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May 30, 2009

## From Promises to Action in Kenya: How to Make Democracy Work

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### Article at a glance

- The roots of Kenya's post-electoral violence go beyond ethnic divisions – they have much to do with a lack of effective political representation and broad economic opportunities.
- The private sector in post-conflict settings has an important role to play in brokering peace agreements.
- Building the institutions of representative democratic governance and a stable, competitive market economy is a key element of conflict prevention.

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published by the

**Center for International Private Enterprise**

an affiliate of the U.S. Chamber of Commerce

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## The Private Sector in Post-Conflict Countries

What role the private sector plays – and how it is defined – in helping countries emerge from conflict has become an important consideration in the development community. Private sector engagement in conflict resolution is increasingly relevant as many fragile democracies are struggling to break the vicious circle of socio-economic underdevelopment and the resulting instability.

By focusing on tangible outcomes, such as providing jobs, creating wealth, delivering goods and services, and promoting stability, that are key to long-term growth and development, the private sector can move countries away from political bickering to the design and implementation of concrete policy priorities and visible improvements in citizen's quality of life.

The reasons for the private sector to get involved in policy-level work in the post-conflict environment may not seem obvious at first glance. There are many more important, survival-level issues, such as security, that companies must deal with on a day-to-day basis. However, from a more long-term perspective, the private sector is ultimately interested in a level playing field, where favoritism, insider access, and the uncertainty of a conflict-ridden environment eventually give way to competitive market forces. The private sector needs a predictable and stable economic climate to provide opportunities to attract investment and reduce capital flight. The demand for such a climate is much more urgent in post-conflict environments.

There are some instances where certain segments of the private sector can benefit from non-competitive market arrangements and the chaos of the post-conflict environment. In Serbia, for instance, certain business interests were committed to maintaining the status quo of the embargo years, since the system allowed them preferential access and treatment.<sup>1</sup> The same has happened recently in Iraq, as some businesses were profiteering from insider business arrangements obtained from the government. Yet, these types of special allowances

were only helping a few. The majority of businesses, especially small and medium-sized ones, do want a fair, competitive market where the same rules apply to all. This article focuses on those companies that take the long-term view on development – those interested in building a market system that provides opportunities for growth and development.

Kenya is one country where the business community has been working actively to fulfill this leadership role, helping overcome ethnic tensions, and working diligently to move the country forward on the path to democracy, prosperity, and stability.

## Kenya's Crisis: Ethnic Problems or Democratic Deficiency?

Just as in any other country afflicted by conflict, the violence that followed December 2007 elections in Kenya had a complicated history. In late 2007 to early 2008, in a span of two months, 1,500 people died and 600,000 were displaced following elections that were expected to solidify the country's status as one of the more stable democracies in Africa. The post-election violence was a shock for a country that had been touted as one of the success stories of Africa. Many experts identified ethnic tensions with deep historical roots as the key source of violence. Yet, the underlying reasons were more than that: ethnic tensions were the manifestation of deep-running democratic governance failures.

To build a sound, representative democracy one needs to address two challenges: leadership selection and decision-making.<sup>2</sup> In a democracy, the leadership selection issue is addressed by ensuring free and fair elections. The decision-making issue is addressed by the establishment of governance institutions that provide opportunities for citizens to participate in the development of policies and also provide them with tools to hold government officials accountable for their action or inaction.

Although many hoped that elections in Kenya would be relatively transparent, violations of election standards and the subsequent violence prompted Freedom House to remove Kenya from its electoral democracies list almost immediately

following the announcement of the results.<sup>3</sup> Electoral violations only added to the long-standing list of pre-existing governance failures – the most fundamental of which was the absence of democracy between elections, failing to provide *all* citizens with *equal opportunities to participate* in the governance of their own country, regardless of election outcomes.

For example, access to public services was at times limited to members of the “winning coalition.” It was significant that after the post-election conflict broke out, the two sides engaged in a public battle over control of key ministries. As Douglass North et. al. have stated, one of the key advantages of a functional democratic system where citizens exercise control over government officials between elections is the ability of such a system to deliver impersonal public services.<sup>4</sup> This means that education can be delivered to all citizens regardless of their ethnic or religious background, and business registration and taxation rules are enforced equally regardless of the ethnicity of owners.

