

The Kenya Crisis: Ethnicity and the Land-Conflict Nexus

**Report of the Methodology workshop,
Nairobi Safari Club, Nairobi Kenya,
16 June 2009**

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with Violet Barasa & Elvin Nyukuri**



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The Kenya Crisis: Ethnicity and the Land-Conflict Nexus

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Executive Summary

On 16 June 2009, the Africa Policy Institute (API) convened a meeting of experts and practitioners to explore the appropriate methodological approaches to the study of ethnicity, land and conflict in Kenya. The meeting was aimed at launching the field-research component of the larger study of Ethnicity, Land and Conflict (ELC) in Eastern Africa. The methodology workshop, which was a follow up of a stakeholders' conference held in December 2008, brought together research experts and academics from Kenya and the entire Eastern Africa region working on the issues of conflict, resources/land and identity/ethnicity. Women experts particularly concerned with the issue of gender and property rights in Kenya were invited to explore the gender dimensions of the project and propose a workable methodology to include gender dimensions in the study. The workshop aimed at facilitating debate between field researchers and other experts as the project enters the field research phase. This brief report captures the main aspects of the discussion. The meeting identified six key areas of research focus. These are:

- ✓ Urban areas (The re-ethnicization of Eastleigh urban space in Nairobi; Somalis occupation of Eastleigh and economic implications on Kenya; creation of wealth enclaves in Nairobi city.
- ✓ Land contracting with foreigners (Land contracting to non-Kenyan citizens ; Qatari's buying Kenya land
- ✓ Land and conflict in settlements in Western Kenya (The gifting of land in post-independent Cheranganyi; Multiple land ownership in Mt. Elgon)
- ✓ Land and conflict in Rift Valley (Uasin Gishu- demystifying historical ownership and redistribution of the white highlands; the false view that UasinGishu belong to Kalenjins; The ethnic in-fighting in Molo)
- ✓ Land conflict in Coast Province (Tana River in Coast/Likoni area)
- ✓ Land and environmental disputes (Mau Summit and Migingo)

What follows is the technical report of the meeting. The report defines the background to the study; explores the relevant conceptual issues; examines the nexus between ethnicity, resources (land) conflict in Kenya and, finally, identifies emerging issues and areas of research focus.

1. Background and Introduction

The ELC project was conceived as a comprehensive and pioneering research on the connection between the salient issues of ethnicity, land and conflict in the Eastern African region. In the opening remarks, the research project was identified as an empirical investigation into the often hypothesized causal connection between ethnicity and access to resources as triggers of conflict in Africa. It was noted that the project is a partnership between the Africa Policy Institute (API), the International Development Research Centre (IDRC) and World Vision International (WVI).¹ In its thrust, the project is oriented towards policy relevant field research based on five case studies: Kenya, Uganda, Rwanda and Tanzania. In addition, the study also has a comparative dimension of South Africa and Zimbabwe (Southern Africa) and Cote d'Ivoire (West Africa) as well as a thematic focus on the East African Community (EAC). The comparative cases are based on

research by experts in these regions, who also made presentations during the launch of the project.

Kenya's 2008 post-election violence (PEV), which nearly tore the country apart, leaving 1300 people dead and nearly 600,000 as internally displaced persons, presented a clear picture of unresolved identity tensions over resources (land).² The project therefore evolves from an understanding that there exists a nexus between ethnicity, land and conflicts, which, going by the PEV experience, must be established through empirical research to generate policy guidelines toward lasting peace.

2. Conceptual Overview

Participants at the methodology workshop were unanimous that the mix of land and land-based resources and negative ethnicity are triggers of conflict such as the one that engulfed Kenyan in 2007-2008. Therefore, participants called for concerted efforts by research institutions,

¹Peter Kagwanja, "Ethnicity, Land and Conflict in Africa: The Cases of Kenya, Uganda, Tanzania and Rwanda," Africa Policy Institute Working Paper Series, 1/2009. Available at: <http://www.africapi.org/siteimages/ETHNICITY,%20LAND%20AND%20CONFLICT%20IN%20AFRICA%201,%202009.pdf>.

²Humanitarian Policy Group, "Crisis in Kenya: Land, displacement and the search for 'durable solutions,' *HPG Policy Brief* 31, International Development Institute, April, 2008; Africa Research Institute, *Kenya: A Nation Fragmented*, Briefing Note 0801, 2008.

governments, the media and other players to help tackle the age-old land and conflict issues in the Eastern Africa region, noting particularly the recent row over the ownership of Migingo Island between Kenya and Uganda as a potential source of conflict.

