

# **Citizen and Self: Violence, Identity and Legitimacy in the Rift Valley's Post-Election Crisis 2007-08<sup>1</sup>**

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## **Abstract**

In the last days of 2007 and the first months of 2008, supporters of rival presidential candidates Raila Odinga and incumbent Mwai Kibaki clashed throughout Kenya, leaving approximately 1,100 dead and 300,000 displaced.<sup>2</sup> Most of this violence occurred in the Rift Valley, where it was structured along a division between the 'autochthonous' Kalenjin and Maasai and the 'outsider' Kikuyu and Kisii. The key problematic posed by the crisis concerns the relationship between the national political arena and the use of violence along ethnic divisions. While the salience of ethnicity in the violence seemingly points to a state in collapse, this article contends that the crisis reveals more about those involved in the conflict, or belligerents' attachment to the Kenyan polity, than their imagined 'ethno-nationalism.' This article isolates and analyses the essential dynamics of patrimonialism, specifically how narratives of ethnic entitlement developed as a means of accessing the state. Although these narratives hardened ethnic divisions they carried a subtext of belonging within the national community. The use of violence against ethnic 'Others' in the Rift Valley implies neither the instrumentalisation of ethnicity for substantial political benefit nor the retreat to an ethnic selfhood devoid of national attachment. Instead, both the system and era of patrimonialism in Kenya have resulted in the 'privatisation' of violence. This has in turn created a form of citizenship which attains ethnic identity through violence, and can rely on the central norms of the state to legitimise it.

## **Introduction**

When asked several decades after Kenyan independence why he had participated in the Mau Mau rebellion, Sam Therebe replied, "to regain

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<sup>1</sup>An earlier version of this paper was originally submitted as a dissertation towards completion of a BA (Honours) at the University of Melbourne, October 2008. The author would like to thank the tutelage of his supervisor, Philip Darby, and the encouragement of ARAS editor Tanya Lyons in bringing it to publication.

<sup>2</sup> Kenyan National Commission on Human Rights (KNCHR), *On the brink of the precipice: a human rights account of Kenya's post-2007 election violence*, (Nairobi, 2008), 3.

the stolen land and to become an adult.”<sup>3</sup> John Lonsdale later said that Therebe’s succinct reply,

gave Mau Mau’s open purpose and its inner meaning. His political language... linked external power to internal virtue. His personal maturity depended on a public power to win land.<sup>4</sup>

Though the violence of Mau Mau bears little resemblance to that following the 2007 election, Lonsdale’s analytical linkage of ‘internal’ and ‘external’ motives is applicable and unavoidable in this more recent crisis. Why did an election contested by two political elites lead to a state of warfare between their ethnically-aligned power bases? Many scholars have based their explanations of this phenomenon on conclusions drawn from Kenya’s patrimonial past, highlighting decentralised political violence and ethno-centric resource distribution.<sup>5</sup> Yet a precise understanding of how these factors led to the relationship between the ‘internal’ drive to commit violence against ethnic others and the ‘external’ association with the civic political arena has not yet been achieved. This article seeks to fill this void by hypothesising a form of citizenship in which such ethnic violence is understandable.

The method and target of much of the violence makes difficult its simplistic classification as ‘political.’ In the majority of cases victims were unarmed individuals or small groups, whom gangs of youths would ask for their identity cards. If the ‘wrong’ ethnicity (ie Kikuyu) was read out, they would be killed on the spot.<sup>6</sup> Such acts were unforgiving. Victims included women, children and occasionally even belligerents’ neighbours and colleagues.<sup>7</sup> This method of violence was interpersonal. Its target was not the government or its vestiges, nor any person perceived

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<sup>3</sup> John Lonsdale, “The moral economy of Mau Mau: wealth, poverty, and civic virtue in Kikuyu political Thought” in Bruce Berman and John Lonsdale, eds., *Unhappy Valley: Violence in Kenya and Africa* (Oxford: James Currey, 1992), 326.

<sup>4</sup> Lonsdale, 1992, 326.

<sup>5</sup> See for example: Suzanne Mueller, “The Political Economy of Kenya’s Crisis” in *Journal of Eastern African Studies*, 2:2 (2008): 185-210; Karuti Kanyinga, “The legacy of the white highlands: Land rights, ethnicity and the post-2007 election violence in Kenya,” in *Journal of Contemporary African Studies*, 27:3 (2009): 325-344; and Daniel Branch and Nic Cheeseman, “Democratization, sequencing, and state failure in Africa: lessons from Kenya,” in *African Affairs*, 108:430 (2008): 1–26.

<sup>6</sup> Human Rights Watch, *Ballots to Bullets; Organised Political Violence and Kenya’s Crisis of Governance* (New York: Human Rights Watch, 2008), 41.

<sup>7</sup> *Commission of inquiry into the post election violence* (Waki Commission) Nairobi: Republic of Kenya, October 2008, <http://rescuekenya.wordpress.com/2008/10/20/waki-report-commission-of-inquiry-into-post-election-violence-cipev/> (accessed 26 April 2012).

as threatening violence themselves. Instead the violence intended to generate the suffering of the individual merely in his or her capacity as representative of an ethnic group. Even if we look to narratives of ethnic competition developed both before and after independence, we are still left to explain how such narratives connect with the political arena, and thus sparked the outbreak of violence. This relationship between the interpersonal nature of the violence and the national political arena is the key problematic presented by the Rift Valley violence.

