INTRODUCTION

Overwhelming evidence in aggregate national statistics indicate huge gaps in the quality of life between the rich and the poor, urban and rural populations, among regions and ethnic groups, and between genders in Kenya. Not surprisingly, Kenya is ranked 103 out of 169 countries, making it the 66th most unequal country in the world. The discourse on inequality has been a subject of political and academic debate in Kenya since independence (for example, Rothchild 1969, Nellis 1974, Kariuki 2004), and how inequality has shaped Kenya’s political economy and political culture has been discussed from different perspectives (by among others Colin Leys, David Himbara, and David Ndii). Scholars are, however, unanimous on the pervasiveness of inequality and the manipulation of political power for access and control of state resources (Widner 1992, Cohen 1995, Weinreb 2001). The resulting variations in political and socio-economic benefits (read horizontal inequalities) associated with access to power have also been highlighted (e.g. Atieno-Odhiambo 2002, Murunga 2009, Githongo 2005, Branch and Cheeseman 2008). Similarly, the potential for ethnic conflict resulting from unequal distribution of national resources has concerned students of Kenyan society and politics (e.g. Rothchild 1969, Nellis 1974, Branch).

Inequality in Kenya has thus historically received some attention from development and political economy scholars, and even elicited some policy responses from the governing elite in Kenya as will be highlighted in this paper. However, whereas inequality has always been a visible and significant phenomenon in Kenya, it has had, until recently, an uncannily low profile in political, policy and scholarly discourse. This was more so during the reigns of Kenya’s first two Presidents, Jommo Kenyatta, and Daniel Moi.
Indeed, it is generally agreed that it is the Society for International Development (SID) that provided fresh impetus and robustness to the analysis of inequality, using hitherto “dry” statistics generated by the Central Bureau of Statistics (CBS), the precursor to the Kenya National Bureau of Statistics (KNBS). Perhaps the first comprehensive data collation and analyses of both social and economic inequalities in Kenya was accomplished by SID vide its twin seminal publications; *Pulling Apart: Facts and Figures on Inequality in Kenya* (2004) and *Readings on Inequality in Kenya* (2004). More recently, SID, again in collaboration with KNBS, produced a sequel to the initial publications, titled: *Exploring Kenya’s Inequality: Pulling Apart or Pooling Together?* (2013). Not surprisingly, as a corollary to the issue inequality coming into much sharper focus in public and political discourse, there has been a corresponding responsiveness in both policy and political terms to the inequality question from both the ruling elite/perceived privileged regions.communities as well as regions/communities that regard themselves as marginalized.

This case study seeks to highlight the nature, domains, and responses to inequalities in Kenya in the context of the current socio-economic and political transformational processes shaping the country’s destiny. The case study is divided roughly into four main sections. The first section is an introductory section which highlights in summary the attention that the subject of inequality has received in Kenya, and the definitional issues attendant to inequality. The second section describes the character and drivers of inequality in the three domains of human interaction, namely, economic, social, and political in general terms, and explains how they interact with, and influences one another.

The second section also covers the thrust of the case study, and explores in some detail the elements and drivers of political inequality in Kenya. The third section analyses the responses to the inequality issue, including political, policy, programmatic and constitutional measures that have been instituted with a view to address the now politically potent issue of inequality. These include responses of the governing elite, of the perceived “better off”, as well as of those that regard themselves as aggrieved or marginalized in the current dispensation. The fourth section highlights lessons learnt and challenges in addressing inequality while sketching their possible resolution. This final section includes conclusions.

**Understanding inequality**

Inequality is the degree to which distribution of economic welfare generated in an economy differs from that of equal shares among its inhabitants. It is manifested in various domains of human interaction, that is, economic, social and political. In economic terms, inequality is primarily defined in relation to the measure of income and how it is distributed between groups. Social dimensions of inequality at the most basic level include differentials in people’s physical health and well being, and their access to livelihood opportunities, as determined, to a large extent, by the level and quality of education they receive.

Political inequality on the other hand refers to vertical (between individuals), and horizontal (related to regions/groups), differences, that are discernible in society in relation to the access to real power and public resources. As such, it transcends the reductionist understanding of political inclusiveness as the mere participation of citizens in public affairs through voting in periodic elections. As Eydan Eyakuze and Ahmed Salim (2013) posit:

“Equity in the political dimension requires, at a minimum, that people’s participation in political processes is assured, unhindered, credible, and that voters’ choices are respected. More important however is the extent to which the poorest citizens have access to power and state resources, and whether they are able
to hold their representatives, leaders and civil servants to account to deliver on the social and economic agendas.”

The economic, social, and political domains of inequality drive, and are in turn, driven by one another. For example, economic activity generates the resources with which to invest in social goods, but the way in which these resources are accessed, harnessed and deployed have an enormous impact on the quality of life of the majority, which decision is largely affected by the political context.

**Domains of Inequality in Kenya: Social, economic and political inequality**

Inequalities are manifest in the three domains of human interaction, namely, economic, social, and political in Kenya as will be highlighted hereunder. Some of the more visible group dynamics in relation to inequality include the growing gaps in the quality of life between the rich and the poor, urban and rural populations, among regions and ethnic groups, and between genders. As succinctly summed up in a recent publication of the Society for International Development and the Kenya National Bureau of Statistics, huge disparities are evident between those who are well endowed and those who are deprived.

