

The Staying Power of Self Interest: Kenya's Unshakeable Elites

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Abstract

Kenyan political discourse has been dominated by elites and politics of self-interest since independence in 1963. Kenya is notorious for its levels of corruption and questionable levels of accountability. The persistence of this *status quo* has defined the Kenyan democratic transition as one of 'dominant power politics' and epitomises Ghanaian economist George Ayittey's description of the 'African Vampire State'. The post-election violence and controversy in 2007 – 2008 led to both a new constitution and a power-sharing agreement between the two major parties; these events have been described as the 'rebirth' of Kenya. This paper confronts the extent to which this 'rebirth' has had an impact on the contemporary political and economic climate within Kenya and assesses the extent to which elite dominance has shaped and continues to shape Kenyan political discourse.

Keywords - Democratisation, Kenya, Corruption, Development, President Kibaki, Elites

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'A Very Democratic Distribution of Spoils'

- John Githongo on corruption under the power-sharing government (Cited in: Allen, 2009)

The African continent has seen decades of fraudulent elections which have made a mockery of its leaders' commitment to democracy (The Economist, 2008). With Kenya's relatively strong civil society and history of elections, many observers hoped it would set a positive example in elections in December 2007 (Economist, 2008). Sadly this was not the case. Evidence of fraud led to the nation descending into a mayhem of 'rampant ethnic violence' (Country Review, 2010: 18). The country had 'exploded' and Kenya's image of stability was in tatters (Dowden, 2008: 89). The aftermath of this violence, however, has led to the establishment of a new constitution and a power-sharing government. Many believed the new emphasis on civil rights and renewed dedication to end corruption would transform Kenyan politics. It has been described as Kenya's 'rebirth' (Greste, 2010).

Despite this optimism, real change in Kenya faces a significant obstacle in the entrenched interests of Kenya's political elites. These individuals have dominated Kenyan political and economic development since independence, utilising the state apparatus to extract the wealth of the state to enrich themselves, a phenomena Ghanaian economist George Ayittey describes as the 'African Vampire State' (1999: 151). Implementing real change is counter to the elite's interests, as relinquishing control of the state is to relinquish their opportunities for 'self-enrichment' (Economist, 2008). This paper argues that the events of 2007 – 2008 have had little impact on the

persistence of what democratisation theorists describe as dominant power politics in Kenyan political discourse. The roots of the 'Vampire State' are too deep to be undone by the formulation of a new constitution.

Carothers (2002: 7) described the key features of a 'dominant' power system as a state with some basic features of democracy and 'real political space'; yet a single party/leader dominates the system with 'little prospect of alternation of power in the foreseeable future' (Carothers, 2002: 8). Huntington (1991: 33) defined this type of non-democratic system as a 'personal dictatorship'. A key problem in dominant power states is 'the blurring of the line between the state and the ruling party' (Ibid), which means state assets - police, state funding etc - are shifted into the party's hands. This leads to 'large-scale corruption and crony capitalism' (Ibid). Dominant power elections are generally 'dubious' affairs (Ibid), with the state simply putting on a good enough electoral show to appease the international community. Writing during Daniel Arap Moi's Presidency, Carothers argued Kenya fitted into the category of 'dominant power politics' (2002: 7). The validity of that belief and the extent to which the new constitution has had an impact on its prevalence will be explored throughout the paper.

Historical Analysis

Post-Independence Politics

Kenya inherited a colonial legacy from the UK; prior to independence the UK established a liberal democratic institution for independent Kenyan governance, but its institutions were particularly weak. These institutions were installed almost overnight, imposed with a lack of democratic history, pluralism or even political

parties (Thompson, 2000: 23). A more positive result of the colonial legacy was occasional direct British support; such as when Great Britain intervened to prevent a military coup in 1964 (Thompson, 2000: 146).

