 2007
election protest. It is however extremely critical to situate this position against the backdrop of the pre-election campaign in which ODM managed to use these issues to galvanize support from the region. ODM crafted a raft of issues that were Coast specific to develop a regional manifesto for its campaign in the region that held out the promise to get to the bottom of these historical issues upon assuming power and included a Coastal leader in its key organ to show that an ODM government would deal with Coastal issues. This won the support of many Coastals prior to the vote. The PNU side also claimed they would recognize these issues with a second term in office if successful. So when the violence broke out, this time, unlike in 1997 the occupant of the State power was the perceived villain facing popular protest using the same discourse and mechanism that the State had used ten years earlier.

This notion of targeting the occupant of the State should not go unnoticed. It implies that the Coastal citizens see the State as a mere repository, “a shell”, which is occupied and shaped by its occupant.

In this perspective, the citizens seemed to argue that the previous occupants and more so the Kenyatta, Moi and Kibaki regimes, used their presidency to marginalize and exploit them. It is for this reason that the 2007 vote was deemed as vote for change. So while the issues were inequality and inequity, the villains were different for the cases of 1997 and 2007. This confirms our earlier assertion about the fluidity and complexity of identity. This issue of political identity in Kenya is a subject that must be engaged in more details without simply summing up issues in the phraseology of tribalism.

Evidence from the 1997 and 2007 political violence attest to the role politicians and societal experience have played in constructing identity and how it is used to express dysfunctionality in society. In 1997, it is believed the State organized the violence with an aim of evicting upcountry residents whom they considered to hold oppositional opinion. To root this project, it triggered the old “separationalist” campaign of the Coastal politicians. The Coastal communities were organized to see the so called non-indigenous (Watoka bara) as the problem and Luos were major targets of attack in the Likoni violence. The 2007 elections saw the occupants of the Presidency (and by extension their ethnic groups) isolated as the root causes of inequality.
In 1997, violence was State sponsored while 2007 was a response to the bungled tallying process which provided the ground for violent protests whose root went far beyond the electoral issue. At a conceptual level, the move from the indignity versus non-indignity binary, presents an important step towards dealing with the root cause of the problem. It takes us to start focusing on the government (seen mainly through the all powerful presidency) and the State. Under the influence of ethnicization of politics, past assassinations and stereotypes that seemed to suggest that other communities were not suitable for the country’s leadership, Kenyans and Coastal communities missed the point when they symbolized the occupant with particular communities. Yet that is an impact of the patrimonial system that must be brought down for us to reclaim the vision of a new Kenya.

8.3 The Agenda as Defined by the Situation

The manifestation and impact of violence that this discussion has attempted to unearth, is political violence. That is violence connected with the struggle for and maintenance of political power and with the definition of political identity itself. Essentially its actors include the competing political groupings as well as the incumbent. This kind of violence as the Kenyan authorities must have realized by now, is very difficult to control more so when it involves contestation of the citizens' legitimate claims. Situated within the country's political history, this kind of violence tends to spread like cancer throughout a society spawning or encouraging other kinds of violence. This has been the case in Kenya as evidenced by the happening not only at the Coast but also in Nairobi, Kisumu, Kakamega, Nakuru, Eldoret, and so on. It seems like most of the groups that have organized themselves informally, have drawn their legitimacy from the precedent set by the state organized informal repression that was evidenced during the 1997 State sponsored pre-elections thuggery by groups like Kayabombo, Jeshi la Mzee, Kamjesh and Mungiki amongst others.

It is however important to clarify that the mix up between race/ethnicity and class is not unique to the Kenya population (even Karl Max never quite saw the race as factored and thus ignored it within his framework of analysis11). As the Ugandan example would show under Idi Amin at the time when he was ejecting the Ugandans of Asian origin out of the country, the situation in the country was such that the income differentials had coincided with the racial and class division in the country as did
social stratification based on education, occupation and location. The higher income of the Asian business men for example, set them apart from African population; hence Idi Amin’s inability to distinguish class from race when he expelled all Asians from Uganda in 1972. Politicization of ethnicity in Kenya has over time caused the same blurred relationship and so most Coastal residents could not make a distinction between the “rich class” and the class of the “lumpen Kikuyu shopkeeper”. Some have argued that the attitude of the “lumpen Kikuyu shopkeeper” and its bravado and dismissal of the Coastal resident as lazy explains part of this problem. The perception that the “lumpen Kikuyu shopkeeper” went on a celebration of the electoral theft marked some of the feelings that led to the attacks. The truth is that such an attitude of political identity is not any different from the overzealous ODM supporters who thought that all Kikuyus were members of PNU or even if they were had no right to express that opinion.

