

Political Conflict and Vulnerabilities

Firearms and electoral violence in Kenya

Introduction

A 2011 assessment of the availability of small arms and perceptions of security in Kenya—conducted by the Kenya National Focal Point on Small Arms and Light Weapons (KNFP) and the Small Arms Survey—found that safety during electioneering periods was the highest concern among household respondents. Specifically, 48.4 per cent felt most unsafe during political campaigns (Wepundi et al., 2012, p. 60). This finding is understandable, given Kenya's recent political history and its recurrent electoral violence.

Politics in Kenya has borne an immense cost. For example, in successive elections that have taken place since the reintroduction of pluralist democracy in the 1990s, politically instigated ethnic violence has resulted in considerable death, injury, human displacement, and the destruction of public and private property. The history of this violence is deeply entrenched, as old as Kenya itself; but these problems will prevail without changes to the political culture.

Even though electoral violence has occurred predominantly in Coast, central Rift Valley, Nyanza, and Western provinces, most analyses to date have overlooked similar violence in other areas, violence associated with other matters, such as cattle rustling.¹

Moreover, the impact of such politically induced insecurity and its correlation to demands for self-help security, i.e. armament, creates a new dynamic. There will be serious consequences if these matters are not addressed.²

This *Issue Brief* contextualizes the elevated fears that household respon-

ents feel regarding their safety during political campaigns by analysing area-specific and historical dynamics that fuel current insecurity. Rather than restricting analysis of causes to the post-1990s' era, this study proposes that current violence is a metamorphosis of much earlier, largely state-sponsored violence. Considering Kenya's transitional status and that the country's politics has been the greatest determinant of its stability, this analysis aims to inform ongoing reform efforts and policy dialogue on birthing a new Kenya. This *Issue Brief* builds on the findings of the KNFP–Small Arms Survey national assessment (Wepundi et al., 2012), triangulating primary data with other independent research (including opinion polls), synthesizing them with secondary literature and an analysis of current trends.

The discussion that follows draws upon the concept of electoral violence as random or organized acts aimed at

determining, delaying, or influencing an electoral process (Fischer, 2002, p. 8). Starting from a typology of electoral violence—including identity conflict, campaign conflict, balloting conflict, results conflict, and representation conflict (Fischer, 2002, pp. 8–11)—this study focuses in particular on conflicts involving identity, results, and representation that are products of the country's political dynamics.

As Eifert, Miguel, and Posner (2010) suggest, theoretical analyses of political violence fall broadly into two camps, one of which is supported by the argument that Africa's ethnic identities are salient in that they reflect traditional loyalties to kith and kin. This is countered by the other postulation that as ethnicity is a functional construct, it is bound up in political competition. In Kenya's case, social and political ruptures are predominantly ethnically motivated and, during elections, the political elite often manipulate identity consciousness.



People displaced by electoral violence crowd to receive food aid in Nairobi, Kenya, January 2008. © Simon Maina/Associated Press

In reflecting on Kenya's political development, it is possible to trace back the nature of electoral violence and conflict. The main findings of this *Issue Brief* are:

- Political violence is not new to Kenya; and current manifestations need to be understood in a historical context.
- The threat of electoral violence for 2013 must be looked at from the standpoint of how existing divisions and conflicts manifest themselves in the overall political situation of Kenya.
- Small arms, an exacerbating factor in current violence, pose a threat as the 2013 elections approach. Importantly, the prevalence of arms anywhere in the country potentially results in easy access to weapons wherever electoral violence flares up.
- Certain steps have been taken to address these issues, but they can be deemed adequate only if they stay true to the new constitution.

Electoral violence³ in Kenya's history

Immediately post-1963, Kenya's political system was pluralist, with two dominant parties: the Kenya African National Union (KANU) and the Kenya African Democratic Union (KADU). Multi-party democracy lasted only one year, however, as the president soon consolidated his personal authority and created a government of national unity. In December 1964, Kenya became a *de facto* single-party state; these tendencies towards authoritarianism were amplified by the assassination of Pio Gama Pinto in 1965 and the detention without trial of John Keen in 1967 (Throup and Hornsby, 1998, pp. 12–13).

When ideological differences led to a rift between Vice President Jaramogi Oginga Odinga and President Kenyatta, Oginga Odinga broke away to form a new political party, the Kenya People's Union (KPU), in 1966 (Branch, 2011, p. 58). Apart from ideological differences, Oginga Odinga was displeased with the alleged rigging of a series of KANU elections (Throup and Hornsby, 1998, p. 13).

The by-elections were held in 1966 and became known as the 'little general election', but were tainted by state intimidation of opposition supporters (Branch, 2011, p. 59), 'virulence of language' in campaigns (p. 60), and the harassment of KPU candidates by the provincial administration and the KANU youth wing (Throup and Hornsby, 1998, p. 14).⁴ The use of the youth wing to intimidate political opponents at this early stage in political history fomented the role that organized gangs play in electoral violence today (Anderson, 2002, pp. 550–51). Furthermore, when the state chose to politicize ethnicity, political mobilization was carried out primarily along ethnic lines.⁵

A few years later, during the campaigns leading up to the 1969 elections, President Kenyatta was heckled by a stone-throwing contingent in Kisumu, upon which his bodyguards began shooting into the crowd. Estimates of the number of people shot dead vary from eight (Branch, 2011, p. 88) to 100 (Throup and Hornsby, 1998, p. 14). Immediately after this incident, the government banned the KPU and had its leaders detained (Throup and Hornsby, 1998, p. 15). State repression was on the rise.

Assassinations—targeting those leaders deemed a political threat—recurred, with the killing of Tom Mboya in 1969 (Branch, 2011, p. 79), Josiah Mwangi Kariuki in 1975 (Throup and Hornsby, 1998, p. 19), and Robert Ouko in 1990 (Branch, 2011, p. 190). Besides eliminating 'threats', such targeted killings functioned as a means to destroy potential political succession. For example, the murder of Mboya and Mwangi Kariuki effectively purged them from President Kenyatta's succession line (Branch, 2011, pp. 75–79; pp. 112–18). The resulting lack of political competition, years later, caused the conflict between the government and its opposition to escalate, thereby creating fertile ground for electoral violence (Kirschke, 2000, p. 395). Even then, violence during campaigning was common, although it was 'localised in particular high-tension constituencies such as Mathira in Nyeri' (Hornsby and Throup, 1992, p. 192).

