



Kenya's Rift Valley: Old Wounds, Devolution's New Anxieties

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Preventing War. Shaping Peace.

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Executive Summary

The Rift Valley is the crucible of Kenya's intercommunal conflicts and often the site of confrontations among rival ethnic political blocs. Though an election alliance has brought together the two largest ethnic groups in the region, the Kikuyu and Kalenjin, and helped avert large-scale violence during the 2013 polls, the task of reconciliation is far from complete. The government has failed to heal rifts created by multiple prior rounds of political bloodshed and violent land disputes. While major Kikuyu versus Kalenjin conflict is unlikely during elections scheduled for August 2017, serious local violence is possible, particularly as the creation of new counties run by powerful locally-elected officials has increased the stakes of political competition. To minimise the risk, the government and donors should do more to implement conflict-sensitive policing and revive the peacebuilding infrastructure that has largely been neglected since 2013.

A cocktail of grievances explains persistent tensions that accompany elections in the Rift Valley. Politicians typically trigger fighting by exploiting historical injustices related to land ownership and rejection of the participation of "outsiders" (ie, members of ethnic groups not native to the region) in local politics. Tellingly, major conflict has marred three of five elections held since the reintroduction of multiparty politics in 1992. Violence often aims to evict members of ethnic communities seen as backing rival parties or to depress turnout via intimidation.

A tactical alliance among Kikuyu and Kalenjin elites helped limit 2013 election-related strife. President Uhuru Kenyatta (a Kikuyu) and Deputy President William Ruto (a Nandi/Kalenjin), who were on opposing sides in 2007, were both indicted by the International Criminal Court (ICC) for crimes against humanity but their cases collapsed. Ahead of the 2013 polls, Kenyatta and Ruto joined in the Jubilee Alliance, a coalition of largely Kikuyu and Kalenjin ethnic parties. Their formidable political machine defeated the Coalition for Reforms and Democracy (CORD) led by Raila Odinga, Ruto's former ally. The alliance was further strengthened in September 2016 when the Jubilee Party (JP) replaced the old, looser arrangement. It now seeks not only victory in 2017 but also to help Ruto secure Kikuyu support for his anticipated presidential bid in 2022.

This political deal-making has yielded a welcome albeit superficial calm. A transactional electoral pact is a fragile base upon which to build a lasting peace. Kalenjin politicians repeatedly warn that Kikuyu elites plan to stop Ruto from ascending to power by backing a Kikuyu candidate in 2022. Failure by the Kikuyu side of the Jubilee coalition to endorse Ruto in 2022 almost inevitably would trigger major instability in the Rift Valley.

Of more immediate concern is sub-national competition for the executive governorship of counties created under the devolution system implemented following the 2007 election crisis. Kenya's 2010 constitution remodels the state by redistributing power and resources away from the presidency. Under the new system, 47 counties run by governors and assemblies receive significant resources, giving them substantial patronage power. Competition for these positions in 2017 is expected to be intense.

And, as many Rift Valley counties are divided along ethnic and sub-ethnic lines, this competition easily could degenerate into intercommunal fighting.

Seven of nineteen counties listed by the National Cohesion and Integration Commission (NCIC), a state agency charged with coordinating peacebuilding efforts, among potential violence hotspots ahead of the 2017 elections are in the Rift Valley. The interior ministry says it is aware of the danger of renewed conflict and plans to deploy large numbers of security forces to the area before and during the elections. This is a necessary but insufficient step. Peacebuilding agencies established under the 2010 constitution, including the NCIC, will need to do more to identify people suspected of incitement, particularly ahead of county-level elections. They need to broaden existing efforts to record every major political rally, monitor hate speech and make sure relevant politicians know they are being watched.

Donors should enhance support for these agencies. Likewise, the government and donors ought to revive the peacebuilding efforts that began after the 2007 crisis. This should include restoring support for local peace committees. Ultimately, addressing grievances over land, tackling disputes over boundaries in ethnically-mixed areas and engaging in a genuine reconciliation campaign to bridge the gulf of mistrust created by cycles of blood-letting will be required to achieve a sustainable peace.

Recommendations

To prevent and mitigate the immediate risks of violence in the Rift Valley ahead of the August election and, in the longer term, put the region on a firmer course to peace and stability

To the national and county governments:

1. Facilitate, fund and step up local peacebuilding and reconciliation efforts, especially in potential violence hotspots, in the months prior to the elections.
2. Speed up establishment of functional and competent County Peace Committees after the elections; ensure they are inclusive; and, in particular, take steps to guarantee women are adequately represented and can operate in a safe and enabling environment.
3. Encourage and facilitate inter-county talks involving elected officials and a broad cross-section of respected civil society leaders to ease tensions on contested county boundaries; and create an independent technical commission after the election to review contested boundaries and propose binding solutions.

To the Kenya police service:

4. Deploy sufficient experienced and well-trained personnel to potential violence hotspots well in advance of the polls; and ensure crowd control and anti-riot responses are humane, proportionate and non-partisan.

To the National Cohesion and Integration Commission (NCIC):

5. Step up monitoring of ethnic hate speech at political rallies and in vernacular media and coordinate with law enforcement to provide information for purposes of prosecution.