On the contentious issue of land use and ownership in Kenya, presenters were unanimous that land in itself cannot cause conflicts. Recent conflicts have been sparked by the political elite who invoke inter-ethnic grievances over land to safeguard their interests and win competitive elections, thus triggering conflict. The reason why land has been such an inflammable issue is because land not only defines citizenship, but also confers a sense of identity and belonging.

Like land, ethnicity has also provided a combusive factor exploited by the rival elite factions to cause conflict within and between different communities. A distinction made, following John Lonsdale's categorization, between "political tribalism," which results from manipulating ethnic differences for political gains and "moral ethnicity" as

a positive appreciation of the positive social potential of ethnic identity.³ The fundamental question raised by the debate is whether "moral ethnicity" can triumph over "political tribalism" as a way of stabilizing Africa's unstable state and reconstituting the civic nation basis of universal rights and citizenship.⁴

Ethnic-based conflicts have become rampant with the onset of pluralist democracy in the post-Cold War era as the various fractions and factions of the ethnic elite jostle for political power in competitive elections. In this regard, the 2007 post-election violence in Kenya was a subtle mix of identity, resource based grievances and election-related conflict. As an agrarian country, land provided the underlying cause for the conflict in contrast to conflict zones such as Nigeria's Delta region where conflict has largely revolved around oil.

The conceptualization of ethnicity is also changing, and ethnicities are being re-imagined and re-conceptualized. As a result the ELC

³John Lonsdale, "Moral Ethnicity and Political Tribalism," in *Inventions and Boundaries: Historical and Anthropological Approaches to the study of Ethnicity and Nationalism* eds. Preben Kaarsholm and Jan Hultin. Roskilde University, 1994; see also John Lonsdale, "Ethnicity, Tribe and State in Kenya," *Open Democracy*, January 17, 2008. http://www.opendemocracy.net/article/democracy_power/kenya_ethnicity_tribe_state (accessed, 10 October 2009).

⁴Jacqueline Klopp, "Can moral ethnicity trump political tribalism?: The struggle for land and nation in Kenya", *African Studies*, 61, 2 (2002).

research must tackle emerging realities and concerns relating to ethnicities. These emerging concerns include:

- The link between ethnicity and nationalism in the context of imagined communities in Africa;
- The nexus between ethnicity, class and gender. Who belongs, who doesn't?
- Ethnicity and democratization in the African context; and
- Ethnicity and generational struggles involving the youth category.

3. Conflict in Kenya

The backdrop to the project was provided by Kenya's 2008 post-election violence following the 2007 disputed presidential election. Since the onset of multiparty democracy in the early 1990s, Kenya's elections have been marred by cycles of violence variously described as "ethnic," "tribal" or "land" clashes.⁵

Existing inter-ethnic grievances over land were exploited to set-off the

waves of violence which swept through parts of multi-ethnic rural areas in Western, Rift Valley and Coast Provinces during the 1992, 1997 and partly 2002 followed multi-party elections. While these cycles of violence were characterized as state-sponsored, the 2007 post-election violence was diffused and widespread in urban areas in Nairobi, Mombasa, Kisumu, Nakuru and Eldoret as political tribalism encroached upon the urban space.⁶ While grinding poverty, widening inequalities, spiralling food prices, high cost of living, poor social services, joblessness and corruption has heightened dependency on land as the last bastion of economic survival, the 2007 election witnessed excessive populism as rival elite factions exploited these genuine grievances over resource distribution particularly, land and land-related resources to capture state power.

The 2008 crisis left Kenya a traumatised nation, with far-reaching implication for field research. The question was raised regarding the impact of this trauma on the process of field research. How will field

⁵See for example, Jacqueline Klopp, "Ethnic clashes and winning elections: The case of Kenya's electoral despotism," *Canadian Journal of African Studies* 35, 3 (2001); L. Kirschke, "Informal repression: Zero-sum politics and the later third wave transitions," *The Journal of Modern African Studies* 38, 3 (2000): 383-405; and Peter Kagwanja, *Killing the vote: State-sponsored violence and flawed elections in Kenya*. Nairobi: Kenya Human Rights Commission, 1998.

