

## Power-sharing in Kenya

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Following a disputed election in late 2007, ethnic clashes engulfed Kenya in January and February 2008. Under an accord brokered by former UN Secretary General Kofi Annan, Kenya's two main political parties agreed to a power-sharing arrangement as a way to end the violence. The accord called for the creation of a Grand Coalition government in which the two parties would be equal partners. The agreement has so far proven effective in restoring peace in Kenya. Yet there remains significant potential for future conflict, and the success of the agreement in coming years will largely depend on how Kenya's political leaders negotiate a number of divisive issues.

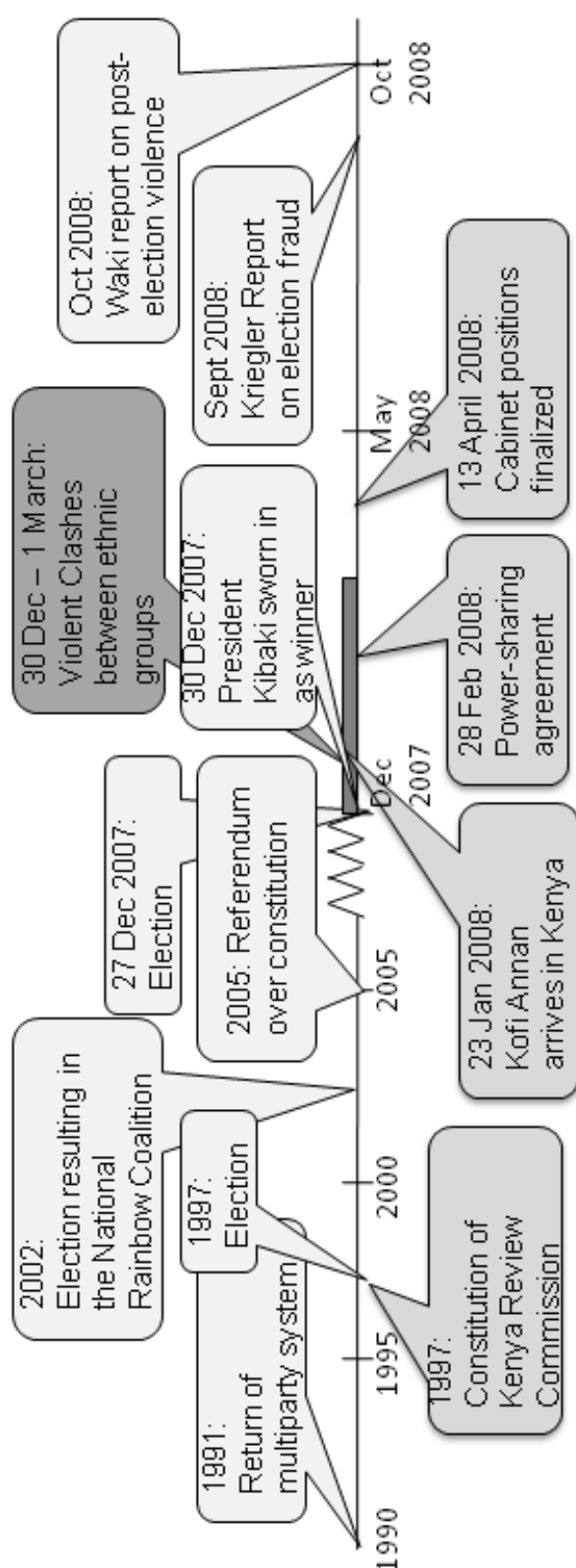


### Background

Debates about power-sharing have existed in Kenya for several decades. Kenya gained independence in 1963 with a power-dividing, federal constitution that included provisions for elected regional bodies in each of the eight provinces. These institutions were a concession to smaller ethnic groups and the white settler community, who sought guarantees against majoritarian domination. After independence, though, the ruling party, the Kenya African National Union (KANU), undermined the regional assemblies by withholding financial and logistical support. In 1964 the main opposition leaders who had been the leading advocates of the power-sharing system formally joined KANU, dissolving their own party. With the collapse of the opposition, calls for power-sharing structures ended. Shortly thereafter the constitution was amended in order to eliminate the provincial assemblies.

During the subsequent decades of single-

## Timeline



party rule, demands for constitutional reform were muted. Following the return to multi-party politics in 1991, calls for constitutional reform resurfaced. Throughout the 1990s a wide range of actors – opposition parties, civil society groups, and religious leaders – called for constitutional changes to limit the power of the presidency, increase checks and balances, and bolster civil liberties. In the 2002 election, the opposition parties, united under the umbrella of the National Alliance Rainbow Coalition (NARC), made constitutional reform a core campaign issue. Mwai Kibaki, the eventual winner of the presidential race, promised to implement a new constitution within 100 days of gaining office. However, once in office these promises quickly faded.

In 2003 the Kibaki government established a constitutional review process, ostensibly with the aim of developing a new draft constitution that could be put before the public in a national referendum. However, the review process became highly contentious and ultimately produced a draft – the so-called “Bomas” draft – that divided the political elite. The Bomas draft contained both inclusive and exclusive power-sharing provisions. The draft, however, was never put to a public vote. Before the referendum, which was held in November 2005, the Attorney General modified the draft, stripping the main power-sharing features from the bill. The final referendum vote, which saw politicians and voters divide largely along ethnic lines, failed by a wide margin. Once again, fundamental reform was deferred.

