

Kenya – A Suitable Case for Treatment

John Githongo and Michael Holman



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Executive Summary

To the outside world, before the 2007 elections Kenya exemplified what progress in sub-Saharan Africa should look like: High growth rates, world-renowned tourist attractions and political stability. The brutal communal violence which erupted following Kenya's disputed election shattered that perception and exposed myriad failings at the heart of the country's political and social life.

With the next elections scheduled for late 2012, this Paper examines Kenya's current malaise and puts forward a number of recommendations to address its deep-rooted socio-economic challenges. Targeted at both Kenyans and their major donor partners, these proposals are designed to tackle the country's most pernicious problems, such as corruption and ethnicity-driven politics, mindful that a repetition of the 2007/8 violence is highly likely unless robust actions are taken now. In particular, the Paper argues that Kenya needs to be weaned off its current unhealthy relationship with the aid community during a phased but radical change of policy, implemented over the next five years. Central to this new partnership is more local ownership, both in the disbursement of aid and selection of donor-supported projects; a reinvigorated role for the private sector in Kenya's development strategy; and the establishment of a new Kenyan-run fund into which donors will be expected to channel 20 per cent of aid flows.

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KENYA ONCE EXEMPLIFIED what stability and progress should look like in sub-Saharan Africa. Steady economic growth, a precocious and articulate middle class – the result of functional educational and health systems – allowed for this perception to gain compelling currency. Hollywood and historic close relations with the West, a flourishing tourism industry and the country's geopolitical importance helped, too.

A failed election in December 2007 and a political meltdown changed all that. What the world had always perceived as a peace-loving, Westernised people now descended on each other, in some places with machetes. The violence, fought along political and ethnic lines, shocked the world. At one point 600 000 Kenyans were displaced, though as matters calmed the number went down to 300 000. In total over 1 500 people were killed. In hindsight it became clear that President Mwai Kibaki's Kikuyu-dominated regime (with allied communities) and the Party of National Unity (PNU) had anticipated unrest in the Luo ethnic strongholds of his primary contender, Raila Odinga of the Orange Democratic Movement (ODM). The state's response to agitation about the results in these areas was heavy-handed, especially in Odinga's lakeside hometown of Kisumu. But it was in the Rift Valley where the violence was most intense and the contagion spread across other regions of Kenya dominated by ODM supporters.

Kenya's convulsion of violence was a massive reality check. The 'international community', mainly Western donors, weighed in heavily to force an agreement between the political belligerents, led respectively by Kibaki and Odinga. As a result, the two sides signed a National Accord on 28 February 2008.

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Kenya's political and economic failings have been roundly condemned by its development partners. Their response, however, has had little impact. Donors attempt to monitor the disbursement of foreign aid more closely and channel an increasing proportion of it through non-governmental organisations (NGOs). Despite evidence to the contrary, donors insist that aid brings results. Their insistence derives, in some cases, from the elite's clever 'capture' of donor officials, notably from multi-lateral agencies between 2004 and 2007.

Technocratic efforts at civil service and anti-corruption reform over the last two decades have been largely unsuccessful. Most current approaches alienate an ever-growing constituency of Kenyans. They quietly resent what they see as the patronising attitude of donors as much as they are disgusted by the venality of their own leaders. Deep in their fragmented souls, there are many that wish for the day

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their fellow tribesman ascends to highest office so that more equitable development may be directed their way.

This Paper outlines an alternative approach to aid and development, one which could be an important first step towards the transformation of attitudes within Kenya and abroad. Instead of ‘corruption’ and ‘Kenya’ being synonymous, the country could become a role model for the continent: a trailblazer for co-operation with foreign donors. Kenya’s deepening crisis calls for a radical response from international donors and Kenyans alike. What is required is not another conventional analysis but a concrete set of options for a country that faces elections in 16 months.

The Nature of the Crisis

The 2008 Accord was akin to a nation-building handbook in a country where nation-building – the software that glued Kenya’s diversity of peoples together – had been the most glaring failure of national leaders since the colonial era. In agreeing to sign it Kibaki and Odinga effectively launched the most ambitious series of legal, political and institutional reforms in the country’s history. The first significant phase kicked in last August with the promulgation of an American-style constitution that had been overwhelmingly endorsed by the population during a referendum on 4 August 2010.¹ This alone demonstrated an enduring faith on the part of Kenyans in democratic processes, if not in the leaders they elected every five years.

In the past, volatile periods accompanied not just elections but also national elite disputes around the spoils of corruption, assassinations and other extrajudicial actions, all with painful political ramifications for leaders of sizeable ethnic constituencies around which politics in Kenya is ultimately mobilised and managed. The periods in between these events were largely peaceful and stable, especially when comparing Kenya to its neighbours. East Africa has long been the continent’s roughest political neighbourhood. For all the excitement, the externally-driven but internally-affirmed new constitution in Kenya also revealed deep fault-lines which correspond to continuing elite-driven ethnic fragmentation in the country. It also revealed something else that was a new and profound reality. Kenya, for the first time since independence, was now a nation-state in a condition of perpetual volatility.

The violence of 2007/8 overwhelmed the state for weeks. Historically, violence against Kenyans has always been a state project or at the very least, the project of agents of the ruling elite with the state’s nod. However, the post-election violence saw the state scramble to respond – at one point calling on informal youth gangs to

The new constitution revealed deep fault-lines which correspond to elite-driven ethnic fragmentation

help out. The loss of state legitimacy was massive and Kenya's stock on the international stage came tumbling down. The country's elite was charged by the National Accord of 28 February 2008 with a range of reforms.