⁶Suzanne Mueller, "The political economy of Kenya's crisis," *Journal of Eastern African Studies* 2, 2 (July 2008): 185-210.

researcher's cope with the realities of trauma, whether personal or community? Participants cautioned that the issues of resources (land), identity (ethnicity) and conflict land and conflict form an increasingly delicate research triad. Agreeably, gathering sensitive information from traumatized persons and communities is a daunting task. The following pre-cautions were, therefore, suggested as necessary:

- a) The need to rethink the right methodology to approach the research in the context of the post-conflict realities;
- b) Incorporate a class dimension to the research because the problem of land basically involves not only the majority poor but also the wealthy few who own large chunks of idle land;
- c) Target group dynamics may pose great challenges in gathering information; and
- d) The need to investigate whether the land problem is as a result of public administration/policy (land

redistribution, public access) or of contested ethnic/ancestral claims.

Discussants from the Kenya team were in agreement that the ELC project is vital and timely in contributing to the ongoing process of Truth, Justice and Reconciliation and identity in Kenya.

4. Ethnicity and Conflict

Indisputably, political tribalism, as defined by John Lonsdale, remains the greatest dilemma in peace building efforts in post-election Kenya. The concept of ethnicity was broadly discussed in this workshop. The meeting noted that ethnicity was in itself a reality of human existence and a salient feature of African cultures and societies, which need not be always negative.⁷ The meaning of 'ethnicity' is itself contested. One participant noted that tribalism has ethnographical/anthropological connotations with the term tribe used widely to pejoratively refer to tiny elements and groupings within a community often "inferior" or underdeveloped in the hierarchy of

⁷L. Adele Jinadu, "Explaining & Managing Ethnic Conflict in Africa: Towards a Cultural Theory of Democracy," Claude Ake Memorial Paper, No 1, Department of Peace and Conflict Research, Uppsala University & Nordic Africa Institute, 2007.

civilization. Owing to this pejorative meaning or tribe, the term ethnicity has been used widely in debates on identity politics as a more elaborate organization of people along cultural identities.

Recent literature has lamented over the phenomenal escalation of the ethno-nationalism, as a disruptive force and a direct consequence of the key elements of modernization, everywhere causing raptures in many parts of contemporary world.⁸ In the same vein, Africa's post-colonial elite, like their colonial predecessors, have instrumentally utilized tribal sensibilities, causing lethal conflicts such as the 1994 genocide in Rwanda and more recently the ethnic killings in Kenya. Participants noted that ethnicity as disruptive force cannot be discussed outside the context of power relations in post-colonial African.

As one expert participant rightly noted, a careful look at the issue of ethnicity reveals a lot of myths designed to hide some realities and can be politically misused. It was noted that during the recent elections

in Kenya, the myth of the 'forty-one tribes against one' was used as a glaring misuse of negative ethnicity to create ethnic division and hatred, especially against the Kikuyu, partly contributing to the post-election violence. Yet, although the ethnic killings were attributed to land, ironically they did not affect big land and business owners in different parts of the country. This is a testimony to the instrumentalization of ethnicity in elite power games and its selective use in contemporary debates on inequalities and resource distribution. As one presenter observed, "*Wazungu* [Westerners] and Asians who wield a lot of power economically and own large tracks of land are often ignored in the debate on land and ethnicity in Kenya."⁹

In a word, the 2008 post-election violence signified long-standing and deep-rooted ethnic tension within the Kenyan society, which were thrust to the fore by the disputed presidential contest. Empirical research, it was averred, must unearth this connection between ethnicity and the underlying or root causes of conflict.

⁸J. Muller, "Us and them: The enduring power of ethnic nationalism," *Foreign Affairs* 87, 2 (2008): 18–35.

⁹Macharia Munene, "Ethnicity in Kenya," paper prepared for Presentation at the Methodology Workshop on "Ethnicity, Land and Conflict" at the Nairobi Safari Club, Nairobi, Kenya, on Tuesday, 17 June 2009.

It was agreed that the very conceptualization of ethnicity is problematic. While ethnicity itself cannot cause conflict, and has in some cases served as a vehicle of welfare functions such as mobilizing resources for needy members, it is important to identify agency in the ethnicity-conflict nexus. Agency lies not with ethnicity, but with the African leadership which has ethnicized politics and exploited this identity to make political gains. Agency also lies with individuals and communities which readily accept elite manipulation of ethnicity and often allow themselves to be used as pawns the elite power game.