To donors:

6. Offer technical assistance to the National Cohesion and Integration Commission to improve the agency's evidence-gathering capabilities and to better enable it compile strong cases against politicians involved in incitement.
7. Provide enhanced technical and financial support to civil society organisations engaged in peace building and reconciliation efforts in the Rift Valley.

Nairobi/Brussels, 30 May 2017

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I. Introduction

Politically-instigated ethnic strife in the former Rift Valley province is not uncommon. Periodic, localised flare-ups usually coincide with electoral cycles. Before and after elections in the 1990s, supporters of then-President Daniel Arap Moi's Kenya African National Union (KANU) targeted members of the Kikuyu, Luhya, and Luo communities in the area, who largely supported the opposition.¹ The most serious clashes, which occurred after the disputed presidential election in 2007-2008, engulfed much of the Rift Valley region and took the country to the brink of civil war. Most of this violence pitted the Kikuyu and a few communities believed to have backed President Mwai Kibaki's re-election against the Kalenjin, Luo and Luhya groups that supported opposition leader Raila Odinga's candidacy. International political intervention was required to quell the violence and broker a settlement. That Kikuyu and Kalenjin are now allied reflects shifting ethnic alliances across Kenyan electoral cycles.

This report focuses on multi-ethnic counties in the Rift Valley with a history of significant election-related violence. It examines the state of reconciliation efforts in the area and assesses the dangers of relying on a tenuous political alliance between Kikuyu and Kalenjin elites to guarantee peace. It calls for substantial investment in grassroots peacebuilding initiatives as a more sustainable approach to averting conflict.

The report also assesses how the system of devolution introduced by the 2010 constitution has altered the political landscape. In this sense, it is a companion to earlier analysis of the political and security impact of the country's new devolved government, which was introduced in part to reduce all-or-nothing competition for the presidency but which unwittingly has injected new volatility in ethnically mixed subnational entities.² Research involved multiple trips to Nakuru, Uasin Gishu, Narok, Baringo and West Pokot counties and interviews with a wide spectrum of individuals, including national and county government officials, governance and public policy experts, peace actors, academics, business people and local leaders.

¹ For more context see Crisis Group Africa Reports N°s 137, *Kenya in Crisis*, 21 February 2008; and 197, *Kenya's 2013 Elections*, 17 January 2013.

² Crisis Group Africa Briefings N°s 121, *Kenya's Coast: Devolution Disappointed*, 13 July 2016; and 114, *Kenya's Somali North East: Devolution and Security*, 17 November 2015.

II. The Legacy of Rift Valley Violence

A. *The Land Factor*

Although causes of the Rift Valley's cyclical violence are diverse and its intensity varies area to area, virtually all conflicts are linked to land tenure and exacerbated by ethno-regionalist sentiments and politics. The perception that "outsiders" have usurped indigenous communities' ancestral land is the most potent perennial grievance politicians invoke to galvanise ethnic support bases, often with tragic consequences.³

Much of the discontent revolves around the manner in which President Jomo Kenyatta (a Kikuyu) dealt with land formerly appropriated by white settlers from local communities. European settlers had forced the pastoral Kalenjin, Maasai, Samburu, Pokot and Turkana out of land they historically occupied and set up farms, while Kikuyu, Luo, Kisii and Luhya were brought in as labourers.⁴ After Kenya gained independence in 1963, the Kenyatta government bought settlers' land and then redistributed it. The Kikuyu community benefited most, purchasing the choicest plots through cooperatives and land-buying companies. This facilitated the settlement of hundreds of thousands of Kikuyu in the Rift Valley, leaving the Kalenjin and Maasai feeling short-changed.⁵

A superficial peace held for many years, facilitated in part by deal-making among ethnic elites. President Kenyatta picked Daniel Moi (a Kalenjin) as his vice president in 1967 and endorsed him as his eventual successor, a choice aimed at soothing Kalenjin land grievances. Moi took office when Kenyatta died in August 1978. Tensions in the Rift Valley grew when a movement that advocated expansion of the political space and introduction of multiparty politics gained steam in the late 1980s. Facing a stiff electoral challenge, the Moi government instigated violence against non-locals in the Rift Valley belonging to the Kikuyu, Luo and Luhya communities, whose members were largely pro-opposition.

The Kikuyu suffered the most from the killings and displacements.⁶ As a result, tensions between the Kikuyu and the Kalenjin escalated. After Moi's long-ruling KANU party lost elections in 2002, Kalenjin grievances intensified as local elites accused the new president, Mwai Kibaki (a Kikuyu), of sacking many Kalenjin public officials during his first term in office (2002-2007). Kalenjin voters heavily backed opposition leader Raila Odinga against Kibaki in the December 2007 elections. When Kibaki was declared the winner after a disputed tallying process, Kalenjin youths turned on their Kikuyu neighbours, killing hundreds and displacing tens of thousands.

³ Crisis Group Africa Report N°137, *Kenya in Crisis*, op. cit., p. 12; Crisis Group interview, human rights researcher, Nairobi, 13 January 2016.

⁴ Alice W. Nderitu, "Mediation for Peace: From the Nakuru County Peace Accord (2010-2012) to Lasting Peace", Centre for Humanitarian Dialogue, 2014. "The Rift Valley's deadly land rows", IRIN, 18 January 2008. Jomo Kenyatta was the father of current President Uhuru Kenyatta.