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2. Ibid.
Illustrative Indicators of social and economic inequality

In Kenya, regional, rural-urban and gender inequalities can be extreme. In 2004, the SID and KNBS report referred to above caused a sensation with the finding that the country’s top 10% households controlled 42% of total income while the bottom 10% controlled less than 1%, and that the difference in life expectancy between Central and Nyanza provinces was a staggering 16 years. It was also revealed in the same report that the doctor-patient ratio was about 1:20,700 in central but 1:120,000 in North Eastern provinces. Hereunder are but a few more illustrative indicators of the inequality phenomenon:

Poverty
Nairobi, the metropolis is the richest county, and Turkana, located in the arid North, the poorest. There is about four times the share of poor people in Turkana County (87.5%) as there is in Nairobi (21.8%). At the constituency level, the gap in the share of poverty is 9 times between the poorest constituency (Turkana East Constituency in Turkana County where 93.1% of the people are poor) and the richest constituency (Embakasi West Constituency in Nairobi County where only 10.3% of the people are poor).

Income inequalities
There are stark differences in incomes between different income quintiles, but the poorest counties (concentrated in the north and coast regions) tend to have contrasting income inequalities. The North has quite low income inequality, with Turkana (0.283), Mandera (0.332) and Wajir (0.321) among the five counties with the lowest income inequality as measured by the gini coefficient. By contrast, coast has the top three counties with the highest income inequality i.e. Tana River (0.617), Kilifi (0.597) and Kwale (0.565). Income inequality is therefore highest at the coast and poverty is highest in the North.

Access to Education
The differences in incomes between the poorest and richest counties and constituencies are replicated in access to education, thereby suggesting a correlation between education and incomes. The share of residents with secondary education or higher in Nairobi county (50.8%) is 15.4 times more than that of Turkana county (3.3%), and 2.2 times more than that of an average Kenyan. From a gender perspective, the proportion of individuals with secondary education is higher than that for female headed households across all counties.

Employment and level of education
The structure of the workforce reveals striking differences between rural and urban areas as well as genders, consistent with differences in access to education shown above and patterns of employment opportunities in urban and rural areas. In rural areas, female headed households (FHH) are more likely to

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4 Ibid, p iv
5 Ibid
6 Ibid
be engaged in wage employment (work for pay) than male headed households (MHH), at 31.5 and 16.8 percent respectively. In urban areas by contrast, MHH are more likely to be in wage employment than FHH (40.2 and 12.8 percent respectively). Overall, people with no education are 1.7 times more likely to have no work than people with secondary education and above, and individuals living in urban areas who are without education are twice as likely to be without work as their rural counterparts. However, for individuals with secondary education, employment for pay in urban areas (43.2%) is twice the employment for pay in rural areas (21.3%).

**A Perspective to Socio-economic inequalities**

The illustrative indicators of stark inequalities above are not accidental. Rather, they are the product of various forms of power, produced by multiple sources, including historical, and operating in many different contexts and spaces in Kenyan society. Illustratively, historical evidence exists regarding the emergence of a privileged landowning capitalist group that benefitted from the dismantling of settler estates through the Africanization program implemented by the first post-colonial government, and accessed financial and commercial links with Multi-National Corporations. The necessary corollary to the emergence of this class was the simultaneous expansion of the class of disinherited peasants whose land was expropriated and who subsequently formed the mass of surplus labour in urban industry and large commercial farms.

Further, national statistics indicate that access and ownership of productive resources favours regions and communities that enjoy primordial (ethno-regional) proximity to the governing elite, some racial minorities (European and Asian), populous communities, the educated, those living in the so-called high agricultural potential areas and urban areas, and men. As such, arguably, sources of socio-economic power and capabilities include the state, education, geography, ethnicity, demography, occupation, gender and class. Some of the groups counted or considered most powerless and also poorest are therefore poor uneducated women, slum dwellers, pastoralists living in drought-prone areas subsistence farmers, the landless, the disabled, those with fragile livelihoods and indigenous minorities. Features common to the powerless include lack of access and control of productive resources, low educational levels and weak political voices.

Economic power in Kenya shows the same kind of concentration that is discernible in the political domain. The latter is discussed substantively later here. This is partly the result of the fact that successive governments in Kenya have applied public policy in a manner that preserves class, ethnic, gender, racial and geographic advantages. It also partly reflects the country’s genesis as a settler economy, with Asian and European Kenyans predominating ownership of the formal economic sector and Multi-National Corporations. National data bears out the concentrated nature of economic power in particular very starkly. Thus relevant data in respect to the structure of the economy, vis, the structure of ownership of industry and business, dominant players in the economy, formal versus informal, the rural and urban divide, producers of export crops versus food crops etc, and the relative influence of different players provides a very skewed picture of the state of affairs.

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7 Ibid
In specific regard to gender, the imbalances in access to education as well as formal political power in elective and appointive offices is also reflected in economic power; women own less than 5% of registered land and face several institutionalised and legal barriers in respect to land and property rights including in marriage. The lack of registered landed property for women in turn impacts negatively their ability to access the kind of financial services that can meaningfully enable them to enhance their economic profile.9

**Political inequality**

In the previous sections of this paper, it has been noted in general terms how political inequality has a bearing on socio-economic inequality in Kenya and that inequality has produced powerlessness for the disadvantaged in various ways and forms. It has also been noted in conceptualizing inequality that powerlessness can be reduced through the existence of political systems that provide opportunities for all people, including the disadvantaged to organize and influence public policy (voice in open democratic systems), and the ability of the poor and disadvantaged to organize, political systems that foster participation (beyond merely voting in periodic elections) and accountability. Further, powerlessness and political inequality can be ameliorated where competitive politics are allowed and produce credible results (robust parties exist that are institutionalised, are open to large segments of the population, and operate in a civic, non-violent fashion and also articulate broad agendas that can be influenced by organized groups). In addition, political equity is achievable where patterns of behaviour for political actors are regularized, and premised on public, transparent and known rules.