Ethnicity was also discussed in relation to conflict mediation and resolution mechanisms involving individuals, institutions and communities. A clear understanding of the dynamics of ethnicity is central to reducing the risk of conflict and to resolving existing conflicts. The role of Kenya and individual Kenyans in peacemaking elsewhere in Africa and the world and their obvious inability to resolve Kenya's domestic conflict relating to ethnicity and resources was also highlighted as a glaring paradox. It is a case of the proverbial physician

unable to heal himself! Be that as it may, it was concluded that conflict resolution mechanisms must be home-grown to be effective

5. Land and Conflict

The fourth session examined the role of land-related issues in conflict. Notably, the issues of ownership, access to and distribution of land remain highly contested in Kenya. Participants underscored the need for researchers to take a multi-disciplinary angle to the study and build a solid nexus between the land and conflict.

One place suggested as ideal to start off inquiry are governmental processes leading to policy pronouncements and documents. In Kenya, these will include the reports and findings of commissions and taskforces set up by the government to deal with land and land related issues. The most recent of these include the the Akiwumi Report (1999),¹⁰ Ndung'u Report (2004),¹¹ the

¹⁰Republic of Kenya, *The Report of the Judicial Commission Appointed to Inquire into the Tribal Clashes in Kenya* ("The Akiwumi report"), 1999 (Released in 2002 after a long campaign), available at: http://marskenya.org/pages/stories/Akiwumi_Report/ (accessed 21 October 2009).

¹¹Republic of Kenya, *The Report of the Ndungu Commission on Illegal and Irregular Allocation of Public Land* ("The Ndung'u report"), Nairobi, Government Printers, 2004.

Waki Report (2008),¹² Kriegler Report (2008)¹³ and the Draft National Land Policy (2008) that has been approved by Cabinet and now awaiting parliamentary approval. These documents provide the necessary framework and primary documents in the study of ethnicity and land as factors in conflict based on historical injustices and claims relating to the distribution, access and ownership of this vital resource.

It was noted that conflict relating to land and ethnicity has centred on rural-based historical hot spots, mainly in the Rift Valley, Western and Coast provinces. However, the meeting was alerted to the strident ethnicization of the urban space in recent decades manifested in conflicts involving tenants and landlords. Conflict over land and land-related resources cut across thematic issues. Some of these cross-cutting issues include:

- Land scarcity, population pressure, land degradation and other environmental issues.

- Land and the energy crisis, including the conflict between food production and bio-fuel production.
- Patterns of land use, territorial land claims.
- Land and inequalities, poverty and human rights issues, including access to social and economic rights;
- Legal instruments relating to land, existing compensation schemes.
- Forms of organizations and cleavages around land-tenure issues and symbolic value of group identification with land.

The inquiry into the nexus between ethnicity and land as causes of conflict must take these factors into account.

6. Policy Responses

The escalation of land-related ethnic conflict signifies the failure of existing policy responses to tackle the problem. In recent years, the government has adopted several policy measures but their impact has been limited. These are:

a) *The Draft National Land Policy*

The Lands drafted a National Land Policy (DNLP) document was

¹²Republic of Kenya, *Report of the Commission of Inquiry into Post Election Violence ("The Waki Report")*, Nairobi. Government Printers, 2008.

¹³Republic of Kenya, *The Report of the Independent Review Committee ("The Kriegler report")*, Nairobi, Government Printers, September 2008.

launched in March 2007 following prolonged consultations with stakeholders which began in 2003. The first of its kind in an effort to resolve historical embedded claims over land, the document has been widely hailed as a vital instrument in achieving equitable land distribution and resolving historical injustices relating to land. It also potentially has far-reaching impact on the management of natural resources. It has also been welcomed as a tool of ensuring gender equality in access to resources. The DNLP has been approved by cabinet and is awaiting parliament's approval. Although Kenyans are hopeful that the land problem may be resolved once the document is passed into law, it will require more than a single document to resolve the interplay of land, identity and conflict in Kenya.

b) Government Task-Forces on Land

In the past, the government of Kenya has commissioned several task-forces on land and resource conflicts in an effort to generate policy guidelines to resolve the age old land issue in the country. Among these are the Akiwumi report (1999), the Ndung'u report (2004), the Waki

Report (2008) and the Kriegler report (2008). All these documents have established the link between land and conflict and proposed numerous policies of averting land-related conflict.

c) The Local Tribunal

The Waki report recommended the formation of a local tribunal to try perpetrators of violence. The tribunal is expected to put an end to impunity on cycles of violence which have threatened to derail Kenya's nascent democracy. Although the Unity Government has brought the draft document establishing the tribunal to parliament, the idea is still encountering with fierce resistance. Cabinet has, therefore, resolved to institute a Truth, Justice and Reconciliation Commission (TJRC) to deal with issues of violence. But domestic and international pressure is mounting on the government to establish a local tribunal with a possibility of selective trials of the key instigators by the International Criminal Court at The Hague should that process stall. Ending impunity on violence is central to the process of national healing and reconciliation and to reducing the risk of recurrence

of ethnic-related violence exploiting grievances over land. But trying the perpetrators of past tribal violence remains a raw nerve in Kenya politics.