Within a year of Kenya's independence the two main parties merged, effectively removing any opposition parties (Murunga et al, 2007: 67). President Kenyatta removed key checks and balances, becoming a *de facto* 'absolute ruler' (Nyinguro et al, 2007: 7). Kenyatta achieved particularly high levels of government control through a series of government moves increasing centralisation of power in the executive, whilst also instituting devolution and banning formal opposition (Ibid). Erosion of the separation of powers was completed by President Moi (Adar et al, 2001: 1). Despite this, there were still 'relatively' open elections up to 1981, however the opposition were often manipulated by the government and split (along mainly ethnic lines); for example, in 2006 there were 26 separate political parties (Ayittey, 2005: 241).

Weakness of state institutions meant Kenyatta's opportunities to expand power over the state and practise wide-scale corruption were 'dismayingly abundant' (Joseph, 2008: 7), with abuses committed constantly (Ibid). Wafula Okumu stated, 'despite spending years in colonial incarceration [Kenyatta] used methods worse than those used by the colonizers to silence their critics' (2002). Parliament was ineffective as power was centralised in the executive, with executive powers gradually expanded until 1992, by which point President Moi's *de facto* dictatorship could restrict freedom of demonstration, elect high court judges and had reduced parliament to a 'rubber stamp of policies' (Adar, 2000: 79). In 1982 a constitutional amendment made Kenya an official single party state (Murunga et al, 2007: 32). This action clarifies the validity

of describing Kenya's democratic transition as one defined by dominant power politics.

These factors have a direct link with Kenya's failure to uphold basic human rights from independence to the present day. President Kenyatta removed serious threats to his power with disregard for human rights (Ibid). Repression of anti-government figures continued more severely under President Moi from 1972 onwards, with a myriad of human rights violations by the government (Adar et al, 2001: 2). This was made possible by Moi's centralisation of power, control of state institutions and security forces. Protection of human rights was rendered impossible by the government's control of the judicial system, which was being 'blatantly contravened by those who are supposed to be its supreme guardians' (Adar et al, 2001: 5). The results were his use of draconian laws; authorising detentions, political trials, torture, arbitrary arrests and police brutality; utilised at levels seen under colonial rule in Kenya (Okumu, 2002). Moi perceived human rights as alien, inconsistent with African values and culture and 'Euro-centric' (Adar et al, 2001: 6) and a person was no longer equal unless they belonged to the ruling political party (Ayittey, 2005: 96). This strongly supports the notion of a dominant power system, confirming Kenya was in the pre-transition (Bratton, 1994: 10) of democratisation, primarily through Moi's emasculation of Kenyan civil society (Ibid).

Civil society and the media played a key role in the restoration of multi-party democracy from the 1980s to 1991. The state was wary of the potential for NGOs to rival the power of government and accordingly restricted their influence within Kenya (Wanyande, 1996: 8). However, international pressure grew strongly in the 1980s to bring in NGOs to reboot Kenya's stagnant economy. Bratton asserted that, in the pre-

transition phase of democratisation, protests against government rule often begin with economic concerns (1994: 10). This point is proven correct, as concerns over the economy and engagement from NGO's did lead - as the government feared - to increased political involvement from civil society (Wanyande, 1996: 10). This evidence supports Huntington's assertion that non-democratic regimes are more likely to democratise when political competition against the incumbent increases (1991: 33).

When groups began to challenge the government over human rights and constitutional change, the media was crucial to any movement for democratic change (Wanyande, 1996: 1). This is despite Moi's use of the state apparatus to restrict threats against his regime (Adar, 2000: 83). The movement finally succeeded in reinstating multi-party democracy in 1991. This followed the International Monetary Fund's (IMF) suspension of foreign aid to Kenya, after nationwide demonstrations were violently suppressed (Thompson, 2000: 153). This was civil society's reaction to the continuation of dominant power political discourse.

Following the switch to multi-party democracy in 1991, Moi was unwilling to cede power. This is a feature commonly seen in personal dictatorships (Huntingdon, 1991: 40). Moi became an expert in manipulating voters based on engineered fears of ethnic violence. Moi embarked on a disastrous campaign of ethnic violence (Brown, 2004: 8). His actions led to thousands being killed and hundreds of thousands displaced (Ibid). As a result, Moi won two elections between 1991 and 2002 after creating an undoubtedly unfair electoral climate. There was clear evidence of ballot box stuffing and 'gerrymandering' (Brown, 2004: 3). This confirms Kenya's continued

position in the 'pre-transition' phase of democratic transition: where Moi previously banned political parties, he now controlled elections (Bratton, 1994: 10).