The main contention of this article is that the national political arena provided the forum which accommodated and legitimised ethnic self-identities realised through violence. The outbreak of ethnic violence, though decentralised and fuelled by a genuine pursuit of individual belonging, was a phenomenon *of* the nation, not a force opposed to its integrity. The roots of this connection lie in the patrimonial method of land distribution and the narratives of ethnic competition utilised in the process.<sup>8</sup> Land distribution not only moulded ethnic attachment into an agency of political possession, but also engendered the claims of ethnic entitlement that structured the factious animosities of the 2007-2008 crisis. The political violence of the 1992 and 1997 elections, although initiated as a means of electoral manipulation by elites, crystallised violence as a method of solidifying these identities in the political sphere.

But to identify a phenomenon's historical origin without addressing its contemporary meaning would be to commit what Mamdani calls a "politically irresponsible historicism."<sup>9</sup> While the answers to the above problematic lie in the past, the Rift Valley's 2007-2008 violence was broader, more spontaneous, and less controlled by elites when compared with earlier electoral crises. The violence was also executed mainly after and not before the election, even when premeditated. Where previously violence had disrupted elections by displacing voters, this time the violence was employed to punish citizens for the way they had voted. These changes show the crisis to be an outcome of Kenya's violent patrimonial era and not a mere continuation of it. The economy of violence and belonging revealed in the crisis was tangential from national politics and parallel to it, yet the connection was more psychological than substantial. Ultimately, the personal drive to commit violence against others relied on a public pretext in which that other could be rendered a

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<sup>8</sup> Peter Kagwanja and Roger Southall, "Introduction: Kenya – A democracy in retreat?" in *Journal of Contemporary African Studies*, 27:3 (2009), 268.

<sup>9</sup> Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda*, (Princeton NJ: Princeton University Press, 2001), 8.

representative of the injustices of the political arena. The conflation of ethnic and political identity is thus an unavoidable conclusion to draw from this crisis. The relevance of the state therefore makes it as much a theory of citizenship as of violence. While many in the literature have identified a claim to 'ethno-nationalism' among belligerents, opposed to the state's monopoly of legitimate violence, this is not supported by the historical evidence.<sup>10</sup> The 'privatisation'<sup>11</sup> of state violence to non-state groups in the 1990s not only decentralised the capacity to commit violence against non-state actors, it delegated the government's authority to these actors and legitimised political violence. It would therefore be a mistake to assume that the legitimacy of violence among belligerents challenged that of the state. Rather, the legacy of patrimonialism was a polity in which the use of violence legitimised the politician's access to the political arena, rather than vice versa.<sup>12</sup> A key target of this article is therefore the false dichotomy between ethnic and civic loyalties as motives for and facilitators of violence. The conflict of the Rift Valley was both a war for the realisation of ethnic identity and one fought within the centralised legitimacy attained through civic citizenship.

### **Ethnicity, identity and politics in patrimonial Kenya**

Patrimonialism's dynamic can be broadly reduced to three key relationships: the first between politicians and their ethnic constituents (patrons and clients); the second concerning accommodation and collaboration among political elites; and the third embodied by the narratives of ethnic rivalry and entitlement developed through resource competition among citizens. These three relationships structure a dynamic which maintains elite power through the unequal distribution of resources. Only by looking at how each relationship relates to the others can one see the forms of legitimacy, identity and citizenship that brought ethnic violence into the political arena.

In his seminal work *The State in Africa: the Politics of the Belly*, Bayart surmises that the legitimacy of political authority in the eyes of citizens of African polities lies in the patron elite's ability to bring the state's

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<sup>10</sup> Peter Kagwanja "Courting genocide: Populism, ethno-nationalism and the informalisation of violence in Kenya's 2008 post-election crisis," in *Journal of Contemporary African Studies*, 27:3 (2009): 365-387.

<sup>11</sup> Musambayi Katumanga, "A city under siege: Banditry and modes of accumulation in Nairobi, 1991-2004," in *Review of African Political Economy*, 32:106 (2005), 508.

<sup>12</sup> John Galaty, "Double Voiced Violence in Kenya," in Vigdis Broch-Due, ed., *Violence and Belonging: The Quest for Belonging in Post-Colonial Africa*, (London: Routledge, 2005), 182.

resources to *his* constituent clients, allowing them to ‘eat.’<sup>13</sup> The legitimacy of patron elites holding office is thus contingent above all else on the success they can claim to have had in exploiting the state’s resources for their clients’ benefit. Patrimonial politics is thus not a competition of ideas and ideology in the implementation of state-wide policy, but a contest over whose constituents get what. Most contentious of all resources in newly independent Kenya was the fertile farmland of the Rift Valley, vacated by the departing populations of white settlers. The matter of the former ‘White Highlands’ confronted the past as much as the future. ‘Pastoralist’ populations of the region (mainly the Kalenjin and Maasai), more excluded from the colonial state than others,<sup>14</sup> claimed primordial ownership of the land but lacked the financial means to purchase it in a market system. The ‘willing buyer, willing seller’ policy that was eventually implemented heavily favoured the Kikuyu, who through their place in the colonial native aristocracy formed the bulk of the capitalised class and were thus able to participate on these financial terms.<sup>15</sup> As Kikuyu farmers steadily migrated into the Rift Valley, the fault line that would manifest itself in 2007-2008 between them and the ‘autochthones’ of the region was drawn.