In this section we examine prominent horizontal political inequalities, as well as the elements of political inequality and its drivers, which are in our considered opinion the most salient, but by no means exhaustive. As will be highlighted, practices such as patronage deprives poor and disadvantaged groups of their main route to political influence through organization and competition. This is the subject to which we now turn.

**Some Prominent Political Horizontal Inequalities**

Group based differences in access to political power and the significant benefits that are attached to group membership are pervasive in Kenya. The Ethno-regional group (ethnic community) is the most politically salient unit in Kenyan politics. The interaction of geographical, administrative and political boundaries only heightens the salience of these ethno-regional groups.10 Nevertheless, there is an increasing assertiveness of alternative social groupings that were very active in both the 2007 and 2013 general elections. Among these are religious groups notably the Muslims.11

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9 Ibid
The Youth constitute another salient group. Like many developing countries, Kenya is experiencing a youth bulge. More than 60 percent of Kenya’s population comprises the youth in the 18-35 age bracket. Apart from being the most politically active demographic, they are also one of the most politically excluded groups in the country, and also the most economically affected, accounting for about 45 percent of the unemployed (GoK 2003:8). The prominent participation of the youth in recent waves of violence witnessed in the country (ethnic and religious inspired) is a clear indication of this segment’s growing importance. Its continued exclusion not only means that a major portion of the country’s human capital is not productively engaged, but it also raises important implications for political stability in Kenya. These two constituencies, the ethnic groups and the youth must be factored in any discussion on growth and political stability in Kenya.

Drivers of Political inequality

Key drivers of political inequalities in Kenya may be grouped into three broad categories as a number of scholars on Kenya (including Rothchild 1969, Nellis 1974, Kanyinga 2006 and Muhula 2009) also generally observe. These include: Ethno-regional patronage, crony capitalism and political exclusion; elite capture of the dominant state and public policy; and Zero-sum politics, historical grievances and political violence.

i)Ethno-regional patronage, crony capitalism and political exclusion

Post independence political bargaining and coalition formation has largely assumed regional dimensions. Similarly, access to political power has, by and large, determined the distribution of socio-economic and political benefits. Several studies have underlined the existence, and indeed the potential dangers inherent in these regional variations. Rothchild (1969).and Nellis (1974) have shown regional differences in Cabinet and Public Service appointments in the immediate post independence years, which are artificially determined by the governing elite. Similar studies by SID (2004) and Kanyinga (2006), also point to the persistence of political inequalities and to their long-term implications for growth and political stability.

Historically, political patronage has also reflected regional access to political power. Prior to the promulgation of the new 2010 constitution, the Kenyan constitution conferred vast powers to the President. These included powers to allocate ministerial positions, and make appointments to constitutionally protected offices. Successive regimes therefore entrenched their rule, assigned strategic administrative positions, and directed political resources to supportive provinces. The level of regime insularity rises with increased challenge to the regime by non-governing regional elite. Conversely, challenge to the ruling elite negatively affects the representation of non-governing provinces in the national bureaucracy. It also often results in total withdrawal of state support for programs in such regions, outside statutory budgetary allocations provided in the constitution and specific acts of parliament.

Illustratively, between 1963 and 1978, Central province was disproportionately represented in Cabinet, Military, Diplomacy, and Public Service. Not accidentally, Jomo Kenyatta, Kenya’s president was from the province. A similar pattern was evident between 1979 and 2002, with Rift Valley province, the home of President Daniel arap Moi, disproportionately represented. But these periods also coincided with the deliberate exclusion of specific provinces whose political elite were considered disloyal to the ruling elite.
This can be seen in the reduction in the proportion of PS appointment from Nyanza and Eastern provinces between 1969 and 1972. (see table 1 below).

<table>
<thead>
<tr>
<th>Province</th>
<th>President &amp; Cabinet</th>
<th>Assistant Ministers</th>
<th>Permanent Secretaries</th>
<th>Provincial Commissioners</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central</td>
<td>33</td>
<td>33</td>
<td>16</td>
<td>17</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>5</td>
<td>10</td>
<td>13</td>
<td>20</td>
</tr>
<tr>
<td>Western</td>
<td>10</td>
<td>10</td>
<td>16</td>
<td>23</td>
</tr>
<tr>
<td>Nyanza</td>
<td>10</td>
<td>10</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td>Eastern</td>
<td>10</td>
<td>10</td>
<td>9</td>
<td>3</td>
</tr>
</tbody>
</table>

Table 1. Central province disproportionately represented in Cabinet and Civil Service appointments (%), 1969-1972.