Moi had grown adept at 'selling the same packages of reforms several times' (Guest, 2010: 50). For example, he established a commission of enquiry dealing with corruption, to appease the IMF; then proceeded to pass a law in parliament declaring it unconstitutional (Ayittey, 2005: 331). The switch to multi-party democracy had done little to remove Moi's control of state institutions; for example, in 2000, Moi supporters attacked opposition leaders outside parliament, but when the police arrived they inexplicably arrested the opposition leaders (Ayittey, 2005: 441). Despite the switch to multi-party democracy, the basic institutional structure of authoritarian and repressive rule had remained intact (Human Rights Watch, 1991: 55).

With reference to a history of repressive, single party rule, it is surprising then that in 2002 there was a decisive election victory for the opposition whereby power was peacefully transferred (Brown, 2004: 3). This counters Huntington's belief that personal dictators do not relinquish power voluntarily (Huntingdon, 1991: 40). Key to the peaceful transfer of power were bi-partisan parliamentary reforms in 1997; these reforms revised oppressive laws, improved civil rights and made for more credible elections (Country Review, 2010: 10). Following this, the opposition were unified, there was a far more independent media (with a greater readership) and a shift in popular attitudes against the *status quo*, following a greater level of civic education (Brown, 2004: 3). This shows the democratisation of Kenya had seen a decade of political liberalisation, resulting in a political transition where the incumbent government concedes power (Bratton, 1994: 10). This puts Kenya's democratic transition in a position where the new government – under President Kibaki – could

relinquish executive control of state institutions, reversing dominant power politics within Kenya.

Post-Independence Economics

The pervasive state control of the Kenyatta and Moi Presidencies had severe economic implications, due to the wide-scale cronyism and corruption associated with dominant power political systems. These economic implications will be assessed, as will their contribution to the contemporary Kenyan political context. Throughout post-independence, Kenyan state institutions have been crippled by rampant corruption. The corruption in Kenya is described by United States Agency for International Development (USAID) as so vast that Kenya is generally seen as one of the 'most corrupt countries on the planet' (Country Review, 2010: 14). Brown believes that corruption is such a major issue that any democratic transition in Kenya ends when 'political elites assume power' (2004: 3). For example, in 1992 Kenya lost \$600m on non-existent gold and diamond exports, 10% of the country's GDP, in what was referred to as the Goldenberg scandal (BBC, 2004). Corruption has dominated Kenyan politics and continues to do so in the present day.

Corruption and overarching government control of state resources and institutions have led to mixed economic performance. Upon independence the colonial legacy had left some positive elements for a successful economy, including a good communications infrastructure, basic health services, an education system and regionally strong industrial production (Thompson, 2000: 23). However, this was mixed with an economy focused on cash crops; meaning the economy fluctuated according to world coffee prices - a source of economic instability (Ibid).

In Kenya's early post-independence period there was a high level of success, with GDP growth averaging 6.6% annually during 1964 – 73 (Fashoyin, 2001: 1). This was a result of mass distribution of farmland to the peasantry to stimulate employment (Chewya, 2006: 12). Also benefiting growth was investment in infrastructure, state-led capitalism, political stability and the creation of a fertile climate for investment (aided by strong western relations) (Fashoyin, 2001: 1). These factors have often seen Kenyatta's policies lauded as a success. However, this is misleading, Kenya's economy was very vulnerable to market fluctuations and sustained a major shock in 1973 (Jerven, 2011: 19). Closer analysis suggests that Kenyatta's oversight of the economy was unexceptional (Jerven, 2011: 20), the reasons for will now be identified.