Kenya's failed election wiped out a number of institutions such as the Electoral Commission of Kenya and, we would argue, the judiciary in whom the political class demonstrated absolutely no faith when it came to arbitrating the failed election. As a result, we now have a coalition government in Kenya that is the result of an Accord forced on the opposing parties by the international community. Kenyans generally acknowledge that, had it not been for this external intervention, the belligerents would not, of their own volition, have reached an accommodation that would have halted what had become a rapid descent into anarchy.

Kenya's Internally Displaced People

There are still an estimated 70 000–100 000 internally displaced people in Kenya today. Many are as a result of the cycles of election-related ethnic violence – 1992, 1993, 1994, 1997 and 2007/8 in particular. At the height of the post-election violence in 2008 it was estimated that 600 000 Kenyans were 'on the move'. Figures for displaced people have settled at around 300 000 for this period (map overleaf shows 2008 figures) and for those killed in the violence, over 1 500. Next year Kenyans return to the poll in the 2012 elections and the plight of IDPs is yet to be resolved. According to an article written by the Institute of Security Studies, the Presidency has vouched that all IDPs will be permanently resettled by the end of 2011 as reflected in the Agenda IV of the National Accord, along with support from NGOs based in Kenya.² In addition to Kenya's IDPs, the presence of refugees from neighbouring Somalia, Sudan and Ethiopia will place a further strain on the limited economic opportunities and resources (especially security) in Kenya, especially as the Kenyan population increases. If the situation regarding IDPs is not actively addressed, Kenya may have to deal with another influx of IDPs in 2012 should the election period turn as violent as it did in 2007/8.

So Kenyans are asking themselves: can the state guarantee the safety of life and property anymore? Indeed, the sanctity of title in entire sections of the country is now dubious. As a result there are signs that in some areas – particularly in the Rift Valley and parts of Nyanza Province – a silent, voluntary segregation of the population is taking place as members of certain ethnic groups depart from regions of the country they now consider hostile to theirs. Furthermore, the starkest reminder of this failure is the persistent issue of around 50 000 to 100 000 remaining Internally

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Displaced People (IDPs) and the government's blundering attempts to 'resettle' them.

This points to, for the present time at least, a fundamental breakdown of trust between Kenyans of different ethnic groups; a loss of trust in their leadership and finally a loss of trust in all key governance institutions. This climate of mistrust infects everything and informs all attempts at reform. And it is the result of two important blunders.

The Blunders

First, in 2002 President Daniel arap Moi stood down, leaving a legacy of 24 years of corrupt and weak governance, with many Kenyans and several international organisations accusing Moi of failing to tackle rampant sleaze and human rights abuses.³ The country breathed a huge sigh of relief when the opposition finally united to defeat the ruling party's candidate, Uhuru Kenyatta, at the elections. This was a brief period of unbridled optimism and hope among Kenyans, unseen since the country gained independence from Britain. Indeed, Kenyans were judged by a Gallup Poll in early 2003 to be the world's most optimistic people. It was a gigantic opportunity to bring about transformative change. Disappointingly, however, this ushered in an equally corrupt period under Moi's protégé and long-time vice president - Mwai Kibaki.

The 2002 election was by and large a peaceful one unlike the previous two multiparty polls that had been characterised by state-sponsored violence. This saw ethnic groups that did not support the ruling party attacked, particularly in the home province of then sitting head of state, Moi. Bold promises were made by the new leadership, significantly: to share power via a Memorandum of Understanding agreed before the polls by top leaders; to complete the all-important constitutional reform process within 100 days; to end the culture of corruption that had come to characterise previous administrations; and, to create space for all Kenyans, from all backgrounds, and of all ethnic groups to achieve their ambitions according to their abilities. All these promises were brazenly broken in quick order by the government of President Kibaki, in which John Githongo served as Permanent Secretary in the Office of the President in charge of Governance and Ethics for two years until the start of 2005.

Instead of an inclusive administration the perception grew that the government was dominated by a small chauvinist cabal intent on hoarding not only political power but also access to justice and economic opportunity along ethnic lines. This was the first blunder – a deliberate and cynical lie had been perpetrated upon

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the Kenyan people on a grand scale. When a referendum was held on the constitution by the end of 2005, it turned into a plebiscite on the performance of the Kibaki administration and the new regime lost heavily. The referendum did something more insidious as well; it concretised ethnic divisions that had been carefully cultivated by the previous administration and further polarised the country's politics. Still, the economy grew, and elements of the Kenyan middle class and international community celebrated the aggregates of the bullish economy, apparently mesmerised by economic statistics that showed a housing boom; the revival of several important industries that had become moribund under Moi; the provision of free primary education; and a booming stock exchange among a host of other achievements. In truth, however, something more fundamental had been broken – trust and faith in the promises of leaders, that they truly sought to change Kenya rather than tweak her failing parts via generously-funded technical programmes with long names. By the end of 2005, no amount of economic growth

Urbanisation in Kenya

Between 2 and 4 million people live in and around Nairobi, one of the continent's fastest growing cities. This presents new challenges for Kenyan authorities, who at present have to deal with the increased demand for housing that follows urbanisation. However, with the lag between urbanisation levels and the rate of provision of housing, Kenya's informal settlements are bound to become larger unless this is tackled immediately. In 2009, urbanisation levels were at a high 39.7 per cent, and this figure is anticipated to rise to at least 50 per cent by 2030.⁴ A World Bank Kenya representative said in February 2011 that '[the] World Bank is considering a \$100 million (Sh8 billion) Informal Settlements Improvement project fund to build on a similar on-going Municipal project started last year.⁵ But for those not living in Kenya's informal settlements, the increasing demand for housing will push the cost of houses higher than many may find affordable – good for the Real Estate Industry, but not for Kenya's middle-income earners.

could correct this blunder. Indeed, the faster the economy grew, and the more officials crowed about growth (often hand in hand with a small group of dangerously besotted foreign donors), the worse the polarisation became.