⁵ Crisis Group interview, conflict analyst, Eldoret, September 2016. The government allocated some land it had bought from settlers willing to go home after independence to settlement schemes. Kalenjin and the Maasai argued it was their indigenous land and should be returned to them. Kenyatta famously said, "*hakuna cha bure*" (nothing is for free). Ibid.

⁶ "Report of the judicial commission appointed to inquire into tribal clashes in Kenya", Nairobi, 1999.

B. *No Genuine Post-election Violence Reconciliation*

After the 2007-2008 violence, the government, together with local civil society organisations, undertook reconciliation, focusing initially on convening grassroots peace meetings in affected districts to defuse tensions and repair social cohesion. In Nakuru county, a major epicentre of violence, government and civil society identified 80 male elders – 40 from each of the main ethnic communities, the Kalenjin and Kikuyu – to participate in a peace process that lasted sixteen months before a local agreement was reached.

But early reconciliation momentum was not sustained. The alliance between the Kikuyu and Kalenjin following Jubilee's 2013 election victory lulled many into believing historic foes were on an "irreversible" course to overcoming animosities.⁷ Yet Rift Valley reconciliation remains superficial. "What we have is negative peace ... calm", said a governance expert.⁸ Old wounds are far from healed, and the situation in many ethnically-mixed settlements remains volatile.

In parts of Njoro and Nakuru, for example, previously displaced persons who returned to their farms continue to express fears of election-related violence, and some have made contingency relocation plans.⁹ The poorly managed resettlement scheme established to care for those displaced in 2007-2008 is a major source of grievance among thousands of families, mostly Kikuyu, many of whom were resettled in their central Kenya ethnic strongholds or on land procured elsewhere in the region. Others, with title to farms deep in Kalenjin territory, such as Uasin Gishu county, say they were coerced into selling or leasing their land.¹⁰

A key provision of the Kenya National Dialogue and Reconciliation (KNDR) agreement that ended the violence was a Truth, Justice and Reconciliation Commission (TJRC), designed to address grievances and historical injustices. That body, despite many hurdles in documenting injustices, managed in two years to draw up "a relatively good reparation framework". While well received, it was never implemented.¹¹

⁷ Some also contend the election of Kenyatta and Ruto forced many civil society organisations and donors to pull out of the Rift Valley, as they were seen as agents of the ICC and, by extension, of the West. Crisis Group interview, conflict mediator, Eldoret, September 2016.

⁸ Crisis Group interview, governance expert, Nakuru, September 2016, March 2017.

⁹ Crisis Group interview, conflict mediation specialist, Eldoret, February 2016, March 2017; Gabrielle Lynch, "Electing the 'alliance of the accused': the success of the Jubilee Alliance in Kenya's Rift Valley", *Journal of Eastern African Studies*, vol. 8, no. 1 (2014), pp. 93-114.

¹⁰ "Stolen cows are still being milked. What was needed was a genuine reconciliation process like the Rwandan *Gacaca* courts system". Crisis Group interview, governance expert, Nakuru, April 2016, March 2017. The *Gacaca*, loosely translated as "justice among the grass" is a form of community justice rooted in Rwandan tradition that involves community members electing judges and hearing cases without the participation of lawyers. Tens of thousands of suspects were brought before such forums following the 1994 genocide in Rwanda, a system some have praised as helping foster reconciliation by facilitating open discussion at the community level of the crimes that were committed.

¹¹ Crisis Group interview, policy researcher, Nairobi, April 2016, March 2017.

C. *Impunity*

The state lacks either ability or will to prosecute powerful, wealthy, politically-connected individuals. Successive governments have implemented few of the recommendations growing out of past inquiries into electoral and ethnic violence.¹² Most post-election violence victims were neither adequately compensated nor afforded justice.

On 15 December 2010, following the Kenyan judiciary's failure to prosecute suspects behind the killings, the International Criminal Court's chief prosecutor, Luis Moreno-Ocampo, announced that the court would seek to prosecute five high-ranking officials and a journalist for their alleged role in inciting and organising violence. Kenyatta and Ruto were among the suspects. The pair eventually formed an alliance that won the 2013 elections with Kenyatta as president and Ruto as deputy president. Fatou Bensouda, Moreno-Ocampo's successor, accused senior government officials in the Kenyatta administration of actively opposing investigations of the president and his deputy and failing to cooperate with prosecution requests.¹³ The government also mounted a diplomatic offensive to halt court action against the pair, rallying the African Union to demand a stop to court action. The two cases eventually collapsed.

The Jubilee alliance's stance against the ICC proved popular among many voters in 2013; Kenyatta and Ruto successfully whipped up support by casting the court as a Western, neo-colonial instrument. But their hostility to the only available means of providing justice – after the Kenyan parliament rejected efforts to establish a local tribunal – left victims of the fighting with no judicial recourse. Such grievances easily could be exploited in the future. While the alliance between the Kalenjin and Kikuyu leaders has lowered short-term prospects for violence between the two communities, a breach in their fragile coalition would almost certainly reignite Rift Valley hostilities.