Successful earlier policies were scuppered through mismanagement or negative government interference. The agrarian settlement schemes failed (Chewya, 2006: 12). The system instead returned to characteristically pre-colonial subsistence farming (Ibid). State ownership of certain parts of the economy was justified by arguments that state-led development would better serve the people's interests, however this soon led to corruption and political patronage (Chewya, 2006: 15). For example, the government's focus in its agrarian projects had been on political patronage, as opposed to real economic growth (Ibid). This theme also became relevant with the nationalisation of industries, state-led schemes suffered from inefficiency and a 'bloated public sector' (Fashoyin, 2001: 1). Government policies and corruption soon led to a government invasion of the private sector, with industries 'transformed into instruments for non-capitalist pursuits' (Ibid). President Kenyatta used legislation under a nation building pretence as an excuse to further centralise power within the executive. For example, Kenyatta centralised control over

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the trade unions (Nyinguro et al, 2007: 7). This is a prime example of the leadership increasing its control over the state apparatus for personal benefit, with policies of patronage. Such acts were not in the interest of Kenya, but of Kenya's ruling elite, clear evidence of a dominant power system.

The government's policies worked against success, halting economic growth (Chewya, 2006: 13). This led to a severe level of unemployment (Ochieng, 1992: 308) and a state decaying under *de facto* one party rule (Brown, 2004: 1). Moi's policy of political patronage contributed heavily to the economic decline, preferring 'loyalty over competence' (Adar, 2000: 76). This climate of rampant corruption and the domestic exploitation of state resources epitomised Ayittey's description of the 'Vampire State'; dominant executives utilising state control for personal benefit (1999: 157). He describes Moi's regime as one of the prime examples of governments using the state for personal benefits (Ibid).

The complete mismanagement of the economy led to strong international pressure on Kenya to seek assistance in the 1980s from the IMF and World Bank (Wanyande, 1996: 8). It had become clear that state policies had prevented Kenya from possessing the financial, human and infrastructural capacity to develop successfully (Ibid). Foreign involvement stabilised economic growth, however by 1990 inflation exploded and GDP growth fell to 1.4% (USAID, 2006: 1). The IMF suspended aid in 1991 following perceived governmental problems and clear violation of IMF set economic targets (World Bank, 1996: 2). Following this, the IMF implemented wide ranging economic reform, including a reduction in public sector employment and the privatisation of several large publicly owned companies (Hussain, 1994: 28).

Opposition from political elites continued in the face of IMF reforms (Hussain, 1994:

25). Up to this point government policies had failed; policies of patronage and corruption had damaged the economy - and continued to do so. There was a clear lack of good economic governance within Kenya, supporting the application of the 'Vampire State' definition.

Since the early 1990s, Kenya's economic performance has been weaker than the average in Sub-Saharan Africa and the weakest among the members of the East African Community (Kalinga et al, 2004: 5). The IMF, World Bank and Western institutions have blamed widely fluctuating growth on continuing corruption (Ibid). Substantial economic growth in the mid-1990s ended when, in 1997, the Moi regime failed to uphold governance reforms regarding corruption, which led to a second suspension of IMF lending, followed by a withholding of World Bank and European Commission aid (Africa Recovery, 1997). The economy again began to stagnate, contracting 0.2% in 2000 (World Bank, 2011). Growth spiked to 4.5% in 2001 before again lowering to just 0.5% in 2002 (OECD, 2006: 347). However, from 2002, President Kibaki - a former economist - oversaw sustained economic growth, rising to 6% in 2006 (Ibid).

2007 – 2008 Political Crisis

This historical analysis affirms Carother's belief that Kenya was an example of a dominant power political system, under Presidents Kenyatta and Moi. Kenya fulfilled almost all of the criteria of a dominant power system as state mechanisms were clearly under the personal control of the President. Civil society's reaction in the 1980s and 1990s did force a return to multi-party democracy. The 2002 election victory for the opposition, where Mwai Kibaki was sworn in as President, signified the

end of the Moi regime. However, the opposition's election victory did not end the dominant power structures of Kenyan politics.