7. Emerging Research Issues and Areas of Focus

At its conclusion, the workshop identified key issues and areas of research focus. The areas and issues for research that emerged include:

1. *Urban areas*: The re-ethnicization of the urban space in such areas as Eastleigh in Nairobi where ethnic Somalis (both from Kenya and Somalia) have taken over this suburb as an economic hub and their area of settlement. The creation of enclaves in the urban space has also continued in other areas with Kenya's racial and ethnic minorities coalescing around certain areas.
2. *Land Contracting with foreigners*: Foreign governments and companies are seeking land contracts to grow food for international markets. The most recent example are the Qatari's who have sought to secure land around the port of Lamu at the Coast.
3. *Ethnic conflict over land in Western Kenya*: The land settlements programmes of the post-independent era in places like Cheranganyi and MtElgon in Western Kenya have precipitated inter-and intra ethnic clashes over land between the 'natives' and "settlers." This has resulted to serious violence.
4. *Ethnic violence over land in the Rift Valley*: Land and conflict in Rift Valley has centred around the settlement areas of Uasin Gishu, Molo, Narok and Laikipia. This has largely pitted the Kalenjin against other ethnic groups mainly the Kikuyu, Luhya and Kisii. It has also involved the Maasai. Serious cases of cattle-rustling have also involved the Kalenjin groups. These were theatres of violence in 2008.
5. *Land clashes at the Coast*: Since 1992, ethnic conflict linked to land has flared up in Tana River involving the Pokomo and Orma; at the Likoni area in Mombasa pitting the local Mijikenda (*Wapwani*) against the up-country groups (*wabara*). This was experienced in a small scale in 2008.

6. *Land and environmental disputes:*

Conflict has also revolved around areas of strategic importance to Kenya's environment such as the Mau Summit water towers, which has been illegally occupied, leading to a chain of environmental catastrophes. More recently, this conflict over resources took an international dimension with an ethnic slant when tensions appeared between Kenya and Uganda over the disputed ownership of the tiny rocky Migingo Island in Lake Victoria. Although this has not escalated into serious conflict, it has a potential of becoming a serious territorial conflict between the two East African states. This begs the question about the role and capacity of the East African Community in resolving resource related inter-territorial disputes.

8. **Conclusion**

The Kenya Methodology workshop was key in providing a roadmap into a highly volatile period of ethnic and resource conflict research project. It protracted an on-going intellectual debate among academics, researchers and civil society present, as well as a network of intellectuals doing similar work across the region. The knowledge sharing and consultations provide a rich resource base from which the ELC project heavily draws from. By the end of the day-long workshop, a methodological path was drawn and the filed research, now on course took shape.

Annex1: Conference Programme

Tuesday 16 June 2009

08:30 – 09:00	Guests Arrival & Registration
09:00 – 09.15	Welcome & Opening Remarks Peter Kagwanja, Africa Policy Institute Introduction of Guests IDRC: Njeri Karuru
09.15 – 09.45 hrs	Panel I: The ELC Project: Issues, Concepts and Methods Chair/Facilitator: Dr Sophie Macharia Intervener: Dr Peter Kagwanja
	Plenary Discussions
09.45 – 10.40hrs	Panel II: Ethnicity Land and Conflict in Kenya: Theories and methods Chair/Facilitator: Prof. Makumi Mwangiri Remarks: Elvin Nyukuri, Africa Policy Institute Plenary Discussion
10.40- 11:00	Tea/Coffee Break
11.00-11.40hrs	Panel III: Ethnicity in Kenya Chair/Facilitator: Dr. Joe Kieya Macharia Munene, United States International University (USIU) Plenary Discussions
11.40—12.20hrs	Panel IV: Land distribution in Kenya Chair/Facilitator: Dr Mudida Dr. Karuti Kanyinga, Institute of Development Studies, UON
	Plenary Discussion
12.20--13.00hrs	Panel V: Panel Tying the notes: Conflict in Kenya Chair/Facilitator: Dr Monica Juma, Africa Institute, South Africa Dr. Mudida, School of Diplomacy and International Studies (UoN)
13.00—14.00	Lunch Break
14.00—15.00	Panel VI: Tying it all Together: Research Areas and methods