

Political Drivers of Inequality in Kenya*

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ABSTRACT *This article highlights 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. It describes the character and drivers of inequalities and analyses the political, policy, programmatic and constitutional measures that have been instituted to address them. It also highlights lessons learnt and challenges in addressing inequalities while sketching their possible resolution.*

KEYWORDS *political inequality; power; ethno-regional patronage; ruling elite; political violence*

Introduction

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 (KNBS and SID, 2013).

Inequality has been a subject of political and academic discourse in Kenya since independence (Rothchild, 1969; Nellis, 1974; Kariuki, 2004), and its role in shaping the political economy and political culture has been discussed from different perspectives. Scholars are, however, unanimous on the pervasiveness of inequality and the manipulation of political power for access and control of state resources (Widner, 1992; Lando, 2009). The resulting variations in political and socio-economic benefits (read horizontal inequalities) associated with access to power have also been highlighted (Odhiambo-Atieno, 2002; 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 (Rothchild, 1969; Gertzel, 1974; Nellis, 1974; Branch, 2012).

Inequality in Kenya has historically received some attention from development and political economy scholars, and even elicited some policy responses from the governing elite. However, despite its visibility and significance, inequality has had, until recently, an uncannily low profile in political, policy and scholarly discourse – especially during the reigns of Kenya's first two Presidents.

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

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'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). In 2013, SID's collaboration with KNBS produced a sequel to the initial publications, *Exploring Kenya's Inequality: Pulling Apart or Pooling Together?* Not surprisingly, as a corollary to the issue 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.

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. Economic inequality refers to the nature of income distribution 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 and other public services they receive.

Political inequality on the other hand refers to vertical (between individuals), and horizontal (related to regions/groups) differences in relation to access to real power and public resources. It transcends the reductionist understanding of political inclusiveness as the mere participation of citizens in public affairs through voting in periodic elections. As Aidan Eyakuze and Ahmed Salim 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.' (SID, 2013: 17)

These various domains of inequality interact and influence each other.

Domains of inequality in Kenya: social, economic and political

Inequalities are manifest in Kenya's economic, social and political arenas, as will be highlighted hereunder. As succinctly summed up in a 2013 SID/KNBS publication, huge disparities are evident between those who are well-endowed and the deprived.

Regional, rural-urban and gender inequalities are extreme. In 2004, a SID report caused a sensation with the finding that the country's top 10 percent households controlled 42 percent of total income, while the bottom 10 percent controlled less than 1 percent, and that the difference in life expectancy between Central and Nyanza provinces was a staggering 16 years. That report also revealed that while the doctor-patient ratio was about 1:20,700 in Central, it was 1:120,000 in North Eastern province. We highlight hereunder a few illustrative indicators of the inequality phenomenon from that report.

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 percent) as there are in Nairobi (21.8 percent). At the constituency level, the gap in the share of poverty is nine times between the poorest constituency (Turkana East Constituency in Turkana County where 93.1 percent of the people are poor) and the richest constituency (Embakasi West Constituency in Nairobi County where only 10.3 percent of the people are poor).

Income inequalities

There are stark income disparities, 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, the Coast has the top three counties with the highest income inequality, that is 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

Income differentials 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 above in Nairobi County (50.8 percent) is 15.4 times more than that of Turkana County (3.3 percent), 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 (FHH) 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 and patterns of employment opportunities in urban and rural areas. In rural areas, FHH are more likely to be engaged in wage employment (work for pay) than male-headed households (MHH) are, 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 percent) is twice the employment for pay in rural areas (21.3 percent).

A perspective to socio-economic inequalities

The illustrative indicators of stark inequalities in Kenya are not accidental. Rather, they are the product of various forms of power, produced by multiple sources, including historical factors, and operating in many different contexts and spaces of society. Illustratively, historical evidence exists regarding the emergence of a privileged, land-owning capitalist group that benefitted from the dismantling of settler estates through the first post-colonial government's *Africanization* programme, and accessed financial and commercial links with Multi-national Corporations (MNCs). The necessary corollary to the emergence of this class was the simultaneous expansion 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 favour 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 (Owiti *et al.*, 2006). Some of the groups 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. The powerless typically lack access and control of productive resources, have low educational levels and weak political voices.

The concentration of economic power in Kenya mirrors the pattern in the political domain. The latter is discussed substantively later. This is partly due to the nature of public policy application by successive governments; namely, to preserve 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 MNCs. National data bear out

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the concentrated and skewed nature of economic power.

Gender imbalances in access to education and formal political power in elective and appointive offices is also reflected in economic power; women own less than 5 percent of registered land and face several institutionalized and legal barriers in respect to land and property rights, including in marriage. The lack of registered landed property for women impacts negatively their ability to access meaningful financial services that can enhance their economic profile (Owiti *et al.*, 2006).