President Kibaki had been elected in 2002 with a mandate to fight corruption and oversee judicial reforms (Kieh, 2007: 140). However, Kibaki displayed similar signals of bad governance to the previous regime. He displayed clear evidence of corruption (Dowden, 2008: 89), raids on newspapers (Jarso, 2010: 73) and state oppression (Brown, 2004: 13). Kibaki had become the epitome of the 'big man dictator' (Dowden, 2008: 89). When protests formed over the stalling of reforms in 2004, demonstrations were violently broken up, with police reportedly using live rounds against the demonstrators (Brown, 2004: 13).

Notable was a public scandal where the anti-corruption chief John Githongo was forced to flee after discovering major corruption in Kibaki's inner circle (Keane, 2006). In 2005 an unpopular constitutional proposal to consolidate power in the executive – a signal of resurgent corruption – led to riots in Nairobi, which again turned violent (Country Review, 2010: 17). Most Kenyans became disillusioned with the Kibaki regime (Murunga et al, 2007: 10). It is clear the structure of Kenyatta and Moi's dominant power system had remained intact under President Kibaki.

The most significant event of Kibaki's term, however, came following evidence that the 2007 elections were rigged, which led to wide-scale ethnic violence. This crisis resulted in thousands of people being killed, with thousands more displaced (Ibid). Those orchestrating the violence came from both political parties, including high ranking government officials, as well as policemen (Human Rights Watch, 2011). The Economist (2008) reported at the time, "Kenya's president steals an election, showing utter contempt for democracy and his people." The reluctance of Kibaki to

relinquish power, in addition to the negative developments within Kenya under his Presidency showed a return to Huntington's personal dictator thesis (Huntingdon, 1991: 40). Only after then UN Secretary General Kofi Annan intervened to calm the situation was comparative stability restored, and a power-sharing agreement was signed in 2008. This power-sharing government implemented a new constitution, with the promise of wide-ranging reforms (Greste, 2011)

Aftermath of the Crisis

Domestic opinions of the political climate in Kenya following the passage of the constitution were highly optimistic. The new constitution indeed had the potential to make significant and positive changes to the Kenyan political system. It would address many of the major issues of governance and human rights; Kenyan political analyst Kwamchetsi Mokhoke stated 'this new constitution tackles all those issues and more' (Ibid). More significant changes included the establishment of a citizens' bill of rights, constitutional limits on the number of cabinet posts, reduction of the president's powers and devolution of power to regions (BBC, 2010). The government was also confident that the measures taken would greatly reduce corruption; for example, 'land grabbing' was banned, which the government stated amounted to 30% of corruption (Kenyan Government, 2011). The BBC went so far as to say the power-sharing government had 'suddenly made war' (Okwembah, 2010) on corruption. Whether such efforts – credible or not – have been sustained, will be explored further on.

International views of Kenya's recent political changes were also very positive. The World Bank Country Director for Kenya, Johannes Zutt stated, 'It is hard to imagine a future Kenya where these constitutional changes do not have an impact—for the

better', citing the potential of renewed checks and balances in the country (Zutt, 2010). The White House was also supportive of changes, declaring a 'promising new chapter' in Kenyan politics (AFP, 2010). The White House has been particularly encouraged by the actions of President Kibaki and Prime Minister Odinga in the power-sharing government (Ibid).

The people celebrated what they described as the 'rebirth' of Kenya (Greste, 2010). There was a widely shared belief that the power-sharing government had engineered a document which has the potential to positively transform Kenyan political discourse (Ibid). Many analysts believe the constitution is a result of the Kenyan people's fury after the 2007 elections, with Kibaki having to make major concessions to stay in power; government critic and anti-corruption activist John Githongo stated, 'the Kenyan people have imposed a constitution upon their rulers' (Royal African Society, 2010). This represents a significant change in Kenyan politics, which could effectively end the prevalence of dominant power politics.