¹² In February 2014, the office of the Director of Public Prosecutions (DPP) announced that it found insufficient evidence to proceed with any of more than 4,000 post-election violence related cases. Past inquiries included the Kiliku Parliamentary Select Committee (1992), Akiwumi Judicial Commission (1999), Ndungu Commission of Inquiry into Illegal and Irregular Allocation of Public Land (2004) and the Truth, Justice and Reconciliation Commission (2013). Crisis Group interview, governance expert, Nakuru, April 2016.

¹³ "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the status of the Government of Kenya's cooperation with the Prosecution's investigations in the Kenyatta case", press statement, Office of the Prosecutor, 5 December 2014; Crisis Group interview, human rights researcher, Nairobi, April 2016, March 2017.

III. Ruto, the ICC and Jubilee Politics in the Rift Valley

The ICC decisions to withdraw charges against President Uhuru Kenyatta in December 2014 and Deputy President William Ruto in April 2016 were welcomed in their respective communities. Dismissal of Ruto's case brought particular relief in the Rift Valley, where uncertainty over his fate was beginning to sow division within the governing coalition. Claims Kenyatta was not doing enough to get his deputy president off the hook fed Kalenjin mistrust, heightening fear of renewed intercommunal tension.¹⁴ Ruto supporters pointed out that Kenyatta would not have secured the presidency without the Kalenjin-dominated Rift Valley, where he obtained 2.2 million votes against Odinga's 707,000.¹⁵ Jubilee-affiliated politicians also swept parliamentary contests, gained the governorships in five out of six Kalenjin-dominated counties, the women's representative position (a single-member seat reserved for women) in all six counties and the senate seats in four. Ruto's United Republican Party (URP), a Jubilee alliance affiliate, clinched 35 of 41 parliamentary seats in Kalenjin-majority constituencies.¹⁶ These seats were crucial in helping Jubilee command a majority in parliament.

Collapse of the Ruto case improved Jubilee Alliance cohesion, increased momentum to transform the coalition into a single party and diminished political and social tension in the Rift Valley. Jubilee convened a large "thanksgiving" rally in Nakuru days after the announcement, primarily to show the health of the Kikuyu-Kalenjin alliance and reaffirm Ruto's centrality to 2022 election plans.¹⁷ Strategists were particularly keen to counter damaging speculation that politicians from the Kikuyu-dominated Mount Kenya region were actively campaigning against him and hinting their community would not support him for the presidency.

The Jubilee Alliance parties formally agreed to disband and merge into the Jubilee Party in September 2016, after lengthy negotiations and despite opposition in parts of the Rift Valley and Central Kenya. Local politicians who rejected the formal union contended that it deprived communities of political platforms to articulate ethno-regional interests. While Kenyatta and Ruto justified the merger as enhancing "national unity", their real motive was to consolidate the transactional electoral pact: locking in Kalenjin votes for Kenyatta in 2017 in return for Kikuyu support for Ruto in 2022.

¹⁴ In a bid to reassure the Kalenjin, Kenyatta launched a diplomatic campaign to drum up African support for Ruto and bolster Kenya's opposition to the ICC. He lobbied African states at the AU summit in Addis Ababa in January 2016 and sent a delegation to the ICC's fourteenth Assembly of State Parties in 2015 seeking to stop the court from applying its Rule 68 that would allow the use of recanted evidence in the case against Ruto.

¹⁵ "4th March 2013 General Election Data Report", Independent Electoral and Boundaries Commission (IEBC), March 2013.

¹⁶ Gabrielle Lynch, *op. cit.*

¹⁷ Kenyatta also used the rally to declare that his government would not allow any Kenyan to undergo the "nightmare" of the ICC process, a remark widely viewed as signalling an irreparable breach with the court. Subsequently, Kenya declined to hand over three citizens wanted by the ICC for witness tampering and bribery: Walter Barasa, a journalist; Paul Gicheru, a lawyer; and Philip Kipkoeh Bett. *Africa Confidential*, vol. 57, no. 11, 27 May 2016.

The majority of Kalenjin are almost certain to vote for Kenyatta, not because they are happy with the current power sharing, but because they want to hold the Kikuyu to their side of the bargain. However, Ruto's 2022 bid faces several potential hurdles. First, he needs backing from the Kikuyu in Rift Valley, especially in Nakuru and Naivasha, where intense fighting occurred during the post-election crisis and inter-communal ties remain fragile.¹⁸ Second, Kikuyu elites could renege on their pledge and seek an alternative ethnic alliance; they even could present their own presidential candidate.¹⁹

¹⁸ Crisis Group interview, resident, Nakuru, September 2016.

¹⁹ Crisis Group interview, community leader, Eldoret, February 2016, March 2017.

IV. The Promise and Perils of Devolution

Devolution was designed to reduce excessive powers vested in a centralised “imperial” presidency. The president’s enormous influence and patronage meant that the stakes of winner-take-all elections became quasi-existential for rival ethnic elites. This explains in part widespread inter-ethnic fighting witnessed in 2007.

A new constitution adopted in 2010 substantially remodelled the Kenyan state. It created two layers of government at the national and the county levels. Elected governors preside over 47 counties, replacing provincial administration executives previously appointed by the president. They wield considerable power over basic education, health care, agricultural extension and local infrastructure maintenance, controlling an annual budget running into millions of dollars.