For Kikuyu President Jomo Kenyatta of the Kenyan African National Union (KANU) this satisfied a dual requirement for the maintenance of his presidency: the continuation of Kikuyu dominance over the Kenyan economy and his own status as the Kikuyu leader. A necessary condition of this land policy was the appeasement of the elites of rival ethnicities, particularly the Kalenjin, who resented the very notion of having to pay for land they believed was theirs by right.<sup>16</sup> The seemingly unlikely political alliance between Kenyatta and the leading Kalenjin figure Daniel Arap Moi highlights the second of patrimonialism’s relationships, what Bayart calls “the reciprocal assimilation of elites.”<sup>17</sup> Moi’s Kenyan African Democratic Union (KADU), an alliance of smaller Kenyan tribes, collapsed in 1964, with Moi becoming Kenyatta’s Vice-President in

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<sup>13</sup> Jean Françoise Bayart, *The State in Africa: The Politics of the Belly* (London and New York: Longman, 1993), 6. Original published in French as *L’État en Afrique: La politique du ventre*, Librairie Arthème Fayard, 1989, translated by Mary Harper, Christopher Harrison and Elizabeth Harrison.

<sup>14</sup> John Lonsdale, “Soil, Work, Civilisation and Citizenship in Kenya,” in *Journal of Eastern African Studies*, 2:2, (2008), 309.

<sup>15</sup> David Anderson and Emma Lochery, “Violence and Exodus in Kenya’s Rift Valley, 2008: Predictable and Preventable?” *Journal of Eastern African Studies*, 2:2 (2008), 337.

<sup>16</sup> Anderson and Lochery, 336.

<sup>17</sup> Bayart, 150.



1969. This appointment, which calmed the pressure for the eviction of Kikuyu ‘outsiders’ among KADU constituent communities<sup>18</sup> is an ideal illustration of patrimonialism’s perceived equilibrium between the concept of patron-elite political power and the non-resolution of ethnic grievances they supposedly represent.

The stark contrast between fluid alliances among elites and the rigidity of the competition of their ethnic constituents is clearly perceptible to this day. It may seem strange, for example, that Mwai Kibaki was Vice President in Moi’s KANU government before going on to defeat KANU opponent Uhuru Kenyatta in 2002, or that he and Raila Odinga were allied in the National Rainbow Coalition (NARC) before competing for the presidency in 2007. Such is the norm of the highly insular society of Kenya’s clique of political elites. The handful of political leaders that have dominated Kenyan politics since independence have all at one time campaigned and allied both with and against each other, while consistently marshaling and championing the hostilities of their ethnic communities against those of their allied elites.<sup>19</sup>

Conversely, it is the inflexibility of these competitive ethnic narratives and their adoption among the citizenry that constitutes the third component to patrimonialism’s dynamic. The seemingly commercial nature of the patron-client relationship may give the false impression that constituents regarded their ethnic competitors as equally legitimate contenders for state resources. Instead, this competition led to the development of ingrained concepts of moral entitlement that these groups invoked to justify their receipt of resources, particularly the land of the Rift Valley. Of these “idioms of linkage,” Lonsdale claims that land in Kenya can be either “understood, controlled or worked.”<sup>20</sup> Kikuyus in the Rift Valley, fuelled by their idealised identity as an agricultural people, laid claim to superior ‘control’ of the farming estates which they purchased after independence, often land that they had tended as the tenant farmers of former white owners. For the Kalenjin and Maasai, their justification of their possession of land was based on claims to autochthony; a claim to ‘understand’ the land as its first-comers.<sup>21</sup>

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<sup>18</sup> Prisca Mbura Kamungi, “The politics of displacement in multiparty Kenya,” in *Journal of Contemporary African Studies*, 27:3 (2009), 350.

<sup>18</sup> Kamungi, 350.

<sup>19</sup> John Githongo, “Kenya - Riding the Tiger,” *Journal of Eastern African Studies*, 2:2 (2008): 363.

<sup>20</sup> Lonsdale, 2008, 306.

<sup>21</sup> Lonsdale, 2008, 308.

But these narratives, still alive today, carry implications beyond the simple entitlement for land. Both express an idealised understanding of where one fits into the national community. Kikuyu farmers consider themselves civilisers, capable of doing the hard work to support the rest of the country.<sup>22</sup> They want a Kenyan state in which these strengths can be considered the basis of superior, patriotic citizenship. Conversely, the reason rallies to Kalenjin identity are consistently shadowed by calls for *majimboism* (ethnic federalism) is that such a national structure would recognise autochthony as the basis for citizenship. From this autochthonous perspective, legitimate national citizenship is more about maintaining and respecting the ties between ethnicity and land. The expression of these narratives, even when used in comparison and competition with ethnic Others, does not represent a will to divide from the nation. Instead it shows a drive to connect with the nation by setting the terms of “civic virtue.”<sup>23</sup>

### **The Self and the Other: political violence in the language of patrimonialism**

The role of mass political violence and displacement within Kenya’s patrimonial dynamic originated with the problems faced by Moi upon his accession to the presidency in 1978. While his predecessor could use the distribution of vacated land as the backbone of his patrimonial strategy, this option was not available to Moi, who, in Mueller’s words “had to take away before he could give.”<sup>24</sup> Moreover, the KANU inner circle was still largely Kikuyu and wary of threats to the Kikuyu-privileged status quo.<sup>25</sup> The new president adopted violence as a means of both closing the political space among elites and maintaining the dominance of KANU nationwide. In doing so, he restructured the ethno-political narrative that KANU represented, attaching it to a KAMATUSA (an umbrella group of Rift Valley pastoralists – Kalenjin, Maasai, Turkana and Samburu) alliance of minority interests against Kikuyu dominance.<sup>26</sup> In 1982 Kenya became a *de jure* one party state under a revised constitution and throughout the following decade political opponents and democracy advocates were systematically tortured and killed under a Moi-KANU dictatorship.