In the early years of Kenya's second post-independent regime, President Daniel arap Moi attempted to build a strong party-state. By means of a con-

stitutional amendment in 1982, he made Kenya a *de jure* single party-state (Throup and Hornsby, 1998, p. 37).

During the Moi era, elections in 1983 and 1988 were almost entirely manipulated. In the 1988 elections, the queue voting system (referred to in Swahili as the '*mlolongo* system') was introduced for the primaries, but a secret ballot run-off would not have been necessary had the winner in the first round garnered more than 70 per cent of the vote (Throup and Hornsby, 1998, p. 42). The result was a parliament 'tainted by rigging' (Hornsby and Throup, 1992, p. 193), at least for 'one third of the electoral contests (over 60 seats)' (Throup and Hornsby, 1998, p. 42).

The electoral malpractice committed in President Kenyatta's and President Moi's eras thrived on the complicity of the provincial administration, which ensured an uneven playing field by licensing the campaigns of preferred candidates only, barring their opponents, and using other forms of manipulation (Hornsby and Throup, 1992, p. 192). At the height of President Moi's rule (1982–90), the KANU youth wing was revitalized 'as a powerful instrument for monitoring and punishing public dissent and asserting [the president's] authority' (Kagwanja, 2005, p. 55).

In so far as the lines between party and state were blurred, the violence spread by the KANU youth wing was state-sponsored—mainly targeting the KPU in President Kenyatta's time—and targeting democracy activists during President Moi's rule. For instance, in the December 1991 drive for a return to multi-party democracy, the KANU government recruited more youth wing members, apparently to intimidate and assault those activists promoting pluralist democracy (Mwagiru, Sana, and Njau, 2002, p. 6).

In time, there was a proliferation of state-sponsored vigilantes (in Swahili, referred to as '*majeshi ya wazee*', meaning 'armies of the elders') who appear to have been instructed to disrupt rallies held by opposition groups and generally to derail democracy (Kagwanja, 2005, p. 56). In response, opposition parties recruited their own youth to counter government-sponsored attacks. This led to increasingly lethal clashes between government-sponsored and opposition-supported gangs. In one

such incident in late 1991, at a rally held in Kamukunji, tens of people were killed and hundreds injured in a fracas pitting the police, paramilitary General Service Unit (GSU), and KANU youth wingers against opposition party supporters, sympathizers, and youth wing members (Mwagiru, Sana, and Njau, 2002, p. 7).

The push for wider democratic space was not purely internally driven. As in the rest of sub-Saharan Africa, external pressures (particularly political conditionalities, by which donors of development aid tied their contributions to requisite political reforms) contributed considerably (Kirschke, 2000, p. 389). Yet, when political pressure from donors combined with local pro-democracy activism, the government reaction was to privatize violence.

Privatized violence involved the use of political agents and gangs to neutralize the threat of the opposition, as an effective alternative to official state repression by means of the security forces and provincial administration⁶ (Roessler, 2005, p. 207). As the drive for democratization grew, in the post-cold war climate of reduced super-power interest in creating spheres of influence, sub-national violence proliferated (Roessler, 2005, p. 207).

In addition to using vigilantes in privatized violence, the state employed powerful lethal strategies to thwart opposition leaders and intimidate the pro-opposition electorate. KANU leaders highlighted instances of historical injustice that resonated within their constituencies, deliberately politicized ethnicity, and used state organs to incite violence, especially in coastal and western Kenya. Subsequent cycles of electoral violence were influenced by this early reaction to pluralist democracy.

In the first phase of election-related conflict after 1990, an estimated 300,000 people were displaced and by 1993, 1,500 had died (Africa Watch, 1993, p. 1; Table 1). Other calculations estimate that by July 1995, at least 1,800 people had been killed, 3,000 injured, and 350,000 displaced (Nyukuri, 1997, p. 15).

Studies show that between 1991 and 1997, election-related clashes displaced more than 600,000 people in Coast, central Rift Valley, Nyanza, and Western provinces (KHRC, 2011, p. 8). Thousands of people were killed, many more injured, and millions' worth of property

was destroyed. The value of damage to property in 1992 election-related clashes was estimated to be KES 210 million (USD 2,625,000) (Africa Watch, 1993, p. 42). In the violence surrounding the 2007 elections, '117,216 private properties (including residential houses, commercial premises, vehicles, farm produce) were destroyed, while 491 Government-owned properties (offices, vehicles, health centres, schools, and trees) were destroyed' (CIPEV, 2008, p. 346). In total, 1,133 people died and more than 600,000 were displaced as a result of the 2007–08 electoral violence (CIPEV, 2008, pp. 305, 334; UNOCHA, 2011).

In order to understand better how elections can become this violent, it is necessary to analyse the root causes of such developments. Causal factors contributing to disruption may play out at the national and local levels and, at times, both simultaneously.

Structural causes of electoral violence

Of historical factors that informed present conflict dynamics, the most often cited are deep-seated grievances in communities.⁷ Politicization of identity and resource allocation, greed, and grievance have strongly influenced the fierceness of political competition and conflict in post-independence Kenya.⁸

The personalization of power

First and foremost, the personalization of power has fostered 'ethnic antago-

nism [and] despotic rule' (Nyawalo et al., 2011, p. 9). During President Kenyatta's neo-patrimonial rule, he drew on and therefore empowered the provincial administration rather than his political party. This effectively weakened KANU, to the extent that it was moribund by 1975 (Throup and Hornsby, 1998, pp. 17–18).

President Moi, on the other hand, sought to create a strong party-state, for which KANU was used to monitor public sentiment and suppress opposition (Throup and Hornsby, 1998, p. 37). Moi also maintained provincial administrators as his personal representatives at local levels of society (Branch, 2011, p. 173). Both approaches led to mounting repression, the restriction of democratic space, and the political assassination of opponents (NSC, 2011a, p. 26). These assassinations triggered street riots and demonstrations (Hyden, 1994, p. 81), but, more importantly, they incited inter-ethnic animosity (Branch, 2011, p. 84). Both presidents primarily determined how patronage benefits were distributed. In most cases, the president's family, inner circle, and ethnic group were the key beneficiaries (Hyden, 1994, p. 81). Consequently, the institution of the presidency was valued highly by the political elite and ethnic groups saw the advantages of electing a member of their own community as head of state.