The second catastrophic blunder was the bungling of the 2007 election. In a 'normal' situation this should not have been a close election. The administration could boast a number of achievements: the rapidly growing economy; revived industries; spending on infrastructure; the return of donor confidence; free

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primary education and the like. It did not seem to make sense that in the midst of these successes an incumbent African administration controlling all the levers of power would lose a first term election, let alone even come close to doing so. But where trust had been broken, instead of national growth a polarised population saw deepening inequality, ethnic favouritism, the conspicuous consumption of a small corrupt elite and contempt for those who happened to be poor, marginalised minorities. This widespread loss of faith enabled the opposition, which comprised some of the most corrupt and discredited elements of the Moi administration, to defeat the incumbents during the polls in 2007. The failure of the election, its rejection as rigged by most Kenyans and the international community, and the tragically comical performance of the leadership of the Electoral Commission all contributed to the explosion of violence that followed. It was an explosion so rapid and intense that it overwhelmed the state's governance agencies and resulted in an externally forced Peace Accord that created the current so-called Grand Coalition Government. But the conduct of the election merely provided the trigger to ignite many long-held resentments and grievances.

To understand why Kenya is in crisis during this time of constitutional transition you need to pull back the layers of this broken society further still. The most pernicious underlying feature of Kenyan society is an ingrained culture of impunity with regard to both corruption and human rights abuses. Never in the country's history has a single senior figure been held to account for economic crimes or human rights abuses. One of Africa's most ruthless (albeit politically savvy) elites runs the country on the backbone of an unreformed colonial-era bureaucracy designed to fight the Mau Mau. This elite, consisting of a core of no more than 100 families, supported by a coterie of long-serving bureaucrats, was initially the creation of the British, who promoted those who collaborated with them most enthusiastically. These elites consolidated power in the office of the Presidency and the creation of an at-times ethnically exclusivist patronage network that reached into every sector of the economy. A professional, entrepreneurial and agrarian middle class also developed partly on the back of, or at the very least in political alignment to, this core elite.

The new constitution proposes to dismantle this system, replacing it with a devolved structure of government characterised by a Presidency with diffused powers and, on paper at least, a far more robust system of checks and balances, rules of law and executive accountability.

Above all, perhaps, Kenya's crisis has grown due to ill-conceived and 'anti-people' economic policies tolerated by international donors. Throughout the Cold War era, in an unspoken *quid pro quo*, the excesses of the elite were sanctioned by their friends in the West. And provided that corruption served to consolidate

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Western interests against the perceived communist threat, it was at best overlooked and at worst encouraged, especially with regard to acquisition of land by the elite and large scale government procurement. It also created the electorate's tolerance of an authoritarian leadership that dodged tough development decisions and fudged the reforms that should have been tackled at independence in 1964 – especially with regard to land and the concerns of minority ethnic groups.

Land remains at the heart of tensions in Kenya. Smallholdings have been subdivided by successive generations. Today the average size of a plot is uneconomic. Pastoralists and agriculturalists clash over land use; cultural versus legal claims to land have gained a powerful currency; and global warming, which is believed to have altered rainfall patterns, compounds all other land-related problems.⁶

It is well to remember that Kenya, like Zimbabwe, was once home to a substantial white settler community that had appropriated for itself (by executive fiat) much of the country's most arable land. At the peak there were about 80 000 settlers. Africans were squeezed out into more marginal areas, 'native reserves', and forced to live as squatters who, due to a deliberate tax regime, often served as cheap labour to the settler farmers. It was this situation that exploded into the Mau Mau rebellion in the 1950s. Upon taking power after independence the first government of Mzee Jomo Kenyatta did not, sadly, correct some of the injustices that had taken place with regard to land. Instead Kenyatta perpetuated the problem by moving hundreds of thousands of dispossessed Africans, especially from his own Kikuyu community, onto lands considered ancestral by other communities, especially in the Rift Valley and the Coast. Kenyatta chose to move many of these people into other arable regions of the country that were relatively less land scarce than his own Central Province. Much of the resentment was borne by Kalenjin but also the Mijikenda and Swahili communities at the Coast. This enabled a small coterie around the President to take over the prime estates vacated by the white settlers for themselves.

A state designed for the wealth accumulation of a small self-identified elite was left essentially intact – only the colour of skin changed. In this original dereliction the seeds of future violence around land festered, the pressure building as Kenya's population boomed.

Nearly 50 years later the chickens are coming home to roost. The country that for so long has been a reliable regional base for aid and humanitarian operations led by UN agencies and international NGOs is itself showing ominous signs of instability that could infect the region. The harsh truth is that ordinary Kenyans are getting poorer.⁸ Corruption is back in the headlines and accountability is limited by the country's three-year old coalition administration.