Propelling the situation further is the perceived adamant attitude and arrogance portrayed by the State in responding to what is obviously a political crisis with legal instrumentalism. The state imagines that releasing instruments of coercion on the opponents would stave off the mayhem but sadly the trigger happy and lethargic police instead of being truly the “forces of law and order” chose to engage in acts of violence both on behalf of the leadership and supposedly on their own initiative.

Thus in the period between 29th December 2008 to date, the incidents of deviant violence - rape, raids, burglary, fraud, vandalism, looting, arson, dangerous driving and so on, increased dramatically. As evidenced by the findings on the manifestations of insecurity in the Coastal region, though this kind of violence and insecurity was not unknown in the pre-election violence Coast, it has acquired a new face with the appearance of political violence in Kenya.

Beginning February 2008, this wave of violence has given rise to other forms of violence led mainly by vigilante groups. Citizens organize themselves into vigilante groups to protect their lives and property by day and night as a result of increased insecurity. Some of these groups were formed following various calls from the mosques for the residents to be on alert due to fears from possible retaliation by Mungiki gangs. In this regard, although this discussion has focused on the Coastal region, it
is important to note that the entire country that had been put on this precipice. The first step therefore in dealing with the sad state of affairs is to get the country from this mire and denial of the reality.

Kenyans have for many years failed to acknowledge the fact that its nation is founded on deeply rooted atrocities and clay feet that even the liberal constitution could not resolve given the fact that the independent State had inherited wholesale the colonial legislations and its jurisprudence. The colonial State, on which the current State is founded, was despotist and divisive. It was based, sustained and resigned to control and dominate and the calculus for power was its major preoccupation. Of most significance to the current crisis is the fact that this State was based on differentiated citizenship which was socially and racially defined. This crisis of differentiated citizenship seems to have persisted with the binary between insider and outsiders predominating social relations and access to opportunities and outcomes of economic progress. This State and its political economy have for long been at the heart of the Kenyan crisis.

The post independence period also saw the galvanization of this political economy within this context of differentiated citizenship. This economic process was referred to as Africanization of the economy. Undertaken within the skewed economic structures inherited by the new administration from the colonialists, soon the courtiers of the new ruling class started using their ascendancy to State power to usurp economic power from the departing colonialist. Although there is nothing wrong with Africanization, the problem was that in the case of Kenya, just like it has been in South Africa, the new political (black) elite refused to dismantle the pillar of the colonial political economy and used them for their own gains. It is this pattern that facilitated Kenyatta and all the subsequent regimes to amass land and other resources at the cost of the local communities at the Coast.

The final result of this process was manifested in the preceding dissent within the independence government, prompting Jaramogi Oginga Odinga to write his book Not yet Uhuru\textsuperscript{12} and J.M. Kariuki, a politician from Nyandarua who was brutally murdered in 1975, to claim that Kenyatta created a nation of ten millionaires and ten million beggars at a time when Kenya was experiencing an economic growth at the
rate of 7% per year. The situation is not any different today, the Coastal region and its people benefit very little from its abundant resources.

8.4 Crisis of Nationhood
The second level of failure lies in the crisis of nationhood. The Kenyan Nation-State was cobbled out of several ethnic nations. But unlike the European leviathan model, the pre-colonial ethnic nations were constituted more by internal debate over how to achieve honour in the unequal lives of patron or client, than by solidarity against strangers. As such, in building the colonial State, what had previously been a multi-polar mosaic of scattered nodes of socially productive energy became, within Kenya’s new borders, a layered pyramid of profit and power, unequally divided between two key centres - one “white”, one “black” - and many marginalised peripheries. At independence, the major project of post independence government as was the case in other African states was to try and build a nation out of this antagonized state. At the Coast, this politics of indignity versus indemnity is deep and pits various identities. At one time, it is about the so called indigenous Coastal communities against the non-indigenous while at other times it gets to races that are indigenous Coastal thus pitting the Swahili against the Mijikenda. Deeper even amongst the Mijikenda there have been calls that the Digos are more Tanzanians than Kenyans. The same contradictions play amongst the Swahili where discrimination and labelling is done based on the various Arab origins be it Oman, Yemen, Saudi Arabia and so on. This is a task that all the past regimes have failed to deal with. Our current situation is thus a crisis of a collapsed nation building project.