This reduction coincided with antagonism between the Nyanza (Luo) and Central province (Kikuyu) governing elite leading to the formation of opposition party Kenya Peoples’ Union, and the alleged involvement of military officers from Eastern province (Kamba) elite in the army mutiny of 1971. A similar pattern occurred between 1985 and 2002, with Rift Valley securing more representation, while Nyanza and Central provinces witnessing substantial reduction in representation. For instance, by 1994 Central province proportion in the Cabinet had dropped from 20 percent in 1985 to 4 percent, while the Nyanza proportion dropped from 16 percent in 1985 to 4 percent in 1994. Meanwhile, Rift Valley representation increased from 12 percent in 1985 to 17 percent in 1994. Again, inter-regional political considerations explain these differences. The considerable reduction in Nyanza and Central provinces proportion (table 2) coincided with the consolidation of political power around the Rift Valley elite, as well as greater agitation for political reforms led by Nyanza and Central province elites.

Table 2: Rift Valley province disproportionately represented in Cabinet and Civil Service appointments (%), 1985-2001

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Central</td>
<td>20</td>
<td>4</td>
<td>10</td>
<td>12</td>
<td>28</td>
<td>9</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>12</td>
<td>17</td>
<td>13</td>
<td>21</td>
<td>20</td>
<td>35</td>
</tr>
<tr>
<td>Western</td>
<td>8</td>
<td>17</td>
<td>10</td>
<td>12</td>
<td>12</td>
<td>13</td>
</tr>
</tbody>
</table>

13 Ibid. P 86
The "tyranny" of numbers as an ideology of domination

The patterns of blatant ethno-regional bias favouring central province persisted between 2003 and 2012, during the reign of Kenya’s second president Mwai Kibaki. The same can be said of the regime of the newly elected administration of President Uhuru Kenyatta (elected March 2013), which demonstrates the same biases in appointments to the current cabinet, principal secretary positions and state corporations, the new constitution notwithstanding. For example, in a cabinet of 20 (including the President and the Deputy President), The Luhya Luo, and Kamba communities (the 2nd, 4th and 5th largest ethnic communities as per 2009 census which make up roughly a combined 40 percent of the national population) each have only 1(one) cabinet secretary. The Kikuyu and Kalenjin communities on the other hand, which make up the core of the governing Jubilee coalition and constituting roughly 30% of the national population each have six (6) cabinet secretaries.

Seemingly, the more brazen the practice of political exclusion becomes, the more it needs a compelling narrative and ideology to be sustained. This has been the case with the current regime, which has turned to a political mobilization narrative used towards the 2013 general elections (coined in reference to higher registration of voters in areas supporting Kenyatta) to justify the exclusion of elites from opposing communities from positions of power and influence. Thus in parliament and public discourse, the “tyranny of numbers”, whereas unsupported by demographic data, continues to be used by key regime figures liberally.

Zero-sum politics, historical grievances and political violence

The controversial 2007 Presidential elections spawned ethnic and regional violence in Kenya that demonstrated the fluidity of ethno-regional cohesion, exposed the depth of historical grievances, and further polarized the country along ethno-regional lines. However, whereas the scale of violence in 2007 and early 2008 was unprecedented, it merely fell into a well established pattern established from the eve of the first multi-party elections in 1992. Politically instigated conflict in that year sought to cloud the re-emergence of multi-party politics. This was repeated in 1997. The elections of 2002 and 2013 escaped ethno-regional violence primarily because of the conflation of political interests of the principal antagonists in previous rounds of election violence, namely the Kikuyu and the Kalenjin communities.

At the core of the grievances that result in violence that peak during elections is the belief that political power provides the ethnic group of the President with exclusive advantages.\textsuperscript{14} Not coincidentally, deep

\begin{tabular}{|c|c|c|c|c|c|c|}
\hline
Nyanza & 16 & 4 & 17 & 15 & 8 & 9 \\
Eastern & 8 & 17 & 8 & 3 & 12 & 4 \\
\hline
\end{tabular}

Figures do not include Nairobi, Coast and North Eastern provinces (Adapted from Kanyinga (2006), p. 274-275).

\textsuperscript{14}Ibid. P 86
schisms resulting from inequality in access to political and socio-economic resources remain. Historically, the region that controls political power in Kenya also controls the direction and magnitude of economic and political resources of the state as already noted. The resulting intra-regional variations in access to political and socio-economic power have in turn sustained deep seated grievances, sometimes causing the kind of conflict witnessed in early 2008. Indeed, the 2007 elections in many ways appeared to be a straight and adversarial contest between what could be termed as the coalition of the “aggrieved” against the coalition of the “entitled”. This characterization is premised on the infamous dictum of “41 against 1” used by a pan-ethnic coalition perceived as marginalized, including the Luo, Kalenjin, Luhya, Mijikenda to mobilize support to defeat the Kikuyu.

Elections and violence

Arguably, the spirited fight against the incumbent President Kibaki in 2007 drew largely on historic opposition to (perceived) Kikuyu economic and political dominance since independence. The violence represented a protest against the continued exclusion of the “aggrieved” from power once more, with many taking the opportunity to settle tribal scores and secure access to resources. As a result, around 1,200 people were killed and 500,000 people displaced across the country in the largest bout of electoral violence Kenya had ever suffered. Kenya suffers the ignominy that current President Uhuru Kenyatta and Deputy-President William Ruto stand accused in the International Criminal Court (ICC) of perpetrating crimes against humanity in masterminding their respective sides of the violence.

In the estimation of many, far from being random, Kenyan electoral related violence has always been targeted, localised, and intentional. In this perspective, the violence is imbued by specific narratives and undertaken to achieve determinate targets. For many Kalenjin, Luo, and others in 2007, it was a fight against the political and economic domination of the Kikuyu elite since independence. For many Kikuyu, however, it was the defence of their land and lives against bloodthirsty forces of ethnic persecution and criminality. For all, it is a zero-sum, all-or-nothing battle for survival – political, economic, or actual.