The clashes of the 1990s should be understood in this context. In the ensuing violence, pro-Moi communities were incited to protect what they perceived

Table 1 Electoral violence-induced displacement, death, and injury, from the 1990s onwards

Year	Number of internally displaced people	Deaths	Injuries
1993 ^a	300,000	1,500	654
1995 ^b	350,000	1,800	3,000
1997–98 ^c	130,000	*	*
2002 ^d	*	325	*
2004 ^e	360,000	*	*
2007–08	663,921 ^f	1,133 ^g	3,561 ^g

Note: * Areas for which figures are not available are indicated with an asterisk. Between 1991 and 2001, more than 4,000 people died and 600,000 were displaced due to political violence (Mutahi, 2005, p. 69). From 1993 to 2004, statistics for displacements are cumulative; records show that 300,000 and 350,000 were displaced in 1993 and 1995 respectively, in real terms, representing an increase of 50,000. In addition, while there was no major politically fuelled conflict in 2002, there were still displaced persons from previous violence, as seen in 2004.

Sources: a: Africa Watch (1993, pp. 1, 97); b: Nyukuri (1997, pp. 15, 17, referring to the September 1992 estimation by the Parliamentary Select Committee to Investigate Ethnic Clashes in Western and other parts of Kenya and to an NCCK report of 1994–95); c: Kamunji (2002, p. 25); d: Mutahi, 2005, p. 73; e: KHRC (2011, p. 12); f: UNOCHA (2011); g: CIPEV (2008, pp. 305, 334)

as entitlements, and so they targeted those they perceived to be supporters of the opposition. In September 1991, the sustained drive by opposition activists for the reintroduction of multi-party democracy was countered by a revival of calls for *majimboism*⁹ (Throup and Hornsby, 1998, p. 188). This provoked ethnic rivalries, especially in Rift Valley, culminating in violence on Miteitei farm, in Tinderet, in November 1991. Violence then spread to the Nandi-Luo border and other parts of the country (p. 188).

The ethnic nature of politics

The ethnic make-up of politics and the state has fuelled hegemonization efforts by different groups, such as the Kikuyu during the 1963–78 Kenyatta presidency (AMANI Forum, 2008, p. 12). This ‘Kikuyuization’ entailed consolidating political power and controlling the economy (p. 11). When Moi took over in 1978, he embarked on a decade of gradual ‘de-Kikuyuization’ and ‘Kalenjinization’ of the state (Hornsby and Throup, 1992, p. 191). In essence, he dismantled President Kenyatta’s Kikuyu network of the political and economic elite and replaced it with a powerful clique of his supporters, predominately ethnic Kalenjins (Foeken and Dietz, 2000, p. 124).

Consequently, in the 1990s, the Kikuyu elite strove for more significant political and economic representation (Hornsby and Throup, 1992, p. 191). Despite the sectarian elite having weakened the country, history demonstrates that the drive for pluralism in the 1990s was successful largely because of its inter-ethnic nature. The movement involved key political leaders, including Oginga Odinga (referred to as ‘the father of opposition politics’), Masinde Muliro, and Martin Shikuku, among others representing many parts of the country. Later, the opposition again split along ethnic lines (Foeken and Dietz, 2000, p. 126).

Ahead of the 2002 elections, President Moi unilaterally endorsed Uhuru Kenyatta—the son of the former president—as his successor, a move which proved counterproductive (AMANI Forum, 2008, p. 12). It triggered the defection of key KANU leaders to the opposition and, in the process, a strong,

multi-ethnic opposition was founded under the National Rainbow Coalition (NARC), led by Mwai Kibaki (Barkan, 2004, pp. 91–92).¹⁰ President Kibaki secured a landslide victory with over 62 per cent of the vote, as compared to Uhuru’s 31 per cent. His NARC coalition scooped 125 of the 210 contestable parliamentary seats and that seemed to bode well for national unity (African Election Database, 2012).

Soon there was disgruntlement, however, about unfulfilled commitments among coalition partners. Specifically, the Raila Odinga-led wing of the coalition argued that President Kibaki had not fulfilled his duties in line with a pre-election Memorandum of Understanding (MoU) (CIPEV, 2008, pp. 29–30). Simultaneously, the growing perception that the Kibaki government was bringing about the re-Kikuyuization of politics and the economy revived anti-Kikuyu sentiments of the past (AMANI Forum, 2008, p. 12).

When a constitutional referendum was held in November 2005, the disaffected coalition partners—the ‘No’ team, whose symbol was an orange—campaign aggressively against the government-supported proposal.¹¹ Political rhetoric abounded during the campaigns about the proposed constitution and the *majimbo* debate of the 1960s and 1990s was revived (Makabila, 2010). Opinion on the proposed constitution was divided largely along ethnic lines. The intense polarization that had characterized the immediate pre- and post-referendum politics set the tone for how events unfolded in 2007 (CIPEV, 2008, p. 30). The 2007 election campaigns consequently became highly sectarian, with much of the political discourse focusing on betrayal (over the MoU) and on ethnically motivated government appointments (Dercon and Gutiérrez-Romero, 2010, pp. 8–9).

Pre-election violence occurred at campaign rallies and in at least one hotspot—an area with the most (recurrent) incidences of political-related violence—leading to the death of 41 people in December 2007. Twenty-five of them were killed in Molo district, central Rift Valley (Dercon and Gutiérrez-Romero, 2010, p. 10).

Present political dynamics remain influenced by ethnic affiliation, arousing concerns among community members

regarding the impact of national politicians’ statements on local, inter-ethnic relations. This has become a factor in ethnic polarization, as leaders have pursued ethnic alliances while groups, such as the Mombasa Republican Council (MRC) in Coast, have sprung up to fight, often violently, for sectarian rights (Ndung’u and Wepundi, 2012, pp. 6–7).

Credibility of electoral management body

As demonstrated in the historical context of electoral violence, flawed elections can fuel significantly the likelihood of post-poll conflict. This section focuses on the most recent events that necessitated international mediation.

The environment for ensuring credible general elections in 2007 was jeopardized by disgruntlement over the unilateral presidential appointment of 15 commissioners to the Electoral Commission of Kenya (ECK). President Kibaki disregarded the 1997 Inter-Parties Parliamentary Group (IPPG) agreement that provided for an inclusive appointment process¹² in which political parties were to submit a list of names from which the president would select commissioners. Instead, the president, without consulting other party leaders as guided by the IPPG arrangement, replaced ten commissioners in January 2007 and another five in October, just weeks before the December 2007 elections (IREC, 2008, pp. 30–31).

It would emerge later that these appointments fuelled mistrust, not only among the public, but also within the electoral body, as both politicians and the public feared the ECK would be compromised. For instance, the ECK chairman allegedly reported that he was concerned that President Kibaki would replace him with the president’s former lawyer, Muturi Kigano (Ochami and Ombati, 2011).