Political inequality

In the previous sections of this article, it has been noted in general terms how political inequality bears on socio-economic inequality in Kenya and that inequality has produced powerlessness for the disadvantaged in various ways and forms. Also, 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. Further, powerlessness and political inequality can be ameliorated via competitive politics that produces credible results. Key here are: existence of robust parties that are institutionalized, open to large segments of the population, and operate in a civic, non-violent fashion, articulating broad agendas that can be influenced by organized groups. In addition, political equity is achievable with the regulation of the behaviour for political actors to align with public, transparent and known rules.

In this section, we examine prominent horizontal political inequalities, as well as the most salient elements of political inequality and its drivers. As will be highlighted, practices such as patronage deprive poor and disadvantaged groups of their main route to political influence through organization and competition.

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 (Muhula, 2009). Nevertheless, there is an increasing assertiveness of alternative social groupings that were very active in both the 2007 and 2013 general elections, among these, Muslim religious groups (Cheesman, 2008).

The youth is another salient group. Like many developing countries, Kenya is experiencing a youth bulge. More than 60 percent of the population is in the 18–35 age bracket. Apart from being the most politically active demographic, they are also one of the most politically excluded, and also most economically affected, accounting for about 45 percent of the unemployed (Government of Kenya, 2003:8). The prominent participation of the youth in recent waves of violence (ethnic and religious inspired) is a clear indication of their growing importance. Thus, continued exclusion not only means that a major portion of the country's human capital is not productively engaged, it also portends important implications for political stability.

Drivers of political inequality

A number of scholars on Kenya (Rothchild, 1969; Nellis, 1974; Kanyinga, 2006; Muhula, 2009) rightly group key drivers of political inequalities in Kenya into three broad categories: 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.

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. Rothchild (1969) and Nellis (1974) have shown artificially determined (by the governing elite) regional differences in cabinet and public service appointments in the immediate post-independence years. Similar studies by SID (2013) and

Table 1. *Central province disproportionately represented in cabinet and civil service appointments (percentage), 1969–1972*

Province	President and cabinet		Assistant ministers		Permanent secretaries		Provincial commissioners	
	1969	1972	1969	1972	1969	1972	1969	1972
Central	33	33	16	17	27	45	57	50
Rift Valley	5	10	13	20	11	10	29	25
Western	10	10	16	23	5	10	0	0
Nyanza	10	10	9	9	26	20	0	0
Eastern	10	10	9	3	21	0	0	0

Figures do not include Nairobi, Coast and North Eastern (adapted from Nellis, 1974: 14–15).

Kanyinga (2006) also point to the persistence of political inequalities and the 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 2010 constitution, the presidency enjoyed vast powers over government appointments. Successive regimes 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 programmes in such regions, outside statutory and legislated budgetary allocations.

Illustratively, between 1963 and 1978, Central province was disproportionately represented in cabinet, military, diplomatic and public service. Not accidentally, Kenya's first 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. 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 public service appointments from Nyanza and Eastern provinces between 1969 and 1972. (Table 1).

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 witnessed substantial reduction in representation. For instance, by 1994 Central province's proportion in the cabinet had dropped from 20 percent in 1985 to 4 percent, while Nyanza's 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 (Muhula, 2009).

The 'tyranny' of numbers as an ideology of domination

The patterns of blatant ethno-regional bias favouring central province persisted between 2003 and 2012, under Kenya's second president. The same can be said of President Uhuru Kenyatta's regime elected in March 2013, which demonstrates the same biases in appointments to the executive, notwithstanding

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Table 2. Rift Valley province disproportionately represented in cabinet and civil service appointments (percentage), 1985–2001

Province	President and cabinet		Ambassadors		Permanent secretaries	
	1985	1994	1985	2001	1985	2001
Central	20	4	10	12	28	9
Rift Valley	12	17	13	21	20	35
Western	8	17	10	12	12	13
Nyanza	16	4	17	15	8	9
Eastern	8	17	8	3	12	4

Figures do not include Nairobi, Coast and North Eastern provinces (adapted from Kanyinga, 2006: 274–275).

constitutional stipulations. For example, in the 20-member cabinet, the Luhya Luo, and Kamba communities (the second, fourth and fifth largest ethnic communities as per the 2009 census, and which make up roughly a combined 40 percent of the national population) each have only one cabinet secretary. The Kikuyu and Kalenjin communities on the other hand, which make up the core of the governing coalition and constitute roughly 30 percent of the national population, each have six 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 that demonstrated the fluidity of ethno-regional cohesion, exposed the depth of historical grievances, and further polarized the country along ethno-regional

lines. Although unprecedented in scale, the 2007/2008 post-election violence merely fell into a well-established pattern 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 grants the ethnic group of the president exclusive advantages. Not coincidentally, deep 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 state economic and political resources. 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 (Muhula, 2009). 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’.