It is thus the zero-sum nature of political contests (winner takes all) which makes elections in Kenya such a high stakes game. Incumbent leaders/regimes seek all means to maintain power through manipulating the vote, while opponents also seek to take power by all means too, and do engage in their own kind of manipulation of the electoral process, albeit with much lesser possibilities for success and fewer means with which to execute their agenda. Electoral outcomes in all multi-party elections in Kenya, since 1992, save the 2002 elections, have thus been always been dismissed by the losing sides as fraudulent and not reflecting the will of the people. Electoral commissions managing the elections have therefore also always been characterized by losing sides as partisan and incompetent, thereby occasioning the low credibility of election bodies in the public estimation, and frequent calls to disband successive commissions. Little wonder several studies on outcomes of multi-party elections in Kenya have tended to portray them either as flawed or inconclusive. It is perhaps this general trend that led to the now infamous characterization of the 1997 elections for example as epitomising Kenya’s “Hobbled Democracy” by Arne Tostensen et al (1998)

An analysis of voter registration and voting patterns provide a basis for interrogating the veracity of claims made by the protagonists in the elections. The recently concluded 2013 presidential elections had to be arbitrated in the Supreme Court as stipulated in the 2010 constitution. However, the pronouncement of

\[15 \text{Ibid} \]

Uhuru Kenyatta as winner saw the CORD coalition whose candidate Raila Odinga narrowly lost the election only say that they would respect the verdict but neither accepted nor believed in the findings of the court.

As Table 3 below illustrates, votes in central province, from which the eventual winner Uhuru Kenyatta hails, apparently carries more weight than votes from all other provinces, repeating a pattern that has been evident in previous multi-party elections. Central had the highest proportional registration of voters (only province where registered voters and actual votes exceeded estimated voting population) and also the highest voter turnout at 92%. More strikingly central province had more registered voters than Nyanza province— the ancestral home of the losing candidate Raila Odinga, whereas Nyanza has more than 1 million more people than central province. In addition, the estimated voting populations in Western and Central provinces are nearly identical (respectively 2,020,638 and 2,043,698) but a staggering 800,000 more people voted in Central than in Western province.

**Table 3: Official Results of 2013 Presidential elections**

<table>
<thead>
<tr>
<th></th>
<th>Population (2009)</th>
<th>Estimated Voting population</th>
<th>IDs issued As at 13/11/2012</th>
<th>Total registered voters</th>
<th>No. That voted on 4/03/2013</th>
<th>Registered voters Vs voted</th>
<th>Voter Turnout</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast</td>
<td>3,325,307</td>
<td>1,550,256</td>
<td>1,771,642</td>
<td>1,164,984</td>
<td>817,209</td>
<td>354,031</td>
<td>70%</td>
</tr>
<tr>
<td>N. Eastern</td>
<td>2,310,757</td>
<td>1,077,273</td>
<td>449,401</td>
<td>354,061</td>
<td>293,756</td>
<td>60,648</td>
<td>83%</td>
</tr>
<tr>
<td>Eastern</td>
<td>5,668,123</td>
<td>2,642,476</td>
<td>3,108,234</td>
<td>2,097,105</td>
<td>1,806,381</td>
<td>295,290</td>
<td>86%</td>
</tr>
<tr>
<td>Central</td>
<td>4,383,743</td>
<td>2,043,698</td>
<td>2,841,285</td>
<td>2,192,325</td>
<td>2,017,689</td>
<td>178,286</td>
<td>92%</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>10,006,805</td>
<td>4,665,165</td>
<td>4,524,093</td>
<td>3,453,855</td>
<td>3,030,195</td>
<td>423,660</td>
<td>88%</td>
</tr>
<tr>
<td>Western</td>
<td>4,334,282</td>
<td>2,020,638</td>
<td>2,214,793</td>
<td>1,434,573</td>
<td>1,214,285</td>
<td>220,288</td>
<td>85%</td>
</tr>
<tr>
<td>Nyanza</td>
<td>5,442,711</td>
<td>2,537,389</td>
<td>2,837,755</td>
<td>1,942,138</td>
<td>1,737,522</td>
<td>204,616</td>
<td>89%</td>
</tr>
<tr>
<td>Nairobi</td>
<td>3,138,369</td>
<td>1,463,105</td>
<td>2,274,603</td>
<td>1,732,288</td>
<td>1,410,663</td>
<td>321,625</td>
<td>81%</td>
</tr>
<tr>
<td>Sub-Total</td>
<td>38,610,097</td>
<td>18,000,000</td>
<td>20,021,792</td>
<td>14,386,144</td>
<td>12,327,700</td>
<td>2,058,444</td>
<td>86%</td>
</tr>
<tr>
<td>Diaspora</td>
<td></td>
<td></td>
<td>870</td>
<td>2,637</td>
<td>2,328</td>
<td>309</td>
<td>88%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>38,610,097</strong></td>
<td><strong>18,000,000</strong></td>
<td><strong>20,022,662</strong></td>
<td><strong>14,388,781</strong></td>
<td><strong>12,330,028</strong></td>
<td><strong>2,058,753</strong></td>
<td><strong>86%</strong></td>
</tr>
</tbody>
</table>

Computed from Independent Electoral and Boundaries Commission data. Released April 17th 2014.
Other Dimensions of political violence

A second dimension of politically instigated violence is associated with competition over resources such as water and pasture, which primarily occur among pastoralist communities such as the Pokot and Turkana, or Samburu and Turkana, and between pastoralists and agriculturalists such as that pitting the Somali and Kamba/or Meru as well as Orma and Pokomo communities of Tana river county.\textsuperscript{17} On-going regional conflicts in Somalia, Ethiopia, Sudan which share borders with Kenya and also have close ties commercially to Kenya tend to feed resource-centred inter-communal conflicts over resources in the arid regions of Kenya partly due to the proliferation of arms but also partly to the strong cross-border affinities among the peoples of these countries. As such, local grievances in one country become local grievances of a political nature for the neighbours-kin solidarities easily become vectors for inter-regional conflict.