The conduct of the election merely provided a trigger for many long-held resentments

The Mau Mau Rebellion

The Mau Mau fighters were mainly drawn from Kenya's major ethnic grouping, the Kikuyu. Now regarded as a seminal phase of the independence struggle, the rebellion, especially its emergency period from 1952 onwards, resulted in some 160 000 people being detained in dire conditions and tens of thousands tortured to get them to renounce their oath to the Mau Mau. Concentration camps were set up in response to the brutal killings of white settlers, including for women and children. After the emergency was lifted in 1961 an official report determined that 32 whites were killed while more than 11 000 Africans died – many of them civilians. Others put the toll much higher. Before the end of the rebellion in 1959, Britain had hanged about 1 000 people as rebels although many of them never bore arms. In addition, 'Castration, sodomy, rape and beatings were everyday weapons in its unremitting defence of the rights of the white settlers'.⁷ Recent research suggests many thousands more Kenyans died through torture, starvation and neglect in the British prison camps. The Mau Mau killed more than 2 000 Africans they accused of collaboration. Today the effects of the rebellion are still rippling through Kenyan society. Westminster is yet to apologise for the atrocities from the period and accept responsibility. Of the behaviour of the British Empire's behaviour, writes the *Guardian*, 'One courageous judge in Nairobi explicitly drew the parallel: Kenya's Belsen.'⁹

Population Growth of Kenya

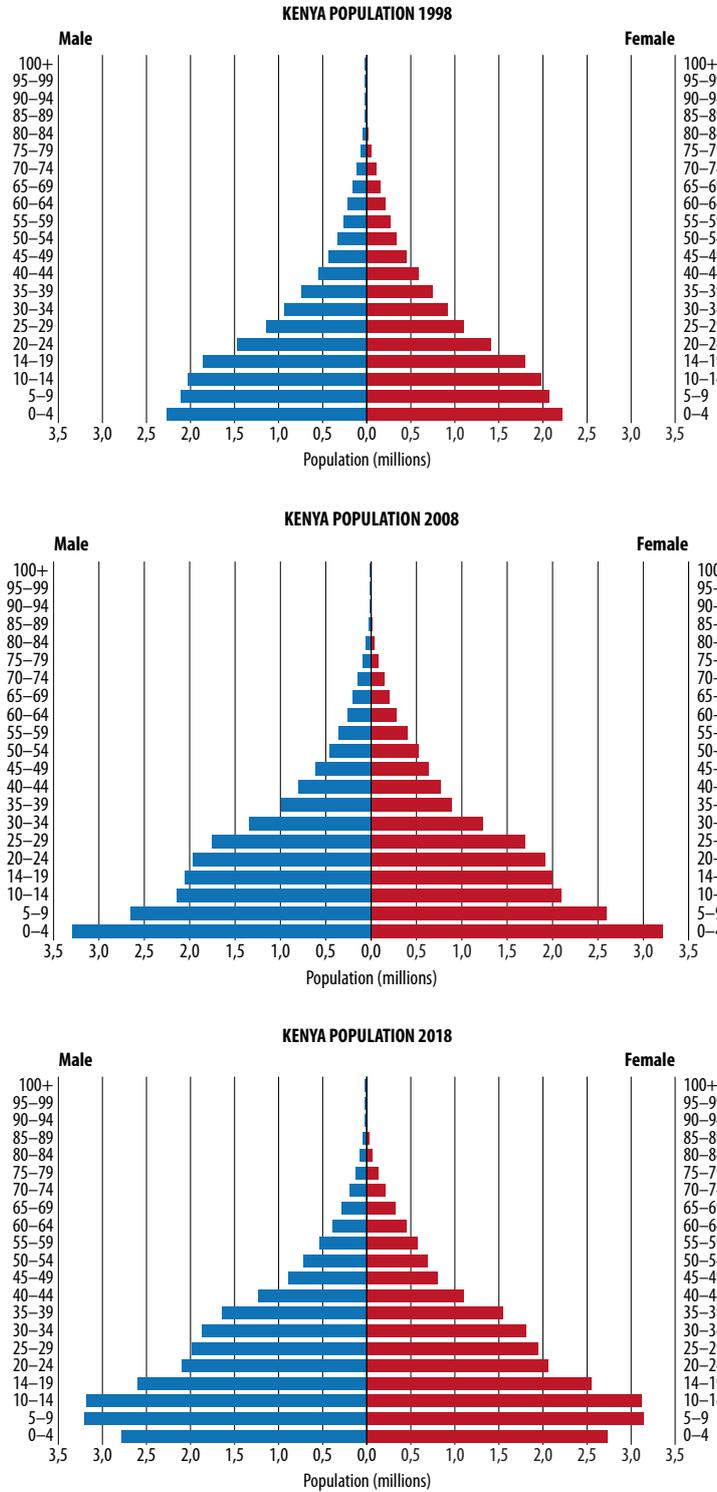
Kenya's population was 7 million at independence and is 38 million today. It grows at the rate of 1 million per year. Kenyans between the ages of 15 and 34 numbered 3.3 million in 1969; 4.9 million in 1979, 7 million in 1989; 10.1 million in 1999 and 13.7 million in 2009.

As the 2012 elections near, Kenya is gripped by inertia and paralysed by internal fragmentation. Sleaze permeates the ranks of the governing elite. The newspapers weekly report scandals in the agriculture, security, energy and other sectors, many involving officials at the very top of government. The distortionary effects of these scandals are felt every day among ordinary citizens. This is amplified by the fact that corruption is accompanied by conspicuous consumption on the part of the elite. And the most immediate effect of corruption is to cause a decline in public confidence in governance institutions and leadership. Corruption is but one of several touchstone issues that are simply too vast and too complex for donors.