The economic situation following this major crisis has been surprisingly optimistic. The crisis led to economic growth retracting to just 2.2%, from 7% the previous year (World Bank, 2011). However, once the crisis was resolved, the economy was stabilised and in fact growth increased in 2009 (World Bank Website, 2011). Foreign observers have noted that the power-sharing government's involvement in the economy is becoming more positive; pro-active government policies have led to mostly positive economic developments (World Bank, 2010: 2). This has sparked optimism from the IMF and World Bank as to Kenya's economic growth (IMF Website, 2011). Foreign observers believed the new constitution would have a positive effect on the economy, the World Bank stating that it would be a key factor

for renewed economic growth (World Bank, 2010). This is buoyed by recent investment in infrastructure and overall positive economic management. Foreign observers are optimistic that the current government and passage of the constitution can lead to good economic governance.

However, despite this wide ranging optimism, in 2008 domestic voices remained sceptical of the potential impact the new constitution would have. The pledges to confront the issue of corruption were viewed with particular scepticism, with it being such a systemic issue in Kenyan politics. This is particularly apt with reference to many previous broken promises, such as President Moi's constitutional reforms in 1999, in which he pledged to crack down on corruption (BBC, 1999), the results of which were a failure. From other areas of Kenyan civil society there was also scepticism as to whether reforms would be implemented properly; John Githongo believed that the popular and radical constitution would face "A major counter-reform initiative by [those with] vested interests [in the status quo]" (Royal African Society, 2010), as political elites begin to resist any changes.

Recent Developments

The signs of such a 'counter-reform initiative' are becoming increasingly clear in Kenyan politics, interestingly from both sides of the power-sharing government (Allen 2009). The impact of a power-sharing agreement is seen as counteractive to democratic reform, as it instead 'undermine[s] the functioning of parliamentary opposition parties' (LeVan, 2011: 43), negating an important check on the executive.

This factor has contributed to renewed government corruption. Kenya has seen a series of corruption scandals in the last two years¹. Recently even the leaders themselves have been implicated: Prime Minister Odinga in a maize scandal and President Kibaki in unsound deals over oil (Allen 2009). Additionally, reminiscent of the controversy surrounding John Githongo under Kibaki's previous government was the forced exit of anti-corruption chief Lumumba (Reuters Africa, 2011). As a result, the BBC reported that NGO Transparency International's survey in 2010 rated Kenya's level of corruption at joint 154th, alongside Cambodia, whilst Mugabe's Zimbabwe was better perceived at 133rd (Okwembah, 2010). This parallels the recent Wikileaks revelations, US diplomatic cables stating that the Kenyan cabinet is the most corrupt in Africa (Mutiga, 2010). One must also recognise, however, that the discovery of such scandals highlights the success of the media's oversight (Jarso, 2010: 66).

This shift back to dominant power politics and the 'Vampire State' is not the only negative development since the agreement in 2008. The power-sharing agreement has created a 'crisis of dual sovereignty', as both elites and civil society view the coalition government as two separate governments (LeVan, 2011: 45). This links to a failure to fulfil the reforms promised by the power-sharing government and the new constitution, Kofi Annan describing the two parties as 'losing momentum' (Allen 2009) in the reform process. The reason for this can be attributed to a lack of cooperation between the two groups. John Githongo describes both groups as having their 'snouts in the trough' (Ibid) with little imperative to make reforms. For example, the

1 See [BBC- 'Kenyan minister facing corruption claims resigns']; [The Telegraph- 'Two Kenyan ministers suspended in corruption scandal']; [Mosoku- 'MPs Warn Raila On Corrupt Ministers']

'Africa Center for Open Government' has complained that not only are Kenya's ministers some of the highest paid in the world, but many of the ministerial portfolios are 'pointless' (LeVan, 2011: 15). This is in spite of promises to reform cabinet positions under the new constitution (Greste, 2010).

The head of Transparency International in Kenya, Job Ogonda, has described the stalemate between the two groups as so detrimental to social and anti-corruption reforms, it has highlighted the risk of Kenya 'degenerating to a failed state' (Ross, 2010). African research network 'Institute for Strategic Studies' has described the process of implementing the constitution as 'like shooting a moving target' (Asamoah et al, 2011).