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<sup>22</sup> Lonsdale, 2008, 309.

<sup>23</sup> Lonsdale, 1992, 268.

<sup>24</sup> Mueller, 188.

<sup>25</sup> Mueller, 188.

<sup>26</sup> Kagwanja and Southall, 266.

A mixture of external and internal pressures brought multi-party elections back to Kenya in 1992. Violence directed against political opponents was again used to maintain KANU's political dominance. As well as violence targeting rival elites, a broad campaign of mass terror and displacement in the Rift Valley was orchestrated by KANU to maintain electoral supremacy in its KAMATUSA heartland. In the 1992 elections alone, 1,500 people were killed in pre-election violence and hundreds of thousands more were displaced.<sup>27</sup> Similar figures were produced in the 1997 election. In the Rift Valley this took the form of terrorising and harassing communities assumed to favour the opposition – particularly the Kikuyu and Kisii ‘settlers’ – and their associated political candidates. To enact these campaigns of violence politicians for the most part did not rely on the official security forces of the police and military (although their acquiescence and occasional direct involvement was integral),<sup>28</sup> but rather on sub-state groups of private gangs, youth wingers and ‘traditional’ ethnic militia such as Kalenjin Warriors and Maasai Moran. Moi, wary of his electoral vulnerability, warned his KANU Members of Parliament in 1992 to “protect yourselves, don’t expect me to protect you.”<sup>29</sup> Violence and displacement, although linked to a national political narrative, was thus organised locally. Katumanga’s metaphorical description of this violence as ‘privatised’ is very apt here. The implied authority of the state was given by politicians who delegated a function of their own political authority, seen in the outwardly ethnic motivation for attacks, . The effects of this privatisation are visible to this day, as politicians are still known to control private gangs of supporters willing to give them the muscle to forestall the political challenges of electoral competition.

In the Rift Valley, instrumentalised electoral violence both drew upon and reinforced the broad narratives of ethnic entitlement that had characterised the patrimonial period. The declaration of the entire region as a ‘KANU zone’ in which opposition candidates were not allowed to campaign or enlist support was often enforced by traditional militias at the request or incitement of local politicians. The case of the Narok North Member of Parliament and Minister for Local Government, William ole Ntimama, highlights this practice. Having campaigned heavily for *majimboism* in the run up to the 1992 election, Ntimama made blatant

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<sup>27</sup> Kagwanja, 370.

<sup>28</sup> David Throup and Charles Hornsby, *Multi-Party Politics in Kenya*, (Oxford: James Currey, 1998), 4.

<sup>29</sup> Cited in Jacqueline Klopp, “‘Ethnic Clashes’ and Winning Elections: The Case of Kenya's Electoral Despotism,” *Canadian Journal of African Studies*, 35:3(2001): 483.



threats to the Kikuyu residents of his mainly Maasai district to “lie low like envelopes” during the vote. The groundswell of popular Maasai support he received within his district for this tactic enabled him to recruit Maasai Morans who killed three Kikuyus registering to vote, having allegedly told them to “go and register in Central Province” (the main Kikuyu province).<sup>30</sup> Thousands of Kikuyus thus did not even register to vote for fear of their lives, and Ntimama won his district easily.

The sub-state nature of these groups allowed politicians to wash their hands of such instances of violence, labeling them as ‘ethnic clashes,’ even using their actions to fulfill Moi’s oft-repeated prediction that primordial ethnic conflict would be the inevitable consequence of multi-party elections. Kapkalya Kones, the Assistant Minister for Agriculture warned that opposition presence in his ‘KANU zone’ electorate would see them “live to regret it,” and that Kipsigis (subgroup of Kalenjin) youth had declared war on Luos in the area.<sup>31</sup> The attacks by Kalenjin Warriors - bands of fighters clad in red ochre, armed with bows and arrows - were common throughout both elections. These warriors were often rewarded for the clearing out of non-autochthones with ownership of the land they had cleared.<sup>32</sup>

Similar relationships between land, entitlement and political violence were often developed among those forced off the land in these attacks. Just as the militias of the KAMATUSA minorities believed they had been dispossessed of the land they were entitled to, Kenya’s most notorious urban vigilante group, Mungiki, fostered similar views.<sup>33</sup> Created as a “movement of Kikuyu redemption,” the group’s members were recruited from resettled refugees from the Laikipia region of the Rift Valley, and were driven off their land during the 1992 and 1997 electoral violence and into Nairobi’s slums and the cities of the Rift Valley.<sup>34</sup> While maintaining a stance of ethnic redemption (by the administering of traditional Kikuyu oaths) the group always maintained a presence in the political arena, defending Kikuyu politicians and disturbing opponents’

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<sup>30</sup> Klopp, 492.

<sup>31</sup> Throup and Hornsby, 190.

<sup>32</sup> Throup and Hornsby, 81.