Actual elections were nonetheless largely peaceful, but the processes of vote-tallying and announcing results fuelled tensions, leading to violence. Initial results gave the Orange Democratic Movement (ODM) party’s Raila Odinga a clear lead over the incumbent President Kibaki of the Party of

National Unity (PNU) (Dercon and Gutiérrez-Romero, 2010, p. 12). But by the afternoon of 29 December, Odinga's lead had shrunk to just over 100,000 votes.¹³

Tensions across the country were elevated further by delays in releasing results from the remaining voter zones, the locations of the announcements, and the ensuing questions about the integrity of voter results (KPTJ, 2008, p. 2). The ECK chairman announced that President Kibaki had won by a margin of 225,174 more votes than those of his main rival, Raila Odinga (Gibson and Long, 2009, p. 499). The Independent Review Commission (IREC) subsequently tallied votes in a sample of 18 constituencies and found that in those areas, President Kibaki was awarded 41,699 votes too few and Raila 28,193 votes too few (IREC, 2008, pp. 129–30). It is interesting to note that votes were deflated for candidates on both sides of the political divide. This scenario prompted the IREC to conclude that ECK figures were unreliable (IREC, 2008, p. 136).

On 30 December 2007, the ECK announced the presidential results. President Kibaki's subsequent inauguration gave rise to three forms of violence: spontaneous protests; organized militia activity; and the excessive use of force by the police forces (KPTJ, 2008, p. 1).

The violence that followed seemingly took on a momentum of its own and was fanned by many factors, including discontent resulting from the elections. Other factors included persistent grievances about historical injustices, especially relating to land distribution; the consequences, intentional or otherwise, of political instrumentalization of ethnicity (resulting from PNU–ODM sectarian campaigns); and pre-existing organized gangs (Kanyinga, 2009; AMANI Forum, 2008, pp. 9–14).

Present vulnerabilities¹⁴

Past surveys have demonstrated that Kenyans believed political issues were the second most significant cause of violent conflict after boundary and land disputes (Wolf et al., 2004, p. 51). Recent research shows that generally Kenyans view politics with scepticism.

In a national conflict mapping exercise conducted by the National Steering Committee on Peacebuilding and Conflict Management (NSC), 30 per cent of respondents viewed politics as the foremost contributor to conflict, above security, socio-cultural, economic, justice-related, and environmental factors (NSC, 2011b, p. 11). A follow-up study to the NSC work indicated that all counties but four (Embu, Machakos, Vihiga, and Siaya) were to be considered high- to moderate-conflict risk areas in the run-up to the next elections, because of their vulnerability to identity- and resource-based conflict, among other factors (CRECO, 2012, pp. 21–93). A scrutiny of public views on politics, elections, and security is useful in determining threats to peaceful elections, now and for the future.

Citizens' fears

There is considerable concern about Kenyan elections turning violent in future. A recent opinion poll taken by Infotrak Harris revealed that a majority of respondents (91 per cent) intend to vote in the next political poll (Infotrak, 2012, p. 3). But more than one-fifth (22 per cent) of those who plan not to vote cited fear of violence as the reason (p. 4).

In a recent study, the Kenya National Dialogue and Reconciliation (KNDR) Monitoring Project found that 21 per cent of respondents anticipate violence in the next polls, indicating an increase from 17 per cent observed in the previous year (KNDR, 2012, p. 23). In addition, the same KNDR study found that a marginally higher proportion of urban (22 per cent) than rural respondents (20 per cent) felt violence would be likely. Other analyses of the 2007 post-election violence examined the vulnerability of urban areas to intense violence, demonstrating that, in Nairobi for example, slums were 'violently fragmented into various ethnic enclaves' (Jacobs, 2011, pp. 14–15).

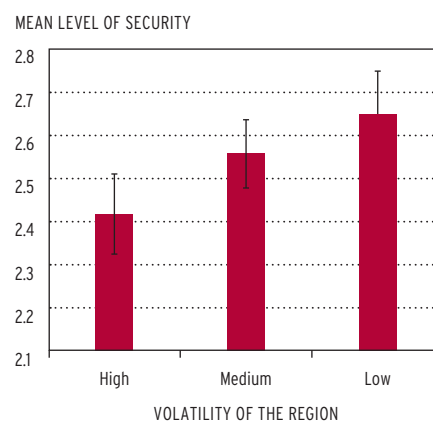
Further analysis of the results of the survey conducted by KNFP and the Small Arms Survey (2011)¹⁵ indicates that the most apprehensive respondents were from Nyanza and Nairobi; in both areas, more than a quarter (26 per cent) anticipated violence (KNFP and Small Arms Survey, 2011). Fewer

respondents in Rift Valley and Central provinces (18 per cent and 20 per cent respectively) anticipated violence (KNFP and Small Arms Survey, 2011). The present accord between leaders from the two regions may contribute to the relatively optimistic outlook of respondents from the two areas regarding the next polls. This points to the potential for new dynamics of accord and discord along political alliances to be forged in communities.

The KNFP–Small Arms Survey survey highlights the fact that households in high-volatility areas¹⁶ are significantly more fearful of political campaigns than their counterparts in low- and medium-volatility areas (see Figure 1). This underscores that households may continue to fear for their own safety, despite better inter-ethnic relations developing from current political unions.

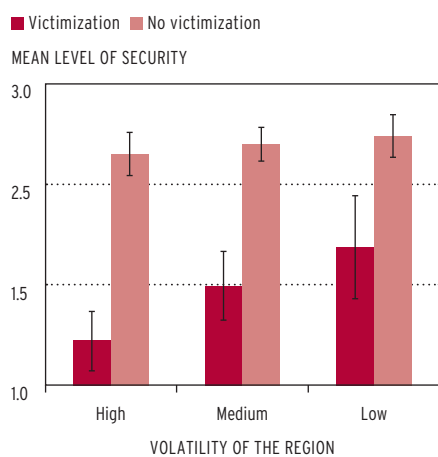
As these persisting fears regarding security, insecurity, and violence in the run-up to the March 2013 general elections are likely to affect citizen participation in ongoing democratic processes, they may be detrimental to voter turn-out. This is endorsed by the KNFP–Small Arms Survey findings that households in which a member had been victimized by a crime were significantly more fearful of their safety during political campaigns (Figure 2; KNFP and Small Arms Survey, 2011). Victimization is a more influential determinant, more so than geography, of households' perceptions of security during elections. Although no causality can be established, the volatility of a region plays an important role where respondents within a region of high

Figure 1 Households' feeling of security, relative to volatility (N=1,884)



Note: Higher mean levels indicate higher levels of security.
Source: KNFP and Small Arms Survey (2011)

Figure 2 Households' feeling of security, relative to volatility and victimization experience (N=1,881)



Note: Higher mean levels indicate higher levels of security.