This stalling of progress has had negative implications for the human rights situation within Kenya, including a public spat with the International Criminal Court (ICC). Despite some positive changes, including some reform of the judiciary (Asamoah et al, 2011), reforms to strengthen human rights within the state have largely stalled. Intimidation of human rights activists and the media in general has continued (Ross, 2010); in one high profile incident, two activists were shot by unknown gunmen in broad daylight and students protesting about these shootings were fired upon by police (CNN, 2009). These activists had contributed to a 'scathing' (Ibid) United Nations report on police brutality within Kenya. It is clear the apparatus of state oppression remains largely unaffected by the new constitution. Jarso states that, institutionally, 'Kenya needs to move beyond mere aspirations' (2010: 87).

The controversy surrounding the trials of those implicated in the 2007 – 2008 election crisis has been a high-profile crisis in Kenyan politics. The failure of the parties to cooperate properly, combined with general scepticism of domestic justice systems,

has meant that a domestic special tribunal could not be formed to try those individuals who funded and spurred on the violence (Allen, 2009). As a result of this inaction, the ICC has stepped in - with the begrudging agreement of the government - indicting six individuals (The Economist, 2010a). Among these are Kenya's top civil servant, finance minister and former head of police (The Economist, 2011). One official is also the son of former President Kenyatta (Plessis, 2011). The six suspects are evenly split between Odinga's and Kibaki's allies (BBC, 2010).

Kenya is a member of the Rome Statute, under which the ICC has jurisdiction to investigate serious crimes against humanity if the state in question has not conducted a satisfactory investigation themselves (ICC, 2011). Kenya already had a difficult relationship with the ICC after inviting Sudan's President Bashir to their constitution signing, despite the President having a warrant from the ICC on charges of – among others – genocide (Rice, 2010). According to its obligations to the ICC, Kenya should have arrested Bashir and extradited him to the Hague. Wide ranging criticism of Kenya's decision came from Kofi Annan, President Obama, the EU and various human rights groups (Sudan Tribune, 2010).

Max du Plessis has described the reaction by Kenya's elites as a “reactive overdrive” (Plessis, 2011), which has seen Kenya attempt to raise regional support for a new domestic trial (The Economist, 2011). This is a continent with a frosty history with the ICC; many African states condemn the ICC's activities on the continent (Plessis, 2010: 32). However, recently the relationship – whilst difficult – is improving, with African Union (AU) states discussing the prospect of a regional ICC liaison office (Sibalukhulu, 2010). Continued Kenyan objections have culminated in Parliament passing a resolution in December 2010 calling for Kenya's withdrawal from the Rome

Statute (Plessis, 2011). This shows Kenyan opposition to the ICC is not along common lines with other AU states, but is in accordance with the interests of Kenya's ruling elites, which in this case is the protection of the ICC's suspects.

This is a particularly worrying development for Kenya's political progress. The 2007 – 2008 crisis was a hideous episode in Kenyan history. The new constitution promised a new era for Kenyan politics, but instead the government is working to provide impunity to the architects of the violence. It is comical that a year ago Prime Minister Odinga made clear he would send anyone to the Hague, even more so when the ICC only became involved because of the government's inability to form a tribunal over a two year period (The Economist, 2011). This is all the more worrying when one assesses civil society's reaction to the government's decision. The Economist (2011) cited a local opinion poll, which suggested 73% of Kenyans support the involvement of the ICC. There is a similar lack of dedication to providing witness protection standards, which only feeds the perception that the state is 'intent on shielding perpetrators of serious crimes' (Sibalukhulu, 2011). This situation is damning of Kibaki and Odinga's dedication to human rights, particularly in such a high-profile situation.

In addition to the ICC controversy, there have been some major developments in Kenyan politics over the last year. In October 2011 Kenya invaded Southern Somalia, with the aim of combating militant Islamist group al-Shabaab (Rémy, 2011). However, following reprisal attacks from al-Shabaab, Kenya's Somalian community has come under increasing discrimination, being targeted for arbitrary beatings by Kenyan defence forces (Howden, 2011). Additionally, International Crisis Group have cited a former military officer who argued one purpose of the war was to distract

Kenyans from domestic politics and specifically the forthcoming elections (ICG, 2012: 3).