<sup>33</sup> Anderson and Lochery, 339

<sup>34</sup> David Anderson, “Vigilantes, Violence and the Politics of Public Order in Kenya,” *African Affairs*, 101 (2002), 532; Peter Kagwanja, “Facing Mount Kenya or Facing Mecca? The *Mungiki*, Ethnic Violence and the politics of the Moi Succession in Kenya, 1987-2002” in *African Affairs*, 102 (2003), 35.

political rallies, receiving favours and patronage in return.<sup>35</sup> The appearance of such 'redemptive' ethnic vigilantism in response to the dispossession of land reveals the partnership of ethnic belonging with the reactive violence against land dispossession. Mungiki's legions, in the wake of violence threatening their ethnic right to land (and dispossessing them of it), responded by hardening their own ethnic identity and coupling it with political violence. KANU's privatised violence therefore had its effect on both sides of the political divide, not merely among those supporting the government.

Although this highly ethnocentric political violence clearly originated in the instrumentalisation of politicians and elites, we are faced with an entirely different question concerning the subsequent meaning of the violence to those involved. As well as its political convenience, Geschiere states that the 'close range' violence of autochthony is a necessity for the maintenance of autochthonous belonging as an ideology.<sup>36</sup> That is, a practice begun by politicians can then re-produce violence through its own momentum. The tokens of ethnic identity involved with the clashes of the 1990s – traditional garments and weapons like arrows and spears – show how closely these acts were intertwined with the re-assertion of ethnic difference. In this sense, violence became an enforcement mechanism of the narratives of ethnic entitlement which had come to structure politics.

On a more fundamental level, it is important to remember the capacity of interpersonal violence itself to delineate the very boundaries between self and Other. De Vries and Weber explain the potential of violence in this transaction,

Determination of the Self now reveals itself to be what it probably always has been; determination of the Other. Values based on the ontological and deontological priority of identity over difference, of sameness over alterity... [demonstrate] that violence is not necessarily the exclusive characteristic of the Other but rather, and perhaps even above all, a means through which the Self, whether individual or collective, is constituted and maintained.<sup>37</sup>

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<sup>35</sup> Kagwanja, 2003, 37.

<sup>36</sup> Peter Geschiere, *The Perils of Belonging: Autochthony, Citizenship and Exclusion in Africa and Europe*, (Chicago: University of Chicago Press, 2009), 117.

<sup>37</sup> Hent De Vries and Samuel Weber, "Introduction" in Hent De Vries and Samuel Weber eds., *Violence, Identity and Self-Determination*, (Stanford: Stanford University Press, 1997), 2.

The electoral violence serves two purposes, namely the reclamation of land and the realisation of individual selfhood.. In seeking to understand the relationship between interpersonal violence and the political arena, this distinction does not only concern the origin of political violence as a means of political control from above. It also shows a reliance on self-defining violence by citizens as a connection to the practices of the national political arena itself. Even if we view interpersonal violence in this way as a form of identity creation separate from the material gains of political control and resource distribution, it would be a mistake to assume that the developments of the political arena are irrelevant in this process. For autochthonous violence to have any purchase, it requires the pretext of political injustice, and thus for the wrongs of the state to be corrected by the redemption of ‘tradition.’

In summary, three findings in Kenya’s patrimonial post-independence era are relevant to the theoretical discussion of the 2007-2008 crisis below. These are; 1) the psychological relationship between patrimonial resource allocation and narratives of ethnic entitlement used among and against citizens to justify their actions; 2) the privatisation of public violence and its routine application in the arena of electoral democracy; and 3) the symbiotic relationship between the elite use of ethnic violence and its self-determining capacity among the citizenry.

### **‘Vita imetokea’ - The war has begun<sup>38</sup>**

The Rift Valley’s post-election violence of 2007-2008 followed many of the themes and patterns of the ‘ethnic clashes’ of the 1990s. This was true of campaign rhetoric, where politicians used promises of *majimboism* and seditious “41 versus 1” (meaning *all* of Kenya’s tribes versus the Kikuyu) political narratives throughout the campaign.<sup>39</sup> It was also true of the violence itself, where individuals were targeted on the basis of their ethnicity, and as this correlated to the ethnic affiliations of the parties. There were, however, many significant differences pertaining mainly to timing, scale and control.<sup>40</sup> Elite involvement in the 2007-2008 violence played a significant role, as it had in previous elections, and in analysing

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<sup>38</sup> This was said by radio presenter Josh Arap Sang on Kenyan radio station KASS FM in the first days after the election. Sang is now on trial at the International Criminal Court. See Kenyan National Commission on Human Rights, 74.

<sup>39</sup> Mueller, 201.

<sup>40</sup> According to the Commission of Inquiry into the Post Election Violence, “the violence was more intense, more widespread, was urban as well as rural, lasted longer, and occurred after rather than before the elections:” Commission of Inquiry into the Post Election Violence, 38.

the structure of the violence this cannot be ignored. For example, Franklin Bett a Member of Parliament, gave sums of money to a crowd in Kericho town just before they burned the houses of local Kikuyus.<sup>41</sup> Kipkalya Kones is also said to have ordered roadblocks used to stop the flow of goods and personnel from Nairobi to the west.<sup>42</sup> From Nairobi, Uhuru Kenyatta the Finance Minister, is alleged by the International Criminal Court to have facilitated Mungiki's migration to Naivasha in mid-January.<sup>43</sup> Such instances were numerous throughout the Rift Valley, as was the involvement of non-politicians, especially local businessmen who were allegedly the principal funders of post-election violence in the region.<sup>44</sup>