Devolution has proven popular. According to a September 2016 opinion poll by Ipsos Synovate, some 77 per cent of Kenyans support the new model. Although annual reports by the auditor-general since 2013 have flagged large-scale misappropriation of funds at the county level, many Kenyans still judge devolution preferable to the previously centralised and largely unaccountable presidency. But with the benefits come risks. Cut-throat competition for gubernatorial positions could replicate locally the nationwide winner-take-all contests for the presidency that triggered conflicts in ethnically mixed regions in the past. Rift Valley counties, which are divided along ethnic and sub-ethnic lines, could be particularly hard-hit.

A. *Devolution and Conflict*

Even as it helped reduce the excessive concentration of power in the presidency, devolution created unintended consequences. First, it increased competition among local communities, some of whom inevitably feel they are losing out.²⁰ Second, and relatedly, as local positions acquire greater salience, electoral contests are likely to become increasingly heated and divisive; as one illustration, many members of the national legislature have decided to try to unseat incumbent governors.²¹ All in all, intra- and inter-ethnic competition for both resources and political representation is escalating in some counties ahead of the August 2017 elections, with the attendant risk of renewed local unrest and violence.

In 2013, in an effort to mitigate that risk, some counties with multi-ethnic populations initiated dialogues among ethnic groups or reached ad hoc deals to allocate county seats to smaller communities.²² For example, in the Trans Nzoia pre-election pact, locally known as the Mapanga accord, the majority Luhya received the governorship while the county’s largest Kalenjin sub-group, the Sabaot, won control of the

²⁰ Crisis Group interview, conflict analyst, Eldoret, September 2016.

²¹ Crisis Group interviews, senior National Cohesion and Integration Commission (NCIC) official, Nairobi, January 2016; civil society official, April 2016.

²² The governor works with a legislature comprised of elected representatives known as Members of County Assembly. The governor appoints a cabinet to implement policies but relies on the assembly to approve budgets and set broad outlines for spending priorities. The assembly can also impeach the governor.

senate.²³ The pact extended to neighbouring Luhya Bukusu-majority Bungoma county, where the Sabaot again were accommodated in a power-sharing deal. Yet while these at least temporarily averted conflict in some violence-prone districts, they are unraveling, as communities and individuals eye the bigger prize – the governorship. Minority groups (Sabaot, Kikuyu, Nandi, Pokot and Kisii) in Trans Nzoia are thus devising a strategy to unite against the Luhya.²⁴

Counties with a mixed ethnic makeup are most vulnerable to election-related flare-ups. In Nakuru, a major flashpoint in 2007-2008 where the predominant Kikuyu coexist with a large Kalenjin minority, a pre-2013 election pact arguably averted conflict. A Kikuyu governor and his Kipsigis running mate won the election while the two communities shared county executive positions proportionately.²⁵ Yet during Jubilee Party primaries in April 2017, unidentified individuals reportedly distributed leaflets threatening to evict the Kikuyu if the county failed to elect a governor seen as commanding the support of the Kalenjin.²⁶ In 2013, the Kikuyu felt short-changed in neighbouring Kalenjin-majority Uasin Gishu (Eldoret) county so this time around they are demanding better representation: the deputy governor's post and/or a national assembly member for Turbo constituency (where they are numerous).²⁷

During the 2017 election cycle, the potential for conflict is especially high in counties experiencing intense local grievance about the influence of “non-locals” (ie, ethnic groups settled in areas already claimed by a dominant local community). In Narok, where 1992 and 1997 elections were marred by violence aimed at evicting the Kikuyu, the state's peacebuilding agency, the National Cohesion and Integration Commission (NCIC), has warned about heightened intercommunal tensions.²⁸ Ahead of the 2017 elections, Maasai grievances are focused on the Kipsigis, who form a substantial minority there and are seen as backing a candidate for governor who many locals feel does not represent Maasai interests.²⁹

B. *Inter-county and Intercommunal Border Disputes*

Inter-county border areas increasingly are prone to inter-ethnic violence because boundaries have not been properly demarcated, overlap with notions of ethnic “ancestral homeland” and at times straddle major political fault lines. The colonial administration drew many district borders without much consideration of ethnic makeup. Constituency and district boundary reviews following independence, which were influenced by patronage politics and elite interest, only compounded the problem. The more than 25 inter-county boundary disputes have proved particularly dif-

²³ The communities reached agreement in Mapanga. The Luhya Bukusu leader Moses Wetangula facilitated the negotiations. Of the five elected representatives to the National Assembly in Trans Nzoia county, one was from the Nandi community, two were Sabaot and two Luhya.

²⁴ Crisis Group interview, conflict analyst, Eldoret, September 2016, March 2017.

²⁵ Both communities had large investments in the county and had suffered losses in the past. Alice W. Nderitu, *op. cit.*

²⁶ “Nakuru residents link hate leaflets to politicians ousted in primaries”, *The Star*, 30 April 2017.

²⁷ Crisis Group interview, Kalenjin intellectual, Eldoret, September 2016, March 2017.

²⁸ Crisis Group interview, National Cohesion and Integration Commission (NCIC) official, Nairobi, April 2017.

²⁹ Crisis Group interview, prominent Maasai elder, Narok, February 2017.

difficult to manage.³⁰ Yet there is little political appetite for a new review and proper demarcation, in part because it could prove divisive, triggering unrest.

