

The post-election crisis in Kenya: Beyond the dispute over the presidential election

The media coverage of the Kenyan crisis to date assumes one of two perspectives. The first highlights manipulation of ethnicity by political elites as the main factor. The other blames the crisis on the widespread perception of vote rigging and the concomitant failure of the Electoral Commission of Kenya and the judiciary to rectify it.

The conflict undoubtedly has a significant ethnic dimension. But it is not all about ethnicity. Nor is the nature and level of violence entirely attributable to unrectified vote rigging. These are mainly triggers. The root causes lie elsewhere.

In the run up to independence in Kenya, one of the main political issues in contention was decentralisation and the related issue of equitable access to political power and resources. The 1963 'Majimbo' Constitution established a quasi-federal system that devolved power to provinces. Despite concerns expressed by smaller ethnic groups and the KADU opposition party, the dominant political party KANU amended the Constitution to eliminate this system three years after independence.

Soon after that, Kenya became a highly centralised unitary state, with an all powerful President. With the 'swallowing' up of KADU by KANU in 1964, it also became a one-party state, with President Kenyatta tending towards autocratic rule thereafter.

His reign witnessed increasing reliance on members of his Kikuyu ethnic group and a corresponding marginalization of others, including Luos, both at the political level and in the distribution of economic benefits between groups and regions.

Although the political dominance of Kikuyus was diminished during Daniel Arap Moi's presidency, with the rise of Moi's kins the Kalenjin, it did not completely disappear (Kibaki served as Vice President for several years) and Kikuyu dominance of the economic sphere continued.

When Kibaki came to power he trashed a pre-election pact with other leaders that would have seen equitable distribution of state jobs. He also rejected a Draft Constitution that would have devolved power to the regions, thus accentuating fear of marginalisation among non-Kikuyu ethnic groups and resentment against not only the elites but also ordinary Kikuyus.

The second root factor that explains the current crisis is the unequal distribution of land during the post-colonial period.

After independence, as part of his Africanization policy, Kenyatta promoted the redistribution of land owned by British settlers. On the basis of the 'willing seller and willing buyer' principle, the Kikuyu and other related groups such as the Meru and Embu became the main beneficiaries of this policy. Much of this land was in the Rift Valley, historically inhabited by the Kalenjin ethnic group from whom it was taken during colonial times.

Successive governments failed to address this inequity. Today, as political elites use the situation to mobilise ethnic support, it has become an issue that pits the indigenous Kalenjin against the more recently settled communities, particularly members of the Kikuyu ethnic group.

Widespread perceptions that the election was rigged in favour of Kibaki only served to re-awaken memories of these historical injustices and the fear of continued economic and political domination. Clearly, the violence that targeted Kikuyus and those supporting Kibaki, although on no account justifiable, had a political and socio-economic basis.

The key to resolving the crisis and settling it once and for all does not lie in finding a quick-fix solution to the disputed presidential elections. It is rather to be found in addressing these historical injustices and structural inequities. This calls for a constitutional settlement accommodating the interest of all communities.

The Draft 'Bomas' Constitution of 2002, which was rejected by Kibaki's government, offers a handy template. Within that framework, the parties may consider, *inter alia*, the constitutional devolution of power to regions, affirmative measures for disadvantaged regions and sections of society (including victims of violence), and a proportional representation electoral system.

The structure, composition and mechanism of election of the executive also need reform. As part of achieving equitable distribution resources, the historical inequality in access to land should be redressed.

The first step in finding such a constitutional settlement should be the establishment of a transitional government involving all parties on both sides of the political divide. The mere rerunning of the presidential election will not suffice.

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