Source: KNFP and Small Arms Survey (2011)

volatility report significantly reduced feelings of security than both medium- and low-volatility regions.

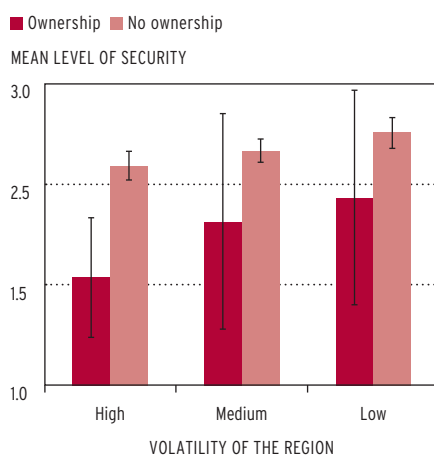
Since previous victims of electoral violence are likely to have heightened fears about their security, especially during political campaigns, voter turnout of this group is likely to decrease. Enhancing security measures to deter the criminality and violence associated with political campaigns is necessary to build public confidence in the act of voting. Failing this, over and above voter apathy, citizens' fears provide fertile ground for precautionary self-help security to flourish.

Small arms and safety in elections

While small arms have not been considered a major concern in earlier cycles of electoral violence, the KNFP–Small Arms Survey study revealed that firearm possession among households negatively affects their sense of security during political campaigns. That is, households that admitted to owning firearms cited electioneering as the period when they feel most unsafe (KNFP and Small Arms Survey, 2011).

As households perceive an increased prevalence of firearms, their perception of their own safety during political campaigns decreases—suggesting an inverse relationship (see Figure 3). Firearm ownership plays a significant role in one's feeling of security, specifically in regions of high volatility. High-volatility zones are more fearful of

Figure 3 Households' feeling of security, relative to household firearm ownership (N=1,857)



Note: Higher mean levels indicate higher levels of security.

Source: KNFP and Small Arms Survey (2011)

political campaigns than those experiencing low- to medium-volatility. In these same (high-volatility) areas, households with firearms feel less secure during political campaigns.

This correlation is negated only in those instances where respondents perceive the prevalence of arms to be high, yet feel relatively safe during political campaigns. Two observations can be made: the groups which believe that arms are widely prevalent (owned by almost all households) may consider this as part of the security arrangements and therefore feel protected. Their feelings of safety may stem from the minimal relevance of the political aspects of conflict to this group. However, where groups have a greater interest or involvement in politics, their sense of insecurity in the light of arms availability grows. Kenya's new constitution has devolved the government to 47 counties and with this new arrangement it is likely that formerly national issues will play out at the local level, if the September 2012 Tana River violence is anything to go by (Gitau, 2012). Inter-group competition at the county level will be heightened by communities' need to control local government, hence potentially reducing conflict at the national level (Ndung'u and Wepundi, 2012, pp. 7–8).

The contributing role of small arms in electoral insecurity has not been studied adequately in Kenya, probably because in previous cycles of electoral violence, mainly bladed and traditional

weapons were used in areas considered hotspots.¹⁷ However, violent disputes in pastoralist areas, in particular, which were primarily understood to result from conflicts over pasture, water, and livestock, are increasingly understood to be political in origin.¹⁸ The dynamics evident in many areas point to an increasing link between arms and politics.

There is an unresolved conflict between the Pokot and Turkana of West Pokot and Turkana counties respectively, over their boundaries. This conflict is multi-faceted: it stems from a historical dispute between the two communities, and from the communities' interests in controlling valuable resources—such as the KENGEN power generation plant in Turkwell and the oil-rich areas of Ngamia—which have made the resolution of the boundary dispute more urgent.¹⁹ In the view of these communities, if the land holding these resources were determined to belong to either of them, the relevant county would be richer (Wepundi and Otieno, 2012, pp. 16–17).

As this sectional dispute became violent, several people were killed. These killings were notably frequent at the time when the Independent Electoral and Boundaries Commission (IEBC) was deliberating on the delimitation of new constituencies. The IEBC's decision—to make wards perceived to be in Turkana South become parts of constituencies in Pokot Central and Pokot East—triggered a court case initiated by the Turkana representatives and intensified local disputes over territory (Obare, 2012).

Although the IEBC's official position is that they are mandated only to delineate *electoral* units, while the central government is charged with determining *administrative* units, such a decision in a region with a predisposition to armed conflict is bound to intensify pre-existing conflict and to complicate public participation in elections (especially in those areas where delimitation is contested).²⁰ As such, most incidents occurring as livestock raids and killings on the border between West Pokot and Turkana counties can be regarded as forms of pre-election violence, with each community seeking to assert its territorial rights. It is doubtful whether elections

held in electoral wards in contested territory could be successful or peaceful.

Another example of an area prone to election-related violence is Isiolo. This county, in which arms are prevalent, has been earmarked for elevation to a resort city under Kenya's development blueprint called 'Vision 2030' (Government of Kenya, 2007, p. 10) and has become a hotspot for often violent, identity-related politics. The resident Borana, Somali, and Turkana groups are pursuing political and socio-economic goals, frequently in violent ways, which leads to the killing and displacement of people.

In 2007, when Borana and Somali groups learned that the Turkana community had grown in numbers (Ruto et al., 2010, p. 3),²¹ inter-community hostilities erupted, primarily driven by the objective of maintaining political influence and control in the constituency. Inter-group attacks escalated, resulting in those households on land designated for resort city development being displaced. Certain groups are hoping to receive compensation for the sale of land for the resort city, and associated political dominance is often determined by violent means (Ndung'u and Wepundi, 2012, p. 11).²² By late 2011, over 1,000 families had been displaced and tens of people killed (Tulel, 2011, pp. 1–2).

These examples underscore the incidence and potential of electoral violence in pastoralist areas, a matter which warrants broader attention. This is especially urgent, considering that the stabilization of those areas in Kenya in which arms are particularly prevalent (i.e. closest to the conflict-ravaged countries in the Horn of Africa) is increasingly dependent on efforts to promote healthy political competition and elections free of armed violence.