The border dispute between Kisumu and Nandi counties ranks among the most volatile. Over the last four years, the area has experienced several deadly armed clashes between the Luo and Kalenjin. Because the two communities are on opposite sides of the political divide (the Luo back the opposition while the Kalenjin support the ruling party), local politicians might choose to incite violence in the border area ahead of upcoming elections to discourage supporters of rival parties from voting.³¹

³⁰ Crisis Group interviews, senior NCIC official, Nairobi, January 2016; conflict analyst, Eldoret, September 2016.

³¹ Land ownership and border disputes also exist among the Kipsigis, Kisii and Maasai along their shared borders in Narok, Bomet, Nyamira and Kisii counties; small ethnic clashes occasionally have caused deaths and injuries. Crisis Group interviews, security analyst, Nairobi, February 2016; conflict analyst, Eldoret, September 2016.

V. Reinvesting in Peace

A. *Police Reform*

The Commission of Inquiry into the Post-Election Violence, appointed to probe causes of the 2007-2008 crisis, strongly criticised the performance of police, who killed dozens of protestors in opposition strongholds and perpetrated gender-based violence.³² The 2010 constitution incorporated a number of the commission's reforms, including a civilian oversight authority board (the Independent Policing Oversight Authority) and a National Police Service Commission to inject professionalism into personnel management. However, a governance and public policy expert who was involved in drafting the constitution said implementation of those changes had been patchy and uneven.³³

The executive, which benefits from a weak and disorganised police service that serves its interests, has shown little appetite for substantial reforms.³⁴ The president and interior secretary have spoken out against proposals for the public vetting of senior police officers, claiming it could damage morale. Critics say their real intention is to slow down police reforms.³⁵ A vetting panel convened by the National Police Service Commission has forced some officers into retirement but has failed to change the entrenched culture of corruption. An August 2016 survey by Infotrak found that the public regarded the police as the country's most corrupt institution.³⁶

The government has done a better job procuring police hardware. In January 2017, it purchased heavy-duty military trucks and armoured personnel carriers, signalling its intent to deal firmly with electoral violence and other threats, including banditry and terrorism. The inspector general of police, Joseph Boinett, has earned accolades for his efforts to rebuild the force and invest in specialised units, such as the Rapid Deployment Unit (RDU). Tens of thousands of new recruits have improved police capacity to deal with outbreaks of violence. But these steps are insufficient to yield a more effective police service. To deal with future crises, the police need not only to embrace the reforms outlined in the constitution, but also to revise the police training curriculum, which remains rooted in a colonial mindset.³⁷

B. *Peacebuilding*

A second challenge relates to peacebuilding, and notably to the lack of inter-agency coordination. Bodies such as the Directorate of National Cohesion and National Values and the National Steering Committee on Peacebuilding and Conflict Management (NSC) do not have clearly delineated roles. Parliament adopted a national peace policy with coordination mechanisms in 2015, but implementation has been slow.

³² In some locations in the former Rift Valley province, police took sides based on ethnicity and politics. "Report of the Commission of Inquiry into Post-Election Violence (CIPEV)", 15 October 2008. Crisis Group interview, governance expert, Nakuru, September 2016.

³³ Crisis Group telephone interview, experienced public policy expert, Nakuru, March 2017.

³⁴ Crisis Group interview, security expert, Nakuru, April 2016, March 2017.

³⁵ "NPSC should not vet officers as it does not understand police work, says CS Nkaissery", Daily Nation, 26 June 2016.

³⁶ "Police service still most corrupt – Survey", Citizen Digital, 23 August 2016.

³⁷ Crisis Group interview, security expert, Nakuru, April 2016, March 2017.

A government official said: “Engaging partners with different interests, orientation, and time frame has proved difficult”.³⁸ The government needs to undertake a review of these structures and should merge agencies with duplicate roles.

There are precedents upon which to build. Prior to 2007, community-based District Peace Committees (DPCs), primarily in arid and semi-arid regions, helped improve intercommunal relations by establishing channels for dialogue between elders from different ethnic groups and clans with a history of violent disputes over resources. After the post-election violence in 2013, the office of the president expanded the peace committee model to the rest of the country, under the supervision of the National Steering Committee on Peacebuilding and Conflict Management (NSC).

While these committees helped diminish local conflicts, they were both underutilised and hamstrung by multiple challenges. The selection process, heavily influenced by political patronage, lacked popular legitimacy. Moreover, membership, which was short-term, voluntary and unpaid, was in constant flux. Government officials and local administrators also sought to undermine the committees, which they saw as threats to their power and influence. Perhaps most significantly, the committees lacked stable funding and depended entirely on donor goodwill. As a result, most were inactive or moribund, convened only during emergencies.³⁹

Neglect of these crucial peace actors is regrettable. Past experience suggests the District Peace Committees have considerable conflict-prevention potential, especially in the Rift Valley and other troubled regions. But county governments need to ensure the committees receive regular funds (supplemented by national government and donor aid) and that their membership is competent, credible and broadly representative.

