

REJECT VIOLENCE DURING 2013 ELECTIONS

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Land-related violence during general elections

For the last two decades since the advent of multi-party politics in 1991, some parts of Kenya have experienced cyclic tension and/or violence prior, during or just after every general election. The infamous 2007/08 post election violence, which affected many parts of the country, left Kenya's international image badly dented. Economic growth suffered greatly too, clawing back on the gains made since the end of year 2002 when the NARC government took over from KANU. This is bad for our social-economic stability, global business and integration.

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In each of the instances, unresolved historical land injustices have been cited to have partly contributed to the violence. Not confronted and checked, this predictable cyclic violence will easily frustrate Kenya's efforts to achieve the commitments made under Kenya's social-economic and political pillars of Vision 2030, the country's new long term development

blue print. It is therefore imperative that all Kenyans, including the youth who stand to lose most in an insecure and unstable Kenya, rise up to say no to further violence, whatever the underlying issues. We must do all it takes to pre-empt the build up to any tension that could occasion violence in the 2013 general elections! And there is good hope since great progress has been made within the last decade to provide a policy and legal framework within which the salient issues that fuel land-related tension and violence will be resolved.

Genesis of disparities and historical land injustices in Kenya

Kenya's complex historical land question has for a long time precipitated feelings of alienation and loss of legitimate land rights by individuals and communities. The genesis was the introduction of a formal land management regime after the establishment of the Colonial State. The new land governance institutions and land distribution procedures were complex and alien to indigenous people. The application of formal land laws to alienate land for the new settler farmers and to those close to the Crown had the effect of progressively displacing local communities. This was to be later aggravated by the dynamics of the Mau Mau liberation war. Some of the people who went to war returned to find rights to their communal land lawfully adjudicated and registered against those they had left behind, hence effectively closing out any legitimate claims they held to such ancestral land. Incidents of such displacements and illegitimate loss of land rights were most prevalent at the Coast, Central and Rift Valley zones of the country.

After independence, efforts to put in place land settlement schemes did not systematically address and redress these losses, setting the stage for endless discontent by the affected communities and individuals. Furthermore, an insatiable rush for the preferential allocation of any available public land within the 80's and 90's aggravated the situation. Remaining stocks of forest reserves, road reserves, game and public recreation reserves got allocated through influence peddling.

These unaddressed historical land injustices, inequitable and irregular allocation of land in the country along with an ever increasing number of landless youth provide a volatile environment which can be easily exploited by unscrupulous political leaders. It is this fragile and volatile environment in some parts of Kenya that has been exploited to incite land-related violence during general elections since 1992.

Violence won't resolve salient issues

There were incidents of violence attributed to clashes over land during the 1992 general elections. This was replicated in 1997 and to a much lesser extent in 2002. During the 2005 referendum campaign, there was tension on account of land issues particularly in parts of the Rift Valley. Violence erupted to an unprecedented high during the 2007 general elections. Disputes and injustices over land were cited to have partly informed the violence. In many places, the idle and landless youth were easily incited to escalate it. But logical analysis reveals that this violence has always been incited for political gain by leaders at national and local level. The perceived or real land injustices discussed above are played up to increase or diminish vote baskets for the protagonists or antagonists in the affected zones. In all cases, it is the individuals, communities and the country that have lost.

Innocent citizens have lost lives, others have been maimed, women have been mindlessly raped and people have been displaced. Children have suffered and dropped out of school, property lost or destroyed, businesses closed and lifestyles disrupted. Local and national economies are adversely affected. Kenya's negative image following such violence ends up adversely affecting Kenyans living, working or learning in the Diaspora too.

Violence begets violence. Much as there may be real or even perceived land injustices or disputes, violence escalates without resolving the salient issues. Indeed, other than the partisan political drivers, no one benefits from the violence. The land disputes and injustices linger even after. It is therefore futile to resort to violence in our circumstances. Sustainable solutions will only be obtained through structured and institutionally driven constitutional and legal mechanisms. And quite a lot of work has been done in this regard.

Recent policy, constitutional and legal gains

The *National Land Policy* approved in 2009 provides for the establishment of a legal and administrative framework to investigate, document and determine historical land injustices and to recommend mechanisms for their resolution. The *Constitution of*

Kenya 2010

established a

National Land Commission

whose functions among others is to initiate investigations into present or historical land injustices and recommend appropriate redress. These policy and constitutional commitments have informed several provisions in the recently enacted

National Land Commission Act 2012

and the

Land Act 2012

. The National Land Commission Act for instance obliges the Land Commission to, within two years of its establishment, prepare and recommend to Parliament an appropriate legal framework to help in the investigation and resolution of historical injustices in the country. The Land Act contains provisions to put in place mechanisms to address the coast squatter and absentee land lord problem and also to address the resettlement of internally displaced persons and squatters within the country.

It must also be remembered that the *Truth, Justice and Reconciliation Commission (TJRC)* has for a while now been documenting cases of historical injustices around the country. Cases of land injustices are some of those recorded. This database will be helpful in seeking solutions and restitution.

Reject violence for a peaceful Kenya

The above policy, constitutional and legal measures provide hope for the resolution of historical land injustices in the country. In the fullness of time, justice to victims will be finally delivered. It therefore behooves us all, including the youth, to shun any attempts by political activists to incite us against one another before, during and after the 2013 general elections. We need to preserve peace and harmony in our country in order to ensure a peaceful local environment in which all of us can harness our opportunities, skills and talents.

This message was prepared for the platform www.nielect.com in efforts to promote peaceful elections in 2013

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