8.5 Politicization of Ethnicity and Ethnicization of Politics
The third level of this crisis is the politicization of ethnicity and ethnicization of politics. Over the years, Kenyan politicians have organized their patronage political competition and maintained power along the lines and banner of ethnicity. A scene well captured by Archie Mafeje when he contends that: “ethnic divisions in contemporary Africa are largely imagined and encouraged by those who stand to gain by them, namely, modern political elites whose egocentric struggles for state power have proved inimical to democracy of any kind. It is this ideological manipulation which should be understood as ethnicity and not innocent, self-imposing identities [ethnic groups], which people acquire by historical accident”. It is this kind of
politics widely seen through political groupings (which call themselves parties though they are not) that continue to galvanize and catalyze ethnic animosity in Kenya. Under this system, politicians generally justify their privilege by carving ethnic benefits from State largesse. Worse still, the Coastal parliamentary constituencies are demarcated to either singly or in contiguous groups coincide with what have become tribal territories. It is for this reason that whenever a politician is caught on the wrong side of the law, the next reaction is to organize his or her ethnic kinsmen under the guise that their people are being attacked.

A review of 1997 and 2007 also serves to illustrate that identity politics is a shifting and complex area. The trick it seems is to claim the right identity at the right time. This fluid construction can no longer be relied on to express legitimate and deep seated issues such as the ones around the 2007 elections. It is this ethnicization of politics and politicization of ethnicity that has poured cold water on the otherwise good project of Majimbo.

8.6 Authoritarian Presidency
The fourth crisis is one of authoritarian presidency. As has been pointed out, the post-independence Kenyan State inherited a violent and very powerful State. Though directly elected, the president as has been demonstrated in the reign of Kenyatta, Moi and Kibaki, is capable of manipulating all public institutions, including parliament. This position was expressed by the citizens during the field study. When asked why he thought the chief’s office was razed down in Likoni for instance, one respondent was firm and categorical “We don’t want the president to be all over our lives more so if he isn’t our choice”.

At the same time, the State has retained its monopoly as the sole agency by which citizens can aspire to climb the commanding heights of the economy against racially and ethnic entrenched interests in land, commerce and finance. Over the years, it is the State that has buffered the Coastal communities from accessing employments and opportunities from the Kenya Port Authority (KPA). It is for this reason that the ferocity of competition for a share of State power rose over time in the quest for the so called turn “to eat”. With both the opportunity and “what to eat” diminishing in the Moi regime, the political class and the elite thought that it would no longer be
feasible to simply wait for the turn “to eat”. In his attempts to “de-Kikuyu-nise” the civil service and the State-owned enterprises previously dominated by the Kikuyu ethnic group during Kenyatta’s regime, Moi appointed Kalenjins in key posts in, among others, Agricultural Development Corporation (ADC), Kenya Commercial Bank (KCB), Kenya Posts and Telecommunications (KPT), Central Bank of Kenya (CBK), Kenya Industrial Estates (KIE), National Cereals and Produce Board (NCPB), and the Kenya Grain Growers Cooperative Union (KGGCU). He created Nyayo Tea Zones (NTZ), Nyayo Bus Company (NBC) and Nyayo Tea Zones Development Corporation (NTZDC)”¹⁴. This explains the popular anger that grew among Kenyan citizens – and thus the impetus for pressure for a constitutional change which would strengthen parliament.

So even though the contest over the 2007 elections seems to suggest that the opposition was merely less successful in rigging, what Kenyans seem to be revolting against was possibly another term for the Kikuyu “to eat”. Noteworthy also is the fact that during the elections campaign, while Kibaki’s Party of National unity (PNU) campaigned on the basis of economic growth, Orange Democratic Movement (ODM) campaigned on the basis of political and economic growth and reforms towards more equity and equality. But that was not all about the electioneering period of 2007. Of significance is the fact that the period was used to problematise and analyze the issue of inequality and inequity from an ethnic perspective and thereby fuelling ethnic suspicion and providing rationalization for the already tense ethnic relations. During this period, it became common place to hear comments like; (one group is violent, hungry for power and any candidate from the community is unelectable; another is arrogant, selfish, domineering, and unwilling to share economic gains with any other community; yet another as corrupt or beneficiaries of corruption). This debate was indisputably a trigger factor to the crisis.