There were also, however, numerous examples of clearly spontaneous violence. Eight people were killed in skirmishes in Kipkelion, sparked by Kisiis and Kikuyus celebrating Kibaki's victory on 30 December 2007.<sup>45</sup> A similar incident occurred when celebrating Kikuyus were attacked in Chelibat.<sup>46</sup> There were also instances where mobs were disbanded without confrontation by lone security personnel, (not the expected reaction of a well organised group with premeditated designs on ethnic cleansing).<sup>47</sup> The method of many acts of violence points to a close connection between the violence and narratives of ethnic superiority and identity. Once again, groups like the Kalenjin Warriors played a major role in the attacks on civilians.<sup>48</sup> There was also a large spate of forced circumcision of Luos by Kikuyu gangs (Kikuyus practice male circumcision, Luos do not), usually performed with broken bottles and machetes.<sup>49</sup> Victims of these acts often bled to death or were murdered afterwards. All of this highlights that the violence, as in previous elections, had meaning from below, well beyond a straightforward political objective in aid of politicians. These historically embedded practices amount to what Ellis calls a "repertoire" of power and meaning:

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<sup>41</sup> Kenyan National Commission on Human Rights, 179

<sup>42</sup> Commission of Inquiry into the Post Election Violence, 131

<sup>43</sup> International Criminal Court, *Situation in the Republic of Kenya in the Case of the Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali*, (8 March, 2011), 16.

<sup>44</sup> Kenyan National Commission on Human Rights, 89.

<sup>45</sup> Kenyan National Commission on Human Rights, 53.

<sup>46</sup> Kenyan National Commission on Human Rights, 133.

<sup>47</sup> International Crisis Group, "Kenya in Crisis," *Africa Report*, 137 (21 February 2008): 11.

<sup>48</sup> International Crisis Group, 11.

<sup>49</sup> Kenyan National Commission on Human Rights, 86.

they point to a violence in which the imagery of ethnic Self and Other were idealized and reified.<sup>50</sup>

Overall, the lack of clear political objectives was the biggest departure from the violence of the 1990s. The direction of nearly all of the violence in the Rift Valley was towards ‘helpless’ individuals of rival ethnic groups, rather than symbols of state and authority or rival gangs. In most cases groups sought out lone individuals, identified their ethnicity, and attacked them accordingly.<sup>51</sup> As one participant in the violence described,

If we met a Kikuyu, we just beat him... It was mob justice. The first killing...they approached him politely and asked him to produce his ID card. The one who got the card announced the name very loudly—it was a Kikuyu name. And the mob just attacked him. Those who produced IDs with Kalenjin or Luo names, they let them go.<sup>52</sup>

On the pro-Kibaki side, one young man forced to commit violent acts paints a similar picture;

these people are coming and forcing people here to fight. So that's why they are going house-to-house making sure that if you are a Kikuyu, you have to come out and fight... If you are not a Kikuyu, they just kill you immediately.<sup>53</sup>

Although such interpersonal violence was also common in the elections of the 1990s, its occurrence after but not immediately before the 2007 election signifies a change in motive. Whereas previously the mass displacement of civilians affected the outcome of the election, this time it took the form of a punishment for the election's result. These acts often transcended personal inter-ethnic bonds. Many survivors of the violence would later identify their attackers as their former friends and neighbours. One Kikuyu land owner knew fourteen of the people who killed seven of his family members. He recalls his wife's screams, “‘brother, why are you attacking us?’ [The attacker] replied telling her that the time for brotherhood was over and she had better pray.”<sup>54</sup>

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<sup>50</sup> Stephen Ellis, “Interpreting Violence: Reflections on West African Wars,” in Neil Whitehead (ed.) *Violence* (Oxford: James Curry, 2005), 112-123.

<sup>51</sup> Mueller, 203.

<sup>52</sup> Human Rights Watch, 41.

<sup>53</sup> BBC, *Kenyan 'Forcibly Recruited to Fight'* <http://news.bbc.co.uk/2/hi/africa/7215107.stm> 29 January 2008 (accessed 26/2/2012)

<sup>54</sup> Commission of Inquiry into the Post Election Violence, 496.



Perhaps the most notorious incident of the entire crisis was the burning of the Assemblies of God church in Kiambaa, along with its 35 sheltering inhabitants. One survivor identified the attackers as “...our neighbours, [including] a young boy who sells milk and the son of the man who owns the farm that borders mine.”<sup>55</sup> One of the perpetrators of this act revealed his motivations in a later interview,

They were happy because Kibaki won and we did not want these people [the Kikuyu] to be happy...that is why we decided to chase them, when we chased them they went to hide in the church; so we decided to burn the church.<sup>56</sup>

These cases highlight one of the central problems in Kenya’s ongoing electoral crises: why is there an “expectation that election time [i]s a time to engage in violence?”<sup>57</sup> More specifically, what is it about electoral politics that is able to harden, even transform communal understandings of self and Other into a purely ethnically antagonistic framework?

The only way to address this is by reconfiguring our understanding of the relationship between ethnic and political identity. The problem with the above question is that it assumes ethnic antagonism and the specific narratives that structured it are social phenomena, ‘revealed’ or ‘released’ by political developments. In fact these ethnic identities were only ever accessible in a political forum. Indeed, as they had developed as agencies of national inclusion, they were none other than political identities themselves. Put another way, one’s place in politics – one’s political self - was defined by simply *being* one’s ethnicity. From this mindset, the very quality of *being* the ethnic Other was innately political. Hence it is not surprising that the targeting of civilians for only that quality could become a thinkable response to the perceived injustices of the political realm.