### The 2007 Election and Post-Election Violence

On December 27, 2007 Kenyans went to the polls for the fourth time since the re-introduction of multi-party politics in 1991. As in previous electoral contests, the 2007 election polarized Kenyan voters along ethnic lines, with parties forming around competing ethnic blocs and citizens voting largely along communal lines. Debates about constitutional reform once again played a central role in the campaigns, with the opposition parties calling for decentralization of power and resources to regional authorities and the incumbent party promising to maintain a unitary system.

Irregularities in the vote tallying process led to claims of fraud from opposition parties, with foreign and domestic observers casting doubt on the capacity and independence of the Electoral

Commission. The announcement of Mwai Kibaki, the incumbent president, as the winner of the presidential race on December 30 triggered a wave of ethnic violence across Kenya. Over the next three months, more than 1,000 people were killed and at least 300,000 more were chased from their homes.

### Kenya's 2008 Power-Sharing Agreement

As the violence intensified, Kenya's two main political parties – the Party of National Unity (PNU) and the Orange Democratic Movement (ODM) – entered into negotiations in search of a political solution that would bring an end to the conflict. While the negotiations began with a wide gulf between the two sides, the adroit management of the lead mediator, Kofi Annan, produced an accord in March 2008. The main provision of the agreement was that a Grand Coalition government would be created in which the two parties would share power. Executive authority would be divided between the two, with the PNU maintaining control of the Presidency and ODM filling the newly-created Prime Minister position. Cabinet positions would be distributed according to the principle of "portfolio balance," by which each party would receive a share of ministerial positions equal to the number of seats it controlled in Parliament. The table below shows the actual distribution of cabinet seats in the coalition government.

By any measure the agreement has been successful in its primary goal of ending the conflict and restoring stability to Kenya. Yet, the future of

### The Grand Coalition Cabinet announced 13 April 2008

Party	Ministers	Asst. Ministers
ODM	20	22
PNU	14	11
ODM-K	3	3
NARC-K	1	2
Others	2	12
<b>Total</b>	<b>40</b>	<b>50</b>

Source: Appointments listed in The East African Standard, April 14, 2008. Party affiliations accessed at <http://www.bunge.go.ke/> on October 28, 2008.



Opposition supporters in the Kibera slum block roads with burning barricades during post election violence in Nairobi, Kenya.

Photo: Sarah Elliott (scanpix)

the agreement remains uncertain. The Grand Coalition government is slated to tackle a number of divisive issues in the coming years, including constitutional review, prosecution of alleged perpetrators, and land reform, among others. These issues will put the coalition to a test.

Moreover, the potential for renewed conflict remains high. The tension created by the post-election violence has left Kenyans deeply polarized along ethnic lines. Fundamental grievances over land distribution, inequalities in wealth, and perceived historical injustices have not been addressed. Equally troubling is the culture of impunity that has long existed in Kenya, whereby perpetrators of violence are not held to account. For these actors, violence and polarization are useful electoral strategies. The failure to punish political leaders means that they have little incentive to refrain from such behaviour in the future. There is also the danger of an escalation of forces prior to the next election in 2012. Having suffered during the recent post-election violence, members of the affected communities have begun arming themselves as a precautionary measure in advance of the next election cycle, increasing the potential for violence on an even larger scale in the future.

### Lessons Learned about Power-Sharing from Kenya

Three main lessons can be drawn from the Kenyan power-sharing experience. The first relates to the role played by the mediator in the negotiations. Kofi Annan's extraordinary skill and dedication were extremely important, both in terms of reach-



ing the agreement and sustaining it over time. At critical junctures during the negotiations process, Annan proved particularly adept at breaking through stalemates, marginalizing hardliners, and narrowing the focus of the agreement to issues that could realistically be resolved through negotiations. Moreover, Annan has been actively involved in sustaining the agreement since it was signed, returning to Kenya periodically to lend his support at difficult moments.

Second, the Kenyan experience illustrates the point that in post-conflict negotiations there is often a trade-off between short-term and long-term goals. In Kenya it proved expedient to defer many divisive issues during the negotiations, in order to limit the scope of the agreement and produce an accord. However, deferring fundamental

issues, such as constitutional reform, land reform, and perceived inequalities between ethnic groups, means that such issues may not be addressed at all or may derail the peace accord in subsequent years.

The final lesson that emerges from the Kenyan case is that the success of the power-sharing agreement in large part hinges on the political will of the two sides. Kenya's agreement lacks most of the elements that have been found to sustain such arrangements elsewhere. Instead, the Kenyan deal outlines only broad principles for power-sharing and includes only minimal guarantees of inclusion. Given the limited scope of the agreement, its durability will depend on how it is implemented over time by the signatories.

#### About the Author

**Jeremy Horowitz** is a doctoral student at the University of California, San Diego. His dissertation examines the politicization of ethnic cleavages in African elections, drawing on a comparison of campaign rhetoric and public opinion data in Kenya and Ghana. He can be reached at [jhorowitz@ucsd.edu](mailto:jhorowitz@ucsd.edu)

#### About the project

This policy brief forms part of a project entitled 'Power-Sharing Arrangements, Negotiations and Peace Processes', which has produced a series of policy briefs and reports on Nigeria, Liberia, Sierra Leone, Burundi, Kenya and Nepal.

The full report and policy briefs can be downloaded at:

<http://www.prio.no/CSCW/Research-and-Publications/Project/?oid=65122>

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