These gaps in governance fueled ethnic tensions that have been a permanent part of the country’s socio-economic and political structure in its recent history. Kenya is a multi-ethnic, multi-tribal country of 37 million, of which three ethnic groups represent close to 50 percent of the population. The Kikuyu, the largest ethnic group at 22 percent of the population, live in the fertile central highlands and the dominate businesses of major Kenyan towns and cities. Kikuyu also have strong influence on the Kenyan political scene. They organized most successfully against the British and consequently won the first fruits of independence. The first Kenyan president, Jomo Kenyatta, and the current president, Mwai Kibaki, are Kikuyu.

The Luhya are Kenya’s second largest ethnic group, accounting for 14 percent of the population. They live in the most densely populated area of western Kenya and are a crucial voting bloc in Kenyan politics.

The Luo, the third largest group at 13 percent of the population, believe that they have been politically

marginalized under previous administrations. Most Luo believe that their leader during the 1960s, Oginga Odinga, was cheated by Kenya’s ruling Kikuyu elite and hence are still opponents to the government. The current prime minister, Raila Odinga, is the son of Oginga Odinga.

The Kalenjin, comprising 12 percent of the population, live in the highlands of the Rift Valley. The second president of Kenya, Daniel Arap Moi, was Kalenjin. When he was forced to introduce multi-party politics in the 1990s, members of the Kalenjin felt threatened by the move. Since then, the Kalenjin have fought for a federal system with more economic autonomy and supported Raila Odinga in the 2007 elections to this end.

Founding president and liberation struggle icon Jomo Kenyatta led Kenya from independence in 1963 until his death in 1978, when President Daniel Arap Moi took power in a constitutional succession. The country was a de facto one-party state from 1969 until 1982 under the ruling Kenya African National Union (KANU). Moi acceded to internal and external pressure for political liberalization in late 1991. The ethnically fractured opposition failed to dislodge KANU from power in elections in 1992 and 1997, which, despite irregularities, were considered to have generally reflected the will of the Kenyan people.

Term limits caused President Moi to step down in December 2002 following fair and peaceful elections. Mwai Kibaki, running as the candidate of a multi-ethnic, united opposition group, the National Rainbow Coalition (NARC), defeated KANU candidate Uhuru Kenyatta and assumed the presidency following a campaign centered on an anti-corruption platform. The NARC coalition splintered in 2005 and some defectors joined with KANU to form a new opposition coalition, the Orange Democratic Movement (ODM). Kibaki’s supporters established the Party for National Unity (PNU).

On December 27, 2007, incumbent President Mwai Kibaki (Kikuyu) was declared the victor over opposition leader Raila Odinga (Luo) in the

presidential elections, although Odinga's Orange Democratic Movement became the largest party in Parliament. The election and the campaign that preceded it were fraught with irregularities and plagued with an atmosphere charged with tribalism and ethnic enmity. Odinga immediately called for Kibaki's resignation and accused him and the ruling party of election rigging.

The political tensions that stemmed from long-standing mistrust and the vitriolic election campaign rhetoric that was frequently laced with ethnic overtones, metastasized into ethnic cleansing and disintegrated at breakneck pace into all-out, large-scale, post-election violence. A protracted and acrimonious campaign, where the candidates deliberately stoked the flames of hatred, paranoia, and fear of other ethnic groups, spiraled out of control with contested election results, and led to the deaths of 1,500 people and the forced displacement of over 600,000. In early 2008, the country seemed to be splintering into homogeneous ethnic enclaves.

These ethnic problems were thought to be at the epicenter of the crisis. In fact, this is just one component of the complex explanation behind what happened. Ethnic tensions were exploited to push the country deeper into chaos, providing a chilling example that there can be no substitutes for functional democratic representation. In a society that only understood "zero-sum" political formulas, where one's gains necessarily meant someone else's losses, Luo and Kalenjin fought against Kikuyu. Ethnic tensions were intertwined with a lack of democratic governance and the broader notion that "it's our turn to eat, and they're cheating us of our right."