Kenyans must take the lead.

The most pernicious underlying feature of Kenyan society is an ingrained culture of impunity

Graphs depicting Kenya's growth – past, present and future



SOURCE: U.S. Census Bureau, International Data Base

The new
constitution
proposes to
dismantle this
elite system

Corruption in Kenya

The Goldenberg corruption scandal (1991–4) cost Kenya 10 per cent of GDP (at the time, over USD1 billion) precipitating the collapse of several banks and, in the clean-up process, interest rates at over 70 per cent and the highest inflation rates in Kenyan history. The Anglo Leasing Scandal, had it not been interrupted (2003–10) would have cost Kenyans USD777 million. Controversially, the Kenyan government reportedly settled with the shadowy figures behind the entities created to execute it for USD150 million in 2010. In 2011 the Permanent Secretary in the Ministry of Finance admitted that a third of all revenue was lost to corruption every year – approximately USD2 billion annually. According to Transparency International, in 2009 Kenya had the highest corruption levels in East Africa, with incidence of corruption being 45 per cent.¹⁰ By October 2010, Kenya had dropped seven places on the index, ranking 154 out of 178 – still significantly worse than its East African neighbours.¹¹

Participants in the Crisis: Kenya’s Growing Youth Population

Eighty per cent of Kenyans are below the age of 34, and roughly 50 per cent are below 18. This rapidly urbanising demographic are empowered by the large investment since the early 1990s by government and donors in ‘civic education’, as well as the explosion in mobile telephony, FM radio and associated media related freedoms and technological advancements. Kenyan youth are increasingly culturally globalised in expectations and aspirations. When these are dashed their problems fall into three categories that are easily politicised and in some cases militarised: identity (ethnic, religious, and particularly clan); governance (inequality and corruption); and, livelihood (firstly employment and security, thereafter water, health and education).

With no real prospect for employment this ‘youth bulge’ is belligerent, alienated and has few illusions that they will enjoy any benefits from Kenya’s much-lauded economic development. Indeed, since 2007 this demographic, especially in the most cosmopolitan parts of Kenya, has experienced empowerment from the grassroots. With the retreat of the state in many areas of the country, local control has been ceded to youth gangs – ‘the tribe of the machete’. At the height of the violence key officials around the head of state, overwhelmed by the scale of the troubles, allegedly resorted to mobilising elements of illegal youth gangs to retaliate against the mobs in the Rift Valley. This marked an existential shift: the state was effectively admitting it was unable to protect the lives and property of Kenyans. Also, the post-election violence served to embolden many youth who used the

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Kenya's Booming Telecommunications Industry

In 2009, 17.3 million Kenyans owned a mobile phone. Kenya's mobile phone penetration rate for those aged 15 years and older is 77 per cent. Kenyan mobile phone users now have a selection of over four service providers (including joint ventures with international firms such as Vodafone, France Telecoms and Essar Communications), namely Safaricom Limited, Orange Kenya – owned by Telkom Kenya Limited – Yu and 2008 addition Econet Wireless Kenya. As a result Bloomberg reported that in 2010, Kenyan internet usage more than doubled. 'We now have 7.5 million Internet users compared to 3 million last year,' Permanent Secretary in the Information Ministry Bitange Ndemo told reporters in Nairobi.¹² Most of Kenya's internet usage is through mobile phones, depicted by the growth in this industry over the past year.

'power of the machete' to generate income (not only as militia paid by politicians, but also through 'entrepreneurial' opportunities such as roadblocks and looting). This power also gave them a sense of 'respect' and belonging. This erosion of state authority has been affirmed by numerous international observations and research organisations.¹³ In addition to the lack of faith in the legitimacy and effectiveness of the State and political leadership, there is also a loss of faith in religious leadership – the other historically stabilising social force in Kenya.¹⁴

Tackling the Malaise

In 1986 the formal sector in Kenya accounted for 80 per cent of employment and the informal sector 20 per cent; by 1996 these ratios changed to 38 per cent and 62 per cent respectively. By 2006 the formal sector accounted for only 20 per cent and the informal sector a staggering 80 per cent of the total market. In this 'flip' towards informalisation of the economy (while still dynamic) are contained critical adjuncts that have political implications. These include the growing proliferation of vigilante groups and youth gangs able to challenge the State's monopoly of violence in certain regions and moments. Additionally, we have seen a deepening spread of the culture of counterfeit goods and illicit drugs, which has infected the judiciary, executive, security services and legislature.¹⁵ Ironically, corruption has become more widespread in Kenya under the Kibaki administration than it was under the Moi administration, in part because it has been decentralised. The Permanent Secretary in the Ministry of Finance recently admitted, with technocratic blandness, to losing 33 per cent of government revenue (USD2 billion) to corruption.¹⁶

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Inequality in Kenya

The monthly salary of a Kenyan Member of Parliament in 2011 totalled USD14 600 per month (much of it tax free) in a country where the minimum wage is just above USD81 per month. British MPs are paid USD8 900 a month, French USD6 900, Swedish USD7 600 and Italian MPs USD7 200.¹⁷

