

# Lessons from Kenya: Women and the Post-Election Violence

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On December 27, 2007, Kenya held its General Elections – the fourth since the return of multiparty democracy to Kenya in 1992. Given that the General Elections of 2002 had seen, finally, the removal of the Kenya African National Union from power by the National Rainbow Coalition, largely without incident, there was little expectation that anything could or would go wrong.

In some ways, that optimism was not misplaced. The 2007 General Elections were the most contested in Kenya's history, at all three levels – civic, parliamentary and presidential – even though it was clear that the presidential contest had come down to a struggle between the incumbent Mwai Kibaki, standing for the new Party of National Unity, and his erstwhile National Rainbow Coalition colleague, Raila Odinga of the Orange Democratic Movement. Despite facing sexism and, in at least one instance, lethal violence, more women made it through competitive political party nomination processes to stand for elective office than ever before. Furthermore, the fallout from those nominations led to the flourishing of political parties, which for the first time, enabled more young candidates to vie for elective office. More money was spent on campaigning than ever before – and, given the credence paid to accountability and transparency in word, if not in fact, by the NARC to accountability and transparency, much was made of the fact that campaign financing had not been drawn from the public purse. The Kenyan private sector and Diaspora reportedly contributed to both the PNU and ODM causes.

In retrospect, however, the warning signs were clear. The PNU and ODM, despite high-sounding, professionally run campaigns, complete with both presidential and political party visions, increasingly came to be regarded in ethnic terms. The PNU came to represent the incumbency dominance of the so-called 'Mount Kenya mafia' – that is the economic and political elite which is disproportionately represented in the executive branch and the public service sectors of government by the Gikuyu and allied communities such as the

Embu and Meru. The ODM came to represent essentially everybody else – but particularly the Luo and the Kalenjin. These facts brought to mind both the immediate post-independence contests between Jomo Kenyatta and Oginga Odinga, the father of Odinga, as well as the pre-NARC KANU government of former President Daniel Arap Moi – spectres of the much maligned left as well as of the equally maligned dictatorship.

The ground was thus fertile for what ensued. Campaigning, particularly through local language radio stations, took an ugly bent, with ethnically prejudiced and stereotyped coverage of both parties. The Kenyan blogs and online sites, populated primarily by a younger generation of Kenyans, many of whom lived abroad, did the same. Text messages circulated around the country, playing on angers and resentments arising from the material reality of historical and contemporary inequalities and injustices, but once again articulated and promoted as being ethnically based, and experienced as such too.

Given the ethnicities of the two presidential contenders – Gikuyu in the case of Kibaki and Luo in the case of Odinga – perhaps insufficient attention was paid to similar angers and resentments in other ethnic communities, particularly among the Kalenjin, whose leading politicians had cast their lot in with Odinga's ODM. What they did was entirely against the wishes of Moi and other senior Kalenjin politicians, who had thrown their weight behind Kibaki's PNU, (presumably in the interests of continuing to enjoy the impunity they had been afforded by NARC), and it should have raised more eyebrows. After all, pre-election violence had already been taking place in Kuresoi, a constituency in the predominantly Kalenjin Rift Valley. This violence was similar in form and outcome, to that experienced under Moi during the politically-instigated clashes that occurred during the lead up to the General Elections of 1992, 1997 and 2002. During those clashes, smallholding farmers who were not of Kalenjin origin had been forcibly and violently displaced by Kalenjin militia as part of a deliberate strategy to alter the presumed voting patterns of constituencies in the Rift Valley in favour of the incumbent KANU. Clashes also took place in coastal constituencies of the Coast for the same reason – the rationale being that those 'indigenous' to both the Coast and the Rift Valley would support KANU, while all those who were not non-Coastal and non-Kalenjin would support the opposition.

### **Fast forward to 2007**

Despite concerns raised about the displacement, and thus disenfranchisement

of would-be voters within Kuresoi, the campaign period proceeded relatively smoothly. Different domestic observers did express concern ranging from the pre-election violence (in Kuresoi and in Mount Elgon in the western part of the country, where violence was provoked by an unpopular settlement scheme) to the use of 'hate speech' that invoked both gender and ethnic animosities and objected to the misuse of public resources in campaigning. The Electoral Commission of Kenya continually stressed its lack of legal powers to address these issues. Additional concerns arose when new Commissioners to the Electoral Commission were appointed by the incumbent President, in a manner which breached the Inter Parties Parliamentary Group agreements made on the eve of the 1997 General Elections. These had stipulated that all such appointments were to be made in consultation with the official opposition.