A third and growing dimension of politically instigated violence relates to religion, which is worsening in proportion to the increasing radicalization of the Muslim population in the North Eastern and Coastal regions supposedly on the basis of the historical marginalization and mistreatment of the Muslim population. Paradoxically, this phenomenon is unfolding at a time when representation and political power for Muslims is at an all-time high, with upto five members sitting in the cabinet (about 25% of the total), compared to the representation of Muslims in the general population, which hovers around 10%. The leader of majority from the governing Jubilee coalition is a Muslim, and one of the only seven judges of the supreme court of Kenya is also a Muslim, among many other prominent positions now occupied by Muslims in Kenya.

Elite capture of the dominant state and public policy

Ethno-regional patronage premised on exclusion and zero sum politics that drive political inequality are in turn underpinned by the fact that acquiring or retaining power means that the winning elite are guaranteed control over institutions and decisions that impact the relative welfare of competing groups in society, such as employment and public contracts. In addition, the governing elite get to enjoy the deferential application of public policies, including foundational economic management tools such as fiscal governance.\textsuperscript{18} This elite capture is depicted most overtly by two initiatives by Members of Parliament (MPs) in recent years– in terms of introduction of the Constituency Development Fund, which is under the control of individual MPs, and the arbitrarily high self-pay awarded by MPs.\textsuperscript{19}

Elite capture of fiscal governance has its roots in the post-colonial epoch in Kenya. Towards the end of the first decade of independence, GoK was so impatient to realize a sizeable “African” elite that, on the basis of recommendations by a 1971 Commission headed by a former Central bank Governor, it lifted restrictions on public servants involvement in private business. Elite capture of fiscal governance henceforth took the

\textsuperscript{17} Owiti, J et al (2006). An analysis of Power in Kenya and Implications for Pro-poor Policy in Kenya. SIDA. P vi

\textsuperscript{18} Africa Development Bank (November 2010). Domestic Revenue Mobilization for Poverty Reduction in East Africa: Kenya Case Study. P.7

\textsuperscript{19} ibid
shape of patronage politics and corruption. In the 1980s this corruption inevitably infected the tax system in the form of undue exemptions and corruption-based tax evasion, which persists to date.

In the late 1980s and early 1990s, for example, the ruling elite conspired to rake billions of shillings of public resources through tax exemptions as well as through a scheme, famously known as the Goldenberg scandal, by which pre-export financing and export compensation were paid for fake exports. To date massive tax evasion, exemptions and incentives are enjoyed by the governing elite and associates. The cabinet secretary has wide discretionary powers to waive taxes, thus heightening risk of evasion. The Tax Justice Network estimates that Kenya is losing over US$ 1.2 billion through all tax incentives and exemptions.

Yet another illustration of elite capture of fiscal governance relates to the Capital Gains Tax on both land and company equity, which was introduced in 1975, but was suspended in 1985. The suspension arose reportedly after lobbying by some politically-connected individuals who at the height of public land grabbing in the 1980s wanted to transfer these properties without paying tax. Proposals to re-introduce this tax have predictably faced heavy opposition, given that it targets raising tax revenue in business sectors dominated by the governing elite. Capital Gains Tax has the potential for raising significant revenues. Transfers of blue chip businesses, particularly in the telecommunications, property, land and financial sectors, have not generated any revenue for the government. Kencell, the first mobile phone operator in Kenya, has for example changed ownership several times, most recently following India’s Bharti Airtel’s takeover of Zain Africa in 2010. This transaction reportedly resulted in revenue losses to the government of around US$ 83 million.

Mega corruption scandals of recent years continue to get conceived with the primary objective being to retain state power. These include the Anglo leasing scam in which the GOK borrowed funds at a rate almost 4 times the market rate then and paid upfront approximately Kshs. 8.9 billion (about US$100M) for the questionable contracts whose value grew 8 fold between 2001/2 and 2005/6. Ultimately, a series of corruption allegations by the Secretary for Governance and Ethics, John Githongo (Githongo 2005) led to the resignation of three members of Cabinet, namely for Finance, Justice and National Security.

Political and Policy responses to inequality

The political elite have responded in various ways. In the immediate years after independence regime representatives responded by (i) blaming the colonial regime (ii) insisting that individual recruitment was based on merit, and by (iii) assuring less endowed areas that resources would be distributed equitably (Rothchild 1969: 704). Successive regimes have attempted redistribution programs to improve socio-economic equity. Similar efforts targeting political horizontal inequalities remain elusive. Among the most innovative programs addressing socio-economic inequalities are the District Focus for Rural Development (DFRD), the Local Authority Transfer Fund (LATF), Safety net programs, Anti-poverty Commission, the

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21 Ibid. p 15
22 Institute or Economic Affairs (IEA), 2006. Unpacking Githongo’s report on Corruption in Kenya., pg 2
Gender Commission, the Constituencies Development Fund (CDF), Free Primary Education (FPE), and Decentralised Public Health Services. Even though intended for socio-economic parity, most of these programs have so far not succeeded in meaningfully reducing inequality. Part of the reason for the low impact is that they have been undermined by existing differences at initiation (e.g. CDF), and have been affected by technical weaknesses, poor prioritization, and elite capture (e.g. LATF; CDF).