Kenya's Need for Aid

Considering all of the above, Kenya might not seem a natural choice for a fundamental reappraisal of aid. On closer examination, however, Kenya ticks more boxes than most African countries. Straddling the equator, blessed with a diverse geography and reasonable climate, Kenya has the deepest natural port on the eastern side of Africa. It is for all intents and purposes (and for better or worse) the commercial capital of the failed state of Somalia. It enjoys close relations with the newly independent resource-rich country of South Sudan and with Uganda, which has recently discovered oil. It is the transport, logistics, tourism, banking, insurance and service hub for the entire region. It is quickly becoming the regional centre out of which investment in the region from the original four BRIC (Brazil, Russia, India, and China) countries is flowing. This will continue to grow exponentially. These are developed on the basis of relatively advanced educational, health and other infrastructure. Five decades without dislocating grand economic experiments or traumatising periods of large-scale civil strife (save 2007/8), the country is unique in its generally English speaking, healthy and industrious population imbued with a service culture. Increasingly, the most talented elements of this population reside outside Kenya in the diaspora, which officially contributes USD1 billion in remittances to the Exchequer per year and some analysts estimate at least half that amount unofficially – via *hawala* mechanisms, money laundering, drugs etc. Add to this the fact that, to many in the outside world, Kenya *is* Africa, occupying a place in the international psyche that is reinforced in film and literature and confirmed by hundreds of thousands of tourists every year.

However, for all Kenya's 'pluses', within its borders are most of the economic challenges, political contradictions and social problems that must be overcome across the continent as a whole. This includes deepening inequalities ironically accelerated by economic growth, and the concomitant politicisation along ethnic lines. And all this in a condition of diminishing resources (especially land, trees and water). These trends have the capacity to raise tensions between radical forms of Islam and fundamentalist Christianity, which are now clear and present realities

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Tourism in Kenya

In 2010, according to the Ministry of Tourism in Kenya, there were just over 1 million tourist arrivals. In 2006 the figure was 1.3 million. The election related violence in 2007/8 caused a decline of up to 25 per cent in arrivals. Despite the decline in numbers of tourists to Kenya, the Tourism authorities are optimistic about growth of the industry, which has brought in a total of Kshs 73.68 billion in 2010. They attribute this to 'aggressive marketing in the new markets and efficient utilisation of the resources available'. Countries contributing the largest number of visitors are the United Kingdom, the United States, Italy and Germany respectively.¹⁸

in Kenya – especially since the 2010 referendum that saw the Church oppose the new constitution on the grounds that it constitutionalised Islamic Kadhi Courts that have always been part of Kenya's legal framework. Historically, Islam in Kenya has never veered into extremism. Kenya's new Chief Justice, a respected reformist, is Muslim. Dr Willy Mutunga was appointed after President Kibaki and Prime Minister Odings's initial nominees for the post were shot down.

Access to water will be a challenge in the future and this will be compounded by high rates of urbanisation. As of 2010, Kenya had 12 cities with a population of over 100 000 each and of those, four with a population of over 300 000. In addition, desertification and the impact of global warming, food shortages and population growth present a range of worrying dynamics. In Kenya's case these challenges must be offset by some of the primary assets mentioned above – in particular Kenya's people.

The violence of 2007/8 led to an externalisation of Kenya's problems as far as seeking justice is concerned. The International Criminal Court (ICC), in March 2011 confirmed as suspects six individuals, including close allies of both the President and Prime Minister, which caused serious political tremors. Despite the tremendous loss of sovereignty implied in this decision, Kenyans by and large support the ICC in efforts to hold some previously 'untouchable' political players accountable for the first time in the country's history. This broad support is indicative of the low level of confidence Kenyans have in their own judicial mechanisms, which has serious implications for implementation of the new constitution and the anticipated elections in 2012. Indeed, the ICC process has set about reshaping the political scene vis-à-vis the elite as leaders realised quickly that in addition to a 'winner-takes-all' political system – the ICC process too takes no prisoners. The new constitution includes robust provisions that moderate the winner-takes-all nature of Kenyan politics. The resources and energy being poured into holding off

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accountability by various factions that are consolidating in light of the ICC process and their willingness to resort to extrajudicial methods, including whipping up mass ethnic hysteria and violence, will determine the climate in which the next election will be held.

Kenyans need to own the processes that contribute to their development, even whilst aid and external assistance are – at least for the time being – necessary evils.

Military Relations with Britain

Eight thousand British soldiers, including the SAS, train in Kenya every year under a long-standing agreement going back to the years immediately after independence. However, Kenyan soldiers are also recipients of military training from Britain, including those trained by the UK's Special Forces unit, deployed in the government's anti-terrorism campaign. On both sides of this coin, there has been some rust to uncover. In 2011, British soldiers were accused of shooting a Kenyan civilian which culminated in the suspension of a senior Army officer, whilst Kenyan soldiers trained by the British were accused of human rights violations against civilians.¹⁹ Military aid to Kenya totals over £10 million per annum.

The State of Aid to Kenya and the Proposal

Including 'off the books' military and security sector aid, Kenya has been the recipient of over USD40 billion in aid since independence. It has manifestly failed to make a significant 'value-for-money' impact with regard to poverty and inequality. Indeed, it can be argued that the policy prescriptions that have accompanied aid since the fall of the Berlin Wall in 1989 have served to exacerbate inequality and increase the volatility of already fragile nation-states. We have long learnt that GDP growth alone is a woefully inadequate measure of development in the complex world we live in today, where extractive industries and the service sector account for so much of the 'growth'. Often it is unequal growth; and growth without jobs. As information technology expands horizons, fuels globalised aspirations and expectations, and allows for unprecedented exchange of information, there is a concomitant strengthening of the 'accountability environment' which many governments in both the developed and developing world operate. YouTube, Twitter and SMS text can fuel a revolution by creating a virtual nexus between the poor and the middle class. Recent events in North Africa, for example, fortify this impression.