Direct arms-trafficking routes, leading from Kenya's frontiers to the heart of the country, were identified by survey respondents (Wepundi et al., 2012, p. 71). Firearms transported from the north-east, in Garissa, may end up in Nairobi's Eastleigh and even Rift Valley's Nakuru. Arms from Turkana and Pokot are transferred to Rift Valley's Eldoret and Nakuru (Wepundi et al., 2012, p. 58). Isiolo was also found to be a conduit for guns being smuggled

to central Kenya, including Nairobi (pp. 24, 49, and 58). Findings from other studies conducted in 2008 have highlighted the fact that, post-election, violence-fed trafficking to central Rift Valley involved arms originating predominantly from West Pokot (Ekuam, 2008, pp. 15–18; Nguli, 2008, pp. 3–4). In a current case at the International Criminal Court (ICC), the chief prosecutor has focused on the role of key political leaders in post-electoral violence.²³ This indicates that there is a link between politicians' support and trends in the arming of communities.

The continued flow of arms through Kenya's frontier districts is likely to continue to feed demand for weapons in other parts of the country. In the absence of reliable government security guarantees for all citizens, regardless of their ethnicity and area of settlement, fear of electoral violence will rise and citizens may resort to self-help security arrangements, such as acquiring arms, organizing gangs, and conducting retaliatory attacks.

Possible trigger factors

Three main factors may contribute to wider conflict.

1. *ICC-related discourse*

The government's failure to ensure comprehensive local investigation into crimes and adequate prosecution of the perpetrators of the 2008 violence has resulted in impunity, necessitating the ICC involvement in the Kenyan case. Impunity of electoral violence has historical roots: inquiries²⁴ into the post-1990s political violence did not lead to any prosecutions (CIPEV, 2008, pp. 443–69). The ongoing case against four Kenyan suspects—two of whom, Uhuru Kenyatta and William Ruto, are key political leaders, aspiring to presidency in 2013—has fostered parochialism.²⁵

National support for the ICC process has diminished over time. In a survey carried out in October 2010, when the list of the initial six suspects had not yet been revealed, 60 per cent of respondents were in favour of the ICC. In October 2011, after confirmation of the hearings, the percentage in favour declined to 59 (Ipsos-Synovate, 2011, p. 2). The KNDR tracking of the public

opinion on the ICC process has shown a steady decline of approval from 89 per cent in June 2011 to 55 per cent in April 2012 (KNDR, 2012, p. 25). Most of the respondents who were not in favour were from Uhuru Kenyatta's and William Ruto's political strongholds of Central and Rift Valley provinces respectively (KNDR, 2012, p. 26). In the aftermath of the ICC confirmation of charges hearings, the two leaders held mass rallies to mobilize political support. This may have caused a decrease in public support for the ICC (Ndung'u and Wepundi, 2012, p. 6).

The partisanship present in discussions pertaining to the ICC cases threatens to obscure the course of justice and accountability. To date, judicial action has not been effective as regards the prosecution of perpetrators behind Kenya's cycles of electoral violence. In January 2012, with the ICC confirmation of cases, political mobilization took the form of mass prayer rallies (Ndung'u and Wepundi, 2012, p. 6).

According to KNDR, a cumulative 36 per cent of respondents believed that the ongoing ICC trials were likely to trigger violence. These views were strongest in Nairobi, Central, Nyanza, Eastern, and Rift Valley (KNDR, 2012, p. 24). In the absence of a moderating voice in the debate on ICC issues in the country, the public is likely to be more polarized at the height of political campaigns for the 4 March 2013 elections. The current public discourse has focused on the eligibility of leaders who are ICC suspects to run for public office (Ogomba, 2012).

2. *Intensified local-level competition*

Partly as a function of present devolution, there is renewed county-level, inter-group competition for resources and political power.²⁶ This political rivalry is primarily identity-based, with ethnic groups becoming increasingly wary of the potential hegemony of bigger communities within certain counties. This friction is part of what has informed the Constitution and Reform Education Consortium (CRECO)'s designation of all counties as conflict hotspots, save four (CRECO, 2012, p. 13). Consequently, electoral violence and other conflicts in the immediate future are likely to be localized in nature and in location.

Based on recent media reports (Wanyonyi, 2012), the National Security and Intelligence Service (NSIS) has warned that 27 counties are potential hotspots of electoral violence. Accordingly, the National Cohesion and Integration Commission (NCIC) is currently embarking on peacebuilding initiatives, such as inter-community power-sharing pacts for peace, in which ethnic groups are encouraged to commit to sharing county-level elective positions (see Wanyonyi, 2012).

In some of these crisis zones, arms are prevalent—making a stronger link between guns and electoral violence very likely. For example, a firearms ownership rate of 13.3 per cent of households was observed in Bungoma county (Wepundi et al., 2012, pp. 42–43), where ethnic tensions over county governance issues (such as the control of political seats and the location of county headquarters) are probable. This was almost five times above the national average rate of 2.7 per cent.

In the county's Mt. Elgon area, residents feared the re-emergence of militias, specifically the Sabaot Land Defence Force (SLDF).²⁷ Similarly, arms were available in Baringo, Isiolo, Laikipia, Marsabit, Samburu, Tana River, and Turkana counties (Wepundi et al., 2012, pp. 43, 45). In Nakuru, firearms have been linked to urban crimes and respondents feared that in the event of a recurrence of electoral violence, illicit guns would be used.²⁸ Most recently, in Tana River in Coast Province, electoral violence resulted in the killings of more than 100 people (Babo, 2012). In this same region, the Mombasa Republican Council has exacerbated insecurity: the gang with secessionist demands threatened to disrupt national primary and secondary school examinations; their members attempted to kill a government minister, but were thwarted; and they were threatening to disrupt the March 2013 elections (Standard Digital News, 2012).

3. Electoral management

The basic prerequisites for the credible management of forthcoming elections have been put in place. The IEBC, whose autonomy is protected under the new constitution and relevant electoral laws, has been established.²⁹ The IEBC's decisions on a number of

issues, however, have triggered tensions in some electoral units and planted a seed of doubt as to whether the electoral body is fit to oversee credible general elections (Ng'etich, J., 2012).