Polling day proceeded relatively smoothly. As anticipated, domestic observers reported intimidation in the strongholds of both the ODM and PNU presidential candidates. There was an early morning alarm about missing registers for voters whose names were recognisably Luo (that is, names beginning with 'O') in the low-income areas of the Nairobi constituency of the ODM presidential candidate, which was fairly quickly resolved. Given, the intensity of the competition, voter turnout had been unusually high – ranging from 75 to 80 per cent as compared to previous highs of 65 per cent. Everything had nevertheless proceeded well and congratulations were due to both Kenyan citizens for turning out and the ECK for its management of the turnout. All settled down as the counting began that evening.

The night passed and results began coming in fairly fast from some constituencies. The next day, citizens began to anticipate an ODM win at the presidential level, especially since in the Rift Valley, constituency after constituency went to ODM. This went against the express wishes of former President Moi, whose three sons failed to make it through. However, all of a sudden, results stopped coming in. Official results – that is, those announced by the ECK Chair Samuel Kivuitu – in the ECK's headquarters began to differ from provisional results announced by returning officers on the ground in the presence of domestic and international observers, as well as the media, which was reporting live. The next morning, Kivuitu appeared and demanded that returning officers file their returns, stating that the only reason they could be taking so long was if they were altering the results. The day passed and at ODM's insistence, the ECK opened its tallying centre to representatives from both ODM and PNU, as well as to domestic observers, to verify the results

received. They worked overnight and by the next morning, it became clear that a host of anomalies, malpractices and illegalities had occurred with respect to some of the presidential returns and the tallying of these.

Tension built across the country. Towards the end of the day, Kivuitu attempted to declare Kibaki president. There was an immediate outcry within the ECK's headquarters from political party representatives, witnessed by both domestic and international observers, as well as domestic and international media. He retreated, together with his Commissioners to instead deliver a private announcement, witnessed only by the state 'public service' (still state) broadcaster, in which he declared Kibaki the winner. He appeared again about half an hour later at State House to attend the swearing in of Kibaki as President of the Republic by the Chief Justice in front of a small reception of PNU politicians and senior public servants.

Celebrations began in Central province, Kibaki's stronghold. The rest of the country – with the exception of Eastern province, home to the third but insignificant presidential candidate, and North East province – erupted in rage. Immediately, suppression followed and constitutionally-guaranteed rights to the freedoms of expression and association were violated, and bans imposed on live broadcasting and public demonstrations. The Kenya Police Force and the General Service Unit (a paramilitary force) were deployed in large numbers throughout Nairobi, particularly around Uhuru Park, where the ODM had called for a public rally to install Odinga as Kenya's legitimate president. Roads were blocked and commercial as well as residential properties were burnt and otherwise destroyed in all ODM strongholds – the low-income areas of Nairobi as well as Coast, Nyanza and Rift Valley provinces. Reports of extraordinary use of force by the Kenya Police Force, including extrajudicial executions were received from Nyanza province. Nairobi Women's Hospital reported an upsurge in cases of sexual violence – with such cases being three times the normal intake. The cases primarily involved girls and women from the low-income areas of Nairobi. In these areas, on the one hand, protest demonstrations by ODM supporters were being suppressed by the Kenya Police Force and, on the other hand, confrontations between ODM and PNU supporters had taken an ethnic bent – with those from communities perceived to be aligned to either side being forced into ethnically homogenous areas for their own safety. The cases of sexual violence against women were, at this point, believed to be largely opportunistic – related to the general breakdown of law and order and the upsurge of criminality of all kinds. However, reports were also received of

the forced circumcision, and in some cases castration, of Luo men believed to be ODM supporters. In these instances, obviously, the sexual violence was instrumental. Forcible and violent displacements were reported throughout the Rift Valley – with initially all non-Kalenjin, believed to be supporters of the PNU being the primary targets. Later, counter-attacks moving out from Nairobi into the Rift Valley targeted all non-Gikuyu, believed to be supporters of the ODM. At the end of it all, an estimated 350,000 Kenyans had been internally displaced and the death toll from the post-elections violence had mounted to a final tally of over 1,000.

The violence initially took three forms, with sexual violence cutting across all three. First, in the low-income areas of Nairobi as well as the Coast and Nyanza, there were spontaneous protests, expressed violently. Second, the Kenya Police Force and the GSU responded with extraordinary use of force, including EJE in these areas. And third, there was organised violence in the Rift Valley, involving forced displacements and the destruction of property.

All three forms soon mutated. As the spontaneous protests in the form of attempted demonstrations involving the destruction of property, died down – or rather, were violently suppressed, also by informal militia allied to the PNU – the protests took the form of economic sabotage. Mombasa's port – key not just to the capital, but also to the hinterland of Somalia, Southern Sudan, Uganda, Rwanda and Burundi – was blocked. The railway line leading from Mombasa to the hinterland was torn up in Nairobi and at the Ugandan border. The Kenya Police Force and the GSU retreated in the face of national, regional and international condemnation, but began intimidating human rights defenders and the media. And the organised violence in the north Rift also turned to economic sabotage as those targeted left, blocking key transit roads passing through the Rift Valley. They were responded to by equally organised violence in Central and Nairobi against perceived ODM supporters. This counter-offensive, backed by PNU and the formal security sector then moved out from Nairobi into the south Rift. As the Kalenjin and the Gikuyu militia entrenched themselves in the north and south Rift, with Nakuru being the dividing line, the country began to fear that civil war was imminent.