C. *Women and Peacebuilding*

Women remain underrepresented in formal peacebuilding institutions in the Rift Valley. In the ethnically mixed Nakuru county, which saw severe conflict in 2007-2008, initiatives by state agencies are largely male dominated. For example, following the post-election crisis, the NCIC brought together 80 male elders, 40 each from the Kalenjin and Kikuyu communities, to participate in a peace process that lasted sixteen months before a local peace agreement was reached.⁴⁰ Likewise, women are inadequately represented in District Peace Committees; during field research in the Rift Valley, Crisis Group found that women were almost entirely absent in these forums.⁴¹ Women leaders are, however, represented in civil society or community-led organisations, especially those promoting health and education services for women and girls, inter-community reconciliation and peacebuilding. A prominent example is Tegla Loroupe – a renowned Kenyan athlete from the Pokot community – who runs a foundation that promotes peacebuilding and educational initiatives through sports.⁴²

³⁸ Crisis Group interview, government official, Nairobi, April 2016, March 2017.

³⁹ Crisis Group interviews, civil society representative and NSC official, Nairobi, February 2016, March 2017.

⁴⁰ Alice W. Nderitu, *op. cit.*, Crisis Group interview, peace activist, Nakuru, April 2016, March 2017.

⁴¹ Crisis Group interviews, Nakuru, Eldoret, Narok, February 2016, April 2016, September 2016.

⁴² The foundation has peace races drawing participants from warring communities and runs a school, among other activities. See their website, teglapeacefoundation.org.

The relative absence of women in formal peacebuilding institutions means that their problems often are sidelined or neglected. It also deprives these efforts of actors who play an important role in their communities, especially at the grassroots. Women and girls experienced the 2007-2008 conflict differently from men. They were at greater risk of rape and other types of sexual violence, crimes which were seldom reported. (An Amnesty International report cited estimates as high as 40,000 incidents of sexual and gender-based violence largely unreported for fear of stigma.)⁴³ Peacebuilding solutions that do not include women may be harder to implement. Women are more likely to interact with members of other ethnic groups at shared facilities, such as water points, clinics or schools. These day-to-day interactions offer opportunities to build trust and reach agreements on sharing resources.⁴⁴

D. *Counties' Complementary Security Role*

Despite pressure on the national government over the last four years to cede more security powers to counties and governors, it has done so only reluctantly.⁴⁵ Its main objection is that such devolution could fuel hostilities in multi-ethnic counties where a sitting governor might seek to use security forces to back militias from his own ethnic group.⁴⁶ While the argument has merit, enhanced central government cooperation with local county-level officials, particularly to boost intelligence-gathering capabilities and improve relations with local communities, could improve security. Several Rift Valley county officials, for example, have asked for arrangements allowing the local and national governments to share responsibility.⁴⁷ Operational decision-making authority could remain in the hands of professional security officials as opposed to elected individuals liable to use their power to target political rivals.

The legal framework for such cooperation exists. The National Police Service Act (2011) established the County Policing Authority (CPA) to create mechanisms for joint local security management by national and county governments with community help. Under this act, the governor chairs the County Policing Authority which includes a representative appointed by the police chief, the county heads of both the Kenya police and the administrative police service, representatives from the directorate of criminal investigation and the National Intelligence Service; the chair of the county security committee (the county commissioner, appointed by the president); and six members from special interest groups such as youth, women and faith-based organisations.⁴⁸ Setting up CPAs would help the government improve its intelligence-

⁴³ "Kenya: Crying for Justice: Victims' Perspectives on Justice for the Post-Election Violence in Kenya", Amnesty International, 15 July 2014, p. 27.

⁴⁴ Crisis Group telephone interview, civil society official, Nakuru, 19 May 2017.

⁴⁵ The government allowed limited local security arrangements in some insecure regions, especially the north east. Crisis Group Africa Briefing N°114, *Kenya's Somali North East: Devolution and Security*, 17 November 2015.

⁴⁶ Crisis Group interviews, religious leader, Nakuru, January 2016; senior county official, Eldoret, February 2016.

⁴⁷ Crisis Group interviews, county executive, Eldoret, February 2016; experienced public policy expert, March 2017.

⁴⁸ The county government is supposed to advertise for the six positions; in turn, the county public service board recruits, vets and forwards names to the county assembly for approval. Crisis Group interview, governance expert, Nakuru, September 2016, March 2017.

gathering capacity and share the security-coordination burden with county officials who have a stake in averting economically costly conflict.

Yet implementation of the CPAs has been dogged by challenges, notably the lack of funding combined with competition between governors and county commissioners for decision-making authority and budgetary control. A governance expert who tracks implementation of devolution pointed to inadequate allocation of funds as a major impediment. Many county governments have started recruiting candidates for the six special-interest slots but have yet to fill the positions; they argue that the national government should bear the operational cost of setting up the CPAs, a prospect that seems remote given mounting budget deficits.⁴⁹

E. *Small Arms Proliferation*

Security forces struggle to police the vast pastoralist north (especially Baringo, Turkana, West Pokot and Samburu), whose rough, hard-to-navigate terrain is ideal for ambushes. Small arms in the hands of civilians, particularly automatic weapons, represent a serious threat in the event of an electoral crisis.⁵⁰ There is alarming precedent: in separate incidents in 2012 in Baragoi, Samburu county, and in 2014 in Kapedo, along the border between Baringo and Turkana counties, heavily-armed militias killed 63 police. Since that time, the government has deployed additional personnel, including the RDU equipped with armoured personnel carriers.⁵¹ But its various disarmament operations have failed. Local communities criticise them as haphazard and biased, targeting some groups and not others.⁵² A parallel process aimed at registering arms possessed by civilians (mostly pastoralists) has been equally unsuccessful, largely because many mistrust government intentions.⁵³