Some responses have appeared to be knee-jerk, such as the Establishment of the National Economic and Social Council in the wake of the landmark SID publication “Pulling Apart: Facts and Figures on inequality in Kenya”. Other, better thought out initiatives includes administrative measures to ensure women and youth secure 30% of public procurement.

The National Accord and Reconciliation Act (NARA) of 2008

The NARA was an elite political pact enacted to stop political violence, establish a coalition government bringing together the protagonists from the bitterly divisive 2007 elections, to begin to address the grievances that caused the violence of 2007 and early 2008, and to create momentum for agreeing on a new constitution. The parties to the Kenya National Dialogue and Reconciliation (KNDR) agreed to set up a Truth, Justice and Reconciliation Commission, an Independent Review Commission (IREC), the Commission on Post Election Violence (CIPET), as well as initiatives on comprehensive constitutional review, land reform and poverty alleviation. The protagonists also entered into a coalition government in which the principals were to share power on a 50/50 basis, with Raila as Prime Minister (PM).

Prior to the new constitution promulgated in 2010, NARA could be seen as perhaps one of the more significant legal and political measures ever taken towards addressing the political horizontal inequalities in Kenya. Whereas it faced substantial challenges and claw-back initiatives from the regime inner core, it nevertheless remains an important initial attempt at comprehensively addressing inequality. One of the issues that caused problems repeatedly was the (mis) interpretation of the supervisory powers of the Prime Minister (PM) and the nature of consultations needed between the principals before some key decisions in the management of the government and appointments to crucial constitutional offices could be made. Not surprisingly, protocol issues on treatment of the PM often also cropped up.

Before the dissolution of the parliament that served the coalition government between 2008 and 2012, an Act that provided that no more than 30% of employees in any public organization be drawn from the same ethnic group was passed in parliament but has not been signed into law by successive presidents Kibaki and Uhuru. The Momentum for enactment of this law was lost by the rapprochement between a section of the coalition of the aggrieved from 2007 led by the current VP William Ruto and the Kikuyu ruling elite led by the sitting president Uhuru Kenyatta.

The 2010 Constitution

Kenya has since marked more than three years since the promulgation of the new constitution in November 2010, which has been hailed as progressive in many respects, not least because as the foundational law, it lays the basis for dispersal of power hitherto concentrated in the executive arm of government and particularly the presidency. As the epicentre around which patronage politics and exclusion of disadvantaged groups revolved, instituting measures to curtail the powers of the executive
arm of government and the presidency became a key imperative of the reform agenda. Accordingly, among the better celebrated provisions of the constitution include the bill of rights, oversight bodies to ensure implementation of the letter and spirit of the constitution, the clearer separation of powers between the legislature, judiciary and executive, affirmative action to address representational inequalities, and of course devolution.

Behind some of the progressive provisions in the new constitution was a protracted process of advocacy by several interest groups for protection against the most overt forms of discrimination, disadvantage and exclusion, among the most visible of which was the women’s movement. Historically the women’s movement has been one of the better resourced and more vociferous constituencies in pursuit of constitutional guarantees of effective representation in public appointive and elective positions, and can therefore be said to be one of the more obvious winners in the new dispensation.

**The constitution and gender equity**

The new constitution in Article 27(3) states that “women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres”. The article further states that “the state shall take legislative and other measures including affirmative action programs and policies to redress any disadvantage suffered by individuals or groups because of past discrimination.”

No doubt the results of the affirmative action have been nothing less than dramatic for women, and there has been a two-fold increase in the number of women legislators, that is from only 10 percent (22 out of the old 222 seat parliament), to 20% (87 of the 416 seat in the newly established National Assembly and Senate). These numbers were achieved primarily through affirmative action seats for women MPs. However, even after the entrenchment of affirmative action in the constitution, the structural barriers that kept women away from office, including financial constraints, a political culture of macho chauvinism, as well as violence and intimidation, largely remain intact to date. Further, women have been told by no less than the Supreme Court that the 30% representation envisaged in the constitution will be realized progressively. As such, ironically, even with affirmative action, lesser number of women got elected in the 2013 elections (5.2%) compared to 2007 (7.1%).

**The gender glass ceiling**

A deeper analysis of the 2013 election outcomes reveals more evidence of the existence of a glass ceiling for women in terms of accessing positions of real power. According to the Independent Electoral and Boundaries Commission (IEBC), in spite of their numbers, out of 197 women who contested, only 16 made it to parliament through the ballot box. At the county assembly level, 623 women vied and only 85 were elected. No woman made it to be elected to the seat of senator or governor (47 seats each). Only one woman contested for the presidency out of seven men and she performed dismally. In the national assembly, the most senior position held by women is that of deputy speaker and majority whip. Other positions are those of nine women elected to be deputy governors and 3 women county assembly speakers out of the 47. In essence, the dominant idea that politics is an arena only best suited to male players, and
that positions of visibility and great authority or influence must be held by male politicians continues to persist in the current Kenyan political climate.