It ceases to be so problematic, then, to connect the emboldening of these political identities with the timing of an election. When President Kibaki was brusquely sworn in, with high ranking members of the electoral commission alleging to have seen significant fraud in his favour, a backdrop of political injustice was provided, and the political Other perceived to be responsible for the fraud was targeted in all of its vestiges. This shows that, when these are the only terms used, the tendency to describe violence as either political or ethnic is limited..

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<sup>55</sup> Human Rights Watch, 41.

<sup>56</sup> Kenyan National Commission on Human Rights, 67.

<sup>57</sup> Kenyan National Commission on Human Rights, 132.

‘Ethnic’ violence is essentially a phenomenon of national politics. The conventional division between the civic and ethnic spheres and their related phenomena posits a binary of attachment between ethnicity and the nation. What can be said of the attachment to the nation (citizenship) if this attachment houses structures of violence that challenge the Weberian monopoly of the ‘central’ state over the legitimate forces of violence?<sup>58</sup>

### **Citizens of what? The centralised legitimacy of sub-state violence**

In addressing the causes of Kenya’s post-election violence most of the literature has discussed concepts of citizenship and statehood only parenthetically. When these points have been addressed they have pertained largely to two pre-existing theoretical standpoints. One sees ethnic citizenship and the use of violence in its name as a force that challenges the centrality of the nation-state and stands opposed to the individual’s sense of attachment to that state. A second school of thought sees ethnic violence exclusively as a product of state instrumentalisation, in which the control of elites restricts such disorder from exiting the bounds of the central state and thus does not challenge its centrality.

Mueller, writing in the months after the 2007-2008 crisis, typifies this first view. Violence in all of its forms, she concludes, had throughout the late patrimonial era been ‘diffused’ by the use of privatised vigilantes, threatening the very integrity of the state.<sup>59</sup> The culmination of this long-term phenomenon was the “frittering away of the state’s monopoly of legitimate force” evident in the 2007-2008 violence.<sup>60</sup> Kagwanja builds on this concept to characterise the current of ethnic violence as ‘ethno-nationalism,’ a force which rose in direct opposition to the belligerents’ attachment to the central nation-state.<sup>61</sup> This approach accepts, in at least a limited form, the authenticity of ethnic consciousness, and correlates violence in the name of such ‘ethno-nationalism’ with the decentralisation of the capacity to commit violence away from the state. This approach fits a trend in the literature to see ethnic and civic citizenship as an incompatible liberal (nation-state) and republican (ethnic) binary.<sup>62</sup> The

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<sup>58</sup> Max Weber, “Politics as a Vocation” in H.H.Gerth and C. Wright Mills (eds.), *From Max Weber: Essays in Sociology* (Routledge and Kegan Paul, London: 1948):78

<sup>59</sup> Mueller, 186.

<sup>60</sup> Mueller, 202.

<sup>61</sup> Kagwanja 2009, 365.

<sup>62</sup> Stephen N. Ndegwa, “Citizenship and Ethnicity: An Examination of Two Transition Moments in Kenyan Politics,” in *American Political Science Review*, 91:3 (September 1997): 599.

prominence of non-state ethnic violence was, according to this view, evidence of the fracturing and temporary collapse of the central state in Weberian terms.

The second view of disorder and citizenship is embodied in Chabal and Daloz's *Africa Works: Disorder as Political Instrument*. Here, the authors view all forms of violence within the state as directed and manipulated by elites for politically profitable ends.<sup>63</sup> The centrality of the state, although palpably weak in that it is not institutionally "emancipated from society," is not threatened by the rise of non-state violence because political patrons are essentially the "licensees" of any disorder.<sup>64</sup> Ethnic conflict is dismissed by these authors as the most "systematically criminal form of violence."<sup>65</sup> Although this was written well before Kenya's more recent crisis, a partial application of this theory can be seen in the work of Landau and Misago, who, assuming that Raila Odinga was always in control of pro-ODM violence, claim that the attacks were "driven by central political objectives."<sup>66</sup> Embracing the question of the state's Weberian character, the authors claim that although the violence undercut the state's monopoly of force, it was ultimately a contest for the control of the state itself, and thus was "not the collapse of a state-centred authority system, but a challenge to the sitting president's authority."<sup>67</sup>

As outlined previously, the ethnic violence of Kenya's crisis seems to be both based on the solidification of ethnic self-definition, and reliant on an attachment to the political arena of the nation. The above schools of analysis are therefore both deficient. The first presumes a lack of national attachment and the second dismisses ethnic identity as a motivation for violence. To reconcile the idea of ethnic violence with national attachment we can return to Weber's original definition of statehood. The "human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory," in Weber's translated terminology, does not simply entail a monopoly of violence itself, 'frittered' away by the practice of non-state violence, but rather that

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<sup>63</sup> Patrick Chabal and Jean Pascal Daloz, *Africa Works: Disorder as Political Instrument*, (Oxford: James Currey, 1999)

<sup>64</sup> Chabal and Daloz, 80.

<sup>65</sup> Chabal and Daloz, 84.

<sup>66</sup> Loren B Landau and Jean Pierre Misago, "Who to Blame and What's to Gain? Reflections on Space, State, and Violence in Kenya and South Africa," in *Africa Spectrum*, 44:1 (2009): 104.