All of the above requires Kenya to be weaned off the current unhealthy relationship with the aid community during a phased but radical change of policy, and implemented over the next five years.

Kenya's mobile phone penetration rate for those aged 15 years and older is 77 per cent

- Kenyans should have *more* control, not less, over their aid programme, both in the disbursement of the financial content and the selection and type of projects that will be aid-funded/supported.
- The private sector must be enlisted to play a direct part in Kenya's development strategy, motivated by self-interest, and encouraged by tax breaks.
- Donors should be given notice that by the start of 2014 they will be expected to channel 20 per cent of aid flows into a Kenyan-run fund, which will introduce measures to harness the private sector, encourage self-reliance and increase domestic savings, with effect from March 2014. The target will be the transfer of aid flows of 20 per cent each year for five years.

The new programme, set out in more detail below, will be monitored and assessed by a group of independent Kenyans, answerable to the public; their proceedings transparent, their income and out-goings open to scrutiny, including the process of tenders. Access will be guaranteed by the Freedom of Information Act already contemplated by the new constitution.

Helping Kenya to Help Itself – Making Aid Work

Ethnicised and politicised inequality is Kenya's bane. Kenya is a state without a sense of nationhood, run by a government that is in office but not in power. Mitigating this must be at the heart of any strategy one adopts for aid and development. Underlying every growth statistic proudly announced by a government or official merchant bank analyst is the 'on-the-ground' political question: 'the economy is growing *for whom?*' 'Which ethnic group?' 'Which class of individuals?' Kenya's new constitution recognises and contemplates the institutions and processes to mitigate these powerful underlying narratives. They must also be addressed very directly in the short term and transparently so that they have not only an economic effect but a political and social one, too.

In the short term Kenya has to create jobs for the millions of youth in the informal sector. The above-mentioned can be achieved through the following channels:

- 'Airport-based growth' (around Nairobi, Mombasa and Eldoret) must be fueled by creating the infrastructure for an export industry on the basis of huge tax concessions and the provision of subsidised services, provided by the state (energy being key here).
- 'Port-based growth', around Mombasa (and perhaps Lamu) should be expanded dramatically within the counties of Pwani. This will be to ensure that the local

By 2006 the informal sector accounted for a staggering 80 per cent of the total market

population benefits directly from the investments that are specially directed to this area – here textiles would be key.

- Lastly, Kenya will benefit from creating an ICT hub in western Kenya and huge investment in infrastructure as tools of a targeted policy to create jobs.

In the short- to medium-term we propose a series of four specific measures that would help tackle basic needs:

Education Bonds

The introduction of Education Bonds would enable parents to invest in their children's future education through the purchase of instruments that can *only* be spent directly on identified educational needs on a County by County basis – school fees, books, uniforms, etc. The return would be guaranteed to match that of a Treasury Bills, but with an additional percentage, assured by donors. Although the bonds would be tradable, their use would be conditional on direct educational needs.

Development Bonds

The introduction of Development Bonds would be based on the same principles as the Education Bonds but used in conjunction with specific projects on a graduated scale of priority, sensitive to Kenya's role in the region and the need to defuse festering grievances that are a block to even the best development initiatives. The focus would be on education, health and housing for the security sector. Once again donors would underwrite this.

The Social Contract

Under this programme, any project of more than est. USD5 million must have a social component – such as schools, clinics, or vaccination programmes written into it that would be tendered out to NGOs focusing on local capacity at the County level. This would have three benefits: it would introduce NGOs to the competitive world of the private sector, which would in turn force the NGOs themselves to provide value-for money and generally increase efficiency if they are to survive; and it would reduce the unhealthy link between NGOs, the state and development which has allowed the government to hand responsibility for many basic services to third parties.

Partnership and a Fragile Infrastructure

Kenya's roads, railways, ports and power facilities urgently need upgrading. The process is already underway in some areas. A partnership between state, the private

Why should Kenya
be the focus of
a fundamental
reappraisal of aid?

sector and the main aid agencies on the 'build-operate-transfer principle' can be the basis of a fresh start. This is informed by the understanding that the civil service in many countries, such as Kenya, is actually a deeply political animal and its 'professionalisation' must go hand in hand with Kenyan ownership of their development priorities.

With Kenya back on track, the list of policy innovations becomes almost endless. They include an internet facility in every school, tax breaks to encourage private sector participation in improving marketing and packaging of exports; removing all forms of taxation on computers; and incentives to aid the development of solar power and bicycles. Nairobi could also become an African Nashville – a cultural hub for the region partly on the back of Kenya's tremendous digital and mobile telephony innovations. Institutions such as the National Social Security Fund (NSSF) should be open to external management, thus introducing competition; and the state lottery needs a re-launch. Lastly, Kenya could use some help with the world's most popular game. Considering how popular football is nationwide, improving the sport and the quality of the national team – which will require assistance from outsiders – would seem an obvious win-win.