Maina Kiai, chairperson of the Kenya National Commission on Human Rights (KNCHR), voiced a similar concern when noting that the crisis in Kenya spilled into violence on the streets "due to the failure of peaceful means of resolving and addressing [ethnic] differences, including the failure of elections and political reforms."<sup>5</sup> In other words, the democratic deficit – or the absence of good governance between elections – facilitated "the

entrenchment of hatred" rather than movement forward towards justice, job opportunities, inclusiveness, transparency, and prosperity.<sup>6</sup>

## Exploring Avenues to Peace

Former Secretary General of the United Nations Kofi Annan brokered a UN-sponsored power-sharing accord between the two presidential rivals in February 2008, which left the nation intact as a single country, but with practically two governments, it was divided against itself. Mwai Kibaki remained president while Raila Odinga became prime minister, a newly created position that the president cannot dismiss or assign. The agreement, known as the Kenya National Dialogue and Reconciliation (KNDR) also called for the creation of 42 cabinet posts that were divided evenly between the two parties, adding eight new portfolios just to satisfy both sides.

The business community, which, for practical reasons, does not necessarily see Kenya through a tribal or ethnic prism, was instrumental in reaching the accord. Under the leadership of the Kenya Association of Manufacturers (KAM) and the umbrella business group the Kenya Private Sector Alliance (KEPSA), private sector leaders mobilized to end the crisis that threatened not only their livelihood but the future of the nation.

KAM participated in the peace negotiations at the national level and responded to local needs in the communities hardest hit by violence, particularly in the Rift Valley. KAM gathered previously lacking information about the impact of the violence outside the capital Nairobi, conducted an analysis of the impact of the violence on business and public life, and used this information as a dire warning of the situation that could potentially push the country out of control if left unchecked. KAM also advocated for power-sharing and prioritizing economic recovery, speaking with national and local government officials from both sides.

KAM's engagement in peace and reconciliation efforts was not incidental. Long before the troubled elections, it had launched an extensive program

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*“It was not necessarily a problem that representatives of one particular tribe won the elections; what made Kenya’s political system unravel was the fact that losing the elections meant that individuals affiliated with the losing tribe lost access to state resources and economic opportunities.”*

*- Maina Kiai, chairperson of the Kenya National Commission on Human Rights*

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to develop its regional branches and to create a sound, private sector advocacy network across the country. The purpose of the network was to influence the development and implementation of economic and social policies at the district and national levels. By working at the grassroots, KAM intended to not only put sound policies into place, but also to reinforce the participatory mechanisms of democratic governance. In other words, KAM set out to institutionalize a system where different representatives of the business community – larger companies and small entrepreneurs alike – had a voice in the political process regardless of the political force in power. The crisis became an opportunity for KAM to put its advocacy skills into practice – bringing about private sector solutions to the post-election turmoil.

In many ways, KAM’s interest in facilitating reconciliation talks was driven by very practical matters. For instance, the business community was clearly interested in immediate steps for resuming normal business activity. It was also interested in engaging in reconstruction projects, opportunities for which began to spring up across the country as the violence ceased. In addition, the business community recognized that the crisis began to stifle investors and destroy jobs, undermining Kenya’s development prospects. The resolution of all these seemingly just economic matters had clear overarching benefits: the stabilization of the security situation and the provision of opportunities for Kenyans to resume their daily lives.

KAM’s engagement and its subsequent success in getting socio-economic issues on the agenda of political reconciliation highlighted that although much of the turmoil was driven by election results and by ethnic and tribal tensions, the deeper, underlying issues were related to the lack of genuine political representation and economic opportunities. It was not necessarily a problem that representatives of one particular tribe won the elections. What made Kenya’s political system unravel was the fact that losing the elections meant that individuals affiliated with the losing tribe lost access to state resources and economic opportunities.

## **Politics as Usual?**

Although Kenyans were relieved when the political settlement was reached, most believed that the accord was inherently fragile because it was based on the same premise of political patronage and “dividing the pie.” Although this precarious settlement survived for a year, Kenya did not move very far ahead, as the government failed to concentrate on concrete policy work and instead remained preoccupied with various political maneuvering and balancing acts. Both PNU and ODM struggled against each other to gain control over the most powerful cabinet posts – those that provided the power of the purse and secured influence in finance, defense, security, justice, and foreign affairs. Attention and resources switched once again to political battles, while the resolution of key policy-level issues, such as aiding people displaced by the violence, was pushed to sidelines.