8.7 Skewed Social and Political Economy

The Coastal social and political economy, was evidently structured around various inequitable and potentially volatile social relationships, some of which predate the colonial era. Others were instilled by the colonial regime, but nearly all of which were introduced by the period of foreign domination before 1963. These were manifest in the international level in Kenya’s relationship with Britain, Portugal and Persian Gulf.
Over time, property ownership and control over land seemed to have established a complex chain that is closely linked to generations of lineages in the Arab world. It must be recalled that when the colonial State was being structured, the then Persian administration for Mombasa was keen to negotiate quasi independent status (like City State) with the colonial administration. The same exploitative property ownership relations seem to have influenced the design of the colonial administration. It is this history of dominations that seems to have influenced the subsequent relationship between the central regime and the region.

At the local level, inequality is manifested in overlapping cleavages and disparities between regions, races, generation, ethnic and religious groups, classes and gender. The national priorities do demonstrate that visible and alarming disparities in priorities and allocations for the region. Instead of restructuring the economy, the Kibaki administration of 2002-2007, seemed to have resorted to bourgeoisie charity based relation with the region. This is evidenced at the whims with which new districts were awarded, holidays given and promises made during the electioneering period.

8.8 The Principles and Practices of the Rule of Law

The fifth crisis is one of the undermining of principles and practice of the rule of law, which is regarded as an important touchstone of any liberal democracy. Although Kenya’s judicial system is based on the British model, for much of the independence period its actions have reflected the primacy of the executive. In 2002, a panel of Commonwealth judicial experts from Africa and Canada examined the court system and concluded that Kenya's court system was among the most incompetent and inefficient in Africa with judges subject to political pressure and often accepting bribes to influence their decisions. Similar concerns were captured by the 2005 report by the International Commission of Jurists (ICJ) which concluded that corruption in the administration of justice as well as in the judiciary remains a serious impediment to the rule of law in Kenya. As a testimony to the eminent collapse of rule of law, ODM ruled out the option of contesting the presidential results in the Kenyan Courts.

The practice of rule of law was further undermined by the State’s option to privatize coercion as seen in the Moi regime in the 1990’s. This was through the use of private militia commonly known as Jeshi la Mzee to repress and punish opponents (real or
Mainly made of youthful individuals, the Jeshi la Mzee operated with the protection of the police, unleashing terror on anyone who had been earmarked as an opponent to the establishment. These actions have lived to form permanent dents in Kenya’s security character. By challenging State’s monopoly to coercion, the organizing of Jeshi la Mzee led to proliferation of several other informally organized armed groups. They included: Chinkororo, Kayabombo, Sungu Sungu and Baghdad Boys. It is this trend that promoted the Human Rights Watch to note in its detailed report entitled “Playing with fire: Weapons Proliferation, Political Violence, and Human Rights in Kenya”\textsuperscript{15} that “…viewed in contrast to many of its neighbours, Kenya is often seen as a bastion of stability. The country has several strengths that militate against the outbreak of mass violence, but it also exhibits many of the factors that have been markers of civil strife elsewhere in Africa: strong ethnic divisions, polarized political issues, political manipulation, rampant violence, socio-economic disparities and a lack of economic opportunity, and endemic corruption.”

Indisputable evidence has ever since indicated that senior politicians instigated these ethnic violence but no actions has been taken against them who started these deadly violence. State sponsored violence continues to cause insecurity and offer “legitimate precedent” for various deviant groups to commit atrocities against Kenyans with impunity.