Conclusion

Poor governance, a stale approach to problem solving, and an absence of hope and vision – what can Kenya do to redress this dire predicament? To argue that Kenya could never control its aid programme or determine its own economic future is to counsel a policy of despair. When Kenya goes to the polls in 2012, there will be dangers – before, during and after the voting. These are emerging internally: the youth bulge; ongoing elite fragmentation; environmental degradation; unresolved underlying issues exacerbated by the 2007/8 crisis; land disputes; ethnic resentments fed by graft and conspicuous consumption; structural economic inequalities; and ethnic political mobilisation. Many of these issues are amplified by the ICC process and the introduction of new accountability mechanisms stipulated in the constitution.

The geopolitical importance of Kenya in East Africa means that for the international community, what happens in Kenya will reverberate throughout an already volatile region. The 'war against terror' continues with Al Shabaab (a Somalia Islamic extremist group with links to Al-Qa'ida) gaining malevolent influence across the region. An increasingly complex and volatile situation in which the international community is already deeply engaged also presents an opportunity to lay the foundations of a new relationship – one that gives Kenyans responsibility for their battle against poverty, inequality, unemployment, and hope for their future.

The ICC process has set about reshaping the political scene vis-à-vis the elite

The task of the international community could not be more urgent: to help oversee a radical overhaul of an aid programme that is failing Kenyans. This initiative will falter if not based on co-operation and driven by Kenyans themselves. The time for action is now.

Endnotes

- 1 Kenyans voted 2 to 1 (72 per cent of 12.6 million registered voters) for the new constitution, not so much because they had read it but because it heralded ‘change’ and an exhaustion had built in with regard to the long-winded process that had taken over two decades to achieve.
- 2 <http://www.polity.org.za/article/how-far-is-home-for-kenyas-internally-displaced-persons-2011-02-28>
- 3 In 2007 British newspapers first disclosed a lengthy report by the international risk consultancy firm Kroll, purportedly submitted to the Kenyan government in 2004, alleging that relatives and associates of former president Moi siphoned off more than £1 billion of government money. See for instance, <http://www.guardian.co.uk/world/2007/aug/31/kenya.topstories3>. For reports by Amnesty International and the United Nations on human rights abuses during the Moi administration, see for instance <http://www.unhcr.org/refworld/publisher,IRBC,COUNTRYREP,KEN,3ae6a80a28,0.html>.
- 4 <http://allafrica.com/stories/201102240123.html>
- 5 Ibid.
- 6 For more information on this refer to *Reuters*, 11 Feb 2011, Climate change affecting Kenya’s coffee output: In 2007/8 a combination of Coffee Berry Disease and changed rainfall patterns led to a 23 per cent decline in coffee output – one of Kenya’s main foreign exchange earners. Intermittent rainfall patterns, extended drought and high temperatures have become the norm.
- 7 CIA Fact Book, the population living below the poverty line in 2000 was 42 per cent and rose to 50 per cent in 2003 and remained around that average to date.
- 8 <http://www.guardian.co.uk/commentisfree/2011/apr/11/mau-mau-empire-british-government-responsibility>
- 9 Ibid.
- 10 http://www.transparency.org/news_room/latest_news/press_releases_nc/2009/2009_07_02_kenya_index
- 11 <http://blogs.worldbank.org/african/corruption-in-kenya>
- 12 <http://www.bloomberg.com/news/2011-01-19/kenyan-internet-usage-doubles-over-2010-ministry-says-update1-.html>

- 13 This year Kenya slipped to 13th in the Fund for Peace's Failed State's Index 2010 (down from 25th in 2005) and is now in the company of Nigeria, Burma, Haiti, Ivory Coast, Pakistan, North Korea, and Yemen. Kenya has been ranked No. 27 in the 2010 Mo Ibrahim Index on Governance in Africa, down from No. 22 in 2009. Transparency International's Corruption Perception Index has consistently ranked Kenya among the bottom 25 per cent of countries perceived to be the most corrupt in the world since the late 1990s, and in the recent 2010 study, Kenya slid down eight places from 146/180 in 2009 to 154/178 – placing it in the bottom 15 per cent along with Somalia, Sudan and Afghanistan.
- 14 Inter-Religious Forum Report (2009): Over 300 churches used throughout Kenya's history as places of refuge during times of trouble, were razed to the ground by gangs of youth mainly in the Rift Valley. The Church was perceived as having taken sides in the hotly contested election in 2007. To date the Catholic Church, for example, the country's largest mainstream church, is considered a pro-government institution. In a fragmented context its Bishops no longer have the authority and independence to speak to Kenya's most pressing social crisis.
- 15 On 22 December 2010 the Minister in charge of Provincial Administration and Internal Security in the Office of the President stood up in Parliament and named legislators under investigation over drug running allegations. The public announcement, but not the names, surprised the Kenyans and the media. On 1 June 2011, under the Foreign Narcotics Kingpin Designation Act President Obama had imposed sanctions on seven individuals including two Kenyans one of them an MP (for Kilome) - John Harun Mwau and a woman called Naima Mohammed Nyakinyua. There were no other Africans on the list.
- 16 'Sh270 billion: That's what we lose to graft yearly', *The East African Standard*, 02-12-2010.
- 17 http://en.wikipedia.org/wiki/List_of_minimum_wages_by_country
- 18 http://www.tourism.go.ke/ministry.nsf/pages/facts_figures
- 19 <http://www.google.com/hostednews/ukpress/article/ALeqM5jrmjPEStqcvjN-pAZX Mh00EXvNRA?docId=N0006741303204751526A> and <http://www.telegraph.co.uk/news/worldnews/africaandindianocan/kenya/2466432/Kenyan-troops-accused-of-torture-were-trained-by-SAS.html>