Both President Kibaki and Prime Minister Odinga have been beset by one scandal after another amid burgeoning corruption investigations. In the process, citizens’ frustration has continued to grow, spurring speculation that another political collapse and subsequent violent fallout are possible. This brewing frustration is due to the lack of attention to real policy matters that has left the country unprepared to deal with the social and economic issues hampering the country’s development and leaving it unprepared to deal with the global financial and economic crisis.

To further the development of Kenya, the KNDR agreement identified three goals: sustainable peace, stability, and justice. The plan highlighted several objectives, including action to stopping violence and restoring fundamental rights and liberties, measures to addressing the humanitarian crisis and promoting reconciliation and healing, response to alleviating the political crisis that resulted from the power-sharing government, and addressing long-standing issues that triggered the post-election violence such as land reform, constitutional change, judicial and security sector reform, youth unemployment, and ethnic tensions.

Despite these good aims, as revealed by a perceptions study based on conversations with people across the country conducted by Nairobi University professor Dr. Karuti Kanyinga, Kenyans do not think much of the KNDR and government's accomplishments since February 2008.

In response to a question about local armed groups, only 16 percent believe that they have been disbanded or demobilized since the formation of the coalition government. The prevailing opinion is that these illegal armed groups are still dormant and did not simply disappear – which means that they can be reactivated with ease if political and ethnic tensions flare up again. In a positive note, only 19 percent of the nation-wide sample respondents felt that violence has increased following the peace agreement.

Over 60 percent of Kenyans believe that the government does not respect freedom of the press, and close to 50 percent believe that it does not respect freedom of speech. Clear majorities around the country believe that the humanitarian crisis is not over and that political actors from both sides are not actively involved in the healing and reconciliation that the country needs. In addition, about half of the population believes that power is not adequately shared in the coalition government. Of those who think it is inadequate, 81 percent say the Kikuyu have a disproportionate level of power.

Delving deeper into that question, the study

finds that about half of the population believes that jobs in the civil service are not shared equally among ethnic groups, and among those who believe so, 88 percent feel that Kikuyu, again, have the lion's share of these highly-sought jobs. Dr. Kanyinga concluded that the dominating perception is that the accord has led to “two governments in one” and that ethnicity is still driving politics in the coalition. Finally, clear majorities (over 80 percent) believe that differences between the rich and poor have become larger since the 2007 general elections and subsequent power-sharing agreement.

## What to Expect?

The survey paints a rather a grim picture of politics in Kenya – confirming, nonetheless, the theory that at least the perception that the country's politics are about “zero-sum” winning or losing is still there. However, the predictions regarding whether another crisis will happen are less clear. Of all the diversity of opinions, two scenarios seem dominant. The first is that another round of more vicious hostility will develop and that the accord will unravel sooner rather than later. After all, ethnic and tribal tensions are still percolating.

The second scenario, which some experts describe as wishful thinking, is that Kibaki and Odinga “see the writing on the wall” and have reached a state of stable tension. In a sinister analogy to the Cold War, both Kibaki and Odinga will move beyond their long, rancorous struggle and accept a mutual assured destruction status in their relationship, where one's demise will necessarily mean the demise of the other, and thus will have to accept co-existence. This is supported by the apprehension of members of parliament from both sides to call for early elections, suffering from the perils of incumbency and fearing that the attrition rate will be staggering and will mean that most of them will lose their seats

The question on the minds of many Kenyans today is: has Kenya moved permanently away from the era of the Kenyatta-Moi-Kibaki dominant executive style of government and towards a new

era of parliamentary coalition that accommodates the political, tribal, and ethnic diversity of the nation? If so, will the current, fractious, first-past-the-post electoral system be adequate, or will the proposed constitutional amendment include a new proportional representation system that strengthens the political parties?

These unknowns are all in the context of an economic crisis gripping African countries, mainly as a result of the overall global economic slowdown. Kenya's main industries, tourism and manufacturing, are especially hard hit, while the country's exports of cut flowers, coffee, tea, and fruit may also shrink if global recovery is slow, as predicted.

Political and economic challenges alike place the private sector in Kenya in the epicenter of a country teetering on the verge of a meltdown. KAM and other private sector leaders realize that they have to rise above politics and support effective policy that addresses the problems that frustrate people the most – lack of good governance, lack of economic opportunities, and a shaky economic foundation of the country. The business community has to rekindle peace efforts and manage ethnic and tribal fault lines with the tiniest steps to help Kenya climb back from the abyss.