Whereas to his credit, the new President fully implemented the constitutional provision of 30% of appointments for women in particular regard to cabinet secretaries, this has not changed the fact that ethno-regional patronage still revolves around men, and male political chauvinism still rules the roost. Indeed, not-so-subtle grumblings have been heard repeatedly about communities such as the Luhya, Luo and Kamba feeling “slighted” by the appointment of women to the only cabinet secretary positions given to their communities.

One particularly chauvinistic opinion from western region, expressed in a high-profile public meeting was that the woman hailing from western Kenya and appointed to the cabinet, one Judy Wakhungu, was actually married to a Kikuyu. As such, the leaders in the said gathering noted that she should be seen as yet another cabinet appointee from the Kikuyu community, and not the Luhya community.

**Devolution**

Perhaps the most significant measure in the new constitution to address inequality was the provision on devolution, which in many respects now enables groups excluded at the centre to access and make decisions about resources. Constitutionally, a minimum 15% of revenue of government would henceforth be given to the 47 counties. In order to secure devolution, the senate was created, and parliament passed a number of Acts that established how revenue would be shared between national and county governments, and how the counties would get their revenue. In addition, the offices of the Commission for Revenue Allocation and the Controller of Budget would ensure that resources meant for counties were budgeted and disbursed. Based on calculations of relative poverty, counties would also receive equalization grants.

**Negative coping mechanisms to inequality**

As will be highlighted hereunder, some of the political responses in particular, from both the ruling elite/perceived privileged regions/communities as well as regions/communities that regard themselves as marginalized could be characterized as negative coping strategies. These responses include, but are not limited to:

*Manipulation of demographic data for economic and political gain:*

The Commission for Revenue Allocation uses demographic data to allocate money to counties. A few counties do seem to have deliberately “massaged” their numbers in order to attract higher allocations. Counties in the North Eastern province that is populated by primarily the Somali appear to have manipulated the 2009 census data in what is a reverse tyranny of numbers (growing from about 900,000 in 1999 to about 2.3 Million in 2009).

*Political Insularity:*
The louder the calls for inclusion made by groups that consider themselves disadvantaged in the current dispensation, the more insular the governing elite have become, and the “tyranny of numbers” is liberally used by key regime figures to justify the skewed distribution of positions of real power and influence.

**Informality and non-compliance:**

Kenya continues to have a narrow tax base, partly due to the difficulty of capturing adequate data from informal Small and Micro Enterprises for purposes of taxation. This is why the Turnover Tax which is meant to enable such enterprises pay a flat rate to Kenya Revenue Authority (KRA) based on turnover still underperforms massively. It is from the informal sector that the large majority of Kenyan workers and employers derive their income, including increasingly the better educated, who are unable to get gainful employment in the public and formal private sectors. However, most MSEs also evade taxes simply because they can—KRA lacks the capacity to follow up on each eligible tax payer, particularly those in the informal sector. The governing political classes have historically been reluctant to enforce taxation of the informal sector, fearing a political backlash.

**Lessons learnt and policy challenges to addressing inequalities**

Perhaps the key lesson learnt is that formal change of rules is insufficient to spur democratization and address inequalities in the face of entrenched authoritarian bureaucracies with strong incentives to maintain their pre-existing interests. As such, there is continuity despite change. To many progressives and proponents of change, Kenya’s new constitution was primarily meant to achieve two-fold-objectives, namely tame executive power and particularly the “imperial presidency”, and to ensure disadvantaged regions and groups’ access to real power and control of resources.

However, claw back from the executive arm of government is evident, ethno regional patronage and political exclusion persists, subtle schemes to frustrate devolution continue while in respect to gender, patriarchy is fighting back. Elites working within state agencies that execute presidential power, who benefit materially from their authority, in many ways, continue to defy formal legal and constitutional constraints laced on their power. The provincial administration for example, has changed little in size, structure or functions and continues to operate as the executive bureaucracy. The security agencies and in particular the office of the Inspector General of Police continues to use the excuse of security threats to grow their own power and avoid constitutional limitations as well as oversight.

Other areas most prone to abuse of power include flagrant violation of procurement regulations. This has seen nearly all signature projects of the new regime face hurdles in parliament (Public Accounts and Public Investment Committees) and challenges from the Public Procurement Oversight Authority, The Office of the Auditor General and the Ethics and Anti-Corruption Commission.

**Conclusions**

In broad terms, it may be concluded that there is need to re-evaluate the role of institutional design in regime change, given the widespread challenges encountered in post-authoritarian, third wave countries. Whereas previous research and policy work focused on weak institutions as an impediment to enforcing

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change, it is important to reconsider how the pre-existing strength and entrenchment of inherited authoritarian institutions can lead to non-enforcement through different mechanisms: resistance and claw back.

In specific regard to the legacy of violence and exclusion that are the country’s most significant inheritances from the colonial period, it would be overly simplistic to tie the country’s ills to these dual poles alone: violent struggle over scarce resources and offices of power against a backdrop of widespread institutional failure has left Kenyans with little choice but to fall back on allegiance of the ethnic community for survival and sustenance. Unpacking and addressing elite manipulation of perceived grievances is thus an imperative of present and future generations.

Kenya’s history has many villains, certainly, but its problems are too systemic and structural to be solved merely with a changing of guard—as so many thought they would on the removal of KANU and Moi in 2002. If those in power and those challenging them fail to address this history, and its political and economic drivers, it won’t fail repeat its tragedies.
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