The IEBC's delimitation of electoral units (wards and constituencies) resulted in identity-based claims for territory in the process, thereby feeding tensions. While IEBC's mandate is to determine electoral and not administrative boundaries, previously, constituency and ward boundaries were within the limits of administrative units (such as districts). By undermining this precedent, the IEBC probably did not foresee the risk of its decisions resulting in conflict, especially in cases such as the constituencies of Dadaab (Garissa County) and Turkana South (Turkana County). There were a total of 125 court cases against the IEBC, in which petitioners sought a judicial review of electoral units (Kenya Law Reports, 2012, p. 7, para. 19; p. 37, para. 110; p. 118, para. 4).

In the Dadaab Constituency case, the High Court transferred Alango-Arba sub-location from the Balambala Constituency back to the former electoral unit (Kenya Law Reports, 2012, p. 120). The IEBC decision had accentuated clan-based claims over Alango-Arba (Kenya Law Reports, 2012, pp. 118–30). The court ruling calmed these tensions. However, the court sided with the IEBC's decision to transfer some wards in Turkana South to Pokot-predominated constituencies. This decision served only to complicate a pre-existing, and often violent, boundary dispute waging between the Pokot and Turkana.³⁰

Although the judiciary established itself as an increasingly trusted institution to resolve election-related cases such as those on delimitation, the IEBC faltered in its preparations for the 2013 elections. The IEBC has reconsidered its position on the issue of mode of voter registration. Initially, it planned for the more expensive biometric voter registration (BVR) system, but later reverted to the manual system that utilizes the optical mark reader (OMR). This change was largely due to controversies over the tendering for the BVR kits (Institute for Education in Democracy, 2012). The government

subsequently stepped in to assist the electoral body in acquiring the BVR kits (Kutuny, 2012; IEBC, 2012; Menya, 2012; and Mayabi, 2012).

While it is laudable that the stakeholders involved are all committed to the realization of a reliable voter registration process and electronic voting, there are some concerns. The IEBC's decisions regarding these pre-election procedures have been called into question. Such prevailing suspicions could ultimately lead to disputes of election results. Furthermore, a fact which few parties have commented on is the downside of the government's expediency in facilitating the IEBC's acquisition of BVR kits. Such involvement could cast doubt on the autonomy of the IEBC in discharging its mandate. If the executive and legislature appear to control the hand of the electoral body,³¹ grounds may be set for a compromised IEBC. These developments—on the IEBC's decisions on the OMR and BVR approaches—led the Institute for Education in Democracy to express concern over the executive's directives to the IEBC to register voters biometrically and over the executive's decision to take over the procurement of BVR kits (Institute for Education in Democracy, 2012, p. 2).

Conclusion

This *Issue Brief* traces the origins of electoral violence in Kenya's 49-year, post-independence history. It concludes that cycles of conflict have been fuelled by inadequate government measures to ensure its citizens are safe during the elections and a lack of justice for the victims and perpetrators of electoral violence. That said, Kenya has made certain gains. Primarily, these lie in promulgating a new constitution with a less powerful presidency, guaranteeing the independence of the IEBC (with commissioners selected in a transparent vetting process), and with progressive provisions regarding land management. These gains should be built upon, rather than eroded, in order to eliminate key preconditions for electoral violence.

The IEBC needs to boost the confidence of Kenyans in its capacity to oversee credible elections. For a start, the IEBC and relevant stakeholders

such as the NCIC and the NSC have invested in early warning and response through the constitution of the National Steering Committee on Election Monitoring. The monitoring of indicators of potential violence (including hate speech, militia activity, low-scale violence, armament, and families relocating in fear of political violence, among others) is an extensive undertaking that calls for a multi-stakeholder approach at all levels. Specifically, the monitoring of arms dynamics as a threat to peaceful elections is an area that should not be overlooked.

Secondly, as long as the structural factors that underpin local conflicts remain unaddressed, elections will continue to provide opportunities for the revival of grievances. The airing of these grievances would arise through an interaction between the political aspirants' exploitation of these issues to win votes, and the electorates' need of a leader that best represents their interests. These two factors are more likely to heighten tension and trigger armed violence where frustration over unresolved issues is greatest.

Political leaders would be more successful at the national level if, instead of polarizing voters, they were to focus on key cross-cutting election issues that concern all Kenyans. According to a recent Gallup poll, top concerns for voters include job creation, reducing corruption, and improving education, agriculture, healthcare, and electricity (Tortora and Rheault, 2012). The transition to issue-based, ideologically driven politics can be guaranteed by focusing efforts on protecting the inviolability of the constitution and the Political Parties Act, while ensuring democratic management and national representation of political parties. Strengthening the basic democratic structures is essential to progressively dismantling parochialism and ethnic mobilization.

In addition, it is necessary that the Kenyan cases at the ICC are not invoked as a political campaign issue. Such a dynamic would cause concerns and heighten divisions along partisan and ethnic lines.

On a positive note, the ongoing judicial reforms bode well for Kenya's solidifying democracy. In preparation for the elections, the Chief Justice constituted the *Judiciary Working Committee*

on *Election Preparedness* (Kenya's Office of the Chief Justice, 2012, p. 11). The Rules Committee of the Judiciary is also simplifying various court procedures, including the Supreme Court Presidential Election Petitions Rules (p. 32). The Working Committee on Election Preparedness has committed the judiciary to dispensing with election petitions from the general elections within six months (Ng'etich, P., 2012). Support for effective judicial reforms will guarantee the use of courts in resolving electoral disputes, and this in turn will contribute to peace and stability.

Lastly, discourse on political violence should not exclude pastoralist areas where identity-based competitions are equally intense during elections; and it is in these zones that arms-trafficking corridors to other parts of Kenya originate. A holistic approach to ensuring free, fair, and peaceful elections necessarily means paying attention to Kenya's marginalized areas in all election planning efforts.

For the first time local issues, at the county level, will be given equal weight in Kenyan elections as national issues. Pastoralist territorial and resource-based disputes, along with pressure for adequate representation, need to be given proper consideration, not least as these communities, although geographically marginal, are the most heavily armed in Kenya. ■

Endnotes

- 1 This is reflected in works such as the Africa Watch Report, *Divide and Rule: State-sponsored Ethnic Violence in Kenya* (1993) and government reports such as those of the Commission of Inquiry into the Post-Election Violence (CIPEV, 2008).
- 2 Most previous analyses, such as those carried out by the National Council of Churches of Kenya (NCCK) (1992), cite the use of traditional weapons, such as bows and arrows. But Human Rights Watch found a link between arms and the political violence of 1997, specifically in Coast province (HRW, 2002). These analyses explore the role of warriors or raiders in electoral violence. This *Issue Brief* paper examines more closely the correlations between arms and violence in Kenya.
- 3 According to the African Electoral Violence Database (AEVD) (Straus, 2012, p. 193), the following are considered to be elements of electoral violence: intimidat-

tion and harassment, targeted assassinations, and increased civilian deaths. This *Issue Brief* broadens the scope to include displacement resulting from politically fuelled insecurity.