Elections and violence

Arguably, the spirited fight against the incumbent President Kibaki in 2007 drew largely on historic opposition to (perceived) Kikuyu economic and

Table 3. Official results of 2013 presidential elections

	Population (2009)	Estimated voting population	IDs issued as at 13/11/2012	Total registered voters	No. that voted on 4/03/2013	Registered voters vs voted	Voter turnout (%)
Coast	3,325,307	1,550,256	1,771,642	1,164,984	817,209	354,031	70
N. Eastern	2,310,757	1,077,273	449,401	354,061	293,756	60,648	83
Eastern	5,668,123	2,642,476	3,108,234	2,097,105	1,806,381	295,290	86
Central	4,383,743	2,043,698	2,841,285	2,192,325	2,017,689	178,286	92
Rift Valley	10,006,805	4,665,165	4,524,093	3,453,855	3,030,195	423,660	88
Western	4,334,282	2,020,638	2,214,779	1,434,573	1,214,285	220,288	85
Nyanza	5,442,711	2,537,389	2,837,755	1,942,138	1,737,522	204,616	89
Nairobi	3,138,369	1,463,105	2,274,603	1,732,288	1,410,663	321,625	81
Sub-total	38,610,097	18,000,000	20,021,792	14,386,144	12,327,700	2,058,444	86
Diaspora			870	2,637	2,328	309	88
TOTAL	38,610,097	18,000,000	20,022,662	14,388,781	12,330,028	2,058,753	86

Computed from Independent Electoral and Boundaries Commission data as released on 17 April 2014.

political dominance post-independence. The violence represented a protest against the continued exclusion of the 'aggrieved' from power, with many taking the opportunity to settle tribal scores and secure access to resources (Oucho, 2010). As a result, around 1,200 people were killed and 500,000 others displaced. Also, the country suffered the ignominy that saw its head of state and deputy accused in the International Criminal Court of perpetrating crimes against humanity in masterminding their respective sides of the violence.

Many believe that far from being random, Kenyan electoral-related violence has always been targeted, localized and intentional. In this perspective, the violence is imbued by specific narratives and undertaken to achieve determinate targets. Electoral contests are a zero-sum, all-or-nothing battle for survival – political, economic, or actual – thus a very high stakes game. Incumbent leaders/regimes seek all means to maintain power through vote manipulation, while opponents similarly seek to take power by all means, engaging in their own kind of manipulation of the electoral process, albeit with much lesser probability of success and fewer means with which to execute their agenda. Electoral outcomes in all multi-party elections since 1992, save for the 2002 elections, have thus

always been dismissed by the losing sides as fraudulent and not reflecting the will of the people. Electoral management bodies have also always been characterized by losing sides as partisan and incompetent, occasioning a credibility deficit for them. Little wonder therefore that 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 as epitomizing Kenya's 'Hobbled Democracy' by Arne Tostensen *et al.* (1998).

Analysis of voter registration and voting patterns provide a basis for interrogating the veracity of claims made by the protagonists in the elections. The 2013 presidential elections had to be arbitrated in the Supreme Court. However, the pronouncement of Uhuru Kenyatta as winner saw the CORD coalition, whose candidate Raila Odinga narrowly lost the election, merely affirming respect for the verdict while maintaining serious reservations.

As Table 3 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 evident in previous multi-party elections. Central

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had the highest proportional registration of voters (the only province where registered voters and actual votes exceeded estimated voting population) as well as the highest voter turnout at 92 percent. More strikingly, the province had more registered voters than Nyanza province – the ancestral home of the losing candidate Raila Odinga – whereas the latter has more than 1 million more people than central province. In addition, the estimated voting populations in Western and Central provinces are nearly identical (2,020,638 and 2,043,698, respectively) but a staggering 800,000 more people voted in Central than in Western province.

Other dimensions of political violence

A second dimension of politically instigated violence relates to 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 (Owiti *et al.*, 2006). Ongoing regional conflicts in Somalia, Ethiopia and Sudan, which share borders with Kenya and retain close commercial ties, tend to feed resource-centred inter-communal conflicts in the arid regions of Kenya, partly due to the proliferation of arms but also due 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 as 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 ostensibly on the basis of their historical marginalization and mistreatment. Paradoxically, this coincides with an all-time high representation and political power of Muslims with up to five members sitting in the cabinet (representing about 25 percent), compared to the proportion of Muslims in the general population, which hovers at around 10 percent. The leader of majority from the governing coalition is Muslim, as is one of only seven judges of

the supreme court of Kenya, among many other prominent positions.