The sexual violence included not just the rape of women, but also the forced circumcision (and, in some instances, castration) of Luo men who, traditionally, do not circumcise. The outbreak of sexual violence seems to have been facilitated by the general breakdown in law and order, but the forced circumcisions of women and men seems more specific. Similar acts were

perpetrated during the counter-offensive of the Gikuyu militia moving from Nairobi into the south Rift. This militia claimed the name of *Mungiki* (the masses), a Gikuyu militia that has been active in Kenya since the politically-instigated clashes of the 1990s. Mungiki's leaders deny being involved, although they admit that they had been approached by PNU politicians interested in the 'self-defence' effort. Indeed, at Mungiki's formation, it had urged a return to culture and tradition (as defined by itself, predominantly young Gikuyu men), including for women, a return to female genital mutilation and a prohibition on wearing trousers. The Gikuyu militia that moved into the south Rift, although not Mungiki as such but under the leadership of a former Mungiki leader, enforced the ban on women wearing trousers in Naivasha and Nakuru towns and 'punished' – through gang rape and other violence – Gikuyu women found to be involved with men from other communities or sheltering those from other communities.

Other forms of gender-based violence also emerged within the camps that had been rapidly set up to house the internally displaced. The Kenya Red Cross, despite not having the capacity to handle a humanitarian effort of this size, insisted on leading the humanitarian and relief effort. The International Red Cross quietly backed it, as did all of the UN agencies normally involved in humanitarian and relief efforts. The face of the response was thus Kenyan – and Kenyans, following appeals through the media and the private sector – gave in quantity. Donations did not only include goods, but also services such as trauma counselling from Kenya's professional counsellors, psychotherapists and psychologists. However, reports soon emerged about girls and women within the camps engaging in transactional sex with volunteer relief workers and formal security workers in exchange for supplies and security. Sexual violence among internally displaced persons was also reported – particularly for girls and women, many of whom had lost the male members of their families, in the post-elections violence. Other gender related concerns quickly came to the fore, such as the disruption of livelihoods and access to social services within the camps. One example here is of women smallholder farmers in the Rift Valley, Kenya's cash crop and food breadbasket, who had been responsible more for subsistence agriculture than cash crop export agriculture (with the exception of female workers on the horticultural farms around Naivasha and on the tea farms around Kericho). The sale of surplus to domestic markets had nevertheless been an important income-earner at the household level. However, they had been entirely unable to access their farms.

Women living with HIV were unable, in the initial period of the displacement, to access anti-retrovirals.

Fortunately, efforts by the African Union eventually paid off – enabled by increasingly intense domestic and international pressure. The full story of the turnaround has yet to be told – and it must be, for the complex, contradictory and yet ultimately principled response of Kenya’s civil society and, eventually, private sector together with that of the diplomatic community and the rest of the world, worked. The AU’s unequivocal response to Kenya was unprecedented – and stands out as one of its finest successes to date, with the full yet quiet logistical and technical support of the United Nations. Under the leadership of former UN Secretary General, Dr. Kofi Annan, as key negotiator, acting on behalf of the AU’s Presidency together with Graca Machel for the AU’s African Peer Review Mechanism, and former Tanzanian President Benjamin Mkapa for the AU’s Forum of Retired African Presidents, the ODM and the PNU committed to the mediation process known as the National Dialogue and Reconciliation Process. Agenda Item One of the mediation processes was to immediately end the violence and included the disarmament and demobilisation of all armed groups and militia; the Kenya Police Force and the GSU required to act within the boundaries of the Constitution and the law; joint meetings across the country by the ODM and the PNU; and the possibility of preventive military deployment.

As the principals appended their signatures to the mediation process agenda on February 28<sup>th</sup> 2008, a ceasefire of sorts went into effect. Across the country, the bars filled with Kenyans wishing each other, finally, ‘Happy New Year!’ Although the hard negotiations still lay ahead, Kenya had pulled back from the brink.

For Kenyan women though, many concerns remain, which must be addressed in the mechanisms and processes arising from the mediation process, namely the Commission of Inquiry into the Post Elections Violence (to address the immediate violence), the Truth, Justice and Reconciliation Commission (to address the underlying causes of the violence) and the newly-begun re-settlement process for IDPs, Operation Rudi Nyumbani (return home). The Kenyan women’s movement responded to the violence with attempts to document women’s experiences and respond with increased services, as well as with advocacy to ensure that those involved in the humanitarian and relief effort did the same. However, a lot of work lies ahead to ensure justice for the women who were affected.