## What Can the Private Sector Do?

While both Kibaki and Odinga have tried to control national rhetoric with various degrees of success, if the political impasse continues to be a permanent part of the country's socio-economic fabric, the damage will be irreparable. More and more international observers and strategists are voicing concerns that a conflict entrenched in tribalism and ethnicity as much as in power may prove intractable. Political reconciliation in Kenya is so daunting that it seems to most that nothing less than transformational, earth-shifting initiatives can work. Ethnic reconciliation and the perpetually clogged artery of Kenyan politics must be addressed. Weaving together violently opposed historical perspectives will take time and patience but will have to start with shifting the focus from ethnic

injustices to economic reform and anti-corruption efforts.

One of the reasons why such an approach can work is that it can move the country away from discussions on *politics*, where equitable solutions are hard to find, to discussions on *policy*, where concrete recommendations can be made and progress can be tracked. Making a clear distinction between the two concepts – often misunderstood and used interchangeably in so many countries – is key to moving beyond ethnic tension in Kenya. Focusing on policy can also bring about certain pressure on political leaders, providing a benchmark for performance to be easily judged by the public.

In fact, the private sector in Kenya has a unique opportunity to achieve just that. KAM's efforts over the past several years have been focused on cultivating a grassroots network that is able to provide policy recommendations and track progress on issues relevant to a broader business community. Ensuring broad-based private sector representation in the policymaking process provides an important distinction from many of Kenya's previous efforts to institutionalize good governance beyond ethnic barriers. From the public policy side, such private sector engagement focuses on resolution of issues that are relevant any political climate, regardless of the political force in power.

Take advocacy efforts to reduce corruption, for example. If the private sector seeks to simplify business registration and licensing procedures as a means of reducing opportunities to extort and provide bribes, success benefit businesses and bureaucrats regardless of their ethnic affiliation, provided such laws are properly enforced. Enforcement of laws can also become a major and unifying driving force behind an advocacy campaign.

More than solutions to each specific issue, successful private sector advocacy is simply evidence that democracy can work. It shows how groups can represent their views, change policy in a transparent manner, and hold government accountable – even if only by “blame and shame” means – for improper action or inaction. It also

## Recommendations for Reform in Kenya

- Initiate a consensus-building process for establishing a credible, independent electoral commission immediately, in consultation with business community leaders.
- Develop an indigenous, new electoral system that encourages political parties to formulate concrete platforms and move beyond slogans and personalities.
- Engage the broader business community in developing economic platforms.
- Promote reconciliation and healing by addressing the pressing issue of internally displaced persons (IDPs) through equitable compensation and freedom of movement.
- Engage business and political leaders in ensuring freedom of speech and supporting an independent media that has the capacity to fulfill its watchdog role.
- Support a stronger educational system that promotes entrepreneurship, citizenship, civic duty, and community leadership.
- Integrate informal entrepreneurs into the formal economy and provide all citizens with an equal stake in society.
- Strengthen democratic governance and the rule of law as the country's defense against corruption and the culture of impunity.
- Forge stronger cooperation between the private sector and the government to combat both the supply and demand sides of corruption.
- Use private sector forums as platforms for dialogue and reconciliation.
- Create more employment and investment opportunities in the private sector to counter the prevalent view of the government as the seat of economic power and wealth generation.

demonstrates that institutions can be built – to provide opportunities for individuals to be part of the political process even if those individuals do not hold absolute political power. Moreover, it proves that absolute political power is not necessary for effective political representation.

The business community's involvement in Kenya's peace negotiations revealed that it was relatively de-ethnicized and that as a group, private sector leadership has demonstrated greater commitment to Kenya's stability and prosperity than to its political rivalries. Kenya's private sector could help move the country beyond political stalemate

to achieve solutions that benefit the country as a whole.

Although nearly all the political players remain deeply mistrustful of each other, Kenyan business leaders are hopeful that progress is not impossible. They believe that chances for success of the reconciliation plan can be buttressed by Kibaki and Odinga adopting optimistic rhetoric and strengthened by the lure of Kenya retaking its proper role as the African leader in democratic, market-based reforms and equitable governance. Kenya would do well to heed the dire warnings echoed all over the country: that failure to learn the lessons of the earlier discord that brought Kenya to the precipice of civil war in 2007 will drive the country to war again.

### Notes

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