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 guarantees the winning elite control over institutions and decisions that impact the relative welfare of competing groups in society, such as employment and award of public contracts. In addition, the governing elite enjoys the deferential application of public policies, including foundational economic management tools such as fiscal governance. This elite capture is depicted most overtly by two initiatives by members of parliament in recent years – the introduction of the Constituency Development Fund and the arbitrarily high emoluments (African Development Bank, 2010).

Elite capture of fiscal governance is rooted in Kenya's post-colonial epoch. Towards the end of the first decade of independence, government of Kenya (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 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 its associates. The cabinet secretary has wide discretionary powers to waive taxes, thus heightening the risk of evasion. The Tax Justice Network estimates that Kenya is losing over US\$ 1.2 billion through tax

incentives and exemptions (Tax Justice Network Africa and Action Aid International, 2012).

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 high-revenue-potential tax have predictably faced heavy opposition, given that it targets raising tax revenue in business sectors dominated by the governing elite. 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 (Tax Justice Network Africa and Action Aid International, 2012).

Recent mega corruption scandals continue to be conceived with the primary objective of retaining state power. These include the Anglo leasing scam in which the GoK borrowed funds at a rate almost four times the market rate and paid approximately KES 8.9 billion (about US\$100 million) upfront, for the questionable contracts whose value grew eight-fold between 2001/2002 and 2005/2006 (Institute of Economic Affairs, 2006: 2). Ultimately, a series of corruption allegations by then Secretary for Governance and Ethics, John Githongo in 2005, led to the resignation of three members of cabinet.

Political and policy responses to inequality

The political elite have responded in various ways. In the immediate years after independence they 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 programmes to improve

socio-economic equity. Similar efforts targeting political horizontal inequalities remain elusive. Among the most innovative programmes addressing socio-economic inequalities are the District Focus for Rural Development (DFRD), the Local Authority Transfer Fund (LATF), Safety net programmes, the Poverty Eradication Commission, the Gender Commission, the Constituencies' Development Fund (CDF), Free Primary Education (FPE), and decentralized public health services. Even though intended for socio-economic parity, most of these programmes 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 include administrative measures to ensure women and youth secure 30 percent share 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 post-election violence, and to create momentum for agreeing on a new constitution. The parties to the Kenya National Dialogue and Reconciliation mediation agreed to set up a Truth, Justice and Reconciliation Commission, an Independent Review Commission, the Commission on Post-Election Violence, as well as initiatives on comprehensive constitutional review, land reform and poverty alleviation.

Prior to the promulgation of the new constitution 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.

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Despite substantial challenges and claw-back initiatives from the regime inner core, it was an important initial attempt at comprehensively addressing inequality.

Before the dissolution of the parliament that served the coalition government between 2008 and 2012, a law that provided that no more than 30 percent of employees in any public organization be drawn from the same ethnic group was passed in parliament but has not been signed into law to-date. The momentum for enacting this law was lost by the rapprochement between a section of the coalition of the aggrieved from 2007 led by the current deputy president, and the Kikuyu ruling elite led by the sitting president.

The 2010 constitution

Kenya's new constitution has been hailed as progressive, not least because 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 are: 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 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.

The constitution and gender equity

The constitution affirms women's right to equal treatment and opportunity and enjoins the state to
556 institute legislative and other measures, including

affirmative action policy to redress past discrimination (Republic of Kenya, 2010).

Due to affirmative action, there has been a two-fold increase in the number of women legislators, that is from only ten percent (22 out of the old 222 seat parliament), to 20 percent (87 of the 416 seats in the newly established National Assembly and Senate). Nevertheless, structural barriers that limit women's inclusion, including financial constraints, a political culture of macho chauvinism, as well as violence and intimidation, remain largely intact. Incredibly, no less than the Supreme Court adjudicated that the constitutionally stipulated 30 percent representation of women in public elective and appointive bodies will only be realized progressively. As such, ironically, even with affirmative action, lesser number of women were elected in the 2013 elections (5.2 percent) compared to 2007 (7.1 percent).

Devolution

Perhaps the most significant constitutional measure to address inequality was the devolution provisions, which in many respects enable previously excluded groups' access and influence over decisions about resources. Constitutionally, a minimum 15 percent of national revenue has to be allocated to the 47 counties. In order to secure devolution, the senate was created, and parliament passed a number of laws on modalities for revenue sharing. In addition, the offices of the Commission for Revenue Allocation and the Controller of Budget would ensure guidance, compliance and oversight over county resources. Based on calculations of relative poverty, counties would also receive equalization grants.

Lessons learnt and policy challenges to addressing inequalities

Perhaps the key lesson learnt is that formal rule change 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 (Hassan, 2015). 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 and 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 a 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 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 colonial legacy of violence and exclusion, 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 will not fail to repeat its tragedies.

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