The last facet of the notion of rule of law is that the Kenyan people seem to be calling for a redefinition of philosophy of rule of law. For long, the rhetoric of rule of law has been used by the government (just like was the case in the colonial Kenya) to control and dominate the citizens. What Kenyans are calling for through these protest is to place legal limits on democratic political practice, in the process separating law from politics and seeking to keep political questions out of the courts and legal questions out of politics. The point is to set parameters on popular sovereignty and thus on the right of the majority to transform society by the rule of law, which formulated the inviolable rights of the minority in reference to that majority, or of the individual in relation to the political power of the state.”\textsuperscript{16}
Conclusion

In conclusion, the path that civil society and people's organizations should take in this regard is clear cut. Any interventions by these institutions must be centered on the goal of nation-building and transforming the country into a developmental State by building a popular democracy. As has been articulated by the US ambassador to Kenya Mr. Michael Ranneberger, This agenda implies three pillars of diversity, democracy and development (the 3Ds). The entry point is to turn the current crisis into a constitutional moment. It is only through this process of ushering in a new fundamental law that we can overhaul the Kenyan State and lift the country from its current death bed.

Civil society organizations must in this regard undertake the project of organizing the interest of the poor and marginalized in expressional form that are based on cross sectional interests. In the context of this analysis, there seem to be no better option for such interests based organization than that based on class consciences. As although the binary discourse is useful, its application by the Coastal communities have been flawed. Class explains a lot about the Coast (and the Kenyan situation) and the conspiracy of silence on the subject denies us a vital tool to change this situation. The poor must organize themselves as an underclass and use that to generate the social energy for change.

In demanding for a new constitutional order, the Kenyan citizens saw the system of governance as the primary cause of their misery. This realization is well captured by the then chair of the constitutional review commission Prof. Yash Pal Ghai when he noted that: “The constitution review process was essentially about ensuring Kenyans their right to security, fairness and decent subsistence (insufficiently granted in the old constitution and insufficiently protected) through the reform of the system of government.”

The findings of this study demonstrate that any real or perceived political and economic domination by a single group, nurtures profound thirst for redress and vengeance on the part of the disfavoured groups. It is for this reason that the Orange Democratic Movement (ODM)’s message attracted lots of political fervor. Future
advocacy and work to resolve the problem of insecurity, must be located at the two central problems namely the one of the national fundamental law - the constitution and the redistribution of resources.

Overall though, it is only a tidy dealing with these twin problems that shall call off the current separatationalist mind set which seem to fuel violence and insecurity. It is such a remedy that shall protect the region from xenophobia and the militant self determination. Equally important is the cessation of parallelism between political and economic project as seen through Constituency Development Fund (CDF). To the contrary, these initiatives must be implemented as part of an indissoluble whole that respond to both the position and condition for the Coastal people.

Within both human rights and conflict transformation approaches, there is a broad range of strategies incorporating a strong human rights discourse to resolve conflicts peacefully. A human rights-based approach to reducing political violence focuses on the State’s role in protecting citizens’ right to be free from threat or victimization. Such interventions involve collaboration between civil society, local advocacy and NGOs. An effective example is Muslim for Human Rights (MUHURI)’s Peace and Security for Development Project. Learning from the findings in this study, a project such as this one would respond to insecurity effectively by creating linkages with the governance and develop interventions in the region. For instance, a resource analysis should be done and used to influence how the Constituency Development Funds (CDF) is used in Tana River for instance to address security concerns. Such an approach would ensure that the response to insecurity is not solely based on coercion by the State and pacification by the CSOs but on a deeper transformative agenda aimed at reconstructing the society towards equity and co-existence.
Bronfenbrenner (1977), the `ecological model’ has been used by violence researchers to elucidate the complex causes of child abuse (Belsky 1980), sexual coercion (Brown 1995), and domestic violence (Heise 1998). The ecological model is a multilevel framework that incorporates both individual-level factors—biophysical, psychological, and social—and external factors that act upon the individual.


Peter Kagwanja, (1998), Killing the Vote, political violence in Likoni, KHRC; Nairobi, Kenya.


Gitau Wairigi, Sunday Nation Published on 6th January 2008.

Karl Max.

Jaramogi Oginga Odinga (1967); “Not Yet Uhuru”.


USA Ambassador, Michael E. Ranneberger (January 15th 2007), Speech during the Martin Luther's King's Day.

Bruce Ackerman offers a sweeping reinterpretation of constitutional experience by evoking the important role of the citizens in defining the framework and design of governance in a State during a moment when the citizens can make as much claim as they would like to. See “We the People”, Volume 1, Foundations.

Yash Pal Ghai (10th December 2007) Human Rights in a State of Poverty; the inaugural Kenya Human Rights Commission’s National Human Rights Lecture held at the Kenyatta International Conference Centre.