- 4 The state intimidated Kenya People's Union (KPU) supporters by deploying the paramilitary General Service Unit (GSU) to disrupt their anti-government protests. In a show of force, the army held public demonstrations in opposition-controlled zones. This prompted an opposition leader to counter with a promise to stage 'a clean fight without recourse to violence' (Branch, 2011, pp. 59–60).
- 5 Throup and Hornsby (1998, p. 14) wrote: 'Ethnicity and state power proved more influential than class or ideology in determining political preferences.'
- 6 This led to accusations that the Moi regime was sponsoring electoral violence (see Africa Watch, 1993).
- 7 Kanyinga (2010, p. 326) notes that the land question is a fulcrum for major political events. AMANI Forum (2008, pp. 9–10) examines historical injustices that have contributed to inter-ethnic animosities.
- 8 The colonial contribution to structural weaknesses that predisposed Kenya to conflict is acknowledged in many studies, including Nyawalo et al. (2011, pp. 6–8) and Kanyinga (2009, pp. 327–28). Specifically, AMANI Forum (2008, p. 9) argues that the colonial administration's constitution of Kenya in purely economic terms—administered by the Imperial British East Africa Company—created structural conditions for economic injustices that explain present conflicts. This *Issue Brief* focuses on Kenya's experience of electoral violence after 1963, when the country gained independence. Controversy regarding the allocation of resources, such as land distribution, has served as a convenient tool for ethnic mobilization.
- 9 *Majimboism* refers to regionalism or federalism. Its advocates promoted the devolution of more fiscal and political powers to regional units so as to give local communities a greater voice in local governance. Given Kenya's ethno-regional distribution, this approach was inherently ethnically motivated.
- 10 Defectors included Raila Odinga, Kalanzo Musyoka, George Saitoti, and Simeon Nyachae who ran on his own under the FORD-People ticket (Amutabi, 2009, p. 71).
- 11 The symbol on the ballot that indicated approval of the constitution was the banana.
- 12 Ironically, President Kibaki was in the opposition when political parties pushed then President Moi to accept the Inter-Parties Parliamentary Group (IPPG) deal in 1997. See Murimi (2008).
- 13 See Kenyans for Peace with Truth and Justice's (KPTJ) report (2008) for a timeline of events. It should also be noted that, whether intentionally or not, the Electoral Commission of Kenya (ECK) began releasing results mostly from Orange

- Democratic Movement (ODM)-friendly areas while those from Kibaki-friendly areas were among the last to come in. That Raila Odinga maintained a consistent lead over Mwai Kibaki in early results confirms this (Dercon and Gutiérrez-Romero, 2010, p. 12).
- 14 While this *Issue Brief* restricts itself to issues relating to present fears, small arms perceptions, and trigger factors, many other factors are at play. They include land, youth unemployment, devolution, and border porosity. See Ndung'u and Wepundi (2012, pp. 4–15).
 - 15 The database of the survey conducted by KNFP and Small Arms Survey (2011) was used for further analysis in this *Issue Brief*, in addition to the findings published in Wepundi et al. (2012).
 - 16 In the *Special Report*, volatile counties are defined as 'those tending or threatening to break out into open violence, where crime is common and insecurity is very high. A county's level of volatility was determined based on numerous sources, in addition to local awareness' (Wepundi et al., 2012, p. 37).
 - 17 The KNFP–Small Arms Survey study found that possession of bladed weapons in Kenya is high in high- to low-volatility areas (see Wepundi et al., 2012, pp. 50–51). An NCK report (1992, p. 6), provides insights into the use of bows and arrows in the early 1990s' clashes.
 - 18 For example, in January 2012, the National Cohesion and Integration Commission (NCIC) warned that recent conflicts in Marsabit and Isiolo counties were not merely traditional community rivalries among pastoralists; rather they were electoral. See Kibunja (2012b).
 - 19 Boundary disputes have taken place between the two communities for some time, but the discovery of oil in the region threatens to intensify the conflict. See Ndanyani (2012).
 - 20 See the High Court decision in *Republic v Independent Electoral and Boundaries Commission and another Ex-Parte Councillor Eliot Lidubwi Kihusa and 5 Others* (Kenya Law Reports, 2012, p. 7, para 19; p. 37, para 110).
 - 21 This was triggered by the fact that a parliamentary aspirant from the Turkana community polled second in the 2007 elections in Isiolo North constituency (Ruto et. al., 2010, p. 3).
 - 22 Based on author interviews with community representatives in Isiolo.
 - 23 Two of the four suspects whose charges have been confirmed by the pre-trial chamber of the International Criminal Court (ICC) are contending for the presidency—Uhuru Muigai Kenyatta and William Samoei Ruto. See ICC (2012).
 - 24 Such as that of the Parliamentary Select Committee to Investigate the Ethnic Clashes in Western and other Parts of Kenya (1992) and the report of the Judicial Commission (Kenya Judicial Commission, 1999).
 - 25 For more details on the current investigations by the ICC in Kenya, see ICC (2012).
 - 26 Devolution under the new constitution has created 47 counties and six elective posts (president, member of parliament, senator, governor, women's representative, and county representative). Regarding devolution in the new Constitution in Kenya, see Nyanjom (2011). The creation of these devolved structures has triggered county-level competition for control of the posts, prompting efforts to broker ethnic-based county power deals. See Wanyonyi (2012).
 - 27 Focus Group Discussion (FGD), Mt. Elgon, 4 June 2011 (KNFP and Small Arms Survey, 2011).
 - 28 FGD, Nakuru, 28 April 2011 (KNFP and Small Arms Survey, 2011).
 - 29 These are the Elections Act 2011, which covers matters on electoral management (Kenya, 2011), and the Political Parties Act 2007 (Kenya (revised and published in 2009), governing the political party issues.
 - 30 Turkana leaders petitioned the courts over the boundaries to secure community interests on resource use. See Wamalwa (2012).
 - 31 Even the IEBC's decision to revert to the use of the optical mark reader (OMR) in registration came after a cabinet minister asked the IEBC to use the manual registration system if the biometric voter registration (BVR) tendering was not above board (KBC Reporters, 2012).

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