<sup>67</sup> Landau and Misago, 105

the state be the regulating entity of violence's *legitimacy*.<sup>68</sup> Weber goes on to explain, "the right to use physical force is ascribed to other institutions or to individuals only to the extent to which the state permits it".<sup>69</sup> That is, all sub-state, or 'privatised' violence should not be considered opposed to Weberian centrality unless it can be identified as deriving its legitimacy from a source other than the state. Historically, this certainly cannot be said of the autochthonous ethnic violence experienced in the Rift Valley, which was created directly through the KANU state's delegated authority. For participants in the 'clashes' against Kikuyu *madoadoa* (blemishes), this delegated authority effectively licensed the 'violence of identity creation' to operate within the legitimacy of the state.

KANU's privatisation of political violence during the 1990s created a political environment in which violence, and the ability to access it, legitimised access to the state rather than vice versa. The scale of KANU's use of violence in the Rift Valley not only ensured its electoral success, but developed the understanding that its right to dominate the political arena was a product of its superior control of violence. This point has been made successfully by Galaty, who argues that access to political power in Kenya is predicated on the "presence" of violence that politicians marshal within their constituencies.<sup>70</sup> The widespread deployment of private militia by elites therefore would not simply be a means to physically outmaneuver opponents, but to prove the *legitimacy* of the politician's claim to access the political realm. This allows us to theorise a culture of violence which legitimised this elite access, but might have been used by participants for the separate purpose of identity creation, with both sheltered by the same centralised legitimacy of the political realm. More specifically, politicians sought access to violence to legitimise their place in politics, while citizens accessed the framework of politics to legitimise their use of violence in the pursuit of belonging in the national polity.

With the fall of KANU in 2002, this hybrid Weberian state system, connecting privatised violence to state legitimacy, ceased to formally exist in the Rift Valley. But what was its legacy after 2002? Could it be another element of the 'infrastructure' that this crisis inherited from those

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<sup>68</sup> Weber, 78

<sup>69</sup> Weber, 78

<sup>70</sup> Galaty, 166.

of the 1990s?<sup>71</sup> To reject this outcome would be to assume the primacy of the government in determining the norms of the nation. The legitimacy of ethnic violence to participants was not tied to the authority of the Kenyan government but to imagined norms of the Kenyan nation – the consensual social knowledge that accepted violence as a response to political dispossession. This is not in any sense a definition of the state in objective terms, but rather an emphasis of the relevance of the nation (as ‘imagined’<sup>72</sup>) to a practice ostensibly in opposition to its power. As such, this is a theory of citizenship, defining the belligerents’ perceived attachment to state and the entitlements appended to it. Claims that these belligerents usurped and decentralised the government’s monopoly of the legitimate use of violence beg the question of whether, in their own eyes, such legitimacy was actually the property of the government to begin with.

The visibility of ethnicity as a political identity in this process shows the importance of ‘belonging’ as an entitlement of patrimonial citizenship. The search for ethnic identity, including the application of violence in its name, was not a force opposed to the centrality of the state, as many have argued; it was a manifestation of the search for belonging, itself an entitlement appended to citizenship of the Kenyan polity. Geschiere, writing on Cote d’Ivoire’s state enforced ‘villagisation’ program of ethnic rural repatriation, finds,

It shows how closely this obsession with belonging and autochthony is intertwined with the formation of the nation-state. Rather than arising from a wish to withdraw into the local, it expresses a determined effort to get access to the national arena ... autochthony presupposes national citizenship; it is not a contradiction of the latter but rather grafts itself onto that institution in highly variable and precarious patterns.<sup>73</sup>

With this realisation, the poverty of the ethno-nationalism thesis which addresses the conflict between the postcolonial state and ethnic sub-

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<sup>71</sup> This is the terminology of the KNHRC commission report, “The ideology and infrastructure of the post-election violence predated the 2007 General Elections. The character of the post-election violence was akin to election-related violence which had

happened during the 1992 and 1997 general elections.” Kenyan National Commission on Human Rights, 3

<sup>72</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London: Verso, 1983)

<sup>73</sup> Geschiere, 116.



nationalism - is exposed. Conversely, reducing ethnic violence to actions only based on rational calculations of political distribution, is similarly lacking. The conflict of the Rift Valley was a war for the realisation of ethnic identity, and fought with centralised legitimacy attained through national citizenship. Its combatants sought not the destruction of the state's cohesion, but the enactment of their rights as its citizens.

### **Conclusion: coming to terms with post-patrimonialism**

At this point it is necessary to speak of the Rift Valley's crisis in the context of Kenya's move away from patrimonialism. This article details patrimonial trends stemming from the patrimonial era. But does the crisis of 2007-2008 show that Kenya is still a patrimonial state? This is a question that addresses the nature of socio-political change itself, and the danger of rigidly compartmentalising social and political phenomena into corresponding transient eras. On this subject, Mbembe has written,

...the postcolony is made up not of one 'public space' but of several, each having its own logic yet liable to be entangled with other logics when operating in certain contexts; hence, the postcolonial subject has to learn to bargain in this conceptual marketplace. Further, subjects in the postcolony also have to have marked ability to manage not just a single identity, but several—flexible enough to negotiate as and when necessary.<sup>74</sup>

The violence of the Rift Valley does not show that the patrimonial era has continued unabated. It shows instead how vividly and forcibly the structures of the past can erupt into the present. At a time when many other African states are navigating away from post-independence patrimonial systems, Kenya's confrontation with its past must not go unnoticed.

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<sup>74</sup> Achille Mbembe, *On the Postcolony*, (London and Berkeley: University of California Press, 1999): 104.

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