The impending elections, due to take place in March 2013 (Macharia, 2012), have displayed signs that they may descend into similar levels of violence seen in the 2007 – 2008 crisis. The BBC has reported that rival ethnic groups have begun to rearm in readiness for violence, with arms dealers illegally distributing automatic weapons (BBC, 2009). The date of the election itself has become a controversial issue, as the constitution dictated that it should have been held August 2012, but following government pressure, the Kenyan High Court has moved the election date to March 2013. This decision was made against the wishes of the Kenyan people (Macharia, 2012) and against the advice of the 'Commission for the Implementation of the Constitution', an independent body established to oversee the implementation of the new constitution, which announced it was 'alarmed' by the justification for the decision (Richardson, 2011). This evidence, combined with the controversy surrounding the ICC, demonstrates that political conditions within Kenya appear unchanged by the new constitution, which is already being undermined. It is clear Kenya's democratic transition remains heavily influenced by dominant power politics.

In contrast, the optimism for economic progress in Kenya, under the power-sharing government, appears to be better founded. President Kibaki's economic successes prior to the election scandal appear to be continuing under the power-sharing agreement, with World Bank figures suggesting economic growth rose to 5.3% in 2010 (IMF Website, 2011). Kenyan businesses praised strong development in communications and infrastructure prior to the election crisis, claiming Kenya could become the next 'call-centre capital' (Crilly, 2007). This positive investment appears

to have continued under the power-sharing government, with investment sparking hopes of an 'information-technology boom' (The Economist, 2010b).

Accordingly, official government sources cite Kibaki's policies as the reason for renewed economic success, emphasising Kenya's planned transition to First World status after launching Kibaki's long term policy, 'Vision 2030' (Kenyan Government, 2011). Whilst there is evidence for direct success from Kibaki's policies, other positive factors influencing the economy include renewed tourism and strong market demand for Kenyan commodities such as tea (Reuters Africa, 2011).

Despite this solid economic growth, negative political developments have the potential to make a severe impact on foreign investment and general economic performance. Strong reasons for the renewed optimism from foreign investors and the IMF were the seemingly more credible efforts to deal with corruption laid out by the new constitution (World Bank, 2011); thus the series of corruption scandals represent a severe concern. Recalling Job Ogoni's remarks on the potential for a 'political meltdown' (Ross, 2010), it is clear the future of the economy has the potential to be unstable.

Conclusion

The evidence presenting itself is deeply pessimistic. The apparatus of the 'Vampire State' appears to have remained intact despite the optimism surrounding the new constitution. The prevailing feature of Kenyan politics has been the survivability of elite, self-interested individuals in power. The events of 2007 – 2008 have not led to the removal of these elements; in contrast, we have seen the creation of the crisis of dual sovereignty, translating to a crisis of governmental inaction. The cronyism and

hypocrisy surrounding the suspects indicted by the ICC is an insight into the lack of integrity of the Kibaki and Odinga administration. The power-sharing government's inability to bring to justice those individuals orchestrating the violence in 2007 – 2008, is seen as a betrayal by many in Kenya (Allen 2009).

This cycle of crisis, false promises and eventual continuation of the *status quo* has pervaded the political system since Moi's 'reforms' in 1991. What is the likely effect of renewed corrupt practices for the economy? World Bank surveys have reinforced previous recommendations for the development of Kenya's economy, including strong efforts to battle corruption and investment in communications and infrastructure whilst maintaining a stable climate for investment (World Bank, 2010). It is questionable whether investment and economic management will be safe from negative interference, or indeed whether the political climate will stay stable, leaving Kenya with an uncertain economic future. In short, dominant power politics appears to have remained an unshakeable part of Kenyan politics and the events of 2008 appear likely to have simply created the beginnings of another cycle of crises and false promises.

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