Authorities need to implement a more serious and concerted campaign of civilian disarmament across the country. This could be done by promising those who give up their guns immunity from prosecution while arresting and prosecuting those who fail to do so. But such an initiative would require regional cooperation and agreement on a framework for joint disarmament operations. Many pastoralist communities refuse to surrender their weapons, invoking past disarmament operations that reportedly left them vulnerable to attacks by communities living across the border in neighbouring countries such as Uganda, South Sudan and Ethiopia.⁵⁴

Kenya and Uganda have in the past discussed carrying out joint disarmament operations and Kenya hosts the Regional Centre on Small Arms (an intergovernmental

⁴⁹ Ibid.

⁵⁰ Crisis Group interview, security source, Nairobi, July 2016. A 2012 study estimated that between 530,000 and 680,000 firearms were in civilian hands nationwide; a similar study cited in the same document “estimated the number of arms in a number of Kenya’s pastoralist districts to be 172,995”. See Wepundi et al., “Availability of Small Arms and Perceptions of Security in Kenya: An Assessment”, Special Report, Small Arms Survey, June 2012. This is the most recent comprehensive small arms survey report on Kenya. The second study it cited was undertaken by Practical Action.

⁵¹ Crisis Group interview, senior security official, Kabarnet, April 2016, March 2017.

⁵² Crisis Group interview, security expert, Nakuru, April 2016, March 2017.

⁵³ By March 2017, only 33 of the thousands of guns in the hands of local civilians were registered in Baringo county. Crisis Group interview, senior security official, Kabarnet, April 2016, March 2017.

⁵⁴ Crisis Group interview, security expert, Nakuru, April 2016, March 2017.

agency supported by the UN Development Programme) that champions initiatives for the reduction and control of small arms and light weapons. Governments in the region should tap the expertise of such bodies to plan a coordinated disarmament campaign and authorities should show greater political will to back such an initiative.

F. *Resolving Land Disputes*

Land distribution and ownership disputes have been major sources of conflict since Kenyan independence. The 2010 constitution established the independent National Land Commission (NLC) to lead a comprehensive reform effort addressing historical injustices. The County Land Management Boards (CLMBs) are the NLC's county-level arms, which act with input from both the commission and county governments.⁵⁵

With a history of skewed land distribution, the Rift Valley has witnessed numerous land-related disputes, a situation worsened by the 2007-2008 violence and ensuing forced eviction of Kikuyu and other communities. The region also has suffered high rates of land fraud and double registration. The National Land Commission is supposed to help resolve such disputes by determining actual ownership and cancelling illegally acquired documents. However, it has faced numerous obstacles, including interference from other government bureaucracies sharing similar functions, such as the Land Ministry, and from powerful political operatives, who have traditionally acquired land by manipulating ministry civil servants. Land-buying cartels that benefit from uneven public land allocation and a litigious culture have further eroded the CLMBs' effectiveness.⁵⁶

Civil society and progressive members of parliament should press the government to allow the NLC to exercise its constitutionally-mandated powers, perhaps by filing suit in the Supreme Court to clarify and delineate the roles of the commission and the ministry. An empowered land commission could take the lead in addressing land problems at the core of ethnic discord in the Rift Valley.

⁵⁵ Crisis Group interview, land official, Nakuru, 21 April 2016.

⁵⁶ Crisis Group interview, senior government administrator, Nakuru, April 2016.

VI. Conclusion

Although renewed large-scale post-election violence in the Rift Valley pitting Kalenjin against Kikuyu is unlikely in 2017, the potential for serious local conflict centred on competition for governorships in ethnically-divided counties is real. Conflict-sensitive policing, local peacebuilding and the compilation of strong cases by the National Cohesion and Integration Commission leading to prosecution of politicians and local leaders seeking to stoke ethnic animosities – including through hate speech – would go a long way toward mitigating this risk. The political deal between Kalenjin and Kikuyu elites has diminished tensions, but peace remains extremely fragile, with myriad sources of potential conflict just beneath the surface. Ultimately, only enhanced grassroots reconciliation efforts and genuine steps to resolve historical grievances – notably those related to land ownership and distribution – will help yield sustainable peace.

Nairobi/Brussels, 30 May 2017

Appendix A: Map of Kenya



Appendix B: Glossary

CORD	Coalition for Reforms and Democracy
CLMBs	County Land Management Boards
CPA	County Policing Authority
DPC	District Peace Committees
ICC	International Criminal Court
JP	Jubilee Party
KANU	Kenya African National Union
KNDR	Kenya National Dialogue and Reconciliation
NCIC	National Cohesion and Integration Commission
NLC	National Land Commission
NSC	National Steering Committee on Peacebuilding and Conflict Management
RDU	Rapid Deployment Unit
TJRC	Truth Justice and Reconciliation Commission
URP	United Republican Party

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

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The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown. Its Vice Chair is Ayo Obe, a Legal Practitioner, Columnist and TV Presenter in Nigeria.

Crisis Group's President & CEO, Jean-Marie Guéhenno, served as the UN Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013.

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